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TO: MSBO – ISD Committee
FROM: Jerry Johnson, Assistant Superintendent for Legislation and Education Policy
RE: Legislative Update
DATE: June 16, 2016

2016-2017 BUDGET

The House and Senate finished work on next year's budget by passing the Education Omnibus Bill (SB801). Consistent with the conference report on School Aid (SB796), there are many things for which to be pleased and several that cause concern.

On the positive side, the final budget includes the following:

- The budget includes a \$150 million increase in the Foundation Allowance for a \$60 to \$120 increase per pupil on a 2X formula.
- Membership blend remains at 90/10 – 90% current fall, 10% previous spring.
- A new section 20m ensures that “hold harmless” districts receive at least a \$60 increase.
- Consolidation Grants include dissolution but do not include consolidation of services. The amount allocated for this year is \$3 million; which includes \$2.5 million to assist with Marshall Public Schools’ annexation of Albion Community Schools following the vote in May.
- “At-Risk” Pupil Support maintains funding at \$389.7 million and allows hold harmless districts to qualify for funding under the section. The funding allocation formula remains the same as last year.
- Gang Prevention & Intervention Programs includes \$3 million for grants to districts that have partnerships with nonprofits, law enforcement or community groups to improve public safety, reduce gang-related activity and increase high school graduation rates.
- Special Education Task Force Reforms includes \$1.1 million to implement recommendations, and provide training in local districts and ISDs related to the safe implementation of emergency restraints and seclusion.
- CTE Early/Middle Colleges includes \$10 million for the 2016-2017 fiscal year.
- Educator Evaluations received NO funding.
- FIRST Robotics was expanded from grades seven to 12 to kindergarten through grade 12 and funded at \$2.5 million.
- MiSTEM Grants include \$9.5 million to support STEM programs and implement grants based on the MiSTEM council recommendations.
- Assessment Funding was reduced, but maintains support for M-STEP and access to a kindergarten assessment.

- Computer Adaptive Testing was maintained to reimburse schools for the purchase of computer adaptive tests.

Areas of concern include:

- Nonpublic School Mandate Reimbursement of \$2.5 million to reimburse private schools for costs associated with complying with state mandates.
- School Reform Office was funded at \$5 million for districts with schools under the oversight of the SRO.
- Section 51a – Cyber Charter Schools and Special Education (See Attached).

LEGISLATION:

DPS Plan (HB5383, HB5384, HB5387, SB711, SB820, and SB822) – The Legislature completed one of the most significant challenges it has faced this session in the Detroit Public Schools package. In general, the plan embodies the basics of what the Governor originally proposed. A new Detroit Community Schools would run the city's public school system while the old district would remain to pay off debt from money received by the state over time. The basics of the plan include:

- The state would pay off \$467 million in DPS debt over time. DPS would exist only to pay off that debt. All the schools, teachers, students and administrators would move to a brand-new entity called Detroit Community Schools (DCS).
- An advisory board will be created that is made up of traditional and charter school representatives to produce reports on where more schools are needed. This advisory board would not have the authority to implement any of its recommendations, but could hold public meetings to gather input.
- The gubernatorial-appointed School Reform Officer would be charged with making decisions on opening and closing schools.
- An option would exist to allow non-certified teachers into Detroit classrooms, giving the new school board the option to use non-certified individuals as teachers to fill its hundreds of teacher vacancies.
- The Educational Achievement Authority (EAA) would go away.
- Teacher and administrator compensation would be primarily based on their performance evaluations, but delays implementation until after an A-F grading system is implemented in the Community District.
- Financial oversight would remain with the same Financial Review Commission (FRC) that oversees the city of Detroit's finances. It would have additional authority to review employment decisions regarding the district's CFO and the termination of the Superintendent.
- A new school board would be constituted by an election in November of 2016.
- The new school board would negotiate the next Collective Bargaining Agreement; not the Emergency Manager.

Sinking Fund (HB4388) – Finally, after several months of waiting, the bill that would allow sinking fund use to be expanded to include technology and security has passed out of the House. Now it goes to the Senate where more work will be needed to move enough votes to “yes”.

Dark Stores (HB 5578) – The bill would clarify the criteria for the Michigan Tax Tribunal during a property assessment dispute to “highest and best use.” The bill would address situations in which stores have lower property valuations because the property is valued on “comparable sales” of other properties instead of true cash value. The bill has been passed out of the House and is in the Senate Finance Committee.

E911 Readiness (SB878) – The bill delays implementation of the pending rule that businesses housed in large buildings install a phone system that makes finding someone in an emergency easier for paramedics and other first responders. The current deadline of December 31, 2016 would be delayed until December 31, 2019. The bill has passed both chambers and awaits signature by the Governor.

Restorative Practices (HB5618-HB5621 and HB5693-HB5695) – The bills would encourage the use of restorative justice practices before expelling or suspending a student and provide more flexibility in the existing zero-tolerance laws. HB5618 amends all of the zero tolerance sections of law to require that certain factors be given consideration before expelling or suspending a student, including the student’s age, disciplinary history and the seriousness of the offense. The only instance where flexibility is not allowed is with respect to firearm expulsions. The bills are in response to the concern that the state's "zero tolerance" policy on student expulsions has created problems when students are expelled for situations of poor judgement, but where no harm was intended. The bills have passed out of the House and are in the Senate Judiciary Committee.

Civics Test (HB4136) – The bill would require students to pass a civics test similar to the naturalization test used by U.S. Citizenship and Immigration Services before they can graduate high school. The bill has passed out of the House and is in the Senate Education Committee.

Graduation Requirements (HB5463) – The bill would allow the addition of computer coding classes into certain credit requirements for high school graduation by replacing the current K-12 requirement of at least two foreign language credits and one credit in visual arts, performing arts or applied arts with a total of three credits in "21st Century Skills." 21st Century Skills credits can be satisfied by any of the following: a language other than English; visual arts, performing arts or applied arts; computer science or computer coding, or a combination of these; or a Michigan Department of Education-approved formal career and technical education program. The bill has passed out of the House and is now in the Senate Education Committee.

Court of Appeals Ruling - 3% Contribution

The Michigan Court of Appeals (COA) has ruled that teachers who were required to pay 3 percent of their income into the Michigan Public School Employees' Retirement System or MPERS for health benefits from 2010 to 2013 may receive that money back with interest. Public Act 75 of 2010 created the requirement to pay into the system. The COA ruled in *AFT Michigan v. State of Michigan* that the compulsory period of MPERS payments was unconstitutional and teachers who paid into it should be returned the money with interest. It is likely the state will appeal the decision.

Education Funding Study – The study that was to identify how much it would cost to adequately fund a child’s education in Michigan is delayed even further than the already adjusted release planned for mid-May. A new due date has been set for June 24. The contractor for the study is getting docked \$5,000 by the state, per the terms of the contract and if the report is not completed by June 24, a penalty of \$500 per day will be assessed until it's submitted, dating back to May 14. The state sent the report back for further work; hinting that the report needs analysis on capital costs related to school building construction.

The Fall Line-Up:

Energy Reform / Electric Choice (SB437) – The bill is a comprehensive energy reform package that will lead to the elimination of electric choice savings for schools and others. Over the past two years, schools around the state participating in the electric choice program have been able to save roughly \$35/pupil. While it could be argued that the bill does not eliminate “choice”, per se, it does impact the supply of energy which results in few to no options for choice providers. The bill has passed out of the Senate Energy and Technology Committee and awaits action by the full chamber.

401K/3rd Party Administrator (HB4338) – The bill would allow individuals who are in the Defined Contribution system to choose a vendor with whom to invest their funds instead of the default vendor (VOIA – the ORS system). Conceptually, the bill gives local districts flexibility within a portfolio of options that are agreed to and approved by ORS in which to invest funds. The bill has passed out of the House and has been referred to the Senate Appropriations Committee.

Seclusion and Restraint (HB5409-HB5418) – The bills seek to codify the current guidance from MDE on seclusion and restraint. Many of the provisions included in the package of bills came from a workgroup established by Lieutenant Governor Brian Calley. The House Education Committee has heard testimony from numerous individuals and organizations regarding the legislation.

Several concerns have been raised about the potential to take important tools for managing student behavior away from schools. The significant area of debate is the use of seclusion rooms. The objective is to maintain that option for emergencies only and offer a standard protocol for how a room should be structured and its use implemented. Many of the recommendations offered by the education community to modify the bills have been positively received. Updated bills have been drafted to address concerns and further action by the House Education Committee is anticipated in the Fall.

Student Attendance and Truancy (HB405-HB408) – The bills amend the Revised School Code and Juvenile Code to address the challenge of students being chronically absent and truant from school. While a worthy outcome to achieve, the bills include numerous points of concern for the education community. A work group was formed to address the areas that are problematic. The bills are in the Senate Families, Seniors, and Human Services Committee.

3rd Grade Reading (HB4822) – The bill was passed out of the full Senate prior to spring break. Many in the education community argue that the Senate passed version (S-6) is a tremendous improvement over the originally passed House version. The Senate made many additions to the good cause exemptions—including the parent in the decision-making process regarding retention, as well as allowing a pupil’s principal and reading teacher the ability to determine whether the student is academically prepared for the next grade. Unfortunately, the House did not concur with the Senate’s version of the bill and it has been stalled in conference committee. Senate conferees include Senators Pavlov, Hansen, and Knezek. House Conferees include Speaker Cotter and Representatives Price and Zemke.

Reporting Requirements (SB754-SB767) – The bills amend the Revised School Code and repeal numerous public acts that require certain reports and data submissions. The bills have passed out of the Senate and have been referred to the House Education Committee.

School Calendar Waiver and Prohibited Subject of Negotiation (HB5193-HB5194) – The bills would amend the Revised School Code to require a proposed year-round school or program to hold a public hearing before applying for a waiver from the district-wide calendar or post-Labor Day start date. Additionally, the instances where a waiver must be granted if requested are described. Finally, HB5194 would amend the Public Employment Relations Act (PERA) to add the school year calendar and schedule among the topics prohibited from collective bargaining between a public school employer and a bargaining representative of its employees. The bills have passed out of the House Education Committee and await action by the full chamber.

School Transparency and Accountability System (HB4882) – The bill establishes an accountability system for public schools based on data transparency with a dashboard approach as opposed to the letter grading approach.

Section 51a

Actual Budget Language:

(14) If a public school academy enrolls pursuant to this section a pupil who resides outside of the intermediate district in which the public school academy is located and who is eligible for special education programs and services according to statute or rule, or who is a child with disabilities, as defined under the individuals with disabilities education act, Public Law 108-446, the provision of special education programs and services and the payment of the added costs of special education programs and services for the pupil are the responsibility of the district and intermediate district in which the pupil resides unless the enrolling district or intermediate district has a written agreement with the district or intermediate district in which the pupil resides or the public school academy for the purpose of providing the pupil with a free appropriate public education and the written agreement includes at least an agreement on the responsibility for the payment of the added costs of special education programs and services for the pupil.

(15) Beginning in 2016-2017, a district, public school academy, or intermediate district that fails to comply with subsection (14) or with the requirements of federal regulations regarding the treatment of public school academies and public school academy pupils for the purposes of special education, 34 CFR 300.209, forfeits from its total state aid an amount equal to 10% of its total state aid.

Desired Amendment:

(15) Beginning in 2016-2017, a district, a public school academy, or intermediate district that fails to comply with the special education requirements under the revised school code and federal special education law including the requirements of federal regulations regarding the treatment of public school academies and public school academy pupils for the purposes of special education, 34 CFR 300.209, including that the district or public school academy (i) identify a pupil who resides outside the intermediate district in which the district or public school academy is located who is eligible for special education programs and services or who is a child with disabilities as described in subsection (14), and (ii) develop and implement an individualized education program for such a pupil in cooperation with the intermediate district in which the pupil resides, forfeits from its total state aid an amount equal to 10% of its total state aid.