

Act No. 331
Public Acts of 1993
Approved by the Governor
December 31, 1993
Filed with the Secretary of State
December 31, 1993

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Reps. Brackenridge, Gilmer, Johnson, Bullard, Bender, DeLange, Bandstra, Dalman, Munsell, Stille, Dobb and Martin

ENROLLED HOUSE BILL No. 5111

AN ACT to provide for the levy and collection of a state education tax; to create the education finance authority and board; to prescribe the powers and duties of the authority and the board; to provide for the levy of a tax by the authority and the distribution of the tax; and to prescribe the duties of certain state officers.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the "state education tax act".

Sec. 2. As used in this act:

(a) "Authority" means the education finance authority created in section 3.

(b) "Board" means the education finance authority board created in section 4.

(c) "General property tax act" means the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws.

(d) "Homestead" means a dwelling or unit in a multiple-unit dwelling subject to ad valorem property taxes that is owned and occupied as a principal residence by the owner of the dwelling or unit. Homestead includes all unoccupied property classified as agricultural adjacent and contiguous to the home of the owner that is not leased or rented by the owner to another person if the gross receipts of the agricultural or horticultural operations, if any, exceed the household income of the owner. If the gross receipts of the agricultural or horticultural operations do not exceed the household income of the owner, the homestead includes only 5 acres adjacent and contiguous to the home of the owner. Homestead includes a life care facility registered under the living care disclosure act, Act No. 440 of the Public Acts of 1976, being sections 554.801 to 554.844 of the Michigan Compiled Laws. Homestead also includes property owned by a cooperative housing corporation and occupied as a principal residence by tenant stockholders. For purposes of this subsection, owner includes but is not limited to a land contract grantee.

(e) "Sales tax act" means the general sales tax act, Act No. 167 of the Public Acts of 1933, being sections 205.51 to 205.78 of the Michigan Compiled Laws.

(f) "Tax" means the state education tax authorized under section 3 or 4.

Sec. 3. Beginning in 1994, if the sales tax is levied at a rate of 6% under the sales tax act, there is levied a state education tax on all property not exempt by law from ad valorem property taxes or not subject to a tax under Act No. 282 of the Public Acts of 1905, being sections 207.1 to 207.21 of the Michigan Compiled Laws, at a rate of 6 mills.

Sec. 4. (1) If the sales tax is levied at a rate of 4% under the sales tax act, the education finance authority is created.

(2) The education finance authority is a public corporate body and is an authority under section 6 of article IX of the state constitution of 1963.

(3) The authority has all the powers necessary to carry out the purposes of this act, including, but not limited to, the following:

(a) To levy the tax described in section 5.

(b) To distribute the proceeds of the tax.

(4) The governing body of the authority shall be the education finance authority board consisting of the state treasurer, the auditor general, and the superintendent of public instruction. The board has all the powers necessary to carry out the purposes of this act, including, but not limited to, the following:

(a) To assure the collection of the tax.

(b) To facilitate the receipt by the authority, and distribution of the proceeds, of the tax.

(5) Beginning in 1994, the authority shall levy an education finance authority tax on all property not exempt under subsection (6), not exempt by law from ad valorem property taxes, or not subject to a tax levied under Act No. 282 of the Public Acts of 1905, being sections 207.1 to 207.21 of the Michigan Compiled Laws, levied at a rate of 12 mills.

(6) Property that is used as a homestead by the owner of the property is exempt from the tax under subsection (5) as long as the property is used as a homestead by the owner if the owner of the property claims an exemption as provided in this section.

(7) The owner of property may claim an exemption under this section by filing before March 1 every 2 years an affidavit with the local tax collecting unit in which the property is located stating that the property is owned and occupied as a homestead by the owner of the property. The affidavit shall be on a form prescribed and provided by the department of treasury.

(8) Upon receipt of the notice of certification, the local tax collecting unit shall exempt the property from collection of the tax under this act for the period of exemption under this act or until the property is transferred or the owner rescinds the claim for exemption on a form prescribed and provided by the department of treasury. The owner of the property shall rescind the claim for exemption on a form prescribed and provided by the department of treasury when the property is no longer used as a homestead by the owner.

(9) The local tax collecting unit shall forward all affidavits to the department of treasury. The department of treasury shall determine if the property is the homestead of the owner. If the department of treasury determines that the property is not the homestead of the owner, the department shall send a notice to the local tax collecting unit and to the owner of the property. The local tax collecting unit shall then place the property back on the tax roll for the collection of the tax. The notice to the owner shall include a statement that the determination was made that the property was not the homestead of the owner and that the owner may appeal the determination directly to the tax tribunal, without an appeal to the board of review, within 35 days after the date of the notice.

(10) If the homestead is part of a unit in a multiple-unit dwelling or a dwelling unit in a multiple-unit structure, the owner shall claim a portion of the total state equalized valuation that is to be considered the homestead and the department of treasury shall prescribe the manner in which the calculation shall be made.

(11) If a person claims an exemption to which the person is not entitled, the department of treasury shall assess the tax with penalties and interest according to the provisions of the revenue act, Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws.

Sec. 5. (1) The tax under section 3 or 4 shall be collected and distributed by the local tax collecting unit under the provisions of the general property tax act at the same time as other taxes levied by the local school district for school operating purposes.

(2) The authority upon receipt shall transmit the collections from the tax under section 4 to the state treasurer.

(3) The state treasurer upon receipt shall deposit the collections from the tax under section 3 or 4 into the state treasury to the credit of the state school aid fund.

Sec. 6. This act shall not take effect unless Senate Joint Resolution S is submitted to the voters and the following bills are enacted into law:

(a) House Bill No. 5109.

(b) House Bill No. 5110.

(c) House Bill No. 5116.

(d) House Bill No. 5009.

(e) House Bill No. 5010.

(f) House Bill No. 5118.

- (g) House Bill No. 5097.
- (h) House Bill No. 5123.
- (i) House Bill No. 4279.
- (j) House Bill No. 5102.
- (k) House Bill No. 5103.
- (l) House Bill No. 5104.
- (m) House Bill No. 5106.
- (n) House Bill No. 5115.
- (o) House Bill No. 5112.
- (p) House Bill No. 5120.
- (q) House Bill No. 5129.
- (r) House Bill No. 5224.

This act is ordered to take immediate effect.

Co-Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.