

Part L Education

Primary and Secondary Education

Education Funding

State Aid

State aid for primary and secondary education will increase by \$210.5 million in fiscal 2011 to a total of \$5.7 billion, 3.8% more than fiscal 2010 aid. State aid provided directly to the local boards of education increases by \$119.7 million or 2.5%, while teachers' retirement costs, which are paid by the State on behalf of the local school systems, grows from \$759.1 million to \$849.8 million, an increase of 12%.

Fiscal 2010 to 2011 changes in major State education aid programs are shown in **Exhibit L-1**. The largest increase is in the compensatory education program, which provides funding based on the number of students in the State eligible for free and reduced priced meals. That population increased by nearly 32,000 students or 11.6% from fall 2008 to fall 2009, resulting in an increase in State funding for the compensatory education program of \$100.9 million. Teachers' retirement payments continue to grow, too, with an increase of \$90.8 million provided for fiscal 2011. The increase in retirement costs is due to 2.7% growth in aggregate school system salary bases and an increase in the State's contribution rate from 13.15% to 14.34% of salaries. The \$90.8 million increase brings the two-year rise in retirement costs for local board of education employees to \$228.1 million. State funding for this program is paid into the State's pension fund and does not pass through local school system budgets.

Exhibit L-1
Change in State Education Aid
Fiscal 2010-2011
(\$ in Millions)

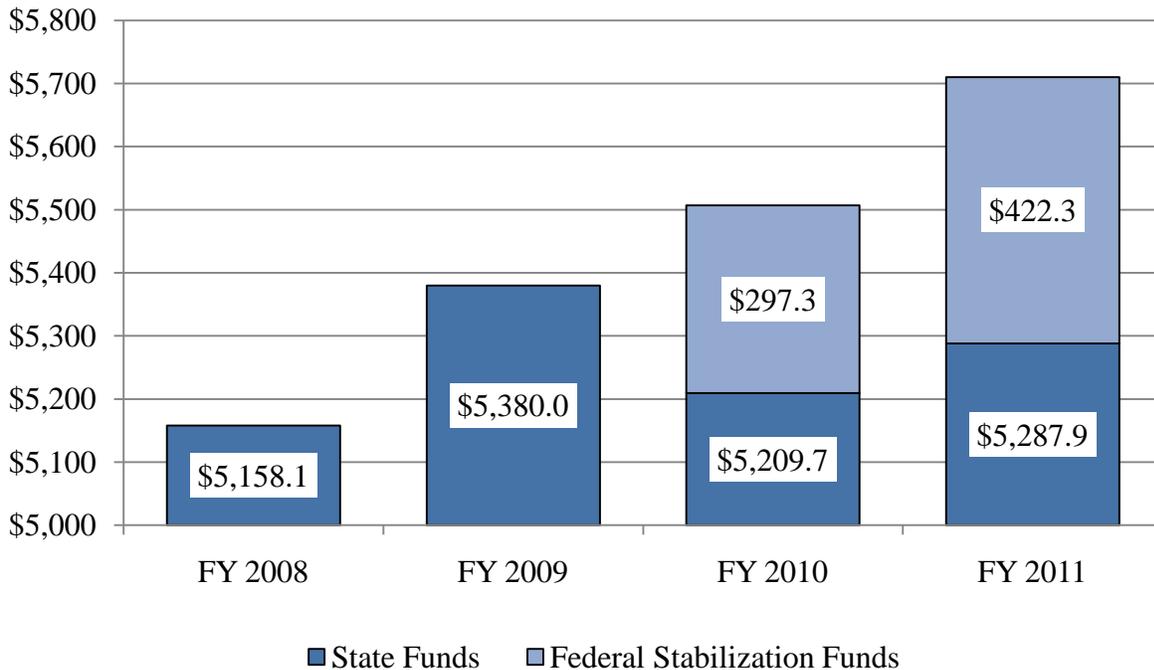
<u>Program</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Change</u>	<u>% Change</u>
Foundation Program	\$2,726.7	\$2,763.5	\$36.8	1.3%
Geographic Cost of Education Index	126.3	126.6	0.3	0.2%
Supplemental Grants	51.2	46.5	(4.7)	-9.2%
Compensatory Education	940.2	1,041.1	100.9	10.7%
Special Education Formula	267.4	264.0	(3.4)	-1.3%
Limited English Proficiency	148.6	151.2	2.6	1.7%
Guaranteed Tax Base	63.8	47.4	(16.4)	-25.7%
Student Transportation	<u>241.5</u>	<u>244.4</u>	<u>2.9</u>	1.2%
Bridge to Excellence Subtotal	\$4,565.8	\$4,684.7	\$118.9	2.6%
Nonpublic Special Education	112.8	112.8	0.0	0.0%
Other Direct Aid	<u>69.4</u>	<u>70.2</u>	<u>0.8</u>	1.2%
Direct Aid Subtotal	\$4,747.9	\$4,867.6	\$119.7	2.5%
Teachers' Retirement	759.1	849.8	90.8	12.0%
Education Aid Total	\$5,507.0	\$5,717.5	\$210.5	3.8%

Source: Department of Legislative Services

For a second year in a row, increases in the Bridge to Excellence formulas and teachers' retirement were funded to a large extent by the federal American Recovery and Reinvestment Act of 2009 (ARRA), which is providing the State with \$719.7 million in education funding from the State Fiscal Stabilization Fund. Maryland is using these funds to support increases in major education aid programs in fiscal 2010 and 2011. After using \$297.3 million in federal stabilization funds to support formula increases in fiscal 2010, the fiscal 2011 State budget includes the remaining \$422.3 million in stabilization funds to support the formulas in the coming school year. With the exception of a \$4.3 million reduction to the student transportation program executed by *Senate Bill 141 (passed)*, the Budget Reconciliation and Financing Act of 2010 (BRFA), all of the major State aid programs are fully funded in fiscal 2011 with the help of federal support from ARRA. The BRFA of 2010 sets the inflationary increase in student transportation aid at 1% in fiscal 2011, a reduction from the 3% increase that would otherwise have been required.

As shown in **Exhibit L-2**, the federal funds have allowed the State to decrease its use of State funds in support of education aid from the \$5.4 billion spent in fiscal 2009, even as education aid has increased by \$337.4 million from fiscal 2009 to 2011. With no federal stabilization funds available after fiscal 2011, a large infusion of State funds will be needed in fiscal 2012 to support accumulated aid increases from the last two years and further increases expected next year. In addition, the BRFA of 2010 allocates \$350 million from the State’s Local Income Reserve Account to the Education Trust Fund to be used in fiscal 2011 to support education aid. This, too, is a revenue source that may not be available in fiscal 2012.

Exhibit L-2
Use of State and Federal Funds to Support State Aid Formulas
Fiscal 2008-2011
(\$ in Millions)



Source: Department of Legislative Services

Limited Increases in Fiscal 2012 and Beyond

To avoid too steep of a funding cliff in fiscal 2012, the Budget Reconciliation and Financing Act of 2009 limits inflationary growth in the major education aid programs, including student transportation, to 1% in fiscal 2012. The BRFA of 2010 continues the 1% limit for three additional years, through fiscal 2015. The minimum inflationary increase for student transportation aid is also permanently reduced from 3% to 1% in the BRFA of 2010. Other future reductions to direct State aid specified in the BRFA of 2010 include a permanent decrease

in State funding for the Aging Schools Program to \$6.1 million annually and a requirement that the Maryland State Department of Education (MSDE) renegotiate its contract with the SEED School of Maryland, a residential boarding school for at-risk children run by a private operator, in order to reduce student enrollment in the program and decrease required State funding for the program in fiscal 2012 and 2013.

The Senate version of the BRFA of 2010 also included provisions that would have begun shifting some of the costs of the 100% State-paid teachers' retirement to local boards of education in fiscal 2012. The final version of the bill approved by the General Assembly instead establishes a Public Employees' and Retirees' Benefit Sustainability Commission to examine the sustainability of the State's current benefit structure and evaluate appropriate contribution levels for the employers of public education employees. The commission must submit reports by December 15, 2010, and June 30, 2011, with actionable recommendations that can be implemented no later than fiscal 2013.

Local Maintenance of Effort

In the aggregate, the State and local governments are roughly equivalent partners in providing the majority of funding for public schools. Most State aid is allocated through statutory formulas, and minimum local government appropriations to boards of education are set through the maintenance of effort (MOE) requirement. To be eligible for increases in State education aid under § 5-202 of the Education Article (which includes the State share of the foundation program, the State's largest aid to education program; the geographic cost of education index; and the supplemental grant), a local jurisdiction must meet MOE by providing at least as much funding per pupil to the local school system as it provided in the previous fiscal year. Chapter 175 of 1996 added a waiver provision that allows counties to request from the State Board of Education a partial or temporary waiver from the MOE requirement. Until fiscal 2010, the waiver option had never been used, but three counties (Montgomery, Prince George's, and Wicomico) applied for waivers for fiscal 2010. All three applications were denied by the State Board of Education, and Montgomery and Prince George's counties did not meet MOE.

To provide a legislative remedy, *Senate Bill 476 (Ch. 73)* and *House Bill 223 (Ch. 74)* prohibit the imposition, in fiscal 2010, of the State penalty for not meeting the MOE requirements. The bills eliminate a general fund reduction of \$23.4 million in fiscal 2010 from State aid to Montgomery County. (Although it did not meet its MOE obligation, Prince George's County was not facing potential penalty.) The bills also require the Senate Budget and Taxation Committee and the House Ways and Means Committee to study the appropriate calculation of the penalty for failing to meet the MOE requirement and the appropriate party against whom the penalty should be applied. The committees must report their findings and recommendations to the Legislative Policy Committee by December 31, 2010. Developed by the Joint Legislative Workgroup to Study State, County, and Municipal Fiscal Relationships, *Senate Bill 310/House Bill 304 (both failed)* would have expanded the factors that must be considered when the State Board of Education is determining whether to issue a waiver for the county MOE

requirement. The MOE waiver process for fiscal 2011, therefore, will be the same as the fiscal 2010 process.

Public School Construction

Capital Funding

The fiscal 2011 capital budget includes \$250 million in general obligation bonds for public school construction. An additional \$12.2 million in unexpended funds from prior years is available from the Statewide Contingency Fund. The local school systems requested a total of approximately \$722.1 million for fiscal 2011, of which \$529 million is eligible for State funding. The Public School Facilities Act of 2004 (Chapters 306 and 307) established a State goal to provide \$2 billion in State funding over eight years to address school construction needs, or \$250 million per year from fiscal 2006 to 2013. Fiscal 2011 will be the sixth consecutive year that the goal has been met or exceeded, with the State providing a total of \$1.85 billion for school construction since fiscal 2006.

Aging Schools Program

The Aging Schools Program is funded through the capital budget rather than the operating budget in fiscal 2011. The capital budget as passed by the General Assembly includes \$5.1 million in general obligation bonds and \$1 million in Qualified Zone Academy Bonds (QZABs) to meet the statutory requirement of \$6.1 million for the program. The BRFA of 2010 alters future funding for the Aging Schools Program, rebasing it at \$6.1 million permanently. Previously, funds were set to be rebased at \$10.4 million beginning in 2012, and an annual inflationary factor was to resume in 2013.

Since 2001, the State has issued \$47.6 million in QZABs allocated by the federal government to Maryland; all but \$21.3 million has been expended. QZABs are an alternative bond program that the federal government authorizes with bond holders receiving federal tax credits in lieu of interest. *Senate Bill 202 (passed)* authorizes the State to issue \$4.5 million in QZABs. Of this amount, \$1 million is allocated to the Aging Schools Program. The bonds must be issued by December 31, 2010.

Physical Education Facilities

Almost all public middle and high schools in the State, except small specialized schools, are designed with gymnasiums; however, some school systems have built elementary schools with only multipurpose rooms or “cafeteriums.” *Senate Bill 256/House Bill 334 (both passed)* require MSDE to adopt regulations requiring public school buildings that are newly constructed or completely renovated and occupied on or after January 1, 2013, to include a gymnasium and support spaces for physical education instruction. The regulations must include a waiver process for a local school system based on land or zoning constraints. The bills also require MSDE to develop guidelines for facilities for physical education programs.

Local Business Preference

In procuring school construction services, local governments are required to adhere to certain requirements contained in State procurement law and Board of Public Works regulations, including the use of competitive sealed bidding under most circumstances, adherence to the State's prevailing wage and minority business enterprise program requirements, and awarding contracts to the responsible bidder with the lowest responsive bid. *Senate Bill 551 (passed)* authorizes a local government to give preference first to businesses located in the county and then to businesses located in other counties in the State in bidding for school construction projects that are not subject to the State's prevailing wage law. School construction projects under \$500,000 or less than 50% State funded are not subject to the State prevailing wage law. The bill is most likely to affect all locally funded projects and State-funded projects in six counties where the State pays less than 50% of total project costs: Anne Arundel, Baltimore, Kent, Montgomery, Talbot, and Worcester counties.

Local School Construction Bills

Baltimore City: The federal American Recovery and Reinvestment Act of 2009 (ARRA) authorized states and large local education agencies to issue up to \$22 billion over two years in Qualified School Construction Bonds (QSCBs) for the construction, rehabilitation, and repair of school facilities, or to purchase land on which to build school facilities. Forty percent of the authorization was given directly to the 100 school districts with the highest number of school-age children living below the poverty level, including the Baltimore City Public School System (BCPSS). ARRA authorizes BCPSS to issue up to \$58.1 million in QSCB bonds in 2009 and the same amount in 2010. Unused portions of an annual QSCB allocation carry over to the following year. BCPSS has used all but \$7.3 million of its 2009 authorization, which took BCPSS up to its current \$100 million bonding cap. *Senate Bill 179 (passed)* exempts the full value of QSCBs issued by BCPSS from the \$100 million statutory cap on outstanding debt that BCPSS may issue.

Washington County: Chapter 598 of 2005 required the Washington County Board of County Commissioners to establish an Advisory School Design Committee to review all construction plans for school capital improvement projects costing more than \$2 million. The committee's role is to ensure that the construction and operational plans for each project provide an effective educational environment in a cost-efficient manner. *House Bill 734 (passed)* repeals the termination date of the committee, codifies its existence in the Public Local Laws of Washington County, and expands the committee's role in reviewing school capital improvement project designs.

Race to the Top Reforms

Race to the Top (RTTT) is a \$4 billion competitive grant program authorized under ARRA, of which Maryland is eligible to receive up to \$250 million. The program seeks to encourage and reward states that are implementing significant reforms around four specific areas: (1) adopting standards and assessments that prepare students to succeed in college and the

workplace and to compete in the global economy; (2) building data systems that measure student growth and success and inform teachers and principals how they can improve instruction; (3) recruiting, developing, and retaining effective teachers and principals, especially where they are needed most; and (4) turning around the lowest-achieving schools. Using specified criteria, the U.S. Secretary of Education will determine which states receive grants and the amounts of the grants.

Round 1 applications were due in January 2010. In March 2010, the U.S. Department of Education announced that Delaware and Tennessee will receive RTTT awards based on their Round 1 applications. Maryland decided not to apply in Round 1 and to instead wait for Round 2 in order to strengthen its application. A draft application was released on April 13, 2010, and the final application is due in June 2010.

Education Reform Act 2010

The greatest weight under RTTT application, 28% or 138 out of a total 500 points available, is allocated to various aspects of providing high-quality teachers and leaders. From these 138 points, 15 points are allocated to designing and implementing rigorous, transparent, and fair evaluation systems for teachers and principals that differentiate effectiveness using multiple rating categories that take into account data on student growth as a significant factor. Additional points (28) are allocated to using these evaluations to inform important decisions, including whether to grant tenure. Fifteen points are allocated to ensuring the equitable distribution of teachers and principals in high poverty or high minority schools.

In December 2009, Maryland did not receive a grant from the Bill and Melinda Gates Foundation to assist with the writing of RTTT application. In rejecting Maryland's bid for a grant, the Gates Foundation cited similar criteria being used by the U.S. Department of Education to judge RTTT applications.

In an effort to be responsive to the RTTT goal of having highly effective teachers and principals, especially in the lowest performing and highest poverty schools, *Senate Bill 899/House Bill 1263 (both passed)* lengthen the amount of time before which a teacher gains tenure from two to three years, require student growth to be a significant component of teacher performance evaluations, and establish locally negotiated incentives for highly effective teachers and principals who teach in a school in improvement, corrective action, or restructuring, in a school categorized by the local school system as a Title I school, or in a school among the 25% of schools in the State with the highest proportion of students eligible for free and reduced price meals.

P-20 Council

The Governor's P-20 Leadership Council of Maryland, which is primarily charged with aligning pre-kindergarten through postsecondary education and ensuring that Maryland will produce and maintain a competitive workforce, is codified in *Senate Bill 286 /House Bill 466 (both passed)*. Most recently, the P-20 Council convened the College Success Task Force to

develop a definition and implementation plan for college readiness in Maryland. The bills establish the membership of the council and add members to the council, including legislative members. An annual report of the council's work and any recommendations are due by December 15 of each year to the Governor and the General Assembly.

Maryland Longitudinal Data System

The State is working to develop a comprehensive statewide longitudinal data system (LDS), a key component of applications for RTTT funds and one of the assurances that the State was required to make in order to receive funds from the State Fiscal Stabilization Fund authorized by ARRA. Maryland has already received over \$13 million in federal grants, of which \$8 million have been spent, to develop the State's current student-level data system. The current system, managed by MSDE, includes most of the 10 essential components of an effective data system as laid out by the *Data Quality Campaign*, which will be used to evaluate LDS in state RTTT allocations. However, Maryland's system currently does not link to higher education or a unique teacher identifier, which are two required elements. According to the *Data Quality Campaign*, 31 states have the ability to match student-level prekindergarten to grade 12 data to higher education data. Maryland has applied for \$13.1 million additional federal funds to link K-12 data with higher education data.

Senate Bill 275 (passed) establishes the Maryland Longitudinal Data System (MLDS) as a statewide data system that contains individual-level student data and workforce data from all levels of education and five years into the State's workforce, following graduation from an institution of higher education. MLDS links student and workforce information that is already being collected by State agencies and institutions of higher education. The bill requires MLDS to be fully operational by December 31, 2014. The bill also establishes a Maryland Longitudinal Data System Center within State government to serve as a central repository for the data, ensure compliance with federal privacy laws, perform research on the data sets, and fulfill education reporting requirements and approved public information requests.

Innovative School Scheduling Models

In addition to competitive priorities for RTTT, the guidance from the federal government also includes "invitational priorities." One of these invitational priorities is school-level conditions for reform, innovation, and learning, which includes implementing new structures and formats for the school day or year that result in increased learning time. *Senate Bill 452/House Bill 439 (both passed)* require the State Board of Education to explore the use of innovative school scheduling models, including extended year, year-round schooling, or other school scheduling models that do not allow for prolonged lapses in instructional time, in low-performing or at-risk public schools. The State board is also required to encourage local boards to use the school scheduling models that are determined to be most effective in enhancing student achievement in low-performing or at-risk public schools.

School Safety

Safe Schools Act

In an attempt to be responsive to gangs and gang activity in schools, *House Bill 1160 (passed)* addresses the notification of school officials of the status of certain students by courts and law enforcement agencies under specified circumstances. The authority of the courts is expanded to include notification relating to students adjudicated delinquent. The bill also expands the list of crimes that, when committed by a student, law enforcement agencies must report to local superintendents, principals, and school security officers to include second-degree assault; malicious destruction of property; auto theft; inducing false testimony or avoidance of subpoena; retaliation for testimony; and intimidation or corruption of a juror.

Under the bill, the State Board of Education must develop a model policy to address gang activity or similar destructive or illegal group behavior in schools by March 31, 2011. Using the State board's model policy, each local school system must establish and submit a local policy or regulations to the State Superintendent of Schools by September 1, 2011, and develop educational programs to address gang activity or similar destructive or illegal group behavior. By January 1, 2011, and each year thereafter, MSDE must submit a report on implementation of the policies.

Cultural Competency for Law Enforcement Officers Assigned to Schools

Some school systems have memorandums of understanding with local law enforcement agencies to have specially trained officers, known as school resource officers, in schools. *Senate Bill 1007/House Bill 983 (both passed)* require that the Maryland Police Training Commission, in consultation with MSDE, develop a cultural competency model training curriculum for law enforcement officers assigned to public schools. The bills also encourage a law enforcement officer assigned to patrol a school building or school to complete the cultural competency model training curriculum before beginning the assignment.

Collective Bargaining for Education Employees

Senate Bill 590/House Bill 243 (both passed) establish a Public School Labor Relations Board (PSLRB) to administer and enforce the labor relations laws for local boards of education and their employees. The authority of the State Board of Education to decide public school labor relations disputes and the authority of the State Superintendent of Schools to declare labor impasses are repealed.

In 2007, Governor Martin O'Malley signed an executive order authorizing collective bargaining for family child care providers participating in the child care subsidy program. *House Bill 465 (passed)* establishes these rights in State law. The bill requires that only one appropriate bargaining unit of family child care providers be established in the State, and the election and certification of the exclusive representative must be conducted by the State Labor Relations Board. Collective bargaining must include all matters related to the terms and conditions of participation by family child care providers in the child care subsidy program.

For further discussions of *Senate Bill 590/House Bill 243* and *House Bill 465*, see Part B – State Government – Personnel.

Individuals with Disabilities

Individualized Education Program Meetings

At least five business days before a scheduled meeting of an individualized education program (IEP) team meeting, *Senate Bill 540/House Bill 269 (both passed)* require that appropriate school personnel provide the parents of a child with a disability with accessible copies of all documents relating to the IEP meeting. Documents prepared by a school psychologist or other medical professional that are to be discussed at the meeting may be provided to the parents orally and in writing prior to the meeting. Appropriate school personnel may fail to comply with these requirements in the event of extenuating circumstances; however, in the event of an extenuating circumstance, the circumstance must be communicated to the parents. Finally, the bills require that appropriate school personnel provide the parents of the child with a copy of the completed IEP, or if it has not been completed, a draft copy of the IEP no later than five business days after a scheduled meeting.

Alternate Maryland School Assessment

By July 1, 2011, *Senate Bill 557 (passed)* requires MSDE to review the Alternate Maryland School Assessment (Alt-MSA) with the goal of reducing the time required to administer the assessment. As part of the review, MSDE must consider providing greater guidance and taking primary responsibility for the creation of the Alt-MSA. MSDE also has to survey and solicit recommendations from teachers of severely disabled students and students who are likely to be impacted by the Alt-MSA regarding satisfaction, or lack thereof, with the Alt-MSA. By October 1, 2011, MSDE must report to the Governor and to specified legislative committees regarding the review.

Braille Standards

By September 1, 2012, *Senate Bill 230/House Bill 413 (both passed)* require the State Board of Education to establish standards for the mastery of Braille for use in English, language arts, and mathematics instruction of students who are blind or visually impaired. The bills also require the State board and the Professional Standards and Teacher Education Board to review and, as appropriate, modify certification and recertification requirements for teachers of students who are blind or visually impaired by September 1, 2013.

Emotional Disability

During the 2008-2009 academic year approximately 8,400 children in Maryland were identified as being emotionally disturbed to the degree of having a disability. This represents about 8.1% of children with disabilities and is the most prevalent disability after specific learning disabilities, speech and language impairments, and other health impairments. *Senate Bill 204/House Bill 11 (both passed)* change references to “emotional disturbance” to

“emotional disability” within the definition of a child with a disability. Documents reflecting the new terminology may not be used until all printed documents using “emotional disturbance” have been used.

Other Education Legislation

Student Wellness

The federal Centers for Disease Control and Prevention reports that suicide is the third leading cause of death for youth between the ages of 10 and 24. *House Bill 973 (passed)* requires each local board of education to provide each student in grades 6 through 12 with the telephone number of the Maryland Youth Crisis Hotline (1-800-422-0009) by printing the number prominently in the school handbook and printing the telephone number on a student’s school identification card, if provided.

Virtual Schools

On or after September 1, 2011, *House Bill 1362 (passed)* authorizes a local board of education to establish a virtual school, subject to the approval of MSDE. A student who is eligible for enrollment in a public school in the State may enroll in a virtual school. Enrolled students must be provided with a sequential curriculum approved by the State Board of Education, as well as regular assessments. A virtual school must provide the parents or guardians of enrolled students with instructional materials, including software, and information on the closest public facility that offers access to a computer, printer, and Internet connection.

Comprehensive Master Plans

Senate Bill 74 (Ch. 25) requires local boards of education to continue submitting annual updates to their master plans in October 2010 and October 2011 and delays the requirement that local boards of education submit new five-year comprehensive master plans from October 15, 2010, until October 15, 2012. Local boards may submit a preexisting management plan in lieu of a comprehensive master plan or update. If the State Superintendent of Schools determines that a preexisting plan meets the requirements for the comprehensive master plan, the State Superintendent must approve the management plan in lieu of a comprehensive master plan or update. Beginning in 2013, rather than 2011, each annual master plan update must cover a five-year period.

Information Availability to Military Recruiters

The Armed Services Vocational Aptitude Battery (ASVAB) is a test created by the U.S. Department of Defense in the 1960s to assess the men and women who want to enlist in the U.S. Armed Forces. The test results are used to determine whether or not an individual qualifies for military service, and if so, for which jobs the individual qualifies. *Senate Bill 778/House Bill 176 (Chs. 104 and 105)* require any public school that administers ASVAB to choose the score reporting “Option 8,” which prohibits the general release of any student information to military recruiters. Each public school must also send written notice to the ASVAB

representative coordinating the school's administration of the test that the school is required to choose "Option 8" and must also notify students taking ASVAB and their parents and guardians of the requirement. A student or a student's parent or guardian may choose to release the student's personal information and ASVAB score to military recruiters by individually submitting a release form to the military services.

Charter Schools

For a charter school located on a federal military base, *Senate Bill 834 (passed)* authorizes the State Board of Education to grant a waiver from the requirement that a public charter school be open to all students on a space available basis. However, the public charter school located on the base must admit students with parents who are not assigned to the base to at least 35% of its total available space and must admit all students on a lottery basis.

Student Member of the Board Voting Rights

Senate Bill 536 (passed) authorizes the student member on the State Board of Education to vote on matters relating to the budget. The bill does not impact the current law that prohibits the student member from voting on matters relating to appeals to the State board and the dismissal of or other disciplinary action involving personnel.

Higher Education

Funding

For higher education institutions, the fiscal 2011 State budget includes new general funds and Higher Education Investment Funds (HEIF) totaling \$1.2 million or a 0.1% increase over fiscal 2010. **Exhibit L-3** shows State support for higher education institutions over the two-year period, which includes general funds and HEIF in both years.

Exhibit L-3
State Support for Maryland Institutions of Higher Education
Fiscal 2010 and 2011
(\$ in Thousands)

	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Change</u> <u>FY 10-11</u>	<u>% Change</u> <u>FY 10-11</u>
University System of Maryland	\$1,055,471	\$1,056,406	\$935	0.1%
Morgan State University	73,249	72,946	-303	-0.4%
St. Mary's College	17,215	17,518	303	1.8%
MD Higher Ed. Comm. Special Grants	8,390	7,999	-391	-4.7%
Community Colleges ¹	256,174	256,115	-59	0.0%
Baltimore City Community College	40,203	40,902	699	1.7%
Private Institutions	38,446	38,446	0	0.0%
Total	\$1,489,147	\$1,490,332	\$1,185	0.1%

¹Community Colleges' funds include the Senate John A. Cade formula, other programs, and fringe benefits. Numbers may not sum due to rounding.

Note: Includes general funds and Higher Education Investment Funds. Reflects statewide across-the-board furlough and health insurance savings.

Source: Department of Budget and Management, Department of Legislative Services

Higher Education Investment Fund

HEIF was established by Chapter 3 of the 2007 special session, which increased the corporate income tax rate from 7.0% to 8.25%, dedicating 6.0% of corporate tax revenues to higher education. *Senate Bill 238/House Bill 470 (both passed)* make permanent the 6.0% distribution of corporate tax revenues to HEIF beginning in fiscal 2011. *Senate Bill 238/House Bill 470* also establish a Tuition Stabilization Trust Account within HEIF to retain funds for stabilizing tuition costs for resident undergraduate students. In years of increasing corporate income tax revenues, funds must be deposited into the trust account. The bills also establish the goal that any increase in resident undergraduate tuition and academic fees at public senior higher education institutions in any given year should be limited to a percent not to exceed the increase in the three-year rolling average of the State's median family income. Finally, St. Mary's College of Maryland (SMCM) was exempted from the bill; therefore, SMCM is no longer eligible to receive funds from HEIF, and the goal of limiting tuition increases does not apply to SMCM.

Language in the fiscal 2011 budget reduces the general fund appropriation for higher education by \$41.2 million contingent upon the reauthorization of HEIF, replacing those general funds with HEIF special funds.

Tuition Freeze Lifted

After freezing resident undergraduate tuition for four years for students at the University System of Maryland (USM) institutions and Morgan State University (MSU), institutions are allowed to increase tuition rates by 3.0% for the 2010-2011 academic year. Furthermore, funds are provided to USM and MSU equivalent to an additional 2.0% increase in tuition rates. SMCM, which is formula funded and is not included in the tuition limit agreement, will also increase tuition by 3.0% in fall 2010. In total, State funding for the public four-year institutions, including SMCM, increases \$935,220 in fiscal 2011.

Community Colleges

Overall, funding for local community colleges declines by \$0.1 million in fiscal 2011, which includes the Senator John A. Cade Funding Formula, State-paid retirement, and miscellaneous grant programs. Retirement costs increase by \$23.0 million resulting in an equal offset in the Cade formula, a 2.6% decline from fiscal 2010. The Cade formula appropriation represents 21.8% of the per-student State funding that the selected public four-year institutions are receiving in fiscal 2011.

Baltimore City Community College (BCCC), as the State's only State-operated community college, has its own formula, which for fiscal 2011 sets State support at 66.6% of the current year State appropriation per student at selected four-year public institutions. BCCC receives an increase of 1.7%, or \$0.7 million, in fiscal 2011.

Independent Institutions

Independent institutions receive \$38.4 million through the Joseph A. Sellinger Formula in fiscal 2011, the same amount received in fiscal 2010. The fiscal 2011 funding equates to 9.8% of the fiscal 2011 State support per student at selected four-year public institutions.

Statutory Formula Adjustments

To reduce the State's long-term structural deficit, the statutory formulas for community colleges, BCCC, and independent institutions were adjusted in *Senate Bill 141 (passed)*, the Budget Reconciliation and Financing Act (BRFA) of 2010. For fiscal 2012, all three formulas are set at the fiscal 2011 funding level. Increases in the percent of State support per student at selected four-year institutions will begin in fiscal 2013 so that each formula reaches its maximum statutory level in fiscal 2021, as shown in **Exhibit L-4**.

Exhibit L-4
Percent of State Support per Student Used in Statutory Formulas
Fiscal 2011-2021

<u>Segment</u>	<u>FY11</u>	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>FY16</u>	<u>FY17</u>	<u>FY18</u>	<u>FY19</u>	<u>FY20</u>	<u>FY21</u>
Community Colleges	21.8%	20.0%	21.0%	22.0%	23.0%	24.0%	25.0%	26.0%	27.0%	28.0%	29.0%
Private Institutions	9.8%	9.2%	10.0%	10.5%	11.0%	11.5%	12.00%	13.0%	14.0%	15.0%	15.5%
BCCC	66.6%	63.0%	63.5%	64.0%	64.5%	65.0%	65.5%	66.0%	66.5%	67.5%	68.5%

Source: Department of Legislative Services, Senate Bill 141 – Budget Reconciliation and Financing Act of 2010

Capital

Fiscal 2011 capital funding to public four-year institutions totals \$265.2 million. This includes \$27.0 million in academic revenue bonds authorized by the Academic Facilities Bonding Authority bill, *Senate Bill 897 (passed)*, and issued directly by the USM, and \$24.0 million in nonbudgeted funds from the institutions. Community colleges receive \$78.7 million and independent institutions receive \$8.0 million for capital projects in the fiscal 2011 capital budget. The State continued the practice of split funding capital projects in the *Capital Improvement Program* and the capital budget bill, committing a total of \$143.6 million in fiscal 2012 for 10 projects, 7 of which are at community colleges. For these 10 projects, the capital budget includes a preauthorization of funding for fiscal 2012.

Senate Bill 897 also increases the bonding authority of USM by \$150 million, from \$1.05 billion to \$1.2 billion, beginning in fiscal 2011.

Student Financial Assistance

Budget and Related Actions

Student financial aid programs receive a total of \$103.5 million in the fiscal 2011 budget, a \$363,000 or 0.3% decrease from fiscal 2010. Need-based aid is reduced by \$1.1 million or approximately 1%. As introduced, the BRFA of 2010 included several proposed changes to financial aid programs, with contingent actions in the State budget bill, that were not adopted by the General Assembly including eliminating funds for new Distinguished Scholars awards and repealing the Tolbert Student Grant Program for private career schools. In addition, the conference committee on the BRFA did not adopt the House amendment that would have abolished the Delegate and Senatorial Scholarships and transferred the fiscal 2011 funds to other State financial aid programs.

The General Assembly approved changes to the Charles W. Riley Fire and Emergency Medical Services Tuition Reimbursement Program in the BRFA of 2010. The program was altered to allow recipients to receive partial or full reimbursement of tuition costs as provided in the State budget. In addition, for fiscal 2011 only, the bill requires that the program be fully funded using scholarship carry-forward funds and expresses legislative intent that nonneed-based scholarship carry-forward funds be used before need-based funds.

Office of Student Financial Assistance

Senate Bill 80 (passed) clarifies the scope of the duties and the authority of the Office of Student Financial Assistance in the Maryland Higher Education Commission (MHEC). The bill codifies current practice by clarifying that, in addition to scholarships and grants, all other student financial aid assistance programs are awarded or administered by the office. The office is authorized to adopt rules and regulations governing the requirements for performing a service obligation, conditions for repayment of student financial assistance for an individual's failure to perform a service obligation, and specifications for waiver and deferment of a service obligation or repayment. The bill also repeals an obsolete requirement for a recipient of a scholarship to furnish a surety bond.

Other Higher Education Legislation

Green Buildings

Senate Bill 234/House Bill 1044 (both passed) require local community college capital projects that receive State funds to comply with the State's High Performance Buildings Act. The High Performance Buildings Act (Chapter 124 of 2008) requires most new or renovated State buildings, including higher education buildings, and new public school buildings to be constructed as high performance buildings. A high performance building is defined as a building that meets or exceeds the U.S. Green Building Council's Leadership in Energy and Environmental Design criteria for a silver rating or a comparable numeric rating according to a nationally recognized, accepted, and appropriate standard approved by the Department of Budget and Management and the Department of General Services. A community college may apply for a waiver from this requirement under existing waiver procedures. The requirement applies prospectively to community college capital projects that have not initiated a request for proposals for the selection of an architectural and engineering consultant on or before July 1, 2011.

Exempt Institutions

In general, an institution of postsecondary education may not operate in Maryland without a certificate of approval from MHEC. Current law exempts specified institutions from obtaining a certificate if the institution is under charter from the General Assembly or if a religious institution meets certain qualifications. Unlike an approved institution, MHEC does not review the programs, facilities, and resources of an exempt institution.

MHEC has received complaints from students as a result of several exempt institutions improperly referring to or advertising their exempt status. *Senate Bill 91 (passed)* prohibits a

religious institution operating without a certificate of approval from making a verbal or written statement that the institution is approved by MHEC, including a statement on any certificate, diploma, academic transcript, or other document or in any advertisement, publication, or web site. In addition, an institution may not enroll a student in the institution unless, before enrollment, written notice is given and a written acknowledgment is obtained from the student that the institution's instructional program is only designed for people seeking to learn about the particular religious faith and other specified information.

Legislative Audits

Currently, the Legislative Auditor distributes discussion notes relating to preliminary findings to the president of a public senior higher education institution and, in the case of a constituent institution of USM, to the Director of the USM Office of Internal Audit. In order to ensure that the USM Chancellor and governing boards are aware of any substantial preliminary findings prior to release of the final report, *Senate Bill 1124 (passed)* broadens the dissemination of the discussion notes by requiring the Legislative Auditor to send a copy of the discussion notes relating to any preliminary findings of substantial fiscal impropriety to the USM Chancellor; the presidents of the USM institutions, MSU, and SMCM; and the governing boards of the respective institutions that were subject to the examination.

