

ESHB 1436 - S COMM AMD

By Committee on Early Learning & K-12 Education

NOT ADOPTED 04/12/2023

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.155
4 RCW to read as follows:

5 (1) The superintendent of public instruction shall annually
6 review data from local education agencies, including the percentage
7 of students receiving special education services, to ensure there is
8 not a disproportionate identification of students, as defined by the
9 superintendent of public instruction in accordance with federal
10 requirements of the individuals with disabilities education act, 20
11 U.S.C. Sec. 1400.

12 (2) The office of the superintendent of public instruction shall
13 provide technical assistance to school districts experiencing issues
14 related to disproportionality and will make available professional
15 development opportunities statewide to support local education
16 agencies, schools, and community partners in promoting inclusionary
17 teaching practices within a multitiered system of supports framework
18 to help safeguard against over-identification and other issues
19 related to disproportionality.

20 NEW SECTION. **Sec. 2.** (1) The joint legislative audit and review
21 committee and the state auditor must collaborate to conduct a
22 performance audit of the state's system of providing special
23 education services to students with disabilities. The joint
24 legislative audit and review committee and the state auditor may
25 divide responsibility for the work and reporting required in this
26 section as appropriate, and contract with qualified third-party
27 researchers or higher education institutions to perform any aspect of
28 the report and audit. The report and audit must address:

29 (a) The prevalence of disabilities and whether the provisions and
30 funding for evaluating students and providing services reflects the

1 prevalence of disabilities, including whether any populations are
2 disparately underevaluated or underserved;

3 (b) The degree to which changes in funding formulas intended to
4 encourage increased inclusion are successful and whether the state
5 and school districts are utilizing best practices to improve
6 inclusion;

7 (c) Whether the changes in evaluation timelines or increases in
8 the funded enrollment limit have resulted in funding for students who
9 do not have disabilities or in excess of districts' costs to serve
10 students with disabilities;

11 (d) Whether districts are appropriately accounting for and
12 reporting use of basic education allocations for students with
13 disabilities, including if statutory expectations for use of funds
14 are being met;

15 (e) The amount of funding from levies or other local sources that
16 school districts continue to utilize under current accounting
17 methodologies in order to meet obligations to provide free and
18 appropriate public education to students with disabilities, the
19 degree to which funding shortfalls will continue following planned
20 increases in multipliers, proposed changes to accounting
21 methodologies, and the elimination of a cap on the percent of
22 students for whom the state provides funding; and, options for
23 additional changes to funding formulas to eliminate shortfalls in
24 state funding for special education; and

25 (f) How the state may improve recruitment and retention of
26 certificated educators, instructional aides, or paraeducators and
27 professionals serving students with disabilities.

28 (2) To develop the appropriate scope, define study questions, and
29 select one or more contractors to complete the performance audit and
30 report, the joint legislative audit and review committee and state
31 auditor shall consult with the office of the superintendent of public
32 instruction, the office of the education ombuds, organizations
33 representing and serving students with disabilities, the Washington
34 state special education advisory council, and labor organizations
35 representing educators providing educational services to students
36 with disabilities in developing study questions and choosing
37 appropriate contractors. To address the study questions, the joint
38 legislative audit and review committee and the state auditor may
39 conduct the audit at a sample of school districts as needed.

1 (3) The performance audit required by this section must include
2 charter schools to the same extent as school districts.

3 (4) Upon request, the office of financial management and any
4 state or local agency must provide the joint legislative audit and
5 review committee and the state auditor with education records
6 necessary to conduct the performance audit required under this
7 section. The joint legislative audit and review committee and the
8 state auditor shall be considered authorized representatives of
9 relevant state education authorities, including the superintendent of
10 public instruction and the department of children, youth, and
11 families, for the purpose of accessing records for this evaluation.
12 The office of financial management and any state or local agency must
13 provide records within four months from the date of an initial
14 request. The office of financial management or agencies contributing
15 data to the education research and data center must notify the joint
16 legislative audit and review committee and the state auditor's office
17 in writing if they determine a request does not comply with the
18 federal educational rights and privacy act, no later than 21 days
19 after the initial request.

20 (5) Prior to the 2024 legislative session, the joint legislative
21 audit and review committee and the state auditor must identify a lead
22 agency for each element of the report and audit defined in subsection
23 (1)(a) through (f) of this section and any aspects of the study that
24 are being conducted by contractors. These designations must be
25 provided to the governor and the committees of the legislature with
26 jurisdiction over fiscal matters and special education by December
27 31, 2023.

28 (6) The joint legislative audit and review committee and the
29 state auditor must, in accordance with RCW 43.01.036, report the
30 study's findings and recommendations to the governor and the
31 committees of the legislature with jurisdiction over fiscal matters
32 and special education by November 30, 2024.

33 (7) This section expires August 1, 2025.

34 NEW SECTION. **Sec. 3.** If specific funding for the purposes of
35 this act, referencing this act by bill or chapter number, is not
36 provided by June 30, 2023, in the omnibus appropriations act, this
37 act is null and void."

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1 On page 1, line 1 of the title, after "funding;" strike the
2 remainder of the title and insert "adding a new section to chapter
3 28A.155 RCW; creating new sections; and providing an expiration
4 date."

EFFECT: Strikes all provisions except those that:

(1) Direct OSPI to annually review data to ensure there is not a disproportionate identification of students;

(2) Require OSPI to provide technical assistance to school districts experiencing issues related to disproportionality and make professional development opportunities available to promote inclusionary teaching practices.

(3) Require JLARC and the State Auditor to conduct a performance audit of the state's system of providing special education.

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