

Department of Legislative Services
 Maryland General Assembly
 2011 Session

FISCAL AND POLICY NOTE

House Bill 390 (Delegate McDonough, *et al.*)
 Ways and Means

Higher Education - Senatorial and Delegate Scholarships - Eligibility Requirements

This bill requires an applicant for a senatorial or delegate scholarship to affirm through documentation that the applicant is a citizen or a legal permanent resident of the United States. To continue to receive a senatorial scholarship, a recipient must continue to be a citizen or a legal permanent resident of the United States. An applicant for a delegate scholarship must be a resident of the State.

The bill takes effect July 1, 2011.

Fiscal Summary

State Effect: General fund expenditures increase by \$121,400 in FY 2012 for the Maryland Higher Education Commission (MHEC) to hire a full-time administrative specialist and to update the scholarship database system. Future years reflect the elimination of one-time costs after FY 2012, annualization, regular salary increases, and inflation. Modifying *eligibility* requirements for the legislative scholarships does not affect the State appropriation for these scholarships.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	121,400	50,600	53,300	56,200	59,300
Net Effect	(\$121,400)	(\$50,600)	(\$53,300)	(\$56,200)	(\$59,300)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Each senator may award \$138,000 in scholarship funds each year. To qualify for an award, an individual must be a resident of Maryland and demonstrate a definite financial need. Each senator must consider an applicant's financial need. An award under the program may not be lower than \$400 and may not exceed the tuition and mandatory fees at the University System of Maryland (USM) institution with the highest annual tuition and fees, not including the University of Maryland University College (UMUC) and the University of Maryland, Baltimore (UMB). The scholarships may be held for up to four years of full-time study or eight years of part-time study. A scholarship award may be used to pay educational expenses at a Maryland institution of postsecondary education or, when the desired program of study or appropriate accommodations are not available in Maryland, an out-of-state institution. A senator must award scholarships prior to September 1 of each year. Any funding that a senator has not awarded by the September 1 deadline is distributed by MHEC to eligible applicants from the senator's district.

During a term in office, each delegate may award the equivalent of four four-year full-time scholarships or two part-time scholarships for each full-time scholarship available. Delegates may select scholarship recipients on any basis they consider appropriate. The annual amount of a scholarship for any one recipient may not exceed the tuition and mandatory fees at the USM institution with the highest annual tuition and fees, not including UMUC and UMB. A scholarship award may be used to pay tuition and mandatory fees at a Maryland institution of postsecondary education or, when the desired program of study or appropriate accommodations are not available in Maryland, an out-of-state institution. Instead of awarding the scholarships themselves, delegates may authorize MHEC to award funding to eligible applicants under the Delegate Howard P. Rawlings Educational Excellence Awards program.

Undocumented students are not eligible for federal student aid or loans as well as most State financial aid since they cannot legally establish State residency. However, in statute there are no residency or citizenship requirements to receive a delegate scholarship. To receive a senatorial scholarship, an individual must be a resident of Maryland, but it is not explicitly stated that the individual must be a U.S. citizen.

Background: Arkansas, Illinois, and West Virginia have enacted laws in recent years to limit certain state scholarships to citizens or lawful permanent residents. In other states, scholarships may in effect be limited to U.S. citizens or legal residents because undocumented students are unable to establish state residency, which is a requirement for many state scholarships.

Legislative Scholarships

As early as 1924, some version of senatorial scholarships appeared in Maryland statutes. At that time, scholarship recipients were appointed by local boards of school commissioners (*i.e.*, school boards), with the advice and consent of the local senators. Scholarship recipients were required to teach in Maryland for two years after their college graduation. Although the specific requirements have changed over time, eligibility for a senatorial scholarship has always included a financial need component.

Delegate scholarships were established later, and by 1959 each delegate was authorized to grant a scholarship for the University of Maryland, College Park (UMCP) to one resident of the delegate's district. Although students who received delegate scholarships initially had to demonstrate a financial need, that part of scholarship eligibility was later removed. By the mid-1970s, the use of delegate scholarships was no longer limited to UMCP.

Applicants for a senatorial scholarship are required to be a resident of the State. There is no such requirement for delegate scholarships.

Only relatively minor changes have been made to legislative scholarships in the last 15 years. The Governor's proposed fiscal 2012 budget includes \$6.5 million for senatorial scholarships (\$138,000 per senator) and \$5.2 million for delegate scholarships (\$36,851 per delegate). In fiscal 2011, approximately 13,800 legislative scholarships with an average award of \$800 were distributed.

Federal Law

Under *Plyler v. Doe*, a 1982 Supreme Court decision, public elementary and secondary schools are required to accept undocumented immigrants. In its decision, the court contended that denying an education to the children of undocumented immigrants would "foreclose any realistic possibility that they will contribute ... to the progress of our Nation." However, since 1996, federal immigration law has prohibited undocumented immigrants from obtaining a postsecondary education benefit that U.S. citizens cannot obtain. To get around the federal law, states that have passed in-state tuition benefits for undocumented immigrants have crafted legislation that bases eligibility on where a student went to high school, not immigration status.

Federal legislation called the Development, Relief and Education for Alien Minors Act of 2009 – or the DREAM Act – would have created a path to citizenship for certain immigrants who entered the United States illegally when they were younger than 16 and would have allowed those students to receive in-state tuition. In December 2010, the

U.S. House of Representatives passed the DREAM Act; however, the U.S. Senate failed to get the necessary supermajority of 60 required to force a final vote on the legislation.

State Expenditures: In order to implement the bill, MHEC will need additional staff as well as one-time costs to reprogram the Maryland College Aid Processing System (MD CAPS). General fund expenditures increase by \$121,433 in fiscal 2012, which accounts for a 90-day start-up delay and reflects the cost of hiring an administrative specialist to compile a list of documents acceptable as proof of lawful presence, revise current program guidelines, update the program application, evaluate documentation of citizenship or legal residency, and provide the necessary applicant support. A full-time salary, fringe benefits, start-up costs, and ongoing operating expenses, as well as one-time contractual costs associated with changing MD CAPS to meet the new awarding requirements, are included in the estimate. The information and assumptions used in calculating the estimate are stated below.

- The manner in which MD CAPS makes awards will need to be modified to meet the requirements of the bill. MD CAPS is currently unable to identify which students are citizens or legal permanent residents of the United States. MD CAPS identifies whether a student meets federal citizenship requirements for federal aid for students who file a Free Application for Federal Student Aid. It will cost approximately \$80,000 to update MD CAPS to include a field to document whether an applicant is a citizen or legal permanent resident for legislative scholarships.
- An additional full-time staff person is necessary to evaluate documentation of citizenship or legal residency for approximately 13,800 legislative scholarship recipients.

	<u>FY 2012</u>	<u>FY 2013</u>
New Position	1	
Salary and Fringe Benefits	\$36,715	\$50,068
MD CAPS Development	80,000	0
Operating Expenses	383	515
Start-up Costs	<u>4,335</u>	<u>0</u>
Total State Expenditures	\$121,433	\$50,583

Future year expenditures reflect the elimination of one-time costs after fiscal 2012, a full-time salary with 4.4% annual increase and 3% employee turnover, as well as 1% annual increases in ongoing operating expenses.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General, Maryland Higher Education Commission, Department of Legislative Services

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mc/rhh

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