

Department of Legislative Services  
Maryland General Assembly  
2015 Session

**FISCAL AND POLICY NOTE**

Senate Bill 885 (Senator Conway)  
Budget and Taxation

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**Education Funding and Formulas - Amendment - Supermajority Vote**

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This bill requires legislation to be passed by a three-fifths majority of specified full standing committees in each of the two houses of the General Assembly and then enacted into law in order to (1) increase, reduce, alter, or amend, specified formulas and distributions impacting State aid for education or (2) divert or transfer to a State special fund or the general fund any part of the Education Trust Fund (ETF).

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**Fiscal Summary**

**State Effect:** The bill may affect State education aid expenditures in some years. However, for any given year, it is not known by what direction (an increase or a decrease) or amount State aid totals and/or distributions will be affected. The Department of Legislative Services (DLS) can track the results of committee votes covered by the bill using existing resources.

**Local Effect:** State education aid revenues and expenditures by local school systems may be affected. The effect of the bill in any given year, and on any given school system, cannot be projected.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** The bill requires a three-fifths majority vote of the full standing committee assigned the bill to pass legislation that alters State education funding formulas and distributions through several programs, including the foundation program (including the foundation formula, the geographic cost of education index grant program, foundation

special grants, and net taxable income (NTI) adjustment grants); the compensatory education, special education, and limited English proficiency formulas; and the guaranteed tax base program. In addition, changes to funding formulas (as applicable) and distributions for the Infants and Toddlers program; nonpublic placements; the SEED school; and the Maryland School for the Deaf and the Maryland School for the Blind are subject to a three-fifths majority committee vote.

**Current Law:** Generally, a simple majority committee vote is required for a bill to be reported by a committee to the floor of the Senate or House of Delegates of the General Assembly.

The Maryland Constitution requires the Governor to submit, and the General Assembly to pass, a balanced budget. The General Assembly cannot add spending to the budget introduced by the Governor, nor can general funds be used to restore reductions made by the General Assembly after adoption of the budget, except through an approved deficiency appropriation in the following year's budget.

ETF is a nonlapsing, special fund to be used for continued funding of the Bridge to Excellence education aid formulas and programs. The fund may also be used to support capital projects for public schools, community colleges, and public four-year institutions as well as to expand public early childhood education programs in the State.

**Background:** The majority of State aid in support of public schools is in the form of mandatory funding as determined by statutory aid formulas. Because the Governor cannot reduce mandatory funding through the annual budget bill alone, separate legislation is required to alter State education aid formulas. In recent years, this has typically occurred through a Budget Reconciliation and Financing Act (BRFA). A BRFA can be used to implement a variety of actions such as raising revenues, altering statutory formulas and mandates, and transferring various monies in special funds to the general fund to allow their use for other purposes, such as balancing the budget. Often appropriations in the budget will be contingent on the enactment of a BRFA.

The BRFA of 2009 limited to 1% the fiscal 2012 inflationary increase for the per pupil foundation amount used to determine much of formula aid for public schools, and the BRFA of 2010 extended the 1% cap on per pupil funding through fiscal 2015. The BRFA of 2011 held the per pupil foundation amount at \$6,694 for fiscal 2012. The Governor's BRFA of 2015 proposed freezing the per pupil amount in fiscal 2016 and capping it at 1% through fiscal 2020.

In recent years, BRFA's (or rather, the bills that later became enacted BRFA's) have tended to garner unanimous, or near unanimous, support in votes of the Senate Budget and Taxation Committee and approximately two thirds of the votes (above the threshold set by the bill) from the House Appropriations Committee.

State aid for public schools can also be altered by more targeted legislation. For example, Chapter 4 of 2013 required State education aid formulas that include a local wealth component to be calculated twice, once using an NTI amount for each county based on tax returns filed by September 1, and once using an NTI amount based on tax returns filed by November 1. Each local school system receives the greater State aid amount that results from the two calculations, with the increase phased in over five years beginning in fiscal 2014. The legislation received a unanimous vote from the Senate Budget and Taxation Committee and a near unanimous (two members were excused from the vote) vote from the House Ways and Means Committee.

The Governor's proposed fiscal 2016 budget includes \$5.4 billion in direct State aid for public schools. This is the approximate equivalent of one third of planned State general fund expenditures in fiscal 2016. The great majority of State aid for public schools would be subject to provisions of the bill.

### *Adequacy Study*

The Maryland State Department of Education (MSDE), in consultation with the Department of Budget and Management (DBM) and DLS, must contract with a public or private entity to conduct a study of the adequacy of education funding in the State. The study began June 30, 2014, and is scheduled to be completed by December 1, 2016. In June 2014, MSDE in collaboration with DLS and DBM awarded a contract to Augenblick, Palaich and Associates to complete the required reports.

The study must include:

- adequacy cost studies that identify a base funding level for students without special needs using at least two different methods;
- per pupil weights for students with special needs to be applied to the base funding level; and
- an analysis of the effects of concentrations of poverty on adequacy targets.

Four reports have been completed to date: *A Comprehensive Review of State Adequacy Studies Since 2003*, *Summary of School Size Report*, *Preliminary Impact of Smaller Schools*, and *Proposed Methodology for Establishing Adequate Funding Levels*. The reports can be found on the [Maryland State Department of Education website](#).

*Education Trust Fund*

ETF was established during the 2007 special session as part of the video lottery terminal (VLT) legislation, to receive approximately half of the gross VLT proceeds, after payouts to bettors. Chapter 1 of the 2012 second special session made numerous changes to the State’s gaming program including authorizing a sixth license in Prince George’s County, table games at VLT facilities, and 24-hour per day gaming which were approved by voters in November 2012. A portion of table game revenues is also distributed to ETF. The legislation also altered the distribution of VLT proceeds and broadened the authorized uses of ETF to encompass funding that expands public early childhood education programs in Maryland. The estimated ETF revenues for fiscal 2016-2020 are shown in **Exhibit 1**. The exhibit shows that the projected ETF revenues are less than the approximately \$3 billion in annual Bridge to Excellence foundation program expenditures.

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**Exhibit 1**  
**Estimated Education Trust Fund Revenues**  
**Fiscal 2016-2020**  
**(\$ in Millions)**

<u>ETF</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
VLT	\$315.9	\$432.8	\$456.7	\$462.9	\$469.8
Table Games	78.1	78.3	81.6	82.6	83.8
<b>Total ETF</b>	<b>\$394.0</b>	<b>\$511.1</b>	<b>\$538.2</b>	<b>\$545.5</b>	<b>\$553.6</b>

Note: Revenues do not reflect proposed contingent reductions or transfers to ETF.

Source: Board of Revenue Estimates; Department of Legislative Services

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**State Fiscal Effect:** The three-fifths threshold established by the bill has typically been exceeded in recent years with respect to legislation affecting State aid provided to the education programs covered by the bill. Therefore, in the near future, the bill may not have an effect on the success or failure of legislation that alters State education aid.

However, the bill does subject a substantial portion of the State budget, through numerous State aid programs, to a three-fifths committee vote in both houses of the General Assembly, making future alterations to this portion of the budget more difficult to achieve. It is not known what future alterations may be proposed, however, successful actions to alter State education aid and distributions in recent years have been both in the form of mandate relief (typically through a BRFA) that decreases State funding and in the form of new programs (e.g., NTI adjustment grants) that result in increased State aid for public

schools. Legislation resulting from findings of the adequacy study that is now underway will potentially combine increases to some aid programs, with decreases (including elimination) of others, and/or establishment of new education aid programs under the sections of statute covered by the bill. Though the bill may affect State aid expenditures, for any given year, it is not known which particular aid programs may be targeted by future legislation, nor is it known by what direction or amount State aid totals and/or distributions will be impacted by such legislation.

While transfers into the ETF are in the Governor's plan for fiscal 2015 and 2016, no transfer of funds out of the ETF have been made since its establishment; the bill makes such transfers somewhat less likely than under current law.

**Local Fiscal Effect:** State education aid revenues and expenditures by local school systems may be affected. As noted above, though the bill may affect State aid funding to local governments, for any given year, it is not known which particular aid programs may be targeted by future legislation, nor is it known by what direction or amount State aid totals and/or distributions will be impacted by such legislation. Therefore, the effect of the bill on any given school system cannot be projected.

**Additional Comments:** The bill may remove the ability of the Governor to, absent a three-fifths committee vote, alter funding from one year to the next through the budget for certain programs whose funding levels are currently at the discretion of the Governor, or may be no less than funding provided in the prior fiscal year.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Budget and Management, Maryland State Department of Education, Department of Legislative Services

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min/rhh

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