

SENATE BILL No. 594

October 11, 1989, Introduced by Senator SEDERBURG and referred to the Committee on Finance.

A bill to amend the title and sections 2, 4, 6, 8, 9, 11, 18, 19, and 20 of Act No. 316 of the Public Acts of 1986, entitled

"Michigan education trust act,"

being sections 390.1422, 390.1424, 390.1426, 390.1428, 390.1429, 390.1431, 390.1438, 390.1439, and 390.1440 of the Michigan Compiled Laws; and to add section 7a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 2, 4, 6, 8, 9, 11, 18,
2 19, and 20 of Act No. 316 of the Public Acts of 1986, being sec-
3 tions 390.1422, 390.1424, 390.1426, 390.1428, 390.1429, 390.1431,
4 390.1438, 390.1439, and 390.1440 of the Michigan Compiled Laws,
5 are amended and section 7a is added to read as follows:

1 TITLE

2 An act to create the Michigan education trust; to prescribe
3 the powers and duties of the trust and ~~of~~ its board of direc-
4 tors; to provide for ~~advance tuition payment~~ contracts FOR THE
5 ADVANCE PAYMENT OF TUITION AND ROOM AND BOARD; to establish ~~an~~
6 ~~advance tuition payment fund~~ CERTAIN FUNDS and to provide for
7 ~~its~~ administration OF THE FUNDS; to provide for remedies; and
8 to repeal certain acts and parts of acts on specific dates.

9 Sec. 2. The legislature hereby finds and declares the
10 following:

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

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

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

19 (d) Tuition AND ROOM AND BOARD costs at public institutions
20 of higher education are difficult for many to afford and are dif-
21 ficult to predict in order to enable individuals and families to
22 plan.

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

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

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

10 (h) Students in elementary and secondary schools tend to
11 achieve to a higher standard of performance when the payment of
12 tuition OR ROOM AND BOARD for their higher education is secured.

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

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

18 (A) "ADVANCE GRADUATE TUITION PAYMENT CONTRACT" MEANS A CON-
19 TRACT ENTERED INTO BY THE TRUST AND A PURCHASER PURSUANT TO THIS
20 ACT TO PROVIDE FOR THE GRADUATE EDUCATION OF A QUALIFIED BENEFI-
21 CIARY WHO IS A RESIDENT OF THIS STATE.

22 (B) "ADVANCE NONRESIDENT GRADUATE TUITION PAYMENT CONTRACT"
23 MEANS A CONTRACT ENTERED INTO BY THE TRUST AND A PURCHASER PURSU-
24 ANT TO THIS ACT TO PROVIDE FOR THE GRADUATE EDUCATION OF A QUALI-
25 FIED BENEFICIARY WHO IS NOT A RESIDENT OF THIS STATE AT A STATE
26 INSTITUTION OF HIGHER EDUCATION.

1 (C) "ADVANCE NONRESIDENT TUITION PAYMENT CONTRACT" MEANS A
2 CONTRACT ENTERED INTO BY THE TRUST AND A PURCHASER PURSUANT TO
3 THIS ACT TO PROVIDE FOR THE HIGHER EDUCATION OF A QUALIFIED BENE-
4 FICIARY WHO IS NOT A RESIDENT OF THIS STATE AT A STATE INSTITU-
5 TION OF HIGHER EDUCATION.

6 (D) "ADVANCE ROOM AND BOARD PAYMENT CONTRACT" MEANS A CON-
7 TRACT ENTERED INTO BY THE TRUST AND A PURCHASER PURSUANT TO THIS
8 ACT TO PROVIDE FOR THE ROOM AND BOARD OF A QUALIFIED BENEFICIARY
9 WHILE THE QUALIFIED BENEFICIARY ATTENDS A STATE INSTITUTION OF
10 HIGHER EDUCATION.

11 (E) ~~(a)~~ "Advance tuition payment contract" means a con-
12 tract entered into by the trust and a purchaser pursuant to
13 ~~section 6~~ THIS ACT to provide for the higher education of a
14 qualified beneficiary WHO IS A RESIDENT OF THIS STATE.

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

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

19 (G) "COMMUNITY OR JUNIOR COLLEGE" MEANS A COLLEGE ESTAB-
20 LISHED UNDER SECTION 7 OF ARTICLE VIII OF THE STATE CONSTITUTION
21 OF 1963.

22 (H) "GRADUATE EDUCATION" MEANS A COURSE OF STUDY LEADING TO
23 A DEGREE BEYOND A BACHELOR'S DEGREE.

24 (I) "HIGHER EDUCATION" MEANS A COURSE OF STUDY AT THE POST-
25 SECONDARY LEVEL LEADING TO A CERTIFICATE, ASSOCIATE'S DEGREE, OR
26 BACHELOR'S DEGREE.

1 (J) "MET CONTRACT" MEANS AN ADVANCE TUITION PAYMENT
2 CONTRACT, ADVANCE GRADUATE TUITION PAYMENT CONTRACT, ADVANCE
3 NONRESIDENT TUITION PAYMENT CONTRACT, ADVANCE NONRESIDENT GRADU-
4 ATE TUITION PAYMENT CONTRACT, OR ADVANCE ROOM AND BOARD PAYMENT
5 CONTRACT.

6 (K) ~~(d)~~ "Purchaser" means a person who makes or is obli-
7 gated to make advance tuition payments OR ADVANCE ROOM AND BOARD
8 PAYMENTS pursuant to an advance tuition payment contract.

9 (L) ~~(e)~~ "Qualified beneficiary" means ~~any~~ A resident of
10 this state WHO IS NAMED AS THE BENEFICIARY OF AN ADVANCE TUITION
11 PAYMENT CONTRACT, ADVANCE GRADUATE TUITION PAYMENT CONTRACT, OR
12 ADVANCE ROOM AND BOARD PAYMENT CONTRACT, OR A RESIDENT OF ANOTHER
13 STATE WHO IS NAMED AS THE BENEFICIARY OF AN ADVANCE NONRESIDENT
14 TUITION PAYMENT CONTRACT, ADVANCE NONRESIDENT GRADUATE TUITION
15 PAYMENT CONTRACT, OR ADVANCE ROOM AND BOARD PAYMENT CONTRACT.

16 (M) "ROOM AND BOARD" MEANS THE QUARTER OR SEMESTER CHARGES
17 IMPOSED BY A STATE INSTITUTION OF HIGHER EDUCATION FOR STUDENT
18 HOUSING AND MEALS IN A FACILITY OWNED OR OPERATED BY THE INSTITU-
19 TION, AS DETERMINED BY THE BOARD.

20 (N) "ROOM AND BOARD FUND" MEANS THE ADVANCE ROOM AND BOARD
21 PAYMENT FUND CREATED IN SECTION 9.

22 (O) ~~(f)~~ "State institution of higher education" means a
23 college or university described in section 4, 5, or 6 of article
24 VIII of the state constitution of 1963 or any 4-year
25 degree-granting institution established by the state after the
26 effective date of this act, which institution is designated by

1 the state as a state institution of higher education for purposes
2 of this act.

3 (P) ~~(g)~~ "Trust" means the Michigan education trust created
4 in section 5.

5 (Q) ~~(h)~~ "Tuition" means the quarter or semester charges
6 imposed to attend a state institution of higher education and all
7 mandatory fees required as a condition of enrollment as deter-
8 mined by the board.

9 (R) "TUITION FUND" MEANS THE ADVANCE TUITION PAYMENT FUND
10 CREATED IN SECTION 9.

11 (S) ~~(i)~~ "Weighted average tuition cost of state institu-
12 tions of higher education" means the tuition cost arrived at by
13 adding the products of the annual undergraduate tuition cost at
14 each state institution of higher education and its total number
15 of undergraduate fiscal year equated students, and then dividing
16 the gross total of this cumulation by the total number of under-
17 graduate fiscal year equated students attending state institu-
18 tions of higher education.

19 Sec. 6. (1) The trust, on behalf of itself and the state,
20 may contract with a purchaser for the advance payment of tuition
21 by the purchaser for a qualified beneficiary to attend any of the
22 state institutions of higher education to which the qualified
23 beneficiary is admitted, without further tuition cost to the
24 qualified beneficiary. ~~In addition, an advance tuition payment~~

25 (2) THE TRUST, ON BEHALF OF ITSELF AND THE STATE, MAY CON-
26 TRACT WITH A PURCHASER FOR THE ADVANCE PAYMENT OF ROOM AND BOARD
27 BY THE PURCHASER FOR A QUALIFIED BENEFICIARY TO ATTEND ANY OF THE

1 STATE INSTITUTIONS OF HIGHER EDUCATION TO WHICH THE QUALIFIED
2 BENEFICIARY IS ADMITTED, WITHOUT FURTHER ROOM AND BOARD COST TO
3 THE QUALIFIED BENEFICIARY.

4 (3) A MET contract shall set forth in a clear, understand-
5 able manner all of the following:

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

8 (b) The terms and conditions for making the payment, includ-
9 ing, but not limited to, the date or dates upon which the pay-
10 ment, or portions of the payment, shall be due.

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

12 (d) The name and age of the qualified beneficiary under the
13 contract. The purchaser, with the approval of and on conditions
14 determined by the trust, may subsequently substitute another
15 person for the qualified beneficiary originally named.

16 (e) ~~The~~ IN A CONTRACT COVERING TUITION PAYMENT, THE number
17 of credit hours covered by the contract.

18 (f) The name of the person entitled to terminate the con-
19 tract, which, as provided by the contract, may be the purchaser,
20 the qualified beneficiary, or a person to act on behalf of the
21 purchaser or qualified beneficiary, or any combination of these
22 persons.

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

1 (h) ~~The~~ IN AN ADVANCE TUITION PAYMENT CONTRACT OR AN
2 ADVANCE NONRESIDENT TUITION PAYMENT CONTRACT, THE assumption of a
3 contractual obligation by the trust to the qualified beneficiary
4 on its own behalf and on behalf of the state to provide for
5 credit hours of higher education, not to exceed the credit hours
6 required for the granting of a baccalaureate degree, at any state
7 institution of higher education to which the qualified benefi-
8 ciary is admitted. ~~The advance tuition payment contract shall~~
9 ~~provide for the credit hours of higher education that a qualified~~
10 ~~beneficiary may receive under the contract if the qualified bene-~~
11 ~~ficiary is not entitled to in state tuition rates.~~

12 (I) IN AN ADVANCE GRADUATE TUITION PAYMENT CONTRACT OR AN
13 ADVANCE NONRESIDENT TUITION PAYMENT CONTRACT, THE ASSUMPTION OF A
14 CONTRACTUAL OBLIGATION BY THE TRUST TO THE QUALIFIED BENEFICIARY
15 ON ITS OWN BEHALF AND ON BEHALF OF THE STATE TO PROVIDE FOR
16 CREDIT HOURS OF GRADUATE EDUCATION, NOT TO EXCEED THE CREDIT
17 HOURS REQUIRED FOR THE GRANTING OF A DOCTORAL DEGREE IN A FIELD
18 OF STUDY DESIGNATED BY THE QUALIFIED BENEFICIARY, AT ANY STATE
19 INSTITUTION OF HIGHER EDUCATION TO WHICH THE QUALIFIED BENEFI-
20 CIARY IS ADMITTED.

21 (J) IN AN ADVANCE ROOM AND BOARD PAYMENT CONTRACT, THE
22 ASSUMPTION OF A CONTRACTUAL OBLIGATION BY THE TRUST TO THE QUALI-
23 FIED BENEFICIARY ON ITS OWN BEHALF AND ON BEHALF OF THE STATE TO
24 PROVIDE FOR ROOM AND BOARD FOR THE QUALIFIED BENEFICIARY FOR A
25 PERIOD NOT TO EXCEED 4 ACADEMIC YEARS AT ANY STATE INSTITUTION OF
26 HIGHER EDUCATION TO WHICH THE QUALIFIED BENEFICIARY IS ADMITTED
27 WHILE THE QUALIFIED BENEFICIARY IS ENROLLED AT THAT INSTITUTION.

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

4 (L) ~~(j)~~ All other rights and obligations of the purchaser
 5 and the trust.

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

9 (4) ~~(2)~~ The form of any ~~advance tuition payment~~ MET con-
 10 tract to be entered into by the trust shall first be approved by
 11 the state administrative board.

12 (5) ~~(3)~~ The trust shall make any arrangements that are
 13 necessary or appropriate with state institutions of higher educa-
 14 tion in order to fulfill its obligations under ~~advance tuition~~
 15 ~~payment~~ MET contracts, which arrangements may include, but need
 16 not be limited to, the payment by the trust of the then actual
 17 in-state tuition cost, NONRESIDENT TUITION COST, OR ROOM AND
 18 BOARD COST, WHICHEVER IS APPROPRIATE FOR THE CONTRACT, on behalf
 19 of a qualified beneficiary to the state institution of higher
 20 education.

21 (6) ~~(4)~~ An advance tuition payment contract OR ADVANCE
 22 NONRESIDENT TUITION PAYMENT CONTRACT shall provide that the trust
 23 provide for the qualified beneficiary to attend a community or
 24 junior college ~~in this state~~ before entering a state institu-
 25 tion of higher education if the beneficiary so chooses and that
 26 the contract may be terminated pursuant to section 8 after
 27 completing the requirements for a degree at the community or

1 junior college in this state or before entering the state
2 institution of higher education.

3 (7) ~~(5) An advance tuition payment~~ A MET contract may pro-
4 vide that, if after a number of years specified in the contract
5 the contract has not been terminated or the qualified
6 beneficiary's rights under the contract have not been exercised,
7 the trust, after making a reasonable effort to locate the pur-
8 chaser and qualified beneficiary or the agent of either, shall
9 retain the amounts otherwise payable and the rights of the quali-
10 fied beneficiary, the purchaser, or the agent of either shall be
11 considered terminated.

12 SEC. 7A. (1) THE BOARD SHALL ESTABLISH THE APPROPRIATE
13 MODEL BASED UPON EITHER PLAN A AS OUTLINED IN SECTION 7(2) OR
14 PLAN B AS OUTLINED IN SECTION 7(3) FOR AN ADVANCE NONRESIDENT
15 TUITION PAYMENT CONTRACT, AN ADVANCE GRADUATE TUITION PAYMENT
16 CONTRACT, AND AN ADVANCE NONRESIDENT GRADUATE TUITION PAYMENT
17 CONTRACT.

18 (2) THE TRUST SHALL OFFER ADVANCE GRADUATE TUITION PAYMENT
19 CONTRACTS, ADVANCE NONRESIDENT PAYMENT CONTRACTS, AND ADVANCE
20 NONRESIDENT GRADUATE TUITION PAYMENT CONTRACTS ACCORDING TO THE
21 MODELS ESTABLISHED BY THE BOARD UNDER SUBSECTION (1).

22 Sec. 8. (1) ~~An advance tuition payment~~ A MET contract
23 shall NOT authorize a termination of the contract ~~when any~~
24 UNLESS 1 of the following occurs:

25 (a) The qualified beneficiary dies.

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

1 (c) The qualified beneficiary certifies to the trust that he
2 or she has decided to attend and has been accepted by a Michigan
3 independent, degree-granting institution of postsecondary educa-
4 tion recognized by the state board of education or, after he or
5 she has a high school diploma or has reached the age of majority,
6 THAT he or she has decided not to attend a state institution of
7 higher education and requests, in writing, before July 15 of the
8 year in which the qualified beneficiary desires to terminate the
9 contract, that the ~~advance tuition payment~~ MET contract be
10 terminated.

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

13 (2) Except as provided in section 7(2)(b) and (3)(b), an
14 advance tuition payment contract shall provide for a refund pur-
15 suant to this section to a person to whom the refund is payable
16 under the contract upon termination of the contract. If the
17 qualified beneficiary has a high school diploma or has reached
18 the age of majority, and attends an institution of higher educa-
19 tion, the amount of a refund, except as provided in subsection
20 (4), shall be the lesser of the average tuition cost of all state
21 institutions of higher education on the date of termination of
22 the contract, or the face amount of the payment or payments and
23 any accrued investment income attributable to the payment or pay-
24 ments, if he or she is covered by alternative 1, as described in
25 section 7(5), or the lowest tuition cost of all state institu-
26 tions of higher education on the date of termination of the
27 contract if he or she is covered by alternative 2 or does not

1 attend an institution of higher education. The amount of a
2 refund shall be reduced by an appropriate percentage if the pur-
3 chaser entered into an advance tuition payment contract that pro-
4 vided for a fixed number of credit hours less than the total
5 number of credit hours required by a state institution of higher
6 education for the awarding of a baccalaureate degree, by the
7 amount transferred to a community or junior college on behalf of
8 a qualified beneficiary when the contract is terminated as pro-
9 vided in section 6(4), and by the amount transferred to a state
10 institution of higher education on behalf of a qualified
11 beneficiary. Termination of a contract and the right to receive
12 a refund shall not be authorized under the contract if the quali-
13 fied beneficiary has completed more than 1/2 of the credit hours
14 required by the state institution of higher education for the
15 awarding of a baccalaureate degree. However, this provision
16 shall not affect the termination and refund rights of a graduate
17 of a community or junior college. Pursuant to this subsection
18 and except as provided by subsection (3), the trust shall make
19 refund payments in equal installments over 4 years and not later
20 than August 15 of the year due.

21 (3) An advance tuition payment contract shall authorize a
22 person ~~—~~ who is entitled under the advance tuition payment con-
23 tract to terminate the contract ~~—~~ to direct payment of the
24 refund to an independent degree-granting college or university
25 located in this state or to a community or junior college located
26 in this state. If directed to make payments pursuant to this
27 subsection, the trust shall transfer to the designated

1 institution an amount equal to the tuition due for the qualified
2 beneficiary, but the trust shall not transfer a cumulative amount
3 greater than the refund to which the person is entitled. If the
4 refund exceeds the total amount of transfers directed to the des-
5 ignated institution, the excess shall be returned to the person
6 to whom the refund is otherwise payable.

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

21 (5) AN ADVANCE ROOM AND BOARD PAYMENT CONTRACT MAY PROVIDE
22 FOR A REFUND PURSUANT TO THIS SECTION TO A PERSON TO WHOM THE
23 REFUND IS PAYABLE UNDER THE CONTRACT UPON TERMINATION OF THE
24 CONTRACT. SUBJECT TO SUBSECTIONS (6) AND (7), THE BOARD SHALL
25 ESTABLISH THE APPROPRIATE REFUND AMOUNT FOR A TERMINATED ADVANCE
26 ROOM AND BOARD PAYMENT CONTRACT MODELED AFTER THE REFUND
27 PROVISIONS OF SUBSECTION (2).

1 (6) THE TOTAL AMOUNT OF A REFUND TO A PERSON FOR A
2 TERMINATED ADVANCE ROOM AND BOARD PAYMENT CONTRACT SHALL NOT
3 EXCEED THE AMOUNT OF THE PREVAILING LOWER DIVISION ROOM AND BOARD
4 FEES TO WHICH THE BENEFICIARY WOULD HAVE BEEN ENTITLED AT THE
5 STATE INSTITUTION OF HIGHER EDUCATION THAT CHARGES THE LOWEST
6 ROOM AND BOARD FEES ON THE DATE OF THE TERMINATION OF THE
7 CONTRACT.

8 (7) AN ADVANCE ROOM AND BOARD PAYMENT CONTRACT MAY AUTHORIZE
9 A PERSON WHO IS ENTITLED UNDER THE CONTRACT TO TERMINATE THE CON-
10 TRACT TO DIRECT PAYMENT OF A REFUND TO AN INDEPENDENT
11 DEGREE-GRANTING COLLEGE OR UNIVERSITY LOCATED IN THIS STATE. THE
12 AMOUNT OF THE REFUND PAID TO THAT INSTITUTION SHALL NOT EXCEED
13 THE AMOUNT OF THE PREVAILING LOWER DIVISION ROOM AND BOARD FEES
14 TO WHICH THE BENEFICIARY WOULD HAVE BEEN ENTITLED AT THE STATE
15 INSTITUTION OF HIGHER EDUCATION THAT CHARGES THE LOWEST ROOM AND
16 BOARD FEES ON THE DATE OF THE TERMINATION OF THE CONTRACT.

17 (8) THE BOARD SHALL ESTABLISH THE APPROPRIATE REFUND AMOUNT
18 AND PROCEDURES FOR A TERMINATED ADVANCE GRADUATE TUITION PAYMENT
19 CONTRACT, A TERMINATED ADVANCE NONRESIDENT TUITION PAYMENT CON-
20 TRACT, AND A TERMINATED ADVANCE NONRESIDENT GRADUATE TUITION PAY-
21 MENT CONTRACT, MODELED AFTER THE REFUND PROVISIONS OF
22 SUBSECTIONS (2), (3), AND (4), BUT TAKING INTO ACCOUNT THE DIF-
23 FERENCES BETWEEN THOSE CONTRACTS AND AN ADVANCE TUITION PAYMENT
24 CONTRACT.

25 (9) IF A QUALIFIED BENEFICIARY OF AN ADVANCE NONRESIDENT
26 TUITION PAYMENT CONTRACT OR ADVANCE NONRESIDENT GRADUATE TUITION
27 PAYMENT CONTRACT IS A RESIDENT OF THIS STATE AT THE TIME THE

1 CONTRACT IS REDEEMED AT A STATE INSTITUTION OF HIGHER EDUCATION,
 2 THE TRUST SHALL REFUND TO THE PURCHASER THE DIFFERENCE BETWEEN
 3 THE AMOUNT THE PURCHASER PAID TO THE TRUST FOR THE CONTRACT AND
 4 THE AMOUNT THE PURCHASER WOULD HAVE PAID IF THE QUALIFIED BENEFI-
 5 CIARY HAD BEEN A RESIDENT OF THIS STATE AT THE TIME OF THE PUR-
 6 CHASE, PLUS INTEREST ON THAT DIFFERENCE COMPUTED AT THE AVERAGE
 7 RATE FOR UNITED STATES TREASURY NOTES OVER THE PERIOD FOR WHICH
 8 THE CONTRACT WAS HELD.

9 Sec. 9. (1) There ~~is~~ ARE created under the jurisdiction
 10 and control of the board ~~an~~ 2 SEPARATE AND DISTINCT FUNDS TO BE
 11 KNOWN AS THE advance tuition payment fund AND THE ADVANCE ROOM
 12 AND BOARD PAYMENT FUND. Payments received by the trust from pur-
 13 chasers OF ADVANCE TUITION PAYMENT CONTRACTS, ADVANCE GRADUATE
 14 TUITION PAYMENT CONTRACTS, ADVANCE NONRESIDENT TUITION PAYMENT
 15 CONTRACTS, OR ADVANCE NONRESIDENT GRADUATE TUITION PAYMENT
 16 CONTRACTS on behalf of qualified beneficiaries ~~or~~ SHALL BE
 17 PLACED IN THE TUITION FUND. PAYMENTS RECEIVED BY THE TRUST FROM
 18 PURCHASERS OF ADVANCE ROOM AND BOARD PAYMENT CONTRACTS ON BEHALF
 19 OF QUALIFIED BENEFICIARIES SHALL BE PLACED IN THE ROOM AND BOARD
 20 FUND. PAYMENTS RECEIVED from any other source, public or pri-
 21 vate, shall be placed in ~~the fund~~ 1 OF THE 2 FUNDS AT THE DIS-
 22 CRETION OF THE BOARD. The ~~fund~~ FUNDS may be divided into sepa-
 23 rate accounts.

24 (2) Assets of the trust shall not be considered state money,
 25 common cash of the state, revenue for the purposes of sections 26
 26 to 34 of article IX of the state constitution of 1963, nor state

1 money for the purposes of Act No. 259 of the Public Acts of 1982,
2 being sections 12.61 to 12.64 of the Michigan Compiled Laws.

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

6 (a) To make payments to state institutions of higher educa-
7 tion on behalf of qualified beneficiaries.

8 (b) To make refunds upon termination of ~~an advance tuition~~
9 ~~payment~~ A MET contract.

10 (c) To pay the costs of administration and organization of
11 the trust and the TUITION FUND AND THE ROOM AND BOARD fund.

12 (4) Assets of the trust may be invested in any instrument,
13 obligation, security, or property considered appropriate by the
14 trust and may be pooled for investment purposes with investments
15 of the state, including, but not limited to, state pension funds,
16 on such terms and conditions as are agreeable to the trust.

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

23 (a) Invest any money of the trust, at the board's discre-
24 tion, in any instruments, obligations, securities, or property
25 determined proper by the board, and name and use depositories for
26 its money.

1 (b) Pay money to state institutions of higher education from
2 the trust.

3 (c) Impose reasonable residency requirements for qualified
4 beneficiaries OF ADVANCE TUITION PAYMENT CONTRACTS AND ADVANCE
5 GRADUATE TUITION PAYMENT CONTRACTS.

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

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

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

15 (g) Solicit and accept gifts, grants, loans, and other aids
16 from any person or the federal, state, or a local government or
17 any agency of the federal, state, or a local government, or to
18 participate in any other way in any federal, state, or local gov-
19 ernment program.

20 (h) Charge, impose, and collect administrative fees and
21 charges in connection with any transaction and provide for rea-
22 sonable penalties, including default, for delinquent payment of
23 fees or charges or for fraud.

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

26 (j) Sue and be sued; to have a seal and alter the same at
27 pleasure; to have perpetual succession; to make, execute, and

1 deliver contracts, conveyances, and other instruments necessary
2 or convenient to the exercise of its powers; and to make and
3 amend bylaws.

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

5 (l) Administer the funds of the trust.

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

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

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

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

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

22 ~~(r) Enter into arrangements with Michigan institutions of~~
23 ~~higher education for the trust to offer on behalf of the institu-~~
24 ~~tion advance tuition payment contracts under which the Michigan~~
25 ~~institution of higher education will be contractually obligated~~
26 ~~to provide a beneficiary under the contract with credit hours of~~

1 ~~higher education in addition to those required for a~~
 2 ~~baccalaureate degree.~~

3 Sec. 18. Nothing in this act or in ~~an advance tuition~~
 4 ~~payment~~ A MET contract entered into pursuant to this act shall
 5 be construed as a promise or guarantee by the trust or the state
 6 that a person will be admitted to a state institution of higher
 7 education or to a particular state institution of higher educa-
 8 tion, will be allowed to continue to attend a state institution
 9 of higher education after having been admitted, or will be gradu-
 10 ated from a state institution of higher education.

11 Sec. 19. ~~An advance tuition payment contract shall be~~ A
 12 MET CONTRACT IS exempt from the uniform securities act, Act
 13 No. 265 of the Public Acts of 1964, being sections 451.501 to
 14 451.818 of the Michigan Compiled Laws. ~~An advance tuition~~
 15 ~~payment~~ A MET contract ~~may~~ SHALL not be sold or otherwise
 16 transferred by the purchaser or qualified beneficiary without the
 17 prior approval of the trust.

18 Sec. 20. Pursuant to section 30 of the income tax act of
 19 1967, Act No. 281 of the Public Acts of 1967, being section
 20 206.30 of the Michigan Compiled Laws, the purchaser may deduct
 21 from taxable income the following payments made by the purchaser
 22 in the tax year:

23 (a) The amount of payment made under ~~an advance tuition~~
 24 ~~payment~~ A MET contract.

25 (b) The amount of payment made under a contract with a pri-
 26 vate sector investment manager that meets all of the following
 27 criteria:

1 (i) The contract is certified and approved by the board to
2 provide equivalent benefits and rights to purchasers and benefi-
3 ciaries as ~~an advance tuition payment~~ A MET contract.

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

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

9 (iv) The contract is entered into either:

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

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

16 Section 2. This amendatory act shall not take effect unless
17 Senate Bill No. 595
18 of the 85th Legislature is enacted into law.