

SENATE BILL 165

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1999 Regular Session  
9lr0688

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By: **Senators Lawlah, Miller, Hoffman, Neall, DeGrange, Van Hollen,  
Kasemeyer, and Hogan**

Introduced and read first time: January 28, 1999  
Assigned to: Economic and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2 **Higher Education - Private Donation Incentive Program - Reestablishment**

3 FOR the purpose of reestablishing the Private Donation Incentive Program;  
4 establishing how the amount of matching funds under the Program will be  
5 determined and payments under the Program will be made; requiring that the  
6 payments to certain institutions not exceed certain amounts; establishing  
7 certain eligibility criteria; requiring certain foundations to provide certain  
8 information annually; defining certain terms; providing for the application of  
9 Program funds; prohibiting Program funds from being included in the  
10 computation of certain types of aid; providing for the administration of the  
11 Program; and generally relating to a Private Donation Incentive Program for  
12 certain institutions of higher education.

13 BY repealing and reenacting, with amendments,  
14 Article - Education  
15 Section 17-104  
16 Annotated Code of Maryland  
17 (1997 Replacement Volume and 1998 Supplement)

18 BY adding to  
19 Article - Education  
20 Section 17-301 through 17-306, inclusive, to be under the new subtitle "Subtitle  
21 3. Private Donation Incentive Program"  
22 Annotated Code of Maryland  
23 (1997 Replacement Volume and 1998 Supplement)

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

1

**Article - Education**

2 17-104.

3 (a) The Maryland Higher Education Commission shall compute the amount of  
4 the annual apportionment for each institution that qualifies under this subtitle by  
5 multiplying:

6 (1) The number of full-time equivalent students enrolled at the  
7 institution during the fall semester of the fiscal year preceding the fiscal year for  
8 which the aid apportionment is made, as determined by the Maryland Higher  
9 Education Commission times;

10 (2) An amount equal to 16 percent of the State's General Fund per  
11 full-time equivalent student appropriation to the 4-year public institutions of higher  
12 education in this State for the preceding fiscal year.

13 (b) Full-time equivalent students enrolled in seminarian or theological  
14 programs shall be excluded from the computation required by subsection (a) of this  
15 section.

16 (C) PAYMENTS OF STATE GENERAL FUNDS UNDER SUBTITLE 3 OF THIS TITLE  
17 SHALL BE EXCLUDED FROM THE COMPUTATION REQUIRED BY SUBSECTION (A) OF  
18 THIS SECTION.

19

**SUBTITLE 3. PRIVATE DONATION INCENTIVE PROGRAM.**

20 17-301.

21 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
22 INDICATED.

23 (B) "BASE YEAR" MEANS JULY 1, 1988, THROUGH JUNE 30, 1989.

24 (C) "ELIGIBLE INSTITUTION" MEANS:

25 (1) EACH PUBLIC SECTOR HIGHER EDUCATION INSTITUTION  
26 IDENTIFIED IN §§ 10-101(J) AND 12-101(4) OF THIS ARTICLE OR ITS AFFILIATED  
27 FOUNDATION; AND

28 (2) EACH COMMUNITY COLLEGE THAT RECEIVES STATE FUNDING  
29 UNDER TITLE 16, SUBTITLE 3 OF THIS ARTICLE OR ITS AFFILIATED FOUNDATION.

30 (D) (1) "ELIGIBLE PRIVATE DONOR" MEANS AN INDIVIDUAL, CORPORATION,  
31 PARTNERSHIP, OR OTHER FORM OF BUSINESS ORGANIZATION, PUBLIC OR PRIVATE  
32 FOUNDATION, OR OTHER NONPROFIT ORGANIZATION.

33 (2) "ELIGIBLE PRIVATE DONOR" DOES NOT INCLUDE THE STATE, A  
34 SUBDIVISION OF THE STATE, THE FEDERAL GOVERNMENT, OR A FOREIGN  
35 GOVERNMENT.

1 (E) "ELIGIBLE PROGRAM" MEANS AN ENDOWMENT FOR AN ACADEMIC  
2 PURPOSE THAT DOES NOT CONTAIN UNREASONABLE RESTRICTIONS AS TO USE AS  
3 FURTHER DEFINED BY THE MARYLAND HIGHER EDUCATION COMMISSION.

4 (F) "ENDOWMENT" MEANS A DONATION OR GIFT THAT HAS BEEN PROVIDED  
5 UNDER THE CONDITION THAT THE PRINCIPAL REMAIN INTACT AND BE INVESTED IN  
6 PERPETUITY FOR THE PURPOSE OF PRODUCING INCOME.

7 17-302.

8 (A) EACH ELIGIBLE INSTITUTION SHALL RECEIVE FROM THE STATE, IN THE  
9 MANNER AND SUBJECT TO THE LIMITATIONS OF THIS SUBTITLE, WITH RESPECT TO  
10 THE AMOUNTS PLEDGED BY ELIGIBLE PRIVATE DONORS AS VOLUNTARY DONATIONS  
11 AT ANY TIME DURING THE PREVIOUS FISCAL YEAR TO THE ELIGIBLE INSTITUTION  
12 FOR ELIGIBLE PROGRAMS AS FOLLOWS:

13 (1) AN AMOUNT EQUAL TO THE FIRST \$250,000 OR ANY PORTION  
14 THEREOF OF PLEDGED AMOUNTS;

15 (2) AN AMOUNT EQUAL TO ONE-HALF OF THE NEXT \$1,000,000 OR ANY  
16 PORTION THEREOF OF PLEDGED AMOUNTS; AND

17 (3) AN AMOUNT EQUAL TO ONE-THIRD OF THE AMOUNT IN EXCESS OF  
18 \$1,250,000 OR ANY PORTION THEREOF OF PLEDGED AMOUNTS.

19 (B) PAYMENTS SHALL BE MADE BY THE STATE:

20 (1) ONLY WITH RESPECT TO PLEDGED AMOUNTS THAT ARE PAID BY THE  
21 ELIGIBLE PRIVATE DONOR TO THE ELIGIBLE INSTITUTION BEFORE JULY 1, 2004; AND

22 (2) IN THE FISCAL YEAR FOLLOWING THE FISCAL YEAR DURING WHICH  
23 THE AMOUNTS ARE PAID.

24 (C) PAYMENTS BY THE STATE UNDER THIS SUBTITLE MAY NOT EXCEED:

25 (1) \$250,000 TO EACH COMMUNITY COLLEGE;

26 (2) \$1,250,000 EACH TO THE UNIVERSITY OF MARYLAND, COLLEGE PARK,  
27 AND THE UNIVERSITY OF MARYLAND, BALTIMORE; AND

28 (3) \$750,000 TO EACH OTHER ELIGIBLE INSTITUTION.

29 (D) (1) TO DETERMINE ELIGIBILITY FOR STATE PAYMENTS, EACH  
30 DONATION SHALL BE COMPARED TO THE AMOUNT DONATED DURING THE BASE  
31 YEAR. THE FOLLOWING CRITERIA SHALL BE THE BASIS FOR COMPARISON:

32 (I) EACH DONATION MUST BE FROM A NEW DONOR; OR

33 (II) EACH DONATION MUST REPRESENT AN INCREASE OVER THE  
34 AMOUNT GIVEN BY THE DONOR DURING THE BASE YEAR.

1           (2)     A DONATION RECEIVED DURING THE BASE YEAR THAT FULFILLS A  
2 PLEDGE MADE PRIOR TO THE BASE YEAR MAY NOT BE INCLUDED IN THE  
3 DETERMINATION OF THE AMOUNT DONATED DURING THE BASE YEAR.

4           (3)     EACH DONATION MUST BE SPECIFICALLY DESIGNATED AS AN  
5 ENDOWMENT.

6 17-303.

7     AN AFFILIATED FOUNDATION OF AN ELIGIBLE INSTITUTION THAT RECEIVES  
8 STATE PAYMENTS SHALL PROVIDE TO THE MARYLAND HIGHER EDUCATION  
9 COMMISSION AN ANNUAL AUDIT OF ALL PLEDGED AND PAID AMOUNTS AND THEIR  
10 SOURCES, AND A COPY OF THE ANNUAL AUDIT SHALL BE PROVIDED TO THE  
11 LEGISLATIVE AUDITOR.

12 17-304.

13     (A)     AMOUNTS PAID BY THE STATE UNDER THIS SUBTITLE MAY BE APPLIED TO  
14 ANY ELIGIBLE PROGRAM AT THE ELIGIBLE INSTITUTION TO WHICH THE PAYMENT IS  
15 MADE.

16     (B)     NO MORE THAN ONE-HALF OF THE TOTAL AMOUNT TO BE PAID BY THE  
17 STATE UNDER PROVISIONS OF THIS SUBTITLE MAY BE APPROPRIATED IN ANY  
18 FISCAL YEAR. THE PROVISIONS OF § 7-302 OF THE STATE FINANCE AND  
19 PROCUREMENT ARTICLE DO NOT APPLY TO UNUSED PROGRAM FUNDS.

20 17-305.

21     AMOUNTS PAID BY THE STATE TO AN ELIGIBLE INSTITUTION UNDER THIS  
22 SUBTITLE MAY NOT DIRECTLY OR INDIRECTLY REDUCE THE STATE GENERAL FUND  
23 OR CAPITAL FUND SUPPORT FOR THE ELIGIBLE INSTITUTION.

24 17-306.

25     THE MARYLAND HIGHER EDUCATION COMMISSION SHALL:

26           (1)     ADOPT REGULATIONS NECESSARY FOR THE ADMINISTRATION OF  
27 THIS SUBTITLE; AND

28           (2)     SUBMIT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF  
29 THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY AN ANNUAL  
30 REPORT SUMMARIZING THE TOTAL AMOUNT OF FUNDS PLEDGED BY ELIGIBLE  
31 PRIVATE DONORS AND TOTAL AMOUNT OF FUNDS RAISED.

32     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
33 July 1, 1999.