
SUBSTITUTE SENATE BILL 5263

State of Washington

69th Legislature

2025 Regular Session

By Senate Early Learning & K-12 Education (originally sponsored by Senators Pedersen, Braun, Bateman, Chapman, Conway, Dhingra, Frame, Krishnadasan, Lias, Nobles, Orwall, Salomon, Shewmake, Stanford, Valdez, and C. Wilson)

READ FIRST TIME 01/31/25.

1 AN ACT Relating to special education funding; amending RCW
2 28A.150.390, 28A.150.392, 43.216.580, and 28A.150.560; adding new
3 sections to chapter 28A.155 RCW; creating a new section; and
4 providing an effective date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that students
7 receiving special education services are entitled, under both federal
8 and state law, to a free appropriate public education that enables
9 their full participation.

10 The legislature finds that special education is part of the
11 state's statutory program of basic education that is deemed by the
12 legislature to implement Article IX, section 1 of the state
13 Constitution.

14 **Sec. 2.** RCW 28A.150.390 and 2024 c 229 s 1 are each amended to
15 read as follows:

16 (1) The superintendent of public instruction shall submit to each
17 regular session of the legislature during an odd-numbered year a
18 programmed budget request for special education programs for students
19 with disabilities. Funding for programs operated by local school
20 districts shall be on an excess cost basis from appropriations

1 provided by the legislature for special education programs for
2 students with disabilities and shall take account of state funds
3 accruing through RCW 28A.150.260 (4) (a), (5), (6), and (8) and
4 28A.150.415.

5 (2) The excess cost allocation to school districts shall be based
6 on the following:

7 (a) A district's annual average head count enrollment of students
8 ages three and four and those five year olds not yet enrolled in
9 kindergarten who are eligible for and receiving special education,
10 multiplied by the district's base allocation per full-time equivalent
11 student, multiplied by ~~((1.2))~~ 1.6381;

12 ~~(b) ((i) Subject to the limitation in (b) (ii) of this subsection~~
13 ~~(2), a) A~~ district's annual average enrollment of resident students
14 who are eligible for and receiving special education, excluding
15 students ages three and four and those five year olds not yet
16 enrolled in kindergarten, multiplied by the district's base
17 allocation per full-time equivalent student, multiplied by the
18 special education cost multiplier rate of ~~((~~

19 ~~(A) Beginning in the 2020-21 school year, either:~~

20 ~~(I) 1.0075 for students eligible for and receiving special~~
21 ~~education and reported to be in the general education setting for 80~~
22 ~~percent or more of the school day; or~~

23 ~~(II) 0.995 for students eligible for and receiving special~~
24 ~~education and reported to be in the general education setting for~~
25 ~~less than 80 percent of the school day;~~

26 ~~(B) Beginning in the 2023-24 school year, either:~~

27 ~~(I) 1.12 for students eligible for and receiving special~~
28 ~~education and reported to be in the general education setting for 80~~
29 ~~percent or more of the school day; or~~

30 ~~(II) 1.06 for students eligible for and receiving special~~
31 ~~education and reported to be in the general education setting for~~
32 ~~less than 80 percent of the school day.~~

33 ~~(ii) If the enrollment percent exceeds 16 percent, the excess~~
34 ~~cost allocation calculated under (b) (i) of this subsection must be~~
35 ~~adjusted by multiplying the allocation by 16 percent divided by the~~
36 ~~enrollment percent))~~ 1.32.

37 (3) The superintendent of public instruction may reserve amounts
38 up to .005 of the funding generated under subsection (2) of this
39 section to use for statewide special education activities outlined in
40 section 5 of this act.

1 (4) As used in this section(~~(~~
2 ~~(a) "Base~~), "base allocation" means the total state allocation
3 to all schools in the district generated by the distribution formula
4 under RCW 28A.150.260 (4) (a), (5), (6), and (8) and the allocation
5 under RCW 28A.150.415, to be divided by the district's full-time
6 equivalent enrollment.

7 ~~((b) "Basic education enrollment" means enrollment of resident~~
8 ~~students including nonresident students enrolled under RCW~~
9 ~~28A.225.225 and students from nonhigh districts enrolled under RCW~~
10 ~~28A.225.210 and excluding students residing in another district~~
11 ~~enrolled as part of an interdistrict cooperative program under RCW~~
12 ~~28A.225.250.~~

13 ~~(c) "Enrollment percent" means the district's resident annual~~
14 ~~average enrollment of students who are eligible for and receiving~~
15 ~~special education, excluding students ages three and four and those~~
16 ~~five year olds not yet enrolled in kindergarten and students enrolled~~
17 ~~in institutional education programs, as a percent of the district's~~
18 ~~annual average full-time equivalent basic education enrollment.)~~

19 **Sec. 3.** RCW 28A.150.392 and 2024 c 127 s 2 are each amended to
20 read as follows:

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

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

29 (2) Safety net funds shall be awarded by the state safety net
30 oversight committee subject to the following conditions and
31 limitations:

32 (a) The committee shall award additional funds for districts that
33 can convincingly demonstrate that all legitimate expenditures for
34 special education exceed all available revenues from state funding
35 formulas. When determining award eligibility and amounts(~~(+)~~), the
36 committee shall limit its review to relevant documentation that
37 illustrates adherence to award criteria. The committee shall not make
38 determinations regarding the content of individualized education
39 programs beyond confirming documented and quantified services and

1 evidence of corresponding expenditures for which a school district
2 seeks reimbursement.

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

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

8 (d) In the determination of need, the committee shall require
9 that districts demonstrate that they are maximizing their eligibility
10 for all state revenues related to services for students eligible for
11 special education and all federal revenues from federal impact aid,
12 medicaid, and the individuals with disabilities education act-Part B
13 and appropriate special projects. Awards associated with (e) (~~and~~
14 ~~(f)~~) of this subsection shall not exceed the total of a district's
15 specific determination of need.

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

21 ~~(f) ((Using criteria developed by the committee, the committee~~
22 ~~shall then consider extraordinary costs associated with communities~~
23 ~~that draw a larger number of families with children in need of~~
24 ~~special education services, which may include consideration of~~
25 ~~proximity to group homes, military bases, and regional hospitals.~~
26 ~~Safety net awards under this subsection (2)(f) shall be adjusted to~~
27 ~~reflect amounts awarded under (e) of this subsection.~~

28 ~~(g)~~) The committee shall then consider the extraordinary high
29 cost needs of one or more individual students eligible for and
30 receiving special education served in residential schools, programs
31 for juveniles under the department of corrections, and programs for
32 juveniles operated by city and county jails to the extent they are
33 providing a secondary program of education.

34 ~~((h))~~ (g) The maximum allowable indirect cost for calculating
35 safety net eligibility may not exceed the federal restricted indirect
36 cost rate for the district plus one percent.

37 ~~((i))~~ (h) Safety net awards shall be adjusted based on the
38 percent of potential medicaid eligible students billed as calculated
39 by the superintendent of public instruction in accordance with
40 chapter 318, Laws of 1999.

1 ~~((j))~~ (i) Safety net awards must be adjusted for any unresolved
2 audit findings or exceptions related to special education funding.
3 Safety net awards may only be adjusted for errors in safety net
4 applications or individualized education programs that materially
5 affect the demonstration of need.

6 (3) The superintendent of public instruction shall adopt such
7 rules and procedures as are necessary to administer the special
8 education funding and safety net award process. ~~((By December 1,
9 2018, the superintendent shall review and revise the rules to achieve
10 full and complete implementation of the requirements of this
11 subsection and subsection (4) of this section including revisions to
12 rules that provide additional flexibility to access community impact
13 awards.))~~ Before revising any standards, procedures, or rules, the
14 superintendent shall consult with the office of financial management
15 and the fiscal committees of the legislature. In adopting and
16 revising the rules, the superintendent shall ensure the application
17 process to access safety net funding is streamlined, timelines for
18 submission are not in conflict, feedback to school districts is
19 timely and provides sufficient information to allow school districts
20 to understand how to correct any deficiencies in a safety net
21 application, and that there is consistency between awards approved by
22 school district and by application period. The office of the
23 superintendent of public instruction shall also provide technical
24 assistance to school districts in preparing and submitting special
25 education safety net applications.

26 (4)(a) On an annual basis, the superintendent shall survey
27 districts regarding their satisfaction with the safety net process
28 and consider feedback from districts to improve the safety net
29 process. Each year by December 1st, the superintendent shall prepare
30 and submit a report to the office of financial management and the
31 appropriate policy and fiscal committees of the legislature that
32 summarizes the survey results and those changes made to the safety
33 net process as a result of the school district feedback.

34 (b) By December 1, 2024, the office of the superintendent of
35 public instruction must develop a survey requesting specific feedback
36 on the safety net application process from school districts with
37 3,000 or fewer students. The survey must include, at a minimum,
38 questions regarding the average amount of time school district staff
39 spend gathering safety net application data, filling out application
40 forms, and correcting application deficiencies. The survey must also

1 include questions to help identify which application components are
2 the most challenging and time consuming for school districts to
3 complete. By December 1, 2025, the office of the superintendent of
4 public instruction must use this feedback to implement a simplified,
5 standardized safety net application for all school districts that
6 reduces barriers to safety net funding.

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

9 (a) One staff member from the office of the superintendent of
10 public instruction;

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

13 (c) One or more representatives from school districts or
14 educational service districts knowledgeable of special education
15 programs and funding.

16 (6) ~~((a))~~ Beginning in the 2025-26 school year, the office of
17 the superintendent of public instruction must distribute safety net
18 awards to school districts on a quarterly basis if the following
19 criteria are met:

20 (a) The safety net award is provided for a high cost student who
21 receives special education services from an authorized entity, as
22 defined under RCW 28A.300.690, located outside of the state of
23 Washington;

24 (b) The school district successfully applied for and received a
25 safety net award for the high cost student in a prior school year and
26 the student's placement has not changed since that safety net award
27 was granted; and

28 (c) The school district meets all other safety net award
29 eligibility requirements as determined by the safety net oversight
30 committee.

31 (7) Beginning in the ((2019-20)) 2025-26 school year, a high-need
32 student is eligible for safety net awards from state funding under
33 subsection (2)(e) and ((g)) (f) of this section if the student's
34 individualized education program costs exceed ((two and three-
35 tenths)) 1.5 times the average per-pupil expenditure as defined in
36 Title 20 U.S.C. Sec. 7801, the every student succeeds act of 2015((-

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

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

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

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

9 **Sec. 4.** RCW 43.216.580 and 2024 c 284 s 1 are each amended to
10 read as follows:

11 (1) The department is the state lead agency for Part C of the
12 federal individuals with disabilities education act. The department
13 shall administer the early support for infants and toddlers program,
14 to provide early intervention services to all eligible children with
15 disabilities from birth to three years of age. Eligibility shall be
16 determined according to Part C of the federal individuals with
17 disabilities education act or other applicable federal and state
18 laws, and as specified in the Washington Administrative Code adopted
19 by the department. Services provided under this section shall not
20 supplant services or funding currently provided in the state for
21 early intervention services to eligible children with disabilities
22 from birth to three years of age.

23 (2)(a) Funding for the early support for infants and toddlers
24 program shall be appropriated to the department based on the annual
25 average head count of children ages birth to three who are eligible
26 for and receiving early intervention services, multiplied by the
27 total statewide allocation generated by the distribution formula
28 under RCW 28A.150.260 (4)(a), (5), (6), and (8) and the allocation
29 under RCW 28A.150.415, per the statewide full-time equivalent
30 enrollment in common schools, multiplied by ~~((1.15))~~ the multiplier
31 used in RCW 28A.150.390(2)(a).

32 (b) The department shall distribute funds to early intervention
33 services providers, and, when appropriate, to county lead agencies.

34 (c) For the purposes of this subsection (2), a child is receiving
35 early intervention services if the child has received services within
36 the same month as the monthly count day, which is the last business
37 day of the month.

38 (3) Federal funds associated with Part C of the federal
39 individuals with disabilities education act shall be subject to payor

1 of last resort requirements pursuant to 34 C.F.R. Sec. 303.510 (2020)
2 for birth-to-three early intervention services provided under this
3 section.

4 (4) The services in this section are not part of the state's
5 program of basic education pursuant to Article IX of the state
6 Constitution.

7 NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.155
8 RCW to read as follows:

9 (1) The superintendent of public instruction shall engage in
10 statewide special education activities to support students receiving
11 special education services.

12 (a) The statewide activities must include:

13 (i) Annually reviewing data from local education agencies,
14 including the percentage of students receiving special education
15 services, to ensure there is not a disproportionate identification of
16 students, as defined by the superintendent of public instruction in
17 accordance with federal requirements of the individuals with
18 disabilities education act, 20 U.S.C. Sec. 1400;

19 (ii) Providing technical assistance to school districts with
20 disproportionate data; and

21 (iii) Developing and maintaining a statewide online system for
22 individualized education programs as directed under section 6 of this
23 act.

24 (b) The statewide activities may include providing professional
25 development in inclusionary practices to local education agencies,
26 schools, and community partners in promoting inclusionary teaching
27 practices within a multitiered system of supports framework to help
28 safeguard against over-identification and other issues related to
29 disproportionality.

30 (2) The superintendent of public instruction shall annually
31 report to the education committees of the legislature, in accordance
32 with RCW 43.01.036, by December 1st on the statewide activities
33 funded under RCW 28A.150.390(3). The 2025 and 2026 annual reports
34 must include an update on the impact of removing the cap on the
35 special education enrollment percentage, including the impact on
36 safety net needs.

37 NEW SECTION. **Sec. 6.** A new section is added to chapter 28A.155
38 RCW to read as follows:

1 (1) The superintendent of public instruction shall develop and
2 maintain a statewide online system for individualized education
3 programs. In developing the online system, the superintendent of
4 public instruction must consult with a nonprofit information
5 processing cooperative authorized under RCW 28A.310.180.

6 (2) The purpose of the online system is to:

7 (a) Provide a uniform, centralized platform for creating and
8 managing individualized education programs;

9 (b) Ensure compliance with federal and state special education
10 requirements;

11 (c) Improve the efficiency and effectiveness of individualized
12 education program development and oversight; and

13 (d) Improve educator collaboration and serve as an instructional
14 tool designed to improve educational outcomes by aligning
15 individualized supports and services with evidence-based
16 instructional practices.

17 (3) The online system must:

18 (a) Have a statewide model that is made available at no cost to
19 school districts, charter schools established under chapter 28A.710
20 RCW, and state-tribal education compact schools subject to chapter
21 28A.715 RCW;

22 (b) Incorporate safeguards to protect confidential student
23 information, including compliance with the federal family educational
24 rights and privacy act and any other applicable privacy laws;

25 (c) Allow for secure, role-based access so that only authorized
26 users may view or modify individualized education programs;

27 (d) Be able to integrate emerging technologies to continually
28 enhance its functionality and effectiveness;

29 (e) Ensure that individualized education programs can show
30 evidence of access to grade-level standards, reasonable progress,
31 improved student outcomes, and students' strengths and needs;

32 (f) Include integrated language support and translation services;

33 (g) Allow for robust family engagement, including access to
34 information about student progress that includes both qualitative and
35 quantitative data and that provides information about how
36 individualized education program goals connect to grade-level
37 standards; and

38 (h) Comply with applicable state and federal accessibility
39 standards.

1 (4) The superintendent of public instruction shall ensure
2 statewide professional development opportunities are available to
3 educators, administrators, and families to support the effective use
4 and implementation of the statewide online system for individualized
5 education programs, including targeted technical assistance.

6 **Sec. 7.** RCW 28A.150.560 and 2023 c 417 s 6 are each amended to
7 read as follows:

8 (1) It is the policy of the state that for purposes of state
9 funding allocations, students eligible for and receiving special
10 education generate the full basic education allocation under RCW
11 28A.150.260 and, as a class, are to receive the benefits of this
12 allocation for the entire school day, as defined in RCW 28A.150.203,
13 whether the student is placed in the general education setting or
14 another setting.

15 (2) The superintendent of public instruction shall develop an
16 allocation and cost accounting methodology that ensures state general
17 apportionment funding for students who receive their basic education
18 services primarily in an alternative classroom or setting are
19 prorated and allocated to the special education program and accounted
20 for before calculating special education excess costs. The proration
21 and allocation of general apportionment funding allocated to the
22 special education program may not be based on an individual
23 district's least restrictive environment percentage. A uniform
24 percentage of general apportionment funding for special education
25 students may be adopted by the superintendent of public instruction
26 for proration and allocation.

27 (3) Nothing in this section requires districts to provide
28 services in a manner inconsistent with the student's individualized
29 education program or other than in the least restrictive environment
30 as determined by the individualized education program team.

31 ~~((3))~~ (4) The superintendent of public instruction shall
32 provide the legislature with an accounting of prorated general
33 apportionment allocations provided to special education programs
34 broken down by school district by January 1, 2024, and then every
35 January 1st of odd-numbered years thereafter.

36 NEW SECTION. **Sec. 8.** This act takes effect September 1, 2025.

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