
SENATE BILL 5128

State of Washington

67th Legislature

2021 Regular Session

By Senators Wellman, Wilson, C., Conway, Dhingra, Hunt, Keiser, Lovelett, Nguyen, and Saldaña

Prefiled 01/08/21. Read first time 01/11/21. Referred to Committee on Early Learning & K-12 Education.

1 AN ACT Relating to student transportation funding during a local,
2 state, or national emergency; amending RCW 28A.160.170 and
3 28A.160.192; adding a new section to chapter 28A.160 RCW; creating a
4 new section; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature recognizes that the
7 COVID-19 pandemic has significantly changed the delivery of education
8 across the state, as school districts transition to remote learning
9 environments to protect the health of students and staff. The
10 legislature also recognizes that the role of transportation services
11 has evolved alongside remote learning programs to help students
12 equitably access the instructional program of basic education. As
13 permitted by emergency proclamation, many school districts have
14 adapted to remote learning by transporting meals, learning materials,
15 and technology supports directly to students' homes or neighborhoods.
16 Other school districts have used transportation resources to bring
17 students to learning centers or other agencies where support services
18 are provided.

19 This flexibility has allowed school districts to creatively use
20 the resources at their disposal to equitably address the needs of
21 students during an ongoing emergency. However, the current funding

1 model does not reflect the same flexibility necessary to adapt to
2 temporary remote instruction. Under typical circumstances, the
3 student transportation funding model uses student ridership data to
4 appropriately allocate funding to school districts. Without
5 legislative action, many school districts will report a significant
6 drop in traditional student ridership, resulting in a funding
7 decrease that will affect their ability to continue delivering
8 services to students.

9 With this act, the legislature intends to temporarily suspend
10 rider eligibility criteria for an expanded list of qualifying
11 transportation services, so that all students can access necessary
12 supports during the COVID-19 emergency. The legislature also intends
13 to temporarily provide a fixed level of funding to school districts
14 based on student service data to ensure that districts have the
15 resources they need to continue serving students. Finally, the
16 legislature intends to provide a mechanism for calculating student
17 transportation funding immediately following the COVID-19 emergency,
18 so that the temporary drop in student ridership does not impact
19 future transportation allocations.

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.160
21 RCW to read as follows:

22 (1) If a school or school district is providing full remote or
23 partial remote instruction under the authority of RCW 28A.150.290 due
24 to a local, state, or national emergency that makes full in-person
25 instruction in a school building dangerous to the health or safety of
26 the students and staff, then the following provisions apply:

27 (a) The district's annual student transportation allocation is 70
28 percent of the district's estimated allocation for that school year
29 assuming full in-person instruction, as determined by the
30 superintendent of public instruction, rather than the amount the
31 district would receive under the allocation formula provided in RCW
32 28A.160.192. If the final allowable expenditures for student
33 transportation operations are less than the amount allocated in this
34 subsection (1), the office of the superintendent of public
35 instruction shall recover the difference between the amounts
36 originally allotted and the final allowable expenditures for pupil
37 transportation operations.

38 (b) The district may use student transportation allocations to
39 provide the following expanded services to students, regardless of

1 whether those students would qualify as eligible students under RCW
2 28A.160.160:

3 (i) Delivery of educational services necessary to provide
4 students with the opportunity to equitably access educational
5 services during the period of remote instruction. Delivery of
6 educational services include the transportation of materials,
7 hardware, and other supports that assist students in accessing remote
8 instruction, internet connectivity, or the curriculum;

9 (ii) Delivery of meals to students; and

10 (iii) Providing for the transportation of students to and from
11 learning centers or other public or private agencies where
12 educational and support services are being provided to students
13 during the period of remote instruction. "Providing for" includes the
14 provision of payments to allow students to use public transit to
15 access the educational and support services.

16 (c) School districts should maximize efficiencies in the use of
17 their transportation system to deliver the services to students under
18 the provisions of this section.

19 (2) If a district provides expanded services under subsection
20 (1)(b) of this section, the district must track by a separate
21 accounting code the expenditures incurred by the district in
22 providing such services. This data must be included in the report
23 required under RCW 28A.160.170(2).

24 (3)(a) If a district provides expanded services under subsection
25 (1)(b) of this section and, as a result of providing such services,
26 the district's total transportation expenditures exceed 70 percent of
27 its budgeted allocation, the district may be eligible for additional
28 transportation funding.

29 (b) To be eligible for additional transportation funding, the
30 school district must report, in accordance with statewide accounting
31 guidance, the amount of the overexpenditure and the specific
32 activities or services authorized under subsection (1)(b) of this
33 section that created the overexpenditure.

34 (c) To the extent necessary, the office of the superintendent of
35 public instruction shall award additional transportation funding to
36 school districts for eligible overexpenditures. If the statewide
37 overexpenditures exceed the appropriation provided for this purpose,
38 the office of the superintendent of public instruction shall prorate
39 each school district's submission proportionately so that the total
40 funding provided for this purpose is not exceeded.

1 **Sec. 3.** RCW 28A.160.170 and 2009 c 548 s 306 are each amended to
2 read as follows:

3 Each district shall submit three times each year to the
4 superintendent of public instruction during October, February, and
5 May of each year a report containing the following:

6 (1) (a) The number of eligible students transported to and from
7 school as provided for in RCW 28A.160.150, along with identification
8 of stop locations and school locations, and (b) the number of miles
9 driven for pupil transportation services as authorized in RCW
10 28A.160.150 the previous school year; and

11 (2) Other operational data and descriptions as required by the
12 superintendent to determine allocation requirements for each
13 district. The superintendent shall require that districts separate
14 the costs of operating the program for the transportation of eligible
15 students to and from school as defined by RCW 28A.160.160(3)
16 (~~from~~), non-to-and-from-school pupil transportation costs, and
17 costs to provide expanded services under section 2(1)(b) of this act
18 in the annual financial statement. The cost, quantity, and type of
19 all fuel purchased by school districts for use in to-and-from-school
20 transportation shall be included in the annual financial statement.

21 Each district shall submit the information required in this
22 section on a timely basis as a condition of the continuing receipt of
23 school transportation moneys.

24 **Sec. 4.** RCW 28A.160.192 and 2011 1st sp.s. c 27 s 3 are each
25 amended to read as follows:

26 (1) The superintendent of public instruction shall phase-in the
27 implementation of the distribution formula under this chapter for
28 allocating state funds to school districts for the transportation of
29 students to and from school. The phase-in shall begin no later than
30 the 2011-2013 biennium and be fully implemented by the 2013-2015
31 biennium.

32 (a) The formula must be developed and revised on an ongoing basis
33 using the major cost factors in student transportation, including
34 basic and special student loads, school district land area, average
35 distance to school, roadway miles, and number of locations served.
36 Factors must include all those site characteristics that are
37 statistically significant after analysis of the data required by the
38 revised reporting process.

1 (b) The formula must allocate funds to school districts based on
2 the average predicted costs of transporting students to and from
3 school, using a regression analysis. Only factors that are
4 statistically significant shall be used in the regression analysis.
5 Employee compensation costs included in the allowable transportation
6 expenditures used for the purpose of establishing each school
7 district's independent variable in the regression analysis shall be
8 limited to the base salary or hourly wage rates, fringe benefit
9 rates, and applicable health care rates provided in the omnibus
10 appropriations act.

11 (2) During the phase-in period, funding provided to school
12 districts for student transportation operations shall be distributed
13 on the following basis:

14 (a) Annually, each school district shall receive the lesser of
15 the previous school year's pupil transportation operations
16 allocation, or the total of allowable pupil transportation
17 expenditures identified on the previous school year's final
18 expenditure report to the state plus district indirect expenses using
19 the federal restricted indirect rate as calculated in the district
20 annual financial report;

21 (b) Annually, the amount identified in (a) of this subsection
22 shall be adjusted for any budgeted increases provided in the omnibus
23 appropriations act for salaries or fringe benefits;

24 (c) Annually, any funds appropriated by the legislature in excess
25 of the maintenance level funding amount for student transportation
26 shall be distributed among school districts on a prorated basis using
27 the difference between the amount identified in (a) adjusted by (b)
28 of this subsection and the amount determined under the formula in RCW
29 28A.160.180; and

30 (d) Allocations provided to recognize the cost of depreciation to
31 districts contracting with private carriers for student
32 transportation shall be deducted from the allowable transportation
33 expenditures in (a) of this subsection.

34 (3) If a school or school district is providing full remote or
35 partial remote instruction under the authority of RCW 28A.150.290 due
36 to a local, state, or national emergency that makes full in-person
37 instruction in a school building dangerous to the health or safety of
38 the students and staff, the superintendent of public instruction
39 shall use the allocation formula described in section 2(1)(a) of this
40 act rather than the formula described in this section.

1 (4) If a school or school district provided full remote or
2 partial remote instruction under the authority of RCW 28A.150.290 due
3 to a local, state, or national emergency that made full in-person
4 instruction in a school building dangerous to the health or safety of
5 the students and staff, and that emergency is resolved, the
6 superintendent of public instruction may use the student
7 transportation data from the last reporting period in which the
8 school district provided full in-person instruction to calculate
9 transportation allocations. Such data may only be used until the
10 subsequent reporting period when updated ridership data is available.

11 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
12 preservation of the public peace, health, or safety, or support of
13 the state government and its existing public institutions, and takes
14 effect immediately.

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