To: Members of the House Education Committee
From: Mary L. Mason
Re: SB 620 and HB 6004 (H-3)
Date: December 4, 2012

Madame Chair and Members of the Education Committee:

I have been closely following the progress and the debates on SB 620 and on both HB 6004 and SB 1358 with concern. I am an attorney, a parent, a taxpayer and a citizen. In the past, I have been a social worker for the State of Michigan and I helped to start and run an inner city charter school. I am now a doctoral student in educational policy at MSU. While I have many concerns, I include here only those significant ones that I have not seen addressed by others. Following are my thoughts and questions on those matters:

SB 620

This bill provides for conversion of public schools to charter schools. My primary concern is that a public school belongs to the community, not to the parents who happen to have children at the school at a particular point in time. My tax money goes to the school district for all schools, not to a particular school or to each individual child. It is entirely possible, even likely, that many of the parents who begin such a conversion will no longer be at the school by the time it is fully implemented. They are, then, making choices for future parents and children. Can these choices be undone if the new parents so desire? These are choices that should be made by the community, including past, current, and future parents as well as other citizens with a stake in the future of the schools. I am opposed to SB 620.

HB 6004, substitute H-3

This bill provides for codification of the Education Achievement Authority, transferring district school buildings to other "eligible public schools," and making the Education Achievement Authority the state school reform district. All significantly increase the powers of the governor, the EAA and the EAA chancellor.

Section 773 (beginning on page 14) provides for the appointment of the Authority Board by the governor. There are no qualifications for board members. There should at least be some guidelines in the law.

- Is there anything requiring that board members be residents of the state?
- Shouldn't at least one or two of them have some connection to the communities whose schools they will oversee?

- Shouldn't board members be required to have some experience, even expertise, in public education?

Sec 1260a (beginning on page 33) provides for transfer of closed, unused or unoccupied school buildings to an "eligible public school."

This section should not be in this bill. It is a wholly separate topic with ramifications that need to be carefully considered before any such law is adopted. There are many questions, and ambiguities, among which are:

- It affects buildings, closed, unused, or unoccupied, used for **classroom instruction.**
  - How much of the building has to be used for classroom instruction? By the district? By the eligible public school taking it over? For how long?
  - For example, is one classroom in an administrative building sufficient to make it a classroom building?
  - Is there a certain percentage that can be used for administration or other purposes and still fall under this section as being for classroom instruction?

- This section also provides that the district shall take reasonable and necessary precautions to **prevent waste**.
  - This seems reasonable, but could be a rather high cost for what could be years - 48 months – while the district is required to keep the building, and can't dispose of it, all just in case someone else might want it.
  - It can put an additional financial burden on districts with declining enrollment, especially if they are closing a number of schools.
  - What is the standard for waste and who will determine that?
  - Will there be an audit of the building's condition when it goes on the list? If so, who will do it and who will pay for it?
  - Who will monitor the condition of every empty school building in the state?
  - What are the consequences for not complying with this provision?

- Buildings are to be **leased or sold** to eligible public schools for **fair market value** (FMV).
  - On what terms?
    - For example, can the district retain a right of reversion on a sale?
    - What if the parties don't agree? Who decides?
  - Who determines FMV? In real estate transactions, usually it is determined by outside appraisals.
    - Will there be more than one appraisal? Who chooses the appraiser(s)?
    - Who pays for the appraisal(s) that will determine FMV?
    - What procedure will be followed?
    - What if the parties disagree?

    - It is extremely difficult in most instances to determine fair market value of a school building. School buildings are unique in most communities and comparables are hard to find in many, if not most, cases.

- If not used for classroom instruction within 2 years, the state may exercise a right of reversion and place it back on the list. The state may bring an action for quiet title if an eligible public school doesn't surrender possession.
  - Apparently this means the state takes title rather than the original district?
  - What if the building is not entirely paid for – to the district or to other mortgage or bond holders?
  - What is the state's legal interest in the title to school district property? Is it legally/constitutionally possible to take property of another entity this way? These buildings are paid for with local funds, not state funds. Title is in the school district, not the state, so it cannot "revert" to the state and the state cannot quiet title. How will this work?

- The new provision (Section 1260a(10) on page 36) that limits the application of much of that section to "a public school that is under the control of the Achievement Authority" is unclear.
  - I am not sure if that applies to the district whose building is being taken over or to the "eligible public school" that is taking it over.
  - It seems excessive that every district in the state would be required to place buildings on the list and hold them just in case at some time in 48 months the Achievement Authority might want them. Is this really what the legislature intends?
  - How big will this new "district" be and will it realistically be large enough to affect all school districts in the state?
  - This provision needs to be reworked and clarified.

I have many other concerns, most of which have already been addressed by others. Overall, this legislation is complex and has the potential for many unintended consequences. It should not be passed without long and serious debate and consideration among **all** of the stakeholders. I know from experience that it takes time, even several years, before a new school, and particularly a new school system, has settled enough to be able to assess what it is, much less to evaluate its success. The Education Achievement Authority is too new to be expanded this dramatically and rapidly. The legislature has already enacted a number of laws that seek to reform and improve "failing" schools. We need to give those laws a chance to work before adding another unknown to the mix. Significant change takes time. We risk interference among so many competing reforms that could keep any of them from working.

Thank you for considering my comments.