

2000 PUBLIC AND LOCAL ACTS

[No. 290]

(HB 5833)

AN ACT to amend 1961 PA 108, entitled "An act to provide for loans by the state of Michigan to school districts for the payment of principal and interest upon school bonds; to prescribe the terms and conditions of the loans and the conditions upon which levies for bond principal and interest shall be included in computing the amount to be so loaned by the state; to prescribe the powers and duties of the superintendent of public instruction and the state treasurer in relation to such loans; to provide for the repayment of such loans; to provide incentives for repayment of such loans; to provide for other matters in respect to such loans; and to make an appropriation," by amending the title and sections 1, 2, 3, 4, 4a, 5, 6, 7, 8, 9, 9b, 10, 10a, 11, and 12 (MCL 388.951, 388.952, 388.953, 388.954, 388.954a, 388.955, 388.956, 388.957, 388.958, 388.959, 388.959b, 388.960, 388.960a, 388.961, and 388.962), the title and sections 6 and 9 as amended and section 9b as added by 1991 PA 65, sections 2, 4, and 11 as amended by 1992 PA 228, section 3 as amended by 1985 PA 25, section 4a as amended by 1991 PA 22, section 5 as amended by 1983 PA 124, and section 10 as amended and section 10a as added by 1989 PA 6, and by adding sections 1a, 9c, 10b, 10c, and 11a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

TITLE

An act to prescribe the procedures, terms, and conditions for the qualification of school bonds; to provide for loans by the state of Michigan to school districts for the payment of principal and interest upon school bonds; to prescribe the terms and conditions of the loans and the conditions upon which levies for bond principal and interest shall be included in computing the amount to be so loaned by the state; to prescribe certain powers and duties of the state treasurer in relation to such loans; to provide for the repayment of such loans; to provide for certain fees; to provide for certain grants; to provide for other matters in respect to such loans; and to make an appropriation.

388.951 Purpose of act; short title; definitions. [M.S.A. 3.424(111)]

Sec. 1. (1) The purpose of this act is to implement section 16 of article IX of the state constitution of 1963.

(2) This act shall be known and may be cited as the "school bond qualification and loan act".

(3) As used in this act:

(a) "Adjusted taxable value" means the valuation on which debt millage for qualified bonds can be levied, as last equalized by the state. Not later than June 30 of each year, the state treasurer shall issue a treasury bulletin containing the current adjustments to equalized taxable value to calculate adjusted taxable value.

(b) "Adjusted taxable value per membership pupil" means a school district's adjusted taxable value for the calendar year ending in the immediately preceding state fiscal year divided by the school district's membership, as calculated under the state school aid act, 1979 PA 94, MCL 388.1601 to 388.1772, for the school year ending in the immediately preceding state fiscal year.

(c) "Bond purpose" means the purpose for the use of bond proceeds as stated in the official ballot submitted to the school electors of the school district.

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(d) "Capital expenditures" means expenditures for which bonds may be issued by a school district under section 1351a of the revised school code, 1976 PA 451, MCL 380.1351a.

(e) "Completion of a project" means all capital expenditure activities as identified within a school district's application for qualification of bonds have been completed to a degree that the facility has been certified, in conformance with existing industry and legal standards, as being ready to be occupied or used for the purpose for which it is intended.

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

(g) "Project" means an individual school facility or location identified for capital expenditures as described within a school district's application for qualification of bonds.

(h) "Qualified bonds" means general obligation bonds of a school district issued on or after January 1, 1964 for capital expenditures, including refunding bonds, that are qualified under this act for state loans to school districts, as defined in section 16 of article IX of the state constitution of 1963.

(i) "Qualified debt service" means debt service on qualified bonds.

(j) "Qualified millage" means millage levied to pay debt service on qualified bonds.

(k) "School bond loan fund" means that fund as created under 1961 PA 112, MCL 388.981 to 388.985.

(l) "State treasurer" means the state treasurer or his or her designee. This designation shall be made by the state treasurer and shall be in a written instrument signed by the state treasurer and maintained in a permanent file. For the purposes of all other provisions of this act, the signature of the state treasurer's designee shall have the same force and effect as the signature of the state treasurer.

(m) "Taxable value per membership pupil" means a school district's taxable value for the calendar year ending in the immediately preceding state fiscal year divided by the school district's membership, as calculated under the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772, for the school year ending in the immediately preceding state fiscal year.

(n) "Total interest" means the total interest incurred on bonds plus the total interest cost of any school bond loan fund borrowings.

388.951a Legislative findings and declarations. [M.S.A. 3.424(111a)]

Sec. 1a. The legislature finds and declares all of the following:

(a) The utilization of the school bond loan fund by school districts has a material impact on the credit and fiscal integrity of this state.

(b) The fiduciary responsibility of the state treasurer includes the protection of the credit of this state, the fiscal integrity of this state, and the fiscal integrity of school districts.

(c) The ability of the state to fulfill the requirements of section 16 of article IX of the state constitution of 1963 must not be compromised.

388.952 State loans to school districts; basis; limitation; assumptions; waiver of required millage for payment of principal and interest on qualified bonds. [M.S.A. 3.424(112)]

Sec. 2. (1) If the minimum amount it would otherwise be necessary for a school district to levy in any year to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies, exceeds 7 mills on each dollar of its adjusted taxable value, then the school district may elect to borrow not more than 75% of

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the excess from this state. However, if that minimum amount it would otherwise be necessary for a school district to levy exceeds 13 mills on each dollar of its adjusted taxable value, then the school district may elect to borrow all or any part of the excess from this state. Further, if the state treasurer determines that a school district is required to levy more than 7 mills on each dollar of its adjusted taxable value in order for the school district to be able to pay the principal and interest on all of its qualified bonds and on loans made to the school district under this act by not later than 60 months after the final maturity date of all of the school district's then outstanding qualified bonds, taking into account loans made to the school district under this act for debt service and any lawful subsidies the state treasurer reasonably expects the school district to receive, then the school district must levy that additional millage, up to 13 mills, as a condition to receiving a loan under this act. Upon a showing of compelling justification by the school district, the state treasurer may extend the 60-month period specified in the preceding sentence to a longer period not to exceed 120 months or may in the final qualification of a bond issue waive the minimum millage required by this subsection to no less than 6 mills, or may do both. If a school district meets all of the applicable requirements and conditions under this subsection, the state shall loan the excess amount to the school district for the payment of principal and interest.

(2) The state treasurer shall make the determination under subsection (1) based on the following assumptions:

(a) An assumed interest rate on loans made under this act equal to the projected average interest rate on school bond loan fund notes and bonds over the next succeeding 5-year period.

(b) A projected total adjusted taxable value for the school district that assumes an adjusted taxable value growth rate or decline rate equal to the school district's average yearly adjusted taxable value growth rate or decline rate over the immediately preceding 5-year period for the next succeeding 5-year period and thereafter at a growth rate equal to the lesser of that rate or a rate equal to the most recent available 5-year average annual general price level index, plus 1%, but not more than 5% per annum.

(3) Upon request made by a school district before June 1 of any year, the state treasurer annually may issue an order waiving all or a portion of the millage required to be levied by a school district to pay principal and interest on its qualified bonds pursuant to subsection (1) if the state treasurer finds all of the following:

(a) The school board of the school district has applied to the department of treasury for permission to levy less than the millage required to be levied to pay the principal and interest on its qualified bonds pursuant to subsection (1).

(b) The application specifies the number of mills the school district requests permission to levy.

(c) The waiver will be financially beneficial to the state or to the school district, or both.

(d) The waiver will not reduce the millage levied by the school district to pay principal and interest on qualified bonds under subsection (1) to less than 7 mills.

(e) The school board, by resolution, has agreed to comply with all conditions that the state treasurer considers necessary.

(4) For bond issues approved at a regular or special election before July 1, 2000, the amount a school district may borrow under this act shall be determined in accordance with the provisions of this act in effect before the effective date of the amendatory act that added this subsection. For bond issues approved at a regular or special election on or after July 1, 2000 but before October 10, 2000, the amount a school district may borrow under

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this act shall be determined in accordance with the provisions of this act as in effect before the effective date of the amendatory act that added this subsection if the school district files an irrevocable written request to have those provisions apply with the state treasurer prior to the date of the election approving the bond issue. For school districts with a qualified bond issue approved at a regular or special election on or after July 1, 2000 for which the school district does not file a written request under the preceding sentence or with a qualified bond issue approved at a regular or special election on or after October 10, 2000, the amount the school district may borrow under this act with respect to all of the school district's qualified bonds shall be determined under the provisions of this act other than the preceding 2 sentences of this subsection.

388.953 Qualified bonds; actions taken before 2000 amendatory act.
[M.S.A. 3.424(113)]

Sec. 3. All actions taken by the superintendent of public instruction and the state treasurer before the 2000 amendatory act that amended this section in qualifying bonds pursuant to section 16 of article IX of the state constitution of 1963 are validated and all certificates of qualification issued by the superintendent of public instruction or the state treasurer are conclusive as to the existence of facts entitling the bonds to be qualified as provided in the certificates and as to the qualification and shall not be subject to attack in any proceeding.

388.954 Issuance of certificate qualifying bond issue; application; findings; refunding bonds; criteria; determination of compliance.
[M.S.A. 3.424(114)]

Sec. 4. (1) The state treasurer shall not issue his or her certificate qualifying an issue of bonds, upon application for a certificate being made by the school district, unless the state treasurer finds all of the following:

(a) That the last maturity date of the issue of bonds is not less than 15 years from the issuance date appearing on the bonds if the ratio of debt to adjusted taxable value of the school district exceeds 4%; that the last maturity date of the issue of bonds is not less than 25 years from the issuance date appearing on the bonds if the ratio of debt to adjusted taxable value of the school district exceeds 7%; or that the last maturity date of the issue of bonds is not less than 29 years from the issuance date appearing on the bonds if the ratio of debt to adjusted taxable value of the school district exceeds 12%. Regardless of the ratio of debt to adjusted taxable value of a school district, the state treasurer may authorize the last maturity date of an issue of bonds of that school district to be a lesser number of years from the issuance date appearing on the bonds if the state treasurer determines it is financially beneficial to this state or to the school district. As used in this section, "ratio of debt to adjusted taxable value" means that ratio arrived at by dividing the total tax supported bonded indebtedness of the school district outstanding as of the date of the filing of the application required by this act, including the bonds proposed to be qualified, by the adjusted taxable value of the school district. The refunding part of any proposed issue of bonds shall not be included in the total indebtedness of the school district for the purposes of this section.

(b) That the yearly principal maturity date and any interest payment dates are established using only the dates of May 1 and November 1 as payment dates. This requirement may be waived by the state treasurer if the district can provide compelling justification for alternative dates. For such a waiver to be effective, it must be approved before the issuance of the bonds.

(c) That the costs of the project for which the bonds are to be issued, including, but not limited to, total interest, bond issuance costs, construction costs, and professional fees, are

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documented in a format prescribed by the state treasurer and are certified to the state treasurer to be reasonable according to cost parameters established by the state treasurer under subsection (3). If the costs exceed these parameters, the state treasurer may deny the application, may require an explanation of the variance, or may require the school district to obtain an independent evaluation of costs to be completed by a consultant meeting qualifications specified by the state treasurer.

(d) That there exists a need for the project based upon current and probable future enrollment, that the project is designed to provide school facilities reasonably adequate to meet that need.

(e) If a bond issue requires an election, that the bond issue has been given preliminary qualification before the official action of the school board calling for the election on the bond issue; that the ballot language was included in the preliminary qualification, provides a clear statement of the purpose for which the proceeds of the bonds will be used, and otherwise complies with applicable law; and that the school district certifies to the state treasurer before qualification that the school district provided to its school electors appropriate disclosure, in the form included in the preliminary qualification, of the fiscal impact of the bond proposal, including the estimated annual millage rate to be levied with and without the proposed bond issue, the estimated average annual millage rate to be levied over the term of the proposed bond issue if the bond issue is approved compared to that rate if the bond issue is not approved, the maximum principal amount to be borrowed, the number of years the bonds are expected to be outstanding, the estimated total interest cost that will be incurred, and the estimated duration and cost of any school bond loan fund borrowings.

(f) That the school district can meet the requirements of section 2 using the assumptions contained in that section and considering any lawful subsidy that the school district may reasonably expect to be received.

(g) That the school district certifies to the state treasurer that it has complied with all legal requirements applicable to all prior voted bond issues and will do so with respect to the bond issue being qualified.

(h) If the bond issue requires an election, that the school district certifies that it will not expend proceeds of the bond issue for purposes not described in the ballot proposal approving the bond issue unless otherwise permitted by law to do so.

(i) That qualification of the issue will not have an adverse financial impact on this state or the school district based on parameters established by the state treasurer under subsection (3). If the state treasurer determines that the bond issue does not meet this requirement, the state treasurer may approve that part of the bond issue that does meet this requirement.

(j) That the school district agrees to complete each project in accordance with the plans for the project that were submitted in the school district's application for preliminary qualification of bonds and approved in the bond election, if applicable, with only those changes as are permitted by, or approved by, the state treasurer in accordance with the procedures established by the state treasurer under subsection (3).

(k) That, as of the date the application is filed, the total outstanding principal amount of debt of the school district, including the bonds proposed to be qualified, will not exceed 20% of the adjusted taxable value of the school district for the most recent completed fiscal year. This requirement may be waived by the state treasurer if the school district can provide compelling justification for the waiver. For such a waiver to be effective, the waiver must be approved before the preliminary qualification of the bonds.

(l) That qualified bonds issued for an asset with a useful life of less than 30 years will not be issued for a term that is longer than the useful life of the asset computed from the date the asset is placed in service.

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(m) That principal amortization of the bond issue will be scheduled so that amortization of bonds is completed with respect to all asset classifications within the financed projects as determined by the state treasurer based on criteria established by the state treasurer under subsection (3).

(n) That the school district certifies through its application for final qualification that it agrees to all of the following:

(i) Except to the extent otherwise required to maintain the tax exempt status of the bond issue or is not otherwise detrimental, to establish a common debt retirement fund for all its existing and proposed qualified bond issues to the extent allowable under state and federal law.

(ii) If more than 1 qualified debt retirement fund is required, to allocate the school district's total debt retirement millage among the various qualified debt retirement funds so as to minimize the amount of funds borrowed from the school bond loan fund.

(iii) To maintain its bonded capital projects accounting records in a manner that provides for the comparison of actual expenditures to budgeted amounts as presented in its application for qualification of bonds.

(iv) To submit a final report of bonding activity expenditures, in a format as prescribed by the state treasurer, that has been audited in accordance with section 1351a of the revised school code, 1976 PA 451, MCL 380.1351a. If this audit or any other lawful review by the state treasurer identifies expenditures that were improperly charged to a capital projects fund financed from qualified bond proceeds, the school district shall reimburse the capital projects fund or its successor debt retirement fund for the amount of improper expenditures.

(v) To complete debt service transactions including, but not limited to, tax collection, loan applications, and debt service payments, for all of its qualified bonds in accordance with procedures prescribed by the state treasurer.

(2) For refunding bonds issued to refund bonds or issued to refund loans from the state made under the authority of this act, the state treasurer shall issue the certificate of qualification if the state treasurer finds that the refunding bonds comply with the requirements set forth in subsection (1)(b), (1)(c), and (1)(n), to the extent those provisions are applicable to refunding bonds, and also that the refunding bonds are being issued to refund loans from the state made under the authority of this act or that the bonds representing the original indebtedness were qualified under this act. Refunding bonds issued to refund loans from the state made under the authority of this act shall be considered as refunding bonds for all purposes including section 16 of article IX of the state constitution of 1963.

(3) The state treasurer shall develop, publish in 1 or more treasury bulletins, review at least annually, or revise as needed all of the following:

(a) Cost parameters as described in subsection (1)(c).

(b) Parameters for determining adverse financial impact as described in subsection (1)(i).

(c) Procedures for approval of changes in projects as described in subsection (1)(j).

(d) Criteria for determining proper amortization as described in subsection (1)(m).

(e) Any other criteria relevant to this act that the state treasurer considers necessary to evaluate compliance with subsection (1).

(4) In determining whether a bond issue or application meets the requirements of subsection (1), the state treasurer shall not require compliance with any requirement established by the state treasurer under subsection (3) that is published less than 30 days before the date the application is received by the state treasurer.

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(5) In determining whether compelling justification exists, the state treasurer shall consider the health, safety, and welfare of the school district and shall consider the ability of the school district to provide adequate educational programs.

388.954a Use of unexpended balance of proceeds of bond sale; approval by state treasurer. [M.S.A. 3.424(114a)]

Sec. 4a. (1) Subject to subsection (2), an unexpended balance of the proceeds of sale of any school district bonds remaining after completion of all projects authorized in that bond issue shall be applied first to repayment of any amount owed to the school bond loan fund for that bond issue and then to the payment or prepayment of principal on that bond issue. However, if permission is granted in writing by the state treasurer, some or all of the unexpended balance, not to exceed 15% of the amount of the bond issue, may be used for capital expenditures.

(2) The state treasurer shall not approve the use of an unexpended balance of the proceeds of any school district bonds for additional capital expenditures as authorized under subsection (1) unless he or she finds that the school district seeking approval has demonstrated a compelling justification for that use.

388.955 Certificates of qualification; copies; applications; waiver. [M.S.A. 3.424(115)]

Sec. 5. All certificates of qualification shall be kept in a permanent file in the office of the state treasurer and copies of these certificates shall be delivered to the school district. A school district shall apply for preliminary qualification and for a certificate of qualification on forms prepared and supplied by the state treasurer. The state treasurer shall prescribe reasonable rules and regulations in respect to the applications. If a school district does not secure a certificate of qualification from the state treasurer before the issuance of bonds, it shall be considered to have waived the right to have those bonds qualified.

388.956 Annual loan activity application; filing; format; contents; notice of erroneous statements or assumptions; approval or denial; tax levy. [M.S.A. 3.424(116)]

Sec. 6. (1) For any school district that owes an existing balance due to the school bond loan fund or where the amount necessary to be levied in any year for principal and interest on qualified bonds, including any necessary allowance for estimated tax delinquencies but excluding any funds pledged to and available for the payment of the principal and interest, exceeds that amount stipulated in section 2, the school district, on or before 60 days before the time of the certification of its tax levy to the assessing officer, shall file with the state treasurer an annual loan activity application that provides an estimate of the amount to be borrowed from or repaid to the school bond loan fund during that school fiscal year. If the excess over that amount stipulated in section 2 is reached or increased by reason of bonds authorized by resolution of the school board of the school district within the 60-day period, the documentation submitted at the time of final qualification is considered to meet this activity application requirement.

(2) The annual loan activity application required under subsection (1) shall be submitted in a format prescribed by the state treasurer and shall provide the adjusted taxable value, debt service, and any other information necessary to determine the proper required millage levy as prescribed in section 2. The application shall include a resolution passed by the school board authorizing a designated school district official to complete all necessary documents to obtain a loan from the school bond loan fund or for making repayment to the school bond loan fund for the year.

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(3) The state treasurer shall examine an annual loan activity application and shall determine the millage required under section 2 as soon as possible and notify the school district of any erroneous statements or assumptions in the application within the 60-day period. The school district shall include in its tax levy the amount required to be levied for the payment of principal and interest on qualified bonds for which it does not secure approval for a state loan under section 2.

388.957 State loans to school districts; application; confirmation of final loan amount; waiver; notice of erroneous statements; repayment terms; disposition of proceeds. [M.S.A. 3.424(117)]

Sec. 7. (1) If a loan from the state becomes necessary for the payment of principal and interest on qualified bonds in accordance with a school district's school bond loan fund annual loan activity application under section 6, or for any reason pursuant to section 16 of article IX of the state constitution of 1963 and this act, then the school district shall file with the state treasurer an application for a loan under this act and a confirmation of the final loan amount in the format prescribed by the state treasurer. This application shall be made not less than 30 days before the time when the proceeds of the loan will be necessary in order to pay maturing principal or interest or both. The school district shall file a confirmation of final loan amount not less than 10 days before the time when proceeds of the loan will be necessary in order to pay maturing principal or interest or both. The state treasurer may waive the requirement for submission of the application for loan for a school district that has demonstrated the capability to meet the requirements of section 2 and has been responsible in the discharge of its debts in an orderly and businesslike manner.

(2) Upon receipt of an application for loan, the state treasurer shall examine documents and notify the school district of any erroneous statements. Upon receipt of a confirmation of loan amount, the state treasurer shall loan to the school district from the school bond loan fund the amount determined by the state treasurer in accordance with this act on or before the date specified therein.

(3) With respect to a loan made to a school district under this section or any other provision of this act, the school district is considered to have agreed to the terms of repayment in accordance with the provisions of section 16 of article IX of the state constitution of 1963 and this act. Upon receipt by the school district of the loan, the treasurer of the school district shall cause the proceeds to be deposited in the debt retirement fund and used solely for the payment of principal and interest on qualified bonds.

388.958 State loans to school districts; nonpayment of qualified bonds; payment by state treasurer; repayment to state. [M.S.A. 3.424(118)]

Sec. 8. (1) If for any reason a school district will be or is unable to pay the principal and interest on its qualified bonds when due, then the school district shall borrow and the state shall loan to it an amount sufficient to enable the school district to make the payment. A school district that finds that it will be or is unable to pay the principal or interest on its qualified bonds when due shall promptly make application for the necessary loan and the state shall, in time to prevent default in the payment, make the loan and obtain a receipt for the loan.

(2) Upon notification acceptable to the state treasurer from the agent or officer charged with making payment of bond principal or interest that the school district has not deposited sufficient funds to pay the principal or interest on any qualified bond when due, whether or not an application for a loan to pay the principal or interest has been made or

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approved, the state treasurer shall promptly pay funds to that agent or officer to be used to pay the principal or interest on the qualified bond when due. If the principal or interest on any qualified bond is not paid when due upon proper notification from the officer charged with making payment, whether or not an application for a loan to pay the principal or interest has been made or approved, the state treasurer shall promptly pay the principal or interest to the bondholder upon presentation of the bond or coupon to the state treasurer. Any amount paid by the state treasurer under this subsection is considered a loan made to the school district pursuant to the requirements of section 16 of article IX of the state constitution of 1963 and this act, and the school district shall give a receipt for the amount loaned and repay the loan in the same manner as provided in this act with respect to other loans under this act. Any funds of the school district that are or become available in its hands or in the hands of the paying agent or officer for payment of the principal or interest that has been paid by the state treasurer under this subsection shall promptly be remitted to the state treasurer and applied toward repayment of the loan under this section.

388.959 Continuing levy of millage until loans repaid; interest rates; waiver of levy upon division of school district; interest added to loan; repayment of principal or interest waived. [M.S.A. 3.424(119)]

Sec. 9. (1) Except as provided in this section, section 2, and section 10a, a school district having received 1 or more loans from the school bond loan fund shall continue to levy on its tax rolls not less than the millage rate levied by the school district during the most recent year in which the school district was receiving a loan from the school bond loan fund or the millage rate required under section 2, whichever is greater, on each dollar of its adjusted taxable value, exclusive of any levy for unqualified bonds or for school operating purposes, until all loans made to the school district by the state are repaid with interest at rates to be annually determined by the state treasurer. Except as provided in this section, these rates shall represent the projected average interest rate to be paid by the state on obligations issued under section 16 of article IX of the state constitution of 1963 and implementing acts projected to be outstanding over the next succeeding 5-year period, as determined by the state treasurer, and, except to the extent required to maintain the tax-exempt status of bonds or notes issued by the state pursuant to this act and 1961 PA 112, MCL 388.981 to 388.985, not less than that projected average interest rate, computed to the nearest 1/8 of 1%. The state treasurer shall annually certify to the several borrowing school districts the rate of interest to be currently collected. The proceeds of each levy shall be used first for the payment of the minimum principal and interest requirements on the qualified bonds that become due before the next tax collection, and any balance including any annual excess shall be paid to the state until the principal and interest due the state are paid. The school district shall calculate the amount of excess, if any, after the completion of each semiannual debt service payment and shall remit the unencumbered portion to the state within 30 days after the completion of the semiannual debt service payment. The interest payment or accrual required by this section and this act may be reduced as provided by any lawful subsidy.

(2) Before the adoption of a resolution approving annexation and transfer of a school district to be divided pursuant to part 10a of the revised school code, 1976 PA 451, MCL 380.941 to 380.949, the superintendent of public instruction and the state treasurer may issue a joint order determining that, upon division of a school district pursuant to part 10a of the revised school code, the divided school district or any other school district affected by the division, or all, may cease levying on its tax rolls for all or a portion, as shall be determined in the joint order by the superintendent of public instruction and the state treasurer, of the amount required by subsection (1) for repayment of all or a portion of the principal of or interest on, or both, the loans received before the issuance of the joint order

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from the school bond loan fund for a number of years to be determined in the joint order by the superintendent of public instruction and the state treasurer, not to exceed 5 years, beginning with the first tax levy after the election approving the division or until the bonded indebtedness of the district for which loans have been received has been paid in full or provision for the payment has been made, whichever occurs first. During the period in which the levy is waived pursuant to this subsection, the school district payments due to the state pursuant to subsection (1) from that waived levy shall be waived. After expiration of the period of waiver, each school district shall levy each year for repayment of loans an amount designated in the order of the state treasurer, which amount, when added to the amount required for debt service, shall not be more than the amount required by subsection (1) until all loans to the school district by the state are repaid with interest at rates to be determined annually by the state treasurer. A school district determining not to levy for loan repayment during the following year shall notify before December 15 of each year the state treasurer of its determination not to levy and shall supply the state treasurer with any additional related information the state treasurer requires.

(3) During any year in which a school district levy is waived under this section, an amount equal to the annual interest for that year on the amount owed by the school district to the school bond loan fund shall be added to the amount of loans to the school district by the state.

(4) Any repayment of principal or interest that was waived pursuant to subsection (2) shall be transferred to the general fund.

388.959b Maintaining tax-exempt status of bonds or notes issued by state or obligations issued by school districts. [M.S.A. 3.424(119b)]

Sec. 9b. To receive a loan under this act, a school district shall agree to take actions and to refrain from taking actions as necessary to maintain the tax-exempt status of bonds or notes issued by the state pursuant to this act and 1961 PA 112, MCL 388.981 to 388.985. The state treasurer shall take the actions permitted by law that are necessary to maintain the tax-exempt status of obligations issued by school districts to provide the funds to repay a loan made under this act.

388.959c School bond loan activities and qualified bond debt retirement activities; review. [M.S.A. 3.424(119c)]

Sec. 9c. A school district that has an existing balance due to the school bond loan fund shall include in its audit report filed under section 5 of chapter III of the municipal finance act, 1943 PA 202, MCL 133.5, a review of its school bond loan activities and qualified bond debt retirement activities. This review shall provide an opinion on the school district's compliance with the requirements of this act regarding borrowing and repayment of the school bond loan fund. This opinion shall be included in the school district's annual audit report under this section.

388.960 Failure to levy amount specified; failure to process report, application, confirmation, or repayment; handling fee.
[M.S.A. 3.424(120)]

Sec. 10. (1) Except as provided in section 10a, if a school district that has 1 or more loans pursuant to either this act or 1955 PA 151, MCL 388.931 to 388.938, or both, fails to levy at least the amount specified in section 2 or section 9, as applicable, upon its adjusted taxable value for debt retirement purposes for qualified bonds and for repayment of a state loan made under this act while any part of the loan is unpaid, fails to properly allocate its millage between debt service accounts, or defaults in its agreement to repay a

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loan or any installment of a loan, the school district shall increase payments to the school bond loan fund by the amount of the default during the next tax year through an increase in the annual debt service millage levy above the amount that would have been required by statute to meet that year's debt service needs, or the previous year's debt levy, whichever is greater. The school district may use other methods of reimbursing the school bond loan fund including a transfer of general funds, if approved by the state treasurer. Money shall not be distributed to the school district out of the state school aid fund until satisfactory arrangements have been made with the state treasurer for the payment of the amount in default.

(2) If a school district fails to process any report, application, confirmation, or repayment within statutory deadlines, the school district shall pay to the state treasurer a special handling fee of \$500.00 for the first occurrence and \$1,000.00 for each subsequent occurrence. A special handling fee may not be paid from debt retirement accounts but is due from the school district's general fund 30 days from the date notice is given to the school district of the amount due. If a school district fails to pay a special handling fee, the unpaid special handling fee may be deducted from subsequent state school aid payments. The state treasurer may waive collection of a special handling fee if the school district can provide compelling justification.

388.960a Waiver of millage; findings. [M.S.A. 3.424(120a)]

Sec. 10a. Upon request made by a school district before June 1 of any year, the state treasurer annually may issue an order waiving all or a portion of the millage required to be levied by the school district pursuant to section 9(1) if he or she finds all of the following:

(a) The school board of the school district has applied to the department of treasury for permission to levy less than the millage required to be levied pursuant to section 9(1).

(b) The application under subdivision (a) specifies the number of mills the school district requests permission to levy.

(c) The school board, by resolution, has agreed to transfer from available identified funds of the school district to the school debt retirement fund an amount equal to the amount that would have been raised by the levy of the millage requested to be waived.

(d) The school board, by resolution, has agreed that the funds to be transferred to the school debt retirement fund shall be earmarked for the payment of state loans to the school district and for debt retirement purposes for qualified bonds before taxes are certified for the year the school board is requesting permission to levy less than the millage required to be levied pursuant to section 9(1).

(e) The school board, by resolution, has agreed to comply with all conditions that the state treasurer considers necessary.

388.960b Project grant award. [M.S.A. 3.424(120b)]

Sec. 10b. (1) The state treasurer shall award project grants to school districts as provided under this section in each fiscal year for which an appropriation is made or appropriated funds are available for this purpose and may award a revolving loan fund grant to the Michigan municipal bond authority as provided under this section in each fiscal year in which funds are available for that purpose.

(2) To be eligible for a project grant under this section, a school district must meet all of the following:

(a) The school district must be determined by the state treasurer to be among the lowest 10% of school districts in taxable value per membership pupil for the fiscal year in which the school district applies for the project grant.

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(b) The school district must apply to the state treasurer for a project grant. This application shall be part of the school district's application for preliminary qualification of the bond issue financing the project for which the grant is sought. The application must be submitted by the school district and received by the state treasurer not later than March 1 of the fiscal year. The preliminary qualification, if any, shall contain a preliminary indication of the eligibility for a project grant and size of project grant, if any, under this section. In addition, school districts that decide to have the provisions of this act after the effective date of the amendatory act that added section 2(4) apply and that approve bond issues at elections held on or after July 1, 2000 and before October 10, 2000 may apply, in an application or amendment to an application received by the state treasurer before the election date, for an option in project grant to be awarded in October 2000.

(c) Except for option in project grants, the school district must obtain approval for the bond issue financing the project for which the grant is sought at a regular or special school election held on the second Monday in June of the fiscal year in which the grant is awarded.

(3) The state treasurer shall make a written project grant award to each eligible school district not later than August 1 of the fiscal year in which the project grant is awarded except for option in project grant awards which shall be made before October 31, 2000. The written grant award shall specify the total amount of the project grant to the school district. Except as otherwise provided in this subsection, the amount of the project grant to an eligible school district shall be an amount equal to 12.5% of the principal amount of the bond issue financing the project for which the grant is awarded or \$5,000,000.00, whichever is less. If funds appropriated for project grants under this subsection remain after August 1 of the fiscal year in which the project grant is awarded, an eligible school district that received a grant award under this subsection is eligible to receive an additional project grant award not to exceed 12.5% of the principal amount of the bond issue financing the project, less the amount the eligible school district received in its original project grant under this subsection. However, if the amount appropriated for project grants under this section for the fiscal year is not sufficient to fully fund all of the project grants as otherwise calculated, then the amount of each recipient school district's project grant award shall be reduced on an equal percentage basis.

(4) After a project grant is awarded, the state treasurer shall promptly set aside the amount specified in the written grant award for the recipient school district. The state treasurer shall disburse project grant funds to the school district during the project to help pay the costs of the project according to requisition procedures established by the state treasurer. If the state treasurer determines in writing that bonds financing the project for which a project grant is awarded are not issued or do not receive final qualification under this act in whole or in part within 6 months after the date of the award, or within a longer period if specified in the grant award, or that the project for which the project grant is awarded is not completed in whole or in part within a time period specified in the grant award, a corresponding portion of the project grant shall lapse and shall not be disbursed to the school district. Upon completion of the project for which the project grant is awarded, any portion of the project grant that has not been requisitioned by the school district shall lapse and shall not be disbursed to the school district. Any funds that lapse under this subsection shall not revert to the general fund but shall remain available to be used toward fully funding project grants for that fiscal year that have prorated pursuant to subsection (3) or for other project grants under this section.

(5) A project grant under this section is considered to be appropriated and allocated to the recipient school district in the fiscal year in which it is awarded regardless of when the school district actually receives the money.

(6) Not later than August 15 of each fiscal year, the state treasurer shall determine in writing whether there are any funds appropriated for the purposes of this section that have not been awarded as project grants and the amount of those funds, and may award

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that amount as a revolving fund grant to the Michigan municipal bond authority to be used for aid to school districts as specified in this subsection. If the state treasurer does not award all of the funds described in this subsection in any fiscal year, the remaining funds shall not lapse and shall be available for grants under this subsection in succeeding fiscal years. The revolving loan fund grant award shall specify that the funds awarded may be used by the Michigan municipal bond authority only for the purpose of funding a revolving loan fund, or a reserve fund for such a revolving loan fund, to be used to make interest bearing loans for capital expenditures to any of the following:

(a) School districts determined by the state treasurer to be among the lowest 1/3 of school districts in taxable value per membership pupil for the fiscal year in which the loan is made.

(b) School districts in which at least 50% of the pupils in membership for the fiscal year in which the loan is made meet the income eligibility criteria for free or reduced-price lunch under the national school lunch act, chapter 281, 60 Stat. 230, as determined by the department of education.

(7) The state treasurer may establish and charge school districts reasonable fees for the administration of this section.

(8) As used in this section:

(a) "Fiscal year" means the state fiscal year commencing October 1 and ending September 30.

(b) "Michigan municipal bond authority" means that authority created in the shared credit rating act, 1985 PA 227, MCL 141.1051 to 141.1078.

388.960c Loan interest reduction. [M.S.A. 3.424(120c)]

Sec. 10c. (1) Beginning with 2000-2001, for each state fiscal year, the state treasurer shall reduce the amount of interest otherwise payable, accrued, or accruable on loans made under this act for each school district with a loan under this act that is determined by the state treasurer to be among the lowest 1/3 of all school districts in taxable value per membership pupil or in which at least 50% of the pupils in membership meet the income eligibility criteria for free or reduced-price lunch under the national school lunch act, chapter 281, 60 Stat. 230, as determined by the department of education.

(2) The reduction for each eligible school district in each state fiscal year shall be an amount, as computed by the state treasurer, equal to 50% of the interest otherwise payable, accrued, or accruable during the fiscal year on loans made pursuant to this act. However, except as otherwise provided in this subsection, the reduction for any particular school district shall not exceed the lesser of \$1,000,000.00 or 50% of the interest otherwise payable, accrued, or accruable during the fiscal year on loans made pursuant to this act. Further, the aggregate of all of these reductions in any fiscal year shall not exceed the amount appropriated for the purpose of this section, and the amount of the reduction for each eligible school district shall be prorated on an equal percentage basis as necessary to comply with this aggregate limitation. If the aggregate amount of the reductions in any fiscal year do not exceed the amount appropriated for the purposes of this section, an eligible school district that received a reduction under this subsection is eligible for a further reduction under this subsection equal to the difference between the aggregate amount of the reductions and the amount appropriated for the purposes of this section, not to exceed 100% of the interest otherwise payable, accrued, or accountible during the fiscal year on loans made pursuant to this act, less the amount of the original reduction the eligible school district received under this subsection.

(3) The amount of a school district's reduction under this section shall be credited against the amounts of interest otherwise payable, accrued, or accruable by the school district on loans made pursuant to this act.

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388.961 Qualification of bonds; fee; payment; failure to pay fee.
[M.S.A. 3.424(121)]

Sec. 11. (1) A school district applying for preliminary qualification of bonds or final qualification of refunding bonds under this act shall pay a fee for the preliminary qualification of bonds and final qualification of bonds, including refunding bonds, which fee shall be used toward defraying the administrative expenses in connection with this act, with 1961 PA 112, MCL 388.981 to 388.985, and with 1955 PA 151, MCL 388.931 to 388.938. A nonrefundable fee of \$500.00 shall accompany an application for preliminary qualification.

(2) The fee for final qualification shall be paid to the state treasurer within 30 days after the money obtained through the sale of the preliminary qualified bonds or finally qualified refunding bonds has been received by the treasurer of the school board of the school district. The amount of the fee for final qualification to be charged to the school district shall be determined by the state treasurer. The amount of the fee shall vary according to the amount of the bond issue, based on a schedule published by the state treasurer. The total amount to be charged to all school districts in any 1 fiscal year shall be approximately equal to the estimated administrative expenses in connection with this act for the same fiscal year.

(3) Upon failure of any school district to pay the preliminary qualification fee or final qualification fee within the time specified, the state treasurer may withhold the amount of the fee from the payment of state school aid money next due the school district.

388.961a Deposit of fees into separate fund; carrying forward unexpended balance. [M.S.A. 3.424(121a)]

Sec. 11a. All fees collected under this act shall be deposited into a separate fund established within the state treasury and shall be restricted to administering and enforcing this act. The unexpended and unobligated balance of this fund at the end of the fiscal year shall be carried forward over to the succeeding fiscal year and shall not revert to the general fund but shall be available for reappropriation for the next fiscal year.

388.962 State loans to school district; false statements; concealment; penalty. [M.S.A. 3.424(122)]

Sec. 12. A person who knowingly makes a false statement or conceals a material information for the purpose of obtaining qualification of a bond issue under this act or for the purpose of obtaining a loan under this act, or who knowingly uses all or part of the proceeds of a loan obtained under this act for any purpose not authorized by this act is guilty of a felony.

Repeal of §§ 388.954b, 388.954c, and 388.959a.

Enacting section 1. Sections 4b, 4c, and 9a of 1961 PA 108, MCL 388.954b, 388.954c, and 388.959a, are repealed.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 1044 of the 90th Legislature is enacted into law and appropriates money to fund sections 10b and 10c of 1961 PA 108, MCL 388.960b and 388.960c.

This act is ordered to take immediate effect.

Approved July 7, 2000.

Filed with Secretary of State July 10, 2000.

Compiler's note: Senate Bill No. 1044 was signed and filed on July 26, 2000, and became 2000 PA 297, Eff. July 26, 2000. Added Sec. 11k allocated funding for project grants under 388.960b and added Sec. 11l allocated funding for the school construction interest waiver program described in 388.960c. However, Sec. 11l was vetoed by the Governor on July 26, 2000.