

LegislativeUpdate

Michigan Association of Superintendents & Administrators | June 7, 2019



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Summary

This week in Lansing we finally saw the House K-12 Budget. Their proposal does not include the weighted allocations for CTE, special ed or at-risk, but does use the 2x funding formula. We are not surprised about this outcome, and the smaller numbers reflect the May revenue conference projections and no additional revenue. The three versions of the budget are significantly different, and we

anticipate several weeks of negotiations before the budget is adopted.

Our Government Relations staff provided a brief summary of the House budget this morning at 9 a.m. If you were unable to join us but are still interested in the information, you may watch the recording [here](#). We plan to host periodic live updates on hot topic issues such as the budget in the future.

As always, please contact [MASA](#) with any questions or concerns.

House Proposes Taking School's Sales Tax Revenue

On Thursday, the House released the remaining budgets in addition to School Aid. When the School Aid Fund budget was available, we were pleased to see that the \$500 million of School Aid Fund dollars for higher education was removed. However, as the committee hearing went on and the Transportation and Higher Education budgets were made available, it was clear that even though higher ed funding was removed from the School Aid Fund, it was accomplished by eliminating the first four cents of sales tax on fuel. This ultimately reduces School Aid Fund dollars and any growth associated with fuel sales tax.

Dedicating all of the taxes paid at the pump toward roads is something that the House Speaker, Rep. Lee Chatfield (R-Levering), said many times in the press and MASA has always rebuked. We joined other education organizations in issuing a [press release](#) to that effect last night.

The House Transportation budget includes \$524 million increase for roads. This dollar amount would be available once the House steals the 6% sales tax on fuel for roads. Currently, 73% of all sales tax revenue goes to K-12 education. The remainder goes to local governments and other spending items paid out of the General Fund.

During the House Appropriations Transportation Subcommittee, Rep Maddock (R-Milford) said that 4% of the 6% sales tax would be shifted to roads in the current

year, and then the last 2% would be moved next year. House Republicans claim that we would be held harmless because they will backfill the loss of the gas sales tax revenue with the \$494.3 million School Aid dollars that were not included the higher ed budget. While this might technically be true, there is no plan to replace any of the growth that these revenue streams have produced over the years, effectively cutting revenue to the School Aid Fund...again.

House Republicans are getting creative to search for the \$2.5 billion dollars needed for roads. Their transportation budget has a number of items listed that the state will be accepting RFPs for the sale of the Blue Water Bridge, eight welcome centers, and department-owned rail properties. Also, in the discussion for possible sale are four state-owned airports in Plymouth, Linden, Romeo, and Houghton Lake.

Michigan owns its portion of the Blue Water Bridge. The bridge is jointly owned with Canada. This is not the first time that this concept was discussed. Years ago then-Detroit Mayor Kwame Kilpatrick pushed for the city to sell its portion of the Detroit-Windsor tunnel to address city budget problems, but that never came to fruition. We are getting ahead of ourselves here, probably, but it's important to point out that if the state ever sells its portion of the Blue Water Bridge, it would be a one-time funding source.

We will continue to push back against one-time schemes like this and any solution that does not involve a serious investment in K-12 schools. We encourage you to discuss this with lawmakers and hold them accountable for a long-term revenue solution.

House Resurrects Innovative District Bills

The House Education Reform Committee held a hearing this week and included testimony on a pair of bills you may remember from the Lamé Duck session. HB 4626, sponsored by Rep. Brad Paquette (R-Niles), and HB 4627 sponsored by Rep. Kathy Crawford (R-Novi), allow any school district in the state to apply to be

considered an innovative district and ensure the district or individual schools in the district do not lose funding for creating programs that might not meet standard time frames for schools.

Under HB 4626, the board of a school district could apply to operate as a public innovative district (PID) through the state superintendent. The bill outlines the application and renewal process, operation guidelines and creates the Education Accountability Policy Commission. In order to apply, the board of a school district would have to outline the district's vision for personalized, competency-based education and a description of the expected benefits of the innovative practices for students. They would also have to include how student performance would be measured, evaluated and reported. If approved, the PID status would be valid for five years.

A PID could adopt and implement an alternative assessment of pupil progress that meets ESSA requirements. They also could offer extended learning opportunities, defined as activities that occur outside the school setting. HB 4646 outlines a number of requirements for these opportunities. A statewide auditor would perform audits for each district operating as a PID, selected by the Education Accountability Commission.

The Education Accountability Commission outlined under the bill would be a 13-member commission that prescribes membership requirements and provides for commission duties and powers. The commission would be comprised of the state superintendent or his/her designee, one member appointed by the Senate Majority Leader, one member appointed by the Speaker of the House, three members appointed by the superintendent (one representing PSAs, one representing school administrators, and one current-serving school board member), and seven members appointed by the governor. The governor's appointees must be three individuals representing organizations focused on college- and career-readiness, one representing urban school districts, one representing rural school districts, one representing parents and students, and one representing teachers. Appointees would serve 4-year terms starting July 1, 2019. The governor would have the power to remove any member from the commission. This commission would have

ultimate authority over PID approval and presents many challenges and concerns from MASA's perspective.

HB 4627 would exempt PIDs from the general provisions that determine student count and the hours of pupil instruction. The House Fiscal Agency estimates that the local school districts will see an increased cost based on the degree of change required to meet the requirements in the bill, mainly the cost to create a compliant instructional program. The legislation includes language that would provide state funding for the statewide auditor.

MASA opposed these bills last year and the Government Relations and Policy Committee will discuss them at our next meeting.

Gov. Signs E-Cigarette Bills

On Tuesday, the governor signed SB 105 and 106, legislation that clarifies in statute that it is, in fact, illegal to sell e-cigarettes and other nontraditional nicotine products to minors. Gov. Whitmer was critical of the bills, stating that separating e-cigarettes from the Youth Tobacco Act was a mistake. As you know, the bill implements a state statute against buying and possessing the products. These restrictions would be comparable with those currently in place for tobacco products.

Individuals found guilty of selling or providing those products to a minor would be guilty of a misdemeanor punishable by a fine of up to \$100 for a first offense, \$500 for a second offense, or \$2,500 for a third or subsequent offense. Minors that are found guilty of purchasing, possessing or attempting to do so, as well as using the product in a public space or attempting to use a false ID to do any of the previously described offenses would be charged with a civil infraction and required to complete community service for a first or second instance. Any additional offense would be a misdemeanor. Additionally, the court could also require the individual to participate in a health promotion and risk assessment program, if such a program is available, pursuant to a probation order. The individual would be required to pay

the
cost of the program.

Currently, the U.S. Food and Drug Administration prohibits shops from selling to minors, but there is not a federal regulation or law against minors in possession of e-cigarettes.

Gov. Whitmer also criticized the bills for not going far enough to protect children from nicotine addiction calling for “raising the legal age for purchasing these products to 21, curtailing internet sales of e-cigarettes, and banning the marketing of all tobacco products to children. I’m ready to keep working with the legislature to make sure we’re doing everything we can to protect our kids and our public health.”

MASA took a position of support on SB 106 – the portion of the bill package that addresses the sentencing guidelines for minors found in possession of the vapor products. The association would also like to see stricter guidelines etc., and we are encouraged to hear legislative leaders and the governor advocating the same. These bills are a good first step in curbing this problem in our schools.

Other Things to Know

Press Boxes – The Senate’s version of a bill to exempt press boxes from heating requirements, SB 294, passed the Senate this week. The bill passed on a 33-4 vote. The four Democratic members that voted against the bill are Sen. Jim Ananich (D-Flint), Sen. Erika Geiss (D-Taylor), Sen. Curtis Hertel Jr (D-East Lansing) and Sen. Jeff Irwin (D-Ann Arbor). It is scheduled for a hearing in the House next week, where little opposition is anticipated.

What About the Lottery – This week the U.S. District Court of New Hampshire held in *New Hampshire Lottery Commission v. Barr* that the Wire Act only applies to transmissions related to bets or wagers on a sporting event or contest, not interstate lottery games such as those offered by Michigan and other states. Why

we would care about this? It preserves about \$900 million in funding for Michigan schools.

The federal DOJ opinion was issued in January 2018 and encompassed all types of bets and wagers in the federal Wire Act's prohibitions. Attorney General Dana Nessel took the lead to protect lottery revenue for schools in a [12-jurisdiction brief filed in March](#) supporting the New Hampshire Lottery Commission in two consolidated cases in the New Hampshire federal district court. Michigan was joined by Alaska, Colorado, Delaware, District of Columbia, Idaho, Kentucky, Mississippi, North Carolina, Rhode Island, Tennessee, Vermont and Virginia.

On the ruling, Attorney General Nessel said, "The District Court's decision is a significant victory for Michigan because it protects lottery money that funds Michigan's education system each year. Since 1972, the Michigan Lottery has contributed more than \$22 billion to support public education, including more than \$900 million last year alone. Each dollar spent on education is critical, which is why the Court's decision is so important to the success of Michigan's schools."