

HOUSE BILL No. 4828

May 24, 2005, Introduced by Rep. LaJoy and referred to the Committee on Appropriations.

A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending sections 11, 20, and 22b (MCL 388.1611, 388.1620, and
388.1622b), section 11 as amended by 2004 PA 518 and sections 20
and 22b 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~~
6 ~~fund at bookclosing for the fiscal year ending September 30, 2004.~~
7 For the fiscal year ending September 30, 2005, there is

1 appropriated for the public schools of this state and certain other
2 state purposes relating to education the sum of ~~-\$10,909,200,000.00~~
3 **\$10,932,300,000.00** from the state school aid fund established by
4 section 11 of article IX of the state constitution of 1963 and the
5 sum of \$264,700,000.00 from the general fund. In addition,
6 available federal funds are appropriated for each of those fiscal
7 years.

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

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

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

1 funds from the general fund, countercyclical budget and economic
2 stabilization fund, state school aid fund balance, or another
3 source to fund the amount of the projected shortfall.

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

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

11 (i) Districts.

12 (ii) Intermediate districts.

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

14 (b) The department shall recover a percentage of the proration
15 amount required under subsection (3) that is equal to the
16 percentage calculated under subdivision (a)(i) for districts by
17 reducing payments to districts. This reduction shall be made by
18 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 proration
24 amount required under subsection (3) that is equal to the
25 percentage calculated under subdivision (a)(ii) for intermediate
26 districts by reducing payments to intermediate districts. This
27 reduction shall be made by reducing the payments to each

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

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

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

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

26 Sec. 20. (1) For 2003-2004 and for 2004-2005, the basic
27 foundation allowance is \$6,700.00 per membership pupil.

1 (2) The amount of each district's foundation allowance shall
2 be calculated as provided in this section, using a basic foundation
3 allowance in the amount specified in subsection (1).

4 (3) Except as otherwise provided in this section, the amount
5 of a district's foundation allowance shall be calculated as
6 follows, using in all calculations the total amount of the
7 district's foundation allowance as calculated before any proration:

8 (a) Except as otherwise provided in this subsection, for a
9 district that in the immediately preceding state fiscal year had a
10 foundation allowance in an amount at least equal to the amount of
11 the basic foundation allowance for the immediately preceding state
12 fiscal year, the district shall receive a foundation allowance in
13 an amount equal to the sum of the district's foundation allowance
14 for the immediately preceding state fiscal year plus the dollar
15 amount of the adjustment from the immediately preceding state
16 fiscal year to the current state fiscal year in the basic
17 foundation allowance. However, for 2002-2003, the foundation
18 allowance for a district under this subdivision is an amount equal
19 to the sum of the district's foundation allowance for the
20 immediately preceding state fiscal year plus \$200.00.

21 (b) For a district that in the 1994-95 state fiscal year had a
22 foundation allowance greater than \$6,500.00, the district's
23 foundation allowance is an amount equal to the sum of the
24 district's foundation allowance for the immediately preceding state
25 fiscal year plus the lesser of the increase in the basic foundation
26 allowance for the current state fiscal year, as compared to the
27 immediately preceding state fiscal year, or the product of the

1 district's foundation allowance for the immediately preceding state
2 fiscal year times the percentage increase in the United States
3 consumer price index in the calendar year ending in the immediately
4 preceding fiscal year as reported by the May revenue estimating
5 conference conducted under section 367b of the management and
6 budget act, 1984 PA 431, MCL 18.1367b. For 2002-2003, for a
7 district that in the 1994-95 state fiscal year had a foundation
8 allowance greater than \$6,500.00, the district's foundation
9 allowance is an amount equal to the sum of the district's
10 foundation allowance for the immediately preceding state fiscal
11 year plus the lesser of \$200.00 or the product of the district's
12 foundation allowance for the immediately preceding state fiscal
13 year times the percentage increase in the United States consumer
14 price index in the calendar year ending in the immediately
15 preceding fiscal year as reported by the May revenue estimating
16 conference conducted under section 367b of the management and
17 budget act, 1984 PA 431, MCL 18.1367b.

18 (c) For a district that has a foundation allowance that is not
19 a whole dollar amount, the district's foundation allowance shall be
20 rounded up to the nearest whole dollar.

21 (d) For a district that received a payment under former
22 section 22c for 2001-2002, the district's 2001-2002 foundation
23 allowance shall be considered to have been an amount equal to the
24 sum of the district's actual 2001-2002 foundation allowance as
25 otherwise calculated under this section plus the per pupil amount
26 of the district's equity payment for 2001-2002 under former section
27 22c.

1 (4) Except as otherwise provided in this subsection, the state
2 portion of a district's foundation allowance is an amount equal to
3 the district's foundation allowance or \$6,500.00, whichever is
4 less, minus the difference between the product of the taxable value
5 per membership pupil of all property in the district that is not a
6 principal residence or qualified agricultural property times the
7 lesser of 18 mills or the number of mills of school operating taxes
8 levied by the district in 1993-94 and the quotient of the ad
9 valorem property tax revenue of the district captured under 1975 PA
10 197, MCL 125.1651 to 125.1681, the tax increment finance authority
11 act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development
12 financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the
13 brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651
14 to 125.2672, divided by the district's membership excluding special
15 education pupils. For a district described in subsection (3)(b),
16 the state portion of the district's foundation allowance is an
17 amount equal to \$6,962.00 plus the difference between the
18 district's foundation allowance for the current state fiscal year
19 and the district's foundation allowance for 1998-99, minus the
20 difference between the product of the taxable value per membership
21 pupil of all property in the district that is not a principal
22 residence or qualified agricultural property times the lesser of 18
23 mills or the number of mills of school operating taxes levied by
24 the district in 1993-94 and the quotient of the ad valorem property
25 tax revenue of the district captured under 1975 PA 197, MCL
26 125.1651 to 125.1681, the tax increment finance authority act, 1980
27 PA 450, MCL 125.1801 to 125.1830, the local development financing

1 act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield
2 redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672,
3 divided by the district's membership excluding special education
4 pupils. For a district that has a millage reduction required under
5 section 31 of article IX of the state constitution of 1963, the
6 state portion of the district's foundation allowance shall be
7 calculated as if that reduction did not occur. The \$6,500.00 amount
8 prescribed in this subsection shall be adjusted each year by an
9 amount equal to the dollar amount of the difference between the
10 basic foundation allowance for the current state fiscal year and
11 \$5,000.00, minus \$200.00.

12 (5) The allocation calculated under this section for a pupil
13 shall be based on the foundation allowance of the pupil's district
14 of residence. However, for a pupil enrolled in a district other
15 than the pupil's district of residence, if the foundation allowance
16 of the pupil's district of residence has been adjusted pursuant to
17 subsection (19), the allocation calculated under this section shall
18 not include the adjustment described in subsection (19). For a
19 pupil enrolled pursuant to section 105 or 105c in a district other
20 than the pupil's district of residence, the allocation calculated
21 under this section shall be based on the lesser of the foundation
22 allowance of the pupil's district of residence or the foundation
23 allowance of the educating district. For a pupil in membership in a
24 K-5, K-6, or K-8 district who is enrolled in another district in a
25 grade not offered by the pupil's district of residence, the
26 allocation calculated under this section shall be based on the
27 foundation allowance of the educating district if the educating

1 district's foundation allowance is greater than the foundation
2 allowance of the pupil's district of residence. The calculation
3 under this subsection shall take into account a district's per
4 pupil allocation under section 20j(2).

5 (6) Subject to subsection (7) and section 22b(3) and except as
6 otherwise provided in this subsection, for pupils in membership,
7 other than special education pupils, in a public school academy or
8 a university school, the allocation calculated under this section
9 is an amount per membership pupil other than special education
10 pupils in the public school academy or university school equal to
11 the sum of the local school operating revenue per membership pupil
12 other than special education pupils for the district in which the
13 public school academy or university school is located and the state
14 portion of that district's foundation allowance, or the sum of the
15 basic foundation allowance under subsection (1) plus \$300.00,
16 whichever is less. Notwithstanding section 101(2), for a public
17 school academy that begins operations after the pupil membership
18 count day, the amount per membership pupil calculated under this
19 subsection shall be adjusted by multiplying that amount per
20 membership pupil by the number of hours of pupil instruction
21 provided by the public school academy after it begins operations,
22 as determined by the department, divided by the minimum number of
23 hours of pupil instruction required under section 101(3). The
24 result of this calculation shall not exceed the amount per
25 membership pupil otherwise calculated under this subsection.

26 (7) If more than 25% of the pupils residing within a district
27 are in membership in 1 or more public school academies located in

1 the district, then the amount per membership pupil calculated under
2 this section for a public school academy located in the district
3 shall be reduced by an amount equal to the difference between the
4 product of the taxable value per membership pupil of all property
5 in the district that is not a principal residence or qualified
6 agricultural property times the lesser of 18 mills or the number of
7 mills of school operating taxes levied by the district in 1993-94
8 and the quotient of the ad valorem property tax revenue of the
9 district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the
10 tax increment finance authority act, 1980 PA 450, MCL 125.1801 to
11 125.1830, the local development financing act, 1986 PA 281, MCL
12 125.2151 to 125.2174, or the brownfield redevelopment financing
13 act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the
14 district's membership excluding special education pupils, in the
15 school fiscal year ending in the current state fiscal year,
16 calculated as if the resident pupils in membership in 1 or more
17 public school academies located in the district were in membership
18 in the district. In order to receive state school aid under this
19 act, a district described in this subsection shall pay to the
20 authorizing body that is the fiscal agent for a public school
21 academy located in the district for forwarding to the public school
22 academy an amount equal to that local school operating revenue per
23 membership pupil for each resident pupil in membership other than
24 special education pupils in the public school academy, as
25 determined by the department.

26 (8) If a district does not receive an amount calculated under
27 subsection (9); if the number of mills the district may levy on a

1 principal residence and qualified agricultural property under
2 section 1211(1) of the revised school code, MCL 380.1211, is 0.5
3 mills or less; and if the district elects not to levy those mills,
4 the district instead shall receive a separate supplemental amount
5 calculated under this subsection in an amount equal to the amount
6 the district would have received had it levied those mills, as
7 determined by the department of treasury. A district shall not
8 receive a separate supplemental amount calculated under this
9 subsection for a fiscal year unless in the calendar year ending in
10 the fiscal year the district levies 18 mills or the number of mills
11 of school operating taxes levied by the district in 1993, whichever
12 is less, on property that is not a principal residence or qualified
13 agricultural property.

14 (9) For a district that had combined state and local revenue
15 per membership pupil in the 1993-94 state fiscal year of more than
16 \$6,500.00 and that had fewer than 350 pupils in membership, if the
17 district elects not to reduce the number of mills from which a
18 principal residence and qualified agricultural property are exempt
19 and not to levy school operating taxes on a principal residence and
20 qualified agricultural property as provided in section 1211(1) of
21 the revised school code, MCL 380.1211, and not to levy school
22 operating taxes on all property as provided in section 1211(2) of
23 the revised school code, MCL 380.1211, there is calculated under
24 this subsection for 1994-95 and each succeeding fiscal year a
25 separate supplemental amount in an amount equal to the amount the
26 district would have received per membership pupil had it levied
27 school operating taxes on a principal residence and qualified

1 agricultural property at the rate authorized for the district under
2 section 1211(1) of the revised school code, MCL 380.1211, and
3 levied school operating taxes on all property at the rate
4 authorized for the district under section 1211(2) of the revised
5 school code, MCL 380.1211, as determined by the department of
6 treasury. If in the calendar year ending in the fiscal year a
7 district does not levy 18 mills or the number of mills of school
8 operating taxes levied by the district in 1993, whichever is less,
9 on property that is not a principal residence or qualified
10 agricultural property, the amount calculated under this subsection
11 will be reduced by the same percentage as the millage actually
12 levied compares to the 18 mills or the number of mills levied in
13 1993, whichever is less.

14 (10) Subject to subsection (4), for a district that is formed
15 or reconfigured after June 1, 2002 by consolidation of 2 or more
16 districts or by annexation, the resulting district's foundation
17 allowance under this section beginning after the effective date of
18 the consolidation or annexation shall be the average of the
19 foundation allowances of each of the original or affected
20 districts, calculated as provided in this section, weighted as to
21 the percentage of pupils in total membership in the resulting
22 district who reside in the geographic area of each of the original
23 or affected districts. The calculation under this subsection shall
24 take into account a district's per pupil allocation under section
25 20j(2).

26 (11) Each fraction used in making calculations under this
27 section shall be rounded to the fourth decimal place and the dollar

1 amount of an increase in the basic foundation allowance shall be
2 rounded to the nearest whole dollar.

3 (12) State payments related to payment of the foundation
4 allowance for a special education pupil are not calculated under
5 this section but are instead calculated under section 51a.

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

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

22 (b) The revenue adjustment factor shall be computed by
23 dividing the sum of the estimated total state school aid fund
24 revenue for the subsequent state fiscal year plus the estimated
25 total state school aid fund revenue for the current state fiscal
26 year, adjusted for any change in the rate or base of a tax the
27 proceeds of which are deposited in that fund and excluding money

1 transferred into that fund from the countercyclical budget and
2 economic stabilization fund under section 353e of the management
3 and budget act, 1984 PA 431, MCL 18.1353e, by the sum of the
4 estimated total school aid fund revenue for the current state
5 fiscal year plus the estimated total state school aid fund revenue
6 for the immediately preceding state fiscal year, adjusted for any
7 change in the rate or base of a tax the proceeds of which are
8 deposited in that fund. If a consensus revenue factor is not
9 determined at the revenue estimating conference, the principals of
10 the revenue estimating conference shall report their estimates to
11 the house and senate subcommittees responsible for school aid
12 appropriations not later than 7 days after the conclusion of the
13 revenue conference.

14 (c) The index shall be calculated by multiplying the pupil
15 membership factor by the revenue adjustment factor. However, for
16 2004-2005, the index shall be 1.00. If a consensus index is not
17 determined at the revenue estimating conference, the principals of
18 the revenue estimating conference shall report their estimates to
19 the house and senate subcommittees responsible for school aid
20 appropriations not later than 7 days after the conclusion of the
21 revenue conference.

22 (14) If the principals at the revenue estimating conference
23 reach a consensus on the index described in subsection (13)(c), the
24 basic foundation allowance for the subsequent state fiscal year
25 shall be at least the amount of that consensus index multiplied by
26 the basic foundation allowance specified in subsection (1).

27 (15) If at the January revenue estimating conference it is

1 estimated that pupil membership, excluding intermediate district
2 membership, for the subsequent state fiscal year will be greater
3 than 101% of the pupil membership, excluding intermediate district
4 membership, for the current state fiscal year, then it is the
5 intent of the legislature that the executive budget proposal for
6 the school aid budget for the subsequent state fiscal year include
7 a general fund/general purpose allocation sufficient to support the
8 membership in excess of 101% of the current year pupil membership.

9 (16) For a district that had combined state and local revenue
10 per membership pupil in the 1993-94 state fiscal year of more than
11 \$6,500.00, that had fewer than 7 pupils in membership in the 1993-
12 94 state fiscal year, that has at least 1 child educated in the
13 district in the current state fiscal year, and that levies the
14 number of mills of school operating taxes authorized for the
15 district under section 1211 of the revised school code, MCL
16 380.1211, a minimum amount of combined state and local revenue
17 shall be calculated for the district as provided under this
18 subsection. The minimum amount of combined state and local revenue
19 for 1999-2000 shall be \$67,000.00 plus the district's additional
20 expenses to educate pupils in grades 9 to 12 educated in other
21 districts as determined and allowed by the department. The minimum
22 amount of combined state and local revenue under this subsection,
23 before adding the additional expenses, shall increase each fiscal
24 year by the same percentage increase as the percentage increase in
25 the basic foundation allowance from the immediately preceding
26 fiscal year to the current fiscal year. The state portion of the
27 minimum amount of combined state and local revenue under this

subsection shall be calculated by subtracting from the minimum amount of combined state and local revenue under this subsection the sum of the district's local school operating revenue and an amount equal to the product of the sum of the state portion of the district's foundation allowance plus the amount calculated under section 20j times the district's membership. As used in this subsection, "additional expenses" means the district's expenses for tuition or fees, not to exceed \$6,500.00 as 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, minus \$200.00, plus a room and board stipend not to exceed \$10.00 per school day for each pupil in grades 9 to 12 educated in another district, as approved by the department.

(17) For a district in which 7.75 mills levied in 1992 for school operating purposes in the 1992-93 school year were not renewed in 1993 for school operating purposes in the 1993-94 school year, the district's combined state and local revenue per membership pupil shall be recalculated as if that millage reduction did not occur and the district's foundation allowance shall be calculated as if its 1994-95 foundation allowance had been calculated using that recalculated 1993-94 combined state and local revenue per membership pupil as a base. A district is not entitled to any retroactive payments for fiscal years before 2000-2001 due to this subsection.

(18) For a district in which an industrial facilities exemption certificate that abated taxes on property with a state equalized valuation greater than the total state equalized

1 valuation of the district at the time the certificate was issued or
2 \$700,000,000.00, whichever is greater, was issued under 1974 PA
3 198, MCL 207.551 to 207.572, before the calculation of the
4 district's 1994-95 foundation allowance, the district's foundation
5 allowance for 2002-2003 is an amount equal to the sum of the
6 district's foundation allowance for 2002-2003, as otherwise
7 calculated under this section, plus \$250.00.

8 (19) For a district that received a grant under former section
9 32e for 2001-2002, the district's foundation allowance for 2002-
10 2003 and each succeeding fiscal year shall be adjusted to be an
11 amount equal to the sum of the district's foundation allowance, as
12 otherwise calculated under this section, plus the quotient of 100%
13 of the amount of the grant award to the district for 2001-2002
14 under former section 32e divided by the number of pupils in the
15 district's membership for 2001-2002 who were residents of and
16 enrolled in the district. Except as otherwise provided in this
17 subsection, a district qualifying for a foundation allowance
18 adjustment under this subsection shall use the funds resulting from
19 this adjustment for at least 1 of grades K to 3 for purposes
20 allowable under former section 32e as in effect for 2001-2002. For
21 an individual school or schools operated by a district qualifying
22 for a foundation allowance under this subsection that have been
23 determined by the department to meet the adequate yearly progress
24 standards of the federal no child left behind act of 2001, Public
25 Law 107-110, in both mathematics and English language arts at all
26 applicable grade levels for all applicable subgroups, the district
27 may submit to the department an application for flexibility in

1 using the funds resulting from this adjustment that are
2 attributable to the pupils in the school or schools. The
3 application shall identify the affected school or schools and the
4 affected funds and shall contain a plan for using the funds for
5 specific purposes identified by the district that are designed to
6 reduce class size, but that may be different from the purposes
7 otherwise allowable under this subsection. The department shall
8 approve the application if the department determines that the
9 purposes identified in the plan are reasonably designed to reduce
10 class size. If the department does not act to approve or disapprove
11 an application within 30 days after it is submitted to the
12 department, the application is considered to be approved. If an
13 application for flexibility in using the funds is approved, the
14 district may use the funds identified in the application for any
15 purpose identified in the plan.

16 (20) For a district that is a qualifying school district with
17 a school reform board in place under part 5a of the revised school
18 code, MCL 380.371 to 380.376, the district's foundation allowance
19 for 2002-2003 shall be adjusted to be an amount equal to the sum of
20 the district's foundation allowance, as otherwise calculated under
21 this section, plus the quotient of \$15,000,000.00 divided by the
22 district's membership for 2002-2003. If a district ceases to meet
23 the requirements of this subsection, the department shall adjust
24 the district's foundation allowance in effect at that time based on
25 a 2002-2003 foundation allowance for the district that does not
26 include the 2002-2003 adjustment under this subsection.

27 (21) FOR A DISTRICT THAT MEETS THE REQUIREMENTS OF THIS

1 SUBSECTION, THE DISTRICT'S FOUNDATION ALLOWANCE FOR 2004-2005 IS AN
2 AMOUNT EQUAL TO THE SUM OF THE DISTRICT'S FOUNDATION ALLOWANCE FOR
3 2004-2005, AS OTHERWISE CALCULATED UNDER THIS SECTION, PLUS
4 \$750.00. A DISTRICT IS ELIGIBLE FOR THE ADJUSTMENT UNDER THIS
5 SUBSECTION IF THE DISTRICT IS DETERMINED BY THE DEPARTMENT TO MEET
6 ALL OF THE FOLLOWING:

7 (A) THE DISTRICT IS CONTIGUOUS TO AT LEAST 3 OTHER DISTRICTS
8 THAT HAD A FOUNDATION ALLOWANCE FOR 2004-2005 THAT WAS AT LEAST
9 \$1,000.00 GREATER THAN THAT DISTRICT'S FOUNDATION ALLOWANCE FOR
10 2004-2005.

11 (B) ON A PER PUPIL BASIS, THE DISTRICT SPENDS LESS THAN 10% OF
12 ITS TOTAL OPERATING REVENUE ON BUSINESS AND ADMINISTRATIVE COSTS,
13 AS DETERMINED BY THE DEPARTMENT ACCORDING TO THE DEPARTMENT'S
14 BULLETIN 1014.

15 (C) ON A PER PUPIL BASIS, THE DISTRICT SPENDS MORE THAN 60% OF
16 ITS TOTAL OPERATING REVENUE ON INSTRUCTION, AS DETERMINED BY THE
17 DEPARTMENT ACCORDING TO THE DEPARTMENT'S BULLETIN 1014.

18 (D) THE DISTRICT IS MAKING ADEQUATE YEARLY PROGRESS UNDER THE
19 NO CHILD LEFT BEHIND ACT OF 2001, PUBLIC LAW 107-110, AS DETERMINED
20 BY THE DEPARTMENT.

21 (E) THE PERCENTAGE OF THE DISTRICT'S PUPILS WHO WERE
22 DETERMINED TO MEET OR EXCEED STATE STANDARDS IN MATHEMATICS ON THE
23 MOST RECENT MICHIGAN EDUCATION ASSESSMENT PROGRAM ASSESSMENTS FOR
24 WHICH DATA ARE AVAILABLE IS HIGHER THAN THE STATEWIDE AVERAGE OF
25 THAT PERCENTAGE.

26 (F) AT LEAST 50% OF THE PUPILS WHO WERE ENROLLED IN THE
27 DISTRICT IN GRADE 11 FOR THE IMMEDIATELY PRECEDING FISCAL YEAR AND

1 WHO TOOK THE ASSESSMENTS UNDER SECTION 1279 OR 1279G OF THE REVISED
2 SCHOOL CODE, MCL 380.1279 AND 380.1279G, RECEIVED QUALIFYING
3 RESULTS AS DEFINED UNDER THE MICHIGAN MERIT AWARD SCHOLARSHIP ACT,
4 1999 PA 94, MCL 390.1451 TO 390.1459.

5 (22) ~~—(21)—~~ Payments to districts, university schools, or
6 public school academies shall not be made under this section.
7 Rather, the calculations under this section shall be used to
8 determine the amount of state payments under section 22b.

9 (23) ~~—(22)—~~ If an amendment to section 2 of article VIII of
10 the state constitution of 1963 allowing state aid to some or all
11 nonpublic schools is approved by the voters of this state, each
12 foundation allowance or per pupil payment calculation under this
13 section may be reduced.

14 (24) ~~—(23)—~~ As used in this section:

15 (a) "Combined state and local revenue" means the aggregate of
16 the district's state school aid received by or paid on behalf of
17 the district under this section and the district's local school
18 operating revenue.

19 (b) "Combined state and local revenue per membership pupil"
20 means the district's combined state and local revenue divided by
21 the district's membership excluding special education pupils.

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

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

26 (e) "Local school operating revenue" means school operating
27 taxes levied under section 1211 of the revised school code, MCL

1 380.1211.

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

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

8 (h) "Principal residence" and "qualified agricultural
9 property" mean those terms as defined in section 7dd of the general
10 property tax act, 1893 PA 206, MCL 211.7dd.

11 (i) "School operating purposes" means the purposes included in
12 the operation costs of the district as prescribed in sections 7 and
13 18.

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 taxable value,
18 as certified by the department of treasury, for the calendar year
19 ending in the current state fiscal year divided by the district's
20 membership excluding special education pupils for the school year
21 ending in the current state fiscal year.

22 Sec. 22b. (1) From the appropriation in section 11, there is
23 allocated an amount not to exceed ~~-\$2,910,300,000.00~~
24 **\$2,933,400,000.00** for 2004-2005 for discretionary nonmandated
25 payments to districts under this section. Funds allocated under
26 this section that are not expended in the state fiscal year for
27 which they were allocated, as determined by the department, may be

1 used to supplement the allocations under sections 22a and 51c in
2 order to fully fund those calculated allocations for the same
3 fiscal year.

4 (2) Subject to subsection (3) and section 11, the allocation
5 to a district under this section shall be an amount equal to the
6 sum of the amounts calculated under sections 20, 20j, 51a(2),
7 51a(3), and 51a(12), minus the sum of the allocations to the
8 district under sections 22a and 51c.

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

18 (4) From the allocation in subsection (1), the department
19 shall pay up to \$1,000,000.00 in litigation costs incurred by this
20 state associated with lawsuits filed by 1 or more districts or
21 intermediate districts against this state. If the allocation under
22 this section is insufficient to fully fund all payments required
23 under this section, the payments under this subsection shall be
24 made in full before any proration of remaining payments under this
25 section.

26 (5) It is the intent of the legislature that all
27 constitutional obligations of this state have been fully funded

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

14 (6) If the local claims review board or a court of competent
15 jurisdiction makes a final determination that this state is in
16 violation of section 29 of article IX of the state constitution of
17 1963 regarding state payments to districts, the state budget
18 director shall use work project funds under subsection (5) or
19 allocate from the discretionary funds for nonmandated payments
20 under this section the amount as may be necessary to satisfy the
21 amount owed to districts before making any payments to districts
22 under subsection (2).

23 (7) If a claim is made in court that challenges the
24 legislative determination of the adequacy of funding for this
25 state's constitutional obligations or alleges that there exists an
26 unfunded constitutional requirement, any interested party may seek
27 an expedited review of the claim by the local claims review board.

1 If the claim exceeds \$10,000,000.00, this state may remove the
2 action to the court of appeals, and the court of appeals shall have
3 and shall exercise jurisdiction over the claim.

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

11 (9) If a lawsuit challenging payments made to districts
12 related to costs reimbursed by federal title XIX medicaid funds is
13 filed against this state during 2001-2002, 2002-2003, or 2003-2004,
14 50% of the amount allocated in subsection (1) not previously paid
15 out for 2002-2003, 2003-2004, and each succeeding fiscal year is a
16 work project appropriation and the funds are carried forward into
17 the following fiscal year. The purpose of the work project is to
18 provide for any payments that may be awarded to districts as a
19 result of the litigation. The work project shall be completed upon
20 resolution of the litigation. In addition, this state reserves the
21 right to terminate future federal title XIX medicaid reimbursement
22 payments to districts if the amount or allocation of reimbursed
23 funds is challenged in the lawsuit. As used in this subsection,
24 "title XIX" means title XIX of the social security act, 42 USC 1396
25 to 1396v.