

SUBSTITUTE FOR  
HOUSE BILL NO. 6089

A bill to establish the foster care trust fund in the department of management and budget; to establish the state foster care advisory board; to prescribe the powers and duties of the state foster care advisory board; to provide for the distribution of the money from the fund; to prescribe the powers and duties of certain agencies and officials; and to provide for appropriations.

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

1           Sec. 1. This act shall be known and may be cited as the  
2 "foster care trust fund act".

3           Sec. 2. As used in this act:

4           (a) "Advisory board" means the state foster care advisory  
5 board created in section 3.

6           (b) "Children's ombudsman office" means the children's  
7 ombudsman office created in section 3 of the children's ombudsman

1 act, 1994 PA 204, MCL 722.923.

2 (c) "Department" means the department of management and  
3 budget.

4 (d) "Foster care programs" means public or private programs  
5 that provide 24-hour substitute care for a child who is placed out  
6 of his or her parental or legal guardian's home and under the  
7 supervision of the department of human services as a temporary or  
8 permanent ward of the court or public ward placed in a supervising  
9 agency's care under chapter XIIA of the probate code of 1939, 1939  
10 PA 288, MCL 712A.1 to 712A.32, and includes children who cannot  
11 remain at home because their families are unable to provide minimal  
12 care and supervision.

13 (e) "Fund" means the foster care trust fund created in section  
14 5.

15 (f) "Juvenile justice program" means a public or private  
16 program where a child is placed out of his or her parental or legal  
17 guardian's home and under the supervision of the department of  
18 human services as a temporary ward of the court under chapter XIIA  
19 of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, or  
20 a temporary public ward under the youth rehabilitation services  
21 act, 1974 PA 150, MCL 803.301 to 803.309.

22 (g) "Local councils" means a public or private community  
23 collaborative that sets the agenda for local collaborative  
24 activities for children in, or aging out of, foster care programs  
25 and juvenile justice programs, that works within the community to  
26 focus resources on common needs and outcomes of children in foster  
27 care, and that acts as the common community voice with state

1 agencies on issues of strengthening responses to these youths'  
2 needs.

3 (h) "Public ward" means either of the following:

4 (i) That term as defined under section 2 of the youth  
5 rehabilitation services act, 1974 PA 150, MCL 803.302.

6 (ii) A youth whose parents' parental rights have been  
7 terminated and who is legally free for adoption.

8 Sec. 3. (1) The state foster care advisory board is created  
9 within the department. The advisory board shall exercise its powers  
10 and duties independently of the department except that budget,  
11 procurement, and related management functions shall be performed by  
12 the director of the department.

13 (2) The advisory board shall appoint the executive director of  
14 the advisory board. The executive director shall be a member of the  
15 state classified civil service. The executive director shall hire  
16 all staff required to exercise the powers and carry out the duties  
17 of the advisory board. The advisory board shall approve the number  
18 of staff members hired and their job descriptions.

19 (3) The advisory board shall consist of 13 voting members as  
20 follows:

21 (a) The director of human services, the director of community  
22 health, the chief justice of the Michigan supreme court, and the  
23 director of the children's ombudsman office, or designees  
24 authorized to speak on their behalf.

25 (b) Nine public members appointed by the governor with the  
26 advice and consent of the senate. As a group, the public members  
27 shall do all of the following:

1           (i) Demonstrate knowledge in the area of foster care.

2           (ii) Be representative of the demographic composition of this  
3 state.

4           (iii) To the extent practicable, be representative of all of the  
5 following categories: birth and foster parents, former foster care  
6 children, the business community, the religious community, the  
7 legal community, higher education providers, professional providers  
8 of foster care services, and volunteers in foster care services.

9           (4) The term of each public member shall be 3 years, except  
10 that of the public members first appointed, 3 shall serve for 3  
11 years, 3 for 2 years, and 4 for 1 year. A public member shall not  
12 serve more than 2 consecutive terms whether partial or full. A  
13 vacancy shall be filled for the balance of the unexpired term in  
14 the same manner as the original appointment.

15           (5) The governor shall designate a chairperson of the advisory  
16 board from among the public members. The chairperson shall serve in  
17 that position at the pleasure of the governor. The advisory board  
18 may elect other officers and committees as it considers  
19 appropriate.

20           (6) Subject to section 10, the actual and necessary per diem  
21 compensation and the schedule for reimbursement of expenses for the  
22 public members of the advisory board shall be the same as is  
23 established annually by the legislature for similar boards that are  
24 reimbursed from the general fund. Subject to section 10, the  
25 compensation and reimbursement, executive director and staff  
26 salaries, and all actual and necessary operating expenses of the  
27 advisory board shall be paid from the fund, according to an

1 authorization as provided in section 7.

2 (7) The business that the advisory board performs shall be  
3 conducted at a public meeting of the state board held in compliance  
4 with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.  
5 Public notice of the time, date, and place of the meeting shall be  
6 given in the manner required by the open meetings act, 1976 PA 267,  
7 MCL 15.261 to 15.275.

8 (8) The advisory board shall seek input from the general  
9 public and all of the following individuals or groups that have an  
10 interest in or provide services to the foster care industry:

11 (a) The Michigan federation for children and families or its  
12 successor organization.

13 (b) The Michigan network for youth and families or its  
14 successor organization.

15 (c) Statewide foster parent associations or their successor  
16 organizations.

17 (d) The presidents council of the state universities of  
18 Michigan or its successor organization.

19 (e) The Michigan community college association or its  
20 successor organization.

21 (f) Michigan's children or its successor organization.

22 (g) Michigan league for human services or its successor  
23 organization.

24 (h) The superintendent of public instruction.

25 (i) The director of the department of labor and economic  
26 growth.

27 (j) The director of the department of corrections.

1 (k) A representative of Michigan court appointed special  
2 advocates.

3 (l) The association of accredited child and family agencies or  
4 its successor organization.

5 (m) A representative of the children's trust fund.

6 (9) A writing prepared, owned, used, in the possession of, or  
7 retained by the state board in the performance of an official  
8 function shall be made available to the public in compliance with  
9 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

10 (10) The advisory board shall serve as a collaborative body  
11 that works with existing public and private foster care programs and  
12 provides financial assistance and resources to do all of the  
13 following:

14 (a) Work to identify and address the many issues facing foster  
15 care children in this state.

16 (b) Work with the foster care community to solve the problems  
17 facing current foster care children and those children who have  
18 been in the foster care system or who will soon age out of the  
19 foster care system.

20 (c) Focus on developing an extensive support network for  
21 foster care youth who age out of the system. The support network  
22 should include, but is not limited to, personal counseling,  
23 financial planning, health care options, and college or career  
24 training programs.

25 (d) Provide for the coordination and exchange of information  
26 on the establishment and maintenance of foster care programs.

27 (e) Provide statewide educational and public informational

1 seminars for the purpose of developing appropriate public awareness  
2 regarding foster care; encourage professional persons and groups to  
3 recognize and deal with foster care; make information about foster  
4 care available to the public and organizations and agencies that  
5 deal with problems of foster care; and encourage the development of  
6 community foster care assistance programs.

7 (f) Educate the public on the various opportunities to serve  
8 within the foster care community, including, but not limited to,  
9 foster parenting, volunteering, mentoring, and foster child  
10 adoption.

11 (11) In addition to the duties under subsection (10), the  
12 advisory board shall do all of the following:

13 (a) Meet not less than twice annually at the call of the  
14 chairperson.

15 (b) One year after the original appointment of the advisory  
16 board, and biennially thereafter, develop a state plan for the  
17 distribution of funds from the fund. In developing the plan, the  
18 advisory board shall review already existing foster care programs.  
19 The plan shall assure that an equal opportunity exists for  
20 establishment of foster care programs and receipt of trust fund  
21 money among all geographic areas in this state. The plan shall be  
22 transmitted to the clerk of the house of representatives and to the  
23 secretary of the senate. The advisory board shall notify the  
24 governor and the members of the legislature that the plan is  
25 available.

26 (c) Develop and publicize criteria for the receipt of trust  
27 fund money by eligible local councils and eligible foster care

1 programs.

2 (d) Review, approve, and monitor the expenditure of trust fund  
3 money by foster care programs.

4 (e) Establish a procedure for an annual, internal evaluation  
5 of the functions, responsibilities, and performance of the advisory  
6 board. In a year in which the biennial state plan is prepared, the  
7 evaluation shall be coordinated with the preparation of the state  
8 plan.

9 (12) The advisory board shall enter into contracts with public  
10 or private agencies to fulfill the requirements of subsection  
11 (10)(e) and may contract to fulfill the other requirements of  
12 subsection (10). The advisory board shall utilize existing state  
13 resources and staff of participating departments whenever  
14 practicable.

15 (13) The advisory board may recommend to the governor and the  
16 legislature changes in state programs, statutes, policies, budgets,  
17 and standards that will reduce the problems facing foster care  
18 children, improve coordination among public and private agencies  
19 that provide foster care services, and improve the condition of  
20 children and parents or guardians who are in need of support or  
21 assistance dealing with foster care issues.

22 (14) The advisory board may do any of the following:

23 (a) Accept federal money granted by congress or executive  
24 order for the purposes of this act as well as gifts, grants,  
25 bequests, and donations from individuals, private organizations, or  
26 foundations. The acceptance and use of federal money does not  
27 commit state money and does not place an obligation upon the

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1 legislature to continue the purposes for which the federal money is  
2 made available.

3 (b) Plan, manage, or conduct a campaign to solicit gifts,  
4 bequests, grants, or donations of money or property, or pledges of  
5 gifts, bequests, grants, or donations.

6 (15) Money received in the manner described in subsection (14)  
7 shall be transmitted to the state treasurer for deposit in the  
8 trust fund and, subject to section 10, shall be made available for  
9 expenditure as appropriated by the legislature.

10 (16) The advisory board may authorize the disbursement of  
11 available money from the trust fund, upon legislative  
12 appropriations, as provided in section 7.

13 Sec. 5. (1) The foster care trust fund is created in the  
14 department as a charitable and educational endowment fund. The  
15 advisory board shall be the administrator of the trust fund for  
16 auditing purposes and all powers, purposes, and duties of the fund  
17 shall be exercised by the advisory board.

18 (2) The state treasurer shall credit to the trust fund all  
19 amounts appropriated for this purpose under section 435 of the  
20 income tax act of 1967, 1967 PA 281, MCL 206.435, and money from  
21 any other source for deposit into the trust fund.

22 (3) [The state treasurer

23 ] shall direct the investment of the trust fund. The trust  
24 fund shall consist of the money credited to the trust fund pursuant  
25 to section 435 of the income tax act of 1967, 1967 PA 281, MCL  
26 206.435, any interest and earnings accruing from the saving and  
27 investment of that money, and money from any other source.

1           (4) Money in the trust fund at the close of the year shall  
2 remain in the trust fund and shall not lapse to the general fund.

3           Sec. 7. (1) Subject to the criteria established under  
4 subsections (2) and (3), the money, interest, and earnings of the  
5 trust fund shall be expended, upon appropriation, as follows:

6           (a) Not more than 1/2 of the money contributed to the trust  
7 fund each year, plus the interest and earnings, excluding  
8 unrealized gains and losses, credited to the trust fund during the  
9 previous fiscal year, shall be available for disbursement upon the  
10 authorization of the advisory board as provided in section 3.

11           (b) Money granted or received as gifts or donations to the  
12 trust fund shall be available for disbursement upon appropriation  
13 and funds authorized for expenditure shall not be considered assets  
14 of the trust fund for the purposes of subdivision (a).

15           (c) To fund a private nonprofit or public organization in the  
16 development or operation of a foster care program if the  
17 organization demonstrates an ability to match, through money or in-  
18 kind services, 50% of the amount of any fund money received. The  
19 amount and types of in-kind services are subject to the approval of  
20 the advisory board and the organization demonstrates a willingness  
21 and ability to provide program models and consultation to  
22 organizations and communities regarding program development and  
23 maintenance.

24           (d) To fund the advisory board created in section 3 for the  
25 actual and necessary operating expenses that the board incurs in  
26 performing its duties.

27           (2) No money shall be expended from the fund until the date

1 that the deposits credited into the fund from amounts appropriated  
2 by the legislature as provided under this section equal or exceed  
3 \$800,000.00.

4 (3) Before expending any money from the fund, the advisory  
5 board shall establish qualifying criteria for expending such funds  
6 or awarding any grants and may specify any conditions for each  
7 expenditure or grant.

8 (4) Authorizations for disbursement of fund money under  
9 subsection (1)(d) shall be kept at a minimum in furtherance of the  
10 primary purpose of the fund, which is to disburse money under  
11 subsection (1)(a), (b), and (c) to encourage the direct provision  
12 of services to foster care.

13 (5) The advisory board shall annually prepare an accounting of  
14 revenues and expenditures from the trust fund. This accounting  
15 shall specifically identify the interest and earnings of the trust  
16 fund, shall describe how the amount of interest and earnings has  
17 been affected by the investment options provided for in section  
18 5(3), and shall identify how the increased interest and earnings,  
19 if any, have been expended. This accounting shall be provided to  
20 the senate and house of representatives appropriations committees.

21 (6) To the extent practical, the advisory board shall annually  
22 prepare an accounting of revenues and expenditures from the trust  
23 fund for persons who have donated to the fund. This accounting does  
24 not need to be as detailed as the accounting required under  
25 subsection (5), but shall include enough general information about  
26 the amount of revenue raised, the types of expenditures made, and  
27 what the expenditures were made for.

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1           Sec. 9. Except as otherwise provided under sections 7(2) and  
2 10, the money in the trust fund that is available for distribution  
3 shall be appropriated each year. Except as otherwise provided under  
4 sections 7(2) and 10, money granted or received as a gift or  
5 donation to the trust fund is available for distribution upon  
6 appropriation.

7           Sec. 10. (1) No compensation, reimbursement, or any other  
8 actual and necessary operating expenses of the advisory board shall  
9 be authorized and appropriated until the date that the deposits  
10 credited into the fund from amounts appropriated by the legislature  
11 as provided under section 5 equal or exceed \$800,000.00.

12           (2) No appropriations shall be made from the fund until the  
13 date that the deposits credited into the fund from amounts  
14 appropriated by the legislature as provided under section 5 equal  
15 or exceed \$800,000.00.

[ (3) All expenses authorized under this act or necessary to  
implement this act shall only be funded by the fund created in section  
5.]

16           Enacting section 1. This act does not take effect unless House  
17 Bill No. 6090 of the 94th Legislature is enacted into law.