

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 233

(Chair, Appropriations Committee)(By Request -
Departmental - Public School Construction)

Appropriations

Education - Public School Construction - Alterations

This departmental bill (1) repeals the requirement that the Interagency Commission on School Construction (IAC) approve projects that comprise 75% of the preliminary school construction allocation before December 31 of each year; (2) clarifies conditions under which the State may require reimbursement of debt service for school buildings; (3) alters conditions under which the State Superintendent must review and approve school construction projects; (4) clarifies that the IAC may adopt regulations for eligibility for State funding for school construction projects and systemic renovation projects; (5) alters various reporting requirements; (6) clarifies practices relating to the IAC's Maintenance Effectiveness Report and Statewide Facilities Assessment (SFA); and (7) updates statutory terminology to be consistent with standard IAC usage. **The bill takes effect July 1, 2026.**

Fiscal Summary

State Effect: The bill is largely procedural in nature and therefore does not have a fiscal impact on the State. However, IAC advises that administrative changes in the bill may allow the agency to more efficiently use its available resources.

Local Effect: The bill is largely procedural in nature and therefore does not have a direct fiscal impact on local governments. Nevertheless, the bill's alterations to reporting requirements and funding approval timelines may have operational effects on local school systems, as discussed below.

Small Business Effect: IAC has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services (DLS) concurs with this assessment.

Analysis

Bill Summary:

Public School Construction Program Approvals Timeline

The bill repeals the requirement that the IAC must, before December 31 of each year approve school construction projects that comprise 75% of the preliminary school construction allocation for the following year. Accordingly, the bill repeals an existing appeals process for the *75% round* of approvals and requires IAC to establish an appeals process to allow local jurisdictions to request funding for projects that were not approved by the IAC as part of the annual *90% round* of approvals.

Reimbursement of Debt Service

The bill clarifies that the State may require reimbursement of debt service from a county for a school that is no longer used for *a purpose that is eligible for State funding for public school construction*, instead of simply for *school purposes*.

State Superintendent and IAC Project Review

The bill makes clarifications to the actions of local boards of education (related to school construction) that require approval by the State Superintendent or the State Superintendent's designee. Generally, actions subject to superintendent approval must relate to projects *used for the education of students* and relate to *student-occupied spaces* in a school building. Additionally, the bill replaces references to *remodeling* with the term *addition or renovation* as it relates to such approvals. The minimum value for a change order requiring Superintendent approval increases from \$50,000 to \$200,000. The bill also adds language specifying that county board requests for additions or renovations require approval by the State Superintendent or designee if the addition (1) costs more than \$1.0 million, (2) will affect the plan configuration of student-occupied spaces, and (3) conforms to the bylaws, rules and regulations of the State Board of Education.

Notwithstanding the superintendent review process, current law also requires major school construction projects be approved by IAC in accordance with a process outlined in Education Article §5-314. The bill clarifies that such processes apply only to construction and systemic renovation projects that (1) cost more than \$1.0 million and have received State funding or for which a school system will be requesting State funding or (2) replace or change a heating, ventilation, or air-conditioning system.

Regulations

The bill clarifies that the IAC may adopt regulatory requirements for eligibility for State funding for construction projects and systemic renovation projects.

Reporting Requirements

The bill alters the dates IAC must submit a report on its Statewide Appropriations Account. Under the bill, IAC must submit reports one month earlier than under current law, and reports must represent the balance of the fund on the last day of the immediately preceding quarter, instead of the balance as of the reporting date. Under the bill, IAC must report to the Governor and General Assembly quarterly by February 28, May 31, August 31, and November 30.

The bill combines two required reports on solar energy systems and alternative energy systems into one report and delays submission of that combined report from December 31 to February 28 annually. The bill also specifies that the combined report must contain information from the immediately preceding calendar year.

Statewide Facilities Assessment and Maintenance Effectiveness Assessment

The bill distinguishes between the IAC's annual SFA and Maintenance Effectiveness Assessment, by referring to both programs by name in statute. The bill likewise clarifies reporting dates by codifying the requirement that on or before November 1 each year, the IAC must report to the Governor and General Assembly on the results of the SFA. This change distinguishes the SFA reporting date from the annual October 1 annual reporting requirement for the maintenance effectiveness assessment.

The bill further clarifies which required information must be incorporated into the Maintenance Facilities Assessment and which information pertains to the SFA. While the *maintenance assessment* must include a process to incorporate maintenance data for individual school buildings, the *SFA* must include a process for local school systems to report additional information that is relevant to the assessment, including a place in the Master Facility Asset Library System for the school system to (1) report each year to the IAC on deficiencies in a school building, even if an assessment of the school building was not completed the immediately preceding year; (2) identify spaces in a school building likely to have been painted with lead paint; and (3) report certification of the Asbestos Hazard Emergency Response Act plan for the space. The bill also specifies that the SFA must include data on temperature, humidity, carbon dioxide levels, and other items as specified as *provided by local school systems*.

Terminology

The bill replaces the term “maximum State construction allocation” with “maximum State *award*” when referring to State funding for an individual school construction project (maintaining use of the term “construction allocation” when referring to the overall capital funding available for IAC to award).

Background/Current Law: For an overview of State support for public school construction, including an overview of the timeline for public school construction program approvals, please see the **Appendix – State Funding for Public School Construction**. DLS notes that the December 31 allocation being repealed by the bill is the only allocation of three required in statute that is made prior to the beginning of the annual General Assembly session.

Reimbursement of State Debt

In general, the State requires counties to reimburse it for any outstanding debt service for schools that:

- were built at least in part using State debt;
- were initially constructed or substantially altered by additions, alterations, or renovations valued at more than \$100,000 and completed after February 1971;
- are no longer used for school purposes;
- have had their titles transferred to the county government;
- are being used for local government purposes other than public education; and
- have outstanding debt that exceeds \$5,000.

Under specified circumstances, including that the school is no longer used for school purposes, counties do not need to reimburse the State for any outstanding debt service for schools initially constructed before February 1971.

Project Review

Subject to the bylaws, rules, and regulations of the State Board of Education, the State Superintendent of Schools or the superintendent’s designee must approve or disapprove each (1) proposal for the purchase or sale of any ground, school, or site building; (2) plan or specification for the remodeling of a school building if the remodeling costs more than \$1.0 million; (3) plan or specification for the construction of a new school building; and (4) change order that costs more than \$50,000 for the remodeling, restoration, or construction of a school building.

Additionally, with the approval of the State Superintendent of Schools or the superintendent's designee, each local board of education may (1) buy or otherwise acquire land, school sites, or buildings and (2) rent, repair, improve, and build school buildings or approve contracts for doing so if the plans conform to the bylaws, rules, and regulations of the State Board of Education.

Notwithstanding the State Superintendent of Schools review process outlined above, school construction projects are also subject to review by IAC and the Department of General Services (DGS) as outlined in Education Article § 5-314. For both major school construction projects and systemic renovation projects, DGS must review and IAC must approve design and construction documents. However, DGS, with the review and approval of IAC, must develop a certification process by which a local school system may be exempt from (1) IAC/DGS review of educational specifications, schematic designs, and design and construction documents and (2) IAC oversight of compliance with preventative maintenance schedules. Local school systems seeking certification must demonstrate that they have the capacity to complete the necessary reviews or compliance monitoring within the county. The certification must be for five years and renewable. DGS must work with local school systems to develop timelines for the submission of design and construction documents. IAC must allow all necessary documentation involved in the review and approval process to be submitted electronically.

Change orders for major construction projects and systemic renovation projects may not be reviewed by DGS and are not subject to approval by IAC. The State may not withhold a portion of its funding allocation for change orders, but local school systems must maintain contingency funds to address unanticipated costs.

Reporting requirements

The IAC must report to the General Assembly and DLS on the balance in the Statewide Appropriations Account for the IAC as of the reporting date quarterly on March 30, June 30, September 30, and December 31. Additionally, statute currently specifies separate reporting requirements, each of which IAC must submit by December 31 annually, on solar technologies and on alternative energy systems used in public school construction and major renovation projects in each jurisdiction.

Statewide Facilities Assessment and Maintenance Effectiveness Assessment

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. Chapter 14 also required IAC to complete an initial statewide facilities assessment using the sufficiency standards by July 1, 2019. Based on recommendations of 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 date was subsequently delayed by Chapter 20 of 2020 (the Built to Learn Act), Chapter 32 of 2022, and most recently by Chapter 354 of 2024. Under Chapter 354, funds from the Nancy K Kopp Public Schools Facilities Fund must be used to address the facility needs of the highest priority schools identified by the SFA beginning in fiscal 2028. Under Chapter 354 and for fiscal 2027 only, the purpose of Nancy K. Kopp Public Schools Facilities Priority Fund is to provide State funds to address the severity of issues in a school, including (among other things) air conditioning, heating, and plumbing. Beginning in fiscal 2027, the Governor must appropriate at least \$70.0 million to the fund annually.

The IAC publishes its annual Maintenance Effectiveness Assessment to provide an overview of maintenance assessments conducted at selected school facilities in each Maryland public school system in accordance with statutory requirements for the IAC to survey the condition of school buildings identified by the department.

Local Effect: Local school systems may require operational changes to conform to updated reporting and funding timelines under the bill. However, such changes can likely be accommodated with existing resources.

Frederick County Public Schools (FCPS) advises that elimination of the December 31 allocation of 75% of expected funding for public school construction could negatively affect the formation of local capital budgets. According to FCPS, information in the 75% allocation is integral to the creation of local capital funding allocations and future project planning. However, IAC advises that local school systems have little information on the amount of available *local* funding for school construction projects in December. Because of this, project prioritization also changes drastically between the 75% round in December and the 90% round in February. IAC therefore advises that eliminating the 75% allocation requirement will give LEAs more time to complete their capital improvement plan submissions and ultimately result in those submissions being more representative of the fiscal year's available budget.

Additional Information

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

Designated Cross File: SB 48 (Chair, Budget and Taxation Committee)(By Request - Departmental - Public School Construction) - Budget and Taxation.

Information Source(s): Maryland State Department of Education; Interagency Commission on School Construction; Maryland Association of Counties; Anne Arundel County Public Schools; Baltimore City Public Schools; Charles County Public Schools; Frederick County Public Schools; Montgomery County Public Schools; St. Mary's County Public Schools; Wicomico County Public Schools; Department of Legislative Services

Fiscal Note History: First Reader - January 30, 2026
sj/mcr

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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 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 (PSFPF), 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 PSFPF 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 January 2026, IAC has approved 59 projects and committed more than \$1.5 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 calendar 2026, the cost per square foot is \$431 for new construction *without* site development (up from \$416 in calendar 2025) and \$513 for new construction *with* site development (up from \$495 in calendar 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 expanded 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. State law requires that the cost-share formula be recalculated every two years. **Exhibit 2** shows the State share of eligible school construction costs for all Maryland jurisdictions for fiscal 2026 through 2028, as approved by IAC. 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 2026-2028

<u>County</u>	<u>FY 2026</u>	<u>FY 2027</u>	<u>FY 2028</u>
Allegany	89%	95%	95%
Anne Arundel	50%	50%	50%
Baltimore City	91%	91%	91%
Baltimore	57%	56%	56%
Calvert	56%	54%	51%
Caroline	94%	97%	97%
Carroll	54%	57%	57%
Cecil	61%	63%	63%
Charles	64%	66%	66%
Dorchester	98%	97%	97%
Frederick	67%	69%	69%
Garrett	89%	95%	95%
Harford	58%	59%	59%
Howard	51%	50%	50%
Kent	50%	50%	50%
Montgomery	50%	50%	50%
Prince George's	68%	67%	67%
Queen Anne's	50%	50%	50%
St. Mary's	58%	58%	58%
Somerset	100%	98%	95%
Talbot	50%	50%	50%
Washington	78%	82%	82%
Wicomico	95%	99%	99%
Worcester	50%	50%	50%
Maryland School for the Blind*	100%	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 PSFPP, 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 2022 through 2026, by county.

The fiscal 2027 operating and capital budgets as introduced provide funding that, not including the Prince George's County P3 funding under Built to Learn, meets the \$450.0 million statutory goal. State support for school construction is divided among general obligation (GO) bond funding and special funds as follows:

- \$300.0 million in GO bonds for PSCP;
- \$80.0 million in GO bonds for EGRC;
- \$70.0 million in GO bonds for PSFPP
- \$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 2022-2026
(\$ in Thousands)

<u>County</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
Allegany	\$2,613	\$4,116	\$5,742	\$12,308	\$9,854
Anne Arundel	170,456	76,974	58,141	88,551	44,641
Baltimore City	83,293	327,001	154,841	282,068	79,863
Baltimore	258,315	127,687	75,823	201,151	63,917
Calvert	13,454	8,678	18,737	8,250	10,585
Caroline	4,791	7,059	4,469	5,967	4,546
Carroll	38,831	20,955	16,609	16,417	18,179
Cecil	5,508	19,590	42,912	5,490	7,684
Charles	35,892	35,237	21,031	22,982	17,058
Dorchester	6,616	4,670	6,114	3,992	6,853
Frederick	109,454	48,808	43,608	21,131	29,313
Garrett	12,185	11,065	18,479	23,802	9,420
Harford	47,453	16,911	33,455	18,238	22,517
Howard	70,378	69,797	26,993	19,642	28,230
Kent	158	2,331	3,242	406	8,885
Montgomery	305,449	50,233	198,048	57,636	53,730
Prince George's	51,147	124,264	76,967	52,782	63,786
Queen Anne's	2,368	4,526	6,934	784	16,168
St. Mary's	5,773	7,878	15,951	7,073	24,698
Somerset	815	266	9,409	6,813	13,195
Talbot	1,380	1,129	6,202	6,438	3,701
Washington	8,804	10,413	14,903	27,890	14,909
Wicomico	26,169	33,416	22,072	7,861	11,584
Worcester	5,014	308	689	8,202	7,293
Maryland School for the Blind	2,021	9,100	13,605	4,595	11,328
Statewide	6,500	4,279	63	9,033	1,849
Total	\$1,274,837	\$1,026,691	\$895,038	\$919,501	\$583,784

Notes: Includes general obligation bonds, Built to Learn revenue bonds, pay-as-you-go funds, and reallocated funds that were previously authorized (as shown in IAC Capital Improvement Program 100% Allocation reports). 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

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Education - Public School Construction - Alterations

BILL NUMBER: HB 233

PREPARED BY: Victoria A. Howard

PART A. ECONOMIC IMPACT RATING This agency estimates that the proposed bill:

☒ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

☐ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

N/A