

SENATE SUBSTITUTE FOR

HOUSE BILL NO. 4359

(As amended, September 6, 2007)

<<A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending sections 11 and 22b (MCL 388.1611 and 388.1622b), as amended
by 2007 PA 6, and by adding sections 32n and 82.>>

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (1) ~~For the fiscal year ending September 30, 2007,~~
2 ~~there is appropriated for the public schools of this state and~~
3 ~~certain other state purposes relating to education the sum of~~
4 ~~\$11,299,963,200.00 from the state school aid fund established by~~
5 ~~section 11 of article IX of the state constitution of 1963 and the~~
6 ~~sum of \$35,000,000.00 from the general fund. FOR THE FISCAL YEAR~~
7 ~~ENDING SEPTEMBER 30, 2008, THERE IS APPROPRIATED FOR THE PUBLIC~~

House Bill No. 4359 as amended September 6, 2007

1 SCHOOLS OF THIS STATE AND CERTAIN OTHER STATE PURPOSES RELATING TO
2 EDUCATION THE SUM OF <<\$100.00>> FROM THE STATE SCHOOL AID FUND
3 ESTABLISHED BY SECTION 11 OF ARTICLE IX OF THE STATE CONSTITUTION
4 OF 1963 AND THE SUM OF \$0.00 FROM THE GENERAL FUND. In addition,
5 available federal funds are appropriated for the fiscal year.

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

17 (3) TO ASSIST THE LEGISLATURE AND THE STATE BUDGET OFFICE IN
18 DETERMINING WHETHER SUFFICIENT FUNDS ARE AVAILABLE TO FULLY FUND
19 THE APPROPRIATIONS UNDER THIS ACT, EACH REVENUE ESTIMATING
20 CONFERENCE CONDUCTED UNDER SECTION 367B OF THE MANAGEMENT AND
21 BUDGET ACT, 1984 PA 431, MCL 18.1367B, SHALL CALCULATE AN ESTIMATED
22 YEAR-END BALANCE USING CONSENSUS REVENUE AND COST ESTIMATES FOR THE
23 FISCAL YEAR ENDING IN THE CALENDAR YEAR OF THE ESTIMATING
24 CONFERENCE. If the maximum amount appropriated under this section
25 from the state school aid fund and the school aid stabilization
26 fund for a fiscal year, ADJUSTED BY ANY CHANGES IN CONSENSUS COST
27 ESTIMATES DETERMINED BY THE CONSENSUS REVENUE ESTIMATING

1 **CONFERENCE**, exceeds the amount available for expenditure from the
2 state school aid fund for that fiscal year, ~~payments~~ **AS DETERMINED**
3 **BY THE CONSENSUS REVENUE ESTIMATING CONFERENCE, THEN ALL OF THE**
4 **FOLLOWING APPLY:**

5 (A) **PAYMENTS** under sections 11f, 11g, 11j, 22a, 26a, 26b, 31d,
6 31f, 51a(2), 51a(12), 51c, 53a, and 56 shall be made in full. ~~In~~
7 ~~addition, for~~

8 (B) **FOR** districts beginning operations after 1994-95 that
9 qualify for payments under section 22b, payments under section 22b
10 shall be made so that the qualifying districts receive the lesser
11 of an amount equal to the 1994-95 foundation allowance of the
12 district in which the district beginning operations after 1994-95
13 is located or \$5,500.00. The amount of the payment to be made under
14 section 22b for these qualifying districts shall be as calculated
15 under section 22a, with the balance of the payment under section
16 22b being subject to the proration otherwise provided under this
17 subsection and subsection (4). ~~If proration is necessary~~

18 (C) **EXCEPT AS OTHERWISE PROVIDED UNDER SUBDIVISION (D)**, state
19 payments under each of the ~~other~~ sections of this act, **OTHER THAN**
20 **THOSE LISTED IN SUBDIVISION (A)**, from all state funding sources
21 shall be prorated in the manner prescribed in subsection (4) as
22 necessary to reflect the amount available for expenditure from the
23 state school aid fund for the affected fiscal year. ~~However, if the~~
24 ~~department of treasury determines that proration will be required~~
25 ~~under this subsection, or if the department of treasury determines~~
26 ~~that further proration is required under this subsection after an~~
27 ~~initial proration has already been made for a fiscal year, the~~

~~department of treasury shall notify the state budget director, and the state budget director shall notify the legislature at least 30 calendar days or 6 legislative session days, whichever is more, before the department reduces any payments under this act because of the proration.~~

(D) WITHIN 14 DAYS AFTER THE REVENUE ESTIMATING CONFERENCE THAT DETERMINED A PROJECTED SHORTFALL AS DESCRIBED IN THIS SUBSECTION, THE STATE BUDGET DIRECTOR SHALL NOTIFY THE LEGISLATURE THAT PRORATION OF PAYMENTS UNDER SUBDIVISION (C) WILL BE NECESSARY.

During the 30 calendar day or 6 legislative session day period after that notification by the state budget director, the department shall not reduce any payments under this act because of proration under this subsection. The legislature may prevent proration from occurring by, within the 30 calendar day or 6 legislative session day period after that notification by the state budget director, enacting legislation appropriating additional funds from the general fund, countercyclical budget and economic stabilization fund, state school aid fund balance, or another source to fund the amount of the projected shortfall, **OR BY ENACTING LEGISLATION REDUCING APPROPRIATIONS UNDER THIS ACT IN THE AMOUNT OF THE PROJECTED SHORTFALL, OR A COMBINATION OF THESE.**

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

(a) The department shall calculate the percentage of total state school aid allocated under this act for the affected fiscal

1 year for each of the following:

2 (i) Districts.

3 (ii) Intermediate districts.

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

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

14 (c) The department shall recover a percentage of the proration
15 amount required under subsection (3) that is equal to the
16 percentage calculated under subdivision (a)(ii) for intermediate
17 districts by reducing payments to intermediate districts. This
18 reduction shall be made by reducing the payments to each
19 intermediate district, other than payments under sections 11f, 11g,
20 26a, 26b, 51a(2), 51a(12), 53a, and 56, on an equal percentage
21 basis.

22 (d) 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)(iii) for entities other
25 than districts and intermediate districts by reducing payments to
26 these entities. This reduction shall be made by reducing the
27 payments to each of these entities, other than payments under

House Bill No. 4359 as amended September 6, 2007

(1 of 3)

sections 11j, 26a, and 26b, on an equal percentage basis.

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

~~———— (6) In addition to the appropriations in subsection (1), for the fiscal year ending September 30, 2007, there is appropriated from the reserve for undistributed investment income in the Michigan public school employees' retirement system an amount not to exceed \$262,000,000.00 solely for the purpose of issuing credits pursuant to section 147.~~

<<Sec. 22b. (1) From the appropriation in section 11, there is allocated an amount not to exceed ~~\$3,566,000,000.00 for 2006-2007~~ **\$100.00 FOR 2007-2008** for discretionary nonmandated payments to districts under this section. Funds allocated under this section that are not expended in the state fiscal year for which they were allocated, as determined by the department, may be used to supplement the allocations under sections 22a and 51c in order to fully fund those calculated allocations for the same fiscal year.

(2) Subject to subsection (3) and section 11, the allocation to a district under this section shall be an amount equal to the sum of the amounts calculated under sections 20, 20j, 51a(2), 51a(3), and 51a(12), minus the sum of the allocations to the district under sections 22a and 51c.

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

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

(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) FOR A DISTRICT THAT IS NOT A PUBLIC SCHOOL ACADEMY, BY MAY 1 OF EACH FISCAL YEAR, PROVIDE AN ANNUAL REPORT TO RESIDENTS OF THE DISTRICT THAT INCLUDES THE FOLLOWING:

(i) ON BOTH A PER-PUPIL AND PERCENTAGE BASIS, THE AMOUNT OF THE DISTRICT'S TOTAL FEDERAL, STATE, AND LOCAL FUNDING FOR THE IMMEDIATELY PRECEDING SCHOOL FISCAL YEAR THAT WAS SPENT ON GENERAL ADMINISTRATION; SCHOOL ADMINISTRATION; OTHER BUSINESS AND ADMINISTRATION; TRANSPORTATION; FACILITIES OPERATION AND MAINTENANCE; MEDICAL, OPTICAL, AND DENTAL

House Bill No. 4359 as amended September 6, 2007

BENEFITS FOR ACTIVE EMPLOYEES; AND CONTRIBUTIONS FOR PENSION AND MEDICAL, OPTICAL, AND DENTAL BENEFITS FOR RETIRED EMPLOYEES.

(ii) ON BOTH A PER-PUPIL AND PERCENTAGE BASIS, THE AMOUNT OF THE DISTRICT'S TOTAL FEDERAL, STATE, AND LOCAL FUNDING FOR THE IMMEDIATELY PRECEDING SCHOOL FISCAL YEAR THAT WAS SPENT ON INSTRUCTION AND INSTRUCTIONAL SUPPORT SERVICES. THE DISTRICT SHALL ALSO INDICATE HOW MUCH OF THE INSTRUCTION AND INSTRUCTIONAL SUPPORT SERVICES COSTS WERE ATTRIBUTABLE TO SALARIES.

(F) FOR A DISTRICT THAT IS NOT A PUBLIC SCHOOL ACADEMY, USE FOR ADMINISTRATIVE PURPOSES, INCLUDING PAYROLL, HUMAN RESOURCES, AND OTHER BUSINESS FUNCTIONS, SOFTWARE THAT IS COMPATIBLE WITH THAT OF THE INTERMEDIATE DISTRICT IN WHICH THE DISTRICT IS LOCATED AND WITH OTHER CONSTITUENT DISTRICTS WITHIN THAT INTERMEDIATE DISTRICT. IF A CONTRACT IS IN EFFECT AS OF THE EFFECTIVE DATE OF THIS SUBDIVISION THAT REQUIRES THE DISTRICT TO USE SOFTWARE THAT DOES NOT COMPLY WITH THIS SUBDIVISION, AND IF THAT CONTRACT DOES NOT ALLOW FOR THE DISTRICT TO COMPLY WITH THIS REQUIREMENT WITH RESPECT TO THE SOFTWARE COVERED BY THE CONTRACT, THEN THE REQUIREMENT FOR COMMON SOFTWARE UNDER THIS SUBDIVISION DOES NOT APPLY WITH RESPECT TO THAT SOFTWARE UNTIL AFTER THE EXPIRATION OF THAT CONTRACT.

(4) 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 shall be made in full before any proration of remaining payments under this section.

(5) It is the intent of the legislature that all constitutional obligations of this state have been fully funded under sections 22a, 31d, 51a, and 51c. If a claim is made by an entity receiving funds under this act 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 shall be completed upon resolution of the litigation.

(6) 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 (5) 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).

(7) 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 shall have and shall exercise jurisdiction over the claim.

House Bill No. 4359 as amended September 6, 2007

(8) 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.

(9) 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 shall be 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 1396v.>>

12 SEC. 32N. (1) FROM THE FUNDS APPROPRIATED IN SECTION 11, THERE
13 IS ALLOCATED AN AMOUNT NOT TO EXCEED \$0.00 FOR A STATEWIDE BEFORE-
14 OR AFTER-SCHOOL PROGRAM FOR CHILDREN AND YOUTH. BEFORE-SCHOOL
15 PROGRAMS ARE LIMITED TO SCHOOL-AGED CHILDREN. THIS ALLOCATION WILL
16 BE DISTRIBUTED THROUGH GRANTS TO COUNTIES BASED UPON DEMONSTRATED
17 NEED. A SINGLE COUNTY SHALL NOT RECEIVE ANY MORE THAN 20% OF THE
18 TOTAL ALLOCATION. THE DEPARTMENT SHALL GIVE PRIORITY FOR
19 DISTRIBUTION OF THIS FUNDING TO PROGRAMS THAT HAVE SECURED
20 ADDITIONAL GOVERNMENTAL AND NONGOVERNMENTAL MATCHING FUNDS.

21 (2) THE DEPARTMENT SHALL SHARE THE ADMINISTRATIVE DUTIES OF
22 OPERATING THIS PROGRAM WITH THE DEPARTMENT OF HUMAN SERVICES,
23 DEPARTMENT OF COMMUNITY HEALTH, DEPARTMENT OF HISTORY, ARTS, AND
24 LIBRARIES, AND DEPARTMENT OF LABOR AND ECONOMIC GROWTH.

25 (3) FUNDING PRIORITY IN SUBSECTION (1) SHALL BE RESERVED FOR
26 PROGRAMS THAT USE A CURRICULUM FOCUSED UPON IMPROVING ACADEMIC
27 PERFORMANCE AND HEALTHY BEHAVIOR, INCLUDING ABSTINENCE FROM ABUSE

House Bill No. 4359 as amended September 6, 2007

1 OF ALCOHOL AND ILLEGAL DRUGS.

<<SEC. 82. FROM THE FUNDS ALLOCATED UNDER SECTION 81, AN INTERMEDIATE DISTRICT MAY DEVELOP AND MAKE AVAILABLE TO DISTRICTS AN EARLY INTERVENING MODEL PROGRAM FOR GRADES K TO 3. THE MODEL EARLY INTERVENING PROGRAM SHALL BE DESIGNED TO INSTRUCT CLASSROOM TEACHERS AND SUPPORT STAFF ON HOW TO MONITOR INDIVIDUAL PUPIL LEARNING AND HOW TO PROVIDE SPECIFIC SUPPORT OR LEARNING STRATEGIES TO PUPILS AS EARLY AS POSSIBLE IN ORDER TO REDUCE THE NEED FOR SPECIAL EDUCATION PLACEMENT. THE MODEL PROGRAM SHALL INCLUDE LITERACY AND NUMERACY SUPPORTS, SENSORY MOTOR SKILL DEVELOPMENT, BEHAVIOR SUPPORTS, INSTRUCTIONAL CONSULTATION FOR TEACHERS, AND THE DEVELOPMENT OF A PARENT/SCHOOL LEARNING PLAN. SPECIFIC SUPPORT OR LEARNING STRATEGIES MAY INCLUDE SUPPORT IN OR OUT OF THE GENERAL CLASSROOM IN AREAS INCLUDING READING, WRITING, MATH, VISUAL MEMORY, MOTOR SKILL DEVELOPMENT, BEHAVIOR, OR LANGUAGE DEVELOPMENT. THESE WOULD BE PROVIDED BASED ON AN UNDERSTANDING OF THE INDIVIDUAL CHILD'S LEARNING NEEDS.>>