H-4503.1
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## HOUSE BILL 3038

State of Washington 61st Legislature 2010 Regular Session

By Representatives Maxwell, Priest, Sullivan, Carlyle, White, Hunt, Kagi, Anderson, Kenney, Conway, Rolfes, and Clibborn

Read first time 01/21/10. Referred to Committee on Education.

AN ACT Relating to standards and accountability in education; amending RCW 28A.305.225 and 28A.655.110; adding new sections to chapter 28A.300 RCW; adding a new section to chapter 28A.305 RCW; adding a new section to chapter 28A.320 RCW; adding new sections to chapter 28A.655 RCW; and creating a new section.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 PART I

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8 ACCOUNTABILITY FRAMEWORK

The legislature finds that it is the NEW SECTION. Sec. 101. responsibility to create a coherent and effective state's accountability framework for the continuous improvement for all schools and districts. This system must provide an excellent and equitable education for all students; an aligned federal/state accountability system; and the tools necessary for schools and districts to be accountable. These tools include the necessary accounting and data reporting systems, assessment systems to monitor student achievement, and a system of general support, targeted assistance, and if necessary, intervention.

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The office of the superintendent of public instruction responsible for developing and implementing the accountability tools to build district capacity and working within federal and state quidelines. The legislature assigned the state board of education responsibility and oversight for creating an accountability framework. This framework provides a unified system of support for challenged schools that aligns with basic education, increases the level of support based upon the magnitude of need, and uses data for decisions. Such a system will identify schools and their districts for recognition as well as for additional state support. For a specific group of challenged schools, defined as persistently low-achieving schools, and their districts, it is necessary to provide a required action process that creates a partnership between the state and local district to target funds and assistance to turn around the identified low achieving schools.

Phase I of this accountability system will recognize schools that have done an exemplary job of raising student achievement and closing the achievement gaps using the state board of education's accountability index. Phase I will also target the lowest five percent of persistently low-achieving schools defined under federal guidelines to provide federal funds and federal intervention models through a voluntary option in 2010, and for those who do not volunteer and have not improved student achievement, a required action process in 2011.

Phase II of this accountability system will work toward implementing the state board of education's accountability index for identification of schools in need of improvement, including those that are not Title I schools, and the use of state and local intervention models and state funds through a required action process beginning in 2013, in addition to the federal program. Federal approval of the state board of education's accountability index must be obtained or else the federal guidelines for persistently low-achieving schools will continue to be used.

The expectation from implementation of this accountability system is the improvement of student achievement for all students to prepare them for postsecondary education, work, and global citizenship in the twenty-first century.

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NEW SECTION. **Sec. 102.** A new section is added to chapter 28A.300 RCW to read as follows:

- (1) Beginning in 2010, and each year thereafter, by December 1st, the superintendent of public instruction shall annually identify schools that are the persistently lowest-achieving schools in the state. A school shall be identified as one of the state's persistently lowest-achieving schools if:
- (a) The school is a Title I school in improvement, corrective action, or restructuring that is among the lowest-achieving five percent of Title I schools in improvement, corrective action, or restructuring, or the lowest-achieving five Title I schools in improvement, corrective action, or restructuring, whichever number of schools is greater; or
- (b) The school is a secondary school that is eligible for, but does not receive Title I funds that is among the lowest-achieving five percent of secondary schools, or the lowest achieving five secondary schools that is eligible for but does not receive Title I funds, whichever number is greater.
- (2) The criteria for determining whether a school is among the lowest-achieving five percent of Title I schools, or Title I eligible schools, under subsection (1) of this section shall be established by the superintendent of public instruction, meet all applicable federal guidelines, and take into account both:
- (a) The academic achievement of the "all students" group in a school in terms of proficiency on the state's assessment, and any alternative assessments, in reading and mathematics combined; and
- 27 (b) The school's lack of progress on the mathematics and reading 28 assessments over a number of years in the "all students" group.
- NEW SECTION. Sec. 103. A new section is added to chapter 28A.300 RCW to read as follows:
  - (1) Beginning in January 2011, the superintendent of public instruction shall annually recommend to the state board of education school districts for designation as required action districts. A district with at least one school identified as a persistently low-achieving school shall be designated as a required action district based on the availability of federal school improvement grants and criteria developed by the superintendent. However, a school district

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shall not be recommended for designation as a required action district if the district was awarded a federal school improvement grant by the superintendent in 2010 and implemented a federal school intervention model at each school identified as a persistently low-achieving school in the district.

- (2) The superintendent of public instruction shall provide a school district superintendent with written notice of the recommendation for designation as a required action district by certified mail or personal service. A school district superintendent may request reconsideration of the superintendent of public instruction's recommendation. The reconsideration shall be limited to a determination of whether the school district met the criteria for being recommended as a required action district. A request for reconsideration must be in writing and served on the superintendent of public instruction within ten days of service of the notice of the superintendent's recommendation.
- (3) The state board of education shall annually designate those districts recommended by the superintendent in subsection (2) of this section as required action districts. A district designated as a required action district shall be required to notify all parents of students attending a school identified as a persistently low-achieving school in the district of the state board of education's designation of the district as a required action district and the process for complying with the requirements set forth in sections 104 through 109 of this act.

NEW SECTION. Sec. 104. A new section is added to chapter 28A.300 RCW to read as follows:

The superintendent of public instruction shall contract with an external review team to conduct an academic performance audit of the district of each persistently low-achieving school in a required action district to identify the potential reasons for the school's low performance and lack of progress. The review team must consist of persons under contract with the superintendent who have expertise in comprehensive school and district reform and may not include staff from the agency, the school district that is the subject of the audit, or members or staff of the state board of education. The audit must be conducted based on criteria developed by the superintendent of public instruction and must include but not be limited to: Examining student

demographics and mobility patterns; school feeder patterns; the 1 2 performance of different student groups on assessments; effective school leadership; strategic allocation of resources; clear and shared 3 4 focus on student learning; high standards and expectations for all students; high level of collaboration and communication; aligned 5 6 curriculum, instruction, and assessment to state standards; frequency 7 monitoring of learning and teaching; focused professional 8 development; supportive learning environment; high level of family and 9 community involvement; and alternative secondary schools practices. Audit findings must be made available to the local school 10 11 district, its staff, the community, and the state board of education.

NEW SECTION. Sec. 105. A new section is added to chapter 28A.300 RCW to read as follows:

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- (1) The superintendent and local school board of a school district designated as a required action district must submit a required action plan to the state board of education for approval. Unless otherwise required by subsection (3) of this section, the plan must be submitted under a schedule as required by the state board. A required action plan must be developed in collaboration with administrators, teachers, and other staff, parents, unions representing any employees within the district, students, and other representatives of the local community. The superintendent of public instruction shall provide a district with assistance in developing its plan if requested. The school board must conduct a public hearing to allow for comment on a proposed required action plan. The local school district shall submit the plan first to the office of the superintendent of public instruction to review and approve that the plan is consistent with federal guidelines. After the office of the superintendent of public instruction has approved that the plan is consistent with federal guidelines, the local school district must submit its required action plan to the state board of education for approval.
  - (2) A required action plan must include all of the following:
- (a) Implementation of one of the four federal intervention models required for the receipt of school improvement grants under the American recovery and reinvestment act of 2009 and Title I of the elementary and secondary education act of 1965, as amended. However, a district may not establish a charter school under a federal

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- intervention model without express legislative authority. The intervention models are the turnaround, restart, school closure, and transformation models. The intervention model selected must address the concerns raised in the academic performance audit and be intended to improve student performance to allow a school district to be removed from the list of districts designated as a required action district by the state board of education within three years of implementation of the plan;
  - (b) Submission of an application for a federal school improvement grant to the superintendent of public instruction;

- (c) A budget that provides for adequate resources to implement the federal model selected and any other requirements of the plan;
- (d) A description of the changes in the district's or school's existing policies, structures, agreements, processes, and practices that are intended to attain significant achievement gains for all students enrolled in the school;
- (e) Identification of the metrics that the school district will use in assessing student achievement at a school identified as a persistently low achieving school, which include improving mathematics and reading student achievement and graduation rates as defined by the state that enable the schools to no longer be identified as one of the persistently lowest achieving schools.
- (3)(a) For any district designated for required action, the parties to any collective bargaining agreement negotiated under chapter 41.59 or 41.56 RCW after the effective date of this section must reopen the agreement, or negotiate an addendum, if needed, to make changes to terms and conditions of employment that are necessary to implement an appropriate required action plan.
- (b) If the school district and the employee organizations are unable to agree on the terms of an addendum or modification to an existing collective bargaining agreement, the parties, including all affected labor organizations, shall request the public employment relations commission to, and the commission shall, appoint an employee of the commission to act as a mediator to assist in the resolution of a dispute between the school district and the employee organizations. Beginning in 2011, and each year thereafter, mediation shall commence no later than April 15th. All mediations held under this section shall

include the employer and representatives of all affected bargaining units.

- (c) If the executive director of the public employment relations commission, upon the recommendation of the assigned mediator, finds that the employer and any affected bargaining unit are unable to reach agreement following a reasonable period of negotiations and mediation, but by no later than May 15th of the year in which mediation occurred, the executive director shall certify any disputed issues for a decision by the superior court in the county where the school district is located. The issues for determination by the superior court must be limited to the issues certified by the executive director and must be resolved by the court in the same proceeding.
- (d) The process in this subsection (3)(d) must be used in the case where the executive director certifies issues for a decision by the superior court.
  - (i) The school district shall file a petition with the superior court, by no later than May 20th of the same year in which the issues were certified, setting forth the following:
  - (A) The name, address, and telephone number of the school district and its principal representative;
  - (B) The name, address, and telephone number of the employee organizations and their principal representatives;
    - (C) A description of the bargaining units involved;
  - (D) The unresolved issues certified by the executive director for a final and binding decision by the court; and
  - (E) The academic performance audit that the office of the superintendent of public instruction completed for the school district.
  - (ii) Within seven days after the filing of the petition, each party shall file with the court the proposal it is asking the court to order be implemented in a required action plan for the district for each issue certified by the executive director. Contemporaneously with the filing of the proposal, a party must file a brief with the court setting forth the reasons why the court should order implementation of its proposal in the final plan.
- (iii) Following receipt of the proposals and briefs of the parties, the court must schedule a date and time for a hearing on the petition. The hearing must be limited to argument of the parties or their counsel

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regarding the proposals submitted for the court's consideration. The parties may waive a hearing by written agreement.

- (iv) The court must enter an order selecting the proposal for inclusion in a required action plan that best responds to the issues raised in the school district's academic performance audit, and allows for the award of a federal school improvement grant to the district from the office of the superintendent of public instruction to implement one of the four federal intervention models. The court's decision must be issued no later than June 15th of the year in which the petition is filed and is final and binding on the parties, however the court's decision is subject to appeal only in the case where it does not allow the school district to implement a required action plan consistent with the requirements for the award of a federal school improvement grant by the superintendent of public instruction.
- (e) Each party shall bear its own costs and attorneys' fees incurred under this statute.
  - (f) Any party that proceeds with the process in this section after knowledge that any provision of this section has not been complied with and who fails to state its objection in writing is deemed to have waived its right to object.
- (4) All contracts entered into between a school district and an employee must be consistent with this chapter and allow school districts designated as required action districts to implement one of the four federal models in a required action plan.

NEW SECTION. Sec. 106. A new section is added to chapter 28A.300 RCW to read as follows:

A required action plan developed by a district's school board and superintendent must be submitted to the state board of education for approval. The state board must accept for inclusion in any required action plan the final decision by the superior court on any issue certified by the executive director of the public employment relations commission under the process in section 105 of this act. The state board of education shall approve a plan proposed by a school district only if it meets the requirements set forth in section 105 of this act. Any addendum or modification to an existing collective bargaining agreement related to student achievement or school improvement shall not go into effect until approval of a required action plan by the

state board of education. If the state board does not approve a 1 2 proposed plan, it must notify the local school board and local districts' superintendent in writing with an explicit rationale for why 3 4 the plan was not approved. Nonapproval by the state board of education of the local school district's required action plan is not intended to 5 6 trigger any actions under section 107 of this act. With the assistance 7 of the office of the superintendent of public instruction, the 8 superintendent and school board of the required action district shall 9 submit a new plan to the state board of education for approval within forty days of notification that its plan was rejected. 10 11 funds are not available, the plan is not required to be implemented 12 until such funding becomes available. A required action plan must be 13 implemented in the immediate school year following the district's 14 designation as a required action district.

NEW SECTION. Sec. 107. A new section is added to chapter 28A.305 RCW to read as follows:

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The state board of education may direct the superintendent of public instruction to require a school district that has not submitted a final required action plan for approval, or has submitted but not received state board of education approval of a required action plan, to redirect the district's Title I funds based on the academic performance audit findings.

NEW SECTION. Sec. 108. A new section is added to chapter 28A.320 RCW to read as follows:

A school district must implement a required action plan upon approval by the state board of education. The office of superintendent of public instruction must provide the required action district with technical assistance and eligible federal school improvement grant funds to implement its plan. The district must submit reports as specified by the superintendent of public instruction to the superintendent regarding its progress in meeting student the achievement goals set forth in the required action plan.

NEW SECTION. Sec. 109. A new section is added to chapter 28A.300 RCW to read as follows:

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(1) The superintendent of public instruction must provide a biannual report to the state board of education regarding the progress made by all school districts designated as required action districts.

- (2) The superintendent of public instruction must recommend to the state board of education that a school district be released from the designation as a required action district after the district implements a required action plan for a period of three years; made progress, as defined by the superintendent of public instruction, in reading and mathematics on the state's assessment over the past three consecutive years; and no longer has a school within the district identified as persistently low achieving. The state board shall release a school district from the designation as a required action district upon confirmation that the district has met the requirements for a release.
- (3) If the state board of education determines that the required action district has not made sufficient progress, the district remains in required action.
  - Sec. 110. RCW 28A.305.225 and 2009 c 548 s 503 are each amended to read as follows:
  - (1) The state board of education shall continue to refine the development of an accountability framework that creates a unified system of support for challenged schools, that aligns with basic education, increases the level of support based upon the magnitude of need, and uses data for decisions.
  - (2) The state board of education shall develop an accountability index to identify schools and districts for recognition, for continuous improvement, and for additional state support. The index shall be based on criteria that are fair, consistent, and transparent. Performance shall be measured using multiple outcomes and indicators including, but not limited to, graduation rates and results from statewide assessments. The index shall be developed in such a way as to be easily understood by both employees within the schools and districts, as well as parents and community members. It is the legislature's intent that the index provide feedback to schools and districts to self-assess their progress, and enable the identification of schools with exemplary student performance and those that need assistance to overcome challenges in order to achieve exemplary student performance. ((Once the accountability index has identified schools

that need additional help, a more thorough analysis will be done to analyze specific conditions in the district including but not limited to the level of state resources a school or school district receives in support of the basic education system, achievement gaps for different groups of students, and community support.

(3) Based on the accountability index and in consultation with the superintendent of public instruction, the state board of education shall develop a proposal and timeline for implementation of a comprehensive system of voluntary support and assistance for schools and districts. The timeline must take into account and accommodate capacity limitations of the K-12 educational system. Changes that have a fiscal impact on school districts, as identified by a fiscal analysis prepared by the office of the superintendent of public instruction, shall take effect only if formally authorized by the legislature through the omnibus appropriations act or other enacted legislation.

(4)(a) The state board of education shall develop a proposal and implementation timeline for a more formalized comprehensive system improvement targeted to challenged schools and districts that have not demonstrated sufficient improvement through the voluntary system. The timeline must take into account and accommodate capacity limitations of the K-12 educational system. The proposal and timeline shall be submitted to the education committees of the legislature by December 1, 2009, and shall include recommended legislation and recommended resources to implement the system according to the timeline developed.

(b) The proposal shall outline a process for addressing performance challenges that will include the following features: (i) An academic performance audit using peer review teams of educators that considers school and community factors in addition to other factors in developing recommended specific corrective actions that should be undertaken to improve student learning; (ii) a requirement for the local school board plan to develop and be responsible for implementation of corrective action plan taking into account the audit findings, which plan must be approved by the state board of education at which time the plan becomes binding upon the school district to implement; and (iii) monitoring of local district progress by the office of the superintendent of public instruction. The proposal shall take effect only if formally authorized by the legislature through the omnibus appropriations act or other enacted legislation.

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- (5)) (3) The state board of education, in cooperation with the office of the superintendent of public instruction, shall annually recognize schools for exemplary student performance as measured on the state board of education accountability index.
- (4) In coordination with the superintendent of public instruction, the state board of education shall seek approval from the United States department of education for use of the accountability index and the state system of support, assistance, and intervention, to replace the federal accountability system under P.L. 107-110, the no child left behind act of 2001.
- 11 (((6))) (5) The state board of education shall work with the 12 education data center established within the office of financial 13 management and the technical working group established in section 112, chapter 548, Laws of 2009 to determine the feasibility of using the 14 prototypical funding allocation model as not only a tool for allocating 15 resources to schools and districts but also as a tool for schools and 16 districts to report to the state legislature and the state board of 17 18 education on how the state resources received are being used.
- NEW SECTION. Sec. 111. A new section is added to chapter 28A.300 RCW to read as follows:
- 21 The definitions in this section apply throughout sections 102 22 through 106 of this act unless the context clearly requires otherwise.
  - (1) "All students group" means those students in grades three through eight and high school who take the state's assessment in reading and mathematics required under 20 U.S.C. Sec. 6311(b)(3).
  - (2) "Schools in improvement, corrective action, or restructuring" means a school in improvement, a school in corrective action, or a school in restructuring. As used in this section:
- 29 (a) A "school in improvement" is a public school that is identified 30 by a school district for school improvement under 34 CFR Sec. 200.32;
- 31 (b) A "school in corrective action" is a public school that is 32 identified by a school district for corrective action under 34 CFR Sec.
- 33 200.33; and

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34 (c) A "school in restructuring" is a public school that is required 35 to prepare a restructuring plan for the school and make arrangements to 36 implement the plan under 34 CFR Sec. 200.34.

1 (3) "Title I" means Title I, part A of the federal elementary and 2 secondary education act of 1965 (ESEA) (20 U.S.C. Secs. 6311-6322).

3 PART II

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## 4 COMMON CORE STANDARDS ADOPTION

5 <u>NEW SECTION.</u> **Sec. 201.** A new section is added to chapter 28A.655 6 RCW to read as follows:

By August 2, 2010, the superintendent of public instruction shall revise the essential academic learning requirements and standards authorized under RCW 28A.655.070 for mathematics, reading, writing, and communication by adopting a common set of standards for students in kindergarten through grade twelve. The revised essential academic learning requirements and standards: (1) Shall be consistent with the requirements of RCW 28A.655.070; (2) shall define what students must know and be able to do and be substantially identical with the standards developed by a multistate consortium in which Washington participated; and (3) may include additional standards, if the additional standards do not exceed fifteen percent of the standards for each content area.

19 PART III

## ACCOUNTABILITY TO PARENTS AND COMMUNITY

NEW SECTION. Sec. 301. A new section is added to chapter 28A.655 22 RCW to read as follows:

Beginning with the 2010-11 school year, each school shall annually invite parents and community members to provide feedback regarding their experiences with the school. The school shall summarize the responses in its annual report under RCW 28A.655.110.

- 27 **Sec. 302.** RCW 28A.655.110 and 1999 c 388 s 303 are each amended to 28 read as follows:
- 29 (1) Beginning with the 1994-95 school year, to provide the local 30 community and electorate with access to information on the educational 31 programs in the schools in the district, each school shall publish 32 annually a school performance report and deliver the report to each 33 parent with children enrolled in the school and make the report

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available to the community served by the school. 1 The annual 2 performance report shall be in a form that can be easily understood and be used by parents, guardians, and other members of the community who 3 4 are not professional educators to make informed educational decisions. As data from the assessments in RCW 28A.655.060 becomes available, the 5 6 annual performance report should enable parents, educators, and school board members to determine whether students in the district's schools 7 8 are attaining mastery of the student learning goals under RCW 9 28A.150.210, and other important facts about the schools' performance in assisting students to learn. The annual report 10 shall make 11 comparisons to a school's performance in preceding years ((and shall 12 include school level goals under RCW 28A.655.050)), student performance 13 relative to the goals and the percentage of students performing at each level of the assessment, a comparison of student performance at each 14 15 level of the assessment to the previous year's performance, and information regarding school-level plans to achieve the goals. 16

(2) The annual performance report shall include, but not be limited to: (a) A brief statement of the mission of the school and the school district; (b) enrollment statistics including student demographics; (c) expenditures per pupil for the school year; (d) a summary of student scores on all mandated tests; (e) a concise annual budget report; (f) student attendance, graduation, and dropout rates; (g) information regarding the use and condition of the school building or buildings; (h) a brief description of the learning improvement plans for the school; (i) a summary of the feedback from parents and community members obtained under section 301 of this act; and (((i))) (j) an invitation to all parents and citizens to participate in school activities.

(3) The superintendent of public instruction shall develop by June 30, 1994, and update periodically, a model report form, which shall also be adapted for computers, that schools may use to meet the requirements of subsections (1) and (2) of this section. In order to make school performance reports broadly accessible to the public, the superintendent of public instruction, to the extent feasible, shall make information on each school's report available on or through the superintendent's internet web site.

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