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Senate Bill 926 (as enacted)
Senate Bill 981 (as enacted)
House Bill 4787 (as enacted)
House Bill 4788 (as enacted)
House Bill 5596 (as enacted)

PUBLIC ACT 203 of 2009
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Sponsor: Senator Buzz Thomas (S.B. 926)
Senator Wayne Kuipers (S.B. 981)
Representative Tim Melton (H.B. 4787)
Representative Bert Johnson (H.B. 4788)
Representative Phillip Pavlov (H.B. 5596)

Senate Committee: Education
House Committee: Education

Date Completed: 4-12-10

CONTENT

Senate Bill 926 amended the State School Aid Act to do the following:

- Appropriate for fiscal year 2009-10 any money the State receives from the Federal "Race to the Top" grant program.
- Require the Center for Educational Performance and Information to create and implement a teacher identifier system that can match an individual teacher with individual pupils he or she has taught.
- Require school boards to ensure that all teachers and principals have adequate access to basic instructional supplies.
- Include a pupil's participation in a cyber school's educational program as regular daily attendance for purposes of calculating membership.
- Exempt a cyber school from the requirement for a minimum number of days of pupil instruction.

Senate Bill 981 amended the Revised School Code and created Part 6E (Schools of Excellence) to do the following:

- Allow an authorizing body (the board of a school district or intermediate school district, a community college, or a State public university) to issue a contract to organize and operate a school of excellence (SOE) that is modeled after a high-performing school or program.
- Limit the number of contracts that may be issued to 10, with certain exceptions.
- Prohibit an SOE contract from being issued after January 1, 2015.
- Permit up to two contracts to be issued for cyber schools that offer on-line or remote instruction for all of grades K to 12.
- Permit a public school academy to convert to an SOE if it meets certain requirements.
- Require an SOE contract to include the school's educational objectives,

the method of monitoring its performance, and other information.

- Permit the authorizing body to revoke a contract if an SOE fails to meet its educational objectives or other grounds exist.
- Prohibit an SOE from charging tuition or discriminating in its admission policies on any basis that would be illegal if used by a school district.
- Require an SOE to use certificated teachers, with some exceptions.
- Require school boards to adopt an evaluation system that measures student growth and uses the evaluations in decisions regarding promotion and retention of teachers and administrators, including tenure and certification decisions.
- Require a school district to use a performance-based compensation method that evaluates performance based at least in part on student growth data.
- Permit a high school pupil to complete the algebra II graduation requirement over 1.5 years for 1.5 credits, or to fulfill the requirement through a career or technical program with embedded math content.
- Require an individual employed as a school administrator after the bill's effective date to have a school administrator's certificate.

The bill also includes an SOE within the Code's definitions of "public school" and "public school academy".

House Bill 4787 added Section 1280e to the Revised School code to do the following:

- Require the Superintendent of Public Instruction, by September 1 of each year, to identify the lowest achieving 5% of public school in the State, as defined for the purposes of the Race to the Top grant program, and place those schools into a State School Reform/Redesign (SSRR) District.

- Require the Superintendent to hire a State School Reform/Redesign Officer, who must act as the superintendent of the SSRR District.
- Require each school placed into the SSRR District to submit a redesign plan that includes one of four intervention models: the turnaround model, the restart model, school closure, and the transformation model.
- Require the plan to include an addendum to any collective bargaining agreements in effect for the school, to modify the agreements as necessary for the intervention model to be implemented.
- Require the SSRR Officer to approve, disapprove, or make changes to the redesign plan based on Federal requirements for the intervention model.
- Permit the SSRR Officer to recommend the appointment of a chief educational officer (CEO) to take control of multiple schools, if better educational results are likely to be achieved.
- Permit the SSRR Officer, if a school has made significant academic improvement, to recommend to the Superintendent that the school be removed from the SSRR District or released from the authority of a CEO.

The bill also amended the Code to require a pupil to attend public school until the age of 18, rather than 16, unless the pupil is at least 16 and has written permission from his or her parent or guardian to stop attending school; and allow a teacher or school counselor to request a personal curriculum for a pupil.

House Bill 4788 amended the public employment relations Act to include the State School Reform/Redesign Officer or the chief educational officer of a public school or schools as the public school employer of employees at the school or schools for the purposes of collective bargaining.

The bill also specifies that any collective bargaining agreement entered into under the Act is subject to modification as provided in Section 1280c of the Revised School Code.

House Bill 5596 amended the Revised School Code to require the Superintendent of Public Instruction to establish a process for a person to earn an interim teaching certificate under which he or she may teach in the public schools and, after three years of satisfactory performance, receive a Michigan teaching certificate.

All of the bills were tie-barred to each other and took effect on January 4, 2010.

Senate Bill 926

Teacher Identifier System

The bill requires the Center for Educational Performance and Information, in cooperation with the Michigan Department of Education (MDE), to create and implement a teacher identifier system with the ability to match an individual teacher to individual pupils he or she has taught.

Subject to applicable law regarding student privacy, the system must do the following:

- Make annual State assessment records of individual pupils accessible.
- Enable individual pupil academic achievement data, including growth in academic achievement, to be correlated to each teacher who has taught the pupil.
- Enable school board members, teachers, and school administrators to have access to the data so they can make informed decisions in order to improve instruction and pupil achievement.

Basic Instructional Supplies

The bill requires the board of a district or intermediate district to ensure that all teachers and principals working in its

schools and instructional programs have adequate access to basic instructional supplies, as defined by the MDE.

If a teacher or principal does not have adequate access to basic instructional supplies, he or she may file a claim with the Department, which must establish a telephone line and an on-line system for this purpose.

If the MDE receives a claim, it must notify the district. Within three business days, the district must provide the teacher or principal with adequate access to basic instructional supplies, or give the teacher or principal and the Department a plan for appropriate corrective action. If the MDE is not satisfied with the district's response, it may take corrective action.

In taking corrective action, the MDE may investigate and request clarification of the district's response. The Department also may withhold a portion of the total school aid funds due to the district and use that money to procure and make available an interim amount of basic instructional supplies for use by the teachers or principals in the district.

The board of a district or intermediate district must ensure that a teacher or principal who files a claim is not subject to any adverse treatment for doing so.

Cyber School

Under the State School Aid Act, the membership of a district, public school academy, or intermediate district is used to calculate school aid, and is based on the number of pupils who are enrolled and in regular daily attendance on the pupil membership count day and the supplemental count day.

The bill specifies that, for a school of excellence that is a cyber school, a pupil's participation in the cyber school's educational program is considered regular daily attendance.

The Act requires each district to provide a minimum number of days of pupil instruction, which is 165 in 2010-2011

and 2011-2012 (but not less than the district provided in 2009-2010), and 170 beginning in 2012-2013. The bill exempts a cyber school from this requirement.

Senate Bill 981

School of Excellence

Under the bill, not more than a total of 10 contracts to organize and operate a school of excellence may be issued by all authorizing bodies, except as otherwise provided for SOEs that are cyber schools and public school academies (PSAs) that convert to SOEs. A contract to organize and operate an SOE may not be issued after January 1, 2015.

The bill specifies that an SOE is a public school under Article VIII, Section 2 of the State Constitution, (which requires the State to maintain a system of free public elementary and secondary schools), and is a school district for the purposes of Article IX, Section 11 of the State Constitution (which established the State School Aid Fund) and for receiving school aid under the State School Aid Act. It is subject to the leadership and general supervision of the State Board of Education over all public education under Article VIII, Section 3 of the State Constitution (which invests the Board with general supervision over all public education in the State except institutions of higher education). The SOE is a body corporate and a governmental agency.

The issuance of a contract for an SOE must be approved by the Superintendent of Public Instruction (the State Superintendent), who must approve the contract if he or she determines that the proposed SOE is modeled after a high-performing school or program.

The first five contracts must be for SOEs that offer one or more of grades 9 to 12, as specified in the contract.

An SOE may not be located in a school district that has an average graduation rate over 75.5% for the most recent three school years for which data are available.

SOE Organization

An SOE must be organized and administered under the direction of a board of directors in accordance with Part 6E and with bylaws adopted by the board.

An SOE must be organized under the Nonprofit Corporation Act, except that it is not required to comply with certain requirements of that Act that deal with education corporations and educational foundations.

To the extent disqualified under the State or Federal Constitution, an SOE may not be organized by a church or other religious organization and may not have any organizational or contractual affiliation with or constitute a church or other religious organization.

Authorizing Body

Any of the following may act as an authorizing body to issue a contract to organize and operate an SOE:

- The board of a school district that operates grades K to 12.
- An intermediate school board.
- The board of a community college.
- The governing board of a State public university.

The board of a school district or intermediate school district (ISD) may not issue a contract for an SOE to operate outside the district's or ISD's boundaries, and the board of a community college may not issue a contract to operate an SOE outside the boundaries of the community college district.

The board of a community college also may issue a contract for one SOE to operate on the grounds of an active or closed Federal military installation located outside the boundaries of the community college district, or may operate an SOE on the grounds of such a military installation, if the installation is not located within the boundaries of any community college district and the college previously has offered courses on the grounds of the military installation for at least 10 years.

Admission to an SOE authorized by the board of a community college on the grounds of a Federal military installation must be open to all pupils who reside in the county in which the installation is located.

Application

To obtain a contract to operate one or more SOEs, one or more people or an entity may apply to an authorizing body. The application must identify the applicant and include a list of the proposed members of the SOE's board of directors, a description of the qualifications and methods for appointment or election of board members, the proposed articles of incorporation, a copy of the proposed bylaws of the SOE, and other information.

An application also must contain documentation meeting the application requirements of the authorizing body, including the governance structure of the SOE; a copy of its educational goals, the curricula to be offered, and methods of pupil assessment to be used; and the admission policy and criteria to be maintained by the SOE.

An application to the board of a school district, ISD, or community college must identify the local and intermediate school districts in which the SOE will be located.

For an SOE authorized by a school district, the application must include an assurance that employees of the SOE will be covered by the collective bargaining agreements applicable to other district employees employed in similar classifications.

Fees

An authorizing body may not charge a fee, or require reimbursement of expenses, for considering an application, issuing a contract, or providing oversight of a contract in an amount that exceeds 3% of the total State school aid received by the SOE in the year in which the fees or expenses are charged. The authorizing body may use a fee only for purposes listed in Part 6E.

Contract

An authorizing body is not required to issue an SOE contract to any person or entity. Contracts must be issued on a competitive basis taking into consideration the resources available, the population to be served, and the educational goals to be achieved by a proposed SOE.

If a person or entity applies to the board of a school district for a contract to organize and operate an SOE, and the board does not issue that contract, the applicant may petition the board to place the question of issuing the contract on the ballot, to be decided by the school electors of the district. If a majority of the school electors voting on the question vote to issue the contract, the board must do so.

An SOE contract must contain at least all of the following:

- The educational goals of the SOE and the methods by which it will be held accountable.
- A description of the method to be used to monitor the SOE's compliance with applicable law and its performance in meeting its educational objectives.
- A description of the process for amending the contract.
- All the information in the application for the contract.
- Procedures and grounds for revoking the contract.
- A description of and address for the proposed physical plant in which the SOE will be located.
- Requirements and procedures for financial audits, which must be conducted at least annually by a certified public accountant.
- A certification that the SOE will comply with the contract and applicable law.
- A requirement that the board prohibit specifically identified family relationships between members of the board, owners, officers, or employees of an educational management organization involved in the operation of the SOE, and employees of the SOE.
- A requirement that the board make available information concerning its

operation and management to the public and to the authorizing body in the same manner as required for school districts.

- A requirement that the board collect, maintain, and make available certain other information regarding its operation and management, including financial reports, information about teachers and administrators, and curriculum material.
- A provision that the authorizing body must review and may disapprove any agreement between the board and an educational management organization, if the agreement is contrary to contract or applicable law.
- A requirement that the board prohibit any individual from being employed at the SOE in and simultaneously being compensated for more than one full-time position.
- A requirement that, if requested, the board report to the authorizing body the total compensation for each individual working at the SOE.

An SOE contract also must contain a requirement that the board demonstrate that the enrollment period for the SOE is at least two weeks in duration, including some evening and weekend times; that the SOE has made a reasonable effort to advertise its enrollment openings; and that it has made specified additional efforts to recruit pupils who are eligible for special education programs and English as a second language services.

For an SOE authorized by a school district, the contract also must include an agreement that employees of the SOE will be covered by the collective bargaining agreements applicable to district employees in similar classifications in schools that are not SOEs.

Duties of Authorizing Body

If an authorizing body issues a contract for an SOE, the authorizing body must do all of the following:

- Ensure that the contract and the contract application comply with the requirements of Part 6E.

- Within 10 days after issuing the contract, submit a copy of the contract to the MDE.
- Establish the method of selection, length of term, and number of members of the board of directors of each SOE that it authorizes, and ensure that the board includes representation from the local community.
- Oversee the operations of each SOE operating under a contract issued by the body, to ensure that the school is in compliance with the contract and applicable law.
- Develop and implement a process for holding the board of directors accountable for meeting academic performance standards set forth in the contract and for implementing corrective action if a SOE does not meet those standards.
- Ensure that the board of directors operates independently from any educational management organization involved in the operation of the SOE.
- Ensure that the pupil admission process is operated in a fair and open manner and is in compliance with the contract and Part 6E.
- Ensure that the board maintains and releases information as necessary to comply with applicable law.

If the State Board of Education finds that an authorizing body is not engaging in appropriate continuing oversight, the State Board may suspend the body's power to issue new contracts to organize and operate SOEs.

The authorizing body for an SOE is its fiscal agent. A State school aid payment for the SOE must be paid to the authorizing body, which must forward the payment to the school.

Cyber Schools

A total of two contracts may be issued by all authorizing bodies for schools of excellence that are cyber schools and that offer all of grades K to 12 and are available for enrollment to all pupils in the State who previously were enrolled in a public school. The entity applying for an

SOE cyber school must demonstrate experience serving urban and at-risk student populations through an educational model involving a significant cyber component.

The initial enrollment of an SOE cyber school may not exceed 400 pupils. In the second and subsequent years, the school may expand enrollment to exceed 400 pupils by adding one pupil for each pupil enrolled in the school who is identified as a dropout in the Michigan student data system. Maximum enrollment may not exceed 1,000 pupils.

Annually, an SOE cyber school must account for the number of dropout pupils it enrolls and report that information to the MDE and the State Superintendent. It must maintain its ratio of pupils who are identified as dropouts.

A cyber school must provide full-time instruction to pupils through on-line learning or otherwise on a computer or other technology. The instruction and learning may occur remote from a school facility. Notwithstanding any rule to the contrary, a cyber school does not have to comply with any rule that requires a pupil's physical presence or attendance in a classroom or that otherwise is inconsistent with a pupil's participation in an on-line, remote education program.

A contract for an SOE that is a cyber school must include all of the provisions required for other SOE contracts, as well as a requirement that a teacher who holds appropriate certification according to State Board rule is responsible for all of the following for each course in which a pupil is enrolled:

- Improving learning by planned instruction.
- Diagnosing the pupil's learning needs.
- Assessing learning, assigning grades, and determining advancement.
- Reporting outcomes to administrators and parents or legal guardians.

If a cyber school SOE is in compliance with those requirements, any other adult assisting with the oversight of a pupil

during his or her participation in the cyber school is not required to be a certificated teacher or an employee of the school.

The contract for a cyber school SOE also must include a requirement that the cyber school will make educational services available to pupils for a minimum of 1,098 hours during a school year and will ensure that each pupil participates in the educational program for at least that number of hours.

At the end of a cyber school's second full school year of operations, its authorizing body must submit to the State Superintendent and the Legislature a report detailing the operation of the cyber school, providing statistics on pupil participation and academic performance, and making recommendations for any further statutory or rule changes related to cyber schools and on-line learning in the State.

Public School Academy SOE

If a public school academy meets certain requirements, its board of directors may adopt a resolution to convert the PSA to an SOE. Specifically, if the PSA operates only some or all of grades K to 8, it must meet at least one of the following requirements, on average over a three-year period:

- At least 90% of enrolled students achieved a score of proficient or better on the Michigan Education Assessment Program (MEAP) math and reading tests.
- At least 70% of the enrolled pupils achieved a score of proficient or better on the MEAP math and reading tests and at least 50% of the enrolled pupils met the income eligibility for the Federal free or reduced lunch program.

If the PSA operates grades 9 to 12, it must meet all of the following requirements:

- At least 80% of the school's pupils graduate from high school or are on

track to graduate, as determined by the MDE.

- The school has at least 80% average attendance.
- The school has at least an 80% postsecondary enrollment rate.

If the board of directors is issued a contract to operate an SOE, the PSA must cease to operate as a PSA and operate as an SOE, either upon issuance of the contract or at another time as determined by the authorizing body.

At the time a contract for a public school academy SOE is issued, the PSA may not be located in a school district that has an average graduation rate over 75.5% for the most recent three years for which data are available, as determined by the MDE.

Contract Revocation

A contract issued under Part 6E may be revoked by the authorizing body if it determines that one or more of the following have occurred:

- The SOE failed to abide by and meet the educational goals set forth in the contract.
- The SOE failed to comply with all applicable law.
- The SOE failed to meet generally accepted public sector accounting principles.
- One or more other grounds for revocation, as specified in the contract, exist.

The decision of an authorizing body to revoke a contract is solely within the discretion of the body, is final, and is not subject to review by a court or any State agency. An authorizing body that revokes a contract is not liable for that action to the SOE, the SOE corporation, a pupil of the SOE, the parent or guardian of a pupil, or any other person.

Before revoking a contract, the authorizing body must take corrective measures to avoid revocation. The authorizing body may reconstitute the SOE in a final attempt to improve student

educational performance or to avoid interruption of the educational process.

If it revokes a contract, the authorizing body must work with a school district or another public school to ensure a smooth transition for the affected pupils. If the revocation occurs during the school year, the authorizing body must return any school aid funds attributable to the affected pupils, and the State Treasurer must distribute those funds to the public school in which the pupils enroll.

Powers & Duties of an SOE

An SOE must comply with all applicable law, including the Open Meetings Act, the Freedom of Information Act, and other specific statutes. An SOE and its incorporators, board members, officers, employees, and volunteers have governmental immunity. An authorizing body and its board members, officers, and employees are immune from civil liability, both personally and professionally, for an act or omission in authorizing the SOE if the body or the person acted or reasonably believes he or she acted within the authorizing body's or the person's scope of authority.

A school of excellence is exempt from all taxation on its earnings and property, and conveyances to or from an SOE are exempt from all taxation.

An SOE may not levy ad valorem property taxes or another tax for any purpose.

If a school district or ISD obtains a contract to operate one or more SOEs, its power to levy taxes will not be affected by the operation of the SOE. Revenue from taxes levied or bonds issued by a school district or ISD under the Code may be used to support the operation or facilities of an SOE in the same manner as that revenue may be used to support school district or ISD operations and facilities.

An SOE may borrow money and issue bonds, as provided in Part 6E.

An SOE may acquire, hold, and own in its own name buildings and other property

for school purposes, and other real and personal property as necessary or convenient to fulfill its purposes.

An SOE may be located in all or part of an existing public school building. Other than a cyber school, an SOE may not operate except at the single site requested for the configuration of grades that will use the site, as specified in the contract.

An SOE may develop and implement new teaching techniques or methods or significant revisions to known teaching techniques or methods, and must report them to its authorizing body and the State Board. An SOE may use any instructional technique or delivery that may be used by a school district.

With the approval of its authorizing body, an SOE may employ or contract with personnel necessary for operation of the school, prescribe their duties, and set their compensation. An SOE may implement a method of compensation for its employees that is based on job performance, job accomplishments, and job assignment in a subject area or school in which it is difficult to find employees to staff.

Admission Policies

An SOE may not charge tuition, and may not discriminate in its pupil admissions policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a student with a disability, or any other basis that would be illegal if used by a school district.

An SOE may limit admission to pupils within a particular age range or grade level or on any other basis that would be legal if used by a school district.

If the authorizing body is a school district, ISD, or community college, enrollment in the SOE may be open to all pupils residing in the State who meet the admission policy, and must be open to all pupils residing within the geographic boundaries of the authorizing body who meet the admission policy.

For an SOE authorized by a State public university, enrollment must be open to all pupils residing in the State who meet the admission policy.

If there are more applications to enroll in an SOE than there are spaces available, a random selection process must be used to select pupils to attend. Priority may be given to a sibling of a pupil enrolled in the SOE. Priority also may be given to a pupil who transfers to the SOE from another public school under a matriculation agreement that provides for that enrollment priority, if the following requirements are met:

- Each SOE or other school that enters into the agreement remains a separate and independent public school.
- The public school that gives the enrollment priority selects at least 5% of its pupils for enrollment using a random selection process.
- The agreement allows any pupil who was enrolled at any time during elementary school in an SOE that is party to the agreement and who was not expelled to enroll in the public school giving enrollment priority under the agreement.

An SOE may include any grade up to grade 12 or any configuration of those grades, including kindergarten and early childhood education, as specified in its contract. An SOE also may operate an adult basic education program, adult high school completion program, or general education development testing preparation program, if specified in its contract. The authorizing body may approve amendment of a contract with respect to ages of pupils or grades offered.

In addition to any other grades it offers, an SOE must work toward operating all of grades 9 to 12 within six years after it begins operations, unless a matriculation agreement has been reached with another school that provides those grades.

Teacher Certification

Except as otherwise provided by law, an SOE must use certificated teachers according to State Board of Education rule.

An SOE operated by a State public university or community college may use a noncertificated individual as a classroom teacher in any grade if the individual is a full-time tenured or tenure track faculty member employed by the university, or is a full-time member of the community college faculty who has at least five years' experience at that community college in teaching the subject matter that he or she is teaching at the SOE.

Teacher Evaluation System; Compensation

Under the bill, with the involvement of teachers and school administrators, the board of a school district, ISD, or PSA must adopt and implement for all teachers and school administrators a rigorous, transparent, and fair performance evaluation system. The system must evaluate a teacher's or administrator's performance at least annually, while providing timely and constructive feedback.

The system also must establish clear approaches to measuring student growth and provide teachers and administrators with relevant data on student growth, and evaluate a teacher's or administrator's job performance using multiple rating categories that take into account data on student growth as a significant factor.

The system must use the evaluations to inform decisions regarding all of the following:

- The effectiveness of teachers and administrators.
- Promotion, retention, and development of teachers and administrators.
- Whether to grant tenure or full certification, or both, to teacher and administrators.

- Removing ineffective tenured and untenured teachers and administrators after they have had ample opportunities to improve.

Previously, the Code permitted a school district or ISD to implement and maintain a method of employee compensation based on job performance and accomplishments. The bill, instead, requires a school district, PSA, or ISD to implement a method of compensation for its teachers and school administrators that includes job performance and job accomplishments as a significant factor in determining compensation and additional compensation. The assessment of job performance must incorporate a rigorous, transparent, and fair evaluation system that evaluates a teacher's or administrator's performance at least in part based upon data on student growth as measured by assessments and other objective criteria.

If a collective bargaining agreement was in effect for teachers or school administrators of a district, ISD, or PSA, on the bill's effective date, and if that agreement prevents compliance with the requirements described above, then those requirements will not apply until after that collective bargaining agreement expires.

Administrator's Certification

The Code provides for the development of a school administrator's certificate and certificate endorsements. Previously, a certificate could but was not required to be issued to school district and ISD superintendents, principals, assistant principals, and other administrators. The bill instead requires a certificate to be issued to all individuals in those positions who meet the standards developed by the State Board of Education.

A superintendent, principal, assistant principal, or other person whose primary responsibility is administering instructional programs, or a chief business official, who was employed as a school administrator in the State on or before the bill's effective date is not required to have a school administrator's certificate or a school

administrator's endorsement to be employed as a school administrator by a school district, PSA, ISD, or nonpublic school.

A school administrator's certificate is valid for five years and must be renewed upon completion of renewal units, as determined by the State Superintendent.

The MDE must recognize alternative pathways to earning the basic administrator's certificate based on experience or alternative preparation, or both, if the alternative certification program is submitted by an established State professional organization and meets criteria set forth by the State Board.

Algebra II Requirement

In order to receive a high school diploma in the State, the Code requires a pupil to complete at least four credits in math, including at least algebra I, geometry, and algebra II. The Code permits a pupil to complete algebra II over two years with a credit awarded for each of those years. Under the bill, a pupil also may complete algebra II over 1.5 years with 1.5 credits awarded.

In addition, the bill allows a pupil to partially or fully fulfill the algebra II requirement by completing an MDE-approved formal career and technical education program or curriculum that has appropriate embedded math content, such as a program or curriculum in electronics, machining, construction, welding, engineering, or renewable energy. Within 30 days after the bill's effective date, the DOE had to post on its website and submit to the Senate and House standing committees on education guidelines for implementing that provision.

Public School Academies

The bill requires a contract to organize and operate a PSA to include the term of the contract and a description of the process and standards for contract renewal, which must include student growth as a significant factor in the decision of whether to renew the contract.

If the State Superintendent determines that a PSA that has been operating for at least four years is among the lowest achieving 5% of all public schools in the State, and is in year two of restructuring sanctions under the No Child Left Behind Act (not including the subgroup of pupils under individualized education plans), the State Superintendent must notify the PSA's authorizing body. The authorizing body then must revoke the PSA's contract and the PSA must be closed at the end of the school year. These provisions do not apply to a PSA that is an alternative school serving a special student population.

Previously, if the State Board of Education found that the authorizing body of a PSA was not engaging in appropriate oversight of the PSA, the Board could suspend the power of the authorizing body to issue new contracts to organize and operate PSAs. Under the bill, the State Superintendent, rather than the State Board, has that authority.

The bill permits a PSA to give enrollment priority to a sibling of a pupil enrolled in the PSA. A PSA also may give enrollment priority to a pupil who transfers to the PSA from another PSA under a matriculation agreement that provides for that enrollment priority if all of the following requirements are met:

- Each PSA that enters into the agreement remains a separate and independent PSA.
- The PSA that gives enrollment priority selects at least 5% of its pupils for enrollment using random selection.
- The agreement allows any pupil who was enrolled at any time during elementary school in a PSA that is party to the agreement, and who was not expelled, to enroll in the PSA giving enrollment priority under the agreement.

House Bill 4787

School Reform/Redesign Officer

The bill requires the Superintendent of Public Instruction to hire a State School

Reform/Redesign Officer to carry out the functions described below and as otherwise prescribed by law.

The SSRR Officer must be chosen solely on the basis of his or her competence and experience in educational reform and redesign, and is exempt from civil service. He or she is responsible directly to the Superintendent to ensure that the purposes of Section 1280c are carried out.

Redesign Plan; SSRR District

Beginning in 2010, by September 1 of each year, the Superintendent must publish a list identifying the schools that the MDE has determined to be among the lowest achieving 5% of all public schools in the State, as defined for the purposes of the Race to the Top (RTTT) Federal grant program.

The Superintendent must issue an order placing each public school included on the list under the supervision of the SSRR Officer. Within 90 days after a public school is placed under the Officer's supervision, the school board or board of directors operating the school must submit a redesign plan to the SSRR Officer. The plan must require implementation of one of the four intervention models that are provided for the lowest achieving schools under the RTTT program: the turnaround model, the restart model, school closure, and the transformation model. The plan must include an addendum to each applicable collective bargaining agreement in effect for the public school, to provide any modifications necessary for the implementation of the intervention model.

Within 30 days after receiving a redesign plan, the SSRR Officer must issue an order approving, disapproving, or making changes to the plan. If the order makes changes to the plan, the board will have 30 days to incorporate those changes and resubmit the plan.

The SSRR Officer may not disapprove a redesign plan that includes all the elements required under Federal law for the school intervention model included in

the plan. A board may appeal the disapproval of a plan on this basis to the State Superintendent, whose decision on the appeal will be final.

If the SSRR Officer approves a design plan, the board must implement the plan for the public school at the beginning of the next school year that begins after the approval. The board must regularly submit monitoring reports to the SSRR Officer on the implementation and results of the plan.

If the Officer does not approve the redesign plan, or determines that it is not achieving satisfactory results, he or she must issue an order placing the school into the State School Reform/Redesign District, imposing for the school implementation of one of the four school intervention models described above.

The bill specifies that the SSRR District is a school district for the purposes of the State Constitution and the State School Aid Act, and consists of schools that are placed in the district. The SSRR Officer must act as the superintendent of the district. All of the provisions of the Revised School Code that otherwise would apply to the board of a school placed in the district apply to the School Reform/Redesign Officer with respect to the school, except those related to taxation or borrowing.

The School Reform/Redesign Officer accedes to all the rights, duties, and obligations of the school board with respect to that school, including all of the following:

- Authority over the expenditure of all funds attributable to pupils at that school, including that portion of proceeds from bonded indebtedness and other funds dedicated to capital projects that otherwise would be apportioned to that school by the board according to the terms of the bond issue or financing documents.
- Subject to provisions regarding the management of a redesigned public school, rights and obligations under collective bargaining agreements and

employment contracts entered into by the school board for employees at the school.

- Rights to prosecute and defend litigation.
- Rights and obligations under statute, rule, and common law.
- Authority to delegate any of the School Reform/Redesign Officer's powers and duties to one or more designees, with proper supervision by the Officer.
- Power to terminate any contract or portion of a contract entered into by the school board that applied to that school.

Those provisions do not allow any termination or diminishment of obligations to pay debt service on legally authorized bonds and do not allow a collective bargaining agreement to be affected except as described below.

Chief Educational Officer

If the SSRR Officer determines that better educational results are likely to be achieved by appointing a chief educational officer (CEO) to take control of multiple schools, he or she may make a recommendation to the State Superintendent for appointment of a CEO to take control of those schools. If the Superintendent appoints a CEO, the CEO must impose for those schools one of the four school intervention models described above and impose an addendum to each applicable collective bargaining agreement to implement the model.

With respect to those schools, the CEO will have all of the same powers and duties as the SSRR Officer has for public schools placed in the SSRR District.

The CEO must submit monitoring reports to the SSRR Officer on the implementation and results of the intervention model, and must exercise any other powers and duties over the public schools as directed by the State Superintendent.

Collective Bargaining Agreement Addendum

Intervention Model. An addendum to a collective bargaining agreement must provide for any of the following that are necessary for the applicable intervention model to be implemented at each affected school:

- Any contractual or other seniority system that otherwise would be applicable does not apply at the school.
- Any contractual or other work rules that are impediments to implementing the redesign plan do not apply at the school.
- The SSRR Officer must direct the expenditure of all funds attributable to pupils at the school and the principal or other leader designated by the Officer must have full autonomy and control over curriculum and discretionary spending at the school.

Restart Model. If the SSRR Officer or a CEO imposes the restart model for a public school or schools, he or she must enter into an agreement with an educational management organization to manage and operate the school or schools. The SSRR Officer or CEO must provide sufficient oversight to ensure that the school or schools will be operated according to all of the requirements of a restart model.

No collective bargaining agreement that applies to employees working at the school or schools may be considered to be in effect at the time the model is imposed.

Turnaround Model. If the SSRR Officer or a CEO imposes the turnaround model for a public school or schools, a collective bargaining agreement that applies to the employees working at the school or schools at the time the model is imposed, and any successor collective bargaining agreement, will continue to apply with respect to pay scales and benefits.

Subject to any addendum to the collective bargaining agreement, an employee who is working at the school or schools and who previously was employed in the

school district that previously operated that school must retain and accrue seniority rights in that district according to the collective bargaining agreement that applies to employees of that district.

Transformation Model. If more than nine schools operated by a school district are on the list of low achieving districts compiled by the State Superintendent, the transformation model may not be implemented for more than 50% of those schools.

Release of Improved Schools

If the SSRR Officer determines that a public school that has been placed in the SSRR District or placed under the authority of a CEO has made significant improvement in public achievement and should be released from the measures imposed under Section 1280c, he or she may recommend that to the State Superintendent. If the Superintendent agrees with that determination, he or she may release the public school from those measures.

Reporting Requirements

At least annually, the SSRR Officer must submit a report to the standing committees of the Senate and House of Representatives having jurisdiction over education legislation on the progress being made in improving pupil proficiency due to the measures under Section 1280c.

As soon as practicable after the U.S. Department of Education has adopted the final work rules and formula for identifying the lowest achieving 5% of all public school in the State, the MDE must post on its website the work rules, the formula, and a list of the public school that have been identified as being among the lowest achieving 5% in the State.

Required School Attendance until 18

Previously, the Code required a child to attend public school until his or her 16th birthday. Under the bill, for a child who turns age 11 on or after December 1, 2009, or a child who was age 11 before

that date and enters 6th grade in 2009 or later, the child's parent or guardian must send the child to a public school during the entire school year from the age of six to the child's 18th birthday, except as otherwise provided.

The school attendance requirement does not apply to a child who turns age 11 on or after December 1, 2009, or who enters 6th grade in 2009 or later, if the child is at least age 16 and the child's parent or guardian has given school officials a written notice that the child has the parent's or guardian's permission to stop attending school.

Personal Curriculum

The Michigan Merit Standard requires a pupil to complete certain credits in English, math, science, social sciences, and other subject areas before receiving a high school diploma. Originally, the parent or legal guardian of a pupil could request a personal curriculum for the pupil that modified some of the Michigan Merit Standard requirements.

Under the bill, the parent or legal guardian of a pupil who has completed grade 9, a teacher who is currently teaching the pupil, who currently teaches in or whose expertise is in a subject area proposed to be modified, or who is determined by the principal to have qualifications otherwise relevant to developing a personal curriculum, or a school counselor or school employee qualified to act in a counseling role, may request a personal curriculum for the pupil that modifies some of the Michigan Merit Standard requirements.

The bill also allows a teacher, school counselor, or school employee qualified to act in a counseling role to contact a pupil's parent or legal guardian to discuss the possibility and potential benefits of a personal curriculum for the pupil.

House Bill 4788

Under the bill, if a public school is placed in the School Reform/Redesign District or is placed under a chief educational officer,

then for the purposes of collective bargaining, the SSRR Officer or the CEO, as applicable, is the public school employer of the public school employees of that school for as long as it is part of the SSRR District or operated by the CEO.

A public school employer's collective bargaining duty and a collective bargaining agreement entered into under the Act are subject to any effect on collective bargaining and any modification of the collective bargaining agreement occurring under Section 1280c of the Revised School Code.

For a public school in which the State Superintendent implements one of the four intervention models described in Section 1280c, if the model affects collective bargaining or requires modification of a collective bargaining agreement, a public school employer's collective bargaining duty and the collective bargaining agreement are subject to any effect on collective bargaining and any modification of that agreement.

House Bill 5596

The bill requires the Superintendent of Public Instruction to establish a process for a person to earn an interim teaching certificate that qualifies him or her to teach in the public schools and earn a Michigan teaching certificate using the process. The process must meet all applicable requirements for an alternative teaching certificate process under the No Child Left Behind Act. The process may not provide for an interim teaching certificate for special education.

The process must provide that the Superintendent will grant an interim teaching certificate to a person who meets all of the following requirements:

- Participates in an alternative teaching program approved by the Superintendent.
- Holds a bachelor's, master's, doctorate, or professional degree from a regionally accredited college or university with a grade point average

of at least 3.0 on a 4.0 scale or the equivalent on another scale.

- Passes the basic skills examination and the appropriate available subject exam for each subject area in which he or she applies to be certified.

For an alternative teaching program to be approved, the program provider must provide an intensive training program in teaching for its participants. The program must constitute the equivalent of at least 12 college credit hour and include training in at least all of the following subjects:

- Child development or child psychology.
- Family and community relationships.
- Diverse learners.
- Instructional strategies.
- A form of field-based experience in a classroom setting.

The program provider also must have a proven record of producing successful teachers in one or more states or be modeled after such a program, and must accept for participation only people who meet the bill's requirements for a degree and a 3.0 grade point average.

A person who has an interim teaching certificate may be employed to teach in a public school in the same manner as a person holding a Michigan teaching certificate issued under the Revised School Code, if both of the following requirements are met:

- The school district or PSA in which the person is teaching provides intensive observation and coaching in a manner and to the extent prescribed by the Superintendent.
- The person is making satisfactory progress toward meeting the requirements for being awarded a Michigan teaching certificate, as established by the Superintendent.

The Superintendent must develop standards for granting a person a Michigan teaching certificate after he or she has demonstrated satisfactory teaching performance for three years under an interim certificate, and has met the requirements established by the

Superintendent for a Michigan teaching certificate.

The Superintendent also must promulgate rules that he or she considers necessary to implement the bill.

MCL 388.1606 et al. (S.B. 926)
380.449 et al. (S.B. 981)
380.5 et al. (H.B. 4787)
423.215 (H.B. 4788)
380.1531i (H.B. 5596)

Legislative Analyst: Suzanne Lowe
Curtis Walker

FISCAL IMPACT

The combined costs associated with the School Reform/Redesign Officer, oversight of schools of excellence and cyber schools, the certification of school administrators, establishment of an alternative process for teacher certification, and ensuring access to basic instructional supplies, total just under \$500,000 in State funding for fiscal year (FY) 2009-10, and an estimated \$1.7 million in FY 2010-11. The majority of these costs will be ongoing.

The cost to the State of developing and implementing the teacher identifier system is estimated to be \$15.9 million in FY 2009-10, \$4.4 million in FY 2010-11, and an amount lower than \$4.4 million in subsequent years.

The cost to the State of developing and implementing student growth measures is estimated to be \$25.0 million in FY 2009-10, \$17.0 million in FY 2010-11, and an amount lower than \$17.0 million in subsequent years.

The annual State cost of raising the compulsory school attendance age is estimated to range from \$150 million to \$250 million.

A more detailed fiscal analysis of each bill follows.

Senate Bill 926

The bill allows students to be counted as pupils in membership (thereby generating

per-pupil State aid) if enrolled in a cyber school. To the extent that pupils enrolled in cyber schools otherwise would have dropped out of school, this will generate additional State costs (and, correspondingly, local school district revenue) in paying the foundation allowance to support these students. However, if the students would have been enrolled elsewhere, then there will be no new costs associated with allowing students in cyber schools to be counted as pupils in membership.

The bill also requires the Center for Educational Performance and Information to implement a teacher identifier system with the ability to match an individual teacher to individual pupils. The estimated cost of this requirement is \$15.9 million in FY 2009-10 with another \$4.4 million in FY 2010-11. Ongoing costs will ensue, but likely in an amount lower than \$4.4 million, but sufficient to maintain the enhanced data system. Whether or not Michigan is a successful candidate for a Federal grant to support this data system, the system must be funded, since Michigan agreed to do this as part of the State Fiscal Stabilization Funds grant.

In addition, the bill requires schools to ensure that teachers and principals have adequate access to basic instructional supplies, and if that access is inadequate, allows a teacher or principal to file a claim with the Michigan Department of Education (MDE) via a telephone hotline or on-line system. The MDE then must investigate the claim, and may withhold a portion of total school aid paid to the district in order to procure the basic instructional supplies. Combined with the costs associated with the School Reform/Redesign Officer, oversight of schools of excellence and cyber schools, the required certification of school administrators, and establishment of an alternative process for teacher certification, the fiscal impact totals just under \$500,000 in State funding for FY 2009-10, and an estimated \$1.7 million in FY 2010-11. The majority of these costs will be ongoing.

Senate Bill 981

Some of the State costs under this bill pertain to requiring the MDE to develop student growth measures based on assessments and other objective criteria to be used for purposes of teacher and school administrator evaluations and compensation systems, and in public school academy contracts. These State costs are estimated at \$25.0 million in FY 2009-10 and another \$17.0 million in FY 2010-11, along with 14.0 full-time equated staff positions at the MDE. Ongoing costs will ensue, likely in an amount lower than \$17.0 million, but sufficient to support the additional staff at MDE and the continued production of student growth measures. If Michigan is not successful in achieving some funding during the second round of Race to the Top applications, State replacement funds will be necessary, unless State law is changed. Local districts will incur costs associated with incorporating the student growth measures into teacher and school administrator evaluations and compensation systems, as required under this bill.

The bill also establishes a process for organizing and operating schools of excellence and cyber schools, and provides for the development of a school administrator's certificate and endorsement. Combined with the costs associated with the School Reform/Redesign Officer, establishment of an alternative process for teacher certification, and ensuring access to basic instructional supplies, the fiscal impact totals just under \$500,000 in State funding for FY 2009-10, and an estimated \$1.7 million in FY 2010-11. The majority of these costs will be ongoing.

House Bills 4787 and 4788

The primary focus of House Bill 4787 is the establishment of a new School Reform/Redesign Officer, responsible for overseeing the turnaround and redesign of schools identified in the bottom 5% of the State's lowest-achieving schools. Combined with the costs associated with oversight of schools of excellence and cyber schools, the required certification of school administrators, establishment of an alternative process for teacher

certification, and ensuring access to basic instructional supplies, the fiscal impact totals just under \$500,000 in State funding for FY 2009-10, and an estimated \$1.7 million in FY 2010-11. The majority of these costs will be ongoing.

The bill also increases the compulsory school attendance age from 16 to 18, beginning with children who turn age 11 on or after December 1, 2009, or who were 11 years old and in 6th grade during 2009. This means that these students will be required to attend school until age 18 (during the 2016-2017 school year) rather than at least to age 16 (which will occur during the 2014-2015 school year). The estimated fiscal impact on the State (and correspondingly on local districts) from this component of the legislation could range from \$150 million to \$250 million yearly, depending on the number of students who comply with the legislation and remain in school, compared with how many would drop out anyway or will obtain a parent's or guardian's permission to stop attending school.

House Bill 5596

The bill requires the MDE to establish a process for a person to earn an interim teaching certificate. Further, the State Superintendent must develop standards for granting a person a Michigan teaching certificate after he or she has demonstrated satisfactory teaching performance for three years under the interim certificate, and has met the requirements established to earn a Michigan teaching certificate. Combined with the costs associated with the School Reform/Redesign Officer, oversight of schools of excellence and cyber schools, the required certification of school administrators, and ensuring access to basic instructional supplies, the fiscal impact totals just under \$500,000 in State funding for FY 2009-10, and an estimated \$1.7 million in FY 2010-11.

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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.