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SUMMARY OF LEGISLATION PASSED
TO SUPPORT MICHIGAN APPLICATION FOR
RACE TO THE TOP FUNDS

On Saturday, December 19, 2009, the Michigan Legislature finalized passage of a series of bills that were promoted as necessary in order to enhance the likelihood of Michigan receiving federal Race to the Top (RTTT) funds. This summary discusses the major changes in Michigan education law on a bill-by-bill basis.

HB 4787

This bill amends the Revised School Code. Section 1278b of the Revised School Code is amended to allow certain teachers and school counselors in addition to parents to request a personal curriculum for a high school student that differs from the mandatory curriculum adopted previously. A personal curriculum may now modify the mathematics requirements of the mandatory curriculum once a student has completed, but not necessarily passed, 1-1/2 credits of mathematics.

HB 4787 adds a new section 1280c to the Revised School Code that creates an entirely new process for attempting to improve low-achieving schools. By September 1, 2010, the Superintendent of Public Instruction shall publish a list of public schools that are among the lowest achieving 5% in the state. Those schools are placed under the supervision of a State School Reform/Redesign Officer. The school board responsible for the school must submit a redesign plan to be State School Reform/Redesign Officer within 90 days. The redesign plan must be developed with input from the local teacher bargaining unit and the local superintendent or an emergency financial manager, if one is in place. The reform plan must require one of four school intervention models:

turnaround, restart, school closure, and transformation. Those four school intervention models are from the U.S. Department of Education for dealing with the restructuring of schools that have failed to make adequate yearly progress for four or more years. The U.S. Department of Education describes the turnaround model as replacing the building principal and at least half of the staff, adopting new governance, and implementing a new or revised instructional program. The restart model is described as closing a school and restarting it under the management of a charter school operator, a charter management organization, or an educational management organization. A restart school must admit, within the grades offered, any student from the previous school. The school closure model involves closing the school and sending the students to other schools in the school district. Finally, the transformation model involves, according to the U.S. Department of Education, programs that develop teacher and leader effectiveness, comprehensive instructional programs utilizing student achievement data, extended learning time, and operating flexibility and intensive support. The redesign plan must include an executed addendum to each collective bargaining agreement. The addendum must provide, if necessary for the implementation of the particular school intervention model, that (1) any contractual seniority system does not apply in that school, (2) contractual or other work rules that impede the reform process shall not apply to the school, and (3) the State School Reform/Redesign Officer shall have full autonomy and control over curriculum and discretionary spending at the school.

Within 30 days of receiving the redesign plan from the school board, the State School Reform/Redesign Officer must approve, disapprove, or propose changes to the plan. If the State School Reform/Redesign Officer proposes changes to the plan, the

school board has 30 days to incorporate those changes into its redesign plan. If the State School Reform/Redesign Officer disapproves of the reform plan, the school board may appeal that decision to the Superintendent of Public Instruction, whose decision is final.

If the State School Reform/Redesign Officer does not approve the redesign plan or if the redesign plan is not achieving satisfactory results, the State School Reform/Redesign Officer may place the school in the State School Reform/Redesign School District. This is a new school district that is composed of those schools that are subject to a redesign plan and either have not had a redesign plan approved or are not making satisfactory progress under the plan. The State School Reform/Redesign Officer serves as the superintendent of the district and is the public employer for purposes of collective bargaining. The State School Reform/Redesign Officer with limited exceptions has all of the powers, duties, and responsibilities of the school district where the school is located. He or she is responsible for the expenditure of all funds and has the authority to terminate contracts.

If the State School Reform/Redesign Officer imposes the restart model, the State School Reform/Redesign Officer must contract with an educational management organization to operate the school and no collective bargaining agreement is in effect.

If the State School Reform/Redesign Officer imposes the turnaround model, any existing collective bargaining agreement applies only for pay scales and benefits. Employees in the school continue to accrue seniority in their prior school district.

If the State School Reform/Redesign Officer determines that better educational results are likely to be achieved by appointing a Chief Executive Officer to take control

of multiple schools, the State School Reform/Redesign Officer may make a recommendation to the Superintendent of Public Instruction for appointment of a Chief Executive Officer. If the Superintendent of Public Instruction appoints a Chief Executive Officer, that officer then has the powers, duties, and obligations of the State School Reform/Redesign Officer for those schools and is required to periodically report to the State School Reform/Redesign Officer.

The bill also amends section 1561 of the Revised School Code to provide that any child who turns age 11 on or after December 1, 2009, or a child age 11 before that date who enters grade 6 in 2009 or later must remain in school until age 18, unless a parent provides written permission to the school district for the child to stop attending school, once the child is at least 16 years of age.

HB 4788

This bill amends section 15 of the Public Employment Relations Act. It amends section 15 (3) (f), which established the prohibition on bargaining over the decision and impact of subcontracting one or more noninstructional support services. The amendment allows for bargaining over the bidding process for a contract for one or more noninstructional support services. It provides that the limitation on bargaining over subcontracting of noninstructional services applies only if the collective bargaining representative is given an opportunity to bid on the contract for the noninstructional support services on an equal basis as other bidders.

This bill also adds language in section 15 that for purposes of collective bargaining the State School Reform/Redesign Officer or a Chief Executive Officer is the public school employer for as long as the school is a part of the State School

Reform/Redesign School District. In addition, a public school employer's duty to bargain and a collective bargaining agreement entered into by a public school employer are subject to any actions taken as a result of implementation of section 1280c of the Revised School Code.

SB 981

This bill amends the Revised School Code primarily by imposing new requirements on public school academies and creating new charter schools called schools of excellence.

Section 502a is amended to allow a public school academy, which is regulated under Part 6A of the Revised School Code, to convert to a school of excellence, subject to the requirements of new Part 6E of the Revised School Code. If a public school academy converts to a school of excellence and its authorizing body is a university, within 12 months after the conversion, the university may issue a contract for a new public school academy. However, a new public school academy authorized due to a conversion may not be located in a school district that has a graduation rate in excess of 75.5%, on average, for the most recent three years that data are available.

Section 503 is amended to give priority for the authorization of a new public school academy that is intended to replace a public school academy closed for low student achievement. The new public school academy must operate the same grade levels as the former school and work toward operating all grades 9 to 12 within six years or enter into a matriculation agreement with another public school that provides grades 9 to 12. A matriculation agreement is an agreement between a public school academy

and another public school that after students attend certain grade levels at one school, the student will be given preference to transfer to the other school for later grades.

Any new public school academy may not be located in a school district that has a graduation rate in excess of 75.5%, on average, for the most recent three years for which data are available. The contract between the authorizing body and the new public school academy must include that a significant factor in determining whether the contract will be renewed is student growth as measured by assessments and other objective criteria.

Section 504 is amended to allow for enrollment priority for students attending a public school academy that has a matriculation agreement with another public school academy.

Section 507 of the Revised School Code is amended to require the closure of a public school academy that has been operating for at least four years and is in the lowest achieving 5% of all public schools in Michigan, except for an alternative school serving a special population.

Section 523 is amended to require urban high school academies to include as a substantial factor for contract renewal student growth as measured by assessments and other objective criteria.

SB 981 creates a new Part 6E that establishes schools of excellence. No more than 10 schools of excellence may be authorized and contracts for new schools of excellence may not be issued after January 1, 2015. Included within the maximum of 10 schools of excellence are up to two "cyber schools," which are defined as schools that provide full-time instruction to pupils through online learning or otherwise on a computer

or other technology, where the teaching and learning may be remote from a public school. The first of five contracts authorized for schools of excellence must be schools offering at least one of the high school grades 9-12. Schools of excellence may not be located in a school district that has a graduation rate in excess of 75%, on average, for the last three years for which student data are available.

Cyber schools are only available to pupils previously enrolled in a public school and must offer all grades K-12. The entity operating the cyber school must have experience in serving urban and at-risk students through a model that has a significant cyber component. The maximum initial enrollment for each cyber school is 400 students. In the second and subsequent years of the existence of the cyber school, the school may expand its enrollment over 400 by adding students that are dropouts from public schools with the total number of pupils not to exceed 1,000. A cyber school must have a properly certified teacher for each course offered. The certified teacher is responsible for improving learning by planned instruction, diagnosing a pupil's learning needs, assessing learning, assigning grades, determining advancement, and reporting outcomes to administrators and parents. Other adults may perform other services in the cyber school without holding teacher certification. A cyber school must make educational services available at least 1,098 hours during a school year.

New Part 6E of the Revised School Code also imposes some limitations on the ability of the public school academy to convert to a school of excellence. A public school academy may convert to a school of excellence if it offers only grades within K-8 and either (1) over a three-year period, 90% of its students achieve proficient or better on math and reading on the Michigan Educational Assessment Program test (MEAP) or (2)

on average over three years, at least 70% of its students scored proficient or better in math and reading on the MEAP and at least 50% of its students are eligible for federal free or reduced lunches.

A school of excellence may give priority to transfer students from another public school under a matriculation agreement. A school of excellence may operate an adult basic education, high school completion, or general educational development (GED) preparation program.

New Part 6E also requires a school of excellence to work toward operating all of grades 9 to 12 within six years, unless the school has a matriculation agreement with another public school that operates grades 9-12. All teachers in a school of excellence must hold appropriate teacher certification, except for schools of excellence operated by a state public university or community college. A school of excellence operated by a state public university may use a noncertified teacher who is a tenured or tenure-track faculty member in the university. A school of excellence operated by a community college may use a noncertified teacher who is a full-time faculty member with at least five years experience teaching that subject matter in the community college.

Section 1246 of the Revised School Code is amended to require certification for school administrators. A superintendent, principal, assistant principal, or other person whose primary responsibility is administering instructional programs, and the chief business official employed as a school administrator in Michigan on the effective date of the legislation, must complete continuing education requirements. A person first employed in one of the above-referenced school administrator positions after the effective date of the legislation must possess a school administrator certificate. A public

school may employ a person as a school administrator who enrolls in a program to achieve administrator certification within six months of employment and the person obtains administrator certification within three years thereafter.

SB 981 adds a new section 1249 to the Revised School Code that impacts evaluations for teachers and administrators. A board of education shall adopt and implement (after fulfilling any bargaining obligation) a "rigorous, transparent, and fair performance evaluation system" for all teachers and school administrators. The evaluation process shall: (1) evaluate job performance at least annually with timely and constructive feedback; (2) establish clear approaches to measuring student growth and provide teachers and administrators with relevant data on student growth; (3) evaluate job performance using multiple rating categories that takes student growth data into account as a significant factor; and (4) at a minimum, use the evaluations to inform decisions on: (a) the effectiveness of teachers and administrators, ensuring ample opportunities for improvement, (b) promotion, retention, and development; (c) whether to grant tenure and full certification; and (d) removing ineffective teachers and administrators after they have had "ample opportunities" to improve.

Section 1250 is amended to include that a public school shall implement (after fulfilling any bargaining obligation) and maintain a method of compensation for teachers and administrators that includes job performance and accomplishments as a significant factor in determining compensation and additional compensation. This provision does not apply where there is an existing collective bargaining agreement in effect that provides otherwise.

Section 1278a of the Revised School Code is amended to change high school graduation requirements to allow a pupil to partially or completely fulfill the algebra II requirement through a Michigan Department of Education approved formal career and technology education program that has appropriate embedded math content.

Section 1536 is amended to require the State Board of Education to develop a school administrator certificate for those whose primary responsibility is administering instructional programs. A school administrator certificate shall be valid for five years and may be renewed upon completion of renewal units as determined by the Superintendent of Public Instruction. The Michigan Department of Education shall recognize alternative pathways to obtaining a school administrator certificate.

HB 5596

This bill amends the Revised School Code by adding section 1531i, which authorizes alternative teacher certification. The Superintendent of Public Instruction is required to establish a process for a person to earn an interim teaching certificate that qualifies the person to teach in a Michigan school and to earn a teaching certificate. The process does not allow for an interim teaching certificate for special education. The Superintendent of Public Instruction must issue an interim teaching certificate to an individual who: (1) participates in an alternative teaching program approved by the Superintendent of Public Instruction, (2) holds a college degree with at least a 3.0 grade point average on a 4.0 scale, and (3) passes both the basic skills and subject area examinations. The alternative teaching program must provide an intensive training program equivalent to at least 12 college credit hours in (1) child development or psychology, (2) family and community relationships, (3) diverse learners, (4)

instructional strategies, and (5) experience in a classroom setting. Further, the program must have a proven record of producing successful teachers in other states or is modeled after such a program.

A person holding an interim teaching certificate may teach in a Michigan public school provided that the employing district is providing intensive observation and coaching and the person is making satisfactory progress toward obtaining a teaching certificate. The Superintendent of Public Instruction must develop standards for granting teaching certificates after three years of satisfactory teaching while holding an interim teaching certificate.

SB 926

SB 926 amends the State School Aid Act. The bill amends section 6 to provide that a pupil's participation in a cyber school educational program is considered regular daily attendance for the granting of state school aid.

Section 94a is amended to provide that the Center for Educational Performance and Information (CEPI) in cooperation with the Michigan Department of Education shall create and implement a teacher identifier system that matches individual teachers and the students they taught. The system shall allow for accessing annual state assessment records by pupil, enabling pupil academic achievement data to correlate to each teacher who has taught the student and enabling school board members, teachers, and administrators to have access to the data.

The bill adds a new section 166c to the State School Aid Act that establishes a right of teachers and principals to adequate access to basic instructional supplies. The Michigan Department of Education is required to publish a definition of "basic

instructional supplies." Any teacher or principal may file a claim with the Michigan Department of Education for a lack of basic instructional supplies. The Michigan Department of Education shall establish both a telephone line and an online system for the filing of a claim. When a claim is filed, the Michigan Department of Education must contact the school district, which has three business days thereafter to either provide access to basic instructional supplies or a written plan for corrective action. The Michigan Department of Education may request further clarification from the district and may withhold a portion of state school aid from the district in order to procure the supplies for the person filing the complaint. The board of education of the school district or an intermediate school district must ensure that a teacher or principal who files a claim is not subject to any adverse treatment for the filing of a claim. The failure of the school district or intermediate school district to meet the requirements of section 166c does not create a cause of action for the complaining party to sue nor does it constitute a breach of any legal duty for purposes of any civil lawsuit.