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SECOND SUBSTITUTE HOUSE BILL 2430

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State of Washington

55th Legislature

1998 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Huff, Carlson, Kenney, Radcliff and McDonald; by request of Committee on Advanced College Tuition Payment and Higher Education Coordinating Board)

Read first time 02/07/98. Referred to Committee on .

1 AN ACT Relating to the advanced college tuition payment program;  
2 amending RCW 28B.95.060; reenacting and amending RCW 42.17.310; adding  
3 new sections to chapter 28B.95 RCW; and declaring an emergency.

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

5 **Sec. 1.** RCW 42.17.310 and 1997 c 310 s 2, 1997 c 274 s 8, 1997 c  
6 250 s 7, 1997 c 239 s 4, 1997 c 220 s 120 (Referendum Bill No. 48), and  
7 1997 c 58 s 900 are each reenacted and amended to read as follows:

8 (1) The following are exempt from public inspection and copying:

9 (a) Personal information in any files maintained for students in  
10 public schools, patients or clients of public institutions or public  
11 health agencies, or welfare recipients.

12 (b) Personal information in files maintained for employees,  
13 appointees, or elected officials of any public agency to the extent  
14 that disclosure would violate their right to privacy.

15 (c) Information required of any taxpayer in connection with the  
16 assessment or collection of any tax if the disclosure of the  
17 information to other persons would (i) be prohibited to such persons by  
18 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the

1 taxpayer's right to privacy or result in unfair competitive  
2 disadvantage to the taxpayer.

3 (d) Specific intelligence information and specific investigative  
4 records compiled by investigative, law enforcement, and penology  
5 agencies, and state agencies vested with the responsibility to  
6 discipline members of any profession, the nondisclosure of which is  
7 essential to effective law enforcement or for the protection of any  
8 person's right to privacy.

9 (e) Information revealing the identity of persons who are witnesses  
10 to or victims of crime or who file complaints with investigative, law  
11 enforcement, or penology agencies, other than the public disclosure  
12 commission, if disclosure would endanger any person's life, physical  
13 safety, or property. If at the time a complaint is filed the  
14 complainant, victim or witness indicates a desire for disclosure or  
15 nondisclosure, such desire shall govern. However, all complaints filed  
16 with the public disclosure commission about any elected official or  
17 candidate for public office must be made in writing and signed by the  
18 complainant under oath.

19 (f) Test questions, scoring keys, and other examination data used  
20 to administer a license, employment, or academic examination.

21 (g) Except as provided by chapter 8.26 RCW, the contents of real  
22 estate appraisals, made for or by any agency relative to the  
23 acquisition or sale of property, until the project or prospective sale  
24 is abandoned or until such time as all of the property has been  
25 acquired or the property to which the sale appraisal relates is sold,  
26 but in no event shall disclosure be denied for more than three years  
27 after the appraisal.

28 (h) Valuable formulae, designs, drawings, and research data  
29 obtained by any agency within five years of the request for disclosure  
30 when disclosure would produce private gain and public loss.

31 (i) Preliminary drafts, notes, recommendations, and intra-agency  
32 memorandums in which opinions are expressed or policies formulated or  
33 recommended except that a specific record shall not be exempt when  
34 publicly cited by an agency in connection with any agency action.

35 (j) Records which are relevant to a controversy to which an agency  
36 is a party but which records would not be available to another party  
37 under the rules of pretrial discovery for causes pending in the  
38 superior courts.

1 (k) Records, maps, or other information identifying the location of  
2 archaeological sites in order to avoid the looting or depredation of  
3 such sites.

4 (l) Any library record, the primary purpose of which is to maintain  
5 control of library materials, or to gain access to information, which  
6 discloses or could be used to disclose the identity of a library user.

7 (m) Financial information supplied by or on behalf of a person,  
8 firm, or corporation for the purpose of qualifying to submit a bid or  
9 proposal for (i) a ferry system construction or repair contract as  
10 required by RCW 47.60.680 through 47.60.750 or (ii) highway  
11 construction or improvement as required by RCW 47.28.070.

12 (n) Railroad company contracts filed prior to July 28, 1991, with  
13 the utilities and transportation commission under RCW 81.34.070, except  
14 that the summaries of the contracts are open to public inspection and  
15 copying as otherwise provided by this chapter.

16 (o) Financial and commercial information and records supplied by  
17 private persons pertaining to export services provided pursuant to  
18 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to  
19 export projects pursuant to RCW 43.23.035.

20 (p) Financial disclosures filed by private vocational schools under  
21 chapters 28B.85 and 28C.10 RCW.

22 (q) Records filed with the utilities and transportation commission  
23 or attorney general under RCW 80.04.095 that a court has determined are  
24 confidential under RCW 80.04.095.

25 (r) Financial and commercial information and records supplied by  
26 businesses or individuals during application for loans or program  
27 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,  
28 or during application for economic development loans or program  
29 services provided by any local agency.

30 (s) Membership lists or lists of members or owners of interests of  
31 units in timeshare projects, subdivisions, camping resorts,  
32 condominiums, land developments, or common-interest communities  
33 affiliated with such projects, regulated by the department of  
34 licensing, in the files or possession of the department.

35 (t) All applications for public employment, including the names of  
36 applicants, resumes, and other related materials submitted with respect  
37 to an applicant.

38 (u) The residential addresses and residential telephone numbers of  
39 employees or volunteers of a public agency which are held by the agency

1 in personnel records, employment or volunteer rosters, or mailing lists  
2 of employees or volunteers.

3 (v) The residential addresses and residential telephone numbers of  
4 the customers of a public utility contained in the records or lists  
5 held by the public utility of which they are customers, except that  
6 this information may be released to the division of child support or  
7 the agency or firm providing child support enforcement for another  
8 state under Title IV-D of the federal social security act, for the  
9 establishment, enforcement, or modification of a support order.

10 (w)(i) The federal social security number of individuals governed  
11 under chapter 18.130 RCW maintained in the files of the department of  
12 health, except this exemption does not apply to requests made directly  
13 to the department from federal, state, and local agencies of  
14 government, and national and state licensing, credentialing,  
15 investigatory, disciplinary, and examination organizations; (ii) the  
16 current residential address and current residential telephone number of  
17 a health care provider governed under chapter 18.130 RCW maintained in  
18 the files of the department, if the provider requests that this  
19 information be withheld from public inspection and copying, and  
20 provides to the department an accurate alternate or business address  
21 and business telephone number. On or after January 1, 1995, the  
22 current residential address and residential telephone number of a  
23 health care provider governed under RCW 18.130.140 maintained in the  
24 files of the department shall automatically be withheld from public  
25 inspection and copying unless the provider specifically requests the  
26 information be released, and except as provided for under RCW  
27 42.17.260(9).

28 (x) Information obtained by the board of pharmacy as provided in  
29 RCW 69.45.090.

30 (y) Information obtained by the board of pharmacy or the department  
31 of health and its representatives as provided in RCW 69.41.044,  
32 69.41.280, and 18.64.420.

33 (z) Financial information, business plans, examination reports, and  
34 any information produced or obtained in evaluating or examining a  
35 business and industrial development corporation organized or seeking  
36 certification under chapter 31.24 RCW.

37 (aa) Financial and commercial information supplied to the state  
38 investment board by any person when the information relates to the  
39 investment of public trust or retirement funds and when disclosure

1 would result in loss to such funds or in private loss to the providers  
2 of this information.

3 (bb) Financial and valuable trade information under RCW 51.36.120.

4 (cc) Client records maintained by an agency that is a domestic  
5 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape  
6 crisis center as defined in RCW 70.125.030.

7 (dd) Information that identifies a person who, while an agency  
8 employee: (i) Seeks advice, under an informal process established by  
9 the employing agency, in order to ascertain his or her rights in  
10 connection with a possible unfair practice under chapter 49.60 RCW  
11 against the person; and (ii) requests his or her identity or any  
12 identifying information not be disclosed.

13 (ee) Investigative records compiled by an employing agency  
14 conducting a current investigation of a possible unfair practice under  
15 chapter 49.60 RCW or of a possible violation of other federal, state,  
16 or local laws prohibiting discrimination in employment.

17 (ff) Business related information protected from public inspection  
18 and copying under RCW 15.86.110.

19 (gg) Financial, commercial, operations, and technical and research  
20 information and data submitted to or obtained by the clean Washington  
21 center in applications for, or delivery of, program services under  
22 chapter 70.95H RCW.

23 (hh) Information and documents created specifically for, and  
24 collected and maintained by a quality improvement committee pursuant to  
25 RCW 43.70.510, regardless of which agency is in possession of the  
26 information and documents.

27 (ii) Personal information in files maintained in a data base  
28 created under RCW 43.07.360.

29 (jj) Financial and commercial information requested by the public  
30 stadium authority from any person or organization that leases or uses  
31 the stadium and exhibition center as defined in RCW 36.102.010.

32 (kk) Names of individuals residing in emergency or transitional  
33 housing that are furnished to the department of revenue or a county  
34 assessor in order to substantiate a claim for property tax exemption  
35 under RCW 84.36.043.

36 (ll) The names, residential addresses, residential telephone  
37 numbers, and other individually identifiable records held by an agency  
38 in relation to a vanpool, carpool, or other ride-sharing program or  
39 service. However, these records may be disclosed to other persons who

1 apply for ride-matching services and who need that information in order  
2 to identify potential riders or drivers with whom to share rides.

3 (mm) Proprietary financial and commercial information that the  
4 submitting entity, with review by the department of health,  
5 specifically identifies at the time it is submitted and that is  
6 provided to or obtained by the department of health in connection with  
7 an application for, or the supervision of, an antitrust exemption  
8 sought by the submitting entity under RCW 43.72.310. If a request for  
9 such information is received, the submitting entity must be notified of  
10 the request. Within ten business days of receipt of the notice, the  
11 submitting entity shall provide a written statement of the continuing  
12 need for confidentiality, which shall be provided to the requester.  
13 Upon receipt of such notice, the department of health shall continue to  
14 treat information designated under this section as exempt from  
15 disclosure. If the requester initiates an action to compel disclosure  
16 under this chapter, the submitting entity must be joined as a party to  
17 demonstrate the continuing need for confidentiality.

18 (nn) Records maintained by the board of industrial insurance  
19 appeals that are related to appeals of crime victims' compensation  
20 claims filed with the board under RCW 7.68.110.

21 (oo) Financial and commercial information supplied by or on behalf  
22 of a person, firm, corporation, or entity under chapter 28B.95 RCW  
23 relating to the purchase or sale of tuition units and contracts for the  
24 purchase of multiple tuition units.

25 (2) Except for information described in subsection (1)(c)(i) of  
26 this section and confidential income data exempted from public  
27 inspection pursuant to RCW 84.40.020, the exemptions of this section  
28 are inapplicable to the extent that information, the disclosure of  
29 which would violate personal privacy or vital governmental interests,  
30 can be deleted from the specific records sought. No exemption may be  
31 construed to permit the nondisclosure of statistical information not  
32 descriptive of any readily identifiable person or persons.

33 (3) Inspection or copying of any specific records exempt under the  
34 provisions of this section may be permitted if the superior court in  
35 the county in which the record is maintained finds, after a hearing  
36 with notice thereof to every person in interest and the agency, that  
37 the exemption of such records is clearly unnecessary to protect any  
38 individual's right of privacy or any vital governmental function.

1 (4) Agency responses refusing, in whole or in part, inspection of  
2 any public record shall include a statement of the specific exemption  
3 authorizing the withholding of the record (or part) and a brief  
4 explanation of how the exemption applies to the record withheld.

5 NEW SECTION. **Sec. 2.** The committee shall maintain appropriate  
6 offices and employ such personnel as may be necessary to perform its  
7 duties including, but not be limited to a director, an accountant, and  
8 a confidential secretary. The positions are exempt from classified  
9 service under chapter 41.06 RCW. The employees shall be employees of  
10 the higher education coordinating board.

11 NEW SECTION. **Sec. 3.** No member of the committee is liable for the  
12 negligence, default, or failure of any other person or members of the  
13 committee to perform the duties of office and no member may be  
14 considered or held to be an insurer of the funds or assets of any of  
15 the advanced college tuition payment program.

16 **Sec. 4.** RCW 28B.95.060 and 1997 c 289 s 6 are each amended to read  
17 as follows:

18 (1) The Washington advanced college tuition payment program account  
19 is created in the custody of the state treasurer. The account shall be  
20 a discrete nontreasury account retaining its interest earnings in  
21 accordance with RCW 43.79A.040.

22 (2) The governing body shall deposit in the account all money  
23 received for the program. The account shall be self-sustaining and  
24 consist of payments received from purchasers of tuition units and funds  
25 received from other sources, public or private. With the exception of  
26 investment and operating costs associated with the investment of money  
27 by the investment board paid under RCW 43.33A.160 and 43.84.160, the  
28 account shall be credited with all investment income earned by the  
29 account. Disbursements from the account are exempt from appropriations  
30 and the allotment provisions of chapter 43.88 RCW. Money used for  
31 program administration is subject to the allotment and budgetary  
32 controls of chapter 43.88 RCW, (~~but no~~) and an appropriation is  
33 required for expenditures. Program administration shall include, but  
34 not be limited to: The salaries and expenses of the program personnel  
35 including lease payments, travel, and goods and services necessary for  
36 program operation; contracts for program promotion and advertisement,

1 audits, and account management; and other general costs of conducting  
2 the business of the program.

3 (3) The assets of the account may be spent without appropriation  
4 for the purpose of making payments to institutions of higher education  
5 on behalf of the qualified beneficiaries, making refunds, transfers, or  
6 direct payments upon the termination of the Washington advanced college  
7 tuition payment program(~~(, and paying the costs of administration of~~  
8 ~~the program)~~). Disbursements from the account shall be made only on  
9 the authorization of the board.

10 NEW SECTION. Sec. 5. Sections 2 and 3 of this act are each added  
11 to chapter 28B.95 RCW.

12 NEW SECTION. Sec. 6. This act is necessary for the immediate  
13 preservation of the public peace, health, or safety, or support of the  
14 state government and its existing public institutions, and takes effect  
15 immediately.

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