HOUSE BILL 1193

F1, F3 5lr2994
CF SB 228

By: **Delegates Hixson, Moon, Barkley, Barve, Carr, Cullison, Dumais, Fraser–Hidalgo, Frick, Gilchrist, Gutierrez, Kaiser, Kelly, Korman, Kramer, Luedtke, A. Miller, Morales, Platt, Reznik, S. Robinson, Smith, and Zucker**
Introduced and read first time: February 24, 2015
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

AN ACT concerning

Supplemental Public School Construction Matching Fund Program

FOR the purpose of establishing the Supplemental Public School Construction Matching Fund Program; providing for the purpose of the Program and requiring the Department of Budget and Management to implement and administer the Program; establishing certain requirements a county must meet to be eligible for the Program; requiring the Department to provide to each county that is eligible for the Program up to a certain amount of State funding each fiscal year to be used for certain purposes related to the cost of public school construction projects and public school capital improvements in the county; requiring that certain funding provided under the Program shall be pledged or used for certain purposes; requiring that certain funding provided under the Program shall end at certain times; specifying that certain bonds issued in accordance with this Act are not a debt, liability, moral obligation, or pledge of the faith and credit or taxing power of the State; requiring certain projects to be approved by the Department and the Interagency Committee on School Construction before certain funding may be released; requiring a qualifying county, the Department, and the Interagency Committee on School Construction to enter into a certain memorandum of understanding regarding certain projects before certain funding may be released; specifying the requirements of the memorandum of understanding; specifying that funding provided under the Program is supplemental to public school construction funding from other sources; establishing the Supplemental Public School Construction Fund as a continuing, nonlapsing fund; specifying the contents of the Fund and the uses of the Fund; exempting the Fund from a certain provision of law requiring interest on State money in special funds to accrue to the General Fund of the State; altering the distribution of certain State lottery revenues and requiring the Comptroller to distribute certain State lottery revenues into the Fund; defining certain terms; and generally relating to the Supplemental Public School Construction Matching Fund Program.

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.

BY adding to
Article – Education
Section 5–3A–01 through 5–3A–04 to be under the new subtitle "Subtitle 3A. Supplemental Public School Construction Matching Fund Program"
Annotated Code of Maryland
(2014 Replacement Volume and 2014 Supplement)

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 6–226(a)(2)(i)
Annotated Code of Maryland
(2009 Replacement Volume and 2014 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 6–226(a)(2)(ii)81. and 82.
Annotated Code of Maryland
(2009 Replacement Volume and 2014 Supplement)

BY adding to
Article – State Finance and Procurement
Section 6–226(a)(2)(ii)83.
Annotated Code of Maryland
(2009 Replacement Volume and 2014 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 9–120
Annotated Code of Maryland
(2014 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Education

SUBTITLE 3A. SUPPLEMENTAL PUBLIC SCHOOL CONSTRUCTION MATCHING FUND PROGRAM.

5–3A–01.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "FUND" MEANS THE SUPPLEMENTAL PUBLIC SCHOOL CONSTRUCTION FUND ESTABLISHED UNDER § 5–3A–04 OF THIS SUBTITLE.

(C) "PROGRAM" MEANS THE SUPPLEMENTAL PUBLIC SCHOOL CONSTRUCTION MATCHING FUND PROGRAM ESTABLISHED UNDER § 5–3A–02 OF THIS SUBTITLE.

(D) "QUALIFYING COUNTY" MEANS A COUNTY THAT:

(1) HAS AT LEAST 140,000 FULL–TIME EQUIVALENT STUDENTS ENROLLED IN THE PUBLIC SCHOOL SYSTEM IN FISCAL YEAR 2015; AND

(2) CONSISTENTLY MAINTAINS A BOND RATING OF AAA FROM AT LEAST TWO OF THE FOLLOWING RATING AGENCIES:

(I) FITCH;

(II) MOODY'S; AND

(III) STANDARD & POOR'S.

(E) "QUALIFYING COUNTY BOND" MEANS A NOTE, AN INTERIM CERTIFICATE, A REFUNDING BOND, AND ANY EVIDENCE OF OBLIGATION ISSUED UNDER THIS SUBTITLE BY OR ON BEHALF OF A QUALIFYING COUNTY TO FINANCE THE COST OF PUBLIC SCHOOL CONSTRUCTION PROJECTS AND PUBLIC SCHOOL CAPITAL IMPROVEMENTS IN THE QUALIFYING COUNTY.

5–3A–02.

(A) (1) THERE IS A SUPPLEMENTAL PUBLIC SCHOOL CONSTRUCTION MATCHING FUND PROGRAM.

(2) THE PURPOSE OF THE PROGRAM IS TO PROVIDE SUPPLEMENTAL STATE FUNDING TO EACH QUALIFYING COUNTY TO ASSIST WITH FUNDING THE COST OF PUBLIC SCHOOL CONSTRUCTION PROJECTS AND PUBLIC SCHOOL CAPITAL IMPROVEMENTS IN THE QUALIFYING COUNTY.

(3) THE PROGRAM SHALL BE IMPLEMENTED AND ADMINISTERED BY THE DEPARTMENT OF BUDGET AND MANAGEMENT IN ACCORDANCE WITH THIS SUBTITLE.

(B) THE DEPARTMENT OF BUDGET AND MANAGEMENT SHALL PROVIDE TO EACH QUALIFYING COUNTY THAT MEETS THE REQUIREMENTS OF SUBSECTION (C)

OF THIS SECTION UP TO $20,000,000 OF STATE FUNDING EACH FISCAL YEAR TO BE USED:

(1) TO PAY UP TO ONE–THIRD OF THE COST OF DEBT SERVICE ON BONDS ISSUED BY OR ON BEHALF OF EACH QUALIFYING COUNTY TO FUND THE COST OF PUBLIC SCHOOL CONSTRUCTION PROJECTS AND PUBLIC SCHOOL CAPITAL IMPROVEMENTS IN EACH QUALIFYING COUNTY; OR

(2) TO PROVIDE STATE FUNDING TO PAY THE COST OF PUBLIC SCHOOL CONSTRUCTION PROJECTS AND PUBLIC SCHOOL CAPITAL IMPROVEMENTS IN EACH QUALIFYING COUNTY AT A RATIO OF $1 OF STATE FUNDING FOR EVERY $2 OF QUALIFYING COUNTY FUNDING.

(C) TO BE ELIGIBLE FOR THE PROGRAM, A QUALIFYING COUNTY SHALL FILE AN APPLICATION FOR THE PROGRAM WITH THE DEPARTMENT OF BUDGET AND MANAGEMENT ON OR BEFORE JUNE 30, 2020, THAT INCLUDES:

(1) APPROPRIATE DOCUMENTATION EVIDENCING THAT THE COUNTY MEETS THE REQUIREMENTS OF A QUALIFYING COUNTY UNDER § 5–3A–01(D) OF THIS SUBTITLE;

(2) A PLAN FOR THE PUBLIC SCHOOL CONSTRUCTION PROJECTS AND PUBLIC SCHOOL CAPITAL IMPROVEMENTS FOR WHICH THE COUNTY IS REQUESTING ASSISTANCE FROM THE PROGRAM;

(3) IF THE QUALIFYING COUNTY IS REQUESTING ASSISTANCE WITH DEBT SERVICE COSTS, A PLEDGE TO ISSUE QUALIFYING COUNTY BONDS ON OR BEFORE JUNE 30, 2021, THAT MATURE WITHIN A PERIOD NOT TO EXCEED 20 YEARS AFTER THEIR DATE OF ISSUANCE; AND

(4) IF THE QUALIFYING COUNTY IS REQUESTING ASSISTANCE WITH STATE FUNDING TO FUND PUBLIC SCHOOL CONSTRUCTION COSTS, A PLEDGE TO MATCH EVERY $1 OF STATE FUNDING WITH $2 OF QUALIFYING COUNTY FUNDING.

(D) (1) THE STATE FUNDING PROVIDED UNDER SUBSECTION (B)(1) OF THIS SECTION SHALL:

(I) BE PLEDGED TO THE PAYMENT OF DEBT SERVICE ON BONDS ISSUED BY OR ON BEHALF OF EACH QUALIFYING COUNTY TO FUND THE COST OF PUBLIC SCHOOL CONSTRUCTION PROJECTS AND PUBLIC SCHOOL CAPITAL IMPROVEMENTS IN EACH QUALIFYING COUNTY; AND

(II) END WHEN THE BONDS THAT HAVE BEEN ISSUED TO FUND THE COST OF PUBLIC SCHOOL CONSTRUCTION PROJECTS AND PUBLIC SCHOOL CAPITAL IMPROVEMENTS IN THE QUALIFYING COUNTY UNDER THIS SECTION ARE NO LONGER OUTSTANDING AND UNPAID.

(2) THE STATE FUNDING PROVIDED UNDER SUBSECTION (B)(2) OF THIS SECTION SHALL:

(I) BE USED TO FUND THE COST OF PUBLIC SCHOOL CONSTRUCTION PROJECTS AND PUBLIC SCHOOL CAPITAL IMPROVEMENTS IN EACH QUALIFYING COUNTY; AND

(II) END NO LATER THAN 20 YEARS AFTER THE FUNDING WAS FIRST RECEIVED UNDER THIS SECTION.

(E) A QUALIFYING COUNTY BOND ISSUED IN ACCORDANCE WITH THIS SUBTITLE:

(1) IS NOT A DEBT, LIABILITY, OR PLEDGE OF THE FAITH AND CREDIT OR THE TAXING POWER OF THE STATE;

(2) MAY NOT GIVE RISE TO ANY PECUNIARY LIABILITY OF THE STATE; AND

(3) IS NOT DIRECTLY, INDIRECTLY, OR CONTINGENTLY A MORAL OR OTHER OBLIGATION OF THE STATE TO LEVY OR PLEDGE ANY TAX OR TO MAKE AN APPROPRIATION TO PAY THE BOND.

5–3A–03.

(A) (1) PROJECTS FUNDED UNDER THIS SUBTITLE MUST BE APPROVED BY THE DEPARTMENT OF BUDGET AND MANAGEMENT AND THE INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION BEFORE ANY RELEASE OF FUNDING UNDER THIS SUBTITLE.

(2) A QUALIFYING COUNTY, THE DEPARTMENT OF BUDGET AND MANAGEMENT, AND THE INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION SHALL ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH RESPECT TO PROCEDURES REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION BEFORE ANY RELEASE OF FUNDING UNDER THIS SUBTITLE.

(3) THE ELIGIBLE COSTS AND STATE AND LOCAL COST–SHARE PERCENTAGES SET FORTH IN REGULATION DO NOT APPLY TO PROJECTS FUNDED UNDER THIS SUBTITLE IN A QUALIFYING COUNTY.

(B) THE MEMORANDUM OF UNDERSTANDING SHALL:

(1) IDENTIFY THE ELIGIBLE COSTS AND STATE AND LOCAL COST–SHARE PERCENTAGES THAT WILL BE APPLICABLE TO PROJECTS FINANCED UNDER THIS SUBTITLE IN A QUALIFYING COUNTY;

(2) REQUIRE A QUALIFYING COUNTY THAT RECEIVES STATE FUNDING IN ACCORDANCE WITH § 5–3A–02(B)(1) OF THIS SUBTITLE TO DEPOSIT FUNDS IN THE SUPPLEMENTAL PUBLIC SCHOOL CONSTRUCTION FUND ESTABLISHED UNDER § 5–3A–04 OF THIS SUBTITLE TO PAY AT LEAST TWO–THIRDS OF THE COST OF DEBT SERVICE ON QUALIFYING COUNTY BONDS;

(3) REQUIRE A QUALIFYING COUNTY THAT RECEIVES STATE FUNDING IN ACCORDANCE WITH § 5–3A–02(B)(2) OF THIS SUBTITLE TO PLEDGE TO MATCH EVERY $1 OF STATE FUNDING WITH $2 OF QUALIFYING COUNTY FUNDING AND TO IDENTIFY THE SOURCE OF FUNDING FOR THE MATCH; AND

(4) PROVIDE ANY OTHER PROVISIONS NECESSARY TO IMPLEMENT THE FUNDING OF PROJECTS UNDER THIS SUBTITLE.

(C) THE STATE FUNDING PROVIDED UNDER THIS SUBTITLE IS SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT WOULD OTHERWISE BE APPROPRIATED FOR PUBLIC SCHOOL CONSTRUCTION PURPOSES IN A QUALIFYING COUNTY FROM ANY OTHER SOURCE.

5–3A–04.

(A) (1) THERE IS A SUPPLEMENTAL PUBLIC SCHOOL CONSTRUCTION FUND.

(2) THE FUND IS A CONTINUING, NONLAPSING FUND THAT SHALL BE AVAILABLE IN PERPETUITY TO IMPLEMENT THIS SUBTITLE CONCERNING QUALIFYING COUNTY PUBLIC SCHOOL CONSTRUCTION PROJECTS AND PUBLIC SCHOOL CAPITAL IMPROVEMENTS.

(3) THE DEPARTMENT OF BUDGET AND MANAGEMENT SHALL USE THE FUND AS A REVOLVING FUND FOR CARRYING OUT THIS SUBTITLE CONCERNING QUALIFYING COUNTY PUBLIC SCHOOL CONSTRUCTION PROJECTS AND PUBLIC SCHOOL CAPITAL IMPROVEMENTS.

(B) THE MONEY ON DEPOSIT IN THE FUND SHALL BE PLEDGED TO AND USED TO PAY THE FOLLOWING RELATING TO QUALIFYING COUNTY PUBLIC SCHOOL CONSTRUCTION PROJECTS AND PUBLIC SCHOOL CAPITAL IMPROVEMENTS:

(1) DEBT SERVICE ON QUALIFYING COUNTY BONDS;

(2) DEBT SERVICE RESERVES UNDER A TRUST AGREEMENT;

(3) ALL REASONABLE CHARGES AND EXPENSES RELATED TO QUALIFYING COUNTY BORROWING; AND

(4) COSTS INCURRED FOR PUBLIC SCHOOL CONSTRUCTION PROJECTS AND PUBLIC SCHOOL CAPITAL IMPROVEMENTS BY A QUALIFYING COUNTY THAT RECEIVES STATE FUNDING IN ACCORDANCE WITH § 5–3A–02(B)(2) OF THIS SUBTITLE.

(C) THE FUND CONSISTS OF:

(1) MONEY DEPOSITED IN THE FUND;

(2) REVENUES COLLECTED OR RECEIVED IN ACCORDANCE WITH § 9–120 OF THE STATE GOVERNMENT ARTICLE;

(3) MONEY DEPOSITED BY A QUALIFYING COUNTY IN ACCORDANCE WITH THE REQUIREMENTS OF THE MEMORANDUM OF UNDERSTANDING UNDER § 5–3A–03 OF THIS SUBTITLE; AND

(4) ANY ADDITIONAL MONEY MADE AVAILABLE FROM ANY PUBLIC SOURCE FOR THE PURPOSES ESTABLISHED FOR THE FUND.

(D) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INVESTMENT EARNINGS SHALL BE CREDITED TO THE FUND.

(3) NO PART OF THE FUND MAY REVERT OR BE CREDITED TO THE GENERAL FUND OR ANY SPECIAL FUND OF THE STATE.

Article – State Finance and Procurement

6–226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

81. the Cybersecurity Investment Fund; **[**and**]**

82. the Northeastern Maryland Additive Manufacturing Innovation Authority Fund**; AND**

83. THE SUPPLEMENTAL PUBLIC SCHOOL CONSTRUCTION FUND.

Article – State Government

9–120.

(a) The Comptroller shall distribute, or cause to be distributed, the State Lottery Fund to pay:

(1) on a pro rata basis for the daily and nondaily State lottery games, the expenses of administering and operating the State lottery, as authorized under this subtitle and the State budget; and

(2) then, except as provided in § 10–113.1 of the Family Law Article and § 11–618 of the Criminal Procedure Article, the holder of each winning ticket or share.

(b) (1) By the end of the month following collection, the Comptroller shall deposit or cause to be deposited:

(i) into the Maryland Stadium Facilities Fund established under § 7–312 of the State Finance and Procurement Article from the money that remains in the State Lottery Fund, after the distribution under subsection (a) of this section, an amount not to exceed $20,000,000 in any fiscal year;

(ii) after June 30, 2014, into the Maryland Veterans Trust Fund 10% of the money that remains in the State Lottery Fund from the proceeds of sales of tickets from instant ticket lottery machines by veterans' organizations under § 9–112(d) of this subtitle, after the distribution under subsection (a) of this section;

(iii) after June 30, 2014, into the Baltimore City Public School Construction Financing Fund established under § 10–656 of the Economic Development Article the money that remains in the State Lottery Fund from the proceeds of all lotteries after the distributions under subsection (a) of this section and items (i) and (ii) of this paragraph, an amount equal to $20,000,000 in each fiscal year that bonds are outstanding and unpaid, to be paid in two installments with at least $10,000,000 paid no later than December 1 of each fiscal year; **[**and**]**

(IV) AFTER JUNE 30, 2016, INTO THE SUPPLEMENTAL PUBLIC SCHOOL CONSTRUCTION FUND ESTABLISHED UNDER § 5–3A–04 OF THE EDUCATION ARTICLE THE MONEY THAT REMAINS IN THE STATE LOTTERY FUND FROM THE PROCEEDS OF ALL LOTTERIES AFTER THE DISTRIBUTIONS UNDER SUBSECTION (A) OF THIS SECTION AND ITEMS (I), (II), AND (III) OF THIS PARAGRAPH, AN AMOUNT EQUAL TO $20,000,000 FOR EACH QUALIFYING COUNTY THAT RECEIVES FUNDING UNDER TITLE 5, SUBTITLE 3A OF THE EDUCATION ARTICLE FOR EACH FISCAL YEAR, TO BE PAID IN TWO INSTALLMENTS WITH AT LEAST $10,000,000 PAID NO LATER THAN DECEMBER 1 OF EACH FISCAL YEAR; AND

[(iv)**] (V)** into the General Fund of the State the money that remains in the State Lottery Fund from the proceeds of all lotteries after the distributions under subsection (a) of this section and items (i), (ii), **[**and**]** (iii)**, AND (IV)** of this paragraph.

(2) The money paid into the General Fund under this subsection is available in the fiscal year in which the money accumulates in the State Lottery Fund.

(c) The regulations of the Agency shall apportion the money in the State Lottery Fund in accordance with subsection (b) of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2015.