

HOUSE BILL No. 4445

March 15, 2011, Introduced by Rep. Moss and referred to the Committee on Appropriations.

A bill to amend 1979 PA 94, entitled
 "The state school aid act of 1979,"
 by amending sections 11, 11m, 22a, 22b, 51a, 51c, and 74 (MCL
 388.1611, 388.1611m, 388.1622a, 388.1622b, 388.1651a, 388.1651c,
 and 388.1674), sections 11, 11m, 22a, and 51a as amended by 2010 PA
 217 and sections 22b, 51c, and 74 as amended by 2010 PA 110.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (1) Subject to subsection (5), for the fiscal year
 2 ending September 30, 2011, there is appropriated for the public
 3 schools of this state and certain other state purposes relating to
 4 education the sum of ~~\$10,937,260,500.00~~ **\$10,757,260,500.00** from the
 5 state school aid fund and the sum of \$18,642,400.00 from the
 6 general fund. For the fiscal year ending September 30, 2011, there

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

9 (2) The appropriations under this section shall be allocated
10 as provided in this act. Money appropriated under this section from
11 the general fund shall be expended to fund the purposes of this act
12 before the expenditure of money appropriated under this section
13 from the state school aid fund. If the maximum amount appropriated
14 under this section from the state school aid fund for a fiscal year
15 exceeds the amount necessary to fully fund allocations under this
16 act from the state school aid fund, that excess amount shall not be
17 expended in that state fiscal year and shall not lapse to the
18 general fund, but instead shall be deposited into the school aid
19 stabilization fund created in section 11a. ~~For 2009-2010 only, if~~
20 ~~the department determines before bookclosing for the 2009-2010~~
21 ~~state fiscal year that the maximum amount appropriated under this~~
22 ~~section from the state school aid fund for 2009-2010 exceeds the~~
23 ~~amount necessary to fully fund allocations under this act from the~~
24 ~~state school aid fund for 2009-2010 and that state support for~~
25 ~~elementary and secondary education for 2009-2010 will fall below~~
26 ~~the level of support needed to comply with the maintenance of~~
27 ~~effort provisions under title XIV of the American recovery and~~

1 ~~reinvestment act of 2009, Public Law 111-5, then there is~~
2 ~~appropriated for 2009-2010 from the school aid stabilization fund~~
3 ~~an amount equal to \$30,000,000.00 or the amount that the department~~
4 ~~determines is necessary for the state support for elementary and~~
5 ~~secondary education to meet the level of support needed to comply~~
6 ~~with the maintenance of effort provisions under title XIV of the~~
7 ~~American recovery and reinvestment act of 2009, Public Law 111-5,~~
8 ~~whichever is greater. The department shall use any funds~~
9 ~~appropriated under this subsection as follows:~~

10 ~~—— (a) First, to allocate \$10,000,000.00 to provide funding to~~
11 ~~each intermediate district in an amount equal to the product of~~
12 ~~14.75% multiplied by the amount of funding allocated to that~~
13 ~~intermediate district under section 81 for 2009-2010 under 2010 PA~~
14 ~~110.~~

15 ~~—— (b) Second, to allocate the amount necessary, estimated at~~
16 ~~\$10,000,000.00, to provide funding under this subdivision to~~
17 ~~districts for which the amount of per pupil funding calculated and~~
18 ~~allocated under section 11p(2) is less than \$154.00. The payment to~~
19 ~~a district under this subdivision is an amount equal to the~~
20 ~~difference between \$154.00 and the per pupil funding amount~~
21 ~~calculated and allocated under section 11p(2) for the district,~~
22 ~~multiplied by the district's 2010-2011 membership used for the~~
23 ~~October 2010 payment.~~

24 ~~—— (c) Third, to allocate any remaining funds to reduce the~~
25 ~~amount of the per pupil reduction under section 11d(1) for 2009-~~
26 ~~2010.~~

27 (3) If the maximum amount appropriated under this section from

1 the state school aid fund and the school aid stabilization fund for
2 a fiscal year exceeds the amount available for expenditure from the
3 state school aid fund for that fiscal year, payments under sections
4 11f, 11g, 11j, 22a, 26a, 26b, 31d, 31f, 51a(2), 51a(12), 51c, 53a,
5 56, and 152a shall be made in full. In addition, for districts
6 beginning operations after 1994-95 that qualify for payments under
7 section 22b, payments under section 22b shall be made so that the
8 qualifying districts receive the lesser of an amount equal to the
9 1994-95 foundation allowance of the district in which the district
10 beginning operations after 1994-95 is located or \$5,500.00. The
11 amount of the payment to be made under section 22b for these
12 qualifying districts shall be as calculated under section 22a, with
13 the balance of the payment under section 22b being subject to the
14 proration otherwise provided under this subsection and subsection
15 (4). If proration is necessary, state payments under each of the
16 other sections of this act from all state funding sources shall be
17 prorated in the manner prescribed in subsection (4) as necessary to
18 reflect the amount available for expenditure from the state school
19 aid fund for the affected fiscal year. However, if the department
20 of treasury determines that proration will be required under this
21 subsection, or if the department of treasury determines that
22 further proration is required under this subsection after an
23 initial proration has already been made for a fiscal year, the
24 department of treasury shall notify the state budget director, and
25 the state budget director shall notify the legislature at least 30
26 calendar days or 6 legislative session days, whichever is more,
27 before the department reduces any payments under this act because

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

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

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

18 (i) Districts.

19 (ii) Intermediate districts.

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

21 (b) The department shall recover a percentage of the proration
22 amount required under subsection (3) that is equal to the
23 percentage calculated under subdivision (a) (i) for districts by
24 reducing payments to districts. This reduction shall be made by
25 calculating an equal dollar amount per pupil as necessary to
26 recover this percentage of the proration amount and reducing each
27 district's total state school aid from state sources, other than

1 payments under sections 11f, 11g, 11j, 22a, 26a, 26b, 31d, 31f,
2 51a(2), 51a(12), 51c, 53a, and 152a, by that amount.

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

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

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

21 Sec. 11m. From the appropriations in section 11, there is
22 allocated ~~for 2009-2010 an amount not to exceed \$12,000,000.00 and~~
23 ~~for 2010-2011 there is allocated an amount not to exceed~~
24 ~~\$45,000,000.00~~ **\$15,000,000.00** for fiscal year cash-flow borrowing
25 costs solely related to the state school aid fund established by
26 section 11 of article IX of the state constitution of 1963.

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

1 allocated ~~an amount not to exceed \$5,796,241,000.00 for 2009-2010~~
2 ~~and an amount not to exceed \$5,764,000,000.00~~ **\$5,737,000,000.00** for
3 2010-2011 for payments to districts, qualifying university schools,
4 and qualifying public school academies to guarantee each district,
5 qualifying university school, and qualifying public school academy
6 an amount equal to its 1994-95 total state and local per pupil
7 revenue for school operating purposes under section 11 of article
8 IX of the state constitution of 1963. Pursuant to section 11 of
9 article IX of the state constitution of 1963, this guarantee does
10 not apply to a district in a year in which the district levies a
11 millage rate for school district operating purposes less than it
12 levied in 1994. However, subsection (2) applies to calculating the
13 payments under this section. Funds allocated under this section
14 that are not expended in the state fiscal year for which they were
15 allocated, as determined by the department, may be used to
16 supplement the allocations under sections 22b and 51c in order to
17 fully fund those calculated allocations for the same fiscal year.

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

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

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

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

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

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

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

1 purpose of calculations under this subsection to be equal to the
2 amount of the 1994-95 basic foundation allowance.

3 (6) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

22 (l) "Tax increment financing acts" means 1975 PA 197, MCL
23 125.1651 to 125.1681, the tax increment finance authority act, 1980
24 PA 450, MCL 125.1801 to 125.1830, the local development financing
25 act, 1986 PA 281, MCL 125.2151 to 125.2174, the brownfield
26 redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672,
27 or the corridor improvement authority act, 2005 PA 280, MCL

1 125.2871 to 125.2899.

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

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

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

19 Sec. 22b. (1) From the state funds appropriated in section 11,
20 ~~there is allocated for 2009-2010 an amount not to exceed~~
21 ~~\$3,289,000,000.00 and there is allocated for 2010-2011 an amount~~
22 ~~not to exceed \$3,573,500,000.00~~ **\$3,558,424,700.00** for discretionary
23 nonmandated payments to districts under this section. Funds
24 allocated under this section that are not expended in the state
25 fiscal year for which they were allocated, as determined by the
26 department, may be used to supplement the allocations under
27 sections 22a and 51c in order to fully fund those calculated

1 allocations for the same fiscal year.

2 (2) In addition to the funds allocated in subsection (1),
3 ~~there is allocated an amount estimated at \$450,000,000.00 for 2009-~~
4 ~~2010 and~~ there is allocated an amount estimated at \$184,256,600.00
5 for 2010-2011 from the federal funds awarded to this state under
6 title XIV of the American recovery and reinvestment act of 2009,
7 Public Law 111-5. These funds shall be distributed in a form and
8 manner determined by the department based on an equal dollar amount
9 per the number of membership pupils used to calculate the final
10 state aid payment of the immediately preceding fiscal year and
11 shall be expended in a manner prescribed by federal law.

12 (3) Subject to subsection (4) and section 11, the allocation
13 to a district under this section shall be an amount equal to the
14 sum of the amounts calculated under sections 20, 20j, 51a(2),
15 51a(3), and 51a(12), minus the sum of the allocations to the
16 district under sections 22a and 51c.

17 (4) In order to receive an allocation under subsection (1),
18 each district shall do all of the following:

19 (a) Administer in each grade level that it operates in grades
20 1 to 5 a standardized assessment approved by the department of
21 grade-appropriate basic educational skills. A district may use the
22 Michigan literacy progress profile to satisfy this requirement for
23 grades 1 to 3. Also, if the revised school code is amended to
24 require annual assessments at additional grade levels, in order to
25 receive an allocation under this section each district shall comply
26 with that requirement.

27 (b) Comply with sections 1278a and 1278b of the revised school

1 code, MCL 380.1278a and 380.1278b.

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

5 (d) Comply with section 1230g of the revised school code, MCL
6 380.1230g.

7 (5) Districts are encouraged to use funds allocated under this
8 section for the purchase and support of payroll, human resources,
9 and other business function software that is compatible with that
10 of the intermediate district in which the district is located and
11 with other districts located within that intermediate district.

12 (6) From the allocation in subsection (1), the department
13 shall pay up to \$1,000,000.00 in litigation costs incurred by this
14 state related to commercial or industrial property tax appeals,
15 including, but not limited to, appeals of classification, that
16 impact revenues dedicated to the state school aid fund.

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

25 (8) It is the intent of the legislature that all
26 constitutional obligations of this state have been fully funded
27 under sections 22a, 31d, 51a, and 51c. If a claim is made by an

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

13 (9) If the local claims review board or a court of competent
14 jurisdiction makes a final determination that this state is in
15 violation of section 29 of article IX of the state constitution of
16 1963 regarding state payments to districts, the state budget
17 director shall use work project funds under subsection (8) or
18 allocate from the discretionary funds for nonmandated payments
19 under this section the amount as may be necessary to satisfy the
20 amount owed to districts before making any payments to districts
21 under subsection (3).

22 (10) If a claim is made in court that challenges the
23 legislative determination of the adequacy of funding for this
24 state's constitutional obligations or alleges that there exists an
25 unfunded constitutional requirement, any interested party may seek
26 an expedited review of the claim by the local claims review board.
27 If the claim exceeds \$10,000,000.00, this state may remove the

1 action to the court of appeals, and the court of appeals shall have
2 and shall exercise jurisdiction over the claim.

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

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

1 Sec. 51a. (1) From the appropriation in section 11, ~~there is~~
2 ~~allocated for 2009-2010 an amount not to exceed \$1,016,342,000.00~~
3 ~~and~~ there is allocated for 2010-2011 an amount not to exceed
4 ~~\$1,057,883,000.00~~ **\$947,683,000.00** from state sources and all
5 available federal funding under sections 611 to 619 of part B of
6 the individuals with disabilities education act, 20 USC 1411 to
7 1419, ~~estimated at \$350,700,000.00 for 2009-2010 and estimated at~~
8 ~~\$385,700,000.00 for 2010-2011, plus any carryover federal funds~~
9 from previous year appropriations. The allocations under this
10 subsection are for the purpose of reimbursing districts and
11 intermediate districts for special education programs, services,
12 and special education personnel as prescribed in article 3 of the
13 revised school code, MCL 380.1701 to 380.1766; net tuition payments
14 made by intermediate districts to the Michigan schools for the deaf
15 and blind; and special education programs and services for pupils
16 who are eligible for special education programs and services
17 according to statute or rule. For meeting the costs of special
18 education programs and services not reimbursed under this article,
19 a district or intermediate district may use money in general funds
20 or special education funds, not otherwise restricted, or
21 contributions from districts to intermediate districts, tuition
22 payments, gifts and contributions from individuals, or federal
23 funds that may be available for this purpose, as determined by the
24 intermediate district plan prepared pursuant to article 3 of the
25 revised school code, MCL 380.1701 to 380.1766. All federal funds
26 allocated under this section in excess of those allocated under
27 this section for 2002-2003 may be distributed in accordance with

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

7 (2) From the funds allocated under subsection (1), there is
8 allocated ~~each fiscal year~~ **FOR 2010-2011** the amount necessary,
9 ~~estimated at \$234,780,000.00 for 2009-2010 and estimated at~~
10 ~~\$248,200,000.00 for 2010-2011,~~ **\$236,300,000.00**, for payments toward
11 reimbursing districts and intermediate districts for 28.6138% of
12 total approved costs of special education, excluding costs
13 reimbursed under section 53a, and 70.4165% of total approved costs
14 of special education transportation. Allocations under this
15 subsection shall be made as follows:

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

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

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

14 (3) From the funds allocated under subsection (1), there is
15 allocated ~~each fiscal year for 2009-2010 and for 2010-2011~~ the
16 amount necessary, estimated at ~~\$1,329,000.00 for 2009-2010 and~~
17 ~~estimated at \$1,400,000.00, for 2010-2011,~~ to make payments to
18 districts and intermediate districts under this subsection. If the
19 amount allocated to a district or intermediate district for a
20 fiscal year under subsection (2)(b) is less than the sum of the
21 amounts allocated to the district or intermediate district for
22 1996-97 under sections 52 and 58, there is allocated to the
23 district or intermediate district for the fiscal year an amount
24 equal to that difference, adjusted by applying the same proration
25 factor that was used in the distribution of funds under section 52
26 in 1996-97 as adjusted to the district's or intermediate district's
27 necessary costs of special education used in calculations for the

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

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

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

1 requirements, except that an amount not to exceed \$3,500,000.00 may
2 be allocated by the department ~~each fiscal year for 2009-2010 and~~
3 for 2010-2011 to districts, intermediate districts, or other
4 eligible entities on a competitive grant basis for programs,
5 equipment, and services that the department determines to be
6 designed to benefit or improve special education on a statewide
7 scale.

8 (6) From the amount allocated in subsection (1), there is
9 ~~allocated an amount not to exceed \$1,750,000.00 for 2009-2010 and~~
10 an amount not to exceed \$2,200,000.00 for 2010-2011 to reimburse
11 100% of the net increase in necessary costs incurred by a district
12 or intermediate district in implementing the revisions in the
13 administrative rules for special education that became effective on
14 July 1, 1987. As used in this subsection, "net increase in
15 necessary costs" means the necessary additional costs incurred
16 solely because of new or revised requirements in the administrative
17 rules minus cost savings permitted in implementing the revised
18 rules. Net increase in necessary costs shall be determined in a
19 manner specified by the department.

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

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

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

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

1 transfer of those teachers and aides.

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

19 (d) Reimbursement for ancillary and other related services, as
20 defined by R 340.1701c of the Michigan administrative code, shall
21 not be provided when those services are covered by and available
22 through private group health insurance carriers or federal
23 reimbursed program sources unless the department and district or
24 intermediate district agree otherwise and that agreement is
25 approved by the state budget director. Expenses, other than the
26 incidental expense of filing, shall not be borne by the parent. In
27 addition, the filing of claims shall not delay the education of a

1 pupil. A district or intermediate district shall be responsible for
2 payment of a deductible amount and for an advance payment required
3 until the time a claim is paid.

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

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

24 (9) A pupil who is enrolled in a full-time special education
25 program conducted or administered by an intermediate district or a
26 pupil who is enrolled in the Michigan schools for the deaf and
27 blind shall not be included in the membership count of a district,

1 but shall be counted in membership in the intermediate district of
2 residence.

3 (10) Special education personnel transferred from 1 district
4 to another to implement the revised school code shall be entitled
5 to the rights, benefits, and tenure to which the person would
6 otherwise be entitled had that person been employed by the
7 receiving district originally.

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

14 (12) From the funds allocated in subsection (1), there is
15 allocated ~~each fiscal year~~ **FOR 2010-2011** the amount necessary,
16 ~~estimated at \$6,200,000.00 for 2009-2010 and estimated at~~
17 ~~\$6,600,000.00 for 2010-2011,~~ **\$5,000,000.00**, to pay the foundation
18 allowances for pupils described in this subsection. The allocation
19 to a district under this subsection shall be calculated by
20 multiplying the number of pupils described in this subsection who
21 are counted in membership in the district times the sum of the
22 foundation allowance under section 20 of the pupil's district of
23 residence plus the amount of the district's per pupil allocation
24 under section 20j(2), not to exceed the basic foundation allowance
25 under section 20 for the current fiscal year, or, for a pupil
26 described in this subsection who is counted in membership in a
27 district that is a public school academy or university school,

1 times an amount equal to the amount per membership pupil under
2 section 20(6). The allocation to an intermediate district under
3 this subsection shall be calculated in the same manner as for a
4 district, using the foundation allowance under section 20 of the
5 pupil's district of residence, not to exceed the basic foundation
6 allowance under section 20 for the current fiscal year, and that
7 district's per pupil allocation under section 20j(2). This
8 subsection applies to all of the following pupils:

9 (a) Pupils described in section 53a.

10 (b) Pupils counted in membership in an intermediate district
11 who are not special education pupils and are served by the
12 intermediate district in a juvenile detention or child caring
13 facility.

14 (c) Emotionally impaired pupils counted in membership by an
15 intermediate district and provided educational services by the
16 department of community health.

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

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

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

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

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

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

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

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

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

25 Sec. 51c. As required by the court in the consolidated cases
26 known as Durant v State of Michigan, Michigan supreme court docket
27 no. 104458-104492, from the allocation under section 51a(1), there

1 is allocated ~~each fiscal year for 2009-2010 and for 2010-2011~~ the
2 amount necessary, estimated at ~~\$702,500,000.00 for 2009-2010 and~~
3 ~~estimated at \$732,100,000.00 for 2010-2011,~~ **\$635,400,000.00**, for
4 payments to reimburse districts for 28.6138% of total approved
5 costs of special education excluding costs reimbursed under section
6 53a, and 70.4165% of total approved costs of special education
7 transportation. Funds allocated under this section that are not
8 expended in the state fiscal year for which they were allocated, as
9 determined by the department, may be used to supplement the
10 allocations under sections 22a and 22b in order to fully fund those
11 calculated allocations for the same fiscal year.

12 Sec. 74. (1) From the amount appropriated in section 11, ~~there~~
13 ~~is allocated an amount not to exceed \$3,028,500.00 for 2009-2010~~
14 ~~and there is allocated an amount not to exceed \$2,058,800.00~~
15 **\$2,558,800.00** for 2010-2011 for the purposes of this section.

16 (2) From the allocation in subsection (1), there is allocated
17 for each fiscal year the amount necessary for payments to state
18 supported colleges or universities and intermediate districts
19 providing school bus driver safety instruction pursuant to section
20 51 of the pupil transportation act, 1990 PA 187, MCL 257.1851. The
21 payments shall be in an amount determined by the department not to
22 exceed 75% of the actual cost of instruction and driver
23 compensation for each public or nonpublic school bus driver
24 attending a course of instruction. For the purpose of computing
25 compensation, the hourly rate allowed each school bus driver shall
26 not exceed the hourly rate received for driving a school bus.
27 Reimbursement compensating the driver during the course of

1 instruction shall be made by the department to the college or
2 university or intermediate district providing the course of
3 instruction.

4 (3) From the allocation in subsection (1), there is allocated
5 each fiscal year the amount necessary to pay the reasonable costs
6 of nonspecial education auxiliary services transportation provided
7 pursuant to section 1323 of the revised school code, MCL 380.1323.
8 Districts funded under this subsection shall not receive funding
9 under any other section of this act for nonspecial education
10 auxiliary services transportation.

11 (4) From the funds allocated in subsection (1), there is
12 allocated ~~an amount not to exceed \$1,403,500.00 for 2009-2010 and~~
13 an amount not to exceed ~~\$433,800.00~~ **\$933,800.00** for 2010-2011 for
14 reimbursement to districts and intermediate districts for costs
15 associated with the inspection of school buses and pupil
16 transportation vehicles by the department of state police as
17 required under section 715a of the Michigan vehicle code, 1949 PA
18 300, MCL 257.715a, and section 39 of the pupil transportation act,
19 1990 PA 187, MCL 257.1839. The department of state police shall
20 prepare a statement of costs attributable to each district for
21 which bus inspections are provided and submit it to the department
22 and to each affected district in a time and manner determined
23 jointly by the department and the department of state police. The
24 department shall reimburse each district and intermediate district
25 for costs detailed on the statement within 30 days after receipt of
26 the statement. Districts for which services are provided shall make
27 payment in the amount specified on the statement to the department

1 of state police within 45 days after receipt of the statement. The
2 total reimbursement of costs under this subsection shall not exceed
3 the amount allocated under this subsection. Notwithstanding section
4 17b, payments to eligible entities under this subsection shall be
5 paid on a schedule prescribed by the department.

6 Enacting section 1. In accordance with section 30 of article
7 IX of the state constitution of 1963, total state spending in this
8 amendatory act and in 2010 PA 217 from state sources for fiscal
9 year 2010-2011 is estimated at \$10,775,902,900.00 and state
10 appropriations to be paid to local units of government for fiscal
11 year 2010-2011 are estimated at \$10,673,832,600.00.