

HOUSE BILL NO. 5782

June 05, 2024, Introduced by Reps. MacDonell, Paiz, Rheingans, Hill, Byrnes, Coffia and Morse and referred to the Committee on Higher Education.

A bill to amend 1986 PA 316, entitled "Michigan education trust act," by amending sections 4 and 8 (MCL 390.1424 and 390.1428), section 8 as amended by 2004 PA 388.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. As used in this act, except where the context clearly
2 requires otherwise:

3 (a) "Advance tuition payment contract" means a contract
4 entered into by the trust and a purchaser ~~pursuant to~~**under** section
5 6 to provide for the higher education of a qualified beneficiary.

1 (b) "Board" means the board of directors of the Michigan
2 education trust described in section 10.

3 (c) "Fund" means the advance tuition payment fund created in
4 section 9.

5 (d) **"Internal revenue code" means the United States internal
6 revenue code of 1986 in effect on January 1, 2024 or, at the option
7 of the taxpayer, in effect for the current year.**

8 (e) ~~(d)~~—"Purchaser" means a person who makes or is obligated
9 to make advance tuition payments ~~pursuant to~~**under** an advance
10 tuition payment contract.

11 (f) ~~(e)~~—"Qualified beneficiary" means any resident of this
12 state.

13 (g) ~~(f)~~—"State institution of higher education" means a
14 college or university described in section 4, 5, or 6 of article
15 VIII of the state constitution of 1963 or any 4-year degree-
16 granting institution established by ~~the~~**this** state after ~~the~~
17 ~~effective date of this act,~~**December 23, 1986**, which institution is
18 designated by ~~the~~**this** state as a state institution of higher
19 education for purposes of this act.

20 (h) ~~(g)~~—"Trust" means the Michigan education trust created in
21 section 5.

22 (i) ~~(h)~~—"Tuition" means the quarter or semester charges
23 imposed to attend a state institution of higher education and all
24 mandatory fees required as a condition of enrollment as determined
25 by the board.

26 (j) ~~(i)~~—"Weighted average tuition cost of state institutions
27 of higher education" means the tuition cost arrived at by adding
28 the products of the annual undergraduate tuition cost at each state
29 institution of higher education and its total number of

1 undergraduate fiscal year equated students, and then dividing the
 2 gross total of this cumulation by the total number of undergraduate
 3 fiscal year equated students attending state institutions of higher
 4 education.

5 Sec. 8. (1) An advance tuition payment contract ~~shall~~**must**
 6 authorize a termination of the contract ~~when~~**if** any ~~1~~ of the
 7 following occurs:

8 (a) The qualified beneficiary dies.

9 (b) The qualified beneficiary is not admitted to a state
 10 institution of higher education after making proper application.

11 (c) The qualified beneficiary certifies to the trust ~~that he~~
 12 ~~or she~~**any of the following:**

13 **(i) That the qualified beneficiary** has decided to attend and
 14 has been accepted by a Michigan independent, degree-granting
 15 institution of postsecondary education recognized by the state
 16 board of education. ~~or, after he or she has a high school diploma~~
 17 ~~or has reached the age of majority, he or she~~

18 **(ii) That the qualified beneficiary has decided to attend and**
 19 **has been accepted by an eligible educational institution in this**
 20 **state. The trust shall cause any contract entered on or after**
 21 **January 1, 1988 to be amended as needed to comply with this**
 22 **subparagraph. As used in this subparagraph and subsection (3),**
 23 **"eligible educational institution" means that term as defined in**
 24 **section 529 of the internal revenue code.**

25 **(iii) That the qualified beneficiary** has decided not to attend a
 26 state institution of higher education and requests, in writing,
 27 before July 15 of the year in which the qualified beneficiary
 28 desires to terminate the contract, that the advance tuition payment
 29 contract be terminated. **This subparagraph applies only to a**

1 **qualified beneficiary who has obtained a high school diploma or has**
2 **reached the age of majority.**

3 (d) Other circumstances, determined by the trust and set forth
4 in the advance tuition payment contract, occur.

5 (2) Except as provided in section 7(2)(b) and (3)(b) and
6 subsection (5), an advance tuition payment contract ~~shall~~**must**
7 provide for a refund ~~upon termination of~~**if** the contract **is**
8 **terminated, paid** to a person to whom the refund is payable under
9 the contract. All of the following apply to the refund described in
10 this subsection:

11 (a) If the qualified beneficiary has a high school diploma or
12 has reached the age of majority, and attends an institution of
13 higher education, the amount of a refund, except as provided in
14 subsection (4), is the lesser of the average tuition cost of all
15 state institutions of higher education on the date of termination
16 of the contract, or the face amount of the payment or payments and
17 any accrued investment income attributable to the payment or
18 payments, ~~if he or she~~**the qualified beneficiary** is covered by the
19 first alternative described in section 7(5), or the lowest tuition
20 cost of all state institutions of higher education on the date of
21 termination of the contract ~~if he or she~~**the qualified beneficiary**
22 is covered by the second alternative described in section 7(5) or
23 does not attend an institution of higher education.

24 (b) The amount of a refund ~~shall~~**must** be reduced by an
25 appropriate percentage if the purchaser entered into an advance
26 tuition payment contract that provided for a fixed number of credit
27 hours less than the total number of credit hours required by a
28 state institution of higher education for the awarding of a
29 baccalaureate degree, by the amount transferred to a community or

1 junior college on behalf of a qualified beneficiary ~~when~~**if** the
 2 contract is terminated as provided in section 6(4), and by the
 3 amount transferred to a state institution of higher education on
 4 behalf of a qualified beneficiary.

5 (c) The contract may provide that the trust may deny payment
 6 of a refund ~~upon termination of~~**if** the contract ~~if~~**is terminated**
 7 **after** the qualified beneficiary has completed more than 1/2 of the
 8 credit hours required by the state institution of higher education
 9 for the awarding of a baccalaureate degree. ~~However, this A~~
 10 **contract provision denying a refund for more than halfway**
 11 **completion may be waived by the trust or amended by agreement of**
 12 **the trust and the purchaser as to any contract entered on or after**
 13 **January 1, 1988. This** subdivision ~~shall~~**does** not affect the
 14 termination and refund rights of a graduate of a community or
 15 junior college.

16 (d) Except as provided ~~by~~**in** subsection (3), **the trust shall**
 17 **make full refund payments not later than August 15 of the year due.**
 18 **If the board determines that full refund payments under this**
 19 **subdivision would violate the actuarial soundness requirement under**
 20 **section 13,** the trust ~~shall~~**may instead** make refund payments in
 21 equal installments over 4 years ~~and~~ not later than August 15 of ~~the~~
 22 **each** year. ~~due.~~

23 (3) An advance tuition payment contract ~~shall~~**must** authorize,
 24 **or be amended as needed to authorize,** a person, who is entitled
 25 under the advance tuition payment contract to terminate the
 26 contract, to direct payment of ~~the~~**a** refund to an independent
 27 degree-granting college or university located in this state, ~~or~~ to
 28 a community or junior college located in this state, **or to an**
 29 **eligible educational institution in this state.** If directed to make

1 payments ~~pursuant to~~**under** this subsection, the trust shall
 2 transfer to the designated institution an amount equal to the
 3 tuition due for the qualified beneficiary, but the trust shall not
 4 transfer a cumulative amount greater than the refund to which the
 5 person is entitled. If the refund exceeds the total amount of
 6 transfers directed to the designated institution, the excess ~~shall~~
 7 **must** be returned to the person to whom the refund is otherwise
 8 payable.

9 (4) Notwithstanding any other ~~section~~**provision** of this act,
 10 the amount of a refund paid ~~upon termination of the~~**if an** advance
 11 tuition payment contract **is terminated** by a person ~~who~~**that** directs
 12 the trust ~~pursuant to~~**under** subsection (3) to transfer the refund
 13 to an independent degree-granting college or university located in
 14 this state ~~shall~~**must** not be less than the prevailing weighted
 15 average tuition cost of state institutions of higher education for
 16 the number of credit hours covered by the contract on the date of
 17 termination. In calculating the amount of a refund for an advance
 18 payment contract containing the restrictions provided ~~by~~**under**
 19 section 7(5), the prevailing weighted average tuition cost ~~shall~~
 20 **must** be based ~~upon~~**only on** those state institutions of higher
 21 education at which the qualified beneficiary could have received
 22 sufficient credit hours for a baccalaureate degree.

23 (5) The trust may offer an advance tuition payment contract
 24 that does not provide for a refund under subsection (2) to a
 25 purchaser ~~who~~**that** is an individual, **a** state or local government
 26 agency or instrumentality, or a person exempt from taxation as an
 27 organization described in section 501(c) (3) of the internal revenue
 28 code, ~~of 1986, 26 USC 501,~~ and ~~who~~**that** is purchasing the contract
 29 as part of a scholarship program. The price of a contract offered

- 1 ~~pursuant to~~**under** this subsection ~~shall~~**must** be established to
- 2 reflect that the terms of the contract do not provide for a refund.