

## Legislative Update

This is the MEA Legislative update. Please feel free to use any or all of this report in discussing issues with your membership or with public officials. If you have questions contact the MEA Field Based Lobbyist for your area. For previous issues of this Legislative Update go to <http://www.mea.org/gov/legislativeupdates.html>.

**“Race to the Top” School Reform – On December 18 & 19 the Legislature took final action on the bills it deemed necessary to qualify for Race to the Top funding. The bills went to the Governor and were signed into law on January 4<sup>th</sup>. Differences in HB 4787, HB 4788, SB 925 and SB 926 were worked out in conference committees and voted on in both houses of the Legislature.**

**IN THE FINAL ANALYSIS, THE MEA OPPOSED THE PACKAGE BECAUSE ALL OF THE EMPLOYEE PROTECTIONS IN A SCHOOL TAKEOVER SITUATION THAT WERE PART OF THE HOUSE PASSED VERSIONS OF HB 4787 AND HB 4788 WERE STRIPPED OUT AT THE INSISTENCE OF HOUSE NEGOTIATORS ON THE CONFERENCE COMMITTEE AND THE STATUS OF EMPLOYEES IN A SCHOOL TAKEOVER SITUATION WAS RETURNED TO WHAT IT WOULD HAVE BEEN IN THE ORIGINAL VERSIONS OF THE BILLS AS INTRODUCED BY REPS MELTON AND JOHNSON IN THE SPRING OF 2009.**

The RTTT legislation that was adopted on December 18-19, 2009 and signed into law by the Governor includes the following:

**HB 4787 (2009 PA 204) – This bill does several things, first and foremost of which is a detailed plan to improve the lowest performing 5% of school buildings in the State. It creates the position of State Reform/Redesign Officer (SRRO) appointed by the State Superintendent of Public Instruction. The SRRO identifies the lowest performing 5% of districts as defined by the federal Race to the Top (RTTT) guidelines. Districts in which these schools are located have 90 days to develop an acceptable plan, including negotiated addenda to applicable collective bargaining agreements, and submit the plan to the SRRO. Each plan would have to implement one of the RTTT models for the building, the Turnaround Model, the Restart Model, the Transformational Model or School Closure. The SRRO may approve, modify or reject the plans that are submitted. The local board would have 30 days to adopted modifications, and it would have the right to appeal a rejection to the State Superintendent. Once a model is implemented, regular reports must be submitted to the SRRO.**

**It creates a single State School Reform/Redesign School District to be made up of all school buildings whose redesign plan was rejected by the SRRO and all schools that implement a plan but fail to make adequate progress under the plan. The SRRO would be the superintendent of this district and would have all powers and duties of the school boards that sent buildings to it except powers of borrowing and taxation. The SRRO could implement one of the four RTTT models to change the schools in this district and could impose changes in collective bargaining agreements to do so, or in the case of a Restart Model provide that no collective bargaining agreement would be in effect. The bill also allows the SRRO to appoint a CEO for a group of failing schools if s/he deems it likely to achieve better educational results.**

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The bill raises the mandatory attendance age for students in Michigan to age 18 starting with the students who reach age 11 by December 1, 2009 or who enter grade 6 after 2009. It contains an opt out provision allowing parents of students who are at least age 16 to allow them to drop out of school.

The bill expands the personal curriculum for high school students. It allows a teacher or counselor of the student (in addition to the parent) to request a personal curriculum. The personal curriculum would be developed by a group that includes a teacher of the student with expertise in the subject area. To be eligible the student must have completed, but not necessarily passed, at least 1 ½ credits in mathematics before that curriculum could be modified (previously it was 2 ½ credits).

HB 4788 (2009 PA 201) – Amends the Public Employment Relations Act (PERA) to limit employee rights in accordance with HB 4787 above, and provides the right to bid on support services that school districts plan to outsource.

The bill adds a provision to the sub-section that prohibits bargaining on the decision to outsource non-instructional support services that limits the application of this prohibition. Specifically, it says that the prohibition against bargaining only applies if the bargaining unit currently providing the services is given an opportunity to bid on the contract for the non-instructional services on an equal basis as other bidders.

It provides that the SRRO is the public employer for any schools that are placed in the State Reform/Redesign School District and any CEO appointed over several buildings is the public employer for the buildings placed under the control of the CEO.

HB 5596 (2009 PA 202) – Mandates that the Superintendent of Public Instruction develop an alternative method to achieve teacher certification. People who possess a bachelor's degree or higher from a regionally accredited college or university and who have been accepted into an approved program for alternative certification may be issued an "interim" certificate by the state superintendent. To be an approved program, the program must provide intensive training that the state superintendent deems equivalent to at least 12 hours of college credit, has a proven record of producing successful teachers in other states and only accepts candidates with BA or higher degrees and a grade point average of at least 3.0 on a 4.0 scale. A district that hires a person with such an interim teaching certificate must agree to provide intensive supervision and coaching as defined by the state superintendent. Persons teaching may teach under an interim certificate on the same basis as persons who hold other certificates provided these people are making meeting the requirements to be awarded a Michigan teaching certificate under Section 1531 of the school code.

SB 981 (2009 PA 205) – This is another multi-part school code bill that implements several changes in the RTTT package. It creates a new category of charter schools called "Schools of Excellence" which are to be high performing charter schools in areas of high student need. It allows up to 10 new charter Schools of Excellence in a 5 year period to be located in school districts with a graduation rate below 75% as determined by the state

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department. At least the first 5 of these schools must offer 1 or more high school grade levels (9-12).

The act allows 2 of the 10 new charter Schools of Excellence to be cyber schools. These school may enroll students who were previously enrolled in a public school (as opposed to home schooled students). They must offer all grades, K-12. They must have previous experience in another state operating schools that serve urban, high risk students through a model that involves a significant cyber component. Each of the two schools is limited to 400 students with an ability to expand to a total of no more than 1,000 students by adding one additional slot for each enrolled student above 400 that is identified as a drop out in the Michigan data system.

It allows high performing charters schools to convert to Schools of Excellence which opens a slot for a replacement charter school. To be eligible to convert to a School of Excellence a charter school at the elementary level (K-8) must either have 90% or more of its students score proficient or above on the math and language MEAP tests over a 3 year period; or, be a school with at least 50% of its student population eligible for free or reduced lunch and at least 70% of its student population scores proficient or better on math and language portions of the MEAP over a three year period. For secondary charter schools to convert to Schools of Excellence the school must have at least an 80% average attendance rate, at least an 80% graduation rate and have at minimum an 80% post secondary enrollment rate. The law allows the authorizer of a charter that converts to a School of Excellence to replace the school that has been converted with a new charter school.

The law prohibits authorizers from issuing new charter school contracts in a school district that has a graduation rate over 75.5% on average for the past three school years.

It requires school administrators to be certified as administrators after the law goes into effect. It requires the state board and state superintendent to develop the administrator certification program and to recognize alternate pathways to administrator certification.

Requires school boards to work with teachers and administrators to develop and implement evaluation systems that are rigorous, transparent and fair. The systems are to insure that teachers and administrators are evaluated at least annually. They are to establish clear approaches to measuring student growth and provide teachers and administrators with relevant data on student growth. The evaluation systems are to evaluate job performance taking into account multiple rating categories with student growth as a significant factor.

These evaluation must be used to inform decisions about job effectiveness, while insuring ample opportunities to improve; promotion, retention; development, while providing coaching, instruction support and professional development; whether to grant tenure or full certification; and removing ineffective tenured and untenured teachers and administrators after giving ample opportunities to improve and ensuring that these decision are made using rigorous standards and streamlined, transparent and fair procedures.

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**The law provides high school curriculum flexibility in meeting the math requirement by allowing students to complete algebra II over 1.5 years with 1.5 credits awarded, and to partially or fully fulfill the algebra II requirement by completing formal career or technical educational programs that have appropriate embedded mathematics content.**

**SB 926 (2009 PA 203) – this bill makes technical and substantive changes to the state school aid act. One of the substantive changes is a requirement that the Center for Educational Performance and Information (CEPI) create and implement a teacher identifier system with the ability to match an individual teacher and individual students that the teacher has taught. With appropriate privacy safeguards the system would be required to make annual assessment of student records including educational growth data, to be able to be correlated with individual teachers. This data would be accessible to teachers, administrators and school board members so they can make informed decisions in order to improve instruction and student achievement.**

**The other substantive change in the bill is a provision that requires boards to provide teachers with adequate access to “basic instructional supplies”. A teacher or principal without adequate basic instructional supplies could file a claim with the department of education which would have 3 business days to contact the district who would have to respond with the supplies or with a plan to provide the supplies. If the department is not satisfied with the district’s response it could investigate or it could withhold a portion of total funds due to the district and use the money to provide the supplies.**

The Race to the Top (RTTT) guidelines are multi-faceted, but one area is the requirement that states establish clear methods to measure student growth and then design and implement “rigorous, transparent, and fair evaluation systems for teachers and principals that (a) differentiate effectiveness using multiple rating categories that take into account data on student growth as a significant factor and (b) are designed and developed with teacher and principal involvement.” These evaluations are then to be used at a minimum to drive decision about training and professional development, compensation, promotion and retention including the ability to obtain additional compensation, whether to grant tenure/full certification using rigorous standards and streamlined/fair procedures, and removing ineffective tenured and non-tenured teachers after they have had ample opportunity to improve. This standard is driving much of the legislative efforts in Michigan.

Other RTTT guidelines that are in play include a requirement that states provide an alternative pathway to teacher certification that is not tied to a university program and a requirement that the state not prohibit or effectively inhibit the expansion of high-performing charter schools along with state laws and regulations that provide accountability and oversight of charter schools and provisions to close ineffective charter schools.

In the past week the House Education Committee has met every legislative day and it is scheduled to meet next week on Tuesday the 8<sup>th</sup>, Wednesday the 9<sup>th</sup> and Thursday the 10<sup>th</sup>. So far the only action of the Committee has been to report an amended version of HB 5596, alternative teacher certification, to the floor of the full House of Representatives. The changes to the original version (below) are that the GPA for applicants was raised from 2.75 to 3.0, that a person with an

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“interim” certificate would have two years to meet the requirements established for a Michigan teaching certificate, and it added a provision that the providers of alternate certification programs must have a proven record of producing successful teacher in other states in order to be approved to provide such programs in Michigan. The MEA is still opposed to the bill since it would permit a person with no training or education in the field to enter an elementary or special education classroom under an “interim” certificate.

In the meantime, on December 2 and 3, the full Senate passed six bills related to the Race to the Top (RTTT) and sent them to the House of Representatives for consideration. These are SB 638 amending the teacher tenure act, SB 925 amending the School Code to create charter “schools of excellence”, SB 926 amending the state school aid act to provide for charter “schools of excellence”, SB 965 amending the school code to provide alternate routes to teacher certification, SB 981 amending the school code to allow for takeover of “failing” schools or school districts, and SB 982 amending the public employment relations act to protect the right of employees to bargain when a “failing” district is taken over. Explanations of these bills in their earlier versions can be found later in this report.

SB 638 sponsored by Sen. Patricia Birkholz (R-Saugatuck) proposes to amend the teacher tenure act. The version passed adds language that says “for the purposes of this article, a determination that a teacher on continuing tenure is consistently ineffective in teaching, according to the standards developed by the superintendent of public instruction under subsection (3) or according to standards developed by the controlling board and approved by the superintendent of public instruction, is considered to be reasonably and adversely related to the ability of the person to serve in an elementary or secondary school and is sufficient grounds to support the discharge or demotion of a teacher on continuing tenure.” It goes on to direct the superintendent of public instruction to develop such standards within 180 days. The MEA opposes SB 638. The state superintendent has no particular skill or ability to adopt reasonable standards and, even if he did, a one size fits all approach to evaluation of teachers is ill advised and certainly is not contemplated by the RTTT guidelines. Our current law and the precedents established under it provide clear methods to evaluate teacher effectiveness and competence and to sustain cases for removal of teachers who are not competent. A link to the bill can be found at [http://www.legislature.mi.gov/\(S\(4koqwk2x51ql30vxer2x3h55\)\)/mileg.aspx?page=getObject&objectName=2009-SB-0638](http://www.legislature.mi.gov/(S(4koqwk2x51ql30vxer2x3h55))/mileg.aspx?page=getObject&objectName=2009-SB-0638)

**Schools of Excellence Charter Schools** - a two bill package, SB 925 and SB 926, introduced by Sen. Buzz Thomas (D-Detroit), would amend the School Code and the School Aid Act to create and fund so called “Schools of Excellence” which is yet another acronym for more charter schools.

The bills would allow authorizers (school boards, ISD boards, community colleges or public universities) to issue contracts to operate schools of excellence to persons or entities that had operated a public school academy that had received a grade of “A” on the annual SBE report card for at least the preceding three (3) years, or the highest possible grade for the last three (3) years for a PSA operated in another state. There would be no limit on the number of such charters that could be issued. The bills would also allow for an additional five charters per year to operators that do not meet this standard, up to a total of 25 such additional charters.

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On December 2 these bills were passed by the Senate and sent to the House of Representatives for action. The only substantive change was the addition of the cyber schools language for SB 636 to the package. This would allow charter schools with no physical presence in the state to operate completely virtual schools with no limitations.

As with the Neighborhood Schools charter proposal, there is no transparency, accountability or independent oversight of the proposed Schools of Excellence. While this proposal would limit most of the new charters to high performing charter operators, there is no assurance that they would operate up to their previous level of performance. Also, there is no assurance that these schools would operate in areas where students are performing poorly and schools are alleged to be failing, nor is there any apparent intent that these schools would be part of a plan to improve struggling schools. For these reasons, MEA opposes this package of bills.

The following link will lead to copies of the bills as passed.

[http://www.legislature.mi.gov/\(S\(osok4x45oyh5qc55x1ob4oaf\)\)/mileg.aspx?page=getObject&objectName=2009-SB-0925](http://www.legislature.mi.gov/(S(osok4x45oyh5qc55x1ob4oaf))/mileg.aspx?page=getObject&objectName=2009-SB-0925)

**School Reform/Takeover Legislation** – On June 25, compromise versions HB 4787, HB 4788 and HB 4789 were passed by the House of Representatives and forwarded to the Senate for consideration. The bills adopted were essentially the same as the versions reported the previous week by the House Education Committee, with some minor clean-up amendments. The MEA supports this compromise package and urged support from legislators. The principal bill, HB 4787, makes numerous amendments to the School Code, while the other bills make amendments to the Public Employment Relations Act and technical amendments to the State Aid Act. The major provisions of the amended package are:

- HB 4788 amends the Public Employment Relations Act (PERA) by removing three of the “prohibited subjects of bargaining” from Section 15. Specifically, it removes the prohibition against bargaining over the decision to privatize support services and the impact of that decision on the employees; it removes the prohibition against bargaining over the terms of a leave of absence to teach in a charter school; and it removes the prohibition against bargaining over the first day of the school year.
- HB 4788 also provides that if the State Reform Redesign Officer (SRRO) enters a Memorandum of Understanding (MOU) with a local district to mandate changes in the way a failing school operates, including collective bargaining agreements and/or work rules, the SRRO and the local board of education are joint employers for bargaining purposes. The joint employer status would continue of the SRRO later assumes direct control over the building (see below).
- A failing school is defined in HB 4787 as one that has been unaccredited for 4 consecutive years or failed to achieve the federal pupil performance standards (AYP) for 4 years AND the percentage of all pupils in the school who scored at least "proficient" in both math and English language arts on the most recent MEAP or MME was less than 30% in 2010-11 increasing incrementally to 45% in 2015-16.
- Failing schools shall be placed under the control and supervision of the new State School Reform/Redesign Officer (SRRO), a position created in the bill and hired by the State Superintendent of Public Instruction. Within 30 days an evaluation of the school and the

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district would be done to identify the problems that need correction in order to have the school succeed.

- A school that is identified as failing by the State Superintendent of Public Instruction shall be placed under the control of the SRRO who shall attempt to negotiate an MOU with the local district and all bargaining agents for the employees of the district. The bargaining agents would be involved in the negotiations beginning in the fall of the year in which the process begins with a deadline of January 31<sup>st</sup> to reach agreement or face possible imposition of an MOU and changes in contracts.
- The school would operate under the control of the local board while the MOU is in place. It would last for at least two years or as long as progress is being made as defined in the MOU, or at least 30% score proficient in math or language arts, or proficiency scores have increased from the previous year by at least 10% of the number who scored proficient last year.
- If after two years operation under the MOU fails to meet the minimal improvement called for above, the SRRO may take direct control of the school. At this point s/he will have a choice between two options.
  - S/he can operate the building with a “qualified entity” managing it and employees of the local district providing the education. Qualified entities" are entities with at least one contract to operate at least one charter school and whose charter school pupils MME or MEAP scores are at least 10% higher on average than the scores of students in the host district(s).
  - S/he can authorize a “turnaround” charter school and issue a contract to a qualified entity to operate it under strict controls. **AT THAT POINT THE FAILING SCHOOL BUILDING WILL BE ORDERED CLOSED.**
- The bill provides that **ONLY** the SRRO can act as the authorizer of a turnaround charter school (not the universities, community colleges, ISDs or local districts).
- The bill contains extensive language governing turnaround charter schools and providing transparency and accountability. We think that it is as good, or nearly as good, as it can be.
- The bill also contains language that significantly tightens the accountability and transparency of all charter schools and the private contractors who operate them.

We believe that the bills have been changed in a way that makes them a positive contribution to improving the education of children and working conditions of employees in the school. First, the bill turns control over to a person with the experience and the authority to reform the building. It wrests control away from the bloated, smothering, often corrupt school board and administrative bureaucracies. It protects the right of employees to be represented by their union and to negotiate any changes in working conditions that the SRRO believes to be necessary. It makes the creation of a turnaround charter school the last resort, not the first resort.

The bills have been sent to the Senate. We expect some action on these bills in conjunction with the “Neighborhood Charter School” package, below. However, Sen. Wayne Kuipers, chairperson of the Senate Education Committee has not indicated when action can be expected. It appears as if the Senate will not take up HB 4787, HB 4788 and HB 4789, opting instead to send its new set of “reform” bills back to the House.

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On November 10, in a new twist, Senator Wayne Kuipers (R-Holland) introduced a package of school takeover/turnaround bills of his own to parallel the House package (above). SB 981, SB 982 and SB 983 are bills to amend the School Code, the Public Employment Relations Act and the School Aid Act respectively, in a manner that is similar to HB 4787, HB 4788 and HB 4789, but with some very significant differences.

While SB 981 would place a turnaround officer in charge of so-called failing schools, s/he could take control of an entire school district if it were deemed to be the cause of failing schools. Like the House package, the turnaround officer would be defined as a joint employer of employees in a building under his/her control with the ability to renegotiate parts of collective bargaining agreements deemed to impede turnaround of the school. It also grants the local school board a 60 day window to renegotiate agreements in a case where the turnaround officer does not take over a failing building. The bill does not contain any of the charter school accountability/transparency of the House passed package. Likewise, SB 982 does not contain the removal of prohibited subjects of bargaining that HB 4788 contains.

On December 2 the Senate passed SB 981 and SB 982 and sent them to the House of Representatives for consideration. SB 981 was modified in some significant ways, while SB 982 was in virtually the same shape as when it was first introduced.

SB 981 now includes language directing all districts to adopt evaluation procedures that reflect the RTTT guidelines above.

It allows the superintendent of public instruction to take action to improve schools that are failing schools; defined as those that have been unaccredited for 3 consecutive years or that are among the lowest achieving 5% of schools in the state as defined by the federal RTTT standards. The state superintendent may choose remedies from among the following:

- Appoint a new administrator for the school
- Allow parents to send their children to another accredited school
- Implement one of the four models in the RTTT rules to improve the school. The four models are:
  - Turnaround model involving replacement of the principal and significant portions of the staff along with things such as the school reporting to a turnaround officer rather than the school board, increase instructional time, use research to drive a vertically aligned structure.
  - Restart model where the district converts the school or closes it and restarts it as a new public school or charter school and hires a Charter Management Organization or Educational Management Organization to operate it
  - School closure where the school building is closed and the students transferred to other public or charter schools.
  - Transformational model which is a broad ranging set of reforms that may be applied to the building by the controlling board or state superintendent. These reforms take up two pages of single spaced type in the federal guidelines to describe, but they are the most likely to be followed.

The bill also provides that the state superintendent may take over operation of a district if s/he finds that at least 25% of its pupils are enrolled in buildings that are in the bottom 5% of schools as described above, in which case s/he shall appoint a Chief Educational Officer to operate the

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school. That person would have powers very similar to the State Reform and Redesign Officer called for in HB 4587 above. The employees would continue to be represented by the union but the CEO could demand to re-negotiate some provisions of the contracts.

The bill provides that the state superintendent shall have a review team assess operators of high performing charters to find a list of potential educational management organizations (EMO) to manage these “takeover” school districts that are under the control of a Chief Educational Officer. It also directs that districts in danger of becoming a failing school be placed on a watch list that is to be published to districts, the public and the union(s) representing the employees of the buildings. The bill also implies that EMO may provide all management and instructional staff to buildings or districts.

For numerous reasons, the MEA remains opposed to SB 981. Follow this link to see SB 981 [http://www.legislature.mi.gov/\(S\(rztwmb55bfzxe045yxzvmka5\)\)/mileg.aspx?page=getObject&objectName=2009-SB-0981](http://www.legislature.mi.gov/(S(rztwmb55bfzxe045yxzvmka5))/mileg.aspx?page=getObject&objectName=2009-SB-0981)

**Alternate Certification** – Identical bills have been introduced in the Senate and the House to provide a means for people with bachelor degrees or higher to achieve certification to teach in an alternate, non-traditional way. SB 965, sponsored by Sen. Wayne Kuipers (R-Holland) and HB 5596, sponsored by Rep. Phil Pavlov (R-St. Clair) have been introduced in the past week. These, along with the turnaround/takeover bills and the expansion of charter school bills are all aimed at qualifying Michigan for a share of the \$4 billion “Race to the Top” grants that are to be awarded by the federal government in the next few months.

The alternate certification bills provide that the State Superintendent establish a path whereby a person with a bachelor degree and a minimum of 2.75 GPA can complete a training program from a sponsoring agency, such as Teach for America, that is the equivalent of 12 semester hours in educational subjects and a supervised experience in a school and receive an “interim” teaching certificate. Such people can teach for four years in Michigan in a public school that will hire them and provide close monitoring and mentoring and, at the end of this time period, be awarded a “permanent” teaching certificate. The certificates could be at either the elementary or the secondary level. There would be no further continuing education or professional development required with these certificates.

The MEA opposes these bills as they stand. They represent a major reduction in the requirements to become a certified teacher and to maintain that certification. We did away with “permanent” certificates almost 40 years ago and ultimately supplanted them with professional certificates. The GPA contained in these bills, the reduced education required of them and the complete absence of any continuing education and professional development is a major setback to professional standards in education. We will work to fix the bills or stop their passage.

This past week action has occurred on both SB 965 and HB 5596. The House Education Committee reported HB 5596 to the floor of the full House of Representatives with a couple of modifications, while the full Senate passed a modified version of SB 965 and sent it to the House of Representatives for consideration.

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The version of HB 5596 reported by the House Education Committee raised the GPA for participants in alternative certification programs to 3.0 on a 4 point scale. It also added language to require any operator of alternative certification programs to have a proven record of producing successful teachers in other states.

The version of SB 965 adopted by the Senate removed the provision that set forth testing requirements for elementary certification under an alternate pathway. It also indicates that people who complete four years under an alternate certificate receive a provisional certificate and are thereafter subject to the administrative rules for such certificates.

While neither HB 5596 nor SB 965 is satisfactory, these amendments are significant improvements from where the bills began. The following link leads to the Senate passed version of SB 965.

[http://www.legislature.mi.gov/\(S\(zditp5454iomxl45ptgy1245\)\)/mileg.aspx?page=getObject&objectName=2009-SB-0965](http://www.legislature.mi.gov/(S(zditp5454iomxl45ptgy1245))/mileg.aspx?page=getObject&objectName=2009-SB-0965)

**Neighborhood Charter Schools** – This package of bills would allow virtual unlimited expansion of charter schools with no accountability or oversight. Billed as “Neighborhood” schools, they have little to do with neighborhoods and a lot to do with unregulated, anti-union and no job security charter schools. The bills are SB 636 sponsored by Sen. Wayne Kuipers (R-Holland) that amends the school code, SB 637 sponsored by Sen. Nancy Cassis (R- Novi) that amends the state aid act, SB 638 sponsored by Sen. Patricia Birkholz (R-Saugatuck) that amends the teacher tenure act, and SB 639 sponsored by Sen. Bill Hardiman (R-Kentwood) that amends the public employee relations act.

The bills in the “Neighborhood” Schools package allow a majority of teachers or parents in a local school to convert that school to a charter school. It also allows the authorization of charter schools to be operated by any organization, association, corporation or other person, including a city, county, village, township, school district, ISD, community college, public university, a department or other agency of state government or another person or entity. Authorization would come from the State Board of Education, a local school board, an ISD school board, a community college, a public university, or the mayor of a city with over 65,000 residents.

For a conversion neighborhood school, a majority of the parents and a majority of the certified teachers at the school must vote to approve the application. The teachers must have been notified in writing that, if approved, they would not be covered by the collective bargaining agreement of the district. SB 639 amends PERA to reflect this fact. Likewise, SB 638 amends the teacher tenure act to provide that the tenure act does not apply to these or to any neighborhood school.

One type of neighborhood charter school is a statewide “cyber school” that would be chartered to provide full time cyber learning for any student who is a resident of the State.

SB 636 also allows any charter school to enter an agreement with another charter school to allow students to progress from one to the other without going through any open enrollment or screening procedure. This is an effort that was pursued unsuccessfully last year to expand the number of charter schools in the State without lifting the cap.

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The bills also provide that the Superintendent of Public Instruction shall establish alternative routes to certification or approval to allow teachers to be employed in neighborhood charter schools.

The bills provide that any future collective bargaining agreements in public schools and ISDs must include a provision allowing leave of absence to teach in neighborhood charter schools.

The MEA opposes this package of bills. The bills have been reported to the floor of the full Senate by the Education Committee. Behind the scenes negotiations between education leaders in the Senate and the House have begun to try to find a package both can support that encompasses parts of the Neighborhood Schools proposal with parts of the School Reform/Takeover package that cleared to House.

**Conversion Schools** – A two bill package introduced by Rep. Phil Pavlov (R-St. Clair) would create a new class of independent public schools called conversion schools. The package, HB 5237 and HB 5238, has been referred to the House Education Committee. The bills provide that a majority of the “tenured teachers” at an existing public school building or a majority of parents/guardians of the pupils enrolled at an existing public school may petition the controlling board of education to make the building a conversion school. If the controlling board does not approve the petition then it may be submitted to an ISD, community college or public university for approval. If approved the school becomes a conversion school. If the controlling board approves the petition, the employees continue as employees of the district covered by any existing collective bargaining agreement. If the approval comes from one of the authorizing agencies the employees are not employed by the district and the collective bargaining agreement does not apply to them.

The MEA opposes the conversion school bills. It is another way by which the cap on charter schools can be broken. The conversion schools would have significantly less oversight, transparency, accountability, etc., than would regular charter schools. It is also a means by which a group of disgruntled parents could take control of a school and run roughshod over the rights of the employees in the building to the detriment of the employees and the children they teach.

**“Health Care Reform”** – The Legislative Commission on Governmental Efficiency continues to focus on health care benefits of public employees, particularly employees of public schools. Created by statute to examine ways to achieve efficiency in government, the commission has obsessed with finding ways to cut benefits and thereby reduce the compensation of school employees through the creating of a single, statewide, government run health care plan for all public employees, including school employees.

This is merely a revisit of SB 55 and SB 56 from a few years ago, and ignores the findings of a private study commissioned by the Senate and conducted by the Haye Group that there are not significant administrative efficiencies to be achieved by dismantling the health care system that is currently in place for public school employees.

Without waiting for this commission to issue its report, Speaker of the House Andy Dillon (D-Redford Township) has unveiled a proposal to do what the commission has been contemplating,

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adopt a law to require all state, county, local, school district, community college and university employees and retirees to be part of a mandatory government run health insurance system. HB 5345, the bill to accomplish this, was introduced on September 10<sup>th</sup> and referred to the House Public Employee Health Care Reform committee for consideration.

HB 5345 sets up a thirteen member state committee, made up of political appointees of the governor, the speaker of the House and majority leader of the Senate, to establish a few benefit packages (4 or so) that would be mandatory as the only packages by which public employees could be covered. The bill does contain a loophole to allow local units that can demonstrate, through an expensive, time consuming actuarial study, that it has a plan that provides comparable benefits at a savings of 5% or more.

Collective bargaining between public employers and employees would be limited to which of the State mandated plans, if any, are available to employees and how much the employees will pay in premium sharing, co-pays, deductibles, etc. In other words, public employees will not be allowed to bargain over their total compensation packages, only over how much they pay for a state mandated, government defined plan that may or may not meet their needs.

Contrary to the impression given by backers of the plan, **COVERAGE WILL NOT BE PROVIDED TO ALL EMPLOYEES**. These backers stated clearly in hearings that it will only apply to those employees for whom the employer is providing benefits and it will be up to the employer to decide whether specific groups are or are not covered.

So called experts called upon to defend this government takeover claim that it will save nearly \$1 billion per year. They provide little actual data or methodology to defend this claim, they simply make the same claim over and over. The largest portion of the \$1 billion would come in the form of benefit reductions based upon the unfounded assertion that public employees enjoy “Cadillac” plans and we can save big money by reducing their benefits. More honest experts point out that it is impossible to calculate how much, if anything, this proposal would save because insufficient data exists and only a serious actuarial study could reach valid conclusions.

**BUDGET** – On May 15 the May Revenue Estimating Conference was held. The consensus of the representatives present (State Treasurer, head of the Senate Fiscal Agency and head of the House Fiscal Agency) is that the school aid fund (SAF) revenue for 2008-09 will be down by an additional \$425.0 million from the estimate they made in January; while the SAF revenue for 2009-10 will be off by an additional \$732.8 million from the January estimate. By comparison, the SAF revenue in 2007-08 was \$11,512.9 BILLION. For 2008-09 the new estimate is \$10,943.7 BILLION, a drop of \$569.2 million or 4.9%. In 2009-10 the current estimate is for SAF revenue of \$10,563.0 BILLION, a drop of \$949.9 million or 8.25% over the two years from 2007-08.

Since then, the actual revenue has consistently fallen below the projections of the Revenue Estimating Conference. On September 16 the Speaker of the House and Majority Leader of the Senate agreed on a procedure to resolve the budget impasse. They have directed their appropriations sub-committee chairpeople to develop compromise budget bills within the overall dollar amounts contained in the Senate budget bills that were previously adopted. In other words,

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the chairpeople can rearrange the spending, but the totals cannot exceed the amount designated by the Senate in its earlier action.

The bottom line is that public schools would take a hit of \$410 million in 2009-10.

The most recent developments in the ongoing saga of 2009-10 school aid appropriations are, in reverse chronological order, as follows. On November 5<sup>th</sup> the House of Representatives passed, and sent to the Senate, a supplemental appropriations bill, HB 4860, sponsored by Rep. Terry Brown (D-Pigeon). As passed the bill does several things. It restores 50% (\$25,750,000) of the 20 J funds that were deleted earlier by a line item veto of the governor. It appropriates an equal amount, \$25,750,000 to a new section for equity payments to those districts with the lowest per pupil foundation allowance (less than \$7,356). This money will be allocated on the basis of \$40/pupil or the difference between the district foundation allowance and \$7,356, whichever is less. This bill appropriates an additional \$184 million in federal AARA funds and \$700,000 from the general fund. Finally, the House passed version of the bill postpones until 2010-11 the year in which the school districts must utilize 5 hours of online professional development from Michigan Virtual University in order to count professional development time against the 1,098 instructional hour requirement.

As you know, the original state aid bill, HB 4447, reduced school aid for 2009-10 by \$165/pupil from the 2008-09 level. In addition to that, the Governor used the line item veto to delete another \$51 million from the bill by deleting the section 20 J provision. Finally, after the bill was signed the Governor was notified that the revenue coming into the school aid fund appears to be an additional \$127 million short of what was appropriated in the school aid bill she had just signed. Under the law, she is required to notify the Legislature and the public that a pro-rata reduction in school aid will automatically go into effect unless the Legislature enacts other measures to eliminate the shortfall. That pro-rata reduction will be \$127 per student if it is allowed to go into effect. Thus, if the Legislature does not come up with additional revenue for schools, the total reduction from 2008-09 will be \$292/pupil plus another \$51 million for the districts that receive section 20 J hold harmless funding.

On September 29 a conference committee adopted the first conference report on HB 4447 enacting the agreement between the two leaders, Rep. Andy Dillon (D-Redford Twp) and Sen. Mike Bishop (R-Rochester) on how to reach the \$410 million reduction to schools. It called for an overall reduction of \$218 per pupil from the total allocation to each district. The specific changes earlier enacted by the Senate were NOT adopted (see below), but rather the report said that ON PAPER each district would receive the same per pupil allowance and categorical amount as in 2008-09, but that after the total is calculated it will be reduced by \$218 per pupil. The district would decide what programs to reduce in order to live within the final, reduced payment from the State.

On Wednesday, September 30 that conference committee report went before the House of Representatives for approval. Under the rules, it could not be amended or modified, it could only be approved or rejected. The first time it was put to a vote only 32 out of 110 representatives voted YES, leaving it 23 votes short of the needed majority. Just before midnight it was put to a vote again, and after about 30 minutes to vote, it was rejected by a vote of 106 to 2 (2 representatives were absent due to serious illness). That means that there is no adopted budget

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for K-12 schools for the 2009-10 school year and the Legislature must keep working to come up with one.

Also on September 30, the Senate adopted a one month “continuation” budget for K-12 schools (SB 252) that would run till October 30. In that bill they continued funding at the 2009-10 level MINUS the \$218 reduction in the total. The Senate did NOT give the bill immediate effect meaning it cannot go into effect until late March of 2010. The House approved the bill, but restored the funding level to the 2008-09 level.

What this means is that we did not yet have a final budget for the full year. The first state aid payment to local schools is due on October 20 but we do not have legislation to permit that payment. The “continuation” budget covering only the month of October is not agreed upon and, even if they could agree on the funding level, DOES NOT HAVE IMMEDIATE EFFECT, so it will not be effective by October 20 and, therefore, does not authorize the payment to local districts. THEREFORE, THE CRISIS FOR SCHOOL AID WILL COME SHORTLY BEFORE OCTOBER 20<sup>TH</sup> WHEN THE FIRST PAYMENT IS DUE. Stay tuned for further developments.

MEA opposes the conference report because the cuts are too extreme and are not necessary given the funding that is available.

The Senate had earlier passed a proposed School Aid bill for 2009-2010. The School Aid bill is HB 4447, started off with a number of cuts proposed by the Governor, was restored to a continuation of the 2008-2009 budget by the House, has once again gone under the knife. As revenues continue to decline with little talk of trying to seek revenue enhancements, the Senate has proposed cuts from the 2008-2009 budget levels of \$410 million. The Senate passed version if enacted by the Senate would call for the following cuts:

1. Foundation allowance is reduced \$110 per pupil	\$174,000,000
2. School Readiness District Programs	\$ 88,400,000
3. Special Education ISD Millage Equalization	\$ 36,881,100
4. Declining Enrollment – Section 29	\$ 20,000,000
5. Non-District School Readiness	\$ 15,150,000
6. Declining Enrollment Section 6(4)(y) Rural Schools	\$ 10,600,000
7. Voc Ed ISD Millage Equalization	\$ 9,000,000
8. Small High Schools	\$ 8,000,000
9. Dearborn’s At-Risk Payment	\$ 5,875,000
10. ISD Ages 0-5 Early Childhood	\$ 5,000,000
11. Child/Adolescent Health Centers	\$ 4,743,000
12. 5% Cut to ISD Operations	\$ 4,086,100
13. Math/Science Centers	\$ 3,500,000
14. Voc Ed 10% Reduction	\$ 3,000,000
15. Bilingual Education	\$ 2,800,000
16. Adult Ed 10% Reduction	\$ 2,400,000
17. Michigan Virtual University	\$ 2,250,000
18. Interagency Early Childhood	\$ 2,125,000
19. Health/Science Middle Colleges	\$ 2,000,000
20. Grosse Pointe/Harper Woods Pilot Programs	\$ 1,500,000

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21. School Bus Inspections	\$ 1,436,500
22. Youth Challenge	\$ 1,295,100
23. Transportation Grants	\$ 1,275,000
24. Precollege Engineering	\$ 980,100
25. Redford Union, Chippewa Valley, Clintondale	\$ 850,000
26. Isolated Districts	\$ 750,000
27. Early Childhood Investment Corporation	\$ 750,000
28. After School Math	\$ 725,000
29. Advanced and Accelerated	\$ 285,000
30. Cultural Access Grants	\$ 100,000
31. Central Michigan Univ. Lending Library	\$ 100,000
32. Newslines	\$ 80,000
<b>Total Reductions</b>	<b>\$410,136,900</b>

### How the Numbers Work

1. The 2008-2009 budget is estimated to end with a surplus \$171 million	
2. Revenue estimates for Fiscal Year 2009-2010	\$10.8827 billion
3. General Fund Contribution	\$31.8 million
4. Federal Aid	\$1.5618 billion.
5. Estimated total revenue	\$12.3276 billion.
6. Appropriations CURRENT SERVICES BASELINE	\$13.1567 billion
7. Senate proposed cuts	\$410.1 million
8. Total Estimated Expenditures	\$12,7466 billion
9. Balance without Tax or Fee Increase/before ARRA	(\$419.0 million)
10. Proposed Lottery revenue increase	\$15.0 million
11. Balance After Additional Lottery	(\$404.0 million)
12. ARRA Fiscal Stabilization Fund	\$634.1 million
13. Balance after ARRA at close of Fiscal Year	\$230.1 million

The Senate version also modifies the minimum day/hours per day requirement. The Senate proposal for 2009-2010 changes the House passed requirement by specifying that in 2010-2011 and 2011-12 there will be 165 days of instruction and by 2012-2013 there will be 170 days of instruction, with no minimum hours per day specified. The bill does NOT contain any language exempting districts with settled contracts for these years from compliance with the minimum days of instruction requirements.

**Community colleges** will receive the same funding as this year under the Governor's proposal for 2009-10. On April 2 the House passed HB 4435, the Community College appropriation bill for 2009-10, and sent it to the Senate. The funding for community college operations was frozen at the current level, the same as the Governor proposed. However, total appropriations were increased by \$97,000,000 through the addition of federal stimulus funds for job training programs. On September 29 the final version was adopted, setting funding at the same level as in 2008-09.

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**Higher Education.** Public universities take a hit of 3% in the allocation for each institution. Combined with other cuts, higher education is reduced by a total of \$100 million when compared to 2008-09. On April 2 the House passed HB 4441, the Higher Education budget bill for 2009-10, and sent it on to the Senate. The bill restores university operations to the current year levels through use of a portion of the federal stimulus dollars. On September 30 both chambers of the Legislature enacted a final version of the Higher Ed budget. It contained the 3% reduction in the allocation to each university along with an elimination of the Promise Grant student aid.

**Mayoral Control/Takeover** – HB 5236, sponsored by Rep. Phil Pavlov (R-St. Clair) would apply to 1<sup>st</sup> class school districts (Detroit) beginning in 2010. It provides that the board of education would become the mayor of the city. The elected board of education would cease to exist. The MEA does not have a position on the bill but we do have some questions. Most particularly, we do not see evidence that any mayor of Detroit can effectively manage the city and provide basic municipal services in an efficient or effective manner, and it would seem premature for the mayor to take over control and operation of the schools.

**First Class School Definition** – HB 4047 sponsored by Rep. Bettie Scott (D-Detroit) would change the definition of a first class school district. Current law defines a first class district as one that has 100,000 or more students. On April 2, 2009 the House passed the bill and sent it to the Senate. The bill redefines the definition to say that any district that met the definition on July 1, 2008 will remain a first class school district at least until July 1, 2010. This is important to the Detroit Democrats and is therefore important to everyone one because they may be willing to trade something else to get it. As of July 1<sup>st</sup> Detroit is now longer a first class school district. However, there seems to be little interest in adopting legislation that would restore the district to first class status.

**Student Hours of Employment** – SB 25, sponsored by Sen. Tony Stamas (R-Midland) would raise the number of hours that a student is allowed to work to 20 hours per week during the school year. Currently, the limitation is a total of 48 hours per week combined school time and work time. The MEA opposes the bill because the increase in hours worked conflicts with the ever increasing pressure being placed upon students to achieve a more rigorous curriculum and the time that requires. The bill has passed the Senate and is currently in the House Labor Committee.

**School Dropout Age** – HB 4030 sponsored by Rep. Douglas Geiss (D-Taylor) provides for mandatory attendance until age 18. The H-2 version of the bill passed the Michigan House of Representatives on March 4 and was sent to the Senate where it was referred to the Education Committee. This version provides that any student who turned age 14 on or after December 1, 2007 shall attend school until his/her 18<sup>th</sup> birthday except that the parents or guardian of the student can give permission for the student to stop attending school when s/he reaches age 16. The MEA supports the bill which would be a strong impetus for children to stay in school and be better prepared for a productive adult life. It would also result in approximately \$200 million additional for schools and several hundred jobs for educators.

A second attendance age bill is HB 4132 sponsored by Lamar Lemmons (D – Detroit). The difference in the two bills is that HB 4030 would apply to all students as of the effective date while HB 4132 would apply to students who turned 14 years of age by December 1, 2007 or

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later. The MEA supported the bills in committee recognizing that additional work needs to be done developing programs to meet the needs of students who dropout of school.

**School Bus Safety** – HB 4362 sponsored by Rep. Tory **Rocca** (R-Sterling Heights) would prohibit the use of cell phones by school bus drivers while operating the bus or while students are boarding or exiting the bus. The bill, part of a package of bills regulating cell phone use while operating motor vehicles, has been referred to the House Transportation Committee where it is scheduled for a hearing on April 23, 2009.

**Privatization** – HB 4219, sponsored by Rep. Fred **Miller** (D-Mt.Clemens) would remove the prohibition in the Public Employment Relations Act against school employees having the right to negotiate over the issue of privatization of their services. This bill has been referred to the House Labor Committee. HB 4584 sponsored by Rep. Doug **Bennett** (D- Muskegon) calls for a cost benefit study prior to a decision to privatize educational support services and sets for criteria if privatization is to occur. HB 4741, sponsored by Rep. Rick **Jones** (R-Grand Ledge) gives existing employees the right to bid on any work that is slated for outsourcing/privatization.

**Charter Schools** - Related to the first class school issue is HB 4063 sponsored by Rep. Lamar **Lemmons** (D-Detroit). It would remove the prohibition against community colleges issuing charters in a first class school district (Detroit), a provision that has been in the School Code since charters were first established in Michigan in the mid-1990s. It effectively allows Bay Mills Community College, a statewide Native American institution, to issue charters in every district except Detroit without regard to the overall cap on the number of charter schools in the State. Bay Mills has used this loophole to open over 30 charters in this decade. Under HB 4063 Bay Mills could also authorize charters in Detroit on the same basis as it does in the rest of the State.

**School Employee Retirement Stimulus** – This issue has created a considerable stir in Lansing and has been one of the major topics on everyone's mind for several weeks. HB 4285 sponsored by Rep. Fred **Miller** (D-Mt. Clemens) and SB 255 sponsored by Sen. Wayne **Kuipers** (R-Holland) were introduced in late February and would have done the following:

- Increase the multiplier to 2% for those who retire during the designated window.
- The window to apply to retire is April 1, 2009 through March 31, 2010.
- The window to retire is from 30 days after application through June 30, 2010.
- The member must go directly from active employment to collecting a pension.
- The member must agree to have his/her pension suspended if s/he returns to work in a public school as a contract employee within two years.
- If the member is in a critical shortage discipline as compiled by the State Superintendent as of October 8, 2008, s/he may elect to continue work for up to one year past June 30, 2010 and receive the benefit. These people must apply in the same window as everyone else.
- The bill as introduced contains a cap on the total cost of the additional liability at \$1.5 billion. If more employees apply than can be accommodated within that cap the employees with the greatest amount of service credit worked in the system will receive priority.

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- Employees who do not qualify because of the cap on the number who can take the stimulus will have their application automatically voided so they don't get forced to retire at the 1.5% rate (they could re-apply at the lower rate if they choose to do so).

The agreement was that SB 255 would be taken up first in the Senate and, if it passed there, it would then be taken up in the House of Representatives. The Office of Retirement Services weighed in and provided cost figures that were prohibitively expensive resulting in a situation where there were not sufficient votes to move either bill. As of the end of March it was announced that the bills will not be taken up or moved to a vote. This effectively kills the bills.

**Retiree Health Benefits** - HB 4073 creates an IRS Section 115 irrevocable trust to hold the funding, prefunding, and/or health savings account monies for the school employee's retirement system, the civil service employee's retirement system, the state police retirement system, the judicial retirement system and the legislative retirement system. It is the same as HB 5913 from the previous session, and it has been passed by the House and referred to the Senate Appropriations Committee. MEA is neutral on this bill in its current form, as we participated in work groups during the drafting process to eliminate concerns. This bill does not provide for any type of prefunding of retirement health insurance benefits.

**Health Care** – HB 4466 sponsored by Rep. Bert **Johnson (D-Detroit)** would create a single payer health insurance system for citizens of Michigan. It would, if adopted, create a new insurance law to provide and define such a system. The bill was introduced on February 26, 2008 and referred to the House Committee on Health Policy.