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**HOUSE BILL 2174**

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**State of Washington**

**68th Legislature**

**2024 Regular Session**

**By** Representatives Pollet and Bergquist; by request of Superintendent of Public Instruction

1 AN ACT Relating to funded special education enrollment; amending  
2 RCW 28A.150.390; and creating a new section.

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

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

8 The legislature also finds that a cap and enrollment limit on the  
9 number of students receiving special education services that generate  
10 state special education funding is not consistent with the state's  
11 duty to provide a free appropriate public education. An enrollment  
12 limit that fails to provide equity for all students with disabilities  
13 affects all students in public schools.

14 The legislature finds that there is significant evidence that the  
15 prevalence of disabilities amongst children, particularly amongst  
16 vulnerable populations and communities with disparately poor health  
17 outcomes and access to health services, coupled with evidence of  
18 obstacles and delays in evaluating students for services to be  
19 provided pursuant to individual education plans, may often exceed 15  
20 percent of students in a district. The legislature intends to fund  
21 districts to fully serve those students identified as having

1 disabilities following evaluation when evidence supports that the  
2 district is properly evaluating and identifying needed services to  
3 provide all students with free and appropriate education.

4 The legislature further finds that school districts pay for  
5 special education services with local funding, creating an  
6 inequitable situation for school districts and students. The  
7 legislature supports a system of funding that does not require school  
8 districts to generate local funding to meet their obligation to  
9 provide special education services.

10 **Sec. 2.** RCW 28A.150.390 and 2023 c 417 s 3 are each amended to  
11 read as follows:

12 (1) The superintendent of public instruction shall submit to each  
13 regular session of the legislature during an odd-numbered year a  
14 programmed budget request for special education programs for students  
15 with disabilities. Funding for programs operated by local school  
16 districts shall be on an excess cost basis from appropriations  
17 provided by the legislature for special education programs for  
18 students with disabilities and shall take account of state funds  
19 accruing through RCW 28A.150.260 (4)(a), (5), (6), and (8) and  
20 28A.150.415.

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

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

28 (b)(i) Subject to the limitation in (b)(ii) of this subsection  
29 (2), a district's annual average enrollment of resident students who  
30 are eligible for and receiving special education, excluding students  
31 ages three and four and those five year olds not yet enrolled in  
32 kindergarten, multiplied by the district's base allocation per full-  
33 time equivalent student, multiplied by the special education cost  
34 multiplier rate of:

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

36 (I) 1.0075 for students eligible for and receiving special  
37 education and reported to be in the general education setting for 80  
38 percent or more of the school day; or

1 (II) 0.995 for students eligible for and receiving special  
2 education and reported to be in the general education setting for  
3 less than 80 percent of the school day;

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

5 (I) 1.12 for students eligible for and receiving special  
6 education and reported to be in the general education setting for 80  
7 percent or more of the school day; or

8 (II) 1.06 for students eligible for and receiving special  
9 education and reported to be in the general education setting for  
10 less than 80 percent of the school day.

11 (ii) If the enrollment percent exceeds 15 percent, school  
12 districts must include a spending plan of current and future  
13 activities related to identification of students with disabilities,  
14 analysis of identification processes, a breakout of the types of  
15 disabilities and how that relates to likely prevalence in the  
16 community served, and trends to the office of the superintendent of  
17 public instruction for approval through the school district's annual  
18 application for special education funds. If a spending plan is not  
19 approved, the excess cost allocation calculated under (b)(i) of this  
20 subsection must be adjusted by multiplying the allocation by 15  
21 percent divided by the enrollment percent.

22 (3) As part of ongoing data collection, the superintendent of  
23 public instruction shall continue to use enrollment data as one of  
24 the criteria for selecting local education agencies for additional  
25 monitoring activities, including desk reviews and on-site visits, in  
26 accordance with federal requirements of the individuals with  
27 disabilities education act, Title 20 U.S.C. Sec. 1400 et seq.

28 (4) The superintendent of public instruction shall annually  
29 provide the state performance plan to the education committees of the  
30 house of representatives and the senate. This report must detail data  
31 trends and identify school districts that are above a 15 percent  
32 special education enrollment percent and those districts requiring  
33 universal and targeted supports to address over-identification of  
34 students with disabilities.

35 (5) The state auditor, in consultation with the office of the  
36 superintendent of public instruction, shall conduct a review of the  
37 prevalence of disabilities and whether the provisions and funding for  
38 evaluating students and providing services reflects the prevalence of  
39 disabilities, including whether any populations are disparately  
40 underevaluated or underserved.

1       (6) The superintendent of public instruction may adopt rules to  
2 implement this section.

3       (7) As used in this section:

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

9       (b) "Basic education enrollment" means enrollment of resident  
10 students including nonresident students enrolled under RCW  
11 28A.225.225 and students from nonhigh districts enrolled under RCW  
12 28A.225.210 and excluding students residing in another district  
13 enrolled as part of an interdistrict cooperative program under RCW  
14 28A.225.250.

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

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