



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING



JENNIFER M. GRANHOLM
GOVERNOR

THOMAS D. WATKINS, JR.
SUPERINTENDENT OF
PUBLIC INSTRUCTION

June 20, 2003

TO: State Board of Education

FROM: Thomas D. Watkins, Jr., Chairman

SUBJECT: Update on Educational Legislation

There has been discussion and movement on several legislative initiatives during the past month, in addition to the Department and State School Aid Budgets for the next fiscal year. Other bills that have been introduced but not yet discussed in committee may also be of interest to you. Attached to this memorandum are the following items:

- Summary of the State School Aid budget for 2003-2004, as Passed the Senate on June 18.
- Itemized listing of selected pending legislation related to education.
- Staff and legislative analyses of selected bills, as indicated on the itemized listing.

It is recommended that the State Board of Education receive the Update on Educational Legislation as provided in the Superintendent's memorandum dated June 20, 2003.

STATE BOARD OF EDUCATION

KATHLEEN N. STRAUS – PRESIDENT • SHARON L. GIRE – VICE PRESIDENT
CAROLYN L. CURTIN – SECRETARY • HERBERT S. MOYER – TREASURER
MARIANNE YARED MCGUIRE – NASBE DELEGATE • JOHN C. AUSTIN • ELIZABETH W. BAUER • EILEEN LAPPIN WEISER

608 WEST ALLEGAN STREET • P.O. BOX 30008 • LANSING, MICHIGAN 48909
www.michigan.gov/mde • (517) 373-3324

House Bill 4401 (S-1 as passed by the Senate)

Committee: Appropriations

FY 2003-04 Year-to-Date Gross Appropriation		\$12,696,906,100
Changes from FY 2002-03 Year-to-Date:		
1. Durant Non-plaintiff Debt Service. This reduction is the result of the refinancing of the existing bonds by the Department of Treasury and thus no payments will be due.	(39,859,000)	
2. Proposal A Obligation Payment. Reductions in this line item are necessary due to changes in updated pupil and taxable value estimates.	(110,700,000)	
3. Discretionary Payment. Decreases are necessary due to changes in updated pupil and taxable value estimates. In addition, the 10.1% reduction of the small class size grants and the elimination of the grant rolled into the foundation allowance of the Detroit schools account for the reduction.	400,000	
4. Personal Property Tax Exams. New section that provides a reimbursement to school districts for the costs associated with personal property tax audit exams and is included as a place holder.	100	
5. Renaissance Zones. This line item is increased due to new renaissance zones designated after the prior appropriation as well as updated taxable value changes.	17,736,000	
6. School Readiness. Funding for this line item is decreased due to budgetary constraints. The allowable uses of these funds is expanded to include preschool and parenting programs.	(5,871,600)	
7. Early Literacy. New section for early literacy intervention programs. Item is included as a place holder.	100	
8. Federal No Child Left Behind (NCLB) Grants. Federal funding to comply with NCLB requirements is increased for FY 2003-04.	3,075,900	
9. Special Education (State and Federal). Increases in State funding of \$25,478,100 reflect yearly cost increases and updated special education pupil and cost estimates. Federal funding is also increased for FY 2003-04 and is included in this line.	76,140,900	
10. Career Preparation. This line item is reduced due to budgetary constraints. The allowable uses of the funds are expanded to include planning.	(11,850,000)	
11. Center for Educational Performance and Information. The State portion of funding for the CEPI is decreased by \$2,500,000 to \$2,000,000. The Federal portion of the funding is increased by \$573,900 to \$2,931,500 which includes \$1,000,000 for the school evaluation services contract with Standard and Poor's, if it's deemed warranted by CEPI.	(1,926,100)	
12. Michigan Virtual High School. The State portion of funding decreased by \$1,000,000. The Federal portion of the funding is decreased by \$4,334,700 due to the wireless technology component being moved to new Section 98B.	(5,334,700)	
13. Wireless Technology. A new section to fund the Limitless Learning program which provides grants for wireless technology programs. Program is funded entirely with Federal funds, some of which were previously included in the Michigan Virtual High School line item.	21,393,100	
14. Adult Education. State funding is reduced by \$58,196,300 while new Federal funding of \$20,696,300 is added.	(37,500,000)	
15. Partnership for Adult Learning. Budgetary constraints reduced this line item.	(10,000,000)	
16. Other Changes. Significant items either reduced or eliminated include: Court-Placed Pupils (\$900,000), Advanced & Accelerated Pupils (\$3,400,000), Vocational Education (\$1,027,600), Accreditation Assistance (\$2,000,000), Golden Apples (\$1,320,000), and Math and Science Centers (\$5,244,600). Various other line items totaling a negative \$527,700 are decreased or increased due to budgetary constraints.	(14,419,900)	
Total Changes	(\$118,715,200)	
FY 2003-04 Senate Gross Appropriation		\$12,578,190,900

Changes from FY 2003-04 Year to Date:

1. **Pupil Membership Blend.** The Executive recommended a change in the membership blend from the current-law blend of 20% on prior year February count and 80% current-year September count to a 50% prior-year February count and a 50% current-year September count. The Senate retains the current law blend of 80-20. (Sec. 6(4))
2. **Declining Enrollments.** The Executive recommended elimination of the provision that allows certain districts in the lower peninsula with declining enrollments to use a three-year average membership count. The Senate retains this provision and also expands the language to include districts in the upper peninsula. The Senate also adds language requiring the Senate and House K-12 subcommittees to perform a study and develop a recommendation on the issue of declining enrollments by December 1, 2003. (Sec. 6(4)(y) and Sec. 93)
3. **Proration Language.** Current law requires an across-the-board proration whenever revenues fall short of the amount necessary to fund the enacted appropriations. The Senate states that in the future, if a reduction becomes necessary, 95% of that reduction amount shall taken from local school districts on an equal dollar amount per pupil. The remaining 5% of the reduction shall be taken from ISDs on an equal percentage basis. (Sec. 11(4))
4. **General Fund Transfer.** For FY 2002-03, the Senate appropriates an additional \$61,000,000 from the general fund to the school aid fund to avert a further proration in FY 2002-03 as a result of the May 2003 Revenue Estimating Conference. (Sec. 11(5))
5. **Basic Foundation Allowance.** The Executive retained the per-pupil basic foundation allowance at the same level as FY 2002-03, \$6,700. The Senate concurs with the Executive and retains the basic foundation of \$6,700. The Senate also reduces the amount of small class size grants that were rolled into recipient districts' foundation allowances by 10.1% as well as unrolling and eliminating 100% of the grant that was rolled into the foundation allowance of a district with a Reform Board. Also included (as a placeholder) is an adjustment to the foundation allowance of a school district that did not approve a Headlee override vote prior to implementation of Proposal A. It is estimated that only the Wyandotte School District is impacted by this change. Finally, the Senate also includes the flexibility language from Senate Bill 367 as passed by the Senate. (Secs. 20(1), (19), (20) and (21))

School District Consolidation. Current law gives districts that consolidate a foundation allowance equal to the lesser of \$8,000 or the highest foundation allowance plus \$50. The Executive recommended a new section (Sec. 20L) that would give consolidating districts a foundation allowance equal to the pupil-weighted average of the consolidating districts plus \$10 up to a maximum of \$8,000. The Senate deletes the new section and instead grants a foundation allowance that is the pupil-weighted average of the consolidating districts with no additional per pupil dollar amount. (Sec. 20(10))

7. **At-Risk Program.** The Executive expanded the allowable uses of funds to include tutorial services and programs that combine academic, enrichment, and recreational activities. The Senate expands the allowable uses to include tutorial services, early childhood programs, and reading programs as described in former section 32f. The Senate also includes the flexibility language from Senate Bill 367 as passed by the Senate. (Sec. 31a)
8. **School Readiness.** The Executive retained the current-law appropriation of \$72,800,000. The Senate appropriates \$66,928,400 and expands the uses of the funds to include preschool and parenting programs (PIE programs). (Sec. 32d)
9. **Bilingual Education.** The Executive retained the current-law appropriation of \$4,212,000. The Senate appropriates \$4,299,900 (\$3,067,800 in State funding and \$1,232,100 in Federal funding) and limits funding for any student to a maximum of three years. (Sec. 41)
10. **Days and Hours.** The Senate includes the flexibility language contained in Senate Bill 364 as passed by the Senate. The days requirement is eliminated and school districts are given the flexibility to provide any number of days of instruction so long as they meet a minimum of 1,098 hours of pupil instruction. (Sec. 101)

Sexual Contact. The Senate includes new language stating that sex education courses offered must include information regarding the criminal nature of sexual contact with individuals under age 16 and consequences resulting from such criminal activity. (Sec. 166a(c))

Date Completed: 6-19-03

Fiscal Analysts: Joe Carrasco
Kathryn Summers-Coty

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations.

hbhik12_sp

Education Legislation Status (Excerpt)

2003 - 2004

BILL	SPONSOR	DESCRIPTION	STATUS
HB 4025	Tabor	DRUG USE MODEL POLICY Amends the Revised School Code to require state model policy and local policies for educators concerning chronic behavioral issues and psychotropic medication. <i>Lead Agency:</i> MDE <i>Introduced:</i> 1/28/2003 <i>SBE Position:</i>	Passed House 5/8/03; Senate Ed
HB 4032	Shulman	SUPPLEMENTAL BUDGET Provides for supplemental appropriations for FY 2002-2003. <i>Lead Agency:</i> DMB <i>Introduced:</i> 1/28/2003 <i>SBE Position:</i>	Enrolled 6/17/03
HB 4038 ✱	Rocca	TEACHER CPR Amends the Revised School Code to require certification in CPR for new teacher certification. <i>Lead Agency:</i> MDE <i>Introduced:</i> 1/28/2003 <i>SBE Position:</i>	2003 PA 18
HB 4048	Bradstreet	CERTIFICATION EXCEPTION Amends the Revised School Code to allow exception to teaching certificate requirement for individuals teaching in a field related to their degree under certain conditions. <i>Lead Agency:</i> MDE <i>Introduced:</i> 1/28/2003 <i>SBE Position:</i>	House Ed
HB 4137	Bieda	TOBACCO USE PREVENTION Amends the Revised School Code to encourage public schools to include health programs to prevent tobacco use and addiction in curriculum. <i>Lead Agency:</i> MDE <i>Introduced:</i> 2/4/2003 <i>SBE Position:</i>	House Ed
HB 4215	Ward	SCH BOARD ELECTIONS Amends the Revised School Code to allow cancellation of uncontested school board elections. <i>Lead Agency:</i> MDE <i>Introduced:</i> 2/13/2003 <i>SBE Position:</i>	House Local Gov't & Urban Policy reported 4/29/03
HB 4218	Middaugh	STUDENT CELL PHONE Amends the Revised School Code to provide authority to local school boards and public school academies to regulate or allow student use of cellular phones and pagers in school. <i>Lead Agency:</i> MDE <i>Introduced:</i> 2/13/2003 <i>SBE Position:</i>	Passed House 5/8/03; Senate Ed
HB 4227	Pumford	SCHOOL AID PRORATION Amends the State Aid Act to provide for an equal dollar per pupil basis for proration of school aid payments to school districts. <i>Lead Agency:</i> MDE <i>Introduced:</i> 2/13/2003 <i>SBE Position:</i>	Passed House 5/13/03; Senate Approps
HB 4340	Caswell	SCHOOL RETIREMENT Revises eligibility date for employment of a public school retirant in a reporting unit. <i>Lead Agency:</i> DMB <i>Introduced:</i> 3/13/2003 <i>SBE Position:</i>	Passed House 6/17/03; House Ed
HB 4391	Shulman	EDUCATION BUDGET Makes provision for Department of Education budget for 2003-2004. <i>Lead Agency:</i> DMB <i>Introduced:</i> 3/18/2003 <i>SBE Position:</i>	Passed House 5/15/03; Passed Senate 6/18/03; House nonconcurrent

BILL	SPONSOR	DESCRIPTION	STATUS
HB 4401	Shulman	STATE AID Makes provision for school aid budget for 2003-2004. <i>Lead Agency: DMB</i> <i>SBE Position:</i>	Passed House 4/10/03; Passed Senate 6/18/03; House nonconcurrent
HB 4453	Hoogendyk	TEACHER RETIREMENT Eliminates number of days required for year of retirement credit for teachers and replace it with an hour requirement of 1,020 hours. <i>Lead Agency: MDE</i> <i>SBE Position:</i>	Passed House 5/14/03; Senate Ed
HB 4693 * *	Palmer	ED PERFORMANCE CONTRACT Amends the Revised School Code to allow state superintendent educational flexibility and empowerment contracts waiving state statues and rules as part of performance contract. <i>Lead Agency: MDE</i> <i>SBE Position:</i>	Passed House 6/19/03
HB 4714 * *	Farhat	PRINCIPAL LEADERSHIP Establishes a principal leadership academy for training for school principals. <i>Lead Agency: MDE</i> <i>SBE Position:</i>	House Ed reported 6/17/03
HB 4716 * *	Nofs	TEACHER CERTIFICATION Establishes committee of principals and school board members to recommend revisions to teacher certification rules in new teacher mentoring practices. <i>Lead Agency: MDE</i> <i>SBE Position:</i>	House Ed
HB 4719 * *	Casperson	DISTANCE LEARNING Allows pupils who are receiving all or a majority of their instruction through a distance learning program to count as full time pupils in school aid membership. <i>Lead Agency: MDE</i> <i>SBE Position:</i>	House Ed reported 6/18/03
HB 4720 * *	LaJoy	COOPERATIVE PURCHASING Creates cooperative purchasing program between public schools and Department of Management and Budget. <i>Lead Agency: DMB</i> <i>SBE Position:</i>	House Ed
HB 4721 * *	Caswell	PRINCIPAL FUNCTIONS Provides school principals with power to hire and assign duties to all staff employed at school, to help develop proposed budget, to review and modify school improvement plan, and to receive compensation according to job performance. <i>Lead Agency: MDE</i> <i>SBE Position:</i>	House Ed
HB 4722 *	Moolenaar	SCHOOL DISTRICT PURCHASING Provides inapplicability of obtaining competitive bids for school district purchasing if school district makes purchase through cooperative purchasing program with state. <i>Lead Agency: DMB</i> <i>SBE Position:</i>	House Ed
HB 4724 *	Emmons	STATE AID WAIVER Makes school aid requirements subject to educational flexibility and empowerment contracts. <i>Lead Agency: MDE</i> <i>SBE Position:</i>	Passed House 6/19/03

BILL	SPONSOR	DESCRIPTION	STATUS
HB 4804	Shulman	SCHOOL AID PROTECTION Requires payout from budget stabilization fund to protect schools from further proration in 2002-2003. <i>Lead Agency: DMB</i> <i>SBE Position:</i>	Passed House 6/19/03 <i>Introduced: 6/4/2003</i>
SB 157	Scott	DETROIT REFORM BOARD Amends the Revised School Code to eliminate five-year waiting period for ballot proposal regarding the retention of the appointed Detroit reform board. <i>Lead Agency: MDE</i> <i>SBE Position:</i>	Passed Senate 4/3/03; House Commerce <i>Introduced: 2/11/2003</i>
SB 179	Hammerstrom	SPORT SAFETY TRAINING Amends the Revised School Code to establish requirement for certification in sport safety training for employment of interscholastic athletic coaches. <i>Lead Agency: MDE</i> <i>SBE Position:</i>	Passed Senate 5/20/03; House Ed <i>Introduced: 2/12/2003</i>
SB 183	Cropsey	SCH AID PRORATION Amends the State Aid Act to revise proration of school aid payments to school districts for fiscal year 2002-2003. <i>Lead Agency: MDE</i> <i>SBE Position:</i>	Passed Senate 5/14/03; House Approps <i>Introduced: 2/13/2003</i>
SB 364 ✱	Garcia	CLASS DAY PENALTY Amends the State Aid Act to eliminate school aid penalty for holding less than 180 days of pupil instruction. <i>Lead Agency: MDE</i> <i>SBE Position: Nonsupport, 4/24/03</i>	Enrolled 6/12/03; Presented 6/16/03 <i>Introduced: 4/2/2003</i>
SB 365	Cassia	REPORT SUBMISSION Amends State Aid Act to provide for school districts to be able to submit all reports required by state directly to one state agency. <i>Lead Agency: MDE</i> <i>SBE Position: Support Concept. 4/24/03</i>	Passed Senate 5/1/03; House Ed <i>Introduced: 4/2/2003</i>
SB 366	Cropsey	PROFESSIONAL DEVELOPMENT Amends the Revised School Code to eliminate mandatory professional development requirements for teachers. <i>Lead Agency: MDE</i> <i>SBE Position: Nonsupport, 4/24/03</i>	Passed Senate 5/1/03; House Ed <i>Introduced: 4/2/2003</i>
SB 367	Kuipers	CATEGORICAL FUND USE Amends the State Aid Act to eliminate restrictions on use of school aid categorical funds. <i>Lead Agency: MDE</i> <i>SBE Position: Support w/amendment, 4/24/0</i>	Passed Senate 5/14/03; House Approps <i>Introduced: 4/2/2003</i>
SB 368	Johnson	ACCREDITATION Amends the Revised School Code to eliminate mandated state accreditation process for school districts. <i>Lead Agency: MDE</i> <i>SBE Position: Nonsupport, 4/24/03</i>	Senate Ed <i>Introduced: 4/2/2003</i>
SB 369	Hammerstrom	ACCREDITATION Amends the State Aid Act due to elimination of state accreditation. <i>Lead Agency: MDE</i> <i>SBE Position: Nonsupport, 4/24/03</i>	Senate Ed <i>Introduced: 4/2/2003</i>

BILL	SPONSOR	DESCRIPTION	STATUS
SB 393 **	Kuipers	CHARTER SCHOOLS Amends the Revised School Code to provide oversight and regulations for charter schools. <i>Lead Agency:</i> MDE <i>SBE Position:</i>	Passed Senate 6/19/03; House Ed
		<i>Introduced:</i> 4/23/2003	
SB 462	Garcia	MOTORCYCLE EDUCATION Revises motorcycle education program. <i>Lead Agency:</i> Trans <i>SBE Position:</i>	Passed Senate 6/12/03; House Transportation reported 6/19/03
		<i>Introduced:</i> 5/7/2003	
SB 531 **	Cassis	SPEC ED BOARD Increases membership on special education advisory board from 27 to 33 members. <i>Lead Agency:</i> MDE <i>SBE Position:</i>	Senate Ed
		<i>Introduced:</i> 5/29/2003	
SB 574	Leland	OFF-ROAD VEHICLE ED Eliminates off-road vehicle safety education fund and course and revises licensing fees. <i>Lead Agency:</i> <i>SBE Position:</i>	Passed Senate 6/19/03; House Approps
		<i>Introduced:</i> 6/10/2003	
SB 595	Switalski	SCHOOL AID RAINY DAY FUND Creates a school aid rainy day fund of \$98.4 million for fiscal year ending September 30, 2003. <i>Lead Agency:</i> <i>SBE Position:</i>	Senate Approps
		<i>Introduced:</i> 6/19/2003	



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING

DRAFT



THOMAS D. WATKINS, JR.
SUPERINTENDENT OF
PUBLIC INSTRUCTION

Date: June 20, 2003
Bill Number: House Bill 4693 and 4724 (Passed House 6/19/03)
Sponsor: Representative Brian Palmer and Judy Emmons

Purpose: House Bill 4693 would add section 380.1294 to the *Revised School Code*. The section authorizes the Superintendent of Public Instruction to waive state statutes provided by and rules promulgated under the *Revised School Code* and *State School Aid Act* thereby enhancing student learning and promoting school district efficiencies. House Bill 4724 specifically authorizes waivers to the *State School Aid Act*.

Major Provisions:

- The bill would permit the state superintendent to grant waivers that are requested as part of a performance-based contract.
- Under the bill, the state superintendent could not waive health and safety requirements or provisions governing charter schools.
- A local school board shall adopt a resolution indicating its intent to apply for an "Educational Flexibility and Empowerment Contract." At least two public hearings shall be conducted prior to adopting the resolution.
- The ed-flex contract shall include the following:
 - The statute or rule to be waived.
 - A statement specifying the need for each statute or rule to be waived.

Description of measurable goals for improved pupil performance, including goals for improving MEAP scores.

Description of the measurements that will be used to meet pupil performance goals.

If the contract does not include the entire school district, the specific schools to be covered.

A copy of the board resolution. If the application is for federal waivers, the application shall also include an explanation on how the public notice requirements of federal law have been met.

- Within 60 days the state superintendent shall approve or deny the waiver and notify the district. The application is considered approved if no action is taken within 60 days.
- A waiver shall not be granted unless the performance goals improve pupil achievement and the contract would allow the district to enhance learning and to operate in a more effective, efficient or economical manner. In addition, a waiver shall not be granted if the district has exhibited financial irresponsibility.
- Priority shall be given to an application that is focused on reducing pupil achievement gaps based on race, gender, and socioeconomic status.

STATE BOARD OF EDUCATION

KATHLEEN N. STRAUS – PRESIDENT • SHARON L. GIRE – VICE PRESIDENT
CAROLYN L. CURTIN – SECRETARY • HERBERT S. MOYER – TREASURER
MARIANNE YARED MCGUIRE – NASBE DELEGATE • JOHN C. AUSTIN • ELIZABETH W. BAUER • EILEEN LAPPIN WEISER

608 WEST ALLEGAN STREET • P.O. BOX 30008 • LANSING, MICHIGAN 48909
www.michigan.gov/mde • (517) 373-3324

- A final report shall be prepared at the end of the contract summarizing the performance goals achieved during the contract.
- A contract shall not exceed more than five years. It may be renewed if the goals have been achieved.
- The ed-flex contract may be terminated before the end of its term if the school has experienced two consecutive years of declining pupil performance.
- Information on the educational innovations and best practices under the ed-flex contracts shall be posted on the Department's website.
- The bill would include public school academies.

Arguments For:

- The bill would provide flexibility that increases student academic performance and encourages innovation throughout the school system.
- Good education practices often develop outside the time constraints and governance called for in law.
- School districts vary widely in the state. Not all districts have the same educational goals and/or resources. This process would allow for differences that are not considered when laws are enacted.

Arguments Against:

- Section 380.1281(3) of the *Revised School Code* provides a process for waiving rule requests. (See attachment A)
- The proposed legislation would allow the state superintendent to waive the requirement. Giving this much authority to a single individual

disrupts the balance of power between the executive and legislative branches.

Suggested Amendments:

House Bill 4693: Amend page 5, line 13, by deleting "~~The superintendent of public instruction is not required to terminate an ed-flex contract if he or she determines that the decline is due to exceptional or uncontrollable circumstances.~~" This language adds unintended legal confusion by expanding on a provision that places conditions on a permissive authority.

Fiscal Impact to State: Unknown cost to develop a waiver process and making it available to school districts.

Fiscal Impact to Local Unit of Government: A district would incur minimal expenses in developing a waiver application. Cost savings due to a waiver may be realized by the district.

Administrative Rules Requirement: May result in the promulgation of changes if consistent and frequent requests for the same waivers are submitted.

Departments Impacted: Department of Education.

Background Information:

Similar legislation (SB 70-71) was introduced earlier this year. The bills have been referred to the Senate Education Committee. In addition, similar legislation (HB 4760-4761) was introduced in 2001. In August 2001, the State Board of Education adopted a position statement supporting the legislation. (Attachment B)

In 1995, Public Act 289 amended the *Revised School Code* to allow districts to request a waiver from a state board or department rule [MCL 380.1281(3)]. The state superintendent may grant a waiver if the district demonstrates that it can address the intent of the rule in a more effective, efficient, or economical manner or to

simulate improved pupil performance. The law took effect on July 1, 1996, and to date, the Department has approved over 1,400 waivers.

A list of the states that have laws authorizing waivers is identified as attachment (C).

A list of the waivers authorized under the *State School Aid Act* is found in attachment (D).



DEPARTMENT OF EDUCATION

P.O. Box 30008
Lansing, Michigan 48909

June 27, 1996

STATE BOARD OF EDUCATION

Clark Durant
President
Marilyn F. Lundy
Vice President
Dorothy Beardmore
Secretary
Barbara Roberts Mason
Treasurer
Kathleen N. Straus
NASBE Delegate
Ruth A. Braun
Sharon A. Wise
Gary L. Wolfram

GOVERNOR JOHN ENGLER
Ex Officio

MEMORANDUM

TO: Local and Intermediate School District, Public School Academy, or University School Superintendents

FROM: Arthur E. Ellis 

SUBJECT: Application Materials for Waivers of Administrative Rules

The State Board of Education is pleased to announce the availability of waivers of Administrative Rules. Section 1281(3) of the Revised School Code of 1995 takes effect on July 1, 1996. This section provides for a limited time waiver of a State Board or Department rule to a school district, public school academy, university school, or intermediate school district for the purpose of serving the intent of the rule in a more effective, efficient, or economical manner or to stimulate improved pupil performance in Michigan schools.

The language in section 1281(3) of the Revised School Code provides:

Upon application by a school district, public school academy, university school, or intermediate school district, the state board may grant to the school district, public school academy, university school, or intermediate school district a limited time waiver from a state board or department rule interpreting or implementing a provision of this act. The state board may grant a waiver only if the school district, public school academy, university school, or intermediate school district demonstrates that it can address the intent of the rule in a more effective, efficient, or economical manner or that the waiver is necessary to stimulate improved pupil performance. A waiver shall not be granted for more than 3 years, but may be renewed. The state board may place conditions on a waiver or its renewal. The state board may revoke a waiver if it determines that the waiver no longer meets the criteria of this subsection, compromises equal opportunities for learning, or is detrimental to the educational interests of pupils. The state board may not grant a waiver from the duty to comply with a provision of this act, and may not grant a waiver from the duty to comply with other state statutes unless and to the extent that a waiver is specifically allowed by that other state statute.

At its June 19, 1996 meeting, the State Board of Education approved the Administrative Rule waiver process to implement section 1281(3) of the Revised School Code of 1995. This process includes: (1) the ability to file an independent or joint application with responsibility for oversight at each participating local board of education; (2) the necessity to complete a separate application for each rule for which a waiver is being requested; (3) a description of how the district will address the intent of the rule/statute in a more effective, efficient, or economical manner or how the waiver will be implemented to stimulate improved pupil performance; (4) a description of who and

how interested parties were notified and involved in the application process, e.g. teachers, parents, community, others; and (5) a plan for addressing issues of local accountability and how the applicant will document that the waiver continues to meet the criteria in the application, does not compromise equal opportunities for learning, and is not detrimental to the educational interests of any pupils, as required by the Act. The attached single and joint applications are included to facilitate the waiver request process under section 1281(3).

When completing the requested information in the application, the applicants should review the conditions stated in section 1281(3) as to the necessity to address the educational intent of the rule being requested for waiver and the benefits students will receive as a result of the plan for implementation. The law allows the State Board to place conditions on a waiver or its renewal if it deems it necessary and to revoke a waiver if it determines that the waiver no longer meets the stated criteria, compromises equal opportunities for learning, or is detrimental to the educational interests of pupils.

All applications will be reviewed through an internal review process which includes a point of receipt for all applications, the immediate transfer of the application to the relevant office director or designee for review with a recommendation for support or non-support to a standing Department waiver review committee. This waiver review committee, comprised of four members appointed by the Superintendent and the relevant office director, will provide objectivity and continuity for all requests and will propose approval or disapproval of each application to the Superintendent. The Superintendent will then make recommendation to the State Board of Education for final determination within sixty (60) days following receipt of the application.

The items attached to this memorandum are as follows:

1. The Administrative Rule Waiver Application for Single District Use
2. The Administrative Rule Waiver Application for Joint Application Use

(B)

**STATE OF MICHIGAN
STATE BOARD OF EDUCATION**

**Statement Regarding House Bills 4760 and 4761 -
"Ed Flex" Legislation**

Mrs. Gire moved, seconded by Mr. Warren, that the State Board of Education adopt the following statement regarding the "Ed Flex" legislation:

Current State Board Efforts

The State Board of Education recognizes that some public school buildings and districts require dramatic improvement. The State Board has adopted as its current strategic goal "substantial and meaningful improvement in academic achievement in chronically underperforming schools." Based on the testimony of nationally recognized experts, the State Board has established five task forces to develop policies around critical pathways of school improvement. Bringing flexibility and creativity to local decision-making has been a frequent recommendation of the experts who have testified before the State Board.

Ed-Flex Legislation

By permitting the Superintendent of Public Instruction to waive provisions and rules of the Revised School Code and the State Aid Act, House Bills 4760 and 4761 should permit individual districts to think beyond the limitations prescribed by current law to create original approaches to learning that will boost student performance in all school districts. Although there are a number of safeguards currently contained within the bills, additional safeguards should be added to prevent the waiver of certain key statutory provisions and rules related to health and safety, teacher certification, provisions designed to apply solely to public school academies, and financial obligations and fiscal responsibility.

Recommendation

The Legislature should approve into law House Bills 4760 and 4761 with the following amendments:

- health and safety requirements could not be subject to waiver;
- teacher certification and preparation requirements could not be subject to waiver;
- rule or statute that applies only to public school academies could not be subject to waiver; and
- waivers could not be granted unless assurance that financial obligations and fiscal responsibilities are being met by a school district.

The motion carried unanimously.

Adopted August 23, 2001



Recent State Policies/Activities

Deregulation/Waivers

Education Commission of the States • 700 Broadway, Suite 1200 • Denver, CO 80203-3460 • 303.299.3600 • fax 303.296.8332 • www.ecs.org

The following summary includes policies enacted since 1999. Summaries are collected from *StateNet*, *Westlaw*, state Web sites and state newsletters. *StateNet* and *Westlaw* descriptions reflect the content of bills as introduced and may not reflect changes made during the legislative process. To assure that this information reaches you in a timely manner, minimal attention has been paid to style (capitalization, punctuation) or format.

State Status/Date Level Summary

NM	Signed into law 04/2003	pre-K-12	Allows for the waiver of certain requirements for schools that exceed educational standards; waivers may be given for accreditation review, length of school day, individual class load requirement, subject area requirement, graduation requirement, school personnel evaluation standards and purchase of instructional materials. http://legis.state.nm.us/Sessions/03%20Regular/FinalVersions/senate/SB0080.pdf Title: S.B. 80 Source: http://legis.state.nm.us
ND	Signed into law 04/2001	pre-K-12	Allows any school or school district to apply to the superintendent of public instruction for a waiver of any rule governing the accreditation of schools, provided the waiver encourages innovation, has the potential to result in improved education opportunities or enhanced academic opportunities for students. Waivers may not exceed one year. Title: S.B. 2166 Source: http://www.state.nd.us/lr
KY	Signed into law 03/2000	pre-K-12	Authorizes the Kentucky Board of Education, at the request of a local school district superintendent, to waive reporting and paperwork requirements upon a finding of good cause, except reports required by federal law or related to health, safety, or civil rights. Title: H.B. 884 Source: Lexis-Nexis/StateNet
SC	Signed into law 06/1999	pre-K-12	Enacts the South Carolina Education Flexibility Partnership Act of 1999; authorizes the Department of Education to grant waivers to schools and school districts from specified State statutory and regulatory educational requirements under certain conditions. Title: H.B. 4000 Source: Lexis-Nexis/StateNet
FL	Signed into law 06/1999	pre-K-12	Extends duration of pilot programs for deregulated public schools; authorizes additional pilot program. Title: S.B. 2186 Source: Lexis-Nexis/StateNet
WA	Signed into law 05/1999	pre-K-12	Declares that the accountability system should be based on continuous improvement at all levels of Washington's education system and on a fundamental principle that all students have equitable access to curriculum and instruction that is aligned to the standards; declares that the state's educational system should respect

and support local flexibility in the design, financing, and management of schools, including their instructional programs.

Title: S.B. 5418

Source: Lexis-Nexis/StateNet

AR Signed into pre-law 04/1999 K-12

Requests the Arkansas legislative council to undertake a review of the education flexibility partnership Act of 1999.

Title: H.C.R. 1021

Source: Lexis-Nexis/StateNet

WAIVERS IN THE STATE SCHOOL AID ACT

Following is a list of the waivers that are available in the State School Aid Act. They are listed in the order in which they appear in the Act with the section number identified.

Section 31a(9)

In general, districts must use Section 31a **At-Risk Pupils** funding to provide instructional or direct non-instructional services to at-risk pupils. In addition, districts may use the funding to reduce class-size in elementary (K-6) building with a percentage of free lunch eligible pupils that exceeds the district-wide percentage. Subsection (9) provides a waiver opportunity for districts to use all of their At-Risk Pupils funding to **reduce class size** in elementary (K-6) building with a free lunch eligibility percentage of at least 30%, which must also be equal to at least 60% of the district-wide percentage. *In all cases*, in districts that operate a school breakfast program, up to \$10 per at-risk pupil must be applied to the breakfast program.

Section 101(6)

State School Aid Act Section 101 requires districts to schedule and provide at least 180 days and 1,098 hours of pupil instruction in order to generate full state aid. Subsection (6) provides a waiver opportunity for districts that have adopted an **experimental school year schedule** to provide **fewer than 180 days of instruction** without incurring a reduction in state aid. The experimental schedule must provide at least 1,098 hours and must be consistent with all state board policies on school improvement and restructuring.

Section 101(8)(d)

A full-time equated pupil (1.0 FTE) is a pupil whose class schedule provides 1,098 hours of instruction. Those with fewer than 1,098 hours scheduled are recorded as a fraction of an FTE and generate less than a full foundation allowance for the district. Full-time equivalency of 1.0 can be challenging to achieve for pupils who are scheduled to attend classes for part of the day at a site other than their home district because of the non-instructional time spent traveling between instructional sites. A common example is one of pupils attending class at a centralized vocational technical center. Section 101(8)(d) allows districts to count up to 3 hours per week (30 minutes per day) of such travel time as if it was actual instructional time when determining a pupil's full-time equivalency. If a pupil travels between sites for more than 30 minutes each day and the 30 minutes is insufficient to bring the pupil to 1.0 FTE, the district may apply for a waiver for **additional travel time to be counted as instructional time**.

Section 101(10)

Section 101 requires districts to schedule and provide at least 180 days and 1,098 hours of pupil instruction in order to generate full state aid. Subsection (10) provides a waiver opportunity for districts with a department-approved **alternative education program** to provide **fewer than 180 days and/or fewer than 1,098 hours** in that program without incurring a reduction in state aid.

Section 105(24) and 105c(20)

Section 105 and 105c describe the requirements for "**within ISD**" **schools of choice** and **schools of choice for pupils in contiguous ISDs**, respectively. Within each section (in the subsections identified immediately above) is language allowing that, *"Upon application by a district, the superintendent may grant a waiver for the district from a specific requirement under this section for not more than 1 year."* As an example, a common request in recent years has been to waive the final date upon which districts may enroll pupils under the section, allowing districts to continue to enroll pupils through pupil membership count day.



**House
Legislative
Analysis
Section**

House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

ED-FLEX CONTRACT WAIVERS

House Bill 4693 (Substitute H-1)

Sponsor: Rep. Brian Palmer

House Bill 4724 as introduced

Sponsor: Rep. Judy Emmons

First Analysis (6-4-03)

Committee: Education

THE APPARENT PROBLEM:

The administrators of school districts sometimes report that the legal requirements governing school operations impede teaching and learning. In particular, they say that the mandates embodied both in federal laws and state statutes, as well as the operational guidelines for programs that are promulgated in rules and regulations, stifle innovations. Further, the many reporting requirements to ensure accountability too often pose a regulatory burden of such magnitude that the adults in schools are deterred from their more important work, which is to ensure human development and academic achievement.

Since 1994, when the federal Elementary and Secondary Education Act (ESEA) was re-authorized and many of its 14 Titles (or chapters) were overhauled, school districts have been able to seek exemptions from federal requirements by making written application to the Michigan Department of Education for waivers. Waivers are granted when school officials demonstrate 1) that a particular rule impedes ongoing and measurable educational improvement, and 2) when the educators making the request can demonstrate they have involved the parents of the children affected by the proposed rule change in their decision-making process. However, when compliance with a rule or regulation is waived under the existing process, the waiver is not granted in exchange for explicit performance and educational achievement goals. Nor is a formal contract executed by the state department and the local district when compliance with a regulation is forgiven.

According to committee testimony, more than 1,200 waivers from federal special education requirements have been granted in Michigan, generally after being requested by intermediate school district officials on behalf of the individual school building administrators in their region. [There are about 3,400 school buildings in Michigan.] Many of the waivers

granted have sought relief from three kinds of federal regulations: rules concerning the maximum class size in a special education classroom; those that specify particular teacher-student staffing ratios; and those that set maximum caseloads for special education students in the elementary grades. After scrutiny by a review panel in the Department of Education, the waiver requests generally are granted if those making the request demonstrate that an exemption from the rule would not be detrimental to a child.

In addition to special education flexibility, 175 waivers have been granted to school buildings to waive three additional federal rules. One hundred seventy-three of these 175 waivers were requested by the Michigan Department of Education on behalf of 173 school building administrators, to allow the educators in each school to undertake a two-year comprehensive school-wide improvement program under Title I (of ESEA) if at least 35 percent of their students are poor. The federal rule requires 50 percent poverty to be eligible for the two-year school-wide improvement grant (in which the first year is devoted to planning, and the second to implementation). The remaining two waivers from federal requirements were requested by school districts, rather than the department. They were granted to allow flexibility from a rule that requires a school district to use 75 percent of its Title II (of ESEA) Eisenhower Program Professional Development funds for teacher professional development opportunities in mathematics and science. School officials from the two districts successfully argued that their student performance was lower in subject areas other than math and science, and they asked to redirect a larger percentage of their funds to teacher training in other fields.

To complement the existing federal waiver process, and to incorporate new ideas about less intrusive state

House Bills 4693 and 4724 (6-5-03)

government oversight, local initiative, and empowerment in exchange for student achievement, some school officials have proposed a state-level waiver program coupled with performance contracts that would be capable of measuring a school's overall improvement. (See Background Information below.) Under the state proposal, virtually all aspects of school law and rules within the Revised School Code or the State Aid School Act could be waived, except those concerning health and safety requirements, and charter school authorization. To those ends, legislation has been introduced.

THE CONTENT OF THE BILLS:

House Bill 4724 would amend the State School Aid Act (MCL 388.1691 et al) so that the act's provisions could be waived under an educational flexibility and empowerment contract, issued under section 1294 of the Revised School Code. [Section 1294 is the new section of the code being proposed by House Bill 4693, the Educational Flexibility and Empowerment Law.]

House Bill 4724 is tie-barred to House Bill 4693 so it could not become law unless that bill also were enacted.

House Bill 4693 would amend the Revised School Code (MCL 380.1294) to create a section called the Educational Flexibility and Empowerment Law, in order to permit school districts to apply for an Ed-Flex Contract. The contract would allow the state superintendent of public instruction to waive for a district, for up to five years, state statutes and rules that were part of a performance-based contract with clearly defined and measurable performance goals, or certain federal requirements, in accord with federal law allowing educational waivers. Except for health and safety requirements, and requirements concerning the authorization of charter schools, any requirement placed on a school district under the Revised School Code or the State School Aid Act, or any rule promulgated under the code or the act, would be subject to waiver under an Ed-Flex contract. Further, a school district could also apply for waiver of certain federal requirements, in accord with federal law allowing federal education waivers issued by the state. A more detailed explanation of the bill follows.

Public hearing. Before applying for an Ed-Flex contract, the board of a school district would have to adopt a resolution indicating the board's intent to apply. The resolution would have to specify the school or schools in the district to be covered by the

contract, if it were not intended to cover the entire school district. Before adopting the resolution, the board would have to hold at least two public hearings so that the types of waivers and the need for them were explained and public comment could be heard.

Ed-Flex application. Under the bill, a school district would submit an application for its contract to the state superintendent. The application would contain at least the following information:

- a list of the requirements proposed to be waived, including, if applicable, specific federal requirements;

- a statement of need for each waiver, including its purpose and intended results;

- an annual and summative description of measurable goals for improved student performance, including but not limited to goals for improving Michigan Educational Assessment Program (MEAP) test scores;

- an explanation of how the waivers would assist the school district to achieve its performance goals;

- the specific schools to be covered; and

- a copy of the resolution and, if applicable, an explanation of the public notice requirements as specified under federal law.

State superintendent's responsibility. The state superintendent would have 60 days to either approve or disapprove an Ed-Flex application, and notify the school district. If approved, the superintendent and district would promptly enter into a contract. If disapproved, the superintendent's notification to the district would specify the reasons for the disapproval, and the school district could submit a revised application. If the state superintendent did not notify a school district within 60 days of receiving an application, it would be considered approved, and a contract would be entered into.

Under the bill, the state superintendent could approve an application only if he or she found that the performance goals were sufficiently specific and would, if met, constitute improved student achievement; and, if the contract would allow the school district to enhance learning and to operate in a more effective, efficient, or economical manner.

The bill would require the superintendent to give priority attention to applications focused on reducing

student achievement gaps based on race, gender, and socioeconomic status.

The Ed-Flex contract. The bill specifies that the Michigan Department of Education prescribe the form of the Ed-Flex contract, and that it contain at least all of the following information:

- all matters discussed in the application;
- assurance that the school district would report its annual progress toward its performance goals;
- an agreement that, in order for the contract to be reviewed, the MEAP scores or other performance measurements identified would have to demonstrate adequate annual progress on performance goals, attaining a specific measurable benchmark by the end of the contract;
- an agreement on the contents of the empowerment report (or final evaluation) to be filed by the school district at the end of the contract term, including a summary of performance goals achieved, and the programs, curriculum, and other innovative approaches used to achieve the goals; and,
- the term of the contract, which could not exceed five years.

The bill specifies that the state superintendent could terminate an Ed-Flex contract before the end of its term, if he or she determined that the school district had experienced two consecutive years of declining student performance, based on the measurable performance goals. However, the superintendent would not be required to terminate the contract if the decline was due to exceptional or uncontrollable circumstances.

At the end of the contract, the school district would be required to submit an empowerment report, to describe whether it had met or not met the performance goals. If those goals had been met, the superintendent could renew the contract.

Annual report to legislature. Under the bill, the superintendent would be required to submit an annual report to the legislature concerning the status of the Ed-Flex program, including a report about contracts issued during the year, and the progress on performance goals.

Educational innovations and best practices. The bill would require that as the first Ed-Flex contracts expired, the Department of Education post information on its website about the innovations and

best practices used by school districts to achieve student performance goals.

Note: House Bill 4693 is substantially similar to Senate Bill 71, a bill tie-barred to Senate 70, which would amend the School Aid Act to make the provisions of the act subject to waiver under an Ed-Flex contract.

BACKGROUND INFORMATION:

Federal Ed-Flex history in Michigan. The federal Ed-Flex plan began in 1994 as a demonstration program in the Goals 2000 Educate America Act. The program allowed the U. S. Secretary of Education to delegate to six states the authority to waive certain federal education requirements, if those requirements were seen as impeding local efforts at school reform. In 1996, amendments to the legislation authorized the secretary to delegate Ed-Flex waiver authority to six additional states for up to five years. Michigan became an Ed-Flex state at that time, but the state's authority expired in June 2002.

In 1999 the U. S. Congress passed the Ed-Flex Partnership Act, which allows any state educational agency that meets certain eligibility criteria to receive Ed-Flex authority for up to five years. However, in order to be eligible, state education agencies must show they are legally authorized to waive state educational requirements for school districts. Michigan does not currently qualify for federal waiver authority.

Federal Ed-Flex law. The 1999 federal Ed-Flex law contains broader accountability provisions for states than its predecessor statute. Under Ed-Flex, states may waive many of the requirements of seven federal education programs, if doing so advances their school improvement efforts. The waiver authority applies to all of the following programs:

-Title I of the Elementary and Secondary Education Act (ESEA) [except that the following programs cannot be waived: the Title I Basic Program (sections 1116(a) and (c), including Part A), the Even Start Program (Part B), the Migrant Education Program (Part C), the Neglected and Delinquent Programs (Part D), and the Title I portion of the Comprehensive School Reform Demonstration Program.]

-The state and local activities portion of the Eisenhower Professional Development Program (ESEA Title II, Part B);

-The Technology Literacy Challenge Fund Program (ESEA Title III, Part A, Subpart 2)

-The Safe and Drug-Free Schools and Communities Program (ESEA Title IV);

-The Class Size Reduction Program (ESEA, Title VI);

-The Emergency Immigrant Education Program (ESEA Title VII, Part C); and,

-The Carl D. Perkins Vocational and Technical Education Program.

Further, civil rights and Individuals with Disabilities Education Act (IDEA) requirements cannot be waived, nor can any waivers be awarded for regulations that would undermine IDEA.

Under the federal law, states may waive state education authority requirements that pertain to whole districts and individual schools within a district.

However, the federal Ed-Flex Partnership Act requires a state to ensure that students in Title I schools be held to the same academic standards as are the students in the state's wealthier schools. [Title I is the name of the \$8.5 billion federal program to increase the achievement of disadvantaged students.]

To date, 10 states are part of the federal Ed-Flex programs: Colorado, Delaware, Kansas, Maryland, Massachusetts, North Carolina, Oregon, Pennsylvania, Texas, and Vermont.

Further information about ed-flex contracts between federal and state levels of government can be found at the website of the U. S. Department of Education. Contact www.ed.gov/flexibility and also, www.ed.gov/offices.

More information about Ed-Flex also is available at the websites of the Mackinac Center and the Heritage Foundation. They can be reached by contacting www.mackinac.org and www.heritage.org.

Deployment of underqualified teachers. Further information from the research report entitled "The Problem of Under-qualified Teachers in American Secondary Schools" by Richard Ingersoll that was published in the *Educational Researcher* in March 1999 is available at www.aera.net. In addition, many of Ingersoll's publications are available on his

website at the University of Pennsylvania by visiting www.gse.upenn.edu/faculty/ingersoll.html

According to Ingersoll's research, a big part of the problem with the deployment of underqualified teachers, is not the presence of a union, or the fact that many teachers are not well qualified to teach in their subject areas. Rather the improper deployment of subject matter specialists is often the result of the 'revolving door in teaching,' most especially the attrition within high poverty school districts. More than 16 percent of teachers leave their profession each year, on average, compared to attrition in other professions of about 11 percent. The percentage is higher—20 percent—for teachers in public schools with many poor students. Indeed, more than 33 percent of all teachers leave the profession altogether in their first three years, and 46 percent leave in the first five. The result is that almost a third of the teaching force is in some kind of job transition each year. The cost of this extraordinary level of professional dissatisfaction is high, as it disrupts school improvement efforts and slows student achievement.

FISCAL IMPLICATIONS:

The House Fiscal Agency notes that House Bill 4693 would have indeterminate fiscal impacts at the state and local levels, and the impacts would vary depending on which provisions or rules were waived. At the state level, an indeterminate amount of staff time, materials, and supplies would be necessary to fulfill such functions as reviewing applications for waivers of school aid requirements, monitoring compliance with contracts, and reviewing the empowerment reports required under House Bill 4693.

At the local level, there could be a potential savings to districts resulting from the flexibility provisions if these provisions allow districts to operate in a more efficient or economical manner. Also, at the local level, an indeterminate amount of additional staff time, materials, and supplies could be necessary to prepare applications for a contract, develop and implement the required performance measures, and fulfill reporting requirements. (5-27-03)

ARGUMENTS:

For:

The bills would allow school district officials and charter school administrators to remove all regulatory impediments they encounter in their efforts to reduce

and eliminate student achievement gaps that are based on race, gender, and socioeconomic status. There is no more important goal for public schools in our state and nation than to equalize achievement opportunities. If state or federal laws and regulations stand in the way, they should be removed. Those who know best what impedes the achievement of young learners are the adults whose educational expertise enables them to work with underachieving students in their classrooms and communities. They must be given every opportunity to innovate in teaching and assessment, in order to enhance the knowledge, know-how, and know-to of the youngsters in these targeted populations.

For:

The bills would enable educational innovation while also ensuring school accountability. Although the legislation would allow school officials to waive for up to five years virtually any law or regulation except those concerning the health and safety of students, and the progress of charter schools, it also requires those seeking waivers to specify achievement goals in exchange for the regulatory flexibility. Further, the parties to the waiver agreement would be bound by a contract in which achievement goals are explicitly stated in ways that can be measured by tests or evaluated by performance. If there were no progress on student achievement during the contract's term, it could be canceled by the state superintendent of public instruction. The early termination would ensure adequate protection for the students involved in the educational innovation, and also provide greater accountability for results from the school teachers and administrators.

For:

This version of the legislation to establish educational flexibility contracts promises educational innovation. In contrast to earlier bills first introduced in the last legislative session, in which the only measure of academic achievement that was required was annual progress as measured in a student's MEAP scores, House Bill 4693 would recognize other performance measures, to be identified in the ed-flex application, as legitimate indicators of learning. The education policymakers of this state already rely far too heavily on a single standardized test, the MEAP. This legislation could encourage alternative performance measures, such as writing portfolios used to monitor student development in mathematics, English, or science, as well as subject matter performance conferences or studio workshops evaluated by panels of experts drawn from the students' respective communities. Research demonstrates that both

external and internal accountability programs must be present in order to improve student achievement at school—an external program that generally relies on standardized tests, coupled with an internal evaluation program that utilizes teacher-developed assessments so that subject matter learning can be measured during the weeks and months of the school year. Because standardized tests cannot encompass all the important ideas in a learning discipline adequately, they tend to reduce the depth and breadth of a student's intellectual experience. To ensure deeper knowledge, and higher order analytic skills, alternative forms of evaluation—developed by teachers—are necessary.

Against:

Some educators have argued that this legislation is far too broadly written because it does not prohibit waivers of statutory teacher certification requirements. Without such an amendment, virtually any state statute and rule, or federal law and regulation, could be waived that governs teacher certification and professional development.

Researchers are now able to demonstrate deleterious effects on student learners when their high school teachers are deployed by school administrators to teach outside their subject area. A report of research findings about out-of-field teaching entitled "The Problem of Under-qualified Teachers in American Secondary Schools" was published in the *Educational Researcher* in March 1999 by Richard Ingersoll. Ingersoll defines "under-qualified" as a teacher assigned to teach outside his or her major or minor field of study by a school administrator, generally a principal. His assumption is that for most teachers it is difficult, at best, to teach well what one does not know well. Using the SASS database (data that is collected on the daily course schedules, the education and training, and the certification of teachers and that is not self-reported), his findings demonstrate that assignment outside one's field is a very common practice in American secondary schools. For example, about one third (33 percent) of all secondary school teachers who teach math do not have either a major or a minor in math, math education, or related disciplines like engineering or physics. About one quarter (25 percent) of all secondary school English teachers have neither a major nor minor in English or related subjects such as literature, communications, speech, journalism, English education, or reading education. In science, about one-fifth (20 percent) do not have at least a minor in one of the sciences or in science education. Finally, about one-fifth (20 percent) of social studies teachers are without at least a minor in any of the

social sciences (history, geography, economics, sociology, political science, psychology or anthropology), public affairs, or social studies education.

Ingersoll learned that out-of-field teaching did not decline during the period he studied, 1980 to the mid-1990s, and that it takes place in well over half of all secondary schools in the United States. For example, in each of the fields of English, math, and history, every year well over four million secondary-level students are taught by teachers with neither a major nor a minor in the field. Further, the proportion of out-of-field teachers is highest in schools with high poverty levels, and in addition, within those high poverty level schools, the highest proportion of out-of-field teachers is found in classes designed for the least able learners. Small schools also have high proportions of teachers assigned out-of-field. Researchers point out that when poor students in low-income communities are taught by out-of-field teachers, they perform poorly on educational assessments (Darling-Hammond, 1987; Kozol, 1991; Oakes, 1990).

A recent up-date of Ingersoll's data, published by The Education Trust in August 2002, indicates that Michigan has a quality teacher gap in high-poverty schools, in addition to having many under-qualified teachers assigned to teach outside their field of expertise. Here in Michigan, in all of the state's 515 high schools, fully 20 percent of secondary classes in core academic subjects are taught by teachers who do not have at least an academic minor in the field, based on statistically representative samples. In affluent schools the average is 17 percent, versus 25 percent in high poverty schools. In low-minority schools the average is 19 percent, versus 25 percent in high-minority schools. [In a 'high-poverty' school more than 50 percent of the students qualify for federal free- and reduced-price lunches, while 'low-poverty' or 'affluent' schools refers to schools where 15 percent or fewer students qualify. 'High-minority' refers to schools where 50 percent or more of the students are non-white, while 'low-minority' refers to schools where 15 percent or fewer students are non-white. See Background Information above.]

There is plenty that researchers have yet to learn about teaching and learning within a subject matter learning discipline. However, research already demonstrates that the more subject matter knowledge a teacher has, the better he or she is able to design curricular and assessment materials that isolate key ideas in a learning discipline; and then also to provide performance evaluation opportunities that reveal

students' conceptual understanding as they demonstrate their competence by applying their knowledge to solve new problems in unique situations. Genuine learning tasks and authentic assessments that explore the relationships among the main principles within a learning discipline simply cannot be designed by teachers who have little subject matter knowledge. And of course, students can never learn at school the subject matter that their teachers do not know.

Against:

During committee deliberations, no school official could cite any particular requirement his or her school district or school would apply to waive using the process that would be established under this legislation. Although these bills promise program innovation via regulatory flexibility, there is no recent historical evidence that school districts or charter schools will restructure their programs, given that opportunity. Indeed, when the Revised School Code was adopted in 1994, one of its key provisions was Section 11a, the so-called "General Powers" provision. That section of the law grants to school districts all of the rights, powers, and duties that their governing boards expressly state. That is to say, unless the Revised School Code prohibits an action by local school districts, the local district is empowered to implement any action or policy it prefers. However, instead of taking advantage of "General Powers," school district officials have repeatedly been advised by their attorneys to seek explicit statutory permission from the legislature before innovative practices are undertaken. This has been true because school district leaders fear they may be liable for any action that is undertaken unilaterally. Consequently and according to committee testimony, school lobbyists have repeatedly returned to the legislature to request reinstatement of rules and regulations that were very recently removed when the "General Powers" provision was adopted six years ago. For example, rules and regulations eliminated in 1995 have been requested once again to guide local districts' expulsion and school safety policies.

Even charter schools, once thought by some education advocates to serve as engines for innovation within the public school system, have been found in early studies conducted by researchers at Western Michigan University and Michigan State University to mimic existing school structures, and to replicate curriculum and assessment patterns.

Experience shows that without the direction of a statute and rule, or absent very specific guidelines, school leaders have a very difficult time restructuring

in ways that enhance student achievement. These bills would provide far too much latitude to ensure accountability, and they would not spur educational innovation as their proponents contend.

Against:

A question was raised in committee as to whether the legislature could delegate its legislative authority to make (or in this case, to un-make by ignoring through waivers) laws by shifting that authority to an administrator in the executive branch of the government—in this instance, the state superintendent of public instruction. Article IV Section 1 of the Michigan Constitution, “Legislative Power,” stipulates that “the legislative power of the State of Michigan is vested in a senate and a house of representatives.” The questioner distinguished *laws* from *rules or regulations*, noting that elected and appointed officials in the executive branch have authority over administrative matters, such as those expressed in rules, and can suspend or alter that authority as they see fit. However, the state constitution expressly reserves *law-making* authority for the legislative branch of the government, and it is not clear that the power and force of a law could be abrogated—simply canceled, and in effect repealed—by a department head who works in the executive branch of the government. Perhaps sufficient flexibility to govern local schools could be granted by the legislature, if the legislative branch limited the Ed-Flex program to the waiver of onerous rules and regulations, rather than whole sections of the Revised School Code and the School Aid Act?

During the last legislative session, a state representative raised a similar issue, noting that Ed-Flex diminished the legislature’s authority by giving the state superintendent too much power to grant waivers. Reported in the Mackinac Center’s *Education Report* (Winter 2002), the state representative noted that “enactment of the measure would potentially relinquish the legislature’s role in setting education policy. Ultimately it’s like turning over one-third of the state budget to someone...we don’t even know who it will be.”

Against:

Competitive bidding should not be subject to waiver. During committee deliberations, a narrowly defeated amendment to the bill would have prohibited school districts from waiving the school code’s competitive bidding requirements, now used during school construction projects, and for purchases of services that cost more than \$12,500. Given the press reports about wrong-doing at one of the state’s intermediate school districts—an ISD that is now the subject of a

legislative investigation because public information has not been shared with policymakers that could reveal ‘sweetheart deals’ and ‘single-source contracts’ that are alleged to have occurred during the construction of a new facility—it seems wise to amend the legislation to explicitly state that the school code’s competitive bid provisions could not be waived.

POSITIONS:

The Michigan Association of School Boards supports the bills. (6-4-03)

The Michigan Association of School Superintendents supports the bills in concept. (6-4-03)

The Michigan Department of Education and the State Board of Education support the bills with amendments to ensure that the following would not be subject to waiver: health and safety requirements; teacher certification and preparation requirements; rule or statute that applies only to public school academies; and, in addition, that all waivers would be prohibited if school districts failed to meet their financial obligations and fiscal responsibilities. (6-4-03)

The Michigan Association for the Education of Young Children opposes the bills. (6-4-03)

The Michigan Federation of Teachers and School-Related Personnel opposes the bills. (6-3-03)

The Michigan Education Associations opposes the bills. (5-27-03)

The Michigan Association of School Psychologists opposes House Bill 4693. (5-27-03)

The Michigan Association of School Social Workers opposes House Bill 4693. (5-27-03)

The Michigan Chapter of the National Electrical Contractors Association opposes the bills. (6-4-03)

The Michigan Plumbing and Mechanical Contractors Association opposes the bills. (6-4-03)

Analyst: J. Hunault

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING



JENNIFER M. GRANHOLM
GOVERNOR

THOMAS D. WATKINS, JR.
SUPERINTENDENT OF
PUBLIC INSTRUCTION

DRAFT

Date: June 20, 2003
Bill Number: House Bill 4714 (H-2)
Sponsor: Representative David Farhat

Purpose: House Bill 4714 would amend section 380.1525 of the *Revised School Code* to require the Department of Education to establish a principal leadership academy.

Major Provisions:

- The Department shall solicit input from local and intermediate superintendents to compile a list of successful school principals and who could conduct the training.
- Training shall include all aspects of successful school leadership and strategies supporting all of the following topics: increasing parental involvement, engaging community support, creative problem-solving, financial decision-making, management rights and techniques, and improving leadership to increase student performance.

Arguments for:

- Clarifies the requirement that the State Board of Education establish a statewide academy for school leadership.
- Requires the Department to identify practitioners as resources to provide training.
- Supports the State Board of Education's Task Force report on Elevating School Leadership to include training for principals.

Arguments against:

- Trainers are to be selected only from current practitioners, eliminating a wealth of resource potential among retired staff as well as educators who work with educational organizations, the Department, and Institutions of Higher Education.
- Training topics suggested do not include a focus on teaching and learning, assessment literacy, data collection and analysis, and how to create a professional learning community.

Suggested Amendments:

- Amend the bill to allow training to be conducted by educators who have been identified by local and intermediate school districts, the Department, educational organizations, and institutions of higher education as individuals who have a record of demonstrated knowledge and/or success in improving student performance.
- Amend training topics to include a focus on teaching and learning, assessment literacy, data collection and analysis, and how to create a professional learning community.

Fiscal Impact on State:

- A revenue source is needed for developing and sponsoring a yearly academy. There are

STATE BOARD OF EDUCATION

KATHLEEN N. STRAUS – PRESIDENT • SHARON L. GIRE – VICE PRESIDENT
CAROLYN L. CURTIN – SECRETARY • HERBERT S. MOYER – TREASURER
MARIANNE YARED MCGUIRE – NASBE DELEGATE • JOHN C. AUSTIN • ELIZABETH W. BAUER • EILEEN LAPPIN WEISER

608 WEST ALLEGAN STREET • P.O. BOX 30008 • LANSING, MICHIGAN 48909
www.michigan.gov/mde • (517) 373-3324

currently no fiscal resources allocated for this function.

Fiscal Impact to Local Unit of Government:

No fiscal resources available.

Administrative Rules and Requirements:

None.

Departments Impacted: Department of Education.

Background Information:

In September 2002, the State Board of Education approved policy recommendations from its Elevating Education Leadership Task Force. The policy included a recommendation for "statewide professional development opportunities such as Principals' Academies that draw upon the resources of the resources of the state and national administrators associations and university expertise. . ." (Attachment A)

MICHIGAN
STATE BOARD OF EDUCATION

POLICIES ON
ELEVATING EDUCATIONAL LEADERSHIP

Federal requirements to raise standards for all students and to close the achievement gap between student subgroups pose a challenge to every state. In its constitutional role as the general planning and coordinating body for all of Michigan's public education, the Michigan State Board of Education can take the lead in helping schools and districts across the state make the most of their most valuable assets--the teachers and principals who work with students every day.

The following three policies -- (1) creating an advisory panel to the Board to review potential changes to policies and legislation affecting schools and to help redefine the roles and responsibilities of the principals in their schools, (2) creating a system of administrator endorsement, focused on the principal as the school building leader, and preparatory program review based on established standards for effective school leadership, and (3) supporting high-quality professional development for administrators--will help equip Michigan's schools and districts to meet the ambitious goals set for them by recent state and federal education policies.

Accordingly, the policies of the State Board of Education are as follows:

The State Board acknowledges the complexity in the roles and responsibilities of the school administrators and will help others to realize the tremendous change in the demands on school leadership that has transpired over the past 20 years. In the interest of establishing and implementing a more effective educational policy, the State Board will create an advisory panel of seven to nine members to monitor and review proposed changes in education policy and their potential implications for school administrators, as well as assist the State Board in establishing standards for school leadership.

The State Board directs the Department to work with the advisory committee to develop a new system of endorsement of school building principals. The Board will establish standards for effective school leadership that acknowledge the existence of core competencies that school leaders must have if their schools and students are to achieve excellence and that reflect the multiple roles of instructional leadership, operations management and community leadership. Included in this effort will be a new process for accrediting the university programs that prepare administrator candidates to ensure that such programs include sufficient opportunities for candidates to learn about the real issues that will confront them as school leaders. In addition, the board recognizes that other opportunities may be available that would count toward endorsement. The board will make recommendations to the legislature as appropriate.

The State Board is committed to securing an appropriate level of support for the professional development of principals in allocating funds from Title II of the federal "No Child Left Behind" legislation. Central to this professional development is the establishment of an effective mentoring program for new principals, particularly for those principals beginning work in low-performing schools. To this end, statewide professional development opportunities such as Principals' Academies that draw upon the resources of the state and national administrators associations and university expertise could create an on-going system of support for school leaders who otherwise have very limited access to knowledgeable others familiar with the type of issues they face on a daily basis.

Adopted September 12, 2002

SCHOOL PRINCIPAL LEADERSHIP

House Bill 4714 (Substitute H-2)
Sponsor: Rep. David Farhat

First Analysis (6-18-03)
Committee: Education

THE APPARENT PROBLEM:

The Institute for Educational Leadership, a 35-year-old nonprofit and non-partisan organization that advises public schools about student achievement, has issued a series of reports about school leadership during the past three years. For example, the organization's Task Force on the Principalship published *Leadership for Student Learning* in October 2000 to describe the most severe problems of the nation's 93,200 school principals. In its critique of current school administration, the report notes that "First, the top priority of the principalship must be leadership for learning. Second, the principalship as it currently is constructed—a middle management position overloaded with responsibilities for basic building operations—fails to meet this fundamental priority, instead allowing schools to drift without any clear vision of leadership for learning or providing principals with the skills needed to meet the challenge."

Members of the task force propose a new kind of principal, one whose role will be defined in terms of instructional leadership, community leadership both within and outside of the school, and visionary leadership that embodies the values and conviction that all children will learn at high levels. In order to realize these goals, the Institute's task force recommends addressing three critical challenges: 1) fill the pipeline with effective school leaders, improving preparation and buttressing recruitment and retention; 2) support the profession by emphasizing student learning in ongoing professional development and training; and 3) guarantee quality by finding fair ways to hold principals accountable for their role in student learning, including the creation of stronger data-gathering systems that are needed to inform principal leadership.

Some states have long provided school principals ongoing training. For example, in 1984 the North Carolina legislature created the Principals' Executive Program, a part of the University of North Carolina's Center for School Leadership Development, and in 1995, Texas created the Texas Principal Leadership Initiative which requires each principal to

periodically diagnose his or her learning needs and maintain a professional growth plan. Yet another promising program is the Interstate School Leaders Licensure Consortium—an initiative that transcends state boundaries—organized by the Council of Chief State School Officers in partnership with the National Policy Board for Educational Administration in 1998. The Consortium's central mission is helping create leaders for student learning by grounding criteria and standards for school leaders' professional practice in a deep knowledge and understanding of teaching and learning. See *BACKGROUND INFORMATION* below.

Although many—and perhaps all—principals need far deeper knowledge about teaching and learning located within the learning disciplines and subject matter domains, it is likely their training will need to be customized. In his essay *Urban School Leadership: Different in Kind and Degree*, education historian Larry Cuban encourages policymakers to pay attention to the wide variety of civic contexts within which school principals do their work. He questions two key assumptions that drive standards-based school reform and accountability testing: all schools are basically alike, and a one-size-fits-all leadership can solve America's school problems. Cuban warns that "all public schools are hardly alike. In 50 states, almost 15,000 public school districts with almost 90,000 schools serve almost 50 million students. The social, academic, cultural diversity among districts and within districts—think of New York City, Los Angeles, and Chicago with high schools that send 90 percent of their graduates to college and others where no more than 10 percent continue their education—is stunning." Cuban, a former urban superintendent, says we must plow more resources into urban schools, and train urban teachers and principals within urban schools through year-long paid supervised internships and intensive summer programs in cooperation with local colleges and universities; then pay premium salaries to those teachers and principals who complete the program and stay at least five years in the district.

House Bill 4714 (6-18-03)

In his report *Building a New Structure for School Leadership*, educational researcher Richard Elmore notes, however, that “many well-intentioned reformers argue that large scale improvements of schools can be accomplished by recruiting, rewarding, and retaining good people and releasing them from the bonds of bureaucracy to do what they know how to do... What’s missing in this view,” says Elmore, “is any recognition that improvement is more a function of learning to do the right things in the setting where you work than it is of what you know when you start to do the work. Improvement at scale is largely a property of organizations, not of the pre-existing traits of the individuals who work in them. Organizations that improve do so because they create and nurture agreement on what is worth achieving, and then set in motion the internal processes by which people progressively learn how to do what they need to do in order to achieve what is worthwhile....Improvement occurs through organized social learning, not through the idiosyncratic experimentation and discovery of variously talented individuals.” In Elmore’s view what is needed is “distributed leadership” and he outlines a conception of this idea in which policy and practice—policymaker setting targets and stimulating public discussion about content and performance coupled with practitioners (teachers and students) interacting around content at the instructional core—are dependent upon and informed by each other.

In order to improve the leadership in Michigan’s public schools, legislation has been introduced to create an academy for school principals.

THE CONTENT OF THE BILLS:

House Bill 4714 would amend the Revised School Code (MCL 380.1525) to specify that state and federal professional development funds could be used for a principal leadership academy.

Under the bill, the Department of Education, in collaboration with statewide associations of school principals, would establish a principal leadership academy, and it would consist of training for principals conducted by other school principals with a record of demonstrated success in improving student performance. The department would be required to solicit input from school district superintendents and intermediate school district superintendents, in order to compile a list of successful principals who would likely be effective in conducting the training at the leadership academy. The bill specifies that the department would select principals to conduct the training from the list, and

that the training would be required to include all aspects of successful school leadership, including at least all of the following: 1) strategies for increasing parental involvement; 2) strategies for engaging community support; 3) creative problem solving; 4) financial decision-making; 5) management rights and techniques; and 6) other strategies for improving school leadership to achieve better student performance.

Currently under the law, funds appropriated by the legislature for professional development must be allocated substantially as follows: 20 percent to the Department of Education; 15 percent to intermediate school districts (on an equal amount per pupil basis based upon the memberships of constituent school districts); and 65 percent to school districts (on an equal amount per pupil basis). House Bill 4714 would eliminate this provision that describes the manner in which funds appropriated by the legislature must be allocated.

In addition, the current law specifies that the funds can be used for:

- professional development programs for administrators and teachers, with an emphasis on the improvement of teaching and learning of the academic core curriculum as measured by the Michigan Educational Assessment Program and other criterion-referenced assessment; collaborative decision making; site-based management; the process of school improvement; instructional leadership; and the use of data and assessment instruments to improve teaching and learning for all students;
- a biennial education policy leadership institute;
- a statewide academy for school leadership established by the State Board of Education;
- community leadership development in each school district;
- promotion of high educational standards together with the business community;
- sabbatical leaves for up to one academic year for selected master teachers who aid in profession development; and
- any purpose authorized in the appropriation for professional development in the State School Aid Act.

In order to receive professional development funding, each school district and intermediate school district must submit an annual professional development plan to the State Board of Education, and the board may disapprove funding if it finds that the plan does not further core academic curriculum needs; does not constitute serious, informed innovation; is of general inferior overall quality; or does not comply with requirements under section 1526 (which concerns mentoring for beginning teachers and intensive professional development induction into teaching programs).

Under House Bill 4714, all of these provisions would be retained, and in addition, professional development funds could be used for the principal leadership academy that the department would be required to establish.

BACKGROUND INFORMATION:

Other states' Principal Leadership Academies. In 1984, the North Carolina legislature created the Principals' Executive Program (PEP), a part of the University of North Carolina's Center for School Leadership Development, which patterns its profession development program after Harvard University's renowned leadership training program for business executives. The program offers training in two forms: "residential" and "topical." Residential programs on campus provide in-depth training on numerous school issues, and span from 3 to 20 days, while topical programs are from 1 to 3 day sessions. The program provides free telephone consultations on school law issues, and maintains a library of books, videotapes and audio cassettes on a wide range of education leadership topics. More information is available at <http://www.ga.unc.edu/pep>

The State of Texas offers the Texas Principals Leadership Initiative, created in 1995. It assists a variety of entities in providing ongoing reflective and collaborative professional development opportunities directly linked to school administrators' role of facilitating high quality teaching and learning, with a sharp focus on assessment. Principals who participate receive an objective diagnosis of their skills in relation to the state's new standards for leadership and achievement. More information is available at <http://www.tpli.org>

The Interstate School Leaders Licensure Consortium, created in 1998 by the Council of Chief State School Officers and the national Policy Board for Educational Administration, promotes Six Standards for School Leaders, now used in 30 states, and which

serve as the basis for assessments for the licensing of beginning principals. The standards say: A school administrator is an educational leader who promotes the success of all students by 1) facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community; 2) advocating, nurturing, and sustaining a school culture and instructional program conducive to student learning and staff professional growth; 3) ensuring management of the organization, operations, and resources for a safe, efficient, and effective learning environment; 4) collaborating with families and community members, responding to diverse community interest and needs, and mobilizing community resources; 5) acting with integrity, fairness and in an ethical manner; and 6) understanding, responding to, and influencing the larger political, social, economic, legal, and cultural context. More information is available at <http://www.ccsso.org>

FISCAL IMPLICATIONS:

The House Fiscal Agency notes that House Bill 4714 would create a minor, indeterminate cost to the Department of Education. The cost would be due to an increased amount of staff time and other resources that would be required to plan the academy, to solicit and process input from superintendents, to develop a curriculum for the required training, and to administer the academy. It is unclear whether there would be a cost to local school districts to send principals to the academy.

The agency points out that House Bill 4714 amends section 1525 to add principal leadership academies to the list of allowable uses of professional development funds. However, the agency notes that there are no state funds for this purpose. [When section 1524 was last amended, \$10 million in state professional development funds was appropriated under section 95 of the School Aid Act, a section that has since been repealed.] Currently, the legislature does not appropriate state funds for professional development; however it does appropriate federal monies under the Improving Teacher Quality grants. These funds could be used to offset the costs of the academies, to the extent that would be allowed by federal law.

ARGUMENTS:

For:

Under the bill, the Department of Education, in collaboration with statewide associations of school principals, would establish a principal leadership academy, and it would consist of training for

principals conducted by other school principals with a record of demonstrated success at improving student performance. An academy for principals that would be designed and implemented by their most successful peers would enable those who administer school buildings to share their best practices. The bill specifies that among the best practices that would constitute the academy's curriculum, the instructing principals would include information about all aspects of successful school leadership, including at least all of the following: strategies for increasing parental involvement; strategies for engaging community support; creative problem solving; financial decision-making; management rights and techniques; and other strategies for improving school leadership to achieve better student performance. This kind of information will help principals succeed in the more than 200 schools where student achievement is substandard. They will be taught by peers with whom they will share a common language and many similar experiences.

Against:

House Bill 4714 is too vague and broadly written to ensure optimal professional development for school principals. Only one of the academy's six curricular goals concerns student learning, and that aspect of school leadership, listed last of all, is described as "other strategies for improving school leadership to achieve better student performance." The bill should be amended to ensure that the teachers at the academy utilize the most up-to-date research-based, and research-related, knowledge and information concerning optimal professional development. Otherwise, the academy is apt to be a waste of time, at least with regard to any effort that would increase student achievement.

A principals' academy should enable school leaders to have on-going professional development about teaching, learning, curriculum development, and assessment so they could be better instructional leaders in their schools. A review of recent research about professional development, completed at the request of legislators in the North Carolina general assembly and undertaken by the director of the North Carolina Education Research Council, indicates that optimal kinds of professional development opportunities must be designed so that the adults in schools have the chance to learn the subject matter that their students are learning, usually by examining student work. Briefly stated, optimal professional development—that which increases student achievement as measured by assessments—maintains a sharp focus on subject matter learning (Kennedy, 1999); links professional development to curricular

materials and assessment (Cohen and Hill, 2001); promotes coherence and active learning (Porter and Garet, 2000); and extends activities to permit more active learning and promote collective participation to enhance coherence (that is, learning that fits into a coherent pattern of standards, goals, and continuing professional development) (Porter and Garet, 2000). Further, there is some evidence that professional development on how to teach diverse learners promotes more student learning (Wenglinsky, 2002). If the Michigan Principals' Academy that is envisioned in House Bill 4714 were to focus on these matters, more learning would happen for all—both for students and the adults who guide them—who do intellectual work in the places we call school.

Against:

This bill is an attempt by the legislature to micro-manage schools. If legislators truly cared about high quality school administration, they would reinstitute the administrator certification program. Michigan is one of only a few states that does not require its school administrators to be certified by the state department of education.

POSITIONS:

Oakland Schools has indicated support for the bill. (6-17-03)

The Michigan Education Association is neutral on the bill. (6-17-03)

The Michigan Association of School Administrators testified in opposition to the bill. (6-17-03)

Analyst: J. Hunault

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

Fiscal Analysis

PRINCIPAL LEADERSHIP ACADEMY



Bill/Sponsor HOUSE BILL 4714 (H-2), as reported from committee, Rep. David Farhat

House Committee Education

Analysis **Summary**

HB 4714 (H-2) would allow state and federal professional development funds appropriated by the legislature to be used to establish a Principal Leadership Academy. The Department of Education would establish the academy, which would consist of training for school principals. The required training would be provided by other principals who have been deemed by school superintendents to be successful.

Fiscal Impact

HB 4714 would create an indeterminate cost to the Department of Education. The cost would be due to an increased amount of staff time and other resources required to plan the academy, solicit and process input from superintendents, develop a curricula for the required training, and administer the academy. It is unclear whether there would be a cost to local school districts to send principals to the Academy.

Although HB 4714 amends Sec. 1525 to add Principal Leadership Academies to the list of allowable uses of state and federal professional development funds, it should be noted that there are currently no state funds for this purpose. (When Sec. 1525 was last amended, there were \$10 million in state professional development funds appropriated under Sec. 95 of the School Aid Act, which has since been repealed.). While the legislature no longer appropriates state funds for the program, it does appropriate federal monies which may be used for professional development (Improving Teacher Quality grants). These grants could be used to offset the cost of the Academies to the extent allowable by federal law.

Analyst(s)
Laurie Cummings

FLOOR ANALYSIS - 6/18/03

Mitchell Bean, Director – House Fiscal Agency
124 N. Capitol Avenue, Lansing, MI 48909
Phone: (517)373-8080, Fax: (517)373-5874
<http://www.house.mi.gov/hfa>



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING



JENNIFER M. GRANHOLM
GOVERNOR

THOMAS D. WATKINS, JR.
SUPERINTENDENT OF
PUBLIC INSTRUCTION

DRAFT

Date: June 20, 2003
Bill Number HB 4716 (H-1)
Sponsor: Representative Mike Nofs

Purpose: House Bill 4716 would amend sections 380.1526 and 380.1531 of the *Revised School Code* to committee appointed by the Department to make recommendations on teacher certification rules and mentorship practices.

Major Provisions:

- Requires the Department to appoint a committee of school principals, teachers, superintendents, and school board members to review the mentorship practices and teacher certification rules.
- The committee shall include two principals, five teachers, three local school superintendents, and two school board members appointed by the senate majority leader, speaker of the house, and the governor.
- The committee of school principals, teachers, superintendents, and school board members appointed shall make recommendations to the State Superintendent of Public Instruction on possible legislation to improve the mentorship practices and revisions to teacher certification rules no later than one year after the effective date of the act.
- The State Superintendent of Public Instruction shall revise the teacher certification rules no later than one year after receiving the committee's recommendations.

Arguments For:

- It would be valuable to have a committee of stakeholders representing principals and school board members to develop more awareness and review the processes for teacher certification, induction, and mentoring.
- Specific timelines would assist in the implementation of revisions.
- This would strengthen implementation of quality induction and mentoring that could benefit districts by reducing the rate of new teacher attrition, which absorbs so many resources annually.

Arguments Against:

- The bill takes away the constitutional role of the State Board of Education to set policy.
- A temporary committee should not be established in statute. It would be more appropriate to establish the committee through a resolution or the Department's appropriation bill.
- The Department's current effort to finalize and implement state teacher induction and mentoring standards will provide the needed recommendations regarding mentoring practices. Further legislation without funding will not have the same level of impact as clear state standards coupled with new Department technical assistance in meeting the standards.

STATE BOARD OF EDUCATION

KATHLEEN N. STRAUS – PRESIDENT • SHARON L. GIRE – VICE PRESIDENT
CAROLYN L. CURTIN – SECRETARY • HERBERT S. MOYER – TREASURER
MARIANNE YARED MCGUIRE – NASBE DELEGATE • JOHN C. AUSTIN • ELIZABETH W. BAUER • EILEEN LAPPIN WEISER

608 WEST ALLEGAN STREET • P.O. BOX 30008 • LANSING, MICHIGAN 48909
www.michigan.gov/mde • (517) 373-3324

- The state has a process for reviewing and revising rules. The Department's Annual Regulatory Plan identifies elements in section 380.1531 that need revision. Once mentoring and induction standards and state professional development standards are approved by the State Board of Education, the Department will have the pieces in place for specific changes needed in the rules that have been identified to date.

- Principals and school board members are not part of the profession being regulated by these rules; their monopoly of the proposed review is unwarranted intrusion on the profession by individuals neither professionally affected nor personally aware of the implications of rule changes.

- Under current rules, Michigan produces thousands of teachers that meet high state standards each year. Of these teachers, approximately 6,000 obtain Michigan teacher licenses and hundreds more are sought by other states, as Michigan is an exporting state for quality teachers. While revisions are needed to maintain high quality, major overhaul is unnecessary.

Suggested Amendments:

Include teacher preparation institutions on the committee to represent the voice of the novice teacher, the mentor teacher and the teacher educator, or defer the charge to the Professional Standards Commission for Teachers (PSCT), which reviews all teacher-related changes in policy standards or rule before it goes to the State Board of Education. The PSCT already includes in its membership teachers, teacher educators, representatives of administrators, school boards, and the public.

Fiscal Impact to the State:

- This amendment will intensify the need for allocation of Department staff time and resources for mentor program review, implementation audits, and travel expenses.

- The Department will need to provide technical assistance and support as local educational agencies and higher education personnel generate partnerships and implement professional development opportunities for the mentor and novice teacher.

- Administrative rule changes require a formal notification process, hearings, and response to input, which will involve costs to the Department.

Fiscal Impact to Local Unit of Government:

- Local school districts must provide released time for mentor novice teachers to interact, observe, and reflect on best practices so that new teachers can be strengthened professionally and develop the needed connection to their schools.

- Senate Bill 366 proposes the elimination of required professional development for the experienced teacher. If the bill passes, there would be little motivation to volunteer for mentor responsibilities (which are considered high quality professional development opportunities). A stipend may be required to encourage master teachers and/or university partnership participation.

- More effective induction and mentoring could reduce hiring costs for districts by reducing the rate of new teacher attrition, which absorbs so many resources annually.

Administrative Rules Requirement:

- Define penalty(s) for local school district non-compliance and/or not providing quality teacher induction and mentoring of novice teachers.

- Define "successful completion" of the teacher induction period and any impact on individual certification.

Department Impacted: Department of Education.

Background Information:

- The Department's draft document on teacher induction and mentoring standards is attached (Attachment A). The standards will be ready to present to the Professional Standards Commission for Teachers at the September meeting, and then to the State Board of Education in the fall.
- Extensive face-to-face reviews of teacher induction and mentoring standards have been conducted across the state and by formal mail. Our review period is scheduled to occur in August/September 2003.
- During May and June 2003, educators from local and intermediate school districts, and institutions of higher education were introduced to Michigan's Framework for professional development learning. Professional development teacher induction and mentoring information workshops were conducted at ten different sites in the state.
- Induction level benchmarks are under development and will extend the Entry Level Standards for Michigan Teachers to provide guidance to new teacher learning during the three years of teacher induction. Extensive changes to the rules promulgated governing teacher certification are being developed. The hearing process for these proposals will include opportunities for all interested parties (including principals and school board members) to comment on proposed changes and other needs.

Quick View
Teacher Induction and Mentoring Standards

Standard 1: The teacher induction and mentor program is designed and implemented to specifically meet local and state standards for teaching and learning.

The Teacher Induction and Mentor Program:

- Provides a clearly stated vision, mission, and set of purposes and goals connected to student achievement.
- Articulates a selection criteria and support process for mentor teachers.
- Connects the teacher induction and mentor program as adopted by a representative group of stakeholders with identified local context reflected in the school setting.
- Identifies the roles and responsibilities of participants and stakeholders.
- Focuses on assistance and support of the new teacher.
- Articulates a program that is a multi-year effort and part of a continuum of adult learning.
- Builds on a vision and philosophy of teacher growth and development that addresses unique teacher needs and learning styles.
- Focuses on the teaching and learning standards as reflected in Michigan's documents.

Standard 2: Professional development opportunities for new teachers and mentors meet quality professional development standards. Professional development within *The Teacher Induction and Mentor Program*:

- Focuses teacher's learning toward and supports student learning.
- Offers a variety of effective professional development strategies used to meet a teacher's continuous learning cycle.
- Demonstrates a connection to best teaching and learning practice and research on effective teacher induction and mentoring including a developmental approach to the coaching and supervision of teachers.
- Provides an *Individual Professional Development Plan* through a coordinated record-keeping and accountability system.

Standard 3: Administrative policy is explicit in providing time, equity of responsibility, and personnel to design, implement, and maintain the local teacher induction and mentor program. *The Teacher Induction and Mentor Program*:

- Implements essential and effective policy and practice at the building and district level to support mentor and induction programs.
- Provides oversight of adequate time, equitable responsibility and experienced personnel at the building level to ensure the success of the mentor program.
- All policies recognize and respect the confidentiality essential to the mentor/mentee relationship.

Standard 4: The teacher induction and mentor program is comprised of and functions through a well-informed community of learners. *The Teacher Induction and Mentor Program:*

- Identifies roles, responsibilities, and expectations of all stakeholders
- Articulates and promotes the benefits of teacher induction and mentor support to all stakeholders.
- Describes a plan for continuous learning, reflection, and dialogue that occurs throughout the learning community.
- Provides assurance that all interaction between mentor and new teacher is held in confidence.

Standard 5: Cultural proficiency, which means esteeming cultures, knowing how to learn about individual and organizational culture, and interacting effectively in a variety of cultural environments, is a program component. *The Teacher Induction and Mentor Program:*

- Encourages the adaptation of individual's values and behaviors and the organization's policies and practices to acknowledge, accept and respect differences.
- Assesses one's own and the organization's (district, school, classroom) culture.
- Attends to and manages the dynamics of difference.

Standard 6: Initial and ongoing evaluation of the teacher induction and mentor process is a program component. *The Teacher Induction and Mentor Program:*

- Presents a well-defined evaluation plan inclusive of multiple data types.
- Provides a timeline for preparation and presentation of evaluation reports.
- Describes the process for gathering, reviewing, and analyzing evaluation data and providing timely program adjustments.

A draft document may be found at:

http://www.michigan.gov/mde/0,1607,7-140-5234_5683_5703—,00.html

Please address all questions and comments regarding this document to Bonnie Rockafellow @Michigan.gov



**House
Legislative
Analysis
Section**

House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

**REVISE TEACHER CERTIFICATION
AND MENTORSHIP PRACTICES**

House Bill 4716

Sponsor: Rep. Mike Nofs

Committee: Education

Complete to 5-28-03

A SUMMARY OF HOUSE BILL 4716 AS INTRODUCED 5-21-03

House Bill 4716 would amend the Revised School Code to require the Department of Education to appoint a 13-member committee of school board members and principals in order to recommend revisions to the teacher certification rules and mentorship practices currently specified under the code.

Under the bill, the department would be required to appoint a committee that consisted of seven principals and six school board members. The Senate Majority Leader and the Speaker of the House would each appoint three principals and two school board members, and the governor would appoint one principal and two school board members.

Not later than one year after the bill took effect, the committee would be required to review the teacher certification rules and recommend revisions to the superintendent of public instruction. Further, within that year the committee members would be required to review the mentorship practices taking place under the code, and make recommendations to the state superintendent about possible legislation or rules that would improve those mentorship practices. The bill requires that not later than one year after receiving the recommendations, the state superintendent revise the rules in accord with the committee's recommendations.

Currently under the law, for the first three years of employment in classroom teaching, a teacher is assigned to at least one master teacher (or college professor or a retired master teacher) who acts as a mentor. During that three-year period, the teacher also receives intensive professional development induction into teaching, based upon a professional development plan, and consisting of at least 15 days over the three-year period.

Further, current law specifies that the superintendent of public instruction is responsible for determining the requirements for, and for issuing, all licenses and certificates for teachers (including preprimary teachers), the requirements for an endorsement of teachers as qualified counselors, and the requirements for an endorsement for teaching a foreign language in an elementary grade. Under the law, the superintendent can only issue a certificate to a person who has passed the appropriate exams for a secondary teaching certificate or for an elementary level teaching certificate. [For a secondary certificate, a teacher must pass both the basic skills exam, and the appropriate subject area exam in which he or she applies to be certified. For an

House Bill 4716 (5-28-03)

elementary certificate, a teacher must pass the basis skills exam; if available, the elementary certificate exam; and, also the appropriate subject area exams for each subject area, if any, in which he or she applies to be certified.]

MCL 380.1526 and 380.1531

House Bill 4716 (5-28-03)

Analyst: J. Hunault

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

Analysis available @ <http://www.michiganlegislature.org>

Page 2 of 2 Pages

Fiscal Analysis

REVIEW OF TEACHER CERTIFICATION PRACTICES



Bill/Sponsor **HOUSE BILL 4716 as introduced, Rep. Mike Nofs**

House Committee **Education**

Analysis **Summary**
HB 4716 would amend Sec. 1526 of the Revised School Code to require the Department of Education to appoint a committee of school principals and school board members to a committee. The bill states that this committee shall review the teacher certification rules promulgated under Sec. 1526 and recommend revisions. It requires the Superintendent of Public Instruction to revise the rules in accordance with these recommendations. HB 4716 also requires the committee to review mentorship practices and make recommendations to the Superintendent.

Fiscal Impact
There could be a indeterminate administrative cost to the Department to appoint the committee and to revise the rules promulgated under Sec. 1526. While the bill does not state that the Department must provide administrative support to or oversee the committee, these activities would also create additional administrative costs.

Analyst(s)
Laurie Cummings

COMMITTEE ANALYSIS - 6/16/03

Mitchell Bean, Director – House Fiscal Agency
124 N. Capitol Avenue, Lansing, MI 48909
Phone: (517)373-8080, Fax: (517)373-5874
<http://www.house.mi.gov/hfa>

Fiscal Analysis

DISTANCE LEARNERS AS FULL-TIME PUPILS



Bill/Sponsor HOUSE BILL 4719 (H-2), Rep. Tom Casperson

House Committee Education

Analysis

Summary

This bill amends the School Aid Act to allow pupils to be counted in membership if they receive instruction in a distance learning program operated by a district if all the following requirements are met: 1) the pupil is unable to attend school on a regular basis because of a documented health condition or the pupil has been expelled from school or the pupil is pregnant or is caring for a newborn child or another reason determined by a school board to be a valid reason; 2) the amount of instruction and content received through the distance learning program is equivalent to the amount the pupil would receive in the school district; 3) the district can track and document the days and hours of the distance learning instruction; and 4) the number of pupils the district counts in membership does not exceed 5% of the district's total membership.

Fiscal Impact

The bill would have an indeterminate increase in costs to the state. The state does not currently collect the number of students in distance learning programs, so the total number of such pupils is unknown. It is also unknown how many districts would operate a distance learning program. For every pupil that is eligible under this bill, a district would receive a foundation allowance. The average foundation allowance per pupil in the state is \$7,034.

Analyst(s)

Mary Ann Cleary
Laurie Cummings

FLOOR ANALYSIS - 6/19/03

Mitchell Bean, Director – House Fiscal Agency
124 N. Capitol Avenue, Lansing, MI 48909
Phone: (517)373-8080, Fax: (517)373-5874
<http://www.house.mi.gov/hfa>



**House
Legislative
Analysis
Section**

House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

**SCHOOL COOPERATIVE
PURCHASING PROGRAM**

House Bill 4720
Sponsor: Rep. Philip LaJoy

House Bill 4722
Sponsor: Rep. John Moolenaar

Committee: Education
Complete to 5-28-03

A SUMMARY OF HOUSE BILLS 4720 AND 4722 AS INTRODUCED 5-22-03

The bills would create a cooperative purchasing program for public schools to be administered by the Department of Management and Budget. House Bill 4722 is tie-barred to House Bill 4720 so that it could not become law unless House Bill 4720 also were enacted. A more detailed explanation of each bill follows.

House Bill 4720 would amend the Management and Budget Act (MCL 18.1261) to require the department to create and operate a cooperative bulk purchasing program for local school districts, public school academies, and intermediate school districts, in order to reduce the costs of purchasing goods and supplies for public schools.

House Bill 4722 would amend the Revised School Code (MCL 380.623a and 380.1274) to specify that intermediate school districts, local school districts, and public school academies would not be required to obtain competitive bids for items purchased through the cooperative bulk purchasing program operated by the Department of Management and Budget (that would be created under House Bill 4720).

House Bill 4720 (5-5-28-03)

Analyst: J. Hunault

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING



JENNIFER M. GRANHOLM
GOVERNOR

THOMAS D. WATKINS, JR.
SUPERINTENDENT OF
PUBLIC INSTRUCTION

DRAFT

Date: June 20, 2003
Bill Number: House Bill 4721
Sponsor: Representative Bruce Caswell

Purpose: House Bill 4721 would amend the *Revised School Code* to ensure a two-year employment contract for school principals; add a provision for incentive pay based on pupil achievement; and to increase principal autonomy in decision-making.

Major Provisions:

- Term for an employment contract for a school principal would be at least two years and not exceed three.
- Written renewal of contract must be provided in writing at least 90 days prior to termination date of contract; the contract is renewed for an additional year.
- Employer of school principal shall ensure that he/she has all of the following powers and duties:
 - Hire and assign duties to all staff employed or assigned to the school.
 - Maintain the right to refuse a staff assigned to the school.
 - Meet with local superintendent and board to develop proposed school budget.
 - Review and modify the school improvement plan.
 - Receive compensation according to his or her job performance and to earn incentives for high pupil achievement.

- The school principal may establish, with local school board approval, a method of compensation based on job performance and job accomplishments and other incentives to reward staff at the school for high pupil achievement.

- Until expiration of collective bargaining agreement, applicability of this provision remains subject to that collective bargaining agreement.

- School principal has final approval of school improvement plan

Arguments for:

- A two-year contract stipulation would maintain continuity and program coherence.
- A written renewal at least 90 days prior to termination date of contract would protect principals from release without proper notification and allow them to search for other employment in a timely manner.
- Hiring and assigning duties, maintaining right to refuse transferred staff, developing budget, and final authority for school improvement plan are ways to increase principal autonomy which increases accountability. Autonomy and accountability are both components requested by educational organizations that represent principals and,

STATE BOARD OF EDUCATION

KATHLEEN N. STRAUS – PRESIDENT • SHARON L. GIRE – VICE PRESIDENT
CAROLYN L. CURTIN – SECRETARY • HERBERT S. MOYER – TREASURER
MARIANNE YARED MCGUIRE – NASBE DELEGATE • JOHN C. AUSTIN • ELIZABETH W. BAUER • EILEEN LAPPIN WEISER

608 WEST ALLEGAN STREET • P.O. BOX 30008 • LANSING, MICHIGAN 48909
www.michigan.gov/mde • (517) 373-3324

based on research, do lead to ownership for student achievement.

- If collective bargaining agreement supports compensation and/or rewards to teachers for high pupil achievement, principals would be involved in determining criteria.
- Final approval of school improvement plan increases autonomy and accountability.
- Local school districts should have the authority to establish hiring practices. The bill would take away that authority from the local school district.

Arguments against:

- An incentive based on high pupil achievement is "merit pay." Pupil achievement is based on many factors, including instructional skill of the teacher.
- It may be difficult for a school principal to refuse staff assigned to the school because the staff person may be the only individual in the district qualified to teach a particular class or course.

Suggested Amendments:

- To receive compensation according to his or her contract stipulations and to earn performance incentives based on a mutually agreed-upon set of criteria.

Fiscal Impact on State: None

Fiscal Impact to Local Unit of Government:
Contract conditions for incentive pay for principals and teachers.

Administrative Rules and Requirements:
None.

Departments Impacted: None.

Background Information:

Section 380.11a of the *Revised School Code* empowers each school board with the authority to perform functions related to the operation of the school district. The local board of education deals with many issues, including "Hiring, contracting for, scheduling, supervising, or terminating employees, independent contractors, and others to carry out school district powers."



**House
Legislative
Analysis
Section**

House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

**POWERS AND DUTIES
OF SCHOOL PRINCIPALS**

House Bill 4721
Sponsor: Rep. Bruce Caswell
Committee: Education

Complete to 5-29-03

A SUMMARY OF HOUSE BILL 4721 AS INTRODUCED 5-22-03

House Bill 4721 would amend the Revised School Code to specify certain rights and responsibilities for public school principals.

Under the bill, the board of a school district that hired the principal would be required to prescribe his or her duties and offer an employment contract for no less than two years and no more than three years. In addition, the bill specifies that if a written non-renewal notice was not given at least 90 days before the contract's termination date, then the contract would be renewed for an additional year. Currently under the law, administrators hired by a school board work with an employment contract fixed by the board, not to exceed three years, and if written notice of non-renewal is not given at least 60 days before the termination date, then the contract is renewed for an additional year. The bill would retain these provisions, and apply them to all administrators except school principals, who in contrast would have contracts at least two years in length, and be given at least 90 days notice before termination.

Also under the bill, the board of a school district or public school academy that employs a school principal would be required to ensure that he or she had at least all of the following powers and duties:

- to hire and assign duties to all staff employed at or assigned to the school. This would include, but would not be limited to, the right to refuse to have a particular staff member assigned to that school. However it would not apply to staff assigned on a regular basis to more than one school);
- to meet and work with the local superintendent and the board, or board of directors, to develop a proposed budget for the school;
- to review and modify a school improvement plan developed for the school under the Revised School Code or any other law; and,
- to receive compensation according to his or her job performance, and to earn incentives for high student achievement.

The bill also specifies that with the approval of the board or board of directors, a principal could establish at the school a method of compensation based upon job performance and job accomplishment—using objective criteria for evaluating job performance—and establish other incentives to reward staff at the school for high student achievement. However, the bill specifies that until the expiration of a collective bargaining agreement in effect for a school district or

public school academy, the applicability of this section would be subject to that collective bargaining agreement.

Also under the bill, a school improvement plan would have to be submitted to the school principal for his or her review before it was finalized, and the principal could modify the plan.

Finally, the bill specifies that an intermediate school district school improvement plan would have to include methods to assist both school districts and public school academies in improving students' academic learning, assure that all students within the intermediate school district had reasonable access to all programs, and include methods to assist school districts and public school academies in integrating applied academics and career and employability skills into all curricular areas. Currently under the law these provisions apply to all districts, and public school academies are not explicitly included. (However, under the code, the definition of school district includes public school academies).

MCL 380.1229 and 380.1277

House Bill 4721 (5-29-03)

Analyst: J. Hunault

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

Analysis available @ <http://www.michiganlegislature.org>

Page 2 of 2 Pages

Fiscal Analysis

POWERS AND DUTIES OF SCHOOL PRINCIPALS



Bill/Sponsor **HOUSE BILL 4721 as introduced, Rep. Bruce Caswell**

House Committee **Education**

Analysis **Summary**
This bill would require school boards to ensure that each school principal has specific duties, including hiring and firing staff, developing a proposed budget for a school, and reviewing school improvement plans. The bill states that principals may receive compensation according to job performance. HB 4721 further states that principals may base compensation for school staff on performance, once collective bargaining agreements in effect for the district have expired. It also sets a minimum time for a principal's employment contract at 2 years.

Fiscal Impact

This bill would make changes to the local administration of schools and would have no state fiscal impact. It could impact local school districts by, for example, potentially basing principal and staff compensation on performance. However, the amount of any fiscal impact at the local level is indeterminate and could vary widely from district to district.

Analyst(s)

Laurie Cummings

COMMITTEE ANALYSIS - 6/16/03

Mitchell Bean, Director – House Fiscal Agency
124 N. Capitol Avenue, Lansing, MI 48909
Phone: (517)373-8080, Fax: (517)373-5874
<http://www.house.mi.gov/hfa>



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 393 (Substitute S-1 as reported)
Sponsor: Senator Wayne Kuipers
Committee: Education

CONTENT

The bill would amend Part 6A (Public School Academies) of the Revised School Code to:

- Provide for a graduated increase in the number of public school academies (PSAs) chartered by State public universities, capping the number at 450 in the year 2011.
- Restrict the number of contracts issued by State public universities for high school PSAs to five per year until 2012.
- Permit PSAs to issue bonds.
- Remove the prohibition against a community college's chartering a PSA in the Detroit school district.
- Allow two or more existing charter schools to establish a new charter school (a joint high school) and exempt joint high schools from the proposed five-per-year cap.
- Require authorizing bodies to hold a PSA board of directors accountable for the school's academic performance.
- Provide that a PSA's board of directors would have to make available to the public information concerning its membership, operation and management, financial standing, teacher salary and certification, and health and safety.
- Allow PSAs to give enrollment priorities to siblings of students, children of employees and board members, and students of PSAs that formed a joint high school.

The bill also would add Part 6C (Urban High School Academies) to the Code to allow a State public university to issue up to 15 contracts for "urban high school academies" in the Detroit school district on a competitive basis. An urban high school academy would have to include at least grades 9 through 12 within five years after beginning operation, and could include other grades as specified in its contract. Contract priority would have to be given to entities with net assets of at least \$50 million, that had a stated goal of increasing high school graduation rates, and that would operate at least grades 9-12 within three years of beginning operation.

In addition, the bill would amend the Code to regulate public schools' contracts with educational management companies.

MCL 380.501 et al.

Legislative Analyst: Claire Layman

FISCAL IMPACT

The State would experience a fiscal impact under the bill in two ways: paying additional foundation allowance funds for new pupils in membership due to the increase in the "cap", and receiving returned funds upon dissolution of a PSA during a school year.

A similar fiscal impact would arise from the new urban high school academies. A total of 15 new academies would be allowed to open in the Detroit School District under the bill. If one assumed the 15 academies each housed 350 students, and all opened in the first year, the to

these schools would cost the State \$14 million in the first and second years, and \$8.5 million yearly thereafter.

The School Aid Act defines a pupil in membership as 80% weighted on the current-year fall pupil count, plus 20% weighted on the previous-year February count. However, during a PSA's first two full years of operation, the PSA is paid for pupils weighted on a current-year basis: 50% of the pupils counted in the current fall plus 50% of the pupils counted in the following February. Combining this method of paying for a new PSA's pupils with a historical survey that 25% of a PSA's pupils come from outside of the existing public school system (i.e., from private schools or home schools), leads to an additional cost to the State from increasing the charter school "cap" by 30 per year. Estimating this cost (assuming an average PSA size of 350 students, a per-pupil payment of \$6,700, and that all 30 new schools would open each year) yields an additional foundation allowance payout from the School Aid budget of \$28 million in the first year, \$56 million in the second year, and then an additional (cumulative) cost of \$17 million per year through 2013, when the maximum estimated additional cost under the given assumptions would be \$208 million. Thereafter, the yearly cost of this legislation under the given assumptions would be \$170 million. This estimate hinges on the assumptions that all 30 new schools would open each year, that the size of each school would be 350 pupils, and that 25% of those 350 pupils would come from outside of the existing public school system. It is possible that after a certain point, the percentage of pupils coming into the new charter schools from outside of the existing public school system would drop, thereby reducing the fiscal impact on the State.

On the other side, under Section 507(7), if an authorizing body revoked a contract during a school year, the authorizing body would have to return to the State Treasurer any School Aid funds received by the authorizing body attributable to the affected pupils, for deposit into the School Aid Fund.

For PSAs, the bill includes several provisions that carry fiscal impacts. First, the bill would allow PSAs to borrow money by issuing bonds for capital needs. Though the PSAs still would not have taxing authority, it is anticipated that by having bonding authority, PSAs could possibly see decreased capital costs through increased borrowing flexibility, though an actual fiscal estimate is not practicable.

Second, by requiring PSAs that would be conversions of existing programs of intermediate school districts to cover employees of the PSAs according to the collective bargaining agreements of the ISD, additional costs to the PSA could arise if the value of the ISD collective bargaining agreements were to exceed what the PSA would have otherwise compensated its employees. The opposite is also true, making the fiscal impact of this provision indeterminate.

Third, authorizers (as local units of government) could see increased costs due to the proposed restriction that authorizer fees could not be used to support any activities other than technical support to the PSA, considering applications, issuing contracts, oversight, and direct academic support to the PSA. If an authorizer is currently using the authorizer fee to support activities other than those listed above, the authorizer would face increased costs if it wanted to continue funding those other activities.

Fourth, the bill includes explicit instructions to PSAs for advertising enrollment openings and procedures. If a PSA is not currently undertaking the enrollment advertising to the extent proposed, increased costs would result as the PSA complied with the new provisions.

Date Completed: 6-17-03

Fiscal Analyst: Kathryn Summers-Coty

SAS\Floor\sb393

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING



JENNIFER M. GRANHOLM
GOVERNOR

THOMAS D. WATKINS, JR.
SUPERINTENDENT OF
PUBLIC INSTRUCTION

DRAFT

Date: June 20, 2003
Bill Number: Senate Bill 531
Sponsor: Senator Nancy Cassis

Purpose: Senate Bill 531 would amend section 388.1009a of the *State Board of Education Act* (1964 PA 287) to increase the number of members on the Special Education Advisory Committee (SEAC).

Major Provisions:

- The bill would increase membership on SEAC and simplify the terms of appointment. All members would be appointed for three years.

Arguments For:

- The SEAC is mandated by the federal law under the *Individuals with Disabilities Education Act* (IDEA) and established by the State Board of Education under the *State Board of Education Act* [MCL 388.1009a]. The 1997 amendments to the IDEA require changes in the representation of committee membership to include 51% representation of persons with disabilities, or parents of persons with disabilities, and that representation of charter schools, and transition services be added.
- The membership requirement, as a result of changes in the federal law, will raise the cap to 33 from the present 27 members.
- School social workers and school psychologists currently split a membership. Each organization will have their own membership.

- Teachers of children with learning disabilities and teachers of the emotionally impaired will each have a seat. They currently have split representation. A general education member will also be added.

Arguments Against: None.

Suggested Amendments: None.

Fiscal Impact to State: None.

Fiscal Impact to Local Unit of Government: None.

Administrative Rules Requirement: None.

Departments Impacted: The Department of Education.

Background Information:

- In July 2002, Governor John Engler vetoed similar legislation (HB 4990).
- The State Board of Education supports the proposed legislation. In addition, organizations representing students with disabilities support the increase (Attachment A).

STATE BOARD OF EDUCATION

KATHLEEN N. STRAUS – PRESIDENT • SHARON L. GIRE – VICE PRESIDENT
CAROLYN L. CURTIN – SECRETARY • HERBERT S. MOYER – TREASURER
MARIANNE YARED MCGUIRE – NASBE DELEGATE • JOHN C. AUSTIN • ELIZABETH W. BAUER • EILEEN LAPPIN WEISER

608 WEST ALLEGAN STREET • P.O. BOX 30008 • LANSING, MICHIGAN 48909
www.michigan.gov/mde • (517) 373-3324



ARTHUR E. ELLIS
Superintendent
of Public Instruction

DEPARTMENT OF EDUCATION

P.O. Box 30008
Lansing, Michigan 48909
<http://www.state.mi.us/mde>

June 16, 1999

Dorothy Beardmore
President
Kathleen N. Straus
Vice President
Herbert S. Moyer
Secretary
Sharon A. Wise
Treasurer
Sharon L. Gire
NASBE Delegate
Clark Durant
Marianne Yared McGuire
Eileen L. Weiser

GOVERNOR JOHN ENGLER
Ex Officio

MEMORANDUM

TO: State Board of Education

FROM: Arthur E. Ellis, Chairman

SUBJECT: Approval of Change in Special Education Advisory Committee Membership to Comply with IDEA Regulations

The Special Education Advisory Committee (SEAC) is required by the Individuals with Disabilities Education Act and is established by the State Board of Education under Michigan law (MCL 388.1009a). Its function is to advise the State Board of Education on matters concerning the education of children with disabilities. The SEAC membership consists of 22 "organizational" representatives named by the respective organizations listed in Appendix A and 8 "at-large" members nominated by individual members of the State Board. Two of the organizational seats are shared by four organizations. A SEAC term of membership is three years in duration.

The Individuals with Disabilities Education Act, as amended in 1997, requires that this advisory committee include 51% representation of persons with disabilities, or parents of persons with disabilities, and further requires that representation of charter schools, private schools, and transition services be added. Additional membership has caused the number of people serving on the SEAC to exceed the Michigan statutory cap of 27 members, established in 1983.

The SEAC has passed motions recommending to the State Board of Education that the statute (MCL 388.1009a) be amended to allow membership to be capped at 33 members, eliminating the current shared organizational seats, and including in membership the Michigan Association of Supervisors of Curriculum Development. The current text of MCL 388.1009a is attached as Appendix B.

It is recommended that the State Board of Education direct the Superintendent to recommend to Michigan's Legislature a change in the SEAC membership to comply with IDEA regulations as described in the Superintendent's memorandum dated June 16, 1999.

**ORGANIZATIONS REPRESENTED ON THE SPECIAL EDUCATION
ADVISORY COMMITTEE**

The Arc Michigan

2. Autism Society of Michigan
3. Citizens Alliance to Uphold Special Education
4. Council for Exceptional Children
5. Learning Disability Association of Michigan
6. Michigan Association of Administrators of Special Education
7. Michigan Association for Children with Emotional Disorders
8. Michigan Association of Intermediate Special Education Administrators
9. Michigan Association of Intermediate School Administrators
10. Michigan Association of Learning Disabilities Educators/
Michigan Association of Teachers of Emotionally Disturbed Children *
11. Michigan Association of School Administrators
12. Michigan Association of School Boards
13. Michigan Association of School Psychologists/
Michigan Association of School Social Workers *
14. Michigan Education Association
15. Michigan Federation of Teachers
16. Michigan Speech-Language-Hearing Association
17. Parent Advisory Committees
18. Physically Impaired Association of Michigan
19. Special Education Supervisors of Michigan
20. Michigan Association of Transition Services Personnel
21. Michigan Association of Public School Academies
22. Michigan Association of Non-Public Schools

(In addition to the 22 organizational seats, eight at-large members are nominated directly by the State Board of Education.)

* Share seats on SEAC

388.1009a. State board of education; special education advisory committee; members, chairperson, expenses, duty

Sec. 9a. The special education advisory committee is created in the department of education and shall consist of not less than 9 and not more than 27 members, who shall be appointed, in multiples of 3, by the state board of education for terms of 3 years, except that of the members first appointed in 1983 or thereafter, 1/3 for a term of 1 year. The person within the department directly responsible for special education programs and such other persons as appointed by the committee to represent other departments, agencies, and 4-year colleges and universities, upon consultation with those departments, agencies, and colleges and universities, shall be ex officio members of the committee. Each year the committee shall elect its chairperson and such other officers as it deems necessary. Members of the committee may be reimbursed, to the extent provided by the state board, for expenses incurred in performing their functions. The committee shall act as an advisor to the state board of education in the field of special education.

Amended by P.A.1983, No. 240 § 1, Imd. Eff. Dec. 1, 1983.