

Act No. 239
Public Acts of 2008
Approved by the Governor
July 15, 2008
Filed with the Secretary of State
July 17, 2008
EFFECTIVE DATE: July 17, 2008

**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008**

Introduced by Senators Jansen, Hunter, Kuipers, Jacobs, Thomas, Anderson, Basham, Barcia, Olshove, Brown, Sanborn, Gilbert, Gleason, Pappageorge, Jelinek, Clarke, Van Woerkom, Brater, Schauer and Hardiman

ENROLLED SENATE BILL No. 856

AN ACT to amend 1986 PA 316, entitled "An act to create the Michigan education trust; to prescribe the powers and duties of the trust and of its board of directors; to provide for advance tuition payment contracts; to establish an advance tuition payment fund and to provide for its administration; to provide for remedies; and to repeal certain acts and parts of acts on specific dates," by amending sections 9 and 11 (MCL 390.1429 and 390.1431).

The People of the State of Michigan enact:

Sec. 9. (1) There is created under the jurisdiction and control of the board an advance tuition payment fund. Payments received by the trust from purchasers on behalf of qualified beneficiaries or from any other source, public or private, shall be placed in the fund. The fund may be divided into separate accounts.

(2) Assets of the trust are not considered state money, common cash of the state, revenue for the purposes of sections 26 to 34 of article IX of the state constitution of 1963, or state money for the purposes of 1982 PA 259, MCL 12.61 to 12.64.

(3) Unless otherwise provided by resolution of the board, assets of the trust shall be expended in the following order of priority:

- (a) To make payments to state institutions of higher education on behalf of qualified beneficiaries.
- (b) To make refunds upon termination of an advance tuition payment contract.
- (c) To pay the costs of administration and organization of the trust and the fund.

(4) Except as provided in subsection (5), the board may invest assets of the trust in any instrument, obligation, security, or property considered appropriate by the board and may be pooled for investment purposes with investments of the state, including, but not limited to, state pension funds, on such terms and conditions as are agreeable to the board.

(5) The board shall comply with the divestment from terror act in making investments under this act.

Sec. 11. In addition to the powers granted by other provisions of this act, the board shall have the powers necessary or convenient to carry out and effectuate the purposes, objectives, and provisions of this act, the purposes and objectives of the trust, and the powers delegated by other laws or executive orders, including, but not limited to, the power to:

- (a) Except as provided in section 9(5), invest any money of the trust, at the board's discretion, in any instruments, obligations, securities, or property determined proper by the board, and name and use depositories for its money.
- (b) Pay money to state institutions of higher education from the trust.
- (c) Impose reasonable residency requirements for qualified beneficiaries.

(d) Impose reasonable limits on the number of participants in the trust.

(e) Segregate contributions and payments to the trust into various accounts and funds.

(f) Contract for goods and services and engage personnel as is necessary and engage the services of private consultants, actuaries, managers, legal counsel, and auditors for rendering professional, management, and technical assistance and advice, payable out of any money of the trust.

(g) Solicit and accept gifts, grants, loans, and other aids from any person or the federal, state, or a local government or any agency of the federal, state, or a local government, or to participate in any other way in any federal, state, or local government program.

(h) Charge, impose, and collect administrative fees and charges in connection with any transaction and provide for reasonable penalties, including default, for delinquent payment of fees or charges or for fraud.

(i) Procure insurance against any loss in connection with the trust's property, assets, or activities.

(j) Sue and be sued; to have a seal and alter the same at pleasure; to have perpetual succession; to make, execute, and deliver contracts, conveyances, and other instruments necessary or convenient to the exercise of its powers; and to make and amend bylaws.

(k) Enter into contracts on behalf of the state.

(l) Administer the funds of the trust.

(m) Indemnify or procure insurance indemnifying any member of the board from personal loss or accountability from liability resulting from a member's action or inaction as a member of the board, including, but not limited to, liability asserted by a person on any bonds or notes of the authority.

(n) Impose reasonable time limits on use of the tuition benefits provided by the trust, if the limits are made a part of the contract.

(o) Define the terms and conditions under which money may be withdrawn from the trust, including, but not limited to, reasonable charges and fees for any such withdrawal, if the terms and conditions are made a part of the contract.

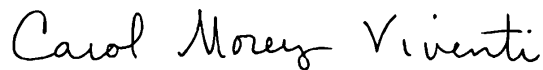
(p) Provide for receiving contributions in lump sums or periodic sums.

(q) Establish policies, procedures, and eligibility criteria to implement this act.

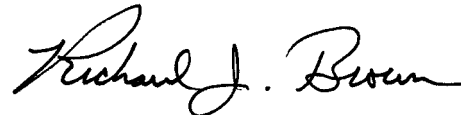
(r) Enter into arrangements with Michigan institutions of higher education for the trust to offer on behalf of the institution advance tuition payment contracts under which the Michigan institution of higher education will be contractually obligated to provide a beneficiary under the contract with credit hours of higher education in addition to those required for a baccalaureate degree.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 846 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor