

**SUBSTITUTE FOR
HOUSE BILL NO. 5786**

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending sections 15 and 602 (MCL 380.15 and 380.602), as
added by 2000 PA 231.

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 OR EDUCATIONAL FOUNDATION. If a gift
8 received by the school board was subject to a condition,
9 limitation, or requirement, the transfer must be to a fund within
10 the community foundation OR EDUCATIONAL FOUNDATION that

HB5786, As Passed House, October 4, 2000

House Bill No. 5786

2

1 incorporates a condition, limitation, or requirement that is
2 identical or substantially similar to the condition, limitation,
3 or requirement the gift was subject to. If a gift received by
4 the school board was not subject to any condition, limitation, or
5 requirement, the transfer must be to a fund within the community
6 foundation OR EDUCATIONAL FOUNDATION that imposes conditions,
7 limitations, or requirements on the use of the gift property for
8 1 or more school purposes under this act.

9 (2) If a school board transfers a gift to a community foun-
10 dation OR EDUCATIONAL FOUNDATION pursuant to this section and if
11 1 or more of the following occur, the community foundation OR
12 EDUCATIONAL FOUNDATION shall return the gift to the school
13 board:

14 (a) ~~The~~ IF THE TRANSFER IS TO A COMMUNITY FOUNDATION, THE
15 community foundation fails to meet all of the requirements for
16 certification as a community foundation under section 261 of the
17 income tax act of 1967, 1967 PA 281, MCL 206.261.

18 (b) The community foundation OR EDUCATIONAL FOUNDATION is
19 liquidated.

20 (c) The community foundation OR EDUCATIONAL FOUNDATION sub-
21 stantially violates any condition, limitation, or requirement on
22 the gift.

23 (3) Unless waived by the school board transferring the gift,
24 before a school board may transfer a gift to a community founda-
25 tion OR EDUCATIONAL FOUNDATION pursuant to this section, the com-
26 munity foundation OR EDUCATIONAL FOUNDATION shall establish a
27 donor advisory board for that gift. The donor advisory board

HB5786, As Passed House, October 4, 2000

House Bill No. 5786

3

1 shall include at least 1 representative of the school board
2 transferring the gift. The donor advisory board shall do all of
3 the following:

4 (a) Monitor the community foundation's OR EDUCATIONAL
5 FOUNDATION'S compliance with any condition, limitation, or
6 requirement on the use of the gift.

7 (b) Make recommendations to the community foundation OR EDU-
8 CATIONAL FOUNDATION for the use of distributions or other pro-
9 ceeds from the gift.

10 (4) A transfer of a gift made in accordance with this sec-
11 tion that occurred before the effective date of this section is
12 ratified and confirmed and the transfer is considered valid as if
13 it had been made under this section.

14 (5) As used in this section:

15 (a) "Community foundation" means that term as defined in
16 section 261 of the income tax act of 1967, 1967 PA 281, MCL
17 206.261.

18 (b) "Condition, limitation, or requirement" does not include
19 a material restriction or condition that violates 26 C.F.R.
20 1.170A-9 or that restricts a community foundation's OR EDUCA-
21 TIONAL FOUNDATION'S inherent power of modification described in
22 26 C.F.R. 1.170A-9.

23 (C) "EDUCATIONAL FOUNDATION" MEANS A FOUNDATION ORGANIZED
24 AND OPERATED TO ASSIST THE FUNCTIONS OF A SCHOOL DISTRICT, INTER-
25 MEDIATE SCHOOL DISTRICT, COMMUNITY COLLEGE, OR STATE PUBLIC
26 UNIVERSITY.

HB5786, As Passed House, October 4, 2000

House Bill No. 5786

4

1 (D) ~~(c)~~ "Gift" does not include state school aid or
2 another grant from state or federal sources.

3 Sec. 602. (1) As part of its powers under section 601a, the
4 intermediate school board of an intermediate school district may
5 receive, own, and enjoy a gift of real or personal property made
6 by grant, devise, bequest, or in any other manner, that is made
7 for intermediate school district purposes under this act. An
8 intermediate school board may transfer a gift of intangible per-
9 sonal property or the proceeds from that gift to a community
10 foundation OR EDUCATIONAL FOUNDATION. If a gift received by the
11 intermediate school board was subject to a condition, limitation,
12 or requirement, the transfer must be to a fund within the commu-
13 nity foundation OR EDUCATIONAL FOUNDATION that incorporates a
14 condition, limitation, or requirement that is identical or sub-
15 stantially similar to the condition, limitation, or requirement
16 the gift was subject to. If a gift received by the intermediate
17 school board was not subject to any condition, limitation, or
18 requirement, the transfer must be to a fund within the community
19 foundation OR EDUCATIONAL FOUNDATION that imposes conditions,
20 limitations, or requirements on the use of the gift property for
21 1 or more intermediate school district purposes under this act.

22 (2) If an intermediate school board transfers a gift to a
23 community foundation OR EDUCATIONAL FOUNDATION pursuant to this
24 section and if 1 or more of the following occur, the community
25 foundation OR EDUCATIONAL FOUNDATION shall return the gift to the
26 intermediate school board:

HB5786, As Passed House, October 4, 2000

House Bill No. 5786

5

1 (a) ~~The~~ IF THE TRANSFER IS TO A COMMUNITY FOUNDATION, THE
2 community foundation fails to meet all of the requirements for
3 certification as a community foundation under section 261 of the
4 income tax act of 1967, 1967 PA 281, MCL 206.261.

5 (b) The community foundation OR EDUCATIONAL FOUNDATION is
6 liquidated.

7 (c) The community foundation OR EDUCATIONAL FOUNDATION sub-
8 stantially violates any condition, limitation, or requirement on
9 the gift.

10 (3) Unless waived by the intermediate school board transfer-
11 ring the gift, before an intermediate school board may transfer a
12 gift to a community foundation OR EDUCATIONAL FOUNDATION pursuant
13 to this section, the community foundation OR EDUCATIONAL
14 FOUNDATION shall establish a donor advisory board for that gift.
15 The donor advisory board shall include at least 1 representative
16 of the intermediate school board transferring the gift. The
17 donor advisory board shall do all of the following:

18 (a) Monitor the community foundation's OR EDUCATIONAL
19 FOUNDATION'S compliance with any condition, limitation, or
20 requirement on the use of the gift.

21 (b) Make recommendations to the community foundation OR EDU-
22 CATIONAL FOUNDATION for the use of distributions or other pro-
23 ceeds from the gift.

24 (4) A transfer of a gift made in accordance with this sec-
25 tion that occurred before the effective date of this section is
26 ratified and confirmed and the transfer is considered valid as if
27 it had been made under this section.

HB5786, As Passed House, October 4, 2000

House Bill No. 5786

6

1 (5) As used in this section:

2 (a) "Community foundation" means that term as defined in
3 section 261 of the income tax act of 1967, 1967 PA 281, MCL
4 206.261.

5 (b) "Condition, limitation, or requirement" does not include
6 a material restriction or condition that violates 26
7 C.F.R. 1.170A-9 or that restricts a community foundation's OR
8 EDUCATIONAL FOUNDATION'S inherent power of modification described
9 in 26 C.F.R. 1.170A-9.

10 (C) "EDUCATIONAL FOUNDATION" MEANS A FOUNDATION ORGANIZED
11 AND OPERATED TO ASSIST THE FUNCTIONS OF A SCHOOL DISTRICT, INTER-
12 MEDIATE SCHOOL DISTRICT, COMMUNITY COLLEGE, OR STATE PUBLIC
13 UNIVERSITY.

14 (D) ~~(c)~~ "Gift" does not include state school aid or
15 another grant from state or federal sources.

16 Enacting section 1. This amendatory act shall be known and
17 may be cited as the "Sam Dubow scholarship law".