

**SUBSTITUTE FOR
SENATE BILL NO. 8**

A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending sections 11, 22b, 31f, 39a, 51a, 51c, 53a, 54, and 147c
(MCL 388.1611, 388.1622b, 388.1631f, 388.1639a, 388.1651a,
388.1651c, 388.1653a, 388.1654, and 388.1747c), sections 11 and 51a
as amended by 2022 PA 212 and sections 22b, 31f, 39a, 51c, 53a, 54,
and 147c as amended by 2022 PA 144.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (1) **For the fiscal year ending September 30, 2022,**
2 **there is appropriated for the public schools of this state and**
3 **certain other state purposes relating to education the sum of**
4 **\$14,511,014,700.00 from the state school aid fund, the sum of**
5 **\$98,119,400.00 from the general fund, an amount not to exceed**

1 \$72,000,000.00 from the community district education trust fund
 2 created under section 12 of the Michigan trust fund act, 2000 PA
 3 489, MCL 12.262, and an amount not to exceed \$100.00 from the water
 4 emergency reserve fund. For the fiscal year ending September 30,
 5 2023, there is appropriated for the public schools of this state
 6 and certain other state purposes relating to education the sum of
 7 \$16,754,072,900.00 from the state school aid fund, the sum of
 8 \$124,200,000.00 from the general fund, an amount not to exceed
 9 \$72,000,000.00 from the community district education trust fund
 10 created under section 12 of the Michigan trust fund act, 2000 PA
 11 489, MCL 12.262, and an amount not to exceed \$140,400,000.00 from
 12 the MPERS retirement obligation reform reserve fund created under
 13 section 147b. In addition, all available federal funds are only
 14 appropriated as allocated in this article for the fiscal ~~year~~**years**
 15 ending **September 30, 2022 and** September 30, 2023.

16 (2) The appropriations under this section are allocated as
 17 provided in this article. Money appropriated under this section
 18 from the general fund must be expended to fund the purposes of this
 19 article before the expenditure of money appropriated under this
 20 section from the state school aid fund.

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

24 Sec. 22b. (1) For discretionary nonmandated payments to
 25 districts under this section, there is allocated for 2021-2022 an
 26 amount not to exceed \$5,094,000,000.00 from the state school aid
 27 fund and general fund appropriations in section 11 and an amount
 28 not to exceed \$72,000,000.00 from the community district education
 29 trust fund appropriation in section 11, and there is allocated for

1 2022-2023 an amount not to exceed \$5,686,000,000.00 from the state
2 school aid fund and general fund appropriations in section 11 and
3 an amount not to exceed \$72,000,000.00 from the community district
4 education trust fund appropriation in section 11. ~~Of the funds~~
5 ~~allocated under this section for~~ **For 2021-2022, an amount not to**
6 **exceed \$14,500,000.00** ~~represents the amount of~~ **must be deposited**
7 **from** the general fund ~~revenue deposited~~ into the state school aid
8 fund to reimburse the state school aid fund for community district
9 education trust fund costs in excess of \$72,000,000.00, ~~Of the~~
10 ~~funds allocated under this section for~~ **as required under section 12**
11 **of the Michigan trust fund act, 2000 PA 489, MCL 12.262. For 2022-**
12 **2023, \$19,500,000.00** ~~represents the amount of~~ **must be deposited**
13 **from** the general fund ~~revenue deposited~~ into the state school aid
14 fund to reimburse the state school aid fund for community district
15 education trust fund costs in excess of \$72,000,000.00, **as required**
16 **under section 12 of the Michigan trust fund act, 2000 PA 489, MCL**
17 **12.262.** If the amount allocated under this subsection from the
18 community district education trust fund appropriation under section
19 11 is insufficient to pay for an increase under this section, any
20 amount exceeding that allocation may be paid from other allocations
21 under this subsection. Except for money allocated under this
22 section from the community district education trust fund
23 appropriation in section 11, funds allocated under this section
24 that are not expended in the fiscal year for which they were
25 allocated, as determined by the department, may be used to
26 supplement the allocations under sections 22a and 51c to fully fund
27 those allocations for the same fiscal year. For each fund transfer
28 as described in the immediately preceding sentence that occurs, the
29 state budget director shall send notification of the transfer to

1 the house and senate appropriations subcommittees on ~~state~~-school
2 aid and the house and senate fiscal agencies by not later than 14
3 calendar days after the transfer occurs.

4 (2) Subject to subsection (3) and section 296, the allocation
5 to a district under this section is an amount equal to the sum of
6 the amounts calculated under sections 20, 20m, 51a(2), 51a(3), and
7 51a(11), minus the sum of the allocations to the district under
8 sections 22a and 51c. For a community district, the allocation as
9 otherwise calculated under this section is increased by an amount
10 equal to the amount of local school operating tax revenue that
11 would otherwise be due to the community district if not for the
12 operation of section 386 of the revised school code, MCL 380.386,
13 and this increase must be paid from the community district
14 education trust fund allocation in subsection (1) in order to
15 offset the absence of local school operating revenue in a community
16 district in the funding of the state portion of the foundation
17 allowance under section 20(4).

18 (3) In order to receive an allocation under subsection (1),
19 each district must do all of the following:

20 (a) Comply with section 1280b of the revised school code, MCL
21 380.1280b.

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

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

27 (d) Comply with section 1230g of the revised school code, MCL
28 380.1230g.

29 (e) Comply with section 21f.

1 (f) For a district that has entered into a partnership
2 agreement with the department, comply with section 22p.

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

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

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

21 (7) It is the intent of the legislature that all
22 constitutional obligations of this state have been fully funded
23 under sections 22a, 31d, 51a, 51c, 51e, and 152a. If a claim is
24 made by an entity receiving funds under this article that
25 challenges the legislative determination of the adequacy of this
26 funding or alleges that there exists an unfunded constitutional
27 requirement, the state budget director may escrow or allocate from
28 the discretionary funds for nonmandated payments under this section
29 the amount as may be necessary to satisfy the claim before making

1 any payments to districts under subsection (2). If funds are
2 escrowed, the escrowed funds are a work project appropriation and
3 the funds are carried forward into the following fiscal year. The
4 purpose of the work project is to provide for any payments that may
5 be awarded to districts as a result of litigation. The work project
6 is completed upon resolution of the litigation.

7 (8) If the local claims review board or a court of competent
8 jurisdiction makes a final determination that this state is in
9 violation of section 29 of article IX of the state constitution of
10 1963 regarding state payments to districts, the state budget
11 director shall use work project funds under subsection (7) or
12 allocate from the discretionary funds for nonmandated payments
13 under this section the amount as may be necessary to satisfy the
14 amount owed to districts before making any payments to districts
15 under subsection (2).

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

24 (10) If payments resulting from a final determination by the
25 local claims review board or a court of competent jurisdiction that
26 there has been a violation of section 29 of article IX of the state
27 constitution of 1963 exceed the amount allocated for discretionary
28 nonmandated payments under this section, the legislature shall
29 provide for adequate funding for this state's constitutional

1 obligations at its next legislative session.

2 (11) If a lawsuit challenging payments made to districts
3 related to costs reimbursed by federal title XIX Medicaid funds is
4 filed against this state, then, for the purpose of addressing
5 potential liability under such a lawsuit, the state budget director
6 may place funds allocated under this section in escrow or allocate
7 money from the funds otherwise allocated under this section, up to
8 a maximum of 50% of the amount allocated in subsection (1). If
9 funds are placed in escrow under this subsection, those funds are a
10 work project appropriation and the funds are carried forward into
11 the following fiscal year. The purpose of the work project is to
12 provide for any payments that may be awarded to districts as a
13 result of the litigation. The work project is completed upon
14 resolution of the litigation. In addition, this state reserves the
15 right to terminate future federal title XIX Medicaid reimbursement
16 payments to districts if the amount or allocation of reimbursed
17 funds is challenged in the lawsuit. As used in this subsection,
18 "title XIX" means title XIX of the social security act, 42 USC 1396
19 to ~~1396w-5~~. **1396w-6**.

20 (12) As used in this section:

21 (a) "Dissolved district" means that term as defined in section
22 20.

23 (b) "Local school operating revenue" means school operating
24 taxes levied under section 1211 of the revised school code, MCL
25 380.1211. For a receiving district, if school operating taxes are
26 to be levied on behalf of a dissolved district that has been
27 attached in whole or in part to the receiving district to satisfy
28 debt obligations of the dissolved district under section 12 of the
29 revised school code, MCL 380.12, local school operating revenue

1 does not include school operating taxes levied within the
2 geographic area of the dissolved district.

3 (c) "Receiving district" and "school operating taxes" mean
4 those terms as defined in section 20.

5 Sec. 31f. (1) From the state school aid fund money
6 appropriated in section 11, there is allocated an amount not to
7 exceed **\$12,400,000.00 for 2021-2022 and** \$11,900,000.00 for 2022-
8 2023 for the purpose of making payments to districts to reimburse
9 for the cost of providing breakfast.

10 (2) The funds allocated under this section for school
11 breakfast programs are made available to all eligible applicant
12 districts that meet all of the following criteria:

13 (a) The district participates in the federal school breakfast
14 program and meets all standards as prescribed by 7 CFR parts 210,
15 220, 225, 226, and 245.

16 (b) Each breakfast eligible for payment meets the federal
17 standards described in subdivision (a).

18 (3) The payment for a district under this section is at a per
19 meal rate equal to the lesser of the district's actual cost or 100%
20 of the statewide average cost of a meal served, as determined and
21 approved by the department, less federal reimbursement, participant
22 payments, and other state reimbursement. The department shall
23 determine the statewide average cost using costs as reported in a
24 manner approved by the department for the preceding school year.

25 (4) Notwithstanding section 17b, the department may make
26 payments under this section pursuant to an agreement with the
27 department.

28 (5) In purchasing food for a school breakfast program funded
29 under this section, a district shall give preference to food that

1 is grown or produced by Michigan businesses if it is competitively
2 priced and of comparable quality.

3 Sec. 39a. (1) From the federal funds appropriated in section
4 11, there is allocated for 2022-2023 to districts, intermediate
5 districts, and other eligible entities all available federal
6 funding, estimated at ~~\$752,300,000.00~~, **\$780,200,000.00**, for the
7 federal programs under the no child left behind act of 2001, Public
8 Law 107-110, or the every student succeeds act, Public Law 114-95.
9 These funds are allocated as follows:

10 (a) An amount estimated at \$1,200,000.00 for 2022-2023 to
11 provide students with drug- and violence-prevention programs and to
12 implement strategies to improve school safety, funded from DED-
13 OESE, drug-free schools and communities funds.

14 (b) An amount estimated at \$100,000,000.00 for 2022-2023 for
15 the purpose of preparing, training, and recruiting high-quality
16 teachers and class size reduction, funded from DED-OESE, improving
17 teacher quality funds.

18 (c) An amount estimated at \$13,000,000.00 for 2022-2023 for
19 programs to teach English to limited English proficient (LEP)
20 children, funded from DED-OESE, language acquisition state grant
21 funds.

22 (d) An amount estimated at \$2,800,000.00 for 2022-2023 for
23 rural and low-income schools, funded from DED-OESE, rural and low
24 income school funds.

25 (e) An amount estimated at \$535,000,000.00 for 2022-2023 to
26 provide supplemental programs to enable educationally disadvantaged
27 children to meet challenging academic standards, funded from DED-
28 OESE, title I, disadvantaged children funds.

29 (f) An amount estimated at \$9,200,000.00 for 2022-2023 for the

1 purpose of identifying and serving migrant children, funded from
2 DED-OESE, title I, migrant education funds.

3 (g) An amount estimated at \$39,000,000.00 for 2022-2023 for
4 the purpose of providing high-quality extended learning
5 opportunities, after school and during the summer, for children in
6 low-performing schools, funded from DED-OESE, twenty-first century
7 community learning center funds.

8 (h) An amount estimated at \$14,000,000.00 for 2022-2023 to
9 help support local school improvement efforts, funded from DED-
10 OESE, title I, local school improvement grants.

11 (i) An amount estimated at \$35,000,000.00 for 2022-2023 to
12 improve the academic achievement of students, funded from DED-OESE,
13 title IV, student support and academic enrichment grants.

14 (j) An amount estimated at \$3,100,000.00 for 2022-2023 for
15 literacy programs that advance literacy skills for students from
16 birth through grade 12, including, but not limited to, English-
17 proficient students and students with disabilities, funded from
18 DED-OESE, striving readers comprehensive literacy program.

19 **(k) An amount estimated at \$27,900,000.00 for 2022-2023 to**
20 **establish safer and healthier learning environments, and to prevent**
21 **and respond to acts of bullying, violence, and hate that impact**
22 **school communities at individual and systemic levels, funded from**
23 **DED-OESE, stronger connections grant program.**

24 (2) From the federal funds appropriated in section 11, there
25 is allocated to districts, intermediate districts, and other
26 eligible entities all available federal funding, estimated at
27 \$56,500,000.00 for 2022-2023 for the following programs that are
28 funded by federal grants:

29 (a) An amount estimated at \$3,000,000.00 for 2022-2023 to

1 provide services to homeless children and youth, funded from DED-
2 OVAE, homeless children and youth funds.

3 (b) An amount estimated at \$24,000,000.00 for 2022-2023 for
4 providing career and technical education services to pupils, funded
5 from DED-OVAE, basic grants to states.

6 (c) An amount estimated at \$14,000,000.00 for 2022-2023 for
7 the Michigan charter school subgrant program, funded from DED-OII,
8 public charter schools program funds.

9 (d) An amount estimated at \$14,000,000.00 for 2022-2023 for
10 the purpose of promoting and expanding high-quality preschool
11 services, funded from HHS-OCC, preschool development funds.

12 (e) An amount estimated at \$1,500,000.00 for 2022-2023 for the
13 purpose of addressing priority substance abuse treatment,
14 prevention, and mental health needs, funded from HHS-SAMHSA.

15 (3) The department shall distribute all federal funds
16 allocated under this section in accordance with federal law and
17 with flexibility provisions outlined in Public Law 107-116, and in
18 the education flexibility partnership act of 1999, Public Law 106-
19 25. Notwithstanding section 17b, the department shall make payments
20 of federal funds to districts, intermediate districts, and other
21 eligible entities under this section on a schedule determined by
22 the department.

23 (4) For the purposes of applying for federal grants
24 appropriated under this article, the department shall allow an
25 intermediate district to submit a consortium application on behalf
26 of 2 or more districts with the agreement of those districts as
27 appropriate according to federal rules and guidelines.

28 (5) For the purposes of funding federal title I grants under
29 this article, in addition to any other federal grants for which the

strict discipline academy is eligible, the department shall allocate to a strict discipline academy out of title I, part A an amount equal to what the strict discipline academy would have received if included and calculated under title I, part D, or what it would receive under the formula allocation under title I, part A, whichever is greater.

(6) As used in this section:

(a) "DED" means the United States Department of Education.

(b) "DED-OESE" means the DED Office of Elementary and Secondary Education.

(c) "DED-OII" means the DED Office of Innovation and Improvement.

(d) "DED-OVAE" means the DED Office of Vocational and Adult Education.

(e) "HHS" means the United States Department of Health and Human Services.

(f) "HHS-OCC" means the HHS Office of Child Care.

(g) "HHS-SAMHSA" means the HHS Substance Abuse and Mental Health Services Project.

Sec. 51a. (1) From the state school aid fund money in section 11, there is allocated an amount not to exceed ~~\$1,089,096,100.00~~ **\$1,134,196,100.00** for 2021-2022 and there is allocated an amount not to exceed \$1,460,503,100.00 for 2022-2023 from state sources and all available federal funding under sections 1411 to 1419 of part B of the individuals with disabilities education act, 20 USC 1411 to 1419, estimated at \$380,000,000.00 for 2021-2022 and \$390,000,000.00 for 2022-2023, plus any carryover federal funds from previous year appropriations. The allocations under this subsection are for the purpose of reimbursing districts and

intermediate districts for special education programs, services, and special education personnel as prescribed in article 3 of the revised school code, MCL 380.1701 to 380.1761; net tuition payments made by intermediate districts to the Michigan Schools for the Deaf and Blind; and special education programs and services for pupils who are eligible for special education programs and services according to statute or rule. For meeting the costs of special education programs and services not reimbursed under this article, a district or intermediate district may use money in general funds or special education funds, not otherwise restricted, or contributions from districts to intermediate districts, tuition payments, gifts and contributions from individuals or other entities, or federal funds that may be available for this purpose, as determined by the intermediate district plan prepared under article 3 of the revised school code, MCL 380.1701 to 380.1761. Notwithstanding section 17b, the department shall make payments of federal funds to districts, intermediate districts, and other eligible entities under this section on a schedule determined by the department.

(2) From the funds allocated under subsection (1), there is allocated the amount necessary, estimated at ~~\$311,800,000.00~~ **\$324,000,000.00** for 2021-2022 and estimated at \$323,300,000.00 for 2022-2023, for payments toward reimbursing districts and intermediate districts for 28.6138% of total approved costs of special education, excluding costs reimbursed under section 53a, and 70.4165% of total approved costs of special education transportation. Allocations under this subsection are made as follows:

(a) For 2021-2022, the department shall calculate the initial

1 amount allocated to a district under this subsection toward
2 fulfilling the specified percentages by multiplying the district's
3 special education pupil membership, excluding pupils described in
4 subsection (11), times the foundation allowance under section 20 of
5 the pupil's district of residence, plus the amount of the
6 district's per-pupil allocation under section 20m, not to exceed
7 the target foundation allowance for the current fiscal year, or,
8 for a special education pupil in membership in a district that is a
9 public school academy, times an amount equal to the amount per
10 membership pupil calculated under section 20(6). For an
11 intermediate district, the amount allocated under this subdivision
12 toward fulfilling the specified percentages is an amount per
13 special education membership pupil, excluding pupils described in
14 subsection (11), and is calculated in the same manner as for a
15 district, using the foundation allowance under section 20 of the
16 pupil's district of residence, not to exceed the target foundation
17 allowance for the current fiscal year, and that district's per-
18 pupil allocation under section 20m.

19 (b) For 2022-2023, the department shall calculate the initial
20 amount allocated to a district under this subsection toward
21 fulfilling the specified percentages by multiplying the district's
22 special education pupil membership, excluding pupils described in
23 subsection (11), times 25% of the foundation allowance under
24 section 20 of the pupil's district of residence, plus 25% of the
25 amount of the district's per-pupil allocation under section 20m,
26 not to exceed 25% of the target foundation allowance for the
27 current fiscal year, or, for a special education pupil in
28 membership in a district that is a public school academy, times an
29 amount equal to 25% of the amount per membership pupil calculated

1 under section 20(6). For an intermediate district, the amount
2 allocated under this subdivision toward fulfilling the specified
3 percentages is an amount per special education membership pupil,
4 excluding pupils described in subsection (11), and is calculated in
5 the same manner as for a district, using 25% of the foundation
6 allowance under section 20 of the pupil's district of residence,
7 not to exceed 25% of the target foundation allowance for the
8 current fiscal year, and that district's per-pupil allocation under
9 section 20m.

10 (c) After the allocations under subdivision (a) or (b), as
11 applicable, the department shall pay a district or intermediate
12 district for which the payments calculated under subdivision (a) or
13 (b), as applicable, do not fulfill the specified percentages the
14 amount necessary to achieve the specified percentages for the
15 district or intermediate district.

16 (3) From the funds allocated under subsection (1), there is
17 allocated for 2021-2022 an amount not to exceed \$1,000,000.00 and
18 there is allocated for 2022-2023 an amount not to exceed
19 \$1,000,000.00 to make payments to districts and intermediate
20 districts under this subsection. If the amount allocated to a
21 district or intermediate district for the fiscal year under
22 subsection (2)(c) is less than the sum of the amounts allocated to
23 the district or intermediate district for 1996-97 under sections 52
24 and 58, there is allocated to the district or intermediate district
25 for the fiscal year an amount equal to that difference, adjusted by
26 applying the same proration factor that was used in the
27 distribution of funds under section 52 in 1996-97 as adjusted to
28 the district's or intermediate district's necessary costs of
29 special education used in calculations for the fiscal year. This

1 adjustment is to reflect reductions in special education program
2 operations or services between 1996-97 and subsequent fiscal years.
3 The department shall make adjustments for reductions in special
4 education program operations or services in a manner determined by
5 the department and shall include adjustments for program or service
6 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) is not sufficient to fulfill the specified
10 percentages in subsection (2), then the department shall pay the
11 shortfall to the district or intermediate district during the
12 fiscal year beginning on the October 1 following the determination
13 and shall adjust payments under subsection (3) as necessary. If the
14 department determines that the sum of the amounts allocated for a
15 fiscal year to a district or intermediate district under subsection
16 (2) exceeds the sum of the amount necessary to fulfill the
17 specified percentages in subsection (2), then the department shall
18 deduct the amount of the excess from the district's or intermediate
19 district's payments under this article for the fiscal year
20 beginning on the October 1 following the determination and shall
21 adjust payments under subsection (3) as necessary. However, for
22 2021-2022 only, if the amount allocated under subsection (2)(a) in
23 itself exceeds the amount necessary to fulfill the specified
24 percentages in subsection (2), there is no deduction under this
25 subsection. Beginning in 2022-2023, if the amount allocated under
26 subsection (2)(b) in itself exceeds the amount necessary to fulfill
27 the specified percentages in subsection (2), there is no deduction
28 under this subsection.

29 (5) State funds are allocated on a total approved cost basis.

1 Federal funds are allocated under applicable federal requirements.

2 (6) From the amount allocated in subsection (1), there is
3 allocated an amount not to exceed \$2,200,000.00 for 2021-2022 and
4 there is allocated an amount not to exceed \$2,200,000.00 for 2022-
5 2023 to reimburse 100% of the net increase in necessary costs
6 incurred by a district or intermediate district in implementing the
7 revisions in the administrative rules for special education that
8 became effective on July 1, 1987. As used in this subsection, "net
9 increase in necessary costs" means the necessary additional costs
10 incurred solely because of new or revised requirements in the
11 administrative rules minus cost savings permitted in implementing
12 the revised rules. The department shall determine net increase in
13 necessary costs in a manner specified by the department.

14 (7) For purposes of this section and sections 51b to 58, all
15 of the following apply:

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

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

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

22 (c) If the department determines before bookclosing for a
23 fiscal year that the amounts allocated for that fiscal year under
24 subsections (2), (3), (6), and (11) and sections 53a, 54, and 56
25 will exceed expenditures for that fiscal year under subsections
26 (2), (3), (6), and (11) and sections 53a, 54, and 56, then for a
27 district or intermediate district whose reimbursement for that
28 fiscal year would otherwise be affected by subdivision (b),
29 subdivision (b) does not apply to the calculation of the

1 reimbursement for that district or intermediate district and the
2 department shall calculate reimbursement for that district or
3 intermediate district in the same manner as it was for 2003-2004.
4 If the amount of the excess allocations under subsections (2), (3),
5 (6), and (11) and sections 53a, 54, and 56 is not sufficient to
6 fully fund the calculation of reimbursement to those districts and
7 intermediate districts under this subdivision, then the department
8 shall prorate calculations and resulting reimbursement under this
9 subdivision on an equal percentage basis. The amount of
10 reimbursement under this subdivision for a fiscal year must not
11 exceed \$2,000,000.00 for any district or intermediate district.

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

24 (e) If an intermediate district purchases a special education
25 pupil transportation service from a constituent district that was
26 previously purchased from a private entity; if the purchase from
27 the constituent district is at a lower cost, adjusted for changes
28 in fuel costs; and if the cost shift from the intermediate district
29 to the constituent does not result in any net change in the revenue

1 the constituent district receives from payments under sections 22b
2 and 51c, then upon application by the intermediate district, the
3 department shall direct the intermediate district to continue to
4 report the cost associated with the specific identified special
5 education pupil transportation service and shall adjust the costs
6 reported by the constituent district to remove the cost associated
7 with that specific service.

8 (8) A pupil who is enrolled in a full-time special education
9 program conducted or administered by an intermediate district or a
10 pupil who is enrolled in the Michigan Schools for the Deaf and
11 Blind is not included in the membership count of a district, but is
12 counted in membership in the intermediate district of residence.

13 (9) Special education personnel transferred from 1 district to
14 another to implement the revised school code are entitled to the
15 rights, benefits, and tenure to which the individual would
16 otherwise be entitled had that individual been employed by the
17 receiving district originally.

18 (10) If a district or intermediate district uses money
19 received under this section for a purpose other than the purpose or
20 purposes for which the money is allocated, the department may
21 require the district or intermediate district to refund the amount
22 of money received. The department shall deposit money that is
23 refunded in the state treasury to the credit of the state school
24 aid fund.

25 (11) From the funds allocated in subsection (1), there is
26 allocated the amount necessary, estimated at ~~\$1,500,000.00~~
27 **\$1,600,000.00** for 2021-2022 and estimated at \$1,500,000.00 for
28 2022-2023, to pay the foundation allowances for pupils described in
29 this subsection. The department shall calculate the allocation to a

1 district under this subsection by multiplying the number of pupils
2 described in this subsection who are counted in membership in the
3 district times the sum of the foundation allowance under section 20
4 of the pupil's district of residence, plus the amount of the
5 district's per-pupil allocation under section 20m, not to exceed
6 the target foundation allowance for the current fiscal year, or,
7 for a pupil described in this subsection who is counted in
8 membership in a district that is a public school academy, times an
9 amount equal to the amount per membership pupil under section
10 20(6). The department shall calculate the allocation to an
11 intermediate district under this subsection in the same manner as
12 for a district, using the foundation allowance under section 20 of
13 the pupil's district of residence not to exceed the target
14 foundation allowance for the current fiscal year and that
15 district's per-pupil allocation under section 20m. This subsection
16 applies to all of the following pupils:

17 (a) Pupils described in section 53a.

18 (b) Pupils counted in membership in an intermediate district
19 who are not special education pupils and are served by the
20 intermediate district in a juvenile detention or child caring
21 facility.

22 (c) Pupils with an emotional impairment counted in membership
23 by an intermediate district and provided educational services by
24 the department of health and human services.

25 (12) If it is determined that funds allocated under subsection
26 (2) or (11) or under section 51c will not be expended, funds up to
27 the amount necessary and available may be used to supplement the
28 allocations under subsection (2) or (11) or under section 51c in
29 order to fully fund those allocations. After payments under

1 subsections (2) and (11) and section 51c, the department shall
2 expend the remaining funds from the allocation in subsection (1) in
3 the following order:

4 (a) One hundred percent of the reimbursement required under
5 section 53a.

6 (b) One hundred percent of the reimbursement required under
7 subsection (6).

8 (c) One hundred percent of the payment required under section
9 54.

10 (d) One hundred percent of the payment required under
11 subsection (3).

12 (e) One hundred percent of the payments under section 56.

13 (13) The allocations under subsections (2), (3), and (11) are
14 allocations to intermediate districts only and are not allocations
15 to districts, but instead are calculations used only to determine
16 the state payments under section 22b.

17 (14) If a public school academy that is not a cyber school, as
18 that term is defined in section 551 of the revised school code, MCL
19 380.551, enrolls under this section a pupil who resides outside of
20 the intermediate district in which the public school academy is
21 located and who is eligible for special education programs and
22 services according to statute or rule, or who is a child with a
23 disability, as that term is defined under the individuals with
24 disabilities education act, Public Law 108-446, the intermediate
25 district in which the public school academy is located and the
26 public school academy shall enter into a written agreement with the
27 intermediate district in which the pupil resides for the purpose of
28 providing the pupil with a free appropriate public education, and
29 the written agreement must include at least an agreement on the

1 responsibility for the payment of the added costs of special
2 education programs and services for the pupil. If the public school
3 academy that enrolls the pupil does not enter into an agreement
4 under this subsection, the public school academy shall not charge
5 the pupil's resident intermediate district or the intermediate
6 district in which the public school academy is located the added
7 costs of special education programs and services for the pupil, and
8 the public school academy is not eligible for any payouts based on
9 the funding formula outlined in the resident or nonresident
10 intermediate district's plan. If a pupil is not enrolled in a
11 public school academy under this subsection, the provision of
12 special education programs and services and the payment of the
13 added costs of special education programs and services for a pupil
14 described in this subsection are the responsibility of the district
15 and intermediate district in which the pupil resides.

16 (15) For the purpose of receiving its federal allocation under
17 part B of the individuals with disabilities education act, Public
18 Law 108-446, a public school academy that is a cyber school, as
19 that term is defined in section 551 of the revised school code, MCL
20 380.551, and is in compliance with section 553a of the revised
21 school code, MCL 380.553a, directly receives the federal allocation
22 under part B of the individuals with disabilities education act,
23 Public Law 108-446, from the intermediate district in which the
24 cyber school is located, as the subrecipient. If the intermediate
25 district does not distribute the funds described in this subsection
26 to the cyber school by the part B application due date of July 1,
27 the department may distribute the funds described in this
28 subsection directly to the cyber school according to the formula
29 prescribed in 34 CFR 300.705 and 34 CFR 300.816. Beginning July 1,

2021, this subsection is subject to section 8c. It is the intent of the legislature that the immediately preceding sentence apply retroactively and is effective July 1, 2021.

(16) For a public school academy that is a cyber school, as that term is defined in section 551 of the revised school code, MCL 380.551, and is in compliance with section 553a of the revised school code, MCL 380.553a, that enrolls a pupil under this section, the intermediate district in which the cyber school is located shall ensure that the cyber school complies with sections 1701a, 1703, 1704, 1751, 1752, 1756, and 1757 of the revised school code, MCL 380.1701a, 380.1703, 380.1704, 380.1751, 380.1752, 380.1756, and 380.1757; applicable rules; and the individuals with disabilities education act, Public Law 108-446. Beginning July 1, 2021, this subsection is subject to section 8c. It is the intent of the legislature that the immediately preceding sentence apply retroactively and is effective July 1, 2021.

(17) For the purposes of this section, the department or the center shall only require a district or intermediate district to report information that is not already available from the financial information database maintained by the center.

Sec. 51c. As required by the court in the consolidated cases known as *Durant v State of Michigan*, 456 Mich 175 (1997), from the allocation under section 51a(1), there is allocated for 2021-2022 and for 2022-2023, the amount necessary, estimated at ~~\$686,200,000.00~~ **\$719,000,000.00** for 2021-2022 and \$709,900,000.00 for 2022-2023, for payments to reimburse districts for 28.6138% of total approved costs of special education excluding costs reimbursed under section 53a, and 70.4165% of total approved costs of special education transportation. Funds allocated under this

1 section that are not expended in the fiscal year for which they
2 were allocated, as determined by the department, may be used to
3 supplement the allocations under sections 22a and 22b to fully fund
4 those allocations for the same fiscal year. For each fund transfer
5 as described in the immediately preceding sentence that occurs, the
6 state budget director shall send notification of the transfer to
7 the house and senate appropriations subcommittees on state school
8 aid and the house and senate fiscal agencies by not later than 14
9 calendar days after the transfer occurs.

10 Sec. 53a. (1) For districts, reimbursement for pupils
11 described in subsection (2) is 100% of the total approved costs of
12 operating special education programs and services approved by the
13 department and included in the intermediate district plan adopted
14 under article 3 of the revised school code, MCL 380.1701 to
15 380.1761, minus the district's foundation allowance calculated
16 under section 20 and minus the district's per-pupil allocation
17 under section 20m. For intermediate districts, the department shall
18 calculate reimbursement for pupils described in subsection (2) in
19 the same manner as for a district, using the foundation allowance
20 under section 20 of the pupil's district of residence, not to
21 exceed the target foundation allowance under section 20 for the
22 current fiscal year plus the amount of the district's per-pupil
23 allocation under section 20m.

24 (2) Reimbursement under subsection (1) is for the following
25 special education pupils:

26 (a) Pupils assigned to a district or intermediate district
27 through the community placement program of the courts or a state
28 agency, if the pupil was a resident of another intermediate
29 district at the time the pupil came under the jurisdiction of the

1 court or a state agency.

2 (b) Pupils who are residents of institutions operated by the
3 department of health and human services.

4 (c) Pupils who are former residents of department of community
5 health institutions for the developmentally disabled who are placed
6 in community settings other than the pupil's home.

7 (d) Pupils enrolled in a department-approved on-grounds
8 educational program longer than 180 days, but not longer than 233
9 days, at a residential child care institution, if the child care
10 institution offered in 1991-92 an on-grounds educational program
11 longer than 180 days but not longer than 233 days.

12 (e) Pupils placed in a district by a parent for the purpose of
13 seeking a suitable home, if the parent does not reside in the same
14 intermediate district as the district in which the pupil is placed.

15 (3) Only those costs that are clearly and directly
16 attributable to educational programs for pupils described in
17 subsection (2), and that would not have been incurred if the pupils
18 were not being educated in a district or intermediate district, are
19 reimbursable under this section.

20 (4) The costs of transportation are funded under this section
21 and are not reimbursed under section 58.

22 (5) **The department shall not allocate more than \$10,500,000.00**
23 **of the allocation for 2021-2022 in section 51a(1) under this**
24 **section.** The department shall not allocate more than \$10,500,000.00
25 of the allocation for 2022-2023 in section 51a(1) under this
26 section.

27 Sec. 54. Each intermediate district receives an amount per
28 pupil for each pupil in attendance at the Michigan Schools for the
29 Deaf and Blind. The amount is proportionate to the total

1 instructional cost at each school. **The department shall not**
 2 **allocate more than \$1,688,000.00 of the allocation for 2021-2022 in**
 3 **section 51a(1) under this section.** The department shall not
 4 allocate more than \$1,688,000.00 of the allocation for 2022-2023 in
 5 section 51a(1) under this section.

6 Sec. 147c. (1) From the state school aid fund money
 7 appropriated in section 11, there is allocated for 2022-2023 an
 8 amount not to exceed \$1,478,000,000.00, and from the MPSERS
 9 retirement obligation reform reserve fund money appropriated in
 10 section 11, there is allocated for 2022-2023 only an amount needed,
 11 estimated at \$140,400,000.00, for payments to districts and
 12 intermediate districts that are participating entities of the
 13 Michigan public school employees' retirement system. In addition,
 14 from the general fund money appropriated in section 11, there is
 15 allocated for 2022-2023 an amount not to exceed \$500,000.00 for
 16 payments to district libraries that are participating entities of
 17 the Michigan public school employees' retirement system. It is the
 18 intent of the legislature that money allocated from the MPSERS
 19 retirement obligation reform reserve fund under this ~~section~~
 20 **subsection** for 2022-2023 represents the amount necessary to reduce
 21 the payroll growth assumption to 1.75%. All of the following apply
 22 to funding under this ~~section~~**subsection**:

23 (a) Except as otherwise provided in this subdivision, for
 24 2022-2023, the amounts allocated under this ~~section~~**subsection** are
 25 estimated to provide an average MPSERS rate cap per pupil amount of
 26 \$1,042.00 and are estimated to provide a rate cap per pupil for
 27 districts ranging between \$5.00 and \$3,700.00. For 2022-2023, if
 28 the retirement system determines the average MPSERS rate cap per
 29 pupil amount and rate cap per pupil for districts estimated in the

1 immediately preceding sentence need to be adjusted, the estimated
2 average MPSERS rate cap per pupil amount and estimated rate cap per
3 pupil for districts under this subdivision are the estimations
4 determined by the retirement system. If the retirement system makes
5 a determination as described in the immediately preceding sentence,
6 it shall issue its estimations publicly and describe the need for
7 the adjustment described in the immediately preceding sentence.

8 (b) Payments made under this ~~section~~**subsection** are equal to
9 the difference between the unfunded actuarial accrued liability
10 contribution rate as calculated ~~pursuant to~~**under** section 41 of the
11 public school employees retirement act of 1979, 1980 PA 300, MCL
12 38.1341, as calculated without taking into account the maximum
13 employer rate of 20.96% included in section 41 of the public school
14 employees retirement act of 1979, 1980 PA 300, MCL 38.1341, and the
15 maximum employer rate of 20.96% included in section 41 of the
16 public school employees retirement act of 1979, 1980 PA 300, MCL
17 38.1341.

18 (c) The amount allocated to each participating entity under
19 this ~~section~~**subsection** is based on each participating entity's
20 proportion of the total covered payroll for the immediately
21 preceding fiscal year for the same type of participating entities.
22 A participating entity that receives funds under this ~~section~~
23 **subsection** shall use the funds solely for the purpose of retirement
24 contributions as specified in subdivision (d).

25 (d) Each participating entity receiving funds under this
26 ~~section~~**subsection** shall forward an amount equal to the amount
27 allocated under subdivision (c) to the retirement system in a form,
28 manner, and time frame determined by the retirement system.

29 (e) Funds allocated under this ~~section~~**subsection** should be

1 considered when comparing a district's growth in total state aid
2 funding from 1 fiscal year to the next.

3 (f) Not later than December 20 of each fiscal year for which
4 funding is allocated under this ~~section~~, **subsection**, the department
5 shall publish and post on its website an estimated MPERS rate cap
6 per pupil for each district.

7 (g) The office of retirement services shall first apply funds
8 allocated under this ~~section~~ **subsection** to pension contributions
9 and, if any funds remain after that payment, shall apply those
10 remaining funds to other postemployment benefit contributions.

11 (2) In addition to the funds allocated under subsection (1),
12 from the state school aid fund money appropriated in section 11,
13 there is allocated for 2022-2023 only \$1,000,000,000.00 for
14 payments to ~~districts and intermediate districts that are~~
15 participating entities of the Michigan public school employees'
16 retirement system. The amount allocated to each participating
17 entity under this subsection must be based on each participating
18 entity's proportion of the total covered payroll for the
19 immediately preceding fiscal year. A participating entity that
20 receives funds under this subsection shall use the funds solely for
21 purposes of this subsection. Each participating entity receiving
22 funds under this subsection shall forward an amount equal to the
23 amount allocated under this subsection to the retirement system in
24 a form, manner, and time frame determined by the retirement system.
25 The retirement system shall recognize funds received under this
26 subsection as additional assets being contributed to the system and
27 shall not categorize them as unfunded actuarial liability
28 contributions or normal cost contributions.

29 (3) As used in this section:

1 **(a) "Community college" means a community college created**
 2 **under the community college act of 1966, 1966 PA 331, MCL 389.1 to**
 3 **389.195.**

4 **(b) ~~(a)~~"District library" means a district library**
 5 **established under the district library establishment act, 1989 PA**
 6 **24, MCL 397.171 to 397.196.**

7 **(c) ~~(b)~~"MPERS rate cap per pupil" means an amount equal to**
 8 **the quotient of the district's payment under this section divided**
 9 **by the district's pupils in membership.**

10 **(d) ~~(c)~~"Participating entity" means: a**

11 **(i) As used in subsection (1) only, a district, intermediate**
 12 **district, or district library that is a reporting unit of the**
 13 **Michigan public school employees' retirement system under the**
 14 **public school employees retirement act of 1979, 1980 PA 300, MCL**
 15 **38.1301 to 38.1437, and that reports employees to the Michigan**
 16 **public school employees' retirement system for the applicable**
 17 **fiscal year.**

18 **(ii) As used in subsection (2) only, a district, intermediate**
 19 **district, community college, or district library that is a**
 20 **reporting unit of the Michigan public school employees' retirement**
 21 **system under the public school employees retirement act of 1979,**
 22 **1980 PA 300, MCL 38.1301 to 38.1437, and that reports employees to**
 23 **the Michigan public school employees' retirement system for the**
 24 **applicable fiscal year.**

25 **(e) ~~(d)~~"Retirement system" means the Michigan public school**
 26 **employees' retirement system under the public school employees**
 27 **retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1437.**

28 Enacting section 1. In accordance with section 30 of article
 29 IX of the state constitution of 1963, total state spending on

1 school aid under article I of the state school aid act of 1979,
2 1979 PA 94, MCL 388.1601 to 388.1772, as amended by 2021 PA 48,
3 2022 PA 93, 2022 PA 144, 2022 PA 212, and this amendatory act, from
4 state sources for fiscal year 2021-2022 is estimated at
5 \$14,681,134,200.00 and state appropriations for school aid to be
6 paid to local units of government for fiscal year 2021-2022 are
7 estimated at \$13,494,339,600.00. In accordance with section 30 of
8 article IX of the state constitution of 1963, total state spending
9 on school aid under article I of the state school aid act of 1979,
10 1979 PA 94, MCL 388.1601 to 388.1772, as amended by 2022 PA 144,
11 2022 PA 212, and this amendatory act, from state sources for fiscal
12 year 2022-2023 is estimated at \$17,090,672,900.00 and state
13 appropriations for school aid to be paid to local units of
14 government for fiscal year 2022-2023 are estimated at
15 \$15,764,187,600.00.