

LegislativeUpdate

Michigan Association of Superintendents & Administrators | November 1, 2019



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Summary

This was another week where the legislature worked to erode revenue growth in the School Aid Fund. On Wednesday, the House passed legislation to legalize online gambling on sports betting. The School Aid Fund could lose out on as much as \$28 million. Then, on Thursday, SB 455 moved to the full House. You can read the full details below.

The Senate Education Committee will meet next week for the first time since April. On their agenda is the very much anticipated SB 600, the bill that was introduced by Sen. Jon Bumstead (R-Newaygo) to rewrite the Michigan Merit Curriculum. You have undoubtedly heard about this bill, or maybe even have seen one of the seven drafts that have floated around. MASA has appreciated the bill sponsor's willingness to include us in conversations throughout this process. At this time, our association does not have an official position on the bill. Many members have expressed support but urged caution.

concerning a few of the details. We understand that this legislation would have a large impact on our members and will continue to update you on the legislature's actions on the bill.

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

House Education Committee

The topic this week for the House Education Committee was endorsements. HB 4856 would allow a teacher to have an endorsement or grade level certification on their teacher certificate nullified if it had not been used for seven years. Currently, the time period is 12 years.

The bill is sponsored by Rep. Aaron Miller (R-Sturgis), who testified during committee that his intention is to allow teachers to nullify endorsements in subjects they feel they are no longer qualified to teach due to the passage of time and to ensure they aren't assigned into those subjects.

The flip side of that argument is that if a district hires an individual because they have a variety of certifications or endorsements, this could present issues. Other committee members discussed that this could cause an issue for a teacher if they elect to nullify an endorsement, and then during the time of recession or other situation is in need of that endorsement to have a job. The bill would not make any changes in regard to allowing a teacher in that scenario to regain that endorsement.

Further, the committee reported HB 4974 and HB 4989 to the Ways and Means Committee. Testimony on both of these bills was taken last week. As a reminder, HB 4974 is sponsored by Rep. Greg VanWoerkom (R-Norton Shores) and would modify the MMC to allow students to satisfy the foreign language requirement with computer coding. HB 4989 is sponsored by Rep. Joe Bellino (R-Monroe) and eliminates the requirement that ISDs with populations greater than 1.4 million students must hold a special election on a regional enhancement millage at the next state primary or general election.

Internet Gaming

Tuesday, the House Ways and Means Committee acted on 11 bills to legalize online gaming and sports betting.

The two main bills to make this change are HB 4311 and HB 4916, both sponsored by the Chairman of the Committee Rep. Brandt Iden (R-Oshtemo Twp.). HB 4311 creates the Lawful Internet Gaming Act, which promulgates rules as well as imposes a tax on online gaming. HB 4311 would subject internet gaming licensees to an 8 percent tax. Currently, brick and mortar casinos are subject to a 15 percent tax.

Any reduction in revenues for brick-and-mortar casinos would cause reductions in the School Aid Fund (SAF). There would need to be significant new revenue generated from internet wagering in order to offset this reduction. Currently, a wagering tax of 19 percent is levied on casino Adjusted

Gross Receipts (AGR). Of that amount, 42.6 percent (\$0.081) is distributed to the SAF. Under HB 4311, internet gaming AGR would be taxed at a tiered tax rate that is phased in over five years. The rate would range from 4 percent to 19 percent during the first three years and increase over the fourth and fifth years until reaching an 8 percent tax rate for adjusted receipts of \$4 million or more, and up to 23 percent for gross receipts of \$12 million or more.

Under the bills, the tax rate would depend on how much revenue the casino receives from online gaming so that small, tribal casinos that apply for a license to have online gaming could pay less, while larger casinos that might see more play would pay more.

The House Fiscal Agency stated that for every dollar of AGR lost at a brick-and-mortar casino due to internet gaming would result in a \$.077 loss to the School Aid Fund. For example, a reduction of 1 percent wagering loss at Detroit Casinos would translate to a \$1,169,721 loss to the School Aid Fund. In order to hold the SAF harmless, profit generated by internet wagering would need to be \$2,436,918,384. Another area of concern is that internet gaming may reduce lottery sales, specifically instant ticket or iLottery sales, because many individuals may find them to be similar.

HB 4916 would create a Sports Betting Act, which would create a set of rules for people to engage in sports betting, establish a tax for conducting sports betting, and prohibit certain actions and prescribe penalties for violation. The tax rate in the sports betting bill would be 8.75 percent, plus the 3.25 percent for Detroit casinos with that portion going directly to the city.

The bill sponsor rejects that the legislation would lead to a loss of revenue to the SAF, stating that the bills would provide new revenue currently unrealized by the state, and that online gaming would not take away from iLottery use, which the administration thinks it could.

The State Budget Office has asserted that there is a loss of revenue for the School Aid Fund, and for that reason, MASA remains opposed to the bills.

On Wednesday, 10 of the 11 bills went all the way through the House, with a range in the votes from 69-39 to 62-46. The only bill to get a higher tally was HB 4173 at 104-3, sponsored by Rep. John Chirkun (D-Roseville), which eases regulations on charitable gaming and millionaire parties.

Members did not vote on HB 4307, which would have made various changes to the Michigan Gaming Control Board, including paying members \$1,000 per meeting and allowing a casino to hire someone with a felony on their record if it's 10 or more years old.

Additionally, in Ways and Means, the committee reported HB 4823 – the bill that would revise the way school districts appear on an enhancement millage ballot question. Under the bill, all school districts may be listed collectively as "public schools" rather than individually listing each school. The bill is now on the House floor. MASA supports this legislation.

In one flash of good news, HB 4125 passed the full House on Tuesday. HB 4125 is sponsored by Rep. Scott VanSingel (R-Grant), and modifies earmark for the School Aid Fund and the Michigan Transportation Fund, and eliminates earmark for the Renew Michigan Fund. HB 4125 reverses last year's legislation and returns the SAF earmark, beginning October 1, 2019, to its level before 2018 Public Act 588 was enacted. HB 4125 would increase the SAF by \$172 million in FY 2019-20 and \$177 million in FY 2020-21.

The bill passed the House 104-5 with Rep. Steve Johnson (R-Wayland), Rep. Jim Lower (R-Greenville), Rep. John Reilly (R-Oakland Township), Rep. Matt Maddock (R-Milford), and Rep. Matt Hall (R-Emmet Township). The bill has been referred to the Senate Appropriations Committee.

Data Centers

Some bad news, and some less bad news. SB 455, the tax break for Switch Data Center, was reported from the House Commerce and Tourism Committee yesterday, but the two other bills to exempt all data centers from sales and use tax, HB 5127 and 5128, did not move.

As you're aware, we continually face legislation that impacts revenues to the School Aid Fund, and this week the House Commerce and Tourism Committee considered three more.

The first was SB 455, sponsored by Sen. Jim Stamas (R-Midland). The legislation would allow one company, Switch, to be granted further relief from taxes that go to support school operations and facilities. Long story summed up in a few sentences: Switch does not want to have to pay these taxes. The company claims the bill merely clarifies a 2015 deal it made with the state to locate in a renaissance zone after legislation passed exempting co-located data centers from paying sales or use taxes. In the renaissance zone agreement, that they signed and reportedly read before signing, it explicitly states that this agreement does not "include relief from the payment of certain property taxes relating to bonds, school sinking fund obligations, and special assessments."

While this bill is narrowly written, it will have a negative fiscal impact on the local schools and sets a bad precedent. According to the Senate Fiscal Agency, the bills would impact school funding by \$373,000 with the liability potentially growing upwards to \$20.9 million if they hit development targets discussed in various media reports.

Caledonia Community Schools and the Kent Intermediate School District have been able to negotiate a deal to attempt to keep the school monies on the ground intact, and for that reason, the bill is now moving toward final passage. MASA is pushing for a trailer bill that would ensure the lost sales tax revenue from the existing exemptions is actually deposited in the School Aid Fund.

The bill was reported on a 6-4-1 vote. Two Democrats voted yes, Rep. Mari Manoogian (D-Bloomfield Hills) and Rep. Isaac Robinson (D-Detroit), and two Republicans voted no, Rep. John Reilly (R-Oakland Twp.) and Rep. Luke Meerman (R-Polkton Twp.)

Additionally, the committee continued discussion on HB 5127 and 5128. As we updated you last week, the bills would exclude qualified enterprise data centers from sales and use tax.

The bill defines enterprise data centers as a facility of one or more buildings in Michigan that is owned and operated by an entity operating a group of networked computers to centralize data storage and processing. That building in Michigan does not have to be used for data storage or processing as the bill currently reads. The enterprise data center must have at least \$250 million in capital investment, but it's not required to be new investment (at least under the current version).

The committee had a discussion on whether or not this will truly hold the School Aid Fund harmless. MASA testified in opposition to the bills and in objection to the term hold harmless in general. Associate Executive Director Peter Spadafore told the committee, "hold harmless doesn't mean simply pausing in time. I don't know a school district in this state that has seen expenditures hold harmless from year to year. And when we look at tax incentives with the idea of holding harmless in the legislature it has typically been pausing at the current year level and never assuming growth...further, I'm concerned about these data centers coming back to us next year or the year after

that and saying the deal we made with you wasn't good enough, it wasn't strong enough, we were under a different impression. I don't know what gives me that concern, it's just a feeling I have (see SB455 and Switch)."

ICYMI: MDE Releases Early Literacy (K-3) Grant Opportunities

[Memo #128-19](#)

Early Literacy (K-3) Grant Opportunities

As a part of the State 2019-20 school aid appropriations (PA 58 of 2019 Sec. 35a), the Michigan Department of Education (MDE) is releasing two (2) grants that are intended to increase student achievement in early literacy.