



# HOUSE BILL No. 4823

June 3, 1993, Introduced by Rep. Saunders and referred to the Committee on Higher Education.

A bill to regulate proprietary schools; to establish license and other fees; to establish procedures for disciplinary action; to establish civil and criminal penalties; to provide certain duties of certain state agencies and officials; and to repeal certain acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 PART 1

2 DEFINITIONS

3 Sec. 1. This act shall be known and may be cited as "the  
4 proprietary school licensing act of 1993".

5 Sec. 2. As used in this act, the words and phrases defined  
6 in sections 3 and 4 have the meanings given to them in those  
7 sections.

8 Sec. 3. (1) "Committee" means the proprietary schools  
9 committee created in section 62.

1 (2) "Course" means a component unit of an instructional  
2 program.

3 (3) "Department" means the department of education.

4 (4) "Foreign proprietary institution" means a private trade  
5 school, business school, correspondence school, or institute that  
6 is located outside of this state; is organized to offer instruc-  
7 tion to the public in any manner in any trade, occupation, or  
8 vocation for money or any other consideration; and does not pos-  
9 sess authority to grant baccalaureate degrees.

10 (5) "Instructional program" means 1 or more structured  
11 learning experiences designed to accomplish a predetermined  
12 objective or set of allied objectives in any particular trade,  
13 occupation, or vocation.

14 (6) "Licensee" means the holder of a license to establish or  
15 maintain and operate, or both, a proprietary school.

16 Sec. 4. (1) "Person" means an individual, partnership, cor-  
17 poration, association, organization, or other legal entity.

18 (2) "Proprietary school" means a private trade school, busi-  
19 ness school, correspondence school, institute, or facility  
20 located and doing business in this state by offering instruction  
21 or training to the public for tuition, fee, or charge in any  
22 trade, occupation, or vocation, either in the recipient's home or  
23 at a designated location. Proprietary school does not include  
24 the following:

25 (a) An educational institution created by the legislature or  
26 a state department.

1 (b) An educational institution or educational training  
2 program that is maintained or provided by an employer or group of  
3 employers, without charge, for its employees or anticipated  
4 employees.

5 (c) An educational institution or educational training pro-  
6 gram that is maintained or provided by a labor organization,  
7 without charge, for its members or apprentices.

8 (d) An educational institution or educational training pro-  
9 gram that is maintained by a joint union-management nonprofit  
10 benefit plan to provide training in a skilled trade for its  
11 employees or members.

12 (e) An educational institution or educational training pro-  
13 gram that offers only self-improvement, motivational, or avoca-  
14 tional courses or programs that are not designed to prepare indi-  
15 viduals for employment or an occupation.

16 (f) A degree-granting 2-year or 4-year college or  
17 university.

18 (g) An educational institution that offers only instruction  
19 that is less than 30 clock hours in length.

20 (h) A school licensed by law through an agency of this state  
21 other than the department.

22 (3) "Revenue fund" means the fee revenue fund created in  
23 section 16.

24 (4) "Solicitor" means a person or agent representing a pro-  
25 prietary school or foreign proprietary institution who personally  
26 attempts to procure students, enrollees, or subscribers for the  
27 proprietary school or foreign proprietary institution at 1 or

1 more places other than the office or place of business of the  
2 proprietary school or foreign proprietary institution.

3 (5) "State board" means the state board of education.

4 (6) "Superintendent" means the superintendent of public  
5 instruction.

6 (7) "Teachout" means providing instruction to students of a  
7 proprietary school that has closed or has ceased instruction.

8 (8) "Tuition reimbursement fund" means the tuition reim-  
9 bursement fund created in section 42.

10 PART 2

11 LICENSING AND FEES

12 Sec. 11. (1) A person shall not establish or maintain and  
13 operate a proprietary school unless the proprietary school is  
14 licensed by the state board under this act. A separate license  
15 is required for each location at which instruction is offered,  
16 except a proprietary school may offer instruction at an auxiliary  
17 classroom or a public assembly site without obtaining a separate  
18 license for that location. However, if a proprietary school  
19 operates at multiple locations under the same management and  
20 operates only identical instructional programs in income tax  
21 preparation or income tax theory, each consisting of 80 or fewer  
22 hours of instruction, the proprietary school may operate those  
23 instructional programs under a single license held by 1  
24 licensee. For purposes of this subsection, "same management"  
25 includes operation by a franchisee of the licensee if the  
26 instructional program operated by the franchisee consists of a

1 curriculum developed by the licensee and is taught according to  
2 guidelines set by the licensee. As used in this subsection:

3 (a) "Auxiliary classroom" means a facility used only for  
4 instruction by the proprietary school that is located not more  
5 than 1 mile from the location at which the proprietary school is  
6 licensed to operate.

7 (b) "Public assembly site" means a site located in a public  
8 educational institution or located in a public meeting area suit-  
9 able for instruction in a public or privately owned facility.

10 (2) A license issued under this act is valid for not more  
11 than 1 year for the period July 1 to June 30 and shall be renewed  
12 if the applicant continues to comply with this act and the rules  
13 promulgated under this act.

14 (3) An applicant for a proprietary school license or renewal  
15 shall apply to the department for a license in the form and  
16 manner prescribed by the state board. The application shall  
17 include attachments and information required by this act for a  
18 license and for approval of each instructional program the appli-  
19 cant seeks to have included on the license.

20 (4) An application for initial licensure of a proprietary  
21 school shall include the required application fee and initial  
22 license fee under section 16 and information about the applicant  
23 or the proprietary school as required by the state board.

24 (5) An application by a licensee for renewal of a license  
25 shall include the required license fee under section 16 and the  
26 assessments for the tuition reimbursement fund required under  
27 section 42. If the applicant operates a proprietary school that

1 offers 1 or more instructional programs consisting of more than  
2 80 hours of instruction, the application for renewal shall also  
3 include a financial report as required by the superintendent that  
4 includes at least a statement of the proprietary school's cash  
5 receipts, disbursements, assets, liabilities, and capital, as  
6 those items relate to the requirements of this act, and statisti-  
7 cal reports required under subsection (6). The licensee shall  
8 pay for the required financial report.

9 (6) An applicant for renewal of a license shall submit sta-  
10 tistical reports as specified by the state board that include at  
11 least enrollment data. For each instructional program consisting  
12 of more than 80 hours of instruction, the statistical reports  
13 shall also include the completion rate for the instructional pro-  
14 gram and job placement data for those completing the instruc-  
15 tional program.

16 (7) If an application for licensure or renewal does not  
17 include all of the fees and information required by this act, the  
18 state board shall not consider the application for licensure or  
19 renewal.

20 (8) The department shall include on a license issued under  
21 this section a listing of all instructional programs the propri-  
22 etary school is authorized to offer under section 25.

23 (9) A proprietary school shall post its license in a loca-  
24 tion at the school that is readily visible to the public.

25 Sec. 12. (1) A foreign proprietary institution shall not  
26 solicit students in this state or employ or contract with a  
27 person to solicit students in this state unless the foreign

1 Proprietary institution has obtained a certificate of compliance  
2 under this section. An applicant for a certificate of compliance  
3 shall submit a written application to the department in the form  
4 and manner prescribed by the state board. The application shall  
5 include all information required by the state board.

6 (2) A certificate of compliance issued to a foreign propri-  
7 etary institution shall specify the particular curriculum, insti-  
8 tutional management, and address covered by the certificate of  
9 compliance. The address specified shall be for a definite  
10 location. If the foreign proprietary institution changes any of  
11 those specifics, the certificate of compliance is invalid.

12 (3) A certificate of compliance remains in effect as long as  
13 the foreign proprietary institution pays the applicable annual  
14 fees set forth in section 16 and is determined by the department  
15 to be continuing to comply with this act. The department may  
16 revoke a certificate of compliance if, after written notice and  
17 an opportunity for a hearing, the state board finds that the for-  
18 eign proprietary institution has not complied with this act.

19 Sec. 13. (1) In addition to other information required  
20 under this act in an application for a license, renewal, or cer-  
21 tificate of compliance, an applicant shall disclose all of the  
22 following information:

23 (a) Whether the applicant, a person holding an ownership or  
24 control interest in the proprietary school or foreign proprietary  
25 institution that is the subject of the application, or an  
26 employee of the proprietary school or foreign proprietary  
27 institution who is responsible in a supervisory capacity for the

1 administration of student funds or government funds has been  
2 convicted of a criminal violation of this act or of another crime  
3 in this state or another jurisdiction involving the operation of  
4 an educational or training program or the unlawful acquisition,  
5 use, payment, or expenditure of the funds of an educational or  
6 training program.

7 (b) Whether the applicant, a person holding an ownership or  
8 control interest in the proprietary school or foreign proprietary  
9 institution that is the subject of the application, or an  
10 employee of the proprietary school or foreign proprietary insti-  
11 tution who is responsible in a supervisory capacity for the  
12 administration of student or government funds has been finally  
13 adjudicated in an administrative or civil proceeding to have vio-  
14 lated this act, a rule promulgated under this act, an order of  
15 the state board, department, or superintendent related to this  
16 act, or a rule promulgated under this act or to have committed a  
17 similar violation of law in another jurisdiction relating to the  
18 licensure or operation of an educational or training program.

19 (c) Whether any proprietary school, foreign proprietary  
20 institution, or other educational or training program operated by  
21 the applicant in this or another state has closed or ceased oper-  
22 ation, and whether, at the time of the closing or cessation, the  
23 applicant was subject to a pending disciplinary action or penalty  
24 or was delinquent in paying a refund to any government agency or  
25 student.

26 (2) The state board shall not deny an application for a  
27 license, renewal, or certificate of compliance because of a



1 disclosure made pursuant to subsection (1) unless the state board  
2 makes a written determination that there is a direct relationship  
3 between 1 or more of the disclosures and the license, renewal, or  
4 certificate sought or that issuing the license, renewal, or cer-  
5 tificate would create an unreasonable risk to property or to the  
6 safety, education, or welfare of 1 or more specific individuals  
7 or the general public.

8 (3) The state board may deny, suspend, revoke, or decline to  
9 renew a license or certificate of compliance if it determines  
10 that the significance of a disclosure under subsection (1) war-  
11 rants the action or if it determines that an applicant failed to  
12 make a disclosure required under subsection (1).

13 (4) As used in this section, "ownership or control interest"  
14 means, for a proprietary school or foreign proprietary institu-  
15 tion organized as or owned by a corporation, a position as an  
16 officer or director of the corporation; for a proprietary school  
17 or foreign proprietary institution that is organized as or owned  
18 by a partnership, a position as a partner; or any other direct or  
19 indirect interest totalling at least 10% of the total assets or  
20 equity of a proprietary school or foreign proprietary  
21 institution.

22 Sec. 14. (1) A license or certificate of compliance issued  
23 under this act is not transferable or assignable unless the  
24 transfer or assignment is approved by the state board under this  
25 section. A transfer or assignment that changes ownership control  
26 of a proprietary school or foreign proprietary institution or  
27 that totals 50% or more of a proprietary school's or foreign

1 proprietary institution's total assets or equity is considered a  
2 transfer or assignment of a license or certificate of  
3 compliance.

4       (2) A person seeking a transfer or assignment of a license  
5 or certificate of compliance shall apply to the state board for  
6 approval. The application shall be in the form and manner pre-  
7 scribed by the state board. In determining whether to approve or  
8 deny a transfer or assignment of a license or certificate of com-  
9 pliance to a particular person, the state board shall evaluate  
10 the transferee or assignee using the same factors used under this  
11 act to determine whether to approve or deny a license, renewal,  
12 or certificate. The state board shall notify an applicant for  
13 transfer or assignment of a license or certificate in writing of  
14 its approval or denial of the application, together with the rea-  
15 sons for a denial.

16       (3) The state board may grant temporary approval of a trans-  
17 fer or assignment of a license or certificate of compliance for a  
18 period of not more than 90 days if the transfer or assignment is  
19 reported to the superintendent at least 45 days before the date  
20 of the transfer or assignment.

21       (4) A licensee or certificate holder shall report a transfer  
22 or assignment of any interest totalling at least 10% but less  
23 than 50% of the proprietary school's or foreign proprietary  
24 institution's total assets or equity to the superintendent within  
25 90 days after the transfer or assignment.

26       Sec. 15. (1) A proprietary school or foreign proprietary  
27 institution shall apply for and obtain a solicitor's permit from

1 the department for each solicitor employed by or under contract  
2 to the proprietary school or foreign proprietary institution and  
3 pay the solicitor's permit fee required under section 16.

4 (2) A person shall not act as a solicitor for a proprietary  
5 school or a foreign proprietary institution unless the person is  
6 employed by or under contract to the proprietary school or for-  
7 eign proprietary institution and the proprietary school or for-  
8 eign proprietary institution has obtained a solicitor's permit  
9 for the person under subsection (1).

10 (3) The department shall issue a solicitor's permit or a  
11 renewal to a proprietary school or foreign proprietary institu-  
12 tion for a solicitor if the proprietary school or foreign propri-  
13 etary institution demonstrates to the satisfaction of the depart-  
14 ment that the solicitor has good moral character and will use  
15 ethical and fair practices in the presentation of services to a  
16 prospective student.

17 (4) A permit issued under this section is valid for a period  
18 of 2 years after the date of issuance and shall state the propri-  
19 etary school or foreign proprietary institution for which the  
20 solicitor is authorized to solicit students.

21 (5) Not later than 5 days after a proprietary school or for-  
22 eign proprietary institution applying for a solicitor's permit  
23 under this section submits a complete application, the superin-  
24 tendent shall issue a temporary authorization to the proprietary  
25 school or foreign proprietary institution that is valid until the  
26 superintendent grants or denies the permit.

1 (6) A solicitor shall not represent more than 1 proprietary  
2 school or foreign proprietary institution under different  
3 ownership unless each of the proprietary schools or foreign pro-  
4 prietary institutions has obtained a solicitor's permit for the  
5 solicitor.

6 (7) A solicitor shall not guarantee a job after graduation  
7 to a prospective student.

8 (8) For the purposes of this act, a solicitor is an agent of  
9 each proprietary school or foreign proprietary institution he or  
10 she represents. If a solicitor violates this act or solicits or  
11 enrolls a student through fraud or misrepresentation while repre-  
12 senting a proprietary school or foreign proprietary institution,  
13 the proprietary school or foreign proprietary institution shall  
14 be considered to have committed the violation, and, in addition  
15 to other remedies available under this act, the superintendent  
16 may revoke the proprietary school's or foreign proprietary  
17 institution's solicitor's permit for that solicitor upon 10 days'  
18 notice and after an opportunity for a hearing.

19 Sec. 16. (1) Subject to subsections (2), (3), and (4), the  
20 department shall collect the following fees under this act:

21 (a) An applicant for initial licensure of a proprietary  
22 school or for an initial certificate of compliance for a foreign  
23 proprietary institution shall pay an application fee of \$500.00.

24 (b) A proprietary school approved by the state board to  
25 receive an initial license shall pay a fee of \$1,000.00 before  
26 beginning operation of the proprietary school or soliciting  
27 students.

1 (c) A foreign proprietary institution approved by the state  
2 board to receive an initial certificate of compliance or a  
3 renewal shall pay a fee of \$1,000.00 before soliciting students  
4 in the state.

5 (d) An applicant for renewal of a proprietary school license  
6 for a proprietary school that operates 1 or more instructional  
7 programs consisting of 80 or fewer hours of instruction and does  
8 not operate any instructional programs consisting of more than  
9 80 hours of instruction shall pay a license renewal fee of  
10 \$500.00 plus any per student fee assessed under subsection (2).

11 (e) An applicant for renewal of a proprietary school license  
12 for a proprietary school that operates 1 or more instructional  
13 programs consisting of more than 80 hours of instruction shall  
14 pay a license renewal fee of \$800.00 plus any per student fee  
15 assessed under subsection (2).

16 (f) An applicant for approval of a change in the number of  
17 hours of instruction in an instructional program or for approval  
18 of an additional instructional program for a proprietary school  
19 shall pay a fee of \$200.00.

20 (g) An applicant for approval of a change in the location of  
21 a proprietary school shall pay a fee of \$200.00.

22 (h) A proprietary school or foreign proprietary institution  
23 shall pay a fee of \$300.00 for each solicitor's permit issued to  
24 the school under section 15.

25 (i) If a license is transferred or assigned under  
26 section 14, the transferee or assignee shall pay a fee of  
27 \$500.00.

1       (2) In addition to the license renewal fees charged under  
2 subsection (1)(d) and (e), beginning July 1, 1994, an applicant  
3 for renewal of a proprietary school license shall pay a per stu-  
4 dent fee of not more than \$2.00 for each student enrolled in an  
5 instructional program in the proprietary school in the immedi-  
6 ately preceding calendar year. The per student fee shall be cal-  
7 culated by the department each year based on the amount of fee  
8 revenue needed in addition to the fee revenue under subsection  
9 (1) to fund enforcement of this act, as follows:

10       (a) If there are 175 or more proprietary schools licensed in  
11 the state at the time of the calculation, the amount necessary to  
12 fund 4.5 full-time equivalent (FTE) positions in the unit of the  
13 department that enforces this act.

14       (b) If there are at least 125 but fewer than 175 proprietary  
15 schools licensed in the state at the time of the calculation, the  
16 amount necessary to fund 3.5 full-time equivalent (FTE) positions  
17 in the unit of the department that enforces this act.

18       (c) If there are fewer than 125 proprietary schools licensed  
19 in this state at the time of the calculation, the amount neces-  
20 sary to fund 2.5 full-time equivalent (FTE) positions in the unit  
21 of the department that enforces this act.

22       (3) The department may begin to collect the fees specified  
23 in subsection (1) at any time beginning on October 1 of the first  
24 state fiscal year beginning after the effective date of this  
25 act. If the department collects a fee under subsection (1) that  
26 covers a time period for which the proprietary school or foreign  
27 proprietary institution has already paid a fee under former Act

1 No. 148 of the public Acts of 1943, the department shall credit  
2 the amount the proprietary school or foreign proprietary institu-  
3 tion has paid for that time period under that act against the  
4 amount of the fee due under subsection (1).

5 (4) At the beginning of each state fiscal year, the state  
6 board shall adjust the amount of the fees charged under subsec-  
7 tion (1) as follows:

8 (a) If the state board determines that the sum of the bal-  
9 ance remaining in the fee revenue fund established under  
10 subsection (5) at the end of the immediately preceding state  
11 fiscal year plus the revenue that would be expected if the fees  
12 were not adjusted from those in effect in the immediately preced-  
13 ing state fiscal year would exceed the amount appropriated by the  
14 legislature to administer this act in the state fiscal year in  
15 which the calculation is made, the state board shall decrease the  
16 amount of each type of fee proportionately so that the total  
17 amount of fee revenue under this section will equal not more than  
18 115% of the amount appropriated by the legislature for the admin-  
19 istration of this act for the state fiscal year in which the cal-  
20 culation is made.

21 (b) If there is no adjustment made under subdivision (a),  
22 the state board shall adjust the amount of the fees by the same  
23 percentage as the percentage increase or decrease in the Detroit  
24 consumer price index for all items, as reported by the United  
25 States bureau of labor statistics and certified by the state  
26 treasurer. The adjustment shall be made by multiplying the  
27 percentage increase or decrease in that Detroit consumer price

1 index for all items for the immediately preceding state fiscal  
2 year times the fee in effect in the immediately preceding state  
3 fiscal year, adding that product to the fee in effect in the  
4 immediately preceding state fiscal year, and rounding the sum to  
5 the nearest whole dollar.

6 (5) There is created the fee revenue fund as a separate fund  
7 in the state treasury, to be administered by the department. All  
8 revenue received from fees under this section or from other  
9 sources under this act that is not credited to the tuition reim-  
10 bursement fund shall be credited to the fee revenue fund and used  
11 for administration of this act. Money remaining in the fee reve-  
12 nue fund at the end of a fiscal year shall not revert to the gen-  
13 eral fund but shall be carried over in the fund to the next and  
14 succeeding state fiscal years.

15 PART 3

16 OPERATION OF PROPRIETARY SCHOOLS

17 Sec. 21. (1) A proprietary school that operates an instruc-  
18 tional program consisting of more than 80 hours of instruction  
19 shall not admit as a student in the instructional program an  
20 individual who does not possess a high school diploma, general  
21 educational development certificate (G.E.D.), or a generally rec-  
22 ognized equivalent from a foreign country unless the student  
23 demonstrates before admission to the instructional program that  
24 he or she has the ability to benefit from the instruction, deter-  
25 mined as described in subsection (2).

26 (2) A proprietary school described in subsection (1) shall  
27 determine a student's ability to benefit from his or her chosen



1 instructional program by administering an examination approved by  
2 the state board as being an effective measurement of a prospec-  
3 tive student's ability to benefit from the particular instruc-  
4 tional program. An examination approved for use shall be appro-  
5 priate for the particular instructional program and, so far as  
6 practicable, shall be an examination approved by the United  
7 States department of education. The proprietary school shall  
8 maintain each student's examination results and original examina-  
9 tion answer sheet in the student's permanent record.

10 (3) A proprietary school described in subsection (1) shall  
11 administer an examination under this section in accordance with  
12 testing procedures that are established by the testing company  
13 that supplied the examination and are approved by the  
14 superintendent.

15 (4) A proprietary school described in subsection (1) shall  
16 establish and enforce a specific score necessary to pass an exam-  
17 ination described in this section and shall report that score to  
18 the state board as part of the examination approval process. In  
19 addition, at the request of the department the proprietary school  
20 shall supply to the department a detailed description of the cri-  
21 teria and rationale used to determine the passing score. If a  
22 prospective student fails an examination under this section, the  
23 proprietary school shall adhere to procedures and conditions for  
24 retesting that are recommended by the testing company and  
25 approved by the superintendent.

26 Sec. 22. A proprietary school that operates an  
27 instructional program consisting of more than 80 hours of

1 instruction shall advise students in the instructional program  
2 and prospective students on an individual basis on matters  
3 including, but not limited to, the student's ability to progress  
4 in the instructional program; the availability of free or  
5 low-cost programs to earn a general educational development cer-  
6 tificate (G.E.D.) or a high school diploma, or for remedial  
7 instruction; and the potential of the instructional program to  
8 prepare the student for available employment opportunities within  
9 the geographic region in which the proprietary school is  
10 located. The proprietary school shall provide advising on a reg-  
11 ular and continuing basis for each student in the instructional  
12 program.

13       Sec. 23. If the superintendent determines that a propri-  
14 etary school is not in compliance with the ability to benefit and  
15 advising requirements of sections 21 and 22, the superintendent  
16 shall order the proprietary school to take corrective action. If  
17 a proprietary school fails to take the corrective action ordered  
18 by the superintendent, the proprietary school's license may be  
19 suspended in accordance with section 52.

20       Sec. 24. (1) A proprietary school that operates an instruc-  
21 tional program consisting of more than 80 hours of instruction  
22 shall provide to each student admitted to the instructional pro-  
23 gram before enrollment at least all of the following information  
24 in writing in plain language:

25       (a) Information concerning the proprietary school, includ-  
26 ing, but not limited to, all of the following:

1 (i) A description of the courses offered.

2 (ii) Program Objectives and the length of the instructional  
3 program.

4 (iii) A schedule of tuition payments, fees, and all other  
5 charges and expenses necessary for completion of the instruc-  
6 tional program.

7 (iv) The tuition refund and contract cancellation policies  
8 and procedures of the proprietary school.

9 (v) A description of the faculty and other instructional  
10 personnel and their qualifications.

11 (vi) The names of associations, agencies, or governmental  
12 bodies that accredit, approve, or license the proprietary  
13 school.

14 (vii) A description of any special facilities and services  
15 available to handicapped students.

16 (viii) Any other items required by rules promulgated under  
17 this act.

18 (b) The completion rate for students in the instructional  
19 program for the most recent calendar year.

20 (c) The job placement rate for students who completed the  
21 instructional program in the most recent calendar year, showing  
22 the percentage of students who obtained employment in an occupa-  
23 tion for which the instructional program is offered.

24 (d) The pass rate of graduates of the instructional program  
25 for the most recent calendar year on any licensure or certifica-  
26 tion examination required by the state for employment in each  
27 particular occupational field for which the proprietary school

1 offers training, if this information is available to the  
2 proprietary school.

3 (e) Information concerning student financial assistance for  
4 which the student may be eligible, including at least a descrip-  
5 tion of the procedures and forms, student eligibility require-  
6 ments, and the rights and responsibilities of students receiving  
7 financial aid.

8 (f) A description of the proprietary school's internal com-  
9 plaint procedures.

10 (g) A description of the procedures for filing a complaint  
11 with the superintendent under section 55.

12 (2) A proprietary school shall submit the written informa-  
13 tion required under subsection (1) to the superintendent for  
14 approval as part of the annual license renewal process.

15 Sec. 25. (1) A proprietary school shall not offer an  
16 instructional program unless the curriculum of the instructional  
17 program is approved by the department and the instructional pro-  
18 gram is authorized on the proprietary school's license.

19 (2) Before operating an instructional program or course or  
20 changing the number of hours of instruction in an approved  
21 instructional program, a proprietary school shall apply to the  
22 department for approval of the curriculum for the instructional  
23 program or of the change in the number of hours of instruction in  
24 the instructional program in the form and manner prescribed by  
25 the department, supplying the information required by the  
26 department. If the curriculum of the instructional program is  
27 approved under this section, the department shall authorize the

1 proprietary school to offer the instructional program and shall  
2 indicate the authorization on the proprietary school's license.

3 (3) Initial approval of a curriculum under this section is  
4 valid for 3 years. After that time, the superintendent may  
5 require reapproval of a curriculum if he or she has cause to  
6 believe that the curriculum is not meeting the needs of  
7 students.

8 (4) For a curriculum to be eligible for approval, the pro-  
9 prietary school shall demonstrate to the satisfaction of the  
10 department that the curriculum meets at least all of the follow-  
11 ing requirements:

12 (a) The admission standards will effectively require suc-  
13 cessful applicants to demonstrate that they possess the skills,  
14 competencies, and prerequisite knowledge needed to progress in  
15 the curriculum.

16 (b) The content will enable the student to develop the  
17 skills and competencies required for employment in the occupa-  
18 tional area for which the instructional program was developed and  
19 will be offered.

20 (c) The proprietary school will use appropriate facilities  
21 and instructional methods.

22 (d) The instructional equipment to be used in the instruc-  
23 tional program is comparable to the equipment being used at the  
24 time of application for curriculum approval by business or indus-  
25 try in the occupational area for which the instructional program  
26 was developed and will be offered.

1 (e) If students are required as part of the curriculum to  
2 engage in industrial or commercial activity, the required  
3 industrial or commercial activity is reasonably necessary to gain  
4 practical experience needed for the occupational program for  
5 which the instructional program was developed and will be  
6 offered.

7 (5) If the evaluation of a particular curriculum, portion of  
8 a curriculum, or facility used in an instructional program  
9 requires the services of an expert not employed by the depart-  
10 ment, the department may contract with such an expert.

11 (6) Upon request by a proprietary school, the department may  
12 contract with a consultant to expedite an approval, and the pro-  
13 prietary school shall reimburse the department for the reasonable  
14 cost of the consultant's services.

15 Sec. 26. (1) A proprietary school shall not use an enroll-  
16 ment agreement or a catalog unless it meets the requirements of  
17 this section.

18 (2) A proprietary school shall use a student enrollment  
19 agreement form that is written in plain language and shall pro-  
20 vide a copy to the student. An enrollment agreement entered into  
21 by a proprietary school is subject to the tuition refund provi-  
22 sion of part 4.

23 (3) A proprietary school annually shall submit a copy of  
24 each of its enrollment agreement forms and catalogs to the  
25 department. A catalog used by a proprietary school shall specify  
26 the period of time for which it applies. If a catalog used by a  
27 proprietary school is revised or supplemented, the proprietary

1 school shall submit a copy of the revised catalog or supplement  
2 to the department.

3 (4) A proprietary school shall provide a complete copy of  
4 its catalog to each student. All pages in the catalog shall be  
5 numbered and the catalog shall contain at least all of the  
6 following:

7 (a) Volume, number, or date of publication.

8 (b) Name and address of the proprietary school.

9 (c) Names of governing body, officials, and faculty of the  
10 proprietary school.

11 (d) Calendar of legal and scheduled holidays, vacation peri-  
12 ods, and dates of each term or semester.

13 (e) Enrollment dates and entrance requirements for each  
14 instructional program.

15 (f) Policy relating to absences, leaves, tardiness, make-up  
16 work, and interruption of an instructional program.

17 (g) Grading system.

18 (h) Policy relating to unsatisfactory work or attendance,  
19 academic probation or dismissal, and reentrance requirements.

20 (i) Rules of student conduct and conditions of disciplinary  
21 probation or dismissal.

22 (j) Tuition charges and schedule of fees for student activi-  
23 ties, laboratories, rentals, deposits, and other charges.

24 (k) Refund policy.

25 (l) An outline of each instructional program, showing at  
26 least courses, skills to be learned, and approximate clock hours  
27 of instruction in each course.

1 (m) Information regarding credit allowed for previous  
2 education or training.

3 (n) Equipment that must be furnished by the student.

4 (o) If equipment is furnished by the proprietary school, is  
5 essential to the training, and is located at a place other than  
6 the proprietary school, a description of those facts.

7 (p) The manner in which specific placement assistance is  
8 available for enrolled students.

9 (q) For each instructional program, the requirements for  
10 graduation and a description of the type of certificate of  
11 achievement or diploma awarded to graduates.

12 (r) Address of the proprietary school's central administra-  
13 tive office, if it is different from the location of  
14 instruction.

15 (s) A description of the proprietary school's internal com-  
16 plaint procedures.

17 (t) A description of the procedures for filing a complaint  
18 with the superintendent under section 55.

19 (u) A description of the teachout and tuition refund proce-  
20 dures provided in this act and their applicability to students at  
21 a proprietary school that closes or ceases instruction.

22 (v) A description of the extent to which students of the  
23 proprietary school are required as part of a course or instruc-  
24 tional program to engage in industrial or commercial activity and  
25 a disclosure of whether the proprietary school receives payment  
26 for services performed by students.



1 (5) After review of a catalog submitted under this section,  
2 the department may disapprove the catalog and order corrective  
3 action if the catalog does not meet the requirements of this  
4 section. The department shall notify the proprietary school in  
5 writing of the reasons for disapproval.

6 (6) Upon request by a proprietary school and a demonstration  
7 of good cause satisfactory to the department, the department may  
8 allow a proprietary school to use an addendum attached to its  
9 standard catalog to convey the information required under this  
10 section.

11 Sec. 27. (1) A proprietary school's housing, instructional,  
12 and other facilities shall conform to all applicable standards  
13 prescribed by the appropriate local and state authorities,  
14 including, but not limited to, fire, health, safety, building  
15 construction, and sanitary requirements.

16 (2) A proprietary school shall notify the department before  
17 changing the location of any of its facilities.

18 Sec. 28. After a particular course in a proprietary school  
19 begins, the proprietary school shall not do any of the  
20 following:

21 (a) Make any unscheduled cancellation or suspension of the  
22 course without giving each student an opportunity to receive a  
23 full refund for the course.

24 (b) Change the day, time, or location of any scheduled class  
25 session unless at least 90% of the students enrolled in the  
26 course consent to the change in writing and the proprietary  
27 school offers a full refund for the particular course to each

1 nonconsenting student. If the day, time, or location of an  
2 individual class session must be changed on a temporary emergency  
3 basis for an unavoidable reason, an offer of a refund is not  
4 required.

5 (c) Change the location of the proprietary school unless the  
6 students enrolled at the time of the change had been informed in  
7 writing of the possible location change at the time of  
8 enrollment. If no prior notification was given, and the new  
9 location is not equally convenient to a particular student, the  
10 proprietary school shall make an adjustment of tuition charges  
11 for the affected student that is agreeable, in writing, to the  
12 affected student.

13 (d) Alter the number of hours of instruction advertised for  
14 a course in the proprietary school's catalog or other printed  
15 material without obtaining the prior written consent of each stu-  
16 dent enrolled in the course and notifying the department.

17 Sec. 29. A proprietary school shall establish and maintain  
18 an internal complaint process for students to express to the pro-  
19 prietary school's administration any concerns about academic or  
20 administrative matters.

21 Sec. 30. A proprietary school shall not require students of  
22 the proprietary school to engage in industrial or commercial  
23 activity as part of a course or instructional program unless the  
24 activity is part of the curriculum of the instructional program  
25 as approved under section 25.

26 Sec. 31. (1) A proprietary school shall employ and use only  
27 administrative, supervisory, and instructional staff who have

1 appropriate education or experience in each substantive field  
2 that the individual is assigned to administer, supervise, or  
3 teach. If a particular instructional program leads to an occupa-  
4 tion for which a license or certificate is required, a propri-  
5 etary school shall use as instructors in that instructional pro-  
6 gram or course only instructors who possess the appropriate  
7 license or certificate.

8 (2) If a proprietary school offers a remedial course in  
9 math, English, science, or writing, the proprietary school shall  
10 provide an instructor for the remedial course who holds a valid  
11 teaching certificate in the subject area pursuant to part 22 of  
12 the school code of 1976, Act No. 451 of the Public Acts of 1976,  
13 being sections 380.1531 to 380.1539a of the Michigan Compiled  
14 Laws.

15 (3) A proprietary school shall submit information on the  
16 education, training, and experience of each member of the propri-  
17 etary school's administrative, supervisory, and instructional  
18 staff to the department, in the form and manner required by the  
19 department, for evaluation of each individual's competency to  
20 instruct or to administer or supervise instruction in each  
21 subject assigned.

22 (4) As used in this section, "remedial course" means a  
23 course that is intended to teach the basic skills necessary to  
24 pass the examination measuring the student's ability to benefit,  
25 as described in section 21.

26 Sec. 32. (1) A proprietary school shall not use a name that  
27 implies that the proprietary school is affiliated with a

1 government agency or that could imply that the proprietary school  
2 is affiliated with a public or private corporation, agency, or  
3 association with which it is not in fact affiliated. A propri-  
4 etary school may advertise that it is licensed by the state board  
5 but shall not represent that it is approved, recommended,  
6 endorsed, or accredited by the state board or the department.

7       (2) A proprietary school or foreign proprietary institution  
8 shall ensure that all published advertising literature, illustra-  
9 tions, diagrams, and other advertising media regarding the pro-  
10 prietary school or foreign proprietary institution convey only  
11 true and accurate information supported by facts and statistics  
12 about the proprietary school or foreign proprietary institution,  
13 its management, instruction, and offerings, and the occupational  
14 opportunities it provides, and that the advertising includes the  
15 name that appears on the proprietary school's license or the for-  
16 eign proprietary institution's certificate of compliance and the  
17 address and city where the proprietary school or foreign propri-  
18 etary institution is located.

19       (3) A proprietary school or foreign proprietary institution  
20 or its agent shall not do any of the following:

21       (a) Make any misrepresentation concerning any of the  
22 following:

23       (i) Employment opportunities for graduates, including, but  
24 not limited to, suitable jobs, job availability, and probable  
25 earnings.

26       (ii) The proprietary school's or foreign proprietary  
27 institution's facilities, instructional programs, courses,

1 management, operational policies, charges for tuition and fees,  
2 available training equipment, instructors' qualifications, or  
3 placement activities.

4 (iii) Transfer to degree-granting colleges and  
5 universities.

6 (iv) Eligibility for student financial assistance.

7 (b) List or advertise an individual as a member of its staff  
8 or faculty unless the individual is employed by the proprietary  
9 school or foreign proprietary institution on a regular basis to  
10 give or directly supervise instruction in 1 or more regularly  
11 scheduled courses for the proprietary school or foreign propri-  
12 etary institution.

13 (c) Advertise in the "help-wanted" or other employment  
14 column in a newspaper or other publication for the purpose of  
15 enrolling students.

16 (d) Make deceptive statements concerning another proprietary  
17 school or foreign proprietary institution in attempting to enroll  
18 students.

19 (e) Make any statement or representation in an advertisement  
20 or solicitation that a student will be guaranteed employment  
21 while enrolled in the proprietary school or foreign proprietary  
22 institution or after graduation.

23 (f) Include in an advertisement or solicitation a quote of a  
24 dollar amount as representing or indicating the earning potential  
25 of graduates.

26 (g) State in an advertisement or solicitation that the  
27 proprietary school or foreign proprietary institution is

1 accredited without also stating the name of the accrediting  
2 agency.

3 (4) An officer, employee, solicitor, or other agent of a  
4 proprietary school or foreign proprietary institution shall not  
5 knowingly induce an individual to change his or her enrollment  
6 plans in another proprietary school or foreign proprietary insti-  
7 tution after the individual has enrolled in the other proprietary  
8 school or foreign proprietary institution and paid a deposit.

9 (5) The department may at any time require a proprietary  
10 school or foreign proprietary institution to furnish proof of the  
11 truth and accuracy of any of the specific claims in its  
12 advertising. If the proprietary school or foreign proprietary  
13 institution does not furnish proof satisfactory to the depart-  
14 ment, the department may order the proprietary school or foreign  
15 proprietary institution to cease making the claim and to retract  
16 the claim using the same method of advertising as was used to  
17 make the claim. A proprietary school or foreign proprietary  
18 institution that does not comply with an order under this section  
19 or that continues advertising a claim described in this subsec-  
20 tion after being ordered to cease is subject to disciplinary  
21 action under section 52.

22 Sec. 33. (1) Subject to subsection (3), a proprietary  
23 school shall maintain the records required in this act for a  
24 period of not less than 6 years at its principal place of busi-  
25 ness within this state. The records shall be maintained in the  
26 manner and form prescribed by the department and a proprietary

1 school shall make the records available upon request to the  
2 department.

3 (2) In addition to other requirements under this act, a pro-  
4 prietary school shall include at least all of the following in  
5 its records:

6 (a) Names and addresses of each enrolled student.

7 (b) The curriculum or course of study, or both, offered by  
8 the proprietary school.

9 (c) The name, address, and record of the educational quali-  
10 fications of each faculty member.

11 (d) For each student who graduates or successfully completes  
12 his or her curriculum or course of instruction, the date the stu-  
13 dent graduated or completed the program.

14 (e) For each student who fails to complete his or her cur-  
15 riculum or course of instruction, the student's date of with-  
16 drawal and, if applicable, the amount and date of any refund paid  
17 to, or on behalf of, the student.

18 (3) In addition to the other requirements of this section, a  
19 proprietary school shall retain each student's grade record and  
20 transcript for at least 20 years. If the proprietary school  
21 closes or discontinues its operations, the proprietary school  
22 shall forward all of those student grade records and transcripts  
23 to the department.

24 Sec. 34. (1) A proprietary school shall not close, cease  
25 instruction, or surrender its license unless it provides to the  
26 department at least 30 days before the date of that action  
27 written notice of its intention to take that action and a plan

1 for safely securing the records of the proprietary school and  
2 transferring those records to the department. However, the  
3 superintendent may waive the 30-days' notice requirement for good  
4 cause.

5 (2) Immediately upon ceasing instruction, a proprietary  
6 school shall provide to the department all of the following  
7 information:

8 (a) Copies of the academic and financial records for all  
9 students in attendance at the proprietary school at that time.

10 (b) A listing of all of the students described in  
11 subdivision (a) that includes at least each student's name,  
12 address, telephone number, social security number, curriculum,  
13 and number of hours completed at the time instruction ceased.

14 Sec. 35. (1) If a proprietary school closes or ceases  
15 instruction, the department shall make arrangements with 1 or  
16 more other proprietary schools to provide teachout opportunities  
17 for the school's students under this section. The proprietary  
18 schools committee shall provide assistance to the department as  
19 requested by the department in arranging teachout opportunities.

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

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

26 (a) The teachout opportunities shall be arranged with 1 or  
27 more teachout schools that offer an instructional program or



1 course that is substantially similar to that offered in the  
2 proprietary school that closes or ceases instruction.

3 (b) A teachout school must fulfill the enrollment agreement  
4 signed by a student at the proprietary school ceasing instruc-  
5 tion, except that the department, in consultation with the teach-  
6 out school and with the approval of each affected student, may  
7 modify the requirements of the enrollment agreement.

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

13 (4) The department shall ensure that at least all of the  
14 following issues are addressed in a teachout plan developed by  
15 the department:

16 (a) The integration of students into an instructional pro-  
17 gram with a curriculum that may be different from the curriculum  
18 of the instructional program the students were enrolled in at the  
19 proprietary school that closes or ceases instruction.

20 (b) Assessment of each student's progress so that he or she  
21 may be placed into an appropriate course.

22 (c) Provision of remedial instruction to a student who is  
23 determined in his or her initial assessment to be deficient in 1  
24 or more course areas.

25 (d) Adherence by the teachout school to required  
26 student-to-teacher ratios and room capacities.

1 (e) Compliance with statutory and regulatory requirements  
2 during the teachout.

3 (5) A teachout plan developed by the department may include  
4 provisions for teachout opportunities for some or all of the  
5 affected students to be provided by a person other than a propri-  
6 etary school pursuant to a contract with the department.

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

15 (7) A student who claims that his or her participation in a  
16 teachout plan would result in undue hardship to the student may  
17 decline to enroll at a teachout school pursuant to a teachout  
18 plan and instead seek a refund from the tuition reimbursement  
19 fund under section 43. The student's eligibility for a refund  
20 shall be determined under section 43.

21 (8) A teachout plan shall identify the expenses to be reim-  
22 bursed from the tuition reimbursement fund.

23 (9) As used in this section, "teachout school" means a pro-  
24 prietary school that is contractually committed to the department  
25 under a teachout plan to provide instruction for students of a  
26 proprietary school that closes or ceases instruction.

## PART 4

## TUITION REFUNDS

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

Sec. 41. (1) A student at a proprietary school may withdraw from an instructional program or course at any time. If a student withdraws from an instructional program or course, the proprietary school shall pay a refund to the student in the amount calculated under the refund policy specified in this section not later than 45 days after the student's withdrawal.

(2) Subject to subsection (3), if all or a portion of the tuition was paid from federal student financial aid money, the refund shall be first used by the proprietary school to repay the unpaid balance of a student loan taken out by the student to the lender of the student loan or, if appropriate, the state or federal agency that guaranteed or reinsured the student loan. After that payment, any amount of the refund in excess of the unpaid balance of the student loan shall be first used by the proprietary school to repay any amount owed by the student to any other student financial aid programs from which the student received benefits, in proportion to the amount of the benefits received. If there is any amount remaining after those payments, the remaining amount shall be paid to the student.

(3) If all or a portion of the tuition was paid from federal student financial aid money, the department shall consider compliance with the federal regulations concerning refunds of that money to be compliance with subsection (2).

(4) Not later than 10 days after the day on which the refund is made, the proprietary school shall notify the student in

1 writing of the date on which the refund was made, the amount of  
2 the refund, the method of calculating the refund, and the name  
3 and address of each entity to which a part of the refund was  
4 sent. The following statement shall be placed at the top of the  
5 notice in at least 10-point boldfaced type: "This Notice Is  
6 Important. Keep It For Your Records."

7 (5) The following refund policy applies to each proprietary  
8 school, except that a proprietary school that is accredited may  
9 follow a policy established by the particular accrediting agency  
10 and approved by the department:

11 (a) A student is entitled to a full refund if 1 or more of  
12 the following are met:

13 (i) The student cancels the enrollment agreement or enroll-  
14 ment application within 3 business days after signing it.

15 (ii) The student did not meet the proprietary school's mini-  
16 mum admission requirements.

17 (iii) The student's enrollment was procured as the result of  
18 a misrepresentation in the written materials used by the propri-  
19 etary school or in oral representations made by or on behalf of  
20 the proprietary school.

21 (iv) The student had not visited the proprietary school  
22 prior to enrollment and the student withdrew within 3 days after  
23 attending a regularly-scheduled orientation or making a tour of  
24 the proprietary school facilities and inspection of equipment,  
25 whichever is earlier.

26 (b) A student withdrawing from an instructional program  
27 within 1 week after entering a proprietary school and starting

1 the instructional program is entitled to a refund of 90% of the  
2 contract price of the instructional program, minus \$150.00.  
3 However, the proprietary school shall not retain a total of more  
4 than \$350.00.

5 (c) A student withdrawing from an instructional program  
6 after 1 week but within the first 25% of the duration of the  
7 instructional program is entitled to a refund of 75% of the con-  
8 tract price of the instructional program, minus \$150.00.

9 (d) A student withdrawing from an instructional program  
10 after completing more than 25% but less than 50% of the duration  
11 of the instructional program is entitled to a refund of 50% of  
12 the contract price of the instructional program, minus \$150.00.

13 (e) A student withdrawing from an instructional program  
14 after completing at least 50% but less than 75% of the duration  
15 of the instructional program is entitled to a refund of 25% of  
16 the contract price of the instructional program, minus \$150.00.

17 (f) A student withdrawing from an instructional program  
18 after completing 75% or more of the duration of the instructional  
19 program is not entitled to a refund.

20 (6) If the proprietary school specifies in the enrollment  
21 agreement for an instructional program a separate charge for  
22 equipment that the student actually obtains and the student fails  
23 to return that equipment in good condition, allowing for reason-  
24 able wear and tear, within 10 days after the date of the  
25 student's withdrawal, the proprietary school may offset against  
26 the refund calculated under subsection (5) the amount specified  
27 in the enrollment agreement for equipment. The student is liable

1 for the amount, if any, by which the amount for equipment exceeds  
2 the refund amount calculated under subsection (5).

3 (7) If the proprietary school specifies in the enrollment  
4 agreement for an instructional program a separate charge for  
5 equipment that the student has not obtained at the time of the  
6 student's withdrawal, the student is entitled to the refund  
7 described in subsection (5) plus any amount the student has paid  
8 of the charge specified in the enrollment agreement for the  
9 equipment.

10 (8) For the purpose of determining a refund under this sec-  
11 tion, a student shall be considered to have withdrawn from an  
12 instructional program on the earliest of the following dates:

13 (a) The date the student notifies the proprietary school in  
14 writing of the student's withdrawal.

15 (b) The date the proprietary school terminates the student's  
16 enrollment as provided in the enrollment agreement.

17 (c) If the student has failed to attend classes for a period  
18 of 3 consecutive weeks and the student is not on a formal leave  
19 of absence, the last date of recorded attendance.

20 (d) If the student has failed to submit 3 consecutive com-  
21 pleted lessons or has failed to submit a completed lesson within  
22 60 days after its due date as required in a self-paced, home  
23 study, or correspondence course, the date on which the student  
24 submitted the last completed lesson.

25 (9) A proprietary school has the burden of proof to estab-  
26 lish the number of classes or hours remaining in a class without  
27 a fixed class schedule after a student's withdrawal. The

1 proprietary school shall maintain records for 5 years of all the  
2 evidence on which the proprietary school relies under this  
3 section.

4       Sec. 42. (1) There is created the tuition reimbursement  
5 fund as a separate fund in the state treasury, to be administered  
6 by the committee. The committee may accept money from any source  
7 and shall deposit that money and money received from assessments  
8 under this section with the state treasurer who shall credit the  
9 amount of the deposit to the tuition reimbursement fund. The  
10 state treasurer shall direct the investment of the fund money and  
11 shall credit earnings to the tuition reimbursement fund.

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

16       (3) The tuition reimbursement fund shall be used to pay  
17 tuition refunds to students pursuant to section 43 and for costs,  
18 as authorized by the committee, incurred by the department in  
19 arranging teachout opportunities for students in a situation in  
20 which there are not sufficient teachout schools to provide the  
21 teachout opportunities pursuant to a teachout plan under section  
22 35. In addition, with the approval of the state board, the com-  
23 mittee may use money in the tuition reimbursement fund to pur-  
24 chase insurance or reinsurance to guarantee that the obligations  
25 of the tuition reimbursement fund can be met.

26       (4) Not later than 6 months after the effective date of this  
27 act, the committee shall develop, adopt, and submit to the state

1 board a plan of operation for the tuition reimbursement fund that  
2 ensures fair, reasonable, and equitable administration of the  
3 tuition reimbursement fund. The committee shall also submit a  
4 copy of the plan of operation at the same time to the committees  
5 of the legislature responsible for higher education legislation.  
6 That plan of operation shall include at least the following:

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

9 (b) A process for determining assessments to be charged to  
10 licensees as a condition of licensure to ensure the solvency of  
11 the tuition reimbursement fund. The process for determining  
12 assessments shall be structured as described in subsection (5).  
13 However, if the committee does not submit a plan of operation  
14 containing a process for determining assessments to the state  
15 board by the date specified in this subsection or if the state  
16 board does not approve the assessment process submitted by the  
17 committee within the time period specified in subsection (6),  
18 each proprietary school described in section 16(1)(d) shall pay  
19 an annual tuition reimbursement fund assessment of \$75.00 and  
20 each proprietary school described in section 16(1)(e) shall pay  
21 an annual tuition reimbursement fund assessment of \$175.00.

22 (5) The process developed under subsection (4)(b) for deter-  
23 mining assessments to be charged to licensees for the tuition  
24 reimbursement fund shall be structured so that each licensee pays  
25 an equitable amount based on the proprietary school's enrollment,  
26 tuition charges, and claims history. The initial assessments  
27 shall be calculated to generate at least \$30,000.00 to be



1 deposited in the tuition reimbursement fund and the process for  
2 determining assessments shall ensure that the fund balance at the  
3 beginning of each state fiscal year is at least \$30,000.00, minus  
4 any amount paid for insurance or reinsurance. The process for  
5 determining assessments may be structured so that assessments are  
6 imposed and collected to satisfy the obligations of the tuition  
7 reimbursement fund only as they arise or to maintain a fund bal-  
8 ance of at least \$30,000.00, minus any amount paid for insurance  
9 or reinsurance, or both, and may include, but is not limited to,  
10 the imposition of emergency assessments.

11 (6) Not later than 30 days after the committee submits its  
12 plan of operation for the tuition reimbursement fund to the state  
13 board under subsection (4), the state board shall approve or dis-  
14 approve the process for determining assessments and shall notify  
15 the committee and the committees of the legislature responsible  
16 for higher education legislation of the approval or disapproval.  
17 If the state board determines that the process for determining  
18 assessments meets the requirements of subsection (5), the state  
19 board shall approve the process unless the state board finds that  
20 the process is clearly inadequate to allow anticipated claims for  
21 refunds to be paid on a timely basis, based on the experience of  
22 proprietary school closure or cessation of instruction over the  
23 immediately preceding 5-year period.

24 (7) In administering the tuition reimbursement fund, the  
25 committee shall approve all disbursements from the fund for  
26 administration of the tuition reimbursement fund and for payments  
27 authorized under this section. The committee shall be a party in

1 interest in all proceedings involving a claim against the tuition  
2 reimbursement fund, may investigate a claim to determine its  
3 validity, and may compromise, settle, and pay a valid claim and  
4 deny an invalid claim.

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

17 (9) The state treasurer shall issue warrants from the  
18 tuition reimbursement fund as directed by the committee.

19 Sec. 43. (1) To claim a refund from the tuition reimburse-  
20 ment fund, a student shall apply to the department in the form  
21 and manner required by the department. The department shall  
22 submit each claim to the committee with its recommendation con-  
23 cerning the eligibility of the claim for reimbursement.

24 (2) If a claimant was enrolled at a proprietary school at  
25 the time the proprietary school closed or ceased instruction, the  
26 claimant is eligible for a refund under this section if the  
27 student is not offered a teachout opportunity pursuant to a

1 teachout plan developed by the department under section 35 for  
2 the instructional program in which he or she was enrolled, or if  
3 the committee determines that requiring the student to continue  
4 instruction at a teachout school under a teachout plan would be  
5 an undue hardship for the student. A refund under this section  
6 shall be in the amount of all tuition payments made by or on  
7 behalf of the student to the proprietary school that closed or  
8 ceased instruction for courses not completed by the student.

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

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

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

18 (c) Third, to repay another person that has paid tuition on  
19 behalf of the claimant.

20 (d) Fourth, to the claimant to refund actual personal  
21 tuition expenditures.

22 (4) Persons receiving refund money under this section are  
23 considered to have assigned or subrogated their tuition refund  
24 rights against the proprietary school that closed or ceased  
25 instruction to the committee on behalf of the tuition reimburse-  
26 ment fund for the amount refunded by the tuition reimbursement  
27 fund.

1        Sec. 44. (1) If the superintendent determines that a  
2 proprietary school has demonstrated a pattern or practice of  
3 failing to make tuition refunds in a timely manner under  
4 section 41, the superintendent shall require the proprietary  
5 school to establish a trust account in a manner prescribed by the  
6 superintendent. The assets and funds in the trust account shall  
7 be maintained for the sole and exclusive benefit of the students  
8 enrolled in the proprietary school.

9       (2) In making the determination under subsection (1), the  
10 superintendent shall consider at least all of the following  
11 factors:

12 (a) The number of refunds not paid by the school in a timely  
13 manner.

14 (b) Whether the pattern of misconduct substantially affects  
15 the financial interests of students or the state.

**PART 5**

## COMPLIANCE AND VIOLATIONS

18        Sec. 51. (1) The department shall conduct periodic unsched-  
19 uled reviews of proprietary schools to monitor compliance with  
20 this act, rules promulgated under this act, and any final order  
21 of the state board under this act.

22       (2) Subject to subsection (3), the department shall conduct  
23 a scheduled review of each proprietary school at least once every  
24 2 years.

25 (3) The department shall conduct a scheduled review of a  
26 proprietary school at least annually if the proprietary school is

1 considered by the department to be the subject of a high volume  
2 of complaints by students or other persons.

3 (4) Upon request by the department, a licensee shall provide  
4 to the department any records the department considers necessary  
5 to review compliance with this act, rules promulgated under this  
6 act, or a final order of the state board issued under this act.

7 Sec. 52. (1) After notice of intent to take disciplinary  
8 action and an opportunity for a hearing under section 55, the  
9 superintendent may take disciplinary action against a proprietary  
10 school, foreign proprietary institution, or solicitor under this  
11 section for violation of this act.

12 (2) A proprietary school, foreign proprietary institution,  
13 or solicitor is subject to disciplinary action by the superinten-  
14 dent for any of the following:

15 (a) Fraudulent statements or misrepresentations to the  
16 department, a student, or the public in connection with any  
17 activity of the proprietary school or foreign proprietary  
18 institution.

19 (b) A violation of this act or rules promulgated under this  
20 act.

21 (3) Subject to subsection (4), the superintendent may impose  
22 any 1 or more of the following penalties on a proprietary school,  
23 foreign proprietary institution, or solicitor that is found to be  
24 subject to disciplinary action under subsection (2):

25 (a) A cease and desist order.

26 (b) An order to remedy a violation.

1 (c) Suspension or revocation of a license, certificate of  
2 compliance, or solicitor's permit.

3 (d) Probation.

4 (e) An order to make restitution or refund, or both.

5 (f) An administrative fine of not more than \$2,500.00 for a  
6 first violation and not more than \$5,000.00 for a second or fur-  
7 ther violation occurring within the same 5-year period as the  
8 first violation.

9 (4) In addition to the other penalties under this act, the  
10 superintendent may impose an administrative fine of not more than  
11 \$25,000.00 for the first offense or not more than \$50,000.00 for  
12 the second offense against a person found to have committed 1 or  
13 more of the following violations:

14 (a) Intentionally operating a proprietary school without a  
15 license.

16 (b) Operating a proprietary school knowing that the propri-  
17 etary school's license has been suspended or revoked.

18 (5) The superintendent may suspend a license, certificate of  
19 compliance, or solicitor's permit if a proprietary school or for-  
20 eign proprietary institution fails to pay a fee, fine, penalty,  
21 or assessment under this act unless the failure is determined by  
22 the superintendent to be for good cause.

23 (6) Upon receipt, the superintendent shall deposit all money  
24 received from imposition of a penalty under this section with the  
25 state treasurer for credit to the revenue fund.

26 Sec. 53. (1) A person who knowingly violates this act or a  
27 rule promulgated or an order issued under this act is guilty of a

1 misdemeanor, punishable by imprisonment for not more than 30 days  
2 or a fine of not more than \$1,000.00, or both. If the conviction  
3 is for a second or further offense committed within 5 years after  
4 the first conviction, the person is guilty of a misdemeanor pun-  
5 ishable by imprisonment for not more than 6 months or a fine of  
6 not more than \$2,000.00, or both.

7 (2) A person who knowingly does 1 of the following is guilty  
8 of a misdemeanor punishable by imprisonment for not more than 1  
9 year or a fine of not more than \$5,000.00, or both:

10 (a) Falsifies or destroys, with intent to defraud, business  
11 records relating to the operation of a proprietary school or for-  
12 eign proprietary institution.

13 (b) Operates a proprietary school without a valid license or  
14 under a suspended or revoked license.

15 (3) A criminal penalty under this section is in addition to  
16 any other penalty or disciplinary action under this act or other  
17 law.

18 Sec. 54. An individual injured by a violation of this act  
19 may bring an action against a proprietary school, the operator of  
20 a proprietary school, a foreign proprietary institution, or a  
21 solicitor in the circuit court for a county in which the propri-  
22 etary school, foreign proprietary institution, or solicitor does  
23 business for actual damages or \$100.00, whichever is greater.  
24 The court may award costs and reasonable attorney's fees to a  
25 prevailing plaintiff.

26 Sec. 55. (1) A person alleging a violation of this act may  
27 file a written complaint with the superintendent not later than 1

1 year after the date of the alleged violation. If, after an investigation, the superintendent finds that there is reasonable cause to believe that a violation of this act has occurred, the superintendent may initiate a hearing by serving a notice of intent to take disciplinary action and hearing on each person subject to disciplinary action for the alleged violation. The notice shall provide reasonable notice of the hearing, including at least the time, place, and nature of the hearing, the nature of the allegations, and the penalties sought.

(2) In the hearing, a person subject to discipline has the right to respond to allegations, to cross-examine witnesses, to present evidence and argument on the issues involved in the hearing and to have counsel or another representative present.

(3) A hearing under this section may be resolved by stipulation, agreed settlement, consent order, default, or other informal disposition.

(4) A hearing shall be conducted by a hearing officer, who may do all of the following:

(a) Administer an oath or affirmation.

(b) Regulate the course of the hearing, set the time and place for continued hearings, and set the time for filing of briefs and other documents.

(c) Direct the person subject to discipline to appear and confer in a pre-hearing conference to consider the simplification of issues by consent.

(d) Grant a request for adjournment of a hearing upon a showing of good cause.



1       (5) The strict legal rules of evidence do not apply in a  
2 hearing under this section.

3       (6) After conclusion of a hearing, if there is no informal  
4 disposition, the hearing officer shall make written findings of  
5 fact and conclusions of law, shall make a recommended decision  
6 and recommend penalties to the superintendent in writing, and  
7 shall mail a copy of the findings and recommendation to the  
8 person subject to discipline and the person's attorney or  
9 representative.

10       (7) The superintendent shall make the final determination of  
11 whether a violation has occurred and the penalty to be imposed  
12 based exclusively on the evidence and other material presented at  
13 the hearing. If the superintendent determines that a person has  
14 committed a violation, he or she shall issue a final order impos-  
15 ing discipline according to section 52 and shall send by certi-  
16 fied mail a copy of the order to the person subject to discipline  
17 and the person's attorney or representative. At the request of  
18 the person subject to discipline, the superintendent shall fur-  
19 nish the person a copy of the transcript of the hearing upon pay-  
20 ment by the person of the reasonable cost of producing the  
21 transcript.

22       (8) An order of discipline imposed under this section shall  
23 be supported by substantial evidence on the record as a whole and  
24 may be appealed to the circuit court for a county in which the  
25 proprietary school, foreign proprietary institution, or solicitor  
26 does business.

1       Sec. 56. The attorney general, in his or her own capacity  
2 or at the request of the superintendent or committee, may bring  
3 an appropriate action or proceeding in the circuit court to col-  
4 lect a fine or enforce another penalty imposed under this act or  
5 to enforce this act.

6       Sec. 57. (1) Upon a finding that a deficiency or violation  
7 of this act or the rules promulgated under this act seriously  
8 affects the health, safety, or welfare of individuals receiving  
9 services from a proprietary school, the superintendent may issue  
10 an emergency order limiting, suspending, or revoking the license  
11 of the proprietary school. The superintendent shall provide an  
12 opportunity for a hearing under section 55 within 10 working days  
13 after issuance of the order.

14       (2) An order under this section shall incorporate the  
15 superintendent's findings. The conduct of a hearing under this  
16 section does not suspend the superintendent's order.

17       Sec. 58. An enrollment agreement or contract entered into  
18 in this state by a proprietary school, a foreign proprietary  
19 institution, or a solicitor that does not hold the appropriate  
20 valid license, certificate of compliance, solicitor's permit, or  
21 other authorization under this act is void. A promissory note or  
22 other evidence of indebtedness taken in lieu of a cash payment by  
23 a proprietary school, foreign proprietary institution, or solici-  
24 tor that does not hold the appropriate valid license, certificate  
25 of compliance, solicitor's permit, or other authorization under  
26 this act is void.

## PART 6

## ADMINISTRATION

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

Sec. 61. 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. The rules may include, but are not limited to, all of the following matters relating to proprietary schools:

(a) Standards and methods of instruction.

(b) Equipment to be available for instruction.

(c) Physical plant.

(d) Maximum enrollments based upon methods of instruction, equipment, and physical plant.

(e) Qualifications and experience of teaching or management personnel, or both.

(f) Form and content of the student enrollment agreement to be used.

(g) Methods of collecting tuition.

(h) Sufficiency and suitability of the economic resources available for the support of a proprietary school.

(i) Counseling provided to students.

(j) Form and content of records to be kept by a proprietary school and the manner for maintaining the records.

Sec. 62. (1) There is created in the department the proprietary schools committee, which shall consist of the following 9 members:

1 (a) Five operators of licensed proprietary schools appointed  
2 by the state board.

3 (b) Three representatives of the general public appointed by  
4 the state board.

5 (c) The superintendent or his or her designee.

6 (2) The committee shall meet not less than 2 times per  
7 year.

8 (3) Members of the committee shall serve for a term of 4  
9 years except that of those initially appointed, 3 members shall  
10 serve for a term of 4 years, 3 members shall serve for a term of  
11 3 years, and 2 members shall serve for a term of 2 years. An  
12 appointment to fill the unexpired term of a member shall be for  
13 the unexpired term and shall be made in the same manner as the  
14 original appointment.

15 (4) A member of the committee is entitled to reimbursement  
16 for actual and necessary travel expenses incurred in the per-  
17 formance of official duties under this act according to depart-  
18 ment of management and budget guidelines.

19 (5) The committee shall do all of the following:

20 (a) Act as liaison between proprietary schools and the state  
21 board.

22 (b) Review all department policies and procedures concerning  
23 proprietary schools and make recommendations to the state board  
24 and the department concerning those policies and procedures.

25 (c) Administer the tuition reimbursement fund pursuant to  
26 section 42.

1 (d) Advise the state board on any other matters as requested  
2 by the state board.

3 Sec. 65. Act No. 148 of the Public Acts of 1943, being sec-  
4 tions 395.101 to 395.103 of the Michigan Compiled Laws, and Act  
5 No. 40 of the Public Acts of 1963, being sections 395.121 to  
6 395.125 of the Michigan Compiled Laws, are repealed.

7 Sec. 66. This act shall take effect September 30, 1993.