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By: **Senator Neall**

Introduced and read first time: February 2, 2001

Assigned to: Budget and Taxation

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A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Health and Higher Educational Facilities Authority - Community**  
3 **Colleges - Tax Exempt Financing**

4 FOR the purpose of modifying a certain defined term under the Maryland Health and  
5 Higher Educational Facilities Authority (MHHEFA) Act to provide that it  
6 includes certain community colleges; authorizing the boards of trustees of  
7 certain community colleges to finance or refinance the costs of certain projects  
8 by entering into a certain type of agreement with MHHEFA; requiring the board  
9 of trustees and the governing body of each county that supports the community  
10 college to adopt a certain type of resolution before the board of trustees issues a  
11 note or other evidence of obligation pursuant to an agreement with MHHEFA;  
12 providing that a resolution adopted by a board of trustees or governing body  
13 under this Act is not subject to procedures required for legislative acts or to  
14 referendum; providing that an agreement with MHHEFA may include certain  
15 provisions; providing that the principal amount of a note or other evidence of  
16 obligation issued under this Act, the interest payable on the note or other  
17 evidence of obligation, the transfer of the note or other evidence of obligation,  
18 and any income derived from the transfer of a note or other evidence of  
19 obligation is exempt from taxation by the State and any county or municipality  
20 in the State; providing that a note or other evidence of obligation issued under  
21 this Act does not create or constitute a debt or obligation of the State or any  
22 county or municipality of the State, does not constitute a debt of the General  
23 Assembly, and does not pledge the faith and credit of the State; requiring the  
24 State Comptroller, at MHHEFA's request, to withhold certain funds due to a  
25 board of trustees and deposit the withheld funds to the credit of a certain  
26 sinking fund; and generally relating to MHHEFA and community colleges.

27 BY repealing and reenacting, with amendments,  
28 Article 43C - Maryland Health and Higher Educational Facilities Authority  
29 Section 3(f)(1)  
30 Annotated Code of Maryland  
31 (1998 Replacement Volume and 2000 Supplement)

32 BY adding to  
33 Article - Education

1 Section 16-302.1  
2 Annotated Code of Maryland  
3 (1999 Replacement Volume and 2000 Supplement)

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

6 **Article 43C - Maryland Health and Higher Educational Facilities Authority**

7 3.

8 As used in this article, the following words and terms shall have the following  
9 meanings unless the context indicates another or different meaning or intent:

10 (f) (1) (I) "Institution for higher education" shall mean an educational  
11 institution situated within the State which by virtue of law or charter is a public or  
12 other nonprofit educational institution empowered to provide a program of education  
13 beyond the high school level and awards a bachelor's or advanced degree or provides  
14 a program of not less than two (2) years' duration which is accepted for full credit  
15 toward a bachelor's degree, and which meets the standards, rules and regulations  
16 prescribed by the Maryland Higher Education Commission and is thereby empowered  
17 to issue a certificate, diploma or degree pursuant to Title 12 of the Education Article  
18 of the Maryland Code. [This] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
19 PARAGRAPH, THIS term shall not mean any institution owned and operated by the  
20 State.

21 (II) "INSTITUTION FOR HIGHER EDUCATION" INCLUDES:

22 1. A COMMUNITY COLLEGE FOR WHICH A BOARD OF  
23 COMMUNITY COLLEGE TRUSTEES IS ESTABLISHED UNDER § 16-101 OF THE  
24 EDUCATION ARTICLE;

25 2. A REGIONAL COMMUNITY COLLEGE ESTABLISHED UNDER  
26 § 16-202 OF THE EDUCATION ARTICLE;

27 3. THE BALTIMORE CITY COMMUNITY COLLEGE  
28 ESTABLISHED UNDER § 16-501 OF THE EDUCATION ARTICLE; AND

29 4. THE COLLEGE OF SOUTHERN MARYLAND ESTABLISHED  
30 UNDER § 16-603 OF THE EDUCATION ARTICLE.

31 **Article - Education**

32 16-302.1.

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

1 (2) "AUTHORITY" MEANS THE MARYLAND HEALTH AND HIGHER  
2 EDUCATIONAL FACILITIES AUTHORITY ESTABLISHED UNDER ARTICLE 43C OF THE  
3 CODE.

4 (3) "BOARD" MEANS:

5 (I) A BOARD OF COMMUNITY COLLEGE TRUSTEES ESTABLISHED  
6 UNDER § 16-101 OF THIS ARTICLE;

7 (II) A BOARD OF REGIONAL COMMUNITY COLLEGE TRUSTEES  
8 ESTABLISHED UNDER § 16-202 OF THIS ARTICLE;

9 (III) THE BOARD OF TRUSTEES OF THE BALTIMORE CITY  
10 COMMUNITY COLLEGE ESTABLISHED UNDER § 16-504 OF THIS ARTICLE; AND

11 (IV) THE BOARD OF TRUSTEES OF THE COLLEGE OF SOUTHERN  
12 MARYLAND ESTABLISHED UNDER § 16-604 OF THIS ARTICLE.

13 (4) "COST" MEANS THE COST OF:

14 (I) ACQUISITION OF A PROJECT OR ANY INTEREST IN A PROJECT;

15 (II) INSTALLATION OF A PROJECT, INCLUDING ANY DEMOLITION,  
16 CONSTRUCTION, RECONSTRUCTION, OR RENOVATION DIRECTLY RELATED TO A  
17 PROJECT;

18 (III) FINANCING CHARGES ASSOCIATED WITH A PROJECT;

19 (IV) INTEREST BEFORE AND DURING ACQUISITION OF A PROJECT  
20 AND, IF DEEMED ADVISABLE BY THE BOARD, FOR A PERIOD OF UP TO 1 YEAR AFTER  
21 COMPLETION OF ACQUISITION OF A PROJECT;

22 (V) INTEREST AND RESERVES FOR PRINCIPAL AND INTEREST AND  
23 FOR MAINTENANCE AND REPAIR OF A PROJECT;

24 (VI) ARCHITECTURAL, ENGINEERING, FINANCIAL, AND LEGAL  
25 SERVICES ASSOCIATED WITH A PROJECT;

26 (VII) PLANS, SPECIFICATIONS, STUDIES, SURVEYS, AND ESTIMATES  
27 OF COSTS AND REVENUES FOR A PROJECT;

28 (VIII) ADMINISTRATIVE EXPENSES NECESSARY OR INCIDENT TO  
29 DETERMINING THE FEASIBILITY OR PRACTICABILITY OF A PROJECT; AND

30 (IX) OTHER EXPENSES THAT ARE NECESSARY OR INCIDENT TO THE  
31 ACQUISITION OF A PROJECT, THE FINANCING OR REFINANCING OF THE  
32 ACQUISITION OF A PROJECT, AND THE PLACING OF A PROJECT IN OPERATION.

33 (5) "GOVERNING BODY" MEANS:

1 (I) THE COUNTY COUNCIL OF A COUNTY WITH A CHARTER FORM  
2 OF GOVERNMENT ESTABLISHED UNDER ARTICLE XI-A OF THE MARYLAND  
3 CONSTITUTION; OR

4 (II) THE BOARD OF COUNTY COMMISSIONERS OF ANY OTHER  
5 COUNTY.

6 (6) "NOTE" MEANS A NOTE, BOND, LEASE, PURCHASE AGREEMENT, OR  
7 OTHER EVIDENCE OF OBLIGATION.

8 (7) (I) "PROJECT" MEANS EQUIPMENT, MACHINERY, AND OTHER  
9 PERSONAL PROPERTY, WHETHER OR NOT IN THE NATURE OF FIXTURES, ESSENTIAL  
10 OR CONVENIENT FOR THE OPERATION OF A COMMUNITY COLLEGE.

11 (II) "PROJECT" INCLUDES LICENSES AND OTHER RIGHTS ACQUIRED  
12 BY A BOARD FOR THE USE OF EQUIPMENT, MACHINERY, AND OTHER PERSONAL  
13 PROPERTY DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH.

14 (B) A BOARD MAY FINANCE OR REFINANCE THE COSTS OF A PROJECT BY  
15 ENTERING INTO AN AGREEMENT WITH THE AUTHORITY THAT IS EVIDENCED BY A  
16 NOTE OR NOTES ISSUED BY THE BOARD IF, PRIOR TO THE ISSUANCE OF ANY NOTE,  
17 THE BOARD AND THE GOVERNING BODY OF EACH COUNTY THAT SUPPORTS A  
18 COMMUNITY COLLEGE GOVERNED BY THE BOARD ADOPTS A RESOLUTION THAT  
19 MEETS THE REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION.

20 (C) (1) PRIOR TO THE ISSUANCE OF ANY NOTE UNDER THIS SECTION, A  
21 BOARD AND THE GOVERNING BODY OF EACH COUNTY THAT SUPPORTS A  
22 COMMUNITY COLLEGE GOVERNED BY THE BOARD SHALL EACH ADOPT A  
23 RESOLUTION THAT AUTHORIZES THE BOARD TO FINANCE OR REFINANCE THE COSTS  
24 OF A PROJECT BY ENTERING INTO AN AGREEMENT WITH THE AUTHORITY.

25 (2) THE RESOLUTION SHALL:

26 (I) GENERALLY DESCRIBE THE PROJECT TO BE FINANCED OR  
27 REFINANCED;

28 (II) SPECIFY THE MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF  
29 ANY NOTE ISSUED PURSUANT TO THE AGREEMENT; AND

30 (III) IMPOSE ANY TERMS OR CONDITIONS ON THE ISSUANCE OF A  
31 NOTE THAT THE BOARD OR GOVERNING BODY DEEMS APPROPRIATE.

32 (3) A RESOLUTION ADOPTED UNDER THIS SUBSECTION IS  
33 ADMINISTRATIVE IN NATURE AND NOT SUBJECT TO:

34 (I) PROCEDURES REQUIRED FOR LEGISLATIVE ACTS; OR

35 (II) REFERENDUM.

1 (D) (1) A BOARD MAY ENTER INTO ANY AGREEMENT NECESSARY OR  
2 APPROPRIATE IN CONNECTION WITH THE ISSUANCE OF ANY NOTE, INCLUDING AN  
3 AGREEMENT TO PROVIDE:

4 (I) ADDITIONAL CREDIT OR LIQUIDITY SUPPORT FOR A NOTE OR A  
5 BOND ISSUED BY THE AUTHORITY ON ITS BEHALF; AND

6 (II) A FIXED INTEREST RATE OR MAXIMUM INTEREST RATE FOR A  
7 VARIABLE RATE NOTE OR A BOND ISSUED BY THE AUTHORITY ON ITS BEHALF.

8 (2) IF THE BOARD ENTERS INTO AN AGREEMENT AUTHORIZED UNDER  
9 PARAGRAPH (1) OF THIS SUBSECTION, THE AGREEMENT MAY INCLUDE PROVISIONS  
10 THAT:

11 (I) GRANT A SECURITY INTEREST IN A PROJECT FOR WHICH A  
12 NOTE IS ISSUED OR PLEDGE ALL OR PART OF THE FEES, CHARGES, AND OTHER  
13 REVENUES RECEIVED FROM OR IN CONNECTION WITH A PROJECT TO THE PAYMENT  
14 OF A NOTE;

15 (II) ALLOW FOR THE INVESTMENT AND REINVESTMENT OF THE  
16 PROCEEDS OF A NOTE UNTIL THE PROCEEDS ARE USED FOR THE PURPOSES FOR  
17 WHICH THE NOTE WAS ISSUED;

18 (III) GOVERN THE DISPOSITION OF ANY EXCESS PROCEEDS AND  
19 THE INVESTMENT EARNINGS ON ANY EXCESS PROCEEDS; AND

20 (IV) REQUIRE THAT THE BOARD OPERATE AND MAINTAIN ALL OR A  
21 PORTION OF THE PROJECT REGARDLESS OF WHETHER THE FEES, CHARGES, AND  
22 OTHER REVENUES RECEIVED FROM OR IN CONNECTION WITH THE PROJECT ARE  
23 SUFFICIENT TO COVER THE COST OF OPERATING OR MAINTAINING ALL OR A  
24 PORTION OF THE PROJECT.

25 (E) (1) THE BOARD SHALL SPECIFY OR AUTHORIZE THE CHAIRMAN OR  
26 OTHER MEMBER OF THE BOARD TO SPECIFY:

27 (I) THE PRINCIPAL AMOUNT OF A NOTE;

28 (II) THE RATE OR RATES OF INTEREST PAYABLE ON A NOTE OR THE  
29 METHOD OF DETERMINING THE RATE OR RATES OF INTEREST PAYABLE ON A NOTE;

30 (III) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE DATE  
31 OF MATURITY OF A NOTE, THE PAYMENT PROVISIONS OF A NOTE, AND THE  
32 OPTIONAL AND MANDATORY PREPAYMENT PROVISIONS OF A NOTE, INCLUDING ANY  
33 MANDATORY SINKING FUND INSTALLMENTS FOR THE NOTE; AND

34 (IV) OTHER MATTERS, DETAILS, FORMS, DOCUMENTS, AND  
35 PROCEDURES RELATING TO THE AUTHORIZATION, ISSUANCE, EXECUTION, SALE,  
36 DELIVERY, AND PAYMENT OF A NOTE AND THE SECURITY FOR A NOTE.

1           (2)       THE DATE OF MATURITY FOR A NOTE MAY NOT EXCEED THE USEFUL  
2 LIFE OF THE PROJECT FOR WHICH THE NOTE IS ISSUED.

3       (F)       (1)       A NOTE SHALL BE EXECUTED ON BEHALF OF THE BOARD BY THE  
4 MANUAL OR FACSIMILE SIGNATURE OF THE CHAIRMAN OF THE BOARD OR OTHER  
5 MEMBER OF THE BOARD AUTHORIZED BY RESOLUTION OF THE BOARD.

6           (2)       IF THE INDIVIDUAL WHOSE SIGNATURE OR COUNTERSIGNATURE  
7 APPEARS ON A NOTE CEASES TO BE A MEMBER OF THE BOARD BEFORE DELIVERY OF  
8 THE NOTE, THE INDIVIDUAL'S SIGNATURE OR COUNTERSIGNATURE SHALL BE VALID  
9 AND SUFFICIENT FOR ALL PURPOSES THE SAME AS IF THE INDIVIDUAL HAD  
10 REMAINED A MEMBER OF THE BOARD UNTIL DELIVERY.

11       (G)       THE PRINCIPAL AMOUNT OF A NOTE, THE INTEREST PAYABLE ON A NOTE,  
12 THE TRANSFER OF A NOTE, AND ANY INCOME DERIVED FROM THE TRANSFER OF A  
13 NOTE, INCLUDING ANY PROFIT MADE ON THE SALE OR TRANSFER OF A NOTE, SHALL  
14 BE EXEMPT FROM TAXATION BY THE STATE AND ANY COUNTY OR MUNICIPALITY IN  
15 THE STATE.

16       (H)       A NOTE ISSUED UNDER THIS SECTION DOES NOT CREATE OR CONSTITUTE  
17 A DEBT OR OBLIGATION OF THE STATE OR ANY COUNTY OR MUNICIPALITY IN THE  
18 STATE AND DOES NOT CONSTITUTE A DEBT OR OBLIGATION OF THE GENERAL  
19 ASSEMBLY OR PLEDGE THE FAITH AND CREDIT OF THE STATE WITHIN THE MEANING  
20 OF ARTICLE III, § 34 OF THE MARYLAND CONSTITUTION.

21       (I)       IF REQUESTED BY THE AUTHORITY, THE STATE COMPTROLLER SHALL  
22 WITHHOLD FROM ANY INSTALLMENT DUE THE BOARD FROM THE STATE'S GENERAL  
23 FUND APPROPRIATION MONEYS FOR DEPOSIT TO THE CREDIT OF A SINKING FUND  
24 MAINTAINED TO PAY A NOTE IN AN AMOUNT UP TO THE TOTAL AMOUNT PAYABLE ON  
25 THE NOTE AND ANY AGREEMENTS ENTERED INTO IN ACCORDANCE WITH THIS  
26 SECTION IN THE CURRENT FISCAL YEAR AND THE NEXT SUCCEEDING FISCAL YEAR.

27       (J)       THIS SECTION PROVIDES ADDITIONAL, ALTERNATIVE, AND  
28 SUPPLEMENTAL AUTHORITY IN RELATION TO POWERS CONFERRED UPON A BOARD  
29 UNDER ANY OTHER EXISTING LAW AND MAY NOT BE REGARDED AS IN DEROGATION  
30 OF OR AS A LIMITATION TO ANY EXISTING POWER OF A BOARD.

31       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 October 1, 2001.