

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
 Enrolled - Revised

House Bill 1290
 Appropriations

(Delegate McIntosh)

Budget and Taxation

Education - Public School Construction - Funding and Administration

This bill generally implements the recommendations of the Workgroup on the Assessment and Funding of School Facilities, including changes to State funding levels for school construction, State/local cost-share formulas, school construction project approval requirements, and the implementation of and use of data from the ongoing statewide school facility assessment. It also clarifies and alters provisions of the Built to Learn Act (Chapter 20 of 2020) and the Baltimore City Public Schools Construction and Revitalization Act (Chapter 647 of 2013). **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: Pay-as-you-go (PAYGO) general fund expenditures increase by \$40 million in FY 2023, \$70 million in FY 2024, and \$60 million in each of FY 2025 and 2026 due to mandated appropriations; the FY 2023 budget includes \$40 million for the newly renamed School Construction Revolving Fund. General fund expenditures for the statewide school facility assessment may increase, potentially significantly, but a reliable estimate is not feasible. Restoration of the School Safety Grant Program (SSGP) and the Aging Schools Program (ASP) conforms statute to current practice; however, both programs are now maintained beyond FY 2026 (not shown below). The Interagency Commission on School Construction (IAC) and the Department of Legislative Services (DLS) can otherwise implement the bill with existing resources. No effect on revenues. **This bill establishes and/or alters mandated appropriations for FY 2024 through 2026.**

(\$ in millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	-	-	-	-	-
PAYGO GF exp	40.0	70.0	60.0	60.0	0
Net Effect	(\$40.0)	(\$70.0)	(\$60.0)	(\$60.0)	(-)

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

Local Effect: Local revenues for school construction increase, but likely have no net effect on total local spending on capital construction. Local revenues and expenditures increase for counties that obtain loans to forward fund school construction projects. Local school systems can otherwise implement the bill's provisions with existing resources.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill establishes legislative intent that, within current debt affordability guidelines, the State should provide at least \$450 million each year (up from a statutory goal of \$400 million) in order to maintain a relatively stable number of funded public school construction projects, and further expresses that the goal should be recalculated before the Public School Facility Priority Fund (PSFPF) is established.

Special Funds and Funding Mandates

The bill renames the Local Share of School Construction Costs Revolving Loan Fund to be the School Construction Revolving Loan Fund and requires the Governor to include in the annual budget bill at least \$40 million in fiscal 2023, \$20 million in fiscal 2024, and \$10 million in each of fiscal 2025 and 2026 for the fund (DLS notes that the funding for fiscal 2023 is discretionary but, as noted earlier, has nonetheless been included in the budget as enacted). The bill clarifies that a local project must have received planning approval from IAC in order to be eligible for a loan from the fund. In awarding loans from the fund, IAC must give priority to counties that have not forward funded projects and that have limited debt capacity. Loans from the fund must be repaid within five years, subject to a waiver process. Loans from the fund may be used to represent the State or local share of eligible public school construction or capital improvement costs, including for projects funded by the Built to Learn program.

PSFPF is renamed the Nancy K. Kopp Public School Facilities Priority Fund. The bill repeals mandated funding of at least \$40 million annually for the fund for fiscal 2025 and 2026 (but retains mandated funding of at least \$80 million annually beginning in fiscal 2027). Instead, the bill increases mandated funding for the Healthy School Facility Fund (HSFF) by \$50 million in fiscal 2024 (so that it is at least \$90 million) and extends that higher level of HSFF funding to fiscal 2025 and 2026. The bill also extends the requirement that 50% of HSFF funds be awarded to Baltimore City.

The bill establishes priorities for mandated funding from the Education Trust Fund, with the State's contribution to the Supplemental School Construction Financing Fund (for Built to Learn projects) being given first priority.

State-Local Cost Share

When updating the cost-share calculations every two years, IAC must limit the percentage decrease in the State share for any county to 5%. IAC must update the State/local cost-share formula for fiscal 2025 and 2026 to align with the changes made to the Foundation Program and the Guaranteed Tax Base Program by Chapter 36 of 2021 (Blueprint for Maryland's Future – Implementation).

The bill creates several adjustments and incentives that increase the State share of eligible school construction costs for targeted projects. These are:

- a 10 percentage point increase in the State share for schools with a concentration of poverty level of 80% or greater;
- a 5 percentage point increase in the State share for schools with a concentration of poverty level of between 55% and 80% (not inclusive);
- a 5 percentage point increase in the State share for schools that achieve specified ratings on their most recent maintenance assessment;
- a 5 percentage point increase in the State share for schools built as net-zero buildings; and
- a 5 percentage point increase in the State share for projects with an estimated total cost of ownership that is at least 15% less than baseline levels, subject to repayment if the completed project does not meet that threshold.

The bill establishes that these adjustments to the State share apply to the *Capital Improvement Program*, HSFF, and Built to Learn projects. However, they do not apply to any school construction project (1) approved for State funding before July 1, 2022, or (2) funded with proceeds from bonds issued before April 1, 2022, for the Built to Learn program.

Statewide Facility Assessment

Future inspections of school buildings to update the statewide facility assessment must include specified items for each school building, including temperature, humidity, carbon dioxide levels, and the functionality of specified building systems, among others. During an inspection, if any of certain specified items rises to such a severe level that requires the school to be closed, the local school system must submit a plan to IAC on how it will address the issue, and IAC must work to prioritize funding to address the issue.

With some specified exceptions, IAC may not use any data from the facility assessment until it has established an Integrated Master Facility Asset Library (IMFAL) required by current law. Once IMFAL is established, IAC must adopt regulations regarding the use of the assessment results in annual school construction funding decisions beginning no sooner

than fiscal 2027. Before IMFAL is established, IAC may use the facility assessment results for specified purposes not related to project funding.

When conducting inspections of school facilities to update the statewide facility assessment, IAC must include a process (1) for local school systems to report additional relevant information, as specified, and (2) to incorporate maintenance data for individual school buildings.

For use in future school inspections conducted for the statewide facility assessment, IAC and the Maryland Department of Health must determine the minimum equipment needed for food preparation in each public school. It is the intent of the General Assembly that IAC work with DLS to verify data collected under the facility assessment until at least July 1, 2025.

Restored Program Authorizations

The bill restores legislative authorization for SSGP and ASP, which were inadvertently repealed by the Built to Learn Act of 2020 (Chapter 20 of 2020). Funding for both programs is nevertheless included in the fiscal 2023 operating and capital budgets. The bill also repeals a provision in Chapter 20 that terminates both programs in fiscal 2027.

Baltimore City 21st Century Schools

The bill increases, from \$10 million to \$20 million, Baltimore City's annual contribution to the Baltimore City Public School Construction Financing Fund required by Chapter 647 of 2013. Payments due on November 1 and May 1 of each year, increase by \$5 million each (for a total of \$10 million more each year). Annual contributions to the fund by Baltimore City Public Schools (BCPS) decrease commensurately. The Maryland Stadium Authority (MSA) must use \$10 million held in reserve for Baltimore City in the Baltimore City Public School Construction Facilities Fund to provide the local share of Baltimore City projects funded by Chapter 20 of 2020.

Prince George's County Public-Private Partnerships

A four-way memorandum of understanding (MOU) required by the Built to Learn Act for a public-private partnership (P3) to design, construct, and maintain at least six public schools in Prince George's County must specify IAC's roles in the project, including its rights related to (1) approval of the project agreement; (2) approval of site-specific educational specifications; (3) approval of final site selections; and (4) the role of the governing body of the program. The bill also clarifies that the purpose of the Prince George's County P3 Fund is to provide funds to Prince George's County to pay for availability payments under the P3 agreement.

Other Provisions

It is the intent of the General Assembly that, prior to PSFPF being funded in fiscal 2027, a new workgroup be formed by July 2024 to determine how the relative condition of public school facilities should be prioritized, taking into account local priorities and in consultation with local jurisdictions.

By October 1, 2023, IAC must update its per-student gross area baseline square footage to align with Chapter 36 of 2021, including (1) instructional space for English-language learners; (2) community schools and schools eligible for Concentration of Poverty grants; (3) collaborative planning spaces for teachers, as specified; (4) break-out space for more one-on-one and small group instruction; (5) career and technical education pathways; and (6) prekindergarten space.

IAC regulations should allow local school systems to appeal to the full IAC any enrollment projections used by IAC staff to determine project funding.

When calculating the maximum State allocation for an approved school construction project, IAC may make an enrollment deduction for the project only if the sum of the available seat count in all adjacent schools is 15% or more of the project school's enrollment.

Current Law: For an overview of State support for public school construction, including the Built to Learn Act, please see the **Appendix – State Funding for Public School Construction**.

Statewide Facility Assessment and the Integrated Master Facility Asset Library

Chapter 14 of 2018, the 21st Century School Facilities Act, required IAC, in consultation with local school systems, to adopt educational facilities sufficiency standards for Maryland public schools by July 1, 2018. The standards are defined as a uniform set of criteria and measures for evaluating the physical attributes and educational suitability of public elementary and secondary school facilities in the State. The standards include specified categories, and they must be reviewed and updated periodically. Chapter 14 also required IAC to develop a facility condition index, which is a calculation to determine the relative physical condition of public school facilities by dividing the total repair cost of a facility by its total replacement cost.

Chapter 14 also required IAC to complete an initial statewide facilities assessment using the sufficiency standards by July 1, 2019. In completing the assessment, IAC had to incorporate the index, contract with an independent third-party vendor to conduct the data collection and assessment, use existing data sources to the extent possible, and coordinate

with local school systems to identify data elements to be used. Due to procurement delays, the assessment was not completed until July 2021.

Based on recommendations by the Workgroup on the Assessment and Funding of School Facilities, IAC was required to adopt regulations by May 1, 2020, that establish the use of facility assessment results in annual school construction funding decisions beginning no earlier than fiscal 2021. This was later modified by Chapter 20 of 2021 to begin no sooner than fiscal 2023. As described in the bill summary above, the workgroup ultimately recommended postponing the use of the results of the facility assessment for funding purposes until fiscal 2027, at the earliest.

IAC must enter the facility assessment data into an integrated data system (*i.e.*, IMFAL). IAC must manage the library and provide local school systems with access to it using a cloud-based system. Following the completion of the initial assessment, IAC must develop standards and procedures to comprehensively update the facilities assessment so that the data is not more than four years old. Local school systems must cooperate with IAC and contribute data as requested to update the assessment. Due to procurement delays, IMFAL has not been developed or implemented as of April 2022.

Special Funds

Chapter 561 of 2018 established HSFF to provide grants to improve the health of public school facilities in the State. IAC must give priority to schools based on the severity of issues related to air conditioning, heating, indoor air quality, mold remediation, temperature regulation, plumbing, windows, roofs, and other severe issues that cause a school to be closed. The appendix includes mandated funding levels for HSFF under current law.

Chapter 14 of 2018 established PSFPF to provide State funds to address the facility needs of the highest priority schools as identified by a statewide facility assessment. The appendix includes mandated funding levels for PSFPF under current law.

Chapter 14 also established the Local Share of School Construction Costs Revolving Loan Fund to provide loans to local governments to forward fund the local share of school construction projects. The fund is intended for local school systems that rely on the local share to be fully funded in order to complete a project. It may be used to provide low- or no-interest loans to local governments. Eligibility criteria for loans, to be developed by IAC, must include that a local government (1) needs a loan to forward fund the local share of a project in order to complete it and (2) can demonstrate that it is able to repay the loan at a future date. Loans from the fund are supplemental to and not intended to replace funding that otherwise would be appropriated to local governments for school construction. Since its inception, the fund has not received funding.

Workgroup on the Assessment and Funding of School Facilities

The workgroup, first established by Chapter 14 of 2018 to consider how to use the results of the statewide public school facility assessment required by Chapter 14 to prioritize State funding for school construction projects, was modified by Chapter 20 of 2021 to extend its final reporting deadline to December 1, 2021. Chapter 698 of 2021 further extended the workgroup's reporting deadline to December 31, 2021, and required it to consider and make recommendations in the following areas:

- factors used to develop the State and local cost-share formula for school construction projects, including incorporating related changes to the formulas used to calculate State education aid under the Blueprint for Maryland's Future;
- methods used to establish gross area baselines and the maximum State construction allocation for public school construction projects;
- the purpose and implementation of the Local Share of School Construction Costs Revolving Loan Fund, which was established by Chapter 14 but never funded; and
- the long-term effects of school construction decisions on the cost per student and total cost of ownership of public school facilities.

The workgroup issued its [final report](#) in January 2022.

Blueprint for Maryland's Future

House Bill 1300 of 2020 implemented the Blueprint for Maryland's Future, which was first established by Chapter 771 of 2019, substantially altering State aid and State policy for public schools. The bill, which incorporated policies and accountability recommendations of the Commission on Innovation and Excellence in Education, passed the General Assembly in March 2020 and was vetoed by the Governor for policy reasons. The veto was overridden in 2021, thus becoming Chapter 36 of 2021. For a full description of the Blueprint for Maryland's Future, including a description of the Foundation Program, Guaranteed Tax Base Program, and Concentration of Poverty grants, see the [fiscal and policy note for House Bill 1300 of 2020](#), Chapter 36 of 2021. Chapter 55 of 2021 revised the provisions and timeline for the implementation of the Blueprint in light of the delayed effective date of Chapter 36; the [fiscal and policy note for Chapter 55](#) (House Bill 1372 of 2021) describes these changes.

Baltimore City 21st Century Schools

Chapter 647 of 2013 dedicated State and local funding sources to support a \$1.1 billion public school construction and revitalization initiative for Baltimore City to build or substantially renovate 23 to 28 school facilities. Specifically, it phased in requirements that

the State, Baltimore City, and BCPS each contribute \$20 million annually for approximately 30 years to pay debt service on bonds issued by MSA to finance the program. State general funds for the initiative are provided from proceeds of the State Lottery. Included in Chapter 647 was a requirement that Baltimore City, IAC, the Baltimore City Board of School Commissioners, and MSA enter into a four-party MOU to establish a framework for completion of the initiative. The MOU was completed and signed in September 2013, and the Board of Public Works approved the MOU in October 2013.

Aging Schools Program

Eligible Aging Schools Program expenditures include asbestos and lead paint abatement; upgrade of fire protection systems and equipment; painting; plumbing; roofing; upgrade of heating, ventilation, and air-conditioning systems; site redevelopment; wiring schools for technology; and renovation projects related to education programs and services. Projects must cost at least \$10,000 to be funded through the program. The Maryland State Department of Education and IAC review aging schools project requests submitted by local school systems, approve eligible projects, and determine if additional review of any construction documents will be required.

School Safety Grant Program

Chapter 14 of 2018 created SSGP to provide grants to local school systems for security improvements, including:

- secure and lockable doors for every classroom;
- an area of safe refuge in every classroom; and
- surveillance and other security technology for school monitoring purposes.

The Governor was required to include \$10 million in the annual operating or capital budget that may be used only to make grant awards. As noted above, Chapter 20 of 2021 inadvertently repealed authorization for the program and the mandated appropriation, but full funding is nevertheless included in the fiscal 2023 budget as enacted.

State Expenditures: The bill's expression of intent to provide at least \$450 million in State funding for school construction is aspirational and has no practical effect on the capital budget process in future years. To the extent that the State meets the goal, State support for school construction projects may increase and the number of projects receiving funding remains relatively stable (subject to normal year-to-year fluctuations). DLS notes that total funding for school construction in the fiscal 2023 operating and capital budgets, as enacted, exceeds \$1.0 billion.

State Cost Share

The bill increases the State share of eligible costs for school construction projects that meet specified criteria (*e.g.*, net zero, concentration of poverty levels). Based on the restrictions in the bill, these adjustments do not affect school construction projects approved for funding by IAC in fiscal 2023. However, the adjustments may affect some Built to Learn projects funded with proceeds from bonds issued during fiscal 2023 (no bond sales are anticipated until fiscal 2023). IAC estimates that more than 500 schools in the State are currently eligible for an increased State share based only on concentration of poverty levels. Actual increases depend on project funding requests submitted by local school systems each year and funding decisions made by IAC. Other provisions in the bill, including the prohibition against the State share decreasing more than 5% during each biennial recalculation, and the limitation on the application of excess capacity in adjacent schools, are also expected to increase the State share of individual project costs beginning in fiscal 2024 (or fiscal 2023 for Built to Learn projects).

However, any such increases in the State share for individual projects have no effect on total State funding for public school construction, which is established annually through the capital budget process (Built to Learn funding is capped at \$2.2 billion over the life of the program). To the extent that the State share increases for individual projects, less State funding is available for other projects. As noted in the appendix, the State has generally met the \$400 million goal for State funding for school construction since it was first established by Chapter 14 of 2018 and will surpass it again in fiscal 2023; the bill expresses intent that the State provide at least \$450 million going forward in order to maintain a relatively stable number of funded projects. If it meets that goal, the number of funded projects likely is not substantially affected.

Mandated Funding

The bills adds new funding and increases existing mandates to some of the special funds that support public school construction. **Exhibit 1** summarizes the changes for the three affected funds. However, the net effect is that PAYGO general fund expenditures increase by \$40 million in fiscal 2023, \$70 million in fiscal 2024, and by \$60 million in each of fiscal 2025 and 2026 according to the bill's modifications to mandates. The \$40 million funding for the School Construction Revolving Loan Fund in fiscal 2023 is discretionary, but the fiscal 2023 operating budget, as enacted, includes \$40 million in PAYGO general funds for the fund. For fiscal 2027 and beyond, mandated funding levels are not affected.

Exhibit 1
Changes in Mandated Funding
Fiscal 2023-2026
(\$ in Millions)

Fund	FY 2023		FY 2024		FY 2025		FY 2026	
	Current	The Bill	Current	The Bill	Current	The Bill	Current	The Bill
Revolving Loan	NA	\$40	NA	\$20	NA	\$10	NA	\$10
Priority	NA	NA	NA	NA	\$40	0	\$40	0
Healthy School Facility	\$40	40	\$40	90	NA	90	NA	90
Net Effect		\$40		\$70		\$60		\$60

Source: Department of Legislative Services

Contractual and Administrative Costs

The additional factors to be included in future cycles of the ongoing facility assessment may cause the cost of the assessment to increase, potentially significantly, but a reliable estimate is not feasible because it largely depends on how IAC, in collaboration with local school systems, elects to collect information on those factors. In some cases, local school systems can provide the necessary information to IAC; in other cases, the data collection can be integrated into planned site visits. However, some factors may require more rigorous data collection. The fiscal 2023 budget, as enacted, includes a fiscal 2022 deficiency appropriation of \$1.3 million for the first round of updates to the initial facility assessment.

IAC advises that it needs one additional position to manage various aspects of the bill's requirements. DLS disagrees because IAC recently experienced a significant expansion in staffing, in large part to address the increase in its responsibilities prompted by recent legislation, including Chapter 14 of 2018. DLS believes that, when fully staffed, IAC can implement the bill's requirements with existing resources.

DLS can work with IAC to verify facility assessment data and, presumably, staff the next workgroup with existing resources.

Local Fiscal Effect: Local revenues for public school construction projects increase, beginning in fiscal 2024 (or fiscal 2023 for Built to Learn projects), due to the increases in the State cost share for individual projects described above and the increases in mandated expenditures shown in Exhibit 1. To the extent that increased revenues from the State supplant local funds available for capital projects, those funds can be reallocated to other projects. Thus, there may be no overall effect on local expenditures for capital construction and renovation.

Local revenues and expenditures also increase to the extent that counties obtain loans from the revolving loan fund and have to repay the loans within five years. Local revenues also increase due to increases in available funding from HSFF; as BCPS receives 50% of those funds, BCPS revenues increase by \$25 million in fiscal 2024 and by \$45 million in each of fiscal 2026 and 2026, with other school systems sharing in the remaining increased funds.

Baltimore City expenditures for 21st Century Schools projects increase by \$10 million annually beginning in fiscal 2023; expenditures for BCPS decrease commensurately. In addition, Baltimore City benefits from MSA reserves of \$10 million being used to cover the local share of Baltimore City Built to Learn projects.

Local school systems can assist IAC in collecting data for the statewide facility assessment with existing resources.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Association of Counties; Public School Construction Program; Department of Budget and Management; Maryland Department of Health; Baltimore City Public Schools; Baltimore County Public Schools; St. Mary's County Public Schools; Department of Legislative Services

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Appendix – State Funding for Public School Construction

School Construction Review and Approval Process

The Interagency Commission 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 determines which projects to fund through the Public School Construction Program (PSCP). By December 31 of each year, IAC must approve projects comprising 75% of the preliminary school construction allocation projected to be available by the Governor for the upcoming fiscal year. Local school systems may appeal these preliminary decisions by IAC. By March 1 of each year, IAC must recommend to the General Assembly projects comprising 90% of the allocation for school construction submitted in the Governor's capital budget. Following the legislative session, IAC approves projects comprising the remaining school construction funds included in the enacted capital budget, no earlier than May 1. The final allocations are not subject to appeal.

Built to Learn Act

The Built to Learn Act was enacted as Chapter 20 of 2020, but it was contingent on the enactment of House Bill 1300 of 2020 (Blueprint for Maryland's Future – Implementation). As House Bill 1300 was vetoed by the Governor, the Built to Learn Act took effect in January 2021 when the General Assembly voted to override the Governor's veto of House Bill 1300.

The Built to Learn Act authorizes the Maryland Stadium Authority (MSA) to issue up to \$2.2 billion in revenue bonds, backed by annual payments from the Education Trust Fund beginning in fiscal 2022, for public school construction projects in the State, including to support a P3 agreement to build six new schools in Prince George's County. Proceeds from the revenue bonds are in addition to funding available from PSCP and are allocated among

local school systems as shown in **Exhibit 1** (based on anticipated revenues of \$2.0 billion). Funds must be used to build or renovate schools within 10 years.

Exhibit 1
Allocation of Built to Learn Bond Sale Proceeds
(\$ in Millions)

	<u>Percent of Total</u>	<u>Proceeds</u>
Anne Arundel	12.5%	\$250.0
Baltimore City	21.0%	420.0
Baltimore	21.0%	420.0
Frederick	5.1%	102.0
Howard	6.6%	132.0
Montgomery	21.0%	420.0
Prince George’s	*	*
All Other Counties	11.5%	230.0
Unallocated/Maryland Stadium Authority	1.3%	26.0
Total	100.0%	\$2,000.0

*Under Chapter 20 of 2020, Prince George’s County receives \$25.0 million annually for up to 30 years to supplement local funds for an availability payment if it enters into a public-private partnership agreement, subject to other provisions in the Act.

Source: Department of Legislative Services

The Built to Learn Act also (1) extends mandated funding for the Healthy School Facility Fund (HSFF) by three years, through fiscal 2024, with at least \$30.0 million in fiscal 2022 and at least \$40.0 million in each of fiscal 2023 and 2024; (2) raises the mandated annual funding level for the Enrollment Growth or Relocatable Classrooms (EGRC) program from \$40.0 million to \$80.0 million beginning in fiscal 2027; and (3) creates the Public School Facilities Priority Fund to provide State funds to address the facility needs of the highest priority schools identified by the statewide facilities assessment completed by IAC. In fiscal 2025 and 2026, the Governor must appropriate at least \$40.0 million to the fund. Beginning in fiscal 2027, the mandated annual appropriation increases to at least \$80.0 million. Although mandated funding levels for fiscal 2022 were not required due to the delay in Chapter 20 taking effect, the fiscal 2022 capital budget, as enacted, included the required funding (with EGRC receiving a total of \$60.0 million and HSFF receiving a total of \$70.0 million, including \$40.0 million in federal funds from the American Rescue Plan).

Prior to distributing funds under the program, MSA must enter into a program memorandum of understanding (MOU) with IAC (which is in place), and each county, local school board, and MSA must enter into a project MOU for each project seeking funding from the program. All projects receiving Built to Learn funds must be approved by IAC using the same process it uses for PSCP. As of January 2022, IAC has approved 22 projects and committed more than \$600.0 million in funding to those projects.

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 updated the space allocations in 2019 and renamed them gross area baselines. IAC also establishes, on an annual basis, a *cost per square foot* that is applicable to major school construction projects. For fiscal 2023, the cost per square foot is \$358 for new construction *without* site development (up from \$341 in fiscal 2022) and \$426 for new construction *with* site development (up from \$405 in fiscal 2022). In general, multiplying the cost per square foot by the applicable gross area baseline for each proposed project (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. Thus, any portion of a project that exceeds the gross area baseline is not eligible for State funding and must be paid for by the local school system.

The cost of acquiring land may not be considered an eligible construction cost and may not be paid by the State. Otherwise, regulations specify public school construction-related costs that are eligible and ineligible for State funding. Chapter 20 expands the costs eligible for State funding. In general, the following costs are now included among *eligible* expenses:

- planning and design costs (including architectural and engineering fees);
- 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;
- replacement of building systems, including roofs, windows, and heating, ventilation and air conditioning (*i.e.*, “systemic renovations”);
- modular construction that meets specified standards;
- State-owned relocatable facilities and temporary facilities that are required to be on site during construction; and
- furniture, fixtures, and equipment with a median useful life of at least 15 years.

Among the major items explicitly *not eligible* for State funding under current law (besides site acquisition) are (1) master plans and feasibility studies; (2) projects or systemic

renovations for buildings and systems that have been replaced, upgraded, or renovated within the last 15 years; and (3) items that do not have a useful life of at least 15 years.

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 21st Century School Facilities Act requires that the cost-share formula be recalculated every two years (previously, statute required recalculation every three years). **Exhibit 2** shows the State share of eligible school construction costs for all Maryland jurisdictions for fiscal 2023 and 2024, as approved by IAC. Counties whose calculated State share would have been lower in fiscal 2023 than in fiscal 2022 were held harmless by Chapter 698 of 2021; Garrett County’s State share was adjusted in accordance with provisions of Chapter 698.

Exhibit 2
State Share of Eligible School Construction Costs
Fiscal 2023 and 2024

<u>County</u>	<u>FY 2023 and 2024</u>
Allegany	90%
Anne Arundel	50%
Baltimore City	96%
Baltimore	61%
Calvert	56%
Caroline	88%
Carroll	59%
Cecil	66%
Charles	65%
Dorchester	93%
Frederick	65%
Garrett	90%
Harford	63%
Howard	56%
Kent	50%
Montgomery	50%
Prince George’s	73%
Queen Anne’s	51%
St. Mary’s	58%
Somerset	100%
Talbot	50%
Washington	79%
Wicomico	100%
Worcester	50%
Maryland School for the Blind	93%

Source: Interagency Commission on School Construction

State Funding Levels

Chapter 14 of 2018, the 21st Century School Facilities Act, established the State's intent to provide at least \$400.0 million annually, within current debt affordability guidelines. The State surpassed the \$400.0 million threshold in fiscal 2019, 2021, and 2022; the State would have surpassed \$400.0 million in fiscal 2020, but the \$10.0 million allocation for the School Safety Grant Program (SSGP) was canceled by the Board of Public Works for cost containment reasons. **Exhibit 3** shows annual State public school construction funding from fiscal 2018 through 2022, by county.

The Governor's proposed fiscal 2023 operating and capital budgets include a total of \$1.01 billion in funding for public school construction projects in the State, divided among general obligation (GO) bond funding, revenue bonds, general funds, and federal funds. The total includes:

- \$480.0 million in MSA revenue bonds for Built to Learn;
- \$285.0 million for PSCP, consisting of \$217.8 million in pay-as-you-go and \$67.2 million in GO funds;
- \$95.4 million in GO funds for EGRC;
- \$90.0 million for HSFF, including \$50.0 million in GO funds and \$40.0 million in federal funds;
- \$40.0 million in general funds for the School Construction Revolving Loan Fund;
- \$13.5 million in general funds for SSGP; and
- \$6.1 million in GO funds for the Aging Schools Program.

Exhibit 3
State Public School Construction Funding
Fiscal 2018-2022
(\$ in Thousands)

County	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Allegany	\$12,873	\$4,378	\$2,846	\$2,080	\$2,515
Anne Arundel	36,829	30,484	36,422	38,053	148,762
Baltimore City	37,303	71,522	51,304	69,479	81,905
Baltimore	45,699	44,709	58,936	53,015	257,425
Calvert	14,575	10,138	2,227	4,141	13,416
Caroline	1,646	685	11,603	13,713	4,741
Carroll	3,853	7,389	7,604	10,312	38,693
Cecil	6,730	5,528	4,046	3,856	5,412
Charles	10,523	15,389	13,938	12,455	32,131
Dorchester	10,797	11,286	4,068	5,955	6,578
Frederick	19,564	20,032	16,636	22,832	55,009
Garrett	1,567	247	443	1,795	12,147
Harford	13,592	13,072	12,975	12,964	47,235
Howard	21,066	11,490	6,494	32,508	63,374
Kent	0	227	1,389	3,193	119
Montgomery	59,194	62,947	59,107	55,710	190,879
Prince George's	49,173	51,282	52,276	47,065	42,153
Queen Anne's	2,455	1,096	667	1,248	2,318
St. Mary's	815	6,757	4,762	5,530	5,723
Somerset	14,720	17,766	3,161	3,100	776
Talbot	0	8,641	9,000	3,173	1,342
Washington	2,592	12,493	11,687	8,311	8,669
Wicomico	11,847	10,333	11,340	10,399	26,062
Worcester	0	4,620	4,336	1,475	4,975
Maryland School for the Blind	9,376	14,216	7,401	6,779	2,021
Statewide	500	0	0	5,794	6,500
Total	\$387,289	\$436,727	\$394,668	\$434,933	\$1,060,882

Notes: Includes general obligation bonds, Built to Learn revenue 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. Allocated funds include the Enrollment Growth or Relocatable Classroom program, School Safety grants, and Healthy School Facility grants. Aging Schools funding is not included. Statewide funds include contractual costs for external reviews and funds reserved for unforeseen contingencies. Columns may not sum to total due to rounding.

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