

House Bill 4959

A bill to amend 1976 PA 451, entitled
"The revised school code,"
(MCL 380.1 to 380.1852) by adding sections 15 and 602.

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,

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

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

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

(B) THE COMMUNITY FOUNDATION IS LIQUIDATED.

(C) THE COMMUNITY FOUNDATION SUBSTANTIALLY VIOLATES ANY CONDITION, LIMITATION, OR REQUIREMENT ON THE GIFT.

(3) UNLESS WAIVED BY THE SCHOOL BOARD TRANSFERRING THE GIFT, BEFORE A SCHOOL BOARD MAY TRANSFER A GIFT TO A COMMUNITY FOUNDATION PURSUANT TO THIS SECTION, THE COMMUNITY FOUNDATION SHALL ESTABLISH A DONOR ADVISORY BOARD FOR THAT GIFT. THE DONOR ADVISORY BOARD SHALL INCLUDE AT LEAST 1 REPRESENTATIVE OF THE SCHOOL BOARD TRANSFERRING THE GIFT. THE DONOR ADVISORY BOARD SHALL DO ALL OF THE FOLLOWING:

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

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

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

(5) AS USED IN THIS SECTION:

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

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

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

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

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

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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:

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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
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.

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