

**HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 386**

A bill to amend 1979 PA 94, entitled  
"The state school aid act of 1979,"  
by amending sections 51a and 105 (MCL 388.1651a and 388.1705),  
section 51a as amended by 1997 PA 142 and section 105 as added by  
1996 PA 300.

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

1       Sec. 51a. (1) From the appropriation in section 11, there  
2 is allocated \$818,786,700.00 for 1997-98 to consist of an amount  
3 not to exceed \$722,853,300.00 from state sources and  
4 \$95,933,400.00 in federal funding under sections 611 to 620 of  
5 part B of the individuals with disabilities education act, title  
6 VI of Public Law 91-230, 20 U.S.C. 1411 to 1420, plus any carry-  
7 over federal funds from previous year appropriations, and there  
8 is allocated for 1998-99 an amount not to exceed \$771,053,300.00  
9 from state sources and all available federal funding, estimated

**SB0386, As Passed House, February 25, 1998**

Senate Bill No. 386

2

1 at \$120,000,000.00, plus any carryover federal funds from  
2 previous year appropriations, for the purpose of reimbursing dis-  
3 tricts and intermediate districts for special education programs,  
4 services, and special education personnel as prescribed in arti-  
5 cle 3 of the revised school code, MCL 380.1701 to 380.1766; net  
6 tuition payments made by intermediate districts to the Michigan  
7 schools for the deaf and blind; and programs for pupils with  
8 ~~handicaps~~ DISABILITIES as defined by the department. For meet-  
9 ing the costs of special education programs and services not  
10 reimbursed under this article, a district or intermediate dis-  
11 trict may use money in general funds or special education funds,  
12 not otherwise restricted, or contributions from districts to  
13 intermediate districts, tuition payments, gifts and contributions  
14 from individuals, or federal funds that may be available for this  
15 purpose, as determined by the intermediate district plan prepared  
16 pursuant to article 3 of the revised school code, MCL 380.1701 to  
17 380.1766.

18       (2) From the funds allocated under subsection (1), there is  
19 allocated for 1997-98 and for 1998-99 the amount necessary, esti-  
20 mated at \$620,906,100.00 for 1997-98 and \$672,274,000.00 for  
21 1998-99, for payments toward reimbursing districts and intermedi-  
22 ate districts for 28.6138% of total approved costs of special  
23 education, excluding costs reimbursed under section 53a, and  
24 70.4165% of total approved costs of special education  
25 transportation. Allocations under this subsection shall be made  
26 as follows:

1       (a) The initial amount allocated to a district under this  
2 subsection toward fulfilling the specified percentages shall be  
3 calculated by multiplying the district's special education pupil  
4 membership, excluding pupils described in subsection (13), times  
5 the foundation allowance under section 20 of the pupil's district  
6 of residence, not to exceed \$6,500.00 adjusted by the dollar  
7 amount of the difference between the 1997-98 and 1998-99 basic  
8 foundation allowance under section 20 and \$5,000.00, or, for a  
9 special education pupil in membership in a district that is a  
10 public school academy or university school, times an amount equal  
11 to the amount per membership pupil calculated under section  
12 20(6). For an intermediate district, the amount allocated under  
13 this subdivision toward fulfilling the specified percentages  
14 shall be an amount per special education membership pupil,  
15 excluding pupils described in subsection (13), and shall be cal-  
16 culated in the same manner as for a district, using the founda-  
17 tion allowance under section 20 of the pupil's district of resi-  
18 dence, not to exceed \$6,500.00 adjusted by the dollar amount of  
19 the difference between the 1997-98 and 1998-99 basic foundation  
20 allowance under section 20 and \$5,000.00.

21       (b) After the allocations under subdivision (a), districts  
22 and intermediate districts for which the payments under  
23 subdivision (a) do not fulfill the specified percentages shall be  
24 paid the amount necessary to achieve the specified percentages  
25 for the district or intermediate district.

26       (3) From the funds allocated under subsection (1), there is  
27 allocated for 1997-98 and for 1998-99 the amount necessary,

**SB0386, As Passed House, February 25, 1998**

Senate Bill No. 386

4

1 estimated at \$29,224,700.00 for 1997-98 and \$26,056,800.00 for  
2 1998-99, to make payments to districts and intermediate districts  
3 under this subsection. If the amount allocated to a district or  
4 intermediate district for 1997-98 or 1998-99 under subsection  
5 (2)(b) is less than the sum of the amounts allocated to the dis-  
6 trict or intermediate district for 1996-97 under sections 52 and  
7 58, there is allocated to the district or intermediate district  
8 for 1997-98 or for 1998-99, or both as applicable, an amount  
9 equal to that difference, adjusted by applying the same proration  
10 factor that was used in the distribution of funds under section  
11 52 in 1996-97 as adjusted to the district's or intermediate  
12 district's necessary costs of special education used in calcula-  
13 tions for 1997-98 or 1998-99. This adjustment is to reflect  
14 reductions in special education program operations between  
15 1996-97 and 1997-98 or 1998-99, as applicable.

16 (4) If the department determines that the sum of the amounts  
17 allocated for a fiscal year to a district or intermediate dis-  
18 trict under subsection (2)(a) and (b) is not sufficient to ful-  
19 fill the specified percentages in subsection (2), then the short-  
20 fall shall be paid to the district or intermediate district  
21 during the fiscal year beginning on the October 1 following the  
22 determination and payments under subsection (3) shall be adjusted  
23 as necessary. If the department determines that the sum of the  
24 amounts allocated for a fiscal year to a district or intermediate  
25 district under subsection (2)(a) and (b) exceeds the sum of the  
26 amount necessary to fulfill the specified percentages in  
27 subsection (2), then the department shall deduct the amount of

1 the excess from the district's or intermediate district's  
2 payments under this act for the fiscal year beginning on the  
3 October 1 following the determination and payments under subsec-  
4 tion (3) shall be adjusted as necessary. However, if the amount  
5 allocated under subsection (2)(a) in itself exceeds the amount  
6 necessary to fulfill the specified percentages in subsection (2),  
7 there shall be no deduction under this subsection.

8       (5) State funds shall be allocated on a total approved cost  
9 basis. Federal funds shall be allocated under applicable federal  
10 requirements, except that an amount not to exceed \$3,100,000.00  
11 may be allocated by the department for 1997-98, and an amount not  
12 to exceed \$3,500,000.00 may be allocated by the department for  
13 1998-99, to districts or intermediate districts on a competitive  
14 grant basis for programs, equipment, and services that the  
15 department determines to be designed to benefit or improve spe-  
16 cial education on a statewide scale.

17       (6) From the amount allocated in subsection (1), there is  
18 allocated an amount not to exceed \$1,700,000.00 for 1997-98 and  
19 an amount not to exceed \$2,200,000.00 for 1998-99 to reimburse  
20 100% of the net increase in necessary costs incurred by a dis-  
21 trict or intermediate district in implementing the revisions in  
22 the administrative rules for special education that became effec-  
23 tive on July 1, 1987. As used in this subsection, "net increase  
24 in necessary costs" means the necessary additional costs incurred  
25 solely because of new or revised requirements in the administra-  
26 tive rules minus cost savings permitted in implementing the

1 revised rules. Net increase in necessary costs shall be  
2 determined in a manner specified by the department.

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

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

1       (b) Reimbursement for ancillary and other related services,  
2 as defined by R 340.1701 of the Michigan administrative code,  
3 shall not be provided when those services are covered by and  
4 available through private group health insurance carriers or fed-  
5 eral reimbursed program sources unless the department and dis-  
6 trict or intermediate district agree otherwise and that agreement  
7 is approved by the department of management and budget.

8 Expenses, other than the incidental expense of filing, shall not  
9 be borne by the parent. In addition, the filing of claims shall  
10 not delay the education of a pupil. A district or intermediate  
11 district shall be responsible for payment of a deductible amount  
12 and for an advance payment required until the time a claim is  
13 paid.

14       (8) From the allocation in subsection (1), there is allo-  
15 cated for 1997-98 and for 1998-99 an amount not to exceed  
16 \$15,313,900.00 each fiscal year to intermediate districts. The  
17 payment under this subsection to each intermediate district shall  
18 be equal to the amount of the 1996-97 allocation to the interme-  
19 diate district under this subsection.

20       (9) A pupil who is enrolled in a full-time special education  
21 program conducted or administered by an intermediate district or  
22 a pupil who is enrolled in the Michigan schools for the deaf and  
23 blind shall not be included in the membership count of a dis-  
24 trict, but shall be counted in membership in the intermediate  
25 district of residence.

26       (10) Notwithstanding section 6(4), for 1997-98 only, for  
27 pupils enrolled in a center program pursuant to an intermediate

**SB0386, As Passed House, February 25, 1998**

Senate Bill No. 386

8

1 district plan the department shall use for the February 1997  
2 supplemental count the definition of membership used for the  
3 1997-98 pupil membership count day.

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

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

16 (13) From the funds allocated in subsection (1), there is  
17 allocated each fiscal year for 1997-98 and for 1998-99 the amount  
18 necessary, estimated at \$8,370,600.00 for 1997-98 and for  
19 1998-99, to pay the foundation allowances for pupils described in  
20 this subsection. The allocation to a district under this subsec-  
21 tion shall be calculated by multiplying the number of pupils  
22 described in this subsection who are counted in membership in the  
23 district times the foundation allowance under section 20 of the  
24 pupil's district of residence, not to exceed \$6,500.00 adjusted  
25 by the dollar amount of the difference between the 1997-98 and  
26 1998-99 basic foundation allowance under section 20 and  
27 \$5,000.00, or, for a pupil described in this subsection who is



1 counted in membership in a district that is a public school  
2 academy or university school, times an amount equal to the amount  
3 per membership pupil under section 20(6). The allocation to an  
4 intermediate district under this subsection shall be calculated  
5 in the same manner as for a district, using the foundation allow-  
6 ance under section 20 of the pupil's district of residence, not  
7 to exceed \$6,500.00 adjusted by the dollar amount of the differ-  
8 ence between the 1997-98 and 1998-99 basic foundation allowance  
9 under section 20 and \$5,000.00. This subsection applies to all  
10 of the following pupils:

11 (a) Pupils described in section 53a.

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

16 (c) Emotionally impaired pupils counted in membership by an  
17 intermediate district and provided educational services by the  
18 department of community health.

19 (14) After payments under subsections (2) and (13), the  
20 remaining expenditures from the allocation in subsection (1)  
21 shall be made in the following order:

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

23 (b) 100% of the reimbursement required under subsection  
24 (6).

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

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

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

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

3 Sec. 105. (1) In order to avoid a penalty under this sec-  
4 tion, and in order to count a nonresident pupil residing within  
5 the same intermediate district in membership without the approval  
6 of the pupil's district of residence, a district shall comply  
7 with this section.

8 (2) Except as otherwise provided in subsection (3) or (4), a  
9 district shall determine by June 1 whether or not it will accept  
10 applications for enrollment by nonresident applicants residing  
11 within the same intermediate district for the next school year.  
12 If the district determines to accept applications for enrollment  
13 of a number of nonresidents, beyond those entitled to preference  
14 under this section, the district shall do all of the following:

15 (a) By June 15, publish the grades, schools, and special  
16 programs, if any, for which enrollment may be available to, and  
17 for which applications will be accepted from, nonresident appli-  
18 cants residing within the same intermediate district.

19 (b) At least until July 1, accept applications from nonresi-  
20 dents residing within the same intermediate district for enroll-  
21 ment in the available grades, schools, and programs.

22 (c) By July 15, using the procedures and preferences  
23 required under this section, determine which nonresident appli-  
24 cants will be allowed to enroll in the district and notify the  
25 parent or legal guardian of each nonresident applicant of whether  
26 or not the applicant may enroll in the district. The  
27 notification to parents or legal guardians of nonresident

1 applicants accepted for enrollment shall contain notification of  
2 the date by which the applicant must enroll in the district and  
3 procedures for enrollment.

4 (3) For 1996 only, the deadlines for the process described  
5 in subsection (2) are as follows:

6 (a) July 1 for determining whether or not the district will  
7 accept applications.

8 (b) July 15 for publishing the grades, schools, and special  
9 programs, if any, for which applications will be accepted.

10 (c) At least until August 1 for accepting applications.

11 (d) August 15 for determining which nonresident applicants  
12 will be allowed to enroll and notifying parents and legal  
13 guardians.

14 (4) If deadlines similar to those described in subsection  
15 (2) have been established in an intermediate district pursuant to  
16 a pilot intermediate district schools of choice program under  
17 former section 91, and if those deadlines are not later than the  
18 deadlines under subsection (2), the districts within the interme-  
19 diate district may continue to use those deadlines.

20 (5) A district offering to enroll nonresident applicants  
21 residing within the same intermediate district may limit the  
22 number of nonresident pupils it accepts in a grade, school, or  
23 program, at its discretion, and may use that limit as the reason  
24 for refusal to enroll an applicant.

25 (6) A nonresident applicant residing within the same inter-  
26 mediate district shall not be granted or refused enrollment based  
27 on intellectual, academic, artistic, or other ability, talent, or

1 accomplishment, or lack thereof, or based on a mental or physical  
2 disability, except that a district may refuse to admit a nonresi-  
3 dent applicant if the applicant does not meet the same criteria,  
4 other than residence, that an applicant who is a resident of the  
5 district must meet to be accepted for enrollment in a grade or a  
6 specialized, magnet, or intra-district choice school or program  
7 to which the applicant applies.

8       (7) A nonresident applicant residing within the same inter-  
9 mediate district shall not be granted or refused enrollment based  
10 on age, except that a district may refuse to admit a nonresident  
11 applicant applying for a program that is not appropriate for the  
12 age of the applicant.

13       (8) A nonresident applicant residing within the same inter-  
14 mediate district shall not be granted or refused enrollment based  
15 upon religion, race, color, national origin, sex, height, weight,  
16 marital status, or athletic ability, or, generally, in violation  
17 of any state or federal law prohibiting discrimination.

18       (9) A district may refuse to enroll a nonresident applicant  
19 if the applicant is, or has been within the preceding 2 years,  
20 suspended from another school or if the applicant has ever been  
21 expelled from another school.

22       (10) A district shall give preference for enrollment over  
23 all other nonresident applicants residing within the same inter-  
24 mediate district to pupils who were enrolled in and attended the  
25 district in the school year immediately preceding the school year  
26 in question and to other school-age children who reside in the  
27 same household as the pupil.

1       (11) If a nonresident pupil was enrolled in and attending  
2 school in a district as a nonresident pupil in the 1995-96 school  
3 year and continues to be enrolled continuously each school year  
4 in that district, the district shall allow that nonresident pupil  
5 to continue to enroll in and attend school in the district until  
6 high school graduation, without requiring the nonresident pupil  
7 to apply for enrollment under this section. This subsection does  
8 not prohibit a district from expelling a pupil described in this  
9 subsection for disciplinary reasons.

10       (12) If the number of qualified nonresident applicants eli-  
11 gible for acceptance in a school, grade, or program does not  
12 exceed the positions available for nonresident pupils in the  
13 school, grade, or program, the school district shall accept for  
14 enrollment all of the qualified nonresident applicants eligible  
15 for acceptance. If the number of qualified nonresident appli-  
16 cants residing within the same intermediate district eligible for  
17 acceptance exceeds the positions available in a grade, school, or  
18 program in a district for nonresident pupils, the district shall  
19 use a random draw system, subject to the need to abide by state  
20 and federal antidiscrimination laws and court orders and subject  
21 to preferences allowed by this section.

22       (13) If a district, or the nonresident applicant, requests  
23 the district in which a nonresident applicant resides to supply  
24 information needed by the district for evaluating the applicant's  
25 application for enrollment or for enrolling the applicant, the  
26 district of residence shall provide that information on a timely  
27 basis.

1       (14) If a district is subject to a court-ordered  
2 desegregation plan, and if the court issues an order prohibiting  
3 pupils residing in that district from enrolling in another dis-  
4 trict or prohibiting pupils residing in another district from  
5 enrolling in that district, this section is subject to the court  
6 order.

7       (15) This section does not require a district to provide  
8 transportation for a nonresident pupil enrolled in the district  
9 under this section or for a resident pupil enrolled in another  
10 district under this section. However, at the time a nonresident  
11 pupil enrolls in the district, a district shall provide to the  
12 pupil's parent or legal guardian information on available trans-  
13 portation to and from the school in which the pupil enrolls.

14       (16) If, in a particular state fiscal year, the total number  
15 of pupils enrolled and counted in membership in a district is  
16 less than 90% of the total number of pupils residing in the dis-  
17 trict who are enrolled and counted in membership in either that  
18 district or 1 or more other districts, the total amount of money  
19 allocated to that district under section 20 shall be adjusted so  
20 that the district receives a total allocation under section 20  
21 equal to the amount the district would receive under section 20  
22 if exactly 90% of the pupils residing in the district who are  
23 enrolled and counted in either that district or 1 or more other  
24 districts were enrolled and counted in membership in that  
25 district.

26       (17) A district may participate in a cooperative education  
27 program with 1 or more other districts or intermediate districts

1 whether or not the district enrolls any nonresidents pursuant to  
2 this section.

3       (18) A district that, pursuant to this section, enrolls a  
4 nonresident pupil who is a ~~handicapped~~ DISABLED person, as  
5 defined in section 4 of the revised school code, ~~being section~~  
6 ~~380.4 of the Michigan Compiled Laws~~ 1976 PA 451, MCL 380.4, or  
7 who is a child with disabilities, as defined under the individu-  
8 als with disabilities education act, Public Law 91-230, shall be  
9 considered to be the resident district of the pupil for the pur-  
10 pose of providing the pupil with a free appropriate public  
11 education. Consistent with state and federal law, that district  
12 is responsible for developing and implementing an individualized  
13 education plan annually for a nonresident pupil described in this  
14 subsection.

15       (19) If a district does not comply with this section, the  
16 district forfeits 10% of the total amount due to the district  
17 under section 20c.

18       (20) Upon application by a district, the superintendent of  
19 public instruction may grant a waiver for the district from a  
20 specific requirement under this section for not more than 1  
21 year.

22       (21) If an intermediate district is operating under an  
23 intermediate district pilot schools of choice program established  
24 under former section 91 or as described in section 91a, and if  
25 the superintendent of public instruction determines that the pro-  
26 gram is substantially similar to intermediate district schools of  
27 choice under this section, the superintendent of public

**SB0386, As Passed House, February 25, 1998**

Senate Bill No. 386

16

1 instruction may exempt the intermediate district and its  
2 constituent districts from this section for not more than 1  
3 year.

4 (22) It is the intent of the legislature that this section  
5 will be reviewed before the 1999-2000 state fiscal year.

6 Enacting section 1. This amendatory act does not take  
7 effect unless Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_  
8 (request no. 01850'97) of the 89th Legislature is enacted into  
9 law.