

Part L

Education

Education – Primary and Secondary

Bridge to Excellence in Public Schools Act Passes Critical Milestone

The State education aid formulas enacted through the Bridge to Excellence in Public Schools Act of 2002 enter the second year of their five-year phase-in schedule in fiscal 2005. The budget adopted by the General Assembly increased funding for public primary and secondary education by \$314.3 million over the fiscal 2004 appropriation in accordance with the Act and preserved the integrity of the Bridge to Excellence phase-in structure for a second consecutive year. The 9.5 percent increase in State education aid was achieved despite the State's ongoing budget problems. In total, the State will provide more than \$3.6 billion for public education in fiscal 2005.

The 2004 legislative session was a pivotal point in the implementation of the Bridge to Excellence Act. For the State to proceed with full funding of the legislation, the Act required the General Assembly to revisit the State's fiscal situation and pass a joint resolution affirming that the State has sufficient fiscal resources to fund the State aid increases required for fiscal 2005. The Act provided that annual State aid increases for fiscal 2005 to 2008 would be limited to 5 percent if the joint resolution was not passed.

To add to the difficulty of the decision facing the General Assembly, the Office of the Attorney General issued advice on July 2, 2003, that suggested that the requirement for a joint resolution represented an unconstitutional legislative veto. According to the Attorney General, keeping the provision in law would have placed the State at risk of a lawsuit on constitutional grounds. Although the issue has never been litigated in the State, the Attorney General advised that both passing and not passing the resolution could result in lawsuits challenging the validity of the provision. The Attorney General further advised that, in either case, the status of education funding under the Bridge to Excellence Act would remain in question. In response to these concerns, the General Assembly passed emergency legislation, *House Bill 345 (Ch. 6)*, repealing the requirement for a joint resolution and maintaining the full funding of the Bridge to Excellence Act. The bill was enacted without the Governor's signature on March 8, 2004.

The \$314.3 million increase in State education aid included in the fiscal 2005 State budget reflects a \$305.1 million increase in the Bridge to Excellence aid formulas and a \$19.6 million increase in teachers' retirement payments. Funding for all other education aid programs is reduced by a combined total of \$10.5 million from fiscal 2004 to 2005. **Exhibit L-1** shows changes in the appropriations for State aid programs from fiscal 2004 to 2005. Increases in education aid for individual counties can be found in Part A – Budget and State Aid of this *90 Day Report*.

**Exhibit L-1
State Education Aid
Fiscal 2004 and 2005**

	<u>FY 2004</u>	<u>FY 2005</u>	<u>Dollar Increase</u>	<u>Percent Increase</u>
<u>Bridge to Excellence Programs</u>				
Foundation Program	\$2,013.4	\$2,114.6	\$101.1	5.0%
Compensatory Education	350.8	488.1	137.3	39.1%
Special Education Formula	116.3	157.6	41.4	35.6%
Limited English Proficiency	38.9	51.3	12.4	32.0%
Guaranteed Tax Base	0.0	19.1	19.1	--
Student Transportation	167.0	175.5	8.5	5.1%
Baltimore City Partnership	28.2	21.1	(7.0)	-25.0%
Teacher Salary Challenge	5.3	0.0	(5.3)	-100.0%
Extended Elementary Ed (EEEP)	<u>19.3</u>	<u>16.9</u>	<u>(2.4)</u>	-12.5%
Subtotal	\$2,739.1	\$3,044.3	305.1	11.1%
<u>Other Education Aid Programs</u>				
Teachers' Retirement	\$383.6	\$403.2	\$19.6	5.1%
Non-public Special Education	111.0	108.8	(2.2)	-2.0%
Other Programs	<u>86.7</u>	<u>78.5</u>	<u>(8.3)</u>	-9.5%
Subtotal	\$581.3	\$590.4	\$9.2	1.6%
Grand Total	\$3,320.4	\$3,634.7	\$314.3	9.5%

Source: Department of Legislative Services

Funding for Regional Differences in the Cost of Education

One component of the Bridge to Excellence Act that is not included in the fiscal 2005 State budget is funding to recognize regional differences in the cost of education that are due to factors outside of the control of the local jurisdictions. The Bridge to Excellence legislation included language that required the Maryland State Department of Education (MSDE) to contract with a private entity to develop a Maryland-specific geographic cost of education index (GCEI) that would be used to make adjustments to State aid beginning in fiscal 2005. The consultants hired by MSDE submitted a final report entitled *Adjusting for Regional Differences in the Cost of Educational Provision in Maryland* on December 31, 2003. The report includes a GCEI with index values that range from 0.948 in Garrett County to 1.048 in Prince George’s County. **Exhibit L-2** shows the final index that appears in the report. Values that exceed 1.0 indicate jurisdictions with higher costs, and values below 1.0 reflect counties with lower costs.

Exhibit L-2 Maryland-specific Geographic Cost of Education Index

<u>County</u>	<u>Index Value</u>	<u>County</u>	<u>Index Value</u>
Allegany	0.959	Harford	0.992
Anne Arundel	1.018	Howard	1.015
Baltimore City	1.042	Kent	1.010
Baltimore	1.008	Montgomery	1.034
Calvert	1.021	Prince George’s	1.048
Caroline	1.000	Queen Anne’s	1.011
Carroll	1.014	St. Mary’s	1.002
Cecil	0.989	Somerset	0.973
Charles	1.020	Talbot	0.991
Dorchester	0.978	Washington	0.974
Frederick	1.024	Wicomico	0.971
Garrett	0.948	Worcester	0.959

Source: *Adjusting for Regional Differences in the Code of Educational Provision in Maryland*

Before the final report was released, the Office of the Attorney General reviewed the Bridge to Excellence legislation and suggested that the wording in the Act was too unclear to establish a funding mandate. Although MSDE included \$47.3 million for the adjustments in its budget request, State aid to reflect regional differences in the cost of education was not included in the proposed fiscal 2005 State budget or the budget adopted by the General Assembly.

To ensure that a formula to account for regional differences is established in law for future fiscal years, *Senate Bill 508 (passed)*, the Budget Reconciliation and Financing Act of 2004, includes a provision that phases in a program of regional cost adjustments from fiscal 2006 to 2010. Adjustments will be made to the foundation program, and only counties with index values above 1.0 will be affected by the adjustments. The adjustments established in the legislation will cost an estimated \$53 million in fiscal 2006, although the legislation does not mandate that the full amount be provided in the budget. If less than the full formula amount is provided in a fiscal year, the amount that is included in the budget will be distributed in the same proportion that the full amount would be provided.

Fiscal Accountability for Local Boards of Education

With the ongoing phase-in of significant State aid increases under the Bridge to Excellence Act and the disclosure of sizeable deficits in the Baltimore City and Prince George's County public school systems, the General Assembly turned its attention towards greater fiscal accountability for local school systems. *Senate Bill 894 (passed)* prohibits local school systems from carrying budget deficits, requires more reporting on local school system finances, requires each local school system to undergo a legislative audit, and provides for changes to the annual comprehensive master plan updates that local school systems are required to submit.

Financial Reports Requirements

Senate Bill 894 requires each local superintendent of schools or chief executive officer to file a biannual report on the financial status of the local school system with the State Superintendent of Schools and county governing body and attest to the accuracy of each report when it is submitted. The State Superintendent and MSDE must monitor the financial status of each local school system and report their findings on a biannual basis to the Governor and the General Assembly.

If it is determined from an annual audit report that a local school system has a deficit, defined as a negative fund balance of 1 percent or more of general fund revenue at the end of a fiscal year the State Superintendent must immediately notify the Governor, the General Assembly, the Department of Legislative Services, and the county governing body. The local school system must (1) develop and submit for approval a corrective action cost containment plan within 15 days; (2) file monthly status reports with the State Superintendent and county governing body demonstrating actions taken to close the deficit and the effect of the actions taken on the deficit; and (3) include information on the corrective action cost containment plan, actions taken to close the deficit, and status of the deficit in the biannual financial status reports filed with the State Superintendent and county governing body. The State Superintendent must include this information in a quarterly report submitted to the Governor and the General Assembly. The bill specifically requires the Baltimore City Board of School Commissioners to eliminate its general fund deficit by the end of fiscal 2006.

If a local school system fails to comply with the reporting requirements, the State Superintendent must notify the State Comptroller, who must withhold 10 percent of the State aid

due to the system. The withholding of State aid continues until the State Superintendent notifies the Comptroller that the local school system is in full compliance with the specified requirements.

Legislative Audits

With the approval of the Executive Director of the Department of Legislative Services, the Legislative Auditor must appoint professional staff to conduct an audit of each local school system to evaluate the effectiveness and efficiency of the system's financial management practices. The audits must be conducted between July 1, 2004, and June 30, 2010.

A local school system with a negative fund balance in the general fund of 1 percent or more in either of the prior two fiscal years must be included in the first group of audits. Two school systems Baltimore City and Prince George's County, meet this criterion. Thereafter, the Office of Legislative Audits (OLA) must give priority to local school systems that have failed to comply with other provisions of Senate Bill 894.

In addition to the financial management practices audits, OLA must conduct a centralized audit of the master plans to determine overall compliance with State requirements by December 1, 2004. The audit results must be submitted to the Joint Audit Committee.

Comprehensive Master Plan Updates

Senate Bill 894 extends the deadline for the submission of the annual comprehensive master plan updates from July 1 to August 15. In addition, the updates are broadened to include more budget and expenditure information. The State Superintendent must review the alignment of a local board's budget and master plan and report to the Governor, county governing body, and the General Assembly on the results of the review.

Task Force to Study Public School Facilities

The Bridge to Excellence Act also established a Task Force to Study Public School Facilities. The Act directed the task force to evaluate whether the State's public school facilities are adequate to sustain programs supported by the funding levels implemented in the Bridge to Excellence legislation. The task force was also charged with examining the equity of the State's school construction program, particularly the equity of the State and local cost shares for school construction projects, and considering whether to continue the Aging Schools Program as a permanent program.

In completing its charge, the task force undertook an assessment of the current conditions of the State's existing public schools. A survey was conducted by MSDE based on 31 minimum facility standards developed by a workgroup chaired by the State Superintendent of Schools and approved by the task force in March 2003. The survey was based on local, State, and federal standards for facilities and included items measuring the ability of each school facility to support educational programs and projected student enrollments. The results were released on November 6, 2003.

The survey indicated that \$3.85 billion is needed to bring existing public schools up to standards. More than one-third of public schools across the State did not meet the standard in at least one of eight facility areas. However, many of the inadequacies uncovered by the survey are based on standards that were adopted in the last 10 to 15 years. All schools are required to meet standards when they are renovated or initially constructed, but only 26 percent of Maryland's school space has been constructed or undergone major renovation since 1990.

One of the major concerns addressed by the task force and by the school facilities survey was space for full-day kindergarten. The Bridge to Excellence Act requires all school systems to provide full-day programs for kindergarten students by the 2007-08 school year. Of the \$3.85 billion needed to bring school facilities up to standards, \$1.5 billion is needed to ensure that sufficient capacity exists to house the estimated 2007-08 student population. Of the \$1.5 billion, approximately \$180 million is needed to provide the proper space for full-day kindergarten programs.

Task Force Legislation

The task force's final report was released in February 2004, and legislation to implement many of the task force recommendations was introduced as *Senate Bill 787/House Bill 1230 (both passed)*. The bills address the adequacy of public school construction funding and the equity of the existing Public School Construction Program. In addition, the current practices of the Interagency Committee on School Construction (IAC) and the Board of Public Works (BPW) are codified and formalized in the bills in order to provide for a more formal process for adopting changes to the Public School Construction Program.

Adequacy of Existing Facilities and Funding: Senate Bill 787/House Bill 1230 state that it is the intent of the Governor and the General Assembly that a minimum of \$3.85 billion be provided to fund school facility needs by fiscal 2013. Of this amount, the State share is \$2 billion and the local share is \$1.85 billion. The language serves as recognition of the large public school funding needs identified by the task force. The bills also require the Capital Debt Affordability Committee to review the school facility needs identified by the task force and make a specific multi year funding recommendation for public school construction each year when recommending the State's annual debt limit.

To assist local jurisdictions in meeting their school facility needs, the task force bills authorize local jurisdictions to use a number of alternative financing and contracting methods except where methods are prohibited by local law. The bills specifically require that State procurement laws that are otherwise applicable for school construction projects, including Title 17 Subtitle 2 (Prevailing Wages) and Title 14 (Minority Business Enterprise) of the State Finance and Procurement Article, also apply to alternatively financed projects. In addition, counties are authorized to issue bonds to finance the costs of construction or improvement of public school facilities. Counties using this authority must impose a tax on all assessable property within the county for the purpose of covering the debt service on the outstanding bonds. Local boards of education are also encouraged to reuse recently used school designs when they are educationally appropriate and cost effective.

In recognition of the concerns that many jurisdictions have expressed about providing sufficient space to meet the full-day kindergarten mandate in the Bridge to Excellence Act, Senate Bill 787/House Bill 1230 designate the costs of relocatable classrooms as eligible for State participation from fiscal 2006 through 2008. Although all school systems in Maryland except Garrett and Kent counties are using relocatable classrooms in the 2003-04 school year, temporary classrooms have never been eligible for State funding under Public School Construction Program policies. The bills require the Governor to include in the fiscal 2006, 2007, and 2008 capital budgets \$1 million to fund the State share of the cost of purchasing relocatable classrooms.

The bills also state that it is the intent of the General Assembly that BPW and IAC establish an emergency repair fund to finance renovations and improvements to public schools necessary to address an immediate hazard to the health or safety of the students or staff of the schools. Furthermore, it is the intent of the General Assembly that the fund contain \$2 million in fiscal 2005.

Finally, Senate Bill 787/House Bill 1230 require IAC to survey the conditions of school buildings identified by MSDE and to report to the Governor and the General Assembly by October 1 of each year on the results of the surveys. The Department of General Services must conduct the inspections of school buildings. MSDE must also adopt regulations that provide for periodic surveys of the condition of public school facilities in Maryland at least every four years.

Equity of State School Construction Funding: Senate Bill 787/House Bill 1230 require BPW to establish a new State and local cost-share formula to be used beginning in fiscal 2006. As recommended by the task force, multiple factors, including student populations, enrollment growth, the age of school facilities, and local effort for public school construction, must be used to calculate a State share for each county. The new formula established by BPW must include a hold harmless provision for fiscal 2006 to 2008 to ensure that no county receives a lower State share under the new formula than it will receive under the existing formula in fiscal 2005.

The bills also alter the allocation of the Aging Schools Program beginning in fiscal 2006 by basing funding on the percentage of pre-1970 square footage present in each school system. Minimum allocations of \$65,000 and \$85,000 are also provided. The new and old allocations for the program are shown in **Exhibit L-3**. *Senate Bill 191 (passed)*, the Maryland Consolidated Capital Bond Loan of 2004 (capital budget) includes intent language that a partial hold harmless grant be provided in fiscal 2006 through 2008 for counties receiving 75 percent or less under the new allocation in fiscal 2006 than in fiscal 2005. In the first year the hold harmless grant makes up 75 percent of the difference between the hold and new allocations, phasing out over the next three years to zero in fiscal 2009.

Exhibit L-3
Aging Schools Program Allocations

<u>County</u>	<u>Old</u> <u>Allocation</u>	<u>New</u> <u>Allocation</u>	<u>Difference</u>
Allegany	\$355,000	\$166,000	-\$189,000
Anne Arundel	570,000	859,000	289,000
Baltimore City	1,635,000	2,356,000	721,000
Baltimore	2,940,000	1,484,000	-1,456,000
Calvert	65,000	65,000	0
Caroline	85,000	85,000	0
Carroll	385,000	233,000	-152,000
Cecil	355,000	163,000	-192,000
Charles	65,000	85,000	20,000
Dorchester	65,000	65,000	0
Frederick	85,000	310,000	225,000
Garrett	85,000	65,000	-20,000
Harford	400,000	369,000	-31,000
Howard	65,000	149,000	84,000
Kent	65,000	65,000	0
Montgomery	1,170,000	1,023,000	-147,000
Prince George's	970,000	2,053,000	1,083,000
Queen Anne's	85,000	85,000	0
St. Mary's	85,000	85,000	0
Somerset	65,000	65,000	0
Talbot	155,000	65,000	-90,000
Washington	200,000	229,000	29,000
Wicomico	355,000	181,000	-174,000
Worcester	<u>65,000</u>	<u>65,000</u>	<u>0</u>
Total	\$10,370,000	\$10,370,000	\$0

Source: Department of Legislative Services

Other School Construction Bills

In addition to the bills introduced on behalf of the Task Force to Study Public School Facilities, three additional school construction bills were passed this year.

Modular Construction for School Facilities

House Bill 199 (passed) requires BPW to include modular construction as an approved public school construction or capital improvement cost. Modular construction implies that a large proportion of building components are premanufactured off-site and then transported to the building site where they are assembled on permanent foundations. Although modular construction has been eligible for State school construction funding when the specifications met the approval of IAC staff, specific criteria for approvable projects have not been formalized. House Bill 199 requires BPW, at the recommendation of IAC, to adopt regulations to define modular construction and establish minimum specifications required for approval of modular construction.

Local Funding for Prince George’s County School Facility Needs

Legislation enacted in 2002 required Prince George’s County to enact a local telecommunications tax; however, the use of tax revenues was limited to operating expenses of the public school system. The school facilities survey conducted at the direction of the Task Force to Study Public School Facilities found that Prince George’s County needs \$778 million to achieve existing standards in all of its public schools, the highest figure in the State. In response, *House Bill 589 (passed)* allows the Prince George’s County public school system to use up to 10 percent of its telecommunications tax revenues for school renovation projects that have been approved by the board of education and the county.

The Prince George’s County Board of Education must consider using the funding, which could amount to approximately \$3.2 million per year, to address school facility needs related to the deferral of maintenance or other deterioration of school buildings.

Extension of Baltimore City Enhanced State Share

As a part of the consent decree that led to the establishment of the Baltimore City-State Partnership in 1997, BPW adopted a rule in May 1997 that changed the shared cost formula for Baltimore City from fiscal 1998 through 2002. Under the new rule, the State was responsible for 90 percent of eligible school construction costs for the first \$10 million in funding allocated by the State to Baltimore City and 75 percent of the funding in excess of \$10 million. Chapter 280 of 2001 established the BPW rule in State law and increased the amount subject to a 90 percent State share to \$20 million beginning in fiscal 2002. The termination date on the enhanced State share has been extended each year since then.

Senate Bill 413 (passed) extends for two additional years, through fiscal 2007, the termination date on the enhanced State share of eligible public school construction costs for Baltimore City. However, if the new State and local cost-share formula recommended by the Task Force to Study Public School Facilities is adopted by BPW as required by Senate Bill 787/House Bill 1230, Baltimore City will have a State share that exceeds 90 percent for all funding provided by the State.

Educational Programs at the Charles H. Hickey, Jr. School

The Charles H. Hickey, Jr. School (Hickey) is the largest secure juvenile confinement facility operated by the Department of Juvenile Services (DJS). In response to adverse audit findings at the school, Chapter 53 of 2003 required MSDE to take over the education programs at Hickey from DJS on July 1, 2004. This takeover was contingent upon the inclusion in the budget of funds for the program. The Governor's budget as submitted included approximately \$10.1 million for the program proposed by MSDE, including \$7.6 million in the correctional education budget and \$2.5 million in nonpublic placement funds. Supplemental budget #1 also included a \$300,000 fiscal 2004 deficiency appropriation to begin installation of relocatable classrooms at Hickey and to hire an advance team of key administrators prior to the takeover date at the beginning of fiscal 2005.

The General Assembly reduced the appropriations submitted in the Governor's budget to \$5.2 million for fiscal 2005 and \$212,500 for fiscal 2004. The General Assembly also prohibited the expenditure of nonpublic placement funds at Hickey due to the likelihood of a deficit in nonpublic placements. The level of funds approved by the General Assembly provides for (1) per pupil spending for special education students consistent with the average cost of a nonpublic day placement; (2) per pupil spending for nonspecial education students consistent with the DJS average; and (3) additional funds for equipment, supplies, and relocatable classrooms. MSDE must develop an educational plan for Hickey that will fall within these available resources.

Student Behavior

One other focus of the General Assembly during the 2004 session was student behavior. *House Bill 740 (passed)* requires local boards of education to report alleged incidents of harassment or intimidation against public school students that occur on public school property, at a school activity or event, or on a school bus. MSDE must submit annual reports on the incidents that have been reported by local school systems. *House Bill 1288 (passed)* requires elementary schools with high suspension rates to implement Positive Behavioral Interventions and Supports or an alternative behavioral modification program to reduce suspensions. Finally, *House Bill 130 (passed)* allows local boards of education to authorize teachers to make reasonable searches of students on school-sponsored trips. The searches may only be made under specific circumstances and must be made in the presence of a third party. *House Bill 358 (passed)* requires MSDE to establish procedures for the administration of the Centers for Disease Control and Prevention Youth Risk Behavior Surveillance System Survey. The survey was developed in 1990 to measure the prevalence of risk behaviors among adolescents including tobacco use, dietary behaviors, physical activity, alcohol and drug use, sexual behavior that contributes to unintended pregnancy and sexually transmitted diseases and behaviors that contribute to injuries and violence.

State and Local Aid Program for Certification by the National Board for Professional Teaching Standards Extended

Senate Bill 1 (passed) extends through May 31, 2008, the State and Local Aid Program for Certification by the National Board for Professional Teaching Standards. The program, which pays the National Board for Professional Teaching Standards certification fee for teachers selected to participate in the program, was due to terminate May 31, 2004. The State pays two-thirds of the certification fee, and the local school system that employs the teacher pays one-third of the fee. The program was established as a pilot program by Chapter 179 of 1997 and was later extended by legislation through May 2004. As of July 1, 2003, 203 teachers in Maryland had been certified by the national board through their participation in this program.

Higher Education

Higher Education Affordability Act

The House Special Committee on Higher Education Affordability and Access, appointed by the Speaker of the House, was charged with examining the impact of reductions in the State support for higher education and subsequent increases in tuition rates. Tuition for the fall of 2003 increased 15 to 19 percent for in-state students at University System of Maryland (USM) institutions. The special committee held meetings on several college campuses in late fall 2003 and early 2004, issuing its final report in February 2004.

House Bill 1188 (passed) implements the recommendations of the House Special Committee on Higher Education Affordability and Access by providing additional State support for USM and Morgan State University in exchange for limiting tuition increases to 5 percent annually for three years. The legislation makes a supplementary appropriation in fiscal 2005 of \$25.4 million to USM and \$1.6 million to Morgan State. Additionally, the bill requires for fiscal 2006 and 2007 that the Governor include an appropriation in the annual State budget of at least 5 percent over the previous fiscal year.

To pay for the increased State support provided under the bill, the corporate income tax rate is increased by 10 percent – from 7 to 7.7 percent – for tax years 2004 through 2006 and the additional revenues are deposited in the Higher Education Investment Fund (HEIF) to be allocated to USM institutions and Morgan State University. However, the Governor may not include more than 60 percent of the required minimum 5 percent annual State increase from the HEIF. Any balance remaining in the HEIF is transferred to the general fund at the end of fiscal 2007 to be used to support higher education.

Additionally, House Bill 1188 provides that funding under the Joseph A. Sellinger formula for private colleges and universities, the Senator John A. Cade formula for community colleges, and the Baltimore City Community College formula be based on the combined general fund and HEIF support for the public four-year institutions of higher education. The bill further creates a commission to study the coordination, funding, educational delivery, and State

commitment to higher education in the State and requires that the commission report its findings and recommendations by December 1, 2005.

Governance

The General Assembly passed several bills that affect the governance structure and policies of State institutions of higher education.

Senate Bill 738 (passed) clarifies that laws must specifically reference USM in order to be applicable. The bill also repeals the provision of law that requires USM presidents to comply with position limits that are set in the State budget.

Senate Bill 430 (passed) provides additional corporate powers to Morgan State University including the authority to acquire, hold, lease, and use property; borrow money; sue and be sued; and carry liability insurance. The university also is exempted from specified provisions of the State procurement law. Additionally, the bill repeals a position cap requirement and clarifies that laws must specifically reference the university in order to be applicable. For a further discussion of Senate Bill 430, see the subpart “Procurement” within Part C – State Government of this *90 Day Report*.

To allow for wider geographic representation of individuals on the Board of Regents of Morgan State University, *Senate Bill 85 (passed)* reduces from 11 to 10 the number of members on the board who must be Maryland residents. The bill also clarifies that the student member may be either an in-state or an out-of-state student.

Senate Bill 812 (passed) removes the termination date for the new program approval process for USM and extends the procedures used by USM constituent institutions for the establishment of academic programs to community colleges and regionally accredited nonpublic institutions of higher education that receive State funding. The president of an institution may propose to establish a new program if it can be established with existing resources and is consistent with the institution’s mission statement. The proposal must be reported to the Maryland Higher Education Commission (MHEC), which must notify all other institutions of higher education in the State. MHEC or an institution may object to the establishment of the new program. If the objection cannot be resolved, a final recommendation on implementation of the proposed program must be made by MHEC.

Coppin State University – Renaming

In order to better reflect the diverse educational programs that it offers, and to better position the institution to enhance its private support and partnerships with the private sector, *House Bill 893 (Ch. 63)* changes the name of Coppin State College, one of the State’s historically black colleges, to Coppin State University.

Scholarships

Increased Funding for Need-based Scholarships

The fiscal 2005 budget includes \$83.3 million in general funds for MHEC scholarship programs. The total scholarship appropriation is \$87.4 million. This is an increase of \$7.4 million over the fiscal 2004 working appropriation. Educational Excellence awards increase \$10.4 million, offsetting a \$4 million reduction to HOPE Scholarships. Fiscal 2005 marks the first increase in need-based financial aid since fiscal 2001 and will help alleviate a current waiting list for need-based aid of over 5,000 students. With this increase, MHEC will award approximately 4,138 additional students over fiscal 2004 and will help offset the increased tuition and fee rates for current and new recipients. The current average award amount is \$2,175 and reflects the most recent tuition and fee increases.

William Donald Schaefer Scholarship Program

To encourage young people who demonstrate outstanding potential for and pledge to pursue a career in public service, *House Bill 1307 (passed)* creates the William Donald Schaefer Scholarship Program. Scholarship applicants must (1) be a Maryland resident; (2) demonstrate a definite financial need; (3) be accepted for admission or currently enrolled as a full-time undergraduate or graduate student at an institution of higher education in Maryland; and (4) sign a letter of intent to work full time in the State in a public service career or occupation for one year for each year that the scholarship is received. Scholarship recipients are selected by MHEC, in collaboration with a Schaefer Scholarship Advisory Council. The Schaefer Scholarship award may equal the cost of tuition and mandatory fees at most public institutions of higher education.

Service Obligation Requirements

Economic Development Student Assistance Grants include the Sharon Christa McAuliffe Memorial Teacher Education Awards, Physical and Occupational Therapists and Physical and Occupational Therapy Assistants Grants, Child Care Provider Grants, and State Nursing Scholarships. *Senate Bill 30 (passed)* eliminates the requirement that recipients of Economic Development Assistance Grants and nonresident nursing students who pay resident tuition rates furnish promissory notes that include cosigners. Only the students will be required to sign the promissory notes, which state the students' intent to fulfill the service obligations associated with the grants and reduced tuition rates or repay the State in an amount equal to the benefit received if the service obligation is not undertaken or fulfilled. Other State grants and scholarships that involve service obligations require only promissory notes from recipients.

Graduate and Professional Scholarship Program

Under *Senate Bill 31 (Ch. 11)*, a Maryland resident attending any institution of higher education in the State that offers a master's degree in social work will be eligible for an award under the Graduate and Professional Scholarship Program. Currently, these graduate and professional scholarships are available to Maryland residents who demonstrate financial need and attend (1) the University of Maryland schools of medicine, dentistry, law, pharmacy, or

social work; (2) the University of Baltimore School of Law; (3) the Johns Hopkins University School of Medicine; (4) the Virginia-Maryland Regional College of Veterinary Medicine; or (5) any Maryland institution of higher education offering a master's degree in nursing. Awards range from \$1,000 to \$5,000 per year, and recipients may not receive awards through the program for more than eight semesters. State funding for the program is allocated to eligible institutions of higher education, which then award scholarships to eligible students.

Community Colleges

The Governor's fiscal 2005 State budget includes a total of \$214.5 million for Maryland's community colleges, an increase of 3.4 percent over fiscal 2004. This amount includes \$158.8 million for the 15 locally operated community colleges; \$30.4 million for Baltimore City Community College, which is operated by the State; and \$25.3 million for community college faculty retirement costs.

Authority to Incur Debt

House Bill 8 (Ch. 35) provides additional financial flexibility to Hagerstown Community College and Wor-Wic Community College by authorizing the boards of community college trustees for each of those institutions to borrow money to acquire an interest in personal property for college operations. The only community college now lacking this borrowing authority is Harford Community College.

Unrestricted Grants

In 2002, legislation was enacted that provided additional small college grants for Allegany College of Maryland and Garrett College. At that time, funding for the two colleges under the Senator John A. Cade funding formula had increased 23 percent and 16 percent, respectively, from fiscal 1998 to 2002. Aid for other community colleges had increased over the same period of time by an average of 61 percent. The additional grants established in 2002 were an attempt to keep increases at two of Maryland's smallest community colleges aligned with the increases realized at the other colleges. From fiscal 2003 to 2005, unrestricted additional small college grants for Allegany College of Maryland and Garrett College of \$360,000 and \$240,000, respectively, are mandated. *House Bill 641 (passed)* repeals the June 30, 2005, termination provision on the additional small college grants for Allegany College of Maryland and Garrett College.

Tuition Waiver for Certain Students with Disabilities

A resident of the State who is retired from the workforce due to total and permanent disability and enrolls at a community college in a class that has at least 10 students is exempt from paying tuition. In order to receive the exemption, the individual must obtain certification that the individual receives the appropriate disability and retirement benefits. *House Bill 322 (Ch. 45)* clarifies that an individual with disabilities who receives a tuition exemption at a community college need only obtain certification that the individual receives either disability

benefits or retirement benefits to qualify for the exemption. The individual need not obtain certification that both disability and retirement benefits are received.

Tuition

Tuition Charges for Military Personnel and Family

For institutions within USM, the Board of Regents sets tuition policies, including the determination of which students are eligible for resident tuition. The basic policy requires students to be identified as permanent residents of Maryland to qualify for resident tuition, meaning they have lived continuously in the State for at least 12 months immediately prior to attendance at a USM institution. An individual who is residing in Maryland primarily for the purpose of attending an educational institution is not considered a permanent resident. However, the USM policy makes an exception for an active duty member of the U.S. armed forces who resides in Maryland or is stationed in Maryland. These individuals qualify for in-state tuition rates, as do their spouses and dependent children. Honorably discharged veterans are subject to the normal residency requirements. Morgan State University, St. Mary's College, and most community colleges adhere to a similar policy regarding military personnel and members of their family.

House Bill 172 (passed) codifies the tuition practices of the public institutions of higher education in Maryland regarding the treatment of military personnel by exempting military personnel and their family members from paying nonresident tuition at the institutions so long as the active duty member is stationed in Maryland, resides in Maryland, or is domiciled in Maryland. The bill extends this exemption to honorably discharged veterans of the U.S. armed forces who attended high school in Maryland. The bill is effective for students who register as an entering student in a public institution of higher education in the State beginning in the 2004 fall semester.

The bill also provides that a spouse or dependent child of an active duty member who enrolls in a public institution of higher education beginning in the 2004 fall semester, and who remains continuously enrolled, shall continue to be exempt from nonresident tuition charges, regardless of any changes in the active duty member's status.

Tuition Charges for Undocumented Immigrants

During the 2003 session, the General Assembly passed House Bill 253 which would have extended in-state tuition privileges to undocumented immigrants who attended and graduated from Maryland high schools. The bill was vetoed by the Governor. In his veto letter, the Governor gave several policy reasons for vetoing the bill. First, the Governor stated that granting in-state status to illegal immigrants violates the spirit of the federal Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and would reward illegal behavior. Secondly, the Governor raised concerns that the fiscal cost to the State was indeterminate and could be potentially large. He noted that additional community college students included in the enrollment counts would increase the State's obligations under the Senator John A. Cade funding

formula. Finally, the Governor raised concerns that the bill would allow undocumented immigrants to take in-state slots from legal Maryland residents.

In response to some of the Governor's concerns, *House Bill 1171 (failed)* would have exempted an undocumented immigrant from paying nonresident tuition at a Maryland public institution of higher education if the individual (1) attended a secondary school in the State for at least three years; (2) graduated from a high school in the State or received the equivalent of a high school diploma in the State; (3) makes application to attend the institution within five years of high school graduation; and (4) registers as an entering student for the fall 2004 semester or later. In addition, to qualify for the reduced resident tuition rate, an individual would have been required to provide documentation showing that the individual or the individual's parent or guardian paid Maryland income tax during the year prior to the individual's graduation. The individual also would have been required to provide an affidavit stating that the individual will file an application to become a permanent resident within 30 days after becoming eligible to do so.

Miscellaneous

National Guard Students

Over the past several years, the conflicts in Afghanistan and Iraq as well as Hurricane Isabel and other emergency situations have necessitated the activation of many National Guard units in Maryland and throughout the country. *House Bill 1314 (passed)* requires a public institution of higher education to allow a student who is in the National Guard and whose unit is activated and deployed to withdraw from classes without negative consequences for the student's academic standing. The institution must also try to assist the student to complete the course requirements by either (1) giving the student a grade of incomplete and working with the student and the student's instructor on a program of independent study or (2) transferring the student to an online course.

Maryland Digital Library

Senate Bill 615/House Bill 1167 (both passed) establish a Maryland Digital Library (MDL) within MHEC, as well as an MDL Advisory Council. MDL consists of the academic libraries in public and private nonprofit institutions of postsecondary education. After receiving recommendations from the MDL Advisory Council, MHEC may encourage each academic library to (1) increase shared access to critical information in Internet-accessible form; (2) optimize funding; (3) digitize unique collections; (4) train librarians and staff to improve services in the information technology environment; and (5) develop training programs for library users. MDL is also authorized to develop programs to support Maryland residents in collaboration with county libraries, the Enoch Pratt Free Library, the Maryland State Archives, and elementary and secondary school libraries. The MDL Advisory Council must submit an annual report regarding the financial status and operations of MDL.