

SENATE BILL No. 1165

November 10, 2016, Introduced by Senator COLBECK and referred to the Committee on Education.

A bill to create the Michigan parental choice in education program; to provide for education savings accounts; to prescribe the powers and duties of certain state agencies, boards, and departments; to allow certain tax credits or deductions; and to provide for penalties and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan parental choice in education program act".

3 Sec. 3. As used in this act:

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

6 (b) "Account owner" means the parent of the student.

7 (c) "Department" means the department of treasury.

8 (d) "Dependent" means an individual for whom the account owner

1 may claim a dependency exemption on his or her federal income tax
2 return pursuant to the internal revenue code of 1986, 26 USC 1 to
3 9834.

4 (e) "Eligible services" means any instructional services,
5 supplemental services, and back office services offered to students
6 by a public school that the department determines pursuant to this
7 act are qualified for payment from an education savings account.
8 Eligible services may include extracurricular services offered by a
9 public school.

10 (f) "Management contract" means the contract executed between
11 the treasurer and a program manager.

12 (g) "Michigan parental choice in education program agreement"
13 means the agreement between the program and the parent who
14 establishes an education savings account.

15 (h) "Parent" means a resident of this state who is a
16 biological or adoptive parent, legal guardian, legal custodian, or
17 other person with authority to act on behalf of the student.

18 (i) "Program" means the Michigan parental choice in education
19 program established pursuant to this act.

20 (j) "Program manager" means an entity selected by the
21 treasurer to act as a manager of 1 or more of the savings plans
22 offered under the program.

23 (k) "Public school" means that term as defined in the revised
24 school code, 1976 PA 451, MCL 380.1 to 380.1852.

25 (l) "Qualified withdrawal" means a distribution that is not
26 subject to a penalty under this act or taxation under the income
27 tax act of 1967, 1967 PA 281, MCL 206.1 to 206.713, and that meets

1 any of the following:

2 (i) A withdrawal from an account to pay for eligible services
3 provided by a public school to the student incurred after the
4 account is established.

5 (ii) A transfer of funds due to the termination of the
6 management contract as provided in section 9.

7 (iii) A transfer of funds as provided in section 15.

8 (m) "Savings plan" or "plans" means a plan that provides
9 different investment strategies and allows account distributions
10 for eligible services.

11 (n) "Student" means a pupil enrolled in at least 1 course in a
12 public school.

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

14 Sec. 5. (1) The Michigan parental choice in education program
15 is established in the department of treasury. The program may
16 consist of 1 or more savings plans.

17 (2) The treasurer shall solicit proposals from entities to be
18 a program manager to provide the services described in subsection
19 (5).

20 (3) The purposes, powers, and duties of the Michigan parental
21 choice in education program are vested in and shall be exercised by
22 the treasurer or the designee of the treasurer.

23 (4) The state treasurer shall administer the Michigan parental
24 choice in education program and shall be the trustee for the funds
25 of the Michigan parental choice in education program. The treasurer
26 may use program revenues to maintain or enhance the state's
27 education programs.

1 (5) The treasurer may employ or contract with personnel and
2 contract for services necessary for the administration of each
3 savings plan under the program and the investment of the assets of
4 each savings plan under the program, including, but not limited to,
5 managerial, professional, legal, clerical, technical, and
6 administrative personnel or services.

7 (6) When selecting a program manager, the treasurer shall give
8 preference to proposals from single entities that propose to
9 provide all of the functions described in subsection (5) and that
10 demonstrate the most advantageous combination, to both potential
11 participants and this state, of the following factors and the
12 management contract shall address these factors:

13 (a) Financial stability.

14 (b) The safety of the investment instruments being offered.

15 (c) The ability of the investment instruments to track the
16 increasing costs of higher education.

17 (d) The ability of the entity to satisfy the record-keeping
18 and reporting requirements of this act.

19 (e) The entity's plan for marketing the savings plan and the
20 investment it is willing to make to promote the savings plan.

21 (f) The fees, if any, proposed to be charged to persons for
22 opening or maintaining an account.

23 (g) The ability of the entity to accept electronic
24 withdrawals, including payroll deduction plans.

25 (7) The treasurer shall enter into a contract with each
26 program manager, which shall address the respective authority and
27 responsibility of the treasurer and the program manager to do all

1 of the following:

2 (a) Develop and implement the savings plan or plans offered
3 under the program.

4 (b) Invest the money received in 1 or more investment
5 instruments.

6 (c) Engage the services of consultants on a contractual basis
7 to provide professional and technical assistance and advice.

8 (d) Determine the use of financial organizations as account
9 depositories and financial managers.

10 (e) Charge, impose, and collect annual administrative fees and
11 service in connection with any agreements, contracts, and
12 transactions relating to individual accounts, exclusive of initial
13 sales charges, which shall not exceed 2.0% of the average daily net
14 assets of the account.

15 (f) Develop marketing plans and promotional material.

16 (g) Establish the methods by which funds are allocated to pay
17 for administrative costs.

18 (h) Provide criteria for terminating and not renewing the
19 management contract.

20 (i) Address the ability of the program manager to take any
21 action required to keep the savings plan or plans offered under the
22 program in compliance with requirements of this act and its
23 management contract.

24 (j) Keep adequate records of each account and provide the
25 treasurer with information that the treasurer requires related to
26 those records.

27 (k) Compile the information contained in statements required

1 to be prepared under this act and provide that compilation to the
2 treasurer in a timely manner.

3 (l) Hold all accounts for the benefit of the account owner.

4 (m) Provide for audits at least annually by a firm of
5 certified public accountants.

6 (n) Provide the treasurer with copies of all regulatory
7 filings and reports related to the savings plan or plans offered
8 under the program made during the term of the management contract
9 or while the program manager is holding any accounts, other than
10 confidential filings or reports except to the extent those filings
11 or reports are related to or are a part of the savings plan or
12 plans offered under the program. It is the responsibility of the
13 program manager to make available for review by the treasurer the
14 results of any periodic examination of the program manager by any
15 state or federal banking, insurance, or securities commission,
16 except to the extent that the report or reports are not required to
17 be disclosed under state or federal law.

18 (o) Ensure that any description of the savings plan or plans
19 offered under the program, whether in writing or through the use of
20 any media, is consistent with the marketing plan developed by the
21 program manager.

22 (p) Take any other necessary and proper actions to carry out
23 the purposes of this act.

24 Sec. 7. The treasurer shall be responsible for the ongoing
25 supervision of each management contract.

26 Sec. 9. (1) A management contract shall be for a term of years
27 specified in the management contract.

1 (2) The treasurer may terminate a management contract based on
2 the criteria specified in the management contract.

3 Sec. 11. (1) The treasurer may enter into contracts that it
4 considers necessary and proper for the implementation of this
5 program.

6 (2) From the information received from each public school
7 pursuant to section 1210 of the revised school code, 1976 PA 451,
8 MCL 380.1210, the department shall determine which services offered
9 by each public school are eligible services that may be purchased
10 using an education savings account and shall determine the maximum
11 allowable cost for each of those eligible services.

12 Sec. 13. (1) No later than August 1, 2017, the department, in
13 consultation with the department of education, shall establish and
14 maintain an internet website dedicated to this program. The website
15 shall serve as the portal for information about education savings
16 accounts and the eligible services offered by each public school in
17 this state. The website shall include at least all of the
18 following:

19 (a) A breakdown of the minimum requirements for annual course
20 loads and course descriptions.

21 (b) A mechanism for the enrollment of students into services
22 and to allow for the payment of those eligible services from each
23 student's education savings account by the parent.

24 (c) A default selection for eligible services based on the
25 grade level of the student for parents who elect not to choose the
26 courses and subject areas for their students.

27 (2) Beginning with the 2017-2018 school year, parents shall

1 open an education savings account for each dependent who is a
2 student to allow for the enrollment in and payment for eligible
3 services offered by a public school for that student. A parent
4 shall open only 1 account for each dependent. If an account has not
5 been opened for a student seeking enrollment into eligible services
6 offered by a public school, the department shall open an account
7 for that student and send a written notification to the parent.

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

14 (a) The name, address, and social security number of the
15 parent.

16 (b) The name, address, and social security number of the
17 student.

18 (c) Any other information that the treasurer or program
19 manager considers necessary for the enrollment of the student and
20 related to the eligible services.

21 (4) Any individual or entity may make contributions to an
22 account.

23 (5) From the amounts levied pursuant to sections 625a, 681,
24 705, 1211, and 1724a of the revised school code, 1976 PA 451, MCL
25 380.625a, 380.681, 380.705, 380.1211, and 380.1724a, and collected
26 under the general property tax act, 1893 PA 206, MCL 211.1 to
27 211.155, the state treasurer shall deposit those funds into the

1 education savings accounts of each student as provided under
2 section 43(14) of the general property tax act, 1893 PA 206, MCL
3 211.43. Any other contributions to an education savings account
4 must be made in cash, by check, by credit card, or by any similar
5 method as approved by the state treasurer but shall not be
6 property.

7 (6) Distributions from an account to pay for eligible services
8 shall be paid directly to the public school in which the eligible
9 services are to be provided.

10 (7) Each savings plan under the program shall provide separate
11 accounting for each student.

12 Sec. 15. (1) An account owner may designate another individual
13 as a successor owner of the account in the event of the death of
14 the account owner.

15 (2) An account owner may transfer all or a portion of an
16 account to another education savings account. The student of the
17 account to which the transfer is made must be a dependent of the
18 account owner.

19 (3) Upon graduation from a public school, an account owner may
20 transfer the money left in the account to another education savings
21 account or may elect to have the money deposited pursuant to
22 section 13(5) transferred back to the school aid fund created in
23 section 11 of article IX of the state constitution of 1963.

24 (4) Upon the death of the student, the account shall be closed
25 and that portion of the money in the account that was deposited
26 pursuant to section 13(5) shall be transferred back into the school
27 aid fund created in section 11 of article IX of the state

1 constitution of 1963. After the disbursement to the school aid fund
2 under this subsection, the department shall issue a check to the
3 account owner for the balance that remains in the account.

4 Sec. 17. (1) Except as otherwise provided in this section, an
5 account owner shall not direct the investment of any contributions
6 to an account or the earnings on an account.

7 (2) An account owner may select among different investment
8 strategies designed by a program manager to the extent allowed
9 under this act.

10 (3) The program may allow board members or employees of the
11 program, or the board members or employees of a contractor hired by
12 the program to perform administrative services, to make
13 contributions to an account.

14 (4) An interest in an account shall not be used by an account
15 owner as security for a loan. Any pledge of an interest in an
16 account has no force or effect.

17 Sec. 19. (1) Each program manager shall report distributions
18 from an account to a public school for the benefit of the student
19 during a tax year to the Internal Revenue Service and the account
20 owner or, to the extent required by federal law or regulation, to
21 the distributee.

22 (2) Each program manager shall provide statements that
23 identify the contributions made during the tax year, the total
24 contributions made to the account for the tax year, the value of
25 the account at the end of the tax year, distributions made during
26 the tax year, and any other information that the treasurer requires
27 to each account owner on or before the January 31 following the end

1 of each calendar year.

2 Sec. 21. Each program manager shall disclose the following
3 information in writing to each account owner of an education
4 savings account and any other person who requests information about
5 an education savings account:

6 (a) The terms and conditions for establishing an education
7 savings account.

8 (b) Restrictions on the substitutions of students and transfer
9 of account funds.

10 (c) The person entitled to terminate a Michigan parental
11 choice in education program agreement.

12 (d) The period of time during which a student may receive
13 benefits under the Michigan parental choice in education program
14 agreement.

15 (e) The terms and conditions under which money may be
16 withdrawn from an account or the program, including, but not
17 limited to, any reasonable charges and fees and penalties that may
18 be imposed for withdrawal.

19 (f) The potential tax consequences associated with
20 contributions to and distributions and withdrawals from accounts.

21 (g) Investment history and potential growth of account funds
22 and a projection of the impact of the growth of the account funds
23 on the maximum amount allowable in an account.

24 (h) All other rights and obligations under Michigan parental
25 choice in education program agreements and any other terms,
26 conditions, and provisions of a contract or an agreement entered
27 into under this act.

1 Sec. 23. This act and any agreement under this act shall not
2 be construed or interpreted to do any of the following:

3 (a) Guarantee that a student will be admitted to a public
4 school of his or her choice or, upon admission to a public school,
5 will be permitted to continue to attend or will receive a degree
6 from the public school.

7 (b) Guarantee that amounts contributed to an account will be
8 sufficient to cover the eligible services of a student.

9 Sec. 25. (1) This act does not create and shall not be
10 construed to create any obligation upon this state or any agency or
11 instrumentality of this state to guarantee for the benefit of an
12 account owner or student any of the following:

13 (a) The rate of interest or other return on an account.

14 (b) The payment of interest or other return on an account.

15 (2) The contracts, applications, deposit slips, and other
16 similar documents used in connection with a contribution to an
17 account shall clearly indicate that the account is not insured by
18 this state and that the money deposited into and investment return
19 earned on an account are not guaranteed by this state.

20 Sec. 27. Each program manager shall file an annual report with
21 the treasurer and the board that includes all of the following:

22 (a) The names and identification numbers of account owners and
23 students. The information reported pursuant to this subdivision is
24 not subject to the freedom of information act, 1976 PA 442, MCL
25 15.231 to 15.246.

26 (b) The total amount contributed to all accounts during the
27 year.

1 (c) All distributions from all accounts.

2 (d) Any information that the program manager or treasurer may
3 require regarding the taxation of amounts contributed to or
4 withdrawn from accounts.

5 Sec. 29. (1) Contributions to and interest earned on an
6 education savings account are exempt from taxation as provided in
7 section 30 of the income tax act of 1967, 1967 PA 281, MCL 206.30.

8 (2) Withdrawals made from education savings accounts are
9 exempt from taxation as provided in section 30 of the income tax
10 act of 1967, 1967 PA 281, MCL 206.30.