

Department of Legislative Services
 Maryland General Assembly
 2018 Session

FISCAL AND POLICY NOTE
 First Reader

Senate Bill 1258 (The President)(By Request - Administration)
 Budget and Taxation

Commitment to Education Act of 2018

This Administration bill establishes a four-year phase-in, beginning in fiscal 2020, of the percentage of the Education Trust Fund (ETF) that must be used to supplement not supplant funding for programs and formulas under the Education Article, including public school construction projects. By fiscal 2023 and thereafter, 100% of the ETF must be used to supplement not supplant funding for public schools and school construction. It also specifies the distribution of expenditures from the ETF, beginning in fiscal 2020, for (1) school safety capital costs grants; (2) pay-as-you-go funds for the State share of the cost of public school construction; (3) a Safe Schools Fund; and (4) public elementary and secondary education. Fiscal 2019 expenditures from the ETF are as provided in the fiscal 2019 State budget.

Fiscal Summary

State Effect: General fund expenditures increase by approximately \$485.7 million in FY 2020 and by \$517.9 million in FY 2023 and similar annual amounts thereafter, nearly all of which is to replace ETF expenditures currently supporting the State foundation formula. Revenues are not affected. **This bill establishes a mandated appropriation beginning in FY 2020.**

(\$ in millions)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	485.7	301.7	408.2	517.9
Net Effect	\$0.0	(\$485.7)	(\$301.7)	(\$408.2)	(\$517.9)

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

Local Effect: Local school systems are assumed to receive the vast majority of the benefit from increases in State funding, beginning in FY 2020. Local expenditures increase for the local share of capital construction and improvement costs.

Small Business Effect: Construction-related small businesses with school safety expertise may benefit substantially.

Analysis

Bill Summary: The bill also repeals the existing allowable uses of the ETF. The phase-in of the percentage of the ETF that must be used to supplement, not supplant funding for programs and formulas under the Education Article is as follows: 40% in fiscal 2020; 60% in fiscal 2021; 80% in fiscal 2022; and 100% annually beginning in fiscal 2023. **Exhibit 1** shows required expenditures from the ETF under the bill.

Exhibit 1
Expenditures from the Education Trust Fund Under the Bill
(\$ in Millions)

	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023 & Beyond</u>
School Safety Capital Costs	\$125	\$0	\$0	\$0
School Construction PAYGO	Remaining Funds	100	100	100
Safe Schools Fund	50	50	50	50
Public Schools (Operating)	25	150 & Remaining Funds	250 & Remaining Funds	350 & Remaining Funds

PAYGO: pay-as-you-go

ETF funds designated for pay-as-you-go funding for the State share of the cost of public school construction projects and capital improvements may not be expended on a school construction project that the State has approved for planning and for which a local school system has paid some portion of the State share with local funds (*i.e.*, forward funded).

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%.

Safe Schools Fund and the Education Trust Fund

There is no Safe Schools Fund in current law; however, Senate Bill 1257 and House Bill 1816, as introduced by the Administration, would establish such a fund for the purpose of providing grants to local boards of education in support of implementation of specified emergency safety plans and other safety improvements.

ETF is a nonlapsing, special fund to be used for continued funding of the Bridge to Excellence in Public Schools Act of 2002 formulas and programs, including the Geographic Cost of Education Index (GCEI). 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. A portion of the proceeds from video lottery terminals (VLTs) and table games is dedicated to ETF.

ETF was established during the 2007 special session as part of the 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 estimated ETF revenues as of December 2017 for fiscal 2019 through 2023 are shown in **Exhibit 2**. In March 2018, ETF revenues were written up by approximately \$4.0 million each year (not shown in the exhibit). The projected ETF revenues are less than the over \$3.3 billion in annual Bridge to Excellence foundation program expenditures, which ETF has been used to support since its inception.

Exhibit 2
Estimated Education Trust Fund Revenues
Fiscal 2019-2023
(\$ in Millions)

<u>ETF</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>
VLT	\$408.1	\$414.2	\$404.9	\$411.0	\$417.2
Table Games	94.8	96.3	97.7	99.2	100.7
Total ETF	\$502.9	\$510.5	\$502.6	\$510.2	\$517.8

ETF: Education Trust Fund
VLT: video lottery terminal

Source: December 2017 Board of Revenue Estimates; Department of Legislative Services

Public School Construction

For an overview of the State’s role in supporting public school construction, including the State share of construction costs, please see the **Appendix – State Funding for Public School Construction**.

The Governor’s proposed fiscal 2019 capital budget includes \$309.0 million in general obligation (GO) bond funding for the Public School Construction Program, plus \$4.9 million in pay-as-you-go general funds. It also includes \$40.0 million in GO funds for school systems with high enrollment growth or a large number of relocatable classrooms. That brings the total proposed funding level for these programs to \$353.9 million. The Governor’s *Capital Improvement Program* includes \$320 million annually for these programs in fiscal 2020 through 2023.

State Expenditures: General fund expenditures increase significantly beginning in fiscal 2020 in order to offset (1) the diversion of ETF revenues currently made available for State aid to public schools to specified expenditures under the bill and (2) the required supplemental expenditure amounts, including those for State aid to public schools. To

cover the cost of funding requirements under the bill as well as related administrative costs associated with new capital programs, as discussed below, general fund expenditures increase by \$485.7 million in fiscal 2020, \$301.7 million in fiscal 2021, \$408.2 million in fiscal 2022, and \$517.9 million in fiscal 2023 and similar annual amounts thereafter.

Exhibit 3 shows ETF funding under the bill, by program, based upon the allocations shown in Exhibit 1 and the ETF revenue projections shown in Exhibit 2, which determine the remainder of funds to allocate in each year. Exhibit 3 also shows the increase in general fund expenditures made necessary by the requirements of the bill, as discussed further below.

Exhibit 3
ETF and GF Expenditures Under the Bill
(\$ in Millions)

	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>
School Safety Capital Costs	\$0.0	\$125.0	\$0.0	\$0.0	\$0.0
Public School PAYGO	0.0	310.5	100.0	100.0	100.0
Safe Schools Fund	0.0	50.0	50.0	50.0	50.0
Public Schools	\$502.9	25.0	352.6	360.2	367.8
Total ETF	\$502.9	\$510.5	\$502.6	\$510.2	\$517.8
Supplemental ETF		204.2	301.6	408.1	517.8
% of Total ETF		40%	60%	80%	100%
Increased GF Expenditure*	\$0.0	\$485.5	\$301.6	\$408.1	\$517.8

PAYGO: pay-as-you-go

ETF: Education Trust Fund

GF: general fund

* Excludes general fund increases to cover additional administrative costs

Designating the use of a portion of ETF monies for new purposes requires general fund expenditures to increase by an equal amount. Currently, all proceeds credited to ETF are budgeted for the Bridge to Excellence foundation formula and programs, including GCEI. The Governor's proposed fiscal 2019 budget includes \$502.9 million in ETF revenues, all of which are directed toward the \$3.3 billion in Bridge to Excellence foundation formulas, including GCEI. The remaining \$2.8 billion in foundation formula funding is general funds. Thus, using ETF for the purposes under the bill does not alter the amount of special fund expenditures; instead, general fund expenditures increase to preserve funding of the foundation formula.

The bill designates \$25.0 million for public and secondary education in fiscal 2020. This leaves \$485.5 million of the \$510.5 million to be redirected from the foundation program to other uses. Although the bill only requires 40% of the ETF to be “supplemental” in fiscal 2020, the specified funding requirements mean that general fund expenditures increase by \$485.5 million in fiscal 2020. Beginning in fiscal 2021, the phase-in percentages of supplemental ETF drive the general fund expenditure increase each year.

Administrative Costs

The Public School Construction Program (PSCP) will require one contractual special project manager with expertise in school safety design and mechanisms in fiscal 2020 only to establish an appropriate methodology for allocating school safety capital costs grants, at a cost of \$88,100 in general funds. The Department of General Services (DGS) will require an additional technical reviewer to handle an estimated 140 reviews of proposed capital projects associated with the Safe Schools Fund beginning in fiscal 2020 as shown below. Future year expenditures reflect elimination of one-time costs, annual increases and employee turnover, and ongoing operating expenses.

One-year Contractual Position	1
Salary and Fringe Benefits	\$81,990
Other Operating Expenses	6,115
PSCP Expenditures	\$88,105
Position	1
Salary and Fringe Benefits	\$103,230
Other Operating Expenses	6,115
DGS Expenditures	\$109,345
Total FY 2020 Expenditures	\$197,450

Local Fiscal Effect: Local school systems are assumed to receive the vast majority of the benefit from increases in State funding, including capital and operating support as described above, beginning in fiscal 2020. Local expenditures increase for the local share of school construction costs associated with the increased State support for capital construction and improvements.

Additional Information

Prior Introductions: None.

Cross File: HB 1815 (The Speaker)(By Request - Administration) - Appropriations and Ways and Means.

Information Source(s): Comptroller's Office; Maryland State Department of Education; Maryland Higher Education Commission; Baltimore City Community College; St. Mary's College of Maryland; Public School Construction Program; Department of General Services; Department of Budget and Management; Board of Public Works; Department of Legislative Services

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md/rhh

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Appendix – State Funding for Public School Construction

School Construction Review and Approval Process

Subject to the final approval of the Board of Public Works (BPW), the Interagency Committee on School Construction (IAC) manages State review and approval of local school construction projects. Each year, local systems develop and submit to IAC a facilities master plan that includes an analysis of future school facility needs based on the current condition of school buildings and projected enrollment. The master plan must be approved by the local school board. Subsequently, each local school system submits a capital improvement plan to IAC that includes projects for which it seeks planning and/or funding approval for the upcoming fiscal year, which may include projects that the local system has forward funded. In addition to approval from the local school board, the request for the upcoming fiscal year must be approved by the county's governing body. Typically, the submission letter to IAC contains signatures of both the school board president and either the county executive and county council president or chair of the board of county commissioners.

Based on its assessment of the relative merit of all the project proposals it receives, and subject to the projected level of school construction funds available, IAC makes recommendations to BPW on which projects to fund. By December 31 of each year, IAC must recommend to BPW projects comprising 75% of the preliminary school construction allocation projected to be available by the Governor for the upcoming fiscal year. Local school boards may then appeal the IAC recommendations directly to BPW. By March 1 of each year, IAC must recommend to BPW and the General Assembly projects comprising 90% of the allocation for school construction submitted in the Governor's capital budget. Following the legislative session, IAC recommends projects comprising the remaining school construction funds included in the enacted capital budget for BPW approval, no earlier than May 1.

Eligible School Construction Costs

IAC establishes a range of appropriate per student, square foot allocations for elementary, middle, and high schools as well as for special education students, career and technology students, and specialized programs. IAC also establishes, on an annual basis, a *cost per square foot* that is applicable to major school construction projects. For fiscal 2019, the cost per square foot is \$302 for new construction *without* site development (up from \$293 in fiscal 2018) and \$360 for new construction *with* site development (up from \$348.67 in fiscal 2018). In general, multiplying the cost per square foot allocation by the allowable

square feet (based primarily on the State-rated capacity of a building) yields the maximum allowable cost that is subject to the State/local cost-share formula.

The cost of acquiring land may not be considered an eligible construction cost and may not be paid by the State. Otherwise, BPW regulations specify public school construction-related costs that are eligible and ineligible for State funding. In general, the following costs are included among eligible expenses:

- construction of a new facility, a renovation of a new facility, an addition to an existing facility, or a replacement of an existing building or building portion (*i.e.*, “bricks and mortar”);
- building and site development;
- modular construction that meets specified standards;
- State-owned relocatable facilities and temporary facilities that are required to be on site during construction; and
- built-in equipment and furnishings.

Beginning in fiscal 2018, BPW approved the use of State funding for window air-conditioning units and associated electrical upgrades, installation, and security in schools where more than one-half of the classrooms are not temperature controlled.

Among the major items that explicitly are *not* eligible for State funding (besides site acquisition) are (1) architectural, engineering, and other consulting fees; (2) master plans and feasibility studies; (3) projects or systemic renovations for buildings and systems that have been replaced, upgraded, or renovated within the last 15 years; and (4) movable equipment and furnishings.

State Share of Eligible Costs

The State pays at least 50% of eligible costs of school construction and renovation projects, based on a funding formula that takes into account numerous factors including each local school system’s wealth and ability to pay. The Public School Facilities Act (Chapters 306 and 307 of 2004) requires that the cost-share formula be recalculated every three years. The first recalculation occurred in 2007, the second recalculation occurred in 2010, and the third was completed in 2014. The most recent recalculation was completed in 2017. IAC recommended updating the formula for the next three years, but BPW approved new cost shares *only* for fiscal 2019, which held harmless several jurisdictions that otherwise would have experienced a decrease in State support based on the 2017 recalculation of the formula. **Exhibit 1** shows the State share of eligible school construction costs for all Maryland jurisdictions for fiscal 2017 through 2019, as approved by BPW.

Exhibit 1
State Share of Eligible School Construction Costs
Fiscal 2017-2019

County	FY 2017	FY 2018	FY 2019
Allegany	83%	83%	85%
Anne Arundel	50%	50%	50%
Baltimore City	93%	93%	93%
Baltimore	52%	52%	56%
Calvert	53%	53%	53%
Caroline	80%	80%	81%
Carroll	59%	59%	59%
Cecil	63%	63%	66%
Charles	61%	61%	61%
Dorchester	76%	76%	76%
Frederick	64%	64%	64%
Garrett	50%	50%	50%
Harford	63%	63%	63%
Howard	55%	55%	55%
Kent	50%	50%	50%
Montgomery	50%	50%	50%
Prince George's	63%	63%	70%
Queen Anne's	50%	50%	51%
St. Mary's	58%	58%	58%
Somerset	100%	100%	100%
Talbot	50%	50%	50%
Washington	71%	71%	71%
Wicomico	97%	97%	97%
Worcester	50%	50%	50%
MD School for the Blind	93%	93%	93%

Source: Interagency Committee on School Construction

Chapters 306 and 307 also established the State's intent to provide \$2.0 billion of funding for school construction by fiscal 2013, an average of \$250.0 million each year for eight years. The State achieved the \$2.0 billion target ahead of schedule, and PSCP funding has remained above the \$250.0 million target each year since. **Exhibit 2** shows annual State public school construction funding from fiscal 2010 through 2018, by county.

The Governor's proposed fiscal 2019 budget includes \$309.0 million in general obligation (GO) bonds and \$4.9 million in general funds for PSCP and an additional \$40.0 million in GO bonds for a supplemental grant program for school systems that have high enrollment growth or a large number of relocatable classrooms, as established by statute. The fiscal 2019 *Capital Improvement Program* includes \$280.0 million annually for PSCP in fiscal 2020 through 2023 and \$40.0 million annually for the supplemental grant program.

Exhibit 2
State Public School Construction Funding
Fiscal 2010-2018
(\$ in Thousands)

County	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY2015	FY 2016	FY 2017	FY 2018
Allegany	\$0	842	\$727	\$1,999	\$2,496	\$6,597	\$10,837	\$24,242	12,873
Anne Arundel	25,020	26,200	32,400	33,349	34,870	36,200	39,419	42,598	36,829
Baltimore City	27,733	28,559	41,000	46,102	39,478	35,329	36,788	37,500	37,303
Baltimore	28,000	29,000	39,000	47,394	52,068	34,561	42,177	45,775	45,186
Calvert	8,181	8,450	7,317	7,129	5,577	2,653	1,500	9,964	14,575
Caroline	6,000	3,767	235	756	7,788	0	2,902	36	1,646
Carroll	10,520	8,444	9,079	15,211	4,874	3,915	6,415	3,418	3,853
Cecil	1,538	1,744	2,830	1,915	1,268	8,194	4,723	6,650	6,730
Charles	8,898	8,335	9,180	12,480	9,426	8,200	12,817	8,951	10,516
Dorchester	6,469	5,436	3,639	979	1,590	768	179	5,009	10,975
Frederick	16,226	14,000	16,532	19,254	20,163	15,901	21,000	21,295	19,564
Garrett	666	0	382	319	134	0	0	0	1,567
Harford	16,253	13,835	17,040	16,573	13,214	12,791	9,309	8,732	13,592
Howard	18,262	18,290	26,936	32,811	25,931	20,772	27,820	31,206	21,066
Kent	388	0	104	123	95	817	615	0	0
Montgomery	28,350	30,183	42,000	43,794	38,592	39,950	45,708	50,128	59,194
Prince George's	28,200	29,500	40,348	42,192	39,371	38,539	41,729	44,675	49,625
Queen Anne's	3,947	5,750	5,374	649	4,371	5,112	0	249	2,455
St. Mary's	4,028	6,600	3,354	3,172	7,472	11,876	7,015	1,273	815
Somerset	6,000	6,000	3,371	289	3,811	2,752	2,222	1,771	14,720
Talbot	436	344	135	35	634	0	308	0	0
Washington	7,965	7,970	8,571	9,117	8,494	7,467	8,404	4,847	2,592
Wicomico	13,170	9,975	1,864	11,290	13,327	10,991	7,440	10,373	11,847
Worcester	403	0	165	166	4,882	0	72	0	0
MD School for the Blind				2,800	6,063	14,733	8,616	6,000	9,376
Statewide		500		100	500	660	175	300	500
Total	\$266,653	\$263,724	\$311,583	\$349,997	\$347,277	\$318,778	\$338,190	\$364,992	\$387,399
Amount Over \$250M	\$16,653	\$13,724	\$61,583	\$99,997	\$97,277	\$68,778	\$88,190	\$114,992	\$137,399

Note: Includes new general obligation bonds, pay-as-you-go funds, and reallocated funds that were previously authorized. Counties receiving \$0 did not request any eligible projects to be funded in that year. Fiscal 2016-2018 include funds allocated for the Enrollment Growth and Relocatable Classroom program totaling \$20 million in fiscal 2016, \$40 million in fiscal 2017, and \$62.5 million in fiscal 2018. Fiscal 2017 total for Baltimore County includes \$5 million withheld by the Board of Public Works and later reauthorized by the General Assembly in fiscal 2018.

Source: Interagency Committee on School Construction; Department of Legislative Services