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SENATE BILL 5285

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State of Washington

54th Legislature

1995 Regular Session

By Senators Bauer, Wood, Sheldon and Kohl; by request of Higher Education Coordinating Board

Read first time 01/18/95. Referred to Committee on Higher Education.

1 AN ACT Relating to the tuition recovery trust fund; amending RCW  
2 28B.85.200 and 28B.85.210; and declaring an emergency.

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

4 **Sec. 1.** RCW 28B.85.200 and 1994 c 38 s 3 are each amended to read  
5 as follows:

6 The board shall deposit all moneys received under RCW 28B.85.210  
7 into a separate account in the tuition recovery trust fund established  
8 under RCW (~~(43-84-092)~~) 28C.10.082. Moneys deposited in the fund by  
9 the board shall be spent only for the purposes under RCW 28B.85.210.  
10 Claims against the fund made by students in degree programs shall be  
11 limited to the assets in the board's separate account in the tuition  
12 recovery trust fund. Claims against the fund made by students in  
13 nondegree programs shall be limited to assets deposited by the work  
14 force training and education coordinating board in the tuition recovery  
15 trust fund. Disbursements from its account in the fund shall be made  
16 on authorization of the board.

17 **Sec. 2.** RCW 28B.85.210 and 1994 c 38 s 4 are each amended to read  
18 as follows:

1 (1) The board shall maintain and administer a separate account for  
2 degree-granting private vocational schools in the tuition recovery  
3 trust fund established under RCW (~~(43.84.092)~~) 28C.10.082. The board  
4 shall require any degree-granting private vocational school subject to  
5 this chapter to make cash deposits into the board's account in the  
6 tuition recovery trust fund in an amount determined by the board.

7 (2) All funds collected for the board's account in the tuition  
8 recovery trust fund are payable to the state for the benefit and  
9 protection of any student or enrollee of a degree-granting private  
10 vocational school's degree programs authorized under this chapter, or  
11 in the case of a minor, his or her parent or guardian for purposes  
12 including but not limited to the settlement of claims related to school  
13 closures and complaints filed under RCW 28B.85.090(1). The board's  
14 account shall be liable for settlement of claims and costs of  
15 administration, but shall not be liable to pay out or recover penalties  
16 assessed under RCW 28B.85.100 or 28B.85.110. No liability accrues to  
17 the state of Washington from claims made against the fund.

18 (3) The board shall establish by rule a minimum operating balance  
19 that is required to be on deposit in its account in the fund by a  
20 specified date and maintained thereafter. If disbursements reduce the  
21 account below the minimum amount, each participating degree-granting  
22 private vocational school shall be assessed a pro rata share of the  
23 deficiency created, based on the incremental scale of each school's  
24 liability specified in subsection (5) of this section. The board shall  
25 adopt by rule schedules of times and amounts for effecting payments of  
26 assessments.

27 (4) To be and remain authorized under this chapter each degree-  
28 granting private vocational school shall, in addition to other  
29 requirements under this chapter, make cash deposits into the board's  
30 account in the tuition recovery trust fund as a means to assure payment  
31 of claims brought under this chapter.

32 (5) The amount of liability that can be satisfied by this account  
33 on behalf of each individual degree-granting private vocational school  
34 authorized under this chapter shall be established by the board, based  
35 on an incremental scale that recognizes the average amount of unearned  
36 prepaid tuition paid for degree programs that is in possession of the  
37 degree-granting private vocational school.

38 (6) The account's liability with respect to each participating  
39 degree-granting private vocational school commences on the date of its

1 initial deposit into the fund and ceases one year from the date it is  
2 no longer authorized under this chapter.

3 (7) The board shall adopt by rule a matrix for calculating the  
4 deposits into the account required of each degree-granting private  
5 vocational school.

6 (8) No vested right or interest in deposited funds is created or  
7 implied for the depositor, either at any time during the operation of  
8 the fund or at any such future time that the board's account in the  
9 fund may be dissolved. All funds deposited are payable to the state  
10 for the purposes described under this section. No deposits made into  
11 the fund by any degree-granting private vocational school are  
12 transferable. If the majority ownership interest in a school is  
13 conveyed through sale or other means to different ownership, all  
14 contributions made to the date of conveyance accrue to the fund. The  
15 new owner commences contributions under provisions applying to new  
16 applicants. The board shall maintain its account in the fund, serve  
17 appropriate notices to affected entities when scheduled deposits are  
18 due, collect deposits, and make disbursements to settle claims against  
19 its account.

20 (9) To settle claims adjudicated under RCW 28B.85.090(1) and claims  
21 resulting when a degree-granting private vocational school ceases to  
22 provide educational services, the board may make disbursements from its  
23 account following the procedure in this subsection.

24 (a) The board shall attempt to notify all potential claimants. The  
25 unavailability of records and other circumstances surrounding a school  
26 closure may make it impossible or unreasonable for the board to  
27 ascertain the names and locations of each potential claimant but the  
28 board shall make reasonable inquiries to secure that information from  
29 all likely sources. The board shall then proceed to settle the claims  
30 on the basis of information in its possession. The board 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 board shall be relieved  
36 of further duty or action on behalf of the claimant under this chapter.

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

1 claims against the closed degree-granting private vocational school  
2 shall not exceed the maximum amount of liability assigned to that  
3 degree-granting private vocational school under subsection (5) of this  
4 section.

5 (d) In the instance of claims against a closed school, the board  
6 shall seek to recover such disbursed funds from the assets of the  
7 defaulted degree-granting private vocational school, including but not  
8 limited to asserting claims as a creditor in bankruptcy proceedings.

9 (10) If funds are disbursed to settle claims against a currently  
10 authorized degree-granting private vocational school, the board shall  
11 make demand upon the authorized school for recovery. The board shall  
12 adopt by rule schedules of times and amounts for effecting recoveries.  
13 A degree-granting private vocational school's failure to perform  
14 subjects its authorization to suspension or revocation under RCW  
15 28B.85.080 in addition to any other remedies available to the board.

16 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
17 preservation of the public peace, health, or safety, or support of the  
18 state government and its existing public institutions, and shall take  
19 effect immediately.

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