

HOUSE BILL No. 5452

November 29, 2005, Introduced by Reps. Moore, Ward, Elsenheimer, Caswell, Stahl, Booher, Hansen, Moolenaar, Walker, Hune, Kooiman, Pavlov, Hoogendyk, Huizenga, Mortimer, Stakoe, Mayes, Sheltroun, Pearce, Hummel and Baxter 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 20 and 22b (MCL 388.1620 and 388.1622b), as
amended by 2005 PA 155.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20. (1) ~~For 2003-2004 and for 2004-2005, the basic~~
2 ~~foundation allowance is \$6,700.00 per membership pupil.~~ For 2005-
3 2006, the basic foundation allowance is \$6,875.00.

4 (2) The amount of each district's foundation allowance shall
5 be calculated as provided in this section, using a basic foundation
6 allowance in the amount specified in subsection (1).

7 (3) Except as otherwise provided in this section, the amount
8 of a district's foundation allowance shall be calculated as

1 follows, using in all calculations the total amount of the
2 district's foundation allowance as calculated before any proration:

3 (a) Except as otherwise provided in this subsection, for a
4 district that in the immediately preceding state fiscal year had a
5 foundation allowance in an amount at least equal to the amount of
6 the basic foundation allowance for the immediately preceding state
7 fiscal year, the district shall receive a foundation allowance in
8 an amount equal to the sum of the district's foundation allowance
9 for the immediately preceding state fiscal year plus the dollar
10 amount of the adjustment from the immediately preceding state
11 fiscal year to the current state fiscal year in the basic
12 foundation allowance. However, for 2002-2003, the foundation
13 allowance for a district under this subdivision is an amount equal
14 to the sum of the district's foundation allowance for the
15 immediately preceding state fiscal year plus \$200.00.

16 (b) For a district that in the 1994-95 state fiscal year had a
17 foundation allowance greater than \$6,500.00, the district's
18 foundation allowance is an amount equal to the sum of the
19 district's foundation allowance for the immediately preceding state
20 fiscal year plus the lesser of the increase in the basic foundation
21 allowance for the current state fiscal year, as compared to the
22 immediately preceding state fiscal year, or the product of the
23 district's foundation allowance for the immediately preceding state
24 fiscal year times the percentage increase in the United States
25 consumer price index in the calendar year ending in the immediately
26 preceding fiscal year as reported by the May revenue estimating
27 conference conducted under section 367b of the management and

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1 budget act, 1984 PA 431, MCL 18.1367b. For 2002-2003, for a
2 district that in the 1994-95 state fiscal year had a foundation
3 allowance greater than \$6,500.00, the district's foundation
4 allowance is an amount equal to the sum of the district's
5 foundation allowance for the immediately preceding state fiscal
6 year plus the lesser of \$200.00 or the product of the district's
7 foundation allowance for the immediately preceding state fiscal
8 year times the percentage increase in the United States consumer
9 price index in the calendar year ending in the immediately
10 preceding fiscal year as reported by the May revenue estimating
11 conference conducted under section 367b of the management and
12 budget act, 1984 PA 431, MCL 18.1367b.

13 (c) For a district that has a foundation allowance that is not
14 a whole dollar amount, the district's foundation allowance shall be
15 rounded up to the nearest whole dollar.

16 (d) For a district that received a payment under former
17 section 22c for 2001-2002, the district's 2001-2002 foundation
18 allowance shall be considered to have been an amount equal to the
19 sum of the district's actual 2001-2002 foundation allowance as
20 otherwise calculated under this section plus the per pupil amount
21 of the district's equity payment for 2001-2002 under former section
22 22c.

23 (E) [IF IT IS DETERMINED AT THE JANUARY 2006 REVENUE ESTIMATING
CONFERENCE CONDUCTED UNDER SECTION 367B OF THE MANAGEMENT AND BUDGET ACT,
1984 PA 431, MCL 18.1367B, THAT THE COMBINED TOTAL AMOUNT OF PROJECTED
STATE SCHOOL AID FUND REVENUE FOR 2004-2005 AND FOR 2005-2006 WILL BE AT
LEAST \$35,000,000.00 MORE THAN THAT COMBINED TOTAL AMOUNT AS PROJECTED AT
THE AUGUST 2005 REVENUE ESTIMATING CONFERENCE CONDUCTED UNDER SECTION
367B OF THE MANAGEMENT AND BUDGET ACT, 1984 PA 431, MCL 18.1367B, THEN
BEGINNING] IN 2005-2006, FOR A DISTRICT THAT HAS A
24 FOUNDATION ALLOWANCE AS OTHERWISE CALCULATED UNDER THIS SECTION OF
25 LESS THAN \$7,200.00, THE DISTRICT'S FOUNDATION ALLOWANCE SHALL BE
26 THE LESSER OF \$7,200.00 OR THE SUM OF THE DISTRICT'S FOUNDATION
27 ALLOWANCE AS OTHERWISE CALCULATED UNDER THIS SECTION PLUS \$25.00.

1 HOWEVER, FOR 2005-2006 ONLY, A DISTRICT'S ADJUSTMENT UNDER THIS
2 SUBDIVISION SHALL BE 3/4 OF THE AMOUNT OF THE ADJUSTMENT AS
3 OTHERWISE CALCULATED UNDER THIS SUBDIVISION TO REFLECT THAT THE
4 ADJUSTMENT TAKES EFFECT WITH THE JANUARY INSTALLMENT.

5 (4) Except as otherwise provided in this subsection, the state
6 portion of a district's foundation allowance is an amount equal to
7 the district's foundation allowance or \$6,500.00, whichever is
8 less, minus the difference between the product of the taxable value
9 per membership pupil of all property in the district that is not a
10 principal residence or qualified agricultural property times the
11 lesser of 18 mills or the number of mills of school operating taxes
12 levied by the district in 1993-94 and the quotient of the ad
13 valorem property tax revenue of the district captured under 1975 PA
14 197, MCL 125.1651 to 125.1681, the tax increment finance authority
15 act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development
16 financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the
17 brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651
18 to 125.2672, divided by the district's membership excluding special
19 education pupils. For a district described in subsection (3)(b),
20 the state portion of the district's foundation allowance is an
21 amount equal to \$6,962.00 plus the difference between the
22 district's foundation allowance for the current state fiscal year
23 and the district's foundation allowance for 1998-99, minus the
24 difference between the product of the taxable value per membership
25 pupil of all property in the district that is not a principal
26 residence or qualified agricultural property times the lesser of 18
27 mills or the number of mills of school operating taxes levied by

1 the district in 1993-94 and the quotient of the ad valorem property
2 tax revenue of the district captured under 1975 PA 197, MCL
3 125.1651 to 125.1681, the tax increment finance authority act, 1980
4 PA 450, MCL 125.1801 to 125.1830, the local development financing
5 act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield
6 redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672,
7 divided by the district's membership excluding special education
8 pupils. For a district that has a millage reduction required under
9 section 31 of article IX of the state constitution of 1963, the
10 state portion of the district's foundation allowance shall be
11 calculated as if that reduction did not occur. The \$6,500.00 amount
12 prescribed in this subsection shall be adjusted each year by an
13 amount equal to the dollar amount of the difference between the
14 basic foundation allowance for the current state fiscal year and
15 \$5,000.00, minus \$200.00.

16 (5) The allocation calculated under this section for a pupil
17 shall be based on the foundation allowance of the pupil's district
18 of residence. However, for a pupil enrolled in a district other
19 than the pupil's district of residence, if the foundation allowance
20 of the pupil's district of residence has been adjusted pursuant to
21 subsection (19), the allocation calculated under this section shall
22 not include the adjustment described in subsection (19). For a
23 pupil enrolled pursuant to section 105 or 105c in a district other
24 than the pupil's district of residence, the allocation calculated
25 under this section shall be based on the lesser of the foundation
26 allowance of the pupil's district of residence or the foundation
27 allowance of the educating district. For a pupil in membership in a

1 K-5, K-6, or K-8 district who is enrolled in another district in a
2 grade not offered by the pupil's district of residence, the
3 allocation calculated under this section shall be based on the
4 foundation allowance of the educating district if the educating
5 district's foundation allowance is greater than the foundation
6 allowance of the pupil's district of residence. The calculation
7 under this subsection shall take into account a district's per
8 pupil allocation under section 20j(2).

9 (6) Subject to subsection (7) and section 22b(3) and except as
10 otherwise provided in this subsection, for pupils in membership,
11 other than special education pupils, in a public school academy or
12 a university school, the allocation calculated under this section
13 is an amount per membership pupil other than special education
14 pupils in the public school academy or university school equal to
15 the sum of the local school operating revenue per membership pupil
16 other than special education pupils for the district in which the
17 public school academy or university school is located and the state
18 portion of that district's foundation allowance, or the sum of the
19 basic foundation allowance under subsection (1) plus \$300.00,
20 whichever is less. Notwithstanding section 101(2), for a public
21 school academy that begins operations after the pupil membership
22 count day, the amount per membership pupil calculated under this
23 subsection shall be adjusted by multiplying that amount per
24 membership pupil by the number of hours of pupil instruction
25 provided by the public school academy after it begins operations,
26 as determined by the department, divided by the minimum number of
27 hours of pupil instruction required under section 101(3). The

1 result of this calculation shall not exceed the amount per
2 membership pupil otherwise calculated under this subsection.

3 (7) If more than 25% of the pupils residing within a district
4 are in membership in 1 or more public school academies located in
5 the district, then the amount per membership pupil calculated under
6 this section for a public school academy located in the district
7 shall be reduced by an amount equal to the difference between the
8 product of the taxable value per membership pupil of all property
9 in the district that is not a principal residence or qualified
10 agricultural property times the lesser of 18 mills or the number of
11 mills of school operating taxes levied by the district in 1993-94
12 and the quotient of the ad valorem property tax revenue of the
13 district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the
14 tax increment finance authority act, 1980 PA 450, MCL 125.1801 to
15 125.1830, the local development financing act, 1986 PA 281, MCL
16 125.2151 to 125.2174, or the brownfield redevelopment financing
17 act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the
18 district's membership excluding special education pupils, in the
19 school fiscal year ending in the current state fiscal year,
20 calculated as if the resident pupils in membership in 1 or more
21 public school academies located in the district were in membership
22 in the district. In order to receive state school aid under this
23 act, a district described in this subsection shall pay to the
24 authorizing body that is the fiscal agent for a public school
25 academy located in the district for forwarding to the public school
26 academy an amount equal to that local school operating revenue per
27 membership pupil for each resident pupil in membership other than

1 special education pupils in the public school academy, as
2 determined by the department.

3 (8) If a district does not receive an amount calculated under
4 subsection (9); if the number of mills the district may levy on a
5 principal residence and qualified agricultural property under
6 section 1211(1) of the revised school code, MCL 380.1211, is 0.5
7 mills or less; and if the district elects not to levy those mills,
8 the district instead shall receive a separate supplemental amount
9 calculated under this subsection in an amount equal to the amount
10 the district would have received had it levied those mills, as
11 determined by the department of treasury. A district shall not
12 receive a separate supplemental amount calculated under this
13 subsection for a fiscal year unless in the calendar year ending in
14 the fiscal year the district levies 18 mills or the number of mills
15 of school operating taxes levied by the district in 1993, whichever
16 is less, on property that is not a principal residence or qualified
17 agricultural property.

18 (9) For a district that had combined state and local revenue
19 per membership pupil in the 1993-94 state fiscal year of more than
20 \$6,500.00 and that had fewer than 350 pupils in membership, if the
21 district elects not to reduce the number of mills from which a
22 principal residence and qualified agricultural property are exempt
23 and not to levy school operating taxes on a principal residence and
24 qualified agricultural property as provided in section 1211(1) of
25 the revised school code, MCL 380.1211, and not to levy school
26 operating taxes on all property as provided in section 1211(2) of
27 the revised school code, MCL 380.1211, there is calculated under

1 this subsection for 1994-95 and each succeeding fiscal year a
2 separate supplemental amount in an amount equal to the amount the
3 district would have received per membership pupil had it levied
4 school operating taxes on a principal residence and qualified
5 agricultural property at the rate authorized for the district under
6 section 1211(1) of the revised school code, MCL 380.1211, and
7 levied school operating taxes on all property at the rate
8 authorized for the district under section 1211(2) of the revised
9 school code, MCL 380.1211, as determined by the department of
10 treasury. If in the calendar year ending in the fiscal year a
11 district does not levy 18 mills or the number of mills of school
12 operating taxes levied by the district in 1993, whichever is less,
13 on property that is not a principal residence or qualified
14 agricultural property, the amount calculated under this subsection
15 will be reduced by the same percentage as the millage actually
16 levied compares to the 18 mills or the number of mills levied in
17 1993, whichever is less.

18 (10) Subject to subsection (4), for a district that is formed
19 or reconfigured after June 1, 2002 by consolidation of 2 or more
20 districts or by annexation, the resulting district's foundation
21 allowance under this section beginning after the effective date of
22 the consolidation or annexation shall be the average of the
23 foundation allowances of each of the original or affected
24 districts, calculated as provided in this section, weighted as to
25 the percentage of pupils in total membership in the resulting
26 district who reside in the geographic area of each of the original
27 or affected districts. The calculation under this subsection shall

1 take into account a district's per pupil allocation under section
2 20j(2).

3 (11) Each fraction used in making calculations under this
4 section shall be rounded to the fourth decimal place and the dollar
5 amount of an increase in the basic foundation allowance shall be
6 rounded to the nearest whole dollar.

7 (12) State payments related to payment of the foundation
8 allowance for a special education pupil are not calculated under
9 this section but are instead calculated under section 51a.

10 (13) To assist the legislature in determining the basic
11 foundation allowance for the subsequent state fiscal year, each
12 revenue estimating conference conducted under section 367b of the
13 management and budget act, 1984 PA 431, MCL 18.1367b, shall
14 calculate a pupil membership factor, a revenue adjustment factor,
15 and an index as follows:

16 (a) The pupil membership factor shall be computed by dividing
17 the estimated membership in the school year ending in the current
18 state fiscal year, excluding intermediate district membership, by
19 the estimated membership for the school year ending in the
20 subsequent state fiscal year, excluding intermediate district
21 membership. If a consensus membership factor is not determined at
22 the revenue estimating conference, the principals of the revenue
23 estimating conference shall report their estimates to the house and
24 senate subcommittees responsible for school aid appropriations not
25 later than 7 days after the conclusion of the revenue conference.

26 (b) The revenue adjustment factor shall be computed by
27 dividing the sum of the estimated total state school aid fund

1 revenue for the subsequent state fiscal year plus the estimated
2 total state school aid fund revenue for the current state fiscal
3 year, adjusted for any change in the rate or base of a tax the
4 proceeds of which are deposited in that fund and excluding money
5 transferred into that fund from the countercyclical budget and
6 economic stabilization fund under section 353e of the management
7 and budget act, 1984 PA 431, MCL 18.1353e, by the sum of the
8 estimated total school aid fund revenue for the current state
9 fiscal year plus the estimated total state school aid fund revenue
10 for the immediately preceding state fiscal year, adjusted for any
11 change in the rate or base of a tax the proceeds of which are
12 deposited in that fund. If a consensus revenue factor is not
13 determined at the revenue estimating conference, the principals of
14 the revenue estimating conference shall report their estimates to
15 the house and senate subcommittees responsible for school aid
16 appropriations not later than 7 days after the conclusion of the
17 revenue conference.

18 (c) The index shall be calculated by multiplying the pupil
19 membership factor by the revenue adjustment factor. However, for
20 2005-2006, the index shall be 1.00. If a consensus index is not
21 determined at the revenue estimating conference, the principals of
22 the revenue estimating conference shall report their estimates to
23 the house and senate subcommittees responsible for school aid
24 appropriations not later than 7 days after the conclusion of the
25 revenue conference.

26 (14) If the principals at the revenue estimating conference
27 reach a consensus on the index described in subsection (13)(c), the

1 basic foundation allowance for the subsequent state fiscal year
2 shall be at least the amount of that consensus index multiplied by
3 the basic foundation allowance specified in subsection (1).

4 (15) If at the January revenue estimating conference it is
5 estimated that pupil membership, excluding intermediate district
6 membership, for the subsequent state fiscal year will be greater
7 than 101% of the pupil membership, excluding intermediate district
8 membership, for the current state fiscal year, then it is the
9 intent of the legislature that the executive budget proposal for
10 the school aid budget for the subsequent state fiscal year include
11 a general fund/general purpose allocation sufficient to support the
12 membership in excess of 101% of the current year pupil membership.

13 (16) For a district that had combined state and local revenue
14 per membership pupil in the 1993-94 state fiscal year of more than
15 \$6,500.00, that had fewer than 7 pupils in membership in the 1993-
16 94 state fiscal year, that has at least 1 child educated in the
17 district in the current state fiscal year, and that levies the
18 number of mills of school operating taxes authorized for the
19 district under section 1211 of the revised school code, MCL
20 380.1211, a minimum amount of combined state and local revenue
21 shall be calculated for the district as provided under this
22 subsection. The minimum amount of combined state and local revenue
23 for 1999-2000 shall be \$67,000.00 plus the district's additional
24 expenses to educate pupils in grades 9 to 12 educated in other
25 districts as determined and allowed by the department. The minimum
26 amount of combined state and local revenue under this subsection,
27 before adding the additional expenses, shall increase each fiscal

1 year by the same percentage increase as the percentage increase in
2 the basic foundation allowance from the immediately preceding
3 fiscal year to the current fiscal year. The state portion of the
4 minimum amount of combined state and local revenue under this
5 subsection shall be calculated by subtracting from the minimum
6 amount of combined state and local revenue under this subsection
7 the sum of the district's local school operating revenue and an
8 amount equal to the product of the sum of the state portion of the
9 district's foundation allowance plus the amount calculated under
10 section 20j times the district's membership. As used in this
11 subsection, "additional expenses" means the district's expenses for
12 tuition or fees, not to exceed \$6,500.00 as adjusted each year by
13 an amount equal to the dollar amount of the difference between the
14 basic foundation allowance for the current state fiscal year and
15 \$5,000.00, minus \$200.00, plus a room and board stipend not to
16 exceed \$10.00 per school day for each pupil in grades 9 to 12
17 educated in another district, as approved by the department.

18 (17) For a district in which 7.75 mills levied in 1992 for
19 school operating purposes in the 1992-93 school year were not
20 renewed in 1993 for school operating purposes in the 1993-94 school
21 year, the district's combined state and local revenue per
22 membership pupil shall be recalculated as if that millage reduction
23 did not occur and the district's foundation allowance shall be
24 calculated as if its 1994-95 foundation allowance had been
25 calculated using that recalculated 1993-94 combined state and local
26 revenue per membership pupil as a base. A district is not entitled
27 to any retroactive payments for fiscal years before 2000-2001 due

1 to this subsection.

2 (18) For a district in which an industrial facilities
3 exemption certificate that abated taxes on property with a state
4 equalized valuation greater than the total state equalized
5 valuation of the district at the time the certificate was issued or
6 \$700,000,000.00, whichever is greater, was issued under 1974 PA
7 198, MCL 207.551 to 207.572, before the calculation of the
8 district's 1994-95 foundation allowance, the district's foundation
9 allowance for 2002-2003 is an amount equal to the sum of the
10 district's foundation allowance for 2002-2003, as otherwise
11 calculated under this section, plus \$250.00.

12 (19) For a district that received a grant under former section
13 32e for 2001-2002, the district's foundation allowance for 2002-
14 2003 and each succeeding fiscal year shall be adjusted to be an
15 amount equal to the sum of the district's foundation allowance, as
16 otherwise calculated under this section, plus the quotient of 100%
17 of the amount of the grant award to the district for 2001-2002
18 under former section 32e divided by the number of pupils in the
19 district's membership for 2001-2002 who were residents of and
20 enrolled in the district. Except as otherwise provided in this
21 subsection, a district qualifying for a foundation allowance
22 adjustment under this subsection shall use the funds resulting from
23 this adjustment for at least 1 of grades K to 3 for purposes
24 allowable under former section 32e as in effect for 2001-2002. For
25 an individual school or schools operated by a district qualifying
26 for a foundation allowance under this subsection that have been
27 determined by the department to meet the adequate yearly progress

1 standards of the federal no child left behind act of 2001, Public
2 Law 107-110, in both mathematics and English language arts at all
3 applicable grade levels for all applicable subgroups, the district
4 may submit to the department an application for flexibility in
5 using the funds resulting from this adjustment that are
6 attributable to the pupils in the school or schools. The
7 application shall identify the affected school or schools and the
8 affected funds and shall contain a plan for using the funds for
9 specific purposes identified by the district that are designed to
10 reduce class size, but that may be different from the purposes
11 otherwise allowable under this subsection. The department shall
12 approve the application if the department determines that the
13 purposes identified in the plan are reasonably designed to reduce
14 class size. If the department does not act to approve or disapprove
15 an application within 30 days after it is submitted to the
16 department, the application is considered to be approved. If an
17 application for flexibility in using the funds is approved, the
18 district may use the funds identified in the application for any
19 purpose identified in the plan.

20 (20) For a district that is a qualifying school district with
21 a school reform board in place under part 5a of the revised school
22 code, MCL 380.371 to 380.376, the district's foundation allowance
23 for 2002-2003 shall be adjusted to be an amount equal to the sum of
24 the district's foundation allowance, as otherwise calculated under
25 this section, plus the quotient of \$15,000,000.00 divided by the
26 district's membership for 2002-2003. If a district ceases to meet
27 the requirements of this subsection, the department shall adjust

1 the district's foundation allowance in effect at that time based on
2 a 2002-2003 foundation allowance for the district that does not
3 include the 2002-2003 adjustment under this subsection. This
4 subsection only applies for 2002-2003, 2003-2004, and 2004-2005.
5 Beginning in 2005-2006, the foundation allowance of a district that
6 received an adjustment under this subsection for those fiscal years
7 shall be calculated as if those adjustments did not occur.

8 (21) Payments to districts, university schools, or public
9 school academies shall not be made under this section. Rather, the
10 calculations under this section shall be used to determine the
11 amount of state payments under section 22b.

12 (22) If an amendment to section 2 of article VIII of the state
13 constitution of 1963 allowing state aid to some or all nonpublic
14 schools is approved by the voters of this state, each foundation
15 allowance or per pupil payment calculation under this section may
16 be reduced.

17 (23) As used in this section:

18 (a) "Combined state and local revenue" means the aggregate of
19 the district's state school aid received by or paid on behalf of
20 the district under this section and the district's local school
21 operating revenue.

22 (b) "Combined state and local revenue per membership pupil"
23 means the district's combined state and local revenue divided by
24 the district's membership excluding special education pupils.

25 (c) "Current state fiscal year" means the state fiscal year
26 for which a particular calculation is made.

27 (d) "Immediately preceding state fiscal year" means the state

1 fiscal year immediately preceding the current state fiscal year.

2 (e) "Local school operating revenue" means school operating
3 taxes levied under section 1211 of the revised school code, MCL
4 380.1211.

5 (f) "Local school operating revenue per membership pupil"
6 means a district's local school operating revenue divided by the
7 district's membership excluding special education pupils.

8 (g) "Membership" means the definition of that term under
9 section 6 as in effect for the particular fiscal year for which a
10 particular calculation is made.

11 (h) "Principal residence" and "qualified agricultural
12 property" mean those terms as defined in section 7dd of the general
13 property tax act, 1893 PA 206, MCL 211.7dd.

14 (i) "School operating purposes" means the purposes included in
15 the operation costs of the district as prescribed in sections 7 and
16 18.

17 (j) "School operating taxes" means local ad valorem property
18 taxes levied under section 1211 of the revised school code, MCL
19 380.1211, and retained for school operating purposes.

20 (k) "Taxable value per membership pupil" means taxable value,
21 as certified by the department of treasury, for the calendar year
22 ending in the current state fiscal year divided by the district's
23 membership excluding special education pupils for the school year
24 ending in the current state fiscal year.

25 Sec. 22b. (1) From the appropriation in section 11, there is
26 allocated ~~an amount not to exceed \$2,923,200,000.00 for 2004-2005~~
27 ~~and an amount not to exceed \$3,197,736,800.00~~ **\$3,214,236,800.00**

1 for 2005-2006 for discretionary nonmandated payments to districts
2 under this section. Funds allocated under this section that are not
3 expended in the state fiscal year for which they were allocated, as
4 determined by the department, may be used to supplement the
5 allocations under sections 22a and 51c in order to fully fund those
6 calculated allocations for the same fiscal year.

7 (2) Subject to subsection (3) and section 11, the allocation
8 to a district under this section shall be an amount equal to the
9 sum of the amounts calculated under sections 20, 20j, 51a(2),
10 51a(3), and 51a(12), minus the sum of the allocations to the
11 district under sections 22a and 51c.

12 (3) In order to receive an allocation under this section, each
13 district shall administer in each grade level that it operates in
14 grades 1 to 5 a standardized assessment approved by the department
15 of grade-appropriate basic educational skills. A district may use
16 the Michigan literacy progress profile to satisfy this requirement
17 for grades 1 to 3. Also, if the revised school code is amended to
18 require annual assessments at additional grade levels, in order to
19 receive an allocation under this section each district shall comply
20 with that requirement.

21 (4) From the allocation in subsection (1), the department
22 shall pay up to \$1,000,000.00 in litigation costs incurred by this
23 state associated with lawsuits filed by 1 or more districts or
24 intermediate districts against this state. If the allocation under
25 this section is insufficient to fully fund all payments required
26 under this section, the payments under this subsection shall be
27 made in full before any proration of remaining payments under this

1 section.

2 (5) It is the intent of the legislature that all
3 constitutional obligations of this state have been fully funded
4 under sections 22a, 31d, 51a, and 51c. If a claim is made by an
5 entity receiving funds under this act that challenges the
6 legislative determination of the adequacy of this funding or
7 alleges that there exists an unfunded constitutional requirement,
8 the state budget director may escrow or allocate from the
9 discretionary funds for nonmandated payments under this section the
10 amount as may be necessary to satisfy the claim before making any
11 payments to districts under subsection (2). If funds are escrowed,
12 the escrowed funds are a work project appropriation and the funds
13 are carried forward into the following fiscal year. The purpose of
14 the work project is to provide for any payments that may be awarded
15 to districts as a result of litigation. The work project shall be
16 completed upon resolution of the litigation.

17 (6) If the local claims review board or a court of competent
18 jurisdiction makes a final determination that this state is in
19 violation of section 29 of article IX of the state constitution of
20 1963 regarding state payments to districts, the state budget
21 director shall use work project funds under subsection (5) or
22 allocate from the discretionary funds for nonmandated payments
23 under this section the amount as may be necessary to satisfy the
24 amount owed to districts before making any payments to districts
25 under subsection (2).

26 (7) If a claim is made in court that challenges the
27 legislative determination of the adequacy of funding for this

1 state's constitutional obligations or alleges that there exists an
2 unfunded constitutional requirement, any interested party may seek
3 an expedited review of the claim by the local claims review board.
4 If the claim exceeds \$10,000,000.00, this state may remove the
5 action to the court of appeals, and the court of appeals shall have
6 and shall exercise jurisdiction over the claim.

7 (8) If payments resulting from a final determination by the
8 local claims review board or a court of competent jurisdiction that
9 there has been a violation of section 29 of article IX of the state
10 constitution of 1963 exceed the amount allocated for discretionary
11 nonmandated payments under this section, the legislature shall
12 provide for adequate funding for this state's constitutional
13 obligations at its next legislative session.

14 (9) If a lawsuit challenging payments made to districts
15 related to costs reimbursed by federal title XIX medicaid funds is
16 filed against this state during 2001-2002, 2002-2003, or 2003-2004,
17 50% of the amount allocated in subsection (1) not previously paid
18 out for 2002-2003, 2003-2004, and each succeeding fiscal year is a
19 work project appropriation and the funds are carried forward into
20 the following fiscal year. The purpose of the work project is to
21 provide for any payments that may be awarded to districts as a
22 result of the litigation. The work project shall be completed upon
23 resolution of the litigation. In addition, this state reserves the
24 right to terminate future federal title XIX medicaid reimbursement
25 payments to districts if the amount or allocation of reimbursed
26 funds is challenged in the lawsuit. As used in this subsection,
27 "title XIX" means title XIX of the social security act, 42 USC 1396

1 to 1396v.

2 Enacting section 1. This amendatory act does not take effect
3 unless House Bill No. 5436 of the 93rd Legislature is enacted into
4 law.