

**SUBSTITUTE FOR  
SENATE BILL NO. 536**

A bill to amend 2000 PA 161, entitled  
"Michigan education savings program act,"  
by amending section 7 (MCL 390.1477).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 7. (1) Beginning October 1, 2000, education savings  
2 accounts may be established under this act.

3       (2) Any individual may open 1 or more education savings  
4 accounts to save money to pay the qualified higher education  
5 expenses of 1 or more designated beneficiaries.

6       (3) To open an education savings account, the individual  
7 shall enter into a Michigan education savings program agreement  
8 with the program manager. The Michigan education savings program  
9 agreement shall be in the form prescribed by the program manager  
10 and approved by the treasurer and contain all of the following:

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1 (a) The name, address, and social security number or  
2 employer identification number of the account owner.

3 (b) A designated beneficiary.

4 (c) The name, address, and social security number of the  
5 designated beneficiary.

6 (d) Any other information that the treasurer or program man-  
7 ager considers necessary.

8 (4) Any individual may make contributions to an account.

9 (5) Contributions to accounts shall only be made in cash, by  
10 check, by money order, by credit card, or by any similar method  
11 but shall not be property.

12 (6) An account owner may withdraw all or part of the balance  
13 from an account on 60 days' notice, or a shorter period as autho-  
14 rized in the Michigan education savings program agreement.

15 (7) Distributions from an account shall be used to pay for  
16 qualified higher education expenses incurred after the account is  
17 established and only in any of the following circumstances:

18 (a) The distribution is made directly to an eligible educa-  
19 tion institution.

20 (b) The distribution is made in the form of a check payable  
21 to both the designated beneficiary and the eligible educational  
22 institution.

23 (c) The distribution is made after the designated benefi-  
24 ciary submits documentation to show that the distribution is a  
25 reimbursement for qualified higher education expenses that the  
26 designated beneficiary has already paid and the program has a

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1 process for reviewing the validity of the documentation prior to  
2 the distribution.

3 (d) All of the following apply:

4 (i) The designated beneficiary certifies prior to the dis-  
5 tribution that the distribution will be expended for his or her  
6 qualified higher education expenses within a reasonable time  
7 after the distribution is made.

8 (ii) The program requires the designated beneficiary to pro-  
9 vide documentation of payment of qualified higher education  
10 expenses within 30 days after making the distribution and has a  
11 process for reviewing the documentation.

12 (iii) The program retains an account balance that is large  
13 enough to collect any penalty owed on the distribution if valid  
14 documentation is not produced.

15 (8) ~~If a~~ FOR DISTRIBUTIONS MADE BEFORE JANUARY 1, 2002, IF  
16 THE distribution ~~that~~ is not a qualified withdrawal, ~~is made,~~  
17 the program manager shall withhold an amount equal to 10% of the  
18 distribution amount as a penalty and pay that amount to the  
19 department for deposit into the general fund. The penalty under  
20 this subsection may be increased or decreased if the treasurer  
21 and the program manager determine that it is necessary to  
22 increase or decrease the penalty to constitute a greater than de  
23 minimis penalty for purposes of qualifying under section 529 of  
24 the internal revenue code. NO PENALTY SHALL BE IMPOSED UNDER  
25 THIS ACT FOR DISTRIBUTIONS THAT ARE NOT QUALIFIED DISTRIBUTIONS  
26 MADE AFTER DECEMBER 31, 2001.

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1       (9) The program shall provide separate accounting for each  
2 designated beneficiary.