

# LegislativeUpdate

Michigan Association of Superintendents & Administrators | December 6, 2019



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## Summary

Winter may be here, but the ice finally thawed on budget negotiations. Wednesday night, the legislature acted to restore a portion of the budget vetoes, including several areas in School Aid important to MASA members. The deal is detailed below.

We anticipate the legislature to be in next week to put the finishing touches on the budget supplemental and work on a few odds and ends before breaking for the year. We'll keep you apprised of those issues as they come up.

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

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## Legislature Approves Restoring Some Budget Vetoes

The bills that moved Wednesday restore approximately 27 of the 147 line-item vetoes from this year's budget. This equates to around \$459.3 of the \$947 million vetoed. The more than \$400 million leftover from Gov. Whitmer's cuts would likely be re-appropriated early next year.

Among the items resorted, the secondary road patrol program, rural hospital and health care, payments in lieu of taxes to local governments with state property within their borders, and the Tuition Grant program that funds scholarships to low-income students at private colleges and universities. Some of the governor's priorities were included; \$10.5 million for new corrections officers and \$4.5 million for replacement of tethers for parolees/probationers, \$2 million for Proposal 2 implementation, the census and public safety communications, as well as \$50 million to cover the annual fee on health insurers to fund the Affordable Care Act marketplace and \$3.9 million to fund Health Michigan Plan work requirement implementation. Gov. Whitmer had requested \$10 million, so this was a compromise. One notable item that was not restored was the Pure Michigan program.

As far as School Aid goes, the Senate took action on SB 377 and the House took action on SB 154. These bills are identical and make the same changes to our budget. The bills restore FY 2019-20 funding for the K-12 budget by \$70.5 million and amend some boilerplate items. The \$70.5 million is sourced from \$350,000 General Fund Dollars and \$70,150,000 School Aid Dollars.

The bill would restore the following K-12 items that were vetoed by the governor:

- **Sec. 15(j) (PSA Foundation Allowance Increase)** - \$35 million for the foundation allowance increase for public school academies
- **Sec. 97 (Secure Schools Program and School Safety Grants)** - \$10 million for school safety grants
- **Sec. 22d (Small, Isolated Districts)** - \$7 million for isolated rural districts
- **Sec. 25f (Strict Discipline Academy Membership)** - \$1.6 million for added costs at strict discipline academies
- **Sec. 25g (Dropout Recovery Programs)** - \$750,000 for added costs of dropout recovery programs
- **Sec. 54e (PLAY Project Autism Intervention)** - \$350,000 for an autism intervention pilot project
- **Sec. 35c (Multisensory Education)** - \$300,000 for a multisensory education program

The bill **increases** FY 2019-2020 funding for the following items:

- **Sec. 35(4) (Early Literacy Coaches)** - increases by \$10.5 million, from \$21 million to \$31.5 million, increase grant funding from \$75,000 to \$112,500 per coach. The legislation would also remove the requirement that intermediate school districts provide a 50% match in support of the coaches.

Boilerplate changes include:

- **Sec. 31a (At Risk)** – Allows a district's per-pupil revenue to exceed the target foundation allowance and still receive full funding if that excess occurred in the current year but the district's revenue was below the target in the previous year. This addresses a funding formula glitch in the adopted bill.
- **Sec. 35a (Early Literacy)** - The \$5 million for the summer reading program would be for one year of programming, instead of \$15 million spread over three years as the program was structured in the enrolled bill, prior to the veto.
- **Sec. 97 (School Safety)** - \$10 million for school safety grants would be entirely for grants to schools, instead of including an earmark for a school safety app as found in the enrolled bill, prior to the veto; also, private schools would not be eligible for grants under this bill.

Additionally, bills were introduced to address the ongoing disagreement over the powers of the State Administrative Board. HB 5176 and SB 616 state that the inter transfer of dollars for any particular department cannot be made if it will increase or decrease an appropriation by the greater amount of either 3% or \$125,000. There are other proposed changes to the power this board will have, however, Senate GOP leadership has stated that this legislation is only a "shell bill" that will likely be amended once an agreement with the governor is reached.

Also, somewhat unexpectedly, the legislature introduced legislation to impose a budget deadline. HB 5177 and SB 618 would require the state legislature to pass and present budget bills to the governor on or before July 1. If these bills go through, schools can count on settled budgets by the time they must adopt theirs.

Both chambers must approve the actions of the opposite chamber next week before these bills could be sent to the governor.

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## MMC Bill Moves on to Full Senate

On Tuesday, the Senate Education Committee referred the bill to rewrite the MMC to the full Senate. The vote for SB 600 was along party lines and a substitute version was adopted.

The substitute makes changes to clarify that the department is not required to create content expectations for elective courses that a school district may develop. The bill now allows for the ability of special education students and those transferring to the state from out of state to make modifications to graduation requirements. Another change allows for the ability to test out of foreign language requirements if offered as an elective.

The bill is now before the full Senate. MASA does not yet have a formal position on the bill. While increased flexibility and the intention behind the bill are important and priorities the association could support, strong concerns remain in the field about the elimination of the personal curriculum and the persistent focus on specific course titles in state law.

We will continue to work with stakeholders, the bill sponsor, and legislative staff to craft a cohesive position that balances the wide range of concerns expressed by members. We appreciate your ongoing input through emails, phone calls, and other messages on this bill.

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## Online Sales Tax Bills Pass Legislature

HB 4540-43 passed the Senate this week unanimously and the package is headed to Gov. Whitmer's desk. The bills require online marketplace facilitators who sell goods and services off their websites to Michigan customers to pay sales and use taxes. The bills require online retail entities that sell at least \$100,000 in goods or at least conduct 200 retail transactions in Michigan to collect sales and use tax and provide the revenue to the state.

If signed, the legislation would codify a federal court decision, moving the state one step closer to having access to millions in new revenue. Recall that last year's U.S. Supreme Court decision in *South Dakota v. Wayfair* allows states to tax major online retailers. The Michigan Department of Treasury has been operating on internal rules that are allowing it to collect sales tax from online retailers who make more than \$100,000 in sales to Michigan residents or had 200 or more transactions from Michigan customers.

The legislation defines marketplace facilitators as an individual that contracts with marketplace sellers to facilitate the sale of the seller's products through a physical or electronic marketplace, whether or not the facilitator charges a fee. Additionally, to be defined as a marketplace facilitator, entities must communicate about the offer and acceptance, as well as collection of payment (indirectly or directly). A person that rents out rooms or other facilities for temporary facilities or those who provide internet advertising services, including listing products for sale, would not qualify as a marketplace facilitator. The bills amend the Use Tax Act and Sales Tax Act to make these changes.

AT&T, Sprint, Comcast, and other telecommunications were exempt under the bills. They argued that online retailers, like Amazon or Walmart, would be put in a position to collect information that the telecommunications companies currently collect so they can capture local, 9-1-1, and other taxes every month. The concern was that they'll be responsible to pay the taxes of a customer whose information was collected incorrectly and can't be tracked down.

The Department of Treasury estimates that this legislation would generate \$62 million this budget year and \$96 million in the 2020-21 fiscal year. Keeping in mind that the School Aid Fund receives approximately 73% of sales tax revenue, this is a win for schools.

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## House Passes Gaming Bill

HB 4307 sponsored by Rep. Brandt Iden (R-Oshtemo Twp.) was the last bill in the gambling package that the House sent over to the Senate in October. The bill legalizes sports betting and Internet gaming, by making 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.

The constitution requires a three-fourths vote to update the act, which the bill easily won today in the 89-16 vote. There was a mixed bag of those who voted in opposition to the bill including seven Republicans and nine Democrats. If you are doing quick math – that equals 105 of 110 House seats.

Four members were absent, and one seat is open currently because former Rep. Sheldon Neeley (D-Flint) is now the Mayor of Flint.

We have been told (through legislative analysis) that the new language will not impact school revenue negatively, but we have not had a chance to do a deep dive into the impact. We will determine that after a more thorough analysis is completed.

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## Gov Whitmer Announces Statewide FAFSA Challenge

The governor and the Michigan College Access Network (MCAN) are challenging every high school in the state to increase FAFSA completion rates among graduates of the class of 2020. Michigan's 2019 FAFSA completion rate was 55.9%, which was a decrease of 0.7% from the previous year. MCAN seeks to achieve a statewide FAFSA completion rate of 75% in 2020.

"The Governor's FAFSA Challenge" is supported by Michigan Department of Education, the Michigan Association of Secondary School Principals, Michigan Student Scholarships and Grants, the Detroit Regional Chamber, Michigan Department of Labor and Economic Opportunity and Michigan College Access Network.

It is expected nearly 500 high schools across the state will actively participate in the campaign and challenge. Every high school in Michigan will be able to monitor their progress using the [Michigan FAFSA tracker](#).

More information about the Michigan College Cash Campaign can be found [here](#).

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## ICYMI: MDE Updates

### **MEMO #141-19**

*Response to Public Comments on the Proposed Michigan Standards for the Preparation and Practice of Special Education Administrators*

This memo addresses concerns expressed during the first round of public comment on proposed Michigan Standards for the Preparation and Practice of Special Education Administrators and invites participation in a second round of public comment.

[Read the full memo.](#)

### **MEMO #142-19**

*Updates to the Michigan Department of Education Student Growth Percentile Educator Evaluation Calculator Tool*

The Michigan Department of Education (MDE) Office of Educator Excellence (OEE) has prepared an updated version of the MDE Student Growth Percentile (SGP) Educator Evaluation Calculator Tool.

This updated version allows school districts and public school academies to include student growth percentiles from PSAT 8/9 in grade 8 from state assessments in 2019, as well as M-STEP and MI-Access Functional Independence assessments from the springs of 2019, 2018, and 2017 to determine student growth ratings. These ratings may be combined with locally determined student growth assessment data and observation data to determine summative educator evaluation ratings.

[Read the full memo.](#)