

2 **SSB 6600** - S AMD - 691

3 By Senators T. Sheldon, Hochstatter, Long and McAuliffe

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5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** The legislature intends to provide for the
8 operation of education programs for the department of corrections'
9 juvenile inmates. School districts, educational service districts, or
10 any combination thereof should be the primary providers of the
11 education programs. However, the legislature does not intend to
12 preclude community and technical colleges, four-year institutions of
13 higher education, or other qualified entities from contracting to
14 provide all or part of these education programs if no school district
15 or educational service district is willing to operate all or part of
16 the education programs.

17 The legislature finds that this chapter fully satisfies any
18 constitutional duty to provide education programs for juvenile inmates
19 in adult correctional facilities. The legislature further finds that
20 biennial appropriations for education programs under this chapter amply
21 provide for any constitutional duty to educate juvenile inmates in
22 adult correctional facilities.

23 NEW SECTION. **Sec. 2.** Any school district or educational service
24 district may operate all or any portion of an education program for
25 juveniles in accordance with this chapter, notwithstanding the fact the
26 services or benefits provided extend beyond the geographic boundaries
27 of the school district or educational service district providing the
28 service.

29 NEW SECTION. **Sec. 3.** The superintendent of public instruction
30 shall solicit an education provider for the department of corrections'
31 juvenile inmates within sixty days as follows:

32 (1) The superintendent of public instruction shall notify and
33 solicit proposals from all interested and capable school districts,
34 educational service districts, institutions of higher education,

1 private contractors, or any combination thereof. The notice shall
2 describe the proposed education program's requirements and the
3 appropriated amount. The selection of an education provider shall be
4 in the following order:

5 (a) The school district where there is an educational site for
6 juveniles in an adult correctional facility maintained by the state
7 department of corrections has first priority to operate an education
8 program for inmates at that site. The district may elect to operate an
9 education program by itself or with another school district,
10 educational service district, institution of higher education, private
11 contractor, or any combination thereof. If the school district elects
12 not to exercise its priority, it shall notify the superintendent of
13 public instruction within thirty calendar days of the day of
14 solicitation.

15 (b) The educational service district where there is an educational
16 site for juveniles in an adult correctional facility maintained by the
17 state department of corrections has second priority to operate an
18 education program for inmates at that site. The educational service
19 district may elect to do so by itself or with a school district,
20 another educational service district, institution of higher education,
21 private contractor, or any combination thereof. If the educational
22 service district elects not to exercise its priority, it shall notify
23 the superintendent of public instruction within forty-five calendar
24 days of the day of solicitation.

25 (c) If neither the school district nor the educational service
26 district chooses to operate an education program for inmates as
27 provided for in (a) and (b) of this subsection, the superintendent of
28 public instruction may contract with an entity, including, but not
29 limited to, school districts, educational service districts,
30 institutions of higher education, private contractors, or any
31 combination thereof, within sixty calendar days of the day of
32 solicitation. The selected entity may operate an education program by
33 itself or with another school district, educational service district,
34 institution of higher education, or private contractor, or any
35 combination thereof.

36 (2) If the superintendent of public instruction does not contract
37 with an interested entity within sixty days of the day of solicitation,
38 the educational service district where there is an educational site for
39 juveniles in an adult correctional facility maintained by the state

1 department of corrections shall begin operating the education program
2 for inmates at the site within ninety days from the day of solicitation
3 in subsection (1) of this section.

4 NEW SECTION. **Sec. 4.** Except as otherwise provided for by contract
5 under section 7 of this act, the duties and authority of a school
6 district, educational service district, institution of higher
7 education, or private contractor to provide for education programs
8 under this chapter are limited to the following:

9 (1) Employing, supervising, and controlling administrators,
10 teachers, specialized personnel, and other persons necessary to conduct
11 education programs, subject to security clearance by the department of
12 corrections;

13 (2) Purchasing, leasing, or renting and providing textbooks, maps,
14 audiovisual equipment, paper, writing instruments, physical education
15 equipment, and other instructional equipment, materials, and supplies
16 deemed necessary by the provider of the education programs;

17 (3) Conducting education programs for inmates under the age of
18 eighteen in accordance with program standards established by the
19 superintendent of public instruction. The education provider shall
20 develop the curricula, instructional methods, and educational
21 objectives of the education programs, subject to applicable
22 requirements of state and federal law. The department of corrections
23 shall establish behavior standards that govern inmate participation in
24 education programs, subject to applicable requirements of state and
25 federal law;

26 (4) Students age eighteen who have participated in an education
27 program governed by this chapter may continue in the program with the
28 permission of the department of corrections and the education provider,
29 under the rules adopted by the superintendent of public instruction.

30 NEW SECTION. **Sec. 5.** School districts and educational service
31 districts providing an education program to juvenile inmates in an
32 adult corrections facility, notwithstanding that their geographical
33 boundaries do not include the facility, may:

34 (1) Award appropriate diplomas or certificates to inmates who
35 successfully complete graduation requirements;

36 (2) Spend only funds appropriated by the legislature and allocated
37 by the superintendent of public instruction for the exclusive purpose

1 of maintaining and operating education programs under this chapter,
2 including direct and indirect costs of maintaining and operating the
3 education programs, and funds from federal and private grants,
4 bequests, and gifts made for that purpose. School districts may not
5 expend excess tax levy proceeds authorized for school district purposes
6 to pay costs incurred under this chapter.

7 NEW SECTION. **Sec. 6.** To support each education program under this
8 chapter, the department of corrections and each superintendent or chief
9 administrator of a correction facility shall:

10 (1) Through construction, lease, or rental of space, provide
11 necessary building and exercise spaces for the education program that
12 is secure, separate, and apart from space occupied by nonstudent
13 inmates;

14 (2) Through construction, lease, or rental, provide vocational
15 instruction machines; technology and supporting equipment; tools,
16 building, and exercise facilities; and other equipment and fixtures
17 deemed necessary by the department of corrections to conduct the
18 education program;

19 (3) Provide heat, lights, telephone, janitorial services, repair
20 services, and other support services for the building and exercise
21 spaces, equipment, and fixtures provided under this section;

22 (4) Employ, supervise, and control security staff to safeguard
23 agents of the education providers and inmates while engaged in
24 educational and related activities conducted under this chapter;

25 (5) Provide clinical and medical evaluation services necessary for
26 a determination by the education provider of the educational needs of
27 inmates; and

28 (6) Provide such other support services and facilities as are
29 reasonably necessary to conduct the education program.

30 NEW SECTION. **Sec. 7.** Each education provider under this chapter
31 and the department of corrections shall negotiate and execute a written
32 contract for each school year or such longer period as may be agreed to
33 that delineates the manner in which their respective duties and
34 authority will be cooperatively performed and exercised, and any
35 disputes and grievances resolved through mediation, and if necessary,
36 arbitration. Any such contract may provide for the performance of
37 duties by an education provider in addition to those set forth in this

1 chapter, including duties imposed upon the department of corrections
2 and its agents under section 6 of this act if supplemental funding
3 provided by the department of corrections is available to fully pay the
4 direct and indirect costs of these additional duties.

5 NEW SECTION. **Sec. 8.** By April 15th of each school year, the
6 department of corrections shall provide written notice to the
7 superintendent of public instruction and education providers operating
8 programs under this chapter of any reasonably foreseeable education
9 site closures, reductions in the number of inmates or education
10 services, or any other cause for a reduction in certificated or
11 classified staff the next school year. In the event the department of
12 corrections fails to provide notice as required by this section, the
13 department is liable and responsible for the payment of the salary and
14 employment-related costs for the next school year of each employee
15 whose contract would or could have been nonrenewed but for the failure
16 of the department to provide notice. Disputes arising under this
17 section shall be resolved in accordance with the alternative dispute
18 resolution method or methods specified in the contract required by
19 section 7 of this act.

20 NEW SECTION. **Sec. 9.** The superintendent of public instruction
21 shall:

22 (1) Allocate money appropriated by the legislature to administer
23 and provide education programs under this chapter to school districts,
24 educational service districts, and other education providers selected
25 under section 3 of this act that have assumed the primary
26 responsibility to administer and provide education programs under this
27 chapter. The allocation of moneys to any private contractor is
28 contingent upon and must be in accordance with a contract between the
29 private contractor and the department of corrections; and

30 (2) Adopt rules in accordance with chapter 34.05 RCW that establish
31 reporting, program compliance, audit, and such other accountability
32 requirements as are reasonably necessary to implement this chapter and
33 related provisions of the biennial operating act effectively.

34 **Sec. 10.** RCW 72.09.460 and 1997 c 338 s 43 are each amended to
35 read as follows:

1 (1) The legislature intends that all inmates be required to
2 participate in department-approved education programs, work programs,
3 or both, unless exempted under subsection (4) of this section.
4 Eligible inmates who refuse to participate in available education or
5 work programs available at no charge to the inmates shall lose
6 privileges according to the system established under RCW 72.09.130.
7 Eligible inmates who are required to contribute financially to an
8 education or work program and refuse to contribute shall be placed in
9 another work program. Refusal to contribute shall not result in a loss
10 of privileges. The legislature recognizes more inmates may agree to
11 participate in education and work programs than are available. The
12 department must make every effort to achieve maximum public benefit by
13 placing inmates in available and appropriate education and work
14 programs.

15 (2) The department shall provide access to a program of education
16 to all offenders who are under the age of eighteen and who have not met
17 high school graduation or general equivalency diploma requirements in
18 accordance with chapter 28A.-- RCW (sections 1 through 9 of this act).
19 The program of education established by the department and education
20 provider under section 3 of this act for offenders under the age of
21 eighteen must provide each offender a choice of curriculum that will
22 assist the inmate in achieving a high school diploma or general
23 equivalency diploma. The program of education may include but not be
24 limited to basic education, prevocational training, work ethic skills,
25 conflict resolution counseling, substance abuse intervention, and anger
26 management counseling. The curriculum may balance these and other
27 rehabilitation, work, and training components.

28 (3) The department shall, to the extent possible and considering
29 all available funds, prioritize its resources to meet the following
30 goals for inmates in the order listed:

31 (a) Achievement of basic academic skills through obtaining a high
32 school diploma or its equivalent and achievement of vocational skills
33 necessary for purposes of work programs and for an inmate to qualify
34 for work upon release;

35 (b) Additional work and education programs based on assessments and
36 placements under subsection (5) of this section; and

37 (c) Other work and education programs as appropriate.

38 (4) The department shall establish, by rule, objective medical
39 standards to determine when an inmate is physically or mentally unable

1 to participate in available education or work programs. When the
2 department determines an inmate is permanently unable to participate in
3 any available education or work program due to a medical condition, the
4 inmate is exempt from the requirement under subsection (1) of this
5 section. When the department determines an inmate is temporarily
6 unable to participate in an education or work program due to a medical
7 condition, the inmate is exempt from the requirement of subsection (1)
8 of this section for the period of time he or she is temporarily
9 disabled. The department shall periodically review the medical
10 condition of all temporarily disabled inmates to ensure the earliest
11 possible entry or reentry by inmates into available programming.

12 (5) The department shall establish, by rule, standards for
13 participation in department-approved education and work programs. The
14 standards shall address the following areas:

15 (a) Assessment. The department shall assess all inmates for their
16 basic academic skill levels using a professionally accepted method of
17 scoring reading, math, and language skills as grade level equivalents.
18 The department shall determine an inmate's education history, work
19 history, and vocational or work skills. The initial assessment shall
20 be conducted, whenever possible, within the first thirty days of an
21 inmate's entry into the correctional system, except that initial
22 assessments are not required for inmates who are sentenced to life
23 without the possibility of release, assigned to an intensive management
24 unit within the first thirty days after entry into the correctional
25 system, are returning to the correctional system within one year of a
26 prior release, or whose physical or mental condition renders them
27 unable to complete the assessment process. The department shall track
28 and record changes in the basic academic skill levels of all inmates
29 reflected in any testing or assessment performed as part of their
30 education programming;

31 (b) Placement. The department shall follow the policies set forth
32 in subsection (1) of this section in establishing criteria for placing
33 inmates in education and work programs. The department shall, to the
34 extent possible, place all inmates whose composite grade level score
35 for basic academic skills is below the eighth grade level in a combined
36 education and work program. The placement criteria shall include at
37 least the following factors:

1 (i) An inmate's release date and custody level, except an inmate
2 shall not be precluded from participating in an education or work
3 program solely on the basis of his or her release date;

4 (ii) An inmate's education history and basic academic skills;

5 (iii) An inmate's work history and vocational or work skills;

6 (iv) An inmate's economic circumstances, including but not limited
7 to an inmate's family support obligations; and

8 (v) Where applicable, an inmate's prior performance in department-
9 approved education or work programs;

10 (c) Performance and goals. The department shall establish, and
11 periodically review, inmate behavior standards and program goals for
12 all education and work programs. Inmates shall be notified of
13 applicable behavior standards and program goals prior to placement in
14 an education or work program and shall be removed from the education or
15 work program if they consistently fail to meet the standards or goals;

16 (d) Financial responsibility. (i) The department shall establish
17 a formula by which inmates, based on their ability to pay, shall pay
18 all or a portion of the costs or tuition of certain programs. Inmates
19 shall, based on the formula, pay a portion of the costs or tuition of
20 participation in:

21 (A) Second and subsequent vocational programs associated with an
22 inmate's work programs; and

23 (B) An associate of arts or baccalaureate degree program when
24 placement in a degree program is the result of a placement made under
25 this subsection;

26 (ii) Inmates shall pay all costs and tuition for participation in:

27 (A) Any postsecondary academic degree program which is entered
28 independently of a placement decision made under this subsection; and

29 (B) Second and subsequent vocational programs not associated with
30 an inmate's work program.

31 Enrollment in any program specified in (d)(ii) of this subsection
32 shall only be allowed by correspondence or if there is an opening in an
33 education or work program at the institution where an inmate is
34 incarcerated and no other inmate who is placed in a program under this
35 subsection will be displaced; and

36 (e) Notwithstanding any other provision in this section, an inmate
37 sentenced to life without the possibility of release:

38 (i) Shall not be required to participate in education programming;
39 and

1 (ii) May receive not more than one postsecondary academic degree in
2 a program offered by the department or its contracted providers.

3 If an inmate sentenced to life without the possibility of release
4 requires prevocational or vocational training for a work program, he or
5 she may participate in the training subject to this section.

6 (6) The department shall coordinate education and work programs
7 among its institutions, to the greatest extent possible, to facilitate
8 continuity of programming among inmates transferred between
9 institutions. Before transferring an inmate enrolled in a program, the
10 department shall consider the effect the transfer will have on the
11 inmate's ability to continue or complete a program. This subsection
12 shall not be used to delay or prohibit a transfer necessary for
13 legitimate safety or security concerns.

14 (7) Before construction of a new correctional institution or
15 expansion of an existing correctional institution, the department shall
16 adopt a plan demonstrating how cable, closed-circuit, and satellite
17 television will be used for education and training purposes in the
18 institution. The plan shall specify how the use of television in the
19 education and training programs will improve inmates' preparedness for
20 available work programs and job opportunities for which inmates may
21 qualify upon release.

22 (8) The department shall adopt a plan to reduce the per-pupil cost
23 of instruction by, among other methods, increasing the use of volunteer
24 instructors and implementing technological efficiencies. The plan
25 shall be adopted by December 1996 and shall be transmitted to the
26 legislature upon adoption. The department shall, in adoption of the
27 plan, consider distance learning, satellite instruction, video tape
28 usage, computer-aided instruction, and flexible scheduling of offender
29 instruction.

30 (9) Following completion of the review required by section 27(3),
31 chapter 19, Laws of 1995 1st sp. sess. the department shall take all
32 necessary steps to assure the vocation and education programs are
33 relevant to work programs and skills necessary to enhance the
34 employability of inmates upon release.

35 **Sec. 11.** RCW 41.59.080 and 1975 1st ex.s. c 288 s 9 are each
36 amended to read as follows:

37 The commission, upon proper application for certification as an
38 exclusive bargaining representative or upon petition for change of unit

1 definition by the employer or any employee organization within the time
2 limits specified in RCW 41.59.070(3), and after hearing upon reasonable
3 notice, shall determine the unit appropriate for the purpose of
4 collective bargaining. In determining, modifying or combining the
5 bargaining unit, the commission shall consider the duties, skills, and
6 working conditions of the educational employees; the history of
7 collective bargaining; the extent of organization among the educational
8 employees; and the desire of the educational employees; except that:

9 (1) A unit including nonsupervisory educational employees shall not
10 be considered appropriate unless it includes all such nonsupervisory
11 educational employees of the employer; and

12 (2) A unit that includes only supervisors may be considered
13 appropriate if a majority of the employees in such category indicate by
14 vote that they desire to be included in such a unit; and

15 (3) A unit that includes only principals and assistant principals
16 may be considered appropriate if a majority of such employees indicate
17 by vote that they desire to be included in such a unit; and

18 (4) A unit that includes both principals and assistant principals
19 and other supervisory employees may be considered appropriate if a
20 majority of the employees in each category indicate by vote that they
21 desire to be included in such a unit; and

22 (5) A unit that includes supervisors and/or principals and
23 assistant principals and nonsupervisory educational employees may be
24 considered appropriate if a majority of the employees in each category
25 indicate by vote that they desire to be included in such a unit; and

26 (6) A unit that includes only employees in vocational-technical
27 institutes or occupational skill centers may be considered to
28 constitute an appropriate bargaining unit if the history of bargaining
29 in any such school district so justifies; and

30 (7) Notwithstanding the definition of collective bargaining, a unit
31 that contains only supervisors and/or principals and assistant
32 principals shall be limited in scope of bargaining to compensation,
33 hours of work, and the number of days of work in the annual employment
34 contracts; and

35 (8) The bargaining unit of certificated employees of school
36 districts, educational service districts, or institutions of higher
37 education that are education providers under chapter 28A.-- RCW
38 (sections 1 through 9 of this act) must be limited to the employees
39 working as education providers to juveniles in each adult correctional

1 facility maintained by the department of corrections and must be
2 separate from other bargaining units in school districts, educational
3 service districts, or institutions of higher education.

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

6 This chapter applies to the bargaining unit of classified employees
7 of school districts, educational service districts, or institutions of
8 higher education that are education providers under chapter 28A.-- RCW
9 (sections 1 through 9 of this act). Such bargaining units must be
10 limited to the employees working as education providers to juveniles in
11 each adult correctional facility maintained by the department of
12 corrections and must be separate from other bargaining units in school
13 districts, educational service districts, or institutions of higher
14 education.

15 **Sec. 13.** RCW 28A.310.300 and 1990 c 33 s 283 are each amended to
16 read as follows:

17 In addition to other powers and duties as provided by law, each
18 educational service district superintendent shall:

19 (1) Assist the school districts in preparation of their budgets as
20 provided in chapter 28A.505 RCW.

21 (2) Enforce the provisions of the compulsory attendance law as
22 provided in RCW 28A.225.010 through (~~28A.225.150~~) 28A.225.140,
23 28A.200.010, and 28A.200.020.

24 (3) Perform duties relating to capital fund aid by nonhigh
25 districts as provided in chapter 28A.540 RCW.

26 (4) Carry out the duties and issue orders creating new school
27 districts and transfers of territory as provided in chapter 28A.315
28 RCW.

29 (5) Perform the limited duties as provided in chapter 28A.-- RCW
30 (sections 1 through 9 of this act).

31 (6) Perform all other duties prescribed by law and the educational
32 service district board.

33 **Sec. 14.** RCW 28A.225.010 and 1996 c 134 s 1 are each amended to
34 read as follows:

35 (1) All parents in this state of any child eight years of age and
36 under eighteen years of age shall cause such child to attend the public

1 school of the district in which the child resides and such child shall
2 have the responsibility to and therefore shall attend for the full time
3 when such school may be in session unless:

4 (a) The child is attending an approved private school for the same
5 time or is enrolled in an extension program as provided in RCW
6 28A.195.010(4);

7 (b) The child is receiving home-based instruction as provided in
8 subsection (4) of this section;

9 (c) The child is attending an education center as provided in
10 chapter 28A.205 RCW;

11 (d) The school district superintendent of the district in which the
12 child resides shall have excused such child from attendance because the
13 child is physically or mentally unable to attend school, is attending
14 a residential school operated by the department of social and health
15 services, is incarcerated in an adult correctional facility, or has
16 been temporarily excused upon the request of his or her parents for
17 purposes agreed upon by the school authorities and the parent:
18 PROVIDED, That such excused absences shall not be permitted if deemed
19 to cause a serious adverse effect upon the student's educational
20 progress: PROVIDED FURTHER, That students excused for such temporary
21 absences may be claimed as full time equivalent students to the extent
22 they would otherwise have been so claimed for the purposes of RCW
23 28A.150.250 and 28A.150.260 and shall not affect school district
24 compliance with the provisions of RCW 28A.150.220; or

25 (e) The child is sixteen years of age or older and:

26 (i) The child is regularly and lawfully employed and either the
27 parent agrees that the child should not be required to attend school or
28 the child is emancipated in accordance with chapter 13.64 RCW;

29 (ii) The child has already met graduation requirements in
30 accordance with state board of education rules and regulations; or

31 (iii) The child has received a certificate of educational
32 competence under rules and regulations established by the state board
33 of education under RCW 28A.305.190.

34 (2) A parent for the purpose of this chapter means a parent,
35 guardian, or person having legal custody of a child.

36 (3) An approved private school for the purposes of this chapter and
37 chapter 28A.200 RCW shall be one approved under regulations established
38 by the state board of education pursuant to RCW 28A.305.130.

1 (4) For the purposes of this chapter and chapter 28A.200 RCW,
2 instruction shall be home-based if it consists of planned and
3 supervised instructional and related educational activities, including
4 a curriculum and instruction in the basic skills of occupational
5 education, science, mathematics, language, social studies, history,
6 health, reading, writing, spelling, and the development of an
7 appreciation of art and music, provided for a number of hours
8 equivalent to the total annual program hours per grade level
9 established for approved private schools under RCW 28A.195.010 and
10 28A.195.040 and if such activities are:

11 (a) Provided by a parent who is instructing his or her child only
12 and are supervised by a certificated person. A certificated person for
13 purposes of this chapter and chapter 28A.200 RCW shall be a person
14 certified under chapter 28A.410 RCW. For purposes of this section,
15 "supervised by a certificated person" means: The planning by the
16 certificated person and the parent of objectives consistent with this
17 subsection; a minimum each month of an average of one contact hour per
18 week with the child being supervised by the certificated person; and
19 evaluation of such child's progress by the certificated person. The
20 number of children supervised by the certificated person shall not
21 exceed thirty for purposes of this subsection; or

22 (b) Provided by a parent who is instructing his or her child only
23 and who has either earned forty-five college level quarter credit hours
24 or its equivalent in semester hours or has completed a course in home-
25 based instruction at a postsecondary institution or a vocational-
26 technical institute; or

27 (c) Provided by a parent who is deemed sufficiently qualified to
28 provide home-based instruction by the superintendent of the local
29 school district in which the child resides.

30 (5) The legislature recognizes that home-based instruction is less
31 structured and more experiential than the instruction normally provided
32 in a classroom setting. Therefore, the provisions of subsection (4) of
33 this section relating to the nature and quantity of instructional and
34 related educational activities shall be liberally construed.

35 NEW SECTION. **Sec. 15.** Sections 1 through 9 of this act constitute
36 a new chapter in Title 28A RCW.

1 NEW SECTION. **Sec. 16.** Sections 1 through 9 and 11 through 14 of
2 this act are necessary for the immediate preservation of the public
3 peace, health, or safety, or support of the state government and its
4 existing public institutions, and take effect immediately.

5 NEW SECTION. **Sec. 17.** Section 10 of this act takes effect
6 September 1, 1998.

7 NEW SECTION. **Sec. 18.** If any provision of this act or its
8 application to any person or circumstance is held invalid, the
9 remainder of the act or the application of the provision to other
10 persons or circumstances is not affected."

11 **SSB 6600** - S AMD - 691
12 By Senators T. Sheldon, Hochstatter, Long and McAuliffe

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14 On page 1, line 2 of the title, after "facilities;" strike the
15 remainder of the title and insert "amending RCW 72.09.460, 41.59.080,
16 28A.310.300, and 28A.225.010; adding a new section to chapter 41.56
17 RCW; adding a new chapter to Title 28A RCW; providing an effective
18 date; and declaring an emergency."

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