

Analysis of Proposals on the Ballot November 7, 2006

PROPOSAL 06-1

Conservation and Recreation Funds

PROPOSAL 06-2

Affirmative Action Programs

PROPOSAL 06-3

Mourning Dove Hunting

PROPOSAL 06-4

Eminent Domain

PROPOSAL 06-5

School Funding Levels



Mitchell E. Bean, Director

October 2006

October 2006

TO: Members of the Michigan House of Representatives

In this report are analyses of the potential fiscal impact of five proposals that will be included on the November ballot. A *very* brief summary of the fiscal impacts of these proposals appears following this letter. Analyses in this publication are also available at the House Fiscal Agency website.

The non-partisan House Fiscal Agency neither supports nor opposes legislative proposals or legislation. Arguments for and against proposals in this document are condensed from committee testimony and other public material available from advocates and opponents.

The report was prepared by House Fiscal Agency Legislative Analysts and Fiscal Analysts, and produced by Jeanne Dee, Administrative Assistant.

Please do not hesitate to contact me if you have questions regarding the information in this report.

A handwritten signature in black ink that reads "Mitchell E. Bean". The signature is written in a cursive, slightly slanted style.

Mitchell E. Bean
Director

SUMMARY OF FISCAL IMPACTS

PROPOSAL 06-1 There would be no revenue increase or impact on license or fee payers; there would be no fiscal impact on the state or on local governmental units.

PROPOSAL 06-2

PROPOSAL 06-3 The new dove hunting license would provide additional revenue to the Game and Fish Protection Fund and the Fish and Wildlife Trust Fund. The amount of revenue realized through increased sale of licenses would depend on the number of new, unlicensed hunters participating in the season. The bill would have no fiscal impact on local governmental units.

PROPOSAL 06-4 The fiscal impact of land acquisition costs on state and local governmental entities from passage of Proposal 06-4 cannot be determined, because the number of purchases and the prices at which these purchases would occur is not known.

PROPOSAL 06-5 Approval would require an estimated \$571.8 million to \$698.9 million in additional funding, over enacted budget amounts, for School Aid, Higher Education, and Community Colleges budgets in FY 2006-07. Increases beyond FY 2006-07 cannot be determined at this time.

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PROPOSAL 06-1

A PROPOSED CONSTITUTIONAL AMENDMENT TO REQUIRE THAT MONEY HELD IN CONSERVATION AND RECREATION FUNDS CAN ONLY BE USED FOR THEIR INTENDED PURPOSES

The proposed constitutional amendment would:

- Create a Conservation and Recreation Legacy Fund within the Constitution and establish existing conservation and recreation accounts as components of the fund.
- Use current funding sources such as state park entrance and camping fees; snowmobile, ORV and boating registration fees; hunting and fishing license fees; taxes and other revenues to fund accounts.
- Establish the current Game and Fish Protection Fund and the Nongame Fish and Wildlife Fund within the Constitution.
- Provide that money held in Funds can only be used for specific purposes related to conservation and recreation and cannot be used for any purpose other than those intended.

Should this proposal be adopted?

Yes

No

The box above shows the official ballot language (approved by the Board of State Canvassers on August 25, 2006) as it appears on the Secretary of State website.

BRIEF SUMMARY

Approval of Proposal 06-1 would create and establish conservation and recreation funds within the Michigan Constitution, and specify both sources of and uses for the fund income.

- A **Conservation and Recreation Legacy Fund** would be created within the Constitution, with income from specific fees, taxes, and other revenues.
- The current **Game and Fish Protection Trust Fund** and the current **Nongame Fish and Wildlife Trust Fund** would be established within the State Constitution.
- Monies in these Funds could be used only for specific purposes related to conservation and recreation.

ANALYSIS DETAIL

The programs of the Department of Natural Resources (DNR) are funded by a combination of federal funds, the state General Fund, and several state restricted funds. Money in DNR-related restricted funds comes from user fees, permits, and licenses.

Because DNR restricted funds can be made available for other purposes by amending relevant statutes, DNR stakeholders (including those who purchase permits, fees, licenses, etc.) have expressed concern over possible use of the funds to help resolve state budget shortfalls—which occurred in fiscal year 2002-2003 when \$7.8 million from the Waterways Fund was used to support the General Fund. The Natural Resources Trust Fund was protected by the constitution in 1984; the Michigan State Parks Endowment Fund was protected in 1994.

Proposal 06-1 was placed on the ballot by legislative approval of Senate Joint Resolution Z and House Bill 5870.

Senate Joint Resolution Z does the following:

- Places the Michigan Conservation and Recreation Legacy Fund and its related accounts in the State Constitution as Article IX, Section 40, and specifies revenue sources and allowable expenditures (which are consistent with current law).
- Places the Michigan Game and Fish Protection Trust Fund in the State Constitution as Article IX, Section 41. Language related to revenue sources and allowable uses for the trust fund—created by 1986 Public Act 73, and now Part 437 of the Natural Resources and Environmental Protection Act (NREPA)—would also be placed in the State Constitution as Article IX, Section 41.
- Places the Nongame Fish and Wildlife Trust Fund—created by 1986 Public Act 285, now incorporated as Part 439 of the NREPA—in the State Constitution as Article IX, Section 42, and specifies that revenue for the trust fund would be generated from revenue designated by the general public for the benefit of the trust fund (monies from a now-expired income tax checkoff and from sale of the nongame wildlife habitat license plate), and gifts, grants, bequests, and other revenue as authorized by law.

House Bill 5870, which takes effect only if the ballot proposal is approved by voters, does the following:

- Creates a new Part 20 of the NREPA which describes the proposed Michigan Conservation and Recreation Legacy Trust Fund.
- Creates new accounts in the fund (Forest Recreation, Game and Fish Protection, Off-Road Vehicle, Recreation Improvement, Snowmobile, State Park Improvement, Waterways) that directly replace similar, separate funds already established.
- Makes numerous technical amendments in the NREPA related to the Legacy Fund and accounts within it.

ANALYSIS OF FISCAL IMPACT

Although the constitutional amendment would preclude transferring monies from the Conservation and Recreation Legacy Fund to other state funds, there would be no revenue increase or impact on license or fee payers, and there would be no fiscal impact on the state or on local governmental units.

ARGUMENTS FOR AND AGAINST THE BALLOT PROPOSAL

Arguments for and against this proposal are condensed from committee testimony and other public material available from advocates and opponents.

For

Most of the monies for the conservation and recreation funds noted in the proposal are generated by user fees from DNR recreation programs. When money from these funds is used to benefit the general public rather than for purposes related to specific DNR programs, the user fees may be perceived as a tax imposed only on a certain segment of the population.

Constitutional protection for these funds ensures that they will serve the purposes for which they were originally established.

Against

When the use of funds is restricted by the Constitution, the ability of the Legislature and Governor to respond to state budgetary troubles is compromised.

In dire circumstances, using restricted funds can prevent budget cuts that might otherwise damage valuable state programs or result in broad-based tax increases.

Legislative Analysts: Mark Wolf, Chris Couch
Fiscal Analyst: Kirk Lindquist

*A more detailed analysis of Proposal 06-1 is available on the House Fiscal Agency website:
www.house.mi.gov/hfa*

ANALYSIS OF PROPOSAL 06-2

PROPOSAL 06-2

A PROPOSAL TO AMEND THE STATE CONSTITUTION TO BAN AFFIRMATIVE ACTION PROGRAMS THAT GIVE PREFERENTIAL TREATMENT TO GROUPS OR INDIVIDUALS BASED ON THEIR RACE, GENDER, COLOR, ETHNICITY OR NATIONAL ORIGIN FOR PUBLIC EMPLOYMENT, EDUCATION OR CONTRACTING PURPOSES

The proposed constitutional amendment would:

- Ban public institutions from using affirmative action programs that give preferential treatment to groups or individuals based on their race, gender, color, ethnicity or national origin for public employment, education or contracting purposes. Public institutions affected by the proposal include state government, local governments, public colleges and universities, community colleges and school districts.
- Prohibit public institutions from discriminating against groups or individuals due to their gender, ethnicity, race, color or national origin. (A separate provision of the state constitution already prohibits discrimination on the basis of race, color or national origin.)

Should this proposal be adopted?

Yes

No

The box above shows the official ballot language (approved by the Board of State Canvassers on January 20, 2006) as it appears on the Secretary of State website.

BRIEF SUMMARY

Approval of Proposal 06-2 would prohibit public institutions from giving preferential treatment to, or discriminating against, individuals or groups based on race, gender, color, ethnicity, or national origin for purposes of public employment, education, or contracting.

ANALYSIS DETAIL

Current language in the State Constitution and Elliott-Larson Civil Rights Act states the following:

- Section 2, Article 1 of the State Constitution: *"No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or*

political rights or be discriminated against in the exercise thereof because of religion, race, color, or national origin."

- The 1976 Elliott-Larsen Civil Rights Act (the state's principal civil rights law): *"The opportunity to obtain employment, housing and other real estate, and the full and equal utilization of public accommodations, public service, and educational facilities without discrimination because of religion, race, color, national origin, age, sex, height, weight, familial status, or marital status as prohibited by this act, is recognized and declared to be a civil right."*

Proposal 06-2 would amend the State Constitution to add a Section 26 to Article I, to do the following:

- Prohibit the "state," public colleges and universities, community colleges, and school districts from discriminating against, or granting preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.
- The term "state" would include, but not necessarily be limited to, the state itself, any city, county, any public college, university, or community college, school district, or other political subdivision or governmental instrumentality of or within the State of Michigan.
- Allow action that must be taken to establish or maintain eligibility for any federal program, if ineligibility would result in a loss of federal funds to the state.
- Allow bona fide qualifications based on sex that are reasonably necessary to the normal operation of public employment, public education, or public contracting.
- Provide the same remedies for violation of the proposed section—regardless of the injured party's race, sex, color, ethnicity, or national origin—as are available for violation of state anti-discrimination law.
- Make the new section self-executing. If part of the section conflicts with the U.S. Constitution or federal law, the section will be implemented to the maximum extent permitted; and a provision held invalid would be severable from the remainder of the section.
- Apply only to action taken after the effective date of the new section, and allow any court order or consent decree in force as of the effective date of new section, to remain valid.

ARGUMENTS FOR AND AGAINST THE BALLOT PROPOSAL

Arguments for and against this proposal are condensed from committee testimony and other public material available from advocates and opponents.

For

Each individual should be judged on his or her own merits when seeking admission to higher education, employment with public agencies and organizations, or government contracts.

Against

A color-blind society is not yet a reality; affirmative action (positive steps to increase representation of minorities and women in education and business areas from which they have traditionally been excluded) is still needed.

For

It is illogical to address discrimination against one classification of people based on innate characteristics (race, sex, etc.) by using those same characteristics to discriminate against another group.

The proposal does not end affirmative action; it only affects programs based on preferential treatment and tied to innate characteristics (race, sex, etc.); it will not hamper outreach programs for underrepresented groups based on socioeconomic disadvantages or such classifications as "rural schools," or "inner city schools."

The proposal applies only to public entities (state/local government, public schools, etc.) and only to matters of employment, education, and contracting; it will not affect breast cancer screening, scientific research on gender-specific disease, or domestic abuse programs.

Affirmative action programs based on preferential treatment have run their course; these programs can have negative effects, such as stigmatizing beneficiaries or creating resentment, and they limit the search for more effective and long-term solutions to discrimination.

Against

The proposed amendment prohibits/hinders affirmative action programs, sets back efforts to make public institutions more inclusive and diverse, denies beneficiaries access to social capital, and deprives Michigan of leadership that reflects the racial and ethnic diversity of its population.

Adoption of the proposal adoption is likely to lead to lawsuits challenging government programs and decisions based on illegal "preferential treatment." This will hinder participation in education, occupations, and business opportunities by those traditionally facing under-representation or access barriers.

Proposal adoption could lead to a reduction in public college and university students from minority groups, less diversity in college graduate ranks and the workforce, fewer government contracts for businesses owned by minorities and women, fewer professionals (doctors, lawyers, etc.) available to serve in underserved communities; reduced math and science outreach/recruitment programs for girls and minorities, and diminished access to scholarships, grants, etc., that take gender, race, ethnicity, or national origin into account.

Legislative Analyst: Chris Couch

ANALYSIS OF PROPOSAL 06-3

PROPOSAL 06-3

A REFERENDUM ON PUBLIC ACT 160 OF 2004 – AN ACT TO ALLOW THE ESTABLISHMENT OF A HUNTING SEASON FOR MOURNING DOVES

Public Act 160 of 2004 would:

- Authorize the Natural Resources Commission to establish a hunting season for mourning doves.
- Require a mourning dove hunter to have a small game license and a \$2.00 mourning dove stamp.
- Stipulate that revenue from the stamp must be split evenly between the Game and Fish Protection Fund and the Fish and Wildlife Trust Fund.
- Require the Department of Natural Resources to address responsible mourning dove hunting; management practices for the propagation of mourning doves; and participation in mourning dove hunting by youth, the elderly and the disabled in the Department's annual hunting guide.

Should this law be approved?

Yes

No

The box above shows the official ballot language (approved by the Board of State Canvassers on August 25, 2006) as it appears on the Secretary of State website.

BRIEF SUMMARY

A "YES" vote is a vote in favor of allowing hunting of mourning doves. A "NO" vote is a vote against allowing hunting of mourning doves.

ANALYSIS DETAIL

Mourning dove hunting has been controversial in Michigan for over 20 years. The mourning dove hunting season established by the Natural Resources Commission in 1985 was challenged by the Michigan Humane Society. A subsequent Court of Appeals ruling stated that only the Legislature could declare an open season under the law in place at that time. The Natural Resources and Environmental Protection Act (NREPA) of 1994 states the following:

- Only the Legislature may designate a species as game.

Analysis of Proposal 06-3

- Only the Legislature may authorize the first open season for an animal legislatively designated as game.
- After the first open season is authorized by the Legislature, the Department of Natural Resources (DNR) may issue orders pertaining to that animal.
- Only the Natural Resources Commission has the authority to regulate the taking of legislatively-designated game.

Public Act 160 of 2004 amended Part 401 of the NREPA to include the mourning dove as a game animal to be hunted as allowed by a \$2 mourning dove stamp. Subsequently, the Natural Resources Commission established the following:

- Open season for mourning doves was from September 10 to October 30, 2004, and from September 1 to October 30 for 2005 and 2006.
- Hunting was restricted to Berrien, Branch, Cass, Hillsdale, Lenawee, and St. Joseph counties.
- The daily limit was set at 15 doves, with a possession limit of 30 doves.
- The DNR was required to report the impact of hunting on mourning dove populations at the conclusion of the third hunting season.

The 2004 Mourning Dove Hunting Survey published by the DNR in February 2005 provided detailed information on numbers of hunters and hunting days, hunter experience ratings, and number of doves harvested by county. The DNR also reported that Wisconsin, Illinois, Indiana, Minnesota, and Ohio also had mourning dove hunting seasons in 2004, and that about one million hunters harvested 18 million doves nationwide.

The Committee to Restore the Dove Shooting Ban put a referendum of 2004 PA 106 on the 2006 General Election ballot. This put a moratorium on dove hunting, and the 2005 and 2006 seasons were canceled.

ANALYSIS OF FISCAL IMPACT

Individuals wishing to hunt mourning doves would purchase a license issued by the Department of Natural Resources. The amount of revenue realized through increased sale of licenses would depend on the number of new, unlicensed hunters participating in the season. The new dove hunting license would provide additional revenue to the Game and Fish Protection Fund and the Fish and Wildlife Trust Fund. The bill would have no fiscal impact on local governmental units.

ARGUMENTS FOR AND AGAINST THE BALLOT PROPOSAL

Arguments for and against this proposal are condensed from committee testimony and other public material available from advocates and opponents.

For

Mourning doves provide a great hunting experience; fast, erratic flight patterns make them a challenging shot. Because mourning

Against

Opponents argue that it is wrong to hunt animals purely for fun—to hunt an animal that is not a significant source of food, does

For

doves can be hunted from a stationary position without hours of stealth and silence, they make hunting feasible for categories of hunters (elderly, disabled, young, novice) who might have difficulty hunting other game animals.

Forty other states (includes states bordering Michigan) allow mourning dove hunting. A Michigan dove hunting season will allow the state to host hunters from other states and benefit from dollars spent on lodging, food, gasoline, and hunting supplies.

Proponents cite 2004 DNR data estimating that four million doves migrate from Michigan each fall compared to 1.2 million waterfowl, and that mourning doves are plentiful and widely-distributed from Canada to Mexico. Michigan United Conservation Clubs (MUCC) said doves do not live long—hunted or not—and are prolific breeders. Hunting accounts for less than ten percent of dove population mortality each year.

MUCC says that doves are delicious table fare; their tender meat is highly prized and appears in many wild game cookbooks. Proponents note that although mourning doves are small, so are many fish and seafood resources.

If the dove hunting law is successfully overturned, anti-hunting organizations will ban trapping, bow hunting, bear hunting with hounds, and, says the MUCC, "they'll move on to [prohibit the hunting of] pheasants, wild turkeys, grouse, deer, and ultimately fishing."

Against

not pose a threat to agriculture, and does not require hunting as a form of environmental stewardship or management.

Mourning doves, are not a useful source of food for humans, but are considered an important food source for protected birds of prey such as eagles, falcons, hawks, and owls.

There is no shortage of game for hunters to pursue—some 40 other species of bird can already be hunted and more than 115 game species in all. The mourning dove, a much-loved backyard songbird, has been protected in Michigan for over a century.

Opponents argue that dove hunting results in mistaken-identity kills of sharp-skinned hawks and American kestrels, that doves are still nesting during the proposed hunting season, and that because doves can be hunted with lead shot, open season on doves will likely lead to discharge of enormous amounts of toxic lead shot in the environment, which poses a significant risk to wildlife ingesting the lead.

Opponents assert that tourism generated by birdwatchers will decline, the state may be seen as unfriendly to wildlife watchers, and that promoting the season will cost the state more than any revenue realized.

Opponents say the issue is hunting mourning doves—not hunting in general; even hunters support restoring the ban.

Legislative Analysts: Mark Wolf, Chris Couch
Fiscal Analyst: Kirk Lindquist

*A more detailed analysis of Proposal 06-3 is available on the House Fiscal Agency website:
www.house.mi.gov/hfa*

ANALYSIS OF PROPOSAL 06-4

PROPOSAL 06-4

A PROPOSED CONSTITUTIONAL AMENDMENT TO PROHIBIT GOVERNMENT FROM TAKING PRIVATE PROPERTY BY EMINENT DOMAIN FOR CERTAIN PRIVATE PURPOSES

The proposed constitutional amendment would:

- Prohibit government from taking private property for transfer to another private individual or business for purposes of economic development or increasing tax revenue.
- Provide that if an individual's principal residence is taken by government for public use, the individual must be paid at least 125% of property's fair market value.
- Require government that takes a private property to demonstrate that the taking is for a public use; if taken to eliminate blight, require a higher standard of proof to demonstrate that the taking of that property is for a public use.
- Preserve existing rights of property owners.

Should this proposal be adopted?

Yes

No

The box above shows the official ballot language (approved by the Board of State Canvassers on August 25, 2006) as it appears on the Secretary of State website.

BRIEF SUMMARY

Adoption of Proposal 06-4 would "freeze" the state's eminent domain law by placing it into the Michigan Constitution and into statute. This will provide constitutional and statutory protection for Michigan's current eminent domain law, and prevent future state court rulings or legislation from applying a more expansive interpretation of the power to take private property for public use.

Michigan's eminent domain law is more restrictive (it is more difficult in Michigan to take private property for public use) than a recent ruling by the U.S. Supreme Court. While that ruling allowed an expansive interpretation of permitted uses of eminent domain, the U.S. Supreme Court also said that states were free to impose greater restrictions on eminent

domain than the federal baseline—and specifically cited a Michigan Supreme Court ruling as an example of a more restrictive interpretation.

ANALYSIS DETAIL

Proposal 06-4 was placed on the ballot by passage of Senate Joint Resolution E, which would amend Article X, Section 2 of the State Constitution. At the same time, the Legislature passed two companion bills (House Bill 5060 and Senate Bill 693)—both of which amend 1911 PA 149 to limit use of eminent domain for the benefit of private entities, and neither of which will take effect unless the constitutional amendment proposed by Joint Resolution E is approved by voters.

Currently, 1911 PA 149 allows state agencies and other public corporations to take private property for a public improvement, for purposes advanced by the corporation's or agency's incorporation, or *for public purposes within the scope of the corporation's or agency's powers for the use or benefit of the public*. Passage of Proposal 06-4 would replace the italicized words with "for public use."

Senate Joint Resolution E amends the State Constitution in the following ways:

- Specifies that the term "public use" does not include taking private property for transfer to a private entity for economic development or to enhance tax revenues, and that the term will be used as understood on the effective date of the constitutional amendment.
- Specifies that if an individual's principal residence is taken for a public use, the amount of compensation would have to be at least 125 percent of the property's fair market value, in addition to any other reimbursement allowed by law.
- Stipulates that the burden of proof is on the condemning authority to show, by a preponderance of evidence, that a private property condemnation and taking is for a public use. If the property taking is to eradicate blight, the condemning authority must provide clear and convincing evidence (a higher standard of proof than preponderance of evidence) that the property is being taken for a public use.
- Provides that existing rights and benefits afforded property owners as of November 1, 2005, could not be abolished or impaired by the proposed constitutional amendment.

House Bill 5060 (2006 PA 367) and Senate Bill 693 (2006 PA 368) do the following:

- Repeat the language in Joint Resolution E that defines "public use" and clarifies "burden of proof" in a condemnation action.
- Specify that any existing right, grant, or benefit afforded to property owners as of December 22, 2006, would be preserved and not abrogated or impaired by the bills.
- Specify that taking private property for a public use does not include a taking that is a pretext to confer a private benefit on a known or unknown private entity.
- Modify the constitutional provision requiring at least 125 percent of fair market value compensation to require that the principal residential structure must be actually taken or the amount taken must leave less property contiguous to the structure than is required by local ordinance for a minimum lot size.

ANALYSIS OF FISCAL IMPACT

The fiscal impact of land acquisition costs on state and local governmental entities from passage of Proposal 06-4 cannot be determined, because the number of purchases and the prices at which these purchases would occur is not known.

ARGUMENTS FOR AND AGAINST THE BALLOT PROPOSAL

Arguments for and against this proposal are condensed from committee testimony and other public material available from advocates and opponents.

For

Proponents say the ballot proposal will protect private property that is not blighted or neglected or hazardous from being taken by a governmental entity that wants to transfer it to other private parties to promote economic development or increase tax revenue.

Against

Opponents say the proposal will make it harder and more expensive for government to acquire property through condemnation, and will hinder efforts to aggregate parcels of property to attack blight, by imposing a higher legal standard on those efforts.

Legislative Analysts: Mark Wolf, Chris Couch

Fiscal Analyst: Jim Stansell

*A more detailed analysis of Proposal 06-4 is available on the House Fiscal Agency website:
www.house.mi.gov/hfa*

ANALYSIS OF PROPOSAL 06-5

PROPOSAL 06-5

A LEGISLATIVE INITIATIVE TO ESTABLISH MANDATORY SCHOOL FUNDING LEVELS

The proposed law would:

- Increase current funding by approximately \$565 million and require State to provide annual funding increases equal to the rate of inflation for public schools, intermediate school districts, community colleges, and higher education (includes state universities and financial aid/grant programs).
- Require State to fund any deficiencies from General Fund.
- Base funding for school districts with a declining enrollment on three-year student enrollment average.
- Reduce and cap retirement fund contribution paid by public schools, community colleges and state universities; shift remaining portion to state.
- Reduce funding gap between school districts receiving basic per-pupil foundation allowance and those receiving maximum foundation allowance.

Should this proposed law be approved?

Yes

No

The box above shows the official ballot language (approved by the Board of State Canvassers on August 25, 2006) as it appears on the Secretary of State website.

BRIEF SUMMARY

Approval of Proposal 06-5 would require an estimated \$571.8 million to \$698.9 million in additional funding, over enacted budget amounts, for School Aid, Higher Education, and Community Colleges budgets in fiscal year (FY) 2006-07. This is an increase of approximately \$1.0 billion over FY 2005-06 year-to-date appropriations; increases beyond FY 2006-07 are indeterminate at this time.

In very general terms, Proposal 06-5 would amend Michigan's School Aid Act to do the following:

- Provide annual inflationary increases for K-12 operations, specific provisions within the School Aid budget, higher education and community colleges.

Analysis of Proposal 06-5

- Shift responsibility for a portion of Michigan Public School Employees Retirement System (MPERS) contributions from local school districts, universities, and community colleges to the state.
- Diminish the impact of declining enrollment on school funding, and decrease the gap between the minimum (basic) foundation allowance and the state maximum foundation allowance.

ANALYSIS DETAIL

Proposal 06-5 would amend Michigan's School Aid Act as follows:

- Using FY 2004-05 as the base funding level, provide annual funding increases equal to the rate of inflation (defined as the U.S. Consumer Price Index) for K-12 schools, community colleges, and higher education (including state universities and financial aid/grant programs). For FY 2006-07, appropriations for School Aid, Community Colleges, and Higher Education would have to increase by a projected 6.5% (estimated rate of inflation) from the FY 2004-05 level.
- Provide annual increases for K-12 for specific sections within the School Aid Act (the foundation allowance itself and special education, at-risk, and Intermediate School District [ISD] operations funding).
- Cap the retirement contribution for the Michigan Public School Employees Retirement System (MPERS) at 14.87% or 80% (whichever is less) of the total retirement rate for K-12 districts, community colleges, and state universities—and require the state to pay the remaining portion.
 - With a FY 2006-07 retirement rate estimate of 17.74%, the local portion would be 14.19% and the state portion would be 3.55%.
 - Because the seven universities that are part of MPERS are billed directly for retiree health costs (rather than paying based on a percentage rate) and the universities pay a percentage of their nonmember payroll for unfunded liability costs, the impact of the initiative on state universities is less clear.
- Fund K-12 school districts based on either a three-year average of student enrollment or the current annual pupil membership—whichever is higher—to diminish the funding impact of declining enrollment.
- Reduce the gap between the minimum (basic) foundation allowance and the state maximum foundation allowance from \$1,300 to \$1,000 between FY 2006-07 and FY 2011-12.

ANALYSIS OF FISCAL IMPACT

Approval of Proposal 06-5 would require additional FY 2006-07 funding—over enacted budget amounts—as described below:

	<u>Estimated Cost</u>
K-12: Operations inflationary increase	\$153.4 million
K-12: MPSERS state contribution	\$357.8 million
Higher Education/Community Colleges: Inflationary increase	\$27.2 million
Higher Education/Community Colleges: MPSERS state contribution	<u>\$33.4 million</u>
TOTAL Minimum Required	\$571.8 million
Fund K-12 Section 12 and maintain current categoricals at enacted levels	<u>\$127.1 million</u>
TOTAL Required Including Categoricals	\$698.9 million

School Aid Detail

The estimated FY 2006-07 total cost impact for School Aid is between \$511.2 million and \$638.3 million. This amount can be broken into two major pieces: an operational component (\$153.4 million to \$280.5 million) and a MPSERS component (\$357.8 million).

Operations

Proposal 06-5 requires the total state appropriation in Section 11 to be increased annually, by the rate of inflation, from the FY 2004-05 base of \$11.114 billion. This requires an appropriation of almost \$11.836 billion for FY 2006-07, rather than the enacted appropriation of \$11.683 billion—a shortfall of approximately \$153.4 million.

Proposal 06-5 includes a Section 12, which requires the foundation allowance, and a number of specific sections in the act, to increase annually—by the rate of inflation—from the FY 2004-05 base. This would require a FY 2006-07 basic foundation allowance of \$7,136 (\$51 per pupil higher than the current FY 2006-07 foundation allowance of \$7,085) and increases in funding for special education, at-risk programs, and ISD operations.

If Proposal 06-5 is approved, the FY 2006-07 School Aid budget would fall short of fully funding Section 12 requirements by about \$127.1 million. The overall budget would not necessarily need to increase by \$127.1 million, but distribution of funds in the School Aid budget would require changes to fully fund the specified pieces. Without additional funding, many categorical programs would have to be eliminated.

Section 12 adds two provisions not based on inflationary increases:

One provision pays districts a foundation allowance based on either a three-year average of their pupil membership or on the current annual basis—whichever is higher—to slow the funding decreases experienced by schools with declining enrollment; total cost would be approximately \$206.4 million. The enacted FY 2006-07 budget includes \$27.0 million for two declining enrollment sections (Section 6(4)(y) and Section 29), which contribute to this funding piece.

The other provision requires reducing the gap between the minimum (basic) foundation allowance and the state maximum foundation allowance from \$1,300 to \$1,000 by FY 2011-12—but does not define the mechanism by which, or an incremental time frame in which, the provision would have to be implemented. The enacted FY 2006-07 budget includes \$20.0 million for an equity payment of \$23 per pupil for districts with a FY 2006-07 foundation of less than \$7,360, which would reduce the gap to \$1,277.

MPSERS

Proposal 06-5 caps the retirement contribution for MPSERS at 14.19% for K-12 districts and requires the state to pay the other portion. With a FY 2006-07 retirement rate estimate of 17.74%, the state portion would be 3.55% (requiring the state to contribute approximately \$357.8 million on an estimated K-12 payroll of almost \$10.1 billion).

Higher Education and Community Colleges Detail

The estimated FY 2006-07 total cost impact for Higher Education and Community Colleges is \$60.6 million. This amount can be broken into two major pieces: an operational component (\$27.2 million) and a MPSERS component (\$33.4 million).

Operations

The operations component requires that the annual gross appropriations for both Higher Education and Community Colleges increase annually by the rate of inflation—beginning with FY 2004-05 as a base year. The required increase applies only to the total appropriation for each budget and does not require increases to specific lines.

Example: university and community college operational funding would not necessarily have to increase if the requirement were met through increases to financial aid and grant programs. To meet the projected required increase, Higher Education funding would need to increase by \$12.7 million from the enacted FY 2006-07 amount and Community College funding would need to increase by \$14.5 million from the enacted FY 2006-07 amount.

MSPERS

The MPSERS component would require an estimated \$19.0 million for community colleges. The effect of the MPSERS component on the seven state universities in the system is difficult to assess. A scenario based on total MPSERS costs as a percentage of total payroll at those universities yields a cost estimate of \$14.4 million for FY 2006-07; this estimate is based on an effective payroll percentage of 22.2.

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A more detailed analysis of Proposal 06-5 is available on the House Fiscal Agency website:

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