# Legislative Analysis

## EDUCATION SAVINGS PROGRAM AMENDMENTS

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**House Bills 5534 and 5782**
**Sponsor: Rep. Gene DeRossett**
**Committee: Tax Policy**

**Complete to 6-1-04**

## A SUMMARY OF HOUSE BILL 5534 AS INTRODUCED 2-12-04 AND HOUSE BILL 5782 AS INTRODUCED 4-21-04

Public Act 161 of 2000 created the Michigan Education Savings Program Act, under which individuals can contribute money to special accounts with the proceeds to be used to pay higher education expenses. The maximum account balance for all accounts for any one beneficiary is $235,000. Contributions to an education savings account are deductible, up to certain specified amounts, in determining state taxable income.

**House Bill 5782 - Michigan Education Savings Program Act Amendments**

The bill would make the following amendments to the Michigan Education Savings Program Act:

** Under the act, individuals and 501(c)(3) tax exempt organizations can enter into a education savings program agreement establishing an account, and become an "account owner". The bill would also permit estates and trusts to serve as account owners.

** In addition, the bill would require requests for distributions from an account be on a form approved by the state treasurer. The bill would also permit the program manager (TIAA-CREF) to retain from the distribution the amount necessary to comply with state and federal tax laws.

** Under the act, distributions are made in the following ways circumstances: (1): directly to an eligible educational institution; (2) in the form of a check payable to both the beneficiary and the educational institution; (3) as reimbursement for educational expenses already paid, with the necessary documentation submitted; and (4) if the beneficiary certified that the distribution was to be spent for educational expenses within 30 days and the account retained a balance large enough to collect any penalty owed if valid documentation of the payment was not subsequently produced. The bill would delete (3) and (4) and, instead, permit distributions be made in the form of a check to beneficiaries or account owners without any other conditions.

** Finally, the bill would permit an account owner to transfer all or a portion of an account to an individual or eligible entity [that is, a 501(c)(3) tax exempt organization, an estate, or a trust].

**House Bill 5534 - Deductibility of Contributions**

Under the Income Tax Act, a contribution to an education savings account can be deducted (to the extent that the contribution has not already been deducted in determining federal adjusted gross income) when determining state taxable income. The amount of the deduction is limited to $5,000 for a single return and $10,000 for a joint return. House Bill 5534 would delete a provision in the Income Tax Act that disallows the deduction once a withdrawal (qualified or non-qualified) has been made from the education savings account.

## FISCAL IMPACT:

House Bill 5782 would have no significant fiscal impact on state or local government.

The fiscal impact of House Bill 5534 is currently under review.

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