

HOUSE BILL No. 5321

September 9, 2009, Introduced by Reps. Scripps, Moore, Lindberg, Ball, Mayes, Slavens, Melton, McDowell, Lahti, Neumann, Haveman, Valentine, Hansen and Wayne Schmidt and referred to the Committee on Education.

A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending section 22b (MCL 388.1622b), as amended by 2009 PA 73.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 22b. (1) From the appropriation in section 11, there is
2 allocated for 2008-2009 an amount not to exceed \$3,198,000,000.00
3 for discretionary nonmandated payments to districts under this
4 section. Funds allocated under this section that are not expended
5 in the state fiscal year for which they were allocated, as
6 determined by the department, may be used to supplement the
7 allocations under sections 22a and 51c in order to fully fund those
8 calculated allocations for the same fiscal year.

9 (2) In addition to the funds allocated in subsection (1),

1 there is allocated an amount estimated at \$600,000,000.00 from the
2 federal funds awarded to this state under title XIV of the American
3 recovery and reinvestment act of 2009, Public Law 111-5. These
4 funds shall be distributed in a form and manner determined by the
5 department based on an equal dollar amount per the number of
6 membership pupils used to calculate the May 20, 2009 state aid
7 payment and shall be expended in a manner prescribed by federal
8 law.

9 (3) Subject to subsection (4) and section 11, the allocation
10 to a district under this section shall be an amount equal to the
11 sum of the amounts calculated under sections 20, 20j, 51a(2),
12 51a(3), and 51a(12), minus the sum of the allocations to the
13 district under sections 22a and 51c. **BEGINNING WITH 2009-2010, IF**
14 **THERE IS ANY REDUCTION IN THE AMOUNT OF THE ALLOCATION TO DISTRICTS**
15 **UNDER THIS SECTION, THE REDUCTION SHALL BE MADE BY REDUCING EACH**
16 **DISTRICT'S ALLOCATION BY AN EQUAL PERCENTAGE OF THE DISTRICT'S**
17 **FOUNDATION ALLOWANCE OR PER PUPIL PAYMENT CALCULATED UNDER SECTION**
18 **20.**

19 (4) In order to receive an allocation under subsection (1),
20 each district shall do all of the following:

21 (a) Administer in each grade level that it operates in grades
22 1 to 5 a standardized assessment approved by the department of
23 grade-appropriate basic educational skills. A district may use the
24 Michigan literacy progress profile to satisfy this requirement for
25 grades 1 to 3. Also, if the revised school code is amended to
26 require annual assessments at additional grade levels, in order to
27 receive an allocation under this section each district shall comply

1 with that requirement.

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

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

7 (d) Comply with section 1230g of the revised school code, MCL
8 380.1230g.

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

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

22 (7) It is the intent of the legislature that all
23 constitutional obligations of this state have been fully funded
24 under sections 22a, 31d, 51a, and 51c. If a claim is made by an
25 entity receiving funds under this act that challenges the
26 legislative determination of the adequacy of this funding or
27 alleges that there exists an unfunded constitutional requirement,

1 the state budget director may escrow or allocate from the
2 discretionary funds for nonmandated payments under this section the
3 amount as may be necessary to satisfy the claim before making any
4 payments to districts under subsection (3). If funds are escrowed,
5 the escrowed funds are a work project appropriation and the funds
6 are carried forward into the following fiscal year. The purpose of
7 the work project is to provide for any payments that may be awarded
8 to districts as a result of litigation. The work project shall be
9 completed upon resolution of the litigation.

10 (8) If the local claims review board or a court of competent
11 jurisdiction makes a final determination that this state is in
12 violation of section 29 of article IX of the state constitution of
13 1963 regarding state payments to districts, the state budget
14 director shall use work project funds under subsection (7) or
15 allocate from the discretionary funds for nonmandated payments
16 under this section the amount as may be necessary to satisfy the
17 amount owed to districts before making any payments to districts
18 under subsection (3).

19 (9) If a claim is made in court that challenges the
20 legislative determination of the adequacy of funding for this
21 state's constitutional obligations or alleges that there exists an
22 unfunded constitutional requirement, any interested party may seek
23 an expedited review of the claim by the local claims review board.
24 If the claim exceeds \$10,000,000.00, this state may remove the
25 action to the court of appeals, and the court of appeals shall have
26 and shall exercise jurisdiction over the claim.

27 (10) If payments resulting from a final determination by the

1 local claims review board or a court of competent jurisdiction that
2 there has been a violation of section 29 of article IX of the state
3 constitution of 1963 exceed the amount allocated for discretionary
4 nonmandated payments under this section, the legislature shall
5 provide for adequate funding for this state's constitutional
6 obligations at its next legislative session.

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