

CERTIFICATION OF ENROLLMENT

SENATE BILL 5852

68th Legislature
2024 Regular Session

Passed by the Senate February 8, 2024
Yeas 47 Nays 0

President of the Senate

Passed by the House March 1, 2024
Yeas 95 Nays 0

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5852** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5852

Passed Legislature - 2024 Regular Session

State of Washington

68th Legislature

2024 Regular Session

By Senators Braun, Mullet, Short, Torres, and L. Wilson

Prefiled 12/15/23. Read first time 01/08/24. Referred to Committee on Early Learning & K-12 Education.

1 AN ACT Relating to special education safety net awards; amending
2 RCW 28A.150.392; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The legislature recognizes that the
5 special education safety net is an important funding resource for
6 school districts that serve high-need students requiring
7 extraordinary high-cost services. However, the legislature finds that
8 the current safety net application requirements are burdensome to
9 school districts, especially those with limited staff, and may
10 discourage school districts from applying for funding. School
11 districts have reported that, as part of the application process,
12 individualized education programs are rigorously analyzed beyond what
13 is necessary to confirm a legitimate demonstration of need, and
14 safety net awards are reduced by up to 45 percent for errors. This
15 practice undermines the expertise of the individualized education
16 program team members, creates barriers to funding for school
17 districts with limited resources, and fails to accurately reimburse
18 school districts for legitimate expenditures. Therefore, the
19 legislature intends to clarify the responsibilities of the safety net
20 oversight committee in reviewing applications and prohibit award
21 reductions for nonmaterial errors. The legislature also intends to

1 simplify the application process to reduce administrative barriers
2 and increase funding accessibility.

3 **Sec. 2.** RCW 28A.150.392 and 2023 c 417 s 4 are each amended to
4 read as follows:

5 (1) (a) To the extent necessary, funds shall be made available for
6 safety net awards for districts with demonstrated needs for special
7 education funding beyond the amounts provided through the special
8 education funding formula under RCW 28A.150.390.

9 (b) If the federal safety net awards based on the federal
10 eligibility threshold exceed the federal appropriation in any fiscal
11 year, then the superintendent shall expend all available federal
12 discretionary funds necessary to meet this need.

13 (2) Safety net funds shall be awarded by the state safety net
14 oversight committee subject to the following conditions and
15 limitations:

16 (a) The committee shall award additional funds for districts that
17 can convincingly demonstrate that all legitimate expenditures for
18 special education exceed all available revenues from state funding
19 formulas. When determining award eligibility and amounts the
20 committee shall limit its review to relevant documentation that
21 illustrates adherence to award criteria. The committee shall not make
22 determinations regarding the content of individualized education
23 programs beyond confirming documented and quantified services and
24 evidence of corresponding expenditures for which a school district
25 seeks reimbursement.

26 (b) In the determination of need, the committee shall consider
27 additional available revenues from federal sources.

28 (c) Differences in program costs attributable to district
29 philosophy, service delivery choice, or accounting practices are not
30 a legitimate basis for safety net awards.

31 (d) In the determination of need, the committee shall require
32 that districts demonstrate that they are maximizing their eligibility
33 for all state revenues related to services for students eligible for
34 special education and all federal revenues from federal impact aid,
35 medicaid, and the individuals with disabilities education act-Part B
36 and appropriate special projects. Awards associated with (e) and (f)
37 of this subsection shall not exceed the total of a district's
38 specific determination of need.

1 (e) The committee shall then consider the extraordinary high cost
2 needs of one or more individual students eligible for and receiving
3 special education. Differences in costs attributable to district
4 philosophy, service delivery choice, or accounting practices are not
5 a legitimate basis for safety net awards.

6 (f) Using criteria developed by the committee, the committee
7 shall then consider extraordinary costs associated with communities
8 that draw a larger number of families with children in need of
9 special education services, which may include consideration of
10 proximity to group homes, military bases, and regional hospitals.
11 Safety net awards under this subsection (2)(f) shall be adjusted to
12 reflect amounts awarded under (e) of this subsection.

13 (g) The committee shall then consider the extraordinary high cost
14 needs of one or more individual students eligible for and receiving
15 special education served in residential schools, programs for
16 juveniles under the department of corrections, and programs for
17 juveniles operated by city and county jails to the extent they are
18 providing a secondary program of education.

19 (h) The maximum allowable indirect cost for calculating safety
20 net eligibility may not exceed the federal restricted indirect cost
21 rate for the district plus one percent.

22 (i) Safety net awards shall be adjusted based on the percent of
23 potential medicaid eligible students billed as calculated by the
24 superintendent of public instruction in accordance with chapter 318,
25 Laws of 1999.

26 (j) Safety net awards must be adjusted for any unresolved audit
27 findings or exceptions related to special education funding. Safety
28 net awards may only be adjusted for errors in safety net applications
29 or individualized education programs that materially affect the
30 demonstration of need.

31 (3) The superintendent of public instruction shall adopt such
32 rules and procedures as are necessary to administer the special
33 education funding and safety net award process. By December 1, 2018,
34 the superintendent shall review and revise the rules to achieve full
35 and complete implementation of the requirements of this subsection
36 and subsection (4) of this section including revisions to rules that
37 provide additional flexibility to access community impact awards.
38 Before revising any standards, procedures, or rules, the
39 superintendent shall consult with the office of financial management
40 and the fiscal committees of the legislature. In adopting and

1 revising the rules, the superintendent shall ensure the application
2 process to access safety net funding is streamlined, timelines for
3 submission are not in conflict, feedback to school districts is
4 timely and provides sufficient information to allow school districts
5 to understand how to correct any deficiencies in a safety net
6 application, and that there is consistency between awards approved by
7 school district and by application period. The office of the
8 superintendent of public instruction shall also provide technical
9 assistance to school districts in preparing and submitting special
10 education safety net applications.

11 (4) (a) On an annual basis, the superintendent shall survey
12 districts regarding their satisfaction with the safety net process
13 and consider feedback from districts to improve the safety net
14 process. Each year by December 1st, the superintendent shall prepare
15 and submit a report to the office of financial management and the
16 appropriate policy and fiscal committees of the legislature that
17 summarizes the survey results and those changes made to the safety
18 net process as a result of the school district feedback.

19 (b) By December 1, 2024, the office of the superintendent of
20 public instruction must develop a survey requesting specific feedback
21 on the safety net application process from school districts with
22 3,000 or fewer students. The survey must include, at a minimum,
23 questions regarding the average amount of time school district staff
24 spend gathering safety net application data, filling out application
25 forms, and correcting application deficiencies. The survey must also
26 include questions to help identify which application components are
27 the most challenging and time consuming for school districts to
28 complete. By December 1, 2025, the office of the superintendent of
29 public instruction must use this feedback to implement a simplified,
30 standardized safety net application for all school districts that
31 reduces barriers to safety net funding.

32 (5) The safety net oversight committee appointed by the
33 superintendent of public instruction shall consist of:

34 (a) One staff member from the office of the superintendent of
35 public instruction;

36 (b) Staff of the office of the state auditor who shall be
37 nonvoting members of the committee; and

38 (c) One or more representatives from school districts or
39 educational service districts knowledgeable of special education
40 programs and funding.

1 (6)(a) Beginning in the 2019-20 school year, a high-need student
2 is eligible for safety net awards from state funding under subsection
3 (2)(e) and (g) of this section if the student's individualized
4 education program costs exceed two and three-tenths times the average
5 per-pupil expenditure as defined in Title 20 U.S.C. Sec. 7801, the
6 every student succeeds act of 2015.

7 (b) Beginning in the 2023-24 school year, a high-need student is
8 eligible for safety net awards from state funding under subsection
9 (2)(e) and (g) of this section if the student's individualized
10 education program costs exceed:

11 (i) 2 times the average per-pupil expenditure, for school
12 districts with fewer than 1,000 full-time equivalent students;

13 (ii) 2.2 times the average per-pupil expenditure, for school
14 districts with 1,000 or more full-time equivalent students.

15 (c) For purposes of (b) of this subsection, "average per-pupil
16 expenditure" has the same meaning as in 20 U.S.C. Sec. 7801, the
17 every student succeeds act of 2015, and excludes safety net funding
18 provided in this section.

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