

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 557

(Senator Bates, *et al.*)

Budget and Taxation

Education - Maryland Education Opportunity Account Program - Established

This bill establishes the Maryland Education Opportunity Account Program (the program) and the Maryland Education Opportunity Account Authority (the authority), which is charged with developing, establishing, administering, managing and promoting the program with a goal to begin the program by July 1, 2018. The Governor must include in the annual State budget a grant to the authority in an amount equal to the product of the per pupil foundation amount multiplied by the number of program accounts. An eligible student under the program is at least 5 years old and no older than 18 years old and lives in a geographic attendance area that is served by a public school ranked in the bottom 5% of public schools based on statewide assessments. Parents of eligible students must use funds in the account for qualifying expenses, which may include tuition and fees and textbooks at a nonpublic elementary or secondary school that meets authority requirements.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: General fund expenditures increase by \$792,600 in FY 2018 to cover administrative costs for the authority. General fund expenditures increase by \$178.2 million in FY 2019, which reflects the full cost of the program. Beginning in FY 2020, general fund expenditure increases due to the program are partially offset by declining State aid to public schools. Beginning in FY 2022, State expenditures for teacher retirement decrease significantly. **This bill establishes a mandated appropriation beginning in FY 2019.**

(\$ in millions)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0.8	178.2	95.7	98.2	100.4
Net Effect	(\$0.8)	(\$178.2)	(\$95.7)	(\$98.2)	(\$100.4)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Based on assumptions discussed below regarding reduced enrollment in public schools, State aid to public schools decreases statewide by \$87.6 million in FY 2020 and by \$94.4 million by FY 2022. Local appropriations to public schools and local school expenditures decrease annually beginning in FY 2020. Local retirement costs decrease beginning in FY 2022.

Small Business Effect: Private schools, tutors, online learning programs, and education service providers that are small businesses may realize significant increases in revenues.

Analysis

Bill Summary: The bill specifies the goal that the program be established by July 1, 2018. The Governor must include in the annual State budget a grant to the authority in an amount equal to the product of the per pupil foundation amount multiplied by the number of accounts. The authority must transfer into each account an amount equal to the per pupil foundation amount minus any fees withheld for administrative costs (which must not exceed 3% of funding.)

An eligible child under the program is at least 5 years old and no older than 18 years old and lives in a geographic attendance area that is served by a public school ranked in the bottom 5% of public schools based on statewide assessments. After a parent is enrolled in the program, the student remains eligible for the program, even if the student is no longer an eligible student. Qualifying expenses include tuition and fees at, and textbooks required by, a participating nonpublic school or a postsecondary institution. Qualifying expenses also include:

- payment to a licensed or accredited tutor;
- payment for purchasing a curriculum;
- tuition and fees for an online learning program;
- fees for national assessments or examinations, Advanced Placement examinations, and any examinations related to college or university admission;
- contribution to an eligible student's qualified tuition program established under § 529 of the Internal Revenue Code; and
- education services for eligible students with disabilities provided by a licensed or accredited practitioner or provider.

Authority Membership, Terms of Office, and Meetings

The authority membership consists of the State Comptroller; the State Treasurer; the State Superintendent of Schools; and four members of the public appointed by the Governor with

significant experience in finance, accounting, education, investment management, or other areas that can be of assistance to the authority. (The State Comptroller, State Treasurer, and the State Superintendent may each appoint an employee as a designee.)

The four public members serve four-year terms and are eligible for reappointment; at the end of a term, a public member continues to serve until a successor is appointed and qualifies. A public member who is appointed after a term has begun serves only for the remainder of the term and until a successor is appointed and qualifies. The Governor may remove a public member for incompetence or misconduct.

The authority must determine the times and places of meetings and, from among the members, must elect a chair and may elect additional officers as necessary. Authority members are not compensated, but are entitled to reimbursement for travel expenses and must file a public disclosure of financial interests according to Maryland Public Ethics Law.

Account Holders

As a condition of enrollment in the program, a parent of an eligible student must sign an agreement promising (1) to use the funds in the account for qualifying expenses in academic subjects including English language arts, mathematics, social studies, and science and (2) not to enroll the eligible student in a public primary or secondary school or public charter school in any year the parent is enrolled in the program.

The authority must, at least annually, issue to each account holder a statement that provides a separate accounting for each eligible student with information on the beginning and ending balance and contributions to, and distributions from the account.

Audit and Reporting Requirements

The Legislative Auditor must audit the program every three years, and the authority must obtain an annual audit report from a service provider within six months of the end of the reporting period of the service provider. By December 31 of each year, the authority must report to the Governor and the General Assembly on (1) the school districts of the participating eligible students; (2) the number of participating students; and (3) the total amount of funding distributed to the authority.

Other Provisions

The authority, the program, and accounts are not subject to the provisions of the Insurance Article. The assets and income of the program are exempt from State and local taxation. A person may not attach, garnish, or otherwise seize any account, asset, or benefit of the program. The accounts, the funds deposited in the accounts, and any investment earnings of the accounts are assets of the State and remain assets of the State until distributed for qualifying expenses.

The authority may issue requests for proposals to evaluate and determine the means for the administration, management, promotion, or marketing of the program. The authority must consider proposals that meet specified criteria.

The authority must adopt specified policies and procedures, and any others that are necessary to carry out provisions of the bill.

Current Law/Background:

State Aid to Public Schools

The great majority of direct State aid to public schools (excluding teachers' retirement) is determined by funding formulas found in Title 5, Subtitle 2 of the Education Article. Together with some more recent enactments, these funding formulas were set forth in the Bridge to Excellence in Public Schools Act (Chapter 288 of 2002). The formulas are, in part, based on the adequacy model, which entails three components. The first is a uniform base cost per pupil that is necessary to provide general education services to students in every school system. The second component of adequacy involves adjustments for the additional costs associated with educating three at-risk student populations: special education students; students eligible for free and reduced-price meals; and students with limited English proficiency. The third component of adequacy is an adjustment that accounts for differences in the local costs of educational resources.

The majority of State education aid formulas also entail wealth equalization across counties, compensating for differences in local wealth by providing less aid per pupil to the more wealthy counties and more aid per pupil to the less wealthy counties. Although, on the whole, most State aid formulas are designed to have the State pay roughly one-half of program costs, the State's share for the less wealthy counties is higher than 50%, and the State's share for more wealthy counties is lower than 50%.

Broadening Options and Opportunities for Students Today Program

Chapter 143 of 2016 (the fiscal 2017 budget bill) established the Broadening Options and Opportunities for Students Today (BOOST) program to provide scholarships for students to attend eligible nonpublic schools. The budget bill directed \$4.85 million from the Cigarette Restitution Fund to be used for BOOST scholarships, with \$150,000 directed to be used by Maryland State Department of Education (MSDE) for the administration of the program. MSDE is administering the BOOST program for the first time in the 2016-2017 school year. Scholarship recipients must be eligible for free or reduced-price meals and final determinations for scholarship amounts and recipients is determined by a BOOST Program Advisory Board.

In August 2016, the board made determinations regarding the students that would be awarded scholarships and the amount of the awards. **Exhibit 1** shows the priority order and amounts for scholarships awarded and accepted by nearly 2,500 recipients as of November 17, 2016. In regard to where recipients attended school in the prior year, Exhibit 1 shows that 548 attended public school and 1,916 attended private school during school year 2015-2016. Of those private school students, 1,436 were seeking to attend the same school in school year 2016-2017 as they did in 2015-2016. **Exhibit 2** shows the counties in which students receiving scholarships reside and the award totals for those students.

Exhibit 1
BOOST Program
Scholarship Award Summary
School Year 2016-2017

<u>Scholarships Awarded and Accepted – Category</u>	<u>Number of Students</u>	<u>Scholarship Amount for This Category</u>	<u>Total Value of Scholarship Awards</u>
Qualified for Free Meals, Attended Public School in 2015-2016	383	\$4,400	\$1,685,200
Qualified for Free Meals, Attended Private School in 2015-2016	1,502	1,400	2,105,800
Qualified for Reduced Meals, Attended Public School in 2015-2016	165	3,400	561,000
Qualified for Reduced Meals, Attended Private School in 2015-2016	414	1,000	417,200
Total	2,464		\$4,769,200

BOOST: Broadening Options and Opportunities for Students Today

Note: Awards may vary from the set category amounts; for example, foster children are eligible for the highest award amount, and families who owe a tuition level that is lower than the BOOST program award amount will receive funds only up to the tuition amount owed.

Source: Maryland State Department of Education

Exhibit 2
BOOST Program Scholarships Awarded and Accepted by
Home County of Applicant
School Year 2016-2017

<u>County</u>	<u>Number of Students</u>	<u>Award Total</u>
Allegany	22	\$44,600
Anne Arundel	81	146,000
Baltimore City	754	1,489,600
Baltimore	533	974,200
Calvert	2	2,800
Caroline	2	4,800
Carroll	31	57,200
Cecil	7	15,400
Charles	22	56,000
Dorchester	5	6,200
Frederick	19	41,400
Garrett	0	0
Harford	49	127,200
Howard	35	90,000
Kent	0	0
Montgomery	444	831,600
Prince George's	371	734,400
Queen Anne's	0	0
St Mary's	28	40,200
Somerset	0	0
Talbot	8	14,200
Washington	45	86,600
Wicomico	1	1,400
Worcester	1	1,400
<i>Still Investigating*</i>	4	4,000
Total	2,464	\$4,769,200

BOOST: Broadening Options and Opportunities for Students Today

*Cases include applicants who have not validated residency or selected a school.

Source: Maryland State Department of Education

State Fiscal Effect: General fund expenditures increase by \$792,600 in fiscal 2018 to cover consultant costs and to hire authority staff, as described below. General fund expenditures increase by \$178.2 million in fiscal 2019, accounting for the full cost of the accounts. The increases in fiscal 2020 to 2022 reflect the net impact of expenditures for each account under the program, as offset by reductions in State aid to public schools based on estimated declines in public school enrollment. As shown in **Exhibit 3**, while expenditures for program accounts and associated administrative costs total \$178.2 million in fiscal 2019, increasing to \$194.8 million, the increase in expenditures is partially offset by a reduction in direct State aid to public schools totaling \$87.6 million in fiscal 2020 and \$94.4 million by fiscal 2022. Assumptions used to derive these results are discussed below.

Exhibit 3
Changes in General Fund Expenditures under SB 557
Fiscal 2019-2022
(\$ in Millions)

	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>
Program Accounts	\$178.2	\$183.3	\$189.3	\$194.8
State Aid to Public Schools	n/a	-87.6	-91.1	-94.4
Net Effect	\$178.2	\$95.7	\$98.2	\$100.4

Program Accounts

For each eligible child, the annual funding of the account is equal to the annual per pupil foundation amount, though up to 3% of this amount may be withheld to cover administrative costs of the program. For purposes of fiscal 2018 State aid, the per pupil foundation amount is \$7,012. This amount is projected to grow, due to inflation, to \$7,126 for fiscal 2019 and to \$7,632 by fiscal 2022.

For purposes of this analysis, it is assumed that the geographic attendance areas of the bottom 5% of public schools in the State will capture about 5% of the student population statewide, including public and private school students and home-schooled students. This amounts to approximately 50,000 eligible students in fiscal 2019. It is not known what percentage of eligible students' parents will choose to apply and will be enrolled in the program. However, this analysis assumes that it will amount to 50%, or 25,000 students in fiscal 2019, increasing by nearly 1% in subsequent years (consistent with the projected rate of statewide enrollment growth).

Impact on State Aid to Public Schools

It is assumed that 50%, or 12,500 of the 25,000 program accounts, will be associated with students who presently attend public schools. At about \$6,960 per student of direct public school aid statewide in fiscal 2020 (which reflects fall 2018 enrollment), this amounts to a decrease in State aid of \$87.6 million in fiscal 2020, increasing to \$94.4 million by fiscal 2022 due to inflation in per pupil funding and assumed enrollment growth. This amount does not account for differences in State aid per student across counties, which varies considerably. The distribution of eligible students participating in the program by county is not known.

Authority Staff/Contractual Services

General fund expenditures increase by \$792,600 in fiscal 2018, which accounts for a 90-day start-up delay following the bill's July 1, 2017 effective date. This estimate reflects the cost of hiring four staff to coordinate and support the program and manage the accounts created by the bill and \$500,000 for a consultant to assist with these matters, as well as promotion and marketing of the program. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. It is assumed that future year administrative costs will be subsumed within the 3% maximum set-aside discussed above.

The Office of Legislative Audits can perform required tasks using existing resources.

Local Fiscal Effect: Given assumptions discussed above regarding reduced public school enrollment under the bill, and as shown in Exhibit 3, State aid to public schools decreases statewide by \$87.6 million in fiscal 2020 and by \$94.4 million by fiscal 2022. Local appropriations to public schools, which must be maintained at a certain per pupil level each year, decrease annually beginning in fiscal 2020. Federal funding may also decline substantially as a result of decreased enrollment. Local public school expenditures decrease accordingly beginning in fiscal 2020, and, as a result, retirement costs decrease beginning in fiscal 2022. The impact of the bill will vary considerably across counties, depending upon the authority's criteria for defining what schools are in the bottom 5%, the number of students participating in the program annually, where those students reside, and the impact on public school enrollment in each county, all of which are difficult to estimate precisely.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Carroll, Harford, and Queen Anne's counties; Comptroller's Office; Maryland State Department of Education; Department of Budget and Management; Department of Legislative Services (Office of Legislative Audits); Department of Legislative Services

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