

Department of Legislative Services  
Maryland General Assembly  
2004 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 345

(Delegate Hixson, *et al.*)

Ways and Means

Budget and Taxation

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**Bridge to Excellence in Public Schools Act - Trigger Provision - Repeal**

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This emergency bill repeals the “trigger provision” in the Bridge to Excellence in Public Schools Act of 2002. The repeal eliminates the need for the General Assembly to pass a joint resolution in order to continue with full implementation of the funding formulas established in the Bridge to Excellence legislation.

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**Fiscal Summary**

**State Effect:** Although the repeal would ensure that State funding for education is not reduced through the method established in the trigger provision, deleting the provision has no direct fiscal impact.

**Local Effect:** Although the repeal would ensure that local revenues from State aid would not be reduced through the method established in the trigger provision, deleting the provision has no direct fiscal impact on local school systems.

**Small Business Effect:** Minimal.

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**Analysis**

**Current Law:** In order for the fiscal 2005 State education aid enacted in the Bridge to Excellence in Public Schools Act to be fully implemented, the General Assembly must pass a joint resolution by the fiftieth day of the current legislative session stating that the additional aid is within the State’s fiscal resources. If the joint resolution is passed, statutory formula-driven aid that was enacted in the Bridge to Excellence legislation would continue to phase in from fiscal 2005 to 2008.

If the joint resolution is not passed, the minimum required aid for each local board of education in fiscal 2005 would equal 105% of fiscal 2004 aid under the Bridge to Excellence Act instead of the greater statutory formula amounts. Minimum required funding in fiscal 2006 would be equal to 110.25% of fiscal 2004 aid, and minimum required funding in fiscal 2007 and 2008 would be equal to 115.75% and 121.50% of fiscal 2004 aid respectively.

**Background:** The Bridge to Excellence in Public Schools Act was passed during the 2002 legislative session and was signed into law on May 6, 2002. The Act reworked the State's education funding formulas to add an estimated \$1.3 billion in State aid annually by fiscal 2008, with average increases in aid during the six-year phase-in period of nearly 10% per year. Because of the large increases that would be required under the Act and an unsure budget outlook, an amendment was added to the bill that required the General Assembly to revisit the State's fiscal condition in 2004. The amendment, which was later termed the "trigger provision," required the General Assembly to pass a joint resolution by the fiftieth day of the 2004 session in order to proceed with full implementation of the Act. A recent opinion by the Office of the Attorney General, however, indicated that the provision may represent an unconstitutional legislative veto. According to the Attorney General, keeping the provision in law places the State at risk of a lawsuit on constitutional grounds. Although the issue has never been litigated in the State, the Attorney General has advised that both passing and not passing the resolution could result in lawsuits challenging the validity of the provision. The Attorney General has further advised that, in either case, the status of education funding under the Bridge to Excellence Act would remain in question.

The fiscal 2005 State budget, as proposed by the Governor, included \$3.64 billion for public primary and secondary education, an increase of \$324 million or 9.8% from fiscal 2004. The annual differences between State aid under full implementation of the Bridge to Excellence Act and under the reduced aid levels specified in the trigger provision are shown in **Exhibit 1**. By fiscal 2008, the difference would be an estimated \$787 million. The fiscal 2005 State budget as enacted includes \$3.63 billion in State education aid following \$11 million in reductions made by the General Assembly.

The minimum required funding structure that is enacted if the joint resolution is not passed also impacts counties unequally. Although failure to pass the joint resolution would successfully reduce mandated State aid, it would not stay within the funding structure or the funding principles established in the Bridge to Excellence Act. The estimated fiscal 2008 impact on each county of not passing the joint resolution is shown in **Exhibit 2**.

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**Exhibit 1**  
**State Education Aid Under Full Implementation and Under the Reduced Aid**  
**Schedule Established If No Joint Resolution is Passed**  
**Fiscal 2004 to 2008**  
**(\$ in Millions)**

	<u>FY 2004</u>	<u>Budgeted FY 2005</u>	<u>Est. FY 2006</u>	<u>Est. FY 2007</u>	<u>Est. FY 2008</u>
Full Implementation	\$3,320	\$3,645	\$4,015	\$4,377	\$4,806
No Joint Resolution	<u>3,320</u>	<u>3,469</u>	<u>3,646</u>	<u>3,827</u>	<u>4,020</u>
Difference	\$0	\$176	\$369	\$580	\$787

Notes: Fiscal 2004 amount includes a \$7 million deficiency for nonpublic special education placements. Fiscal 2005 full implementation amount reflects the proposed budget, not the approved State budget. Fiscal 2005 to 2008 aid amounts do not assume any adjustments for regional differences in the cost of educational resources.

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**State and Local Fiscal Effect:** If this bill is not enacted and the joint resolution is not passed, minimum required State aid to local school boards would be reduced by the amounts shown in Exhibit 1. This legislation alone, however, would not impact State or local finances.

Full implementation of the Bridge to Excellence Act is assumed in Department of Legislative Services expenditure projections for future fiscal years. This bill or a joint resolution affirming the State's ability to pay for the increases proposed in the Bridge to Excellence Act would not add further to current projections.

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**Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 245 (Senator Currie, *et al.*) – Budget and Taxation.

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

**Fiscal Note History:** First Reader - February 3, 2004  
ncs/hlb Revised - Correction - February 10, 2004  
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**Exhibit 2**  
**Estimated Percent of Full Funding Provided If No Joint Resolution is Passed**  
**Fiscal 2008**

<u>County</u>	<u>Est. Per Pupil Funding with Full Implementation</u>	<u>No Joint Resolution</u>	<u>Percent of Full</u>
Allegany	\$8,193	\$6,878	84.0%
Anne Arundel	3,914	3,641	93.0%
Baltimore City	10,694	9,090	85.0%
Baltimore	5,072	4,174	82.3%
Calvert	5,026	4,215	83.9%
Caroline	7,899	6,715	85.0%
Carroll	4,883	4,313	88.3%
Cecil	6,017	4,930	81.9%
Charles	5,383	4,522	84.0%
Dorchester	6,646	5,978	89.9%
Frederick	4,741	4,075	85.9%
Garrett	5,896	5,743	97.4%
Harford	5,123	4,773	93.2%
Howard	3,972	3,491	87.9%
Kent	5,114	4,855	95.0%
Montgomery	3,576	2,898	81.0%
Prince George's	7,307	5,532	75.7%
Queen Anne's	3,993	3,916	98.1%
St. Mary's	5,418	4,731	87.3%
Somerset	8,845	6,909	78.1%
Talbot	3,006	3,078	102.4%
Washington	5,670	4,905	86.5%
Wicomico	7,074	5,511	77.9%
Worcester	3,152	3,068	97.3%
Unallocated	41	41	100.0%
<b>Total</b>	<b>\$5,717</b>	<b>\$4,782</b>	<b>83.6%</b>

Note: Per pupil funding estimates do not assume any adjustments for regional differences in the cost of educational resources.