

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 763

A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending sections 51a and 58 (MCL 388.1651a and 388.1658),
section 51a as amended by 2016 PA 249 and section 58 as amended by
1997 PA 93.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 51a. (1) From the appropriation in section 11, there is
2 allocated an amount not to exceed \$945,246,100.00 for 2015-2016 and
3 an amount not to exceed \$973,046,100.00 for 2016-2017 from state
4 sources and all available federal funding under sections 611 to 619
5 of part B of the individuals with disabilities education act, 20
6 USC 1411 to 1419, estimated at \$370,000,000.00 each fiscal year for
7 2015-2016 and for 2016-2017, plus any carryover federal funds from
8 previous year appropriations. The allocations under this subsection

1 are for the purpose of reimbursing districts and intermediate
2 districts for special education programs, services, and special
3 education personnel as prescribed in article 3 of the revised
4 school code, MCL 380.1701 to 380.1766; net tuition payments made by
5 intermediate districts to the Michigan schools for the deaf and
6 blind; and special education programs and services for pupils who
7 are eligible for special education programs and services according
8 to statute or rule. For meeting the costs of special education
9 programs and services not reimbursed under this article, a district
10 or intermediate district may use money in general funds or special
11 education funds, not otherwise restricted, or contributions from
12 districts to intermediate districts, tuition payments, gifts and
13 contributions from individuals or other entities, or federal funds
14 that may be available for this purpose, as determined by the
15 intermediate district plan prepared pursuant to article 3 of the
16 revised school code, MCL 380.1701 to 380.1766. Notwithstanding
17 section 17b, payments of federal funds to districts, intermediate
18 districts, and other eligible entities under this section shall be
19 paid on a schedule determined by the department.

20 (2) From the funds allocated under subsection (1), there is
21 allocated the amount necessary, estimated at \$263,500,000.00 for
22 2015-2016 and estimated at \$271,600,000.00 for 2016-2017, for
23 payments toward reimbursing districts and intermediate districts
24 for 28.6138% of total approved costs of special education,
25 excluding costs reimbursed under section 53a, and 70.4165% of total
26 approved costs of special education transportation. Allocations
27 under this subsection shall be made as follows:

1 (a) The initial amount allocated to a district under this
2 subsection toward fulfilling the specified percentages shall be
3 calculated by multiplying the district's special education pupil
4 membership, excluding pupils described in subsection (11), times
5 the foundation allowance under section 20 of the pupil's district
6 of residence plus the amount of the district's per-pupil allocation
7 under section 20m, not to exceed the basic foundation allowance
8 under section 20 for the current fiscal year, or, for a special
9 education pupil in membership in a district that is a public school
10 academy, times an amount equal to the amount per membership pupil
11 calculated under section 20(6) or, for a pupil described in this
12 subsection who is counted in membership in the education
13 achievement system, times an amount equal to the amount per
14 membership pupil under section 20(7). For an intermediate district,
15 the amount allocated under this subdivision toward fulfilling the
16 specified percentages shall be an amount per special education
17 membership pupil, excluding pupils described in subsection (11),
18 and shall be calculated in the same manner as for a district, using
19 the foundation allowance under section 20 of the pupil's district
20 of residence, not to exceed the basic foundation allowance under
21 section 20 for the current fiscal year, and that district's per-
22 pupil allocation under section 20m.

23 (b) After the allocations under subdivision (a), districts and
24 intermediate districts for which the payments calculated under
25 subdivision (a) do not fulfill the specified percentages shall be
26 paid the amount necessary to achieve the specified percentages for
27 the district or intermediate district.

1 (3) From the funds allocated under subsection (1), there is
2 allocated for 2015-2016 an amount not to exceed \$1,000,000.00 and
3 there is allocated for 2016-2017 an amount not to exceed
4 \$1,100,000.00 to make payments to districts and intermediate
5 districts under this subsection. If the amount allocated to a
6 district or intermediate district for a fiscal year under
7 subsection (2)(b) is less than the sum of the amounts allocated to
8 the district or intermediate district for 1996-97 under sections 52
9 and 58, there is allocated to the district or intermediate district
10 for the fiscal year an amount equal to that difference, adjusted by
11 applying the same proration factor that was used in the
12 distribution of funds under section 52 in 1996-97 as adjusted to
13 the district's or intermediate district's necessary costs of
14 special education used in calculations for the fiscal year. This
15 adjustment is to reflect reductions in special education program
16 operations or services between 1996-97 and subsequent fiscal years.
17 Adjustments for reductions in special education program operations
18 or services shall be made in a manner determined by the department
19 and shall include adjustments for program or service shifts.

20 (4) If the department determines that the sum of the amounts
21 allocated for a fiscal year to a district or intermediate district
22 under subsection (2)(a) and (b) is not sufficient to fulfill the
23 specified percentages in subsection (2), then the shortfall shall
24 be paid to the district or intermediate district during the fiscal
25 year beginning on the October 1 following the determination and
26 payments under subsection (3) shall be adjusted as necessary. If
27 the department determines that the sum of the amounts allocated for

1 a fiscal year to a district or intermediate district under
2 subsection (2)(a) and (b) exceeds the sum of the amount necessary
3 to fulfill the specified percentages in subsection (2), then the
4 department shall deduct the amount of the excess from the
5 district's or intermediate district's payments under this article
6 for the fiscal year beginning on the October 1 following the
7 determination and payments under subsection (3) shall be adjusted
8 as necessary. However, if the amount allocated under subsection
9 (2)(a) in itself exceeds the amount necessary to fulfill the
10 specified percentages in subsection (2), there shall be no
11 deduction under this subsection.

12 (5) State funds shall be allocated on a total approved cost
13 basis. Federal funds shall be allocated under applicable federal
14 requirements, except that an amount not to exceed \$3,500,000.00 may
15 be allocated by the department each fiscal year for 2015-2016 and
16 for 2016-2017 to districts, intermediate districts, or other
17 eligible entities on a competitive grant basis for programs,
18 equipment, and services that the department determines to be
19 designed to benefit or improve special education on a statewide
20 scale.

21 (6) From the amount allocated in subsection (1), there is
22 allocated an amount not to exceed \$2,200,000.00 each fiscal year
23 for 2015-2016 and for 2016-2017 to reimburse 100% of the net
24 increase in necessary costs incurred by a district or intermediate
25 district in implementing the revisions in the administrative rules
26 for special education that became effective on July 1, 1987. As
27 used in this subsection, "net increase in necessary costs" means

1 the necessary additional costs incurred solely because of new or
2 revised requirements in the administrative rules minus cost savings
3 permitted in implementing the revised rules. Net increase in
4 necessary costs shall be determined in a manner specified by the
5 department.

6 (7) For purposes of sections 51a to 58, all of the following
7 apply:

8 (a) "Total approved costs of special education" shall be
9 determined in a manner specified by the department and may include
10 indirect costs, but shall not exceed 115% of approved direct costs
11 for section 52 and section 53a programs. The total approved costs
12 include salary and other compensation for all approved special
13 education personnel for the program, including payments for social
14 security and Medicare and public school employee retirement system
15 contributions. The total approved costs do not include salaries or
16 other compensation paid to administrative personnel who are not
17 special education personnel as defined in section 6 of the revised
18 school code, MCL 380.6. Costs reimbursed by federal funds, other
19 than those federal funds included in the allocation made under this
20 article, are not included. Special education approved personnel not
21 utilized full time in the evaluation of students or in the delivery
22 of special education programs, ancillary, and other related
23 services shall be reimbursed under this section only for that
24 portion of time actually spent providing these programs and
25 services, with the exception of special education programs and
26 services provided to youth placed in child caring institutions or
27 juvenile detention programs approved by the department to provide

1 an on-grounds education program.

2 (b) Beginning with the 2004-2005 fiscal year, a district or
3 intermediate district that employed special education support
4 services staff to provide special education support services in
5 2003-2004 or in a subsequent fiscal year and that in a fiscal year
6 after 2003-2004 receives the same type of support services from
7 another district or intermediate district shall report the cost of
8 those support services for special education reimbursement purposes
9 under this article. This subdivision does not prohibit the transfer
10 of special education classroom teachers and special education
11 classroom aides if the pupils counted in membership associated with
12 those special education classroom teachers and special education
13 classroom aides are transferred and counted in membership in the
14 other district or intermediate district in conjunction with the
15 transfer of those teachers and aides.

16 (c) If the department determines before bookclosing for a
17 fiscal year that the amounts allocated for that fiscal year under
18 subsections (2), (3), (6), and (11) and sections 53a, 54, and 56
19 will exceed expenditures for that fiscal year under subsections
20 (2), (3), (6), and (11) and sections 53a, 54, and 56, then for a
21 district or intermediate district whose reimbursement for that
22 fiscal year would otherwise be affected by subdivision (b),
23 subdivision (b) does not apply to the calculation of the
24 reimbursement for that district or intermediate district and
25 reimbursement for that district or intermediate district shall be
26 calculated in the same manner as it was for 2003-2004. If the
27 amount of the excess allocations under subsections (2), (3), (6),

1 and (11) and sections 53a, 54, and 56 is not sufficient to fully
2 fund the calculation of reimbursement to those districts and
3 intermediate districts under this subdivision, then the
4 calculations and resulting reimbursement under this subdivision
5 shall be prorated on an equal percentage basis. Beginning in 2015-
6 2016, the amount of reimbursement under this subdivision for a
7 fiscal year shall not exceed \$2,000,000.00 for any district or
8 intermediate district.

9 (d) Reimbursement for ancillary and other related services, as
10 defined by R 340.1701c of the Michigan ~~administrative code,~~
11 **ADMINISTRATIVE CODE**, shall not be provided when those services are
12 covered by and available through private group health insurance
13 carriers or federal reimbursed program sources unless the
14 department and district or intermediate district agree otherwise
15 and that agreement is approved by the state budget director.
16 Expenses, other than the incidental expense of filing, shall not be
17 borne by the parent. In addition, the filing of claims shall not
18 delay the education of a pupil. A district or intermediate district
19 shall be responsible for payment of a deductible amount and for an
20 advance payment required until the time a claim is paid.

21 (e) Beginning with calculations for 2004-2005, if an
22 intermediate district purchases a special education pupil
23 transportation service from a constituent district that was
24 previously purchased from a private entity; if the purchase from
25 the constituent district is at a lower cost, adjusted for changes
26 in fuel costs; and if the cost shift from the intermediate district
27 to the constituent does not result in any net change in the revenue

1 the constituent district receives from payments under sections 22b
2 and 51c, then upon application by the intermediate district, the
3 department shall direct the intermediate district to continue to
4 report the cost associated with the specific identified special
5 education pupil transportation service and shall adjust the costs
6 reported by the constituent district to remove the cost associated
7 with that specific service.

8 (8) A pupil who is enrolled in a full-time special education
9 program conducted or administered by an intermediate district or a
10 pupil who is enrolled in the Michigan schools for the deaf and
11 blind shall not be included in the membership count of a district,
12 but shall be counted in membership in the intermediate district of
13 residence.

14 (9) Special education personnel transferred from 1 district to
15 another to implement the revised school code shall be entitled to
16 the rights, benefits, and tenure to which the person would
17 otherwise be entitled had that person been employed by the
18 receiving district originally.

19 (10) If a district or intermediate district uses money
20 received under this section for a purpose other than the purpose or
21 purposes for which the money is allocated, the department may
22 require the district or intermediate district to refund the amount
23 of money received. Money that is refunded shall be deposited in the
24 state treasury to the credit of the state school aid fund.

25 (11) From the funds allocated in subsection (1), there is
26 allocated the amount necessary, estimated at \$3,800,000.00 for
27 2015-2016 and estimated at \$3,700,000.00 for 2016-2017, to pay the

1 foundation allowances for pupils described in this subsection. The
2 allocation to a district under this subsection shall be calculated
3 by multiplying the number of pupils described in this subsection
4 who are counted in membership in the district times the sum of the
5 foundation allowance under section 20 of the pupil's district of
6 residence plus the amount of the district's per-pupil allocation
7 under section 20m, not to exceed the basic foundation allowance
8 under section 20 for the current fiscal year, or, for a pupil
9 described in this subsection who is counted in membership in a
10 district that is a public school academy, times an amount equal to
11 the amount per membership pupil under section 20(6) or, for a pupil
12 described in this subsection who is counted in membership in the
13 education achievement system, times an amount equal to the amount
14 per membership pupil under section 20(7). The allocation to an
15 intermediate district under this subsection shall be calculated in
16 the same manner as for a district, using the foundation allowance
17 under section 20 of the pupil's district of residence, not to
18 exceed the basic foundation allowance under section 20 for the
19 current fiscal year, and that district's per-pupil allocation under
20 section 20m. This subsection applies to all of the following
21 pupils:

22 (a) Pupils described in section 53a.

23 (b) Pupils counted in membership in an intermediate district
24 who are not special education pupils and are served by the
25 intermediate district in a juvenile detention or child caring
26 facility.

27 (c) Pupils with an emotional impairment counted in membership

1 by an intermediate district and provided educational services by
2 the department of health and human services.

3 (12) If it is determined that funds allocated under subsection
4 (2) or (11) or under section 51c will not be expended, funds up to
5 the amount necessary and available may be used to supplement the
6 allocations under subsection (2) or (11) or under section 51c in
7 order to fully fund those allocations. After payments under
8 subsections (2) and (11) and section 51c, the remaining
9 expenditures from the allocation in subsection (1) shall be made in
10 the following order:

11 (a) 100% of the reimbursement required under section 53a.

12 (b) 100% of the reimbursement required under subsection (6).

13 (c) 100% of the payment required under section 54.

14 (d) 100% of the payment required under subsection (3).

15 (e) 100% of the payments under section 56.

16 (13) The allocations under subsections (2), (3), and (11)
17 shall be allocations to intermediate districts only and shall not
18 be allocations to districts, but instead shall be calculations used
19 only to determine the state payments under section 22b.

20 (14) If a public school academy enrolls pursuant to this
21 section a pupil who resides outside of the intermediate district in
22 which the public school academy is located and who is eligible for
23 special education programs and services according to statute or
24 rule, or who is a child with disabilities, as defined under the
25 individuals with disabilities education act, Public Law 108-446,
26 the provision of special education programs and services and the
27 payment of the added costs of special education programs and

1 services for the pupil are the responsibility of the district and
2 intermediate district in which the pupil resides unless the
3 enrolling district or intermediate district has a written agreement
4 with the district or intermediate district in which the pupil
5 resides or the public school academy for the purpose of providing
6 the pupil with a free appropriate public education and the written
7 agreement includes at least an agreement on the responsibility for
8 the payment of the added costs of special education programs and
9 services for the pupil.

10 (15) Beginning in 2016-2017, a district, public school
11 academy, or intermediate district that fails to comply with
12 subsection (14) or with the requirements of federal regulations
13 regarding the treatment of public school academies and public
14 school academy pupils for the purposes of special education, 34 CFR
15 300.209, forfeits from its total state aid an amount equal to 10%
16 of its total state aid.

17 **(16) FOR THE PURPOSES OF THIS SECTION, THE DEPARTMENT OR THE**
18 **CENTER SHALL ONLY REQUIRE A DISTRICT OR INTERMEDIATE DISTRICT TO**
19 **REPORT INFORMATION THAT IS NOT ALREADY AVAILABLE FROM THE FINANCIAL**
20 **INFORMATION DATABASE MAINTAINED BY THE CENTER.**

21 Sec. 58. Allocations to districts and intermediate districts
22 under section 51a for providing special education transportation
23 services shall be based on data reported by the districts and
24 intermediate districts for the current school year. **FOR THE**
25 **PURPOSES OF THIS SECTION, THE DEPARTMENT OR THE CENTER SHALL ONLY**
26 **REQUIRE A DISTRICT OR INTERMEDIATE DISTRICT TO REPORT INFORMATION**
27 **THAT IS NOT ALREADY AVAILABLE FROM THE FINANCIAL INFORMATION**

1 **DATABASE MAINTAINED BY THE CENTER.**

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