

SUBSTITUTE FOR  
HOUSE BILL NO. 5478

A bill to amend 1979 PA 94, entitled  
"The state school aid act of 1979,"  
by amending section 166a (MCL 388.1766a), as amended by 2003 PA  
158.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 166a. (1) In order to avoid forfeiture of state aid  
2 under subsection (2), the board of a district or intermediate  
3 district providing **a** reproductive health or other sex education  
4 ~~instruction~~ **class** under section 1169, 1506, or 1507 of the  
5 revised school code, MCL 380.1169, 380.1506, and 380.1507, or  
6 under any other provision of law, shall ensure that all of the  
7 following are met:  
8       (a) That the district or intermediate district does not  
9 provide ~~any of the instruction~~ **the class** to a pupil who is less  
10 than 18 years of age unless the district or intermediate district

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1 notifies the pupil's parent or legal guardian in advance of the  
 2 ~~instruction~~ **class** and the content of the ~~instruction~~ **class**,  
 3 gives the pupil's parent or legal guardian a prior opportunity to  
 4 review the materials to be used in the ~~instruction~~ **class**,  
 5 allows the pupil's parent or legal guardian to observe the  
 6 ~~instruction~~ **class**, and notifies the pupil's parent or legal  
 7 guardian in advance of his or her rights to observe the  
 8 ~~instruction~~ **class** and to have the pupil excused from the  
 9 ~~instruction~~ **class**. [If a class is part of a course, then the  
 requirements of this subsection may be met for the entire course by  
 notifying the pupil's parent or guardian in advance of the course and the  
 content of the course, giving the pupil's parent or guardian a prior  
 opportunity to review the materials to be used in the course, and  
 notifying the pupil's parent or guardian of his or her right to observe  
 instruction in the course and to have the pupil excused from the course.]

10 (b) That, upon the written request of a pupil's parent or  
 11 legal guardian or of a pupil if the pupil is at least age 18, the  
 12 pupil shall be excused, without penalty or loss of academic  
 13 credit, from attending **the** class. ~~sessions in which the~~  
 14 ~~instruction is provided.~~

15 (c) That the sex education ~~instruction~~ **class** [or course, as  
 applicable,] includes

16 **age-appropriate** information clearly informing pupils **at 1 or more**  
 17 **age-appropriate grade levels** that having sex or sexual contact  
 18 with an individual under the age of 16 is a crime punishable by  
 19 imprisonment, and that 1 of the other results of being convicted  
 20 of this crime is to be listed on the sex offender registry on the  
 21 internet for at least 25 years.

22 (2) If a parent or legal guardian of a pupil enrolled in a  
 23 district or intermediate district believes that the district or  
 24 intermediate district has violated this section or section 1169,  
 25 1506, or 1507 of the revised school code, MCL 380.1169, 380.1506,  
 26 and 380.1507, he or she may file a complaint with the  
 27 superintendent or chief administrator of the district or

1 intermediate district in which the pupil is enrolled. Upon  
2 receipt of the complaint, the superintendent or chief  
3 administrator of the district or intermediate district shall  
4 investigate the complaint and, within 30 days after the date of  
5 the complaint, provide a written report of his or her findings to  
6 the parent or legal guardian who filed the complaint and to the  
7 superintendent of public instruction. If the investigation  
8 reveals that 1 or more violations have occurred, the written  
9 report shall contain a description of each violation and of  
10 corrective action the district or intermediate district will take  
11 to correct the situation to ensure that there is no further  
12 violation. The district or intermediate district shall take the  
13 corrective action described in the written report within 30 days  
14 after the date of the written report.

15 (3) If a parent who has filed a complaint with a district  
16 under subsection (2) believes that the district is still not in  
17 compliance with law based on the findings made by the  
18 superintendent or chief administrator of the district, the parent  
19 may appeal the findings to the intermediate district in which the  
20 district is located. If there is an appeal to an intermediate  
21 district under this subsection, the intermediate superintendent  
22 of the intermediate district shall investigate the complaint and,  
23 within 30 days after the date of the appeal, provide a written  
24 report of his or her findings to the parent or legal guardian who  
25 filed the appeal and to the superintendent of public  
26 instruction. If the investigation by the intermediate  
27 superintendent reveals that 1 or more violations have occurred,

1 the intermediate superintendent in consultation with the local  
2 district shall develop a plan for corrective action for the  
3 district to take to correct the situation to ensure that there is  
4 no further violation, and shall include this plan for corrective  
5 action with the written report provided to the parent or legal  
6 guardian and the superintendent of public instruction. The  
7 district shall take the corrective action described in the plan  
8 within 30 days after the date of the written report.

9 (4) If a parent who has filed a complaint with an  
10 intermediate district under subsection (2) or a parent who has  
11 filed an appeal with an intermediate district under subsection  
12 (3) believes that the district or intermediate district is still  
13 not in compliance with law based on the findings made by the  
14 intermediate superintendent of the intermediate district, the  
15 parent may appeal the findings to the department. If there is an  
16 appeal to the department under this subsection, the department  
17 shall investigate the complaint and, within 90 days after the  
18 date of the appeal, provide a written report of its findings to  
19 the parent or legal guardian who filed the appeal, to the  
20 superintendent of public instruction, and to the district and  
21 intermediate district. If the department finds 1 or more  
22 violations as a result of its investigation, then all of the  
23 following apply:

24 (a) The department shall develop a plan for corrective action  
25 for the district or intermediate district to take to correct the  
26 situation to ensure that there is no further violation, and shall  
27 include this plan for corrective action with the written report

1 provided to the parent or legal guardian, the superintendent of  
2 public instruction, and the district or intermediate district.  
3 The district or intermediate district shall take the corrective  
4 action described in the plan within 30 days after the date of the  
5 written report.

6 (b) In addition to withholding the percentage of state school  
7 aid forfeited by the district or intermediate district under  
8 subsection (5), the department may assess a fee to the district  
9 or intermediate district that committed the violation in an  
10 amount not to exceed the actual cost to the department of  
11 conducting the investigation and making the reports required  
12 under this subsection.

13 (5) ~~-(2)-A~~ If an investigation conducted by the department  
14 under subsection (4) reveals that a district or intermediate  
15 district ~~that does not comply with~~ has committed 1 or more  
16 violations of this section or section 1169, 1506, or 1507 of the  
17 revised school code, MCL 380.1169, 380.1506, and 380.1507, the  
18 district or intermediate district shall forfeit ~~5%~~ an amount  
19 equal to 1% of its total state school aid allocation under this  
20 act.

21 (6) The department, with the approval of the superintendent  
22 of public instruction, shall establish a reasonable process for a  
23 complainant to appeal to the department under subsection (4).  
24 The process shall not place an undue burden on the complainant,  
25 the district or intermediate district, or the department.

26 (7) The department shall track the number of complaints and  
27 appeals it receives under this section for the 2004-2005 school

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1 year and, not later than the end of that school year, shall  
2 submit a report to the standing committees and appropriations  
3 subcommittees of the legislature having jurisdiction over  
4 education legislation and state school aid that details the  
5 number and nature of those complaints and appeals and the cost to  
6 the department of handling them.

7 (8) As used in this section, "class" [and "course" mean those terms]  
as

8 defined in section 1507 of the revised school code, MCL 380.1507.

9 Enacting section 1. This amendatory act does not take  
10 effect unless Senate Bill No. 943 of the 92nd Legislature is  
11 enacted into law.