**2180-S AMH COUT H3053.1 - NOT FOR FLOOR USE**

**SHB 2180** - H AMD **959**

By Representative Couture

**NOT ADOPTED 02/13/2024**

Strike everything after the enacting clause and insert the following:

"**Sec.**  RCW 28A.150.390 and 2023 c 417 s 3 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 head count enrollment of students ages three and four and those five year olds not yet enrolled in kindergarten who are eligible for and receiving special education, multiplied by the district's base allocation per full-time equivalent student, multiplied by 1.2;

(b)(i) Subject to the limitation in (b)(ii) of this subsection (2) and subject to adjustments under section 2 of this act, a district's annual average enrollment of resident students who are eligible for and receiving special education, excluding students ages three and four and those five year olds not yet enrolled in kindergarten, multiplied by the district's base allocation per full-time equivalent student, multiplied by the special education cost multiplier rate of:

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

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

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

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

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

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

(ii) ((~~If~~)) (A) Except as provided in (b)(ii)(B) of this subsection, if the enrollment percent exceeds ((~~15 percent~~)) the funded enrollment limit, the excess cost allocation calculated under (b)(i) of this subsection must be adjusted by multiplying the allocation by ((~~15 percent~~)) the funded enrollment limit divided by the enrollment percent.

(B) School districts with fewer than 2,500 full-time equivalent students, school districts that received safety net awards under RCW 28A.150.392(2)(f) in the prior school year, and school districts where at least 10 percent of enrollment is identified as having a military parent are not subject to a funded enrollment limit.

(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 annual average enrollment of students who are eligible for and receiving special education, excluding students ages three and four and those five year olds not yet enrolled in kindergarten and students enrolled in institutional education programs, as a percent of the district's annual average full-time equivalent basic education enrollment.

(d) "Funded enrollment limit" means:

(i) In the 2023-24 school year, 15 percent;

(ii) In the 2024-25 school year, 15.5 percent;

(iii) In the 2025-26 and 2026-27 school years, 16 percent; and

(iv) Beginning in the 2027-28 school year, all students eligible for and receiving special education must generate excess cost allocations under this section.

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

(1)(a) As part of its monitoring of special education programs, the office of the superintendent of public instruction must determine whether school districts and charter schools are overidentifying students as eligible for special education or overproviding special education services to students beyond what is required by their individualized education programs.

(b) If a school district or charter school is determined to be overidentifying students as eligible for special education or overproviding special education services to students beyond what is required by their individualized education programs, then the office of the superintendent of public instruction must intervene and establish a corrective action plan with the school district or charter school.

(c) The office of the superintendent of public instruction must communicate any determination resulting in a corrective action plan under this subsection to the state auditor.

(2) In the school year following a determination resulting in a corrective action under subsection (1) of this section, the state auditor must audit for compliance with the corrective action plan and part B of the federal individuals with disabilities education act a school district or charter school with an enrollment percent for special education that exceeds 16 percent. The state auditor must report the audit findings to the office of the superintendent of public instruction.

(3) If the state auditor finds that a school district or charter school audited as required by subsection (2) of this section has not timely implemented corrective actions identified by the office of the superintendent of public instruction, the office of the superintendent of public instruction must adjust the excess cost allocation calculated under RCW 28A.150.390(2)(b)(i) by multiplying the allocation by 16 percent divided by the enrollment percent of the school district or charter school if the enrollment percent exceeds 16 percent.

(4) As used in this section, "enrollment percent" has the same meaning as in RCW 28A.150.390."

Correct the title.

EFFECT: Increases the enrollment limit for special education funding from 15 percent in the 2023-24 school year, to 15.5 percent in the 2024-25 school year, and to 16 percent in the 2025-26 and 2026-27 school years, after which time the limit is removed.

Specifies that the enrollment limit does not apply to school districts with fewer than 2,500 students, school districts that received safety net awards due to community characteristics that draw a larger number of students in need of special education services, and school districts where at least 10 percent of enrollment is identified as having a military parent.

Requires the Office of the Superintendent of Public Instruction (OSPI) to intervene and establish a corrective action plan with school districts and charter schools determined to overidentify students as eligible for special education or overprovide special education services.

Requires the State Auditor to audit for compliance with the corrective action plans school districts and charter schools with an enrollment percent for special education that exceeds 16 percent, and the OSPI to adjust the excess cost allocation if corrective action is not implemented.