MICHIGAN EDUCATION TRUST ACT

Act 316 of 1986

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.

History: 1986, Act 316, Imd. Eff. Dec. 23, 1986

The People of the State of Michigan enact:

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390.1421 Short title.

Sec. 1.

This act shall be known and may be cited as the "Michigan education trust act".

History: 1986, Act 316, Imd. Eff. Dec. 23, 1986

390.1422 Legislative finding and declaration.

Sec. 2.

The legislature hereby finds and declares the following:

(a) It is an essential function of state government to forever encourage schools and the means of education, as provided in section 1 of article VIII of the state constitution of 1963.

(b) It is a responsibility of state government to maintain state institutions of higher education as provided by section 4 of article VIII of the state constitution of 1963.

(c) It is an essential function of state government to encourage attendance at state institutions of higher education.

(d) Tuition costs at public institutions of higher education are difficult for many to afford and are difficult to predict in order to enable individuals and families to plan.

(e) It is in the best interest of the people of this state to foster public higher education in order to provide well-educated citizens.

(f) It is in the best interest of the people of this state to encourage state residents desiring a public higher education to enroll in state public institutions of higher learning.

(g) It is in the best interest of the people of this state to enhance and foster the ability of Michigan residents to choose an independent, nonprofit higher education in order to provide well educated citizens and to encourage state residents desiring an independent higher education to enroll in an independent degree-granting college or university located in this state.

(h) Students in elementary and secondary schools tend to achieve to a higher standard of performance when the payment of tuition for their higher education is secured.

(i) Providing assistance to assure the higher education of the citizens of this state is necessary and desirable for the public health, safety, and welfare.

History: 1986, Act 316, Imd. Eff. Dec. 23, 1986

390.1423 Purposes of act and Michigan education trust.

Sec. 3.

In light of the findings described in section 2, the legislature declares the purposes of this act and of the Michigan education trust created by this act to be:

(a) To encourage education and the means of education.

(b) To maintain state institutions of higher education by helping to provide a stable financial base to these institutions.

(c) To provide wide and affordable access to state institutions of higher education for the residents of this state.

(d) To encourage attendance at state institutions of higher education.

(e) To provide students and their parents economic protection against rising tuition costs.

(f) To provide students and their parents financing assistance for postsecondary education at a Michigan institution of higher education of their choice.

(g) To help provide the benefits of higher education to the people of this state.

(h) To encourage elementary and secondary students in this state to achieve high standards of performance.

History: 1986, Act 316, Imd. Eff. Dec. 23, 1986

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390.1424 Definitions.

Sec. 4.

As used in this act, except where the context clearly requires otherwise:

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

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

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

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

(e) "Purchaser" means a person who makes or is obligated to make advance tuition payments under an advance tuition payment contract.

(f) "Qualified beneficiary" means any resident of this state.

(g) "State institution of higher education" means a college or university described in section 4, 5, or 6 of article VIII of the state constitution of 1963 or any 4-year degree-granting institution established by this state after December 23, 1986, which institution is designated by this state as a state institution of higher education for purposes of this act.

(h) "Trust" means the Michigan education trust created in section 5.

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

(j) "Weighted average tuition cost of state institutions of higher education" means the tuition cost arrived at by adding the products of the annual undergraduate tuition cost at each state institution of higher education and its total number of undergraduate fiscal year equated students, and then dividing the gross total of this cumulation by the total number of undergraduate fiscal year equated students attending state institutions of higher education.

History: 1986, Act 316, Imd. Eff. Dec. 23, 1986 ;-- Am. 2024, Act 171, Eff. Apr. 2, 2025

390.1425 Michigan education trust; creation; exercise of powers, duties, and functions.

Sec. 5.

(1) There is created a public body corporate and politic to be known as the Michigan education trust. The trust shall be within the department of treasury, but shall exercise its prescribed statutory powers, duties, and functions independently of the head of that department.

(2) The purposes, powers, and duties of the Michigan education trust are vested in and shall be exercised by a board of directors.

History: 1986, Act 316, Imd. Eff. Dec. 23, 1986

390.1426 Advance tuition payment contract generally.

Sec. 6.

(1) The trust, on behalf of itself and the state, may contract with a purchaser for the advance payment of tuition by the purchaser for a qualified beneficiary to attend any of the state institutions of higher education to which the qualified beneficiary is admitted, without further tuition cost to the qualified beneficiary. In addition, an advance tuition payment contract shall set forth in a clear, understandable manner all of the following:

(a) The amount of the payment or payments required from the purchaser on behalf of the qualified beneficiary.

(b) The terms and conditions for making the payment, including, but not limited to, the date or dates upon which the payment, or portions of the payment, is due.

(c) Provisions for late payment charges and for default.

(d) The name and age of the qualified beneficiary under the contract, unless the contract is purchased by a state or local government agency or instrumentality or a person exempt from taxation as an organization described in section 501(c)(3) of the internal revenue code of 1986, 26 USC 501, as part of a scholarship program. The purchaser, with the approval of and on conditions determined by the trust, may subsequently substitute another person for the qualified beneficiary originally named.

(e) The number of credit hours covered by the contract.

(f) The name of the person entitled to terminate the contract. The contract may provide for termination by the purchaser, the qualified beneficiary, a person appointed to act on behalf of the purchaser or qualified beneficiary, or any combination of these persons.

(g) The terms and conditions under which the contract may be terminated and the amount of the refund, if any, to which the person terminating the contract, or specifically the purchaser or designated qualified beneficiary if the contract so provides, is entitled upon termination.

(h) The assumption of a contractual obligation by the trust to the qualified beneficiary on its own behalf and on behalf of the state to provide for credit hours of higher education, not to exceed the credit hours required for the granting of a baccalaureate degree, at any state institution of higher education to which the qualified beneficiary is admitted. The advance tuition payment contract shall provide for the credit hours of higher education that a qualified beneficiary may receive under the contract if the qualified beneficiary is not entitled to in-state tuition rates.

(i) The period of time from the beginning to the end of which the qualified beneficiary may receive the benefits under the contract.

(j) All other rights and obligations of the purchaser and the trust.

(k) Other terms, conditions, and provisions as the trust considers in its sole discretion to be necessary or appropriate.

(2) The trust shall not enter into any advance tuition payment contract unless the state administrative board has approved of the form of that contract.

(3) The trust shall make any arrangements that are necessary or appropriate with state institutions of higher education in order to fulfill its obligations under advance tuition payment contracts. The arrangements may include, but need not be limited to, the payment by the trust of the then actual in-state tuition cost on behalf of a qualified beneficiary to the state institution of higher education.

(4) An advance tuition payment contract shall provide that the trust provide for the qualified beneficiary to attend a community or junior college in this state before entering a state institution of higher education if the beneficiary so chooses and that the contract may be terminated pursuant to section 8 after completing the requirements for a degree at the community or junior college in this state or before entering the state institution of higher education.

(5) An advance tuition payment contract may provide that, if after a number of years specified in the contract the contract has not been terminated or the qualified beneficiary's rights under the contract have not been exercised, the trust, after making a reasonable effort to locate the purchaser and qualified beneficiary or the agent of either, shall retain the amounts otherwise payable and the rights of the qualified beneficiary, the purchaser, or the agent of either shall be considered terminated.

(6) A writing or information provided to the trust for purposes of this section by a purchaser, qualified

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beneficiary, or person appointed under subsection (1)(f) is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. As used in this subsection, "writing" means that term as defined in section 2 of the freedom of information act, 1976 PA 442, MCL 15.232.

History: 1986, Act 316, Imd. Eff. Dec. 23, 1986 ;-- Am. 2004, Act 388, Imd. Eff. Oct. 12, 2004

390.1427 Plan A and Plan B.

Sec. 7.

(1) At a minimum, the trust shall offer 1 of the 2 types of advance tuition payment contracts set forth in subsections (2) and (3), to be known as Plan A and Plan B, respectively.

(2) Under Plan A:

(a) A payment or series of payments shall be required from the purchaser on behalf of a qualified beneficiary.

(b) If an advance tuition payment contract is terminated before a qualified beneficiary earns a high school diploma or reaches the age of majority, or pursuant to section 8(1)(d), the trust shall refund the face amount of the payment or payments in accordance with the terms of the contract, less any administrative fee specified in the contract, but shall not refund any investment income attributable to the payments.

(c) Except as provided in subdivision (d), the trust shall provide for the qualified beneficiary to attend a state institution of higher education at which the qualified beneficiary attends for the number of credit hours required by the institution for the awarding of a baccalaureate degree, without further tuition cost to the qualified beneficiary, except as provided in section 6(1) for a qualified beneficiary who is not entitled to in-state tuition rates.

(d) As an alternative to subdivision (c), the trust shall provide for the qualified beneficiary to attend a state institution of higher education at which the qualified beneficiary attends for a fixed number of credit hours, as permitted by the trust, less than the total number of credit hours required by the institution for the awarding of a baccalaureate degree, without further tuition cost to the qualified beneficiary for that fixed number of credit hours, except as provided in section 6(1) for a qualified beneficiary who is not entitled to in-state tuition rates.

(3) Under Plan B:

(a) A payment or series of payments shall be required on behalf of a qualified beneficiary.

(b) If an advance tuition payment contract is terminated before a qualified beneficiary earns a high school diploma or reaches the age of majority, or pursuant to section 8(1)(d), the trust shall refund the face amount of the payment or payments in accordance with the terms of the contract, less any administrative fee specified in the contract, together with all or a specified portion of accrued investment income attributable to the payment or payments as may be agreed to in the contract.

(c) Except as provided in subdivision (d), the trust shall provide for the qualified beneficiary to attend a state institution of higher education at which the qualified beneficiary attends for the number of credit hours required by the institution for the awarding of a baccalaureate degree, without further tuition cost to the qualified beneficiary, except as provided in section 6(1) for a qualified beneficiary who is not entitled to in-state tuition rates.

(d) As an alternative to subdivision (c), the trust shall provide for the qualified beneficiary to attend a state institution of higher education at which the qualified beneficiary attends for a fixed number of credit hours, as permitted by the trust, less than the total number of credit hours required by the institution for the awarding of a baccalaureate degree, without further tuition cost to the qualified beneficiary for that fixed number of credit hours, except as provided in section 6(1) for a qualified beneficiary who is not entitled to in-state tuition rates.

(4) Contracts required to be offered by this section may require that payment or payments from a purchaser, on behalf of a qualified beneficiary who may attend a state institution of higher education in less than 4 years after the date the contract is entered into by the purchaser, be based upon attendance at a certain state institution of higher education or at that state institution of higher education with the highest prevailing tuition cost for the number of credit hours covered by the contract.

(5) A contract offered by the trust under this section shall be offered with 2 alternatives. The first alternative shall offer an advance tuition payment contract that provides the credit hours of higher education necessary for the granting of a baccalaureate degree at any of the state institutions of higher education. The second alternative shall provide that the number of credit hours of higher education a qualified beneficiary may receive under the contract will be reduced to a percentage of the credit hours required for the granting of a baccalaureate degree at a state institution of higher education, as specified in the contract, if the qualified beneficiary enrolls in a state institution of higher education imposing at the time the qualified beneficiary enrolls an annual tuition rate that is greater than 105% of the weighted average annual tuition rate of all state institutions of higher education. This subsection does not preclude a state institution of higher education at which a qualified beneficiary is entitled to receive less than the

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minimum number of credit hours required for the granting of a baccalaureate degree from providing that qualified beneficiary, without further tuition charges, the additional credit hours necessary to receive a baccalaureate degree.

(6) If a beneficiary of an advance tuition payment contract with either alternative designation described in subsection (5) attends a community or junior college for 2 years at the in-district tuition rate, that beneficiary then may attend any state institution of higher education at no additional tuition cost and receive the number of credit hours necessary for the awarding of a baccalaureate degree.

History: 1986, Act 316, Imd. Eff. Dec. 23, 1986 ;-- Am. 2004, Act 388, Imd. Eff. Oct. 12, 2004

390.1428 Termination of advance tuition payment contract; refund.

Sec. 8.

(1) An advance tuition payment contract must authorize a termination of the contract if any of the following occurs:

(a) The qualified beneficiary dies.

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

(c) The qualified beneficiary certifies to the trust any of the following:

(i) That the qualified beneficiary has decided to attend and has been accepted by a Michigan independent, degree-granting institution of postsecondary education recognized by the state board of education.

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

(iii) That the qualified beneficiary has decided not to attend a state institution of higher education and requests, in writing, before July 15 of the year in which the qualified beneficiary desires to terminate the contract, that the advance tuition payment contract be terminated. This subparagraph applies only to a qualified beneficiary who has obtained a high school diploma or has reached the age of majority.

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

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

(a) If the qualified beneficiary has a high school diploma or has reached the age of majority, and attends an institution of higher education, the amount of a refund, except as provided in subsection (4), is the lesser of the average tuition cost of all state institutions of higher education on the date of termination of the contract, or the face amount of the payment or payments and any accrued investment income attributable to the payment or payments, if the qualified beneficiary is covered by the first alternative described in section 7(5), or the lowest tuition cost of all state institutions of higher education on the date of termination of the contract if the qualified beneficiary is covered by the second alternative described in section 7(5) or does not attend an institution of higher education.

(b) The amount of a refund must be reduced by an appropriate percentage if the purchaser entered into an advance tuition payment contract that provided for a fixed number of credit hours less than the total number of credit hours required by a state institution of higher education for the awarding of a baccalaureate degree, by the amount transferred to a community or junior college on behalf of a qualified beneficiary if the contract is terminated as provided in section 6(4), and by the amount transferred to a state institution of higher education on behalf of a qualified beneficiary.

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

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

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(3) An advance tuition payment contract must authorize, or be amended as needed to authorize, a person, who is entitled under the advance tuition payment contract to terminate the contract, to direct payment of a refund to an independent degree-granting college or university located in this state, to a community or junior college located in this state, or to an eligible educational institution in this state. If directed to make payments under this subsection, the trust shall transfer to the designated institution an amount equal to the tuition due for the qualified beneficiary, but the trust shall not transfer a cumulative amount greater than the refund to which the person is entitled. If the refund exceeds the total amount of transfers directed to the designated institution, the excess must be returned to the person to whom the refund is otherwise payable.

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

(5) The trust may offer an advance tuition payment contract that does not provide for a refund under subsection (2) to a purchaser that is an individual, a state or local government agency or instrumentality, or a person exempt from taxation as an organization described in section 501(c)(3) of the internal revenue code, and that is purchasing the contract as part of a scholarship program. The price of a contract offered under this subsection must be established to reflect that the terms of the contract do not provide for a refund.

History: 1986, Act 316, Imd. Eff. Dec. 23, 1986 ;-- Am. 2004, Act 388, Imd. Eff. Oct. 12, 2004 ;-- Am. 2024, Act 171, Eff. Apr. 2, 2025

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390.1429 Advance tuition payment fund; creation; placement of payments in fund; division of fund into separate accounts; assets of trust; priority of expenditures; investments; compliance with divestment from terror act.

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.

History: 1986, Act 316, Imd. Eff. Dec. 23, 1986 ;-- Am. 2008, Act 239, Imd. Eff. July 17, 2008

390.1430 Board; appointment, qualifications, and terms of members; vacancy; deputy; chairperson; president and chief executive officer of trust; vice-president of trust; compensation; expenses; delegation of functions and authority; quorum; voting; meetings; conducting business at public meeting; notice;

availability of writings to public.

Sec. 10.

(1) The board shall consist of the state treasurer, and 8 other members with knowledge, skill, and experience in the academic, business, or financial field, who shall be appointed by the governor, by and with the advice and consent of the senate. Not more than 2 of the 8 appointed members of the board shall be, during their term of office on the board, either officials, appointees, or employees of this state. Of the 6 remaining members appointed by the governor, 1 shall be appointed from 1 or more nominees of the speaker of the house of representatives, 1 shall be appointed from 1 or more nominees of the majority leader of the senate, 1 shall be a president of a state institution of higher education who shall be appointed from nominees of the president's council of state colleges and universities, 1 shall be a president of a community or junior college who shall be appointed from nominees of the Michigan community college association, and 1 shall represent the interests of independent degree-granting colleges and universities located in this state. Six of the 8 appointed members shall serve for fixed terms. Of the 6 such members first appointed, 2 shall be appointed for a term that expires December 31, 1987, 2 shall be appointed for a term that expires December 31, 1988, and 2 shall be appointed for a term that expires December 31, 1989. Upon completion of each fixed term, a member shall be appointed for a term of 3 years. A member shall serve until a successor is appointed, and a vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment. The chief executive officer or director of any state department, who is a designated member of or an appointee to the board, may appoint a deputy to serve as a voting member of the board in the absence of the chief executive officer or director. The governor shall designate 1 member of the board to serve as its chairperson. The governor shall appoint 2 members of the board to serve at the pleasure of the governor, 1 of whom shall be designated by the governor as the president and chief executive officer of the trust and 1 of whom shall be designated by the governor as the vice-president of the trust.

(2) Members of the board, other than the president and vice-president if they are not otherwise employees of the state, shall serve without compensation, but shall receive reasonable reimbursement for actual and necessary expenses.

(3) The board may delegate to its president, vice-president, or others such functions and authority as the board considers necessary or appropriate. These functions may include, but are not limited to, the oversight and supervision of employees of the trust.

(4) A majority of the members of the board serving shall constitute a quorum for the transaction of business at a meeting of the board, or the exercise of a power or function of the trust, notwithstanding the existence of 1 or more vacancies. Voting upon action taken by the board shall be conducted by majority vote of the members present in person at a meeting of the board, and, if authorized by the bylaws of the board and when a quorum is present in person at the meeting, by use of amplified telephonic equipment. The board shall meet at the call of the chair and as may be provided in the bylaws of the trust. Meetings of the board may be held anywhere within the state.

(5) The business which the board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(6) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1986, Act 316, Imd. Eff. Dec. 23, 1986
Compiler's Notes: For a revision of the terms of certain members of the Michigan education trust board of directors, see E.R.O. No. 2024-2, compiled at MCL 16.735.

390.1431 Additional powers of board.

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

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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.

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History: 1986, Act 316, Imd. Eff. Dec. 23, 1986 ;-- Am. 2008, Act 239, Imd. Eff. July 17, 2008
Admin Rule: R 390.1801 et seq. of the Michigan Administrative Code.

390.1432 Accounting of trust generally.

Sec. 12.

The board shall annually prepare or cause to be prepared an accounting of the trust and shall transmit a copy of the accounting to the governor, the majority leader of the senate, the speaker of the house of representatives, and the respective minority leaders of the senate and house of representatives. The board shall also make available the accounting of the trust to the purchasers of the trust. The accounts of the board shall be subject to annual audits by the state auditor general or a certified public accountant appointed by the auditor general.

History: 1986, Act 316, Imd. Eff. Dec. 23, 1986

390.1433 Actuarial soundness of trust; ruling or opinion internal revenue service; answer from securities and exchange commission; making status of request known.

Sec. 13.

(1) The trust shall be administered in a manner reasonably designed to be actuarially sound such that the assets of the trust will be sufficient to defray the obligations of the trust.

(2) In the accounting of the trust made pursuant to section 12, the trust board shall annually evaluate and cause to be evaluated by a nationally recognized actuary the actuarial soundness of the trust and determine the additional assets needed, if any, to defray the obligations of the trust. If there are not funds sufficient to ensure the actuarial soundness of the trust as determined by the nationally recognized actuary, the trust shall adjust payments of subsequent purchasers to ensure its actuarial soundness. If there are insufficient numbers of new purchasers to ensure the actuarial soundness of a plan of the trust, the available assets of the trust attributable to the plan shall be immediately prorated among the then existing contracts, and these shares shall be applied, at the option of the person to whom the refund is payable or would be payable under the contract upon termination of the contract, either towards the purposes of the contract for a qualified beneficiary or disbursed to the person to whom the refund is payable or would be payable under the contract upon termination of the contract.

(3) An advance tuition payment contract shall not be entered by the trust until the internal revenue service has issued a favorable ruling or opinion that the purchaser of the advance tuition payment contract will not be considered actually or constructively to be in receipt of income. If an unfavorable ruling or opinion with regard to this issue is rendered by the internal revenue service, the board shall present a report to the legislature outlining recommendations for the modification and continuance of the program, including a recommendation of whether the trust may offer contracts on behalf of itself to provide for the advance purchase of incremental portions of the number of credit hours necessary for a baccalaureate degree.

(4) Before entering into advance tuition payment contracts with purchasers, the state shall solicit answers to appropriate ruling requests from the securities and exchange commission regarding the application of federal security laws to the trust. No contracts shall be entered without the authority making known the status of the request.

History: 1986, Act 316, Imd. Eff. Dec. 23, 1986

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390.1434 Enforcement of act and contract.

Sec. 14.

State institutions of higher education, purchasers, and qualified beneficiaries may enforce this act and any contract entered into pursuant to this act in the circuit court for Ingham county.

History: 1986, Act 316, Imd. Eff. Dec. 23, 1986

390.1435 Exemption from taxation.

Sec. 15.

The property of the trust and its income and operation shall be exempt from all taxation by this state or any of its political subdivisions.

History: 1986, Act 316, Imd. Eff. Dec. 23, 1986

390.1436 Contracting services necessary for management and operation of trust; instituting programs to ensure full tuition prepayment plans; report to legislature.

Sec. 16.

The trust, in its discretion, may contract with others, public or private, for the provision of all or a portion of the

services necessary for the management and operation of the trust. The trust shall also endeavor to work with private sector investment managers, state institutions of higher education, and independent degree-granting colleges and universities in this state to study the feasibility of instituting programs between these parties that insure full tuition payment upon purchase of a prepayment plan. The trust shall evaluate the feasibility and actuarial soundness of a prepayment plan exclusively for community and junior colleges. The board shall submit a report to the legislature before December 31, 1988 regarding its success at instituting programs between private sector investment managers, state institutions of higher education, and independent degree-granting colleges and universities of the state that insure full tuition prepayment plans.

History: 1986, Act 316, Imd. Eff. Dec. 23, 1986

390.1437 Preserving, investing, and expending assets of trust.

Sec. 17.

The assets of the trust shall be preserved, invested, and expended solely pursuant to and for the purposes set forth in this act and shall not be loaned or otherwise transferred or used by the state for any purpose other than the purposes of this act. This section shall not be construed to prohibit the trust from investing in, by purchase or otherwise, bonds, notes, or other obligations of the state, an agency of the state, or an instrumentality of the state.

History: 1986, Act 316, Imd. Eff. Dec. 23, 1986

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390.1438 Prohibited promises or guarantees.

Sec. 18.

Nothing in this act or in an advance tuition payment contract entered into pursuant to this act shall be construed as a promise or guarantee by the trust or the state that a person will be admitted to a state institution of higher education or to a particular state institution of higher education, will be allowed to continue to attend a state institution of higher education after having been admitted, or will be graduated from a state institution of higher education.

History: 1986, Act 316, Imd. Eff. Dec. 23, 1986

390.1439 Exemption of contract from uniform securities act; sale or transfer of contract.

Sec. 19.

An advance tuition payment contract is exempt from the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818, and the uniform securities act (2002), 2008 PA 551, MCL 451.2101 to 451.2703. An advance tuition payment contract may not be sold or otherwise transferred by the purchaser or qualified beneficiary without the prior approval of the trust.

History: 1986, Act 316, Imd. Eff. Dec. 23, 1986 ;-- Am. 2009, Act 96, Imd. Eff. Sept. 24, 2009

390.1440 Payments deductible from taxable income.

Sec. 20.

Pursuant to section 30 of the income tax act of 1967, Act No. 281 of the Public Acts of 1967, being section 206.30 of the Michigan Compiled Laws, the purchaser may deduct from taxable income the following payments made by the purchaser in the tax year:

(a) The amount of payment made under an advance tuition payment contract.

(b) The amount of payment made under a contract with a private sector investment manager that meets all of the following criteria:

(i) The contract is certified and approved by the board to provide equivalent benefits and rights to purchasers and beneficiaries as an advance tuition payment contract.

(ii) The contract applies only for a state institution of higher education or a community or junior college.

(iii) The contract provides for enrollment by the contract's qualified beneficiary in not less than 4 years after the date on which the contract is entered into.

(iv) The contract is entered into either:

(A) After the purchaser has had his or her offer to enter into an advance tuition payment contract rejected by the board, if the board determines that the trust cannot accept an unlimited number of enrollees upon an actuarially sound basis.

(B) After the board determines that the trust can accept an unlimited number of enrollees upon an actuarially sound basis.

History: 1986, Act 316, Imd. Eff. Dec. 23, 1986

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390.1441 Liberal construction; powers to be broadly interpreted.

Sec. 21.

This act shall be construed liberally to effectuate the legislative intent, the purposes of the act, and as complete and independent authority for the performance of each and every act and thing authorized in the act, and all powers granted in the act shall be broadly interpreted to effectuate such intent and purposes and not as to limitation of powers.

History: 1986, Act 316, Imd. Eff. Dec. 23, 1986

390.1442 Severability.

Sec. 22.

If any section, subsection, paragraph, clause, or provision of this act shall be adjudged unconstitutional or ineffective, no other section, subsection, paragraph, clause, or provision of this act shall on account thereof be considered invalid or ineffective, and the applicability or invalidity of any section, subsection, paragraph, clause, or provision of this act in any 1 or more instances or under any 1 or more circumstances shall not be taken to affect or prejudice its applicability or validity in any other instance or under any other circumstance.

History: 1986, Act 316, Imd. Eff. Dec. 23, 1986

390.1443, 390.1444 Repealed. 2004, Act 388, Imd. Eff. Oct. 12, 2004.

Compiler's Notes: The repealed sections pertained to condition to entering contract and conditional repeal of act.

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