
By: **Delegate Trueschler**
Introduced and read first time: February 13, 2004
Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Primary and Secondary Education - Performance Expectations and**
3 **Funding**

4 FOR the purpose of requiring each county board of education to prepare and publish
5 a Performance Expectations Chart to document the county board's expected
6 passage rate for students for the upcoming school year under certain
7 circumstances; requiring the county boards to annually submit their
8 Performance Expectations Charts to the State Department of Education and to
9 make copies available to the public; requiring the State Department of
10 Education to post all of the Performance Expectations Charts on the
11 Department's website; prohibiting an increase in the cost of compensation and
12 benefits for administrators and administrative staff above a certain amount;
13 providing that certain State foundation program funds shall only be used by the
14 local school districts for certain purposes; requiring the Office of Legislative
15 Audits to audit certain financial records of county boards to confirm the use of
16 certain education funding; defining certain terms; and generally relating to
17 county funding for education and requiring county boards to prepare a
18 performance expectation chart to measure school performance.

19 BY adding to
20 Article - Education
21 Section 4-126
22 Annotated Code of Maryland
23 (2001 Replacement Volume and 2003 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article - Education
26 Section 5-202
27 Annotated Code of Maryland
28 (2001 Replacement Volume and 2003 Supplement)

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

1 **Article - Education**

2 4-126.

3 (A) FOR PURPOSES OF THIS SECTION, "CHART" MEANS THE PERFORMANCE
4 EXPECTATIONS CHART OR CHARTS PREPARED BY EACH COUNTY BOARD.

5 (B) EACH COUNTY BOARD SHALL ANNUALLY PREPARE AND PUBLISH A
6 PERFORMANCE EXPECTATIONS CHART TO DOCUMENT THE COUNTY BOARD'S
7 EXPECTED PASSAGE RATE FOR STUDENTS IN THE COUNTY.

8 (C) THE CHART SHALL:

9 (1) LIST THE COUNTY BOARD'S EXPECTED PASSAGE RATE BY:

10 (I) SCHOOL;

11 (II) TEST TYPE;

12 (III) GRADE; AND

13 (IV) STUDENT POPULATION GROUP, INCLUDING:

14 1. RACIAL AND ETHNIC GROUPS;

15 2. STUDENTS WITH LIMITED ENGLISH PROFICIENCY;

16 3. STUDENTS WITH DISABILITIES; AND

17 4. ECONOMICALLY DISADVANTAGED STUDENTS;

18 (2) LIST THE PERFORMANCE EXPECTATION RATES FOR EACH OF THE
19 SUCCEEDING 5 YEARS;

20 (3) LIST THE COST PER SCHOOL FOR THE CURRENT YEAR FOR:

21 (I) ADMINISTRATION AND FACULTY COMPENSATION AND
22 BENEFITS; AND

23 (II) TEACHING SUPPLIES AND EQUIPMENT; AND

24 (4) (I) INCLUDE A 3-PART COLUMN COMPARING:

25 1. THE ORIGINAL PERFORMANCE EXPECTATION
26 PROJECTION;

27 2. THE ADJUSTED PERFORMANCE EXPECTATION
28 PROJECTIONS, IF ANY;

29 3. THE ACTUAL PASSAGE RATES.

1 (II) IF THE PERFORMANCE EXPECTATION PROJECTION HAS BEEN
2 ADJUSTED MORE THAN ONCE SINCE THE ORIGINAL PROJECTION, IT SHALL BE
3 NOTED ON THE CHART.

4 (D) (1) BEGINNING ON JULY 1, 2005, EACH COUNTY BOARD SHALL
5 ANNUALLY SUBMIT ITS CHART TO THE DEPARTMENT AND MAKE COPIES AVAILABLE
6 TO THE PUBLIC.

7 (2) THE DEPARTMENT SHALL POST THE CHART OF EACH COUNTY
8 BOARD ON THE DEPARTMENT'S WEBSITE.

9 5-202.

10 (a) (1) In this section the following words have the meanings indicated.

11 (2) "Annual per pupil foundation amount" means:

12 (i) For fiscal years 2004 through 2008, the sum, rounded to the
13 nearest dollar, of:

14 1. The fiscal year 2002 per pupil foundation amount of
15 \$4,124; and

16 2. The product of the difference between the target per pupil
17 foundation amount and \$4,124 and:

18 A. 0.40 in fiscal year 2004;

19 B. 0.52 in fiscal year 2005;

20 C. 0.71 in fiscal year 2006; and

21 D. 0.83 in fiscal year 2007; and

22 (ii) For fiscal year 2008 and each fiscal year thereafter, the target
23 per pupil foundation amount.

24 (3) "Assessed valuation of real property" means the most recent estimate
25 made by the State Department of Assessments and Taxation before the annual State
26 budget is submitted to the General Assembly, of the assessed value of real property for
27 State purposes as of July 1 of the first completed fiscal year before the school year for
28 which the calculation of State aid is made under this section.

29 (4) "Assessed value of personal property" means the most recent
30 estimate by the State Department of Assessments and Taxation before the annual
31 State budget is submitted to the General Assembly of the assessed value for county
32 purposes of personal property as of July 1 of the first completed fiscal year before the
33 school year for which the calculation is made under this section.

34 (5) "Foundation program" means the product of the annual per pupil
35 foundation amount and a county's full-time equivalent enrollment.

1 (6) "Full-time equivalent enrollment" means the sum of:

2 (i) The number of students enrolled in grades 1 through 12 or their
3 equivalent in regular day school programs on September 30 of the previous school
4 year;

5 (ii) Except as provided in item (iii) of this paragraph, the product of
6 the number of students enrolled in kindergarten programs on September 30 of the
7 prior school year and:

8 1. 0.60 in fiscal year 2004;

9 2. 0.70 in fiscal year 2005;

10 3. 0.80 in fiscal year 2006;

11 4. 0.90 in fiscal year 2007; and

12 5. 1.00 in fiscal year 2008 and each fiscal year thereafter;

13 (iii) In Garrett County, the number of students enrolled in
14 kindergarten programs on September 30 of the prior school year; and

15 (iv) The number of full-time equivalent students, as determined by
16 a regulation of the Department, enrolled in evening high school programs during the
17 previous school year.

18 (7) "Local contribution rate" means the figure that is calculated as
19 follows:

20 (i) Multiply the statewide full-time equivalent enrollment by \$624,
21 and multiply this product by:

22 1. 0.46 in fiscal year 2004;

23 2. 0.47 in fiscal year 2005;

24 3. 0.48 in fiscal year 2006;

25 4. 0.49 in fiscal year 2007; and

26 5. 0.50 in fiscal year 2008 and each fiscal year thereafter;

27 (ii) Multiply the statewide full-time equivalent enrollment by the
28 amount that the annual per pupil foundation amount exceeds \$624, and multiply this
29 product by 0.50;

30 (iii) Add the two products calculated in items (i) and (ii) of this
31 paragraph, and divide the resulting sum by the sum of the wealth of all of the
32 counties in this State; and

1 (iv) Round the result obtained in item (iii) of this paragraph to
2 seven decimal places and express as a percent with five decimal places.

3 (8) "Local share of the foundation program" means the product of the
4 local contribution rate and a county's wealth.

5 (9) "Net taxable income" means the amount certified by the State
6 Comptroller for the second completed calendar year before the school year for which
7 the calculation of State aid under this section is made, based on tax returns filed on
8 or before September 1 after this calendar year.

9 (10) "Personal property" means all property classified as personal
10 property under § 8-101(c) of the Tax - Property Article.

11 (11) "Real property" means all property classified as real property under §
12 8-101(b) of the Tax - Property Article.

13 (12) "State share of the foundation program" means the greater of:

14 (i) The difference between the foundation program and the local
15 share of the foundation program; and

16 (ii) The result obtained by multiplying the annual per pupil
17 foundation amount by the county's full-time equivalent enrollment, and multiplying
18 this product by:

- 19 1. 0.25 in fiscal year 2004;
- 20 2. 0.24 in fiscal year 2005;
- 21 3. 0.22 in fiscal year 2006;
- 22 4. 0.19 in fiscal year 2007; and
- 23 5. 0.15 in fiscal year 2008 and each fiscal year thereafter.

24 (13) "Target per pupil foundation amount" means:

25 (i) In fiscal year 2004, \$5,730; and

26 (ii) In subsequent fiscal years:

27 1. The target per pupil foundation amount for the prior fiscal
28 year increased by the same percentage as the increase in the implicit price deflator for
29 State and local government expenditures for the second prior fiscal year; or

30 2. If there is no increase in the implicit price deflator for
31 State and local government expenditures for the second prior fiscal year, the target
32 per pupil foundation amount for the prior fiscal year.

33 (14) "Wealth" means the sum of:

- 1 (i) Net taxable income;
- 2 (ii) 100 percent of the assessed value of the operating real property
3 of public utilities;
- 4 (iii) 40 percent of the assessed valuation of all other real property;
5 and
- 6 (iv) 50 percent of assessed value of personal property.

7 (b) Subject to the other provisions of this section, each year the State shall
8 distribute the State share of the foundation program to each county board.

9 (c) (1) If State aid for public elementary and secondary education exceeds
10 31.5% of the projected general funds of the State in any fiscal year, then the amount
11 required for the annual per pupil foundation amount may not be implemented for the
12 next fiscal year unless the General Assembly, at the regular session immediately
13 preceding that next fiscal year, affirms by joint resolution that the additional State
14 aid required using the annual per pupil foundation amount is within the State's fiscal
15 resources.

16 (2) As provided under paragraph (1) of this subsection, if State aid for
17 public elementary and secondary education exceeds the percentage amount specified
18 and a joint resolution of affirmation is not enacted by the General Assembly, then the
19 annual per pupil foundation amount in which the State shall share for the next fiscal
20 year shall be the lesser of the annual per pupil foundation amount for the fiscal year
21 or an amount equal to 108 percent of the prior year's annual per pupil foundation
22 amount.

23 (3) By January 14 of each year, the Department of Legislative Services
24 shall calculate State aid as a percentage of the projected State General Fund
25 revenues for the current fiscal year. State aid shall include State funds provided to
26 the county boards whether pursuant to formula or on a grant basis and State
27 payments on behalf of the county boards such as retirement and debt service for State
28 bonds for school construction.

29 (d) (1) To be eligible to receive the State share of the foundation program:

30 (i) The county governing body shall levy an annual tax sufficient to
31 provide an amount of revenue for elementary and secondary public education
32 purposes equal to the local share of the foundation program; and

33 (ii) The county governing body shall appropriate local funds to the
34 school operating budget in an amount no less than the product of the county's
35 full-time equivalent enrollment for the current fiscal year and the local appropriation
36 on a per pupil basis for the prior fiscal year.

37 (2) Except as provided in paragraph (3) of this subsection, for purposes of
38 this subsection, the local appropriation on a per pupil basis for the prior fiscal year for
39 a county is derived by dividing the county's highest local appropriation to its school

1 operating budget for the prior fiscal year by the county's full-time equivalent
2 enrollment for the prior fiscal year. For example, the calculation of the foundation aid
3 for fiscal year 2003 shall be based on the highest local appropriation for the school
4 operating budget for a county for fiscal year 2002. Program shifts between a county
5 operating budget and a county school operating budget may not be used to artificially
6 satisfy the requirements of this paragraph.

7 (3) For purposes of this subsection, for fiscal year 1997 and each
8 subsequent fiscal year, the calculation of the county's highest local appropriation to
9 its school operating budget for the prior fiscal year shall exclude:

10 (i) A nonrecurring cost that is supplemental to the regular school
11 operating budget, if the exclusion qualifies under regulations adopted by the State
12 Board; and

13 (ii) A cost of a program that has been shifted from the county school
14 operating budget to the county operating budget.

15 (4) The county board must present satisfactory evidence to the county
16 government that any appropriation under paragraph (3)(i) of this subsection is used
17 only for the purpose designated by the county government in its request for approval.

18 (5) Any appropriation that is not excluded under paragraph (3)(i) of this
19 subsection as a qualifying nonrecurring cost shall be included in calculating the
20 county's highest local appropriation to its school operating budget.

21 (6) Qualifying nonrecurring costs, as defined in regulations adopted by
22 the State Board, shall include but are not limited to:

23 (i) Computer laboratories;

24 (ii) Technology enhancement;

25 (iii) New instructional program start-up costs; and

26 (iv) Books other than classroom textbooks.

27 (7) (i) The provisions of this subsection do not apply to a county if the
28 county is granted a temporary waiver or partial waiver from the provisions by the
29 State Board of Education based on a determination that the county's fiscal condition
30 significantly impedes the county's ability to fund the maintenance of effort
31 requirement.

32 (ii) After a public hearing, the State Board of Education may grant
33 a waiver under this paragraph in accordance with its regulations.

34 (iii) In order to qualify for the waiver under this paragraph for a
35 fiscal year, a county shall make a request for a waiver to the State Board of Education
36 by April 1 of the prior fiscal year.

1 (iv) The State Board of Education shall inform the county whether
2 the waiver for a fiscal year is approved or denied in whole or in part by May 15 of the
3 prior fiscal year.

4 (e) (1) In fiscal year 2004, the State shall distribute a partnership grant of
5 \$28,186,032 to the Baltimore City Board of School Commissioners.

6 (2) In fiscal year 2005, the State shall distribute a partnership grant of
7 \$21,139,524 to the Baltimore City Board of School Commissioners.

8 (3) In fiscal year 2006, the State shall distribute a partnership grant of
9 \$14,093,016 to the Baltimore City Board of School Commissioners.

10 (f) (1) For fiscal year 2004, the State share of the foundation program shall
11 be adjusted to reflect regional differences in the cost of education that are due to
12 factors outside the control of local jurisdictions, by increasing the State share of the
13 foundation program otherwise determined for the following counties by:

14 (i) 1% for Anne Arundel County;

15 (ii) 3% for Baltimore City;

16 (iii) 3% for Howard County; and

17 (iv) 4% for Montgomery County.

18 (2) For fiscal year 2005 and each fiscal year thereafter, the State share
19 of the foundation program shall be adjusted to reflect regional differences in the cost
20 of education that are due to factors outside the control of local jurisdictions.

21 (3) The Department shall contract with a private entity to conduct a
22 study to:

23 (i) Develop a Maryland specific geographic cost of education index
24 to be implemented no later than fiscal year 2005; and

25 (ii) Provide recommendations as to how the index should be used to
26 adjust State education funding.

27 (g) Any employer Social Security contributions required by federal law for any
28 employee of a county board or local school system shall remain the obligation of the
29 employer.

30 (h) (1) The Montgomery County Board shall provide from the Montgomery
31 County Public Schools Employees' Pension System Trust the supplemental retirement
32 allowance required under paragraph (2) of this subsection.

33 (2) (i) The Montgomery County Board, through the Montgomery
34 County Public Schools Employees' Pension System Trust, shall pay a supplemental
35 retirement allowance to an employee of the County Board who retires on or after July
36 1, 1999, as a member of the Teachers' Pension System of the State of Maryland.

1 (ii) The supplemental retirement allowance shall equal the product
2 of the member's years of creditable service earned in the Montgomery County Public
3 Schools Employees' Pension System times the sum of:

4 1. 0.08% of the retiree's average final compensation that does
5 not exceed the Social Security integration level; and

6 2. 0.15% of the retiree's average final compensation that
7 exceeds the Social Security integration level.

8 (I) (1) IN THIS SUBSECTION, "CONSUMER PRICE INDEX" MEANS THE
9 CONSUMER PRICE INDEX (ALL URBAN CONSUMERS - WASHINGTON AND BALTIMORE
10 REGION - ALL ITEMS) FOR THE PRIOR YEAR ENDING DECEMBER 31, AS PUBLISHED BY
11 THE U.S. DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS.

12 (2) THE COST OF COMPENSATION AND BENEFITS FOR ADMINISTRATORS
13 AND ADMINISTRATIVE STAFF MAY NOT EXCEED \$700 PER PUPIL FOR FISCAL YEAR
14 2005, AND MAY NOT INCREASE IN EXCESS OF THE RATE OF INCREASE IN THE
15 CONSUMER PRICE INDEX.

16 (J) STATE FOUNDATION PROGRAM FUNDS SHALL ONLY BE USED BY THE
17 LOCAL SCHOOL SYSTEMS FOR:

18 (1) TRAINING AND COMPENSATION OF IN-SCHOOL ADMINISTRATORS
19 AND FACULTY;

20 (2) TUTORS FOR:

21 (I) ECONOMICALLY DISADVANTAGED STUDENTS;

22 (II) SPECIAL EDUCATION STUDENTS;

23 (III) LIMITED ENGLISH PROFICIENCY STUDENTS; AND

24 (IV) LOW-PERFORMING STUDENTS;

25 (3) BEFORE-SCHOOL AND AFTER-SCHOOL PROGRAMS FOR:

26 (I) ECONOMICALLY DISADVANTAGED STUDENTS;

27 (II) SPECIAL EDUCATION STUDENTS; AND

28 (III) LIMITED ENGLISH PROFICIENCY STUDENTS; AND

29 (4) SUMMER SCHOOL PROGRAMS FOR:

30 (I) ECONOMICALLY DISADVANTAGED STUDENTS;

31 (II) SPECIAL EDUCATION STUDENTS;

32 (III) LIMITED ENGLISH PROFICIENCY STUDENTS; AND

1 (IV) LOW-PERFORMING STUDENTS.

2 (K) THE DEPARTMENT OF LEGISLATIVE SERVICES, OFFICE OF LEGISLATIVE
3 AUDITS SHALL PERIODICALLY AUDIT THE FINANCIAL RECORDS OF THE COUNTY
4 BOARDS OR LOCAL SCHOOL SYSTEMS TO CONFIRM THAT EACH COUNTY, INCLUDING
5 BALTIMORE CITY, IS FUNDING EDUCATION IN ACCORDANCE WITH SUBSECTION (I) OF
6 THIS SECTION.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 June 1, 2004.