

SENATE BILL REPORT

SB 5873

As of January 23, 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.

Brief Summary of Bill

- Modifies the student transportation allocation formula and establishes related audit, reporting, and data collection requirements.
- Provides 100 percent reimbursement to school districts for transportation expenditures attributable to serving students in distinct passenger categories.
- Requires the Office of the Superintendent of Public Instruction to provide an analysis of school district transportation costs and allocations to the Legislature by June 1, 2027.
- Repeals the Transportation Alternate Funding Grant Program.
- Provides that pupil transportation services contracts entered into, renewed, or extended after September 1, 2024, must require the contractor to provide employee health and retirement benefits comparable to those received by school employees.
- Adjusts the transportation allocation formula using a multiplier of 1.6 for districts with an enrollment exceeding 25,000 students.

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

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.

Transportation Alternate Funding Grant Program. The Transportation Alternate Funding Grant Program provides grant awards to school districts in addition to the STARS formula allocation. As part of the award process for the grants, OSPI must review school districts' efficiency ratings, key performance indicators, and other characteristics, such as unique geographic constraints, low enrollment, geographic density of students, the percentage of students served under the McKinney-Vento Act from outside the district, or whether a district is a non-high school district.

Summary of Bill: Student Transportation Allocation Formula. *Formula Factors.* The transportation allocation formula used by OSPI must be adjusted to include two factors—basic and special education passenger counts, defined by OSPI, and total sum of miles driven. Two of the factors used in the prior formula, average distance to school and number of locations served, are removed.

Formula Multipliers. The transportation allocation amounts generated under the formula must be adjusted by the following multipliers for qualifying school districts, as determined by OSPI:

- for the 2024-25 school year, a multiplier that addresses the unique transportation challenges faced by high population density urban school districts. Beginning in the 2025-26 school year, this multiplier is replaced with a multiplier of 1.6 for school districts that have a full-time equivalent student enrollment of over 25,000 students; and
- a multiplier that addresses the unique transportation challenges faced by rural, geographically large districts that have a relatively low number of schools in proportion to the geographic size of the school district.

Repeal of Prior Distribution Formula. Language referencing the development, revision, adjustment, and phase-in of the prior distribution formula is repealed. Language requiring school districts receive the lesser of the STARS formula result or the district's allowable transportation expenditures from the prior year is also repealed.

Distinct Passenger Categories. Beginning in the 2025-26 school year, the Superintendent of Public Instruction must reimburse school districts on a quarterly basis for 100 percent of the allowable transportation expenditures attributable to serving students in distinct passenger categories. These reimbursed services must be excluded when calculating the general transportation allocation under the formula.

Distinct passenger categories include:

- 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.

Rules established by the Superintendent of Public Instruction must define allowable transportation expenditures for distinct passenger categories to include, at a minimum, student transportation via district bus, third-party bus providers, district-owned vehicles, and other vehicles operated by third-party providers when determined to be the most appropriate or cost-effective mode of transportation for a student in a distinct passenger category.

School districts must submit claims for reimbursement quarterly on a schedule determined by the Superintendent of Public Instruction consistent with the methods used to reimburse school districts for costs in other reimbursement-based categorical programs.

School districts must report allowable transportation expenditures for students in the distinct passenger categories on a quarterly basis. Data submitted in the prior school year must be used to determine the current school year reimbursement, adjusted for inflation. The Superintendent of Public Instruction must adopt accounting and reporting rules necessary to implement these new requirements, and may streamline reporting requirements for small school districts to account for their unique needs.

The Department of Children, Youth, and Families is no longer required to reimburse school districts for half of all excess transportation costs for students under their care.

Hold Harmless. Beginning in the 2024-25 school year and each year thereafter until 2027-28, no school district may receive a student transportation allocation less than its total student transportation allocation as calculated during the 2022-23 school year as adjusted for inflation. If a school district's transportation expenditures exceeded its transportation allocations in the 2022-23 school year, causing a negative funding differential, and the school district is receiving hold harmless funding, OSPI must provide additional transportation allocations that reduce the negative funding differential by 0.5 percent for each school year the school district qualifies for hold harmless funding. OSPI must recalculate a school district's funding differential annually using updated transportation allocations and expenditures from the prior school year and adjust amounts for inflation.

Audit. Beginning in the 2025-26 school year and each year thereafter, the state auditor must conduct a review of a school district's transportation expenditures to ensure they are necessary and reasonable if the school district's transportation expenditures exceed 110 percent of the average per-student expenditure amount in similar school districts. The

review must be included in the state auditor's regular audits of the school district. OSPI must adopt rules to categorize similar school districts and notify the state auditor when a review is required.

Superintendent of Public Instruction. The Superintendent of Public Instruction must identify and collect necessary data in order to update the transportation model in subsequent biennia, and to identify district transportation allocation outliers.

By June 1, 2027, the Office of the Superintendent of Public Instruction 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 each distinct passenger category and all other transported students. The Legislature intends to use this data to inform future discussions on revising the overall student transportation allocation model to a more transparent and predictable funding model.

Transportation Alternate Funding Grant Program. The Transportation Alternate Funding Grant Program is repealed.

Contractor Benefits. Any pupil transportation services contract entered into, renewed, or extended after September 1, 2024, must require the contractor to provide employee benefits comparable to the School Employees Benefits Board Program (SEBB) and School Employees Retirement System (SERS). Such contracts must also include:

- sufficient funds specifically for the contracting employer to provide its employees with an employer health benefits contribution equal to the monthly school employer funding rate for the SEBB program, less the retiree remittance for the Public Employees Benefits Board; and
- an amount equivalent to the plans 2 and 3 normal cost employer contribution rate of SERS, multiplied by the estimated salaries of the employees of the contractor.

"Employees of the contractor" are defined as employees working sufficient compensated hours for the contracting employer performing services on 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.

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.

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

Fiscal Note: Available.

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

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

Staff Summary of Public Testimony (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 (Ways & Means): 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 \$300,00 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 Chociej, 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.