

# HOUSE BILL No. 4474

February 26, 2009, Introduced by Reps. Meltzer, Knollenberg and Lund 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 section 1254a.

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

1           SEC. 1254A. (1) NOT LATER THAN JULY 1, 2009, EACH SCHOOL BOARD  
2 SHALL ADOPT AND IMPLEMENT A CONFLICT OF INTEREST POLICY DESIGNED TO  
3 AVOID CONFLICTS OF INTEREST BY SCHOOL DISTRICT OFFICIALS AND  
4 EMPLOYEES.

5           (2) NOT LATER THAN JULY 1, 2009, EACH SCHOOL BOARD SHALL ADOPT  
6 AND IMPLEMENT A POLICY TO PROHIBIT USE OF SCHOOL DISTRICT FUNDS OR  
7 OTHER PUBLIC FUNDS UNDER THE CONTROL OF THE SCHOOL DISTRICT FOR  
8 PURCHASING ALCOHOLIC BEVERAGES, JEWELRY, GIFTS, FEES FOR GOLF, OR  
9 ANY ITEM THE PURCHASE OR POSSESSION OF WHICH IS ILLEGAL. SUBJECT TO

1 SUBSECTION (8), THE POLICY MAY ALLOW THE USE OF PUBLIC FUNDS FOR  
2 THE PURCHASE OF A PLAQUE, MEDAL, TROPHY, OR OTHER AWARD FOR THE  
3 RECOGNITION OF AN EMPLOYEE, VOLUNTEER, OR PUPIL IF THE PURCHASE  
4 DOES NOT EXCEED \$100.00 PER RECIPIENT. AS USED IN THIS SUBSECTION,  
5 "PUBLIC FUNDS" MEANS FUNDS GENERATED FROM TAXES LEVIED UNDER THIS  
6 ACT, STATE APPROPRIATIONS OF STATE OR FEDERAL FUNDS, OR PAYMENTS  
7 MADE TO THE SCHOOL DISTRICT FOR SERVICES BY ANOTHER SCHOOL DISTRICT  
8 OR ANY OTHER PERSON, BUT DOES NOT INCLUDE VOLUNTARY CONTRIBUTIONS  
9 MADE FOR A SPECIFIC PURPOSE BY A SCHOOL BOARD MEMBER, A SCHOOL  
10 DISTRICT EMPLOYEE, ANOTHER INDIVIDUAL, OR A PRIVATE ENTITY.

11 (3) THE DEPARTMENT SHALL DEVELOP AND DISTRIBUTE TO SCHOOL  
12 DISTRICTS A MODEL CONFLICT OF INTEREST POLICY FOR THE PURPOSES OF  
13 SUBSECTION (1) AND A MODEL POLICY MEETING THE REQUIREMENTS OF  
14 SUBSECTION (2).

15 (4) SUBJECT TO SUBSECTION (8), IN ANY 1-MONTH PERIOD, A SCHOOL  
16 BOARD MEMBER OR SCHOOL DISTRICT ADMINISTRATOR SHALL NOT ACCEPT FROM  
17 A PERSON WHO DOES BUSINESS OR SEEKS TO DO BUSINESS OF ANY KIND WITH  
18 THE SCHOOL DISTRICT ANY MONEY, GOODS, OR SERVICES WITH A VALUE IN  
19 EXCESS OF \$51.00 IF THE BOARD MEMBER OR ADMINISTRATOR DOES NOT  
20 PROVIDE GOODS OR SERVICES OF EQUAL VALUE IN EXCHANGE. THIS  
21 SUBSECTION DOES NOT APPLY TO A GIFT OR REWARD ALREADY PROHIBITED  
22 UNDER SECTION 1805.

23 (5) IF A SCHOOL BOARD MEMBER OR SCHOOL DISTRICT ADMINISTRATOR  
24 HAS A SUBSTANTIAL CONFLICT OF INTEREST IN A PROPOSED CONTRACT, THE  
25 SCHOOL BOARD SHALL NOT ENTER INTO THAT CONTRACT. AS USED IN THIS  
26 SUBSECTION, "SUBSTANTIAL CONFLICT OF INTEREST" MEANS A CONFLICT OF  
27 INTEREST ON THE PART OF A SCHOOL BOARD MEMBER OR SCHOOL DISTRICT

1 ADMINISTRATOR IN RESPECT TO A CONTRACT WITH THE SCHOOL DISTRICT  
2 THAT IS OF SUCH SUBSTANCE AS TO INDUCE ACTION ON HIS OR HER PART TO  
3 PROMOTE THE CONTRACT FOR HIS OR HER OWN PERSONAL BENEFIT. IN THE  
4 FOLLOWING CASES, THERE IS NO SUBSTANTIAL CONFLICT OF INTEREST:

5 (A) A CONTRACT BETWEEN THE SCHOOL DISTRICT AND ANY OF THE  
6 FOLLOWING:

7 (i) A CORPORATION IN WHICH A SCHOOL BOARD MEMBER OR SCHOOL  
8 DISTRICT ADMINISTRATOR IS A STOCKHOLDER OWNING 1% OR LESS OF THE  
9 TOTAL STOCK OUTSTANDING IN ANY CLASS IF THE STOCK IS NOT LISTED ON  
10 A STOCK EXCHANGE OR OWNING STOCK THAT HAS A PRESENT MARKET VALUE OF  
11 \$25,000.00 OR LESS IF THE STOCK IS LISTED ON A STOCK EXCHANGE.

12 (ii) A CORPORATION IN WHICH A TRUST, IF A SCHOOL BOARD MEMBER  
13 OR SCHOOL DISTRICT ADMINISTRATOR IS A BENEFICIARY UNDER THE TRUST,  
14 OWNS 1% OR LESS OF THE TOTAL STOCK OUTSTANDING IN ANY CLASS IF THE  
15 STOCK IS NOT LISTED ON A STOCK EXCHANGE OR OWNS STOCK THAT HAS A  
16 PRESENT MARKET VALUE OF \$25,000.00 OR LESS IF THE STOCK IS LISTED  
17 ON A STOCK EXCHANGE.

18 (iii) A PROFESSIONAL LIMITED LIABILITY COMPANY ORGANIZED  
19 PURSUANT TO THE MICHIGAN LIMITED LIABILITY COMPANY ACT, 1993 PA 23,  
20 MCL 450.4101 TO 450.5200, IF A SCHOOL BOARD MEMBER OR SCHOOL  
21 DISTRICT ADMINISTRATOR IS AN EMPLOYEE BUT NOT A MEMBER OF THE  
22 COMPANY.

23 (B) A CONTRACT BETWEEN THE SCHOOL DISTRICT AND ANY OF THE  
24 FOLLOWING:

25 (i) A CORPORATION IN WHICH A SCHOOL BOARD MEMBER OR SCHOOL  
26 DISTRICT ADMINISTRATOR IS NOT A DIRECTOR, OFFICER, OR EMPLOYEE.

27 (ii) A FIRM, PARTNERSHIP, OR OTHER UNINCORPORATED ASSOCIATION,

1 IN WHICH A SCHOOL BOARD MEMBER OR SCHOOL DISTRICT ADMINISTRATOR IS  
2 NOT A PARTNER, MEMBER, OR EMPLOYEE.

3 (iii) A CORPORATION OR FIRM THAT HAS AN INDEBTEDNESS OWED TO A  
4 SCHOOL BOARD MEMBER OR SCHOOL DISTRICT ADMINISTRATOR.

5 (C) A CONTRACT BETWEEN THE SCHOOL DISTRICT AND AN INTERMEDIATE  
6 SCHOOL DISTRICT OR ANOTHER SCHOOL DISTRICT.

7 (D) A CONTRACT AWARDED TO THE LOWEST QUALIFIED BIDDER, UPON  
8 RECEIPT OF SEALED BIDS PURSUANT TO A PUBLISHED NOTICE FOR BIDS IF  
9 THE NOTICE DOES NOT BAR, EXCEPT AS AUTHORIZED BY LAW, ANY QUALIFIED  
10 PERSON, FIRM, CORPORATION, OR TRUST FROM BIDDING. THIS SUBDIVISION  
11 DOES NOT APPLY TO AMENDMENTS OR RENEGOTIATIONS OF A CONTRACT OR TO  
12 ADDITIONAL PAYMENTS UNDER THE CONTRACT THAT WERE NOT AUTHORIZED BY  
13 THE CONTRACT AT THE TIME OF AWARD.

14 (6) IF A SCHOOL BOARD MEMBER, SCHOOL DISTRICT ADMINISTRATOR,  
15 OR AN EMPLOYEE OF A SCHOOL DISTRICT WHO RECOMMENDS, NEGOTIATES, OR  
16 IS AUTHORIZED TO SIGN A CONTRACT ON BEHALF OF THE SCHOOL DISTRICT  
17 EITHER IS EMPLOYED BY OR UNDER CONTRACT WITH A BUSINESS ENTERPRISE  
18 WITH WHICH THE SCHOOL DISTRICT IS CONSIDERING ENTERING INTO A  
19 CONTRACT OR KNOWS THAT HE OR SHE HAS A FAMILY MEMBER WHO HAS AN  
20 OWNERSHIP INTEREST IN OR IS EMPLOYED BY A BUSINESS ENTERPRISE WITH  
21 WHICH THE SCHOOL DISTRICT IS CONSIDERING ENTERING INTO A CONTRACT,  
22 THE BOARD MEMBER, ADMINISTRATOR, OR EMPLOYEE SHALL DISCLOSE THIS  
23 FACT TO THE SCHOOL BOARD AT A PUBLIC MEETING OF THE SCHOOL BOARD  
24 BEFORE THE SCHOOL BOARD ENTERS INTO THE CONTRACT. IF THE SCHOOL  
25 BOARD RECEIVES A DISCLOSURE DESCRIBED IN THIS SUBSECTION, THE  
26 SCHOOL BOARD SHALL VOTE AT A PUBLIC MEETING OF THE SCHOOL BOARD ON  
27 WHETHER OR NOT IT CONSIDERS THE RELATIONSHIP DESCRIBED IN THE

1 DISCLOSURE TO BE A CONFLICT OF INTEREST AND SHALL NOT ENTER INTO  
2 THE CONTRACT WITHOUT FIRST VOTING AT A PUBLIC MEETING OF THE SCHOOL  
3 BOARD TO ENTER INTO THE CONTRACT. AS USED IN THIS SUBSECTION,  
4 "FAMILY MEMBER" MEANS A PERSON'S SPOUSE OR SPOUSE'S SIBLING OR  
5 CHILD; A PERSON'S SIBLING OR SIBLING'S SPOUSE OR CHILD; A PERSON'S  
6 CHILD OR CHILD'S SPOUSE; OR A PERSON'S PARENT OR PARENT'S SPOUSE,  
7 AND INCLUDES THESE RELATIONSHIPS AS CREATED BY ADOPTION OR  
8 MARRIAGE.

9 (7) A SCHOOL BOARD SHALL ENSURE THAT EACH EMPLOYMENT CONTRACT  
10 WITH A SCHOOL ADMINISTRATOR EMPLOYED BY THE SCHOOL DISTRICT  
11 INCLUDES BOTH A PROVISION PROHIBITING THE SCHOOL ADMINISTRATOR FROM  
12 ENGAGING IN CONDUCT INVOLVING MORAL TURPITUDE AND A PROVISION  
13 ALLOWING THE SCHOOL BOARD TO VOID THE CONTRACT IF THE SCHOOL  
14 ADMINISTRATOR VIOLATES THE PROVISION PROHIBITING CONDUCT INVOLVING  
15 MORAL TURPITUDE.

16 (8) BEGINNING JANUARY 1, 2010, THE MONETARY AMOUNTS SPECIFIED  
17 IN SUBSECTIONS (2) AND (4) SHALL BE ADJUSTED EACH JANUARY 1 BY  
18 MULTIPLYING THE AMOUNT FOR THE IMMEDIATELY PRECEDING YEAR BY THE  
19 PERCENTAGE BY WHICH THE AVERAGE CONSUMER PRICE INDEX FOR ALL ITEMS  
20 FOR THE 12 MONTHS ENDING AUGUST 31 OF THE YEAR IN WHICH THE  
21 ADJUSTMENT IS MADE DIFFERS FROM THAT INDEX'S AVERAGE FOR THE 12  
22 MONTHS ENDING ON AUGUST 31 OF THE IMMEDIATELY PRECEDING YEAR AND  
23 ADDING THAT PRODUCT TO THE MAXIMUM AMOUNT THAT APPLIED IN THE  
24 IMMEDIATELY PRECEDING YEAR, ROUNDING TO THE NEAREST WHOLE DOLLAR.  
25 THE ADJUSTMENT SHALL APPLY ONLY TO EXPENDITURES OR VIOLATIONS  
26 OCCURRING AFTER THE DATE OF THE ADJUSTING OF THE AMOUNT. THE  
27 ADJUSTED AMOUNT SHALL BE DETERMINED AND ANNOUNCED BY THE DEPARTMENT

1 ON OR BEFORE DECEMBER 15 OF EACH YEAR AND SHALL BE PROVIDED TO ALL  
2 PERSONS REQUESTING THE ADJUSTED AMOUNT. IF THE INDEX IS  
3 UNAVAILABLE, THE DEPARTMENT SHALL MAKE A REASONABLE APPROXIMATION.