CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5072**

Chapter 265, Laws of 2023

68th Legislature

2023 Regular Session

HIGHLY CAPABLE STUDENTS—IDENTIFICATION

EFFECTIVE DATE: July 23, 2023

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| Passed by the Senate April 13, 2023  Yeas 47 Nays 0  DENNY HECK  **President of the Senate**  Passed by the House March 22, 2023  Yeas 97 Nays 0  LAURIE JINKINS  **Speaker of the House of Representatives** | CERTIFICATE  I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5072** as passed by the Senate and the House of Representatives on the dates hereon set forth.  SARAH BANNISTER  Secretary |
| Approved May 4, 2023 10:40 AM | May 4, 2023 |
| JAY INSLEE  **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

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**SUBSTITUTE SENATE BILL 5072**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2023 Regular Session

**State of Washington 68th Legislature 2023 Regular Session**

**By** Senate Early Learning & K-12 Education (originally sponsored by Senators Nobles, Wellman, Hunt, Keiser, Kuderer, Liias, Nguyen, Pedersen, Randall, Rolfes, Saldaña, Salomon, Trudeau, Valdez, and C. Wilson)

AN ACT Relating to advancing equity in programs for highly capable students; amending RCW 28A.185.020, 28A.185.030, 28A.185.050, and 28A.300.042; adding a new section to chapter 28A.185 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  (1) The legislature finds that, for highly capable students, access to accelerated learning and enhanced instruction is access to a basic education. The legislature has directed school districts to prioritize equitable identification of low-income students for participation in highly capable programs and services. The research literature strongly supports using universal screening and multiple criteria to equitably identify students for highly capable programs. There are multiple approaches to implementing universal screening and the use of multiple criteria. The legislature intends all school districts to use best practices and does not intend to prescribe a single method.

(2) The legislature further intends to allocate state funding for the highly capable program based on five percent of each school district's student population. The legislature does not intend to limit highly capable services to five percent of the student population. School districts may identify and serve more than five percent of their students for highly capable programs and services.

**Sec.**  RCW 28A.185.020 and 2017 3rd sp.s. c 13 s 412 are each amended to read as follows:

((~~(1) The legislature finds that, for highly capable students, access to accelerated learning and enhanced instruction is access to a basic education. There are multiple definitions of highly capable, from intellectual to academic to artistic. The research literature strongly supports using multiple criteria to identify highly capable students, and therefore, the legislature does not intend to prescribe a single method. Instead, the legislature intends to allocate funding based on 5.0 percent of each school district's population and authorize school districts to identify through the use of multiple, objective criteria those students most highly capable and eligible to receive accelerated learning and enhanced instruction in the program offered by the district.~~)) District practices for identifying ((~~the most~~)) highly capable students must prioritize equitable identification of low-income students. Access to accelerated learning and enhanced instruction through the program for highly capable students does not constitute an individual entitlement for any particular student.

((~~(2) Supplementary funds provided by the state for the program for highly capable students under RCW 28A.150.260 shall be categorical funding to provide services to highly capable students as determined by a school district under RCW 28A.185.030.~~))

NEW SECTION. **Sec.**  A new section is added to chapter 28A.185 RCW to read as follows:

(1) Other basic education funding can be used alongside categorical funding to identify students and provide programs and services for highly capable students.

(2) Each school district must conduct universal screenings in accordance with RCW 28A.185.030 to find students who may qualify for potential highly capable program placement.

**Sec.**  RCW 28A.185.030 and 2009 c 380 s 4 are each amended to read as follows:

((~~Local school~~)) (1) School districts may establish and operate, either separately or jointly, programs for highly capable students. Such authority shall include the right to employ and pay special instructors and to operate such programs jointly with a public institution of higher education. ((~~Local school~~))

(2) School districts ((~~which~~)) that establish and operate programs for highly capable students shall adopt identification procedures and provide educational opportunities as follows:

((~~(1)~~)) (a) In accordance with rules adopted by the superintendent of public instruction, school districts shall implement procedures for ((~~nomination~~)) referral, screening, assessment ((~~and selection~~)), identification, and placement of ((~~their most~~)) highly capable students. ((~~Nominations shall be based upon data from~~))

(i) Referrals must be available for all grade levels not being universally screened, and may be submitted by teachers, other staff, parents, students, and members of the community.

(ii) Each school district must select a grade level to implement universal screening procedures for each student. Universal screening must occur once in or before second grade, and again in or before sixth grade. The purpose of universal screening is to include students who traditionally are not referred for highly capable programs and services. Students discovered during universal screening may need further assessment to determine whether the student is eligible for placement in a program for highly capable students. Districts must consider at least two student data points during universal screening, which may include previously administered standardized, classroom-based, performance, cognitive, or achievement assessments, or research-based behavior ratings scales. There is no requirement to administer a new assessment for the purpose of universal screening, however districts may do so if they desire.

(iii) Assessments ((~~shall~~)) for highly capable program services must be based upon a review of each student's capability as shown by multiple criteria intended to reveal, from a wide variety of sources and data, each student's unique needs and capabilities. Any screenings or additional assessments must be conducted within the school day and at the school the student attends, except that school districts, on a case-by-case basis and with the consent of the parent or guardian, may offer a student screenings or additional assessment opportunities during the summer, outside of school hours, or at an alternative site.

((~~Selection~~)) (iv) Identification and placement decisions shall be made by a ((~~broadly based committee of professionals,~~)) multidisciplinary selection committee after consideration of the results of the ((~~multiple criteria assessment~~)) universal screening, any further assessment, and any available district data. Students identified pursuant to procedures outlined in this section must be provided, to the extent feasible, an educational opportunity that takes into account each student's unique needs and capabilities, and the limits of the resources and program options available to the district, including those options that can be developed or provided using funds allocated by the superintendent of public instruction for this specific purpose.

(b) In addition to the criteria listed in (a) of this subsection, district practices for identifying highly capable students must seek to expand access to accelerated learning and enhanced instruction at elementary and secondary schools and advance equitable enrollment practices so that all students, especially students from historically underrepresented and low-income groups, who are ready to engage in more rigorous coursework can benefit from accelerated learning and enhanced instruction.

((~~(2)~~)) (3) When a student, who is a child of a military family in transition, has been assessed or enrolled as highly capable by a sending school, the receiving school shall initially honor placement of the student into a like program.

(a) The receiving school shall determine whether the district's program is a like program when compared to the sending school's program; and

(b) The receiving school may conduct subsequent assessments to determine appropriate placement and continued enrollment in the program.

((~~(3) Students selected pursuant to procedures outlined in this section shall be provided, to the extent feasible, an educational opportunity which takes into account each student's unique needs and capabilities and the limits of the resources and program options available to the district, including those options which can be developed or provided by using funds allocated by the superintendent of public instruction for that purpose.~~))

(4) ((~~The~~)) For a student who is a child of a military family in transition, the definitions in Article II of RCW 28A.705.010 apply to subsection ((~~(2)~~)) (3) of this section.

**Sec.**  RCW 28A.185.050 and 2002 c 234 s 1 are each amended to read as follows:

(1) In order to ensure that school districts are meeting the requirements of an approved program for highly capable students, the superintendent of public instruction shall monitor highly capable programs at least once every five years. Monitoring shall begin during the 2002-03 school year.

(2) Any program review and monitoring under this section may be conducted concurrently with other program reviews and monitoring conducted by the office of the superintendent of public instruction. In its review, the office shall monitor program components that include but need not be limited to the process used by the district to identify and reach out to highly capable students with diverse talents and from diverse backgrounds, assessment data ((~~and~~)), other indicators to determine how well the district is meeting the academic needs of highly capable students, and district expenditures used to enrich or expand opportunities for these students.

(3) Beginning June 30, 2003, and every five years thereafter, the office of the superintendent of public instruction shall submit a report to the education committees of the house of representatives and the senate that provides the following:

(a) A brief description of the various instructional programs offered to highly capable students; and

(b) Relevant data to the programs for highly capable students collected under RCW 28A.300.042.

(4) Beginning November 1, 2023, and annually thereafter, the superintendent of public instruction must make data publicly available that includes a comparison of the race, ethnicity, and low-income status of highly capable students compared to the same demographic groups in the general student population of each school district. Reporting must also include comparisons for students who are English language learners, have an individualized education program, have a 504 plan, are covered by provisions of the McKinney-Vento homeless assistance act, or are highly mobile.

(5) The superintendent of public instruction may adopt rules under chapter 34.05 RCW to implement this section.

**Sec.**  RCW 28A.300.042 and 2016 c 72 s 501 are each amended to read as follows:

(1) ((~~Beginning with the 2017-18 school year, and using the phase-in provided in subsection (2) of this section, the~~)) The superintendent of public instruction must collect and school districts must submit all student-level data using the United States department of education 2007 race and ethnicity reporting guidelines, including the subracial and subethnic categories within those guidelines, with the following modifications:

(a) Further disaggregation of the Black category to differentiate students of African origin and students native to the United States with African ancestors;

(b) Further disaggregation of countries of origin for Asian students;

(c) Further disaggregation of the White category to include subethnic categories for Eastern European nationalities that have significant populations in Washington; and

(d) For students who report as multiracial, collection of their racial and ethnic combination of categories.

(2) Beginning with the 2017-18 school year, school districts shall collect student-level data as provided in subsection (1) of this section for all newly enrolled students, including transfer students. When the students enroll in a different school within the district, school districts shall resurvey the newly enrolled students for whom subracial and subethnic categories were not previously collected. School districts may resurvey other students.

(3) All student data-related reports required of the superintendent of public instruction in this title must be disaggregated by at least the following subgroups of students: White, Black, Hispanic, American Indian/Alaskan Native, Asian, Pacific Islander/Hawaiian Native, low income, highly capable, transitional bilingual, migrant, special education, and students covered by section 504 of the federal rehabilitation act of 1973, as amended (29 U.S.C. Sec. 794).

(4) All student data-related reports prepared by the superintendent of public instruction regarding student suspensions and expulsions as required under this title are subject to disaggregation by subgroups including:

(a) Gender;

(b) Foster care;

(c) Homeless, if known;

(d) School district;

(e) School;

(f) Grade level;

(g) Behavior infraction code, including:

(i) Bullying;

(ii) Tobacco;

(iii) Alcohol;

(iv) Illicit drug;

(v) Fighting without major injury;

(vi) Violence without major injury;

(vii) Violence with major injury;

(viii) Possession of a weapon; and

(ix) Other behavior resulting from a short-term or long-term suspension, expulsion, or interim alternative education setting intervention;

(h) Intervention applied, including:

(i) Short-term suspension;

(ii) Long-term suspension;

(iii) Emergency expulsion;

(iv) Expulsion;

(v) Interim alternative education settings;

(vi) No intervention applied; and

(vii) Other intervention applied that is not described in this subsection (4)(h);

(i) Number of days a student is suspended or expelled, to be counted in half or full days; and

(j) Any other categories added at a future date by the data governance group.

(5) All student data-related reports required of the superintendent of public instruction regarding student suspensions and expulsions as required in RCW 28A.300.046 are subject to cross-tabulation at a minimum by the following:

(a) School and district;

(b) Race, low income, highly capable, special education, transitional bilingual, migrant, foster care, homeless, students covered by section 504 of the federal rehabilitation act of 1973, as amended (29 U.S.C. Sec. 794), and categories to be added in the future;

(c) Behavior infraction code; and

(d) Intervention applied.

(6) The K-12 data governance group shall develop the data protocols and guidance for school districts in the collection of data as required under this section, and the office of the superintendent of public instruction shall modify the statewide student data system as needed. The office of the superintendent of public instruction shall also incorporate training for school staff on best practices for collection of data ((~~on student race and ethnicity~~)) under this section in other training or professional development related to data provided by the office.

**--- END ---**

Passed by the Senate April 13, 2023.

Passed by the House March 22, 2023.

Approved by the Governor May 4, 2023.

Filed in Office of Secretary of State May 4, 2023.