

HOUSE BILL No. 5711

December 17, 2009, Introduced by Rep. Sheltroun 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 31a and 104 (MCL 388.1631a and 388.1704), as amended by 2009 PA 121.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 31a. (1) From the state school aid fund money
2 appropriated in section 11, there is allocated for 2009-2010 an
3 amount not to exceed \$317,695,500.00 for payments to eligible
4 districts and eligible public school academies under this section.
5 Subject to subsection (14), the amount of the additional allowance
6 under this section, other than funding under subsection (6) or (7),
7 shall be based on the number of actual pupils in membership in the
8 district or public school academy who met the income eligibility

1 criteria for free breakfast, lunch, or milk in the immediately
2 preceding state fiscal year, as determined under the Richard B.
3 Russell national school lunch act, 42 USC 1751 to 1769i, and
4 reported to the department by October 31 of the immediately
5 preceding fiscal year and adjusted not later than December 31 of
6 the immediately preceding fiscal year. However, for a public school
7 academy that began operations as a public school academy after the
8 pupil membership count day of the immediately preceding school
9 year, the basis for the additional allowance under this section
10 shall be the number of actual pupils in membership in the public
11 school academy who met the income eligibility criteria for free
12 breakfast, lunch, or milk in the current state fiscal year, as
13 determined under the Richard B. Russell national school lunch act.

14 (2) To be eligible to receive funding under this section,
15 other than funding under subsection (6) or (7), a district or
16 public school academy that has not been previously determined to be
17 eligible shall apply to the department, in a form and manner
18 prescribed by the department, and a district or public school
19 academy must meet all of the following:

20 (a) The sum of the district's or public school academy's
21 combined state and local revenue per membership pupil in the
22 current state fiscal year, as calculated under section 20, plus the
23 amount of the district's per pupil allocation under section 20j(2),
24 is less than or equal to the basic foundation allowance under
25 section 20 for the current state fiscal year.

26 (b) The district or public school academy agrees to use the
27 funding only for purposes allowed under this section and to comply

1 with the program and accountability requirements under this
2 section.

3 (3) Except as otherwise provided in this subsection, an
4 eligible district or eligible public school academy shall receive
5 under this section for each membership pupil in the district or
6 public school academy who met the income eligibility criteria for
7 free breakfast, lunch, or milk, as determined under the Richard B.
8 Russell national school lunch act and as reported to the department
9 by October 31 of the immediately preceding fiscal year and adjusted
10 not later than December 31 of the immediately preceding fiscal
11 year, an amount per pupil equal to 11.5% of the sum of the
12 district's foundation allowance or public school academy's per
13 pupil amount calculated under section 20, plus the amount of the
14 district's per pupil allocation under section 20j(2), not to exceed
15 the basic foundation allowance under section 20 for the current
16 state fiscal year, or of the public school academy's per membership
17 pupil amount calculated under section 20 for the current state
18 fiscal year. A public school academy that began operations as a
19 public school academy after the pupil membership count day of the
20 immediately preceding school year shall receive under this section
21 for each membership pupil in the public school academy who met the
22 income eligibility criteria for free breakfast, lunch, or milk, as
23 determined under the Richard B. Russell national school lunch act
24 and as reported to the department by October 31 of the current
25 fiscal year and adjusted not later than December 31 of the current
26 fiscal year, an amount per pupil equal to 11.5% of the public
27 school academy's per membership pupil amount calculated under

1 section 20 for the current state fiscal year.

2 (4) Except as otherwise provided in this section, a district
3 or public school academy receiving funding under this section shall
4 use that money only to provide instructional programs and direct
5 noninstructional services, including, but not limited to, medical
6 or counseling services, for at-risk pupils; for school health
7 clinics; and for the purposes of subsection (5), (6), or (7). In
8 addition, a district that is a school district of the first class
9 or a district or public school academy in which at least 50% of the
10 pupils in membership met the income eligibility criteria for free
11 breakfast, lunch, or milk in the immediately preceding state fiscal
12 year, as determined and reported as described in subsection (1),
13 may use not more than 20% of the funds it receives under this
14 section for school security. A district or public school academy
15 shall not use any of that money for administrative costs or to
16 supplant another program or other funds, except for funds allocated
17 to the district or public school academy under this section in the
18 immediately preceding year and already being used by the district
19 or public school academy for at-risk pupils. The instruction or
20 direct noninstructional services provided under this section may be
21 conducted before or after regular school hours or by adding extra
22 school days to the school year and may include, but are not limited
23 to, tutorial services, early childhood programs to serve children
24 age 0 to 5, and reading programs as described in former section 32f
25 as in effect for 2001-2002. A tutorial method may be conducted with
26 paraprofessionals working under the supervision of a certificated
27 teacher. The ratio of pupils to paraprofessionals shall be between

1 10:1 and 15:1. Only 1 certificated teacher is required to supervise
2 instruction using a tutorial method. As used in this subsection,
3 "to supplant another program" means to take the place of a
4 previously existing instructional program or direct
5 noninstructional services funded from a funding source other than
6 funding under this section.

7 (5) Except as otherwise provided in subsection (12), a
8 district or public school academy that receives funds under this
9 section and that operates a school breakfast program under section
10 1272a of the revised school code, MCL 380.1272a, shall use from the
11 funds received under this section an amount, not to exceed \$10.00
12 per pupil for whom the district or public school academy receives
13 funds under this section, necessary to pay for costs associated
14 with the operation of the school breakfast program.

15 (6) From the funds allocated under subsection (1), there is
16 allocated for 2009-2010 an amount not to exceed \$3,557,300.00 to
17 support child and adolescent health centers. These grants shall be
18 awarded for 5 consecutive years beginning with 2003-2004 in a form
19 and manner approved jointly by the department and the department of
20 community health. Each grant recipient shall remain in compliance
21 with the terms of the grant award or shall forfeit the grant award
22 for the duration of the 5-year period after the noncompliance. To
23 continue to receive funding for a child and adolescent health
24 center under this section a grant recipient shall ensure that the
25 child and adolescent health center has an advisory committee and
26 that at least one-third of the members of the advisory committee
27 are parents or legal guardians of school-aged children. A child and

1 adolescent health center program shall recognize the role of a
2 child's parents or legal guardian in the physical and emotional
3 well-being of the child. Funding under this subsection shall be
4 used to support child and adolescent health center services
5 provided to children up to age 21. If any funds allocated under
6 this subsection are not used for the purposes of this subsection
7 for the fiscal year in which they are allocated, those unused funds
8 shall be used that fiscal year to avoid or minimize any proration
9 that would otherwise be required under subsection (14) for that
10 fiscal year.

11 (7) From the funds allocated under subsection (1), there is
12 allocated for 2009-2010 an amount not to exceed \$5,150,000.00 for
13 the state portion of the hearing and vision screenings as described
14 in section 9301 of the public health code, 1978 PA 368, MCL
15 333.9301. A local public health department shall pay at least 50%
16 of the total cost of the screenings. The frequency of the
17 screenings shall be as required under R 325.13091 to R 325.13096
18 and R 325.3271 to R 325.3276 of the Michigan administrative code.
19 Funds shall be awarded in a form and manner approved jointly by the
20 department and the department of community health. Notwithstanding
21 section 17b, payments to eligible entities under this subsection
22 shall be paid on a schedule determined by the department.

23 (8) Each district or public school academy receiving funds
24 under this section shall submit to the department by July 15 of
25 each fiscal year a report, not to exceed 10 pages, on the usage by
26 the district or public school academy of funds under this section,
27 which report shall include at least a brief description of each

1 program conducted by the district or public school academy using
2 funds under this section, the amount of funds under this section
3 allocated to each of those programs, the number of at-risk pupils
4 eligible for free or reduced price school lunch who were served by
5 each of those programs, and the total number of at-risk pupils
6 served by each of those programs. If a district or public school
7 academy does not comply with this subsection, the department shall
8 withhold an amount equal to the August payment due under this
9 section until the district or public school academy complies with
10 this subsection. If the district or public school academy does not
11 comply with this subsection by the end of the state fiscal year,
12 the withheld funds shall be forfeited to the school aid fund.

13 (9) In order to receive funds under this section, a district
14 or public school academy shall allow access for the department or
15 the department's designee to audit all records related to the
16 program for which it receives those funds. The district or public
17 school academy shall reimburse the state for all disallowances
18 found in the audit.

19 (10) Subject to subsections (5), (6), (7), (12), and (13), any
20 district may use up to 100% of the funds it receives under this
21 section to reduce the ratio of pupils to teachers in grades K-6, or
22 any combination of those grades, in school buildings in which the
23 percentage of pupils described in subsection (1) exceeds the
24 district's aggregate percentage of those pupils. Subject to
25 subsections (5), (6), (7), (12), and (13), if a district obtains a
26 waiver from the department, the district may use up to 100% of the
27 funds it receives under this section to reduce the ratio of pupils

1 to teachers in grades K-6, or any combination of those grades, in
2 school buildings in which the percentage of pupils described in
3 subsection (1) is at least 60% of the district's aggregate
4 percentage of those pupils and at least 30% of the total number of
5 pupils enrolled in the school building. To obtain a waiver, a
6 district must apply to the department and demonstrate to the
7 satisfaction of the department that the class size reductions would
8 be in the best interests of the district's at-risk pupils.

9 (11) A district or public school academy may use funds
10 received under this section for adult high school completion,
11 general educational development (G.E.D.) test preparation, adult
12 English as a second language, or adult basic education programs
13 described in section 107.

14 (12) For an individual school or schools operated by a
15 district or public school academy receiving funds under this
16 section that have been determined by the department to meet the
17 adequate yearly progress standards of the no child left behind act
18 of 2001, Public Law 107-110, in both mathematics and English
19 language arts at all applicable grade levels for all applicable
20 subgroups, the district or public school academy may submit to the
21 department an application for flexibility in using the funds
22 received under this section that are attributable to the pupils in
23 the school or schools. The application shall identify the affected
24 school or schools and the affected funds and shall contain a plan
25 for using the funds for specific purposes identified by the
26 district that are designed to benefit at-risk pupils in the school,
27 but that may be different from the purposes otherwise allowable

1 under this section. The department shall approve the application if
2 the department determines that the purposes identified in the plan
3 are reasonably designed to benefit at-risk pupils in the school. If
4 the department does not act to approve or disapprove an application
5 within 30 days after it is submitted to the department, the
6 application is considered to be approved. If an application for
7 flexibility in using the funds is approved, the district may use
8 the funds identified in the application for any purpose identified
9 in the plan.

10 (13) A district or public school academy that receives funds
11 under this section may use funds it receives under this section to
12 implement and operate an early intervening program for pupils in
13 grades K to 3 that meets either or both of the following:

14 (a) Monitors individual pupil learning and provides specific
15 support or learning strategies to pupils as early as possible in
16 order to reduce the need for special education placement. The
17 program shall include literacy and numeracy supports, sensory motor
18 skill development, behavior supports, instructional consultation
19 for teachers, and the development of a parent/school learning plan.
20 Specific support or learning strategies may include support in or
21 out of the general classroom in areas including reading, writing,
22 math, visual memory, motor skill development, behavior, or language
23 development. These would be provided based on an understanding of
24 the individual child's learning needs.

25 (b) Provides early intervening strategies using school-wide
26 systems of academic and behavioral supports and is scientifically
27 research-based. The strategies to be provided shall include at

1 least pupil performance indicators based upon response to
2 intervention, instructional consultation for teachers, and ongoing
3 progress monitoring. A school-wide system of academic and
4 behavioral support should be based on a support team available to
5 the classroom teachers. The members of this team could include the
6 principal, special education staff, reading teachers, and other
7 appropriate personnel who would be available to systematically
8 study the needs of the individual child and work with the teacher
9 to match instruction to the needs of the individual child.

10 (14) If necessary, and before any proration required under
11 section 11, the department shall prorate payments under this
12 section by reducing the amount of the per pupil payment under this
13 section by a dollar amount calculated by determining the amount by
14 which the amount necessary to fully fund the requirements of this
15 section exceeds the maximum amount allocated under this section and
16 then dividing that amount by the total statewide number of pupils
17 who met the income eligibility criteria for free breakfast, lunch,
18 or milk in the immediately preceding fiscal year, as described in
19 subsection (1).

20 (15) If a district is formed by consolidation after June 1,
21 1995, and if 1 or more of the original districts was not eligible
22 before the consolidation for an additional allowance under this
23 section, the amount of the additional allowance under this section
24 for the consolidated district shall be based on the number of
25 pupils described in subsection (1) enrolled in the consolidated
26 district who reside in the territory of an original district that
27 was eligible before the consolidation for an additional allowance

1 under this section.

2 (16) A district or public school academy that does not meet
3 the eligibility requirement under subsection (2)(a) is eligible for
4 funding under this section if at least 1/4 of the pupils in
5 membership in the district or public school academy met the income
6 eligibility criteria for free breakfast, lunch, or milk in the
7 immediately preceding state fiscal year, as determined and reported
8 as described in subsection (1), and at least 4,500 of the pupils in
9 membership in the district or public school academy met the income
10 eligibility criteria for free breakfast, lunch, or milk in the
11 immediately preceding state fiscal year, as determined and reported
12 as described in subsection (1). A district or public school academy
13 that is eligible for funding under this section because the
14 district meets the requirements of this subsection shall receive
15 under this section for each membership pupil in the district or
16 public school academy who met the income eligibility criteria for
17 free breakfast, lunch, or milk in the immediately preceding fiscal
18 year, as determined and reported as described in subsection (1), an
19 amount per pupil equal to 8.63% of the sum of the district's
20 foundation allowance or public school academy's per pupil
21 allocation under section 20, plus the amount of the district's per
22 pupil allocation under section 20j(2), not to exceed the basic
23 foundation allowance under section 20 for the current state fiscal
24 year.

25 (17) A district that does not meet the eligibility requirement
26 under subsection (2)(a) is eligible for funding under this section
27 if at least 75% of the pupils in membership in the district met the

1 income eligibility criteria for free breakfast, lunch, or milk in
2 the immediately preceding state fiscal year, as determined and
3 reported as described in subsection (1), the district receives an
4 adjustment under section 20(19), and the district does not receive
5 any state portion of its foundation allowance as calculated under
6 section 20. A district that is eligible for funding under this
7 section because the district meets the requirements of this
8 subsection shall receive under this section for each membership
9 pupil in the district who met the income eligibility criteria for
10 free breakfast, lunch, or milk in the immediately preceding fiscal
11 year, as determined and reported as described in subsection (1), an
12 amount per pupil equal to 11.5% of the sum of the district's
13 foundation allowance under section 20, not to exceed the basic
14 foundation allowance under section 20 for the current state fiscal
15 year.

16 (18) As used in this section, "at-risk pupil" means a pupil
17 for whom the district has documentation that the pupil meets at
18 least 2 of the following criteria: is a victim of child abuse or
19 neglect; is below grade level in English language and communication
20 skills or mathematics; is a pregnant teenager or teenage parent; is
21 eligible for a federal free or reduced-price lunch subsidy; has
22 atypical behavior or attendance patterns; or has a family history
23 of school failure, incarceration, or substance abuse. For pupils
24 for whom the results of at least the applicable ~~Michigan education~~
25 ~~assessment program (MEAP) test~~ **ASSESSMENT USED UNDER SECTION 2 OF**
26 **1970 PA 38, MCL 388.1082**, have been received, at-risk pupil also
27 includes a pupil who does not meet the other criteria under this

1 subsection but who did not achieve at least a score of level 2 on
2 the most recent ~~MEAP~~ English language arts, mathematics, or science
3 ~~test~~ **ASSESSMENT USED UNDER SECTION 2 OF 1970 PA 38, MCL 388.1082,**
4 for which results for the pupil have been received. For pupils for
5 whom the results of the Michigan merit examination have been
6 received, at-risk pupil also includes a pupil who does not meet the
7 other criteria under this subsection but who did not achieve
8 proficiency on the reading component of the most recent Michigan
9 merit examination for which results for the pupil have been
10 received, did not achieve proficiency on the mathematics component
11 of the most recent Michigan merit examination for which results for
12 the pupil have been received, or did not achieve basic competency
13 on the science component of the most recent Michigan merit
14 examination for which results for the pupil have been received. For
15 pupils in grades K-3, at-risk pupil also includes a pupil who is at
16 risk of not meeting the district's core academic curricular
17 objectives in English language arts or mathematics.

18 Sec. 104. (1) In order to receive state aid under this act, a
19 district shall comply with sections 1278a, 1278b, 1279, 1279g, and
20 1280b of the revised school code, MCL 380.1278a, 380.1278b,
21 380.1279, 380.1279g, and 380.1280b, and 1970 PA 38, MCL 388.1081 to
22 388.1086. From the state school aid fund money appropriated in
23 section 11, there is allocated for 2009-2010 an amount not to
24 exceed \$26,630,700.00 for payments on behalf of districts for costs
25 associated with complying with those provisions of law. In
26 addition, from the federal funds appropriated in section 11, there
27 is allocated for 2009-2010 an amount estimated at \$8,313,700.00,

1 funded from DED-OESE, title VI, state assessments funds and DED-
 2 OSERS, section 504 of part B of the individuals with disabilities
 3 education act, Public Law 94-142, plus any carryover federal funds
 4 from previous year appropriations, for the purposes of complying
 5 with the ~~federal~~-no child left behind act of 2001, Public Law 107-
 6 110.

7 ~~— (2) The department shall determine whether the "Explore" test~~
 8 ~~is at least as robust as the Michigan educational assessment~~
 9 ~~program social studies test. If the department determines that the~~
 10 ~~"Explore" test is at least as robust as the Michigan educational~~
 11 ~~assessment program social studies test, it is the intent of the~~
 12 ~~legislature that the department shall replace the Michigan~~
 13 ~~educational assessment program social studies test with the~~
 14 ~~"Explore" test. If this replacement of tests requires a waiver~~
 15 ~~under federal law in order to comply with federal law, then the~~
 16 ~~department shall apply for that waiver to allow for this~~
 17 ~~replacement.~~

18 (2) ~~(3)~~ The results of each test **ASSESSMENT** administered as
 19 part of the ~~Michigan educational assessment~~ program **UNDER SECTION 2**
 20 **OF 1970 PA 38, MCL 388.1082**, including tests **ASSESSMENTS**
 21 administered to high school students, shall include an item
 22 analysis that lists all items that are counted for individual pupil
 23 scores and the percentage of pupils choosing each possible
 24 response.

25 (3) ~~(4)~~ All federal funds allocated under this section shall
 26 be distributed in accordance with federal law and with flexibility
 27 provisions outlined in Public Law 107-116, and in the education

1 flexibility partnership act of 1999, Public Law 106-25.

2 (4) ~~(5)~~ Notwithstanding section 17b, payments on behalf of
3 districts, intermediate districts, and other eligible entities
4 under this section shall be paid on a schedule determined by the
5 department.

6 ~~—— (6) The department shall meet with the United States~~
7 ~~department of education and shall request a waiver to replace the~~
8 ~~current Michigan educational assessment program tests used for~~
9 ~~grades 3 to 8 with a standardized catalog version norm referenced~~
10 ~~test. Before sending the waiver request to the United States~~
11 ~~department of education, the department shall seek input on the~~
12 ~~waiver request from the subcommittees of the senate and house of~~
13 ~~representatives appropriations committees that have jurisdiction~~
14 ~~over this act. The department shall submit the waiver request to~~
15 ~~the subcommittees for input not later than January 15, 2010 and~~
16 ~~shall submit the waiver request to the United States department of~~
17 ~~education not later than February 15, 2010. If the waiver is~~
18 ~~granted by the United States department of education, then the~~
19 ~~department shall immediately notify the subcommittees of the senate~~
20 ~~and house of representatives appropriations committees that have~~
21 ~~jurisdiction over this act of the approval.~~

22 (5) ~~(7)~~ As used in this section:

23 (a) "DED" means the United States department of education.

24 (b) "DED-OESE" means the DED office of elementary and
25 secondary education.

26 (c) "DED-OSERS" means the DED office of special education and
27 rehabilitative services.

1 Enacting section 1. This amendatory act does not take effect
2 unless Senate Bill No.____ or House Bill No. 5710(request no.
3 05076'09) of the 95th Legislature is enacted into law.