

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
 Enrolled - Revised

House Bill 1390
 Appropriations

(Delegate Harris)

Budget and Taxation

Public Schools - Public School Construction - Funding and Administration

This bill (1) repeals the scheduled termination of the School Safety Grant Program (SSGP) on June 30, 2026; (2) reduces the mandated appropriation for the Nancy K. Kopp Public School Facilities Priority Fund (PSFPF) by \$10.0 million annually beginning in fiscal 2027; (3) alters the purpose of PSFPF only for fiscal 2027; (4) under specified conditions in current law, requires the State to begin making payments to Prince George’s County for a public-private partnership (P3) in fiscal 2025 (instead of fiscal 2026); (5) makes various changes to the governance of the Prince George’s County P3 agreement; (6) establishes the Workgroup on the Assessment and Funding of School Facilities; (7) requires the State share of eligible construction costs to be 100% for high school construction projects that meet specified criteria; (8) requires the Interagency Commission on School Construction (IAC) to report on the eligibility of artificial intelligence (AI) weapon detection systems for State school construction funding; and (9) clarifies legislative intent regarding annual funding levels for school construction. **The bill takes effect June 1, 2024.**

Fiscal Summary

State Effect: No effect in FY 2024. Special fund expenditures increase by \$54.0 million only in FY 2025 due to the mandated distribution. Special fund revenues decrease by \$10.0 million annually beginning in FY 2027; special fund expenditures decrease correspondingly. No net effect on general fund expenditures as the continuation of SSGP is offset by the reduction in funding for PSFPF. **This bill establishes a mandated distribution only in FY 2025, establishes a mandated appropriation beginning in FY 2027, and reduces another mandated appropriation beginning in FY 2027.**

(\$ in millions)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
SF Revenue	\$0	\$0	(\$10.0)	(\$10.0)	(\$10.0)
SF Expenditure	\$54.0	\$0	(\$10.0)	(\$10.0)	(\$10.0)
Net Effect	(\$54.0)	\$0.0	\$0.0	\$0.0	\$0.0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Prince George’s County revenues increase by \$54.0 million in FY 2025 due to the mandated distribution. Other provisions have no net effect on local revenues for school construction but do affect the distribution of those funds beginning in FY 2025 and how some of those funds may be spent beginning in FY 2027, and may affect local matching requirements.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Annual Funding for School Construction

The bill clarifies that legislative intent expressed in current law – that the State should provide at least \$450.0 million annually for public school construction – does not include funding provided through the Built to Learn (BTL) program.

Nancy K. Kopp Public School Facilities Priority Fund

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.

Prince George’s County Public-private Partnership Project

The bill repeals the July 1, 2024 deadline for the Prince George’s County Board of Education to enter into a P3 agreement that is eligible for State funding. A memorandum of understanding (MOU) governing a P3 project in Prince George’s County that receives State funding (as required under current law) must specify that the governance structure for the program is the Prince George’s County Superintendent of Schools, the Prince George’s County Executive, and the chair of the Prince George’s County Council. The bill makes additional technical and conforming changes to the requirements for P3 agreements in Prince George’s County.

Workgroup on the Assessment and Funding of School Facilities

Beginning June 1, 2025, the workgroup must (1) consider how the relative condition of public school facilities should be prioritized, as specified, and (2) determine whether (and how) the results of the statewide facilities assessment should be incorporated into school construction funding decisions. The Department of Legislative Services, in consultation

with IAC, must staff the workgroup. By January 1, 2026, the workgroup must report its findings and recommendations to the Governor and the General Assembly.

Prince George's County School Construction Priority

The bill requires that the Prince George's County Board of Education give priority to High Point High School as the next major project in its capital improvement program after New Northern Adelphi Area High School.

State Share of Construction Costs

The State share of eligible construction costs must be 100% for a school construction project if:

- the project is located in a county for which the State share in fiscal 2025 is less than 55% and the county has a student enrollment of 60,000 or less, as specified;
- the allocation is to be used for a public high school that has the highest rate of students eligible for free and reduced-price meals of any high school in the county;
- the project is classified as a major renovation; and
- the planning and design for the project occurs in fiscal 2025 or 2026.

Current Law:

Built to Learn Act and Prince George's County P3 Funding

The Built to Learn Act, enacted as 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 P3 agreement to build six new schools (later increased to eight) in Prince George's County. Proceeds from the revenue bonds 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). Funds must be used to build or renovate schools within 10 years.

Proceeds from the MSA bond sales and the amounts transferred from ETF for debt service and expenses are deposited into the Supplemental Public School Construction Financing Fund (financing fund), a nonbudgeted fund administered by MSA. In each of fiscal 2024 and 2025, MSA must deposit \$27.0 million from the financing fund into the Prince George's County Public-Private Partnership Fund (P3 Fund), administered by IAC; beginning in fiscal 2026, MSA must continue to make those annual payments to the

P3 Fund if Prince George’s County deposits the amount required under the MOU into the fund. Beginning in fiscal 2026 and through not later than fiscal 2055, IAC must pay the Prince George’s County Board of Education from the P3 Fund an amount specified in the MOU for availability payments to the P3 private partner(s); IAC must make these payments only if the P3 agreement remains in effect and Prince George’s County deposits into the P3 Fund the amount specified in the MOU. *The bill* requires IAC to begin making payments from the P3 Fund in fiscal 2025 (as long as the same conditions are met).

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

School Safety Grant Program

Chapter 14 of 2018 (the 21st Century School Facilities Act) created SSGP to provide grants to local school systems for school security improvements, including:

- secure and lockable doors for each classroom;
- an area of safe refuge in each classroom; and
- surveillance and other security technology for school monitoring purposes.

IAC is responsible for administering the program, in consultation with the Maryland Center for School Safety (MCSS). Under an MOU between the two entities, MCSS handles the application process and IAC processes payments for the program.

The Governor must provide \$10.0 million in the annual operating or capital budget for the program. Since fiscal 2023, the program has been funded with general funds, and the fiscal 2025 operating budget as passed by the General Assembly includes \$10.0 million in general funds for the program.

The Built to Learn Act expressed legislative intent that funding for SSGP (and the Aging Schools Program) be consolidated into PSFPP beginning in fiscal 2027. Accordingly, Chapter 679 of 2023 terminated SSGP effective June 30, 2026, with the intention of shifting its funding to the priority fund. PSFPP has since been renamed to honor Nancy K. Kopp.

Nancy K. Kopp Public School Facilities Priority Fund

The purpose of PSFPP is to provide State funds to address the facility needs of the highest priority schools in the State, as identified by a statewide facilities assessment completed by IAC. Highest priority must be given to schools with severe facility issues that have required the school to be closed during the current or previous school year. Current law specifies that if the statewide facilities assessment is not completed, the purpose of the fund is to provide State funds to address the severity of issues in a school, including (among others) air conditioning, heating, and plumbing. However, as the facilities assessment is complete, this contingency does not apply.

Beginning in fiscal 2027 and annually thereafter, the Governor must appropriate at least \$80.0 million to the fund. Money expended from the fund is supplemental to and is not intended to take the place of funding that would otherwise be appropriated to primary and secondary schools in the State.

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.

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%	89%	89%

Source: Interagency Commission on School Construction

State Fiscal Effect: IAC advises that Prince George's County expects to make an initial availability payment of \$54.0 million under the terms of the P3 agreement it is currently finalizing. This represents the sum of the \$27.0 million payments from MSA to the P3 Fund in both fiscal 2024 and 2025. Therefore, special fund expenditures from the P3 Fund to Prince George's County increase by \$54.0 million in fiscal 2025 due to the mandated acceleration of the IAC payments to Prince George's County by one year. As payments

were scheduled to begin in fiscal 2026 and continue for up to 30 years, there is no effect in the out-years (except that payments may end earlier than projected).

General fund expenditures increase by \$10.0 million annually beginning in fiscal 2027 to maintain the mandated appropriation for SSGP but are offset by a \$10.0 million reduction in funding for PSFPF. Therefore, there is no net effect on general fund expenditures. However, special fund revenues and expenditures for PSFPF decrease by \$10.0 million annually beginning in fiscal 2027.

Maintaining SSGP has no practical effect on administrative costs for IAC or MCSS, as staffing is already in place to continue operating the program. The clarification of legislative intent regarding State funding for public school construction has no practical effect as the State has met the \$450.0 million threshold without BTL funding each year since the intent was established.

Increasing the State share of school construction costs for specified projects has no effect on total State spending for school construction, but likely reduces funding available for projects in other counties.

IAC can report on the eligibility of AI weapon detection systems with existing resources.

Local Fiscal Effect: Prince George's County revenues increase by \$54.0 million in fiscal 2025 due to the mandated distribution so that it can make the availability payment under the terms of its anticipated P3 MOU.

Requiring the Prince George's County Board of Education to give preference to High Point High School has no direct effect on local finances but may affect the timeline for other school construction projects in the county.

Beginning in fiscal 2027, State funding for the highest priority school construction projects, as identified by the statewide facilities assessment, decrease by \$10.0 million annually. However, local revenues for school safety improvements increase by \$10.0 million annually beginning in fiscal 2027. Accordingly, local matching fund requirements may be affected.

Major high school renovation projects in Howard, Kent, Queen Anne's, Talbot, and Worcester counties are eligible for a 100% State share of eligible construction costs if they meet the other criteria in the bill. Thus, revenues in these counties may increase for several years beginning in fiscal 2025 (and through the completion of the project(s)). As total State funding for school construction is fixed each year by the Governor and the General Assembly through the capital budget process, revenues for school construction likely decrease in other jurisdictions.

Additional Comments: Under current law, Prince George’s County must enter into a P3 agreement by July 1, 2024, or forfeit all State funding in support of the agreement. To date, it has not completed an agreement; IAC advises that the county is in the process of finalizing an agreement, which it hopes to complete by the deadline (but may not). The bill repeals the deadline, virtually ensuring that Prince George’s County receives BTL funding. This analysis does not reflect any potential consequences – either for the county or the State – of the county failing to enter into an agreement by the deadline in the absence of the bill.

Additional Information

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

Designated Cross File: None.

Information Source(s): Maryland State Department of Education; Interagency Commission on School Construction; Maryland Center for School Safety; Department of Budget and Management; Baltimore County Public Schools; Montgomery County Public Schools; Department of Legislative Services

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