

SENATE BILL REPORT

SB 5263

As Reported by Senate Committee On:
Early Learning & K-12 Education, January 30, 2025
Ways & Means, February 27, 2025

Title: An act relating to special education funding.

Brief Description: Concerning special education funding.

Sponsors: Senators Pedersen, Braun, Bateman, Chapman, Conway, Dhingra, Frame, Krishnadasan, Liias, Nobles, Orwall, Salomon, Shewmake, Stanford, Valdez and Wilson, C..

Brief History:

Committee Activity: Early Learning & K-12 Education: 1/22/25, 1/30/25 [DPS-WM].
Ways & Means: 2/11/25, 2/27/25 [DP2S, w/oRec].

Brief Summary of Second Substitute Bill

- Increases the special education funding multipliers for Pre-K students and K-12 students to 1.32.
- Eliminates multiplier tiers that provide different levels of funding based on time spent in a general education setting.
- Directs the Office of the Superintendent of Public Instruction (OSPI) to use the greater of the school district's basic education allocation or the state average basic education allocation for purposes of calculating excess cost allocations.
- Removes the 16 percent special education enrollment funding cap.
- Decreases the special education safety net eligibility threshold for all school districts to 1.75 times the average per-pupil expenditure.
- Allows OSPI to reserve up to 0.005 of excess cost allocations to use for certain statewide special education activities.

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.

- Directs the creation of a statewide online system for individualized education programs.
- Aligns the funding multiplier for the Early Support for Infants and Toddlers Program to the multiplier for Pre-K students, increasing the multiplier from 1.15 to 1.32.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: That Substitute Senate Bill No. 5263 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Wellman, Chair; Nobles, Vice Chair, K-12; Wilson, C., Vice Chair, Early Learning; Harris, Ranking Member; Cortes, Dozier, Hansen, Krishnadasan and McCune.

Staff: Alex Fairfortune (786-7416)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5263 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Robinson, Chair; Stanford, Vice Chair, Operating; Trudeau, Vice Chair, Capital; Frame, Vice Chair, Finance; Cleveland, Conway, Dhingra, Hansen, Hasegawa, Kauffman, Muzzall, Pedersen, Riccelli, Saldaña, Wagoner, Warnick, Wellman and Wilson, C..

Minority Report: That it be referred without recommendation.

Signed by Senators Gildon, Ranking Member, Operating; Torres, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Dozier, Assistant Ranking Member, Capital; Boehnke and Braun.

Staff: Kayla Hammer (786-7305)

Background: Special Education Funding Multipliers. 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 16 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.

Pre-K students receiving special education services, including three-, four-, and five-year-olds not yet enrolled in kindergarten, are funded based on a multiplier of 1.2. These students are excluded from the 16 percent enrollment funding cap.

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 costs exceed 2.2 times the average per-pupil expenditure. If the school district has fewer than 1000 students this threshold is reduced to two times the average per-pupil expenditure.

Early Support for Infants and Toddlers. The Department of Children, Youth, and Families administers the Early Support for Infants and Toddlers (ESIT) Program to provide early intervention services to all eligible children with disabilities from zero to three years of age. Funding for ESIT is appropriated based on the annual average headcount of children ages zero to three who are eligible for and receiving early intervention services, multiplied by the statewide basic education allocation, multiplied by 1.15.

Summary of Bill (Second Substitute): Special Education Funding Multipliers. The special education multipliers set in statute are increased and the tiered structure based on education setting is removed. The new multipliers are as follows:

- 1.32 for Pre-K students receiving special education services, including three-, four-, and five-year-olds not yet enrolled in kindergarten; and
- 1.32 for K-12 students receiving special education.

For purposes of calculating special education funding, the multiplier must be applied to the district's base allocation or the state average base allocation, whichever is greater.

The ESIT funding multiplier is changed to align with the multiplier for Pre-K students, increasing from 1.15 to 1.32.

The 16 percent enrollment funding cap is removed.

The Office of the Superintendent of Public Instruction (OSPI) may reserve up to 0.005 of the excess cost allocations to use for statewide special education activities.

Safety Net Funding. The safety net eligibility threshold is reduced for all school districts to 1.75 times the average per-pupil expenditure.

The Committee may no longer award safety net funding to applicant districts for community characteristics that draw a large number of students eligible for special education.

OSPI must distribute safety net awards to school districts on a quarterly basis if the following criteria are met:

- the safety net award is provided for a high-cost student that receives special education services from an authorized entity located outside of Washington;
- the school district successfully applied for and received a safety net award for the high-cost student in a prior school year, and the student's placement has not changed since that safety net award was granted; and
- the school district meets all other safety net award eligibility requirements as determined by the Committee.

Statewide Special Education Activities. The Superintendent of Public Instruction must engage in the following statewide special education activities:

- annually review data from local education agencies, including the percentage of students receiving special education services, to ensure there is not a disproportionate identification of students;
- provide technical assistance to school districts with disproportionate data;
- require districts with disproportionate data to complete and submit, to OSPI, a self-assessment that includes an audit of student evaluations and individualized education programs (IEPs);
- implement follow-up actions based on the results of the self-assessment; and
- develop and maintain a statewide online system for IEPs.

The statewide special education activities may include:

- providing professional development in inclusionary practices to local education agencies, schools, and community partners in promoting inclusionary teaching practices within a multi-tiered system of supports framework to help safeguard against over-identification and other issues related to disproportionality; and
- providing a funding match to local education agencies that opt to allocate federal funding for coordinated, early intervening services.

By December 1st of each year the Superintendent of Public Instruction must report to the education committees of the Legislature on the statewide special education activities. The 2025 and 2026 reports must include an update on the impact of removing the cap on the special education enrollment percentage, including the impact on safety net needs.

Statewide Online System for Individualized Education Programs. OSPI must develop and maintain a statewide online system for individualized education programs, in consultation with a nonprofit information processing cooperative, and ensure statewide professional development opportunities are available to support its use.

The purposes of the online system is to:

- provide a uniform, centralized platform for creating and managing individualized education programs;
- ensure compliance with federal and state special education requirements;
- improve the efficiency and effectiveness of individualized education program development and oversight; and
- improve educator collaboration and serve as an instructional tool to improve educational outcomes.

The online system must be a statewide model that is made available at no cost to school districts and public schools, and meet the following requirements:

- incorporate safeguards to protect confidential student information;
- allow for role-based access so only authorized users may view or modify IEPs;
- be able to integrate emerging technologies to continually enhance its functionality and effectiveness;
- ensure IEPs can show evidence of access to grade level standards, reasonable progress, improved student outcomes, and students' strengths and needs;
- include integrated language support and translation services;
- allow for robust family engagement, including access to information about student progress and how IEP goals connect to grade level standards; and
- comply with state and federal accessibility standards.

General Apportionment Proration. The proration of general apportionment funding allocated to the Special Education Program may not be based on an individual district's least restrictive environment percentage. A uniform percentage of general apportionment funding for special education students may be adopted by the SPI for proration and allocation.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Second Substitute):

- Reduces, from the values in the underlying bill, the special education excess cost multiplier for three-, four-, and five-year olds not yet enrolled in kindergarten.
- Reduces, from the values in the underlying bill, the special education excess cost multiplier for children ages zero to two being served by the ESIT Program.
- Increases the expenditure threshold for high needs individual special education safety net awards.
- Directs the superintendent of public instruction to use the greater of the school district's basic education allocation or the state average basic education allocation for purposes of calculating excess cost allocations.
- Directs the superintendent of public instruction to engage in specific statewide special education activities.

EFFECT OF CHANGES MADE BY EARLY LEARNING & K-12 EDUCATION COMMITTEE (First Substitute):

- Changes the single tier multiplier for K-12 students from 1.5289 to 1.32.
- Aligns the ESIT to the multiplier for Pre-K students, increasing the multiplier from 1.15 to 1.6381.
- Removes language allowing communities with a large number of special education students to apply for safety net funding.
- Requires safety net funds to be distributed quarterly in certain circumstances.
- Allows OSPI to reserve 0.005 of excess special education funding for certain statewide special education activities, and specifies which activities are required and optional.
- Requires OSPI to develop and maintain a statewide IEP system and specifies system requirements.
- Authorizes OSPI to adopt a uniform proration percentage of general apportionment funding for special education students.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 27, 2025.

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

Effective Date: The bill takes effect on September 1, 2025.

Staff Summary of Public Testimony on Original Bill (Early Learning & K-12 Education): *The committee recommended a different version of the bill than what was heard.* PRO: State and federal law requires school districts to provide special education services to kids in public schools that have disabilities—in what world can we say that is not basic education? All 295 school districts are saying there is not enough funding to cover actual costs. Under the current funding policy, the state gives more money for kids with lower needs and less money for students that have higher needs. This was well intentioned but some students need to be in a contained classroom outside of the general education setting. The priorities, in order, should be: (1) get rid of the enrollment cap as it is not sensible, (2) lower the safety net threshold, and (3) put whatever we can afford into the multiplier as a step in the right direction. Special education funding gaps are significant and redirecting the resources used to fill those gaps could benefit all students. By removing the cap and replacing the tiered model, the bill will more accurately reflect the reality of serving students. Including components of Senator Wellman's special education funding bill, SB 5307, would be highly beneficial, including quarterly distribution of safety net awards and the inclusion and disproportionality language.

OTHER: The bill language should be amended to include language from HB 1357 which increases the multiplier for ESIT children aged zero to three. Thirty-nine percent of children exiting early support do not require more services, which is a long term savings for the state. Early intervention should be included as an amendment to the bill as parents need help addressing the needs of their children.

Persons Testifying (Early Learning & K-12 Education): PRO: Senator Jamie Pedersen, Prime Sponsor; Dr. Shelley Redinger, Richland School District; Traci Pierce, Kennewick School District; Preston Dwoskin; Samantha Fogg, SCPTSA, Co-President; Lance Goodpaster, Superintendent, Franklin Pierce School District; Krestin Bahr, Superintendent, Peninsula School District; Jeff Chamberlin, Superintendent, University Place School District; Mary Templeton, Lake Stevens School District; Heather Tow-Yick, Issaquah School District; Ben Ferney, Cheney Public Schools; Brianna Rose, Parent of a SpEd student.

OTHER: Mike Stewart, Boyer Children's Clinic; Sunny Luke, Client parent.

Persons Signed In To Testify But Not Testifying (Early Learning & K-12 Education): PRO: Dr. Kelly Aramaki, Superintendent, Bellevue Public Schools; Dr. Concie Pedroza, Superintendent, Tukwila School District; Dr. Dani Pfeiffer, Superintendent, Federal Way School District; Dr. Ivan Duran, Superintendent, Highline School District; Dr. Brent Jones, Superintendent, Seattle Public Schools; Clifford Traisman, Northshore School District (and Seattle, Highline, Bellevue Public Schools); Michelle Whitney, Pasco School District; Tricia Lubach, Executive Director, Washington State School Directors' Association; Joel Aune, Executive Director, Washington Association of School Administrators; Melissa Stone, Secretary, Washington State PTA; Lindsey Yocum, Lake Washington School District; Shane Backlund, ESD 105 Schools Coalition; Larry Delaney, Washington Education Association; Lori Helmy Helmy, Volunteer advocate; Sarah Milici, Parent advocate; Kathryn Salvesson, Ed.S., NCSP, WSASP; Holly Wehner; Patrick Murphy, Olympia School District; Ryan Arnold; Rob Bryant, Federal Way Public Schools; Emily Carmichael; Rivkah Thomson; Kayla Lindley.

Staff Summary of Public Testimony on First Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: The most important component of the bill is the per student multiplier. This would benefit the most number of students with an IEP. The coupling of the ESIT program multiplier with the Pre-K is appreciated. The bill is customizable and can be adjusted as needed to fit the budget. This is a matter of educational justice and the services need to be fully funded. Removing the tiered multiplier addresses segregation and inclusion practices in the classroom. Every child needs the Legislature to show up for them. Supporting the multiplier increasing and the creation of the statewide IEP Program will provide higher levels of services. Should add a Joint Legislative Audit and Review Committee study to see how other states are funding special education. The progress in this bill is heartening. What could a district buy with the enrichment funds they use to fund special education? The zero through three age range is a critical for providing services. Early intervention can lead to less needs in the future and is a good return on investment. Please don't forget about ESIT when making tough decisions.

CON: Should return to the original funding model based on individual need which will help change outcomes. Do not support removing the cap. Too many students are getting referred to special education when they need other types of support. Referrals and evaluations

should be audited.

Persons Testifying (Ways & Means): PRO: Melissa Gombosky, Spokane, Richland, Evergreen and Vancouver Public Schools; Tim Merlino, ESD 112, Superintendent; Brent Jones, Superintendent, Seattle Public Schools; Ramona Hattendorf, The Arc of King County; Lindsey Yocum, Board Director, Lake Washington School District; Andi Tress, Everett Public Schools; Misha Cherniske, Office of Superintendent of Public Instruction (OSPI); Angela Steck, Washington State PTA; Mary Templeton, Lake Stevens School District; Samantha Fogg, Seattle Council PTSA Co-President; Martha Patterson, Washington Education Association; Clifford Traisman, Highline and Northshore Public School Districts and Seattle and Bellevue Public Schools; Dominick Ventresco, Pullman School District 267; Krestin Bahr, Peninsula School District; John Polm, Jr, Puyallup School District; Charlie Brown, Federal Way Public Schools; Mustapha Kebbeh, Kindering; Missy Bontrager; Kristina Mendieta, Kindering; Catherine Young, Tacoma special education Pta.

CON: Eric Fisk.

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