



Karen B. Salmon, Ph.D.
State Superintendent of Schools

TO: Members of the Maryland State Board of Education
FROM: Karen B. Salmon, Ph.D
DATE: January 26, 2021
SUBJECT: 2021 Legislative Session Overview

PURPOSE:

The purpose of this item is to provide a legislative overview and status of Prek-12 education-related bills that are currently before the 2021 Maryland General Assembly.

EXECUTIVE SUMMARY:

Members of the State Board of Education will receive a briefing on significant legislation that has been introduced thus far during the 2021 legislative session. The members will also receive an overview of the legislative process in Maryland and a copy of primary and secondary education-related issue papers produced by the Department of Legislative Services.

ACTION:

For information only. No action required. The Board may choose to take positions on certain pieces of legislation.

ATTACHMENTS (3):

PowerPoint
2021 DLS Issues Paper
Legislative Summary

2021 Legislative Session Overview



STATE BOARD OF EDUCATION MEETING

January 26, 2021

Legislative Session at a Glance

- The legislative body in Maryland is called the Maryland General Assembly.
- The Maryland General Assembly passes public general and public local laws, raises revenues, and appropriates funds.
- The annual session of the General Assembly begins on the second Wednesday in January and meets for 90 consecutive days.
- At MSDE, Office of Government Relations and Office of Policy and Fiscal Analysis identifies, analyzes, reviews, and tracks legislation related to public primary and secondary education.

General Assembly at a Glance

- The General Assembly is divided into two houses – the 47 member Senate and the 141 member House of Delegates.
 - Senate is presided over by the President of the Senate – Bill Ferguson.
 - House is presided over by the Speaker of the House – Adrienne Jones.
- The General Assembly is organized into 10 standing committees.
- The powers of the General Assembly are generally unrestricted unless specifically limited by the US or Maryland Constitution.
- The Department of Legislative Services (DLS) provides central nonpartisan staff services to the Maryland General Assembly. Departmental staff provides support and assistance to the General Assembly as a whole, to its committees and subcommittees, and individual legislators.

2021 Legislative Session – Dates of Interest

Session Begins: January 13

Crossover: March 22

Bills Signed or Vetoed: June 1

Session Ends: April 12

2021 Legislative Session – Education Committees

House

Appropriations

Chair – Maggie McIntosh

Ways and Means

Chair – Anne Kaiser

Senate

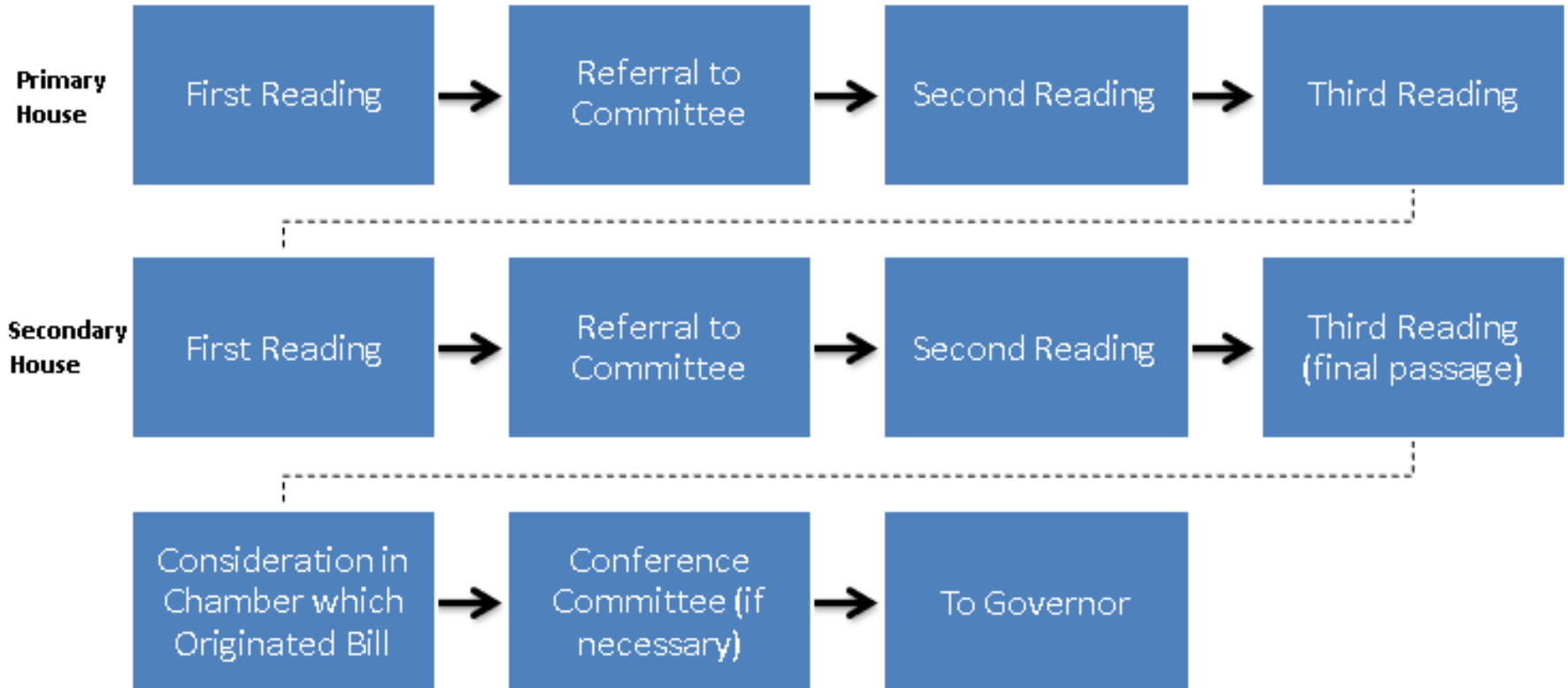
Budget and Taxation

Chair – Guy Guzzone

Education, Health, and Environmental Affairs

Chair – Paul Pinsky

2021 Legislative Session – Legislative Process



2021 Legislative Session – Committee Process

Once a bill is assigned a committee, the committee will hold a public hearing.

Each bill will receive a hearing, however, committees do not take every bill under further consideration.

If a committee decides to take a bill under further consideration, it will undergo review from a subject matter subcommittee and the full committee.

If the full committee decides to vote the bill out of committee, then it is taken to the floor where it is debated.

The State Board's Role During Legislative Session

- The State Board of Education will meet three times during the 2021 legislative session – January 26, February 23, and March 23. You will receive legislative updates at each meeting.
- The State Board may decide to provide written testimony, oral testimony, or both in support or opposition of a bill.
- Due to the fast pace of the legislative session, bills may be introduced that need State Board action before the next State Board meeting occurs. The State Board will be notified of the bill immediately

MSDE's Role and Legislative Session Statistics

- MSDE staff review and process a significant amount of legislation during session.
- Last year, the Department reviewed roughly 300 pieces of legislation and provided more than 200 fiscal note responses to the Department of Legislative Services.
- While the Department does not officially take positions on legislation, we provide letters of information and monitor numerous bills throughout the session.
- The State Superintendent and State Board leadership meet with legislators and their staff frequently during the session on various issues.
- We are on track for another significant tranche of bills that impact both the Department and the State Board already at this point in session, with nearly 100 on our radar.

Bill Review

For any additional questions, please contact

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ISSUE PAPERS 2021 LEGISLATIVE SESSION



DEPARTMENT OF LEGISLATIVE SERVICES 2020

Issue Papers

2021 Legislative Session

**Presentation to the
Maryland General Assembly**

**Department of Legislative Services
Office of Policy Analysis
Annapolis, Maryland**

December 2020

For further information concerning this document contact:

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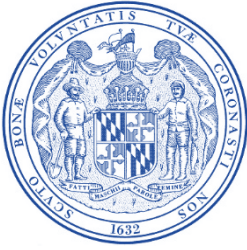
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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF POLICY ANALYSIS
MARYLAND GENERAL ASSEMBLY

Victoria L. Gruber
Executive Director

Ryan Bishop
Director

December 2020

The Honorable Bill Ferguson, President of the Senate
The Honorable Adrienne A. Jones, Speaker of the House of Delegates
Members of the General Assembly

Ladies and Gentlemen:

Each fall, the Office of Policy Analysis prepares an informational report on various issues to assist you in your deliberations during the upcoming legislative session. Once again, this document is a compilation of the issue papers arranged by major subject area topic. This year's report also includes a special section devoted to issues resulting from the COVID-19 pandemic. The information reflects the status of the topics as of November 30, 2020.

We trust this report will be a useful source of information for you. Following each paper is an identification and e-mail address of the staff who worked on a particular topic. If you should need additional information about a topic, please do not hesitate to contact us or the appropriate staff person.

Sincerely,

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Remote Learning and Reopening Schools

With the COVID-19 pandemic continuing, all public schools in Maryland started the school year learning remotely. Most school systems are providing in-person instruction to small groups of students, and some are moving toward a hybrid model for some students for the remainder of the fall semester. School systems are facing many challenges with effectively teaching most students remotely while at the same time safely reopening schools. Many students are suffering learning loss during remote learning, which is exacerbating the learning gap for struggling students that existed prior to the pandemic. Addressing students' learning loss as soon as possible is critical and will remain a challenge after the pandemic.

Background

The abrupt change from in-person instruction to an all-remote learning model in March due to the COVID-19 pandemic had an immediate impact on student access to instruction, student learning, and school resources. Local school systems and schools across the State struggled to provide student instruction using various remote learning models, with significant variation from one school system to the next and with limited success. With the continuation of the pandemic, all of Maryland's 24 local school systems began the 2020-2021 school year with all-remote instruction, although most systems planned to begin some form of in-person instruction later in the fall semester. With the additional time for school systems to plan over the summer, remote instruction in the 2020-2021 school year is intended to be more robust than the instruction that was provided in the spring. Schools across the State are working to address the many challenges of operating successful virtual instruction and navigating the challenges of safely returning to in-person learning amidst the COVID-19 pandemic.

According to the Maryland State Department of Education (MSDE), as of October 13, 2020, 19 school systems provided in-person instruction for small groups of students or limited hybrid instruction. Generally, systems opened in-person instruction first to students with disabilities, English learners, elementary students (including prekindergarten and kindergarten), and career and technical education students. Hybrid instruction involves a combination of remote and in-person instruction with typically two days of in-person instruction each week. Most systems plan to open schools for some in-person instruction in the second quarter of the fall semester, *i.e.*, mid-November. Baltimore City announced on November 2 that it will open 44 schools to in-person instruction for the second quarter, including students with disabilities, students experiencing homelessness, and students who are participating in remote instruction less than 20% of the time. Three systems – Frederick, Montgomery, and Prince George's counties – do not plan to offer any in-person instruction until the spring semester. As of November 2, 2020, the remaining two systems, Baltimore and Charles counties, had not yet begun any in-person instruction.

Baltimore County delayed the reopening of four special education centers planned for early November and has not announced a new timeline. Charles County plans to move to in-person instruction for small groups of students beginning November 9.

Several systems and schools have had to return to all-virtual instruction after reopening for in-person instruction due to increasing COVID-19 positivity and case rates. Dorchester County began in-person instruction for a small number of students on September 15 and began hybrid instruction for kindergarten, grade 6, and grade 9 students on October 13. However, Dorchester County announced it was returning to all virtual instruction after its county COVID-19 positivity rate increased from 2.5% on October 10, 2020, to 6.1% on October 21, 2020, which is above the 5% rate metric set by MSDE and the Maryland Department of Health (MDH). The MSDE/MDH guidance for reopening schools is discussed further below.

State and Local Recovery Plans

In June 2020, MSDE released *Maryland Together: Maryland's Recovery Plan for Education* (State Recovery Plan). The plan was designed to aid local school systems in developing and implementing their own plans for reopening schools in the fall and, ultimately, the students' safe return to in-person instruction. The plan required each local board of education to develop and submit a reopening plan to MSDE by mid-August that addressed multiple requirements for reopening schools, including following health and safety protocols for personnel and students and facility operations, addressing educational inequities, determining student learning loss and preparing for instructional success and recovery, tracking student attendance and remote learning engagement, following federal law for educating students with disabilities, establishing transportation protocols, and ensuring adherence to the Maryland College and Career Ready Standards and State frameworks for instructional content.

Each local recovery plan was developed in collaboration with a broad range of stakeholder groups, including teachers, parents, students, educators, local health experts, and other community members. After initial submission and after feedback from MSDE, each school system's plan was approved by MSDE and posted to the local school system's website.

However, after approving all 24 recovery plans, the State Board of Education, at the State Superintendent's request, adopted a student engagement requirement for local school systems. Each school system providing remote learning must provide an average of 3.5 hours of synchronous (*i.e.*, live) learning across all grades (K-12) for each school day by December 31, 2020. The synchronous learning requirement does not have to be met within each grade but across all grades. Further, a local school system must provide 6 hours of instruction per day, including asynchronous instruction.

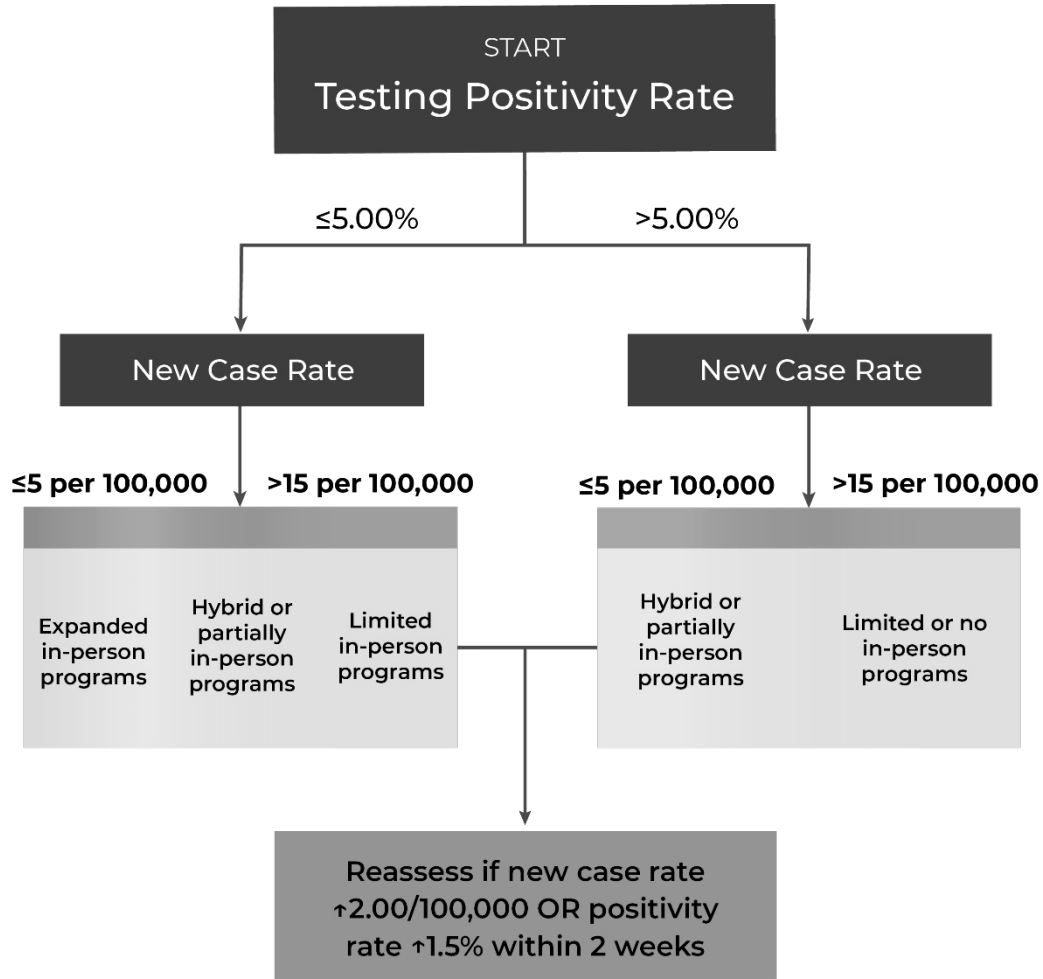
Factors for In-person School Reopening Decisions

The Governor and the State Superintendent have encouraged local school systems to open for in-person instruction if it is safe. Schools are expected to follow applicable guidelines from MDH, local health departments, and the Centers for Disease Control and Prevention (CDC). For the past few months and during the development of local recovery plans, local school systems have worked to address many challenges to safely reopen schools, including reopening metrics, safe facility operations, transportation, and school resources.

COVID-19 Metrics

In late August, following calls for specific public health metrics to guide school reopening decisions, the Governor, the Acting Deputy Secretary of Health, and the State Superintendent announced metrics to be used as guidance for reopening schools for in-person instruction. The metrics are based on the local jurisdiction's positive COVID-19 test rate and the number of new cases. As shown in **Exhibit 1**, a COVID-positive test rate at or below 5% and reports of new COVID cases at or below 5 per 100,000 people in the jurisdiction allow for expansion of in-person programs. However, MSDE and MDH have not, to date, provided clear guidance for when a school or system that is open to in-person instruction should be closed, nor has it provided guidance on notifying school staff and students and their families of positive cases. In the absence of State guidance, local school systems are developing their own protocols, in consultation with local health departments and in some cases other public health experts, including access to testing and contact tracing.

Exhibit 1 In-person School Reopening Guidance



Source: Maryland Department of Health; Maryland State Department of Education

Safe Facility Operations

Currently, there is no single accepted standard for when or how schools can be reopened safely. Local school systems are working to comply with health and safety guidelines from the federal CDC and the State, including (1) procuring large quantities of costly personal protective equipment (PPE) (masks, hand sanitizers, and face shields) and cleaning and sanitizing supplies; (2) considering school building modifications, *e.g.*, cleaning and disinfectant; heating, ventilation,

and air conditioning systems; air filtration systems; air purifiers; Plexiglas; and plastic sheeting material; and (3) reorganizing school spaces to accommodate social distancing requirements. Addressing these issues requires additional expenditures from already strained budgets, and as a result, local leaders have requested a more centralized process to streamline and standardize procurement and resource allocation.

In order to help states combat COVID-19, Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act in March 2020. The Elementary and Secondary School Emergency Relief Fund provided a total of \$207.8 million to MSDE to be used broadly for educational purposes and to coordinate, prepare, and respond to needs related to the coronavirus (*e.g.*, purchase of PPE, education technology, mental health services, school closures, remote learning, *etc.*). MSDE allocated \$187 million to school systems, the SEED School of Maryland, and nonpublic schools with an additional \$10 million being used to provide grants to school systems to cover the costs of reopening schools and the remainder for professional development and a statewide learning management system. School finance officials have stated that the available federal funds are not sufficient to cover their COVID-19-related costs, but a detailed accounting of the remaining costs has not yet been provided.

The switch to remote instruction and plans for reopening schools without the guarantee of a safe working environment is likely to exacerbate an already existing teacher shortage in the State. Many teachers have expressed concerns with the heavy workloads created by teaching in a remote or hybrid learning model or with being required to return to a school building to teach in person during the pandemic.

Transportation

Transportation of students to and from school is a barrier to in-person instruction because it is difficult to maintain social distance on school buses and public transportation, which is used by Baltimore City students. The CDC guidance regarding school buses recommends that each child sit one to a seat and that the rows in which children sit be alternated. For a 77-passenger bus, this would allow for approximately 13 students to be transported. MSDE recommended that schools follow CDC recommendations for school buses, provided suggestions on how to group passengers and alternate transportation arrangements, and recommended steps to take to ensure that buses are kept safe, including cleaning protocols. To reduce the number of students on school buses at the same time, many systems that have opened for in-person instruction have used alternating schedules and encouraged parents and guardians to transport students.

School Resources

In response to the pandemic, local school systems have had to quickly procure computer devices and work to provide broadband connectivity in order to facilitate remote learning. While the COVID-19 pandemic was not anticipated and school systems all over the country and world struggled to shift to remote learning, the lack of robust learning management systems in many

school systems, which provide an integrated platform for multiple software systems used by teachers and administrators, exacerbated the challenge. Schools continue to provide free meals to students and their families during the months of closure, supported by federal funds. However, with schools closed, school systems' food service budgets, which are a self-supporting activity, are losing revenues from full-price meals.

Due to difficulties in engaging the youngest students through remote learning, preliminary student enrollment figures show declining enrollment, particularly at the prekindergarten and kindergarten levels. Homeschooling applications are also up significantly. This decline directly impacts the fiscal 2022 school budgets due to the school funding formulas being based on the prior year enrollment. It is unknown how many students who withdrew from school this year will return to public school next year, which could result in a longer-term enrollment issue for some school systems.

Addressing Student Learning Loss

Student learning loss is one of the most pressing problems stemming from closed schools and remote learning models. Learning loss at any grade level occurs under the remote virtual learning model due to a student's lack of access to remote instruction, low-quality remote instruction, differing levels of home support, an environment not conducive to learning (lack of a quiet work space, dedicated device, high-speed internet, or minimal parental academic supervision), loss of supports, and social emotional impacts (social isolation, anxiety, economic insecurity, stress, limited physical activities, and loss of important milestones).

The State Superintendent has cited research that estimates that students could lose between 3 to 11 months of learning, depending on the quality of the remote learning. This problem is heightened in populations of students who struggle and often require additional services, including low-income students, students with disabilities, and English language learners. The Commission on Innovation and Excellence in Education (known as the Kirwan Commission), in its final policy and funding recommendations made prior to the COVID-19 pandemic, proposed significant funding to support struggling learners in the State. Although the State Recovery Plan requires local school systems to identify students' learning loss and develop a plan for addressing it, local school leaders have expressed concern that there is no standard assessment for determining or tracking learning loss across students throughout the State.

The State allocated \$100 million from the CARES Coronavirus Relief Fund to provide targeted tutoring and learning programs that meet certain criteria. Local school systems have used these funds to mitigate learning loss by employing various strategies beginning in summer 2020 and continuing into this school year. These include:

- **Virtual Summer School:** Many systems partnered with local community organizations to provide virtual tutoring services to students. Prince George's County spent \$40,000 of its CARES Act funding to provide free summer school to thousands of students. Many

systems, including Baltimore City and Anne Arundel, Harford, and Montgomery counties, provided similar services.

- ***Small In-person Instructional Groups:*** Baltimore City provided 200 students with in-person tutoring during summer 2020.
- ***Student Learning Centers:*** Many systems have provided classroom space for small groups of students to receive in-person assistance while engaging in virtual instruction. These opportunities are offered to prioritized students as determined by the local system, including English language learners, homeless students, students with disabilities, students of school employees, and those with lack of Internet access. Harford County opened the 2020-2021 school year with 1,800 students in 41 of 54 schools attending student learning centers five days per week. Baltimore City opened the school year with 15 schools hosting student learning centers.

Strategies like these and other innovative approaches will likely continue to be needed for several years to address student learning losses during the pandemic and those exacerbated by the pandemic. Of the \$45.7 million Maryland received in the CARES Governor’s Emergency Education Relief Fund, \$10 million is being allocated by MSDE to implement unique or innovative approaches to engage students, teachers, and school communities to address academic accessibility as a result of the COVID-19 pandemic. MSDE announced 29 grant awards to public schools and school systems, nonpublic schools, and public and private higher education institutions in September. According to MSDE, grant recipients presented creative strategies to support disengaged students, students with disabilities, teachers, and families in need. Priority for funding was given to programs that address the needs of at-risk students.

Regional Virtual Schools

Another approach to remote learning is consortium learning models. Before the pandemic, some states established statewide or regional virtual schools to support full-time remote learning, often for students who live in rural areas and must travel long distances to attend in-person public school. Nine counties on the Eastern Shore (Caroline, Cecil, Dorchester, Kent, Queen Anne’s, Somerset, Talbot, Wicomico, and Worcester) developed the Eastern Shore Consortium Blended Virtual Program using federal CARES funds. Parents can opt for this program, and students will use a shared (nonlocal school system) distance learning platform with classes taught by teachers within the school system or utilizing certified teachers from outside of the local school system. Three counties in Southern Maryland (Calvert, Charles, and St. Mary’s) formed the Southern Maryland Consortium and are considering a blended virtual program for the second semester.

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Broadband Connectivity for Public Schools

While not a new problem, the lack of reliable broadband access for students at home has become an urgent issue with the shift to remote learning for most public school students. Students do not have access due to the lack of technology infrastructure, primarily in rural areas of the State, and the lack of affordable Internet service for low-income families in both urban and rural areas. The State and local school systems are utilizing federal COVID-19 funds to address the issue in the short term, by purchasing Wi-Fi hotspots and Internet subscriptions, and in the long term, by building out a statewide wireless education network.

Access to Reliable Broadband

While all public school buildings in the State have Internet access and computers for student use (although not necessarily a device for every student), with the sudden shift to remote learning in spring 2020 in response to the COVID-19 pandemic, it quickly became apparent that many students in the State did not have broadband access or digital devices at home. Broadband connectivity is not only a K-12 public school issue, but the continuing challenges of teaching school remotely have focused attention on public schools. Lack of broadband connectivity (and digital devices) is also an issue for college students taking virtual classes and individuals participating in online training or job search activities, among others.

Broadband provides a connection of wide bandwidth data over a high-speed Internet connection. The Federal Communications Commission (FCC) standard for high-speed Internet is a minimum of 25 megabits per second download and 3 megabits per second upload. In 2019, the Maryland Task Force on Rural Internet, Broadband, Wireless, and Cellular Service reported that 98% of Maryland households have access to broadband service. However, in some rural areas, connection speeds were slow and did not meet the minimum FCC standard for high-speed Internet. As a result, the task force determined that only approximately 64% of Maryland households have access to high-speed Internet service. The task force also found that 72% of Maryland residents can connect to the Internet either at home or at work, but that over 50% paid at least \$80 per month for Internet service, regardless of income or service quality.

Students in urban areas also lack broadband access. A May 2020 Abell Foundation report found that 52,000 Baltimore City households lacked any reliable broadband access. Furthermore, even when broadband was available, the report found that 35% of Baltimore City residents with an annual household income of less than \$25,000 do not have an Internet subscription.

Federal and State Budget Actions

The Office of Rural Broadband in the Department of Housing and Community Development (DHCD) works with rural counties and local Internet service providers (ISP) to build broadband infrastructure in underserved rural areas. To fund these projects, DHCD administers multiple grant programs, including the Local Government Infrastructure Fund, to provide low-cost capital grants and loans to local governments. The State also offers funds for rural broadband access through the Rural Maryland Prosperity Investment Fund and the Rural Broadband Assistance Fund. Prior to the pandemic, some ISPs provided discount plans for low-income households, and the State also offered discounts on Internet service through federal grants offered by the Public Service Commission.

As part of the federal response to COVID-19, the U.S. Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The CARES Act provided funds to states to help with costs associated with the pandemic, including remote learning. In the relief package, Maryland local school systems and DHCD received a total of \$135 million in CARES Act funds related to technology and broadband access through the Coronavirus Relief Fund (CRF) and the Governor's Emergency Education Relief (GEER), including:

- \$100 million in CRF technology grants disbursed by the Maryland State Department of Education (MSDE) directly to school districts to improve local school system technology;
- \$15 million in GEER funds to DHCD to build a statewide educational wireless network for school districts;
- \$10 million in CRF funds disbursed through grants to school districts by DHCD to subsidize Internet service for low-income families and provide wireless hotspots; and
- \$10 million in GEER technology grants distributed by MSDE to school districts to improve high-quality and accessible distance education.

In August, DHCD reported that it had received applications from 21 of 24 local school systems totaling \$7.9 million for the available CRF grants. Due to the required expenditure of CRF funds by December 31, 2020, school systems received this money immediately to help with purchases at the beginning of the school year. DHCD also reported that it is working to study, design, and construct the statewide educational wireless network for school districts using the \$15 million in GEER funds. MSDE recently advised that DHCD will work with local partners to incorporate communications towers as part of the network infrastructure. The network is expected to be operational by the beginning of the 2021-2022 school year.

Local School System Response to the Digital Divide

In response to the shift to providing remote instruction, local school systems have used their own funds and federal funds to deliver a variety of methods of Internet access to students. Local school systems have extended Wi-Fi access to parking lots outside schools, provided Wi-Fi service on school buses parked at convenient community locations including libraries and area businesses, and distributed individual wireless hotspots. Some local school systems have partnered with ISPs to increase the availability of Internet subscriptions for low-income households at a discounted rate and have paid for Internet subscriptions for students. School systems have also purchased digital devices, such as laptops and Chromebooks, to distribute to students.

Although the CARES Act provided local school systems with funds to address the critical need of broadband access, MSDE reported in August that, based on data from June, the digital divide still existed for some students. Seventeen counties reported that fewer than 80% of students in the county have reliable Internet access. Somerset and Wicomico counties reported the lowest availability of reliable Internet access for students (20% to 40%). Of the school systems reporting that an estimated 40% to 60% of students have reliable Internet access, all eight were rural counties.

Additionally, MSDE reported that local school systems needed an additional 444,025 devices for students and 37,112 devices for teachers. Baltimore City and Montgomery and Prince George's counties all reported the greatest need of over 50,000 additional devices. Because of the shortage of devices in the supply chain, device shipments have been delayed. Local school systems have adjusted by using paper packets or having students use their personal devices.

In October, MSDE conducted a remote learning survey with local school systems to provide updated information on broadband access, affordability, and devices for students engaged in remote learning. The results of the survey are not available yet.

Child Care Reopening

Child care programs have struggled to fully reopen after most were required to close in the spring in response to the COVID-19 pandemic. Increased operating expenses related to health and safety protocols and capacity limits caused financial strain, which was mitigated by State assistance using federal funding that has since expired. Approximately 16% of child care programs in the State remain closed, despite increased demand from parents due to remote K-12 learning for most public school students.

Reopening Timeline

On March 25, 2020, as part of the State's COVID-19 pandemic response, Governor Lawrence J. Hogan, Jr. issued an executive order authorizing the State Superintendent of Schools to close all licensed child care programs and to establish a program allowing certain providers to remain open only to serve children of essential personnel. The Maryland State Department of Education (MSDE) was also permitted to suspend regulations, such as allowing family or friend care in a provider's home, to aid families in caring for their school-age children while K-12 schools were closed. State Superintendent Karen B. Salmon ordered that all child care providers not approved to serve children of essential personnel were required to close after March 27, 2020.

MSDE referred to this initial period in which only providers participating in the department's Essential Personnel Child Care (EPCC) and Essential Personnel School-age (EPSA) programs were open as "Pre-Recovery" in *Maryland Together: Maryland's Recovery Plan for Child Care* (Recovery Plan), published on May 20, 2020. The May 2020 Recovery Plan outlined three gradual phases to reopen child care programs.

- **Phase 1:** Initiated on May 16, 2020, EPCC and EPSA providers were able to serve children of parents who worked at newly reopened businesses. MSDE continued to cover child care tuition for children of essential personnel and made subsidy payments through the Child Care Scholarship (CCS) program based on enrollment rather than attendance.
- **Phase 2:** The State advanced to Phase 2 in two steps. Beginning on June 10, 2020, MSDE allowed all parents to access child care and all providers to reopen as long as providers met health guidelines and capacity limits; capacity was increased from the initial phase. MSDE stopped paying child care tuition for children of essential personnel. Effective July 20, 2020, the CCS program returned to attendance-based payments, and MSDE closed EPSA sites and unlicensed family and friend care.

- **Phase 3:** State Superintendent Salmon lifted the capacity restrictions on center-based child care on October 1, 2020. During this phase, all child care providers are still required to meet health and safety guidelines.

Financial and Operational Challenges for Providers

Prior to the COVID-19 pandemic, child care capacity in Maryland was already in decline. From fiscal 2015 to 2019, MSDE reported a reduction of 3,069 slots, or 1.4%. MSDE attributed this trend to declining numbers of family child care providers operating in the State. The COVID-19 pandemic and resulting stay-at-home order in the spring has further increased operating costs that led providers to close and has caused new issues, such as restricted capacity and enhanced health and safety protocols.

EPCC/EPSA Program and Provider Closures

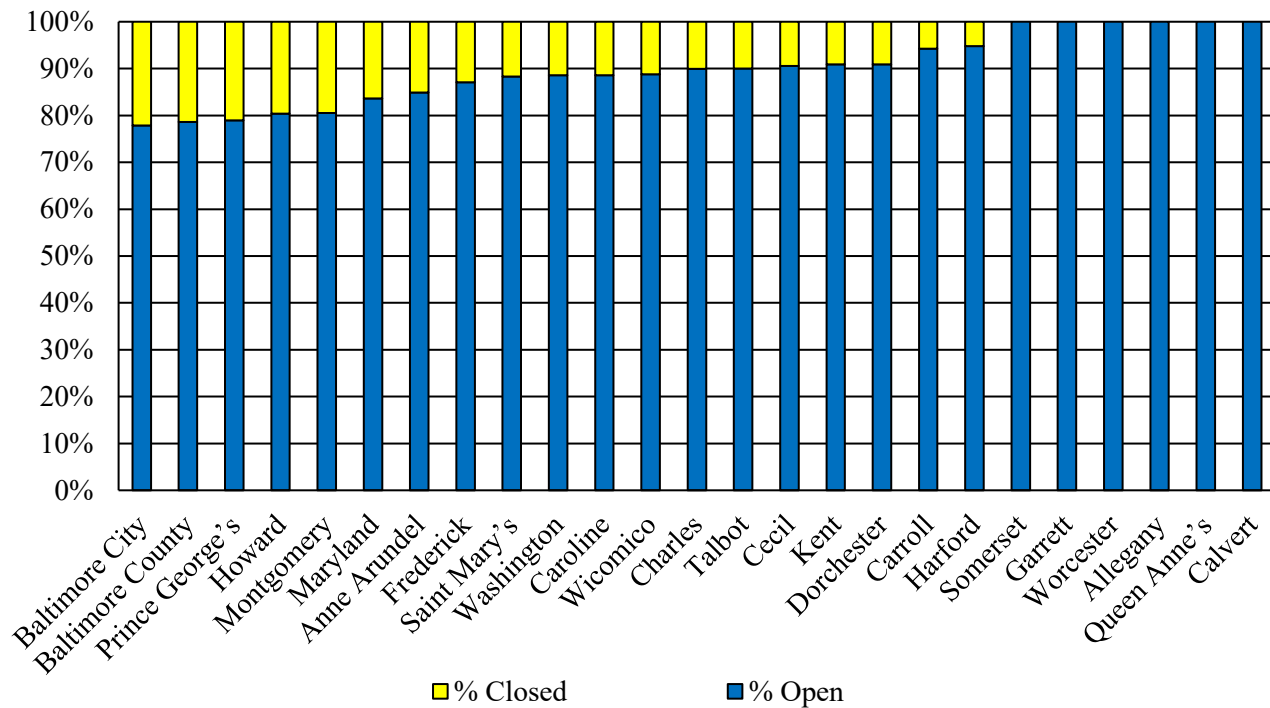
At the start of the EPCC and EPSA programs on March 30, 2020, MSDE indicated that 2,258 child care programs, or 28.7% of total licensed programs, were open. MSDE reimbursed these programs for each child that they served and provided \$800 to \$2,000 grants to buy cleaning supplies or personal protective equipment (PPE). The grants could also be used to supplement losses from operating at a lower capacity. Tuition reimbursement and provider grants were federally funded through the \$45.8 million in additional funds from the Child Care and Development Block Grant awarded in the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

Of approximately 5,600 programs that were required to close, 1,169 programs served children participating in the CCS program prior to the statewide closures and continued to receive CCS reimbursements from MSDE based on enrollment. Any licensed provider was also eligible to apply for grants for cleaning supplies and PPE from MSDE upon reopening. Child care providers classified as a small business were eligible to apply for business assistance programs, such as the federal Paycheck Protection Program and the Maryland Small Business COVID-19 Emergency Relief Grant Fund. Some jurisdictions also allocated supplemental funds to assist child care providers, such as Anne Arundel County, which budgeted \$3 million in CARES funding for grants up to \$50,000, and Montgomery County, which budgeted \$10 million for child care expenses.

However, not all providers were financially able to reopen starting June 10, 2020, and MSDE reported that 16% of programs statewide remain closed as of October 19, 2020. As shown in **Exhibit 1**, the share of licensed programs that have reopened varies by jurisdiction. For example, Baltimore City reported 576 licensed providers reopened (78%), while six counties (Allegany, Calvert, Garrett, Queen Anne's, Somerset, and Worcester) report that 100% of their licensed providers reopened. It is also worth noting that the percent of reopened programs does not provide a clear measure for the number of available child care slots in each jurisdiction because this measure does not convey how many center-based slots remained closed due to restricted capacity.

Moreover, this measure does not show the impact of closures on the availability of *quality* child care programs, especially as increased operating costs may make it more difficult for providers to sustain and improve the quality of their programs.

Exhibit 1
Reopened Licensed Child Care Programs by Jurisdiction
As of October 19, 2020



Source: Maryland State Department of Education

Enhanced Health and Safety Protocols

Child care programs that remained open to serve essential personnel and programs that reopened after June 10, 2020, also faced operational challenges with following enhanced public health and safety protocols. MSDE issued guidance on March 15, 2020, for programs to prevent the spread of COVID-19 by social distancing, restricting visitors and volunteers from entering the facility, and following cleaning and disinfecting procedures. Similarly to other essential businesses and facilities that operated during the State’s stay-at-home order, child care providers needed to procure PPE and cleaning supplies while there were shortages.

If there was a confirmed or probable case of COVID-19 among a child or staff member, programs were also required to close and quarantine for 14 days. MSDE and the Maryland Department of Health (MDH) have not published COVID-19 cases reported in child care programs, so the extent of outbreaks among children or staff and the extent of quarantine-related closures is unknown. However, MDH generally reports that individuals aged nine years old and younger make up the smallest share of COVID-19 cases and have not accounted for any COVID-19 deaths in the State as of October 27, 2020.

Financial Challenges for Parents and Families

Full-time and partial distance learning for prekindergarten and K-12 schools have led to higher demand for child care for school-age children as available slots in licensed child care programs are reduced. At an October 1, 2020 press conference, State Superintendent Salmon discussed how this increased demand for care has led some families to seek unlicensed and informal programs that are unregulated and could be unsafe. Diminished child care capacity will also lead some parents to stay home from work to care for their children.

In addition to limited child care capacity, the COVID-19 pandemic has accelerated a national trend of increasing child care costs that made quality child care inaccessible for some families. The Maryland Family Network found in its *2020 Child Care Demographics* report that estimated child care costs equaled between 17.0% and 32.8% of jurisdictions' median income for a family of four. MSDE implements the CCS program to subsidize child care costs for eligible low-income families. However, COVID-19 related public health requirements, closures, and limited capacity have increased operating expenses for providers and will likely cause statewide child care costs for families to rise further.

Education

State Education Aid

State education aid is projected to increase modestly in fiscal 2022. The small growth is due to a combination of low inflation, which drives per pupil funding amounts, and preliminary enrollment figures showing a sharp decline in most programs. These decreases are offset by a mandated increase in funding for the Blueprint for Maryland's Future Fund. As a result of the Governor's veto of House Bill 1300 of 2020, several Blueprint programs that were funded in fiscal 2020 and 2021 are no longer required to be funded in fiscal 2022. However, sufficient funding is available in the Blueprint for Maryland's Future Fund to more than cover the costs to continue the programs.

Aid for State Public Schools Projected to Increase by \$103 Million

Public schools are expected to receive an estimated \$7.3 billion in fiscal 2022, representing a \$102.8 million (1.4%) increase over the prior fiscal year. The increase is comprised of aid that flows directly to local school boards, which is projected to increase by \$96.2 million (1.5%), and of retirement aid, which is projected to increase by \$6.6 million (0.9%). The modest increase in direct aid is largely driven by a slight expected rise in the per pupil foundation amount coupled with decreasing total enrollment related to COVID-19, more than offset by a \$205.3 million increase in spending from the Blueprint for Maryland's Future Fund. However, an October 26, 2020 waiver decision by the State Board of Education to allow for the count of nonimmunized students when determining full-time equivalent enrollment used for major direct education formulas will likely result in the addition of an estimated \$109 million in direct aid as compared to figures otherwise presented and discussed in this issue paper.

Direct Aid Programs Increase Modestly

The foundation program is the major State aid program for public schools, accounting for nearly half of State education aid. For each school system, a formula determines the State and local shares of a minimum per pupil funding level, or "foundation." In fiscal 2022, the foundation program is estimated to decrease by \$98.5 million (3.1%), from \$3.2 billion to \$3.1 billion. This decrease is primarily attributable to a projected decrease of 3.8% in full-time student enrollment in 2020 to 2021, from 874,268 to 841,087. The unanticipated enrollment decline is related to the impact of the COVID-19 pandemic on in-person schooling; the continuation of remote learning by most school systems has led to significant decreases, particularly in prekindergarten and kindergarten enrollments, as well as an increase in home schooling applications. In addition, over 26,000 students statewide did not meet the immunization requirement to be counted in the foundation enrollment, which is considerably higher than prior years. In fiscal 2022, the per pupil foundation grant amount increases by \$59, from \$7,331 to \$7,390, an increase of 0.8% that reflects the low rate of inflation.

As shown in **Exhibit 1**, formula funding for special education and for English language learners also decreases in fiscal 2022. As with the foundation program, the decrease in funding for these programs results from significant enrollment decreases that are likely related to the COVID-19 pandemic. Eligible enrollment for special education and English language learners decrease by 8.9% and 6.3%, respectively. Conversely, yet also likely related to conditions resulting from the COVID-19 pandemic, the count of students used to determine compensatory aid (those students who are eligible for free or reduced-price meals (FRPM)) increases by about 6.8%. As a result, compensatory aid is estimated to increase by \$107.2 million (7.9%) in fiscal 2022, from \$1.4 billion to \$1.5 billion.

Exhibit 1
Estimated State Aid for Education
Fiscal 2021 and 2022
(\$ in Millions)

<u>Program</u>	<u>2021</u>	<u>2022</u>	<u>\$ Change</u>	<u>% Change</u>
Foundation Program	\$3,218.4	\$3,119.9	-\$98.5	-3.1%
Geographic Cost of Education Index	149.5	145.0	-4.6	-3.1%
Net Taxable Income Grant	69.7	62.8	-7.0	-10.0%
Declining Enrollment Grant	7.6	0.0	-7.6	-100.0%
Hold Harmless Grants	9.5	0.0	-9.5	-100.0%
Kirwan Blueprint Funding	294.7	500.0	205.3	69.7%
Compensatory Education Program	1,364.7	1,472.0	107.2	7.9%
Special Education Formula	314.9	289.4	-25.5	-8.1%
Nonpublic Special Education	123.9	124.5	0.6	0.5%
Limited English Proficiency	348.2	328.5	-19.7	-5.7%
Guaranteed Tax Base	41.2	54.7	13.5	32.8%
Student Transportation	310.2	296.4	-13.7	-4.4%
Head Start/Prekindergarten	75.2	29.6	-45.6	-60.6%
Other Education Programs	138.6	139.8	1.2	0.9%
<i>Direct Aid Subtotal</i>	<i>\$6,466.4</i>	<i>\$6,562.6</i>	<i>\$96.2</i>	<i>1.5%</i>
Teachers' Retirement	\$750.3	\$756.9	\$6.6	0.9%
Grand Total	\$7,216.7	\$7,319.5	\$102.8	1.4%

Kirwan: Commission on Innovation and Excellence in Education

Note: Does not reflect additional direct aid of approximately \$109 million that will likely result from an October 26, 2020 State Board of Education decision to waive the requirement that nonimmunized students must be excluded from the enrollment count used to determine major direct education formula results.

Source: Department of Legislative Services

Though \$72.2 million was provided for prekindergarten expansion and other early education programs in fiscal 2021, only \$26.6 million required by statute for prekindergarten expansion is assumed for fiscal 2022, resulting in a \$45.6 million decrease. Also, a decrease of

\$9.5 million is projected due to no funding being included in fiscal 2022 for hold harmless grants. Though grants in both fiscal 2019 and 2020 were provided to mitigate against decreases in direct aid for local education agencies, such grants are not required by statute, and thus not assumed for the fiscal 2022 budget.

Funding for the Blueprint for Maryland’s Future

The Blueprint for Maryland’s Future (Chapter 771 of 2019) established multiple programs and funding for schools and school districts in fiscal 2020 and 2021 to begin implementing the 2019 interim recommendations of the Commission on Innovation and Excellence in Education chaired by Dr. William “Brit” Kirwan. In fiscal 2020, these programs included (1) a Concentration of Poverty School Grant Program; (2) a Teacher Collaborative Grant Program; (3) a Teacher Salary Incentive Grant Program; and (4) Transitional Supplemental Instruction for struggling learners. Additionally, school systems received \$65.5 million for special education, which included targeted allocations for implementation of student Individualized Education Programs (IEPs) and 504 plans. In fiscal 2021, these programs included an extension and expansion of declining enrollment grants and supplemental prekindergarten grants first established under Chapters 6 and 607 of 2017. Additionally, Chapter 771 extended through fiscal 2025 the FRPM student count methodology for the compensatory aid program, which supplies funds for schools and school systems that participate in the Community Eligibility Provision. In fiscal 2021, funding for Blueprint programs totaled \$350.8 million, which in addition to the programs cited previously, included additional grants for early childhood education, schools with a high concentration of poverty, mental health services coordinators, and Blueprint outreach.

In fiscal 2020 and 2021, Blueprint programs were funded by a combination of gaming revenues deposited in the Education Trust Fund (\$125 million in fiscal 2020 and \$250 million in fiscal 2021); a portion of corporate filing fee revenue (in fiscal 2021); general funds repurposed from the Teacher, Induction, Retention and Advancement Pilot Program (in fiscal 2020); and \$200 million available from the Blueprint for Maryland’s Future Fund as a result of the federal Tax Cuts and Jobs Act of 2017. Beginning in fiscal 2021, sales tax revenues from marketplace facilitators and out-of-state vendors that exceed \$100 million are also dedicated to the Blueprint Fund.

Due to the Governor’s veto of House Bill 1300 of 2020, Blueprint for Maryland’s Future – Implementation, fiscal 2022 does not include funds for the implementation of the new funding formulas and programs. However, \$500 million is required by Chapter 771 to be appropriated to the Blueprint Fund in fiscal 2022, and it is assumed those funds are also spent in fiscal 2022. For a more detailed discussion of issues related to the Blueprint for Maryland’s Future, see the section “Blueprint for Maryland’s Future” within Education of this *Issue Papers of the 2021 Session*.

State Retirement Costs Increase; Local Costs Virtually Flat

State retirement costs for public school teachers and other professional personnel will total an estimated \$756.9 million in fiscal 2022, representing a \$6.6 million (0.9%) increase. This

increase is attributed to a decrease in the State contribution rate, which is more than offset by salary base growth. In addition to the State's share of teacher pension costs, local governments will contribute approximately \$305.4 million in fiscal 2022 (nearly level with the fiscal 2021 local total) – \$290.2 million for the local share of pension contributions, which is the employer “normal cost” for active members of the State Teachers’ Pension or Retirement Systems, as well as \$15.5 million toward State Retirement Agency administrative costs. The normal cost for fiscal 2022 is 4.17% of salary base as compared to 4.33% in fiscal 2021; however, this rate decline is expected to be somewhat offset by a statewide increase in the local salary base.

Maintenance of Effort

The Maintenance of Effort (MOE) law requires each county government, including Baltimore City, to provide as much per pupil funding for the local school board as was provided in the prior fiscal year. In addition, Chapter 6 of 2012 requires some county governments to increase per pupil funding. As of October 2020, the Maryland State Department of Education has certified that the school appropriations of all 24 counties (including Baltimore City) have met or exceeded the fiscal 2021 MOE requirement. In total, 5 counties (Calvert, Cecil, Frederick, Harford, and St. Mary’s) exceeded MOE by 1.0% or more. Twelve jurisdictions that are below the statewide five-year moving average education effort level may be required to increase their MOE appropriations in fiscal 2022, as required by Chapter 6 of 2012. The required increase is the lesser of the increase in a county’s per pupil wealth, the average statewide increase in per pupil local wealth, or 2.5%. Preliminary estimates suggest that statewide per pupil local wealth will increase from fiscal 2021 to 2022. In fiscal 2021, 12 jurisdictions were required to increase their appropriations, each at the maximum 2.5% increase under Chapter 6.

Blueprint for Maryland's Future

As a result of the Governor's veto of House Bill 1300, Blueprint for Maryland's Future – Implementation, new funding formulas scheduled to begin in fiscal 2022 as well as the continuation of programs and funding enacted by Chapter 771 of 2019, which established the Blueprint for Maryland's Future, are not required to be funded by the Governor in fiscal 2022. Even if the veto is overridden during the 2021 session, funding cannot be mandated until fiscal 2023. Based on current revenue estimates, there will be sufficient dedicated funding to pay for Blueprint implementation from fiscal 2023 through 2025 before general funds are required beginning in fiscal 2026 to fully fund the proposed formulas and programs.

Blueprint for Maryland's Future

After more than three years of study and consideration, the Commission on Innovation and Excellence in Education adopted its final policy and funding recommendations in November 2019. The Kirwan Commission – as it is known for its chair, former University System of Maryland Chancellor Dr. William “Brit” Kirwan – adopted interim policy recommendations in January 2019, which formed the basis of Chapter 771 of 2019, The Blueprint for Maryland's Future. Chapter 771 established an array of programs and funding relating to the State's education system over the fiscal 2020 and 2021 period. Based on the final policy and funding formula recommendations of the Kirwan Commission, the General Assembly passed House Bill 1300, Blueprint for Maryland's Future – Implementation, during the shortened 2020 legislative session. The bill was vetoed by the Governor due to the uncertain economic situation resulting from the COVID-19 pandemic.

Education Policy Provisions

House Bill 1300 implements commission recommendations in the policy areas of (1) early childhood education; (2) high-quality and diverse teachers and leaders; (3) college and career readiness pathways; (4) resources to ensure all students are successful; and (5) governance and accountability.

Early Childhood Education

Beginning in the 2022-2023 school year, House Bill 1300 expands the availability of prekindergarten by establishing voluntary full-day prekindergarten for three- and four-year-olds. Funding for the program is split between State, county, and family shares of the cost. Public and private providers must meet specified staffing, quality, and nondiscrimination requirements to be eligible to participate in the publicly funded full-day program.

The bill also mandates increased funding for several early childhood accreditation and capacity building programs. Additionally, funding is provided for the Maryland Infant and Toddlers Program, for additional Judy Centers, and for additional Family Support Centers (which will be known as Patty Centers after Patricia H. Kirwan). Finally, to transition to the new publicly funded prekindergarten program, the bill modifies the existing Prekindergarten Expansion Grant Program by expanding to three-year-olds through fiscal 2025 and expiring thereafter.

High-quality and Diverse Teachers and Leaders

The bill establishes a professionalized career framework for teachers and school leaders through a career ladder. The career ladder incorporates additional time for team collaboration, professional development, additional professional responsibilities, career advancement opportunities, and financial incentives not tied to seniority. Teachers are incentivized to obtain certification from the National Board for Professional Teaching Standards through financial incentives and other resources and supports beginning in fiscal 2022.

The bill also provides for the recruitment, preparation, and induction of teachers including a school leadership training program and provides funding for various related scholarship and loan programs. The bill also establishes requirements for teacher preparation programs at institutions of higher education and alternative teacher preparation programs. Teacher training practicums must be of a specified duration, set to increase within five years from enactment, and developed in collaboration with partner schools. The Maryland State Department of Education (MSDE) must adopt or develop challenging subject-specific exams as well as exams for teaching ability and reading instruction among other skills. Beginning in 2025, teachers must pass these exams to be certified in Maryland.

College and Career Readiness Pathways

The bill requires the State Board of Education (SBE) to adopt a College and Career Ready (CCR) standard as specified in English language arts, mathematics, and, when practicable, science. Beginning with the 2020-2021 school year, each student must be assessed no later than grade 10 by a method adopted by SBE to determine whether the student meets the CCR standard. This standard is subject to independent analysis and required to be updated based on those findings. Each local board must provide all students who meet the CCR standard with access to specified post-CCR pathways, at no cost to the student or the student's parents, and students who have not met the CCR standard by the end of grade 10 must receive an individualized plan to meet the standard.

The bill also creates a Career and Technology Education (CTE) Committee within the Governor's Workforce Development Board to build an integrated, globally competitive framework for providing CTE to Maryland students in public schools, institutions of postsecondary education, and the workforce. Also established is a Skills Standards Advisory Committee to make recommendations to the CTE Committee on the CTE courses to be offered.

Resources to Ensure All Students Are Successful

In addition to other funding formula changes related to compensatory education, English learners, and special education, and similar to the grants provided in fiscal 2020 and 2021, House Bill 1300 provides concentration of poverty grants in fiscal 2022 and each subsequent year to qualifying schools. The percentage of poverty needed to qualify for a grant is phased down from 75% to 55% by fiscal 2025 for the personnel grant and by fiscal 2027 for the per pupil grant. Transitional Supplemental Instruction (TSI) grants are provided to fund TSI, such as tutoring, for students in kindergarten through grade 3 who are identified as struggling learners. TSI funding phases up by fiscal 2024 and then phases down after fiscal 2026 to account for other provisions of the bill being implemented that serve the same purpose as TSI.

Also established is the Maryland Consortium of Coordinated Community Supports in the Maryland Community Health Resources Commission. The consortium is tasked with (1) supporting the development of coordinated community supports partnerships to meet student behavioral health needs and other related challenges in a holistic, nonstigmatized, and coordinated manner and (2) providing expertise for the development of best practices in the delivery of student behavioral health services, supports, and wraparound services. The bill mandates funding for the consortium beginning with \$25 million in fiscal 2022 and phasing up to \$125 million annually in fiscal 2026.

Governance and Accountability

To ensure consistent implementation of the recommendations of the commission, the bill establishes an Accountability and Implementation Board (AIB) designed to hold other units of government accountable for implementing the Blueprint and evaluating the outcomes of the Blueprint during the implementation period. The bill establishes AIB's powers, duties, roles, and responsibilities, which center on the development, approval, implementation, and monitoring of plans, and progress made under the plans, to implement the Blueprint. AIB is required to work with the Maryland Longitudinal Data System Center to collect and analyze specified data in order to determine if the Blueprint is working as intended.

Each November 1, the board must report on the progress made on the implementation of the Blueprint. In addition, the board must contract with an entity to conduct an independent evaluation of the State's progress toward implementing the Blueprint and the entity must submit periodic reports as to whether the Blueprint is being implemented as intended and whether any legislative or structural corrections are necessary to fully implement the Blueprint. Various financial consequences are tied to the findings of these reports.

The bill also establishes two types of expert review teams – one administered by MSDE and the other by the CTE Committee. These teams of teachers and other experts are deployed to certain schools to determine whether the Blueprint is being successfully implemented. MSDE-supervised teams will be sent to a mix of high- and low-performing schools, with a specified minimum percentage of schools to be visited annually. CTE teams will review CTE programs only.

Education Funding

The bill also contains numerous provisions relating to education funding and funding formulas. New and modified funding formulas apply beginning in fiscal 2022, with total State education aid increasing by \$761 million in fiscal 2022 and \$1.3 billion in fiscal 2025 over current law. The bill's new funding formulas and programs are fully implemented by fiscal 2033.

The per pupil maintenance of effort (MOE) level that must be met by county government (including Baltimore City) each year is altered under the bill. MOE is based upon the greater of (1) the prior year full-time equivalent (FTE) enrollment and (2) the three-year moving average of FTE enrollment. The bill repeals, beginning in fiscal 2024, the requirement that a county that is below the statewide five-year moving average education effort level must increase its per pupil MOE amount by the lesser of (1) the increase in local wealth per pupil; (2) the statewide average increase in local wealth per pupil; or (3) 2.5%. MSDE must report by November 1, 2021, on the impact on school funding of repealing this requirement.

In addition to MOE, beginning in fiscal 2022, the local share requirement continues to include the local share of the foundation formula but also includes the local share of the compensatory education, English learner, special education, comparable wage index (beginning in fiscal 2024), full-day prekindergarten (beginning in fiscal 2023), CCR, TSI (through fiscal 2026), and career ladder grant programs. Also, counties that benefit from the compensatory education State funding floor are required to fund the local share of the concentration of poverty grant program. However, for some counties, the combined local share across these several programs is subject to adjustments. Despite relief under the bill, by fiscal 2025, as many as seven counties will be required under the bill to increase education appropriations beyond their estimated expenditures under current law, amounting to approximately \$160 million in additional local expenditures statewide. The majority of this additional local spending is projected to be borne by Baltimore City and Prince George's County.

Impact of the Governor's Veto

House Bill 1300 included new funding formulas beginning in fiscal 2022 that incorporated Chapter 771 spending in fiscal 2020 and 2021. As a result of the veto, fiscal 2022 provisions under the bill are not required to be funded by the Governor. Thus, for fiscal 2022, under current law, no funding is assumed for declining enrollment grants, supplemental prekindergarten grants, or new programs established by Chapter 771. However, it is assumed that the required \$500 million appropriation to the Blueprint Fund is spent on P12 education in fiscal 2022. Even if the General Assembly overrides the veto of House Bill 1300 during the 2021 session, funding will not be mandated under the bill until fiscal 2023.

Under current law, with the veto of House Bill 1300, revenues dedicated to implementing the Blueprint for Maryland's Future in the Blueprint Fund and the Education Trust Fund Lockbox accumulate and grow from \$952 million at the end of fiscal 2022 to \$4.8 billion by the end of fiscal 2026. If the veto is overridden, as well as the veto of House Bill 932 (sales tax on digital

goods dedicated to Blueprint Fund), sufficient dedicated funds will be available to implement House Bill 1300 in fiscal 2023 through 2025 based on current revenue estimates. Beginning in fiscal 2026, additional general funds will be needed to fully fund the bill.

School Construction

The Built to Learn Act, which invests over \$2.2 billion in public school facilities, was passed by the General Assembly and enacted into law without the Governor’s signature as Chapter 20 of 2020. However, the bill has not taken effect due to its contingency on House Bill 1300, Blueprint for Maryland’s Future – Implementation, which was vetoed by the Governor. If the General Assembly overrides House Bill 1300, Chapter 20 will take effect. The bill’s provisions and interactions with the 21st Century Schools Program in Baltimore City and the 21st Century Public School Facilities Act of 2018 are discussed.

Built to Learn Act

Although the Built to Learn Act (Chapter 20 of 2020) passed both houses during the 2020 session and was enacted into law without the Governor’s signature, the law has not taken effect. The law did not take effect because its taking effect was contingent on the enactment of the Blueprint for Maryland’s Future – Implementation (House Bill 1300 of 2020), which was vetoed by the Governor. The Built to Learn Act will take effect only if the General Assembly overrides the Governor’s veto of the Blueprint bill. This paper describes provisions of the Built to Learn Act as enacted; however, since the law has not taken effect, the Governor is not required to include funding in the fiscal 2022 budget to satisfy the mandates.

The Built to Learn Act of 2020 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), for public school construction projects in the State, including to support a possible public-private partnership (P3) in Prince George’s County. It also increases or establishes new mandated State funding for other public school construction programs. The law is modeled on the 21st Century Schools Program in Baltimore City and builds on the changes to school construction policies that were enacted in the 21st Century School Facilities Act, both of which are also discussed in this paper.

MSA Revenue Bonds

The Act requires proceeds of MSA’s sale of revenue bonds (including bond premiums) to be allocated to the local school systems, as shown in **Exhibit 1**. The principal and interest on the MSA revenue bonds is repaid from mandated allocations from ETF (\$30 million in fiscal 2022, \$60 million in fiscal 2023, and \$125 million annually beginning in fiscal 2024 until the bonds are paid off).

Exhibit 1
Allocation of Bond Sale Proceeds Under Built to Learn Act
(\$ in Millions)

	<u>Percent of Total</u>	<u>Proceeds</u>
Anne Arundel	12.5%	\$250.0
Baltimore City	21.0%	420.0
Baltimore	21.0%	420.0
Frederick	5.1%	102.0
Howard	6.6%	132.0
Montgomery	21.0%	420.0
Prince George's	*	*
All Other Counties	11.5%	230.0
Unallocated/MSA	1.3%	26.0
Total	100.0%	\$2,000.0

MSA: Maryland Stadium Authority

*Under the bill, Prince George's County receives \$25.0 million annually for up to 30 years to supplement local funds for an availability payment if it enters into a public-private partnership agreement, subject to other provisions in the bill.

Source: Department of Legislative Services

For Prince George's County, \$25 million from the ETF allocation is reserved beginning in fiscal 2024 for annual availability payments under a P3 agreement to build/renovate and maintain at least six schools in the county. In October 2020, the Prince George's County Board of Education and the county council both approved a P3 agreement with a team of developers.

Other School Construction Programs

Public School Construction Program

The Act requires the Interagency Commission on School Construction (IAC) to adopt regulations that make architectural, engineering, consulting, and other planning costs eligible for State funding. The regulations must also define eligibility criteria for State funding for furniture, fixtures, and equipment with a median life of at least 15 years.

Enrollment Growth and Relocatable Classrooms Program

The Act mandates that funding for the program increase from \$40 million to \$80 million beginning in fiscal 2027. Funding above \$40 million must be allocated to eligible school systems based on their proportionate share of the enrollment growth above the State average. School

systems with a five-year average of at least 250 relocatable classrooms (instead of 300) are eligible for program funding beginning June 1, 2020.

Healthy School Facility Fund

The Act mandates that funding to the Healthy School Facility fund be extended for three years through fiscal 2024 with at least \$30 million mandated in fiscal 2022 and at least \$40 million mandated in each of fiscal 2023 and 2024. Half of the annual allocation to the fund is reserved for Baltimore City each year.

Priority Fund

The Act creates the new Public School Facilities Priority Fund to provide State funds to address the facility needs of the highest priority schools identified by the statewide facilities assessment required under current law. Mandated funding levels are at least \$40 million in fiscal 2025 and 2026 and at least \$80 million annually beginning in fiscal 2027. The Act expresses intent that the Aging Schools Program and School Safety Grant Program be terminated beginning in fiscal 2027 and that funding for those programs be consolidated into the priority fund.

Statewide School Facilities Assessment

Chapter 14 of 2018, the 21st Century School Facilities Act, made comprehensive changes to the approval process for school construction projects in the State and, among other things, required the completion of a statewide school facilities assessment every four years. Although IAC was required by the Act to complete the initial statewide facilities assessment by July 1, 2019, delays in the procurement process led to IAC only recently (in September 2020) entering into a contract with a third-party vendor to conduct the assessment using the new educational facility sufficiency standards developed by IAC in consultation with school systems. This has pushed back the completion date for the initial assessment, which is now expected to be completed in summer 2021. Chapter 14 also established a Workgroup on the Assessment and Funding of School Facilities that was specifically charged with reviewing the results of the initial assessment and making recommendations for how/whether the facilities assessment results should be incorporated into State funding for public school construction. The workgroup met during the 2019 interim but was unable to complete its work by the December 1, 2019 statutory deadline since the facilities assessment had not yet begun. The Built to Learn Act extends the workgroup's deadline to December 1, 2021.

Baltimore City 21st Century School Buildings Program

The Built to Learn Act was modeled in part on Chapter 647 of 2013, which established a new partnership among the State, Baltimore City, and Baltimore City Public Schools to fund up to \$1.1 billion in public school facility improvements in Baltimore City through revenue bonds to be issued by MSA. Of the 28 Baltimore City schools slated to be renovated or replaced under the 21st Century School Buildings program, 15 have been completed and occupied (or available to be occupied), including 10 of the 11 Year 1 schools and 5 of the 17 Year 2 schools. Completion of the final Year 1 school (Patterson/Claremont) is scheduled for summer 2021. The remaining 12 Year 2 schools are in various stages of planning and construction; most are scheduled to be completed during summer 2021 with 2 scheduled for completion during summer 2022. MSA advises that the COVID-19 pandemic has not substantially disrupted the construction schedule.

In September 2020, Governor Lawrence J. Hogan, Jr., announced that favorable bond market conditions and efficient management of program resources by MSA resulted in an additional \$60 million being available for school construction projects in Baltimore City under the program. Allocation of the additional funding has not been determined.

State Board Legislative Update - January 26, 2021

FOR STATE BOARD DISCUSSION/REVIEW:

House Bill 138 - Education - Sexual Abuse and Assault Awareness and Prevention Program - Human and Sex Trafficking

Sponsor: Delegate Johnson

Hearing: 2/3; Committee: Ways and Means

- This bill requires that the age-appropriate education program on the awareness and prevention of sexual abuse and assault developed and implemented by the State Board of Education and each nonpublic school include, for students in grades 6 through 8, material promoting the awareness and prevention of human and sex trafficking.

House Bill 465 - State Superintendent of Schools - Qualifications and Senate Confirmation

Sponsor: Delegate Washington

Hearing: 2/3; Committee: Ways and Means

- This bill requires that the Senate of Maryland advise and consent on the appointment of the State Superintendent of Schools by the State Board.
- This bill bans a current member (or a member from the previous year) from serving as the State Superintendent.

House Bill 496 - Primary and Secondary Education - Mental Health Services - Expansion (Counselors Not Cops Act)

Sponsor: Delegate Wilkins

Hearing: 2/3; Committee: Ways and Means

- This bill alters the membership of the School Safety Subcabinet Advisory Board, and beginning in Fiscal Year 2023, alters the purpose of the Safe Schools Fund to be used only for the purpose of providing grants to local school systems for the provision of mental health services and behavioral health supports, development of trauma-informed schools, and hiring community school coordinators.
- On or before September 1 each year, beginning in 2021, the bill also requires that local school systems report on a number of data points, including but not limited to: the number of school social workers, psychologists, counselors, and behavioral specialists, community schools, and trauma-informed schools in each school system.
- The bill requires that the State Board adopt regulations to carry out the requirements of the required report.

House Bill 597 - Child Care Centers - Teacher Qualifications

Sponsor: Delegate Kelly

Hearing: 2/3; Committee: Ways and Means

Crossfile: Senate Bill 436 (Delegate Kelly)

- The bill requires that the State Board of Education adopt regulations to govern the licensing and operation of child care centers regarding the probationary employment qualifications for a six-month period for an individual applying to be a first-time child care teacher.
- If at the end of the six-month period the individual has not completed a required pre-service training, the child care center shall reassign or terminate the individual.

Senate Bill 464 - Education - Educational Interpreter - Certification Requirements

Sponsor: Senator West

Hearing: 2/11; Committee: Education, Health, and Environmental Affairs

Crossfile: House Bill 651 (Qi)

- This bill requires the State Board of Education and the Professional Standards Teacher Education Board to develop rules and regulations for the certification of educational interpreters in public schools by July 1, 2022.
- It also requires educational interpreters in public schools to obtain certification on or before July 1, 2028.
- The bill requires the State to “explore” opportunities for fiscal support for educational interpreters.

BILLS FOR INFORMATION:

House Bill 11 - Public Schools - African American History - Development of Content Standards and Implementation

Sponsor: Delegate C.T. Wilson

Hearing 1/27; Committee: Ways and Means

- This bill requires the State Board to develop content standards for African American History to be included in the State’s social studies framework by December 1, 2021.
- Each county board must develop and implement an age-appropriate curriculum that encompasses these content standards, and beginning in the 2022-2023 school year each public school in the State must include African American History in the social studies curriculum.

House Bill 27 - Education - Reporting Arrests of Students - Alterations

Sponsor: Delegate Long

Hearing: 1/28; Committee: Judiciary

- This bill requires a law enforcement agency to notify the State Board and the Maryland Center for School Safety of a student’s arrest within 24 hours.
- Local superintendents must also notify the State Board and the Maryland Center for School Safety when a student who has been arrested no longer resides within the jurisdiction of that county board.

House Bill 32 - Cannabis - Legalization and Regulation (Inclusion, Restoration, and Rehabilitation Act of 2021)

Sponsor: Delegate J. Lewis

Hearing: 2/16; Committee: Judiciary and Health & Government Operations

- This bill legalizes cannabis for personal use in certain circumstances and provides guidance for the regulation of the cannabis industry in Maryland.
- The bill establishes a Cannabis Education and Training Fund to support career and technical education (CTE) programs and work-based learning programs. It allocates funding to the CTE Innovation Grant Program to support a CTE curriculum that includes hands-on cannabis career training.

House Bill 46 - Education - Student Horizon Database and Scorecard (Students Right to Know Act of 2021)

Sponsor: Delegate Griffith

Hearing: 2/3; Committee: Appropriations

- This bill requires MSDE, in collaboration with MHEC, the Maryland Department of Labor, and the MLDS, to annually collect information on: the most in-demand jobs in the State, several pieces of data on institutions of postsecondary education and private career schools in the State, the average total student loan debt of graduates of each institution

for each undergraduate and graduate program in the State, the completion rate and average starting salary of students who enlist in the military, and the number of college graduates in the State working in an occupation that does not require a college degree.

- This bill also requires MSDE to create and maintain a searchable Student Horizon database including: the data collected, a function that allows users to compare all institutions of postsecondary education and private career schools by 16 different measurements, and a search function to allow users to explore specific majors/programs that yields results on several outcomes.
- On or before October 1, 2022, and each October 1 thereafter, MSDE shall publish a Student Horizon Scorecard on the Department's website.

House Bill 48 - Criminal Procedure – Registered Sex Offenders – Entry Onto School Property

Sponsor: Delegate Bhandari

Hearing: 1/28; Committee: Judiciary

- This bill restricts the ability of a student identified on the sex offender registry to enter onto school property.
- This bill requires the State Board to adopt guidelines and a model policy for the provision of educational services to students identified on the sex offender registry in the State of Maryland at locations not included on school property.
- County boards of education must develop and adopt a policy to provide educational services to these students.

House Bill 71 - Juvenile Services Education Board and Program - Establishment, Powers, Duties

Sponsor: Delegate Luedtke

Hearing: 1/28; Committee: Judiciary and Ways and Means

- This bill repeals provisions regarding the Juvenile Services Education Program within MSDE and establishes a Juvenile Services Education Board within the Department of Juvenile Services. The State Superintendent serves as a member of the Board.
- Beginning on July 1, 2022, the Board shall oversee and approve all educational services to juveniles who are in a residential facility, and the Department of Juvenile Services shall have the authority and responsibility for implementing juvenile services educational programs in the State.
- On or before December 1, 2021, MSDE and the Department of Juvenile Services shall submit a report detailing plans for the transition of juvenile services education programs to the newly-established Juvenile Services Education Program.

House Bill 96 - Education - High School Graduation Requirements - Application

Sponsor: Delegate Solomon

Hearing: 1/20; Committee: Ways and Means

- This bill requires, beginning in the 2022-2023 school year, each public high school student to complete and submit the Free Application for Student Aid (FAFSA) or the Maryland State Financial Aid Application (MSFAA) to the U.S. Department of Education as a requirement for graduating high school.
- The bill also allows a student or the parent/legal guardian of a minor student to submit to a county board of education a statement that the student understands the FAFSA or MSFAA application and declines to complete and submit the application.

House Bill 140 - Commission on History, Culture, and Civics in Education

Sponsor: Delegate Acevero

Hearing: 1/27; Committee: Ways and Means

- This bill establishes a Commission to make recommendations to the State Board and MSDE regarding the history, culture, and civics of the United States and Maryland, including the contributions of Americans Indians, Latinos, African Americans, Asian Americans, LGBTQ individuals, and the intersectionality of significant social and cultural features within the minority communities.
- On or before December 30, 2021, and each year thereafter, The Commission shall report its findings and recommendations to the State Board. On or before July 1 of each year, the State Board shall review the Commission's recommendations and make any appropriate changes to educational standards for grades Pre-K through 12.

House Bill 155 - County Boards and Public and Nonpublic Prekindergarten Programs and Schools - Discrimination - Prohibition

Sponsor: Delegate Wilkins

Hearing: 1/27; Committee: Ways and Means

Crossfile: Senate Bill 98 (Senator McCray)

- This bill prohibits a county board, public and nonpublic prekindergarten program, public and nonpublic primary or secondary school that receives State funds from discriminating against a person due to race, ethnicity, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, or disability.
- The bill also prohibits refusing enrollment, expelling, or withholding privileges from any student or prospective student because of the aforementioned factors.
- This bill requires the MSDE to file complaints with the State Superintendent of Schools and requires the State Superintendent to provide a written notice of the complaint to the involved parties. It also requires the State Superintendent to mediate an agreement between the involved parties before imposing penalties to include the withholding of state funds to the program or school.
- This bill also requires that the State Board, in consultation with the State Superintendent adopt regulations to establish procedures for complaint processing, mediation, and enforcement of this legislation.

House Bill 171 - State Department of Education - School Discipline - Data Collection

Sponsor: Delegate Washington

Hearing: 1/20; Committee: Ways and Means

- This bill requires MSDE to report the disproportionality data for any school identified as high-suspending and include alternative schools and programs and separate public day schools in any calculation of disproportionality.
- MSDE would be required to make all discipline-related data available on the Department's website in a disaggregated electronic spreadsheet format.

House Bill 373 - Education - Child Abuse and Sexual Misconduct Prevention - Hiring Emergent Employees

Sponsor: Delegate C.T. Wilson

Hearing: 1/20; Committee: Ways and Means

- This bill authorizes the hiring of employees by a county board of education or nonpublic school for a period not to exceed 60 days under certain conditions.
- This bill authorizes a county board or nonpublic school to rescind a job offer, dismiss the employee, or hire the employee within the 60-day period regarding an emergent employee under certain circumstances.

**House Bill 377 - Commission on Student Behavioral Health and Mental Health Treatment
Sponsor: Delegate Bagnall**

Hearing: TBD; Committee: Ways and Means

- This bill establishes the aforementioned Commission to study, evaluate, update, and revise guidelines for student behavioral health and mental health treatment and practices, including school-based health centers.
- A member of the State Board and the State Superintendent would serve as members.

House Bill 382 - Juvenile Law - Conduct by Children Involving Sexually Explicit or Nude Images

Sponsor: Delegate C.T. Wilson

Hearing: 1/21; Committee: Judiciary

- This bill requires the State Board, in consultation with any relevant unit of state, county, or local government, to develop and implement a program on the risks of possessing, sending, displaying, and publishing sexually explicit or nude images.
- The program shall start in the 6th grade and be delivered through the 12th grade in each public school.

House Bill 417 - Education - Public Schools - Required Number of School Days or Hours

Sponsor: Delegate Adams

Hearing: 1/27; Committee: Ways and Means

- This bill alters the requirement that public schools be open for at least 180 days *and* a minimum of 1,080 hours during a 10-month period in each school year to require that the school be open for at least 180 days *or* a minimum of 1,080 hours during a 10-month period in each school year.

Senate Bill 209 - Special Education - Prolonged School Closure - Extension of Education Services

Sponsor: Senator Peters

Hearing: 1/27; Committee: Education, Health, and Environmental Affairs

- This bill would require county boards of education to offer and provide eligible students with disabilities ages 17 to 22, with an option to continue attending school or receive educational services after the student's anticipated graduation or exit date, regardless of whether the student has completed all high school graduation requirements, in the event of a prolonged school closure.
- The bill indicates that the State Board shall adopt regulations to carry out the requirements outlined in the legislation.

Senate Bill 231 - Public Schools - Cyber Safety Guide and Training Course - Development, Implementation, and Reporting

Sponsor: Senator Hester

Hearing: 1/27; Committee: Education, Health, and Environmental Affairs

- This bill requires MSDE, jointly with the Maryland Department of Health, the Maryland Center for School Safety, and the Department of Information Technology to develop and publish a cyber safety guide and training course to be implemented in public schools beginning the 2022-2023 school year.
- The cyber safety guide shall be updated each year and posted on the website of MSDE and the Center for School Safety.
- A county board may offer students credit for the completion of the cyber safety training course.

Senate Bill 243 - Public High Schools - Health Education - Gambling Dangers and Addiction

Sponsor: Senator Simonaire

Hearing: 1/20; Committee: Education, Health, and Environmental Affairs

- This bill requires MSDE to develop a program of education on the dangers of gambling and gambling addiction on or before July 1, 2022, to be provided in public high schools.
- Beginning in the 2022-2023 school year, a county board may require each public high school in the county to include instruction on the dangers of gambling and gambling addiction for students from 9th-12th grade.

Senate Bill 278 - State Department of Education and Maryland Department of Health - Maryland School-Based Health Center Standards - Telehealth

Sponsor: Senator Kagan

Hearing: 1/20; Committee: Health and Government Operations

Crossfile: House Bill 34 (Delegate Rosenberg)

- This bill requires MSDE and MDH to revise school-based health center standards that remove requirements not consistent with the requirements for providing telehealth in State statute.
- This bill also restricts MSDE and MDH from requiring a school-based health center to submit an application or seek approval to provide health care services through telehealth if that provider has already approved to operate a school-based health center in the State.