

Act No. 152  
Public Acts of 1997  
Approved by the Governor  
December 22, 1997

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December 22, 1997

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STATE OF MICHIGAN  
89TH LEGISLATURE  
REGULAR SESSION OF 1997

Introduced by Rep. Emerson

# ENROLLED HOUSE BILL No. 5370

AN ACT 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," by amending sections 629, 1225, 1351, and 1351a (MCL 380.629, 380.1225, 380.1351, and 380.1351a), section 629 as amended by 1991 PA 187, section 1225 as amended by 1994 PA 103, section 1351 as amended by 1990 PA 352, and section 1351a as amended by 1994 PA 278.

*The People of the State of Michigan enact:*

Sec. 629. (1) An intermediate school board may borrow, subject to the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3, sums of money on terms the intermediate school board considers necessary for 1 or more of the following purposes:

(a) For temporary purposes for which the intermediate school board may give notes of the intermediate school district. The intermediate school board shall not borrow a sum that exceeds the amount that has been voted by the intermediate school board or the school electors of the intermediate school district.

(b) To purchase sites for buildings; to purchase, erect, complete, remodel, improve, furnish, refurbish, equip, or reequip buildings and facilities the board is authorized to acquire, including, but not limited to, general administrative, vocational, or special education buildings or facilities, or parts of those buildings or facilities, or additions to those buildings or facilities, and prepare, develop, or improve sites for those buildings or facilities; to purchase and install information technology systems, together with the equipment and software, as are necessary for programs conducted by the intermediate school district under section 627(2); and to issue and sell bonds of the intermediate school district in the form and on the terms the board considers advisable.

(2) An intermediate school board shall not borrow money or issue bonds for a term longer than 30 years or, except as otherwise provided in this subsection, for a sum which, together with the total outstanding bonded indebtedness of the intermediate school district, exceeds 1/9 of 1% of the state equalized valuation of the taxable property within the district, unless the question of borrowing the money or issuing bonds is submitted first to a vote of the school electors of the intermediate school district held under sections 661 and 662 and approved by the majority of the registered school electors voting on the question. Regardless of the amount of outstanding bonded indebtedness of the intermediate

school district, a vote of the school electors is not necessary in order to issue bonds for a purpose described in section 1274a or to issue bonds under section 11i of the state school aid act of 1979, MCL 388.1611i. Money may be borrowed and bonds may be issued for the purposes stated in this section in an amount equal to that provided by part 17. For the purposes of this subsection, bonds authorized by vote of the school electors for special education facilities under part 30 and for area vocational-technical education facilities under sections 681 to 690 and bonds issued under section 11i of the state school aid act of 1979, MCL 388.1611i, shall not be included in computing the total outstanding bonded indebtedness of an intermediate school district.

(3) Not later than 30 days after receipt of notice that the question of issuing bonds under this section to purchase and install information technology systems as are necessary for a cooperative program under section 627(2) will be submitted to the school electors of the intermediate school district, the board of a constituent school district by resolution may elect not to participate in the cooperative program and not to conduct an election on the question within the constituent school district.

Sec. 1225. (1) Subject to restrictions of this section, the board of a local or intermediate school district may borrow money and issue its notes for the borrowed money to secure funds for school operations or to pay previous loans obtained for school operations under this or any other statute. The school board or intermediate school board shall pledge money to be received by it from state school aid for the payment of notes issued under this section. The notes are full faith and credit obligations of the school district or intermediate school district and are payable from tax levies or from unencumbered funds of the school district or intermediate school district in event of the unavailability or insufficiency of state school aid for any reason.

(2) Notes issued under this section shall become due not later than 12 months after the date on which they are issued, except as provided in this section. Except as otherwise provided in this subsection, notes issued within a fiscal year shall not exceed 70% of the difference between the total state aid funds apportioned to the school district or intermediate school district for that fiscal year and the portion already received or pledged, except secondary pledges made under section 1356. Until June 30, 1999, notes issued and sold to the Michigan municipal bond authority within a fiscal year shall not exceed 70% of the difference between the total state aid funds apportioned to the school district or intermediate school district for that fiscal year and the portion already received.

(3) A school district or intermediate school district that is not able to redeem its notes within 12 months after the date on which the notes were issued may enter into a multi-year agreement with a lending institution to repay its obligation. A repayment agreement shall not be executed without the prior approval of an authorized representative of the state board or, for notes sold to the Michigan municipal bond authority only, without the approval of an authorized representative of the department of treasury.

(4) During the last 4 months of a fiscal year, notes may be issued pledging state school aid for the next succeeding fiscal year. Except as otherwise provided in this subsection, the notes shall not exceed 50% of the state school aid apportioned to the school district or intermediate school district for the next succeeding fiscal year or, if the apportionment has not been made, 50% of the apportionment for the then current fiscal year. For the 1997-98 fiscal year only, with the approval of the state treasurer or the department, notes may be issued that shall not exceed 70% of the state school aid apportioned to the school district or intermediate school district for the next succeeding fiscal year or, if the apportionment has not been made, 70% of the apportionment for the then current fiscal year. For the 1998-99 fiscal year only, with the approval of the state treasurer or the department, notes may be issued that shall not exceed 60% of the state school aid apportioned to the school district or intermediate school district for the next succeeding fiscal year or, if the apportionment has not been made, 60% of the apportionment for the then current fiscal year. The notes shall mature not later than 12 months after the date of issuance. Notes sold and delivered under this section shall bear interest at a rate agreed to by the school board or intermediate school board, which rate shall not exceed the rate provided in section 1a of chapter III of the municipal finance act, 1943 PA 202, MCL 133.1a, and may be made redeemable before maturity on the terms and conditions provided in the notes.

(5) Notes issued under this section are not subject to the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3. A school board or intermediate school board shall not issue notes under this section unless it applies for and receives prior approval or the school board or intermediate school board requests and receives an exception from prior approval pursuant to subsections (7), (8), and (9). An application for prior approval or for an exception from prior approval shall be made to the authorized representative of the state board unless the notes are to be sold to the Michigan municipal bond authority. If the notes are to be sold to the Michigan municipal bond authority, an application for prior approval or for an exception from prior approval shall be made to the authorized representative of the department of treasury. An order of prior approval issued by the authorized representative of the state board or of the department of treasury or an order of exception from prior approval issued by the authorized representative of the state board or of the department of treasury shall show the estimated amount of state school aid allocated to the school district or intermediate school district for the current fiscal year and, if applicable, for the next succeeding fiscal year and payments that have been distributed to the school district or intermediate school district before the date of the order. Failure of a school district or intermediate school district to receive state school aid does not affect the validity or enforceability of a note issued under this section.

(6) A school board or intermediate school board may make more than 1 borrowing under this section during a school year. A school board or intermediate school board shall not contest the validity of a note issued by it under this section if an order of prior approval or of exception from prior approval had been obtained from the authorized representative of the state board or of the department of treasury and the school district or intermediate school district has received the principal amount of the note. An order of prior approval and estimated determination of state school aid by the authorized representative of the state board or of the department of treasury is conclusive as to the authority of a school board or intermediate school board to borrow under this section. An order of prior approval shall be signed by the authorized representative of the state board or of the department of treasury.

(7) A school board or intermediate school board may submit a request for an exception from prior approval to the authorized representative of the state board or of the department of treasury, as applicable, on a form prescribed by the applicable authorized representative. The request shall be accompanied by a filing fee of \$100.00 for a request relating to notes totaling less than \$500,000.00 or \$400.00 for a request relating to notes totaling \$500,000.00 or more. If the request is not accompanied by the proper filing fee or by other information or materials required by law, the authorized representative of the state board or of the department of treasury shall not consider the request to be complete and may return the request without acting upon it.

(8) Not later than 10 business days after receiving a complete request and proper filing fee under subsection (7), the authorized representative of the state board or of the department of treasury, as applicable, shall issue an order granting the exception unless the authorized representative finds that 1 or more of the following conditions exist or have occurred:

(a) For a school district, it appears from the information submitted by the school district under section 102 of the state school aid act of 1979, MCL 388.1702, and from other information available to the department or to the department of treasury that the school district ended its immediately preceding fiscal year with a deficit in 1 or more of its funds and does not have a plan approved under section 102(5) of the state school aid act of 1979, MCL 388.1702, for eliminating the deficit.

(b) The school district or intermediate school district has failed to comply with the requirements of this section with regard to an outstanding note issued under this section or a note issued under this section during the 3 years immediately preceding the date of the request.

(c) The school district or intermediate school district is in default in the payment of the principal of or interest on any of its obligations.

(9) If the authorized representative of the state board or of the department of treasury, as applicable, finds that 1 or more of the conditions described in subsection (8)(a) to (c) applies to a request for an exception from prior approval under subsection (7), the authorized representative may issue an order denying the request or, if he or she finds that the existence of the condition is inconsequential to the request, may issue an order granting the exception from prior approval. If the authorized representative of the state board or of the department of treasury fails to act on a complete request within the 10-day period specified in subsection (8), the exception from prior approval shall be considered to be granted as of the expiration of the 10-day period.

(10) Subject to the maximum amounts for notes as specified in subsections (2) and (4), an exception from prior approval, whether granted by order of the authorized representative of the state board or of the department of treasury or because of failure of the authorized representative of the state board or of the department of treasury to act on the request, is valid for 4 months.

(11) In addition to other powers under this section, with the approval of the state treasurer, the board of a local or intermediate school district may obtain a line of credit to secure funds for school operations or to pay previous loans obtained for school operations under this or any other statute. The school board or intermediate school board shall pledge not more than 30% of the state school aid apportioned to the school district or intermediate school district for that fiscal year for repayment of funds received pursuant to a line of credit obtained under this subsection. However, the school board or intermediate school board shall not borrow against the line of credit an amount greater than the difference, as of the date of the borrowing, between the total state school aid funds apportioned to the school district or intermediate school district for that fiscal year and the portion already received or pledged, except secondary pledges made under section 1356. To obtain approval for obtaining a line of credit under this subsection, a school board or intermediate school board shall apply to the state treasurer in the form and manner prescribed by the state treasurer, and shall provide information as requested by the state treasurer for evaluating the application. The state treasurer shall approve or disapprove an application and notify the school board or intermediate school board within 20 business days after receiving a proper application. If the state treasurer disapproves an application, the state treasurer shall include the reasons for disapproval in the notification to the school board or intermediate school board.

Sec. 1351. (1) Until May 1, 1994, a school district may borrow money and issue bonds of the district to defray all or a part of the cost of purchasing, erecting, completing, remodeling, improving, furnishing, refurbishing, equipping, or reequipping school buildings, including library buildings, structures, athletic fields, playgrounds, or other facilities, or parts of or additions to those facilities; acquiring, preparing, developing, or improving sites, or parts of or additions to

sites, for school buildings, including library buildings, structures, athletic fields, playgrounds, or other facilities; purchasing school buses; participating in the administrative costs of an urban renewal program through which the school district desires to acquire a site or addition to a site for school purposes; refunding all or part of existing bonded indebtedness; or accomplishing a combination of the purposes set forth in this subsection. In addition, until December 31, 1991 a school district may borrow money and issue bonds to defray all or part of the cost of purchasing textbooks.

(2) Except as otherwise provided in this subsection, a school district shall not borrow money or issue bonds for a sum that, together with the total outstanding bonded indebtedness of the district, exceeds 5% of the state equalized valuation of the taxable property within the district, unless the proposition of borrowing the money or issuing the bonds is submitted to a vote of the school electors of the district at an annual or special election and approved by the majority of the school electors voting on the question. Regardless of the amount of outstanding bonded indebtedness of the school district, a vote of the school electors is not necessary in order to issue bonds for a purpose described in section 1274a or to issue bonds under section 11i of the state school aid act of 1979, MCL 388.1611i. For the purposes of this subsection, bonds issued under section 11i of the state school aid act of 1979, MCL 388.1611i, shall not be included in computing the total outstanding bonded indebtedness of a school district.

(3) A school district shall not issue bonds under this part for an amount greater than 15% of the total assessed valuation of the district, except as provided in section 1356. The bonded indebtedness of a district shall not extend beyond a period of 30 years. Refunding bonds or the refunding part of a bond issue shall not be considered to be within the 15% limitation but shall be considered to be authorized in addition to the 15% limitation. A bond qualified under section 16 of article IX of the state constitution of 1963 and implementing legislation shall not be included for purposes of calculating the 15% limitation. Bonds issued pursuant to this part are subject to the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3, except that bonds issued for a purpose described in section 1274a may be sold at a public or publicly negotiated sale at the time or times, at the price or prices, and at a discount as determined by the board of the school district.

(4) Bonds or notes issued by a school district or intermediate school district under this part or section 442, 629, or 1274a shall be full faith and credit tax limited obligations of the district pledging the general funds, voted and allocated tax levies, or any other money available for such a purpose and shall not allow or provide for the levy of additional millage for payment of the bond or note without a vote of the qualified electorate of the district.

Sec. 1351a. (1) Beginning with bonds issued after May 1, 1994, a school district may not borrow money and issue bonds of the district under section 1351(1). However, a school district may borrow money and issue bonds of the district to defray all or a part of the cost of purchasing, erecting, completing, remodeling, or equipping or reequipping, except for equipping or reequipping for technology, school buildings, including library buildings, structures, athletic fields, playgrounds, or other facilities, or parts of or additions to those facilities; furnishing or refurbishing new or remodeled school buildings; acquiring, preparing, developing, or improving sites, or parts of or additions to sites, for school buildings, including library buildings, structures, athletic fields, playgrounds, or other facilities; purchasing school buses; acquiring, installing, or equipping or reequipping school buildings for technology; refunding all or part of existing bonded indebtedness if the net present value of the principal and interest to be paid on the refunding bonds, excluding the cost of issuance, will be less than the net present value of the principal and interest to be paid on the bonds being refunded, as calculated using a method approved by the department of treasury; or accomplishing a combination of the purposes set forth in this subsection. Section 1351(2) to (4) applies to bonds issued under this section.

(2) The proceeds of bonds issued under this section or under section 11i of the state school aid act of 1979, MCL 388.1611i, shall be used for capital expenditures and to pay costs of bond issuance, and shall not be used for maintenance costs. Except as otherwise provided in this subsection, a school district that issues bonds under this section or under section 11i of the state school aid act of 1979, MCL 388.1611i, shall have an independent audit, using generally accepted accounting principles, of its bonding activities under these sections conducted within 120 days after completion of all projects financed by the proceeds of the bonds and shall submit the audit report to the department of treasury. For bonds issued under section 11i of the state school aid act of 1979, MCL 388.1611i, the independent audit required under this subsection may be conducted and submitted with the annual report required under section 5 of chapter III of the municipal finance act, 1943 PA 202, MCL 133.5.

(3) Bonds issued under this section or under section 11i of the state school aid act of 1979, MCL 388.1611i, for an asset with a useful life of less than 30 years shall not be issued for a term that is longer than the useful life of the asset.

(4) A school district shall not borrow money and issue notes or bonds under this section to defray all or part of the costs of any of the following:

(a) Upgrades to operating system or application software.

(b) Media, including diskettes, compact discs, video tapes, and disks, unless used for the storage of initial operating system software or customized application software included in the definition of technology under this section.

(c) Training, consulting, maintenance, service contracts, software upgrades, troubleshooting, or software support.

(5) A resident of a school district has standing to bring suit against the school district to enforce the provisions of this section in a court having jurisdiction.

(6) As used in this section, "technology" means any of the following:

(a) Hardware and communication devices that transmit, receive, or compute information for pupil instructional purposes.

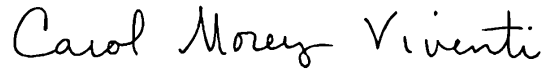
(b) The initial purchase of operating system software or customized application software, or both, accompanying the purchase of hardware and communication devices under subdivision (a).

(c) The costs of design and installation of the hardware, communication devices, and initial operating system software or customized application software authorized under this subsection.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives.



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Secretary of the Senate.

Approved \_\_\_\_\_

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Governor.