

**SUBSTITUTE FOR
SENATE BILL NO. 197**

A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending sections 11, 11j, 11m, 22a, 22b, 26a, 31d, 31f, 51a,
51c, 53a, and 62 (MCL 388.1611, 388.1611j, 388.1611m, 388.1622a,
388.1622b, 388.1626a, 388.1631d, 388.1631f, 388.1651a, 388.1651c,
388.1653a, and 388.1662), as amended by 2011 PA 62.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (1) Subject to subsection (3), for the fiscal year
2 ending September 30, 2011, there is appropriated for the public
3 schools of this state and certain other state purposes relating to
4 education the sum of ~~\$10,757,260,500.00~~ **\$10,784,760,500.00** from the
5 state school aid fund and the sum of \$18,642,400.00 from the
6 general fund. For the fiscal year ending September 30, 2011, there

1 is also appropriated the remaining balance of the federal funding
2 awarded to this state under title XIV of the American recovery and
3 reinvestment act of 2009, Public Law 111-5, estimated at
4 \$184,256,600.00, to be used solely for the purpose of funding the
5 primary funding formula calculated under section 20, in accordance
6 with federal law. Subject to subsection (3), for the fiscal year
7 ending September 30, 2012, there is appropriated for the public
8 schools of this state and certain other state purposes relating to
9 education the sum of \$10,887,098,700.00 from the state school aid
10 fund and the sum of \$118,642,400.00 from the general fund. In
11 addition, all other available federal funds, except those otherwise
12 appropriated under section 11p, are appropriated for the fiscal
13 year ending September 30, 2011 and for the fiscal year ending
14 September 30, 2012.

15 (2) The appropriations under this section shall be allocated
16 as provided in this article. Money appropriated under this section
17 from the general fund shall be expended to fund the purposes of
18 this article before the expenditure of money appropriated under
19 this section from the state school aid fund.

20 (3) Any general fund allocations under this article that are
21 not expended by the end of the state fiscal year are transferred to
22 the school aid stabilization fund created under section 11a.

23 Sec. 11j. From the appropriation in section 11, there is
24 allocated **AN AMOUNT NOT TO EXCEED \$2,837,800.00 FOR 2010-2011 AND**
25 an amount not to exceed \$93,575,300.00 for 2011-2012 for payments
26 to the school loan bond redemption fund in the department of
27 treasury on behalf of districts and intermediate districts.

1 Notwithstanding section 11 or any other provision of this act,
2 funds allocated under this section are not subject to proration and
3 shall be paid in full.

4 Sec. 11m. From the appropriations in section 11, there is
5 allocated for 2010-2011 an amount not to exceed ~~\$15,000,000.00~~
6 **\$6,847,000.00** and there is allocated for 2011-2012 an amount not to
7 exceed \$20,000,000.00 for fiscal year cash-flow borrowing costs
8 solely related to the state school aid fund established by section
9 11 of article IX of the state constitution of 1963.

10 Sec. 22a. (1) From the appropriation in section 11, there is
11 allocated an amount not to exceed ~~\$5,737,000,000.00~~
12 **\$5,831,273,900.00** for 2010-2011 and an amount not to exceed
13 \$5,691,000,000.00 for 2011-2012 for payments to districts,
14 qualifying university schools, and qualifying public school
15 academies to guarantee each district, qualifying university school,
16 and qualifying public school academy an amount equal to its 1994-95
17 total state and local per pupil revenue for school operating
18 purposes under section 11 of article IX of the state constitution
19 of 1963. Pursuant to section 11 of article IX of the state
20 constitution of 1963, this guarantee does not apply to a district
21 in a year in which the district levies a millage rate for school
22 district operating purposes less than it levied in 1994. However,
23 subsection (2) applies to calculating the payments under this
24 section. Funds allocated under this section that are not expended
25 in the state fiscal year for which they were allocated, as
26 determined by the department, may be used to supplement the
27 allocations under sections 22b and 51c in order to fully fund those

1 calculated allocations for the same fiscal year.

2 (2) To ensure that a district receives an amount equal to the
3 district's 1994-95 total state and local per pupil revenue for
4 school operating purposes, there is allocated to each district a
5 state portion of the district's 1994-95 foundation allowance in an
6 amount calculated as follows:

7 (a) Except as otherwise provided in this subsection, the state
8 portion of a district's 1994-95 foundation allowance is an amount
9 equal to the district's 1994-95 foundation allowance or \$6,500.00,
10 whichever is less, minus the difference between the sum of the
11 product of the taxable value per membership pupil of all property
12 in the district that is nonexempt property times the district's
13 certified mills and, for a district with certified mills exceeding
14 12, the product of the taxable value per membership pupil of
15 property in the district that is commercial personal property times
16 the certified mills minus 12 mills and the quotient of the ad
17 valorem property tax revenue of the district captured under tax
18 increment financing acts divided by the district's membership. For
19 a district that has a millage reduction required under section 31
20 of article IX of the state constitution of 1963, the state portion
21 of the district's foundation allowance shall be calculated as if
22 that reduction did not occur.

23 (b) For a district that had a 1994-95 foundation allowance
24 greater than \$6,500.00, the state payment under this subsection
25 shall be the sum of the amount calculated under subdivision (a)
26 plus the amount calculated under this subdivision. The amount
27 calculated under this subdivision shall be equal to the difference

1 between the district's 1994-95 foundation allowance minus \$6,500.00
2 and the current year hold harmless school operating taxes per
3 pupil. If the result of the calculation under subdivision (a) is
4 negative, the negative amount shall be an offset against any state
5 payment calculated under this subdivision. If the result of a
6 calculation under this subdivision is negative, there shall not be
7 a state payment or a deduction under this subdivision. The taxable
8 values per membership pupil used in the calculations under this
9 subdivision are as adjusted by ad valorem property tax revenue
10 captured under tax increment financing acts divided by the
11 district's membership.

12 (3) Beginning in 2003-2004, for pupils in membership in a
13 qualifying public school academy or qualifying university school,
14 there is allocated under this section to the authorizing body that
15 is the fiscal agent for the qualifying public school academy for
16 forwarding to the qualifying public school academy, or to the board
17 of the public university operating the qualifying university
18 school, an amount equal to the 1994-95 per pupil payment to the
19 qualifying public school academy or qualifying university school
20 under section 20.

21 (4) A district, qualifying university school, or qualifying
22 public school academy may use funds allocated under this section in
23 conjunction with any federal funds for which the district,
24 qualifying university school, or qualifying public school academy
25 otherwise would be eligible.

26 (5) For a district that is formed or reconfigured after June
27 1, 2000 by consolidation of 2 or more districts or by annexation,

1 the resulting district's 1994-95 foundation allowance under this
2 section beginning after the effective date of the consolidation or
3 annexation shall be the average of the 1994-95 foundation
4 allowances of each of the original or affected districts,
5 calculated as provided in this section, weighted as to the
6 percentage of pupils in total membership in the resulting district
7 in the state fiscal year in which the consolidation takes place who
8 reside in the geographic area of each of the original districts. If
9 an affected district's 1994-95 foundation allowance is less than
10 the 1994-95 basic foundation allowance, the amount of that
11 district's 1994-95 foundation allowance shall be considered for the
12 purpose of calculations under this subsection to be equal to the
13 amount of the 1994-95 basic foundation allowance.

14 (6) As used in this section:

15 (a) "1994-95 foundation allowance" means a district's 1994-95
16 foundation allowance calculated and certified by the department of
17 treasury or the superintendent under former section 20a as enacted
18 in 1993 PA 336 and as amended by 1994 PA 283.

19 (b) "Certified mills" means the lesser of 18 mills or the
20 number of mills of school operating taxes levied by the district in
21 1993-94.

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

24 (d) "Current year hold harmless school operating taxes per
25 pupil" means the per pupil revenue generated by multiplying a
26 district's 1994-95 hold harmless millage by the district's current
27 year taxable value per membership pupil.

1 (e) "Hold harmless millage" means, for a district with a 1994-
2 95 foundation allowance greater than \$6,500.00, the number of mills
3 by which the exemption from the levy of school operating taxes on a
4 homestead, qualified agricultural property, qualified forest
5 property, supportive housing property, industrial personal
6 property, and commercial personal property could be reduced as
7 provided in section 1211 of the revised school code, MCL 380.1211,
8 and the number of mills of school operating taxes that could be
9 levied on all property as provided in section 1211(2) of the
10 revised school code, MCL 380.1211, as certified by the department
11 of treasury for the 1994 tax year.

12 (f) "Homestead", "qualified agricultural property", "qualified
13 forest property", "supportive housing property", "industrial
14 personal property", and "commercial personal property" mean those
15 terms as defined in section 1211 of the revised school code, MCL
16 380.1211.

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

20 (h) "Nonexempt property" means property that is not a
21 principal residence, qualified agricultural property, qualified
22 forest property, supportive housing property, industrial personal
23 property, or commercial personal property.

24 (i) "Qualifying public school academy" means a public school
25 academy that was in operation in the 1994-95 school year and is in
26 operation in the current state fiscal year.

27 (j) "Qualifying university school" means a university school

1 that was in operation in the 1994-95 school year and is in
2 operation in the current fiscal year.

3 (k) "School operating taxes" means local ad valorem property
4 taxes levied under section 1211 of the revised school code, MCL
5 380.1211, and retained for school operating purposes.

6 (l) "Tax increment financing acts" means 1975 PA 197, MCL
7 125.1651 to 125.1681, the tax increment finance authority act, 1980
8 PA 450, MCL 125.1801 to 125.1830, the local development financing
9 act, 1986 PA 281, MCL 125.2151 to 125.2174, the brownfield
10 redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672,
11 or the corridor improvement authority act, 2005 PA 280, MCL
12 125.2871 to 125.2899.

13 (m) "Taxable value per membership pupil" means each of the
14 following divided by the district's membership:

15 (i) For the number of mills by which the exemption from the
16 levy of school operating taxes on a homestead, qualified
17 agricultural property, qualified forest property, supportive
18 housing property, industrial personal property, and commercial
19 personal property may be reduced as provided in section 1211 of the
20 revised school code, MCL 380.1211, the taxable value of homestead,
21 qualified agricultural property, qualified forest property,
22 supportive housing property, industrial personal property, and
23 commercial personal property for the calendar year ending in the
24 current state fiscal year.

25 (ii) For the number of mills of school operating taxes that may
26 be levied on all property as provided in section 1211(2) of the
27 revised school code, MCL 380.1211, the taxable value of all

1 property for the calendar year ending in the current state fiscal
2 year.

3 Sec. 22b. (1) From the state funds appropriated in section 11,
4 there is allocated for 2010-2011 an amount not to exceed
5 ~~\$3,558,424,700.00~~ **\$3,551,097,700.00** and there is allocated for
6 2011-2012 an amount not to exceed \$3,032,300,000.00 for
7 discretionary nonmandated payments to districts under this section.
8 Funds allocated under this section that are not expended in the
9 state fiscal year for which they were allocated, as determined by
10 the department, may be used to supplement the allocations under
11 sections 22a and 51c in order to fully fund those calculated
12 allocations for the same fiscal year.

13 (2) In addition to the funds allocated in subsection (1),
14 there is allocated an amount estimated at \$184,256,600.00 for 2010-
15 2011 from the federal funds awarded to this state under title XIV
16 of the American recovery and reinvestment act of 2009, Public Law
17 111-5. These funds shall be distributed in a form and manner
18 determined by the department based on an equal dollar amount per
19 the number of membership pupils used to calculate the final state
20 aid payment of the immediately preceding fiscal year and shall be
21 expended in a manner prescribed by federal law.

22 (3) Subject to subsection (4) and section 11, the allocation
23 to a district under this section shall be an amount equal to the
24 sum of the amounts calculated under sections 20, 51a(2), 51a(3),
25 and 51a(12), minus the sum of the allocations to the district under
26 sections 22a and 51c.

27 (4) In order to receive an allocation under subsection (1),

1 each district shall do all of the following:

2 (a) Administer in each grade level that it operates in grades
3 1 to 5 a standardized assessment approved by the department of
4 grade-appropriate basic educational skills. A district may use the
5 Michigan literacy progress profile to satisfy this requirement for
6 grades 1 to 3. Also, if the revised school code is amended to
7 require annual assessments at additional grade levels, in order to
8 receive an allocation under this section each district shall comply
9 with that requirement.

10 (b) Comply with sections 1278a and 1278b of the revised school
11 code, MCL 380.1278a and 380.1278b.

12 (c) Furnish data and other information required by state and
13 federal law to the center and the department in the form and manner
14 specified by the center or the department, as applicable.

15 (d) Comply with section 1230g of the revised school code, MCL
16 380.1230g.

17 (5) Districts are encouraged to use funds allocated under this
18 section for the purchase and support of payroll, human resources,
19 and other business function software that is compatible with that
20 of the intermediate district in which the district is located and
21 with other districts located within that intermediate district.

22 (6) From the allocation in subsection (1), the department
23 shall pay up to \$1,000,000.00 in litigation costs incurred by this
24 state related to commercial or industrial property tax appeals,
25 including, but not limited to, appeals of classification, that
26 impact revenues dedicated to the state school aid fund.

27 (7) From the allocation in subsection (1), the department

1 shall pay up to \$1,000,000.00 in litigation costs incurred by this
2 state associated with lawsuits filed by 1 or more districts or
3 intermediate districts against this state. If the allocation under
4 this section is insufficient to fully fund all payments required
5 under this section, the payments under this subsection shall be
6 made in full before any proration of remaining payments under this
7 section.

8 (8) It is the intent of the legislature that all
9 constitutional obligations of this state have been fully funded
10 under sections 22a, 31d, 51a, 51c, and 152a. If a claim is made by
11 an entity receiving funds under this article that challenges the
12 legislative determination of the adequacy of this funding or
13 alleges that there exists an unfunded constitutional requirement,
14 the state budget director may escrow or allocate from the
15 discretionary funds for nonmandated payments under this section the
16 amount as may be necessary to satisfy the claim before making any
17 payments to districts under subsection (3). If funds are escrowed,
18 the escrowed funds are a work project appropriation and the funds
19 are carried forward into the following fiscal year. The purpose of
20 the work project is to provide for any payments that may be awarded
21 to districts as a result of litigation. The work project shall be
22 completed upon resolution of the litigation.

23 (9) If the local claims review board or a court of competent
24 jurisdiction makes a final determination that this state is in
25 violation of section 29 of article IX of the state constitution of
26 1963 regarding state payments to districts, the state budget
27 director shall use work project funds under subsection (8) or

1 allocate from the discretionary funds for nonmandated payments
2 under this section the amount as may be necessary to satisfy the
3 amount owed to districts before making any payments to districts
4 under subsection (3).

5 (10) If a claim is made in court that challenges the
6 legislative determination of the adequacy of funding for this
7 state's constitutional obligations or alleges that there exists an
8 unfunded constitutional requirement, any interested party may seek
9 an expedited review of the claim by the local claims review board.
10 If the claim exceeds \$10,000,000.00, this state may remove the
11 action to the court of appeals, and the court of appeals shall have
12 and shall exercise jurisdiction over the claim.

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

20 (12) If a lawsuit challenging payments made to districts
21 related to costs reimbursed by federal title XIX medicaid funds is
22 filed against this state, then, for the purpose of addressing
23 potential liability under such a lawsuit, the state budget director
24 may place funds allocated under this section in escrow or allocate
25 money from the funds otherwise allocated under this section, up to
26 a maximum of 50% of the amount allocated in subsection (1). If
27 funds are placed in escrow under this subsection, those funds are a

1 work project appropriation and the funds are carried forward into
2 the following fiscal year. The purpose of the work project is to
3 provide for any payments that may be awarded to districts as a
4 result of the litigation. The work project shall be completed upon
5 resolution of the litigation. In addition, this state reserves the
6 right to terminate future federal title XIX medicaid reimbursement
7 payments to districts if the amount or allocation of reimbursed
8 funds is challenged in the lawsuit. As used in this subsection,
9 "title XIX" means title XIX of the social security act, 42 USC 1396
10 to 1396v.

11 Sec. 26a. From the state school aid fund appropriation in
12 section 11, there is allocated **AN AMOUNT NOT TO EXCEED**
13 **\$22,932,000.00 FOR 2010-2011 AND** an amount not to exceed
14 \$26,300,000.00 for 2011-2012 to reimburse districts and
15 intermediate districts pursuant to section 12 of the Michigan
16 renaissance zone act, 1996 PA 376, MCL 125.2692, for taxes levied
17 in 2011. The allocations shall be made not later than 60 days after
18 the department of treasury certifies to the department and to the
19 state budget director that the department of treasury has received
20 all necessary information to properly determine the amounts due to
21 each eligible recipient.

22 Sec. 31d. (1) From the appropriations in section 11, there is
23 allocated **AN AMOUNT NOT TO EXCEED \$21,627,100.00 FOR 2010-2011 AND**
24 an amount not to exceed \$22,495,100.00 for 2011-2012 for the
25 purpose of making payments to districts and other eligible entities
26 under this section.

27 (2) The amounts allocated from state sources under this

1 section shall be used to pay the amount necessary to reimburse
2 districts for 6.0127% of the necessary costs of the state mandated
3 portion of the school lunch programs provided by those districts.
4 The amount due to each district under this section shall be
5 computed by the department using the methods of calculation adopted
6 by the Michigan supreme court in the consolidated cases known as
7 Durant v State of Michigan, Michigan supreme court docket no.
8 104458-104492.

9 (3) The payments made under this section include all state
10 payments made to districts so that each district receives at least
11 6.0127% of the necessary costs of operating the state mandated
12 portion of the school lunch program in a fiscal year.

13 (4) The payments made under this section to districts and
14 other eligible entities that are not required under section 1272a
15 of the revised school code, MCL 380.1272a, to provide a school
16 lunch program shall be in an amount not to exceed \$10.00 per
17 eligible pupil plus 5 cents for each free lunch and 2 cents for
18 each reduced price lunch provided, as determined by the department.

19 (5) From the federal funds appropriated in section 11, there
20 is allocated for 2011-2012 all available federal funding, estimated
21 at \$400,000,000.00, for the national school lunch program and all
22 available federal funding, estimated at \$2,506,000.00, for the
23 emergency food assistance program.

24 (6) Notwithstanding section 17b, payments to eligible entities
25 other than districts under this section shall be paid on a schedule
26 determined by the department.

27 (7) In purchasing food for a school lunch program funded under

1 this section, preference shall be given to food that is grown or
2 produced by Michigan businesses if it is competitively priced and
3 of comparable quality.

4 Sec. 31f. (1) From the appropriations in section 11, there is
5 allocated **AN AMOUNT NOT TO EXCEED \$3,800,000.00 FOR 2010-2011 AND**
6 an amount not to exceed \$9,625,000.00 for 2011-2012 for the purpose
7 of making payments to districts to reimburse for the cost of
8 providing breakfast.

9 (2) The funds allocated under this section for school
10 breakfast programs shall be made available to all eligible
11 applicant districts that meet all of the following criteria:

12 (a) The district participates in the federal school breakfast
13 program and meets all standards as prescribed by 7 CFR parts 220
14 and 245.

15 (b) Each breakfast eligible for payment meets the federal
16 standards described in subdivision (a).

17 (3) The payment for a district under this section is at a per
18 meal rate equal to the lesser of the district's actual cost or 100%
19 of the statewide average cost of a breakfast served, as determined
20 and approved by the department, less federal reimbursement,
21 participant payments, and other state reimbursement. The statewide
22 average cost shall be determined by the department using costs as
23 reported in a manner approved by the department for the preceding
24 school year.

25 (4) Notwithstanding section 17b, payments under this section
26 may be made pursuant to an agreement with the department.

27 (5) In purchasing food for a school breakfast program funded

1 under this section, preference shall be given to food that is grown
2 or produced by Michigan businesses if it is competitively priced
3 and of comparable quality.

4 Sec. 51a. (1) From the appropriation in section 11, there is
5 allocated for 2010-2011 an amount not to exceed ~~\$947,683,000.00~~
6 **\$909,087,100.00** and there is allocated for 2011-2012 an amount not
7 to exceed \$977,469,100.00 from state sources and all available
8 federal funding under sections 611 to 619 of part B of the
9 individuals with disabilities education act, 20 USC 1411 to 1419,
10 estimated at \$385,700,000.00 for 2010-2011, and estimated at
11 \$363,400,000.00 for 2011-2012, plus any carryover federal funds
12 from previous year appropriations. The allocations under this
13 subsection are for the purpose of reimbursing districts and
14 intermediate districts for special education programs, services,
15 and special education personnel as prescribed in article 3 of the
16 revised school code, MCL 380.1701 to 380.1766; net tuition payments
17 made by intermediate districts to the Michigan schools for the deaf
18 and blind; and special education programs and services for pupils
19 who are eligible for special education programs and services
20 according to statute or rule. For meeting the costs of special
21 education programs and services not reimbursed under this article,
22 a district or intermediate district may use money in general funds
23 or special education funds, not otherwise restricted, or
24 contributions from districts to intermediate districts, tuition
25 payments, gifts and contributions from individuals, or federal
26 funds that may be available for this purpose, as determined by the
27 intermediate district plan prepared pursuant to article 3 of the

1 revised school code, MCL 380.1701 to 380.1766. All federal funds
2 allocated under this section in excess of those allocated under
3 this section for 2002-2003 may be distributed in accordance with
4 the flexible funding provisions of the individuals with
5 disabilities education act, Public Law 108-446, including, but not
6 limited to, 34 CFR 300.206 and 300.208. Notwithstanding section
7 17b, payments of federal funds to districts, intermediate
8 districts, and other eligible entities under this section shall be
9 paid on a schedule determined by the department.

10 (2) From the funds allocated under subsection (1), there is
11 allocated each fiscal year the amount necessary, estimated at
12 ~~\$236,300,000.00~~ **\$233,199,100.00** for 2010-2011 and estimated at
13 \$245,500,000.00 for 2011-2012, for payments toward reimbursing
14 districts and intermediate districts for 28.6138% of total approved
15 costs of special education, excluding costs reimbursed under
16 section 53a, and 70.4165% of total approved costs of special
17 education transportation. Allocations under this subsection shall
18 be made as follows:

19 (a) The initial amount allocated to a district under this
20 subsection toward fulfilling the specified percentages shall be
21 calculated by multiplying the district's special education pupil
22 membership, excluding pupils described in subsection (12), times
23 the foundation allowance under section 20 of the pupil's district
24 of residence, not to exceed the basic foundation allowance under
25 section 20 for the current fiscal year, or, for a special education
26 pupil in membership in a district that is a public school academy
27 or university school, times an amount equal to the amount per

1 membership pupil calculated under section 20(6). For an
2 intermediate district, the amount allocated under this subdivision
3 toward fulfilling the specified percentages shall be an amount per
4 special education membership pupil, excluding pupils described in
5 subsection (12), and shall be calculated in the same manner as for
6 a district, using the foundation allowance under section 20 of the
7 pupil's district of residence, not to exceed the basic foundation
8 allowance under section 20 for the current fiscal year.

9 (b) After the allocations under subdivision (a), districts and
10 intermediate districts for which the payments calculated under
11 subdivision (a) do not fulfill the specified percentages shall be
12 paid the amount necessary to achieve the specified percentages for
13 the district or intermediate district.

14 (3) From the funds allocated under subsection (1), there is
15 allocated for 2010-2011 only the amount necessary, estimated at
16 ~~\$1,400,000.00~~ **\$1,734,000.00** for 2010-2011, to make payments to
17 districts and intermediate districts under this subsection. From
18 the funds allocated under subsection (1), there is allocated for
19 2011-2012 an amount not to exceed \$1,000,000.00 to make payments to
20 districts and intermediate districts under this subsection. If the
21 amount allocated to a district or intermediate district for a
22 fiscal year under subsection (2)(b) is less than the sum of the
23 amounts allocated to the district or intermediate district for
24 1996-97 under sections 52 and 58, there is allocated to the
25 district or intermediate district for the fiscal year an amount
26 equal to that difference, adjusted by applying the same proration
27 factor that was used in the distribution of funds under section 52

1 in 1996-97 as adjusted to the district's or intermediate district's
2 necessary costs of special education used in calculations for the
3 fiscal year. This adjustment is to reflect reductions in special
4 education program operations or services between 1996-97 and
5 subsequent fiscal years. Adjustments for reductions in special
6 education program operations or services shall be made in a manner
7 determined by the department and shall include adjustments for
8 program or service shifts.

9 (4) If the department determines that the sum of the amounts
10 allocated for a fiscal year to a district or intermediate district
11 under subsection (2)(a) and (b) is not sufficient to fulfill the
12 specified percentages in subsection (2), then the shortfall shall
13 be paid to the district or intermediate district during the fiscal
14 year beginning on the October 1 following the determination and
15 payments under subsection (3) shall be adjusted as necessary. If
16 the department determines that the sum of the amounts allocated for
17 a fiscal year to a district or intermediate district under
18 subsection (2)(a) and (b) exceeds the sum of the amount necessary
19 to fulfill the specified percentages in subsection (2), then the
20 department shall deduct the amount of the excess from the
21 district's or intermediate district's payments under this act for
22 the fiscal year beginning on the October 1 following the
23 determination and payments under subsection (3) shall be adjusted
24 as necessary. However, if the amount allocated under subsection
25 (2)(a) in itself exceeds the amount necessary to fulfill the
26 specified percentages in subsection (2), there shall be no
27 deduction under this subsection.

1 (5) State funds shall be allocated on a total approved cost
2 basis. Federal funds shall be allocated under applicable federal
3 requirements, except that an amount not to exceed \$3,500,000.00 may
4 be allocated by the department each fiscal year for 2010-2011 and
5 for 2011-2012 to districts, intermediate districts, or other
6 eligible entities on a competitive grant basis for programs,
7 equipment, and services that the department determines to be
8 designed to benefit or improve special education on a statewide
9 scale.

10 (6) From the amount allocated in subsection (1), there is
11 allocated **AN AMOUNT NOT TO EXCEED \$1,700,000.00 FOR 2010-2011 AND**
12 **an amount not to exceed \$2,200,000.00 for ~~2010-2011 and for 2011-~~**
13 **2012** to reimburse 100% of the net increase in necessary costs
14 incurred by a district or intermediate district in implementing the
15 revisions in the administrative rules for special education that
16 became effective on July 1, 1987. As used in this subsection, "net
17 increase in necessary costs" means the necessary additional costs
18 incurred solely because of new or revised requirements in the
19 administrative rules minus cost savings permitted in implementing
20 the revised rules. Net increase in necessary costs shall be
21 determined in a manner specified by the department.

22 (7) For purposes of sections 51a to 58, all of the following
23 apply:

24 (a) "Total approved costs of special education" shall be
25 determined in a manner specified by the department and may include
26 indirect costs, but shall not exceed 115% of approved direct costs
27 for section 52 and section 53a programs. The total approved costs

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

18 (b) Beginning with the 2004-2005 fiscal year, a district or
19 intermediate district that employed special education support
20 services staff to provide special education support services in
21 2003-2004 or in a subsequent fiscal year and that in a fiscal year
22 after 2003-2004 receives the same type of support services from
23 another district or intermediate district shall report the cost of
24 those support services for special education reimbursement purposes
25 under this article. This subdivision does not prohibit the transfer
26 of special education classroom teachers and special education
27 classroom aides if the pupils counted in membership associated with

1 those special education classroom teachers and special education
2 classroom aides are transferred and counted in membership in the
3 other district or intermediate district in conjunction with the
4 transfer of those teachers and aides.

5 (c) If the department determines before bookclosing for a
6 fiscal year that the amounts allocated for that fiscal year under
7 subsections (2), (3), (6), (8), and (12) and sections 53a, 54, and
8 56 will exceed expenditures for that fiscal year under subsections
9 (2), (3), (6), (8), and (12) and sections 53a, 54, and 56, then for
10 a district or intermediate district whose reimbursement for that
11 fiscal year would otherwise be affected by subdivision (b),
12 subdivision (b) does not apply to the calculation of the
13 reimbursement for that district or intermediate district and
14 reimbursement for that district or intermediate district shall be
15 calculated in the same manner as it was for 2003-2004. If the
16 amount of the excess allocations under subsections (2), (3), (6),
17 (8), and (12) and sections 53a, 54, and 56 is not sufficient to
18 fully fund the calculation of reimbursement to those districts and
19 intermediate districts under this subdivision, then the
20 calculations and resulting reimbursement under this subdivision
21 shall be prorated on an equal percentage basis.

22 (d) Reimbursement for ancillary and other related services, as
23 defined by R 340.1701c of the Michigan administrative code, shall
24 not be provided when those services are covered by and available
25 through private group health insurance carriers or federal
26 reimbursed program sources unless the department and district or
27 intermediate district agree otherwise and that agreement is

1 approved by the state budget director. Expenses, other than the
2 incidental expense of filing, shall not be borne by the parent. In
3 addition, the filing of claims shall not delay the education of a
4 pupil. A district or intermediate district shall be responsible for
5 payment of a deductible amount and for an advance payment required
6 until the time a claim is paid.

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

21 (8) From the allocation in subsection (1), there is allocated
22 for 2010-2011 only an amount not to exceed \$15,313,900.00 to
23 intermediate districts. The payment under this subsection to each
24 intermediate district shall be equal to the amount of the 1996-97
25 allocation to the intermediate district under subsection (6) of
26 this section as in effect for 1996-97.

27 (9) A pupil who is enrolled in a full-time special education

1 program conducted or administered by an intermediate district or a
2 pupil who is enrolled in the Michigan schools for the deaf and
3 blind shall not be included in the membership count of a district,
4 but shall be counted in membership in the intermediate district of
5 residence.

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

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

17 (12) From the funds allocated in subsection (1), there is
18 allocated each fiscal year the amount necessary, estimated at
19 \$5,000,000.00 for 2010-2011, and estimated at \$6,800,000.00 for
20 2011-2012, to pay the foundation allowances for pupils described in
21 this subsection. The allocation to a district under this subsection
22 shall be calculated by multiplying the number of pupils described
23 in this subsection who are counted in membership in the district
24 times the foundation allowance under section 20 of the pupil's
25 district of residence, not to exceed the basic foundation allowance
26 under section 20 for the current fiscal year, or, for a pupil
27 described in this subsection who is counted in membership in a

1 district that is a public school academy or university school,
2 times an amount equal to the amount per membership pupil under
3 section 20(6). The allocation to an intermediate district under
4 this subsection shall be calculated in the same manner as for a
5 district, using the foundation allowance under section 20 of the
6 pupil's district of residence, not to exceed the basic foundation
7 allowance under section 20 for the current fiscal year. This
8 subsection applies to all of the following pupils:

9 (a) Pupils described in section 53a.

10 (b) Pupils counted in membership in an intermediate district
11 who are not special education pupils and are served by the
12 intermediate district in a juvenile detention or child caring
13 facility.

14 (c) Pupils with an emotional impairment counted in membership
15 by an intermediate district and provided educational services by
16 the department of community health.

17 (13) If it is determined that funds allocated under subsection
18 (2) or (12) or under section 51c will not be expended, funds up to
19 the amount necessary and available may be used to supplement the
20 allocations under subsection (2) or (12) or under section 51c in
21 order to fully fund those allocations. After payments under
22 subsections (2) and (12) and section 51c, the remaining
23 expenditures from the allocation in subsection (1) shall be made in
24 the following order:

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

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

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

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

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

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

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

8 (15) If a public school academy enrolls pursuant to this
9 section a pupil who resides outside of the intermediate district in
10 which the public school academy is located and who is eligible for
11 special education programs and services according to statute or
12 rule, or who is a child with disabilities, as defined under the
13 individuals with disabilities education act, Public Law 108-446,
14 the provision of special education programs and services and the
15 payment of the added costs of special education programs and
16 services for the pupil are the responsibility of the district and
17 intermediate district in which the pupil resides unless the
18 enrolling district or intermediate district has a written agreement
19 with the district or intermediate district in which the pupil
20 resides or the public school academy for the purpose of providing
21 the pupil with a free appropriate public education and the written
22 agreement includes at least an agreement on the responsibility for
23 the payment of the added costs of special education programs and
24 services for the pupil.

25 Sec. 51c. As required by the court in the consolidated cases
26 known as Durant v State of Michigan, Michigan supreme court docket
27 no. 104458-104492, from the allocation under section 51a(1), there

1 is allocated each fiscal year for 2010-2011 and for 2011-2012 the
2 amount necessary, estimated at ~~\$635,400,000.00~~ **\$601,271,000.00** for
3 2010-2011 and estimated at \$669,900,000.00 for 2011-2012, for
4 payments to reimburse districts for 28.6138% of total approved
5 costs of special education excluding costs reimbursed under section
6 53a, and 70.4165% of total approved costs of special education
7 transportation. Funds allocated under this section that are not
8 expended in the state fiscal year for which they were allocated, as
9 determined by the department, may be used to supplement the
10 allocations under sections 22a and 22b in order to fully fund those
11 calculated allocations for the same fiscal year.

12 Sec. 53a. (1) For districts, reimbursement for pupils
13 described in subsection (2) shall be 100% of the total approved
14 costs of operating special education programs and services approved
15 by the department and included in the intermediate district plan
16 adopted pursuant to article 3 of the revised school code, MCL
17 380.1701 to 380.1766, minus the district's foundation allowance
18 calculated under section 20. For intermediate districts,
19 reimbursement for pupils described in subsection (2) shall be
20 calculated in the same manner as for a district, using the
21 foundation allowance under section 20 of the pupil's district of
22 residence, not to exceed the basic foundation allowance under
23 section 20 for the current fiscal year.

24 (2) Reimbursement under subsection (1) is for the following
25 special education pupils:

26 (a) Pupils assigned to a district or intermediate district
27 through the community placement program of the courts or a state

1 agency, if the pupil was a resident of another intermediate
2 district at the time the pupil came under the jurisdiction of the
3 court or a state agency.

4 (b) Pupils who are residents of institutions operated by the
5 department of community health.

6 (c) Pupils who are former residents of department of community
7 health institutions for the developmentally disabled who are placed
8 in community settings other than the pupil's home.

9 (d) Pupils enrolled in a department-approved on-grounds
10 educational program longer than 180 days, but not longer than 233
11 days, at a residential child care institution, if the child care
12 institution offered in 1991-92 an on-grounds educational program
13 longer than 180 days but not longer than 233 days.

14 (e) Pupils placed in a district by a parent for the purpose of
15 seeking a suitable home, if the parent does not reside in the same
16 intermediate district as the district in which the pupil is placed.

17 (3) Only those costs that are clearly and directly
18 attributable to educational programs for pupils described in
19 subsection (2), and that would not have been incurred if the pupils
20 were not being educated in a district or intermediate district, are
21 reimbursable under this section.

22 (4) The costs of transportation shall be funded under this
23 section and shall not be reimbursed under section 58.

24 (5) Not more than **\$12,300,000.00 OF THE ALLOCATION FOR 2010-**
25 **2011 AND NOT MORE THAN** \$13,500,000.00 of the allocation for 2011-
26 2012 in section 51a(1) shall be allocated under this section.

27 Sec. 62. (1) For the purposes of this section:

1 (a) "Membership" means for a particular fiscal year the total
2 membership for the immediately preceding fiscal year of the
3 intermediate district and the districts constituent to the
4 intermediate district or the total membership for the immediately
5 preceding fiscal year of the area vocational-technical program.

6 (b) "Millage levied" means the millage levied for area
7 vocational-technical education pursuant to sections 681 to 690 of
8 the revised school code, MCL 380.681 to 380.690, including a levy
9 for debt service obligations incurred as the result of borrowing
10 for capital outlay projects and in meeting capital projects fund
11 requirements of area vocational-technical education.

12 (c) "Taxable value" means the total taxable value of the
13 districts constituent to an intermediate district or area
14 vocational-technical education program, except that if a district
15 has elected not to come under sections 681 to 690 of the revised
16 school code, MCL 380.681 to 380.690, the membership and taxable
17 value of that district shall not be included in the membership and
18 taxable value of the intermediate district. However, the membership
19 and taxable value of a district that has elected not to come under
20 sections 681 to 690 of the revised school code, MCL 380.681 to
21 380.690, shall be included in the membership and taxable value of
22 the intermediate district if the district meets both of the
23 following:

24 (i) The district operates the area vocational-technical
25 education program pursuant to a contract with the intermediate
26 district.

27 (ii) The district contributes an annual amount to the operation

1 of the program that is commensurate with the revenue that would
2 have been raised for operation of the program if millage were
3 levied in the district for the program under sections 681 to 690 of
4 the revised school code, MCL 380.681 to 380.690.

5 (2) From the appropriation in section 11, there is allocated
6 an amount not to exceed **\$8,693,000.00 FOR 2010-2011 AND AN AMOUNT**
7 **NOT TO EXCEED** \$9,000,000.00 ~~each fiscal year~~ for 2011-2012 to
8 reimburse intermediate districts and area vocational-technical
9 education programs established under section 690(3) of the revised
10 school code, MCL 380.690, levying millages for area vocational-
11 technical education pursuant to sections 681 to 690 of the revised
12 school code, MCL 380.681 to 380.690. The purpose, use, and
13 expenditure of the reimbursement shall be limited as if the funds
14 were generated by those millages.

15 (3) Reimbursement for the millages levied in 2010-2011 shall
16 be made in 2011-2012 at an amount per 2010-2011 membership pupil
17 computed by subtracting from \$190,400.00 the 2010-2011 taxable
18 value behind each membership pupil and multiplying the resulting
19 difference by the 2010-2011 millage levied.

20 Enacting section 1. In accordance with section 30 of article
21 IX of the state constitution of 1963, total state spending on
22 school aid under article I of the state school aid act of 1979,
23 1979 PA 94, MCL 388.1601 to 388.1772, in this amendatory act, in
24 2010 PA 110, in 2010 PA 204, in 2010 PA 205, in 2010 PA 217, and in
25 2011 PA 62 from state sources for fiscal year 2010-2011 is
26 estimated at \$10,803,402,900.00 and state appropriations to be paid
27 to local units of government for fiscal year 2010-2011 are

1 estimated at \$10,701,332,600.00.

2 Enacting section 2. This amendatory act does not take effect
3 unless House Bill No. 4445 of the 96th Legislature is enacted into
4 law.