

HOUSE BILL No. 4979

May 20, 2009, Introduced by Reps. Pavlov, Bolger, Womack, Paul Scott, Daley, Dean and Pearce 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 1290; and to repeal acts
and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 1290. (1) A SCHOOL DISTRICT MAY APPLY TO THE
2 SUPERINTENDENT OF PUBLIC INSTRUCTION FOR AN EDUCATION MANDATE
3 ROLLBACK CONTRACT UNDER THIS SECTION FOR THE SCHOOL DISTRICT OR FOR
4 1 OR MORE SCHOOLS OPERATED BY THE SCHOOL DISTRICT. AN EDUCATION
5 MANDATE ROLLBACK CONTRACT ALLOWS THE SUPERINTENDENT OF PUBLIC
6 INSTRUCTION TO WAIVE A PROVISION OF THIS ACT OR OF THE STATE SCHOOL
7 AID ACT OF 1979, OR OF A RULE PROMULGATED UNDER THIS ACT OR THE

1 STATE SCHOOL AID ACT OF 1979, DESIGNATED AS PART OF A PERFORMANCE-
2 BASED CONTRACT WITH CLEARLY DEFINED AND MEASURABLE PERFORMANCE
3 GOALS. A SCHOOL DISTRICT ALSO MAY APPLY TO THE SUPERINTENDENT OF
4 PUBLIC INSTRUCTION FOR WAIVER OF CERTAIN FEDERAL REQUIREMENTS, IN
5 ACCORDANCE WITH FEDERAL LAW ALLOWING FEDERAL EDUCATION WAIVERS TO
6 BE ISSUED BY THIS STATE.

7 (2) IF THE BOARD OF A SCHOOL DISTRICT INTENDS TO APPLY FOR AN
8 EDUCATION MANDATE ROLLBACK CONTRACT, THE BOARD SHALL ESTABLISH AN
9 EDUCATION MANDATE ROLLBACK PLANNING COMMITTEE TO WORK WITH THE
10 BOARD TO DEVELOP THE RESOLUTION UNDER SUBSECTION (3) AND THE
11 APPLICATION UNDER SUBSECTION (4). THIS COMMITTEE SHALL INCLUDE A
12 REPRESENTATIVE OF EACH OF THE SCHOOL DISTRICT'S COLLECTIVE
13 BARGAINING UNITS THAT WILL BE AFFECTED BY THE EDUCATION MANDATE
14 ROLLBACK CONTRACT.

15 (3) BEFORE APPLYING FOR AN EDUCATION MANDATE ROLLBACK
16 CONTRACT, THE BOARD OF A SCHOOL DISTRICT MUST ADOPT A RESOLUTION
17 INDICATING THE BOARD'S INTENT TO APPLY FOR THE EDUCATION MANDATE
18 ROLLBACK CONTRACT. IF THE CONTRACT IS NOT INTENDED TO COVER THE
19 ENTIRE SCHOOL DISTRICT, THE RESOLUTION SHALL SPECIFY THE SCHOOLS TO
20 BE COVERED. BEFORE ADOPTING THE RESOLUTION, THE BOARD SHALL HOLD AT
21 LEAST 2 PUBLIC HEARINGS AT WHICH THE TYPES OF WAIVERS SOUGHT AND
22 THE NEED FOR THE WAIVERS ARE EXPLAINED AND PUBLIC COMMENT IS
23 ALLOWED.

24 (4) A SCHOOL DISTRICT SHALL SUBMIT AN APPLICATION FOR AN
25 EDUCATION MANDATE ROLLBACK CONTRACT TO THE SUPERINTENDENT OF PUBLIC
26 INSTRUCTION IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT.
27 THE APPLICATION SHALL CONTAIN AT LEAST ALL OF THE FOLLOWING:

1 (A) A SPECIFIC LISTING OF THE STATUTES AND RULES PROPOSED TO
2 BE WAIVED. IF THE APPLICATION IS INTENDED TO ALSO SERVE AS AN
3 APPLICATION FOR FEDERAL WAIVERS UNDER FEDERAL LAW, THE APPLICATION
4 ALSO SHALL INCLUDE A SPECIFIC LISTING OF THE FEDERAL STATUTES AND
5 REGULATIONS PROPOSED TO BE WAIVED.

6 (B) A STATEMENT SPECIFYING THE NEED FOR WAIVER FOR EACH
7 STATUTE OR RULE PROPOSED TO BE WAIVED, INCLUDING THE PURPOSE AND
8 INTENDED RESULTS FOR EACH WAIVER.

9 (C) A DESCRIPTION, FOR EACH SCHOOL YEAR AND FOR THE OVERALL
10 TERM OF THE CONTRACT, OF THE SPECIFIC MEASURABLE GOALS FOR IMPROVED
11 PUPIL PERFORMANCE IN THE SCHOOL DISTRICT OR SCHOOL. THESE GOALS
12 SHALL INCLUDE, BUT ARE NOT LIMITED TO, GOALS FOR IMPROVING MEAP
13 SCORES.

14 (D) A DESCRIPTION, FOR EACH SCHOOL YEAR AND FOR THE OVERALL
15 TERM OF THE CONTRACT, OF THE MEASUREMENTS TO BE USED TO DETERMINE
16 WHETHER THE PUPIL PERFORMANCE GOALS UNDER SUBDIVISION (C) HAVE BEEN
17 MET.

18 (E) AN EXPLANATION OF HOW THE CONTRACT AND THE WAIVERS WILL
19 ASSIST THE SCHOOL DISTRICT OR SCHOOL IN ACHIEVING ITS SPECIFIED
20 PERFORMANCE GOALS.

21 (F) A FISCAL IMPACT STATEMENT THAT ESTIMATES HOW THE WAIVER OR
22 WAIVERS MAY INCREASE OR REDUCE PROGRAM COSTS.

23 (G) IF THE CONTRACT IS NOT INTENDED TO COVER THE ENTIRE SCHOOL
24 DISTRICT, THE SPECIFIC SCHOOLS TO BE COVERED.

25 (H) A COPY OF THE BOARD RESOLUTION REQUIRED UNDER SUBSECTION
26 (3). IF THE APPLICATION IS INTENDED TO ALSO SERVE AS AN APPLICATION
27 FOR FEDERAL WAIVERS UNDER FEDERAL LAW, THE APPLICATION ALSO SHALL

1 INCLUDE AN EXPLANATION OF HOW THE PUBLIC NOTICE REQUIREMENTS OF
2 FEDERAL LAW HAVE BEEN MET.

3 (5) WITHIN 60 DAYS AFTER RECEIVING AN APPLICATION UNDER
4 SUBSECTION (4), THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL
5 APPROVE OR DISAPPROVE THE APPLICATION AND NOTIFY THE SCHOOL
6 DISTRICT OF THE DECISION. IF THE SUPERINTENDENT OF PUBLIC
7 INSTRUCTION APPROVES THE APPLICATION, THE SUPERINTENDENT OF PUBLIC
8 INSTRUCTION SHALL PROMPTLY ENTER INTO AN EDUCATION MANDATE ROLLBACK
9 CONTRACT WITH THE SCHOOL DISTRICT. IF THE SUPERINTENDENT OF PUBLIC
10 INSTRUCTION DISAPPROVES THE APPLICATION, THE NOTIFICATION TO THE
11 SCHOOL DISTRICT SHALL INCLUDE NOTICE OF THE SPECIFIC REASONS FOR
12 THE DISAPPROVAL, AND THE SCHOOL DISTRICT MAY SUBMIT A REVISED
13 APPLICATION UNDER SUBSECTION (4). IF THE SUPERINTENDENT OF PUBLIC
14 INSTRUCTION DOES NOT ACT ON AN APPLICATION AND NOTIFY THE SCHOOL
15 DISTRICT OF HIS OR HER DECISION WITHIN THE TIME LIMIT REQUIRED
16 UNDER THIS SUBSECTION, THE APPLICATION IS CONSIDERED APPROVED AND
17 THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL PROMPTLY ENTER INTO
18 THE PROPOSED EDUCATION MANDATE ROLLBACK CONTRACT WITH THE SCHOOL
19 DISTRICT.

20 (6) THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL NOT APPROVE
21 AN APPLICATION SUBMITTED UNDER SUBSECTION (4) UNLESS HE OR SHE
22 FINDS ALL OF THE FOLLOWING:

23 (A) THAT THE PERFORMANCE GOALS CONTAINED IN THE APPLICATION
24 ARE SUFFICIENTLY SPECIFIC AND WILL, IF MET, CONSTITUTE IMPROVED
25 PUPIL ACHIEVEMENT.

26 (B) THAT THE EDUCATION MANDATE ROLLBACK CONTRACT WILL ALLOW
27 THE SCHOOL DISTRICT TO ENHANCE LEARNING AND TO OPERATE IN A MORE

1 EFFECTIVE, EFFICIENT, OR ECONOMICAL MANNER.

2 (C) THAT THE DISTRICT HAS EXHIBITED FINANCIAL RESPONSIBILITY
3 DURING THE PRECEDING 3 FISCAL YEARS, AS DETERMINED BY THE
4 SUPERINTENDENT OF PUBLIC INSTRUCTION. THIS DOES NOT PRECLUDE THE
5 APPROVAL OF AN EDUCATION MANDATE ROLLBACK CONTRACT FOR A SCHOOL
6 DISTRICT IN CURRENT FINANCIAL HARDSHIP, IF THE HARDSHIP IS NOT DUE
7 TO FINANCIAL IRRESPONSIBILITY AS DETERMINED BY THE SUPERINTENDENT
8 OF PUBLIC INSTRUCTION.

9 (D) THAT THE EDUCATION MANDATE ROLLBACK CONTRACT WILL NOT
10 RESULT IN THE DIMINUTION OF WAGES, HOURS, OR OTHER TERMS AND
11 CONDITIONS OF EMPLOYMENT FOR EMPLOYEES OR COLLECTIVE BARGAINING
12 UNITS OF THE SCHOOL DISTRICT.

13 (7) IN APPROVING APPLICATIONS SUBMITTED UNDER SUBSECTION (4),
14 THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL GIVE PRIORITY TO
15 APPLICATIONS THAT ARE FOCUSED ON REDUCING PUPIL ACHIEVEMENT GAPS
16 BASED ON RACE, GENDER, AND SOCIOECONOMIC STATUS.

17 (8) THE DEPARTMENT SHALL PRESCRIBE THE FORM OF AN EDUCATION
18 MANDATE ROLLBACK CONTRACT. THE EDUCATION MANDATE ROLLBACK CONTRACT
19 SHALL INCLUDE AT LEAST ALL OF THE FOLLOWING:

20 (A) ALL MATTERS ADDRESSED IN THE APPLICATION.

21 (B) ASSURANCE THAT THE SCHOOL DISTRICT WILL REPORT ITS ANNUAL
22 PROGRESS TOWARD ITS PERFORMANCE GOALS.

23 (C) AN AGREEMENT THAT, IN ORDER FOR THE CONTRACT TO BE
24 RENEWED, THE MEAP SCORES FOR THE SCHOOL DISTRICT OR SCHOOL MUST
25 DEMONSTRATE ADEQUATE ANNUAL PROGRESS TOWARD MEETING THE PERFORMANCE
26 GOALS AND MUST ATTAIN A SPECIFIC MEASURABLE BENCHMARK BY THE END OF
27 THE CONTRACT.

1 (D) AN AGREEMENT ON THE CONTENTS OF THE EMPOWERMENT REPORT TO
2 BE FILED BY THE SCHOOL DISTRICT AT THE END OF THE CONTRACT TERM.
3 THE EMPOWERMENT REPORT SHALL SUMMARIZE THE PERFORMANCE GOALS
4 ACHIEVED DURING THE TERM OF THE CONTRACT AND THE PROGRAMS,
5 CURRICULUM, OR OTHER INNOVATIVE APPROACHES USED TO ACHIEVE THESE
6 GOALS.

7 (E) THE TERM OF THE CONTRACT, WHICH SHALL NOT EXCEED 5 YEARS.

8 (9) THE SUPERINTENDENT OF PUBLIC INSTRUCTION MAY TERMINATE AN
9 EDUCATION MANDATE ROLLBACK CONTRACT FOR A SCHOOL BEFORE THE END OF
10 ITS TERM IF THE SUPERINTENDENT OF PUBLIC INSTRUCTION DETERMINES
11 THAT THE SCHOOL HAS EXPERIENCED 2 CONSECUTIVE YEARS OF DECLINING
12 PUPIL PERFORMANCE, BASED ON THE PERFORMANCE GOALS AND MEASUREMENTS
13 SPECIFIED IN THE CONTRACT, OR THAT THE SCHOOL HAS FAILED FOR 2
14 CONSECUTIVE YEARS TO MEET THE ADEQUATE YEARLY PROGRESS STANDARDS OF
15 THE NO CHILD LEFT BEHIND ACT OF 2001, PUBLIC LAW 107-110, IN BOTH
16 MATHEMATICS AND ENGLISH LANGUAGE ARTS AT ALL APPLICABLE GRADE
17 LEVELS FOR ALL APPLICABLE SUBGROUPS. THE SUPERINTENDENT OF PUBLIC
18 INSTRUCTION IS NOT REQUIRED TO TERMINATE AN EDUCATION MANDATE
19 ROLLBACK CONTRACT IF HE OR SHE DETERMINES THAT THE DECLINE OR
20 FAILURE IS DUE TO EXCEPTIONAL OR UNCONTROLLABLE CIRCUMSTANCES.

21 (10) AT THE CONCLUSION OF THE TERM OF AN EDUCATION MANDATE
22 ROLLBACK CONTRACT, THE SCHOOL DISTRICT SHALL SUBMIT ITS EMPOWERMENT
23 REPORT DESCRIBING HOW THE SCHOOL DISTRICT OR SCHOOL MET OR DID NOT
24 MEET THE PERFORMANCE GOALS SET FORTH IN THE CONTRACT. THE
25 SUPERINTENDENT OF PUBLIC INSTRUCTION MAY RENEW THE EDUCATION
26 MANDATE ROLLBACK CONTRACT IF THE PERFORMANCE GOALS HAVE BEEN MET.

27 (11) THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL NOT GRANT

1 AN EDUCATION MANDATE ROLLBACK CONTRACT THAT CONTAINS A WAIVER THAT
2 WOULD UNDERMINE THE UNDERLYING PURPOSES, AS DETERMINED BY THE
3 SUPERINTENDENT OF PUBLIC INSTRUCTION, OF THE PROGRAM FOR WHICH THE
4 WAIVER IS SOUGHT. THE SUPERINTENDENT OF PUBLIC INSTRUCTION MAY NOT
5 WAIVE ANY OF THE FOLLOWING AS PART OF AN EDUCATION MANDATE ROLLBACK
6 CONTRACT:

7 (A) HEALTH AND SAFETY REQUIREMENTS.

8 (B) STATUTORY TEACHER CERTIFICATION REQUIREMENTS.

9 (C) ANY PROVISION UNDER SECTION 1312.

10 (D) A REQUIREMENT UNDER PART 6A, EXCEPT WAIVER OF SECTION
11 503(6) TO THE EXTENT NECESSARY TO ALLOW WAIVER OF ANOTHER
12 REQUIREMENT THAT MEETS BOTH OF THE FOLLOWING:

13 (i) IS IMPOSED UNDER A PART OF THIS ACT OTHER THAN PART 6A.

14 (ii) IS A REQUIREMENT THAT MAY BE WAIVED UNDER THIS SECTION FOR
15 A SCHOOL DISTRICT THAT IS NOT A PUBLIC SCHOOL ACADEMY.

16 (E) ANY REQUIREMENT RELATING TO COMPETITIVE BIDDING.

17 (F) ANY REQUIREMENT RELATING TO CONFLICTS OF INTEREST, ETHICS,
18 OR TRANSPARENCY OF OPERATIONS.

19 (G) ANY REQUIREMENT OR LIMITATION RELATING TO BORROWING MONEY,
20 ISSUING BONDS, NOTES, OR OTHER EVIDENCE OF INDEBTEDNESS, OR LEVYING
21 TAXES.

22 (H) ANY REQUIREMENT THAT WOULD BE PROHIBITED UNDER FEDERAL LAW
23 FROM BEING WAIVED.

24 (12) THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL SUBMIT AN
25 ANNUAL REPORT TO THE LEGISLATURE ON THE STATUS OF THE EDUCATION
26 MANDATE ROLLBACK PROGRAM UNDER THIS SECTION, INCLUDING A REPORT ON
27 EDUCATION MANDATE ROLLBACK CONTRACTS ISSUED DURING THE YEAR, AND ON

1 PROGRESS MADE TOWARD ATTAINMENT OF PERFORMANCE GOALS.

2 (13) AS THE INITIAL EDUCATION MANDATE ROLLBACK CONTRACTS
3 ISSUED UNDER THIS SECTION EXPIRE, THE DEPARTMENT SHALL POST
4 INFORMATION ON ITS WEBSITE ON THE EDUCATIONAL INNOVATIONS AND BEST
5 PRACTICES USED TO ACHIEVE PUPIL PERFORMANCE GOALS UNDER THE
6 CONTRACTS.

7 (14) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (11), ANY
8 PROVISION OF THIS ACT OR THE STATE SCHOOL AID ACT OF 1979, OR OF
9 ANY RULE PROMULGATED UNDER THIS ACT OR THE STATE SCHOOL AID ACT OF
10 1979, IS SUBJECT TO WAIVER UNDER AN EDUCATION MANDATE ROLLBACK
11 CONTRACT.

12 (15) AS USED IN THIS SECTION:

13 (A) "EMPOWERMENT REPORT" MEANS THE FINAL EVALUATION REPORT
14 REQUIRED TO BE FILED AT THE END OF THE TERM OF AN EDUCATION MANDATE
15 ROLLBACK CONTRACT UNDER SUBSECTION (10).

16 (B) "MEAP SCORES" MEANS THE SCORES ACHIEVED BY THE PUPILS OF A
17 SCHOOL DISTRICT OR SCHOOL, AS APPLICABLE, ON ALL MICHIGAN
18 EDUCATIONAL ASSESSMENT PROGRAM TESTS OR OTHER STATE ASSESSMENTS
19 ADMINISTERED TO PUPILS OF THE SCHOOL DISTRICT OR SCHOOL.

20 (C) "SCHOOL DISTRICT" MEANS EITHER A SCHOOL DISTRICT OR A
21 PUBLIC SCHOOL ACADEMY, AND "BOARD" MEANS EITHER A SCHOOL BOARD OR
22 THE BOARD OF DIRECTORS OF A PUBLIC SCHOOL ACADEMY.

23 (16) THIS SECTION SHALL BE KNOWN AND MAY BE CITED AS THE
24 "EDUCATION MANDATE ROLLBACK LAW".

25 (17) THIS SECTION IS REPEALED EFFECTIVE 10 YEARS AFTER THE
26 EFFECTIVE DATE OF THIS SECTION.

27 Enacting section 1. This amendatory act does not take effect

- 1 unless Senate Bill No. _____ or House Bill No. 4980 (request no.
- 2 01715'09 a) of the 95th Legislature is enacted into law.