

STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Senators Gast and Shugars

ENROLLED SENATE BILL No. 240

AN ACT to amend 1979 PA 94, entitled "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 authorize the issuance of certain bonds and provide for the security of those bonds; 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 acts and parts of acts," by amending sections 6, 11, 11g, 17b, 20, 20b, 26a, 31a, 51a, 63, 81, and 105 (MCL 388.1606, 388.1611, 388.1611g, 388.1617b, 388.1620, 388.1620b, 388.1626a, 388.1631a, 388.1651a, 388.1663, 388.1681, and 388.1705), sections 6, 11, 11g, 20, 26a, 31a, 51a, 81, and 105 as amended and sections 20b and 63 as added by 1998 PA 339, and section 17b as amended by 1997 PA 142, and by adding sections 25a and 161a.

The People of the State of Michigan enact:

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 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 for a district, public school academy, university school, or intermediate district the sum of the product of .6 times 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, plus the product of .4 times the final audited count from 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. The amount of the foundation allowance for 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 educating district or districts. An individual pupil shall not be counted for more than a total of 1.0 full-time equated membership.

(b) If a pupil is educated in a district other than the pupil's district of residence and the educating district is not in the same intermediate district as the pupil's district of residence, if the pupil is not being educated 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.

(c) A special education pupil educated by the intermediate district shall be counted in membership in the intermediate district.

(d) 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 53a, shall be counted in membership in the district or intermediate district approved by the department to operate the program.

(e) A pupil enrolled in the Michigan schools for the deaf and blind shall be counted in membership in the pupil's intermediate district of residence.

(f) A pupil enrolled in a vocational education program supported by a millage levied over an area larger than a single district or in an area vocational-technical education program established pursuant to section 690 of the revised school code, MCL 380.690, shall be counted only in the pupil's district of residence.

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

(h) A pupil enrolled in a public school academy shall be counted in membership in the public school academy.

(i) For a new district, university school, or public school academy beginning its operation after December 31, 1994, membership for the first 2 full or partial fiscal years of operation shall be determined as follows:

(i) If operations begin before the pupil membership count day for the fiscal year, 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) If operations begin after the pupil membership count day for the fiscal year and not later than the supplemental count day for the fiscal year, 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.

(j) 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.

(k) 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.

(l) 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.

(m) 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.

(n) 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 (q). 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 following apply:

(i) If the public school academy provides instruction for at least 1/2 of the class hours specified in subdivision (q), the public school academy shall receive as its prorated share of the full-time equated membership for each of those pupils an amount equal to 1 times the product of the hours of instruction the public school academy provides divided by the number of hours specified in subdivision (q) for full-time equivalency, and the remainder of the full-time membership for each of those pupils shall be allocated to the district or intermediate district providing the remainder of the hours of instruction.

(ii) If the public school academy provides instruction for less than 1/2 of the class hours specified in subdivision (q), the district or intermediate district providing the remainder of the hours of instruction shall receive as its prorated share of the full-time equated membership for each of those pupils an amount equal to 1 times the product of the hours of instruction the district or intermediate district provides divided by the number of hours specified in subdivision (q) for full-time equivalency, and the remainder of the full-time membership for each of those pupils shall be allocated to the public school academy.

(o) 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.

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

(q) The number of class hours used to calculate full-time equated memberships shall be consistent with section 1284 of the revised school code, MCL 380.1284. In determining full-time equated memberships for pupils who are enrolled in a postsecondary institution, 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.

(r) 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.

(s) 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 improving America's schools act of 1994, Public Law 103-382, 108 Stat. 3518, 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.

(t) For a district, university school, or public school academy that has pupils enrolled in a grade level that was not offered by the district, university school, or public school academy in the immediately preceding school year, the number of pupils enrolled in that grade level to be counted in membership is the average of the number of those pupils enrolled and in regular daily attendance on the pupil membership count day and the supplemental count day of the current school year, as determined by the department. Membership shall be calculated by adding the number of pupils registered for attendance in that grade level 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 subsequent department audit, plus the final audited count from the supplemental count day for the current school year, and dividing that sum by 2.

(u) A pupil enrolled in a cooperative education program may be counted in membership in the pupil's district of residence with the written approval of all parties to the cooperative agreement.

(v) If, as a result of a disciplinary action, a district determines through the district's alternative or disciplinary education program that the best instructional placement for a pupil is in the pupil's home, if that placement is authorized in writing by the district superintendent and district alternative or disciplinary education supervisor, and if the district provides appropriate instruction as described in this subdivision to the pupil at the pupil's home, the district may count the pupil in membership on a pro rata basis, with the proration based on the number of hours of instruction the district actually provides to the pupil divided by the number of hours specified in subdivision (q) for full-time equivalency. For the purposes of this subdivision, a district shall be considered to be providing appropriate instruction if all of the following are met:

(i) The district provides at least 2 nonconsecutive hours of instruction per week to the pupil at the pupil's home under the supervision of a certificated teacher.

(ii) The district provides instructional materials, resources, and supplies, except computers, that are comparable to those otherwise provided in the district's alternative education program.

(iii) Course content is comparable to that in the district's alternative education program.

(iv) Credit earned is awarded to the pupil and placed on the pupil's transcript.

(w) A pupil enrolled in an alternative or disciplinary education program described in section 25 shall be counted in membership in the district or public school academy that expelled the pupil.

(x) For 1997-98 only, if a pupil was enrolled in a public school academy on the pupil membership count day, if the public school academy's contract with its authorizing body is revoked, and if the pupil enrolls in a district within 45 days after the pupil membership count day, the department shall adjust the district's pupil count for the pupil membership count day to include the pupil in the count.

(5) "Public school academy" means a public school academy operating under the revised school code.

(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 any of the following:

(a) Nonpublic part-time pupils enrolled in grades 1 to 12 in accordance with section 166b.

(b) Pupils receiving 1/2 or less of their instruction in a district other than their district of residence.

(c) Pupils enrolled in a public school academy or university school.

(d) 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 if the intermediate district and its constituent districts have been exempted from section 105.

(e) Pupils enrolled in a district other than their district of residence but within the same intermediate district if the educating district enrolls nonresident pupils in accordance with section 105.

(f) Pupils enrolled in a district other than their district of residence if the pupils have been continuously enrolled in the educating district since a school year in which the pupils enrolled in the educating district under section 105 and in which the educating district enrolled nonresident pupils in accordance with section 105.

(g) A nonresident pupil who has made an official written complaint or whose parent or legal guardian has made an official written complaint to law enforcement officials and to school officials of the pupil's district of residence that the pupil has been the victim of a criminal sexual assault or other serious assault, if the official complaint either indicates that the assault occurred at school or that the assault was committed by 1 or more other pupils enrolled in the school the nonresident pupil would otherwise attend in the district of residence or by an employee of the district of residence. A person who intentionally makes a false report of a crime to law enforcement officials for the purposes of this subdivision is subject to section 411a of the Michigan penal code, 1931 PA 328, MCL 750.411a, which provides criminal penalties for that conduct. As used in this subdivision:

(i) "At school" means in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event whether or not it is held on school premises.

(ii) "Serious assault" means an act that constitutes a felony violation of chapter XI of the Michigan penal code, 1931 PA 328, MCL 750.81 to 750.90f, or that constitutes an assault and infliction of serious or aggravated injury under section 81a of the Michigan penal code, 1931 PA 328, MCL 750.81a.

However, if a district that is not a first class district educates pupils who reside in a first class district and if the primary instructional site for those pupils is located within the boundaries of the first class district, the educating district must have the approval of the first class district to count those pupils in membership. As used in this subsection, "first class district" means a district organized as a school district of the first class under the revised school code.

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

(a) Except as provided in subdivision (b), the fourth Wednesday in September each school year.

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

(i) Fourth Wednesday in July.

(ii) Fourth Wednesday in September.

(iii) Second Wednesday in February.

(iv) Fourth Wednesday in April.

(8) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(9) "The revised school code" means 1976 PA 451, MCL 380.1 to 380.1852.

(10) "School fiscal year" means a fiscal year that 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 or a pupil described in subsection (6)(d) to (g). 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, 1893 PA 206, MCL 211.27a.

(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) For the fiscal year ending September 30, 1998, there is appropriated for the public schools of this state and certain other state purposes relating to education the sum of \$8,717,471,600.00 from the state school aid fund established by section 11 of article IX of the state constitution of 1963 and the sum of \$377,935,400.00 from the general fund. For the fiscal year ending September 30, 1999, there is appropriated for the public schools of this state and certain other state purposes relating to education the sum of \$9,000,761,900.00 from the state school aid fund established by section 11 of article IX of the state constitution of 1963 and the sum of \$420,613,500.00 from the general fund. For the fiscal year ending September 30, 2000, there is appropriated for the public schools of this state and certain other state purposes relating to education the sum of \$9,366,408,600.00 from the state school aid fund established by section 11 of article IX of the state constitution of 1963 and the sum of \$420,613,500.00 from the general fund. In addition, available federal funds are appropriated for 1997-98, for 1998-99, and for 1999-2000.

(2) The appropriations under this section shall be allocated as provided in this act. Money appropriated under this section from the general fund 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 the state school aid fund.

(3) If the maximum amount appropriated under this section and sections 11f and 11g 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 sections 11f, 11g, and 51a(2) shall be made in full and payments under each of the other sections 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. However, if the department of treasury determines that proration will be required under this subsection, the department of treasury shall notify the director of the department of management and budget, and the director of the department of management and budget shall notify the legislature at least 30 calendar days or 6 legislative session days, whichever is more, before the department reduces any payments under this act because of the proration. During the 30 calendar day or 6 legislative session day period after that notification by the director of the department of management and budget, the department shall not reduce any payments under this act because of proration under this subsection. The legislature may prevent proration from occurring by, within the 30 calendar day or 6 legislative session day period after that notification by the department of management and budget, enacting legislation appropriating additional funds from the general fund, countercyclical budget and economic stabilization fund, state school aid fund balance, or another source to fund the amount of the projected shortfall.

Sec. 11g. (1) In addition to the appropriations under section 11f and any other money appropriated under this act, there is appropriated from the state school aid fund an amount not to exceed \$40,000,000.00 for the fiscal year ending September 30, 1999. From the general fund money appropriated in section 11, there is appropriated an amount not to exceed \$40,000,000.00 for the fiscal year ending September 30, 2000 and for each succeeding fiscal year through the fiscal year ending September 30, 2013. Payments under this section will cease after September 30, 2013. These appropriations are for paying the amounts described in subsection (3) to districts and intermediate districts, other than those receiving a lump sum payment under section 11f(2), that were not plaintiffs in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492 and that, on or before March 2, 1998, have submitted to the state treasurer a waiver resolution described in section 11f. The amounts paid under this section represent offers of settlement and compromise of any claim or claims that were or could have been asserted by these districts and intermediate districts, as described in this section.

(2) This section does not create any obligation or liability of this state to any district or intermediate district that does not submit a waiver resolution described in section 11f. This section, any other provision of this act, and section 353e of the management and budget act, 1984 PA 431, MCL 18.1353e, are not intended to admit liability or waive any

defense that is or would be available to this state or its agencies, employees, or agents in any litigation or future litigation with a district or intermediate district regarding these claims or potential claims.

(3) The amount paid each fiscal year to each district or intermediate district under this section shall be the sum of the following:

(a) 1/30 of the total amount listed in section 11h for the district or intermediate district.

(b) If the district or intermediate district borrows money and issues bonds under section 11i, an additional amount in each fiscal year calculated by the department of treasury that, when added to the amount described in subdivision (a), will cause the net present value as of November 15, 1998 of the total of the 15 annual payments made to the district or intermediate district under this section, discounted at a rate as determined by the state treasurer, to equal the amount of the bonds issued by that district or intermediate district under section 11i and that will result in the total payments made to all districts and intermediate districts in each fiscal year under this section being no more than the amount appropriated under this section in each fiscal year.

(4) The entire amount of each payment under this section each fiscal year shall be paid on May 15 of the applicable fiscal year or on the next business day following that date. If a district or intermediate district borrows money and issues bonds under section 11i, the district or intermediate district shall use funds received under this section to pay debt service on bonds issued under section 11i. If a district or intermediate district does not borrow money and issue bonds under section 11i, the district or intermediate district shall use funds received under this section only for the following purposes, in the following order of priority:

(a) First, to pay debt service on voter-approved bonds issued by the district or intermediate district before the effective date of this section.

(b) Second, to pay debt service on other limited tax obligations.

(c) Third, for deposit into a sinking fund established by the district or intermediate district under the revised school code.

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

(6) A district or intermediate district may pledge or assign payments under this section as security for bonds issued under section 11i, but shall not otherwise pledge or assign payments under this section.

(7) The state school aid fund appropriation under this section for 1998-99 is from the money appropriated and transferred to the state school aid fund from the countercyclical budget and economic stabilization fund under section 353e(2) of the management and budget act, 1984 PA 431, MCL 18.1353e.

Sec. 17b. (1) Not later than October 20, November 20, December 20, January 20, February 20, March 20, April 20, May 20, June 20, July 20, and August 20, the department shall prepare a statement of the amount to be distributed under this act in the installment to the districts and intermediate districts and deliver the statement to the state treasurer, and the state treasurer shall pay the installments on each of those dates or on the next business day following each of those dates. Except as otherwise provided in this act, the portion of the district's or intermediate district's state fiscal year entitlement to be included in each installment shall be 1/11. However, for 1997-98 only, there shall not be an installment paid on August 20, and the portion to be included in each installment shall be 11.11% for the October and November payments; 9.72% for the December, January, February, March, April, May, and June payments; and 9.74% for the July payment. The payments due to a district in 1997-98 on April 20, May 20, June 20, and July 20 pursuant to this section each shall be reduced by an amount equal to 1/4 of the district's total additional payments in 1996-97 under former section 20c. A district or intermediate district shall accrue the payments received in July and August to the school fiscal year ending the immediately preceding June 30.

(2) The state treasurer shall make payment under this section by drawing a warrant in favor of the treasurer of each district or intermediate district for the amount payable to the district or intermediate district according to the statement and delivering the warrant to the treasurer of each district or intermediate district, or if the state treasurer receives a written request by the treasurer of the district or intermediate district specifying an account, by electronic funds transfer to that account of the amount payable to the district or intermediate district according to the statement. The department may make adjustments in payments made under this section through additional payments when changes in law or errors in computation cause the regularly scheduled payment to be less than the amount to which the district or intermediate district is entitled pursuant to this act.

(3) Except as otherwise specified in this act, grant payments under this act shall be paid according to subsection (1).

(4) Upon the written request of a district or intermediate district and the submission of proof satisfactory to the department of a need of a temporary and nonrecurring nature, the superintendent, with the written concurrence of the state treasurer and the director of management and budget, may authorize an advance release of funds due a district or intermediate district under this act. Such an advance shall not cause funds to be paid to a district or intermediate district more than 30 days earlier than the established payment date for those funds.

Sec. 20. (1) For 1997-98 and 1998-99, the basic foundation allowance is \$5,462.00 per membership pupil. For 1999-2000, the basic foundation allowance is \$5,652.00 per membership pupil.

(2) From the appropriation in section 11, there is allocated for 1997-98 an amount not to exceed \$8,022,595,100.00, for 1998-99 an amount not to exceed \$7,970,372,900.00, and for 1999-2000 an amount not to exceed \$8,314,985,400.00, to guarantee each district a foundation allowance per membership pupil other than special education pupils and to make payments under this section to public school academies and university schools for membership pupils other than special education pupils. The amount of each district's foundation allowance shall be calculated as provided in this section, using a basic foundation allowance in the amount specified in subsection (1). 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. However, if the department determines that proration will be required under this section, the superintendent of public instruction shall notify the department of management and budget, and the department of management and budget shall notify the legislature at least 30 calendar days or 6 legislative session days, whichever is more, before the department reduces any payments under this section because of the proration. During the 30 calendar day or 6 legislative session day period after that notification by the department of management and budget, the department shall not reduce any payments under this section because of proration. The legislature may prevent proration under this section from occurring by, within the 30 calendar day or 6 legislative session day period after that notification by the director, enacting legislation appropriating additional funds from the general fund, countercyclical budget and economic stabilization fund, state school aid fund balance, or another source to ensure full foundation allowance funding for each district, university school, and public school academy.

(3) 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, 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 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 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) 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]. 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 for 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 dollar amount of the adjustment from the immediately preceding state fiscal year to the current state fiscal year in the basic foundation allowance.

(c) For 1998-99, each district's foundation allowance shall be at least \$5,170.00.

(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 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the Brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership excluding special education pupils. For a district that has a millage reduction required under section 31 of article IX of the state constitution of 1963, except for a district that was notified of such a millage reduction in 1996 after the last permissible date to schedule an election to override that millage reduction, the state portion of the district's foundation allowance shall be calculated as if that reduction did not occur. For each fiscal year after 1994-95, the \$6,500.00 amount prescribed in this subsection shall be adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and \$5,000.00.

(5) The allocation under this section for a pupil shall be based on the foundation allowance of the pupil's district of residence. However, for a pupil enrolled pursuant to section 105 in a district other than the pupil's district of residence but within the same intermediate district, the allocation under this section shall be based on the lesser of the foundation allowance of the pupil's district of residence or the foundation allowance of the educating district. 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.

(6) Subject to subsection (7) and except as otherwise provided in this subsection, for pupils in membership, other than special education pupils, in a public school academy or a university school, there is allocated under this section each fiscal year for 1997-98, for 1998-99, and for 1999-2000 to the authorizing body that is the fiscal agent for the 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 other than special education pupils in the public school academy or university school equal to the sum of the local school operating revenue per membership pupil other than special education pupils 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 the sum of the basic foundation allowance under subsection (1) plus \$500.00, whichever is less. Notwithstanding section 101(2), for a public school academy that begins operations in 1997-98, 1998-99, or 1999-2000, as applicable, 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 the minimum number of hours of pupil instruction required under section 1284 of the revised school code, MCL 380.1284. 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 1997-98, 1998-99, or 1999-2000, as applicable, 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 the minimum number of hours of pupil instruction required under section 1284 of the revised school code, MCL 380.1284, as the number of days of pupil instruction provided by the public school academy for the school year is in proportion to the number of days of pupil instruction required under section 1284 of the revised school code, MCL 380.1284.

(7) If more than 25% of the pupils residing within a district are in membership in 1 or more public school academies 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 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 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the Brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership excluding special education pupils, in the school fiscal year ending in the current state fiscal year, calculated as if the resident pupils in membership in 1 or more public school academies 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 other than special education pupils in the public school academy, as determined by the department.

(8) If a district does not receive a payment under subsection (9); 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, MCL 380.1211, 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.

(9) 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, MCL 380.1211, and not to levy school operating taxes on all property as provided in section 1211(2) of the revised school code, MCL 380.1211, 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, MCL 380.1211, and levied school operating taxes on all property at the rate authorized for the district under section 1211(2) of the revised school code, MCL 380.1211, as determined by the department of treasury. A district shall not receive a separate supplemental payment under this subsection for a fiscal year other than 1997-98 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. Beginning with the 1998-99 fiscal year, if in the calendar year ending in the fiscal year a district does not levy 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, the payment under this subsection will be reduced by the same percentage as the millage actually levied compares to the 18 mills or the number of mills levied in 1993, whichever is less.

(10) 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.

(11) 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, 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.

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

(13) State payments related to payment of the foundation allowance for a special education pupil are not funded under this section but are instead funded under section 51a.

(14) To assist the legislature in determining the basic foundation allowance for the subsequent state fiscal year, except for the January 1998 revenue estimating conference, each revenue estimating conference conducted under section 367b of the management and budget act, 1984 PA 431, MCL 18.1367b, shall calculate a pupil membership factor, a revenue adjustment factor, and an index as follows:

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

(b) The revenue adjustment factor shall be computed by dividing the sum of the estimated total state school aid fund revenue for the subsequent state fiscal year plus the estimated 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 and excluding money transferred into that fund from the countercyclical budget and economic stabilization fund under section 353e of the management and budget act, 1984 PA 431, MCL 18.1353e, by the sum of the estimated total school aid fund revenue for the current state fiscal year plus the estimated 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. If a consensus revenue factor is not determined at the revenue estimating conference, the principals of the revenue estimating conference shall report their estimates to the house and senate subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the revenue conference.

(c) The index shall be calculated by multiplying the pupil membership factor by the revenue adjustment factor. However, for 1998-99 only, the index shall be 1.00. If a consensus index is not determined at the revenue estimating conference, the principals of the revenue estimating conference shall report their estimates to the house and senate subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the revenue conference.

(15) If the principals at the revenue estimating conference reach a consensus on the index described in subsection (14)(c), the basic foundation allowance for the subsequent state fiscal year shall be at least the amount of that consensus index multiplied by the basic foundation allowance specified in subsection (1).

(16) If the pupil membership, excluding intermediate district membership, for the school year ending in the next state fiscal year is estimated at the January revenue estimating conference to be greater than 101% of the pupil membership, excluding intermediate district membership, for the school year ending in the current state fiscal year, then it is the intent of the legislature that the executive budget proposal for the school aid budget in the subsequent state fiscal year incorporate a general fund/general purpose allocation that is greater than the general fund/general purpose allocation in the current fiscal year, to support the estimated membership in excess of 101% of the membership in the current year.

(17) 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 excluding special education pupils.

(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, MCL 380.1211.

(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, MCL 380.1211.

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

(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, MCL 380.1211.

(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, MCL 380.1211, 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 excluding special education pupils for the school year ending in the current state fiscal year.

Sec. 20b. (1) From the state school aid fund money appropriated in section 11 for 1998-99, there is allocated for 1998-99 only an amount not to exceed \$96,350,000.00 for payments to districts and intermediate districts under this section.

(2) The total amount allocated to districts under this section is \$95,600,000.00. The amount of the payment to each district under this section shall be as follows:

(a) For a district with a 1998-99 foundation allowance under section 20 at least equal to the amount of the 1998-99 basic foundation allowance under section 20, an amount equal to \$51.00 per 1998-99 membership pupil of the district.

(b) For a district with a 1998-99 foundation allowance under section 20 of less than the amount of the 1998-99 basic foundation allowance under section 20, an amount per 1998-99 membership pupil of the district equal to the amount calculated by multiplying 2 times \$51.00 and subtracting from that product the product of \$51.00 times the quotient of (the district's 1998-99 foundation allowance under section 20 minus \$5,170.00) divided by \$292.00.

(3) The total amount allocated to intermediate districts under this section is \$750,000.00. The amount of the payment to each intermediate district under this section shall be an amount equal to 0.9% of the amount of funding actually received by the intermediate district under section 81(1) for 1997-98.

(4) Notwithstanding section 17b, the payments due to a district or intermediate district under this section shall be made in 7 equal installments and shall be included in the monthly payments under section 17b for each month from February 1999 through August 1999.

Sec. 25a. If a pupil described in section 6(6)(g) enrolls pursuant to section 6(6)(g) during a school year in a district other than the district in which the pupil is counted in membership, the educating district shall report the enrollment information to the department and to the district in which the pupil is counted in membership, and the district in which the pupil is counted in membership shall pay to the educating district an amount equal to the amount of the foundation allowance received by the district in which the pupil is counted in membership, prorated according to the number of days of the school year ending in the fiscal year the pupil is educated in the educating district compared to the number of days of the school year ending in the fiscal year the pupil was actually enrolled in the district in which the pupil is counted in membership. If a district does not make the payment required under this section within 30 days after receipt of the report, the department shall calculate the amount owed, shall deduct that amount from the remaining state school aid payments to the district for that fiscal year under this act, and shall pay that amount to the educating district. The district in which the pupil is counted in membership and the educating district shall provide to the department all information the department requires to enforce this section.

Sec. 26a. From the general fund appropriation in section 11, there is allocated for 1997-98, for 1998-99, and for 1999-2000 an amount not to exceed \$6,584,200.00 each fiscal year to reimburse districts, intermediate districts, and the state school aid fund pursuant to section 12 of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2692, for taxes levied

in 1997, 1998, and 1999, respectively. This reimbursement shall be made by adjusting payments under section 20 to eligible districts, adjusting payments under section 56, 62, or 81 to eligible intermediate districts, and adjusting the state school aid fund. The adjustments shall be made not later than 60 days after the department of treasury certifies to the department and to the department of management and budget that the department of treasury has received all necessary information to properly determine the amounts due to each eligible recipient.

Sec. 31a. (1) From the state school aid fund money appropriated in section 11, there is allocated for 1997-98 an amount not to exceed \$250,000,000.00, for 1998-99 an amount not to exceed \$260,000,000.00, and for 1999-2000 an amount not to exceed \$269,100,000.00, for payments to eligible districts and eligible public school academies under this section. Subject to subsection (11), 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 state 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, 1769, 1769b to 1769c, and 1769f to 1769h, and 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. However, for a public school academy that began operations as a public school academy after the pupil membership count day of the immediately preceding school year, the basis for the additional allowance under this section shall be the number of actual pupils in membership in the public school academy who met the income eligibility criteria for free breakfast, lunch, or milk in the current state fiscal year, as determined under the national school lunch act.

(2) To be eligible to receive funding under this section, a district or public school academy that has not been previously determined to be eligible 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 current state fiscal year, as calculated under section 20, is less than or equal to \$6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current state fiscal year and \$5,000.00.

(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) Except as otherwise provided in this subsection, 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 public school academy's per pupil allocation under section 20, not to exceed \$6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current state fiscal year and \$5,000.00, or of the public school academy's per membership pupil allocation under section 20 for the current state fiscal year. A public school academy that began operations as a public school academy after the pupil membership count day of the immediately preceding school year shall receive under this section for each membership pupil in the 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 current fiscal year and adjusted not later than December 31 of the current fiscal year, an amount per pupil equal to 11.5% of the public school academy's per membership pupil allocation under section 20 for the current state fiscal year.

(4) Except as otherwise provided in this section, 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) or section 31c and shall not use any of that money for administrative costs or to supplant another program or other 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. As used in this subsection, "to supplant another program" means to take the place of a previously existing instructional program or direct noninstructional services funded from a funding source other than funding under this section.

(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 revised school code, MCL 380.1272a, shall use from the funds received under this section 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. A district or public school academy that receives funds under this section and that operates a school lunch program under section 1272a of the revised school code, MCL 380.1272a, shall use from the funds received under this section 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 lunch program.

(6) Each district or public school academy receiving funds under this section shall submit to the department by July 15 of each fiscal year a report, not to exceed 10 pages, on the usage by the district or public school academy of funds under this section, which report shall include at least a brief description of each program conducted by the district or public school academy using funds under this section, the amount of funds under this section allocated to each of those programs, and the number of at-risk pupils served by each of those programs. If a district or public school academy does not comply with this subsection, the department shall withhold an amount equal to the August 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 30% 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) For 1997-98, 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 at least 25% of the total number of pupils in the building.

(10) A district or public school academy may use funds received under this section for adult high school completion, general education development (G.E.D.) test preparation, or adult basic education programs described in section 107.

(11) 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).

(12) 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.

(13) Beginning in 1999-2000, a district or public school academy that does not meet the eligibility requirement under subsection (2)(a) is eligible for funding under this section if at least 1/4 of the pupils in membership in the district or public school academy met the income eligibility criteria for free breakfast, lunch, or milk in the immediately preceding state fiscal year, as determined and reported as described in subsection (1), and at least 4,500 of the pupils in membership in the district or public school academy met the income eligibility criteria for free breakfast, lunch, or milk in the immediately preceding state fiscal year, as determined and reported as described in subsection (1). A district or public school academy that is eligible for funding under this section for 1999-2000 because the district meets the requirements of this subsection 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 in the immediately preceding fiscal year, as determined and reported as described in subsection (1), an amount per pupil equal to 5.75% of the district's foundation allowance or public school academy's per pupil allocation under section 20, not to exceed \$6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current state fiscal year and \$5,000.00.

(14) Beginning in 1999-2000, the total amount allocated under this section for a fiscal year shall be increased from the total amount allocated under this section for the immediately preceding fiscal year by the same percentage as the percentage increase in the amount of the basic foundation allowance under section 20 for that fiscal year from the amount of the basic foundation allowance under section 20 for the immediately preceding fiscal year.

(15) 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. For pupils in grades K-3, at-risk pupil also includes a pupil who is at risk of not meeting the district's core academic curricular objectives in English language, communication skills, or mathematics.

Sec. 51a. (1) From the appropriation in section 11, there is allocated \$818,786,700.00 for 1997-98 to consist of an amount not to exceed \$722,853,300.00 from state sources and \$95,933,400.00 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; there is allocated for 1998-99 an amount not to exceed \$760,148,600.00 from state sources and all available federal funding, estimated at \$120,000,000.00, plus any carryover federal funds from previous year appropriations; and there is allocated for 1999-2000 an amount not to exceed \$818,600,000.00 from state sources and all available federal funding, estimated at \$120,000,000.00, plus any carryover federal funds from previous year appropriations. The allocations under this subsection are 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, MCL 380.1701 to 380.1766; net tuition payments made by intermediate districts to the Michigan schools for the deaf and blind; and programs for pupils who are eligible for special education programs and services according to statute or rule. 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 revised school code, MCL 380.1701 to 380.1766.

(2) From the funds allocated under subsection (1), there is allocated for 1997-98, for 1998-99, and for 1999-2000 the amount necessary, estimated at \$620,906,100.00 for 1997-98, \$657,239,100.00 for 1998-99, and \$714,848,100.00 for 1999-2000, for payments toward reimbursing districts and intermediate districts for 28.6138% of total approved costs of special education, excluding costs reimbursed under section 53a, and 70.4165% of total approved costs of special education transportation. Allocations under this subsection shall be made as follows:

(a) The initial amount allocated to a district under this subsection toward fulfilling the specified percentages shall be calculated by multiplying the district's special education pupil membership, excluding pupils described in subsection (13), times the foundation allowance under section 20 of the pupil's district of residence, not to exceed \$6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and for the immediately preceding fiscal year and \$5,000.00, or, for a special education pupil in membership in a district that is a public school academy or university school, times an amount equal to the amount per membership pupil calculated under section 20(6). For an intermediate district, the amount allocated under this subdivision toward fulfilling the specified percentages shall be an amount per special education membership pupil, excluding pupils described in subsection (13), and shall be calculated in the same manner as for a district, using the foundation allowance under section 20 of the pupil's district of residence, not to exceed \$6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and the immediately preceding fiscal year and \$5,000.00.

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

(3) From the funds allocated under subsection (1), there is allocated for 1997-98, for 1998-99, and for 1999-2000 the amount necessary, estimated at \$29,224,700.00 for 1997-98, \$28,995,600.00 for 1998-99, and \$29,400,000.00 for 1999-2000, to make payments to districts and intermediate districts under this subsection. If the amount allocated to a district or intermediate district for 1997-98, 1998-99, or 1999-2000 under subsection (2)(b) is less than the sum of the amounts allocated to the district or intermediate district for 1996-97 under sections 52 and 58, there is allocated to the district or intermediate district for 1997-98, for 1998-99, or for 1999-2000, or all of them as applicable, an amount equal to that difference, adjusted by applying the same proration factor that was used in the distribution of funds under section 52 in 1996-97 as adjusted to the district's or intermediate district's necessary costs of special education used in calculations for 1997-98, 1998-99, or 1999-2000. This adjustment is to reflect reductions in special education program operations between 1996-97 and 1997-98, 1998-99, or 1999-2000 as applicable.

(4) If the department determines that the sum of the amounts allocated for a fiscal year to a district or intermediate district under subsection (2)(a) and (b) is not sufficient to fulfill the specified percentages in subsection (2), then the shortfall shall be paid to the district or intermediate district during the fiscal year beginning on the October 1 following

the determination and payments under subsection (3) shall be adjusted as necessary. If the department determines that the sum of the amounts allocated for a fiscal year to a district or intermediate district under subsection (2)(a) and (b) exceeds the sum of the amount necessary to fulfill the specified percentages in subsection (2), then the department shall deduct the amount of the excess from the district's or intermediate district's payments under this act for the fiscal year beginning on the October 1 following the determination and payments under subsection (3) shall be adjusted as necessary. However, if the amount allocated under subsection (2)(a) in itself exceeds the amount necessary to fulfill the specified percentages in subsection (2), there shall be no deduction under this subsection.

(5) 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 \$3,100,000.00 may be allocated by the department for 1997-98, and an amount not to exceed \$3,500,000.00 each fiscal year may be allocated by the department for 1998-99 and for 1999-2000, 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.

(6) From the amount allocated in subsection (1), there is allocated an amount not to exceed \$1,700,000.00 for 1997-98, and an amount not to exceed \$2,200,000.00 each fiscal year for 1998-99 and for 1999-2000, 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.

(7) 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 53a 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, MCL 380.6. 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.

(8) From the allocation in subsection (1), there is allocated for 1997-98, for 1998-99, and for 1999-2000 an amount not to exceed \$15,313,900.00 each fiscal year to intermediate districts. The payment under this subsection to each intermediate district shall be equal to the amount of the 1996-97 allocation to the intermediate district under this subsection.

(9) 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 schools for the deaf and blind shall not be included in the membership count of a district, but shall be counted in membership in the intermediate district of residence.

(10) Notwithstanding section 6(4), for 1997-98 only, for pupils enrolled in a center program pursuant to an intermediate district plan the department shall use for the February 1997 supplemental count the definition of membership used for the 1997-98 pupil membership count day.

(11) 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.

(12) 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.

(13) From the funds allocated in subsection (1), there is allocated each fiscal year for 1997-98, for 1998-99, and for 1999-2000 the amount necessary, estimated at \$8,370,600.00 for 1997-98, \$9,562,000.00 for 1998-99, and \$10,000,000.00 for

1999-2000, to pay the foundation allowances for pupils described in this subsection. The allocation to a district under this subsection shall be calculated by multiplying the number of pupils described in this subsection who are counted in membership in the district times the foundation allowance under section 20 of the pupil's district of residence, not to exceed \$6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and for the immediately preceding fiscal year and \$5,000.00, or, for a pupil described in this subsection who is counted in membership in a district that is a public school academy or university school, times an amount equal to the amount per membership pupil under section 20(6). The allocation to an intermediate district under this subsection shall be calculated in the same manner as for a district, using the foundation allowance under section 20 of the pupil's district of residence, not to exceed \$6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and for the immediately preceding fiscal year and \$5,000.00. This subsection applies to all of the following pupils:

- (a) Pupils described in section 53a.
 - (b) Pupils counted in membership in an intermediate district who are not special education pupils and are served by the intermediate district in a juvenile detention or child caring facility.
 - (c) Emotionally impaired pupils counted in membership by an intermediate district and provided educational services by the department of community health.
- (14) After payments under subsections (2) and (13), the remaining expenditures from the allocation in subsection (1) shall be made in the following order:
- (a) 100% of the reimbursement required under section 53a.
 - (b) 100% of the reimbursement required under subsection (6).
 - (c) 100% of the payment required under section 54.
 - (d) 100% of the payment required under subsection (3).
 - (e) 100% of the payment required under subsection (8).
 - (f) 100% of the payments under section 56.

Sec. 63. (1) From the appropriation in section 11, there is allocated an amount not to exceed \$1,800,000.00 for 1999-2000 for implementation of the Michigan manufacturing technology program for the 1999-2000 school year as provided under this section.

(2) From the allocation in subsection (1), there is allocated \$1,800,000.00 to the department, in conjunction with the Michigan jobs commission, to award competitive grants for the purpose of improving manufacturing technology programs offered by public education agencies. The maximum amount of a grant under this subsection shall not exceed \$50,000.00 for each public education agency determined to be eligible for funding.

(3) Applications for grants under subsection (2) shall be submitted in a form and manner determined by the department, in conjunction with the Michigan jobs commission. Criteria for funding shall include all of the following:

(a) The public education agency operates a manufacturing technology program, is a participating agency in a regional career preparation plan described in section 68, and has the support of the local workforce development board for submission of the grant application.

(b) The public education agency offers employer-provided instruction for its pupils as part of its manufacturing technology curriculum.

(c) The public education agency agrees to evaluate the impact of the grant.

(d) Any other criteria determined by the department, in conjunction with the Michigan jobs commission.

(4) Grants awarded under subsection (2) shall be used by eligible public education agencies for activities intended to increase the amount of employer-provided instruction provided to pupils and to increase pupil awareness of manufacturing technology programs.

(5) The department, in conjunction with the Michigan jobs commission, shall consider the potential for graduates to be placed in high-wage, high-demand positions upon completion of the manufacturing technology program in its determination of grant awards.

(6) Grants under subsection (2) shall be awarded by the department no later than April 30, 2000 and paid out to the grant recipients in total no later than May 20, 2000. Funds may be used by grant recipients to support allowable expenditures in the following school year.

Sec. 81. (1) Except as otherwise provided in this section, from the appropriation in section 11, there is allocated each fiscal year for 1997-98, for 1998-99, and for 1999-2000 to the intermediate districts the sum necessary, but not to exceed \$81,266,700.00 for 1997-98, not to exceed \$79,912,000.00 for 1998-99, and not to exceed \$82,644,800.00 for 1999-2000, to provide state aid to intermediate districts under this section. Except as otherwise provided in this section, there shall be allocated to each intermediate district each fiscal year for 1997-98 and for 1998-99 an amount equal to 102.9% of the

sum of the amount of funding actually received by the intermediate district under this subsection in 1996-97 and the amount of funding actually received by the intermediate district under former section 11b as in effect for 1995-96. Except as otherwise provided in this section, there shall be allocated to each intermediate district for 1999-2000 an amount equal to 103.5% of the amount of funding actually received by the intermediate district under this subsection for 1998-99. Funding provided under this section shall be used to comply with requirements of this act and the revised school code that are applicable to intermediate districts, and for which funding is not provided elsewhere in this act, and to provide technical assistance to districts as authorized by the intermediate school board.

(2) From the allocation in subsection (1), there is allocated to an intermediate district, formed by the consolidation or annexation of 2 or more intermediate districts or the attachment of a total intermediate district to another intermediate school district or the annexation of all of the constituent K-12 districts of a previously existing intermediate school district which has disorganized, an additional allotment of \$3,500.00 each fiscal year for each intermediate district included in the new intermediate district for 3 years following consolidation, annexation, or attachment.

(3) If an intermediate district participated in 1993-94 in a consortium operating a regional educational media center under section 671 of the revised school code, MCL 380.671, and rules promulgated by the state board, and if the intermediate district obtains written consent from each of the other intermediate districts that participated in the consortium in 1993-94, the intermediate district may notify the department not later than December 30, 1998 that it is electing to directly receive its payment attributable to participation in that consortium. An intermediate district making that election, and that has obtained the necessary consent, shall receive each fiscal year for 1997-98, for 1998-99, and for 1999-2000 for each pupil in membership in the intermediate district or a constituent district an amount equal to the quotient of the 1993-94 allocation to the fiscal agent for that consortium under former section 83, adjusted as determined by the department to account for that election, divided by the combined total membership for the current fiscal year in all of the intermediate districts that participated in that consortium and their constituent districts. The amount allocated to an intermediate district under this subsection for a fiscal year shall be deducted from the total allocation for that fiscal year under this section to the intermediate district that was the 1993-94 fiscal agent for the consortium.

(4) During a fiscal year, the department shall not increase an intermediate district's allocation under subsection (1) because of an adjustment made by the department during the fiscal year in the intermediate district's taxable value for a prior year. Instead, the department shall report the adjustment and the estimated amount of the increase to the house and senate fiscal agencies not later than June 1 of the fiscal year, and the legislature shall appropriate money for the adjustment in the next succeeding fiscal year. Accordingly, from the allocation in subsection (1), there is allocated for 1998-99 only an amount not to exceed \$62,000.00 for payments to intermediate districts for adjustments in taxable value described in this subsection.

(5) In order to receive funding under this section, an intermediate district shall demonstrate to the satisfaction of the department that the intermediate district employs at least 1 person who is trained in pupil counting procedures, rules, and regulations.

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

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

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

(b) At least until July 1, accept applications from nonresidents residing within the same intermediate district for enrollment in the available grades, schools, and programs.

(c) By July 15, using the procedures and preferences required under this section, determine which nonresident applicants will be allowed to enroll in the district and notify the parent or legal guardian of each nonresident applicant of whether or not the applicant may enroll in the district. The notification to parents or legal guardians of nonresident applicants accepted for enrollment shall contain notification of the date by which the applicant must enroll in the district and procedures for enrollment.

(3) If deadlines similar to those described in subsection (2) have been established in an intermediate district pursuant to a pilot intermediate district schools of choice program under former section 91, and if those deadlines are not later than the deadlines under subsection (2), the districts within the intermediate district may continue to use those deadlines.

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

(5) A nonresident applicant residing within the same intermediate district shall not be granted or refused enrollment based on intellectual, academic, artistic, or other ability, talent, or accomplishment, or lack thereof, or based on a mental or physical disability, except that a district may refuse to admit a nonresident applicant if the applicant does not meet the same criteria, other than residence, that an applicant who is a resident of the district must meet to be accepted for enrollment in a grade or a specialized, magnet, or intra-district choice school or program to which the applicant applies.

(6) A nonresident applicant residing within the same intermediate district shall not be granted or refused enrollment based on age, except that a district may refuse to admit a nonresident applicant applying for a program that is not appropriate for the age of the applicant.

(7) A nonresident applicant residing within the same intermediate district shall not be granted or refused enrollment based upon religion, race, color, national origin, sex, height, weight, marital status, or athletic ability, or, generally, in violation of any state or federal law prohibiting discrimination.

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

(9) A district shall give preference for enrollment over all other nonresident applicants residing within the same intermediate district to pupils who were enrolled in and attended the district in the school year immediately preceding the school year in question and to other school-age children who reside in the same household as the pupil.

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

(11) If the number of qualified nonresident applicants eligible for acceptance in a school, grade, or program does not exceed the positions available for nonresident pupils in the school, grade, or program, the school district shall accept for enrollment all of the qualified nonresident applicants eligible for acceptance. If the number of qualified nonresident applicants residing within the same intermediate district eligible for acceptance exceeds the positions available in a grade, school, or program in a district for nonresident pupils, the district shall use a random draw system, subject to the need to abide by state and federal antidiscrimination laws and court orders and subject to preferences allowed by this section.

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

(13) If a district is subject to a court-ordered desegregation plan, and if the court issues an order prohibiting pupils residing in that district from enrolling in another district or prohibiting pupils residing in another district from enrolling in that district, this section is subject to the court order.

(14) This section does not require a district to provide transportation for a nonresident pupil enrolled in the district under this section or for a resident pupil enrolled in another district under this section. However, at the time a nonresident pupil enrolls in the district, a district shall provide to the pupil's parent or legal guardian information on available transportation to and from the school in which the pupil enrolls.

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

(16) A district may participate in a cooperative education program with 1 or more other districts or intermediate districts whether or not the district enrolls any nonresidents pursuant to this section.

(17) A district that, pursuant to this section, enrolls a nonresident pupil who is eligible for special education programs and services according to statute or rule, or who is a child with disabilities, as defined under the individuals with disabilities education act, title VI of Public Law 91-230, shall be considered to be the resident district of the pupil for the purpose of providing the pupil with a free appropriate public education. Consistent with state and federal law, that district is responsible for developing and implementing an individualized education plan annually for a nonresident pupil described in this subsection.

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

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

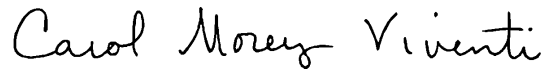
(20) If an intermediate district is operating under an intermediate district pilot schools of choice program established under former section 91 or as described in section 91a, and if the superintendent of public instruction determines that the program is substantially similar to intermediate district schools of choice under this section, the superintendent of public instruction may exempt the intermediate district and its constituent districts from this section for not more than 1 year.

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

Sec. 161a. If a court determines that a person intentionally violated section 411a of the Michigan penal code, 1931 PA 328, MCL 750.411a, by making a false report of the commission of a crime described in section 6(6)(g) knowing the report to be false for the purpose of having a pupil counted in membership in a district under section 6(6)(g), as part of the restitution ordered under section 30 of chapter XIIA of 1939 PA 288, MCL 712A.30, section 16, 44, or 76 of the crime victim's rights act, 1985 PA 87, MCL 780.766, 780.794, and 780.826, or section 1a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1a, the court may order the person to pay the pupil's district of residence an amount that is not more than the state school aid that district would have received attributable to the pupil if the pupil had been counted in membership in his or her district of residence.

Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act and in 1998 PA 339 and 1997 PA 142 from state sources for fiscal year 1998-99 is estimated at \$9,495,075,400.00 and state appropriations to be paid to local units of government for fiscal year 1998-99 are estimated at \$9,480,525,400.00, and total state spending in this amendatory act and 1998 PA 339 from state sources for fiscal year 1999-2000 is estimated at \$9,819,022,100.00 and state appropriations to be paid to local units of government for fiscal year 1999-2000 are estimated at \$9,776,098,100.00.

This act is ordered to take immediate effect.



Secretary of the Senate.



Clerk of the House of Representatives.

Approved _____

Governor.