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By: **Delegates Boschert, Frush, Menes, and Moe**  
 Introduced and read first time: January 14, 2005  
 Assigned to: Appropriations

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A BILL ENTITLED

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; declaring the intent of the  
13 General Assembly; clarifying the name of a certain institution; and generally  
14 relating to the governing authority and operations of the University of Maryland  
15 University College.

16 BY repealing and reenacting, with amendments,  
17 Article - Education  
18 Section 13-101  
19 Annotated Code of Maryland  
20 (2004 Replacement Volume and 2004 Supplement)

21 BY adding to  
22 Article - State Government  
23 Section 10-618(l)  
24 Annotated Code of Maryland  
25 (2004 Replacement Volume)

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

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**Article - Education**

2 13-101.

3 (A) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE UNIVERSITY OF  
4 MARYLAND UNIVERSITY COLLEGE RECEIVE THE FUNDS NECESSARY TO:

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

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

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

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

14 (2) THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE IS AN  
15 INSTRUMENTALITY OF THE STATE AND A UNIT OF STATE GOVERNMENT.

16 (3) THE EXERCISE BY THE UNIVERSITY OF MARYLAND UNIVERSITY  
17 COLLEGE OF ITS CONFERRED POWERS, INCLUDING ITS OVERSEAS OPERATIONS, IS  
18 THE PERFORMANCE OF AN ESSENTIAL PUBLIC FUNCTION.

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

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

27 (2) SUBJECT TO ALL EXCLUSIONS AND LIMITATIONS IN THAT SUBTITLE,  
28 THE IMMUNITY OF THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE IS  
29 WAIVED TO THE EXTENT OF ANY APPLICABLE LIABILITY INSURANCE PURCHASED BY  
30 THE UNIVERSITY OR THE STATE TREASURER.

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

34 (4) THIS SUBSECTION MAY NOT BE CONSTRUED TO WAIVE OR  
35 ABROGATE THE IMMUNITY OF THE UNIVERSITY OF MARYLAND UNIVERSITY  
36 COLLEGE UNDER THE ELEVENTH AMENDMENT TO THE UNITED STATES  
37 CONSTITUTION.

1 [(c)] (E) [University College] THE UNIVERSITY OF MARYLAND UNIVERSITY  
2 COLLEGE shall prepare an annual financial information statement for the next  
3 following fiscal year and shall submit the statement to the Department of Budget and  
4 Management each year before October 1. The annual financial information statement  
5 shall include for the next following fiscal year:

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

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

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

15 [(d)] (F) (1) The interest or income from the investment of the funds of  
16 [University College] THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE by the  
17 State Treasurer shall be credited to [University College] THE UNIVERSITY OF  
18 MARYLAND UNIVERSITY COLLEGE.

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

23 [(e)] (G) [University College] THE UNIVERSITY OF MARYLAND UNIVERSITY  
24 COLLEGE may:

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

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

29 [(f)] (H) (1) Each year [University College] THE UNIVERSITY OF  
30 MARYLAND UNIVERSITY COLLEGE shall cause an independent certified public  
31 accountant to prepare audited financial statements of [University College] THE  
32 UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE in accordance with generally  
33 accepted auditing standards accompanied by the auditor's report on the statements.

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

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**Article - State Government**

2 10-618.

3 (L) A CUSTODIAN MAY DENY INSPECTION OF ANY PART OF A PUBLIC RECORD  
4 THAT CONTAINS:

5 (1) A PROPOSAL GENERATED, RECEIVED, OR NEGOTIATED BY THE  
6 UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE RELATED TO A BUSINESS  
7 TRANSACTION;

8 (2) PRICES OR FEES CHARGED BY THE UNIVERSITY OF MARYLAND  
9 UNIVERSITY COLLEGE RELATED TO A BUSINESS TRANSACTION; OR

10 (3) RESEARCH OR ANALYSIS RELATED TO THE UNIVERSITY OF  
11 MARYLAND UNIVERSITY COLLEGE'S COMPETITIVE POSITION WITH RESPECT TO  
12 OTHER EDUCATIONAL INSTITUTIONS.

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