



HOUSE BILL No. 5786

May 16, 2000, Introduced by Reps. Shackleton, Mortimer, Rick Johnson, Sanborn, Voorhees, Kowall, Bisbee, Hager, Richardville, LaSata, Van Woerkom, Bradstreet, Ehardt, Woronchak, Neumann, Rivet, Pestka, Rison, Lemmons, Clark, Lockwood, Garcia, Cameron Brown, Vear, Scott and Birkholz and referred to the Committee on Education.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 15A. (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, LIMITA-
9 TION, OR REQUIREMENT, THE TRANSFER MUST BE TO A FUND WITHIN THE
10 COMMUNITY FOUNDATION OR EDUCATIONAL FOUNDATION THAT INCORPORATES
11 A CONDITION, LIMITATION, OR REQUIREMENT THAT IS IDENTICAL OR

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

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

13 (A) IF THE TRANSFER IS TO A COMMUNITY FOUNDATION, THE COMMU-
14 NITY FOUNDATION FAILS TO MEET ALL OF THE REQUIREMENTS FOR CERTI-
15 FICATION AS A COMMUNITY FOUNDATION UNDER SECTION 261 OF THE
16 INCOME TAX ACT OF 1967, 1967 PA 281, MCL 206.261.

17 (B) THE COMMUNITY FOUNDATION OR EDUCATIONAL FOUNDATION IS
18 LIQUIDATED.

19 (C) THE COMMUNITY FOUNDATION OR EDUCATIONAL FOUNDATION SUB-
20 STANTIALLY VIOLATES ANY CONDITION, LIMITATION, OR REQUIREMENT ON
21 THE GIFT.

22 (3) UNLESS WAIVED BY THE SCHOOL BOARD TRANSFERRING THE GIFT,
23 BEFORE A SCHOOL BOARD MAY TRANSFER A GIFT TO A COMMUNITY FOUNDA-
24 TION OR EDUCATIONAL FOUNDATION PURSUANT TO THIS SECTION, THE COM-
25 MUNITY FOUNDATION OR EDUCATIONAL FOUNDATION SHALL ESTABLISH A
26 DONOR ADVISORY BOARD FOR THAT GIFT. THE DONOR ADVISORY BOARD
27 SHALL INCLUDE AT LEAST 1 REPRESENTATIVE OF THE SCHOOL BOARD

1 TRANSFERRING THE GIFT. THE DONOR ADVISORY BOARD SHALL DO ALL OF
2 THE FOLLOWING:

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

6 (B) MAKE RECOMMENDATIONS TO THE COMMUNITY FOUNDATION OR EDU-
7 CATIONAL FOUNDATION FOR THE USE OF DISTRIBUTIONS OR OTHER PRO-
8 CEEDS FROM THE GIFT.

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

13 (5) AS USED IN THIS SECTION:

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

17 (B) "CONDITION, LIMITATION, OR REQUIREMENT" DOES NOT INCLUDE
18 A MATERIAL RESTRICTION OR CONDITION THAT VIOLATES 26 C.F.R.
19 1.170A-9 OR THAT RESTRICTS A COMMUNITY FOUNDATION'S OR EDUCA-
20 TIONAL FOUNDATION'S INHERENT POWER OF MODIFICATION DESCRIBED IN
21 26 C.F.R. 1.170A-9.

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

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

1 SEC. 602A. (1) AS PART OF ITS POWERS UNDER SECTION 601A,
2 THE INTERMEDIATE SCHOOL BOARD OF AN INTERMEDIATE SCHOOL DISTRICT
3 MAY RECEIVE, OWN, AND ENJOY A GIFT OF REAL OR PERSONAL PROPERTY
4 MADE BY GRANT, DEVISE, BEQUEST, OR IN ANY OTHER MANNER, THAT IS
5 MADE FOR INTERMEDIATE SCHOOL DISTRICT PURPOSES UNDER THIS ACT.
6 AN INTERMEDIATE SCHOOL BOARD MAY TRANSFER A GIFT OF INTANGIBLE
7 PERSONAL PROPERTY OR THE PROCEEDS FROM THAT GIFT TO A COMMUNITY
8 FOUNDATION OR EDUCATIONAL FOUNDATION. IF A GIFT RECEIVED BY THE
9 INTERMEDIATE SCHOOL BOARD WAS SUBJECT TO A CONDITION, LIMITATION,
10 OR REQUIREMENT, THE TRANSFER MUST BE TO A FUND WITHIN THE COMMU-
11 NITY FOUNDATION OR EDUCATIONAL FOUNDATION THAT INCORPORATES A
12 CONDITION, LIMITATION, OR REQUIREMENT THAT IS IDENTICAL OR SUB-
13 STANTIALLY SIMILAR TO THE CONDITION, LIMITATION, OR REQUIREMENT
14 THE GIFT WAS SUBJECT TO. IF A GIFT RECEIVED BY THE INTERMEDIATE
15 SCHOOL BOARD WAS NOT SUBJECT TO ANY CONDITION, LIMITATION, OR
16 REQUIREMENT, THE TRANSFER MUST BE TO A FUND WITHIN THE COMMUNITY
17 FOUNDATION OR EDUCATIONAL FOUNDATION THAT IMPOSES CONDITIONS,
18 LIMITATIONS, OR REQUIREMENTS ON THE USE OF THE GIFT PROPERTY FOR
19 1 OR MORE INTERMEDIATE SCHOOL DISTRICT PURPOSES UNDER THIS ACT.

20 (2) IF AN INTERMEDIATE SCHOOL BOARD TRANSFERS A GIFT TO A
21 COMMUNITY FOUNDATION OR EDUCATIONAL FOUNDATION PURSUANT TO THIS
22 SECTION AND IF 1 OR MORE OF THE FOLLOWING OCCUR, THE COMMUNITY
23 FOUNDATION OR EDUCATIONAL FOUNDATION SHALL RETURN THE GIFT TO THE
24 INTERMEDIATE SCHOOL BOARD:

25 (A) IF THE TRANSFER IS TO A COMMUNITY FOUNDATION, THE COMMU-
26 NITY FOUNDATION FAILS TO MEET ALL OF THE REQUIREMENTS FOR

1 CERTIFICATION AS A COMMUNITY FOUNDATION UNDER SECTION 261 OF THE
2 INCOME TAX ACT OF 1967, 1967 PA 281, MCL 206.261.

3 (B) THE COMMUNITY FOUNDATION OR EDUCATIONAL FOUNDATION IS
4 LIQUIDATED.

5 (C) THE COMMUNITY FOUNDATION OR EDUCATIONAL FOUNDATION SUB-
6 STANTIALLY VIOLATES ANY CONDITION, LIMITATION, OR REQUIREMENT ON
7 THE GIFT.

8 (3) UNLESS WAIVED BY THE INTERMEDIATE SCHOOL BOARD TRANSFER-
9 RING THE GIFT, BEFORE AN INTERMEDIATE SCHOOL BOARD MAY TRANSFER A
10 GIFT TO A COMMUNITY FOUNDATION OR EDUCATIONAL FOUNDATION PURSUANT
11 TO THIS SECTION, THE COMMUNITY FOUNDATION OR EDUCATIONAL FOUNDA-
12 TION SHALL ESTABLISH A DONOR ADVISORY BOARD FOR THAT GIFT. THE
13 DONOR ADVISORY BOARD SHALL INCLUDE AT LEAST 1 REPRESENTATIVE OF
14 THE INTERMEDIATE SCHOOL BOARD TRANSFERRING THE GIFT. THE DONOR
15 ADVISORY BOARD SHALL DO ALL OF THE FOLLOWING:

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

19 (B) MAKE RECOMMENDATIONS TO THE COMMUNITY FOUNDATION OR EDU-
20 CATIONAL FOUNDATION FOR THE USE OF DISTRIBUTIONS OR OTHER PRO-
21 CEEDS FROM THE GIFT.

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

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1 (A) "COMMUNITY FOUNDATION" MEANS THAT TERM AS DEFINED IN
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4 (B) "CONDITION, LIMITATION, OR REQUIREMENT" DOES NOT INCLUDE
5 A MATERIAL RESTRICTION OR CONDITION THAT VIOLATES 26
6 C.F.R. 1.170A-9 OR THAT RESTRICTS A COMMUNITY FOUNDATION'S OR
7 EDUCATIONAL FOUNDATION'S INHERENT POWER OF MODIFICATION DESCRIBED
8 IN 26 C.F.R. 1.170A-9.

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

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

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