

## MEA Lane Duck Recap



In the last few weeks of the year following this past election in November, we had what is known as the “Lame Duck” session. During this time, the Michigan Legislature often attempts to ram through controversial and unpopular laws, because they will no longer face electoral consequences.

This past December, the Legislature took up many controversial bills in the lame duck session. The intensity was stepped up this year because Michigan's Republican controlled-legislature is facing an incoming Democratic Governor, Attorney General, and Secretary of State on Jan. 1, along with reduced Republican majorities in both the House and Senate.

Many of the lame duck bills were aimed at putting roadblocks in the way of newly elected Democratic officials. A couple bills watered down recent ballot proposals that were approved in the Nov. 6 election and attacked the new minimum wage and earned paid sick time laws. Also there were many bills that were significant attacks on public education and labor unions.

However, in what may have been the worst lame duck session in 30 years, when the final gavel went down, most of the significant attacks on education and labor failed to pass.

The four weeks of the lame duck session went by at a hectic pace with late hours that sent almost 400 bills to the Governor. Below is a recap of public education bills, anti-labor bills, and other bills that MEA was working on that were signed by the Governor, vetoed by the Governor, or died from lack of support in the House or Senate.

### Education Bills:

**Twenty-five Percent Evaluation (HB 5707)** – *Unfortunately, this MEA-supported bipartisan bill died in the Senate after passing the House in lame duck.* Sponsored by Rep. Aaron Miller (R-Sturgis), this bill would have kept the percent of the annual year-end evaluation based on student growth and assessment data at 25 percent. Now, student growth and assessment is raised to 40 percent for the 2018-19 school year. We will work to get this legislation reintroduced and passed early in the 2019 legislative session.

**A thru F School Rating (HB 5526)** – *Signed by the Governor.* Sponsored by Rep. Tim Kelly (R-Saginaw). This bill created a school grading system that assigns each public school in Michigan a letter grade between A and F based on specified indicators.

There were many moving pieces in this bill and it was heavily amended in the final hours and even minutes before the vote during lame duck. The biggest change from earlier versions was that oversight authority for the new accountability system was given to the Department of Education. The original version of HB 5526 gave that authority to a controversial 13-member commission that was to be politically appointed.

The new system will assign schools A-F letter grades for several different metrics. Among those are student proficiency, student growth and graduation rate. The graded metrics also include a peer school

comparison, which will grade schools based on their performance as compared with other schools of similar size and demographic makeup. Schools that achieve the lowest grade possible in proficiency, growth and peer school comparison would be categorized as “lowest achieving” and subject to potential sanctions.

Schools would also receive descriptive ratings (significantly above average, above average, average, below average, and significantly below average) for their performance on other metrics. Those include participation rate on state assessments, chronic absenteeism rates and subgroup performance.

But beyond the high level details, this bill leaves much to be determined, mostly by MDE. Those details include things like the business rules for how growth will be calculated, how peer schools will be determined and what sanctions or processes will be imposed on schools that are classified as being “lowest achieving.” The MDE and State Board (with its new 6-2 Democratic majority) [has already asked Attorney General Nessel](#) to weigh in on how this new law may conflict with federal rules under the Every Student Succeeds Act (ESSA).

**Cyber Schools HB 5907** – *Signed by the Governor*. Sponsored by Rep. Ben Frederick (R-Owosso). This bill amended the Revised School Code to require the board of a school district or public school academy (PSA) to notify pupils with certain information related to college level equivalent courses and college level equivalent credit examinations.

Language was added that a cyber school will make services available to pupils for a minimum of at least 1,098 hours during a school year and removes any language that requires that each cyber school pupil participates in the educational program for at least 1,098 hours during the school year. This will allow cyber schools to enroll students with no accountability as to if that student participates in any of the education program – it is basically just a “cash cow” for cyber schools.

**Innovative Schools HB 6314/6315** – *Stopped in the Senate*. Sponsored by Rep. Tim Kelly (R-Saginaw). HB 6314 would have amended the Revised School Code to allow the board of a school district to apply to the superintendent of public instruction for permission to operate as a public innovative district (PID). The bill outlined the application process, the responsibilities of the superintendent, and what requirements must be met by programs offered by a school district operating as a PID. Additionally, the bill would have created the Education Accountability Policy Commission, charged with selecting a statewide auditor to perform audits of all qualifying districts. This bill would have also allowed credits to be granted for extended learning activities, including, but not limited to, independent study, private instruction, team sports, performing groups, internships, community service, and work study. This would have set up a type of “parochial” and “cafeteria style” voucher program.

House Bill 6315 would have exempt PIDs from the general rules for determining the hours of pupil instruction or calculating the full-time equivalency of students (a term used to describe the school’s membership, or student count) in the State School Aid Act. The [“Launch Michigan” coalition of education, business and philanthropic organizations](#) – of which MEA is a partner – collectively opposed this legislation.

**Teacher Preparation Package-Teacher Certifying Institutions (HB 5598-5605)** – *Stopped in the Senate* (except for some bills that never left the House). Taken together, this bill package would have added six sections related to teacher preparation to the Revised School Code. HBs 5598-5601 and 5604 and 5605

would provide that, if an approved teacher preparation institution did not meet the new requirements, beginning July 1, 2019 the Superintendent of Public Instruction (SPI) must revoke their college of education's approval as a teacher accrediting institution. The institution could then reapply for approval. For more details about the individual pieces of legislation, [read more here](#).

**School Safety (HB 5828-5829, HB 5850-5851, SB 982-983, SB 990)** – *Signed by the Governor*. A package of bills that provide for: a comprehensive school safety plan and fund as well as requiring public schools, public school academies and nonpublic schools to designate school safety liaisons (most likely a school administrator) and submit to inspections by state police; creating the Office of School Safety; mandating that districts report certain crimes at school.

**Substitute Qualifications (HB 4421)** – *Signed by the Governor*. Sponsored by Rep. Holly Hughes, made changes to the requirements for substitute teacher qualifications, removing the age requirement that high school subs be more than 22 years old and loosening requirements for CTE substitutes.

### **Labor Bills:**

**Release Time SB (SB 795 and SB 796)** – *Stopped in the House*. Sponsored by Sen. Marty Knollenberg (R-Troy). SB 795 would have prevented anyone from getting MPSERS retirement credit when they are on union release time. This would have been true even when the district is reimbursed by the union. SB 796 would have prohibited a public employer from entering into a bargaining agreement that required or allowed paid release time for a bargaining representative to conduct union business, if the public employer paid for the release time.

**Prohibition of Bargaining Calendar and Schedule (HB 4163)** – *Died in the House*. Sponsored by Rep. Daniela Garcia (R-Holland), this bill would have added calendar and schedule to the list of prohibited subjects of bargaining.

**Eliminate Start Date after Labor Day (HB 4337/SB 271)** – *Died in the House/Senate*. The House legislation, sponsored by Rep. Steven Johnson (R-Wayland), would have returned the start day decisions to our locals. The Senate version, sponsored by Sen. Marty Knollenberg (R-Troy) similarly reverted to local control, but stipulated that there cannot be classes held on Mondays or Fridays in August. Neither bill was voted out of their respective chambers.

**Union Recertification Elections (SB 1260)** – *Died in the Senate*. Sponsored by Sen. Arlan Meekhof (R-Grand Haven), this bill would have required MERC to conduct recertification elections every other year in every bargaining unit, paid for by the union.

**Elimination of Exclusive Representation (HB 4596)** – *Died in the House*. Sponsored by Rep. Pamela Hornberger (R-Chesterfield Twp.), this bill would have prohibited exclusivity clauses in public sector contracts.

## **Budget and Tax Bills:**

**Online Sales Tax Shifted from SAF (HB 4991)** – *Signed by the Governor.* The state’s school fund was due for an approximate \$174 million annual boost thanks to a U.S. Supreme Court ruling that enables Michigan to collect taxes on more online purchases. But under the Republican-backed budget deal Snyder signed, the windfall is being diverted to roads and other priorities.

This is NOT a cut to current per pupil funding – the additional funding from the online sales tax had not been appropriated yet and is not part of this year’s budgeted state school aid payments. However, it IS money that should have gone into the School Aid Fund to allow for increases in coming years.

The bill includes an amendment that would “hold harmless” the current overall level of school funding if revenues fall below projections. However, in a textbook example of late night *Lame Duck* legislating, a proposed three-year sunset on the legislation morphed into a sunset on the hold harmless language – not the tax shift.

**School Aid Supplemental (SB 149)** – *Signed by the Governor.* A \$79 million supplemental largely appropriates federal funding for school mental health, at-risk and early childhood programming.

**Aviation Exemption (HB 6549 and HB 6550)** – *Vetoed by the Governor.* Sponsored by Rep. Bronna Kahle (R-Adrian), would have exempted certain aviation equipment from sales tax and use tax. This would have been a \$3 Million loss to the SAF.

**School Bus Tax Exemption (SB 906 and SB 907)** – *Signed by the Governor.* Sponsored by state Sen. Jack Brandenburg (R-Harrison Twp.), provides for a sales and use tax exemption for the purchase or lease of a school bus or school bus service under certain circumstances. A \$2.8 million loss to the SAF.

**Forest Property Tax Exemption (SB 1034)** – *Signed by the Governor.* Sponsored by state Sen. Darwin Booher (R-Ewart), modifies language relating to property tax exemptions for qualified forest property. Possibly a \$21 million loss to the SAF.

## **Other bills of interest:**

### **STOPPED**

**SB 1248, 1250-1252 (SOS power grab/campaign finance oversight)** - A package of Senate bills that would strip the Secretary of State of her campaign finance responsibilities giving them to a new “Fair Political Practices Commission” as an autonomous entity within the Secretary of State.

**SB 1254 (Prop 2)** - Sponsored by Sen. Phil Pavlov. This bill threatened to remove the SOS’s authority to implement Prop 2. The bill sets up statutory parameters that, among other things, would dictate how a potential member of that commission would be identified as a Democrat, Republican or Independent.

**SB 1209 (Hard Cap)** - Sponsored by Sen. Phil Pavlov. The bill would have amended the Publicly Funded Health Insurance Contribution Act to do the following: For a medical benefit plan coverage year beginning on or after the bill's effective date, specify the amount of annual costs or illustrative rate, and any payment for reimbursement of co-pays, deductibles, or payments into health savings accounts

(HSA's), flexible spending accounts (FSA's), or similar accounts used for health care costs that a public employer that offered or contributed to a medical benefit plan for its employees could not pay more than 80% of the costs of an employee's medical benefits.

**HB 6537 (Claims Data)** - Sponsored by Rep. Tim Kelly. The bill would have amended the Public Employees Health Benefit Act to revise the kinds of claims data that must be provided to public employers (including school districts). Currently, when two or more public employers are in an arrangement to provide at least 100 employees with a medical benefit plan, they must be provided with certain claims utilization and cost information in electronic format. The bill would lower the number of employees needed to trigger electronic disclosure of that information from 100 to 50.

## **VETOED**

**SB 1176 (SOS Power Grab)** - Sponsored by Sen. Mike Shirkey. This legislation that would have prevented the Secretary of State or any other government entity to force nonprofits to disclose donor information.

**SB 822 (Gubernatorial Power Grab)** - Sponsored by Sen. Mike Shirkey. This bill would have required a memorandum of understanding between the state and another party to be in effect only for the term of the particular governor who signed the agreement.

**SB 1249 (Campaign Finance Violations)** - Sponsored by Sen. David Roberson. The bill would have changed the statute of limitations for campaign finance violations to five years. In his veto letter, Snyder wrote that the Code of Criminal Procedure currently provides that an indictment may be filed within six years of a crime being committed. Shortening the statute of limitations to five years results in minimal to no functional change.

**HB 6553 (AG Power grab)** - Sponsored by Rep. Rob VerHueulen. The bill would have given the legislature automatic standing in any case challenging the validity or constitutionality of a piece of legislation. In his veto letter, Snyder wrote he believes the current process has worked well to ensure the Legislature's position is considered. He also argued that had the law been in place during his tenure, it would have limited his office's ability to coordinate and manage the defense of the state in lawsuits.

**SB 1176 (Dark Money)** - Sponsored by Sen. Mike Shirkey. The bill would have created a new law called the "Personal Privacy Protection Act." The act would ban any government agency, state or local, from requiring nonprofit organizations to disclose information about their financial supporters. That includes nonprofit organizations that spend millions of dollars trying to sway voters in the days before an election. It would also ban agencies from requiring government contractors to disclose contributions they've made to political nonprofit organizations.

## **SIGNED INTO LAW**

**SB 1238-1242 (Prop 3)** - This package of bills undermines the citizens' initiative/proposal 3. Changed a provision that allows a person to register to vote up to the day of the election to add more proof of residency in the 14 days before the election. The bills also would require a designation of U.S. citizenship on drivers' licenses and state identification cards before a person could automatically be registered to vote and would allow people to opt out of registering to vote when they get their state identifications.

**SB 1175 (Paid Sick Leave)** - SB 1175 will make enforcement of the paid leave law nearly impossible by restructuring employer reporting among other things. The new changes will exempt employers with fewer than 50 employees from having to provide paid sick time as required under the existing law that is scheduled to take effect in March. It also would limit the amount of annual mandatory leave at larger businesses to 40 hours, instead of 72 hours, and make other changes. About 162,000 small businesses that collectively employ 1 million workers would be exempt from awarding paid sick leave under the legislation, according to the Michigan League for Public Policy.

**SB 1171 (Minimum wage)** - Lowered tipped workers hourly wage and reduce the minimum wage increase schedule. The tipped wage will be increased from \$3.52 to \$4.00 over the next 12 years, increasing \$0.04 every Jan. 1. Minimum wage workers will have to wait until 2030 to fully receive \$12/hour.

**HB 6595 (Citizens Petition Regulations)** - The law will restrict a petition sponsor to getting no more than 15% of the required signatures from a single Congressional district; shorten the amount of time a petition sponsor has to collect signatures in the year the matter is to be placed on the ballot; require every signature be collected on a petition indicating if the circulator was paid or volunteer; and require paid petition circulators to file an affidavit with the state before circulating any petitions.

For more on Lame Duck 2018, visit [www.mea.org/lameduck](http://www.mea.org/lameduck) for the daily updates we provided throughout the session.

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