

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1193

A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending sections 11 and 51a (MCL 388.1611 and 388.1651a), as
amended by 2004 PA 351.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (1) In addition to all other appropriations under
2 this act for that fiscal year, for the fiscal year ending
3 September 30, 2004, there is appropriated to the state school aid
4 fund from the unreserved balance in the general fund an amount
5 equal to any deficit balance that would otherwise exist in the
6 state school aid fund at bookclosing for the fiscal year ending
7 September 30, 2004. For the fiscal year ending September 30,
8 2005, there is appropriated for the public schools of this state
9 and certain other state purposes relating to education the sum of
10 ~~\$11,008,700,000.00~~ **\$10,909,200,000.00** from the state school aid

1 fund established by section 11 of article IX of the state
2 constitution of 1963 and the sum of ~~-\$165,200,000.00~~
3 **\$264,700,000.00** from the general fund. In addition, available
4 federal funds are appropriated for each of those fiscal years.

5 (2) The appropriations under this section shall be allocated
6 as provided in this act. Money appropriated under this section
7 from the general fund shall be expended to fund the purposes of
8 this act before the expenditure of money appropriated under this
9 section from the state school aid fund. If the maximum amount
10 appropriated under this section from the state school aid fund
11 for a fiscal year exceeds the amount necessary to fully fund
12 allocations under this act from the state school aid fund, that
13 excess amount shall not be expended in that state fiscal year and
14 shall not lapse to the general fund, but instead shall be
15 deposited into the school aid stabilization fund created in
16 section 11a.

17 (3) If the maximum amount appropriated under this section
18 from the state school aid fund and the school aid stabilization
19 fund for a fiscal year exceeds the amount available for
20 expenditure from the state school aid fund for that fiscal year,
21 payments under sections 11f, 11g, 11j, 22a, 26a, 31d, 51a(2),
22 51a(12), 51c, 53a, and 56 shall be made in full. In addition,
23 for districts beginning operations after 1994-95 that qualify for
24 payments under section 22b, payments under section 22b shall be
25 made so that the qualifying districts receive the lesser of an
26 amount equal to the 1994-95 foundation allowance of the district
27 in which the district beginning operations after 1994-95 is

1 located or \$5,500.00. The amount of the payment to be made under
2 section 22b for these qualifying districts shall be as calculated
3 under section 22a, with the balance of the payment under section
4 22b being subject to the proration otherwise provided under this
5 subsection and subsection (4). Subject to subsection (5), if
6 proration is necessary after 2002-2003, state payments under each
7 of the other sections of this act from all state funding sources
8 shall be prorated in the manner prescribed in subsection (4) as
9 necessary to reflect the amount available for expenditure from
10 the state school aid fund for the affected fiscal year. However,
11 if the department of treasury determines that proration will be
12 required under this subsection, or if the department of treasury
13 determines that further proration is required under this
14 subsection after an initial proration has already been made for a
15 fiscal year, the department of treasury shall notify the state
16 budget director, and the state budget director shall notify the
17 legislature at least 30 calendar days or 6 legislative session
18 days, whichever is more, before the department reduces any
19 payments under this act because of the proration. During the 30
20 calendar day or 6 legislative session day period after that
21 notification by the state budget director, the department shall
22 not reduce any payments under this act because of proration under
23 this subsection. The legislature may prevent proration from
24 occurring by, within the 30 calendar day or 6 legislative session
25 day period after that notification by the state budget director,
26 enacting legislation appropriating additional funds from the
27 general fund, countercyclical budget and economic stabilization

1 fund, state school aid fund balance, or another source to fund
2 the amount of the projected shortfall.

3 (4) Subject to subsection (5), if proration is necessary, the
4 department shall calculate the proration in district and
5 intermediate district payments that is required under subsection
6 (3) as follows:

7 (a) The department shall calculate the percentage of total
8 state school aid allocated under this act for the affected fiscal
9 year for each of the following:

10 (i) Districts.

11 (ii) Intermediate districts.

12 (iii) Entities other than districts or intermediate
13 districts.

14 (b) The department shall recover a percentage of the
15 proration amount required under subsection (3) that is equal to
16 the percentage calculated under subdivision (a)(i) for districts
17 by reducing payments to districts. This reduction shall be made
18 by calculating an equal dollar amount per pupil as necessary to
19 recover this percentage of the proration amount and reducing each
20 district's total state school aid from state sources, other than
21 payments under sections 11f, 11g, 11j, 22a, 26a, 31d, 51a(2),
22 51a(12), 51c, and 53a, by that amount.

23 (c) The department shall recover a percentage of the
24 proration amount required under subsection (3) that is equal to
25 the percentage calculated under subdivision (a)(ii) for
26 intermediate districts by reducing payments to intermediate
27 districts. This reduction shall be made by reducing the payments

1 to each intermediate district, other than payments under sections
2 11f, 11g, 26a, 51a(2), 51a(12), 53a, and 56, on an equal
3 percentage basis.

4 (d) The department shall recover a percentage of the
5 proration amount required under subsection (3) that is equal to
6 the percentage calculated under subdivision (a)(iii) for entities
7 other than districts and intermediate districts by reducing
8 payments to these entities. This reduction shall be made by
9 reducing the payments to each of these entities, other than
10 payments under sections 11j and 26a, on an equal percentage
11 basis.

12 (5) Beginning in 2004-2005, if a district has an emergency
13 financial manager in place under the local government fiscal
14 responsibility act, 1990 PA 72, MCL 141.1201 to 141.1291,
15 payments to that district are not subject to proration under this
16 section.

17 (6) Except for the allocation under section 26a, any general
18 fund allocations under this act that are not expended by the end
19 of the state fiscal year are transferred to the state school aid
20 fund. If it is determined at the May 2005 revenue estimating
21 conference conducted under section 367b of the management and
22 budget act, 1984 PA 431, MCL 18.1367b, that there is additional
23 school aid fund revenue beyond that determined at the May 2004
24 revenue estimating conference, then it is the intent of the
25 legislature to enact legislation to fund, to the extent that
26 revenues are available, the same programs in the same amount that
27 were funded under section 81 in 2003 PA 236 and the same pupil

1 membership formula as in effect under 2003 PA 236.

2 Sec. 51a. (1) From the appropriation in section 11, there
3 is allocated for 2004-2005 an amount not to exceed
4 \$905,683,000.00 from state sources and all available federal
5 funding under sections 611 to 619 of part B of the individuals
6 with disabilities education act, 20 USC 1411 to 1419, estimated
7 at \$329,850,000.00 plus any carryover federal funds from previous
8 year appropriations. The allocations under this subsection are
9 for the purpose of reimbursing districts and intermediate
10 districts for special education programs, services, and special
11 education personnel as prescribed in article 3 of the revised
12 school code, MCL 380.1701 to 380.1766; net tuition payments made
13 by intermediate districts to the Michigan schools for the deaf
14 and blind; and special education programs and services for pupils
15 who are eligible for special education programs and services
16 according to statute or rule. For meeting the costs of special
17 education programs and services not reimbursed under this
18 article, a district or intermediate district may use money in
19 general funds or special education funds, not otherwise
20 restricted, or contributions from districts to intermediate
21 districts, tuition payments, gifts and contributions from
22 individuals, or federal funds that may be available for this
23 purpose, as determined by the intermediate district plan prepared
24 pursuant to article 3 of the revised school code, MCL 380.1701 to
25 380.1766. All federal funds allocated under this section in
26 excess of those allocated under this section for 2002-2003 may be
27 distributed in accordance with the flexible funding provisions of

1 the individuals with disabilities education act, title VI of
2 Public Law 91-230, including, but not limited to, 34 CFR 300.234
3 and 300.235. Notwithstanding section 17b, payments of federal
4 funds to districts, intermediate districts, and other eligible
5 entities under this section shall be paid on a schedule
6 determined by the department.

7 (2) From the funds allocated under subsection (1), there is
8 allocated for 2004-2005 the amount necessary, estimated at
9 \$168,900,000.00 for 2003-2004, for payments toward reimbursing
10 districts and intermediate districts for 28.6138% of total
11 approved costs of special education, excluding costs reimbursed
12 under section 53a, and 70.4165% of total approved costs of
13 special education transportation. Allocations under this
14 subsection shall be made as follows:

15 (a) The initial amount allocated to a district under this
16 subsection toward fulfilling the specified percentages shall be
17 calculated by multiplying the district's special education pupil
18 membership, excluding pupils described in subsection (12), times
19 the sum of the foundation allowance under section 20 of the
20 pupil's district of residence plus the amount of the district's
21 per pupil allocation under section 20j(2), not to exceed
22 \$6,500.00 adjusted by the dollar amount of the difference between
23 the basic foundation allowance under section 20 for the current
24 fiscal year and \$5,000.00 minus \$200.00, or, for a special
25 education pupil in membership in a district that is a public
26 school academy or university school, times an amount equal to the
27 amount per membership pupil calculated under section 20(6). For

1 an intermediate district, the amount allocated under this
2 subdivision toward fulfilling the specified percentages shall be
3 an amount per special education membership pupil, excluding
4 pupils described in subsection (12), and shall be calculated in
5 the same manner as for a district, using the foundation allowance
6 under section 20 of the pupil's district of residence, not to
7 exceed \$6,500.00 adjusted by the dollar amount of the difference
8 between the basic foundation allowance under section 20 for the
9 current fiscal year and \$5,000.00 minus \$200.00, and that
10 district's per pupil allocation under section 20j(2).

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

16 (3) From the funds allocated under subsection (1), there is
17 allocated for 2004-2005 the amount necessary, estimated at
18 \$2,400,000.00, to make payments to districts and intermediate
19 districts under this subsection. If the amount allocated to a
20 district or intermediate district for a fiscal year under
21 subsection (2)(b) is less than the sum of the amounts allocated
22 to the district or intermediate district for 1996-97 under
23 sections 52 and 58, there is allocated to the district or
24 intermediate district for the fiscal year an amount equal to that
25 difference, adjusted by applying the same proration factor that
26 was used in the distribution of funds under section 52 in 1996-97
27 as adjusted to the district's or intermediate district's

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

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

27 (5) State funds shall be allocated on a total approved cost

1 basis. Federal funds shall be allocated under applicable federal
2 requirements, except that an amount not to exceed \$3,500,000.00
3 may be allocated by the department for 2004-2005 to districts or
4 intermediate districts on a competitive grant basis for programs,
5 equipment, and services that the department determines to be
6 designed to benefit or improve special education on a statewide
7 scale.

8 (6) From the amount allocated in subsection (1), there is
9 allocated an amount not to exceed \$2,200,000.00 for 2004-2005 to
10 reimburse 100% of the net increase in necessary costs incurred by
11 a district or intermediate district in implementing the revisions
12 in the administrative rules for special education that became
13 effective on July 1, 1987. As used in this subsection, "net
14 increase in necessary costs" means the necessary additional costs
15 incurred solely because of new or revised requirements in the
16 administrative rules minus cost savings permitted in implementing
17 the revised rules. Net increase in necessary costs shall be
18 determined in a manner specified by the department.

19 (7) For purposes of this article, all of the following
20 apply:

21 (a) "Total approved costs of special education" shall be
22 determined in a manner specified by the department and may
23 include indirect costs, but shall not exceed 115% of approved
24 direct costs for section 52 and section 53a programs. The total
25 approved costs include salary and other compensation for all
26 approved special education personnel for the program, including
27 payments for social security and medicare and public school

1 employee retirement system contributions. The total approved
2 costs do not include salaries or other compensation paid to
3 administrative personnel who are not special education personnel
4 as defined in section 6 of the revised school code, MCL 380.6.
5 Costs reimbursed by federal funds, other than those federal funds
6 included in the allocation made under this article, are not
7 included. Special education approved personnel not utilized full
8 time in the evaluation of students or in the delivery of special
9 education programs, ancillary, and other related services shall
10 be reimbursed under this section only for that portion of time
11 actually spent providing these programs and services, with the
12 exception of special education programs and services provided to
13 youth placed in child caring institutions or juvenile detention
14 programs approved by the department to provide an on-grounds
15 education program. **Total approved costs of special education do**
16 **not include the costs of a joint shared-employment arrangement**
17 **between an intermediate district and 1 or more of its constituent**
18 **districts that took effect in the 2004-2005 or a subsequent**
19 **school year. The costs associated with the joint**
20 **shared-employment arrangement shall instead be allocated entirely**
21 **to the constituent district or districts. In addition, if an**
22 **intermediate district entered into such a joint shared-employment**
23 **arrangement that took effect in the 2004-2005 or a subsequent**
24 **school year and subsequently becomes the sole employer of an**
25 **employee who had been subject to the joint shared-employment**
26 **arrangement, total approved costs of special education do not**
27 **include the costs of employing that employee unless the**

1 department determines that employing the employee has resulted in
2 a significant cost savings or an increase in efficiency that is
3 sufficient to justify the arrangement.

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

16 (8) From the allocation in subsection (1), there is allocated
17 for 2004-2005 an amount not to exceed \$15,313,900.00 to
18 intermediate districts. The payment under this subsection to
19 each intermediate district shall be equal to the amount of the
20 1996-97 allocation to the intermediate district under subsection
21 (6) of this section as in effect for 1996-97.

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

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

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

13 (12) From the funds allocated in subsection (1), there is
14 allocated for 2004-2005 the amount necessary, estimated at
15 \$6,100,000.00, to pay the foundation allowances for pupils
16 described in this subsection. The allocation to a district under
17 this subsection shall be calculated by multiplying the number of
18 pupils described in this subsection who are counted in membership
19 in the district times the sum of the foundation allowance under
20 section 20 of the pupil's district of residence plus the amount
21 of the district's per pupil allocation under section 20j(2), not
22 to exceed \$6,500.00 adjusted by the dollar amount of the
23 difference between the basic foundation allowance under section
24 20 for the current fiscal year and \$5,000.00 minus \$200.00, or,
25 for a pupil described in this subsection who is counted in
26 membership in a district that is a public school academy or
27 university school, times an amount equal to the amount per

1 membership pupil under section 20(6). The allocation to an
2 intermediate district under this subsection shall be calculated
3 in the same manner as for a district, using the foundation
4 allowance under section 20 of the pupil's district of residence,
5 not to exceed \$6,500.00 adjusted by the dollar amount of the
6 difference between the basic foundation allowance under section
7 20 for the current fiscal year and \$5,000.00 minus \$200.00, and
8 that district's per pupil allocation under section 20j(2). This
9 subsection applies to all of the following pupils:

10 (a) Pupils described in section 53a.

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

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

18 (13) After payments under subsections (2) and (12) and
19 section 51c, the remaining expenditures from the allocation in
20 subsection (1) shall be made in the following order:

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

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

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

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

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

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

27 (14) The allocations under subsection (2), subsection (3),

1 and subsection (12) shall be allocations to intermediate
2 districts only and shall not be allocations to districts, but
3 instead shall be calculations used only to determine the state
4 payments under section 22b.