

STATE DISBURSEMENTS TO LOCAL UNITS OF GOVERNMENT (EXCERPT)
Act 101 of 1979

21.233 Definitions; E to N.

Sec. 3. (1) "Existing law" means a public or local act enacted prior to December 23, 1978, a rule promulgated prior to December 23, 1978, or a court order concerning such a public or local act or rule. A rule initially promulgated after December 22, 1978 implementing for the first time an act or amendatory act in effect prior to December 23, 1978 shall also be deemed to be existing law.

(2) "Federal requirement" means a federal law, rule, regulation, executive order, guideline, standard, or other federal action which has the force and effect of law and which requires the state to take action affecting local units of government.

(3) "Implied federal requirement" means a federal law, rule, regulation, executive order, guideline, standard, or other federal action which has the force and effect of law and which does not directly require the state to take action affecting local units of government, but will, according to federal law, result in a loss of federal funds or federal tax credits if state action is not taken to comply with the federal action.

(4) "Legislature" means the house of representatives and the senate of this state.

(5) "Local unit of government" means a political subdivision of this state, including school districts, community college districts, intermediate school districts, cities, villages, townships, counties, and authorities, if the political subdivision has as its primary purpose the providing of local governmental services for residents in a geographically limited area of this state and has the power to act primarily on behalf of that area.

(6) "Necessary cost" means the net cost of an activity or service provided by a local unit of government. The net cost shall be the actual cost to the state if the state were to provide the activity or service mandated as a state requirement, unless otherwise determined by the legislature when making a state requirement. Necessary cost does not include the cost of a state requirement if the state requirement satisfies 1 or more of the following conditions:

(a) The state requirement cost does not exceed a de minimus cost.

(b) The state requirement will result in an offsetting savings to an extent that, if the duties of a local unit which existed before the effective date of the state requirement are considered, the requirement will not exceed a de minimus cost.

(c) The state requirement imposes additional duties on a local unit of government which can be performed by that local unit of government at a cost not to exceed a de minimus cost.

(d) The state requirement imposes a cost on a local unit of government that is recoverable from a federal or state categorical aid program, or other external financial aid. A necessary cost excluded by this subdivision shall be excluded only to the extent that it is recoverable.

(7) "New activity or service or increase in the level of an existing activity or service" does not include a state law, or administrative rule promulgated under existing law, which provides only clarifying nonsubstantive changes in an earlier, existing law or state law; or the recodification of an existing law or state law, or administrative rules promulgated under a recodification, which does not require a new activity or service or does not require an increase in the level of an activity or service above the level required before the existing law or state law was recodified.

History: 1979, Act 101, Imd. Eff. Aug. 3, 1979.

Constitutionality: Categorical aid to school districts for specific, identifiable programs which the districts are required to provide by statute or agency rule may not be reduced below the proportion paid by the state during the 1978-79 fiscal year, such as by requiring districts to offset any deficiency in categorical aid due by use of unrestricted aid. *Durant v State Board of Education*, 424 Mich 364; 381 NW2d 662 (1985).