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**HOUSE BILL 1947**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Pollet, Walsh, Santos, S. Hunt, Orwall, Ortiz-Self, Tarleton, Kagi, Bergquist, Robinson, Gregerson, and Ryu

AN ACT Relating to establishing a comprehensive plan to expand learning opportunities and improve educational outcomes for students with disabilities or special needs using multiple strategies and statewide partnerships; adding new sections to chapter 28A.155 RCW; adding a new section to chapter 28A.290 RCW; creating a new section; providing an effective date; and declaring an emergency.

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

NEW SECTION. **Sec.**  FINDINGS—INTENT. (1)(a) The legislature finds that students with disabilities or special needs are not succeeding in the state's public schools or meeting their potential at the levels that they would be able to achieve if barriers to success were recognized and support provided, particularly at early ages.

(b) The legislature recognizes that the United States department of education has determined that Washington is in "need of assistance" to meet new federal results-driven outcome measures for students with disabilities. It is the legislature's intent that the state adopt a ten‑year goal to eliminate the most significant barriers to the success of students with disabilities or special needs, and to eliminate the disparity in outcomes between students, in special education and other students, caused by such barriers. As recommended by the office of the education ombuds' 2014 report on the creation of a statewide special education task force, required by chapter 221, Laws of 2014, the 2014 operating supplemental appropriations act, the legislature establishes a blue-ribbon commission to develop a strategic plan and roadmap to accomplish this goal, with annual reports to the legislature containing prioritized recommendations for eliminating barriers to student success and on progress towards the goal.

(c) Despite recognition that special education is part of basic education, and the state's growing commitment to meet the education needs of all students, there remains an opportunity gap for Washington children and student residents living with disabilities or special needs, as illustrated by the findings in this subsection (1)(c) of the task force created by the legislature pursuant to chapter 221, Laws of 2014.

(i) Only fifty-four percent of students with disabilities graduated high school in 2013, compared to seventy-seven percent of all students in Washington. Even fewer students with disabilities engage in higher education, with just twenty-five percent enrolled in higher education one year beyond high school.

(ii) As many as one‑third of former students served in special education are completely disengaged from work or postsecondary education one year after leaving high school.

(iii) Students with disabilities are underrepresented in enrollment in advanced placement courses, honors programs, and college preparatory classes and overrepresented in low-performing schools.

(iv) Nearly sixty-five percent of students with disabilities have a measured cognitive ability that is average or above but are not achieving similar to their peers due to learning disabilities, speech and language disabilities, and other health impairments. For the majority of these students, given appropriate intervention and accommodations, each could capably access rigorous coursework to obtain a high school diploma and pursue postsecondary education or technical and career opportunities. Only thirty-one percent of fourth grade students with disabilities scored proficient on statewide general assessments of reading and language arts, compared to seventy-two percent of all students. Only ten percent of eighth grade students with disabilities scored proficient on statewide general assessments of mathematics, compared to fifty-four percent of their peers.

(v) Students with disabilities are two and one‑half times more likely to be disciplined and removed from school.

(vi) Children living below the poverty line and in foster care are two times more likely to receive special education services, yet many students from low‑income families or families whose primary language is not English are not even evaluated for, or provided with, services.

(vii) Students with disabilities are overrepresented in priority and focus schools.

(viii) The mental health needs of students are often unrecognized as disabling conditions, further increasing the inability of many students to perform as well as they would if services were provided either in school or with referrals integrated with school social workers and counselors.

(ix) Neurological conditions, such as dyslexia, which may impair students' learning absent specialized training for instructional approaches, are often not recognized due to lack of evaluation; or are not recognized by school districts as a basis for providing students with accommodation under an individualized education program or plan developed under section 504 of the federal rehabilitation act of 1973.

(2) The United States department of education, office of special education and rehabilitative services has placed Washington on the "needs assistance" list based on the performance of students with disabilities on regular statewide assessments. The department of education is also shifting from measuring compliance solely by the procedures of states and school districts toward review of objective measures of outcomes for students. It is the legislature's intent to have measurement of outcomes for students with disabilities or special needs, including whether these students are evaluated and offered services at disparate rates on account of school district of residence, race, ethnicity, disability, socioeconomic status, gender, or status as English language learners. This parallels federal measurement and obligations of the state and its school districts under Title VI of the civil rights act of 1964.

(3) The legislature finds that statistics showing the underperformance of students recognized as having disabilities would likely be significantly higher if other neurological-based impairments to learning, such as dyslexia, were recognized as disabilities for purposes of providing students with individualized education plans, and if students of lower incomes and whose families are not English speaking were evaluated at the same rate and time as children who face fewer barriers to evaluation and provision of individualized education programs or plans developed under section 504 of the federal rehabilitation act of 1973.

(4) The legislature finds compelling evidence that additional progress must be made to address the needs of students with disabilities or special needs in Washington public schools. The legislature finds that this time of commitment to measurable progress for student performance is the best opportunity to make a strong commitment to closing the educational opportunity gap for students with disabilities or special needs and to affirm the state's constitutional obligation to provide opportunities to learn for all students.

(5) To provide focus and clarity to efforts to increase learning opportunities and improve educational outcomes for students with disabilities or special needs, the legislature intends that students with disabilities or special needs be included in statewide and district reviews and reports on the "opportunity" or "achievement" gap.

NEW SECTION. **Sec.**  DEFINITIONS. The definitions in this section apply throughout this section and sections 3 through 10 of this act unless the context clearly requires otherwise.

(1) "Institutions of higher education" includes the community and technical colleges, public and private four-year institutions of higher education, independent colleges, degree-granting institutions, certificate-granting institutions, and the workforce training and education coordinating board.

(2) "Mental health disorder" means any mental, behavioral, or emotional disorder described in the most recent edition of the diagnostic and statistical manual of mental disorders, published by the American psychiatric association, that substantially interferes with or limits the functioning and social interactions of a child or adolescent.

(3) "School organizations" includes the Washington state school directors' association, the Washington association of school administrators, the association of Washington school principals, the Washington state association of educational service districts, and other organizations that represent the interests of school administrators, school board members, and unions for classified and certificated personnel.

(4) "State education agencies" includes the office of the superintendent of public instruction, the state board for community and technical colleges, the student achievement council, the professional educator standards board, the state board of education, and the Washington charter school commission.

(5) "Students with disabilities" means students who receive instruction pursuant to an individualized education program or plan developed under section 504 of the federal rehabilitation act of 1973; students who are in the process of evaluation and identification to become eligible for services and protections under the federal individuals with disabilities education improvement act or under section 504 of the federal rehabilitation act of 1973; or students who have previously received educational services and supports pursuant to an individualized education program or plan developed under section 504 of the federal rehabilitation act of 1973.

(6) "Students with special needs" includes students with disabilities receiving services under section 504 of the federal rehabilitation act of 1973, those with mental health or behavioral issues that are temporary or long‑term; those with dyslexia or other neurological‑based conditions that impair the ability to learn via traditional teaching methods, but that allow a student to learn and perform equal to their peers when provided specialized instruction, such as multisensory structured language instruction and technological assistance; and those who do not receive accommodations under an individualized education program or plan developed under section 504 of the federal rehabilitation act of 1973 due to lack of evaluation.

NEW SECTION. **Sec.**  COMMISSION ESTABLISHED. The commission on improving outcomes for students with special needs is established to develop a ten-year strategic plan to expand learning opportunities and improve educational outcomes for all students with disabilities or special needs and an accountability framework to monitor and report annually on the progress being made toward the ten-year goal.

NEW SECTION. **Sec.**  COMMISSION—FRAMEWORK AND ROADMAP. (1) In order to expand learning opportunities and improve educational outcomes for students with disabilities or special needs, the commission on improving outcomes for students with special needs established in section 3 of this act shall propose goals and priorities to eliminate the most significant barriers to success for students with disabilities or special needs, with the longer-term goal of improving educational, workforce, and economic outcomes for these students. The commission shall identify strategies for meeting the goals and priorities in a ten-year roadmap and develop means to measure progress towards the goals using an accountability framework.

(2)(a) The initial work plan and strategies of the commission shall include aligning and combining previous education strategic plans into a single, cohesive, and comprehensive accountability framework. The framework must establish a limited number of select and specific goals that are meaningful indicators of progress toward eliminating the most significant barriers to success, and disparities in outcomes, for students with disabilities or special needs within ten years. The framework must use measures that are quantifiable and based on data that are regularly and reliably collected statewide, which may include:

(i) Participation of students with disabilities or special needs in regular statewide achievement assessments;

(ii) The educational opportunity gap between students with disabilities or special needs and other students on regular statewide assessments;

(iii) Percent of students with an individualized education program or plan age six to twenty-one who are served inside the general education class setting eighty percent or more of the school day; and who are served inside the general education class setting less than forty percent of the school day;

(iv) The frequency of use of restraint and isolation in K-12 public school settings;

(v) Rates of suspension or expulsion for students with disabilities or special needs compared to other students for grades K-12, and for students in transition programs from age eighteen to twenty-one;

(vi) Use of medicaid-funded school-based services;

(vii) Percent and demographics of students with disabilities or special needs who, before age twenty-one:

(A) Graduate with a regular diploma;

(B) Graduate with a certificate of academic achievement;

(C) Graduate with a certificate of individual achievement;

(D) Graduate with an assessment waiver;

(E) Obtain a high school equivalency certificate; or

(F) Exit the education system without graduating or obtaining an equivalency certificate;

(viii) Percent of students with disabilities or special needs who are eligible for supported employment from the developmental disabilities administration upon exit from secondary school and the rates of graduation from supported employment one, three, and five years, postexit, including the number of hours students are employed per week and their wage rates;

(ix) One, three, and five years postexit from secondary school, the percent of students at least sixteen years old who had an individualized education program or plan developed under section 504 of the federal rehabilitation act of 1973 at the time they exited school and who are:

(A) Enrolled in state universities, regional universities, or a state college, as defined in RCW 28B.10.016;

(B) Enrolled in community colleges;

(C) Enrolled in career or technical colleges or programs;

(D) Enrolled in some other postsecondary education or training program; or

(E) Not engaged in training or postsecondary education;

(x) One, three, and five years postexit from secondary school, the percent of students at least sixteen years old who had an individualized education program or plan developed under section 504 of the federal rehabilitation act of 1973 at the time they exited school and who are:

(A) Competitively employed;

(B) Engaged in some other employment; or

(C) Not engaged in employment, training, or postsecondary education; and

(xi) One, three, and five years after the case is closed, the average hourly rate or income level of clients exiting the department of vocational rehabilitation services.

(b) In developing the framework, the commission shall review the federal framework for accountability, work from the state disability task force, work from the student achievement council, and work from the governor's committee on disability issues and employment.

(3)(a) The commission shall propose goals and priorities to eliminate the most significant barriers to success for students with disabilities or special needs in a ten-year roadmap. The roadmap must address the needs of Washington students with disabilities or special needs to reach higher levels of educational attainment and be aligned with Washington's workforce needs for certificates and degrees in particular fields of study.

(b) The commission shall update the ten-year roadmap every two years with the first report to be submitted to the governor, the office of the superintendent of public instruction, and the appropriate committees of the legislature by December 1, 2016.

(c) The ten-year roadmap must include recommendations on:

(i) System design and coordination, including addressing shortages of qualified personnel needed to meet the goals proposed by the commission; and improving the training, recruitment, and placement of new teachers and professional educators and the ongoing training and professional development of experienced teachers to address the barriers faced by students with disabilities or special needs and to reduce the disparities in outcomes for these students in comparison to other students;

(ii) Reducing barriers to evaluation and provision of appropriate educational and therapy services for students with disabilities and special needs, including a review of the basis for the current statutory assumption about the percentage of students who have disabilities or special needs, and whether the legislature should adjust this figure;

(iii) Using professionals trained in mental health evaluations, referrals, and counseling, or school social workers to provide additional services to students with disabilities or special needs;

(iv) Improving student transitions, from early education through postsecondary education and training and into career;

(v) Early and timely evaluation of children to identify disabilities, including dyslexia or other learning challenges;

(vi) Early intervention services from birth to age three and from age three to age five;

(vii) College and career access preparedness, in collaboration with the office of the superintendent of public instruction and the state board of education, including access to dual credit programs while in high school;

(viii) Strategies to help families and guardians assist in improving functional, behavioral, and academic skills for their students with disabilities or special needs;

(ix) Expanding participation and success for racial and ethnic minorities who experience disabilities or special needs;

(x) Development and expansion of innovations in education, including innovations to increase attainment of high school diplomas; postsecondary certificates; associate, baccalaureate, graduate, and professional degrees; and innovations to improve precollege education in terms of cost-effectiveness and transitions to college-level education.

(d) The ten-year roadmap must also include:

(i) Higher education data and analysis, in collaboration with the education data center and the institutions for higher education, including outcomes for recruitment, transitions, retention, and success of students in postsecondary programs;

(ii) Resources appropriate to meet statewide goals, recognizing current state economic conditions and state resources, including the use of federal funds to provide nonacademic services. The first report must include models and practices for accessing federally funded services for students with disabilities or special needs in public schools by school districts in order to integrate services, provide greater access to services, and free up state resources to provide additional services, such as mental health and counseling services, and evaluation for services including occupational, physical, and speech therapy; and

(iii) Relevant policy research.

(4) In developing its accountability framework and ten-year roadmap, the commission shall collaborate with the state education agencies, the institutions of higher education, school organizations, the department of early learning, the legislature, and other stakeholder groups. In addition, as described in section 8 of this act, the commission may establish subcommittees of invited experts and representatives of school districts, educators, parents, higher education teacher training institutions, and such other outside members as it deems appropriate to consult and recommend strategies for each goal and priority identified by the commission.

NEW SECTION. **Sec.**  COMMISSION REPORT CARD. (1) The commission on improving outcomes for students with special needs, in collaboration with the office of the superintendent of public instruction, shall produce an annual report card on the state's progress toward expanding learning opportunities and improving educational outcomes for students with disabilities or special needs in Washington.

(2) The report card must:

(a) Illustrate the most recent data for the indicators and measures of the accountability framework developed under section 4 of this act;

(b) Provide information from the department of early learning, state education agencies, institutions of higher education, and the employment security department that indicates the extent that activities and resources are aligned with and support the accountability framework. The focus of the reporting for the state education agencies is on programs and plans specifically identified in law or budget proviso as relating to both basic education and special education programs and plans that address the needs of students with disabilities or special needs in Washington. The focus of the reporting for the employment security department is on trends related to hiring students with disabilities or special needs;

(c) Provide data regarding current and projected outcome measures for students with disabilities or special needs;

(d) Be prominently displayed on the education data center's data dashboard, established in RCW 28B.77.090, which must be linked from any web site created by the commission.

(3) The education data center created in RCW 43.41.400 must coordinate data collection and analysis to support the report card by designing a common reporting metric, in collaboration with the commission.

(4) The commission must publish the first report card with baseline data on the identified indicators and measures by January 10, 2016, and must update the report card by each January 10th thereafter.

NEW SECTION. **Sec.**  COMMISSION MEMBERSHIP AND MEETINGS. (1)(a) By thirty days after the effective date of this section, the governor shall appoint two cochairs to the commission on improving outcomes for students with special needs established in section 3 of this act. One cochair must demonstrate respected leadership in education and child advocacy, and must be known to foster collaboration and partnerships. The other cochair must equally represent a diverse range of child and parent consumer experiences with demonstrated leadership in building relationships and facilitating accord with educators, legislators, and policymakers. The cochairs shall hire an executive director responsible for convening and staffing the task force and subcommittees, providing research requested by the commission, administration, and preparation of reports.

(b) By thirty days after the effective date of this section, the governor's office shall create an application process for individuals interested in participating as members on the commission.

(c) By sixty days after the effective date of this section, individuals interested in participating on the commission shall submit applications to the office of the governor for review by the cochairs.

(d) By ninety days after the effective date of this section, the cochairs shall select a pool of nominees for appointment by the governor. The nominees must be geographically and demographically diverse and represent a wide variety of stakeholder groups.

(e) By one hundred twenty days after the effective date of this section, the governor shall appoint twelve members to the commission from the list of nominees, including:

(i) Four educators who represent early learning, K-12, and transitions to postsecondary life as well as special education and general education perspectives, in the categories of superintendent, principal, teacher, or related-services staff, with at least one who represents a recognized bargaining unit of educators;

(ii) Two parents;

(iii) An expert in neuroscience research, neurodiversity, or diverse learning styles;

(iv) An expert in classroom design that promotes inclusive and differentiated instruction;

(v) A representative of state teacher education colleges or an organization representing teacher training educators;

(vi) A representative of a statewide organization representing educators and parents involved in providing professional development for dyslexia or other neurological-based learning disabilities;

(vii) A representative of school counselor and social worker organizations; and

(viii) An expert in early evaluation or provision of early intervention services to prepare children to be ready to learn.

(f) The following department heads or their designees are ex officio nonvoting members of the commission:

(i) The superintendent of public instruction;

(ii) The secretary of the department of social and health services;

(iii) The director of the department of early learning;

(iv) The director of the student achievement council; and

(v) The director of the office of the education ombuds.

(2) Members of the commission must be reimbursed for travel expenses, as provided in RCW 43.03.050 and 43.03.060 and are required to attend full commission meetings, but may not be reimbursed for costs related to attendance of regional work groups.

(3) Staff support for the commission shall be provided by the governor's office and the office of financial management, with support from the office of the superintendent of public instruction and other state education agencies and institutions of higher education, as necessary.

NEW SECTION. **Sec.**  COMMISSION POWERS. (1) The commission on improving outcomes for students with special needs has the powers described in this section.

(2) The commission has the power to convene regional and statewide work groups that bring persons with relevant expertise to the work of the commission and create a level of consensus-building and trust needed for a meaningful shift in the way services are delivered to students with disabilities or special needs. Work group subcommittees may include:

(a) Classroom educators, both general and special education, from early learning through postsecondary education systems;

(b) Administrators;

(c) School finance experts;

(d) Representatives of educational service districts, superintendents, and school board directors;

(e) Self-advocates and parents;

(f) Representatives of the social and health services, including experts in juvenile justice and developmental disabilities;

(g) Related services professionals, such as school psychologists, counselors, social workers, speech and language therapists, physical and occupational therapists, audiologists, school nurses, and other staff involved in the delivery of services and design of plans for students based on their needs;

(h) Experts in brain science and learning;

(i) Experts who understand the unique issues posed by students with disabilities who are English language learners, students of color, students living in poverty, foster care students, students involved with the juvenile justice system, or students who have limited-English speaking families;

(j) Representatives of the state ethnic commissions, the state developmental disabilities council, and the governor's committee on disability issues and employment; and

(k) Representatives of community partners, such as physicians, psychologists, clinics, hospitals, and public health representatives.

(3) The commission has the power to conduct research and system reviews, and consult experts to inform its work. The commission may seek grants and federal funding to carry out research or other activities authorized by the chapter.

(4) To the extent possible, the commission shall use the data and analysis produced by, and in consultation with, the education data center created in RCW 43.41.400 in fulfilling its duties under sections 2 through 9 of this act.

NEW SECTION. **Sec.**  SPECIAL EDUCATION INNOVATION PROJECT. (1) To the extent funds are appropriated specifically for this purpose, the office of financial management shall contract with a statewide organization with expertise in promoting and supporting education from early learning through postsecondary education for students with disabilities or special needs. The purpose of the contract is to identify, test, and develop scalable, cost-effective, and evidence-based approaches for expanding learning opportunities and improving educational outcomes that are aligned with the framework developed under section 4 of this act. The activities to be conducted under the contract shall be as provided in this section, with specific performance expectations negotiated between the office of the governor, the office of financial management, and the selected organization.

(2) Under the terms of the contract, the organization selected under this section must:

(a) Conduct a statewide communications campaign to expand awareness of the importance of educating students with disabilities or special needs and the opportunities available to close the educational opportunity gap for disadvantaged students and to promote economic self-sufficiency and reduced dependence on public benefits for students with disabilities or special needs over their lifetimes;

(b) Expand regional networks of schools, institutions of higher education, and educational service districts that align best practices and local resources to promote the inclusion of students with disabilities or special needs in successful engagement within general education curriculum and programs; increase the percentage of students with disabilities or special needs attending and completing postsecondary training and education; and improve the employment opportunities of students with disabilities or special needs;

(c) Establish an innovation fund and offer competitive innovation grants to public schools, including charter schools, to support inclusive and innovative practices in education, from early learning through postsecondary education, including developing models of interdisciplinary instruction, inclusive models of delivering instruction, and project-based learning to improve outcomes for students with disabilities or special needs;

(d) Expand professional development opportunities for educators, faculty, and principals, including developing technology-enabled learning systems to support mentoring and best practices for students with disabilities or special needs; and

(e) Create opportunities to align early intervention for students with disabilities or special needs into all early learning programs. Early intervention includes programs from birth through age five for infants, toddlers, and preschoolers with disabilities or special needs.

NEW SECTION. **Sec.**  INTERDISCIPLINARY INSTRUCTION AND PROJECT-BASED LEARNING IN SCHOOLS. (1) Subject to funds specifically appropriated for this purpose, the office of the superintendent of public instruction, in consultation with the commission on improving outcomes for students with special needs and the special education innovation project established in section 8 of this act, shall identify and disseminate resources and materials to elementary, middle, and high schools that are intended to encourage and increase interdisciplinary instruction and project-based learning that will assist a student with disabilities or special needs to meet the requirements of a high school diploma.

(2) The office of the superintendent of public instruction shall create partnerships for collaboration using work groups of educators and education service districts, charter schools, institutions of higher education, and innovation grant recipients under section 8 of this act. These work groups must:

(a) Identify interdisciplinary instructional modules appropriate for students with disabilities or special needs at different grade levels;

(b) Identify project-based learning models, projects, lessons, and guides appropriate for students with disabilities or special needs at different grade levels; and

(c) Make the information collected in this section, including online resource guides, available for teachers to incorporate into their classroom instruction.

(3) The office of the superintendent of public instruction shall also disseminate information and research on best practices in interdisciplinary instruction and project-based learning that improves successful outcomes for students with disabilities or special needs.

(4) The office of the superintendent of public instruction, in collaboration with education service districts, shall make available professional development opportunities in brain research and assistive technology regarding learning and instruction for students with learning, neurological, physical, social-emotional, developmental disability, or mental health disorders.

NEW SECTION. **Sec.**  A new section is added to chapter 28A.290 RCW to read as follows:

QUALITY EDUCATION COUNCIL ROLE CLARIFICATION.

(1) This section clarifies the role of the quality education council, which was created to recommend and inform the ongoing implementation by the legislature of an evolving program of basic education and the financing necessary to support the program of basic education. Added to the council's duties in this section is the development of strategic recommendations to improve outcomes for students with disabilities or special needs within the program of basic education for the common schools. The council shall take into consideration the strategic plan, the ten‑year roadmap, and the annual report card of the commission on improving outcomes for students with special needs established in section 3 of this act. Any recommendations for modifications to the program of basic education must consider the needs of students with disabilities or special needs and must be based on evidence that the programs effectively support the learning of students with disabilities or special needs. The council shall update the statewide strategic recommendations every four years and include specific strategies to improve outcomes for students with disabilities or special needs. The recommendations of the council must align with the framework and the ten‑year goals adopted by the commission on improving outcomes for students with special needs and include:

(a) Informing future educational policy and funding decisions of the legislature and governor that include measures that improve outcomes for students with disabilities or special needs as part of the program of basic education;

(b) Identifying measurable goals and priorities for the educational system in Washington for a ten-year time period, including the goals of basic education, and ongoing strategies for coordinating statewide efforts to eliminate the educational opportunity gap experienced by students with disabilities or special needs and enabling the state of Washington to implement an evolving program of basic education that accounts for students with disabilities or special needs in the program of basic education.

(2) The definitions in section 2 of this act apply to this section unless the context clearly requires otherwise.

NEW SECTION. **Sec.**  Sections 2 through 9 of this act are each added to chapter 28A.155 RCW.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect thirty days after signed into law.

**--- END ---**