



# HOUSE BILL No. 4175

February 9, 1993, Introduced by Rep. Gagliardi and referred to the Committee on Higher Education.

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  
6 ANNUALLY. DURING THE ANNUAL ENROLLMENT PERIOD, THE TRUST SHALL  
7 OFFER ADVANCE TUITION PAYMENT CONTRACTS TO POTENTIAL PURCHASERS.  
8 THE BOARD MAY ADJUST THE AMOUNT TO BE CHARGED FOR AN ADVANCE  
9 TUITION PAYMENT CONTRACT BEFORE EACH ENROLLMENT PERIOD AS THE

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

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

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

1 payable or would be payable under the ADVANCE TUITION PAYMENT  
2 contract upon termination of the ADVANCE TUITION PAYMENT con-  
3 tract, either ~~towards~~ SHALL BE APPLIED TOWARD the purposes of  
4 the ADVANCED TUITION PAYMENT contract for a qualified beneficiary  
5 or SHALL BE disbursed to the person to whom the refund is payable  
6 or would be payable under the contract upon termination of the  
7 ADVANCED TUITION PAYMENT contract.

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

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