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FISCAL AND POLICY NOTE
Revised

House Bill 253
Ways and Means

(Delegate Hixson, *et al.*)

Education, Health, and Environmental Affairs

Higher Education - Resident Tuition Charges - Immigrant Students and United States Military Personnel and Dependents

This bill allows specific categories of immigrants, U.S. armed forces personnel and their dependants and spouses, and honorably discharged veterans of the U.S. armed forces to qualify for resident tuition rates at Maryland's public institutions of higher education.

The bill is effective July 1, 2003.

Fiscal Summary

State Effect: General fund expenditures for the Senator John A. Cade funding formula would increase beginning in FY 2006 due to increased enrollments of in-state students at community colleges. Tuition revenues at public institutions of higher education could increase minimally beginning in FY 2004 due to a potential increase in the number of students accepted at some institutions.

Local Effect: Community college revenues from State aid would increase beginning in FY 2006. Net community college tuition revenues would not be affected.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill exempts an individual other than a nonimmigrant alien from paying nonresident tuition at a public institution of higher education in Maryland if the individual: (1) attended a secondary school in Maryland for at least three years; (2)

graduated from a high school in the State or received the equivalent of a high school diploma in the State; (3) registers as an entering student at the institution no earlier than the 2003 fall semester; (4) provides an affidavit stating that the individual will file for permanent residency within 30 days after becoming eligible to do so; and (5) makes application to the institution not later than five years after graduating from high school or receiving the equivalent of a high school diploma. An institution may not award a degree to a student who qualifies for resident tuition charges in this fashion until the student files the required affidavit or pays the difference between nonresident and resident tuition charges.

The bill also exempts an active duty member of the U.S. armed forces from nonresident tuition at a Maryland public institution of higher education. To qualify, the member must be stationed in Maryland, reside in Maryland, or be domiciled in Maryland. The exemption also applies to the spouse or financially dependent child of a qualified member of the U.S. armed forces. In addition, an honorably discharged veteran of the U.S. armed forces is eligible for resident tuition if the veteran attended a Maryland secondary school for at least three years and graduated from high school in Maryland or received the equivalent of a high school diploma in the State. To qualify, a veteran must provide documentation supporting eligibility within one year of discharge from the armed forces.

The Maryland Higher Education Commission must adopt regulations to implement the bill.

Current Law: For institutions within the University System of Maryland (USM), the Board of Regents sets tuition policies, including the determination of which students are eligible for resident tuition. The current policy requires students to be identified as permanent residents of Maryland to qualify for resident tuition, meaning they have lived continuously in the State for at least 12 months immediately prior to attendance at a USM institution. An individual who is residing in Maryland primarily for the purpose of attending an educational institution is not considered a permanent resident. The USM policy also allows an active duty member of the U.S. armed forces who resides in Maryland or is stationed in Maryland to qualify for in-state tuition rates. The spouse or dependent child of a qualified member of the armed forces is also eligible for resident tuition. Undocumented immigrants are considered nonresidents for tuition purposes regardless of how long they have lived in Maryland.

For Morgan State University and St. Mary's College of Maryland, the institutions' boards of trustees set tuition policies. The policies for the institutions are very similar to the USM policies. Both institutions require one year of residence in Maryland to qualify for in-state tuition rates. Like USM institutions, Morgan State University and St. Mary's

College of Maryland provide resident tuition benefits to active duty military personnel and their immediate families.

Tuition policies at community colleges are set by COMAR regulations and the boards of trustees for the colleges. There are three levels of tuition at community colleges: in-county, out-of-county, and out-of-state. In general, there is a three-month residency requirement for community colleges. Immigrants are eligible for in-county tuition rates if they have the legal capacity to establish domicile in Maryland. Military personnel domiciled in Maryland or stationed in Maryland are considered State residents, as are their dependants. An individual who is considered a Maryland resident for tuition purposes at a community college is included in the count used to determine State aid to the college.

Background: Laws aimed at allowing undocumented immigrants to pay in-state tuition rates at public institutions of higher education have been enacted within the last two years in California, New York, Texas, and Utah. In addition, bills with similar intentions have been introduced in at least eight other states. The first laws addressing the issue, both enacted in 2001, were passed in California and Texas. Similar to this bill, the California law requires an individual to have lived in the State for three years while attending a State high school to qualify for in-state tuition. The Texas law requires three years of residency in the State and graduation from a Texas high school to qualify. In contrast, the Virginia General Assembly passed legislation this year that specifically excludes undocumented aliens from qualifying for in-state tuition rates.

Public elementary and secondary schools are required by federal law to accept undocumented immigrants, and students are accepted at institutions of higher education regardless of their residency statuses. However, a federal immigration law passed in 1996 prohibits undocumented immigrants from obtaining a postsecondary education benefit that U.S. citizens cannot obtain, including in-state tuition rates. Both Texas and California struggled with concerns about conflicts with the federal law but were able to craft legislation that based eligibility on where a student went to high school, not residency status.

The differences between in-state and out-of-state undergraduate tuition rates at Maryland's four-year public institutions of higher education are shown in **Exhibit 1**. Fiscal 2002 in-county, out-of-county, and out-of-state tuition rates for community colleges are shown in **Exhibit 2**.

Exhibit 1
Annual Tuition Rates for Full-time Undergraduate Students
Based on Spring 2003 Rates

	<u>In-state</u>	<u>Out-of-state</u>	<u>Difference</u>
USM Institutions			
Bowie	\$3,258	\$9,995	\$6,737
Coppin State	2,877	8,286	5,409
Frostburg	3,814	9,910	6,096
Salisbury	3,564	9,498	5,934
Towson	3,994	11,714	7,720
Univ. of Baltimore	4,082	13,291	9,209
UM - Balt County	4,844	11,338	6,494
UM - College Park	4,800	14,002	9,202
UM - Eastern Shore	3,181	7,945	4,764
Other Four-year Public Institutions			
Morgan State	\$3,220	\$9,640	\$6,420
St. Mary's College	6,925	12,260	5,335

Exhibit 2
Annual Tuition Rates at Community Colleges in Maryland
Fiscal 2002 Rates

College	<u>In-county</u>	<u>Out-of-county</u>	<u>Out-of-state</u>
Allegany	\$2,550	\$5,010	\$5,580
Anne Arundel	1,800	3,450	6,120
Baltimore City	1,800	1,800	4,500
Baltimore County	2,040	3,630	5,280
Carroll	2,250	3,840	5,850
Cecil	1,950	4,650	6,000
Chesapeake	1,950	2,820	3,870
Southern MD	2,250	4,380	5,790
Frederick	2,220	4,800	6,660
Garrett	2,280	4,320	5,610
Hagerstown	2,220	3,570	4,680
Harford	1,950	3,900	5,850
Howard	2,430	5,340	6,690
Montgomery	2,220	4,590	6,000
Prince George's	2,250	4,200	6,660
Wor-Wic	1,770	4,410	5,190

State Revenues: The bill encompasses four distinct groups of individuals: undocumented immigrants, active duty members of the U.S. armed forces, the spouses and dependants of active duty members of the U.S. armed forces, and veterans of the U.S. armed forces who have been honorably discharged within the last 12 months. Providing resident tuition benefits to these individuals could increase tuition revenues minimally at the State's four-year public institutions of higher education due to a potential increase in the number of students enrolling in the colleges. The four groups addressed in the legislation are discussed individually below.

Undocumented Immigrants

Under current law, undocumented immigrants are not eligible for in-state tuition rates because they are unable to establish legal domicile in Maryland. Although the bill allows more students to qualify for in-state tuition rates, tuition revenues at public institutions of higher education in Maryland would not decrease. This assessment is based on the following information.

- The expanded definition of in-state student would not affect students currently enrolled in public institutions of higher education. These students would continue to pay out-of-state tuition rates. The bill only affects students entering institutions in fall 2003 or later.
- Institutions of higher education would retain control over their existing admissions processes. Public institutions accept relatively stable proportions of in-state students from one year to the next, and this practice would not be altered by the bill. The pool of eligible in-state applicants would increase somewhat, but institutions would not be required to accept a greater percentage of in-state students.

For institutions that are trying to attract additional students, the bill could result in an increase in tuition revenues beginning in fiscal 2004. Under current law, the high cost of out-of-state tuition may discourage some individuals from applying to Maryland colleges and universities. To the extent that expanding the pool of candidates who qualify for in-state tuition increases the number of eligible applicants, tuition revenues could increase for institutions that are trying to boost their enrollments. Most of Maryland's public four-year institutions are planning for enrollment increases in the coming years.

Active Duty Members of the U.S. Armed Forces

All four-year public institutions of higher education in Maryland already offer resident tuition benefits to active duty armed forces personnel who reside in Maryland, are domiciled in Maryland, or are stationed in Maryland. Establishing the policy in State law, therefore, would have no impact on tuition revenues.

Spouses and Dependents of Active Duty Members of the U.S. Armed Forces

All four-year public institutions of higher education in Maryland already offer resident tuition benefits to the spouses and financially dependent children of active duty armed forces personnel who reside in Maryland, are domiciled in Maryland, or are stationed in Maryland. Establishing the policy in State law, therefore, would have no impact on tuition revenues.

Honorably Discharged Veterans of the U.S. Armed Forces

Under current law, honorably discharged veterans qualify for resident tuition the same way that other individuals qualify, meaning they have to establish residency in Maryland for one year before they are eligible for in-state rates. The bill allows a veteran to qualify for in-state tuition immediately after an honorable discharge if the veteran attended a Maryland high school and graduated from high school in Maryland. Providing resident tuition benefits to these veterans could reduce tuition revenues minimally in fiscal 2004, depending on the number of qualifying veterans who are currently enrolled at public institutions of higher education. There would be no impact on tuition revenues after fiscal 2004. This assessment is based on the following information.

- Unlike undocumented immigrants, the bill does not limit the eligibility of veterans to those who are entering institutions in fall 2003 or later. There may be some veterans who are currently enrolled as out-of-state students who would be eligible for resident tuition in the 2003-2004 academic year under the bill. However, the number of veterans qualifying through the bill who would not otherwise qualify for in-state tuition rates is expected to be small, and any impact on tuition revenues should be minimal.
- Institutions of higher education retain control over their existing admissions processes. Including specific categories of honorably discharged veterans in the pool of resident candidates could increase applications from qualifying in-state students, but institutions would not be required to accept greater numbers or proportions of in-state applicants.

State Expenditures: State aid to community colleges would be affected by the legislation. The Senator John A. Cade funding formula determines aid to community colleges based on full-time equivalent (FTE) student enrollment counts from the second prior fiscal year. By regulation, only qualified Maryland residents are included in FTE enrollment counts. Beginning in fiscal 2004, the bill would expand the definition of Maryland resident to include certain undocumented immigrants and honorably discharged veterans. This would result in increased State aid to community colleges beginning in fiscal 2006. Aid per pupil under the Cade formula is estimated at \$2,113 in fiscal 2006, \$2,144 in fiscal 2007, and \$2,176 in fiscal 2008. It is not known how many additional community college students would be included in Cade formula FTE counts as a result of this legislation.

Local Fiscal Effect: Unlike public institutions of higher education, community colleges accept all applicants. Therefore, the colleges could incur a reduction in tuition revenues beginning in fiscal 2004 because more students would be eligible for in-state tuition rates under the bill. The difference between in-county and out-of-state community college tuition rates averaged approximately \$4,500 in fiscal 2002. Like the four-year institutions, community colleges could also realize an increase in tuition revenues if lower tuition rates encourage more students to apply to the colleges. It is assumed that these competing effects would result in a negligible net impact on community college tuition revenues.

Beginning in fiscal 2006, community colleges would receive additional State aid under the Senator John A. Cade funding formula for each additional student who attends a college and qualifies as a Maryland resident. Formula aid per FTE student is estimated at \$2,113 in fiscal 2006, \$2,144 in fiscal 2007, and \$2,176 in fiscal 2008.

Additional Information

Prior Introductions: A bill that would have applied exclusively to undocumented immigrants was introduced in 2002 as HB 426. The bill passed in the House with amendments that would have limited its application to community colleges. The bill was not reported out of the Senate Education, Health, and Environmental Affairs Committee.

Cross File: SB 520 (Senators Britt and Grosfeld) – Education, Health, and Environmental Affairs.

Information Source(s): University System of Maryland, Maryland Higher Education Commission, Morgan State University, St. Mary's College of Maryland, Maryland

Association of Community Colleges, Montgomery College, Department of Legislative Services

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