



# HOUSE BILL No. 5811

May 18, 2000, Introduced by Reps. Richner, Richardville, Rocca, Ehardt, Mortimer, Ruth Johnson, Garcia and Birkholz and referred to the Committee on Tax Policy.

A bill to permit the establishment and maintenance of the educational gift program; to provide for certain tax credits or deductions; to prescribe the requirements of and restrictions on the educational gift program; to prescribe the powers and duties of certain state departments and agencies; and to provide penalties and remedies.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the  
2 "educational gift program act".

3       Sec. 2. As used in this act:

4       (a) "Educational gift account" or "account" means an account  
5 established in this state under this act to pay qualified higher  
6 education expenses of a designated beneficiary.

7       (b) "Designated beneficiary", "eligible educational  
8 institution", and "qualified higher education expenses" mean

1 those terms as defined in section 529 of the internal revenue  
2 code of 1986.

3       Sec. 3. (1) On or before January 1, 2001, the department of  
4 treasury shall establish the Michigan educational gift program to  
5 allow taxpayers to make contributions to an educational gift  
6 account for the purpose of paying the qualified higher education  
7 expenses of designated beneficiaries.

8       (2) The program shall comply with all requirements of sec-  
9 tion 529 of the internal revenue code of 1986 so that contribu-  
10 tions to an educational gift account are exempt from taxation  
11 under the internal revenue code of 1986. The requirements  
12 include, but are not limited to, all of the following:

13       (a) All contributions to an account shall be cash  
14 contributions.

15       (b) All purchases made with money from an account shall be  
16 cash purchases.

17       (c) The penalties under section 6 shall be more than de  
18 minimis as required under section 529 of the internal revenue  
19 code of 1986.

20       Sec. 4. (1) Beginning January 1, 2001, an individual who is  
21 18 years of age or older and who is a resident of this state may  
22 begin making deposits into an educational gift account for the  
23 benefit of a designated beneficiary.

24       (2) An initial contribution and each contribution after the  
25 initial contribution shall meet the requirements of section 529  
26 of the internal revenue code of 1986.

1 (3) More than 1 educational gift account may be established  
2 for the same designated beneficiary.

3 (4) The total amount contributed to all educational gift  
4 accounts for a designated beneficiary shall not exceed the  
5 amounts established under section 529 of the internal revenue  
6 code of 1986, and interest earned shall not be included in deter-  
7 mining the total maximum amount allowed.

8 Sec. 5. The money in an educational gift account shall be  
9 disbursed solely for the following purposes or in the following  
10 circumstances:

11 (a) Used to pay qualified higher education expenses of the  
12 designated beneficiary.

13 (b) Distributed on account of the death or disability of the  
14 designated beneficiary.

15 (c) Distributed on account of a scholarship or an allowance  
16 or other payment described in section 135(d)(1)(B) or (C) of the  
17 internal revenue code of 1986, received by the designated benefi-  
18 ciary to the extent that the amount of the disbursement does not  
19 exceed the amount of the scholarship, allowance, or other  
20 payment.

21 (d) Any other purpose allowable under section 529 of the  
22 internal revenue code of 1986.

23 Sec. 6. (1) If a taxpayer withdraws money from his or her  
24 educational gift account for any purpose other than an allowable  
25 purpose described in section 5, the amount withdrawn shall be  
26 added to the taxpayer's taxable income as defined in section 30  
27 of the income tax act of 1967, 1967 PA 281, MCL 206.30, and is

1 subject to the tax imposed under the income tax act of 1967, 1967  
2 PA 281, MCL 206.1 to 206.532, in the year the withdrawal is  
3 made.

4       (2) Subject to subsection (3), if the taxpayer withdraws  
5 money from his or her educational gift account for any purpose  
6 other than an allowable purpose described in section 5, a penalty  
7 equal to a percentage of the withdrawal determined by the depart-  
8 ment of treasury to meet the more than de minimis standard of  
9 section 529 of the internal revenue code of 1986 shall be with-  
10 held from the amount of the withdrawal and paid to the department  
11 of treasury.

12       (3) Upon the death of the taxpayer, the account administra-  
13 tor shall distribute the principal and accumulated interest of  
14 the educational gift account to the estate of the taxpayer, which  
15 shall be included in taxable income for the year of the  
16 taxpayer's death as provided in section 30 of the income tax act  
17 of 1967, 1967 PA 281, MCL 206.30.

18       Sec. 7. It is the intent of the legislature that this act  
19 allow the implementation of a qualified state tuition program,  
20 the contributions to which are exempt from taxation under the  
21 internal revenue code of 1986 as provided for under section 529  
22 of the internal revenue code of 1986.

23       Enacting section 1. This act does not take effect unless  
24 Senate Bill No. \_\_\_\_\_ or House Bill No. 5810 (request  
25 no. 03150'99) of the 90th Legislature is enacted into law.