

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1180
Ways and Means

(Delegate Fisher, *et al.*)

Education - Primary and Secondary Schools - Alternative School Options (Right to Learn Act)

This bill partially codifies the Broadening Options and Opportunities for Students Today Program (BOOST), administered by the Maryland State Department of Education (MSDE), and establishes Right to Learn scholarships within BOOST to pay for students in “failing schools” to attend an alternative school, including a nonpublic school. The purpose of the BOOST Program is to provide (1) scholarships for students who are eligible for the U.S. Department of Agriculture’s free and reduced-price lunch program to attend an eligible nonpublic school and (2) Right to Learn scholarships for students who attend a failing school and choose to attend a nonpublic school. If a student, as deemed by the school administrator, is violent or receives continuous disciplinary action, the student may elect to attend a military boarding school, with costs covered by the local school system. **The bill takes effect July 1, 2025.**

Fiscal Summary

State Effect: General fund expenditures may increase minimally for staffing and related administrative costs beginning in fiscal 2026. General and special fund (the Blueprint for Maryland’s Future Fund (BMFF)) expenditures for per-pupil education aid decrease beginning in FY 2028 due to reduced enrollment counts, but the overall effect is expected to be minimal, as discussed below. No effect on revenues.

Local Effect: Beginning in FY 2027, local school system revenues from the State and from county governments decrease due to remittances to MSDE, but the overall decrease is expected to be minimal, as discussed below. County expenditures for per-pupil education aid are similarly expected to decrease minimally beginning in FY 2028. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: A “failing school” means a school that has, for at least the three prior consecutive school years, received one star under the State accountability system adopted by the State board, as required by the federal Every Student Succeeds Act (ESSA). A school continues to be designated as a failing school until the school receives at least a two-star rating for two consecutive school years. By January 1 each year, each local board of education must provide to the parent of each student who attends a failing school notification that the school is failing and a list of alternative school options. Alternative school options include (1) a public school that is not a failing school but is in the same county as the failing school; (2) a nonpublic school; or (3) a boarding school, including a military boarding school. A student attending a failing school must be provided the opportunity to attend an alternative school. By April 1, the parent must notify the local board of the student’s decision to continue attending the school or attend a particular alternative school.

For each student who receives a Right to Learn scholarship, the local board of education must remit funds to MSDE equal to the local school board’s per-pupil expenditures for specified State aid programs, to cover the costs of the scholarship. MSDE must return any unused funds to the local board.

MSDE must adopt regulations for Right to Learn provisions of the bill.

Current Law:

Broadening Options and Opportunities for Students Today Program

BOOST has been authorized annually since fiscal 2017 through the budget bill and budget bill language. Special funds for this program are provided through the Cigarette Restitution Fund (CRF), but annual funding is not mandated. According to the annual authorizing language, scholarship amounts and distribution of scholarships are determined by the BOOST Advisory Board, while the program is administered by MSDE.

The fiscal 2025 operating budget, as enacted, details the criteria for nonpublic schools that have students who are eligible for a BOOST scholarship and would like to participate in BOOST. These criteria include:

- participation in the Aid to Non-Public Schools Program for textbooks and computer hardware and software in the prior school year;

- providing more grades than only prekindergarten and kindergarten;
- administering assessments to all students in accordance with all State and federal law; and
- compliance with Title VI of the Civil Rights Act of 1964 as amended; Title 20, Subtitle 6 of the State Government Article (related to employment nondiscrimination) and not discriminate in student admissions, retention, or expulsion, or otherwise discriminate against any student based on race, color, national origin, sexual orientation, or gender identity or expression.

The fiscal 2025 operating budget also limits BOOST award eligibility in fiscal 2025 to students who (1) have a sibling who received a BOOST scholarship award in the 2023-2024 school year or (2) received a BOOST scholarship award for the 2023-2024 school year and will be entering any of grades 1 through 12; those entering grade 9 must have attended a nonpublic school that serves kindergarten through grade 12.

The fiscal 2026 budget (House Bill 350/Senate Bill 319) as introduced includes \$9.0 million in CRF monies, level with the fiscal 2025 appropriation for BOOST. The nonpublic school eligibility criteria are like those described above for fiscal 2024. However, the proposed language is more specific regarding required assessments. The language also specifies that the BOOST Advisory Board must prioritize awards for current BOOST recipients and their siblings and that a student must receive no less than the fiscal 2024 base award amount. Students who received a BOOST scholarship in a prior year who meet eligibility criteria for a scholarship must receive a scholarship renewal award. For students who receive a BOOST scholarship for the first time, priority must be given to students who attended public schools in the prior school year.

Maryland School Accountability System

In 2017, as required by ESSA, the reauthorization of the federal Elementary and Secondary Education Act, and the parameters set by the Protect Our Schools Act of 2017 (Chapter 29), the State board developed a Maryland school accountability system. Public schools are rated on a variety of weighted measures and then awarded between one and five stars based on their scores. This system was first implemented during the 2017-2018 school year. However, it was suspended for school years 2020-2021 and 2021-2022 due to the COVID-19 pandemic.

Blueprint for Maryland's Future and Education Funding Formulas

The Blueprint for Maryland's Future 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 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. This includes the foundation formula, which makes use of an "enrollment count," the greater of (1) the prior year full-time equivalent (FTE) enrollment and (2) the three-year moving average of FTE enrollment. Collectively, the formulas account for a uniform base cost per pupil that is necessary to provide general education services to students in every local education agency and address the additional costs associated with educating three student populations: special education students; students eligible for free and reduced-price meals; and students who are English learners. Chapter 36 established additional major education aid programs.

Most State education aid formulas also include 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%.

Maintenance of Effort and Local Share

Each year, the county government (including Baltimore City) is required to appropriate funds to the local board 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 enrollment count as defined above. The local share amount equals the local share of the foundation formula, compensatory education, English 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 concentration of poverty grants. 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 other 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 Guaranteed Tax Base (GTB) program, the local share may be reduced by the amount of GTB funds, except that for Baltimore City only the amount above \$10.0 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: Local public school year calendars for school attendance tend to commence in late August or early September and to end in June of the following calendar year. Given the bill’s July 1, 2025, effective date, and the annual January 1 and April 1 notification dates under the bill, students in failing schools are not eligible to attend alternative schools until fall 2026. Beginning in fall 2026, students attending nonpublic alternative schools are not included in public school enrollment counts that year, which affects State per-pupil education aid expenditures beginning in fiscal 2028 (school year 2027-2028). Though provisions related to students deemed to be violent or to have received continuous disciplinary action having the option to attend military boarding school do not specify a timeline for notifications, it is assumed to be identical to the timeline for Right to Learn scholarships.

The number of public schools receiving a one-star rating has decreased from 39 in 2022, to 25 in 2023, to 15 in 2024. The Department of Legislative Services (DLS) is aware of four schools that received one-star ratings in each of the past three years. Of the

four schools identified, two are in Baltimore City, and two are evening high schools in Anne Arundel and Wicomico counties, respectively. DLS is also aware of two additional schools with one-star ratings in each of the last two years: one in Baltimore City and one in Somerset County. Total enrollment for these six schools combined is about 2,000 students.

To the extent that some or all of those six schools receive a one-star rating during the 2025-2026 school year, students in those schools become eligible for Right to Learn scholarships. If none of the schools receive a one-star rating, the bill has no effect in fiscal 2027 or 2028. Because much of the reduction in school system funding is driven by students in school systems with failing schools, as defined by the bill, reductions in funding for local school systems amount to about \$20,200 per student (absent reversions of unused funds).

State Education Aid and Right to Learn Scholarships

Beginning in fiscal 2028, general and special fund per-pupil expenditures decrease for every student not included in public school enrollment counts because they are attending a nonpublic alternative school. A reliable estimate is not feasible because (1) the overall number of students in failing schools cannot be known in advance (and will change every year) and (2) some students in failing schools will elect to either remain in those schools or attend other alternative public schools in the same school system instead of nonpublic schools. For students who remain enrolled in public schools, State aid continues to be paid, but for those attending alternative nonpublic schools, State per-pupil aid decreases since they are no longer included in enrollment counts. As discussed below, the overall decrease is expected to be minimal for several reasons.

The bill requires local school systems to remit to MSDE the total per-pupil spending (State and county) that they **receive** for each student in a failing school who elects to attend a nonpublic school under the bill. This analysis assumes that the intent is for local school systems to remit per-pupil revenues (rather than per-pupil spending). MSDE must then use the remitted aid payments they receive to pay the Right to Learn scholarships for those students (and return any balance to the local school system). However, local school systems only **receive** per-pupil aid for each such student for one year – the year before they elect to enroll in a nonpublic school. After that, the student is no longer included in public school enrollment counts because the student is enrolled in a nonpublic school, so the local school system no longer receives per-pupil education aid for that student. As a result, any student in a failing school who elects to attend a nonpublic school only receives a Right to Learn scholarship for one year.

Many eligible families may opt not to receive Right to Learn scholarships, knowing that they expire after just one year. Moreover, nonpublic schools will also be aware that

scholarships are available for only one year, so many of them may choose not to accept scholarship students. For this reason, and because of the limited number of eligible students in failing schools, DLS believes that only a small number of eligible students opt to enroll in nonpublic schools using Right to Learn scholarships, so any decrease in State per-pupil education aid is anticipated to be similarly minimal.

Payments for Students in Military Boarding Schools

Total general and special fund (BMFF) expenditures are similarly reduced by an indeterminate amount beginning in fiscal 2028, based on reduced enrollment in public schools by students electing to attend a military boarding school. Students attending military boarding schools are no longer included in the annual enrollment counts in fall 2026, thereby reducing State aid (and local county) payments to local school systems beginning in fiscal 2028. It is not known how many students (1) will be identified as violent or receive continuous disciplinary action or (2) how many of those students will elect to attend a military academy, so a reliable estimate of the reduction in State aid payments is not feasible. For the same reasons described above, it is not anticipated that many eligible students elect to attend military boarding schools since Right to Learn scholarships are available for only one year, so any decrease in State per-pupil education aid is expected to be minimal.

Broadening Options and Opportunities for Students Today

Though neither current law nor the bill require a specified annual appropriation for BOOST, leaving room for the possibility that Right to Learn scholarship funding under the bill offsets funding for traditional BOOST scholarships, this analysis assumes that BOOST scholarships continue in approximately the same form as in recent years and are funded at \$9.0 million annually in CRF funds. Thus, codifying the traditional BOOST scholarships does not substantially alter public school enrollment or funding. DLS notes that, since BOOST is not codified in statute and the bill does not specify funding levels or allowable uses for BOOST scholarships, funding levels and scholarship uses may vary substantially from these assumptions.

Maryland State Department of Education Administrative Costs

Current BOOST staffing includes one full-time program manager and a 0.5 administrative staff position, whose work results in approximately 3,000 BOOST scholarships annually. This level of scholarships is about 50% more than all students eligible for alternative school placements choosing an alternative school placement in a nonpublic school. Given the other options of remaining in the failing school or choosing an alternative public school, and given the possibility that one or more of the six identified schools (discussed further below) will receive a star rating above 1 in 2025, it is assumed that MSDE will require at

most one additional position to administer Right to Learn scholarships under the augmented BOOST program. MSDE anticipates that its contract with its online vendor for online BOOST scholarship applications will increase by approximately \$190,000 annually. DLS assumes there are far less costly means for local boards of education to notify MSDE of students who will attend alternative nonpublic schools, and thus receive Right to Learn funding.

Local Fiscal Effect:

County Government Expenditures

As with State education aid, county per-pupil payments decrease for each student from a failing school who enrolls in a nonpublic school because they are no longer included in the public school enrollment counts. County governments are responsible for providing at least the greater of (1) the local share of major aid programs, after accounting for local share relief and (2) the per-pupil MOE. Both local share and MOE are driven by school enrollment counts.

To the extent that public school students are diverted to military boarding schools public school enrollment counts are further reduced. Thus, beginning in fiscal 2028 local per-pupil appropriations to local school systems are reduced to the extent that these alternative options are available and exercised. Fiscal 2025 local appropriations averaged \$9,655 per student, ranging from about \$3,650 in Wicomico County to about \$13,800 in Montgomery County, and amounted to about \$5,500 in Baltimore City.

Assuming State CRF funding for BOOST is maintained at current levels, BOOST's continuation has no effect on enrollment counts or county funding for public schools.

Local Education Agency Revenues

Local school system revenues decrease, likely minimally, beginning in fiscal 2027. For each student receiving a Right to Learn scholarship beginning in fiscal 2027, some or all State and county funding linked to that student is remitted to MSDE and used instead to pay for the scholarship. As the bill does not specify (1) the amount of Right to Learn scholarships; (2) allowable costs for the scholarships; or (3) whether the scholarships are required to cover all allowable costs of attending an alternative school or only a portion of those costs, DLS cannot determine what proportion of State and county education aid is diverted for the scholarships. Although some unused portion may revert to the local school system, the amount of any reversion cannot be reliably estimated. Nevertheless, the net effect on local school systems is loss of education aid revenue for each student who attends an alternative nonpublic or military school.

As with State expenditures, the bill's overall effects on county expenditures and local school system revenues are anticipated to be minimal because of (1) the small number of eligible students; (2) the limited (one-year) duration of Right to Learn scholarships; and (3) the public alternative options available to students in failing schools.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 1027 of 2024.

Designated Cross File: None.

Information Source(s): Baltimore City Public Schools; Montgomery County Public Schools; Maryland State Department of Education; Department of Legislative Services

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