

2 2SHB 2061 - S AMD - 305  
3 By Senators Bauer and Benton

4 ADOPTED 4/8/99

5 On page 2, after line 27, insert the following:

6 "Sec. 3. RCW 28C.10.084 and 1993 c 445 s 2 are each amended to  
7 read as follows:

8 (1) The agency shall establish, maintain, and administer a tuition  
9 recovery trust fund. All funds collected for the tuition recovery  
10 trust fund are payable to the state for the benefit and protection of  
11 any student or enrollee of a private vocational school licensed under  
12 this chapter, or, in the case of a minor, his or her parents or  
13 guardian, for purposes including but not limited to the settlement of  
14 claims related to school closures under subsection (10) of this section  
15 and the settlement of claims under RCW 28C.10.120. The fund shall be  
16 liable for settlement of claims and costs of administration but shall  
17 not be liable to pay out or recover penalties assessed under RCW  
18 28C.10.130 or 28C.10.140. No liability accrues to the state of  
19 Washington from claims made against the fund.

20 (2) By June 30, 1998, a minimum operating balance of one million  
21 dollars shall be achieved in the fund and maintained thereafter. If  
22 disbursements reduce the operating balance below two hundred thousand  
23 dollars at any time before June 30, 1998, or below one million dollars  
24 thereafter, each participating entity shall be assessed a pro rata  
25 share of the deficiency created, based upon the incremental scale  
26 created under subsection (6) of this section. The agency shall adopt  
27 schedules of times and amounts for effecting payments of assessment.

28 (3) To be and remain licensed under this chapter each entity shall,  
29 in addition to other requirements under this chapter, make cash  
30 deposits into a tuition recovery trust fund as a means to assure  
31 payment of claims brought under this chapter.

32 (4) The amount of liability that can be satisfied by this fund on  
33 behalf of each individual entity licensed under this chapter shall be  
34 established by the agency, based on an incremental scale that  
35 recognizes the average amount of unearned prepaid tuition in possession  
36 of the entity. However, the minimum amount of liability for any entity

1 shall not be less than five thousand dollars. The upper limit of  
2 liability is reestablished after any disbursements are made to settle  
3 an individual claim or class of claims.

4 (5) The fund's liability with respect to each participating entity  
5 commences on the date of its initial deposit into the fund and ceases  
6 one year from the date it is no longer licensed under this chapter.

7 (6) The agency shall adopt by rule a matrix for calculating the  
8 deposits into the fund required of each entity. Proration shall be  
9 determined by factoring the entity's share of liability in proportion  
10 to the aggregated liability of all participants under the fund by  
11 grouping such prorations under the incremental scale created by  
12 subsection (4) of this section. Expressed as a percentage of the total  
13 liability, that figure determines the amount to be contributed when  
14 factored into a fund containing one million dollars. The total amount  
15 of its prorated share, minus the amount paid for initial  
16 capitalization, shall be payable in up to twenty increments over a ten-  
17 year period, commencing with the sixth month after the entity makes its  
18 initial capitalization deposit. Additionally, the agency shall require  
19 deposits for initial capitalization, under which the amount each entity  
20 deposits is proportionate to its share of two hundred thousand dollars,  
21 employing the matrix developed under this subsection. The amount thus  
22 established shall be deposited by each applicant for initial licensing  
23 before the issuance of such license.

24 (7) No vested right or interests in deposited funds is created or  
25 implied for the depositor, either at any time during the operation of  
26 the fund or at any such future time that the fund may be dissolved.  
27 All funds deposited are payable to the state for the purposes described  
28 under this section. The agency shall maintain the fund, serve  
29 appropriate notices to affected entities when scheduled deposits are  
30 due, collect deposits, and make disbursements to settle claims against  
31 the fund. When the aggregated deposits total five million dollars and  
32 the history of disbursements justifies such modifications, the agency  
33 may at its own option reduce the schedule of deposits whether as to  
34 time, amount, or both and the agency may also entertain proposals from  
35 among the licensees with regard to disbursing surplus funds for such  
36 purposes as vocational scholarships.

37 (8) Based on annual financial data supplied by the entity the  
38 agency shall determine whether the increment assigned to that entity on  
39 the incremental scale established under subsection (6) of this section

1 has changed. If an increase or decrease in gross annual tuition income  
2 has occurred, a corresponding change in its incremental position and  
3 contribution schedule shall be made before the date of its next  
4 scheduled deposit into the fund. Such adjustments shall only be  
5 calculated and applied annually.

6 (9) No deposits made into the fund by an entity are transferable.  
7 If the majority ownership interest in an entity is conveyed through  
8 sale or other means into different ownership, all contributions made to  
9 the date of transfer accrue to the fund. The new owner commences  
10 contributions under provisions applying to a new applicant, except that  
11 if ownership of an entity is transferred to an immediate family member,  
12 all tuition recovery trust fund contributions shall remain with the  
13 entity transferred, and no additional cash deposits may be required  
14 beyond the original ten-year contribution cycle.

15 (10) To settle claims adjudicated under RCW 28C.10.120 and claims  
16 resulting when a private vocational school ceases to provide  
17 educational services, the agency may make disbursements from the fund.  
18 Students enrolled under a training contract executed between a school  
19 and a public or private agency or business are not eligible to make a  
20 claim against the fund. In addition to the processes described for  
21 making reimbursements related to claims under RCW 28C.10.120, the  
22 following procedures are established to deal with reimbursements  
23 related to school closures:

24 (a) The agency shall attempt to notify all potential claimants.  
25 The unavailability of records and other circumstances surrounding a  
26 school closure may make it impossible or unreasonable for the agency to  
27 ascertain the names and whereabouts of each potential claimant but the  
28 agency shall make reasonable inquiries to secure that information from  
29 all likely sources. The agency shall then proceed to settle the claims  
30 on the basis of information in its possession. The agency is not  
31 responsible or liable for claims or for handling claims that may  
32 subsequently appear or be discovered.

33 (b) Thirty days after identified potential claimants have been  
34 notified, if a claimant refuses or neglects to file a claim  
35 verification as requested in such notice, the agency shall be relieved  
36 of further duty or action on behalf of the claimant under this chapter.

37 (c) After verification and review, the agency may disburse funds  
38 from the tuition recovery trust fund to settle or compromise the  
39 claims. However, the liability of the fund for claims against the

1 closed entity shall not exceed the maximum amount of liability assigned  
2 to that entity under subsection (6) of this section.

3 (d) In the instance of claims against a closed school, the agency  
4 shall seek to recover such disbursed funds from the assets of the  
5 defaulted entity, including but not limited to asserting claims as a  
6 creditor in bankruptcy proceedings.

7 (11) When funds are disbursed to settle claims against a current  
8 licensee, the agency shall make demand upon the licensee for recovery.  
9 The agency shall adopt schedules of times and amounts for effecting  
10 recoveries. An entity's failure to perform subjects its license to  
11 suspension or revocation under RCW 28C.10.050 in addition to any other  
12 available remedies."

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16 On page 1, on line 3 of the title, after "28B.15.100" insert "and  
17 28C.10.084"

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