

SENATE BILL No. 366

March 12, 2009, Introduced by Senators ALLEN, GARCIA, GEORGE, KAHN, PAPPAGEORGE, SANBORN and SWITALSKI and referred to the Committee on Health Policy.

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 2008 PA 268.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 22b. (1) From the appropriation in section 11, there is
 2 allocated ~~an amount not to exceed \$3,683,275,000.00 for 2007-2008~~
 3 ~~and~~ an amount not to exceed \$3,796,750,000.00 for 2008-2009 for
 4 discretionary nonmandated payments to districts under this section.
 5 Funds allocated under this section that are not expended in the
 6 state fiscal year for which they were allocated, as determined by
 7 the department, may be used to supplement the allocations under
 8 sections 22a and 51c in order to fully fund those calculated
 9 allocations for the same fiscal year.

10 (2) Subject to subsection (3) and section 11, the allocation

1 to a district under this section shall be an amount equal to the
2 sum of the amounts calculated under sections 20, 20j, 51a(2),
3 51a(3), and 51a(12), minus the sum of the allocations to the
4 district under sections 22a and 51c.

5 (3) In order to receive an allocation under this section, each
6 district shall do all of the following:

7 (a) Administer in each grade level that it operates in grades
8 1 to 5 a standardized assessment approved by the department of
9 grade-appropriate basic educational skills. A district may use the
10 Michigan literacy progress profile to satisfy this requirement for
11 grades 1 to 3. Also, if the revised school code is amended to
12 require annual assessments at additional grade levels, in order to
13 receive an allocation under this section each district shall comply
14 with that requirement.

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

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

20 (d) Comply with section 1230g of the revised school code, MCL
21 380.1230g.

22 **(E) COMPLY WITH SECTION 1502 OF THE REVISED SCHOOL CODE, MCL**
23 **380.1502.**

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

1 with other districts located within that intermediate district.

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

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

25 (7) If the local claims review board or a court of competent
26 jurisdiction makes a final determination that this state is in
27 violation of section 29 of article IX of the state constitution of

1 1963 regarding state payments to districts, the state budget
2 director shall use work project funds under subsection (6) or
3 allocate from the discretionary funds for nonmandated payments
4 under this section the amount as may be necessary to satisfy the
5 amount owed to districts before making any payments to districts
6 under subsection (2).

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

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

22 (10) If a lawsuit challenging payments made to districts
23 related to costs reimbursed by federal title XIX medicaid funds is
24 filed against this state, then, for the purpose of addressing
25 potential liability under such a lawsuit, the state budget director
26 may place funds allocated under this section in escrow or allocate
27 money from the funds otherwise allocated under this section, up to

1 a maximum of 50% of the amount allocated in subsection (1). If
2 funds are placed in escrow under this subsection, those funds are a
3 work project appropriation and the funds are carried forward into
4 the following fiscal year. The purpose of the work project is to
5 provide for any payments that may be awarded to districts as a
6 result of the litigation. The work project shall be completed upon
7 resolution of the litigation. In addition, this state reserves the
8 right to terminate future federal title XIX medicaid reimbursement
9 payments to districts if the amount or allocation of reimbursed
10 funds is challenged in the lawsuit. As used in this subsection,
11 "title XIX" means title XIX of the social security act, 42 USC 1396
12 to 1396v.

13 Enacting section 1. This amendatory act does not take effect
14 unless Senate Bill No. 365

15 of the 95th Legislature is enacted into law.