

Multiple Agency Fiscal Note Summary

Bill Number: 5315 E 2S SB 5315-S2.E AMH ED H1749.2	Title: Special education/nonpublic
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Estimated Cash Receipts

Agency Name	2023-25			2025-27			2027-29		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Office of Attorney General	0	0	16,000	0	0	13,000	0	0	16,000
Total \$	0	0	16,000	0	0	13,000	0	0	16,000

Agency Name	2023-25		2025-27		2027-29	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts						
Loc School dist-SPI	No fiscal impact					
Local Gov. Other						
Local Gov. Total						

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Office of Attorney General	.1	0	0	16,000	.0	0	0	13,000	.1	0	0	16,000
Superintendent of Public Instruction	2.4	1,095,000	1,095,000	1,095,000	2.4	1,070,000	1,070,000	1,070,000	2.4	1,070,000	1,070,000	1,070,000
Total \$	2.5	1,095,000	1,095,000	1,111,000	2.4	1,070,000	1,070,000	1,083,000	2.5	1,070,000	1,070,000	1,086,000

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts									
Loc School dist-SPI	No fiscal impact								
Local Gov. Other									
Local Gov. Total									

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Superintendent of Public Instruction	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts									
Loc School dist-SPI	No fiscal impact								
Local Gov. Other									
Local Gov. Total									

Estimated Capital Budget Breakout

Prepared by: Val Terre, OFM	Phone: (360) 280-3973	Date Published: Final 4/13/2023
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Individual State Agency Fiscal Note

Bill Number: 5315 E 2S SB 5315-S2.E AMH ED H1749.2	Title: Special education/nonpublic	Agency: 100-Office of Attorney General
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Legal Services Revolving Account-State 405-1	8,000	8,000	16,000	13,000	16,000
Total \$	8,000	8,000	16,000	13,000	16,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1	0.1	0.1	0.0	0.1
Account					
Legal Services Revolving Account-State 405-1	8,000	8,000	16,000	13,000	16,000
Total \$	8,000	8,000	16,000	13,000	16,000

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Megan Wargacki	Phone: 360-786-7194	Date: 03/27/2023
Agency Preparation: Chad Standifer	Phone: 3605863650	Date: 03/30/2023
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 03/30/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 03/30/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

Bill Summary

Section 1: Findings.

Section 2: Amending RCW 28A.155.090. Requiring the Office of the Superintendent of Public Instruction (OSPI) to establish standards for approving education centers that contract with school districts to provide special education programs for students with disabilities.

Section 3: Amending RCW 28A.205.010. Revising the definition of “Education Center” to mean a private in-state school or facility, or any out-of-state school or facility, which contracts with a school district to provide special education and related services to students with disabilities placed in the education center by the school district. Revising the definition of “Basic academic skills”.

Section 4: New Section added to RCW 28.205. Authorizing OSPI to approve an applicant as an education center based on certain criteria.

Section 5: Amending RCW 28A.155.060. Requiring OSPI to create an application process to approve education centers that contract with school districts to provide special education and related services to students with disabilities, and specifying the approval criteria. Requiring OSPI to conduct on-site visits of education centers prior to approving an application. Authorizing OSPI to suspend, revoke, or refuse to renew its approval of an application, under certain conditions. Requiring school districts that contract with education centers to develop a written contract and specifying the contract elements. Requiring school districts to conduct annual on-site visits of education centers. Clarifying that school districts remain responsible for student education as specified in the section.

Section 6: Amending RCW 28A.155.210. Requiring a student’s individualized education program to specify procedures required to ensure an education center’s compliance with RCW 28A.600.485.

Section 7: New Section added to RCW 28A.155. Requiring OSPI to submit an annual report to the education committees of the legislature regarding student placements at education centers, beginning December 1, 2023, and specifying the report’s requirement.

Section 8: Repealing RCW 28A.205.020, RCW 28A.205.030, RCW 28A.205.040, RCW 28A.205.070, RCW 28A.205.080, and RCW 28A.205.090.

Section 9: Emergency clause providing for immediate effective date.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

Cash receipts are assumed to equal the Legal Services Revolving Account (LSRA) cost estimates. These will be billed through the revolving account to the client agency.

The client agency is the Office of Superintendent of Public Instruction (OSPI). The Attorney General’s Office (AGO) will bill all clients for legal services rendered.

These cash receipts represent the AGO's authority to bill and are not a direct appropriation to the AGO. The direct appropriation is reflected in the client agency's fiscal note. Appropriation authority is necessary in the AGO budget.

AGO AGENCY ASSUMPTIONS:

OSPI will be billed non-Seattle rates:

FY 2024: \$8,000 for 0.03 Assistant Attorney General FTE (AAG), and 0.02 Legal Assistant 3 FTE (LA).

FY 2025: \$8,000 for 0.03 AAG, and 0.02 LA.

FY 2026: \$5,000 for 0.02 AAG, 0.01 LA.

FY 2027, and each FY thereafter: \$8,000 for 0.03 AAG, and 0.02 LA.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

Attorney General's Office (AGO) Agency Assumptions:

This bill has an emergency clause and is assumed to be effective immediately.

Location of staffing is assumed to be in a non-Seattle office building.

Total workload impact in this request includes standard assumption costs for goods & services, travel, and capital outlays for all FTE identified.

Agency administration support FTE are included in the tables. The Management Analyst 5 (MA), is used as a representative classification. An example ratio is for every 1.0 Assistant Attorney General FTE (AAG), the AGO includes 0.5 FTE for a Legal Assistant 3 (LA) and 0.25 FTE of an MA.

Assumptions for the AGO Education Division's (EDU) Legal Services for the Office of Superintendent of Public Instruction (OSPI).

The AGO will bill OSPI for legal services based on the enactment of this bill.

The enactment of this bill will marginally impact the provision of legal services to OSPI. The enactment of this bill will likely result in fiscal impact to OSPI. Legal work will be required initially to support OSPI in the initial implementation of the bill, and it is expected to increase again once oversight and potential suspension, revocation, or renewal action is taken, since it will likely require an American Psychological Association (APA) complaint hearing. It is assumed that AAG advice will be sought during such an investigation and that an AAG would be representing OSPI in a hearing. Assumption is for one hearing per year starting in 2027 that lasts one or two days.

EDU total non-Seattle impact:

FY 2024: \$8,000 for 0.03 AAG, and 0.02 LA.

FY 2025: \$8,000 for 0.03 AAG, and 0.02 LA.

FY 2026: \$5,000 for 0.02 AAG, and 0.01 LA.

FY 2027, and each FY thereafter: \$8,000 for 0.03 AAG, and 0.02 LA.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
405-1	Legal Services Revolving Account	State	8,000	8,000	16,000	13,000	16,000
Total \$			8,000	8,000	16,000	13,000	16,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1	0.1	0.1	0.0	0.1
A-Salaries and Wages	5,000	5,000	10,000	8,000	10,000
B-Employee Benefits	2,000	2,000	4,000	3,000	4,000
C-Professional Service Contracts					
E-Goods and Other Services	1,000	1,000	2,000	2,000	2,000
Total \$	8,000	8,000	16,000	13,000	16,000

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Assistant Attorney General	118,700	0.0	0.0	0.0	0.0	0.0
Legal Assistant 3	55,872	0.0	0.0	0.0	0.0	0.0
Total FTEs		0.1	0.1	0.1	0.1	0.1

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Education Division (EDU)	8,000	8,000	16,000	13,000	16,000
Total \$	8,000	8,000	16,000	13,000	16,000

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 5315 E 2S SB 5315-S2.E AMH ED H1749.2	Title: Special education/nonpublic	Agency: 350-Superintendent of Public Instruction
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	2.4	2.4	2.4	2.4	2.4
Account					
General Fund-State 001-1	560,000	535,000	1,095,000	1,070,000	1,070,000
Total \$	560,000	535,000	1,095,000	1,070,000	1,070,000

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Megan Wargacki	Phone: 360-786-7194	Date: 03/27/2023
Agency Preparation: Jami Marcott	Phone: (360) 725-6230	Date: 04/04/2023
Agency Approval: Michelle Matakas	Phone: 360 725-6019	Date: 04/04/2023
OFM Review: Val Terre	Phone: (360) 280-3973	Date: 04/04/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

Changes in Striker 5315-S2.E AMH ED H1749.2 Compared to E2SSB 5315:

Strike everything after the enacted clause

New Section 1 Added

An intent section is added to this bill.

Section 2 (Previously section 1)

(6) RCWs are added to reference definitions to education centers and contracts with districts when children with disabilities are placed in an education center by a school district. The term students with disabilities is replaced by children with disabilities,

New Section 3 Added

This new section adds definitions.

New Section 4 Added

A new section is added to RCW 28A.205

(1) This subsection requires an education center to meet specific criteria before it can be approved by OSPI.

(2) This subsection identifies the criteria for which OSPI may suspend, revoke, or refuse to renew approval of an education center.

(3) Education centers are prohibited from charge tuition or fees to students.

(4) OSPI must encourage districts to cooperate with education centers.

(5) An approved education center is not a common school.

(6) An approved education center that is an approved private school in Washington is limited to the program of special education and related services.

Section 5 (Previously section 2)

(1) The term nonpublic agency is replaced with education center. The definition of nonpublic agency is removed.

(2)(a) The term nonpublic agency is replaced with education center.

(2)(b)(ii) Facility requirements are modified from the previous version.

(2)(b)(iii) The term certificated teacher is replaced with licensed teacher.

(2)(b)(vi) The term evaluation is replaced with contracting.

(2)(b)(vii) A new subsection is inserted that provides a list of topics the staff of the education center must be regularly trained.

(2)(b)(viii) (Previous subsection (vii). Nonpublic agency is replaced by education center.

(2)(e) A new subsection is inserted that requires OSPI to use data collected to produce the report required in section 7 to identify issues of noncompliance with approval standards and contract elements established in subsection (3)(a).

(2)(f) (Previously subsection e) The term nonpublic agency is replaced with education center. The state board of education must now notify OSPI of any unresolved concerns, deficiencies, or deviations related to an education center that is also a

private school.

(2)(g) (Previously subsection f) The term nonpublic agency is replaced with education center.

(3) The term nonpublic agency is replaced with education center.

(4) A new subsection is added that defines education center.

Section 6 (Previously section 3)

The term nonpublic agency is replaced with education center.

Previous section 4 (Definitions) has been eliminated.

Section 7 (Previously section 5)

The term nonpublic agency is replaced with education center.

Previous section 6

This section has been eliminated. It established a safety and security staff training program.

Section 8

This section lists RCWs that are repealed.

Section 9 (Previously section 7)

Emergency clause

Summary of Striker 5315-S2.E AMH ED H1749.2:

Section 1

Intent: The legislature intends to codify the duty and authority of OSPI to establish standards for approving, monitoring, and investigating education centers, which are private schools and facilities that contract with districts to provide special education services. The standards must ensure that students with disabilities placed in an education center have the same rights, protections, and access to special education services that they would have if served by the school district.

Section 2 (Previous section 1)

Amending RCW 28A.155.090 and 2007 c 115 s 11

OSPI shall have the duty and authority to:

(6) Establish standards for approving, monitoring, and investigating education centers that contract with districts to provide special education services to children with disabilities placed in the education center by the district. The standards must ensure that any children with disabilities placed in the education center have the same rights, protections, and access to special education that they would if they were served by a district.

Section 3 (New to this amendment)

Amending RCW 28A.205.010 and 2006 c 263 s 408

Definitions in this section apply throughout this chapter unless the context clear requires otherwise.

(1) Education Center means a private in-state school or facility operated on a profit or nonprofit basis, or any out-of-state facility that contracts with a district to provide special education serves to students with disabilities placed in the education center by the district.

(1)(c) The term licensed teacher replaces language that defines a licensed teacher.

(2) Language is removed that states basic academic skills shall not include courses of a vocational training nature or those deemed nonessential to the accrediting of the approval of private schools

(3) This subsection is removed which required OSPI to certify an education center only upon application and determination of a defined set of criteria.

New Section 4 (New to this amendment)

(1) OSPI may approve an applicant as an education center only after a determination that:

(a) The applicant meets the definition of an education center under RCW 28A.205.010

(b) The students of the applicant have made education gains that are a direct result of the applicant's educational program, where the determination is based on the actional educational performance of the students, after considering each student's background.

(2) OSPI may suspend, revoke, or refuse to renew approval of an education center if the center fails to provide adequate instruction in basic academic skills, fails to adhere to federal laws, comply with health and safety requirements, or comply with provisions of its contract with districts.

(3) OSPI must prohibit approved education centers from charging tuition or fees to students placed by a district.

(4) OSPI must encourage districts to cooperate with education centers.

(5) An education center approved by OSPI under this section is not a common school.

(6) The approval of an education center that is a private school in Washington, approved by the State Board of Education, is limited to the program of special education and related services provided to students with disabilities placed in the center by the district.

Section 5 (Previously section 2)

Amending RCW 28A.155.060 and 2007 c 115 s 6

(2)(a) OSPI must create an application process to approve education centers to contract with districts to provide special education and related services to students with disabilities placed in the center by the district. Education centers may be approved for a period of up to three years.

(2)(b) To qualify for approval, an education center must meet the following minimum requirements:

(i) Acknowledge that it can meet all contract elements established in subsection (3)(a) of this section;

(ii) (A) For an education center operation as a school, either obtain approval by the state board of education under RCW 28A.195 to operate as a private school in Washington or obtain approval by the state education agency of the state in which the center is located; and (B) for education centers that operate a program of education within a non-school facility, comply with facility licensing requirements of the state in which the center is located;

(iii) Employ or contract with: at least one licensed teacher with a special education endorsement; other licensed teachers; and related services staff who meet the licensing requirements for their profession;

(iv) Meet applicable fire codes of the local or state fire marshal and applicable health and safety standards;

(v) Demonstrate through audits that it is financially stable and has accounting systems that allow for separation of district funds, including financial safeguards to track revenues and expenditures associated with contracted placements to ensure that funds are used to provide special education services to students;

(vi) Demonstrate that it has procedures in place that address staff hiring and contracting, including checking personal and professional references for employees, conduction criminal background checks in accordance with RCW 28A.400.303, and scheduling regular staff evaluation s that address staff competencies;

(vii) Demonstrate that staff of the education center are regularly trained on the following topics:

(A) Constitutional and civil rights of children in schools;

(B) Child and adolescent development;

(C) Trauma-informed approaches to working with youth;

(D) Recognizing and responding to youth mental health issues;

(E) Educational rights of students with disabilities, the relationship of disability to behavior, and best practices for interacting with students with disabilities;

- (F) Cultural competency, diversity, equity, and inclusion, including best practices for interacting with students from particular backgrounds, including English learner, LGBTQ, immigrant, female, and nonbinary students. The terms cultural competency, diversity, equity, and inclusion have the same meaning as in RCW 28A.415.443;
- (G) De-escalation techniques when working with youth or groups of youth;
- (H) Student isolation and restraint requirements under RCW 28a.600.4851
- (I) The federal family education rights and privacy act requirements including limits on access to and dissemination of student records for noneducation purposes;
- (J) Restorative justice principals and practices; and
- (viii) Maintain a policy of non discrimination and provide procedural safeguards for students eligible for special education services and their families.
- (2)(c) Before approving an application, OSPI must conduct an on-site visit to ensure that an education center’s facilities, staffing levels, and procedural safeguards are sufficient to provide a safe and appropriate learning environment for students with disabilities placed by a district.
- (2)(d) OSPI may suspend, revoke, or refuse to renew its approval of an education center if the center:
- (i) Fails to maintain approval standards or fails to comply with all district contract elements established in subsection (3)(a)
 - (ii) Violates the rights of students placed in the education center by the district;
 - (iii) Refuses to implement any corrective actions ordered by OSPI.
- (2)(e) OSPI must use the data collected to produce the annual report required under section 7.
- (2)(f) OSPI must notify the State Board of Education if any education center, that is also an approved private school, is investigated for noncompliance, is directed to complete corrective action, or fails to maintain approval under this subsection. The State Board of Education must notify OSPI of any unresolved concerns, deficiencies, or deviations related to an education center that is also an approved private school.
- (2)(g)(i) OSPI must develop and publish on its website a complaint process for individuals to report noncompliance or violations of student rights at education centers.
- (2)(g)(ii) OSPI must use the complaint process to identify and address patterns of misconduct at education centers. This includes issuing corrective action or revoking approval under this subsection.
- (3)(a) A district that chooses to contract with an education center as, authorized under subsection 1 of this section, must enter into a written contract with the education center to establish the responsibilities of each party and set forth the rights of students placed in the center by the district. At minimum, the contract must include the following:
- (i) The names of the parties involved, and the name of the student(s) placed in the center by the district;
 - (ii) The locations and settings of the services to be provided;
 - (iii) A description of the services to be provided, including access to state learning standards adopted under RCW 28A.655.070.
 - (iv) The total contract cost and applicable charge and reimbursement systems, including billing and payment procedures;
 - (v) Acknowledgement that the education center has a list of each qualified staff member providing special education and related services and a copy of the license or credential that qualifies each staff member;
 - (vi) Acknowledgment that district and education center have clearly established their respective responsibilities and processes for data collection and reporting for students;
 - (vii) Acknowledgment that the education center must comply with student isolation and restraint requirements.
 - (viii) Acknowledgment that the education center must notify the district and OSPI of an program, staffing, or facility changes that may affect the agency’s ability to provide contract services;
 - (ix) Acknowledgment that the education center must comply with all relevant Washington state and federal laws that are applicable to the school district;
 - (x) Acknowledgment that the district must provide OSPI with the opportunity to review the contract and related documentation upon request.
- (3)(b) A district contracting with an education center must conduct an annual on-site visit to ensure that the center’s facilities, staffing levels, and procedural safeguards are sufficient to provide a safe and appropriate learning environment to meet the unique needs of the students placed in the center by the district.
- (3)(c) A district contracting with an education center must remain responsible for ensuring that the students placed in the center by the district are:

- (i) Provided a free appropriate public education in accordance with the federal individuals with disabilities education act (IDEA), Title 2420 U.S.C. Sec. 1400 et seq. and this chapter.
 - (ii) Provided with special education and related services at no cost to the student's parents and in conformance with an individualized education program (IEP) as required by law. This includes evaluations and IEP team meetings that meet all applicable requirements;
 - (iii) Provided with an opportunity to participate in Washington state and school district assessments and an opportunity to fulfill the requirements to receive a Washington state diploma;
 - (iv) Provided at least the minimum instructional hours and days required under RCW 28A.150.220.35.
- (3)(d) A district must provide the following requirements to families of the student being served by an education center:
- (i) A summary of the school district and education center's responsibilities and processes for reporting incidents of student isolation and restraint under RCW 28A.600.485;
 - (ii) A copy of the complaint process published under subsection (2)(g) of this section.
- (4) For the purpose of this section, education center means an education center as defined in RCW 28A.205.010, approved by OSPI under subsection (2) of this section.

Section 6 (Previous section 3)

Amending RCW 28A.155.210 and 2013 c 202 s 3

Language is clarified that a student's IEP must include procedures for notification of a parent or guardian regarding the use of restraint or isolation under RCW 28A.600.485. Additional language is added the if a student is served by an education center, the student's IEP must also specify any additional procedures required to ensure the center fully complies with RCW 28A.600.485.

New Section 7 (Previously section 5)

(1) Beginning December 1, 2023, OSPI must report annually regarding student placements at education centers. The report must be posted on OSPI's website.

(2) The required report data in subsection (1) must be disaggregated by education center when possible, without disclosing, directly or indirectly, a student's personally identifiable information.

New Section 8

This section lists RCWs that are repealed.

Section 9 (Previously section 7)

Emergency clause

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

No impact to cash receipts

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

OSPI Expenditure Impact:

OSPI will require 1.25 FTE, Program Supervisor, to accomplish the work identified Section 2(6), Sections 5(2)(a), (b), (d), (f), & (g), 4, and Section 7. The cost is \$204,000 in FY24 and \$190,000 annually thereafter.

Section 2(6)

OSPI shall establish standards for approval, monitoring, and investigating school district contracts with education centers

operating special education programs. OSPI estimates 100 hours of staff time in FY24 to complete this work.

Section 4

(1) OSPI may approve an applicant as an education center only after a determination that:

(a) The applicant meets the definition of an education center under RCW 28A.205.010

(b) The students of the applicant have made education gains that are a direct result of the applicant's educational program, where the determination is based on the actional educational performance of the students, after considering each student's background. Staff time for this work is incorporated above.

(2) OSPI may suspend, revoke, or refuse to renew approval of an education center if the center fails to provide adequate instruction in basic academic skills, fails to adhere to federal laws, comply with health and safety requirements, or comply with provisions of its contract with districts. Staff time for this work is incorporated above.

Section 5

Subsections (2)(a) & (b) require OSPI to create an application process to approve education centers to contract with districts to provide special education services. These subsections identify the requirements and responsibilities of OSPI and the education centers. Because OSPI does much of this work already, the current process would only need modification to meet the requirements of this bill. OSPI estimates 40 hours of a Program Supervisor's time to accomplish this modification

(2)(c) Prior to application approval, OSPI must conduct an on-site visit to ensure that the facility, staff levels, and procedural safeguards are sufficient to provide a safe and appropriate learning environment. OSPI estimates 50 out-of-state site visits per year and 40 in-state. This would require a 1.0 FTE Program Supervisor to accomplish this work at a cost of \$163,000 in FY24 and \$152,000 annually thereafter. Additional funding to cover this level of travel would be required. OSPI estimates \$167,000 annually.

(2)(d) OSPI may suspend, revoke, or refuse to renew its approval of a nonpublic agency based on the criteria in this subsection. Staff time for this work is incorporated above.

(2)(f) OSPI must notify the State Board of Education if any nonpublic agency school is investigated for noncompliance, is directed to complete corrective action, or fails to maintain approval under this section. Staff time for this work is incorporated above.

(2)(g) OSPI must develop a complaint process for individuals to report noncompliance or violations of student rights at nonpublic agencies and post this on its website. Staff time for this work is incorporated above.

Section 7

Beginning December 1, 2023, OPSI must report annually regarding student placements at nonpublic agencies. The report must be posted on OSPI's website. The required report data in subsection (1) must be disaggregated by nonpublic agency when it is possible to do so without disclosing a student's personally identifiable information. Staff time for this work is incorporated above.

State Board of Education Expenditure Impact:

To implement Section 5 of the bill, the state board of education (SBE) would follow up on notifications from the office of superintendent of public instruction (OSPI). In addition, SBE will notify OSPI of any unresolved concerns, deficiencies, or deviations related to an education center that is also an SBE-approved private school.

SBE assumes that one school will need SBE compliance follow-up (including recission proceedings) per biennium, based on the number of complaints requiring such follow-up per biennium for all approved private schools. SBE assumes such follow-up will involve about 60 hours per year of assistant attorney general effort, paid for out of the revolving fund. SBE further assumes that any bill-related increase in the number of private school approvals SBE processes each year would be insignificant enough for SBE to absorb.

Specifically, SBE would follow-up with schools reported by OSPI as noncompliant if the compliance issue may impact their private school operations. This follow-up includes:

- a. Communication with the school to investigate and clarify issues that may affect the school’s private school approval status.
- b. Possible rescission of private school approval as described in WAC 180-90-141 to -144.

For fiscal year 2024 and each subsequent fiscal year, this would require 0.07 FTE Program Manager and 0.04 FTE Program Director effort, as well as 60 hours of Assistant Attorney General Effort and 40 hours of contracted Hearing Officer effort, at a total annual cost, including related goods and services, of \$26,000.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	560,000	535,000	1,095,000	1,070,000	1,070,000
Total \$			560,000	535,000	1,095,000	1,070,000	1,070,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	2.4	2.4	2.4	2.4	2.4
A-Salaries and Wages	213,000	213,000	426,000	426,000	426,000
B-Employee Benefits	110,000	111,000	221,000	222,000	222,000
C-Professional Service Contracts	4,000	4,000	8,000	8,000	8,000
E-Goods and Other Services	25,000	25,000	50,000	50,000	50,000
G-Travel	182,000	182,000	364,000	364,000	364,000
J-Capital Outlays	26,000		26,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	560,000	535,000	1,095,000	1,070,000	1,070,000

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Program Supervisor	91,000	2.3	2.3	2.3	2.3	2.3
SBE Program Director	116,000	0.0	0.0	0.0	0.0	0.0
SBE Program Manager	71,000	0.1	0.1	0.1	0.1	0.1
Total FTEs		2.4	2.4	2.4	2.4	2.4

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

No capital budget impact.

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 5315 E 2S SB 5315-S2.E AMH ED H1749.2	Title: Special education/nonpublic	Agency: SDF-School District Fiscal Note - SPI
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Megan Wargacki	Phone: 360-786-7194	Date: 03/27/2023
Agency Preparation: Jami Marcott	Phone: (360) 725-6230	Date: 04/12/2023
Agency Approval: TJ Kelly	Phone: (360) 725-6301	Date: 04/12/2023
OFM Review: Val Terre	Phone: (360) 280-3973	Date: 04/13/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

Changes in Striker 5315-S2.E AMH ED H1749.2 Compared to E2SSB 5315:

Strike everything after the enacted clause

New Section 1 Added

An intent section is added to this bill.

Section 2 (Previously section 1)

(6) RCWs are added to reference definitions to education centers and contracts with districts when children with disabilities are placed in an education center by a school district. The term students with disabilities is replaced by children with disabilities,

New Section 3 Added

This new section adds definitions.

New Section 4 Added

A new section is added to RCW 28A.205

(1) This subsection requires an education center to meet specific criteria before it can be approved by OSPI.

(2) This subsection identifies the criteria for which OSPI may suspend, revoke, or refuse to renew approval of an education center.

(3) Education centers are prohibited from charge tuition or fees to students.

(4) OSPI must encourage districts to cooperate with education centers.

(5) An approved education center is not a common school.

(6) An approved education center that is an approved private school in Washington is limited to the program of special education and related services.

Section 5 (Previously section 2)

(1) The term nonpublic agency is replaced with education center. The definition of nonpublic agency is removed.

(2)(a) The term nonpublic agency is replaced with education center.

(2)(b)(ii) Facility requirements are modified from the previous version.

(2)(b)(iii) The term certificated teacher is replaced with licensed teacher.

(2)(b)(vi) The term evaluation is replaced with contracting.

(2)(b)(vii) A new subsection is inserted that provides a list of topics the staff of the education center must be regularly trained.

(2)(b)(viii) (Previous subsection (vii). Nonpublic agency is replaced by education center.

(2)(e) A new subsection is inserted that requires OSPI to use data collected to produce the report required in section 7 to identify issues of noncompliance with approval standards and contract elements established in subsection (3)(a).

(2)(f) (Previously subsection e) The term nonpublic agency is replaced with education center. The state board of education must now notify OSPI of any unresolved concerns, deficiencies, or deviations related to an education center that is also a

private school.

(2)(g) (Previously subsection f) The term nonpublic agency is replaced with education center.

(3) The term nonpublic agency is replaced with education center.

(4) A new subsection is added that defines education center.

Section 6 (Previously section 3)

The term nonpublic agency is replaced with education center.

Previous section 4 (Definitions) has been eliminated.

Section 7 (Previously section 5)

The term nonpublic agency is replaced with education center.

Previous section 6

This section has been eliminated. It established a safety and security staff training program.

Section 8

This section lists RCWs that are repealed.

Section 9 (Previously section 7)

Emergency clause

Summary of Striker 5315-S2.E AMH ED H1749.2:

Section 1

Intent: The legislature intends to codify the duty and authority of OSPI to establish standards for approving, monitoring, and investigating education centers, which are private schools and facilities that contract with districts to provide special education services. The standards must ensure that students with disabilities placed in an education center have the same rights, protections, and access to special education services that they would have if served by the school district.

Section 2 (Previous section 1)

Amending RCW 28A.155.090 and 2007 c 115 s 11

OSPI shall have the duty and authority to:

(6) Establish standards for approving, monitoring, and investigating education centers that contract with districts to provide special education services to children with disabilities placed in the education center by the district. The standards must ensure that any children with disabilities placed in the education center have the same rights, protections, and access to special education that they would if they were served by a district.

Section 3 (New to this amendment)

Amending RCW 28A.205.010 and 2006 c 263 s 408

Definitions in this section apply throughout this chapter unless the context clear requires otherwise.

(1) Education Center means a private in-state school or facility operated on a profit or nonprofit basis, or any out-of-state facility that contracts with a district to provide special education serves to students with disabilities placed in the education center by the district.

(1)(c) The term licensed teacher replaces language that defines a licensed teacher.

(2) Language is removed that states basic academic skills shall not include courses of a vocational training nature or those deemed nonessential to the accrediting of the approval of private schools

(3) This subsection is removed which required OSPI to certify an education center only upon application and determination of a defined set of criteria.

New Section 4 (New to this amendment)

(1) OSPI may approve an applicant as an education center only after a determination that:

(a) The applicant meets the definition of an education center under RCW 28A.205.010

(b) The students of the applicant have made education gains that are a direct result of the applicant's educational program, where the determination is based on the actional educational performance of the students, after considering each student's background.

(2) OSPI may suspend, revoke, or refuse to renew approval of an education center if the center fails to provide adequate instruction in basic academic skills, fails to adhere to federal laws, comply with health and safety requirements, or comply with provisions of its contract with districts.

(3) OSPI must prohibit approved education centers from charging tuition or fees to students placed by a district.

(4) OSPI must encourage districts to cooperate with education centers.

(5) An education center approved by OSPI under this section is not a common school.

(6) The approval of an education center that is a private school in Washington, approved by the State Board of Education, is limited to the program of special education and related services provided to students with disabilities placed in the center by the district.

Section 5 (Previously section 2)

Amending RCW 28A.155.060 and 2007 c 115 s 6

(2)(a) OSPI must create an application process to approve education centers to contract with districts to provide special education and related services to students with disabilities placed in the center by the district. Education centers may be approved for a period of up to three years.

(2)(b) To qualify for approval, an education center must meet the following minimum requirements:

(i) Acknowledge that it can meet all contract elements established in subsection (3)(a) of this section;

(ii) (A) For an education center operation as a school, either obtain approval by the state board of education under RCW 28A.195 to operate as a private school in Washington or obtain approval by the state education agency of the state in which the center is located; and (B) for education centers that operate a program of education within a non-school facility, comply with facility licensing requirements of the state in which the center is located;

(iii) Employ or contract with: at least one licensed teacher with a special education endorsement; other licensed teachers; and related services staff who meet the licensing requirements for their profession;

(iv) Meet applicable fire codes of the local or state fire marshal and applicable health and safety standards;

(v) Demonstrate through audits that it is financially stable and has accounting systems that allow for separation of district funds, including financial safeguards to track revenues and expenditures associated with contracted placements to ensure that funds are used to provide special education services to students;

(vi) Demonstrate that it has procedures in place that address staff hiring and contracting, including checking personal and professional references for employees, conduction criminal background checks in accordance with RCW 28A.400.303, and scheduling regular staff evaluation s that address staff competencies;

(vii) Demonstrate that staff of the education center are regularly trained on the following topics:

(A) Constitutional and civil rights of children in schools;

(B) Child and adolescent development;

(C) Trauma-informed approaches to working with youth;

(D) Recognizing and responding to youth mental health issues;

(E) Educational rights of students with disabilities, the relationship of disability to behavior, and best practices for interacting with students with disabilities;

- (F) Cultural competency, diversity, equity, and inclusion, including best practices for interacting with students from particular backgrounds, including English learner, LGBTQ, immigrant, female, and nonbinary students. The terms cultural competency, diversity, equity, and inclusion have the same meaning as in RCW 28A.415.443;
- (G) De-escalation techniques when working with youth or groups of youth;
- (H) Student isolation and restraint requirements under RCW 28a.600.4851
- (I) The federal family education rights and privacy act requirements including limits on access to and dissemination of student records for noneducation purposes;
- (J) Restorative justice principals and practices; and
- (viii) Maintain a policy of non discrimination and provide procedural safeguards for students eligible for special education services and their families.
- (2)(c) Before approving an application, OSPI must conduct an on-site visit to ensure that an education center’s facilities, staffing levels, and procedural safeguards are sufficient to provide a safe and appropriate learning environment for students with disabilities placed by a district.
- (2)(d) OSPI may suspend, revoke, or refuse to renew its approval of an education center if the center:
- (i) Fails to maintain approval standards or fails to comply with all district contract elements established in subsection (3)(a)
 - (ii) Violates the rights of students placed in the education center by the district;
 - (iii) Refuses to implement any corrective actions ordered by OSPI.
- (2)(e) OSPI must use the data collected to produce the annual report required under section 7.
- (2)(f) OSPI must notify the State Board of Education if any education center, that is also an approved private school, is investigated for noncompliance, is directed to complete corrective action, or fails to maintain approval under this subsection. The State Board of Education must notify OSPI of any unresolved concerns, deficiencies, or deviations related to an education center that is also an approved private school.
- (2)(g)(i) OSPI must develop and publish on its website a complaint process for individuals to report noncompliance or violations of student rights at education centers.
- (2)(g)(ii) OSPI must use the complaint process to identify and address patterns of misconduct at education centers. This includes issuing corrective action or revoking approval under this subsection.
- (3)(a) A district that chooses to contract with an education center as, authorized under subsection 1 of this section, must enter into a written contract with the education center to establish the responsibilities of each party and set forth the rights of students placed in the center by the district. At minimum, the contract must include the following:
- (i) The names of the parties involved, and the name of the student(s) placed in the center by the district;
 - (ii) The locations and settings of the services to be provided;
 - (iii) A description of the services to be provided, including access to state learning standards adopted under RCW 28A.655.070.
 - (iv) The total contract cost and applicable charge and reimbursement systems, including billing and payment procedures;
 - (v) Acknowledgement that the education center has a list of each qualified staff member providing special education and related services and a copy of the license or credential that qualifies each staff member;
 - (vi) Acknowledgment that district and education center have clearly established their respective responsibilities and processes for data collection and reporting for students;
 - (vii) Acknowledgment that the education center must comply with student isolation and restraint requirements.
 - (viii) Acknowledgment that the education center must notify the district and OSPI of an program, staffing, or facility changes that may affect the agency’s ability to provide contract services;
 - (ix) Acknowledgment that the education center must comply with all relevant Washington state and federal laws that are applicable to the school district;
 - (x) Acknowledgment that the district must provide OSPI with the opportunity to review the contract and related documentation upon request.
- (3)(b) A district contracting with an education center must conduct an annual on-site visit to ensure that the center’s facilities, staffing levels, and procedural safeguards are sufficient to provide a safe and appropriate learning environment to meet the unique needs of the students placed in the center by the district.
- (3)(c) A district contracting with an education center must remain responsible for ensuring that the students placed in the center by the district are:

- (i) Provided a free appropriate public education in accordance with the federal individuals with disabilities education act (IDEA), Title 2420 U.S.C. Sec. 1400 et seq. and this chapter.
 - (ii) Provided with special education and related services at no cost to the student's parents and in conformance with an individualized education program (IEP) as required by law. This includes evaluations and IEP team meetings that meet all applicable requirements;
 - (iii) Provided with an opportunity to participate in Washington state and school district assessments and an opportunity to fulfill the requirements to receive a Washington state diploma;
 - (iv) Provided at least the minimum instructional hours and days required under RCW 28A.150.220.35.
- (3)(d) A district must provide the following requirements to families of the student being served by an education center:
- (i) A summary of the school district and education center's responsibilities and processes for reporting incidents of student isolation and restraint under RCW 28A.600.485;
 - (ii) A copy of the complaint process published under subsection (2)(g) of this section.
- (4) For the purpose of this section, education center means an education center as defined in RCW 28A.205.010, approved by OSPI under subsection (2) of this section.

Section 6 (Previous section 3)

Amending RCW 28A.155.210 and 2013 c 202 s 3

Language is clarified that a student's IEP must include procedures for notification of a parent or guardian regarding the use of restraint or isolation under RCW 28A.600.485. Additional language is added the if a student is served by an education center, the student's IEP must also specify any additional procedures required to ensure the center fully complies with RCW 28A.600.485.

New Section 7 (Previously section 5)

(1) Beginning December 1, 2023, OSPI must report annually regarding student placements at education centers. The report must be posted on OSPI's website.

(2) The required report data in subsection (1) must be disaggregated by education center when possible, without disclosing, directly or indirectly, a student's personally identifiable information.

New Section 8

This section lists RCWs that are repealed.

Section 9 (Previously section 7)

Emergency clause

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

No impact to cash receipts

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

Nothing in this bill requires school districts to contract with education centers to accomplish this work, therefore there is no required cost to school districts to implement this bill.

Should districts choose to contract with education centers, they may incur costs surrounding data collection identified in Section 5. These districts would be required to conduct annual site visits in accordance with Section 5(3)(b). OSPI assumes these districts would have staff costs to manage contracts with the chosen education center. Districts that currently

contract with education centers already have staff doing this work therefore it would be no impact to those districts.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

III. C - Operating FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

No capital budget impact.

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.