

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

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**

Approved May 4, 2023 10:40 AM

JAY INSLEE

**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 **SUBSTITUTE SENATE BILL 5072** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

**Secretary**

FILED

May 4, 2023

**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, Lias, Nguyen, Pedersen, Randall, Rolfes, Saldaña, Salomon, Trudeau, Valdez, and C. Wilson)

READ FIRST TIME 01/26/23.

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

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

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

17            (2) The legislature further intends to allocate state funding for  
18 the highly capable program based on five percent of each school  
19 district's student population. The legislature does not intend to  
20 limit highly capable services to five percent of the student

1 population. School districts may identify and serve more than five  
2 percent of their students for highly capable programs and services.

3 **Sec. 2.** RCW 28A.185.020 and 2017 3rd sp.s. c 13 s 412 are each  
4 amended to read as follows:

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

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

26 NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.185  
27 RCW to read as follows:

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

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

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

36 ~~((Local school))~~ (1) School districts may establish and operate,  
37 either separately or jointly, programs for highly capable students.

1 Such authority shall include the right to employ and pay special  
2 instructors and to operate such programs jointly with a public  
3 institution of higher education. (~~Local school~~)

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

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

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

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

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

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

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

21       (~~(2)~~) (3) When a student, who is a child of a military family  
22 in transition, has been assessed or enrolled as highly capable by a  
23 sending school, the receiving school shall initially honor placement  
24 of the student into a like program.

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

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

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

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

1       **Sec. 5.** RCW 28A.185.050 and 2002 c 234 s 1 are each amended to  
2 read as follows:

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

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

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

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

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

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

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

37       **Sec. 6.** RCW 28A.300.042 and 2016 c 72 s 501 are each amended to  
38 read as follows:

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

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

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

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

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

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

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

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

37           (a) Gender;

38           (b) Foster care;

39           (c) Homeless, if known;

40           (d) School district;

1 (e) School;  
2 (f) Grade level;  
3 (g) Behavior infraction code, including:  
4 (i) Bullying;  
5 (ii) Tobacco;  
6 (iii) Alcohol;  
7 (iv) Illicit drug;  
8 (v) Fighting without major injury;  
9 (vi) Violence without major injury;  
10 (vii) Violence with major injury;  
11 (viii) Possession of a weapon; and  
12 (ix) Other behavior resulting from a short-term or long-term  
13 suspension, expulsion, or interim alternative education setting  
14 intervention;  
15 (h) Intervention applied, including:  
16 (i) Short-term suspension;  
17 (ii) Long-term suspension;  
18 (iii) Emergency expulsion;  
19 (iv) Expulsion;  
20 (v) Interim alternative education settings;  
21 (vi) No intervention applied; and  
22 (vii) Other intervention applied that is not described in this  
23 subsection (4) (h);  
24 (i) Number of days a student is suspended or expelled, to be  
25 counted in half or full days; and  
26 (j) Any other categories added at a future date by the data  
27 governance group.  
28 (5) All student data-related reports required of the  
29 superintendent of public instruction regarding student suspensions  
30 and expulsions as required in RCW 28A.300.046 are subject to cross-  
31 tabulation at a minimum by the following:  
32 (a) School and district;  
33 (b) Race, low income, highly capable, special education,  
34 transitional bilingual, migrant, foster care, homeless, students  
35 covered by section 504 of the federal rehabilitation act of 1973, as  
36 amended (29 U.S.C. Sec. 794), and categories to be added in the  
37 future;  
38 (c) Behavior infraction code; and  
39 (d) Intervention applied.



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

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.

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