

CHAPTER 267

[Enrolled Substitute House Bill No. 1530]

NURSING ASSISTANTS

AN ACT Relating to nursing assistants; amending RCW 18.52A.020 and 18.52A.030; reenacting and amending RCW 18.120.020 and 18.130.040; adding a new chapter to Title 18 RCW; creating a new section; and making an appropriation.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. **LEGISLATIVE INTENT.** The legislature takes special note of the contributions made by nursing assistants in nursing homes whose tasks are arduous and whose working conditions may be contributing to the high and often critical turnover among the principal cadre of health care workers who provide for the basic needs of long-term care patients. The legislature also recognizes the growing shortage of nurses in long-term care as the proportion of the elderly population grows and as the acuity of patients in hospitals and nursing homes becomes generally more severe.

The legislature finds and declares that occupational nursing assistants should have a formal system of educational and experiential qualifications leading to career mobility and advancement. The establishment of such a system should bring about a more stabilized work force in the nursing home setting, as well as provide a valuable resource for recruitment into licensed nursing practice.

The legislature declares that the registration of nursing assistants providing for voluntary certification of those who wish to seek higher levels of qualification is in the interest of the public health, safety, and welfare.

NEW SECTION. Sec. 2. **DEFINITIONS.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of licensing.

(2) "Director" means the director of licensing or the director's designee.

(3) "Board" means the Washington state board of nursing.

(4) "Nursing assistant—certified" means an individual certified under this chapter.

(5) "Nursing assistant—registered" means an individual registered under this chapter.

(6) "Committee" means the Washington state nursing assistant advisory committee.

(7) "Certification program" means an educational program approved by the superintendent of public instruction or the state board for community college education, and offered by or under the administration of an accredited educational institution, either at a school site or a nursing home site. A

program shall be offered at or near a nursing home site only if the nursing home can provide adequate classroom and clinical facilities.

(8) "Registration program" means a nursing assistant training program as defined under chapter 18.52A RCW.

(9) "Nursing home" means a facility licensed under chapter 18.51 RCW.

NEW SECTION. Sec. 3. SCOPE OF PRACTICE. (1) A nursing assistant—registered may assist in the care of patients under the direction and supervision of a licensed (registered) nurse or licensed practical nurse, provided that a nursing home shall not assign an assistant to provide resident care until the assistant has demonstrated skill necessary to perform assigned duties and responsibilities competently. Nothing in this chapter shall be construed as conferring on a nursing assistant the authority to administer medication or to practice as a licensed (registered) nurse or licensed practical nurse.

(2) A nursing assistant—certified may assist in the care of the ill, injured, or infirm under the direction and supervision of a licensed (registered) nurse or licensed practical nurse except that a nursing assistant—certified may not administer medication or practice as a licensed (registered) nurse as defined in chapter 18.88 RCW or licensed practical nurse as defined in chapter 18.78 RCW.

(3) The board may further define by rule the scope of practice and minimum competencies of nursing assistants—certified in consultation with the nursing assistant advisory committee.

NEW SECTION. Sec. 4. REGISTRATION AND CERTIFICATION. (1) No person may practice or represent himself or herself as a nursing assistant—registered by use of any title or description without being registered by the department pursuant to this chapter, unless exempt under section 5 of this act.

(2) After January 1, 1990, no person may represent himself or herself as a nursing assistant—certified without applying for certification, meeting the qualifications, and being certified by the department pursuant to this chapter.

NEW SECTION. Sec. 5. EXEMPTIONS. Nothing in this chapter may be construed to prohibit or restrict:

(1) The practice by an individual licensed, certified, or registered under the laws of this state and performing services within their authorized scope of practice;

(2) The practice by an individual employed by the government of the United States while engaged in the performance of duties prescribed by the laws of the United States;

(3) The practice by a person who is a regular student in an educational program approved by the director, and whose performance of services is

pursuant to a regular course of instruction or assignments from an instructor and under the general supervision of the instructor.

NEW SECTION. Sec. 6. POWERS OF DIRECTOR. In addition to any other authority provided by law, the director has the authority to:

(1) Set all certification, registration, and renewal fees in accordance with RCW 43.24.086 and to collect and deposit all such fees in the health professions account established under RCW 43.24.072;

(2) Establish forms and procedures necessary to administer this chapter;

(3) Hire clerical, administrative, and investigative staff as needed to implement this chapter;

(4) Issue a registration to any applicant who has met the requirements for registration;

(5) After January 1, 1990, issue a certificate to any applicant who has met the education, training, and conduct requirements for certification;

(6) Maintain the official record for the department of all applicants and persons with certificates;

(7) Conduct a hearing on an appeal of a denial of a certificate based on the applicant's failure to meet the minimum qualifications for certification. The hearing shall be conducted under chapter 34.04 RCW;

(8) Issue subpoenas, statements of charges, statements of intent to deny certification, and orders and to delegate in writing to a designee the authority to issue subpoenas, statements of charges, and statements of intent to deny certification.

The uniform disciplinary act, chapter 18.130 RCW, governs unregistered or uncertified practice, issuance of certificates and registration, and the discipline of persons registered or with certificates under this chapter. The director shall be the disciplinary authority under this chapter.

***NEW SECTION. Sec. 7. POWERS OF STATE BOARD OF NURSING.** In addition to any other authority provided by law, the state board of nursing has the authority to:

(1) Determine minimum education requirements and approve registration programs according to chapter 18.52A RCW;

(2) Prepare, grade, and administer, or determine the nature of, and supervise the grading and administration of, examinations for applicants for certification;

(3) Determine whether alternative methods of training are equivalent to formal education, and establish forms, procedures, and criteria for evaluation of an applicant's alternative training to determine the applicant's eligibility to take any qualifying examination for certification;

(4) Determine which states have credentialing requirements equivalent to those of this state, and issue certificates to individuals credentialed in those states by endorsement without examinations;

(5) Define and approve any experience requirement for certification;

(6) Adopt rules implementing a continuing competency program.

*Sec. 7 was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 8. RECORD OF PROCEEDINGS. The director shall keep an official record of all proceedings. A part of the record shall consist of a register of all applicants for credentialing under this chapter and the results of each application.

NEW SECTION. Sec. 9. ADVISORY COMMITTEES. (1) The director has the authority to appoint an advisory committee to the state board of nursing and the department to further the purposes of this chapter. The committee shall be composed of nine members, two members initially appointed for a term of one year, three for a term of two years, and four for a term of three years. Subsequent appointments shall be for terms of three years. No person may serve as a member of the committee for more than two consecutive terms. The committee shall consist of: A nursing assistant certified under this chapter, a director of nursing in a nursing home, a representative of the office of the superintendent of public instruction, a representative of the state board of community college education, a representative of the department of social and health services responsible for aging and adult services in nursing homes, a resident of a nursing home, a representative of a local long-term care ombudsman program, and one member who is a licensed (registered) nurse and one member who is a licensed practical nurse.

(2) The director may remove any member of the advisory committee for cause as specified by rule. In the case of a vacancy, the director shall appoint a person to serve for the remainder of the unexpired term.

(3) The advisory committee shall meet at the times and places designated by the director or the board and shall hold meetings during the year as necessary to provide advice to the director.

*NEW SECTION. Sec. 10. CREDENTIALING REQUIREMENTS. (1) The director shall issue a registration to any applicant who submits, on forms provided by the director, the applicant's name, address, occupational title, name and location of business, and other information as determined by the director, including information necessary to determine whether there are grounds for denial of registration or issuance of a conditional registration under this chapter or chapter 18.130 RCW.

(2) After January 1, 1990, the director shall issue a certificate to any applicant who demonstrates to the director's satisfaction that the following requirements have been met:

(a) Completion of an educational program approved by the board or successful completion of alternate training meeting established criteria approved by the board;

(b) Successful completion of an approved examination; and

(c) Successful completion of any experience requirement established by the board.

(3) *The board shall establish by rule what constitutes adequate proof of meeting the criteria.*

(4) In addition, applicants shall be subject to the grounds for denial of registration or certificate under chapter 18.130 RCW.

***Sec. 10 was partially vetoed, see message at end of chapter.**

NEW SECTION. Sec. 11. APPROVAL OF EDUCATIONAL PROGRAMS. The board, in consultation with the board of practical nursing, shall establish by rule the standards and procedures for approval of educational programs and alternative training. The director may use or contract with individuals or organizations having expertise in the profession or in education to assist in the evaluations. The board shall establish by rule the standards and procedures for revocation of approval of education programs. The standards and procedures set shall apply equally to educational programs and training in the United States and in foreign jurisdictions. The director may establish a fee for educational program evaluations.

NEW SECTION. Sec. 12. STUDY BY THE BOARD. The board, in consultation with the board of practical nursing, shall report to the legislature by January 1, 1989, with proposed standards and procedures required for in section 11 of this act as well as any additional recommendations relating to implementation of this act.

NEW SECTION. Sec. 13. EXAMINATIONS. (1) The date and location of examinations shall be established by the director. Applicants who have been found by the director to meet the requirements for certification shall be scheduled for the next examination following the filing of the application. The director shall establish by rule the examination application deadline.

(2) The board shall examine each applicant, by means determined most effective, on subjects appropriate to the scope of practice, as applicable. Examinations shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

(3) The examination papers, all grading of the papers, and the grading of any practical work shall be preserved for a period of not less than one year after the board has made and published the decisions. All examinations shall be conducted under fair and wholly impartial methods.

(4) Any applicant failing to make the required grade in the first examination may take up to three subsequent examinations as the applicant desires upon prepaying a fee determined by the director under RCW 43-.24.086 for each subsequent examination. Upon failing four examinations, the director may invalidate the original application and require such remedial education before the person may take future examinations.

(5) The board may approve an examination prepared or administered by a private testing agency or association of licensing agencies for use by an applicant in meeting the credentialing requirements.

NEW SECTION. Sec. 14. APPLICATIONS. Applications for certification shall be submitted on forms provided by the director. The director may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria for credentialing provided for in this chapter and chapter 18.130 RCW. Each applicant shall pay a fee determined by the director under RCW 43.24.086. The fee shall accompany the application.

NEW SECTION. Sec. 15. WAIVER OF EXAMINATION FOR INITIAL APPLICATIONS. The director shall waive the examination and certify a person authorized to practice within the state of Washington if the board determines that the person meets commonly accepted standards of education and experience for the profession. This section applies only to those individuals who file an application for waiver within one year of the establishment of the authorized practice on January 1, 1990.

NEW SECTION. Sec. 16. ENDORSEMENT. An applicant holding a credential in another state may be certified by endorsement to practice in this state without examination if the director determines that the other state's credentialing standards are substantially equivalent to the standards in this state.

NEW SECTION. Sec. 17. RENEWALS. The director shall establish by rule the procedural requirements and fees for renewal of a registration or certificate. Failure to renew shall invalidate the credential and all privileges granted by the credential. If a certificate has lapsed for a period longer than three years, the person shall demonstrate competence to the satisfaction of the board by taking continuing education courses, or meeting other standards determined by the board.

NEW SECTION. Sec. 18. SECTION CAPTIONS. Section captions as used in this chapter do not constitute any part of the law.

Sec. 19. Section 2, chapter 114, Laws of 1979 as amended by section 5, chapter 284, Laws of 1985 and RCW 18.52A.020 are each amended to read as follows:

Unless the context requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Nursing assistant" means a person registered or certified under chapter 18.— RCW (sections 1 through 11 and 13 through 18 of this 1988 act) who, under the direction and supervision of a registered nurse or licensed practical nurse, assists in the care of patients in a facility licensed under chapter 18.51 RCW, a wing of a hospital licensed under chapter 70.41 RCW if the wing is certified to provide nursing home care under Title

XVIII or Title XIX of the social security act, or any nursing care facility operated under the direction of the department of veterans affairs.

(2) "Department" means the department of social and health services.

(3) "Nursing home" means a facility licensed under chapter 18.51 RCW, a wing of a hospital licensed under chapter 70.41 RCW if the wing is certified to provide nursing home care under Title XVIII or Title XIX of the social security act, or any nursing care facility operated under the direction of the department of veterans affairs.

(4) "Board" means the state board of nursing.

Sec. 20. Section 3, chapter 114, Laws of 1979 as last amended by section 7, chapter 476, Laws of 1987 and RCW 18.52A.030 are each amended to read as follows:

(1) Any nursing assistant employed by a nursing home, who has satisfactorily completed a nursing assistant training program under this chapter, shall, upon application, be issued a ~~((certificate))~~ verification of completion by the program provider.

(2) All nursing assistants employed by a nursing home shall be required to be registered with the department of licensing and to show evidence of satisfactory completion of a nursing assistant training program, or that they are enrolled in and are progressing satisfactorily towards completion of a training program under standards promulgated by the board, which program must be completed within six months of employment. A nursing home may employ a person not currently enrolled if the employer within twenty days enrolls the person in an approved training program: PROVIDED, That a nursing home shall not assign an assistant to provide resident care until the assistant has demonstrated skills necessary to perform assigned duties and responsibilities competently. All persons enrolled in a training program must satisfactorily complete the program within six months from the date of initial employment.

~~(3) ((All nursing assistants who, on June 7, 1979, are employed in nursing homes shall be given the opportunity to obtain a certificate of completion by passing a written and/or practical examination developed by the board and conducted by a school or nursing home, or by providing evidence of sufficient practical experience. The board shall adopt rules specifying the amount of practical experience to be required for the issuance of a certificate under this section.~~

~~(4))~~ Compliance with this section shall be a condition of licensure of nursing homes under chapter 18.51 RCW. Beginning January 1, 1986, compliance with this section shall be a condition of licensure of hospitals licensed under chapter 70.41 RCW with a wing certified to provide nursing home care under Title XVIII or Title XIX of the social security act. Any health provider of skilled nursing facility care or intermediate care facility care shall meet the requirements of this section.

Sec. 21. Section 14, chapter 412, Laws of 1987, section 16, chapter 415, Laws of 1987, section 17, chapter 447, Laws of 1987, section 21, chapter 512, Laws of 1987 and RCW 18.120.020 are each reenacted and amended to read as follows:

The definitions contained in this section shall apply throughout this chapter unless the context clearly requires otherwise.

(1) "Applicant group" includes any health professional group or organization, any individual, or any other interested party which proposes that any health professional group not presently regulated be regulated or which proposes to substantially increase the scope of practice of the profession.

(2) "Certificate" and "certification" mean a voluntary process by which a statutory regulatory entity grants recognition to an individual who (a) has met certain prerequisite qualifications specified by that regulatory entity, and (b) may assume or use "certified" in the title or designation to perform prescribed health professional tasks.

(3) "Grandfather clause" means a provision in a regulatory statute applicable to practitioners actively engaged in the regulated health profession prior to the effective date of the regulatory statute which exempts the practitioners from meeting the prerequisite qualifications set forth in the regulatory statute to perform prescribed occupational tasks.

(4) "Health professions" means and includes the following health and health-related licensed or regulated professions and occupations: Podiatry under chapter 18.22 RCW; chiropractic under chapters 18.25 and 18.26 RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; dispensing opticians under chapter 18.34 RCW; hearing aids under chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW; nursing home administration under chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter 18.55 RCW; osteopathy and osteopathic medicine and surgery under chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71, 18.71A, and 18.72 RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.78 RCW; psychologists under chapter 18.83 RCW; registered nurses under chapter 18.88 RCW; occupational therapists licensed pursuant to chapter 18.59 RCW; respiratory care practitioners certified under chapter 18.89 RCW; veterinarians and animal technicians under chapter 18.92 RCW; health care assistants under chapter 18.135 RCW; massage practitioners under chapter 18.108 RCW; acupuncturists certified under chapter 18.06 RCW; persons registered or certified under chapter 18.19 RCW; ((and)) radiologic technicians under chapter 18.84 RCW; and nursing assistants registered or certified under chapter 18.— RCW (sections 1 through 11 and 13 through 18 of this 1988 act).

(5) "Inspection" means the periodic examination of practitioners by a state agency in order to ascertain whether the practitioners' occupation is being carried out in a fashion consistent with the public health, safety, and welfare.

(6) "Legislative committees of reference" means the standing legislative committees designated by the respective rules committees of the senate and house of representatives to consider proposed legislation to regulate health professions not previously regulated.

(7) "License," "licensing," and "licensure" mean permission to engage in a health profession which would otherwise be unlawful in the state in the absence of the permission. A license is granted to those individuals who meet prerequisite qualifications to perform prescribed health professional tasks and for the use of a particular title.

(8) "Professional license" means an individual, nontransferable authorization to carry on a health activity based on qualifications which include: (a) Graduation from an accredited or approved program, and (b) acceptable performance on a qualifying examination or series of examinations.

(9) "Practitioner" means an individual who (a) has achieved knowledge and skill by practice, and (b) is actively engaged in a specified health profession.

(10) "Public member" means an individual who is not, and never was, a member of the health profession being regulated or the spouse of a member, or an individual who does not have and never has had a material financial interest in either the rendering of the health professional service being regulated or an activity directly related to the profession being regulated.

(11) "Registration" means the formal notification which, prior to rendering services, a practitioner shall submit to a state agency setting forth the name and address of the practitioner; the location, nature and operation of the health activity to be practiced; and, if required by the regulatory entity, a description of the service to be provided.

(12) "Regulatory entity" means any board, commission, agency, division, or other unit or subunit of state government which regulates one or more professions, occupations, industries, businesses, or other endeavors in this state.

(13) "State agency" includes every state office, department, board, commission, regulatory entity, and agency of the state, and, where provided by law, programs and activities involving less than the full responsibility of a state agency.

Sec. 22. Section 1, chapter 150, Laws of 1987, section 15, chapter 412, Laws of 1987, section 17, chapter 415, Laws of 1987, section 18, chapter 447, Laws of 1987, section 22, chapter 512, Laws of 1987 and RCW 18-.130.040 are each reenacted and amended to read as follows:

(1) This chapter applies only to the director and the boards having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2) (a) The director has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed under chapter 18.34 RCW;
(ii) Naturopaths licensed under chapter 18.36A RCW;
(iii) Midwives licensed under chapter 18.50 RCW;
(iv) Ocularists licensed under chapter 18.55 RCW;
(v) Massage operators and businesses licensed under chapter 18.108 RCW;

(vi) Dental hygienists licensed under chapter 18.29 RCW;
(vii) Acupuncturists certified under chapter 18.06 RCW;
(viii) Radiologic technologists certified under chapter 18.84 RCW;
(ix) Respiratory care practitioners certified under chapter 18.89 RCW;

((and))

(x) Persons registered or certified under chapter 18.19 RCW; and
(xi) Nursing assistants registered or certified under chapter 18.—
RCW (sections 1 through 11 and 13 through 18 of this 1988 act).

(b) The boards having authority under this chapter are as follows:

(i) The podiatry board as established in chapter 18.22 RCW;
(ii) The chiropractic disciplinary board as established in chapter 18.26 RCW governing licenses issued under chapter 18.25 RCW;

(iii) The dental disciplinary board as established in chapter 18.32 RCW;

(iv) The council on hearing aids as established in chapter 18.35 RCW;

(v) The board of funeral directors and embalmers as established in chapter 18.39 RCW;

(vi) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vii) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(viii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;

(ix) The medical disciplinary board as established in chapter 18.72 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The board of practical nursing as established in chapter 18.78 RCW;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;

(xiv) The board of nursing as established in chapter 18.88 RCW; and

(xv) The veterinary board of governors as established in chapter 18.92 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. However, the board of chiropractic examiners has authority over issuance and denial of licenses provided for in chapter 18.25 RCW, the board of dental examiners has authority over issuance and denial of licenses provided for in RCW 18.32.040, and the board of medical examiners has authority over issuance and denial of licenses and registrations provided for in chapters 18.71 and 18.71A RCW. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered pursuant to RCW 18.130.160 by the disciplining authority.

NEW SECTION. Sec. 23. Sections 1 through 11 and 13 through 18 of this act shall constitute a new chapter in Title 18 RCW.

NEW SECTION. Sec. 24. The sum of one hundred thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1989, from the health professions account to the department of licensing for the purposes of this act.

NEW SECTION. Sec. 25. 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.

Passed the House March 9, 1988.

Passed the Senate March 5, 1988.

Approved by the Governor March 24, 1988, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State March 24, 1988.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 7(4) and 10(3), Engrossed Substitute House Bill No. 1530 entitled:

"AN ACT Relating to nursing assistants."

Section 7(4) and section 16 both give authority to determine which states have credentialing requirements equivalent to those in this state, and to issue certificates, by endorsement without examination, to those individuals credentialed in those states. Section 7(4) gives this authority to the Board of Nursing and section 16 gives this authority to the Department of Licensing.

Section 10(3) and section 14 both give authority to determine what constitutes adequate proof of meeting the criteria for certification. Section 10(3) gives this authority to the Board of Nursing and section 14 gives this authority to the Department of Licensing.

Giving similar authority to two separate regulatory entities will result in confusion. Since these functions are primarily administrative in nature and the department has all other administrative functions, I am vetoing the sections which give these authorities to the Board of Nursing.

With the exception of section 7(4) and 10(3), Engrossed Substitute House Bill No. 1530 is approved."

CHAPTER 268

[Second Substitute Senate Bill No. 5720]

SCHOOLS—COOPERATIVE PARTNERSHIPS AMONG SMALL SCHOOL DISTRICTS

AN ACT Relating to cooperative programs and services between or among school districts; amending RCW 28A.58.225; adding new sections to Title 28A RCW; creating a new section; repealing RCW 28A.03.448, 28A.03.449, and 28A.03.450; and repealing section 4, chapter 58, Laws of 1985 (uncodified).

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that partnerships among school districts can: Increase curriculum offerings for students, encourage creative educational programming and staffing, and result in the cost-effective delivery of educational programs. It is the intent of the legislature to establish a program to facilitate and encourage such partnerships among small school districts.

NEW SECTION. Sec. 2. Eligible school districts as defined under section 3 of this act are encouraged to establish cooperative projects with a primary purpose to increase curriculum programs and opportunities among the participating districts, by expanding the opportunity for students in the participating districts to take vocational and academic courses as may be generally more available in larger school districts, and to enhance student learning.

NEW SECTION. Sec. 3. School districts eligible for funding as a small high school district pursuant to the state operating appropriations act shall be eligible to participate in a cooperative project: PROVIDED, That the superintendent of public instruction may adopt rules permitting second class school districts that are not eligible for funding as a small high school district in the state operating appropriations act to participate in a cooperative project.

Two or more school districts may participate in a cooperative project pursuant to sections 3 through 5 and 7 through 9 of this act.

NEW SECTION. Sec. 4. (1) Eligible school districts desiring to form a cooperative project pursuant to sections 3 through 5 and 7 through 9 of