



A Union of Professionals

AFT Michigan  
AFL-CIO

January 2012

# CAPITOL REPORT

## Projected Surplus for Fiscal Year 2012

At the conclusion of the Consensus Revenue Estimating Conference, State Treasurer Andy Dillon, Senate Fiscal Agency Director Ellen Jeffries and House Fiscal Agency Director Mary Ann Cleary agreed that revenues for FY 2012 will be **\$416.3 million more than previously anticipated**. That is \$278 million more for the General Fund (GF) and \$138.3 million for the School Aid Fund (SAF). **Overall, revenues for the current fiscal year are expected to be \$19.79 billion, which is still a 1.3 percent decline from 2011.**

Although the **School Aid Fund** was upgraded to \$10.7 billion, this still represents a **4.3 percent decline in revenues**. This resulted partly because last year's business tax restructuring will cause a one-year decrease in the School Aid Fund in 2012 of about 3.8 to 5 percent.

Forecasters believe the state will net \$9 billion in **general fund** revenues, **a 2.5 percent growth from the last year**. This increase is because income tax collections are expected to grow with the taxation of pensions, reductions of personal income tax credits, and an increased employment.

Taking into account the current spending factors, there will be enough money in the General Fund this year and in the next couple of years. But the School Aid Fund, will be "scraping by" in 2012 and be in the hole in 2013 before improving in 2014.

**For 2013**, the revenue increase is expected to be \$216.3 million, \$126.5 million in the General Fund and \$89.8 million in the School Aid Fund.

President David Hecker said in a statement on January 13, *"This surplus needs to be immediately shared with our schools and communities in order to reduce class sizes, reopen libraries, restore financial aid for college students, and put police, fire, and other essential workers back on the street. Let's not delay over political games - the Legislature should send this money back to our communities where it belongs."*

**Pupil Estimates:** The state estimates that there are 1.55 million students enrolled in the K-12 system this year, an increase of 500 students from May's estimate.

**Next year**, the state expects to see a reduction of students to 1.54 million based on the continuing trend of fewer births each year. But that is still 5,900 more students than predicted in May. Most of those, **5,000, are expected to attend charter schools because of recent changes to the law.**

David Hecker  
President

Lois Lofton Doniver  
Secretary-Treasurer

Louise Sontalski  
Legislative Coordinator

419 South Washington  
Suite 301  
Lansing, MI 48933  
517-371-4300  
FAX 517-371-1922

The K-12 public school population is expected to take another dip in 2013-14 by 6,900, although *charter schools are expected to add 10,000 more students that year*. If legislation lifting the cap on cyber schools passes, along with dual enrollment opportunities for non-public school students and home-schooled students, it could increase the pupil count and further stress the School Aid Fund.

## Snyder's State of the State Address

In his State of the State address, Governor Rick Snyder delivered more of a report card on where the state stands and a call on the Legislature to complete work on key unfinished items from his 2011 agenda.

Governor Snyder listed *teacher tenure reform, the anti-bullying law, and lifting the cap on charter schools* among his major achievements of 2011. As for key items remaining to be accomplished in 2012, the Governor included *cyberlearning*.

The one notable new proposal Governor Snyder announced in his State of the State address was a request for legislation *empowering the Education Achievement Authority to oversee the worst schools in the state*. The EAA was set up initially through an intergovernmental agreement between the state, Eastern Michigan University, and the Detroit Public Schools, to oversee the Detroit Public Schools and any other schools in districts that fall under an emergency manager (Highland Park schools will soon have one as well). The Governor wants to ensure that the EAA has sufficient legal authority to withstand a court challenge.

**Governor Snyder's 2012 - 2013 Budget Proposal  
Will Be Announced on Wednesday, February 9th.**

## Domestic Partner Bills: 1 Signed and 1 Vetoed

On December 28, Governor Snyder signed **House Bills 4770, to become Public Act 297 of 2011**. This act prohibits public employers from providing medical benefits or other fringe benefits for an individual currently residing in the same residence as an employee of the public employer if the individual: is not married to the employee; is not a dependent of the employee; or is not otherwise eligible to inherit from the employee under the laws of intestate succession in this State.

If a collective bargaining agreement or other contract that is inconsistent with the prohibition is in effect for an employee of a public employer on the bill's effective date, *the prohibition will not apply to that group of employees until the agreement or contract expires or is amended, extended, or renewed*.

*"Public employer"* includes school districts, a public school academies, or an intermediate school districts; community colleges or junior colleges. *State university employees are excluded under Michigan's Constitution.*

**House Bill 4771** would have amended the *Public Employment Relations Act* to make the provision of medical benefits or other fringe benefits for an individual currently residing in the same residence as an employee of the public employer but not married to the employee; a dependent of the employee; or otherwise eligible to inherit from the employee; *a prohibited subject of collective bargaining*.

**Governor Snyder VETOED House Bill 4771** because it would have wiped out newly passed Act 260 of 2011, prohibiting local government service sharing from being a *subject of collective bargaining*. The Governor did not condemn the intent of House Bill 4771, so we may see a revised bill that includes the provisions of Act 260 of 2011.

## Changes to Unemployment System

**Senate Bill 806 (H-1)** was signed by Governor Snyder to become **Public Act 269, effective December 19, 2011**. This act amends the *Michigan Employment Security Act* with provisions that affect claimants' eligibility and disqualifications, as well as penalties and recoveries.

For businesses, this act increases the wage base employers pay unemployment taxes on from \$9,000 to \$9,500, and shortens their experience window from five years to three years. Small businesses can also spread their tax payments out over the year.

Public Act 269 of 2011, includes actions that *disqualify an employee from collecting* unemployment benefits for: failing to keep their training up to date; voluntarily leaving work; missing three consecutive days of work without informing their boss; testing positive for drugs; and stealing from the business. The act sets unemployment fraud exceeding \$3,500 as a felony (*threshold was \$25,000*).

Under Public Act 269 of 2011, claimants must be *"actively engaged"* in seeking work to receive benefits. Claimants are required to use reporting methods like the Unemployment Insurance Agency's online reporting system; a written report by fax or mail; or appearing in person at a Michigan Works office. The Unemployment Insurance Agency is authorized to conduct random work search audits.

This act requires that, after 10 weeks of state assistance, jobless workers take a job if it *pays at least their area's prevailing wage or is 120 percent more than their assistance check*, even if it is outside of their field of training. It also *grants amnesty to allow employers* to determine whether a worker is an employee or independent contractor.

## Worker Compensation Changes

**Governor Snyder signed House Bill 5002 to become Public Act 266, effective December 19, 2011**. This act amends the *Worker's Disability Compensation Act* to do the following, with respect to injuries incurred on or after the bill's effective date:

- ▶ Require an injury to be *"medically distinguishable"* from an employee's prior condition in order to be compensable.
- ▶ Require an employee's perception of actual events to be *grounded in reality*, for a mental disability to be compensable.
- ▶ Provide that a limitation of wage-earning capacity would occur only if an employee were *unable to perform all jobs paying the maximum wages in work suitable* to his or her qualifications and training.

- ▶ Include wages an employee earns or is capable of earning in the definition of "*wage-earning capacity*," and provide that an employee would have an affirmative duty to seek reasonably available work.
- ▶ Allow wage loss to be demonstrated by an employee's *good-faith effort to find suitable work*.
- ▶ Require an employee to demonstrate certain conditions in order to establish an *initial showing of disability and wage loss*.
- ▶ Provide that an *employer would bear the burden of refuting* an employee's initial showing of disability and wage loss.
- ▶ *Include pension or retirement payments* that an employee was entitled to receive, among amounts that must be deducted from weekly benefits.
- ▶ Allow an employee to be treated by his or her own physician *after 28 days, rather than 10 days*, from the start of medical care.
- ▶ Require the effect of medical treatment to be considered in a determination of whether the *loss of a specific body part* had occurred.
- ▶ *Revise the calculation of interest* on weekly compensation.
- ▶ Delete provisions under which a *wife is presumed to be dependent* on her husband for support.
- ▶ Allow the parties to stipulate to certain determinations regarding a *redemption agreement*.
- ▶ Allow claims to be made either *electronically or on written forms*.
- ▶ Allow an application for a hearing or mediation to be *submitted electronically*, and a magistrate's opinion and order to be submitted and *distributed electronically*.
- ▶ Require *magistrates to be evaluated annually, rather than biennially*.
- ▶ Require the director of the Worker's Compensation Agency to report to the Legislature by April 1, 2012.
- ▶ Provide that the *State would guarantee the payment of claims* for benefits against certain self-insured authorities if an authority were to dissolve.

The bill would also delete provisions concerning the *Qualifications Advisory Committee*, and would repeal Section 209 of the Act, which creates the Committee. The bill would transfer responsibilities of the committee or its chairperson to the Michigan Administrative Hearing System (in the Department of Licensing and Regulatory Affairs) or its executive director. In addition, the bill would repeal Section 211, which provides for the appointment of hearing referees.

## **Bills Target Unions**

In hearings before *House Oversight, Reform and Ethics Committee* on January 17 and 24, testimony was presented on a package of four bills which we believe are *discriminatory and punitive to union members*.

**House Bill 5023 (Lyons, R-Alto)** would amend the *Public Employment Relations Act*, which currently prohibits strikes by public school employees and lockouts by public school employers, to extend those prohibitions to *all public employees and all public employers*. It requires the Employment Relations Commission to fine a bargaining representative of public employees \$5,000 per day for illegal strikes or a public employer \$5,000 per day for illegal lockouts.

**House Bill 5024 (McMillin, R-Rochester Hills)** modifies the penalties for *mass picketing* to allow the local circuit court to *"grant injunctive relief."* It would also allow a civil fine of \$1,000 per day for any person illegal picketing. The union or organization would be subject to a civil fine of \$10,000 for each day the picketing group is in violation of an injunction.

**House Bill 5025 (Poleski, R-Jackson)** would require employers to receive annual written consent of employees for *deducting union dues from wages*.

**House Bill 5026 (Price, R-Park Township)** would *remove the current requirement that advertisements for employees give adequate notice that there is a strike or lockout at the place at which employment is being offered*. It would also prohibit contracting for the importation of strikebreakers from out of state.

## **Bipartisan Workgroup on School Quality Named**

Senate Majority Leader Richardville (R-Monroe) and Speaker of the House Bolger (R-Marshall) have announced the creation of the *Workgroup on School Quality*, created under the recently signed Public Act 277 which lifted the cap on charter schools. The workgroup is to focus on *student growth* and *submit its recommendations not later than March 30, 2012*.

Members of the workgroup appointed by Richardville include Senators Pavlov (R-St. Clair Township), Colbeck (R-Canton), Caswell (R-Hillsdale) and Hopgood (D-Taylor). Bolger appointed Representatives Yonker (R-Caledonia), Rogers (R-Brighton), Shirkey (R-Clark Lake), and Rutledge (D-Ypsilanti). Senator Pavlov will be chair of the workgroup. He is chair of the Senate Education Committee and was the sponsor of the bill that lifted the cap on charters.

Their first meeting was held on January 17, where it was determined that data will end up being a key part of what the workgroup does. Representative David Rutledge (R-Ypsilanti) said their recommendations should be simple, effective, measurable and "apolitical."

## **Pledging School Aid Payments for Debt Repayment**

**House Bills 5194 (S-1) and 5195 (S-1) (Durhal, D-Detroit)** would amend the *Revised School Code and State School Aid Act* to allow the pledging of State school aid payments for the repayment of notes issued to borrow money. Under current law, state school aid payments may be pledged, but without a statutory lien, a bankruptcy court may nullify the dedicated payment stream of State school aid to the repayment of the notes.

These two bills seek to place a lien upon the state school aid payments used by districts or intermediate districts as security for issuing notes in order to borrow money (typically for short-term cashflow borrowing purposes). The proposed changes would likely provide investors with additional security by creating a statutory lien on State school aid payments to school districts and ISDs to be intercepted and directly paid (on behalf of the districts or ISDs) to the MFA or to its trustee.

*(These bills would stave off an increase in Detroit Public Schools' bond payments. Without the added guarantee to the bond insurer, DPS would have to increase its repayment schedule by five years, adding another \$21.7 million payment next year alone. Without the statutory change, a bankruptcy judge could abolish the school aid payment dedicated to pay off the bond note.)*

**House Bills 5194 and 5195 were presented to the Governor for his signature on January 24.**

## **Revisions Coming to School Employee Pensions**

We anticipate proposals from a workgroup to reduce school employee retirement benefits as outlined in the current year budget bill. The focus has been to “reduce the cost to school districts and respond the unfunded accrued liability in our pension fund. To date, there does not seem to be a consensus among Republicans regarding what changes should be implemented.

Senators Kahn (R-Saginaw), Pavlov (R-St. Clair), Jansen (R-Grand Rapids), and Walker (R-Traverse City) are charged with developing a Senate proposal and seem to have a difference of opinion as to whether future school employees should be placed in a defined contribution plan and the cost effectiveness of paying for the unfunded accrued liability. House workgroup members are Representatives Moss (R-Birmingham), Rogers (R-Brighton), Olson (R-Saline), and Farrington (R-Utica). They seem to be focused on whether to move future employees into a defined contribution plan or remove them from retiree health care.

Points many Legislators are unaware of include:

- A great majority of school employees have been in a contributory pension plan for many years;
- The new changes to MPSERS enacted last session place “new hires” into a hybrid pension plan with a greatly reduced defined benefit portion; and
- The successful efforts by the ORS have kept MPSERS retiree health benefit costs from increasing.

**We will keep you advised as soon as retiree benefit bills are introduced.**

## **Voter Verification or Voter Suppression?**

A package of bills have been introduced in the Senate that are aimed at verifying voters' citizenship and decreasing fraud by requiring more documentation. However, voting rights groups are saying the legislation could make voting more difficult for certain groups and infringe on people's right to vote. This package includes:

**Senate Bill 751 (S-1) (Green, R-Mayville) and (Robertson, R-Grand Blanc)** would create active and inactive qualified voter files; require a ballot tracker program to be used by local governments; and require the Secretary of State to send notice to an elector when receiving a surrendered state driver license of that elector.

**Senate Bill 754 (S-2) (Jansen, R-Grand Rapids), (Green, R-Mayville) and (Robertson, R-Grand Blanc)** would require photo ID for in-person voter registration applicants. It would also require and provide registration and training of third-party voter registration organizations through the Secretary of State and county clerks.

**Senate Bill 803 (S-1) (Booher, R-Evart)** would require a declaration of U.S. citizenship when voting or applying for an absent voter ballot. If a person did not answer the citizenship question, their ballot would not be counted.

**All three bills were substituted in the Senate Committee on Local Government and Elections before being reported to the Senate floor on December 6, 2011.**

## **Poverty Rose During Decade**

The *Michigan League of Human Services* has reported that poverty has "grown dramatically" throughout the past decade, "with more children and families in poverty, fewer families able to afford rent, more homes in foreclosure, and more breadwinners out of work."

***Child homelessness grew 40 percent*** between the 2009-10 school year and the 2011-12 school year, with 31,000 children homeless and more than 700,000 on food assistance, according to the report. Michigan also had the ***fourth-highest increase in family poverty*** among the states between 2006 and 2010 and the ***second-highest drop in the U.S. in median income.***

Reducing poverty in Michigan will be key to restoring the state's economy, according to a report, "Ties that Bind: Poverty and Michigan's Economic Recovery," issued by the Michigan League of Human Services.

**Proposed Legislation of Interest**  
**Introduced between December 15, 2011 and January 24, 2012**

<b>Bill</b>	<b>Description/Sponsor</b>	<b>Status</b>
SB 885	<b>SCHOOL AID SUPPLEMENTAL</b> - Provides for a multi-section school aid supplemental for the 2011-12 fiscal year. <i>(Kahn, R-Saginaw)</i>	Senate Appropriations
SB 886	<b>SCHOOL AID SUPPLEMENTAL</b> - Provides for a multi-section school aid supplemental for the 2011-12 fiscal year. <i>(Kahn, R-Saginaw)</i>	Senate Appropriations
SB 899	<b>SCHOOL FUELING</b> - The intermediate school board of an intermediate school district may enter into a swap, hedge, derivative, or similar agreement in connection with the procurement of diesel fuel. <i>(Walker, R-Traverse City)</i>	Senate Education
HB 5234	<b>WORKER'S COMPENSATION</b> - Requires employer reimbursement for physical therapy services only if services provided pursuant to prescription from a licensed health professional. <i>(Yonker, R-Caledonia)</i>	House Insurance
HB 5240	<b>PLEDGE OF ALLEGIANCE</b> - Require the "Pledge of Allegiance" to be recited each day in school and require instruction in certain United States historical information. <i>(Agema, R-Grandville)</i>	House Education
HB 5241	<b>TEACHING CERTIFICATIONS</b> - Allow major in accounting or writing to count toward certification requirements for teacher certification. <i>(Genetski, R-Saugatuck)</i>	House Education
HB 5261	<b>SUBSTITUTE TEACHING</b> - Allow retirant employed to provide substitute teaching services by entity other than reporting unit without forfeiture of retirement allowance or health care coverage if reporting unit pays 10 percent of compensation to retirement system. <i>(Hughes, R-Montague)</i>	House Education
HB 5263	<b>SCHOOL AID SUPPLEMENTAL</b> - Provides multisection school aid supplemental for fiscal year 2011-12. <i>(Moss, R-Birmingham)</i>	House Appropriations
HB 5264	<b>SCHOOL AID SUPPLEMENTAL</b> - Provides multisection school aid supplemental for fiscal year 2012-13. <i>(Moss, R-Birmingham)</i>	House Appropriations
HB 5267	<b>DROPOUT RECOVERY PROGRAM</b> - Provides for special pupil membership count and seat time exception for qualifying dropout recovery program. <i>(Genetski, R-Saugatuck)</i>	House Appropriations
HB 5270	<b>SUBSTITUTE TEACHING</b> - Removes requirement that retiree performing substitute teaching services who is employed by entity other than reporting unit or as an independent contractor. <i>(Dillon, D-Grand Rapids)</i>	House Education

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**MARK YOUR CALENDAR!**  
**LOBBY DAY - MAY 22, 2012**