388.1622b Allocation from community district education trust fund; discretionary nonmandated payments; duties of district; purchase and support of business function software; payments for litigation costs; claim of inadequate funding or unfunded constitutional requirement; escrowed funds as work project; purpose; final determination; expedited review of claim by local claims review board; removal to court of appeals; violation of state constitution; lawsuit challenging payments relating to costs reimbursed by federal title XIX Medicaid funds; “title XIX” defined.

Sec. 22b. (1) For discretionary nonmandated payments to districts under this section, there is allocated for 2019-2020 an amount not to exceed $4,480,600,000.00 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, 51a(2), 51a(3), and 51a(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 district education trust fund allocation in subsection (1) in order to offset the absence of local school operating revenue in a community district in the funding of the state portion of the foundation allowance under section 20(4).

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

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

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

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

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

(e) Comply with section 21f.

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

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

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

(5) From the allocation in subsection (1), the department shall pay up to $1,000,000.00 in litigation costs incurred by this state related to commercial or industrial property tax appeals, including, but not limited to, appeals of classification, that impact revenues dedicated to the state school aid fund.

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

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

(8) If the local claims review board or a court of competent jurisdiction makes a final determination that this state is in violation of section 29 of article IX of the state constitution of 1963 regarding state payments to districts, the state budget director shall use work project funds under subsection (7) or allocate from the discretionary funds for nonmandated payments under this section the amount as may be necessary to satisfy the amount owed to districts before making any payments to districts under subsection (2).
(9) If a claim is made in court that challenges the legislative determination of the adequacy of funding for this state’s constitutional obligations or alleges that there exists an unfunded constitutional requirement, any interested party may seek an expedited review of the claim by the local claims review board. If the claim exceeds $10,000,000.00, this state may remove the action to the court of appeals, and the court of appeals has and shall exercise jurisdiction over the claim.

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

(11) If a lawsuit challenging payments made to districts related to costs reimbursed by federal title XIX Medicaid funds is filed against this state, then, for the purpose of addressing potential liability under such a lawsuit, the state budget director may place funds allocated under this section in escrow or allocate money from the funds otherwise allocated under this section, up to a maximum of 50% of the amount allocated in subsection (1). If funds are placed in escrow under this subsection, those funds are a work project appropriation and the funds are carried forward into the following fiscal year. The purpose of the work project is to provide for any payments that may be awarded to districts as a result of the litigation. The work project is completed upon resolution of the litigation. In addition, this state reserves the right to terminate future federal title XIX Medicaid reimbursement payments to districts if the amount or allocation of reimbursed funds is challenged in the lawsuit. As used in this subsection, "title XIX" means title XIX of the social security act, 42 USC 1396 to 1396w-5.

**History:**

**Compiler's note:** In the first sentence of subsection (1), as amended by Act 121 of 2001, the phrase "and an amount not to exceed $2,845,000,000.00 for 2002-2003" was vetoed by the governor September 28, 2001.

Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mils per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mils per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963."

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

Enacting section 1 of Act 351 of 2004 provides:

"Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act from state sources for fiscal year 2004-2005 is estimated at $11,173,900,000.00 and state appropriations to be paid to local units of government for fiscal year 2004-2005 are estimated at $11,113,650,400.00."

Enacting section 1 of 2005 PA 98 provides:

"Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending from state sources for fiscal year 2004-2005 in this amendatory act, 2004 PA 518, 2004 PA 351, and 2004 PA 185 is estimated at $11,113,522,200.00 and state appropriations to be paid to local units of government for fiscal year 2004-2005 are estimated at $11,050,922,200.00."

Enacting section 1 of 2005 PA 155 provides:

"Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act and in House Bill No. 4831 of the 93rd Legislature from state sources for fiscal year 2005-2006 is estimated at $11,364,814,000.00 and state appropriations to be paid to local units of government for fiscal year 2005-2006 are estimated at $11,341,913,100.00."

Enacting section 1 of Act 342 of 2006 provides:

"Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act from state sources for fiscal year 2006-2007 is estimated at $11,682,508,200.00 and state appropriations to be paid to local units of government for fiscal year 2006-2007 are estimated at $11,536,597,200.00."

(2) In accordance with section 30 of article IX of the state constitution of 1963, total state spending from state sources for fiscal year 2007-2008 in this amendatory act and 2005 PA 155 is estimated at $11,308,027,200.00 and state appropriations to be paid to local units of government for fiscal year 2007-2008 are estimated at $11,458,493,300.00."

Enacting section 1 of Act 112 of 2008 provides:

"Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending in this..."
amendatory act and in 2007 PA 137 from state sources for fiscal year 2007-2008 is estimated at $11,421,776,200.00 and state appropriations to be paid to local units of government for fiscal year 2007-2008 are estimated at $11,346,293,300.00."

Enacting section 1 of Act 268 of 2008 provides:

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

Enacting section 1 of Act 73 of 2009 provides:

"Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act and in 2008 PA 268 from state sources for fiscal year 2008-2009 is estimated at $11,097,798,200.00 and state appropriations to be paid to local units of government for fiscal year 2008-2009 are estimated at $10,890,765,900.00."

Enacting section 1 of Act 121 of 2009 provides:

"Enacting section 1. In accordance with section 30 of article I of the state constitution of 1963, total state spending in this amendatory act from state sources for fiscal year 2009-2010 is estimated at $10,825,754,100.00 and state appropriations to be paid to local units of government for fiscal year 2009-2010 are estimated at $10,718,801,700.00."

Enacting section 1 of Act 299 of 2011 provides:

"Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending on school aid under article I of the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772, in this amendatory act, in 2010 PA 110, in 2010 PA 204, in 2010 PA 205, in 2010 PA 217, and in 2011 PA 62 from state sources for fiscal year 2010-2011 is estimated at $10,803,402,900.00 and state appropriations to be paid to local units of government for fiscal year 2010-2011 are estimated at $10,701,332,600.00."