

SENATE BILL REPORT

SB 5873

As Reported by Senate Committee On:
Early Learning & K-12 Education, January 11, 2024
Ways & Means, February 5, 2024

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

Brief Description: Providing adequate and predictable student transportation.

Sponsors: Senators Wellman, Wilson, C., Hasegawa, Hunt, Kuderer, Nguyen, Nobles, Trudeau and Valdez.

Brief History:

Committee Activity: Early Learning & K-12 Education: 1/10/24, 1/11/24 [DP-WM, w/oRec].

Ways & Means: 1/23/24, 2/05/24 [DPS, DNP, w/oRec].

Brief Summary of First Substitute Bill

- Requires the Office of the Superintendent of Public Instruction (OSPI) to provide an analysis of school district transportation costs and allocations to the Legislature by June 1, 2027.
- Requires OSPI to develop a transparent, predictable, and comprehensive student transportation funding model that addresses the diverse needs of students and the unique characteristics of school districts.
- Provides additional funding in the amount of \$400 per student for students that require special transportation due to the requirements of the McKinney Vento Homeless Assistance Act.
- Provides that school districts may only enter into, renew, or extend pupil transportation services contracts with private nongovernmental entities that provide employee health and retirement benefits comparable to those received by school employees.

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.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: 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: That it be referred without recommendation.

Signed by Senators Dozier and McCune.

Staff: Alex Fairfortune (786-7416)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5873 be substituted therefor, and the substitute bill do pass.

Signed by Senators Robinson, Chair; Mullet, Vice Chair, Capital; Nguyen, Vice Chair, Operating; Billig, Conway, Dhingra, Hasegawa, Hunt, Keiser, Pedersen, Randall, Saldaña, Van De Wege and Wellman.

Minority Report: Do not pass.

Signed by Senators Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Warnick, Assistant Ranking Member, Capital; Boehnke and Muzzall.

Minority Report: That it be referred without recommendation.

Signed by Senators Rivers, Assistant Ranking Member, Capital; Braun, Torres and Wagoner.

Staff: Richard Ramsey, (786-7909)

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 2023 Operating Budget appropriated \$13 million for fiscal year 2024 and \$13 million for fiscal year 2025 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 (First Substitute): Superintendent of Public Instruction. By June 1, 2027, the Office of the Superintendent of Public Instruction (OSPI) must provide an analysis of school district transportation costs and allocations following the 2025-26 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 categories and all other students: .

- students who require special transportation services to access special education services documented in an approved individualized education program;
- students who meet the definition of homeless where transportation is required by the McKinney-Vento Act or other federal requirements;
- students who are in foster care where transportation is required outside of the normal school district boundary; and
- students attending skill centers.

OSPI must use the analysis to develop a transparent, predictable, and comprehensive student transportation funding model that addresses the diverse needs of students and the unique characteristics of school districts.

The new funding model must be inclusive of student transportation services for the disaggregated student categories addressed in the analysis. The new funding model must also include mechanisms to address the unique transportation challenges faced by high population density urban school districts and rural, geographically large districts that have a relatively low number of schools in proportion to the geographic size of the school district.

McKinney Vento Transportation Funding. In addition to funding provided under the pupil transportation funding model, OSPI must provide additional funds to school districts in the amount of \$400 per-student for students that require special transportation due to the requirements of the McKinney Vento Homeless Assistance Act. Such funds may only be used to address transportation costs associated with such students.

Current reporting requirements are expanded to require school districts to report the number of students requiring special transportation due to requirements of the McKinney Vento Homeless Assistance Act.

Contractor Benefits. A school district may only enter into, renew, or extend a pupil transportation services contract with a private nongovernmental entity if that entity provides the following to, or on behalf of, its employees who choose to opt in for coverage:

- an employer health benefits contribution equal to the employer payment dollar amount in effect for the first year of the contract for health care benefit rates (cockle rates), published annually by the Health Care Authority, for the School Employees' Benefits Board Program (SEBB program) for school employees; and
- an amount equivalent to the salaries of the employees of the private nongovernmental entity multiplied by the employer normal cost contribution rate determined under the entry age cost method for the School Employees' Retirement System, as published in the most recent actuarial valuation report from the Office of the State Actuary for the first year of the contract.

"Employees" are defined as in-state employees of the private nongovernmental entity working sufficient compensated hours performing services pursuant to the contract with the school district to meet the eligibility requirements for the SEBB program if the employees were directly employed by a school district.

All pupil transportation service contracts entered into or modified after the bill's effective date must include a detailed explanation of any contract cost increase by year, expenditure type, and amount, including any increases in cost that result from providing the required benefits.

Subject to the availability of amounts appropriated for this purpose, OSPI must provide a one-time supplemental transportation allocation to school districts that experience an increase in costs to pupil transportation services contracts due to the new benefit requirements. To be eligible for the supplemental allocations, a school district must report to OSPI regarding the number of contracted employees that worked at least 630 hours performing contract services in the school year prior to entering a contract with the new benefits. Supplemental allocations may only be used as payments under pupil transportation services contracts for employee compensation and may not exceed \$200 per contracted employee per month.

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

- Removes the underlying bill provisions that amended the pupil transportation funding formula, directed 100 percent reimbursement for special passenger categories, and required an audit of school district expenditures. Removes related cross-references and supporting provisions.
- Directs the OSPI to use the analysis of school district transportation costs to develop a transparent, predictable, and comprehensive student transportation funding model that addresses the diverse needs of students and the unique characteristics of school districts.
- Specifies minimum demographic groups and unique district characteristics that must be addressed in the new student transportation funding formula.
- Provides additional funding in the amount of \$400 per student for students that require special transportation due to the requirements of the McKinney Vento Homeless Assistance Act. Provides that this funding may only be used to address transportation costs associated with such students. Requires school districts to report the number of qualifying students to OSPI.
- Modifies the health and retirement benefit language for the employees of nongovernmental entities that contract with school districts for pupil transportation.
- Requires that all pupil transportation service contracts entered into or modified after the bill's effective date must include a detailed explanation of any contract cost increase by year, expenditure type, and amount, including increases in cost resulting from providing the required benefits.
- Specifies that, for purposes of the benefit language, "employees" refers to in-state employees of the private nongovernmental entity working sufficient compensated hours performing services pursuant to the contract with the school district to meet the eligibility requirements of the school employees' benefits board program if the employees were directly employed by the school district.

Appropriation: The bill contains a section or sections to limit implementation to the availability of amounts appropriated for that specific purpose.

Fiscal Note: Available. New fiscal note requested on February 6, 2024.

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 Original Bill (Early Learning & K-12 Education): PRO: It is the state's responsibility to fully fund basic education, which includes student transportation. The current formula is not predictable and the lack of transparency makes it hard to plan year-to-year. The regression model was never fully funded and districts use local levies to make up the difference. Some districts have not been

providing transportation to skill centers because they cannot afford to do so. Many students that want to attend skill centers are unable to do so unless they provide their own transportation.

The bill provides for special populations: foster students will have the security of attending the district they have historically attended; homeless students that do not have a consistent residence can still get to school; fragile students who can't ride the bus can be transported as safely; and students can get to skill center facilities. The bill also accounts for the fact that urban districts struggle with traffic and rural districts struggle with large land areas and geographic characteristics that inhibit efficiencies.

Providing benefits for bus drivers will benefit drivers and students, as well as helping recruit drivers in small labor pools.

OTHER: Requiring contractor benefits will be financially devastating if not fully funded. The language pertaining to bus driver benefits needs to be narrowed so that it doesn't unintentionally apply to other transit employees that may be providing transportation to students (metro, public transit, taxis, and so forth). The language pertaining to additional district reporting requirements must not be overly burdensome for school districts.

Persons Testifying (Early Learning & K-12 Education): PRO: Senator Lisa Wellman, Prime Sponsor; Julie Salvi, Washington Education Association; Tyler Muench, Office of Superintendent of Public Instruction; Charlie Brown, Skills Centers, South Sound School Districts; Kelsi Hamilton, Washington State School Directors' Association (WSSDA); Bill West; Cynthia Campbell; Melissa Gombosky, Evergreen, Vancouver, and Spokane Public Schools ; Earl Johnson, Teamsters 174.

OTHER: Barbara Posthumus, Lake Washington School District; Jeff Baerwald, Nine Mile Falls School District; Carolyn Logue, Washington State Student Transportation Coalition.

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

Staff Summary of Public Testimony on Original Bill (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: Education is the paramount duty of the state. Statute provides that transportation is part of basic education, and we don't fully fund it. School districts use local levies to fund that portion of transportation the state doesn't provide. This bill looks at all transportation needs of a district and is designed to pay what we owe. This is a sound attempt to fully fund what the state owes to school districts. Re-evaluation of the transportation funding system is a necessary step in closing the significant funding gap.

We find ourselves using local levy dollars to fund transportation needs—mostly because the Eatonville School District is 450 square miles with many roads built around mountains,

rivers and through valleys. The total cost of transportation is \$1.8 million of which nearly \$500,000 is locally funded. The cost of providing transportation to special populations, called for in this bill, is approximately 10 percent of our transportation budget and solely funded by local levy dollars. Transportation is of vital importance in high poverty districts; if we don't transport the kids, they don't attend school or any of the special programs addressed in this bill. Two groups in particular benefit from funding for transportation.

Because we are a rural school district with declining enrollment, we are limited in the trade-related courses we can offer; however, we transport 28 kids 44 miles to a skill center so they can take advantage of programs that other school districts have on campus.

Our district needs the support to transport 51 7th to 12th graders to a donated farm so they can learn trade skills. Transportation is one of the issues we've been asking the Legislature to address for several years. School districts have to use their local levies to pay for student transportation which is a basic education requirement. We've seen many more McKinney-Vento—homeless—students seeking transportation. Tacoma has a \$3 million shortfall in state funding for transportation and Federal Way has a \$2.7 million shortfall, largely because of McKinney-Vento requirements. We have an obligation to educate those students and believe that you want us to succeed in doing so. Put about \$100 million into transportation; the study in this bill can drive the remaining need to \$300 million.

We bus drivers are special people. We're tasked with driving a 10-ton bus with 100 gallons of diesel fuel through rush-hour traffic all the while taking care of 60 rowdy, rambunctious students. Contracted school bus drivers deserve the same benefits that school district employees do.

The Shoreline School District has an \$800,000 funding shortfall for transportation. When transportation is not fully funded, school districts must rely on their only other source of funding—their enrichment levy. This bill is a step in the right direction for fully funding transportation needs of school districts.

The Nine Mile Falls School District is only 72 square miles, but it's split by the Spokane River—kids should be able to walk to school but they have a long bus ride to cross the only two bridges in the district that cross the river.

The district's cost of health and retirement benefits is \$234,000 in year one and up to \$300,000 in year two. I'm a driver for First Student under contract with Vashon Island School District. Students need to feel safe and perceive continuity. Lack of health and retirement benefits is a deterrent to many from serving and hinders retention and training. I support full benefits for school bus drivers.

OTHER: We have some changes on the benefit portion of the bill and the definition of employee of contracted companies working under a specific contract.

Persons Testifying (Ways & Means): PRO: Senator Lisa Wellman, Prime Sponsor; Ronda Litzenberger, Washington State School Directors' Association (WSSDA); Dylan Norman, Student Representative for Eatonville School District; Heather Segars, Washington state PTA; Cynthia Campbell; Charles West; Charlie Brown, South Sound Superintendents; Matt Chociey, Public School Employees of WA/SEIU 1948.

OTHER: Carolyn Logue, Washington State Student Transportation Coalition; Jeff Baerwald, Nine Mile Falls School District.

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