

# SENATE BILL No. 856

October 25, 2007, Introduced by Senators JANSEN, HUNTER, KUIPERS, JACOBS, THOMAS, ANDERSON, BASHAM, BARCIA, OLSHOVE, BROWN, SANBORN, GILBERT, GLEASON, PAPPAGEORGE, JELINEK, CLARKE, VAN WOERKOM, BRATER and SCHAUER and referred to the Committee on Homeland Security and Emerging Technologies.

A bill to amend 1986 PA 316, entitled  
"Michigan education trust act,"  
by amending sections 9 and 11 (MCL 390.1429 and 390.1431).

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 9. (1) There is created under the jurisdiction and  
2       control of the board an advance tuition payment fund. Payments  
3       received by the trust from purchasers on behalf of qualified  
4       beneficiaries or from any other source, public or private, shall be  
5       placed in the fund. The fund may be divided into separate accounts.

6       (2) Assets of the trust ~~shall not be~~ **ARE NOT** considered state  
7       money, common cash of the state, revenue for the purposes of  
8       sections 26 to 34 of article IX of the state constitution of 1963,  
9       ~~nor OR state money for the purposes of Act No. 259 of the Public~~  
10      ~~Acts of 1982, being sections 1982 PA 259, MCL 12.61 to 12.64. of~~  
11      ~~the Michigan Compiled Laws.~~

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

4 (a) To make payments to state institutions of higher education  
5 on behalf of qualified beneficiaries.

6 (b) To make refunds upon termination of an advance tuition  
7 payment contract.

8 (c) To pay the costs of administration and organization of the  
9 trust and the fund.

10 (4) ~~Assets~~ **EXCEPT AS PROVIDED IN SUBSECTION (5), THE BOARD MAY**  
11 **INVEST ASSETS** of the trust ~~may be invested in~~ any instrument,  
12 obligation, security, or property considered appropriate by the  
13 ~~trust~~ **BOARD** and may be pooled for investment purposes with  
14 investments of the state, including, but not limited to, state  
15 pension funds, on such terms and conditions as are agreeable to the  
16 ~~trust~~ **BOARD**.

17 (5) **THE BOARD SHALL COMPLY WITH THE DIVESTMENT FROM TERROR ACT**  
18 **IN MAKING INVESTMENTS UNDER THIS ACT.**

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

25 (a) ~~Invest~~ **EXCEPT AS PROVIDED IN SECTION 9(5), INVEST** any  
26 money of the trust, at the board's discretion, in any instruments,  
27 obligations, securities, or property determined proper by the

1 board, and name and use depositories for its money.

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

4 (c) Impose reasonable residency requirements for qualified  
5 beneficiaries.

6 (d) Impose reasonable limits on the number of participants in  
7 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 is  
11 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 any  
17 agency of the federal, state, or a local government, or to  
18 participate in any other way in any federal, state, or local  
19 government program.

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

24 (i) Procure insurance against any loss in connection with the  
25 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 or  
2 convenient to the exercise of its powers; and to make and amend  
3 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 of  
7 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  
12 benefits provided by the trust, if the limits are made a part of  
13 the contract.

14 (o) Define the terms and conditions under which money may be  
15 withdrawn from the trust, including, but not limited to, reasonable  
16 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  
24 institution advance tuition payment contracts under which the  
25 Michigan institution of higher education will be contractually  
26 obligated to provide a beneficiary under the contract with credit  
27 hours of higher education in addition to those required for a

1 baccalaureate degree.

2 Enacting section 1. This amendatory act does not take effect

3 unless Senate Bill No. 846

4 of the 94th Legislature is enacted into law.