

Department of Legislative Services  
 Maryland General Assembly  
 2019 Session

FISCAL AND POLICY NOTE  
 Enrolled - Revised

House Bill 118  
 Appropriations

(Delegate Washington, *et al.*)

Education, Health, and Environmental Affairs

Higher Education - Senatorial and Delegate Scholarships - In-State Tuition

This bill expands eligibility for the senatorial and delegate scholarships to individuals who are eligible for in-state tuition. **The bill takes effect July 1, 2019.**

Fiscal Summary

**State Effect:** General fund expenditures increase by \$50,000 in FY 2020 for one-time contractual costs associated with updating the Maryland Higher Education Commission’s (MHEC) scholarship system. Expanding *eligibility* for the senatorial and delegate scholarships does not require additional spending. Senators and delegates receive a set amount of scholarship money, which is not changed by the bill. Revenues are not affected.

| (in dollars)   | FY 2020    | FY 2021 | FY 2022 | FY 2023 | FY 2024 |
|----------------|------------|---------|---------|---------|---------|
| Revenues       | \$0        | \$0     | \$0     | \$0     | \$0     |
| GF Expenditure | 50,000     | 0       | 0       | 0       | 0       |
| Net Effect     | (\$50,000) | \$0     | \$0     | \$0     | \$0     |

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

**Local Effect:** None.

**Small Business Effect:** None.

Analysis

**Bill Summary:** For senatorial scholarships, the bill also requires an individual to be domiciled in the legislative district from which the applicant seeks an award and makes conforming changes, including repealing language specifying that an individual who is on

active duty with the United States military must be domiciled in the State and, at the time of the applicant's initial application, be domiciled in the legislative district from which the applicant seeks an award. These are conforming changes because active-duty members of the U.S. Armed Forces who are stationed, reside, or are domiciled in Maryland are eligible for in-state tuition and, thus, continue to be eligible for the scholarships, as discussed below.

Further, the bill makes conforming changes that specify that an individual continues to be eligible for a senatorial scholarship if the recipient continues to be eligible for in-state tuition.

**Current Law/Background:** Under current law, individuals must be State residents to be eligible to receive a senatorial or delegate scholarship. The U.S. Supreme Court's 1982 Plyler v. Doe decision requires public elementary and secondary schools to enroll 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, the federal Illegal Immigration Reform and Immigrant Responsibility Act 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 rather than immigration status. Maryland enacted such legislation in 2012 after Chapter 191 of 2011, known as the Dream Act, was petitioned to referendum and approved by Maryland voters in November 2012.

Although the delegate scholarship currently has no residency requirement, it has been determined that undocumented immigrants are not eligible for the scholarship under current law because the law does not affirmatively allow for them to be eligible.

#### *Dream Act Individuals Eligible for In-state Tuition*

Under the Dream Act, an individual who attended a Maryland high school for at least three years and graduated from a Maryland high school or received the equivalent of a high school diploma in the State may pay the same tuition rates that resident students pay. To qualify, students must begin at a Maryland community college, subject to several requirements and conditions. After completing at least 60 credits at a community college, qualifying students may enroll at a public four-year higher education institution and pay the equivalent of in-state tuition.

### *Senatorial Scholarships*

Until June 30, 2019, each senator may award \$138,000 in scholarship funds each year. Beginning on July 1, 2019, that amount will grow by the increase in tuition and mandatory fees over the previous year at the University System of Maryland (USM) institution with the highest annual expenses for a full-time resident undergraduate student other than the University of Maryland University College (UMUC) and University of Maryland, Baltimore Campus (UMB).

To qualify for an award, an individual must be a resident of Maryland and demonstrate a definite financial need. In addition, a senatorial scholarship may be awarded to an individual who is on active duty with the U.S. military and domiciled in the legislative district of the State from which the applicant seeks an award. Each senator must consider an applicant's financial need. An award under the program may not be less than \$400 and may not exceed the tuition and mandatory fees at the USM institution with the highest annual tuition and fees, not including UMUC and UMB. Except under certain circumstances, a scholarship may be held for up to four years of full-time study or eight years of part-time study.

A senatorial scholarship may be used at any undergraduate, graduate, or professional school in the State or at select in-state private career schools that offer two-year certificate programs that can transfer to a baccalaureate degree, including (1) at a degree-granting institution of higher education, if the curriculum is approved by MHEC; (2) at a hospital diploma school for training registered nurses; or (3) to attend as a full-time student a private postsecondary proprietary institution that is accredited by a national accrediting association approved by the U.S. Department of Education.

Each senator may award at most 10% of scholarship funds to applicants planning to attend accredited undergraduate, graduate, or professional institutions outside of the State. Those students must be studying an academic area that is not available in the State or be a person with a hearing impairment who will be studying at an institution outside the State that makes special provisions for persons with a hearing impairment. A senatorial scholarship may also be used at an out-of-state institution of higher education if the applicant is an individual who is on active duty with the U.S. military and domiciled in the State.

The scholarship may be used for educational expenses as defined by the Office of Student Financial Assistance within MHEC, including tuition and mandatory fees and room and board. If on-campus housing is available, a senatorial scholarship may not be used to pay for off-campus housing. A recipient of a senatorial scholarship who is currently enrolled, or was enrolled within the last two years, in a certificate or license program, course, or sequence of courses at a community college that leads to certification or licensure may use

the scholarship to reimburse specified educational expenses, including tuition, mandatory fees, and room and board.

### *Delegate Scholarships*

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. A delegate may select scholarship recipients on any basis he or she considers 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 himself or herself, a delegate may authorize MHEC to award funding to eligible applicants under the Delegate Howard P. Rawlings Educational Excellence Awards program.

A delegate scholarship may be used at an in-state institution of higher education whose primary campus is located in Maryland and whose authority to grant degrees is conferred in Maryland for a program of undergraduate, graduate, or professional studies. If the applicant will be studying in an academic area that is not available in the State or under certain circumstances where the applicant is disabled, the scholarship may be used at an accredited undergraduate, graduate, or professional studies institution outside the State. The scholarship may also be used at a private career school within the State that is approved by MHEC and that is accredited by a national accrediting association that is approved by the U.S. Department of Education. A recipient of a delegate scholarship who is currently enrolled, or was enrolled within the last two years, in a certificate or license program, course, or sequence of courses at a community college that leads to certification or licensure may use the scholarship to reimburse specified educational expenses, including tuition, mandatory fees, and room and board.

### *In-state Tuition Overview*

State law requires public institutions of higher education to charge in-state tuition to specified individuals, including specified service members and their dependents and individuals eligible for the Maryland Dream Act. Specific eligibility for in-state tuition required by State law is discussed in more detail below.

For institutions within USM, the Board of Regents sets tuition policies, including the determination of which students are eligible for resident (*i.e.*, in-state) tuition. The basic [policy, USM Board of Regents Policy on Student Classification for Admission and Tuition Purposes \(VIII-2.70\)](#), requires students to be identified as permanent residents of Maryland

to qualify for resident tuition, meaning they have lived continuously in the State for at least 12 months immediately prior to attendance at a USM institution. An individual who is residing in Maryland primarily for the purpose of attending an educational institution is not considered a permanent resident. The Board of Regents of Morgan State University and the Board of Trustees of St. Mary's College of Maryland set tuition policies for those institutions. The policies for the institutions are very similar to the USM policies. Both institutions require one year of residency in Maryland to qualify for in-state tuition rates.

Typically, there is a three-month residency requirement for community colleges.

### *Service Members Eligible for In-state Tuition*

Public institutions of higher education in Maryland charge in-state tuition rates to three categories of military individuals: (1) active-duty members of the U.S. Armed Forces who are stationed, reside, or are domiciled in Maryland; (2) the spouses and dependent children of active-duty members of the U.S. Armed Forces; and (3) honorably discharged veterans of the U.S. Armed Forces.

A spouse or financially dependent child of an active-duty member of the U.S. Armed Forces is exempt from nonresident tuition charges if the member is stationed in Maryland, resides in Maryland, or is domiciled in Maryland. If the member ceases to be stationed in Maryland, reside in Maryland, or be domiciled in Maryland, the spouse or child of the member remains qualified for resident tuition if the spouse or child is continuously enrolled at a public institution of higher education.

An honorably discharged veteran of the U.S. Armed Forces is exempt from nonresident tuition if the veteran presents, within four years after discharge, (1) evidence that the veteran attended a secondary school in Maryland for at least three years and (2) documentation that the veteran graduated from a Maryland high school or received the equivalent of a high school diploma in Maryland.

Members of the Maryland National Guard are also exempt from paying nonresident tuition at public institutions of higher education in Maryland.

**State Expenditures:** General fund expenditures increase by \$50,000 in fiscal 2020 for one-time contractual costs associated with enhancements to MHEC's scholarship system, known as the Maryland College Aid Processing System, necessitated by the bill. MHEC advises that the scholarship system must be upgraded to allow applicants to receive the award if they meet the in-state tuition requirements.

Expanding eligibility for the senatorial and delegate scholarships does not require additional spending. Senators and delegates receive a set amount of scholarship money,

which is not changed by the bill. The fiscal 2020 budget includes \$6.6 million for senatorial scholarships (\$140,760 per senator) and \$6.7 million for delegate scholarships (\$47,716 per delegate).

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Higher Education Commission; University System of Maryland; Department of Legislative Services

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