

# HOUSE BILL REPORT

## ESHB 2065

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**As Passed House:**  
May 10, 2011

**Title:** An act relating to allocation of funding for students enrolled in alternative learning experiences.

**Brief Description:** Regarding the allocation of funding for students enrolled in alternative learning experiences.

**Sponsors:** House Committee on Ways & Means (originally sponsored by Representative Hunt).

**Brief History:**

**Committee Activity:**

Ways & Means: 4/13/11, 5/5/11 [DPS].

**First Special Session**

**Floor Activity:**

Passed House: 5/10/11, 63-32.

### Brief Summary of Engrossed Substitute Bill

- Makes funding for alternative learning experience (ALE) programs subject to adjustment in the State Omnibus Operating Appropriations Act.
- Makes a finding that there is ample evidence of the need to examine and reconsider ALE funding policies.
- Provides a statutory definition of ALE programs.
- Prohibits school districts from paying parent stipends for ALE programs.
- Requires ALE students to receive one hour per week of face-to-face, in-person instructional contact with a teacher. For ALE online programs, requires one hour per week of synchronous contact time, which may occur remotely. Exemptions are available for students with medical needs or temporary travel restrictions.
- Limits state funding, beginning in the 2012-13 school year, for ALE online programs to those approved by the Superintendent of Public Instruction.
- Exempts school districts from minimum staffing requirements for certificated instructional staff for that portion of the student population participating in ALE programs.

*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.*

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## HOUSE COMMITTEE ON WAYS & MEANS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 18 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Alexander, Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Carlyle, Cody, Dickerson, Haigh, Hudgins, Hunt, Kagi, Kenney, Ormsby, Pettigrew, Seaquist, Springer and Sullivan.

**Minority Report:** Do not pass. Signed by 9 members: Representatives Bailey, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Chandler, Haler, Hinkle, Parker, Ross, Schmick and Wilcox.

**Staff:** Ben Rarick (786-7349).

### **Background:**

Alternative learning experience (ALE) programs are public school alternative options that are primarily characterized by learning activities that occur away from the regular public school classroom. The requirements and expectations of ALE activities are detailed in a written student learning plan developed and supervised by a public school teacher.

The regulatory requirements for ALE programs are in the Washington Administrative Code 392-121-182. The ALE students are funded on the basis of hours towards a student learning plan, which is in contrast to the "seat time" requirements for basic education funding in non-ALE programs, where school districts claim basic funding only for enrolled students who are expected to physically attend school each day for a specified number of hours.

The ALE programs are different than home-based instruction. An ALE is a public school learning experience which is planned and supervised by a public school teacher. Home-based education is planned and supervised under the authority of the parent, not the school district. Home-based students may enroll part-time in public school classes and programs, including ALE.

Alternative learning experience program enrollment has increased significantly over time. Although ALE enrollment was inconsistently reported in the early years of the program, survey data and research reports suggest that total enrollment has increased over 450 percent since 1995. Survey reports estimate 1995 ALE enrollment at about 5,000 full-time equivalent (FTE) students, as compared to February 2011 enrollment of approximately 28,826 FTEs.

Alternative learning experience student FTEs are funded at the same general apportionment rate as non-ALE students. Total funding for ALE programs is estimated at approximately \$150 million per school year. Alternative learning experience students generally fall into three major categories of ALE program offerings: digital and online programs, parent partnerships, and contract-based learning programs.

### Digital or Online Learning Programs.

Digital, online learning programs are defined and authorized in RCW 28A.150.262. Students often enroll as non-resident students in geographically removed school districts that offer virtual programs. Many schools offer online learning courses, but claim enrollment for only the hours the student is in an on-site classroom. Online learning only becomes an ALE when the student is engaged in learning away from school, and the school district is using the time the student engages in this away-from-school learning as part of the FTE claimed for basic education apportionment. There are about 7,923 student FTEs in these programs as of February 2011.

#### Parent Partnership Programs.

Parent partnership programs offer a significant role for parents in the development and provision of public education. These programs are not specifically defined or authorized in statute. Many students in parent partnership programs may have been receiving home-based instruction prior to enrolling in the ALE program. However, parent partnerships are not home-based instruction because the school district is ultimately responsible for student learning, not the parent. Although there are a variety of different program models in the parent partnership category, with districts requiring varying degrees of in-person contact time in a classroom setting, all programs operate outside the standard seat-time requirements for funding required in the non-ALE setting. There are about 12,187 student FTEs in these programs as of February 2011.

#### Contract-based Learning Programs.

Contract-based learning is usually limited to secondary students, and is often used for credit retrieval or credit acceleration. Although contracting education is specifically authorized under RCW 28A.150.305, contract-based ALE programs are not specifically defined or authorized in statute. Many alternative middle and high schools offer some form of contract-based learning, as do a smaller number of comprehensive high schools; however, not all alternative high schools are ALE programs. Many contract-based programs offer flexibly-structured programs for students not succeeding in a general education high school format. There are about 8,716 student FTEs in these programs as of February 2011.

A number of studies of ALE programs in Washington have been done. The earliest known report on ALE was conducted by the Office of Superintendent of Public Instruction (OSPI) in 1999. It provides a review of ALE programs prior to mainstream use of the Internet as a tool for distance learning, and also during a time when ALE programs were just becoming available in grades K-8. Additionally, the Joint Legislative Audit and Review Committee did an extensive review of all ALE programs in 2005, including analysis of the use of parent stipends. The OSPI performed a study in December of 2009, analyzing just the digital and online aspects of ALE.

#### **Summary of Engrossed Substitute Bill:**

Funding for ALE programs is subject to appropriations in the State Omnibus Operating Appropriations Act. The Legislature finds that there is ample evidence of the need to reexamine and reconsider the method by which the state funds ALE programs, and the state does not have a legal obligation to provide basic instruction using any particular delivery method or program.

A definition of ALE programs is established which includes the following components:

- The ALE program is provided in whole or in part outside of the classroom setting.
- The ALE program is supervised by a certified teacher of the district or under contract.
- The ALE program is provided according to a written learning plan under district policy and the OSPI rules.

Additionally, the ALE definition includes online programs defined under current law, as well as programs with significant participation and partnership with parents, and programs that use the learning plan to direct the student in independent study.

The use of parent stipends in ALE programs is prohibited, but districts may purchase materials in a student learning plan as long as they remain the property of the district. Materials and services made available to ALE students must be available to all students in the district. Additionally, students are required to receive one hour per week of face-to-face, in-person instructional contact with a teacher. Exemptions to this requirement will be available to students with medical needs or temporary travel restrictions. For approved ALE online programs, telephone, electronic mail, or other digital communication may be used to meet this requirement as provided in current law, but the one-hour per week must be synchronous between teacher and student.

Beginning in the 2012-13 school year, state funding for students in ALE online programs is limited to those offered by an online provider approved by the OSPI under the process in current law. Definitions of "online course" and "online school program" are clarified to align with current operating definitions used by the OSPI in approving online providers.

School districts are exempt from minimum staffing requirements for certificated instructional staff for that portion of the student population participating in ALE programs.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on May 11, 2011.

**Effective Date:** This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 9, relating to allowing for adjustment of funding for ALE programs in the State Omnibus Operating Appropriations Act, and section 10, relating to exempting ALE programs from compliance with minimum staffing requirements, which take effect September 1, 2011.

**Staff Summary of Public Testimony:**

(In support) None.

(With concerns) School programs are already facing huge budget cuts. A proration of 80.1 percent of per-pupil funding may eliminate some ALE programs. There are over 175 alternative high schools serving mostly at-risk kids. Many of these kids support themselves because they need to work to pay for their own expenses and do not have a lot of family support. The "seat time" model does work for these types of students. Many of the online

programs offer certain coursework that students cannot get in their home districts, like Advanced Placement classes.

At-risk students cost more than traditional students so a proration is not justified. Alternative learning experience programs have more accountability because they must show adequate monthly progress on a student learning plan. The cuts threaten many credit retrieval programs; this is the most vulnerable population. Additionally, many ALE programs have custodians and secretaries and all of the regular staff that non-ALE schools have.

All students deserve a full FTE funding. Some students go to brick and mortar schools and do not get the help they need. Alternative learning experiences provide a different option. Do not cut basic education funding for ALE. The basic education amount is still not sufficient enough to fund a good program.

(Opposed) None.

**Persons Testifying:** Lile Holland, Washington Alternative Learning Association; Tim Driver, Insight Schools; Elizabeth Silver, Spokane Schools; Sandeep Thomas; Marcia Fromhold, Evergreen and Vancouver School Districts; and Susan Stewart, Washington Virtual Academies.

**Persons Signed In To Testify But Not Testifying:** None.