

**SUBSTITUTE FOR  
SENATE BILL NO. 328**

A bill to amend 1979 PA 94, entitled  
"The state school aid act of 1979,"  
by amending section 11f (MCL 388.1611f), as amended by 2004 PA 351.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 11f. (1) From the appropriations under section 11, there  
2 is allocated for the purposes of this section an amount not to  
3 exceed \$32,000,000.00 for the fiscal year ending September 30, 2005  
4 and for each succeeding fiscal year through the fiscal year ending  
5 September 30, 2008. Payments under this section will cease after  
6 September 30, 2008. These allocations are for paying the amounts  
7 described in subsection (4) to districts and intermediate  
8 districts, other than those receiving a lump sum payment under  
9 subsection (2), that were not plaintiffs in the consolidated cases  
10 known as Durant v State of Michigan, Michigan supreme court docket  
11 no. 104458-104492 and that, on or before March 2, 1998, submitted  
12 to the state treasurer a board resolution waiving any right or

1 interest the district or intermediate district has or may have in  
2 any claim or litigation based on or arising out of any claim or  
3 potential claim through September 30, 1997 that is or was similar  
4 to the claims asserted by the plaintiffs in the consolidated cases  
5 known as Durant v State of Michigan. The waiver resolution shall be  
6 in form and substance as required under subsection (7). The state  
7 treasurer is authorized to accept such a waiver resolution on  
8 behalf of this state. The amounts described in this subsection  
9 represent offers of settlement and compromise of any claim or  
10 claims that were or could have been asserted by these districts and  
11 intermediate districts, as described in this subsection.

12 (2) In addition to any other money appropriated under this  
13 act, there was appropriated from the state school aid fund an  
14 amount not to exceed \$1,700,000.00 for the fiscal year ending  
15 September 30, 1999. This appropriation was for paying the amounts  
16 described in this subsection to districts and intermediate  
17 districts that were not plaintiffs in the consolidated cases known  
18 as Durant v State of Michigan; that, on or before March 2, 1998,  
19 submitted to the state treasurer a board resolution waiving any  
20 right or interest the district or intermediate district had or may  
21 have had in any claim or litigation based on or arising out of any  
22 claim or potential claim through September 30, 1997 that is or was  
23 similar to the claims asserted by the plaintiffs in the  
24 consolidated cases known as Durant v State of Michigan; and for  
25 which the total amount listed in section 11h and paid under this  
26 section was less than \$75,000.00. For a district or intermediate  
27 district qualifying for a payment under this subsection, the entire

1 amount listed for the district or intermediate district in section  
2 11h was paid in a lump sum on November 15, 1998 or on the next  
3 business day following that date. The amounts paid under this  
4 subsection represent offers of settlement and compromise of any  
5 claim or claims that were or could have been asserted by these  
6 districts and intermediate districts, as described in this  
7 subsection.

8 (3) This section does not create any obligation or liability  
9 of this state to any district or intermediate district that does  
10 not submit a waiver resolution described in this section. This  
11 section, any other provision of this act, and section 353e of the  
12 management and budget act, 1984 PA 431, MCL 18.1353e, are not  
13 intended to admit liability or waive any defense that is or would  
14 be available to this state or its agencies, employees, or agents in  
15 any litigation or future litigation with a district or intermediate  
16 district.

17 (4) The amount paid each fiscal year to each district or  
18 intermediate district under subsection (1) shall be 1/20 of the  
19 total amount listed in section 11h for each listed district or  
20 intermediate district that qualifies for a payment under subsection  
21 (1). The amounts listed in section 11h and paid in part under this  
22 subsection and in a lump sum under subsection (2) are offers of  
23 settlement and compromise to each of these districts or  
24 intermediate districts to resolve, in their entirety, any claim or  
25 claims that these districts or intermediate districts may have  
26 asserted for violations of section 29 of article IX of the state  
27 constitution of 1963 through September 30, 1997, which claims are

1 or were similar to the claims asserted by the plaintiffs in the  
2 consolidated cases known as Durant v State of Michigan. This  
3 section, any other provision of this act, and section 353e of the  
4 management and budget act, 1984 PA 431, MCL 18.1353e, shall not be  
5 construed to constitute an admission of liability to the districts  
6 or intermediate districts listed in section 11h or a waiver of any  
7 defense that is or would have been available to the state or its  
8 agencies, employees, or agents in any litigation or future  
9 litigation with a district or intermediate district.

10 (5) The entire amount of each payment under subsection (1)  
11 each fiscal year shall be paid on November 15 of the applicable  
12 fiscal year or on the next business day following that date.

13 (6) Funds paid to a district or intermediate district under  
14 this section shall be used only for textbooks, electronic  
15 instructional material, software, technology, infrastructure or  
16 infrastructure improvements, school buses, school security,  
17 training for technology, **AN EARLY INTERVENING PROGRAM DESCRIBED IN**  
18 **SUBSECTION (8)**, or to pay debt service on voter-approved bonds  
19 issued by the district or intermediate district before the  
20 effective date of this section. For intermediate districts only,  
21 funds paid under this section may also be used for other  
22 nonrecurring instructional expenditures including, but not limited  
23 to, nonrecurring instructional expenditures for vocational  
24 education, or for debt service for acquisition of technology for  
25 academic support services. Funds received by an intermediate  
26 district under this section may be used for projects conducted for  
27 the benefit of its constituent districts at the discretion of the

1 intermediate board. To the extent payments under this section are  
2 used by a district or intermediate district to pay debt service on  
3 debt payable from millage revenues, and to the extent permitted by  
4 law, the district or intermediate district may make a corresponding  
5 reduction in the number of mills levied for that debt service.

6 (7) The resolution to be adopted and submitted by a district  
7 or intermediate district under this section and section 11g shall  
8 read as follows:

9 "Whereas, the board of \_\_\_\_\_ (name of district  
10 or intermediate district) desires to settle and compromise, in  
11 their entirety, any claim or claims that the district (or  
12 intermediate district) has or had for violations of section 29 of  
13 article IX of the state constitution of 1963, which claim or claims  
14 are or were similar to the claims asserted by the plaintiffs in the  
15 consolidated cases known as Durant v State of Michigan, Michigan  
16 supreme court docket no. 104458-104492.

17 Whereas, the district (or intermediate district) agrees to  
18 settle and compromise these claims for the consideration described  
19 in sections 11f and 11g of the state school aid act of 1979, 1979  
20 PA 94, MCL 388.1611f and 388.1611g, and in the amount specified for  
21 the district (or intermediate district) in section 11h of the state  
22 school aid act of 1979, 1979 PA 94, MCL 388.1611h.

23 Whereas, the board of \_\_\_\_\_ (name of district or  
24 intermediate district) is authorized to adopt this resolution.

25 Now, therefore, be it resolved as follows:

26 1. The board of \_\_\_\_\_ (name of district or  
27 intermediate district) waives any right or interest it may have in

1 any claim or potential claim through September 30, 1997 relating to  
2 the amount of funding the district or intermediate district is, or  
3 may have been, entitled to receive under the state school aid act  
4 of 1979, 1979 PA 94, MCL 388.1601 to 388.1772, or any other source  
5 of state funding, by reason of the application of section 29 of  
6 article IX of the state constitution of 1963, which claims or  
7 potential claims are or were similar to the claims asserted by the  
8 plaintiffs in the consolidated cases known as Durant v State of  
9 Michigan, Michigan supreme court docket no. 104458-104492.

10 2. The board of \_\_\_\_\_ (name of district or  
11 intermediate district) directs its secretary to submit a certified  
12 copy of this resolution to the state treasurer no later than 5 p.m.  
13 eastern standard time on March 2, 1998, and agrees that it will not  
14 take any action to amend or rescind this resolution.

15 3. The board of \_\_\_\_\_ (name of district or  
16 intermediate district) expressly agrees and understands that, if it  
17 takes any action to amend or rescind this resolution, the state,  
18 its agencies, employees, and agents shall have available to them  
19 any privilege, immunity, and/or defense that would otherwise have  
20 been available had the claims or potential claims been actually  
21 litigated in any forum.

22 4. This resolution is contingent on continued payments by the  
23 state each fiscal year as determined under sections 11f and 11g of  
24 the state school aid act of 1979, 1979 PA 94, MCL 388.1611f and  
25 388.1611g. However, this resolution shall be an irrevocable waiver  
26 of any claim to amounts actually received by the school district or  
27 intermediate school district under sections 11f and 11g of the

1 state school aid act of 1979."

2 (8) AN EARLY INTERVENING PROGRAM THAT USES FUNDS RECEIVED  
3 UNDER THIS SECTION SHALL MEET EITHER OR BOTH OF THE FOLLOWING:

4 (A) SHALL MONITOR INDIVIDUAL PUPIL LEARNING FOR PUPILS IN  
5 GRADES K TO 3 AND PROVIDE SPECIFIC SUPPORT OR LEARNING STRATEGIES  
6 TO PUPILS IN GRADES K TO 3 AS EARLY AS POSSIBLE IN ORDER TO REDUCE  
7 THE NEED FOR SPECIAL EDUCATION PLACEMENT. THE PROGRAM SHALL INCLUDE  
8 LITERACY AND NUMERACY SUPPORTS, SENSORY MOTOR SKILL DEVELOPMENT,  
9 BEHAVIOR SUPPORTS, INSTRUCTIONAL CONSULTATION FOR TEACHERS, AND THE  
10 DEVELOPMENT OF A PARENT/SCHOOL LEARNING PLAN.

11 (B) SHALL PROVIDE EARLY INTERVENING STRATEGIES FOR PUPILS IN  
12 GRADES K TO 3 USING SCHOOLWIDE SYSTEMS OF ACADEMIC AND BEHAVIORAL  
13 SUPPORTS AND SHALL BE SCIENTIFICALLY RESEARCH-BASED. THE STRATEGIES  
14 TO BE PROVIDED SHALL INCLUDE AT LEAST PUPIL PERFORMANCE INDICATORS  
15 BASED UPON RESPONSE TO INTERVENTION, INSTRUCTIONAL CONSULTATION FOR  
16 TEACHERS, AND ONGOING PROGRESS MONITORING.