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**Education Committee**

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**HB 3038**

**Brief Description:** Regarding standards and accountability in education.

**Sponsors:** Representatives Maxwell, Priest, Sullivan, Carlyle, White, Hunt, Kagi, Anderson, Kenney, Conway, Rolfes and Clibborn.

**Brief Summary of Bill**

- Requires the Superintendent of Public Instruction (SPI) annually to identify the persistently lowest-achieving schools in the state, using federal definitions.
- Directs the SPI to recommend and the State Board of Education (SBE) to designate school districts for Required Action if they have a persistently lowest-achieving school, based on criteria established by the SPI, and subject to the availability of federal school improvement funds.
- Requires the SPI to contract for an academic performance audit for Required Action districts and requires these districts to prepare a plan to implement one of four federal intervention models in their persistently lowest-performing schools.
- Provides for re-opening or negotiating addenda to collective bargaining agreements to make changes needed to implement a Required Action plan and, if there is an impasse, provides for mediation and Superior Court order to resolve disputes.
- Requires plans to be submitted to the SBE for approval and requires districts to implement them, subject to availability of federal funds.
- Requires the SPI to revise the state learning standards and, by August 2, 2010, adopt a common set of standards that are substantially identical to those developed by a multi-state consortium.
- Requires each school to invite parents and community members to provide feedback about the school and to include a summary of this information in its annual school performance report.

**Hearing Date:** 1/27/10

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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.*

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

## **Background:**

### System of School and District Accountability.

*Introduction.* In 2005, the Legislature directed the newly-reconstituted State Board of Education (SBE) to "implement a standards-based accountability system of academic achievement". Since that time, the SBE has worked extensively to consider and develop options for such a system. In 2009, the Legislature made the direction more specific by requiring the SBE to develop:

- an accountability index to identify exemplary schools that deserve recognition, as well as schools that need additional help to improve student achievement;
- a proposal and timeline for a voluntary system of support and assistance for schools and districts; and
- a proposal and timeline for a comprehensive system of improvement targeted to schools and districts that have not demonstrated sufficient improvement through the voluntary system.

The SBE submitted its report and recommendations to the Legislature on December 1, 2009.

*Federal Accountability and School Improvement.* Washington's approach to identifying schools and districts needing improvement has followed the requirements of the federal No Child Left Behind Act of 2001 (NCLB). The NCLB requires that schools and districts make "adequate yearly progress" (AYP) by meeting established annual goals for scores on state assessments in mathematics and reading, graduation rates, and unexcused absence rates, both for all students as well as for each identified subgroup of students.

Schools are categorized as "needing improvement" if they do not make AYP for two years in a row. There are successive subcategories or steps for schools that continuously do not make AYP, including "corrective action" and "restructuring". Although the state is required to identify all schools in the various steps of needing improvement, school districts are required to take the corrective actions specified by the NCLB only in those schools that receive Title I funds.

*State Assistance to Schools and Districts Needing Improvement.* During the past six years, the Office of Superintendent of Public Instruction (SPI) has established focused assistance programs for schools that need help improving student achievement. These programs have provided needs assessments, external facilitators, coaches, professional development, planning assistance, and various other services to participating schools and districts. Federal funding is available for Title I schools; state funds have also been provided to extend the services to non-Title I schools. The total state and federal investment in focused assistance for 2009-10 was \$21 million, about \$3 million of which was from state funds.

Participation of schools and districts in focused assistance, including Title I schools, has been entirely voluntary. Washington has had a law prohibiting the SPI or the SBE from intervening in a school or district unless the Legislature authorized a set of intervention strategies. In 2009, this law was modified, but any proposal by the SBE to implement an involuntary system of assistance takes effect only if formally authorized by the Legislature.

*New Federal School Improvement Regulations.* In December 2009, the U.S. Department of Education issued new regulations governing the use of federal funds for school improvement. The American Recovery and Reinvestment Act of 2009 provides approximately \$42.5 million for school improvement to Washington over the next three years.

Under the new regulations:

- significant resources and attention are focused on the lowest 5 percent of persistently lowest-performing schools that are eligible for Title I funds;
- persistently lowest-performing schools are identified on the basis of overall performance of all students and lack of progress over time; and
- school districts are required to implement one of four federal intervention models in persistently lowest-performing schools.

The four intervention models are:

1. Turnaround: A district would be required to replace the principal, rehire no more than 50 percent of the staff, adopt a new governance structure for the school, provide high quality professional development, and use data to identify and implement a research-based instructional program;

2. Restart: A district must close the school and reopen it either as a charter school or under the management of an external education management organization;

3. Closure: A district closes the school and enrolls the students in other schools in the district that are higher-performing; or

4. Transformation: In addition to replacing the principal, a variety of required and optional activities are outlined. The activities are intended to develop teacher and leader effectiveness, implement comprehensive reform strategies, increase learning time and create community-oriented schools, and provide operational flexibility and sustained support to the new principal.

School district participation in the new federal school improvement process is voluntary.

*Proposal from the SBE.* The SBE's December 2009 report recommends implementation of a new system of state support and assistance in two phases. The first phase, to be implemented in 2010, would focus on persistently lowest-achieving schools under the new federal guidelines, using federal funds. The second phase, beginning in 2013, would include non-Title I schools and permit more flexibility in both identification of schools as well as intervention models.

The report also outlines a proposed procedure for identifying a subset of school districts that must implement SBE-approved school improvement plans (called Required Action Districts and Required Action Plans). The new Accountability Index adopted by the SBE would be used to identify exemplary schools for recognition.

**Common Core Standards.** The Superintendent of Public Instruction (SPI) is responsible for developing, adopting, and periodically revising the state learning standards. If requested, the SPI must provide opportunities for the Education Committees of the Legislature to review any proposed modifications to the standards before they are adopted.

In the spring of 2009, Washington signed a Memorandum of Understanding (MOU) to join the Common Core Standards Initiative (Initiative) along with 47 other states. The Initiative is an effort led by the National Governor's Association and the National Council of Chief State School Officers to develop a single, common set of standards for English Language Arts and mathematics in K-12, as well as a set of college and career readiness standards.

The Initiative's definition of "adoption" is that a state adopts the standards either in their entirety or with no more than 15 percent additional content within three years. The college and career readiness standards were released for comment in September 2009. The K-12 standards are scheduled to be released in January 2010. The MOU does not obligate Washington to adopt the standards.

### School Report Card.

Each school is required to publish an annual school performance report, deliver it to parents of children in the school, and make it available to the community. The minimum content of the report includes enrollment statistics and student demographics, student achievement data, an annual budget report, and a description of learning improvement plans for the school.

### **Summary of Bill:**

#### System of School and District Accountability.

*Intent.* The Legislature finds that it is the state's responsibility to create a coherent and effective accountability framework for continuous improvement for all schools and districts.

Phase I of this framework will use the State Board of Education's (SBE) Accountability Index to recognize schools that have done an exemplary job of raising student achievement and closing achievement gaps. Phase I will also target the persistently lowest-achieving schools defined under federal guidelines to provide federal funds and federal intervention models, voluntarily in 2010 and through a Required Action process in 2011.

Phase II will work toward using the Accountability Index to identify schools needing improvement, including those that are not Title I schools, and using state and local intervention models and state funds beginning in 2013, in addition to the federal program.

*Persistently Lowest-Achieving Schools.* Beginning in 2010, and each year thereafter by December 1, the Superintendent of Public Instruction (SPI) must identify schools that are the persistently lowest-achieving in the state. A school is considered persistently lowest-achieving if it:

- is among the lowest-achieving 5 percent of Title I schools in one of the steps of federal improvement, or is among the lowest-achieving five of these schools, whichever number is greater; or
- is a secondary school that is eligible for but does not receive Title I funds that is among the lowest-achieving 5 percent of these schools, or is among the lowest-achieving five of these schools, whichever number is greater.

The criteria for identifying persistently lowest-achieving schools must be established by the SPI, meet all applicable federal guidelines, and take into account the academic achievement of all students on the state assessments in reading and mathematics, as well as the school's lack of progress over time on this indicator.

*Required Action Districts.* Beginning in January 2011, the SPI must annually recommend to the State Board of Education (SBE) those school districts to be designated as Required Action districts.

Any district with at least one school identified as persistently lowest-achieving is designated as a Required Action district, based on the availability of federal school improvement grants and criteria to be developed by the SPI. However, a district will not be identified as a Required Action district if it received a federal school improvement grant in 2010 and implemented a federal intervention model in each persistently lowest-achieving school. A school district may request reconsideration of whether it met the criteria to be a Required Action district.

The SBE designates Required Action districts as recommended by the SPI. A designated district must notify the parents of students attending a persistently lowest-performing school of the designation and inform them of the process that is required for Required Action districts.

*Required Action Plan.* The SPI must contract with an external review team to conduct an academic performance audit of a Required Action district and its persistently lowest-achieving schools. The audit is based on criteria developed by the SPI, a number of which are specified.

The superintendent and school board of a Required Action district must develop a Required Action Plan (Plan) in collaboration with staff, parents, unions, students, and other representatives of the community and hold a public hearing on the proposed Plan. The SPI must provide assistance in developing a Plan if requested. The Plan is submitted first to the SPI to assure that it is consistent with federal guidelines and then submitted to the SBE for its approval.

A Plan must include all of the following:

(1) Implementation of one of four federal intervention models that are required in order to be eligible to receive federal school improvement grants. The models are the turnaround, restart, school closure, and transformation models, except that a district is not authorized to establish a charter school under one of the federal models without express legislative authorization. The model selected must address the concerns raised in the academic performance audit and be intended to allow removal of the Required Action designation within three years.

(2) Submission of an application for a federal school improvement grant to the SPI.

(3) A budget that provides adequate resources to implement the Plan.

(4) A description of the changes in policies, agreements, and practices intended to accomplish significant gains in student achievement.

(5) Identification of metrics to be used to assess student achievement in persistently lowest-achieving schools, including mathematics and reading achievement and graduation rates.

*Collective Bargaining Agreements.* For any Required Action district, the parties to any collective bargaining agreement negotiated after the bill takes effect must reopen the agreement or negotiate an addendum if changes to terms and conditions of employment are needed to implement a Plan.

If the school district and employee organizations are unable to agree to these changes, the parties must request the Public Employment Relations Commission (PERC) to appoint a mediator. Mediation must commence no later than April 15. Mediations include the employer and representatives of all affected bargaining units.

If the PERC finds that the parties are unable to reach agreement after a reasonable period, but no later than May 15, the PERC director must certify any disputed issues for a decision by the Superior Court of the county in which the district is located. The issues before the Superior Court are limited to those issues certified by the PERC director.

By May 20, the school district must file a petition with the Superior Court that includes the certified issues and the academic performance audit for the district. Each party then files the proposal that it is asking to be implemented in a Plan, along with briefs providing the reasons. The Superior Court must schedule a hearing, which is limited to argument of the parties on their proposals.

The Superior Court must enter an order selecting the proposal that best responds to the issues raised in the district's academic performance audit and allows for the award of a federal school improvement grant. Orders must be issued no later than June 15 and are binding on the parties, except that the court's decision is subject to appeal if it does not allow the district to implement a Plan that is consistent with an award of a federal school improvement grant.

Each party bears its own costs and attorneys' fees.

*Plan Approval and Implementation.* Required Action plans must be submitted to the SBE for approval. The SBE must accept any orders from a Superior Court for inclusion in a Plan. Any addendum or modification of a collective bargaining agreement does not go into effect until the SBE approves the Plan.

The SBE must explain its rationale for not approving any Plan, and the district must submit a new plan within 40 days. If federal funds are not available, a Plan is not required to be implemented. Otherwise, a Plan must be implemented in the school year immediately following designation as a Required Action district.

If a district has not submitted a final Plan for approval by the SBE, or has submitted a Plan but not received approval, the SBE is authorized to direct the SPI to redirect the district's Title I funds based on the academic performance audit.

The SPI must provide a biannual report to the SBE on the progress of all Required Action districts in implementing their Plans. The SPI must recommend that a district be released from Required Action after the district implements a Plan for three years, has made progress (as defined by the SPI), and no longer has a persistently lowest-performing school. If the SBE

determines that a district has not made sufficient progress, the district remains in Required Action.

*Other.* The SBE, in cooperation with the SPI, must annually recognize schools for exemplary student performance, as measured by the SBE Accountability Index.

Provisions of law directing the SBE to develop and submit proposals to the Legislature for an accountability system are repealed, including a requirement that a proposal for addressing performance challenges takes effect only if formally authorized by the Legislature.

#### Common Core Standards.

The SPI is directed to revise the state standards in mathematics, reading, writing, and communication by August 2, 1010, by adopting a common set of standards that are substantially identical to the ones developed by a multi-state consortium in which Washington participated. Additional standards may be included if they do not exceed 15 percent of the standards in each content area.

#### School Report Card.

Beginning in 2010-11, each school must annually invite parents and community members to provide feedback on their experience with the school. Schools must summarize the feedback and include it in the annual school performance report.

**Appropriation:** None.

**Fiscal Note:** Requested January 21, 2010.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.