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## SENATE BILL 5873

State of Washington 68th Legislature 2024 Regular Session

By Senators Wellman, C. Wilson, Hasegawa, Hunt, Kuderer, Nguyen, Nobles, Trudeau, and Valdez

Prefiled 12/19/23. Read first time 01/08/24. Referred to Committee on Early Learning & K-12 Education.

- AN ACT Relating to providing adequate and predictable student transportation; amending 28A.160.150, 28A.160.160, 28A.160.170, 28A.160.190, 28A.160.180, 28A.160.140, and 28A.225.350; adding new sections to chapter 28A.160 RCW; repealing RCW 28A.160.192 and 28A.160.193; and providing an expiration date.
- 6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
- NEW SECTION. Sec. 1. 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 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. 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

p. 1 SB 5873

transportation formula. It is the intent of the legislature to keep all school district transportation allocations wholly funded while

3 the new student transportation formula is developed. Data collected

4 by the superintendent of public instruction will be used to fully

5 develop a new student transportation formula in subsequent biennia.

6 <u>NEW SECTION.</u> **Sec. 2.** A new section is added to chapter 28A.160 7 RCW to read as follows:

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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 the following student demographic categories: (1) Students requiring special transportation services to access special education services that are documented in a properly formed and approved individualized education program; (2) students requiring special transportation due to requirements of the McKinney-Vento homeless assistance act or other federal program; (3) students requiring special transportation due to a foster care placement out of their regular school district boundary; (4) students attending skill centers; and (5) 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.

## 25 **Sec. 3.** RCW 28A.160.150 and 2009 c 548 s 304 are each amended to 26 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

p. 2 SB 5873

- transportation services for students living within the walk area as determined under RCW 28A.160.160( $(\frac{(5)}{(5)})$ ) (6).
- 3 **Sec. 4.** RCW 28A.160.160 and 2009 c 548 s 305 are each amended to 4 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:
- 9 <u>(a) Students who require special transportation services to</u>
  10 <u>access special education services that are documented in an approved</u>
  11 <u>individualized education program under chapter 28A.155 RCW;</u>
- 12 <u>(b) Students who meet the definition of homeless where</u> 13 <u>transportation is required by the McKinney-Vento homeless assistance</u> 14 act or other federal requirements;
- 15 <u>(c) Students who are in foster care where transportation is</u> 16 required outside of the normal school district boundary; and
  - (d) Students attending skill centers.

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- (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.
- 27  $((\frac{(2)}{(2)}))$  "Superintendent" means the superintendent of public instruction.
  - ((<del>(3)</del>)) <u>(4)</u> "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;
- 35 (c) Transportation of students between schools and learning 36 centers for instruction specifically required by statute; and
- 37 (d) Transportation of students with disabilities to and from schools and agencies for special education services.

p. 3 SB 5873

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.

((<del>(5)</del>)) <u>(6)</u> 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. 5.** RCW 28A.160.170 and 2021 c 234 s 3 are each amended to 23 read as follows:
  - (1) Each district shall submit ((three)) the following reports on a timely basis as a condition of the continuing receipt of school transportation moneys:
    - (a) Three times each year to the superintendent of public instruction during October, February, and May of each year a report containing the following:
  - $((\frac{1}{2})(a))$  (i) (A) 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  $((\tau))$ ; and
  - ((<del>(b) the</del>)) <u>(B) The</u> number of miles driven for pupil transportation services as authorized in RCW 28A.160.150 the previous school year; and
  - $((\frac{(2)}{(2)}))$  (ii) 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

p. 4 SB 5873

students to and from school as defined by RCW 28A.160.160(( $\frac{(3)}{(3)}$ ))  $\frac{(4)}{(4)}$ , 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(( $\frac{1}{2}$ ))  $\frac{(4)}{(4)}$ , non-to-and-from-school pupil transportation shall be included in the annual financial statement(( $\frac{1}{2}$ ))  $\frac{(4)}{(4)}$ , non-to-and-from-school pupil transportation shall be included in the annual financial statement(( $\frac{1}{2}$ ))  $\frac{(4)}{(4)}$ , non-to-and-from-school pupil transportation shall be included in the annual financial statement(( $\frac{1}{2}$ ))  $\frac{(4)}{(4)}$ , non-to-and-from-school pupil transportation shall be included in the annual financial statement(( $\frac{1}{2}$ ))  $\frac{(4)}{(4)}$ , non-to-and-from-school pupil transportation shall be included in the annual financial statement(( $\frac{1}{2}$ ))  $\frac{(4)}{(4)}$ , non-to-and-from-school pupil transportation shall be included in the annual financial statement(( $\frac{1}{2}$ ))  $\frac{(4)}{(4)}$ , non-to-and-from-school pupil transportation shall be included in the annual financial statement(( $\frac{1}{2}$ ))  $\frac{(4)}{(4)}$ , shall submit the information required in this

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

- (b) Quarterly, a report of allowable transportation expenditures for students included in the definition of distinct passenger categories under RCW 28A.160.160. Data submitted in the prior school year must be used to determine the current school year reimbursement as authorized under RCW 28A.160.180(2), adjusted for inflation.
- (2) 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.
- 20 (3) For purposes of this section, "inflation" means, for any school year, the implicit price deflator for that fiscal year, using the official current base, compiled by the bureau of economic analysis, United States department of commerce.
  - Sec. 6. RCW 28A.160.190 and 2009 c 548 s 308 are each amended to read as follows:
    - ((The)) (1) Beginning in the 2025-26 school year, the superintendent of public instruction shall reimburse school districts on a quarterly basis for 100 percent of the transportation expenditures attributable to serving students in distinct passenger categories, as reported under RCW 28A.160.170(1)(b). School districts must submit claims for reimbursement quarterly, 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.

p. 5 SB 5873

- (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. 7.** RCW 28A.160.180 and 2009 c 548 s 307 are each amended to read as follows:
- 8 <u>(1)</u> Each district's annual student transportation allocation 9 shall be determined by the superintendent of public instruction in 10 the following manner:
  - ((<del>(1)</del>)) <u>(a)</u> The superintendent shall annually calculate the transportation allocation for those services provided for in RCW 28A.160.150. The allocation formula ((<del>may</del>)) <u>must</u> be adjusted to include such additional ((<del>differential</del>)) factors as basic and special passenger counts as defined by the superintendent of public instruction((<del>, average distance to school, and number of locations served.</del>
  - (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)) and total sum of miles driven.

- (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.))

p. 6 SB 5873

- (c) The transportation allocation amounts generated under (a) and (b) of this subsection must be adjusted by the following multipliers for qualifying school districts, as determined by the office of the superintendent of public instruction:
- 5 <u>(i) A multiplier that addresses the unique transportation</u> 6 <u>challenges faced by high population density urban school districts;</u> 7 and

- (ii) 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.
- (2) Beginning in the 2025-26 school year, each school district's annual student transportation allocation shall be determined by the superintendent of public instruction in the following manner:
- (a) (i) The superintendent of public instruction must reimburse school districts for 100 percent of the allowable transportation expenditures reported under RCW 28A.160.170(1)(b) attributable to serving students in distinct passenger categories as defined in RCW 28A.160.160.
- (ii) Rules established by the superintendent of public instruction shall 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.
- (b) The superintendent of public instruction 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 must:
- (i) Be adjusted to include such additional factors as basic and special passenger counts as defined by the superintendent of public instruction and total sum of miles driven; and
- (ii) Provide that 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

p. 7 SB 5873

- 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.
- 5 (c) The transportation allocation amount generated by the
  6 allocation formula under (b) of this subsection must be adjusted by
  7 the following multipliers for qualifying school districts, as
  8 determined by the office of the superintendent of public instruction:
- 9 <u>(i) A high population density urban district multiplier of 1.6</u>
  10 <u>for school districts that have a full-time equivalent student</u>
  11 enrollment of over 25,000 students; and
- (ii) Beginning no later than the 2026-27 school year, a multiplier or set of tiered multipliers as developed by the office of the superintendent of public instruction 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.
- (3) Annually, the transportation allocations calculated under subsections (1) and (2) of this section shall be adjusted for any budgeted increases provided in the omnibus appropriations act for salaries or fringe benefits.

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- (4) (a) 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.
- 26 (b) Prior to June 1st of each year, the superintendent of public 27 instruction shall submit to the office of financial management and 28 the education and fiscal committees of the legislature, a report 29 outlining the methodology and rationale used to determine the 30 allocation for the following year.
- NEW SECTION. Sec. 8. A new section is added to chapter 28A.160 RCW to read as follows:
- 33 (1) Beginning in the 2024-25 school year and each school year 34 thereafter until 2027-28, no school district shall receive a student 35 transportation allocation that is less than its total student 36 transportation allocation provided under this chapter during the 37 2022-23 school year as adjusted for inflation.
- 38 (2) If a school district's transportation expenditures exceeded 39 its transportation allocations in the 2022-23 school year, causing a

p. 8 SB 5873

negative funding differential, and the school district is receiving alternative funding under subsection (1) of this section, the office of the superintendent of public instruction 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 alternative funding. The office of the superintendent of public instruction 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. 

- (3) For purposes of this section, "inflation" means, for any school year, the implicit price deflator for that fiscal year, using the official current base, compiled by the bureau of economic analysis, United States department of commerce.
  - (4) This section expires July 1, 2028.

NEW SECTION. Sec. 9. A new section is added to chapter 28A.160 RCW to read as follows:

Beginning in the 2025-26 school year and each year thereafter, for any district where the transportation expenditures exceed 110 percent of the average per-student expenditure amount in similar school districts, the state auditor must conduct a review of the school district's transportation expenditures to ensure they are necessary and reasonable. 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 similar school districts and notify the state auditor when a review is required under this subsection.

**Sec. 10.** RCW 28A.160.140 and 1990 c 33 s 140 are each amended to 29 read as follows:

(1) (a) As a condition of entering into a pupil transportation services contract with a private nongovernmental entity, each school district shall engage in an open competitive process at least once every five years. This requirement shall not be construed to prohibit a district from entering into a pupil transportation services contract of less than five years in duration with a district option to renew, extend, or terminate the contract, if the district engages in an open competitive process at least once every five years after July 26, 1987.

p. 9 SB 5873

- (b) Any pupil transportation services contract entered into, renewed, or extended after September 1, 2024, must require the contractor to provide benefits comparable to the school employees' benefits board program and school employees' retirement system to employees and include:
- (i) Sufficient funds specifically for the contracting employer to provide the employees of the contractor with an employer health benefits contribution equal to the monthly school employer funding rate for the school employees' benefits board program, less the retiree remittance for the public employees' benefits board; and
- (ii) An amount equivalent to the plans 2 and 3 normal cost employer contribution rate of the school employees' retirement system, multiplied by the estimated salaries of the employees of the contractor.
  - (2) As used in this section:

- ((\(\frac{(1)}{(1)}\)) (a) "Employees of the contractor" means 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 school employees' benefits board program if the employees were directly employed by a school district;
- (b) "Open competitive process" means either one of the following, at the choice of the school district:
- $((\frac{(a)}{(a)}))$  <u>(i)</u> The solicitation of bids or quotations and the award of contracts under RCW 28A.335.190; or
  - ((\(\frac{(\frac{b}{)}}{)}\)) (ii) The competitive solicitation of proposals and their evaluation consistent with the process and criteria recommended or required, as the case may be, by the office of financial management for state agency acquisition of personal service contractors;
  - ((<del>(2)</del>)) <u>(c)</u> "Pupil transportation services contract" means a contract for the operation of privately owned or school district owned school buses, and the services of drivers or operators, management and supervisory personnel, and their support personnel such as secretaries, dispatchers, and mechanics, or any combination thereof, to provide students with transportation to and from school on a regular basis; and
- $((\frac{3}{3}))$  (d) "School bus" means a motor vehicle as defined in RCW 46.04.521 and under the rules of the superintendent of public instruction.

p. 10 SB 5873

NEW SECTION. Sec. 11. A new section is added to chapter 28A.160 RCW to read as follows:

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- (1) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction must provide a one-time supplemental transportation allocation to school districts that experience an increase in costs to pupil transportation services contracts due to RCW 28A.160.140.
- (2) To be eligible for supplemental transportation allocations, a school district must report to the office of the superintendent of public instruction the number of employees under pupil transportation services contracts that worked at least 630 hours in performing services on the contract with the school district in the school year prior to entering a contract subject to RCW 28A.160.140.
- (3) Amounts provided under this section may only be used by school districts as payments under pupil transportation services contracts for employee compensation.
- 17 (4) A supplemental transportation allocation under this section 18 may not exceed \$200 per employee per month for contracted employees 19 reported under subsection (2) of this section.
- 20 **Sec. 12.** RCW 28A.225.350 and 2022 c 78 s 4 are each amended to 21 read as follows:
  - (1) (a) The protocols required by RCW 74.13.560 for making best interest determinations for students who are the subject of a dependency proceeding pursuant to chapter 13.34 RCW must comply with the provisions of this section.
  - (b) The requirements of this section, and the development protocols described in RCW 74.13.560 for making best interest determinations for students who are the subject of a dependency proceeding pursuant to chapter 13.34 RCW, may also be applied to students who are the subject of a federally recognized tribal court shelter care or dependency order that is the equivalent of a shelter care or dependency order issued pursuant to chapter 13.34 RCW, and students who are eligible for benefits under the federal foster care system as defined in RCW 28B.117.020.
- 35 (2)(a) Best interest determinations should be made as quickly as 36 possible in order to prevent educational discontinuity for the 37 student.
- 38 (b) When making best interest determinations, every effort should 39 be made to gather meaningful input from relevant and appropriate

p. 11 SB 5873

- persons on their perspectives regarding which school the student should attend while the subject of a dependency proceeding, consistent with the student's case plan. Relevant and appropriate persons include:
- 5 (i) Representatives of the department of children, youth, and 6 families for students who are the subject of a dependency proceeding 7 pursuant to chapter 13.34 RCW, or representatives of other applicable 8 child welfare agencies;
- 9 (ii) Representatives of the school of origin, such as a teacher, 10 counselor, coach, or other meaningful person in the student's life;
  - (iii) Biological parents;
- 12 (iv) Foster parents;

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- (v) Educational liaisons identified under RCW 13.34.045;
- 14 (vi) The student's relatives; and
- 15 (vii) Depending on the student's age, the student.
- 16 (3) In accordance with RCW 74.13.550, whenever practical and in 17 their best interest, students who are the subject of a dependency 18 proceeding must remain enrolled in their school of origin.
  - (4) Student-centered factors must be used to determine what is in a student's best interest. In order to make a well-informed best interest determination, a variety of student-centered factors should be considered, including:
- 23 (a) How long is the student's current care placement expected to 24 last?
- 25 (b) What is the student's permanency plan and how does it relate 26 to school stability?
- 27 (c) How many schools has the student attended in the current 28 year?
- 29 (d) How many schools has the student attended over the past few 30 years?
- 31 (e) Considering the impacts of past transfers, how may 32 transferring to a new school impact the student academically, 33 emotionally, physically, and socially?
- 34 (f) What are the immediate and long-term educational plans of, 35 and for, the student?
- 36 (g) How strong is the student academically?
- 37 (h) If the student has special needs, what impact will 38 transferring to a new school have on the student's progress and 39 services?

p. 12 SB 5873

- 1 (i) To what extent are the programs and activities at the 2 potential new school comparable to, or more appropriate than, those 3 at the school of origin?
  - (j) Does one school have programs and activities that address the unique needs or interests of the student that the other school does not have?
    - (k) Which school does the student prefer?

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- 8 (1) How deep are the student's ties to the student's school of 9 origin?
  - (m) Would the timing of the school transfer coincide with a logical juncture, such as after testing, after an event that is significant to the student, or at the end of the school year?
  - (n) How would changing schools affect the student's ability to earn full academic credit, participate in sports or other extracurricular activities, proceed to the next grade, or graduate on time?
- 17 (o) How would the commute to the school under consideration 18 impact the student, in terms of distance, mode of transportation, and 19 travel time?
- 20 (p) How anxious is the student about having been removed from the 21 home or about any upcoming moves?
  - (q) What school does the student's sibling attend?
  - (r) Are there safety issues to consider?
  - (5) The student must remain in the student's school of origin while a best interest determination is made and while disputes are resolved in order to minimize disruption and reduce the number of school transfers.
    - (6) School districts are encouraged to use any:
    - (a) Best interest determination guide developed by the office of the superintendent of public instruction during the discussion about the advantages and disadvantages of keeping the student in the school of origin or transferring the student to a new school; and
    - (b) Dispute resolution process developed by the office of the superintendent of public instruction when there is a disagreement about school placement, a best interest determination, or a dispute between agencies.
- 37 (7) The special education services of a student must not be 38 interrupted by a transfer to a new school.
- 39 (8)( $(\frac{1}{(a)})$ ) If the student's care placement changes to an area 40 served by another school district, and it is determined to be in the

p. 13 SB 5873

- best interest of the student to remain in the school of origin, the 1 school district of origin and the school district in which the 2 student is living shall agree upon a method to apportion the 3 responsibility and costs for providing the student with 4 transportation to and from the school of origin. If the school 5 6 districts are unable to agree upon an apportionment method, the responsibility and costs for transportation shall be shared equally 7 between the districts. 8
- 9 (((b) In accordance with this subsection, the department of children, youth, and families will reimburse school districts for half of all excess transportation costs for students under the placement and care authority of the department of children, youth, and families.))
- 14 (9) For the purposes of this section, "students who are the subject of a dependency proceeding" has the same meaning as in RCW 28A.150.510, and "school of origin" means the school in which a child is enrolled at the time of placement in foster care. If a child's foster care placement changes, the school of origin must be considered the school in which the child is enrolled at the time of the placement change.
- NEW SECTION. Sec. 13. The following acts or parts of acts are each repealed:
- 23 (1) RCW 28A.160.192 (Student transportation allocation— 24 Distribution formula) and 2011 1st sp.s. c 27 s 3, 2010 c 236 s 8, & 25 2009 c 548 s 311; and
- 26 (2) RCW 28A.160.193 (Transportation alternate funding grant 27 program) and 2018 c 266 s 103.

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p. 14 SB 5873