
By: Senators Cade, Kasemeyer, Hogan, Van Hollen, Currie, and Middleton (Senate Members of the Joint Study Group on Community College Financing)

Introduced and read first time: February 1, 1996

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 22, 1996

CHAPTER ____

1 AN ACT concerning

2 **Higher Education - Community College Funding**

3 FOR the purpose of altering the formula for the computation of certain State aid for
4 community colleges; requiring the State to provide funding to community colleges in
5 a certain amount; defining certain terms; requiring the Governor to include a
6 certain deficiency appropriation in the Budget Bill for certain community college
7 funding under certain circumstances; and generally relating to the formula for the
8 computation of certain State aid for community colleges.

9 BY repealing and reenacting, with amendments,
10 Article - Education
11 Section 16-403 and 16-407
12 Annotated Code of Maryland
13 (1992 Replacement Volume and 1995 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article - Education
16 Section 16-406
17 Annotated Code of Maryland
18 (1992 Replacement Volume and 1995 Supplement)

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

2

1 **Article - Education**

2 16-403.

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

4 (1) "Assessed valuation of real property" means assessed valuation of real
5 property as determined for purposes of the State aid calculated under §5-202 of this
6 article.

7 (2) "Board" means:

8 (i) In a county that has 1 or more community colleges, the board of
9 community college trustees for the county; or

10 (ii) Where 2 or more counties establish a region to support a regional
11 community college, the board of regional community college trustees.

12 (3) "Community college" means a community college established under this
13 title but does not include Baltimore City Community College.

14 (4) "County share" means the total amount of money for operating funds to
15 be provided each fiscal year to a board by the county that supports the community college
16 or colleges or, in the case of a regional community college, the total amount of money for
17 operating funds to be provided each fiscal year to the board by all counties that support
18 the regional community college.

19 (5) "Direct grants" means the sum of the following components of the State
20 share:

21 (i) Fixed costs;

22 (ii) Marginal costs; AND

23 (iii) Size factor[; and

24 (iv) Wealth factor].

25 (6) "Full-time equivalent student" is the quotient of the number of student
26 credit hours produced in the fiscal year 2 years prior to the fiscal year for which the State
27 share is calculated divided by 30, as certified by the Maryland Higher Education
28 Commission.

29 (7) "Population" means population as determined for purposes of
30 calculating the State share of the library program using the definition in § 23-401 of this
31 article.

32 (8) "Region" means the counties supporting a regional community college
33 established under Subtitle 3 of this title.

34 (9) "State share" means the amount of money for community college
35 operating funds to be provided each fiscal year to a board by the State.

3

1 (10) "Student credit hours" means student credit hours or contact hours
2 which are eligible, under the regulations issued by the Maryland Higher Education
3 Commission, for inclusion in State funding calculations.

4 (11) "Total State operating fund" means the sum of community college State
5 appropriations for direct grants [and for challenge grants].

6 [(12) "Wealth" means wealth as determined for purposes of the State aid
7 calculated under § 5-202 of this article.]

8 (b) (1) The total State operating fund per full-time equivalent student to the
9 community colleges for each fiscal year as requested by the Governor shall be [not less
10 than an amount equal to the total State operating fund per full-time equivalent student in
11 the previous fiscal year]:

12 (I) IN FISCAL YEAR ~~1997~~ 1998, NOT LESS THAN AN AMOUNT EQUAL
13 TO 22% OF THE STATE'S GENERAL FUND APPROPRIATION PER FULL-TIME
14 EQUIVALENT STUDENT TO THE 4-YEAR PUBLIC INSTITUTIONS OF HIGHER
15 EDUCATION IN THE STATE AS DESIGNATED BY THE COMMISSION FOR THE PURPOSE
16 OF ADMINISTERING THE JOSEPH A. SELLINGER PROGRAM UNDER TITLE 17 OF THIS
17 ARTICLE IN THE PREVIOUS FISCAL YEAR;

18 (II) IN FISCAL YEAR ~~1998~~ 1999, NOT LESS THAN AN AMOUNT EQUAL
19 TO 23% OF THE STATE'S GENERAL FUND APPROPRIATION PER FULL-TIME
20 EQUIVALENT STUDENT TO THE 4-YEAR PUBLIC INSTITUTIONS OF HIGHER
21 EDUCATION IN THE STATE AS DESIGNATED BY THE COMMISSION FOR THE PURPOSE
22 OF ADMINISTERING THE JOSEPH A. SELLINGER PROGRAM UNDER TITLE 17 OF THIS
23 ARTICLE IN THE PREVIOUS FISCAL YEAR;

24 (III) IN FISCAL YEAR ~~1999~~ 2000, NOT LESS THAN AN AMOUNT EQUAL
25 TO 24% OF THE STATE'S GENERAL FUND APPROPRIATION PER FULL-TIME
26 EQUIVALENT STUDENT TO THE 4-YEAR PUBLIC INSTITUTIONS OF HIGHER
27 EDUCATION IN THE STATE AS DESIGNATED BY THE COMMISSION FOR THE PURPOSE
28 OF ADMINISTERING THE JOSEPH A. SELLINGER PROGRAM UNDER TITLE 17 OF THIS
29 ARTICLE IN THE PREVIOUS FISCAL YEAR;

30 (IV) IN FISCAL YEAR ~~2000~~ 2001 AND EACH FISCAL YEAR
31 THEREAFTER, NOT LESS THAN AN AMOUNT EQUAL TO 25% OF THE STATE'S
32 GENERAL FUND APPROPRIATION PER FULL-TIME EQUIVALENT STUDENT TO THE
33 4-YEAR PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN THE STATE, AS
34 DESIGNATED BY THE COMMISSION FOR THE PURPOSE OF ADMINISTERING THE
35 JOSEPH A. SELLINGER PROGRAM UNDER TITLE 17 OF THIS ARTICLE IN THE
36 PREVIOUS FISCAL YEAR.

37 (2) The State share shall be distributed to each board and shall be limited
38 by the provisions of subsection (c) of this section.

39 (3) Subject to subsection (c) of this section, the total State share for each
40 board shall be the sum of:

41 (i) The fixed costs component;

4

1 (ii) The marginal costs component; AND

2 (iii) The size factor component[;

3 (iv) The wealth factor component; and

4 (v) The challenge grant component].

5 (4) (i) The funds available for the fixed costs component shall be [70%]
6 A SET PERCENTAGE of the year's total State operating fund AS FOLLOWS:

7 1. FOR FISCAL YEAR ~~1997~~ 1998, 36% OF TOTAL FUNDING;

8 2. FOR FISCAL YEAR ~~1998~~ 1999, 37% OF TOTAL FUNDING; AND

9 3. ~~FOR FISCAL YEAR 1999, 38% OF TOTAL FUNDING; AND~~

10 4. FOR FISCAL YEAR 2000 AND EACH FISCAL YEAR
11 THEREAFTER, ~~39%~~ 38% OF TOTAL FUNDING.

12 (ii) The funds available for the fixed costs component shall be divided
13 and distributed to the community colleges in the same proportion in which the direct
14 grants were distributed in the prior fiscal year.

15 (5) (i) For each board, the marginal costs component shall be the product
16 of the dollar amount per full-time equivalent student multiplied by the number of
17 full-time equivalent students at the board's community college or colleges.

18 (ii) The dollar amount per full-time equivalent student shall be
19 calculated by dividing [27%] 60% of the total State operating fund for the fiscal year by
20 the total number of full-time equivalent students at community colleges statewide.

21 (iii) In determining the marginal costs component for a board, the
22 number of full-time equivalent students at all campuses and colleges operated by the
23 board shall be added together.

24 (6) (i) [Except as provided in subparagraph (ii) of this paragraph, the]
25 THE size factor component shall be [determined by dividing and distributing equally
26 1.75%] A SET PERCENTAGE of the YEAR'S total State operating fund [to each board
27 which operates a community college or colleges at which the total number of full-time
28 equivalent students is less than or equal to 80% of the statewide median] AS FOLLOWS:

29 1. FOR FISCAL YEAR ~~1997~~ 1998, 4% OF TOTAL FUNDING;

30 2. FOR FISCAL YEAR ~~1998~~ 1999, 3% OF TOTAL FUNDING; AND

31 3. ~~FOR FISCAL YEAR 1999, 2% OF TOTAL FUNDING; AND~~

32 4. FOR FISCAL YEAR 2000 AND EACH FISCAL YEAR
33 THEREAFTER, ~~4%~~ 2% OF TOTAL FUNDING.

34 (ii) [For each board which operates a community college or colleges at
35 which the total number of full-time equivalent students is greater than 80% of the
36 statewide median but less than or equal to 200% of the statewide median, the size factor
37 component shall be determined by dividing and distributing equally 0.25% of the total

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1 State operating fund to each eligible board] THE FUNDS AVAILABLE FOR THE ~~SMALL~~
2 SIZE FACTOR COMPONENT SHALL BE DIVIDED AND DISTRIBUTED EQUALLY TO
3 EACH ~~COMMUNITY COLLEGE BOARD THAT OPERATES A COMMUNITY COLLEGE OR~~
4 COLLEGES AT WHICH THE TOTAL NUMBER OF FULL-TIME EQUIVALENT STUDENTS
5 IS LESS THAN OR EQUAL TO 80% OF THE STATEWIDE MEDIAN.

6 (iii) In determining the eligibility of a board for a sizefactor
7 component, the number of full-time equivalent students at all campuses and colleges
8 operated by the board shall be added together.

9 (7) (i) A board shall be eligible for a wealth factor component if:

10 1. The county share for the previous fiscal year divided by the
11 total assessed valuation of real property in the supporting county or region is greater than
12 or equal to the statewide median; and

13 2. The per capita wealth of the supporting county or region is
14 less than 80% of the statewide per capita wealth or the total assessed valuation of real
15 property in the supporting county or region is less than \$1,000,000,000.

16 (ii) The wealth factor component shall be determined by dividing and
17 distributing equally among eligible boards 1/2% of the total State operating fund.

18 (iii) For purposes of this section, per capita wealth is wealth divided by
19 population.

20 (iv) For the purpose of calculating the wealth factor component under
21 this subsection, statewide per capita wealth includes only those counties that support a
22 community college or colleges.

23 (v) In determining the eligibility of a board of a regional community
24 college for a wealth factor component, the wealth, population, and assessed valuation of
25 real property of the supporting counties shall be considered in the aggregate as a region.

26 (8) (i) Any portion of the total State operating fund not distributed as
27 direct grants shall be available for challenge grants.

28 (ii) The purpose of the challenge grant component is to address
29 statewide initiatives and economic development needs.

30 (iii) The challenge grants shall be distributed in amountsdetermined
31 by the Commission to eligible boards based upon criteria developed by the Commission in
32 cooperation with the Department of Business and Economic Development.

33 (9) Any employer Social Security contributions required by federal law for
34 any employee of a board of community college trustees shall remain the obligation of the
35 employer.

36 [(10)] (8) The State contribution to retirement and fringe benefit costs is not
37 included in the calculations of amounts under this subsection.

38 (c) In each fiscal year, in order for a board to receive an increasein the State
39 share of support, the county share, in the aggregate, that supports thecommunity college

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1 or colleges shall equal or exceed the aggregate amount of operating fund appropriations
2 made to the board by the county or all of the counties supporting the college in the
3 previous fiscal year.

4 (d) (1) (i) Beginning in Fiscal Year 1996, a grant in the amount provided in
5 paragraph (2) of this subsection shall be distributed to each board in order to provide
6 instruction and services to students enrolled in an English for Speakers of Other
7 Languages ("ESOL") program.

8 (ii) To qualify for a grant under this subsection, each participant in the
9 program shall be a student:

10 1. Born outside of the United States or whose native language
11 is not English;

12 2. Who comes from an environment where a language other
13 than English is dominant; or

14 3. Who is an American Indian or Alaskan native and comes
15 from an environment where a language other than English has had a significant impact on
16 the student's level of English language proficiency.

17 (2) (i) Subject to the provisions of subparagraph (ii) of this paragraph,
18 the amount of the grant shall be \$800 times the number of qualified full-time equivalent
19 students who are enrolled in a county ESOL program and at the community college.

20 (ii) 1. The total amount of the grants under this paragraph may not
21 exceed \$1,000,000 for any fiscal year.

22 2. If, for any fiscal year, the total amount of the grants
23 calculated under subparagraph (i) of this paragraph would exceed \$1,000,000, then each
24 grant shall be prorated by the amount necessary to reduce the total amount of the grants
25 to \$1,000,000.

26 (3) (i) If the amount that is appropriated to a board under this subsection
27 for any fiscal year is more than the actual cost of providing ESOL programs to students
28 enrolled at the community college in that county or region, the excess funds shall be paid
29 back to the State and credited to the General Fund of the State.

30 (ii) A board may not transfer State funds received under this
31 subsection to any other program or category.

32 16-406.

33 (a) The Commission shall certify to the treasurer of each county:

34 (1) On or before September 30 and March 31 of each year, one half of the
35 amount it estimates to be the county's share under § 16-403 of this subtitle; and

36 (2) After the annual audit of each community college, any discrepancy
37 between the payments made and the actual amount of the county's share under § 16-403
38 of this subtitle for the preceding fiscal year, which shall be compensated for during the
39 fiscal year.

1 (b) (1) Except as provided in paragraph (2) of this subsection, within 5 days
 2 after it receives a certification from the Commission, the county shall pay the amount due
 3 to the board of trustees of the community college.

4 (2) The board of trustees of a community college and the governing body of
 5 a county may agree in writing to a payment schedule for the county's share under §
 6 16-403 of this subtitle. If, prior to the 5th day after receiving notification from the
 7 Commission, there is a payment schedule agreed to in accordance with this paragraph,
 8 the county shall make payments in accordance with that schedule. If a county fails to
 9 make a payment in accordance with the schedule, all amounts certified by the
 10 Commission but not yet paid by a county shall become due and payable immediately.

11 16-407.

12 (a) (1) Subject to paragraphs (2) and (3) of this subsection and subsection (f) of
 13 this section, any student who attends a community college in this State and is not a
 14 resident of this State shall pay, in addition to the student tuition and fees payable by a
 15 county resident, an out-of-state fee, equal to the State share and the county share per
 16 full-time equivalent student as determined under § 16-403 of this subtitle.

17 (2) (i) A resident of the state of West Virginia who attends Garrett
 18 Community College under a negotiated reciprocity agreement between the states of
 19 Maryland and West Virginia is an in-county resident for tuition purposes.

20 (ii) For each full-time equivalent student participating in the
 21 reciprocity agreement, the State shall pay to Garrett Community College an amount
 22 equal to the net State support per full-time equivalent student as provided in § 16-403 of
 23 this subtitle. FOR ANY FISCAL YEAR, IF STATE APPROPRIATIONS FOR
 24 REIMBURSEMENT OF ~~THE RECIPROCALITY AGREEMENT~~ ANY RECIPROCALITY
 25 AGREEMENTS UNDER THIS SECTION DO NOT PROVIDE SUFFICIENT FUNDS TO FULLY
 26 REIMBURSE THE COLLEGE, THE GOVERNOR SHALL INCLUDE IN THE BUDGET BILL
 27 FOR THE NEXT FISCAL YEAR A DEFICIENCY APPROPRIATION TO PROVIDE THE
 28 ADDITIONAL FUNDS TO FULLY REIMBURSE THE COLLEGE.

29 (iii) The Commission may make payments to effectuate the provisions
 30 of this paragraph from funds specifically appropriated for this purpose as provided in the
 31 State budget or any supplemental budget request.

32 (iv) The payments authorized by this paragraph are in addition to the
 33 State operating fund to community colleges authorized in § 16-403(b) of this subtitle.

34 (3) (i) Any student attending a community college in this State who is not
 35 a resident of this State and is enrolled in an education program leading to licensure in
 36 nursing shall be included as an in-county resident for tuition purposes and shall be
 37 included as an in-state resident for computation of the State aid to community colleges in
 38 accordance with § 16-403 of this subtitle.

39 (ii) The student shall furnish a surety bond or guaranteed promissory
 40 note to the State with security satisfactory to the Maryland Higher Education
 41 Commission, that on completion of the Nursing Education Program, the student will work
 42 for at least 2 years in a hospital or related institution as defined in § 19-301 of the Health
 43 - General Article in this State.

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1 (iii) The Secretary of Health and Mental Hygiene may determine if
2 there is a shortage of nurses.

3 (iv) Subject to subparagraphs (v) and (vi) of this paragraph, if the
4 Secretary determines that there is no shortage of nurses, the Nonresident Student Tuition
5 Reduction and State Aid Program established under this paragraph may not be applied to
6 any courses required for the nursing program.

7 (v) Subparagraph (iv) of this paragraph applies only to students who
8 enroll in a Nursing Education Program subsequent to the determination made under
9 subparagraph (iv) of this paragraph.

10 (vi) Subparagraph (v) of this paragraph may not affect any student who
11 is participating in the Nonresident Tuition Reduction and State Aid Program prior to the
12 determination under subparagraph (iii) of this paragraph.

13 (b) (1) Subject to the provisions of paragraph (2) of this subsection, any student
14 who attends a community college not supported by the county in which the student
15 resides shall pay, in addition to the student tuition and fees payable by a resident of a
16 county that supports the community college, an out-of-county or out-of-region fee equal
17 to the county share per full-time equivalent student as determined under § 16-403 of this
18 subtitle.

19 (2) (i) Any student who resides in an incorporated municipality whose
20 corporate limits extend into 2 counties in the State is considered an in-county resident for
21 tuition purposes at a community college campus located within that municipality that is
22 supported by either county.

23 (ii) If a student is considered an in-county resident under this
24 paragraph and the student does not reside in the county that supports the community
25 college, the county in which the student resides shall pay the difference between the
26 out-of-county tuition and the in-county tuition.

27 (c) Any county may appropriate money to pay the out-of-county or out-of-region
28 fees for county residents who attend a community college in this State that is not
29 supported by that county.

30 (d) (1) Notwithstanding subsection (b) of this section, if any student is a
31 resident of this State and enrolls in an instructional program that the Commission
32 designates as a health manpower shortage program or a statewide or regional program,
33 the student shall pay only the student tuition and fees payable by a resident of a county
34 that supports the community college and the Commission shall pay any applicable
35 out-of-county fee. FOR ANY FISCAL YEAR, IF STATE APPROPRIATIONS TO THE
36 COMMISSION FOR PAYMENT OF ANY APPLICABLE OUT-OF-COUNTY FEE UNDER
37 THIS PARAGRAPH DO NOT PROVIDE SUFFICIENT FUNDS TO FULLY REIMBURSE
38 APPLICABLE OUT-OF-COUNTY FEES, THE GOVERNOR SHALL INCLUDE IN THE
39 BUDGET BILL FOR THE NEXT FISCAL YEAR A DEFICIENCY APPROPRIATION TO
40 PROVIDE THE ADDITIONAL FUNDS TO FULLY REIMBURSE THE OUT-OF-COUNTY
41 FEES.

1 (2) The Commission may make payments to effectuate the provisions of this
2 section from funds specifically appropriated for this purpose as provided in the State
3 budget or any supplemental budget request.

4 (e) (1) Notwithstanding subsection (b) of this section, if any student resides in a
5 county where the per capita wealth is below the State average and the county does not
6 support a community college or a branch campus of a community college, except for
7 Baltimore City, the student may enroll at a community college or a branch campus in the
8 State, either of which is located in a county adjacent to the one in which the student
9 resides, and pay only the tuition and fees applicable to a county resident that supports the
10 community college.

11 (2) For any student determined to be eligible under paragraph (1) of this
12 subsection, the Commission shall pay:

13 (i) In fiscal year 1992, 75% of any applicable out-of-county fee
14 provided that the county in which the student resides pays 25 percent of that fee; and

15 (ii) In fiscal year 1993, and each fiscal year thereafter, 50% of any
16 applicable out-of-county fee provided that the county in which the student resides pays
17 50 percent of that fee.

18 (3) The Commission may make payments to effectuate the provisions of this
19 section from funds specifically appropriated for this purpose in the State budget or any
20 supplemental budget request.

21 (f) The provisions of this section shall be subject to any reciprocal interstate
22 agreement entered into by the Maryland Higher Education Commission under §
23 11-105(1)(2) of this article.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 1996.