

HOUSE BILL No. 4330

March 11, 2015, Introduced by Rep. Kelly and referred to the Committee on Financial Liability Reform.

A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending sections 17a and 18 (MCL 388.1617a and 388.1618), as
amended by 2014 PA 196.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17a. (1) The department may withhold all or part of any
2 payment that a district or intermediate district is entitled to
3 receive under this article to the extent the withholdings are a
4 component part of a plan, developed and implemented pursuant to the
5 revised municipal finance act, 2001 PA 34, MCL 141.2101 to
6 141.2821, the emergency municipal loan act, 1980 PA 243, MCL
7 141.931 to 141.942, the local financial stability and choice act,
8 2012 PA 436, MCL 141.1541 to 141.1575, **SECTION 1356 OF THE REVISED**

1 **SCHOOL CODE, MCL 380.1356**, or other statutory authority, for
2 financing an outstanding obligation upon which the district or
3 intermediate district defaulted or for other financial obligations
4 of the district or intermediate district. Amounts withheld shall be
5 used to pay, on behalf of the district or intermediate district,
6 unpaid amounts or subsequently due amounts, or both, of principal
7 and interest on the outstanding obligation upon which the district
8 or intermediate district defaulted.

9 (2) The state treasurer may withhold all or part of any
10 payment that a district or intermediate district is entitled to
11 receive under this article to the extent authorized or required
12 under section 15 of the school bond qualification, approval, and
13 loan act, 2005 PA 92, MCL 388.1935, the emergency municipal loan
14 act, 1980 PA 243, MCL 141.931 to 141.942, the local financial
15 stability and choice act, 2012 PA 436, MCL 141.1541 to 141.1575,
16 **SECTION 1356 OF THE REVISED SCHOOL CODE, MCL 380.1356**, or other
17 statutory authority.

18 (3) Under an agreement entered into by a district or
19 intermediate district assigning all or a portion of the payment
20 that it is eligible to receive under this article to the Michigan
21 finance authority or to the trustee of a pooled arrangement or
22 pledging the amount for payment of an obligation it incurred with
23 the Michigan finance authority or with the trustee of a pooled
24 arrangement, the state treasurer shall transmit to the Michigan
25 finance authority or a trustee designated by the Michigan finance
26 authority or to the trustee of a pooled arrangement or other
27 designated depository the amount of the payment that is assigned or

pledged under the agreement.

(4) If a district or intermediate district for which an emergency manager is in place under the local financial stability and choice act, 2012 PA 436, MCL 141.1541 to 141.1575, or that has an approved deficit elimination plan or an approved enhanced deficit elimination plan under section ~~102,~~ **1220 OF THE REVISED SCHOOL CODE, MCL 380.1220**, enters into or has entered into an agreement described in subsection (3) pursuant to section 1225(2) of the revised school code, MCL 380.1225, whether the obligation was issued before or after the effective date of this subsection, the portion of state school aid paid or to be paid on behalf of the district or intermediate district directly to the Michigan finance authority, or to a trustee designated by the Michigan finance authority, for the sole purpose of paying the principal of and interest on the obligation is subject to a lien and trust that is a statutory lien and trust, paramount and superior to all other liens and interests of any kind, for the sole purpose of paying the principal of and interest on the obligation. The statutory lien and trust applies to the state school aid received or to be received by the Michigan finance authority, or trustee designated by the Michigan finance authority, on behalf of the district or intermediate district, immediately upon the ~~later of the effective date of this subsection or the time~~ when the state school aid is allocated to the district or intermediate district, but is subject to any subsequent reduction of the state school aid allocation by operation of law or executive order. The lien and trust imposed by this section with respect to state school aid has a priority as

1 established in the agreement, except that the agreement shall not
2 impair any existing lien and trust previously created pursuant to
3 this section, including any lien and trust applicable to a multi-
4 year repayment agreement under section 1225 of the revised school
5 code, MCL 380.1225. Except as otherwise provided in this
6 subsection, the lien and trust created under this subsection for
7 the benefit of holders of the obligation issued pursuant to this
8 section is valid and binding against a party having a claim of any
9 kind in tort, contract, or otherwise against the district or
10 intermediate district that has issued the obligation secured by a
11 pledge of state school aid pursuant to this section, regardless of
12 whether that party has notice of the pledge. A pledge made pursuant
13 to this section for the benefit of the holders of obligations or
14 others is perfected without delivery, recording, or notice. The
15 state school aid paid or to be paid on behalf of a district or
16 intermediate district to the Michigan finance authority, or trustee
17 designated by the Michigan finance authority, shall be held in
18 trust for the sole benefit of the holders of the obligation issued
19 pursuant to this section or section 1225 of the revised school
20 code, MCL 380.1225, and is exempt from being levied upon, taken,
21 sequestered, or applied toward paying the debts or liabilities of
22 the district or intermediate district other than for payment of the
23 obligation to which the lien applies. However, nothing in this
24 subsection alters the ability of the state treasurer to withhold
25 state school aid from a district or intermediate district as
26 provided by law.

27 (5) Notwithstanding the payment dates prescribed by this

1 article for distributions under this article, the state treasurer
2 may advance all or part of a payment that is dedicated for
3 distribution or for which the appropriation authorizing the payment
4 has been made if and to the extent, under the terms of an agreement
5 entered into by a district or intermediate district and the
6 Michigan finance authority, the payment that the district or
7 intermediate district is eligible to receive has been assigned to
8 or pledged for payment of an obligation it incurred with the
9 Michigan finance authority.

10 (6) This section does not require the state to make an
11 appropriation to any school district or intermediate school
12 district and shall not be construed as creating an indebtedness of
13 the state, and any agreement made pursuant to this section shall
14 contain a statement to that effect.

15 (7) As used in this section, "trustee of a pooled arrangement"
16 means the trustee of a trust approved by the state treasurer and,
17 subject to the conditions and requirements of that approval,
18 established for the purpose of offering for sale, as part of a
19 pooled arrangement, certificates representing undivided interests
20 in notes issued by districts or intermediate districts under
21 section 1225 of the revised school code, MCL 380.1225.

22 (8) If a trustee applies to the state treasurer for approval
23 of a trust for the purposes of this section, the state treasurer
24 shall approve or disapprove the trust within 10 days after receipt
25 of the application.

26 (9) **AN ALLOCATION TO A DISTRICT OR INTERMEDIATE DISTRICT UNDER**
27 **THIS ARTICLE IS CONTINGENT UPON THE DISTRICT'S OR INTERMEDIATE**

DISTRICT'S COMPLIANCE WITH THIS SECTION.

Sec. 18. (1) Except as provided in another section of this article, each district or other entity shall apply the money received by the district or entity under this article to salaries and other compensation of teachers and other employees, tuition, transportation, lighting, heating, ventilation, water service, the purchase of textbooks, other supplies, and any other school operating expenditures defined in section 7. However, not more than 20% of the total amount received by a district under sections 22a and 22b or received by an intermediate district under section 81 may be transferred by the board to either the capital projects fund or to the debt retirement fund for debt service. The money shall not be applied or taken for a purpose other than as provided in this section. The department shall determine the reasonableness of expenditures and may withhold from a recipient of funds under this article the apportionment otherwise due upon a violation by the recipient.

(2) **A DISTRICT OR INTERMEDIATE DISTRICT SHALL ADOPT AN ANNUAL BUDGET IN A MANNER THAT COMPLIES WITH THE UNIFORM BUDGETING AND ACCOUNTING ACT, 1968 PA 2, MCL 141.421 TO 141.440A.** Within 15 days after a **DISTRICT** board adopts its annual operating budget for the following school fiscal year, or after a **DISTRICT** board adopts a subsequent revision to that budget, the district shall make all of the following available through a link on its website ~~home page,~~ **HOME PAGE**, or may make the information available through a link on its intermediate district's website ~~home page,~~ **HOME PAGE**, in a form and manner prescribed by the department:

1 (a) The annual operating budget and subsequent budget
2 revisions.

3 (b) Using data that have already been collected and submitted
4 to the department, a summary of district expenditures for the most
5 recent fiscal year for which they are available, expressed in the
6 following 2 pie charts:

7 (i) A chart of personnel expenditures, broken into the
8 following subcategories:

9 (A) Salaries and wages.

10 (B) Employee benefit costs, including, but not limited to,
11 medical, dental, vision, life, disability, and long-term care
12 benefits.

13 (C) Retirement benefit costs.

14 (D) All other personnel costs.

15 (ii) A chart of all district expenditures, broken into the
16 following subcategories:

17 (A) Instruction.

18 (B) Support services.

19 (C) Business and administration.

20 (D) Operations and maintenance.

21 (c) Links to all of the following:

22 (i) The current collective bargaining agreement for each
23 bargaining unit.

24 (ii) Each health care benefits plan, including, but not limited
25 to, medical, dental, vision, disability, long-term care, or any
26 other type of benefits that would constitute health care services,
27 offered to any bargaining unit or employee in the district.

1 (iii) The audit report of the audit conducted under subsection
2 (4) for the most recent fiscal year for which it is available.

3 (iv) The bids required under section 5 of the public ~~employee~~
4 **EMPLOYEES** health benefits act, 2007 PA 106, MCL 124.75.

5 (d) The total salary and a description and cost of each fringe
6 benefit included in the compensation package for the superintendent
7 of the district and for each employee of the district whose salary
8 exceeds \$100,000.00.

9 (e) The annual amount spent on dues paid to associations.

10 (f) The annual amount spent on lobbying or lobbying services.
11 As used in this subdivision, "lobbying" means that term as defined
12 in section 5 of 1978 PA 472, MCL 4.415.

13 (g) Any deficit elimination plan or enhanced deficit
14 elimination plan the district was required to submit under ~~this~~
15 ~~article~~. **SECTION 1220 OF THE REVISED SCHOOL CODE, MCL 380.1220.**

16 (h) Identification of all credit cards maintained by the
17 district as district credit cards, the identity of all individuals
18 authorized to use each of those credit cards, the credit limit on
19 each credit card, and the dollar limit, if any, for each
20 individual's authorized use of the credit card.

21 (i) Costs incurred for each instance of out-of-state travel by
22 the school administrator of the district that is fully or partially
23 paid for by the district and the details of each of those instances
24 of out-of-state travel, including at least identification of each
25 individual on the trip, destination, and purpose.

26 (3) For the information required under subsection (2)(a),
27 (2)(b)(i), and (2)(c), an intermediate district shall provide the

1 same information in the same manner as required for a district
2 under subsection (2).

3 (4) For the purposes of determining the reasonableness of
4 expenditures, whether a district or intermediate district has
5 received the proper amount of funds under this article, and whether
6 a violation of this article has occurred, all of the following
7 apply:

8 (a) The department shall require that each district and
9 intermediate district have an audit of the district's or
10 intermediate district's financial and pupil accounting records
11 conducted at least annually, and at such other times as determined
12 by the department, at the expense of the district or intermediate
13 district, as applicable. The audits must be performed by a
14 certified public accountant or by the intermediate district
15 superintendent, as may be required by the department, or in the
16 case of a district of the first class by a certified public
17 accountant, the intermediate superintendent, or the auditor general
18 of the city. A district or intermediate district shall retain these
19 records for the current fiscal year and from at least the 3
20 immediately preceding fiscal years.

21 (b) If a district operates in a single building with fewer
22 than 700 full-time equated pupils, if the district has stable
23 membership, and if the error rate of the immediately preceding 2
24 pupil accounting field audits of the district is less than 2%, the
25 district may have a pupil accounting field audit conducted
26 biennially but must continue to have desk audits for each pupil
27 count. The auditor must document compliance with the audit cycle in

1 the pupil auditing manual. As used in this subdivision, "stable
2 membership" means that the district's membership for the current
3 fiscal year varies from the district's membership for the
4 immediately preceding fiscal year by less than 5%.

5 (c) A district's or intermediate district's annual financial
6 audit shall include an analysis of the financial and pupil
7 accounting data used as the basis for distribution of state school
8 aid.

9 (d) The pupil and financial accounting records and reports,
10 audits, and management letters are subject to requirements
11 established in the auditing and accounting manuals approved and
12 published by the department.

13 (e) All of the following shall be done not later than November
14 15, 2014 for reporting 2013-2014 data during 2014-2015, and not
15 later than ~~October 15~~ **NOVEMBER 1** for reporting the prior fiscal
16 year data for all subsequent fiscal years:

17 (i) A district shall file the annual financial audit reports
18 with the intermediate district and the department.

19 (ii) The intermediate district shall file the annual financial
20 audit reports for the intermediate district with the department.

21 (iii) The intermediate district shall enter the pupil membership
22 audit reports for its constituent districts and for the
23 intermediate district, for the pupil membership count day and
24 supplemental count day, in the Michigan student data system.

25 (f) The annual financial audit reports and pupil accounting
26 procedures reports shall be available to the public in compliance
27 with the freedom of information act, 1976 PA 442, MCL 15.231 to

1 15.246.

2 (g) Not later than January 31 of each year, the department
3 shall notify the state budget director and the legislative
4 appropriations subcommittees responsible for review of the school
5 aid budget of districts and intermediate districts that have not
6 filed an annual financial audit and pupil accounting procedures
7 report required under this section for the school year ending in
8 the immediately preceding fiscal year.

9 (5) By November 15, 2014 for 2014-2015 and by ~~October 15~~
10 **NOVEMBER 1** for all subsequent fiscal years, each district and
11 intermediate district shall submit to the center, in a manner
12 prescribed by the center, annual comprehensive financial data
13 consistent with accounting manuals and charts of accounts approved
14 and published by the department. For an intermediate district, the
15 report shall also contain the website address where the department
16 can access the report required under section 620 of the revised
17 school code, MCL 380.620. The department shall ensure that the
18 prescribed Michigan public school accounting manual chart of
19 accounts includes standard conventions to distinguish expenditures
20 by allowable fund function and object. The functions shall include
21 at minimum categories for instruction, pupil support, instructional
22 staff support, general administration, school administration,
23 business administration, transportation, facilities operation and
24 maintenance, facilities acquisition, and debt service; and shall
25 include object classifications of salary, benefits, including
26 categories for active employee health expenditures, purchased
27 services, supplies, capital outlay, and other. Districts shall

1 report the required level of detail consistent with the manual as
2 part of the comprehensive annual financial report.

3 (6) By September 30 of each year, each district and
4 intermediate district shall file with the department the special
5 education actual cost report, known as "SE-4096", on a form and in
6 the manner prescribed by the department.

7 (7) By October 7 of each year, each district and intermediate
8 district shall file with the center the transportation expenditure
9 report, known as "SE-4094", on a form and in the manner prescribed
10 by the center.

11 (8) The department shall review its pupil accounting and pupil
12 auditing manuals at least annually and shall periodically update
13 those manuals to reflect changes in this article.

14 (9) If a district that is a public school academy purchases
15 property using money received under this article, the public school
16 academy shall retain ownership of the property unless the public
17 school academy sells the property at fair market value.

18 (10) If a district or intermediate district does not comply
19 with subsections (4), (5), (6), and (7), the department shall
20 withhold all state school aid due to the district or intermediate
21 district under this article, beginning with the next payment due to
22 the district or intermediate district, until the district or
23 intermediate district complies with subsections (4), (5), (6), and
24 (7). However, the department shall not withhold the payment due on
25 October 20 due to the operation of this subsection. If the district
26 or intermediate district does not comply with subsections (4), (5),
27 (6), and (7) by the end of the fiscal year, the district or

1 intermediate district forfeits the amount withheld.

2 (11) IF A DISTRICT OR INTERMEDIATE DISTRICT DOES NOT COMPLY
3 WITH SUBSECTION (2), THE DEPARTMENT MAY WITHHOLD UP TO 10% OF THE
4 TOTAL STATE SCHOOL AID DUE TO THE DISTRICT OR INTERMEDIATE DISTRICT
5 UNDER THIS ARTICLE, BEGINNING WITH THE NEXT PAYMENT DUE TO THE
6 DISTRICT OR INTERMEDIATE DISTRICT, UNTIL THE DISTRICT OR
7 INTERMEDIATE DISTRICT COMPLIES WITH SUBSECTION (2). IF THE DISTRICT
8 OR INTERMEDIATE DISTRICT DOES NOT COMPLY WITH SUBSECTION (2) BY THE
9 END OF THE FISCAL YEAR, THE DISTRICT OR INTERMEDIATE DISTRICT
10 FORFEITS THE AMOUNT WITHHELD.

11 (12) ~~(11)~~ Not later than November 1, 2014, if a district or
12 intermediate district offers online learning under section 21f, the
13 district or intermediate district shall submit to the department a
14 report that details the per-pupil costs of operating the online
15 learning by vendor type. The report shall include at least all of
16 the following information concerning the operation of online
17 learning for the school fiscal year ending June 30, 2014:

18 (a) The name of the district operating the online learning and
19 of each district that enrolled students in the online learning.

20 (b) The total number of students enrolled in the online
21 learning and the total number of membership pupils enrolled in the
22 online learning.

23 (c) For each pupil who is enrolled in a district other than
24 the district offering online learning, the name of that district.

25 (d) The district in which the pupil was enrolled before
26 enrolling in the district offering online learning.

27 (e) The number of participating students who had previously

1 dropped out of school.

2 (f) The number of participating students who had previously
3 been expelled from school.

4 (g) The total cost to enroll a student in the program. This
5 cost shall be reported on a per-pupil, per-course, per-semester or
6 trimester basis by vendor type. The total shall include costs
7 broken down by cost for content development, content licensing,
8 training, online instruction and instructional support, personnel,
9 hardware and software, payment to each online learning provider,
10 and other costs associated with operating online learning.

11 (h) The name of each online education provider contracted by
12 the district and the state in which each online education provider
13 is headquartered.

14 **(13)** ~~(12)~~ Not later than March 31, 2015, the department shall
15 submit to the house and senate appropriations subcommittees on
16 state school aid, the state budget director, and the house and
17 senate fiscal agencies a report summarizing the ~~per pupil~~ **PER-PUPIL**
18 costs by vendor type of online courses available under section 21f.

19 **(14) AN ALLOCATION TO A DISTRICT OR ANOTHER ENTITY UNDER THIS**
20 **ARTICLE IS CONTINGENT UPON THE DISTRICT'S OR ENTITY'S COMPLIANCE**
21 **WITH THIS SECTION.**

22 **(15)** ~~(13)~~ As used in subsections ~~(11)~~ **(12)** and ~~(12)~~ **(13)**,
23 "vendor type" means the following:

24 (a) Online courses provided by the Michigan ~~virtual~~
25 ~~university~~ **VIRTUAL UNIVERSITY.**

26 (b) Online courses provided by a school of excellence that is
27 a cyber school, as defined in section 551 of the revised school

1 code, MCL 380.551.

2 (c) Online courses provided by third party vendors not
3 affiliated with a Michigan public school.

4 (d) Online courses created and offered by a district or
5 intermediate district.

6 Enacting section 1. This amendatory act takes effect 90 days
7 after the date it is enacted into law.

8 Enacting section 2. This amendatory act does not take effect
9 unless all of the following bills of the 98th Legislature are
10 enacted into law:

11 (a) Senate Bill No.____ or House Bill No. 4327 (request no.
12 00280'15).

13 (b) Senate Bill No.____ or House Bill No. 4328 (request no.
14 00282'15).

15 (c) Senate Bill No.____ or House Bill No. 4325 (request no.
16 00285'15).