

Part L Education

Primary and Secondary Education

Fiscal 2010 State Education Aid

State aid for primary and secondary education will increase by \$127.9 million to a total of \$5.5 billion in fiscal 2010, 2.4% above the fiscal 2009 level. State aid provided directly to the local boards of education decreases by \$9.4 million or 0.2%, while teachers' retirement costs, which are paid by the State on behalf of the local school systems, grows from \$621.8 million to \$759.1 million, an increase of 22.1%.

Changes in the Bridge to Excellence programs and other major State education aid programs are shown in **Exhibit L-1**. The largest increase in any of the education aid programs is in teachers' retirement, which increases by \$137.3 million. The State pays 100% of the employers' share of retirement costs for most professional school system employees. The large increase is due to 8.1% growth in aggregate school system salary bases and an increase in the contribution rate from 11.70% to 13.15%. State funding for this program is paid into the State's pension system and does not pass through local school system budgets.

Although direct aid decreases slightly, there is a \$64.5 million or 1.4% increase in funding for the Bridge to Excellence programs, the State's primary education aid formulas. The foundation program, which ensures a minimum base amount of State and local per pupil funding and is the State's largest aid program, decreases by \$63.7 million from fiscal 2009 due to declining enrollment, the second year of a freeze in the per student grant amount, and the recapture in fiscal 2010 of \$30.8 million in State aid overpayments to local school systems that occurred because of an error in the fiscal 2009 wealth base calculation. However, funding for other programs, most notably an \$88.5 million increase to fully fund the geographic cost of education index (GCEI), offsets the loss of foundation aid and provides for the overall increase in Bridge to Excellence funding.

Exhibit L-1
State Education Aid
Fiscal 2009 and 2010
(\$ in Thousands)

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Change</u>	<u>% Change</u>
Foundation Program	\$2,791,044	\$2,727,298	(\$63,746)	-2.3%
Geographic Cost of Ed Index	37,880	126,375	88,496	233.6%
Supplemental Grant	26,599	48,437	21,838	82.1%
Compensatory Education	914,367	940,681	26,313	2.9%
Special Education Formula	272,742	268,441	(4,301)	-1.6%
Limited English Proficiency	143,946	148,636	4,690	3.3%
Guaranteed Tax Base	89,883	63,829	(26,055)	-29.0%
Student Transportation	<u>225,078</u>	<u>242,337</u>	<u>17,259</u>	7.7%
Bridge to Excellence Subtotal	\$4,501,539	\$4,566,033	\$64,494	1.4%
Nonpublic Special Education	\$127,604	\$112,770	(\$14,834)	-11.6%
Other Direct Aid*	<u>128,418</u>	<u>69,378</u>	<u>(59,039)</u>	-46.0%
Total Direct Aid	\$4,757,561	\$4,748,182	(\$9,379)	-0.2%
Teachers' Retirement	<u>\$621,769</u>	<u>\$759,077</u>	<u>\$137,307</u>	22.1%
Education Aid Grand Total	\$5,379,331	\$5,507,259	\$127,928	2.4%

*Fiscal 2009 includes grants provided to offset the withdrawal of \$37.9 million in funding for the geographic cost of education index.

Increases in teachers' retirement and the Bridge to Excellence formulas were made possible to a large extent by the enactment of the federal American Recovery and Reinvestment Act of 2009 (ARRA), which provided the State with \$721.2 million in State Fiscal Stabilization Funds that Maryland will use to support increases in these programs in fiscal 2010 and 2011. The fiscal 2010 State budget includes \$295.9 million in stabilization funds to finance statutory formula increases in retirement payments, GCEI, supplemental grants, compensatory education, limited English proficiency, and student transportation. The use of the federal funds to support fiscal 2010 primary and secondary education formulas is detailed in **Exhibit L-2**. Another \$425.3 million in federal stabilization funds is expected to be available for use to fund education aid programs in fiscal 2011.

Exhibit L-2
Use of Federal State Fiscal Stabilization Funds
For State Education Aid Programs
Fiscal 2010

	<u>FY 2009</u>	<u>FY 2010</u>	<u>Increase</u>
Teachers' Retirement	\$621,769,420	\$759,076,574	\$137,307,154
Geographic Cost of Education Index	37,879,747	126,375,388	88,495,641
Compensatory Education	914,367,170	940,680,531	26,313,361
Supplemental Grant	26,599,120	48,437,254	21,838,134
Student Transportation	225,078,351	242,336,939	17,258,588
Limited English Proficiency	143,945,941	148,635,531	<u>4,689,590</u>
State Fiscal Stabilization Funds Used for Education in Fiscal 2010			\$295,902,468

In addition to the stabilization funds supporting State education aid formulas, ARRA makes use of existing federal programs in order to target additional aid directly to local school systems. In fiscal 2010 and 2011, Maryland will receive a total of \$136.0 million in additional federal funding under Title I of the Elementary and Secondary Education Act (Title I) and an additional \$214.7 million in federal funding from the Individuals with Disabilities Education Act (IDEA). Title I requires school systems to improve educational opportunities for economically disadvantaged children, and IDEA funds are used to provide free and appropriate public education to students with disabilities, including early education and infants and toddlers. The projected fiscal 2009 to 2010 change in direct State education aid for each local school system is shown in **Exhibit L-3** with estimates of annualized amounts of federal Title I and IDEA funds. More detail on State education aid for each county can be found in Part A – Budget and State Aid of this *90 Day Report*.

Education Aid Adjustments in the Budget Reconciliation and Financing Act

The Budget Reconciliation and Financing Act of 2009 (BRFA), *House Bill 101 (passed)*, includes provisions that change three mandated education aid formulas for fiscal 2010 and future fiscal years. First, the BRFA changes the cost share formula for nonpublic special education placements. To finance the placement of a child in a nonpublic setting, the local school system contributes the local share of the basic cost to educate a nondisabled student, plus 200% of the total basic cost of education in the district. Any additional costs to place the child were previously split 80/20 between the State and local school system; the BRFA permanently changes that cost share split to 70/30. The change in the formula results in an estimated \$16.1 million reduction in the amount needed to support fiscal 2010 placement costs. The BRFA

also limits fiscal 2010 increases in the rates paid to providers of nonpublic placements to 1%, saving an additional \$3.9 million.

Exhibit L-3
Change in Direct State Education Aid and
Annualized Additional Title I and IDEA Funds
Fiscal 2010
(\$ in Thousands)

School System	FY 2009-2010 Change in Direct State Aid	Annualized ARRA Enhancements	
		Title I	IDEA
Allegany	(\$888)	\$669	\$1,376
Anne Arundel	(4,282)	3,032	9,431
Baltimore City	(3,775)	26,013	14,203
Baltimore	(8,532)	8,210	13,663
Calvert	(320)	341	1,868
Caroline	(414)	317	710
Carroll	(2,967)	0	3,284
Cecil	(1,377)	840	2,070
Charles	(2,675)	780	2,904
Dorchester	(511)	340	593
Frederick	(1,692)	1,094	4,436
Garrett	(123)	302	593
Harford	(3,188)	1,283	4,764
Howard	222	0	5,103
Kent	(237)	129	290
Montgomery	42,886	5,906	17,284
Prince George's	(9,367)	11,315	15,116
Queen Anne's	(138)	185	885
St. Mary's	(1,749)	417	2,004
Somerset	33	677	385
Talbot	418	189	584
Washington	205	1,390	2,769
Wicomico	4,582	1,278	1,790
Worcester	260	419	825
Unallocated	(15,752)	0	0
Total	(\$9,379)	\$65,127	\$106,929

The BRFA of 2009 also alters mandated Teacher Quality Incentives, which provide stipends and bonuses to qualifying teachers. The changes are expected to save the State approximately \$5.3 million per year. Finally, a required \$11.7 million general fund expenditure for the Aging Schools Program is eliminated through the BRFA, although the fiscal 2010 capital budget provides \$6.1 million in general obligation bonds for the program.

The BRFA of 2009 also makes changes to the Bridge to Excellence funding formulas beginning in fiscal 2012. In fiscal 2011 the inflationary factor for the per pupil foundation amount will be applied to the formulas, but the BRFA establishes a 1% cap on growth in the per pupil amount and the student transportation grants for fiscal 2012 only. The restriction was established in recognition of the additional federal funds that are available to support education aid programs in fiscal 2010 and 2011 but will no longer be available in fiscal 2012.

Lastly, the BRFA changes the deadline for counties to apply to the State Board of Education for waivers of the maintenance of effort provision, which requires each local jurisdiction to provide at least as much per pupil funding for the local school system as was provided the previous fiscal year. Prior to the change, the deadline to apply for a waiver was April 1, and eight counties applied for waivers within that timeframe. The BRFA extends the application deadline to May 1. School systems that applied by April 1 will get a response from the State board by May 15, and any systems that utilize the BRFA extension will get a response by June 1. The BRFA of 2009 also clarifies required future year funding levels for counties that receive maintenance of effort waivers. The required per pupil county contributions must equal the greater of the prior year or second prior year funding levels.

Fiscal 2010 Public School Construction Funding

Capital Funding

The fiscal 2010 budget for public school construction includes \$260.0 million in general obligation bonds. An additional \$5.2 million in unexpended funds from prior years is available from the Statewide Contingency Fund, of which \$1.9 million is reserved for specific local school systems. Although the Maryland Stadium Authority was scheduled to transfer \$2.4 million in special funds for public school construction, these funds were deleted from the budget due to fiscal constraints.

The Public School Facilities Act of 2004 established a State goal to provide \$2 billion in State funding over eight years to address deficiencies, or \$250 million per year from fiscal 2006 to 2013. Fiscal 2010 will be the fifth consecutive year that the goal has been met or exceeded. The local school systems have requested a total of approximately \$766.0 million for fiscal 2010, of which \$493.6 million is eligible for State funding.

Aging Schools Program

The Aging Schools Program is funded through the capital budget rather than the operating budget in fiscal 2010. The fiscal 2010 capital budget as introduced included a \$6.1 million transfer of bond premiums from the annuity bond fund for the program, a

\$5.5 million decrease from the mandate funding level for the program. The capital budget as passed by the General Assembly instead includes \$6.1 million in general obligation bond funds for the program. The BRFA of 2009 alters future funding levels for the Aging Schools Program, reducing the fiscal 2011 requirement to \$6.1 million before rebasing the program at \$10.4 million in fiscal 2012. An annual inflationary factor will resume in fiscal 2013.

House Bill 1081 (*passed*) allows an additional use for previously authorized Qualified Zone Academy Bonds (QZABs) that were originally authorized for the Aging Schools Program. The federal government has allocated \$36.5 million in QZABs to Maryland since 2001; approximately \$22 million has yet to be expended by local school systems. **House Bill 1081** authorizes the use of QZABs to purchase equipment for eligible schools, which is one of several other allowable uses for QZABs under the Internal Revenue Code. QZABs are an alternative bond program that the federal government has authorized with bond holders receiving federal tax credits in lieu of interest.

Education Legislation

In addition to providing for public school operations and facilities, the General Assembly considered and passed bills relating to military children, student health and wellness, graduation, the MDK12 Library, suspension and expulsion, data collection, early childhood education, and local level education administration.

Interstate Compact on Educational Opportunity for Military Children

According to the Council of State Governments, on average a child of a member of the military changes schools more than twice during high school and most military children will be in six to nine different school systems from kindergarten to grade 12. These transfers frequently create bureaucratic problems that can disadvantage the academic performance of military children. **Senate Bill 257/House Bill 306** (*both passed*) join Maryland to the Interstate Compact on Educational Opportunity for Military Children to facilitate for these children: the timely transfers of educational records; the continuation of schooling at the same grade level and in similar programs and courses; inclusion in extracurricular activities; on-time graduation; and the provision of comparable special educational services for students with disabilities, as appropriate. With the enactment of the legislation, Maryland will join at least 14 other states in the compact.

Student Health and Wellness

Anaphylactic Allergies: According to the National Institutes of Health, the prevalence of food allergies appears to be increasing. Allergic reactions to food can range from mild skin rashes and gastrointestinal discomfort to severe anaphylaxis, which can cause swelling of the airways, breathing difficulty, and in extreme cases, death. **House Bill 26** (*passed*) requires a principal, in consultation with a school health professional, to take steps to reduce the risk of student exposure to anaphylactic causative agents. The principal must designate a peanut- and tree nut-free table in the cafeteria and establish procedures for self-administration of medication

by a student with an anaphylactic allergy under specified circumstances. The bill also limits the liability of school staff who responds in good faith to a student having an anaphylactic allergic reaction.

Physical Fitness: The National Conference of State Legislatures reports that, over the last 30 years, the percentage of children who are overweight has more than quadrupled for children ages 6 to 11 and more than tripled for youths ages 12 to 19. *Senate Bill 879/House Bill 1264 (both passed)* authorize local school systems to develop and implement annual wellness policy implementation and monitoring plans with the support of the Maryland State Department of Education (MSDE). The bills also require MSDE to establish an Advisory Council on Health and Physical Education to develop and coordinate programs to educate students about the importance and benefits of physical movement.

Green Cleaning Supplies: *House Bill 1363 (passed)* requires local boards of education to procure for use in schools, to the extent practicable and economically feasible, green product cleaning supplies, which are defined as those that have positive environmental attributes such as biodegradability, low toxicity, low volatile organic compound content, reduced packaging, and low life cycle energy use. The bill applies prospectively and does not affect cleaning supplies in inventory or under contractual obligation for purchase as of the bill's effective date.

Dating Violence Education: *Senate Bill 1049 (passed)* requires the State Board of Education to encourage local boards to incorporate age appropriate lessons on dating violence into their health education curriculum.

Graduation and Middle College Programs

English 12 and Algebra II are the courses that most commonly prevent a student from graduating early from high school. In response to this, *Senate Bill 689 (passed)* requires the State Superintendent of Schools to implement a credit-by-examination process for English 12 and Algebra II by the 2010-2011 school year. Additionally, the bill requires MSDE to report to the State Superintendent regarding the feasibility of and interest in establishing middle college programs for students in Maryland. A middle college is a secondary school authorized to grant diplomas in its own name, which is located on a college campus and allows students to take college courses while also taking high school courses. Under the bill, if the State Superintendent determines that there is sufficient interest and capability to implement middle college programs in the State, the State Superintendent must implement a middle college program in interested school systems beginning in the 2010-2011 school year.

MDK12 Digital Library

In 2000, the Chief of the School Library Services Branch at MSDE recommended that a group of school library media administrators study the feasibility of forming a statewide consortium to take advantage of cost-effective licensing of fee-based online services for K-12 schools in Maryland. A survey of local school systems in Maryland found that many local school systems were licensing online services, that licensing fees were not consistent throughout Maryland, and that licensing fees were too high for some local school systems to afford.

Furthermore, evidence from other states suggested that discounts from digital purchasing consortia can be significant.

In 2002, MSDE awarded Montgomery County Public Schools (MCPS) a federal *Enhancing Education Through Technology* (Title IID) grant to form a statewide purchasing consortium. Over the next five years MCPS worked with the 23 other local school systems to form the MDK12 Digital Library, a statewide purchasing consortium for the K-12 community designed to give teachers, students, and parents access to a collection of online resources to support teaching and learning at a savings to the individual school systems.

With the federal grant that supports this project expiring on September 30, 2009, *Senate Bill 235 (passed)* codifies the MDK12 Digital Library, a digital content purchasing consortium, within MSDE. The bill establishes a steering committee to administer the digital library that consists of one representative from each local school system, one representative from MSDE, and one representative from a private nonprofit school selected to represent the private nonprofit schools in the State. Members of the MDK12 Digital Library may include the public school systems of the State and private nonprofit schools that are approved by MSDE. Members must agree to report digital content usage data to the steering committee and solely use the pricing agreements established by the steering committee. The steering committee is required to submit a report on the financial status and operations of the MDK12 Digital Library to MSDE by October 1 of each year.

Suspension and Expulsion

In the 2007-2008 school year, there were nearly 168,000 student suspensions, including 16,500 for attendance-related infractions. *Senate Bill 241/House Bill 660 (both passed)* prohibit the suspension or expulsion of a student from school solely for attendance-related offenses; however, the bills include an exception from this prohibition for in-school suspensions. *House Bill 201 (passed)* authorizes a juvenile court, in a county that has established a juvenile justice alternative education program, to order a student who is suspended, expelled, or identified as a candidate for suspension or expulsion from school to attend that county's program.

Data Collection

Class Size: *Senate Bill 990/House Bill 379 (both passed)* require MSDE to develop, by the beginning of the 2012-2013 school year, a uniform data collection method to track the number of students who regularly participate in each classroom teacher's class as of September 30 of each year. Local school systems will then be required to implement the method and report the results to MSDE by December 1, and MSDE must report the data by January 31 of each year.

Teacher Identification Number: In an attempt to facilitate the study of education policy questions, such as identifying which forms of teacher training and certification have the greatest impact on a student's academic growth in the classroom, *House Bill 587 (passed)* authorizes MSDE to assign a unique identification number to each public school teacher. The identification number must be randomly generated and may not provide personally identifiable information.

Use of the identification number must be limited to matching data from multiple databases and years and meeting State and federal reporting requirements.

Standardized Course Numbering System: *House Bill 588 (passed)* authorizes MSDE to develop a standardized course numbering system to facilitate the collection of data on student participation in courses offered by public schools. If MSDE develops this system, a local school system that has not adopted the standardized system must provide a translation between its system and the standardized system. In an effort to mitigate the potential fiscal impact of this required translation, the bill reflects the intent of the General Assembly that a local school system that has not adopted the standardized system be able to access and use any federal or State funds otherwise available for this purpose.

Early Childhood Education

Preschool for All Business Plan: *Senate Bill 234/House Bill 184 (both passed)* require MSDE to consult with and accept comments from local superintendents of schools and local governing bodies regarding Maryland's Preschool for All Business Plan before preparing and publishing a final version. The finalized business plan is due to the Governor and the General Assembly by December 1, 2009. The bills prohibit MSDE from implementing a finalized business plan until an ongoing funding source has been identified.

Emergency Preparedness Plans: *Senate Bill 356/House Bill 712 (both passed)* require family day care homes and child care centers to have written emergency preparedness plans for emergency situations that require the evacuation, sheltering in place, or other protection of children. The plan must include: a designated relocation site and evacuation route; procedures for notifying parents of a relocation; procedures to address the needs of individual children, including those with special needs; procedures for the reassignment of staff duties, as appropriate; and procedures for communicating with local emergency management officials.

Local Level Education Legislation

Parent-Teacher Association Matching Fund Program

Established by Chapter 637 of 2007, the Parent-Teacher Association Matching Fund Pilot Program is an unfunded discretionary education aid program authorized in Baltimore City and Prince George's County. *Senate Bill 16 (passed)* renames the Parent-Teacher Association Matching Fund Pilot Program to be the Organization of Parents and Teachers Matching Fund Pilot Program to clarify that any organization of parents and teachers in Baltimore City or Prince George's County is eligible for the program, not only those affiliated with the national and trademarked Parent-Teacher Association. The bill also extends the termination date of the program from September 30, 2010, to September 30, 2012.

Local Boards of Education

Fiscal Accountability: Chapter 148 of 2004 established procedures to ensure fiscal accountability of local school systems by requiring biannual financial reports, prohibiting school

budget deficits, and providing for legislative audits. These procedures were developed after it was discovered in 2004 that two local school systems had deficits in their operating budgets. Beginning with the period ending November 30, 2004, local school systems have been submitting the unaudited financial reports twice each year. MSDE reports the biannual financial status reports have not disclosed any evidence of fiscal instability and there have been no general fund deficit balances disclosed in the last four fiscal years. *Senate Bill 448/House Bill 623 (both passed)* repeal the requirement that local school systems file biannual financial status reports with MSDE.

House Bill 841 (passed) requires the Montgomery County Board of Education to develop and operate a free, public, searchable web site by January 1, 2011, that includes data on specified board payments of \$25,000 or more.

Prince George's County: In addition to other provisions, *House Bill 960 (passed)* prohibits the Prince George's County Board of Education from expending any funds for the purpose of leasing, acquiring, or purchasing property under or in connection with a lease entered into in June 2008 for the consolidation of administrative offices of the board. Contingent on the failure of *House Bill 960* the BRFA of 2009 reduces State Foundation aid by \$36 million in fiscal 2010 if the board proceeds with the lease or purchase of a new administration building.

Senate Bill 500 (passed) requires the Prince George's County Board of Education to develop and implement a pilot program in three county high schools that includes a semester-long elective course in financial literacy. The bill requires the submission of a report on the success of the pilot program to the Prince George's County Senate and House delegations of the General Assembly.

Board Composition: Senate Bill 629/House Bill 639 (both passed) restructure the Harford County Board of Education from a seven-member appointed board to a nine-member board composed of six elected members and three appointed members. The bill establishes residency requirements for board members and procedures for removing members and filling board vacancies.

Senate Bill 964/House Bill 455 (both passed) restructure the Caroline County Board of Education, subject to voter approval via referendum, by requiring that three members be elected by county residents from education districts established by the county commissioners and two members be appointed by the Governor with the advice and consent of the Senate. If the referendum passes, the three elected board members would be elected at the November 2012 general election.

School Bus Operation

Unless it fails to meet applicable safety standards, a conventional school bus may be operated for up to 12 years, except in Dorchester, Somerset, Wicomico, and Worcester counties where it may be operated for up to 15 years. *Senate Bill 21/House Bill 110 (both passed)*

establish this provision as a permanent provision of law in Dorchester County. *Senate Bill 29/House Bill 43 (both passed)* add Talbot County and *Senate Bill 965/House Bill 727 (both passed)* add Caroline County to the counties where school buses may be operated for up to 15 years.

Higher Education

Funding

Every segment of higher education will receive an increase in State funds in fiscal 2010. Overall, new general funds, Higher Education Investment Fund (HEIF), and federal funds total \$33.5 million or a 2.2% increase over fiscal 2009. **Exhibit L-4** shows State support for higher education institutions over the two-year period, which includes general funds and HEIF in both years and discretionary federal stimulus funds in fiscal 2010.

Higher Education Investment Fund

Chapter 2 of the 2007 special session created HEIF and also increased the corporate income tax rate from 7.00 to 8.25%, dedicating 6.00% of corporate tax revenues to higher education through the fund. *Senate Bill 275/House Bill 308 (both failed)* would have made permanent the 6.00% distribution of the total funds generated through the corporate income tax to the HEIF and 9.15% to the general fund, rather than distributing the entire 15.15% to the general fund, beginning in fiscal 2010. However, *House Bill 101 (passed)*, the Budget Reconciliation and Financing Act (BRFA) of 2009, includes a one-year reauthorization of the corporate tax dedication to HEIF. Language in the fiscal 2010 budget bill reduced the general fund appropriation for higher education by \$46.5 million contingent on the reauthorization of HEIF, replacing those general funds with HEIF. Section 36 of the BRFA expresses the intent of the General Assembly to adopt legislation to make permanent the dedication of the 6.00% of corporate tax revenues to higher education, if the General Assembly determines it to be affordable and fiscally prudent.

Tuition Frozen for Fourth Consecutive Year

To continue the ongoing effort to make college more affordable for Maryland residents, the tuition freeze established under the Tuition Affordability Act, Chapters 57 and 58 of 2006 and continued by Chapter 294 of 2007, will be extended for a fourth year for resident undergraduate students at University System of Maryland (USM) institutions and Morgan State University (MSU) for the 2009-2010 academic year. Discretionary federal stimulus funds made available through the American Recovery and Reinvestment Act of 2009 (ARRA) are provided in the fiscal 2010 budget to offset the loss of revenue of not raising tuition 4% at USM institutions and 5% at MSU.

Exhibit L-4
State Support for Maryland Institutions of Higher Education
Fiscal 2009 and 2010
(\$ in Thousands)

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Change</u> <u>FY 09-10</u>	<u>% Change</u> <u>FY 09-10</u>
University System of Maryland	\$1,077,681	\$1,096,318	\$18,637	1.7%
Morgan State University	74,056	75,255	1,199	1.6%
St. Mary's College	16,925	17,365	440	2.6%
MD Higher Ed. Comm. Special Grants	11,657	9,036	-2,621	-22.5%
Community Colleges ¹	254,520	267,290	12,770	5.0%
Baltimore City Community College	41,001	42,386	1,385	3.4%
Private Institutions	50,456	52,178	1,722	3.4%
Total	\$1,526,296	\$1,559,828	\$33,532	2.2%

¹Community College funds include the Senator John A. Cade formula, other programs, and fringe benefits.

Note: Includes general funds, Higher Education Investment Funds, and discretionary federal stimulus funds (appropriated in lieu of general funds). Reflects statewide across-the-board reductions for deferred compensation and cell phones.

Source: Maryland State Budget Books, Department of Legislative Services

Four-year Institutions

USM will receive an increase of \$18.6 million or 1.7% increase over fiscal 2009. General funds increase \$2.5 million while \$16.1 million in discretionary federal funds from ARRA are used to offset the loss of tuition revenue so USM institutions can freeze resident undergraduate tuition for a fourth year. General, HEIF, and federal funds will support ongoing operating costs, modest enrollment growth, and program enhancements.

MSU receives a total increase of \$1.2 million or 1.6% increase over fiscal 2009. Of this increase, \$0.3 million are general funds and \$0.9 million are federal funds from ARRA. General, HEIF, and federal funds will support ongoing operating expenses, enrollment growth, and initiatives. The increase in general funds at St. Mary's College of Maryland is \$439,470, or 2.6% over fiscal 2009. This appropriation is equal to what is required by statute.

State aid for private institutions, through the Joseph A. Sellinger Program, increases \$1.7 million over fiscal 2009, or 3.4%. This equates to 12.9% of per student State support for selected public four-year institutions in the current year.

Community Colleges

Fiscal 2010 funding through the Senator John A. Cade funding formula grows by 3.8% over fiscal 2009. This appropriation represents 23.6% of the per student funding that selected public four-year institutions receive in fiscal 2010. When additional funds for fringe benefits and other programs are included, the overall community college budget increases 5.0%, or \$12.8 million.

Baltimore City Community College (BCCC), as the State's only State-operated community college, has its own formula, which for fiscal 2010 sets State support at 65.1% of the current year State appropriations per student at selected public four-year institutions. BCCC receives an increase of 3.4%, or \$1.4 million. The availability of discretionary federal stimulus funds allowed for a reduction of general funds for community colleges (\$14.5 million) and BCCC (\$0.6 million) with federal funds appropriated in equal amounts.

Formulas “Trued Up”

The statutory formulas for aid to community colleges, BCCC, and private institutions were adjusted in the BRFA to make them more affordable over the next several years. The formulas were also “trued up” to base them on current year per-student funding at selected public four-year institutions. Previously, appropriations were based on a percentage of per-student funding in the prior fiscal year. The BRFA also implements a phase in schedule for the formulas, as shown in **Exhibit L-5**. Since the current year appropriation for public institutions is generally higher than appropriations in the previous year, the final percentage is slightly lower than it was using prior year appropriations but the same funding level is achieved as under current law. For community colleges and BCCC, fiscal 2014 represents the final phase-in year while private institutions reach the final percentage in fiscal 2015.

Capital

The State altered how it funds major capital projects at higher education institutions in the 2009 *Capital Improvement Program* and in **House Bill 102 (passed)**, the fiscal 2010 capital budget bill. Funding for projects at 13 public four-year institutions was split over two years if construction costs topped \$25 million and the construction schedule supported split funding. Projects were also split funded at community colleges, one at Baltimore City Community Colleges and five within the Community College Construction Grant program. Split funding allowed the State to support all of the community colleges' requested projects. For every project expecting final construction funding in fiscal 2011, the capital budget includes a preauthorization of funding.

Senate Bill 176/House Bill 402 (both passed) increase the bonding authority of BCCC by \$50 million, from \$15 million to \$65 million. The legislation also authorizes BCCC to issue bonds for academic facilities in addition to auxiliary facilities. The Capital Debt Affordability Committee must include in its annual report its estimate of the amount of new bonds for academic facilities that may be prudently authorized for BCCC.

Exhibit L-5
Statutory Formula Phase-in Schedule
Fiscal 2010-2015

<u>Segment</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
Community Colleges	23.6%	24.0%	26.0%	28.0%	29.0%	29.0%
Private Institutions	12.9%	13.0%	13.5%	14.0%	14.5%	15.5%
BCCC	65.1%	65.5%	66.0%	67.0%	68.5%	68.5%

Source: Department of Legislative Services, BRFA of 2009

Higher Education Funding Model Commission

Chapters 57 and 58 of 2006 established the Commission to Develop the Maryland Model for Funding Higher Education to evaluate the relative roles of State general fund support and tuition and fees revenues at public institutions of higher education. The commission was charged with reviewing options and making recommendations relating to the development of a statewide framework for higher education funding that would be consistent and stable and ensure that all of Maryland's public higher education institutions are affordable and accessible to the State's residents. The commission was further charged with making funding recommendations to ensure that Maryland's historically black institutions (HBIs) are comparable and competitive with other public institutions in the State. *Senate Bill 861/House Bill 789 (both failed)* would have implemented the recommendations of the commission, including by 2020 (1) State funding for public higher education institutions should be funded at the seventy-fifth percentile of funding per student of a group of comparable institutions located in competitor states and State funding of HBIs should be set at the eightieth percentile of funding of a group of comparable institutions located in competitor states; (2) set total in-state tuition and fees at public institutions of higher education at or below the fiftieth percentile of comparable institutions located in competitor states, and limit increases in tuition and fees to the three-year rolling average of the State's median family income; and (3) set State need-based financial aid per student at the seventy-fifth percentile of competitor states. The legislation also would have made permanent the 6.00% distribution of the total funds generated through the corporate income tax to the HEIF and 9.15% to the general fund rather than distributing the entire 15.15% to the general fund beginning in fiscal 2010.

Although the commission legislation did not pass due to fiscal constraints, intent language was added to *House Bill 101*, the BRFA of 2009, that the General Assembly should adopt the recommendations of the commission when fiscally prudent to do so. In addition, the BRFA directs the Maryland Higher Education Commission (MHEC) to incorporate the recommendations of the commission into the updated State Plan for Higher Education and to implement the recommendations that do not require legislation.

State Plan for Higher Education

MHEC is required by statute to submit a quadrennial review of the State Plan for Higher Education (State Plan) by July 1, 2008, and every fourth year thereafter. Prior to 2006, MHEC was required to update the State Plan every two years. The State Plan was last updated in 2004. The State Plan is to establish statewide goals for postsecondary education and outline actions to achieve these goals. As a part of the process, MHEC will take into consideration the findings from the final report of the Commission to Develop the Maryland Model for Funding Higher Education. During the 2008 session, the commission was granted an extension of the deadline for submission of the final report to December of 2008. In order to consider the findings in the final report of the commission and any legislation that may be enacted implementing the commission's recommendations, *House Bill 1403 (passed)* extends the deadline by which MHEC must submit a quadrennial review of the State Plan for Higher Education to the Governor and the General Assembly from July 1, 2008 to July 1, 2009.

College Textbook Competition and Affordability

The issue of college textbook affordability has garnered considerable attention from the General Assembly over the past few years. With the 2004 release of "Rip-off 101," the U.S. Public Interest Research Group (PIRG) launched an effort to inform the public about practices by textbook publishers that, according to PIRG, result in higher college textbook prices. A July 2005 report from the U.S. Government Accountability Office (GAO-05-806) found that college textbook prices increased by 186% from 1986 to 2004, more than twice the rate of inflation but less than the 240% increase in tuition over the same period.

Signed into law on August 14, 2008, the Higher Education Opportunity Act of 2008 (HEOA) has provisions that take effect July 1, 2010, which attempt to address concerns about college textbook prices. Under HEOA, publishers are required to provide pricing information to course instructors as they choose textbooks for their students. The legislation also requires institutions of higher education to make international standard book numbers (ISBNs) or other textbook details for both required and supplemental material available on Internet course schedules. Upon request, institutions must provide textbook and enrollment information to their college bookstores. Institutions are also encouraged to provide information on their web sites about cost saving methods such as renting textbooks, purchasing used textbooks, textbook buy-back programs, and alternative content delivery programs. HEOA also established a textbook rental pilot program to study its effectiveness in reducing textbook costs.

Chapter 295 of the Acts of 2007 required the Department of Legislative Services (DLS) to conduct a survey of college bookstore and textbook adoption policies and practices at higher education institutions. DLS organized a briefing that took place on January 10, 2008, and included testimony from DLS, college students, faculty, on campus and off campus bookstores, textbook publishers, and Maryland PIRG. Utilizing the information gathered by the study, Senate Bill 657/House Bill 1067 were introduced in the 2008 session. A version of the bill was passed by both chambers; however, they were not able to come to a final agreement.

Senate Bill 183/House Bill 85 (both passed) require each public institution of higher education to develop and implement a campaign to make faculty aware of textbook issues, a procedure by which bookstores and students are made aware of textbook information that must be disclosed, and a best-practices process for faculty in selecting textbooks and course materials. Additionally, all institutions of higher education must develop a process to make faculty aware of certain required disclosures by publishers.

On the request of a bookstore that sells textbooks and course materials and is licensed by the Comptroller to do business in Maryland, an institution of higher education must provide specific information on the textbooks and course materials that have been selected by faculty members, including the title, author, publisher, edition, copyright and publication date, the ISBN, and the anticipated enrollments for the courses. This textbook information must also be posted on the institution's web site three weeks after selection by a faculty member or when the order is finalized, whichever occurs earlier. Additionally, the institution must post on its web site notification about whether earlier editions of assigned textbooks will suffice.

Publishers and campus bookstores are required to provide and sell textbooks and supplemental materials in the same manner as selected and ordered by faculty except for the purpose of providing lower-cost options to students. Publishers are required to make bundled materials available separately, each separately priced. Finally, the legislation requires various reports from the segments of higher education regarding best practices, textbook rental programs, and the feasibility of a digital marketplace.

Tuition Assistance

Higher Education Workforce Initiatives for Base Realignment and Closure

To further address higher education needs related to the Base Realignment and Closure (BRAC) process, *House Bill 923 (passed)* authorizes community colleges and BCCC trustees to waive out-of-state and out-of-county tuition for a student who resides in the State or county but does not meet the residency requirement for in-state or in-county tuition purposes and has moved to the State as an employee or a family member of an employee as part of the BRAC process. A BRAC employee or family member of a BRAC employee attending a community college who receives in-state tuition under the bill is counted as an in-state resident for purposes of calculating State aid for community colleges and BCCC using the statutory funding formulas.

Children in Foster Care

Chapter 506 of 2000 established the tuition waiver program for children in foster care homes. Chapter 644 of 2007 extended the program to foster care children in out-of-home placements. In order to provide an incentive for foster parents to adopt an entire family of children and keep siblings together, *Senate Bill 372/House Bill 538 (both passed)* expand eligibility for tuition and mandatory fee waivers for public institutions of higher education in Maryland to younger siblings of foster care recipients who have been adopted by the same family. To be eligible, the foster care children must share one or both parents before the adoption and be adopted from an out-of-home placement at the same time, by the same family.

The bill also expands eligibility to foster care recipients who were adopted from an out-of-home placement after their thirteenth, rather than fourteenth, birthday.

Members of the Maryland National Guard

The Military Department may provide tuition assistance for any active member of the National Guard attending an eligible institution in an amount equal to 50% of the cost of in-state tuition for any regularly scheduled undergraduate credit course, vocational-technical course, or trade course. To be eligible for tuition assistance, a Guard member must have at least 24 months of service remaining. *House Bill 1465 (passed)* expands the types of courses for which the Military Department may provide tuition assistance to include graduate and professional credit courses. The bill also clarifies that tuition includes graduate, professional, vocational-technical and trade school credit courses. A member who receives assistance under this bill for an undergraduate credit, vocational-technical, or trade course is required to remain an active member for at least two years following the completion of the course. A member who receives assistance for a graduate or professional credit course is required to remain an active member for at least four years following the completion of the course.

Children of Fallen State or Local Public Safety Employees and Members of the Maryland National Guard Exempt from Nonresident Tuition

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. The Board of Regents of Morgan State University also has a policy that requires one year of residency in Maryland to qualify for resident tuition. Community colleges in Maryland generally have a three-month residency requirement.

House Bill 1404 (passed) requires that children of certain State or local public safety employees killed in the line of duty be exempt from paying nonresident tuition at a public institution of higher education. State and local public safety employees are specified as a person who is a career or volunteer member of a fire department; a career or volunteer member of an ambulance company or squad; a career or volunteer member of a rescue company or squad; a law enforcement officer; a correctional officer; or a member of the Maryland National Guard who was a resident of Maryland at the time of death. The bill also requires the governing board of each public institution of higher education, in consultation with MHEC, to adopt policies to implement this exemption.

Senate Bill 373 (passed) exempts a member of the Maryland National Guard who is not a State resident but who joined or subsequently served in the Guard to provide a critical military occupational skill or to be a member of the Air Force critical specialty code, from paying nonresident tuition at public institutions of higher education in Maryland.

Student Financial Assistance

Scholarships for Members of the Armed Forces

Chapter 221 of 1990 established the Edward T. Conroy Memorial Scholarship. The scholarship program awards postsecondary education financial assistance to the following categories of students:

- the child of a member of the armed forces who died or suffered a service-connected 100% permanent disability;
- 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;
- an individual who was a prisoner of war as a result of the Vietnam conflict;
- the child or surviving spouse of a State or local public safety employee killed in the line of duty;
- a public safety employee who is disabled;
- a veteran who suffers a service-related disability of 25% or greater and has exhausted all federal veterans' educational benefits; and
- the child or spouse of a victim of the September 11, 2001, terrorist attacks.

Senate Bill 802/House Bill 710 (both passed) authorizes eligible postsecondary institutions, rather than the Office of Student Financial Aid in MHEC, to determine eligibility and award scholarships under the Edward T. Conroy Memorial Scholarship Program.

The Veterans of the Afghanistan and Iraqi Conflicts Scholarship was established by Chapter 290 of the Acts of 2006 to provide postsecondary education scholarships to veterans returning from Afghanistan and Iraq. *House Bill 937 (passed)* requires State scholarship and grant money retained in the State budget at the end of a fiscal year to be used to make awards to students during subsequent fiscal years under the Edward T. Conroy Memorial Scholarship Program and in the Veterans of the Afghanistan and Iraqi Conflicts Scholarship in addition to need-based scholarship programs already specified.

Part-Time Grant Program

The Part-Time Grant Program was established by Chapter 462 of the Acts of 1991 to award grants to part-time undergraduate students who are residents of the State. *House Bill 948 (passed)* authorizes an institution of higher education to use up to 10% of its allocation under the Part-Time Grant Program to provide grants to students who are enrolled in at least three but less than six semester hours of courses each semester.

Chapter 297 of 2007 created the Dual Enrollment Grant to provide financial assistance to students taking courses in both high school and college. Since a program was being created specifically for dually enrolled students, the Part-Time Grant Program, which at that time allowed institutions to use funds for dually enrolled students, was amended to remove all references to dually enrolled students. *House Bill 1396 (passed)* expands eligibility for the

Part-Time Grant Program to again include students who are dually enrolled in Maryland high schools and an institution of higher education. It clarifies that a dually enrolled student does not need to receive both high school and college credit from a course to be eligible for a Part-Time Grant. The bill permanently reauthorizes the Dual Enrollment Grant Program and renames it the Early College Access Grant Program. In addition to any funds allocated under the Early College Access Grant Program, institutions may use up to 10% of the Part-Time Grant allocation to provide grants to students who are dually enrolled.

Janet L. Hoffman Loan Assistance Repayment Program

The Janet L. Hoffman Loan Assistance Repayment Program (LARP) provides loan repayment assistance in exchange for certain service commitments to help ensure that sufficient numbers of primary care physicians, dentists, and professionals are serving underserved areas of the State or low-income families. *Senate Bill 627/House Bill 714 (both passed)* alters the eligibility for LARP, by removing primary care physicians from the program (currently known as the LARP-PCS program) and establishing a separate Maryland Loan Assistance Repayment Program for physicians. The bill also creates a Maryland Loan Assistance Repayment Program Fund, consisting of revenue generated through an increase to the rate structure of all hospitals in the State and any other money. The new special fund must be used by the Office of Student Financial Assistance in MHEC to administer the program. The bill sets program eligibility standards, prioritizes funding for loan repayment, and specifies a role for the Department of Health and Mental Hygiene in identifying additional physician shortages. The Maryland Health Care Commission and the Department of Business and Economic Development must report to the General Assembly on or before December 1, 2009, on the feasibility of providing assistance to physician practices.

Other Higher Education Legislation

Community Colleges

House Bill 361 (passed) grants the status of police officer and law enforcement officer to members of the Hagerstown Community College police force, making them subject to the Law Enforcement Officers' Bill of Rights and eligible for certification as police officers by the Maryland Police Training Commission.

Senate Bill 1035 (passed) alters the number of members of the Prince George's Community College Board of Trustees from eight to nine and alters the composition from seven residents of Prince George's County appointed by the Governor and one regularly enrolled student to one member from each legislative district in Prince George's County, for a total of eight, appointed by the Governor and one regularly enrolled student.

Duplicative Academic Programs

Federal law defines "unnecessary" program duplication between historically black and traditionally white institutions in states that had a prior segregated system of higher education as "those instances where two or more institutions offer the same nonessential or noncore program.

Under this definition, all duplication at the bachelor's level of nonbasic liberal arts and sciences course work and all duplication at the master's level and above are considered to be unnecessary" (*United States v. Fordice*). Duplicative programs may be allowed if there is sound educational justification.

Senate Bill 402/House Bill 900 (both failed) would have required MHEC to review any determinations it made regarding unreasonable or unnecessary duplication of programs approved or implemented between July 1, 2005, and December 1, 2005, and after July 1, 2007, if an objection to the determination was filed by a historically black institution (Morgan State University, Coppin State University, Bowie State University, or the University of Maryland Eastern Shore). If MHEC determined that there is unnecessary duplication, the bill would have required it to determine that the duplication is also unjustified if the program violates the State's agreement with the U.S. Department of Education Office for Civil Rights or the State's equal educational opportunity obligations. The bill would have authorized judicial review in the circuit court of unnecessary program duplication determinations made by MHEC. The bill would also have required Morgan State University or the University of Baltimore to accept students in good standing who are enrolled in a program at Towson University that is discontinued under an order of MHEC or a court.

Institutions of Postsecondary Education Certificates of Approval

Most postsecondary institutions must obtain a certificate of approval from MHEC before they are allowed to operate in the State. However, MHEC grants a certificate of approval exemption to institutions under charter from the General Assembly and religious institutions meeting certain qualifications. Unlike an approved institution, an exempt institution does not undergo review of its programs, facilities, and resources. **Senate Bill 72 (passed)** prohibits an institution of postsecondary education that may operate without a certificate of approval issued by MHEC from making reference to its approval or exemption from approval on any certificate, diploma, academic transcript or other document, in advertisements or publications, or on a web site. A violator is subject to a fine of up to \$5,000 for each violation.

House Bill 1435 (passed) authorizes the Secretary of MHEC to issue a cease and desist order, issue a notice of violation, and impose a penalty of up to \$5,000 to an institution of postsecondary education operating without a required certificate of approval. In imposing a penalty, the Secretary is required to consider the seriousness of the violation, the harm caused by the violation, the good faith of the institution and any corrective actions taken, any history of previous violations, and other pertinent circumstances. The bill also requires an institution of postsecondary institution to have MHEC approval before offering certain programs. The Secretary may require any institution that offers unapproved programs to refund all tuition and fees paid by students enrolled in the program. The Secretary may also revoke the certificate of approval of any institution that fails to make a required refund within the time specified by the Secretary.

House Bill 1435 further authorizes MHEC to revoke or suspend a private career school's certificate of approval if the certificate of approval is sold, pledged, or transferred without prior

approval from MHEC or there is a change of ownership of a school. In addition to issues currently allowed, MHEC may also limit its hearings on the revocation or suspension of a private career school's certificate of approval to whether the alleged sale, pledge, or transfer, or change of ownership of a private career school, in fact occurred.

Libraries

House Bill 101 (passed), the Budget Reconciliation and Financing Act of 2009 (BRFA), alters the aid formulas for the local libraries, the regional libraries, and the State Library Resource Center.

Local Library Aid Formula: The library aid formula determines State and local minimum required payments to each of the 24 local library boards. The State pays approximately 40% of the total formula cost on a wealth-equalized basis, with the local jurisdictions providing the remaining 60%.

The BRFA of 2009 decreases the per resident amount used in the local library aid formula to \$14.00 for fiscal 2010 and 2011. The phase-in of formula enhancements started by Chapter 481 of 2005 restarts in fiscal 2012 at \$15.00 per resident and reaches the \$16 per resident formula target by fiscal 2013. Therefore, the State aid to local public library systems decreases by \$2.4 million in fiscal 2010, \$4.9 million in fiscal 2011, and \$2.4 million in fiscal 2012.

The reduction in the per resident amount also decreases the required minimum local funding amount, although the counties and Baltimore City could continue to fund their local libraries above the minimum required level. There is no local maintenance of effort requirement for libraries outside the local share of the library aid formula.

State Library Resource Center: The State Library Resource Center, located at the Central Library of the Enoch Pratt Free Library System in Baltimore City, was created in 1971 to expand access statewide to specialized library services and materials.

Funding for the State Library Resource Center has equaled \$1.85 per State resident since fiscal 2004. The BRFA of 2009 decreases the per resident allocations to the State Library Resource Center by reducing funding to \$1.67 per resident for fiscal 2010 and 2011. As a result, mandated general fund expenditures for the State library Resource Center decrease by \$1.0 million in fiscal 2010.

Regional Libraries: There are three regional resource centers located in Charlotte Hall, Hagerstown, and Salisbury and serving Southern Maryland, Western Maryland, and the Eastern Shore, respectively.

In the BRFA of 2009, funding for the regional resource centers decreases to \$6.75 per resident of the region in fiscal 2010 and 2011 and increases to \$7.50 per resident in fiscal 2012 and \$8.50 per resident in fiscal 2013. The net effect is a \$0.7 million reduction in fiscal 2010.

