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## SCHOOL IMPROVEMENT; DETROIT REFORM BOARD CHANGES

**House Bill 5802 as enrolled**  
**Public Act 230 of 2000**  
**Second Analysis (6-23-00)**

**Sponsor: Rep. Terry Geiger**  
**House Committee: Education**  
**Senate Committee: none (placed  
on immediate passage)**

### ***THE APPARENT PROBLEM:***

In his State of the State address at the outset of the year 2000, the governor delivered a challenge to improve the educational experience of the children and adults who work in schools. Among his proposals were a promise to ensure that children in their early elementary years gained the literacy and numeracy skills necessary to school success, including the opportunity to attend a high quality summer school in reading and math (see *BACKGROUND INFORMATION*, below); a distance learning program to enhance curricular options for high school students throughout the state when they enrolled in a virtual high school; and, ongoing efforts to ensure safe and effective school learning environments.

Since the State of the State address described these educational goals, other challenges have become apparent. For example, a legal challenge has been threatened to overturn Public Act 10 of 1999 (Senate Bill 297), a law passed by the legislature earlier in the session to allow a city's mayor to work with the governor and appoint a new school board in a school district that fails to adequately educate the children who attend its schools. After the law was enacted, the governor together with the mayor of Detroit appointed a reform school board in that city. Since that time a constitutional challenge has been mounted, to argue that Public Act 10 violated Article IV Section 29 of the Michigan Constitution, which prohibits the legislature from passing a local or special act where a general act can be made applicable, and which requires that a special act be approved by two-thirds of the members elected and serving in each house, and by a majority of the electors voting in the district affected.

To address these educational and legal challenges, legislation has been proposed to revise several sections of the school code, and also to add provisions for school improvement.

### ***THE CONTENT OF THE BILL:***

House Bill 5802 would amend the Revised School Code to require elementary school testing in grades 1 to 5; to describe the goals, courses, and enrollment options for the virtual high school that would be operated by the Michigan virtual university at the beginning of the 2000-2001 school year; to modify the school expulsion and suspension rules; and to make more general the application of Public Act 10 of 1999.

Elementary school testing. House Bill 5802 would require that the board of a school district, or the board of directors of a public school academy that operates any of grades 1 to 5, administer annually to all pupils in those grades a nationally-recognized norm-referenced test or another assessment, which may include a locally-adopted assessment, approved by the superintendent of public instruction at the request of the school district or public school academy. Further, under the bill, a school district or public school academy could use the Michigan Literacy Progress Profile to assess literacy in grades 1 to 3 as part of its compliance with this requirement.

House Bill 5802 also specifies that if a school is designated for participation in the National Assessment of Education Progress (NAEP) program, the school would be required to participate as designated. An elementary school that did not comply with these requirements would not be accredited.

The bill would require that in order to comply with Section 1282(2) of the code (which concerns special assistance to students with reading disorders or difficulty on standardized tests) a school district would have to offer a pupil in grade 3 who failed by the end of that school year to meet standards for basic literacy skills or for basic mathematics skills, the opportunity to attend summer school before grade 4, in order to study language arts or mathematics, as applicable. For the

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purposes of this provision, a pupil's literacy skills and mathematics skills would be measured by either the Michigan literacy progress profile or another assessment adopted by the school district for this purpose, and approved by the superintendent of public instruction.

Michigan virtual high school. The bill specifies that not later than the beginning of the 2000-2001 school year, the Michigan virtual university would develop, implement, and operate the Michigan virtual high school. The virtual high school would have the following goals: a) to significantly expand curricular offerings for high schools across the state through agreements with school districts or licenses from other recognized providers; b) to create a statewide instructional model using interactive multimedia tools delivered by electronic means, including but not limited to the Internet, digital broadcast, or satellite network for distributed learning at the high school level; c) to provide pupils with opportunities to develop skills and competencies through on-line learning; d) to offer high school teachers opportunities to learn new skills and strategies for developing and delivering instructional services; e) to accelerate Michigan's ability to respond to current and emerging educational demands; f) to grant high school diplomas through a dual enrollment method with school districts; and, g) to act as a broker for college level equivalent courses, as defined in Section 1471, and dual enrollment courses from postsecondary education institutions. (Section 1471 of the code defines the term "college level equivalent course" to mean a course offered in high school, for which a pupil receives high school credit, that is taught at a postsecondary instruction level and is designed to prepare a pupil for a college level equivalent credit examination in a particular subject area.)

Under the bill, the Michigan virtual high school course offerings would include but not be limited to all of the following:

- information technology courses;
- college level equivalent courses, as defined in Section 1471;
- courses and dual enrollment opportunities designed for college-bound juniors and seniors;
- at-risk programs and services;
- general education development test preparation courses for adjudicated youth;

-special interest courses; and

-professional development programs and services for teachers.

House Bill 5802 would require the Michigan virtual university to fund the Michigan virtual high school from appropriations made for this purpose, and also to use funds received from other sources. The bill also would require the Department of Education to provide technical assistance, as requested by the Michigan virtual university.

Currently under the law, the board of a school district or public school academy, or the governing board of a nonpublic school must consider providing college level equivalent courses either directly, through an ISD program, or by agreement in a consortium or cooperative program. House Bill 5802 would retain this provision. Further and under the bill, if a public school pupil completed a college level equivalent course that was offered by electronic means, including but not limited to the Internet, digital broadcasting, or satellite network, and is offered by a school district, a regionally accredited college or university, or the Michigan virtual high school, and if the student had been sponsored in this process by a certificated teacher employed by the pupil's school district or public school academy, the school district or public school academy in which the pupil was enrolled would be required to grant appropriate high school credit for completion of the course, and count that credit toward the school's or public school academy's graduation and subject area requirements.

House Bill 5802 also specifies that in addition to its other duties under the bill, the Michigan virtual university would work with the department and other appropriate state agencies to explore the development and delivery of a full curriculum for migrant pupils that would be available through distance learning. Under the bill, the Michigan virtual university and the department would submit a joint report on their findings under this provision to the legislature not later than one year after the effective date of the bill.

Finally, the bill specifies that nonpublic school students and home-schooled children be allowed to participate in course offerings to the same extent they are allowed to participate in school district course offerings under the code.

Provisional teaching certificate. House Bill 5802 also specifies that notwithstanding any other provision of the code or a rule to the contrary, if a person earned a

provisional teaching certificate, and that certificate lapsed before the person completed the requirements for a professional education certificate, and if a school district or public school academy applied to the department on that person's behalf for another provisional teaching certificate within 10 years after the person's initial provisional teaching certificate had lapsed, the department would be required to issue a new provisional teaching certificate to the person. Under the bill, this new provisional teaching certificate would be valid for two years, and could not be renewed. The bill also would specify that the person making application would have this two-year period to complete the requirements for a professional education certificate, and the department would have to credit toward the requirements for the professional certificate any continuing education or other requirements completed while the person's initial teaching certificate was valid. The bill specifies that this would apply regardless of whether the person's provisional teaching certificate lapsed before or after the effective date of the bill. Further, it specifies that the provision would not apply to a person convicted of certain crimes that, under the code, may result in suspension of a teaching certificate.

School suspension and expulsion, and school crime reports to parents. The bill would authorize the designee of a school board to expel a student from the school district, and also to give to those who have the authority to expel students the option of suspending them.

Under current law, if a student in grade 6 or above commits a physical assault at school against another student and it is reported, then the school board must expel the student from the school district for up to 180 school days. House Bill 5802 specifies that in this circumstance, the school board or the designee of the school board would have to either suspend or expel the pupil from the school district for up to 180 school days.

Currently the law requires school districts to make a school crime report to the state superintendent of public instruction, in order to obtain an accurate local and statewide picture of school crime and to develop the partnerships necessary to plan and implement school safety programs. The law also requires that at least once each semester, each school board provide a copy of the most recent report to the parent or legal guardian of each pupil enrolled in the district. House Bill 5802 would retain the parental notification requirement but require that the report be made at least annually, rather than each semester.

Further, the bill would give more discretion to a school board or its designee when it sets a period of time for a student's expulsion for a verbal assault. Under current law, if a student in grade 6 or above commits a verbal assault and it is reported to a school official, or if a student in grade 6 or above makes a bomb threat or similar threat directed at school property or a school event, then the school board or its designee must expel that student from the school district for up to 180 school days. House Bill 5802 specifies that in these circumstances, the school board or its designee would have to suspend or expel the pupil from the school district for a period of time as determined in the discretion of the school board.

Broader application of Public Act 10 of 1999. Earlier in the 1999-2000 legislative session, a law was passed to allow the mayor of a city with a "qualifying school district of the first class" to appoint a school reform board consisting of seven members. That law specifies that a school district that has a pupil membership of at least 100,000 enrolled on the most recent pupil membership count day is a single first class school district governed by this part. House Bill 5802 would revise the definition for 'a district of the first class' to eliminate the word "single". The definition would then read: 'A school district that has a pupil membership of at least 100,000 enrolled on the most recent pupil membership count day is a first class school district governed by this part.' The bill also would alter references to a qualifying school district throughout the act, in order to clarify that a qualifying district could become a school district of the first class after April 25, 1999, in which case a mayor could appoint a school reform board within the following 30 days. In addition, provisions of the act that began on the effective date of Public Act 10 would, under the bill, be effective either at that time, or the date on which a school district became a qualifying school district. Further, currently the law specifies that for a period of one year after leaving office, an appointed member of a school reform board, or a chief executive officer, or another appointed officer is ineligible for election or appointment to any elective office of the qualifying school district, or of the city in which the qualifying school district is located. Under the bill, this provision would be retained but expanded, and members also would be ineligible for election or appointment to any elective office of a city, village, or township in which any portion of the qualifying school district was located.

MCL 380.5 et al.

## ***BACKGROUND INFORMATION:***

Effectiveness of summer school learning interventions.  
In the January/February 1999 issue of the *Harvard Education Letter* entitled “Retention vs. Social Promotion: Schools Search for Alternatives,” the research about the effectiveness of intervention programs to help struggling students is summarized. The report notes that “a growing number of schools are implementing alternative intervention programs intended to beef up academic skills, and in the process, reduce the retention rate. Programs such as mandatory summer school, one-on-one tutoring, after-school programs, and comprehensive school-wide reform are popping-up all over the country.”

During the last few decades, scores of studies have been conducted to determine the effectiveness of grade retention. Indeed, a 1989 analysis of 63 empirical studies found that 54 resulted in overall negative effects. Retention harmed students’ achievement, attendance record, personal adjustment in school, and attitude toward school. In a controlled 1992 study, a researcher found students who repeated a year were 20 to 30 percent more likely to drop out of school. Another study, conducted in 1985 in urban California districts found that students who were retained twice had a probability of dropping out of nearly 100 percent. Yet, retention is common. A 1996 study found that 16.8 percent of seniors had repeated at least one grade since kindergarten. In addition, a recent study from the National Academy of Sciences suggests the rate of retention may be higher than that. The researchers looked at 6- to 8-year old students in the 1980s and early 1990s and found that by the time the students were ages 9-11, 25 to 30 percent were no longer in the appropriate grade for their age group (perhaps due in part to delayed entry into kindergarten).

The article notes that “the (retention) studies that report positive results share several characteristics: retained students in these studies were identified early and given special help. An individualized and detailed educational plan was prepared for remediation purposes, and the children were placed in special classes with low student-teacher ratios. However, when compared to a promoted control group that also received extra help, the retained students still lagged behind.”

These kinds of research findings about retention programs have prompted educators to look for alternatives to retention. A growing number of schools are using one-on-one tutoring programs, the best known of which is the literacy program, Reading

Recovery, a preventive program that works with students who perform in the bottom 20 percent of their class. According to two studies conducted by researchers in the late 1980s, Reading Recovery students substantially outperformed control students on almost all measures of reading. Researchers found the program reduced the number of retentions by nine percent.

After-school programs have also gained popularity as a way to avoid retaining students, although there’s little research on their effectiveness. One exception is the Exemplary Center for Reading Instruction (ECRI) based in Salt Lake City. This program employs teachers as tutors after school who use a variety of instructional methods in an attempt to reach all learners. In a study of students in grades 2 through 7 in Tennessee, researchers found the ECRI students significantly outperformed those in the control group on the Stanford Achievement Test in reading comprehension and vocabulary. And in North Carolina, administrators were able to track a 20 percent drop in retention over a two-year period of using the ECRI program.

According to the report, “Of all the interventions being touted as alternatives to retention, mandatory summer school is the least studied.” Some research has begun, however. For example, the Chicago school district supplies summer school teachers with lesson plans and a schedule to follow, which focuses solely on reading and math skills. The district’s approach has quickly been adopted by other urban districts, including Washington, D.C., Milwaukee, Denver, Long Beach, CA, and the 89,000-student Gwinnett County, GA district. In 1997, the second year of Chicago’s new policy, 41,000 students were assigned to summer school. Approximately 16,000 passed the Iowa Test and were promoted; 17,700 did not pass and were retained; and about 7,000 did not finish and were automatically retained. However, a review of the program found that 70 percent of the students achieved some gains over the summer.

More information about the effectiveness of summer school and other intervention programs can be found on two websites. Current and past issues of the *Harvard Education Letter* are available at <http://www.edletter.org/past/issues/>. Another source that offers an excellent summary of recent research about the need for multi-faceted intervention programs that saturate the school culture with opportunities for second chances to ensure success is found at <http://wwwwcsteep.bc.edu/ctestweb/retention/retention2.html>.

**FISCAL IMPLICATIONS:**

Fiscal information is not available for all provisions of the bill. However, the House Fiscal Agency notes that the fiscal year 2000-2001 school aid bill, Senate Bill 1044 as enrolled, contains \$38 million for early elementary summer school programs in reading and math, and \$15 million for the Michigan virtual high school, for a total of \$53 million in the coming fiscal year. Additional funding also is proposed for the future.

Specifically, Section 32g of Senate Bill 1044 provides that from the state school aid fund there would be allocated an amount not to exceed \$38 million each fiscal year for 2000-2001 and for 2001-2002, and an amount not to exceed \$50 million for 2002-2003, for payments to districts to provide summer school instruction in reading and mathematics for pupils in grade 1, 2, 3, or 4. Senate Bill 1044 also describes the summer school program in considerable detail in the provisions of Section 32g.

Further, Section 98 of Senate Bill 1044 specifies that from there would be allocated an amount not to exceed \$15 million for 2000-2001, and an amount not to exceed \$1.5 million each fiscal year for 2001-2002 and for 2002-2003 to the department, to provide a grant to the Michigan virtual university for the development, implementation, and operation of the Michigan virtual high school. Section 98 describes the goals of the program in considerable detail, in a manner that corresponded to the goals described in an earlier version of House Bill 5802. (6-22-00)

**ARGUMENTS:****For:**

When children have inadequate literacy and numeracy knowledge and skills, they are unable to read and compute in the world. Their opportunity is severely constrained without these academic tools. Early and repeated summer school opportunities can provide children more chances to learn beyond the traditional academic year. According to a limited body of research about summer school effectiveness, it clearly provides students with extra help they need to meet standards and prevent grade retention. Although enhanced summer learning opportunities are a more effective option than either social promotion or grade retention, the research also indicates that summer school works best for struggling students when school leaders saturate a young student's school life with opportunities to access the extra help they need to

succeed. Summer school, in combination with a multi-faceted strategy that attends to both academic and social needs and that is designed to prevent failure, is an optimal program to ensure literacy and numeracy. In short, opportunities for second chances must be a part of the school culture--a visible part of every adult's and every student's work in the school. A summer school program will not increase a student's literacy and numeracy if it is a district-wide remedial program that lets individual schools off the hook for ensuring that every student succeeds.

**For:**

The virtual high school will not grant a high school diploma. Neither will it compete with the state's public schools and public charter schools. Instead, the virtual high school will exist to supplement the courses offered in existing high schools, by helping school districts to identify high quality on-line courses that can be offered to students in distance learning classrooms. The virtual high school will be especially welcome in remote areas of the state where small school districts often are unable to offer students advanced placement courses. Once it gets underway, access to high quality instruction that is offered by Michigan teachers in learning environments of between eight and 25 students will be possible. Designers of the school envision courses offered between school districts at little or no cost, sometimes in barter arrangements in which one district would provide an excellent teacher and course, in exchange for a number of "seats" for students who could enroll in other courses offered by another district's teacher.

**For:**

This bill could help thwart a constitutional challenge to the state's efforts at school improvement. There exists a legal challenge to determine the constitutionality of Public Act 10 of 1999 (Senate Bill 297), a law passed by the legislature earlier in the session which allows a city's mayor to work with the governor and appoint a new school board in a school district that fails to adequately educate the children who attend its schools. The law, as originally enacted, applied to a single qualifying school district of the first class, a term defined to mean a school district with more than 100,000 students. Given this definition, there is, in Michigan, one first class school district, and it is located in Detroit.

After Public Act 10 was enacted, the governor together with the mayor of Detroit appointed a reform school board in that city. Since that time a constitutional challenge has been mounted, to argue that Public Act 10 violated Article IV Section 29 of the Michigan

Constitution, which prohibits the legislature from passing a local or special act where a general act can be made applicable, and which requires that a special act be approved by two-thirds of the members elected and serving in each house, and by a majority of the electors voting in the district affected.

The Senate added amendments to House Bill 5802 whose effect would be to extend the idea of school board reform beyond a single district of the first class. Those amendments envision a future in which other school districts might be designated as 'districts of the first class', if their student populations surpass the threshold of 100,000 pupils. The bill also extends the state's school board reform policy by substituting the public act's reference to "the city" with the words "a city, village, or township in which any portion of the qualifying school district was located."

**Response:**

This action by the legislature testifies to the unconstitutionality of Public Act 10 of 1999. By taking remedial and corrective action to expand the language of the statute, the leaders of the state legislature have explicitly acknowledged a violation of Article IV Section 29. This action makes manifest the subterfuge that affronted the citizens of Detroit when their voting rights were ignored and the election of their school board arbitrarily and unilaterally vacated by the state legislature. Article IV Section 29 has long been a provision of the Michigan Constitution. The requirements for a two-thirds vote of both houses and a majority vote in the area affected is in the constitution to protect localities against precisely the kind of arbitrary action that the citizens of Detroit experienced. Public Act 10 of 1999 was clearly directed at but one school district in the state; further, the statute was written to allow a takeover of that district without regard for the uniform application of educational standards, and without regard for protection afforded by the state constitution.

**Reply:**

Courts have consistently ruled that size and population of cities are not unreasonable standards for the legislature to adopt in classification of cities for purpose of application of laws. Indeed, densely populated areas present problems of governmental management and control different in kind, quality, and magnitude from those faced by less densely populated areas. There is a reasonable relationship between the population of a jurisdiction and the need for differentiation when it comes to matters of policy. On these grounds, Public Act 10 of 1999 would not be found unconstitutional.

**For:**

Since the provisions that would have constituted a Principal's Bill of Rights were removed from this bill during floor debate in the legislature, it now complies with the Public Employees Relations Act (PERA).

Portions of the principal's rights section of this legislation as it was introduced seemed to make the principal into the "employer" under the Public Employees Relations Act (PERA). This would have inappropriately and unlawfully conflated the role of the principal with that of the local school board (or the public school academy board of directors). Under the law, the school boards, alone, are charged to hire personnel in a school district. Both the hiring and the assignment of teachers are clearly duties reserved under the law for an employer. A principal is not the employer in schools. Rather, he or she is the building leader whose main purpose should be to coordinate curriculum and instruction.

**Against:**

This school improvement bill will be less effective than it could have been, because the Principal's Bill of Rights was eliminated during floor debate in the House of Representatives.

In January 2000, the governor made his State of the State Address, and among the policy initiatives he proposed was one that would establish a Principal's Bill of Rights. The executive office developed the proposal for a principal's bill of rights, working together with representatives from the organization that represents 96 percent of the secondary and middle school principals in Michigan -- more than 2,025 school administrators. As the principals developed their bill of rights, they welcomed the challenge posed by greater accountability. However, in order to be accountable, the principals stressed the need for more authority in the school buildings they govern. They argued they needed a stronger voice in staffing their buildings; a definitive role in the development of the school improvement plans; an opportunity to participate in budget development at the beginning of the budget-making process in their local school district; and the opportunity to allocate the often small but important pool of discretionary funds assigned to a building.

The principals point out that they are accountable for learning under the school code. Only they among the school employees who are charged to improve

teaching, learning, curriculum and assessment can be fired at will. They suggest that more authority for principals is necessary if the stakeholders in schools wish to ensure greater accountability. According to committee testimony, scores of principalships stand unfilled today. Indeed, some schools have substitute principals on short-term 90-day contracts. Part of the difficulty filling the positions can be attributed to the significant demands placed on principals, coupled with their attenuated authority and limited ability to meet expectations--both their own, and those of others. A Principals' Bill of Rights is necessary. What is more, it is urgent.

***Response:***

Although school administrators should be empowered, the best way to accomplish this goal is not to pass a state law to mandate certain powers in every school district. Education policy experts have known for some time (and industry is coming to know, as well), that true authority emanates from a complex balance of leadership and teamwork, not from bequeathing powers to a single person. For example, giving the principal the right to modify a school improvement plan really removes any incentive for wholehearted involvement from parents, residents of the community, and other employees including teachers and the principal. A better model for authority within the school improvement plan is for the principal to be the leader of the planning efforts, helping produce a positive outcome with buy-in from all parties by virtue of the quality of his or her input, not because the principal is vested with extraordinary power. Recent research indicates that "distributed leadership" is necessary in effective schools.

***Against:***

Already, far too much time is given over to tests in elementary schools. While summer school should be an opportunity for those school children with inadequate literacy and numeracy skills, the children who would be eligible for summer enrichment programs can be identified without administering norm referenced tests. Instead, teachers can make these evaluations and assessments, based on their classroom knowledge of the children's work and their growth and development as learners.

Analyst: J. Hunault

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