

**SENATE 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

1 education the sum of \$10,937,260,500.00 from the state school aid
2 fund and the sum of \$18,642,400.00 from the general fund. For the
3 fiscal year ending September 30, 2011, there is also appropriated
4 the remaining balance of the federal funding awarded to this state
5 under title XIV of the American recovery and reinvestment act of
6 2009, Public Law 111-5, estimated at \$184,256,600.00, to be used
7 solely for the purpose of funding the primary funding formula
8 calculated under section 20, in accordance with federal law. In
9 addition, all other available federal funds, except those otherwise
10 appropriated under section 11p, are appropriated for the fiscal
11 year ending September 30, 2011.

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

1 ELEMENTARY AND SECONDARY EDUCATION FOR 2009-2010 WILL FALL BELOW
2 THE LEVEL OF SUPPORT NEEDED TO COMPLY WITH THE MAINTENANCE OF
3 EFFORT PROVISIONS UNDER TITLE XIV OF THE AMERICAN RECOVERY AND
4 REINVESTMENT ACT OF 2009, PUBLIC LAW 111-5, THEN THERE IS
5 APPROPRIATED FOR 2009-2010 FROM THE SCHOOL AID STABILIZATION FUND
6 AN AMOUNT EQUAL TO \$30,000,000.00 OR THE AMOUNT THAT THE DEPARTMENT
7 DETERMINES IS NECESSARY FOR THE STATE SUPPORT FOR ELEMENTARY AND
8 SECONDARY EDUCATION TO MEET THE LEVEL OF SUPPORT NEEDED TO COMPLY
9 WITH THE MAINTENANCE OF EFFORT PROVISIONS UNDER TITLE XIV OF THE
10 AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, PUBLIC LAW 111-5,
11 WHICHEVER IS GREATER. THE DEPARTMENT SHALL USE ANY FUNDS
12 APPROPRIATED UNDER THIS SUBSECTION AS FOLLOWS:

13 (A) FIRST, TO ALLOCATE \$10,000,000.00 TO PROVIDE FUNDING TO
14 EACH INTERMEDIATE DISTRICT IN AN AMOUNT EQUAL TO THE PRODUCT OF
15 14.75% MULTIPLIED BY THE AMOUNT OF FUNDING ALLOCATED TO THAT
16 INTERMEDIATE DISTRICT UNDER SECTION 81 FOR 2009-2010 UNDER 2010 PA
17 110.

18 (B) SECOND, TO ALLOCATE THE AMOUNT NECESSARY, ESTIMATED AT
19 \$10,000,000.00, TO PROVIDE FUNDING UNDER THIS SUBDIVISION TO
20 DISTRICTS FOR WHICH THE AMOUNT OF PER-PUPIL FUNDING CALCULATED AND
21 ALLOCATED UNDER SECTION 11P(2) IS LESS THAN \$154.00. THE PAYMENT TO
22 A DISTRICT UNDER THIS SUBDIVISION IS AN AMOUNT EQUAL TO THE
23 DIFFERENCE BETWEEN \$154.00 AND THE PER-PUPIL FUNDING AMOUNT
24 CALCULATED AND ALLOCATED UNDER SECTION 11P(2) FOR THE DISTRICT,
25 MULTIPLIED BY THE DISTRICT'S 2010-2011 MEMBERSHIP USED FOR THE
26 OCTOBER 2010 PAYMENT.

27 (C) THIRD, TO ALLOCATE ANY REMAINING FUNDS TO REDUCE THE

1 **AMOUNT OF THE PER-PUPIL REDUCTION UNDER SECTION 11D(1) FOR 2009-**
2 **2010.**

3 (3) If the maximum amount appropriated under this section from
4 the state school aid fund and the school aid stabilization fund for
5 a fiscal year exceeds the amount available for expenditure from the
6 state school aid fund for that fiscal year, payments under sections
7 11f, 11g, 11j, 22a, 26a, 26b, 31d, 31f, 51a(2), 51a(12), 51c, 53a,
8 ~~and 56, AND 152A~~ shall be made in full. In addition, for districts
9 beginning operations after 1994-95 that qualify for payments under
10 section 22b, payments under section 22b shall be made so that the
11 qualifying districts receive the lesser of an amount equal to the
12 1994-95 foundation allowance of the district in which the district
13 beginning operations after 1994-95 is located or \$5,500.00. The
14 amount of the payment to be made under section 22b for these
15 qualifying districts shall be as calculated under section 22a, with
16 the balance of the payment under section 22b being subject to the
17 proration otherwise provided under this subsection and subsection
18 (4). If proration is necessary, state payments under each of the
19 other sections of this act from all state funding sources shall be
20 prorated in the manner prescribed in subsection (4) as necessary to
21 reflect the amount available for expenditure from the state school
22 aid fund for the affected fiscal year. However, if the department
23 of treasury determines that proration will be required under this
24 subsection, or if the department of treasury determines that
25 further proration is required under this subsection after an
26 initial proration has already been made for a fiscal year, the
27 department of treasury shall notify the state budget director, and

1 the state budget director shall notify the legislature at least 30
2 calendar days or 6 legislative session days, whichever is more,
3 before the department reduces any payments under this act because
4 of the proration. During the 30 calendar day or 6 legislative
5 session day period after that notification by the state budget
6 director, the department shall not reduce any payments under this
7 act because of proration under this subsection. The legislature may
8 prevent proration from occurring by, within the 30 calendar day or
9 6 legislative session day period after that notification by the
10 state budget director, enacting legislation appropriating
11 additional funds from the general fund, countercyclical budget and
12 economic stabilization fund, state school aid fund balance, or
13 another source to fund the amount of the projected shortfall.

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

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

21 (i) Districts.

22 (ii) Intermediate districts.

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

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

1 calculating an equal dollar amount per pupil as necessary to
2 recover this percentage of the proration amount and reducing each
3 district's total state school aid from state sources, other than
4 payments under sections 11f, 11g, 11j, 22a, 26a, 26b, 31d, 31f,
5 51a(2), 51a(12), 51c, ~~and 53a~~, **AND 152A**, by that amount.

6 (c) The department shall recover a percentage of the proration
7 amount required under subsection (3) that is equal to the
8 percentage calculated under subdivision (a)(ii) for intermediate
9 districts by reducing payments to intermediate districts. This
10 reduction shall be made by reducing the payments to each
11 intermediate district, other than payments under sections 11f, 11g,
12 26a, 26b, 51a(2), 51a(12), 53a, ~~and 56~~, **AND 152A**, on an equal
13 percentage basis.

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

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

24 Sec. 11d. (1) For 2009-2010 only, the department shall deduct
25 an amount equal to \$154.00 per membership pupil from the total
26 state school aid otherwise allocated under this act to each
27 district, except for money allocated under sections 11g, 22a, 31d,

1 51a(12), 51c, and 53a. For 2010-2011, the department shall deduct
2 an amount equal to ~~\$154.00~~ **\$170.00** per membership pupil from the
3 total state school aid otherwise allocated under this act to each
4 district, except for money allocated under sections 11g, 22a, 31d,
5 32d, 51a(12), 51c, ~~and 53a,~~ **AND 152A**. If a district complies with
6 subsection (2), a district may choose to apply this reduction to
7 funding the district receives under any provision of this act,
8 other than sections 11g, 22a, 31d, 51a(12), 51c, ~~and 53a,~~ and,
9 beginning in 2010-2011, ~~section 32d,~~ **SECTIONS 32D AND 152A**, even if
10 the reduction chosen by the district results in a program being
11 reduced or discontinued. If a district does not comply with
12 subsection (2), the district shall apply this reduction to
13 available funding under section 22b first, up to the total amount
14 of the reduction, before reducing other funding the district
15 receives under this act, other than sections 11g, 22a, 31d,
16 51a(12), 51c, ~~and 53a,~~ **AND 152A**.

17 (2) Not later than February 1, 2010, a district shall enter
18 into an agreement with the department to develop a service
19 consolidation plan to reduce school operating costs that is in
20 compliance with department guidelines. The department guidelines
21 may identify, but are not limited to, allowable cost-sharing
22 arrangements for the provision of business services and
23 instructional services and the creation of joint operating
24 agreements between and among districts and intermediate districts.
25 The department shall establish guidelines for service consolidation
26 plans under this subsection not later than 60 days after the
27 effective date of this section.

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

6 (4) In addition to developing a service consolidation plan
7 under subsection (2), a district or intermediate district that
8 purchases diesel fuel shall explore possibilities for coordinating
9 regional purchasing of diesel fuel.

10 Sec. 11m. From the appropriations in section 11, there is
11 allocated for 2009-2010 an amount not to exceed ~~\$20,000,000.00~~
12 **\$12,000,000.00** and for 2010-2011 there is allocated an amount not
13 to exceed \$45,000,000.00 for fiscal year cash-flow borrowing costs
14 solely related to the state school aid fund established by section
15 11 of article IX of the state constitution of 1963.

16 Sec. 11p. (1) In addition to the funds appropriated under
17 section 11, for 2010-2011 only, there is appropriated the amount of
18 the federal funding awarded to this state under section 101 of
19 title I of Public Law 111-226, estimated at ~~\$316,270,300.00,~~
20 **\$316,270,300.00**, solely for the purposes identified in that section
21 of federal law, to be distributed by funding those portions of the
22 primary funding formulae that are calculated and allocated under
23 this section.

24 (2) ~~(3)~~ From the federal funding appropriated under subsection
25 (1), there is allocated an amount not to exceed ~~\$65,770,300.00~~
26 **\$311,770,300.00** to provide to each district or public school
27 academy for 2010-2011 only a 1-time portion of per-pupil funding to

1 be allocated under this subsection. The department shall calculate
2 and allocate the 1-time portion of per-pupil funding allocated to
3 each district or public school academy under this subsection as
4 follows:

5 (a) First, for each district or public school academy,
6 calculate the amount that the district's foundation allowance or
7 public school academy's per pupil allocation calculated under
8 section 20 would be if the basic foundation allowance for 2010-2011
9 were ~~\$8,512.00~~, **\$8,600.00** if the maximum public school academy
10 allocation for 2010-2011 were ~~\$7,623.00~~, **\$7,787.00** and if the
11 \$20.00 amount in section 20(3)(a) and 20(26)(h) were instead
12 ~~\$8.00~~. **\$35.00**.

13 (b) Second, calculate the difference between the amount
14 calculated for the district or public school academy under
15 subdivision (a) and the amount of the district's foundation
16 allowance or public school academy's per pupil allocation as
17 actually calculated under section 20 for 2010-2011.

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

21 **(3)** ~~(4)~~—For 2010-2011 only, from the federal funding
22 appropriated under subsection (1), there is allocated an amount not
23 to exceed \$4,500,000.00 to provide a 1-time allocation of primary
24 funding to each intermediate district in an amount equal to the
25 product of 6.9% multiplied by the amount of funding allocated to
26 that intermediate district under section 81 for 2010-2011 under
27 2010 PA 110.

1 (4) ~~(5)~~—If there is money remaining under this section after
 2 the allocations under subsections (2) ~~, (3), and (4)~~ **AND (3)** and
 3 after any amount that is unused under those subsections because a
 4 district or public school academy is unable to use its full
 5 allocation under ~~subsections (2) and (3)~~, **SUBSECTION (2)**, then in
 6 addition to the amounts allocated under ~~subsections (2) and (3)~~
 7 **SUBSECTION (2)** there is also allocated to each district and public
 8 school academy that received money under subsection ~~(3)~~ **(2)** an
 9 amount equal to the district's or public school academy's relative
 10 proportion of the funding actually used under subsection ~~(3)~~ **(2)**
 11 applied to that remaining money, calculated and distributed in a
 12 form and manner determined by the department.

13 (5) ~~(6)~~—To be eligible to receive funds appropriated under
 14 this section, a district, intermediate district, or public school
 15 academy must meet 1 of the following:

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

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

22 (6) ~~(7)~~—A recipient of funding under this section shall comply
 23 with all reporting requirements of section 1512 of the American
 24 recovery and reinvestment act of 2009, Public Law 111-5, and other
 25 reporting requirements established by the United States department
 26 of education for this funding.

27 Sec. 22a. (1) From the appropriation in section 11, there is

1 allocated an amount not to exceed ~~\$5,785,000,000.00~~
2 **\$5,796,241,000.00** for 2009-2010 and an amount not to exceed
3 \$5,764,000,000.00 for 2010-2011 for payments to districts,
4 qualifying university schools, and qualifying public school
5 academies to guarantee each district, qualifying university school,
6 and qualifying public school academy an amount equal to its 1994-95
7 total state and local per pupil revenue for school operating
8 purposes under section 11 of article IX of the state constitution
9 of 1963. Pursuant to section 11 of article IX of the state
10 constitution of 1963, this guarantee does not apply to a district
11 in a year in which the district levies a millage rate for school
12 district operating purposes less than it levied in 1994. However,
13 subsection (2) applies to calculating the payments under this
14 section. Funds allocated under this section that are not expended
15 in the state fiscal year for which they were allocated, as
16 determined by the department, may be used to supplement the
17 allocations under sections 22b and 51c in order to fully fund those
18 calculated allocations for the same fiscal year.

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

24 (a) Except as otherwise provided in this subsection, the state
25 portion of a district's 1994-95 foundation allowance is an amount
26 equal to the district's 1994-95 foundation allowance or \$6,500.00,
27 whichever is less, minus the difference between the sum of the

1 product of the taxable value per membership pupil of all property
2 in the district that is nonexempt property times the district's
3 certified mills and, for a district with certified mills exceeding
4 12, the product of the taxable value per membership pupil of
5 property in the district that is commercial personal property times
6 the certified mills minus 12 mills and the quotient of the ad
7 valorem property tax revenue of the district captured under tax
8 increment financing acts divided by the district's membership. For
9 a district that has a millage reduction required under section 31
10 of article IX of the state constitution of 1963, the state portion
11 of the district's foundation allowance shall be calculated as if
12 that reduction did not occur.

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

1 district's membership.

2 (3) Beginning in 2003-2004, for pupils in membership in a
3 qualifying public school academy or qualifying university school,
4 there is allocated under this section to the authorizing body that
5 is the fiscal agent for the qualifying public school academy for
6 forwarding to the qualifying public school academy, or to the board
7 of the public university operating the qualifying university
8 school, an amount equal to the 1994-95 per pupil payment to the
9 qualifying public school academy or qualifying university school
10 under section 20.

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

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

1 district's 1994-95 foundation allowance shall be considered for the
2 purpose of calculations under this subsection to be equal to the
3 amount of the 1994-95 basic foundation allowance.

4 (6) As used in this section:

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

9 (b) "Certified mills" means the lesser of 18 mills or the
10 number of mills of school operating taxes levied by the district in
11 1993-94.

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

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

18 (e) "Hold harmless millage" means, for a district with a 1994-
19 95 foundation allowance greater than \$6,500.00, the number of mills
20 by which the exemption from the levy of school operating taxes on a
21 homestead, qualified agricultural property, qualified forest
22 property, supportive housing property, industrial personal
23 property, and commercial personal property could be reduced as
24 provided in section 1211 of the revised school code, MCL 380.1211,
25 and the number of mills of school operating taxes that could be
26 levied on all property as provided in section 1211(2) of the
27 revised school code, MCL 380.1211, as certified by the department

1 of treasury for the 1994 tax year.

2 (f) "Homestead", "qualified agricultural property", "qualified
3 forest property", "supportive housing property", "industrial
4 personal property", and "commercial personal property" mean those
5 terms as defined in section 1211 of the revised school code, MCL
6 380.1211.

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

10 (h) "Nonexempt property" means property that is not a
11 principal residence, qualified agricultural property, qualified
12 forest property, supportive housing property, industrial personal
13 property, or commercial personal property.

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

17 (j) "Qualifying university school" means a university school
18 that was in operation in the 1994-95 school year and is in
19 operation in the current fiscal year.

20 (k) "School operating taxes" means local ad valorem property
21 taxes levied under section 1211 of the revised school code, MCL
22 380.1211, and retained for school operating purposes.

23 (l) "Tax increment financing acts" means 1975 PA 197, MCL
24 125.1651 to 125.1681, the tax increment finance authority act, 1980
25 PA 450, MCL 125.1801 to 125.1830, the local development financing
26 act, 1986 PA 281, MCL 125.2151 to 125.2174, the brownfield
27 redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672,

1 or the corridor improvement authority act, 2005 PA 280, MCL
2 125.2871 to 125.2899.

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

5 (i) For the number of mills by which the exemption from the
6 levy of school operating taxes on a homestead, qualified
7 agricultural property, qualified forest property, supportive
8 housing property, industrial personal property, and commercial
9 personal property may be reduced as provided in section 1211 of the
10 revised school code, MCL 380.1211, the taxable value of homestead,
11 qualified agricultural property, qualified forest property,
12 supportive housing property, industrial personal property, and
13 commercial personal property for the calendar year ending in the
14 current state fiscal year.

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

20 Sec. 51a. (1) From the appropriation in section 11, there is
21 allocated for 2009-2010 an amount not to exceed ~~\$1,019,583,000.00~~
22 **\$1,016,342,000.00** and there is allocated for 2010-2011 an amount
23 not to exceed \$1,057,883,000.00 from state sources and all
24 available federal funding under sections 611 to 619 of part B of
25 the individuals with disabilities education act, 20 USC 1411 to
26 1419, estimated at \$350,700,000.00 for 2009-2010 and estimated at
27 \$385,700,000.00 for 2010-2011, plus any carryover federal funds

1 from previous year appropriations. The allocations under this
2 subsection are for the purpose of reimbursing districts and
3 intermediate districts for special education programs, services,
4 and special education personnel as prescribed in article 3 of the
5 revised school code, MCL 380.1701 to 380.1766; net tuition payments
6 made by intermediate districts to the Michigan schools for the deaf
7 and blind; and special education programs and services for pupils
8 who are eligible for special education programs and services
9 according to statute or rule. For meeting the costs of special
10 education programs and services not reimbursed under this article,
11 a district or intermediate district may use money in general funds
12 or special education funds, not otherwise restricted, or
13 contributions from districts to intermediate districts, tuition
14 payments, gifts and contributions from individuals, or federal
15 funds that may be available for this purpose, as determined by the
16 intermediate district plan prepared pursuant to article 3 of the
17 revised school code, MCL 380.1701 to 380.1766. All federal funds
18 allocated under this section in excess of those allocated under
19 this section for 2002-2003 may be distributed in accordance with
20 the flexible funding provisions of the individuals with
21 disabilities education act, Public Law 108-446, including, but not
22 limited to, 34 CFR 300.206 and 300.208. Notwithstanding section
23 17b, payments of federal funds to districts, intermediate
24 districts, and other eligible entities under this section shall be
25 paid on a schedule determined by the department.

26 (2) From the funds allocated under subsection (1), there is
27 allocated each fiscal year the amount necessary, estimated at

1 ~~\$238,500,000.00~~ **\$234,780,000.00** for 2009-2010 and estimated at
2 \$248,200,000.00 for 2010-2011, for payments toward reimbursing
3 districts and intermediate districts for 28.6138% of total approved
4 costs of special education, excluding costs reimbursed under
5 section 53a, and 70.4165% of total approved costs of special
6 education transportation. Allocations under this subsection shall
7 be made as follows:

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

1 (b) After the allocations under subdivision (a), districts and
2 intermediate districts for which the payments calculated under
3 subdivision (a) do not fulfill the specified percentages shall be
4 paid the amount necessary to achieve the specified percentages for
5 the district or intermediate district.

6 (3) From the funds allocated under subsection (1), there is
7 allocated each fiscal year for 2009-2010 and for 2010-2011 the
8 amount necessary, estimated at ~~\$1,200,000.00~~ **\$1,329,000.00** for
9 2009-2010 and estimated at \$1,400,000.00 for 2010-2011, to make
10 payments to districts and intermediate districts under this
11 subsection. If the amount allocated to a district or intermediate
12 district for a fiscal year under subsection (2)(b) is less than the
13 sum of the amounts allocated to the district or intermediate
14 district for 1996-97 under sections 52 and 58, there is allocated
15 to the district or intermediate district for the fiscal year an
16 amount equal to that difference, adjusted by applying the same
17 proration factor that was used in the distribution of funds under
18 section 52 in 1996-97 as adjusted to the district's or intermediate
19 district's necessary costs of special education used in
20 calculations for the fiscal year. This adjustment is to reflect
21 reductions in special education program operations or services
22 between 1996-97 and subsequent fiscal years. Adjustments for
23 reductions in special education program operations or services
24 shall be made in a manner determined by the department and shall
25 include adjustments for program or service shifts.

26 (4) If the department determines that the sum of the amounts
27 allocated for a fiscal year to a district or intermediate district

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

18 (5) State funds shall be allocated on a total approved cost
19 basis. Federal funds shall be allocated under applicable federal
20 requirements, except that an amount not to exceed \$3,500,000.00 may
21 be allocated by the department each fiscal year for 2009-2010 and
22 for 2010-2011 to districts, intermediate districts, or other
23 eligible entities on a competitive grant basis for programs,
24 equipment, and services that the department determines to be
25 designed to benefit or improve special education on a statewide
26 scale.

27 (6) From the amount allocated in subsection (1), there is

1 allocated ~~each fiscal year~~ an amount not to exceed ~~\$2,200,000.00~~
2 **\$1,750,000.00** for 2009-2010 and **AN AMOUNT NOT TO EXCEED**
3 **\$2,200,000.00** for 2010-2011 to reimburse 100% of the net increase
4 in necessary costs incurred by a district or intermediate district
5 in implementing the revisions in the administrative rules for
6 special education that became effective on July 1, 1987. As used in
7 this subsection, "net increase in necessary costs" means the
8 necessary additional costs incurred solely because of new or
9 revised requirements in the administrative rules minus cost savings
10 permitted in implementing the revised rules. Net increase in
11 necessary costs shall be determined in a manner specified by the
12 department.

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

14 (a) "Total approved costs of special education" shall be
15 determined in a manner specified by the department and may include
16 indirect costs, but shall not exceed 115% of approved direct costs
17 for section 52 and section 53a programs. The total approved costs
18 include salary and other compensation for all approved special
19 education personnel for the program, including payments for social
20 security and medicare and public school employee retirement system
21 contributions. The total approved costs do not include salaries or
22 other compensation paid to administrative personnel who are not
23 special education personnel as defined in section 6 of the revised
24 school code, MCL 380.6. Costs reimbursed by federal funds, other
25 than those federal funds included in the allocation made under this
26 article, are not included. Special education approved personnel not
27 utilized full time in the evaluation of students or in the delivery

1 of special education programs, ancillary, and other related
2 services shall be reimbursed under this section only for that
3 portion of time actually spent providing these programs and
4 services, with the exception of special education programs and
5 services provided to youth placed in child caring institutions or
6 juvenile detention programs approved by the department to provide
7 an on-grounds education program.

8 (b) Beginning with the 2004-2005 fiscal year, a district or
9 intermediate district that employed special education support
10 services staff to provide special education support services in
11 2003-2004 or in a subsequent fiscal year and that in a fiscal year
12 after 2003-2004 receives the same type of support services from
13 another district or intermediate district shall report the cost of
14 those support services for special education reimbursement purposes
15 under this act. This subdivision does not prohibit the transfer of
16 special education classroom teachers and special education
17 classroom aides if the pupils counted in membership associated with
18 those special education classroom teachers and special education
19 classroom aides are transferred and counted in membership in the
20 other district or intermediate district in conjunction with the
21 transfer of those teachers and aides.

22 (c) If the department determines before bookclosing for a
23 fiscal year that the amounts allocated for that fiscal year under
24 subsections (2), (3), (6), (8), and (12) and sections 53a, 54, and
25 56 will exceed expenditures for that fiscal year under subsections
26 (2), (3), (6), (8), and (12) and sections 53a, 54, and 56, then for
27 a district or intermediate district whose reimbursement for that

1 fiscal year would otherwise be affected by subdivision (b),
2 subdivision (b) does not apply to the calculation of the
3 reimbursement for that district or intermediate district and
4 reimbursement for that district or intermediate district shall be
5 calculated in the same manner as it was for 2003-2004. If the
6 amount of the excess allocations under subsections (2), (3), (6),
7 (8), and (12) and sections 53a, 54, and 56 is not sufficient to
8 fully fund the calculation of reimbursement to those districts and
9 intermediate districts under this subdivision, then the
10 calculations and resulting reimbursement under this subdivision
11 shall be prorated on an equal percentage basis.

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

24 (e) Beginning with calculations for 2004-2005, if an
25 intermediate district purchases a special education pupil
26 transportation service from a constituent district that was
27 previously purchased from a private entity; if the purchase from

1 the constituent district is at a lower cost, adjusted for changes
2 in fuel costs; and if the cost shift from the intermediate district
3 to the constituent does not result in any net change in the revenue
4 the constituent district receives from payments under sections 22b
5 and 51c, then upon application by the intermediate district, the
6 department shall direct the intermediate district to continue to
7 report the cost associated with the specific identified special
8 education pupil transportation service and shall adjust the costs
9 reported by the constituent district to remove the cost associated
10 with that specific service.

11 (8) From the allocation in subsection (1), there is allocated
12 each fiscal year for 2009-2010 and for 2010-2011 an amount not to
13 exceed \$15,313,900.00 to intermediate districts. The payment under
14 this subsection to each intermediate district shall be equal to the
15 amount of the 1996-97 allocation to the intermediate district under
16 subsection (6) of this section as in effect for 1996-97.

17 (9) A pupil who is enrolled in a full-time special education
18 program conducted or administered by an intermediate district or a
19 pupil who is enrolled in the Michigan schools for the deaf and
20 blind shall not be included in the membership count of a district,
21 but shall be counted in membership in the intermediate district of
22 residence.

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

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

7 (12) From the funds allocated in subsection (1), there is
8 allocated each fiscal year the amount necessary, estimated at
9 ~~\$7,800,000.00~~ **\$6,200,000.00** for 2009-2010 and estimated at
10 \$6,600,000.00 for 2010-2011, to pay the foundation allowances for
11 pupils described in this subsection. The allocation to a district
12 under this subsection shall be calculated by multiplying the number
13 of pupils described in this subsection who are counted in
14 membership in the district times the sum of the foundation
15 allowance under section 20 of the pupil's district of residence
16 plus the amount of the district's per pupil allocation under
17 section 20j(2), not to exceed the basic foundation allowance under
18 section 20 for the current fiscal year, or, for a pupil described
19 in this subsection who is counted in membership in a district that
20 is a public school academy or university school, times an amount
21 equal to the amount per membership pupil under section 20(6). The
22 allocation to an intermediate district under this subsection shall
23 be calculated in the same manner as for a district, using the
24 foundation allowance under section 20 of the pupil's district of
25 residence, not to exceed the basic foundation allowance under
26 section 20 for the current fiscal year, and that district's per
27 pupil allocation under section 20j(2). This subsection applies to

1 all of the following pupils:

2 (a) Pupils described in section 53a.

3 (b) Pupils counted in membership in an intermediate district
4 who are not special education pupils and are served by the
5 intermediate district in a juvenile detention or child caring
6 facility.

7 (c) Emotionally impaired pupils counted in membership by an
8 intermediate district and provided educational services by the
9 department of community health.

10 (13) If it is determined that funds allocated under subsection
11 (2) or (12) or under section 51c will not be expended, funds up to
12 the amount necessary and available may be used to supplement the
13 allocations under subsection (2) or (12) or under section 51c in
14 order to fully fund those allocations. After payments under
15 subsections (2) and (12) and section 51c, the remaining
16 expenditures from the allocation in subsection (1) shall be made in
17 the following order:

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

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

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

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

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

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

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

1 (15) If a public school academy enrolls pursuant to this
2 section a pupil who resides outside of the intermediate district in
3 which the public school academy is located and who is eligible for
4 special education programs and services according to statute or
5 rule, or who is a child with disabilities, as defined under the
6 individuals with disabilities education act, Public Law 108-446,
7 the provision of special education programs and services and the
8 payment of the added costs of special education programs and
9 services for the pupil are the responsibility of the district and
10 intermediate district in which the pupil resides unless the
11 enrolling district or intermediate district has a written agreement
12 with the district or intermediate district in which the pupil
13 resides or the public school academy for the purpose of providing
14 the pupil with a free appropriate public education and the written
15 agreement includes at least an agreement on the responsibility for
16 the payment of the added costs of special education programs and
17 services for the pupil.

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

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

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

27 (c) "Taxable value" means the total taxable value of the

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

6 (2) From the allocation under section 51a(1), there is
7 allocated an amount not to exceed ~~\$36,881,100.00 each fiscal year~~
8 **\$39,281,100.00** for 2009-2010 and **AN AMOUNT NOT TO EXCEED**
9 **\$36,881,100.00** for 2010-2011 to reimburse intermediate districts
10 levying millages for special education pursuant to part 30 of the
11 revised school code, MCL 380.1711 to 380.1743. The purpose, use,
12 and expenditure of the reimbursement shall be limited as if the
13 funds were generated by these millages and governed by the
14 intermediate district plan adopted pursuant to article 3 of the
15 revised school code, MCL 380.1701 to 380.1766. As a condition of
16 receiving funds under this section, an intermediate district
17 distributing any portion of special education millage funds to its
18 constituent districts shall submit for departmental approval and
19 implement a distribution plan.

20 (3) Reimbursement for those millages levied in 2008-2009 shall
21 be made in 2009-2010 at an amount per 2008-2009 membership pupil
22 computed by subtracting from \$180,600.00 the 2008-2009 taxable
23 value behind each membership pupil and multiplying the resulting
24 difference by the 2008-2009 millage levied. Reimbursement for those
25 millages levied in 2009-2010 shall be made in 2010-2011 at an
26 amount per 2009-2010 membership pupil computed by subtracting from
27 \$181,700.00 the 2009-2010 taxable value behind each membership

1 pupil and multiplying the resulting difference by the 2009-2010
2 millage levied.

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

10 (2) FROM THE ALLOCATION IN SUBSECTION (1), THE DEPARTMENT
11 SHALL MAKE PAYMENTS TO DISTRICTS AND INTERMEDIATE DISTRICTS IN AN
12 EQUAL AMOUNT PER PUPIL BASED ON THE TOTAL NUMBER OF PUPILS IN
13 MEMBERSHIP IN EACH DISTRICT AND INTERMEDIATE DISTRICT. THE
14 DEPARTMENT SHALL NOT MAKE ANY ADJUSTMENT TO THESE PAYMENTS AFTER
15 THE FINAL INSTALLMENT PAYMENT UNDER SECTION 17B IS MADE.

16 Enacting section 1. (1) In accordance with section 30 of
17 article IX of the state constitution of 1963, total state spending
18 in this amendatory act, in 2010 PA 204, and in 2010 PA 110 from
19 state sources for fiscal year 2010-2011 is estimated at
20 \$10,955,902,900.00 and state appropriations to be paid to local
21 units of government for fiscal year 2010-2011 are estimated at
22 \$10,824,041,900.00.

23 (2) In accordance with section 30 of article IX of the state
24 constitution of 1963, total state spending in this amendatory act,
25 in 2010 PA 110, and in 2009 PA 121 from state sources for fiscal
26 year 2009-2010 is estimated at \$10,645,097,700.00 and state
27 appropriations to be paid to local units of government for fiscal

1 year 2009-2010 are estimated at \$10,562,169,000.00.