

April 6, 2020

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**Legislative Committee Highlights**

MABE's Legislative Committee held its first tele-meeting on Monday, March 30, to review the recently enacted Coronavirus Aid, Relief, and Economic Security (CARES) and other federal and state actions in response to the pandemic. Staff presented the contents of a webinar from the National School Boards Association (NSBA) and Council of School Attorneys (COSA).

The 2020 legislative session wrap-up consisted of recognizing the successful passage of both the major school construction funding initiative, the Built to Learn Act (House Bill 1), and the landmark education funding and policy reforms contained in the 235-page Blueprint for Maryland's Future Act (House Bill 1300).

Members and staff appreciated the opportunity to share updates and the questions they are receiving. These questions include how school systems undertake new and challenging responsibilities to serve school meals, clean and maintain school facilities, address complex and sensitive personnel issues, and transition to the new world of establishing a level of continuity of learning instruction for all students, including students receiving special education services.

**Agenda & Materials** (for the March 30, 2020 meeting of MABE's Legislative Committee)

- **NSBA Letter to Sec. Betsy DeVos – Requesting Flexibility for K-12 Public Schools in the Wake of Coronavirus National Emergency** (March 19, 2020)
- **COVID-19 ("Coronavirus") Information and Resources for Schools and School Personnel**
- **Student Privacy Policy Office**  
**FERPA & Coronavirus Disease 2019 (COVID-19)**  
Frequently Asked Questions (FAQs)  
March 2020

**Legislative Committee**

**2020 Calendar**

- March 30, 2020 – By teleconference
- April 27, 2020 – Scheduled as the next teleconference meeting

MABE's Legislative Committee meetings are held on Monday mornings, 10:00 to 12:00, unless otherwise indicated. Meeting agendas and materials are posted on the [MABE website](http://MABE.org).

- Addressing the Risk of COVID-19 in Preschool, Elementary and Secondary Schools While Serving Children with Disabilities – [Supplemental Fact Sheet](#) (March 21, 2020)
- [Providing Services to Children with Disabilities](#) During the Coronavirus Disease 2019 Outbreak (March 12, 2020)
- ["USDA Makes it Easier to Feed Kids and Those Who Need Food During the COVID-19 National Emergency"](#) (March 26, 2020)

State of Maryland Materials:

- [Governor Hogan’s Revised “Stay at Home” Executive Order](#) (March 30, 2020)
- [Guidance for Employers on Letters for Employees](#) (March 30, 2020)

**COVID-19 Actions During Session**

As the 2020 session was ending, and MABE and other education advocates were focused on major school funding and policy legislation, several major bills or provisions of bills were enacted related to the state’s response to the COVID 19 pandemic. Also, the General Assembly formed the [“Joint COVID-19 Response Legislative Workgroup”](#), which held tele-meetings on March 25 and April 1, with weekly briefings scheduled on Wednesdays at 10:00 a.m.

<ul style="list-style-type: none"> <li>• <a href="#">SB 1079</a> Allows the Governor to transfer by budget amendment up to 50,000,000 from the Revenue Stabilization Account to fund costs associated with the coronavirus. Requires the Governor to provide the Legislative Policy Committee with at least seven days for review and comment before transferring funds from the Account. Makes the Act an emergency measure. <b>Enacted.</b></li> </ul>
<ul style="list-style-type: none"> <li>• <a href="#">SB 1080/HB 1663</a> Authorizes the Governor to take certain actions in a state of emergency, including prohibiting cost-sharing by carriers for disease testing, immunization, and any associated costs; retailers from increasing the sale or rental price of any good or service by more than 10%; and employers from terminating quarantined or isolated employees. <b>Enacted.</b></li> </ul>
<ul style="list-style-type: none"> <li>• <a href="#">HB 732</a> Relates to annual gross revenues derived from digital advertising services; provides that the sales and use of tobacco tax collected in the fiscal year 2021 will be distributed, in part, to expenditure accounts of State government to fund costs associated with COVID-19. <b>Eligible for Governor.</b></li> </ul>
<ul style="list-style-type: none"> <li>• <a href="#">HB 932</a> Relates to sales and use tax revenue; provides that the sales and use tax collected in the fiscal year 2021 on the sale or use of a digital product or code will be distributed, in part, to expenditure accounts of State government to fund costs associated with COVID-19. <b>Eligible for Governor.</b></li> </ul>
<ul style="list-style-type: none"> <li>• <a href="#">SB 190</a> Part of a larger budget bill for the fiscal year 2021. Makes a \$10 million supplemental appropriation to the Department of Health for the current fiscal year to address coronavirus preparedness expenses. <b>Eligible for Governor.</b></li> </ul>
<ul style="list-style-type: none"> <li>• <a href="#">SB 192</a> Part of the Budget Reconciliation Act; authorizes a transfer up to \$100,000,000 from the Revenue Stabilization Account to fund costs associated with COVID-19. <b>Eligible for Governor.</b></li> </ul>

## The Federal CARES Act & Public Education

The Coronavirus Aid, Relief, and Economic Security (CARES) Act was passed and signed into law on March 27, 2020, to respond with substantial economic relief to individuals, businesses, states and local governments, and school systems. The \$2 trillion CARES Act provides \$13.5 billion in direct aid for local school systems, and several other funding streams that will provide direct and indirect benefits.

The CARES Act is the third piece of legislation passed in response to COVID 19. The first was the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (HR 6074), which became law on March 6, 2020. This bill provided \$8.3 billion for emergency health and medical supplies/equipment and other needs through the Food and Drug Administration; the Centers for Disease Control and Prevention, the National Institutes of Health, and the Public Health and Social Services Emergency Fund; the Small Business Administration, the Department of State, and the US Agency for International Development. The bill also included temporary waivers or application modifications of certain Medicare requirements associated with telehealth services.

The second emergency supplemental funding bill to pass had a much greater impact on local school systems. The Families First Coronavirus Response Act (HR 6201) became law on March 18, 2020. This bill largely focuses on public health, nutrition, and emergency leave. The measure guarantees free coronavirus testing, establishes new paid leave requirements, enhances Unemployment Insurance, expands food security initiatives, and increases federal Medicaid funding. The primary impacts on public school systems include the availability of waivers to facilitate school meal services and employment provisions regarding Emergency Paid Sick Leave and the Family Medical Leave Act.

### The CARES Act

The third and most recent emergency funding legislation is the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (H.R.748), which became law on March 27, 2020. The CARES Act is an unprecedented \$2.2 billion infusion of federal funding to provide direct financial assistance to individuals, businesses, and state and local governments, including school systems. Funding for education totals \$30.8 billion, with \$13.5 billion being directed to local school systems. This is far less than the \$75 billion sought by NSBA and therefore emphasizes the need for additional investments in elementary and secondary education in future legislation.

The \$13.5 billion Elementary and Secondary School Emergency Relief Fund may be used for any activity authorized by IDEA, ESSA, Perkins CTE, McKinney Vento, as well as several emergency activities, including for online learning. These funds will be distributed according to each state's Title I allocation for the most recent fiscal year; at least 90% of the amount must be distributed to districts, in proportion to the district's Title I allocation for the most recent fiscal year. States may reserve .5% for administration, and the remainder must be used for emergency activities determined by the state education agency.

The bill also includes the Governor's Emergency Education Relief Fund (\$3 billion), which may be used by Governors to assist Local school systems, institutions of higher education, and early childhood education/childcare entities that are hardest hit by the emergency to continue to provide educational services to their students.

<b>Estimated Maryland Totals from the Education Stabilization Fund</b> (in thousands)			
Governor's Emergency Education Relief Fund: Estimated Grant Amount	Elementary and Secondary Schools Emergency Relief Fund: Estimated Grant Amount	Higher Education Emergency Relief Fund (90% of available funds): Estimated Allocation	Estimated Funding Provided to the State or Institutions of Higher Education in the State
\$45,681	\$207,834	\$182,483	\$435,998
<i>Source: Congressional Research Service (CRS)</i>			

**Update** - The General Assembly's Department of Legislative Services (DLS) recently released an ["Overview of Federal COVID-19 Assistance for Maryland."](#)

**Special Education Guidance from MSDE**

**Serving Children With Disabilities Under IDEA During School Closures Due to the COVID-19 Pandemic**

In recently released guidance, the Maryland State Department of Education (MSDE) outlines the roles and responsibilities for local school systems in delivering special education services during the COVID 19 pandemic. The Department's Division of Early Intervention and Special Education Services issued the [Technical Assistance Bulletin](#) to address issues and answer questions concerning school system obligations to provide a Free Appropriate Public Education (FAPE) to students with disabilities. Issues include the use of teleconferencing and instances where flexibility may and may not be provided under federal law.

MSDE's guidance emphasizes that as local school systems work to ensure continuity of learning for all students, each local plan for providing educational services must also address the provision of services to students with disabilities.

Examples of questions and answers include:

- What is the obligation of the local public agencies to implement the Individualized Education Program (IEP) for students with disabilities if the federal agency offers instruction through alternative delivery options while schools are closed?
- Are the requirements for the provision of a FAPE to students with disabilities waived in times of emergencies such as the COVID-19 pandemic?
- Is parental consent required to hold an IEP team meeting by teleconference?
- Is there flexibility with respect to the timelines for evaluations, reevaluations, and annual IEP reviews?

## **Kirwan Blueprint Bill Update**

On Tuesday, March 17, 2020, the Blueprint for Maryland's Future was passed amid the mad dash to the pandemic *Sine Die* finish line. With this monumental legislation on its way to the Governor's desk, and our Federal and State governments looking to repair the impending disruption to our economy due to the COVID-19 pandemic, there leaves a lot of question regarding the potential shift in the plan to fund this ambitious initiative.

This bill, beginning in fiscal 2022, substantially alters State aid and State policy for public schools by establishing in law the policies and accountability recommendations of the Commission on Innovation and Excellence in Education, including the creation of a new Accountability and Implementation Board to oversee implementation of the policies and funding provided under the Blueprint. Funding for existing education formulas, including the foundation program and targeted programs, is significantly increased, and new funding formulas are established for purposes such as the concentration of poverty grant program and publicly funded full-day prekindergarten programs for eligible several three and 4-year-olds. The bill also repeals and alters other grants and applications, and local government school funding requirements.

With a great deal of the funds for this initiative coming from gaming revenues from casinos, which are now being halted entirely by the onset of COVID-19, critically important questions arise as to how we launch funding for the Blueprint and the impacts on the trajectory for the entirety of the plan, and how drastically the dip in the economy is going to affect the timeline of implementation? It is worth noting that maintaining the current level of funding for public education represents the very highest priority under Maryland's State Constitution, and the recent history of the economic crash of 2008 shows that strong advocacy for state and federal actions to protect at least the current baseline of funding can be successful.

The current pandemic is most certainly presenting challenges in meeting the educational needs of each of our students, including those requiring special education services, free school meals, behavioral health services, and students experiencing economic hardship who therefore require focused efforts to close the digital divide with access to educational technology. These challenges are, however, not new and, in fact are at the heart of the Blueprint for Maryland's Future that MABE and other advocates worked so hard to bring to fruition in 2020.

## **Built to Learn Bill Update**

House Bill 1 passed on Saturday, March 14, 2020, with the House concurring to the proposed Senate amendments. This bill authorizes the Maryland Stadium Authority (MSA) to issue up to \$2.2 billion in revenue bonds, backed by annual payments from the Education Trust Fund (ETF) beginning in fiscal 2022. This funding would support major school construction and renovation projects, including substantial funding for the public-private partnership (P3) school construction program in Prince George's County.

In addition, this bill would make construction materials purchased for public school facility projects managed by MSA exempt from the State sales and use tax. It also expands school construction costs eligible for State funding and increases or establishes new mandated State funding for other school construction programs.

If written into law, this bill would take effect by June 1, 2020, contingent on the enactment of The Blueprint for Maryland's Future legislation. It is essential to consider the impending economic decline that will result from the COVID-19 pandemic, especially when considering the supplemental funding for this initiative provided exclusively by casino gaming revenues. Until there is a clear picture of how long our State government will remain on shelter in place orders, it will remain unclear the exact impact COVID-19 will have on the implementation of this legislation.

### Fixing HB 486 & Emergent Employee Hiring

Unfortunately, although [House Bill 1008](#) passed the House of Delegates, it was never taken up in the Senate before the early conclusion of the legislative session. Again, this bill would authorize a local board of education or nonpublic school to hire an applicant as an emergent employee for up to 60 days pending the employer history review required by HB 486 of 2019 for job applicants who will have direct contact with minors. The bill would also (1) alter statutory provisions that specify the employment history that schools are required to obtain before hiring an individual who will have direct contact with minors; (2) alter the definition of "direct contact with minors"; (3) authorize a local board to share an employment history record with other local boards, and (4) establish conditions under which a local board may use an employment history review completed by a current or former employer.

### Bill Report

The [March 25 Bill Report](#), including MABE's positions and the status of all the bills we are tracking, is available on the MABE website and updated weekly during Session.

### Advocacy Resources

- [MABE's Annapolis Advocacy Center](#)
  - Including resources on MABE's [Legislative Committee](#), [Priority Issues](#), [2020 Positions & Bill Testimony](#), the [Education Advocate](#) newsletter, and [Kirwan Blueprint resources](#).
- [MABE's State Board Advocacy Center](#)
  - Including resources on pending State Board regulations, and issues of MABE's newsletter recapping the monthly State Board meetings, [The Monitor](#).
- [MABE's Federal Advocacy Center](#)
  - Including resources on MABE's Federal Relations Network Committee and pending federal funding and policy issues.

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

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