

Department of Legislative Services
Maryland General Assembly
1999 Session

FISCAL NOTE
Revised

Senate Bill 682 (The President. *et al.*)
(Administration)

Budget & Taxation and Economic & Environmental Affairs

**Higher Education - University System of Maryland - Coordination, Governance,
and Funding**

This bill modifies provisions of law relating to the University System of Maryland (USM) in accordance with the findings and recommendations of the Task Force to Study the Governance, Coordination, and Funding of the University System of Maryland.

The bill takes effect July 1, 1999. Provisions of the bill relating to program development and review procedures sunset July 1, 2002.

Fiscal Summary

State Effect: The bill establishes various goals and programs for higher education, including the following:

- Strategic incentive funding - Indeterminate cost;
- College Preparation Intervention Program - \$750,000 annually;
- Private Donation Incentive Program - \$17,120 in FY 2000, \$1.63 million in FY 2001, and \$1.64 million annually in FY 2002, 2003, 2004, and 2005; and
- Supplemental funding amounts for individual institutions.

In total, the bill calls for supplemental higher education funding (general funds) of approximately \$33.1 million in FY 2000. Approximately \$7.5 million in supplemental funding for higher education is included in the FY 2000 budget. Fully funding the goals and programs established by the bill would require a minimum of \$44.6 million in additional funding above the forecast in FY 2001.

Local Effect: No direct effect on local government finances.

Small Business Effect: A small business impact statement was not provided by the Administration in time for inclusion in this fiscal note. A revised fiscal note will be issued when the Administration's assessment becomes available.

Fiscal Analysis

Bill Summary: The bill includes provisions in the following areas:

Statewide Goals for Higher Education

- State Plan for Higher Education

The bill reaffirms the current responsibility of MHEC to conduct statewide planning for higher education and to develop and periodically update an overall State Plan for Higher Education. The bill requires MHEC to ensure that the State Plan for Higher Education complies with the State's equal educational opportunity obligations under State and federal law. In developing the State Plan for Higher Education, MHEC must incorporate specified goals and priorities for higher education. The bill also requires the Chancellor of USM to incorporate specified priorities in the overall plan for USM.

- State Conference on Higher Education

To assist in developing a strategic planning process that produces a new State Plan for Higher Education, the bill requests that the Governor convene a State Conference on Higher Education in 1999. Following the conference, MHEC shall continue to coordinate the development of the State Plan which shall be updated every two years and culminate in a State Conference for Higher Education, hosted by the Governor, to focus the public agenda on higher education.

- Strategic Incentive Funds

The bill requests that the Governor provide funds to MHEC beginning in fiscal 2001 for strategic incentive funding to distribute to institutions of higher education to encourage attainment of statewide goals and priorities. The Governor is also requested to provide funds in fiscal 2001 to the USM Board of Regents for incentive funds to encourage each constituent institution to accomplish its approved mission.

Mission Statements

The bill changes MHEC's role in the review and approval of the mission statements for all public institutions of higher education, including USM, by providing that MHEC shall review each mission statement only to determine whether it is consistent with the State Plan for Higher Education. A mission statement shall be deemed approved within 30 days of receipt unless MHEC finds it is not consistent with the State Plan for Higher Education. If MHEC determines that the mission statement is not consistent with the State Plan, the governing board and institution president must negotiate with MHEC to amend the statement or prepare a new statement.

Academic Program Approval

For a three-year period, the bill revises the procedures applicable to the development and approval of new programs that are proposed to be implemented within existing program resources by presidents of USM constituent institutions. These proposed programs must be reported to the institution's governing board and MHEC. MHEC must then notify all other State institutions of higher education. An institution's governing board is responsible for ensuring that a new program is within the scope of the institution's mission statement and within existing program resources. The USM Board of Regents must approve a proposed new program within 60 days if it meets these requirements, unless MHEC or an institution file an objection. The bill also establishes a process whereby MHEC or an institution may object to a proposed new program within 30 days based upon one of three criteria: (1) inconsistency with the institution's approved mission; (2) unreasonable program duplication which would cause demonstrable harm to another institution; or (3) violation of the State's equal educational opportunity obligations under State and federal law. If such an objection is made and cannot be resolved through negotiations with the institution, MHEC must make a final determination on approval of the new program within 30 days of receipt of the objection.

Additionally, MHEC is responsible for identifying low productivity programs. MHEC and the governing boards of the public institutions must jointly develop a definition and accepted criteria for determining low productivity programs.

Flexibility in Management Functions and Reporting Requirements

- USM as a Public Corporation

The bill changes the legal status of USM from a State agency to a public corporation and an independent unit of State government. The powers enjoyed by USM are expanded to include the acquisition of property, the management of public improvement projects, and borrowing money for any corporate purpose, including working capital for its operations. The bill authorizes the Board of Regents to establish, invest in, finance, and operate business entities when the Board finds that doing so would further the goals of USM and is related to the mission of USM.

Additionally, the bill generally exempts USM from State law governing procurement, information technology, and telecommunications. However, the bill requires Board of Public Works' approval of contracts for services or capital improvements exceeding \$500,000. Subject to review and approval by the Board of Public Works and the General Assembly's Administrative, Executive, and Legislative Review Committee, the Board of Regents of USM is required to establish procurement policies and procedures that promote the purposes of the State procurement law. USM's procurement policies must promote the purposes of Department of General Services' regulations governing the procurement of architectural and engineering services. USM is also required to purchase supplies and services, to the maximum extent practicable, from State Use Industries, Blind Industries and Services, and sheltered workshops. Additionally, the USM Board of Regents is required to develop an information technology plan for USM that is functionally compatible with the State information technology plan.

- Devolution of Management Responsibility

Current law authorizes the USM Board of Regents to delegate any part of its authority over the affairs of the institutions to the Chancellor or the presidents. Consistent with the goals, objectives, and priorities of the Board of Regents and its legal responsibility for the efficient management of USM, the bill requires the Board of Regents to delegate to the president of each constituent institution authority to make and implement policies promoting the mission of that institution. Additionally, the current appeals process for employee grievances is revised so that the president of the constituent institution which employs the aggrieved employee hears step two appeals rather than the Chancellor. For step three appeals, the bill

requires the involvement of the Chancellor, instead of the Secretary of Budget and Management. However, this authority may continue to be delegated to the Office of Administrative Hearings in accordance with the Administrative Procedures Act.

- Ethics

The bill requires the USM Board of Regents to adopt a policy by September 1, 1999, to govern the public ethics of members of the board. The policy must be consistent with the Maryland Public Ethics Law and must include a prohibition against a member of the board assisting or representing any party in any matter before the General Assembly.

- Creation of Positions With Existing Funds

Since 1995, the presidents of the USM constituent institutions have had the authority to create positions within existing funds. The total number of positions authorized is limited as specified annually in the State budget bill. The 1995 legislation included a provision terminating this authority on July 1, 1999. The bill removes the July 1, 1999 termination date and continues this authority indefinitely.

- Review of Reporting Requirements

The bill requests the Governor to appoint a group to conduct a thorough review of higher education reporting requirements with the goal of reducing the number of required reports. The group is requested to submit a report to the Governor and General Assembly by December 31, 1999.

Budget Preparation and Review

The bill revises the role of MHEC in the review and approval of the budget submitted by the USM Board of Regents. For the operating and capital budgets of the USM constituent institutions, the bill authorizes MHEC to review and comment only within the broad context of the State Plan for Higher Education. The bill prohibits MHEC from recommending against a budget item approved by the Board of Regents unless the item is clearly inconsistent with the State Plan for Higher Education.

Currently, the Board of Regents reviews, modifies as necessary, and approves consolidated operating and capital budget requests for USM. These requests are then submitted to MHEC, the Governor, and the General Assembly. The bill provides that, after the board submits the consolidated budget request, the President of the University of Maryland, College Park will have the opportunity to meet with the Governor to discuss the impact of the board's request on that institution's mission as the flagship campus.

State Funding

- Guidelines

The bill reaffirms the responsibility of MHEC to develop operating and capital budget funding guidelines based on current and aspirational peer institution comparisons and other appropriate factors. MHEC is required to develop the funding guidelines in consultation with the segments of higher education and the presidents of the public institutions.

- Fiscal 2000

Pending the development of funding guidelines by MHEC, the Governor is requested to increase the base budgets of certain USM institutions by including in a fiscal 2000 supplemental budget:

- a minimum funding level of \$5,000 per full-time equivalent student (FTES), or an additional \$500,000, whichever is greater, to each USM degree granting institution, except those institutions receiving funding under the following provisions;
- a minimum funding level of \$1,357 per FTES stateside to University of Maryland University College;
- a minimum funding level of \$12,284 per FTES to University of Maryland College Park;
- an additional \$7 million for the University of Maryland, Baltimore;
- an additional \$5 million for the University of Maryland, Baltimore County;
- an additional \$1.3 million for Bowie State University;
- an additional \$1.3 million for Coppin State University; and
- an additional \$1.3 million for University of Maryland Eastern Shore.

- Fiscal 2001

To the extent the base budgets of these institutions are not increased in a fiscal 2000 supplemental budget as requested, and if funding guidelines are not developed and operational by December 1, 1999, the Governor is requested to include in the fiscal 2001 operating budget:

- the fiscal 2000 minimum funding level of \$5,000 per FTES, adjusted for inflation in accordance with the Higher Education Price Index, or an additional \$500,000, whichever is greater, to each USM degree granting institution, except those institutions receiving funding under the following provisions;
- a minimum funding level of \$1,800 per FTES stateside to the University of Maryland University College;
- a minimum funding level of \$13,443 per FTES to the University of Maryland College Park;
- an additional \$7 million for the University of Maryland, Baltimore;
- an additional \$5 million for the University of Maryland Baltimore County;
- an additional \$1.3 million for Bowie State University;
- an additional \$1.3 million for Coppin State University; and
- an additional \$1.3 million for University of Maryland Eastern Shore.
- Fiscal 2002

If the funding guidelines are not operational by December 1, 2000, the Governor is requested to put in the fiscal 2002 operating budget and each subsequent operating budget, until the funding guidelines are developed, the fiscal 2001 minimum funding levels, adjusted annually for inflation in accordance with the Higher Education Price Index.

- Capital Funding

The bill states that the USM Board of Regents should develop a long-range capital plan for USM that identifies capital needs by project and institution for at least a ten-year period.

Private Donation Incentive Program

The bill reestablishes the Private Donation Incentive Program, under which the State will match certain amounts pledged by eligible private donors to a public institution of higher education for an endowment for an academic purpose. Each institution shall receive from the State an amount equal to the first \$250,000 of eligible pledges paid during the previous fiscal year, one-half of the next \$1,000,000 or any portion thereof, and one-third of the amount in excess of \$1,250,000. State funding is limited to \$250,000 for each community college; \$1,250,000 each for the University of Maryland, College Park and the University of Maryland, Baltimore; and \$750,000 for each other institution. The donations must be from a new donor or represent an increase over the amount given by the donor in fiscal 1998. Eligible institutions include the 22 community college campuses. Payments must be made by the State only with respect to pledged amounts which are paid by the eligible private donor to the eligible institution before July 1, 2004.

College Preparation Intervention Program

The bill reestablishes the College Preparation Intervention Program which was in effect from 1989 to 1992. The purpose of the program is to raise the level of academic preparedness of disadvantaged students to enable them to attend and succeed in college. The bill requires the Governor to include at least \$750,000 in general funds in the annual budget for the program.

State Expenditures:

Strategic Incentive Funding

The bill does not specify amounts for strategic incentive funding. MHEC could administer its strategic incentive funding process with existing resources and personnel.

Procurement Exemption

Although the bill removes USM from the Board of Public Works' traditional authority over procurements, board involvement with USM procurement transactions is still required in two ways. First, the board is required to review and approve the procurement policies and procedures to be developed by USM. Second, the board must review and approve all contracts that exceed \$500,000 for services or capital improvements.

The bill should have minimal fiscal impact on the operations of the Board of Public Works. While many items will no longer appear on the board's agenda, the board will still review the many USM items that exceed \$500,000. In addition, board staff will work with USM staff to develop and implement the procurement policies and procedures.

The bill is not expected to have a fiscal impact on the Department of General Services.

College Preparation Intervention Program

The bill requires an appropriation of at least \$750,000 in general funds to be included in the annual budget for this program. MHEC could administer the program with existing staff and resources.

Private Donation Incentive Program

The Private Donation Incentive Program (PDIP) was previously effective from July 1, 1989 through June 30, 1997.

If each eligible institution (22 community colleges, UMCP, University of Maryland, Baltimore, and 11 other institutions) were to qualify for the maximum matching amount under the program, general fund expenditures would increase by \$8,125,000 over the life of the program. During the prior effective period of PDIP, the State funded almost \$13 million. The table below assumes that the maximum funding amount is paid out equally over the five-year period from fiscal 2001 through 2005.

Private Donation Incentive Program - Estimated Costs (General Funds)

<u>FY 2000</u>	<u>FY 2001</u>	<u>FY 2002</u>	<u>FY 2003</u>	<u>FY 2004</u>	<u>FY 2005</u>
\$17,120	\$1.63 million	\$1.64 million	\$1.64 million	\$1.64 million	\$1.64 million

MHEC would incur an estimated \$17,120 in administrative expenses in fiscal 2000, which includes a salary for a part-time contractual employee to administer the program, supplies, and one-time equipment purchases. Future year administrative expenditures increase with inflation.

Supplemental Funding

- Fiscal 2000

Based upon the allowances contained in the Governor's proposed fiscal 2000 budget, Towson University and Salisbury State University fell below the \$5,000 per FTES funding

level. The table below shows the supplemental funding amounts necessary to bring Towson University and Salisbury State up to a \$5,000 per FTES level in fiscal 2000.

	<u>Towson</u>	<u>Salisbury State</u>
FY 2000 FTES	12,610	5,060
GF/FTES Target	\$5,000	\$5,000
Total GF Needed to Reach Target	\$63,050,000	\$25,300,000
FY 2000 Initial GF Allowance	\$57,770,073	\$24,371,400
Cost in FY 2000 to Reach Target (GF)	\$5,279,927	\$928,600

GF = General Funds

The table below shows the supplemental funding amount necessary to bring UMCP up to a \$12,284 per FTES level in fiscal 2000.

	<u>UMCP</u>
FY 2000 FTES	25,235
GF/FTES Target	\$12,284
Total GF Needed to Reach Target	\$309,986,740
FY 2000 Initial GF Allowance	\$300,138,791
Cost in FY 2000 to Reach Target (GF)	\$9,847,949

GF = General Funds

The fiscal 2000 budget contains an appropriation of \$10,589,937 for UMUC. At this funding level, the bill's requirement of a minimum funding level of \$1,357 per FTES stateside for UMUC in fiscal 2000 would be met.

Frostburg University and the University of Baltimore would each receive \$500,000 under the bill, because those institutions exceed the minimum funding level of \$5,000 per FTES.

Exhibit 1 shows the additional funding amounts requested in the bill for fiscal 2000, compared to additional funding amounts contained in the fiscal 2000 budget.

- Fiscal 2001

Exhibit 1 also shows fiscal 2001 additional funding amounts requested in the bill as compared to the fiscal 2001 forecast (based upon the Administration's most recent forecast of higher education funding for fiscal 2001, adjusted by the supplemental funding amounts contained in the fiscal 2000 budget). The last column shows the total fiscal 2001 increase over fiscal 2000 required to fund both the Administration's January forecast and the additional amounts for higher education requested under the bill. Fiscal 2001 figures assume that funding guidelines are not developed and operational by December 1999.

State funding amounts for community colleges (Cade formula), nonpublic institutions (Sellinger formula), and Baltimore City Community College in any given year are dependent on funding amounts for certain public institutions for the previous fiscal year. Therefore, providing the additional funding requested under this legislation will increase State support for community colleges, nonpublic institutions, and Baltimore City Community College.

State Conference on Higher Education

MHEC estimates that the total costs of the conference, including food and conference materials, would be \$4,000 in fiscal 1999, \$4,100 in fiscal 2001, and \$4,203 in fiscal 2003. MHEC would not require additional staff to coordinate the conference.

Other

It is expected that the bill's remaining requirements could be met using the existing resources of the affected agencies and institutions.

Information Source(s): Board of Public Works; Department of Budget and Management; Department of General Services; Department of Public Safety and Correctional Services (Division of Correction, State Use Industries); Maryland Higher Education Commission; University System of Maryland; Department of Legislative Services

Fiscal Note History: First Reader - February 26, 1999
ncs/jr Revised - Senate Third Reader - April 2, 1999
Revised - Enrolled Bill - May 5, 1999

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Exhibit 1

Provision	FY 2000 Additional Funding Requested in Bill	FY 2000 Additional Funding Contained in Budget	FY 2001 Additional Funding Requested in Bill Above FY 2001 Forecast*	FY 2001 Additional Funding Requested in Bill Above FY 2000 Budget
Strategic Incentive Funding	unspecified	\$0	unspecified	unspecified
College Preparation Intervention Program	\$150,000	\$150,000	\$750,000	\$750,000
Private Donation Incentive Program	\$0	\$0	\$1,630,000	\$1,630,000
\$5,000 Floor for Towson University	\$5,279,927	\$1,215,235	\$5,483,329	\$8,496,692
\$5,000 Floor for Salisbury State Univ.	\$928,600	\$214,141	\$431,941	\$1,687,934
Floor for UMCP	\$9,847,949	\$2,263,597	\$22,165,415	\$36,898,932
Floor for UMUC	\$0	\$0	\$874,863	\$3,874,863
University of Maryland, Baltimore	\$7,000,000	\$1,610,012	\$5,389,988	\$6,551,127
University of Maryland Baltimore County	\$5,000,000	\$1,150,009	\$3,849,991	\$6,893,765
Bowie State University	\$1,300,000	\$300,000	\$1,000,000	\$1,955,836
Coppin State College	\$1,300,000	\$300,000	\$1,000,000	\$1,824,300
University of Maryland Eastern Shore	\$1,300,000	\$300,000	\$1,000,000	\$2,052,057
Frostburg University	\$500,000	\$0	\$500,000	\$1,768,165
University of Baltimore	\$500,000	\$0	\$500,000	\$1,661,139
Total	\$33,106,476	\$7,504,994	\$44,575,527	\$76,044,810

*FY 2001 Forecast is based upon the Administration's most recent forecast of higher education funding for FY 2001, adjusted by the supplemental funding amounts contained in the FY 2000 budget. Per institution funding amounts for the fiscal 2001 forecast were based on each institution's percentage share of fiscal 2000 funding.

Prepared by: Department of Legislative Services, Office of Policy Analysis, April 1999