

1 **HB 1613 - H AMD 0068 ADOPTED 03/12/99**

2 By Representative Dunn

3 On page 6, after line 31, insert the following:

4 **Sec. 6.** RCW 28C.10.084 and 1993 c 445 s 2 are each amended to
5 read as follows:

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

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

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

30 (4) The amount of liability that can be satisfied by this fund on
31 behalf of each individual entity licensed under this chapter shall be
32 established by the agency, based on an incremental scale that
33 recognizes the average amount of unearned prepaid tuition in possession
34 of the entity. However, the minimum amount of liability for any entity
35 shall not be less than five thousand dollars. The upper limit of

1 liability is reestablished after any disbursements are made to settle
2 an individual claim or class of claims.

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

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

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

36 (8) Based on annual financial data supplied by the entity the
37 agency shall determine whether the increment assigned to that entity on
38 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 the entity is not required to make additional cash deposits into a
13 tuition recovery trust fund.

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

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

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

36 (c) After verification and review, the agency may disburse funds
37 from the tuition recovery trust fund to settle or compromise the
38 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."

13 Renumber the remaining sections consecutively, correct any
14 internal references accordingly, and correct the title.

--- END ---