

**Department of Legislative Services**  
**Maryland General Assembly**  
**2007 Session**

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 6

(Delegate Ramirez, *et al.*)

Ways and Means

Education, Health, and Environmental Affairs

**Higher Education - Tuition Charges - Maryland High School Students**

This bill exempts individuals who attended and graduated from Maryland high schools from paying nonresident tuition at public institutions of higher education in Maryland. Documented immigrants who are in the country on student visas do not qualify for the exemption, but otherwise, the exemption applies regardless of residency status. The governing board of each public institution of higher education must adopt policies to implement the bill.

The bill takes effect July 1, 2007.

**Fiscal Summary**

**State Effect:** General fund expenditures for the Senator John A. Cade funding formula would increase by an estimated \$354,700 in FY 2010 due to an increase in the enrollments of qualified in-State students at community colleges. Future year expenditure estimates reflect projected increases in immigrants attending community colleges and increased per pupil appropriations for the Cade formula. General fund expenditures for the Baltimore City Community College (BCCC) could also increase minimally. Tuition revenues at public institutions of higher education would not be materially affected.

(\$ in millions)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	0	.4	.8	1.1
Net Effect	\$0	\$0	(\$.4)	(\$.8)	(\$1.1)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** State aid for community colleges would increase by an estimated \$354,700 in FY 2010, rising to \$1.1 million by FY 2012. Community college tuition revenues would not be materially affected.

**Small Business Effect:** Minimal.

---

## Analysis

**Bill Summary:** To qualify for an exemption from paying nonresident tuition, an individual must • have attended a secondary school in the State for at least two years; • have graduated from a high school in the State or received the equivalent of a high school diploma in the State; • register as an entering student at a public institution of higher education in Maryland no earlier than the fall 2007 semester; • provide documentation that the individual or the individual's parent or guardian had Maryland income tax withheld during the year prior to high school graduation; and • make application to attend the institution within three years of high school graduation. An individual who qualifies for the exemption and is not a permanent resident must also provide an affidavit stating that the individual will file an application to become a permanent resident within 30 days after becoming eligible to do so.

**Current Law:** For institutions within the University System of Maryland (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 and the Board of Trustees of St. Mary's College of Maryland set tuition policies for the institutions. The policies for the institutions are very similar to the USM policy. Both institutions require one year of residency in Maryland to qualify for in-State tuition rates.

Tuition policies at community colleges are set by COMAR regulations and the boards of trustees for the colleges. There are three levels of tuition at community colleges: in-county, out-of-county, and out-of-state. In general, there is a three-month residency requirement for community colleges. Individuals who are considered Maryland residents for tuition purposes at community colleges are included in the count used to determine State aid to the colleges.

Because of their inability to establish legal residency, many immigrants, both documented and undocumented, are considered nonresidents for tuition purposes regardless of how long they have lived in Maryland.

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

Since 2001, laws that allow undocumented immigrants to pay in-state tuition rates at public institutions of higher education have been enacted in California, Illinois, Kansas, Nebraska, New Mexico, New York, Oklahoma, Texas, Utah, and Washington, and bills with similar intentions have been introduced in several other states. A November 2005 article in the *Boston Globe* reported that public four-year colleges in Texas have realized a sizable increase in the number of undocumented immigrants attending the schools since the enactment of the legislation, but that other states have seen only modest increases in the numbers. A report from the National Conference of State Legislatures notes that at least four of the states that have passed in-state tuition laws for undocumented immigrants have since considered repealing the laws.

Under *Plyler v. Doe*, a 1982 Supreme Court decision, public elementary and secondary schools are required to accept undocumented immigrants. In its decision, the court contended that denying an education to the children of undocumented immigrants would “foreclose any realistic possibility that they will contribute ... to the progress of our Nation.” However, since 1996 federal immigration law has prohibited undocumented immigrants from obtaining a postsecondary education benefit that U.S. citizens cannot obtain. To get around the federal law, states that have passed in-state tuition benefits for undocumented immigrants have crafted legislation that bases eligibility on where a student went to high school, not immigration status. Although federal legislation that would clarify immigration laws and allow states to offer resident tuition rates to undocumented immigrants has been introduced, the measure has stalled in Congress.

The difference between proposed fiscal 2008 in-State and out-of-state undergraduate tuition and fee rates at each of Maryland's four-year public institutions of higher education is shown in **Exhibit 1**. Fall 2006 in-county, out-of-county, and out-of-state tuition rates for community colleges are shown in **Exhibit 2**. The exhibits show that in-State and in-county tuition rates are considerably lower than the corresponding out-of-state rates.

---

**Exhibit 1**  
**In-State and Out-of-state Tuition and Mandatory Fees**  
**Proposed Fall 2007 Rates**

	<u>In-State</u>	<u>Out-of-state</u>	<u>Difference</u>
USM Institutions			
Coppin State College	\$4,980	\$12,753	\$7,773
UM Eastern Shore	5,988	12,555	6,567
Bowie State University	5,939	15,458	9,519
Salisbury University	6,412	12,902	6,490
Frostburg State University	6,590	16,202	9,612
Towson University	7,234	17,174	9,940
University of Baltimore	6,934	19,716	12,782
UM College Park	7,969	22,208	14,239
UM Baltimore County	8,708	17,440	8,732
UM University College*	5,640	11,208	5,568
Other Public Four-year Institutions			
Morgan State University	\$6,262	\$14,383	\$8,121
St. Mary's College	11,989	22,323	10,334

\* Based on 24 credit hours.

---

---

**Exhibit 2**  
**In-county, Out-of-county, and Out-of-state Tuition and Fees at Community Colleges**  
**Based on 30 Credit Hours Per Year**  
**Fall 2006**

<u>College</u>	<u>In-county</u>	<u>Out-of-county</u>	<u>Out-of-state</u>
Allegany	\$3,044	\$5,504	\$6,404
Anne Arundel	2,860	5,230	9,040
Baltimore City	2,700	2,700	5,400
Baltimore County	2,966	5,276	7,136
Carroll	3,234	4,608	7,222
Cecil	2,940	5,640	6,990
Chesapeake	3,094	5,165	7,474
College of Southern MD	3,384	5,904	7,524
Frederick	2,959	6,049	8,119
Garrett	2,970	6,180	7,260
Hagerstown	3,070	4,720	6,130
Harford	2,541	4,851	7,161
Howard	3,853	6,343	7,693
Montgomery	3,708	7,236	9,612
Prince George's	3,965	6,095	8,735
Wor-Wic	2,336	5,786	6,716

Source: Maryland Association of Community Colleges

---

**State Revenues:** This bill would grant resident tuition privileges to some immigrants who do not currently qualify for in-State tuition rates. Despite the differences in tuition levels between in-State and out-of-state students, tuition revenues at most public four-year institutions of higher education will not be significantly affected. Institutions have considerable authority over admissions and generally maintain fairly stable proportions of in-State and out-of-state students. The legislation does not affect this authority. As long as there are no major adjustments to the proportion of students who qualify for resident tuition rates, institutions can adjust admissions to avoid any significant loss of tuition revenues.

The bill would also apply to some permanent U.S. residents who attended high school in Maryland but left the State before attending college, thus forfeiting their opportunity to attend public institutions of higher education at in-State prices. Again, the number of students who would meet this condition is assumed to be relatively small and is not expected to have a significant impact on tuition revenues.

Unlike other four-year institutions, University of Maryland University College (UMUC) applicants who meet minimum admission criteria are automatically accepted regardless of their residency statuses. The bill could, therefore, have an impact on UMUC revenues. UMUC revenues will decrease by \$5,568 for each full-time equivalent (FTE) student who qualifies for resident tuition under the bill in the 2007-2008 school year. The revenue loss could be partially offset by the increased revenues that would be realized if the bill enables more students to attend UMUC at the lower, in-State cost. The number of individuals who would qualify for in-State residency status and attend UMUC cannot be reliably estimated but is not expected to be large.

**State Expenditures:** General fund expenditures for the Senator John A. Cade funding formula would increase beginning in fiscal 2010. The Cade formula determines aid to community colleges based on FTE student enrollment counts from the second prior fiscal year. By regulation, only qualified Maryland residents are included in FTE enrollment counts. Allowing additional students to qualify as in-State students in fall 2007 (fiscal 2008) would increase spending for the formula in fiscal 2010. The increase is estimated at \$354,748 in fiscal 2010 and \$1.1 million by fiscal 2012. These estimates are based on the following information and assumptions.

- Montgomery College enrolls the largest number of foreign-born students among the community colleges and has estimated in prior years that approximately 350 of its students may be immigrants who are unable to establish in-State residency. Statewide, it is estimated that approximately 400 of these immigrants may be attending Maryland community colleges in the current school year.
- It is assumed that roughly one-half of this number would enter community colleges as new students in the fall of 2007.
- Approximately 65% of community college enrollees are part-time students, and 35% are full-time students.
- Assuming an average FTE rate of 0.5 for part-time students, 135 additional FTE students would be included in the Cade formula count in the 2007-2008 school year. This would increase fiscal 2010 Cade formula funding by an estimated \$354,748.
- Assuming 10% growth in the number of incoming immigrants in subsequent academic years and the continuation of some students who qualified for in-State tuition in prior years, the number of additional Cade-eligible FTE students is estimated at 284 in the 2008-2009 school year and 359 in the 2009-2010 school

year. The added enrollments would result in additional Cade formula expenditures of \$801,374 in fiscal 2011 and \$1.1 million in fiscal 2012.

State funding for the Baltimore City Community College is also based on in-State FTE enrollment from the second prior fiscal year. For each additional student qualifying for in-State tuition rates in the 2007-2008 school year, expenditures for the BCCC formula would increase by an estimated \$6,618 in fiscal 2010. The number of additional qualifying immigrants attending BCCC is not expected to be large.

**Local Fiscal Effect:** Unlike four-year institutions, community colleges have open enrollments and cannot control the proportion of in-county, out-of-county, and out-of-state students who attend the colleges. Any expansion in the definition of a resident student could, therefore, result in a decrease in community college tuition revenues. However, granting resident tuition rates could also attract students who qualify for reduced rates, thereby increasing revenues. Overall, it is assumed that this bill would have a negligible net impact on total community college tuition revenues.

Beginning in fiscal 2010, local community colleges would receive additional State aid under the Senator John A. Cade funding formula for each additional student who attends a college and qualifies as a Maryland resident. The increases are estimated at \$354,748 for fiscal 2010, \$801,374 for fiscal 2011, and \$1.1 million for fiscal 2012. Assuming Montgomery College has the largest number of these students, it would receive a larger share of the additional State aid. However, increases in eligible FTE community college students at one college result in funding increases for all community colleges under the Cade formula.

---

### **Additional Information**

**Prior Introductions:** A similar bill was introduced last year as HB 43. The House Ways and Means Committee held a hearing for the bill, but took no further action.

Similar bills were also considered each year from 2002 to 2004 with varying degrees of success. HB 1171 of 2004 passed in the House but received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee. HB 253 of 2003 was passed by the General Assembly, but the Governor vetoed the bill. HB 426 of 2002, as introduced, was similar to this bill. It passed in the House with amendments that limited its application to community colleges, but the Senate Education, Health, and Environmental Affairs Committee took no action on the bill.

**Cross File:** None.

**Information Source(s):** St. Mary's College of Maryland, Morgan State University, University System of Maryland, Maryland Higher Education Commission, Montgomery College, *Boston Globe*, National Conference of State Legislatures, Department of Legislative Services

**Fiscal Note History:** First Reader - February 16, 2007  
mll/rhh Revised - House Third Reader - April 2, 2007

---

Analysis by: Mark W. Collins

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510