

SENATE BILL No. 1270

April 21, 2010, Introduced by Senator THOMAS and referred to the Committee on Appropriations.

A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending sections 4 and 51a (MCL 388.1604 and 388.1651a),
section 4 as amended by 2008 PA 268 and section 51a as amended by
2009 PA 121.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) "Elementary pupil" means a pupil in membership in
2 grades K to 8 in a district not maintaining classes above the
3 eighth grade or in grades K to 6 in a district maintaining classes
4 above the eighth grade. For the purposes of calculating universal
5 service fund (e-rate) discounts, "elementary pupil" includes
6 children enrolled in a preschool program operated by a district in
7 its facilities.

8 (2) "Extended school year" means an educational program

1 conducted by a district in which pupils must be enrolled but not
2 necessarily in attendance on the pupil membership count day in an
3 extended year program. The mandatory clock hours shall be completed
4 by each pupil not more than 365 calendar days after the pupil's
5 first day of classes for the school year prescribed. The department
6 shall prescribe pupil, personnel, and other reporting requirements
7 for the educational program.

8 (3) "Fiscal year" means the state fiscal year that commences
9 ~~October~~**JULY** 1 and continues through ~~September~~**JUNE** 30.

10 (4) "General educational development testing preparation
11 program" means a program that has high school level courses in
12 English language arts, social studies, science, and mathematics and
13 that prepares a person to successfully complete the general
14 educational development (GED) test.

15 (5) "High school pupil" means a pupil in membership in grades
16 7 to 12, except in a district not maintaining grades above the
17 eighth grade.

18 Sec. 51a. (1) From the appropriation in section 11, there is
19 allocated for 2009-2010 an amount not to exceed \$1,061,283,000.00
20 from state sources and all available federal funding under sections
21 611 to 619 of part B of the individuals with disabilities education
22 act, 20 USC 1411 to 1419, estimated at \$350,700,000.00, plus any
23 carryover federal funds from previous year appropriations. The
24 allocations under this subsection are for the purpose of
25 reimbursing districts and intermediate districts for special
26 education programs, services, and special education personnel as
27 prescribed in article 3 of the revised school code, MCL 380.1701 to

1 380.1766; net tuition payments made by intermediate districts to
2 the Michigan schools for the deaf and blind; and special education
3 programs and services for pupils who are eligible for special
4 education programs and services according to statute or rule. For
5 meeting the costs of special education programs and services not
6 reimbursed under this article, a district or intermediate district
7 may use money in general funds or special education funds, not
8 otherwise restricted, or contributions from districts to
9 intermediate districts, tuition payments, gifts and contributions
10 from individuals, or federal funds that may be available for this
11 purpose, as determined by the intermediate district plan prepared
12 pursuant to article 3 of the revised school code, MCL 380.1701 to
13 380.1766. All federal funds allocated under this section in excess
14 of those allocated under this section for 2002-2003 may be
15 distributed in accordance with the flexible funding provisions of
16 the individuals with disabilities education act, Public Law 108-
17 446, including, but not limited to, 34 CFR 300.206 and 300.208.
18 Notwithstanding section 17b, payments of federal funds to
19 districts, intermediate districts, and other eligible entities
20 under this section shall be paid on a schedule determined by the
21 department.

22 (2) From the funds allocated under subsection (1), there is
23 allocated the amount necessary, estimated at \$240,300,000.00 for
24 2009-2010, for payments toward reimbursing districts and
25 intermediate districts for 28.6138% of total approved costs of
26 special education, excluding costs reimbursed under section 53a,
27 and 70.4165% of total approved costs of special education

1 transportation. Allocations under this subsection shall be made as
2 follows:

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

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

1 (3) From the funds allocated under subsection (1), there is
2 allocated for 2009-2010 the amount necessary, estimated at
3 \$1,300,000.00, to make payments to districts and intermediate
4 districts under this subsection. If the amount allocated to a
5 district or intermediate district for a fiscal year under
6 subsection (2)(b) is less than the sum of the amounts allocated to
7 the district or intermediate district for 1996-97 under sections 52
8 and 58, there is allocated to the district or intermediate district
9 for the fiscal year an amount equal to that difference, adjusted by
10 applying the same proration factor that was used in the
11 distribution of funds under section 52 in 1996-97 as adjusted to
12 the district's or intermediate district's necessary costs of
13 special education used in calculations for the fiscal year. This
14 adjustment is to reflect reductions in special education program
15 operations or services between 1996-97 and subsequent fiscal years.
16 Adjustments for reductions in special education program operations
17 or services shall be made in a manner determined by the department
18 and shall include adjustments for program or service shifts.

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

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

11 (5) State funds shall be allocated on a total approved cost
12 basis. Federal funds shall be allocated under applicable federal
13 requirements, except that an amount not to exceed \$3,500,000.00 may
14 be allocated by the department for 2009-2010 to districts,
15 intermediate districts, or other eligible entities on a competitive
16 grant basis for programs, equipment, and services that the
17 department determines to be designed to benefit or improve special
18 education on a statewide scale.

19 (6) From the amount allocated in subsection (1), there is
20 allocated an amount not to exceed \$2,200,000.00 for 2009-2010 to
21 reimburse 100% of the net increase in necessary costs incurred by a
22 district or intermediate district in implementing the revisions in
23 the administrative rules for special education that became
24 effective on July 1, 1987. As used in this subsection, "net
25 increase in necessary costs" means the necessary additional costs
26 incurred solely because of new or revised requirements in the
27 administrative rules minus cost savings permitted in implementing

1 the revised rules. Net increase in necessary costs shall be
2 determined in a manner specified by the department.

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

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

25 (b) Beginning with the 2004-2005 fiscal year, a district or
26 intermediate district that employed special education support
27 services staff to provide special education support services in

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

12 (c) If the department determines before bookclosing for 2008-
13 2009 that the amounts allocated for 2008-2009 under subsections
14 (2), (3), (6), (8), and (12) and sections 53a, 54, and 56 will
15 exceed expenditures for 2008-2009 under subsections (2), (3), (6),
16 (8), and (12) and sections 53a, 54, and 56, then for 2008-2009
17 only, for a district or intermediate district whose reimbursement
18 for 2008-2009 would otherwise be affected by subdivision (b),
19 subdivision (b) does not apply to the calculation of the
20 reimbursement for that district or intermediate district and
21 reimbursement for that district or intermediate district shall be
22 calculated in the same manner as it was for 2003-2004. If the
23 amount of the excess allocations under subsections (2), (3), (6),
24 (8), and (12) and sections 53a, 54, and 56 is not sufficient to
25 fully fund the calculation of reimbursement to those districts and
26 intermediate districts under this subdivision, then the
27 calculations and resulting reimbursement under this subdivision

1 shall be prorated on an equal percentage basis.

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

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

1 (8) From the allocation in subsection (1), there is allocated
2 for 2009-2010 an amount not to exceed \$15,313,900.00 to
3 intermediate districts. The payment under this subsection to each
4 intermediate district shall be equal to the amount of the 1996-97
5 allocation to the intermediate district under subsection (6) of
6 this section as in effect for 1996-97.

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

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

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

24 (12) From the funds allocated in subsection (1), there is
25 allocated the amount necessary, estimated at \$7,800,000.00 for
26 2009-2010, to pay the foundation allowances for pupils described in
27 this subsection. The allocation to a district under this subsection

1 shall be calculated by multiplying the number of pupils described
2 in this subsection who are counted in membership in the district
3 times the sum of the foundation allowance under section 20 of the
4 pupil's district of residence plus the amount of the district's per
5 pupil allocation under section 20j(2), not to exceed the basic
6 foundation allowance under section 20 for the current fiscal year,
7 or, for a pupil described in this subsection who is counted in
8 membership in a district that is a public school academy or
9 university school, times an amount equal to the amount per
10 membership pupil under section 20(6). 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, and that district's per pupil allocation under
16 section 20j(2). This subsection applies to all of the following
17 pupils:

18 (a) Pupils described in section 53a.

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

23 (c) Emotionally impaired pupils counted in membership by an
24 intermediate district and provided educational services by the
25 department of community health.

26 (13) If it is determined that funds allocated under subsection
27 (2) or (12) or under section 51c will not be expended, funds up to

1 the amount necessary and available may be used to supplement the
2 allocations under subsection (2) or (12) or under section 51c in
3 order to fully fund those allocations. After payments under
4 subsections (2) and (12) and section 51c, the remaining
5 expenditures from the allocation in subsection (1) shall be made in
6 the following order:

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

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

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

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

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

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

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

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

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

7 Enacting section 1. This amendatory act does not take effect
8 unless Senate Bill No. 1281

9 of the 95th Legislature is enacted into law.