

Act No. 172
Public Acts of 1994
Approved by the Governor
June 17, 1994
Filed with the Secretary of State
June 17, 1994

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Reps Dalman Hillegonds and Stille

ENROLLED HOUSE BILL No. 5394

AN ACT to amend section 20 of Act No 94 of the Public Acts of 1979 entitled as amended An act to make appropriations to aid in the support of the public schools and the intermediate school districts of the state to make appropriations for certain other purposes relating to education to provide for the disbursement of the appropriations to supplement the school aid fund by the levy and collection of certain taxes to prescribe the powers and duties of certain state departments the state board of education and certain other boards and officials to prescribe penalties and to repeal certain acts and parts of acts as added by Act No 336 of the Public Acts of 1993 being section 388 1620 of the Michigan Compiled Laws

The People of the State of Michigan enact

Section 1 Section 20 of Act No 94 of the Public Acts of 1979 as added by Act No 336 of the Public Acts of 1993 being section 388 1620 of the Michigan Compiled Laws is amended to read as follows

Sec 20 (1) If the constitutional amendment submitted to the electors at the special election held on March 15 1994 becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963 then except as otherwise provided in this act from the appropriation in section 11 there is allocated for 1994 95 an amount not to exceed \$7 172 763 200 00 to guarantee each district a foundation allowance per membership pupil and to make payments under this section to public school academies If the constitutional amendment submitted to the electors at the special election held on March 15 1994 does not become a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963 then except as otherwise provided in this act from the appropriation in section 11 there is allocated for 1994 95 an amount not to exceed \$6 479 763 200 00 to guarantee each district a foundation allowance per membership pupil and to make payments under this section to public school academies The amount of each district's foundation allowance shall be calculated as provided in this section using a basic foundation allowance for 1994 95 in the amount of \$5 000 00 If the maximum amount allocated under this section exceeds the amount necessary to fully fund payments under this section that excess amount shall not be expended in 1994 95 and shall not lapse to the general fund but instead shall remain in a separate account in the state school aid fund to be used to augment funding under this section in a succeeding fiscal year in which the maximum amount allocated under this section is not sufficient to fully fund those payments If the maximum amount allocated under this section is not sufficient to fully fund payments under this section the amount of each district's foundation allowance and the dollar amount prescribed in subsection (10) shall be prorated as necessary

(2) For 1995 96 and each succeeding fiscal year the basic foundation allowance shall be determined by multiplying the amount of the basic foundation allowance for the immediately preceding state fiscal year by the final index calculated under this subsection This result is the amount of the basic foundation allowance per membership pupil for the current state fiscal year The final index to be used shall be determined as follows

(a) The numerator of the fraction to be used in calculating the index is the total state school aid fund revenue for the current state fiscal year adjusted for any change in the rate or base of a tax the proceeds of which are deposited in that fund

(b) The denominator of the fraction to be used in calculating the index is the total state school aid fund revenue for the immediately preceding state fiscal year adjusted for any change in the rate or base of a tax the proceeds of which are deposited in that fund

(c) The resulting revenue adjustment factor derived under subdivisions (a) and (b) shall then be adjusted by a pupil membership adjustment factor. The pupil membership adjustment factor shall be computed by dividing the membership for the school year ending in the immediately preceding state fiscal year by the membership for the school year ending in the current state fiscal year. This pupil adjustment factor shall be multiplied by the fraction derived under subdivisions (a) and (b) to determine the final index.

(3) Subject to subsection (16) for the 1994-95 state fiscal year the amount of a district's foundation allowance shall be calculated as follows:

(a) For a district that had combined state and local revenue per membership pupil in the 1993-94 state fiscal year of less than \$4,200.00 the district's foundation allowance for 1994-95 is \$4,200.00 or an amount equal to the sum of the district's combined state and local revenue per membership pupil in the 1993-94 state fiscal year plus \$250.00 whichever is greater.

(b) For a district that had combined state and local revenue per membership pupil in the 1993-94 state fiscal year of at least \$4,200.00 but less than \$6,500.00 the district's foundation allowance for 1994-95 is the sum of the district's combined state and local revenue per membership pupil in the 1993-94 state fiscal year plus [\$250.00 - (\$90.00 times the ratio calculated by subtracting \$4,200.00 from the district's combined state and local revenue per membership pupil in the 1993-94 state fiscal year and dividing that difference by 2,300)].

(c) For a district that had combined state and local revenue per membership pupil in the 1993-94 state fiscal year of \$6,500.00 or more the district's foundation allowance for 1994-95 is the sum of the district's combined state and local revenue per membership pupil in 1993-94 plus \$160.00.

(4) For 1994-95 that portion of a district's foundation allowance that exceeds \$5,000.00 is considered to be a supplemental allowance. For a district described in subsection (3)(c) the district's supplemental allowance shall not exceed \$1,500.00.

(5) Beginning in the 1995-96 state fiscal year the amount of a district's foundation allowance shall be calculated as follows:

(a) For a district that in the immediately preceding state fiscal year had a foundation allowance at least equal to the sum of \$4,200.00 plus the total dollar amount of all adjustments made since 1994-95 in the lowest foundation allowance among all districts pursuant to the index under subsection (2) but that did not qualify for a supplemental allowance described in subsection (4) in the immediately preceding state fiscal year the district shall receive a foundation allowance in an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the difference between twice the dollar amount of the adjustment from the immediately preceding state fiscal year to the current state fiscal year made in the basic foundation allowance pursuant to the index under subsection (2) and [(the dollar amount of the adjustment from the immediately preceding state fiscal year to the current state fiscal year made in the basic foundation allowance pursuant to the index under subsection (2) minus \$50.00) times (the difference between the district's foundation allowance for the immediately preceding state fiscal year and the sum of \$4,200.00 plus the total dollar amount of all adjustments made since 1994-95 in the lowest foundation allowance among all districts pursuant to the index under subsection (2))] divided by the difference between the basic foundation allowance for the current state fiscal year and the sum of \$4,200.00 plus the total dollar amount of all adjustments made since 1994-95 in the lowest foundation allowance among all districts pursuant to the index under subsection (2)]. However the foundation allowance for a district that does not receive a supplemental allowance for a state fiscal year shall not exceed the basic foundation allowance for that state fiscal year.

(b) For a district that in the immediately preceding state fiscal year had a foundation allowance of less than the sum of \$6,500.00 plus the total dollar amount of all adjustments made since 1994-95 in the basic foundation allowance pursuant to the index under subsection (2) and that qualified for a supplemental allowance described in subsection (4) in the immediately preceding state fiscal year the district shall receive a foundation allowance in an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the dollar amount of the adjustment from the immediately preceding state fiscal year to the current state fiscal year made in the basic foundation allowance pursuant to the index under subsection (2).

(c) For a district that had combined state and local revenue per membership pupil in the 1994-95 state fiscal year of \$6,500.00 or more the district shall receive a foundation allowance in an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the dollar amount of the adjustment from the

immediately preceding state fiscal year to the current state fiscal year made in the basic foundation allowance pursuant to the index under subsection (2)

(6) Subject to subsection (7) to ensure that a district receives the district's foundation allowance there is allocated to each district as the state portion of the district's foundation allowance an amount equal to the difference between the lesser of the district's foundation allowance or \$6 500 00 and the amount of the district's local revenue per membership pupil received by the district in the school fiscal year ending in the current state fiscal year which amount shall not be less than zero For a district that has a millage reduction required under section 31 of article IX of the state constitution of 1963 the amount per membership pupil of local school operating revenue shall be calculated for these purposes as if that reduction did not occur

(7) Beginning in 1995 96 if a district's combined state and local revenue per membership pupil is greater than twice the basic foundation allowance for the current state fiscal year as adjusted under subsection (2) the payment of the state portion of the district's foundation allowance as calculated under subsection (6) shall be reduced by 1/2 of the dollar amount by which the ratio of the district's foundation allowance to the basic foundation allowance in a fiscal year exceeds that same ratio in the 1994 95 fiscal year

(8) The indices to be computed under this section for each state fiscal year shall be a topic of each revenue estimating conference conducted under section 367b of the management and budget act Act No 431 of the Public Acts of 1984 being section 18 1367b of the Michigan Compiled Laws If a revenue estimating conference fails to reach a consensus on the estimate of an index the state treasurer shall compute an estimated index and certify it to the director of the department of management and budget and the superintendent of public instruction The state treasurer also shall compute a final index for each fiscal year based upon available data and certify the final index to the director of the department of management and budget and the superintendent of public instruction not later than 120 days following the end of that fiscal year If the final certified index for a fiscal year differs from the estimated index used in the adoption of the state budget for the fiscal year and used during the fiscal year as the basis for making payments under this act the department shall make any necessary payment adjustments to reflect the final certified index

(9) All fractions used in making calculations under this section shall be rounded to the fourth decimal place and the dollar amount of an increase in the foundation allowance shall be rounded to the nearest whole dollar

(10) For pupils in membership in a public school academy there is allocated under this section for 1994 95 to a public school academy an amount per membership pupil in the public school academy equal to the foundation allowance for the district in which the public school academy is located or \$5 500 00 whichever is less For 1995 96 and each succeeding fiscal year the \$5 500 00 amount prescribed in this subsection shall be adjusted by an amount equal to the dollar amount of the adjustment from the immediately preceding state fiscal year to the current state fiscal year in the basic foundation allowance pursuant to the index under subsection (2) as determined by the department of treasury

(11) If a district had combined state and local revenue per membership pupil in the 1994 95 state fiscal year of more than \$6 500 00 the district may levy school operating taxes as provided in section 1211(3) of the school code of 1976 being section 380 1211 of the Michigan Compiled Laws However if the district does not receive a payment under subsection (12) if the number of those mills a district described in this subsection may levy is 0 5 mills or less and if the district elects not to levy those mills the district instead shall receive a separate supplemental payment under this subsection in an amount equal to the amount the district would have received had it levied those mills as determined by the department of treasury

(12) For a district that had combined state and local revenue per membership pupil in the 1993 94 state fiscal year of more than \$6 500 00 and that had fewer than 100 pupils in membership if the district elects not to levy school operating taxes under section 1211(3) of the school code of 1976 being section 380 1211 of the Michigan Compiled Laws there is allocated under this subsection for 1994 95 and each succeeding fiscal year a separate supplemental payment in an amount equal to the amount the district would have received per membership pupil had it levied those school operating taxes as determined by the department of treasury

(13) State allocations to a district or public school academy under this section shall be adjusted by subtracting from the allocations the lesser of an amount equal to 50% of the money received under section 3(c)(1) of title I of chapter 1124 64 Stat 1100 20 U S C 238 or \$160 00 per membership pupil A deduction in any year shall not exceed the amount of deductible impact aid for which a district is eligible under section 3(c)(1) of title I of chapter 1124 64 Stat 1100 20 U S C 238 Any deductions made under this act shall be consistent with the requirements of section 5 of title I of chapter 1124 64 Stat 1100 20 U S C 240 and its regulations

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

(15) The legislature shall continue to work toward greater equity among districts' foundation allowances

(16) For the purposes of calculating the amount of a district's foundation allowance for 1994 95 under this section if a district's combined state and local revenue per membership pupil in the 1992 93 state fiscal year was greater than the district's combined state and local revenue per membership pupil in the 1993 94 state fiscal year the amount of the district's combined state and local revenue per membership pupil in the 1993 94 state fiscal year shall be considered to

be an amount equal to 1/2 of the sum of the district's combined state and local revenue per membership pupil in the 1993-94 state fiscal year plus the district's combined state and local revenue per membership pupil in the 1992-93 state fiscal year. In order to calculate a district's combined state and local revenue per membership pupil in the 1992-93 state fiscal year, all references in subsection (17) to 1993-94 shall be considered to read 1992-93 and all references in subsection (17) to an August payment for a particular year shall be considered to be to the August payment for the immediately preceding year.

(17) As used in this section:

(a) Combined state and local revenue per membership pupil, except as provided in this subsection, means the aggregate of the district's state school aid received by or paid on behalf of the district under this section, except for payments received because of an adjustment in the district's state school aid for a prior fiscal year, and the district's local school operating revenue, divided by the district's membership. For the purpose of calculating a district's combined state and local revenue per membership pupil in the 1994-95 state fiscal year only, combined state and local revenue per membership pupil does not include the payment received by the district under section 20c. For the purpose of calculating a district's combined state and local revenue per membership pupil in the 1993-94 state fiscal year only, combined state and local revenue per membership pupil means the aggregate of the following, divided by the number of full-time equated pupils in grades K to 12, actually enrolled and in regular daily attendance on the 1993-94 pupil membership count day, as determined by the department using the unaudited count completed by the department not later than 60 days after the pupil membership count day, or the number of pupils registered for attendance plus pupils received by transfer and minus pupils lost, as defined by rules promulgated by the state board, and as corrected by a subsequent department audit:

(i) Total state school aid received by or paid on behalf of the district pursuant to this act in 1993-94, except for payments received because of an adjustment in the district's state school aid for a prior fiscal year, including the amount of a district's August 1994 payment delayed under section 17b and excluding all of the following received by the district for 1993-94:

(A) Money received by the district under section 17b for restoring the delayed August 1993 payment

(B) Early childhood grants under section 36

(C) All special education payments under article 5

(D) Special education transportation under former section 71, as calculated under former section 72

(E) Federal impact aid adjustments under former section 21(3)

(F) Economic development job training grant payments under section 107a

(G) Edge program payments under section 107b

(H) Adult literacy grant payments under former section 107c

(I) Adult education categorical payments under former section 107d

(J) Payments under former section 28 to a district in which a federal military air base closed

(K) Bilingual education payments under section 41

(L) Payments for court-placed pupils under section 24(2)

(M) An amount equal to 50% of payments under former section 47(3)

(N) Mathematics and science center payments under section 99

(O) Repayments attributable to the repeal of part 7a of the school code of 1976

(P) Payments under section 145 for costs of court-ordered desegregation

(Q) For a district that had combined state and local revenue per membership pupil in the 1993-94 state fiscal year of less than \$6,500.00, compensatory education payments under former section 31

(R) Professional development payments under former section 98

(S) Payments under former section 11a(6)

(vi) Local school operating revenue for 1993-94

(vii) Eligible fund equity expenditures for 1993-94

(viii) The amount of transportation funding under article 7 paid to an intermediate district that is attributable to transportation services provided in 1993-94 by the intermediate district for the district's pupils within the district, based on a report submitted not later than May 15, 1994, to the department of treasury by the intermediate district detailing the number of pupils within each district for whom the intermediate district provided those transportation services.

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

(c) Eligible fund equity expenditures for 1993-94 means an amount calculated by the department of treasury equal to the district's budgeted expenditures from the district's fund equity for 1993-94, as provided for in the district's official board-adopted budget as of October 1, 1993, and reported to the department of treasury not later than February

1 1994 prorated so that the total statewide amount of eligible fund equity expenditures for 1993 94 does not exceed \$20 000 000 00 with the proration weighted as to a district s membership

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

(e) Local school operating revenue means subject to subdivision (a) school operating taxes other than those levied pursuant to section 705 705a 705b 1211(3) or 1211c of the school code of 1976 For calculating a district s local school operating revenue for 1993 94 local school operating revenue does not include a district s revenue from money received by the district in the 1993 94 school fiscal year from federal impact aid under section 3(c)(1) of title I of chapter 1124 64 Stat 1100 20 U S C 238 from federal payments in lieu of taxes or from penalties and interest on delinquent property and specific taxes For calculating a district s local school operating revenue for 1993 94 only local school operating revenue includes all of the following specific tax revenue levied and retained by the district for school operating purposes for the 1993 94 school fiscal year that was provided for in the district s official board adopted budget as of October 1 1993 and reported to the department of treasury not later than February 1 1994 prorated so that the total statewide amount of the following specific tax revenue included in local school operating revenue does not exceed \$85 000 000 00

(i) Industrial facilities tax levied under section 11 of Act No 198 of the Public Acts of 1974 being section 207 561 of the Michigan Compiled Laws and retained by the district

(ii) Commercial facilities tax levied under section 12 of the commercial redevelopment act Act No 255 of the Public Acts of 1978 being section 207 662 of the Michigan Compiled Laws and retained by the district

(iii) Commercial forest specific tax described in section 7a of Act No 94 of the Public Acts of 1925 being section 320 307a of the Michigan Compiled Laws retained by the district

(iv) Technology park facilities tax levied under section 12 of the technology park development act Act No 385 of the Public Acts of 1984 being section 207 712 of the Michigan Compiled Laws and retained by the district

(v) Enterprise zone facilities tax levied under section 21 of the enterprise zone act Act No 224 of the Public Acts of 1985 being section 125 2121 of the Michigan Compiled Laws and retained by the district

(vi) Neighborhood enterprise zone tax levied under section 9 of the neighborhood enterprise zone act Act No 147 of the Public Acts of 1992 being section 207 779 of the Michigan Compiled Laws and retained by the district

(vii) Commercial housing facilities tax levied pursuant to Act No 438 of the Public Acts of 1976 being sections 207 601 to 207 615 of the Michigan Compiled Laws and retained by the district

(viii) The specific tax relating to trailer coach parks levied under section 41 of Act No 243 of the Public Acts of 1959 being section 125 1041 of the Michigan Compiled Laws and retained by the district

(ix) Revenue received by the district from fees or taxes on private forest preserves pursuant to section 11 of Act No 86 of the Public Acts of 1917 being section 320 281 of the Michigan Compiled Laws

(x) Specific tax on low grade iron ore levied under Act No 77 of the Public Acts of 1951 being sections 211 621 to 211 626 of the Michigan Compiled Laws and retained by the district

(xi) Revenue received by the district from state payments in lieu of taxes under section 1 of Act No 116 of the Public Acts of 1917 being section 211 581 of the Michigan Compiled Laws

(f) Local school operating revenue per membership pupil means a district s local school operating revenue divided by the district s membership

(g) Membership means except as otherwise provided in subdivision (a) the definition of that term under section 6(4) as in effect for the particular fiscal year for which a particular calculation is made

(h) School operating purposes means the purposes included in the operation costs of the district as prescribed in section 7

(i) School operating taxes means local ad valorem property taxes levied and retained for school operating purposes For determining a district s school operating taxes for 1993 94 school operating taxes does not include any of the following

(i) The number of mills of property tax levied in 1993 by a district for payment of principal or interest on notes or bonds issued to fund an operating deficit pursuant to section 1356 of the school code of 1976 being section 380 1356 of the Michigan Compiled Laws

(ii) The number of mills of property taxes levied in 1993 by a district for operating a community college under part 25 of the school code of 1976 being sections 380 1601 to 380 1607 of the Michigan Compiled Laws as reported by the district to the department for the purpose of compiling the activity classification structure data under section 204 of Act No 163 of the Public Acts of 1993

(iii) The number of mills of property taxes levied in 1993 by a district that is a school district of the first class that are attributable to payments by the district to a public library commission pursuant to section 11(d) of the property tax limitation act Act No 62 of the Public Acts of 1933 being section 211 211 of the Michigan Compiled Laws

(iv) The number of mills of property taxes levied in 1993 by a district for the operation of a library established pursuant to Act No 261 of the Public Acts of 1913 being sections 397 261 to 397 262 of the Michigan Compiled Laws or levied in 1993 by a district for operation of a library under section 260 or 1451 of the school code of 1976 being sections 380 260 and 380 1451 of the Michigan Compiled Laws that were not included in the operating millage reported by the district to the department as of April 1 1993 However a district may report to the department not later than April 1 1994 the number of mills the district levied in 1993 for a purpose described in this subparagraph that the district does not want considered as operating millage and then that number of mills is excluded from school operating taxes for the purposes of this section Exclusion of millage under this subparagraph shall not affect a district s 1993 94 allocation under this act

(v) The number of mills of property taxes levied in 1993 by a district under section 1212 of the school code of 1976 being section 380 1212 of the Michigan Compiled Laws

(vi) The number of mills levied in 1993 for operation of a community swimming pool for which the district had separate approval of the school electors before 1994 If a district included the millage it levied in 1993 for operation of a community swimming pool as part of its operating millage reported to the department for 1993 the district may report to the department not later than June 15 1994 the number of mills it levied in 1993 for operation of a community swimming pool that the district does not want considered as operating millage and then that number of mills is excluded from school operating taxes for the purposes of this section Exclusion of millage under this subparagraph shall not affect a district s 1993 94 allocation under this act

Section 2 This amendatory act shall not take effect unless House Bill No 5395 of the 87th Legislature is enacted into law

This act is ordered to take immediate effect

Co Clerk of the House of Representatives

Secretary of the Senate

Approved

Governor