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**HOUSE BILL 2000**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Representatives Ybarra, Graham, Jacobsen, Walsh, and Caldier

AN ACT Relating to the duty of the superintendent of public instruction to distribute federal and state basic education funds; amending RCW 28A.150.250, 28A.150.290, 28A.300.040, and 28A.505.120; adding new sections to chapter 28A.150 RCW; creating new sections; and declaring an emergency.

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

NEW SECTION. **Sec.**  (1) The legislature recognizes that Article IX of the state Constitution establishes that the paramount duty of the state is to make ample provision for the education of all children residing within its borders, and that statute assigns the duty of distributing basic education funds appropriated by the legislature to the superintendent of public instruction.

(2) The legislature finds that efforts to fulfill its constitutional obligations are nullified if the distribution of basic education funds to school districts is halted or otherwise interrupted by the superintendent of public instruction except in those very limited circumstances where: (a) A school district has failed to meet basic education requirements established in statute; and (b) a robust and transparent due process framework ensures that school districts are not improperly denied access to funding for which they are constitutionally entitled.

(3) The duty of the superintendent of public instruction to distribute funds also extends to federal funds. The legislature finds that the proper authority of the superintendent of public instruction to halt or otherwise interrupt the distribution of federal funds to school districts should be clarified and expressly limited to the minimum controls, if any, that are federally required for the receipt and distribution of those funds, controls adopted by the legislature, or both.

(4) The legislature, therefore, intends to:

(a) Prescribe requirements and limits for the rare instances in which the superintendent of public instruction may lawfully halt or otherwise interrupt the distribution of basic education funds appropriated by the legislature, thereby rebutting and resolving assertions of broad and inferred withholding authority;

(b) Create new requirements for agency rules to ensure that school districts are not improperly denied access to constitutionally required state funding, and that proper appeal mechanisms exist; and

(c) Clarify that the authority of the superintendent of public instruction to halt or otherwise interrupt the distribution of federal funds is limited to the minimum authority, if any, that is a prescribed condition for the receipt and distribution of the funds, express provisions established in statute, or both.

**Sec.**  RCW 28A.150.250 and 2018 c 177 s 601 are each amended to read as follows:

(1) From those funds made available by the legislature for the current use of the common schools, the superintendent of public instruction shall distribute annually as provided in RCW 28A.510.250 to each school district of the state operating a basic education instructional program approved by the state board of education an amount based on the formulas provided in RCW 28A.150.260, 28A.150.390, and 28A.150.392 which, when combined with an appropriate portion of such locally available revenues, other than receipts from federal forest revenues distributed to school districts pursuant to RCW 28A.520.010 and 28A.520.020, as the superintendent of public instruction may deem appropriate for consideration in computing state equalization support, excluding excess property tax levies, will constitute a basic education allocation in dollars for each annual average full-time equivalent student enrolled.

(2) The instructional program of basic education shall be considered to be fully funded by those amounts of dollars appropriated by the legislature pursuant to RCW 28A.150.260, 28A.150.390, and 28A.150.392 to fund those program requirements identified in RCW 28A.150.220 in accordance with the formula provided in RCW 28A.150.260 and those amounts of dollars appropriated by the legislature to fund the salary requirements of RCW 28A.150.410.

(3)(a) If a school district's basic education program fails to meet the basic education requirements enumerated in RCW 28A.150.260 and 28A.150.220, the state board of education may recommend to the superintendent of public instruction that the superintendent withhold state funds in whole or in part for the basic education allocation until program compliance is assured. However, the state board of education may waive this requirement in the event of substantial lack of classroom space.

(b)(i) If the state board of education recommends the withholding of a school district's basic education allocation under this subsection, the superintendent of public instruction may withhold the allocation of state funds in whole or in part for support of the school district. Written notice of the intent to withhold state funds, with reasons stated for this action, shall be made to the school district by the office of the superintendent of public instruction before any portion of the state allocation is withheld.

(ii) By August 1, 2022, the office of the superintendent of public instruction shall, in accordance with chapter 34.05 RCW, adopt new or revised rules to implement this subsection (3)(b). Basic education funds to school districts may not be delayed or otherwise withheld under this section prior to the adoption of the rules required by this act.

**Sec.**  RCW 28A.150.290 and 1992 c 141 s 504 are each amended to read as follows:

(1) The superintendent of public instruction shall have the power and duty to make such rules and regulations as are necessary for the proper administration of this chapter and RCW 28A.160.150 through ((~~28A.160.220~~)) 28A.160.210, 28A.300.035, 28A.300.170, and 28A.500.010 not inconsistent with the provisions thereof, and in addition to require such reports as may be necessary to carry out his or her duties under this chapter and RCW 28A.160.150 through ((~~28A.160.220~~)) 28A.160.210, 28A.300.035, 28A.300.170, and 28A.500.010.

(2) The superintendent of public instruction shall have the authority to make rules and regulations which establish the terms and conditions for allowing school districts to receive state basic education moneys as provided in RCW 28A.150.250 when said districts are unable to fulfill for one or more schools as officially scheduled the requirement of a full school year of one hundred eighty days or the annual average total instructional hour offering imposed by RCW 28A.150.220 and 28A.150.260 due to one or more of the following conditions:

(a) An unforeseen natural event, including, but not necessarily limited to, a fire, flood, explosion, storm, earthquake, epidemic, or volcanic eruption that has the direct or indirect effect of rendering one or more school district facilities unsafe, unhealthy, inaccessible, or inoperable; and

(b) An unforeseen mechanical failure or an unforeseen action or inaction by one or more persons, including negligence and threats, that (i) is beyond the control of both a school district board of directors and its employees and (ii) has the direct or indirect effect of rendering one or more school district facilities unsafe, unhealthy, inaccessible, or inoperable. Such actions, inactions or mechanical failures may include, but are not necessarily limited to, arson, vandalism, riots, insurrections, bomb threats, bombings, delays in the scheduled completion of construction projects, and the discontinuance or disruption of utilities such as heating, lighting and water: PROVIDED, That an unforeseen action or inaction shall not include any labor dispute between a school district board of directors and any employee of the school district.

A condition is foreseeable for the purposes of this subsection to the extent a reasonably prudent person would have anticipated prior to August first of the preceding school year that the condition probably would occur during the ensuing school year because of the occurrence of an event or a circumstance which existed during such preceding school year or a prior school year. A board of directors of a school district is deemed for the purposes of this subsection to have knowledge of events and circumstances which are a matter of common knowledge within the school district and of those events and circumstances which can be discovered upon prudent inquiry or inspection.

(3) The superintendent of public instruction shall make every effort to reduce the amount of paperwork required in administration of this chapter and RCW 28A.160.150 through ((~~28A.160.220~~)) 28A.160.210, 28A.300.035, 28A.300.170, and 28A.500.010; to simplify the application, monitoring and evaluation processes used; to eliminate all duplicative requests for information from local school districts; and to make every effort to integrate and standardize information requests for other state education acts and federal aid to education acts administered by the superintendent of public instruction so as to reduce paperwork requirements and duplicative information requests.

(4) Nothing in this section authorizes the superintendent of public instruction to suspend, withhold, or otherwise fail to fully and timely distribute basic education allocations to each school district, as required by RCW 28A.150.250, in response to or in consideration of: (a) Emergency power actions taken by the governor under RCW 43.06.220; or (b) school district actions or inactions that are not subject to allocation withholding provisions under RCW 28A.150.250.

**Sec.**  RCW 28A.300.040 and 2011 1st sp.s. c 43 s 302 are each amended to read as follows:

(1) In addition to any other powers and duties as provided by law, the powers and duties of the superintendent of public instruction shall be:

((~~(1)~~)) (a) To have supervision over all matters pertaining to the public schools of the state;

((~~(2)~~)) (b) To report to the governor and the legislature such information and data as may be required for the management and improvement of the schools;

((~~(3)~~)) (c) To prepare and have printed such forms, registers, courses of study, rules for the government of the common schools, and such other material and books as may be necessary for the discharge of the duties of teachers and officials charged with the administration of the laws relating to the common schools, and to distribute the same to educational service district superintendents;

((~~(4)~~)) (d) To travel, without neglecting his or her other official duties as superintendent of public instruction, for the purpose of attending educational meetings or conventions, of visiting schools, and of consulting educational service district superintendents or other school officials;

((~~(5)~~)) (e) To prepare and from time to time to revise a manual of the Washington state common school code, copies of which shall be made available online and which shall be sold at approximate actual cost of publication and distribution per volume to public and nonpublic agencies or individuals, said manual to contain Titles 28A and 28C RCW, rules related to the common schools, and such other matter as the state superintendent or the state board of education shall determine;

((~~(6)~~)) (f) To file all papers, reports and public documents transmitted to the superintendent by the school officials of the several counties or districts of the state, each year separately. Copies of all papers filed in the superintendent's office, and the superintendent's official acts, may, or upon request, shall be certified by the superintendent and attested by the superintendent's official seal, and when so certified shall be evidence of the papers or acts so certified to;

((~~(7)~~)) (g) To require annually, on or before the 15th day of August, of the president, manager, or principal of every educational institution in this state, a report as required by the superintendent of public instruction; and it is the duty of every president, manager, or principal, to complete and return such forms within such time as the superintendent of public instruction shall direct;

((~~(8)~~)) (h) To keep in the superintendent's office a record of all teachers receiving certificates to teach in the common schools of this state;

((~~(9)~~)) (i) To issue certificates as provided by law;

((~~(10)~~)) (j) To keep in the superintendent's office at the capital of the state, all books and papers pertaining to the business of the superintendent's office, and to keep and preserve in the superintendent's office a complete record of statistics, as well as a record of the meetings of the state board of education;

((~~(11)~~)) (k) With the assistance of the office of the attorney general, to decide all points of law which may be submitted to the superintendent in writing by any educational service district superintendent, or that may be submitted to the superintendent by any other person, upon appeal from the decision of any educational service district superintendent; and the superintendent shall publish his or her rulings and decisions from time to time for the information of school officials and teachers; and the superintendent's decision shall be final unless set aside by a court of competent jurisdiction;

((~~(12)~~)) (l) To administer oaths and affirmations in the discharge of the superintendent's official duties;

((~~(13)~~)) (m) To deliver to his or her successor, at the expiration of the superintendent's term of office, all records, books, maps, documents and papers of whatever kind belonging to the superintendent's office or which may have been received by the superintendent's for the use of the superintendent's office;

((~~(14)~~)) (n) To administer family services and programs to promote the state's policy as provided in RCW 74.14A.025;

((~~(15)~~)) (o) To promote the adoption of school-based curricula and policies that provide quality, daily physical education for all students, and to encourage policies that provide all students with opportunities for physical activity outside of formal physical education classes;

((~~(16)~~)) (p) To perform such other duties as may be required by law.

(2) Nothing in this section authorizes the superintendent of public instruction to suspend, withhold, or otherwise fail to fully and timely distribute basic education allocations to each school district, as required by RCW 28A.150.250, in response to or in consideration of: (a) Emergency power actions taken by the governor under RCW 43.06.220; or (b) school district actions or inactions that are not subject to allocation withholding provisions under RCW 28A.150.250.

**Sec.**  RCW 28A.505.120 and 1975‑'76 2nd ex.s. c 118 s 12 are each amended to read as follows:

(1) If a local school district fails to comply with any binding restrictions issued by the superintendent of public instruction related solely to the development and implementation of a school district's budget, the allocation of state funds for support of the local school district may be withheld, pending an investigation of the reason for such noncompliance by the office of the superintendent of public instruction. Written notice of the intent to withhold state funds, with reasons stated for this action, shall be made to the school district by the office of the superintendent of public instruction before any portion of the state allocation is withheld.

(2) Nothing in this section authorizes the superintendent of public instruction to suspend, withhold, or otherwise fail to fully and timely distribute basic education allocations to each school district, as required by RCW 28A.150.250, in response to or in consideration of: (a) Emergency power actions taken by the governor under RCW 43.06.220; or (b) school district actions or inactions that are not subject to allocation withholding provisions under RCW 28A.150.250.

NEW SECTION. **Sec.**  A new section is added to chapter 28A.150 RCW to read as follows:

The authority of the superintendent of public instruction to suspend, withhold, or otherwise fail to fully and timely distribute federal funds to school districts and other recipients is limited to either the minimum authority, if any, that is necessary or conferred by federal requirements as a prescribed condition for the receipt and distribution of the funds, express provisions established through enacted legislation, or both.

NEW SECTION. **Sec.**  A new section is added to chapter 28A.150 RCW to read as follows:

Nothing in this title authorizes the superintendent of public instruction to suspend, withhold, or otherwise fail to fully and timely distribute federal funds in response to or consideration of: (1) Emergency power actions taken by the governor under RCW 43.06.220; or (2) school district actions or inactions that are not subject to allocation withholding provisions under RCW 28A.150.250.

NEW SECTION. **Sec.**  This act is remedial and curative in nature and applies retroactively to actions of the office of the superintendent of public instruction taken on or after July 1, 2021.

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.

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