
HOUSE BILL 2000

State of Washington

67th Legislature

2022 Regular Session

By Representative Ybarra

1 AN ACT Relating to the duty of the superintendent of public
2 instruction to distribute federal and state basic education funds;
3 amending RCW 28A.150.250, 28A.150.290, 28A.300.040, and 28A.505.120;
4 adding new sections to chapter 28A.150 RCW; creating new sections;
5 and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature recognizes that
8 Article IX of the state Constitution establishes that the paramount
9 duty of the state is to make ample provision for the education of all
10 children residing within its borders, and that statute assigns the
11 duty of distributing basic education funds appropriated by the
12 legislature to the superintendent of public instruction.

13 (2) The legislature finds that efforts to fulfill its
14 constitutional obligations are nullified if the distribution of basic
15 education funds to school districts is halted or otherwise
16 interrupted by the superintendent of public instruction except in
17 those very limited circumstances where: (a) A school district has
18 failed to meet basic education requirements established in statute;
19 and (b) a robust and transparent due process framework ensures that
20 school districts are not improperly denied access to funding for
21 which they are constitutionally entitled.

1 (3) The duty of the superintendent of public instruction to
2 distribute funds also extends to federal funds. The legislature finds
3 that the proper authority of the superintendent of public instruction
4 to halt or otherwise interrupt the distribution of federal funds to
5 school districts should be clarified and expressly limited to the
6 minimum controls, if any, that are federally required for the receipt
7 and distribution of those funds, controls adopted by the legislature,
8 or both.

9 (4) The legislature, therefore, intends to:

10 (a) Prescribe requirements and limits for the rare instances in
11 which the superintendent of public instruction may lawfully halt or
12 otherwise interrupt the distribution of basic education funds
13 appropriated by the legislature, thereby rebutting and resolving
14 assertions of broad and inferred withholding authority;

15 (b) Create new requirements for agency rules to ensure that
16 school districts are not improperly denied access to constitutionally
17 required state funding, and that proper appeal mechanisms exist; and

18 (c) Clarify that the authority of the superintendent of public
19 instruction to halt or otherwise interrupt the distribution of
20 federal funds is limited to the minimum authority, if any, that is a
21 prescribed condition for the receipt and distribution of the funds,
22 express provisions established in statute, or both.

23 **Sec. 2.** RCW 28A.150.250 and 2018 c 177 s 601 are each amended to
24 read as follows:

25 (1) From those funds made available by the legislature for the
26 current use of the common schools, the superintendent of public
27 instruction shall distribute annually as provided in RCW 28A.510.250
28 to each school district of the state operating a basic education
29 instructional program approved by the state board of education an
30 amount based on the formulas provided in RCW 28A.150.260,
31 28A.150.390, and 28A.150.392 which, when combined with an appropriate
32 portion of such locally available revenues, other than receipts from
33 federal forest revenues distributed to school districts pursuant to
34 RCW 28A.520.010 and 28A.520.020, as the superintendent of public
35 instruction may deem appropriate for consideration in computing state
36 equalization support, excluding excess property tax levies, will
37 constitute a basic education allocation in dollars for each annual
38 average full-time equivalent student enrolled.

1 (2) The instructional program of basic education shall be
2 considered to be fully funded by those amounts of dollars
3 appropriated by the legislature pursuant to RCW 28A.150.260,
4 28A.150.390, and 28A.150.392 to fund those program requirements
5 identified in RCW 28A.150.220 in accordance with the formula provided
6 in RCW 28A.150.260 and those amounts of dollars appropriated by the
7 legislature to fund the salary requirements of RCW 28A.150.410.

8 (3)(a) If a school district's basic education program fails to
9 meet the basic education requirements enumerated in RCW 28A.150.260
10 and 28A.150.220, the state board of education may recommend to the
11 superintendent of public instruction that the superintendent withhold
12 state funds in whole or in part for the basic education allocation
13 until program compliance is assured. However, the state board of
14 education may waive this requirement in the event of substantial lack
15 of classroom space.

16 (b)(i) If the state board of education recommends the withholding
17 of a school district's basic education allocation under this
18 subsection, the superintendent of public instruction may withhold the
19 allocation of state funds in whole or in part for support of the
20 school district. Written notice of the intent to withhold state
21 funds, with reasons stated for this action, shall be made to the
22 school district by the office of the superintendent of public
23 instruction before any portion of the state allocation is withheld.

24 (ii) By August 1, 2022, the office of the superintendent of
25 public instruction shall, in accordance with chapter 34.05 RCW, adopt
26 new or revised rules to implement this subsection (3)(b). Basic
27 education funds to school districts may not be delayed or otherwise
28 withheld under this section prior to the adoption of the rules
29 required by this act.

30 **Sec. 3.** RCW 28A.150.290 and 1992 c 141 s 504 are each amended to
31 read as follows:

32 (1) The superintendent of public instruction shall have the power
33 and duty to make such rules and regulations as are necessary for the
34 proper administration of this chapter and RCW 28A.160.150 through
35 (~~28A.160.220~~) 28A.160.210, 28A.300.035, 28A.300.170, and
36 28A.500.010 not inconsistent with the provisions thereof, and in
37 addition to require such reports as may be necessary to carry out his
38 or her duties under this chapter and RCW 28A.160.150 through

1 ((~~28A.160.220~~) 28A.160.210, 28A.300.035, 28A.300.170, and
2 28A.500.010.

3 (2) The superintendent of public instruction shall have the
4 authority to make rules and regulations which establish the terms and
5 conditions for allowing school districts to receive state basic
6 education moneys as provided in RCW 28A.150.250 when said districts
7 are unable to fulfill for one or more schools as officially scheduled
8 the requirement of a full school year of one hundred eighty days or
9 the annual average total instructional hour offering imposed by RCW
10 28A.150.220 and 28A.150.260 due to one or more of the following
11 conditions:

12 (a) An unforeseen natural event, including, but not necessarily
13 limited to, a fire, flood, explosion, storm, earthquake, epidemic, or
14 volcanic eruption that has the direct or indirect effect of rendering
15 one or more school district facilities unsafe, unhealthy,
16 inaccessible, or inoperable; and

17 (b) An unforeseen mechanical failure or an unforeseen action or
18 inaction by one or more persons, including negligence and threats,
19 that (i) is beyond the control of both a school district board of
20 directors and its employees and (ii) has the direct or indirect
21 effect of rendering one or more school district facilities unsafe,
22 unhealthy, inaccessible, or inoperable. Such actions, inactions or
23 mechanical failures may include, but are not necessarily limited to,
24 arson, vandalism, riots, insurrections, bomb threats, bombings,
25 delays in the scheduled completion of construction projects, and the
26 discontinuance or disruption of utilities such as heating, lighting
27 and water: PROVIDED, That an unforeseen action or inaction shall not
28 include any labor dispute between a school district board of
29 directors and any employee of the school district.

30 A condition is foreseeable for the purposes of this subsection to
31 the extent a reasonably prudent person would have anticipated prior
32 to August first of the preceding school year that the condition
33 probably would occur during the ensuing school year because of the
34 occurrence of an event or a circumstance which existed during such
35 preceding school year or a prior school year. A board of directors of
36 a school district is deemed for the purposes of this subsection to
37 have knowledge of events and circumstances which are a matter of
38 common knowledge within the school district and of those events and
39 circumstances which can be discovered upon prudent inquiry or
40 inspection.

1 (3) The superintendent of public instruction shall make every
2 effort to reduce the amount of paperwork required in administration
3 of this chapter and RCW 28A.160.150 through ~~((28A.160.220))~~
4 28A.160.210, 28A.300.035, 28A.300.170, and 28A.500.010; to simplify
5 the application, monitoring and evaluation processes used; to
6 eliminate all duplicative requests for information from local school
7 districts; and to make every effort to integrate and standardize
8 information requests for other state education acts and federal aid
9 to education acts administered by the superintendent of public
10 instruction so as to reduce paperwork requirements and duplicative
11 information requests.

12 (4) Nothing in this section authorizes the superintendent of
13 public instruction to suspend, withhold, or otherwise fail to fully
14 and timely distribute basic education allocations to each school
15 district, as required by RCW 28A.150.250, in response to or in
16 consideration of: (a) Emergency power actions taken by the governor
17 under RCW 43.06.220; or (b) school district actions or inactions that
18 are not subject to allocation withholding provisions under RCW
19 28A.150.250.

20 **Sec. 4.** RCW 28A.300.040 and 2011 1st sp.s. c 43 s 302 are each
21 amended to read as follows:

22 (1) In addition to any other powers and duties as provided by
23 law, the powers and duties of the superintendent of public
24 instruction shall be:

25 ~~((1))~~ (a) To have supervision over all matters pertaining to
26 the public schools of the state;

27 ~~((2))~~ (b) To report to the governor and the legislature such
28 information and data as may be required for the management and
29 improvement of the schools;

30 ~~((3))~~ (c) To prepare and have printed such forms, registers,
31 courses of study, rules for the government of the common schools, and
32 such other material and books as may be necessary for the discharge
33 of the duties of teachers and officials charged with the
34 administration of the laws relating to the common schools, and to
35 distribute the same to educational service district superintendents;

36 ~~((4))~~ (d) To travel, without neglecting his or her other
37 official duties as superintendent of public instruction, for the
38 purpose of attending educational meetings or conventions, of visiting

1 schools, and of consulting educational service district
2 superintendents or other school officials;

3 ~~((5))~~ (e) To prepare and from time to time to revise a manual
4 of the Washington state common school code, copies of which shall be
5 made available online and which shall be sold at approximate actual
6 cost of publication and distribution per volume to public and
7 nonpublic agencies or individuals, said manual to contain Titles 28A
8 and 28C RCW, rules related to the common schools, and such other
9 matter as the state superintendent or the state board of education
10 shall determine;

11 ~~((6))~~ (f) To file all papers, reports and public documents
12 transmitted to the superintendent by the school officials of the
13 several counties or districts of the state, each year separately.
14 Copies of all papers filed in the superintendent's office, and the
15 superintendent's official acts, may, or upon request, shall be
16 certified by the superintendent and attested by the superintendent's
17 official seal, and when so certified shall be evidence of the papers
18 or acts so certified to;

19 ~~((7))~~ (g) To require annually, on or before the 15th day of
20 August, of the president, manager, or principal of every educational
21 institution in this state, a report as required by the superintendent
22 of public instruction; and it is the duty of every president,
23 manager, or principal, to complete and return such forms within such
24 time as the superintendent of public instruction shall direct;

25 ~~((8))~~ (h) To keep in the superintendent's office a record of
26 all teachers receiving certificates to teach in the common schools of
27 this state;

28 ~~((9))~~ (i) To issue certificates as provided by law;

29 ~~((10))~~ (j) To keep in the superintendent's office at the
30 capital of the state, all books and papers pertaining to the business
31 of the superintendent's office, and to keep and preserve in the
32 superintendent's office a complete record of statistics, as well as a
33 record of the meetings of the state board of education;

34 ~~((11))~~ (k) With the assistance of the office of the attorney
35 general, to decide all points of law which may be submitted to the
36 superintendent in writing by any educational service district
37 superintendent, or that may be submitted to the superintendent by any
38 other person, upon appeal from the decision of any educational
39 service district superintendent; and the superintendent shall publish
40 his or her rulings and decisions from time to time for the

1 information of school officials and teachers; and the
2 superintendent's decision shall be final unless set aside by a court
3 of competent jurisdiction;

4 ~~((12))~~ (l) To administer oaths and affirmations in the
5 discharge of the superintendent's official duties;

6 ~~((13))~~ (m) To deliver to his or her successor, at the
7 expiration of the superintendent's term of office, all records,
8 books, maps, documents and papers of whatever kind belonging to the
9 superintendent's office or which may have been received by the
10 superintendent's for the use of the superintendent's office;

11 ~~((14))~~ (n) To administer family services and programs to
12 promote the state's policy as provided in RCW 74.14A.025;

13 ~~((15))~~ (o) To promote the adoption of school-based curricula
14 and policies that provide quality, daily physical education for all
15 students, and to encourage policies that provide all students with
16 opportunities for physical activity outside of formal physical
17 education classes;

18 ~~((16))~~ (p) To perform such other duties as may be required by
19 law.

20 (2) Nothing in this section authorizes the superintendent of
21 public instruction to suspend, withhold, or otherwise fail to fully
22 and timely distribute basic education allocations to each school
23 district, as required by RCW 28A.150.250, in response to or in
24 consideration of: (a) Emergency power actions taken by the governor
25 under RCW 43.06.220; or (b) school district actions or inactions that
26 are not subject to allocation withholding provisions under RCW
27 28A.150.250.

28 **Sec. 5.** RCW 28A.505.120 and 1975-'76 2nd ex.s. c 118 s 12 are
29 each amended to read as follows:

30 (1) If a local school district fails to comply with any binding
31 restrictions issued by the superintendent of public instruction
32 related solely to the development and implementation of a school
33 district's budget, the allocation of state funds for support of the
34 local school district may be withheld, pending an investigation of
35 the reason for such noncompliance by the office of the superintendent
36 of public instruction. Written notice of the intent to withhold state
37 funds, with reasons stated for this action, shall be made to the
38 school district by the office of the superintendent of public
39 instruction before any portion of the state allocation is withheld.

1 (2) Nothing in this section authorizes the superintendent of
2 public instruction to suspend, withhold, or otherwise fail to fully
3 and timely distribute basic education allocations to each school
4 district, as required by RCW 28A.150.250, in response to or in
5 consideration of: (a) Emergency power actions taken by the governor
6 under RCW 43.06.220; or (b) school district actions or inactions that
7 are not subject to allocation withholding provisions under RCW
8 28A.150.250.

9 NEW SECTION. **Sec. 6.** A new section is added to chapter 28A.150
10 RCW to read as follows:

11 The authority of the superintendent of public instruction to
12 suspend, withhold, or otherwise fail to fully and timely distribute
13 federal funds to school districts and other recipients is limited to
14 either the minimum authority, if any, that is necessary or conferred
15 by federal requirements as a prescribed condition for the receipt and
16 distribution of the funds, express provisions established through
17 enacted legislation, or both.

18 NEW SECTION. **Sec. 7.** A new section is added to chapter 28A.150
19 RCW to read as follows:

20 Nothing in this title authorizes the superintendent of public
21 instruction to suspend, withhold, or otherwise fail to fully and
22 timely distribute federal funds in response to or consideration of:
23 (1) Emergency power actions taken by the governor under RCW
24 43.06.220; or (2) school district actions or inactions that are not
25 subject to allocation withholding provisions under RCW 28A.150.250.

26 NEW SECTION. **Sec. 8.** This act is remedial and curative in
27 nature and applies retroactively to actions of the office of the
28 superintendent of public instruction taken on or after July 1, 2021.

29 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of
31 the state government and its existing public institutions, and takes
32 effect immediately.

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