

# SENATE BILL 1043

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CF HB 1260

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By: **Senators Sydnor, Griffith, Augustine, Benson, Carter, Ellis, Hayes, Kelley, McCray, Patterson, Smith, and Washington**

Introduced and read first time: February 19, 2020

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Historically Black Colleges and Universities – Funding**

3 FOR the purpose of requiring the Maryland Higher Education Commission to establish  
4 certain new units to assist in evaluating and reviewing certain proposals for new  
5 programs and substantial modifications of existing programs by an institution of  
6 postsecondary education; requiring the Governor, beginning in a certain fiscal year,  
7 to include in the annual State operating budget an amount sufficient to employ  
8 certain staff; requiring the Governor, in certain fiscal years, to include in the annual  
9 State operating budget certain funds for certain historically black colleges and  
10 universities in the State; specifying how certain funds shall be allocated; providing  
11 for the allowable uses of certain funds; providing that certain funds be in addition to  
12 certain base funds appropriated to certain institutions; requiring certain historically  
13 black colleges and universities to report annually, for a certain duration, certain  
14 information to the Governor, the President of the Senate, and the Speaker of the  
15 House of Delegates; establishing the Historically Black Colleges and Universities  
16 Reserve Fund as a special, nonlapsing fund; specifying the purpose of the Fund;  
17 requiring the Commission to administer the Fund; requiring the State Treasurer to  
18 hold the Fund and the Comptroller to account for the Fund; specifying the contents  
19 of the Fund; specifying the purpose for which the Fund may be used; providing for  
20 the investment of money in and expenditures from the Fund; requiring interest  
21 earnings of the Fund to be credited to the Fund; exempting the Fund from a certain  
22 provision of law requiring interest earnings on State money to accrue to the General  
23 Fund of the State; stating certain findings of the General Assembly; defining a  
24 certain term; requiring the University of Maryland Global Campus to assist certain  
25 historically black colleges and universities with developing and offering online  
26 academic programs; requiring the Commission to study its own policies and practices  
27 and report the results on or before a certain date; encouraging certain historically  
28 black colleges and universities to hire a certain consultant and report the results and  
29 any findings on or before a certain date; requiring the Governor to provide a certain  
30 allocation in a certain fiscal year for certain fees under certain circumstances;

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 making certain provisions of this Act subject to a certain contingency; and generally  
2 relating to historically black colleges and universities in the State.

3 BY adding to  
4 Article – Education  
5 Section 10–214, 11–206.3, 15–126, and 15–127  
6 Annotated Code of Maryland  
7 (2018 Replacement Volume and 2019 Supplement)

8 BY repealing and reenacting, without amendments,  
9 Article – State Finance and Procurement  
10 Section 6–226(a)(2)(i)  
11 Annotated Code of Maryland  
12 (2015 Replacement Volume and 2019 Supplement)

13 BY repealing and reenacting, with amendments,  
14 Article – State Finance and Procurement  
15 Section 6–226(a)(2)(ii)121. and 122.  
16 Annotated Code of Maryland  
17 (2015 Replacement Volume and 2019 Supplement)

18 BY adding to  
19 Article – State Finance and Procurement  
20 Section 6–226(a)(2)(ii)123.  
21 Annotated Code of Maryland  
22 (2015 Replacement Volume and 2019 Supplement)

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

25 **Article – Education**

26 **10–214.**

27 **THE GENERAL ASSEMBLY FINDS THAT:**

28 **(1) THE STATE OF MARYLAND WISHES TO PROVIDE ALL OF ITS**  
29 **CITIZENS WITH EQUAL ACCESS TO HIGHER EDUCATION AT EXCELLENT AND**  
30 **AFFORDABLE PUBLIC COLLEGES AND UNIVERSITIES;**

31 **(2) THE GENERAL ASSEMBLY HAS CAREFULLY REVIEWED THE**  
32 **MEMORANDUM OPINIONS AND ORDERS OF THE UNITED STATES DISTRICT COURT**  
33 **FOR THE DISTRICT OF MARYLAND, ISSUED OCTOBER 7, 2013, AND NOVEMBER 8,**  
34 **2017, IN THE ACTION, THE COALITION FOR EQUITY AND EXCELLENCE IN**  
35 **MARYLAND HIGHER EDUCATION, ET AL. V. MARYLAND HIGHER EDUCATION**  
36 **COMMISSION, ET AL., 06–CV–02773–CCB;**

1           **(3) THE DISTRICT COURT FOUND THAT THE STATE FAILED TO**  
2 **ELIMINATE A TRACEABLE DE JURE ERA POLICY OF UNNECESSARY DUPLICATION OF**  
3 **PROGRAMS AT HISTORICALLY BLACK COLLEGES AND UNIVERSITIES IN THE STATE**  
4 **THAT HAS EXACERBATED THE RACIAL IDENTIFIABILITY OF MARYLAND'S**  
5 **HISTORICALLY BLACK COLLEGES AND UNIVERSITIES;**

6           **(4) MARYLAND'S HISTORICALLY BLACK COLLEGES AND**  
7 **UNIVERSITIES, WHICH ARE BOWIE STATE UNIVERSITY, COPPIN STATE**  
8 **UNIVERSITY, MORGAN STATE UNIVERSITY, AND THE UNIVERSITY OF MARYLAND**  
9 **EASTERN SHORE, SHOULD RECEIVE ADDITIONAL SUPPORT TO REMEDY THE**  
10 **FINDINGS OF THE DISTRICT COURT;**

11           **(5) THE ADDITIONAL SUPPORT SHALL BE PROVIDED IN THE FORM OF**  
12 **ADDITIONAL FUNDING IN THE AMOUNT OF \$577,000,000, WHICH SHALL BE**  
13 **PROVIDED IN EQUAL AMOUNTS IN EACH OF FISCAL YEARS 2022 THROUGH 2031, AND**  
14 **SHALL BE ALLOCATED AMONG THE INSTITUTIONS; AND**

15           **(6) THE PROVISIONS OF §§ 15-126 AND 15-127 OF THIS ARTICLE**  
16 **SHALL ENSURE THAT MARYLAND'S HISTORICALLY BLACK COLLEGES AND**  
17 **UNIVERSITIES SHALL RECEIVE THIS SUPPORT.**

18 **11-206.3.**

19           **(A) THE COMMISSION SHALL ESTABLISH:**

20                   **(1) A NEW PROGRAM EVALUATION UNIT; AND**

21                   **(2) A SUBSTANTIAL PROGRAM MODIFICATION UNIT.**

22           **(B) (1) EACH OF THE UNITS ESTABLISHED IN THIS SECTION SHALL HAVE**  
23 **AT LEAST FIVE STAFF MEMBERS WHO ARE EMPLOYEES OF THE COMMISSION.**

24                   **(2) THE STAFF MEMBERS ASSIGNED TO THESE UNITS SHALL BE IN**  
25 **ADDITION TO THE CURRENT WORKFORCE OF THE COMMISSION.**

26           **(C) THE UNITS ESTABLISHED IN THIS SECTION SHALL ASSIST THE**  
27 **COMMISSION IN REVIEWING AND EVALUATING PROPOSALS FOR NEW PROGRAMS**  
28 **AND SUBSTANTIAL MODIFICATIONS OF EXISTING PROGRAMS IN ACCORDANCE WITH**  
29 **§§ 11-206 AND 11-206.1 OF THIS SUBTITLE.**

30           **(D) BEGINNING IN FISCAL YEAR 2022, THE GOVERNOR SHALL INCLUDE IN**  
31 **THE ANNUAL STATE OPERATING BUDGET FUNDS IN AN AMOUNT SUFFICIENT TO**

1 EMPLOY THE 10 STAFF MEMBERS REQUIRED UNDER THIS SECTION.

2 15-126.

3 (A) FOR FISCAL YEAR 2022, THE GOVERNOR SHALL INCLUDE IN THE  
4 ANNUAL STATE OPERATING BUDGET GENERAL FUNDS OF AT LEAST:

5 (1) \$16,790,700 FOR BOWIE STATE UNIVERSITY;

6 (2) \$7,212,500 FOR COPPIN STATE UNIVERSITY;

7 (3) \$24,003,200 FOR MORGAN STATE UNIVERSITY; AND

8 (4) \$9,693,600 FOR THE UNIVERSITY OF MARYLAND EASTERN  
9 SHORE.

10 (B) (1) FOR EACH OF FISCAL YEARS 2023 THROUGH 2031, THE  
11 GOVERNOR SHALL INCLUDE IN THE ANNUAL STATE OPERATING BUDGET GENERAL  
12 FUNDS OF AT LEAST \$57,700,000 TO BE ALLOCATED TO THE HISTORICALLY BLACK  
13 COLLEGES AND UNIVERSITIES AS CALCULATED UNDER PARAGRAPH (2) OF THIS  
14 SUBSECTION.

15 (2) THE FUNDS PROVIDED UNDER PARAGRAPH (1) OF THIS  
16 SUBSECTION SHALL BE ALLOCATED TO EACH INSTITUTION IN AN AMOUNT THAT  
17 EQUALS THE PRODUCT OF:

18 (I) THE PERCENTAGE SHARE OF STUDENTS ENROLLED DURING  
19 THE IMMEDIATELY PRECEDING ACADEMIC YEAR AT EACH INSTITUTION COMPARED  
20 TO THE TOTAL NUMBER OF STUDENTS ENROLLED AT ALL OF THE HISTORICALLY  
21 BLACK COLLEGES AND UNIVERSITIES; AND

22 (II) \$57,700,000.

23 (3) AT THE END OF EACH FISCAL YEAR, ANY UNUSED FUNDS  
24 PROVIDED UNDER THIS SECTION SHALL BE DISTRIBUTED TO THE HISTORICALLY  
25 BLACK COLLEGES AND UNIVERSITIES RESERVE FUND ESTABLISHED UNDER §  
26 15-127 OF THIS SUBTITLE.

27 (C) FUNDS PROVIDED UNDER THIS SECTION:

28 (1) SHALL BE SUPPLEMENTAL TO, AND MAY NOT SUPPLANT, FUNDS  
29 APPROPRIATED TO PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN THE STATE  
30 BUDGET; AND

1           **(2) MAY BE USED FOR THE FOLLOWING PURPOSES, AS DETERMINED**  
2 **BY THE UNIVERSITY RECEIVING THE FUNDS:**

3                   **(I) SCHOLARSHIPS AND FINANCIAL AID SUPPORT SERVICES;**

4                   **(II) FACULTY RECRUITMENT AND DEVELOPMENT;**

5                   **(III) EXPANDING AND IMPROVING EXISTING ACADEMIC**  
6 **PROGRAMS, INCLUDING ONLINE PROGRAMS;**

7                   **(IV) DEVELOPMENT AND IMPLEMENTATION OF NEW ACADEMIC**  
8 **PROGRAMS, INCLUDING ONLINE PROGRAMS;**

9                   **(V) ACADEMIC SUPPORT; AND**

10                   **(VI) MARKETING.**

11           **(D) ON OR BEFORE DECEMBER 1 EACH YEAR, BEGINNING IN 2022 AND**  
12 **GOING THROUGH 2032, EACH HISTORICALLY BLACK COLLEGE OR UNIVERSITY**  
13 **SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE**  
14 **STATE GOVERNMENT ARTICLE, THE PRESIDENT OF THE SENATE AND THE**  
15 **SPEAKER OF THE HOUSE OF DELEGATES ON:**

16                   **(1) THE USES OF THE FUNDS IN ACCORDANCE WITH SUBSECTION**  
17 **(C)(2) OF THIS SECTION; AND**

18                   **(2) ANY NEW ACADEMIC PROGRAM DEVELOPED WITH RESPECT TO:**

19                   **(I) DEVELOPMENT COSTS;**

20                   **(II) STARTUP COSTS; AND**

21                   **(III) ONGOING COSTS TO MAINTAIN THE PROGRAM.**

22 **15-127.**

23           **(A) IN THIS SECTION, “FUND” MEANS THE HISTORICALLY BLACK**  
24 **COLLEGES AND UNIVERSITIES RESERVE FUND.**

25           **(B) THERE IS A HISTORICALLY BLACK COLLEGES AND UNIVERSITIES**  
26 **RESERVE FUND.**

1 (C) THE PURPOSE OF THE FUND IS TO PROVIDE RESERVE FUNDING FOR  
2 BOWIE STATE UNIVERSITY, COPPIN STATE UNIVERSITY, MORGAN STATE  
3 UNIVERSITY, AND THE UNIVERSITY OF MARYLAND EASTERN SHORE THAT IS USED  
4 FOR PURPOSES CONSISTENT WITH THE USES SPECIFIED UNDER § 15-126 OF THIS  
5 SUBTITLE.

6 (D) THE MARYLAND HIGHER EDUCATION COMMISSION SHALL  
7 ADMINISTER THE FUND.

8 (E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT  
9 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

10 (2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,  
11 AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

12 (F) THE FUND CONSISTS OF:

13 (1) THE REMAINDER OF ANY FUNDS UNUSED AT THE END OF A FISCAL  
14 YEAR THAT IS DISTRIBUTED TO THE FUND UNDER § 15-126 OF THIS SUBTITLE;

15 (2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

16 (3) INTEREST EARNINGS; AND

17 (4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR  
18 THE BENEFIT OF THE FUND.

19 (G) THE FUND MAY BE USED ONLY FOR THE USES SPECIFIED UNDER §  
20 15-126 OF THIS SUBTITLE.

21 (H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND  
22 IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

23 (2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO  
24 THE FUND.

25 (I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE  
26 WITH THE STATE BUDGET.

27 (J) MONEY EXPENDED FROM THE FUND FOR THE USES SPECIFIED UNDER §  
28 15-126 OF THIS SUBTITLE IS SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE  
29 THE PLACE OF FUNDING THAT OTHERWISE WOULD BE APPROPRIATED FOR THE  
30 USES SPECIFIED UNDER § 15-126 OF THIS SUBTITLE OR ANY OTHER FUNDS

1 APPROPRIATED TO PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN THE STATE  
2 BUDGET.

3 **Article – State Finance and Procurement**

4 6–226.

5 (a) (2) (i) Notwithstanding any other provision of law, and unless  
6 inconsistent with a federal law, grant agreement, or other federal requirement or with the  
7 terms of a gift or settlement agreement, net interest on all State money allocated by the  
8 State Treasurer under this section to special funds or accounts, and otherwise entitled to  
9 receive interest earnings, as accounted for by the Comptroller, shall accrue to the General  
10 Fund of the State.

11 (ii) The provisions of subparagraph (i) of this paragraph do not apply  
12 to the following funds:

13 121. the Markell Hendricks Youth Crime Prevention and  
14 Diversion Parole Fund; [and]

15 122. the Federal Government Shutdown Employee Assistance  
16 Loan Fund; AND

17 **123. THE HISTORICALLY BLACK COLLEGES AND**  
18 **UNIVERSITIES RESERVE FUND.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That:

20 (a) The University of Maryland Global Campus shall work with the State's  
21 historically black colleges and universities, Bowie State University, Coppin State  
22 University, Morgan State University, and the University of Maryland Eastern Shore with  
23 the goal of developing and offering online academic programs.

24 (b) On or before December 1, 2020, each institution shall submit a report on its  
25 efforts and any findings to the Governor and, in accordance with § 2–1257 of the State  
26 Government Article, the President of the Senate and the Speaker of the House of Delegates  
27 that summarizes the steps taken to comply with the requirement provided under  
28 subsection (a) of this section.

29 SECTION 3. AND BE IT FURTHER ENACTED, That:

30 (a) The Maryland Higher Education Commission shall study the Commission's  
31 current policies and practices and any new policies or practices established in accordance  
32 with this Act for the purpose of evaluating, streamlining, and improving the Commission's  
33 policies and practices with respect to academic program review.

1 (b) On or before December 1, 2020, the Commission shall submit a report on its  
2 findings to the Governor and, in accordance with § 2–1257 of the State Government Article,  
3 the President of the Senate and the Speaker of the House of Delegates that summarizes  
4 the results of the study conducted in accordance with subsection (a) of this section.

5 SECTION 4. AND BE IT FURTHER ENACTED, That:

6 (a) The State’s historically black colleges and universities, Bowie State  
7 University, Coppin State University, Morgan State University, and the University of  
8 Maryland Eastern Shore, are encouraged to hire a consultant who would assist the  
9 institutions, as a collective, with programmatic development.

10 (b) On or before December 1, 2020, each institution shall submit a report on its  
11 efforts and any findings to the Governor and, in accordance with § 2–1257 of the State  
12 Government Article, the President of the Senate and the Speaker of the House of Delegates  
13 that summarizes the steps taken to comply with subsection (a) of this section.

14 SECTION 5. AND BE IT FURTHER ENACTED, That:

15 (a) Section 1 of this Act is contingent on the execution of a final settlement  
16 agreement in the case of The Coalition for Equity and Excellence in Maryland Higher  
17 Education v. Maryland Higher Education Commission, 06–CV–02773–CCB (D. MD) on or  
18 before December 1, 2020, that:

19 (1) incorporates and is limited to the provisions of Section 1 of this Act; and

20 (2) provides for attorney’s fees in an amount not less than \$14,000,000 but  
21 not more than \$25,000,000 to plaintiffs’ counsel in The Coalition for Equity and Excellence  
22 in Maryland Higher Education v. Maryland Higher Education Commission,  
23 06–CV–02773–CCB (D. MD).

24 (b) (1) In fiscal year 2022, the Governor shall provide an allocation for the  
25 attorney’s fees in the amount specified in the final settlement agreement described in  
26 subsection (a) of this section.

27 (2) The amount allocated under paragraph (1) of this subsection shall be  
28 provided from the funds for the historically black colleges and universities under Section 1  
29 of this Act, with the amounts allocated based on each institution’s share of the total funds  
30 provided under Section 1 of this Act.

31 (3) Notwithstanding § 12–501 of the State Government Article or any other  
32 provision of law, the settlement agreement as provided in subsection (a) of this section,  
33 including attorney’s fees provided in the settlement agreement, are not subject to approval  
34 by the Board of Public Works.

35 (c) The Attorney General shall provide written notice of the executed settlement  
36 agreement to the Department of Legislative Services, 90 State Circle, Annapolis, MD



1 21401.

2 (d) If notice of the settlement agreement is not received by the Department of  
3 Legislative Services on or before December 11, 2020, Section 1 of this Act, with no further  
4 action required by the General Assembly, shall be null and void.

5 SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in Section  
6 5 of this Act, this Act shall take effect July 1, 2020.