

SENATE BILL REPORT

SB 5174

As Reported by Senate Committee On:
Early Learning & K-12 Education, January 25, 2023

Title: An act relating to providing adequate and predictable student transportation.

Brief Description: Providing adequate and predictable student transportation.

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

Brief History:

Committee Activity: Early Learning & K-12 Education: 1/12/23, 1/25/23 [DPS-WM, DNP].

Brief Summary of First Substitute 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.
- Expands the definition of "to and from school" to include the transportation of students participating in career connected and work-based learning opportunities.
- 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, 2026.
- Repeals the Transportation Alternate Funding Grant Program.
- Provides that pupil transportation services contracts entered into, renewed, or extended after September 1, 2023, must require the contractor to provide employee health and retirement benefits

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.

comparable to those received by school employees.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: That Substitute Senate Bill No. 5174 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; Wilson, C., Vice Chair; Hunt, Mullet and Pedersen.

Minority Report: Do not pass.

Signed by Senators Hawkins, Ranking Member; Dozier and McCune.

Staff: Alexandra Fairfortune (786-7416)

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 2022 Supplemental Operating Budget appropriated \$13 million for fiscal year 2023 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: The bill as referred to committee not considered.

Summary of Bill (First Substitute): To and From School. The definition of "to and from school" is changed to include the transportation of students included in distinct passenger categories and the transportation of students participating in career connected and work-based learning activities when the activity occurs during the school day and the student receives academic credit for the activity. OSPI may establish additional requirements that must be met for career connected and work-based transportation to qualify under the to and from definition.

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

- a multiplier that addresses the unique transportation challenges faced by high population density urban school districts; 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.

Formula Factors. Two factors used in the formula are removed—average distance to school, and number of locations served. Two new factors are added—total sum of miles driven, and factors necessary to address transportation challenges faced by rural and high population density urban school districts.

Lesser Of Provision Removed. Under the new formula, school districts receive the STARS formula result, rather than the lesser of the STARS formula result or the district's allowable transportation expenditures from the prior year.

Repeal of Prior Distribution Formula. Language referencing the development, revision, adjustment, and phase-in of the prior distribution formula is repealed.

Distinct Passenger Categories. Beginning in the 2024-25 school year, the Superintendent of Public Instruction must reimburse school districts on a monthly 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 that are 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 cost-effective mode of transportation for a student in a distinct passenger category.

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.

School districts must report allowable transportation expenditures for students in the distinct passenger categories on a monthly 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 2023-24 school year and each year thereafter until 2026-27, no school district may receive a student transportation allocation less than its total

student transportation allocation as calculated during the 2021-22 school year as adjusted for inflation. If a school district's transportation expenditures exceeded its transportation allocations in the 21-22 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 that 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 2024-25 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, 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 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, 2023, 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 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.

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

- Specifies that career connected and work-based learning activities only qualify as to and from school when the activity occurs during the school day and the student receives academic credit for the activity, and authorizes OSPI to establish additional requirements pertaining to this transportation category.
- Specifies that distinct passenger categories includes students who require special transportation services to access special education services that are documented in an approved IEP.
- Changes reporting of distinct passenger categories from quarterly to monthly to align with the reimbursement schedule.
- Provides that reimbursement for distinct passenger categories must be based on data submitted in the prior school year, as adjusted for inflation.
- Moves language regarding accounting and reporting rules and small district rules to apply to the entire reporting section.
- Requires OSPI to adjust the allocation formula to include basic and special passenger counts and total sum of miles driven, rather than permitting OSPI to do so.
- Requires OSPI to adjust transportation allocation amounts by multipliers for high population density districts and rural, geographically large districts.
- Directs OSPI to adopt rules defining 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-parties when determined to be the most appropriate and cost-effective mode of transportation.
- Modifies OSPI reporting requirements to remove language associated with the prior funding model.
- Adjusts hold harmless amounts for inflation.
- Provides that a district receiving a hold harmless amount that also had a negative funding differential in the 21-22 school year qualifies for additional funding. Such funding must reduce the negative funding differential by 0.5 percent for each school

year that the district qualifies for the hold harmless. OSPI must recalculate the differential annually using updated transportation allocations and expenditures from the prior school year and adjust amounts for inflation.

- Adjusts the audit threshold from 105 percent to 110 percent.
- Requires any pupil transportation service contract entered into, renewed, or extended after Sept. 1, 2023 to:
 1. require the contractor to provide health and retirement benefits to its employees that are comparable to SEBB and SERS; and
 2. include sufficient funds for the contractor to provide a comparable health benefit contribution and employer retirement contribution rate.
- Requires OSPI to provide a one-time supplemental transportation allocation to districts that see an increase in costs due to these new requirements, not to exceed \$200 per employee per month. Provides reporting requirements and restrictions on use of funds.
- Removes language requiring DCYF to reimburse school districts for half of all excess transportation costs for students under the placement and care authority of DCYF.

Appropriation: None.

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 on First Substitute: *The committee recommended a different version of the bill than what was heard.* PRO: The state's current STARS model is opaque, unpredictable, inefficient, and insufficient. This bill will be more transparent with consideration towards district specific variables. We need to make a new formula that anyone can explain and understand as opposed to our current confusing model. This proposal provides an opportunity to enact meaningful change to an inadequate and inflexible STARS system. This bill will make a huge difference in supporting the lives of the people doing incredible work supporting our kids. In rural districts, they must travel far for athletics and extra curriculars. There simply is not enough funding for smaller school districts and they must supplement the cost with local dollars. Many students are forced to choose between finding new resources to access education or getting what they need to actually survive. The audit trigger should be higher than the proposed 105% due to differences in salaries from district to district. Requiring a state auditor to conduct a review will increase district costs.

CON: Our state constitution does not say that we are responsible for sending other people to work. This bill would be responsible for sending students to their places of employment. We cannot choose who gets free transportation to work and who does not. This bill has fiscal concerns and takes away local control from school districts.

OTHER: This bill is too complicated and has enough imperfections that being pro is hard. The bill does not address alternative modes of transportation that go beyond yellow school buses and district vehicles. This bill is also not adjusted for inflation and overtime would create a deficit for schools. This bill should address having comparable benefits for bus drivers, dispatchers, and mechanics that do the same jobs for school districts. Currently the benefits provided by contractors fall way below short.

Persons Testifying: PRO: Senator Lisa Wellman, Prime Sponsor; Tyler Muench, Office of Superintendent of Public Instruction; Melissa Gombosky, Evergreen, Vancouver, Spokane Public Schools and ESD 112; Rick Chisa, Public School Employees of Washington (PSE); Zachary Miller, Washington State School Directors' Association; Julie Salvi, Washington Education Association; Robert Maxwell, Pullman School District - Pullman, WA; Emily Stochel, College Success Foundation.

CON: Julie Barrett, Conservative Ladies of Washington.

OTHER: Kerry Breakfield, Teamsters 174; Clifford Traisman, Bellevue, Highline, Olympia, and Seattle Public School Districts.

Persons Signed In To Testify But Not Testifying: No one.