

Legislative Analysis



PUBLIC FUNDING FOR CHILDREN WITH SPECIAL NEEDS AT ANY SCHOOL, INCLUDING NONPUBLIC

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Joint Resolution B (as introduced)

Sponsor: Rep. Tim Kelly

Committee: Education

Complete to 4-27-16

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Joint Resolution B would amend Article VIII, Section 2, of the Michigan Constitution of 1963 to require the legislature to provide financial support for children with special needs to attend the school of their choice, including a nonpublic school, as long as the cost of that financial support does not exceed the amount that would be used for that child at a public school.

This language would be added to a section that currently says:

No public monies or property shall be appropriated or paid or any public credit utilized, by the legislature or any other political subdivision or agency of the state directly or indirectly to aid or maintain any private, denominational or other nonpublic, pre-elementary, elementary, or secondary school. No payment, credit, tax benefit, exemption or deductions, tuition voucher, subsidy, grant or loan of public monies or property shall be provided, directly or indirectly, to support the attendance of any student or the employment of any person at any such nonpublic school *or at any location or institution where instruction is offered in whole or in part to such nonpublic school students.* The legislature may provide for the transportation of students to and from any school.

The resolution also would strike the italicized language above, which was found unconstitutional by the Michigan Supreme Court in 1971.

The resolution would require voter approval at the next general election after the adoption of the resolution by the legislature, which requires a 2/3 vote in each house. General elections are held in November of even-numbered years.

FISCAL IMPACT:

House Joint Resolution B would have an indeterminate fiscal impact on both the state and local school districts and intermediate districts (ISDs).

The resolution would change the way special education is funded for both nonpublic students and public special education students who would like to participate in school choice across ISD boundaries, for whom that choice is currently limited under Section 105c of the State School Aid Act. While the resolution provides that the funding would only be

available to the extent that the financial support does not exceed the amount that would be spent on a child if he or she attended a public school, and thus would suggest costs would remain the same or be reduced, by requiring legislative financial support, it would shift an increased share of special education costs to the state and away from local districts for both nonpublic students and public school students participating in school choice across ISD boundaries.

Currently special education is provided by local public school districts and intermediate districts through a combination of local ISD special education millage revenue, local district general operating funds, state special education funding, and federal special education funding.

Districts (either the district of residence or the district in which the nonpublic school is located, depending on the service) must provide nonpublic school students with special education services at the public school, but do not have to pay for services provided by the nonpublic school.

Public school special education students are limited to choice across ISD boundaries in situations in which both the resident and receiving ISDs have a written agreement in place with regard to the responsibility for payment of the added costs of special education programs and services (because the State does not equalize special education funding, which is largely supported by ISD millage revenue that varies significantly from one ISD to the next).

The fiscal impact would depend on the following:

- The number of nonpublic school students whose parents currently decline special education services provided by their resident public school or ISD who would utilize state funds if they were available through a voucher to their nonpublic school of choice.
- The number of public school special education students who would choose to attend a nonpublic school under the revised provisions.
- The number of public school special education students who would choose to attend a public school outside their ISD of residence under the revised provisions.
- The extent to which the costs of special education services vary between public schools and nonpublic schools.
- The interpretation of the term "special needs" which is not current defined in federal or state law.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.