Part L
Education

Primary and Secondary

Education Funding

State Aid

State aid for primary and secondary education will increase by $57.3 million in fiscal 2012 to a total of nearly $5.8 billion, 1.0% more than fiscal 2011 aid. State aid provided directly to the local boards of education increases by $74.1 million or 1.5%, while teachers' retirement costs, which are paid by the State on behalf of the local school systems, decline from $849.8 million to $833.0 million, a decrease of 2.0%.

Fiscal 2011 to 2012 changes in major State education aid programs are shown in **Exhibit L-1**. The largest increase is in the compensatory education program, which provides funding based on the number of students in the State eligible for free and reduced priced meals. This population increased by more than 14,000 students (4.6%) from fall 2009 to 2010, resulting in an increase of $42.8 million for the compensatory education program. State aid for the limited English proficiency formula increases by $11.5 million or 7.6%. The growth in this formula is due to an increase of 3,800 (8.7%) in the number of students with limited English proficiency. Statewide full-time equivalent enrollment increases by approximately 3,500 and results in an increase of $11.0 million in the State share of the foundation program. In contrast to recent years, State aid for the teachers' retirement program is down $16.9 million after averaging 15.9% growth annually from fiscal 2006 to 2011. State funding for teachers' retirement is paid into the State's pension fund and does not pass through local school system budgets. Changes in education aid for individual counties can be found in Part A – Budget and State Aid of this *90 Day Report*.

The bottom of Exhibit L-1 shows how education aid is being funded in fiscal 2011 and 2012. To support fiscal 2011 education aid formulas, the State is spending $422.3 million in federal funding from the State Fiscal Stabilization Fund (provided through the 2009 federal stimulus legislation) and another $142.9 million from the Education Jobs Fund approved by the

U.S. Congress in August 2010. These funds are not available in fiscal 2012, resulting in an increase of $622.5 million or 12.1% in State funds supporting education aid. However, ***House Bill 72*** ***(passed)***, the Budget Reconciliation and Financing Act of 2011 (BRFA), authorizes the use of $124.4 million in fiscal 2011 general funds that were saved as a result of federal funding available through the Education Jobs Fund. The $124.4 million will be distributed to school systems in June 2011 (fiscal 2011) in order to prefund a portion of fiscal 2012 State aid.

Exhibit L-1

Change in State Education Aid

Fiscal 2011-2012

($ in Millions)

Program Funding	FY 2011	FY 2012	$ Change	% Change
Foundation Program*	$2,763.5	$2,774.5	$11.0	0.4%
Geographic Cost of Education Index	126.6	127.3	0.7	0.6%
Supplemental Grants	46.5	46.5	0.0	0.0%
Compensatory Education	1,041.1	1,083.8	42.8	4.1%
Special Education Formula	264.0	264.3	0.3	0.1%
Limited English Proficiency	151.2	162.7	11.5	7.6%
Guaranteed Tax Base*	47.4	50.1	2.7	5.7%
Student Transportation	244.4	248.2	3.8	1.6%
Bridge to Excellence Subtotal	**$4,684.7**	**$4,757.5**	**$72.8**	**1.6%**
Nonpublic Special Education	112.8	112.8	0.0	0.0%
Other Direct Aid	70.2	71.5	1.3	1.9%
Direct Aid Subtotal	**$4,867.6**	**$4,941.7**	**$74.1**	**1.5%**
Teachers' Retirement	849.8	833.0	(16.9)	-2.0%
Education Aid Total	**$5,717.5**	**$5,774.7**	**$57.3**	**1.0%**
Funding Source				
State Funds	$5,152.2	$5,774.7	$622.5	12.1%
Federal Funds	565.2	0.0	(565.2)	-100.0%
Total Funds	**$5,717.5**	**$5,774.7**	**$57.3**	**1.0%**

*Foundation program includes $1.4 million that is contingent on the enactment of ***Senate Bill 994*** ***(passed)*** but does not include $8.8 million for the local aid disparity grant program that is also contingent on ***Senate Bill 994***. Guaranteed tax base program includes $12.2 million that is contingent on the enactment of ***Senate Bill 994***.

Note: State funds include general funds, special funds, and Aging Schools Program funds. Federal funds include aid from the State Fiscal Stabilization Fund and the Education Jobs Fund.

Source: Department of Legislative Services

Adjustments to Increase Direct Education Aid: As proposed, the BRFA of 2011 would have reduced the per pupil foundation amount used in most of the large State aid formulas in order to level-fund total direct State aid from fiscal 2011 to 2012. The proposed reduction was to a per pupil foundation amount $95 below the fiscal 2011 amount and $150 below the funding level required by current law. Although budget constraints precluded an increase to the full funding amount, the General Assembly was able to restore the per pupil amount to its fiscal 2011 level of $6,694, resulting in an increase of $58.5 million over the budget plan introduced by the Administration and savings of $35.3 million compared to the full funding level.

Further, the BRFA of 2011 and the fiscal 2012 budget include statutory changes and budget language that facilitate an increase in funding for Baltimore City under the guaranteed tax base program and provide grants to school systems experiencing decreases of greater than 6.5% in State formula aid in fiscal 2012 only. Savings available in the State share of the foundation program are restricted for these purposes, and the additional aid is contingent on enactment of ***Senate Bill 994*** ***(passed)*** and the Governor transferring the funds.

The 6.5% cap on fiscal 2011 to 2012 decreases in education aid results in $1.4 million in additional aid for Allegany and Garret county schools in fiscal 2012. Without the cap on decreases, the counties would have incurred reductions in State school aid of 7.5% and 9.2%, respectively. Baltimore City's additional guaranteed tax base aid is due to an expected transfer of approximately $31.4 million in school system retiree health care costs from the Baltimore City budget to the school system's budget. The guaranteed tax base program provides additional State aid to low-wealth jurisdictions (like Baltimore City) based on their local appropriations to the local school systems; higher local appropriations result in more State aid. The $31.4 million transfer increases the city's appropriation to the school system and results in an increase in State aid to Baltimore City schools of $12.2 million. Language in the BRFA of 2011 facilitates the shift of retiree health care costs into the school system's budget by allowing Baltimore City to decrease its fiscal 2012 appropriation to the school system if the city takes actions to reduce retiree health care costs.

In addition to the enhancements the General Assembly made to education aid through the operating budget, the fiscal 2012 capital budget includes an extra $2.5 million in general obligation bonds for the Aging Schools Program. This adjustment increases fiscal 2012 State aid for the Aging Schools Program from the mandated annual funding level of $6.1 million to $8.6 million. The Aging Schools Program is funded through the capital budget rather than the operating budget in fiscal 2012. The BRFA of 2011 permanently authorizes the program to be funded either with general funds in the operating budget or with general obligation bonds. The additional funds are allocated to counties proportionate to their share of the statutorily required amount.

Decreases in Aid for Teachers' Retirement: Costs for teachers' retirement have grown from $406.9 million in fiscal 2006 to $849.8 million in fiscal 2011, and costs were expected to climb to $923.3 million in fiscal 2012. Through statutory changes made in the BRFA of 2011, however, fiscal 2012 costs instead decline to $833.0 million. The largest decrease in anticipated fiscal 2012 costs, $74.4 million, is due to the restructuring of the State's pension system, which is discussed fully in Part C – State Government of this *90 Day Report*. The BRFA of 2011 allows the Governor to reduce payments to the State's pension funds by $120 million in fiscal 2012 to recognize a portion of the savings generated through pension reform. The $74.4 million reduction in State aid for local board of education retirement costs represents the share of the $120 million savings attributable to local board employees.

The BRFA of 2011 also requires local boards of education to pay a share of the administrative costs for the State Retirement Agency. In the past, retirement agency administrative costs have been included as part of the State's annual appropriation to the pension fund. In fiscal 2012 and future years, local boards of education will pay these expenses, allowing the State to reduce its aid for teachers' retirement. This shift results in an additional reduction of $15.9 million in fiscal 2012 retirement costs.

Local Funding for Education and Maintenance of Effort

In the aggregate, the State and county governments (including Baltimore City) are roughly equivalent partners in providing the majority of funding for public schools. Most State aid is allocated through statutory formulas, and minimum county government appropriations to boards of education may not go below the local share of the foundation and are set through the maintenance of effort (MOE) requirement. To be eligible for increases in State education aid under § 5-202 of the Education Article (which includes the State share of the foundation program, the geographic cost of education index, and the supplemental grant), a local jurisdiction must meet MOE by providing at least as much per pupil funding as the county provided to the school system in the previous fiscal year. The State Board of Education may waive the MOE requirement for a county if the State board determines after a public hearing that the county's fiscal condition significantly impedes its ability to provide the minimum amount.

The BRFA of 2011 clarifies rules for the local budget process. Each local board must submit a budget request to the county (or Baltimore City) governing body that includes a county appropriation that at least meets the amount required for the local share of the foundation. The county commissioners or county council may provide funds above this amount. If an amount above the local share of the foundation is not approved, the county council or county commissioners must indicate which budget categories are being reduced and the reason for the reductions. This change clarifies that a county governing body has the authority to reduce funding for education below the full MOE amount but also prohibits a governing body from reducing county funding below the local share of the foundation. A county's failure to provide at least the full MOE amount, however, is still subject to penalty unless the county receives a waiver from the State Board of Education.

The BRFA of 2011 also clarifies the MOE penalty for fiscal 2012 by stating that all funds used to support § 5-202 aid programs, including State and federal funds, are to be used in the calculation of the increase from fiscal 2011 to 2012. Without this clarification, the State Board of Education could have elected to impose penalties based on the increase in State funding only. As discussed above, $565.2 million in federal funds is being spent for State education aid in fiscal 2011, so the increase in *State* funding in fiscal 2012 for § 5-202 aid is very high for many school systems. The BRFA language, therefore, reduces the fiscal 2012 MOE penalties that the State Board of Education may impose on local school systems. In addition, ***House Bill 869*** ***(passed)*** delays any MOE penalties imposed by the State board until the fiscal year after a county fails to fund the required MOE amount. This change prevents the "double penalty" that a school system would face if it had to absorb an MOE penalty and a reduction in county funding in the same fiscal year. It also gives school systems an additional year to prepare for decreases in State funding due to a penalty.

Finally, local education funding for Prince George's County is affected by language in the 2012 budget bill and a statutory increase in the fiscal 2012 disparity grant. The BRFA of 2011 enhances the disparity grant, resulting in an $8.8 million increase in Prince George's County's allocation under the formula. Budget language restricts excess funds in the State share of the foundation for the additional disparity grant aid and requires Prince George's County to allocate half of the increased funds, $4.4 million, to the local school system. Like the education aid enhancements for Baltimore City and Allegany and Garrett counties, the additional disparity grant funding is contingent on the enactment of ***Senate Bill 994*** and the Governor transferring the funds.

Public School Construction

Capital Funding

The fiscal 2012 capital budget, ***House Bill 71*** ***(passed)***, includes $250 million for public school construction. This amount includes $240.3 million in general obligation bonds and $9.7 million from the Statewide Contingency Fund. Local school systems requested a total of $612.3 million for fiscal 2012, of which $500.2 million is eligible for State funding. The Public School Facilities Act of 2004 (Chapters 306 and 307) established a State goal to provide $2 billion in State funding over eight years to address school construction needs, or $250 million per year from fiscal 2006 to 2013. Fiscal 2012 will be the seventh consecutive year that the annual goal has been met or exceeded, with the State providing a total of $2.1 billion for school construction from fiscal 2006 to 2012, surpassing the $2 billion funding goal.

In addition to the $250 million provided to the State's Public School Construction Program, $47.5 million is dedicated to school construction projects from revenues to be raised through an increase in the alcohol sales tax, as specified in ***House Bill 1213*** ***(passed)***. These projects may or may not be eligible for funding from the Public School Construction Program, and must be approved by the Board of Public Works (BPW). BPW must consider requests from local jurisdictions and projects that benefit older school buildings, benefit schools with high proportions of low-income students, can be completed in one year, eliminate or reduce the use of relocatable classrooms, are eligible for State funding but are not fully funded in fiscal 2012, and reduce energy consumption or incorporate high-performance "green" building principles.

Qualified Zone Academy Bonds

House Bill 86 ***(Ch. 96)*** authorizes $15.9 million in Qualified Zone Academy Bonds (QZABs) to be issued by December 31, 2011. Since 2001, the State has issued $52.2 million in QZABs allocated by the federal government to Maryland. QZABs are an alternative bond program that the federal government authorizes with bond holders receiving federal tax credits in lieu of interest.

Federal requirements have presented challenges for some school systems in expending their QZAB funds. School systems must have a 10% private sector match, some school systems may not have enough qualifying schools (with at least 35% of students who qualify for free and reduced price meals) to use large amounts of QZABs, and funds issued beginning in 2008 must be encumbered within six months and spent within three years of the date of issuance. As of February 28, 2011, the unexpended QZAB balance was $12.9 million. With the additional $15.9 million approved in the 2011 legislative session and another $15.3 million for fiscal 2013 already allocated to Maryland by the federal government, there is concern about the capacity of school systems to use QZAB funds from imminent issuances. To help speed up spending and broaden the reach of QZABs, the 2011 legislation allows the $15.9 million in QZAB proceeds to be used in two ways: (1) for competitively awarded grants by the Interagency Committee for School Construction; and (2) for targeted grants awarded by the Maryland State Department of Education (MSDE) under the Breakthrough Center Program. The Breakthrough Center's primary focus is to efficiently coordinate MSDE's resources for low-performing schools in Baltimore City and Prince George's County. The bill also specifies that charter schools are eligible for the funds.

Education Legislation

The General Assembly also considered and passed bills relating to student health and safety, early childhood care and education programs, building and school sites for use by public charter schools, the SEED School of Maryland, and other education issues.

Student Health and Safety

Chapter 489 of 2008 required the State Board of Education to develop a model policy that prohibits bullying, harassment, and intimidation in schools. Using the model policy, local boards of education were required to develop policies for the public schools under their jurisdiction. ***Senate Bill 489/House Bill 38*** ***(both passed)*** require nonpublic schools that participate in State-funded education programs to adopt, by March 31, 2012, a policy prohibiting bullying, harassment, and intimidation. Nonpublic schools are also encouraged to develop educational bullying prevention programs for students, staff, volunteers, and parents as well as staff development programs to train teachers and administrators to implement the policies. The bills further provide that these requirements may not be construed to either limit the legal rights of a victim of bullying, harassment, or intimidation or require a statewide policy in nonpublic schools relating to bullying, harassment, and intimidation.

Several states have centers dedicated to school safety that serve as central locations for school safety information and provide schools with research, training, and technical assistance to reduce youth violence and promote safety. ***Senate Bill 772/House Bill 79*** ***(both passed)*** establish a Task Force to Study the Creation of a Maryland Center for School Safety to be staffed by Bowie State University. A final report with findings and recommendations is due from the task force by July 1, 2012.

As of September 2010, at least 10 states have enacted laws that target youth sports-related head injuries. At the federal level, legislation is pending regarding student athletes, concussions, and pre-season neurological testing. ***Senate Bill 771*** ***(passed)*** and ***House Bill 858*** ***(passed)*** require MSDE to develop and implement a program to provide concussion awareness to students and youth in youth sports programs. The information must be provided as a separate information sheet or as part of the registration for the program. The individual or the parent or guardian of the individual must acknowledge receipt of the information.

If a school vehicle has stopped on a roadway and is operating its standard alternately flashing red lights, the driver of any other vehicle must stop at least 20 feet from the school vehicle, and may not proceed until the school vehicle resumes motion or its flashing lights are deactivated. MSDE recently conducted a one-day survey of school bus drivers to determine the prevalence of violations of this law. The results of that survey were released in February 2011 and show that there were 7,028 reported violations during the day of the survey. ***Senate Bill 679*** ***(passed)*** allows law enforcement agencies, in consultation with a county board of education, to place cameras on county school buses to record motor vehicle violations of passing motorists. For further discussion, please see Part G – Transportation of this *90 Day Report*.

Senate Bill 369 ***(passed)*** requires school buses procured for use in the State on or after January 1, 2014, to meet certain fire safety criteria. The bill requires MSDE to advise the Motor Vehicle Administration on the adoption of regulations to promote the fire safety of school buses.

Early Childhood Education and Development Programs

Chapter 680 of 2000 established the Judith P. Hoyer Early Child Care and Education Enhancement Program to promote school readiness through developing and expanding high-quality, comprehensive, full-day early child care and education programs and family support services. Judith P. Hoyer Early Child Care and Family Education Centers, or "Judy Centers," provide access in one location to early childhood education and family support programs located at or near Title I schools. Typically, educational opportunities and support services are available 7 to 12 hours a day, year round.

Under the program, grants are provided to participating agencies and programs that have voluntarily obtained accreditation or that have voluntarily initiated and are actively pursuing accreditation. ***Senate Bill 104*** ***(passed)*** requires MSDE to include information on participating agencies and programs in its annual report on the Judith P. Hoyer Early Child Care and Education Enhancement Program. The annual report must provide a description of expenditures, enrollment, and statewide performance data, including school readiness data disaggregated by program and by jurisdiction. In addition, the bill requires that MSDE submit its annual report by November 1 each year rather than by January 1.

Chapters 368 and 369 of 2001 established a hearing aid loan bank program within MSDE. The statutory provisions establishing that program terminated June 30, 2004, but MSDE continues to operate a hearing aid loan bank program similar to the program established by Chapters 368 and 369 with federal funding support. The program serves approximately 40 infants each year. ***Senate Bill 754***/***House Bill 1013*** ***(both passed)*** reestablish a Hearing Aid Loan Bank Program in MSDE. The Hearing Aid Loan Bank Program must provide and maintain a pool of hearing aids for loan, testing and programming equipment for the hearing aids, and supplies for repairing and reconditioning the hearing aids. Through the program, hearing aids must be loaned on a temporary basis to the parent or legal guardian of an eligible child who is a Maryland resident younger than age three, who has been identified by an otolaryngologist or a licensed audiologist as having a hearing loss, and who has no immediate access to a hearing aid. The original loan can be for no longer than six months, but the program may extend the loan for additional three-month periods under certain circumstances. The bills require the State Board of Education to adopt regulations to implement the program and require the State Superintendent of Schools to submit a report on the program by December 31 of each year.

Charter Schools

In Maryland, public charter schools must use the per pupil funding amounts they receive for operational expenses and funds from other sources to pay for capital expenses. Public charter schools in 13 states and the District of Columbia receive some manner of state facilities aid, which can include discretionary grants, loans, per pupil allocations, and other support such as access to vacant school buildings. ***Senate Bill 609*** ***(passed)*** authorizes public charter schools in the State to occupy and use school sites or buildings that are no longer needed by the county board of education for school purposes if the county governing body determines the property is not an integral part of an existing economic development plan. The bill also exempts any portion of a building or property occupied and used by a public charter school from property taxes.

In addition, ***House Bill 86***, which authorizes $15.9 million in Qualified Zone Academy Bonds, specifies that charter schools are eligible for the funds.

SEED School of Maryland

Chapter 397 of 2006 established a residential boarding education program for at-risk youth to be run by a private operator under the supervision of MSDE. The SEED Foundation, which runs a similar school in the District of Columbia, won the contract and operates the SEED School of Maryland. The school must provide at-risk students with a remedial middle school curriculum and a college preparatory high school curriculum. Students may apply to the program from any local school system in the State. Eligible fifth-grade students are selected first by a recommendation from the local superintendent of schools and then by a lottery system. Students selected for participation in the residential program may continue to live at and attend the school through high school graduation.

The State provides $250,000 for every 10 students served by the school (or $25,000 per student). The program began in fiscal 2009 with a $2.0 million State appropriation, covering the first-year enrollment of 80 students. The initial plan was to reach an expected maximum enrollment of 400 students and a total appropriation of $10.0 million in fiscal 2013 and subsequent years. However, the Budget Reconciliation and Financing Act of 2010 (Chapter 484) delayed the phase up to 400 students until fiscal 2014 by reducing fiscal 2012 and 2013 enrollment.

Senate Bill 615**/*****House Bill 448*** ***(both passed)*** alter the minimum amount of State funds to be appropriated annually toward transportation, boarding, and administrative costs of residential boarding education programs for at-risk youth. Beginning in fiscal 2014, minimum funding per student will be the prior year funding amount as altered by the annual change in the per pupil foundation amount that is used to determine State aid for public primary and secondary education.

Other Education Legislation

It is the policy of the State to assure all persons equal opportunity in receiving employment and in all labor management-union relations, regardless of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment. In furtherance of that policy, ***House Bill 202*** ***(passed)*** conforms the provisions of law relating to discrimination in the employment of public school employees to other provisions of State law governing discrimination in employment by adding ancestry, age, marital status, and sexual orientation as protected classes.

According to regulations, each local school system is required to establish its own standards of participation in interscholastic athletics at the high school level that assure that students involved in interscholastic athletics are making satisfactory progress toward graduation. As a result, standards vary widely across the State. Under current local policies, 12 counties require a minimum grade point average (GPA) of 2.0 (Anne Arundel, Baltimore, Charles, Dorchester, Frederick, Howard, Kent, Montgomery, Prince George's, St. Mary's, Somerset, and Wicomico), one county (Worcester) requires a minimum GPA of 1.75, and one county (Queen Anne's) requires a minimum GPA of 1.49. The other counties do not have a minimum GPA, but for the most part, require that the student have no more than one failing grade. ***House Bill 364*** ***(passed)*** requires the State Board of Education, in consultation with the county boards of education, to report by December 31, 2011, to the General Assembly regarding minimum academic performance standards that students in public high schools should meet in order to participate in athletic competitions. The report must include recommendations regarding the curriculum content, minimum grade point average, and grade progress that public high school students should satisfy to be eligible to participate in athletic competitions sanctioned by the county board.

Local Boards of Education

Fiscal Accountability

Chapter 424 of 2009 required the Montgomery County Board of Education to develop and operate a free, public, searchable website by January 1, 2011, that includes data on specified board payments of $25,000 or more. The legislation did not require disclosure of information that is confidential under federal, State, or local law or payments to public school employees and retirees as compensation or retirement allowance. Chapter 399 of 2010 required the Howard County Board of Education to develop and operate a similar website by January 1, 2012. ***Senate Bill 493*/*House Bill 1113* (both passed)** require the Prince George's County Board of Education to develop and operate a similar website by January 1, 2013. ***House Bill 160* (Ch. 105)** also requires the Baltimore County Board of Education to develop and operate this same type of website by January 1, 2013, but the bill specifies that the website is not required to include data relating to third-party payees that accept payroll-related payments, but must include data relating to the purpose for each payment and whether the payee is a minority business enterprise as defined in § 14-301 of the State Finance and Procurement Article.

Anne Arundel County

The Anne Arundel County Board of Education consists of a student member and eight members appointed by the Governor from a list of nominees submitted by the School Board Nominating Commission of Anne Arundel County. Following the initial appointment, a board member may serve for the remainder of the member's first term and for a second consecutive term subject to the approval of or rejection by the registered voters of the county at the next general election. ***Senate Bill 78*/*House Bill 220* (both passed)** clarify that the same nomination and election process applies regardless of whether the member is serving a first or second term. The bills preserve the prohibition against a member serving more than two consecutive terms.

Baltimore County

The Baltimore County Board of Education consists of 12 appointed members, including four members from the county at large, one member from each of the seven legislative districts, and a student member. ***Senate Bill 397*/*House Bill 398* (both passed)** establish a Task Force on the Membership and Operation of the Baltimore County Board of Education. The task force must hold at least three public meetings in geographically diverse areas of Baltimore County and make recommendations on the ideal size of the board of education, the most appropriate method of selecting board members, the appropriate phase-in period for changes to the existing selection process, and improving the transparency and professionalism of the board. The bill requires the Office of the Baltimore County Executive to provide staff support for the task force. A report of the task force's findings and recommendations is due by October 1, 2011.

Five bargaining units are permitted for Baltimore County Board of Education employees: one exclusively for certificated employees; three exclusively for noncertificated employees; and one that consists of certificated and noncertificated supervisory employees. The Council of Administrative and Supervisory Employees is the designated bargaining unit for certificated and noncertificated supervisory employees in the Baltimore County Public School System. The unit consists of building administrators, including principals and assistant principals; central office administrators, including curriculum specialists; and other administrative and supervisory personnel, including pupil workers. ***Senate Bill 430*/*House Bill 683* (both passed)** require the board of education to meet and confer with an employee organization that represents the administrative and supervisory certificated and noncertificated employees by November 1, 2011, regarding the job titles to be included in the unit.

Baltimore City

Senate Bill 170/House Bill 230 ***(both passed)*** raise the maximum maturity for school construction bonds issued by the Baltimore City Board of School Commissioners from 15 to 30 years. The bills also require the board to report to the Senate Budget and Taxation Committee and the House Appropriations Committee by December 1, 2011, on a long-term plan for the alignment of public school facilities with projected enrollments and educational programs within the Baltimore City Public School System.

In light of subsequent reporting requirements, ***Senate Bill 98/House Bill 115*** ***(both passed)*** repeal the duplicative annual reporting requirements created by Chapter 105 of 1997. Chapter 105, which initiated the Baltimore City/State Partnership (the partnership) regarding the Baltimore City Public School System (BCPSS), required the Baltimore City Board of School Commissioners to issue an annual report, including a financial statement, a comprehensive accounting of progress in the implementation of the transition plan or master plan, sources of income and payments of debt service on specified bonds, and anticipated sources and amounts of debt service payments. Chapter 105 also required the State Board of Education and State Superintendent of Schools to review each annual report and comment on the progress made toward achieving the managerial and educational goals. The General Assembly was required to consider the report and the comments or recommendations of the State board and State Superintendent before approving the annual State budget. Subsequently, Chapter 288 of 2002 required annual master plan updates from each school system and Chapter 148 of 2004 established procedures to ensure fiscal accountability of local school systems. Failure to comply with certain fiscal accountability procedures results in the withholding of State education funding.

Higher Education

Funding

For higher education institutions, the fiscal 2012 State budget includes new general funds and Higher Education Investment Funds (HEIF) that are more than offset by budget reductions. Total funding decreases by $5.0 million or 0.3% from fiscal 2011. **Exhibit L-2** shows State support for higher education institutions over the two-year period, including general funds and HEIF in both years.

Exhibit L-2
State Support for Maryland Institutions of Higher Education
Fiscal 2011 and 2012
($ in Thousands)

	FY 2011	FY 2012	$ Change FY11-12	%Change FY 11-12
University System of Maryland[1]	$1,056,406	$1,048,833	-$7,572	-0.7%
Morgan State University[1]	72,946	72,322	-625	-0.9%
St. Mary's College	17,518	17,715	197	1.1%
MD Higher Ed. Comm. Special Grants	7,999	7,284	-715	-8.9%
Community Colleges[2]	258,115	266,297	4,182	1.6%
Baltimore City Community College[1]	40,902	40,453	-449	-1.1%
Independent Institutions	38,446	38,446	0	0.0%
Total	**$1,492,332**	**$1,487,350**	**-$4,982**	**-0.3%**

[1]Reflects statewide across-the-board health insurance and retirement savings.
[2]Includes the Senator John A. Cade formula, other programs, and fringe benefits and reflects administrative charges for retirement agency services and contingent reduction for retirement savings.

Source: Department of Legislative Services, ***House Bill 70*** – Fiscal Year 2012 Budget

Resident Tuition Rates Increase

For a second consecutive year, the University System of Maryland (USM) institutions, excluding Salisbury University (SU), and Morgan State University (MSU) are allowed to increase resident undergraduate tuition 3%. SU will increase tuition by 6% to align its resident tuition with rates charged by its peer institutions. The budget includes funds for USM and MSU equivalent to an additional 2% increase in tuition rates. St. Mary's College of Maryland (SMCM), which is formula funded and therefore not included in the tuition limit agreement, will increase tuition by 6% in fall 2011.

A Study on the Potential Merging of UMCP and UMB

Language in ***House Bill 70*** ***(passed)*** – the fiscal 2012 budget – restricts a portion of the general fund appropriation for the University System of Maryland Office until the Board of Regents submits a report on the advantages and disadvantages of merging the University of Maryland, College Park (UMCP) and the University of Maryland, Baltimore (UMB) under a single university. If the Board of Regents determines such a merger is appropriate and feasible, then an outline of how the merger would be accomplished, a projected timeline of the merger, and any legislative or other changes necessary to execute the merger should be submitted with the report.

Community Colleges

Overall, funding for community colleges increases $4.2 million in fiscal 2012, which includes the Senator John A. Cade Funding Formula, State-paid retirement, and miscellaneous grant programs. Although the Cade formula is level funded in fiscal 2012, retirement costs grow $0.5 million after adjusting for retirement benefit savings and administrative charges established in ***House Bill 72*** ***(passed)***, the Budget Reconciliation and Financing Act of 2011 (BRFA). The Cade formula appropriation represents 19.9% of the per-student State funding that the selected public four-year institutions are receiving in fiscal 2012.

Baltimore City Community College (BCCC), the State's only State-operated community college, has its own formula, which is also level funded in fiscal 2012. However, after accounting for contingent and across-the-board reductions, funding declines $0.4 million, or 1.1%, and represents 64.2% of per-student funding at selected public four-year institutions. The BRFA of 2011 also transfers $2.3 million from BCCC's fund balance in fiscal 2012, consistent with fund balance transfers from other State higher education institutions made last year.

The budget includes a new $5 million program, the Keeping Maryland Community Colleges Affordable Grant. It is available to all community colleges (including BCCC) that hold in-county tuition increases to 3% or less in fiscal 2012 and will be distributed to all participating colleges based on a *pro rata* share of State-eligible credit enrollments.

The budget also includes a $2 million deficiency appropriation for the Statewide and Health Manpower Grant, a program that reimburses community colleges for the out-of-county fees waived when a student from outside the college's service area enrolls in certain degree programs. The BRFA of 2011 repeals the requirement that the Governor provide a deficiency appropriation in the following year's budget bill if there is a shortfall in the program, which has been running a deficit for several years. Instead, the Maryland Higher Education Commission (MHEC) must prorate reimbursements to community colleges if sufficient funding is not provided to fully fund the required payments under the program in the State budget. In addition, community colleges are given the option to charge students participating in the program the out-of-county tuition rate and reimburse them at a later time based on the reimbursement amount that is received from MHEC.

Independent Institutions

Independent institutions, which are private, nonprofit institutions, receive $38.4 million through the Joseph A. Sellinger Formula in fiscal 2012, the same amount received in fiscal 2011. The fiscal 2012 funding equates to 9.4% of the fiscal 2012 State support per student at selected public four-year institutions. The BRFA of 2011 also includes a provision excluding enrollments in programs at nonprofit institutions of higher education that partner with for-profit educational entities from the calculation of Sellinger aid.

Statutory Formula Adjustments

To reduce the State's long-term structural deficit, the statutory formulas for community colleges, BCCC, and independent institutions were adjusted in the BRFA of 2011. The funding formulas for independent institutions and BCCC increase annually and reach their maximum statutory level in fiscal 2021 and 2023, respectively. The Cade formula is set at 19% of per-student funding at select public four-year institutions in fiscal 2013 and 2014 and increases annually until its maximum of 29% is reached in fiscal 2023. **Exhibit L-3** shows each formula's percentages from fiscal 2013 to 2023.

Exhibit L-3
Percent of State Support per Student Used in Statutory Formulas
Fiscal 2013-2023

Segment	FY13	FY14	FY15	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23
Community Colleges	19.00%	19.00%	19.50%	21.00%	22.00%	23.00%	24.00%	25.00%	26.00%	27.50%	29.00%
Nonprofit Institutions	9.70%	10.00%	10.60%	11.10%	12.00%	13.00%	14.00%	15.00%	15.50%	15.50%	15.50%
BCCC	63.50%	64.00%	64.50%	64.75%	65.25%	65.75%	66.25%	67.00%	67.50%	68.00%	68.50%

Source: Department of Legislative Services, ***House Bill 72*** – Budget Reconciliation and Financing Act of 2011

Capital Funding

Fiscal 2012 capital funding to public four-year institutions totals $247.3 million. This includes $27.0 million in academic revenue bonds authorized by the Academic Facilities Bonding Authority Bill, ***House Bill 748*** ***(passed)***, and issued directly by USM, and $11.4 million in nonbudgeted funds from the institutions. Community colleges receive $58.1 million and independent institutions receive $10.0 million in the fiscal 2012 capital budget. The practice of split-funding particularly large capital projects continues, and the fiscal 2012 capital budget includes $120.0 million in pre-authorizations for fiscal 2013. The preauthorizations allow construction to begin on projects at three public four-year institutions and three community colleges before the full funding is provided by the State. For more information on authorized capital projects, see Part A – Capital Budget of this *90 Day Report*.

Tuition Rates at Public Institutions

Undocumented Students

Since 2001, 10 states have enacted laws that allow undocumented immigrants to pay in-state tuition rates at public institutions of higher education: California, Illinois, Kansas, Nebraska, New Mexico, New York, Oklahoma, Texas, Utah, and Washington. House Bill 253 of 2003 would have extended in-state tuition benefits to undocumented immigrants as well as to other individuals who attended and graduated from Maryland high schools. The bill passed the General Assembly but was vetoed by the Governor. ***Senate Bill 167*** ***(passed)*** exempts individuals who attended and graduated from Maryland high schools from paying out-of-state tuition and out-of-county tuition under specified circumstances at public institutions of higher education in the State. Nonimmigrant aliens such as individuals on student visas and certain work visas or individuals who are diplomats and do not intend to stay in the country do not qualify for the exemption, but otherwise the exemption applies regardless of residency status.

To qualify for an exemption from paying *out-of-state* tuition at a community college, an individual must (1) beginning with the 2005-2006 school year, have attended a public or nonpublic secondary school in the State for at least three years; (2) beginning with the 2007-2008 school year, have graduated from a public or nonpublic secondary school in the State or received the equivalent of a high school diploma in the State; (3) register as an entering student at a community college in the State not earlier than the 2011 fall semester; (4) provide to the community college documentation that the individual or the individual's parent or legal guardian has filed a Maryland income tax return annually for the three years while the individual attended a public or nonpublic secondary school in the State; annually during the period, if any, between graduation from a public or nonpublic secondary school in the State and registration at a community college in the State; and annually during the period of attendance at the community college; (5) in the case of an individual who is not a permanent resident, provide to the community college an affidavit stating that the individual will file an application to become a permanent resident within 30 days after the individual becomes eligible to do so; (6) in the case of an individual who is required to register with the selective service system, provide to the community college documentation that the individual has complied with the registration requirement; and (7) register at a community college in the State not later than four years after graduating from a public or nonpublic secondary school in the State or receiving the equivalent of a high school diploma in the State.

In order to be eligible to pay a rate equivalent to the *in-county* tuition rate at a community college in the State, the legislation specifies that an individual must attend a community college supported by the county in which the secondary school from which the individual graduated is located, or if an individual received the equivalent of a high school diploma in the State, the county in which the secondary school most recently attended by the individual is located.

In order to be eligible to pay a rate equivalent to the *in-state* tuition rate at a public senior (four-year) higher education institution, an individual must (1) have attended a community college not earlier than the 2010 fall semester and met the requirements described above for qualifying for an exemption from paying out-of-state tuition at a community college, except for registering as an entering student at a community college in the State not earlier than the 2011 fall semester; (2) have been awarded an associate's degree by, or achieved 60 credits at, a community college in the State; (3) provide the public senior higher education institution a copy of the affidavit stating the individual will file an application to become a permanent resident within 30 days after the individual becomes eligible to do so; (4) provide to the public senior higher education institution documentation that the individual or the individual's parent or legal guardian has filed a Maryland income tax return annually while the individual attended a community college in the State; annually during the period, if any, between graduation from or achieving 60 credits at a community college in the State and registration at a public senior higher education institution in the State; and annually during the period of attendance at the public senior higher education institution; and (5) register at a public senior higher education institution in the State not later than 4 years after graduating from, or achieving 60 credits at, a community college in the State.

Beginning in fiscal 2014, State general fund expenditures increase for students enrolled at community colleges under ***Senate Bill 167*** due to the Cade and BCCC statutory funding formulas, which provide per-student funding based on actual in-state enrollments form the second prior fiscal year. Using data from Montgomery College, the only college in the State that reported currently enrolling undocumented students, State funding for community colleges increases $778,000 in fiscal 2014. The cost doubles in fiscal 2015 and again in fiscal 2016 to reflect unknown numbers of undocumented students who may enroll at Montgomery College and other community colleges due to the reduced tuition rate provided in the bill. There is no direct State cost for additional students at four-year institutions because they are not formula funded. Tuition revenues at community colleges (beginning in fiscal 2012) and public four-year institutions (beginning in fiscal 2013) may increase due to students enrolling under the reduced tuition rate who may otherwise not have enrolled; however, the increase may be offset by students who pay the lower in-state rate instead of the out-of-state tuition rate. The net impact on higher education revenues is indeterminate.

Information collected as part of a student's registration must remain confidential. Community colleges and public four-year institutions must keep a record of the number of individuals who pay resident tuition charges under the exemptions and annually report the information to MHEC. MHEC must annually compile and report the information to the General Assembly. The bill clarifies that students receiving the reduced tuition rate at a public four-year institution may not be counted as in-state students for the purpose of determining the number of enrolled in-state undergraduate students.

In addition, to make an existing tuition exemption consistent with the bill's provisions, the legislation extends the time period (from one to four years after discharge) during which an honorably discharged veteran must submit specified documentation to qualify for an exemption from paying out-of-state tuition at a community college or a public four-year institution.

Tuition Waivers

Chapter 506 of 2000 established the higher education tuition waiver program for children in foster care homes, and Chapter 644 of 2007 extended the program to foster care children who were adopted from an out-of-home placement. ***House Bill 1208*** ***(Ch. 159)*** expands eligibility for tuition and mandatory fee waivers for public institutions of higher education in Maryland so that a foster care recipient must enroll at the institution before the recipient turns 25 years of age, rather than 21 years of age, to receive a waiver.

An individual with a disability who is a resident of the State is eligible for a community college tuition waiver, if the individual is retired from the work force due to total and permanent disability, as long as the class attended by the individual has at least 10 regularly enrolled students. ***House Bill 104*** ***(passed)*** alters these requirements to allow an individual who is out of work due to a disability, instead of retired, to obtain a tuition waiver at a community college. The legislation also clarifies that certification from the Social Security Administration of an individual's receipt of Supplemental Security Income or Social Security Disability Insurance benefits will suffice as evidence of receipt of disability or retirement benefits. In order to receive the waiver, an individual must additionally apply for any State or federal student financial aid, other than a student loan, for which the student may qualify. Any financial aid received by the student must be applied first to pay the student's tuition. The waiver must apply to the difference, if any, between the charge for tuition and the financial aid award that the student receives.

Student Financial Assistance

Student financial aid programs receive a total of $102.8 million in the fiscal 2012 budget, a $1.7 million or 1.6% decrease from fiscal 2011. Need-based aid is decreased by close to $900,000 or approximately 1.1%. As introduced, the BRFA of 2011 included several proposed changes to financial aid programs, with contingent actions in the State budget bill. The General Assembly adopted provisions to eliminate funds for new Distinguished Scholar awards and prohibit new awards, repealing the scholarship completely in 2015. The BRFA of 2011 also creates a special fund for unexpended scholarship funds to provide a mechanism for MHEC to retain scholarship funds and re-allocate them through the budget amendment process. In addition, the funding source for the Charles W. Riley Fire and Emergency Medical Services Tuition Reimbursement Program is changed from general funds to special funds generated from traffic ticket surcharges.

The Janet L. Hoffman Loan Assistance Repayment Program (LARP) provides loan repayment assistance to Maryland residents who provide public service to low-income or underserved residents through their work for Maryland State or local governments or nonprofit agencies in Maryland. ***House Bill 523*** ***(Ch. 129)*** requires the State Court Administrator to assess a $100 fee for the special admission of an out-of-state attorney and to pay $75 of the fee to LARP. Any revenues paid to LARP must be allocated to assist eligible law school graduates whose applications for loan assistance repayment were disapproved by MHEC due to insufficient funds.

The purpose of the Walter Sondheim Jr. Public Service Summer Internship Scholarship is to assist college and graduate students to explore public service career opportunities through summer internships. Subject to the availability of funds, the summer scholarship award is $3,000. ***House Bill 487*** ***(passed)*** expands the types of students eligible for the scholarship to include a student who assists in providing legal services in a public service position.

The Edward T. Conroy Memorial Scholarship Program awards postsecondary education financial assistance to the following categories of students: (1) the child of a member of the armed forces who died or suffered a service-connected 100% permanent disability; (2) the child of a member of the armed forces who was declared to be a prisoner of war or missing in action as a result of the Vietnam conflict; (3) an individual who was a prisoner of war as a result of the Vietnam conflict; (4) the child or surviving spouse of a State or local public safety employee who was killed in the line of duty or who suffered an injury in the line of duty resulting in 100% disability; (5) a public safety employee who is disabled; (6) a veteran who suffers a service-related disability of 25% or greater and has exhausted all federal veterans' educational benefits; and (7) the child or surviving spouse of a victim of the September 11, 2001 terrorist attacks. ***Senate Bill 289*** ***(passed)*** alters the eligibility requirements for the Edward T. Conroy Memorial Scholarship Program to include a person who lives outside of the State if (1) the person is a resident of the State at the time of application; or (2) the person was a resident of the State at the time of the event that made the person eligible for the scholarship. In addition, the legislation repeals the June 30, 2014 termination date of Chapter 418 of 2004, which expanded eligibility to qualifying nonresident applicants who graduated from a Maryland high school in 2004.

Regulation of For-profit Institutions of Higher Education

The National Conference of State Legislatures reports that enrollment at for-profit institutions of higher education has increased 225% during the past two decades. In August 2010, the U.S. Government Accountability Office (GAO) released a report on a study that it conducted to determine if for-profit institutions' representatives engaged in fraudulent, deceptive, or otherwise questionable marketing practices and to compare the tuitions of the for-profit colleges to those of other colleges in the same geographic region. GAO found that 4 colleges out of 15 tested made deceptive or otherwise questionable statements to GAO's undercover applicants. For example, they found that some staff misled prospective students by telling them they would attend classes for 12 months a year but gave the cost of attendance for 9 months a year. The report also found that programs at the for-profit institutions cost substantially more than comparable degrees and certificates at public colleges nearby. Costs at private nonprofit colleges were found to be more comparable to public institutions when similar degrees were offered. GAO released a revised report in November 2010 that characterized the behavior by the for-profit institutions of higher education less harshly but retained the key findings of the original report.

Senate Bill 695 ***(passed)*** distinguishes between public, private nonprofit, and for-profit institutions of higher education in the State. The bill expands the scope of the Maryland Consumer Protection Act to include the unfair or deceptive offer for sale of course credit or other educational services. It creates a separate guaranty fund to reimburse students at for-profit institutions of higher education who are entitled to a refund of tuition and fees due to the for-profit institution's breach of an agreement or a contract with the student or the State. MHEC is required to annually assess for-profit institutions to capitalize the guaranty fund, modeled after the existing fund for private career schools. The process for approval of programs offered by for-profit and nonprofit institutions of higher education is clarified and requires notification to students if a program has not been recommended for implementation. Incentive payments, such as a commission or bonus, based on success in securing enrollment in an institution are prohibited under the bill – a requirement also in proposed federal regulations. Lastly, the bill restricts the use of a scholarship, grant, loan, or other student financial assistance awarded by the Office of Student Financial Assistance in MHEC to be used at an in-state institution of higher education that possesses a certificate of approval from MHEC. This provision terminates June 30, 2016, after which student assistance may only be used at public or private nonprofit institutions that possess MHEC certificates of approval, with certain exceptions.

Regional Higher Education Needs

In Cecil and Harford counties, there are two community colleges (one in each county) and a regional higher education center, the Higher Education and Conference Center at HEAT (Higher Education and Applied Technology). ***House Bill 1156*** ***(passed)*** establishes a Task Force to Study the Creation of a Regional Higher Education Center in Northeastern Maryland that will examine the need for higher education in Northeastern Maryland and the role of various segments of higher education in meeting the needs of the region. On or before December 1, 2011, the task force must report its findings and recommendations to the Governor, the Senate Budget and Taxation Committee, the House Appropriations Committee, and the Joint Committee on Base Realignment and Closure.

The Southern Maryland region includes Calvert, Charles, and St. Mary's counties. Located within this region are a public four-year institution of higher education, a community college that serves all three counties, and two regional higher education centers. ***House Bill 1347*** ***(passed)*** establishes a Southern Maryland Higher Education Council to develop a strategy for improving access to higher education for the residents of Southern Maryland. An interim report with a short-term strategy is due by December 1, 2011, and a final report with a long-term strategy is due by December 1, 2012, to the Governor and the General Assembly.

Other Higher Education Legislation

Chapters 579 and 580 of 2008 required public institutions of higher education in Maryland to develop and implement plans for programs of cultural diversity and required independent institutions of higher education that receive State funding under the Sellinger formula to report on the programs at the institutions that promote and enhance cultural diversity. MHEC advises that the current reporting timeline only allows institutions to collect and analyze data from part of the academic year, limiting the usefulness of the report. In response, ***Senate Bill 288*** ***(Ch. 52)*** alters the dates by which the specified institutions of higher education and MHEC must submit annual reports on the promotion and enhancement of cultural diversity at institutions of higher education. Extending the deadlines will allow each campus to provide a more complete report to MHEC and the General Assembly.

As education standards have increased for employment qualification, it has become increasingly important for individuals to have documentation of success in higher education. The importance of these credentials has resulted in an increase in the attempts to misrepresent credentials, including the emergence of fraudulent operations that, for a fee, issue fraudulent educational credentials. Accordingly, legislation was introduced to expand the list of acts related to false diplomas that constitute criminal misdemeanors. ***Senate Bill 292*** ***(Ch. 53)*** prohibits a person from falsely altering a transcript, diploma, or grade report of an institution of postsecondary institution. A person also may not knowingly buy, sell, or distribute these documents. A violator is guilty of a misdemeanor and subject to a maximum $1,000 fine and/or imprisonment for up to six months.