

SENATE BILL No. 866

November 9, 2005, Introduced by Senator GILBERT and referred to the Committee on Education.

A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending section 51a (MCL 388.1651a), as amended by 2005 PA 155.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 51a. (1) From the appropriation in section 11, there is
2 allocated for 2004-2005 an amount not to exceed \$896,383,000.00
3 from state sources and all available federal funding under sections
4 611 to 619 of part B of the individuals with disabilities education
5 act, 20 USC 1411 to 1419, estimated at \$329,850,000.00 plus any
6 carryover federal funds from previous year appropriations. From the
7 appropriation in section 11, there is allocated for 2005-2006 an
8 amount not to exceed \$955,883,000.00 from state sources and all
9 available federal funding under sections 611 to 619 of part B of

1 the individuals with disabilities education act, 20 USC 1411 to
2 1419, estimated at \$345,850,000.00, plus any carryover federal
3 funds from previous year appropriations. The allocations under this
4 subsection are for the purpose of reimbursing districts and
5 intermediate districts for special education programs, services,
6 and special education personnel as prescribed in article 3 of the
7 revised school code, MCL 380.1701 to 380.1766; net tuition payments
8 made by intermediate districts to the Michigan schools for the deaf
9 and blind; and special education programs and services for pupils
10 who are eligible for special education programs and services
11 according to statute or rule. For meeting the costs of special
12 education programs and services not reimbursed under this article,
13 a district or intermediate district may use money in general funds
14 or special education funds, not otherwise restricted, or
15 contributions from districts to intermediate districts, tuition
16 payments, gifts and contributions from individuals, or federal
17 funds that may be available for this purpose, as determined by the
18 intermediate district plan prepared pursuant to article 3 of the
19 revised school code, MCL 380.1701 to 380.1766. All federal funds
20 allocated under this section in excess of those allocated under
21 this section for 2002-2003 may be distributed in accordance with
22 the flexible funding provisions of the individuals with
23 disabilities education act, title VI of Public Law 91-230,
24 including, but not limited to, 34 CFR 300.234 and 300.235.
25 Notwithstanding section 17b, payments of federal funds to
26 districts, intermediate districts, and other eligible entities
27 under this section shall be paid on a schedule determined by the

1 department.

2 (2) From the funds allocated under subsection (1), there is
3 allocated each fiscal year for 2004-2005 and for 2005-2006 the
4 amount necessary, estimated at \$175,500,000.00 for 2004-2005 and
5 \$187,700,000.00 for 2005-2006, for payments toward reimbursing
6 districts and intermediate districts for 28.6138% of total approved
7 costs of special education, excluding costs reimbursed under
8 section 53a, and 70.4165% of total approved costs of special
9 education transportation. Allocations under this subsection shall
10 be made as follows:

11 (a) The initial amount allocated to a district under this
12 subsection toward fulfilling the specified percentages shall be
13 calculated by multiplying the district's special education pupil
14 membership, excluding pupils described in subsection (12), times
15 the sum of the foundation allowance under section 20 of the pupil's
16 district of residence plus the amount of the district's per pupil
17 allocation under section 20j(2), not to exceed \$6,500.00 adjusted
18 by the dollar amount of the difference between the basic foundation
19 allowance under section 20 for the current fiscal year and
20 \$5,000.00 minus \$200.00, or, for a special education pupil in
21 membership in a district that is a public school academy or
22 university school, times an amount equal to the amount per
23 membership pupil calculated under section 20(6). For an
24 intermediate district, the amount allocated under this subdivision
25 toward fulfilling the specified percentages shall be an amount per
26 special education membership pupil, excluding pupils described in
27 subsection (12), and shall be calculated in the same manner as for

1 a district, using the foundation allowance under section 20 of the
2 pupil's district of residence, not to exceed \$6,500.00 adjusted by
3 the dollar amount of the difference between the basic foundation
4 allowance under section 20 for the current fiscal year and
5 \$5,000.00 minus \$200.00, and that district's per pupil allocation
6 under section 20j(2).

7 (b) After the allocations under subdivision (a), districts and
8 intermediate districts for which the payments under subdivision (a)
9 do not fulfill the specified percentages shall be paid the amount
10 necessary to achieve the specified percentages for the district or
11 intermediate district.

12 (3) From the funds allocated under subsection (1), there is
13 allocated each fiscal year for 2004-2005 and for 2005-2006 the
14 amount necessary, estimated at \$3,000,000.00 for 2004-2005 and
15 \$2,500,000.00 for 2005-2006, to make payments to districts and
16 intermediate districts under this subsection. If the amount
17 allocated to a district or intermediate district for a fiscal year
18 under subsection (2)(b) is less than the sum of the amounts
19 allocated to the district or intermediate district for 1996-97
20 under sections 52 and 58, there is allocated to the district or
21 intermediate district for the fiscal year an amount equal to that
22 difference, adjusted by applying the same proration factor that was
23 used in the distribution of funds under section 52 in 1996-97 as
24 adjusted to the district's or intermediate district's necessary
25 costs of special education used in calculations for the fiscal
26 year. This adjustment is to reflect reductions in special education
27 program operations or services between 1996-97 and subsequent

1 fiscal years. Adjustments for reductions in special education
2 program operations or services shall be made in a manner determined
3 by the department and shall include adjustments for program or
4 service shifts.

5 (4) If the department determines that the sum of the amounts
6 allocated for a fiscal year to a district or intermediate district
7 under subsection (2)(a) and (b) is not sufficient to fulfill the
8 specified percentages in subsection (2), then the shortfall shall
9 be paid to the district or intermediate district during the fiscal
10 year beginning on the October 1 following the determination and
11 payments under subsection (3) shall be adjusted as necessary. If
12 the department determines that the sum of the amounts allocated for
13 a fiscal year to a district or intermediate district under
14 subsection (2)(a) and (b) exceeds the sum of the amount necessary
15 to fulfill the specified percentages in subsection (2), then the
16 department shall deduct the amount of the excess from the
17 district's or intermediate district's payments under this act for
18 the fiscal year beginning on the October 1 following the
19 determination and payments under subsection (3) shall be adjusted
20 as necessary. However, if the amount allocated under subsection
21 (2)(a) in itself exceeds the amount necessary to fulfill the
22 specified percentages in subsection (2), there shall be no
23 deduction under this subsection.

24 (5) State funds shall be allocated on a total approved cost
25 basis. Federal funds shall be allocated under applicable federal
26 requirements, except that an amount not to exceed \$3,500,000.00 may
27 be allocated by the department each fiscal year for 2004-2005 and

1 for 2005-2006 to districts, intermediate districts, or other
2 eligible entities on a competitive grant basis for programs,
3 equipment, and services that the department determines to be
4 designed to benefit or improve special education on a statewide
5 scale.

6 (6) From the amount allocated in subsection (1), there is
7 allocated an amount not to exceed \$2,200,000.00 each fiscal year
8 for 2004-2005 and for 2005-2006 to reimburse 100% of the net
9 increase in necessary costs incurred by a district or intermediate
10 district in implementing the revisions in the administrative rules
11 for special education that became effective on July 1, 1987. As
12 used in this subsection, "net increase in necessary costs" means
13 the necessary additional costs incurred solely because of new or
14 revised requirements in the administrative rules minus cost savings
15 permitted in implementing the revised rules. Net increase in
16 necessary costs shall be determined in a manner specified by the
17 department.

18 (7) For purposes of this article, all of the following apply:

19 (a) "Total approved costs of special education" shall be
20 determined in a manner specified by the department and may include
21 indirect costs, but shall not exceed 115% of approved direct costs
22 for section 52 and section 53a programs. The total approved costs
23 include salary and other compensation for all approved special
24 education personnel for the program, including payments for social
25 security and medicare and public school employee retirement system
26 contributions. The total approved costs do not include salaries or
27 other compensation paid to administrative personnel who are not

1 special education personnel as defined in section 6 of the revised
2 school code, MCL 380.6. Costs reimbursed by federal funds, other
3 than those federal funds included in the allocation made under this
4 article, are not included. Special education approved personnel not
5 utilized full time in the evaluation of students or in the delivery
6 of special education programs, ancillary, and other related
7 services shall be reimbursed under this section only for that
8 portion of time actually spent providing these programs and
9 services, with the exception of special education programs and
10 services provided to youth placed in child caring institutions or
11 juvenile detention programs approved by the department to provide
12 an on-grounds education program.

13 (b) Except as otherwise provided in subdivision (c), beginning
14 with the 2004-2005 fiscal year, a district or intermediate district
15 that employed special education support services staff to provide
16 special education support services in 2003-2004 or in a subsequent
17 fiscal year and that in a fiscal year after 2003-2004 receives the
18 same type of support services from another district or intermediate
19 district shall report the cost of those support services for
20 special education reimbursement purposes under this act. This
21 subdivision does not prohibit the transfer of special education
22 classroom teachers and special education classroom aides if the
23 pupils counted in membership associated with those special
24 education classroom teachers and special education classroom aides
25 are transferred and counted in membership in the other district or
26 intermediate district in conjunction with the transfer of those
27 teachers and aides.

1 (c) If the department determines before bookclosing for 2004-
2 2005 that the amounts allocated under this section for 2004-2005
3 will exceed expenditures under this section for 2004-2005, then for
4 2004-2005 only, for a district or intermediate district whose
5 reimbursement for 2004-2005 would otherwise be affected by
6 subdivision (b), subdivision (b) does not apply to the calculation
7 of the reimbursement for that district or intermediate district and
8 reimbursement for that district or intermediate district shall be
9 calculated in the same manner as it was for 2003-2004. If the
10 amount of the excess allocations under this section is not
11 sufficient to fully fund the calculation of reimbursement to those
12 districts and intermediate districts under this subdivision, then
13 the calculations and resulting reimbursement under this subdivision
14 shall be prorated on an equal percentage basis.

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

27 **(E) BEGINNING WITH CALCULATIONS FOR 2004-2005, IF AN**

1 INTERMEDIATE DISTRICT PURCHASES A SPECIAL EDUCATION PUPIL
2 TRANSPORTATION SERVICE FROM A CONSTITUENT DISTRICT THAT WAS
3 PREVIOUSLY PURCHASED FROM A PRIVATE ENTITY; IF THE PURCHASE FROM
4 THE CONSTITUENT DISTRICT IS AT A LOWER COST, ADJUSTED FOR CHANGES
5 IN FUEL COSTS; AND IF THE COST SHIFT FROM THE INTERMEDIATE DISTRICT
6 TO THE CONSTITUENT DISTRICT DOES NOT RESULT IN ANY NET CHANGE IN
7 THE REVENUE THE CONSTITUENT DISTRICT RECEIVES FROM PAYMENTS UNDER
8 SECTIONS 22B AND 51C, THEN UPON APPLICATION BY THE INTERMEDIATE
9 DISTRICT, THE DEPARTMENT SHALL DIRECT THE INTERMEDIATE DISTRICT TO
10 CONTINUE TO REPORT THE COST ASSOCIATED WITH THE SPECIFIC IDENTIFIED
11 SPECIAL EDUCATION PUPIL TRANSPORTATION SERVICE AND SHALL ADJUST THE
12 COSTS REPORTED BY THE CONSTITUENT DISTRICT TO REMOVE THE COST
13 ASSOCIATED WITH THAT SPECIFIC SERVICE.

14 (8) From the allocation in subsection (1), there is allocated
15 each fiscal year for 2004-2005 and for 2005-2006 an amount not to
16 exceed \$15,313,900.00 to intermediate districts. The payment under
17 this subsection to each intermediate district shall be equal to the
18 amount of the 1996-97 allocation to the intermediate district under
19 subsection (6) of this section as in effect for 1996-97.

20 (9) A pupil who is enrolled in a full-time special education
21 program conducted or administered by an intermediate district or a
22 pupil who is enrolled in the Michigan schools for the deaf and
23 blind shall not be included in the membership count of a district,
24 but shall be counted in membership in the intermediate district of
25 residence.

26 (10) Special education personnel transferred from 1 district
27 to another to implement the revised school code shall be entitled

1 to the rights, benefits, and tenure to which the person would
2 otherwise be entitled had that person been employed by the
3 receiving district originally.

4 (11) If a district or intermediate district uses money
5 received under this section for a purpose other than the purpose or
6 purposes for which the money is allocated, the department may
7 require the district or intermediate district to refund the amount
8 of money received. Money that is refunded shall be deposited in the
9 state treasury to the credit of the state school aid fund.

10 (12) From the funds allocated in subsection (1), there is
11 allocated each fiscal year for 2004-2005 and for 2005-2006 the
12 amount necessary, estimated at \$7,000,000.00 for 2004-2005 and
13 \$6,600,000.00 for 2005-2006, to pay the foundation allowances for
14 pupils described in this subsection. The allocation to a district
15 under this subsection shall be calculated by multiplying the number
16 of pupils described in this subsection who are counted in
17 membership in the district times the sum of the foundation
18 allowance under section 20 of the pupil's district of residence
19 plus the amount of the district's per pupil allocation under
20 section 20j(2), not to exceed \$6,500.00 adjusted by the dollar
21 amount of the difference between the basic foundation allowance
22 under section 20 for the current fiscal year and \$5,000.00 minus
23 \$200.00, or, for a pupil described in this subsection who is
24 counted in membership in a district that is a public school academy
25 or university school, times an amount equal to the amount per
26 membership pupil under section 20(6). The allocation to an
27 intermediate district under this subsection shall be calculated in

1 the same manner as for a district, using the foundation allowance
2 under section 20 of the pupil's district of residence, not to
3 exceed \$6,500.00 adjusted by the dollar amount of the difference
4 between the basic foundation allowance under section 20 for the
5 current fiscal year and \$5,000.00 minus \$200.00, and that
6 district's per pupil allocation under section 20j(2). This
7 subsection applies to all of the following pupils:

8 (a) Pupils described in section 53a.

9 (b) Pupils counted in membership in an intermediate district
10 who are not special education pupils and are served by the
11 intermediate district in a juvenile detention or child caring
12 facility.

13 (c) Emotionally impaired pupils counted in membership by an
14 intermediate district and provided educational services by the
15 department of community health.

16 (13) After payments under subsections (2) and (12) and section
17 51c, the remaining expenditures from the allocation in subsection
18 (1) shall be made in the following order:

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

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

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

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

23 (e) 100% of the payment required under subsection (8).

24 (f) 100% of the payments under section 56.

25 (14) The allocations under subsection (2), subsection (3), and
26 subsection (12) shall be allocations to intermediate districts only
27 and shall not be allocations to districts, but instead shall be

- 1 calculations used only to determine the state payments under
- 2 section 22b.