

SENATE BILL No. 763

February 9, 2016, Introduced by Senators SCHMIDT, KNOLLENBERG, PROOS, PAVLOV, HILDENBRAND and MARLEAU and referred to the Committee on Education.

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 2015 PA 85 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 ~~\$901,946,100.00 for 2014-2015 and~~
3 ~~an amount not to exceed~~ \$918,546,100.00 for 2015-2016 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 ~~2014-2015 and~~ for 2015-2016, plus any carryover federal funds from
8 previous year appropriations. The allocations under this subsection
9 are for the purpose of reimbursing districts and intermediate

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

19 (2) From the funds allocated under subsection (1), there is
20 allocated the amount necessary, estimated at ~~\$248,100,000.00 for~~
21 ~~2014-2015 and estimated at \$251,800,000.00 for 2015-2016,~~ for
22 payments toward reimbursing districts and intermediate districts
23 for 28.6138% of total approved costs of special education,
24 excluding costs reimbursed under section 53a, and 70.4165% of total
25 approved costs of special education transportation. Allocations
26 under this subsection shall be made as follows:

27 (a) The initial amount allocated to a district under this

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

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

25 (3) From the funds allocated under subsection (1), ~~there is~~
26 ~~allocated for 2014-2015 an amount not to exceed \$1,000,000.00 and~~
27 there is allocated for 2015-2016 an amount not to exceed

1 \$1,300,000.00 to make payments to districts and intermediate
2 districts under this subsection. If the amount allocated to a
3 district or intermediate district for a fiscal year under
4 subsection (2)(b) is less than the sum of the amounts allocated to
5 the district or intermediate district for 1996-97 under sections 52
6 and 58, there is allocated to the district or intermediate district
7 for the fiscal year an amount equal to that difference, adjusted by
8 applying the same proration factor that was used in the
9 distribution of funds under section 52 in 1996-97 as adjusted to
10 the district's or intermediate district's necessary costs of
11 special education used in calculations for the fiscal year. This
12 adjustment is to reflect reductions in special education program
13 operations or services between 1996-97 and subsequent fiscal years.
14 Adjustments for reductions in special education program operations
15 or services shall be made in a manner determined by the department
16 and shall include adjustments for program or service shifts.

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

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

9 (5) State funds shall be allocated on a total approved cost
10 basis. Federal funds shall be allocated under applicable federal
11 requirements, except that an amount not to exceed \$3,500,000.00 may
12 be allocated by the department ~~each fiscal year for 2014-2015 and~~
13 for 2015-2016 to districts, intermediate districts, or other
14 eligible entities on a competitive grant basis for programs,
15 equipment, and services that the department determines to be
16 designed to benefit or improve special education on a statewide
17 scale.

18 (6) From the amount allocated in subsection (1), there is
19 allocated an amount not to exceed \$2,200,000.00 ~~each fiscal year~~
20 ~~for 2014-2015 and for 2015-2016~~ to reimburse 100% of the net
21 increase in necessary costs incurred by a district or intermediate
22 district in implementing the revisions in the administrative rules
23 for special education that became effective on July 1, 1987. As
24 used in this subsection, "net increase in necessary costs" means
25 the necessary additional costs incurred solely because of new or
26 revised requirements in the administrative rules minus cost savings
27 permitted in implementing the revised rules. Net increase in

1 necessary costs shall be determined in a manner specified by the
2 department.

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

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

26 (b) Beginning with the 2004-2005 fiscal year, a district or
27 intermediate district that employed special education support

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

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

1 calculations and resulting reimbursement under this subdivision
2 shall be prorated on an equal percentage basis. Beginning in 2015-
3 2016, the amount of reimbursement under this subdivision for a
4 fiscal year shall not exceed \$2,000,000.00 for any district or
5 intermediate district.

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

18 (e) Beginning with calculations for 2004-2005, if an
19 intermediate district purchases a special education pupil
20 transportation service from a constituent district that was
21 previously purchased from a private entity; if the purchase from
22 the constituent district is at a lower cost, adjusted for changes
23 in fuel costs; and if the cost shift from the intermediate district
24 to the constituent does not result in any net change in the revenue
25 the constituent district receives from payments under sections 22b
26 and 51c, then upon application by the intermediate district, the
27 department shall direct the intermediate district to continue to

1 report the cost associated with the specific identified special
2 education pupil transportation service and shall adjust the costs
3 reported by the constituent district to remove the cost associated
4 with that specific service.

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

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

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

22 (11) From the funds allocated in subsection (1), there is
23 allocated the amount necessary, ~~estimated at \$3,400,000.00 for~~
24 ~~2014-2015 and~~ estimated at \$3,300,000.00 for 2015-2016, to pay the
25 foundation allowances for pupils described in this subsection. The
26 allocation to a district under this subsection shall be calculated
27 by multiplying the number of pupils described in this subsection

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

17 (a) Pupils described in section 53a.

18 (b) Pupils counted in membership in an intermediate district
19 who are not special education pupils and are served by the
20 intermediate district in a juvenile detention or child caring
21 facility.

22 (c) Pupils with an emotional impairment counted in membership
23 by an intermediate district and provided educational services by
24 the department of health and human services.

25 (12) If it is determined that funds allocated under subsection
26 (2) or (11) or under section 51c will not be expended, funds up to
27 the amount necessary and available may be used to supplement the

1 allocations under subsection (2) or (11) or under section 51c in
2 order to fully fund those allocations. After payments under
3 subsections (2) and (11) and section 51c, the remaining
4 expenditures from the allocation in subsection (1) shall be made in
5 the following order:

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

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

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

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

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

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

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

1 the pupil with a free appropriate public education and the written
2 agreement includes at least an agreement on the responsibility for
3 the payment of the added costs of special education programs and
4 services for the pupil.

5 (15) It is the intent of the legislature that, beginning in
6 2016-2017, a district, public school academy, or intermediate
7 district that fails to comply with subsection (14) or with the
8 requirements of federal regulations regarding the treatment of
9 public school academies and public school academy pupils for the
10 purposes of special education, 34 CFR 300.209, forfeits from its
11 total state aid an amount equal to 10% of its total state aid.

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

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

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