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HOUSE BILL No. 4176

## **HOUSE BILL No. 4176**

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February 1, 2011, Introduced by Rep. Nathan and referred to the Committee on Local, Intergovernmental, and Regional Affairs.

A bill to amend 1990 PA 72, entitled "Local government fiscal responsibility act," by amending section 40 (MCL 141.1240).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

Sec. 40. (1) In consultation

1 with the school board, the

2

emergency financial manager shall develop, and may from time to

3

time amend, a written financial plan for the school district.

The

4

financial plan shall provide for both of the following:

5

(a) Conducting the operations of the school district within

6

the resources available according to the emergency financial

7

manager's revenue estimate.

8

(b) The payment in full of the scheduled debt service

9

requirements on all bonds and notes of the school district and all

10

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other uncontested legal obligations.

**(2) FOR A WRITTEN FINANCIAL PLAN DEVELOPED OR AMENDED AFTER THE EFFECTIVE DATE OF THIS SECTION, THE WRITTEN FINANCIAL PLAN SHALL INCLUDE A SCHOOL DISTRICT IMPROVEMENT PLAN FOR THE SCHOOL**

**DISTRICT AND A BUDGET FOR IMPLEMENTATION OF THE SCHOOL DISTRICT**

**IMPROVEMENT PLAN. ALL OF THE FOLLOWING APPLY TO THE DEVELOPMENT AND**

**IMPLEMENTATION OF THE SCHOOL DISTRICT IMPROVEMENT PLAN:**

**(A) THE BOARD OF THE SCHOOL DISTRICT SHALL DEVELOP THE SCHOOL DISTRICT IMPROVEMENT PLAN, AND A PROPOSED BUDGET FOR IMPLEMENTATION**

9 OF THE PLAN, WITH INPUT FROM THE LOCAL TEACHER BARGAINING UNIT  
AND

10 THE LOCAL SUPERINTENDENT.

11 (B) THE INTERMEDIATE SCHOOL DISTRICT SHALL PROVIDE TECHNICAL  
12 ASSISTANCE AND EXPERTISE TO THE BOARD.

13 (C) THE BOARD SHALL SUBMIT THE SCHOOL DISTRICT IMPROVEMENT  
14 PLAN AND PROPOSED PLAN BUDGET TO THE EMERGENCY FINANCIAL  
MANAGER.

15 (D) BEFORE THE SCHOOL DISTRICT IMPROVEMENT PLAN AND PLAN  
16 BUDGET ARE INCLUDED IN THE WRITTEN FINANCIAL PLAN, THEY MUST  
BE

17 APPROVED BY THE BOARD OF THE SCHOOL DISTRICT, BY THE  
INTERMEDIATE

18 BOARD OF THE INTERMEDIATE SCHOOL DISTRICT, AND BY THE  
EMERGENCY

19 FINANCIAL MANAGER.

20 (3)

(2) After the initial development of the financial plan

21

required by subsection (1), the emergency financial manager in

22

consultation with the school board shall regularly reexamine the

23

plan, and if the emergency financial manager reduces his or her

24

revenue estimates, he or she shall modify the financial plan to

25

26 MANAGER SHALL SUBMIT TO THE EDUCATION FINANCIAL EMERGENCY

27 RESOLUTION BOARD CREATED UNDER SECTION 38 QUARTERLY

PROGRESS

conform to revised revenue estimates. THE EMERGENCY FINANCIAL

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REPORTS THAT DETAIL THE STATUS OF THE IMPLEMENTATION 1 OF ALL  
ASPECTS

2 OF THE FINANCIAL PLAN, INCLUDING THE STATUS OF THE  
IMPLEMENTATION

3 OF THE SCHOOL IMPROVEMENT PLAN REQUIRED UNDER SUBSECTION (2).

4 (4)

(3) The financial plan shall be in a form, and shall

5

contain that information for each year the plan is in effect,  
that

6 IS REQUIRED UNDER THIS SECTION AND THAT

the school district's

7

emergency financial manager specifies.

8 (5)

(4) The emergency financial manager shall make public the  
9

10 UNDER SUBSECTION (3)

plan or modified plan AND THE QUARTERLY PROGRESS REPORTS  
REQUIRED. This subsection shall not be construed to

11

mean that the emergency financial manager must receive public

12

approval before he or she implements the financial plan or any

13

modification to the plan.

14

Enacting section 1. This amendatory act does not take effect

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unless Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_ (request no.16

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HOUSE BILL No. 4177

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February 1, 2011, Introduced by Rep. Nathan and referred to the Committee on Local,  
Intergovernmental, and Regional Affairs.

A bill to amend 1990 PA 72, entitled

"Local government fiscal responsibility act,"

by amending section 38 (MCL 141.1238).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

Sec. 38. (1) If the superintendent

1 of public instruction

2

determines under section 35 or 36 that a school district has a

3

financial emergency, the superintendent of public instruction,

4

within 30 days after that determination, shall submit to the  
state

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board the names of nominees who shall be considered for  
appointment

6

to serve as an emergency financial manager for the school  
district.

7

From the list of nominees submitted to the state board, the  
state

8

board shall submit to the governor the names of not more than 3  
9  
nominees who shall be considered for appointment to serve as an  
10  
emergency financial manager for the school district. From the  
list

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with the advice and consent of the

of nominees submitted to the governor, the governor shall  
appoint,1 senate, an emergency financial

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manager for the school district who shall hold office for a term

3

4 BOARD CREATED UNDER SUBSECTION (4)

fixed by the governor EDUCATION FINANCIAL EMERGENCY  
RESOLUTION, but not to exceed 1 year. The

5

appointment shall be by written contract and may be renewed on  
an

6

7 THE EDUCATION FINANCIAL EMERGENCY RESOLUTION BOARD AND THE  
8 EMERGENCY FINANCIAL MANAGER SHALL CONTAIN SPECIFIC  
CONTRACTUAL

9 REMEDIES FOR FAILURE OF THE EMERGENCY FINANCIAL MANAGER TO  
COMPLY

10 WITH THE REQUIREMENTS OF THIS ARTICLE.

11

annual basis for not more than 1 year. THE WRITTEN CONTRACT

BETWEEN(2) An emergency financial manager appointed under this

12

article shall be chosen solely on the basis of his or her

13

competence in PUBLIC SECTOR fiscal matters and shall not have  
been

14

either an elected or appointed official or employee of the  
school

15

district for which he or she is appointed for not less than 5  
years

16

before the appointment. The emergency financial manager shall  
not

17

be the superintendent of public instruction. The emergency  
18 financial manager need not be a resident of the school district  
for

19

20 INDIVIDUAL SHALL NOT BE CONSIDERED TO BE COMPETENT IN PUBLIC  
SECTOR

21 FISCAL MATTERS UNLESS THE EDUCATION FINANCIAL EMERGENCY  
RESOLUTION

22 BOARD FINDS THAT HE OR SHE HAS DEMONSTRATED PREVIOUS PUBLIC  
SECTOR

23 EXPERIENCE, WHICH DOES NOT HAVE TO BE WITH A SCHOOL DISTRICT,  
24 SHOWING THAT HE OR SHE IS QUALIFIED TO DO AT LEAST ALL OF THE  
25 FOLLOWING:

26 (A) PREPARE AND ANALYZE A BUDGET OF A SIZE APPROPRIATE FOR A  
27 SCHOOL DISTRICT THE SIZE OF THE AFFECTED SCHOOL DISTRICT.

which he or she is appointed. FOR THE PURPOSES OF THIS SECTION, AN

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(B) REVIEW AND CREATE BOOKKEEPING AND 1 ACCOUNTING SYSTEMS OF A  
2 TYPE APPROPRIATE FOR A SCHOOL DISTRICT THE SIZE OF THE AFFECTED  
3 SCHOOL DISTRICT.

4 (C) CREATE A DEFICIT REDUCTION PLAN APPROPRIATE FOR A SCHOOL  
5 DISTRICT THE SIZE OF THE AFFECTED SCHOOL DISTRICT.

6 (D) TAKE ACTIONS IN ACCORDANCE WITH THE UNIFORM BUDGETING AND  
7 ACCOUNTING ACT, 1968 PA 2, MCL 141.421 TO 141.440A, AND IN  
8 ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

9 (E) REVIEW AND CREATE PROFIT AND PROFIT-LOSS STATEMENTS,  
10 BALANCE SHEET STATEMENTS, CASH FLOW ANALYSES, CASH RECEIPTS  
11 JOURNALS, ACCOUNTS PAYABLE, GENERAL LEDGERS, AND OTHER  
SIMILAR

12 FINANCIAL DOCUMENTS.

13

(3) Unless the legislature provides special funding, an

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emergency financial manager shall receive compensation and

15

reimbursement for actual and necessary expenses from the school

16

district as approved by the superintendent of public instruction

17 EDUCATION FINANCIAL EMERGENCY RESOLUTION BOARD CREATED

UNDER

18 SUBSECTION (4)

. In addition to staff otherwise authorized by law,

19

with the approval of the superintendent of public instruction,

**20 EDUCATION FINANCIAL EMERGENCY RESOLUTION BOARD CREATED  
UNDER**

**21 SUBSECTION (4),  
the emergency financial manager may appoint**

**22  
additional staff and secure professional assistance considered  
23  
necessary to implement this article.**

**24 (4) THERE IS CREATED AN EDUCATION FINANCIAL EMERGENCY  
25 RESOLUTION BOARD WITHIN THE DEPARTMENT OF EDUCATION. ALL OF  
THE**

**26 FOLLOWING APPLY TO THIS BOARD:**

**27 (A) THIS BOARD SHALL CONSIST OF THE SUPERINTENDENT OF PUBLIC**

**4**

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**INSTRUCTION OR HIS OR HER DESIGNEE, THE 1 STATE TREASURER OR HIS  
OR**

**2 HER DESIGNEE, AND THE DIRECTOR OF THE DEPARTMENT OF  
TECHNOLOGY,**

**3 MANAGEMENT, AND BUDGET OR HIS OR HER DESIGNEE.**

**4 (B) THE ATTORNEY GENERAL, OR HIS OR HER DESIGNEE, SHALL SERVE  
5 AS A NONVOTING MEMBER OF THE EDUCATION FINANCIAL EMERGENCY  
6 RESOLUTION BOARD FOR THE SOLE PURPOSE OF PROVIDING LEGAL  
COUNSEL TO**

**7 THE EDUCATION FINANCIAL EMERGENCY RESOLUTION BOARD.**

**8 (C) FOR THE EDUCATION FINANCIAL EMERGENCY RESOLUTION BOARD'S  
9 FUNCTIONS RELATED TO A PARTICULAR SCHOOL DISTRICT, THE  
PRESIDENT OF**

**10 THE SCHOOL BOARD OF THAT SCHOOL DISTRICT SHALL SERVE AS A  
NONVOTING**

**11 MEMBER OF THE EDUCATION FINANCIAL EMERGENCY RESOLUTION  
BOARD.**

**12 (D) THE SUPERINTENDENT OF PUBLIC INSTRUCTION, OR HIS OR HER  
13 DESIGNEE, SHALL SERVE AS CHAIRPERSON OF THE EDUCATION  
FINANCIAL**

**14 EMERGENCY RESOLUTION BOARD.**

**15 (E) EXCEPT FOR BUDGETING, PROCUREMENT, AND RELATED FUNCTIONS  
16 OF THE EDUCATION FINANCIAL EMERGENCY RESOLUTION BOARD THAT  
SHALL BE**

**17 PERFORMED UNDER THE DIRECTION AND SUPERVISION OF THE  
SUPERINTENDENT**

**18 OF PUBLIC INSTRUCTION, THE EDUCATION FINANCIAL EMERGENCY  
RESOLUTION**

**19 BOARD SHALL EXERCISE ITS PRESCRIBED STATUTORY POWERS, DUTIES,  
AND**

**20 FUNCTIONS INDEPENDENTLY OF THE DEPARTMENT OF EDUCATION.**

**21 (5) THE EDUCATION FINANCIAL EMERGENCY RESOLUTION BOARD SHALL**

**22 DO ALL OF THE FOLLOWING WITH RESPECT TO EACH SCHOOL DISTRICT  
THAT  
23 HAS AN EMERGENCY FINANCIAL MANAGER APPOINTED UNDER THIS  
ARTICLE:  
24 (A) DIRECTLY SUPERVISE THE EMERGENCY FINANCIAL MANAGER AND  
25 OVERSEE ALL DAY-TO-DAY OPERATIONS OF THE EMERGENCY FINANCIAL  
26 MANAGER.  
27 (B) REVIEW AND APPROVE ALL COMPENSATION AND REIMBURSEMENTS  
5  
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MADE TO THE EMERGENCY FINANCIAL MANAGER 1 AND ALL  
APPOINTMENTS MADE  
2 BY THE EMERGENCY FINANCIAL MANAGER.  
3 (C) REVIEW ALL CONTRACTS ENTERED INTO BY THE EMERGENCY  
4 FINANCIAL MANAGER, THE CONTRACTING PRACTICES OF THE  
EMERGENCY  
5 FINANCIAL MANAGER, AND ALL OTHER DECISIONS OF AND ACTIONS  
TAKEN BY  
6 THE EMERGENCY FINANCIAL MANAGER OR HIS OR HER STAFF.  
7 (D) REVIEW ALL WRITTEN PLANS AND REPORTS DEVELOPED BY THE  
8 EMERGENCY FINANCIAL MANAGER.  
9 (6) THE EMERGENCY FINANCIAL MANAGER'S POWERS AND DUTIES UNDER  
10 SECTIONS 39 TO 41A ARE SUBJECT TO OVERSIGHT BY THE EDUCATION  
11 FINANCIAL EMERGENCY RESOLUTION BOARD UNDER THIS  
SECTION.00567'11) of the 96th Legislature is enacted into law.**