

HOUSE BILL No. 5317

October 23, 2001, Introduced by Rep. DeRossett and referred to the Committee on Commerce.

A bill to amend 2000 PA 161, entitled
"Michigan education savings program act,"
by amending sections 2 and 7 (MCL 390.1472 and 390.1477).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Account" or "education savings account" means an
3 account established under this act.

4 (b) "Account owner" means ~~the~~ ANY OF THE FOLLOWING:

5 (i) THE individual who enters into a Michigan education sav-
6 ings program agreement and establishes an education savings
7 account. The account owner may also be the designated benefi-
8 ciary of the account.

9 (ii) AN ENTITY EXEMPT FROM TAXATION UNDER SECTION 501(c)(3)
10 OF THE INTERNAL REVENUE CODE OF 1986.

1 (iii) A TRUST.

2 (c) "Board" means the board of directors of the Michigan
3 education trust described in section 10 of the Michigan education
4 trust act, 1986 PA 316, MCL 390.1430.

5 (d) "Department" means the department of treasury.

6 (e) "Designated beneficiary" means the individual designated
7 as the individual whose higher education expenses are expected to
8 be paid from the account.

9 (f) "Eligible educational institution" means that term as
10 defined in section 529 of the internal revenue code or a college,
11 university, community college, or junior college described in
12 section 4, 5, or 6 of article VIII of the state constitution of
13 1963 or established under section 7 of article VIII of the state
14 constitution of 1963.

15 (g) "Internal revenue code" means the United States internal
16 revenue code of 1986 in effect on January 1, 1999 or at the
17 option of the taxpayer, in effect for the current year.

18 (h) "Management contract" means the contract executed
19 between the treasurer and the program manager.

20 (i) "Member of the family" means a family member as defined
21 in section 529 of the internal revenue code.

22 (j) "Michigan education savings program agreement" means the
23 agreement between the program manager and an account owner that
24 establishes an education savings account.

25 (k) "Program" means the Michigan education savings program
26 established pursuant to this act.

1 (1) "Program manager" means the entity selected by the
2 treasurer to act as the manager of the program.

3 (m) "Qualified higher education expenses" means qualified
4 higher education expenses as defined in section 529 of the inter-
5 nal revenue code of 1986.

6 (n) "Qualified withdrawal" means a distribution that is not
7 subject to penalty or taxation under this act or the income tax
8 act of 1967, 1967 PA 281, MCL 206.1 to 206.532, and that meets
9 any of the following:

10 (i) A withdrawal from an account to pay the qualified higher
11 education expenses incurred after the account is established of
12 the designated beneficiary.

13 (ii) A withdrawal made as the result of the death or dis-
14 ability of the designated beneficiary of an account.

15 (iii) A withdrawal made because a beneficiary received a
16 scholarship that paid for all or part of the qualified higher
17 education expenses of the beneficiary to the extent the amount of
18 the withdrawal does not exceed the amount of the scholarship.

19 (iv) A transfer of funds due to the termination of the man-
20 agement contract as provided in section 5.

21 (v) A transfer of funds due to a change of beneficiary as
22 provided in section 8.

23 (o) "Treasurer" means the state treasurer.

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

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

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

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

11 (b) A designated beneficiary.

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

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

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

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

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

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

26 (a) The distribution is made directly to an eligible
27 education institution.

1 (b) The distribution is made in the form of a check payable
2 to both the designated beneficiary and the eligible educational
3 institution.

4 (c) The distribution is made after the designated benefi-
5 ciary submits documentation to show that the distribution is a
6 reimbursement for qualified higher education expenses that the
7 designated beneficiary has already paid and the program has a
8 process for reviewing the validity of the documentation prior to
9 the distribution.

10 (d) All of the following apply:

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

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

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

22 (8) If a distribution that is not a qualified withdrawal is
23 made, the program manager shall withhold an amount equal to 10%
24 of the ACCUMULATED EARNINGS ATTRIBUTABLE TO THE distribution
25 amount as a penalty and pay that amount to the department for
26 deposit into the general fund. The penalty under this subsection
27 may be increased or decreased if the treasurer and the program

1 manager determine that it is necessary to increase or decrease
2 the penalty to constitute a greater than de minimis penalty for
3 purposes of qualifying under section 529 of the internal revenue
4 code.

5 (9) The program shall provide separate accounting for each
6 designated beneficiary.