

Act No. 180
Public Acts of 1996
Approved by the Governor
April 19, 1996
Filed with the Secretary of State
April 19, 1996

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Rep. Oxender

Reps. Alley, Baade, Bennane, Bodem, Brackenridge, Bullard, Bush, Byl, Cropsey, Curtis, Dalman, DeLange, DeMars, Dobb, Dolan, Freeman, Geiger, Gernaat, Gire, Gnodtke, Goschka, Green, Hammerstrom, Harder, Hill, Jellema, Jersevic, Kelly, Kukuk, LeTarte, London, Lowe, McBryde, McManus, McNutt, Middaugh, Nye, Owen, Palamara, Perricone, Profit, Randall, Rhead, Rocca, Scott, Sikkema, Tesanovich, Vaughn, Voorhees, Walberg and Wetters named co-sponsors

ENROLLED HOUSE BILL No. 4083

AN ACT to amend sections 3, 6, 11, 15, 20, 20d, 31a, 51, 53, 101, and 147 of Act No. 94 of the Public Acts of 1979, entitled as amended "An act to make appropriations to aid in the support of the public schools and the intermediate school districts of the state; to make appropriations for certain other purposes relating to education; to provide for the disbursement of the appropriations; to supplement the school aid fund by the levy and collection of certain taxes; to prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to prescribe penalties; and to repeal certain acts and parts of acts," as amended by Act No. 130 of the Public Acts of 1995, being sections 388.1603, 388.1606, 388.1611, 388.1615, 388.1620, 388.1620d, 388.1631a, 388.1651, 388.1653, 388.1701, and 388.1747 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 3, 6, 11, 15, 20, 20d, 31a, 51, 53, 101, and 147 of Act No. 94 of the Public Acts of 1979, as amended by Act No. 130 of the Public Acts of 1995, being sections 388.1603, 388.1606, 388.1611, 388.1615, 388.1620, 388.1620d, 388.1631a, 388.1651, 388.1653, 388.1701, and 388.1747 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 3. (1) "Average daily attendance", for the purposes of complying with federal law, means 92% of the membership as defined in section 6(4).

(2) "Board" means the governing body of a district or public school academy.

(3) "Cooperative education program" means a written voluntary agreement between and among districts to provide certain educational programs for pupils in certain groups of districts. The written agreement shall be approved by all affected districts at least annually and shall specify the educational programs to be provided and the estimated number of pupils from each district who will participate in the educational programs.

(4) "Department" means the department of education.

(5) "District" means a local school district established under the revised school code, a local act school district, or, except in sections 6(4), 6(6), 13, 20, 31a, 163(1)(c), and 163(1)(d), a public school academy. Except in sections 6(4), 6(6), 13, 20, 163(1)(c), and 163(1)(d) district also includes a university school.

(6) "District of residence", except as otherwise provided in this subsection, means the district in which a pupil's custodial parent or parents or legal guardian resides. However, for a pupil described in section 6(4)(f) or (g), the pupil's

district of residence shall be considered to be the district or intermediate district in which the pupil is counted in membership under that section.

(7) "District superintendent" means the superintendent of a district, the chief administrator of a public school academy, or the chief administrator of a university school.

Sec. 6. (1) "Center program" means a program operated by a district or intermediate district for special education pupils from several districts in programs for the autistically impaired, trainable mentally impaired, severely mentally impaired, severely multiply impaired, hearing impaired, physically and otherwise health impaired, and visually impaired. Programs for emotionally impaired pupils housed in buildings that do not serve regular education pupils shall also qualify. Unless otherwise approved by the department, a center program either shall serve all constituent districts within an intermediate district or shall serve several districts with less than 50% of the pupils residing in the operating district. In addition, special education center program pupils placed part-time in noncenter programs to comply with the least restrictive environment provisions of section 612 of part B of the individuals with disabilities education act, title VI of Public Law 91-230, 20 U.S.C. 1412, may be considered center program pupils for pupil accounting purposes for the time scheduled in either a center program or a noncenter program.

(2) "District pupil retention rate" means the proportion of pupils who have not dropped out of school in the immediately preceding school year and is equal to 1 minus the quotient of the number of pupils unaccounted for in the immediately preceding school year, as determined pursuant to subsection (3), divided by the pupils of the immediately preceding school year.

(3) "District pupil retention report" means a report of the number of pupils, excluding migrant and adult, in the district for the immediately preceding school year, adjusted for those pupils who have transferred into the district, transferred out of the district, transferred to alternative programs, and have graduated, to determine the number of pupils who are unaccounted for. The number of pupils unaccounted for shall be calculated as determined by the department.

(4) "Membership", except as otherwise provided in this act, means the average number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance in a district, public school academy, university school, or intermediate district on the pupil membership count day for the current school year and on the supplemental count day for the immediately preceding school year, as determined by the department and calculated by adding the number of pupils registered for attendance plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the state board, and as corrected by a subsequent department audit, plus the final audited count from the supplemental count day for the immediately preceding school year, and dividing that sum by 2. The amount of the foundation allowance to be paid on behalf of a pupil in membership is determined under section 20. In making the calculation of membership, all of the following, as applicable, apply to determining the membership of a district, public school academy, university school, or intermediate district:

(a) Except as otherwise provided in this subsection, a pupil shall be counted in membership in the pupil's district of residence.

(b) A pupil educated as part of a cooperative education program, or enrolled in a grade not offered by the pupil's district of residence, in a district other than the pupil's district of residence shall be counted in membership in the pupil's district of residence, but the responsibility for reporting the pupil's attendance is as follows:

(i) If the pupil is educated in the district that is not the pupil's district of residence for 1/2 time or less, the pupil's district of residence shall report the pupil's attendance to the department as part of reporting the district's membership count.

(ii) If the pupil is educated in the district that is not the pupil's district of residence for more than 1/2 time, that other district shall report the pupil's attendance to the department.

(c) If a pupil is educated in a district other than the pupil's district of residence with the approval of the pupil's district of residence and not as part of a cooperative education program and not in a grade not offered by the pupil's district of residence, the pupil shall be counted in membership in the educating district.

(d) If a pupil is educated in a district other than the pupil's district of residence and not as part of a cooperative education program, if the pupil's district of residence does not give the educating district its approval to count the pupil in membership in the educating district, and if the pupil is not covered by an exception specified in subsection (6) to the requirement that the educating district must have the approval of the pupil's district of residence to count the pupil in membership, the pupil shall not be counted in membership in any district.

(e) A special education pupil educated by the intermediate district shall be counted in membership in the intermediate district. A special education pupil who is educated in a center program operated by a district and who is not required to be counted in membership in an intermediate district shall be counted in membership in the educating district.

(f) A pupil placed by a court or state agency in an on-grounds program of a juvenile detention facility, a child caring institution, or a mental health institution, or a pupil funded under section 53, shall be counted in membership in the district or intermediate district approved by the department to operate the program.

(g) A pupil under court jurisdiction who is placed outside the district of residence in which the pupil's parents or legal guardian resides shall be counted in membership in the educating district.

(h) A pupil enrolled in the Michigan school for the blind or the Michigan school for the deaf shall be counted in membership in the pupil's intermediate district of residence.

(i) A pupil enrolled in a university school shall be counted in membership in the university school.

(j) If a pupil is enrolled in a district other than the pupil's district of residence under section 91a or under an intermediate district schools of choice pilot program under former section 91, the pupil shall be counted in membership in the educating district.

(k) If a pupil is enrolled in a district other than the pupil's district of residence but within the same intermediate district and if at least 50% of the constituent districts of the intermediate district continue to participate in an intermediate district schools of choice pilot program under former section 91, the pupil shall be counted in the educating district.

(l) A pupil enrolled in a public school academy shall be counted in membership in the public school academy. However, the membership of a public school academy shall be determined as follows:

(i) For a public school academy beginning operations before the 1995-96 pupil membership count day, membership is the average number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the pupil membership count day for the current school year and on the supplemental count day for the current school year, as determined by the department and calculated by adding the number of pupils registered for attendance on the pupil membership count day plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the state board, and as corrected by a subsequent department audit, plus the final audited count from the supplemental count day for the current school year, and dividing that sum by 2.

(ii) For a public school academy beginning operations in 1995-96 after the pupil membership count day and not later than the supplemental count day, membership is the final audited count of the number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the supplemental count day for the current school year.

(iii) For a public school academy that received funds under section 23 in 1994-95, membership is the average of the final audited count of the number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the pupil membership count day for the current school year and the number of full-time equated pupils used to calculate payments under section 23 in 1994-95.

(m) If a district is the authorizing body for a public school academy, then, in the first school year in which pupils are counted in membership on the pupil membership count day in the public school academy, the determination of the district's membership shall exclude from the district's pupil count for the immediately preceding supplemental count day any pupils who are counted in the public school academy on that first pupil membership count day who were also counted in the district on the immediately preceding supplemental count day.

(n) In a district, public school academy, university school, or intermediate district operating an extended school year program approved by the state board, a pupil enrolled, but not scheduled to be in regular daily attendance on a pupil membership count day, shall be counted.

(o) Pupils to be counted in membership shall be not less than 5 years of age on December 1 and less than 20 years of age on September 1 of the school year except a special education pupil who is enrolled and receiving instruction in a special education program approved by the department and not having a high school diploma who is less than 26 years of age as of September 1 of the current school year shall be counted in membership.

(p) An individual who has obtained a high school diploma shall not be counted in membership. An individual who has obtained a general education development (G.E.D.) certificate shall not be counted in membership. An individual participating in a job training program funded under former section 107a or a jobs program funded under former section 107b, both administered by the Michigan jobs commission, or participating in any successor of either of those 2 programs, shall not be counted in membership.

(q) If a pupil counted in membership in a public school academy is also educated by a district or intermediate district as part of a cooperative education program, the pupil shall be counted in membership only in the public school academy, and the instructional time scheduled for the pupil in the district or intermediate district shall be included in the full-time equated membership determination under subdivision (t). However, for pupils receiving instruction in both a public school academy and in a district or intermediate district but not as a part of a cooperative education program, the respective pro rata shares of the membership shall be claimed by the academy and the district or districts providing the instruction.

(r) An individual less than 16 years of age as of September 1 of the current school year who is being educated in an alternative education program shall not be counted in membership if there are also adult education participants being educated in the same program or classroom.

(s) The department shall give a uniform interpretation of full-time and part-time memberships.

(t) For the purposes of this subsection, full-time equated memberships for pupils in grades 1 to 12 shall be determined by dividing the number of class hours scheduled and provided per year per pupil by 900 for 1994-95, 990 for 1995-96 and 1996-97, 1,035 for 1997-98 and 1998-99, and 1,080 for 1999-2000 and succeeding fiscal years. In determining full-time equated memberships for pupils who are enrolled in a postsecondary institution under section 21b or the postsecondary enrollment options act, a pupil shall not be considered to be less than a full-time equated pupil solely because of the effect of his or her postsecondary enrollment, including necessary travel time, on the number of class hours provided by the district to the pupil.

(u) Beginning in 1995-96, full-time equated memberships for pupils in kindergarten shall be determined by dividing the number of class hours scheduled and provided per year per kindergarten pupil by a number equal to 1/2 the number used for determining full-time equated memberships for pupils in grades 1 to 12.

(v) For a district that has qualified currently migrant pupils enrolled in the district as of the pupil membership count day who were not counted in membership in the district on the supplemental count day for the immediately preceding school year, as determined by the department using the criteria used for eligibility for the migrant education program under the Hawkins-Stafford elementary and secondary school improvement amendments of 1988, Public Law 100-297, 102 Stat. 130, the number of those pupils counted in the district's membership is 3/4 of the number of those pupils counted on the pupil membership count day only.

(5) "Public school academy" means a public school academy operating under part 6a or 6b of the revised school code, being sections 380.501 to 380.507 and 380.511 to 380.518 of the Michigan Compiled Laws.

(6) "Pupil" means a person in membership in a public school. A district must have the approval of the pupil's district of residence to count the pupil in membership, except approval by the pupil's district of residence shall not be required for nonpublic part-time pupils, for pupils receiving 1/2 or less of their instruction in a district other than their district of residence, for pupils enrolled in a university school, for pupils enrolled in a district other than their district of residence under an intermediate district schools of choice pilot program as described in section 91a or former section 91, for pupils enrolled in a district other than their district of residence but within the same intermediate district if at least 50% of the constituent districts of the intermediate district continue to participate in an intermediate district schools of choice pilot program under former section 91, or for those pupils who were enrolled and in regular daily attendance and remain enrolled and in regular daily attendance in the district other than their district of residence before April 1, 1981.

(7) "Pupil membership count day" of a district or intermediate district means:

(a) Except as provided in subdivision (b), the following days:

(i) For the 1995-96 school year, the first Friday in October.

(ii) Beginning with the 1996-97 school year, the fourth Friday in September each school year.

(b) For a district or intermediate district maintaining school during the entire school year, the following days:

(i) Fourth Friday in July.

(ii) Fourth Friday in October.

(iii) Fourth Friday in January.

(iv) Fourth Friday in April.

(8) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(9) "The school code of 1976" or "the revised school code" means Act No. 451 of the Public Acts of 1976, being sections 380.1 to 380.1852 of the Michigan Compiled Laws.

(10) "School fiscal year" means a fiscal year which commences July 1 and continues through June 30.

(11) "State board" means the state board of education.

(12) "Supplemental count day" means the day on which the supplemental pupil count is conducted under section 6a.

(13) "Tuition pupil" means a pupil of school age attending school in a district other than the pupil's district of residence for whom tuition may be charged. Tuition pupil does not include a pupil who is a special education pupil; a pupil enrolled in a district other than the pupil's district of residence but within the same intermediate district if at least 50% of the constituent districts of the intermediate district continue to participate in an intermediate district schools of choice pilot program under former section 91; or a pupil served by an intermediate district schools of choice pilot program as described in section 91a or former section 91. A pupil's district of residence shall not require a high school

tuition pupil, as provided under section 111, to attend another school district after the pupil has been assigned to a school district.

(14) "State school aid fund" means the state school aid fund established in section 11 of article IX of the state constitution of 1963.

(15) "Taxable value" means the taxable value of property as determined under section 27a of the general property tax act, Act No. 206 of the Public Acts of 1893, being section 211.27a of the Michigan Compiled Laws.

(16) "Total state aid" or "total state school aid" means the total combined amount of all funds due to a district, intermediate district, or other entity under all of the provisions of this act.

(17) "University school" means an instructional program operated by a public university under section 23 that meets the requirements of section 23.

Sec. 11. (1) There is appropriated for the public schools of this state and certain other state purposes relating to education from the state school aid fund established by section 11 of article IX of the state constitution of 1963 the sum of \$7,618,289,000.00, and from the general fund the sum of \$587,052,000.00, for the fiscal year ending September 30, 1996. In addition, available federal funds are appropriated. Also, if the 88th Legislature enacts legislation that provides for the resolution of claims against the uninsured employers' security fund that were outstanding as of December 29, 1994, an additional \$26,000,000.00 is appropriated from the workplace health and safety fund to the state school aid fund, and that \$26,000,000.00 is then appropriated from the state school aid fund to be used for the purposes of this act.

(2) In addition to the appropriations under subsection (1), for the fiscal year ending September 30, 1996 there is appropriated \$174,500,000.00 from the reserve for health benefits for the purposes of this act.

(3) The appropriations under this section shall be allocated as provided in this act. Money appropriated under this section from the general fund, from the reserve for health benefits, and from available federal funds shall be expended to fund the purposes of this act before the expenditure of money appropriated under this section from the state school aid fund. If the maximum amount appropriated under this section from the state school aid fund for a fiscal year exceeds the amount necessary to fully fund allocations under this act from the state school aid fund, that excess amount shall not be expended in that state fiscal year and shall not lapse to the general fund, but instead shall remain in a separate account in the state school aid fund to be used to augment funding under this act in a succeeding fiscal year in which the maximum amount appropriated under this section is not sufficient to fully fund allocations under this act from the state school aid fund.

(4) If the maximum amount appropriated under this section from the state school aid fund for a fiscal year exceeds the amount available for expenditure from the state school aid fund for that fiscal year, payments under each section of this act shall be prorated on an equal percentage basis as necessary to reflect the amount available for expenditure from the state school aid fund for that fiscal year.

Sec. 15. (1) If a district or intermediate district fails to receive its proper apportionment, the department, upon satisfactory proof that the district or intermediate district was entitled justly, shall apportion the deficiency in the remaining apportionments. Subject to subsections (2) and (3), if a district or intermediate district has received more than its proper apportionment, the department, upon satisfactory proof, shall deduct the excess in the remaining apportionments, except that a deduction due to an adjustment in the taxable value of a district or intermediate district shall be made in the apportionment for the fiscal year following the fiscal year in which the valuation is finalized. Notwithstanding any other provision in this act, state aid overpayments to a district, other than overpayments in payments for special education or special education transportation, may be recovered from any payment made under this act other than a special education or special education transportation payment. State aid overpayments made in special education or special education transportation payments may be recovered from subsequent special education or special education transportation payments.

(2) If the result of an audit conducted by or for the department affects the current fiscal year membership, affected payments shall be adjusted in the current fiscal year. A deduction due to an adjustment made as a result of an audit conducted by or for the department, or as a result of information obtained by the department from the district, an intermediate district, the department of treasury, or the office of auditor general, shall be deducted from the district's apportionments within the next fiscal year after the fiscal year in which the adjustment is finalized. At the request of the district and upon the district presenting evidence satisfactory to the department of the hardship, the department may grant up to an additional 4 years for the adjustment if the district would otherwise experience a significant hardship.

(3) If, because of the receipt of new or updated data, the department determines during a fiscal year that the amount paid to a district or intermediate district under this act for a prior fiscal year was incorrect under the law in effect for that year, the department may make the appropriate deduction or payment in the district's or intermediate district's allocation for the fiscal year in which the determination is made. The deduction or payment shall be calculated according to the law in effect in the fiscal year in which the improper amount was paid.

(4) Expenditures made by the department under this act that are caused by the write-off of prior year accruals may be funded by revenue from the write-off of prior year accruals.

Sec. 20. (1) From the appropriation in section 11, there is allocated for 1995-96 an amount not to exceed \$7,563,880,500.00 to guarantee each district a foundation allowance per membership pupil and to make payments under this section to public school academies and university schools. The amount of each district's foundation allowance shall be calculated as provided in this section, using a basic foundation allowance for 1995-96 in the amount of \$5,000.00, as adjusted by the index under subsection (2). If the maximum amount allocated under this section is not sufficient to fully fund payments under this section, and before any proration required under section 11, the amount of the payment to each district, university school, and public school academy shall be prorated by reducing by an equal percentage the total payment under this section to each district, university school, and public school academy.

(2) For 1995-96 and each succeeding fiscal year, the basic foundation allowance shall be determined by multiplying the amount of the basic foundation allowance for the immediately preceding state fiscal year by the index calculated under this subsection. This result is the amount of the basic foundation allowance per membership pupil for the current state fiscal year. The index to be used shall be determined, using the procedures described in subsection (5), as follows:

(a) The numerator of the fraction to be used in calculating the index is the total state school aid fund revenue for the current state fiscal year, adjusted for any change in the rate or base of a tax the proceeds of which are deposited in that fund. Beginning with the calculation of the index for 1996-97, the numerator of the fraction to be used in calculating the index is the average annual total state school aid fund revenue over the current and the immediately preceding state fiscal years, adjusted for any change in the rate or base of a tax the proceeds of which are deposited in that fund.

(b) The denominator of the fraction to be used in calculating the index is the total state school aid fund revenue for the immediately preceding state fiscal year, adjusted for any change in the rate or base of a tax the proceeds of which are deposited in that fund. Beginning with the calculation of the index for 1996-97, the denominator of the fraction to be used in calculating the index is the average annual total state school aid fund revenue over the 2 immediately preceding state fiscal years, adjusted for any change in the rate or base of a tax the proceeds of which are deposited in that fund.

(c) The resulting revenue adjustment factor derived under subdivisions (a) and (b) shall then be adjusted by a pupil membership adjustment factor. The pupil membership adjustment factor shall be computed by dividing the membership for the school year ending in the immediately preceding state fiscal year, excluding intermediate district membership, by the membership for the school year ending in the current state fiscal year, excluding intermediate district membership. This pupil adjustment factor shall be multiplied by the fraction derived under subdivisions (a) and (b) to determine the index.

(3) Beginning in the 1995-96 state fiscal year, except as otherwise provided in this section, the amount of a district's foundation allowance shall be calculated as follows, using in all calculations the total amount of the district's foundation allowance as calculated before any proration:

(a) For a district that in the immediately preceding state fiscal year had a foundation allowance at least equal to the sum of \$4,200.00 plus the total dollar amount of all adjustments made from 1994-95 to the immediately preceding state fiscal year in the lowest foundation allowance among all districts pursuant to the index under subsection (2), but less than the basic foundation allowance in the immediately preceding state fiscal year, the district shall receive a foundation allowance in an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the difference between twice the dollar amount of the adjustment from the immediately preceding state fiscal year to the current state fiscal year made in the basic foundation allowance pursuant to the index under subsection (2) and [(the dollar amount of the adjustment from the immediately preceding state fiscal year to the current state fiscal year made in the basic foundation allowance pursuant to the index under subsection (2) minus \$50.00) times (the difference between the district's foundation allowance for the immediately preceding state fiscal year and the sum of \$4,200.00 plus the total dollar amount of all adjustments made from 1994-95 to the immediately preceding state fiscal year in the lowest foundation allowance among all districts pursuant to the index under subsection (2))] divided by the difference between the basic foundation allowance for the current state fiscal year and the sum of \$4,200.00 plus the total dollar amount of all adjustments made from 1994-95 to the immediately preceding state fiscal year in the lowest foundation allowance among all districts pursuant to the index under subsection (2)]. However, the foundation allowance for a district that had less than the basic foundation allowance in the immediately preceding state fiscal year shall not exceed the basic foundation allowance for the current state fiscal year.

(b) For a district that in the immediately preceding state fiscal year had a foundation allowance in an amount at least equal to the amount of the basic foundation allowance as adjusted by the index under subsection (2), the district shall receive a foundation allowance in an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the dollar amount of the adjustment from the immediately preceding state fiscal year to the current state fiscal year in the basic foundation allowance pursuant to the index under subsection (2).

(4) To ensure that a district receives the district's foundation allowance, there is allocated to each district a state portion of the district's foundation allowance in an amount calculated under this subsection. The state portion of a district's foundation allowance is an amount equal to the district's foundation allowance or \$6,500.00, whichever is less,

minus the difference between the product of the taxable value per membership pupil of all property in the district that is not a homestead or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94 and the quotient of the ad valorem property tax revenue of the district captured under Act No. 197 of the Public Acts of 1975, being sections 125.1651 to 125.1681 of the Michigan Compiled Laws, the tax increment finance authority act, Act No. 450 of the Public Acts of 1980, being sections 125.1801 to 125.1830 of the Michigan Compiled Laws, or the local development financing act, Act No. 281 of the Public Acts of 1986, being sections 125.2151 to 125.2174 of the Michigan Compiled Laws, divided by the district's membership. For a district that has a millage reduction required under section 31 of article IX of the state constitution of 1963, the state portion of the district's foundation allowance shall be calculated as if that reduction did not occur. For 1995-96 and each succeeding fiscal year, the \$6,500.00 amount prescribed in this subsection shall be adjusted by an amount equal to the dollar amount of the adjustment from the immediately preceding state fiscal year to the current state fiscal year in the basic foundation allowance pursuant to the index under subsection (2).

(5) The indices to be computed under this section for each state fiscal year shall be a topic of each revenue estimating conference conducted under section 367b of the management and budget act, Act No. 431 of the Public Acts of 1984, being section 18.1367b of the Michigan Compiled Laws. If a revenue estimating conference fails to reach a consensus on the estimate of an index, the state treasurer shall compute an estimated index and certify it to the director of the department of management and budget and the superintendent of public instruction. The index estimated at the most recent revenue estimating conference held before June 30 of the immediately preceding state fiscal year, or calculated by the state treasurer if the revenue estimating conference fails to reach a consensus of the index, shall be the index for the current state fiscal year and shall be used as the basis for making payments under this act for the current state fiscal year.

(6) The allocation under this section for a pupil shall be based on the foundation allowance of the pupil's district of residence. For a pupil in membership in a K-5, K-6, or K-8 district who is enrolled in another district in a grade not offered by the pupil's district of residence, the allocation under this section shall be based on the foundation allowance of the educating district if the educating district's foundation allowance is greater than the foundation allowance of the pupil's district of residence.

(7) Subject to subsection (8) and except as otherwise provided in this subsection, for pupils in membership in a public school academy or a university school, there is allocated under this section for 1995-96 to the authorizing body that is the fiscal agent for a public school academy for forwarding to the public school academy, or to the board of the public university operating the university school, an amount per membership pupil in the public school academy or university school equal to the sum of the local school operating revenue per membership pupil for the district in which the public school academy or university school is located and the state portion of that district's foundation allowance, or \$5,500.00, whichever is less. For 1995-96 and each succeeding fiscal year, the \$5,500.00 amount prescribed in this subsection shall be adjusted by an amount equal to the dollar amount of the adjustment from the immediately preceding state fiscal year to the current state fiscal year in the basic foundation allowance pursuant to the index under subsection (2). Notwithstanding section 101(2), for a public school academy that begins operations in 1995-96 after the pupil membership count day, the amount per membership pupil calculated under this subsection shall be adjusted by multiplying that amount per membership pupil by the number of hours of pupil instruction provided by the public school academy after it begins operations, as determined by the department, divided by 990. The result of this calculation shall not exceed the amount per membership pupil otherwise calculated under this subsection. Also, a public school academy that begins operations in 1995-96 after the pupil membership count day shall not receive any funds under this section unless the public school academy provides for the school year a number of hours of pupil instruction that is at least in the same proportion to 990 hours as the number of days of pupil instruction provided by the public school academy for the school year is in proportion to 180 days.

(8) If more than 25% of the pupils residing within a district are in membership in a public school academy located in the district, then the amount per membership pupil allocated under this section to the authorizing body that is the fiscal agent for a public school academy located in the district for forwarding to the public school academy shall be reduced by an amount equal to the local school operating revenue per membership pupil in the school fiscal year ending in the current state fiscal year, calculated as if the resident pupils in membership in a public school academy located in the district were in membership in the district. In order to receive state school aid under this act, a district described in this subsection shall pay to the authorizing body that is the fiscal agent for a public school academy located in the district for forwarding to the public school academy an amount equal to that local school operating revenue per membership pupil for each resident pupil in membership in the public school academy, as determined by the department.

(9) If a district does not receive a payment under subsection (10); if the number of mills the district may levy on a homestead and qualified agricultural property under section 1211(1) of the revised school code, being section 380.1211 of the Michigan Compiled Laws, is 0.5 mills or less; and if the district elects not to levy those mills, the district instead shall receive a separate supplemental payment under this subsection in an amount equal to the amount the district would have received had it levied those mills, as determined by the department of treasury. A district shall not receive a separate supplemental payment under this subsection for a fiscal year unless in the calendar year ending in the fiscal

year the district levies 18 mills or the number of mills of school operating taxes levied by the district in 1993, whichever is less, on property that is not a homestead or qualified agricultural property.

(10) For a district that had combined state and local revenue per membership pupil in the 1993-94 state fiscal year of more than \$6,500.00 and that had fewer than 350 pupils in membership, if the district elects not to reduce the number of mills from which a homestead and qualified agricultural property are exempt and not to levy school operating taxes on a homestead and qualified agricultural property as provided in section 1211(1) of the revised school code and not to levy school operating taxes on all property as provided in section 1211(2) of the revised school code, there is allocated under this subsection for 1994-95 and each succeeding fiscal year a separate supplemental payment in an amount equal to the amount the district would have received per membership pupil had it levied school operating taxes on a homestead and qualified agricultural property at the rate authorized for the district under section 1211(1) of the revised school code and levied school operating taxes on all property at the rate authorized for the district under section 1211(2) of the revised school code, as determined by the department of treasury. A district shall not receive a separate supplemental payment under this subsection for a fiscal year unless in the calendar year ending in the fiscal year the district levies 18 mills or the number of mills of school operating taxes levied by the district in 1993, whichever is less, on property that is not a homestead or qualified agricultural property.

(12) A district or public school academy may use any funds allocated under this section in conjunction with any federal funds for which the district or public school academy otherwise would be eligible.

(13) For a district that is formed or reconfigured after June 1, 1994 by consolidation of 2 or more districts or by annexation, the resulting district's foundation allowance under this section beginning after the effective date of the consolidation or annexation shall be the average of the foundation allowances of each of the original or affected districts, calculated as provided in this section, weighted as to the percentage of pupils in total membership in the resulting district who reside in the geographic area of each of the original districts. If an affected district's foundation allowance is less than the basic foundation allowance, as adjusted under subsection (2), the amount of that district's foundation allowance shall be considered for the purpose of calculations under this subsection to be equal to the amount of the basic foundation allowance.

(14) All fractions used in making calculations under this section shall be rounded to the fourth decimal place and the dollar amount of an increase in a foundation allowance shall be rounded to the nearest whole dollar.

(15) As used in this section:

(a) "Combined state and local revenue per membership pupil" means the aggregate of the district's state school aid received by or paid on behalf of the district under this section and the district's local school operating revenue, divided by the district's membership.

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

(c) "Homestead" means that term as defined in section 1211 of the revised school code.

(d) "Immediately preceding state fiscal year" means the state fiscal year immediately preceding the current state fiscal year.

(e) "Local school operating revenue" means school operating taxes levied under section 1211 of the revised school code.

(f) "Local school operating revenue per membership pupil" means a district's local school operating revenue divided by the district's membership.

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

(h) "Qualified agricultural property" means that term as defined in section 1211 of the revised school code.

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

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

(k) "Taxable value per membership pupil" means taxable value, as certified by the department of treasury, for the calendar year ending in the current state fiscal year divided by the district's membership for the school year ending in the current state fiscal year.

Sec. 20d. (1) In making the final determination required under former section 20a of a district's combined state and local revenue per membership pupil in 1993-94 and under section 20 of a district's 1994-95 millage rate, the department and the department of treasury shall comply with all of the following:

(a) The department and the department of treasury shall not consider, and shall not make any adjustment under section 121 to the valuation of a district because of, any state tax tribunal decision or order or court decision or order issued after the June 20, 1994 certification date under former section 20a unless the court decision or order modifies a

state tax tribunal decision or order issued before June 20, 1994 that was included in making the determination of the district's combined state and local revenue per membership pupil in 1994 under section 20a.

(b) Except as otherwise provided in subsection (2), the department and the department of treasury shall not consider, and shall not make any other adjustment to a district's combined state and local revenue per membership pupil in 1993-94 because of, any information submitted or audits completed after May 1, 1995. However, the department and the department of treasury may consider information or clarifications submitted not later than June 15, 1995 in response to a request by the department or department of treasury.

(c) Not later than August 30, 1995, the department of treasury shall make a final certification of the number of mills that may be levied by a school district under section 1211 of the school code of 1976, being section 380.1211 of the Michigan Compiled Laws.

(2) If a district was entitled in 1993 to revenue from service charges in lieu of taxes under section 15a of the state housing development authority act of 1966, Act No. 346 of the Public Acts of 1966, being section 125.1415a of the Michigan Compiled Laws, and if the district's local school operating revenue for 1993-94 was not credited with this revenue in the calculation under former section 20a of combined state and local revenue per membership pupil in 1993-94 because the local unit of government collecting the service charges did not pay the revenue from the service charges to the district, then, upon receipt not later than August 1, 1996 of information from the district verifying this circumstance, the department and the department of treasury shall adjust the district's local school operating revenue for 1993-94 only and shall recalculate and adjust the district's foundation allowance accordingly for the 1995-96 fiscal year.

Sec. 31a. (1) From the appropriation in section 11, there is allocated for 1995-96 an amount not to exceed \$230,000,000.00 for payments to eligible districts and eligible applicant public school academies under this section. Beginning in 1995-96, except as otherwise provided in this section, the amount of the additional allowance under this section shall be based on the number of actual pupils in membership in the district or public school academy who met the income eligibility criteria for free breakfast, lunch, or milk in the immediately preceding fiscal year, as determined under the national school lunch act, chapter 281, 60 Stat. 230, 42 U.S.C. 1751 to 1753, 1755 to 1761, 1762a, 1765 to 1766b, and 1769 to 1769h, and reported to the department by December 31 of the immediately preceding fiscal year.

(2) To be eligible to receive funding under this section, a public school academy shall apply to the department, in a form and manner prescribed by the department, and a district or public school academy must meet all of the following:

(a) The district's or public school academy's combined state and local revenue per membership pupil in the 1995-96 state fiscal year, as calculated under section 20, is less than \$6,500.00, as adjusted by the index calculated under section 20(2).

(b) The district or public school academy agrees to use the funding only for purposes allowed under this section and to comply with the program and accountability requirements under this section.

(3) An eligible district or eligible public school academy shall receive under this section for each membership pupil in the district or public school academy who met the income eligibility criteria for free breakfast, lunch, or milk, as determined under the national school lunch act and as reported to the department by October 31 of the immediately preceding fiscal year and adjusted not later than December 31 of the immediately preceding fiscal year, an amount per pupil equal to 11.5% of the district's foundation allowance or of the public school academy's per membership pupil allocation under section 20 for the current state fiscal year. However, if at least 55% of the pupils in membership in 1995-96 in a new district or new public school academy that is in its first full school fiscal year of operation beginning on or after July 1, 1995 meet the income eligibility criteria for free breakfast, lunch, or milk, and if the new district or new public school academy has been operating instructional programs for at-risk pupils for at least 60 days before the effective date of the amendatory act that added this sentence, the allocation under this section for the district or public school academy shall be based on the number of eligible pupils in the district or public school academy in the 1995-96 fiscal year.

(4) Subject to subsections (8) and (9), a district or public school academy receiving funding under this section shall use that money only to provide instructional programs and direct noninstructional services, including, but not limited to, medical or counseling services, for at-risk pupils and for the purposes of subsection (5) and shall not use any of that money for administrative costs or to supplant funds, except for funds allocated to the district or public school academy under this section in the immediately preceding year and already being used by the district or public school academy for at-risk pupils. The instruction or direct noninstructional services provided under this section may be conducted before or after regular school hours or by adding extra school days to the school year and may be conducted using a tutorial method, with paraprofessionals working under the supervision of a certificated teacher. The ratio of pupils to paraprofessionals shall be between 10:1 and 15:1. Only 1 certificated teacher is required to supervise instruction using a tutorial method.

(5) A district or public school academy that receives funds under this section and that operates a school breakfast program under section 1272a of the school code of 1976, being section 380.1272a of the Michigan Compiled Laws, shall

use from those funds an amount, not to exceed \$10.00 per pupil for whom the district or public school academy receives funds under this section, necessary to operate the school breakfast program.

(6) In order to provide accountability for the program funded under this section, the superintendent of a district or chief executive of a public school academy shall submit to the department, in a succinct form and manner prescribed by the department, a written assurance of the district's or public school academy's compliance with all provisions of this section by May 20 of the current fiscal year. If a district or public school academy does not comply with this subsection, the department shall withhold an amount equal to the June payment due under this section until the district or public school academy complies with this subsection. If the district or public school academy does not comply with this subsection by the end of the state fiscal year, the withheld funds shall be forfeited to the school aid fund.

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

(8) Subject to subsection (5), any district may use up to 100% of the funds it receives under this section to reduce the ratio of pupils to teachers in grades K-6, or any combination of those grades, in school buildings in which the percentage of pupils described in subsection (1) exceeds the district's aggregate percentage of those pupils. Subject to subsection (5), if a district obtains a waiver from the department, the district may use up to 100% of the funds it receives under this section to reduce the ratio of pupils to teachers in grades K-6, or any combination of those grades, in school buildings in which the percentage of pupils described in subsection (1) is at least 60% of the district's aggregate percentage of those pupils and at least 35% of the total number of pupils enrolled in the school building. To obtain a waiver, a district must apply to the department and demonstrate to the satisfaction of the department that the class size reductions would be in the best interests of the district's at-risk pupils.

(9) As a pilot project for a period of 3 fiscal years, a district that is located in a county with a population of more than 350,000 and less than 480,000 and that has more than 10,000 pupils in membership shall expend funds received under this section, other than the amount described in subsection (5), attributable to pupils enrolled in grades K-3 for the purpose of reducing class size in grades K-3 in the district to an average of not more than 17 pupils per class, with not more than 19 pupils in any particular class, in each school building in the district in which pupils described in subsection (1) constitute a specified percentage of the total number of pupils in the building. That specified percentage is as follows:

- (a) For the 1994-95 school year, 59%.
- (b) For the 1995-96 school year, 50%.
- (c) For the 1996-97 school year, 25%.

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

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

(12) As used in this section, "at-risk pupil" means a pupil for whom the district has documentation that the pupil meets at least 2 of the following criteria: is a victim of child abuse or neglect; is below grade level in English language and communication skills or mathematics; is a pregnant teenager or teenage parent; is eligible for a federal free or reduced-price lunch subsidy; has atypical behavior or attendance patterns; or has a family history of school failure, incarceration, or substance abuse. For pupils for whom the results of at least the applicable MEAP test have been received, at-risk pupil also includes a pupil who does not meet the other criteria under this subsection but who did not achieve at least a score of moderate on the most recent MEAP reading test for which results for the pupil have been received, did not achieve at least a score of moderate on the most recent MEAP mathematics test for which results for the pupil have been received, or achieved less than 50% of the objectives on the most recent MEAP science test for which results for the pupil have been received.

Sec. 51. (1) From the appropriation in section 11, there is allocated \$191,355,000.00 for 1995-96 to consist of an amount not to exceed \$121,355,000.00 from state sources and \$70,000,000.00 in federal funding under sections 611 to 620 of part B of the individuals with disabilities education act, title VI of Public Law 91-230, 20 U.S.C. 1411 to 1420, plus any carryover federal funds from previous year appropriations, for the purpose of reimbursing districts and intermediate districts for special education programs, services, and special education personnel as prescribed in article 3 of the revised school code, being sections 380.1701 to 380.1766 of the Michigan Compiled Laws; net tuition payments

made by intermediate districts to the Michigan school for the blind and the Michigan school for the deaf; and programs for pupils with handicaps as defined by the department. For meeting the costs of special education programs and services not reimbursed under this article, a district or intermediate district may use money in general funds or special education funds, not otherwise restricted, or contributions from districts to intermediate districts, tuition payments, gifts and contributions from individuals, or federal funds that may be available for this purpose, as determined by the intermediate district plan prepared pursuant to article 3 of the school code of 1976.

(2) State funds shall be allocated on a total approved cost basis. Federal funds shall be allocated under applicable federal requirements, except that an amount not to exceed \$3,000,000.00 may be allocated by the department to districts or intermediate districts on a competitive grant basis for programs, equipment, and services that the department determines to be designed to benefit or improve special education on a statewide scale.

(3) From the amount allocated in subsection (1), there is allocated an amount not to exceed \$3,100,000.00 for 1995-96 to reimburse 100% of the net increase in necessary costs incurred by a district or intermediate district in implementing the revisions in the administrative rules for special education that became effective on July 1, 1987. As used in this subsection, "net increase in necessary costs" means the necessary additional costs incurred solely because of new or revised requirements in the administrative rules minus cost savings permitted in implementing the revised rules. Net increase in necessary costs shall be determined in a manner specified by the department.

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

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

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

(5) From the appropriation in section 11, there is allocated for 1995-96 an amount not to exceed \$79,218,100.00 for funding payments under this subsection for pupils counted in membership under this subsection. A pupil who is enrolled in a full-time special education program conducted or administered by an intermediate district or a pupil who is enrolled in the Michigan school for the blind or the Michigan school for the deaf shall not be included in the membership count of a district, but shall be counted in membership in the intermediate district of residence. For each pupil, the intermediate district shall receive the intermediate district weighted average foundation allowance. However, if the total payment under this subsection to an intermediate district is not within the parameters specified in subsection (6), the department shall adjust the payment to the intermediate district to ensure that the total is within those parameters. A district operating a center program for pupils from several districts pursuant to an approved intermediate district plan that had the pupils counted in membership in the intermediate district in 1994-95 shall have the pupils counted in membership in the intermediate district in 1995-96.

(6) The total payment to an intermediate district under subsection (5) shall be at least equal to 103.05% of, and shall not exceed 106.10% of, the sum of all of the following:

- (a) The 1994-95 allocation to the intermediate district under subsection (5).
- (b) The 1994-95 allocation to the intermediate district under former section 146a(2).
- (c) The 1994-95 allocation to the intermediate district under former section 147(5).
- (d) 10% of the 1994-95 allocation to the intermediate district under former section 146a(1).
- (e) 10% of the 1994-95 allocation to the intermediate district under former section 147(1).

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

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

Sec. 53. (1) Reimbursement shall be 100% of, for a district, the total approved costs of operating special education programs and services approved by the department and included in the intermediate district plan adopted pursuant to article 3 of the revised school code, being sections 380.1701 to 380.1766 of the Michigan Compiled Laws, minus the foundation allowance calculated under section 20, or, for an intermediate district, those total approved costs minus the lesser of the quotient of the section 51(5) allocation divided by the intermediate district membership or the intermediate district weighted average foundation allowance, for the following special education pupils:

(a) Pupils assigned to a district or intermediate district through the community placement program of the courts or a state agency, if the pupil was a resident of another intermediate district at the time the pupil came under the jurisdiction of the court or a state agency.

(b) Pupils who are residents of institutions operated by the department of mental health.

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

(d) Pupils who are residents of special placement homes approved by the department.

(e) Pupils who are dependents of foreign diplomats who reside in this state and who are placed in a center program.

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

(2) Only those costs that are clearly and directly attributable to educational programs for pupils described in subsection (1), and that would not have been incurred if the pupils were not being educated in a district or intermediate district, are reimbursable under this section.

(3) The costs of transportation shall be funded under this section but shall not be reimbursed under section 58.

(4) Not more than \$24,000,000.00 for 1995-96 of the allocation in section 51(1) shall be allocated under this section.

Sec. 101. (1) To be eligible to receive state aid under this act, not later than the fifth Friday after the pupil membership count day and not later than the fifth Friday after the supplemental count day, each district superintendent through the secretary of the district's board shall file with the intermediate superintendent a certified and sworn copy of the number of pupils enrolled and in regular daily attendance in the district as of the pupil membership count day and as of the supplemental count day, as applicable, for the current school year. In addition, a district maintaining school during the entire year, as provided under section 1561 of the school code of 1976, being section 380.1561 of the Michigan Compiled Laws, shall file with the intermediate superintendent a certified and sworn copy of the number of pupils enrolled and in regular daily attendance in the district for the current school year pursuant to rules promulgated by the state board. Not later than the seventh Friday after the pupil membership count day and not later than the seventh Friday after the supplemental count day, the intermediate district shall transmit to the department the data filed by each of its constituent districts. If a district fails to file the sworn and certified copy with the intermediate superintendent in a timely manner, as required under this subsection, the intermediate district shall notify the department and state aid due to be distributed under this act shall be withheld from the defaulting district immediately, beginning with the next payment after the failure and continuing with each payment until the district complies with this subsection. If an intermediate district fails to transmit the data in its possession in a timely and accurate manner to the department, as required under this subsection, state aid due to be distributed under this act shall be withheld from the defaulting intermediate district immediately, beginning with the next payment after the failure and continuing with each payment until the intermediate district complies with this subsection. If a district or intermediate district does not comply with this subsection by the end of the fiscal year, the district or intermediate district forfeits the amount withheld. A person who willfully falsifies a figure or statement in the certified and sworn copy of enrollment shall be punished in the manner prescribed by section 161.

(2) Not later than the twenty-fourth Friday after the pupil membership count day and not later than the twenty-fourth Friday after the supplemental count day, an intermediate district shall submit to the department, in a form and manner prescribed by the department, the audited enrollment and attendance data for the pupils of its constituent districts and of the intermediate district. For 1995-96 only, if an intermediate district cannot submit the audited data as described in this subsection in a timely manner, the intermediate district may request an extension in writing from the department. If an intermediate district fails to transmit the audited data as required under this subsection and does not request a waiver from the department in writing, state aid due to be distributed under this act shall be withheld from the defaulting intermediate district immediately, beginning with the next payment after the failure and continuing with

each payment until the intermediate district complies with this subsection. If an intermediate district does not comply with this subsection by the end of the fiscal year, the intermediate district forfeits the amount withheld.

(3) Each district shall provide a minimum of 180 days and the required minimum number of hours of pupil instruction. The required minimum number of hours of pupil instruction is as follows: in 1994-95, each district shall provide a minimum of 900 hours of pupil instruction; in 1995-96 and 1996-97, each district shall provide a minimum of 990 hours of pupil instruction; in 1997-98 and 1998-99, each district shall provide a minimum of 1,035 hours of pupil instruction; and, beginning in 1999-2000, each district shall provide a minimum of 1,080 hours of pupil instruction. Except as otherwise provided in this act, a district failing to hold 180 days of pupil instruction shall forfeit 1/180 of its total state aid appropriation for each day of failure. Except as otherwise provided in this act, a district failing to comply with the required minimum hours of pupil instruction shall forfeit from its total state aid allocation an amount determined by applying a ratio of the time duration the district was in noncompliance in relation to the required minimum number of hours. A district failing to meet both the minimum 180 days of pupil instruction requirement and the minimum number of hours requirement of pupil instruction shall be penalized only the higher of the 2 amounts calculated under the forfeiture provisions of this subsection. Not later than August 1, the board of each district shall certify to the department the number of days and hours of pupil instruction in the previous school year. If the district did not hold at least 180 days and the required minimum number of hours of pupil instruction, the deduction of state aid shall be made in the following fiscal year from the first payment of state school aid. A district is not subject to forfeiture of funds under this subsection for a fiscal year in which a forfeiture was already imposed under subsection (8). Days lost because of strikes or teachers' conferences shall not be counted as days of pupil instruction. A district not having 75% of the district's membership in attendance on any day shall receive state aid in that proportion of 1/180 that the actual percent of attendance bears to the specified percentage. The state board shall promulgate rules for the implementation of this subsection.

(4) The first 2 days for which pupil instruction is not provided because of conditions not within the control of school authorities, such as severe storms, fires, epidemics, or health conditions as defined by the city, county, or state health authorities, shall be counted as days of pupil instruction. Subsequent such days shall not be counted as days of pupil instruction. However, for 1995-96 only, for a school district at or above townline 16, the first 5 days for which pupil instruction is not provided because of conditions described in this subsection shall be counted as days of pupil instruction.

(5) A public school academy shall not be allotted or paid a sum under this act in a fiscal year if the department determines that at the end of the preceding school fiscal year the amount of funds on hand in the public school academy available for the payment of the operation cost of the public school academy exceeded the amount of money expended for operation cost by the public school academy during the preceding school fiscal year.

(6) A district shall not forfeit part of its state aid appropriation if it adopts or has in existence an alternative scheduling program for pupils in kindergarten, which program is approved by the state board.

(7) Upon application by the district for a particular fiscal year, the state board may waive the 180-day requirement of subsection (3) for a district if the district has adopted an experimental school year schedule in 1 or more buildings in the district if the experimental school year schedule provides the required minimum number or more hours of pupil instruction and is consistent with all state board policies on school improvement and restructuring. If a district applies for and receives a waiver under this subsection and complies with the terms of the waiver, for the fiscal year covered by the waiver the district is not subject to forfeiture under this section of part of its state aid allocation for the specific building or program covered by the waiver.

(8) Not later than January 31 of each fiscal year, the board of each district shall certify to the department the planned number of days and hours of pupil instruction in the district for the school year ending in the fiscal year. In addition to any other penalty or forfeiture under this section, if at any time the department determines that 1 or more of the following has occurred in a district, the district shall forfeit in the current fiscal year beginning in the next payment to be calculated by the department a proportion of the funds due to the district under this act that is equal to the proportion below 180 days and the required minimum number of hours, as specified in the following:

(a) The district fails to operate its schools for a minimum of 180 days and the required minimum number of hours of pupil instruction in a school year, including days counted under subsection (4).

(b) The board of the district takes formal action not to operate its schools for a minimum of 180 days and the required minimum number of hours of pupil instruction in a school year, including days counted under subsection (4).

(9) In providing 990 hours of instruction for 1995-96, a district shall use the following guidelines, and a district shall maintain records to substantiate its compliance with the following guidelines:

(a) Except as otherwise provided in this subsection, a pupil must be scheduled for 990 hours of instruction, excluding study halls, or 1,080 hours of instruction, including up to 2 study halls.

(b) The time a pupil is assigned to any tutorial activity in a block schedule may be considered instructional time, unless that time is determined in an audit to be a study hall period.

(c) A pupil in grades 9 to 12 for whom a reduced schedule is determined to be in the pupil's best educational interest must be scheduled for a minimum of 770 hours of pupil instruction to be considered a full-time equivalent pupil.

(d) If a pupil in grades 9 to 12 who is enrolled in a cooperative education program or a special education pupil cannot receive 990 hours of pupil instruction solely because of travel time between instructional sites during the school day, that travel time, up to a maximum of 2 1/2 hours per school week, shall be considered to be pupil instruction time for the purpose of determining whether the pupil is receiving 990 hours of pupil instruction. However, if a district demonstrates to the satisfaction of the department that the travel time limitation under this subdivision would create undue costs or hardship to the district, the department may consider more travel time to be pupil instruction time for this purpose.

(10) The department shall apply the guidelines under subsection (9) in calculating the full-time equivalency of pupils.

(11) Upon application by the district for a particular fiscal year, the state board may waive for a district the 180-day requirement of subsection (3) for a department-approved alternative education program. If a district applies for and receives a waiver under this subsection and complies with the terms of the waiver, for the fiscal year covered by the waiver the district is not subject to forfeiture under this section for the specific program covered by the waiver.

Sec. 147. (1) The allocations for 1995-96 for the public school employees' retirement system pursuant to the public school employees retirement act of 1979, Act No. 300 of the Public Acts of 1980, being sections 38.1301 to 38.1408 of the Michigan Compiled Laws, shall be made using the entry age normal cost actuarial method and risk assumptions adopted by the public school employees retirement board and the department of management and budget. The annual level percentage of payroll contribution rate estimated for the 1995-96 state fiscal year is 14.56%. The portion of the contribution rate assigned to districts and intermediate districts for the 1995-96 state fiscal year is all of the total 14.56 percentage points. The public school employees' retirement system board shall notify each district and intermediate district by February 28 of each fiscal year of the estimated contribution rate for the next fiscal year.

(2) The health benefits reserve is the account to which appropriations of the state for public school employees retirement system health benefits and reporting unit payments are credited in addition to payments from retirees and interest earnings. Benefits payable pursuant to section 91 of Act No. 300 of the Public Acts of 1980, being section 38.1391 of the Michigan Compiled Laws, shall be paid from the health benefits reserve. Any payments for health benefits made on behalf of a district or intermediate district that are supported by payments from the balance in the health benefits reserve, not to exceed an aggregate of \$174,500,000.00, shall be credited toward the required payment of each district or intermediate district and shall reduce the amount otherwise due from that district or intermediate district. A payment from the balance in the health benefits reserve made on behalf of a district shall be considered to be payments on behalf of the district for the purposes of calculating payments made under section 20, and a payment made on behalf of an intermediate district shall be considered to be a payment on behalf of the intermediate district for the purpose of calculating payments made under section 81. The credit provided under this subsection for a particular district or intermediate district shall be determined based on the district's or intermediate district's percentage of the total statewide nonfederal payroll for all districts and intermediate districts for the calendar year ending September 30, 1995.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved _____

Governor.