

SENATE BILL NO. 1229

November 29, 2022, Introduced by Senators ANANICH, GEISS and CHANG and referred to the Committee on Appropriations.

A bill to establish an investment and development savings program for the purpose of expanding access to higher education through savings; to provide for state contributions toward higher education savings for certain children in this state; and to provide for the powers and duties of certain state governmental officers and entities.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "Michigan kids investment
2 and development savings (KIDS) program act".

1 Sec. 2. As used in this act:

2 (a) "Account" means an education savings account established
3 under the Michigan education savings program act, 2000 PA 161, MCL
4 390.1471 to 390.1486.

5 (b) "Beneficiary" means an eligible child receiving funds
6 under the program.

7 (c) "Department" means the department of treasury.

8 (d) "Eligible educational institution", "internal revenue
9 code", and "qualified higher education expenses", mean those terms
10 as defined in section 2 of the Michigan education savings program
11 act, 2000 PA 161, MCL 390.1472.

12 (e) "Enhanced deposit" means an initial or supplemental
13 contribution into a KIDS Account or another plan option determined
14 by the department under section 10.

15 (f) "Foster child" means a child receiving foster care as that
16 term is defined in section 2 of the foster care and adoption
17 services act, 1994 PA 203, MCL 722.952.

18 (g) "Fund" means the Michigan kids investment and development
19 savings program fund created in section 6.

20 (h) "KIDS Account" means an account in which designated
21 funding for eligible children is held.

22 (i) "Low-income households" means households with a total
23 annual adjusted gross income less than \$75,000.00 or households
24 identified by the department by other means as low-income for
25 purposes of the program.

26 (j) "Participant" means 1 of the following:

27 (i) A parent or legal guardian of an eligible child.

28 (ii) A parent or legal guardian of a child described in section
29 4(9).

1 (iii) Any private individual or entity who contributes money to
2 the program.

3 (k) "Program" means the Michigan kids investment and
4 development savings program established under this act.

5 (l) "Public school" means that term as defined in section 5 of
6 the revised school code, 1976 PA 451, MCL 380.5.

7 (m) "Pupil membership count day" means that term as used in
8 section 6 of the school aid act of 1979, 1979 PA 94, MCL 388.1606,
9 and includes any supplemental or alternate pupil membership count
10 days as may be provided in article I of the school aid act of 1979,
11 1979 PA 94, MCL 388.1601 to 388.1772.

12 (n) "Seed deposit" means an initial contribution into a KIDS
13 Account for a child born on or after a date determined by the
14 department.

15 Sec. 3. The Michigan kids investment and development savings
16 program is established in the department. The department shall
17 administer the program for the purpose of expanding access to
18 higher education through savings.

19 Sec. 4. (1) Each child born on or after a date determined by
20 the department under subsection (2) who is a resident of this state
21 at the time of birth is eligible for the program.

22 (2) The date designated by the department for which
23 eligibility commences must be no later than October 1, 2023.

24 (3) No later than 90 days after a birth certificate is
25 registered for a child described in subsection (1), pursuant to
26 section 2821 of the public health code, 1978 PA 368, MCL 333.2821,
27 the department of health and human services shall provide the
28 department with identifiable birth data for the child in a file
29 format as defined by the department. The birth data must include

1 the child's name and birth date and the name and contact
2 information of each parent or legal guardian of the child,
3 including the parent's or legal guardian's street address and, if
4 provided to the department of health and human services, the
5 parent's or legal guardian's mobile telephone number and email
6 address. The department of health and human services may provide
7 additional identifiable birth data to the department, upon request,
8 as may be necessary for the department's administration of the
9 program. The birth data is confidential and must not be disclosed
10 except as necessary for the program. No more than 90 days after
11 receiving the birth data from the department of health and human
12 services, the department shall notify at least 1 parent or legal
13 guardian of each eligible child about the program. The notification
14 must include information on all of the following:

15 (a) How the parent or legal guardian may opt out of the
16 program.

17 (b) The KIDS Account opened for the child under subsection
18 (6).

19 (c) How the parent or legal guardian may establish a separate
20 account under the Michigan education savings program act, 2000 PA
21 161, MCL 390.1471 to 390.1486.

22 (4) The department shall make a child's designated balance in
23 a KIDS Account viewable by the child's parent or legal guardian
24 through a secured internet link.

25 (5) The department shall establish rules and regulations for a
26 program recipient child, and the child's parents or legal
27 guardians, to be notified of the money deposited and accrued in the
28 child's KIDS Account, and rules and regulations regarding the
29 establishment and operation of program components, including, but

1 not limited to, the claims process, necessary documentation,
2 deadlines for the claims, an appeals procedure, and any forfeiture
3 procedures. A KIDS Account recipient child and each of the child's
4 parents or legal guardians must be informed of the establishment of
5 the child's KIDS Account and provided information on how the parent
6 or legal guardian may establish a separate account under the
7 Michigan education savings program act, 2000 PA 161, MCL 390.1471
8 to 390.1486.

9 (6) Upon appropriation by the legislature, the department
10 shall establish 1 or more accounts and shall make the following
11 separately accounted-for deposits from the fund into a KIDS Account
12 established within an account:

13 (a) A seed deposit in an amount determined by the department.
14 Each seed deposit must be at least \$25.00 and must be designated
15 for a particular child for whom the department receives birth data
16 under subsection (3), if no parent or legal guardian has opted that
17 child out of the program.

18 (b) In addition to a seed deposit under subdivision (a), an
19 additional deposit as determined by the department to provide
20 additional financial incentives for the parent or legal guardian to
21 engage with the KIDS Account by verifying receipt of information
22 provided under subsection (3)(b), establishing a separate account
23 under the Michigan education savings program act, 2000 PA 161, MCL
24 390.1471 to 390.1486, or engaging with the KIDS Account by other
25 means approved by the department. An additional deposit under this
26 subdivision must be at least \$25.00 if the parent or legal guardian
27 engages with the KIDS Account as described in this subdivision, or
28 \$50.00 if the parent or legal guardian establishes a separate
29 account that is linked with the child's KIDS Account in a manner

1 prescribed by the department.

2 (7) Money in a KIDS Account designated for a child, including
3 any investment earnings attributed to deposits to the child's
4 designated KIDS Account under subsection (6) or (8) or section 10,
5 as calculated by the department, must be used for the purpose of
6 providing awards for qualified higher education expenses associated
7 with the attendance of the child at an eligible educational
8 institution. Upon the student self-certifying enrollment at an
9 eligible educational institution and residency in this state for at
10 least 1 year immediately preceding the payment of qualified higher
11 education expenses on the student's behalf, the department shall
12 make a payment to that institution in an amount determined by the
13 student or the student's parent or legal guardian, which may
14 include the total or a partial amount of the seed deposit and any
15 additional financial incentives designated for the child under
16 subsections (6) or (8), any enhanced deposit under section 10, and
17 any investment earnings attributed to those amounts as calculated
18 by the department, for qualified higher education expenses
19 associated with the child's attendance at that institution.

20 (8) Subject to available money in the fund, the department may
21 provide additional incentives from the fund for children
22 participating in the program, including, but not limited to,
23 incentives targeting low-income households.

24 (9) A child who was not a resident of this state at the time
25 of birth may be enrolled in the program, subject to available
26 funding, if the child's parent or legal guardian, residing in this
27 state, applies to the department for that enrollment in a manner
28 prescribed by the department. Enrollment under this subsection is
29 available only to a child who currently resides in this state, is

1 under 6 years of age, and was born on or after the date designated
2 by the department for which eligibility commences. An enrollee
3 under this subsection is not eligible for a seed deposit but,
4 subject to available funding, is eligible for any incentives
5 described in subsection (8), as applicable, including a deposit of
6 at least \$50.00 if the enrollee's parent or legal guardian
7 establishes a separate account that is linked with the enrollee's
8 KIDS Account in a manner prescribed by the department.

9 (10) A KIDS Account established under this act, and its
10 investment earnings, remain assets of, and owned by, this state
11 until used for the payment of qualified higher education expenses
12 at an eligible educational institution, and funds must remain
13 invested until they are used for the purposes authorized by this
14 act or until the recipient achieves 26 years of age, whichever
15 occurs first. If a beneficiary does not use any portion, or all, of
16 the money intended for the beneficiary in a KIDS Account for a
17 qualified higher education expense for any reason, including the
18 death or disability of the beneficiary, before the beneficiary
19 turns 26 years of age, all contributions made for the beneficiary
20 into the KIDS Account and any earnings from that money must be
21 forfeited and deposited into the fund for the program.

22 (11) Notwithstanding subsection (10), subject to available
23 funding, the department may establish an appeal process to allow a
24 beneficiary to use the money designated for the beneficiary in a
25 KIDS Account after the beneficiary turns 26 years of age.

26 (12) Money, less applicable penalties, collected under section
27 529 of the internal revenue code not used within the time period
28 described in subsection (10) must revert to the fund.

29 (13) All contributions made into a KIDS Account for a child

1 who has opted out of the program under subsection (3), including
2 any investment earnings attributed to the amount of the child's
3 seed deposit since the date of the deposit as calculated by the
4 department, must be forfeited and deposited into the fund for the
5 program in a timely manner.

6 (14) The department shall encourage each parent and legal
7 guardian of a beneficiary, including each parent and legal guardian
8 of a child who applies to enroll the child into the program as a
9 beneficiary under subsection (9), to establish a separate account
10 under the Michigan education savings program act, 2000 PA 161, MCL
11 390.1471 to 390.1486. The department shall provide assistance on
12 how to establish the separate account.

13 (15) Unless otherwise provided, the department may use up to
14 5% of any state appropriation provided for purposes of the program
15 for administrative costs.

16 Sec. 5. The department has the power and authority to do all
17 of the following:

18 (a) Sue and be sued.

19 (b) Make and enter into contracts necessary for the
20 implementation and administration of the program.

21 (c) Cause money in the fund to be held and invested and
22 reinvested.

23 (d) Enter into agreements with any eligible educational
24 institution or any federal or state agency or other entity as
25 required for the effectuation of its rights and duties.

26 (e) Accept any grants, gifts, appropriations, and other money
27 from any unit of federal, state, or local government or any other
28 person, firm, partnership, or corporation for deposit to the fund.

29 (f) Make payments to eligible educational institutions on

1 behalf of beneficiaries.

2 (g) Make provisions for the payment of costs of administration
3 and operation of the program.

4 (h) Carry out the duties and obligations of the program
5 pursuant to this act and have all other powers as may be necessary
6 for the effectuation of the purposes, objectives, and provisions of
7 this act.

8 (i) Carry out studies and projections to advise participants
9 regarding present and estimated future higher education expenses.

10 (j) Contract for goods and services and engage personnel,
11 including consultants, actuaries, managers, counsel, and auditors,
12 as necessary for the purpose of rendering professional, managerial,
13 and technical assistance and advice.

14 (k) Participate in any federal, state, or local governmental
15 program for the benefit of the program.

16 (l) Procure insurance against any loss in connection with the
17 property, assets, or activities of the program.

18 (m) Administer the funds of the program.

19 (n) Adopt regulations for the implementation and
20 administration of the program.

21 Sec. 6. (1) The Michigan kids investment and development
22 savings program fund is created in the state treasury.

23 (2) The state treasurer shall deposit money and other assets
24 received from any source in the fund, including all appropriations,
25 gifts, or other financial assets received in connection with
26 operation of the program. The state treasurer shall direct the
27 investment of money in the fund and credit interest and earnings
28 from the investments to the fund.

29 (3) The department is the administrator of the fund for audits

1 of the fund.

2 (4) The department shall expend money from the fund on
3 appropriation only for the purposes stated in this act. It is the
4 intent of the legislature that money in the fund will be
5 continuously appropriated, without regard to fiscal years, to the
6 department for the program.

7 Sec. 7. (1) Subject to available funding, the program must be
8 implemented on or before October 1, 2023. The department may
9 establish an implementation timeline for the program based on
10 available funding. If the department does not secure adequate funds
11 to implement the program before October 1, 2023, program
12 implementation may be delayed while the department makes good-faith
13 efforts to secure necessary funding. The department may accept
14 gifts, grants, awards, matching contributions, interest income, and
15 appropriations from individuals, businesses, state and local
16 governmental entities, and third-party sources for the program on
17 terms the department deems advisable.

18 (2) Before the program is implemented and throughout the
19 program's operation, the department may authorize a county, city,
20 township, nonprofit organization, or any other entity operating a
21 local child savings account program to provide input to the program
22 established under this act. The input may include, but is not
23 limited to, information on any of the following:

24 (a) Infrastructure and systems development.

25 (b) Outreach and coordination with local child savings account
26 programs.

27 (c) Program incentives to promote equity.

28 (d) Administrative fees and caps.

29 (e) Contribution strategies.

1 (f) Program accessibility, including language, identification,
2 and banking access.

3 (3) On or before October 1, 2023, and annually thereafter, the
4 department shall report to the senate and house appropriations
5 subcommittees on higher education, the senate and house fiscal
6 agencies, and the state budget director information pertaining to
7 the program's implementation. The report must include, at a
8 minimum, all of the following:

9 (a) Detailed program expenditure information, including the
10 amount of funds expended to establish KIDS Accounts under this act
11 in the previous 5 fiscal years.

12 (b) The number of KIDS Accounts opened and state and nonstate
13 contributions made to KIDS Accounts.

14 (c) Information about how parents and legal guardians were
15 notified under section 4(3).

16 (d) The number of parents or legal guardians who engage with
17 KIDS Accounts by verifying receipt of information provided to them
18 under section 4(3)(b), establishing separate accounts under the
19 Michigan education savings program act, 2000 PA 161, MCL 390.1471
20 to 390.1486, or engaging with KIDS Accounts by other means approved
21 by the department.

22 (e) A description of the department's marketing of the
23 program.

24 (f) The rate of investment return earned by the money
25 authorized by this act in the previous 5 fiscal years.

26 (g) To the extent that information is available and can be
27 disclosed without providing any opportunity to associate the
28 information with particular individuals, information on the
29 ethnicity, gender, and family income of account recipients.

1 (h) Recommendations for improving the program.

2 Sec. 8. (1) All assets of the fund and money allocated to
3 individual KIDS Accounts must be considered to be owned by this
4 state until used for the payment of qualified higher education
5 expenses at an eligible educational institution.

6 (2) Deposits made to the fund or disbursements from the fund
7 allocated to individual participant KIDS Accounts must be invested
8 through an education savings account established under the Michigan
9 education savings program act, 2000 PA 161, MCL 390.1471 to
10 390.1486, or through another investment plan determined by the
11 department.

12 (3) This act must not be construed to prevent any child from
13 seeking private or other funding sources to supplement the amount
14 of funds deposited in the child's KIDS Account.

15 (4) It is the intent of the legislature that funds deposited
16 and investment returns accrued in a KIDS Account established under
17 this act will be treated as augmenting and not supplanting student
18 financial aid from other public sources, and will not be considered
19 when calculating eligibility for student financial aid.

20 (5) Notwithstanding any other law, funds deposited and
21 investment returns accrued in a KIDS Account established under this
22 act and claimed by a recipient under this act are exempt from state
23 income tax liability, as provided in section 30 of the income tax
24 act of 1967, 1967 PA 281, MCL 206.30.

25 (6) To the extent permissible under federal law, funds
26 deposited and investment returns accrued in a KIDS Account
27 established under this act must not be considered in the federal
28 needs analysis for student financial aid, as they must be
29 considered an asset of this state until used for the payment of

1 qualified higher education expenses at an eligible educational
2 institution.

3 Sec. 9. (1) The department may establish rules and regulations
4 to ensure that money in a KIDS Account established under this act
5 is disbursed directly to the eligible educational institution
6 indicated on the award recipient's claim form. These rules and
7 regulations, if established, must ensure that the program meets all
8 applicable criteria for federal tax-deferral benefits, federal tax-
9 exempt benefits, or both.

10 (2) Money in the fund or in KIDS Accounts authorized under
11 this act is nontransferable to any person or entity other than the
12 award recipient or the eligible educational institution indicated
13 on the award recipient's claim form, and may be used only for the
14 purposes stated in this act. Money in the fund or in KIDS Accounts
15 authorized by this act must not be pledged as collateral for any
16 loan.

17 (3) The department shall request each KIDS Account recipient
18 or the recipient's parent or legal guardian to voluntarily report
19 personal information about the award recipient, including, but not
20 limited to, ethnicity, gender, and family income. The department
21 shall compile and retain that information in a confidential manner
22 so that the personal information of any award recipient is not
23 publicly disclosed in a manner that may be associated with a
24 particular individual.

25 Sec. 10. (1) Subject to appropriation, for the 2023-2024
26 fiscal year, through the program, the department shall ensure that
27 all of the following occur:

28 (a) Each pupil enrolled at a public school in grades 1 to 12,
29 inclusive, on the pupil membership count day in the 2023-2024

1 fiscal year will have a KIDS Account established on the pupil's
2 behalf, unless the pupil's KIDS Account has already been
3 established under section 4. Both of the following apply to a
4 pupil's KIDS Account established under this subdivision:

5 (i) The account must receive a seed deposit as described in
6 section 4(6) (a).

7 (ii) If, before the pupil graduates from high school, it is
8 determined that the pupil is a member of a low-income household,
9 the account will receive a 1-time enhanced deposit in the amount of
10 \$500.00.

11 (b) In addition to the amount allocated under subdivision (a),
12 the KIDS Account of each eligible pupil who, before graduation from
13 high school, is determined to be a member of a low-income household
14 and a foster child will receive an enhanced deposit of an
15 additional \$500.00.

16 (c) In addition to the amounts allocated under subdivisions
17 (a) and (b), the KIDS Account of each eligible pupil who, before
18 graduation from high school, is determined to be a member of a low-
19 income household and homeless under the definition of "homeless
20 children and youths" in 42 USC 11434a(2) will receive an enhanced
21 deposit of an additional \$500.00.

22 (2) Subject to appropriation, commencing with the 2024-2025
23 fiscal year and continuing each fiscal year thereafter, through the
24 program, the department shall ensure that all of the following
25 occur:

26 (a) Each pupil enrolled in first grade in a public school on
27 the pupil membership count day in the applicable fiscal year will
28 have a KIDS Account established on the pupil's behalf, unless the
29 pupil's account has already been established under section 4. Both

1 of the following apply to a pupil's KIDS Account established under
2 this subdivision:

3 (i) The account must receive a seed deposit as described in
4 section 4(6) (a).

5 (ii) If, before the pupil graduates from high school, it is
6 determined that the pupil is a member of a low-income household,
7 the account will receive a 1-time enhanced deposit in the amount of
8 \$500.00.

9 (b) In addition to the amount allocated under subdivision (a),
10 the KIDS Account of each pupil who has a KIDS Account established
11 under subdivision (a) and who, before graduation from high school,
12 is determined to be a member of a low-income household and a foster
13 child will receive an enhanced deposit of an additional \$500.00.

14 (c) In addition to the amounts allocated under subdivisions
15 (a) and (b), the KIDS Account of each pupil who has a KIDS Account
16 established under subdivision (a) and who, before graduation from
17 high school, is determined to be a member of a low-income household
18 and homeless under the definition of "homeless children and youths"
19 in 42 USC 11434a(2) will receive an enhanced deposit of an
20 additional \$500.00.

21 (d) For pupils for whom a KIDS Account has already been
22 established under section 4 and who are also eligible for an
23 enhanced deposit under this subsection, the enhanced deposit will
24 be deposited in the KIDS Account in which funding for that pupil is
25 currently held.

26 (3) A pupil who receives an enhanced deposit into the pupil's
27 KIDS Account under subsection (1) or (2) may have only 1 enhanced
28 deposit made into the pupil's existing or newly established KIDS
29 Account under this act. A pupil must not have more than 1 KIDS

1 Account established for the pupil under this act.

2 Sec. 11. (1) The department shall collaborate with the
3 department of education or other relevant state or local
4 departments or agencies to identify eligible pupils for the purpose
5 of establishing KIDS Accounts or making an enhanced deposit into
6 existing KIDS Accounts under this act. To the extent feasible, the
7 department of education shall annually provide necessary data using
8 pupil membership count day data in a secure manner for the
9 department to fulfill its obligations under this act, including,
10 but not necessarily limited to, eligible pupils' names, pupil
11 identification, birth dates, grade levels, contact information of
12 parents or legal guardians, and eligibility information. For
13 purposes of this subsection, the information received by the
14 department must be considered necessary to facilitate the
15 establishment or enhancement of KIDS Accounts, or the establishment
16 of a notification process for parents or legal guardians of
17 eligible pupils.

18 (2) The department shall comply with federal and state laws to
19 protect individual privacy, including, but not limited to, all of
20 the following federal statutes:

21 (a) The family educational rights and privacy act of 1974,
22 Public Law 93-380.

23 (b) The health insurance portability and accountability act of
24 1996, Public Law 104-191.

25 (c) The higher education act of 1965, Public Law 89-329.

26 (3) Notwithstanding any other law, individual records or
27 source data associated with the establishment of a KIDS Account
28 under this act are not subject to disclosure under the freedom of
29 information act, 1976 PA 442, MCL 15.231 to 15.246.

1 Sec. 12. The legislature finds and declares that undocumented
2 individuals are eligible for KIDS Accounts within the meaning of 8
3 USC 1621(d).

4 Enacting section 1. This act does not take effect unless all
5 of the following bills of the 101st Legislature are enacted into
6 law:

7 (a) Senate Bill No. 1228.

8

9 (b) Senate Bill No. 1226.