

**FORMATTING NOTE:**

In initiatives, legislative bills and other proposed measures, language that is to be deleted from current statutes is represented by a "strikethrough" character and language that is to be added is underlined. Because these special characters cannot be formatted in all Internet browsers, a different set of symbols is used for presenting these proposals on-line. The symbols are as follows:

- Text that is surrounded by (({- text here -})) is text that will be DELETED FROM the existing statute if the proposed measure is approved.
- Text that is surrounded by {+ text here +} is text that will be ADDED TO the existing statute if the proposed measure is approved.
- {+ NEW SECTION+} (found at the beginning of a section or paragraph) indicates that ALL of the text in that section will become law if the proposed measure is approved.

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**INITIATIVE 177**

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

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

**NEW SECTION.** Sec. 1. PURPOSE. The People have proposed and enacted this initiative to restore accountability, efficiency, and parental choice to public education. The current public school system has lost its academic focus, become excessively bureaucratic, and abridged the rights of parents and taxpayers. Accordingly, the People have chosen to use the initiative process to restore excellence to public education by returning power to parents and our communities.

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

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

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

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

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

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

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

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

(7) "Independent public school" means a non-profit organization that has obtained a license to operate a public school in a renewed public school district in

accordance with section 6(6) of this act. (8) "Government-operated public school" means any public school that is managed by a public school district or a renewed public school district.

(9) "Reasonable monthly rent" means a monthly rent that does not exceed fair market value, i.e., the rent that would be charged in a free market to rent substantially similar property, without reference to replacement cost. (10)

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

**NEW SECTION.** Sec. 4. ELIMINATION OF UNNECESSARY BUREAUCRACY IN RENEWED PUBLIC SCHOOL DISTRICTS THROUGH REDUCED REGULATIONS, INCREASED ACCOUNTABILITY AND PARENTAL CHOICE. (1) CREATION OF INDEPENDENT PUBLIC SCHOOLS. At any time on or

before August 1st of each year, non-profit organizations may obtain licenses to open and operate new independent public schools in any renewed public school district, beginning with the first day of the next school year.

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

(3) INCREASED ACCOUNTABILITY. All independent public schools shall be schools of choice: Students will usually attend only if their parents choose the school. Each independent public school shall receive public funding based on the number and special needs status of the students attending the school. In general, an independent public school shall receive more public funding as its enrollment increases, and/or as its enrollment of special needs students increases. Similarly, an independent public school shall receive less public funding as its enrollment decreases, and/or as its enrollment of special needs students decreases. An independent public school shall receive public funding only to the extent that parents choose to enroll their children at the school and educational services are actually provided. Any independent public school that does not have sufficient space to enroll all of the children seeking admission to the school may expand its operations immediately, either at its current site or at one or more additional sites.

(4) PARENTAL CHOICE.

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

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

(c) AUTHORIZED LIMITATIONS ON PARENTAL CHOICE. The superintendent of a renewed public school district may, by sending a letter via certified mail, return receipt

requested, limit a parent's choice to one or more of the public schools within the renewed public school district, but only in the following situations:

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

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

(iii) Criminal Misconduct. With respect to any student who has been convicted in any jurisdiction of criminal misconduct constituting a gross misdemeanor or a felony, parental choice may be limited indefinitely.

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

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

**NEW SECTION.** Sec. 5. RIGHT OF THE PARENTS AND TEACHERS AT ANY GOVERNMENT-OPERATED PUBLIC SCHOOL TO CONVERT THEIR SCHOOL TO AN INDEPENDENT PUBLIC SCHOOL. (1) MAJORITY SUPPORT REQUIRED. A government-operated public school located in a renewed public school district shall convert to an independent public school if either:

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

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

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

(3) ARBITRATION OF DISPUTES. Any challenge to a petition, including a challenge asserting a lack of sufficient support among a school's parents and/or teachers, shall be resolved by binding arbitration in accordance with section 21 of this act.

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

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

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

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

(3) INDEPENDENT PUBLIC SCHOOLS SHALL EMPLOY CERTIFICATED TEACHERS. All independent public schools shall comply with the requirements for "approved" private schools that were in force on December 31, 1994, with respect to the number of teachers employed by the school who must be certificated teachers.

(4) INDEPENDENT PUBLIC SCHOOLS SHALL MEET ALL OF THE REQUIREMENTS FOR OPERATING AN APPROVED PRIVATE SCHOOL THAT WERE IN FORCE ON 12/31/94. All independent public schools shall meet all of the requirements for operating an approved private school that were in force on December 31, 1994.

(5) INDEPENDENT PUBLIC SCHOOLS SHALL NOT BE REQUIRED TO IMPLEMENT "PERFORMANCE-BASED" EDUCATION UNDER HB-1209. The timelines and requirements of chapter 336, Laws of 1993, also known as "House Bill No. 1209" shall be optional for independent public schools, just as they are optional for private schools and home-based instruction.

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

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

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

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

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

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

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

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

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

(viii) The amount and kinds of coverage provided by the applicant's liability

insurance policy, including the name and phone number of the insurance company, the policy number, and its renewal date; and

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

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

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

**NEW SECTION.** Sec. 7. STUDENT DISCIPLINE AT INDEPENDENT PUBLIC SCHOOLS. (1) GENERAL AUTHORITY OF PRINCIPALS AND BOARDS OF DIRECTORS. Every independent public school shall promptly notify the superintendent of its renewed public school district of the names of its principal and board of directors. The principal is the person at the independent public school with day-to-day responsibility for school management, while the board of directors has ultimate management authority, including the authority to hire and fire the principal.

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

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

**NEW SECTION.** Sec. 9. LOCAL VOTERS SHALL HAVE THE OPTION TO RENEW THEIR PUBLIC SCHOOL DISTRICT THROUGH REDUCED REGULATIONS, INCREASED ACCOUNTABILITY, AND PARENTAL CHOICE. (1) STATE-WIDE, DISTRICT-BY-DISTRICT ELECTIONS. Each public school district shall take whatever steps are necessary to place a ballot question

before the voters of the district on the earliest possible election day, other than a day in February, following the date this act takes effect, with the ballot question phrased as follows:

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

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

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

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

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

**NEW SECTION.** Sec. 10. REQUIREMENTS FOR ALL GOVERNMENT-OPERATED AND INDEPENDENT PUBLIC SCHOOLS WITHIN A RENEWED PUBLIC SCHOOL DISTRICT. All public schools within a renewed public school district, whether government-operated or independent, shall satisfy all of the following requirements, with monthly reports due by the 15th of the following month, and annual reports due by August 15:

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

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

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

(4) PREFERENCE FOR LOW-INCOME STUDENTS REQUIRED. Each public school shall reserve at least fifteen percent of its actual enrollment for low-income students. If timely applications from such students are fewer than the places available, all low-income students who apply shall be admitted; if timely applications from low-income students exceed the places available, the school may use any lawful criteria to select the low-income students who are offered preferred admission. The school board of a renewed public school district may increase the minimum low-income preference percentage from fifteen percent to the district's average percentage enrollment of low-income students, but only if the standard is applied equally to independent public schools and government-operated public schools.

Except to the extent necessary to satisfy this requirement, no public school may consider a student's family income when deciding whether to enroll a student.

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

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

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

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

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

(10) PUBLIC DISCLOSURE OF AVERAGE TEST SCORES REQUIRED. Subject to the limitation of section 6(5) of this act, the students attending each public school shall participate in any objective, normed tests required by the legislature and administered state-wide in all school districts to all students in specific grade or ability levels. To the extent it can be done without compromising the confidentiality of any student's personal scores, each public school shall disclose promptly, to the renewed public school district, as a matter of public record, the following test results: (a) The average score for all students tested by age or grade level; and, if available, (b) the average annual improvement in same-student performance, in total, and also by student age, gender, and ethnicity. Individual results, including percentile performance when available, shall be released only to the student's parents.

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

**NEW SECTION.** Sec. 11. RESPONSIBILITIES OF SCHOOL BOARDS AND SUPERINTENDENTS IN RENEWED PUBLIC SCHOOL DISTRICTS. (1) AMPLE PROVISION MUST BE MADE FOR THE EDUCATION OF EACH CHILD RESIDING IN A RENEWED PUBLIC SCHOOL DISTRICT. The superintendent and school board of a renewed public school district shall take

every reasonable action available to assure that ample provision is made for the education of every child residing in the district, and that all constitutional mandates are met. Although a child's parents will usually be in the best position to determine which particular public school within the district is best for their child, the superintendent may restrict parental choice in those specific instances set forth in section 4(4)(c) of this act.

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

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

(4) RENEWED PUBLIC SCHOOL DISTRICTS MAY CONSTRUCT NEW FACILITIES AND SELL EDUCATION-RELATED SERVICES. Renewed public school districts may continue to own, purchase, and construct schools and other education-related facilities for use by government-operated public schools or for purposes of selling or renting these facilities, at reasonable prices, to independent public schools. In addition, renewed public school districts may, in competition with other providers, offer education enhancement, business management, and other consulting or support services to public schools and related entities.

(5) RENEWED PUBLIC SCHOOL DISTRICTS MUST RENT SURPLUS SCHOOL PROPERTY TO INTERESTED INDEPENDENT PUBLIC SCHOOLS AND USE THE NET PROCEEDS TO BENEFIT LOW-INCOME STUDENTS. If a renewed public school district owns school facilities that are vacant or are being used for purposes other than K-12 education, and if an independent public school offers to rent some or all of these facilities under a standard rental agreement at a reasonable monthly rent, the district shall accept the offer. If the parties cannot agree on what constitutes a "standard rental agreement" or a "reasonable rent" the issues shall be resolved by arbitration in accordance with section 21 of this act. The district may not thereafter unilaterally discontinue the rental arrangement as long as the independent public school agrees to pay and pays a reasonable monthly rent in a timely manner. A renewed public school district may accept an offer to pay below-market rent, but only if the independent public school promises that at least fifty percent of its students will be low-income or special needs students, or that it will provide certain specified additional services to these students in exchange for a lower rent. The net proceeds from all such rentals (after deducting the district's costs of maintaining the property rented) shall be deposited in a restricted account controlled by the renewed public school district, but that may be used solely by the district to provide additional incentives for independent public schools to locate or continue operating in neighborhoods populated primarily by low-income students. Districts that do not have any neighborhoods populated primarily by low-income students shall use the money to provide additional incentives for independent public schools to provide additional services to low-income students.

(6) RENEWED PUBLIC SCHOOL DISTRICTS MAY SELL SURPLUS SCHOOL PROPERTY FOR USE AS SITES FOR INDEPENDENT PUBLIC SCHOOLS AND USE THE NET PROCEEDS TO BENEFIT LOW-INCOME STUDENTS. Beginning with the initial school year and for a period of ten years thereafter, a renewed public school district that owns school facilities that are vacant or are being used for purposes other than K-12 education may sell the property to any interested buyer but only on condition that the new owner and its heirs and assigns forever agree to use the property solely as the location for one or more independent public schools as long as the district remains a renewed public school district. The net proceeds from any such sale shall be deposited into the restricted account described in subsection (5) of this section. A renewed public school district that owns school facilities that are still vacant or used for purposes other than K-12 education ten years after the initial school year may sell the property to any buyer without any conditions as long as the net proceeds



are deposited into the restricted account.

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

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

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

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

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

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

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

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

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

School days in previous month x The annual public funding for each school days in the school year child attending the school plus the additional funds provided for each special needs child attending the school

Expressed as a sentence, the formula is the ratio of the total number of school days in the previous month to the total number of school days in the current school year, multiplied by the annual public funding due for each child enrolled plus the additional annual public funding for each special needs child enrolled. If exact numbers are not available, the district shall use the best available estimate and then make subsequent adjustments as needed.

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

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

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

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

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

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

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

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

(a) LOW-INCOME AND SPECIAL NEEDS STUDENTS. A renewed public school district shall provide free transportation for every low-income and special needs student, regardless of which government-operated public school or independent public school is chosen.

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

(5) CAPITAL IMPROVEMENT EXPENSES. State funds that are constitutionally restricted to capital improvements must be spent on capital improvements. However, except to

the minimum extent required by the state constitution, all other state funds distributed to renewed public school districts shall be distributed without restrictions so as not to discriminate against independent public schools or impair their operational flexibility. Renewed public school districts may, however, subject to voter approval, raise additional funds for capital improvements through local levies and bonds.

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

**NEW SECTION.** Sec. 13. NO DISCRIMINATION AGAINST RENEWED PUBLIC SCHOOL DISTRICTS OR INDEPENDENT PUBLIC SCHOOLS. (1) The state shall not discriminate against renewed public school districts in providing funding or in any other manner.

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

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

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

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

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

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

**NEW SECTION.** Sec. 16. HOME-BASED EDUCATION PROTECTION CLAUSE. Nothing in this chapter affects the laws and rules in existence on the effective date of this section pertaining to home-based instruction, including chapter 28A.200 RCW.

**NEW SECTION.** Sec. 17. BENEFIT AND SENIORITY PROTECTION FOR EMPLOYEES OF INDEPENDENT PUBLIC SCHOOLS. To the extent that any employee of an independent public school would be eligible for any state-financed employment benefits if employed at a government-operated school, he or she shall receive the same state-financed employment benefits while employed at an independent public school. Any government entity that currently offers a non-state financed pension, health care plan, or other benefit plan to an employee who subsequently becomes an employee of

an independent public school shall offer each such individual the option of continuing to participate without penalty in any or all of the applicable benefit plans as long as the independent public school pays one hundred percent of the cost of his or her continued participation. If their employment with an independent public school terminates, or if the voters in a renewed public school district vote to return the district to a non-renewed district, all certificated teachers and classified employees who were employed by the district in the school year immediately before it became a renewed public school district shall have the right to resume their employment with the district beginning with the next school year without any loss of salary, benefits, or seniority. Any years employed at an independent public school shall be considered as additional years employed by the district.

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

**NEW SECTION.** Sec. 19. SUPPLEMENTAL RULES. This chapter is self-executing. However, the state board of education, the superintendent of public instruction, the educational service districts, local school boards, and local school district superintendents shall use their best efforts to facilitate the successful implementation of the letter and intent of this chapter. To that end, they may take actions and/or issue rules, in the manner provided by law, for purposes of facilitating the successful implementation of this chapter, including routine audits of public school records and operations for purposes of monitoring compliance with this chapter. Any delay in issuing rules or performing any other duty created in this chapter shall not be used to justify any delay in its implementation.

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

**NEW SECTION.** Sec. 21. BINDING ARBITRATION OF DISPUTES. (1) If a renewed public school district and an independent public school cannot agree on what constitutes a reasonable rent or any other issue, either party may initiate a binding arbitration before an arbitrator appointed by the presiding judge of the local superior court. Each side shall submit in writing its final offer at least fourteen calendar days before the arbitration hearing. The arbitrator's authority is limited to choosing between the proposed monthly rent or other resolution of the dispute submitted by one side or the other, and the prevailing party shall recover from the other all of its reasonable costs of arbitration, including attorneys' fees and expert witness fees. The decision of the arbitrator shall be final with respect to the issue arbitrated. The superior court shall enter judgment on the award at the request of either party in accordance with RCW 7.04.150.

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

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

**NEW SECTION.** Sec. 22. SEVERABILITY CLAUSE. 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.

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

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

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

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