

# SENATE BILL No. 643

June 23, 2005, Introduced by Senators BISHOP and VAN WOERKOM and referred to the Committee on Finance.

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 622 and 1223 (MCL 380.622 and 380.1223), section 622 as amended by 2001 PA 127 and section 1223 as amended by 1997 PA 47.

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

1           Sec. 622. (1) The intermediate school board shall select  
2 financial institutions for the deposit of school funds. The  
3 intermediate school board shall keep a set of coded accounts to be  
4 approved by the superintendent of public instruction and shall have  
5 its books audited at least annually by a certified public  
6 accountant. General operating funds, building and site funds,  
7 cooperative education funds, special education funds, vocational-

1 technical education funds, and debt retirement funds shall be  
 2 maintained separately and shall not be commingled, except that the  
 3 intermediate school board, by resolution, may authorize the  
 4 treasurer to combine money from more than 1 fund for the purpose of  
 5 making an investment authorized by subsection ~~(2)(g)~~ **(2)(I)**.

6 ~~(2) The~~ **SUBJECT TO SUBSECTION (6), THE** treasurer of an  
 7 intermediate school ~~district~~ **BOARD**, if authorized by resolution  
 8 of the intermediate school board, may invest general operating  
 9 funds, special education funds, area vocational-technical education  
 10 funds, building and site funds, cooperative education funds, and  
 11 debt retirement funds of the **INTERMEDIATE SCHOOL** district.  
 12 ~~Investments shall be made subject to subsection (4) and shall be~~  
 13 ~~restricted to any~~ **THESE INVESTMENTS ARE RESTRICTED TO 1 OR MORE** of  
 14 the following:

15 (a) Bonds, bills, or notes ~~of the United States or~~  
 16 ~~obligations of this state~~ **ISSUED DIRECTLY BY THE UNITED STATES**  
 17 **DEPARTMENT OF TREASURY.**

18 **(B) UNITED STATES DEPARTMENT OF TREASURY BONDS, BILLS, OR**  
 19 **NOTES FOR WHICH THE INTEREST AND PRINCIPAL HAVE BEEN SEPARATED AND**  
 20 **SOLD INDIVIDUALLY AS ZERO-COUPON BONDS.**

21 ~~(C) (b)~~ Certificates of deposit issued by a **RATED** financial  
 22 institution.

23 ~~(D) (e)~~ Commercial paper **ISSUED BY A UNITED STATES-DOMICILED**  
 24 **ENTITY AND** rated prime at the time of purchase and maturing not  
 25 more than 270 days after the date of purchase **OR SHORT-TERM**  
 26 **CORPORATE OBLIGATIONS ISSUED BY A UNITED STATES-DOMICILED**  
 27 **CORPORATION AND RATED AAA AT THE TIME OF PURCHASE AND MATURING NOT**

1 MORE THAN 270 DAYS AFTER THE DATE OF PURCHASE.

2 (E) ~~(d) Securities issued or guaranteed by agencies or~~  
3 ~~instrumentalities of the United States government.~~ BONDS OR NOTES  
4 ISSUED DIRECTLY FROM, OR GUARANTEED BY, AN AGENCY OR GOVERNMENT-  
5 SPONSORED ENTERPRISE OF THE UNITED STATES, IN THE SAME FORM AS WHEN  
6 THEY WERE ISSUED.

7 (F) ~~(e) United States government or federal agency OR~~  
8 GOVERNMENT-SPONSORED ENTERPRISE obligation repurchase agreements,  
9 REVERSE REPURCHASE AGREEMENTS, OR GOVERNMENT LENDING AGREEMENTS.

10 (G) AGREEMENTS TO LEND BONDS, BILLS, OR NOTES OF THE UNITED  
11 STATES, AN AGENCY OF THE UNITED STATES, OR A GOVERNMENT-SPONSORED  
12 ENTERPRISE OF THE UNITED STATES. AN AGREEMENT DESCRIBED IN THIS  
13 SUBDIVISION SHALL MEET ALL OF THE FOLLOWING:

14 (i) REQUIRE THAT ALL COLLATERAL HELD IN THE FORM OF A UNITED  
15 STATES TREASURY BOND OR NOTE OR OTHER UNITED STATES AGENCY BOND OR  
16 NOTE, OR CASH, MUST BE MAINTAINED AT A VALUE EQUAL TO OR GREATER  
17 THAN 102% OF THE MARKET VALUE OF THE SECURITIES OR CASH THAT HAS  
18 BEEN LENT. THE AGREEMENT SHALL REQUIRE THE CUSTODIAN OF THE  
19 COLLATERAL TO DETERMINE THE VALUE OF THE COLLATERAL AT LEAST ONCE  
20 PER DAY ON DAYS WHEN THE NEW YORK FEDERAL RESERVE BANK IS OPEN.

21 (ii) IF THE TRANSACTION INVOLVES A REVERSE REPURCHASE AGREEMENT  
22 OR A SECURITIES LENDING AGREEMENT, REQUIRE THAT AGREEMENT TO BE  
23 TRANSACTED THROUGH A QUALIFIED LENDING AGENT.

24 (iii) REQUIRE THAT A QUALIFIED MICHIGAN CUSTODIAL BANK SERVE AS  
25 CUSTODIAN FOR THAT AGREEMENT.

26 (iv) REQUIRE THAT ALL MATURITY DATES FOR INVESTMENTS MADE FROM  
27 CASH RECEIVED AS COLLATERAL MUST NOT HAVE A MATURITY DATE BEYOND

1 THE FINAL DATE AGREED UPON FOR RETURN OF THE COLLATERAL.

2 (v) IF THE TRANSACTION INVOLVES A GOVERNMENT LENDING AGREEMENT  
3 OR REVERSE REPURCHASE AGREEMENT, REQUIRE THAT THE INTERMEDIATE  
4 SCHOOL DISTRICT MUST PROVIDE AT LEAST 3 BUSINESS DAYS' NOTICE TO  
5 ALL PARTIES INVOLVED IN THE GOVERNMENT LENDING AGREEMENT OR REVERSE  
6 REPURCHASE AGREEMENT BEFORE SELLING OR TRANSFERRING ITS INTEREST IN  
7 ANY BOND, BILL, OR NOTE LENT DURING THE TERM OF THE AGREEMENT.

8 (H) ~~(f)~~ Bankers' acceptances issued by a RATED bank that is  
9 a member of the federal deposit insurance corporation.

10 (I) ~~(g)~~ Investment pools, as authorized by the surplus funds  
11 investment pool act, 1982 PA 367, MCL 129.111 to 129.118, composed  
12 entirely of instruments that are legal for direct investment by an  
13 intermediate school district.

14 (J) ~~(h)~~ Mutual funds composed entirely of investment  
15 vehicles that are legal for direct investment by an intermediate  
16 school district.

17 (K) DEBT OBLIGATIONS OF THIS STATE OR A POLITICAL SUBDIVISION  
18 OF THIS STATE THAT AT THE TIME OF PURCHASE ARE RATED AT LEAST AA AS  
19 DETERMINED BY AT LEAST 1 RECOGNIZED STANDARD RATING SERVICE AND  
20 HAVING A FINAL MATURITY DATE THAT IS WITHIN 4 YEARS OF THE PURCHASE  
21 DATE.

22 (l) OBLIGATIONS OF A POLITICAL SUBDIVISION OF ANOTHER STATE  
23 THAT AT THE TIME OF PURCHASE ARE RATED AT LEAST AA AS DETERMINED BY  
24 AT LEAST 1 RECOGNIZED STANDARD RATING SERVICE AND HAVING A MATURITY  
25 DATE THAT IS WITHIN 12 MONTHS OF THE PURCHASE DATE OR SUBJECT TO A  
26 REDEMPTION THAT IS BACKED BY A LETTER OF CREDIT AND THAT IS NOT  
27 GREATER THAN 12 MONTHS FROM PURCHASE.

1           (3) The earnings of an investment shall become a part of the  
2 fund from which the investment was made. When money of more than 1  
3 fund of a single intermediate school district or money of more than  
4 1 intermediate school district are combined for an investment pool  
5 authorized by subsection ~~-(2)(g)-~~ **(2) (I)**, the money shall be  
6 accounted for separately, and the earnings from the investment  
7 shall be separately and individually computed, recorded, and  
8 credited to the fund or intermediate school district, as the case  
9 may be, for which the investment was acquired.

10           **(4) AN INTERMEDIATE SCHOOL DISTRICT SHALL ENSURE THAT AN**  
11 **INVESTMENT DESCRIBED IN SUBSECTION (2) IS HELD IN CUSTODY OR**  
12 **SAFEKEEPING BY A FINANCIAL INSTITUTION.**

13           **(5) AN INTERMEDIATE SCHOOL DISTRICT SHALL NOT INVEST MONEY IN**  
14 **AN INVESTMENT THAT IS NOT SPECIFICALLY LISTED IN SUBSECTION (2).**

15           **(6) ~~-(4)-~~ Notwithstanding subsection ~~(2),~~ additional funds of**  
16 **~~an~~ AN intermediate school district shall not ~~be deposited or~~**  
17 **~~invested~~ DEPOSIT OR INVEST MONEY IN A FUND DESCRIBED IN SUBSECTION**  
18 **(2) in a financial institution that is not eligible to be a**  
19 **depository OR CUSTODIAN of surplus funds belonging to this state**  
20 **under section 6 of 1855 PA 105, MCL 21.146.**

21           **(7) ~~-(5)-~~ Assets acceptable for pledging to secure deposits of**  
22 **funds under this act are limited to any of the following:**

23           (a) Assets considered acceptable to the state treasurer under  
24 section 3 of 1855 PA 105, MCL 21.143, to secure deposits of state  
25 surplus funds.

26           (b) Any of the following:

27           (i) Securities issued by the federal home loan mortgage

1 corporation.

2 (ii) Securities issued by the federal national mortgage  
3 association.

4 (iii) Securities issued by the government national mortgage  
5 association.

6 (c) Securities considered acceptable to the intermediate  
7 school board and the financial institution.

8 (8) ~~(6)~~ As used in this section: ~~—, "deposit"~~

9 (A) **"DEPOSIT"** includes purchases of or investment in shares of  
10 a **RATED MICHIGAN** credit union.

11 (B) ~~(7) As used in this section, "financial~~ **"FINANCIAL**  
12 institution" means a state or nationally chartered bank or a state  
13 or federally chartered savings and loan association, savings bank,  
14 or credit union whose deposits are insured by an agency of the  
15 United States government and that maintains ~~a principal office or~~  
16 **AT LEAST 1** branch office located in this state. ~~under the laws of~~  
17 ~~this state or the United States.~~

18 (C) **"GOVERNMENT-SPONSORED ENTERPRISE" MEANS A PRIVATELY HELD**  
19 **CORPORATION WITH A PUBLIC PURPOSE THAT IS CREATED BY FEDERAL**  
20 **STATUTE.**

21 (D) **"QUALIFIED LENDING AGENT" MEANS AN ENTITY THAT IS**  
22 **REGULATED BY THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION**  
23 **AND THAT MANAGES OR CONTROLS AGREEMENTS DESCRIBED IN SUBSECTION**  
24 **(2), OR SIMILAR AGREEMENTS, WITH MARKET VALUES OF AT LEAST**  
25 **\$5,000,000,000.00.**

26 (E) **"QUALIFIED MICHIGAN CUSTODIAL BANK" MEANS A FINANCIAL**  
27 **INSTITUTION THAT HAS EXPERTISE IN SERVING AS A CUSTODIAN FOR**

1 **SECURITIES LENDING AND REVERSE REPURCHASE AGREEMENTS.**

2       Sec. 1223. (1) ~~If~~ **SUBJECT TO SUBSECTION (8), IF** authorized  
 3 by resolution of the board of ~~a~~ **THE** school district, the  
 4 treasurer **OF A SCHOOL BOARD** may invest debt retirement funds,  
 5 building and site funds, building and site sinking funds, or  
 6 general funds of the district. ~~The investment shall be made under~~  
 7 ~~subsection (7) and shall be restricted to~~ **THESE INVESTMENTS ARE**  
 8 **RESTRICTED TO 1 OR MORE OF** the following:

9       (a) Bonds, bills, or notes ~~of the United States; obligations,~~  
 10 ~~the principal and interest of which are fully guaranteed by the~~  
 11 ~~United States; or obligations of the state. In a primary or fourth~~  
 12 ~~class school district, the bonds, bills, or notes shall be payable,~~  
 13 ~~at the option of the holder, upon not more than 90 days' notice, or~~  
 14 ~~if not so payable, shall have maturity dates not more than 5 years~~  
 15 ~~after the purchase dates.~~ **ISSUED DIRECTLY BY THE UNITED STATES**  
 16 **DEPARTMENT OF TREASURY.**

17       (b) **UNITED STATES DEPARTMENT OF TREASURY BONDS, BILLS, OR**  
 18 **NOTES FOR WHICH THE INTEREST AND PRINCIPAL HAVE BEEN SEPARATED AND**  
 19 **SOLD INDIVIDUALLY AS ZERO-COUPON BONDS.**

20       (c) ~~(b)~~ Certificates of deposit issued by a **RATED** financial  
 21 institution or share certificates of a **RATED** state or federal  
 22 credit union that is a financial institution.

23       (d) ~~(e)~~ Commercial paper **ISSUED BY A UNITED STATES-DOMICILED**  
 24 **ENTITY AND** rated prime at the time of purchase and maturing not  
 25 more than 270 days after the date of purchase **OR SHORT-TERM**  
 26 **CORPORATE OBLIGATIONS ISSUED BY A UNITED STATES-DOMICILED**  
 27 **CORPORATION AND RATED AAA AT THE TIME OF PURCHASE AND MATURING NOT**

1 MORE THAN 270 DAYS AFTER THE DATE OF PURCHASE.

2 (E) ~~(d) Securities issued or guaranteed by agencies or~~  
3 ~~instrumentalities of the United States government.~~ BONDS OR NOTES  
4 ISSUED DIRECTLY FROM, OR GUARANTEED BY, AN AGENCY OR GOVERNMENT-  
5 SPONSORED ENTERPRISE OF THE UNITED STATES, IN THE SAME FORM AS WHEN  
6 THEY WERE ISSUED.

7 (F) ~~(e) United States government or federal agency OR~~  
8 GOVERNMENT-SPONSORED ENTERPRISE obligation repurchase agreements,  
9 REVERSE REPURCHASE AGREEMENTS, OR GOVERNMENT LENDING AGREEMENTS.

10 (G) AGREEMENTS TO LEND BONDS, BILLS, OR NOTES OF THE UNITED  
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12 ENTERPRISE OF THE UNITED STATES. AN AGREEMENT DESCRIBED IN THIS  
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15 STATES TREASURY BOND OR NOTE OR OTHER UNITED STATES AGENCY BOND OR  
16 NOTE, OR CASH, MUST BE MAINTAINED AT A VALUE EQUAL TO OR GREATER  
17 THAN 102% OF THE MARKET VALUE OF THE SECURITIES OR CASH THAT HAS  
18 BEEN LENT. THE AGREEMENT SHALL REQUIRE THE CUSTODIAN OF THE  
19 COLLATERAL TO DETERMINE THE VALUE OF THE COLLATERAL AT LEAST ONCE  
20 PER DAY ON DAYS WHEN THE NEW YORK FEDERAL RESERVE BANK IS OPEN.

21 (ii) IF THE TRANSACTION INVOLVES A REVERSE REPURCHASE AGREEMENT  
22 OR A SECURITIES LENDING AGREEMENT, REQUIRE THAT AGREEMENT TO BE  
23 TRANSACTED THROUGH A QUALIFIED LENDING AGENT.

24 (iii) REQUIRE THAT A QUALIFIED MICHIGAN CUSTODIAL BANK SERVE AS  
25 CUSTODIAN FOR THAT AGREEMENT.

26 (iv) REQUIRE THAT ALL MATURITY DATES FOR INVESTMENTS MADE FROM  
27 CASH RECEIVED AS COLLATERAL MUST NOT HAVE A MATURITY DATE BEYOND



1 THE FINAL DATE AGREED UPON FOR RETURN OF THE COLLATERAL.

2 (v) IF THE TRANSACTION INVOLVES A GOVERNMENT LENDING AGREEMENT  
3 OR REVERSE REPURCHASE AGREEMENT, REQUIRE THAT THE SCHOOL DISTRICT  
4 MUST PROVIDE AT LEAST 3 BUSINESS DAYS' NOTICE TO ALL PARTIES  
5 INVOLVED IN THE GOVERNMENT LENDING AGREEMENT OR REVERSE REPURCHASE  
6 AGREEMENT BEFORE SELLING OR TRANSFERRING ITS INTEREST IN ANY BOND,  
7 BILL, OR NOTE LENT DURING THE TERM OF THE AGREEMENT.

8 (H) ~~(f)~~ Bankers' acceptances issued by a bank that is a  
9 member of the federal deposit insurance corporation.

10 (I) ~~(g)~~ Mutual funds composed entirely of investment  
11 vehicles that are legal for direct investment by a school district.

12 (J) ~~(h)~~ Investment pools, as authorized by the surplus funds  
13 investment pool act, 1982 PA 367, MCL 129.111 to 129.118, composed  
14 entirely of instruments that are legal for direct investment by a  
15 school district.

16 (K) DEBT OBLIGATIONS OF THIS STATE OR A POLITICAL SUBDIVISION  
17 OF THIS STATE THAT AT THE TIME OF PURCHASE ARE RATED AT LEAST AA AS  
18 DETERMINED BY AT LEAST 1 RECOGNIZED STANDARD RATING SERVICE AND  
19 HAVING A FINAL MATURITY DATE THAT IS WITHIN 4 YEARS OF THE PURCHASE  
20 DATE.

21 (l) OBLIGATIONS OF A POLITICAL SUBDIVISION OF ANOTHER STATE  
22 THAT AT THE TIME OF PURCHASE ARE RATED AT LEAST AA AS DETERMINED BY  
23 AT LEAST 1 RECOGNIZED STANDARD RATING SERVICE AND HAVING A MATURITY  
24 DATE THAT IS WITHIN 12 MONTHS OF THE PURCHASE DATE OR SUBJECT TO A  
25 REDEMPTION THAT IS BACKED BY A LETTER OF CREDIT AND THAT IS NOT  
26 GREATER THAN 12 MONTHS FROM PURCHASE.

27 (2) ~~An obligation purchased under this section, when received~~

1 ~~by the treasurer, shall be deposited with the financial institution~~  
2 ~~having the deposit of the money of the particular fund from which~~  
3 ~~the obligation was purchased.~~ **A SCHOOL DISTRICT SHALL ENSURE THAT**  
4 **AN INVESTMENT DESCRIBED IN SUBSECTION (2) IS HELD IN CUSTODY OR**  
5 **SAFEKEEPING BY A FINANCIAL INSTITUTION.**

6 (3) **A SCHOOL DISTRICT SHALL NOT INVEST MONEY IN AN INVESTMENT**  
7 **THAT IS NOT SPECIFICALLY LISTED IN SUBSECTION (1).**

8 (4) ~~(3) Money in the several funds of a~~ **A school district**  
9 ~~shall not be commingled.~~ **COMMINGLE MONEY IN THE FUNDS DESCRIBED IN**  
10 **SUBSECTION (1) for the purpose of making an investment authorized**  
11 **by this section except that AS FOLLOWS:**

12 (a) The board of a school district may establish and maintain  
13 1 common debt retirement fund for issues of bonds of similar  
14 character.

15 (b) The board of a school district, by resolution, may  
16 authorize the treasurer to combine money from more than 1 fund for  
17 the purpose of making an investment authorized by subsection ~~(1)(h)~~  
18 **(1)(J)**.

19 (5) ~~(4)~~ Earnings of an investment shall become a part of the  
20 fund for which the investment was made. When money of more than 1  
21 fund of a single district or money of more than 1 district are  
22 combined for an investment pool authorized by subsection ~~(1)(h)~~  
23 **(1)(J)**, the money shall be accounted for separately, and the  
24 earnings from the investment shall be separately and individually  
25 computed, recorded, and credited to the fund or district, as the  
26 case may be, for which the investment was acquired.

27 (6) ~~(5)~~ The treasurer of a school district, if authorized by

1 resolution of the board, may deposit upon approval of the employee,  
2 funds accumulated under a deferred compensation program in a  
3 federally insured financial institution authorized by law to do  
4 business in this state. If authorized by a resolution of the board,  
5 the treasurer of a school district, with the prior consent of the  
6 employee, may use funds accumulated under a deferred compensation  
7 plan to purchase from a life insurance company authorized to do  
8 business in this state an annuity contract or life insurance policy  
9 in the manner and for the purposes described in section 457 of the  
10 internal revenue code.

11 (7) ~~(6)~~ Security in the form of collateral, surety bond, or  
12 another form may be taken for the deposits or investments of a  
13 school district in a financial institution. However, an investment  
14 under ~~section 622(2)(e) or section 1223(1)(e)~~ **SUBSECTION (1)(F)**  
15 **OR SECTION 622(2)(F)** or in an investment pool that includes  
16 instruments eligible for investments under ~~sections 622(2)(e) and~~  
17 ~~1223(1)(e)~~ **SUBSECTION (1)(F) OR SECTION 622(2)(F)** shall be secured  
18 by the transfer of title and custody of the obligations to which  
19 the repurchase agreements relate and an undivided interest in those  
20 obligations must be pledged to the school district for these  
21 agreements.

22 (8) ~~(7) Notwithstanding subsection (1), additional funds of a~~  
23 **A** school district shall not ~~be deposited or invested~~ **DEPOSIT OR**  
24 **INVEST MONEY IN A FUND DESCRIBED IN SUBSECTION (1)** in a financial  
25 institution ~~which~~ **THAT** is not eligible to be a depository **OR**  
26 **CUSTODIAN** of surplus funds belonging to this state under section 6  
27 of 1855 PA 105, MCL 21.146.

1           (9) ~~(8)~~ As used in this section: ~~-, "deposit"~~

2           (A) **"DEPOSIT"** includes purchase of or investment in shares of  
3 a **RATED MICHIGAN** credit union.

4           (B) ~~(9) As used in this section, "financial~~ **"FINANCIAL**  
5 institution" means a state or nationally chartered bank or a state  
6 or federally chartered savings and loan association, savings bank,  
7 or credit union whose deposits are insured by an agency of the  
8 United States government and which maintains ~~a principal office or~~  
9 **AT LEAST 1** branch office located in this state. ~~under the laws of~~  
10 ~~this state or the United States.~~

11           (C) **"GOVERNMENT-SPONSORED ENTERPRISE" MEANS A PRIVATELY HELD**  
12 **CORPORATION WITH A PUBLIC PURPOSE THAT IS CREATED BY FEDERAL**  
13 **STATUTE.**

14           (D) **"QUALIFIED LENDING AGENT" MEANS AN ENTITY THAT IS**  
15 **REGULATED BY THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION**  
16 **AND THAT MANAGES OR CONTROLS AGREEMENTS DESCRIBED IN SUBSECTION**  
17 **(1), OR SIMILAR AGREEMENTS, WITH MARKET VALUES OF AT LEAST**  
18 **\$5,000,000,000.00.**

19           (E) **"QUALIFIED MICHIGAN CUSTODIAL BANK" MEANS A FINANCIAL**  
20 **INSTITUTION THAT HAS EXPERTISE IN SERVING AS CUSTODIAN FOR**  
21 **SECURITIES LENDING AND REVERSE REPURCHASE AGREEMENTS.**