

HOUSE BILL NO. 5351

A bill to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," (MCL 380.1 to 380.1852) by adding sections 15, 602, and 1475.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 15. (1) AS PART OF ITS POWERS UNDER SECTION 11A, THE
2 SCHOOL BOARD OF A GENERAL POWERS SCHOOL DISTRICT MAY RECEIVE,
3 OWN, AND ENJOY A GIFT OF REAL OR PERSONAL PROPERTY MADE BY GRANT,
4 DEVISE, BEQUEST, OR IN ANY OTHER MANNER, THAT IS MADE FOR SCHOOL
5 PURPOSES UNDER THIS ACT. A SCHOOL BOARD MAY TRANSFER A GIFT OF
6 INTANGIBLE PERSONAL PROPERTY OR THE PROCEEDS FROM THAT GIFT TO A
7 COMMUNITY FOUNDATION. IF A GIFT RECEIVED BY THE SCHOOL BOARD WAS
8 SUBJECT TO A CONDITION, LIMITATION, OR REQUIREMENT, THE TRANSFER
9 MUST BE TO A FUND WITHIN THE COMMUNITY FOUNDATION THAT
10 INCORPORATES A CONDITION, LIMITATION, OR REQUIREMENT THAT IS
11 IDENTICAL OR SUBSTANTIALLY SIMILAR TO THE CONDITION, LIMITATION,

1 OR REQUIREMENT THE GIFT WAS SUBJECT TO. IF A GIFT RECEIVED BY
2 THE SCHOOL BOARD WAS NOT SUBJECT TO ANY CONDITION, LIMITATION, OR
3 REQUIREMENT, THE TRANSFER MUST BE TO A FUND WITHIN THE COMMUNITY
4 FOUNDATION THAT IMPOSES CONDITIONS, LIMITATIONS, OR REQUIREMENTS
5 ON THE USE OF THE GIFT PROPERTY FOR 1 OR MORE SCHOOL PURPOSES
6 UNDER THIS ACT.

7 (2) IF A SCHOOL BOARD TRANSFERS A GIFT TO A COMMUNITY FOUN-
8 DATION PURSUANT TO THIS SECTION AND IF 1 OR MORE OF THE FOLLOWING
9 OCCUR, THE COMMUNITY FOUNDATION SHALL RETURN THE GIFT TO THE
10 SCHOOL BOARD:

11 (A) THE COMMUNITY FOUNDATION FAILS TO MEET ALL OF THE
12 REQUIREMENTS FOR CERTIFICATION AS A COMMUNITY FOUNDATION UNDER
13 SECTION 261 OF THE INCOME TAX ACT OF 1967, 1967 PA 281, MCL
14 206.261.

15 (B) THE COMMUNITY FOUNDATION IS LIQUIDATED.

16 (C) THE COMMUNITY FOUNDATION SUBSTANTIALLY VIOLATES ANY CON-
17 DITION, LIMITATION, OR REQUIREMENT ON THE GIFT.

18 (3) UNLESS WAIVED BY THE SCHOOL BOARD TRANSFERRING THE GIFT,
19 BEFORE A SCHOOL BOARD MAY TRANSFER A GIFT TO A COMMUNITY FOUNDA-
20 TION PURSUANT TO THIS SECTION, THE COMMUNITY FOUNDATION SHALL
21 ESTABLISH A DONOR ADVISORY BOARD FOR THAT GIFT. THE DONOR
22 ADVISORY BOARD SHALL INCLUDE AT LEAST 1 REPRESENTATIVE OF THE
23 SCHOOL BOARD TRANSFERRING THE GIFT. THE DONOR ADVISORY BOARD
24 SHALL DO ALL OF THE FOLLOWING:

25 (A) MONITOR THE COMMUNITY FOUNDATION'S COMPLIANCE WITH ANY
26 CONDITION, LIMITATION, OR REQUIREMENT ON THE USE OF THE GIFT.

1 (B) MAKE RECOMMENDATIONS TO THE COMMUNITY FOUNDATION FOR THE
2 USE OF DISTRIBUTIONS OR OTHER PROCEEDS FROM THE GIFT.

3 (4) A TRANSFER OF A GIFT MADE IN ACCORDANCE WITH THIS SEC-
4 TION THAT OCCURRED BEFORE THE EFFECTIVE DATE OF THIS SECTION IS
5 RATIFIED AND CONFIRMED AND THE TRANSFER IS CONSIDERED VALID AS IF
6 IT HAD BEEN MADE UNDER THIS SECTION.

7 (5) AS USED IN THIS SECTION:

8 (A) "COMMUNITY FOUNDATION" MEANS THAT TERM AS DEFINED IN
9 SECTION 261 OF THE INCOME TAX ACT OF 1967, 1967 PA 281, MCL
10 206.261.

11 (B) "CONDITION, LIMITATION, OR REQUIREMENT" DOES NOT INCLUDE
12 A MATERIAL RESTRICTION OR CONDITION THAT VIOLATES 26 C.F.R.
13 1.170A-9 OR THAT RESTRICTS A COMMUNITY FOUNDATION'S INHERENT
14 POWER OF MODIFICATION DESCRIBED IN 26 C.F.R. 1.170A-9.

15 (C) "GIFT" DOES NOT INCLUDE STATE SCHOOL AID OR ANOTHER
16 GRANT FROM STATE OR FEDERAL SOURCES.

17 SEC. 602. (1) AS PART OF ITS POWERS UNDER SECTION 601A, THE
18 INTERMEDIATE SCHOOL BOARD OF AN INTERMEDIATE SCHOOL DISTRICT MAY
19 RECEIVE, OWN, AND ENJOY A GIFT OF REAL OR PERSONAL PROPERTY MADE
20 BY GRANT, DEVISE, BEQUEST, OR IN ANY OTHER MANNER, THAT IS MADE
21 FOR INTERMEDIATE SCHOOL DISTRICT PURPOSES UNDER THIS ACT. AN
22 INTERMEDIATE SCHOOL BOARD MAY TRANSFER A GIFT OF INTANGIBLE PER-
23 SONAL PROPERTY OR THE PROCEEDS FROM THAT GIFT TO A COMMUNITY
24 FOUNDATION. IF A GIFT RECEIVED BY THE INTERMEDIATE SCHOOL BOARD
25 WAS SUBJECT TO A CONDITION, LIMITATION, OR REQUIREMENT, THE
26 TRANSFER MUST BE TO A FUND WITHIN THE COMMUNITY FOUNDATION THAT
27 INCORPORATES A CONDITION, LIMITATION, OR REQUIREMENT THAT IS

1 IDENTICAL OR SUBSTANTIALLY SIMILAR TO THE CONDITION, LIMITATION,
2 OR REQUIREMENT THE GIFT WAS SUBJECT TO. IF A GIFT RECEIVED BY
3 THE INTERMEDIATE SCHOOL BOARD WAS NOT SUBJECT TO ANY CONDITION,
4 LIMITATION, OR REQUIREMENT, THE TRANSFER MUST BE TO A FUND WITHIN
5 THE COMMUNITY FOUNDATION THAT IMPOSES CONDITIONS, LIMITATIONS, OR
6 REQUIREMENTS ON THE USE OF THE GIFT PROPERTY FOR 1 OR MORE INTER-
7 MEDIATE SCHOOL DISTRICT PURPOSES UNDER THIS ACT.

8 (2) IF AN INTERMEDIATE SCHOOL BOARD TRANSFERS A GIFT TO A
9 COMMUNITY FOUNDATION PURSUANT TO THIS SECTION AND IF 1 OR MORE OF
10 THE FOLLOWING OCCUR, THE COMMUNITY FOUNDATION SHALL RETURN THE
11 GIFT TO THE INTERMEDIATE SCHOOL BOARD:

12 (A) THE COMMUNITY FOUNDATION FAILS TO MEET ALL OF THE
13 REQUIREMENTS FOR CERTIFICATION AS A COMMUNITY FOUNDATION UNDER
14 SECTION 261 OF THE INCOME TAX ACT OF 1967, 1967 PA 281, MCL
15 206.261.

16 (B) THE COMMUNITY FOUNDATION IS LIQUIDATED.

17 (C) THE COMMUNITY FOUNDATION SUBSTANTIALLY VIOLATES ANY CON-
18 DITION, LIMITATION, OR REQUIREMENT ON THE GIFT.

19 (3) UNLESS WAIVED BY THE INTERMEDIATE SCHOOL BOARD TRANSFER-
20 RING THE GIFT, BEFORE AN INTERMEDIATE SCHOOL BOARD MAY TRANSFER A
21 GIFT TO A COMMUNITY FOUNDATION PURSUANT TO THIS SECTION, THE COM-
22 MUNITY FOUNDATION SHALL ESTABLISH A DONOR ADVISORY BOARD FOR THAT
23 GIFT. THE DONOR ADVISORY BOARD SHALL INCLUDE AT LEAST 1 REPRESENTATIVE OF THE INTERMEDIATE SCHOOL BOARD TRANSFERRING THE
24 GIFT. THE DONOR ADVISORY BOARD SHALL DO ALL OF THE FOLLOWING:

25 (A) MONITOR THE COMMUNITY FOUNDATION'S COMPLIANCE WITH ANY
26 CONDITION, LIMITATION, OR REQUIREMENT ON THE USE OF THE GIFT.
27

1 (B) MAKE RECOMMENDATIONS TO THE COMMUNITY FOUNDATION FOR THE
2 USE OF DISTRIBUTIONS OR OTHER PROCEEDS FROM THE GIFT.

3 (4) A TRANSFER OF A GIFT MADE IN ACCORDANCE WITH THIS SEC-
4 TION THAT OCCURRED BEFORE THE EFFECTIVE DATE OF THIS SECTION IS
5 RATIFIED AND CONFIRMED AND THE TRANSFER IS CONSIDERED VALID AS IF
6 IT HAD BEEN MADE UNDER THIS SECTION.

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13 C.F.R. 1.170A-9 OR THAT RESTRICTS A COMMUNITY FOUNDATION'S INHER-
14 ENT POWER OF MODIFICATION DESCRIBED IN 26 C.F.R. 1.170A-9.

15 (C) "GIFT" DOES NOT INCLUDE STATE SCHOOL AID OR ANOTHER
16 GRANT FROM STATE OR FEDERAL SOURCES.

SEC. 1475. A FEDERAL TRIBALLY CONTROLLED COMMUNITY COLLEGE BOARD MAY PROVIDE COLLEGE LEVEL COURSES OR PARTICIPATE IN OTHER ACTIVITIES UNDER THIS ACT ONLY IF ALL OF THE FOLLOWING ARE IN EFFECT:

(A) THE MEMBERS OF THE BOARD OF THE FEDERAL TRIBALLY CONTROLLED COMMUNITY COLLEGE EXECUTE THE CONSTITUTIONAL OATH OF OFFICE AS A PUBLIC OFFICER OF THE STATE OF MICHIGAN.

(B) THE MEMBERS OF THE BOARD OF THE FEDERAL TRIBALLY CONTROLLED COMMUNITY COLLEGE CERTIFY TO THE STATE DEPARTMENT OF EDUCATION THAT THE MEMBERS WILL ACT AS A PUBLIC EDUCATIONAL BODY OR OFFICER OF THIS STATE SUBJECT ONLY TO THE CONSTITUTION AND LAWS OF THIS STATE IN EXERCISING THE POWERS OR CARRYING OUT THE FUNCTIONS AND THAT THEIR FUNCTIONS ARE UNDER THE EXCLUSIVE CONTROL OF THE STATE.

(C) A MEMBER OF THE BOARD OF THE FEDERAL TRIBALLY CONTROLLED COMMUNITY COLLEGE ACTING AS A PUBLIC OFFICER UNDER THIS SECTION SHALL BE SUBJECT TO REMOVAL OR SUSPENSION BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION FOR VIOLATING THE PROVISIONS OF THIS SECTION.

(D) THIS SECTION DOES NOT AUTHORIZE THE USE OF ANY FUNDS APPROPRIATED FOR A COMMUNITY COLLEGE DISTRICT ESTABLISHED UNDER THE COMMUNITY COLLEGE ACT, 1966 PA 331, MCL 389.11 TO 389.84.

