

SENATE BILL 1

F2
SB 1043/20 – B&T & EHE

EMERGENCY BILL
(PRE-FILED)

1lr1743
CF HB 1

By: Senators Sydnor, Beidle, Feldman, Griffith, Hayes, Hettleman, Kelley, Lam, Patterson, Waldstreicher, Washington, ~~and Young~~ Young, Augustine, Benson, Carozza, Carter, Eckardt, Edwards, Elfreth, Ellis, Ferguson, Guzzone, Hester, Jackson, Kagan, King, Klausmeier, Kramer, Lee, McCray, Peters, Pinsky, Reilly, Rosapepe, Salling, Simonaire, Smith, West, and Zucker

Requested: November 1, 2020

Introduced and read first time: January 13, 2021

Assigned to: Budget and Taxation and Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 3, 2021

CHAPTER _____

1 AN ACT concerning

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

3 FOR the purpose of requiring the Maryland Higher Education Commission to establish a
4 certain new unit 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 budget bill an amount sufficient to employ certain staff;
8 requiring the Governor, in certain fiscal years, to include in the annual budget bill
9 certain funds for certain historically black colleges and universities in the State;
10 specifying how certain funds shall be allocated; providing for the allowable uses of
11 certain funds; providing that certain funds be in addition to certain base funds
12 appropriated to certain institutions; prohibiting certain funds from being included
13 in certain calculations of State funding for certain institutions of higher education
14 under certain provisions of law; requiring certain historically black colleges and
15 universities to report annually, for a certain duration, certain information to the
16 Governor, the President of the Senate, the Speaker of the House, the House
17 Appropriations Committee, and the Senate Budget and Taxation Committee;
18 establishing the Historically Black Colleges and Universities Reserve Fund as a
19 special, nonlapsing fund; specifying the purpose of the Fund; requiring the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Commission to administer the Fund; requiring the State Treasurer to hold the Fund
2 and the Comptroller to account for the Fund; specifying the contents of the Fund;
3 specifying the purpose for which the Fund may be used; providing for the investment
4 of money in and expenditures from the Fund; requiring interest earnings of the Fund
5 to be credited to the Fund; exempting the Fund from a certain provision of law
6 requiring interest earnings on State money to accrue to the General Fund of the
7 State; requiring the Cigarette Restitution Fund to include a separate account
8 consisting of payments received by the State as a result of certain litigation;
9 requiring distributions from a certain separate account to supplant a certain general
10 fund appropriation; stating certain findings of the General Assembly; defining a
11 certain term; requiring the University System of Maryland William E. Kirwan
12 Center for Academic Innovation, in collaboration with UMUC Ventures, to assist
13 certain historically black colleges and universities with developing and offering
14 online academic programs; providing that certain procurements and contracts are
15 not subject to the approval of the Board of Public Works under a certain provision of
16 law; authorizing the Board of Regents of the University System of Maryland to use
17 the fund balance to support the development and offering of certain online programs;
18 requiring the Commission, in consultation with certain institutions, to study its own
19 policies and practices and report the results on or before a certain date; encouraging
20 certain historically black colleges and universities to hire a certain consultant and
21 report the results and any findings on or before a certain date; encouraging certain
22 historically black colleges and universities to use certain funds to implement and
23 support the Blueprint for Maryland's Future; requiring the Governor to provide a
24 certain allocation in a certain fiscal year for certain fees and expenses under certain
25 circumstances; authorizing the Attorney General to execute a certain final
26 settlement agreement; making conforming changes; making certain provisions of
27 this Act subject to a certain contingency; making this Act an emergency measure;
28 and generally relating to historically black colleges and universities in the State.

29 BY adding to

30 Article – Education

31 Section 10–214, 11–206.3, 15–126, and 15–127

32 Annotated Code of Maryland

33 (2018 Replacement Volume and 2020 Supplement)

34 BY repealing and reenacting, without amendments,

35 Article – State Finance and Procurement

36 Section 6–226(a)(2)(i) and 7–317(a)

37 Annotated Code of Maryland

38 (2015 Replacement Volume and 2020 Supplement)

39 BY repealing and reenacting, with amendments,

40 Article – State Finance and Procurement

41 Section 6–226(a)(2)(ii) 122. and 123. and 7–317(b), (e), and (h)

42 Annotated Code of Maryland

43 (2015 Replacement Volume and 2020 Supplement)

1 BY adding to
2 Article – State Finance and Procurement
3 Section 6–226(a)(2)(ii)124. and 7–317(h)
4 Annotated Code of Maryland
5 (2015 Replacement Volume and 2020 Supplement)

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

8 **Article – Education**

9 **10–214.**

10 **THE GENERAL ASSEMBLY FINDS THAT:**

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

14 **(2) THE GENERAL ASSEMBLY HAS CAREFULLY REVIEWED THE**
15 **MEMORANDUM OPINIONS AND ORDERS OF THE UNITED STATES DISTRICT COURT**
16 **FOR THE DISTRICT OF MARYLAND, ISSUED OCTOBER 7, 2013, AND NOVEMBER 8,**
17 **2017, IN THE ACTION, THE COALITION FOR EQUITY AND EXCELLENCE IN**
18 **MARYLAND HIGHER EDUCATION, ET AL. V. MARYLAND HIGHER EDUCATION**
19 **COMMISSION, ET AL., 06–CV–02773–CCB;**

20 **(3) THE DISTRICT COURT FOUND THAT THE STATE FAILED TO**
21 **ELIMINATE A TRACEABLE DE JURE ERA POLICY OF UNNECESSARY DUPLICATION OF**
22 **PROGRAMS AT HISTORICALLY BLACK COLLEGES AND UNIVERSITIES IN THE STATE**
23 **THAT HAS EXACERBATED THE RACIAL IDENTIFIABILITY OF MARYLAND’S**
24 **HISTORICALLY BLACK COLLEGES AND UNIVERSITIES;**

25 **(4) MARYLAND’S HISTORICALLY BLACK COLLEGES AND**
26 **UNIVERSITIES, WHICH ARE BOWIE STATE UNIVERSITY, COPPIN STATE**
27 **UNIVERSITY, MORGAN STATE UNIVERSITY, AND UNIVERSITY OF MARYLAND**
28 **EASTERN SHORE, SHOULD RECEIVE ADDITIONAL SUPPORT TO REMEDY THE**
29 **FINDINGS OF THE DISTRICT COURT;**

30 **(5) THE ADDITIONAL SUPPORT SHALL BE PROVIDED IN THE FORM OF**
31 **ADDITIONAL FUNDING IN THE AMOUNT OF \$577,000,000, WHICH SHALL BE**
32 **PROVIDED IN AMOUNTS AS CALCULATED UNDER § 15–126 OF THIS ARTICLE IN EACH**
33 **OF FISCAL YEARS 2023 THROUGH 2032, AND SHALL BE ALLOCATED AMONG THE**
34 **INSTITUTIONS; AND**

1 **(6) THE PROVISIONS OF §§ 15–126 AND 15–127 OF THIS ARTICLE**
2 **SHALL ENSURE THAT MARYLAND’S HISTORICALLY BLACK COLLEGES AND**
3 **UNIVERSITIES SHALL RECEIVE THIS SUPPORT.**

4 **11–206.3.**

5 **(A) THE COMMISSION SHALL ESTABLISH A PROGRAM EVALUATION UNIT TO**
6 **EVALUATE NEW PROGRAMS AND SUBSTANTIAL MODIFICATIONS.**

7 **(B) (1) THE UNIT ESTABLISHED IN THIS SECTION SHALL HAVE AT LEAST**
8 **10 STAFF MEMBERS WHO ARE EMPLOYEES OF THE COMMISSION.**

9 **(2) THE STAFF MEMBERS ASSIGNED TO THIS UNIT SHALL BE IN**
10 **ADDITION TO THE CURRENT WORKFORCE OF THE COMMISSION.**

11 **(C) THE UNIT ESTABLISHED IN THIS SECTION SHALL ASSIST THE**
12 **COMMISSION IN REVIEWING AND EVALUATING PROPOSALS FOR NEW PROGRAMS**
13 **AND SUBSTANTIAL MODIFICATIONS OF EXISTING PROGRAMS IN ACCORDANCE WITH**
14 **§§ 11–206 AND 11–206.1 OF THIS SUBTITLE.**

15 **(D) BEGINNING IN FISCAL YEAR 2023, THE GOVERNOR SHALL INCLUDE IN**
16 **THE ANNUAL BUDGET BILL AN APPROPRIATION IN AN AMOUNT SUFFICIENT TO**
17 **EMPLOY THE 10 STAFF MEMBERS REQUIRED UNDER THIS SECTION.**

18 **15–126.**

19 **(A) ~~FOR~~ SUBJECT TO SUBSECTION (D) OF THIS SECTION, FOR FISCAL YEAR**
20 **2023, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL A GENERAL**
21 **FUND APPROPRIATION OF AT LEAST:**

22 **(1) \$16,790,700 FOR BOWIE STATE UNIVERSITY;**

23 **(2) \$9,000,000 FOR COPPIN STATE UNIVERSITY;**

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

25 **(4) \$9,693,600 FOR UNIVERSITY OF MARYLAND EASTERN SHORE.**

26 **(B) (1) ~~FOR~~ SUBJECT TO SUBSECTION (D) OF THIS SECTION, FOR EACH**
27 **OF FISCAL YEARS 2024 THROUGH 2031, THE GOVERNOR SHALL INCLUDE IN THE**
28 **ANNUAL BUDGET BILL A GENERAL FUND APPROPRIATION TO THE HISTORICALLY**
29 **BLACK COLLEGES AND UNIVERSITIES AS CALCULATED UNDER PARAGRAPH (2) OF**
30 **THIS SUBSECTION.**

1 **(2) THE FUNDS PROVIDED UNDER PARAGRAPH (1) OF THIS**
2 **SUBSECTION SHALL BE ALLOCATED TO EACH INSTITUTION IN AN AMOUNT THAT IS**
3 **THE GREATER OF:**

4 **(I) \$9,000,000; OR**

5 **(II) THE PRODUCT OF:**

6 **1. THE PERCENTAGE SHARE OF STUDENTS ENROLLED**
7 **DURING THE IMMEDIATELY PRECEDING ACADEMIC YEAR AT EACH INSTITUTION**
8 **COMPARED TO THE TOTAL NUMBER OF STUDENTS ENROLLED AT ALL OF THE**
9 **HISTORICALLY BLACK COLLEGES AND UNIVERSITIES; AND**

10 **2. \$57,700,000.**

11 **(3) (I) ~~FOR~~ SUBJECT TO SUBSECTION (D) OF THIS SECTION, FOR**
12 **FISCAL YEAR 2032, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL**
13 **A GENERAL FUND APPROPRIATION EQUAL TO THE DIFFERENCE OF:**

14 **1. \$577,000,000; MINUS**

15 **2. THE SUM OF THE TOTAL FUNDS ALLOCATED FOR**
16 **EACH OF FISCAL YEARS 2023 THROUGH 2031 UNDER THIS SECTION.**

17 **(II) THE FUNDS PROVIDED UNDER SUBPARAGRAPH (I) OF THIS**
18 **PARAGRAPH SHALL BE ALLOCATED TO EACH HISTORICALLY BLACK COLLEGE AND**
19 **UNIVERSITY IN AN AMOUNT THAT IS EQUAL TO THE PRODUCT OF:**

20 **1. THE PERCENTAGE SHARE OF STUDENTS ENROLLED**
21 **DURING THE IMMEDIATELY PRECEDING ACADEMIC YEAR AT EACH INSTITUTION**
22 **COMPARED TO THE TOTAL NUMBER OF STUDENTS ENROLLED AT ALL OF THE**
23 **HISTORICALLY BLACK COLLEGES AND UNIVERSITIES; AND**

24 **2. THE AMOUNT OF GENERAL FUNDS DETERMINED FOR**
25 **FISCAL YEAR 2032 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.**

26 **(4) AT THE END OF EACH FISCAL YEAR, ANY UNUSED FUNDS**
27 **PROVIDED UNDER THIS SECTION SHALL BE DISTRIBUTED TO THE HISTORICALLY**
28 **BLACK COLLEGES AND UNIVERSITIES RESERVE FUND ESTABLISHED UNDER §**
29 **15-127 OF THIS SUBTITLE.**

30 **(C) FUNDS PROVIDED UNDER THIS SECTION:**

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

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

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

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

8 **(III) EXPANDING AND IMPROVING EXISTING ACADEMIC**
 9 **PROGRAMS, INCLUDING ONLINE PROGRAMS;**

10 **(IV) DEVELOPMENT AND IMPLEMENTATION OF NEW ACADEMIC**
 11 **PROGRAMS, INCLUDING ONLINE PROGRAMS;**

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

13 **(VI) MARKETING; AND**

14 **(3) MAY NOT BE INCLUDED IN THE CALCULATIONS OF STATE**
 15 **FUNDING UNDER §§ 16–305, 16–512, AND 17–104 OF THIS ARTICLE.**

16 **(D) IF THE SPECIAL ACCOUNT IN THE CIGARETTE RESTITUTION FUND**
 17 **ESTABLISHED UNDER § 7–317 OF THE STATE FINANCE AND PROCUREMENT**
 18 **ARTICLE HAS A BALANCE, THE GOVERNOR SHALL USE THE BALANCE TO SUPPLANT**
 19 **THE GENERAL FUND APPROPRIATION TO THE HISTORICALLY BLACK COLLEGES AND**
 20 **UNIVERSITIES REQUIRED UNDER THIS SECTION.**

21 ~~(D)~~ **(E) ON OR BEFORE DECEMBER 1 EACH YEAR, BEGINNING IN 2023**
 22 **AND GOING THROUGH 2033, EACH HISTORICALLY BLACK COLLEGE OR UNIVERSITY**
 23 **SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1257 OF THE**
 24 **STATE GOVERNMENT ARTICLE, THE PRESIDENT OF THE SENATE, THE SPEAKER OF**
 25 **THE HOUSE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE SENATE BUDGET**
 26 **AND TAXATION COMMITTEE ON:**

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

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

30 **(I) DEVELOPMENT COSTS;**

1 (II) STARTUP COSTS; AND

2 (III) ONGOING COSTS TO MAINTAIN THE PROGRAM.

3 15-127.

4 (A) IN THIS SECTION, "FUND" MEANS THE HISTORICALLY BLACK
5 COLLEGES AND UNIVERSITIES RESERVE FUND.

6 (B) THERE IS A HISTORICALLY BLACK COLLEGES AND UNIVERSITIES
7 RESERVE FUND.

8 (C) THE PURPOSE OF THE FUND IS TO PROVIDE RESERVE FUNDING FOR
9 BOWIE STATE UNIVERSITY, COPPIN STATE UNIVERSITY, MORGAN STATE
10 UNIVERSITY, AND UNIVERSITY OF MARYLAND EASTERN SHORE THAT IS USED FOR
11 PURPOSES CONSISTENT WITH THE USES SPECIFIED UNDER § 15-126 OF THIS
12 SUBTITLE.

13 (D) THE MARYLAND HIGHER EDUCATION COMMISSION SHALL
14 ADMINISTER THE FUND.

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

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

19 (F) THE FUND CONSISTS OF:

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

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

23 (3) INTEREST EARNINGS; AND

24 (4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR
25 THE BENEFIT OF THE FUND.

26 (G) THE FUND MAY BE USED ONLY FOR THE USES SPECIFIED UNDER §
27 15-126 OF THIS SUBTITLE.

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

1 settlement with tobacco product manufacturers, tobacco research associations, or any other
2 person in the tobacco industry relating to litigation, administrative proceedings, or any
3 other claims made or prosecuted by the State to recover damages for violations of State law.

4 (3) There shall be credited to the Fund all money collected under § 24–508
5 of the Health – General Article or § 5–608 of the Labor and Employment Article.

6 (e) (1) The Fund shall be expended subject to any restrictions on its use or
7 other limitations on its allocation that are:

8 (i) expressly provided by statute;

9 (ii) required as a condition of the acceptance of funds; or

10 (iii) determined to be necessary to avoid recoupment by the federal
11 government of money paid to the Fund.

12 (2) **[Disbursements] EXCEPT AS OTHERWISE PROVIDED UNDER**
13 **SUBSECTION (H) OF THIS SECTION, DISBURSEMENTS** from the Fund to programs
14 **funded by the State or with federal funds administered by the State shall be used solely to**
15 **supplement, and not to supplant, funds otherwise available for the programs under federal**
16 **or State law as provided in this section.**

17 **(H) (1) THE FUND SHALL INCLUDE A SEPARATE ACCOUNT CONSISTING**
18 **OF PAYMENTS RECEIVED BY THE STATE AS A RESULT OF LITIGATION BY**
19 **PARTICIPATING MANUFACTURERS RELATED TO THE STATE’S DILIGENT**
20 **ENFORCEMENT OF TITLE 16, SUBTITLE 4 OF THE BUSINESS REGULATION ARTICLE.**

21 **(2) DISTRIBUTIONS FROM THE SEPARATE ACCOUNT MAY BE USED**
22 **ONLY TO SUPPLANT THE GENERAL FUND APPROPRIATION TO THE HISTORICALLY**
23 **BLACK COLLEGES AND UNIVERSITIES REQUIRED UNDER § 15–126 OF THE**
24 **EDUCATION ARTICLE.**

25 **[(h)] (I) For each program, project or activity receiving funds appropriated**
26 **under subsection (g)(3) of this section, the Governor shall:**

27 (1) develop appropriate statements of vision, mission, key goals, key
28 objectives, and key performance indicators and report these statements in a discrete part
29 of the State budget submission, which shall also provide data for key performance
30 indicators; and

31 (2) report annually, subject to § 2–1257 of the State Government Article,
32 to the General Assembly no later than November 1 on:

33 (i) total funds expended, by program and subdivision, in the prior
34 fiscal year from the Fund established under this section; and

1 (ii) the specific outcomes or public benefits resulting from that
2 expenditure.

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

4 (a) (1) The University System of Maryland William E. Kirwan Center for
5 Academic Innovation, in collaboration with UMUC Ventures, shall work with the State's
6 historically black colleges and universities, Bowie State University, Coppin State
7 University, Morgan State University, and University of Maryland Eastern Shore, with the
8 goal of developing and offering online academic programs.

9 (2) The procurements and contracts for developing and offering online
10 academic programs under paragraph (1) of this subsection are not subject to the approval
11 of the Board of Public Works under § 12-112 of the Education Article.

12 (3) The Board of Regents of the University System of Maryland may use
13 the fund balance to support the development and offering of online academic programs
14 under this subsection.

15 (b) On or before December 1, 2021, each institution shall submit a report on its
16 efforts and any findings to the Governor and, in accordance with § 2-1257 of the State
17 Government Article, the President of the Senate and the Speaker of the House that
18 summarizes the steps taken to comply with the requirement provided under subsection (a)
19 of this section.

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

21 (a) The Maryland Higher Education Commission shall, in consultation with
22 Morgan State University, the University System of Maryland, and St. Mary's College of
23 Maryland, study the Commission's current policies and practices and any new policies or
24 practices established in accordance with this Act for the purpose of:

25 (1) evaluating, streamlining, improving, and making recommendations on
26 the Commission's policies and practices with respect to academic program review;

27 (2) enhancing the economic competitiveness of the State by ensuring the
28 responsiveness of institutions of higher education to market demand; and

29 (3) effectively supporting the State's workforce development requirements.

30 (b) On or before December 1, 2021, the Commission shall submit a report on its
31 findings to the Governor and, in accordance with § 2-1257 of the State Government Article,
32 the President of the Senate and the Speaker of the House that summarizes the results of
33 the study conducted in accordance with subsection (a) of this section.

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

1 (a) The State's historically black colleges and universities, Bowie State
2 University, Coppin State University, Morgan State University, and University of Maryland
3 Eastern Shore, are encouraged to hire a consultant who would assist the institutions, as a
4 collective, with programmatic development.

5 (b) On or before December 1, 2021, each institution shall submit a report on its
6 efforts and any findings to the Governor and, in accordance with § 2-1257 of the State
7 Government Article, the President of the Senate and the Speaker of the House that
8 summarizes the steps taken to comply with subsection (a) of this section.

9 SECTION 5. AND BE IT FURTHER ENACTED, That the State's historically black
10 colleges and universities, Bowie State University, Coppin State University, Morgan State
11 University, and University of Maryland Eastern Shore, are encouraged to use funds
12 provided by this Act to support and implement the Blueprint for Maryland's Future.

13 SECTION 6. AND BE IT FURTHER ENACTED, That:

14 (a) Section 1 of this Act is contingent on the execution of a final settlement
15 agreement in the case of The Coalition for Equity and Excellence in Maryland Higher
16 Education v. Maryland Higher Education Commission, 06-CV-02773-CCB (D. MD) on or
17 before June 1, 2021, that:

18 (1) incorporates and does not exceed the financial and programmatic
19 commitments contained in Section 1 of this Act;

20 (2) incorporates the order described in subsection (d)(2) of this section; and

21 (3) provides for attorney's fees and expenses in an amount not less than
22 \$14,000,000 but not more than \$25,000,000 to plaintiffs' counsel in The Coalition for Equity
23 and Excellence in Maryland Higher Education v. Maryland Higher Education Commission,
24 06-CV-02773-CCB (D. MD).

25 (b) (1) In fiscal year 2023, the Governor shall provide an allocation for the
26 attorney's fees and expenses in the amount specified in the final settlement agreement
27 described in subsection (a) of this section.

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

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

1 (c) The Attorney General:

2 (1) is authorized to execute the final settlement agreement in subsection
3 (a) of this section on behalf of the State on terms the Attorney General deems:

4 (i) as final resolution of the case of The Coalition for Equity and
5 Excellence in Maryland Higher Education v. the Maryland Higher Education Commission,
6 06–CV–02773–CCB (D. MD); and

7 (ii) appropriate to carry out the purposes of Section 1 of this Act; and

8 (2) shall provide written notice of the executed settlement agreement to the
9 Department of Legislative Services, 90 State Circle, Annapolis, MD 21401.

10 (d) Section 1 of this Act, with no further action required by the General Assembly,
11 shall be null and void if, on or before June 11, 2021:

12 (1) the Department of Legislative Services has not received notice of the
13 settlement agreement; and

14 (2) an order has not been issued from the United States District Court for
15 the District of Maryland or the United States Court of Appeals for the Fourth Circuit that:

16 (i) reverses or vacates the District Court’s holding that the State
17 failed to eliminate traceable de jure era policy of unnecessary program duplication; or

18 (ii) holds that any policy of unnecessary program duplication
19 traceable to de jure segregation has been cured by the terms of the settlement agreement.

20 SECTION 7. AND BE IT FURTHER ENACTED, That, except as provided in Section
21 6 of this Act, this Act is an emergency measure, is necessary for the immediate preservation
22 of the public health or safety, has been passed by a yea and nay vote supported by
23 three–fifths of all the members elected to each of the two Houses of the General Assembly,
24 and shall take effect from the date it is enacted.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.