

## HOUSE STANDING COMMITTEE ON EDUCATION

Wednesday, May 21, 2014

10:30 a.m.

307 House Office Building

Representative Lisa Posthumus Lyons, Chair, called the meeting to order.

**MEMBERS PRESENT:** Representatives Lyons, Franz, Crawford, Daley, Genetski, Lund, McMillin, Hooker, Jacobsen, Price, Yonker, Lipton, Knezek, Brinks, Lamonte, and Abed.

Representative Franz moved to excuse the absent members.

There being no objection, the motion prevailed with unanimous consent.

**ABSENT/EXCUSED:** Representative Stallworth.

Representative Franz moved to approve the minutes from the May 14, 2014 meeting.

There being no objection, the motion prevailed by unanimous consent.

The Chair laid HB 5581 before the committee:

HB 5581 (Genetski) Education; other; oversight for statewide assessments; transfer to department of treasury.

Representative Genetski testified before the committee in support of HB 5581.

Wendy Larvick, representing the Michigan Department of Education, testified in opposition to HB 5581.

Representative Lipton offered and moved to adopt the following amendments to HB 5581:

1. Amend page 16, following line 16, by inserting:  
"Sec. 1701. The ~~superintendent of public instruction~~ **STATE BOARD** shall do all of the following:
  - (a) Require each intermediate school board to submit a plan pursuant to section 1711, in accordance with special education rules, to be approved by the ~~superintendent of public instruction~~ **STATE BOARD**.
  - (b) Promulgate rules setting forth the requirements of the plans and procedures for submitting them.
- Sec. 1702. (1) If a local school district board claims the existence of an emergency due to extreme financial conditions because of insufficient operating funds or due to a severe classroom shortage, which emergency the local school district claims renders it unable to provide special education programs and services in compliance with section 1751, the local school district board shall apply in writing to the state board before July 1 of the particular school year for approval to provide special education programs or services ~~which~~ **THAT** do not comply with section 1751. The

state board may extend the filing date for good cause.

(2) In its application the local school district board shall demonstrate the need to provide noncomplying special education programs and services and shall include the proposed programs and services it is able to provide and the efforts to be undertaken to alleviate the emergency. If the state board finds an emergency exists in the local school district for the school year, the state board may approve the providing of noncomplying special education programs or services and prescribe conditions for those programs and services.

(3) If the state board determines that a local school district is not providing special education programs and services in compliance with section 1751, and the local school district has not obtained prior approval from the state board, the state board shall give the local school district board written notice of the noncompliance. Unless the local school district board submits proof of compliance or of an unforeseen emergency within 30 days after receipt of the notice, the state board shall direct the intermediate school board of which the local school district is constituent to provide complying programs or services. The state board shall direct the intermediate school board to provide only those programs or services which the state board determines the local school district is not providing in compliance with section 1751.

(4) Special education programs or services ~~which~~ **THAT** the state board directs an intermediate school district to provide shall be funded as if provided by the local school district and the local school district board shall contribute to the intermediate school district the unreimbursed cost of the programs or services.

Sec. 1703. (1) Special education personnel shall meet the qualifications and requirements of rules promulgated by the state board.

(2) Curriculum, eligibility of specific persons for special education programs and services and for each particular program or service, review procedures regarding the placement of persons in the programs or services, size of classes, size of programs, quantity and quality of equipment, supplies and housing, adequacy of methods of instruction, and length and content of school day shall be in accordance with rules promulgated by the state board relative to special education programs and services.

(3) Not later than September 30, 1996, the state board shall ~~conduct~~ **COMPLETE** a review of all rules promulgated by the state board or department pertaining to special education. The review shall consider at least all of the following:

(a) The need to eliminate unnecessary separation and duplication between regular education and special education facilities, staff, programs, services, and pupils.

(b) Potential benefits from coordination between all relevant federal, state, regional, and local organization services, including public and private organization services, for pupils with special needs, and encouragement of the provision of comprehensive necessary services delivered by the most appropriate organization or person in the most cost-effective and programmatically effective manner.

(c) The advisability of simplification of rules or regulations and processes relating to identification of need and provision of services to special needs pupils, avoidance of barriers and cost and other penalties or discouragements to effective programming, and avoidance of requirements as to staff or program criteria that are not research based; allowing and encouraging reasonably flexible, workable, and, if appropriate, cooperatively operated comprehensive services, including reasonable endorsement or other qualification categories for personnel, to be delivered to pupils with related or similar special needs, as may be consistent with research.

(d) A goal of providing educational and training services in a manner that maximizes for the benefit of the pupil the combination of the provisions of this act and federal law relating to inclusion, while avoiding, to the degree reasonably possible, requiring by rule an overall increase in a program or service beyond that required before December 23, 1978.

Sec. 1704. (1) This section shall be known and may be cited as the "blind pupil's Braille literacy law".

(2) The ~~department~~ **STATE BOARD** shall adopt Braille reading and writing standards for teachers of blind and visually impaired pupils and shall disseminate these standards to all **LOCAL** school districts, intermediate school districts, and teacher preparation programs. These standards shall be included in the rules governing special education programs and services. In establishing these standards, the ~~department~~ **STATE BOARD** shall consider the standards adopted by the national library service for the blind and physically handicapped of the United States library of congress.

(3) When a local or intermediate school district receives information from the department, or information that is approved by the department from a consumer organization that advocates for the blind, describing the benefits of instruction in Braille reading and writing, the local or intermediate school district shall provide this information to each person on the blind pupil's individualized educational planning committee.

(4) The department shall accept and respond to requests from local and intermediate school districts and shall work with textbook publishers to obtain electronic file format versions of textbooks or Braille versions of textbooks, or both. The department may also, on behalf of local and intermediate school districts, request and arrange for converting an electronic file format version of a textbook to a Braille version. The department shall process and make these requests in a timely manner.

(5) Upon request, a publisher of a textbook that is adopted for instructional use by a school district shall furnish the department with an electronic version of the textbook if the textbook is for a literary subject or, for a textbook for a nonliterary subject, if the technology is available to convert the textbook directly to a format compatible with Braille translation software. A publisher shall not charge a price for this electronic version that exceeds the price it charges for the print or electronic media version of the textbook.

(6) A local or intermediate school district or an individualized educational planning committee shall not deny a pupil the opportunity for instruction in Braille reading and writing solely because the pupil has some remaining vision.

(7) Instruction for blind pupils shall be consistent with the goals and standards established by this state for all pupils.

(8) As used in this section:

(a) "Blind pupil" means a pupil who is determined to manifest 1 or more of the following:

(i) A visual acuity of 20/200 or less in the better eye after routine refractive correction.

(ii) A field of vision that is limited so that the widest diameter of the visual field subtends an angle not greater than 20 degrees.

(iii) A medically indicated expectation of visual deterioration that is expected to result in 1 or both of the conditions described in subparagraphs (i) and (ii).

(b) "Individualized education program" means that term as defined in section 614 of part B of title VI of the individuals with disabilities education act, Public Law 91-230, 20 U.S.C.-USC 1414, or in ~~R 340.1701A~~ **AS DESCRIBED UNDER R 340.1721E** of the Michigan administrative code.

(c) "Individualized educational planning committee" means ~~that term as defined in R 340.1701A of the Michigan administrative code~~ or an individualized education program team as defined in section 614 of part B of title VI of the individuals with disabilities education act, Public Law 91-230, 20 U.S.C.-USC 1414.

(d) "Textbook" includes a text published in electronic media that is used for instructional purposes.

Sec. 1711. (1) The intermediate school board shall do all of the following:

(a) Develop, establish, and continually evaluate and modify in cooperation with its constituent districts, a plan for special education that provides for the delivery of special education programs and services designed to develop the maximum potential of each student with a disability of whom the intermediate school board is required to maintain a record under subdivision (f). The plan shall coordinate the special education programs and services operated or contracted for by the constituent districts and shall be submitted to the ~~superintendent of public instruction~~ **STATE BOARD** for approval.

(b) Contract for the delivery of a special education program or service, in accordance with the intermediate school district plan in compliance with section 1701. Under the contract the intermediate school board may operate special education programs or services and furnish transportation services and room and board.

(c) Employ or engage special education personnel in accordance with the intermediate school district plan, and appoint a director of special education meeting the qualifications and requirements of the rules promulgated by the ~~superintendent of public instruction~~ **STATE BOARD**.

(d) Accept and use available funds or contributions from governmental or private sources for the purpose of providing special education programs and services consistent with this article.

(e) Lease, purchase, or otherwise acquire vehicles, sites, buildings, or portions thereof, and equip them for its special education staff, programs, and services.

(f) Maintain a record of each student with a disability under 26 years of age, who is a resident

of 1 of its constituent districts and who has not graduated from high school, and the special education programs or services in which the student with a disability is participating on the fourth Friday after Labor day and Friday before Memorial day. The sole basis for determining the local school district in which a student with a disability is a resident shall be the rules promulgated by the ~~superintendent of public instruction~~ **STATE BOARD** notwithstanding the provisions of section 1148. The records shall be maintained in accordance with rules promulgated by the ~~superintendent of public instruction~~ **STATE BOARD**.

(g) Have the authority to place in appropriate special education programs or services a student with a disability for whom a constituent district is required to provide special education programs or services under section 1751.

(h) Investigate special education programs and services operated or contracted for by the intermediate school board or constituent district boards and report in writing failures to comply with the provisions of a contract, statute, or rule governing the special education programs and services or with the intermediate school district plan, to the local school district board and to the ~~superintendent of public instruction~~ **STATE BOARD**.

(i) Operate the special education programs or services or contract for the delivery of special education programs or services by local school district boards, in accordance with section 1702, as if a local school district under section 1751. The contract shall provide for items stated in section 1751 and shall be approved by the ~~superintendent of public instruction~~ **STATE BOARD**. The intermediate school board shall contract for the transportation, or room and board, or both, or persons participating in the program or service as if a local school district board under sections 1756 and 1757.

(j) Receive the report of a parent or guardian or, with the consent of a parent or guardian, receive the report of a licensed physician, registered nurse, social worker, or school or other appropriate professional personnel whose training and relationship to students with a disability provide competence to judge them and who in good faith believes that a person under 26 years of age examined by the professional is or may be a student with a disability, and immediately evaluate the person pursuant to rules promulgated by the ~~superintendent of public instruction~~ **STATE BOARD**. A person making or filing this report or a local school district board shall not incur liability to a person by reason of filing the report or seeking the evaluation, unless lack of good faith is proven.

(k) Evaluate pupils in accordance with section 1311.

(2) The intermediate school board may expend up to 10% of the annual budget but not to exceed \$12,500.00, for special education programs approved by the intermediate school board without having to secure the approval of the ~~superintendent of public instruction~~ **STATE BOARD**.

Sec. 1741. An intermediate school board operating or contracting for the operation of special education programs or services may carry pupils in membership in the same manner as a local school district and ~~shall be~~ **IS** entitled to its proportionate share of state school aid available for these programs. Membership shall be calculated on the basis provided in rules promulgated by the state board.

Sec. 1751. (1) The board of a local school district shall provide special education programs and services designed to develop the maximum potential of each student with a disability in its district on record under section 1711 for whom an appropriate educational or training program can be provided in accordance with the intermediate school district special education plan, in either of the following ways or a combination ~~thereof~~ **OF THEM**:

(a) Operate the special education program or service.

(b) Contract with its intermediate school board, another intermediate school board, another local school district board, an adjacent school district board in a bordering state, the Michigan schools for the deaf and blind, the department of community health, the department of human services, or any combination ~~thereof~~ **OF THEM**, for delivery of the special education programs or services, or with an agency approved by the ~~superintendent of public instruction~~ **STATE BOARD** for delivery of an ancillary professional special education service. The intermediate school district of which the local school district is constituent shall be a party to each contract even if the intermediate school district does not participate in the delivery of the program or services.

(2) A local school district contract for the provision of a special education program or service shall provide specifically for:

(a) Special education buildings, equipment, and personnel necessary for the operation of the subject program or service.

(b) Transportation or room and board, or both, for persons participating in the programs or services as required under sections 1756 and 1757.

(c) The contribution to be made by the sending local school district if the program or service is to be operated by another party to the contract. The contribution shall be in accordance with rules promulgated by the ~~superintendent of public instruction~~ **STATE BOARD**.

(d) Other matters the parties consider appropriate.

(3) Each program or service operated or contracted for by a local school district shall be in accordance with the intermediate school district's plan established pursuant to section 1711.

(4) A local school district may provide additional special education programs and services not included in, or required by, the intermediate school district plan.

(5) This section shall be construed to allow operation of programs by departments of state government without local school district contribution.

Sec. 1761. The board of a local school district shall not solicit nor seek reimbursement from a student with a disability or another person otherwise liable for the care of the student with a disability for cost of a special education program or service attributable to the expense for room and board. The board of a local school district shall have the right to reimbursement for room and board in an amount which may be paid reasonably by the person in accordance with rules promulgated by the ~~superintendent of public instruction~~ **STATE BOARD**."

2. Amend page 16, following line 21, by inserting:

"Enacting section 2. The amendments to sections 1701, 1702, 1703, 1704, 1711, 1741, 1751, and 1761 of the revised school code, 1976 PA 451, MCL 380.1701, 380.1702, 380.1703, 380.1704, 380.1711, 380.1741, 380.1751, and 380.1761, made by this amendatory act are intended to transfer back to the state board of education certain powers, duties, and functions that were transferred to the superintendent of public instruction by Executive Reorganization Order No. 1996-7, MCL 388.994."

The motion did not prevail by a vote of 6-10-0.

**UNFAVORABLE ROLL CALL:**

Yeas: Representatives McMillin, Lipton, Knezek, Brinks, Lamonte, and Abed,

Nays: Representatives Lyons, Franz, Crawford, Daley, Genetski, Lund, Hooker, Jacobsen, Price, and Yonker,

Pass: none.

Representative Abed offered and moved to adopt the following amendment to HB 5581:

1. Amend page 7, line 2, after "**GRADES.**" by inserting "**HOWEVER, A SCHOOL DISTRICT OR PUBLIC SCHOOL ACADEMY SHALL NOT ADMINISTER AN ASSESSMENT UNDER THIS ASSESSMENT PROGRAM TO A PUPIL IF THE PUPIL'S PARENT OR LEGAL GUARDIAN HAS REQUESTED THAT THE ASSESSMENT NOT BE ADMINISTERED TO THE PUPIL.**".

The motion did not prevail by a vote of 7-9-0.

**UNFAVORABLE ROLL CALL:**

Yeas: Representatives McMillin, Hooker, Lipton, Knezek, Brinks, Lamonte, and Abed,

Nays: Representatives Lyons, Franz, Crawford, Daley, Genetski, Lund, Jacobsen, Price, and Yonker,

Pass: none.

Representative McMillin offered and moved to adopt substitute (H-4) to HB 5581:

The motion did not prevail by a vote of 6-10-0.

**UNFAVORABLE ROLL CALL:**

Yeas: Representatives McMillin, Lipton, Knezek, Brinks, Lamonte, and Abed,  
Nays: Representatives Lyons, Franz, Crawford, Daley, Genetski, Lund, Hooker,  
Jacobsen, Price, and Yonker,  
Pass: none.

Representative Genetski moved to report out HB 5581 with recommendation.

The motion prevailed by a vote of 11-0-5.

**FAVORABLE ROLL CALL:**

Yeas: Representatives Lyons, Franz, Crawford, Daley, Genetski, Lund, McMillin,  
Hooker, Jacobsen, Price, and Yonker,  
Nays: None,  
Pass: Representative Lipton, Knezek, Brinks, Lamonte, and Abed.

**HB 5581 reported out with recommendation.**

The following individuals submitted testimony cards, but did not wish to speak:

Gary Naeyaert, representing the Great Lakes Education Project, in support of HB 5581.

Brad Biladeau, representing the Michigan Association of School Administrators, in opposition to HB 5581.

Jennifer Smith, representing the Michigan Association of School Boards, in opposition to HB 5581.

Mia McNeil, representing the Michigan School Counselor Association, in opposition to HB 5581.

Kathleen Merry, representing Wayne RESA, in opposition to HB 5581.

Emily Laidlaw, representing the Michigan Association of Intermediate School Administrators in opposition to HB 5581.

Paul Liabenow, representing the Michigan Elementary and Middle School Principals Association, in opposition to HB 5581.

Don Olendorf, representing the ESA Legislative Group, in opposition to HB 5581.

Ray Telman, representing the Middle Cities Education Association, in opposition to HB 5581.

Lisa Hansknecht, representing Oakland Schools, in opposition to HB 5581.

Kate McAuliffe, representing the Michigan Association of Intermediate School Administrators,

Region 8, in opposition to HB 5581.

Becky Rocho, representing Calhoun Intermediate School District, in opposition to HB 5581.

Julie Rowe, representing AFT Michigan, in opposition to HB 5581.

Dr. David Michelson, representing himself, in opposition to HB 5581.

With no further business to come before the committee, the Chair adjourned the meeting, the time being 11:41 a.m.

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Representative Lisa Posthumus Lyons, Chair

Rachel Meade  
Committee Clerk  
rmeade@house.mi.gov  
May 21, 2014  
1 hour 11 minutes

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Date Approved and Signed