

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 843

(Senator Hershey)

Budget and Taxation

Appropriations

School Construction - Local Cost-Share - Alterations

This bill creates a new adjustment to the local and State cost share of school construction projects that meet specified criteria. To be eligible for the adjustment (1) the percentage of students in the county eligible for free or reduced-price meals (FRPM) must be greater than the statewide average; (2) all schools in the county must participate in the U.S. Department of Agriculture's Community Eligibility Provision (CEP); (3) the State and local cost share must be 50% State and 50% local; (4) the eligible project must be the only elementary, middle, or high school in the county; and (5) the eligible project must have a total cost equal to or less than \$129,000 per State-eligible student. Counties with eligible projects must have the local cost share for that project reduced to equal the average cost share of counties in which all schools participate in CEP. The State cost share must be adjusted upward proportionally to cover the difference in funding. **The bill takes effect July 1, 2025, and terminates June 30, 2028.**

Fiscal Summary

State Effect: No effect on total funding for school construction as that amount is determined annually by the Governor and General Assembly through the capital budget process. However, to the extent that the State cost share is increased for eligible projects in FY 2026 through FY 2029, fewer State funds are available for public school construction projects in other local school systems. The Interagency Commission on School Construction (IAC) can implement the changes with existing resources. Revenues are not affected.

Local Effect: Revenues from the State for school construction projects increase in any local jurisdiction with an eligible project (currently only Kent County) in FY 2026 through FY 2029. As the bill does not affect the overall level of school construction funding available, revenues from the State for school construction projects likewise decrease in jurisdictions without eligible projects.

Small Business Effect: None.

Analysis

Current Law: For an overview of State support for public school construction, including a discussion of the State share of eligible school construction costs, please see the **Appendix – State Funding for Public School Construction.**

As part of its administration of public school construction funding, IAC must adopt regulations to establish a comprehensive State and local cost-share formula for each county that identifies the factors used in establishing the formulas and the actual State and local cost-share percentages generated by the formula for each county. In early calendar 2023, IAC approved a plan to review and update the State cost-share formula before summer 2025. IAC advises that the agency is currently undertaking work to evaluate the appropriateness of the factors in the existing State cost-share formula as well as other potential factors that might bring the State cost-share formula into better alignment with other State funding mechanisms and current conditions to foster increased equity across the counties.

State Expenditures: As shown in **Exhibit 1**, Kent County is the only county that meets all of the bill's criteria for an adjustment to the State-local cost share. For fiscal 2025 and 2026, only six counties – Anne Arundel, Kent, Montgomery, Queen Anne's, Talbot, and Worcester – have a State and local cost-share formula that is 50% State and 50% local. There are currently 7 jurisdictions including Baltimore City and Baltimore, Caroline, Dorchester, Kent, Somerset, and Wicomico counties in which all schools participate in CEP. According to the most recently published data from the Maryland State Department of Education for fiscal 2024 (school year 2023-2024, collected October 31, 2023), 14 jurisdictions – Baltimore City and Allegany, Baltimore, Caroline, Cecil, Dorchester, Garrett, Kent, Prince George's, Somerset, Talbot, Washington, Wicomico, and Worcester counties – have FRPM percentages greater than the statewide average. Since Kent County is the only county that meets all three criteria and there is only one middle and one high school in Kent County, it is the only county eligible for the specified adjustment.

Currently, Kent County has a 50% State and 50% local cost share for school construction projects. The average fiscal 2026 State cost share for jurisdictions with all schools participating in CEP (Baltimore City and Baltimore, Caroline, Dorchester, Kent, Somerset, and Wicomico counties) is 84%, and the average local share is correspondingly 16%. Therefore, for middle and high school replacement or renovation projects in Kent County, the local cost share decreases by 34 percentage points to 16% and the State cost share increases proportionally to 84%. IAC advises that an increased State share of this size results in the State funding a smaller number of projects statewide with available funds.

For IAC's fiscal 2026 Capital Improvement Program funding cycle, Kent County has requested funding for a replacement project at Kent County Middle School. The project has a total estimated cost of \$68.5 million and IAC advises that the school has an eligible enrollment of 465 students, resulting in a cost per student of about \$147,300, which is above the bill's threshold of \$129,000 per student. Additionally, IAC's fiscal 2026 funding recommendations are due to be finalized in May 2025, prior to the bill's July 1, 2025 effective date. Therefore, assuming Kent County can adjust total project costs below the specified threshold and IAC can rescind and re-issue its funding award for the project after the bill takes effect, the bill may affect school construction distributions as early as fiscal 2026. Likewise, as IAC's fiscal 2029 funding awards would be finalized in May 2028, prior to the bill's termination, the bill may affect funding cycles through fiscal 2029.

Local Revenues: To the extent Kent County receives a cost-share adjustment for a project, local revenues from the State share of construction funding for that project increase by 34 percentage points above the county's usual 50% State share as early as fiscal 2026. Since overall funding for school construction is not changed in the bill, IAC needs to divert funds from other projects to support the increased cost share. IAC advises that this results in fewer projects being funded annually. Revenues decrease correspondingly in counties without eligible projects.

Exhibit 1
Local Cost Share Adjustment Eligibility

<u>Jurisdiction</u>	<u>FRPM % Above Statewide Average (As of October 31, 2023)</u>	<u>All Public Schools Participate in CEP</u>	<u>50/50 State Cost Share (FY 2025 and 2026)</u>
Allegany	X		
Anne Arundel			X
Baltimore City	X	X	
Baltimore	X	X	
Calvert			
Caroline	X	X	
Carroll			
Cecil	X		
Charles			
Dorchester	X	X	
Frederick			
Garrett	X		
Harford			
Howard			
Kent	X	X	X
Montgomery			X
Prince George's	X		
Queen Anne's			X
St. Mary's			
Somerset	X	X	
Talbot	X		X
Washington	X		
Wicomico	X	X	
Worcester	X		X

CEP: Community Eligibility Provision

FRPM: free or reduced-price meals

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

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 365 of 2024.

Designated Cross File: HB 736 (Delegate Ghrist, *et al.*) - Appropriations.

Information Source(s): Interagency Commission on School Construction; 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 (Chapter 20 of 2020) 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 (ETF) beginning in fiscal 2022, for public school construction projects in the State, including to support a public-private partnership (P3) agreement to build six new schools in Prince George's County (the P3 agreement in place is actually for eight schools). 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 MSA's most recent projection of anticipated revenues of \$1.7 billion given increases in interest rates since the program's enactment).

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

	<u>Percent of Total</u>	<u>Proceeds</u>
Anne Arundel	12.5%	\$212.5
Baltimore City	21.0%	357.0
Baltimore	21.0%	357.0
Frederick	5.1%	86.7
Howard	6.6%	112.2
Montgomery	21.0%	357.0
Prince George's	*	*
All Other Counties	11.5%	195.5
Unallocated/Maryland Stadium Authority	1.3%	22.1
Total	100.0%	\$1,700.0

* Under Chapter 20 of 2020, as amended by Chapter 679 of 2023, Prince George's County receives \$27.0 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 Chapter 32 of 2022 subsequently extending funding to at least \$90.0 million in fiscal 2024 through 2026; (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 ((PSFPP), later renamed by Chapter 32 to be the Nancy K. Kopp Public Schools 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. Under Chapter 354 of 2024 and only for fiscal 2027, the purpose of PSFPP is to provide State funds to address the severity of issues in a school, including (among other things) air conditioning, heating, and plumbing. In accordance with funding amounts updated by Chapter 354, beginning in fiscal 2027, the Governor must appropriate at least \$70.0 million to the fund annually.

Prior to distributing funds under the Built to Learn 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 December 2024, IAC has approved 52 projects and committed more than \$1.3 billion 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 2026, the cost per square foot is \$416 for new construction *without* site development (up from \$404 in fiscal 2025) and \$495 for new construction *with* site development (up from \$481 in fiscal 2025). 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, 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; fiscal 2025; and fiscal 2026, 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. When updating the cost-share calculations every two years, Chapter 32 requires IAC to limit the percentage decrease in the State share for any county to 5%.

Exhibit 2
State Share of Eligible School Construction Costs
Fiscal 2023-2026

<u>County</u>	<u>FY 2023 and 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
Allegany	90%	89%	89%
Anne Arundel	50%	50%	50%
Baltimore City	96%	94%	91%
Baltimore	61%	59%	57%
Calvert	56%	56%	56%
Caroline	88%	94%	94%
Carroll	59%	57%	54%
Cecil	66%	64%	61%
Charles	65%	64%	64%
Dorchester	93%	98%	98%
Frederick	65%	67%	67%
Garrett	90%	89%	89%
Harford	63%	61%	58%
Howard	56%	54%	51%
Kent	50%	50%	50%
Montgomery	50%	50%	50%
Prince George's	73%	71%	68%
Queen Anne's	51%	50%	50%
St. Mary's	58%	58%	58%
Somerset	100%	100%	100%
Talbot	50%	50%	50%
Washington	79%	78%	78%
Wicomico	100%	98%	95%
Worcester	50%	50%	50%
Maryland School for the Blind*	93%	100%	100%

* Chapter 192 of 2024 establishes the State share at 100% for Maryland School for the Blind for all eligible school construction projects.

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. Chapter 32 increased the legislature's intended annual funding level to \$450.0 million beginning in fiscal 2023. Chapter 354 clarifies that the intended threshold does not include funding provided through the Built to Learn program. The State surpassed the intended thresholds in fiscal 2019 and 2021 through 2025; 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. Chapter 679 of 2023 repeals the Aging Schools Program beginning in fiscal 2027 with the intent that funding be transferred to PSFPF, which takes effect that year. Although Chapter 679 also repealed SSGP beginning fiscal 2027, Chapter 354 subsequently retained the \$10.0 million funding mandate for the program indefinitely. **Exhibit 3** shows annual State public school construction funding from fiscal 2021 through 2025, by county.

The fiscal 2026 operating and capital budgets as introduced provide more than \$800.0 million in funding for public school construction projects in the State, divided among general obligation (GO) bond funding, revenue bonds, and special funds. Not including Built to Learn funding, the funding provided meets the \$450.0 million statutory goal, including:

- \$302.2 million in MSA revenue bonds for Built to Learn;
- \$290.9 million in GO bonds and \$9.1 million in special funds for PSCP;
- \$53.9 million in GO bonds for EGRC;
- \$90.0 million in GO bonds for HSFF;
- \$6.1 million in GO bonds for the Aging Schools Program; and
- \$69.0 million in special funds for the P3 to construct and maintain schools in Prince George's County (of which \$27.0 million are State funds from ETF and the remainder are local funds).

Exhibit 3
State Public School Construction Funding
Fiscal 2021-2025
(\$ in Thousands)

<u>County</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
Allegany	\$2,177	\$2,613	\$4,116	\$5,742	\$12,308
Anne Arundel	38,559	170,456	76,974	58,141	87,297
Baltimore City	70,867	83,293	327,001	154,841	72,981
Baltimore	53,889	258,299	127,687	75,823	195,615
Calvert	4,179	13,454	8,678	18,737	8,250
Caroline	13,763	4,791	7,059	4,469	5,967
Carroll	10,449	38,831	20,955	16,609	15,293
Cecil	3,952	5,508	19,590	42,912	5,490
Charles	12,505	32,552	35,237	21,031	16,703
Dorchester	5,994	6,616	4,670	6,114	3,707
Frederick	23,015	108,705	48,808	43,608	19,136
Garrett	1,833	12,185	11,065	18,479	23,802
Harford	13,182	47,453	16,911	33,455	18,240
Howard	32,596	63,461	69,797	26,993	19,645
Kent	3,231	158	2,331	3,242	406
Montgomery	56,313	304,212	50,233	198,048	59,889
Prince George's	48,275	43,362	124,264	76,967	57,038
Queen Anne's	1,298	2,368	4,526	6,934	784
St. Mary's	5,580	5,773	7,878	15,951	7,073
Somerset	3,138	815	266	9,409	4,472
Talbot	3,211	1,380	1,129	6,202	6,438
Washington	8,446	8,804	10,413	14,903	27,890
Wicomico	10,506	26,169	33,416	22,072	7,861
Worcester	1,513	5,014	308	689	7,814
Maryland School for the Blind	6,779	2,021	9,100	13,605	4,662
Statewide	5,794	6,500	4,279	63	9,033
Total	\$441,042	\$1,254,793	\$1,026,691	\$895,038	\$697,791

Notes: Includes general obligation bonds, Built to Learn revenue bonds, pay-as-you-go funds, and reallocated funds that were previously authorized. Allocated funds include the Enrollment Growth or Relocatable Classroom program, School Safety grants, and Healthy School Facility grants. Statewide funds include unallocated discretionary funds, 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
