

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 737

(Delegate Ghrist, *et al.*)

Ways and Means

Alternative Education Options - Right to Learn and Broadening Options and
Opportunities for Students Today Programs (Right to Learn Act of 2022)

This bill establishes the Right to Learn Program, administered by the Maryland State Department of Education (MSDE), to provide scholarships for students in “failing schools” to choose an alternative education option. The bill also codifies the Broadening Options and Opportunities for Students Today Program (BOOST) and requires the Governor to include a \$10.0 million appropriation in the annual budget bill for BOOST. Right to Learn provides a student attending a “failing school” the opportunity to pursue an alternative education option, including (1) a public school in the county that is not a failing school; (2) a nonpublic school; or (3) a home instruction program reviewed by the local school system. For each student who receives a Right to Learn scholarship for specified qualified education expenses, the local board of education must remit funds to MSDE equal to *local* per pupil expenditures for public school students to cover the costs of the scholarship. MSDE must return any unused funds to the local board. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: To the extent the bill reduces public school enrollment, general fund expenditures for public schools decrease as early as FY 2025. The impact on annual general fund expenditures cannot be reliably estimated. Special fund expenditures are not affected, as discussed below, but are redirected to fund BOOST. **This bill establishes a mandated appropriation beginning in FY 2024.**

Local Effect: Beginning as early as FY 2024, some local boards of education must remit funds to MSDE to subsidize private school education tuition or other alternative options. Beginning as early as FY 2025, local school system revenues and local government expenditures for public schools decrease accordingly. The impact on revenues and related expenditures cannot be reliably estimated. **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 two prior consecutive school years, received two or fewer stars 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 a three-star or higher 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. By April 1, the parent must notify the local board of the student’s decision to continue attending the school or pursue an alternative education option.

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

The purpose of the BOOST Program is to provide scholarships for students who are eligible for the for the U.S. Department of Agriculture’s free and reduced-price lunch program to attend an eligible nonpublic school. A student may not receive a Right to Learn scholarship if the student received a BOOST scholarship in the same year. The bill specifies BOOST Advisory Board membership and responsibilities.

Current Law:

Broadening Options and Opportunities for Students Today

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 2022 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 standardized assessments approved by the National Blue Ribbon program in English, math, and science at specified grade levels; 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 based on race, color, national origin, sexual orientation, or gender identity or expression.

The Governor's proposed fiscal 2023 budget (Senate Bill 290/House Bill 300) includes \$10 million in CRF funds for BOOST and also incorporates substantial changes to the above criteria. The proposed language (1) requires participation in the Aid to Non-Public Schools Program but not in the prior school year; (2) requires that assessments comply with all State and federal law; and (3) limits language relating to discrimination in admissions and removes reference to discrimination regarding gender identity or expression.

Maryland School Accountability System

In 2017, as required by ESSA, the most recent 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. 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.

Education Funding Formulas

The great majority of direct State aid to public schools (excluding teachers' retirement) is determined by enrollment-based funding formulas 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; and students who are English-language learners. Chapter 36 of 2021 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%.

State Expenditures: To the extent that Right to Learn provisions of the bill encourage more students to attend private school than under current law, State aid to public schools, which depends largely on student enrollment counts, is reduced as early as fiscal 2025, after factoring in a one-year lag between measured enrollment declines in fiscal 2024 and adjustments to State aid in fiscal 2025. In fiscal 2021, State aid per student was approximately \$8,400; however, the amount of State per pupil aid varied by local school system from about \$4,400 for Worcester County to about \$14,700 for Somerset County. Annual per pupil State funding will increase significantly under the Blueprint for Maryland's Future legislation (Chapters 36 and 55 of 2021). The impact on enrollment and, therefore, on State general fund expenditures for public schools cannot be reliably estimated.

The proposed fiscal 2023 budget for BOOST includes \$10.0 million in CRF funds. Grant awards in fiscal 2022, making use of a prior-year fund balance, amount to \$10.2 million. Absent the bill, this analysis assumes funding for BOOST would continue at \$10.0 million a year with CRF monies; CRF has been used to fund BOOST since its inception. Therefore, the \$10.0 million annual funding mandate for BOOST under the bill does not affect State expenditures.

Local Fiscal Effect: Because the bill mandates funding for BOOST at the currently projected annual level, BOOST provisions of the bill do not affect local school system enrollment or finances.

To the extent that Right to Learn provisions of the bill encourage more students to attend private school or home schooling than under current law, local school boards are required to annually remit the local share of per pupil funds to MSDE beginning in fiscal 2024. Thus, local revenues for public schools decrease due to funds being diverted to MSDE for Right to Learn scholarships. In addition, State aid and local appropriations to local school systems will be reduced beginning in fiscal 2025 due to decreased enrollments.

Reduced State aid to public schools beginning in fiscal 2025 reflects public school enrollment declining in fiscal 2024 due to alternative education options taken in April 2023 and Right to Learn scholarship funding that year, with adjustments to State aid following in fiscal 2025. Similarly, reduced public school enrollment reduces the required minimum local appropriations to public schools beginning in fiscal 2025. Per pupil local appropriations for public schools averaged about \$8,000 in fiscal 2021, ranging from about \$2,900 in Caroline County to \$14,800 in Worcester County. Annual per pupil local funding for some counties will increase significantly in the near future under the Blueprint for Maryland's Future legislation. (Because the "total per pupil amount" used to determine

scholarship funding is based on school system per pupil *expenditures*, it is assumed that this amount will be based on actual data from two or more years prior.)

To the extent local school system enrollment significantly decreases, local school system expenditures may also decrease; however, many local school system expenditures are fixed costs and cannot be quickly adjusted. Any such impact cannot be reliably estimated and will vary significantly by school system because it depends on (1) the number of failing schools in each county and (2) the number of students in each failing school that opt for alternative learning options. Recent data indicates that the number of schools with a two-star or lower rating under the Maryland school accountability system is 58 in Baltimore City, 16 in Baltimore County, and 12 in Prince George's County. Anne Arundel, Dorchester, Harford, and Montgomery counties have either 1 or 2 such schools; no such schools are identified in other counties.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

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

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