



STATE OF MICHIGAN  
DEPARTMENT OF EDUCATION  
LANSING

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SUPERINTENDENT OF  
PUBLIC INSTRUCTION

July 26, 2011

**MEMORANDUM**

TO: State Board of Education

FROM: Lisa M. Hansknecht, Director, Office of State and Federal Relations

SUBJECT: State and Federal Legislative Update

**Federal Update**

**Race to the Top – Early Learning Challenge**

The U.S. Education Department (USED) asked Governors who intended to apply for the new competitive grant for early learning to submit their intention. Governor Snyder submitted his intention to apply on behalf of Michigan and was one of over 30 states that did so with about two dozen states not committing at this point.

There is \$500 million in Race to the Top (RTT) early learning money. A piece of this is set aside for finalists from the second round of RTT. It appears that many of the states that have yet to commit are the larger populated states and, according to speculation the Politics/K12 newsletter, those states may have decided that for the relatively small sum of money (in comparison to their overall budgets) these states may have decided the application effort simply wasn't worth the money.

Michigan on the other hand is thought to be in a relatively good place with the recent Executive Order creating the Office of Great Start and the work already underway to streamline all the early childhood funding streams.

The application is expected yet this summer as the appropriation legislation that created this grant included a stipulation that the money be awarded by the end of this year.

**Federal Flexibility through Waivers verses Wholesale Reauthorization of the Elementary and Secondary Education Act**

Speculation about possible waivers from the U.S. Education Department and what flexibility those waivers will allow have been rampant on the education news websites and blogosphere. Most seem to expect flexibility around the requirement that all students must be proficient by 2014 in exchange for states

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moving along other reforms like signing on to the core curriculum. If that's the case, the State Board's previous actions have set up Michigan to be in a good place to receive such a waiver. Unfortunately, it still seems that the U.S. Congress is slow to move on reauthorization, but seems to be concerned about the actions of the USED to provide flexibility until reauthorization occurs. This confrontation cannot be good in the long run as the divisiveness between federal departments and Congress often lead to standoffs on budget matters. Having said that, On Wednesday, July 13th, the House Committee on Education and the Workforce held a markup of Chairman John Kline's (R-MN) State and Local Funding Flexibility Act (H.R. 2445). The legislation was reported favorably out of Committee on a party-line vote with unanimous opposition from Committee Democrats, who expressed concerns about the preservation of civil rights protections and whether the bill would, in fact, make it easier for states and districts to navigate federal educational programs. It now waits to be placed on the House calendar for general debate. The legislation would allow state and local educational agencies (SEAs and LEAs) to move money between a number of programs under the Elementary and Secondary Education Act (ESEA) and into (though not out of) the Individuals with Disabilities Education Act (IDEA). Programs from which states could move funds include: Migrant Education, Neglected and Delinquent Programs, Teacher Quality State Grants, 21st Century Community Learning Centers, the Education Jobs Fund, and state administrative funds for School Improvement Grants and Aid for the Disadvantaged. At the district level, LEAs could move funds to other programs from: Aid for the Disadvantaged, Migrant Education, Neglected and Delinquent Programs, Teacher Quality State Grants, English Language Acquisition Grants, Indian Education, and the Education Jobs Fund. A full list of programs subject to this flexibility is available on the Committee's website here:

<http://edworkforce.house.gov>

It is unclear whether this will proceed further and whether the Senate will even consider it given Senator Harkins previous comments about not wanting to address reauthorization in a piecemeal approach.

## **State Update**

### House Bipartisan Workgroup on Education

The House created a bipartisan workgroup to address education issues over the summer. To begin they have had presentations on a number of topics from what businesses want our children to know, to how the legislature addressed Proposal A back in the 1990s, to an overview of assessment by MDE, to presentations on alternative learning schedules and year round schools. It is unclear at this point what the ultimate focus of this group will be though there does seem to be some interest in looking at the Governor's proposed performance funding ideas. The workgroup meets every Wednesday afternoon (except August 3, 2011) through the summer recess, and the meetings are open to the public.

Tenure Reform Package – House Bills 4625, 4626, 4627, and 4628  
Per your request, the following summarizes the key points of the education evaluation and tenure reform legislation as signed into law:

House Bill 4625 – Tenure act changes:

- The bill changes a teacher's probationary period from his or her first four full school years of employment, to the first five.
- A teacher under contract, but not on continuing tenure (as of the effective date of this act) would be in a probationary period during his or her first four full years of employment, rather than two years under current law.
- A teacher on continuing tenure (as of the effective date of this act) continues to be on tenure even if the teacher has not served for at least five full school years.
- A probationary teacher who is rated as effective or highly effective in their most recent performance evaluation is not subject to being displaced by a tenured teacher solely because that teacher is on continuing tenure.
- A probationary teacher may be dismissed at any time.
- A teacher shall not be considered to have successfully completed the probationary period unless the teacher has been rated as effective or highly effective on their three most recent performance evaluations and has completed at least five full school years.
- If a teacher has been rated as highly effective on three consecutive evaluations and has completed at least four full school years, the teacher shall be considered to have completed the probationary period.
- Require a probationary teacher to be notified at least 15 days, rather than 60 days, before the end of a school year that his or her services would be discontinued.

(Passed House initially 70-37; passed the Senate 25-13; House concurrence 66-42; signed by Governor)

House Bill 4626 – Tenure act changes:

- Allow a teacher on continuing tenure to be dismissed or demoted for a reason that was not arbitrary and capricious, rather than for reasonable and just cause.
- If criminal charges have been filed against a teacher, the controlling board may place the teacher's salary in escrow. Before placing the salary in escrow, the controlling board must provide the teacher notice of the charges, explanation of the evidence, and allow the teacher to respond. The money in escrow would be released to the teacher or the controlling board based on the decision of the Administrative Law Judge (ALJ).
- Require a teacher to verify his or her ability to perform essential job functions after being placed on unrequested leave for physical or mental disability.

(Passed House initially 61-46; passed the Senate 25-13; House concurrence 60-48; signed by Governor)

HB 4627 – amends revised school code to:

- Until the recommendations from the Governor’s Council on Educator Effectiveness come back – schools are left to figure out a way to evaluate on their own.
- Remove seniority and tenure status as factor in recall, reduction, hiring, etc.
- Create the Governor’s Council on Educator Effectiveness
  - o Governor will appoint three members
  - o Speaker appoints one member
  - o Majority Leader appoints one member
  - o State Superintendent as sixth ex-officio (nonvoting member).
  - o Council is staffed by Governor’s office.
- Council report due to State Board, Governor and Legislature by April 30, 2012.
- Council recommendations to address: a student growth assessment tool, a state evaluation tool for teachers, a state evaluation tool for administrators, and alternative evaluations tools developed with input from leading school districts that already have successful programs.
- The Governor will appoint an advisory committee consisting of teachers, administrators, and parents to provide input on the Council’s recommendations. (Senate floor Amendment)
- Amend the evaluation section to state that the weight of evaluation will phase in starting with at least 25 percent in 2013-2014, 40 percent in 2014-2015, and 50 percent in 2015-2016 using an evaluation tool enacted into law that will come later with at least consideration of the recommendations of the Governor’s council.
- The bill also references a year-end evaluation and new mid-year report for teachers in the first year of probationary status and who were rated minimally effective or ineffective.
- Specifies classroom observation requirements.
- If rated ineffective on a performance evaluation, a non-probationary teacher may request a review of their evaluation by the superintendent or chief administrator of a Public School Academy (PSA). Modifications can be made following a review by the superintendent. A review of this kind may not be performed more than twice in a three year period. (Senate floor Amendment)
- Establish requirements for the evaluation of school administrators.
- Require an administrator be dismissed if he or she were rated as ineffective on three consecutive year-end evaluations.
- Beginning in 2015-2016 if a pupil is assigned to a teacher rated ineffective on two most recent year-end evaluations, the parents are notified.
- Originally, the House passed version of this bill had to do with mutual consent, but this was removed from the Senate passed and House concurred version and the evaluation piece was inserted.

(Passed House initially 68-39; passed the Senate 20-17; House concurrence 64-44; signed by Governor)

HB 4628 - amend the Public Employment Relations Act to prohibit the following subjects from being included in collective bargaining between a public school employer and a representative of its employees:

- Policies governing teacher placement or impact of personnel decisions.
- An employer's performance evaluation system.
- Decisions about a policy for discharging or disciplining employees subject to the tenure law, and the discharge or discipline of an individual employee.
- Classroom observation decisions.
- A performance-based method of compensation.
- Decisions about parental notification of ineffective teachers.

(Passed House initially 59-48; passed the Senate 20-18; House concurrence 58-50; signed by Governor)

#### Recently Enacted Legislation

Since the end of session in June, the following bills have been signed into law.

- Shared superintendents between intermediate school districts and local districts – HBs 4232, 4233, and 4234 – Public Acts 104, 105, and 106 of 2011, respectively.
- Educator evaluation and tenure reform – HBs 4625, 4626, 4627 and 4628 – Public Acts 101, 100, 102 and 103 of 2011, respectively. Summary is above.
- Allowing youth work permits for students volunteering at agriculture fairs and expos – HB 4727 – Public Act 80 of 2011
- Requiring disclosure of information to school districts that provide medical benefit plans for employees (claims data) – HB 4700 – Public Act 95 of 2011

I hope this information is helpful to you. If you have any questions or concerns regarding these or other legislative issues, please feel free to contact me at 517-241-4993.