

# HOUSE BILL No. 5570

February 27, 1992, Introduced by Reps. Kosteva, Gagliardi, Gubow, Wozniak, Scott, Webb, Jonker, DeMars, Jondahl, Dobronski, Yokich, Gire, DeBeaussaert, Anthony, Owen, Pitoniak, Saunders, Hood and Profit and referred to the Committee on Colleges and Universities.

A bill to amend section 13 of Act No. 316 of the Public Acts of 1986, entitled

"Michigan education trust act,"

being section 390.1433 of the Michigan Compiled Laws; and to add section 11a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 13 of Act No. 316 of the Public Acts of  
2 1986, being section 390.1433 of the Michigan Compiled Laws, is  
3 amended and section 11a is added to read as follows:

4 SEC. 11A. THE BOARD SHALL ENSURE THAT AN ENROLLMENT PERIOD  
5 FOR ADVANCE TUITION PAYMENT CONTRACTS IS PROVIDED AT LEAST ANNU-  
6 ALLY, DURING WHICH THE TRUST SHALL OFFER ADVANCE TUITION PAYMENT  
7 CONTRACTS TO POTENTIAL PURCHASERS. THE BOARD MAY ADJUST THE  
8 AMOUNT TO BE CHARGED FOR AN ADVANCE TUITION PAYMENT CONTRACT  
9 BEFORE EACH ENROLLMENT PERIOD AS THE BOARD CONSIDERS NECESSARY TO

1 MEET THE REQUIREMENTS OF SECTION 13(2) AND TO ADJUST FOR OTHER  
2 FINANCIAL FACTORS THE BOARD CONSIDERS RELEVANT. HOWEVER, AN  
3 INCREASE FROM THE IMMEDIATELY PRECEDING ANNUAL ENROLLMENT PERIOD  
4 IN THE AMOUNT TO BE CHARGED FOR AN ADVANCE TUITION PAYMENT CON-  
5 TRACT SHALL NOT EXCEED THE PERCENTAGE INCREASE FROM THE IMMEDI-  
6 ATELY PRECEDING ACADEMIC YEAR IN THE WEIGHTED AVERAGE TUITION  
7 COST OF STATE INSTITUTIONS OF HIGHER EDUCATION.

8       Sec. 13. (1) The trust shall be administered in a manner  
9 reasonably designed to be actuarially sound such that the assets  
10 of the trust will be sufficient to defray the obligations of the  
11 trust.

12       (2) In the accounting of the trust made pursuant to  
13 section 12, the trust board shall annually evaluate and cause to  
14 be evaluated by a nationally recognized actuary the actuarial  
15 soundness of the trust and determine the additional assets  
16 needed, if any, to defray the obligations of the trust. If there  
17 are not funds sufficient to ensure the actuarial soundness of the  
18 trust as determined by the nationally recognized actuary, the  
19 trust, SUBJECT TO THE ADJUSTMENT LIMITATION SPECIFIED IN  
20 SECTION 11A, shall adjust payments of subsequent purchasers to  
21 ensure its actuarial soundness. If there are insufficient num-  
22 bers of new purchasers to ensure the actuarial soundness of a  
23 plan of the trust, the available assets of the trust attributable  
24 to the plan shall be immediately prorated among the then existing  
25 contracts, and these shares shall be applied, at the option of  
26 the person to whom the refund is payable or would be payable  
27 under the contract upon termination of the contract, either

1 ~~towards~~ TOWARD the purposes of the contract for a qualified  
2 beneficiary or disbursed to the person to whom the refund is pay-  
3 able or would be payable under the contract upon termination of  
4 the contract.

5       (3) An advance tuition payment contract shall not be entered  
6 by the trust until the internal revenue service has issued a  
7 favorable ruling or opinion that the purchaser of the advance  
8 tuition payment contract will not be considered actually or con-  
9 structively to be in receipt of income. If an unfavorable ruling  
10 or opinion with regard to this issue is rendered by the internal  
11 revenue service, the board shall present a report to the legisla-  
12 ture outlining recommendations for the modification and continu-  
13 ance of the program, including a recommendation of whether the  
14 trust may offer contracts on behalf of itself to provide for the  
15 advance purchase of incremental portions of the number of credit  
16 hours necessary for a baccalaureate degree.

17       (4) Before entering into advance tuition payment contracts  
18 with purchasers, the state shall solicit answers to appropriate  
19 ruling requests from the securities and exchange commission  
20 regarding the application of federal security laws to the trust.  
21 No contracts shall be entered without the authority making known  
22 the status of the request.