

March 15, 2019

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**Legislative Committee
2019 Calendar**

- March 25, 2019
 - FYI – The 2019 legislative session ends at midnight on April 8, 2019
- April 29, 2019

MABE's Legislative Committee meetings are held in the MABE office on Monday mornings, 10:00 to 12:00, unless otherwise indicated. Meeting agendas and materials are posted on the MABE website.

State Budget Updates

On Thursday, March 14, the Senate Budget and Taxation Committee made its final decisions on the budget, including major revisions to the Kirwan funding approach taken by the House of Delegates. The House passed the Budget Bill, [House Bill 100](#), on March 14. For more information, read Appropriations Committee's [report on the bill](#).

The House approved budget calls on the Governor to release all of the \$200 million in tax revenues set aside last year at the direction of the legislature to make the launching of the Kirwan funding plan a reality. The combined \$325 million is to be invested in the programs outlined in the Blue Print for Maryland's Future ([Senate Bill 1030/House Bill 1413](#)), which is described in much more detail below. Then, in FY 2021, the State would ramp up its investment in these programs to \$750 million in accordance with the broader reforms recommended by the Kirwan Commission. These reforms, following the Kirwan Commission's final decisions this fall, are to be the subject of a major piece of legislation in the 2020 legislative session.

The Senate Budget and Taxation Committee dramatically reduced the House version on both the requested increases in FY 2020 and mandated increases in FY 2021. Specifically, the Senate version halves the amount requested to be released by the Governor from the income tax revenue funding set aside last year, from \$200 million to \$100 million, and would instead apply the second \$100 million in FY 2021. A useful [one-page outline](#) shows the Senate's approach to funding Kirwan in FY 2020 and FY 2021. The funding sources and annual totals are shown below.

Again, the Senate's proposed increased investment in 2020 is \$100 million less than the House's budget, and the FY 2021 amounts are clearly much farther apart (\$750 million v. \$345 million).

Revenues Available for The Blueprint for Maryland's Future

	<u>FY 20</u>	<u>FY 21</u>
ETF Lockbox*	100,750,000	225,750,000
Commission Fund**	100,000,000	100,000,000
Pension Sweeper	4,500,000	
Additional ETF	15,766,919	15,766,919
TIRA	4,000,000	4,000,000
Total	225,016,919	345,516,919

Senate Two-Year Kirwan Funding Plan

MABE will continue to advocate for a strong and lasting launch to the Kirwan Commission's funding and policy recommendations, which is much better represented by the House approach.

Education Programs Impacted by the House and Senate Versions

For FY 2020, the House and Senate would each fund grants for full-day prekindergarten for four-year-olds, with a difference in total spending attributable to updated enrollment counts in the Senate version. (House: \$29.3 million/Senate: \$33.8 million).

Several components are identical in the House and Senate versions in FY 2020, including: Teach Salary Incentive (\$75 million); Concentration of Poverty Grants (\$54.6 million); Transitional Supplemental Instruction (\$23 million); Mental Health Services Coordinators (\$2 million).

A major difference is in the FY 2020 amounts for Special Education Grants, with the House providing \$133.4 million and the Senate providing \$33.2 million.

As for FY 2021, the Senate would maintain nearly level funding from FY 2020 in all areas except special education, which they would increase from \$33 million to \$115 million. Whereas the House budget plan for FY 2021 is premised on implementing the Kirwan legislation (House Bill 1413/Senate Bill 1030). The Kirwan bill would provide funding in FY 2020 totaling approximately \$325 million, with the Governor being mandated in his FY 2021 budget to maintain that \$325 million and appropriate an additional \$387 million.

The Hogan Administration Responds to the Kirwan Bill and Budget Actions

On March 14, Governor Hogan and Department of Budget and Management Secretary David Brinkley sent letters to the Speaker of the House Mike Busch and Senate President Mike Miller. [Governor Hogan's letter](#) focuses on his concerns with a lack of adequate accountability measures in the Kirwan legislation. He reiterates his demand to include accountability provisions in the Kirwan legislation that reflect the recommendations in the Kirwan Commission Report. He also addresses the Commission's unfinished work.

“As the legislative session come to a close, the citizens of Maryland are waiting impatiently for you to finally act on these important issues. The Commission on Innovation and Excellence in Education has not delivered its most important work, which was statutorily required of them: the actual funding formulas and honest recommendations on how to pay for any of this legislation. Meanwhile, the legislature has completely ignored that and the accountability measures that I have demanded and its own Commission has called for.”

[Secretary Brinkley's letter](#) focuses on objections to adopting legislative mandates for increased funding that exceed expected revenues.

“I supported moving the combined work product of the Commission on Innovation and Excellence in Education (also known as "the Kirwan Commission") forward for consideration by the General Assembly. Throughout the hearings, however, I warned my fellow Commissioners that the budget process looks at all the financial and service obligations the State has to its citizens, taxpayers, and creditors.” “What is still not being

discussed is how the State is going to fulfill its financial obligation based on the anticipated costs of this commitment. Today, despite not having a plan in place to pay for them, the General Assembly is moving forward on legislation implementing a number of the Commission's policy recommendations, which is estimated to cost nearly \$4 billion each year once fully phased in.”

School Construction Funding

The House operating budget would include \$127 million in operating funding for school construction, bringing its total investment to \$500 million. The Senate operating budget would reach a total of \$445 million. However, the big story regarding school construction is the House Appropriations Committee’s passage of [House Bill 727](#) on March 15.

As introduced, this bill would have authorized the Maryland Stadium Authority (MSA) to issue up to \$1.8 billion in revenue bonds, backed by annual payments of \$125 million from State Lottery revenues beginning in FY 2021, with the proceeds to be used for public school construction projects. As amended, the bill would authorize the Maryland Stadium Authority (MSA) to issue up to \$2.2 billion in revenue bonds, backed by annual payments of \$125 million from Education Trust Fund (ETF) revenues beginning in FY 2021. The committee provided a detailed [one-page outline of the bill](#) as amended.

- Authorizes \$2.2B in MSA revenue bonds (30 year bonds). Paid for by \$125m ETF beginning FY 2021. Allocates \$2.2B in the bill as percentages to counties.
- In order to participate, school systems and counties must have MOU with MSA approved by IAC.
- LEAs choose whether to have MSA manage the project. If opt to use MSA, must be part of MOU. (Baltimore City must use MSA.)
- School construction projects subject to same IAC rules, procedures and approvals as any other project, or as agreed in MOU if MSA managing projects.
- Revenue bond proceeds represent State share of eligible costs for the projects; counties must provide local share and any ineligible costs (except as described below for small systems).
- In using the bond proceeds under the program, LEAs must give priority schools that are the oldest buildings in the system with significant facility deficiencies, schools with high concentrations of students eligible for free and reduced price meals, and schools with high number of relocatable classrooms.

The bill also includes provisions for the use of public private partnerships in Prince George's County and an expanded definition of eligible costs for small school systems. MABE will be monitoring and advocating in support of the overall intent of this legislation to promote a much needed increase in the State’s investment in high quality public school facilities. It appears that the bill reflects MABE’s support for local flexibility in retaining the ability to design and build schools without having to shift this role to the Stadium Authority.

However, MABE remains concerned about using the Education Trust Fund as the funding source for this initiative. MABE supported HB 727 as introduced because it would use Lottery revenue, rather than use Gaming revenue which MABE believes is intended to implement Kirwan. Stay tuned for more updates on this legislation and the Capital Budget ([HB 101](#)) which passed in Appropriations today.

Kirwan Bill Highlights

In light of the magnitude of the actions pending on the Kirwan legislation and in the State Budget, the following outline of the bill and accountability provisions is reprinted from the previous Education Advocate.

[Senate Bill 1030](#) and [House Bill 1413](#) are entitled “The Blue Print for Maryland’s Future” and contain major funding increases for prekindergarten, teacher compensation, special education, and funding for schools serving students in communities of concentrated poverty. State aid to local school systems would increase by approximately \$321 million in FY 2020 and by as much as \$747 million in FY 2021. The bill was introduced on March 4 and heard in the Senate on March 6 and House on March 13.

The major programs included in the bill are summarized below. More detailed information is provided in the bill’s [Fiscal and Policy Note](#).

- **Teacher Salary Incentive Grant Program:** This program, administered by MSDE, provides grants to county boards to increase teacher salaries to improve recruitment and retention of high-quality teachers. In each of fiscal 2020 and 2021, the State must provide a grant to a local board if the local board provides a negotiated and funded average salary increase for teachers of at least 3.0% in fiscal 2020. Local boards of education may apply to MSDE for grants by July 1, 2019. A State grant may be used only to provide an additional salary increase to teachers, as defined in the bill; priority must be given to increasing starting teacher salaries and salaries for teachers with less than five years of teaching experience. In each of fiscal 2020 and 2021 the State must provide \$75.0 million for the grants, including specified allocations for each county.
- **Concentration of Poverty School Grant Program:** This program provides grants to public schools in which at least 80% of the students were eligible for free and reduced-price meals (FRPM) in the 2016-2107 school year. For both fiscal 2020 and 2021, the State must distribute a grant to each local school board equal to \$248,833 for each eligible school; that same amount must be distributed by the local board to each eligible school. Each of these schools must employ one community schools coordinator and one health care practitioner.
- **Special Education:** In both fiscal 2020 and 2021, an additional \$137.5 million is provided for special education services with students with disabilities, with specified allocations to each local school system.
- **Transitional Supplemental Instruction (TSI) for Struggling Learners:** For each of fiscal 2020 and 2021, the State must distribute to local boards of education funds totaling \$23 million, as allocated by the bill, for provision of TSI for struggling learners, which involves additional academic support using evidence-based programs and strategies.
- **Mental Health Services Coordinator:** For both fiscal 2020 and 2021, \$83,333 is provided to each local school system to fund the mental health services coordinator that each local school system must appoint, pursuant to the Safe to Learn Act.
- **Prekindergarten Supplemental Grants:** These grants are expanded to include State funding to an LEA based on every 4-year-old in full-day prekindergarten as of September 30 of each year, regardless of whether full-day services are available to all 4-year-olds in the county’s prekindergarten program. Also, the enhanced grants are extended to fiscal 2021.
- **Declining Enrollment Supplemental Grants:** The bill extends the declining enrollment supplement grant in current law by an additional year to fiscal 2021.

- **Performance Evaluations:** Contingent on the passage of Senate Bill 640/House Bill 1113 of 2019, which would create an Office of Program Evaluation and Government Accountability (OPE) in DLS, local school systems are subject to performance evaluations conducted by OPE. The performance evaluations may be performed concurrently with or separately from an audit conducted by the Office of Legislative Audits (OLA).
- **Maintenance of Effort:** The bill expresses the intent of the General Assembly that increases in local appropriations to local boards of education above any additional amount required to meet maintenance of effort (MOE) is considered part of the increased local funding required by The Blueprint funding formulas to be recommended by the Commission.
- **Extension of Commission Term and Final Report Due Date:** The bill extends the term of the Commission to December 31, 2019, and requires a final Commission report by December 1, 2019.

More on Performance Audits in the Kirwan Bill

MABE recognizes the Kirwan Commission's keen interest is linking accountability measures to major funding increases. MABE is on record as supporting strong accountability but not at the expense of local board governance. This distinction is the subject of a statement submitted by MABE to the Kirwan Commission voicing strong opposition to the need to create a new governing board or oversight body. In this context, the Blue Print for Maryland's Future would enhance the State's role in performance evaluation and oversight of implementation by expanding the role of the General Assembly and its Office of Legislative Audits.

The Kirwan bill cross-references another pending piece of legislation (Senate Bill 640/House Bill 1113) which would create an Office of Program Evaluation and Government Accountability (OPE) in DLS, local school systems are subject to performance evaluations conducted by OPE. The performance evaluations may be performed concurrently with or separately from an audit conducted by the Office of Legislative Audits (OLA).

The separate accountability bill would establish the Office of Program Evaluation and Government Accountability (OPE) in the Department of Legislative Services (DLS). The office would have similar powers and responsibilities to the Office of Legislative Audits (OLA), but with respect to conducting performance evaluations instead of audits. The Joint Audit Committee would be renamed the Joint Audit and Evaluation Committee (JAEC) to reflect its expanded role in directing and reviewing evaluations conducted by the office.

Under the bill, if directed by JAEC, the executive director, the director, or when otherwise required by law, OPE must conduct a performance evaluation of a local school system. A performance evaluation of a local school system may include: evaluating whether or not the school system is complying with federal and State laws and regulations; analyzing grading standards, graduation requirements, assessments, procurement, and equitable use of resources among the schools within the system evaluated; and identifying instances of fraud, waste, and abuse.

Senate Bill 640 has passed the Senate with a hearing scheduled in the House Appropriations Committee on March 19.

Bill Highlights

School Calendar

[SB 128](#) - County Boards of Education - School Year - Start and End Dates - This bill requires each local board of education to set start and end dates each year for public schools in the county. The bill effectively repeals any law prohibiting a local board from beginning or ending its school year before or after a certain date. The bill takes effect July 1, 2019. (MABE Position: Support) Status: SB 128 passed in the Senate, was amended in the House, and the is passing in the Senate as amended.

[HB 1078](#) - Education - Public School Holidays - Presidents' Day and Easter - This bill repeals Presidents' Day and the Monday after Easter as being required public school holidays. The bill also adds Presidents' Day to the list of days for which a part of the day must be devoted to appropriate exercises and clarifies that these exercises are only required if the public schools are open and in session on the specified days. The bill takes effect July 1, 2019. (MABE Position: Support) Status: HB 1078 passed in the House.

Special Education

[HB 140](#) - Special Education - Administrative Proceedings and Judicial Actions - Attorney's and Expert Witness Fees and Related Costs - This bill authorizes an administrative law judge or a court to award reasonable attorney's fees and related costs to the parent of a child with a disability, if the parent prevails in a hearing that is held to resolve disputes about the identification, evaluation, or educational placements of children with disabilities or the provision of a free appropriate public education. However, such an award may not be made after the date a written offer of settlement is made to the parent, under certain conditions, unless the parent was substantially justified in rejecting the settlement offer. An administrative law judge or a court may also award reasonable expert witness fees to the parent who is the prevailing party in these hearings. (MABE Position: Oppose) Status: HB 140 passed in the House with a Senate hearing set for March 20.

Reading Screening

[HB 690/SB 734](#) - Education - Students with Reading Difficulties - Screenings and Interventions - This bill requires, beginning with the 2020-2021 school year, each local school board to ensure that specified students are screened to identify if the student is at risk for reading difficulties. If the screening results indicate that the student is at risk of reading difficulties, the local board must conduct an informal diagnostic assessment of the student to determine the specific areas of instructional need for supplemental reading instruction; provide supplemental reading instruction, as appropriate; and provide a notification letter to the student's parent as specified. The Maryland State Department of Education (MSDE) must develop and update specified resources, including a reading and dyslexia handbook, for local boards every two years and provide training opportunities annually. Local boards must report annually to MSDE beginning with the 2020-2021 school year. The bill takes effect July 1, 2019. (MABE Position: Oppose) Status: SB 734 is passing in the Senate with major amendments that largely address MABE's concerns.

Ethics Requirements & Financial Reporting

[HB 355](#) - Public Ethics Law - School Boards - Disclosures and Requirements (School System Ethics and Transparency Act of 2019) - This bill would require major revisions to local board of education ethics policies and procurement and other financial reporting requirements. This bill would: Require all conflict of interest, financial disclosure, and lobbying regulations adopted by school boards to be equivalent to or exceed the provisions in the Law as applied by the State Ethics Commission at the State level. Require all school boards to adopt conflict of interest regulations applicable to all officials and employees of the school system. Under current boards must adopt conflict of interest regulations for school board members but “may” adopt them for officials and employees and, if not, those individuals become subject to the provisions of the county law. This bill would require school boards to submit copies of the financial disclosure statements to the State Ethics Commission, and to maintain the financial disclosure statements they receive for at least ten years. Requires superintendents to file a secondary employment disclosure statement with the school board each year, which the school board must maintain for at least ten years. (MABE Position: Oppose)

- This bill passed the House with several [amendments](#). MABE continues to have serious concerns with the bill’s procurement reporting, conflict of interest, financial disclosure, and other requirements in this bill.

Student Discipline

[HB 725/SB 766](#) - Public Schools - Student Discipline - Restorative Approaches – As introduced, the bill would have required, with exceptions, that before a principal may suspend a student in grade 3 or above for more than 10 days or request and expulsion of a student, the principal must demonstrate that restorative approaches, rehabilitative, special education, or other supportive service interventions were implemented. As amended, the bill defines “restorative approaches” and requires that local board regulations must provide for educational and behavioral interventions, including restorative approaches, and that all policies state that the “the primary purpose of any disciplinary measure is rehabilitative, restorative, and educational.” (MABE Position: No Position as amended) Status: HB 725 is passing the House with amendments.

[HB 1208](#) - Board of Restorative Practices in Schools - Establishment - This bill establishes a Board of Restorative Practices in Schools to analyze student disciplinary practices and policies, including implementation of restorative practices, and make annual legislative and budgetary recommendations for future data-driven and fiscally sound policies that reduce the school-to-prison pipeline and incorporate restorative practices in school discipline practices. The director of the Maryland Equity Project at the University of Maryland serves as the board chair. The bill takes effect July 1, 2019. (MABE Position: Oppose) Status: HB 1208 is passing the House with amendments.

[HB 1229](#) - Restorative Schools Fund and Grants – Establishment - This bill establishes the Restorative Schools Fund and a grant program to provide funds to local school systems and individual schools for training on, and implementation and evaluation of, restorative approaches that build and sustain positive learning communities. The Governor must appropriate at least \$3.0 million annually for the fund in the State budget. The Maryland State Department of Education (MSDE) must establish procedures for the grant program. The bill takes effect July 1, 2019. (MABE Position: Support) Status: HB 1229 is passing the House with amendments.

School Personnel & Student Safety

[HB 486/SB 541](#) - Education - Personnel Matters - Child Sexual Abuse and Sexual Misconduct Prevention - This bill sets forth a process, including requirements for specific documentation regarding whether an individual has ever been disciplined for allegations of “child sexual abuse” or “sexual misconduct,” for the hiring of public school and nonpublic school employees who have direct contact with minors. The bill takes effect July 1, 2019. (MABE Position: Support) Status: Both bills are passing with amendments supported by the sponsors, MABE, and other stakeholders.

School Personnel

[HB 166/SB 280](#) - Labor and Employment - Payment of Wages - Minimum Wage and Enforcement (Fight for Fifteen) - This bill phases in an increase in the State minimum wage to \$15.00 per hour by fiscal 2024 and indexes it to inflation beginning July 1, 2024. The bill expands the applicability of the Maryland Wage and Hour Law, eliminates specified subminimum wages, expands anti-retaliation provisions of specified labor laws, and phases out (by July 1, 2026) the tip credit that can be applied against direct wages paid to “tipped” employees. Additionally, the Governor’s proposed budget for the Developmental Disabilities Administration (DDA) must include specified rate increases for community service providers over the funding provided in the prior year’s legislative appropriation. (MABE Position: No Position) Status: Both bills are passing and a conference committee has been appointed on HB 166.

[SB 686](#) - Maryland Healthy Working Families Act - Applicability - This bill exempts from the Maryland Healthy Working Families Act an employee who is called to work by a local board of education on an as-needed basis, can reject or accept the shift offered, and is not guaranteed to be called on to work by the local board of education. (MABE Position: Support) Status: No progress to report, making passage this year unlikely.

Student Health

[HB 110](#) - Elementary School Students - Daily Physical Activity (Student Health and Fitness Act) - This bill, as amended, established the State goal that all public elementary school students to be provided daily programs of physical activity totaling 150 minutes per week, including a minimum of 90 minutes per week of physical education. For any of the required minutes not spent in physical education, each elementary school must designate a physical activity leadership team to plan and coordinate opportunities for moderate to vigorous activity (including recess) to make up the remaining time. The bill takes effect July 1, 2019, but a local school system may apply for an extension. A local school system that is granted an extension must have a plan to ensure compliance by July 1, 2022. (MABE Position: No Position as amended) Status: HB 110 has passed in the House with amendments.

[HB 1253/ SB 481](#) - Environment - Drinking Water Outlets in School Buildings - Elevated Level of Lead and Grant Program - This bill redefines “elevated level of lead” to mean a lead concentration in drinking water that exceeds five parts per billion (ppb) for the purposes of required lead water testing and remedial measures in public and nonpublic schools in the State. The bill also requires the Maryland Department of the Environment (MDE), in consultation with the Maryland State Department of Education (MSDE), to establish and administer a grant program to provide grants to local school systems to assist with specified remedial costs. The bill takes effect June 1, 2019. (MABE Position: Oppose) Status: HB 1253 is passing the House with amendments.

Assessments

[HB 1019](#) - State Board of Education - Public High School Students - Assessments and Graduation Requirements - This bill, as amended, would restrict the State Board of Education from using the CCR assessment to evaluate a student in any way for graduation from high school until the assessment has been administered statewide for at least 1 year. Then, under the bill, the State Board may: (1) require a passing score on a standardized assessment to evaluate a student for graduation from high school; and (2) use the assessment to determine up to 20% of a student's final grade in a course in the subject of the assessment. (MABE Position: Support with Amendments on the bill as introduced) Status: The bill is passing the House as described above.

Bill Reports – Priority Bills and Full Report

The updated [Bill Report](#) containing MABE's positions and the status of all the bills we are tracking is also available on the MABE website.

Resources

<ul style="list-style-type: none">• MABE's Annapolis Advocacy Center	<ul style="list-style-type: none">• General Assembly
<ul style="list-style-type: none">• MABE's State Board Advocacy Center	<ul style="list-style-type: none">• State Board of Education/MSDE
<ul style="list-style-type: none">• MABE's Federal Advocacy Center	<ul style="list-style-type: none">• NSBA Advocacy

For more information, contact John R. Woolums, Esq., MABE's Director of Governmental Relations, at jwoolums@mabe.org or 410-841-5414.

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