

# HOUSE BILL REPORT

## E2SSB 5128

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**As Reported by House Committee On:**  
Education

**Title:** An act relating to student transportation funding during a local, state, or national emergency.

**Brief Description:** Concerning student transportation funding during a local, state, or national emergency.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Wellman, Wilson, C., Conway, Dhingra, Hunt, Keiser, Lovelett, Nguyen and Saldaña).

**Brief History:**

**Committee Activity:**

Education: 3/16/21, 3/18/21 [DPA].

**Brief Summary of Engrossed Second Substitute Bill  
(As Amended By Committee)**

- Expands the allowable uses of transportation allocations to school districts, charter schools, and tribal-compact schools if full in-person instruction has been substantially disrupted by a local, state, or national emergency.

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### HOUSE COMMITTEE ON EDUCATION

**Majority Report:** Do pass as amended. Signed by 11 members: Representatives Santos, Chair; Dolan, Vice Chair; Ybarra, Ranking Minority Member; Berg, Bergquist, Callan, McCaslin, Ortiz-Self, Rude, Steele and Stonier.

**Minority Report:** Without recommendation. Signed by 2 members: Representatives Walsh, Assistant Ranking Minority Member; McEntire.

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*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.*

**Staff:** Ethan Moreno (786-7386).

**Background:**

Student Transportation and Funding.

School districts are responsible for the operation of student transportation programs for transporting students to and from school or in connection with designated school activities. Student transportation and transportation services to and from school for eligible students is part of the state's program of basic education, but the basic education provisions do not extend to transportation to and from interscholastic and extracurricular activities.

The state provides funding to school districts for the mandatory transportation of eligible students to and from school. The student transportation funding is appropriated by the Legislature to the Office of the Superintendent of Public Instruction (OSPI) for subsequent allocations to school districts in accordance with statutory requirements and calculations of the OSPI. The moneys provided through distribution formulas are based on the average predicted costs of transporting students to and from school. The moneys are provided for allocation purposes only, but they may only be used for student transportation activities.

As a condition of receiving transportation allocations from the OSPI, each school district must submit reports to the Superintendent of Public Instruction (SPI) each October, February, and May that contain:

- the number of eligible students transported to and from school, including the identification of stop locations and school locations, and the number of miles driven for pupil transportation services in the previous school year; and
- other operational data and descriptions as required by the SPI to determine allocation requirements for each district.

Allocations from the SPI to school districts occur according to a monthly schedule established in statute, but allocation payments made in September through January must be based on the prior school year's ridership report.

COVID-19.

On January 30, 2020, the World Health Organization declared the outbreak of COVID-19 to be a public health emergency of international concern. On January 31, 2020, the federal Department of Health and Human Services declared a public health emergency for the United States. On February 29, 2020, Governor Inslee declared a state of emergency in all counties of Washington and directed state agencies to take all reasonable measures to assist affected local governments to respond to and recover from the COVID-19 outbreak.

On March 13, 2020, Governor Inslee announced the closure of all public and private kindergarten through grade 12 school facilities in the state until April 24, 2020. The closure directive was subsequently extended through the remainder of the 2019-20 school year. Although school facilities were closed to in-person instruction during the final months of

the school year, the provision of education remained mandatory and was provided through the implementation of remote instruction practices.

With few exceptions, school districts in Washington began the 2020-21 school with the continuation and modification of remote instruction delivery practices that were employed in the prior school year.

Gubernatorial Proclamation.

An emergency proclamation issued by Governor Inslee on August 26, 2020, in response to the COVID-19 pandemic permitted the use of bus drivers and school buses to deliver education materials and services to students in their remote learning locations on a schedule to be determined by school districts. The proclamation permits the delivery of:

- learning materials, including but not limited to workbooks, homework packets, paper assignments, and other tangible instructional materials;
- meals; and
- any hardware, WiFi hotspots, or other technology solutions that increase student access to remote learning online curriculum.

The proclamation also permits the transportation of students to and from learning centers or other public or private agencies where educational and support services are provided to students.

Office of the Superintendent of Public Instruction.

In addition to its constitutional charge of supervising all matters pertaining to public schools, the SPI and its office has numerous and broad responsibilities prescribed in statute, including making rules and regulations necessary for the administration of public education requirements.

The SPI is authorized to make rules that establish the terms and conditions for allowing school districts to receive state basic education moneys when districts are unable to fulfill requirements for the mandatory number of school days and instructional hours due to unforeseeable conditions. Examples of these conditions include natural events such as fires, earthquakes, or epidemics, that render school district facilities unsafe, unhealthy, inaccessible, or inoperable.

The OSPI, in response to COVID-19 and in accordance with its statutory authority, issued extensive guidance, resources, and requirements to schools and school districts, including materials related to providing remote instruction to students, the provision of school meals, district funding, and reopening schools.

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**Summary of Amended Bill:**

Expanded Use of Transportation Allocations.

School districts, charter schools, and state-tribal compact schools that are providing partial or fully remote instruction to students in accordance with requirements of the OSPI, and because of a local, state, or national emergency that substantially disrupted full in-person instruction, may use student transportation allocations to provide the following expanded services to all students:

- delivery of educational services necessary to provide students with the opportunity to equitably access educational services during the period of remote instruction. The 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;
- delivery of meals to students;
- 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; and
- providing for the transportation of students to and from interscholastic and extracurricular activities. Corresponding modifications to student transportation allocation requirements are also made to effectuate this policy.

If a school or school district provides the expanded services, the school or school district must track the incurred by a separate accounting code and provide the information to the OSPI through an existing report three times each year.

#### **Amended Bill Compared to Engrossed Second Substitute Bill:**

The amended bill makes the following changes to the engrossed second substitute bill:

- removes the following from the underlying bill: provisions modifying transportation funding distribution requirements; provisions establishing and relating to a Public Schools Emergency Transportation (Relief Account); and a \$100 million appropriation for fiscal year 2021 to the Relief Account from the State General Fund;
- allows schools and school districts to receive transportation allocations for transporting students to and from interscholastic and extracurricular activities during a local, state, or national emergency that causes a substantial disruption to full in-person instruction; and
- modifies intent language.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:**

(In support) This bill includes policy recognizing that school buses have been used for additional services and that those services should be reimbursable. Fixed costs for buses and drivers have remained, even though ridership is down. This bill recognizes that ridership is not the correct way to determine expenses for this year. The provisions in the bill that establish a framework for future emergencies are important. This bill should include a link between the last year of full ridership and funding for the next year.

The legislation honors the Governor's proclamation and the policy should remain. The policy should be adjusted to use an appropriate prior year for funding purposes, in this case, the 2019-20 school year.

The policy needs to be modified so that districts can have more flexibility in emergency situations, making it clear that, when necessary, districts can deliver school to children without concerns about expense provisions.

(Opposed) None.

(Other) Student ridership is down, but the costs to transport students have remained the same, and extra costs for cleaning services have been incurred by school districts. This bill acknowledges that ridership is down, changes the allocation formula, and allows expanded uses. This bill also establishes an account that is a payer of last resort, but this can be problematic for some districts. The current ridership count proposals are problematic, and the 2019-20 school year numbers should instead be used.

Throughout the pandemic, school districts have wrestled with the uncertainties of transportation funding. It has been critical for districts to retain transportation service capacity in response to increased in-person instruction. The provisions in the bill to allow expanded use of these moneys is important. The flexibility provided in the bill with transportation funding is important in helping districts provide services for students.

In the last year, transportation moneys have allowed districts to deliver services and meals, and to transport students to learning hubs for accessing remote learning. Districts are asking for policy to provide stability to transportation fund uses and policy that allows districts to claim actual expenditures of these dollars.

School districts should be able to access funding by modifying the formula to pay for additional services. This bill provides less state funding to districts with more poverty. This bill seeks to create an equal funding formula, not an equitable funding formula. Districts need to be able to pivot staff to different duties, and permanently changing the funding formula for allowable circumstances would be helpful.

School bus drivers stepped up to provide important services to students during the pandemic. Hundreds of bus drivers lost their jobs as a result of the pandemic. The top priority must be the safe transportation of students, not efficiency. Districts need assurances

of adequate funding to maintain their transportation programs. The state should be the responsible payer not the federal government, and the last resort provisions in the bill are problematic.

School bus drivers from private carriers were expected to remain operationally ready during the pandemic. Some of the costs of doing so are fixed, and retaining drivers is difficult. Drivers that have been brought back have needed additional training. There have been extra costs with keeping buses on the road during the pandemic. Future policy needs to recognize that federal dollars may not be available in the next crisis.

There is concern that the stability needed for districts is not in the current version of the bill. The bill covers costs for non-typical services, but section 7 and the payer of last resort provisions are not in the best interest of students. Every federal dollar not spent on students is a lost opportunity.

This bill provides a disruption to the rigid transportation model and responds to the good faith efforts of districts to provide services. There are concerns about the fiscal components of the bill. Stakeholders would like to have a clear statement that districts will have appropriate transportation funding during what might be a hybrid school year next year.

**Persons Testifying:** (In support) Robert Dompier, West Valley Spokane School District; Melissa Gombosky, Spokane, Central Valley, Richland, Evergreen, and Vancouver School Districts; and Charlie Brown, Tacoma, Federal Way, Bethel, and Puyallup School Districts.

(Other) Barbara Posthumus, School Alliance; Carin Chase, Washington State School Directors' Association; Jim Kowalkowski, Davenport School District, and Rural Education Center; Lorrell Noahr, Washington Education Association; Rick Chisa, Public School Employees of Washington; Heidi Bennett, Washington State PTA; Carolyn Logue, Washington State Student Transportation Coalition; and Katherine Mahoney, Office of the Superintendent of Public Instruction.

**Persons Signed In To Testify But Not Testifying:** None.