BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: S-3629.1/12

ATTY/TYPIST: SCG:crs

BRIEF DESCRIPTION: Establishing alternative forms of governance for certain public schools.

AN ACT Relating to establishing alternative forms of governance for certain public schools; amending RCW 28A.150.010 and 28A.310.140; reenacting and amending RCW 41.05.011; adding a new section to chapter 41.32 RCW; adding a new section to chapter 41.35 RCW; adding a new section to chapter 41.40 RCW; adding a new section to chapter 41.56 RCW; adding a new section to chapter 41.59 RCW; adding a new section to chapter 28A.315 RCW; adding a new section to chapter 28A.323 RCW; adding a new section to chapter 28A.343 RCW; adding new chapters to Title 28A RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** INTENT AND PURPOSE. (1) The legislature finds that of all the challenges confronting the state, none is more critical to the future than the education of all children. The legislature further finds compelling evidence from studies it commissioned that there is a persistent educational opportunity gap disproportionately affecting particular populations of students that must be addressed on an urgent basis. Too many students in racial, ethnic, English language proficiency, and income groups are overrepresented in measures such as school disciplinary sanctions;

failure to meet state academic standards; failure to graduate; and enrollment in special education and underperforming schools and underrepresented in enrollment in advanced placement courses, honors programs, and college preparatory classes; and enrollment in and completion of college. The data regarding inequities, disproportionality, and gaps in achievement between groups is alarming no matter which indicators are used. For example:

(a) The gap in reading test scores between students of color and white students on the seventh grade Washington measurement of student progress averages twenty-five percentage points, with just over one-third of African-American, Latino, Native American, and Pacific Islander students able to meet grade-level standard in reading compared to sixty-two percent of white students;

(b) The gap in reading test scores between low-income and nonlow-income students on the seventh grade Washington measurement of student progress is equally stark, with only forty-two percent of low-income students able to meet grade-level standard in reading compared to sixty-eight percent of nonlow-income students; and

(c) More than one-fifth of low-income students and students of color who enter seventh grade will have dropped out of school by the time their peers graduate in twelfth grade. For students with limited English proficiency, nearly one-third will drop out before their peers graduate in twelfth grade.

(2) The legislature further finds that although there are multiple initiatives broadly intended to improve student achievement, including a small number of initiatives to address the educational opportunity gap for disadvantaged students generally, some schools continue to struggle in the current system. They are often hindered by outdated laws, rules, and practices and need much greater flexibility to innovate and quickly improve results for low-income students, students of color, English language learners, and others who are currently educationally disadvantaged. Incremental change has not been a successful strategy to turn around performance in every school, and a more dramatic transformation of school governance, staffing, leadership, and management is necessary.

(3) Therefore, the legislature intends to authorize new school models with alternative forms of school governance that focus on

improving academic achievement for educationally disadvantaged students and have increased autonomy, flexibility, and oversight.

PART I
AUTHORIZING CHARTER SCHOOLS

NEW SECTION. **Sec. 101.** DEFINITIONS--CHARTER SCHOOLS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Applicant" means a nonprofit corporation that has submitted an application to a sponsor or has filed an appeal with the superintendent of public instruction to obtain approval to operate a charter school. The nonprofit corporation must be either a public benefit nonprofit corporation as defined in RCW 24.03.490, or a nonprofit corporation as defined in RCW 24.03.005 that has applied for tax exempt status under section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)). The nonprofit corporation may not be a sectarian or religious organization and must meet all of the requirements for a public benefit nonprofit corporation before receiving any funding under section 122 of this act.

(2) "Authorizer" means an entity approved under section 109 of this act to review, approve, or reject charter school applications; enter into, renew, or revoke charter contracts with applicants; and oversee the charter schools the entity has authorized.

(3) "Charter contract" means a fixed term, renewable contract between a charter school and an authorizer that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.

(4) "Charter school" means a public school governed by a charter school board and operated according to the terms of a charter contract executed under this chapter and includes a new charter school and a conversion charter school.

(5) "Charter school board" means the board of directors appointed or selected under the terms of a charter application to manage and operate the charter school.

(6) "Conversion charter school" means a charter school created by converting an existing noncharter public school in its entirety to a charter school under this chapter.

(7) "Educationally disadvantaged students" means students in racial, ethnic, English language proficiency, or income groups who are overrepresented in measures of school disciplinary sanctions, failure to meet state academic standards, failure to graduate, enrollment in special education, and enrollment in underperforming schools and who are underrepresented in AP courses, honors programs, college preparatory classes, and enrollment in and completion of college.

(8) "New charter school" means any charter school established under this chapter that is not a conversion charter school.

(9) "Parent" means a parent, guardian, or other person or entity having legal custody of a child.

(10) "Student" means any child eligible under RCW 28A.225.160 to attend a public school in the state.

NEW SECTION. **Sec. 102.** LEGAL STATUS. A charter school established under this chapter:

(1) Is a public school offering any program or course of study that a noncharter public school may offer, including one or more of grades kindergarten through twelve;

(2) Is governed by a charter school board according to the terms of a renewable, five-year charter contract executed under section 116 of this act;

(3) Is a public school to which parents choose to send their children;

(4) Functions as a local education agency under applicable federal laws and regulations and is responsible for meeting the requirements of local education agencies and public schools under those federal laws and regulations, including but not limited to compliance with the individuals with disabilities education improvement act (20 U.S.C. Sec. 1401 et seq.), the federal educational rights and privacy act (20 U.S.C. Sec. 1232g), and the elementary and secondary education act (20 U.S.C. Sec. 6301 et seq.).

NEW SECTION. **Sec. 103.** CHARTER SCHOOL BOARDS--POWERS. (1) To carry out its duty to manage and operate the charter school and carry out the terms of its charter contract, a charter school board may:

(a) Hire, manage, and discharge any charter school employee in

accordance with the terms of this chapter and that school's charter contract;

(b) Receive and disburse funds for the purposes of the charter school;

(c) Enter into contracts with any school district, educational service district, or other public or private entity for the provision of real property, equipment, goods, supplies, and services, including educational instructional services and including for the management and operation of the charter school as long as the charter school board maintains oversight authority over the charter school;

(d) Rent, lease, purchase, or own real property. All charter contracts and contracts with other entities must include provisions regarding the disposition of the property if the charter school fails to open as planned or closes, or if the charter contract is revoked or not renewed;

(e) Issue secured and unsecured debt, including pledging, assigning, or encumbering its assets to be sued as collateral for loans or extensions of credit to manage cash flow, improve operations, or finance the acquisition of real property or equipment. The issuance is not a general, special, or moral obligation of the state, the charter school authorizer, the school district in which the charter school is located, or any other political subdivision or agency of the state. Neither the full faith and credit nor the taxing power of the state or any political subdivision or agency of the state may be pledged for the payment of the debt;

(f) Solicit, accept, and administer for the benefit of the charter school and its students, gifts, grants, and donations from individuals or public or private entities, excluding from sectarian or religious organizations. Charter schools may not accept any gifts or donations the conditions of which violate this chapter or other state laws; and

(g) Issue diplomas to students who meet state high school graduation requirements established under RCW 28A.230.090. A charter school board may establish additional graduation requirements.

(2) A charter school board may not levy taxes or issue tax-backed bonds. A charter school board may not acquire property by eminent domain.

NEW SECTION. **Sec. 104.** CHARTER SCHOOLS--APPLICABILITY OF STATE LAWS. (1) A charter school must operate according to the terms of its charter contract and the provisions of this chapter.

(2) Charter schools are exempt from all state statutes and rules applicable to school districts and school district boards of directors, except those statutes and rules made applicable to charter schools under this chapter and in the school's charter contract. Charter schools authorized by a school district are exempt from all school district policies except policies made applicable in the school's charter contract.

(3) All charter schools must:

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

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

(c) Employ certificated instructional staff as required in RCW 28A.410.010, however charter schools may hire noncertificated instructional staff of unusual competence and in exceptional cases as specified in RCW 28A.150.260;

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

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

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

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

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

(i) Be subject to and comply with legislation enacted after the effective date of this section governing the operation and management of charter schools.

(4) No charter school may engage in any sectarian practices in its educational program, admissions or employment policies, or operations.

NEW SECTION. **Sec. 105.** ADMISSION AND ENROLLMENT OF STUDENTS. (1) A charter school may not limit admission on any basis other than age group, grade level, or capacity and must enroll all students who apply within these bases. A charter school is open to any student regardless of his or her location of residence.

(2) A charter school may not charge tuition, but may charge fees for participation in optional extracurricular events and activities.

(3) A conversion charter school must provide sufficient capacity to enroll all students who wish to remain enrolled in the school after its conversion to a charter school, and may not displace students enrolled before the chartering process.

(4) If capacity is insufficient to enroll all students who apply to a charter school, the charter school must select students through a lottery. However, a charter school must give an enrollment preference to siblings of already enrolled students. A charter school may give an enrollment preference to children of the charter school's founders, board members, and full-time employees as long as these students constitute no more than ten percent of the school's total enrollment.

(5) The capacity of a charter school must be determined annually by the charter school board in consultation with the charter authorizer and with consideration of the charter school's ability to facilitate the academic success of its students, achieve the objectives specified in the charter contract, and assure that its student enrollment does not exceed the capacity of its facility. An authorizer may not restrict the number of students a charter school may enroll.

(6) Nothing in this section prevents formation of a charter school whose mission is to offer a specialized learning environment and services for particular groups of students, such as educationally disadvantaged students, students with disabilities, students of the same gender, or students who pose such severe disciplinary problems that they warrant a specific educational program. Nothing in this section prevents formation of a charter school organized around a special emphasis, theme, or concept as stated in the school's application and charter contract.

NEW SECTION. **Sec. 106.** CHARTER SCHOOL STUDENTS. (1) School districts must provide information to parents and the general public about charter schools located within the district as an enrollment option for students.

(2) If a student who was previously enrolled in a charter school enrolls in another public school in the state, the student's new school must accept credits earned by the student in the charter school in the same manner and according to the same criteria that credits are accepted from other public schools.

(3) A charter school is eligible for state or district-sponsored interscholastic programs, awards, scholarships, or competitions to the same extent as other public schools.

(4)(a) A charter school student is eligible to participate in extracurricular activities not offered by the charter school at:

(i) The noncharter public school within whose attendance boundaries the student's custodial parent resides, as established by the local school board; or

(ii) The noncharter public school from which the student withdrew for the purpose of attending the charter school.

(b) A charter school student is eligible for extracurricular activities at a noncharter public school in the same manner and according to the same criteria as the students of the noncharter public school, including being provided with the opportunity to try out for or compete to participate.

(5) The state board of education shall adopt rules establishing uniform cost sharing and fee policies for charter school students' participation in extracurricular activities at noncharter public schools. The rules must provide that:

(a) Charter school students pay the same fees and are eligible for the same fee waivers as students in the noncharter public school; and

(b) For each charter school student who participates in an extracurricular activity at a noncharter public school, the charter school must pay a share of the noncharter public school's costs for the extracurricular activity. The uniform cost sharing established by the board must reflect state and local revenues expended per student to support the extracurricular activity, except capital facilities expenditures. The uniform cost sharing may reflect average costs statewide or average costs within a sample of school districts.

NEW SECTION. **Sec. 107.** AUTHORIZERS. (1) The following entities are eligible to be authorizers of charter schools:

(a) The Washington charter school commission established under section 108 of this act, for charter schools located anywhere in the state;

(b) School district boards of directors, for charter schools located within the school district boundaries; and

(c) The governing boards of public four-year colleges and universities in the state, for charter schools located anywhere in the state.

(2) Except for the Washington charter school commission, an entity must be approved by the state board of education under section 109 of this act before authorizing a charter school.

NEW SECTION. **Sec. 108.** WASHINGTON CHARTER SCHOOL COMMISSION. (1) The Washington charter school commission is established as an independent state agency whose mission is to authorize high quality charter schools throughout the state, particularly schools designed to expand opportunities for educationally disadvantaged students.

(2) The commission shall consist of nine members, no more than five of whom shall be members of the same political party. Three members shall be appointed by the governor; three members shall be appointed by the president of the senate; and three members shall be appointed by the speaker of the house of representatives. The appointing authorities shall assure diversity among commission members, including representation from various geographic areas of the state.

(3) Members appointed to the commission shall collectively possess strong experience and expertise in public and nonprofit governance; management and finance; public school leadership, assessment, curriculum, and instruction; and public education law. All members shall have demonstrated an understanding of and commitment to charter schooling as a strategy for strengthening public education.

(4) Members shall be appointed to four-year, staggered terms, with initial appointments from each of the appointing authorities consisting of one member appointed to a one-year term, one member appointed to a two-year term, and one member appointed to a three-year term, all of whom thereafter may be reappointed for a four-year term. No member may

serve more than two consecutive terms. Initial appointments must be made no later than ninety days after the effective date of this section.

(5) A member of the commission may be removed for cause by the appointing authority. Whenever a vacancy on the commission exists, the original appointing authority must appoint a member for the remaining portion of the term.

(6) Commission members shall serve without compensation but may be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060.

(7) Operational and staff support for the commission shall be provided by the office of the governor until the commission has sufficient resources to hire or contract for separate staff support, who shall reside within the office of the governor for administrative purposes only.

(8) Sections 110 and 111 of this act apply to the commission.

NEW SECTION. **Sec. 109.** AUTHORIZERS--APPROVAL. (1) The state board of education shall establish an annual application and approval process and timelines for entities seeking approval to be charter school authorizers. The initial process and timelines must be established no later than ninety days after the effective date of this section.

(2) At a minimum, each applicant must submit to the state board:

(a) The applicant's strategic vision for chartering;

(b) A plan to support the vision presented, including explanation and evidence of the applicant's budget and personnel capacity and commitment to execute the responsibilities of quality charter authorizing;

(c) A draft or preliminary outline of the request for proposals that the applicant would, if approved as an authorizer, issue to solicit charter school applicants;

(d) A draft of the performance framework that the applicant would, if approved as an authorizer, use to guide the establishment of a charter contract and for ongoing oversight and evaluation of charter schools;

(e) A draft of the applicant's proposed renewal, revocation, and nonrenewal processes, consistent with sections 119 and 120 of this act;

(f) A statement of assurance that the applicant seeks to serve as an authorizer in fulfillment of the expectations, spirit, and intent of this chapter, and that if approved as an authorizer, the applicant will fully participate in any authorizer training provided or required by the state; and

(g) A statement of assurance that the applicant will provide public accountability and transparency in all matters concerning charter authorizing practices, decisions, and expenditures.

(3) The state board of education shall consider the merits of each application and make its decision within the timelines established by the board.

(4) Within thirty days of making a decision to approve an application under this section, the state board of education must execute a renewable authorizing contract with the entity. The initial term of an authorizing contract shall be six years. The authorizing contract must specify each approved entity's agreement to serve as an authorizer in accordance with the expectations of this chapter, and may specify additional performance terms based on the applicant's proposal and plan for chartering. No approved entity may commence charter authorizing without an authorizing contract in effect.

NEW SECTION. **Sec. 110.** AUTHORIZERS--POWERS AND DUTIES. (1) Authorizers are responsible for:

(a) Soliciting and evaluating charter applications;

(b) Approving quality charter applications that meet identified educational needs and promote a diversity of educational choices;

(c) Denying weak or inadequate charter applications;

(d) Negotiating and executing sound charter contracts with each authorized charter school;

(e) Monitoring, in accordance with charter contract terms, the performance and legal compliance of charter schools; and

(f) Determining whether each charter contract merits renewal, nonrenewal, or revocation.

(2) An authorizer may delegate its responsibilities under this section to employees or contractors.

(3) All authorizers must develop and follow chartering policies and practices that are consistent with the principles and standards for

quality charter authorizing developed by the national association of charter school authorizers in at least the following areas:

(a) Organizational capacity and infrastructure;

(b) Soliciting and evaluating charter applications;

(c) Performance contracting;

(d) Ongoing charter school oversight and evaluation; and

(e) Charter renewal decision making.

(4) Each authorizer must submit an annual report to the state board of education, according to a timeline, content, and format specified by the board, that includes:

(a) The authorizer's strategic vision for chartering and progress toward achieving that vision;

(b) The academic and financial performance of all operating charter schools overseen by the authorizer, including the progress of the charter schools based on the authorizer's performance framework;

(c) The status of the authorizer's charter school portfolio, identifying all charter schools in each of the following categories: Approved but not yet open, operating, renewed, transferred, revoked, not renewed, voluntarily closed, or never opened;

(d) The authorizer's operating costs and expenses detailed in annual audited financial statements that conform with generally accepted accounting principles; and

(e) The services purchased from the authorizer by the charter schools under its jurisdiction under section 111 of this act, including an itemized accounting of the actual costs of these services.

(5) Neither an authorizer, individuals who make up the membership of an authorizer in their official capacity, nor the employees of an authorizer are liable for acts or omissions of a charter school they authorize.

(6) No employee, trustee, agent, or representative of an authorizer may simultaneously serve as an employee, trustee, agent, representative, vendor, or contractor of a charter school under the jurisdiction of that authorizer.

NEW SECTION. **Sec. 111.** AUTHORIZERS--FUNDING. (1) The state board of education shall establish a statewide formula for an authorizer oversight fee, which shall be calculated as a percentage of the state operating funding allocated under section 122 of this act to each

charter school under the jurisdiction of an authorizer, but may not exceed four percent of each charter school's annual funding. The office of the superintendent of public instruction shall deduct the oversight fee from each charter school's allocation under section 122 of this act and transmit the fee to the appropriate authorizer.

(2) The state board of education may establish a sliding scale for the authorizer oversight fee, with the funding percentage decreasing after the authorizer has achieved a certain threshold, such as after a certain number of years of authorizing or after a certain number of charter schools have been authorized.

(3) An authorizer must use its oversight fee exclusively for the purpose of fulfilling its duties under section 110 of this act.

(4) An authorizer may provide contracted, fee-based services to charter schools under its jurisdiction that are in addition to the oversight duties under section 110 of this act. An authorizer may not charge more than market rates for the contracted services provided. A charter school may not be required to purchase contracted services from an authorizer. Fees collected by the authorizer under this subsection must be separately accounted for and reported annually to the state board of education.

NEW SECTION. **Sec. 112.** AUTHORIZERS--OVERSIGHT. (1) The state board of education is responsible for overseeing the performance and effectiveness of all authorizers approved under section 110 of this act.

(2) Persistently unsatisfactory performance of an authorizer's portfolio of charter schools, a pattern of well-founded complaints about the authorizer or its charter schools, or other objective circumstances may trigger a special review by the state board of education.

(3) In reviewing or evaluating the performance of authorizers, the board must apply the principles and standards for quality charter authorizing. Evidence of material or persistent failure by an authorizer to carry out its duties in accordance with the principles and standards constitutes grounds for revocation of the authorizing contract by the state board, as provided under this section.

(4) If at any time the state board of education finds that an authorizer is not in compliance with a charter contract, its

authorizing contract, or the authorizer duties under section 110 of this act, the board must notify the authorizer in writing of the identified problems, and the authorizer shall have reasonable opportunity to respond and remedy the problems.

(5) If an authorizer persists after due notice from the state board of education in violating a material provision of a charter contract or its authorizing contract, or fails to remedy other identified authorizing problems, the state board of education shall notify the authorizer, within a reasonable amount of time under the circumstances, that it intends to revoke the authorizer's chartering authority unless the authorizer demonstrates a timely and satisfactory remedy for the violation or deficiencies.

(6) In the event of revocation of any authorizer's chartering authority, the state board of education shall manage the timely and orderly transfer of each charter contract held by that authorizer to another authorizer in the state, with the mutual agreement of each affected charter school and proposed new authorizer. The new authorizer shall assume the existing charter contract for the remainder of the charter term.

(7) The state board of education must establish timelines and a process for taking actions under this section in response to performance deficiencies by an authorizer.

NEW SECTION. **Sec. 113.** CHARTER APPLICATIONS--CONTENT. (1)(a) Each authorizer must annually issue and broadly publicize a request for proposals for charter school applicants by the date established by the state board of education under section 114 of this act.

(b) Each authorizer's request for proposals must:

(i) Present the authorizer's strategic vision for chartering, including a clear statement of any preferences the authorizer wishes to grant to applications that employ proven methods for educating educationally disadvantaged students or students with special needs;

(ii) Include or otherwise direct applicants to the performance framework that the authorizer has developed for charter school oversight and evaluation in accordance with section 117 of this act;

(iii) Provide the criteria that will guide the authorizer's decision to approve or deny a charter application; and

(iv) State clear, appropriately detailed questions as well as guidelines concerning the format and content essential for applicants to demonstrate the capacities necessary to establish and operate a successful charter school.

(2) A charter school application must provide or describe thoroughly all of the following elements of the proposed school plan:

(a) An executive summary;

(b) The mission and vision of the proposed charter school, including identification of the targeted student population and the community the school hopes to serve;

(c) The location or geographic area proposed for the school;

(d) The grades to be served each year for the full term of the charter contract;

(e) Minimum, planned, and maximum enrollment per grade per year for the term of the charter contract;

(f) Evidence of need and community support for the proposed charter school;

(g) Background information on the proposed founding governing board members and, if identified, the proposed school leadership and management team;

(h) The school's proposed calendar and sample daily schedule;

(i) A description of the academic program aligned with state standards;

(j) A description of the school's proposed instructional design, including the type of learning environment, such as classroom-based or independent study; class size and structure; curriculum overview; and teaching methods;

(k) Evidence that the educational program is based on proven methods;

(l) The school's plan for using internal and external assessments to measure and report student progress on the performance framework developed by the authorizer in accordance with section 117 of this act;

(m) The school's plans for identifying, successfully serving, and complying with applicable laws and regulations regarding students with disabilities, students who are limited English proficient, students who are struggling academically, and highly capable students;

(n) A description of cocurricular or extracurricular programs and how they will be funded and delivered;

(o) Plans and timelines for student recruitment and enrollment, including targeted plans for recruiting educationally disadvantaged students and including lottery procedures;

(p) The school's student discipline policies, including for special education students;

(q) An organization chart that clearly presents the school's organizational structure, including lines of authority and reporting between the governing board, staff, any related bodies such as advisory bodies or parent and teacher councils, and any external organizations that will play a role in managing the school;

(r) A clear description of the roles and responsibilities for the governing board, the school's leadership and management team, and any other entities shown in the organization chart;

(s) A staffing plan for the school's first year and for the term of the charter;

(t) Plans for recruiting and developing school leadership and staff;

(u) The school's leadership and teacher employment policies, including performance evaluation plans;

(v) Proposed governing bylaws;

(w) Explanations of any partnerships or contractual relationships central to the school's operations or mission;

(x) Plans for providing transportation, food service, and all other significant operational or ancillary services;

(y) Opportunities and expectations for parent involvement;

(z) A detailed school start-up plan, identifying tasks, timelines, and responsible individuals;

(aa) A description of the school's financial plan and policies, including financial controls and audit requirements;

(bb) A description of the insurance coverage the school will obtain;

(cc) Start-up and five-year cash flow projections and budgets with clearly stated assumptions;

(dd) Evidence of anticipated fundraising contributions, if claimed in the application; and

(ee) A sound facilities plan, including backup or contingency plans if appropriate.

(3) In the case of an application to establish a conversion charter school, the applicant must also demonstrate support for the proposed conversion by a petition signed by a majority of teachers assigned to the school or a petition signed by a majority of parents of students in the school.

(4) In the case of an application where the proposed charter school intends to contract with an education service provider for substantial educational services, management services, or both, the applicant must:

(a) Provide evidence of the education service provider's success in serving student populations similar to the targeted population, including demonstrated academic achievement as well as successful management of nonacademic school functions if applicable;

(b) Provide a term sheet setting forth the proposed duration of the service contract; roles and responsibilities of the governing board, the school staff, and the service provider; scope of services and resources to be provided by the service provider; performance evaluation measures and timelines; compensation structure, including clear identification of all fees to be paid to the service provider; methods of contract oversight and enforcement; investment disclosure; and conditions for renewal and termination of the contract; and

(c) Disclose and explain any existing or potential conflicts of interest between the charter school board and proposed service provider or any affiliated business entities.

(5) In the case of an application from an applicant that operates one or more schools in any state or nation, the applicant must provide evidence of past performance, including evidence of the applicant's success in serving educationally disadvantaged students, and capacity for growth.

(6) Applicants may submit a proposal for a particular public charter school to no more than one authorizer at a time.

NEW SECTION. **Sec. 114.** CHARTER APPLICATIONS--DECISION PROCESS. (1) The state board of education must establish an annual statewide timeline for charter application submission and approval or denial, which must be followed by all authorizers.

(2) In reviewing and evaluating charter applications, authorizers shall employ procedures, practices, and criteria consistent with the principles and standards for quality charter authorizing. The

application review process must include thorough evaluation of each application, an in-person interview with the applicant group, and an opportunity in a public forum for local residents to learn about and provide input on each application.

(3) In deciding whether to approve an application, authorizers must:

(a) Grant charters only to applicants that have demonstrated competence in each element of the authorizer's published approval criteria and are likely to open and operate a successful public charter school;

(b) Base decisions on documented evidence collected through the application review process;

(c) Follow charter-granting policies and practices that are transparent and based on merit; and

(d) Avoid any conflicts of interest whether real or apparent.

(4) An approval decision may include, if appropriate, reasonable conditions that the charter applicant must meet before a charter contract may be executed.

(5) For any denial of an application, the authorizer shall clearly state in writing its reasons for denial. A denied applicant may subsequently reapply to that authorizer or apply to another authorizer in the state.

NEW SECTION. **Sec. 115.** NUMBER OF CHARTER SCHOOLS. (1) A maximum of fifty charter schools may be established statewide under this chapter. No more than ten charter schools may be established each calendar year. These annual allocations are cumulative so that if the maximum number of allowable new charters is not reached in any given year the maximums are increased accordingly for the successive years, but in no case may the total number exceed fifty without further legislative authorization.

(2) Consistent with the legislative intent of establishing charter schools, until a date each year established by the state board of education, a majority of the annual number of charter schools that may be established under subsection (1) of this section are reserved to implement charter schools established for the primary purpose of serving educationally disadvantaged students, and that are located in, or accessible to students who live in, geographic areas in which a

large proportion of the students have difficulty meeting state academic content and student achievement standards, or geographic areas, including urban and rural areas, in which a large proportion or number of public schools have been identified as needing improvement under state and federal accountability.

(3) To ensure compliance with the annual limits for establishing new charter schools, certification from the state board of education must be obtained before final authorization of a charter school. Within ten days of taking action to approve or deny an application under section 114 of this act, an authorizer must submit a report of the action to the applicant and to the state board of education, which must include a copy of the authorizer's resolution setting forth the action taken, the reasons for the decision, and assurances of compliance with the procedural requirements and application elements under sections 113 and 114 of this act. The authorizer must also indicate whether the charter school's primary purpose is to serve educationally disadvantaged students.

(4) Upon the receipt of notice from an authorizer that a charter school has been approved, the state board of education shall certify whether the approval is in compliance with the limits on the maximum number of charters allowed under subsection (1) of this section and in compliance with the date until which the majority of charters each year are reserved under subsection (2) of this section. If the board receives simultaneous notification of approved charters that exceed the annual allowable limits in subsections (1) and (2) of this section, the board must select approved charters for implementation through a lottery process, and must assign implementation dates accordingly.

(5) If the number of charters reserved each year under subsection (2) of this section is not reached by the date established by the state board of education, the board must notify authorizers of any other approved charters for which authorization has not been granted under subsection (2) of this section, and must allow implementation of those charters within the annual limits, regardless of whether those charters meet the requirements of subsection (2) of this section.

(6) The state board of education must notify authorizers of the number of applications approved by the date until which the majority of new charters each year are reserved under subsection (2) of this

section. The board must also notify authorizers when the maximum allowable number of charter schools has been reached each year.

NEW SECTION. **Sec. 116.** CHARTER CONTRACTS. (1) The purposes of the charter application submitted under section 113 of this act are to present the proposed charter school's academic and operational vision and plans and to demonstrate and provide the authorizer a clear basis for the applicant's capacities to execute the proposed vision and plans. An approved charter application does not serve as the school's charter contract.

(2) Within ninety days of approval of a charter application, the authorizer and the governing board of the approved charter school must execute a charter contract that clearly sets forth the academic and operational performance expectations and measures by which the charter school will be judged and the administrative relationship between the authorizer and charter school, including each party's rights and duties. The performance expectations and measures set forth in the charter contract must include but need not be limited to applicable federal and state accountability requirements. The performance provisions may be refined or amended by mutual agreement after the charter school is operating and has collected baseline achievement data for its enrolled students.

(3) The charter contract must be signed by the president of the authorizer's governing board or the chief executive of the authorizer as applicable and the president of the charter school board. Within ten days of executing a charter contract, the authorizer must submit to the state board of education written notification of the charter contract execution, including a copy of the executed charter contract and any attachments.

(4) A charter contract may comprise one or more schools to the extent approved by the authorizer. A single charter school board may hold one or more charter contracts. However, each charter school that is part of a charter contract must be separate and distinct from any others.

(5) An initial charter contract must be granted for a term of five operating years. The contract term must commence on the charter school's first day of operation. An approved charter school may delay its opening for one school year in order to plan and prepare for the

school's opening. If the school requires an opening delay of more than one school year, the school must request an extension from its authorizer. The authorizer may grant or deny the extension depending on the school's circumstances.

(6) Authorizers may establish reasonable preopening requirements or conditions to monitor the start-up progress of newly approved charter schools and ensure that they are prepared to open smoothly on the date agreed, and to ensure that each school meets all building, health, safety, insurance, and other legal requirements for school opening.

(7) No charter school may commence operations without a charter contract executed in accordance with this section.

NEW SECTION. **Sec. 117.** CHARTER CONTRACTS--PERFORMANCE FRAMEWORK. (1) The performance provisions within a charter contract must be based on a performance framework that clearly sets forth the academic and operational performance indicators, measures, and metrics that will guide an authorizer's evaluations of each charter school.

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

(a) Student academic proficiency;

(b) Student academic growth;

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

(d) Attendance;

(e) Recurrent enrollment from year to year;

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

(g) Financial performance and sustainability; and

(h) Board performance and stewardship, including compliance with all applicable laws, rules, and terms of the charter contract.

(3) Annual performance targets must be set by each charter school in conjunction with its authorizer and must be designed to help each school meet applicable federal, state, and authorizer expectations.

(4) The authorizer and charter school may also include additional rigorous, valid, and reliable indicators in the performance framework to augment external evaluations of the charter school's performance.

(5) The performance framework must require the disaggregation of all student performance data by major student subgroups, including

gender, race and ethnicity, poverty status, special education status, English language learner status, and highly capable status.

(6) Multiple schools operating under a single charter contract or overseen by a single charter school board must report their performance as separate schools, and each school shall be held independently accountable for its performance.

NEW SECTION. **Sec. 118.** CHARTER CONTRACTS--OVERSIGHT. (1) Each authorizer must continually monitor the performance and legal compliance of the charter schools it oversees, including collecting and analyzing data to support ongoing evaluation according to the performance framework in the charter contract.

(2) An authorizer may conduct or require oversight activities that enable the authorizer to fulfill its responsibilities under this chapter, including conducting appropriate inquiries and investigations, so long as those activities are consistent with the intent of this chapter, adhere to the terms of the charter contract, and do not unduly inhibit the autonomy granted to charter schools.

(3) In the event that a charter school's performance or legal compliance appears unsatisfactory, the authorizer must promptly notify the school of the perceived problem and provide reasonable opportunity for the school to remedy the problem, unless the problem warrants revocation in which case the revocation procedures under section 120 of this act apply.

(4) An authorizer may take appropriate corrective actions or exercise sanctions short of revocation in response to apparent deficiencies in charter school performance or legal compliance. Such actions or sanctions may include, if warranted, requiring a school to develop and execute a corrective action plan within a specified time frame.

NEW SECTION. **Sec. 119.** CHARTER CONTRACTS--RENEWAL. (1) A charter contract may be renewed for successive five-year terms, although the authorizer may vary the term based on the performance, demonstrated capacities, and particular circumstances of a charter school and may grant renewal with specific conditions for necessary improvements to a charter school.

(2) No later than six months before the expiration of a charter contract, the authorizer must issue a performance report and charter contract renewal application guidance to that charter school. The performance report must summarize the charter school's performance record to date based on the data required by the charter contract, and must provide notice of any weaknesses or concerns perceived by the authorizer concerning the charter school that may jeopardize its position in seeking renewal if not timely rectified. The charter school has thirty days to respond to the performance report and submit any corrections or clarifications for the report.

(3) The renewal application guidance must, at a minimum, provide an opportunity for the charter school to:

(a) Present additional evidence, beyond the data contained in the performance report, supporting its case for charter contract renewal;

(b) Describe improvements undertaken or planned for the school; and

(c) Detail the school's plans for the next charter contract term.

(4) The renewal application guidance must include or refer explicitly to the criteria that will guide the authorizer's renewal decisions, which shall be based on the performance framework set forth in the charter contract.

(5) In making charter renewal decisions, an authorizer must:

(a) Ground its decisions in evidence of the school's performance over the term of the charter contract in accordance with the performance framework set forth in the charter contract;

(b) Ensure that data used in making renewal decisions are available to the school and the public; and

(c) Provide a public report summarizing the evidence basis for its decision.

NEW SECTION. **Sec. 120.** CHARTER CONTRACTS--NONRENEWAL OR REVOCATION. (1) A charter contract may be revoked at any time or not renewed if the authorizer determines that the charter school did any of the following or otherwise failed to comply with the provisions of this chapter:

(a) Committed a material and substantial violation of any of the terms, conditions, standards, or procedures required under this chapter or the charter contract;

(b) Failed to meet or make sufficient progress toward the performance expectations set forth in the charter contract;

(c) Failed to meet generally accepted standards of fiscal management; or

(d) Substantially violated any material provision of law from which the charter school is not exempt.

(2) A charter contract may not be renewed if, at the time of the renewal application, the charter school's performance falls in the bottom quartile of schools on the accountability index developed by the state board of education under RCW 28A.657.110, unless the charter school demonstrates exceptional circumstances that the authorizer finds justifiable.

(3) A charter contract must be revoked or nonrenewed if the charter school is identified as meeting the criteria for temporary transfer to the transformation zone district as provided under section 203 of this act.

(4) Each authorizer must develop revocation and nonrenewal processes that:

(a) Provide the charter school board with a timely notification of the prospect of and reasons for revocation or nonrenewal;

(b) Allow the charter school board a reasonable amount of time in which to prepare a response;

(c) Provide the charter school board with an opportunity to submit documents and give testimony challenging the rationale for closure and in support of the continuation of the school at a recorded public proceeding held for that purpose;

(d) Allow the charter school board to be represented by counsel and to call witnesses on its behalf; and

(e) After a reasonable period for deliberation, require a final determination to be made and conveyed in writing to the charter school board.

(5) If an authorizer revokes or does not renew a charter, the authorizer must clearly state in a resolution the reasons for the revocation or nonrenewal.

(6) Within ten days of taking action to renew, not renew, or revoke a charter contract, an authorizer must submit a report of the action to the applicant and to the state board of education, which must include a copy of the authorizer's resolution setting forth the action taken,

the reasons for the decision, and assurances of compliance with the procedural requirements established by the authorizer under this section.

NEW SECTION. **Sec. 121.** CHARTER SCHOOL CLOSURE OR DISSOLUTION. (1) Before making a decision to close a charter school, authorizers must develop a charter school closure protocol to ensure timely notification to parents, orderly transition of students and student records to new schools, and proper disposition of school funds, property, and assets. The protocol must specify tasks, timelines, and responsible parties, including delineating the respective duties of the charter school and the authorizer.

(2) In the event of a charter school closure for any reason, the assets of the school must be distributed first to satisfy outstanding payroll obligations for employees of the school, then to creditors of the school, and then to the state treasurer to the credit of the general fund. If the assets of the school are insufficient to pay all parties to whom the school owes compensation, the prioritization of the distribution of assets may be determined by decree of a court of law.

(3) A charter contract may not be transferred from one authorizer to another before the expiration of the charter contract term except by petition to the state board of education by the charter school or its authorizer. The state board of education must review such petitions on a case-by-case basis and may grant transfer requests in response to special circumstances and evidence that such a transfer would serve the best interests of the charter school's students.

NEW SECTION. **Sec. 122.** FUNDING. (1) Charter schools must report student enrollment in the same manner and based on the same definitions of enrolled students and annual average full-time equivalent enrollment as other public schools. Charter schools must comply with applicable reporting requirements to receive state or federal funding that is allocated based on student characteristics.

(2) According to the schedule established under RCW 28A.510.250, the superintendent of public instruction shall allocate funding for a charter school including general apportionment, special education, categorical, and other nonbasic education moneys. Allocations must be based on the statewide average staff mix ratio of all noncharter public

schools from the prior school year and the school's actual full-time equivalent enrollment. A charter school is not eligible for enhanced small school assistance funding. Categorical funding must be allocated to a charter school based on the same funding criteria used for noncharter public schools, except that the charter school is exempt from rules and statutes regarding the expenditure of these funds. A charter school is eligible to apply for state grants on the same basis as a school district.

(3) Allocations for pupil transportation must be calculated on a per student basis based on the allocation for the previous school year to the school district in which the charter school is located. A charter school may enter into a contract with a school district or other public or private entity to provide transportation for the students of the school.

(4) Amounts payable to a charter school under this section in the school's first year of operation must be based on the projections of first-year student enrollment established in the charter contract. The office of the superintendent of public instruction must reconcile the amounts paid in the first year of operation to the amounts that would have been paid based on actual student enrollment and make adjustments to the charter school's allocations over the course of the second year of operation.

(5) For charter schools authorized by a school district board of directors:

(a) Allocations to a charter school that are included in RCW 84.52.0531(3) (a) through (c) shall be included in the levy base of the district in which the charter school is located.

(b) Conversion charter schools are eligible for local levy moneys approved by the voters before the start-up date of the school as determined by the authorizer, and the school district must allocate levy moneys to a conversion charter school.

(c) New charter schools are not eligible for local levy moneys approved by the voters before the start-up date of the school as determined by the authorizer, and the district may not allocate those levy moneys to a new school.

(d) For levies submitted to voters after the start-up date of a charter school, the school must be included in levy planning, budgets,

and funding distribution in the same manner as other public schools in the district.

(e) A conversion charter school is entitled to the continued rent-free use of its existing facility. The district remains responsible for major repairs and safety upgrades that may be required for the continued use of the facility as a public school. The charter school is responsible for routine maintenance of the facility, including but not limited to, cleaning, painting, gardening, and landscaping.

(6) No local levy money may be allocated to a charter school if the charter school is not authorized by a school district board of directors.

(7) Any moneys received by a charter school from any source and remaining in the school's accounts at the end of any budget year shall remain in the school's accounts for use by the school during subsequent budget years.

NEW SECTION. **Sec. 123.** FACILITIES. (1) Charter schools are eligible for state matching funds for common school construction.

(2) A charter school has a right of first refusal to purchase or lease at or below fair market value a closed public school facility or property or unused portions of a public school facility or property located in a school district from which it draws its students if the school district decides to sell or lease the public school facility or property.

(3) A charter school may negotiate and contract at or below fair market value with a school district, the governing body of a public college or university, or any other public or private entity for the use of a facility for a school building.

(4) Public libraries, community service organizations, museums, performing arts venues, theaters, churches, and public or private colleges and universities may provide space to charter schools within their facilities under their preexisting zoning and land use designations.

NEW SECTION. **Sec. 124.** YEARS OF SERVICE. Years of service in a charter school by certificated instructional staff shall be included in the years of service calculation for purposes of the statewide salary allocation schedule under RCW 28A.150.410.

NEW SECTION. **Sec. 125.** ANNUAL REPORT. (1) By December 1st of each year beginning in the first year after there have been charter schools operating for a full school year, the state board of education must issue an annual report on the state's charter schools for the preceding school year to the governor, the legislature, and the public at-large.

(2) The annual report must be based on the reports submitted by each authorizer as well as any additional relevant data compiled by the board. The report must include a comparison of the performance of charter school students with the performance of academically, ethnically, and economically comparable groups of students in noncharter public schools. In addition, the annual report must include the state board of education's assessment of the successes, challenges, and areas for improvement in meeting the purposes of this chapter, including the board's assessment of the sufficiency of funding for charter schools, the efficacy of the formula for authorizer funding, and any suggested changes in state law or policy necessary to strengthen the state's charter schools.

PART II
ESTABLISHING THE TRANSFORMATION ZONE DISTRICT

NEW SECTION. **Sec. 201.** DEFINITIONS--TRANSFORMATION ZONE. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

(2) "Original school district" means the school district within whose boundaries a school is located and does not include the transformation zone district.

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

(4) "Transformation zone school" means a school that has been temporarily transferred from its original school district to the jurisdiction of the transformation zone district as provided under this chapter.

NEW SECTION. **Sec. 202.** TRANSFORMATION ZONE DISTRICT. (1) The transformation zone district is hereby established as a statewide school district within the state of Washington. The superintendent of public instruction shall exercise all powers and responsibilities assigned under this title to a school district board of directors for the governance and oversight of the transformation zone district, including under RCW 28A.150.230 and 28A.320.015, except as otherwise provided in this chapter.

(2) The transformation zone district and the superintendent of public instruction as the governing authority of the district have jurisdiction over all transformation zone schools that have been temporarily transferred to the district under section 203 of this act.

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

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

NEW SECTION. **Sec. 203.** TRANSFORMATION ZONE SCHOOLS--TRANSFER. (1) Beginning in January 2013, the superintendent of public instruction

shall annually recommend to the state board of education schools for temporary transfer to the jurisdiction of the transformation zone district.

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

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

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

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

(3) At least ten and no more than twenty schools that meet the superintendent's criteria shall be transferred to the transformation zone district each single year.

(4) If a charter school established under chapter 28A.--- RCW (the new chapter created in section 401 of this act) is identified as meeting the criteria for temporary transfer to the transformation zone district under this section, the superintendent of public instruction shall notify the state board of education and the authorizer of the charter school that the charter contract must be nonrenewed or revoked as provided under section 120 of this act.

(5) The superintendent of public instruction shall provide a school district superintendent with written notice of the recommendation for transfer of a school to the transformation zone district by certified mail or personal service. A school district superintendent may request reconsideration of the superintendent of public instruction's recommendation. The reconsideration is limited to a determination of whether the school met the criteria for being recommended for transfer to the transformation zone 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.

(6) The state board of education must consider the recommendations of the superintendent of public instruction under subsection (1) of this section at a public meeting. The state board of education may modify the superintendent's recommendations before directing the annual transfer of schools to the jurisdiction of the transformation zone district. The transfer shall take effect on September 1st following the board's decision.

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

NEW SECTION. **Sec. 204.** LEARNING MANAGEMENT ORGANIZATION CONTRACTS. (1) The superintendent of public instruction shall contract with a learning management organization for the management and operation of each transformation zone school. A learning management organization may manage more than one transformation zone school, but each school shall be the subject of a separate contract. The term of a contract under this section shall be no more than three years. A learning management organization may apply for renewal of a contract. The superintendent of public instruction shall use the performance framework established under this section as a primary determining factor in awarding or denying a contract renewal.

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

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

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

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

(d) A statement of assurance that the applicant will provide public accountability and transparency in all matters concerning practices,

decisions, and expenditures related to its management of a transformation zone school.

(3) A contract with a learning management organization must contain a performance framework that clearly sets forth the academic and operational performance indicators, measures, and metrics for the improvement of student learning in the transformation zone school. Annual performance targets must be established under the contract. The learning management organization must develop, oversee, and implement a school transformation plan based on the performance framework.

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

(a) Student academic proficiency;

(b) Student academic growth;

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

(d) Attendance;

(e) Recurrent enrollment from year to year;

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

(g) Financial performance and sustainability; and

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

(5) The superintendent of public instruction and the learning management organization may also include additional rigorous, valid, and reliable indicators in the performance framework to augment external evaluations of the performance of the transformation zone school.

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

(7) A contract with a learning management organization must include expectations and indicators for parent and community involvement in the transformation zone school. The learning management organization must establish and hold regular public meetings with a standing parent and community advisory committee.

(8) A learning management organization may contract with

individuals, organizations, educational service districts, and school districts including the original school district to provide goods and services to a transformation zone school.

NEW SECTION. **Sec. 205.** TRANSFORMATION ZONE DISTRICT EMPLOYEES. (1) The original school district must notify all certificated and classified employees assigned to a school that is scheduled to be transferred to the transformation zone district under section 203 of this act that their employment contracts shall be nonrenewed at the end of the school year before the transfer takes effect. The cause for nonrenewal is the transfer of the school of assignment to the jurisdiction of the transformation zone district where the superintendent of public instruction has governing authority, including over the employment of necessary staff. For certificated employees, the notice must comply with the provisions of RCW 28A.405.210 and 28A.405.220.

(2) Certificated and classified employees assigned to a school that is scheduled to be transferred to the transformation zone district may apply to the original school district for a transfer of assignment within the original district, which request must be considered according to the policies and procedures of the district regarding transfers of assignment.

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

(4) Under the terms of the contracts executed under section 204 of this act, the superintendent must delegate to the learning management organization the responsibility to hire, assign, evaluate, and dismiss all staff of a transformation zone school.

(5) Classified and certificated staff previously assigned to a school that is transferred to the transformation zone district may apply to the learning management organization to become employees of the transformation zone district assigned to that school.

(6) Years of service in a transformation zone school by certificated instructional staff shall be included in the years of service calculation for purposes of the statewide salary allocation schedule under RCW 28A.150.410.

NEW SECTION. **Sec. 206.** TRANSFORMATION ZONE STUDENTS. (1) The original school district must notify all parents of students attending a school scheduled to be transferred to the transformation zone district of the state board of education's decision to transfer the school.

(2) A parent of a student scheduled to attend a transformation zone school must be permitted to transfer the student to another school within the original school district, but may be required to follow other school assignment policies of the original school district.

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

(4) Students enrolled in a transformation zone school may participate in interscholastic and extracurricular activities offered by the original school district in the same manner as other students enrolled in the original school district, including being required to pay fees to participate in extracurricular activities.

NEW SECTION. **Sec. 207.** TRANSFORMATION ZONE SCHOOLS--APPLICABILITY OF STATE LAWS. (1) The superintendent of public instruction, as the governing authority of the transformation zone district, and the schools transferred to its jurisdiction are exempt from all state statutes and rules applicable to school districts and school district boards of directors, except those statutes and rules made applicable under this chapter.

(2) The transformation zone district and all transformation zone schools must:

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

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

(c) Employ certificated instructional staff as required in RCW

28A.410.010, however the transformation zone district may hire noncertificated instructional staff of unusual competence and in exceptional cases as specified in RCW 28A.150.260;

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

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

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

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

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

(i) Be subject to and comply with legislation enacted after the effective date of this section governing the operation and management of the transformation zone district.

NEW SECTION. **Sec. 208.** FUNDING. (1) According to the schedule established under RCW 28A.510.250, the superintendent of public instruction shall deduct from the apportionment payments due to an original school district funding for each annual average full-time equivalent student enrolled in a transformation zone school, including general apportionment, special education, categorical, and other nonbasic education moneys including local effort assistance. Categorical funding must be deducted for a transformation zone school based on the same funding criteria used for other public schools, except that the superintendent of public instruction is exempt from rules and statutes regarding the expenditure of these funds.

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

(3) Federal funds that are made available to the transformation zone district as a local education agency must be apportioned among the

transformation zone schools by the superintendent of public instruction based on the programs and criteria that generated the funds.

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

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

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

NEW SECTION. **Sec. 209.** FACILITIES. (1) A transformation zone school is entitled to the continued rent free use of its existing facility. The original school district remains responsible for major repairs and safety upgrades that may be required, as well as continued payment for any outstanding bonds or capital projects associated with the school. The transformation zone district is responsible for routine maintenance of the facility, including but not limited to, cleaning, painting, gardening, and landscaping.

(2) The original school district retains ownership of and legal title to the land, building, and equipment of a transformation zone school. After the decision is made by the state board of education to

transfer a school to the transformation zone district, the original school district may not remove supplies or equipment from the transformation zone school without written authorization from the superintendent of public instruction or the contracted learning management organization for the school.

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

NEW SECTION. **Sec. 210.** TRANSFORMATION ZONE SCHOOLS--RETURN TO ORIGINAL DISTRICT. (1) The state board of education must establish criteria for measuring the improvement of each transformation zone school, based on the performance framework and performance targets established under section 204 of this act.

(2) A transformation zone school is eligible to be returned to the jurisdiction of its original school district after the school has met the performance improvement criteria of the state board of education for three consecutive years.

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

(4) Any unspent balances in the account associated with the transformation zone school must be credited to the original school district.

(5) The board of directors of the original school district may negotiate a new contract with the learning management organization to continue oversight and management of a returned transformation zone school.

PART III
GENERAL PROVISIONS

Sec. 301. RCW 28A.150.010 and 1969 ex.s. c 223 s 28A.01.055 are each amended to read as follows:

Public schools ((~~shall~~)) means the common schools as referred to in Article IX of the state Constitution and those schools and institutions of learning having a curriculum below the college or university level as now or may be established by law and maintained at public expense, including charter schools established under chapter 28A.--- RCW (the new chapter created in section 401 of this act).

NEW SECTION. **Sec. 302.** A new section is added to chapter 41.32 RCW to read as follows:

This section designates charter schools established under chapter 28A.-- RCW (the new chapter created in section 401 of this act) as employers and charter school employees as members, and applies only if the department of retirement systems receives determinations from the internal revenue service and the United States department of labor that participation does not jeopardize the status of these retirement systems as governmental plans under the federal employees' retirement income security act and the internal revenue code.

NEW SECTION. **Sec. 303.** A new section is added to chapter 41.35 RCW to read as follows:

This section designates charter schools established under chapter 28A.-- RCW (the new chapter created in section 401 of this act) as employers and charter school employees as members, and applies only if the department of retirement systems receives determinations from the internal revenue service and the United States department of labor that participation does not jeopardize the status of these retirement systems as governmental plans under the federal employees' retirement income security act and the internal revenue code.

NEW SECTION. **Sec. 304.** A new section is added to chapter 41.40 RCW to read as follows:

This section designates charter schools established under chapter 28A.-- RCW (the new chapter created in section 401 of this act) as employers and charter school employees as members, and applies only if

the department of retirement systems receives determinations from the internal revenue service and the United States department of labor that participation does not jeopardize the status of these retirement systems as governmental plans under the federal employees' retirement income security act and the internal revenue code.

Sec. 305. RCW 41.05.011 and 2011 1st sp.s. c 15 s 54 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authority" means the Washington state health care authority.

(2) "Board" means the public employees' benefits board established under RCW 41.05.055.

(3) "Dependent care assistance program" means a benefit plan whereby state and public employees may pay for certain employment related dependent care with pretax dollars as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 129 or other sections of the internal revenue code.

(4) "Director" means the director of the authority.

(5) "Emergency service personnel killed in the line of duty" means law enforcement officers and firefighters as defined in RCW 41.26.030, members of the Washington state patrol retirement fund as defined in RCW 43.43.120, and reserve officers and firefighters as defined in RCW 41.24.010 who die as a result of injuries sustained in the course of employment as determined consistent with Title 51 RCW by the department of labor and industries.

(6) "Employee" includes all employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature. Pursuant to contractual agreement with the authority, "employee" may also include: (a) Employees of a county, municipality, or other political subdivision of the state and members of the legislative authority of any county, city, or town who are elected to office after February 20, 1970, if the legislative authority of the county, municipality, or other political subdivision of the state seeks and receives the approval of the authority to provide any of its

insurance programs by contract with the authority, as provided in RCW 41.04.205 and 41.05.021(1)(g); (b) employees of employee organizations representing state civil service employees, at the option of each such employee organization, and, effective October 1, 1995, employees of employee organizations currently pooled with employees of school districts for the purpose of purchasing insurance benefits, at the option of each such employee organization; (c) employees of a school district if the authority agrees to provide any of the school districts' insurance programs by contract with the authority as provided in RCW 28A.400.350; ((~~and~~)) (d) employees of a tribal government, if the governing body of the tribal government seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021(1) (f) and (g)<u>; and (e) employees of a charter school established under chapter 28A.--- RCW (the new chapter created in section 401 of this act)</u>. "Employee" does not include: Adult family homeowners; unpaid volunteers; patients of state hospitals; inmates; employees of the Washington state convention and trade center as provided in RCW 41.05.110; students of institutions of higher education as determined by their institution; and any others not expressly defined as employees under this chapter or by the authority under this chapter.

(7) "Employer" means the state of Washington.

(8) "Employing agency" means a division, department, or separate agency of state government, including an institution of higher education; a county, municipality, school district, educational service district, <u>charter school,</u> or other political subdivision; and a tribal government covered by this chapter.

(9) "Faculty" means an academic employee of an institution of higher education whose workload is not defined by work hours but whose appointment, workload, and duties directly serve the institution's academic mission, as determined under the authority of its enabling statutes, its governing body, and any applicable collective bargaining agreement.

(10) "Flexible benefit plan" means a benefit plan that allows employees to choose the level of health care coverage provided and the amount of employee contributions from among a range of choices offered by the authority.

(11) "Insuring entity" means an insurer as defined in chapter 48.01 RCW, a health care service contractor as defined in chapter 48.44 RCW, or a health maintenance organization as defined in chapter 48.46 RCW.

(12) "Medical flexible spending arrangement" means a benefit plan whereby state and public employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(13) "Participant" means an individual who fulfills the eligibility and enrollment requirements under the salary reduction plan.

(14) "Plan year" means the time period established by the authority.

(15) "Premium payment plan" means a benefit plan whereby state and public employees may pay their share of group health plan premiums with pretax dollars as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(16) "Retired or disabled school employee" means:

(a) Persons who separated from employment with a school district or educational service district and are receiving a retirement allowance under chapter 41.32 or 41.40 RCW as of September 30, 1993;

(b) Persons who separate from employment with a school district ((~~or~~)), educational service district, or charter school on or after October 1, 1993, and immediately upon separation receive a retirement allowance under chapter 41.32, 41.35, or 41.40 RCW;

(c) Persons who separate from employment with a school district ((~~or~~)), educational service district, or charter school due to a total and permanent disability, and are eligible to receive a deferred retirement allowance under chapter 41.32, 41.35, or 41.40 RCW.

(17) "Salary" means a state employee's monthly salary or wages.

(18) "Salary reduction plan" means a benefit plan whereby state and public employees may agree to a reduction of salary on a pretax basis to participate in the dependent care assistance program, medical flexible spending arrangement, or premium payment plan offered pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(19) "Seasonal employee" means an employee hired to work during a recurring, annual season with a duration of three months or more, and anticipated to return each season to perform similar work.

(20) "Separated employees" means persons who separate from employment with an employer as defined in:

(a) RCW 41.32.010(17) on or after July 1, 1996; or

(b) RCW 41.35.010 on or after September 1, 2000; or

(c) RCW 41.40.010 on or after March 1, 2002;

and who are at least age fifty-five and have at least ten years of service under the teachers' retirement system plan 3 as defined in RCW 41.32.010(33), the Washington school employees' retirement system plan 3 as defined in RCW 41.35.010, or the public employees' retirement system plan 3 as defined in RCW 41.40.010.

(21) "State purchased health care" or "health care" means medical and health care, pharmaceuticals, and medical equipment purchased with state and federal funds by the department of social and health services, the department of health, the basic health plan, the state health care authority, the department of labor and industries, the department of corrections, the department of veterans affairs, and local school districts.

(22) "Tribal government" means an Indian tribal government as defined in section 3(32) of the employee retirement income security act of 1974, as amended, or an agency or instrumentality of the tribal government, that has government offices principally located in this state.

NEW SECTION. **Sec. 306.** A new section is added to chapter 41.56 RCW to read as follows:

(1) Notwithstanding RCW 41.56.060 and 41.56.070, the bargaining units of classified employees of the transformation zone district established under section 202 of this act must be limited to the employees of each transformation zone school within the district and must be separate from other bargaining units in the district. The superintendent of public instruction must consult with the learning management organizations that are under contract to manage and operate transformation zone schools when fulfilling the responsibilities of a public employer under this chapter.

(2) In addition to the entities listed in RCW 41.56.020, this chapter applies to any charter school established under chapter 28A.---RCW (the new chapter created in section 401 of this act).

NEW SECTION. **Sec. 307.** A new section is added to chapter 41.59 RCW to read as follows:

(1) Notwithstanding RCW 41.59.070 and 41.59.080, the bargaining units of certificated employees of the transformation zone district established under section 202 of this act must be limited to the employees of each transformation zone school within the district and must be separate from other bargaining units in the district. The superintendent of public instruction must consult with the learning management organizations that are under contract to manage and operate transformation zone schools when fulfilling the responsibilities of an employer under this chapter.

(2) In addition to school districts, this chapter applies to any charter school established under chapter 28A.--- RCW (the new chapter created in section 401 of this act).

Sec. 308. RCW 28A.310.140 and 2006 c 263 s 608 are each amended to read as follows:

Every school district must be included entirely within a single educational service district. If the boundaries of any school district within an educational service district are changed in any manner so as to extend the school district beyond the boundaries of that educational service district, the superintendent of public instruction shall change the boundaries of the educational service districts so affected in a manner consistent with the purposes of RCW 28A.310.010 and this section. This section does not apply to the transformation zone district established under section 202 of this act.

NEW SECTION. **Sec. 309.** A new section is added to chapter 28A.315 RCW to read as follows:

The provisions of this chapter do not apply to the transformation zone district established under section 202 of this act.

NEW SECTION. **Sec. 310.** A new section is added to chapter 28A.323 RCW to read as follows:

The provisions of this chapter do not apply to the transformation zone district established under section 202 of this act.

NEW SECTION. **Sec. 311.** A new section is added to chapter 28A.343 RCW to read as follows:

The provisions of this chapter do not apply to the transformation zone district established under section 202 of this act.

PART IV
MISCELLANEOUS PROVISIONS

NEW SECTION. **Sec. 401.** Sections 101 through 125 of this act constitute a new chapter in Title 28A RCW.

NEW SECTION. **Sec. 402.** Sections 201 through 210 of this act constitute a new chapter in Title 28A RCW.

NEW SECTION. **Sec. 403.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

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