
ENGROSSED SECOND SUBSTITUTE SENATE BILL 5263

State of Washington

69th Legislature

2025 Regular Session

By Senate Ways & Means (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 02/28/25.

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))~~ 1.32;

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 either the district's base
17 allocation per full-time equivalent student or the state average base
18 allocation per full-time equivalent student, whichever is greater,
19 multiplied by the special education cost multiplier rate of (~~÷~~

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

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

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

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

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

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

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

38 (3) The superintendent of public instruction may reserve amounts
39 up to .005 of the funding generated under subsection (2) of this

1 section to use for statewide special education activities outlined in
2 section 5 of this act.

3 (4) As used in this section:

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

9 "State average base allocation" means the total state
10 allocation to all school districts in the state generated by the
11 distribution formula under RCW 28A.150.260 (4) (a), (5), (6), and (8)
12 and the allocation under RCW 28A.150.415, to be divided by the
13 state's full-time equivalent enrollment.

14 ~~((b) "Basic education enrollment" means enrollment of resident~~
15 ~~students including nonresident students enrolled under RCW~~
16 ~~28A.225.225 and students from nonhigh districts enrolled under RCW~~
17 ~~28A.225.210 and excluding students residing in another district~~
18 ~~enrolled as part of an interdistrict cooperative program under RCW~~
19 ~~28A.225.250.~~

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

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

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

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

36 (2) Safety net funds shall be awarded by the state safety net
37 oversight committee subject to the following conditions and
38 limitations:

1 (a) The committee shall award additional funds for districts that
2 can convincingly demonstrate that all legitimate expenditures for
3 special education exceed all available revenues from state funding
4 formulas. When determining award eligibility and amounts ~~((f))~~, the
5 committee shall limit its review to relevant documentation that
6 illustrates adherence to award criteria. The committee shall not make
7 determinations regarding the content of individualized education
8 programs beyond confirming documented and quantified services and
9 evidence of corresponding expenditures for which a school district
10 seeks reimbursement.

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

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

16 (d) In the determination of need, the committee shall require
17 that districts demonstrate that they are maximizing their eligibility
18 for all state revenues related to services for students eligible for
19 special education and all federal revenues from federal impact aid,
20 medicaid, and the individuals with disabilities education act-Part B
21 and appropriate special projects. Awards associated with (e) ~~((and~~
22 ~~(f))~~) of this subsection shall not exceed the total of a district's
23 specific determination of need.

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

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

36 ~~(g))~~ The committee shall then consider the extraordinary high
37 cost needs of one or more individual students eligible for and
38 receiving special education served in residential schools, programs
39 for juveniles under the department of corrections, and programs for

1 juveniles operated by city and county jails to the extent they are
2 providing a secondary program of education.

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

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

10 ~~((j))~~ (i) Safety net awards must be adjusted for any unresolved
11 audit findings or exceptions related to special education funding.
12 Safety net awards may only be adjusted for errors in safety net
13 applications or individualized education programs that materially
14 affect the demonstration of need.

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

35 (4) (a) On an annual basis, the superintendent shall survey
36 districts regarding their satisfaction with the safety net process
37 and consider feedback from districts to improve the safety net
38 process. Each year by December 1st, the superintendent shall prepare
39 and submit a report to the office of financial management and the
40 appropriate policy and fiscal committees of the legislature that

1 summarizes the survey results and those changes made to the safety
2 net process as a result of the school district feedback.

3 (b) By December 1, 2024, the office of the superintendent of
4 public instruction must develop a survey requesting specific feedback
5 on the safety net application process from school districts with
6 3,000 or fewer students. The survey must include, at a minimum,
7 questions regarding the average amount of time school district staff
8 spend gathering safety net application data, filling out application
9 forms, and correcting application deficiencies. The survey must also
10 include questions to help identify which application components are
11 the most challenging and time consuming for school districts to
12 complete. By December 1, 2025, the office of the superintendent of
13 public instruction must use this feedback to implement a simplified,
14 standardized safety net application for all school districts that
15 reduces barriers to safety net funding.

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

18 (a) One staff member from the office of the superintendent of
19 public instruction;

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

22 (c) One or more representatives from school districts or
23 educational service districts knowledgeable of special education
24 programs and funding.

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

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

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

37 (c) The school district meets all other safety net award
38 eligibility requirements as determined by the safety net oversight
39 committee.

1 (7) Beginning in the ~~((2019-20))~~ 2025-26 school year, a high-need
2 student is eligible for safety net awards from state funding under
3 subsection (2)(e) and ~~((g))~~ (f) of this section if the student's
4 individualized education program costs exceed ~~((two and three-~~
5 ~~tenths))~~ 1.75 times the average per-pupil expenditure as defined in
6 Title 20 U.S.C. Sec. 7801, the 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), excluding safety~~
18 ~~net funding provided in this section.~~

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

21 (1) The department is the state lead agency for Part C of the
22 federal individuals with disabilities education act. The department
23 shall administer the early support for infants and toddlers program,
24 to provide early intervention services to all eligible children with
25 disabilities from birth to three years of age. Eligibility shall be
26 determined according to Part C of the federal individuals with
27 disabilities education act or other applicable federal and state
28 laws, and as specified in the Washington Administrative Code adopted
29 by the department. Services provided under this section shall not
30 supplant services or funding currently provided in the state for
31 early intervention services to eligible children with disabilities
32 from birth to three years of age.

33 (2)(a) Funding for the early support for infants and toddlers
34 program shall be appropriated to the department based on the annual
35 average head count of children ages birth to three who are eligible
36 for and receiving early intervention services, multiplied by the
37 total statewide allocation generated by the distribution formula
38 under RCW 28A.150.260 (4)(a), (5), (6), and (8) and the allocation
39 under RCW 28A.150.415, per the statewide full-time equivalent

1 enrollment in common schools, multiplied by ~~((1.15))~~ the multiplier
2 used in RCW 28A.150.390(2)(a).

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

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

9 (3) Federal funds associated with Part C of the federal
10 individuals with disabilities education act shall be subject to payor
11 of last resort requirements pursuant to 34 C.F.R. Sec. 303.510 (2020)
12 for birth-to-three early intervention services provided under this
13 section.

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

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

19 (1) The superintendent of public instruction shall engage in
20 statewide special education activities to support students receiving
21 special education services.

22 (a) The statewide activities must include:

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

29 (ii) Providing technical assistance to school districts with
30 disproportionate data;

31 (iii) Requiring districts with disproportionate data to complete
32 and submit to the office of the superintendent of public instruction
33 a self-assessment that includes an audit of student evaluations and
34 individualized education programs;

35 (iv) Implementing follow-up actions based on the results of the
36 self-assessment required in (a)(iii) of this subsection if determined
37 necessary; and

1 (v) Developing and maintaining a statewide online system for
2 individualized education programs as directed under section 6 of this
3 act.

4 (b) The statewide activities may include:

5 (i) Providing professional development in inclusionary practices
6 to local education agencies, schools, and community partners in
7 promoting inclusionary teaching practices within a multitiered system
8 of supports framework to help safeguard against over-identification
9 and other issues related to disproportionality; and

10 (ii) Providing a funding match to local education agencies that
11 opt to allocate federal funding for coordinated, early intervening
12 services per 34 C.F.R. Sec. 300.226.

13 (2) The superintendent of public instruction shall annually
14 report to the education committees of the legislature, in accordance
15 with RCW 43.01.036, by December 1st on the statewide activities
16 funded under RCW 28A.150.390(3). The 2025 and 2026 annual reports
17 must include an update on the impact of removing the cap on the
18 special education enrollment percentage, including the impact on
19 safety net needs.

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

22 (1) The superintendent of public instruction shall develop and
23 maintain a statewide online system for individualized education
24 programs. In developing and implementing the online system, the
25 superintendent of public instruction must collaborate with
26 educational service districts or an information processing
27 cooperative established under chapter 28A.310 RCW by agreement
28 pursuant to chapter 39.34 RCW. The superintendent may delegate
29 implementation of the online system as authorized under RCW
30 28A.310.470.

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

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

34 (b) Ensure compliance with federal and state special education
35 requirements;

36 (c) Improve the efficiency and effectiveness of individualized
37 education program development and oversight; and

38 (d) Improve educator collaboration and serve as an instructional
39 tool designed to improve educational outcomes by aligning

1 individualized supports and services with evidence-based
2 instructional practices.

3 (3) The online system must:

4 (a) Have a statewide model that is made available at no cost to
5 school districts, charter schools established under chapter 28A.710
6 RCW, and state-tribal education compact schools subject to chapter
7 28A.715 RCW;

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

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

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

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

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

19 (g) Allow for robust family engagement, including access to
20 information about student progress that includes both qualitative and
21 quantitative data and that provides information about how
22 individualized education program goals connect to grade-level
23 standards; and

24 (h) Comply with applicable state and federal accessibility
25 standards.

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

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

33 (1) It is the policy of the state that for purposes of state
34 funding allocations, students eligible for and receiving special
35 education generate the full basic education allocation under RCW
36 28A.150.260 and, as a class, are to receive the benefits of this
37 allocation for the entire school day, as defined in RCW 28A.150.203,
38 whether the student is placed in the general education setting or
39 another setting.

1 (2) The superintendent of public instruction shall develop an
2 allocation and cost accounting methodology that ensures state general
3 apportionment funding for students who receive their basic education
4 services primarily in an alternative classroom or setting are
5 prorated and allocated to the special education program and accounted
6 for before calculating special education excess costs. The proration
7 and allocation of general apportionment funding allocated to the
8 special education program may not be based on an individual
9 district's least restrictive environment percentage. A uniform
10 percentage of general apportionment funding for special education
11 students may be adopted by the superintendent of public instruction
12 for proration and allocation.

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

17 (~~(3)~~) (4) The superintendent of public instruction shall
18 provide the legislature with an accounting of prorated general
19 apportionment allocations provided to special education programs
20 broken down by school district by January 1, 2024, and then every
21 January 1st of odd-numbered years thereafter.

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

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