



## LEGISLATIVE UPDATE

July 2017

### State Update

**MPSERS Changes Become Law:** On July 13, after some suspense, Governor Snyder signed into law [Senate Bill 401](#) (Pavlov), which will place new public school employees into a defined contribution (DC) retirement plan as the default, with an option to select a hybrid defined benefit (DB) plan if they chose to do so. The bill was a compromise that leaves the Michigan Public School Employees Retirement System (MPSERS) open, while limiting the investment risk to the state through a number of reforms outlined in detail in the [Senate Fiscal Agency analysis](#):

- Starting February 1 of 2018, new employees would be placed into a defined contribution (DC) plan as the default, with an option to select a hybrid defined benefit (DB) plan if they chose to do so.
- The new DC plan would be enhanced by requiring a 4% mandatory employer contribution, and optional 3% employee contribution, with an additional 3% employer match paid by the School Aid Fund (SAF). Currently, employers are only required to match 3% of the employees' first 6% of employee contributions.
- It would require that the normal cost of the hybrid plan be split 50/50 between employer and employee. Normal costs are estimated at about 12% of payroll, i.e. it would be a 6%/6% cost share. Additionally, any future unfunded liability that may occur would be covered 50/50 between employer and employee.
- The assumed rate of pension fund earnings would be reduced from 7.5% to 6%. Doing so represents the largest single cost associated with the bill, as with less assumed earnings, increased contributions are required.
- It would provide a "trigger" that would close the hybrid system if the funded ratio of the hybrid plan fell below 85% for two consecutive years based on a five-year smoothing, and a 12 month time period for the State to appropriate funds to avoid closure of the hybrid.

SB 401 now becomes Public Act 92 of 2017.

**Community College Budget:** On July 14, Governor Snyder signed into law a School Aid omnibus budget, [House Bill 4313](#) (Kelly), which did not include any changes from the community college appropriations bill that was reported from the joint House-Senate conference committee on May 6. The bill would grant community colleges a 1% increase, totaling \$3.2 million. Of that amount, \$1.8 million was put through the traditional funding formula, benefiting all 28 colleges. The remaining \$1.4 million was split among 11 colleges to ensure that every college sees at least a 2.5% increase from the current year when combining the funds resulting from the Personal Property Tax situation and the funds the subcommittee added in the budget. The Legislature concurred with the Governor's recommended funding for upgrades to the Michigan Transfer Network, but did not reinstate funding for the Independent Part Time Student Grant. Full details are available on [the MCCA website](#).

By contrast, the general government omnibus appropriation bill, [House Bill 4323](#) (Cox) included a current-year supplemental appropriation for [Capital Outlay projects](#). As you may recall, the Governor had recommended new planning authorizations for 3 university and 2 community college projects. The conference report includes 3 university projects, 2 of which had been recommended by the Governor, and 8 community college projects only one of which had been recommended by the Governor. In addition, several previous projects received construction authorization. HB 4323 is now Public Act 107 of 2017 and HB 4313 is now Public Act 108.

**Business Tax Incentives Advance:** After months of negotiation, in July the Legislature finalized passed a three-bill package allowing large-scale employers to keep a portion of the income tax generated by new employees if they meet certain job creation goals. Under the bills, [SB 242](#), [SB 243](#) and [SB 244](#), eligible businesses creating at least 500 new qualified jobs that pay the average wage or higher for the prosperity region in which the business is located would receive up to a five-year, 50 percent abatement on the personal income tax withholdings of new employees. Companies creating at least 250 qualified new jobs paying wages at 125 percent or more of the prosperity region AVERAGE wage would be eligible to receive up to a 10-year, 100 percent abatement. The bills now go Governor Snyder for his signature.

**Educational Access Instruction Act:** Also in July, Governor Snyder signed [Senate Bill 249](#) (Shirkey), which would prohibit educational institutions – including community colleges – from placing deed restrictions on property such that another school could not use the property, and would prohibit a local government from enforcing zoning limitations that would have the same effect. SB 249 is now Public Act 98 of 2017.

**State Authorization Reciprocity Extended:** In addition, on July 13 Governor Snyder signed [Senate Bill 260](#) (Hildenbrand), which extends the sunset date of the Higher Education Authorization and Distance Education Reciprocal Exchange Act by six years. The act was currently set to expire on September 30, 2017, while the bill makes the new sunset September 30, 2023. SB 260 is now Public Act 99 of 2017.

**Governor Releases Michigan Career Pathway Alliance Recommendations:** In late June, Governor Snyder unveiled a [comprehensive series of actions and recommendations](#) aimed at improving career pathways in order to close Michigan’s talent gap and continue building a more prosperous future. Proposals include expanding and strengthening career technical education statewide through a series of approaches, including curriculum changes, increased collaboration between educators and employers, and added resources for students to discover and prepare for potential opportunities.

The proposals complement the Governor’s priorities from the [21st Century Education Commission report](#), including statewide use of competency-based learning, creating more career paths for teachers, increasing access to postsecondary education, and holding the right people accountable.

State Superintendent Brian Whiston [signed a directive](#) setting some of the actions in place immediately. Others are recommendations that would require legislative changes, or would be the first steps in an important discussion about addressing long-term challenges.

**Energy Financing Option Advances:** In early June, the full House of Representatives voted to support [House Bill 4457](#) (Iden), which would allow community colleges to use tax-exempt lease purchases to finance energy improvement projects. Similar bills have passed in recent months granting that authority to municipalities and K-12 school districts. HB 4457 now moves on to the Senate.

**Promise Zone Expansion:** Also in early June, the House Education Reform Committee took testimony on [Senate Bill 98](#) (Ananich), which would amend the Michigan Promise Zone Authority Act to permit the Department of Treasury to certify up to 11, rather than 10, governing bodies of eligible entities to establish a promise zone; and require the additional eligible entity to be a city with a population of more than 80,000 and less than 120,000 in which a declaration of emergency was issued for drinking water contamination. The Committee did not vote on SB 98.

**House Passes Physical Presence to Vote:** After much delay in committee, in June the House passed [House Bill 4184](#) (Theis) by a vote of 96-12. HB 4184 would require that a member of an elected public body be physically present to be able to vote. If a person is participating in the meeting remotely and votes more than once in a year, it would be a violation of the Open Meetings Act. The bill now goes to the Senate for consideration.

**Data Bills Pass House:** In mid-May, the House of Representatives overwhelmingly voted to support [House Bills 4545](#) (Ellison) and [4546](#) (Howell). Together, HB's 4545 & 4546 would clarify that community colleges may access wage data for certain research purposes, and would require the Unemployment Agency to develop a process that entities such as colleges and universities could use to request such data. The bills would also clarify responsibility for misuse of wage data, allowing that liability to be assigned to the employee who actually handles the information, rather than a public official. The bills now go to the Senate for consideration.

**Campus Speech Bills Get Hearing:** On Tuesday, May 16, the Senate Judiciary Committee took up three bills that would be potentially problematic for community colleges in Michigan. [Senate Bill 349](#) (Colbeck) would create the Campus Free Speech Act, creating strict limitations on speech-related policies at public colleges and universities. [Senate Bill 350](#) (Colbeck) would require any community college accepting state funds to submit to a number of policies regarding free expression, as well as a Higher Education Committee on Free Expression in the Department of Education. The Committee did not vote on SB's 349 & 350 and they are not on the Committee agenda for this coming week.

**Committee Moves Substitute Requirement Changes:** Schools would potentially have expanded pools of substitute teachers under legislation reported in April from the House Education Reform Committee. Under [House Bill 4069](#) (Tedder), those with 60 college credits or an associate's degree would be able to apply for a substitute teaching certificate. The bill would also make the most recent retirees more attractive by eliminating the current requirement that, for those who retired between June 30, 2012, and September 1, 2015, the district pay the unfunded accrued liability portion of their retirement costs in addition to the substitute fee. HB 4069 now goes to the full House of Representatives.

**Merit Curriculum Changes Pass House:** In April, the full House of Representatives voted to support several bills that would make changes to the Michigan Merit Curriculum. [House Bills 4315](#) (Griffin) and [4316](#) (VanderWall) would revise the current foreign language and visual or performing arts

requirement to instead require three credits of 21<sup>st</sup> Century Skills. [House Bill 4317](#) (Hauck) would allow 30 hours of OSHA training to fill the health education requirement for graduation. Finally, [House Bill 4318](#) (Howell) would allow a student to take a statistics course in place of the current Algebra 2 requirement. The bills now go to the Senate for consideration.

**Merit Curriculum Discussion Continues:** Over the course of the spring, the Senate Education Subcommittee on the Michigan Merit Curriculum held a number of hearings about whether Michigan's high school curriculum sets the appropriate standards for today's students. Committee members have raised several questions about the fact that the Merit Curriculum sets high standards and yet many students require remedial coursework when they enter a postsecondary institution. MCCA staff will continue to monitor the conversations.

## Federal Update

**House Subcommittee Marks Up Education Funding Bill:** On July 13, the House Appropriations Subcommittee on Labor, Health and Human Services, and Education (LHHS-ED) marked up its fiscal year (FY) 2018 funding bill. While the [text of the bill](#) has been released, funding tables and report language are not yet available. Hence, many details regarding specific funding levels and policy riders remain unknown.

The discretionary allocation for the House's FY 2018 LHHS-ED bill is \$5 billion below last year's funding level. This is over a three percent reduction in funding. Unfortunately the Pell Grant reserve fund (also known as the Pell Grant surplus) bore the brunt of this lower allocation with a \$3.3 billion cut. The cut would not have an immediate impact on students. The Pell Grant program is slated to roll a \$8.5 billion surplus into FY 2018, and in practical terms the proposed cut would change the projections for when a future Pell shortfall may occur.

However, the continued use of the Pell Grant reserve fund to backfill budgetary gaps limits the ability of Congress to utilize those funds to expand and modernize the Pell Grant program. Reserve funds were used to reinstate Year-Round Pell in the FY 2017. ACCT continues to advocate for using the surplus to reinvest in the Pell Grant program; including extending Pell Grant eligibility for short-term training programs and continuing inflationary increases to the maximum award.

Under the House bill the Pell Grant maximum award remains flat for FY 2018 at \$5,920. Funding for state grants under the Workforce Innovation and Opportunity Act are cut by \$85 million. Funding for Perkins Career and Technical Education and Adult Basic Education appears to remain level to that which was provided in FY 2017. Funding for TRIO and GEAR UP is increased by \$60 million and \$10 million respectively. There are additional cuts of at least \$87 million to higher education programs, but those have not yet been specified.

ACCT and AACC have [submitted a letter](#) outlining community college funding priorities for FY 2018.

**House Passes Perkins CTE Bill:** On June 22, the House approved the Strengthening Career and Technical Education for the 21st Century Act, HR 2353. [The legislation](#), introduced last month by Rep.

Glenn Thompson (R-PA), is similar to the Perkins Career and Technical Education (CTE) reauthorization bill overwhelmingly passed by the House last year. Highlights of the bill include:

- \* Maintaining the overall federal-to-state and state-to-local funding allocation formulas, while providing a gradual increase in the authorization level for basic state grants.
- \* Aligning the Perkins Act more closely with the Workforce Innovation and Opportunity Act (WIOA) by streamlining the state application process.
- \* Increasing engagement with business, industry, and community stakeholders in the CTE planning process.
- \* Updating existing accountability measures relying on four core indicators that are more closely aligned with the indicators under WIOA.
- \* Providing states more control over CTE implementation and planning.

The Senate has yet to act on the legislation.

**Community Colleges Provide Comments on Regulations:** In response to the upcoming negotiated rulemaking sessions on gainful employment (GE) and borrower defense to repayment, ACCT and AACC have [provided comments](#) regarding priorities.

**Year-Round Pell Revived:** In a major victory for community colleges and their students, the FY 2017 [omnibus appropriations bill](#) reinstates year-round Pell Grants beginning with the 2017-18 award year. The omnibus bill funds federal agencies through September 30. Starting July 1, the maximum Pell Grant increases to \$5,920. The language allows students to receive up to 150% of their scheduled award—in other words, a 50% summer increment—in any given year. Importantly, students who attend part-time or otherwise don't complete 24 credits in the first two terms of the award year are eligible to receive an additional Pell award. Congress has directed the U.S. Department of Education to issue guidance on the implementation of year-round Pell by July 1.

The bill also rescinds \$1.3 billion from the Pell Grant surplus, which is \$10.6 billion in FY 17. This diversion of resources from the Pell program is unfortunate, but it was widely expected. Notably, the amount taken is not a cut to the baseline appropriation for the program, and so will not necessarily carry forward into future years.

**Level Funding for Most Other Programs:** Most other programs important to community colleges and their students were level-funded in the omnibus bill, a reflection of the overall budget climate. Level-funded programs include Perkins Career and Technical Education, Adult Education and Family Literacy, HEA Titles III and V, Supplemental Educational Opportunity Grants, Federal Work-Study, Childcare Access Means Parents in School, Workforce Innovation and Opportunity Act formula programs, and the National Science Foundation's Advanced Technological Education program.

The TRIO and GEAR-UP programs, longstanding favorites of House Labor, Health and Human Services, and Education Appropriations Subcommittee Chair Tom Cole (R-OK), are slated for increases of \$50 million (to \$950 million) and \$17 million (\$340 million). Department of Labor (DOL) apprenticeship grants will receive an additional \$5 million (\$95 million). Congress has directed DOL to increase apprenticeship opportunities for women. The bill rescinds \$75 million previously appropriated for the

Dislocated Workers National Reserve.

**Student Loan Servicer Recompete:** In an April 11 [letter to Federal Student Aid Chief Operating Officer James Runcie](#), Secretary DeVos withdrew several policy memoranda from former Secretary John King and former Under Secretary Ted Mitchell regarding the student loan servicing procurement process. “[This] procurement affords us a significant opportunity to improve outcomes and experiences for federal student loan borrowers, as well as demonstrate sound fiscal stewardship of public dollars,” the Secretary said. “We must create a student loan servicing environment that provides the highest quality customer service and increases accountability and transparency for all borrowers, while also limiting the cost to taxpayers.”