

Issues with Section 81 reduction

- **Section 81 is made up of 3 distinct components**
 1. **Prior ISD categorical funding rolled into a block grant in 1993-1994 and adjusted for inflation similar to increases/decreases to the basic foundation. This component was permanently reduced by \$14,000,000 plus had \$3,326,000 reallocated to Section 32j-Great Parents Great Start in years 2004 through 2006.**
 2. **90% of the a) FICA incurred by the ISDs and reimbursed by the State in 1994-95 and b)a portion of the Retirement payment paid for on behalf of the ISDs by the State in 1994-95.**
 3. **An adjustment for inflation applied to FICA and Retirement in Component 2 similar to increases/decreases to the Basic foundation.**

One could argue that Section 81 is similar to an LEA's foundation and therefore, increases/decreases to Section 81 should be in the same proportion as increases/decreases to the Basic foundation.

Since that argument didn't carry much weight when Section 81 reductions were made in 2004-2006, it would presume then that Section 81 should be split into the above three components.

Component 1 being entirely discretionary to the point that when it is reduced to zero, the ISDs would no longer be required to meet the requirements detailed in Section 81(1) and 81(5).

Component 2 being entirely protected similar to an LEA base foundation. Keep in mind that the LEA base foundation includes a similar FICA and Retirement component. Furthermore, I believe these parts were not included in the calculation of the Durant reimbursement percentages because they were paid for by the state. To the extent that were transferred to the ISDs and funded, a Headlee obligation still exists for this component. Protected also means not being subject to proration, which would require adding this part to the protected list in Section 11(3).

On a related note, a separate categorical (Section 51a.8) exists for ISDs to reflect the related FICA/Retirement that LEAs incurred in running Special Ed Center programs back in 1994. If an ISD ran the Center Program, the FICA/Retirement is in Section 81. Maybe we should just move the Section 81 Component 2 and 3 to Section 51a.8?

Component 3 being discretionary similar to the increase/decrease in the Basic foundation. This component should only change proportional to changes in the Basic foundation.

Note: Proposed modification to Sect 81 language should cause Sect 81 to be reallocated by building up from Component 2 and 3 first and then adding what's left(Component 1) on a prorata basis using Component 1 original percentages.

Neither component 2 or 3 should be tied to the requirements of Section 81(1) or 81(5) since they are an obligation of there own.

- To the extent Component 1 or 3 is reduced, language similar to Section 11d should be added to allow ISDs to absorb the reduction by reducing or eliminating any other funded program except 51a.2, 51a, 51a12,51a8, 51a1,53a,54,and 74.

Lingering Section 81 Issues

- The remaining 10% of Component 2 and 3 disappeared from the appropriations when the Durant funding formula was put in place in 1997-98.
- Language was inserted for 2001-2003 to reimburse ISDs for the reduction in taxable values to due to changes in the Utility personal property tables. At the time it was difficult to determine the impact. Consequently, the reimbursement was delayed until such time as the values were known. The values are now known, but language has not been reinserted.

Fund Balance

- If the basis for making the Section 81 reduction was perceived excessive ISD Fund Balances, then the legislature should tell us what they deem appropriate. Then prospectively consider reducing state aid only if this threshold is exceeded. This would be similar to charging a luxury tax to sports teams.
- In evaluating ISD Fund Balances, the legislature needs to understand the different Funds ISDs may have and the related restrictions to those Funds. Similarly, only the Unreserved portion of Fund Balance should be taken into account when evaluating the appropriate level of Fund Balance.

9/24/09

THE STATE SCHOOL AID ACT OF 1979 (EXCERPT)
Act 94 of 1979

388.1681 Allocations to intermediate districts; amounts; expanded professional development opportunities for teachers; consolidated, annexed, or attached districts; report of adjustment and amount of estimated amount of increase; duties of intermediate district.

Sec. 81.

(1) Except as otherwise provided in this section, from the appropriation in section 11, there is allocated for 2008-2009 to the intermediate districts the sum necessary, but not to exceed \$81,721,100.00, to provide state aid to intermediate districts under this section. Except as otherwise provided in this section, there shall be allocated to each intermediate district for 2008-2009 an amount equal to 101.0% of the amount appropriated under this section for 2007-2008.

Deleted: sub

(2) From the funds allocated under subsection (1), there is allocated the amount necessary, estimated at \$58,168,900 for 2008-2009, for payments toward reimbursing intermediate districts for ninety percent of their funding actually received by or paid on behalf of each intermediate school district in 1994-95 under sections 146a(1) and 147(1) as in effect for 1994-95 adjusted by the percentage adjustment given to the basic foundation allowance under section 20 since 1996.

(a) The initial amount allocated to the intermediate districts under this subsection estimated at \$43,306,000 shall be based on ninety percent of their funding actually received by or paid on behalf of each intermediate school district in 1994-95 under sections 146a(1) and 147(1) as in effect for 1994-95.

(b) In addition to the allocation under subsection 2 (a) there is allocated an amount estimated at \$14,862,900 for an additional payment to each intermediate district representing a cumulative adjustment since 1996 to subsection 2 (a) equal to the percentage adjustment given to the basic foundation allowance under section 20.

(3) In addition to the allocation under subsection 2 there is allocated an amount estimated at \$23,552,200 for 2008-2009, for payments to intermediate school districts equal to this amount times the prorata percentage of each ISD's 1994-95 combined allocations under Section 81(4) and 81(7).

Funding provided under subsection (3) shall be used to comply with requirements of this act and the revised school code that are applicable to intermediate districts, and for which funding is not provided elsewhere in this act, and to provide technical assistance to districts as authorized by the intermediate school board.

Deleted: this

(4) Intermediate districts receiving funds under subsection (3) shall collaborate with the department to develop expanded professional development opportunities for teachers to update and expand their knowledge and skills needed to support the Michigan merit curriculum.

Deleted: 2

Deleted: this

(5) From the allocation in subsection (1), there is allocated to an intermediate district, formed by the consolidation or annexation of 2 or more intermediate districts or the attachment of a total intermediate district to another intermediate school district or the annexation of all of the constituent K-12 districts of a previously existing intermediate school district which has disorganized, an additional allotment of \$3,500.00 each fiscal year for each intermediate district included in the new intermediate district for 3 years following consolidation, annexation, or attachment.

Deleted: 3

(6) In order to receive funding under this subsection (3), an intermediate district shall do all of the following:

(a) Demonstrate to the satisfaction of the department that the intermediate district employs at least 1 person who is trained in pupil counting procedures, rules, and regulations.

(b) Demonstrate to the satisfaction of the department that the intermediate district employs at least 1 person who is trained in rules, regulations, and district reporting procedures for the individual-level student data that serves as the basis for the calculation of the district and high school graduation and dropout rates.

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

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

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

(f) Comply with section 761 of the revised school code, MCL 380.761.

Deleted: (4) During a fiscal year, the department shall not increase an intermediate district's allocation under subsection (1) because of an adjustment made by the department during the fiscal year in the intermediate district's taxable value for a prior year. Instead, the department shall report the adjustment and the estimated amount of the increase to the house and senate fiscal agencies and the state budget director not later than June 1 of the fiscal year, and the legislature shall appropriate money for the adjustment in the next succeeding fiscal year.¶

Deleted: 5

History: 1979, Act 94, Eff. Oct. 1, 1979 ;-- Am. 1980, Act 320, Imd. Eff. Dec. 10, 1980 ;-- Am. 1981, Act 36, Eff. Oct. 1, 1981 ;-- Am. 1981, Act 113, Eff. Oct. 1, 1981 ;-- Am. 1982, Act 276, Imd. Eff. Oct. 5, 1982 ;-- Am. 1983, Act 169, Eff. Oct. 1, 1983 ;-- Am. 1984, Act 239, Eff. Oct. 1, 1984 ;-- Am. 1985, Act 110, Eff. Oct. 1, 1985 ;-- Am. 1986, Act 212, Eff. Oct. 1, 1986 ;-- Am. 1987, Act 128, Eff. Oct. 1, 1987 ;-- Am. 1987, Act 220, Eff. Dec. 28, 1987 ;-- Am. 1988, Act 318, Eff. Oct. 1, 1988 ;-- Am. 1989, Act 197, Eff. Oct. 1, 1989 ;-- Am. 1989, Act 235, Imd. Eff. Dec. 21, 1989 ;-- Am. 1990, Act 207, Eff. Oct. 1, 1990 ;-- Am. 1991, Act 118, Imd. Eff. Oct. 11, 1991 ;-- Am. 1992, Act 148, Eff. Oct. 1, 1992 ;-- Am. 1993, Act 175, Eff. Oct. 1, 1993 ;-- Am. 1993, Act 336, Eff. Mar. 15, 1994 ;-- Am. 1994, Act 283, Eff. Oct. 1, 1994 ;-- Am. 1995, Act 130, Eff. Oct. 1, 1995 ;-- Am. 1996, Act 300, Eff. Oct. 1, 1996 ;-- Am. 1997, Act 93, Eff. Oct. 1, 1997 ;-- Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997 ;-- Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998 ;-- Am. 1998, Act 553, Imd. Eff. Jan. 27, 1999 ;-- Am. 1999, Act 119, Imd. Eff. July 20, 1999 ;-- Am. 2000, Act 297, Imd. Eff. July 26, 2000 ;-- Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001 ;-- Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002 ;-- Am. 2002, Act 521, Imd. Eff. July 25, 2002 ;-- Am. 2003, Act 158, Eff. Oct. 1, 2003 ;-- Am. 2004, Act 351, Eff. Oct. 1, 2004 ;-- Am. 2005, Act 155, Eff. Oct. 1, 2005 ;-- Am. 2006, Act 342, Eff. Oct. 1, 2006 ;-- Am. 2007, Act 6, Imd. Eff. Apr. 30, 2007 ;-- Am. 2007, Act 137, Imd. Eff. Nov. 8, 2007 ;-- Am. 2008, Act 268, Eff. Oct. 1, 2008

Compiler's Notes: Subsection (3) of Sec. 81, as amended by Act 128 of 1987, was vetoed by the governor on July 24, 1987. Sec. 81, as amended by Act 212 of 1986, did not have a subsection (3). Section 2 of Act 220 of 1987 provides: "In accordance with the provisions of section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act is \$2,334,299,200.00 and state appropriations to be paid to local units of government are \$2,005,216,000.00." Section 4 of Act 220 of 1987 provides: "The changes effected by this amendatory act shall be applied retroactively to October 1, 1987." Subsection (3) of Sec. 81, as amended by Act 118 of 1991, was vetoed by the governor on October 11, 1991. Subsection (3) of Sec. 81, as amended by Act 207 of 1990, is set forth in the text of Sec. 81 above. In the first sentence of subsection (1), as amended by Act 121 of 2001, the phrases "and for 2002-2003" and "and not to exceed \$95,028,100.00 for 2002-2003" were vetoed by the governor September 28, 2001. The fourth sentence of subsection (1), as amended by Act 121 of 2001, and which read "Except as otherwise provided in this section, there shall be allocated to each intermediate district for 2002-2003 an amount equal to 103.1% of the amount of funding actually received by the intermediate district under this subsection for 2001-2002.", was vetoed by the governor September 28, 2001. In the second sentence of subsection (3), as amended by Act 121 of 2001, the phrase "and for 2002-2003" was vetoed by the governor September 28, 2001. In the first sentence of subsection (5), as amended by Act 121 of 2001, the phrase "and an amount not to exceed \$940,000.00 for 2002-2003" was vetoed by the governor September 28, 2001. Enacting section 3 of Act 521 of 2002 provides: "Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963." For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002. Enacting section 1 of Act 351 of 2004 provides: "Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act from state sources for fiscal year 2004-2005 is estimated at \$11,173,900,000.00 and state appropriations to be paid to local units of government for fiscal year 2004-2005 are estimated at \$11,113,650,400.00." Enacting section 1 of 2005 PA 155 provides: "Enacting section 1. In accordance with section 30 of article I of the state constitution of 1963, total state spending in this amendatory act and in House Bill No. 4831 of the 93rd Legislature from state sources for fiscal year 2005-2006 is estimated at \$11,364,814,000.00 and state appropriations to be paid to local units of government for fiscal year 2005-2006 are estimated at \$11,341,913,100.00." Enacting section 1 of Act 342 of 2006 provides: "Enacting section 1. (1) In accordance with section 30 of article I of the state constitution of 1963, total state spending in this amendatory act from state sources for fiscal year 2006-2007 is estimated at \$11,682,508,200.00 and state appropriations to be paid to local units of government for fiscal year 2006-2007 are estimated at \$11,536,597,200.00. (2) In accordance with section 30 of article I of the state constitution of 1963, total state spending from state sources for fiscal year 2005-2006 in this amendatory act and 2005 PA 155 is estimated at \$11,308,027,200.00 and state appropriations to be paid to local units of government for fiscal year 2004-2005 are estimated at \$11,285,376,300.00." Enacting section 1 of Act 137 of 2007 provides: "Enacting section 1. In accordance with section 30 of article I of the state constitution of 1963, total state spending in this amendatory act from state sources

Deleted: above. In

for fiscal year 2007-2008 is estimated at \$11,527,973,800.00 and state appropriations to be paid to local units of government for fiscal year 2007-2008 are estimated at \$11,458,493,300.00."Enacting section 1 of Act 268 of 2008 provides:"Enacting section 1. In accordance with section 30 of article I of the state constitution of 1963, total state spending in this amendatory act from state sources for fiscal year 2008-2009 is estimated at \$11,816,898,200.00 and state appropriations to be paid to local units of government for fiscal year 2008-2009 are estimated at \$11,602,465,900.00."

© 2009 Legislative Council, State of Michigan