

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1211
(Delegate Smith)
Appropriations

**Education - Compensatory Education - Maryland Neighborhood Tier System
Calculation**

This bill redefines “compensatory education enrollment,” which is used to determine funding under (1) the Compensatory Education Program and (2) Concentration of Poverty Grants (CPGs), by adding a Maryland Neighborhood Tier System (MNTS) Total to preexisting factors, such that the greater of these factors determines the enrollment count. The bill defines MNTS Total and related MNTS terms. The Maryland State Department of Education (MSDE) must develop the MNTS; assign each neighborhood in the State to a neighborhood tier; and determine the tier placement of each student in a school system. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: State expenditures in the form of aid to public schools increase substantially beginning in FY 2025. As discussed below, the full extent of annual increases cannot be determined at this time. **This bill increases a mandated appropriation beginning in FY 2025.**

Local Effect: County government appropriations to public school systems may increase substantially beginning in FY 2025. Local school systems are assumed to receive substantially increased annual State and local funding beginning in FY 2025. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: The MNTS groups each census block in the State into a tier based on the census block's median household income; average educational attainment of the neighborhood population; percentage of single-parent households; rate of homeownership; and other criteria determined by MSDE that may determine a student's preparedness and ability to learn.

The MNTS total means, for each school, the total of each student's MNTS value. MNTS value means the value assigned to each tier, such that the Tier 1 value is 1; Tier 2 value is 2; Tier 3 value is 3; Tier 4 value is 4; and Tier 5 value is 5. The bill also specifies a pair of MNTS tier weights that are assigned to each tier, based on relative economic advantage. The bill specifies an MNTS *student* value, which means the value assigned to each student based on the tier to which the student is assigned multiplied by the MNTS tier weight of that tier. By December 1 of each year, MSDE must publicize the neighborhood tiers and associated calculations and methodologies to determine the MNTS total.

Each census block in the State must be assigned to a tier. Tier 1 must be census blocks with a high socioeconomic status and tier 4 must be census blocks with a low socioeconomic status and high poverty. Each tier must have two sub-tiers of (1) economically disadvantaged and (2) noneconomically disadvantaged. MSDE must ensure not more than one-fifth of the total amount of census blocks in the State are in a tier. A child experiencing homelessness is automatically in Tier 5, sub-tier economically disadvantaged.

MSDE must monitor local board of education planning and spending of compensatory education funds distributed to schools to ensure the funds are used for:

- investments in research-based efforts to close subgroup student opportunity and achievement gaps;
- increasing student subgroup proficiency rates, as measure by State assessments; and
- targeting resources to schools that serve students living in neighborhoods with the highest concentration of poverty.

Current Law:

Blueprint for Maryland's Future and Education Funding Formulas

Blueprint for Maryland's Future (Blueprint) legislation, including Chapter 771 of 2019; Chapters 36 and 55 of 2021; and Chapter 33 of 2022 established new programs and updated education funding formulas, to among other provisions provide additional support for schools serving high concentrations of students living in poverty, including community

schools and wraparound services, and increased support for students learning English and students with disabilities.

The great majority of direct State aid to public schools (excluding teachers' retirement) is determined by enrollment-based funding formulas generally found in Title 5, Subtitle 2 of the Education Article. Collectively, the formulas account for a uniform base cost per pupil that is necessary to provide general education services to students in every school system and address the additional costs associated with educating three student populations: special education students; students eligible for free and reduced-price meals (FRPMs); and students who are English-language learners. Chapter 36 established additional major education aid programs.

Most 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%.

Required Reports on Neighborhood Indicators of Poverty and Related Methodologies

By November 1, 2021, MSDE must submit an interim report to the General Assembly and the Accountability and Implementation Board (AIB) on:

- the progress on analyzing neighborhood indicators of poverty;
- the fiscal year for which Medicaid data can be incorporated into the direct certification of students eligible for the compensatory education program; and
- the plan for developing and using the State alternative income eligibility form to determine eligibility for the compensatory education program.

By October 1, 2022, MSDE must submit a report to AIB on incorporating neighborhood indicators of poverty to determine a school's eligibility for the compensatory education program and the concentration of poverty grant based on the required study. By December 1, 2022, MSDE must collect the data necessary to implement the neighborhood poverty indicator methodology recommended by MSDE to calculate the compensatory education formula and CPGs and submit a report to the General Assembly, AIB, and the Department of Budget and Management. Relevant MSDE reports can be found on the [MSDE website](#), along with other Blueprint-related reports.

Community Eligibility Program, Compensatory Aid, Low-income Eligibility

The Healthy, Hunger-Free Kids Act of 2010, in part, amended the federal National School Lunch Act to provide an alternative to household applications for FRPM in high-poverty local education agencies (LEAs) and schools. This alternative is referred to as Community Eligibility Program (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 U.S. Department of Agriculture (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 year 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. Beginning with fiscal 2025 State aid, the bill adds the MNTS Total, as in part determined by MSDE, to the elements described above, in order to make the “greater of” comparisons needed to determine the compensatory enrollment count.

Concentration of Poverty Grants

CPGs have two components. First, each qualifying school receives a personnel grant to employ a community school coordinator with specified qualifications and provide full-time coverage by at least one health care practitioner. A county that provides health coverage or community school services with funds other than the personnel grant must continue to provide those services through fiscal 2030. Second, per pupil grants are provided for each qualifying school following the completion of a specified needs assessment. The personnel grant is a State-funded categorical amount that increases with inflation. Per pupil grants are only wealth equalized for districts that receive the minimum State funding (40%) under the compensatory education formula; for all other districts, the State pays the full amount. The local funding percentage is based on the compensatory education wealth equalization formula. The following table lays out the phase-in of the two components of the funding.

Concentration of Poverty Phase-in

School Poverty Percentage	Year Personnel Phased-in	Year Per Pupil Phased-in
> = 80%	FY 2020	FY 2022
75%-80%	FY 2021	FY 2023
70%-75%	FY 2022	FY 2024
65%-70%	FY 2023	FY 2025
60%-65%	FY 2024	FY 2026
55%-60%	FY 2025	FY 2027

School concentration percentages are based on a three-year average of compensatory education enrollment in each public school. Under Chapter 55, the three-year enrollment count excludes the 2020-2021 school year. A percentage increment of per pupil funding for each of six years of eligibility, beginning with 16% in the first year of eligibility and culminating in 100% funding by the seventh year, is specified in statute.

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 the maintenance of effort (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 Expenditures: Beginning in fiscal 2025, given the effective date of the bill, State expenditures under the compensatory education program and CPG are assumed to increase by substantial annual amounts. Thus, it is further assumed that local share results under the compensatory education program, for all counties, and CPG for certain counties, are substantially increased, resulting in substantially increased State funding under the Education Effort Index beginning in fiscal 2025 and the GTB program beginning in fiscal 2026. While the bill may increase State expenditures by hundreds of millions of dollars annually, beginning in fiscal 2025, the Department of Legislative Services (DLS) is unable at this time to provide a reliable estimate of the bill’s effect on State expenditures

for reasons described below. Because the bill adds another element to an existing set of “greater of” comparisons for determining the compensatory education enrollment count, the bill is not anticipated to decrease State expenditures in any year compared to current law projections.

The [January 2023 report](#) on neighborhood indicators of poverty includes more than one policy option for altering the compensatory education enrollment count and provides corresponding expenditure estimates assuming fiscal 2024 implementation. Per the report, policy option 1 would increase compensatory education State funding by \$591.0 million in fiscal 2024 (page 71) and more than double the amount of CPG schools (page 73). MSDE has provided data and results showing similar fiscal 2024 impacts under the bill, including a \$591.0 million increase for the compensatory education program and a \$114.3 million increase for CPG for a total expenditure increase of \$705.3 million in fiscal 2024. However, DLS assumes that the bill does not alter fiscal 2024 expenditures; the January report mentioned above indicates only fiscal 2024 impacts and does not mention impacts on Education Effort Adjustment or GTB State funding; and MSDE has not at this time provided sufficient information for assessing the effects to be anticipated for the bill in fiscal 2025 or subsequent years.

Also, the bill does not incorporate any option discussed in the January report and does not require MSDE to do so, in regulations or otherwise. Therefore, DLS is uncertain regarding the specific decisions that MSDE will make each year regarding determination of future year compensatory education enrollment counts used in determining State funding via the compensatory education program and CPG. Further, the bill does not specify how economic advantage or disadvantage; high or low socioeconomic status; or poverty as used within language added by the bill are determined for use in State aid formulas.

Though the bill shifts considerable discretion and responsibility for determining future State and local funding of public schools to MSDE, and the bill requires MSDE to monitor certain local board planning and spending, MSDE advises that it does not anticipate any additional administrative costs under the bill. DLS, however, anticipates that additional MSDE resources may be required under the bill.

Local Fiscal Effect: County government local shares are assumed to increase substantially under the bill, beginning in fiscal 2025. Therefore, county government appropriations to public school systems increase to the extent that per pupil MOE requirements under current law are surpassed in any given year. Local school systems are assumed to receive substantially increased annual State and local funding beginning in fiscal 2025. As with State fiscal effects under the bill, a reliable estimate of local fiscal effects cannot be made at this time.

Additional Comments: It is assumed that MSDE is responsible for assigning each census block in the State to a tier. It is also assumed that the MNTS total means, for each school, the total of each student's MNTS *student* value.

The current law "greater of" comparison used to determine "compensatory education enrollment" is a comparison on the countywide level. It is therefore assumed that the MNTS total for every school in a county is summed in order to incorporate the MNTS total into the amended "greater of" comparison.

It may not be possible to precisely meet both of the following requirements under the bill without a total number of census blocks in the State that is divisible by five: (1) each census block in the State must be assigned to a tier; and (2) MSDE must ensure not more than one-fifth of the total amount of census blocks in the State are in a tier. According to the U.S. Census Bureau, [Maryland](#) has 83,827 census blocks under the 2020 Census.

Additional Information

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

Designated Cross File: None.

Information Source(s): Anne Arundel County Public Schools; Maryland Association of Counties; Maryland State Department of Education; Department of Budget and Management; Department of Legislative Services

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Analysis by: Scott P. Gates

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