

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5531

A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending sections 11, 11j, 22a, 22b, 22d, 51a, 51c, 56, 62, and
104 (MCL 388.1611, 388.1611j, 388.1622a, 388.1622b, 388.1622d,
388.1651a, 388.1651c, 388.1656, 388.1662, and 388.1704), as amended
by 2007 PA 137, and by adding section 32e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (1) For the fiscal year ending September 30, 2008,
2 there is appropriated for the public schools of this state and
3 certain other state purposes relating to education the sum of
4 ~~\$11,493,064,200.00~~ **\$11,386,686,700.00** from the state school aid
5 fund established by section 11 of article IX of the state
6 constitution of 1963 and the sum of \$34,909,600.00 from the general

1 fund. In addition, available federal funds are appropriated for the
2 fiscal year ending September 30, 2008.

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

14 (3) If the maximum amount appropriated under this section from
15 the state school aid fund and the school aid stabilization fund for
16 a fiscal year exceeds the amount available for expenditure from the
17 state school aid fund for that fiscal year, payments under sections
18 11f, 11g, 11j, 22a, 26a, 26b, 31d, 31f, 51a(2), 51a(12), 51c, 53a,
19 and 56 shall be made in full. In addition, for districts beginning
20 operations after 1994-95 that qualify for payments under section
21 22b, payments under section 22b shall be made so that the
22 qualifying districts receive the lesser of an amount equal to the
23 1994-95 foundation allowance of the district in which the district
24 beginning operations after 1994-95 is located or \$5,500.00. The
25 amount of the payment to be made under section 22b for these
26 qualifying districts shall be as calculated under section 22a, with
27 the balance of the payment under section 22b being subject to the

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

25 (4) If proration is necessary under subsection (3), the
26 department shall calculate the proration in district and
27 intermediate district payments that is required under subsection

1 (3) as follows:

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

5 (i) Districts.

6 (ii) Intermediate districts.

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

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

17 (c) The department shall recover a percentage of the proration
18 amount required under subsection (3) that is equal to the
19 percentage calculated under subdivision (a)(ii) for intermediate
20 districts by reducing payments to intermediate districts. This
21 reduction shall be made by reducing the payments to each
22 intermediate district, other than payments under sections 11f, 11g,
23 26a, 26b, 51a(2), 51a(12), 53a, and 56, on an equal percentage
24 basis.

25 (d) The department shall recover a percentage of the proration
26 amount required under subsection (3) that is equal to the
27 percentage calculated under subdivision (a)(iii) for entities other

1 than districts and intermediate districts by reducing payments to
2 these entities. This reduction shall be made by reducing the
3 payments to each of these entities, other than payments under
4 sections 11j, 26a, and 26b, on an equal percentage basis.

5 (5) Except for the allocation under section 26a, any general
6 fund allocations under this act that are not expended by the end of
7 the state fiscal year are transferred to the school aid
8 stabilization fund created under section 11a.

9 Sec. 11j. From the appropriation in section 11, there is
10 allocated an amount not to exceed ~~\$1,900,000.00~~ **\$3,900,000.00** for
11 2007-2008 for payments to the school loan bond redemption fund in
12 the department of treasury on behalf of districts and intermediate
13 districts. Notwithstanding section 11 or any other provision of
14 this act, funds allocated under this section are not subject to
15 proration and shall be paid in full.

16 Sec. 22a. (1) From the appropriation in section 11, there is
17 allocated an amount not to exceed ~~\$6,012,000,000.00~~
18 **\$5,951,000,000.00** for 2007-2008 for payments to districts,
19 qualifying university schools, and qualifying public school
20 academies to guarantee each district, qualifying university school,
21 and qualifying public school academy an amount equal to its 1994-95
22 total state and local per pupil revenue for school operating
23 purposes under section 11 of article IX of the state constitution
24 of 1963. Pursuant to section 11 of article IX of the state
25 constitution of 1963, this guarantee does not apply to a district
26 in a year in which the district levies a millage rate for school
27 district operating purposes less than it levied in 1994. However,

subsection (2) applies to calculating the payments under this section. Funds allocated under this section that are not expended in the state fiscal year for which they were allocated, as determined by the department, may be used to supplement the allocations under sections 22b and 51c in order to fully fund those calculated allocations for the same fiscal year.

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

(a) Except as otherwise provided in this subsection, the state portion of a district's 1994-95 foundation allowance is an amount equal to the district's 1994-95 foundation allowance or \$6,500.00, whichever is less, minus the difference between the product of the taxable value per membership pupil of all property in the district that is not a homestead or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94 and the quotient of the ad valorem property tax revenue of the district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, or the corridor improvement authority act, 2005 PA 280, MCL 125.2871 to 125.2899, divided by the district's membership. For a district that has a millage reduction required

1 under section 31 of article IX of the state constitution of 1963,
2 the state portion of the district's foundation allowance shall be
3 calculated as if that reduction did not occur.

4 (b) For a district that had a 1994-95 foundation allowance
5 greater than \$6,500.00, the state payment under this subsection
6 shall be the sum of the amount calculated under subdivision (a)
7 plus the amount calculated under this subdivision. The amount
8 calculated under this subdivision shall be equal to the difference
9 between the district's 1994-95 foundation allowance minus \$6,500.00
10 and the current year hold harmless school operating taxes per
11 pupil. If the result of the calculation under subdivision (a) is
12 negative, the negative amount shall be an offset against any state
13 payment calculated under this subdivision. If the result of a
14 calculation under this subdivision is negative, there shall not be
15 a state payment or a deduction under this subdivision. The taxable
16 values per membership pupil used in the calculations under this
17 subdivision are as adjusted by ad valorem property tax revenue
18 captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax
19 increment finance authority act, 1980 PA 450, MCL 125.1801 to
20 125.1830, the local development financing act, 1986 PA 281, MCL
21 125.2151 to 125.2174, the brownfield redevelopment financing act,
22 1996 PA 381, MCL 125.2651 to 125.2672, or the corridor improvement
23 authority act, 2005 PA 280, MCL 125.2871 to 125.2899, divided by
24 the district's membership.

25 (3) Beginning in 2003-2004, for pupils in membership in a
26 qualifying public school academy or qualifying university school,
27 there is allocated under this section to the authorizing body that

1 is the fiscal agent for the qualifying public school academy for
2 forwarding to the qualifying public school academy, or to the board
3 of the public university operating the qualifying university
4 school, an amount equal to the 1994-95 per pupil payment to the
5 qualifying public school academy or qualifying university school
6 under section 20.

7 (4) A district, qualifying university school, or qualifying
8 public school academy may use funds allocated under this section in
9 conjunction with any federal funds for which the district,
10 qualifying university school, or qualifying public school academy
11 otherwise would be eligible.

12 (5) For a district that is formed or reconfigured after June
13 1, 2000 by consolidation of 2 or more districts or by annexation,
14 the resulting district's 1994-95 foundation allowance under this
15 section beginning after the effective date of the consolidation or
16 annexation shall be the average of the 1994-95 foundation
17 allowances of each of the original or affected districts,
18 calculated as provided in this section, weighted as to the
19 percentage of pupils in total membership in the resulting district
20 in the state fiscal year in which the consolidation takes place who
21 reside in the geographic area of each of the original districts. If
22 an affected district's 1994-95 foundation allowance is less than
23 the 1994-95 basic foundation allowance, the amount of that
24 district's 1994-95 foundation allowance shall be considered for the
25 purpose of calculations under this subsection to be equal to the
26 amount of the 1994-95 basic foundation allowance.

27 (6) As used in this section:

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

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

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

11 (d) "Hold harmless millage" means, for a district with a 1994-
12 95 foundation allowance greater than \$6,500.00, the number of mills
13 by which the exemption from the levy of school operating taxes on a
14 homestead and qualified agricultural property could be reduced as
15 provided in section 1211(1) of the revised school code, MCL
16 380.1211, and the number of mills of school operating taxes that
17 could be levied on all property as provided in section 1211(2) of
18 the revised school code, MCL 380.1211, as certified by the
19 department of treasury for the 1994 tax year.

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

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

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

27 (h) "Qualifying public school academy" means a public school

1 academy that was in operation in the 1994-95 school year and is in
2 operation in the current state fiscal year.

3 (i) "Qualifying university school" means a university school
4 that was in operation in the 1994-95 school year and is in
5 operation in the current fiscal year.

6 (j) "School operating taxes" means local ad valorem property
7 taxes levied under section 1211 of the revised school code, MCL
8 380.1211, and retained for school operating purposes.

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

11 (i) For the number of mills by which the exemption from the
12 levy of school operating taxes on a homestead and qualified
13 agricultural property may be reduced as provided in section 1211(1)
14 of the revised school code, MCL 380.1211, the taxable value of
15 homestead and qualified agricultural property for the calendar year
16 ending in the current state fiscal year.

17 (ii) For the number of mills of school operating taxes that may
18 be levied on all property as provided in section 1211(2) of the
19 revised school code, MCL 380.1211, the taxable value of all
20 property for the calendar year ending in the current state fiscal
21 year.

22 Sec. 22b. (1) From the appropriation in section 11, there is
23 allocated an amount not to exceed ~~\$3,722,000,000.00~~
24 **\$3,683,275,000.00** for 2007-2008 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 do all of the following:

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

19 (b) Comply with sections 1278a and 1278b of the revised school
20 code, MCL 380.1278a and 380.1278b.

21 (c) Furnish data and other information required by state and
22 federal law to the center and the department in the form and manner
23 specified by the center or the department, as applicable.

24 (d) Comply with section 1230g of the revised school code, MCL
25 380.1230g.

26 (4) Districts are encouraged to use funds allocated under this
27 section for the purchase and support of payroll, human resources,

1 and other business function software that is compatible with that
2 of the intermediate district in which the district is located and
3 with other districts located within that intermediate district.

4 (5) From the allocation in subsection (1), the department
5 shall pay up to \$1,000,000.00 in litigation costs incurred by this
6 state associated with lawsuits filed by 1 or more districts or
7 intermediate districts against this state. If the allocation under
8 this section is insufficient to fully fund all payments required
9 under this section, the payments under this subsection shall be
10 made in full before any proration of remaining payments under this
11 section.

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

27 (7) If the local claims review board or a court of competent

1 jurisdiction makes a final determination that this state is in
2 violation of section 29 of article IX of the state constitution of
3 1963 regarding state payments to districts, the state budget
4 director shall use work project funds under subsection (6) or
5 allocate from the discretionary funds for nonmandated payments
6 under this section the amount as may be necessary to satisfy the
7 amount owed to districts before making any payments to districts
8 under subsection (2).

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

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

24 (10) If a lawsuit challenging payments made to districts
25 related to costs reimbursed by federal title XIX medicaid funds is
26 filed against this state, then, for the purpose of addressing
27 potential liability under such a lawsuit, the state budget director

1 may place funds allocated under this section in escrow or allocate
2 money from the funds otherwise allocated under this section, up to
3 a maximum of 50% of the amount allocated in subsection (1). If
4 funds are placed in escrow under this subsection, those funds are a
5 work project appropriation and the funds are carried forward into
6 the following fiscal year. The purpose of the work project is to
7 provide for any payments that may be awarded to districts as a
8 result of the litigation. The work project shall be completed upon
9 resolution of the litigation. In addition, this state reserves the
10 right to terminate future federal title XIX medicaid reimbursement
11 payments to districts if the amount or allocation of reimbursed
12 funds is challenged in the lawsuit. As used in this subsection,
13 "title XIX" means title XIX of the social security act, 42 USC 1396
14 to 1396v.

15 (11) From the allocation in subsection (1), there is allocated
16 for 2007-2008 only an amount not to exceed \$40,000.00 for payment
17 to a district that meets all of the following:

18 (a) Had a membership of less than 900 pupils for 2006-2007.

19 (b) Is located in an intermediate district that had a taxable
20 value per membership pupil, as defined in section 22a, of greater
21 than \$290,000.00 for 2006-2007.

22 (c) The school electors of the district voted in the
23 affirmative on May 8, 2007 to restore a millage reduction required
24 under section 31 of article IX of the state constitution of 1963,
25 but the district was later found to have an incorrect millage
26 reduction fraction as defined in section 34d of the general
27 property tax act, 1893 PA 206, MCL 211.34d.

1 Sec. 22d. (1) From the amount allocated under section 22b, an
2 amount not to exceed ~~\$750,000.00~~ **\$2,025,000.00** is allocated for
3 2007-2008 for additional payments to small, geographically isolated
4 districts under this section.

5 (2) ~~To be eligible for a payment under this section, a~~
6 ~~district shall meet~~ **FROM THE ALLOCATION UNDER SUBSECTION (1), THERE**
7 **IS ALLOCATED FOR 2007-2008 AN AMOUNT NOT TO EXCEED \$750,000.00 FOR**
8 **PAYMENTS UNDER THIS SUBSECTION TO DISTRICTS THAT MEET** all of the
9 following:

10 (a) Operates grades K to 12.

11 (b) Has fewer than 250 pupils in membership.

12 (c) Each school building operated by the district meets at
13 least 1 of the following:

14 (i) Is located in the Upper Peninsula at least 30 miles from
15 any other public school building.

16 (ii) Is located on an island that is not accessible by bridge.

17 (3) The amount of the additional funding to each eligible
18 district under ~~this section~~ **SUBSECTION (2)** shall be determined
19 under a spending plan developed as provided in this subsection and
20 approved by the superintendent of public instruction. The spending
21 plan shall be developed cooperatively by the intermediate
22 superintendents of each intermediate district in which an eligible
23 district is located. The intermediate superintendents shall review
24 the financial situation of each eligible district, determine the
25 minimum essential financial needs of each eligible district, and
26 develop and agree on a spending plan that distributes the available
27 funding under ~~this section~~ **SUBSECTION (2)** to the eligible districts

1 based on those financial needs. The intermediate superintendents
2 shall submit the spending plan to the superintendent of public
3 instruction for approval. Upon approval by the superintendent of
4 public instruction, the amounts specified for each eligible
5 district under the spending plan are allocated under ~~this section~~
6 **SUBSECTION (2)** and shall be paid to the eligible districts in the
7 same manner as payments under section 22b.

8 (4) SUBJECT TO SUBSECTION (6), FROM THE ALLOCATION IN
9 SUBSECTION (1), THERE IS ALLOCATED FOR 2007-2008 AN AMOUNT NOT TO
10 EXCEED \$1,275,000.00 FOR PAYMENTS UNDER THIS SUBSECTION TO
11 DISTRICTS THAT MEET ALL OF THE FOLLOWING:

12 (A) THE DISTRICT HAS 5.0 OR FEWER PUPILS PER SQUARE MILE AS
13 DETERMINED BY THE DEPARTMENT.

14 (B) THE DISTRICT HAS A TOTAL SQUARE MILEAGE GREATER THAN 200.0
15 OR IS 1 OF 2 DISTRICTS THAT HAVE CONSOLIDATED TRANSPORTATION
16 SERVICES AND HAVE A COMBINED TOTAL SQUARE MILEAGE GREATER THAN
17 200.0.

18 (5) THE FUNDS ALLOCATED UNDER SUBSECTION (4) SHALL BE
19 ALLOCATED ON AN EQUAL PER PUPIL BASIS.

20 (6) A DISTRICT RECEIVING FUNDS ALLOCATED UNDER SUBSECTION (2)
21 IS NOT ELIGIBLE FOR FUNDING ALLOCATED UNDER SUBSECTION (4).

22 SEC. 32E. FROM THE STATE SCHOOL AID FUND MONEY APPROPRIATED
23 UNDER SECTION 11, THERE IS ALLOCATED AN AMOUNT NOT TO EXCEED
24 \$4,700,000.00 FOR 2007-2008 TO DISTRICTS ELIGIBLE TO RECEIVE
25 FUNDING UNDER SECTION 32D. THE FUNDING UNDER THIS SECTION SHALL BE
26 DISTRIBUTED AMONG DISTRICTS IN DECREASING ORDER OF CONCENTRATION OF
27 ELIGIBLE CHILDREN AS DETERMINED BY SECTION 38. THE AMOUNT

1 DISTRIBUTED TO EACH DISTRICT UNDER THIS SECTION SHALL BE AN AMOUNT
2 EQUAL TO THE NUMBER OF CHILDREN THE DISTRICT SERVED UNDER SECTION
3 32D IN 2006-2007 OR THE NUMBER OF CHILDREN THE DISTRICT INDICATES
4 IT WILL BE ABLE TO SERVE UNDER SECTION 37(2)(C) IN 2007-2008,
5 WHICHEVER IS LESS, MINUS THE NUMBER OF CHILDREN FOR WHICH THE
6 DISTRICT HAS PREVIOUSLY RECEIVED FUNDING IN 2007-2008
7 AS DETERMINED BY THE DEPARTMENT, MULTIPLIED BY \$3,400.00. HOWEVER,
8 A DISTRICT IS NOT REQUIRED TO RETURN PREVIOUSLY ALLOCATED FUNDING
9 TO THE SCHOOL AID FUND IN 2007-2008 AS A RESULT OF THIS
10 CALCULATION.

11 Sec. 51a. (1) From the appropriation in section 11, there is
12 allocated for 2007-2008 an amount not to exceed ~~\$1,006,483,000.00~~
13 \$990,483,000.00 from state sources and all available federal
14 funding under sections 611 to 619 of part B of the individuals with
15 disabilities education act, 20 USC 1411 to 1419, estimated at
16 \$350,700,000.00, plus any carryover federal funds from previous
17 year appropriations. The allocations under this subsection are for
18 the purpose of reimbursing districts and intermediate districts for
19 special education programs, services, and special education
20 personnel as prescribed in article 3 of the revised school code,
21 MCL 380.1701 to 380.1766; net tuition payments made by intermediate
22 districts to the Michigan schools for the deaf and blind; and
23 special education programs and services for pupils who are eligible
24 for special education programs and services according to statute or
25 rule. For meeting the costs of special education programs and
26 services not reimbursed under this article, a district or
27 intermediate district may use money in general funds or special

1 education funds, not otherwise restricted, or contributions from
2 districts to intermediate districts, tuition payments, gifts and
3 contributions from individuals, or federal funds that may be
4 available for this purpose, as determined by the intermediate
5 district plan prepared pursuant to article 3 of the revised school
6 code, MCL 380.1701 to 380.1766. All federal funds allocated under
7 this section in excess of those allocated under this section for
8 2002-2003 may be distributed in accordance with the flexible
9 funding provisions of the individuals with disabilities education
10 act, Public Law 108-446, including, but not limited to, 34 CFR
11 300.206 and 300.208. Notwithstanding section 17b, payments of
12 federal funds to districts, intermediate districts, and other
13 eligible entities under this section shall be paid on a schedule
14 determined by the department.

15 (2) From the funds allocated under subsection (1), there is
16 allocated for 2007-2008 the amount necessary, estimated at
17 ~~\$215,900,000.00~~ **\$216,500,000.00**, for payments toward reimbursing
18 districts and intermediate districts for 28.6138% of total approved
19 costs of special education, excluding costs reimbursed under
20 section 53a, and 70.4165% of total approved costs of special
21 education transportation. Allocations under this subsection shall
22 be made as follows:

23 (a) The initial amount allocated to a district under this
24 subsection toward fulfilling the specified percentages shall be
25 calculated by multiplying the district's special education pupil
26 membership, excluding pupils described in subsection (12), times
27 the sum of the foundation allowance under section 20 of the pupil's

1 district of residence plus the amount of the district's per pupil
2 allocation under section 20j(2), not to exceed the basic foundation
3 allowance under section 20 for the current fiscal year, or, for a
4 special education pupil in membership in a district that is a
5 public school academy or university school, times an amount equal
6 to the amount per membership pupil calculated under section 20(6).
7 For an intermediate district, the amount allocated under this
8 subdivision toward fulfilling the specified percentages shall be an
9 amount per special education membership pupil, excluding pupils
10 described in subsection (12), and shall be calculated in the same
11 manner as for a district, using the foundation allowance under
12 section 20 of the pupil's district of residence, not to exceed the
13 basic foundation allowance under section 20 for the current fiscal
14 year, and that district's per pupil allocation under section
15 20j(2).

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

21 (3) From the funds allocated under subsection (1), there is
22 allocated for 2007-2008 the amount necessary, estimated at
23 \$1,500,000.00, to make payments to districts and intermediate
24 districts under this subsection. If the amount allocated to a
25 district or intermediate district for a fiscal year under
26 subsection (2)(b) is less than the sum of the amounts allocated to
27 the district or intermediate district for 1996-97 under sections 52

1 and 58, there is allocated to the district or intermediate district
2 for the fiscal year an amount equal to that difference, adjusted by
3 applying the same proration factor that was used in the
4 distribution of funds under section 52 in 1996-97 as adjusted to
5 the district's or intermediate district's necessary costs of
6 special education used in calculations for the fiscal year. This
7 adjustment is to reflect reductions in special education program
8 operations or services between 1996-97 and subsequent fiscal years.
9 Adjustments for reductions in special education program operations
10 or services shall be made in a manner determined by the department
11 and shall include adjustments for program or 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 2007-2008 to districts,
8 intermediate districts, or other eligible entities on a competitive
9 grant basis for programs, equipment, and services that the
10 department determines to be designed to benefit or improve special
11 education on a statewide scale.

12 (6) From the amount allocated in subsection (1), there is
13 allocated an amount not to exceed \$2,200,000.00 for 2007-2008 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.

18 (b) Beginning with the 2004-2005 fiscal year, a district or
19 intermediate district that employed special education support
20 services staff to provide special education support services in
21 2003-2004 or in a subsequent fiscal year and that in a fiscal year
22 after 2003-2004 receives the same type of support services from
23 another district or intermediate district shall report the cost of
24 those support services for special education reimbursement purposes
25 under this act. This subdivision does not prohibit the transfer of
26 special education classroom teachers and special education
27 classroom aides if the pupils counted in membership associated with

1 those special education classroom teachers and special education
2 classroom aides are transferred and counted in membership in the
3 other district or intermediate district in conjunction with the
4 transfer of those teachers and aides.

5 (c) If the department determines before bookclosing for 2006-
6 2007 that the amounts allocated for 2006-2007 under subsections
7 (2), (3), (6), (8), and (12) and sections 53a, 54, and 56 will
8 exceed expenditures for 2006-2007 under subsections (2), (3), (6),
9 (8), and (12) and sections 53a, 54, and 56, then for 2006-2007
10 only, for a district or intermediate district whose reimbursement
11 for 2006-2007 would otherwise be affected by subdivision (b),
12 subdivision (b) does not apply to the calculation of the
13 reimbursement for that district or intermediate district and
14 reimbursement for that district or intermediate district shall be
15 calculated in the same manner as it was for 2003-2004. If the
16 amount of the excess allocations under subsections (2), (3), (6),
17 (8), and (12) and sections 53a, 54, and 56 is not sufficient to
18 fully fund the calculation of reimbursement to those districts and
19 intermediate districts under this subdivision, then the
20 calculations and resulting reimbursement under this subdivision
21 shall be prorated on an equal percentage basis.

22 (d) Reimbursement for ancillary and other related services, as
23 defined by R 340.1701c of the Michigan administrative code, shall
24 not be provided when those services are covered by and available
25 through private group health insurance carriers or federal
26 reimbursed program sources unless the department and district or
27 intermediate district agree otherwise and that agreement is

1 approved by the state budget director. Expenses, other than the
2 incidental expense of filing, shall not be borne by the parent. In
3 addition, the filing of claims shall not delay the education of a
4 pupil. A district or intermediate district shall be responsible for
5 payment of a deductible amount and for an advance payment required
6 until the time a claim is paid.

7 (e) Beginning with calculations for 2004-2005, if an
8 intermediate district purchases a special education pupil
9 transportation service from a constituent district that was
10 previously purchased from a private entity; if the purchase from
11 the constituent district is at a lower cost, adjusted for changes
12 in fuel costs; and if the cost shift from the intermediate district
13 to the constituent does not result in any net change in the revenue
14 the constituent district receives from payments under sections 22b
15 and 51c, then upon application by the intermediate district, the
16 department shall direct the intermediate district to continue to
17 report the cost associated with the specific identified special
18 education pupil transportation service and shall adjust the costs
19 reported by the constituent district to remove the cost associated
20 with that specific service.

21 (8) From the allocation in subsection (1), there is allocated
22 for 2007-2008 an amount not to exceed \$15,313,900.00 to
23 intermediate districts. The payment under this subsection to each
24 intermediate district shall be equal to the amount of the 1996-97
25 allocation to the intermediate district under subsection (6) of
26 this section as in effect for 1996-97.

27 (9) A pupil who is enrolled in a full-time special education

1 program conducted or administered by an intermediate district or a
2 pupil who is enrolled in the Michigan schools for the deaf and
3 blind shall not be included in the membership count of a district,
4 but shall be counted in membership in the intermediate district of
5 residence.

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

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

17 (12) From the funds allocated in subsection (1), there is
18 allocated for 2007-2008 the amount necessary, estimated at
19 ~~\$6,600,000.00~~ **\$7,600,000.00**, to pay the foundation allowances for
20 pupils described in this subsection. The allocation to a district
21 under this subsection shall be calculated by multiplying the number
22 of pupils described in this subsection who are counted in
23 membership in the district times the sum of the foundation
24 allowance under section 20 of the pupil's district of residence
25 plus the amount of the district's per pupil allocation under
26 section 20j(2), not to exceed the basic foundation allowance under
27 section 20 for the current fiscal year, or, for a pupil described

1 in this subsection who is counted in membership in a district that
2 is a public school academy or university school, times an amount
3 equal to the amount per membership pupil under section 20(6). The
4 allocation to an intermediate district under this subsection shall
5 be calculated in the same manner as for a district, using the
6 foundation allowance under section 20 of the pupil's district of
7 residence, not to exceed the basic foundation allowance under
8 section 20 for the current fiscal year, and that district's per
9 pupil allocation under section 20j(2). This subsection applies to
10 all of the following pupils:

11 (a) Pupils described in section 53a.

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

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

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

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

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

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

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

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

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

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

6 Sec. 51c. As required by the court in the consolidated cases
7 known as Durant v State of Michigan, Michigan supreme court docket
8 no. 104458-104492, from the allocation under section 51a(1), there
9 is allocated for 2007-2008 the amount necessary, estimated at
10 ~~\$713,600,000.00~~ **\$696,000,000.00**, for payments to reimburse
11 districts for 28.6138% of total approved costs of special education
12 excluding costs reimbursed under section 53a, and 70.4165% of total
13 approved costs of special education transportation. Funds allocated
14 under this section that are not expended in the state fiscal year
15 for which they were allocated, as determined by the department, may
16 be used to supplement the allocations under sections 22a and 22b in
17 order to fully fund those calculated allocations for the same
18 fiscal year.

19 Sec. 56. (1) For the purposes of this section:

20 (a) "Membership" means for a particular fiscal year the total
21 membership for the immediately preceding fiscal year of the
22 intermediate district and the districts constituent to the
23 intermediate district.

24 (b) "Millage levied" means the millage levied for special
25 education pursuant to part 30 of the revised school code, MCL
26 380.1711 to 380.1743, including a levy for debt service
27 obligations.

1 (c) "Taxable value" means the total taxable value of the
2 districts constituent to an intermediate district, except that if a
3 district has elected not to come under part 30 of the revised
4 school code, MCL 380.1711 to 380.1743, membership and taxable value
5 of the district shall not be included in the membership and taxable
6 value of the intermediate district.

7 (2) From the allocation under section 51a(1), there is
8 allocated an amount not to exceed \$36,881,100.00 for 2007-2008 to
9 reimburse intermediate districts levying millages for special
10 education pursuant to part 30 of the revised school code, MCL
11 380.1711 to 380.1743. The purpose, use, and expenditure of the
12 reimbursement shall be limited as if the funds were generated by
13 these millages and governed by the intermediate district plan
14 adopted pursuant to article 3 of the revised school code, MCL
15 380.1701 to 380.1766. As a condition of receiving funds under this
16 section, an intermediate district distributing any portion of
17 special education millage funds to its constituent districts shall
18 submit for departmental approval and implement a distribution plan.

19 (3) Reimbursement for those millages levied in 2006-2007 shall
20 be made in 2007-2008 at an amount per 2006-2007 membership pupil
21 computed by subtracting from ~~\$161,400.00~~ **\$161,800.00** the 2006-2007
22 taxable value behind each membership pupil and multiplying the
23 resulting difference by the 2006-2007 millage levied.

24 Sec. 62. (1) For the purposes of this section:

25 (a) "Membership" means for a particular fiscal year the total
26 membership for the immediately preceding fiscal year of the
27 intermediate district and the districts constituent to the

1 intermediate district or the total membership for the immediately
2 preceding fiscal year of the area vocational-technical program.

3 (b) "Millage levied" means the millage levied for area
4 vocational-technical education pursuant to sections 681 to 690 of
5 the revised school code, MCL 380.681 to 380.690, including a levy
6 for debt service obligations incurred as the result of borrowing
7 for capital outlay projects and in meeting capital projects fund
8 requirements of area vocational-technical education.

9 (c) "Taxable value" means the total taxable value of the
10 districts constituent to an intermediate district or area
11 vocational-technical education program, except that if a district
12 has elected not to come under sections 681 to 690 of the revised
13 school code, MCL 380.681 to 380.690, the membership and taxable
14 value of that district shall not be included in the membership and
15 taxable value of the intermediate district. However, the membership
16 and taxable value of a district that has elected not to come under
17 sections 681 to 690 of the revised school code, MCL 380.681 to
18 380.690, shall be included in the membership and taxable value of
19 the intermediate district if the district meets both of the
20 following:

21 (i) The district operates the area vocational-technical
22 education program pursuant to a contract with the intermediate
23 district.

24 (ii) The district contributes an annual amount to the operation
25 of the program that is commensurate with the revenue that would
26 have been raised for operation of the program if millage were
27 levied in the district for the program under sections 681 to 690 of

1 the revised school code, MCL 380.681 to 380.690.

2 (2) From the appropriation in section 11, there is allocated
3 an amount not to exceed \$9,000,000.00 for 2007-2008 to reimburse
4 intermediate districts and area vocational-technical education
5 programs established under section 690(3) of the revised school
6 code, MCL 380.690, levying millages for area vocational-technical
7 education pursuant to sections 681 to 690 of the revised school
8 code, MCL 380.681 to 380.690. The purpose, use, and expenditure of
9 the reimbursement shall be limited as if the funds were generated
10 by those millages.

11 (3) Reimbursement for the millages levied in 2006-2007 shall
12 be made in 2007-2008 at an amount per 2006-2007 membership pupil
13 computed by subtracting from ~~\$171,200.00~~ **\$171,300.00** the 2006-2007
14 taxable value behind each membership pupil and multiplying the
15 resulting difference by the 2006-2007 millage levied.

16 Sec. 104. (1) From the state school aid fund money
17 appropriated in section 11, there is allocated for 2007-2008 an
18 amount not to exceed ~~\$25,400,000.00~~ **\$29,322,400.00** for payments on
19 behalf of districts for costs associated with complying with
20 sections 104a and 104b, sections 1279, 1279g, and 1280b of the
21 revised school code, MCL 380.1279, 380.1279g, and 380.1280b, and
22 1970 PA 38, MCL 388.1081 to 388.1086. In addition, from the federal
23 funds appropriated in section 11, there is allocated for 2007-2008
24 an amount estimated at ~~\$8,800,000.00~~ **\$5,477,600.00**, funded from
25 DED-OESE, title VI, state assessments funds **AND DED-OSERS, SECTION**
26 **504 OF PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION**
27 **ACT, PUBLIC LAW 94-142, PLUS ANY CARRYOVER FEDERAL FUNDS FROM**

1 **PREVIOUS YEAR APPROPRIATIONS**, for the purposes of complying with
2 the federal no child left behind act of 2001, Public Law 107-110.

3 (2) The results of each test administered as part of the
4 Michigan educational assessment program, including tests
5 administered to high school students, shall include an item
6 analysis that lists all items that are counted for individual pupil
7 scores and the percentage of pupils choosing each possible
8 response.

9 (3) All federal funds allocated under this section shall be
10 distributed in accordance with federal law and with flexibility
11 provisions outlined in Public Law 107-116, and in the education
12 flexibility partnership act of 1999, Public Law 106-25.

13 (4) Notwithstanding section 17b, payments on behalf of
14 districts, intermediate districts, and other eligible entities
15 under this section shall be paid on a schedule determined by the
16 department.

17 Enacting section 1. In accordance with section 30 of article
18 IX of the state constitution of 1963, total state spending in this
19 amendatory act and in 2007 PA 137 from state sources for fiscal
20 year 2007-2008 is estimated at \$11,421,596,300.00 and state
21 appropriations to be paid to local units of government for fiscal
22 year 2007-2008 are estimated at \$11,346,193,300.00.