

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 279

A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending sections 11, 11a, 11j, 22a, 22b, 51a, and 51c (MCL
388.1611, 388.1611a, 388.1611j, 388.1622a, 388.1622b, 388.1651a,
and 388.1651c), sections 11 and 51a as amended by 2004 PA 518,
section 11a as added by 2003 PA 158, and sections 11j, 22a, 22b,
and 51c 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 September~~
3 ~~30, 2004, there is appropriated to the state school aid fund from~~
4 ~~the unreserved balance in the general fund an amount equal to any~~
5 ~~deficit balance that would otherwise exist in the state school aid~~

~~fund at bookclosing for the fiscal year ending September 30, 2004.~~

For the fiscal year ending September 30, 2005, there is appropriated for the public schools of this state and certain other state purposes relating to education the sum of ~~-\$10,909,200,000.00~~ **\$10,907,222,200.00** from the state school aid fund established by section 11 of article IX of the state constitution of 1963, **THE SUM OF \$41,100,000.00 FROM THE PROCEEDS OF CAPITALIZATION OF THE SCHOOL BOND LOAN FUND REVOLVING FUND**, and the sum of ~~-\$264,700,000.00~~ **\$165,200,000.00** from the general fund. In addition, available federal funds are appropriated for each ~~of these~~ fiscal ~~years~~ **YEAR.**

(2) The appropriations under this section shall be allocated as provided in this act. Money appropriated under this section from the general fund 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 be deposited into the school aid stabilization fund created in section 11a.

(3) If the maximum amount appropriated under this section from the state school aid fund and the school aid stabilization 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, 11j, 22a, 26a, 31d, 51a(2), 51a(12), 51c, 53a, and 56

1 shall be made in full. In addition, for districts beginning
2 operations after 1994-95 that qualify for payments under section
3 22b, payments under section 22b shall be made so that the
4 qualifying districts receive the lesser of an amount equal to the
5 1994-95 foundation allowance of the district in which the district
6 beginning operations after 1994-95 is located or \$5,500.00. The
7 amount of the payment to be made under section 22b for these
8 qualifying districts shall be as calculated under section 22a, with
9 the balance of the payment under section 22b being subject to the
10 proration otherwise provided under this subsection and subsection
11 (4). Subject to subsection (5), if proration is necessary after
12 2002-2003, state payments under each of the other sections of this
13 act from all state funding sources shall be prorated in the manner
14 prescribed in subsection (4) as necessary to reflect the amount
15 available for expenditure from the state school aid fund for the
16 affected fiscal year. However, if the department of treasury
17 determines that proration will be required under this subsection,
18 or if the department of treasury determines that further proration
19 is required under this subsection after an initial proration has
20 already been made for a fiscal year, the department of treasury
21 shall notify the state budget director, and the state budget
22 director shall notify the legislature at least 30 calendar days or
23 6 legislative session days, whichever is more, before the
24 department reduces any payments under this act because of the
25 proration. During the 30 calendar day or 6 legislative session day
26 period after that notification by the state budget director, the
27 department shall not reduce any payments under this act because of

1 proration under this subsection. The legislature may prevent
2 proration from occurring by, within the 30 calendar day or 6
3 legislative session day period after that notification by the state
4 budget director, enacting legislation appropriating additional
5 funds from the general fund, countercyclical budget and economic
6 stabilization fund, state school aid fund balance, or another
7 source to fund the amount of the projected shortfall.

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

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

15 (i) Districts.

16 (ii) Intermediate districts.

17 (iii) Entities other than districts or intermediate districts.

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

27 (c) The department shall recover a percentage of the proration

1 amount required under subsection (3) that is equal to the
2 percentage calculated under subdivision (a)(ii) for intermediate
3 districts by reducing payments to intermediate districts. This
4 reduction shall be made by reducing the payments to each
5 intermediate district, other than payments under sections 11f, 11g,
6 26a, 51a(2), 51a(12), 53a, and 56, on an equal percentage basis.

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

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

18 (6) Except for the allocation under section 26a, any general
19 fund allocations under this act that are not expended by the end of
20 the state fiscal year are transferred to the ~~state~~ school aid
21 **STABILIZATION** fund **CREATED UNDER SECTION 11A**. ~~If it is determined~~
22 ~~at the May 2005 revenue estimating conference conducted under~~
23 ~~section 367b of the management and budget act, 1984 PA 431, MCL~~
24 ~~18.1367b, that there is additional school aid fund revenue beyond~~
25 ~~that determined at the May 2004 revenue estimating conference, then~~
26 ~~it is the intent of the legislature to enact legislation to fund,~~
27 ~~to the extent that revenues are available, the same programs in the~~

~~1 same amount that were funded under section 81 in 2003 PA 236 and~~
~~2 the same pupil membership formula as in effect under 2003 PA 236.~~

3 Sec. 11a. (1) The school aid stabilization fund is created as
4 a separate account within the state school aid fund established by
5 section 11 of article IX of the state constitution of 1963.

6 (2) The state treasurer may receive money or other assets from
7 any source for deposit into the school aid stabilization fund. The
8 state treasurer shall deposit into the school aid stabilization
9 fund all of the following:

10 (a) Unexpended and unencumbered state school aid fund revenue
11 for a fiscal year that remains in the state school aid fund as of
12 the bookclosing for that fiscal year.

13 (b) Money statutorily dedicated to the school aid
14 stabilization fund.

15 (c) Money appropriated to the school aid stabilization fund.

16 (3) Money available in the school aid stabilization fund may
17 not be expended without a specific appropriation from the school
18 aid stabilization fund. Money in the school aid stabilization fund
19 shall be expended only for purposes for which state school aid fund
20 money may be expended.

21 (4) The state treasurer shall direct the investment of the
22 school aid stabilization fund. The state treasurer shall credit to
23 the school aid stabilization fund interest and earnings from fund
24 investments.

25 (5) Money in the school aid stabilization fund at the close of
26 a fiscal year shall remain in the school aid stabilization fund and
27 shall not lapse to the unreserved school aid fund balance or the

1 general fund.

2 (6) If the maximum amount appropriated under section 11 from
3 the state school aid fund for a fiscal year exceeds the amount
4 available for expenditure from the state school aid fund for that
5 fiscal year, there is appropriated from the school aid
6 stabilization fund to the state school aid fund an amount equal to
7 the projected shortfall as determined by the department of
8 treasury, but not to exceed available money in the school aid
9 stabilization fund. If the money in the school aid stabilization
10 fund is insufficient to fully fund an amount equal to the projected
11 shortfall, the state budget director shall notify the legislature
12 as required under section 11(3) and state payments in an amount
13 equal to the remainder of the projected shortfall shall be prorated
14 in the manner provided under section 11(4).

15 (7) FOR 2004-2005, THERE IS TRANSFERRED FROM THE SCHOOL AID
16 STABILIZATION FUND TO THE STATE SCHOOL AID FUND THE AMOUNT
17 NECESSARY TO FULLY FUND THE ALLOCATIONS UNDER THIS ACT.

18 Sec. 11j. From the appropriation in section 11 FROM THE
19 PROCEEDS OF CAPITALIZATION OF THE SCHOOL BOND LOAN FUND REVOLVING
20 FUND, there is allocated an amount not to exceed \$41,100,000.00 for
21 2004-2005 for payments to the school loan bond redemption fund in
22 the department of treasury on behalf of districts and intermediate
23 districts. Notwithstanding section 11 or any other provision of
24 this act, funds allocated under this section are not subject to
25 proration and shall be paid in full.

26 Sec. 22a. (1) From the appropriation in section 11, there is
27 allocated ~~an amount not to exceed \$6,765,300,000.00 for 2003-2004~~

1 ~~and~~ an amount not to exceed ~~—\$6,678,977,800.00—~~ **\$6,615,000,000.00**
2 for 2004-2005 for payments to districts, qualifying university
3 schools, and qualifying public school academies to guarantee each
4 district, qualifying university school, and qualifying public
5 school academy an amount equal to its 1994-95 total state and local
6 per pupil revenue for school operating purposes under section 11 of
7 article IX of the state constitution of 1963. Pursuant to section
8 11 of article IX of the state constitution of 1963, this guarantee
9 does not apply to a district in a year in which the district levies
10 a millage rate for school district operating purposes less than it
11 levied in 1994. However, subsection (2) applies to calculating the
12 payments under this section. Funds allocated under this section
13 that are not expended in the state fiscal year for which they were
14 allocated, as determined by the department, may be used to
15 supplement the allocations under sections 22b and 51c in order to
16 fully fund those calculated allocations for the same fiscal year.

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

22 (a) Except as otherwise provided in this subsection, the state
23 portion of a district's 1994-95 foundation allowance is an amount
24 equal to the district's 1994-95 foundation allowance or \$6,500.00,
25 whichever is less, minus the difference between the product of the
26 taxable value per membership pupil of all property in the district
27 that is not a homestead or qualified agricultural property times

1 the lesser of 18 mills or the number of mills of school operating
2 taxes levied by the district in 1993-94 and the quotient of the ad
3 valorem property tax revenue of the district captured under 1975 PA
4 197, MCL 125.1651 to 125.1681, the tax increment finance authority
5 act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development
6 financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the
7 brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651
8 to 125.2672, divided by the district's membership. For a district
9 that has a millage reduction required under section 31 of article
10 IX of the state constitution of 1963, the state portion of the
11 district's foundation allowance shall be calculated as if that
12 reduction did not occur.

13 (b) For a district that had a 1994-95 foundation allowance
14 greater than \$6,500.00, the state payment under this subsection
15 shall be the sum of the amount calculated under subdivision (a)
16 plus the amount calculated under this subdivision. The amount
17 calculated under this subdivision shall be equal to the difference
18 between the district's 1994-95 foundation allowance minus \$6,500.00
19 and the current year hold harmless school operating taxes per
20 pupil. If the result of the calculation under subdivision (a) is
21 negative, the negative amount shall be an offset against any state
22 payment calculated under this subdivision. If the result of a
23 calculation under this subdivision is negative, there shall not be
24 a state payment or a deduction under this subdivision. The taxable
25 values per membership pupil used in the calculations under this
26 subdivision are as adjusted by ad valorem property tax revenue
27 captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax

1 increment finance authority act, 1980 PA 450, MCL 125.1801 to
2 125.1830, the local development financing act, 1986 PA 281, MCL
3 125.2151 to 125.2174, or the brownfield redevelopment financing
4 act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the
5 district's membership.

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

15 (4) A district, qualifying university school, or qualifying
16 public school academy may use funds allocated under this section in
17 conjunction with any federal funds for which the district,
18 qualifying university school, or qualifying public school academy
19 otherwise would be eligible.

20 (5) For a district that is formed or reconfigured after June
21 1, 2000 by consolidation of 2 or more districts or by annexation,
22 the resulting district's 1994-95 foundation allowance under this
23 section beginning after the effective date of the consolidation or
24 annexation shall be the average of the 1994-95 foundation
25 allowances of each of the original or affected districts,
26 calculated as provided in this section, weighted as to the
27 percentage of pupils in total membership in the resulting district

1 in the state fiscal year in which the consolidation takes place who
2 reside in the geographic area of each of the original districts. If
3 an affected district's 1994-95 foundation allowance is less than
4 the 1994-95 basic foundation allowance, the amount of that
5 district's 1994-95 foundation allowance shall be considered for the
6 purpose of calculations under this subsection to be equal to the
7 amount of the 1994-95 basic foundation allowance.

8 (6) As used in this section:

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

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

15 (c) "Current year hold harmless school operating taxes per
16 pupil" means the per pupil revenue generated by multiplying a
17 district's 1994-95 hold harmless millage by the district's current
18 year taxable value per membership pupil.

19 (d) "Hold harmless millage" means, for a district with a 1994-
20 95 foundation allowance greater than \$6,500.00, the number of mills
21 by which the exemption from the levy of school operating taxes on a
22 homestead and qualified agricultural property could be reduced as
23 provided in section 1211(1) of the revised school code, MCL
24 380.1211, and the number of mills of school operating taxes that
25 could be levied on all property as provided in section 1211(2) of
26 the revised school code, MCL 380.1211, as certified by the
27 department of treasury for the 1994 tax year.

1 (e) "Homestead" means that term as defined in section 1211 of
2 the revised school code, MCL 380.1211.

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

6 (g) "Qualified agricultural property" means that term as
7 defined in section 1211 of the revised school code, MCL 380.1211.

8 (h) "Qualifying public school academy" means a public school
9 academy that was in operation in the 1994-95 school year and is in
10 operation in the current state fiscal year.

11 (i) "Qualifying university school" means a university school
12 that was in operation in the 1994-95 school year and is in
13 operation in the current fiscal year.

14 (j) "School operating taxes" means local ad valorem property
15 taxes levied under section 1211 of the revised school code, MCL
16 380.1211, and retained for school operating purposes.

17 (k) "Taxable value per membership pupil" means each of the
18 following divided by the district's membership:

19 (i) For the number of mills by which the exemption from the
20 levy of school operating taxes on a homestead and qualified
21 agricultural property may be reduced as provided in section 1211(1)
22 of the revised school code, MCL 380.1211, the taxable value of
23 homestead and qualified agricultural property for the calendar year
24 ending in the current state fiscal year.

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

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

3 Sec. 22b. (1) From the appropriation in section 11, there is
4 allocated an amount not to exceed ~~-\$2,910,300,000.00~~
5 **\$2,923,200,000.00** for 2004-2005 for discretionary nonmandated
6 payments to districts under this section. Funds allocated under
7 this section that are not expended in the state fiscal year for
8 which they were allocated, as determined by the department, may be
9 used to supplement the allocations under sections 22a and 51c in
10 order to fully fund those calculated allocations for the same
11 fiscal year.

12 (2) Subject to subsection (3) and section 11, the allocation
13 to a district under this section shall be an amount equal to the
14 sum of the amounts calculated under sections 20, 20j, 51a(2),
15 51a(3), and 51a(12), minus the sum of the allocations to the
16 district under sections 22a and 51c.

17 (3) In order to receive an allocation under this section, each
18 district shall administer in each grade level that it operates in
19 grades 1 to 5 a standardized assessment approved by the department
20 of grade-appropriate basic educational skills. A district may use
21 the Michigan literacy progress profile to satisfy this requirement
22 for grades 1 to 3. Also, if the revised school code is amended to
23 require annual assessments at additional grade levels, in order to
24 receive an allocation under this section each district shall comply
25 with that requirement.

26 (4) From the allocation in subsection (1), the department
27 shall pay up to \$1,000,000.00 in litigation costs incurred by this

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

7 (5) It is the intent of the legislature that all
8 constitutional obligations of this state have been fully funded
9 under sections 22a, 31d, 51a, and 51c. If a claim is made by an
10 entity receiving funds under this act that challenges the
11 legislative determination of the adequacy of this funding or
12 alleges that there exists an unfunded constitutional requirement,
13 the state budget director may escrow or allocate from the
14 discretionary funds for nonmandated payments under this section the
15 amount as may be necessary to satisfy the claim before making any
16 payments to districts under subsection (2). If funds are escrowed,
17 the escrowed funds are a work project appropriation and the funds
18 are carried forward into the following fiscal year. The purpose of
19 the work project is to provide for any payments that may be awarded
20 to districts as a result of litigation. The work project shall be
21 completed upon resolution of the litigation.

22 (6) If the local claims review board or a court of competent
23 jurisdiction makes a final determination that this state is in
24 violation of section 29 of article IX of the state constitution of
25 1963 regarding state payments to districts, the state budget
26 director shall use work project funds under subsection (5) or
27 allocate from the discretionary funds for nonmandated payments

1 under this section the amount as may be necessary to satisfy the
2 amount owed to districts before making any payments to districts
3 under subsection (2).

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

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

19 (9) If a lawsuit challenging payments made to districts
20 related to costs reimbursed by federal title XIX medicaid funds is
21 filed against this state during 2001-2002, 2002-2003, or 2003-2004,
22 50% of the amount allocated in subsection (1) not previously paid
23 out for 2002-2003, 2003-2004, and each succeeding fiscal year is a
24 work project appropriation and the funds are carried forward into
25 the following fiscal year. The purpose of the work project is to
26 provide for any payments that may be awarded to districts as a
27 result of the litigation. The work project shall be completed upon

1 resolution of the litigation. In addition, this state reserves the
2 right to terminate future federal title XIX medicaid reimbursement
3 payments to districts if the amount or allocation of reimbursed
4 funds is challenged in the lawsuit. As used in this subsection,
5 "title XIX" means title XIX of the social security act, 42 USC 1396
6 to 1396v.

7 Sec. 51a. (1) From the appropriation in section 11, there is
8 allocated for 2004-2005 an amount not to exceed ~~-\$905,683,000.00~~
9 **\$896,383,000.00** from state sources and all available federal
10 funding under sections 611 to 619 of part B of the individuals with
11 disabilities education act, 20 USC 1411 to 1419, estimated at
12 \$329,850,000.00 plus any carryover federal funds from previous year
13 appropriations. The allocations under this subsection are for the
14 purpose of reimbursing districts and intermediate districts for
15 special education programs, services, and special education
16 personnel as prescribed in article 3 of the revised school code,
17 MCL 380.1701 to 380.1766; net tuition payments made by intermediate
18 districts to the Michigan schools for the deaf and blind; and
19 special education programs and services for pupils who are eligible
20 for special education programs and services according to statute or
21 rule. For meeting the costs of special education programs and
22 services not reimbursed under this article, a district or
23 intermediate district may use money in general funds or special
24 education funds, not otherwise restricted, or contributions from
25 districts to intermediate districts, tuition payments, gifts and
26 contributions from individuals, or federal funds that may be
27 available for this purpose, as determined by the intermediate

1 district plan prepared pursuant to article 3 of the revised school
2 code, MCL 380.1701 to 380.1766. All federal funds allocated under
3 this section in excess of those allocated under this section for
4 2002-2003 may be distributed in accordance with the flexible
5 funding provisions of the individuals with disabilities education
6 act, title VI of Public Law 91-230, including, but not limited to,
7 34 CFR 300.234 and 300.235. Notwithstanding section 17b, payments
8 of federal funds to districts, intermediate districts, and other
9 eligible entities under this section shall be paid on a schedule
10 determined by the department.

11 (2) From the funds allocated under subsection (1), there is
12 allocated for 2004-2005 the amount necessary, estimated at
13 ~~\$168,900,000.00~~ **\$175,500,000.00** for ~~2003-2004~~ **2004-2005**, for
14 payments toward reimbursing districts and intermediate districts
15 for 28.6138% of total approved costs of special education,
16 excluding costs reimbursed under section 53a, and 70.4165% of total
17 approved costs of special education transportation. Allocations
18 under this subsection shall be made as follows:

19 (a) The initial amount allocated to a district under this
20 subsection toward fulfilling the specified percentages shall be
21 calculated by multiplying the district's special education pupil
22 membership, excluding pupils described in subsection (12), times
23 the sum of the foundation allowance under section 20 of the pupil's
24 district of residence plus the amount of the district's per pupil
25 allocation under section 20j(2), not to exceed \$6,500.00 adjusted
26 by the dollar amount of the difference between the basic foundation
27 allowance under section 20 for the current fiscal year and

1 \$5,000.00 minus \$200.00, or, for a special education pupil in
2 membership in a district that is a public school academy or
3 university school, times an amount equal to the amount per
4 membership pupil calculated under section 20(6). For an
5 intermediate district, the amount allocated under this subdivision
6 toward fulfilling the specified percentages shall be an amount per
7 special education membership pupil, excluding pupils described in
8 subsection (12), and shall be calculated in the same manner as for
9 a district, using the foundation allowance under section 20 of the
10 pupil's district of residence, not to exceed \$6,500.00 adjusted by
11 the dollar amount of the difference between the basic foundation
12 allowance under section 20 for the current fiscal year and
13 \$5,000.00 minus \$200.00, and that district's per pupil allocation
14 under section 20j(2).

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

20 (3) From the funds allocated under subsection (1), there is
21 allocated for 2004-2005 the amount necessary, estimated at
22 ~~\$2,400,000.00~~ **\$3,000,000.00**, to make payments to districts and
23 intermediate districts under this subsection. If the amount
24 allocated to a district or intermediate district for a fiscal year
25 under subsection (2)(b) is less than the sum of the amounts
26 allocated to the district or intermediate district for 1996-97
27 under sections 52 and 58, there is allocated to the district or

1 intermediate district for the fiscal year an amount equal to that
2 difference, adjusted by applying the same proration factor that was
3 used in the distribution of funds under section 52 in 1996-97 as
4 adjusted to the district's or intermediate district's necessary
5 costs of special education used in calculations for the fiscal
6 year. This adjustment is to reflect reductions in special education
7 program operations **OR SERVICES** between 1996-97 and subsequent
8 fiscal years. Adjustments for reductions in special education
9 program operations **OR SERVICES** shall be made in a manner determined
10 by the department and shall include adjustments for program **OR**
11 **SERVICE** shifts.

12 (4) If the department determines that the sum of the amounts
13 allocated for a fiscal year to a district or intermediate district
14 under subsection (2)(a) and (b) is not sufficient to fulfill the
15 specified percentages in subsection (2), then the shortfall shall
16 be paid to the district or intermediate district during the fiscal
17 year beginning on the October 1 following the determination and
18 payments under subsection (3) shall be adjusted as necessary. If
19 the department determines that the sum of the amounts allocated for
20 a fiscal year to a district or intermediate district under
21 subsection (2)(a) and (b) exceeds the sum of the amount necessary
22 to fulfill the specified percentages in subsection (2), then the
23 department shall deduct the amount of the excess from the
24 district's or intermediate district's payments under this act for
25 the fiscal year beginning on the October 1 following the
26 determination and payments under subsection (3) shall be adjusted
27 as necessary. However, if the amount allocated under subsection

1 (2)(a) in itself exceeds the amount necessary to fulfill the
2 specified percentages in subsection (2), there shall be no
3 deduction under this subsection.

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

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

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

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

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

~~costs of special education do not include the costs of employing that employee unless the department determines that employing the employee has resulted in a significant cost savings or an increase in efficiency that is sufficient to justify the arrangement.~~

(B) BEGINNING WITH THE 2004-2005 FISCAL YEAR, A DISTRICT OR INTERMEDIATE DISTRICT THAT EMPLOYED SPECIAL EDUCATION SUPPORT SERVICES STAFF TO PROVIDE SPECIAL EDUCATION SUPPORT SERVICES IN 2003-2004 OR IN A SUBSEQUENT FISCAL YEAR AND THAT IN A FISCAL YEAR AFTER 2003-2004 RECEIVES THE SAME TYPE OF SUPPORT SERVICES FROM ANOTHER DISTRICT OR INTERMEDIATE DISTRICT SHALL REPORT THE COST OF THOSE SUPPORT SERVICES FOR SPECIAL EDUCATION REIMBURSEMENT PURPOSES UNDER THIS ACT. THIS SUBDIVISION DOES NOT PROHIBIT THE TRANSFER OF SPECIAL EDUCATION CLASSROOM TEACHERS AND SPECIAL EDUCATION CLASSROOM AIDES IF THE PUPILS COUNTED IN MEMBERSHIP ASSOCIATED WITH THOSE SPECIAL EDUCATION CLASSROOM TEACHERS AND SPECIAL EDUCATION CLASSROOM AIDES ARE TRANSFERRED AND COUNTED IN MEMBERSHIP IN THE OTHER DISTRICT OR INTERMEDIATE DISTRICT IN CONJUNCTION WITH THE TRANSFER OF THOSE TEACHERS AND AIDES.

(C) ~~(b)~~ Reimbursement for ancillary and other related services, as defined by R 340.1701c 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 state budget director. 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

1 education of a pupil. A district or intermediate district shall be
2 responsible for payment of a deductible amount and for an advance
3 payment required until the time a claim is paid.

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

10 (9) A pupil who is enrolled in a full-time special education
11 program conducted or administered by an intermediate district or a
12 pupil who is enrolled in the Michigan schools for the deaf and
13 blind shall not be included in the membership count of a district,
14 but shall be counted in membership in the intermediate district of
15 residence.

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

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

27 (12) From the funds allocated in subsection (1), there is

1 allocated for 2004-2005 the amount necessary, estimated at
2 ~~\$6,100,000.00~~ **\$7,000,000.00**, to pay the foundation allowances for
3 pupils described in this subsection. The allocation to a district
4 under this subsection shall be calculated by multiplying the number
5 of pupils described in this subsection who are counted in
6 membership in the district times the sum of the foundation
7 allowance under section 20 of the pupil's district of residence
8 plus the amount of the district's per pupil allocation under
9 section 20j(2), not to exceed \$6,500.00 adjusted by the dollar
10 amount of the difference between the basic foundation allowance
11 under section 20 for the current fiscal year and \$5,000.00 minus
12 \$200.00, or, for a pupil described in this subsection who is
13 counted in membership in a district that is a public school academy
14 or university school, times an amount equal to the amount per
15 membership pupil under section 20(6). The allocation to an
16 intermediate district under this subsection shall be calculated in
17 the same manner as for a district, using the foundation allowance
18 under section 20 of the pupil's district of residence, not to
19 exceed \$6,500.00 adjusted by the dollar amount of the difference
20 between the basic foundation allowance under section 20 for the
21 current fiscal year and \$5,000.00 minus \$200.00, and that
22 district's per pupil allocation under section 20j(2). This
23 subsection applies to all of the following pupils:

24 (a) Pupils described in section 53a.

25 (b) Pupils counted in membership in an intermediate district
26 who are not special education pupils and are served by the
27 intermediate district in a juvenile detention or child caring

1 facility.

2 (c) Emotionally impaired pupils counted in membership by an
3 intermediate district and provided educational services by the
4 department of community health.

5 (13) After payments under subsections (2) and (12) and section
6 51c, the remaining expenditures from the allocation in subsection
7 (1) shall be made in the following order:

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

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

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

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

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

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

14 (14) The allocations under subsection (2), subsection (3), and
15 subsection (12) shall be allocations to intermediate districts only
16 and shall not be allocations to districts, but instead shall be
17 calculations used only to determine the state payments under
18 section 22b.

19 Sec. 51c. As required by the court in the consolidated cases
20 known as Durant v State of Michigan, Michigan supreme court docket
21 no. 104458-104492, from the allocation under section 51a(1), there
22 is allocated for 2004-2005 the amount necessary, estimated at
23 ~~\$659,400,000.00~~ **\$642,000,000.00**, for payments to reimburse
24 districts for 28.6138% of total approved costs of special education
25 excluding costs reimbursed under section 53a, and 70.4165% of total
26 approved costs of special education transportation. Funds allocated
27 under this section that are not expended in the state fiscal year

1 for which they were allocated, as determined by the department, may
2 be used to supplement the allocations under sections 22a and 22b in
3 order to fully fund those calculated allocations for the same
4 fiscal year.

5 Enacting section 1. In accordance with section 30 of article I
6 of the state constitution of 1963, total state spending from state
7 sources for fiscal year 2004-2005 in this amendatory act, 2004 PA
8 518, 2004 PA 351, and 2004 PA 185 is estimated at
9 \$11,113,522,200.00 and state appropriations to be paid to local
10 units of government for fiscal year 2004-2005 are estimated at
11 \$11,050,922,200.00.