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**HOUSE BILL 1973**

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**State of Washington**

**68th Legislature**

**2024 Regular Session**

**By** Representative Abbarno

Prefiled 12/19/23.

1 AN ACT Relating to special education safety net awards; amending  
2 RCW 28A.150.392; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The legislature recognizes that the  
5 special education safety net is an important funding resource for  
6 school districts that serve high-need students requiring  
7 extraordinary high-cost services. However, the legislature finds that  
8 the current safety net application requirements are burdensome to  
9 school districts, especially those with limited staff, and may  
10 discourage school districts from applying for funding. School  
11 districts have reported that, as part of the application process,  
12 individualized education programs are rigorously analyzed beyond what  
13 is necessary to confirm a legitimate demonstration of need, and  
14 safety net awards are reduced by up to 45 percent for errors. This  
15 practice undermines the expertise of the individualized education  
16 program team members, creates barriers to funding for school  
17 districts with limited resources, and fails to accurately reimburse  
18 school districts for legitimate expenditures. Therefore, the  
19 legislature intends to clarify the responsibilities of the safety net  
20 oversight committee in reviewing applications and prohibit award  
21 reductions for nonmaterial errors. The legislature also intends to

1 simplify the application process to reduce administrative barriers  
2 and increase funding accessibility.

3 **Sec. 2.** RCW 28A.150.392 and 2023 c 417 s 4 are each amended to  
4 read as follows:

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

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

13 (2) Safety net funds shall be awarded by the state safety net  
14 oversight committee subject to the following conditions and  
15 limitations:

16 (a) The committee shall award additional funds for districts that  
17 can convincingly demonstrate that all legitimate expenditures for  
18 special education exceed all available revenues from state funding  
19 formulas. When determining award eligibility and amounts the  
20 committee shall limit its review to relevant documentation that  
21 illustrates adherence to award criteria. The committee shall not make  
22 determinations regarding the content of individualized education  
23 programs beyond confirming documented and quantified services and  
24 evidence of corresponding expenditures for which a school district  
25 seeks reimbursement.

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

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

31 (d) In the determination of need, the committee shall require  
32 that districts demonstrate that they are maximizing their eligibility  
33 for all state revenues related to services for students eligible for  
34 special education and all federal revenues from federal impact aid,  
35 medicaid, and the individuals with disabilities education act-Part B  
36 and appropriate special projects. Awards associated with (e) and (f)  
37 of this subsection shall not exceed the total of a district's  
38 specific determination of need.

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

6 (f) Using criteria developed by the committee, the committee  
7 shall then consider extraordinary costs associated with communities  
8 that draw a larger number of families with children in need of  
9 special education services, which may include consideration of  
10 proximity to group homes, military bases, and regional hospitals.  
11 Safety net awards under this subsection (2)(f) shall be adjusted to  
12 reflect amounts awarded under (e) of this subsection.

13 (g) The committee shall then consider the extraordinary high cost  
14 needs of one or more individual students eligible for and receiving  
15 special education served in residential schools, programs for  
16 juveniles under the department of corrections, and programs for  
17 juveniles operated by city and county jails to the extent they are  
18 providing a secondary program of education.

19 (h) The maximum allowable indirect cost for calculating safety  
20 net eligibility may not exceed the federal restricted indirect cost  
21 rate for the district plus one percent.

22 (i) Safety net awards shall be adjusted based on the percent of  
23 potential medicaid eligible students billed as calculated by the  
24 superintendent of public instruction in accordance with chapter 318,  
25 Laws of 1999.

26 (j) Safety net awards must be adjusted for any unresolved audit  
27 findings or exceptions related to special education funding. Safety  
28 net awards may only be adjusted for errors in safety net applications  
29 or individualized education programs that materially affect the  
30 demonstration of need.

31 (3) The superintendent of public instruction shall adopt such  
32 rules and procedures as are necessary to administer the special  
33 education funding and safety net award process. By December 1, 2018,  
34 the superintendent shall review and revise the rules to achieve full  
35 and complete implementation of the requirements of this subsection  
36 and subsection (4) of this section including revisions to rules that  
37 provide additional flexibility to access community impact awards.  
38 Before revising any standards, procedures, or rules, the  
39 superintendent shall consult with the office of financial management  
40 and the fiscal committees of the legislature. In adopting and

1 revising the rules, the superintendent shall ensure the application  
2 process to access safety net funding is streamlined, timelines for  
3 submission are not in conflict, feedback to school districts is  
4 timely and provides sufficient information to allow school districts  
5 to understand how to correct any deficiencies in a safety net  
6 application, and that there is consistency between awards approved by  
7 school district and by application period. The office of the  
8 superintendent of public instruction shall also provide technical  
9 assistance to school districts in preparing and submitting special  
10 education safety net applications.

11 (4) (a) On an annual basis, the superintendent shall survey  
12 districts regarding their satisfaction with the safety net process  
13 and consider feedback from districts to improve the safety net  
14 process. Each year by December 1st, the superintendent shall prepare  
15 and submit a report to the office of financial management and the  
16 appropriate policy and fiscal committees of the legislature that  
17 summarizes the survey results and those changes made to the safety  
18 net process as a result of the school district feedback.

19 (b) By December 1, 2024, the office of the superintendent of  
20 public instruction must develop a survey requesting specific feedback  
21 on the safety net application process from school districts with  
22 3,000 or fewer students. The survey must include, at a minimum,  
23 questions regarding the average amount of time school district staff  
24 spend gathering safety net application data, filling out application  
25 forms, and correcting application deficiencies. The survey must also  
26 include questions to help identify which application components are  
27 the most challenging and time consuming for school districts to  
28 complete. By December 1, 2025, the office of the superintendent of  
29 public instruction must use this feedback to implement a simplified,  
30 standardized safety net application for all school districts that  
31 reduces barriers to safety net funding.

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

34 (a) One staff member from the office of the superintendent of  
35 public instruction;

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

38 (c) One or more representatives from school districts or  
39 educational service districts knowledgeable of special education  
40 programs and funding.

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

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