



## Special Edition: Democrats Release Early Action Relief Package

### Federal COVID-19 Relief

Last year, Congress adopted multiple COVID-19 relief bills. At the end of March, the third package, the [Coronavirus Aid, Relief, and Economic Security Act](#) (the CARES Act) was enacted. Included was the Coronavirus Relief Fund (CRF), which provided funds to state and local governments for necessary expenses incurred due to the COVID-19 pandemic. Washington State received \$2.1 Billion (along with another \$800,000 for selected County governments). \$216 million was provided to K-12 education through the Elementary and Secondary School Emergency Relief (ESSER) Fund. \$195 million of the total K-12 allotment was directed to local school districts, to be distributed using the Title I allocation methodology.

After struggling for months to adopt another major stimulus bill, Congress finally reached agreement on a \$935 billion package on December 21, with President Trump signing it shortly after, on December 27. The [Coronavirus Response and Relief Supplemental Appropriations Act](#) (CRRSA) provides a total of \$82 billion for Education, as well as \$4.1 billion to governors' Education Relief Funds (ERF). State governors have discretion over how the ERF dollars are spent, for higher education, K-12 education, or early education; however, private school allocations come from these funds, rather than from school district allocations like the first round of ESSER funds. The second round of ESSER funds provide a total of \$54.3 billion dedicated to K-12 Education. Washington's share is \$824,852,000. Ten percent (\$82,485,200) is reserved at the state level, with the remaining ninety percent (\$742,366,800) being provided to school districts through Title I, as the earlier round of ESSER funds were distributed.

The use of the ESSER II funds must be related to preventing, preparing for, and responding to COVID-19 (the same as earlier requirements for the first round of ESSER funds). Use of ESSER II funds may also be used for:

- addressing student learning loss;
- preparing schools for reopening and testing; and
- repairing, and upgrading projects to improve air quality.

The first round of ESSER funds were treated as Unanticipated Receipts. Unanticipated receipts are federal or local funds for a specific purpose not anticipated in the enacted budget (the 2020 Supplemental Operating Budget was adopted by the Legislature on March 12, 2020, while the CARES Act was adopted by Congress on March 27, 2020). Washington's Constitution specifically grants the Legislature the sole authority to make appropriations; however, the unanticipated receipt process acknowledges that the state may receive grants when the Legislature is not in session. In this case, the governor is authorized to grant agencies expenditure authority for these funds and the Office of Financial Management (OFM, the governor's budget office) determines if the request for additional expenditure authority is consistent with the law.



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## **Pandemic Relief Package**

ESSER II funds, both for OSPI and local school districts, are subject to legislative approval. In last week's *TWIO* ([Week 2, January 22](#)), we discussed in detail Superintendent Reykdal's "[Budget Stabilization](#)" proposal, which requested the Legislature take early action to appropriate the full \$742 million to school districts, supplemented with \$244 million in state funding to fill gaps created by the ESSER II fund distribution. We took the time to ensure you were aware of the proposal because it was believed the Legislature might act on the plan quickly. Sure enough, legislators are preparing to move quickly; however, they have their own plan in mind.

Late Friday afternoon, Democratic budget-writers announced the release of a [Pandemic Relief Package](#). The package, embodied in [HB 1368/SB 5344](#), allocates \$2.1 billion in federal funds across all areas of government. Additionally, [HB 1367/SB 5343](#) appropriates \$404 million from federal funds and the Budget Stabilization Account (BSA or "Rainy Day Fund"). Three policy bills complete the full package: [HB 1098/SB 5061](#) provides relief for employers and employees from unemployment insurance taxes; [SB 5272](#) temporarily waives liquor license fees; and [HB 1002](#) provides a B&O tax exemption for federal funds received from the Paycheck Protection Program.

HB 1367/SB 5343 adjusts appropriations made in the 2020 Supplemental Budget for the developmental disabilities and long-term care programs in the Department of Social and Health Services (DSHS). When the CARES Act was adopted last year, federal relief funds provided were required to be expended by December 30, 2020. When CRRSA was adopted this past December, however, the deadline to expend the CARES Act funds was extended to December 31, 2021. Because of this, there was an opportunity to reevaluate some of the spending decisions made last year. The decision was made in this Relief Package to use other available federal funds and reserve the federal COVID relief funds for other needs (expenditures from the CRF are reduced by \$404 million, allowing that money to be spent elsewhere). The bills provide: \$80 million of federal funds (non-COVID funds) and \$55 million from the state's BSA for the DSHS Developmental Disabilities program; and \$159 million of federal funds (non-COVID funds) and \$110 million of BSA funds for the DSHS Aging and Adult Services program.

HB 1368/SB 5344 distributes federal funding for a broad range of COVID-19 responses, including: contact tracing, outbreak response, vaccine distribution, housing assistance, uninsured COVID care, grants to childcare providers, food assistance, undocumented student relief grants, disaster cash assistance, rate enhancement for long-term care providers, and other supports. For complete details of HB 1368/SB 5344, along with HB 1367/SB 5343, see the Summaries, Item Detail, and the complete bill text on the Legislative Evaluation & Accountability Program (LEAP) Committee website ([House](#) or [Senate](#)).

## **K-12 Education Funding and Requirements**

Of course, HB 1368/SB 5344 provides federal funding to K-12 education. Although Congress dedicated \$742 million in ESSER II funds for local school districts in Washington, along with \$82.5 million for OSPI, the Democrats early action COVID relief package only provides \$668 million for districts—and no funding for OSPI. As noted above, these funds (like the first round of ESSER funds) will be distributed to school districts using the current Title I methodology. It should be also noted that \$46.2 million is provided for non-public schools from the Governor's Emergency Education Relief Fund, as required by the federal legislation; during the first round of ESSER funding, required allocations to non-public schools came from local school districts' funds.

HB 1368/SB 5344 requires school districts (along with charter schools and state-tribal education compact schools) to review and update school reopening plans adopted for the 2020-21 school year and submit updated plans to OSPI by March 1, 2021. OSPI is required to develop a template for reopening plans that districts must use. The legislation

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encourages schools to base reopening schedules and decisions on state Department of Health guidance on COVID-19 activity levels.

Updated district plans must include, at a minimum:

- A schedule for reopening or expanding in-person instruction during the 2020–21 school year;
- Which students will receive in-person instruction, by group, by grade, by school; and
- Plans for balancing in-person and remote instruction in hybrid models, if applicable.

OSPI is required to report to the Legislature any statutory changes that are necessary to implement updated reopening plans.

In addition to reopening plans, by June 1, 2021, school districts (along with charter schools, and state-tribal education compact schools) are required to submit an academic and student well-being recovery plan to OSPI to address student needs that are anticipated due to school closures and extended time in a remote learning mode due to the COVID-19 pandemic. Like the reopening plans, OSPI is required to develop a template for the plans that districts must use.

Schools are required to report progress on implementing their plan in a manner identified by OSPI. Recovery plans, at a minimum, must address learning loss among students, including student groups identified in the Washington School Improvement Framework, as well as students experiencing homelessness and students in foster care.

Additional details of the recovery plans are required. The plans must include:

- Identification of specific diagnostic assessment tools by grade level, identification of student learning and well-being gaps, and focusing of additional time and supports on students most impacted;
- Providing additional instruction, student well-being support, and extracurricular opportunities based on an evaluation of student needs; and
- Other plan elements as required by OSPI.

OSPI is permitted to add required elements based on evidence of positive learning and well-being outcomes, including, but not limited to: balanced calendars, additional school days, additional instruction time, or any combination of these elements.

### **Next Steps**

When legislative budget proposals are introduced, often complicated and lengthy budget negotiations begin. The early action proposals released Friday will have to go through the legislative process; however, for all intents and purposes, the skids should be greased and the “early action” package will move quickly. The fact that negotiations between the houses—conducted behind-the-scenes for the last several weeks—resulted in the introduction of identical companion bills indicates there is probably already an agreement in place. It is highly likely that few, if any amendments, will be adopted (however, the Minority party likely will put their stake in the ground and try to impact the final package, potentially introducing numerous amendments—with most, if not all, of them doomed to fail).

On Friday, when HB 1367 and HB 1368 were introduced, they were quickly scheduled for a public hearing tomorrow, January 26, in the House Appropriations Committee. They have also already been scheduled for executive action on Thursday, January 28. The Senate companions have not yet been scheduled for action, so at this point it is unclear if the bills will run concurrently, or if the Senate will wait for the House bills

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to move before they act. Regardless, it is anticipated the package will be adopted by early-to-mid-February.

### **School Administrator Concerns**

There were concerns about Supt. Reykdal's "Budget Stabilization" plan; however, positively, the focus was on quickly providing federal funds to shore up school districts' enrollment and pupil transportation shortfalls—and supplementing the federal relief funds with state funding.

The new "early action" plans, unlike Reykdal's proposal, appropriate only federal relief funds—and provide less than the full allotment (only \$668 million of the \$742 million total amount). Of greater concern is the lack of any additional state funds to ensure districts with lower levels of Title I do not get left behind. Further, there is no consideration for backfilling enrollment or pupil transportation shortfalls. We will continue to meet with legislators to advocate for positive movement on [SB 5128](#), the pupil transportation funding bill. Additionally, the enrollment stabilization bill that was set to be introduced in the House and was held up, will likely be introduced soon. With or without this new "early action" package, we will continue to press for these bills to be adopted promptly.

### **Republican Response**

Republicans have their own "early action" COVID Relief Plan, called the [REAL \(Revive our Economy and Accelerate a Lasting\) Recovery for Washington Act](#). In reality, however, it is not a response to the Democratic budget-writers' relief package, as the Republican bill was introduced before the Democrat plans were released. The plan, [HB 1334](#), sponsored by Representative Drew Stokesbary (R-Auburn), is a [\\$3.9 billion package](#) comprised of federal relief funds (\$1.8 billion) coupled with funds from the Budget Stabilization Account and other untapped federal resources (\$2.1 billion).

For K–12 education, HB 1334 allocates \$1.5 billion (NOTE: this total includes the \$46 million appropriation to non-public schools from the Governor's Emergency Education Relief Fund, as required in the federal law). The Republican plan provides the full \$825 million in federal ESSER II funds, along with another \$660 million in state funds for accelerated learning opportunities and high poverty stipends.

Proviso language requires one-half of a district's allotment of the ESSER II funds to be allocated when OSPI receives the district's 2020–21 reopening plan for in-person instruction. The remaining one-half of ESSER II funds must be allocated to individual school districts when a district reopens for in-person instruction to all grades, as determined by test positivity rates as defined in the bill (note the similarity to the reopening metrics in the original version of [SB 5037](#) that we have discussed previously in *TWIO*):

- For school districts in counties with a test positivity rate of less than five percent in the week prior to submitting a plan or reopening, in-person instruction must be provided to all students in all grades;
- For school districts in counties with a test positivity rate of five percent to ten percent in the week prior to submitting a plan or reopening, in-person instruction must be provided to all students in grades K–8;
- For school districts in counties with a test positivity rate of greater than ten percent in the week prior to submitting a plan or reopening, in-person instruction must be provided to all students in grades K–5.

\$500 million of one-time state funding is appropriated from a new COVID-19 K–12 Response Account and provided to school districts to provide accelerated learning opportunities to address student needs that are anticipated due to school closures and extended time in remote learning mode due to the COVID-19 pandemic.

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OSPI is required to allocate this funding based on the following criteria:

- The amounts are provided solely for additional instructional support programs, which may include additional school days, additional instructional time, summer learning programs, and other programs providing additional instruction based on an evaluation of student needs;
- School districts are required to identify specific diagnostic assessment tools and identify student learning gaps and focus additional time and supports on students that will benefit most from interventions, giving priority to: low-income students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and children and youth in foster care;
- Schools are required to report progress on meeting learning gaps in a manner identified by OSPI; and
- School districts are specifically prohibited from using these one-time funds to support ongoing increases to programs or compensation.

\$160 million of one-time state funding is appropriated from the COVID-19 K–12 Response Account and provided for allocations to school districts to provide a one-time stipend to students eligible for the federal Free and Reduced-Price Lunch program. \$300 per student would be provided to the eligible student's parent or guardian to support additional costs associated with school closures. To be eligible, the student must have attended a school within the local school district and been eligible for the Free and Reduced-Price Lunch program at any point after April 1, 2020, while the school was closed to in-person instruction. School districts are required to use applications for the Free and Reduced-Price Lunch program to determine eligibility and must report to OSPI the number of students eligible. OSPI then must allocate funding for the stipend to school districts based on the number of eligible students. In administering the stipend, OSPI is required to adopt rules and procedures as are deemed necessary.

It seems unlikely this Republican-sponsored HB 1334 will be heard or otherwise acted upon with a bi-cameral COVID package being released by Democrats. This bill, however, provides an outline of Republican priorities; do not be surprised if pieces of this legislation—or the full bill—shows up as amendments to the Democrat's HB 1368/SB 5344 and/or HB 1367/SB 5343.

### **Time to Engage**

We continue to encourage you to be engaged in this 2021 Legislative Session. Other than the full 2021 Supplemental Operating Budget and the new two-year 2021–23 Operating Budget that will be adopted this session, these pandemic relief bills are likely to be the most important bills discussed this year. With \$824 million in ESSER II funds on the table for K–12 education, these bills land squarely on the education community priority list.

While we appreciate the idea of taking early action, we are concerned that the Democrat's relief plan withholds some of the ESSER II funds that have been dedicated to K–12 (and are also concerned ALL of the ESSER II funds dedicated to OSPI are being withheld). One of the K–12 funding priorities on [WASA's 2021 Legislative Platform](#) is to advocate for the prompt release of any federal relief funds dedicated to K–12 education. This is also a major priority of most of the other education associations—and a part of the jointly sponsored [School Funding Coalition priorities](#).

Along with a delay in providing K–12's full allotment of federal funds, we continue to be concerned that there is NO consideration in these early action plans to provide enrollment stabilization or protect pupil transportation funding (set to be potentially dramatically reduced in the next few weeks, as OSPI goes through its reconciliation process). Not addressing these issues will put school districts behind-the-eight-ball—even with a significant influx of federal funds. We will continue to press for [SB 5128](#) to be acted upon

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promptly (it is set for a hearing in the Senate Ways & Means Committee on **Thursday, January 28, at 4:00 p.m.**); and we will continue to push for the enrollment stabilization bill—that is set to be introduced shortly.

We know all school administrators are extremely busy, but we strongly encourage you to jump into this fight. Take just a few minutes to draft a short and simple message to your legislators. And participating in the Committee process is almost too easy (note that the Democrat's relief plans will be heard in the House Appropriations Committee tomorrow afternoon, **Tuesday, January 26, at 3:30 p.m.**; and the pupil transportation bill, noted above, will be heard on Thursday). We encourage you to step up and provide some comments, or submit some short, written comments. You can even simply note your position on the bills, without any oral or written comments (probably not the most impactful action, but it is better than sitting on your hands, waiting for someone else to speak on your behalf—if you're doing that, let's hope those who speak out in your stead have the same position as you).

Smokey Bear says, "Only YOU can prevent forest fires." Well, the message here is similar: Only YOU can impact legislators' decision making! The link to jump into the fight is [HERE](#).



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