

ENROLLED BILL

-- Appropriations/Education, Health, and Environmental Affairs --

Introduced by **Delegates Boschert, Frush, Menes, and Moe**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Higher Education - University of Maryland University College - Governing**
3 **Authority**

4 FOR the purpose of establishing that the University of Maryland University College
5 is an instrumentality of the State; providing that the exercise of certain powers
6 by the University of Maryland University College is for a certain purpose;
7 ~~establishing that the Maryland Tort Claims Act applies to certain claims or~~
8 ~~actions against the University of Maryland University College under certain~~
9 ~~circumstances; providing that the sovereign immunity of the University of~~
10 ~~Maryland University College is not waived under certain circumstances;~~
11 authorizing a custodian to deny inspection of certain public records pertaining to
12 the University of Maryland University College; prohibiting a custodian from
13 denying inspection of certain public records relating to the University of
14 Maryland University College under certain circumstances; declaring the intent
15 of the General Assembly; clarifying the name of a certain institution; and
16 generally relating to the governing authority and operations of the University of
17 Maryland University College.

1 BY repealing and reenacting, with amendments,
 2 Article - Education
 3 Section 13-101
 4 Annotated Code of Maryland
 5 (2004 Replacement Volume and 2004 Supplement)

6 BY adding to
 7 Article - State Government
 8 Section 10-618(l)
 9 Annotated Code of Maryland
 10 (2004 Replacement Volume)

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

13 **Article - Education**

14 13-101.

15 (A) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE UNIVERSITY OF
 16 MARYLAND UNIVERSITY COLLEGE ~~RECEIVE THE FUNDS NECESSARY TO:~~

17 (1) OPERATE AS MARYLAND'S OPEN UNIVERSITY SERVING
 18 NONTRADITIONAL STUDENTS WHO RESIDE IN MARYLAND, THE UNITED STATES, AND
 19 THROUGHOUT THE WORLD;

20 (2) PROVIDE THE CITIZENS OF MARYLAND WITH AFFORDABLE, OPEN
 21 ACCESS HIGHER EDUCATION; AND

22 (3) CONTINUE AS A LEADER IN DISTRIBUTED HIGHER EDUCATION.

23 [(a)] (B) (1) There is a [University College in the University of Maryland]
 24 UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE which is not a new [branch]
 25 CONSTITUENT INSTITUTION of the University SYSTEM of Maryland.

26 (2) AS A CONSTITUENT INSTITUTION OF THE UNIVERSITY SYSTEM OF
 27 MARYLAND, THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE IS AN
 28 INSTRUMENTALITY OF THE STATE ~~AND A UNIT OF STATE GOVERNMENT.~~

29 (3) THE EXERCISE BY THE UNIVERSITY OF MARYLAND UNIVERSITY
 30 COLLEGE OF ITS ~~CONFERRED~~ POWERS, INCLUDING ITS OVERSEAS OPERATIONS, IS
 31 THE PERFORMANCE OF AN ESSENTIAL PUBLIC FUNCTION.

32 [(b)] (C) The provisions of § 12-105(a) of this article do not apply to the
 33 overseas operations of [University College. University College] THE UNIVERSITY OF
 34 MARYLAND UNIVERSITY COLLEGE. THE INSTITUTION may spend the appropriation
 35 without the approval of the Board of Public Works and without submitting a detailed
 36 budget schedule to the Board of Public Works.

1 ~~(D)~~ ~~(1)~~ TITLE 12, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE
 2 ~~("MARYLAND TORT CLAIMS ACT") APPLIES TO CLAIMS OR ACTIONS AGAINST THE~~
 3 ~~UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE AND ITS EMPLOYEES.~~

4 ~~(2)~~ ~~SUBJECT TO ALL EXCLUSIONS AND LIMITATIONS IN THAT SUBTITLE,~~
 5 ~~THE IMMUNITY OF THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE IS~~
 6 ~~WAIVED TO THE EXTENT OF ANY APPLICABLE LIABILITY INSURANCE PURCHASED BY~~
 7 ~~THE UNIVERSITY OR THE STATE TREASURER.~~

8 ~~(3)~~ ~~THIS SUBSECTION MAY NOT BE CONSTRUED TO WAIVE OR~~
 9 ~~ABROGATE SOVEREIGN IMMUNITY WITH RESPECT TO ANY CLAIM THAT IS NOT~~
 10 ~~COVERED BY OR EXCEEDS THE LIMITS OF AN INSURANCE POLICY.~~

11 ~~(4)~~ ~~THIS SUBSECTION MAY NOT BE CONSTRUED TO WAIVE OR~~
 12 ~~ABROGATE THE IMMUNITY OF THE UNIVERSITY OF MARYLAND UNIVERSITY~~
 13 ~~COLLEGE UNDER THE ELEVENTH AMENDMENT TO THE UNITED STATES~~
 14 ~~CONSTITUTION.~~

15 [(c)] ~~(E)~~ ~~(D)~~ [University College] THE UNIVERSITY OF MARYLAND
 16 UNIVERSITY COLLEGE shall prepare an annual financial information statement for
 17 the next following fiscal year and shall submit the statement to the Department of
 18 Budget and Management each year before October 1. The annual financial
 19 information statement shall include for the next following fiscal year:

20 (1) An estimate of the total revenues of [University College] THE
 21 UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE, including revenues from tuitions,
 22 fees, gifts, grants, and interest income;

23 (2) An estimate of the value of services which the other units of the
 24 University of Maryland and other State agencies provide to [University College] THE
 25 UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE; and

26 (3) An estimate of the total cost of salaries and personnel benefits for
 27 employees of [University College] THE UNIVERSITY OF MARYLAND UNIVERSITY
 28 COLLEGE.

29 [(d)] ~~(F)~~ ~~(E)~~ (1) The interest or income from the investment of the funds of
 30 [University College] THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE by the
 31 State Treasurer shall be credited to [University College] THE UNIVERSITY OF
 32 MARYLAND UNIVERSITY COLLEGE.

33 (2) Any unexpended or unencumbered balance of the annual
 34 appropriation for [University College] THE UNIVERSITY OF MARYLAND UNIVERSITY
 35 COLLEGE, except any appropriation from the General Fund of the State, shall not
 36 revert to the General Fund of the State at the end of the State's fiscal year.

37 [(e)] ~~(G)~~ ~~(F)~~ [University College] THE UNIVERSITY OF MARYLAND
 38 UNIVERSITY COLLEGE may:

1 (1) Purchase, lease, or rent motor vehicles for use in overseas programs;
2 and

3 (2) Purchase, lease, or rent mechanical or electronic data or information
4 processing equipment and related services for its overseas programs.

5 [(f)] ~~(H)~~ (G) (1) Each year [University College] THE UNIVERSITY OF
6 MARYLAND UNIVERSITY COLLEGE shall cause an independent certified public
7 accountant to prepare audited financial statements of [University College] THE
8 UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE in accordance with generally
9 accepted auditing standards accompanied by the auditor's report on the statements.

10 (2) The provisions of § 12-105(f) of this article do not apply to
11 [University College] THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE
12 overseas programs.

13 **Article - State Government**

14 10-618.

15 (L) (1) A CUSTODIAN MAY DENY INSPECTION OF ANY PART OF A PUBLIC
16 RECORD THAT RELATES TO THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE'S
17 COMPETITIVE POSITION WITH RESPECT TO OTHER PROVIDERS OF EDUCATION
18 SERVICES AND THAT CONTAINS:

19 ~~(1) A PROPOSAL GENERATED, RECEIVED, OR NEGOTIATED BY THE~~
20 ~~UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE RELATED TO A BUSINESS~~
21 ~~TRANSACTION;~~

22 ~~(2) PRICES OR FEES CHARGED BY THE UNIVERSITY OF MARYLAND~~
23 ~~UNIVERSITY COLLEGE RELATED TO A BUSINESS TRANSACTION; OR~~

24 ~~(3) RESEARCH OR ANALYSIS RELATED TO THE UNIVERSITY OF~~
25 ~~MARYLAND UNIVERSITY COLLEGE'S COMPETITIVE POSITION WITH RESPECT TO~~
26 ~~OTHER EDUCATIONAL INSTITUTIONS.~~

27 (I) FEES, TUITION, CHARGES, AND ANY INFORMATION
28 SUPPORTING FEES, TUITION, AND CHARGES, PROPOSED, GENERATED, RECEIVED, OR
29 NEGOTIATED FOR RECEIPT BY THE UNIVERSITY OF MARYLAND UNIVERSITY
30 COLLEGE, EXCEPT FEES, TUITION, AND CHARGES PUBLISHED IN CATALOGUES AND
31 ORDINARILY CHARGED TO STUDENTS;

32 (II) A PROPOSAL GENERATED, RECEIVED, OR NEGOTIATED BY THE
33 UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE, OTHER THAN WITH ITS
34 STUDENTS, FOR THE PROVISION OF EDUCATIONAL EDUCATION SERVICES; OR

35 (III) ANY RESEARCH, ANALYSIS, OR PLANS COMPILED BY OR FOR
36 THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE RELATING TO ITS
37 OPERATIONS OR PROPOSED OPERATIONS.

1 (2) A CUSTODIAN MAY NOT DENY INSPECTION OF ANY PART OF A
2 PUBLIC RECORD UNDER PARAGRAPH (1) OF THIS SUBSECTION IF:

3 (I) THE RECORD RELATES TO A PROCUREMENT BY THE
4 UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE;

5 (II) THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE IS
6 REQUIRED TO DEVELOP OR MAINTAIN THE RECORD BY LAW OR AT THE DIRECTION
7 OF THE BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF MARYLAND; OR

8 (III) 1. THE RECORD IS REQUESTED BY THE EXCLUSIVE
9 REPRESENTATIVE OF ANY BARGAINING UNIT OF EMPLOYEES OF THE UNIVERSITY OF
10 MARYLAND UNIVERSITY COLLEGE;

11 2. THE RECORD RELATES TO A MATTER THAT IS THE
12 SUBJECT OF COLLECTIVE BARGAINING NEGOTIATIONS BETWEEN THE EXCLUSIVE
13 REPRESENTATIVE AND THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE; AND

14 3. THE EXCLUSIVE REPRESENTATIVE HAS ENTERED INTO A
15 NONDISCLOSURE AGREEMENT WITH THE UNIVERSITY OF MARYLAND UNIVERSITY
16 COLLEGE TO ENSURE THE CONFIDENTIALITY OF THE INFORMATION PROVIDED.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
18 effect October 1, 2005.