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**SENATE BILL 5174**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senators Wellman, Conway, Dhingra, Frame, Hunt, Kuderer, Lovelett, Rolfes, Valdez, Warnick, and C. Wilson; by request of Superintendent of Public Instruction

AN ACT Relating to providing adequate and predictable student transportation; amending RCW 28A.160.117, 28A.160.150, 28A.160.160, 28A.160.170, 28A.160.180, 28A.160.190, and 28A.160.192; adding new sections to chapter 28A.160 RCW; and repealing RCW 28A.160.193.

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

NEW SECTION. **Sec.**  A new section is added to chapter 28A.160 RCW to read as follows:

(1) The legislature recognizes that many school districts do not receive adequate funding for student transportation under the student transportation allocation reporting system formula. The legislature finds that the student transportation allocation reporting system formula does not provide sufficient transportation for special student populations and skill center students and does not adequately fund modern education services. The legislature recognizes that the current student transportation allocation reporting system formula does not provide sufficient funding to address unique transportation challenges faced by rural and high population density urban school districts. Furthermore, the legislature recognizes the necessity of providing students career connected learning opportunities and therefore intends to provide students transportation to their place of work as part of the new transportation formula. Therefore, the legislature intends to continue to gather additional data and implement a new student transportation formula to address each of these shortcomings in the existing student transportation formula. It is the intent of the legislature to keep all school district transportation allocations wholly funded while the new student transportation formula is developed. Data collected by the superintendent of public instruction will be used to develop a new student transportation formula in subsequent biennia.

(2) By June 1, 2026, the office of the superintendent of public instruction must provide an analysis of school district transportation costs and allocations following the 2024-25 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 the following student demographic categories: (a) Students requiring special transportation due to a properly formed and approved individualized education program; (b) students requiring special transportation due to requirements of the McKinney-Vento homeless assistance act or other federal program; (c) students requiring special transportation due to a foster care placement out of their regular school district boundary; and (d) all other students transported to and from school. The legislature intends to use this data to inform their future discussions on revising the overall student transportation allocation model to a more transparent and predictable funding model.

**Sec.**  RCW 28A.160.117 and 2009 c 548 s 310 are each amended to read as follows:

((~~(1) The superintendent of public instruction shall encourage efficient use of state resources by providing a linear programming process that compares school district transportation operations. If a school district's operation is calculated to be less than ninety percent efficient, the regional transportation coordinators shall provide an individual review to determine what measures are available to the school district to improve efficiency. The evaluation shall include such measures as:~~

~~(a) Efficient routing of buses;~~

~~(b) Efficient use of vehicle capacity; and~~

~~(c) Reasonable controls on compensation costs.~~

~~(2) The superintendent shall submit to the fiscal and education committees of the legislature no later than December 1st of each year a report summarizing the efficiency reviews and the resulting changes implemented by school districts in response to the recommendations of the regional transportation coordinators.~~)) Beginning in the 2023-24 school year and each year thereafter until 2030, if a school district's reimbursement amount for serving students under RCW 28A.160.192 exceeds 105 percent of the average per-student reimbursement amount in similar school districts, the state auditor must conduct a review of the school district's transportation expenditures. This review must be included in the state auditor's regular audits of school districts. The office of the superintendent of public instruction must adopt rules to categorize school districts of similar size and notify the state auditor when a review is required under this subsection.

**Sec.**  RCW 28A.160.150 and 2009 c 548 s 304 are each amended to read as follows:

Funds allocated for transportation costs, except for funds provided for transportation and transportation services to and from school shall be in addition to the basic education allocation. The distribution formula developed in RCW 28A.160.150 through 28A.160.180 shall be for allocation purposes only and shall not be construed as mandating specific levels of pupil transportation services by local districts. Operating costs as determined under RCW 28A.160.150 through 28A.160.180 shall be funded at one hundred percent or as close thereto as reasonably possible for transportation of an eligible student to and from school as defined in RCW 28A.160.160((~~(3)~~)) (4). In addition, funding shall be provided for transportation services for students living within the walk area as determined under RCW 28A.160.160((~~(5)~~)) (6).

**Sec.**  RCW 28A.160.160 and 2009 c 548 s 305 are each amended to read as follows:

For purposes of RCW 28A.160.150 through 28A.160.190, except where the context shall clearly indicate otherwise, the following definitions apply:

(1) "Distinct passenger categories" includes the following:

(a) Students who require special transportation services as documented in an approved individualized education program under chapter 28A.155 RCW;

(b) Students who meet the definition of homeless where transportation is required by the McKinney-Vento homeless assistance act or other federal requirements;

(c) Students who are in foster care where transportation is required outside of the normal school district boundary; and

(d) Students attending skill centers.

(2) "Eligible student" means any student served by the transportation program of a school district or compensated for individual transportation arrangements authorized by RCW 28A.160.030 whose route stop is outside the walk area for a student's school, except if the student to be transported is disabled under RCW 28A.155.020 and is either not ambulatory or not capable of protecting his or her own welfare while traveling to or from the school or agency where special education services are provided, in which case no mileage distance restriction applies.

((~~(2)~~)) (3) "Superintendent" means the superintendent of public instruction.

((~~(3)~~)) (4) "To and from school" means the transportation of students, including those students listed in the distinct passenger categories as defined in this section, for the following purposes:

(a) Transportation to and from route stops and schools;

(b) Transportation to and from schools pursuant to an interdistrict agreement pursuant to RCW 28A.335.160;

(c) Transportation of students between schools and learning centers for instruction specifically required by statute; ((~~and~~))

(d) Transportation of students with disabilities to and from schools and agencies for special education services; and

(e) Transportation of students participating in career connected and work-based learning opportunities as defined by the superintendent of public instruction.

Academic extended day transportation for the instructional program of basic education under RCW 28A.150.220 shall be considered part of transportation of students "to and from school" for the purposes of this section. Transportation for field trips may not be considered part of transportation of students "to and from school" under this section.

((~~(4)~~)) (5) "Transportation services" for students living within the walk area includes the coordination of walk-to-school programs, the funding of crossing guards, and matching funds for local and state transportation projects intended to mitigate hazardous walking conditions. Priority for transportation services shall be given to students in grades kindergarten through five.

((~~(5)~~)) (6) As used in this section, "walk area" means that area around a school with an adequate roadway configuration to provide students access to school with a walking distance of less than one mile. Mileage must be measured along the shortest roadway or maintained public walkway where hazardous conditions do not exist. The hazardous conditions must be documented by a process established in rule by the superintendent of public instruction and must include roadway, environmental, and social conditions. Each elementary school shall identify walk routes within the walk area.

**Sec.**  RCW 28A.160.170 and 2021 c 234 s 3 are each amended to read as follows:

Each district shall submit ((~~three~~)) the following reports on a timely basis as a condition of the continuing receipt of school transportation moneys:

(1) Three times each year to the superintendent of public instruction during October, February, and May of each year a report containing the following:

((~~(1)~~))(a)(i) The number of eligible students transported to and from school as provided for in RCW 28A.160.150, along with identification of stop locations and school locations((~~,~~)); and

((~~(b) the~~)) (ii) The number of miles driven for pupil transportation services as authorized in RCW 28A.160.150 the previous school year; and

((~~(2)~~)) (b) Other operational data and descriptions as required by the superintendent to determine allocation requirements for each district. The superintendent shall require that districts separate the costs of operating the program for the transportation of eligible students to and from school as defined by RCW 28A.160.160((~~(3)~~)) (4), non-to-and-from-school pupil transportation costs, and costs to provide expanded services under RCW 28A.160.185(1) in the annual financial statement. The cost, quantity, and type of all fuel purchased by school districts for use in to-and-from-school transportation shall be included in the annual financial statement((~~.~~

~~Each district shall submit the information required in this section on a timely basis as a condition of the continuing receipt of school transportation moneys~~)); and

(2) Quarterly, a report of allowable transportation expenditures for students included in the definition of distinct passenger categories as defined in RCW 28A.160.160. The data submitted in the 2024-25 school year must be used to determine the allocation model for the 2025-26 school year. The data submitted in the 2024-25 school year and thereafter must be used for reimbursement of transportation expenditures costs as provided in RCW 28A.160.180. The superintendent of public instruction must adopt accounting and reporting rules necessary to implement this section. Rules established by the superintendent of public instruction may streamline reporting requirements for small school districts to account for their unique needs.

**Sec.**  RCW 28A.160.180 and 2009 c 548 s 307 are each amended to read as follows:

(1) Each district's annual student transportation allocation shall be determined by the superintendent of public instruction in the following manner:

((~~(1)~~)) (a) The superintendent shall annually calculate the transportation allocation for those services provided for in RCW 28A.160.150. The allocation formula may be adjusted to include such additional ((~~differential~~)) factors as basic and special passenger counts as defined by the superintendent of public instruction, ((~~average distance to school~~)) total sum of miles driven, factors necessary to address unique transportation challenges faced by rural and high population density urban school districts, and number of locations served.

((~~(2) The allocation shall be based on a regression analysis of the number of basic and special students transported and as many other site characteristics that are identified as being statistically significant.~~

~~(3)~~)) (b) The transportation allocation for transporting students in district-owned passenger cars, as defined in RCW 46.04.382, pursuant to RCW 28A.160.010 for services provided for in RCW 28A.160.150 if a school district deems it advisable to use such vehicles after the school district board of directors has considered the safety of the students being transported as well as the economy of utilizing a district-owned passenger car in lieu of a school bus is the private vehicle reimbursement rate in effect on September 1st of each school year. Students transported in district-owned passenger cars must be included in the corresponding basic or special passenger counts.

((~~(4) Prior to June 1st of each year the superintendent shall submit to the office of financial management, and the education and fiscal committees of the legislature, a report outlining the methodology and rationale used in determining the statistical coefficients for each site characteristic used to determine the allocation for the following year.~~)) (c) The superintendent of public instruction shall identify and collect necessary data in order to update the transportation model in subsequent biennia, and to identify district transportation allocation outliers.

(2) Beginning in the 2024-25 school year, each school district's annual student transportation allocation shall be determined by the superintendent of public instruction in the following manner:

(a) The superintendent must reimburse school districts for 100 percent of the transportation expenditures reported under RCW 28A.160.170(2) attributable to serving students in distinct passenger categories.

(b) The superintendent shall annually calculate the transportation allocation for those services provided for in RCW 28A.160.150, excluding any services reimbursed in (a) of this subsection. The allocation formula may be adjusted to include such additional factors as passenger counts as defined by the superintendent of public instruction, and number of locations served.

(c) The allocation shall be based on a regression analysis of the number of students transported and as many other site characteristics that are identified as being statistically significant.

(d) The transportation allocation for transporting students in district-owned passenger cars, as defined in RCW 46.04.382, pursuant to RCW 28A.160.010 for services provided for in RCW 28A.160.150 if a school district deems it advisable to use such vehicles after the school district board of directors has considered the safety of the students being transported as well as the economy of utilizing a district-owned passenger car in lieu of a school bus is the private vehicle reimbursement rate in effect on September 1st of each school year. Students transported in district-owned passenger cars must be included in the corresponding basic or special passenger counts.

(e) Prior to June 1st of each year, the superintendent of public instruction shall submit to the office of financial management and the education and fiscal committees of the legislature, a report outlining the methodology and rationale used in determining the statistical coefficients for each site characteristic used to determine the allocation for the following year.

**Sec.**  RCW 28A.160.190 and 2009 c 548 s 308 are each amended to read as follows:

((~~The~~)) (1) Beginning in the 2024-25 school year, the superintendent of public instruction shall reimburse school districts on a monthly basis for 100 percent of the transportation expenditures attributable to serving students in distinct passenger categories, as reported under RCW 28A.160.170(2). School districts must submit claims for reimbursement monthly, on a schedule determined by the superintendent of public instruction that is consistent with the methods used to reimburse school districts for costs in other reimbursement-based categorical programs.

(2)(a) For all other transportation allocations not included in subsection (1) of this section, the superintendent shall notify districts of their student transportation allocation before January 15th. The superintendent shall recalculate and prorate the district's allocation for the transportation of pupils to and from school.

(b) The superintendent shall make the student transportation allocation in accordance with the apportionment payment schedule in RCW 28A.510.250. Such allocation payments may be based on the prior school year's ridership report for payments to be made in September, October, November, December, and January.

**Sec.**  RCW 28A.160.192 and 2011 1st sp.s. c 27 s 3 are each amended to read as follows:

(1) The superintendent of public instruction shall ((~~phase-in the implementation of the distribution formula under this chapter for allocating state funds to school districts for the transportation of students to and from school. The phase-in shall begin no later than the 2011-2013 biennium and be fully implemented by the 2013-2015 biennium.~~

~~(a) The formula must be developed and revised~~)) develop and revise the distribution formula on an ongoing basis using the major ((~~cost~~)) factors in student transportation, including basic and special student loads, ((~~school district land area, average distance to school, roadway miles, and number of locations served. Factors must include all those site characteristics that are statistically significant after analysis of the data required by the revised reporting process.~~

~~(b) The formula must allocate funds to school districts based on the average predicted costs of transporting students to and from school, using a regression analysis. Only factors that are statistically significant shall be used in the regression analysis. Employee compensation costs included in the allowable transportation expenditures used for the purpose of establishing each school district's independent variable in the regression analysis shall be limited to the base salary or hourly wage rates, fringe benefit rates, and applicable health care rates provided in the omnibus appropriations act~~)) total sum of miles driven, and factors necessary to address unique transportation challenges faced by rural and high population density urban school districts.

(2) During the phase-in period, funding provided to school districts for student transportation operations shall be distributed on the following basis:

(a) ((~~Annually, each school district shall receive the lesser of the previous school year's pupil transportation operations allocation, or the total of allowable pupil transportation expenditures identified on the previous school year's final expenditure report to the state plus district indirect expenses using the federal restricted indirect rate as calculated in the district annual financial report;~~

~~(b)~~)) Annually, the amount identified in ((~~(a)~~)) (b) of this subsection shall be adjusted for any budgeted increases provided in the omnibus appropriations act for salaries or fringe benefits;

((~~(c) Annually, any funds appropriated by the legislature in excess of the maintenance level funding amount for student transportation shall be distributed among school districts on a prorated basis using the difference between the amount identified in (a) adjusted by (b) of this subsection and the amount determined under the formula in RCW 28A.160.180~~)) (b) Beginning in the 2022-23 school year and each year thereafter until 2026-27, no school district shall receive a student transportation appropriation less than their total student transportation appropriation as calculated under this section during the 2021-22 school year; and

((~~(d)~~)) (c) Allocations provided to recognize the cost of depreciation to districts contracting with private carriers for student transportation shall be deducted from the allowable transportation expenditures in ((~~(a)~~)) (b) of this subsection.

NEW SECTION. **Sec.**  A new section is added to chapter 28A.160 RCW to read as follows:

Beginning in the 2024-25 school year and each year thereafter, for any district where the reimbursement of costs under RCW 28A.160.180 exceeds 105 percent of the state average per student, the state auditor shall include in their regular audits of school districts a review of transportation costs to ensure they are necessary and reasonable.

NEW SECTION. **Sec.**  RCW 28A.160.193 (Transportation alternate funding grant program) and 2018 c 266 s 103 are each repealed.

**--- END ---**