

# HOUSE BILL No. 5701

March 24, 2004, Introduced by Reps. Palmer, Palsrok, Ehardt, Pappageorge, Robertson, Milosch, Sheen, Wenke, Huizenga, Hummel, Moolenaar, Acciavatti, Nitz, Stahl, Stakoe, Meyer, Hoogendyk, Middaugh, Caul, Hager, Garfield, Drolet, Kooiman, Steil, Amos, Farhat, Pastor, Koetje and Casperson 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 1294.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

HOUSE BILL No. 5701

1       Sec. 1294. (1) A school district may apply to the  
2 superintendent of public instruction for an educational  
3 flexibility and empowerment contract under this section for the  
4 school district or for 1 or more schools operated by the school  
5 district. An ed-flex contract allows the superintendent of  
6 public instruction to waive a provision of this act or of the  
7 state school aid act of 1979, or of a rule promulgated under this  
8 act or the state school aid act of 1979, designated as part of a  
9 performance-based contract with clearly defined and measurable  
10 performance goals. A school district also may apply to the  
11 superintendent of public instruction for waiver of certain

1 federal requirements, in accordance with federal law allowing  
2 federal education waivers to be issued by this state.

3       (2) If the board of a school district intends to apply for an  
4 ed-flex contract, the board shall establish an ed-flex planning  
5 committee to work with the board to develop the resolution under  
6 subsection (3) and the application under subsection (4). This  
7 committee shall include a representative of each of the school  
8 district's collective bargaining units that will be affected by  
9 the ed-flex contract.

10       (3) Before applying for an ed-flex contract, the board of a  
11 school district must adopt a resolution indicating the board's  
12 intent to apply for the educational flexibility and empowerment  
13 contract. If the contract is not intended to cover the entire  
14 school district, the resolution shall specify the schools to be  
15 covered. Before adopting the resolution, the board shall hold at  
16 least 2 public hearings at which the types of waivers sought and  
17 the need for the waivers are explained and public comment is  
18 allowed.

19       (4) A school district shall submit an application for an  
20 ed-flex contract to the superintendent of public instruction in  
21 the form and manner prescribed by the department. The  
22 application shall contain at least all of the following:

23       (a) A specific listing of the statutes and rules proposed to  
24 be waived. If the application is intended to also serve as an  
25 application for federal waivers under federal law, the  
26 application also shall include a specific listing of the federal  
27 statutes and regulations proposed to be waived.

1 (b) A statement specifying the need for waiver for each  
2 statute or rule proposed to be waived, including the purpose and  
3 intended results for each waiver.

4 (c) A description, for each school year and for the overall  
5 term of the contract, of the specific measurable goals for  
6 improved pupil performance in the school district or school.  
7 These goals shall include, but are not limited to, goals for  
8 improving MEAP scores.

9 (d) A description, for each school year and for the overall  
10 term of the contract, of the measurements to be used to determine  
11 whether the pupil performance goals under subdivision (c) have  
12 been met.

13 (e) An explanation of how the contract and the waivers will  
14 assist the school district or school in achieving its specified  
15 performance goals.

16 (f) A fiscal impact statement that estimates how the waiver  
17 or waivers may increase or reduce program costs.

18 (g) If the contract is not intended to cover the entire  
19 school district, the specific schools to be covered.

20 (h) A copy of the board resolution required under subsection  
21 (3). If the application is intended to also serve as an  
22 application for federal waivers under federal law, the  
23 application also shall include an explanation of how the public  
24 notice requirements of federal law have been met.

25 (5) Within 60 days after receiving an application under  
26 subsection (4), the superintendent of public instruction shall  
27 approve or disapprove the application and notify the school

1 district of the decision. Subject to subsection (6), if the  
2 superintendent of public instruction approves the application,  
3 the superintendent of public instruction shall promptly enter  
4 into an ed-flex contract with the school district. If the  
5 superintendent of public instruction disapproves the application,  
6 the notification to the school district shall include notice of  
7 the specific reasons for the disapproval, and the school district  
8 may submit a revised application under subsection (4). Subject  
9 to subsection (6), if the superintendent of public instruction  
10 does not act on an application and notify the school district of  
11 his or her decision within the time limit required under this  
12 subsection, the application is considered approved and the  
13 superintendent of public instruction shall promptly enter into  
14 the proposed ed-flex contract with the school district.

15       (6) Within 5 days after approving an application for an  
16 ed-flex contract under subsection (5) or after the expiration of  
17 the time limit in subsection (5) for approving or disapproving an  
18 application, whichever is earlier, the superintendent of public  
19 instruction shall submit the application to the governor. The  
20 governor has 10 days from the date of receipt of the application  
21 to override the approval of the application, whether it is  
22 approved by the superintendent of public instruction or  
23 considered approved due to the expiration of the time limit. If  
24 the governor does not override the approval within this 10-day  
25 period, the superintendent of public instruction shall promptly  
26 enter into the ed-flex contract with the school district. If the  
27 governor overrides an approval under this subsection, the

1 governor shall notify the superintendent of public instruction  
2 and the school district and shall include notice of the specific  
3 reasons for the override. The school district may submit a  
4 revised application under subsection (4).

5 (7) The superintendent of public instruction shall not  
6 approve an application submitted under subsection (4) unless he  
7 or she finds all of the following:

8 (a) That the performance goals contained in the application  
9 are sufficiently specific and will, if met, constitute improved  
10 pupil achievement.

11 (b) That the contract will allow the school district to  
12 enhance learning and to operate in a more effective, efficient,  
13 or economical manner.

14 (c) That the district has exhibited financial responsibility  
15 during the preceding 3 fiscal years, as determined by the  
16 superintendent of public instruction. This does not preclude the  
17 approval of an educational flexibility and empowerment contract  
18 for a school district in current financial hardship, so long as  
19 the hardship is not due to financial irresponsibility as  
20 determined by the superintendent of public instruction.

21 (d) That the contract will not result in the diminution of  
22 wages, hours, or other terms and conditions of employment for  
23 employees or collective bargaining units of the school district.

24 (8) In approving applications submitted under subsection (4),  
25 the superintendent of public instruction shall give priority to  
26 applications that are focused on reducing pupil achievement gaps  
27 based on race, gender, and socioeconomic status.

1       (9) The department shall prescribe the form of an ed-flex  
2 contract. The contract shall include at least all of the  
3 following:

4       (a) All matters addressed in the application.

5       (b) Assurance that the school district will report its annual  
6 progress toward its performance goals.

7       (c) An agreement that, in order for the contract to be  
8 renewed, the MEAP scores for the school district or school must  
9 demonstrate adequate annual progress toward meeting the  
10 performance goals and must attain a specific measurable benchmark  
11 by the end of the contract.

12       (d) An agreement on the contents of the empowerment report to  
13 be filed by the school district at the end of the contract term.  
14 The empowerment report shall summarize the performance goals  
15 achieved during the term of the contract and the programs,  
16 curriculum, or other innovative approaches used to achieve these  
17 goals.

18       (e) The term of the contract, which shall not exceed 5  
19 years.

20       (10) The superintendent of public instruction may terminate  
21 an ed-flex contract for a school before the end of its term if  
22 the superintendent of public instruction determines that the  
23 school has experienced 2 consecutive years of declining pupil  
24 performance, based on the performance goals and measurements set  
25 in the contract, or that the school has failed for 2 consecutive  
26 years to meet the adequate yearly progress standards of the no  
27 child left behind act of 2001, Public Law 107-110, in both

1 mathematics and English language arts at all applicable grade  
2 levels for all applicable subgroups. The superintendent of  
3 public instruction is not required to terminate an ed-flex  
4 contract if he or she determines that the decline or failure is  
5 due to exceptional or uncontrollable circumstances.

6 (11) At the conclusion of the term of an ed-flex contract,  
7 the school district shall submit its empowerment report  
8 describing how the school district or school met or did not meet  
9 the performance goals set forth in the contract. The  
10 superintendent of public instruction may renew the ed-flex  
11 contract if the performance goals have been met.

12 (12) The superintendent of public instruction may not waive  
13 any of the following as part of an ed-flex contract:

14 (a) Health and safety requirements.

15 (b) Statutory teacher certification requirements.

16 (c) A requirement under part 6a, except waiver of section  
17 503(6) to the extent necessary to allow waiver of another  
18 requirement that meets both of the following:

19 (i) Is imposed under a part of this act other than part 6a.

20 (ii) Is a requirement that may be waived under this section  
21 for a school district that is not a public school academy.

22 (13) The superintendent of public instruction shall submit an  
23 annual report to the legislature on the status of the educational  
24 flexibility and empowerment program under this section, including  
25 a report on ed-flex contracts issued during the year, and on  
26 progress made toward attainment of performance goals.

27 (14) As the initial educational flexibility and empowerment

1 contracts issued under this section expire, the department shall  
2 post information on its website on the educational innovations  
3 and best practices used to achieve pupil performance goals under  
4 the contracts.

5 (15) Except as otherwise provided in subsection (12), any  
6 provision of this act or the state school aid act of 1979, or of  
7 any rule promulgated under this act or the state school aid act  
8 of 1979, is subject to waiver under an ed-flex contract.

9 (16) As used in this section:

10 (a) "Ed-flex contract" means an educational flexibility and  
11 empowerment contract issued to a school district under this  
12 section for the school district or for 1 or more schools operated  
13 by the school district.

14 (b) "Empowerment report" means the final evaluation report  
15 required to be filed at the end of the term of an ed-flex  
16 contract under subsection (11).

17 (c) "MEAP scores" means the scores achieved by the pupils of  
18 a school district or school, as applicable, on all Michigan  
19 educational assessment program tests administered to pupils of  
20 the school district or school.

21 (d) "School district" means either a school district or a  
22 public school academy, and "board" means either a school board or  
23 the board of directors of a public school academy.

24 (17) This section shall be known and may be cited as the  
25 "educational flexibility and empowerment law".

26 Enacting section 1. This amendatory act does not take  
27 effect unless Senate Bill No. \_\_\_\_\_ or House Bill No. 5702

1 (request no. 06579'04 a) of the 92nd Legislature is enacted into  
2 law.