

# HOUSE BILL No. 4870

June 20, 2013, Introduced by Reps. Oakes, Robinson, Singh, Zemke, Schor, Lipton, Dillon  
and Kivela and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled  
"The revised school code,"  
by amending section 1211 (MCL 380.1211), as amended by 2012 PA 285,  
and by adding section 12a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 12A. (1) IF THE SUPERINTENDENT OF PUBLIC INSTRUCTION  
2        DETERMINES THAT A SCHOOL DISTRICT MEETS ALL OF THE FOLLOWING, THE  
3        INTERMEDIATE SUPERINTENDENT OF THE INTERMEDIATE SCHOOL DISTRICT IN  
4        WHICH THE SCHOOL DISTRICT IS A CONSTITUENT SCHOOL DISTRICT SHALL  
5        ASSUME GOVERNANCE OVER THE SCHOOL DISTRICT AS PROVIDED UNDER THIS  
6        SECTION:

7        (A) THE NUMBER OF PUPILS IN MEMBERSHIP IN THE SCHOOL DISTRICT  
8        FOR THE MOST RECENTLY COMPLETED SCHOOL YEAR IS LESS THAN 75% OF THE  
9        NUMBER OF PUPILS IN MEMBERSHIP IN THE SCHOOL DISTRICT FOR THE  
10       SCHOOL YEAR THAT ENDED 4 YEARS BEFORE THE MOST RECENTLY COMPLETED

1 SCHOOL YEAR.

2 (B) THE SCHOOL DISTRICT HAS OPERATED WITH ANNUAL GENERAL FUND  
3 OPERATING DEFICITS FOR AT LEAST THE IMMEDIATELY PRECEDING PERIOD OF  
4 3 SCHOOL YEARS.

5 (C) THE SCHOOL DISTRICT'S GENERAL FUND OPERATING DEFICIT  
6 BALANCE EXPRESSED AS A PERCENTAGE OF GENERAL FUND REVENUE IS  
7 PROJECTED TO BE GREATER THAN NEGATIVE 25 PERCENT.

8 (D) THE SCHOOL DISTRICT HAS INSUFFICIENT REVENUE TO OPERATE  
9 AND PROVIDE CHILDREN WITH A PUBLIC EDUCATION.

10 (E) THE SUPERINTENDENT OF PUBLIC INSTRUCTION, STATE TREASURER,  
11 AND INTERMEDIATE SCHOOL BOARD JOINTLY DETERMINE THAT THE MEASURES  
12 UNDER THIS SECTION ARE NECESSARY TO RESTORING THE FISCAL SOLVENCY  
13 OF THE SCHOOL DISTRICT.

14 (2) ALL OF THE FOLLOWING APPLY TO A SCHOOL DISTRICT THAT MEETS  
15 THE CRITERIA UNDER SUBSECTION (1):

16 (A) THE INTERMEDIATE SUPERINTENDENT SHALL ASSUME GOVERNANCE OF  
17 THE SCHOOL DISTRICT FOR A PERIOD NOT TO EXCEED 8 YEARS, AS  
18 DETERMINED BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION. WITH  
19 RESPECT TO THE SCHOOL DISTRICT, THE INTERMEDIATE SUPERINTENDENT HAS  
20 ALL OF THE POWERS AND DUTIES DESCRIBED IN THIS SECTION; EXCEPT AS  
21 OTHERWISE PROVIDED IN THIS SECTION, ALL OF THE PROVISIONS OF THIS  
22 ACT THAT WOULD OTHERWISE APPLY TO THE SCHOOL BOARD THAT PREVIOUSLY  
23 OPERATED THE SCHOOL DISTRICT APPLY TO THE INTERMEDIATE  
24 SUPERINTENDENT WITH RESPECT TO THAT SCHOOL DISTRICT; EXCEPT AS  
25 OTHERWISE PROVIDED IN THIS SECTION, THE INTERMEDIATE SUPERINTENDENT  
26 MAY EXERCISE ALL THE POWERS AND DUTIES OTHERWISE VESTED BY LAW IN  
27 THE SCHOOL BOARD AND IN ITS OFFICERS AND MAY EXERCISE ALL

1 ADDITIONAL POWERS AND DUTIES PROVIDED UNDER THIS SECTION; AND,  
2 EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE INTERMEDIATE  
3 SUPERINTENDENT ACCEDES TO ALL THE RIGHTS, DUTIES, AND OBLIGATIONS  
4 OF THE SCHOOL BOARD. THESE POWERS, RIGHTS, DUTIES, AND OBLIGATIONS  
5 INCLUDE, BUT ARE NOT LIMITED TO, ALL OF THE FOLLOWING:

6 (i) AUTHORITY OVER THE EXPENDITURE OF ALL FUNDS ATTRIBUTABLE TO  
7 PUPILS IN THE SCHOOL DISTRICT.

8 (ii) RIGHTS AND OBLIGATIONS UNDER COLLECTIVE BARGAINING  
9 AGREEMENTS AND EMPLOYMENT CONTRACTS ENTERED INTO BY THE SCHOOL  
10 BOARD FOR EMPLOYEES OF THE SCHOOL DISTRICT.

11 (iii) RIGHTS TO PROSECUTE AND DEFEND LITIGATION.

12 (iv) RIGHTS AND OBLIGATIONS UNDER STATUTE, RULE, AND COMMON  
13 LAW.

14 (v) AUTHORITY TO DELEGATE ANY OF THE INTERMEDIATE  
15 SUPERINTENDENT'S POWERS AND DUTIES TO 1 OR MORE DESIGNEES, WITH  
16 PROPER SUPERVISION BY THE INTERMEDIATE SUPERINTENDENT.

17 (vi) IF THE SCHOOL DISTRICT HAS OUTSTANDING DEBT OR OTHER  
18 LIABILITIES, THE INTERMEDIATE SUPERINTENDENT SHALL PERFORM THE  
19 FUNCTIONS AND SATISFY THE RESPONSIBILITIES OF THE BOARD AND OTHER  
20 OFFICERS OF THE SCHOOL DISTRICT RELATING TO THE DEBT AND OTHER  
21 LIABILITIES, INCLUDING, BUT NOT LIMITED TO, ALL OF THE FOLLOWING:

22 (A) CERTIFYING AND LEVYING TAXES FOR SATISFACTION OF THE DEBT  
23 IN THE NAME OF THE SCHOOL DISTRICT.

24 (B) HOLDING DEBT RETIREMENT FUNDS OF THE SCHOOL DISTRICT  
25 SEPARATELY FROM THE FUNDS OF THE INTERMEDIATE SCHOOL DISTRICT.

26 (C) DOING ALL OTHER THINGS RELATIVE TO THE OUTSTANDING DEBT OF  
27 THE SCHOOL DISTRICT REQUIRED BY LAW AND BY THE TERMS OF THE DEBT,

1 INCLUDING, BUT NOT LIMITED TO, LEVYING OR RENEWING A SCHOOL  
2 OPERATING TAX UNDER SECTION 1211. THE QUESTION OF RENEWAL OF A  
3 SCHOOL OPERATING TAX PLEDGED TO THE REPAYMENT OF DEBT OF THE SCHOOL  
4 DISTRICT SHALL BE SUBMITTED ONLY TO SCHOOL ELECTORS RESIDING WITHIN  
5 THE GEOGRAPHIC AREA OF THE SCHOOL DISTRICT AND DOES NOT REQUIRE  
6 APPROVAL BY THE INTERMEDIATE SCHOOL ELECTORS OF THE INTERMEDIATE  
7 SCHOOL DISTRICT.

8 (B) AS PERMITTED UNDER FEDERAL LAW, THE SUPERINTENDENT OF  
9 PUBLIC INSTRUCTION SHALL GRANT TO THE INTERMEDIATE SCHOOL DISTRICT  
10 AN ALLOCATION OF GRANTS UNDER 20 USC 6333, 6334, 6335, AND 6337 AND  
11 OF OTHER FEDERAL FUNDS THAT WOULD OTHERWISE BE MADE AVAILABLE FOR  
12 GRANTS TO OR FEDERAL FUNDING FOR THE SCHOOL DISTRICT OR A SCHOOL OF  
13 THE SCHOOL DISTRICT, OR MAKE OTHER ADJUSTMENTS IN THE ALLOCATION OF  
14 FEDERAL FUNDS TO IMPLEMENT TRANSFER OF FUNCTIONS AND  
15 RESPONSIBILITIES UNDER THIS SECTION.

16 (C) THE SCHOOL BOARD OF THE SCHOOL DISTRICT SHALL CONTINUE TO  
17 SERVE AS PROVIDED BY LAW, EXCEPT THAT THE SCHOOL BOARD'S POWERS AND  
18 DUTIES ARE LIMITED TO SERVING IN AN ADVISORY CAPACITY. THE SCHOOL  
19 BOARD SHALL CONTINUE TO HOLD REGULAR SCHOOL BOARD MEETINGS IN THE  
20 MANNER PROVIDED BY LAW FOR A SCHOOL BOARD. AT EACH REGULAR MEETING  
21 OF THE INTERMEDIATE SCHOOL BOARD, THE INTERMEDIATE SCHOOL BOARD  
22 SHALL PROVIDE THE SCHOOL DISTRICT'S SCHOOL BOARD WITH AN  
23 OPPORTUNITY TO PROVIDE INPUT REGARDING THE OPERATION OF THE SCHOOL  
24 DISTRICT.

25 (D) FOR A PERIOD OF 5 YEARS AFTER THE END OF THE PERIOD  
26 DESCRIBED IN SUBDIVISION (A), THE INTERMEDIATE SUPERINTENDENT SHALL  
27 MONITOR THE SCHOOL DISTRICT AND MAY REVIEW ALL RECORDS, FUNDS, AND

1 ASSESSED PROPERTY OF THE SCHOOL DISTRICT. THE INTERMEDIATE  
2 SUPERINTENDENT SHALL REPORT ANY ISSUES HE OR SHE IDENTIFIES AS A  
3 RESULT OF ITS REVIEWS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION,  
4 STATE TREASURER, AND OTHER APPROPRIATE PERSONS.

5 (3) AS USED IN THIS SECTION, "DEBT" MEANS THAT TERM AS DEFINED  
6 IN SECTION 103 OF THE REVISED MUNICIPAL FINANCE ACT, 2001 PA 34,  
7 MCL 141.2103.

8 Sec. 1211. (1) Except as otherwise provided in this section  
9 and section 1211c, the board of a school district shall levy not  
10 more than 18 mills for school operating purposes or the number of  
11 mills levied in 1993 for school operating purposes, whichever is  
12 less. A principal residence, qualified agricultural property,  
13 qualified forest property, supportive housing property, property  
14 occupied by a public school academy, and industrial personal  
15 property are exempt from the mills levied under this subsection  
16 except for the number of mills by which that exemption is reduced  
17 under this subsection. Except as otherwise provided in subsection  
18 (9), the board of a school district that had a foundation allowance  
19 for the 1994-95 state fiscal year greater than \$6,500.00 may reduce  
20 the number of mills from which a principal residence, qualified  
21 agricultural property, qualified forest property, supportive  
22 housing property, property occupied by a public school academy, and  
23 industrial personal property are exempted under this subsection by  
24 up to the number of mills, as certified under section 1211a,  
25 required to be levied on a principal residence, qualified  
26 agricultural property, qualified forest property, supportive  
27 housing property, property occupied by a public school academy, and

1 industrial personal property for the school district's combined  
2 state and local revenue per membership pupil for the school fiscal  
3 year ending in 1995 to be equal to the school district's foundation  
4 allowance for the state fiscal year ending in 1995, and the board  
5 also may levy in 1994 or a succeeding year that number of mills for  
6 school operating purposes on a principal residence, qualified  
7 agricultural property, qualified forest property, supportive  
8 housing property, property occupied by a public school academy, and  
9 industrial personal property.

10 (2) Subject to subsection (3), if the department of treasury  
11 determines that the maximum number of mills allowed to be levied  
12 under subsection (1) on all classes of property was not sufficient  
13 for a school district's combined state and local revenue per  
14 membership pupil for the school fiscal year ending in 1995 to be  
15 equal to the school district's foundation allowance for that school  
16 fiscal year, the board of the school district may levy in 1994 or a  
17 succeeding year additional mills uniformly on all property up to  
18 the number of mills required for the school district's combined  
19 state and local revenue per membership pupil for the school fiscal  
20 year ending in 1995 to be equal to the school district's foundation  
21 allowance for the state fiscal year ending in 1995. However, the  
22 board of a school district described in this subsection, by board  
23 resolution, may elect to exempt each principal residence and all  
24 qualified agricultural property, qualified forest property,  
25 supportive housing property, property occupied by a public school  
26 academy, and industrial personal property located in the school  
27 district from some or all of the mills that the board is authorized

1 to levy under this subsection.

2 (3) After 1994, the number of mills a school district may levy  
3 under this section on any class of property shall not exceed the  
4 lesser of the number of mills the school district was certified by  
5 the department of treasury under section 1211a to levy on that  
6 class of property under this section in 1994 or the number of mills  
7 required to be levied on that class of property under this section  
8 to ensure that the increase from the immediately preceding state  
9 fiscal year in the school district's combined state and local  
10 revenue per membership pupil, calculated as if the school district  
11 had levied the maximum number of mills the school district was  
12 allowed to levy under this section regardless of the number of  
13 mills the school district actually levied, does not exceed the  
14 lesser of the dollar amount of the increase in the basic foundation  
15 allowance under section 20 of the state school aid act of 1979, MCL  
16 388.1620, from the immediately preceding state fiscal year or the  
17 percentage increase in the general price level in the immediately  
18 preceding calendar year. If the number of mills a school district  
19 is allowed to levy under this section in a year after 1994 is less  
20 than the number of mills the school district was allowed to levy  
21 under this section in the immediately preceding year, any reduction  
22 required by this subsection in the school district's millage rate  
23 shall be calculated by first reducing the number of mills the  
24 school district is allowed to levy under subsection (2) and then  
25 increasing the number of mills from which a principal residence,  
26 qualified agricultural property, qualified forest property,  
27 supportive housing property, property occupied by a public school

1 academy, and industrial personal property are exempted under  
2 subsection (1).

3 (4) Commercial personal property is exempt from 12 of the  
4 mills levied under this section. However, if the number of mills  
5 from which industrial personal property is exempted for a specific  
6 school district is reduced under this section, then the number of  
7 mills from which commercial personal property is exempted for that  
8 school district shall be reduced by that same number of mills.

9 (5) Except as otherwise provided under this subsection,  
10 millage levied under this section must be approved by the school  
11 electors. For the purposes of this section, millage approved by the  
12 school electors before January 1, 1994 for which the authorization  
13 has not expired is considered to be approved by the school  
14 electors. With the approval of the state treasurer, a school  
15 district may pledge millage levied under this section for the  
16 repayment of a loan under the emergency municipal loan act, 1980 PA  
17 243, MCL 141.931 to 141.942, money borrowed by the school district  
18 under section 1225, or the repayment of advances, overpayments, or  
19 other obligations of the school district to this state under  
20 section 15 of the state school aid act of 1979, MCL 388.1615.

21 (6) If a school district levies millage for school operating  
22 purposes that is in excess of the limits of this section, the  
23 amount of the resulting excess tax revenue shall be deducted from  
24 the school district's next regular tax levy.

25 (7) If a school district levies millage for school operating  
26 purposes that is less than the limits of this section, the board of  
27 the school district may levy at the school district's next regular



1 tax levy an additional number of mills not to exceed the additional  
2 millage needed to make up the shortfall.

3 (8) A school district shall not levy mills allocated under the  
4 property tax limitation act, 1933 PA 62, MCL 211.201 to 211.217a,  
5 other than mills allocated to a school district of the first class  
6 or a school district that was previously a school district of the  
7 first class, for payment to a public library commission under  
8 section 11(4) of the property tax limitation act, 1933 PA 62, MCL  
9 211.211, after 1993.

10 (9) Beginning with taxes levied for 2011, if a school district  
11 had a foundation allowance for the 1994-95 state fiscal year  
12 greater than \$6,500.00 and if the school district's foundation  
13 allowance for the 2009-2010 state fiscal year was less than the  
14 basic foundation allowance prescribed for the 2009-2010 state  
15 fiscal year under section 20 of the state school aid act of 1979,  
16 MCL 388.1620, the school district may not reduce the number of  
17 mills from which certain classes of property are exempted from the  
18 levy of millage under subsection (1) and may not levy that number  
19 of mills on those classes of property as would otherwise be allowed  
20 under subsection (1).

21 (10) IF A SCHOOL DISTRICT IS UNDER THE GOVERNANCE OF AN  
22 INTERMEDIATE SUPERINTENDENT AS PROVIDED IN SECTION 12A, THEN ALL OF  
23 THE FOLLOWING APPLY TO TAXES LEVIED FOR SCHOOL OPERATING PURPOSES  
24 UNDER THIS SECTION:

25 (A) EXCEPT AS PROVIDED IN SUBDIVISION (B), THE INTERMEDIATE  
26 SUPERINTENDENT SHALL USE THE REVENUE FROM TAXES LEVIED UNDER THIS  
27 SECTION FOR THE SATISFACTION OF DEBT OF THE SCHOOL DISTRICT UNTIL

1 THE DEBT IS RETIRED OR REFUNDED. AS USED IN THIS SUBDIVISION,  
2 "DEBT" MEANS THAT TERM AS DEFINED IN SECTION 12A.

3 (B) THE INTERMEDIATE SUPERINTENDENT MAY USE THE REVENUE FROM  
4 NOT MORE THAN 3 MILLS OF THE TAXES LEVIED UNDER THIS SECTION FOR  
5 SHORT-TERM CAPITAL IMPROVEMENTS IN THE SCHOOL DISTRICT THAT THE  
6 INTERMEDIATE SUPERINTENDENT CONSIDERS NECESSARY TO PROVIDE A SAFE  
7 AND HEALTHY EDUCATION ENVIRONMENT FOR THE PUPILS OF THE SCHOOL  
8 DISTRICT AND TO COMPETE FOR PUPIL ENROLLMENT.

9 (11) ~~(10)~~—As used in this section:

10 (a) "Combined state and local revenue per membership pupil"  
11 means that term as defined in section 20 of the state school aid  
12 act of 1979, MCL 388.1620.

13 (b) "Commercial personal property" means property classified  
14 as commercial personal property under section 34c of the general  
15 property tax act, 1893 PA 206, MCL 211.34c.

16 (c) "Foundation allowance" means a school district's  
17 foundation allowance as calculated under section 20 of the state  
18 school aid act of 1979, MCL 388.1620.

19 (d) "General price level" means that term as defined in  
20 section 33 of article IX of the state constitution of 1963.

21 (e) "Industrial personal property" means the following:

22 (i) Except as otherwise provided in subparagraph (ii), property  
23 classified as industrial personal property under section 34c of the  
24 general property tax act, 1893 PA 206, MCL 211.34c.

25 (ii) Beginning December 31, 2011, industrial personal property  
26 does not include a turbine powered by gas, steam, nuclear energy,  
27 coal, or oil the primary purpose of which is the generation of

1 electricity for sale.

2 (f) "Membership" means that term as defined in section 6 of  
3 the state school aid act of 1979, MCL 388.1606.

4 (g) "Owner", "person", "principal residence", and "qualified  
5 agricultural property" mean those terms as defined in section 7dd  
6 of the general property tax act, 1893 PA 206, MCL 211.7dd.

7 (h) "Property occupied by a public school academy" means  
8 property occupied by a public school academy, urban high school  
9 academy, or school of excellence that is used exclusively for  
10 educational purposes.

11 (i) "Qualified forest property" means that term as defined in  
12 section 7jj of the general property tax act, 1893 PA 206, MCL  
13 211.7jj[1].

14 (j) "School operating purposes" includes expenditures for  
15 furniture and equipment, for alterations necessary to maintain  
16 school facilities in a safe and sanitary condition, for funding the  
17 cost of energy conservation improvements in school facilities, for  
18 deficiencies in operating expenses for the preceding year or  
19 preceding years, including, but not limited to, repayment of an  
20 emergency loan under the emergency municipal loan act, 1980 PA 243,  
21 MCL 141.931 to 141.942, and for paying the operating allowance due  
22 from the school district to a joint high school district in which  
23 the school district is a participating school district under former  
24 part 3a. Taxes levied for school operating purposes do not include  
25 any of the following:

26 (i) Taxes levied by a school district for operating a community  
27 college under part 25.

1           (ii) Taxes levied under section 1212.

2           (iii) Taxes levied under section 1356 for eliminating an  
3 operating deficit.

4           (iv) Taxes levied for operation of a library under section 1451  
5 or for operation of a library established pursuant to 1913 PA 261,  
6 MCL 397.261 to 397.262, that were not included in the operating  
7 millage reported by the district to the department as of April 1,  
8 1993. However, a district may report to the department not later  
9 than April 1, 1994 the number of mills it levied in 1993 for a  
10 purpose described in this subparagraph that the school district  
11 does not want considered as operating millage and then that number  
12 of mills is excluded under this section from taxes levied for  
13 school operating purposes.

14           (v) Taxes paid by a school district of the first class or a  
15 school district that was previously a school district of the first  
16 class to a public library commission pursuant to section 11(4) of  
17 the property tax limitation act, 1933 PA 62, MCL 211.211.

18           (vi) Taxes levied under former section 1512 for operation of a  
19 community swimming pool. In addition, if a school district included  
20 the millage it levied in 1993 for operation of a community swimming  
21 pool as part of its operating millage reported to the department  
22 for 1993, the school district may report to the department not  
23 later than June 17, 1994 the number of mills it levied in 1993 for  
24 operation of a community swimming pool that the school district  
25 does not want considered as operating millage and then that number  
26 of mills is excluded under this section from taxes levied for  
27 school operating purposes.

1           (k) "Supportive housing property" means real property  
2 certified as supportive housing property under chapter 3B of the  
3 state housing development authority act of 1966, 1966 PA 346, MCL  
4 125.1459 to 125.1459a.