

# SENATE BILL No. 71

January 28, 2003, Introduced by Senators KUIPERS, CASSIS, ALLEN, Van WOERKOM, BISHOP, CROPSEY, HARDIMAN, STAMAS and GOSCHKA 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:**

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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 state statutes and rules designated  
7 as part of a performance-based contract with clearly defined and  
8 measurable performance goals. A school district also may apply  
9 to the superintendent of public instruction for waiver of certain  
10 federal requirements, in accordance with federal law allowing  
11 federal education waivers to be issued by this state.

1           (2) Before applying for an ed-flex contract, the board of a  
2 school district must adopt a resolution indicating the board's  
3 intent to apply for the educational flexibility and empowerment  
4 contract. If the contract is not intended to cover the entire  
5 school district, the resolution shall specify the schools to be  
6 covered. Before adopting the resolution, the board shall hold at  
7 least 1 public hearing at which the types of waivers sought and  
8 the need for the waivers are explained and public comment is  
9 allowed.

10           (3) A school district shall submit an application for an  
11 ed-flex contract to the superintendent of public instruction in  
12 the form and manner prescribed by the department. The  
13 application shall contain at least all of the following:

14           (a) A specific listing of the statutes and rules proposed to  
15 be waived. If the application is intended to also serve as an  
16 application for federal waivers under federal law, the  
17 application also shall include a specific listing of the federal  
18 statutes and regulations proposed to be waived.

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

22           (c) A description, for each school year and for the overall  
23 term of the contract, of the specific measurable goals for  
24 improved pupil performance in the school district or school.  
25 These goals shall include, but are not limited to, goals for  
26 improving MEAP scores.

27           (d) A description, for each school year and for the overall

1 term of the contract, of the measurements to be used to determine  
2 whether the pupil performance goals under subdivision (c) have  
3 been met.

4 (e) An explanation of how the contract and the waivers will  
5 assist the school district or school in achieving its specified  
6 performance goals.

7 (f) If the contract is not intended to cover the entire  
8 school district, the specific schools to be covered.

9 (g) A copy of the board resolution required under subsection  
10 (2). If the application is intended to also serve as an  
11 application for federal waivers under federal law, the  
12 application also shall include an explanation of how the public  
13 notice requirements of federal law have been met.

14 (4) Within 60 days after receiving an application under  
15 subsection (3), the superintendent of public instruction shall  
16 approve or disapprove the application and notify the school  
17 district of the decision. If the superintendent of public  
18 instruction approves the application, the superintendent of  
19 public instruction shall promptly enter into an ed-flex contract  
20 with the school district. If the superintendent of public  
21 instruction disapproves the application, the notification to the  
22 school district shall include notice of the specific reasons for  
23 the disapproval, and the school district may submit a revised  
24 application. If the superintendent of public instruction does  
25 not act on an application and notify the school district of his  
26 or her decision within the time limits required under this  
27 subsection, the application is considered approved and the

1 superintendent of public instruction shall promptly enter into  
2 the proposed ed-flex contract with the school district.

3 (5) The superintendent of public instruction shall not  
4 approve an application submitted under subsection (3) unless he  
5 or she finds all of the following:

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

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

12 (6) In approving applications submitted under subsection (3),  
13 the superintendent of public instruction shall give priority to  
14 applications that are focused on reducing pupil achievement gaps  
15 based on race, gender, and socioeconomic status.

16 (7) The department shall prescribe the form of an ed-flex  
17 contract. The contract shall include at least all of the  
18 following:

19 (a) All matters addressed in the application.

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

22 (c) An agreement that, in order for the contract to be  
23 renewed, the MEAP scores for the school district or school must  
24 demonstrate adequate annual progress toward meeting the  
25 performance goals and must attain a specific measurable benchmark  
26 by the end of the contract.

27 (d) An agreement on the contents of the empowerment report to

1 be filed by the school district at the end of the contract term.  
2 The empowerment report shall summarize the performance goals  
3 achieved during the term of the contract and the programs,  
4 curriculum, or other innovative approaches used to achieve these  
5 goals.

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

8 (8) The superintendent of public instruction may terminate an  
9 ed-flex contract before the end of its term if the superintendent  
10 of public instruction determines that the school district or  
11 school has experienced 2 consecutive years of declining pupil  
12 performance, based on the performance goals and measurements set  
13 in the contract. The superintendent of public instruction is not  
14 required to terminate an ed-flex contract if he or she determines  
15 that the decline is due to exceptional or uncontrollable  
16 circumstances.

17 (9) At the conclusion of the term of an ed-flex contract, the  
18 school district shall submit its empowerment report describing  
19 how the school district or school met or did not meet the  
20 performance goals set forth in the contract. The superintendent  
21 of public instruction may renew the ed-flex contract if the  
22 performance goals have been met.

23 (10) The superintendent of public instruction may not waive  
24 any health and safety requirements as part of an ed-flex  
25 contract.

26 (11) The superintendent of public instruction shall submit an  
27 annual report to the legislature on the status of the educational

1 flexibility and empowerment program under this section, including  
2 a report on ed-flex contracts issued during the year, and on  
3 progress made toward attainment of performance goals.

4 (12) As the initial educational flexibility and empowerment  
5 contracts issued under this section expire, the department shall  
6 post information on its website on the educational innovations  
7 and best practices used to achieve pupil performance goals under  
8 the contracts.

9 (13) Except as otherwise provided in subsection (10), any  
10 provision of this act or the state school aid act of 1979, or of  
11 any rule promulgated under this act or the state school aid act  
12 of 1979, is subject to waiver under an ed-flex contract.

13 (14) As used in this section:

14 (a) "Ed-flex contract" means an educational flexibility and  
15 empowerment contract issued to a school district under this  
16 section for the school district or for 1 or more schools operated  
17 by the school district.

18 (b) "Empowerment report" means the final evaluation report  
19 required to be filed at the end of the term of an ed-flex  
20 contract under subsection (9).

21 (c) "MEAP scores" means the scores achieved by the pupils of  
22 a school district or school, as applicable, on all Michigan  
23 educational assessment program tests administered to pupils of  
24 the school district or school.

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