

HOUSE BILL REPORT

2SSB 5794

As Reported by House Committee On:

Education
Appropriations

Title: An act relating to alternative learning experience courses.

Brief Description: Concerning alternative learning experience courses.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Dammeier, Ranker, McAuliffe, Honeyford, Eide and Litzow).

Brief History:

Committee Activity:

Education: 3/19/13, 4/2/13 [DPA];

Appropriations: 4/5/13, 4/23/13 [DPA(APP w/o ED)].

**Brief Summary of Second Substitute Bill
(As Amended by Committee)**

- Defines Alternative Learning Experiences (ALE) by type of course rather than by type of program.
- Defines site-based ALE courses as providing at least 20 percent weekly in-person instructional contact.
- Defines remote ALE courses as providing less than 20 percent weekly in-person instructional contact.
- Uses a current definition of an online ALE course but clarifies that the primary instructional contact must be with a teacher.
- Allocates funding for the ALE courses using the statewide average Basic Education rate for high school students.
- Allows school districts to claim state funding for nonresident ALE students only if they are enrolled in online or site-based courses, enrolled in a program that is at least 90 percent resident students, or reside in an adjacent school district.
- Adjusts provisions of the school choice laws regarding transfer of students between resident and nonresident districts to enroll in online courses.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON EDUCATION

Majority Report: Do pass as amended. Signed by 21 members: Representatives Santos, Chair; Stonier, Vice Chair; Dahlquist, Ranking Minority Member; Magendanz, Assistant Ranking Minority Member; Bergquist, Fagan, Haigh, Hargrove, Hawkins, Hayes, Hunt, Klippert, Lytton, Maxwell, McCoy, Orwall, Parker, Pike, Pollet, Seaquist and Warnick.

Staff: Barbara McLain (786-7383).

Background:

Alternative Learning Experience Programs.

Alternative Learning Experience (ALE) programs provide a way for students to be enrolled in public education without being required to meet the in-class seat-time requirements for regular instruction. They also provide a way for school districts to claim students enrolled in nontraditional programs for purposes of state funding.

There are three primary types of ALE programs identified in statute: online programs; parent partnership programs that include significant participation by parents in the design and implementation of the student's learning; and contract-based learning.

An online course is defined as one where the course content is delivered electronically using the internet or other computer-based methods, and more than half of the teaching is conducted from a remote location using an online learning management system.

However, these broad definitions are illustrative rather than exclusive, and in practice school districts have designed a wide array of ALE programs with varying amounts of classroom-based instruction offered in combination with individualized learning outside the classroom.

For the 2011-12 school year, the Office of the Superintendent of Public Instruction (OSPI) reported the following full-time equivalent student enrollment in the ALE programs:

- Online programs: 8,433
- Parent partnership programs: 13,483
- Contract-based learning: 8,809

Funding.

Legislation enacted in 2011 directed the OSPI to reduce funding for the ALE programs by an average of 15 percent during the 2011-12 and 2012-13 school years. Under the OSPI implementation scheme, full-time students who receive at least one hour per week of face-to-face, in-person instructional contact time are funded at the 10 percent reduction level. For online programs, this contact may be digital and synchronous. All other ALE students are funded at the 20 percent reduction level.

Funding allocations for students enrolled in the Running Start dual-credit program are specified in statute and calculated as the statewide average Basic Education allocation for a high school student, rather than being calculated separately for each school district. There is one allocation for general education students (\$4,961.76 for the 2012-13 school year) and an enhanced allocation (\$5,856.48) for vocational education students.

School Choice.

State law "strongly encourages" school districts to honor requests by students to enroll in another school district. Nonresident school districts may reject a transfer application based on student disciplinary history or financial hardship on the district. According to the OSPI, nearly 74 percent of the full-time equivalent (FTE) enrollments in online ALE programs are nonresident students enrolling in another district.

Summary of Amended Bill:

Alternative Learning Experience Programs.

Descriptions and references to three types of ALE programs are replaced by definitions of three types of ALE courses:

1. A site-based course is one where a student has in-person instructional contact for at least 20 percent of the total weekly time for the course.
2. A remote course is one where a student has in-person instructional contact for less than 20 percent of the total weekly time for the course.
3. An online course has the same definition as current law, with the additional stipulation that the student's primary instructional interaction is with a certificated teacher.

Instructional contact must be with a certificated teacher for the purpose of teaching, review of assignments, testing, evaluation, or other learning activities identified in the student's learning plan. Instructional contact may occur in a group setting and may be delivered either in-person or remotely using technology. In-person contact means face-to-face instructional contact in a physical classroom environment. For online courses, the OSPI may not adopt a rule specifying a minimum duration of weekly personal contact.

School districts may claim state funding, to the extent provided in law, for students enrolled in site-based, remote, and online ALE courses. High school ALE courses must meet district or state graduation requirements and be offered for credit.

Online programs may seek a waiver from the OSPI to administer the state assessments for grades 3 through 8 on alternate days or an alternate schedule within the established testing period. The request may be denied if the proposal does not maintain adequate test security or would reduce the reliability of results by providing an inequitable advantage for some students.

Beginning with the 2013-14 school year, school districts must denote the type of ALE course in the statewide student information system.

Statutes pertaining to ALE courses are placed in a new RCW Title.

Funding.

The OSPI must allocate funding for ALE courses based on the statewide annual average allocation for a high school student in general education, excluding any small high school enhancements.

The Office of Financial Management must conduct a study to create a proposal for efficiently and sustainably funding ALE courses and recommend steps to increase the focus on educational outcomes. The study must review ALE funding models in other states and consider the advantages and disadvantages of applying state policies differentially depending on the type of ALE course. The study must include recommendations for baseline data on student achievement in ALE courses in relation to other comparable students; outcome targets and methods for ongoing evaluation of ALE outcomes; and improving ALE accountability.

The study must be done in consultation with representatives from school districts that administer the various types of ALE courses, the OSPI, the Washington State Institute for Public Policy, individuals with expertise in outcome-based public school funding models, and the Legislative Evaluation and Accountability Program Committee. A report to the Legislature is due by November 1, 2013.

School Choice.

A resident district must release a student wishing to enroll in another school district if the purpose is to enroll in an online learning program. The OSPI must develop a standard form to be used by all districts when releasing students to enroll in online learning programs. The OSPI must adopt rules establishing procedures for how the counting of students must be coordinated by resident and nonresident districts so that no student counts for more than one FTE.

A nonresident district may deny the transfer of a student who has repeatedly failed to comply with requirements for participation in an online learning program. A school district offering an ALE course to a nonresident student must inform the resident district if a student drops out or is no longer enrolled.

Amended Bill Compared to Second Substitute Bill:

A definition of "site-based course" replaces a definition of "hybrid course" based on at least 20 percent of weekly in-person contact. A definition of "in-person" is added. Technical corrections are made to other current laws regarding the ALE and online courses to align with the use of courses rather than programs when describing the ALE. The OFM study must also consider advantages and disadvantages of applying state policies differentially based on the type of course. Online programs may request a waiver from the OSPI to conduct state assessments on a different schedule, but still within the overall testing window. The OSPI must not adopt a rule regarding online courses that specifies a minimum duration of weekly contact. All of the provisions regarding school choice are added.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 3 relating to funding allocations for students in ALE courses, which takes effect September 1, 2013.

Staff Summary of Public Testimony:

(In support) A workgroup was convened to address ALE issues. This bill does not accomplish everything desired, but it represents an opportunity to move forward. It is important to define ALE courses and put the laws into a separate statute. It is also important to achieve a constant funding rate. If the Legislature invests in kindergarten through third grade class size reduction, it is not appropriate for an online program to benefit from increased funding. The rate for the Running Start program seems like a reasonable approach, and results in a small savings. There was discussion about shifting toward an outcomes-based funding model, but there was not sufficient time to develop a credible approach. The study group should look at what other states have done and report back.

Advocates would like to continue working with the OSPI and the Legislature on clear definitions and obtainable outcomes. This bill should be connected with House Bill 1423. There is some concern about defining a "hybrid" course as requiring 20 percent contact. A course should not be defined as "remote" if it is tailored to a student's needs.

This bill provides a solid framework for ALE programs in the future and a path toward a sustainable financial model. There are two bills before the Legislature on this topic, and the OSPI is working with supporters of the other bill to see if the ideas can be brought together. This is a direction that can be worked on.

(In support with concerns) Teachers measure student progress daily in these programs and communicate regularly with parents, but there is too much documentation required. Digital public schools have been of great benefit. They serve students with different needs, from students with dyslexia who were falling through the cracks to gifted learners who were bored in class. Digital schools should be separated from other ALE programs; they are not the same.

Students enroll in online programs for flexible, individualized education. The Legislature should free online programs from the rules and constraints of current policy. The provisions clarifying required use of a certificated teacher are supported strongly. Whether the funding is at the Running Start level or some other method, it is key to fully fund these programs. All students should be funded at the same level. The study group could be improved through the addition of teachers.

(With concerns) Children who previously attended traditional school and are now enrolled in digital school are excelling in every subject. Parents can vouch for the excellence of digital public school. Online learning happens in an environment of high accountability. No more studies are needed. State-approved online public schools need to be separated out from other programs. The accountability and monitoring of student progress are strong.

The intent is good, but there is more work to be done in defining online programs to reflect unique characteristics. There is concern about the study and a focus on outcomes. Regular schools are not expected to achieve a particular outcome in order to receive funding. The ALE programs should not be treated differently. The approval process and oversight of online programs should be recognized. It must also be recognized that online programs enroll students who have already failed in traditional schools. Parents working together with teachers is the best way to provide education. There should not be a limit to instruction by a certificated teacher.

(Other) Further changes to the law should wait until the results of the study. Districts should be given time to educate their teachers about how to implement that previous bill. Use of the Running Start funding rate does not take into account state and federal mandates or the fact that Running Start students pay for their own curriculum. There should not be differentiation among types of courses. There have been abuses, but hopefully the State Auditor can take care of that. Requiring programs to provide substantially similar activities to ALE students and regular students limits innovation.

(Opposed) None.

Persons Testifying: (In support) Senator Dammeier, prime sponsor; Brad Sprague, Washington Association for Learning Alternatives; Christi Davis; Sarah Stuhlsatz-Krouper; Anne Holter; Paul Lewis, Meridian Parent Partnership Program; and Karl Nelson, Office of the Superintendent of Public Instruction.

(In support with concerns) Stephanie Ritchie and Kristi Sloan, Washington Virtual Academy; Stephanie Stark; Bernard Duplessis; and Lucinda Young, Washington Education Association.

(With concerns) Julie Forth and Suzanne Scuderi, Digital Public Schools; Mark Christiano, Washington Virtual Academies; Jeff Bush, Insight School of Washington; Carolyn Logue, K12, Inc.; and Nancy Truitt Pierce, Monroe Public Schools.

(Other) Misty Wilen; and Mark Clements, River Homelink of Battle Ground School District.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Education. Signed by 18 members: Representatives Hunter, Chair; Ormsby, Vice Chair; Carlyle, Cody, Dunshee, Green, Haigh, Hudgins, Hunt, Jinkins, Kagi, Maxwell, Morrell, Pedersen, Pettigrew, Seaquist, Springer and Sullivan.

Minority Report: Do not pass. Signed by 13 members: Representatives Alexander, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Dahlquist, Fagan, Haler, Harris, Parker, Pike, Ross, Schmick and Taylor.

Staff: Jessica Harrell (786-7349) and Barbara McLain (786-7383).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Education:

The definition of "online course" is clarified to include the expectation that a certificated teacher has the primary responsibility for the student's instructional interaction. No minimum in-person instructional contact is required in a remote course. The term "course" includes grade-level coursework for kindergarten through grade 8. The definition of "online school program" is streamlined to reduce duplication with the definition of online course. Instead of prohibiting the Office of the Superintendent of Public Instruction (OSPI) from adopting a rule regarding the duration of weekly contact, the OSPI rules regarding weekly contact must reduce documentation requirements, particularly for students making satisfactory academic progress, and be tailored to the different aspects of the types of courses. A section of law pertaining only to online programs that duplicates other laws and rules is repealed.

School districts may claim state funding for any resident student in an Alternative Learning Experience (ALE) course but may only claim funding for nonresident students who are in online or site-based courses, reside in an adjacent district, or are enrolled in an ALE program that is at least 90 percent resident students. The funding study by the Office of Financial Management (OFM) is removed.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section [SECTION] relating to [EXCEPTION], which takes effect [DATE].

Staff Summary of Public Testimony:

(In support) There is a bi-partisan group of intrepid legislators who have been trying very hard to advance policy legislation regarding the ALE. For purposes of the House Appropriations Committee, there is an attempt to get to a flat rate of funding that is predictable for the programs, which is why the bill uses the Running Start allocation rate for high school students. One of the goals in choosing the high school rate was to not be influenced by enhancements for class size reductions. There is also a study to look at the prospect of doing some outcome-based funding models, particularly for online programs. The study can examine what is going on nationwide with funding models. The ALE world changed significantly with the advent of online learning. A few years ago the Legislature tried hard to create a good environment for these programs. This bill is a further attempt to create parameters and guidelines that will be stable. It is also an attempt to achieve stable funding. Programs, and therefore students, have been negatively impacted by the funding cuts from two years ago. The approach in this bill is appreciated. An ALE student is a full student and should generate full funding just as any other student.

(In support with concerns) This is a bill where there has been much discussion and work. One additional change would be to incorporate the definition of grade-level coursework for

kindergarten through grade 8 along with the definition of "course." There are also duplicative requirements where a section of the RCW could be repealed. This bill takes necessary policy steps, and the work of the various legislators is very much appreciated. Representatives of online programs like the consistency of the funding mechanism. There is a recognition that the ALE is a part of the regular education system and should be funded accordingly.

The school directors adopted two positions regarding the ALE. One was to restore full funding, and the other was to create a separate framework for online learning as a delivery system. The lingering concern is with the requirement that all ALE courses must be "instructed" by a teacher. This could harm some effective parent partner programs. In addition, there is a requirement that school districts accept nonresident online students. There is already a provision in the choice law to accept students, so this requirement should be stricken. If this bill passes, it will be the third time in three years that districts are dealing with changes to the ALE rules. There is a concern with the OFM study that it would result in yet another change. The study should go to the Quality Education Council first so that there is an opportunity for public comment.

(Opposed) None.

Persons Testifying: (In support) Senator Dammeier, prime sponsor; and Lucinda Young, Washington Education Association.

(In support with concerns) Ken Kanikeberg, Office of the Superintendent of Public Instruction; Marie Sullivan, Washington State School Directors Association; and Carolyn Logue, K12, Inc.

Persons Signed In To Testify But Not Testifying: None.