

Department of Legislative Services  
 Maryland General Assembly  
 2023 Session

FISCAL AND POLICY NOTE  
 Enrolled - Revised

House Bill 770

(Delegate Atterbeary)(By Request - Accountability and  
 Implementation Board)

Ways and Means

Education, Energy, and the Environment

Blueprint for Maryland's Future - Various Policies and Prekindergarten  
 Enrollment and Funding - Alterations

This emergency bill alters the definition of “Tier I child” within the Publicly Funded Full-Day Prekindergarten aid program to include additional categories of children in fiscal 2023 and 2024, and correspondingly, these children are included in the prekindergarten enrollment count for purposes of determining the program amount to be funded by the State and local governments in fiscal 2023 and 2024. The bill alters (1) provisions regarding the State alternative income eligibility form and (2) requirements within the Career Ladder for Educators program, and adds a school counselor to the Maryland Consortium on Coordinated Community Supports (MCCCS).

Fiscal Summary

**State Effect:** State expenditures increase by \$6.4 million in FY 2024, decrease by \$497,700 in FY 2025, and are altered by substantially lesser amounts through FY 2028.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	120,200	113,400	3,500	23,700
SF Expenditure	6,377,000	(617,900)	0	0	0
Net Effect	(\$6,377,000)	\$497,700	(\$113,400)	(\$3,500)	(\$23,700)

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

**Local Effect:** County government expenditures increase by approximately \$1.7 million in FY 2024, increase by \$636,800 in FY 2025, and are altered by substantially lesser amounts through FY 2028. Local school systems receive a portion of State aid under the bill, beginning in FY 2024. The impact on State aid is lessened to the extent that available prekindergarten slots cannot accommodate anticipated increased enrollment under the bill.

**This bill may impose a mandate on a unit of local government.**

**Small Business Effect:** Meaningful.

## Analysis

**Bill Summary:** The bill alters the definition of “Tier I child” within the Publicly Funded Full-Day Prekindergarten aid program to include, beginning in fiscal 2023, a child who is three or four years old who is a homeless youth, and in the 2023-2024 school year only, to include Tier II children (1) with a disability, or (2) who are from a home in which English is not the primary spoken language. Correspondingly, these children are included in the prekindergarten enrollment count for purposes of determining the program amount to be funded by the State and local governments, beginning in fiscal 2023 and in fiscal 2024, as specified.

Under the Career Ladder for Educators program, assistant principals who are on level three of the career ladder must participate in classroom activity involving direct interactions with students (instead of teach in the classroom, per current law) for at least 20% of their working hours and spend a portion of (instead of all, per current law) remaining time on other activities, including setting priorities for the subject level departments or grade levels of the school, and fulfilling specialized roles, such as head of professional development. These requirements do not further require that the assistant principal be designated as a teacher of record. The bill clarifies that a county board of education must select (1) a mentor teacher for induction programs and teacher training practicums and (2) an expert to write curriculum and assessment items and develop certain model lessons only when the Accountability and Implementation Board determines the career ladder to be well established throughout the State.

The State alternative income eligibility form to be collected by each school participating in the U.S. Department of Agriculture (USDA) community eligibility provision (CEP) must be available in an electronic format and allow a family to opt out of returning the form to the collecting school. CEP schools may not be required to collect the form until the school year after the form is adopted by the Maryland State Department of Education (MSDE), after a period of comment from local school systems.

The bill adds one school counselor certified by MSDE, designated by the Maryland School Counselor Association, to the MCCC and staggers the term of the new member.

### **Current Law:**

#### *Publicly Funded Full-Day Prekindergarten*

A “Tier I child” is a child who is three or four years old and whose family income is less than or equal to 300% of the federal poverty level; a “Tier II child” is a child who is four years old and whose family income is more than 300% of, but not more than 600% of,

the federal poverty level; a “Tier III child” is a child who is four years old and whose family income is more than 600% of the federal poverty level.

Chapter 36 of 2021 established a new funding formula providing for voluntary full-day prekindergarten for four-year-olds and three-year-olds from low-income families (Tier I). Low-income is defined as at or below 300% of the federal poverty level. Expansion of full-day prekindergarten first focuses on making full-day prekindergarten available for all four-year-olds from low-income families as half-day slots are being converted into full-day slots and new slots are coming online. This occurs at the same time as full-day prekindergarten is expanded gradually for three-year-olds from low-income families.

MSDE must develop a sliding scale to calculate the family share for families with income above 300% of the federal poverty level. Beginning in the 2024-2025 school year (fiscal 2025), four-year-olds from families whose income is between 300% and 600% of the federal poverty level (Tier II) may be offered full-day prekindergarten if space is available to encourage socioeconomic diversity in prekindergarten classrooms. Priority in expanding full-day prekindergarten slots is given to children from low-income families and children with disabilities and children living in homes where English is not the primary spoken language regardless of income. For four-year-olds from families with income above 600% (Tier III), the family share pays the full cost of full-day prekindergarten. However, a county board may provide up to 100% of the family share on behalf of the family.

“Prekindergarten enrollment” means (1) beginning in fiscal 2023, the number of Tier I children enrolled with an eligible prekindergarten provider; and (2) beginning in fiscal 2025, the number of Tier I and Tier II children enrolled with an eligible prekindergarten provider. Tiers I through III each include only children whose family chooses to enroll the child in full-day prekindergarten.

Public and private providers must meet specified requirements to be eligible to participate in the publicly funded full-day program. County governments (including Baltimore City) must appropriate the greater of the combined local share of several aid programs, after certain local relief provisions are applied, or the per pupil maintenance of effort (MOE) result.

### *Career Ladder for Educators*

Under Chapter 36, a four-level career ladder must be implemented by each county board of education by July 1, 2023. Level one is a State-certified teacher. Level two is a teacher pursuing a master’s degree, 30 credits of a State board-approved program of study, or National Board Certification (NBC). Level three is a teacher who has an NBC, if NBC or a comparable assessment is not available in the teacher’s content area, a master’s degree in that area; level three includes an assistant principal. Level four is a teacher on the teacher

leadership track or administrative track of the career ladder, each of which are further divided into tiers. If a teacher achieves level three or four on the career ladder by being an NBC teacher, the teacher must retain NBC status in order to remain at that level.

An assistant principal is on level three of the career ladder and must be an NBC teacher and have an advanced professional certificate for administration. An assistant principal must teach in a classroom for at least 20% of his or her working hours and spend the remaining time on other teacher activities, as specified.

### *Maryland Consortium on Coordinated Community Supports*

Chapter 36, The Blueprint for Maryland's Future (The Blueprint) established MCCCCS within the Maryland Community Health Resources Commission. The consortium must complete certain tasks related to the development of coordinated community supports partnerships to meet students' behavioral health needs and other related challenges, including developing a statewide framework for the creation of coordinated community supports partnerships, implementing a related grant program, evaluating a payment reimbursement program for providers, and developing a program for uninsured students.

Consortium members serve for a term of four years beginning on the date of their appointment until a successor is appointed and qualified. Members may not serve more than two consecutive terms. The chair of the consortium is jointly appointed from among the members. The consortium consists of 24 members, including:

- 8 government officials (including one Senator and one Delegate appointed by the President of the Senate and the Speaker of the House, respectively);
- 4 members appointed jointly by the President of the Senate and the Speaker of the House;
- 3 members appointed by the Governor; and
- 9 members appointed by various professional associations and public health officials.

Members of the consortium may not receive compensation but are entitled to reimbursement for expenses under the standard State travel regulations, as provided in the State budget.

### *Community Eligibility Provision and State Alternative Income Eligibility Form*

The federal Healthy, Hunger-Free Kids Act of 2010, in part, amended the National School Lunch Act to provide an alternative to household applications for free or reduced-priced meals (FRPM) in high-poverty local education agencies (LEAs) and schools. This

alternative is referred to as CEP. To be eligible, LEAs and schools must meet a minimum level of students directly certified for free meals (40% of enrollment) in the year prior to implementing the option, agree to serve free lunches and breakfasts to *all* students, and agree to cover with nonfederal funds any costs of providing free meals to all students above amounts provided in federal assistance.

Reimbursement is based on claiming percentages derived from the percentage of students directly certified as increased by use of a multiplier determined by the USDA. An LEA may participate in CEP for all schools in an LEA or only some schools, depending on the eligibility of the individual schools and financial considerations based on the anticipated level of federal reimbursement and other nonfederal support that may be available.

Since fiscal 2004, the compensatory aid formula, providing additional State support for students with educational needs resulting from educationally or economically disadvantaged environments, has used the number of students eligible for FRPM. Children from families (1) with incomes at or below 130% of the federal poverty level are eligible for free meals and (2) with incomes no greater than 185% of the federal poverty level are eligible for reduced-price meals. The State compensatory aid formula applies a per pupil cost to the FRPM student count. The compensatory enrollment count for LEAs that participate, in whole or in part, in CEP is the greater of:

(1) the sum of:

- the number of students in CEP participating schools identified by direct certification for the prior fiscal year;
- the number of students identified by the income information provided by the family to the school system on an alternative form developed by MSDE for the prior fiscal year; and
- the number of students eligible for FRPM from any schools not participating in CEP for the prior fiscal year; *or*

(2) the sum of:

- the number of students eligible for FRPM from any schools not participating in CEP for the prior fiscal year; and
- for schools participating in CEP, the result of multiplying the prior fiscal year total enrollment by the percentage of FRPM-eligible students as compared to total enrollment in the year prior to participating in CEP. However, for the purpose of this calculation, schools participating in CEP in the pilot year may use the percentage of FRPM-eligible students during the pilot year; *or*

(3) the sum of:

- the number of students directly certified and who are enrolled in a public school in the county in the prior fiscal year.

Under Chapter 55 of 2021, this provision of the State law is in effect through fiscal 2026. For fiscal 2027 and each fiscal year thereafter, the greater of (1) the number of FRPM-eligible students using the USDA count, or the alternative State form for the prior fiscal year or (2) the number of direct certification students who are enrolled in a public school in the county in the prior fiscal year. The alternative form must include a statement indicating that the income information requested on the form is used to determine local and State funding for education.

#### *Guaranteed Tax Base*

The guaranteed tax base (GTB) program is intended to encourage less wealthy jurisdictions to maintain or increase local education tax effort, *i.e.*, local education appropriation as a percent of local tax base. The program provides additional State education aid to counties that have less than 80% of the statewide average wealth per pupil and provide local education funding above the minimum local share required by the Foundation Program. The program uses local education tax effort and wealth to determine State aid amounts for each eligible school system.

#### *Maintenance of Effort and Local Share*

Each year, the county government (including Baltimore City) is required to appropriate funds to the local board of education equivalent to the greater of MOE requirement or the local share amount of all wealth-equalized formulas. The per pupil MOE amount is based upon the greater of (1) the prior year full-time equivalent (FTE) enrollment and (2) the three-year moving average of FTE enrollment. (There is a certain adjustment for fiscal 2024 MOE for specified counties.) The local share amount equals the local share of the foundation formula, compensatory education, English language learner, special education, comparable wage index (CWI), full-day prekindergarten, college and career ready, transitional supplemental instruction (through fiscal 2026), and career ladder grant programs. Also, counties that benefit from the compensatory education State funding floor are required to fund the local share of the concentration of poverty grant programs. However, for some counties, the combined local share across these several programs is subject to adjustments described below.

### *Education Effort Adjustment to Local Share Requirement*

Local governments are required to fund the local share of the foundation program and the required local shares for several existing and new funding formula programs. The law also includes a mechanism for establishing a maximum local share that a county must fund each year. This involves “local education effort,” which is determined for each county by dividing the county’s local share of major education aid by the county’s wealth. An “education effort index,” which is the local education effort divided by the “State average education effort” is then determined. A “maximum local share” is calculated for each county, which is the county’s local wealth multiplied by the State average education effort.

Each county with an education effort above 1.0 for two consecutive years receives relief based upon its “education effort adjustment,” which is the amount by which the calculated local share exceeds the maximum local share. This relief (which results in increases to State aid) is provided to counties within one of three tiers, based on whether the education effort is (1) greater than 1.0 but less than 1.15; (2) at least 1.15 but less than 1.27; or (3) at least 1.27. State relief for the first tier is phased up from 15% of the education effort adjustment in fiscal 2023 to 50% by fiscal 2030. State relief for the second tier is phased up from 20% of the education effort adjustment in fiscal 2023 to 100% by fiscal 2030. State relief for the third tier is 100% beginning in fiscal 2023. However, the education effort adjustment for a county is only allowed to the degree that per pupil MOE is met each year.

### *Additional Reductions to Local Share*

A county may be eligible for a reduction in the required local share of major aid formulas in three additional ways: (1) if a county receives State funds from the GTB program, the local share may be reduced by the amount of GTB funds, except that for Baltimore City only the amount above \$10 million may be reduced from the local share; (2) if a county receives State funds to support the minimum funding floors of 15% for the foundation and 40% for the targeted programs; and (3) if a county has a CWI of at least 0.13, the local share of CWI may be reduced by 50%. However, in all of these cases, the local share may not be reduced below the required per pupil MOE amount.

**State Fiscal Effect:** State expenditures for public schools and private prekindergarten providers increase by \$6.4 million in fiscal 2024, largely explained by a \$6.1 million increase in Publicly Funded Full-Day Prekindergarten aid. **Exhibit 1** shows estimated changes in State funding under the bill through fiscal 2028, which includes changes due to the Education Effort Adjustment and GTB. Changes to GTB reflect changes to general fund expenditures; other changes are assumed to be changes to Blueprint for Maryland’s Future Fund special fund expenditures. The impact on State expenditures is lessened to the extent that available prekindergarten slots cannot accommodate anticipated increased enrollment under the bill.

**Exhibit 1**  
**Estimated Changes in State Aid under the Bill**  
(\$ in Thousands)

	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>	<u>FY 2028</u>
Full-Day Prekindergarten	\$6,116	\$0	\$0	\$0	\$0
Education Effort	261	(618)	0	0	0
Guaranteed Tax Base	0	120	113	3	24
<b>Total</b>	<b>\$6,377</b>	<b>(\$498)</b>	<b>\$113</b>	<b>\$3</b>	<b>\$24</b>

Based upon fall 2022 enrollment figures, MSDE estimates that the bill results in a statewide increase of 1,055 students eligible for funding under the Publicly Funded Full-Day Prekindergarten aid program. This estimate is based on:

- all homeless students having a family income below 300% of the federal poverty level (and thus being counted under current law for fiscal 2024 and beyond);
- the estimated number of students who (1) have a disability, (2) are homeless youth, or (3) are English language learners;
- students who are age 4 with family incomes more than 300% of, but not more than 600% of, the federal poverty level (Tier II), and who (1) have a disability, or (2) are English language learners; and
- students who represent more than one of these categories or who already qualify as low-income, in order to generate a nonduplicative count.

Given this estimated student enrollment increase, State expenditures under the program increase by \$6.1 million in fiscal 2024. Funding for this purpose is not included in the fiscal 2024 budget as passed by the General Assembly.

The bill also alters local shares by county for the program through the Education Effort Adjustment, which provides local share relief, supplemented by additional State aid. Education Effort Adjustment State aid increases by \$ 261,200 in fiscal 2024 and decreases by \$617,900 in fiscal 2025. Further, GTB State aid is altered beginning in fiscal 2025, as shown in Exhibit 1, due to changes in local appropriations, discussed below.

Any expense reimbursements for the new member of the MCCC are assumed to be minimal and absorbable with existing resources. Changes to the Career Ladder for Educators, and provisions of the bill related to the collection of the State alternative income eligibility form are not anticipated to materially affect State finances.



**Local Fiscal Effect:** Statewide, the increased State expenditures described above are met by an equivalent increase in the local share for the Publicly Funded Full-Day Prekindergarten program, as partially offset via the Education Effort Adjustment. Given both the local share and MOE requirements under current law, the increased local share amount under the bill may not necessarily require the local government to increase the local board appropriation by that exact amount. **Exhibit 2** shows the estimated changes in local appropriations under the bill. **Exhibit 3** shows estimated increases in combined State aid and local appropriations under the bill, based on factors discussed above.

**Exhibit 2**  
**Estimated Changes in Local Appropriations under the Bill**  
**(\$ in Thousands)**

<b>County</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>
Allegany	\$50	\$50	\$50	\$49	\$0
Anne Arundel	0	0	0	0	0
Baltimore City	527	517	-93	17	-3
Baltimore	0	0	0	0	0
Calvert	0	0	0	0	0
Caroline	0	0	0	0	0
Carroll	0	0	0	0	0
Cecil	0	0	0	0	0
Charles	0	0	0	0	0
Dorchester	0	0	0	0	0
Frederick	0	0	0	0	0
Garrett	0	0	0	0	0
Harford	0	0	0	0	0
Howard	0	0	0	0	0
Kent	7	0	0	0	0
Montgomery	0	0	0	0	0
Prince George's	1,023	0	0	0	0
Queen Anne's	0	0	0	0	0
St. Mary's	0	0	0	0	0
Somerset	0	0	0	0	0
Talbot	70	69	0	0	0
Washington	0	0	0	0	0
Wicomico	0	0	0	0	0
Worcester	0	0	0	0	0
<b>Total</b>	<b>\$1,678</b>	<b>\$637</b>	<b>-\$44</b>	<b>\$66</b>	<b>-\$3</b>

**Exhibit 3**  
**Estimated Increases in State Aid and Local Appropriations under the Bill**  
**(\$ in Thousands)**

<b>County</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>
Allegany	\$162	\$70	\$69	\$69	\$20
Anne Arundel	282	0	0	0	0
Baltimore City	1,995	0	0	0	0
Baltimore	156	0	0	0	0
Calvert	41	0	0	0	0
Caroline	58	0	0	0	0
Carroll	77	0	0	0	0
Cecil	164	0	0	0	0
Charles	162	0	0	0	0
Dorchester	12	0	0	0	0
Frederick	352	0	0	0	0
Garrett	4	0	0	0	0
Harford	236	0	0	0	0
Howard	157	0	0	0	0
Kent	12	0	0	0	0
Montgomery	1,068	0	0	0	0
Prince George's	2,738	0	0	0	0
Queen Anne's	33	0	0	0	0
St. Mary's	42	0	0	0	0
Somerset	18	0	0	0	0
Talbot	93	69	0	0	0
Washington	117	0	0	0	0
Wicomico	66	0	0	0	0
Worcester	14	0	0	0	0
<b>Total</b>	<b>\$8,055</b>	<b>\$139</b>	<b>\$69</b>	<b>\$69</b>	<b>\$20</b>

**Small Business Effect:** Private prekindergarten providers, many of which are small businesses, benefit from increased State funding to support higher enrollments of prekindergarten students.

**Additional Comments:** The fiscal 2023 State budget based State formula funding on all public prekindergarten full-day enrollment to serve as a transition period, because local school systems did not collect income tier data from students for the current school year. Thus, fiscal 2023 funding was provided for all children in public prekindergarten programs.

Consequently, it is assumed that though the bill is an emergency bill and likely takes effect in fiscal 2023, it does not affect fiscal 2023 State or local finances.

---

### **Additional Information**

**Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** SB 913 (Senator Guzzone) - Education, Energy, and the Environment.

**Information Source(s):** Maryland State Department of Education; Accountability and Implementation Board; Department of Legislative Services

**Fiscal Note History:** First Reader - February 21, 2023  
rh/mcr Third Reader - March 28, 2023  
Revised - Amendment(s) - March 28, 2023  
Revised - Updated Information - March 28, 2023  
Enrolled - May 8, 2023  
Revised – Amendment(s) – May 8, 2023  
Revised - Correction - July 17, 2023

---

Analysis by: Scott P. Gates

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510