

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5457

A bill to amend 1976 PA 451, entitled
"The revised school code,"
(MCL 380.1 to 380.1852) by adding section 622a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 622a. (1) In addition to the annual financial audit
2 required under section 622, an intermediate school district is
3 subject to an audit of the matters described in this section
4 conducted by an independent auditor under the direction of the
5 department of treasury under this section. An audit conducted
6 under this section shall be based in part on an examination of an
7 intermediate school district's accounts, financial records, and
8 accounting procedures and shall address at least 3 of the
9 following aspects of the intermediate school district's
10 operations, as directed by the department of treasury:

11 (a) Whether intermediate school board members, intermediate

1 school district administrators, and intermediate school district
2 employees are adhering to ethics policies adopted by the
3 intermediate school board or required by state law.

4 (b) Whether intermediate school board members, intermediate
5 school district administrators, and intermediate school district
6 employees are adhering to conflict of interest policies adopted
7 by the intermediate school board or required by state law. This
8 includes, but is not limited to, policies and practices with
9 regard to contracts in which an intermediate school board member,
10 an intermediate school district administrator, or an intermediate
11 school district employee who is involved in the contracting
12 process, or a family member of an intermediate school board
13 member, an intermediate school district administrator, or an
14 intermediate school district employee who is involved in the
15 contracting process, has a substantial conflict of interest; and
16 policies and practices with regard to an intermediate school
17 district administrator negotiating, handling, presenting, or
18 recommending a contract in which the administrator or a family
19 member of the administrator has a substantial conflict of
20 interest. As used in this subdivision, "substantial conflict of
21 interest" means that term as defined in section 634(5).

22 (c) Whether a modification to an existing contract was made
23 during the audit period that resulted in an additional financial
24 obligation to the intermediate school district and the
25 modification was not competitively bid. As used in this
26 subdivision, "competitively bid" means that a contract was
27 entered into through a request for information, a request for

1 proposal, or a formal competitive bid process that was advertised
2 and open to the public, and includes a contract entered into on
3 behalf of the intermediate school district by a federal, state,
4 or local governmental entity that performed a request for
5 information, request for proposal, or formal competitive bid
6 process or by a nonprofit corporation or nonprofit association
7 that performed a request for information, request for proposal,
8 or formal competitive bid process.

9 (d) Whether the intermediate school district's policies and
10 practices for responding to requests received under the freedom
11 of information act, 1976 PA 442, MCL 15.231 to 15.246, and the
12 intermediate school district's actual responses to requests made
13 during the audit period under that act, were in compliance with
14 that act. This part of the audit shall include, but is not
15 limited to, an examination of whether the costs charged for
16 responding to requests exceeded the costs permitted under that
17 act.

18 (e) Whether intermediate school board members, intermediate
19 school district administrators, and intermediate school district
20 employees are adhering to travel guidelines and practices adopted
21 by the intermediate school board or required by state law.

22 (f) Whether the intermediate school district has accurately
23 accounted for and reported all information relating to stipends,
24 salaries, benefits, or other compensation paid to intermediate
25 school district administrators.

26 (g) Whether the intermediate school district has used public
27 funds in violation of law to pay for food, gifts, or other items

1 that are not used for instructional purposes, as defined by the
2 intermediate school board.

3 (h) Whether proceeds from a tax levied under section 681 for
4 area vocational-technical education operating purposes or from a
5 tax levied under section 1724a for special education operating
6 purposes have been expended for a purpose other than the purpose
7 for which the tax was levied.

8 (2) The department of treasury shall direct the random audits
9 of intermediate school districts under this section as follows:

10 (a) The department of treasury shall select the intermediate
11 school districts to be audited under this section on a random
12 basis.

13 (b) The department of treasury shall announce between July 1
14 and July 15 of each calendar year the intermediate school
15 districts that will be subject that year to an audit under this
16 section for the immediately preceding school fiscal year.

17 (c) The department of treasury shall select 5 intermediate
18 school districts for audit under this section every 2 years.

19 (d) Upon request by the department of treasury, the
20 intermediate school district shall notify the department of
21 treasury of the name, address, and contact person of the
22 independent auditor selected by the intermediate school board to
23 perform the annual financial audit for the intermediate school
24 district. The department of treasury shall enter into an
25 agreed-upon procedures agreement with the selected independent
26 auditor, identifying the matters to be audited and establishing
27 the rate of payment, which shall be no more than the rate the

1 department would charge for the same type of audit. The
2 department of treasury shall oversee the conduct of the audit by
3 the independent auditor to the extent the department of treasury
4 considers necessary to meet the purposes of this section.

5 (e) An intermediate school board and intermediate school
6 district officials shall provide all information requested by the
7 independent auditors or the department of treasury and shall
8 cooperate with them to the fullest extent possible.

9 (f) The independent auditor shall submit an audit report of
10 the audit to the center for educational performance and
11 information in the form and manner prescribed by the center for
12 educational performance and information. The center for
13 educational performance and information shall submit a copy of
14 the audit report of each audit conducted under this section to
15 the department of treasury, to the applicable intermediate school
16 board, to the senate and house standing committees having
17 jurisdiction over education legislation, to the department, and,
18 subject to subdivision (g), to the attorney general if the
19 department of treasury considers it appropriate.

20 (g) If the department of treasury determines that an audit
21 conducted under this section has disclosed that the intermediate
22 school board or any intermediate school district official or
23 employee has violated any state law governing the financial
24 operations of an intermediate school district, the department of
25 treasury shall notify the intermediate school district of that
26 determination. If the intermediate school district disputes the
27 determination or claims that the situation has been corrected,

1 within 15 days after receipt of the determination the
2 intermediate school district may submit an appeal of the
3 determination to the department of treasury. Within 90 days
4 after receipt of the appeal, the department of treasury shall
5 consider the appeal and make a determination of whether the
6 initial determination was correct or incorrect and of whether the
7 situation has been corrected. If the department of treasury
8 finds that the initial determination was correct and that the
9 situation has not been corrected, then the department of treasury
10 shall file a copy of the report with the attorney general. The
11 attorney general shall review the report and, if the attorney
12 general considers it appropriate, shall commence or direct the
13 prosecuting attorney for the county in which the violations
14 occurred to commence appropriate proceedings against the
15 intermediate school board or the official or employee. These
16 proceedings shall include at least a civil action in a court of
17 competent jurisdiction for the recovery of any public money
18 determined by the audit to have been illegally expended and for
19 the recovery of any public property determined by the audit to
20 have been converted or misappropriated.

21 (3) In addition to the intermediate school districts selected
22 for a random audit under subsection (2), the department of
23 treasury may also direct an audit under this section of 1 or more
24 additional intermediate school districts selected by the
25 department of treasury if the department of treasury considers
26 that additional audit or audits to be appropriate. Subsection
27 (2)(d), (e), (f), and (g) applies to an audit under this

1 subsection.

2 (4) The department and the department of treasury, in
3 consultation with intermediate school districts, shall develop
4 and make available to intermediate school districts the auditing
5 criteria to be used for the purposes of this section.

6 (5) An audit under this section shall be performed in
7 accordance with standards issued by the American institute of
8 certified public accountants and with government audit standards
9 issued by the United States general accounting office.

10 (6) The department of treasury shall pay the costs of the
11 audit conducted under this section. The department of treasury's
12 obligation under this section is limited to the amount of a
13 separate line item appropriation identified for the purpose of
14 funding the department of treasury's duties under this section
15 and included in the annual appropriations act making
16 appropriations for the department of treasury.

17 (7) The department shall post on its website the audit
18 reports it receives under subsection (2)(f).

19 Enacting section 1. This amendatory act takes effect
20 July 1, 2006.