

LegislativeUpdate

Michigan Association of Superintendents & Administrators | May 15, 2020



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Summary

This week in Lansing was quiet and uneventful for no one.

We continue to have what seems like a week's worth of news in each individual day but even with so much going on, rest assured that the MASA team continues to monitor the ever-evolving landscape of this crisis and communicate the essential need-to-know information for you to lead your community and district effectively.

The legislature was in session this week and held several committee meetings on Wednesday but abruptly adjourned for the week in anticipation of more protests at the Capitol on Thursday.

The State Board of Education met on Tuesday and had a full agenda of presentations. In anticipation of the tough budget decisions you and the state are facing, the board adopted a resolution "urging Michigan's state legislature and the Michigan Congressional delegation to support – actively, individually, and collectively – any bill to preserve educational services to Michigan school children that have been threatened as a result of the COVID-19 pandemic." The resolution passed on a party line vote and was supported through testimony by MASA executive director, Chris Wigent.

This morning, the Michigan Court of Claims held the first hearing on the GOP suit challenging the Governor's Emergency Orders via Zoom. Judge Stephens indicated that she would issue an opinion later this afternoon, and the case is likely expected to go all the way to the Supreme Court.

And finally, Gov. Whitmer held a press conference today, laying out the process that will be used for guiding schools back into session. Read more below on that process and for information on how you can apply to serve on the Council providing that guidance.

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

Consensus Revenue Estimating Conference

Well, we weren't expecting good news today, but the news is at least solid now.

During the Consensus Revenue Estimating Conference (CREC) held this morning, state officials and economists presented that shutdown as a result of COVID-19 has dropped state sales and income tax revenues to numbers we have not seen since 1946.

Big Picture: state revenue's loss between this year and the next fiscal year is \$6.28 billion over anticipated revenue in January.

The School Aid Fund is significantly out of balance for the current fiscal year, the next fiscal year, and the following. For FY20, the deficit is \$1.09 billion, for FY21 the deficit is \$963 million, and for FY22, the deficit is \$334 million. These numbers assume that spending is not adjusted in any way and shows a long-term positive outlook — we'll be back in balance by FY23 without any changes in spending. This is the silver lining.

On paper, the SAF is out of balance by about \$900 per pupil for the current year, but Sec. 296 of the School Aid Fund spells out how a proration works, and using that process, we are looking at roughly **\$650-700 per-pupil proration for FY20**. These numbers hold true absent any federal dollars or changes to state spending.

In order for a proration to occur, the State Treasurer must notify the State Budget Office (SBO) that expenditures exceed revenues. The SBO would next notify the legislature of the deficit, and the legislature would have 30 calendar days or six consecutive session days to:

- Enact legislation appropriating additional funds from the general fund, Budget Stabilization Fund, or other sources to fund the projected shortfall, OR

- Reducing appropriations in order to avoid a proration

The proration amount is determined by calculating the percentage of SAF that the specific groups receive and multiplying that percentage by the total proration amount. Certain protected sections must remain fully funded. For more details, see the [House Fiscal summary](#) on the topic.

This is not the first time the state has dealt with a proration. In FY 2002-03, state aid payments saw a 3.8% across-the-board reduction. We also have two similar situations that occurred in FY 2009-10 & 2010-11. In those years, the legislature avoided an automatic proration by reducing payments through a new section, Sec. 11d. However, in those years the per-pupil reduction was only \$154 and \$170, which is significantly less than what we are potentially facing.

What options are there? Right now, not many. We continue to advocate to Congress regarding the need for additional federal stimulus dollars, and we ask that you keep an eye out for those advocacy alerts. The legislature could also use money from the Budget Stabilization Fund to help prevent or limit the impacts of a proration in the current fiscal year. Additionally, lawmakers could move out of the SAF funding for community colleges and higher education to help soften the blow to the K12 system.

The top question on your mind is about proration for this year. As of now, it looks rather likely. Your follow-up question relates to continuing to pay staff in the context of a proration. It is likely that clarification will be needed but unlikely that you'll be held to the exact same expectation under a proration. We will seek more information on this issue and provide the details as soon as we can.

Governor Discusses the Path Toward Reopening for Schools

Today in her press briefing, Gov. Gretchen Whitmer announced the creation of the Return to Learning Advisory Council via [Executive Order 2020-88](#), formalizing a process for determining how schools may be able to reopen in the Fall. The panel – which will be comprised of students, parents, frontline educators, administrators and public health officials – will be tasked with providing the COVID-19 Task Force on Education within the State Emergency Operations Center with recommendations on how to safely, equitably, and efficiently return to school in the Fall. The State of Michigan will also partner with a national nonprofit organization called Opportunity Labs to bring national expertise to this project.

The Advisory Council will provide the COVID-19 Task Force on education with recommendations on how to safely, equitably and efficiently return to school in the fall and assemble critical voices from education, public health and communities across the state to identify the key issues schools must consider before opening, including:

- Performing outreach to ensure the voices of stakeholders are included in the discussion of implementing the 2020-2021 school year in these challenging and uncharted circumstances.
- Ensuring experts in public health and epidemiology are informing the discussion of safety returning to school.
- Recommending actions to remove statutory/administrative barriers to delivering education before we are at Phase 6 of the MI Safe Start Plan.

- Recommending actions to develop and improve systems for remedial support for students who experienced learning loss during the spring and summer.

Anyone interested can apply for the Return to Learn Advisory Council by going to [Michigan.gov/appointments](https://michigan.gov/appointments) and click 'apply now' under boards and commissions. You will be able to choose Return to School Advisory Council under the appointment information tab within the application. Applications are due by Wednesday, May 20. If MASA members are selected, MASA stands ready to assist in your charge as a member of the Council.

CDC Issues Tools to Guide School Reopening

On Thursday, the Centers for Disease Control and Prevention (CDC) released a set of documents to provide guidance on how childcare centers, schools, restaurants, and other establishments can begin the process of reopening. The CDC stated that schools should not reopen unless they can implement screening protocols, evaluate employees and children daily for symptoms. This guidance also applies to summer camps.

You can find this guidance [here](#).

House Introduces Second CARES Package

On Tuesday, the U.S. House of Representatives introduced the Heroes Act or "CARES 2." The legislation includes \$1 trillion for states and local governments, in addition to \$10 billion in small business grants. The bill would also send another round of direct checks to Americans, on top of the \$1,200 approved in March, and extend the additional \$600 a week in enhanced unemployment benefits that will expire at the end of July. About \$175 billion would go to health care providers to reimburse them for coronavirus-related expenses and lost revenue, in addition to supporting testing efforts. The proposal allocates \$100 billion for an Emergency Rental Assistance program that would allocate funding to states, territories, counties, and cities to help renters pay rent and utility bills during the pandemic.

The bill is expected to be up for a vote later today in the House and then stall out in the Senate. The legislation does not include liability protections over pandemic-related suits, which Republican Senate Majority Leader Mitch McConnell has said must be in any future legislation.

Under the U.S. Department of Education, the bill would appropriate \$100.15 billion to support the educational needs of States, school districts, and higher education. The \$100.15 billion is broken down to \$90 billion for a State Fiscal Stabilization Fund and \$10 billion to alleviate burdens associated with COVID-19 for both colleges and students.

The \$90 billion State Fiscal Stabilization Fund would be allocated to States through grants to support statewide and local funding for elementary and secondary schools and public postsecondary institutions. The amounts allocated to each state would be calculated using population age and low-income children population. 61% would be based on the state's relative share of the population aged

5-24 and 39% on the state's share of low-income (Title I eligible) children. Of the funds to the governor, 65% must be allocated to LEAs based on their share of Title I funding, and there is no reservation for state departments of education.

States that receive funds under HEROES would have to commit to maintaining support for schools and colleges and the terms of collective bargaining agreements. States would also be required to provide assurances that students with disabilities are guaranteed their full rights under the Individuals with Disabilities Education Act. The bill would prohibit states from using the stimulus money to provide financial assistance to students to attend private K-12 schools unless the funds are used to provide special education to children with disabilities.

Allowable uses for the funds include:

- Costs associated with making up instructional time, including teacher, school leader, and classified school employee personnel costs;
- Providing school-based supports for impacted students, families, and staff, including counseling, mental health services, family engagement efforts, and the coordination of physical health services;
- Costs associated with sanitation and cleaning for schools and school transportation;
- Professional development for school-based staff on trauma-informed care to restore the learning environment;
- Purchasing educational technology, including assistive technology, that aids in regular and substantive interactions between students and their classroom instructor;
- Coordination efforts between State educational agencies and public health departments for emergency planning, response, and recovery;
- Authorized activities under education statutes including ESEA, IDEA, McKinney-Vento Homeless Assistance Act, the Adult Education and Family Literacy Act, and the Perkins Act;
- Training and professional development for college and university faculty and staff to use technology and services related to distance education;
- General expenditures for institutions of higher education for expenses associated with a disruption in services or operations related to coronavirus, including defraying expenses due to lost revenue, reimbursement for expenses already incurred, and payroll; and,
- Emergency financial aid to postsecondary students for housing, food, technology, health care, and childcare.

Separate from the State Fiscal Stabilization Fund, the legislation includes 5 billion aimed at closing the so-called digital Homework Gap by funding Wi-Fi hotspots and other connected devices, set to be administered through the FCC E-rate program.

We would also like to note that the HEROES Act includes language to address the Title dollar allocation/equitable service issue that we have been flagging for you.

The bill is likely dead on arrival if it reaches the U.S. Senate, but it's a starting point for negotiations. On a call this morning with MASA members, Sen. Gary Peters indicated that Majority Leader McConnell was softening on his stance that states and local governments (including schools) should go bankrupt before another round of stimulus. We will continue to monitor this issue and engage you on the topic when necessary.

Senate Reports Supplemental

On Wednesday, the Senate acted on SB 690, which would provide appropriations for the current fiscal year from the Federal Coronavirus Relief Fund (CRF). In total, the FY 19-20 Appropriation is \$508.7 million and provides for state relief in the areas of Agriculture, Education, Health and Human Services, Labor and Economic Opportunity as well as Treasury. These are all federal dollars.

SB 690 would appropriate \$135 million dollars for education. Overall, SB 690 designates \$10 million for benchmark assessments for ELA and mathematics for next year and \$125 million for childcare rate reduction program that would provide grants to licensed childcare providers to reduce childcare rates charged to families for the months of April, May, and June.

To reflect those intended appropriations, see the boilerplate language sections below:

Sec. 401- Child Care Rate Reduction Program

Creates a new program that would provide grants to licensed childcare providers to reduce rates charged to families for April, May, and June. As you know, a 10% rate reduction was implemented recently. SB 690 provides further relief by reducing rates by 25% or \$300 per month, whichever is less. As a condition of receiving the grant, the childcare provider must reduce monthly billings.

Under this section, a licensed provider includes licensed child care centers, licensed group homes, licensed family homes, disaster relief child care centers, and provisional licensed providers.

Sec. 402-Benchmark Assessments

Outlines grants to school districts to administer benchmark assessments in English and math for all students K-12. MDE must make the grant application available by June 9 and they will be due by June 30. Additionally, the grant must be distributed equally by a per-pupil basis by July 31. Requires the assessment to be one of the six benchmarks assessments defined, including Acadience, AimsWeb, NWEA, iReady, Smarter Balanced, and Star.

An amendment was added on the Senate floor to appropriate an additional \$15 million for a Summer School fund for credit recovery. There is not much information on exactly what these dollars will be used for. The bill language states that MDE shall allocate funding statewide to support summer school based upon the impact of the COVID-19 pandemic in the community.

Additionally, under the line item for Treasury, SB 690 allocates \$20.0 million to the Michigan Association of Intermediate School Administrators (MAISA) for the device purchasing program with not more than \$10.0 million to be spent in FY 2020-21 and the remainder in FY 2021-22. Requires MAISA to make the funding available to all K-12 districts in Michigan through a statewide device purchase program. Requires an incentive for use of the SPOT bid in purchasing. Sets requirements for districts applying for funding. Requires a summary report from MAISA to the House and Senate School Aid subcommittees by January 1 of each year.

It is very concerning that the Benchmark assessments name specific vendors.

The House will most likely take up this legislation next week.

EO Addresses Work Permits

On Monday, Gov. Whitmer signed EO 2020-79 regarding youth work permits. We have received a few questions from members on how to advise students who are looking for employment this summer.

The EO temporarily suspends the requirement that a student obtain an in-person application of a work permit. An issuing officer of a work permit may accept and examine an application through "alternative means" including e-mail, fax, or web-based form. You must publicly make available on how such applications will be submitted. The EO also suspends the requirement for different color work permits for minors.

This order is effective through June 8.

State Settles Literacy Lawsuit

Early Thursday morning, the state announced that an agreement had been reached in the lawsuit brought on behalf of Detroit children charging the state failed to fulfill their fundamental right to a basic education.

Overall, Detroit schools will receive \$2.72 million, and \$280,000 will be shared among seven plaintiffs in the case. Those dollars will be held in a trust by the Detroit Public School Foundation for the student-plaintiffs and will be used for a high-quality literacy program and further their education. Additionally, the governor agreed to propose legislation during her first term that would provide Detroit Public School Community District (DPSCD) with at least \$94.4M of funding for literacy-related programs and initiatives. This will require the approval of the legislature.

The \$2.72 million DPSCD will receive will be used to fund various literacy-related supports and comes from the governor's own budget, so it does not require legislative approval.

Additionally, the governor will request the Michigan Department of Education to advise school districts throughout the state as to how they might use evidence-based literacy strategies, initiatives, and programs to improve access to literacy and literacy proficiency, with special attention to reducing class, racial, and ethnic disparities.

The governor will receive recommendations from two Detroit-based task forces that will be created to help ensure a quality education for students. First, the Detroit Literacy Equity Task Force will be created outside of state government to conduct yearly evaluations around literacy in Detroit and will provide state-level policy recommendations to the governor. This task force will include students, parents, literacy experts, teachers, a paraprofessional, and other community members.

Additionally, the Detroit Educational Policy Committee will focus on the stability and quality of the overall educational ecosystem in Detroit; the accessibility of a quality school to all children in Detroit; and school improvement, facilities, teaching, and educational materials. The governor will either create this advisory body or recognize an already existing body to perform this function.

ICYMI: MDE Updates

MEMO #052-20

Determination Requirements Under Part C of the Individuals with Disabilities Education Act

The U.S. Department of Education's Office of Special Education Programs, under the Individuals with Disabilities Education Act (IDEA) Sections 616(a)(1)(C), 616(d), 642, and 34 CFR 303.700(a)(2), requires states to make determinations of performance for each Early On® (Part C of IDEA) local service area. [Read the full memo.](#)

MEMO #053-20

District Guide to School-Level Expenditure Reporting Under the Every Student Succeeds Act (ESSA)

The federal Every Student Succeeds Act (ESSA) contains a new requirement that all local public school districts (local education agencies and public school academies) publish actual per-pupil expenditures by individual school building. The Michigan Department of Education (MDE) has published a District Guide to School-Level Expenditure Reporting to assist districts in communication planning around these data that will be posted on the MISchooldata website no later than June 30, 2020. This guide is intended to support district-level personnel communicating with principals, educators, community members, and media on the reporting requirement and school-level spending information. [Read the full memo.](#)