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**HOUSE BILL 1208**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Representatives Santos, Steele, Lekanoff, Paul, Callan, Ortiz-Self, Bergquist, and Harris-Talley

AN ACT Relating to modifying the learning assistance program to enable school districts to focus on identifying and addressing student academic deficits in basic skills resulting from or exacerbated by the COVID-19 pandemic by granting greater local control over, accountability for, and flexibility with program funds, and to authorize continued flexible use of program funds through the framework of the Washington integrated student supports protocol; amending RCW 28A.300.139, 28A.165.005, 28A.165.015, 28A.165.065, 28A.165.100, 28A.300.130, 28A.305.130, 28A.320.190, and 28A.710.280; adding new sections to chapter 28A.165 RCW; creating new sections; repealing RCW 28A.165.035; providing a contingent effective date; providing a contingent expiration date; and declaring an emergency.

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

NEW SECTION. **Sec.**  (1) The legislature acknowledges that the learning assistance program was developed to provide supplemental instruction and services for public school students who are not meeting academic standards. Initially, school districts were allowed to use learning assistance program funds in a flexible manner to support students participating in the program. Over time, the legislature restricted, and established priorities for, the use of learning assistance program funds. The legislature finds that it is time to restore flexibility to the use of learning assistance program funds; however, local control must be balanced with accountability for improvement in the academic achievement of students participating in the program.

(2) The legislature expects that learning assistance program funds will continue to be used to provide supplemental instruction and services to students who are not meeting academic standards. However, the legislature intends to immediately remove restrictions on the use of learning assistance program funds so that school districts can use these funds to identify and address student academic deficits in basic skills resulting from and exacerbated by the COVID-19 pandemic.

(3)(a) Beginning September 1, 2025, or following the end of the state of emergency declared by the governor due to COVID-19, whichever is later, the legislature intends to continue the flexible use of learning assistance program funds but require that budgeting and expenditure of these funds occur through the framework of the Washington integrated student supports protocol, established by the legislature in 2016.

(b) To ease the transition, the legislature recommends that school district boards of directors begin budgeting and expending learning assistance program funds using the Washington integrated student supports protocol as soon as possible.

(c) Under the protocol, before engaging in the process of budgeting and expending learning assistance program funds, the legislature expects school district boards of directors to perform needs assessments and use data to map the resources of the school district, each school, and the community. School boards are expected to identify gaps in the coordination and integration of academic and nonacademic supports and to engage community partners in strategic planning that prioritizes the needs of students. Each school in the district is also expected to use needs assessments and data to determine how to best engage community partners to address the academic and nonacademic needs of its students in an integrated and coordinated manner. Finally, the legislature expects that schools and school districts will use data in an iterative process to drive decisions about how learning assistance program funds continue to be used, and to determine whether decisions about the use of program funds resulted in improvement in students' academic achievement.

NEW SECTION. **Sec.**  A new section is added to chapter 28A.165 RCW to be codified between RCW 28A.165.005 and 28A.165.065 to read as follows:

(1) Immediately upon the effective date of this section and through the later of: (a) The expiration or termination of Proclamation 20-05, and any subsequent orders extending or amending the proclamation, declaring a state of emergency on February 29, 2020, for all counties in Washington due to COVID-19; or (b) September 1, 2025, school districts must budget and expend the appropriations for the learning assistance program, under RCW 28A.165.005 through 28A.165.065, to identify and address student academic deficits in basic skills resulting from and exacerbated by the COVID-19 pandemic.

(2) During the time period described in subsection (1) of this section, school districts are encouraged to budget and expend the appropriations for the learning assistance program, under RCW 28A.165.005 through 28A.165.065, using the framework of the Washington integrated student supports protocol, established under RCW 28A.300.139.

NEW SECTION. **Sec.**  A new section is added to chapter 28A.165 RCW to be codified between RCW 28A.165.005 and 28A.165.065 to read as follows:

(1) While the state allocations for the learning assistance program under this chapter are intended to be flexible dollars within the control of the public school and school district, this local control must be balanced with local accountability for improvement in student achievement.

(2) School district boards of directors must budget and expend the appropriations for the learning assistance program, under RCW 28A.165.005 through 28A.165.065, using the framework of the Washington integrated student supports protocol, established under RCW 28A.300.139.

**Sec.**  RCW 28A.300.139 and 2016 c 72 s 801 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the Washington integrated student supports protocol is established. The protocol shall be developed by the center for the improvement of student learning, established in RCW 28A.300.130, based on the framework described in this section. The purposes of the protocol include:

(a) Supporting a school-based approach to promoting the success of all students by coordinating academic and nonacademic supports to reduce barriers to academic achievement and educational attainment;

(b) Fulfilling a vision of public education where educators focus on education, students focus on learning, and auxiliary supports enable teaching and learning to occur unimpeded;

(c) Encouraging the creation, expansion, and quality improvement of community-based supports that can be integrated into the academic environment of schools and school districts;

(d) Increasing public awareness of the evidence showing that academic outcomes are a result of both academic and nonacademic factors; and

(e) Supporting statewide and local organizations in their efforts to provide leadership, coordination, technical assistance, professional development, and advocacy to implement high-quality, evidence-based, student-centered, coordinated approaches throughout the state.

(2)(a) The Washington integrated student supports protocol must be sufficiently flexible to adapt to the unique needs of schools and districts across the state, yet sufficiently structured to provide all students with the individual support they need for academic success.

(b) The essential framework of the Washington integrated student supports protocol includes:

(i) Needs assessments: A system-level needs assessment with resource mapping must be conducted in order to identify academic and nonacademic supports that are currently available or lacking in schools, school districts, and the community. A student-level needs assessment must be conducted for all at-risk students in order to develop or identify the needed academic and nonacademic supports within the students' school and community. These supports must be coordinated to provide students with a package of mutually reinforcing supports designed to meet the individual needs of each student.

(ii) Integration and coordination: The school and district leadership and staff must ((~~develop close relationships~~)) establish clear, cooperative policies and procedures with out-of-school providers of academic and nonacademic supports to enhance the effectiveness of the protocol.

(iii) Community partnerships: Community partners must be engaged to provide nonacademic supports to reduce barriers to students' academic success, including supports to students' families.

(iv) Data driven: Students' needs and outcomes must be tracked over time to determine student progress and evolving needs.

(c) The framework must facilitate the ability of any academic or nonacademic provider to support the needs of at-risk students, including, but not limited to: Out-of-school providers, social workers, mental health counselors, physicians, dentists, speech therapists, and audiologists.

**Sec.**  RCW 28A.165.005 and 2017 3rd sp.s. c 13 s 403 are each amended to read as follows:

((~~(1)~~)) This chapter is designed to: ((~~(a)~~)) (1) Promote the use of data when developing programs to assist students who are not meeting academic standards ((~~and reduce disruptive behaviors in the classroom~~)); and ((~~(b)~~)) (2) guide school districts in providing the most effective and efficient practices when implementing supplemental instruction and services to assist students who are not meeting academic standards ((~~and reduce disruptive behaviors in the classroom~~)).

((~~(2) School districts implementing a learning assistance program shall focus first on addressing the needs of students in grades kindergarten through four who are deficient in reading or reading readiness skills to improve reading literacy.~~))

**Sec.**  RCW 28A.165.015 and 2017 3rd sp.s. c 13 s 404 are each amended to read as follows:

Unless the context clearly indicates otherwise the definitions in this section apply throughout this chapter.

(1) "Basic skills areas" means reading, writing, and mathematics as well as readiness associated with these skills.

(2) ((~~"Participating student" means a student in kindergarten through grade twelve who scores below standard for his or her grade level using multiple measures of performance, including on the statewide student assessments or other assessments and performance measurement tools administered by the school or district and who is identified by the district to receive services.~~

~~(3)~~)) "Statewide student assessments" means one or more of the assessments administered by school districts as required under RCW 28A.655.070.

((~~(4)~~)) (3) "Students who are not meeting academic standards" means students with the greatest academic deficits in basic skills as identified by statewide, school, or district assessments or other performance measurement tools.

**Sec.**  RCW 28A.165.065 and 2013 2nd sp.s. c 18 s 206 are each amended to read as follows:

To ensure that school districts are meeting the requirements of this chapter, the superintendent of public instruction shall monitor learning assistance programs using, at minimum, data reported as required under RCW 28A.165.100, no less than once every four years. The primary purpose of program monitoring is to evaluate the effectiveness of a school district's allocation and expenditure of resources and monitor school district fidelity in implementing best practices using the framework of the Washington integrated student supports protocol, established under RCW 28A.300.139. The office of the superintendent of public instruction may provide technical assistance to school districts to improve the effectiveness of a learning assistance program.

**Sec.**  RCW 28A.165.100 and 2019 c 208 s 1 are each amended to read as follows:

(1) School districts shall record in the statewide individual student data system annual entrance and exit performance data for each student participating in the learning assistance program according to specifications established by the office of the superintendent of public instruction.

(2) ((~~By August 1, 2014, and each~~)) Annually September 30th ((~~thereafter~~)), school districts shall report to the office of the superintendent of public instruction, using a common format prepared by the office:

(a) The amount of academic growth gained by students participating in the learning assistance program;

(b) The number of students who gain at least one year of academic growth;

(c) The specific practices, activities, and programs used by each school building that received learning assistance program funding; and

(d) Other data if required by the office of the superintendent of public instruction to demonstrate the efficacy of the learning assistance program expenditures to show student academic growth gains including indicators aligned with the accountability framework for schools receiving support under RCW 28A.657.110.

(3) By January 1, 2020, and each January 1st thereafter, the office of the superintendent of public instruction shall compile the school district data reported as required by subsection (2) of this section, and report, in compliance with RCW 43.01.036, to the appropriate committees of the legislature with the annual and longitudinal gains for the specific practices, activities, and programs used by the school districts and schools to show which are the most effective. The data must be disaggregated by student subgroups as described in RCW 28A.300.042(1) for student-level data.

**Sec.**  RCW 28A.300.130 and 2016 c 72 s 804 are each amended to read as follows:

(1) To facilitate access to information and materials on educational improvement and research, the superintendent of public instruction, subject to the availability of amounts appropriated for this specific purpose, shall establish the center for the improvement of student learning. The center shall work in conjunction with parents, educational service districts, institutions of higher education, and education, parent, community, and business organizations.

(2) The center, subject to the availability of amounts appropriated for this specific purpose, and in conjunction with other staff in the office of the superintendent of public instruction, shall:

(a) Serve as a clearinghouse for information regarding successful educational improvement and parental involvement programs in schools and districts, and information about efforts within institutions of higher education in the state to support educational improvement initiatives in Washington schools and districts;

(b) Provide best practices research that can be used to help schools develop and implement: Programs and practices to improve instruction; systems to analyze student assessment data, with an emphasis on systems that will combine the use of state and local data to monitor the academic progress of each and every student in the school district; comprehensive, school-wide improvement plans; school-based shared decision-making models; programs to promote lifelong learning and community involvement in education; school-to-work transition programs; programs to meet the needs of highly capable students; programs and practices to meet the needs of students who are not meeting academic standards as defined in RCW 28A.165.015; programs and practices to meet the needs of students with disabilities; programs and practices to meet the diverse needs of students based on gender, racial, ethnic, economic, and special needs status; research, information, and technology systems; and other programs and practices that will assist educators in helping students learn the essential academic learning requirements;

(c) Develop and maintain an internet web site to increase the availability of information, research, and other materials;

(d) Work with appropriate organizations to inform teachers, district and school administrators, and school directors about the waivers available and the broadened school board powers under RCW 28A.320.015;

(e) Provide training and consultation services, including conducting regional summer institutes;

(f) Identify strategies for improving the success rates of ethnic and racial student groups and students with disabilities, with disproportionate academic achievement;

(g) Work with parents, teachers, and school districts in establishing a model absentee notification procedure that will properly notify parents when their student has not attended a class or has missed a school day. The office of the superintendent of public instruction shall consider various types of communication with parents including, but not limited to, email, phone, and postal mail; ((~~and~~))

(h) By December 1, 2026, and by December 1st annually thereafter: (i) Review the learning assistance program information submitted as required by RCW 28A.165.100; and (ii) report to the appropriate committees of the legislature with a summary of the innovations made by school districts to reduce barriers to the academic achievement of students participating in the learning assistance program; and

(i) Perform other functions consistent with the purpose of the center as prescribed in subsection (1) of this section.

(3) The superintendent of public instruction shall select and employ a director for the center.

(4) The superintendent may enter into contracts with individuals or organizations including but not limited to: School districts; educational service districts; educational organizations; teachers; higher education faculty; institutions of higher education; state agencies; business or community-based organizations; and other individuals and organizations to accomplish the duties and responsibilities of the center. In carrying out the duties and responsibilities of the center, the superintendent, whenever possible, shall use practitioners to assist agency staff as well as assist educators and others in schools and districts.

(5) The office of the superintendent of public instruction shall report to the legislature by September 1, 2007, and thereafter biennially, regarding the effectiveness of the center for the improvement of student learning, how the services provided by the center for the improvement of student learning have been used and by whom, and recommendations to improve the accessibility and application of knowledge and information that leads to improved student learning and greater family and community involvement in the public education system.

**Sec.**  RCW 28A.305.130 and 2019 c 252 s 112 are each amended to read as follows:

The purpose of the state board of education is to provide advocacy and strategic oversight of public education; implement a standards-based accountability framework that creates a unified system of increasing levels of support for schools in order to improve student academic achievement; provide leadership in the creation of a system that personalizes education for each student and respects diverse cultures, abilities, and learning styles; and promote achievement of the goals of RCW 28A.150.210. In addition to any other powers and duties as provided by law, the state board of education shall:

(1) Hold regularly scheduled meetings at such time and place within the state as the board shall determine and may hold such special meetings as may be deemed necessary for the transaction of public business;

(2) Form committees as necessary to effectively and efficiently conduct the work of the board;

(3) Seek advice from the public and interested parties regarding the work of the board;

(4) For purposes of statewide accountability:

(a) Adopt and revise performance improvement goals in reading, writing, science, and mathematics, by subject and grade level, once assessments in these subjects are required statewide; academic and technical skills, as appropriate, in secondary career and technical education programs; and student attendance, as the board deems appropriate to improve student learning. The goals shall be consistent with student privacy protection provisions of RCW 28A.655.090(7) and shall not conflict with requirements contained in Title I of the federal elementary and secondary education act of 1965, or the requirements of the Carl D. Perkins vocational education act of 1998, each as amended. The goals may be established for all students, economically disadvantaged students, limited English proficient students, students with disabilities, and students ((~~from disproportionately academically underachieving racial and ethnic backgrounds~~)) who are not meeting academic standards as defined in RCW 28A.165.015, disaggregated as described in RCW 28A.300.042(1) for student-level data. The board may establish school and school district goals addressing high school graduation rates and dropout reduction goals for students in grades seven through twelve. The board shall adopt the goals by rule. However, before each goal is implemented, the board shall present the goal to the education committees of the house of representatives and the senate for the committees' review and comment in a time frame that will permit the legislature to take statutory action on the goal if such action is deemed warranted by the legislature;

(b)(i)(A) Identify the scores students must achieve in order to meet the standard on the statewide student assessment, and the SAT or the ACT if used to demonstrate career and college readiness under RCW 28A.655.250. The board shall also determine student scores that identify levels of student performance below and beyond the standard. The board shall set such performance standards and levels in consultation with the superintendent of public instruction and after consideration of any recommendations that may be developed by any advisory committees that may be established for this purpose;

(B) To permit the legislature to take any statutory action it deems warranted before modified or newly established scores are implemented, the board shall notify the education committees of the house of representatives and the senate of any scores that are modified or established under (b)(i)(A) of this subsection on or after July 28, 2019. The notifications required by this subsection (4)(b)(i)(B) must be provided by November 30th of the year proceeding the beginning of the school year in which the modified or established scores will take effect;

(ii) The legislature intends to continue the implementation of chapter 22, Laws of 2013 2nd sp. sess. when the legislature expressed the intent for the state board of education to identify the student performance standard that demonstrates a student's career and college readiness for the eleventh grade consortium-developed assessments. Therefore, by December 1, 2018, the state board of education, in consultation with the superintendent of public instruction, must identify and report to the governor and the education policy and fiscal committees of the legislature on the equivalent student performance standard that a tenth grade student would need to achieve on the state assessments to be on track to be career and college ready at the end of the student's high school experience;

(iii) The legislature shall be advised of the initial performance standards and any changes made to the elementary, middle, and high school level performance standards. The board must provide an explanation of and rationale for all initial performance standards and any changes, for all grade levels of the statewide student assessment. If the board changes the performance standards for any grade level or subject, the superintendent of public instruction must recalculate the results from the previous ten years of administering that assessment regarding students below, meeting, and beyond the state standard, to the extent that this data is available, and post a comparison of the original and recalculated results on the superintendent's web site;

(c) Annually review the assessment reporting system to ensure fairness, accuracy, timeliness, and equity of opportunity, especially with regard to schools with special circumstances and unique populations of students, and a recommendation to the superintendent of public instruction of any improvements needed to the system; and

(d) Include in the biennial report required under RCW 28A.305.035, information on the progress that has been made in achieving goals adopted by the board;

(5) Accredit, subject to such accreditation standards and procedures as may be established by the state board of education, all private schools that apply for accreditation, and approve, subject to the provisions of RCW 28A.195.010, private schools carrying out a program for any or all of the grades kindergarten through twelve. However, no private school may be approved that operates a kindergarten program only and no private school shall be placed upon the list of accredited schools so long as secret societies are knowingly allowed to exist among its students by school officials;

(6) Articulate with the institutions of higher education, workforce representatives, and early learning policymakers and providers to coordinate and unify the work of the public school system;

(7) Hire an executive director and an administrative assistant to reside in the office of the superintendent of public instruction for administrative purposes. Any other personnel of the board shall be appointed as provided by RCW 28A.300.020. The board may delegate to the executive director by resolution such duties as deemed necessary to efficiently carry on the business of the board including, but not limited to, the authority to employ necessary personnel and the authority to enter into, amend, and terminate contracts on behalf of the board. The executive director, administrative assistant, and all but one of the other personnel of the board are exempt from civil service, together with other staff as now or hereafter designated as exempt in accordance with chapter 41.06 RCW; and

(8) Adopt a seal that shall be kept in the office of the superintendent of public instruction.

**Sec.**  RCW 28A.320.190 and 2019 c 252 s 113 are each amended to read as follows:

(1) The extended learning opportunities program is created for eligible ((~~eleventh and~~)) ninth through twelfth grade students who are not on track to meet local or state graduation requirements as well as eighth grade students who need additional assistance in order to have the opportunity for a successful entry into high school. The program shall provide early notification of graduation status and information on education opportunities including preapprenticeship programs that are available.

(2) Under the extended learning opportunities program and to the extent funds are available for that purpose, districts shall make available to students in grade twelve who have failed to meet one or more local or state graduation requirements the option of continuing enrollment in the school district in accordance with RCW 28A.225.160. Districts are authorized to use basic education program funding to provide instruction to eligible students under RCW 28A.150.220(5).

(3) Under the extended learning opportunities program, instructional services for eligible students can occur during the regular school day, evenings, on weekends, or at a time and location deemed appropriate by the school district, including the educational service district, in order to meet the needs of these students. Instructional services provided under this section do not include services offered at private schools. Instructional services can include, but are not limited to, the following:

(a) Individual or small group instruction;

(b) Attendance in a public high school or public alternative school classes or at a skill center;

(c) Inclusion in remediation programs, including summer school;

(d) Language development instruction for English language learners;

(e) Online curriculum and instructional support, including programs for credit retrieval and statewide student assessment preparatory classes; and

(f) Reading improvement specialists available at the educational service districts to serve eighth((~~, eleventh, and~~)) through twelfth grade educators through professional development in accordance with RCW 28A.415.350. The reading improvement specialist may also provide direct services to eligible students and those students electing to continue a fifth year in a high school program who are still struggling with basic reading skills.

**Sec.**  RCW 28A.710.280 and 2018 c 266 s 403 are each amended to read as follows:

(1) The legislature intends that state funding for charter schools be distributed equitably with state funding provided for other public schools.

(2) For eligible students enrolled in a charter school established and operating in accordance with this chapter, the superintendent of public instruction shall transmit to each charter school an amount calculated as provided in this section and based on the statewide average salaries set forth in RCW 28A.150.410 for certificated instructional staff adjusted by the regionalization factor that applies to the school district in which the charter school is geographically located, including any enrichment to those statutory formulae that is specified in the omnibus appropriations act. The amount must be the sum of (a) and (b) of this subsection.

(a) The superintendent shall, for purposes of making distributions under this section, separately calculate and distribute to charter schools moneys appropriated for general apportionment under the same ratios as in RCW 28A.150.260.

(b) The superintendent also shall, for purposes of making distributions under this section, and in accordance with the applicable formulae for categorical programs specified in (b)(i) through (v) of this subsection (2) and any enrichment to those statutory formulae that is specified in the omnibus appropriations act, separately calculate and distribute moneys appropriated by the legislature to charter schools for:

(i) Supplemental instruction and services for ((~~underachieving~~)) students who are not meeting academic standards through the learning assistance program under RCW 28A.165.005 through 28A.165.065;

(ii) Supplemental instruction and services for eligible and enrolled students and exited students whose primary language is other than English through the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080;

(iii) The opportunity for an appropriate education at public expense as defined by RCW 28A.155.020 for all eligible students with disabilities as defined in RCW 28A.155.020;

(iv) Programs for highly capable students under RCW 28A.185.010 through 28A.185.030; and

(v) Pupil transportation services to and from school in accordance with RCW 28A.160.150 through 28A.160.180. Distributions for pupil transportation must be calculated on a per eligible student basis based on the allocation for the previous school year to the school district in which the charter school is located.

(3) The superintendent of public instruction must adopt rules necessary for the distribution of funding required by this section and to comply with federal reporting requirements.

NEW SECTION. **Sec.**  RCW 28A.165.035 (Program activities—Partnerships with local entities—Development and use of state menus of best practices and strategies) and 2018 c 75 s 7, 2016 c 72 s 803, 2013 2nd sp.s. c 18 s 203, 2008 c 321 s 4, & 2004 c 20 s 4 are each repealed.

NEW SECTION. **Sec.**  Section 2 of this act expires at the later of either: (1) The expiration or termination of Proclamation 20-05, and any subsequent orders extending or amending the proclamation, declaring a state of emergency on February 29, 2020, for all counties in Washington due to COVID-19; or (2) September 1, 2025.

NEW SECTION. **Sec.**  Section 3 of this act takes effect at the later of either: (1) The expiration or termination of Proclamation 20-05, and any subsequent orders extending or amending the proclamation, declaring a state of emergency on February 29, 2020, for all counties in Washington due to COVID-19; or (2) September 1, 2025.

NEW SECTION. **Sec.**  The office of the governor must provide written notice of the expiration date of section 2 of this act and the effective date of section 3 of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the office of the governor.

NEW SECTION. **Sec.**  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 immediately.

**--- END ---**