

**STATE OF MICHIGAN
101ST LEGISLATURE
REGULAR SESSION OF 2021**

Introduced by Reps. Paquette and Albert

ENROLLED HOUSE BILL No. 4421

AN ACT to amend 1979 PA 94, entitled “An act to make appropriations to aid in the support of the public schools, the intermediate school districts, community colleges, and public universities of the state; to make appropriations for certain other purposes relating to education; to provide for the disbursement of the appropriations; to authorize the issuance of certain bonds and provide for the security of those bonds; to prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to create certain funds and provide for their expenditure; to prescribe penalties; and to repeal acts and parts of acts,” by amending sections 11, 11n, 11r, and 23b (MCL 388.1611, 388.1611n, 388.1611r, and 388.1623b), section 11 as amended and sections 11n, 11r, and 23b as added by 2021 PA 3, and by adding section 11o.

The People of the State of Michigan enact:

Sec. 11. (1) For the fiscal year ending September 30, 2021, there is appropriated for the public schools of this state and certain other state purposes relating to education the sum of \$13,759,819,500.00 from the state school aid fund, the sum of \$50,964,600.00 from the general fund, an amount not to exceed \$77,700,000.00 from the community district education trust fund created under section 12 of the Michigan trust fund act, 2000 PA 489, MCL 12.262, and an amount not to exceed \$100.00 from the water emergency reserve fund. In addition, all available federal funds are only appropriated as allocated in this article for the fiscal year ending September 30, 2021.

(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. 11n. (1) From the federal funds appropriated under section 11, there is allocated for 2020-2021 an amount not to exceed \$115,658,900.00 from the federal funding awarded to this state from the governor’s emergency education relief (GEER) fund under the coronavirus response and relief supplemental appropriations act, 2021, division M of Public Law 116-260, and there is allocated for 2020-2021 an amount not to exceed \$1,656,308,300.00 from the federal funding awarded to this state from the elementary and secondary school emergency relief (ESSER) fund under the coronavirus response and relief supplemental appropriations act, 2021, division M of Public Law 116-260.

(2) From the federal funds appropriated under section 11, there is allocated for 2020-2021 an amount not to exceed \$3,347,849,700.00 from the federal funding awarded to this state from the elementary and secondary school emergency relief (ESSER) fund under the American rescue plan act of 2021, title II, subtitle A, part 1 of Public Law 117-2, and there is allocated for 2020-2021 an amount not to exceed \$93,023,000.00 from the federal funding awarded to this state under section 2002 of the American rescue plan act of 2021, title II, subtitle A, part 1 of Public Law 117-2, for emergency assistance to nonpublic schools.

Sec. 11o. (1) From the federal funds allocated under section 11n, there is allocated for 2020-2021 an amount not to exceed \$86,777,000.00 from the federal funding awarded to this state from the governor's emergency education relief (GEER) fund under the coronavirus response and relief supplemental appropriations act, 2021, division M of Public Law 116-260, for emergency assistance to nonpublic schools as provided under section 312(d) of the coronavirus response and relief supplemental appropriations act, 2021, division M of Public Law 116-260.

(2) From the federal funds allocated under section 11n, there is allocated for 2020-2021 an amount not to exceed \$93,023,000.00 from the federal funding awarded to this state for emergency assistance to nonpublic schools under section 2002 of the American rescue plan act of 2021, title II, subtitle A, part 1 of Public Law 117-2 to provide services or assistance to nonpublic schools as provided under section 2002 of the American rescue plan act of 2021, title II, subtitle A, part 1 of Public Law 117-2.

Sec. 11r. (1) From the federal funds allocated under section 11n, there is allocated for 2020-2021 an amount not to exceed \$1,498,959,000.00 from the federal funding awarded to this state from the elementary and secondary school emergency relief (ESSER) fund under the coronavirus response and relief supplemental appropriations act, 2021, division M of Public Law 116-260, and an amount not to exceed \$3,347,849,700.00 from the federal funding awarded to this state from the elementary and secondary school emergency relief (ESSER) fund under the American rescue plan act of 2021, title II, subtitle A, part 1 of Public Law 117-2; and, from the state school aid fund money appropriated under section 11, there is allocated \$136,000,000.00, for the purposes of this section.

(2) From the federal funds allocated under subsection (1), \$650,000,000.00 from the federal funding awarded to this state from the elementary and secondary school emergency relief (ESSER) fund under the coronavirus response and relief supplemental appropriations act, 2021, division M of Public Law 116-260, is allocated for payments to districts as provided under this subsection. From the funds allocated in this subsection, the department shall pay each district in proportion to the amount of funds the district received under part A of title I of the elementary and secondary education act of 1965, Public Law 103-382, in the most recent fiscal year. The funding under this subsection is a portion of the funding that is designated as subgrants to local educational agencies as provided under section 313(c) of the coronavirus response and relief supplemental appropriations act, 2021, division M of Public Law 116-260.

(3) Except as otherwise provided in this subsection, from the federal funds allocated under subsection (1), \$840,677,500.00 from the federal funding awarded to this state from the elementary and secondary school emergency relief (ESSER) fund under the coronavirus response and relief supplemental appropriations act, 2021, division M of Public Law 116-260, is allocated for payments to districts as provided under this subsection. From the funds allocated in this subsection, the department shall pay each district in proportion to the amount of funds the district received under part A of title I of the elementary and secondary education act of 1965, Public Law 103-382, in the most recent fiscal year. The funding under this subsection is a portion of the funding that is designated as subgrants to local educational agencies as provided under section 313(c) of the coronavirus response and relief supplemental appropriations act, 2021, division M of Public Law 116-260. The funds allocated in this subsection must not be paid or otherwise distributed to districts as provided for under this subsection unless House Bill No. 4049 of the 101st Legislature is enacted into law and takes effect within 14 days after House Bill No. 4049 of the 101st Legislature is presented to the governor.

(4) From the federal funds allocated under subsection (1), \$840,677,500.00 from the federal funding awarded to this state from the elementary and secondary school emergency relief (ESSER) fund under the coronavirus response and relief supplemental appropriations act, 2021, division M of Public Law 116-260, is allocated for payments to districts as provided under this subsection. From the funds allocated in this subsection, the department shall pay each district in proportion to the amount of funds the district received under part A of title I of the elementary and secondary education act of 1965, Public Law 103-382, in the most recent fiscal year. The funding under this subsection is a portion of the funding that is designated as subgrants to local educational agencies as provided under section 313(c) of the coronavirus response and relief supplemental appropriations act, 2021, division M of Public Law 116-260.

(5) From the state school aid fund money allocated under subsection (1), there is allocated \$136,000,000.00 to eligible districts as provided in this subsection. The department shall pay each eligible district under this subsection an amount equal to the product of the district's 2020-2021 pupils in membership multiplied by the difference between \$450.00 and the district's ESSER II formula payment per pupil. A district to which all of the following apply is an eligible district under this subsection:

(a) The district's ESSER II formula payment per pupil is less than \$450.00.

(b) Except as otherwise provided in this subdivision, by not later than March 22, 2021, excluding days that are part of a previously scheduled period of time for which the district is not in session, the district offers in-person instruction at least 20 hours each school week if the district's school week includes 5 school days or, if the district's

school week does not include 5 school days, offers in-person instruction in an amount of hours necessary each school week to provide the instruction it would have provided in 20 hours for a 5-school-day school week to all pupils enrolled in the district, regardless of whether or not all pupils enrolled in the district participate in the in-person instruction offered. The previous sentence does not apply to any district whose board of education adopted or adopts a public health order closing schools for public health reasons to protect public health or to any district that closed or closes schools due to a local public health order. This subdivision does not apply to a district that operates as a cyber school as that term is defined in section 551 of the revised school code, MCL 380.551. As used in this subdivision, “in-person instruction” means instruction that a pupil receives while he or she is physically present at a school building designated by the district in which he or she is enrolled.

(c) The district has an extended COVID-19 learning plan that has been approved under section 98a. This subdivision does not apply to a district that operates as a cyber school as that term is defined in section 551 of the revised school code, MCL 380.551.

(d) The district pledges that it will, beginning with the first meeting after March 9, 2021, at each meeting of the board of the district during which the district reconfirms how instruction is going to be delivered under section 98a, confirm that it is offering instruction to pupils as described in subdivision (b). This subdivision does not apply to a district that operates as a cyber school as that term is defined in section 551 of the revised school code, MCL 380.551.

(6) Funds received by districts under subsections (2) and (4) must be used for the purposes described in section 313(d) of the coronavirus response and relief supplemental appropriations act, 2021, division M of Public Law 116-260.

(7) In order to receive funding under subsections (2) and (5), a district must submit a spending plan to the department by not later than April 23, 2021. A spending plan described in this subsection must include the district’s estimated spending of funds received under subsection (2) for the purposes described in subsection (6), disaggregated by the type of service provided. The department shall send a report concerning the spending plans received under this subsection to the legislature.

(8) From the federal funds allocated under subsection (1), \$3,347,849,700.00 from the federal funding awarded to this state from the elementary and secondary school emergency relief (ESSER) fund under the American rescue plan act of 2021, title II, subtitle A, part 1 of Public Law 117-2, is allocated for payments to districts as provided under this subsection. From the funds allocated under this subsection, the department shall pay each district in proportion to the amount of funds the district received under part A of title I of the elementary and secondary education act of 1965, Public Law 103-382, in the most recent fiscal year. The funding under this subsection is designated as subgrants to local educational agencies as provided under section 2001(d) of the American rescue plan act of 2021, title II, subtitle A, part 1 of Public Law 117-2.

(9) Funds received by districts under subsection (8) must be used for the purposes described in section 2001(e) of the American rescue plan act of 2021, title II, subtitle A, part 1 of Public Law 117-2, including that not less than 20% of the funds must be reserved to address learning loss through the implementation of evidence-based interventions and to ensure that such interventions respond to students’ academic, social, and emotional needs and address the disproportionate impact of COVID-19 on the student subgroups described in section 6311(b)(2)(B)(xi) of 20 USC 6311; students experiencing homelessness; and children and youth in foster care.

(10) From the federal funds allocated under subsection (1), there is allocated \$8,281,500.00 from the federal funding awarded to this state from the elementary and secondary school emergency relief (ESSER) fund under the coronavirus response and relief supplemental appropriations act, 2021, division M of Public Law 116-260, to the department for administrative costs in implementing this section.

(11) As used in this section, “ESSER II formula payment per pupil” means an amount equal to the sum of the amount of funds the district receives under subsection (2) and the amount of funds the district would have received under subsection (3) if House Bill No. 4049 of the 101st Legislature was enacted into law and effective within 14 days after House Bill No. 4049 of the 101st Legislature was presented to the governor divided by the district’s pupils in membership for the 2020-2021 school year as calculated under section 6.

Sec. 23b. (1) From the federal fund money allocated under section 11n awarded to this state from the elementary and secondary school emergency relief (ESSER) fund under the coronavirus response and relief supplemental appropriations act, 2021, division M of Public Law 116-260, there is allocated for 2020-2021 an amount not to exceed \$152,400,000.00, and from the state school aid fund money appropriated under section 11, there is allocated for 2020-2021 an amount not to exceed \$10,000,000.00 to eligible districts and eligible intermediate districts described in subsection (4) to be used for COVID-19 remediation services in the manner described in subsection (6).

(2) The funds allocated under subsection (1) must be distributed by the department as follows:

(a) An amount not to exceed \$90,000,000.00 from the federal funding allocated under subsection (1) for summer programs that are offered as part of COVID-19 remediation services under this section.

(b) An amount not to exceed \$45,000,000.00 from the federal funding allocated under subsection (1) for credit recovery programs that are offered as part of COVID-19 remediation services under this section.

(c) An amount not to exceed \$17,400,000.00 from the federal funding allocated under subsection (1) for before-school, after-school, or before-and-after school programs that are offered as part of COVID-19 remediation services under this section.

(d) An amount not to exceed \$10,000,000.00 from the state school aid fund money allocated under subsection (1) for additional payments for summer programs and credit recovery programs that are offered as part of COVID-19 remediation services under this section that the department's innovation council designates as innovative under subsection (11).

(3) Except as otherwise provided in this subsection, to receive funding under this section, a district or intermediate district must apply for the funding in a form and manner prescribed by the department. An application for funding under this section must be submitted to the department by not later than April 15, 2021.

(4) A district or intermediate district that meets all of the following is an eligible district or eligible intermediate district under this section:

(a) In its application for funding under this section, the district or intermediate district pledges to provide COVID-19 remediation services to eligible children.

(b) In its application for funding under this section, the district or intermediate district includes a COVID-19 remediation services plan. A plan described in this subdivision must include at least all of the following, as applicable:

(i) For COVID-19 remediation services that include a summer program, all of the following:

(A) A description of the summer program.

(B) The number of potential eligible children that will enroll or the number of eligible children enrolled in the summer program.

(C) An estimate of costs for the preparation and implementation of the summer program.

(D) A statement indicating whether or not the district or intermediate district is requesting that the summer program be designated as innovative under subsection (11) and the reasons the district or intermediate district believes its program is innovative.

(ii) For COVID-19 remediation services that include a credit recovery program, all of the following:

(A) A description of the credit recovery program.

(B) The number of potential eligible children that will enroll or the number of eligible children enrolled in the credit recovery program.

(C) An estimate of costs for the preparation and implementation of the credit recovery program.

(D) A statement indicating whether or not the district or intermediate district is requesting that the credit recovery program be designated as innovative under subsection (11) and the reasons the district or intermediate district believes its program is innovative.

(iii) For COVID-19 remediation services that include a before-school, after-school, or before-and-after school program, all of the following:

(A) A description of the before-school, after-school, or before-and-after school program.

(B) The number of potential eligible children that will enroll or the number of eligible children enrolled in the before-school, after-school, or before-and-after school program.

(C) An estimate of costs for the preparation and implementation of the before-school, after-school, or before-and-after school program.

(D) Assurance that the before-school, after-school, or before-and-after school program is designed to emphasize remediation for eligible children.

(c) In its application for funding under this section, the district or intermediate district provides information concerning whether or not the district or intermediate district intends to contract for services as described in subsection (6)(a) in providing a summer program, credit recovery program, or before-school, after-school, or before-and-after school program as part of its COVID-19 remediation services under this section.

(5) Subject to subsections (2) and (7), from the funding allocated under subsection (1), the department shall pay each eligible district and each eligible intermediate district all of the following, as applicable:

(a) An amount equal to \$550.00 for each eligible child that, based on the application for funding under this section, will be enrolled or is enrolled in the eligible district's or eligible intermediate district's summer program, as applicable, offered as part of the eligible district's or eligible intermediate district's COVID-19 remediation services under this section.

(b) An amount equal to \$550.00 for each eligible child that, based on the application for funding under this section, will be enrolled or is enrolled in the eligible district's or eligible intermediate district's credit recovery program, as applicable, offered as part of the eligible district's or eligible intermediate district's COVID-19 remediation services under this section.

(c) An amount not to exceed \$25,000.00 to each eligible district or eligible intermediate district for its before-school, after-school, or before-and-after school program offered as part of its COVID-19 remediation services under this section.

(d) In addition to the amounts distributed under subdivisions (a) and (b), an amount not to exceed \$100.00 for each eligible child who, based on the application for funding under this section, will be enrolled or is enrolled in the eligible district's or eligible intermediate district's summer program or credit recovery program, as applicable, if the program or programs have been designated as innovative under subsection (11).

(6) An eligible district or eligible intermediate district that receives funding under this section shall only use that funding to provide COVID-19 remediation services to eligible children. Both of the following apply for purposes of this subsection:

(a) An eligible district or eligible intermediate district may contract with public or private entities, other districts or intermediate districts, or a consortium of other districts or intermediate districts to provide COVID-19 remediation services under this section.

(b) An eligible intermediate district may provide its COVID-19 remediation services to its constituent districts to provide to eligible children.

(7) If funds allocated under this section for summer programs that are offered as part of COVID-19 remediation services under this section are insufficient to fully fund calculations under this section, the department shall apply proration of an equal dollar amount per eligible child in a summer program. If funds allocated under this section for credit recovery programs that are offered as part of COVID-19 remediation services under this section are insufficient to fully fund calculations under this section, the department shall apply proration of an equal dollar amount per eligible child in a credit recovery program. If funds allocated under this section for before-school, after-school, or before-and-after school programs that are offered as part of COVID-19 remediation services under this section are insufficient to fully fund calculations under this section, the department shall apply proration in equal proportion to the amount the eligible district or eligible intermediate district would have received under this section for that program but for the application of proration under this subsection. If funds specifically allocated under this section for summer programs and credit recovery programs that are offered as part of COVID-19 remediation services under this section that have been designated as innovative under subsection (11) are insufficient to fully fund calculations under this section, the department shall apply proration of an equal dollar amount per eligible child in the program or programs described in this sentence.

(8) In awarding funding under this section, the department shall prioritize funding under this section that is distributed for before-school, after-school, and before-and-after school programs offered as part of COVID-19 remediation services under this section to the following eligible districts or eligible intermediate districts that offer those programs as part of their COVID-19 remediation services:

(a) Eligible districts or eligible intermediate districts with the highest number of eligible children who, based on the application for funding under this section, will enroll or are enrolled in the program.

(b) Eligible districts or eligible intermediate districts with the largest size program.

(c) Eligible districts or eligible intermediate districts with the highest amount of costs for the program.

(9) A before-school, after-school, or before-and-after school program that is offered as part of COVID-19 remediation services under this section must be provided to eligible children in a manner in which the eligible children are in person at a school building designated by the eligible district or eligible intermediate district providing the program. A before-school, after-school, or before-and-after school program that is offered as part of COVID-19 remediation services under this section must provide educational programming in core subject areas, including, but not limited to, mathematics, reading, and science. As used in this subsection, "in person" means physically present.

(10) If, in its application for funding under this section, an eligible district or eligible intermediate district submits the potential number of eligible children that will enroll in its summer program as described in subsection (4)(b)(i), potential number of eligible children that will enroll in its credit recovery program as described in subsection (4)(b)(ii), or potential number of eligible children that will enroll in its before-school, after-school, or before-and-after school program as described in subsection (4)(b)(iii), as applicable, and the eligible district or eligible intermediate district receives funding under this section based on those estimations, by June 15, 2021, the eligible district or eligible intermediate district shall submit the number of eligible children who actually enrolled in the eligible district's or eligible intermediate district's summer program, credit recovery program, or before-school, after-school, or before-and-after school program. If the eligible district or eligible

intermediate district received an overpayment of funds under this section based on its submitted estimates of eligible children as described in this subsection, as determined by the department, the eligible district or eligible intermediate district shall refund the department in the amount of the overpayment.

(11) For purposes of determining which eligible districts and eligible intermediate districts will receive additional payments as described in subsection (5)(d), the department's innovation council shall, based on applications submitted under this section, designate summer programs and credit recovery programs that are offered as part of COVID-19 remediation services under this section that, in their applications for funding under this section, request innovative designation as innovative if it determines those programs are innovative. A program that is designated as innovative under this subsection may include, without limitation, 1 or more of the following:

- (a) Community-based projects.
- (b) Integrated kinesthetic or cognitive growth programs.
- (c) STEM-based programs.
- (d) Outdoor or adventure-based programs.
- (e) Any programs that integrate public and private partnerships.

(12) Notwithstanding section 17b and except as otherwise provided in this subsection, the department shall make payments under this section on a schedule determined by the department. The department shall distribute all funding under this section by not later than May 20, 2021.

(13) As used in this section:

(a) "Constituent district" means a district that is located in the geographic boundaries of the intermediate district.

(b) "COVID-19 remediation services" means any of the following:

- (i) A summer program.
- (ii) A credit recovery program.
- (iii) A before-school, after-school, or before-and-after school program.

(c) "Credit recovery program" means an educational program that meets at least all of the following:

(i) Is offered to each eligible child described in subdivision (d)(ii) who was enrolled in any of grades 9 to 12 in the 2020-2021 school year.

(ii) Is a program that is designed to provide educational remediation to children.

(iii) Is offered in person, online, digitally, by other remote means, in a synchronous or asynchronous format, or through any combination of these.

(iv) Is a program that was developed based on the input of teachers and that is teacher-led.

(d) "Eligible child" means a child to whom the following apply, as applicable:

(i) For participation in a summer program offered as part of COVID-19 remediation services under this section, the eligible district or eligible intermediate district providing the summer program under this section has determined that the child is eligible for enrollment in the eligible district's or eligible intermediate district's summer program. An eligible district or eligible intermediate district is encouraged to base the determination described in this subparagraph on benchmark assessment data from the benchmark assessment or benchmark assessments administered to the child under section 104, as applicable, or on local assessments and is encouraged, in making its determination under this subparagraph, to consider the children with the greatest need based on academics, social-emotional and mental-health risk, or student engagement.

(ii) For participation in a credit recovery program offered as part of COVID-19 remediation services under this section, both of the following apply:

(A) In the 2020-2021 school year, the child was enrolled in the eligible district, eligible intermediate district, or a constituent district of the eligible intermediate district that provides the credit recovery program to the child under this section.

(B) Any of the following apply:

(I) The child has failed 1 or more credits or courses in the 2020-2021 school year.

(II) The child is not on track to graduate from high school, as determined by the eligible district, eligible intermediate district, or constituent district of the eligible intermediate district in which the child was enrolled as described in sub-subparagraph (A).

(III) The eligible district, eligible intermediate district, or constituent district of the eligible intermediate district in which the child was enrolled as described in sub-subparagraph (A) has determined that the child is eligible for enrollment in the eligible district's or eligible intermediate district's credit recovery program.

(iii) For participation in a before-school, after-school, or before-and-after school program offered as part of COVID-19 remediation services under this section, both of the following apply:

(A) In the 2020-2021 school year, the child was enrolled in any of grades K to 12 in the eligible district, eligible intermediate district, or a constituent district of the eligible intermediate district that provides the before-school, after-school, or before-and-after school program to the child under this section.

(B) The eligible district, eligible intermediate district, or constituent district of the eligible intermediate district in which the child was enrolled as described in sub-subparagraph (A) has determined that the child is eligible for enrollment in the eligible district's or eligible intermediate district's before-school, after-school, or before-and-after school program.

(e) "Summer program" means an educational program that meets at least all of the following:

(i) Is offered to each eligible child described in subdivision (d)(i) who was enrolled in any of grades K to 12 in the 2020-2021 school year.

(ii) Is offered at any point after June 1, 2021 and before September 1, 2021.

(iii) Is an 8-week program. As used in this subparagraph, "week" means a period beginning on Monday and ending on the following Friday.

(iv) Is a program that was developed based on the input of teachers and that is teacher-led.

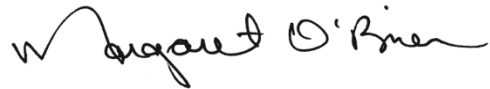
(v) Includes programming in core subject areas, including, but not limited to, mathematics, reading, and science.

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, as amended by 2020 PA 165, 2021 PA 3, and this amendatory act, from state sources for fiscal year 2020-2021 is estimated at \$13,888,484,200.00 and state appropriations for school aid to be paid to local units of government for fiscal year 2020-2021 are estimated at \$13,716,487,100.00.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor