

SENATE BILL REPORT

SB 5174

As Reported by Senate Committee On:
Early Learning & K-12 Education, January 25, 2023
Ways & Means, February 22, 2023

Title: An act relating to providing adequate and predictable student transportation.

Brief Description: Providing adequate and predictable student transportation.

Sponsors: Senators Wellman, Conway, Dhingra, Frame, Hunt, Kuderer, Lovelett, Rolfes, Valdez, Warnick and Wilson, C.; by request of Superintendent of Public Instruction.

Brief History:

Committee Activity: Early Learning & K-12 Education: 1/12/23, 1/25/23 [DPS-WM, DNP].

Ways & Means: 2/02/23, 2/22/23 [DP2S, w/oRec].

Brief Summary of Second Substitute Bill

- Requires the Office of the Superintendent of Public Instruction to provide an analysis of school district transportation costs and allocations to the Legislature by June 1, 2026.
- Creates a special passenger safety net program.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: That Substitute Senate Bill No. 5174 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Wellman, Chair; Nobles, Vice Chair; Wilson, C., Vice Chair; Hunt, Mullet and Pedersen.

Minority Report: Do not pass.

Signed by Senators Hawkins, Ranking Member; Dozier and McCune.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Staff: Alexandra Fairfortune (786-7416)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5174 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rolfes, Chair; Robinson, Vice Chair, Operating & Revenue; Mullet, Vice Chair, Capital; Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Rivers, Assistant Ranking Member, Capital; Warnick, Assistant Ranking Member, Capital; Billig, Braun, Dhingra, Hunt, Muzzall, Nguyen, Pedersen, Torres, Van De Wege, Wagoner and Wellman.

Minority Report: That it be referred without recommendation.

Signed by Senators Schoesler, Ranking Member, Capital; Conway, Hasegawa, Keiser and Saldaña.

Staff: Kayla Hammer (786-7305)

Background: State Funding Formulas for Pupil Transportation. The state's statutory program of basic education includes transportation to and from school for eligible students, including transportation of students for special education services and between schools and learning centers.

To provide transportation allocations to school districts, the Office of the Superintendent of Public Instruction (OSPI) uses the Student Transportation Allocation Reporting System (STARS), which is a regression formula that uses prior year expenditures, student passenger counts, and district characteristics to calculate the expected costs of to and from transportation. The STARS formula result is then compared to the district's allowable transportation expenditures from the prior year. The school district receives the lesser of the two calculated amounts, plus any compensation adjustments provided in the operating budget.

The 2022 Supplemental Operating Budget appropriated \$13 million for fiscal year 2023 for OSPI to provide transportation safety net funding to school districts with a demonstrated need for additional transportation funding for special passengers.

Federal Requirements for Homeless and Foster Student Transportation. Federal laws include requirements for student transportation of homeless students and students in foster care, including transportation to and from a student's school of origin upon request and when it is in the child's best interest.

The federal McKinney-Vento Homeless Education Assistance Act (McKinney-Vento Act) defines "homeless children and youths" to mean individuals who lack a fixed, regular, and adequate nighttime residence. Under the McKinney-Vento Act, homeless children are

entitled to receive transportation comparable to what is available to non-homeless students.

The federal Every Student Succeeds Act includes requirements for school districts to develop procedures that address how transportation to the schools of origin for children in foster care will be provided, arranged, and funded.

In cases where a student is living outside the school district where a school of origin is located, multiple school districts and child welfare agencies may coordinate in determining a method of transportation and arrangements to share costs.

Summary of Bill (Second Substitute): Transportation Safety Net. The transportation safety net is created. Safety net awards must be provided to school districts with demonstrated need for additional transportation funding for special passengers. Awards may only be awarded when a school districts expenditures exceed its transportation revenues due to expenditures attributable to special passengers.

Special Passengers. Special passengers include:

- students eligible for and receiving special education that require transportation as a related service of their individualized education program;
- homeless students requiring transportation under the federal McKinney-Vento homeless assistance act, Title 42 U.S.C. Sec. 11431 et seq.; and
- foster students receiving transportation as required under the federal every student succeeds act, Title 20 U.S.C. Sec. 6312(c)(5)(b).

To be eligible for transportation safety net award funding, the school district must report the amount of the excess costs and the specific activities or services provided to special passengers that created the excess costs. Charter schools and state-tribal education compact schools are also eligible for awards. Transportation safety net awards are not a part of the state's program of basic education.

Superintendent of Public Instruction. By June 1, 2026, OSPI must provide an analysis of school district transportation costs and allocations following the 2024-25 school year to the education and fiscal committees of the Legislature. This analysis must include the mileage, ridership, and costs for each district, disaggregated by the following student demographic groups: students in each special passenger category, students attending skill centers, and all other transported students. OSPI must also include recommendations for how to incorporate geographic differences faced by rural and high population density urban school districts into the transportation formula. The Legislature intends to use this data to inform future discussions on revising the overall student transportation allocation model to a more transparent and predictable funding model.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Second Substitute):

- Removes provisions that modify the student transportation funding formula.
- Removes additional monthly reporting requirements.
- Removes provision requiring transportation contractors to provide employee health and retirement benefits comparable to those received by school employees.
- Creates a special passenger safety net program.
- Updates intent section.

EFFECT OF CHANGES MADE BY EARLY LEARNING & K-12 EDUCATION COMMITTEE (First Substitute):

- Specifies that career connected and work-based learning activities only qualify as to and from school when the activity occurs during the school day and the student receives academic credit for the activity, and authorizes OSPI to establish additional requirements pertaining to this transportation category.
- Specifies that distinct passenger categories includes students who require special transportation services to access special education services that are documented in an approved IEP.
- Changes reporting of distinct passenger categories from quarterly to monthly to align with the reimbursement schedule.
- Provides that reimbursement for distinct passenger categories must be based on data submitted in the prior school year, as adjusted for inflation.
- Moves language regarding accounting and reporting rules and small district rules to apply to the entire reporting section.
- Requires OSPI to adjust the allocation formula to include basic and special passenger counts and total sum of miles driven, rather than permitting OSPI to do so.
- Requires OSPI to adjust transportation allocation amounts by multipliers for high population density districts and rural, geographically large districts.
- Directs OSPI to adopt rules defining allowable transportation expenditures for distinct passenger categories, to include at a minimum, student transportation via district bus, third-party bus providers, district-owned vehicles, and other vehicles operated by third-parties when determined to be the most appropriate and cost-effective mode of transportation.
- Modifies OSPI reporting requirements to remove language associated with the prior funding model.
- Adjusts hold harmless amounts for inflation.
- Provides that a district receiving a hold harmless amount that also had a negative funding differential in the 21-22 school year qualifies for additional funding. Such funding must reduce the negative funding differential by 0.5 percent for each school year that the district qualifies for the hold harmless. OSPI must recalculate the differential annually using updated transportation allocations and expenditures from the prior school year and adjust amounts for inflation.
- Adjusts the audit threshold from 105 percent to 110 percent.
- Requires any pupil transportation service contract entered into, renewed, or extended after Sept. 1, 2023 to:

1. require the contractor to provide health and retirement benefits to its employees that are comparable to SEBB and SERS; and
 2. include sufficient funds for the contractor to provide a comparable health benefit contribution and employer retirement contribution rate.
- Requires OSPI to provide a one-time supplemental transportation allocation to districts that see an increase in costs due to these new requirements, not to exceed \$200 per employee per month. Provides reporting requirements and restrictions on use of funds.
 - Removes language requiring DCYF to reimburse school districts for half of all excess transportation costs for students under the placement and care authority of DCYF.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Proposed Substitute (Early Learning & K-12 Education): *The committee recommended a different version of the bill than what was heard.* PRO: The state's current STARS model is opaque, unpredictable, inefficient, and insufficient. This bill will be more transparent with consideration towards district specific variables. We need to make a new formula that anyone can explain and understand as opposed to our current confusing model. This proposal provides an opportunity to enact meaningful change to an inadequate and inflexible STARS system. This bill will make a huge difference in supporting the lives of the people doing incredible work supporting our kids. In rural districts, they must travel far for athletics and extra curriculars. There simply is not enough funding for smaller school districts and they must supplement the cost with local dollars. Many students are forced to choose between finding new resources to access education or getting what they need to actually survive. The audit trigger should be higher than the proposed 105% due to differences in salaries from district to district. Requiring a state auditor to conduct a review will increase district costs.

CON: Our state constitution does not say that we are responsible for sending other people to work. This bill would be responsible for sending students to their places of employment. We cannot choose who gets free transportation to work and who does not. This bill has fiscal concerns and takes away local control from school districts.

OTHER: This bill is too complicated and has enough imperfections that being pro is hard. The bill does not address alternative modes of transportation that go beyond yellow school buses and district vehicles. This bill is also not adjusted for inflation and overtime would create a deficit for schools. This bill should address having comparable benefits for bus drivers, dispatchers, and mechanics that do the same jobs for school districts. Currently the

benefits provided by contractors fall way below short.

Persons Testifying (Early Learning & K-12 Education): PRO: Senator Lisa Wellman, Prime Sponsor; Tyler Muench, Office of Superintendent of Public Instruction; Melissa Gombosky, Evergreen, Vancouver, Spokane Public Schools and ESD 112; Rick Chisa, Public School Employees of Washington (PSE); Zachary Miller, Washington State School Directors' Association; Julie Salvi, Washington Education Association; Robert Maxwell, Pullman School District - Pullman, WA; Emily Stochel, College Success Foundation.

CON: Julie Barrett, Conservative Ladies of Washington.

OTHER: Kerry Breakfield, Teamsters 174; Clifford Traisman, Bellevue, Highline, Olympia, and Seattle Public School Districts.

Persons Signed In To Testify But Not Testifying (Early Learning & K-12 Education):
No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: The state's current school transportation model is opaque, unpredictable, and does not provide the actual cost of transporting students to and from school every day. This bill will transition Washington toward a new transportation system that is transparent and easily predictable. It will make sure that each school district receives necessary funding to administer the system. It will be a significant investment in special education. This system needs to be fully funded, though. Continuity and predictability cannot be provided if economics drive people away.

OTHER: There are some concerns about section 10. Any changes in requirements need to be fully funded. Several school districts are routinely short on transportation funding. This bill puts the long-range cost solely onto the consumer instead of onto the supplier.

Persons Testifying (Ways & Means): PRO: Senator Lisa Wellman, Prime Sponsor; Tyler Muench, Office of Superintendent of Public Instruction; Tom Seigel, Bethel School District; Shaunie Wheeler, Teamsters; Bill West, Teamsters; Mitch Denning, WA Assn of Maintenance & Operation Administrators; Ronda Litzenberger, Washington State School Directors' Association (WSSDA); Melissa Gombosky, Evergreen, Vancouver, ESD 112, Spokane, Central Valley and Richland SDs..

OTHER: Barbara Posthumus, Lake Washington School District; FRED YANCEY, Washington Association of School Administrators; Charlie Brown, The Schools Alliance and Tacoma School District.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.