**5128-S2 AMS WELL S1825.2 - NOT FOR FLOOR USE**

**2SSB 5128** - S AMD **344**

By Senator Wellman

**ADOPTED AS AMENDED 03/04/2021**

Strike everything after the enacting clause and insert the following:

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

This flexibility has allowed school districts to creatively use the resources at their disposal to equitably address the needs of students during an ongoing emergency.

With this act, the legislature intends to temporarily suspend rider eligibility criteria for an expanded list of qualifying transportation services, so that all students can access necessary supports during the COVID-19 emergency. The legislature also intends to provide a mechanism for calculating student transportation funding immediately following the COVID-19 emergency, so that the temporary drop in student ridership does not impact future transportation allocations. Finally, the legislature intends to appropriate additional relief funds to backfill reductions in state funding allocations resulting from transportation declines caused by the COVID-19 emergency.

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

(1) If a school or school district is providing full remote or partial remote instruction under the authority of RCW 28A.150.290 due to a local, state, or national emergency that causes a substantial disruption to full in-person instruction then, in addition to the transportation services allowed under this chapter, the district may use student transportation allocations to provide the following expanded services to students, regardless of whether those students would qualify as eligible students under RCW 28A.160.160:

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

(b) Delivery of meals to students; and

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

(2) Nothing in this section is intended to limit a district's ability to use transportation allocations to pay for fixed transportation costs, such as school bus maintenance and basic administrative, regulatory, safety, or operational expenses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) If a school or school district provided full remote or partial remote instruction under the authority of RCW 28A.150.290 due to a local, state, or national emergency that caused a substantial disruption to full in-person instruction, the superintendent of public instruction may use the student transportation data from the last reporting period in which the school district provided full in-person instruction to calculate transportation allocations. Such data may only be used until the subsequent reporting period when updated ridership data is available.

NEW SECTION. **Sec.**  A new section is added to chapter 28A.710 RCW to read as follows:

Sections 2 and 4(3) of this act govern school operation and management under RCW 28A.710.040 and apply to charter schools established under this chapter.

NEW SECTION. **Sec.**  A new section is added to chapter 28A.715 RCW to read as follows:

Sections 2 and 4(3) of this act govern school operation and management under RCW 28A.715.020 and apply to state-tribal compact schools established under this chapter.

NEW SECTION. **Sec.**  The public schools emergency transportation relief account is created in the state treasury. Money in the account may be spent only after appropriation. Expenditures from the account may only be used to backfill reductions in state funding allocations resulting from transportation declines caused by a declared statewide emergency, provided that such reductions have not been backfilled through receipt of federal emergency relief funds, and must be attributable to documented allowable uses for transportation-related services as established under section 2 of this act.

NEW SECTION. **Sec.**  The sum of $100,000,000 is appropriated for fiscal year 2021, from the general fund account—state to the public schools emergency transportation relief account created in section 7 of this act for the purposes of backfilling reductions in state funding allocations resulting from transportation declines caused by a declared statewide emergency, provided that such reductions have not been backfilled through receipt of federal emergency relief funds, and must be attributable to documented allowable uses for transportation-related services as established under section 2 of this act.

**Sec.**  RCW 43.84.092 and 2020 c 354 s 11, 2020 c 221 s 5, 2020 c 103 s 7, and 2020 c 18 s 3 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the ambulance transport fund, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the 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safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public schools emergency transportation relief account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and 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Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec.**  RCW 43.84.092 and 2020 c 354 s 11, 2020 c 221 s 5, 2020 c 148 s 3, 2020 c 103 s 7, and 2020 c 18 s 3 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

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Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec.**  RCW 43.84.092 and 2020 c 221 s 5, 2020 c 148 s 3, 2020 c 103 s 7, and 2020 c 18 s 3 are each reenacted and amended to read as follows:

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(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

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(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the 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Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec.**  Section 9 of this act expires July 1, 2021.

NEW SECTION. **Sec.**  Section 10 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2021.

NEW SECTION. **Sec.**  Section 10 of this act expires July 1, 2024.

NEW SECTION. **Sec.**  Section 11 of this act takes effect July 1, 2024.

NEW SECTION. **Sec.**  Sections 1 through 9 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

**2SSB 5128** - S AMD **344**

By Senator Wellman

**ADOPTED AS AMENDED 03/04/2021**

On page 1, line 2 of the title, after "emergency;" strike the remainder of the title and insert "amending RCW 28A.160.170 and 28A.160.192; reenacting and amending RCW 43.84.092, 43.84.092, and 43.84.092; adding a new section to chapter 28A.160 RCW; adding a new section to chapter 28A.710 RCW; adding a new section to chapter 28A.715 RCW; creating new sections; making an appropriation; providing effective dates; providing expiration dates; and declaring an emergency."

EFFECT: Removes the alternative student transportation allocation formula available when school districts, charter schools, or state-tribal compact schools provide remote instruction during emergencies. Removes language authorizing school districts, charter schools, and state-tribal compact schools to apply for additional safety net funding if they exceed their transportation allocation amount due to offering expanded services. Appropriates $100,000,000 from the general fund to a newly created Public Schools Emergency Transportation Relief Account and authorizes expenditures from the account to backfill reductions in state funding allocations resulting from transportation declines caused by a declared statewide emergency, provided such reductions have not been backfilled through receipt of federal emergency relief funds. Provides that account expenditures must be attributable to documented allowable uses for transportation-related services. Modifies the intent section to align with changes to the bill language. Allows for the Public Schools Emergency Transportation Relief Account to retain its accrued interest.