

(3) The auditor general shall periodically audit higher education institutional data inventory (HEIDI) data as submitted by the state universities for compliance with the definitions approved by the HEIDI advisory committee for the HEIDI database.

(4) “Distance learning instruction” as used in subsection (2) means instruction that occurs in other than a traditional classroom setting where the student and instructor are in the same physical location and for which a student receives course credits and is charged tuition and fees. Examples of distance learning instruction are instruction delivered solely through the Internet, cable television, teleconference, or mail.

### **Degree programs; establishment.**

Sec. 701a. (1) Pursuant to section 701(2)(e), the following degree programs may be established:

(a) Bachelors

Eastern Michigan University Creative Writing, B.A./B.S.

Grand Valley State University Athletic Training Major, B.S.

Lake Superior State University Spanish, B.A.

Michigan Technological University Audio Production and Technology, B.S.

Michigan Technological University Cheminformatics, B.S.

Michigan Technological University Communication and Culture Studies with Concentrations in Communication in Contemporary Culture; Communication in Human Interactions and Global Contexts; Communication Media.

Michigan Technological University Pharmaceutical Chemistry, B.S.

Michigan Technological University Sound Design, B.A.

Michigan Technological University Theatre and Entertainment Technology, B.A.

Michigan Technological University Theatre and Entertainment Technology, B.S.

Michigan Technological University Wildlife Ecology and Management, B.S.

University of Michigan - Ann Arbor Earth Systems Science and Engineering, B.S.

University of Michigan - Ann Arbor Neuroscience Concentration, B.S.

University of Michigan - Flint Music (Performance), B.S.

(b) Masters

Eastern Michigan University Earth Science Education, M.S.

Eastern Michigan University Orthotics and Prosthetics, M.S.

Saginaw Valley State University Occupational Therapy Program, M.A.

University of Michigan - Ann Arbor Global Automotive and Manufacturing Engineering, M.E.

University of Michigan - Ann Arbor Space Engineering, M. Eng.

University of Michigan - Dearborn Masters of Public Policy, Masters.

University of Michigan - Flint Computer and Information Systems, M.S.

University of Michigan - Flint Master of Arts in Social Sciences, M.A.

Western Michigan University Master of Science in Civil Engineering, M.S.E.

Western Michigan University Nursing, M.S.N.

(c) Doctorate

Michigan Technological University Industrial Heritage and Archeology, Ph.D.

(2) The listing of degree programs in subsection (1) does not constitute legislative intent to provide additional dollars for those programs.

(3) When submitting the listing of new degree programs for future fiscal years, the presidents council shall also provide a listing of degree programs that will no longer be offered in subsequent academic years.

**Report of institution.**

Sec. 702. The principal executive officer of each institution of higher education receiving an appropriation under this article shall expend a portion of the funds appropriated to that institution to make a report to the auditor general, the house and senate fiscal agencies, and the state budget director within 60 days after the auditor general issues his or her report on the operation of the institution. The institution’s report shall specify all of the following:

- (a) The recommendations of the auditor general implemented by the institution, including projected dates and resources required, if any, to achieve compliance.
- (b) The recommendations of the auditor general not implemented by the institution or implemented by the institution as modified.
- (c) The rationale for not implementing a recommendation of the auditor general or of implementing a recommendation as modified.

**Performance audits.**

Sec. 708. The auditor general may conduct performance audits of state universities during the fiscal year ending September 30, 2006 as the auditor general considers necessary.

**Student right-to-know and campus security; copy of materials.**

Sec. 709. An institution receiving funds under this bill and also subject to the student right-to-know and campus security act, Public Law 101-522, 104 Stat. 2381, shall make a copy of all material prepared pursuant to the public information reporting requirements under the crime awareness and campus security act of 1990, title II of the student right-to-know and campus security act, Public Law 101-542, 104 Stat. 2381, available in electronic Internet format on their websites.

ARTICLE 14

DEPARTMENT OF NATURAL RESOURCES

PART 1

LINE-ITEM APPROPRIATIONS

**Appropriations; department of natural resources.**

Sec. 101. Subject to the conditions set forth in this article, the amounts listed in this part are appropriated for the department of natural resources for the fiscal year ending September 30, 2006, from the funds indicated in this part. The following is a summary of the appropriations in this part:

**DEPARTMENT OF NATURAL RESOURCES**

APPROPRIATION SUMMARY:

Full-time equated unclassified positions .....	6.0	
Full-time equated classified positions .....	2,073.5	
GROSS APPROPRIATION .....		\$ 272,943,100
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers ....		3,691,200
ADJUSTED GROSS APPROPRIATION .....		\$ 269,251,900

	For Fiscal Year Ending Sept. 30, 2006
Federal revenues:	
Total federal revenues .....	\$ 38,990,200
Special revenue funds:	
Total local revenues .....	0
Total private revenues.....	2,090,100
Total other state restricted revenues.....	202,578,400
State general fund/general purpose .....	\$ 25,593,200
<b>FUND SOURCE SUMMARY</b>	
Full-time equated unclassified positions .....	6.0
Full-time equated classified positions .....	2,073.5
<b>GROSS APPROPRIATION.....</b>	<b>\$ 272,943,100</b>
Interdepartmental grant revenues:	
IDG, engineering services to work orders.....	1,566,600
IDG, land acquisition services to work orders.....	706,500
IDG, MacMullan conference center revenue .....	1,418,100
Total interdepartmental grants and intradepartmental transfers ....	3,691,200
<b>ADJUSTED GROSS APPROPRIATION.....</b>	<b>\$ 269,251,900</b>
Federal revenues:	
DAG, federal.....	7,166,000
DHS-USCG, federal .....	2,689,600
DOC, federal.....	67,000
DOE, federal.....	1,000
DOI, federal .....	23,545,000
DOI, oil and gas royalty revenue .....	150,000
DOI, timber revenue.....	3,300,000
DOT, federal .....	1,800,000
EPA, federal.....	271,600
Total federal revenues.....	38,990,200
Special revenue funds:	
Private funds.....	1,590,100
Private - gift revenues.....	500,000
Total private revenues.....	2,090,100
Aircraft fees.....	245,300
Air photo fees - geographic information system.....	43,500
Cervidae licensing and inspection fees .....	95,700
Clean Michigan initiative fund .....	54,100
Commercial forest fund .....	48,300
Forest development fund .....	31,922,100
Forestland user charges .....	317,300
Forest recreation fund.....	1,386,900
Game and fish protection fund .....	62,314,600
Game and fish protection fund - deer habitat reserve.....	2,508,900
Game and fish protection fund - fisheries settlement.....	966,400
Game and fish protection fund - turkey permit fees.....	1,748,000
Game and fish protection fund - waterfowl fees .....	99,900
Game and fish - wildlife resource protection fund.....	1,611,800
Game and fish protection fund - youth hunting and fishing education and outreach fund.....	26,800

	For Fiscal Year Ending Sept. 30, 2006
Harbor development fund.....	\$ 287,400
Land exchange facilitation fund.....	5,919,300
Marine safety fund.....	4,714,300
Michigan civilian conservation corps endowment fund.....	1,139,500
Michigan natural resources trust fund.....	3,292,800
Michigan state parks endowment fund.....	12,375,100
Michigan state waterways fund.....	15,906,800
Nongame wildlife fund.....	685,300
Off-road vehicle trail improvement fund.....	4,210,500
Park improvement fund.....	36,957,800
Publications revenue.....	3,600
Recreation improvement fund.....	1,444,500
Safety education fund.....	206,100
Shop fees.....	63,700
Snowmobile registration fee revenue.....	2,257,500
Snowmobile trail improvement fund.....	9,724,600
Total other state restricted revenues.....	202,578,400
State general fund/general purpose.....	\$ 25,593,200

**Executive (resource conservation).**

**Sec. 102. EXECUTIVE (RESOURCE CONSERVATION)**

Full-time equated unclassified positions.....	6.0
Full-time equated classified positions.....	45.6
Commission (including travel expense—per diem).....	91,300
Unclassified salaries—6.0 FTE positions.....	416,500
Education and outreach—33.6 FTE positions.....	3,643,900
Executive direction—12.0 FTE positions.....	1,935,400
GROSS APPROPRIATION.....	\$ 6,087,100
Appropriated from:	
Interdepartmental grant revenues:	
IDG, MacMullan conference center revenue.....	22,800
Special revenue funds:	
Aircraft fees.....	500
Air photo fees - geographic information system.....	11,300
Forest development fund.....	249,400
Forestland user charges.....	6,400
Forest recreation fund.....	26,600
Game and fish protection fund.....	1,741,800
Game and fish protection fund - deer habitat reserve.....	36,600
Game and fish protection fund - fisheries settlement.....	10,100
Game and fish protection fund - turkey permit fees.....	20,700
Game and fish protection fund - waterfowl fees.....	900
Game and fish - wildlife resource protection fund.....	20,400
Game and fish protection fund - youth hunting and fishing education and outreach fund.....	26,800
Harbor development fund.....	600
Land exchange facilitation fund.....	40,000
Marine safety fund.....	28,400

	For Fiscal Year Ending Sept. 30, 2006
Michigan civilian conservation corps endowment fund .....	\$ 2,600
Michigan natural resources trust fund .....	31,400
Michigan state parks endowment fund.....	42,100
Michigan state waterways fund .....	296,000
Nongame wildlife fund.....	12,600
Off-road vehicle trail improvement fund.....	2,900
Park improvement fund.....	2,370,600
Publications revenue .....	500
Recreation improvement fund.....	12,700
Snowmobile registration fee revenue .....	4,400
Snowmobile trail improvement fund.....	34,700
State general fund/general purpose .....	\$ 1,033,300

### **Administrative services (resource conservation).**

#### **Sec. 103. ADMINISTRATIVE SERVICES (RESOURCE CONSERVATION)**

Full-time equated classified positions.....	81.0
Budget and support services—10.0 FTE positions .....	\$ 972,400
Financial services—27.0 FTE positions .....	2,560,400
Grants management—15.0 FTE positions .....	1,274,200
Human resources—21.0 FTE positions .....	2,091,500
Human resources optimization user charges.....	88,600
Internal audit—8.0 FTE positions.....	807,500
GROSS APPROPRIATION .....	\$ 7,794,600
Appropriated from:	
Interdepartmental grant revenues:	
IDG, MacMullan conference center revenue .....	14,200
Federal revenues:	
DOI, federal .....	343,500
Special revenue funds:	
Aircraft fees.....	3,100
Air photo fees - geographic information system.....	700
Clean Michigan initiative fund .....	54,100
Commercial forest fund .....	1,800
Forest development fund .....	670,000
Forestland user charges .....	1,000
Forest recreation fund.....	57,500
Game and fish protection fund .....	1,534,100
Game and fish protection fund - deer habitat reserve.....	49,700
Game and fish protection fund - fisheries settlement.....	25,700
Game and fish protection fund - turkey permit fees.....	39,200
Game and fish protection fund - waterfowl fees .....	800
Game and fish - wildlife resource protection fund.....	41,500
Harbor development fund.....	11,300
Land exchange facilitation fund.....	32,000
Marine safety fund .....	183,300
Michigan civilian conservation corps endowment fund .....	49,500
Michigan natural resources trust fund .....	883,100

	For Fiscal Year Ending Sept. 30, 2006
Michigan state parks endowment fund.....	\$ 119,900
Michigan state waterways fund .....	480,400
Nongame wildlife fund.....	22,100
Off-road vehicle trail improvement fund.....	66,300
Park improvement fund.....	1,675,800
Publications revenue .....	3,100
Recreation improvement fund.....	16,700
Shop fees .....	400
Snowmobile registration fee revenue .....	136,300
Snowmobile trail improvement fund.....	188,700
State general fund/general purpose .....	\$ 1,088,800

**Land and facilities (resource conservation).**

**Sec. 104. LAND AND FACILITIES (RESOURCE**

**CONSERVATION)**

Full-time equated classified positions.....	134.2	
Land and facilities—134.2 FTE positions .....		\$ 19,609,600
GROSS APPROPRIATION.....		\$ 19,609,600
Appropriated from:		
Interdepartmental grant revenues:		
IDG, engineering services to work orders.....		1,566,600
IDG, land acquisition services to work orders.....		706,500
IDG, MacMullan conference center revenue .....		1,346,700
Special revenue funds:		
Aircraft fees.....		122,300
Forest development fund .....		1,631,200
Forestland user charges .....		12,700
Forest recreation fund.....		10,400
Game and fish protection fund .....		7,245,500
Land exchange facilitation fund.....		5,731,200
Marine safety fund .....		91,200
Michigan natural resources trust fund .....		60,600
Michigan state waterways fund .....		299,300
Off-road vehicle trail improvement fund.....		22,700
Park improvement fund.....		509,700
Snowmobile trail improvement fund.....		13,900
State general fund/general purpose .....		\$ 239,100

**Departmental operation support (resource conservation).**

**Sec. 105. DEPARTMENTAL OPERATION SUPPORT**

**(RESOURCE CONSERVATION)**

Building occupancy charges.....	\$ 2,071,600
Rent - privately owned property.....	485,600
Gifts and bequests .....	500,000
GROSS APPROPRIATION.....	\$ 3,057,200
Appropriated from:	
Special revenue funds:	
Private - gift revenues.....	500,000

	For Fiscal Year Ending Sept. 30, 2006
Forest development fund .....	\$ 957,300
Forest recreation fund .....	20,400
Game and fish protection fund .....	475,900
Game and fish protection fund - deer habitat reserve .....	20,800
Game and fish protection fund - fisheries settlement .....	6,700
Game and fish protection fund - turkey permit fees .....	25,000
Game and fish - wildlife resource protection fund .....	7,500
Marine safety fund .....	46,100
Michigan natural resources trust fund .....	66,700
Michigan state parks endowment fund .....	213,100
Michigan state waterways fund .....	237,600
Park improvement fund .....	316,700
Snowmobile trail improvement fund .....	21,600
State general fund/general purpose .....	\$ 141,800

### **Wildlife management (resource conservation).**

#### **Sec. 106. WILDLIFE MANAGEMENT (RESOURCE CONSERVATION)**

Full-time equated classified positions .....	192.0	
Wildlife administration—14.5 FTE positions .....	\$ 1,606,200	
Wildlife management—168.5 FTE positions .....	24,567,800	
Natural resources heritage—9.0 FTE positions .....	1,366,700	
State game and wildlife area maintenance .....	500,000	
GROSS APPROPRIATION .....	\$ 28,040,700	
Appropriated from:		
Federal revenues:		
DAG, federal .....	97,900	
DOI, federal .....	11,112,200	
EPA, federal .....	1,000	
Special revenue funds:		
Private funds .....	108,500	
Cervidae licensing and inspection fees .....	95,700	
Game and fish protection fund .....	10,085,000	
Game and fish protection fund - deer habitat reserve .....	2,299,500	
Game and fish protection fund - turkey permit fees .....	1,580,400	
Game and fish protection fund - waterfowl fees .....	98,200	
Forest development fund .....	60,000	
Nongame wildlife fund .....	611,200	
State general fund/general purpose .....	\$ 1,891,100	

### **Fisheries management (resource conservation).**

#### **Sec. 107. FISHERIES MANAGEMENT (RESOURCE CONSERVATION)**

Full-time equated classified positions .....	225.0	
Aquatic resource mitigation—3.0 FTE positions .....	\$ 890,900	
Fisheries administration—10.0 FTE positions .....	1,055,200	
Fish production—62.0 FTE positions .....	8,126,100	
Fisheries resource management—150.0 FTE positions .....	17,232,000	
GROSS APPROPRIATION .....	\$ 27,304,200	

For Fiscal Year  
Ending Sept. 30,  
2006

Appropriated from:

Federal revenues:

DOC, federal.....	\$	50,300
DOE, federal.....		1,000
DOI, federal.....		8,231,100
EPA, federal.....		155,800

Special revenue funds:

Private funds.....		109,700
Game and fish protection fund.....		17,866,400
Game and fish protection fund - fisheries settlement.....		889,900
State general fund/general purpose.....	\$	0

**Parks and recreation (resource conservation, thriving economy).**

**Sec. 108. PARKS AND RECREATION (RESOURCE CONSERVATION, THRIVING ECONOMY)**

Full-time equated classified positions.....		785.7
Michigan civilian conservation corps—3.0 FTE positions.....	\$	1,058,800
Recreational boating—201.5 FTE positions.....		13,680,500
State parks—581.2 FTE positions.....		41,289,500
State parks improvement revenue bonds - debt service.....		1,107,900
GROSS APPROPRIATION.....	\$	57,136,700

Appropriated from:

Federal revenues:

EPA, federal.....		113,800
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Special revenue funds:

Private funds.....		344,200
Harbor development fund.....		270,000
Michigan civilian conservation corps endowment fund.....		1,058,800
Michigan state parks endowment fund.....		11,426,200
Michigan state waterways fund.....		13,410,500
Off-road vehicle trail improvement fund.....		230,100
Park improvement fund.....		30,283,100
State general fund/general purpose.....	\$	0

**Forest, mineral, and fire management (resource conservation, thriving economy).**

**Sec. 109. FOREST, MINERAL, AND FIRE MANAGEMENT (RESOURCE CONSERVATION, THRIVING ECONOMY)**

Full-time equated classified positions.....		342.5
Adopt-a-forest program.....	\$	25,000
Cooperative resource programs—10.5 FTE positions.....		2,573,200
Forest and timber treatments—121.0 FTE positions.....		15,738,800
Forest fire equipment.....		1,700,000
Forest fire protection—133.5 FTE positions.....		10,421,400
Forest management initiatives—9.2 FTE positions.....		889,000
Forest management planning—18.0 FTE positions.....		5,453,300
Forest recreation and trails—33.0 FTE positions.....		4,872,400



	For Fiscal Year Ending Sept. 30, 2006
Minerals management—17.3 FTE positions .....	\$ 2,081,900
GROSS APPROPRIATION .....	\$ 43,755,000
Appropriated from:	
Federal revenues:	
DAG, federal .....	2,243,100
DOI, federal .....	2,000
EPA, federal .....	1,000
Special revenue funds:	
Private funds .....	877,700
Aircraft fees .....	119,400
Air photo fees - geographic information system .....	26,300
Commercial forest fund .....	45,000
Forest development fund .....	26,610,000
Forestland user charges .....	284,400
Forest recreation fund .....	1,146,600
Game and fish protection fund .....	1,605,800
Michigan natural resources trust fund .....	1,079,700
Michigan state parks endowment fund .....	532,500
Michigan state waterways fund .....	364,600
Off-road vehicle trail improvement fund .....	389,500
Recreation improvement fund .....	305,200
Shop fees .....	63,300
Snowmobile trail improvement fund .....	2,093,500
State general fund/general purpose .....	\$ 5,965,400

### **Law enforcement (resource conservation).**

#### **Sec. 110. LAW ENFORCEMENT (RESOURCE CONSERVATION)**

Full-time equated classified positions .....	267.5
General law enforcement—257.5 FTE positions .....	\$ 27,111,100
Wildlife resource protection—10.0 FTE positions .....	1,588,300
GROSS APPROPRIATION .....	\$ 28,699,400
Appropriated from:	
Federal revenues:	
DHS-USCG, federal .....	2,689,600
DOC, federal .....	16,700
DOI, federal .....	1,189,300
Special revenue funds:	
Forest recreation fund .....	55,400
Game and fish protection fund .....	17,474,600
Game and fish - wildlife resource protection fund .....	1,477,500
Marine safety fund .....	1,460,100
Off-road vehicle trail improvement fund .....	1,141,600
Park improvement fund .....	55,400
Safety education fund .....	56,100
Snowmobile registration fee revenue .....	941,100
State general fund/general purpose .....	\$ 2,142,000

For Fiscal Year  
Ending Sept. 30,  
2006

**Payments in lieu of taxes (effective government).**

**Sec. 111. PAYMENTS IN LIEU OF TAXES (EFFECTIVE GOVERNMENT)**

Swamp and tax reverted lands .....	\$	7,071,500
Purchased lands .....		5,050,000
Commercial forest reserves .....		2,662,600
GROSS APPROPRIATION .....	\$	<u>14,784,100</u>

Appropriated from:

Special revenue funds:

Game and fish protection fund .....		2,040,000
Michigan natural resources trust fund .....		520,000
Michigan state waterways fund .....		140,000
State general fund/general purpose .....	\$	12,084,100

**Grants (resource conservation, effective government)**

**Sec. 112. GRANTS (RESOURCE CONSERVATION, EFFECTIVE GOVERNMENT)**

Federal - clean vessel act grants .....	\$	100,000
Federal - forest stewardship grants .....		625,000
Federal - land and water conservation fund payments .....		2,566,900
Federal - rural community fire protection .....		300,000
Federal - urban forestry grants .....		4,000,000
Grants to communities - federal oil, gas, and timber payments .....		3,450,000
National recreational trails .....		1,850,000
Game and nongame wildlife fund grants .....		10,000
Grant to counties - marine safety .....		2,805,000
Inland fisheries resources grants .....		200,000
Off-road vehicle safety training grants .....		150,000
Off-road vehicle trail improvement grants .....		2,357,400
Recreation improvement fund grants .....		1,100,000
Snowmobile law enforcement grants .....		1,142,000
Snowmobile local grants program .....		7,314,000
GROSS APPROPRIATION .....	\$	<u>27,970,300</u>

Appropriated from:

Federal revenues:

DAG, federal .....		4,825,000
DOI, federal .....		2,666,900
DOI, oil and gas royalty revenue .....		150,000
DOI, timber revenue .....		3,300,000
DOT, federal .....		1,800,000

Special revenue funds:

Private funds .....		150,000
Game and fish protection fund .....		200,000
Marine safety fund .....		2,805,000
Nongame wildlife fund .....		10,000
Off-road vehicle trail improvement fund .....		2,357,400
Recreation improvement fund .....		1,100,000
Safety education fund .....		150,000

		For Fiscal Year Ending Sept. 30, 2006
Snowmobile registration fee revenue .....	\$	1,142,000
Snowmobile trail improvement fund.....		7,314,000
State general fund/general purpose .....	\$	0

**Information technology (resource conservation).**

**Sec. 113. INFORMATION TECHNOLOGY (RESOURCE CONSERVATION)**

Information technology services and projects.....	\$	8,704,200
GROSS APPROPRIATION .....	\$	8,704,200
Appropriated from:		
Interdepartmental grant revenues:		
IDG, MacMullan conference center revenue .....		34,400
Special revenue funds:		
Air photo fees - geographic information system.....		5,200
Commercial forest fund .....		1,500
Forest development fund .....		1,744,200
Forestland user charges .....		12,800
Forest recreation fund.....		70,000
Game and fish protection fund .....		2,045,500
Game and fish protection fund - deer habitat reserve.....		102,300
Game and fish protection fund - fisheries settlement.....		34,000
Game and fish protection fund - turkey permit fees.....		82,700
Game and fish - wildlife resource protection fund.....		64,900
Harbor development fund.....		5,500
Land exchange facilitation fund.....		116,100
Marine safety fund .....		100,200
Michigan civilian conservation corps endowment fund .....		28,600
Michigan natural resources trust fund .....		651,300
Michigan state parks endowment fund.....		41,300
Michigan state waterways fund .....		678,400
Nongame wildlife fund.....		29,400
Park improvement fund.....		1,746,500
Recreation improvement fund.....		9,900
Snowmobile registration fee revenue .....		33,700
Snowmobile trail improvement fund.....		58,200
State general fund/general purpose .....	\$	1,007,600

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

**GENERAL SECTIONS**

**Total state spending; payments to local units of government.**

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2005-2006 is \$228,171,600.00 and state spending from state resources to be paid to local units of government for fiscal year

2005-2006 is \$28,662,500.00. The itemized statement below identifies appropriations from which spending to local units of government will occur:

DEPARTMENT OF NATURAL RESOURCES  
PAYMENTS IN LIEU OF TAXES

Commercial forest reserves .....	\$	2,662,600
Purchased lands .....		5,050,000
Swamp and tax reverted lands .....		7,071,500

GRANTS

Grants to counties - marine safety .....	\$	2,805,000
Off-road vehicle safety training grants.....		150,000
Off-road vehicle trail improvement grants .....		2,357,400
Recreation improvement fund grants.....		110,000
Snowmobile law enforcement grants .....		1,142,000
Snowmobile local grants program .....		7,314,000
TOTAL .....	\$	<u>28,662,500</u>

**Appropriations subject to MCL 18.1101 to 18.1594.**

Sec. 202. The appropriations authorized under this article are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

**Definitions.**

Sec. 203. As used in this article:

- (a) "Commission" means the commission of natural resources.
- (b) "DAG" means the United States department of agriculture.
- (c) "Department" means the department of natural resources.
- (d) "DHS" means the United States department of homeland security.
- (e) "DOC" means the United States department of commerce.
- (f) "DOE" means the United States department of energy.
- (g) "DOI" means the United States department of interior.
- (h) "DOT" means the United States department of transportation.
- (i) "EPA" means the United States environmental protection agency.
- (j) "FTE" means full-time equated.
- (k) "IDG" means interdepartmental grant.
- (l) "USCG" means the United States coast guard.

**Billing by department of civil service.**

Sec. 204. The department of civil service shall bill departments and agencies at the end of the first fiscal quarter for the 1% charge authorized by section 5 of article XI of the state constitution of 1963. Payments shall be made for the total amount of the billing by the end of the second fiscal quarter.

**Hiring freeze; exceptions.**

Sec. 205. (1) A hiring freeze is imposed on the state classified civil service. State departments and agencies are prohibited from hiring any new full-time state classified civil service employees and prohibited from filling any vacant state classified civil service positions. This hiring freeze does not apply to internal transfers of classified employees from 1 position to another within a department.

(2) The state budget director shall grant exceptions to this hiring freeze when the state budget director believes that the hiring freeze will result in rendering a state department or agency unable to deliver basic services, cause loss of revenue to the state, result in the inability of the state to receive federal funds, or necessitate additional expenditures that exceed any savings from maintaining a vacancy. The state budget director shall report quarterly to the chairpersons of the senate and house of representatives standing committees on appropriations the number of exceptions to the hiring freeze approved during the previous quarter and the reasons to justify the exceptions.

### **Privatization; project plan.**

Sec. 207. At least 60 days before beginning any effort to privatize, the department shall submit a complete project plan to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies. The plan shall include the criteria under which the privatization initiative will be evaluated. The evaluation shall be completed and submitted to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies within 30 months.

### **Use of Internet; transmission of reports.**

Sec. 208. The department shall use the Internet to fulfill the reporting requirements of this article. This may include transmission of reports via electronic mail to the recipients identified for each reporting requirement or it may include placement of reports on an Internet or Intranet site.

### **Estimated restricted fund balances, projected revenues, and expenditures; annual report.**

Sec. 209. Within 14 days after the release of the executive budget recommendation, the department shall provide the state budget director, the senate and house appropriations subcommittees on natural resources, and the senate and house fiscal agencies with an annual report on estimated restricted fund balances, projected revenues, and expenditures for the fiscal years ending September 30, 2005 and September 30, 2006.

### **Grant and loan programs; report.**

Sec. 211. (1) From the funds appropriated under part 1, the department shall prepare a report that lists all of the following regarding grant, loan, or grant and loan programs administered by the department for the fiscal year ending on September 30, 2006:

- (a) The name of each program.
- (b) The goals, criteria, filing fees, nominating procedures, eligibility requirements, processes, and deadlines for each program.
- (c) The maximum and minimum grant and loan available and whether there is a match requirement for each program.
- (d) The amount of any required match, and whether in-kind contributions may be used as part or all of a required match.
- (e) Information pertaining to the application process, timeline for each program, and the contact people within the department.
- (f) The source of funds for each program, including the citation of pertinent authorizing acts.
- (g) Information regarding plans for the next fiscal year for the phaseout, expansion, or changes for each program.
- (h) A listing of all recipients of grants or loans awarded by the department by type and amount of grant or loan during the fiscal year ending September 30, 2005.

(2) The reports required under this section shall be submitted to the state budget director, the senate and house appropriations committees and the senate and house fiscal agencies by January 1, 2006.

**State restricted game and fish protection funds.**

Sec. 212. Appropriations of state restricted game and fish protection funds have been made to the following departments and agencies in their respective appropriation acts. The amounts appropriated to these departments and agencies are listed below:

Department of civil service .....	\$	293,200
Legislative auditor general.....		21,400
Attorney general .....		704,600
Department of management and budget .....		220,900
Department of treasury .....		4,200

**Michigan state waterways commission; operations report; projects list.**

Sec. 213. (1) Before January 16, 2006, the department, in cooperation with the Michigan state waterways commission, shall report to the state budget director, the senate and house fiscal agencies, and the senate and house of representatives appropriations subcommittees on natural resources detailing operations of the Michigan state waterways commission for the preceding 1-year period.

(2) The department, in cooperation with the Michigan state waterways commission, shall determine which projects should be acquired or developed with money from the state waterways fund or harbor development fund and shall submit to the state budget director, the senate and house fiscal agencies, and the senate and house of representatives appropriations subcommittees on natural resources in January 2006 a list of those projects, compiled in order of priority. The list shall be accompanied by estimates of total costs for the proposed projects.

(3) The department, in cooperation with the Michigan state waterways commission, shall supply with each list under subsection (2) a statement of the guidelines used in listing and assigning the priority of these projects.

**Department administrative support and regulatory activities; allocation of restricted funds; plan.**

Sec. 214. The department shall develop a plan for allocating restricted funds among department administrative support and regulatory activities. This plan shall be submitted to the house and senate appropriations subcommittees on natural resources by January 30, 2006. This plan shall include a cost allocation plan for financial services support, office space rent and building occupancy charges, support division service for information systems and technology, and a methodology to use information generated through activity reports that identifies the percentage of employee time spent on restricted fund activities.

**Game and fish protection fund.**

Sec. 215. Pursuant to section 43703(3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.43703, there is appropriated from the game and fish protection trust fund to the game and fish protection fund, \$6,000,000.00 for the fiscal year ending September 30, 2006.

**Technology-related services and projects; payment of user fees.**

Sec. 216. From the funds appropriated in part 1 for information technology, departments and agencies shall pay user fees to the department of information technology for technology-related services and projects. Such user fees shall be subject to provisions

of an interagency agreement between the department and the department of information technology.

**Information technology; designation of amounts as work projects.**

Sec. 217. Amounts appropriated in part 1 for information technology may be designated as work projects and carried forward to support technology projects under the direction of the department of information technology. Funds designated in this manner are not available for expenditure until approved as work projects under section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a.

**Out-of-state travel.**

Sec. 218. (1) Due to the current budgetary problems in this state, out-of-state travel for the fiscal year ending September 30, 2006 shall be limited to situations in which 1 or more of the following conditions apply:

(a) The travel is required by legal mandate or court order or for law enforcement purposes.

(b) The travel is necessary to protect the health or safety of Michigan citizens or visitors or to assist other states in similar circumstances.

(c) The travel is necessary to produce budgetary savings or to increase state revenues, including protecting existing federal funds or securing additional federal funds.

(d) The travel is necessary to comply with federal requirements.

(e) The travel is necessary to secure specialized training for staff that is not available within this state.

(f) The travel is financed entirely by federal or nonstate funds.

(2) If out-of-state travel is necessary but does not meet 1 or more of the conditions in subsection (1), the state budget director may grant an exception to allow the travel. Any exceptions granted by the state budget director shall be reported on a monthly basis to the house and senate appropriations committees.

(3) Not later than January 1 of each year, each department shall prepare a travel report listing all travel by classified and unclassified employees outside this state in the immediately preceding fiscal year that was funded in whole or in part with funds appropriated in the department's budget. The report shall be submitted to the chairs and members of the house and senate appropriations committees, the fiscal agencies, and the state budget director. The report shall include the following information:

(a) The name of each person receiving reimbursement for travel outside this state or whose travel costs were paid by this state.

(b) The destination of each travel occurrence.

(c) The dates of each travel occurrence.

(d) A brief statement of the reason for each travel occurrence.

(e) The transportation and related costs of each travel occurrence, including the proportion funded with state general fund/general purpose revenues, the proportion funded with state restricted revenues, the proportion funded with federal revenues, and the proportion funded with other revenues.

(f) A total of all out-of-state travel funded for the immediately preceding fiscal year.

**Purchase of foreign goods or services.**

Sec. 219. Funds appropriated in part 1 shall not be used for the purchase of foreign goods or services, or both, if competitively priced and comparable quality American goods

or services, or both, are available. Preference should be given to goods or services, or both, manufactured or provided by Michigan businesses if they are competitively priced and of comparable quality.

**Communication of employee with legislative member or staff.**

Sec. 220. The department shall not take disciplinary action against an employee for communicating with a member of the legislature or his or her staff.

**ADMINISTRATIVE SERVICES**

**Engineering services.**

Sec. 401. The department may charge the appropriations contained in part 1, including all special maintenance and capital projects appropriated for the fiscal year ending September 30, 2006, for engineering services provided, a standard percentage fee to recover actual costs. The department may use the revenue derived to support the engineering services charges provided for in part 1.

**Land acquisition projects.**

Sec. 402. The department may charge land acquisition projects appropriated for the fiscal year ending September 30, 2006, and for prior fiscal years, a standard percentage fee to recover actual costs, and may use the revenue derived to support the land acquisition service charges provided for in part 1.

**Exchange or sale of state-owned land or rights in land; application and transaction fees.**

Sec. 403. The department may charge both application fees and transaction fees related to the exchange or sale of state-owned land or rights in land authorized by part 21 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2101 to 324.2162. The fees shall be set by the director at a rate which allows the department to recover its costs for providing these services.

**Fishing guide; information to be included.**

Sec. 404. The department shall prominently display in a prominent place in the fishing guide provided to each licensed fisher and paid for from the funds appropriated in part 1, the website for the department of community health. In addition, the fishing guide shall include information on alternative sources where interested parties without Internet access may find information on fish advisories issued by the department of community health.

**Land transactions; report.**

Sec. 405. The department shall report quarterly on all land transactions completed by the department in the previous fiscal quarter. For each land transaction, the report shall include, but not be limited to, the size of the parcel, the county and municipality in which the parcel is located, the dollar amount of the transaction, the fund source affected by the transaction, and the type of transaction, such as purchase, public auction, transfer, exchange, or conveyance. The report shall be submitted to the senate and house appropriations subcommittees on natural resources within 21 days after the end of each fiscal quarter.



**Turkey hunting licenses.**

Sec. 406. As a condition of expenditure of appropriations under part 1, the department shall make available for sale any turkey hunting licenses not allotted through the annual lottery sale process before the beginning day of the turkey hunting season.

**WILDLIFE MANAGEMENT****Livestock losses caused by wolves or coyotes; indemnification payments.**

Sec. 501. Of the funds appropriated in part 1, the department shall reimburse the department of agriculture for costs incurred for indemnification payments for livestock losses caused by wolves or coyotes under the animal industry act, 1988 PA 466, MCL 287.701 to 287.745.

**Bobcats; report.**

Sec. 502. By September 30, 2006, the department shall submit to the state budget director, the chairs of the senate and house appropriations subcommittees on natural resources, and the senate and house fiscal agencies a report on the population of bobcats in the Lower Peninsula of the state and the impact of bobcat harvest on the population. The department and the commission are urged to prohibit the trapping of bobcats in the Lower Peninsula until the report is released.

**Cormorant; management plan.**

Sec. 503. From the funds appropriated in part 1, the department shall consult with other states, provinces, and relevant nonprofit organizations in the Great Lakes basin and create a regional action plan to manage the cormorant, including the potential for lethal control. By December 31, 2005, the department shall submit the action plan to the state budget director, the senate and house appropriations committees, and the senate and house fiscal agencies.

**FISHERIES MANAGEMENT****Water control structures on Michigan waterways; certification process.**

Sec. 601. As a condition of expenditure of fisheries management appropriations under part 1, the department shall not impede the certification process for water control structures on Michigan waterways. The department shall fund from funds appropriated in part 1 all non-water-quality studies or requirements that the department requests of either of the following:

- (a) The department of environmental quality as a condition for issuance of a certification under the federal water pollution control act, 33 USC 1341.
- (b) The federal energy regulatory commission as a condition of licensing under the federal power act, 16 USC 791a to 825r.

**Aquatic resource mitigation; grants.**

Sec. 602. (1) From the appropriation in part 1 for aquatic resource mitigation, not more than \$758,000.00 shall be allocated for grants to watershed councils, resource development

councils, soil conservation districts, local governmental units, and other nonprofit organizations for stream habitat stabilization and soil erosion control.

(2) The fisheries division of the department shall develop priority and cost estimates for all recommended projects.

## **PARKS AND RECREATION**

### **Michigan state parks endowment fund; amount.**

Sec. 701. Pursuant to section 1902(2) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.1902, there is appropriated from the Michigan natural resources trust fund to the Michigan state parks endowment fund an amount not to exceed \$10,000,000.00 for the fiscal year ending September 30, 2006.

### **State parks; construction projects; reports.**

Sec. 702. (1) The department shall prepare detailed reports for construction projects in state parks that will involve campsite or campground closures. These reports shall include expected costs, impacts on recreation opportunities, impacts on state park revenues, and the expected impact on state park users. The department shall also prepare reports on average monthly campground occupancy rates for every state park during the previous summer season. The department shall provide reports described in this subsection to the house and senate appropriations subcommittees on natural resources and the house and senate fiscal agencies not later than April 1, 2006.

(2) The department shall notify the house and senate appropriations subcommittees on natural resources and the house and senate fiscal agencies if it intends to reduce operations or reduce recreation opportunities at any state park or recreation area.

### **Defibrillators in state parks.**

Sec. 703. From the funds appropriated in part 1, the department shall maintain an appropriate number of defibrillators in state parks. State parks shall accept donations of defibrillators.

### **State recreational facilities; misuse of complimentary or discounted day passes.**

Sec. 704. By September 30, 2006, the department shall report to the senate and house appropriations subcommittees on natural resources and the senate and house fiscal agencies any misuse of complimentary or discounted day passes at state recreational facilities during the 2005-2006 fiscal year.

### **Porcupine Mountains wilderness state park; marketing and promotion of ski hill.**

Sec. 705. The department shall not alter or halt operations of the ski hill or demolish buildings related to the ski hill, the assistant manager residence, the 3-unit apartment building, or the carpenter's shop and garage in Porcupine Mountains wilderness state park. The department shall collaborate with travel Michigan for the marketing and promotion of the ski hill.

### **Corporate sponsorship program within state parks.**

Sec. 706. By July 1, 2006, the department shall submit to the state budget director, the chairs of the senate and house appropriations subcommittees on natural resources, and the senate and house fiscal agencies a report on the viability of adopting a corporate

sponsorship program in selected areas within state parks, including details of such a program. The department shall work with the state park advisory committee in preparing the report.

## **FOREST, MINERAL, AND FIRE MANAGEMENT**

### **Disposal of waste material; costs.**

Sec. 801. The appropriation for the adopt-a-forest program in part 1 shall be used to cover the cost of disposing of waste material collected from state forestlands.

### **Abandoned mine shaft; costs relating to collapse.**

Sec. 802. In addition to the funds appropriated in part 1, \$350,000.00 is appropriated to cover costs related to any declared emergency involving the collapse of any abandoned mine shaft located on state land. This appropriation shall not be expended unless the state budget director recommends the expenditure and the department notifies the house and senate committees on appropriations.

### **Support of forestry programs in local conservation districts.**

Sec. 803. As a condition of expenditure of appropriations in part 1 from forest development funds, on October 15, 2005 the department shall provide \$1,000,000.00 from cooperative resources programs as an interdepartmental grant to the department of agriculture for the cooperative resources management initiative program for the purposes of supporting forestry programs in local conservation districts.

### **Timber harvesting; reports.**

Sec. 804. Of the funds appropriated in part 1, the department shall, subject to the forest certification process, prescribe appropriate treatment on not less than 63,000 acres at the current average rate of 12.5 to 13 cords per acre, and put those cords up for sale in 2006, provided that the department shall take into consideration the impact of timber harvesting on wildlife habitat and recreation uses. The department shall, subject to the forest certification process, increase marking or treatment of hardwood timber for sale and harvest by 10% over 2004 levels. In addition, the department shall take into consideration silvicultural analysis and report annually to the legislature on plans and efforts to address factors limiting management of timber. The department shall provide quarterly reports on the number of acres treated, pursuant to this section, to the senate and house appropriation subcommittees on natural resources and the standing committees of the senate and house of representatives with primary responsibility for natural resources issues.

### **Additional foresters to mark timber; expenditures.**

Sec. 805. The department shall spend amounts appropriated in part 1 for forest-related activities to employ or contract for additional foresters to mark timber, pursuant to section 804.

### **Motorized snowmobile trail connecting Gaylord and Cheboygan.**

Sec. 806. From the funds appropriated in part 1, the department shall develop a motorized snowmobile trail connecting Gaylord and Cheboygan.

### **Expansion of off-road vehicle trail mileage; plan.**

Sec. 807. The department shall submit to the senate and house standing committees on natural resources and the senate and house appropriations subcommittees on natural

resources and the senate and house fiscal agencies by May 1, 2006 a report that provides a comprehensive plan to expand current off-road vehicle trail mileage by at least 25% over the next 4 years.

## **LAW ENFORCEMENT**

### **Snowmobile law enforcement grants.**

Sec. 901. The appropriation in part 1 for snowmobile law enforcement grants shall be used to provide grants to county law enforcement agencies to enforce part 821 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82101 to 324.82160, including rules promulgated under that part and ordinances enacted pursuant to that part. The department shall consider the number of enforcement hours and the number of miles of snowmobile trails in each county in allocating these grants. Any funds not distributed to counties revert back to the snowmobile registration fee fund created under section 82111 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82111. Counties shall provide semiannual reports to the department.

## **GRANTS**

### **Additional federal pass-through funds to local institutions and governments.**

Sec. 1101. Federal pass-through funds to local institutions and governments that are received in amounts in addition to those included in part 1 for grants to communities - federal oil, gas, and timber payments and that do not require additional state matching funds are appropriated for the purposes intended. By November 30, 2005, the department shall report to the senate and house appropriations subcommittees on natural resources, the senate and house fiscal agencies, and the state budget director on all amounts appropriated under this section during the fiscal year ending September 30, 2005.

### **Coordination of federal funding with state grants.**

Sec. 1102. The use of federal funding received by the state from the land and water conservation fund and appropriated in part 1 shall be coordinated with state grants to local units of government from the Michigan natural resources trust fund. The coordination of the 2 funding sources shall be conducted in a manner that minimizes the total matching funds required from local units of government for local land acquisition or recreational development projects.

## ARTICLE 19

### MISCELLANEOUS

#### PART 1

### **Definitions.**

Sec. 501. As used in this act:

- (a) "Effective government" means government is effective, efficient, and accountable.
- (b) "Health" means people are healthy.

- (c) “Kids succeeding” means kids are succeeding in school.
- (d) “Mobility” means people and goods move around the state quickly and efficiently.
- (e) “Prepared for jobs” means people are prepared for jobs and the new economy.
- (f) “Resource conservation” means our natural resources are conserved and protected.
- (g) “Safety” means people are safe where they live, work, and play.
- (h) “Thriving economy” means the economy is thriving and people are working.
- (i) “Vulnerable” means the most vulnerable live free from harm and as self-sufficiently as possible.

This act is ordered to take immediate effect.

Approved September 30, 2005.

Filed with Secretary of State September 30, 2005.

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**[No. 155]**

**(HB 4887)**

AN ACT to amend 1979 PA 94, entitled “An act to make appropriations to aid in the support of the public schools and the intermediate school districts of the state; to make appropriations for certain other purposes relating to education; to provide for the disbursement of the appropriations; to supplement the school aid fund by the levy and collection of certain taxes; to authorize the issuance of certain bonds and provide for the security of those bonds; to prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to create certain funds and provide for their expenditure; to prescribe penalties; and to repeal acts and parts of acts,” by amending sections 3, 4, 6, 11, 11a, 11f, 11g, 11j, 15, 18, 19, 20, 20j, 22a, 22b, 22d, 24, 25, 26a, 31a, 31d, 32c, 32d, 32j, 37, 39, 39a, 41, 41a, 51a, 51c, 51d, 53a, 54, 56, 57, 61a, 62, 74, 81, 94a, 98, 98b, 99, 101, 105, 105c, 107, 147, 158b, 164c, and 167 (MCL 388.1603, 388.1604, 388.1606, 388.1611, 388.1611a, 388.1611f, 388.1611g, 388.1611j, 388.1615, 388.1618, 388.1619, 388.1620, 388.1620j, 388.1622a, 388.1622b, 388.1622d, 388.1624, 388.1625, 388.1626a, 388.1631a, 388.1631d, 388.1632c, 388.1632d, 388.1632j, 388.1637, 388.1639, 388.1639a, 388.1641, 388.1641a, 388.1651a, 388.1651c, 388.1651d, 388.1653a, 388.1654, 388.1656, 388.1657, 388.1661a, 388.1662, 388.1674, 388.1681, 388.1694a, 388.1698, 388.1698b, 388.1699, 388.1701, 388.1705, 388.1705c, 388.1707, 388.1747, 388.1758b, 388.1764c, and 388.1767), sections 3, 4, 6, 11f, 11g, 15, 19, 20, 20j, 24, 26a, 31d, 32c, 32d, 32j, 37, 39a, 41, 41a, 51d, 53a, 54, 56, 57, 61a, 62, 74, 81, 94a, 98, 99, 107, 147, and 158b as amended and section 22d as added by 2004 PA 351, sections 11, 11a, 11j, 22a, 22b, 51a, and 51c as amended by 2005 PA 98, section 18 as amended by 2004 PA 414, sections 25 and 105c as amended by 2000 PA 297, sections 31a and 98b as amended by 2004 PA 593, section 39 as amended by 2002 PA 191, section 101 as amended by 2005 PA 41, section 105 as amended by 2003 PA 158, section 164c as added by 1995 PA 130, and section 167 as amended by 2000 PA 89, and by adding sections 11k, 26b, 31b, 31f, 32l, 33, 54a, and 99b; and to repeal acts and parts of acts.

*The People of the State of Michigan enact:*

**388.1603 Definitions; A to D.**

Sec. 3. (1) “Average daily attendance”, for the purposes of complying with federal law and except as used in section 6(4)(cc), means 92% of the membership as defined in section 6(4).

(2) “Board” means the governing body of a district or public school academy.

(3) “Center” means the center for educational performance and information created in section 94a.

(4) “Cooperative education program” means a written voluntary agreement between and among districts to provide certain educational programs for pupils in certain groups of districts. The written agreement shall be approved by all affected districts at least annually and shall specify the educational programs to be provided and the estimated number of pupils from each district who will participate in the educational programs.

(5) “Department”, except in sections 107 and 107b, means the department of education.

(6) “District” means a local school district established under the revised school code, a local act school district, or, except in sections 6(4), 6(6), 13, 20, 22a, 23, 31a, 105, and 105c, a public school academy. Except in sections 6(4), 6(6), 13, 20, 22a, 105, and 105c, district also includes a university school.

(7) “District of residence”, except as otherwise provided in this subsection, means the district in which a pupil’s custodial parent or parents or legal guardian resides. For a pupil described in section 24b, the pupil’s district of residence is the district in which the pupil enrolls under that section. For a pupil described in section 6(4)(d), the pupil’s district of residence shall be considered to be the district or intermediate district in which the pupil is counted in membership under that section. For a pupil under court jurisdiction who is placed outside the district in which the pupil’s custodial parent or parents or legal guardian resides, the pupil’s district of residence shall be considered to be the educating district or educating intermediate district.

(8) “District superintendent” means the superintendent of a district, the chief administrator of a public school academy, or the chief administrator of a university school.

### **388.1604 Definitions; E to H.**

Sec. 4. (1) “Elementary pupil” means a pupil in membership in grades K to 8 in a district not maintaining classes above the eighth grade or in grades K to 6 in a district maintaining classes above the eighth grade.

(2) “Extended school year” means an educational program conducted by a district in which pupils must be enrolled but not necessarily in attendance on the pupil membership count day in an extended year program. The mandatory clock hours shall be completed by each pupil not more than 365 calendar days after the pupil’s first day of classes for the school year prescribed. The department shall prescribe pupil, personnel, and other reporting requirements for the educational program.

(3) “Fiscal year” means the state fiscal year that commences October 1 and continues through September 30.

(4) “General educational development testing preparation program” means a program that has high school level courses in English language arts, social studies, science, and mathematics and that prepares a person to successfully complete the general educational development (GED) test.

(5) “High school pupil” means a pupil in membership in grades 7 to 12, except in a district not maintaining grades above the eighth grade.

### **388.1606 Additional definitions.**

Sec. 6. (1) “Center program” means a program operated by a district or intermediate district for special education pupils from several districts in programs for the autistically impaired, trainable mentally impaired, severely mentally impaired, severely multiply

impaired, hearing impaired, physically and otherwise health impaired, and visually impaired. Programs for emotionally impaired pupils housed in buildings that do not serve regular education pupils also qualify. Unless otherwise approved by the department, a center program either shall serve all constituent districts within an intermediate district or shall serve several districts with less than 50% of the pupils residing in the operating district. In addition, special education center program pupils placed part-time in noncenter programs to comply with the least restrictive environment provisions of section 612 of part B of the individuals with disabilities education act, 20 USC 1412, may be considered center program pupils for pupil accounting purposes for the time scheduled in either a center program or a noncenter program.

(2) “District and high school graduation rate” means the annual completion and pupil dropout rate that is calculated by the center pursuant to nationally recognized standards.

(3) “District and high school graduation report” means a report of the number of pupils, excluding adult participants, in the district for the immediately preceding school year, adjusted for those pupils who have transferred into or out of the district or high school, who leave high school with a diploma or other credential of equal status.

(4) “Membership”, except as otherwise provided in this act, means for a district, public school academy, university school, or intermediate district the sum of the product of .75 times the number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the pupil membership count day for the current school year, plus the product of .25 times the final audited count from the supplemental count day for the immediately preceding school year. All pupil counts used in this subsection are as determined by the department and calculated by adding the number of pupils registered for attendance plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the superintendent, and as corrected by a subsequent department audit. The amount of the foundation allowance for a pupil in membership is determined under section 20. In making the calculation of membership, all of the following, as applicable, apply to determining the membership of a district, public school academy, university school, or intermediate district:

(a) Except as otherwise provided in this subsection, and pursuant to subsection (6), a pupil shall be counted in membership in the pupil’s educating district or districts. An individual pupil shall not be counted for more than a total of 1.0 full-time equated membership.

(b) If a pupil is educated in a district other than the pupil’s district of residence, if the pupil is not being educated as part of a cooperative education program, if the pupil’s district of residence does not give the educating district its approval to count the pupil in membership in the educating district, and if the pupil is not covered by an exception specified in subsection (6) to the requirement that the educating district must have the approval of the pupil’s district of residence to count the pupil in membership, the pupil shall not be counted in membership in any district.

(c) A special education pupil educated by the intermediate district shall be counted in membership in the intermediate district.

(d) A pupil placed by a court or state agency in an on-grounds program of a juvenile detention facility, a child caring institution, or a mental health institution, or a pupil funded under section 53a, shall be counted in membership in the district or intermediate district approved by the department to operate the program.

(e) A pupil enrolled in the Michigan schools for the deaf and blind shall be counted in membership in the pupil’s intermediate district of residence.

(f) A pupil enrolled in a vocational education program supported by a millage levied over an area larger than a single district or in an area vocational-technical education program established pursuant to section 690 of the revised school code, MCL 380.690, shall be counted only in the pupil's district of residence.

(g) A pupil enrolled in a university school shall be counted in membership in the university school.

(h) A pupil enrolled in a public school academy shall be counted in membership in the public school academy.

(i) For a new district, university school, or public school academy beginning its operation after December 31, 1994, membership for the first 2 full or partial fiscal years of operation shall be determined as follows:

(i) If operations begin before the pupil membership count day for the fiscal year, membership is the average number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the pupil membership count day for the current school year and on the supplemental count day for the current school year, as determined by the department and calculated by adding the number of pupils registered for attendance on the pupil membership count day plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the superintendent, and as corrected by a subsequent department audit, plus the final audited count from the supplemental count day for the current school year, and dividing that sum by 2.

(ii) If operations begin after the pupil membership count day for the fiscal year and not later than the supplemental count day for the fiscal year, membership is the final audited count of the number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the supplemental count day for the current school year.

(j) If a district is the authorizing body for a public school academy, then, in the first school year in which pupils are counted in membership on the pupil membership count day in the public school academy, the determination of the district's membership shall exclude from the district's pupil count for the immediately preceding supplemental count day any pupils who are counted in the public school academy on that first pupil membership count day who were also counted in the district on the immediately preceding supplemental count day.

(k) In a district, public school academy, university school, or intermediate district operating an extended school year program approved by the superintendent, a pupil enrolled, but not scheduled to be in regular daily attendance on a pupil membership count day, shall be counted.

(l) Pupils to be counted in membership shall be not less than 5 years of age on December 1 and less than 20 years of age on September 1 of the school year except a special education pupil who is enrolled and receiving instruction in a special education program or service approved by the department and not having a high school diploma who is less than 26 years of age as of September 1 of the current school year shall be counted in membership.

(m) An individual who has obtained a high school diploma shall not be counted in membership. An individual who has obtained a general educational development (G.E.D.) certificate shall not be counted in membership. An individual participating in a job training program funded under former section 107a or a jobs program funded under former section 107b, administered by the Michigan strategic fund or the department of labor and economic growth, or participating in any successor of either of those 2 programs, shall not be counted in membership.



(n) If a pupil counted in membership in a public school academy is also educated by a district or intermediate district as part of a cooperative education program, the pupil shall be counted in membership only in the public school academy unless a written agreement signed by all parties designates the party or parties in which the pupil shall be counted in membership, and the instructional time scheduled for the pupil in the district or intermediate district shall be included in the full-time equated membership determination under subdivision (q). However, for pupils receiving instruction in both a public school academy and in a district or intermediate district but not as a part of a cooperative education program, the following apply:

(i) If the public school academy provides instruction for at least 1/2 of the class hours specified in subdivision (q), the public school academy shall receive as its prorated share of the full-time equated membership for each of those pupils an amount equal to 1 times the product of the hours of instruction the public school academy provides divided by the number of hours specified in subdivision (q) for full-time equivalency, and the remainder of the full-time membership for each of those pupils shall be allocated to the district or intermediate district providing the remainder of the hours of instruction.

(ii) If the public school academy provides instruction for less than 1/2 of the class hours specified in subdivision (q), the district or intermediate district providing the remainder of the hours of instruction shall receive as its prorated share of the full-time equated membership for each of those pupils an amount equal to 1 times the product of the hours of instruction the district or intermediate district provides divided by the number of hours specified in subdivision (q) for full-time equivalency, and the remainder of the full-time membership for each of those pupils shall be allocated to the public school academy.

(o) An individual less than 16 years of age as of September 1 of the current school year who is being educated in an alternative education program shall not be counted in membership if there are also adult education participants being educated in the same program or classroom.

(p) The department shall give a uniform interpretation of full-time and part-time memberships.

(q) The number of class hours used to calculate full-time equated memberships shall be consistent with section 101(3). In determining full-time equated memberships for pupils who are enrolled in a postsecondary institution, a pupil shall not be considered to be less than a full-time equated pupil solely because of the effect of his or her postsecondary enrollment, including necessary travel time, on the number of class hours provided by the district to the pupil.

(r) Full-time equated memberships for pupils in kindergarten shall be determined by dividing the number of class hours scheduled and provided per year per kindergarten pupil by a number equal to 1/2 the number used for determining full-time equated memberships for pupils in grades 1 to 12. However, beginning in 2006-2007, if a pupil is eligible to enroll in kindergarten but is enrolled in a prekindergarten, developmental kindergarten, or similar class, the pupil shall not be counted as a pupil in membership, and the costs associated with educating the pupil shall instead be reported and reimbursed under section 31b.

(s) For a district, university school, or public school academy that has pupils enrolled in a grade level that was not offered by the district, university school, or public school academy in the immediately preceding school year, the number of pupils enrolled in that grade level to be counted in membership is the average of the number of those pupils enrolled and in regular daily attendance on the pupil membership count day and the supplemental count day of the current school year, as determined by the department.

Membership shall be calculated by adding the number of pupils registered for attendance in that grade level on the pupil membership count day plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the superintendent, and as corrected by subsequent department audit, plus the final audited count from the supplemental count day for the current school year, and dividing that sum by 2.

(t) A pupil enrolled in a cooperative education program may be counted in membership in the pupil's district of residence with the written approval of all parties to the cooperative agreement.

(u) If, as a result of a disciplinary action, a district determines through the district's alternative or disciplinary education program that the best instructional placement for a pupil is in the pupil's home, if that placement is authorized in writing by the district superintendent and district alternative or disciplinary education supervisor, and if the district provides appropriate instruction as described in this subdivision to the pupil at the pupil's home, the district may count the pupil in membership on a pro rata basis, with the proration based on the number of hours of instruction the district actually provides to the pupil divided by the number of hours specified in subdivision (q) for full-time equivalency. For the purposes of this subdivision, a district shall be considered to be providing appropriate instruction if all of the following are met:

(i) The district provides at least 2 nonconsecutive hours of instruction per week to the pupil at the pupil's home under the supervision of a certificated teacher.

(ii) The district provides instructional materials, resources, and supplies, except computers, that are comparable to those otherwise provided in the district's alternative education program.

(iii) Course content is comparable to that in the district's alternative education program.

(iv) Credit earned is awarded to the pupil and placed on the pupil's transcript.

(v) A pupil enrolled in an alternative or disciplinary education program described in section 25 shall be counted in membership in the district or public school academy that expelled the pupil.

(w) If a pupil was enrolled in a public school academy on the pupil membership count day, if the public school academy's contract with its authorizing body is revoked or the public school academy otherwise ceases to operate, and if the pupil enrolls in a district within 45 days after the pupil membership count day, the department shall adjust the district's pupil count for the pupil membership count day to include the pupil in the count.

(x) For a public school academy that has been in operation for at least 2 years and that suspended operations for at least 1 semester and is resuming operations, membership is the sum of the product of .75 times the number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the first pupil membership count day or supplemental count day, whichever is first, occurring after operations resume, plus the product of .25 times the final audited count from the most recent pupil membership count day or supplemental count day that occurred before suspending operations, as determined by the superintendent.

(y) If a district's membership for a particular fiscal year, as otherwise calculated under this subsection, would be less than 1,550 pupils and the district has 4.5 or fewer pupils per square mile, as determined by the department, and if the district does not receive funding under section 22d, the district's membership shall be considered to be the membership figure calculated under this subdivision. If a district educates and counts in its membership pupils in grades 9 to 12 who reside in a contiguous district that does not operate grades 9 to 12 and if 1 or both of the affected districts request the department to use the

determination allowed under this sentence, the department shall include the square mileage of both districts in determining the number of pupils per square mile for each of the districts for the purposes of this subdivision. The membership figure calculated under this subdivision is the greater of the following:

(i) The average of the district's membership for the 3-fiscal-year period ending with that fiscal year, calculated by adding the district's actual membership for each of those 3 fiscal years, as otherwise calculated under this subsection, and dividing the sum of those 3 membership figures by 3.

(ii) The district's actual membership for that fiscal year as otherwise calculated under this subsection.

(z) If a public school academy that is not in its first or second year of operation closes at the end of a school year and does not reopen for the next school year, the department shall adjust the membership count of the district in which a former pupil of the public school academy enrolls and is in regular daily attendance for the next school year to ensure that the district receives the same amount of membership aid for the pupil as if the pupil were counted in the district on the supplemental count day of the preceding school year.

(aa) For 2005-2006 only, if a pupil who has been evacuated from another state and has relocated in this state due to a natural disaster enrolls in a district within 60 days after the pupil membership count day, the department shall adjust the district's pupil count for the pupil membership count day to include the pupil in the count.

(bb) Full-time equated memberships for preprimary-aged special education pupils who are not enrolled in kindergarten but are enrolled in a classroom program under R 340.1754 of the Michigan administrative code shall be determined by dividing the number of class hours scheduled and provided per year by 450. Full-time equated memberships for preprimary-aged special education pupils who are not enrolled in kindergarten but are receiving nonclassroom services under R 340.1755 of the Michigan administrative code shall be determined by dividing the number of hours of service scheduled and provided per year per pupil by 180.

(cc) Full-time equated memberships for pupils enrolled in a public school academy that is wholly contained within a county juvenile detention facility shall be considered to be the average daily attendance of pupils enrolled in the public school academy for the immediately preceding fiscal year, as reported by the public school academy and audited by the intermediate district in which the public school academy is located. However, if a public school academy described in this subdivision does not provide definitive information to the auditing intermediate district to support the pupil memberships generated by average daily attendance, then full-time equated memberships for pupils enrolled in that public school academy shall be calculated as otherwise provided under this subsection.

(5) "Public school academy" means a public school academy, urban high school academy, or strict discipline academy operating under the revised school code.

(6) "Pupil" means a person in membership in a public school. A district must have the approval of the pupil's district of residence to count the pupil in membership, except approval by the pupil's district of residence is not required for any of the following:

(a) A nonpublic part-time pupil enrolled in grades 1 to 12 in accordance with section 166b.

(b) A pupil receiving 1/2 or less of his or her instruction in a district other than the pupil's district of residence.

(c) A pupil enrolled in a public school academy or university school.

(d) A pupil enrolled in a district other than the pupil's district of residence under an intermediate district schools of choice pilot program as described in section 91a or former section 91 if the intermediate district and its constituent districts have been exempted from section 105.

(e) A pupil enrolled in a district other than the pupil's district of residence if the pupil is enrolled in accordance with section 105 or 105c.

(f) A pupil who has made an official written complaint or whose parent or legal guardian has made an official written complaint to law enforcement officials and to school officials of the pupil's district of residence that the pupil has been the victim of a criminal sexual assault or other serious assault, if the official complaint either indicates that the assault occurred at school or that the assault was committed by 1 or more other pupils enrolled in the school the pupil would otherwise attend in the district of residence or by an employee of the district of residence. A person who intentionally makes a false report of a crime to law enforcement officials for the purposes of this subdivision is subject to section 411a of the Michigan penal code, 1931 PA 328, MCL 750.411a, which provides criminal penalties for that conduct. As used in this subdivision:

(i) "At school" means in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event whether or not it is held on school premises.

(ii) "Serious assault" means an act that constitutes a felony violation of chapter XI of the Michigan penal code, 1931 PA 328, MCL 750.81 to 750.90g, or that constitutes an assault and infliction of serious or aggravated injury under section 81a of the Michigan penal code, 1931 PA 328, MCL 750.81a.

(g) A pupil whose district of residence changed after the pupil membership count day and before the supplemental count day and who continues to be enrolled on the supplemental count day as a nonresident in the district in which he or she was enrolled as a resident on the pupil membership count day of the same school year.

(h) A pupil enrolled in an alternative education program operated by a district other than his or her district of residence who meets 1 or more of the following:

(i) The pupil has been suspended or expelled from his or her district of residence for any reason, including, but not limited to, a suspension or expulsion under section 1310, 1311, or 1311a of the revised school code, MCL 380.1310, 380.1311, and 380.1311a.

(ii) The pupil had previously dropped out of school.

(iii) The pupil is pregnant or is a parent.

(iv) The pupil has been referred to the program by a court.

(i) A pupil enrolled in the Michigan virtual high school, for the pupil's enrollment in the Michigan virtual high school.

(j) A pupil who is the child of a person who is employed by the district. As used in this subdivision, "child" includes an adopted child or legal ward.

However, if a district that is not a first class district educates pupils who reside in a first class district and if the primary instructional site for those pupils is located within the boundaries of the first class district, the educating district must have the approval of the first class district to count those pupils in membership. As used in this subsection, "first class district" means a district organized as a school district of the first class under the revised school code.

(7) "Pupil membership count day" of a district or intermediate district means:

(a) Except as provided in subdivision (b), the fourth Wednesday in September each school year.

(b) For a district or intermediate district maintaining school during the entire school year, the following days:

(i) Fourth Wednesday in July.

(ii) Fourth Wednesday in September.

(iii) Second Wednesday in February.

(iv) Fourth Wednesday in April.

(8) “Pupils in grades K to 12 actually enrolled and in regular daily attendance” means pupils in grades K to 12 in attendance and receiving instruction in all classes for which they are enrolled on the pupil membership count day or the supplemental count day, as applicable. Except as otherwise provided in this subsection, a pupil who is absent from any of the classes in which the pupil is enrolled on the pupil membership count day or supplemental count day and who does not attend each of those classes during the 10 consecutive school days immediately following the pupil membership count day or supplemental count day, except for a pupil who has been excused by the district, shall not be counted as 1.0 full-time equated membership. A pupil who is excused from attendance on the pupil membership count day or supplemental count day and who fails to attend each of the classes in which the pupil is enrolled within 30 calendar days after the pupil membership count day or supplemental count day shall not be counted as 1.0 full-time equated membership. In addition, a pupil who was enrolled and in attendance in a district, intermediate district, or public school academy before the pupil membership count day or supplemental count day of a particular year but was expelled on the pupil membership count day or supplemental count day shall only be counted as 1.0 full-time equated membership if the pupil resumed attendance in the district, intermediate district, or public school academy within 45 days after the pupil membership count day or supplemental count day. Pupils not counted as 1.0 full-time equated membership due to an absence from a class shall be counted as a prorated membership for the classes the pupil attended. For purposes of this subsection, “class” means a period of time in 1 day when pupils and a certificated teacher or legally qualified substitute teacher are together and instruction is taking place.

(9) “Rule” means a rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(10) “The revised school code” means 1976 PA 451, MCL 380.1 to 380.1852.

(11) “School fiscal year” means a fiscal year that commences July 1 and continues through June 30.

(12) “State board” means the state board of education.

(13) “Superintendent”, unless the context clearly refers to a district or intermediate district superintendent, means the superintendent of public instruction described in section 3 of article VIII of the state constitution of 1963.

(14) “Supplemental count day” means the day on which the supplemental pupil count is conducted under section 6a.

(15) “Tuition pupil” means a pupil of school age attending school in a district other than the pupil’s district of residence for whom tuition may be charged. Tuition pupil does not include a pupil who is a special education pupil or a pupil described in subsection (6)(d) to (j). A pupil’s district of residence shall not require a high school tuition pupil, as provided under section 111, to attend another school district after the pupil has been assigned to a school district.

(16) “State school aid fund” means the state school aid fund established in section 11 of article IX of the state constitution of 1963.

(17) “Taxable value” means the taxable value of property as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(18) “Textbook” means a book that is selected and approved by the governing board of a district and that contains a presentation of principles of a subject, or that is a literary work relevant to the study of a subject required for the use of classroom pupils, or another type of course material that forms the basis of classroom instruction.

(19) “Total state aid” or “total state school aid” means the total combined amount of all funds due to a district, intermediate district, or other entity under all of the provisions of this act.

(20) “University school” means an instructional program operated by a public university under section 23 that meets the requirements of section 23.

### **388.1611 Appropriations.**

Sec. 11. (1) For the fiscal year ending September 30, 2005, there is appropriated for the public schools of this state and certain other state purposes relating to education the sum of \$10,907,222,200.00 from the state school aid fund established by section 11 of article IX of the state constitution of 1963, the sum of \$41,100,000.00 from the proceeds of capitalization of the school bond loan fund revolving fund, and the sum of \$165,200,000.00 from the general fund. For the fiscal year ending September 30, 2006, there is appropriated for the public schools of this state and certain other state purposes relating to education the sum of \$11,257,600,000.00 from the state school aid fund established by section 11 of article IX of the state constitution of 1963, the sum of \$44,500,000.00 from the proceeds of capitalization of the school bond loan fund revolving fund, and the sum of \$62,714,000.00 from the general fund. In addition, available federal funds are appropriated for each fiscal year.

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

(3) If the maximum amount appropriated under this section from the state school aid fund and the school aid stabilization fund for a fiscal year exceeds the amount available for expenditure from the state school aid fund for that fiscal year, payments under sections 11f, 11g, 11j, 22a, 26a, 26b, 31d, 51a(2), 51a(12), 51c, 53a, and 56 shall be made in full. In addition, for districts beginning operations after 1994-95 that qualify for payments under section 22b, payments under section 22b shall be made so that the qualifying districts receive the lesser of an amount equal to the 1994-95 foundation allowance of the district in which the district beginning operations after 1994-95 is located or \$5,500.00. The amount of the payment to be made under section 22b for these qualifying districts shall be as calculated under section 22a, with the balance of the payment under section 22b being subject to the proration otherwise provided under this subsection and subsection (4). If proration is necessary after 2002-2003, state payments under each of the other sections of this act from all state funding sources shall be prorated in the manner prescribed in subsection (4) as necessary to reflect the amount available for expenditure from the state school aid fund for the affected fiscal year. However, if the department of treasury determines that proration will be required under this subsection, or if the department of

treasury determines that further proration is required under this subsection after an initial proration has already been made for a fiscal year, the department of treasury shall notify the state budget director, and the state budget director shall notify the legislature at least 30 calendar days or 6 legislative session days, whichever is more, before the department reduces any payments under this act because of the proration. During the 30 calendar day or 6 legislative session day period after that notification by the state budget director, the department shall not reduce any payments under this act because of proration under this subsection. The legislature may prevent proration from occurring by, within the 30 calendar day or 6 legislative session day period after that notification by the state budget director, enacting legislation appropriating additional funds from the general fund, countercyclical budget and economic stabilization fund, state school aid fund balance, or another source to fund the amount of the projected shortfall.

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

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

(i) Districts.

(ii) Intermediate districts.

(iii) Entities other than districts or intermediate districts.

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

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

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

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

### **388.1611a School aid stabilization fund; deposit; expenditure; investment; money remaining at close of fiscal year; shortfall; full funding.**

Sec. 11a. (1) The school aid stabilization fund is created as a separate account within the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(2) The state treasurer may receive money or other assets from any source for deposit into the school aid stabilization fund. The state treasurer shall deposit into the school aid stabilization fund all of the following:

(a) Unexpended and unencumbered state school aid fund revenue for a fiscal year that remains in the state school aid fund as of the bookclosing for that fiscal year.

(b) Money statutorily dedicated to the school aid stabilization fund.

(c) Money appropriated to the school aid stabilization fund.

(3) Money available in the school aid stabilization fund may not be expended without a specific appropriation from the school aid stabilization fund. Money in the school aid stabilization fund shall be expended only for purposes for which state school aid fund money may be expended.

(4) The state treasurer shall direct the investment of the school aid stabilization fund. The state treasurer shall credit to the school aid stabilization fund interest and earnings from fund investments.

(5) Money in the school aid stabilization fund at the close of a fiscal year shall remain in the school aid stabilization fund and shall not lapse to the unreserved school aid fund balance or the general fund.

(6) If the maximum amount appropriated under section 11 from the state school aid fund for a fiscal year exceeds the amount available for expenditure from the state school aid fund for that fiscal year, there is appropriated from the school aid stabilization fund to the state school aid fund an amount equal to the projected shortfall as determined by the department of treasury, but not to exceed available money in the school aid stabilization fund. If the money in the school aid stabilization fund is insufficient to fully fund an amount equal to the projected shortfall, the state budget director shall notify the legislature as required under section 11(3) and state payments in an amount equal to the remainder of the projected shortfall shall be prorated in the manner provided under section 11(4).

(7) Each school fiscal year for 2004-2005 and for 2005-2006, there is transferred from the school aid stabilization fund to the state school aid fund the amount necessary to fully fund the allocations under this act.

**388.1611f Payments to non-plaintiff districts pursuant to Durant v State of Michigan; payments for fiscal years ending September 30, 2006 through September 30, 2008; submission of waiver resolution; creation of obligation or liability; offer of settlement and compromise; payment date; use of payments; form and substance of resolution.**

Sec. 11f. (1) From the appropriations under section 11, there is allocated for the purposes of this section an amount not to exceed \$32,000,000.00 for the fiscal year ending September 30, 2006 and for each succeeding fiscal year through the fiscal year ending September 30, 2008. Payments under this section will cease after September 30, 2008. These allocations are for paying the amounts described in subsection (4) to districts and intermediate districts, other than those receiving a lump sum payment under subsection (2), that were not plaintiffs in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492 and that, on or before March 2, 1998, submitted to the state treasurer a board resolution waiving any right or interest the district or intermediate district has or may have in any claim or litigation based on or arising out of any claim or potential claim through September 30, 1997 that is or was similar to the claims asserted by the plaintiffs in the consolidated cases known as Durant v State of Michigan. The waiver resolution shall be in form and substance as required under



subsection (7). The state treasurer is authorized to accept such a waiver resolution on behalf of this state. The amounts described in this subsection represent offers of settlement and compromise of any claim or claims that were or could have been asserted by these districts and intermediate districts, as described in this subsection.

(2) In addition to any other money appropriated under this act, there was appropriated from the state school aid fund an amount not to exceed \$1,700,000.00 for the fiscal year ending September 30, 1999. This appropriation was for paying the amounts described in this subsection to districts and intermediate districts that were not plaintiffs in the consolidated cases known as Durant v State of Michigan; that, on or before March 2, 1998, submitted to the state treasurer a board resolution waiving any right or interest the district or intermediate district had or may have had in any claim or litigation based on or arising out of any claim or potential claim through September 30, 1997 that is or was similar to the claims asserted by the plaintiffs in the consolidated cases known as Durant v State of Michigan; and for which the total amount listed in section 11h and paid under this section was less than \$75,000.00. For a district or intermediate district qualifying for a payment under this subsection, the entire amount listed for the district or intermediate district in section 11h was paid in a lump sum on November 15, 1998 or on the next business day following that date. The amounts paid under this subsection represent offers of settlement and compromise of any claim or claims that were or could have been asserted by these districts and intermediate districts, as described in this subsection.

(3) This section does not create any obligation or liability of this state to any district or intermediate district that does not submit a waiver resolution described in this section. This section, any other provision of this act, and section 353e of the management and budget act, 1984 PA 431, MCL 18.1353e, are not intended to admit liability or waive any defense that is or would be available to this state or its agencies, employees, or agents in any litigation or future litigation with a district or intermediate district.

(4) The amount paid each fiscal year to each district or intermediate district under subsection (1) shall be 1/20 of the total amount listed in section 11h for each listed district or intermediate district that qualifies for a payment under subsection (1). The amounts listed in section 11h and paid in part under this subsection and in a lump sum under subsection (2) are offers of settlement and compromise to each of these districts or intermediate districts to resolve, in their entirety, any claim or claims that these districts or intermediate districts may have asserted for violations of section 29 of article IX of the state constitution of 1963 through September 30, 1997, which claims are or were similar to the claims asserted by the plaintiffs in the consolidated cases known as Durant v State of Michigan. This section, any other provision of this act, and section 353e of the management and budget act, 1984 PA 431, MCL 18.1353e, shall not be construed to constitute an admission of liability to the districts or intermediate districts listed in section 11h or a waiver of any defense that is or would have been available to the state or its agencies, employees, or agents in any litigation or future litigation with a district or intermediate district.

(5) The entire amount of each payment under subsection (1) each fiscal year shall be paid on November 15 of the applicable fiscal year or on the next business day following that date.

(6) Funds paid to a district or intermediate district under this section shall be used only for textbooks, electronic instructional material, software, technology, infrastructure or infrastructure improvements, school buses, school security, training for technology, or to pay debt service on voter-approved bonds issued by the district or intermediate district before the effective date of this section. For intermediate districts only, funds paid under this section may also be used for other nonrecurring instructional expenditures including,

but not limited to, nonrecurring instructional expenditures for vocational education, or for debt service for acquisition of technology for academic support services. Funds received by an intermediate district under this section may be used for projects conducted for the benefit of its constituent districts at the discretion of the intermediate board. To the extent payments under this section are used by a district or intermediate district to pay debt service on debt payable from millage revenues, and to the extent permitted by law, the district or intermediate district may make a corresponding reduction in the number of mills levied for that debt service.

(7) The resolution to be adopted and submitted by a district or intermediate district under this section and section 11g shall read as follows:

“Whereas, the board of \_\_\_\_\_ (name of district or intermediate district) desires to settle and compromise, in their entirety, any claim or claims that the district (or intermediate district) has or had for violations of section 29 of article IX of the state constitution of 1963, which claim or claims are or were similar to the claims asserted by the plaintiffs in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492.

Whereas, the district (or intermediate district) agrees to settle and compromise these claims for the consideration described in sections 11f and 11g of the state school aid act of 1979, 1979 PA 94, MCL 388.1611f and 388.1611g, and in the amount specified for the district (or intermediate district) in section 11h of the state school aid act of 1979, 1979 PA 94, MCL 388.1611h.

Whereas, the board of \_\_\_\_\_ (name of district or intermediate district) is authorized to adopt this resolution.

Now, therefore, be it resolved as follows:

1. The board of \_\_\_\_\_ (name of district or intermediate district) waives any right or interest it may have in any claim or potential claim through September 30, 1997 relating to the amount of funding the district or intermediate district is, or may have been, entitled to receive under the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772, or any other source of state funding, by reason of the application of section 29 of article IX of the state constitution of 1963, which claims or potential claims are or were similar to the claims asserted by the plaintiffs in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492.

2. The board of \_\_\_\_\_ (name of district or intermediate district) directs its secretary to submit a certified copy of this resolution to the state treasurer no later than 5 p.m. eastern standard time on March 2, 1998, and agrees that it will not take any action to amend or rescind this resolution.

3. The board of \_\_\_\_\_ (name of district or intermediate district) expressly agrees and understands that, if it takes any action to amend or rescind this resolution, the state, its agencies, employees, and agents shall have available to them any privilege, immunity, and/or defense that would otherwise have been available had the claims or potential claims been actually litigated in any forum.

4. This resolution is contingent on continued payments by the state each fiscal year as determined under sections 11f and 11g of the state school aid act of 1979, 1979 PA 94, MCL 388.1611f and 388.1611g. However, this resolution shall be an irrevocable waiver of any claim to amounts actually received by the school district or intermediate school district under sections 11f and 11g of the state school aid act of 1979.”

**388.1611g Payments to non-plaintiff districts pursuant to Durant v State of Michigan; payments for fiscal years ending September 30, 2006 through September 30, 2013; waiver resolution; offers of settlement and compromise; creation of obligation or liability; calculation of amount; payment date; use of funds.**

Sec. 11g. (1) From the general fund appropriation in section 11, there is allocated for this section an amount not to exceed \$34,961,000.00 for the fiscal year ending September 30, 2006. There is allocated for this section an amount not to exceed \$35,000,000.00 for each succeeding fiscal year through the fiscal year ending September 30, 2013. Payments under this section will cease after September 30, 2013. These allocations are for paying the amounts described in subsection (3) to districts and intermediate districts, other than those receiving a lump sum payment under section 11f(2), that were not plaintiffs in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492 and that, on or before March 2, 1998, submitted to the state treasurer a waiver resolution described in section 11f. The amounts paid under this section represent offers of settlement and compromise of any claim or claims that were or could have been asserted by these districts and intermediate districts, as described in this section.

(2) This section does not create any obligation or liability of this state to any district or intermediate district that does not submit a waiver resolution described in section 11f. This section, any other provision of this act, and section 353e of the management and budget act, 1984 PA 431, MCL 18.1353e, are not intended to admit liability or waive any defense that is or would be available to this state or its agencies, employees, or agents in any litigation or future litigation with a district or intermediate district regarding these claims or potential claims.

(3) The amount paid each fiscal year to each district or intermediate district under this section shall be the sum of the following:

(a) 1/30 of the total amount listed in section 11h for the district or intermediate district.

(b) If the district or intermediate district borrows money and issues bonds under section 11i, an additional amount in each fiscal year calculated by the department of treasury that, when added to the amount described in subdivision (a), will cause the net present value as of November 15, 1998 of the total of the 15 annual payments made to the district or intermediate district under this section, discounted at a rate as determined by the state treasurer, to equal the amount of the bonds issued by that district or intermediate district under section 11i and that will result in the total payments made to all districts and intermediate districts in each fiscal year under this section being no more than the amount appropriated under this section in each fiscal year.

(4) The entire amount of each payment under this section each fiscal year shall be paid on May 15 of the applicable fiscal year or on the next business day following that date. If a district or intermediate district borrows money and issues bonds under section 11i, the district or intermediate district shall use funds received under this section to pay debt service on bonds issued under section 11i. If a district or intermediate district does not borrow money and issue bonds under section 11i, the district or intermediate district shall use funds received under this section only for the following purposes, in the following order of priority:

(a) First, to pay debt service on voter-approved bonds issued by the district or intermediate district before the effective date of this section.

(b) Second, to pay debt service on other limited tax obligations.

(c) Third, for deposit into a sinking fund established by the district or intermediate district under the revised school code.

(5) To the extent payments under this section are used by a district or intermediate district to pay debt service on debt payable from millage revenues, and to the extent permitted by law, the district or intermediate district may make a corresponding reduction in the number of mills levied for debt service.

(6) A district or intermediate district may pledge or assign payments under this section as security for bonds issued under section 11i, but shall not otherwise pledge or assign payments under this section.

### **388.1611j School loan bond redemption fund; allocation.**

Sec. 11j. From the appropriation in section 11 from the proceeds of capitalization of the school bond loan fund revolving fund, there is allocated an amount not to exceed \$41,100,000.00 for 2004-2005, and there is allocated an amount not to exceed \$44,500,000.00 for 2005-2006, for payments to the school loan bond redemption fund in the department of treasury on behalf of districts and intermediate districts. Notwithstanding section 11 or any other provision of this act, funds allocated under this section are not subject to proration and shall be paid in full.

### **388.1611k School loan revolving fund; allocation; definition.**

Sec. 11k. For 2004-2005 and 2005-2006, there is appropriated from the general fund to the school loan revolving fund an amount equal to the amount of school bond loans assigned to the Michigan municipal bond authority, not to exceed the total amount of school bond loans held in reserve as long-term assets. As used in this section, "school loan revolving fund" means that fund created in section 16c of the shared credit rating act, 1985 PA 227, MCL 141.1066c.

### **388.1615 Apportionment of deficiency or deduction of excess in next apportionment; state aid overpayments to districts other than overpayments for special education; deduction due to adjustment as result of audit or incorrect payment; funding expenditures caused by write-off of prior year accruals; additional appropriation.**

Sec. 15. (1) If a district or intermediate district fails to receive its proper apportionment, the department, upon satisfactory proof that the district or intermediate district was entitled justly, shall apportion the deficiency in the next apportionment. Subject to subsections (2) and (3), if a district or intermediate district has received more than its proper apportionment, the department, upon satisfactory proof, shall deduct the excess in the next apportionment. Notwithstanding any other provision in this act, state aid overpayments to a district, other than overpayments in payments for special education or special education transportation, may be recovered from any payment made under this act other than a special education or special education transportation payment. State aid overpayments made in special education or special education transportation payments may be recovered from subsequent special education or special education transportation payments.

(2) If the result of an audit conducted by or for the department affects the current fiscal year membership, affected payments shall be adjusted in the current fiscal year. A deduction due to an adjustment made as a result of an audit conducted by or for the department, or as a result of information obtained by the department from the district, an intermediate district, the department of treasury, or the office of auditor general, shall be deducted from the district's apportionments within the next fiscal year after the fiscal year in which the adjustment is finalized. At the request of the district and upon the district presenting evidence satisfactory to the department of the hardship, the department may

grant up to an additional 4 years for the adjustment if the district would otherwise experience a significant hardship.

(3) If, because of the receipt of new or updated data, the department determines during a fiscal year that the amount paid to a district or intermediate district under this act for a prior fiscal year was incorrect under the law in effect for that year, the department may make the appropriate deduction or payment in the district's or intermediate district's allocation for the fiscal year in which the determination is made. The deduction or payment shall be calculated according to the law in effect in the fiscal year in which the improper amount was paid.

(4) Expenditures made by the department under this act that are caused by the write-off of prior year accruals may be funded by revenue from the write-off of prior year accruals.

(5) In addition to funds appropriated in section 11 for all programs and services, there is appropriated each fiscal year for 2004-2005 and 2005-2006 for prior year obligations in excess of applicable prior year appropriations, an amount equal to the collection of prior year overpayments, but not to exceed amounts available from prior year overpayments.

**388.1618 Application of money received under act; determining reasonableness of expenditures; withholding apportionment for violation; audit; manuals; reports; retention of property by public school academy; failure to comply with subsection (2), (3), (4), or (5).**

Sec. 18. (1) Except as provided in another section of this act, each district or other entity shall apply the money received by the district or entity under this act to salaries and other compensation of teachers and other employees, tuition, transportation, lighting, heating, ventilation, water service, the purchase of textbooks which are designated by the board to be used in the schools under the board's charge, other supplies, and any other school operating expenditures defined in section 7. However, not more than 20% of the total amount received by a district under article 2 or intermediate district under article 8 may be transferred by the board to either the capital projects fund or to the debt retirement fund for debt service. The money shall not be applied or taken for a purpose other than as provided in this section. The department shall determine the reasonableness of expenditures and may withhold from a recipient of funds under this act the apportionment otherwise due for the fiscal year following the discovery by the department of a violation by the recipient.

(2) For the purpose of determining the reasonableness of expenditures and whether a violation of this act has occurred, the department shall require that each district and intermediate district have an audit of the district's or intermediate district's financial and pupil accounting records conducted at least annually at the expense of the district or intermediate district, as applicable, by a certified public accountant or by the intermediate district superintendent, as may be required by the department, or in the case of a district of the first class by a certified public accountant, the intermediate superintendent, or the auditor general of the city. An intermediate district's annual financial audit shall be accompanied by the intermediate district's pupil accounting procedures report. A district's or intermediate district's annual financial audit shall include an analysis of the financial and pupil accounting data used as the basis for distribution of state school aid. The pupil accounting records and reports, audits, and management letters are subject to requirements established in the auditing and accounting manuals approved and published by the department. Except as otherwise provided in this subsection, a district shall file the annual financial audit reports with the intermediate district not later than 120 days after the end of each school fiscal year and the intermediate district shall forward the annual financial audit reports for its constituent districts and for the intermediate district,

and the pupil accounting procedures report for the pupil membership count day and supplemental count day, to the department not later than November 15 of each year. The annual financial audit reports and pupil accounting procedures reports shall be available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Not later than December 1 of each year, the department shall notify the state budget director and the legislative appropriations subcommittees responsible for review of the school aid budget of districts and intermediate districts that have not filed an annual financial audit and pupil accounting procedures report required under this section for the school year ending in the immediately preceding fiscal year.

(3) By November 15 of each year, each district and intermediate district shall submit to the center, in a manner prescribed by the center, annual comprehensive financial data consistent with accounting manuals and charts of accounts approved and published by the department. Effective with the report due on November 15, 2006, for an intermediate district, the report shall also contain the website address where the department can access the report required under section 620 of the revised school code, MCL 380.620.

(4) By September 30 of each year, each district and intermediate district shall file with the department the special education actual cost report, known as “SE-4096”, on a form and in the manner prescribed by the department.

(5) By October 7 of each year, each district and intermediate district shall file with the department the transportation expenditure report, known as “SE-4094”, on a form and in the manner prescribed by the department.

(6) Not later than July 1, 1999, the department shall approve and publish pupil accounting and pupil auditing manuals. The department shall review those manuals at least annually and shall periodically update those manuals to reflect changes in this act. The pupil accounting manuals in effect for the 1996-97 school year, including subsequent revisions issued by the superintendent, shall be the interim manuals in effect until new manuals are approved and published. However, the clarification of class-by-class accounting provided in the department’s April 15, 1998 memorandum on pupil accounting procedures shall be excluded from the interim manuals.

(7) If a district that is a public school academy purchases property using money received under this act, the public school academy shall retain ownership of the property unless the public school academy sells the property at fair market value.

(8) If a district or intermediate district does not comply with subsection (2), (3), (4), or (5), the department shall withhold all state school aid due to the district or intermediate district under this act, beginning with the next payment due to the district or intermediate district, until the district or intermediate district complies with subsections (2), (3), (4), and (5). If the district or intermediate district does not comply with subsections (2), (3), (4), and (5) by the end of the fiscal year, the district or intermediate district forfeits the amount withheld.

**388.1619 Compliance; information to be provided for annual progress report; report of graduation and dropout rates; educational personnel; information relating to safety practices and criminal incidents; failure to comply with certain requirements; list of schools or districts failing to make adequate yearly progress; appeal of determination; publication of list.**

Sec. 19. (1) A district shall comply with any requirements of sections 1204a, 1277, 1278, and 1280 of the revised school code, MCL 380.1204a, 380.1277, 380.1278, and 380.1280, commonly referred to as “public act 25 of 1990” that are not also required by the no child left behind act of 2001, Public Law 107-110, as determined by the department.

(2) Each district and intermediate district shall provide to the department, in a form and manner prescribed by the department, information necessary for the development of an annual progress report on the required implementation of sections 1204a, 1277, 1278, and 1280 of the revised school code, MCL 380.1204a, 380.1277, 380.1278, and 380.1280, commonly referred to as “public act 25 of 1990”.

(3) A district or intermediate district shall comply with all applicable reporting requirements specified in state and federal law. Data provided to the center, in a form and manner prescribed by the center, shall be aggregated and disaggregated as required by state and federal law.

(4) Each district shall furnish to the center not later than 7 weeks after the pupil membership count day, in a manner prescribed by the center, the information necessary for the preparation of the district and high school graduation report. The center shall calculate an annual graduation and pupil dropout rate for each high school, each district, and this state, in compliance with nationally recognized standards for these calculations. The center shall report all graduation and dropout rates to the senate and house education committees and appropriations committees, the state budget director, and the department not later than 30 days after the publication of the list described in subsection (8).

(5) By the first business day in December and by June 30 of each year, a district shall furnish to the center, in a manner prescribed by the center, information related to educational personnel as necessary for reporting required by state and federal law.

(6) By June 30 of each year, a district shall furnish to the center, in a manner prescribed by the center, information related to safety practices and criminal incidents as necessary for reporting required by state and federal law.

(7) If a district or intermediate district fails to meet the requirements of subsection (2), (3), (4), (5), or (6), the department shall withhold 5% of the total funds for which the district or intermediate district qualifies under this act until the district or intermediate district complies with all of those subsections. If the district or intermediate district does not comply with all of those subsections by the end of the fiscal year, the department shall place the amount withheld in an escrow account until the district or intermediate district complies with all of those subsections.

(8) Before publishing a list of schools or districts determined to have failed to make adequate yearly progress as required by the federal no child left behind act of 2001, Public Law 107-110, the department shall allow a school or district to appeal that determination. The department shall consider and act upon the appeal within 30 days after it is submitted and shall not publish the list until after all appeals have been considered and decided.

### **388.1620 Foundation allowance per membership pupil; payments to districts, public school academies, and university schools; definitions.**

Sec. 20. (1) For 2003-2004 and for 2004-2005, the basic foundation allowance is \$6,700.00 per membership pupil. For 2005-2006, the basic foundation allowance is \$6,875.00.

(2) The amount of each district’s foundation allowance shall be calculated as provided in this section, using a basic foundation allowance in the amount specified in subsection (1).

(3) Except as otherwise provided in this section, the amount of a district’s foundation allowance shall be calculated as follows, using in all calculations the total amount of the district’s foundation allowance as calculated before any proration:

(a) Except as otherwise provided in this subsection, for a district that in the immediately preceding state fiscal year had a foundation allowance in an amount at least equal

to the amount of the basic foundation allowance for the immediately preceding state fiscal year, the district shall receive a foundation allowance in an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the dollar amount of the adjustment from the immediately preceding state fiscal year to the current state fiscal year in the basic foundation allowance. However, for 2002-2003, the foundation allowance for a district under this subdivision is an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus \$200.00.

(b) For a district that in the 1994-95 state fiscal year had a foundation allowance greater than \$6,500.00, the district's foundation allowance is an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the lesser of the increase in the basic foundation allowance for the current state fiscal year, as compared to the immediately preceding state fiscal year, or the product of the district's foundation allowance for the immediately preceding state fiscal year times the percentage increase in the United States consumer price index in the calendar year ending in the immediately preceding fiscal year as reported by the May revenue estimating conference conducted under section 367b of the management and budget act, 1984 PA 431, MCL 18.1367b. For 2002-2003, for a district that in the 1994-95 state fiscal year had a foundation allowance greater than \$6,500.00, the district's foundation allowance is an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the lesser of \$200.00 or the product of the district's foundation allowance for the immediately preceding state fiscal year times the percentage increase in the United States consumer price index in the calendar year ending in the immediately preceding fiscal year as reported by the May revenue estimating conference conducted under section 367b of the management and budget act, 1984 PA 431, MCL 18.1367b.

(c) For a district that has a foundation allowance that is not a whole dollar amount, the district's foundation allowance shall be rounded up to the nearest whole dollar.

(d) For a district that received a payment under former section 22c for 2001-2002, the district's 2001-2002 foundation allowance shall be considered to have been an amount equal to the sum of the district's actual 2001-2002 foundation allowance as otherwise calculated under this section plus the per pupil amount of the district's equity payment for 2001-2002 under former section 22c.

(4) Except as otherwise provided in this subsection, the state portion of a district's foundation allowance is an amount equal to the district's foundation allowance or \$6,500.00, whichever is less, minus the difference between the product of the taxable value per membership pupil of all property in the district that is not a principal residence or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94 and the quotient of the ad valorem property tax revenue of the district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership excluding special education pupils. For a district described in subsection (3)(b), the state portion of the district's foundation allowance is an amount equal to \$6,962.00 plus the difference between the district's foundation allowance for the current state fiscal year and the district's foundation allowance for 1998-99, minus the difference between the product of the taxable value per membership pupil of all property in the district that is not a principal residence or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in



1993-94 and the quotient of the ad valorem property tax revenue of the district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership excluding special education pupils. For a district that has a millage reduction required under section 31 of article IX of the state constitution of 1963, the state portion of the district's foundation allowance shall be calculated as if that reduction did not occur. The \$6,500.00 amount prescribed in this subsection shall be adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and \$5,000.00, minus \$200.00.

(5) The allocation calculated under this section for a pupil shall be based on the foundation allowance of the pupil's district of residence. However, for a pupil enrolled in a district other than the pupil's district of residence, if the foundation allowance of the pupil's district of residence has been adjusted pursuant to subsection (19), the allocation calculated under this section shall not include the adjustment described in subsection (19). For a pupil enrolled pursuant to section 105 or 105c in a district other than the pupil's district of residence, the allocation calculated under this section shall be based on the lesser of the foundation allowance of the pupil's district of residence or the foundation allowance of the educating district. For a pupil in membership in a K-5, K-6, or K-8 district who is enrolled in another district in a grade not offered by the pupil's district of residence, the allocation calculated under this section shall be based on the foundation allowance of the educating district if the educating district's foundation allowance is greater than the foundation allowance of the pupil's district of residence. The calculation under this subsection shall take into account a district's per pupil allocation under section 20j(2).

(6) Subject to subsection (7) and section 22b(3) and except as otherwise provided in this subsection, for pupils in membership, other than special education pupils, in a public school academy or a university school, the allocation calculated under this section is an amount per membership pupil other than special education pupils in the public school academy or university school equal to the sum of the local school operating revenue per membership pupil other than special education pupils for the district in which the public school academy or university school is located and the state portion of that district's foundation allowance, or the sum of the basic foundation allowance under subsection (1) plus \$300.00, whichever is less. Notwithstanding section 101(2), for a public school academy that begins operations after the pupil membership count day, the amount per membership pupil calculated under this subsection shall be adjusted by multiplying that amount per membership pupil by the number of hours of pupil instruction provided by the public school academy after it begins operations, as determined by the department, divided by the minimum number of hours of pupil instruction required under section 101(3). The result of this calculation shall not exceed the amount per membership pupil otherwise calculated under this subsection.

(7) If more than 25% of the pupils residing within a district are in membership in 1 or more public school academies located in the district, then the amount per membership pupil calculated under this section for a public school academy located in the district shall be reduced by an amount equal to the difference between the product of the taxable value per membership pupil of all property in the district that is not a principal residence or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94 and the quotient of the ad valorem property tax revenue of the district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830,

the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership excluding special education pupils, in the school fiscal year ending in the current state fiscal year, calculated as if the resident pupils in membership in 1 or more public school academies located in the district were in membership in the district. In order to receive state school aid under this act, a district described in this subsection shall pay to the authorizing body that is the fiscal agent for a public school academy located in the district for forwarding to the public school academy an amount equal to that local school operating revenue per membership pupil for each resident pupil in membership other than special education pupils in the public school academy, as determined by the department.

(8) If a district does not receive an amount calculated under subsection (9); if the number of mills the district may levy on a principal residence and qualified agricultural property under section 1211(1) of the revised school code, MCL 380.1211, is 0.5 mills or less; and if the district elects not to levy those mills, the district instead shall receive a separate supplemental amount calculated under this subsection in an amount equal to the amount the district would have received had it levied those mills, as determined by the department of treasury. A district shall not receive a separate supplemental amount calculated under this subsection for a fiscal year unless in the calendar year ending in the fiscal year the district levies 18 mills or the number of mills of school operating taxes levied by the district in 1993, whichever is less, on property that is not a principal residence or qualified agricultural property.

(9) For a district that had combined state and local revenue per membership pupil in the 1993-94 state fiscal year of more than \$6,500.00 and that had fewer than 350 pupils in membership, if the district elects not to reduce the number of mills from which a principal residence and qualified agricultural property are exempt and not to levy school operating taxes on a principal residence and qualified agricultural property as provided in section 1211(1) of the revised school code, MCL 380.1211, and not to levy school operating taxes on all property as provided in section 1211(2) of the revised school code, MCL 380.1211, there is calculated under this subsection for 1994-95 and each succeeding fiscal year a separate supplemental amount in an amount equal to the amount the district would have received per membership pupil had it levied school operating taxes on a principal residence and qualified agricultural property at the rate authorized for the district under section 1211(1) of the revised school code, MCL 380.1211, and levied school operating taxes on all property at the rate authorized for the district under section 1211(2) of the revised school code, MCL 380.1211, as determined by the department of treasury. If in the calendar year ending in the fiscal year a district does not levy 18 mills or the number of mills of school operating taxes levied by the district in 1993, whichever is less, on property that is not a principal residence or qualified agricultural property, the amount calculated under this subsection will be reduced by the same percentage as the millage actually levied compares to the 18 mills or the number of mills levied in 1993, whichever is less.

(10) Subject to subsection (4), for a district that is formed or reconfigured after June 1, 2002 by consolidation of 2 or more districts or by annexation, the resulting district's foundation allowance under this section beginning after the effective date of the consolidation or annexation shall be the average of the foundation allowances of each of the original or affected districts, calculated as provided in this section, weighted as to the percentage of pupils in total membership in the resulting district who reside in the geographic area of each of the original or affected districts. The calculation under this subsection shall take into account a district's per pupil allocation under section 20j(2).

(11) Each fraction used in making calculations under this section shall be rounded to the fourth decimal place and the dollar amount of an increase in the basic foundation allowance shall be rounded to the nearest whole dollar.

(12) State payments related to payment of the foundation allowance for a special education pupil are not calculated under this section but are instead calculated under section 51a.

(13) To assist the legislature in determining the basic foundation allowance for the subsequent state fiscal year, each revenue estimating conference conducted under section 367b of the management and budget act, 1984 PA 431, MCL 18.1367b, shall calculate a pupil membership factor, a revenue adjustment factor, and an index as follows:

(a) The pupil membership factor shall be computed by dividing the estimated membership in the school year ending in the current state fiscal year, excluding intermediate district membership, by the estimated membership for the school year ending in the subsequent state fiscal year, excluding intermediate district membership. If a consensus membership factor is not determined at the revenue estimating conference, the principals of the revenue estimating conference shall report their estimates to the house and senate subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the revenue conference.

(b) The revenue adjustment factor shall be computed by dividing the sum of the estimated total state school aid fund revenue for the subsequent state fiscal year plus the estimated total state school aid fund revenue for the current state fiscal year, adjusted for any change in the rate or base of a tax the proceeds of which are deposited in that fund and excluding money transferred into that fund from the countercyclical budget and economic stabilization fund under section 353e of the management and budget act, 1984 PA 431, MCL 18.1353e, by the sum of the estimated total school aid fund revenue for the current state fiscal year plus the estimated total state school aid fund revenue for the immediately preceding state fiscal year, adjusted for any change in the rate or base of a tax the proceeds of which are deposited in that fund. If a consensus revenue factor is not determined at the revenue estimating conference, the principals of the revenue estimating conference shall report their estimates to the house and senate subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the revenue conference.

(c) The index shall be calculated by multiplying the pupil membership factor by the revenue adjustment factor. However, for 2005-2006, the index shall be 1.00. If a consensus index is not determined at the revenue estimating conference, the principals of the revenue estimating conference shall report their estimates to the house and senate subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the revenue conference.

(14) If the principals at the revenue estimating conference reach a consensus on the index described in subsection (13)(c), the basic foundation allowance for the subsequent state fiscal year shall be at least the amount of that consensus index multiplied by the basic foundation allowance specified in subsection (1).

(15) If at the January revenue estimating conference it is estimated that pupil membership, excluding intermediate district membership, for the subsequent state fiscal year will be greater than 101% of the pupil membership, excluding intermediate district membership, for the current state fiscal year, then it is the intent of the legislature that the executive budget proposal for the school aid budget for the subsequent state fiscal year include a general fund/general purpose allocation sufficient to support the membership in excess of 101% of the current year pupil membership.

(16) For a district that had combined state and local revenue per membership pupil in the 1993-94 state fiscal year of more than \$6,500.00, that had fewer than 7 pupils in membership in the 1993-94 state fiscal year, that has at least 1 child educated in the district in the current state fiscal year, and that levies the number of mills of school operating taxes authorized for the district under section 1211 of the revised school code, MCL 380.1211, a minimum amount of combined state and local revenue shall be calculated for the district as provided under this subsection. The minimum amount of combined state and local revenue for 1999-2000 shall be \$67,000.00 plus the district's additional expenses to educate pupils in grades 9 to 12 educated in other districts as determined and allowed by the department. The minimum amount of combined state and local revenue under this subsection, before adding the additional expenses, shall increase each fiscal year by the same percentage increase as the percentage increase in the basic foundation allowance from the immediately preceding fiscal year to the current fiscal year. The state portion of the minimum amount of combined state and local revenue under this subsection shall be calculated by subtracting from the minimum amount of combined state and local revenue under this subsection the sum of the district's local school operating revenue and an amount equal to the product of the sum of the state portion of the district's foundation allowance plus the amount calculated under section 20j times the district's membership. As used in this subsection, "additional expenses" means the district's expenses for tuition or fees, not to exceed \$6,500.00 as adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and \$5,000.00, minus \$200.00, plus a room and board stipend not to exceed \$10.00 per school day for each pupil in grades 9 to 12 educated in another district, as approved by the department.

(17) For a district in which 7.75 mills levied in 1992 for school operating purposes in the 1992-93 school year were not renewed in 1993 for school operating purposes in the 1993-94 school year, the district's combined state and local revenue per membership pupil shall be recalculated as if that millage reduction did not occur and the district's foundation allowance shall be calculated as if its 1994-95 foundation allowance had been calculated using that recalculated 1993-94 combined state and local revenue per membership pupil as a base. A district is not entitled to any retroactive payments for fiscal years before 2000-2001 due to this subsection.

(18) For a district in which an industrial facilities exemption certificate that abated taxes on property with a state equalized valuation greater than the total state equalized valuation of the district at the time the certificate was issued or \$700,000,000.00, whichever is greater, was issued under 1974 PA 198, MCL 207.551 to 207.572, before the calculation of the district's 1994-95 foundation allowance, the district's foundation allowance for 2002-2003 is an amount equal to the sum of the district's foundation allowance for 2002-2003, as otherwise calculated under this section, plus \$250.00.

(19) For a district that received a grant under former section 32e for 2001-2002, the district's foundation allowance for 2002-2003 and each succeeding fiscal year shall be adjusted to be an amount equal to the sum of the district's foundation allowance, as otherwise calculated under this section, plus the quotient of 100% of the amount of the grant award to the district for 2001-2002 under former section 32e divided by the number of pupils in the district's membership for 2001-2002 who were residents of and enrolled in the district. Except as otherwise provided in this subsection, a district qualifying for a foundation allowance adjustment under this subsection shall use the funds resulting from this adjustment for at least 1 of grades K to 3 for purposes allowable under former section 32e as in effect for 2001-2002. For an individual school or schools operated by a district qualifying for a foundation allowance under this subsection that have been determined by the department to meet the adequate yearly progress standards of the federal no child left

behind act of 2001, Public Law 107-110, in both mathematics and English language arts at all applicable grade levels for all applicable subgroups, the district may submit to the department an application for flexibility in using the funds resulting from this adjustment that are attributable to the pupils in the school or schools. The application shall identify the affected school or schools and the affected funds and shall contain a plan for using the funds for specific purposes identified by the district that are designed to reduce class size, but that may be different from the purposes otherwise allowable under this subsection. The department shall approve the application if the department determines that the purposes identified in the plan are reasonably designed to reduce class size. If the department does not act to approve or disapprove an application within 30 days after it is submitted to the department, the application is considered to be approved. If an application for flexibility in using the funds is approved, the district may use the funds identified in the application for any purpose identified in the plan.

(20) For a district that is a qualifying school district with a school reform board in place under part 5a of the revised school code, MCL 380.371 to 380.376, the district's foundation allowance for 2002-2003 shall be adjusted to be an amount equal to the sum of the district's foundation allowance, as otherwise calculated under this section, plus the quotient of \$15,000,000.00 divided by the district's membership for 2002-2003. If a district ceases to meet the requirements of this subsection, the department shall adjust the district's foundation allowance in effect at that time based on a 2002-2003 foundation allowance for the district that does not include the 2002-2003 adjustment under this subsection. This subsection only applies for 2002-2003, 2003-2004, and 2004-2005. Beginning in 2005-2006, the foundation allowance of a district that received an adjustment under this subsection for those fiscal years shall be calculated as if those adjustments did not occur.

(21) Payments to districts, university schools, or public school academies shall not be made under this section. Rather, the calculations under this section shall be used to determine the amount of state payments under section 22b.

(22) If an amendment to section 2 of article VIII of the state constitution of 1963 allowing state aid to some or all nonpublic schools is approved by the voters of this state, each foundation allowance or per pupil payment calculation under this section may be reduced.

(23) As used in this section:

(a) "Combined state and local revenue" means the aggregate of the district's state school aid received by or paid on behalf of the district under this section and the district's local school operating revenue.

(b) "Combined state and local revenue per membership pupil" means the district's combined state and local revenue divided by the district's membership excluding special education pupils.

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

(d) "Immediately preceding state fiscal year" means the state fiscal year immediately preceding the current state fiscal year.

(e) "Local school operating revenue" means school operating taxes levied under section 1211 of the revised school code, MCL 380.1211.

(f) "Local school operating revenue per membership pupil" means a district's local school operating revenue divided by the district's membership excluding special education pupils.

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

(h) “Principal residence” and “qualified agricultural property” mean those terms as defined in section 7dd of the general property tax act, 1893 PA 206, MCL 211.7dd.

(i) “School operating purposes” means the purposes included in the operation costs of the district as prescribed in sections 7 and 18.

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

(k) “Taxable value per membership pupil” means taxable value, as certified by the department of treasury, for the calendar year ending in the current state fiscal year divided by the district’s membership excluding special education pupils for the school year ending in the current state fiscal year.

### **388.1620j Foundation allowance supplemental payments; amounts.**

Sec. 20j. (1) Foundation allowance supplemental payments for 2005-2006 to districts that in the 1994-95 state fiscal year had a foundation allowance greater than \$6,500.00 shall be calculated under this section.

(2) The per pupil allocation to each district under this section shall be the difference between the dollar amount of the adjustment from the 1998-99 state fiscal year to the current state fiscal year in the basic foundation allowance minus the dollar amount of the adjustment from the 1998-99 state fiscal year to the current state fiscal year in the district’s foundation allowance.

(3) If a district’s local revenue per pupil does not exceed the sum of its foundation allowance under section 20 plus the per pupil allocation under subsection (2), the total payment to the district calculated under this section shall be the product of the per pupil allocation under subsection (2) multiplied by the district’s membership excluding special education pupils. If a district’s local revenue per pupil exceeds the foundation allowance under section 20 but does not exceed the sum of the foundation allowance under section 20 plus the per pupil allocation under subsection (2), the total payment to the district calculated under this section shall be the product of the difference between the sum of the foundation allowance under section 20 plus the per pupil allocation under subsection (2) minus the local revenue per pupil multiplied by the district’s membership excluding special education pupils. If a district’s local revenue per pupil exceeds the sum of the foundation allowance under section 20 plus the per pupil allocation under subsection (2), there is no payment calculated under this section for the district.

(4) Payments to districts shall not be made under this section. Rather, the calculations under this section shall be made and used to determine the amount of state payments under section 22b.

### **388.1622a Allocation for 2004-2005 and 2005-2006; payments to districts, university schools, and public school academies; definitions.**

Sec. 22a. (1) From the appropriation in section 11, there is allocated an amount not to exceed \$6,615,000,000.00 for 2004-2005 and an amount not to exceed \$6,459,000,000.00 for 2005-2006 for payments to districts, qualifying university schools, and qualifying public school academies to guarantee each district, qualifying university school, and qualifying public school academy an amount equal to its 1994-95 total state and local per pupil revenue for school operating purposes under section 11 of article IX of the state constitution of 1963. Pursuant to section 11 of article IX of the state constitution of 1963,

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

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

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

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

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

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

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

(6) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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



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

**388.1622b Allocations for 2004-2005 and 2005-2006; discretionary nonmandated payments; administration of standardized assessment; payments for litigation costs; allegation of unfunded constitutional requirement; escrowed funds as work project; use; determination; review of claim by local claims review board; removal to court of appeals; payment provisions.**

Sec. 22b. (1) From the appropriation in section 11, there is allocated an amount not to exceed \$2,923,200,000.00 for 2004-2005 and an amount not to exceed \$3,197,736,800.00 for 2005-2006 for discretionary nonmandated payments to districts under this section. Funds allocated under this section that are not expended in the state fiscal year for which they were allocated, as determined by the department, may be used to supplement the allocations under sections 22a and 51c in order to fully fund those calculated allocations for the same fiscal year.

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

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

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

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

(6) If the local claims review board or a court of competent jurisdiction makes a final determination that this state is in violation of section 29 of article IX of the state constitution of 1963 regarding state payments to districts, the state budget director shall use work project funds under subsection (5) or allocate from the discretionary funds for

nonmandated payments under this section the amount as may be necessary to satisfy the amount owed to districts before making any payments to districts under subsection (2).

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

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

(9) If a lawsuit challenging payments made to districts related to costs reimbursed by federal title XIX medicaid funds is filed against this state during 2001-2002, 2002-2003, or 2003-2004, 50% of the amount allocated in subsection (1) not previously paid out for 2002-2003, 2003-2004, and each succeeding fiscal year is a work project appropriation and the funds are carried forward into the following fiscal year. The purpose of the work project is to provide for any payments that may be awarded to districts as a result of the litigation. The work project shall be completed upon resolution of the litigation. In addition, this state reserves the right to terminate future federal title XIX medicaid reimbursement payments to districts if the amount or allocation of reimbursed funds is challenged in the lawsuit. As used in this subsection, "title XIX" means title XIX of the social security act, 42 USC 1396 to 1396v.

### **388.1622d Geographically isolated districts; payments.**

Sec. 22d. (1) From the amount allocated under section 22b, an amount not to exceed \$750,000.00 is allocated for 2005-2006 for additional payments to small, geographically isolated districts under this section.

(2) To be eligible for a payment under this section, a district shall meet all of the following:

(a) Operates grades K to 12.

(b) Has fewer than 250 pupils in membership.

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

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

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

(3) The amount of the additional funding to each eligible district under this section shall be determined under a spending plan developed as provided in this subsection and approved by the superintendent of public instruction. The spending plan shall be developed cooperatively by the intermediate superintendents of each intermediate district in which an eligible district is located. The intermediate superintendents shall review the financial situation of each eligible district, determine the minimum essential financial needs of each eligible district, and develop and agree on a spending plan that distributes the available funding under this section to the eligible districts based on those financial needs. The intermediate superintendents shall submit the spending plan to the superintendent of public instruction for approval. Upon approval by the superintendent of public instruction, the amounts specified for each eligible district under the spending plan