

**INITIATIVE 173**

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. 173 to the Legislature is a true and correct copy as it was received by this office.

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

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

4 NEW SECTION. **Sec. 1.** PURPOSE. (1) The people of Washington,  
5 desiring to improve the education of children, adopt this chapter to:

6 (a) Enable parents to determine which schools best meet their  
7 children's needs;

8 (b) Empower parents to send their children to such schools;

9 (c) Establish academic accountability based on historical national  
10 standards;

11 (d) Reduce bureaucracy so that more educational dollars reach the  
12 classroom;

13 (e) Provide greater opportunities for teachers;

14 (f) Mobilize the private sector to help accommodate our burgeoning  
15 school-age population; and

16 (g) Encourage the development of independent and charter schools.

17 (2) Therefore, eligible persons are hereby empowered to choose any  
18 school for their education which meets the requirements of the  
19 Washington State Constitution, as provided in this chapter.

1        NEW SECTION.    **Sec. 2.**    SHORT TITLE.    Chapter . . . , Laws of 1996  
2    (this act) shall be known as **The Choice in Education Act.**

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

6        (1) "Voucher" or "scholarship voucher" is a payment to a child  
7    through his or her parent for pursuing the occupation of full-time  
8    student.

9        (2) "Child" or "Student" means a person eligible to attend  
10    kindergarten or grades one through twelve.

11       (3) "Eligible person" means a full time student otherwise qualified  
12    who is attending any school for their education which complies with the  
13    requirements of the Washington State Constitution.

14       (4) "Voucher-redeeming school" means any school located within  
15    Washington that meets the requirements of this chapter and is not in  
16    violation of the requirements of the Washington State Constitution. No  
17    school may be compelled to become a voucher-redeeming school. No  
18    school that meets the requirements of this chapter may be prevented  
19    from becoming a voucher-redeeming school.

20       (5) "State and local government spending" includes, but is not  
21    limited to, spending funded from all revenue sources, including the  
22    general fund, federal funds, local property taxes, lottery funds, and  
23    local miscellaneous income such as developer fees, but excluding bond  
24    proceeds and charitable donations. Notwithstanding the inclusion of  
25    federal funds in the calculation of state and local government  
26    spending, federal funds shall constitute no part of any scholarship  
27    voucher provided under this section.

28       (6) "Independent school" is a "private" school which is regulated  
29    by chapter 28A.195 RCW.

30       (7) "Charter school" is a state voucher-redeeming school. It is  
31    governed by the terms and conditions of the contract between the  
32    charter school and the school district in which it is located. In  
33    addition, charter schools are subject to the laws governing independent  
34    schools under chapter 28A.195 RCW, and the laws of this chapter.

35       (8) "State school" means the public schools or common schools  
36    referred to in Article IX of the state Constitution and Title 28A RCW.

37       NEW SECTION.    **Sec. 4.**    SCHOLARSHIP    VOUCHERS--EMPOWERMENT    OF

1 PARENTS.

2 (1) The state shall annually pay a scholarship voucher to every  
3 eligible person. Vouchers may be redeemed at any voucher-redeeming  
4 school.

5 (2) The scholarship voucher for each eligible person shall be not  
6 less than fifty-five percent of the state and local government spending  
7 allocated for each annual average full-time equivalent student under  
8 RCW 28A.150.260 and applicable state and local rules during the  
9 preceding fiscal year, excluding expenditures on scholarship vouchers  
10 granted pursuant to this section and excluding any unfunded pension  
11 liability associated with the state school system.

12 (3) Scholarship vouchers shall be of equal value for every child in  
13 any given grade. The legislature may award supplemental funds for  
14 reasonable transportation needs for low-income children and special  
15 needs attributable to disability. Nothing in this section prevents the  
16 use in any school of supplemental assistance from any source, public or  
17 private.

18 (4) Scholarship vouchers provided under this chapter are payment  
19 through parents that is earned by children for attending school.  
20 Vouchers are not payment for services rendered by the school in which  
21 the student is enrolled. Scholarship vouchers are not taxable income.  
22 The student shall be free to choose any voucher-redeeming school, and  
23 such selection shall not constitute a decision or act of the state or  
24 any of its subdivisions.

25 (5) A scholarship voucher accepted by a voucher-redeeming school,  
26 shall be accepted for one hundred percent of the cost of tuition,  
27 registration, or any other fees charged the voucher holding student for  
28 basic education in grades kindergarten through six. In grades seven  
29 through nine the voucher shall be accepted for not less than ninety  
30 percent of the total cost of basic education for the voucher holder.  
31 In grades 10 through 12 the voucher shall be accepted for not less than  
32 eighty percent of the total cost of basic education for the voucher  
33 holder.

34 (6) Beginning with the school year immediately following the  
35 effective date of this act, scholarships shall be made available to  
36 every otherwise eligible child born on or after September 1, 1989.

37 (7) Each voucher-redeeming school must choose and administer tests  
38 reflecting historical national standards for the purpose of measuring  
39 individual academic achievement. Such tests shall be designed and

1 scored by independent parties. Each school's composite results for  
2 each grade level shall be released annually to the public the last week  
3 of March by legal publication in a county newspaper of record.  
4 Individual results shall be released only to the school and the child's  
5 parent.

6 (8) Each voucher-redeeming school must make public by legal  
7 publication in a county newspaper of record the last week of March, its  
8 budget and the results of an annual independent audit prepared in  
9 accordance with generally accepted auditing standards. The audit shall  
10 include, but not be limited to: A statement of school mission,  
11 enrollment statistics, expenditures per student, budget report in an  
12 easily understandable form, student attendance rate, dropout rate, and  
13 condition and needs of the school building.

14 (9) Each teacher in a voucher-redeeming school must hold a college  
15 degree in the subject area taught or in education, or pass a subject  
16 area competency examination reflecting national standards. Such  
17 examination shall be designed and scored by independent parties.  
18 Teachers qualified by examination shall be supervised by a state-  
19 certificated teacher. This subsection will not prevent the use of  
20 classroom teaching assistants.

21 (10) Governing boards of school districts shall establish a  
22 mechanism to survey and publish not later than the March 31 of each  
23 year, the location and number of unused classrooms in buildings owned  
24 by the district. When a classroom has been unused for six consecutive  
25 months the district shall make that classroom available for lease to  
26 any voucher-redeeming school under the following terms and conditions:  
27 (a) the term of the lease shall be for not less than three years, (b)  
28 the voucher-redeeming school will pay a rental amount equal to the  
29 reasonable cost for maintaining, insuring, heating, lighting.  
30 Janitorial cost will not be included in the rental calculation.  
31 Capital costs including original cost of land, building and equipment  
32 or replacement cost shall not be considered in determining reasonable  
33 rent. Nothing in this section shall prohibit a district from  
34 publishing the availability of unused classroom space at any time. If  
35 a rental amount cannot be agreed upon, either party may submit the  
36 issue to binding arbitration before an arbitrator appointed by the  
37 presiding judge of the superior court of the county in which the school  
38 is located. The parties will pay their own fees and costs of  
39 arbitration.

1 (11) Disputes between voucher-redeeming schools and the  
2 superintendent of public instruction concerning the issuance or renewal  
3 of a license to operate a school shall be submitted to arbitration in  
4 accordance with this subsection (10) of this section.

5 NEW SECTION. **Sec. 5.** EMPOWERMENT OF SCHOOLS--REDEMPTION OF  
6 VOUCHERS. An independent school may become a voucher-redeeming school  
7 by filing with the State Board of Education a statement indicating  
8 satisfaction of the legal requirements that apply to independent  
9 schools and the requirements of this section.

10 (1) No school that discriminates on the basis of race, ethnicity,  
11 color, disability, economic status or national origin may redeem  
12 scholarships.

13 (2) To the extent permitted by the laws of the state of Washington  
14 and the laws of the United States, the state shall prevent from  
15 redeeming vouchers any school that advocates unlawful behavior, is not  
16 in compliance with the state or federal constitution, teaches bigotry  
17 toward any person or group on the basis of race, ethnicity, color,  
18 national origin, religion, or gender, or deliberately provides false or  
19 misleading information respecting the school.

20 (3) No school with fewer than twenty-five students may redeem  
21 scholarship vouchers, unless the legislature provides otherwise.

22 (4) It is the legislative intent of this chapter that independent  
23 schools, regardless of size, be accorded maximum flexibility to educate  
24 students and be free of unnecessary, burdensome or onerous regulation.  
25 Any regulation pertaining to health, safety or land use imposed by the  
26 state or any county, city, district or other subdivision of the state,  
27 shall be established under the criterion that the regulation: (a) Is  
28 essential to assure the health, safety or education of students, or as  
29 to any land use regulation, that the governmental body has a compelling  
30 interest in issuing or enacting it; (b) does not unduly burden or  
31 impede independent schools or the parents of students therein; and (c)  
32 will not harass, injure or suppress independent schools.

33 (5) Notwithstanding subsection (4) of this section, the legislature  
34 may (a) enact civil and criminal penalties for schools and persons who  
35 engage in fraudulent conduct in connection with the solicitation of  
36 students or the redemption of scholarships, and (b) restrict or  
37 prohibit individuals convicted of (i) any felony, (ii) any offense  
38 involving lewd or lascivious conduct, or (iii) any offense involving

1 molestation or other abuse of a child, from owning, contracting with,  
2 or being employed by any school, whether state or independent.

3 (6) Any school, state or independent, may establish a code of  
4 conduct and discipline and enforce it with sanctions, including  
5 dismissal. A student who is deriving no substantial academic benefit  
6 or is responsible for serious or habitual misconduct related to the  
7 school may be dismissed.

8 (7) After the parent designates the enrolling school, the state  
9 shall disburse the student's scholarship funds in equal monthly  
10 amounts, directly to the school for credit to the student's account.  
11 Monthly disbursements shall occur within 30 days of receipt of the  
12 school's statement of current enrollment.

13 (8) Expenditures for vouchers issued under this chapter and savings  
14 resulting from the implementation of this chapter shall count toward  
15 the minimum funding requirements for basic education established by  
16 law. Students enrolled in voucher-redeeming schools shall not be  
17 counted toward enrollment in state schools and community colleges for  
18 purposes of state funding of education.

19 NEW SECTION. **Sec. 6.** EMPOWERMENT OF TEACHERS--CONVERSION OF  
20 SCHOOLS TO CHARTER SCHOOLS. Within one year after the effective date  
21 of this act, the legislature shall establish an expeditious process by  
22 which state schools may become state voucher-redeeming charter schools.

23 (1) Except as otherwise required by law, the Washington State  
24 Constitution and the Constitution of the United States, charter schools  
25 shall operate under laws and rules no more restrictive than those  
26 applicable to independent schools regulated by chapter 28A.195 RCW and  
27 this chapter.

28 (2) Employees of such schools shall be permitted to continue and  
29 transfer their pension and health care programs on the same terms as  
30 other similarly situated participants employed by their school district  
31 as long as they remain in the employ of any such school.

32 NEW SECTION. **Sec. 7.** STATE SCHOOL CHOICE. Governing boards of  
33 school districts shall establish a mechanism consistent with federal  
34 law to allocate enrollment capacity based primarily on student choice.  
35 Any state school that chooses not to redeem scholarship vouchers shall,  
36 after district enrollment assignments based primarily on student choice  
37 are complete, open its remaining enrollment capacity to children

1 regardless of residence. For fiscal purposes, children shall be deemed  
2 residents of the school district in which they are enrolled.

3 NEW SECTION. **Sec. 8.** IMPLEMENTATION. No later than May 31, 1997,  
4 the legislature shall enact legislation which implements this chapter  
5 and bring this title into compliance with the purposes and provisions  
6 of this chapter. The legislature shall enact legislation which clearly  
7 defines the meaning of "sectarian control or influence" for the  
8 purposes of this chapter. The provisions of this act are to be  
9 liberally construed to effectuate the policies and purposes of this  
10 act. In the event of conflict between this act and any other provision  
11 of law, the provisions of this act shall govern.

12 NEW SECTION. **Sec. 9.** HOME-BASED EDUCATION. Nothing in this  
13 chapter affects the laws and rules in existence on the effective date  
14 of this section pertaining to home-based instruction, including chapter  
15 28A.200 RCW.

16 NEW SECTION. **Sec. 10.** LIMITATION OF ACTIONS. Any action or  
17 proceeding contesting the validity of (1) this chapter, (2) any  
18 provision of this chapter, or (3) the adoption of this chapter, shall  
19 be commenced within six months from the date of the election at which  
20 this chapter is approved; otherwise this chapter and all of its  
21 provisions shall be held valid, legal, and incontestable. However,  
22 this limitation shall not of itself preclude an action or proceeding to  
23 challenge the application of this chapter or any of its provisions to  
24 a particular person or circumstance.

25 NEW SECTION. **Sec. 11.** CAPTIONS NOT LAW. Captions as used in this  
26 chapter do not constitute any part of the law.

27 NEW SECTION. **Sec. 12.** Sections 1 through 11 of this act shall  
28 constitute a new chapter in Title 28A RCW.

29 NEW SECTION. **Sec. 13.** SEVERABILITY. If any provision of this act  
30 or its application to any person or circumstance is held invalid, the  
31 remainder of the act or the application of the provision to other

1 persons or circumstances is not affected.

--- **END** ---