

SENATE BILL REPORT

SHB 1109

As of March 28, 2023

Title: An act relating to providing funding for school districts to conduct extraordinary numbers of special education eligibility determinations and to subsequently develop individualized education programs for the eligible students.

Brief Description: Providing funding for school districts for special education.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Senn, Stonier, Rude, Taylor, Slatter, Callan, Doglio, Orwall, Caldier, Simmons, Timmons, Reeves, Couture, Thai, Bergquist, Ortiz-Self, Pollet, Santos, Kloba and Davis).

Brief History: Passed House: 3/1/23, 95-1.

Committee Activity: Early Learning & K-12 Education: 3/15/23, 3/20/23 [DP-WM].
Ways & Means: 3/28/23.

Brief Summary of Bill

- Establishes a program to reimburse public schools up to \$3,000 for conducting an initial special education evaluation for an eligible student and up to \$3,000 for developing an individualized education program (IEP) for an eligible student, during the summers of 2023, 2024, and 2025.
- Requires, beginning July 1, 2026, the Special Education Safety Net Committee to consider extraordinary costs associated with conducting extraordinarily high numbers of initial evaluations for special education services, and subsequent development of IEPs for eligible students, during a school year.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: Do pass and be referred to Committee on Ways & Means.

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.

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

Staff: Alexandra Fairfortune (786-7416)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Kayla Hammer (786-7305)

Background: Initial Evaluation for Special Education. An initial evaluation is the process used to determine whether a student age 3 through 21 years has a qualifying disability and is in need of special education and related services to receive a free, appropriate public education. The school district has 35 school days from the time a student's parent provided consent for an evaluation to determine the student's eligibility for special education. School days do not include school holidays or vacation days.

The initial evaluation process must assess the student in areas of suspected disability. The student may be assessed on cognitive, behavioral, physical, or developmental factors. The school district must hold a meeting that includes qualified professionals and the student's parents to discuss the results of the evaluation and to make the eligibility determination.

Individualized Education Programs. When a student is found eligible for special education, the school district has 30 calendar days to develop the student's individualized education program (IEP). An IEP, which is written by an IEP team, guides the delivery of special education and related services for the student.

The IEP team must include:

- the student's parent;
- at least one of the student's general education teachers;
- at least one special education teacher;
- school staff qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities, and who is knowledgeable about the general curriculum and the availability of resources;
- an individual who can interpret evaluation results and the related instructional implications;
- other individuals, at the discretion of the parent or the school, who have knowledge or special expertise regarding the student; and
- if appropriate, the student.

Safety Net Funding. Safety net funding is available to school districts that (1) have legitimate special education costs that exceed all available state funding formulas, and (2) are maximizing eligibility for all related state and federal revenues. The Safety Net Oversight 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.

Summary of Bill: Reimbursement Program. The Office of the Superintendent of Public Instruction (OSPI) must reimburse school districts, charter schools, and state-tribal education compact schools for special education evaluations and IEP development that takes place during the summer months of July, August, and September. Such reimbursements must be provided in 2023, 2024, and 2025, up to the following amounts:

- \$3,000 per eligible student for conducting an initial evaluation for special education; and
- \$3,000 per eligible student for development of IEPs including, if needed, assistive technology devices and services.

"Eligible student" means a student with an incomplete initial special education evaluation as of June 30th, of the current year, who was referred for an initial evaluation prior to June 30th of the current year.

School districts, charter schools, and state-tribal compact schools without capacity to conduct these special education-related activities during the summer may contract for these activities to be completed by educational service districts or private organizations with expertise.

At the time and in the manner required by OSPI, recipients of these reimbursements must submit the following information (1) the number of hours of staff time spent conducting initial student evaluations, developing IEPs, and performing related administrative activities, disaggregated by staff type, and (2) the number of initial student evaluations conducted and IEPs developed, per month, between September 2021 and September 2024, disaggregated by student grade level or age, if in preschool.

Annually by December 1st, OSPI must report to the Legislature with a summary of the information submitted by recipients of the reimbursements and a commentary on the effectiveness of the reimbursements.

The reimbursement program expires June 30, 2026.

Special Education Safety Net. Beginning July 1, 2026, the Special Education Safety Net Committee must consider extraordinary costs associated with conducting extraordinarily high numbers of initial evaluations for special education services and related services, and subsequent development of IEPs for the eligible students, during a school year. These safety net awards must be adjusted to reflect other safety net award amounts provided for high-need individuals or community impact.

Appropriation: The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

Fiscal Note: Available.

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

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony (Early Learning & K-12 Education): PRO: For little kids, if they miss the window in the summer they might end up waiting 6 months to get an IEP. During COVID many families postponed primary care visits or didn't enroll their kids in school, so there were even more delays. This bill is a win for everyone because it allows schools to develop evaluations and IEPs over the summer. These additional dollars to school districts will ensure students are ready to learn day one and aren't moving classrooms or missing out on learning. In the long term these can be considered under the safety net.

OTHER: Evaluations are conducted using multidisciplinary teams (including teachers) who are often not available in the summers. If the process is opened up the number of students would be substantially higher, and this bill doesn't account for additional staffing. Districts continue to become understaffed and shortages are worse in summer. This will be an increased barrier. To operate there are operational costs that haven't been considered. It should be a pilot program with small and large districts on each side of the cascades.

Persons Testifying (Early Learning & K-12 Education): PRO: Representative Tana Senn, Prime Sponsor; Ramona Hattendorf, The Arc of King County.

OTHER: Shannon Hitch, Lake Washington School District; Lacey Stanage, School Alliance.

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

Staff Summary of Public Testimony (Ways & Means): PRO: Children are leaving Early Support for Infants and Toddlers programs and not being properly transitioned into preschool services. There is a backlog of getting IEPs in place.

Persons Testifying (Ways & Means): PRO: Ramona Hattendorf, The Arc of King County.

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