

# HOUSE BILL REPORT

## ESSB 5946

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**As Passed House - Amended:**  
June 28, 2013

**Title:** An act relating to strengthening student educational outcomes.

**Brief Description:** Strengthening student educational outcomes.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Dammeier and Frockt).

**Brief History:**

**Committee Activity:**

None.

**Second Special Session**

**Floor Activity:**

Passed House - Amended: 6/28/13, 69-23.

**Brief Summary of Engrossed Substitute Bill**  
**(As Amended by House)**

- Directs school districts to discuss appropriate grade placement and provide intensive reading improvement strategies based on student performance on the third grade English Language Arts (ELA) assessment.
- Requires report cards for kindergarten through fourth grade (K-4) students to include whether the student is reading at grade level.
- Expands the Learning Assistance Program (LAP) to include strategies to reduce disruptive behavior in the classroom and requires school districts to focus LAP funds first on reading improvement for K-4 students.
- Directs the Office of the Superintendent of Public Instruction (OSPI) to develop state menus of best practices for K-4 reading improvement and use of LAP funds and requires school districts to use practices from the menus under certain circumstances.
- Replaces state-approved LAP plans with annual reports on student academic growth and progress.

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*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.*

- Directs the OSPI to convene a discipline task force to develop definitions and data collection standards and specifies revised data collection on student discipline.
- Prohibits student suspensions or expulsions of indefinite length.
- Requires that student suspensions or expulsions not exceed one year unless authorized by the district superintendent based on rules adopted by the OSPI.
- Requires school districts to create an individually tailored reentry and reengagement plan for long-term suspended or expelled students.
- Establishes an Educator Support Program for beginning and probationary teachers, if funds are appropriated.
- Defines Alternative Learning Experiences (ALE) by type of course rather than by type of program, including definitions based on the amount of weekly in-person instructional contact.
- Allocates funding for ALE courses using the statewide average Basic Education rate for high school students.
- Adjusts provisions of the school choice laws regarding transfer of students between resident and nonresident districts to enroll in online courses.
- Directs the Office of Financial Management to conduct a study of ALE funding and accountability.

**Staff:** Barbara McLain (786-7383).

**Background:**

*Reading and Early Literacy.*

In 2010 the Office of the Superintendent of Public Instruction (OSPI) received funds from the U.S. Department of Education to develop a Comprehensive Literacy Plan (Plan) intended to provide guidance and support for parents, early learning providers, teachers, and literacy experts. Other state policies to support reading and early literacy include the Washington Reading Corps and a second grade reading assessment conducted by school districts for diagnostic purposes.

The statewide student assessment in grades 3 through 8 is called the Measurements of Student Progress (MSP). The following table from the OSPI website shows the results from the MSP in third grade reading for 2011-12:

<b>Performance Level</b>	<b>Percent</b>	<b>Number</b>
Level 4: Advanced	32.1%	24,644
Level 3: Proficient	35.7%	27,434
Level 2: Basic	21.8%	16,731

Level 1: Below Basic	8.4%	6,430
Special Education Portfolio	—	777
No Score/Not Included	—	1,701

In 2011 the OSPI adopted the Common Core State Standards as the state learning standards for English Language Arts (ELA) and mathematics. Assessments based on these standards are being developed by a multistate consortium and are scheduled to be administered for the first time in the 2014-15 school year.

*Learning Assistance Program.*

The Learning Assistance Program (LAP) provides instructional support for students who are performing below grade level in reading, writing, and mathematics. School districts must submit an annual plan that identifies the activities to be conducted and the proposed expenditure of funds. A range of services and activities may be supported by LAP funds. The plan is required to have a number of specified elements and must be approved by the OSPI. School districts have flexibility in determining which students and which schools receive LAP funds.

*Student Discipline.*

Each school district board of directors is required to adopt written policies regarding student conduct and discipline. The OSPI must adopt rules providing due process protections of students subject to disciplinary action.

Short-term suspensions may not exceed 10 days. Long-term suspensions last longer than 10 days. Expulsions may last for an indefinite period of time.

Individual student data on disciplinary actions is recorded in the statewide student information system (CEDARS), including disciplinary actions related to bullying, tobacco, alcohol, illicit drugs (other than marijuana), fighting without major injury, violence without major injury, violence with major injury, possession of a weapon, other behavior resulting in suspension or expulsion, serious bodily injury, and marijuana.

*Support for Beginning Educators.*

In 2009 the Legislature redesigned the Teacher Assistance Program to create a grant program called the Beginning Educator Support Team (BEST). The BEST, which is established only in budget proviso, must include a paid orientation; assignment of a qualified mentor; development of a professional growth plan for each beginning teacher; and release time for mentors and new teachers. The 2011-12 grant recipients included two school districts and three regional consortia serving 26 additional school districts. The 2011-13 biennial operating budget provided \$2 million for BEST.

*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.

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, funding was differentiated based on the amount of in-weekly in-person instructional contact received by a student.

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:**

#### *Reading and Early Literacy.*

The OSPI must assist school districts to support reading and early literacy and if funds are appropriated, must deliver professional development in reading instruction for kindergarten through fourth grade (K-4) teachers. School districts are responsible for providing a comprehensive system of instruction and services in early literacy for K-4 students, including use of screening and diagnostic assessments and research-based family involvement strategies.

Report cards for K-4 students must include information on whether the student is reading at grade level. The teacher, with support of other school personnel as appropriate, must explain to the parent or guardian which interventions will be used to help improve the student's reading skills. A statewide report using disaggregated student data must be developed annually on the reading levels of K-4 students and submitted to the legislative Education Committees and the Educational Opportunity Gap Oversight and Accountability Committee.

Beginning in the 2014-15 school year, for any student who scores at a Level I (Below Basic) on the third grade ELA assessment:

- A meeting must be scheduled before the end of the school year with the student's parent or guardian to discuss appropriate grade placement and intensive improvement strategies.
- For students to be placed in fourth grade, the discussion must include an intensive improvement strategy that includes a summer program or other option identified as appropriately meeting the student's need to prepare for fourth grade.
- The student's parent or guardian must be fully informed and their consent must be obtained for the grade placement and improvement strategy, which must then be implemented by the district.

Students in special education are exempt from these policies because communication with parents and improvement strategies are based on the student's individualized education program (IEP). English language learner students are also exempt unless they have been enrolled in the Transitional Bilingual Instruction Program for three school years.

Beginning in the 2015-16 school year, school districts must implement an intensive reading improvement strategy from a state menu of best practices or an approved alternative for students scoring at Level I or Level II (Basic) on the third grade ELA assessment in the previous year. This policy does not apply to students in special education where the reading improvement strategy is based on the student's IEP.

In addition, school districts must implement a strategy from the state menu or an approved alternative for all K-4 students in any school where more than 40 percent of students scored at Level I or Level II on the third grade ELA in the previous year.

The OSPI must convene a panel of experts that includes the Washington State Institute for Public Policy (WSIPP) to develop the state menu, which must also include strategies for English language acquisition and system improvements to improve reading instruction for all students. The menu must be published by July 1, 2014, and be updated annually. A school district may use an alternative strategy that is not on the menu for two years. A district that demonstrates improvement in outcomes equivalent to the strategies on the menu may continue using the alternative, subject to annual renewal by the OSPI.

#### *Learning Assistance Program.*

The purpose of the LAP is expanded to include reducing disruptive behaviors in the classroom as well as assisting underachieving students. School districts must focus first on addressing the needs of K-4 students who are deficient in reading or reading readiness skills. Employment of parent and family engagement coordinators is an authorized use of LAP funds. School districts may use up to 5 percent of LAP funds to develop partnerships with community organizations, Educational Service Districts, and other local agencies to deliver academic and nonacademic supports to participating students to improve readiness to learn. The OSPI must approve any organization or agency before funds may be spent.

The requirement for school districts to submit LAP plans for OSPI approval is repealed. Instead, districts are required beginning in the 2014-15 school year to record annual entrance and exit performance data for LAP students in the CEDARs. Districts must also submit an annual report documenting academic growth for LAP students and specific practices and activities in each building supported by LAP funds. The OSPI must compile the district data and report annual and longitudinal performance gains, disaggregated by student subgroup and by instructional practice or activity. The OSPI must also monitor the effectiveness of district LAP practices and offer technical assistance.

In addition to the state menu for reading improvement strategies, the OSPI must convene a panel of experts that includes the WSIPP to develop menus of best practices for other interventions and support provided through the LAP. The state menus must be published by July 1, 2015, and be updated annually. Beginning in the 2016-17 school year school districts may use a strategy for other LAP support that is not on the menu for two years. A district that demonstrates improvement in outcomes equivalent to the strategies on the menu may

continue using the alternative, subject to annual renewal by the OSPI. School districts may also enter cooperative agreements with state or local agencies or other districts for administrative and operational costs associated with implementing a strategy on the state menu. School districts are encouraged to use the best practices menus before they are required.

#### *Student Discipline.*

The OSPI must convene a discipline task force to develop standard definitions for causes of student discipline and data collection standards for disciplinary actions taken at the discretion of the school district. The standards must include data about educational services provided while a student is subject to a disciplinary action. The OSPI must revise the statewide student data system to incorporate the standards recommended by the discipline task force and begin collecting data through the CEDARS beginning in the 2015-16 school year. In addition, school districts must collect specified disaggregated and cross-tabulated data for nine categories of student behavior and seven categories of interventions, as well as the number of days of suspension or expulsion. This data must be made available on the OSPI website.

Suspensions or expulsions may not last for an indefinite period of time. Emergency expulsions must end or be converted to another form of corrective action within ten school days from removal from school. Notice and due process rights must be provided when an emergency expulsion is converted to another form of corrective action.

Any suspension or expulsion from school that lasts more than ten days must have an end date no later than one calendar year from the time of the suspension or expulsion. A school may petition the superintendent of the school district based on public health or safety to exceed the calendar year limitation on suspensions and expulsions. The OSPI must adopt rules outlining the limited circumstances for exceeding the limitation, including safeguards that every effort has been made to plan for the student's return to school. Districts must report annually to the OSPI on the number of petitions submitted and approved.

Schools should make efforts to allow students who have been suspended or expelled to return to an educational setting as soon as possible and convene a school reentry meeting with the student and student's parents within 20 days of the long-term suspension or expulsion. School districts must create a reengagement plan tailored to the student's individual circumstances, including consideration of the incident that led to the long-term suspension or expulsion. Reentry meetings are not intended to replace a petition for readmission.

#### *Support for Educators.*

The Educator Support Program (ESP) is established with two components: BEST and continuous improvement coaching. If funds are appropriated, the OSPI must allocate funds for BEST on a competitive basis, with a priority given to low-performing schools. Required components of BEST are specified. Statutes pertaining to the Teacher Assistance Program are repealed. Subject to a separate specific appropriation, BEST components may be provided for continuous improvement coaching of educators on probation due to performance issues.

#### *Alternative Learning Experience Programs.*

Descriptions and references to three types of ALE programs are replaced by definitions of three types of ALE courses (or grade-level coursework for elementary grades):

- (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, but is not an online course. There is no minimum in-person contact requirement for remote courses.
- (3) An online course has the same definition as current law, with the additional stipulation that a certificated teacher has the primary responsibility for the student's instructional interaction.

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.

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. High school ALE courses must meet district or state graduation requirements and be offered for credit. Beginning with the 2013-14 school year, school districts must denote the type of ALE course in the statewide student information system. From 2013-14 through 2016-17 school districts must pay costs associated with a biennial measure of student outcomes and financial audit of ALE courses conducted by the State Auditor's Office.

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.

Statutes pertaining to ALE courses are placed in a new RCW Title, and a section of law pertaining only to online programs that duplicates other laws and rules is repealed.

Beginning with the 2013-14 school year, 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.

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.

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 education 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.

A report must be submitted to the Quality Education Council (QEC) by November 1, 2013, and the QEC must make recommendation to the Legislature by December 15, 2013.

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**Appropriation:** None.

**Fiscal Note:** Available on original bill.

**Effective Date:** This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 503 relating to a new funding allocation for ALE courses, which contains an emergency clause and takes effect immediately.