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SENATE BILL 5329

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State of Washington

63rd Legislature

2013 Regular Session

By Senators Litzow, Hobbs, Fain, Hatfield, Tom, Frockt, and Roach

Read first time 01/28/13. Referred to Committee on Early Learning & K-12 Education.

1 AN ACT Relating to creating the state superintendent school  
2 district; amending RCW 28A.310.140; adding a new section to chapter  
3 41.56 RCW; adding a new section to chapter 41.59 RCW; adding a new  
4 section to chapter 28A.315 RCW; adding a new section to chapter 28A.323  
5 RCW; adding a new section to chapter 28A.343 RCW; and adding a new  
6 chapter to Title 28A RCW.

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

8 NEW SECTION. **Sec. 1.** FINDING. The legislature finds that despite  
9 efforts to identify and provide various forms of assistance to schools  
10 and school districts that are struggling to improve student  
11 achievement, there remain a small number of schools that are  
12 persistently lowest-achieving and not making progress. Incremental  
13 change has not been a successful strategy to turn around the  
14 performance of these schools. Rather, a more dramatic transformation  
15 of school governance, staffing, leadership, and management is necessary  
16 to allow these schools first to recover, and then to be successful on  
17 an ongoing basis. Transformation requires innovation and leadership  
18 from the state level, along with the structures, resources, and

1 expertise to implement change that will quickly improve student  
2 performance.

3 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this  
4 section apply throughout this chapter unless the context clearly  
5 requires otherwise.

6 (1) "Learning management organization" means a nonprofit  
7 corporation with expertise in managing both the daily operations and  
8 the academic and instructional learning environment of a school under  
9 a contract with the governing authority of the school. A learning  
10 management organization must be either a public benefit nonprofit  
11 corporation as defined in RCW 24.03.490, or a nonprofit corporation as  
12 defined in RCW 24.03.005 that has applied for tax-exempt status under  
13 section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec.  
14 501(c)(3)).

15 (2) "Original school district" means the school district within  
16 whose boundaries a school is located and does not include the state  
17 superintendent district.

18 (3) "State superintendent district" means an office within the  
19 office of the superintendent of public instruction that has been  
20 assigned the powers and responsibilities of a school district as  
21 provided under this chapter.

22 (4) "State superintendent district school" means a school that has  
23 been temporarily transferred from its original school district to the  
24 jurisdiction of the state superintendent district as provided under  
25 this chapter.

26 NEW SECTION. **Sec. 3.** STATE SUPERINTENDENT DISTRICT. (1) The  
27 state superintendent district is hereby established as a statewide  
28 school district within the state of Washington. The superintendent of  
29 public instruction shall exercise all powers and responsibilities  
30 assigned under this title to a school district board of directors for  
31 the governance and oversight of the state superintendent district,  
32 including under RCW 28A.150.230 and 28A.320.015, except as otherwise  
33 provided in this chapter.

34 (2) The state superintendent district and the superintendent of  
35 public instruction as the governing authority of the district have

1 jurisdiction over all state superintendent district schools that have  
2 been temporarily transferred to the district under section 4 of this  
3 act.

4 (3) The state superintendent district is not a local taxing  
5 district and the superintendent of public instruction may not levy  
6 taxes under RCW 84.52.053. The superintendent of public instruction  
7 may not buy or sell real property under RCW 28A.335.120 or incur bonded  
8 indebtedness under RCW 28A.530.010 or 28A.530.080, and does not have  
9 the power of eminent domain under RCW 28A.335.220. The state treasurer  
10 shall act as the treasurer for the state superintendent district, with  
11 the same responsibilities for state superintendent district funds as  
12 are assigned by law to the county treasurer for local school district  
13 funds.

14 (4) The state superintendent district shall be designated as a  
15 local education agency of the state under applicable federal laws and  
16 rules and is responsible for meeting the requirements of local  
17 education agencies under those laws and rules, including those  
18 regarding the receipt and expenditure of federal funds.

19 NEW SECTION. **Sec. 4.** STATE SUPERINTENDENT DISTRICT SCHOOLS--  
20 TRANSFER. (1) Beginning in January 2014, the superintendent of public  
21 instruction shall annually recommend to the state board of education  
22 schools for temporary transfer to the jurisdiction of the state  
23 superintendent district.

24 (2) The superintendent of public instruction shall adopt criteria  
25 for the recommendation, including:

26 (a) The school has been identified under RCW 28A.657.020 as a  
27 persistently lowest-achieving school and is furthermore among the  
28 persistently lowest-achieving of these schools;

29 (b) The school is not the subject of a required action plan in a  
30 required action district under chapter 28A.657 RCW, except that a  
31 school that has been the subject of a required action plan for at least  
32 three years and has not been released from required action under RCW  
33 28A.657.100 may be recommended for transfer to the state superintendent  
34 district; and

35 (c) The school is not the subject of a currently active federal  
36 school improvement grant.

1 (3) No more than twenty schools that meet the superintendent's  
2 criteria may be transferred to the state superintendent district each  
3 single year.

4 (4) The superintendent of public instruction shall provide a school  
5 district superintendent with written notice of the recommendation for  
6 transfer of a school to the state superintendent district by certified  
7 mail or personal service. A school district superintendent may request  
8 reconsideration of the superintendent of public instruction's  
9 recommendation. The reconsideration is limited to a determination of  
10 whether the school met the criteria for being recommended for transfer  
11 to the state superintendent district. A request for reconsideration  
12 must be in writing and served on the superintendent of public  
13 instruction within ten days of service of the notice of the  
14 superintendent's recommendation.

15 (5) The state board of education must consider the recommendations  
16 of the superintendent of public instruction under subsection (1) of  
17 this section at a public meeting. The state board of education may  
18 modify the superintendent's recommendations before directing the annual  
19 transfer of schools to the jurisdiction of the state superintendent  
20 district. The transfer shall take effect on September 1st following  
21 the board's decision.

22 (6) During the period of time between the board's decision and the  
23 effective date of the transfer of a school under this section, the  
24 original school district must cooperate with the superintendent of  
25 public instruction in developing a transfer plan, including but not  
26 limited to providing necessary financial and staffing information to  
27 the superintendent.

28 NEW SECTION. **Sec. 5.** LEARNING MANAGEMENT ORGANIZATION CONTRACTS.

29 (1) The superintendent of public instruction shall contract with a  
30 learning management organization for the management and operation of  
31 each state superintendent district school. A learning management  
32 organization may manage more than one state superintendent district  
33 school, but each school shall be the subject of a separate contract.  
34 The term of a contract under this section shall be no more than three  
35 years. A learning management organization may apply for renewal of a  
36 contract. The superintendent of public instruction shall use the

1 performance framework established under this section as a primary  
2 determining factor in awarding or denying a contract renewal.

3 (2) The superintendent's requests for proposals for learning  
4 management organizations must require an applicant to provide:

5 (a) The applicant's strategic vision for operation, management, and  
6 transformation of a persistently lowest-achieving school;

7 (b) A plan to support the vision presented, including explanation  
8 and evidence of the applicant's budget and personnel capacity and  
9 commitment to execute the responsibilities of school operation and  
10 management;

11 (c) A draft of the performance framework that the applicant would  
12 use to guide the transformation of the school; and

13 (d) A statement of assurance that the applicant will provide public  
14 accountability and transparency in all matters concerning practices,  
15 decisions, and expenditures related to its management of a state  
16 superintendent district school.

17 (3) A contract with a learning management organization must contain  
18 a performance framework that clearly sets forth the academic and  
19 operational performance indicators, measures, and metrics for the  
20 improvement of student learning in the state superintendent district  
21 school. Annual performance targets must be established under the  
22 contract. The learning management organization must develop, oversee,  
23 and implement a school transformation plan based on the performance  
24 framework.

25 (4) At a minimum, the performance framework must include  
26 indicators, measures, and metrics for:

27 (a) Student academic proficiency;

28 (b) Student academic growth;

29 (c) Achievement gaps in both proficiency and growth between major  
30 student subgroups;

31 (d) Attendance;

32 (e) Recurrent enrollment from year to year;

33 (f) Graduation rates and postsecondary readiness, for high schools;

34 (g) Financial performance and sustainability; and

35 (h) Performance and stewardship by the learning management  
36 organization, including compliance with all applicable laws, rules, and  
37 terms of the contract with the superintendent of public instruction.

1 (5) The superintendent of public instruction and the learning  
2 management organization may also include additional rigorous, valid,  
3 and reliable indicators in the performance framework to augment  
4 external evaluations of the performance of the state superintendent  
5 district school.

6 (6) The performance framework must require the disaggregation of  
7 all student performance data by major student subgroups, including  
8 gender, race and ethnicity, poverty status, special education status,  
9 English learner status, and highly capable status.

10 (7) A contract with a learning management organization must include  
11 expectations and indicators for parent and community involvement in the  
12 state superintendent district school. The learning management  
13 organization must establish and hold regular public meetings with a  
14 standing parent and community advisory committee.

15 (8) A learning management organization may contract with  
16 individuals, organizations, educational service districts, and school  
17 districts including the original school district to provide goods and  
18 services to a state superintendent district school.

19 NEW SECTION. **Sec. 6.** STATE SUPERINTENDENT DISTRICT EMPLOYEES.

20 (1) The original school district must notify all certificated and  
21 classified employees assigned to a school that is scheduled to be  
22 transferred to the state superintendent district under section 4 of  
23 this act that their employment contracts shall be nonrenewed at the end  
24 of the school year before the transfer takes effect. The transfer of  
25 the school of assignment to the jurisdiction of the state  
26 superintendent district where the superintendent of public instruction  
27 has governing authority, including over the employment of necessary  
28 staff, constitutes probable cause for contract nonrenewal. For  
29 certificated employees, the notice must comply with the provisions of  
30 RCW 28A.405.210 and 28A.405.220.

31 (2) Certificated and classified employees assigned to a school that  
32 is scheduled to be transferred to the state superintendent district may  
33 apply to the original school district for a transfer of assignment  
34 within the original district, which request must be considered  
35 according to the policies and procedures of the district regarding  
36 transfers of assignment.

1 (3) The superintendent of public instruction shall exercise the  
2 powers of a school district board of directors under RCW 28A.400.300  
3 with regard to employment of certificated and classified employees who  
4 shall be considered employees of the state superintendent district.

5 (4) Under the terms of the contracts executed under section 5 of  
6 this act, the superintendent must delegate to the learning management  
7 organization the responsibility to hire, assign, evaluate, and dismiss  
8 all staff of a state superintendent district school.

9 (5) Classified and certificated staff previously assigned to a  
10 school that is transferred to the state superintendent district may  
11 apply to the learning management organization to become employees of  
12 the state superintendent district assigned to that school.

13 (6) Years of service in a state superintendent district school by  
14 certificated instructional staff shall be included in the years of  
15 service calculation for purposes of the statewide salary allocation  
16 schedule under RCW 28A.150.410.

17 NEW SECTION. **Sec. 7.** STATE SUPERINTENDENT DISTRICT STUDENTS. (1)

18 The original school district must notify all parents of students  
19 attending a school scheduled to be transferred to the state  
20 superintendent district of the state board of education's decision to  
21 transfer the school.

22 (2) A parent of a student scheduled to attend a state  
23 superintendent district school must be permitted to transfer the  
24 student to another school within the original school district, but may  
25 be required to follow other school assignment policies of the original  
26 school district.

27 (3) Except for transfers requested by a parent under this section,  
28 assignment of students to a state superintendent district school must  
29 be based on the same policies for student assignment to other schools  
30 in the original school district.

31 (4) Students enrolled in a state superintendent district school may  
32 participate in interscholastic and extracurricular activities offered  
33 by the original school district in the same manner as other students  
34 enrolled in the original school district, including being required to  
35 pay fees to participate in extracurricular activities.

1        NEW SECTION.    **Sec. 8.**    STATE SUPERINTENDENT DISTRICT SCHOOLS--  
2 APPLICABILITY OF STATE LAWS.    (1) The superintendent of public  
3 instruction, as the governing authority of the state superintendent  
4 district, and the schools transferred to its jurisdiction are exempt  
5 from all state statutes and rules applicable to school districts and  
6 school district boards of directors, except those statutes and rules  
7 made applicable under this chapter.

8        (2) The state superintendent district and all state superintendent  
9 district schools must:

10        (a) Comply with state and federal health, safety, parents' rights,  
11 civil rights, and nondiscrimination laws applicable to school districts  
12 and to the same extent as school districts, including but not limited  
13 to chapter 28A.642 RCW (discrimination prohibition) and chapter 28A.640  
14 RCW (sexual equality);

15        (b) Provide instruction in the essential academic learning  
16 requirements and participate in the statewide student assessment system  
17 as provided under RCW 28A.655.070;

18        (c) Employ certificated instructional staff as required in RCW  
19 28A.410.025, however the state superintendent district may hire  
20 noncertificated instructional staff of unusual competence and in  
21 exceptional cases as specified in RCW 28A.150.203(7);

22        (d) Comply with the employee record check requirements in RCW  
23 28A.400.303;

24        (e) Adhere to generally accepted accounting principles and be  
25 subject to financial examinations and audits as determined by the state  
26 auditor, including annual audits for legal and fiscal compliance;

27        (f) Comply with the annual performance report under RCW  
28 28A.655.110;

29        (g) Be subject to the performance improvement goals adopted by the  
30 state board of education under RCW 28A.305.130;

31        (h) Comply with the open public meetings act in chapter 42.30 RCW  
32 and open public records requirements in RCW 42.56.040; and

33        (i) Be subject to and comply with legislation enacted after the  
34 effective date of this section governing the operation and management  
35 of the state superintendent district.

36        NEW SECTION.    **Sec. 9.**    FUNDING.    (1) According to the schedule  
37 established under RCW 28A.510.250, the superintendent of public



1 instruction shall deduct from the apportionment payments due to an  
2 original school district funding for each annual average full-time  
3 equivalent student enrolled in a state superintendent district school,  
4 including general apportionment, special education, categorical, and  
5 other nonbasic education moneys including local effort assistance.  
6 Categorical funding must be deducted for a state superintendent  
7 district school based on the same funding criteria used for other  
8 public schools, except that the superintendent of public instruction is  
9 exempt from rules and statutes regarding the expenditure of these  
10 funds.

11 (2) The superintendent of public instruction shall place the  
12 deducted funds in a separate account for each state superintendent  
13 district school, and funds in such an account may be spent only in  
14 support of that school. Any unspent funds at the end of a school  
15 fiscal year remain in the account to be used in future years for the  
16 benefit of that school.

17 (3) Federal funds that are made available to the state  
18 superintendent district as a local education agency must be apportioned  
19 among the state superintendent district schools by the superintendent  
20 of public instruction based on the programs and criteria that generated  
21 the funds.

22 (4) State funds deducted from the apportionment of an original  
23 school district under subsection (1) of this section and federal funds  
24 apportioned to a state superintendent district school under subsection  
25 (3) of this section must be included in the levy base of the school's  
26 original school district under RCW 84.52.0531.

27 (5) If an original school district has a local levy for maintenance  
28 and operations, the district must transmit to the superintendent of  
29 public instruction a per-student amount of the levy for each annual  
30 average full-time equivalent student enrolled in a state superintendent  
31 district school in that district. The superintendent of public  
32 instruction must place the funds in the separate account under  
33 subsection (2) of this section and spend the funds only in support of  
34 that school. For levies submitted to voters after the transfer of a  
35 school to the state superintendent district, the school must be  
36 included in levy planning, budgets, and funding distribution in the  
37 same manner as other schools in the original school district.

1 (6) Notwithstanding the transfer of a school to the state  
2 superintendent district, the original school district must continue to  
3 receive applicable state and federal funds for pupil transportation  
4 under chapter 28A.160 RCW and for food services under chapter 28A.235  
5 RCW for students enrolled in a state superintendent district school and  
6 shall continue to provide transportation services and food services to  
7 the students enrolled in that school in the same manner as such  
8 services would be provided absent the transfer of the school.

9 NEW SECTION. **Sec. 10.** FACILITIES. (1) A state superintendent  
10 district school is entitled to the continued rent free use of its  
11 existing facility. The original school district remains responsible  
12 for major repairs and safety upgrades that may be required, as well as  
13 continued payment for any outstanding bonds or capital projects  
14 associated with the school. The state superintendent district is  
15 responsible for routine maintenance of the facility, including but not  
16 limited to, cleaning, painting, gardening, and landscaping.

17 (2) The original school district retains ownership of and legal  
18 title to the land, building, and equipment of a state superintendent  
19 district school. After the decision is made by the state board of  
20 education to transfer a school to the state superintendent district,  
21 the original school district may not remove supplies or equipment from  
22 the state superintendent district school without written authorization  
23 from the superintendent of public instruction or the contracted  
24 learning management organization for the school.

25 (3) The superintendent of public instruction may negotiate with the  
26 original school district for payment of the school's share of  
27 insurance, utilities, or other similar shared overhead associated with  
28 the operation of a state superintendent district school.

29 NEW SECTION. **Sec. 11.** STATE SUPERINTENDENT DISTRICT SCHOOLS--  
30 RETURN TO ORIGINAL DISTRICT. (1) The state board of education must  
31 establish criteria for measuring the improvement of each state  
32 superintendent district school, based on the performance framework and  
33 performance targets established under section 5 of this act.

34 (2) A state superintendent district school is eligible to be  
35 returned to the jurisdiction of its original school district after the

1 school has met the performance improvement criteria of the state board  
2 of education for three consecutive years.

3 (3) The state board of education must notify the superintendent of  
4 public instruction by January of the year after which a state  
5 superintendent district school becomes eligible to be returned to its  
6 original school district. The superintendent of public instruction  
7 shall negotiate with the original school district for the return of the  
8 state superintendent district school, including addressing the  
9 employment status of employees of the state superintendent district  
10 school. Any notices of nonrenewal of contracts for certificated  
11 instructional staff of the state superintendent district school must  
12 comply with RCW 28A.405.210 and 28A.405.220. The return of a state  
13 superintendent district school to its original school district takes  
14 effect September 1st after the board's decision.

15 (4) Any unspent balances in the account associated with the state  
16 superintendent district school must be credited to the original school  
17 district.

18 (5) The board of directors of the original school district may  
19 negotiate a new contract with the learning management organization to  
20 continue oversight and management of a returned state superintendent  
21 district school.

22 NEW SECTION. **Sec. 12.** A new section is added to chapter 41.56 RCW  
23 to read as follows:

24 Notwithstanding RCW 41.56.060 and 41.56.070, the bargaining units  
25 of classified employees of the state superintendent district  
26 established under section 3 of this act must be limited to the  
27 employees of each state superintendent district school within the  
28 district and must be separate from other bargaining units in the  
29 district. The superintendent of public instruction must consult with  
30 the learning management organizations that are under contract to manage  
31 and operate state superintendent district schools when fulfilling the  
32 responsibilities of a public employer under this chapter.

33 NEW SECTION. **Sec. 13.** A new section is added to chapter 41.59 RCW  
34 to read as follows:

35 Notwithstanding RCW 41.59.070 and 41.59.080, the bargaining units  
36 of certificated employees of the state superintendent district

1 established under section 3 of this act must be limited to the  
2 employees of each state superintendent district school within the  
3 district and must be separate from other bargaining units in the  
4 district. The superintendent of public instruction must consult with  
5 the learning management organizations that are under contract to manage  
6 and operate state superintendent district schools when fulfilling the  
7 responsibilities of an employer under this chapter.

8 **Sec. 14.** RCW 28A.310.140 and 2006 c 263 s 608 are each amended to  
9 read as follows:

10 Every school district must be included entirely within a single  
11 educational service district. If the boundaries of any school district  
12 within an educational service district are changed in any manner so as  
13 to extend the school district beyond the boundaries of that educational  
14 service district, the superintendent of public instruction shall change  
15 the boundaries of the educational service districts so affected in a  
16 manner consistent with the purposes of RCW 28A.310.010 and this  
17 section. This section does not apply to the state superintendent  
18 district established under section 3 of this act.

19 NEW SECTION. **Sec. 15.** A new section is added to chapter 28A.315  
20 RCW to read as follows:

21 The provisions of this chapter do not apply to the state  
22 superintendent district established under section 3 of this act.

23 NEW SECTION. **Sec. 16.** A new section is added to chapter 28A.323  
24 RCW to read as follows:

25 The provisions of this chapter do not apply to the state  
26 superintendent district established under section 3 of this act.

27 NEW SECTION. **Sec. 17.** A new section is added to chapter 28A.343  
28 RCW to read as follows:

29 The provisions of this chapter do not apply to the state  
30 superintendent district established under section 3 of this act.

31 NEW SECTION. **Sec. 18.** Sections 1 through 11 of this act  
32 constitute a new chapter in Title 28A RCW.

1        NEW SECTION.    **Sec. 19.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

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