

MICHIGAN EDUCATION TRUST ACT AND MICHIGAN EDUCATION SAVINGS PROGRAM ACT

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Senate Bills 1001 and 1002 as passed by the Senate

Sponsor: Sen. Rosemary Bayer

Senate Committee: Appropriations

House Committee: Higher Education

Complete to 11-12-24

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Senate Bill 1001 would amend the Michigan Education Trust Act to change when an advance tuition payment contract may be authorized for termination and then refunded. These contracts allow purchasers to secure, at a predetermined rate paid by the purchaser, a specified number of college credits at a public college or university in Michigan for the qualified beneficiary.

The advance tuition payment contract may be terminated and refunded if one of the following occurs:

- The qualified beneficiary dies.
- The qualified beneficiary is not admitted to a state institution of higher education after making proper application.
- The qualified beneficiary certifies to the Michigan Education Trust (MET) that they have been accepted to, and will attend, an independent, degree-granting institution of postsecondary education, located in Michigan, that has been recognized by the Michigan State Board of Education.
- For a qualified beneficiary who has graduated high school or reached the age of majority and has decided not to attend a state institution of higher education, they may request in writing that they want to terminate the contract. This request must be made by July 15 in the year they wish to terminate the contract.
- Other circumstances occur, as determined by MET and set forth in the advance tuition payment contract.

The bill would amend the third provision above to also allow a qualified beneficiary who has decided to attend, and has been accepted into, an *eligible educational institution*, as defined in section 529 of the *Internal Revenue Code*, to terminate the contract.

Section 529 of the Internal Revenue Code defines an *eligible educational institution* as meaning generally any college, university, vocational school, or other postsecondary educational institution eligible to participate in a student aid program administered by the U.S. Department of Education.

The bill would define *Internal Revenue Code* as meaning the U.S. Internal Revenue Code of 1986 that was in effect on January 1, 2024, or, at the option of the taxpayer, in effect for the current year. (This would match the definition of the term used in the Michigan Education Savings Program Act, which SB 1002 would amend.)

Regarding refunds, the bill would allow MET to waive a contract provision denying refund for contract termination if the qualified beneficiary has completed more than half of the required credits for granting of a bachelor's degree or allow such a provision to be amended by agreement of MET and the purchaser if the contract was entered into on or after January 1, 1988. Presently, the act only allows a contract to provide that MET may deny refund payment if more than half of the credit hours have been completed by the beneficiary.

Refunds would have to be issued in full by MET no later than August 15 of the year due, unless the board determines that full refund payments would violate the act's requirements regarding actuarial soundness. In that instance, the MET would make refund payments in equal installments over four years. Presently, MET is required to issue refunds in equal payments over four years, not later than August 15 of each year.

Once terminated, an advance tuition payment contract refund can be directed to an independent degree-granting college or university in Michigan or to a community or junior college in the state. The bill would also allow a contract to authorize, or be amended to authorize, a refund to be directed to any eligible educational institution in this state.

MCL 390.1424 and 390.1428

Senate Bill 1002 would amend the Michigan Education Savings Program Act. As used in the act, the term *qualified higher education expenses* means qualified higher education expenses as defined in section 529 of the Internal Revenue Code. The bill would further provide that *qualified higher education expenses* includes both of the following:

- Expenses for fees, books, supplies, and equipment required for participation of a designated beneficiary in an apprenticeship program registered with the United States Secretary of Labor under the National Apprenticeship Act, 29 USC 50 to 50c,¹ as provided in section 529(c)(8) of the Internal Revenue Code.²
- Amounts paid as principal or interest on any qualified education loan as provided in section 529(c)(9) of the Internal Revenue Code.

The bill would also amend the definition of *Internal Revenue Code* to mean the code in effect on January 1, 2024, or at the option of the taxpayer, in effect for the current year. Presently, the definition means the code in effect on January 1, 2002, or at the option of the taxpayer, in effect for the current year .

MCL 390.1472 and 390.1486

Note: Senate Bills 1001 and 1002 are nearly identical to House Bills 5782 and 5783, with the exception of differences in the definition of *qualified higher education expenses* between Senate Bill 1002 as it passed the Senate and House Bill 5783 as introduced.

FISCAL IMPACT:

Senate Bill 1001 would have a minimal fiscal impact on state and local government. There could be minimal expenses to update websites or public resources with the clarifications made

¹ <https://www.law.cornell.edu/uscode/text/29/chapter-4C>

² <https://www.irs.gov/pub/irs-pdf/p5834.pdf>

on potential refunds given to advance tuition payment contract terminations. While the bill does add a full repayment specification for terminated contracts eligible for a full repayment option, the full payment could be converted into equal installments spread over four years if the refund payments would have an actuarial soundness impact on the trust fund as determined by the board, which would minimize the potential fiscal impact on the trust fund.

Senate Bill 1002 would have a minimal fiscal impact on state and local government. There could be minimal expenses to update websites or public resources with the clarifications on qualified higher education expenses.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.