

Legislative Update

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“Health Care Reform” – The Legislative Commission on Governmental Efficiency continues to focus on health care benefits of public employees, particularly employees of public schools. Created by statute to examine ways to achieve efficiency in government, the commission has obsessed with finding ways to cut benefits and thereby reduce the compensation of school employees through the creating of a single, statewide, government run health care plan for all public employees, including school employees.

This is merely a revisit of SB 55 and SB 56 from a few years ago, and ignores the findings of a private study commissioned by the Senate and conducted by the Haye Group that there are not significant administrative efficiencies to be achieved by dismantling the health care system that is currently in place for public school employees.

Without waiting for this commission to issue its report, Speaker of the House Andy Dillon (D-Redford Township) has unveiled a proposal to do what the commission has been contemplating, adopt a law to require all state, county, local, school district, community college and university employees and retirees to be part of a mandatory government run health insurance system. HB 5345, the bill to accomplish this, was introduced on September 10th and referred to the House Public Employee Health Care Reform committee for consideration.

HB 5345 sets up a thirteen member state committee, made up of political appointees of the governor, the speaker of the House and majority leader of the Senate, to establish a few benefit packages (4 or so) that would be mandatory as the only packages by which public employees could be covered. The bill does contain a loophole to allow local units that can demonstrate, through an expensive, time consuming actuarial study, that it has a plan that provides comparable benefits at a savings of 5% or more.

Collective bargaining between public employers and employees would be limited to which of the State mandated plans, if any, are available to employees and how much the employees will pay in premium sharing, co-pays, deductibles, etc. In other words, public employees will not be allowed to bargain over their total compensation packages, only over how much they pay for a state mandated, government defined plan that may or may not meet their needs.

Contrary to the impression given by backers of the plan, **COVERAGE WILL NOT BE PROVIDED TO ALL EMPLOYEES**. These backers stated clearly in hearings that it will only apply to those employees for whom the employer is providing benefits and it will be up to the employer to decide whether specific groups are or are not covered.

So called experts called upon to defend this government takeover claim that it will save nearly \$1 billion per year. They provide little actual data or methodology to defend this claim, they simply make the same claim over and over. The largest portion of the \$1 billion would come in the form of benefit reductions based upon the unfounded assertion that public employees enjoy “Cadillac” plans and we can save big money by reducing their benefits. More honest experts point out that it

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is impossible to calculate how much, if anything, this proposal would save because insufficient data exists and only a serious actuarial study could reach valid conclusions.

The next hearing of the special House Committee on Government Health Care is scheduled for Thursday, October 8 in Lansing.

BUDGET – On May 15 the May Revenue Estimating Conference was held. The consensus of the representatives present (State Treasurer, head of the Senate Fiscal Agency and head of the House Fiscal Agency) is that the school aid fund (SAF) revenue for 2008-09 will be down by an additional \$425.0 million from the estimate they made in January; while the SAF revenue for 2009-10 will be off by an additional \$732.8 million from the January estimate. By comparison, the SAF revenue in 2007-08 was \$11,512.9 BILLION. For 2008-09 the new estimate is \$10,943.7 BILLION, a drop of \$569.2 million or 4.9%. In 2009-10 the current estimate is for SAF revenue of \$10,563.0 BILLION, a drop of \$949.9 million or 8.25% over the two years from 2007-08.

Since then, the actual revenue has consistently fallen below the projections of the Revenue Estimating Conference. On September 16 the Speaker of the House and Majority Leader of the Senate agreed on a procedure to resolve the budget impasse. They have directed their appropriations sub-committee chairpeople to develop compromise budget bills within the overall dollar amounts contained in the Senate budget bills that were previously adopted. In other words, the chairpeople can rearrange the spending, but the totals cannot exceed the amount designated by the Senate in its earlier action.

The bottom line is that public schools would take a hit of \$410 million in 2009-10.

On September 29 a conference committee adopted a report on HB 4447 enacting the agreement between the two leaders, Rep. Andy Dillon (D-Redford Twp) and Sen. Mike Bishop (R-Rochester) on how to reach the \$410 million reduction to schools. It called for an overall reduction of \$218 per pupil from the total allocation to each district. The specific changes earlier enacted by the Senate were NOT adopted (see below), but rather the report said that ON PAPER each district would receive the same per pupil allowance and categorical amount as in 2008-09, but that after the total is calculated it will be reduced by \$218 per pupil. The district would decide what programs to reduce in order to live within the final, reduced payment from the State.

On Wednesday, September 30 that conference committee report went before the House of Representatives for approval. Under the rules, it could not be amended or modified, it could only be approved or rejected. The first time it was put to a vote only 32 out of 110 representatives voted YES, leaving it 23 votes short of the needed majority. Just before midnight it was put to a vote again, and after about 30 minutes to vote, it was rejected by a vote of 106 to 2 (2 representatives were absent due to serious illness). That means that there is no adopted budget for K-12 schools for the 2009-10 school year and the Legislature must keep working to come up with one.

Also on September 30, the Senate adopted a one month “continuation” budget for K-12 schools (SB 252) that would run till October 30. In that bill they continued funding at the

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2009-10 level MINUS the \$218 reduction in the total. The Senate did NOT give the bill immediate effect meaning it cannot go into effect until late March of 2010. The House approved the bill, but restored the funding level to the 2008-09 level.

What this means is that we do not yet have a final budget for the full year. The first state aid payment to local schools is due on October 20 but we do not have legislation to permit that payment. The “continuation” budget covering only the month of October is not agreed upon and, even if they could agree on the funding level, DOES NOT HAVE IMMEDIATE EFFECT, so it will not be effective by October 20 and, therefore, does not authorize the payment to local districts. THEREFORE, THE CRISIS FOR SCHOOL AID WILL COME SHORTLY BEFORE OCTOBER 20TH WHEN THE FIRST PAYMENT IS DUE. Stay tuned for further developments.

MEA opposes the conference report because the cuts are too extreme and are not necessary given the funding that is available.

The Senate had earlier passed a proposed School Aid bill for 2009-2010. The School Aid bill is HB 4447, started off with a number of cuts proposed by the Governor, was restored to a continuation of the 2008-2009 budget by the House, has once again gone under the knife. As revenues continue to decline with little talk of trying to seek revenue enhancements, the Senate has proposed cuts from the 2008-2009 budget levels of \$410 million. The Senate passed version if enacted by the Senate would call for the following cuts:

1. Foundation allowance is reduced \$110 per pupil	\$174,000,000
2. School Readiness District Programs	\$ 88,400,000
3. Special Education ISD Millage Equalization	\$ 36,881,100
4. Declining Enrollment – Section 29	\$ 20,000,000
5. Non-District School Readiness	\$ 15,150,000
6. Declining Enrollment Section 6(4)(y) Rural Schools	\$ 10,600,000
7. Voc Ed ISD Millage Equalization	\$ 9,000,000
8. Small High Schools	\$ 8,000,000
9. Dearborn’s At-Risk Payment	\$ 5,875,000
10. ISD Ages 0-5 Early Childhood	\$ 5,000,000
11. Child/Adolescent Health Centers	\$ 4,743,000
12. 5% Cut to ISD Operations	\$ 4,086,100
13. Math/Science Centers	\$ 3,500,000
14. Voc Ed 10% Reduction	\$ 3,000,000
15. Bilingual Education	\$ 2,800,000
16. Adult Ed 10% Reduction	\$ 2,400,000
17. Michigan Virtual University	\$ 2,250,000
18. Interagency Early Childhood	\$ 2,125,000
19. Health/Science Middle Colleges	\$ 2,000,000
20. Grosse Pointe/Harper Woods Pilot Programs	\$ 1,500,000
21. School Bus Inspections	\$ 1,436,500
22. Youth Challenge	\$ 1,295,100
23. Transportation Grants	\$ 1,275,000
24. Precollege Engineering	\$ 980,100

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25. Redford Union, Chippewa Valley, Clintondale	\$ 850,000
26. Isolated Districts	\$ 750,000
27. Early Childhood Investment Corporation	\$ 750,000
28. After School Math	\$ 725,000
29. Advanced and Accelerated	\$ 285,000
30. Cultural Access Grants	\$ 100,000
31. Central Michigan Univ. Lending Library	\$ 100,000
32. Newslines	\$ 80,000
Total Reductions	\$410,136,900

How the Numbers Work

1. The 2008-2009 budget is estimated to end with a surplus \$171 million	
2. Revenue estimates for Fiscal Year 2009-2010	\$10.8827 billion
3. General Fund Contribution	\$31.8 million
4. Federal Aid	\$1.5618 billion.
5. Estimated total revenue	\$12.3276 billion.
6. Appropriations CURRENT SERVICES BASELINE	\$13.1567 billion
7. Senate proposed cuts	\$410.1 million
8. Total Estimated Expenditures	\$12,7466 billion
9. Balance without Tax or Fee Increase/before ARRA	(\$419.0 million)
10. Proposed Lottery revenue increase	\$15.0 million
11. Balance After Additional Lottery	(\$404.0 million)
12. ARRA Fiscal Stabilization Fund	\$634.1 million
13. Balance after ARRA at close of Fiscal Year	\$230.1 million

The Senate version also modifies the minimum day/hours per day requirement. The Senate proposal for 2009-2010 changes the House passed requirement by specifying that in 2010-2011 and 2011-12 there will be 165 days of instruction and by 2012-2013 there will be 170 days of instruction, with no minimum hours per day specified. The bill does NOT contain any language exempting districts with settled contracts for these years from compliance with the minimum days of instruction requirements.

Community colleges will receive the same funding as this year under the Governor's proposal for 2009-10. On April 2 the House passed HB 4435, the Community College appropriation bill for 2009-10, and sent it to the Senate. The funding for community college operations was frozen at the current level, the same as the Governor proposed. However, total appropriations were increased by \$97,000,000 through the addition of federal stimulus funds for job training programs. **On September 29 the final version was adopted, setting funding at the same level as in 2008-09.**

Higher Education. Public universities take a hit of 3% in the allocation for each institution. Combined with other cuts, higher education is reduced by a total of \$100 million when compared to 2008-09. On April 2 the House passed HB 4441, the Higher Education budget bill for 2009-10, and sent it on to the Senate. The bill restores university operations to the current

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year levels through use of a portion of the federal stimulus dollars. **On September 30 both chambers of the Legislature enacted a final version of the Higher Ed budget. It contained the 3% reduction in the allocation to each university along with an elimination of the Promise Grant student aid.**

Neighborhood Charter Schools – This package of bills would allow virtual unlimited expansion of charter schools with no accountability or oversight. Billed as “Neighborhood” schools, they have little to do with neighborhoods and a lot to do with unregulated, anti-union and no job security charter schools. The bills are SB 636 sponsored by Sen. Wayne Kuipers (R-Holland) that amends the school code, SB 637 sponsored by Sen. Nancy Cassis (R- Novi) that amends the state aid act, SB 638 sponsored by Sen. Patricia Birkholz (R-Saugatuck) that amends the teacher tenure act, and SB 639 sponsored by Sen. Bill Hardiman (R-Kentwood) that amends the public employee relations act.

The bills in the “Neighborhood” Schools package allow a majority of teachers or parents in a local school to convert that school to a charter school. It also allows the authorization of charter schools to be operated by any organization, association, corporation or other person, including a city, county, village, township, school district, ISD, community college, public university, a department or other agency of state government or another person or entity. Authorization would come from the State Board of Education, a local school board, an ISD school board, a community college, a public university, or the mayor of a city with over 65,000 residents.

For a conversion neighborhood school, a majority of the parents and a majority of the certified teachers at the school must vote to approve the application. The teachers must have been notified in writing that, if approved, they would not be covered by the collective bargaining agreement of the district. SB 639 amends PERA to reflect this fact. Likewise, SB 638 amends the teacher tenure act to provide that the tenure act does not apply to these or to any neighborhood school.

One type of neighborhood charter school is a statewide “cyber school” that would be chartered to provide full time cyber learning for any student who is a resident of the State.

SB 636 also allows any charter school to enter an agreement with another charter school to allow students to progress from one to the other without going through any open enrollment or screening procedure. This is an effort that was pursued unsuccessfully last year to expand the number of charter schools in the State without lifting the cap.

The bills also provide that the Superintendent of Public Instruction shall establish alternative routes to certification or approval to allow teachers to be employed in neighborhood charter schools.

The bills provide that any future collective bargaining agreements in public schools and ISDs must include a provision allowing leave of absence to teach in neighborhood charter schools.

The MEA opposes this package of bills. The bills have been reported to the floor of the full Senate by the Education Committee. Behind the scenes negotiations between education leaders in the Senate and the House have begun to try to find a package both can support that

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encompasses parts of the Neighborhood Schools proposal with parts of the School Reform/Takeover package that cleared to House.

School Reform/Takeover Legislation – On June 25, compromise versions HB 4787, HB 4788 and HB 4789 were passed by the House of Representatives and forwarded to the Senate for consideration. The bills adopted were essentially the same as the versions reported the previous week by the House Education Committee, with some minor clean-up amendments. The MEA supports this compromise package and urged support from legislators. The principal bill, HB 4787, makes numerous amendments to the School Code, while the other bills make amendments to the Public Employment Relations Act and technical amendments to the State Aid Act. The major provisions of the amended package are:

- HB 4788 amends the Public Employment Relations Act (PERA) by removing three of the “prohibited subjects of bargaining” from Section 15. Specifically, it removes the prohibition against bargaining over the decision to privatize support services and the impact of that decision on the employees; it removes the prohibition against bargaining over the terms of a leave of absence to teach in a charter school; and it removes the prohibition against bargaining over the first day of the school year.
- HB 4788 also provides that if the State Reform Redesign Officer (SRRO) enters a Memorandum of Understanding (MOU) with a local district to mandate changes in the way a failing school operates, including collective bargaining agreements and/or work rules, the SRRO and the local board of education are joint employers for bargaining purposes. The joint employer status would continue of the SRRO later assumes direct control over the building (see below).
- A failing school is defined in HB 4787 as one that has been unaccredited for 4 consecutive years or failed to achieve the federal pupil performance standards (AYP) for 4 years AND the percentage of all pupils in the school who scored at least "proficient" in both math and English language arts on the most recent MEAP or MME was less than 30% in 2010-11 increasing incrementally to 45% in 2015-16.
- Failing schools shall be placed under the control and supervision of the new State School Reform/Redesign Officer (SRRO), a position created in the bill and hired by the State Superintendent of Public Instruction. Within 30 days an evaluation of the school and the district would be done to identify the problems that need correction in order to have the school succeed.
- A school that is identified as failing by the State Superintendent of Public Instruction shall be placed under the control of the SRRO who shall attempt to negotiate an MOU with the local district and all bargaining agents for the employees of the district. The bargaining agents would be involved in the negotiations beginning in the fall of the year in which the process begins with a deadline of January 31st to reach agreement or face possible imposition of an MOU and changes in contracts.
- The school would operate under the control of the local board while the MOU is in place. It would last for at least two years or as long as progress is being made as defined in the MOU, or at least 30% score proficient in math or language arts, or proficiency scores have increased from the previous year by at least 10% of the number who scored proficient last year.

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- If after two years operation under the MOU fails to meet the minimal improvement called for above, the SRRO may take direct control of the school. At this point s/he will have a choice between two options.
 - S/he can operate the building with a “qualified entity” managing it and employees of the local district providing the education. Qualified entities" are entities with at least one contract to operate at least one charter school and whose charter school pupils MME or MEAP scores are at least 10% higher on average than the scores of students in the host district(s).
 - S/he can authorize a “turnaround” charter school and issue a contract to a qualified entity to operate it under strict controls. AT THAT POINT THE FAILING SCHOOL BUILDING WILL BE ORDERED CLOSED.
- The bill provides that ONLY the SRRO can act as the authorizer of a turnaround charter school (not the universities, community colleges, ISDs or local districts).
- The bill contains extensive language governing turnaround charter schools and providing transparency and accountability. We think that it is as good, or nearly as good, as it can be.
- The bill also contains language that significantly tightens the accountability and transparency of all charter schools and the private contractors who operate them.

We believe that the bills have been changed in a way that makes them a positive contribution to improving the education of children and working conditions of employees in the school. First, the bill turns control over to a person with the experience and the authority to reform the building. It wrests control away from the bloated, smothering, often corrupt school board and administrative bureaucracies. It protects the right of employees to be represented by their union and to negotiate any changes in working conditions that the SRRO believes to be necessary. It makes the creation of a turnaround charter school the last resort, not the first resort.

The bills have been sent to the Senate. We expect some action on these bills in conjunction with the “Neighborhood Charter School” package, below. However, Sen. Wayne Kuipers, chairperson of the Senate Education Committee has not indicated when action can be expected.

Conversion Schools – A two bill package introduced by Rep. Phil Pavlov (R-St. Clair) would create a new class of independent public schools called conversion schools. The package, HB 5237 and HB 5238, has been referred to the House Education Committee. The bills provide that a majority of the “tenured teachers” at an existing public school building or a majority of parents/guardians of the pupils enrolled at an existing public school may petition the controlling board of education to make the building a conversion school. If the controlling board does not approve the petition then it may be submitted to an ISD, community college or public university for approval. If approved the school becomes a conversion school. If the controlling board approves the petition, the employees continue as employees of the district covered by any existing collective bargaining agreement. If the approval comes from one of the authorizing agencies the employees are not employed by the district and the collective bargaining agreement does not apply to them.

The MEA opposes the conversion school bills. It is another way by which the cap on charter schools can be broken. The conversion schools would have significantly less oversight, transparency, accountability, etc., than would regular charter schools. It is also a means by which

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a group of disgruntled parents could take control of a school and run roughshod over the rights of the employees in the building to the detriment of the employees and the children they teach.

Mayoral Control/Takeover – HB 5236, sponsored by Rep. Phil Pavlov (R-St. Clair) would apply to 1st class school districts (Detroit) beginning in 2010. It provides that the board of education would become the mayor of the city. The elected board of education would cease to exist. The MEA does not have a position on the bill but we do have some questions. Most particularly, we do not see evidence that any mayor of Detroit can effectively manage the city and provide basic municipal services in an efficient or effective manner, and it would seem premature for the mayor to take over control and operation of the schools.

First Class School Definition – HB 4047 sponsored by Rep. Bettie **Scott (D-Detroit)** would change the definition of a first class school district. Current law defines a first class district as one that has 100,000 or more students. On April 2, 2009 the House passed the bill and sent it to the Senate. The bill redefines the definition to say that any district that met the definition on July 1, 2008 will remain a first class school district at least until July 1, 2010. This is important to the Detroit Democrats and is therefore important to everyone one because they may be willing to trade something else to get it. As of July 1st Detroit is now longer a first class school district. However, there seems to be little interest in adopting legislation that would restore the district to first class status.

Student Hours of Employment – SB 25, sponsored by Sen. Tony Stamas (R-Midland) would raise the number of hours that a student is allowed to work to 20 hours per week during the school year. Currently, the limitation is a total of 48 hours per week combined school time and work time. The MEA opposes the bill because the increase in hours worked conflicts with the ever increasing pressure being placed upon students to achieve a more rigorous curriculum and the time that requires. The bill has passed the Senate and is currently in the House Labor Committee.

School Dropout Age – HB 4030 sponsored by Rep. **Douglas Geiss (D-Taylor)** provides for mandatory attendance until age 18. The H-2 version of the bill passed the Michigan House of Representatives on March 4 and was sent to the Senate where it was referred to the Education Committee. This version provides that any student who turned age 14 on or after December 1, 2007 shall attend school until his/her 18th birthday except that the parents or guardian of the student can give permission for the student to stop attending school when s/he reaches age 16. The MEA supports the bill which would be a strong impetus for children to stay in school and be better prepared for a productive adult life. It would also result in approximately \$200 million additional for schools and several hundred jobs for educators.

A second attendance age bill is HB 4132 sponsored by Lamar **Lemmons (D – Detroit)**. The difference in the two bills is that HB 4030 would apply to all students as of the effective date while HB 4132 would apply to students who turned 14 years of age by December 1, 2007 or later. The MEA supported the bills in committee recognizing that additional work needs to be done developing programs to meet the needs of students who dropout of school.

School Bus Safety – HB 4362 sponsored by Rep. Tory **Rocca (R-Sterling Heights)** would prohibit the use of cell phones by school bus drivers while operating the bus or while students are boarding or exiting the bus. The bill, part of a package of bills regulating cell phone use

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while operating motor vehicles, has been referred to the House Transportation Committee where it is scheduled for a hearing on April 23, 2009.

Privatization – HB 4219, sponsored by Rep. Fred **Miller (D-Mt.Clemens)** would remove the prohibition in the Public Employment Relations Act against school employees having the right to negotiate over the issue of privatization of their services. This bill has been referred to the House Labor Committee. We also know that Rep. Doug **Bennett (D- Muskegon)** plans to re-introduce his bill calling for a cost benefit study prior to a decision to privatize and Rep. Rick **Jones (R-Grand Ledge)** plans to re-introduce his bill giving existing employees the right to bid on any work that is slated for outsourcing/privatization.

Charter Schools - Related to the first class school issue is HB 4063 sponsored by Rep. Lamar **Lemmons (D-Detroit)**. It would remove the prohibition against community colleges issuing charters in a first class school district (Detroit), a provision that has been in the School Code since charters were first established in Michigan in the mid-1990s. It effectively allows Bay Mills Community College, a statewide Native American institution, to issue charters in every district except Detroit without regard to the overall cap on the number of charter schools in the State. Bay Mills has used this loophole to open over 30 charters in this decade. Under HB 4063 Bay Mills could also authorize charters in Detroit on the same basis as it does in the rest of the State.

School Employee Retirement Stimulus – This issue has created a considerable stir in Lansing and has been one of the major topics on everyone’s mind for several weeks. HB 4285 sponsored by Rep. Fred **Miller (D-Mt. Clemens)** and SB 255 sponsored by Sen. Wayne **Kuipers (R-Holland)** were introduced in late February and would have done the following:

- Increase the multiplier to 2% for those who retire during the designated window.
- The window to apply to retire is April 1, 2009 through March 31, 2010.
- The window to retire is from 30 days after application through June 30, 2010.
- The member must go directly from active employment to collecting a pension.
- The member must agree to have his/her pension suspended if s/he returns to work in a public school as a contract employee within two years.
- If the member is in a critical shortage discipline as compiled by the State Superintendent as of October 8, 2008, s/he may elect to continue work for up to one year past June 30, 2010 and receive the benefit. These people must apply in the same window as everyone else.
- The bill as introduced contains a cap on the total cost of the additional liability at \$1.5 billion. If more employees apply than can be accommodated within that cap the employees with the greatest amount of service credit worked in the system will receive priority.
- Employees who do not qualify because of the cap on the number who can take the stimulus will have their application automatically voided so they don’t get forced to retire at the 1.5% rate (they could re-apply at the lower rate if they choose to do so).

The agreement was that SB 255 would be taken up first in the Senate and, if it passed there, it would then be taken up in the House of Representatives. The Office of Retirement Services weighed in and provided cost figures that were prohibitively expensive resulting in a situation

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where there were not sufficient votes to move either bill. As of the end of March it was announced that the bills will not be taken up or moved to a vote. This effectively kills the bills.

Retiree Health Benefits - HB 4073 creates an IRS Section 115 irrevocable trust to hold the funding, prefunding, and/or health savings account monies for the school employee's retirement system, the civil service employee's retirement system, the state police retirement system, the judicial retirement system and the legislative retirement system. It is the same as HB 5913 from the previous session, and it has been passed by the House and referred to the Senate Appropriations Committee. MEA is neutral on this bill in its current form, as we participated in work groups during the drafting process to eliminate concerns. This bill does not provide for any type of prefunding of retirement health insurance benefits.

Health Care – HB 4466 sponsored by Rep. Bert **Johnson (D-Detroit)** would create a single payer health insurance system for citizens of Michigan. It would, if adopted, create a new insurance law to provide and define such a system. The bill was introduced on February 26, 2008 and referred to the House Committee on Health Policy.