

# HOUSE BILL No. 5565

October 29, 2009, Introduced by Reps. Corriveau, Bledsoe, Lisa Brown, Polidori, Constan, Kennedy, Barnett, Byrnes, Donigan, Geiss, Gregory, Kandrevas, LeBlanc, Liss, Haugh, Clemente, Warren, Ebli, Walsh, Nathan, Miller, Switalski, Meadows, Griffin, Melton, Stanley, Rocca, Crawford, Dillon, Johnson, Kowall, Moss, Stamas, Rick Jones, Genetski, Roberts, Young, Jackson, Cushingberry, Huckleberry and Knollenberg 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, 20j, and 22b (MCL 388.1611, 388.1620j, and 388.1622b), sections 11 and 22b as amended by 2009 PA 121 and section 20j as amended by 2008 PA 561.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 11. (1) For the fiscal year ending September 30, 2010,  
 2 there is appropriated for the public schools of this state and  
 3 certain other state purposes relating to education the sum of  
 4 ~~\$10,793,954,100.00~~ **\$10,793,105,400.00** from the state school aid  
 5 fund established by section 11 of article IX of the state  
 6 constitution of 1963 and the sum of ~~\$31,800,000.00~~ **\$30,206,200.00**  
 7 from the general fund. For the fiscal year ending September 30,

1 2010, there is also appropriated the sum of \$450,000,000.00 from  
2 the federal funding awarded to this state under title XIV of the  
3 American recovery and reinvestment act of 2009, Public Law 111-5,  
4 to be used solely for the purpose of funding the primary funding  
5 formula calculated under section 20, in accordance with federal  
6 law. In addition, other available federal funds are appropriated  
7 for the fiscal year ending September 30,2010.

8 (2) The appropriations under this section shall be allocated  
9 as provided in this act. Money appropriated under this section from  
10 the general fund shall be expended to fund the purposes of this act  
11 before the expenditure of money appropriated under this section  
12 from the state school aid fund. If the maximum amount appropriated  
13 under this section from the state school aid fund for a fiscal year  
14 exceeds the amount necessary to fully fund allocations under this  
15 act from the state school aid fund, that excess amount shall not be  
16 expended in that state fiscal year and shall not lapse to the  
17 general fund, but instead shall be deposited into the school aid  
18 stabilization fund created in section 11a.

19 (3) If the maximum amount appropriated under this section from  
20 the state school aid fund and the school aid stabilization fund for  
21 a fiscal year exceeds the amount available for expenditure from the  
22 state school aid fund for that fiscal year, payments under sections  
23 11f, 11g, 11j, 22a, 26a, 26b, 31d, 31f, 51a(2), 51a(12), 51c, 53a,  
24 and 56 shall be made in full. In addition, for districts beginning  
25 operations after 1994-95 that qualify for payments under section  
26 22b, payments under section 22b shall be made so that the  
27 qualifying districts receive the lesser of an amount equal to the

1 1994-95 foundation allowance of the district in which the district  
2 beginning operations after 1994-95 is located or \$5,500.00. The  
3 amount of the payment to be made under section 22b for these  
4 qualifying districts shall be as calculated under section 22a, with  
5 the balance of the payment under section 22b being subject to the  
6 proration otherwise provided under this subsection and subsection  
7 (4). If proration is necessary, state payments under each of the  
8 other sections of this act from all state funding sources shall be  
9 prorated in the manner prescribed in subsection (4) as necessary to  
10 reflect the amount available for expenditure from the state school  
11 aid fund for the affected fiscal year. However, if the department  
12 of treasury determines that proration will be required under this  
13 subsection, or if the department of treasury determines that  
14 further proration is required under this subsection after an  
15 initial proration has already been made for a fiscal year, the  
16 department of treasury shall notify the state budget director, and  
17 the state budget director shall notify the legislature at least 30  
18 calendar days or 6 legislative session days, whichever is more,  
19 before the department reduces any payments under this act because  
20 of the proration. During the 30 calendar day or 6 legislative  
21 session day period after that notification by the state budget  
22 director, the department shall not reduce any payments under this  
23 act because of proration under this subsection. The legislature may  
24 prevent proration from occurring by, within the 30 calendar day or  
25 6 legislative session day period after that notification by the  
26 state budget director, enacting legislation appropriating  
27 additional funds from the general fund, countercyclical budget and

1 economic stabilization fund, state school aid fund balance, or  
2 another source to fund the amount of the projected shortfall.

3 (4) If proration is necessary under subsection (3), the  
4 department shall calculate the proration in district and  
5 intermediate district payments that is required under subsection  
6 (3) as follows:

7 (a) The department shall calculate the percentage of total  
8 state school aid allocated under this act for the affected fiscal  
9 year for each of the following:

10 (i) Districts.

11 (ii) Intermediate districts.

12 (iii) Entities other than districts or intermediate districts.

13 (b) The department shall recover a percentage of the proration  
14 amount required under subsection (3) that is equal to the  
15 percentage calculated under subdivision (a) (i) for districts by  
16 reducing payments to districts. This reduction shall be made by  
17 calculating an equal dollar amount per pupil as necessary to  
18 recover this percentage of the proration amount and reducing each  
19 district's total state school aid from state sources, other than  
20 payments under sections 11f, 11g, 11j, 22a, 26a, 26b, 31d, 31f,  
21 51a(2), 51a(12), 51c, and 53a, by that amount.

22 (c) The department shall recover a percentage of the proration  
23 amount required under subsection (3) that is equal to the  
24 percentage calculated under subdivision (a) (ii) for intermediate  
25 districts by reducing payments to intermediate districts. This  
26 reduction shall be made by reducing the payments to each  
27 intermediate district, other than payments under sections 11f, 11g,

1 26a, 26b, 51a(2), 51a(12), 53a, and 56, on an equal percentage  
2 basis.

3 (d) The department shall recover a percentage of the proration  
4 amount required under subsection (3) that is equal to the  
5 percentage calculated under subdivision (a) (iii) for entities other  
6 than districts and intermediate districts by reducing payments to  
7 these entities. This reduction shall be made by reducing the  
8 payments to each of these entities, other than payments under  
9 sections 11j, 26a, and 26b, on an equal percentage basis.

10 (5) Except for the allocation under section 26a, any general  
11 fund allocations under this act that are not expended by the end of  
12 the state fiscal year are transferred to the school aid  
13 stabilization fund created under section 11a.

14 Sec. 20j. (1) Foundation allowance supplemental payments for  
15 ~~2008-2009-2009-2010~~ to districts that in the 1994-95 state fiscal  
16 year had a foundation allowance greater than \$6,500.00 shall be  
17 calculated under this section.

18 (2) The per pupil allocation to each district under this  
19 section shall be the difference between the basic foundation  
20 allowance for the 1998-99 state fiscal year and \$7,204.00 less  
21 \$271.00 minus the dollar amount of the adjustment from the 1998-99  
22 state fiscal year to 2007-2008 in the district's foundation  
23 allowance.

24 (3) If a district's local revenue per pupil does not exceed  
25 the sum of its foundation allowance under section 20 plus the per  
26 pupil allocation under subsection (2), the total payment to the  
27 district calculated under this section shall be the product of the

1 per pupil allocation under subsection (2) multiplied by the  
2 district's membership excluding special education pupils. If a  
3 district's local revenue per pupil exceeds the foundation allowance  
4 under section 20 but does not exceed the sum of the foundation  
5 allowance under section 20 plus the per pupil allocation under  
6 subsection (2), the total payment to the district calculated under  
7 this section shall be the product of the difference between the sum  
8 of the foundation allowance under section 20 plus the per pupil  
9 allocation under subsection (2) minus the local revenue per pupil  
10 multiplied by the district's membership excluding special education  
11 pupils. If a district's local revenue per pupil exceeds the sum of  
12 the foundation allowance under section 20 plus the per pupil  
13 allocation under subsection (2), there is no payment calculated  
14 under this section for the district.

15 (4) Payments to districts shall not be made under this  
16 section. Rather, the calculations under this section shall be made  
17 and used to determine the amount of state payments under section  
18 22b.

19 Sec. 22b. (1) From the state funds appropriated in section 11,  
20 there is allocated for 2009-2010 an amount not to exceed  
21 \$3,323,800,000.00 for discretionary nonmandated payments to  
22 districts under this section. Funds allocated under this section  
23 that are not expended in the state fiscal year for which they were  
24 allocated, as determined by the department, may be used to  
25 supplement the allocations under sections 22a and 51c in order to  
26 fully fund those calculated allocations for the same fiscal year.

27 (2) In addition to the **STATE** funds allocated in subsection

1 (1), there is allocated an amount estimated at \$450,000,000.00 from  
2 the federal funds awarded to this state under title XIV of the  
3 American recovery and reinvestment act of 2009, Public Law 111-5.  
4 These **FEDERAL** funds shall be distributed in a form and manner  
5 determined by the department based on an equal dollar amount per  
6 the number of membership pupils used to calculate the August 20,  
7 2009 state aid payment and shall be expended in a manner prescribed  
8 by federal 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.

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

16 (a) Administer in each grade level that it operates in grades  
17 1 to 5 a standardized assessment approved by the department of  
18 grade-appropriate basic educational skills. A district may use the  
19 Michigan literacy progress profile to satisfy this requirement for  
20 grades 1 to 3. Also, if the revised school code is amended to  
21 require annual assessments at additional grade levels, in order to  
22 receive an allocation under this section each district shall comply  
23 with that requirement.

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

26 (c) Furnish data and other information required by state and  
27 federal law to the center and the department in the form and manner

1 specified by the center or the department, as applicable.

2 (d) Comply with section 1230g of the revised school code, MCL  
3 380.1230g.

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

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

17 (7) It is the intent of the legislature that all  
18 constitutional obligations of this state have been fully funded  
19 under sections 22a, 31d, 51a, and 51c. If a claim is made by an  
20 entity receiving funds under this act that challenges the  
21 legislative determination of the adequacy of this funding or  
22 alleges that there exists an unfunded constitutional requirement,  
23 the state budget director may escrow or allocate from the  
24 discretionary funds for nonmandated payments under this section the  
25 amount as may be necessary to satisfy the claim before making any  
26 payments to districts under subsection (3). If funds are escrowed,  
27 the escrowed funds are a work project appropriation and the funds

1 are carried forward into the following fiscal year. The purpose of  
2 the work project is to provide for any payments that may be awarded  
3 to districts as a result of litigation. The work project shall be  
4 completed upon resolution of the litigation.

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

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

22 (10) If payments resulting from a final determination by the  
23 local claims review board or a court of competent jurisdiction that  
24 there has been a violation of section 29 of article IX of the state  
25 constitution of 1963 exceed the amount allocated for discretionary  
26 nonmandated payments under this section, the legislature shall  
27 provide for adequate funding for this state's constitutional

1 obligations at its next legislative session.

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

20 Enacting section 1. In accordance with section 30 of article I  
21 of the state constitution of 1963, total state spending in this  
22 amendatory act and in 2009 PA 121 from state sources for fiscal  
23 year 2009-2010 is estimated at \$10,823,311,600.00 and state  
24 appropriations to be paid to local units of government for fiscal  
25 year 2009-2010 are estimated at \$10,717,953,000.00.