

# SENATE BILL REPORT

## SB 5128

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As of January 28, 2021

**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:** Senators Wellman, Wilson, C., Conway, Dhingra, Hunt, Keiser, Lovelett, Nguyen and Saldaña.

**Brief History:**

**Committee Activity:** Early Learning & K-12 Education: 1/15/21, 1/20/21 [DPS-WM].  
Ways & Means: 1/28/21.

**Brief Summary of First Substitute Bill**

- Provides an alternative student transportation allocation formula and allows expanded transportation services when a school district is providing remote instruction during certain local, state, and national emergencies.
- Allows school districts to apply for additional funding if they exceed their allocation amount due to providing expanded services.
- Allows the Office of the Superintendent of Public Instruction to use student transportation data from prior reporting periods to calculate transportation allocations immediately following an emergency.

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### SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

**Majority Report:** That Substitute Senate Bill No. 5128 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Wellman, Chair; Nobles, Vice Chair, K-12; Wilson, C., Vice

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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.*

Chair, Early Learning; Hawkins, Ranking Member; Dozier, Hunt, McCune, Mullet and Pedersen.

**Staff:** Alexandra Fairfortune (786-7416)

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## SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Jeffrey Naas (786-7708)

**Background:** Student Transportation. The state's program of basic education includes transportation for some students to and from school, including transportation to learning centers and special education services. Students are eligible for transportation if they live beyond a one-mile walk area from the school or have a qualifying disability.

Transportation Allocations. The Office of the Superintendent of Public Instruction (OSPI) calculates each school district's transportation allocation using the Student Transportation Allocation Reporting System (STARS). The STARS model uses a regression analysis of student ridership numbers and district characteristics to calculate an allocation amount, which is adjusted for certain qualifying factors. This STARS allocation amount is then compared to the district's transportation expenditures from the prior year. The school district receives the lesser of the two calculated amounts, plus salary and benefit allocations as appropriated by the Legislature.

OSPI must notify districts of their student transportation allocation before January 15th. Allocation payments made from September through January may be based on the prior school year's ridership report.

Governor Proclamation. On August 26, 2020, Governor Inslee signed Proclamation 20-70, which authorized school districts to spend transportation allocations on an expanded list of permissible activities. These activities include delivering learning materials, meals, and technology solutions to students in their remote learning locations, as well as transporting students to and from learning centers or other agencies where educational and support services are provided. School districts must track and document the specific time and use of drivers and buses to deliver these tools and services.

**Summary of Bill (First Substitute):** A number of provisions are implemented if a school or school district is providing full remote or partial remote instruction due to a local, state, or national emergency that causes a substantial disruption to full in-person instruction.

Transportation Allocations. The school district's annual student transportation allocation is either 70 percent of the district's estimated allocation for that school year assuming full in-person instruction or the amount the district would receive under the traditional allocation formula, whichever is greater. If a district is providing full in-person instruction to at least 50 percent of enrolled students at the time the annual student transportation allocation is

calculated, the percentage used for the calculation is 80 percent rather than 70 percent. If a district receiving allocations under the alternative formula provides full in-person instruction to at least 50 percent of enrolled students on the enrollment count day of any month, the district's allocation is increased to 80 percent for the duration of the school year. If the final allowable expenditures for student transportation operations are less than the amount allocated, OSPI must recover the difference.

Expanded Transportation Services. The school district may use student transportation allocations to provide expanded services to students, regardless of whether those students would qualify as eligible students. The allowable expanded services include:

- delivery of educational services necessary to provide students with the opportunity to equitably access educational services during the period of remote instruction, including 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; and
- providing for the transportation of students to and from learning centers or other agencies where educational and support services are being provided during remote instruction, including providing payment to allow students to use public transit to access such services.

Districts must track expanded service expenditures by a separate accounting code and report the data to OSPI. Districts are not precluded from using transportation allocations for those services already permitted by law, as well as fixed transportation costs such as school bus maintenance and basic administrative, regulatory, safety, and operational expenses.

Additional Funding. The district may be eligible for additional transportation funding if the district is receiving allocations under the alternative formula and, as a result of providing expanded services, the district's total transportation expenditures exceed its calculated allocation amount. To be eligible, the district must report the amount of the overexpenditure, and the specific activities or services that created the overexpenditure, to OSPI by May 1st. The application must also contain the anticipated allowable costs through the end of the current school year. If the amount of statewide overexpenditures exceed the amount appropriated for this purpose, OSPI must prorate each district's submission proportionately. OSPI must make safety net allocations to school districts by June 1st. Final adjustments to reflect demonstrated costs must occur by August 31st, after which OSPI must recover any excess safety net awards.

Emergency Resolved. When an emergency is resolved, OSPI may use the student transportation data from the last reporting period in which the school district provided full in-person instruction to calculate transportation allocations. This data may only be used until the subsequent reporting period when updated ridership data is available.

**EFFECT OF CHANGES MADE BY EARLY LEARNING & K-12 EDUCATION COMMITTEE (First Substitute):**

- Changes the eligible emergency description to one that “causes a substantial disruption to full in-person attendance” rather than one that “makes full in-person instruction in a school building dangerous to the health or safety of staff.”
- Changes the funding level for school districts in an emergency. Instead of 70 percent of the estimated allocation assuming full in-person attendance, the bill now provides 70 percent of the estimated allocation or the amount that would ordinarily be generated by the transportation formula, whichever is greater. The 70 percent increases to 80 percent if the district is providing in-person instruction to at least 50percent of enrolled students.
- Provides that districts that receive funding under the regular transportation formula are not eligible for safety net awards.
- Provides that districts receiving allocations under the alternative formula will receive increased funding, from 70 percent to 80 percent, for the duration of the year if they provide in-person instruction to at least 50 percent of enrolled students on any enrollment count day.
- Allows districts to use allocations for transportation services already permitted by law, as well as fixed transportation costs such as school bus maintenance and basic administrative, regulatory, safety, and operational expenses.
- Removes the provision requiring school districts to maximize efficiencies when providing expanded services.
- Provides a timeframe by which districts must apply for safety net awards–May 1st–and by which OSPI must allocate safety net awards based on anticipated costs–June 1st. Adjustments may be made until August 31st, after which OSPI must recover any excess safety net awards.

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

**Fiscal Note:** Requested on January 11, 2021.

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

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

**Staff Summary of Public Testimony on Original Bill (Early Learning & K-12 Education):** *The committee recommended a different version of the bill than what was heard.* PRO: The transportation formula is based on ridership, but as of March there was no ridership. Instead, buses have been delivering meals and materials for education. School districts do not know how to budget for this situation. While the state can not send out the same amount of funding as though there was no change, the districts do need to have a sense of stability. A 70 percent funding model aligns with operational shifts, and early action by February would address the short-term revenue shortfall challenges that have occurred this year. This will add clarification in statute that aligns with the Governor's emergency proclamation. Expanding allowable uses to include the delivery of meals is also

essential for getting nutritious meals for students and takes pressure off struggling nutrition budgets.

OTHER: Transportation is the backbone of daily operations. The state should pay for all documented permissible expenditures. Hybrid and distance learning is very costly, as it requires more bus drivers and fuel to reach more students. Costs are running very close to the 70 percent estimate already, and many districts are planning to bring students back, which would result in expenditures exceeding that 70 percent threshold. The language should specifically provide that fixed costs are included. The funding formula and safety net need to prioritize safety over efficiency. In some districts, students have been in-person all year, so those districts should be able to opt out.

**Persons Testifying (Early Learning & K-12 Education):** PRO: Senator Lisa Wellman, Prime Sponsor; Sandy Hayes, Washington State School Directors' Association; Steven Webb, Vancouver Public Schools and Evergreen School District; Christina Wong, Northwest Harvest; Maddy Thompson, Governor's Office; Jim Kowalkowski, Davenport Schools and Rural Education Center; Troy Nichols, Capital Region ESD 113; Teena Barnes, North Thurston Public Schools.

OTHER: Lorrell Noahr, Washington Education Association; Carolyn Brotherton, American Federation of Teachers Washington; Sally McLean, Federal Way Public Schools; Rick Chisa, Public School Employees of Washington; Paul Clark, Colton School District/EWQSC; Christian Dube, IUOE 302; Carolyn Logue, Washington State Student Transportation; Greg Newman, First Student; Jacob Iverson, Harlows School Bus Service, Inc.; Tom Seigel, Bethel School District.

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

**Staff Summary of Public Testimony on First Substitute (Ways & Means):** PRO: The current formula does not count expanded services as allowable expenditures. We appreciate the expanded allowable uses of transportation funds. The bill provides relief for districts next year by allowing prior year expenditures to be used from the last full year of in-person instruction. We appreciate the amendment that allows fixed costs to be counted as allowable costs. The bill gives districts the opportunity to emphasize safety over efficiency. The bill gives districts the opportunity to maintain operational readiness during times of remote instruction. Our district has continued to use transportation services to deliver meals and instructional materials to students.

CON: Districts need more than 70 percent or 80 percent of transportation allocations. Costs have not declined. The bill does not go far enough.

OTHER: The bill should allow districts that have up to 100 percent allowable expenditures to be able to access safety net awards. Our district has been serving 80 percent of kids. Our

transportation expenditures are higher than in prior years. Bus drivers have been driving the same routes, even though there are fewer riders. We would like higher allocations for districts that have been serving 75 percent or more students year-round. Our current costs are \$13 million, and we will only get \$9 million under the bill. We would like full reimbursement for actual costs and need more funding to pay for bus drivers. The allocations of 70 percent or 80 percent is not sufficient as our costs have increased. Staff may need to be cut if we are not fully reimbursed.

**Persons Testifying (Ways & Means):** PRO: Carolyn Logue, Washington State Student Transportation Coalition; Lori Cloud, citizen; Rick Chisa, Public School Employees of Washington; Jim Kowalkowski, Davenport School District & Rural Education Center; Lorrell Noahr, Washington Education Association; Sally McLean, Federal Way Public Schools; Katherine Mahoney, Office of the Superintendent of Public Instruction.

CON: Erin Knutson, citizen.

OTHER: Kassidy Probert, North East Washington ESD 101; Travis Hansen, Deer Park School District/EWQSC; Jerry Pugh, Colfax School District/EWQSC; Tom Seigel, Bethel School District; Heidi Bennett, Washington State Parent Teacher Association.

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