

HOUSE BILL No. 5440

November 8, 2007, Introduced by Reps. Emmons, Nitz, Calley, Palsrok, Scott, Shaffer, Amos, Walker, Sheen, Caul, Pastor, Brandenburg, Rick Jones, Steil, Caswell, Nofs, Stakoe, Lemmons, Donigan, Meadows, Acciavatti, Pavlov, Hoogendyk, Meekhof, Opsommer, Alma Smith, Dean, Espinoza, Pearce, Huizenga and Garfield and referred to the Committee on Military and Veterans Affairs and Homeland Security.

A bill to amend 2000 PA 161, entitled
"Michigan education savings program act,"
by amending section 2 (MCL 390.1472), as amended by 2004 PA 387.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

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

4 (b) "Account owner" means any of the following:

5 (i) The individual who enters into a Michigan education savings
6 program agreement and establishes an education savings account. The
7 account owner may also be the designated beneficiary of the
8 account.

9 (ii) An entity exempt from taxation under section 501(c)(3) of
10 the internal revenue code or an estate or trust that enters into a

1 Michigan education savings program agreement and establishes an
2 education savings account.

3 (c) "Board" means the board of directors of the Michigan
4 education trust described in section 10 of the Michigan education
5 trust act, 1986 PA 316, MCL 390.1430.

6 (d) "Department" means the department of treasury.

7 (e) "Designated beneficiary" means the individual designated
8 as the individual whose higher education expenses are expected to
9 be paid from the account.

10 (f) "Eligible educational institution" means ~~that term~~ **AN**
11 **EDUCATIONAL INSTITUTION THAT MEETS BOTH OF THE FOLLOWING:**

12 (i) **THE INSTITUTION IS AN ELIGIBLE EDUCATIONAL INSTITUTION** as
13 defined in section 529 of the internal revenue code or a college,
14 university, community college, or junior college described in
15 section 4, 5, or 6 of article VIII of the state constitution of
16 1963 or established under section 7 of article VIII of the state
17 constitution of 1963.

18 (ii) **THE INSTITUTION CONSIDERS A STUDENT ENROLLED IN THAT**
19 **INSTITUTION A RESIDENT OF THIS STATE FOR DETERMINING HIS OR HER**
20 **TUITION RATES IF THE STUDENT IS AN ACTIVE DUTY MEMBER, OR THE**
21 **SPOUSE OR DEPENDENT CHILD OF AN ACTIVE DUTY MEMBER, OF THE ARMED**
22 **FORCES OF THE UNITED STATES, WHILE THAT ACTIVE DUTY MEMBER IS**
23 **STATIONED IN THIS STATE AND DURING THE STUDENT'S CONTINUOUS FULL-**
24 **TIME ENROLLMENT IN THE ACADEMIC DEGREE PROGRAM IN WHICH HE OR SHE**
25 **IS ENROLLED IF THAT ACTIVE DUTY MEMBER IS TRANSFERRED TO ACTIVE**
26 **DUTY OUTSIDE OF THIS STATE.**

27 (g) "Internal revenue code" means the United States internal

1 revenue code of 1986 in effect on January 1, 2002 or at the option
2 of the taxpayer, in effect for the current year.

3 (h) "Management contract" means the contract executed between
4 the treasurer and the program manager.

5 (i) "Member of the family" means a family member as defined in
6 section 529 of the internal revenue code.

7 (j) "Michigan education savings program agreement" means the
8 agreement between the program and an account owner that establishes
9 an education savings account.

10 (k) "Program" means the Michigan education savings program
11 established pursuant to this act.

12 (l) "Program manager" means the entity selected by the
13 treasurer to act as the manager of the program.

14 (m) "Qualified higher education expenses" means qualified
15 higher education expenses as defined in section 529 of the internal
16 revenue code.

17 (n) "Qualified withdrawal" means a distribution that is not
18 subject to a penalty or an excise tax under section 529 of the
19 internal revenue code, a penalty under this act, or taxation under
20 the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, and
21 that meets any of the following:

22 (i) A withdrawal from an account to pay the qualified higher
23 education expenses of the designated beneficiary incurred after the
24 account is established.

25 (ii) A withdrawal made as the result of the death or disability
26 of the designated beneficiary of an account.

27 (iii) A withdrawal made because a beneficiary received a

1 scholarship that paid for all or part of the qualified higher
2 education expenses of the beneficiary to the extent the amount of
3 the withdrawal does not exceed the amount of the scholarship.

4 (iv) A transfer of funds due to the termination of the
5 management contract as provided in section 5.

6 (v) A transfer of funds as provided in section 8.

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