SB 702

Department of Legislative Services

2010 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 702 (Senator Rosapepe, *et al.*)

Budget and Taxation

Tuition Cap and College Opportunity Act of 2010

This bill mandates annual State general fund support levels for constituent institutions of the University System of Maryland (USM) and Morgan State University (MSU) to reach 100% of the funding guidelines by fiscal 2021. The bill also sets other State funding goals for higher education and permanently reauthorizes the Higher Education Investment Fund (HEIF).

The bill takes effect July 1, 2010.

Fiscal Summary

State Effect: General fund revenues decline beginning in FY 2011 with corresponding increases in special fund revenues and expenditures due to reauthorization of HEIF. General fund expenditures increase in FY 2011 for reporting expenses within the Maryland Higher Education Commission (MHEC). General fund expenditures increase significantly beginning in FY 2012 for higher education institutions, MHEC operating expenses, student financial assistance, and other programs as the major funding provisions of the bill are phased in on a specific schedule over 10 years. **This bill establishes a mandated appropriation beginning in FY 2013.**

($ in millions)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
GF Revenue	($42.1)	($43.4)	($47.7)	($50.6)	($53.6)
SF Revenue	$42.1	$43.4	$47.7	$50.6	$53.6
GF Expenditure	($41.9)	($23.7)	$122.9	$212.7	$296.4
SF Expenditure	$42.1	$43.4	$47.7	$50.6	$53.6
Net Effect	($.2)	($19.7)	($170.7)	($263.3)	($350.0)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: State aid for community colleges increases beginning in FY 2013 due to formula increases.

Small Business Effect: None.

Analysis

Bill Summary:

State Funding

By 2021, State funding for public higher education institutions should be funded at 100% of the funding guidelines, which is set at the seventy-fifth percentile of funding per student of a group of comparable institutions located in competitor states and State funding of historically black institutions (HBIs) should be set at the eightieth percentile of funding of a group of comparable institutions located in competitor states.

Competitor states are states with which Maryland principally competes for employers, as determined by MHEC in consultation with the Department of Business and Economic Development.

The phase in that will be used to achieve 100% of the funding guidelines for institutions of higher education is shown in the table below. Each institution must achieve at least the percentage indicated each year under the bill.

Fiscal Year	USM Institutions	MSU
Fiscal 2013	67%	71%
Fiscal 2014	71%	75%
Fiscal 2015	75%	79%
Fiscal 2016	79%	83%
Fiscal 2017	83%	87%
Fiscal 2018	87%	91%
Fiscal 2019	91%	95%
Fiscal 2020	95%	99%
Fiscal 2021	100%	100%

For fiscal 2021 and each fiscal year thereafter, the Governor must include in the annual budget bill at least the amount of State general fund support necessary for the public four-year institutions to achieve 100% of the funding guideline. Undergraduate education capacity at HBIs is required to be the first priority for additional State funding provided under the funding guidelines.

By December 1 of each year, MHEC must conduct an annual assessment for each institution of higher education that measures its performance and its progress toward meeting the funding goals in the bill. The assessment is required to be posted in an online format that is easily accessible and understood. MHEC is required to periodically update the list of competitor states used to determine the funding goals.

The bill expresses legislative intent that the sum of State general fund support and tuition for USM institutions, on a per student basis, be moved to at least the average of their peer institutions.

By November 1, 2010, and on November 1 every second year thereafter, the Board of Regents is required to submit a report on the policies and procedures it has implemented to improve the effectiveness and efficiency of USM. Furthermore, it is the intent of the General Assembly that USM become the national leader in transforming the business model of public higher education to provide world-class education, research, and public service at below-average cost.

The bill makes permanent the 6% distribution of the total funds generated through the corporate income tax to HEIF and 9.15% to the general fund rather than distributing the entire 15.15% to the general fund beginning in fiscal 2011.

Tuition and Fees

Total in-state tuition and fees at public four-year institutions of higher education should be set at or below the fiftieth percentile of comparable institutions located in competitor states. Increases in tuition and fees in any given year should not exceed the increase in the three-year rolling average of the State's median family income, unless the public four-year institutions have not received a general fund appropriation that meets the requirements of the bill or the Board of Public Works reduces funding for the institutions.

The Tuition Stabilization Trust Account is established within HEIF to retain revenues for stabilizing tuition costs for students. In years of increasing corporate tax revenues, funds should be deposited into the trust account. In years of decreasing corporate tax revenues, funds in the trust account must be used to stabilize tuition.

A balance of between 1% and 5% of total tuition revenues by public four-year higher education institutions from the prior fiscal year should be maintained in the trust account. Money in the trust account may be expended only to supplement general fund appropriations to public four-year higher education institutions for the purpose of stabilizing tuition costs of students.

The bill authorizes a pilot four-year long-term tuition plan to ensure that a resident undergraduate student who enrolls in a public four-year higher education institution or an individual who applies for admission to the public four-year higher education institution is informed of the tuition that will be charged for four academic years. Before the implementation of a pilot four-year long-term tuition plan, the governing board of a participating institution must submit the plan to MHEC for review and approval.

Financial Aid

The maximum amount for awards under the Delegate Howard P. Rawlings Educational Assistance (EA) Grant is raised from $3,000 to $6,000, and a graduated scale for awards based on financial need must be developed.

Eligibility for the Guaranteed Access (GA) Grant Program, which currently covers 100% of need up to $14,300 for students with family incomes up to 130% of federal poverty guidelines (FPG) is to be increased so that students with family incomes up to 200% FPG may be eligible for some assistance.

Historically Black Institutions

MHEC is required to appoint a group of independent advisers to assess and report on the progress of the State and HBIs on meeting the comparability and competiveness goals. Based on this report, MHEC must report annually to the Governor and the General Assembly on the progress of compliance with desegregation and equal education opportunity plans. The Access and Success program will be replaced by a supplemental funding program for HBIs. The supplemental funding, as provided in the annual budget, can only be used for remediation efforts and for strategies and initiatives that have proven to be best practices in improving graduation rates.

The graduation rate must be designated as the primary indicator of performance for HBIs. If the HBI receives supplemental funding, its performance and accountability plan should provide measurable goals, including graduation rates, and report results against those goals.

Current Law: Funding policies must allocate State resources efficiently while providing incentives for quality and institutional diversity.

Funding for USM and MSU are 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 goal of the State, as noted in statute, is that State support for higher education operating and capital expenditures comprise 15.5% of general fund revenues.

Subject to the authority and policies of the Board of Regents of USM, the president of each USM constituent institution sets tuition and fees for the institution. The Board of Regents of MSU fixes tuition for the university.

A portion of the funds generated through the corporate income tax is deposited in HEIF. HEIF funds may only be expended to supplement general fund appropriations to four-year public institutions of higher education; for capital projects at four-year public institutions of higher education; for workforce development initiatives administered by the Maryland Higher Education Commission (MHEC); and higher education needs related to the Base Realignment and Closure (BRAC) process. In addition, HEIF expenditures may only be made in accordance with an approved appropriation in the annual State budget.

HEIF was created during the 2007 special session (Chapter 3) to provide revenues dedicated to higher education. The source of revenue for this fund is one-half of the increase in the corporate income tax that was also adopted during the special session. HEIF was only authorized for fiscal 2008 and 2009, although the legislation stipulated that it was the intent of the General Assembly to continue it into fiscal 2010 and future budget years if it was deemed fiscally prudent. The Budget Reconciliation and Financing Act (BRFA) of 2009 continued HEIF in fiscal 2010 and stated that it was the intent of the General Assembly that, when it is fiscally prudent to do so, HEIF be made permanent and the recommendations of the Commission to Develop the Maryland Model for Funding Higher Education be adopted. The Governor's proposed fiscal 2011 budget does not include HEIF expenditures because HEIF was not scheduled to receive any revenues. However, the budget bill includes language authorizing a special fund budget amendment of $42.1 million, contingent on reauthorization of HEIF and corresponding contingent general fund reductions. Legislation has been introduced this session by the Governor to make HEIF permanent (HB 470 and SB 283 of 2010).

Performance and accountability plans must be based on the institutional mission statement and include a statement of the outcomes which each institution expects to achieve. The plan is also required to identify institutional performance objectives appropriate to the mission of the institution. Each public four-year institution's plans should designate a set of peer institutions to which the institution's performance will be compared.

Background: As one of the largest discretionary components of the State budget, institutions of higher education have often experienced funding increases when State revenues have been strong and funding decreases when there has been stress on the State budget. Prior to the State's current fiscal difficulties, decreases were experienced most recently in fiscal 2003 and 2004, when State appropriations to public institutions of higher education dropped by approximately 7% each year. Due at least in part to the reduction in State support, tuition for resident undergraduates at USM institutions and MSU grew rapidly from fall 2002 to 2005, raising concerns about the affordability of a college education in Maryland.

In 2006, Chapters 57 and 58 froze tuition at fall 2005 prices for in-state undergraduates attending MSU and USM institutions in the 2006-2007 academic year, and excess funds in the budget were used to provide State funding for USM and MSU to cover the revenue loss that would be incurred by the freeze. Chapter 294 of 2007 extended the tuition freeze for an additional year, and in fiscal 2009 tuition was frozen for a third consecutive year. The Governor has proposed allowing tuition rates to increase 3.0% and providing additional State funds to moderate further tuition increases in the fiscal 2011 budget.

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 HBIs to ensure that they are comparable and competitive with other public institutions. The commission submitted its final report in December 2008.

The commission's 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. 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.

The work of the Commission to Develop the Maryland Model for Funding Higher Education is an outgrowth of the *2004 State Plan for Postsecondary Education*. MHEC is required by statute to update the State Plan quadrennially. The State Plan was originally due July 1, 2008; however, MHEC submitted legislation (Chapter 460 of 2009) that delayed the deadline to July 1, 2009, to allow for the consideration of the commission's final report. The *2009 Maryland State Plan for Postsecondary Education*states that Maryland should adopt as goals the four primary components of the commission's Higher Education Funding Model for Maryland, which includes the funding guidelines.

The Administration's BRFA of 2010 authorizes the transfer of $85,051,173 from USM fund balances to the general fund by June 30, 2010, and the transfer of $51,731,321 from USM fund balances to the general fund by June 30, 2011. The USM fund balance is maintained to protect individuals who hold USM-related bonds, fund capital needs, and preserve the system's credit rating.

The BRFA also authorizes the transfer of $1,664,227 from MSU fund balances to the general fund by June 30, 2010, and the transfer of $790,574 from MSU fund balances to the general fund by June 30, 2011. The MSU fund balance is maintained to protect individuals who hold MSU-related bonds, to fund capital needs, and to preserve the university's credit rating.

State Fiscal Effect: General fund revenues decline by an estimated $42.1 million in fiscal 2011, and HEIF revenues increase by a corresponding amount beginning in fiscal 2011. Out-year estimates reflect projections for corporate income tax revenues. The reserve of HEIF revenues due to establishment of the Tuition Stabilization Account is assumed to be offset by the additional State support.

The bill sets funding mandates and goals to be achieved by 2021. Based on the phase-in schedule in the bill, the bill's main provisions begin in fiscal 2013. **Exhibit 1** shows the fiscal impact of implementing Senate Bill 702 in fiscal 2011 through 2015.

Exhibit 1
SB 702 General Fund Fiscal Impact
($ in Thousands)

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Funding Guidelines	$0	$0	$124,187	$193,337	$260,470
HBI Supplement	0	7,400	7,400	7,400	7,400
Community Colleges	0	0	10,234	21,224	31,138
Baltimore City Comm. College	0	0	1,669	3,306	4,858
Sellinger Formula	0	0	2,284	4,549	7,141
Guaranteed Access Grant	0	6,000	11,500	15,300	15,300
EA Grant	0	5,482	10,964	16,445	21,927
HEIF	0	632	2,170	1,432	1,518
Total	**$0**	**$19,514**	**$170,407**	**$262,994**	**$349,751**

Notes: Does not include additional costs within MHEC to implement the bill. Numbers may not sum to total due to rounding.

Source: Department of Legislative Services

Higher Education Investment Fund

The Department of Legislative Services (DLS) assumes that a combination of general fund and HEIF revenues would be used to meet the Administration's forecast for State support of higher education, which increases on average 4.3% annually from fiscal 2011 to 2015. The Governor's proposed fiscal 2011 budget substitutes HEIF for general fund appropriations dollar-for-dollar if HEIF is reauthorized; therefore, it is assumed that HEIF revenues equal HEIF expenditures in fiscal 2011 and no funds would be reserved in the Tuition Stabilization Trust Account. However, in subsequent years, HEIF expenditures would not equal HEIF revenues due to the bill's requirement that HEIF funds should be deposited in the Tuition Stabilization Trust Account when corporate income tax revenues to HEIF are increasing.

Out-year estimates reflect these assumptions and projections for corporate income tax revenues from the Board of Revenue Estimates. In fiscal 2012 through 2015, HEIF revenues grow slower than the 4% planned increase in State support for higher education – resulting in general funds filling the gap. But, as the forecast projects this level of spending, no additional expenditures are assumed as a result of the bill. However, HEIF revenues increase annually during the five-year period, requiring a portion of the funds to be deposited in the trust account. DLS assumes that 50% of annual HEIF revenue increases are reserved in the trust account until a balance of at least 1% of total resident tuition revenues or approximately $6 million is reached. Therefore, general fund expenditures increase by $632,000 in fiscal 2012 to meet the 4% planned annual increases for higher education, increasing to $2.2 million in fiscal 2013 and approximately $1.5 million in fiscal 2014 and 2015. To the extent that HEIF is used to support initiatives beyond the 4% planned increases, general fund expenditures may increase by an additional indeterminate amount.

Funding Guidelines and Formulas

Achieving the competitor states' funding guideline for USM institutions and MSU costs approximately $1.7 billion in fiscal 2011, approximately $550 million more than the Governor's proposed fiscal 2011 budget. This amount is adjusted by the higher education price index each year through 2021 and phased in following the schedule in the bill. The annual cost is then compared to the planned 4% annual increase in State support for higher education institutions. The difference in the amounts is the annual cost of implementing the new guidelines, an estimated $124.2 million in fiscal 2013, increasing to $260.5 million in fiscal 2015. The impact increases significantly in fiscal 2016 through 2021 as the phase-in schedule accelerates to 100%. State aid for the Cade formula for community colleges, Baltimore City Community College, and the Sellinger formula for independent institutions is based on the State appropriation per full-time equivalent student (FTES) at select public four-year institutions. Thus, increasing the State funding per FTES for the select public four-year institutions also increases the funding for these formulas beginning in fiscal 2013.

Financial Aid

The State's largest need-based aid program is the Howard P. Rawlings Educational Excellence Award Program which includes the EA and GA grants. Increasing eligibility for the GA grant to students to 200% of FPG is estimated to cost $15.3 million when fully phased in by fiscal 2014. The remaining additional need-based aid for EA grants is assumed to be phased in equally over 10 years beginning in fiscal 2012, increasing by almost $5.5 million a year. To achieve the seventy-fifth percentile of need-based aid per FTES of competitor states, the total estimated cost is $70.1 million, based on fiscal 2008 comparative data.

Historically Black Institutions

It is unknown how much funding for the supplemental program the Governor will include in the annual budget. The supplement is assumed to be approximately $1,400 per student based on cost estimates provided by several USM institutions and similar programs at other universities and using the number of students needing math remediation at each HBI campus in fiscal 2007 as an indicator of those students who will need additional academic support to graduate. The HBI supplement totals an estimated $13.4 million and is assumed to be fully funded beginning in fiscal 2012. Existing State funding of $6 million for Access and Success programs at HBIs offsets to the total cost, resulting in an annual cost of $7.4 million.

Maryland Higher Education Commission

- An administrator will coordinate all issues relating to HBIs in the State. This includes working with the panel of independent advisers to assess the progress of HBIs in achieving comparability and competitiveness. It will cost an estimated $25,000 annually to produce these reports – an estimated $5,000 in travel reimbursement and an estimated $20,000 for independent advisers.

- A web master will manage all online and web-based information for MHEC. This includes making accountability information available in a user-friendly format.

- Modifying and testing the scholarship web portal known as Maryland College Aid Processing System to modify the eligibility requirements for the GA Grant Program will cost approximately $80,000.

- A financial assistance administrator will manage the additional financial aid awards.

- Future year expenditures reflect annualization and 4.4% annual salary increases, 3% turnover, and 1% inflation.

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Positions	3				
Salaries/ Fringe Benefits	$165,891	$224,954	$235,885	$247,372	$259,447
Travel	5,000	5,000	5,000	5,000	5,000
Independent Adviser Fees	20,000	20,000	20,000	20,000	20,000
Start-up/Operating Costs	45,743	1,545	1,561	1,576	1,592
Programming Costs	80,000	0	0	0	0
Total	**$316,634**	**$251,499**	**$262,446**	**$273,948**	**$286,039**

Local Fiscal Effect: State aid for community colleges increases due to formula increases beginning in fiscal 2013.

Additional Comments: State aid to independent institutions will increase beginning in fiscal 2013, since the formula is based on State funding for public higher education institutions.

Additional Information

Prior Introductions: SB 822 of 2009 and a similar bill, SB 623 of 2008, received a hearing in the Senate Budget and Taxation Committee, but no further action was taken on either bill.

Cross File: None.

Information Source(s): Department of Business and Economic Development, Department of Budget and Management, Comptroller's Office, Morgan State University, University System of Maryland, Department of Legislative Services

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