

FEB 21 1990

Place On Calendar

HOUSE FILE 2536
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HSB 777)

Passed House, Date 3/7/90 (p. 923) Passed Senate, Date 4/4/90 (p. 1539)
Vote: Ayes 94 Nays 0 Vote: Ayes 48 Nays 0
Approved April 30, 1990

A BILL FOR

1 An Act relating to the regulation of persons providing courses of
2 instruction for profit, by revising requirements for corporate
3 surety bonds, and repealing certain disclosure requirements.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 2536

H-5554

1 Amend House File 2536 as follows:
2 1. Page 3, by striking line 6 and inserting the
3 following:
4 "Sec. 3. Section 714.25, unnumbered paragraph 2,
5 Code Supplement 1989, is amended to read as follows:
6 A proprietary school ~~located within the state~~
7 shall, prior to the time a student is obligated for
8 payment of any moneys, inform the student of all of
9 the following:".

By SPENNER of Henry
OLLIE of Clinton

2 H-5554 FILED MARCH 6, 1990
Adopted 3/7 (p. 923)

HF 2536

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1 Section 1. Section 714.18, unnumbered paragraph 1 and
2 subsection 1, Code Supplement 1989, are amended to read as
3 follows:

4 Every Except as otherwise provided in subsection 4, every
5 person, firm, association, or corporation maintaining or
6 conducting in Iowa any such course of instruction, by
7 classroom instruction or by correspondence, or soliciting in
8 Iowa the sale of such course, shall file with the director of
9 the department of education:

10 1. A continuous corporate surety bond to the state of Iowa
11 in the sum of fifty thousand dollars ~~or ten percent of the~~
12 ~~total annual tuition collected, whichever is less,~~ conditioned
13 for the faithful performance of all contracts and agreements
14 with students made by such person, firm, association, or
15 corporation, or their salespersons, ~~--A person, firm,~~
16 ~~association, or corporation desiring to file a surety bond~~
17 ~~based on a percentage of annual tuition shall provide to the~~
18 ~~director of the department of education, in the form~~
19 ~~prescribed by the director, a notarized statement attesting to~~
20 ~~the total amount of tuition collected in the preceding twelve-~~
21 ~~month period.--The director shall determine the sufficiency of~~
22 ~~the statement and the amount of the bond.--Tuition information~~
23 ~~submitted pursuant to this subsection shall be kept~~
24 ~~confidential.~~

25 ~~If the person, firm, association, or corporation has filed~~
26 ~~a performance bond with an agency of the United States~~
27 ~~government pursuant to federal law, the director of the~~
28 ~~department of education shall reduce the bond required by this~~
29 ~~subsection by an amount equal to the amount of the federal~~
30 ~~bond.~~

31 The; but the aggregate liability of the surety for all
32 breaches of the conditions of the bond shall not exceed the
33 sum of the bond. The surety on the bond may cancel the bond
34 upon giving thirty days' written notice to the director of the
35 department of education and thereafter shall be relieved of

1 liability for any breach of condition occurring after the
2 effective date of the cancellation.

3 ~~The director of the department of education may accept a~~
4 ~~letter of credit from a bank in lieu of the corporate surety~~
5 ~~bond required by this subsection.~~

6 Sec. 2. Section 714.18, Code Supplement 1989, is amended
7 by adding the following new subsection:

8 NEW SUBSECTION. 4. A school licensed under the provisions
9 of section 157.8 or 158.7 shall file with the director of the
10 department of education:

11 a. A continuous corporate surety bond to the state of Iowa
12 in the sum of fifty thousand dollars or ten percent of the
13 total annual tuition collected, whichever is less, conditioned
14 for the faithful performance of all contracts and agreements
15 with students made by such school. A school desiring to file
16 a surety bond based on a percentage of annual tuition shall
17 provide to the director of the department of education, in the
18 form prescribed by the director, a notarized statement
19 attesting to the total amount of tuition collected in the
20 preceding twelve-month period. The director shall determine
21 the sufficiency of the statement and the amount of the bond.
22 Tuition information submitted pursuant to this paragraph shall
23 be kept confidential.

24 If the school has filed a performance bond with an agency
25 of the United States government pursuant to federal law, the
26 director of the department of education shall reduce the bond
27 required by this paragraph by an amount equal to the amount of
28 the federal bond.

29 The aggregate liability of the surety for all breaches of
30 the conditions of the bond shall not exceed the sum of the
31 bond. The surety on the bond may cancel the bond upon giving
32 thirty days' written notice to the director of the department
33 of education and thereafter shall be relieved of liability for
34 any breach of condition occurring after the effective date of
35 the cancellation.

1 The director of the department of education may accept a
2 letter of credit from a bank in lieu of the corporate surety
3 bond required by this paragraph.

4 b. The statement required in subsection 2.

5 c. The materials required in subsection 3.

55546 Sec. 3. Section 714.25, Code Supplement 1989, is repealed.

7 EXPLANATION

8 The bill requires all persons and entities, except
9 cosmetology and barber schools licensed under section 157.8 or
10 158.7, maintaining or conducting any course of instruction for
11 profit, or soliciting the sale of such courses, to file a
12 \$50,000 corporate surety bond with the director of the
13 department of education. Under current law, pursuant to
14 changes that were enacted during the 1989 legislative session,
15 the surety bond could be lower, based upon the total annual
16 tuition collected. The bill does not change this law
17 regarding licensed cosmetology and barber schools.

18 The bill further repeals section 714.25, which requires
19 certain disclosures by proprietary schools.

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Sen. State Gov. 3/12 L. Pass 3/12 (y. 991)

HOUSE FILE 2536
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HSB 777)

(As Amended and Passed by the House March 7, 1990)

^{a/w}
_{6/20/}
Passed House, Date 4/8/90 (p. 2416) Passed Senate, Date 4/4/90 (p. 1539)

Vote: Ayes 74 Nays 0 Vote: Ayes 48 Nays 0

Approved April 30, 1990

*Motion to reconsider (p. 1550)
Passed Senate 4/8/90 (1741)
45-1*

A BILL FOR

1 An Act relating to the regulation of persons providing courses of
2 instruction for profit, by revising requirements for corporate
3 surety bonds, and repealing certain disclosure requirements.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

House Amendment _____

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1 Section 1. Section 714.18, unnumbered paragraph 1 and
2 subsection 1, Code Supplement 1989, are amended to read as
3 follows:

4 Every Except as otherwise provided in subsection 4, every
5 person, firm, association, or corporation maintaining or
6 conducting in Iowa any such course of instruction, by
7 classroom instruction or by correspondence, or soliciting in
8 Iowa the sale of such course, shall file with the director of
9 the department of education:

10 1. A continuous corporate surety bond to the state of Iowa
11 in the sum of fifty thousand dollars ~~or ten percent of the~~
12 ~~total annual tuition collected, whichever is less,~~ conditioned
13 for the faithful performance of all contracts and agreements
14 with students made by such person, firm, association, or
15 corporation, or their salespersons:--~~A person, firm,~~
16 ~~association, or corporation desiring to file a surety bond~~
17 ~~based on a percentage of annual tuition shall provide to the~~
18 ~~director of the department of education, in the form~~
19 ~~prescribed by the director, a notarized statement attesting to~~
20 ~~the total amount of tuition collected in the preceding twelve-~~
21 ~~month period.--The director shall determine the sufficiency of~~
22 ~~the statement and the amount of the bond.--Tuition information~~
23 ~~submitted pursuant to this subsection shall be kept~~
24 ~~confidential.~~

25 ~~If the person, firm, association, or corporation has filed~~
26 ~~a performance bond with an agency of the United States~~
27 ~~government pursuant to federal law, the director of the~~
28 ~~department of education shall reduce the bond required by this~~
29 ~~subsection by an amount equal to the amount of the federal~~
30 ~~bond.~~

31 The; but the aggregate liability of the surety for all
32 breaches of the conditions of the bond shall not exceed the
33 sum of the bond. The surety on the bond may cancel the bond
34 upon giving thirty days' written notice to the director of the
35 department of education and thereafter shall be relieved of

1 liability for any breach of condition occurring after the
2 effective date of the cancellation.

3 ~~The director of the department of education may accept a~~
4 ~~letter of credit from a bank in lieu of the corporate surety~~
5 ~~bond required by this subsection.~~

6 Sec. 2. Section 714.18, Code Supplement 1989, is amended
7 by adding the following new subsection:

8 NEW SUBSECTION. 4. A school licensed under the provisions
9 of section 157.8 or 158.7 shall file with the director of the
10 department of education:

11 a. A continuous corporate surety bond to the state of Iowa
12 in the sum of fifty thousand dollars or ten percent of the
13 total annual tuition collected, whichever is less, conditioned
14 for the faithful performance of all contracts and agreements
15 with students made by such school. A school desiring to file
16 a surety bond based on a percentage of annual tuition shall
17 provide to the director of the department of education, in the
18 form prescribed by the director, a notarized statement
19 attesting to the total amount of tuition collected in the
20 preceding twelve-month period. The director shall determine
21 the sufficiency of the statement and the amount of the bond.
22 Tuition information submitted pursuant to this paragraph shall
23 be kept confidential.

24 If the school has filed a performance bond with an agency
25 of the United States government pursuant to federal law, the
26 director of the department of education shall reduce the bond
27 required by this paragraph by an amount equal to the amount of
28 the federal bond.

29 The aggregate liability of the surety for all breaches of
30 the conditions of the bond shall not exceed the sum of the
31 bond. The surety on the bond may cancel the bond upon giving
32 thirty days' written notice to the director of the department
33 of education and thereafter shall be relieved of liability for
34 any breach of condition occurring after the effective date of
35 the cancellation.

1 The director of the department of education may accept a
2 letter of credit from a bank in lieu of the corporate surety
3 bond required by this paragraph.

4 b. The statement required in subsection 2.

5 c. The materials required in subsection 3.

6 Sec. 3. Section 714.25, unnumbered paragraph 2, Code
7 Supplement 1989, is amended to read as follows:

8 A proprietary school located within the state shall, prior
9 to the time a student is obligated for payment of any moneys,
10 inform the student of all of the following:

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HOUSE FILE 2536

S-5678

1 Amend House File 2536, as amended, passed, and re-
2 printed by the House, as follows:

3 1. Page 3, by inserting after line 5 the
4 following:

5 "A school licensed under the provisions of section
6 157.8 or 158.7 which is nationally accredited and
7 which would be subject to the United States department
8 of education bonding requirements is exempt from the
9 requirements of this section.

10 Sec. ____ . Section 714.23, Code 1989, is amended to
11 read as follows:

12 714.23 REFUND POLICIES.

13 A person offering a course of instruction at the
14 postsecondary level, for profit, that is more than
15 four months in length and leads to a degree, diploma,
16 or license, shall make a pro-rata refund of no less
17 than eighty-five percent of the tuition for a
18 terminating student who has completed up to and
19 including fifteen percent of a school term or course
20 to the appropriate agency. If a terminating student
21 has completed more than fifteen percent but less than
22 fifty percent of a school term or course that is more
23 than four months in length, the person offering the
24 course of instruction shall refund the tuition to the
25 appropriate agency based upon the amount which equals
26 the amount of tuition for the course of instruction
27 multiplied by the ratio of completed the remaining
28 number of school days to the total school days of the
29 school term or course. If a terminating student has
30 completed fifty percent or more of a school term or
31 course that is more than four months in length, the
32 person offering the course of instruction is not
33 required to refund tuition for the student. However,
34 if, at any time, a student terminates a school term or
35 course that is more than four months in length due to
36 the student's physical incapacity or due to the
37 transfer of the student's spouse's employment to
38 another city, the terminating student shall receive a
39 refund of tuition in an amount which equals the amount
40 of tuition multiplied by the ratio of the remaining
41 number of school days to the total school days of the
42 school term or course. However, if the financial
43 obligations of a student are for three or fewer months
44 duration, this section does not apply.

45 Refunds shall be paid to the appropriate agency
46 within thirty days following the student's
47 termination.

48 ~~If the student terminates later than three weeks~~
49 ~~after the course of instruction has commenced, the~~
50 ~~person offering the course of instruction cannot admit~~

S-5678

Page 2

- 1 a-student-to-replace-the-student-for-which-a-refund
 2 was-received-for-the-remaining-portion-of-the-school
 3 term-or-course.
 4 ---A-violation-of-this-section-is-a-simple
 5 misdemeanor."
 6 2. By renumbering as necessary.

By JOE WELSH

S-5678 FILED MARCH 23, 1990

Amended + ruled not germane 4/4 (p.1538)

HOUSE FILE 2536

S-5745

- 1 Amend the amendment, S-5678, to House File 2536, as
 2 amended, passed, and reprinted by the House, as
 3 follows:
 4 1. Page 1, line 13, by striking the words "A
 5 person" and inserting the following:
 6 "1. A person".
 7 2. Page 1, by striking line 16 and inserting the
 8 following: "or license, shall make a pro-rata refund
 9 of as follows:
 10 a. A refund of no less".
 11 3. Page 1, by striking line 42 and inserting the
 12 following: "school term or course."
 13 This paragraph applies only to those persons
 14 offering courses of instruction at the postsecondary
 15 level, for profit, whose default rate for students
 16 under the Stafford loan program for the previous
 17 reporting period is less than one hundred ten percent
 18 of the national average default rate for that program
 19 for that period or six percent, whichever is more.
 20 b. A refund of eighty-five percent of the tuition
 21 for a terminating student to the appropriate agency
 22 based upon the ratio of completed number of school
 23 days to the total school days of the school term or
 24 course.
 25 This paragraph applies to those persons offering
 26 courses of instruction at the postsecondary level, for
 27 profit, who are not covered under paragraph "a".
 28 2. However, if the financial".
 29 4. Page 1, line 45, by striking the word
 30 "Refunds" and inserting the following:
 31 "3. Refunds".
 32 5. Page 2, by striking lines 4 and 5 and
 33 inserting the following:
 34 "4. A violation of this section is a simple
 35 misdemeanor.""

By RICHARD VARN

S-5745 FILED MARCH 28, 1990

w/b 4/4 (p.1539)

HOUSE FILE 2536

S-5836

1 Amend the amendment, S-5678, to House File 2536, as
2 amended, passed, and reprinted by the House, as
3 follows:

4 1. Page 1, line 28, by inserting after the word
5 "to" the following: "fifty percent of".

By JOE WELSH

S-5836 FILED APRIL 2, 1990

deputed 4/4 (p. 1536)

HOUSE FILE 2536

S-5844

1 Amend the amendment, S-5678, to House File 2536, as
2 amended, passed, and reprinted by the House, as
3 follows:

4 1. Page 1, line 13, by striking the words "A
5 person" and inserting the following:

6 "1. A person".

7 2. Page 1, by striking line 16 and inserting the
8 following: "or license, shall make a pro-rata refund
9 of as follows:

10 a. A refund of no less".

11 3. Page 1, by striking line 42 and inserting the
12 following: "school term or course.

13 This paragraph applies only to those persons
14 offering courses of instruction at the postsecondary
15 level, for profit, whose cohort default rate for
16 students under the Stafford loan program as defined by
17 the United States department of education is less than
18 one hundred ten percent of the national average cohort
19 default rate for that program for that period or six
20 percent, whichever is higher.

21 b. A refund of eighty-five percent of the tuition
22 for a terminating student to the appropriate agency
23 based upon the ratio of completed number of school
24 days to the total school days of the school term or
25 course.

26 This paragraph applies to those persons offering
27 courses of instruction at the postsecondary level, for
28 profit, whose cohort default rate exceeds the
29 parameters established in paragraph "a".

30 2. However, if If the financial".

31 4. Page 1, line 45, by striking the word
32 "Refunds" and inserting the following:

33 "3. Refunds".

34 5. Page 2, by striking lines 4 and 5 and
35 inserting the following:

36 "4. A violation of this section is a simple
37 misdemeanor."

By RICHARD VARN

S-5844 FILED APRIL 2, 1990

deputed 4/4 (p. 538)

HOUSE FILE 2536

S-6002

1 Amend House File 2536, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 3, by inserting after line 5 the
4 following:

5 "A school licensed under the provisions of section
6 157.8 or 158.7 which is nationally accredited and
7 which would be subject to the United States department
8 of education bonding requirements is exempt from the
9 requirements of this section.

10 Sec. ____ . Section 714.23, Code 1989, is amended to
11 read as follows:

12 714.23 REFUND POLICIES.

13 1. A person offering a course of instruction at
14 the postsecondary level, for profit, that is more than
15 four months in length and leads to a degree, diploma,
16 or license, shall make a pro rata refund of ~~eighty-~~
17 five no less than ninety percent of the tuition for a
18 terminating student to the appropriate agency based
19 upon the ratio of completed number of scheduled school
20 days to the total sixty percent of the scheduled
21 school days of the school term or course.

22 2. Notwithstanding the provisions of subsection 1,
23 the following refund policy shall apply:

24 a. If a terminating student has completed sixty
25 percent or more of a school term or course that is
26 more than four months in length, the person offering
27 the course of instruction is not required to refund
28 tuition for the student. However, if, at any time, a
29 student terminates a school term or course that is
30 more than four months in length due to the student's
31 physical incapacity or due to the transfer of the
32 student's spouse's employment to another city, the
33 terminating student shall receive a refund of tuition
34 in an amount which equals the amount of tuition
35 multiplied by the ratio of the remaining number of
36 school days to the total school days of the school
37 term or course.

38 b. A refund of ninety percent of the tuition for a
39 terminating student to the appropriate agency based
40 upon the ratio of completed number of school days to
41 the total school days of the school term or course.
42 This paragraph applies to those persons offering
43 courses of instruction at the postsecondary level, for
44 profit, whose cohort default rate for students under
45 the Stafford loan program as defined by the United
46 States department of education is more than one
47 hundred ten percent of the national average cohort
48 default rate for that program for that period or six
49 percent, whichever is higher.

50 3. However, if if the financial obligations of a

S-6002

Page 2

1 student are for three or fewer months duration, this
2 section does not apply.

3 4. Refunds shall be paid to the appropriate agency
4 within thirty days following the student's
5 termination.

6 ~~If-the-student-terminates-later-than-three-weeks
7 after-the-course-of-instruction-has-commenced,-the
8 person-offering-the-course-of-instruction-cannot-admit
9 a-student-to-replace-the-student-for-which-a-refund
10 was-received-for-the-remaining-portion-of-the-school
11 term-or-course-~~

12 5. A person to which this section applies shall
13 not charge a termination fee.

14 6. A violation of this section is a simple
15 misdemeanor."

By JOE WELSH

S-6002 FILED APRIL 7, 1990

WITHDRAWN (p. 1740)

HOUSE FILE 2536

S-6016

1 Amend House File 2536, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 3, by inserting after line 5 the
4 following:

5 "Sec. ____ . Section 714.23, Code 1989, is amended
6 to read as follows:

7 714.23 REFUND POLICIES.

8 1. A person offering a course of instruction at
9 the postsecondary level, for profit, that is more than
10 four months in length and leads to a degree, diploma,
11 or license, shall make a pro rata refund of ~~eighty-~~
12 five no less than ninety percent of the tuition for a
13 terminating student to the appropriate agency based
14 upon the ratio of completed number of scheduled school
15 days to the total sixty percent of the scheduled
16 school days of the school term or course.

17 2. Notwithstanding the provisions of subsection 1,
18 the following refund policy shall apply:

19 a. If a terminating student has completed sixty
20 percent or more of a school term or course that is
21 more than four months in length, the person offering
22 the course of instruction is not required to refund
23 tuition for the student. However, if, at any time, a
24 student terminates a school term or course that is
25 more than four months in length due to the student's
26 physical incapacity or due to the transfer of the
27 student's spouse's employment to another city, the
28 terminating student shall receive a refund of tuition
29 in an amount which equals the amount of tuition
30 multiplied by the ratio of the remaining number of
31 school days to the total school days of the school
32 term or course.

33 b. A refund of ninety percent of the tuition for a
34 terminating student to the appropriate agency based
35 upon the ratio of completed number of school days to
36 the total school days of the school term or course.
37 This paragraph applies to those persons offering
38 courses of instruction at the postsecondary level, for
39 profit, whose cohort default rate for students under
40 the Stafford loan program as defined by the United
41 States department of education is more than one
42 hundred ten percent of the national average cohort
43 default rate for that program for that period or six
44 percent, whichever is higher.

45 3. ~~However, if~~ If the financial obligations of a
46 student are for three or fewer months duration, this
47 section does not apply.

48 4. Refunds shall be paid to the appropriate agency
49 within thirty days following the student's
50 termination.

S-6016

Page 2

~~1 If the student terminates later than three weeks
2 after the course of instruction has commenced, the
3 person offering the course of instruction cannot admit
4 a student to replace the student for which a refund
5 was received for the remaining portion of the school
6 term or course.~~

7 5. A student who terminates a course of instruc-
8 tion or term shall not be charged any fee or other
9 monetary penalty for terminating a course of
10 instruction or term other than a reduction in tuition
11 refund as specified in this section.

12 6. A violation of this section is a simple
13 misdemeanor."

14 2. Page 3, line 10, by inserting after the word
15 "student" the following: ", the college aid
16 commission, and in the case of a school licensed under
17 section 157.8, the board of cosmetology examiners or
18 in the case of a school licensed under section 158.7,
19 the board of barber examiners,".

20 3. By renumbering as necessary.

By JOE WELSH
RICHARD V. RUNNING

RICHARD J. VARN
JIM LIND

S-6016 FILED APRIL 7, 1990

ADOPTED (p. 1740)

SENATE AMENDMENT TO HOUSE FILE 2536

H-6201

1 Amend House File 2536, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 3, by inserting after line 5 the
4 following:

5 "Sec. ____ . Section 714.23, Code 1989, is amended
6 to read as follows:

7 714.23 REFUND POLICIES.

8 1. A person offering a course of instruction at
9 the postsecondary level, for profit, that is more than
10 four months in length and leads to a degree, diploma,
11 or license, shall make a pro rata refund of eighty-
12 five no less than ninety percent of the tuition for a
13 terminating student to the appropriate agency based
14 upon the ratio of completed number of scheduled school
15 days to the total sixty percent of the scheduled
16 school days of the school term or course.

17 2. Notwithstanding the provisions of subsection 1,
18 the following refund policy shall apply:

19 a. If a terminating student has completed sixty
20 percent or more of a school term or course that is
21 more than four months in length, the person offering
22 the course of instruction is not required to refund
23 tuition for the student. However, if, at any time, a
24 student terminates a school term or course that is
25 more than four months in length due to the student's
26 physical incapacity or due to the transfer of the
27 student's spouse's employment to another city, the
28 terminating student shall receive a refund of tuition
29 in an amount which equals the amount of tuition
30 multiplied by the ratio of the remaining number of
31 school days to the total school days of the school
32 term or course.

33 b. A refund of ninety percent of the tuition for a
34 terminating student to the appropriate agency based
35 upon the ratio of completed number of school days to
36 the total school days of the school term or course.
37 This paragraph applies to those persons offering
38 courses of instruction at the postsecondary level, for
39 profit, whose cohort default rate for students under
40 the Stafford loan program as defined by the United
41 States department of education is more than one
42 hundred ten percent of the national average cohort
43 default rate for that program for that period or six
44 percent, whichever is higher.

45 3. ~~However, if~~ If the financial obligations of a
46 student are for three or fewer months duration, this
47 section does not apply.

48 4. Refunds shall be paid to the appropriate agency
49 within thirty days following the student's
50 termination.

H-6201

Page 2

~~1 If the student terminates later than three weeks~~
~~2 after the course of instruction has commenced, the~~
~~3 person offering the course of instruction cannot admit~~
~~4 a student to replace the student for which a refund~~
~~5 was received for the remaining portion of the school~~
~~6 term or course.~~

7 5. A student who terminates a course of instruc-
8 tion or term shall not be charged any fee or other
9 monetary penalty for terminating a course of
10 instruction or term other than a reduction in tuition
11 refund as specified in this section.

12 6. A violation of this section is a simple
13 misdemeanor."

14 2. Page 3, line 10, by inserting after the word
15 "student" the following: ", the college aid
16 commission, and in the case of a school licensed under
17 section 157.8, the board of cosmetology examiners or
18 in the case of a school licensed under section 158.7,
19 the board of barber examiners,".

20 3. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-6201 FILED APRIL 8, 1990

CONCURRED (p. 246)

STATE GOVERNMENT

HOUSE FILE 2536
BY (PROPOSED DEPARTMENT OF
EDUCATION BILL)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the regulation of persons providing courses of
2 instruction for profit, by revising requirements for corporate
3 surety bonds, and repealing certain disclosure requirements.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 714.18, unnumbered paragraph 1 and
2 subsection 1, Code Supplement 1989, are amended to read as
3 follows:

4 Every Except as otherwise provided in subsection 4, every
5 person, firm, association, or corporation maintaining or
6 conducting in Iowa any such course of instruction, by
7 classroom instruction or by correspondence, or soliciting in
8 Iowa the sale of such course, shall file with the director of
9 the department of education:

10 1. A continuous corporate surety bond to the state of Iowa
11 in the sum of fifty thousand dollars ~~or ten percent of the~~
12 ~~total annual tuition collected, whichever is less,~~ conditioned
13 for the faithful performance of all contracts and agreements
14 with students made by such person, firm, association, or
15 corporation, or their salespersons; ~~--A person, firm,~~
16 ~~association, or corporation desiring to file a surety bond~~
17 ~~based on a percentage of annual tuition shall provide to the~~
18 ~~director of the department of education, in the form~~
19 ~~prescribed by the director, a notarized statement attesting to~~
20 ~~the total amount of tuition collected in the preceding twelve-~~
21 ~~month period;--The director shall determine the sufficiency of~~
22 ~~the statement and the amount of the bond;--Tuition information~~
23 ~~submitted pursuant to this subsection shall be kept~~
24 ~~confidential;~~

25 ~~If the person, firm, association, or corporation has filed~~
26 ~~a performance bond with an agency of the United States~~
27 ~~government pursuant to federal law, the director of the~~
28 ~~department of education shall reduce the bond required by this~~
29 ~~subsection by an amount equal to the amount of the federal~~
30 ~~bond;~~

31 The; but the aggregate liability of the surety for all
32 breaches of the conditions of the bond shall not exceed the
33 sum of the bond. The surety on the bond may cancel the bond
34 upon giving thirty days' written notice to the director of the
35 department of education and thereafter shall be relieved of

1 liability for any breach of condition occurring after the
2 effective date of the cancellation.

3 ~~The director of the department of education may accept a~~
4 ~~letter of credit from a bank in lieu of the corporate surety~~
5 ~~bond required by this subsection.~~

6 Sec. 2. Section 714.18, Code Supplement 1989, is amended
7 by adding the following new subsection:

8 NEW SUBSECTION. 4. A school licensed under the provisions
9 of section 157.8 or 158.7 shall file with the director of the
10 department of education:

11 a. A continuous corporate surety bond to the state of Iowa
12 in the sum of fifty thousand dollars or ten percent of the
13 total annual tuition collected, whichever is less, conditioned
14 for the faithful performance of all contracts and agreements
15 with students made by such school. A school desiring to file
16 a surety bond based on a percentage of annual tuition shall
17 provide to the director of the department of education, in the
18 form prescribed by the director, a notarized statement
19 attesting to the total amount of tuition collected in the
20 preceding twelve-month period. The director shall determine
21 the sufficiency of the statement and the amount of the bond.
22 Tuition information submitted pursuant to this paragraph shall
23 be kept confidential.

24 If the school has filed a performance bond with an agency
25 of the United States government pursuant to federal law, the
26 director of the department of education shall reduce the bond
27 required by this paragraph by an amount equal to the amount of
28 the federal bond.

29 The aggregate liability of the surety for all breaches of
30 the conditions of the bond shall not exceed the sum of the
31 bond. The surety on the bond may cancel the bond upon giving
32 thirty days' written notice to the director of the department
33 of education and thereafter shall be relieved of liability for
34 any breach of condition occurring after the effective date of
35 the cancellation.

1 The director of the department of education may accept a
2 letter of credit from a bank in lieu of the corporate surety
3 bond required by this paragraph.

4 b. The statement required in subsection 2.

5 c. The materials required in subsection 3.

6 Sec. 3. Section 714.25, Code Supplement 1989, is repealed.

7 EXPLANATION

8 The bill requires all persons and entities, except
9 cosmetology and barber schools licensed under section 157.8 or
10 158.7, maintaining or conducting any course of instruction for
11 profit, or soliciting the sale of such courses, to file a
12 \$50,000 corporate surety bond with the director of the
13 department of education. Under current law, pursuant to
14 changes that were enacted during the 1989 legislative session,
15 the surety bond could be lower, based upon the total annual
16 tuition collected. The bill does not change this law
17 regarding licensed cosmetology and barber schools.

18 The bill further repeals section 714.25, which requires
19 certain disclosures by proprietary schools.

20 BACKGROUND STATEMENT

21 SUBMITTED BY THE AGENCY

22 Under changes made in the 1989 session of the general
23 assembly the department of education is no longer able to
24 adequately comply with the requirements of Iowa Code sections
25 714.17 to 714.25.

26 Two issues appear to be of primary concern: the issuance
27 and amount of surety bonds, and the removal of the exemption
28 of schools licensed under the provisions of sections 157.8 and
29 158.7.

30 The attorney general's office, which previously provided
31 the department with assistance and advice in administering
32 sections 714.17 to 714.25, has divested itself of this effort.

33 Since surety bonds may now be less than \$50,000 (we have
34 required as little as \$2,000), the effort to recover such a
35 limited amount would be minimal. The attorney general's

1 office has expressed its reluctance to assist the department,
2 and such low surety bonds are of little impact.

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HOUSE FILE 2536

AN ACT

RELATING TO THE REGULATION OF PERSONS PROVIDING COURSES OF INSTRUCTION FOR PROFIT, BY REVISING REQUIREMENTS FOR CORPORATE SURETY BONDS, AND REPEALING CERTAIN DISCLOSURE REQUIREMENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 714.18, unnumbered paragraph 1 and subsection 1, Code Supplement 1989, are amended to read as follows:

Every Except as otherwise provided in subsection 4, every person, firm, association, or corporation maintaining or conducting in Iowa any such course of instruction, by classroom instruction or by correspondence, or soliciting in Iowa the sale of such course, shall file with the director of the department of education:

1. A continuous corporate surety bond to the state of Iowa in the sum of fifty thousand dollars ~~or ten percent of the total annual tuition collected, whichever is less,~~ conditioned for the faithful performance of all contracts and agreements with students made by such person, firm, association, or corporation, or their salespersons. ~~A person, firm, association, or corporation desiring to file a surety bond based on a percentage of annual tuition shall provide to the director of the department of education, in the form prescribed by the director, a notarized statement attesting to the total amount of tuition collected in the preceding twelve-month period. The director shall determine the sufficiency of the statement and the amount of the bond. Tuition information submitted pursuant to this subsection shall be kept confidential.~~

~~If the person, firm, association, or corporation has filed a performance bond with an agency of the United States government pursuant to federal law, the director of the department of education shall reduce the bond required by this subsection by an amount equal to the amount of the federal bond.~~

~~The, but the~~ aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed the sum of the bond. The surety on the bond may cancel the bond upon giving thirty days' written notice to the director of the department of education and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation.

~~The director of the department of education may accept a letter of credit from a bank in lieu of the corporate surety bond required by this subsection.~~

Sec. 2. Section 714.18, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A school licensed under the provisions of section 157.8 or 158.7 shall file with the director of the department of education:

a. A continuous corporate surety bond to the state of Iowa in the sum of fifty thousand dollars or ten percent of the total annual tuition collected, whichever is less, conditioned for the faithful performance of all contracts and agreements with students made by such school. A school desiring to file a surety bond based on a percentage of annual tuition shall provide to the director of the department of education, in the form prescribed by the director, a notarized statement attesting to the total amount of tuition collected in the preceding twelve-month period. The director shall determine the sufficiency of the statement and the amount of the bond. Tuition information submitted pursuant to this paragraph shall be kept confidential.

If the school has filed a performance bond with an agency of the United States government pursuant to federal law, the director of the department of education shall reduce the bond required by this paragraph by an amount equal to the amount of the federal bond.

The aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed the sum of the bond. The surety on the bond may cancel the bond upon giving thirty days' written notice to the director of the department of education and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation.

The director of the department of education may accept a letter of credit from a bank in lieu of the corporate surety bond required by this paragraph.

b. The statement required in subsection 2.

c. The materials required in subsection 3.

Sec. 3. Section 714.23, Code 1989, is amended to read as follows:

714.23 REFUND POLICIES.

1. A person offering a course of instruction at the postsecondary level, for profit, that is more than four months in length and leads to a degree, diploma, or license, shall make a pro rata refund of eighty-five no less than ninety percent of the tuition for a terminating student to the appropriate agency based upon the ratio of completed number of ~~scheduled~~ school days to the ~~total~~ sixty percent of the ~~scheduled~~ school days of the school term or course.

2. Notwithstanding the provisions of subsection 1, the following refund policy shall apply:

a. If a terminating student has completed sixty percent or more of a school term or course that is more than four months in length, the person offering the course of instruction is not required to refund tuition for the student. However, if, at any time, a student terminates a school term or course that

is more than four months in length due to the student's physical incapacity or due to the transfer of the student's spouse's employment to another city, the terminating student shall receive a refund of tuition in an amount which equals the amount of tuition multiplied by the ratio of the remaining number of school days to the total school days of the school term or course.

b. A refund of ninety percent of the tuition for a terminating student to the appropriate agency based upon the ratio of completed number of school days to the total school days of the school term or course. This paragraph applies to those persons offering courses of instruction at the postsecondary level, for profit, whose cohort default rate for students under the Stafford loan program as defined by the United States department of education is more than one hundred ten percent of the national average cohort default rate for that program for that period or six percent, whichever is higher.

3. ~~However, if~~ If the financial obligations of a student are for three or fewer months duration, this section does not apply.

4. Refunds shall be paid to the appropriate agency within thirty days following the student's termination.

~~if the student terminates later than three weeks after the course of instruction has commenced, the person offering the course of instruction cannot admit a student to replace the student for which a refund was received for the remaining portion of the school term or course.~~

5. A student who terminates a course of instruction or term shall not be charged any fee or other monetary penalty for terminating a course of instruction or term other than a reduction in tuition refund as specified in this section.

6. A violation of this section is a simple misdemeanor.

Sec. 4. Section 714.25, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

A proprietary school ~~located within the state~~ shall, prior to the time a student is obligated for payment of any moneys, inform the student, the college aid commission, and in the case of a school licensed under section 157.8, the board of cosmetology examiners or in the case of a school licensed under section 158.7, the board of barber examiners, of all of the following:

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2536, Seventy-third General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved April 30, 1990

TERRY E. BRANSTAD
Governor