

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 728

(Senator Madaleno)

Budget and Taxation

Higher Education - System and Funding

This constitutional amendment requires the State to maintain a system of higher education that is broadly accessible to the people and dedicated to excellence. The proposed amendment requires the State to fund public institutions of higher education in an amount necessary to provide instruction that, in a condition of full efficiency, is as nearly free as possible to Maryland residents.

The constitutional amendment takes effect if approved by a majority of Maryland voters at the November 2010 general election.

Fiscal Summary

State Effect: If the proposed constitutional amendment is approved by Maryland voters, general fund expenditures to support institutions of higher education increase significantly and higher education tuition revenues decrease significantly.

Local Effect: If approved by the General Assembly, this constitutional amendment will be submitted to the voters at the 2010 general election. It should not result in additional costs for the local boards of elections. Community college revenues from State aid increase significantly if the constitutional amendment is approved by Maryland voters.

Small Business Effect: None.

Analysis

Current Law: Generally, funding for public institutions of higher education is as provided in the annual State budget. It is the intent of the General Assembly that, barring

unforeseen economic conditions, the Governor include in the annual budget submission an amount of general fund State support for higher education equal to or greater than the amount appropriated in the prior fiscal year. The governing boards and presidents of institutions of higher education set tuition and fees for the institutions.

The Maryland Constitution contains no provisions specifically related to higher education.

Background: In-state tuition for undergraduates attending University System of Maryland (USM) institutions have been frozen for three consecutive years, and the Governor's proposed fiscal 2010 budget freezes tuition for a fourth year. However, fees continue to increase thereby increasing the total amount students pay to attend. Using the proposed fall 2009 rates, the average annual tuition and fees for full-time resident undergraduates at public four-year institutions for fiscal 2010 is \$7,314.

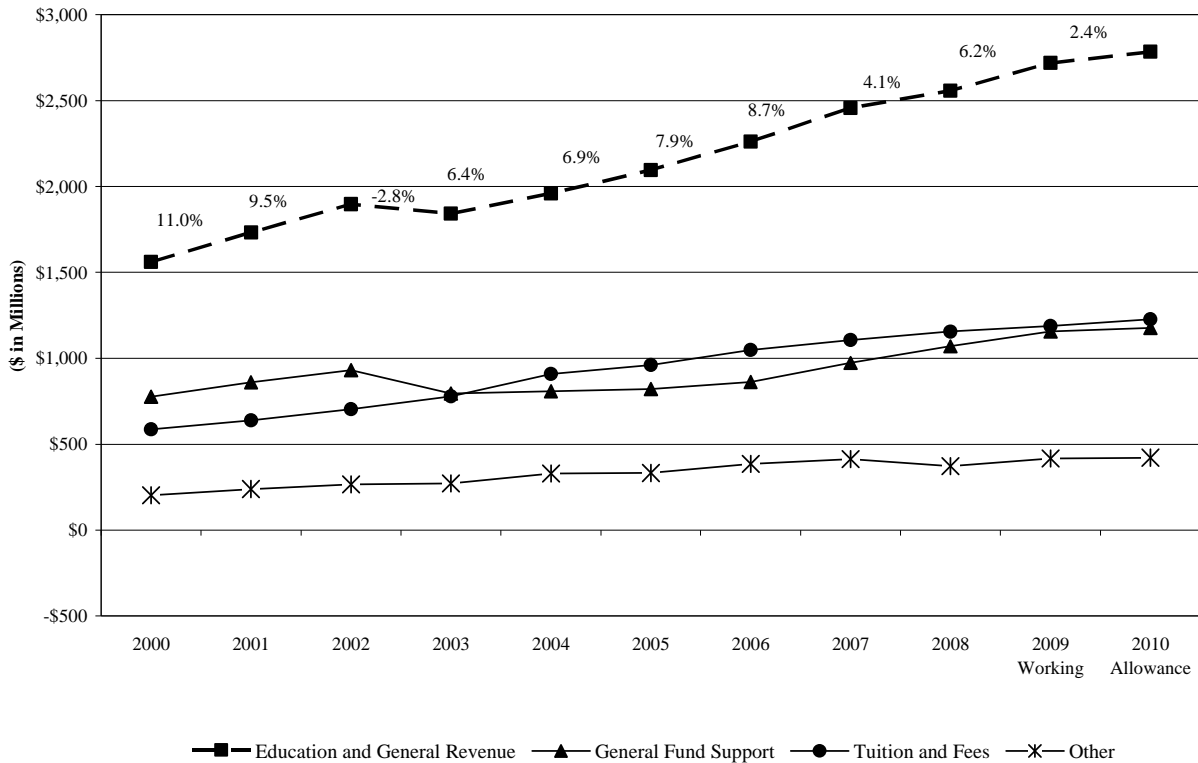
The Commission to Develop the Maryland Model for Funding Higher Education was established by the Tuition Affordability Act of 2006 (Chapters 57 and 58). The commission was charged with developing an effective statewide framework for higher education funding, making recommendations relating to the establishment of a consistent and stable funding mechanism to ensure accessibility and affordability while at the same time promoting policies to achieve national eminence at all of Maryland's public institutions of higher education, and making recommendations relating to the appropriate level of funding for the State's four historically black colleges and universities (HBIs) to ensure that they are comparable and competitive with other public institutions. The commission submitted its final report in December 2008.

The report recommends Maryland's funding of higher education be based on the funding level of peer institutions in 10 states that Maryland competes with for business and jobs (competitor states), as determined by the Maryland Department of Business and Economic Development: Pennsylvania, Virginia, Massachusetts, North Carolina, New Jersey, New York, California, Minnesota, Ohio, and Washington. Maryland ranks slightly better than average on both funding per capita for higher education and six-year graduation rates for public four-year institutions compared to the competitor states. Maryland ranks fourth in per-capita funding at \$309 and graduates roughly 65% of students enrolled in public four-year institutions within six years, ranking third among competitor states. In total, the commission's recommendations would increase funding for public four-year institutions by \$641.0 million over the Governor's proposed fiscal 2010 budget. Community colleges would receive corresponding increases through their funding formulas beginning in fiscal 2012.

As shown in **Exhibit 1**, education and general (E&G) revenue for public four-year higher education institutions grew from fiscal 2000 to 2002, declined in fiscal 2003, and again increased from fiscal 2004 through 2009. The Governor's proposed 2010 budget

continues that trend, although increasing at the slowest rate since 2003, at 2.4%. Tuition and fee revenue has grown through the entire period, although the largest increases were between fiscal 2003 and 2006. This growth has flattened since fiscal 2007 due to a tuition freeze for most in-state undergraduates. State funds, on the other hand, stayed flat from fiscal 2003 to 2006, then began to increase in fiscal 2007 as State funds replaced forgone tuition revenue from frozen tuition rates. Additionally, tuition and fees began to exceed State appropriations in fiscal 2004 for the first time in recent history. Although that gap has narrowed since fiscal 2007, it widens slightly in the Governor’s proposed fiscal 2010 budget.

Exhibit 1
Education and General Revenues
Fiscal 2000-2010
(\$ in Millions)



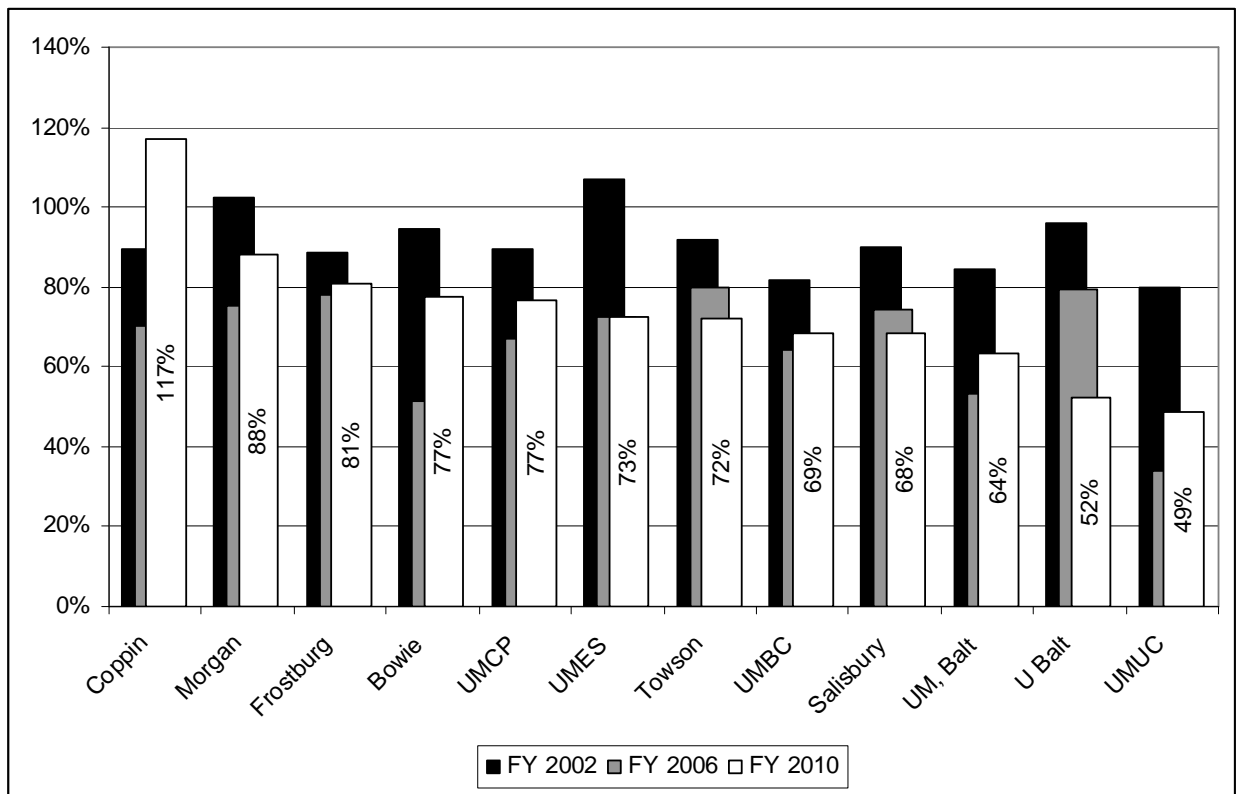
Source: Governor’s Budget Books, Fiscal 2008-2010; Department of Legislative Services

Funding guidelines attempt to calculate an appropriate level of general fund support for Maryland’s public four-year institutions of higher education using per student spending at identified peer institutions. The Maryland Higher Education Commission calculates the

guidelines and, accounting for different tuition rates at the peer institutions, calculates a recommended State appropriation for each institution.

Exhibit 2 shows that estimated funding guideline attainment for fiscal 2010 is below the fiscal 2002 attainment for 10 schools, which was a high point for general fund support for higher education. However, funding guideline attainment in fiscal 2010 is higher than the fiscal 2006 attainment for nine schools. Under the Maryland Model for Funding Higher Education proposed in House Bill 789/Senate Bill 861 of 2009, the average funding guideline attainment for fiscal 2010 would drop from 73.8% to 65.6% due to the higher funding goal.

Exhibit 2
Funding Guideline Attainment for Public Four-year Institutions
Fiscal 2002, 2006, 2010

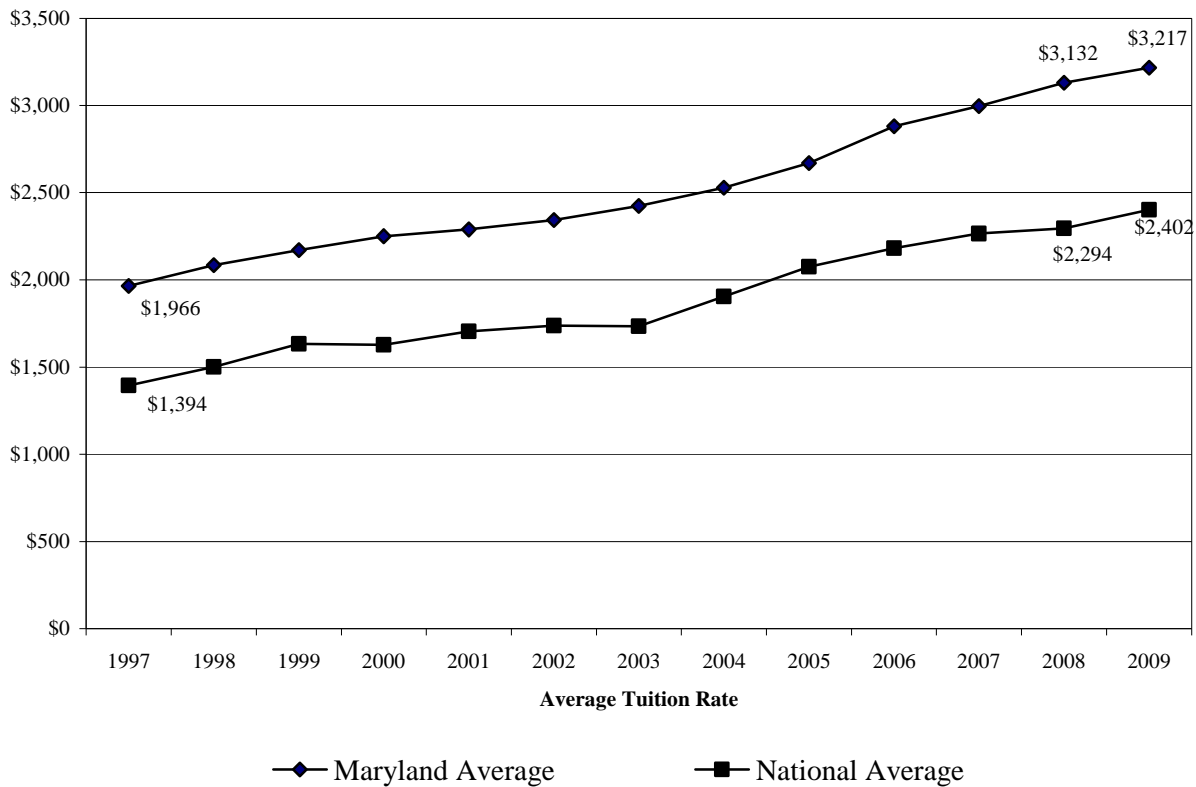


Note: St. Mary's College of Maryland has a separate funding formula and is not included in the funding guidelines.

Source: Maryland Higher Education Commission

Community colleges offer a more affordable option for higher education than the public four-year institutions. However, just as the State’s four-year institutions are among the most expensive in the country, ranking sixteenth most expensive in fiscal 2009, so are the community colleges. In fiscal 2009, Maryland’s community college average tuition was the sixteenth most expensive in the country, up one spot from the seventeenth most expensive the prior year. The rate of increase was among the slowest, however, with an average increase of 2.7% compared to the national average of 4.7%. **Exhibit 3** compares the national average community college tuition and fee rates with the State’s rates from fiscal 1997 to 2009. Maryland’s average has been higher throughout the entire period, growing to nearly \$1,000 more.

Exhibit 3
Average Community College Tuition and Fee Rates
Fiscal 1997-2009



Source: *Annual Survey of Colleges – Trends in College Pricing*; Maryland Association of Community Colleges

Every state constitution includes a requirement that a system of free public elementary and secondary schools be established and maintained. These requirements have often led

to lawsuits alleging that states have under-funded school systems in violation of their constitutional responsibilities. Over the last 10 to 15 years, school finance litigation has focused on adequate funding, and many courts have ordered states to increase spending dramatically in order to adequately fund public schools.

The Maryland Constitution requires the State to establish a “thorough and efficient” system of free public schools and to provide for its maintenance by taxation or otherwise. Unlike many states, Maryland has not been required by a court to examine the adequacy of its funding for public elementary and secondary schools. However, the Commission on Education Finance, Equity, and Excellence conducted an analysis of adequacy and came to the conclusion that schools were under-funded by more than \$1.1 billion in fiscal 2002. As a result of the analysis and the legislation enacted to address the additional school funding needs, Maryland spent an additional \$1.3 billion per year for its public elementary and secondary schools by fiscal 2008.

State Fiscal Effect: If the constitutional amendment is enacted, it will lead to an increase in general fund expenditures for public institutions of higher education including four-year and two-year institutions, and a decrease in tuition revenues at the institutions. The fiscal impact will be determined by the interpretation of the amendment and the level of commitment to the amendment by the Governor and the General Assembly. It is also likely that the courts would be asked to interpret the amendment at some point, and a court may require the State to increase support for institutions in order to ensure that public higher education is nearly free for Maryland residents. The increase in expenditures cannot be reliably estimated but will be significant.

The Sellinger formula, which provides State funding for eligible private colleges and universities, is based on funding for selected public four-year institutions of higher education. If funding for the public institutions increases as a result of the constitutional amendment, State general fund support for private institutions also increases.

Local Fiscal Effect: If the constitutional amendment is enacted, it will lead to an increase in community college revenues from State aid. The increase cannot be reliably estimated but will be significant.

The Maryland Constitution requires that proposed amendments to the constitution be publicized either (1) in at least two newspapers in each county, if available, and in at least three newspapers in Baltimore City once a week for four weeks immediately preceding the general election; or (2) by order of the Governor in a manner provided by law. State law requires local boards of elections to publicize proposed amendments to the constitution either in newspapers or on specimen ballots; local boards of elections are responsible for the costs associated with these requirements. It is anticipated that the budgets of local boards of elections will contain funding for notifying qualified voters

about proposed constitutional amendments for the 2010 general election in newspapers or on specimen ballots.

Additional Information

Prior Introductions: HB 1222 of 2006 received an unfavorable report from the House Appropriations Committee. HB 1064 of 2005 also received an unfavorable report from the House Appropriations Committee.

Cross File: None.

Information Source(s): Baltimore City Community College, Maryland Higher Education Commission, Morgan State University, Maryland Association of Community Colleges, Department of Legislative Services

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ncs/rhh

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