

# SENATE BILL REPORT

## SB 5852

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As Passed Senate, February 8, 2024

**Title:** An act relating to special education safety net awards.

**Brief Description:** Concerning special education safety net awards.

**Sponsors:** Senators Braun, Mullet, Short, Torres and Wilson, L..

**Brief History:**

**Committee Activity:** Early Learning & K-12 Education: 1/15/24, 1/18/24 [DP].  
Ways & Means: 2/03/24, 2/05/24 [DP].

**Floor Activity:** Passed Senate: 2/8/24, 47-0.

### Brief Summary of Bill

- Provides that the Safety Net Oversight Committee must limit its review to relevant documentation that illustrates adherence to safety net award criteria, and may not make determinations regarding the content of individualized education programs (IEPs) beyond confirming documented and quantified services and evidence of corresponding expenditures.
- Provides that safety net awards may only be adjusted for errors in applications or IEPs that materially affect the demonstration of need.
- Requires the Office of the Superintendent of Public Instruction (OSPI), by December 2024, to develop a survey requesting feedback from small school districts regarding the safety net application process.
- Requires OSPI, by December 2025, to use the survey feedback to implement a simplified, standardized safety net application for all school districts that reduces barriers to safety net funding.

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### SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Majority Report:** Do pass.

Signed by Senators Wellman, Chair; Nobles, Vice Chair; Wilson, C., Vice Chair; Hawkins, Ranking Member; Dozier, Hunt, McCune, Mullet and Pedersen.

**Staff:** Alex Fairfortune (786-7416)

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## SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass.

Signed by Senators Robinson, Chair; Mullet, Vice Chair, Capital; Nguyen, Vice Chair, Operating; Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Rivers, Assistant Ranking Member, Capital; Warnick, Assistant Ranking Member, Capital; Billig, Boehnke, Braun, Conway, Dhingra, Hasegawa, Hunt, Keiser, Muzzall, Pedersen, Randall, Saldaña, Torres, Van De Wege, Wagoner and Wellman.

**Staff:** Trevor Press (786-7446)

**Background:** Special Education Funding. The state allocates funding for a program of special education for students with disabilities. Special education is funded on an excess cost formula for up to 15 percent of a district's students. This formula multiplies the district's base allocation for students enrolled in K-12 special education by an excess cost multiplier of either:

- 1.12 for students receiving special education and reported to be in the general education setting for 80 percent or more of the school day; or
- 1.06 for students receiving special education and reported to be in the general education setting for less than 80 percent of the school day.

Safety Net Funding. Beyond these allocations, the Safety Net Oversight Committee (Committee), appointed by the Superintendent of Public Instruction, may award safety net funding if a district can convincingly demonstrate that all legitimate expenditures for special education exceed all available revenues from state funding formulas, and it is maximizing its eligibility for all related state and federal revenues. The Committee may award safety net funding to applicants for high-need individuals and for community characteristics that draw a large number of students eligible for special education. A high-need individual is eligible for a safety net award if the student's individualized education program (IEP) costs exceed 2.2 times the average per-pupil expenditure. If the school district has fewer than 1000 students this threshold is reduced to 2 times the average per-pupil expenditure.

Under state law, safety net awards must be adjusted for any audit findings or exceptions related to special education funding. Under state rule, the Committee may adjust awards for IEP noncompliance. The practice of reducing awards for noncompliance is informally referred to as proration. The following proration percentages applied in the 2022-23 school year:

- one area of non-compliance identified: 15 percent award reduction;
- two areas of non-compliance identified: 30 percent award reduction;
- three areas of non-compliance identified: 45 percent award reduction; and
- four or more areas of non-compliance identified: 100 percent award reduction.

Safety Net Process Survey. On an annual basis, the Superintendent of Public Instruction must survey school districts regarding their satisfaction with the safety net process and consider feedback for improvement. The Superintendent must summarize the survey results and changes in an annual report to the Office of Financial Management and the Legislature.

**Summary of Bill:** Award Eligibility and Amounts. When determining award eligibility and amounts the Committee must limit its review to relevant documentation that illustrates adherence to award criteria. The committee may not make determinations regarding the content of IEPs beyond confirming documented and quantified services and evidence of corresponding expenditures for which a school district seeks reimbursement.

Award Adjustment. Safety net awards may only be adjusted for errors in safety net applications or IEPs that materially affect the demonstration of need. The requirement to adjust safety net awards for audit findings is modified to apply only if the audit findings are unresolved.

Survey of Districts. By December 1, 2024, the Office of the Superintendent of Public Instruction (OSPI) must develop a survey requesting specific feedback on the safety net application process from school districts with 3000 or fewer students. The survey must include, at a minimum, questions regarding the average amount of time school district staff spend gathering safety net application data, filling out application forms, and correcting application deficiencies. The survey must also include questions to help identify which application components are the most challenging and time consuming for school districts to complete.

By December 1, 2025, OSPI must use this feedback to implement a simplified, standardized safety net application for all school districts that reduces barriers to safety net funding.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony (Early Learning & K-12 Education):** PRO: This bill is a good follow-up to work the Legislature has already done to increase special education funding. School board members have explained that they face challenges in

getting full funding if they don't get the safety net application just right, even if they otherwise meet the qualifications. Small and less affluent districts especially struggle. The application also needs to be easier in the future so schools get the funding that is warranted. Some districts have stopped applying because they don't have the staff available and the application can take up to 40 hours of staff time. In other circumstances, districts do a cost-benefit analysis to compare the time and effort it takes to fill out the application with the potential funding they will receive. The bill will save districts an extreme amount of time and money. There are other processes already in place to ensure compliance with IEPs. OSPI is already working to lower proration amounts to a maximum of 20 percent and bring the application system online, but the agency is supportive of this effort to improve flexibility and access.

**Persons Testifying (Early Learning & K-12 Education):** PRO: Senator John Braun, Prime Sponsor; Kelsi Hamilton, WSSDA and Chehalis School Board; Nicholle Mineiro, Attorneys for Education Rights; Katie Howell; Sue Ann Bube, Mercer Island School District; Mikhail Cherniske, Office of Superintendent of Public Instruction; Vivian van Gelder, Seattle Council PTSA .

**Persons Signed In To Testify But Not Testifying (Early Learning & K-12 Education):** No one.

**Staff Summary of Public Testimony (Ways & Means):** PRO: School districts often cannot get the safety net funding because of small, unintentional errors. Safety net funds are important. Staff costs to fill out applications are often not worth the effort because the process is so complicated and small, easy to make errors can cost thousands of dollars. This bill removes all penalties for non-substantive errors and reduces paperwork. This helps districts continue funding high-need students. Four or more errors on paperwork results in a total loss of reimbursement.

**Persons Testifying (Ways & Means):** PRO: Senator John Braun, Prime Sponsor; Katie Howell, Chehalis Schools; Kelsi Hamilton, WSSDA; Charlie Brown, South Sound Superintendents; Sue Ann Bube, Mercer Island School District.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.