

SENATE BILL NO. 540

June 16, 2021, Introduced by Senator MCBROOM and referred to the Committee on Finance.

A bill to amend 2014 PA 86, entitled
"Local community stabilization authority act,"
by amending section 17 (MCL 123.1357), as amended by 2020 PA 196.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17. (1) The legislature shall appropriate funds for all
2 of the following purposes:

3 (a) For fiscal year 2014-2015 and fiscal year 2015-2016, to
4 the authority, an amount equal to all debt loss for municipalities
5 that are not a local school district, intermediate school district,

1 or tax increment finance authority, an amount equal to all school
2 debt loss for municipalities that are a local school district or
3 intermediate school district, and an amount equal to all tax
4 increment small taxpayer loss for municipalities that are a tax
5 increment finance authority. Funds appropriated under this
6 subdivision for fiscal year 2015-2016 may be used to pay a
7 corrected tax increment small taxpayer exemption loss for 2014 if a
8 tax increment finance authority submits before June 1, 2016 a
9 correction to a report that was filed under section 16a before
10 October 1, 2014.

11 (b) For fiscal years after 2013-2014, to the department, an
12 amount equal to the necessary expenses incurred by the department
13 in implementing this act.

14 (c) Beginning in fiscal year 2019-2020 and each fiscal year
15 thereafter, an amount sufficient to allow the authority to continue
16 exercising its powers, duties, functions, and responsibilities
17 under section 11(1)(b), including, for fiscal year 2019-2020, an
18 amount sufficient for the creation of a database.

19 (2) In fiscal year 2014-2015 and fiscal year 2015-2016, the
20 authority shall distribute to municipalities those funds
21 appropriated under subsection (1)(a). However, in fiscal year 2014-
22 2015, if the authority is not able to make the distribution under
23 this subsection, the department shall make the distribution under
24 this subsection on behalf of the authority.

25 (3) For calendar years 2014 and 2015, the authority shall
26 distribute local community stabilization share revenue to each city
27 in an amount determined by multiplying the sum of the local
28 community stabilization share revenue for the calendar years and
29 the amounts calculated under section 14(3)(e) and (f) by a

1 fraction, the numerator of which is that city's amount calculated
2 under section 14(3)(d) and the denominator of which is the total
3 amount calculated under section 14(3)(d), and subtracting from the
4 result each city's amounts calculated under section 14(3)(e) and
5 (f).

6 (4) Beginning for calendar year 2016, after any distributions
7 under subsection (10), the authority shall distribute local
8 community stabilization share revenue as follows in the following
9 order of priority:

10 (a) The authority shall distribute to each municipality an
11 amount equal to all of the following:

12 (i) 100% of that municipality's school debt loss in the current
13 year as calculated under section 13(4) and 100% of its amount
14 calculated under section 15.

15 (ii) 100% of that municipality's amount calculated under
16 section 16.

17 (iii) 100% of that municipality's school operating loss not
18 reimbursed by the school aid fund in the current year, calculated
19 by multiplying the operating millage rate reported under section
20 13(4) or the operating millage rate calculated under section 13(5)
21 for mills other than basic school operating mills, as that term is
22 defined in section 2c of the use tax act, 1937 PA 94, MCL 205.92c,
23 by the local school district's personal property exemption loss for
24 the personal property subject to the respective millage.

25 (iv) 100% of the amount calculated in section 14(2). For
26 calendar years 2016 and 2017 only, however, the amount distributed
27 to a municipality under this subparagraph shall not exceed the
28 amount calculated in section 14(1)(d). For all calendar years, all
29 distributions under this subparagraph shall be used to fund

1 essential services.

2 (v) For a municipality that is a tax increment finance
3 authority, 100% of its amount calculated under section 16a(2), as
4 confirmed or adjusted by the department. For calculations made
5 under section 16a(2), as modified by section 16b(2), in calendar
6 years 2016 and 2017 only, amounts claimed for increased captured
7 value shall be included as claimed.

8 (vi) 100% of that municipality's amount calculated under
9 section 14(4).

10 (vii) Beginning for calendar year 2019, for municipalities with
11 state facilities under 1977 PA 289, MCL 141.951 to 141.956, 100% of
12 the amount calculated under 1977 PA 289, MCL 141.951 to 141.956.
13 The department of licensing and regulatory affairs shall certify to
14 the department and the authority the amount to be paid to each
15 municipality under this subparagraph.

16 (viii) Beginning for calendar year 2019, for municipalities that
17 incur certain reasonable and allowable costs of required and
18 allowable health services described in section 2475 of the public
19 health code, 1978 PA 368, MCL 333.2475, \$10,000,000.00 of those
20 costs not otherwise reimbursed pursuant to section 2475 of the
21 public health code, 1978 PA 368, MCL 333.2475, or other
22 appropriation. The department of health and human services shall
23 certify to the department and the authority the amount to be paid
24 to each municipality under this subparagraph.

25 **(ix) Subject to section 7b(3) of the general property tax act,**
26 **1893 PA 206, MCL 211.7b, beginning for tax year 2020, for**
27 **municipalities that incur a loss of property tax revenue due to**
28 **exemptions under section 7b of the general property tax act, 1893**
29 **PA 206, MCL 211.7b, 100% of the amount of those losses. The**

1 department shall certify to the authority the amount to be paid to
2 each municipality under this subparagraph.

3 (b) Beginning for calendar year 2021, after the distributions
4 under subdivision (a), and subject to subparagraph (viii), the
5 authority shall distribute an amount equal to 10% of the total
6 qualified loss for the current calendar year to each municipality
7 that is not a local school district, intermediate school district,
8 tax increment finance authority, or a local authority that first
9 levied a millage rate after 2013 in an amount determined as
10 follows:

11 (i) Calculate the total acquisition cost of all eligible
12 personal property in the municipality.

13 (ii) Multiply the result of the calculation in subparagraph (i)
14 by each individual millage levied by the municipality as calculated
15 under section 13(5) that is not used to calculate a distribution
16 under subdivision (a) (i) to (iv).

17 (iii) Divide the sum of the amounts calculated under
18 subparagraph (ii) for all municipalities subject to the calculation
19 by total qualified loss.

20 (iv) Multiply the result of the calculation in subparagraph (iii)
21 by the difference between the amount calculated under section
22 16a(2) for captured taxes for each individual millage levied by the
23 municipality not including taxes attributable to increased captured
24 value and the subtraction amounts calculated under section
25 14(2) (d), (2) (f), and (4) (d) for that millage.

26 (v) Subtract from the amount calculated under subparagraph (ii)
27 the amount calculated under subparagraph (iv) for the individual
28 millage levied.

29 (vi) Divide the result of the calculation in subparagraph (v)

1 by the sum of the calculation under subparagraph (v) for all
2 millages for all municipalities.

3 (vii) Multiply the result of the calculation in subparagraph
4 (vi) by the amount to be distributed under this subdivision.

5 (viii) For calendar year 2022, and each calendar year
6 thereafter, the percentage amount described in this subdivision
7 shall be increased an additional 10% each year, not to exceed 100%.

8 (c) For calendar years 2016 and 2017, after the distributions
9 in subdivision (a), the authority shall distribute the remaining
10 balance of the local community stabilization share fund for a
11 calendar year to each municipality in an amount determined by
12 multiplying the remaining balance by a fraction, the numerator of
13 which is that municipality's qualified loss and the denominator of
14 which is the total qualified loss. Beginning for calendar year
15 2018, after the distributions in subdivisions (a) and (b), the
16 authority shall distribute local community stabilization share
17 revenue under this subdivision to each municipality in an amount
18 determined by multiplying total qualified loss minus the total
19 amount distributed in subdivision (b) for a calendar year by a
20 fraction, the numerator of which is that municipality's qualified
21 loss and the denominator of which is the total qualified loss.

22 (d) After the distributions under subdivisions (a) to (c),
23 beginning for calendar year 2018, the department shall adjust the
24 amounts calculated under subdivisions (b) and (c) for a
25 municipality that is a county, township, village, city, or
26 community college district by the amount of any overpayment to that
27 municipality under those subdivisions for that calendar year and
28 the authority shall distribute the following:

29 (i) To a municipality, the amount of any underpayment

1 calculated under subsection (5) for calendar years after 2016.

2 (ii) For calendar year 2018 only, a total of \$13,600,000.00 to
3 municipalities with state facilities under 1977 PA 289, MCL 141.951
4 to 141.956. The department of licensing and regulatory affairs
5 shall certify to the department the amount to be paid to each
6 municipality under this subparagraph.

7 (e) Except as otherwise provided in this subdivision, after
8 the distributions under subdivisions (a) to (d), the authority
9 shall distribute the remaining balance of the local community
10 stabilization share fund for the calendar year to each municipality
11 that is a county, township, village, city, or community college
12 district in an amount determined by multiplying the remaining
13 balance by a fraction, the numerator of which is the sum of that
14 municipality's amount received under subdivisions (b), (c), and
15 (d), only to the extent that the distribution under subdivision (d)
16 is for an underpayment of the current calendar year's subdivision
17 (b) or (c) amount, and the overpayment adjustment under subdivision
18 (d), and the denominator of which is the sum of the total amount
19 distributed to all counties, townships, villages, cities, and
20 community college districts under subdivisions (b), (c), and (d),
21 only to the extent that the distribution under subdivision (d) is
22 for an underpayment of the current calendar year's subdivision (b)
23 or (c) amount, and the total overpayment adjustments for all
24 counties, townships, villages, cities, and community college
25 districts under subdivision (d). For any municipality that, in
26 total, was overpaid under subdivisions (a), (b), and (c), the
27 distribution under this subdivision, which for purposes of this
28 calculation for any municipality other than a county, township,
29 village, city, or community college district shall be \$0, shall be

1 reduced by any positive amount determined by subtracting the
2 corrected amounts under subdivisions (a) to (c) for that
3 municipality from the distributed amounts under subdivisions (a) to
4 (c) for that municipality and subtracting \$10,000.00. If the
5 resulting distribution amount is negative, the municipality has
6 been overpaid for the year by the amount of the negative balance.
7 The municipality shall pay to the authority the amount of the
8 overpayment in 3 equal annual payments, due by September 20 1 year
9 following notice of the overpayment and by September 20 of the
10 subsequent 2 years. A municipality may pay the amount of the
11 overpayment at any time during the 3-year period. If a municipality
12 fails to repay the amount of the overpayment as provided in this
13 subdivision, the authority shall add interest to the entire amount
14 of the original overpayment from the date of notice of the
15 overpayment and may reduce subsequent distributions to the
16 municipality under this section to recover the outstanding balance
17 of the overpayment and interest. Interest added under this
18 subdivision shall be at the rate determined under section 23 of
19 1941 PA 122, MCL 205.23. Any overpayment amounts repaid to the
20 authority under this subdivision by September 30 of each year shall
21 be added to the local community stabilization share revenue
22 available for distribution for the calendar year. If reductions to
23 distributions calculated under this section result in the authority
24 having a year-end balance of local community stabilization share
25 revenue, that revenue shall be added to the local community
26 stabilization share revenue available for distribution for the
27 subsequent calendar year.

28 (5) The department and authority shall administer overpayments
29 and underpayments as follows:

1 (a) For calendar years before 2016, if a municipality received
2 an overpayment under this section due to an error in reporting or
3 calculation, the authority may reduce a subsequent payment to the
4 municipality or bill the municipality to recover the overpayment.

5 (b) Before November 7, 2017, the department shall recalculate
6 2016 payments to correct any errors in reporting under section
7 13(3) or (4) and any calculation errors made by the department, and
8 adjust the 2017 payment to each municipality for any change in its
9 2016 payment.

10 (c) For calendar year 2018, for any errors in reporting under
11 section 13(3) or (4) in calendar year 2017 or 2018, any calculation
12 errors made by the department in calendar year 2017 or 2018, or any
13 prior year error adjustment used in the calculation of the calendar
14 year 2017 distributions, that resulted in an underpayment or
15 overpayment under this section to a municipality for the prior
16 calendar year or current calendar year, the department shall
17 calculate the amount of underpayment or overpayment. For each
18 municipality, the department shall add together the calendar year
19 2016 and calendar year 2017 underpayment and overpayment amounts.
20 If a municipality has a net underpayment for calendar years 2016
21 and 2017, the amount of the net underpayment shall be added to the
22 calendar year 2018 underpayment or overpayment amount for that
23 municipality. If a municipality has a net overpayment for calendar
24 years 2016 and 2017, the amount of the net overpayment shall be
25 excused by the authority and shall not be added to the calendar
26 year 2018 underpayment or overpayment amount for that municipality.
27 The following apply to determining underpayment or overpayment
28 amounts:

29 (i) For calendar year 2016, the underpayment or overpayment of

1 a municipality's qualified loss shall be calculated by multiplying
2 the municipality's qualified loss by 261.3820%.

3 (ii) For calendar year 2017, the underpayment or overpayment of
4 a municipality's qualified loss shall be calculated by multiplying
5 the municipality's qualified loss by 292.4677%.

6 (d) Beginning for calendar year 2019, for any errors in
7 reporting under section 13(3) or (4), and for any calculation
8 errors made by the department, that resulted in an underpayment or
9 overpayment under this section to a municipality for the current
10 calendar year, the department shall calculate the amount of
11 underpayment or overpayment. A calculation made under this
12 subdivision shall not recalculate a prior year payment.

13 (e) Except as provided in subsection (6), any underpayment
14 shall be paid to the municipality as provided in subsection (4)(d).
15 Any underpayment amount determined by the department to be the
16 fault of that municipality, by either the municipality reporting
17 inaccurate information or filing information after the reporting
18 due dates, shall not be included in any payment made under
19 subsection (4)(d) or (6).

20 (f) For any overpayment for which the state treasurer
21 determines that the municipality was at fault and acted in bad
22 faith, the department may calculate the amount of the overpayment
23 for all years to which the bad faith applied without any adjustment
24 and the municipality shall immediately repay the amount of the
25 overpayment and interest to the authority within 30 days following
26 notice of the overpayment. If a municipality fails to repay the
27 amount of the overpayment and interest to the authority, the
28 authority shall reduce subsequent payments to the municipality
29 under this section to recover the outstanding balance of the

1 overpayment and interest. Interest added under this subsection
2 shall be at the rate determined under section 23 of 1941 PA 122,
3 MCL 205.23. Any overpayment amounts repaid to the authority under
4 this subsection by September 30 of each year shall be added to the
5 local community stabilization share revenue available for
6 distribution for the calendar year. Any reduction of subsequent
7 payments due to municipalities failing to repay the amount of the
8 overpayment and interest shall be added to the local community
9 stabilization share revenue available for distribution for the
10 subsequent calendar year.

11 (6) If a municipality received an underpayment under this
12 section of \$500,000.00 or more for calendar year 2017 due to an
13 error in reporting under section 13(3) or (4), or a calculation
14 error made by the department, including a prior year error
15 adjustment used in the calculation of the calendar year 2017
16 distributions, the municipality may notify the department of any
17 errors identified by providing substantiating documentation to
18 support an adjustment to the payment amount by August 1, 2018. Upon
19 the department's review of the substantiating documentation and
20 verification of the errors, the department shall calculate an
21 underpayment amount in accordance with subsection (5)(c). The
22 underpayment amount shall be calculated using the appropriate
23 proration factor provided for under subsection (5)(c). The
24 department shall determine if the substantiating documentation is
25 sufficient. The department shall notify the authority to make an
26 advance 2018 payment to the municipality for the amount of the 2017
27 underpayment. The advance payment shall be deducted from the
28 municipality's payment for calendar year 2018 that includes the
29 distribution under subsection (4)(d).

1 (7) For payments received beginning October 20, 2018, a
2 municipality shall do all of the following:

3 (a) Allocate payments received, up to 100% reimbursement,
4 under this section based on the portion of the municipality's
5 payment attributable to each millage levied by the municipality.
6 The portion of the payment allocated to each millage other than the
7 general operating millage shall be considered restricted and
8 recorded by the municipality in the same manner as the millage
9 levied. As used in this subsection, "100% reimbursement" means the
10 amounts received under subsection (4) (a) (i) to (vi), (b), (c), and
11 (d) (i), only to the extent that the distribution under subsection
12 (4) (d) (i) is for an underpayment of the current calendar year's
13 subsection (4) (a) (i) to (vi), (b), or (c) amount.

14 (b) For millage levied by a county under section 20b of 1909
15 PA 283, MCL 224.20b, the governing bodies of the cities and
16 villages in the county and the board of county road commissioners
17 shall agree to a formula that allocates a portion of the payments
18 under this section to each city and village based on the city and
19 village share of the losses and acquisition cost used to calculate
20 the payment to the county described in this subdivision and each
21 city's and village's portion of that share. The formula once
22 established will be in effect until the effective date of any
23 subsequent agreement. If the governing bodies of the cities and
24 villages and the board of county road commissioners described in
25 this subdivision do not agree on a formula by March 31 following
26 the receipt of the subsection (8) (b) payment, the department may
27 prescribe a formula for allocating the payments under this section.

28 (c) Payments under this section, except for the payments under
29 subsection (4) (a) (vii) and (viii) and subsection (4) (d) (ii), to a

1 municipality that is participating in an intergovernmental
2 conditional transfer by contract under 1984 PA 425, MCL 124.21 to
3 124.30, or any other interlocal agreement that provides for a
4 millage-based sharing of revenue, shall be allocated between the
5 parties based on the proportionate share of the payment as it is
6 attributable to the area subject to the agreement.

7 (8) The authority shall make the payments required by
8 subsection (3) not later than June 20, 2016, payments required by
9 subsection (6) not later than October 20, 2018, and payments
10 required by subsection (4) not later than on the following dates:

11 (a) Except as provided in subdivision (d), for county
12 allocated millage, November 20, 2017, and thereafter October 20 of
13 the year the millage is levied.

14 (b) Except as provided in subdivision (d), for county extra-
15 voted millage, township millage, and other millages levied 100% in
16 December of a year, February 20 of the following year.

17 (c) Except as provided in subdivision (d), for other millages,
18 November 20, 2017, and thereafter October 20 of the year the
19 millage is levied.

20 (d) For payment under subsection (4)(d)(i) and (e), May 20 of
21 the year following the calendar year for which the payments are
22 calculated.

23 (e) For payment under subsection (4)(d)(ii), November 30, 2018,
24 and for payment under subsection (4)(a)(vii) and (viii), November 30
25 every year.

26 (9) If the authority has insufficient funds to make the
27 payments on the dates required in subsection (8), the department
28 shall advance to the authority the amount necessary for the
29 authority to make the required payments. The authority shall repay

1 the advance to the department from the local community
2 stabilization share.

3 (10) For each fiscal year from fiscal year 2015-2016 through
4 fiscal year 2018-2019, the authority may use up to \$300,000.00 of
5 the local community stabilization share revenue for purposes
6 consistent with implementing and administering this act. For each
7 fiscal year after fiscal year 2018-2019, the authority may use, for
8 purposes consistent with implementing and administering this act,
9 local community stabilization share revenue up to the amount of
10 local community stabilization share revenue authorized for use
11 under this subsection for the prior fiscal year multiplied by 1.01.
12 For each fiscal year after fiscal year 2018-2019, before any
13 distributions under subsection (4), the authority shall distribute
14 the local community stabilization share revenue authorized for use
15 in this subsection to an operating fund created within the
16 authority.

17 (11) The authority shall distribute local community
18 stabilization share revenue under this section as follows:

19 (a) From fiscal year 2015-2016 local community stabilization
20 share revenue, \$19,200,000.00 for calendar years 2014 and 2015 and
21 \$76,900,000.00 for calendar year 2016.

22 (b) From fiscal year 2016-2017 local community stabilization
23 share revenue, \$297,400,000.00 for calendar year 2016 and
24 \$83,200,000.00 for calendar year 2017.

25 (c) From fiscal year 2017-2018 local community stabilization
26 share revenue, \$321,500,000.00 for calendar year 2017 and
27 \$89,000,000.00 for calendar year 2018.

28 (d) From fiscal year 2018-2019 local community stabilization
29 share revenue, \$341,800,000.00 for calendar year 2018 and

1 \$95,900,000.00 for calendar year 2019.

2 (e) From fiscal year 2019-2020 local community stabilization
3 share revenue, \$364,500,000.00 for calendar year 2019 and
4 \$101,400,000.00 for calendar year 2020.

5 (f) From fiscal year 2020-2021 local community stabilization
6 share revenue, \$383,500,000.00 for calendar year 2020 and
7 \$108,000,000.00 for calendar year 2021.

8 (g) From fiscal year 2021-2022 local community stabilization
9 share revenue, \$405,700,000.00 for calendar year 2021 and
10 \$115,600,000.00 for calendar year 2022.

11 (h) From fiscal year 2022-2023 local community stabilization
12 share revenue, \$428,300,000.00 for calendar year 2022 and
13 \$119,700,000.00 for calendar year 2023.

14 (i) From fiscal year 2023-2024 local community stabilization
15 share revenue, \$438,900,000.00 for calendar year 2023 and
16 \$122,800,000.00 for calendar year 2024.

17 (j) From fiscal year 2024-2025 local community stabilization
18 share revenue, \$445,800,000.00 for calendar year 2024 and
19 \$124,000,000.00 for calendar year 2025.

20 (k) From fiscal year 2025-2026 local community stabilization
21 share revenue, \$447,100,000.00 for calendar year 2025 and
22 \$124,300,000.00 for calendar year 2026.

23 (l) From fiscal year 2026-2027 local community stabilization
24 share revenue, \$447,700,000.00 for calendar year 2026 and
25 \$124,500,000.00 for calendar year 2027.

26 (m) From fiscal year 2027-2028 local community stabilization
27 share revenue, \$448,000,000.00 for calendar year 2027 and
28 \$124,600,000.00 for calendar year 2028.

29 (n) From the local community stabilization share revenue for

1 fiscal year 2028-2029 and each fiscal year thereafter, the
2 authority shall increase the prior fiscal year's 2 distribution
3 amounts under this subsection by the personal property growth
4 factor, the first amount for the calendar year in which the fiscal
5 year begins and the second amount for the calendar year in which
6 the fiscal year ends. As used in this subdivision, "personal
7 property growth factor" means that term as defined in section 2c of
8 the use tax act, 1937 PA 94, MCL 205.92c.

9 Enacting section 1. This amendatory act does not take effect
10 unless Senate Bill No. 539 of the 101st Legislature is enacted into
11 law.