

# SENATE BILL REPORT

## SSB 5410

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As Amended by House, April 16, 2009

**Title:** An act relating to online learning.

**Brief Description:** Regarding online learning.

**Sponsors:** Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators Oemig, Morton, McAuliffe, Tom and Eide).

**Brief History:**

**Committee Activity:** Early Learning & K-12 Education: 1/26/09, 2/12/09 [DPS, DNP, w/oRec].

Passed Senate: 3/09/09, 33-15.

Passed House: 4/16/09, 98-0.

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### SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

**Majority Report:** That Substitute Senate Bill No. 5410 be substituted therefor, and the substitute bill do pass.

Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; Hobbs, Jarrett, McDermott, Roach and Tom.

**Minority Report:** Do not pass.

Signed by Senators King, Ranking Minority Member; Holmquist.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Brandland.

**Staff:** Juliana Roe (786-7438)

**Background:** Under current law, "digital programs" are defined as electronically delivered learning that occurs primarily away from the classroom.

The Office of the Superintendent of Public Instruction (OSPI) has the authority to adopt and implement rules regarding the following:

1. defining a full-time equivalent (FTE) student or part-time student based upon the district's estimate of average weekly hours of learning activity and addressing state funding issues with regard to nonresident students so that no student is counted for more than one FTE;

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2. requiring school district boards of directors to adopt and annually review written policies for each program and program provider and to receive an annual report on its digital learning programs from its staff;
3. requiring each school district offering or contracting to offer digital programs to annually report the types of programs, course offerings, and number of participating students to OSPI;
4. requiring completion of a program self-evaluation;
5. requiring the district to provide documentation of a student's physical residence;
6. requiring certificated instructional staff to supervise, monitor, assess, and evaluate digital programs;
7. requiring school district offering digital courses to provide the ratio of certificated instructional staff to FTE student enrolled;
8. requiring reliable methods to verify a student's participation in the digital course, such as proctored exams or web cams;
9. requiring each digital student to be provided with a learning plan, such as a course syllabi;
10. requiring districts to annually assess the educational progress of students enrolled in digital courses using the state assessment for the student's grade level and any other annual assessment required by the district, except for those receiving home-based instruction or enrolled in private school;
11. requiring students taking digital programs to have weekly direct personal contact with certificated instructional staff, such as by telephone, email, instant messaging, interactive video, or other means of digital communication;
12. requiring state-funded schools or public schools whose primary purpose is to provide digital learning programs to receive accreditation through the state or regional accreditation program;
13. requiring state-funded schools or public schools whose primary purpose is to provide digital learning programs to provide students and parents information as to whether the courses or programs cover the district's learning goals, cover the state's essential academic learning requirements, or meet the state's or district's graduation requirements; and
14. requiring districts that provide digital courses to provide parents or guardians of a student, prior to enrollment, a description of any difference between home-based education and the student's choice of enrollment option, and the parent or guardian is required to sign documentation attesting to his or her understanding of the difference, to be retained by the district.

**Summary of Substitute Bill:** Definitions are provided for "multidistrict online course provider" and "online course." Multidistrict online course provider includes an organization that enters into a contract with one or more school district, the Digital Learning Commons (DLC), or both, to provide online courses or programs to students from more than one school district, as well as an individual school district that provides online courses or programs to students who reside outside the geographic boundaries of the school district, except for those in which less than 10 percent of the students enrolled are from outside the boundaries of the school district, or if the program is jointly offered by two or more school districts or educational service districts (ESDs).

The responsibilities are listed that OSPI has in collaboration with SBE and with the assistance of DLC, including an OSPI course provider approval process. DLC recommends to OSPI whether a course provider should be approved and OSPI makes the final determination.

The responsibilities are listed that DLC has including, but not limited to, developing and maintaining a website to provide information to students, teachers, and parents regarding online learning opportunities offered, registration instructions, class descriptions, teacher qualifications, and program approval process description. DLC must also develop and implement approval criteria for online providers as well as a process to approve, rescind, and appeal decisions. DLC makes its recommendations to OSPI.

The responsibilities are listed that school boards of directors have, including developing policies and procedures for student access to online programs, and a means to provide students information regarding online programs. They must also create a procedure by which they must designate on a student's transcript whether a course taken by the student was an online course and submit that information to OSPI.

The term "digital programs" is removed throughout RCW 28A.150.262 and replaces it with "alternative learning experience online program."

A null and void clause is included if there is no funding.

**Appropriation:** None.

**Fiscal Note:** Requested on January 21, 2009.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: The online world is a resource that needs to be attacked. Some students respond to it better. The quality of the material offered should be ensured to uphold standards that are expected in Washington. This bill will broaden the access to online material and keep children connected to their communities.

The online learning world is dramatically changing. The current law has caused consternation throughout the state. This bill is a great start to ameliorating these problems. It is important to enhance course quality: provide teachers, parents, educators, and students with information, equity of access, and ease of navigation through the online learning process with state oversight.

DLC was created by the Legislature to improve access to students for education opportunities and provides quality control for online resources. DLC has provided quality, ease of use, and great support for students and teachers in our school districts. Students have seen great success through the format offered by DLC.

CON: Online learning does not have a place in our schools. It should be used for students who need a different learning environment. It should be used to augment and advance learning, but never to replace standard programs.

There is concern that additional oversight might be burdensome for the online providers. These alternative programs are important to many, including students with learning impairments. To be faced with the possibility that students may have to go back into the public school system because of burdensome oversight imposed on online providers is scary. Many of the existing online providers already go through rigorous standards which require alignment with state standards, accreditation, and school board approval. The local schools already provide quality control for these online providers; another layer of approval is unnecessary. It would be unfair to force all online providers to go through DLC. Online providers already comply with the law and should not be threatened with interests that oppose innovation and options.

**Persons Testifying:** PRO: Senator Oemig, prime sponsor; Judy Margrath-Huge, DLC; Brad Burnham, State Board of Education; Bob Butts, Martin Mueller, Office of the Superintendent of Public Instruction; Eric Alm, Columbia Virtual Academy; Diane Ferbrache, Kate McCearan, citizens; Joe Pope, Northwest Association of Accredited Schools.

CON: Mark Conley, Washington Virtual Academies; Kristin Whitaker, Spokane Public Schools; Lile Holland, Washington Association for Learning Alternatives; Susan Stewart, Washington Virtual Academy; Lucinda Young, Washington Education Association; Dale Mix, Tieshe Stiles, Angela May, Stephen Roth, Marie Holloway, Daniel Holloway, Allen Holloway, Marcia Fromhold, citizens.

**House Amendment(s):** New terms are defined, including "online course" and "online school program."

OSPI, not DLC, is in charge of the provider approval process, website, and model agreements. Initial provider approval is for a four-year period. Annual approval decisions must be made by November 1, not within three months of receiving an application. The approval fee is removed. The teacher-student ratio in the approval criteria is removed, but this information must be provided on the website. Multidistrict providers that are currently approved by DLC or accredited by the Northwest Association of Accredited Schools, and meet teacher certification requirements are exempt from the initial approval process until August 31, 2012. However, these providers must still meet renewal, and other, requirements established for approved providers.

An Office of Online Learning is created within OSPI which is initially made up of staff employed by DLC to the extent that funds are available. OSPI must use the course offering component of the DLC website to the greatest extent possible. OSPI must provide technical assistance and, to the extent funds are available, online learning tools to school districts in collaboration with the ESDs and through the educational technology centers.

Various implementation timelines are delayed. The OSPI rule/approval criteria and process is due December 1, 2009. OSPI's initial decision on applications is due April 1, 2010. OSPI must disseminate its model policies by February 1, 2010. School districts must adopt online policies

by August 31, 2010. Basic education funding is permitted for approved providers beginning in the 2011-12 school year.

The purpose of model agreements between OSPI and approved providers is clarified in that it must address standard contract terms and conditions (such as billing fees and responsibilities of parties) in order to provide a template to assist school districts in contracting with a provider to offer programs to students in their district, if they so choose.

All online programs must be accredited by the Northwest Association of Accredited Schools or another national, regional, or state accreditation program listed by OSPI after consultation with the Washington Coalition for Online Learning.

OSPI must conduct a review of online courses and programs offered in 2008-09 to create baseline information about student enrollment, how programs are offered, contract terms and funding, fiscal impact on levy bases and levy equalization from interdistrict enrollment, staffing ratios, course completion and success rates, and other issues. OSPI must also assess funding provided for online enrollment relating to the basic education allocation, including nonemployee related costs, facility requirements, and the share of allocations between resident and serving districts. This report is due to the education and fiscal committees of the Legislature by December 1, 2009.

A null and void clause is included.