

INITIATIVE 177

I, Ralph Munro, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 177 to the Legislature is a true and correct copy as it was received by this office.

**The *Education Excellence Initiative*
Initiative 1XX (FILED 8/1/95)**

An Initiative to the Legislature of the State of Washington

FILED with the Secretary of State on July 17, 1995,
REVIEWED by the Code Reviser between July 17 - 24, 1995, and
REFILED with the Secretary of State on August 1, 1995

for enactment without amendment during the January 1996 legislative session, or if not, to be enacted or rejected by a vote of the People no later than November 5, 1996.

PROPOSED Ballot Title
(final ballot title to be drafted by the Attorney General):
[maximum of 20 words « 20 words shown below]
Shall voters decide whether their local school district should channel per-student funding to nonprofit independent public schools that parents choose?

PROPOSED Ballot Measure Summary
(final ballot measure summary to be drafted by the Attorney General):
[maximum of 75 words « 71 words shown below]
This measure gives local voters the option to renew their own school district. Within renewed school districts, nonprofit organizations may open new, independent public schools which parents may then choose for their own children. Per-student district funds (including any funds for special needs) would follow each student to the independent public schools that parents choose. All independent public schools would enjoy reduced regulations and provide an enrollment preference to low-income students.

1 AN ACT Relating to education; adding a new chapter to Title 28A
2 RCW; creating a new section; and prescribing penalties.

3 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1. PURPOSE.** The People have proposed and
5 enacted this initiative to restore accountability, efficiency, and
6 parental choice to public education. The current public school system

1 has lost its academic focus, become excessively bureaucratic, and
2 abridged the rights of parents and taxpayers. Accordingly, the People
3 have chosen to use the initiative process to restore excellence to
4 public education by returning power to parents and our communities.

5 NEW SECTION. **Sec. 2. SHORT TITLE.** Chapter . . . , Laws of 1996
6 (this act) shall be known as the Education Excellence Act.

7 NEW SECTION. **Sec. 3. DEFINITIONS.** Unless the context clearly
8 requires otherwise, the definitions in this section apply throughout
9 this chapter.

10 (1) **"Renewed public school district"** means any public school
11 district whose voters have voted to adopt the optional public education
12 reforms authorized by this chapter.

13 (2) **"Public schools"** means both government-operated public schools
14 and independent public schools.

15 (3) **"Parent" and "parents"** means that person or those persons who
16 have legal custody of a child, including without limitation, a
17 court-appointed guardian.

18 (4) **"Certificated teacher"** means any person who is certificated by
19 the state board of education, under provisions adopted by the
20 legislature, as qualified to teach at any publicly funded school in
21 Washington, whether or not the person may also be an administrator.

22 (5) **"Low-income students"** means those students who qualify for
23 assistance under a federally subsidized school meal program or who live
24 in families whose most recent calendar year adjusted gross income was
25 less than one hundred fifty percent of the federal poverty line, or who
26 have met either criteria during any of the prior two years.

27 (6) **"Special needs students"** means those students who qualify as
28 such under state and/or federal definitions for handicapped or learning
29 assistance programs.

30 (7) **"Independent public school"** means a non-profit organization
31 that has obtained a license to operate a public school in a renewed
32 public school district in accordance with section 6(6) of this act.

33 (8) **"Government-operated public school"** means any public school
34 that is managed by a public school district or a renewed public school
35 district.

36 (9) **"Reasonable monthly rent"** means a monthly rent that does not
37 exceed fair market value, i.e., the rent that would be charged in a

1 free market to rent substantially similar property, without reference
2 to replacement cost.

3 (10) "Below-market monthly rent" means a monthly rent that is more
4 than 10% below fair market value.

5 NEW SECTION. **Sec. 4. ELIMINATION OF UNNECESSARY BUREAUCRACY IN**
6 **RENEWED PUBLIC SCHOOL DISTRICTS THROUGH REDUCED REGULATIONS, INCREASED**
7 **ACCOUNTABILITY AND PARENTAL CHOICE.**

8 (1) **CREATION OF INDEPENDENT PUBLIC SCHOOLS.** At any time on or
9 before August 1st of each year, non-profit organizations may obtain
10 licenses to open and operate new independent public schools in any
11 renewed public school district, beginning with the first day of the
12 next school year.

13 (2) **REDUCED REGULATIONS.** All independent public schools shall be
14 exempt from all laws and rules except those that applied to approved
15 private schools on December 31, 1994 or those that are specifically
16 authorized by this chapter. Except for the payment of a reasonable
17 processing fee, which shall not exceed two percent of the funds
18 redistributed to an independent public school, and the payment of a
19 reasonable monthly rent for any real and personal property owned by a
20 renewed public school district and used by an independent public
21 school, an independent public school shall not be required to pay for
22 any services received from the district unless it specifically agrees
23 to do so in writing. Similarly, except for providing transportation
24 services in appropriate circumstances, a renewed public school district
25 is not required to provide any services to any independent public
26 school unless the school specifically agrees in writing to pay for the
27 services. Each independent public school may contract for services
28 with its renewed public school district or with any other willing
29 provider.

30 (3) **INCREASED ACCOUNTABILITY.** All independent public schools shall
31 be schools of choice: Students will usually attend only if their
32 parents choose the school. Each independent public school shall
33 receive public funding based on the number and special needs status of
34 the students attending the school. In general, an independent public
35 school shall receive more public funding as its enrollment increases,
36 and/or as its enrollment of special needs students increases.
37 Similarly, an independent public school shall receive less public
38 funding as its enrollment decreases, and/or as its enrollment of

1 special needs students decreases. An independent public school shall
2 receive public funding only to the extent that parents choose to enroll
3 their children at the school and educational services are actually
4 provided. Any independent public school that does not have sufficient
5 space to enroll all of the children seeking admission to the school may
6 expand its operations immediately, either at its current site or at one
7 or more additional sites.

8 **(4) PARENTAL CHOICE.**

9 **(a) PARENTS' RIGHT TO CHOOSE THE BEST SCHOOL FOR THEIR**
10 **CHILDREN.** A parent who wants to send his or her school-age child to a
11 public school in a renewed public school district may choose any public
12 school with an opening in the district, or any other district, whether
13 the school is a government-operated public school or an independent
14 public school. In addition, a parent may withdraw his or her
15 school-age child at any time from any government-operated public school
16 or independent public school as long as he or she has already made
17 alternative arrangements approved under state law.

18 **(b) DISTRICT CHOOSES FOR PARENTS WHO DO NOT CHOOSE.** If the
19 parents of a school-age child fail to make a school choice before June
20 15th, the district shall assign the child to the public school that the
21 district determines would provide the best educational environment for
22 the child.

23 **(c) AUTHORIZED LIMITATIONS ON PARENTAL CHOICE.** The
24 superintendent of a renewed public school district may, by sending a
25 letter via certified mail, return receipt requested, limit a parent's
26 choice to one or more of the public schools within the renewed public
27 school district, but only in the following situations:

28 **(i) Truancy and Expulsions.** With respect to any
29 student who has been expelled from a public school, or who has been
30 absent from school without a reasonable excuse for more than five days
31 during the school year, parental choice may be limited with respect to
32 the balance of the school year only.

33 **(ii) Excessive School Changes.** With respect to any
34 student who has changed public schools more than twice in any one
35 school year without a change of residence, parental choice may be
36 limited with respect to the balance of the school year only.

37 **(iii) Criminal Misconduct.** With respect to any student
38 who has been convicted in any jurisdiction of criminal misconduct

1 constituting a gross misdemeanor or a felony, parental choice may be
2 limited indefinitely.

3 **(iv) Extraordinary Situations.** In extraordinary
4 situations, the superintendent of a renewed school public school
5 district may petition a court of competent jurisdiction to appoint a
6 guardian solely for the purpose of selecting among the public schools
7 in a renewed public school district. In such a proceeding, the
8 superintendent shall have the burden of proving, with clear and
9 convincing evidence, that the petition is in the best interests of the
10 child involved.

11 **(d) UNAUTHORIZED LIMITATIONS ON PARENTAL CHOICE.** No
12 contract may directly or indirectly limit a parent's right to choose
13 the public school within a renewed public school district that the
14 parent believes is the best public school for his or her child. The
15 part of any contract that violates this section, including any
16 no-competition covenant in any employment contract between a teacher
17 and a public school, is unenforceable.

18 NEW SECTION. **Sec. 5. RIGHT OF THE PARENTS AND TEACHERS AT ANY**
19 **GOVERNMENT-OPERATED PUBLIC SCHOOL TO CONVERT THEIR SCHOOL TO AN**
20 **INDEPENDENT PUBLIC SCHOOL.**

21 **(1) MAJORITY SUPPORT REQUIRED.** A government-operated public school
22 located in a renewed public school district shall convert to an
23 independent public school if either:

24 **(a)** At least two-thirds of the families whose children
25 attend the school sign a written petition to convert the school; or

26 **(b)** A majority of the families and a majority of the
27 teachers employed full time at the school sign such a petition.

28 **(2) CONSENT MAY BE REVOKED AT ANY TIME BEFORE A PETITION IS FILED.**
29 In two-parent families, either parent may sign on behalf of the family
30 unless the other parent delivers a written and signed notice to the
31 independent public school before the petition is filed with the renewed
32 public school district and the superintendent of public instruction.
33 Similarly, a parent or teacher may, in the same manner, withdraw his or
34 her support for a petition at any time before it is filed with the
35 renewed public school district and the superintendent of public
36 instruction.

37 **(3) ARBITRATION OF DISPUTES.** Any challenge to a petition,
38 including a challenge asserting a lack of sufficient support among a

1 school's parents and/or teachers, shall be resolved by binding
2 arbitration in accordance with section 21 of this act.

3 **(4) CONVERSION PROCESS.** The petition shall identify the existing
4 or proposed independent public school that has accepted responsibility
5 for managing the school site after the conversion, as well as the date
6 the conversion shall take place. An independent public school created
7 in this manner may continue to rent, at a reasonable monthly rate, the
8 same school site and/or related facilities previously used by the
9 government-operated public school. The renewed public school district
10 shall not discontinue the rental arrangement as long as the independent
11 public school agrees to and does pay a reasonable rent in a timely
12 manner. Alternatively, the newly created independent public school may
13 rent, lease, or purchase classroom or school facilities elsewhere in
14 the district from any other willing provider.

15 NEW SECTION. **Sec. 6. REQUIREMENTS FOR INDEPENDENT PUBLIC SCHOOLS.**
16 Independent public schools shall meet all of the following
17 requirements:

18 **(1) INDEPENDENT PUBLIC SCHOOLS SHALL BE NON-PROFIT ORGANIZATIONS.**
19 Every independent public school shall be a non-profit organization,
20 including but not limited to non-profit corporations created in
21 accordance with Title 24 RCW. The names and work addresses of all
22 officers, principals, and board members of independent public schools
23 shall be a matter of public record.

24 **(2) INDEPENDENT PUBLIC SCHOOLS SHALL PREPARE EDUCATION ACHIEVEMENT**
25 **PLANS FOR EACH STUDENT.** An independent public school may receive
26 public funding only for those students enrolled for whom an education
27 achievement plan has been completed. Every request for public funding
28 filed by an independent public school shall include a certification by
29 the independent public school that it has a completed education
30 achievement plan on file for each student listed. For purposes of this
31 section, an education achievement plan shall be deemed completed if it
32 is in writing and signed by the classroom teacher, the principal, and
33 at least one of the student's parents. Every parent shall receive a
34 fully signed copy of his or her student's education achievement plan
35 each time it is prepared or formally reviewed, regardless of whether it
36 is revised. In September, January, and June, each student's education
37 achievement plan shall be prepared or formally reviewed and signed by

1 the classroom teacher, the principal, and at least one of the student's
2 parents.

3 **(3) INDEPENDENT PUBLIC SCHOOLS SHALL EMPLOY CERTIFICATED TEACHERS.**

4 All independent public schools shall comply with the requirements for
5 "approved" private schools that were in force on December 31, 1994,
6 with respect to the number of teachers employed by the school who must
7 be certificated teachers.

8 **(4) INDEPENDENT PUBLIC SCHOOLS SHALL MEET ALL OF THE REQUIREMENTS
9 FOR OPERATING AN APPROVED PRIVATE SCHOOL THAT WERE IN FORCE ON**

10 **12/31/94.** All independent public schools shall meet all of the
11 requirements for operating an approved private school that were in
12 force on December 31, 1994.

13 **(5) INDEPENDENT PUBLIC SCHOOLS SHALL NOT BE REQUIRED TO IMPLEMENT**

14 **"PERFORMANCE-BASED" EDUCATION UNDER HB-1209.** The timelines and
15 requirements of chapter 336, Laws of 1993, also known as "House Bill
16 No. 1209" shall be optional for independent public schools, just as
17 they are optional for private schools and home-based instruction.

18 **(6) INDEPENDENT PUBLIC SCHOOLS SHALL OBTAIN A LICENSE TO OPERATE
19 EACH YEAR.**

20 **(a) GENERAL RULES.** All independent public schools shall be
21 licensed. To obtain an independent public school license, a non-profit
22 organization shall file a license application with each renewed public
23 school district in which it intends to operate no later than the August
24 1st before its first year of operation in the district, and file an
25 application for license renewal during June or July of each subsequent
26 year. All such applications shall include a copy of the applicant's
27 non-profit certificate, articles of incorporation (if any) and bylaws,
28 and a brochure, pamphlet or handout that includes the following
29 information, if the information is reasonably available:

30 **(i)** The names, addresses, and telephone numbers of the
31 applicant, its principal, and each member of its board of directors;

32 **(ii)** The scope, sequence, and benchmarks of the
33 applicant's academic program or proposed program;

34 **(iii)** For renewal applications, if test score
35 information is available, the average student test scores from the
36 latest state-wide, objective, normed tests, and the average annual
37 improvement in same-student test scores;

38 **(iv)** The names and qualifications of its current
39 teachers and staff;

1 (v) Any affiliations with other institutions, public or
2 private;

3 (vi) The applicant's expectations about student
4 performance and behavior, including a copy of its current or proposed
5 code of conduct;

6 (vii) Any problems known to the applicant's principal
7 and board members that could have a substantial negative impact on the
8 health or safety of its students;

9 (viii) The amount and kinds of coverage provided by the
10 applicant's liability insurance policy, including the name and phone
11 number of the insurance company, the policy number, and its renewal
12 date; and

13 (ix) A description of each existing or proposed school
14 site.

15 (b) PROCEDURES FOR DENYING A LICENSE APPLICATION. The
16 renewed public school district shall approve or deny each application
17 within fourteen days of its receipt and promptly forward approved
18 applications to the superintendent of public instruction who shall
19 promptly issue the license. No application may be denied unless the
20 renewed public school district notifies the applicant in writing of
21 specific substantial objections based upon a preponderance of the
22 credible evidence that the applicant does not satisfy one or more of
23 the specific requirements for an independent public school as set forth
24 in this chapter, and unless the applicant is provided with a reasonable
25 opportunity to cure the objections noted. License application denials
26 may be appealed to the superintendent of public instruction or to an
27 arbitrator appointed pursuant to section 21 of this act.

28 (c) PROCEDURES FOR REVOKING AN APPROVED LICENSE. Once an
29 independent public school's initial application has been approved, its
30 status as an independent public school shall not be revoked except upon
31 proof of a substantial violation of the independent public school
32 requirements after notice and an opportunity to cure or, if necessary,
33 defend.

34 NEW SECTION. **Sec. 7. STUDENT DISCIPLINE AT INDEPENDENT PUBLIC**
35 **SCHOOLS.**

36 (1) **GENERAL AUTHORITY OF PRINCIPALS AND BOARDS OF DIRECTORS.** Every
37 independent public school shall promptly notify the superintendent of
38 its renewed public school district of the names of its principal and

1 board of directors. The principal is the person at the independent
2 public school with day-to-day responsibility for school management,
3 while the board of directors has ultimate management authority,
4 including the authority to hire and fire the principal.

5 **(2) CODE OF CONDUCT AND STUDENT DISCIPLINE.** Each independent
6 public school shall establish a code of conduct by providing a written
7 copy to all enrolled students and student applicants, their parents,
8 and the superintendent of the renewed public school district. Once a
9 code of conduct has been established, the principal may discipline,
10 suspend, or, for serious or habitual misconduct related to the school,
11 expel any student upon giving a written notice and explanation to the
12 student's parents and otherwise providing due process. Copies of all
13 notices related to the suspension or expulsion of a student shall be
14 sent to the superintendent of the renewed public school district, who
15 shall not publicly disclose the identity of the student involved unless
16 required to do so by court order or unless the violation included the
17 use of a gun, knife or similar weapon.

18 NEW SECTION. **Sec. 8. EMPLOYMENT OF STAFF AT INDEPENDENT PUBLIC**
19 **SCHOOLS.** An independent public school shall be independent of the
20 renewed public school district for purposes of employment of teachers
21 and other staff. Although the employees of an independent public
22 school are free to designate a union as their collective bargaining
23 representative in accordance with federal and state law, any collective
24 bargaining agreement negotiated by a renewed public school district
25 with respect to its government-operated public schools shall not apply
26 to any independent public schools located within the district. Like
27 any other non-profit organization, an independent public school may
28 hire, fire and compensate its employees, consultants, and other service
29 providers as it deems appropriate, subject to all relevant laws and
30 rules, including those relating to collective bargaining when employees
31 have chosen to be represented by a union.

32 NEW SECTION. **Sec. 9. LOCAL VOTERS SHALL HAVE THE OPTION TO RENEW**
33 **THEIR PUBLIC SCHOOL DISTRICT THROUGH REDUCED REGULATIONS, INCREASED**
34 **ACCOUNTABILITY, AND PARENTAL CHOICE.**

35 **(1) STATE-WIDE, DISTRICT-BY-DISTRICT ELECTIONS.** Each public school
36 district shall take whatever steps are necessary to place a ballot
37 question before the voters of the district on the earliest possible

1 election day, other than a day in February, following the date this act
2 takes effect, with the ballot question phrased as follows:

3 "Shall the public school district be
4 reformed, as authorized by the Education
5 Excellence Act?"

6 **(2) EFFECT OF "YES" VOTE IN A PARTICULAR SCHOOL DISTRICT.** If a
7 majority of those voting in any public school district vote "yes", to
8 renew the public school district, this chapter shall regulate the
9 renewed public school district until such time, if ever, that a
10 majority of those voting in a subsequent district-wide election vote
11 otherwise. Whether the voters decide to adopt or withdraw from the
12 education reforms authorized by this chapter, the change shall not take
13 place until the beginning of the next school year.

14 **(3) VOTERS' RIGHT TO CHANGE BACK TO A NON-RENEWED SCHOOL DISTRICT.**
15 Once the voters in a public school district have voted to adopt the
16 education reforms authorized by this chapter, the district may not
17 revert to its former status except by a vote of its electorate held on
18 the election day that is closest to the sixth, twelfth, eighteenth,
19 etc. anniversary of the original vote to become a renewed public school
20 district. The school board may put the issue to the voters at that
21 time in the same manner that a board may ask its voters to approve a
22 bond or levy.

23 **(4) SCHOOL BOARDS MAY OFFER VOTERS THE CHOICE TO RENEW THE DISTRICT**
24 **AT ANY TIME.** The school board in every public school district that has
25 not adopted the education reforms authorized by this chapter may put
26 the issue to its voters again at any time in the same manner that a
27 board may ask its voters to approve a bond or levy.

28 **(5) SCHOOL BOARDS MUST OFFER VOTERS THE CHOICE TO RENEW THE**
29 **DISTRICT WHENEVER VOTERS ARE ASKED TO APPROVE A BOND OR LEVY.** In every
30 public school district that has never been a renewed public school
31 district, the board shall, whenever it asks its voters to approve a
32 bond or levy, also ask its voters again whether they want to adopt the
33 education reforms authorized by this chapter and thereby convert the
34 district to a renewed public school district.

35 NEW SECTION. **Sec. 10. REQUIREMENTS FOR ALL GOVERNMENT-OPERATED**
36 **AND INDEPENDENT PUBLIC SCHOOLS WITHIN A RENEWED PUBLIC SCHOOL DISTRICT.**
37 All public schools within a renewed public school district, whether
38 government-operated or independent, shall satisfy all of the following

1 requirements, with monthly reports due by the 15th of the following
2 month, and annual reports due by August 15:

3 **(1) DISCRIMINATION PROHIBITED.** Public schools shall not
4 discriminate against prospective or current students or parents based
5 on their race, color, national origin, ethnicity, family income,
6 religion, place of residence, or any criteria forbidden by federal or
7 state constitutions or laws. Although public schools shall not deny
8 admission on the basis of gender, they may teach children using
9 single-gender classrooms.

10 **(2) HATE GROUPS PROHIBITED.** No public school may advocate unlawful
11 behavior or teach hatred of any person or group.

12 **(3) EXTRA TUITION PROHIBITED.** No public school may require any
13 tuition or fees in excess of the funds provided by federal, state, and
14 local taxes. However, public schools may charge reasonable fees for
15 extracurricular programs, including non-required summer instruction.

16 **(4) PREFERENCE FOR LOW-INCOME STUDENTS REQUIRED.** Each public
17 school shall reserve at least fifteen percent of its actual enrollment
18 for low-income students. If timely applications from such students are
19 fewer than the places available, all low-income students who apply
20 shall be admitted; if timely applications from low-income students
21 exceed the places available, the school may use any lawful criteria to
22 select the low-income students who are offered preferred admission.
23 The school board of a renewed public school district may increase the
24 minimum low-income preference percentage from fifteen percent to the
25 district's average percentage enrollment of low-income students, but
26 only if the standard is applied equally to independent public schools
27 and government-operated public schools. Except to the extent necessary
28 to satisfy this requirement, no public school may consider a student's
29 family income when deciding whether to enroll a student.

30 **(5) PUBLIC DISCLOSURE OF OPENINGS REQUIRED.** Each public school
31 shall disclose monthly to the renewed public school district, as a
32 matter of public record, the number of low income and other students
33 enrolled, the number of students on any waiting list, and whether any
34 openings are available for new students. Unless more than the required
35 minimum percentage of a public school's students are already low-income
36 students, low-income students who are already on the school's waiting
37 list shall be given the first opportunity to fill any available
38 openings for new students.

1 **(6) PUBLIC DISCLOSURE OF FINANCIAL PERFORMANCE REQUIRED.** Each
2 public school shall disclose annually to the renewed public school
3 district, as a matter of public record, its financial performance
4 during the previous school year, including all significant categories
5 of revenue and expense, and all significant sources and uses of cash.

6 **(7) PUBLIC DISCLOSURE OF STUDENT TURNOVER REQUIRED.** Each public
7 school shall disclose annually to the renewed public school district,
8 as a matter of public record, its student turnover, including the
9 number of students attending at the beginning of the school year, the
10 number who transferred in and out, the number expelled, the number who
11 dropped out, and the number who graduated, including the gender and
12 ethnic background of the students in each category.

13 **(8) CONFIDENTIAL DISCLOSURE OF ATTENDANCE REQUIRED.** Each public
14 school shall disclose monthly, in confidence to the renewed public
15 school district, the attendance of each child enrolled, and whether
16 each absence was excused or unexcused. A brief explanation of all
17 excused absences during the current and previous school year shall be
18 kept on file by the public school. For purposes of this section, a
19 child is in attendance if he or she is physically present in the
20 classroom, although the superintendent of the renewed public school
21 district may grant a waiver of this requirement, as appropriate.

22 **(9) PUBLIC DISCLOSURE OF WRITTEN COMPLAINTS REQUIRED.** Each public
23 school shall disclose monthly to the renewed public school district, as
24 a matter of public record, all written complaints received which were
25 authored by identified parents, students, or others. The public school
26 may also disclose its written response to any such complaints. All
27 references in the publicly disclosed documents to particular teachers,
28 students, and parents shall be kept confidential, however, to preserve
29 the privacy of the affected parties, unless a court of competent
30 jurisdiction orders otherwise.

31 **(10) PUBLIC DISCLOSURE OF AVERAGE TEST SCORES REQUIRED.** Subject to
32 the limitation of section 6(5) of this act, the students attending each
33 public school shall participate in any objective, normed tests required
34 by the legislature and administered state-wide in all school districts
35 to all students in specific grade or ability levels. To the extent it
36 can be done without compromising the confidentiality of any student's
37 personal scores, each public school shall disclose promptly, to the
38 renewed public school district, as a matter of public record, the
39 following test results: (a) The average score for all students tested

1 by age or grade level; and, if available, (b) the average annual
2 improvement in same-student performance, in total, and also by student
3 age, gender, and ethnicity. Individual results, including percentile
4 performance when available, shall be released only to the student's
5 parents.

6 **(11) NO SIMULTANEOUS ENROLLMENT; POWER TO CONTRACT FOR SUPPLEMENTAL**
7 **SERVICES.** An individual student shall only enroll in one public school
8 at one time. Any public school may, however, contract with one or more
9 other public schools to provide part of the education services received
10 by its students.

11 NEW SECTION. **Sec. 11. RESPONSIBILITIES OF SCHOOL BOARDS AND**
12 **SUPERINTENDENTS IN RENEWED PUBLIC SCHOOL DISTRICTS.**

13 **(1) AMPLE PROVISION MUST BE MADE FOR THE EDUCATION OF EACH CHILD**
14 **RESIDING IN A RENEWED PUBLIC SCHOOL DISTRICT.** The superintendent and
15 school board of a renewed public school district shall take every
16 reasonable action available to assure that ample provision is made for
17 the education of every child residing in the district, and that all
18 constitutional mandates are met. Although a child's parents will
19 usually be in the best position to determine which particular public
20 school within the district is best for their child, the superintendent
21 may restrict parental choice in those specific instances set forth in
22 section 4(4)(c) of this act.

23 **(2) RENEWED PUBLIC SCHOOL DISTRICTS SHALL CHOOSE THE BEST SCHOOL**
24 **FOR EACH CHILD WHOSE PARENTS DON'T CHOOSE.** If the parents of a
25 school-age child fail to make a school choice before June 15th, the
26 district shall assign the child to the public school that the district
27 determines would provide the best educational environment for the
28 child.

29 **(3) RENEWED PUBLIC SCHOOL DISTRICTS SHALL ADMINISTER ALL**
30 **GOVERNMENT-OPERATED PUBLIC SCHOOLS IN THE DISTRICT.** Renewed public
31 school districts shall continue to administer all of the
32 government-operated public schools in the district.

33 **(4) RENEWED PUBLIC SCHOOL DISTRICTS MAY CONSTRUCT NEW FACILITIES**
34 **AND SELL EDUCATION-RELATED SERVICES.** Renewed public school districts
35 may continue to own, purchase, and construct schools and other
36 education-related facilities for use by government-operated public
37 schools or for purposes of selling or renting these facilities, at
38 reasonable prices, to independent public schools. In addition, renewed

1 public school districts may, in competition with other providers, offer
2 education enhancement, business management, and other consulting or
3 support services to public schools and related entities.

4 **(5) RENEWED PUBLIC SCHOOL DISTRICTS MUST RENT SURPLUS SCHOOL**
5 **PROPERTY TO INTERESTED INDEPENDENT PUBLIC SCHOOLS AND USE THE NET**
6 **PROCEEDS TO BENEFIT LOW-INCOME STUDENTS.**

7 If a renewed public school district owns school facilities that are vacant or are being used for
8 purposes other than K-12 education, and if an independent public school
9 offers to rent some or all of these facilities under a standard rental
10 agreement at a reasonable monthly rent, the district shall accept the
11 offer. If the parties cannot agree on what constitutes a "standard
12 rental agreement" or a "reasonable rent" the issues shall be resolved
13 by arbitration in accordance with section 21 of this act. The district
14 may not thereafter unilaterally discontinue the rental arrangement as
15 long as the independent public school agrees to pay and pays a
16 reasonable monthly rent in a timely manner. A renewed public school
17 district may accept an offer to pay below-market rent, but only if the
18 independent public school promises that at least fifty percent of its
19 students will be low-income or special needs students, or that it will
20 provide certain specified additional services to these students in
21 exchange for a lower rent. The net proceeds from all such rentals
22 (after deducting the district's costs of maintaining the property
23 rented) shall be deposited in a restricted account controlled by the
24 renewed public school district, but that may be used solely by the
25 district to provide additional incentives for independent public
26 schools to locate or continue operating in neighborhoods populated
27 primarily by low-income students. Districts that do not have any
28 neighborhoods populated primarily by low-income students shall use the
29 money to provide additional incentives for independent public schools
30 to provide additional services to low-income students.

31 **(6) RENEWED PUBLIC SCHOOL DISTRICTS MAY SELL SURPLUS SCHOOL**
32 **PROPERTY FOR USE AS SITES FOR INDEPENDENT PUBLIC SCHOOLS AND USE THE**
33 **NET PROCEEDS TO BENEFIT LOW-INCOME STUDENTS.**

34 Beginning with the initial school year and for a period of ten years thereafter, a renewed
35 public school district that owns school facilities that are vacant or
36 are being used for purposes other than K-12 education may sell the
37 property to any interested buyer but only on condition that the new
38 owner and its heirs and assigns forever agree to use the property
39 solely as the location for one or more independent public schools as

1 long as the district remains a renewed public school district. The net
2 proceeds from any such sale shall be deposited into the restricted
3 account described in subsection (5) of this section. A renewed public
4 school district that owns school facilities that are still vacant or
5 used for purposes other than K-12 education ten years after the initial
6 school year may sell the property to any buyer without any conditions
7 as long as the net proceeds are deposited into the restricted account.

8 **(7) WIND UP OF FAILING SCHOOLS BY DISTRICT.** If an independent
9 public school for any reason discontinues operation before the end of
10 a school year, the superintendent of the renewed public school district
11 may assume control of the independent public school, employ
12 certificated teachers and staff, and otherwise provide for the
13 operation and management of the school, but only for the balance of the
14 school year. The district shall not, however, be required to assume
15 responsibility for any debts incurred by the independent public school
16 before its wind up by the district.

17 **(8) DISSEMINATION OF PUBLIC INFORMATION TO INTERESTED PERSONS.**
18 Each renewed public school district shall provide free reasonable
19 access to every interested person to its public records concerning each
20 public school located within the district. Each renewed public school
21 district shall provide free by telephone, mail, facsimile, and
22 electronic mail to any person requesting the information, the names,
23 addresses, and telephone numbers of each public school located in the
24 district, or in any one or more of the postal zip code areas within the
25 district. Each renewed public school district shall also mail at no
26 charge to any person living in the district the brochures describing up
27 to ten different public schools, but only to the extent that the public
28 schools involved have supplied sufficient copies of their brochures to
29 the district. The district may mail more than ten brochures to
30 interested persons if it chooses to do so.

31 **(9) STATE'S RESPONSIBILITY FOR UNFUNDED AND UNDERFUNDED MANDATES.**
32 If a court of competent jurisdiction holds that the amount allocated by
33 the state to pay for the education of a special needs child who resides
34 in a renewed public school district is not in fact sufficient to comply
35 with the requirements of state and/or federal law, and if the renewed
36 public school district is found to have spent the allocated dollars
37 appropriately, then, to that extent, the state, and not the renewed
38 public school district, shall bear the cost of complying with the
39 court's ruling.

1 NEW SECTION. **Sec. 12. ALLOCATION OF PUBLIC EDUCATION FUNDS IN**
2 **RENEWED PUBLIC SCHOOL DISTRICTS.** If a majority of the voters in any
3 public school district vote to implement the provisions of this chapter
4 in their district, the district shall become a renewed public school
5 district and shall, beginning with the next school year, promptly
6 redistribute all money received from federal, state, and local sources,
7 as follows:

8 **(1) GOVERNMENT-OPERATED PUBLIC SCHOOLS.** The district shall
9 redistribute to itself all funds received as a result of the number and
10 special needs status of every student enrolled at its
11 government-operated public schools.

12 **(2) INDEPENDENT PUBLIC SCHOOLS.** Except for the payment of a
13 reasonable processing fee, which shall not exceed two percent of the
14 funds redistributed, the district shall redistribute to each
15 independent public school located within the district a fair share of
16 all federal, state and local funds received by the district, other than
17 funds restricted to transportation expenses or capital improvements.

18 **(a)** Each renewed public school district shall receive full
19 state funding for every child attending any public school located
20 within the district, regardless of whether these public schools are
21 government-operated or independent.

22 **(b)** Each renewed public school district shall redistribute
23 to the independent public schools located within the district, by the
24 20th of each month during the months of October through September, each
25 independent public school's fair share of all federal, state, and local
26 funds received by the district.

27 **(c)** Funds shall be redistributed to each independent public
28 school based on the following formula:

| | |
|---|------------------------------------|
| 29 <u>School days in previous month</u> x | The annual public funding for each |
| 30 school days in the school year | child attending the school plus |
| 31 | the additional funds provided for |
| 32 | each special needs child attending |
| 33 | the school |

34 Expressed as a sentence, the formula is the ratio of the total number
35 of school days in the previous month to the total number of school days
36 in the current school year, multiplied by the annual public funding due
37 for each child enrolled plus the additional annual public funding for
38 each special needs child enrolled. If exact numbers are not available,

1 the district shall use the best available estimate and then make
2 subsequent adjustments as needed.

3 (d) To be entitled to payment by the 20th of each month, an
4 independent public school shall supply the district, by the 5th of each
5 month, with the identity of all children who attended the school in the
6 previous month, along with their special needs status, and attendance
7 summary.

8 (e) Distributions shall be prorated for each child who was
9 not enrolled at an independent public school during the entire previous
10 month.

11 (f) The district may deduct from all funds redistributed to
12 independent public schools a reasonable processing fee, which shall not
13 exceed two percent of the funds redistributed.

14 (g) The annual public funding due for each child enrolled
15 shall equal the amount of funds the school district expects to receive
16 for all non-special needs children from federal, state and local
17 sources, divided by the number of non-special needs students enrolled
18 in the district.

19 (h) The annual public funding due for each special needs
20 child enrolled shall equal the amount of funds the school district
21 expects to receive for each of the separate categories of special needs
22 children from federal, state and local sources, divided by the number
23 of special needs students in each category that are enrolled in the
24 district.

25 (i) This section does not prohibit any public school from
26 operating on a year-round schedule, or a schedule of more than 180
27 instructional days, and the legislature may, at its option, provide
28 additional funds for public schools that choose to do so.

29 (3) **PRIVATE SCHOOLS.** Private schools that do not voluntarily
30 convert to independent public schools shall not receive any state or
31 local funds pursuant to this chapter.

32 (4) **TRANSPORTATION EXPENSES.** Renewed public school districts shall
33 provide free transportation for all students residing within the
34 district and attending public schools within the district that are not
35 located within a safe walking distance, as defined by the district, as
36 follows:

37 (a) **LOW-INCOME AND SPECIAL NEEDS STUDENTS.** A renewed public
38 school district shall provide free transportation for every low-income

1 and special needs student, regardless of which government-operated
2 public school or independent public school is chosen.

3 **(b) OTHER STUDENTS.** A renewed public school district may
4 provide free transportation to every student, regardless of which
5 government-operated public school or independent public school is
6 chosen, or it may limit free transportation to one or more of the
7 nearest government-operated public schools. However, a renewed public
8 school district that is willing to provide free transportation to a
9 student attending a government-operated public school shall also
10 provide free transportation to any independent public school chosen by
11 the student's parents that is located within a one-half mile radius of
12 the government-operated public school. In addition, a renewed public
13 school district shall provide free transportation to any student
14 attending any independent public school if the school agrees in writing
15 to reimburse the district monthly for its marginal cost of providing
16 this service. A renewed public school district may also, at its
17 option, provide free transportation to all or any reasonable category
18 of students attending independent public schools located in the
19 district. A renewed public school district shall be reimbursed by the
20 state for its legitimate transportation expenses as if every
21 independent public school were a government-operated public school.

22 **(5) CAPITAL IMPROVEMENT EXPENSES.** State funds that are
23 constitutionally restricted to capital improvements must be spent on
24 capital improvements. However, except to the minimum extent required
25 by the state constitution, all other state funds distributed to renewed
26 public school districts shall be distributed without restrictions so as
27 not to discriminate against independent public schools or impair their
28 operational flexibility. Renewed public school districts may, however,
29 subject to voter approval, raise additional funds for capital
30 improvements through local levies and bonds.

31 **(6) OTHER EXPENSES; SPECIAL RULE FOR FEDERAL FUNDS AND PRIVATE**
32 **GRANTS.** All money received by a renewed public school district that is
33 not redistributed as a result of the previous subsections shall be
34 redistributed on an equal per student basis among all of the public
35 schools in the district. However, all federal funds and private grants
36 that are received by the district subject to certain conditions shall
37 not be redistributed to any independent public school which refuses to
38 either comply with the conditions or pay its reasonable share of
39 obtaining and administering the funds.

1 NEW SECTION. **Sec. 13. NO DISCRIMINATION AGAINST RENEWED PUBLIC**
2 **SCHOOL DISTRICTS OR INDEPENDENT PUBLIC SCHOOLS.**

3 (1) The state shall not discriminate against renewed public school
4 districts in providing funding or in any other manner.

5 (2) Except for the requirements set forth in this chapter and any
6 rules adopted in accordance with the procedures set forth in this
7 section, there shall be no other requirements or rules imposed on
8 independent public schools, whether by the state or any county, city,
9 or other government or quasi-governmental entity.

10 (3) Independent public schools shall receive the same tax
11 exemptions and other tax benefits currently enjoyed by public schools
12 in non-renewed public school districts.

13 (4) Neither the superintendent of public instruction nor the state
14 board of education may issue rules that limit the operational
15 flexibility of independent public schools unless and until the rules
16 are specifically approved by statute or by a majority vote of all
17 independent public schools.

18 (5) This section does not authorize the legislature to take any
19 action in collaboration with the superintendent of public instruction
20 or state board of education that the legislature would be prohibited
21 from doing on its own.

22 NEW SECTION. **Sec. 14. LOCAL SCHOOL LEVIES.** A renewed public
23 school district may continue to place levy and bond proposals before
24 the voters in the district, in accordance with the law, but the
25 proposed uses of the proceeds of all such proposals shall be identified
26 in advance of the election and then spent accordingly.

27 NEW SECTION. **Sec. 15. EQUAL TAX TREATMENT OF NON-GOVERNMENTAL**
28 **SERVICE PROVIDERS.** Individuals and organizations that compete with
29 renewed public school districts in the sale, lease, or rental of
30 schools, education-related equipment, or supplies to independent public
31 schools shall, with respect to such activities, be taxed by the state
32 and its localities in the same manner and receive the same exemptions
33 as public school districts.

34 NEW SECTION. **Sec. 16. HOME-BASED EDUCATION PROTECTION CLAUSE.**
35 Nothing in this chapter affects the laws and rules in existence on the

1 effective date of this section pertaining to home-based instruction,
2 including chapter 28A.200 RCW.

3 NEW SECTION. **Sec. 17. BENEFIT AND SENIORITY PROTECTION FOR**
4 **EMPLOYEES OF INDEPENDENT PUBLIC SCHOOLS.** To the extent that any
5 employee of an independent public school would be eligible for any
6 state-financed employment benefits if employed at a government-operated
7 school, he or she shall receive the same state-financed employment
8 benefits while employed at an independent public school. Any
9 government entity that currently offers a non-state financed pension,
10 health care plan, or other benefit plan to an employee who subsequently
11 becomes an employee of an independent public school shall offer each
12 such individual the option of continuing to participate without penalty
13 in any or all of the applicable benefit plans as long as the
14 independent public school pays one hundred percent of the cost of his
15 or her continued participation. If their employment with an
16 independent public school terminates, or if the voters in a renewed
17 public school district vote to return the district to a non-renewed
18 district, all certificated teachers and classified employees who were
19 employed by the district in the school year immediately before it
20 became a renewed public school district shall have the right to resume
21 their employment with the district beginning with the next school year
22 without any loss of salary, benefits, or seniority. Any years employed
23 at an independent public school shall be considered as additional years
24 employed by the district.

25 NEW SECTION. **Sec. 18. RULE OF CONSTRUCTION.** This chapter shall
26 be liberally construed to effectuate its purpose of giving local school
27 district voters the option to improve public education within their
28 district through education reforms based on deregulation,
29 accountability, and parental choice.

30 NEW SECTION. **Sec. 19. SUPPLEMENTAL RULES.** This chapter is
31 self-executing. However, the state board of education, the
32 superintendent of public instruction, the educational service
33 districts, local school boards, and local school district
34 superintendents shall use their best efforts to facilitate the
35 successful implementation of the letter and intent of this chapter. To
36 that end, they may take actions and/or issue rules, in the manner

1 provided by law, for purposes of facilitating the successful
2 implementation of this chapter, including routine audits of public
3 school records and operations for purposes of monitoring compliance
4 with this chapter. Any delay in issuing rules or performing any other
5 duty created in this chapter shall not be used to justify any delay in
6 its implementation.

7 NEW SECTION. **Sec. 20. APPLICABILITY OF CONSUMER PROTECTION ACT.**

8 The operation of public schools within a renewed public school district
9 is a matter affecting the public interest for the purpose of applying
10 chapter 19.86 RCW. Any person who is injured by an unfair or deceptive
11 act or practice in connection with a public school within a renewed
12 public school district, including but not limited to fraud,
13 misrepresentation, monopolization, or attempted monopolization, is
14 entitled to all of the remedies provided by the consumer protection
15 act, chapter 19.86 RCW, including, without limitation, its treble
16 damages provision. In any such litigation, the prevailing party shall
17 recover from the other all of its reasonable costs, including
18 attorneys' fees and expert witness fees. The legislature may enact
19 additional civil and criminal penalties for persons who engage in
20 unfair or deceptive conduct in connection with the operation of public
21 schools within renewed public school districts.

22 NEW SECTION. **Sec. 21. BINDING ARBITRATION OF DISPUTES.**

23 (1) If a renewed public school district and an independent public
24 school cannot agree on what constitutes a reasonable rent or any other
25 issue, either party may initiate a binding arbitration before an
26 arbitrator appointed by the presiding judge of the local superior
27 court. Each side shall submit in writing its final offer at least
28 fourteen calendar days before the arbitration hearing. The
29 arbitrator's authority is limited to choosing between the proposed
30 monthly rent or other resolution of the dispute submitted by one side
31 or the other, and the prevailing party shall recover from the other all
32 of its reasonable costs of arbitration, including attorneys' fees and
33 expert witness fees. The decision of the arbitrator shall be final
34 with respect to the issue arbitrated. The superior court shall enter
35 judgment on the award at the request of either party in accordance with
36 RCW 7.04.150.

1 (2) Disputes between an independent public school or applicant and
2 the superintendent of public instruction concerning the renewal or
3 issuance of a license to operate an independent public school shall be
4 resolved in accordance with subsection (1) of this section.

5 (3) Disputes between an independent public school and anyone
6 challenging the conversion of a government-operated public school to an
7 independent public school pursuant to section 5 of this act shall be
8 resolved in accordance with subsection (1) of this section.

9 NEW SECTION. **Sec. 22. SEVERABILITY CLAUSE.** If any provision of
10 this act or its application to any person or circumstance is held
11 invalid, the remainder of the act or the application of the provision
12 to other persons or circumstances is not affected.

13 NEW SECTION. **Sec. 23. CAPTIONS NOT LAW.** Captions used in this
14 act do not constitute any part of the law.

15 NEW SECTION. **Sec. 24.** Sections 1 through 23 of this act shall
16 constitute a new chapter in Title 28A RCW.

17 NEW SECTION. **Sec. 25.** Within one year of the enactment of this
18 chapter, the house of representatives and senate committees on
19 education shall develop and recommend legislation to bring Title 28A
20 RCW into compliance with this act. Any failure to pass any such
21 legislation shall not, however, affect the validity and enforceability
22 of this chapter.

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