

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 1062 (Senator Hershey)
 Education, Energy, and the Environment and
 Budget and Taxation

**Education – Prekindergarten and Withholding of County Board Funding
 (Blueprint Accountability and Flexibility Act of 2024)**

This bill delays Tier II State and local funding within the full-day prekindergarten program until fiscal 2028. The bill establishes a process for the Accountability and Implementation Board (AIB) to, at its discretion, withhold funding from a local board of education for (1) certain inappropriate spending and (2) unsatisfactory results on the Maryland Comprehensive Assessment Program (MCAP). The bill alters targets related to the proportion of prekindergarten slots accounted for by eligible private providers. The authorization for the Maryland State Department of Education (MSDE) to exclude, by annual waiver, Tier I children who are four years old from a certain prekindergarten slot calculation is repealed. **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: State expenditures (special fund and general fund, as shown below) decrease by \$7.2 million in FY 2025, \$12.3 million in FY 2026, and \$16.0 million in FY 2027; expenditures in FY 2028 and 2029 are altered to significantly lesser degrees. Revenues are not affected. **This bill modifies mandated appropriations.**

(\$ in thousands)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	(44.5)	(379.1)	(378.1)	90.6
SF Expenditure	(7,176.9)	(12,218.4)	(15,628.9)	0	0
Net Effect	\$7,176.9	\$12,262.8	\$16,008.0	\$378.1	(\$90.6)

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

Local Effect: As discussed below, in some counties, county government appropriations to local public schools decrease. State and local funding for local school systems is altered.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: “Prekindergarten enrollment” for purposes of the full-day prekindergarten program means (1) beginning in fiscal 2023, the number of Tier I children enrolled with an eligible prekindergarten provider and (2) beginning in fiscal 2028, the number of Tier I and Tier II children enrolled with an eligible prekindergarten provider. There is, beginning in fiscal 2028, a State share, local share, and family share of the per pupil amount for Tier II children.

Proportion of Slots Provided by Private Providers

The bill repeals the phased-in requirement for local boards of education to ensure that a certain proportion of eligible prekindergarten slots in each county are provided by private providers. Rather, the bill requires that at least 50% of the prekindergarten slots provided in each county be provided by eligible private providers after the 2029-2030 school year.

Withholding of Funds from Local Boards of Education

AIB must establish a plan to withhold funding from a local board for (1) inappropriate spending identified in a fiscal audit, an annual school-based expenditure report, or an investigation by the Inspector General in the Maryland Office of the Inspector General for Education and (2) unsatisfactory results on MCAP. AIB must establish the fiscal and MCAP standards that would require funding to be withheld from a local board for the next fiscal year or for the current fiscal year, depending on the severity of the violation.

If AIB finds that a local board has inappropriately spent funds or has unsatisfactory MCAP results, AIB may direct that the greater of *either* up to 25% of the State share of major education aid, *or* the amount of inappropriate spending, be withheld for the next fiscal year. If AIB finds that the funding should not be released, AIB must, on or before December 1, issue a specified initial warning to the local superintendent that funds may not be released in the next fiscal year. By February 1, AIB must make a final determination regarding whether or not to release the funds and notify the local superintendent. AIB must notify the State Superintendent and the Comptroller, for purposes of payment of State funds to local boards, of its initial finding and its final decision. AIB must also notify the Governor, the Senate President, and the Speaker of the House of its decision.

However, AIB must direct that funds withheld be released if the board finds that a local board has satisfied the guidelines developed by AIB to release withheld funding. AIB must develop an appeals process through which a local board, local school system, or public school may contest the withholding of funds.

Current Law:

Publicly Funded Full-day Prekindergarten Program

Chapter 36 of 2021 established a new funding formula providing for voluntary full-day prekindergarten for four-year-olds and three-year-olds from low-income families (Tier I). Chapter 119 of 2023 added homeless youths to Tier I. “Low-income” is defined as at or below 300% of the federal poverty level (FPL). MSDE must develop a sliding scale to calculate the family share for families with income above 300% of FPL. Beginning in the 2024-2025 school year (fiscal 2025), four-year-olds from families whose income is between 300% and 600% of FPL (Tier II) may be offered full-day prekindergarten if space is available to encourage socioeconomic diversity in prekindergarten classrooms. Priority in expanding full-day prekindergarten slots is given to three- and four-year-olds who are (1) Tier I children; (2) children with disabilities, regardless of income; or (3) children from homes where English is not the primary spoken language. For four-year-olds from families with income above 600% (Tier III), the family share covers the full cost of full-day prekindergarten. However, a local board may provide up to 100% of the family share on behalf of the family. A Head Start provider that receives federal funds is not prohibited from receiving full-day prekindergarten funding. “Prekindergarten enrollment” means (1) beginning in fiscal 2023, the number of Tier I children enrolled with an eligible prekindergarten provider and (2) beginning in fiscal 2025, the number of Tier I and Tier II children enrolled with an eligible prekindergarten provider.

Proportion of Slots Provided by Private Providers

Beginning in the 2022-2023 school year, prekindergarten slots provided by eligible private providers must account for at least 30% of the total prekindergarten slots provided by eligible prekindergarten providers in each county. The proportion of eligible private provider prekindergarten slots in each county increases by 5 percentage points every school year, until, in the 2026-2027 school year, and each subsequent school year, eligible private provider prekindergarten slots account for at least 50% of eligible prekindergarten provider prekindergarten slots in each county.

MSDE *must* issue a waiver from the above-described minimum requirements if (1) all families in the county who desire to enroll their eligible children with eligible prekindergarten providers are able to do so or (2) after reasonable cross-jurisdictional or regional efforts, there are too few eligible private providers. MSDE *may* exclude from the minimum requirement, by annual waiver, Tier I children who are (1) three years old in a county, until the 2029-2030 school year and (2) four years old in a county until the 2026-2027 school year.

Accountability and Implementation Board Authority and Withholding of Funds

AIB is an independent unit of State government designed to hold other units of government accountable for implementing the Blueprint for Maryland's Future (Blueprint) and evaluating the outcomes of the Blueprint during the implementation period. It must strive to provide equal access to a high-quality education with equitable outcomes for each Maryland student. It exists through fiscal 2032. Among its other responsibilities, AIB must review the use of school-level expenditures, including concentration of poverty grants and special education funding, and monitor school system compliance with minimum school funding requirements through reports submitted by MSDE by January 1 of each year through 2031.

Annually, 25% of the increase for the next fiscal year in the State's share of major education aid over the amount provided in the current fiscal year is automatically withheld from a school system or public school. For fiscal 2023 through 2025, AIB must release these funds if a local school system has submitted and then adopted an approved implementation plan. Beginning in fiscal 2026, AIB must consider releasing withheld funds if the board receives a recommendation to release the funds from MSDE, the Career and Technical Education Committee, an Expert Review Team, or in AIB's judgment. AIB may also withhold additional funds if it finds appropriate steps to improve student progress or implement the Blueprint have not been taken. AIB must issue warnings to public schools or local school systems on or before December 1 that funds may not be released in the coming year and must make a final decision by February 1 on whether to release funds. A public school or local school system may appeal this decision in an appeals process developed by AIB.

Maryland Comprehensive Assessment Program

The federal Every Student Succeeds Act (ESSA) is the most recent reauthorization of the federal Elementary and Secondary Education Act. It requires annual assessments of all students in grades 3 through 8 and at least once in high school in reading/language arts and mathematics; the law also requires students to be tested in science at least once in grades 3 through 5, 6 through 8, and 9 through 12. Maryland uses the MCAP to meet ESSA requirements.

Blueprint for Maryland's Future and Education Funding Formulas

Blueprint 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 great 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. 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 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 of education 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 greater of (1) the prior year full-time equivalent (FTE) enrollment and (2) the three-year moving average of FTE enrollment. (There is a certain adjustment for fiscal 2024 MOE for specified counties.) The local share amount equals the local share of the foundation formula, compensatory education, English language 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 the concentration of poverty grant programs. 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 existing and new 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 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.

Guaranteed Tax Base

The GTB program is intended to encourage less wealthy jurisdictions to maintain or increase local education tax effort (*i.e.*, local education appropriation as a percent of local tax base). The program provides additional State education aid to counties that have less than 80% of the statewide average wealth per pupil and provide local education funding above the minimum local share required by the foundation program. The program uses local education tax effort and wealth to determine State aid amounts for each eligible school system.

State Expenditures: For reasons discussed below, State expenditures decrease by \$7.2 million in fiscal 2025, \$12.3 million in fiscal 2026, and \$16.0 million in fiscal 2027; expenditures in fiscal 2028 and 2029 are altered to significantly lesser degrees.

Withholding of Funds from Local Boards of Education

The bill augments AIB’s already substantial authority to withhold funding from local school systems for certain cause. The degree to which the bill reduces and/or delays State funding for public schools depends largely on (1) to-be-determined details within the bill’s

required plan for withholding funds, including metrics to be developed related to inappropriate spending and MCAP results; (2) AIB’s discretion in withholding funds; and (3) the degree to which its current authority overlaps with the authority granted under the bill. Thus, an estimate of the effect of the bill’s provisions related to withholding of funds cannot be reliably quantified at this time.

Delaying Tier II Full-day Prekindergarten Funding by Three Years

Based upon fiscal 2025 appropriations within the fiscal 2025 budget as introduced and current projections for Tier II funding by county, State expenditures, in the form of aid to public schools, decrease as shown in **Exhibit 1** – specifically by an estimated \$7.2 million in fiscal 2025, \$12.3 million in fiscal 2026, and \$16.0 million in fiscal 2027. Expenditures in fiscal 2028 and 2029 are altered to significantly lesser degrees. Full-day Prekindergarten and Education Effort Index reductions are to Blueprint for Maryland’s Future Fund expenditures. Changes to GTB are in the form of general fund expenditures.

Exhibit 1
Change in State Expenditures under the Bill
Fiscal 2025-2029
(\$ in Thousands)

	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>	<u>FY 2028</u>	<u>FY 2029</u>
Full-day Prekindergarten	(\$7,177)	(\$11,597)	(\$14,915)	\$0	\$0
Guaranteed Tax Base	0	(621)	(714)	0	0
Education Effort Index	0	(44)	(379)	(378)	91
Total	(\$7,177)	(\$12,263)	(\$16,008)	(\$378)	\$91

Note: Numbers may not sum to total due to rounding.

Source: Department of Legislative Services

Local Fiscal Effect: Due to elimination of fiscal 2025 through 2027 Tier II funding under the bill, local per pupil MOE results, local share, and local share relief results are altered. The requirement that prekindergarten services be provided for Tier II students is also delayed; therefore, local school system prekindergarten expenditures likely decrease in relationship to the Tier II funding. Based upon fiscal 2025 appropriations within the fiscal 2025 budget as introduced and current projections for Tier II funding by county, **Exhibit 2** shows the estimated change in local appropriations under the bill.

Exhibit 2
Estimated Changes in Local Appropriations under the Bill
Fiscal 2025-2029
(\$ in Thousands)

<u>County</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>	<u>FY 2028</u>	<u>FY 2029</u>
Allegany	\$0	\$0	\$0	\$0	\$0
Anne Arundel	0	0	0	0	0
Baltimore City	0	0	0	0	0
Baltimore	0	0	0	0	0
Calvert	0	0	0	0	0
Caroline	(96)	(99)	(137)	62	(27)
Carroll	0	0	0	0	0
Cecil	(257)	(428)	(525)	0	0
Charles	0	0	0	0	0
Dorchester	0	(135)	(147)	20	(3)
Frederick	0	0	0	0	0
Garrett	(272)	(468)	(584)	0	0
Harford	0	0	0	0	0
Howard	0	0	0	0	0
Kent	(93)	(155)	(206)	0	0
Montgomery	0	0	0	0	0
Prince George's	(1,000)	(1,764)	(2,238)	0	0
Queen Anne's	0	0	0	0	0
St. Mary's	0	0	0	0	0
Somerset	0	(40)	(34)	12	(4)
Talbot	(53)	(407)	(545)	0	0
Washington	0	(1,488)	(1,571)	220	(30)
Wicomico	0	(195)	(154)	65	(27)
Worcester	0	0	0	0	0
Total	(\$1,771)	(\$5,180)	(\$6,142)	\$378	(\$91)

Note: Numbers may not sum to total due to rounding.

Source: Department of Legislative Services

Exhibit 3 shows estimated changes in combined State aid and local appropriations to public schools under the bill, based on factors discussed above. In fiscal 2028 and 2029, the changes in State aid are offset by similar decreases in county appropriations, thus resulting in a net impact of virtually \$0 for public school revenues.

Exhibit 3
Estimated Changes in State Aid and Local Appropriations under the Bill
Fiscal 2025-2027
(\$ in Thousands)

<u>County</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>
Allegany	(\$215)	(\$314)	(\$375)
Anne Arundel	(297)	(489)	(677)
Baltimore City	(625)	(1,641)	(1,946)
Baltimore	(237)	(287)	(370)
Calvert	(8)	(11)	(15)
Caroline	(404)	(600)	(778)
Carroll	(30)	(55)	(75)
Cecil	(518)	(873)	(1,077)
Charles	(673)	(1,127)	(1,533)
Dorchester	(118)	(329)	(410)
Frederick	(774)	(1,182)	(1,599)
Garrett	(399)	(670)	(831)
Harford	(249)	(394)	(528)
Howard	(110)	(187)	(269)
Kent	(124)	(206)	(276)
Montgomery	2	(2)	(3)
Prince George's	(1,982)	(3,523)	(4,513)
Queen Anne's	(112)	(147)	(210)
St. Mary's	(37)	(71)	(94)
Somerset	(63)	(135)	(161)
Talbot	(121)	(522)	(701)
Washington	(1,449)	(3,746)	(4,546)
Wicomico	(300)	(755)	(934)
Worcester	(105)	(177)	(226)
Total	(\$8,948)	(\$17,443)	(\$22,150)

Note: Numbers may not sum to total due to rounding.

Source: Department of Legislative Services

Small Business Effect: Private prekindergarten providers, many of which are small businesses, may receive less funding in fiscal 2025 through 2027 to support the enrollment of Tier II prekindergarten students. However, the overall impact on private prekindergarten enrollment under the bill is unknown.

Additional Information

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

Designated Cross File: HB 1432 (Delegate Miller, *et al.*) - Appropriations and Ways and Means.

Information Source(s): Baltimore City Public Schools; Anne Arundel County Public Schools; Baltimore County Public Schools; Prince George's County Public Schools; Accountability and Implementation Board; Comptroller's Office; Maryland State Department of Education; Department of Legislative Services

Fiscal Note History: First Reader - March 5, 2024
js/clb

Analysis by: Scott P. Gates

Direct Inquiries to:
(410) 946-5510
(301) 970-5510