

HOUSE BILL NO. 5207

November 07, 2019, Introduced by Rep. Sabo and referred to the Committee on Appropriations.

A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending sections 11, 20, and 22b (MCL 388.1611, 388.1620, and
388.1622b), as amended by 2019 PA 58.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

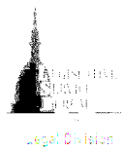
1 Sec. 11. (1) ~~For the fiscal year ending September 30, 2019,~~
2 ~~there is appropriated for the public schools of this state and~~
3 ~~certain other state purposes relating to education the sum of~~
4 ~~\$12,845,140,200.00 from the state school aid fund, the sum of~~



~~\$87,920,000.00 from the general fund, an amount not to exceed~~
~~\$72,200,000.00 from the community district education trust fund~~
~~created under section 12 of the Michigan trust fund act, 2000 PA~~
~~489, MCL 12.262, an amount not to exceed \$30,000,000.00 from the~~
~~MPERS retirement obligation reform reserve fund, an amount not to~~
~~exceed \$30,000,000.00 from the school mental health and support~~
~~services fund created under section 31m, and an amount not to~~
~~exceed \$100.00 from the water emergency reserve fund. For the~~
 fiscal year ending September 30, 2020, there is appropriated for
 the public schools of this state and certain other state purposes
 relating to education the sum of ~~\$13,293,465,000.00~~
\$13,217,775,000.00 from the state school aid fund, the sum of
~~\$75,000,000.00~~ **\$62,270,000.00** from the general fund, an amount not
 to exceed \$75,400,000.00 from the community district education
 trust fund created under section 12 of the Michigan trust fund act,
 2000 PA 489, MCL 12.262, an amount not to exceed \$1,900,000.00 from
 the MPERS retirement obligation reform reserve fund, ~~an amount not~~
~~to exceed \$40,000,000.00 from the talent investment fund created~~
~~under section 8a of the higher education loan authority act, 1975~~
~~PA 222, MCL 390.1158a, and an amount not to exceed \$100.00 from the~~
 water emergency reserve fund. In addition, all available federal
 funds are appropriated ~~each fiscal year~~ for the fiscal ~~years~~ **year**
 ending ~~September 30, 2019 and~~ September 30, 2020.

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

(3) Any general fund allocations under this article that are



not expended by the end of the fiscal year are transferred to the school aid stabilization fund created under section 11a.

Sec. 20. (1) For 2019-2020, both of the following apply:

(a) The target foundation allowance, formerly known as the basic foundation allowance, is \$8,529.00.

(b) The minimum foundation allowance is \$8,111.00.

(2) The department shall calculate the amount of each district's foundation allowance as provided in this section, using a target foundation allowance in the amount specified in subsection (1). For the purpose of these calculations, a reference to the target foundation allowance for a preceding fiscal year is equivalent to a reference to the "basic" foundation allowance for that fiscal year.

(3) Except as otherwise provided in this section, the department shall calculate the amount of a district's foundation allowance as follows, using in all calculations the total amount of the district's foundation allowance as calculated before any proration:

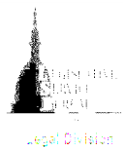
(a) Except as otherwise provided in this subdivision, for a district that had a foundation allowance for the immediately preceding fiscal year that was at least equal to the minimum foundation allowance for the immediately preceding fiscal year, but less than the target foundation allowance for the immediately preceding fiscal year, the district receives a foundation allowance in an amount equal to the sum of the district's foundation allowance for the immediately preceding fiscal year plus the difference between twice the dollar amount of the adjustment from the immediately preceding fiscal year to the current fiscal year made in the target foundation allowance and [(the difference



1 between the target foundation allowance for the current fiscal year
2 and target foundation allowance for the immediately preceding
3 fiscal year minus \$40.00) times (the difference between the
4 district's foundation allowance for the immediately preceding
5 fiscal year and the minimum foundation allowance for the
6 immediately preceding fiscal year) divided by the difference
7 between the target foundation allowance for the current fiscal year
8 and the minimum foundation allowance for the immediately preceding
9 fiscal year.] However, the foundation allowance for a district that
10 had less than the target foundation allowance for the immediately
11 preceding fiscal year must not exceed the target foundation
12 allowance for the current fiscal year.

13 (b) Except as otherwise provided in this subsection, for a
14 district that in the immediately preceding fiscal year had a
15 foundation allowance in an amount equal to the amount of the target
16 foundation allowance for the immediately preceding fiscal year, the
17 district receives a foundation allowance for 2019-2020 in an amount
18 equal to the target foundation allowance for 2019-2020.

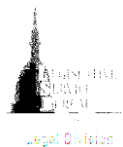
19 (c) For a district that had a foundation allowance for the
20 immediately preceding fiscal year that was greater than the target
21 foundation allowance for the immediately preceding fiscal year, the
22 district's foundation allowance is an amount equal to the sum of
23 the district's foundation allowance for the immediately preceding
24 fiscal year plus the lesser of the increase in the target
25 foundation allowance for the current fiscal year, as compared to
26 the immediately preceding fiscal year, or the product of the
27 district's foundation allowance for the immediately preceding
28 fiscal year times the percentage increase in the United States
29 Consumer Price Index in the calendar year ending in the immediately



1 preceding fiscal year as reported by the May revenue estimating
2 conference conducted under section 367b of the management and
3 budget act, 1984 PA 431, MCL 18.1367b.

4 (d) For a district that has a foundation allowance that is not
5 a whole dollar amount, the department shall round the district's
6 foundation allowance up to the nearest whole dollar.

7 (4) Except as otherwise provided in this subsection, beginning
8 in 2014-2015, the state portion of a district's foundation
9 allowance is an amount equal to the district's foundation allowance
10 or the target foundation allowance for the current fiscal year,
11 whichever is less, minus the local portion of the district's
12 foundation allowance. For a district described in subsection
13 (3)(c), beginning in 2014-2015, the state portion of the district's
14 foundation allowance is an amount equal to \$6,962.00 plus the
15 difference between the district's foundation allowance for the
16 current fiscal year and the district's foundation allowance for
17 1998-99, minus the local portion of the district's foundation
18 allowance. For a district that has a millage reduction required
19 under section 31 of article IX of the state constitution of 1963,
20 the department shall calculate the state portion of the district's
21 foundation allowance as if that reduction did not occur. For a
22 receiving district, if school operating taxes continue to be levied
23 on behalf of a dissolved district that has been attached in whole
24 or in part to the receiving district to satisfy debt obligations of
25 the dissolved district under section 12 of the revised school code,
26 MCL 380.12, the taxable value per membership pupil of property in
27 the receiving district used for the purposes of this subsection
28 does not include the taxable value of property within the
29 geographic area of the dissolved district. For a community



1 district, if school operating taxes continue to be levied by a
2 qualifying school district under section 12b of the revised school
3 code, MCL 380.12b, with the same geographic area as the community
4 district, the taxable value per membership pupil of property in the
5 community district to be used for the purposes of this subsection
6 does not include the taxable value of property within the
7 geographic area of the community district.

8 (5) The allocation calculated under this section for a pupil
9 is based on the foundation allowance of the pupil's district of
10 residence. For a pupil enrolled pursuant to section 105 or 105c in
11 a district other than the pupil's district of residence, the
12 allocation calculated under this section is based on the lesser of
13 the foundation allowance of the pupil's district of residence or
14 the foundation allowance of the educating district. For a pupil in
15 membership in a K-5, K-6, or K-8 district who is enrolled in
16 another district in a grade not offered by the pupil's district of
17 residence, the allocation calculated under this section is based on
18 the foundation allowance of the educating district if the educating
19 district's foundation allowance is greater than the foundation
20 allowance of the pupil's district of residence.

21 (6) **All of the following apply:**

22 (a) Except as otherwise provided in this subsection, for
23 pupils in membership, other than special education pupils, in a
24 public school academy, the allocation calculated under this section
25 is an amount per membership pupil other than special education
26 pupils in the public school academy equal to the foundation
27 allowance of the district in which the public school academy is
28 located or the state maximum public school academy allocation,
29 whichever is less.



(b) Except as otherwise provided in this subsection, for pupils in membership, other than special education pupils, in a public school academy that is a cyber school and is authorized by a school district, the allocation calculated under this section is an amount per membership pupil other than special education pupils in the public school academy equal to the foundation allowance of the district that authorized the public school academy or the state maximum public school academy allocation, whichever is less.

~~However, for~~

(c) Except as otherwise provided in this subsection, for pupils in membership, other than special education pupils, in a public school academy that meets all of the following, the allocation calculated under this section is \$8,111.00 per membership pupil other than special education pupils in the public school academy:

(i) The total combined membership of the constituent districts of the intermediate district in which the public school academy is located is at least 26,000 but not more than 27,000. As used in this subparagraph, "constituent district" means a district of an intermediate district or a public school academy located within an intermediate district.

(ii) The public school academy is located in prosperity region 4.

(iii) The total pupil membership of the public school academy is at least 550 but not more than 700.

(d) For a public school academy that had an allocation under this subsection before 2009-2010 that was equal to the sum of the local school operating revenue per membership pupil other than special education pupils for the district in which the public



1 school academy is located and the state portion of that district's
2 foundation allowance, that allocation is not reduced as a result of
3 the 2010 amendment to this subsection.

4 (e) Notwithstanding section 101, for a public school academy
5 that begins operations after the pupil membership count day, the
6 amount per membership pupil calculated under this subsection must
7 be adjusted by multiplying that amount per membership pupil by the
8 number of hours of pupil instruction provided by the public school
9 academy after it begins operations, as determined by the
10 department, divided by the minimum number of hours of pupil
11 instruction required under section 101(3). The result of this
12 calculation must not exceed the amount per membership pupil
13 otherwise calculated under this subsection.

14 (7) Except as otherwise provided in this subsection, for
15 pupils in membership, other than special education pupils, in a
16 community district, the allocation calculated under this section is
17 an amount per membership pupil other than special education pupils
18 in the community district equal to the foundation allowance of the
19 qualifying school district, as described in section 12b of the
20 revised school code, MCL 380.12b, that is located within the same
21 geographic area as the community district.

22 (8) Subject to subsection (4), for a district that is formed
23 or reconfigured after June 1, 2002 by consolidation of 2 or more
24 districts or by annexation, the resulting district's foundation
25 allowance under this section beginning after the effective date of
26 the consolidation or annexation is the lesser of the sum of the
27 average of the foundation allowances of each of the original or
28 affected districts, calculated as provided in this section,
29 weighted as to the percentage of pupils in total membership in the



1 resulting district who reside in the geographic area of each of the
2 original or affected districts plus \$100.00 or the highest
3 foundation allowance among the original or affected districts. This
4 subsection does not apply to a receiving district unless there is a
5 subsequent consolidation or annexation that affects the district.

6 (9) The department shall round each fraction used in making
7 calculations under this section to the fourth decimal place and
8 shall round the dollar amount of an increase in the target
9 foundation allowance to the nearest whole dollar.

10 (10) State payments related to payment of the foundation
11 allowance for a special education pupil are not calculated under
12 this section but are instead calculated under section 51a.

13 (11) To assist the legislature in determining the target
14 foundation allowance for the subsequent fiscal year, each revenue
15 estimating conference conducted under section 367b of the
16 management and budget act, 1984 PA 431, MCL 18.1367b, must
17 calculate a pupil membership factor, a revenue adjustment factor,
18 and an index as follows:

19 (a) The pupil membership factor is computed by dividing the
20 estimated membership in the school year ending in the current
21 fiscal year, excluding intermediate district membership, by the
22 estimated membership for the school year ending in the subsequent
23 fiscal year, excluding intermediate district membership. If a
24 consensus membership factor is not determined at the revenue
25 estimating conference, the principals of the revenue estimating
26 conference shall report their estimates to the house and senate
27 subcommittees responsible for school aid appropriations not later
28 than 7 days after the conclusion of the revenue conference.

29 (b) The revenue adjustment factor is computed by dividing the



1 sum of the estimated total state school aid fund revenue for the
2 subsequent fiscal year plus the estimated total state school aid
3 fund revenue for the current fiscal year, adjusted for any change
4 in the rate or base of a tax the proceeds of which are deposited in
5 that fund and excluding money transferred into that fund from the
6 countercyclical budget and economic stabilization fund under the
7 management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594, by
8 the sum of the estimated total school aid fund revenue for the
9 current fiscal year plus the estimated total state school aid fund
10 revenue for the immediately preceding fiscal year, adjusted for any
11 change in the rate or base of a tax the proceeds of which are
12 deposited in that fund. If a consensus revenue factor is not
13 determined at the revenue estimating conference, the principals of
14 the revenue estimating conference shall report their estimates to
15 the house and senate subcommittees responsible for school aid
16 appropriations not later than 7 days after the conclusion of the
17 revenue conference.

18 (c) The index is calculated by multiplying the pupil
19 membership factor by the revenue adjustment factor. If a consensus
20 index is not determined at the revenue estimating conference, the
21 principals of the revenue estimating conference shall report their
22 estimates to the house and senate subcommittees responsible for
23 school aid appropriations not later than 7 days after the
24 conclusion of the revenue conference.

25 (12) Payments to districts and public school academies are not
26 made under this section. Rather, the calculations under this
27 section are used to determine the amount of state payments under
28 section 22b.

29 (13) If an amendment to section 2 of article VIII of the state



1 constitution of 1963 allowing state aid to some or all nonpublic
2 schools is approved by the voters of this state, each foundation
3 allowance or per-pupil payment calculation under this section may
4 be reduced.

5 (14) For the purposes of section 1211 of the revised school
6 code, MCL 380.1211, the basic foundation allowance under this
7 section is considered to be the target foundation allowance under
8 this section.

9 (15) As used in this section:

10 (a) "Certified mills" means the lesser of 18 mills or the
11 number of mills of school operating taxes levied by the district in
12 1993-94.

13 (b) "Combined state and local revenue" means the aggregate of
14 the district's state school aid received by or paid on behalf of
15 the district under this section and the district's local school
16 operating revenue.

17 (c) "Combined state and local revenue per membership pupil"
18 means the district's combined state and local revenue divided by
19 the district's membership excluding special education pupils.

20 (d) "Current fiscal year" means the fiscal year for which a
21 particular calculation is made.

22 (e) "Dissolved district" means a district that loses its
23 organization, has its territory attached to 1 or more other
24 districts, and is dissolved as provided under section 12 of the
25 revised school code, MCL 380.12.

26 (f) "Immediately preceding fiscal year" means the fiscal year
27 immediately preceding the current fiscal year.

28 (g) "Local portion of the district's foundation allowance"
29 means an amount that is equal to the difference between (the sum of



1 the product of the taxable value per membership pupil of all
 2 property in the district that is nonexempt property times the
 3 district's certified mills and, for a district with certified mills
 4 exceeding 12, the product of the taxable value per membership pupil
 5 of property in the district that is commercial personal property
 6 times the certified mills minus 12 mills) and (the quotient of the
 7 product of the captured assessed valuation under tax increment
 8 financing acts times the district's certified mills divided by the
 9 district's membership excluding special education pupils).

10 (h) "Local school operating revenue" means school operating
 11 taxes levied under section 1211 of the revised school code, MCL
 12 380.1211. For a receiving district, if school operating taxes are
 13 to be levied on behalf of a dissolved district that has been
 14 attached in whole or in part to the receiving district to satisfy
 15 debt obligations of the dissolved district under section 12 of the
 16 revised school code, MCL 380.12, local school operating revenue
 17 does not include school operating taxes levied within the
 18 geographic area of the dissolved district.

19 (i) "Local school operating revenue per membership pupil"
 20 means a district's local school operating revenue divided by the
 21 district's membership excluding special education pupils.

22 (j) "Maximum public school academy allocation" ~~, except as~~
 23 ~~otherwise provided in this subdivision,~~ means the maximum per-pupil
 24 allocation among all public school academies for the immediately
 25 preceding fiscal year.

26 (k) "Membership" means the definition of that term under
 27 section 6 as in effect for the particular fiscal year for which a
 28 particular calculation is made.

29 (l) "Nonexempt property" means property that is not a principal



1 residence, qualified agricultural property, qualified forest
 2 property, supportive housing property, industrial personal
 3 property, commercial personal property, or property occupied by a
 4 public school academy.

5 (m) "Principal residence", "qualified agricultural property",
 6 "qualified forest property", "supportive housing property",
 7 "industrial personal property", and "commercial personal property"
 8 mean those terms as defined in section 1211 of the revised school
 9 code, MCL 380.1211.

10 (n) "Receiving district" means a district to which all or part
 11 of the territory of a dissolved district is attached under section
 12 12 of the revised school code, MCL 380.12.

13 (o) "School operating purposes" means the purposes included in
 14 the operation costs of the district as prescribed in sections 7 and
 15 18 and purposes authorized under section 1211 of the revised school
 16 code, MCL 380.1211.

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

20 (q) "Target foundation allowance for the immediately preceding
 21 fiscal year" means, for 2019-2020 only, the basic foundation
 22 allowance in effect for the 2018-2019 fiscal year.

23 (r) "Tax increment financing acts" means ~~1975 PA 197, MCL~~
 24 ~~125.1651 to 125.1681, the tax increment finance authority act, 1980~~
 25 ~~PA 450, MCL 125.1801 to 125.1830, the local development financing~~
 26 ~~act, 1986 PA 281, MCL 125.2151 to 125.2174, **parts 2, 3, 4, and 6 of**~~
 27 **the recodified tax increment financing act, 2018 PA 57, MCL**
 28 **125.4201 to 125.4420 and 125.4602 to 125.4629, or** the brownfield
 29 redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2670.



~~, or the corridor improvement authority act, 2005 PA 280, MCL 125.2871 to 125.2899.~~

(s) "Taxable value per membership pupil" means taxable value, as certified by the county treasurer and reported to the department, for the calendar year ending in the current state fiscal year divided by the district's membership excluding special education pupils for the school year ending in the current state fiscal year.

Sec. 22b. (1) For discretionary nonmandated payments to districts under this section, ~~there is allocated for 2018-2019 an amount not to exceed \$4,217,800,000.00 from the state school aid fund and general fund appropriations in section 11 and an amount not to exceed \$72,200,000.00 from the community district education trust fund appropriation in section 11, and there is allocated for 2019-2020 an amount not to exceed \$4,480,600,000.00~~ **\$4,445,760,000.000** from the state school aid fund and general fund appropriations in section 11 and an amount not to exceed \$75,400,000.00 from the community district education trust fund appropriation in section 11.

(2) Subject to subsection (3) and section 296, the allocation to a district under this section is an amount equal to the sum of the amounts calculated under sections 20 ~~, and 51a(2), 51a(3), and 51a(11),~~ **(3), and (11)** minus the sum of the allocations to the district under sections 22a and 51c. For a community district, the allocation as otherwise calculated under this section is increased by an amount equal to the amount of local school operating tax revenue that would otherwise be due to the community district if not for the operation of section 386 of the revised school code, MCL 380.386, and this increase must be paid from the community



1 district education trust fund allocation in subsection (1) in order
2 to offset the absence of local school operating revenue in a
3 community district in the funding of the state portion of the
4 foundation allowance under section 20(4).

5 (3) In order to receive an allocation under subsection (1),
6 each district ~~shall~~**must** do all of the following:

7 (a) Comply with section 1280b of the revised school code, MCL
8 380.1280b.

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

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

14 (d) Comply with section 1230g of the revised school code, MCL
15 380.1230g.

16 (e) Comply with section 21f.

17 (f) For a district or public school academy that has entered
18 into a partnership agreement with the department, comply with
19 section 22p.

20 (g) For a district or public school academy that offers
21 kindergarten, comply with section 104(4).

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

27 (5) From the allocation in subsection (1), the department
28 shall pay up to \$1,000,000.00 in litigation costs incurred by this
29 state related to commercial or industrial property tax appeals,



1 including, but not limited to, appeals of classification, that
2 impact revenues dedicated to the state school aid fund.

3 (6) From the allocation in subsection (1), the department
4 shall pay up to \$1,000,000.00 in litigation costs incurred by this
5 state associated with lawsuits filed by 1 or more districts or
6 intermediate districts against this state. If the allocation under
7 this section is insufficient to fully fund all payments required
8 under this section, the payments under this subsection must be made
9 in full before any proration of remaining payments under this
10 section.

11 (7) It is the intent of the legislature that all
12 constitutional obligations of this state have been fully funded
13 under sections 22a, 31d, 51a, 51c, and 152a. If a claim is made by
14 an entity receiving funds under this article that challenges the
15 legislative determination of the adequacy of this funding or
16 alleges that there exists an unfunded constitutional requirement,
17 the state budget director may escrow or allocate from the
18 discretionary funds for nonmandated payments under this section the
19 amount as may be necessary to satisfy the claim before making any
20 payments to districts under subsection (2). If funds are escrowed,
21 the escrowed funds are a work project appropriation and the funds
22 are carried forward into the following fiscal year. The purpose of
23 the work project is to provide for any payments that may be awarded
24 to districts as a result of litigation. The work project is
25 completed upon resolution of the litigation.

26 (8) If the local claims review board or a court of competent
27 jurisdiction makes a final determination that this state is in
28 violation of section 29 of article IX of the state constitution of
29 1963 regarding state payments to districts, the state budget



1 director shall use work project funds under subsection (7) or
2 allocate from the discretionary funds for nonmandated payments
3 under this section the amount as may be necessary to satisfy the
4 amount owed to districts before making any payments to districts
5 under subsection (2).

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

14 (10) If payments resulting from a final determination by the
15 local claims review board or a court of competent jurisdiction that
16 there has been a violation of section 29 of article IX of the state
17 constitution of 1963 exceed the amount allocated for discretionary
18 nonmandated payments under this section, the legislature shall
19 provide for adequate funding for this state's constitutional
20 obligations at its next legislative session.

21 (11) If a lawsuit challenging payments made to districts
22 related to costs reimbursed by federal title XIX Medicaid funds is
23 filed against this state, then, for the purpose of addressing
24 potential liability under such a lawsuit, the state budget director
25 may place funds allocated under this section in escrow or allocate
26 money from the funds otherwise allocated under this section, up to
27 a maximum of 50% of the amount allocated in subsection (1). If
28 funds are placed in escrow under this subsection, those funds are a
29 work project appropriation and the funds are carried forward into



1 the following fiscal year. The purpose of the work project is to
2 provide for any payments that may be awarded to districts as a
3 result of the litigation. The work project is completed upon
4 resolution of the litigation. In addition, this state reserves the
5 right to terminate future federal title XIX Medicaid reimbursement
6 payments to districts if the amount or allocation of reimbursed
7 funds is challenged in the lawsuit. As used in this subsection,
8 "title XIX" means title XIX of the social security act, 42 USC 1396
9 to 1396w-5.

10 Enacting section 1. In accordance with section 30 of article
11 IX of the state constitution of 1963, total state spending on
12 school aid under article I of the state school aid act of 1979,
13 1979 PA 94, MCL 388.1601 to 388.1772, as amended by 2019 PA 58 and
14 this amendatory act, from state sources for fiscal year 2019-2020
15 is estimated at \$13,357,345,100.00 and state appropriations for
16 school aid to be paid to local units of government for fiscal year
17 2019-2020 are estimated at \$13,151,625,300.00.

