

Act No. 157  
Public Acts of 1993  
Approved by the Governor  
August 23, 1993  
Filed with the Secretary of State  
August 23, 1993

**STATE OF MICHIGAN  
87TH LEGISLATURE  
REGULAR SESSION OF 1993**

Introduced by Senator Bouchard

# **ENROLLED SENATE BILL No. 661**

AN ACT to create a tuition reimbursement fund for students of proprietary schools that close or cease instruction and to require assessments for the fund; to establish procedures for continuation of educational opportunities for those students; and to provide certain duties of certain state departments, agencies, and officials.

*The People of the State of Michigan enact:*

Sec. 1. This act shall be known and may be cited as "the proprietary school educational assurance act".

Sec. 2. As used in this act:

- (a) "Course" means a component unit of an instructional program.
- (b) "Department" means the department of education.
- (c) "Instructional program" means 1 or more structured learning experiences designed to accomplish a predetermined objective or set of allied objectives in any particular trade, occupation, or vocation.
- (d) "Licensee" means the holder of a license under the proprietary school licensing act of 1993 to establish or maintain and operate, or both, a proprietary school.

- (e) "Person" means an individual, partnership, corporation, association, organization, or other legal entity.
- (f) "Proprietary school" means a proprietary school licensed under the proprietary school licensing act of 1993.
- (g) "State board" means the state board of education.
- (h) "Teachout" means providing instruction to students of a proprietary school that has closed or has ceased instruction.
- (i) "Teachout school" means a proprietary school that is contractually committed to the department under a teachout plan developed under section 5 to provide instruction for students of a proprietary school that has closed or has ceased instruction.
- (j) "Tuition reimbursement fund" means the tuition reimbursement fund created in section 3.

Sec. 3. (1) There is created the tuition reimbursement fund as a separate fund in the state treasury, to be administered by the department. The department may accept money from any source and shall deposit that money and money received from assessments under this section with the state treasurer who shall credit the amount of the deposit to the tuition reimbursement fund. The state treasurer shall direct the investment of the fund money and shall credit earnings to the tuition reimbursement fund.

(2) Money in the tuition reimbursement fund at the end of a fiscal year shall not revert to the general fund but shall be carried over in the tuition reimbursement fund to the next and succeeding fiscal years.

(3) The tuition reimbursement fund shall be used only to pay tuition refunds to students and other persons pursuant to section 4 and for costs incurred by the department in arranging teachout opportunities for students in a situation in which there are not sufficient teachout schools to provide the teachout opportunities pursuant to a teachout plan under section 5. In addition, with the approval of the state board, the department may use money in the tuition reimbursement fund to purchase insurance or reinsurance to guarantee that the obligations of the tuition reimbursement fund can be met. Except as provided in this subsection, the department shall not use money in the tuition reimbursement fund for salaries or any other cost of administering this act or of administering the proprietary school licensing act of 1993.

(4) Not later than 6 months after the effective date of this act, the department shall develop, adopt, and submit to the state board a plan of operation for the tuition reimbursement fund that ensures fair, reasonable, and equitable administration of the tuition reimbursement fund. The department shall also submit a copy of the plan of operation at the same time to the standing committees of the legislature responsible for higher education legislation. That plan of operation shall include at least the following:

(a) A process for determining debts and liabilities to be paid from the tuition reimbursement fund.

(b) A process for determining assessments to be charged to licensees as a condition of licensure to ensure the solvency of the tuition reimbursement fund. The process for determining assessments shall be structured so that each licensee pays an equitable amount based on the proprietary school's enrollment, tuition charges, and claims history. The initial assessments shall be calculated to generate at least \$30,000.00 to be deposited in the tuition reimbursement fund and the process for determining assessments shall ensure that the fund balance at the beginning of each state fiscal year is at least \$30,000.00, minus any amount paid for insurance or reinsurance. The process for determining assessments may be structured so that assessments are imposed and collected to satisfy the obligations of the tuition reimbursement fund only as they arise or to maintain a fund balance of at least \$30,000.00, minus any amount paid for insurance or reinsurance, or both, and may include, but is not limited to, the imposition of emergency assessments.

(5) Not later than 30 days after the department submits its plan of operation for the tuition reimbursement fund to the state board under subsection (4), the state board shall approve, disapprove, or modify the process for determining assessments and shall notify the department and the standing committees of the legislature responsible for higher education legislation of the approval, disapproval, or modification.

(6) In administering the tuition reimbursement fund, the department shall approve all disbursements from the fund for administration of the tuition reimbursement fund and for payments authorized under this section. The department shall be a party in interest in all proceedings involving a claim against the tuition reimbursement fund, may investigate a claim to determine its validity, and may compromise, settle, and pay a valid claim and deny an invalid claim.

(7) The auditor general and the department shall each audit the tuition reimbursement fund annually and the auditor general shall produce an annual financial statement for the tuition reimbursement fund according to generally accepted accounting principles. If either the auditor general or the department determines as the result of an audit that the resources of the tuition reimbursement fund are inadequate to meet actual or anticipated obligations of the tuition reimbursement fund, the auditor general or department shall make recommendations to the state board on changes to be made in the assessment process to ensure that the tuition reimbursement fund will have adequate resources.

(8) The state treasurer shall issue warrants from the tuition reimbursement fund as directed by the department.

Sec. 4. (1) To claim a refund from the tuition reimbursement fund, a student shall apply to the department in the form and manner required by the department.

(2) If a claimant was enrolled at a proprietary school at the time the proprietary school closed or ceased instruction, the claimant is eligible for a refund under this section if the student is not offered a teachout opportunity pursuant to a teachout plan developed by the department under section 5 for the instructional program in which he or she was enrolled, or if the department determines that requiring the student to continue instruction at a teachout school under a teachout plan would be an undue hardship for the student. A refund under this section shall be made for tuition paid by or on behalf of the student to the proprietary school for courses not completed by the student because of the closure or cessation of instruction, as follows:

(a) The portion of the tuition payment made by or on behalf of the student that was paid with funds other than loans, grants, or other student financial aid administered by a state or federal government agency shall be refunded to the student in full.

(b) The portion of the tuition payment made by or on behalf of the student that was paid with funds from loans, grants, or other student financial aid administered by a state or federal government agency shall be made in accordance with applicable state or federal law.

(3) Until the amount of the refund is exhausted, a tuition refund under this section shall be paid in the following order of priority:

(a) First, to repay the unpaid balance of the loan to a lender or guarantor, as appropriate, of a guaranteed student loan taken out by the claimant for payment of the tuition for which the refund is made.

(b) Second, to repay a state or federal government agency that has paid tuition on behalf of the claimant.

(c) Third, to the claimant to refund actual personal tuition expenditures or money the claimant borrowed from other sources for tuition.

(4) Persons receiving refund money under this section are considered to have assigned or subrogated their tuition refund rights against the proprietary school that closed or ceased instruction to the department on behalf of the tuition reimbursement fund for the amount refunded by the tuition reimbursement fund.

Sec. 5. (1) If a proprietary school closes or ceases instruction, the department shall develop a teachout plan that makes arrangements with 1 or more other proprietary schools to provide teachout opportunities for the school's students under this section.

(2) A proprietary school shall participate in providing teachout opportunities for students of a proprietary school that closes or ceases instruction according to the teachout plan developed by the department for those students.

(3) A teachout plan developed by the department shall include at least all of the following:

(a) The teachout opportunities shall be arranged with 1 or more teachout schools that offer an instructional program or course that is substantially similar to that offered in the proprietary school that closes or ceases instruction.

(b) A teachout school must fulfill the enrollment agreement signed by a student at the proprietary school ceasing instruction, except that the department, in consultation with the teachout school and with the approval of each affected student, may modify the requirements of the enrollment agreement.

(c) The teachout plan shall not require a teachout school to provide teachout opportunities in a particular instructional program to a number of students that exceeds 10% of the teachout school's average enrollment for the instructional program involved in the teachout over the immediately preceding 3 years.

(4) A teachout school shall not subject a student who enrolls at the teachout school pursuant to a teachout plan to any costs beyond the total costs identified in the student's original enrollment agreement. The teachout school is entitled to receive any tuition that is still owed to the proprietary school that closes or ceases instruction under the enrollment agreement and may collect those charges from the source from whom the money is owed.

(5) A student who claims that his or her participation in a teachout plan would result in undue hardship to the student may decline to enroll at a teachout school pursuant to a teachout plan and instead seek a refund from the tuition reimbursement fund under section 4. The student's eligibility for a refund shall be determined under section 4.

(6) A teachout plan shall identify the expenses to be reimbursed from the tuition reimbursement fund.

Sec. 6. The state board may promulgate rules to implement this act pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

Sec. 7. A proprietary school or other person violating this act is subject to the disciplinary measures and procedures specified in part 5 of the proprietary school licensing act of 1993.

Sec. 8. This act shall take effect September 1, 1993.

Sec. 9. This act shall not take effect unless all of the following bills of the 87th Legislature are enacted into law:

(a) Senate Bill No. 163.

(b) House Bill No. 4823.

This act is ordered to take immediate effect.

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Secretary of the Senate.

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Co-Clerk of the House of Representatives.

Approved -----

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Governor.