

Chapter 32

(House Bill 1290)

AN ACT concerning

Education – Public School Construction – Funding and Administration

FOR the purpose of requiring the Interagency Commission on School Construction to take certain actions relating to public school construction, including updating certain regulations, increasing the State share of certain school construction project costs under certain circumstances, inspecting certain systems and equipment during inspections of school buildings, establishing certain processes for appeals and for reporting certain information regarding school buildings, and including certain information in the Integrated Master Facility Asset Library; prohibiting the Interagency Commission, unless certain conditions are met, from taking certain actions relating to public school construction, including making a certain deduction when calculating a certain State construction allocation, using facility assessment data, and making funding decisions based on facility assessment results; requiring certain rights of the Interagency Commission to be specified in a certain memorandum of understanding; requiring local education agencies to take certain actions if a certain inspection requires the closure of a school building; renaming the Local Share of School Construction Costs Revolving Loan Fund to be the School Construction Revolving Loan Fund; altering the purpose and eligibility criteria of the School Construction Revolving Loan Fund; providing for the repayment of loans to the School Construction Revolving Loan Fund; altering and extending certain mandated appropriations to the School Construction Revolving Loan Fund, the Healthy School Facility Fund, and the Public School Facilities Priority Fund; renaming the Public School Facilities Priority Fund to be the Nancy K. Kopp Public School Facilities Priority Fund; authorizing a county to use a loan from the School Construction Revolving Loan Fund for a certain purpose; altering the amount of certain required deposits into the Baltimore City Public School Construction Financing Fund; altering the authorized uses of money in the Education Trust Fund; repealing certain provisions of law that repealed the provisions of the Aging Schools Program and the School Safety Grant Program; declaring the intent of the General Assembly regarding funding for public school construction; requiring the Interagency Commission and the Maryland Department of Health to make a certain determination about food preparation equipment used in schools; and generally relating to the funding and administration of public school construction.

BY repealing and reenacting, with amendments,

Article – Education

Section ~~4–126(e)(3)(ii)3.~~, ~~4–126.2~~, ~~5–303(d)(3) and (5) and (k)~~, ~~5–310(b), (f), and (g)~~, ~~5–315~~, ~~5–322(j)(1)~~, and ~~5–326(i)~~ 5–326(a), (b), and (i)

Annotated Code of Maryland

(2018 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, without amendments,

Article – Education

Section 5–303(d)(4), 5–310(a), ~~5–322(a) and (b), and 5–326(a) and (b)~~ 5–317, and 5–322(a) and (b)

Annotated Code of Maryland

(2018 Replacement Volume and 2021 Supplement)

BY adding to

Article – Education

Section 5–303(l) and 5–327

Annotated Code of Maryland

(2018 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, without amendments,

Article – Education

Section 5–324

Annotated Code of Maryland

(2018 Replacement Volume and 2021 Supplement)

(As enacted by Chapter 20 of the Acts of the General Assembly of 2020)

BY repealing and reenacting, with amendments,

Article – Economic Development

Section 10–645(g)(2) and (h)(2), 10–649(g), and 10–650(c)

Annotated Code of Maryland

(2018 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, without amendments,

Article – State Finance and Procurement

Section 6–226(a)(2)(i)

Annotated Code of Maryland

(2021 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement

Section ~~6–226(a)(2)(ii)101.~~ 6–226(a)(2)(ii)101. and 125.

Annotated Code of Maryland

(2021 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – State Government

Section 9–1A–30(a) through (c)

Annotated Code of Maryland

(2021 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – State Government

Section 9–1A–30(d)
Annotated Code of Maryland
(2021 Replacement Volume)

BY repealing

Chapter 20 of the Acts of the General Assembly of 2020
Section 8 and 11

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Education

4–126.

(e) (3) (ii) In Prince George’s County, projects that use alternative financing methods under this section and receive State funding for a yearly availability payment:

3. If the project receives State funding for a yearly availability payment from the Supplemental Public School Construction Financing Fund under § 10–658 of the Economic Development Article, the project shall comply with a four-party memorandum of understanding entered into and signed by the Prince George’s County Board, Prince George’s County, the Maryland Stadium Authority, and the Interagency Commission on School Construction that:

A. [Specifies] SUBJECT TO ITEM G OF THIS ITEM, SPECIFIES the roles, rights, terms, and responsibilities of each party with respect to school projects undertaken with a private or public entity using alternative financing methods, including any amounts the parties are required to deposit into the Prince George’s County Public-Private Partnership Fund established under § 4–126.2 of this subtitle;

B. Specifies that § 2–203(f) and Title 5, Subtitle 3 of this article and regulations governing the Public School Construction Program are not applicable to projects using alternative financing methods;

C. Requires the Prince George’s County Board to submit projects to the Interagency Commission on School Construction for review before commencement of the project;

D. Specifies the time frames in which the Interagency Commission on School Construction shall complete its review of projects;

E. Requires the Prince George’s County Board to submit annual reports to Prince George’s County, the Maryland Stadium Authority, and the

Interagency Commission on School Construction during the term of the alternative financing method contract with the public or private entity; [and]

F. Specifies the terms under which each party will comply with the provisions of §§ 4–126.1 and 4–126.2 of this subtitle; AND

G. SPECIFIES THE ROLES OF THE INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION, INCLUDING THE INTERAGENCY COMMISSION’S RIGHTS RELATED TO:

I. APPROVAL OF THE PROJECT AGREEMENT;

II. APPROVAL OF SITE-SPECIFIC EDUCATIONAL SPECIFICATIONS;

III. APPROVAL OF FINAL SITE SELECTIONS; AND

IV. THE ROLE OF THE GOVERNING BODY OF THE PROGRAM.

4–126.2.

(a) In this section, “Fund” means the Prince George’s County Public–Private Partnership Fund.

(b) There is a Prince George’s County Public–Private Partnership Fund.

(c) The purpose of the Fund is to provide funds TO PRINCE GEORGE’S COUNTY FOR PRINCE GEORGE’S COUNTY to pay a public or private entity for the availability payment due under the Prince George’s County public–private partnership agreement entered into in accordance with § 4–126.1 of this subtitle.

(d) The Interagency Commission on School Construction shall administer the Fund as described in the four–party memorandum of understanding entered into under § 4–126(e)(3)(ii) of this subtitle.

(e) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) The State Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.

(f) The Fund consists of:

(1) Money deposited into the Fund by Prince George's County, the Prince George's County Board, and the Maryland Stadium Authority;

(2) Money deposited into the Fund by the State;

(3) Any investment earnings of the Fund; and

(4) Any other money from any other source accepted for the benefit of the Fund.

(g) (1) Except as provided in paragraph (2) of this subsection, the Fund may be used only to provide funding **TO PRINCE GEORGE'S COUNTY** for alternative financing methods under § 4-126 of this subtitle in Prince George's County.

(2) If Prince George's County receives State funding for an availability payment under § 4-126.1 of this subtitle, the funding received under § 4-126.1 of this subtitle may be used only to pay an availability payment to a private entity under the public-private partnership agreement entered into and approved in accordance with § 4-126.1 of this subtitle.

(h) Any appropriation to the Fund shall be used to supplement, but not supplant, money appropriated to Prince George's County for public school construction under the Public School Construction Program established in Title 5, Subtitle 3 of this article.

(i) (1) The State Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any interest earnings of the Fund shall be credited to the Fund.

(j) If a memorandum of understanding is entered into under § 4-126 of this subtitle and State funding is provided for an availability payment, the Prince George's County Board and Prince George's County shall deposit into the Fund the amounts required under the memorandum of understanding.

5-303.

(d) (3) The regulations adopted by the Interagency Commission shall contain provisions:

(i) Subject to subsection (k) of this section, establishing a 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 by the formula for each county;

(ii) Requiring local education agencies to adopt educational facilities master plans and annual capital improvement programs;

(iii) **[Providing] SUBJECT TO SUBSECTION (L) OF THIS SECTION, PROVIDING** a method for establishing a maximum State construction allocation for each project approved for State funding;

(iv) Referencing the policies stated in § 5–7B–07 of the State Finance and Procurement Article;

(v) Requiring local school systems to adopt procedures consistent with the minority business enterprise policies of the State as required under the Code of Maryland Regulations;

(vi) Establishing a process for appeal of Interagency Commission decisions, **INCLUDING AN APPEAL PROCESS SPECIFICALLY FOR APPROVED ENROLLMENT ~~PROJECTS~~ PROJECTIONS FOR INDIVIDUAL PROJECTS TO THE FULL INTERAGENCY COMMISSION;**

(vii) Requiring local education agencies to adopt, implement, and periodically update comprehensive maintenance plans and preventative maintenance plans;

(viii) Authorizing the Interagency Commission to withhold State public school construction funds from a local education agency that fails to comply with the requirements of item (vii) of this paragraph;

(ix) Requiring the development and submission of long-range plans, including a requirement for the annual submission of a 10-Year Educational Facilities Master Plan; and

(x) Requiring the submission of an annual Capital Improvement Program, which may only be required to include plans for specific projects and requests for planning and construction projects for the upcoming fiscal year.

(4) In adopting any of these requirements, the State Board and the Interagency Commission shall provide for the maximum exercise of initiative by school personnel in each county to ensure that the school buildings and improvements meet both the needs of the local communities and the rules and regulations necessary to ensure the proper operation of this section and the prudent expenditure of State funds.

(5) The Interagency Commission shall **[update]**:

(I) UPDATE the regulations required under paragraph (3)(i) of this subsection every 2 years; **AND**

(II) WHEN UPDATING THE REGULATIONS IN ACCORDANCE WITH ITEM (I) OF THIS PARAGRAPH, LIMIT THE PERCENTAGE DECREASE IN THE STATE SHARE OF SCHOOL CONSTRUCTION COSTS TO NOT MORE THAN 5% FOR EACH COUNTY.

(k) (1) A county is eligible for an adjustment to the local cost–share for school construction projects under paragraph (2) of this subsection if:

(i) A county’s median household income is in the bottom quartile in the State; and

(ii) The State and local cost–share formula for the county is 50% State and 50% local.

(2) (i) The local cost–share of a school construction project in a county that is eligible under paragraph (1) of this subsection shall be reduced to equal the local cost–share of the adjacent county that is less than 50% but closest to 50%.

(ii) The State cost–share of a school construction project in the eligible county shall be increased by a percentage that is equal to the reduction under subparagraph (i) of this paragraph.

(3) A COUNTY SHALL RECEIVE:

(I) A ~~10%~~ 10 PERCENTAGE POINT INCREASE IN THE STATE SHARE OF A SCHOOL CONSTRUCTION PROJECT IF THE PROPOSED SCHOOL CONSTRUCTION PROJECT, WHEN A LOCAL SCHOOL SYSTEM SUBMITS A PROJECT FOR APPROVAL TO THE INTERAGENCY COMMISSION, IS AT A SCHOOL WITH A CONCENTRATION OF POVERTY LEVEL, AS DEFINED IN § 5–223 OF THIS TITLE, OF 80% OR GREATER;

(II) A ~~5%~~ 5 PERCENTAGE POINT INCREASE IN THE STATE SHARE OF A SCHOOL CONSTRUCTION PROJECT IF THE PROPOSED SCHOOL CONSTRUCTION PROJECT, WHEN A LOCAL SCHOOL SYSTEM SUBMITS A PROJECT FOR APPROVAL TO THE INTERAGENCY COMMISSION, IS AT A SCHOOL WITH A CONCENTRATION OF POVERTY LEVEL, AS DEFINED IN § 5–223 OF THIS TITLE, OF LESS THAN 80% BUT GREATER THAN 55%;

(III) A ~~5%~~ 5 PERCENTAGE POINT INCREASE IN THE STATE SHARE OF A SCHOOL CONSTRUCTION PROJECT IF THE PROPOSED SCHOOL CONSTRUCTION PROJECT IS AT A SCHOOL THAT, IN THE MOST RECENT SCHOOL MAINTENANCE EFFECTIVENESS ASSESSMENT BY THE INTERAGENCY COMMISSION, RECEIVED AN ASSESSMENT RATING OF:

1. GOOD;

2. SUPERIOR; OR

3. ADEQUATE AND THE SCHOOL'S CURRENT SCHOOL FACILITY ASSESSMENT PERCENT OF EXPECTED USEFUL LIFE IS AT LEAST ~~100%~~ 120%; AND

(IV) ~~A 5% 5 PERCENTAGE POINT~~ INCREASE IN THE STATE SHARE OF A SCHOOL CONSTRUCTION PROJECT IF THE PROPOSED PROJECT IS TO BUILD A NET-ZERO SCHOOL.

(L) THE INTERAGENCY COMMISSION MAY MAKE AN ELIGIBLE ENROLLMENT DEDUCTION FOR AN ADJACENT SCHOOL WHEN CALCULATING THE MAXIMUM STATE CONSTRUCTION ALLOCATION FOR A PROJECT APPROVED FOR STATE FUNDING UNDER SUBSECTION (D)(3)(II) OF THIS SECTION ONLY IF THE SUM OF AVAILABLE SEAT COUNT IN AN ADJACENT SCHOOL ALL ADJACENT SCHOOLS IS 15% OR MORE OF THE ~~ADJACENT~~ PROJECT SCHOOL'S ENROLLMENT.

5-310.

(a) (1) In this section the following words have the meanings indicated.

(2) "Educational facilities sufficiency standards" means a uniform set of criteria and measures for evaluating the physical attributes and educational suitability of public elementary and secondary school facilities in the State.

(3) "Facility condition index" means a calculation to determine the relative physical condition of public school facilities by dividing the total repair cost of a facility by the total replacement cost of a facility.

(b) (1) **(I)** Each fiscal year, the Interagency Commission shall survey the condition of school buildings identified by the Department.

(II) THE INTERAGENCY COMMISSION SHALL INCLUDE IN THE INSPECTIONS OF INDIVIDUAL SCHOOL BUILDINGS:

1. A PROCESS FOR A LOCAL EDUCATION AGENCY TO REPORT ANY ADDITIONAL INFORMATION RELEVANT TO THE INSPECTION, INCLUDING A PLACE IN THE MASTER FACILITY ASSET LIBRARY SYSTEM FOR THE LOCAL EDUCATION AGENCY TO:

A. REPORT EACH YEAR TO THE INTERAGENCY COMMISSION ON ANY DEFICIENCIES IN A SCHOOL BUILDING, EVEN IF THE SCHOOL

BUILDING WAS NOT INSPECTED IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION IN THE PRIOR YEAR;

B. IDENTIFY SPACES IN A SCHOOL BUILDING LIKELY TO HAVE BEEN PAINTED WITH LEAD PAINT; AND

C. REPORT CERTIFICATION OF THE ASBESTOS HAZARD EMERGENCY RESPONSE ACT PLAN FOR THE SPACE; AND

2. A PROCESS TO INCORPORATE MAINTENANCE DATA FOR INDIVIDUAL SCHOOL BUILDINGS.

(2) (I) The Interagency Commission shall conduct the inspections of individual school buildings that are necessary to complete the survey required in paragraph (1) of this subsection.

(II) **THE INSPECTIONS COMPLETED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL ~~INCLUDE AN INSPECTION OF~~ INCLUDE THE FOLLOWING ITEMS FOR EACH SCHOOL BUILDING:**

- 1. TEMPERATURE;**
- 2. HUMIDITY;**
- 3. CARBON DIOXIDE LEVEL;**
- 4. ACOUSTIC LEVELS;**
- 5. LEAD PAINT;**
- 6. ASBESTOS;**
- 7. KITCHEN SANITARY EQUIPMENT;**
- 8. LIGHTING;**
- 9. EMERGENCY COMMUNICATION SYSTEM, WITH RESPECT TO REMAINING USEFUL LIFE;**
- 10. HEALTH ROOM ATTRIBUTES;**
- 11. SAFETY EQUIPMENT IN EACH LABORATORY SPACE;**

AND

12. THE FUNCTIONALITY OF:

A. HEATING, VENTILATION, AND AIR-CONDITIONING BUILDING SYSTEMS;

B. LIFE SAFETY BUILDING SYSTEMS;

C. ROOFS; AND

D. ANY ADDITIONAL CRITICAL BUILDING SYSTEMS IDENTIFIED BY THE INTERAGENCY COMMISSION.

(III) DURING AN INSPECTION, IF AN ITEM UNDER SUBPARAGRAPH (II) 1 THROUGH 6 OF THIS PARAGRAPH RISES TO SUCH A SEVERE LEVEL THAT REQUIRES THE SCHOOL TO BE CLOSED, THE LOCAL EDUCATION AGENCY SHALL SUBMIT A PLAN TO THE INTERAGENCY COMMISSION ON HOW TO ADDRESS THE ISSUE AND THE INTERAGENCY COMMISSION SHALL WORK TO PRIORITIZE FUNDING TO ADDRESS THE ISSUE.

(3) The Interagency Commission shall report to the Governor and the General Assembly, on or before October 1 of each year, in accordance with § 2-1257 of the State Government Article, on the results of the survey for the prior fiscal year.

(f) (1) Following the completion of the initial statewide facilities assessment, the Interagency Commission shall develop standards and procedures to comprehensively update the facilities assessment such that facility assessment data is not older than 4 years.

(2) Local education agencies shall:

(i) Cooperate with the Interagency Commission to update the facility assessment; and

(ii) Contribute data as requested to update the assessment.

(3) (i) The Interagency Commission shall enter the facility assessment data into an integrated data system, which shall be known as the Integrated Master Facility Asset Library.

(ii) The Interagency Commission shall manage the Integrated Master Facility Asset Library and shall provide access to the Library for all local education agencies using a cloud-based system.

(4) THE INTEGRATED MASTER FACILITY ASSET LIBRARY SHALL INCLUDE PREVENTIVE MAINTENANCE SCHEDULES ACCESSIBLE TO EACH LOCAL EDUCATION AGENCY.

(g) (1) **(I)** [After completion of the initial facility assessment] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION**, the Interagency Commission [shall share the data results with the Workgroup on the Assessment and Funding of School Facilities and, with the Workgroup, shall consider:

(i) How the relative condition of public school facilities within the educational facilities sufficiency standards and the facility condition index should be prioritized, taking into account local priorities and in consultation with local jurisdictions; and

(ii) If determined to be appropriate, use of the assessment results in funding decisions] **MAY NOT USE ANY FACILITY ASSESSMENT DATA UNTIL THE INTERAGENCY COMMISSION ESTABLISHES THE INTEGRATED MASTER FACILITY ASSET LIBRARY.**

(II) AFTER THE INTERAGENCY COMMISSION HAS ESTABLISHED THE INTEGRATED MASTER FACILITY ASSET LIBRARY, AND ON OR AFTER MAY 1, 2026, THE INTERAGENCY COMMISSION SHALL ADOPT REGULATIONS ESTABLISHING THE USE OF THE FACILITY ASSESSMENT RESULTS IN ANNUAL SCHOOL CONSTRUCTION FUNDING DECISIONS BEGINNING NOT SOONER THAN FISCAL YEAR 2027.

(2) [During the consideration process under paragraph (1)(i) of this subsection, the Interagency Commission and the Workgroup shall:

(i) Evaluate each school's facilities using the replacement value of a modern system; and

(ii) Prioritize building systems that are furthest beyond the useful life of the system] **BEFORE THE INTEGRATED MASTER FACILITY ASSET LIBRARY IS ESTABLISHED, THE INTERAGENCY COMMISSION MAY USE FACILITY ASSESSMENT DATA TO:**

(I) PROVIDE CONTEXT TO PROGRAMS THE INTERAGENCY COMMISSION ADMINISTERS;

(II) WORK WITH LOCAL EDUCATION AGENCIES;

(III) FULFILL LEGISLATIVE REQUESTS;

(IV) COMPLETE ANY INTERAGENCY COMMISSION ANALYSIS OR REPORT; AND

(V) ASSIST WITH ANY EXTERNAL REPORTS.

[(3) Based on the recommendations of the Workgroup on the Assessment and Funding of School Facilities, and not before May 1, 2022, for use in funding decisions beginning no sooner than fiscal year 2023, the Interagency Commission shall adopt regulations establishing the use of the facility assessment results in annual school construction funding decisions.]

5–315.

(a) In this section, “Fund” means the [Local Share of School Construction Costs Revolving Loan] **SCHOOL CONSTRUCTION REVOLVING LOAN** Fund.

(b) There is a [Local Share of School Construction Costs Revolving Loan] **SCHOOL CONSTRUCTION REVOLVING LOAN** Fund.

(c) The purpose of the Fund is to provide loans to local governments to forward fund the **STATE OR** local share of school construction costs for local education agencies that rely on the **STATE OR** local share to be fully funded in order to complete a project.

(d) The Interagency Commission shall administer the Fund.

(e) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article that shall be available in perpetuity for the purpose of providing loans in accordance with the provisions of this section.

(2) The State Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.

(f) The Fund consists of:

(1) Money appropriated in the State budget to the Fund;

(2) Any interest earnings of the Fund;

(3) Repayments of principal and interest from loans made from the Fund;

and

(4) Any other money from any other source accepted for the benefit of the Fund.

(g) The Fund may be used only to provide low– or no–interest loans to local governments.

(h) (1) The State Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any interest earnings of the Fund shall be credited to the Fund.

(i) Money expended from the Fund is supplemental to and is not intended to take the place of funding that otherwise would be appropriated to local governments for school construction.

(j) (1) Subject to paragraph (2) of this subsection, the Interagency Commission shall establish application procedures and eligibility criteria for loans from the Fund.

(2) The eligibility criteria shall include that a local ~~government is~~ **SCHOOL SYSTEM:**

(i) ~~[In]~~ **IS IN** need of a loan to forward fund the STATE OR local share of school construction costs in order to complete a project; ~~[and]~~

(ii) ~~[Able]~~ **IS ABLE** to demonstrate the ability to repay the loan if required at a later date; **AND**

(III) HAS RECEIVED PLANNING APPROVAL FOR THE PROJECT FROM THE INTERAGENCY COMMISSION.

(3) THE INTERAGENCY COMMISSION SHALL GIVE PRIORITY IN AWARDING LOANS FROM THE FUND TO COUNTIES THAT HAVE:

(I) NOT ADVANCED CONSTRUCTION FUNDING FOR PROJECTS IN THE PUBLIC SCHOOL CONSTRUCTION PROGRAM THAT THE INTERAGENCY COMMISSION HAS APPROVED FOR PLANNING; AND

(II) LIMITED DEBT CAPACITY.

(K) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A COUNTY SHALL REPAY A LOAN FROM THE FUND NOT LESS THAN 5 YEARS AFTER RECEIVING THE LOAN FROM THE FUND.

(2) THE INTERAGENCY COMMISSION MAY ESTABLISH A PROCEDURE FOR A WAIVER FROM THE REQUIREMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(L) (1) IN FISCAL YEAR 2023, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION OF AT LEAST ~~\$50,000,000~~ \$40,000,000 TO THE FUND.

(2) IN FISCAL YEAR 2024, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION OF AT LEAST \$20,000,000 TO THE FUND.

(3) IN EACH OF FISCAL YEARS 2025 AND 2026, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION OF AT LEAST \$10,000,000 TO THE FUND.

5-317.

(a) In this section, "Program" means the School Safety Grant Program.

(b) (1) There is a School Safety Grant Program.

(2) The purpose of the Program is to provide grants to county boards for school security improvements, including:

(i) Secure and lockable classroom doors for each classroom in the school;

(ii) An area of safe refuge in each classroom in the school; and

(iii) Surveillance and other security technology for school monitoring purposes.

(c) The Program shall be implemented and administered by the Interagency Commission, in consultation with the Maryland Center for School Safety.

(d) The Interagency Commission shall:

(1) Provide grants to county boards for public school security improvements;

(2) Develop a procedure for a county board to apply for a grant under the Program; and

(3) Develop eligibility requirements for a county board to receive a grant under the Program.

(e) In addition to the annual amount otherwise provided in the capital improvement program of the Public School Construction Program, the Governor shall provide an additional \$10,000,000 in the annual operating or capital budget bill that may be used only to award grants under the Program.

(f) The State funding provided under the Program is supplemental to and is not intended to take the place of funding that would otherwise be appropriated for public school construction purposes to a county board from any other source.

(g) The Interagency Commission shall adopt regulations necessary to implement this section.

5-322.

(a) In this section, "Fund" means the Healthy School Facility Fund.

(b) There is a Healthy School Facility Fund.

(j) (1) (i) In each of fiscal years 2020 through 2022, the Governor shall appropriate at least \$30,000,000 to the Fund.

(ii) In ~~each of fiscal years~~ **FISCAL YEAR 2023 [and 2024] THROUGH 2026**, the Governor shall appropriate at least \$40,000,000 to the Fund.

(III) IN EACH OF FISCAL YEARS 2024 THROUGH 2026, THE GOVERNOR SHALL APPROPRIATE AT LEAST \$90,000,000 TO THE FUND.

~~(iii)~~ **(IV)** For each of fiscal years 2021 through [2024] **2026**, 50% of the funds appropriated under subparagraphs (i) and (ii) of this paragraph shall be awarded to public schools in Baltimore City.

5-324.

(a) Repealed.

(b) Repealed.

(c) Repealed.

(d) Repealed.

(e) Repealed.

(f) (1) In fiscal year 2006 and in each fiscal year thereafter, the State shall distribute grants from an appropriation in the State budget or general obligation bonds to county boards under the Aging Schools Program administered by the Interagency Commission on School Construction in amounts equal to the funding level calculated under paragraph (2) of this subsection.

(2) In fiscal year 2013 and in each fiscal year thereafter, the funding level for a county is the following amounts for the following counties:

(i) Allegany County..... \$97,791;

<u>(ii)</u>	<u>Anne Arundel County</u>	<u>\$506,038;</u>
<u>(iii)</u>	<u>Baltimore City.....</u>	<u>\$1,387,924;</u>
<u>(iv)</u>	<u>Baltimore County.....</u>	<u>\$874,227;</u>
<u>(v)</u>	<u>Calvert County.....</u>	<u>\$38,292;</u>
<u>(vi)</u>	<u>Caroline County</u>	<u>\$50,074;</u>
<u>(vii)</u>	<u>Carroll County</u>	<u>\$137,261;</u>
<u>(viii)</u>	<u>Cecil County.....</u>	<u>\$96,024;</u>
<u>(ix)</u>	<u>Charles County</u>	<u>\$50,074;</u>
<u>(x)</u>	<u>Dorchester County</u>	<u>\$38,292;</u>
<u>(xi)</u>	<u>Frederick County</u>	<u>\$182,622;</u>
<u>(xii)</u>	<u>Garrett County.....</u>	<u>\$38,292;</u>
<u>(xiii)</u>	<u>Harford County</u>	<u>\$217,379;</u>
<u>(xiv)</u>	<u>Howard County</u>	<u>\$87,776;</u>
<u>(xv)</u>	<u>Kent County</u>	<u>\$38,292;</u>
<u>(xvi)</u>	<u>Montgomery County</u>	<u>\$602,651;</u>
<u>(xvii)</u>	<u>Prince George’s County.....</u>	<u>\$1,209,426;</u>
<u>(xviii)</u>	<u>Queen Anne’s County</u>	<u>\$50,074;</u>
<u>(xix)</u>	<u>St. Mary’s County</u>	<u>\$50,074;</u>
<u>(xx)</u>	<u>Somerset County.....</u>	<u>\$38,292;</u>
<u>(xxi)</u>	<u>Talbot County.....</u>	<u>\$38,292;</u>
<u>(xxii)</u>	<u>Washington County</u>	<u>\$134,904;</u>
<u>(xxiii)</u>	<u>Wicomico County.....</u>	<u>\$106,627; and</u>
<u>(xxiv)</u>	<u>Worcester County.....</u>	<u>\$38,292.</u>

5-326.

(a) In this section, “Fund” means the NANCY K. KOPP Public School Facilities Priority Fund.

(b) There is a NANCY K. KOPP Public School Facilities Priority Fund.

(i) [(1) In fiscal years 2025 and 2026, the Governor shall appropriate in the annual State operating or capital budget bill at least \$40,000,000 to the Fund.

(2)] In fiscal year 2027 and each fiscal year thereafter, the Governor shall appropriate in the annual State operating or capital budget bill at least \$80,000,000 to the Fund.

5-327.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “BASELINE TOTAL COST OF OWNERSHIP” MEANS THE TYPICAL TOTAL COST OF OWNERSHIP OF A NEW SCHOOL BUILDING OR A SCHOOL FACILITY RENEWAL, AS CALCULATED BY THE INTERAGENCY COMMISSION.

(3) “ESTIMATED TOTAL COST OF OWNERSHIP” MEANS THE TOTAL COST OF OWNERSHIP OF A NEW SCHOOL BUILDING OR A SCHOOL FACILITY RENEWAL AND THE CONCOMITANT ANALYSIS AS ESTIMATED BY A LOCAL EDUCATION AGENCY BEFORE THE CONSTRUCTION OF A NEW SCHOOL BUILDING OR A SCHOOL FACILITY RENEWAL BEGINS.

(4) (I) “PROJECTED ACTUAL TOTAL COST OF OWNERSHIP AS CONSTRUCTED” MEANS THE TOTAL COST OF OWNERSHIP OF A NEW SCHOOL BUILDING OR A SCHOOL FACILITY RENEWAL AND THE CONCOMITANT ANALYSIS AS CALCULATED BY A LOCAL EDUCATION AGENCY AFTER THE CONSTRUCTION OF THE NEW SCHOOL BUILDING OR THE SCHOOL FACILITY RENEWAL IS COMPLETE.

(II) “PROJECTED ACTUAL TOTAL COST OF OWNERSHIP AS CONSTRUCTED” INCLUDES THE SUM OF:

1. THE ACTUAL COSTS OF CONSTRUCTION AND OPERATION OF THE NEW SCHOOL BUILDING OR THE SCHOOL FACILITY RENEWAL AS OF THE DATE OF THE CALCULATION; AND

2. AN ESTIMATION OF FUTURE COSTS.

(5) “SCHOOL FACILITY RENEWAL” MEANS A CAPITAL IMPROVEMENT PROJECT FOR AN EXISTING SCHOOL THAT, ON COMPLETION:

(I) WILL REDUCE THE SCHOOL’S FACILITY CONDITION INDEX, AS DEFINED IN § 5-310 OF THIS SUBTITLE, TO 0.15 OR LOWER; AND

(II) RESULTS IN A LIKE-NEW OPERATIONAL CONDITION FOR THE SCHOOL.

(6) “STATE SHARE PERCENTAGE” MEANS THE PERCENTAGE OF ELIGIBLE COSTS, AS DEFINED IN REGULATIONS ADOPTED IN ACCORDANCE WITH § 5-303 OF THIS SUBTITLE, FOR THE CONSTRUCTION OF A NEW SCHOOL BUILDING OR A SCHOOL FACILITY RENEWAL PAID FOR BY THE STATE.

(B) IF A PROJECT FOR THE CONSTRUCTION OF A NEW SCHOOL BUILDING OR A SCHOOL FACILITY RENEWAL HAS AN ESTIMATED TOTAL COST OF OWNERSHIP THAT IS AT LEAST 15% LESS THAN THE BASELINE TOTAL COST OF OWNERSHIP, THE COUNTY SHALL RECEIVE A ~~5%~~ 5 PERCENTAGE POINT INCREASE IN THE STATE SHARE PERCENTAGE FOR THAT PROJECT.

(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF A PROJECT HAS A PROJECTED ACTUAL TOTAL COST OF OWNERSHIP AS CONSTRUCTED THAT IS NOT AT LEAST 15% LESS THAN THE BASELINE TOTAL COST OF OWNERSHIP, THE COUNTY THAT RECEIVED A ~~5%~~ 5 PERCENTAGE POINT INCREASE IN THE STATE SHARE PERCENTAGE FOR THAT PROJECT SHALL REPAY THAT AMOUNT TO THE INTERAGENCY COMMISSION.

(2) THE INTERAGENCY COMMISSION SHALL ESTABLISH A PROCESS FOR A COUNTY TO REPAY THE INTERAGENCY COMMISSION THE AMOUNT OF THE 5% INCREASE IN THE STATE SHARE PERCENTAGE OF A PROJECT THAT MET THE REQUIREMENTS UNDER SUBSECTION (B) OF THIS SECTION, IF APPROXIMATELY 12 TO 17 MONTHS AFTER THE DATE ON WHICH CONSTRUCTION IS COMPLETE AND THE LOCAL EDUCATION AGENCY BEGINS USING THE BUILDING OR RENEWAL FOR ITS INTENDED PURPOSE, THE PROJECTED ACTUAL TOTAL COST OF OWNERSHIP AS CONSTRUCTED IS NOT AT LEAST 15% LESS THAN THE BASELINE TOTAL COST OF OWNERSHIP.

(D) THE INTERAGENCY COMMISSION, IN COORDINATION WITH THE DEPARTMENT, SHALL DEVELOP LIFE CYCLE COST ANALYSIS STANDARDS.

(E) THE INTERAGENCY COMMISSION SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

Article – Economic Development10-645.

(g) (2) The money deposited into the Baltimore City Public School Construction Financing Fund in accordance with this subsection shall be at least:

- (i) \$4,000,000 by November 1, 2014;
- (ii) an additional \$4,000,000 by May 1, 2015;
- (iii) an additional \$4,000,000 by November 1, 2015;
- (iv) an additional \$4,000,000 by May 1, 2016; and
- (v) until the bonds are no longer outstanding and unpaid:

1. an additional [\$5,000,000] \$10,000,000 by each November 1; and

2. an additional [\$5,000,000] \$10,000,000 by each May 1.

(h) (2) Beginning on July 1, 2015, and continuing until the bonds that have been issued to finance improvements to Baltimore City public school facilities are no longer outstanding and unpaid, in addition to the amount withheld under paragraph (1) of this subsection, the State Comptroller shall withhold from any installment due the Baltimore City Board of School Commissioners from the General State School Fund and deposit into the Baltimore City Public School Construction Financing Fund the following amounts, to be paid in equal bi-monthly payments:

- (i) \$10,000,000 for fiscal year 2016; and
- (ii) [\$20,000,000] \$10,000,000 for fiscal year 2017 and each fiscal year thereafter.

10-649.

(g) (1) In accordance with § 9-1A-30 of the State Government Article, the Comptroller shall deposit a portion of the money in the Education Trust Fund into the Supplemental Public School Construction Financing Fund **FOR THE PROGRAM TO BE KNOWN AS THE BUILT TO LEARN PROGRAM.**

(2) The funds under paragraph (1) of this subsection shall be deposited in the following amounts:

- (i) in fiscal year 2022 – \$30,000,000;

(ii) in fiscal year 2023 – \$60,000,000; and

(iii) in fiscal year 2024 and each fiscal year thereafter – \$125,000,000.

(3) The Comptroller shall deposit 50% of the funds under paragraph (2) of this subsection on or before November 1 each year and the other 50% on or before May 1 each year.

10–650.

(c) (1) Except as otherwise provided in paragraphs (2) [and (3)] **THROUGH (4)** of this subsection, the allocation of bond proceeds authorized in § 10–628 of this subtitle represents the State share of eligible public school construction or capital improvement costs as established by regulation in accordance with § 5–303 of the Education Article, which shall include architectural, engineering, consulting, and other planning costs as eligible costs.

(2) For a county that receives the minimum State share of eligible school construction costs and has advanced construction funding for projects in the Public School Construction Program that the Interagency Commission on School Construction has approved for planning, the State share of eligible costs for the allocation of bond proceeds authorized in § 10–628 of this subtitle shall include 150% of the applicable gross area baseline in gross square foot per student for each project.

(3) In Baltimore City, the bond proceeds authorized under § 10–628 of this subtitle may be used for furniture, fixtures, equipment, design, and the staff necessary to manage the school construction projects.

(4) A COUNTY MAY USE A LOAN FROM THE SCHOOL CONSTRUCTION REVOLVING LOAN FUND ESTABLISHED UNDER § 5–315 OF THE EDUCATION ARTICLE TO REPRESENT THE STATE OR LOCAL SHARE OF ELIGIBLE PUBLIC SCHOOL CONSTRUCTION OR CAPITAL IMPROVEMENT COSTS.

Article – State Finance and Procurement

6–226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

101. the [Local Share of School Construction Costs Revolving Loan] **SCHOOL CONSTRUCTION REVOLVING LOAN** Fund;

125. the **NANCY K. KOPP** Public School Facilities Priority Fund;

Article – State Government

9–1A–30.

(a) In this section, “supplemental funding” means funding to:

(1) ensure access to public education that allows children in the State to compete in the global economy of the future;

(2) provide funding for high–quality early education programs;

(3) provide opportunities for public school students to participate in career and technical education programs that lead to an identified job skill or certificate;

(4) allow students to obtain college credit and degrees while in high school at no cost to the students;

(5) support the advancement and professionalization of educators in public education; and

(6) maintain, renovate, or construct public schools.

(b) There is an Education Trust Fund which is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(c) (1) There shall be credited to the Education Trust Fund all proceeds allocated to the Fund under § 9–1A–27 of this subtitle and all judgments paid to the Fund under § 11–210 of the Education Article.

(2) Money in the Education Trust Fund shall be invested and reinvested by the Treasurer, and interest and earnings shall accrue to the Fund.

(d) Money in the Education Trust Fund shall be used [to] **FOR THE FOLLOWING PURPOSES, IN THE FOLLOWING ORDER OF PRIORITY:**

(1) **REQUIRED DEPOSITS UNDER § 10–649(G) OF THE ECONOMIC DEVELOPMENT ARTICLE INTO THE SUPPLEMENTAL PUBLIC SCHOOL**

CONSTRUCTION FINANCING FUND ESTABLISHED UNDER § 10-658 OF THE ECONOMIC DEVELOPMENT ARTICLE; AND

(2) [provide] REQUIRED funding for public elementary and secondary education, through continuation of the funding and formulas established under the programs commonly known as the Bridge to Excellence in Public Schools Act, first enacted by Chapter 288 of the Acts of the General Assembly of 2002, including the funding for regional differences in the cost of education under § 5-202(f) of the Education Article; and

[(2)] (3) [provide] supplemental funding for education and public schools.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Chapter 20 of the Acts of 2020

[SECTION 8. AND BE IT FURTHER ENACTED, That Section(s) 5-317 and 5-324 of Article – Education of the Annotated Code of Maryland be repealed.]

[SECTION 11. AND BE IT FURTHER ENACTED, That, contingent on the consolidation of funding, on or before June 30, 2026, for the Aging Schools Program and the School Safety Grant Program into the Public School Facilities Priority Fund established in Section 6 of this Act, Section 8 of this Act shall take effect July 1, 2026.]

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that a new Workgroup on the Assessment and Funding of School Facilities be formed not later than July 2024 to determine how the relative condition of public school facilities within the educational facilities sufficiency standards and the facility condition index should be prioritized, taking into account local priorities and in consultation with local jurisdictions prior to the Public School Facilities Priority Fund being funded for fiscal year 2027.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that:

(1) beginning in fiscal year 2023, within the current debt affordability guidelines, the State should provide at least ~~\$400,000,000~~ \$450,000,000 each year for public school construction in order to maintain a relatively stable number of funded projects in the Capital Improvement Program; and

(2) the annual goal established under item (1) of this section should be recalculated prior to the Public School Facilities Priority Fund being funded.

SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That the Interagency Commission on School Construction shall update the State and local cost-share formula;

(1) for fiscal years 2025 and 2026, to align with the changes Chapter 36 of the Acts of the General Assembly of 2021 made to the Foundation Program and the Guaranteed Tax Base Program; and

(2) to apply the adjustments to the State and local cost-share formula required under § 5-303(k)(3) of the Education Article under Section 1 of this Act to the annual capital improvement program of the Public School Construction Program, healthy school facilities under § 5-322 of the Education Article, and supplemental public school construction under Title 10, Subtitle 6 of the Economic Development Article.

SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That, on or before October 1, 2023, the Interagency Commission on School Construction shall update the baseline gross square footage per student for the Gross Area Baselines calculation to align with the standards and requirements in Chapter 36 of the Acts of the General Assembly of 2021, including:

- (1) instructional space for English-language learners;
- (2) community schools and schools eligible for Concentration of Poverty grants;
- (3) collaborative planning spaces for teachers, taking into consideration that there will be more teachers in schools as additional collaborative time during the school day is phased in;
- (4) break-out space for more one-on-one and small group instruction; ~~and~~
- (5) career and technical education pathways; and
- (6) prekindergarten space.

SECTION ~~6~~ 7. AND BE IT FURTHER ENACTED, That the Interagency Commission on School Construction and the Maryland Department of Health shall determine the minimum equipment needed in each school for food preparation, to be used by the Interagency Commission on School Construction for surveys of school buildings under § 5-310(b) of the Education Article, as enacted by Section 1 of this Act.

SECTION ~~7~~ 8. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly for the Interagency Commission on School Construction to work with the Department of Legislative Services to verify survey data completed under § 5-310 of the Education Article, as enacted by Section 1 of this Act, through at least July 1, 2025.

SECTION 9. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, the Maryland Stadium Authority shall use \$10,000,000 of available funds held in reserve for Baltimore City from revenues deposited in the Baltimore City Public

School Construction Facilities Fund in accordance with § 10–645(g) of the Economic Development Article to provide the local share of Baltimore City projects for the program to be known as the Built to Learn Program in accordance with § 10–649(g) of the Economic Development Article.

SECTION 10. AND BE IT FURTHER ENACTED, That the increases in the State share of a school construction project under § 5–303(k)(3) of the Education Article under Section 1 of this Act may not apply to ~~the Capital Improvement Program for fiscal year 2023 but shall apply prospectively to any projects~~ *any school construction project approved for State funding prior to the effective date of this Act and may not apply to any school construction project funded with proceeds from bonds issued prior to April 1, 2022*, under the program to be known as the Built to Learn Program in accordance with § 10–649(g) of the Economic Development Article ~~approved by the Interagency Commission on School Construction after the effective date of this Act.~~

SECTION ~~8~~ 11. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2022.

Enacted under Article II, § 17(b) of the Maryland Constitution, April 9, 2022.