



HOUSE BILL No. 5209

November 17, 1993, Introduced by Reps. Saunders, Profit, Dalman, Rivers, Parks and Pitoniak and referred to the Committee on Higher Education.

A bill 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; to provide certain duties of certain state departments, agencies, and officials; and to repeal certain acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 Sec. 2. As used in this act:

4 (a) "Course" means a component unit of an instructional
5 program.

6 (b) "Department" means the department of education.

7 (c) "Instructional program" means 1 or more structured
8 learning experiences designed to accomplish a predetermined

1 objective or set of allied objectives in any particular trade,
2 occupation, or vocation.

3 (d) "Licensee" means the holder of a license under Act
4 No. 148 of the Public Acts of 1943, being sections 395.101 to
5 395.103 of the Michigan Compiled Laws, to establish or maintain
6 and operate, or both, a proprietary school.

7 (e) "Person" means an individual, partnership, corporation,
8 association, organization, or other legal entity.

9 (f) "Proprietary school" means a proprietary school licensed
10 under Act No. 148 of the Public Acts of 1943.

11 (g) "State board" means the state board of education.

12 (h) "Teachout" means providing instruction to students of a
13 proprietary school that has closed or has ceased instruction.

14 (i) "Teachout school" means a proprietary school that is
15 contractually committed to the department under a teachout plan
16 developed under section 5 to provide instruction for students of
17 a proprietary school that has closed or has ceased instruction.

18 (j) "Tuition reimbursement fund" means the tuition reim-
19 bursement fund created in section 3.

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

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

5 (3) The tuition reimbursement fund shall be used only to pay
6 tuition refunds to students and other persons pursuant to section
7 4 and for costs incurred by the department in arranging teachout
8 opportunities for students in a situation in which there are not
9 sufficient teachout schools to provide the teachout opportunities
10 pursuant to a teachout plan under section 5. In addition, with
11 the approval of the state board, the department may use money in
12 the tuition reimbursement fund to purchase insurance or reinsur-
13 ance to guarantee that the obligations of the tuition reimburse-
14 ment fund can be met. Except as provided in this subsection, the
15 department shall not use money in the tuition reimbursement fund
16 for salaries or any other cost of administering this act or of
17 administering Act No. 148 of the Public Acts of 1943, being sec-
18 tions 395.101 to 395.103 of the Michigan Compiled Laws.

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

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

3 (b) A process for determining assessments to be charged to
4 licensees as a condition of licensure to ensure the solvency of
5 the tuition reimbursement fund. The process for determining
6 assessments shall be structured so that each licensee pays an
7 equitable amount based on the proprietary school's enrollment,
8 tuition charges, and claims history. The initial assessments
9 shall be calculated to generate at least \$30,000.00 to be depos-
10 ited in the tuition reimbursement fund and the process for deter-
11 mining assessments shall ensure that the fund balance at the
12 beginning of each state fiscal year is at least \$30,000.00, minus
13 any amount paid for insurance or reinsurance. The process for
14 determining assessments may be structured so that assessments are
15 imposed and collected to satisfy the obligations of the tuition
16 reimbursement fund only as they arise or to maintain a fund bal-
17 ance of at least \$30,000.00, minus any amount paid for insurance
18 or reinsurance, or both, and may include, but is not limited to,
19 the imposition of emergency assessments.

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

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

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

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

23 Sec. 4. (1) To claim a refund from the tuition reimburse-
24 ment fund, a student shall apply to the department in the form
25 and manner required by the department.

26 (2) If a claimant was enrolled at a proprietary school at
27 the time the proprietary school closed or ceased instruction, the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (6) A teachout plan shall identify the expenses to be reim-
26 bursed from the tuition reimbursement fund.

1 Sec. 6. The state board may promulgate rules to implement
2 this act pursuant to the administrative procedures act of 1969,
3 Act No. 306 of the Public Acts of 1969, being sections 24.201 to
4 24.328 of the Michigan Compiled Laws.

5 Sec. 7. A person who violates this act is guilty of a mis-
6 demeanor, punishable by a fine of not more than \$1,000.00 or
7 imprisonment for not more than 90 days, or both.

8 Sec. 8. This act shall take effect January 1, 1994.

9 Sec. 9. The following acts and parts of acts are repealed:

10 (a) Act No. 156 of the Public Acts of 1993.

11 (b) Act No. 157 of the Public Acts of 1993.