

# HOUSE BILL REPORT

## SB 5031

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**As Reported by House Committee On:**  
Education

**Title:** An act relating to safety net award distributions for students receiving special education services outside of the state of Washington.

**Brief Description:** Concerning safety net award distributions.

**Sponsors:** Senators Wellman, Braun, Dhingra, Hunt, Kuderer, Nguyen, Nobles and Wilson, C..

**Brief History:**

**Committee Activity:**

Education: 3/9/23, 3/16/23 [DP].

**Brief Summary of Bill**

- Requires the Office of the Superintendent of Public Instruction to distribute safety net awards on a quarterly basis for high-cost students served by out-of-state nonpublic agencies under certain conditions.

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### HOUSE COMMITTEE ON EDUCATION

**Majority Report:** Do pass. Signed by 15 members: Representatives Santos, Chair; Shavers, Vice Chair; Rude, Ranking Minority Member; McEntire, Assistant Ranking Minority Member; Bergquist, Callan, Eslick, Harris, McClintock, Ortiz-Self, Pollet, Sandlin, Steele, Stonier and Timmons.

**Staff:** Megan Wargacki (786-7194).

**Background:**

Special Education.

The federal Individuals with Disabilities Education Act (IDEA) guarantees a free,

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appropriate, public education to eligible children and youth with disabilities. Under the IDEA, specially designed instruction and related services designed to address the unique needs of each student eligible for special education services are provided in a public school or other appropriate setting. An individualized education program is a written statement that is developed to guide a student's learning while in special education.

For each student receiving special education who is in kindergarten through age 21 (K-21), the state provides the basic education allocation multiplied by either: (a) 1.0075 for students receiving special education and reported to be in the general education setting for 80 percent or more of the school day; or (b) 0.995 for students receiving special education and reported to be in the general education setting for less than 80 percent of the school day. However, the state special education allocation is capped at 13.5 percent of the school district's K-21 full-time student enrollment.

The federal special education allocation is primarily based on a school district's enrollment of K-21 students receiving special education.

#### Safety Net Awards.

Safety net funding is available to school districts that need more than what is provided through the state special education allocation. The Office of the Superintendent of Public Instruction (OSPI) appoints a committee to review school district applications for safety net funding. The committee must award funding when a school district convincingly demonstrates that all legitimate expenditures for special education exceed all available revenues from state funding formulas. In the determination of need, the committee must consider additional available revenues from federal sources.

The committee may award safety net funding to applicants for high-need individuals (HNIs) eligible for and receiving special education services and for community characteristics that draw a larger number of students in need of special education services. An HNI is eligible for a safety net award if the student's individualized education program costs exceed 2.3 times the average per-pupil expenditure as defined in federal law.

#### Nonpublic Agencies.

If a student's special education needs cannot be met by their resident school district, the district may contract with a nonpublic agency (NPA) approved by the OSPI to operate a special education program for eligible students with disabilities. An NPA may be a private elementary or secondary school or facility within Washington, or a public or private out-of-state elementary or secondary school or facility.

Each out-of-state NPA must provide documentation to the OSPI that it has been approved to provide special education and related services by the state in which the NPA is located. If the other state does not have a formal approval process, the NPA must meet the approval requirements established in rules of the OSPI.

**Summary of Bill:**

Beginning in the 2023-24 school year, the Office of the Superintendent of Public Instruction must distribute safety net awards to school districts on a quarterly basis if the following criteria are met:

1. the safety net award is provided for a high-cost student that receives special education services from an approved nonpublic agency located outside of Washington;
  2. 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
  3. the school district meets all other safety net award eligibility requirements as determined by the Safety Net Oversight Committee.
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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Special education should be addressed more holistically because there are many aspects to this issue. One of the issues is that some school districts have to pay significant amounts of money because of where their special education students are placed. About 80 students have needs that cannot be met in Washington and are placed out of state. It is difficult for small school districts that may spend hundreds of thousands of dollars per year to place students out of state to carry that burden for an entire year before receiving reimbursement. This bill allows these school district to be reimbursed on a quarterly basis instead of annually.

(Opposed) None.

**Persons Testifying:** Senator Lisa Wellman, prime sponsor.

**Persons Signed In To Testify But Not Testifying:** None.