

SUBSTITUTE FOR
SENATE BILL NO. 437

A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending sections 11, 22a, 22b, 51a, and 51c (MCL 388.1611,
388.1622a, 388.1622b, 388.1651a, and 388.1651c), as amended by 2007
PA 6.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (1) For the fiscal year ending September 30, 2007,
2 there is appropriated for the public schools of this state and
3 certain other state purposes relating to education the sum of
4 ~~\$11,299,963,200.00~~ **\$11,284,963,200.00** 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 \$35,000,000.00 from the general
7 fund. **OF THE MONEY APPROPRIATED UNDER THIS SECTION FROM THE STATE**

1 SCHOOL AID FUND FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2007,
2 \$140,300,000.00 IS FROM AN APPROPRIATION FROM THE 21ST CENTURY JOBS
3 TRUST FUND ESTABLISHED UNDER THE MICHIGAN TRUST FUND ACT, 2000 PA
4 489, MCL 12.251 TO 12.260, TO THE STATE SCHOOL AID FUND. In
5 addition, available federal funds are appropriated for the fiscal
6 year.

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

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

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

1 another source to fund the amount of the projected shortfall.

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

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

8 (i) Districts.

9 (ii) Intermediate districts.

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

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

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

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

8 (5) FOR THE STATE FISCAL YEAR ENDING SEPTEMBER 30, 2007,
9 PRORATION AS DESCRIBED IN SUBSECTIONS (3) AND (4) IS CONSIDERED TO
10 BE NECESSARY BASED ON THE REVENUES ESTIMATED AT THE JANUARY 2007
11 CONSENSUS REVENUE ESTIMATING CONFERENCE AND THE ANTICIPATED
12 REVENUES TO BE ESTIMATED AT THE MAY 2007 CONSENSUS REVENUE
13 ESTIMATING CONFERENCE. TO ACHIEVE THIS PRORATION FOR 2006-2007,
14 BEGINNING WITH THE STATE SCHOOL AID INSTALLMENT PAYMENT DUE IN JUNE
15 2007, THE DEPARTMENT SHALL REDUCE PAYMENTS TO DISTRICTS,
16 INTERMEDIATE DISTRICTS, AND ENTITIES OTHER THAN DISTRICTS OR
17 INTERMEDIATE DISTRICTS USING THE FORMULA PRESCRIBED UNDER
18 SUBSECTION (4) AND SHALL BASE THE AMOUNT OF THE REDUCTION ON A
19 PROJECTED SCHOOL AID FUND SHORTFALL OF \$62,500,000.00. USING THE
20 PRORATION FORMULA PRESCRIBED UNDER SUBSECTION (4), THE RESULTING
21 ESTIMATED REDUCTION TO DISTRICTS IS \$36.00 PER PUPIL. IF FURTHER
22 SPENDING REDUCTIONS ARE NECESSARY AS A RESULT OF AN ADDITIONAL
23 REVENUE SHORTFALL ESTIMATED AFTER THE MAY 2007 CONSENSUS REVENUE
24 ESTIMATING CONFERENCE, THEN ANY FURTHER PRORATION THAT IS REQUIRED
25 UNDER THIS SECTION DUE TO THAT ADDITIONAL REVENUE SHORTFALL SHALL
26 BE MADE AS PROVIDED UNDER SUBSECTIONS (3) AND (4).

27 (6) ~~(5)~~—Except for the allocation under section 26a, any

1 general fund allocations under this act that are not expended by
2 the end of the state fiscal year are transferred to the school aid
3 stabilization fund created under section 11a.

4 (7) ~~(6)~~—In addition to the appropriations in subsection (1),
5 for the fiscal year ending September 30, 2007, there is
6 appropriated from the reserve for undistributed investment income
7 in the Michigan public school employees' retirement system an
8 amount not to exceed \$262,000,000.00 solely for the purpose of
9 issuing credits pursuant to section 147.

10 Sec. 22a. (1) From the appropriation in section 11, there is
11 allocated an amount not to exceed ~~\$6,204,700,000.00~~
12 **\$6,201,000,000.00** for 2006-2007 for payments to districts,
13 qualifying university schools, and qualifying public school
14 academies to guarantee each district, qualifying university school,
15 and qualifying public school academy an amount equal to its 1994-95
16 total state and local per pupil revenue for school operating
17 purposes under section 11 of article IX of the state constitution
18 of 1963. Pursuant to section 11 of article IX of the state
19 constitution of 1963, this guarantee does not apply to a district
20 in a year in which the district levies a millage rate for school
21 district operating purposes less than it levied in 1994. However,
22 subsection (2) applies to calculating the payments under this
23 section. Funds allocated under this section that are not expended
24 in the state fiscal year for which they were allocated, as
25 determined by the department, may be used to supplement the
26 allocations under sections 22b and 51c in order to fully fund those
27 calculated allocations for the same fiscal year.

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

6 (a) Except as otherwise provided in this subsection, the state
7 portion of a district's 1994-95 foundation allowance is an amount
8 equal to the district's 1994-95 foundation allowance or \$6,500.00,
9 whichever is less, minus the difference between the product of the
10 taxable value per membership pupil of all property in the district
11 that is not a homestead or qualified agricultural property times
12 the lesser of 18 mills or the number of mills of school operating
13 taxes levied by the district in 1993-94 and the quotient of the ad
14 valorem property tax revenue of the district captured under 1975 PA
15 197, MCL 125.1651 to 125.1681, the tax increment finance authority
16 act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development
17 financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the
18 brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651
19 to 125.2672, divided by the district's membership. For a district
20 that has a millage reduction required under section 31 of article
21 IX of the state constitution of 1963, the state portion of the
22 district's foundation allowance shall be calculated as if that
23 reduction did not occur.

24 (b) For a district that had a 1994-95 foundation allowance
25 greater than \$6,500.00, the state payment under this subsection
26 shall be the sum of the amount calculated under subdivision (a)
27 plus the amount calculated under this subdivision. The amount

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

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

26 (4) A district, qualifying university school, or qualifying
27 public school academy may use funds allocated under this section in

1 conjunction with any federal funds for which the district,
2 qualifying university school, or qualifying public school academy
3 otherwise would be eligible.

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

19 (6) As used in this section:

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

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

26 (c) "Current year hold harmless school operating taxes per
27 pupil" means the per pupil revenue generated by multiplying a

1 district's 1994-95 hold harmless millage by the district's current
2 year taxable value per membership pupil.

3 (d) "Hold harmless millage" means, for a district with a 1994-
4 95 foundation allowance greater than \$6,500.00, the number of mills
5 by which the exemption from the levy of school operating taxes on a
6 homestead and qualified agricultural property could be reduced as
7 provided in section 1211(1) of the revised school code, MCL
8 380.1211, and the number of mills of school operating taxes that
9 could be levied on all property as provided in section 1211(2) of
10 the revised school code, MCL 380.1211, as certified by the
11 department of treasury for the 1994 tax year.

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

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

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

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

22 (i) "Qualifying university school" means a university school
23 that was in operation in the 1994-95 school year and is in
24 operation in the current fiscal year.

25 (j) "School operating taxes" means local ad valorem property
26 taxes levied under section 1211 of the revised school code, MCL
27 380.1211, and retained for school operating purposes.

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

3 (i) For the number of mills by which the exemption from the
4 levy of school operating taxes on a homestead and qualified
5 agricultural property may be reduced as provided in section 1211(1)
6 of the revised school code, MCL 380.1211, the taxable value of
7 homestead and qualified agricultural property for the calendar year
8 ending in the current state fiscal year.

9 (ii) For the number of mills of school operating taxes that may
10 be levied on all property as provided in section 1211(2) of the
11 revised school code, MCL 380.1211, the taxable value of all
12 property for the calendar year ending in the current state fiscal
13 year.

14 Sec. 22b. (1) From the appropriation in section 11, there is
15 allocated an amount not to exceed ~~\$3,566,000,000.00~~
16 **\$3,567,000,000.00** for 2006-2007 for discretionary nonmandated
17 payments to districts under this section. Funds allocated under
18 this section that are not expended in the state fiscal year for
19 which they were allocated, as determined by the department, may be
20 used to supplement the allocations under sections 22a and 51c in
21 order to fully fund those calculated allocations for the same
22 fiscal year.

23 (2) Subject to subsection (3) and section 11, the allocation
24 to a district under this section shall be an amount equal to the
25 sum of the amounts calculated under sections 20, 20j, 51a(2),
26 51a(3), and 51a(12), minus the sum of the allocations to the
27 district under sections 22a and 51c.

1 (3) In order to receive an allocation under this section, each
2 district shall do all of the following:

3 (a) Administer in each grade level that it operates in grades
4 1 to 5 a standardized assessment approved by the department of
5 grade-appropriate basic educational skills. A district may use the
6 Michigan literacy progress profile to satisfy this requirement for
7 grades 1 to 3. Also, if the revised school code is amended to
8 require annual assessments at additional grade levels, in order to
9 receive an allocation under this section each district shall comply
10 with that requirement.

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

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

16 (d) Comply with section 1230g of the revised school code, MCL
17 380.1230g.

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

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

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

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

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

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

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

11 (9) If a lawsuit challenging payments made to districts
12 related to costs reimbursed by federal title XIX medicaid funds is
13 filed against this state, then, for the purpose of addressing
14 potential liability under such a lawsuit, the state budget director
15 may place funds allocated under this section in escrow or allocate
16 money from the funds otherwise allocated under this section, up to
17 a maximum of 50% of the amount allocated in subsection (1). If
18 funds are placed in escrow under this subsection, those funds are a
19 work project appropriation and the funds are carried forward into
20 the following fiscal year. The purpose of the work project is to
21 provide for any payments that may be awarded to districts as a
22 result of the litigation. The work project shall be completed upon
23 resolution of the litigation. In addition, this state reserves the
24 right to terminate future federal title XIX medicaid reimbursement
25 payments to districts if the amount or allocation of reimbursed
26 funds is challenged in the lawsuit. As used in this subsection,
27 "title XIX" means title XIX of the social security act, 42 USC 1396

1 to 1396v.

2 Sec. 51a. (1) From the appropriation in section 11, there is
3 allocated for 2006-2007 an amount not to exceed ~~\$971,983,000.00~~
4 **\$959,683,000.00** from state sources and all available federal
5 funding under sections 611 to 619 of part B of the individuals with
6 disabilities education act, 20 USC 1411 to 1419, estimated at
7 \$350,700,000.00, plus any carryover federal funds from previous
8 year appropriations. The allocations under this subsection are for
9 the purpose of reimbursing districts and intermediate districts for
10 special education programs, services, and special education
11 personnel as prescribed in article 3 of the revised school code,
12 MCL 380.1701 to 380.1766; net tuition payments made by intermediate
13 districts to the Michigan schools for the deaf and blind; and
14 special education programs and services for pupils who are eligible
15 for special education programs and services according to statute or
16 rule. For meeting the costs of special education programs and
17 services not reimbursed under this article, a district or
18 intermediate district may use money in general funds or special
19 education funds, not otherwise restricted, or contributions from
20 districts to intermediate districts, tuition payments, gifts and
21 contributions from individuals, or federal funds that may be
22 available for this purpose, as determined by the intermediate
23 district plan prepared pursuant to article 3 of the revised school
24 code, MCL 380.1701 to 380.1766. All federal funds allocated under
25 this section in excess of those allocated under this section for
26 2002-2003 may be distributed in accordance with the flexible
27 funding provisions of the individuals with disabilities education

1 act, Public Law 108-446, including, but not limited to, 34 CFR
2 300.206 and 300.208. Notwithstanding section 17b, payments of
3 federal funds to districts, intermediate districts, and other
4 eligible entities under this section shall be paid on a schedule
5 determined by the department.

6 (2) From the funds allocated under subsection (1), there is
7 allocated for 2006-2007 the amount necessary, estimated at
8 ~~\$207,900,000.00~~ **\$205,100,000.00** for 2006-2007, for payments toward
9 reimbursing districts and intermediate districts for 28.6138% of
10 total approved costs of special education, excluding costs
11 reimbursed under section 53a, and 70.4165% of total approved costs
12 of special education transportation. Allocations under this
13 subsection shall be made as follows:

14 (a) The initial amount allocated to a district under this
15 subsection toward fulfilling the specified percentages shall be
16 calculated by multiplying the district's special education pupil
17 membership, excluding pupils described in subsection (12), times
18 the sum of the foundation allowance under section 20 of the pupil's
19 district of residence plus the amount of the district's per pupil
20 allocation under section 20j(2), not to exceed \$6,500.00 adjusted
21 by the dollar amount of the difference between the basic foundation
22 allowance under section 20 for the current fiscal year and
23 \$5,000.00 minus \$200.00, or, for a special education pupil in
24 membership in a district that is a public school academy or
25 university school, times an amount equal to the amount per
26 membership pupil calculated under section 20(6). For an
27 intermediate district, the amount allocated under this subdivision

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

10 (b) After the allocations under subdivision (a), districts and
11 intermediate districts for which the payments under subdivision (a)
12 do not fulfill the specified percentages shall be paid the amount
13 necessary to achieve the specified percentages for the district or
14 intermediate district.

15 (3) From the funds allocated under subsection (1), there is
16 allocated for 2006-2007 the amount necessary, estimated at
17 \$2,000,000.00 for 2006-2007, to make payments to districts and
18 intermediate districts under this subsection. If the amount
19 allocated to a district or intermediate district for a fiscal year
20 under subsection (2)(b) is less than the sum of the amounts
21 allocated to the district or intermediate district for 1996-97
22 under sections 52 and 58, there is allocated to the district or
23 intermediate district for the fiscal year an amount equal to that
24 difference, adjusted by applying the same proration factor that was
25 used in the distribution of funds under section 52 in 1996-97 as
26 adjusted to the district's or intermediate district's necessary
27 costs of special education used in calculations for the fiscal

1 year. This adjustment is to reflect reductions in special education
2 program operations or services between 1996-97 and subsequent
3 fiscal years. Adjustments for reductions in special education
4 program operations or services shall be made in a manner determined
5 by the department and shall include adjustments for program or
6 service shifts.

7 (4) If the department determines that the sum of the amounts
8 allocated for a fiscal year to a district or intermediate district
9 under subsection (2)(a) and (b) is not sufficient to fulfill the
10 specified percentages in subsection (2), then the shortfall shall
11 be paid to the district or intermediate district during the fiscal
12 year beginning on the October 1 following the determination and
13 payments under subsection (3) shall be adjusted as necessary. If
14 the department determines that the sum of the amounts allocated for
15 a fiscal year to a district or intermediate district under
16 subsection (2)(a) and (b) exceeds the sum of the amount necessary
17 to fulfill the specified percentages in subsection (2), then the
18 department shall deduct the amount of the excess from the
19 district's or intermediate district's payments under this act for
20 the fiscal year beginning on the October 1 following the
21 determination and payments under subsection (3) shall be adjusted
22 as necessary. However, if the amount allocated under subsection
23 (2)(a) in itself exceeds the amount necessary to fulfill the
24 specified percentages in subsection (2), there shall be no
25 deduction under this subsection.

26 (5) State funds shall be allocated on a total approved cost
27 basis. Federal funds shall be allocated under applicable federal

1 requirements, except that an amount not to exceed \$3,500,000.00 may
2 be allocated by the department for 2006-2007 to districts,
3 intermediate districts, or other eligible entities on a competitive
4 grant basis for programs, equipment, and services that the
5 department determines to be designed to benefit or improve special
6 education on a statewide scale.

7 (6) From the amount allocated in subsection (1), there is
8 allocated an amount not to exceed \$2,200,000.00 for 2006-2007 to
9 reimburse 100% of the net increase in necessary costs incurred by a
10 district or intermediate district in implementing the revisions in
11 the administrative rules for special education that became
12 effective on July 1, 1987. As used in this subsection, "net
13 increase in necessary costs" means the necessary additional costs
14 incurred solely because of new or revised requirements in the
15 administrative rules minus cost savings permitted in implementing
16 the revised rules. Net increase in necessary costs shall be
17 determined in a manner specified by the department.

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

19 (a) "Total approved costs of special education" shall be
20 determined in a manner specified by the department and may include
21 indirect costs, but shall not exceed 115% of approved direct costs
22 for section 52 and section 53a programs. The total approved costs
23 include salary and other compensation for all approved special
24 education personnel for the program, including payments for social
25 security and medicare and public school employee retirement system
26 contributions. The total approved costs do not include salaries or
27 other compensation paid to administrative personnel who are not

1 special education personnel as defined in section 6 of the revised
2 school code, MCL 380.6. Costs reimbursed by federal funds, other
3 than those federal funds included in the allocation made under this
4 article, are not included. Special education approved personnel not
5 utilized full time in the evaluation of students or in the delivery
6 of special education programs, ancillary, and other related
7 services shall be reimbursed under this section only for that
8 portion of time actually spent providing these programs and
9 services, with the exception of special education programs and
10 services provided to youth placed in child caring institutions or
11 juvenile detention programs approved by the department to provide
12 an on-grounds education program.

13 (b) Except as otherwise provided in subdivisions (c) and (d),
14 beginning with the 2004-2005 fiscal year, a district or
15 intermediate district that employed special education support
16 services staff to provide special education support services in
17 2003-2004 or in a subsequent fiscal year and that in a fiscal year
18 after 2003-2004 receives the same type of support services from
19 another district or intermediate district shall report the cost of
20 those support services for special education reimbursement purposes
21 under this act. This subdivision does not prohibit the transfer of
22 special education classroom teachers and special education
23 classroom aides if the pupils counted in membership associated with
24 those special education classroom teachers and special education
25 classroom aides are transferred and counted in membership in the
26 other district or intermediate district in conjunction with the
27 transfer of those teachers and aides.

1 (c) If the department determines before bookclosing for 2004-
2 2005 that the amounts allocated under this section for 2004-2005
3 will exceed expenditures under this section for 2004-2005, then for
4 2004-2005 only, for a district or intermediate district whose
5 reimbursement for 2004-2005 would otherwise be affected by
6 subdivision (b), subdivision (b) does not apply to the calculation
7 of the reimbursement for that district or intermediate district and
8 reimbursement for that district or intermediate district shall be
9 calculated in the same manner as it was for 2003-2004. If the
10 amount of the excess allocations under this section is not
11 sufficient to fully fund the calculation of reimbursement to those
12 districts and intermediate districts under this subdivision, then
13 the calculations and resulting reimbursement under this subdivision
14 shall be prorated on an equal percentage basis.

15 (d) If the department determines before bookclosing for 2005-
16 2006 that the amounts allocated for 2005-2006 under subsections
17 (2), (3), (6), (8), and (12) and sections 53a, 54, and 56 will
18 exceed expenditures for 2005-2006 under subsections (2), (3), (6),
19 (8), and (12) and sections 53a, 54, and 56, then for 2005-2006
20 only, for a district or intermediate district whose reimbursement
21 for 2005-2006 would otherwise be affected by subdivision (b),
22 subdivision (b) does not apply to the calculation of the
23 reimbursement for that district or intermediate district and
24 reimbursement for that district or intermediate district shall be
25 calculated in the same manner as it was for 2003-2004. If the
26 amount of the excess allocations under subsections (2), (3), (6),
27 (8), and (12) and sections 53a, 54, and 56 is not sufficient to

1 fully fund the calculation of reimbursement to those districts and
2 intermediate districts under this subdivision, then the
3 calculations and resulting reimbursement under this subdivision
4 shall be prorated on an equal percentage basis.

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

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

1 education pupil transportation service and shall adjust the costs
2 reported by the constituent district to remove the cost associated
3 with that specific service.

4 (8) From the allocation in subsection (1), there is allocated
5 for 2006-2007 an amount not to exceed \$15,313,900.00 to
6 intermediate districts. The payment under this subsection to each
7 intermediate district shall be equal to the amount of the 1996-97
8 allocation to the intermediate district under subsection (6) of
9 this section as in effect for 1996-97.

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

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

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

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

1 allocated for 2006-2007 the amount necessary, estimated at
2 ~~\$6,500,000.00~~ **\$6,200,000.00** for 2006-2007, to pay the foundation
3 allowances for pupils described in this subsection. The allocation
4 to a district under this subsection shall be calculated by
5 multiplying the number of pupils described in this subsection who
6 are counted in membership in the district times the sum of the
7 foundation allowance under section 20 of the pupil's district of
8 residence plus the amount of the district's per pupil allocation
9 under section 20j(2), not to exceed \$6,500.00 adjusted by the
10 dollar amount of the difference between the basic foundation
11 allowance under section 20 for the current fiscal year and
12 \$5,000.00 minus \$200.00, or, for a pupil described in this
13 subsection who is counted in membership in a district that is a
14 public school academy or university school, times an amount equal
15 to the amount per membership pupil under section 20(6). The
16 allocation to an intermediate district under this subsection shall
17 be calculated in the same manner as for a district, using the
18 foundation allowance under section 20 of the pupil's district of
19 residence, not to exceed \$6,500.00 adjusted by the dollar amount of
20 the difference between the basic foundation allowance under section
21 20 for the current fiscal year and \$5,000.00 minus \$200.00, and
22 that district's per pupil allocation under section 20j(2). This
23 subsection applies to all of the following pupils:

24 (a) Pupils described in section 53a.

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

1 facility.

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

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

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

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

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

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

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

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

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

19 Sec. 51c. As required by the court in the consolidated cases
20 known as Durant v State of Michigan, Michigan supreme court docket
21 no. 104458-104492, from the allocation under section 51a(1), there
22 is allocated for 2006-2007 the amount necessary, estimated at
23 ~~\$686,700,000.00~~ **\$677,500,000.00** for 2006-2007, for payments to
24 reimburse districts for 28.6138% of total approved costs of special
25 education excluding costs reimbursed under section 53a, and
26 70.4165% of total approved costs of special education
27 transportation. Funds allocated under this section that are not

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

5 Enacting section 1. In accordance with section 30 of article
6 IX of the state constitution of 1963, total state spending in this
7 amendatory act and in 2007 PA 6 and 2006 PA 342 from state sources
8 for fiscal year 2006-2007 is estimated at \$11,519,463,200.00 and
9 state appropriations to be paid to local units of government for
10 fiscal year 2006-2007 are estimated at \$11,414,972,200.00.