

SUBSTITUTE FOR
HOUSE BILL NO. 5887

A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending sections 11, 11d, 11m, 11p, 22a, 51a, and 56 (MCL
388.1611, 388.1611d, 388.1611m, 388.1611p, 388.1622a, 388.1651a,
and 388.1656), section 11 as amended by 2010 PA 204, sections 11d,
11m, 22a, 51a, and 56 as amended by 2010 PA 110, and section 11p as
added by 2010 PA 205, and by adding section 152a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (1) Subject to subsection (5), for the fiscal year
2 ending September 30, 2011, there is appropriated for the public
3 schools of this state and certain other state purposes relating to
4 education the sum of ~~\$10,937,260,500.00~~ **\$10,950,263,400.00** from the

1 state school aid fund and the sum of \$18,642,400.00 from the
2 general fund. For the fiscal year ending September 30, 2011, there
3 is also appropriated the remaining balance of the federal funding
4 awarded to this state under title XIV of the American recovery and
5 reinvestment act of 2009, Public Law 111-5, estimated at
6 \$184,256,600.00, to be used solely for the purpose of funding the
7 primary funding formula calculated under section 20, in accordance
8 with federal law. In addition, all other available federal funds,
9 except those otherwise appropriated under section 11p, are
10 appropriated for the fiscal year ending September 30, 2011.

11 (2) The appropriations under this section shall be allocated
12 as provided in this act. Money appropriated under this section from
13 the general fund shall be expended to fund the purposes of this act
14 before the expenditure of money appropriated under this section
15 from the state school aid fund. If the maximum amount appropriated
16 under this section from the state school aid fund for a fiscal year
17 exceeds the amount necessary to fully fund allocations under this
18 act from the state school aid fund, that excess amount shall not be
19 expended in that state fiscal year and shall not lapse to the
20 general fund, but instead shall be deposited into the school aid
21 stabilization fund created in section 11a. **FOR 2009-2010 ONLY, IF**
22 **THE DEPARTMENT DETERMINES BEFORE BOOKCLOSING FOR THE 2009-2010**
23 **STATE FISCAL YEAR THAT THE MAXIMUM AMOUNT APPROPRIATED UNDER THIS**
24 **SECTION FROM THE STATE SCHOOL AID FUND FOR 2009-2010 EXCEEDS THE**
25 **AMOUNT NECESSARY TO FULLY FUND ALLOCATIONS UNDER THIS ACT FROM THE**
26 **STATE SCHOOL AID FUND FOR 2009-2010 AND THAT STATE SUPPORT FOR**
27 **ELEMENTARY AND SECONDARY EDUCATION FOR 2009-2010 WILL FALL BELOW**

1 THE LEVEL OF SUPPORT NEEDED TO COMPLY WITH THE MAINTENANCE OF
 2 EFFORT PROVISIONS UNDER TITLE XIV OF THE AMERICAN RECOVERY AND
 3 REINVESTMENT ACT OF 2009, PUBLIC LAW 111-5, THEN THERE IS
 4 APPROPRIATED FOR 2009-2010 FROM THE SCHOOL AID STABILIZATION FUND
 5 THE AMOUNT THAT THE DEPARTMENT DETERMINES IS NECESSARY FOR THE
 6 STATE SUPPORT FOR ELEMENTARY AND SECONDARY EDUCATION TO MEET THE
 7 LEVEL OF SUPPORT NEEDED TO COMPLY WITH THE MAINTENANCE OF EFFORT
 8 PROVISIONS UNDER TITLE XIV OF THE AMERICAN RECOVERY AND
 9 REINVESTMENT ACT OF 2009, PUBLIC LAW 111-5. THE DEPARTMENT SHALL
 10 USE ANY FUNDS APPROPRIATED UNDER THIS SUBSECTION AS FOLLOWS:

11 (A) FIRST, TO ALLOCATE \$10,000,000.00 TO PROVIDE FUNDING TO
 12 EACH INTERMEDIATE DISTRICT IN AN AMOUNT EQUAL TO THE PRODUCT OF
 13 14.75% MULTIPLIED BY THE AMOUNT OF FUNDING ALLOCATED TO THAT
 14 INTERMEDIATE DISTRICT UNDER SECTION 81 FOR 2009-2010 UNDER 2010 PA
 15 110.

16 (B) SECOND, TO ALLOCATE ANY REMAINING FUNDS TO REDUCE THE
 17 AMOUNT OF THE PER-PUPIL REDUCTION UNDER SECTION 11D(1) FOR 2009-
 18 2010.

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, 26b, 31d, 31f, 51a(2), 51a(12), 51c, 53a,
 24 ~~and 56~~, **AND 152A** shall be made in full. In addition, for districts
 25 beginning operations after 1994-95 that qualify for payments under
 26 section 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). If proration is necessary, state payments under each of the
8 other sections of this act from all state funding sources shall be
9 prorated in the manner prescribed in subsection (4) as necessary to
10 reflect the amount available for expenditure from the state school
11 aid fund for the affected fiscal year. However, if the department
12 of treasury determines that proration will be required under this
13 subsection, or if the department of treasury determines that
14 further proration is required under this subsection after an
15 initial proration has already been made for a fiscal year, the
16 department of treasury shall notify the state budget director, and
17 the state budget director shall notify the legislature at least 30
18 calendar days or 6 legislative session days, whichever is more,
19 before the department reduces any payments under this act because
20 of the proration. During the 30 calendar day or 6 legislative
21 session day period after that notification by the state budget
22 director, the department shall not reduce any payments under this
23 act because of proration under this subsection. The legislature may
24 prevent proration from occurring by, within the 30 calendar day or
25 6 legislative session day period after that notification by the
26 state budget director, enacting legislation appropriating
27 additional funds from the general fund, countercyclical budget and

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

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

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

10 (i) Districts.

11 (ii) Intermediate districts.

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

13 (b) The department shall recover a percentage of the proration
14 amount required under subsection (3) that is equal to the
15 percentage calculated under subdivision (a)(i) for districts by
16 reducing payments to districts. This reduction shall be made by
17 calculating an equal dollar amount per pupil as necessary to
18 recover this percentage of the proration amount and reducing each
19 district's total state school aid from state sources, other than
20 payments under sections 11f, 11g, 11j, 22a, 26a, 26b, 31d, 31f,
21 51a(2), 51a(12), 51c, ~~and 53a~~, **AND 152A**, by that amount.

22 (c) The department shall recover a percentage of the proration
23 amount required under subsection (3) that is equal to the
24 percentage calculated under subdivision (a)(ii) for intermediate
25 districts by reducing payments to intermediate districts. This
26 reduction shall be made by reducing the payments to each
27 intermediate district, other than payments under sections 11f, 11g,

26a, 26b, 51a(2), 51a(12), 53a, ~~and 56,~~ **AND 152A**, on an equal percentage basis.

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

(5) Any general fund allocations under this act that are not expended by the end of the state fiscal year are transferred to the school aid stabilization fund created under section 11a.

Sec. 11d. (1) For 2009-2010 only, the department shall deduct an amount equal to \$154.00 per membership pupil from the total state school aid otherwise allocated under this act to each district, except for money allocated under sections 11g, 22a, 31d, 51a(12), 51c, and 53a. For 2010-2011, the department shall deduct an amount equal to ~~\$154.00~~ **\$162.00** per membership pupil from the total state school aid otherwise allocated under this act to each district, except for money allocated under sections 11g, 22a, 31d, 32d, 51a(12), 51c, ~~and 53a,~~ **AND 152A**. If a district complies with subsection (2), a district may choose to apply this reduction to funding the district receives under any provision of this act, other than sections 11g, 22a, 31d, 51a(12), 51c, ~~and 53a,~~ and, beginning in 2010-2011, ~~section 32d,~~ **SECTIONS 32D AND 152A**, even if the reduction chosen by the district results in a program being reduced or discontinued. If a district does not comply with

1 subsection (2), the district shall apply this reduction to
2 available funding under section 22b first, up to the total amount
3 of the reduction, before reducing other funding the district
4 receives under this act, other than sections 11g, 22a, 31d,
5 51a(12), 51c, ~~and 53a~~, **AND 152A**.

6 (2) Not later than February 1, 2010, a district shall enter
7 into an agreement with the department to develop a service
8 consolidation plan to reduce school operating costs that is in
9 compliance with department guidelines. The department guidelines
10 may identify, but are not limited to, allowable cost-sharing
11 arrangements for the provision of business services and
12 instructional services and the creation of joint operating
13 agreements between and among districts and intermediate districts.
14 The department shall establish guidelines for service consolidation
15 plans under this subsection not later than 60 days after the
16 effective date of this section.

17 (3) Not later than February 1, 2011, a district shall submit
18 to the department, in the form and manner prescribed by the
19 department, a report on the status of the district's implementation
20 of the service consolidation plan the district submitted under
21 subsection (2).

22 (4) In addition to developing a service consolidation plan
23 under subsection (2), a district or intermediate district that
24 purchases diesel fuel shall explore possibilities for coordinating
25 regional purchasing of diesel fuel.

26 Sec. 11m. From the appropriations in section 11, there is
27 allocated for 2009-2010 an amount not to exceed ~~\$20,000,000.00~~

1 **\$12,000,000.00** and for 2010-2011 there is allocated an amount not
 2 to exceed \$45,000,000.00 for fiscal year cash-flow borrowing costs
 3 solely related to the state school aid fund established by section
 4 11 of article IX of the state constitution of 1963.

5 Sec. 11p. (1) In addition to the funds appropriated under
 6 section 11, for 2010-2011 only, there is appropriated the amount of
 7 the federal funding awarded to this state under section 101 of
 8 title I of Public Law 111-226, estimated at ~~\$316,270,300.00,~~
 9 **\$316,270,300.00**, solely for the purposes identified in that section
 10 of federal law, to be distributed by funding those portions of the
 11 primary funding formulae that are calculated and allocated under
 12 this section.

13 (2) ~~(3)~~ From the federal funding appropriated under subsection
 14 (1), there is allocated an amount not to exceed ~~\$65,770,300.00~~
 15 **\$311,770,300.00** to provide to each district or public school
 16 academy for 2010-2011 only a 1-time portion of per-pupil funding to
 17 be allocated under this subsection. The department shall calculate
 18 and allocate the 1-time portion of per-pupil funding allocated to
 19 each district or public school academy under this subsection as
 20 follows:

21 (a) First, for each district or public school academy,
 22 calculate the amount that the district's foundation allowance or
 23 public school academy's per pupil allocation calculated under
 24 section 20 would be if the basic foundation allowance for 2010-2011
 25 were ~~\$8,512.00,~~ **\$8,600.00** if the maximum public school academy
 26 allocation for 2010-2011 were ~~\$7,623.00,~~ **\$7,787.00** and if the
 27 \$20.00 amount in section 20(3)(a) and 20(26)(h) were instead

1 ~~\$8.00-\$35.00.~~

2 (b) Second, calculate the difference between the amount
3 calculated for the district or public school academy under
4 subdivision (a) and the amount of the district's foundation
5 allowance or public school academy's per pupil allocation as
6 actually calculated under section 20 for 2010-2011.

7 (c) Third, multiply the amount calculated under subdivision
8 (b) times the district's or public school academy's 2010-2011
9 membership used for the October 2010 payment under this act.

10 (3) ~~(4)~~ For 2010-2011 only, from the federal funding
11 appropriated under subsection (1), there is allocated an amount not
12 to exceed \$4,500,000.00 to provide a 1-time allocation of primary
13 funding to each intermediate district in an amount equal to the
14 product of 6.9% multiplied by the amount of funding allocated to
15 that intermediate district under section 81 for 2010-2011 under
16 2010 PA 110.

17 (4) ~~(5)~~ If there is money remaining under this section after
18 the allocations under subsections (2) ~~, (3), and (4)~~ **AND (3)** and
19 after any amount that is unused under those subsections because a
20 district or public school academy is unable to use its full
21 allocation under ~~subsections (2) and (3)~~, **SUBSECTION (2)**, then in
22 addition to the amounts allocated under ~~subsections (2) and (3)~~
23 **SUBSECTION (2)** there is also allocated to each district and public
24 school academy that received money under subsection ~~(3)~~ **(2)** an
25 amount equal to the district's or public school academy's relative
26 proportion of the funding actually used under subsection ~~(3)~~ **(2)**
27 applied to that remaining money, calculated and distributed in a

1 form and manner determined by the department.

2 (5) ~~(6)~~—To be eligible to receive funds appropriated under
3 this section, a district, intermediate district, or public school
4 academy must meet 1 of the following:

5 (a) Has previously submitted an application to receive funding
6 under the state fiscal stabilization fund as provided for under
7 title XIV of the American recovery and reinvestment act of 2009,
8 Public Law 111-5.

9 (b) Submits an application for the funding under this section
10 in a form and manner determined by the department.

11 (6) ~~(7)~~—A recipient of funding under this section shall comply
12 with all reporting requirements of section 1512 of the American
13 recovery and reinvestment act of 2009, Public Law 111-5, and other
14 reporting requirements established by the United States department
15 of education for this funding.

16 Sec. 22a. (1) From the appropriation in section 11, there is
17 allocated an amount not to exceed ~~\$5,785,000,000.00~~
18 **\$5,798,241,000.00** for 2009-2010 and an amount not to exceed
19 \$5,764,000,000.00 for 2010-2011 for payments to districts,
20 qualifying university schools, and qualifying public school
21 academies to guarantee each district, qualifying university school,
22 and qualifying public school academy an amount equal to its 1994-95
23 total state and local per pupil revenue for school operating
24 purposes under section 11 of article IX of the state constitution
25 of 1963. Pursuant to section 11 of article IX of the state
26 constitution of 1963, this guarantee does not apply to a district
27 in a year in which the district levies a millage rate for school

1 district operating purposes less than it levied in 1994. However,
2 subsection (2) applies to calculating the payments under this
3 section. Funds allocated under this section that are not expended
4 in the state fiscal year for which they were allocated, as
5 determined by the department, may be used to supplement the
6 allocations under sections 22b and 51c in order to fully fund those
7 calculated allocations for the same fiscal year.

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

13 (a) Except as otherwise provided in this subsection, the state
14 portion of a district's 1994-95 foundation allowance is an amount
15 equal to the district's 1994-95 foundation allowance or \$6,500.00,
16 whichever is less, minus the difference between the sum of the
17 product of the taxable value per membership pupil of all property
18 in the district that is nonexempt property times the district's
19 certified mills and, for a district with certified mills exceeding
20 12, the product of the taxable value per membership pupil of
21 property in the district that is commercial personal property times
22 the certified mills minus 12 mills and the quotient of the ad
23 valorem property tax revenue of the district captured under tax
24 increment financing acts divided by the district's membership. For
25 a district that has a millage reduction required under section 31
26 of article IX of the state constitution of 1963, the state portion
27 of the district's foundation allowance shall be calculated as if

1 that reduction did not occur.

2 (b) For a district that had a 1994-95 foundation allowance
3 greater than \$6,500.00, the state payment under this subsection
4 shall be the sum of the amount calculated under subdivision (a)
5 plus the amount calculated under this subdivision. The amount
6 calculated under this subdivision shall be equal to the difference
7 between the district's 1994-95 foundation allowance minus \$6,500.00
8 and the current year hold harmless school operating taxes per
9 pupil. If the result of the calculation under subdivision (a) is
10 negative, the negative amount shall be an offset against any state
11 payment calculated under this subdivision. If the result of a
12 calculation under this subdivision is negative, there shall not be
13 a state payment or a deduction under this subdivision. The taxable
14 values per membership pupil used in the calculations under this
15 subdivision are as adjusted by ad valorem property tax revenue
16 captured under tax increment financing acts divided by the
17 district's membership.

18 (3) Beginning in 2003-2004, for pupils in membership in a
19 qualifying public school academy or qualifying university school,
20 there is allocated under this section to the authorizing body that
21 is the fiscal agent for the qualifying public school academy for
22 forwarding to the qualifying public school academy, or to the board
23 of the public university operating the qualifying university
24 school, an amount equal to the 1994-95 per pupil payment to the
25 qualifying public school academy or qualifying university school
26 under section 20.

27 (4) A district, qualifying university school, or qualifying

1 public school academy may use funds allocated under this section in
2 conjunction with any federal funds for which the district,
3 qualifying university school, or qualifying public school academy
4 otherwise would be eligible.

5 (5) For a district that is formed or reconfigured after June
6 1, 2000 by consolidation of 2 or more districts or by annexation,
7 the resulting district's 1994-95 foundation allowance under this
8 section beginning after the effective date of the consolidation or
9 annexation shall be the average of the 1994-95 foundation
10 allowances of each of the original or affected districts,
11 calculated as provided in this section, weighted as to the
12 percentage of pupils in total membership in the resulting district
13 in the state fiscal year in which the consolidation takes place who
14 reside in the geographic area of each of the original districts. If
15 an affected district's 1994-95 foundation allowance is less than
16 the 1994-95 basic foundation allowance, the amount of that
17 district's 1994-95 foundation allowance shall be considered for the
18 purpose of calculations under this subsection to be equal to the
19 amount of the 1994-95 basic foundation allowance.

20 (6) As used in this section:

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

25 (b) "Certified mills" means the lesser of 18 mills or the
26 number of mills of school operating taxes levied by the district in
27 1993-94.

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

3 (d) "Current year hold harmless school operating taxes per
4 pupil" means the per pupil revenue generated by multiplying a
5 district's 1994-95 hold harmless millage by the district's current
6 year taxable value per membership pupil.

7 (e) "Hold harmless millage" means, for a district with a 1994-
8 95 foundation allowance greater than \$6,500.00, the number of mills
9 by which the exemption from the levy of school operating taxes on a
10 homestead, qualified agricultural property, qualified forest
11 property, supportive housing property, industrial personal
12 property, and commercial personal property could be reduced as
13 provided in section 1211 of the revised school code, MCL 380.1211,
14 and the number of mills of school operating taxes that could be
15 levied on all property as provided in section 1211(2) of the
16 revised school code, MCL 380.1211, as certified by the department
17 of treasury for the 1994 tax year.

18 (f) "Homestead", "qualified agricultural property", "qualified
19 forest property", "supportive housing property", "industrial
20 personal property", and "commercial personal property" mean those
21 terms as defined in section 1211 of the revised school code, MCL
22 380.1211.

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

26 (h) "Nonexempt property" means property that is not a
27 principal residence, qualified agricultural property, qualified

1 forest property, supportive housing property, industrial personal
2 property, or commercial personal property.

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

6 (j) "Qualifying university school" means a university school
7 that was in operation in the 1994-95 school year and is in
8 operation in the current fiscal year.

9 (k) "School operating taxes" means local ad valorem property
10 taxes levied under section 1211 of the revised school code, MCL
11 380.1211, and retained for school operating purposes.

12 (l) "Tax increment financing acts" means 1975 PA 197, MCL
13 125.1651 to 125.1681, the tax increment finance authority act, 1980
14 PA 450, MCL 125.1801 to 125.1830, the local development financing
15 act, 1986 PA 281, MCL 125.2151 to 125.2174, the brownfield
16 redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672,
17 or the corridor improvement authority act, 2005 PA 280, MCL
18 125.2871 to 125.2899.

19 (m) "Taxable value per membership pupil" means each of the
20 following divided by the district's membership:

21 (i) For the number of mills by which the exemption from the
22 levy of school operating taxes on a homestead, qualified
23 agricultural property, qualified forest property, supportive
24 housing property, industrial personal property, and commercial
25 personal property may be reduced as provided in section 1211 of the
26 revised school code, MCL 380.1211, the taxable value of homestead,
27 qualified agricultural property, qualified forest property,

1 supportive housing property, industrial personal property, and
2 commercial personal property for the calendar year ending in the
3 current state fiscal year.

4 (ii) For the number of mills of school operating taxes that may
5 be levied on all property as provided in section 1211(2) of the
6 revised school code, MCL 380.1211, the taxable value of all
7 property for the calendar year ending in the current state fiscal
8 year.

9 Sec. 51a. (1) From the appropriation in section 11, there is
10 allocated for 2009-2010 an amount not to exceed ~~\$1,019,583,000.00~~
11 **\$1,014,342,000.00** and there is allocated for 2010-2011 an amount
12 not to exceed \$1,057,883,000.00 from state sources and all
13 available federal funding under sections 611 to 619 of part B of
14 the individuals with disabilities education act, 20 USC 1411 to
15 1419, estimated at \$350,700,000.00 for 2009-2010 and estimated at
16 \$385,700,000.00 for 2010-2011, plus any carryover federal funds
17 from previous year appropriations. The allocations under this
18 subsection are for the purpose of reimbursing districts and
19 intermediate districts for special education programs, services,
20 and special education personnel as prescribed in article 3 of the
21 revised school code, MCL 380.1701 to 380.1766; net tuition payments
22 made by intermediate districts to the Michigan schools for the deaf
23 and blind; and special education programs and services for pupils
24 who are eligible for special education programs and services
25 according to statute or rule. For meeting the costs of special
26 education programs and services not reimbursed under this article,
27 a district or intermediate district may use money in general funds

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

15 (2) From the funds allocated under subsection (1), there is
16 allocated each fiscal year the amount necessary, estimated at
17 ~~\$238,500,000.00~~ **\$232,780,000.00** for 2009-2010 and estimated at
18 \$248,200,000.00 for 2010-2011, for payments toward reimbursing
19 districts and intermediate districts for 28.6138% of total approved
20 costs of special education, excluding costs reimbursed under
21 section 53a, and 70.4165% of total approved costs of special
22 education transportation. Allocations under this subsection shall
23 be made as follows:

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

1 the sum of the foundation allowance under section 20 of the pupil's
2 district of residence plus the amount of the district's per pupil
3 allocation under section 20j(2), not to exceed the basic foundation
4 allowance under section 20 for the current fiscal year, or, for a
5 special education pupil in membership in a district that is a
6 public school academy or university school, times an amount equal
7 to the amount per membership pupil calculated under section 20(6).
8 For an intermediate district, the amount allocated under this
9 subdivision toward fulfilling the specified percentages shall be an
10 amount per special education membership pupil, excluding pupils
11 described in subsection (12), and shall be calculated in the same
12 manner as for a district, using the foundation allowance under
13 section 20 of the pupil's district of residence, not to exceed the
14 basic foundation allowance under section 20 for the current fiscal
15 year, and that district's per pupil allocation under section
16 20j(2).

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

22 (3) From the funds allocated under subsection (1), there is
23 allocated each fiscal year for 2009-2010 and for 2010-2011 the
24 amount necessary, estimated at ~~\$1,200,000.00~~ **\$1,329,000.00** for
25 2009-2010 and estimated at \$1,400,000.00 for 2010-2011, to make
26 payments to districts and intermediate districts under this
27 subsection. If the amount allocated to a district or intermediate

1 district for a fiscal year under subsection (2)(b) is less than the
2 sum of the amounts allocated to the district or intermediate
3 district for 1996-97 under sections 52 and 58, there is allocated
4 to the district or intermediate district for the fiscal year an
5 amount equal to that difference, adjusted by applying the same
6 proration factor that was used in the distribution of funds under
7 section 52 in 1996-97 as adjusted to the district's or intermediate
8 district's necessary costs of special education used in
9 calculations for the fiscal year. This adjustment is to reflect
10 reductions in special education program operations or services
11 between 1996-97 and subsequent fiscal years. Adjustments for
12 reductions in special education program operations or services
13 shall be made in a manner determined by the department and shall
14 include adjustments for program or service shifts.

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

1 the fiscal year beginning on the October 1 following the
2 determination and payments under subsection (3) shall be adjusted
3 as necessary. However, if the amount allocated under subsection
4 (2)(a) in itself exceeds the amount necessary to fulfill the
5 specified percentages in subsection (2), there shall be no
6 deduction under this subsection.

7 (5) State funds shall be allocated on a total approved cost
8 basis. Federal funds shall be allocated under applicable federal
9 requirements, except that an amount not to exceed \$3,500,000.00 may
10 be allocated by the department each fiscal year for 2009-2010 and
11 for 2010-2011 to districts, intermediate districts, or other
12 eligible entities on a competitive grant basis for programs,
13 equipment, and services that the department determines to be
14 designed to benefit or improve special education on a statewide
15 scale.

16 (6) From the amount allocated in subsection (1), there is
17 allocated ~~each fiscal year~~ an amount not to exceed ~~\$2,200,000.00~~
18 **\$1,750,000.00** for 2009-2010 and **AN AMOUNT NOT TO EXCEED**
19 **\$2,200,000.00** for 2010-2011 to reimburse 100% of the net increase
20 in necessary costs incurred by a district or intermediate district
21 in implementing the revisions in the administrative rules for
22 special education that became effective on July 1, 1987. As used in
23 this subsection, "net increase in necessary costs" means the
24 necessary additional costs incurred solely because of new or
25 revised requirements in the administrative rules minus cost savings
26 permitted in implementing the revised rules. Net increase in
27 necessary costs shall be determined in a manner specified by the

1 department.

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

3 (a) "Total approved costs of special education" shall be
4 determined in a manner specified by the department and may include
5 indirect costs, but shall not exceed 115% of approved direct costs
6 for section 52 and section 53a programs. The total approved costs
7 include salary and other compensation for all approved special
8 education personnel for the program, including payments for social
9 security and medicare and public school employee retirement system
10 contributions. The total approved costs do not include salaries or
11 other compensation paid to administrative personnel who are not
12 special education personnel as defined in section 6 of the revised
13 school code, MCL 380.6. Costs reimbursed by federal funds, other
14 than those federal funds included in the allocation made under this
15 article, are not included. Special education approved personnel not
16 utilized full time in the evaluation of students or in the delivery
17 of special education programs, ancillary, and other related
18 services shall be reimbursed under this section only for that
19 portion of time actually spent providing these programs and
20 services, with the exception of special education programs and
21 services provided to youth placed in child caring institutions or
22 juvenile detention programs approved by the department to provide
23 an on-grounds education program.

24 (b) Beginning with the 2004-2005 fiscal year, a district or
25 intermediate district that employed special education support
26 services staff to provide special education support services in
27 2003-2004 or in a subsequent fiscal year and that in a fiscal year

1 after 2003-2004 receives the same type of support services from
2 another district or intermediate district shall report the cost of
3 those support services for special education reimbursement purposes
4 under this act. This subdivision does not prohibit the transfer of
5 special education classroom teachers and special education
6 classroom aides if the pupils counted in membership associated with
7 those special education classroom teachers and special education
8 classroom aides are transferred and counted in membership in the
9 other district or intermediate district in conjunction with the
10 transfer of those teachers and aides.

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

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

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

27 (8) From the allocation in subsection (1), there is allocated

1 each fiscal year for 2009-2010 and for 2010-2011 an amount not to
2 exceed \$15,313,900.00 to intermediate districts. The payment under
3 this subsection to each intermediate district shall be equal to the
4 amount of the 1996-97 allocation to the intermediate district under
5 subsection (6) of this section as in effect for 1996-97.

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

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

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

23 (12) From the funds allocated in subsection (1), there is
24 allocated each fiscal year the amount necessary, estimated at
25 ~~\$7,800,000.00~~ **\$6,200,000.00** for 2009-2010 and estimated at
26 \$6,600,000.00 for 2010-2011, to pay the foundation allowances for
27 pupils described in this subsection. The allocation to a district

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

18 (a) Pupils described in section 53a.

19 (b) Pupils counted in membership in an intermediate district
20 who are not special education pupils and are served by the
21 intermediate district in a juvenile detention or child caring
22 facility.

23 (c) Emotionally impaired pupils counted in membership by an
24 intermediate district and provided educational services by the
25 department of community health.

26 (13) If it is determined that funds allocated under subsection
27 (2) or (12) or under section 51c will not be expended, funds up to

1 the amount necessary and available may be used to supplement the
2 allocations under subsection (2) or (12) or under section 51c in
3 order to fully fund those allocations. After payments under
4 subsections (2) and (12) and section 51c, the remaining
5 expenditures from the allocation in subsection (1) shall be made in
6 the following order:

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

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

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

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

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

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

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

17 (15) If a public school academy enrolls pursuant to this
18 section a pupil who resides outside of the intermediate district in
19 which the public school academy is located and who is eligible for
20 special education programs and services according to statute or
21 rule, or who is a child with disabilities, as defined under the
22 individuals with disabilities education act, Public Law 108-446,
23 the provision of special education programs and services and the
24 payment of the added costs of special education programs and
25 services for the pupil are the responsibility of the district and
26 intermediate district in which the pupil resides unless the
27 enrolling district or intermediate district has a written agreement

1 with the district or intermediate district in which the pupil
 2 resides or the public school academy for the purpose of providing
 3 the pupil with a free appropriate public education and the written
 4 agreement includes at least an agreement on the responsibility for
 5 the payment of the added costs of special education programs and
 6 services for the pupil.

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

8 (a) "Membership" means for a particular fiscal year the total
 9 membership for the immediately preceding fiscal year of the
 10 intermediate district and the districts constituent to the
 11 intermediate district.

12 (b) "Millage levied" means the millage levied for special
 13 education pursuant to part 30 of the revised school code, MCL
 14 380.1711 to 380.1743, including a levy for debt service
 15 obligations.

16 (c) "Taxable value" means the total taxable value of the
 17 districts constituent to an intermediate district, except that if a
 18 district has elected not to come under part 30 of the revised
 19 school code, MCL 380.1711 to 380.1743, membership and taxable value
 20 of the district shall not be included in the membership and taxable
 21 value of the intermediate district.

22 (2) From the allocation under section 51a(1), there is
 23 allocated an amount not to exceed ~~\$36,881,100.00 each fiscal year~~
 24 **\$39,281,100.00** for 2009-2010 and **AN AMOUNT NOT TO EXCEED**
 25 **\$36,881,100.00** for 2010-2011 to reimburse intermediate districts
 26 levying millages for special education pursuant to part 30 of the
 27 revised school code, MCL 380.1711 to 380.1743. The purpose, use,

1 and expenditure of the reimbursement shall be limited as if the
2 funds were generated by these millages and governed by the
3 intermediate district plan adopted pursuant to article 3 of the
4 revised school code, MCL 380.1701 to 380.1766. As a condition of
5 receiving funds under this section, an intermediate district
6 distributing any portion of special education millage funds to its
7 constituent districts shall submit for departmental approval and
8 implement a distribution plan.

9 (3) Reimbursement for those millages levied in 2008-2009 shall
10 be made in 2009-2010 at an amount per 2008-2009 membership pupil
11 computed by subtracting from \$180,600.00 the 2008-2009 taxable
12 value behind each membership pupil and multiplying the resulting
13 difference by the 2008-2009 millage levied. Reimbursement for those
14 millages levied in 2009-2010 shall be made in 2010-2011 at an
15 amount per 2009-2010 membership pupil computed by subtracting from
16 \$181,700.00 the 2009-2010 taxable value behind each membership
17 pupil and multiplying the resulting difference by the 2009-2010
18 millage levied.

19 **SEC. 152A. (1) AS REQUIRED BY THE COURT IN THE CONSOLIDATED**
20 **CASES KNOWN AS ADAIR V STATE OF MICHIGAN, MICHIGAN SUPREME COURT**
21 **DOCKET NOS. 137424 AND 137453, FROM THE STATE SCHOOL AID FUND MONEY**
22 **APPROPRIATED IN SECTION 11 THERE IS ALLOCATED FOR 2010-2011 AN**
23 **AMOUNT NOT TO EXCEED \$25,624,500.00 TO BE USED SOLELY FOR THE**
24 **PURPOSE OF PAYING NECESSARY COSTS RELATED TO THE STATE-MANDATED**
25 **COLLECTION, MAINTENANCE, AND REPORTING OF DATA TO THIS STATE.**

26 (2) FROM THE ALLOCATION IN SUBSECTION (1), THE DEPARTMENT
27 SHALL MAKE PAYMENTS TO DISTRICTS AND INTERMEDIATE DISTRICTS IN AN

1 EQUAL AMOUNT PER PUPIL BASED ON THE TOTAL NUMBER OF PUPILS IN
2 MEMBERSHIP IN EACH DISTRICT AND INTERMEDIATE DISTRICT. THE
3 DEPARTMENT SHALL NOT MAKE ANY ADJUSTMENT TO THESE PAYMENTS AFTER
4 THE FINAL INSTALLMENT PAYMENT UNDER SECTION 17B IS MADE.

5 Enacting section 1. (1) In accordance with section 30 of
6 article IX of the state constitution of 1963, total state spending
7 in this amendatory act, in 2010 PA 204, and in 2010 PA 110 from
8 state sources for fiscal year 2010-2011 is estimated at
9 \$10,968,905,800.00 and state appropriations to be paid to local
10 units of government for fiscal year 2010-2011 are estimated at
11 \$10,837,044,800.00.

12 (2) In accordance with section 30 of article IX of the state
13 constitution of 1963, total state spending in this amendatory act,
14 in 2010 PA 110, and in 2009 PA 121 from state sources for fiscal
15 year 2009-2010 is estimated at \$10,645,097,700.00 and state
16 appropriations to be paid to local units of government for fiscal
17 year 2010-2011 are estimated at \$10,573,511,000.00.