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**SUBSTITUTE SENATE BILL 6600**

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**State of Washington**

**55th Legislature**

**1998 Regular Session**

**By** Senate Committee on Education (originally sponsored by Senators T. Sheldon, Hochstatter, Long, Kohl, Oke and Winsley; by request of Superintendent of Public Instruction)

Read first time 02/04/98.

1 AN ACT Relating to education of juveniles incarcerated in adult  
2 correctional facilities; amending RCW 72.09.460, 41.59.080, and  
3 28A.310.300; adding a new section to chapter 41.56 RCW; adding a new  
4 chapter to Title 28A RCW; providing an effective date; and declaring an  
5 emergency.

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

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 NEW SECTION. **Sec. 2.** Any school district or educational service  
18 district may operate all or any portion of an education program for

1 juveniles in accordance with this chapter, notwithstanding the fact the  
2 services or benefits provided extend beyond the geographic boundaries  
3 of the school district or educational service district providing the  
4 service.

5 NEW SECTION. **Sec. 3.** The superintendent of public instruction  
6 shall select an education provider for the department of corrections'  
7 juvenile inmates as follows:

8 (1) The superintendent of public instruction shall notify and  
9 solicit proposals from all interested and capable school districts,  
10 educational service districts, institutions of higher education,  
11 private contractors, or any combination thereof. The notice shall  
12 describe the proposed education program's requirements and the  
13 appropriated amount. The selection of an education provider shall be  
14 in the following order:

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

25 (b) The educational service district where there is an educational  
26 site for juveniles in an adult correctional facility maintained by the  
27 state department of corrections has second priority to operate an  
28 education program for inmates at that site. The educational service  
29 district may elect to do so by itself or with a school district,  
30 another educational service district, institution of higher education,  
31 private contractor, or any combination thereof. If the educational  
32 service district elects not to exercise its priority, it shall notify  
33 the superintendent of public instruction within forty-five calendar  
34 days of the solicitation.

35 (c) If neither the school district nor the educational service  
36 district chooses to operate an education program for inmates as  
37 provided for in (a) and (b) of this subsection, the superintendent of  
38 public instruction shall contract with an entity, including, but not

1 limited to, school districts, educational service districts,  
2 institutions of higher education, private contractors, or any  
3 combination thereof, within sixty calendar days of the solicitation.  
4 The selected entity may operate an education program by itself or with  
5 another school district, educational service district, institution of  
6 higher education, or private contractor, or any combination thereof.

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

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

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

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

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

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

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

3 (2) Spend only funds appropriated by the legislature and allocated  
4 by the superintendent of public instruction for the exclusive purpose  
5 of maintaining and operating education programs under this chapter,  
6 including direct and indirect costs of maintaining and operating the  
7 education programs, and funds from federal and private grants,  
8 bequests, and gifts made for that purpose. School districts may not  
9 expend excess tax levy proceeds authorized for school district purposes  
10 to pay costs incurred under this chapter.

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

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

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

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

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

29 (5) Provide clinical and medical evaluation services necessary for  
30 a determination by the education provider of the educational needs of  
31 inmates; and

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

34 NEW SECTION. **Sec. 7.** Each education provider under this chapter  
35 and the department of corrections shall negotiate and execute a written  
36 contract for each school year or such longer period as may be agreed to  
37 that delineates the manner in which their respective duties and

1 authority will be cooperatively performed and exercised, and any  
2 disputes and grievances resolved through mediation, and if necessary,  
3 arbitration. Any such contract may provide for the performance of  
4 duties by an education provider in addition to those set forth in this  
5 chapter, including duties imposed upon the department of corrections  
6 and its agents under section 6 of this act if supplemental funding  
7 provided by the department of corrections is available to fully pay the  
8 direct and indirect costs of these additional duties.

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

24 NEW SECTION. **Sec. 9.** The superintendent of public instruction  
25 shall:

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

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

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

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

17       (2) The department shall provide access to a program of education  
18 to all offenders who are under the age of eighteen and who have not met  
19 high school graduation or general equivalency diploma requirements in  
20 accordance with chapter 28A.-- RCW (sections 1 through 9 of this act).  
21 The program of education established by the department and education  
22 provider under section 3 of this act for offenders under the age of  
23 eighteen must provide each offender a choice of curriculum that will  
24 assist the inmate in achieving a high school diploma or general  
25 equivalency diploma.

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

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

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

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

36       (4) The department shall establish, by rule, objective medical  
37 standards to determine when an inmate is physically or mentally unable  
38 to participate in available education or work programs. When the  
39 department determines an inmate is permanently unable to participate in

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

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

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

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

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

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

1 (iii) An inmate's work history and vocational or work skills;  
2 (iv) An inmate's economic circumstances, including but not limited  
3 to an inmate's family support obligations; and  
4 (v) Where applicable, an inmate's prior performance in department-  
5 approved education or work programs;

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

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

17 (A) Second and subsequent vocational programs associated with an  
18 inmate's work programs; and  
19 (B) An associate of arts or baccalaureate degree program when  
20 placement in a degree program is the result of a placement made under  
21 this subsection;

22 (ii) Inmates shall pay all costs and tuition for participation in:  
23 (A) Any postsecondary academic degree program which is entered  
24 independently of a placement decision made under this subsection; and  
25 (B) Second and subsequent vocational programs not associated with  
26 an inmate's work program.

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

32 (e) Notwithstanding any other provision in this section, an inmate  
33 sentenced to life without the possibility of release:  
34 (i) Shall not be required to participate in education programming;  
35 and  
36 (ii) May receive not more than one postsecondary academic degree in  
37 a program offered by the department or its contracted providers.



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

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

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

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

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

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

35 The commission, upon proper application for certification as an  
36 exclusive bargaining representative or upon petition for change of unit  
37 definition by the employer or any employee organization within the time  
38 limits specified in RCW 41.59.070(3), and after hearing upon reasonable

1 notice, shall determine the unit appropriate for the purpose of  
2 collective bargaining. In determining, modifying or combining the  
3 bargaining unit, the commission shall consider the duties, skills, and  
4 working conditions of the educational employees; the history of  
5 collective bargaining; the extent of organization among the educational  
6 employees; and the desire of the educational employees; except that:

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

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

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

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

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

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

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

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

1 separate from other bargaining units in school districts, educational  
2 service districts, or institutions of higher education.

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

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

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

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

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

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

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

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

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

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

32 NEW SECTION. **Sec. 14.** Sections 1 through 9 of this act constitute  
33 a new chapter in Title 28A RCW.

34 NEW SECTION. **Sec. 15.** Sections 1 through 9 and 11 through 13 of  
35 this act are necessary for the immediate preservation of the public

1 peace, health, or safety, or support of the state government and its  
2 existing public institutions, and take effect immediately.

3 NEW SECTION. **Sec. 16.** Section 10 of this act takes effect  
4 September 1, 1998.

5 NEW SECTION. **Sec. 17.** If any provision of this act or its  
6 application to any person or circumstance is held invalid, the  
7 remainder of the act or the application of the provision to other  
8 persons or circumstances is not affected.

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