

SENATE BILL 725

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By: **Senators Rosapepe, Currie, Ferguson, Madaleno, Manno, Pinsky, Ramirez, and Raskin**

Introduced and read first time: February 4, 2011

Assigned to: Budget and Taxation and Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Tuition Cap and College Opportunity Act of 2011**

3 FOR the purpose of requiring the Maryland Higher Education Commission to appoint
4 a certain group to assess and report annually on meeting certain goals so that
5 certain institutions are comparable and competitive; requiring the Commission
6 to assess annually the State's and an institution's progress toward certain goals
7 and to display the progress in an online format; requiring the Commission to
8 update periodically certain information for certain purposes; requiring the State
9 to provide certain General Fund support for the University System of Maryland
10 and Morgan State University; requiring the State to set certain funding at
11 certain levels as compared to a group of peer institutions in certain states;
12 limiting the annual increase in tuition and fees that may be charged each
13 academic year for certain students under certain circumstances; requiring the
14 Governor to include in the annual budget submission for certain fiscal years a
15 certain amount of State General Fund support for the University System of
16 Maryland and Morgan State University; requiring additional State funds be
17 used for certain priorities; requiring the Governor to include in the annual
18 budget submission supplemental funding to certain institutions to be used for
19 certain purposes; requiring performance accountability plans to include
20 graduation rates as the primary indicator of performance for certain
21 institutions; requiring the Board of Regents of the University System of
22 Maryland to submit a biannual report beginning on a certain date regarding
23 certain policies and procedures; authorizing a governing board to develop a pilot
24 tuition plan for certain purposes, subject to certain restrictions; requiring the
25 Commission to develop and implement a graduated scale for certain grants
26 based on certain criteria; modifying a certain award amount for a certain
27 scholarship program; requiring the Commission to modify certain grants based
28 on certain criteria; declaring the intent of the General Assembly; requiring
29 certain reports be submitted to the General Assembly on or before certain dates;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 defining certain terms; and generally relating to State support for and tuition at
2 higher education institutions in Maryland.

3 BY repealing and reenacting, without amendments,
4 Article – Education
5 Section 10–203(a), 15–106.6(b)(1) and (c)(1)
6 Annotated Code of Maryland
7 (2008 Replacement Volume and 2010 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article – Education
10 Section 11–105(f)(1) and (h), 11–305, 15–106.6(c)(2), and 18–304(a) and (b)(1)
11 Annotated Code of Maryland
12 (2008 Replacement Volume and 2010 Supplement)

13 BY adding to
14 Article – Education
15 Section 11–108, 12–117, and 15–106.8
16 Annotated Code of Maryland
17 (2008 Replacement Volume and 2010 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article – Education**

21 10–203.

22 (a) It is the goal of the State that public senior higher education institutions
23 be funded at 100 percent of funding guidelines developed by the Maryland Higher
24 Education Commission.

25 11–105.

26 (f) (1) The Commission is responsible for:

27 (i) Developing a program of desegregation and equal
28 educational opportunity, including developing an enhancement plan, for historically
29 African American colleges and universities;

30 (ii) Monitoring the progress made under, and assuring
31 compliance with, the goals, measures, and commitments contained in the
32 desegregation and equal education opportunity plan;

33 (iii) Making recommendations concerning needed resources for
34 achieving the goals and objectives under this subsection;

1 (iv) Requiring reports from each governing board concerning
2 progress toward equal opportunity in all activities and programs under its jurisdiction;
3 [and]

4 (v) **APPOINTING A GROUP OF INDEPENDENT ADVISERS TO**
5 **ASSESS AND REPORT ANNUALLY TO THE COMMISSION ON THE PROGRESS OF**
6 **THE STATE AND THE HISTORICALLY AFRICAN AMERICAN COLLEGES AND**
7 **UNIVERSITIES ON MEETING THE GOALS TO ENSURE COMPARABILITY AND**
8 **COMPETITIVENESS OF THE HISTORICALLY AFRICAN AMERICAN COLLEGES AND**
9 **UNIVERSITIES; AND**

10 [(v)] (vi) Reporting ANNUALLY to the Governor and, subject to
11 § 2–1246 of the State Government Article, the General Assembly regarding the
12 progress of compliance with desegregation and equal education opportunity plans
13 **BASED ON THE REPORT FROM THE GROUP OF INDEPENDENT ADVISERS TO THE**
14 **COMMISSION.**

15 (h) The Commission:

16 (1) May secure, compile, and evaluate information on any matter
17 within its authority, in the format it requires, from any person, agency, regional
18 higher education center, or institution subject to its authority;

19 (2) May engage in research, data compilation, and publication of
20 reports concerning postsecondary education in the State;

21 (3) Through its representatives, may visit at any reasonable times and
22 make reasonable inspections of any institution of postsecondary education or regional
23 higher education center subject to its authority;

24 (4) In consultation with the segments of higher education, shall
25 develop guidelines to assess the adequacy of operating and capital funding based on
26 comparisons with institutions designated as peer institutions and other appropriate
27 factors; [and]

28 (5) In consultation with the Department of Budget and Management,
29 annually shall make recommendations consistent with the Charter and the plan under
30 subsection (b) of this section on the appropriate level of funding for higher education;

31 (6) **ON OR BEFORE DECEMBER 1 OF EACH YEAR, SHALL CONDUCT**
32 **ASSESSMENTS FOR EACH INSTITUTION OF HIGHER EDUCATION AND FOR THE**
33 **STATE IN THE AGGREGATE THAT SHALL:**

34 (i) **MEASURE THE PROGRESS TOWARD MEETING THE**
35 **FUNDING GOALS SET FORTH IN § 11–108 OF THIS SUBTITLE;**

1 **(II) MEASURE THE PERFORMANCE OF INSTITUTIONS OF**
2 **HIGHER EDUCATION; AND**

3 **(III) SHOW THE PROGRESS MADE TOWARD THE GOALS IN AN**
4 **ONLINE FORMAT THAT IS EASILY ACCESSIBLE AND UNDERSTOOD; AND**

5 **(7) SHALL UPDATE PERIODICALLY THE LIST OF COMPETITOR**
6 **STATES USED TO DETERMINE THE FUNDING GOALS IN § 11-108 OF THIS**
7 **SUBTITLE.**

8 **11-108.**

9 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
10 **MEANINGS INDICATED.**

11 **(2) “COMPARABLE INSTITUTIONS” MEANS A GROUP OF PEER**
12 **INSTITUTIONS HAVING SIMILAR ACADEMIC SCOPE, COMPARABLE SIZE, AND A**
13 **SIMILAR STUDENT FINANCIAL PROFILE.**

14 **(3) “COMPETITOR STATES” MEANS STATES WITH WHICH**
15 **MARYLAND PRINCIPALLY COMPETES FOR EMPLOYERS, AS DETERMINED BY THE**
16 **MARYLAND HIGHER EDUCATION COMMISSION IN CONSULTATION WITH THE**
17 **DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT.**

18 **(4) “PUBLIC SENIOR HIGHER EDUCATION INSTITUTIONS” MEANS:**

19 **(I) THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY**
20 **SYSTEM OF MARYLAND; AND**

21 **(II) MORGAN STATE UNIVERSITY.**

22 **(B) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE STATE SHALL**
23 **PROVIDE GENERAL FUND SUPPORT FOR THE UNIVERSITY SYSTEM OF**
24 **MARYLAND AND MORGAN STATE UNIVERSITY TO ACHIEVE 100% OF THE**
25 **FUNDING GUIDELINES DEVELOPED BY THE COMMISSION.**

26 **(C) (1) BY 2022, MARYLAND HIGHER EDUCATION FUNDING SHALL**
27 **REACH A LEVEL OF HIGH STATE INVESTMENT AND MODERATE TUITION, AND**
28 **PROGRESS TOWARD MEETING THESE GOALS SHALL BE ASSESSED ANNUALLY IN**
29 **ACCORDANCE WITH § 11-105(H)(6) OF THIS SUBTITLE.**

30 **(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
31 **PARAGRAPH, THE STATE SHALL SET STATE FUNDING OF THE PUBLIC SENIOR**

1 HIGHER EDUCATION INSTITUTIONS AT THE 75TH PERCENTILE OF FUNDING PER
2 STUDENT AT COMPARABLE INSTITUTIONS LOCATED IN COMPETITOR STATES.

3 (II) THE STATE SHALL SET STATE FUNDING OF PUBLIC
4 HISTORICALLY AFRICAN AMERICAN COLLEGES AND UNIVERSITIES AT THE 80TH
5 PERCENTILE OF FUNDING PER STUDENT AT COMPARABLE INSTITUTIONS
6 LOCATED IN COMPETITOR STATES.

7 (3) (I) THE STATE SHALL SET GROSS IN-STATE TUITION AND
8 FEES AT PUBLIC SENIOR HIGHER EDUCATION INSTITUTIONS AT OR BELOW THE
9 50TH PERCENTILE OF GROSS TUITION AND FEES AT COMPARABLE
10 INSTITUTIONS LOCATED IN COMPETITOR STATES.

11 (II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS
12 PARAGRAPH, THE STATE SHALL LIMIT INCREASES IN RESIDENT
13 UNDERGRADUATE TUITION AND FEES IN ANY GIVEN YEAR TO THE INCREASE IN
14 THE 3-YEAR ROLLING AVERAGE OF THE STATE'S MEDIAN FAMILY INCOME.

15 (III) THE TUITION AND FEE LIMITATION IS SUBPARAGRAPH
16 (II) OF THIS PARAGRAPH APPLIES ONLY IF:

17 1. THE PUBLIC SENIOR HIGHER EDUCATION
18 INSTITUTIONS HAVE RECEIVED A GENERAL FUND APPROPRIATION MEETING
19 THE REQUIREMENTS OF THIS SECTION; AND

20 2. THE BOARD OF PUBLIC WORKS DOES NOT
21 REDUCE FUNDING FOR THE PUBLIC SENIOR HIGHER EDUCATION INSTITUTIONS.

22 (D) (1) FOR EACH OF FISCAL YEARS 2014 THROUGH 2021, THE
23 GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AT LEAST THE
24 AMOUNT OF STATE GENERAL FUND SUPPORT NECESSARY FOR THE
25 CONSTITUENT INSTITUTIONS OF THE UNIVERSITY SYSTEM OF MARYLAND IN
26 TOTAL TO ACHIEVE:

27 (I) 70% OF THE FUNDING GUIDELINE FOR FISCAL YEAR
28 2014;

29 (II) 74% OF THE FUNDING GUIDELINE FOR FISCAL YEAR
30 2015;

31 (III) 77% OF THE FUNDING GUIDELINE FOR FISCAL YEAR
32 2016;

1 (IV) 81% OF THE FUNDING GUIDELINE FOR FISCAL YEAR
2 2017;

3 (V) 85% OF THE FUNDING GUIDELINE FOR FISCAL YEAR
4 2018;

5 (VI) 89% OF THE FUNDING GUIDELINE FOR FISCAL YEAR
6 2019;

7 (VII) 93% OF THE FUNDING GUIDELINE FOR FISCAL YEAR
8 2020; AND

9 (VIII) 97% OF THE FUNDING GUIDELINE FOR FISCAL YEAR
10 2021.

11 (2) FOR EACH OF FISCAL YEARS 2014 THROUGH 2021, THE
12 GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AT LEAST THE
13 AMOUNT OF STATE GENERAL FUND SUPPORT NECESSARY FOR MORGAN STATE
14 UNIVERSITY TO ACHIEVE:

15 (I) 78% OF THE FUNDING GUIDELINE FOR FISCAL YEAR
16 2014;

17 (II) 81% OF THE FUNDING GUIDELINE FOR FISCAL YEAR
18 2015;

19 (III) 84% OF THE FUNDING GUIDELINE FOR FISCAL YEAR
20 2016;

21 (IV) 87% OF THE FUNDING GUIDELINE FOR FISCAL YEAR
22 2017;

23 (V) 90% OF THE FUNDING GUIDELINE FOR FISCAL YEAR
24 2018;

25 (VI) 93% OF THE FUNDING GUIDELINE FOR FISCAL YEAR
26 2019;

27 (VII) 96% OF THE FUNDING GUIDELINE FOR FISCAL YEAR
28 2020; AND

29 (VIII) 99% OF THE FUNDING GUIDELINE FOR FISCAL YEAR
30 2021.

1 **(3) FOR FISCAL YEAR 2022 AND EACH FISCAL YEAR THEREAFTER,**
2 **THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AT LEAST THE**
3 **AMOUNT OF STATE GENERAL FUND SUPPORT NECESSARY FOR THE PUBLIC**
4 **SENIOR HIGHER EDUCATION INSTITUTIONS TO ACHIEVE 100% OF THE FUNDING**
5 **GUIDELINE.**

6 **(E) UNDERGRADUATE EDUCATION CAPACITY AT HISTORICALLY**
7 **AFRICAN AMERICAN COLLEGES AND UNIVERSITIES SHALL BE THE FIRST**
8 **PRIORITY FOR ADDITIONAL STATE FUNDING PROVIDED UNDER THE FUNDING**
9 **GUIDELINES.**

10 **(F) (1) IN RECOGNITION OF THE CONSIDERABLE REMEDIATION**
11 **EFFORT AND CONTINUING STUDENT SUPPORT DEMANDED OF HISTORICALLY**
12 **AFRICAN AMERICAN COLLEGES AND UNIVERSITIES AT THE UNDERGRADUATE**
13 **LEVEL, THE GOVERNOR SHALL PROVIDE AN AMOUNT OF SUPPLEMENTAL**
14 **FUNDING TO THE HISTORICALLY AFRICAN AMERICAN COLLEGES AND**
15 **UNIVERSITIES IN THE ANNUAL BUDGET BILL.**

16 **(2) THE FUNDING SHALL BE SPENT ONLY FOR REMEDIATION**
17 **EFFORTS AND FOR STRATEGIES AND INITIATIVES THAT HAVE PROVEN TO BE**
18 **BEST PRACTICES IN IMPROVING GRADUATION RATES.**

19 **(3) THE SUPPLEMENTAL FUNDING SHALL REPLACE THE ACCESS**
20 **AND SUCCESS PROGRAM.**

21 11-305.

22 Performance accountability plans developed under this subtitle shall:

23 (1) Be based on the institutional mission statement and shall include
24 a statement of the outcomes which each institution expects to achieve;

25 (2) Include multiyear studies which shall include quantifiable indices
26 of student academic performance and development including graduation and retention
27 rates and the results of academic program reviews;

28 (3) Identify institutional performance objectives appropriate to the
29 mission of the institution in addition to those related to student learning and include
30 reports based on regional and professional accreditation and certification;

31 (4) In the case of public senior higher education institutions, designate
32 a set of peer institutions to which the institution's performance will be compared;
33 [and]

1 (5) Make provision for improvements, as needed, as a result of the
2 performance accountability report; AND

3 (6) IN THE CASE OF HISTORICALLY AFRICAN AMERICAN
4 COLLEGES AND UNIVERSITIES:

5 (I) DESIGNATE GRADUATION RATE AS THE PRIMARY
6 INDICATOR OF PERFORMANCE; AND

7 (II) IF THE INSTITUTION RECEIVES SUPPLEMENTAL
8 FUNDING DEVELOPED UNDER § 11-108(F) OF THIS TITLE, PROVIDE
9 MEASURABLE GOALS, INCLUDING GRADUATION RATES, AND REPORT RESULTS
10 AGAINST THOSE GOALS.

11 12-117.

12 (A) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE
13 UNIVERSITY SYSTEM OF MARYLAND IMPROVE ITS EFFECTIVENESS AND
14 EFFICIENCY AND REDUCE ITS COST STRUCTURE BY BECOMING THE NATIONAL
15 LEADER IN TRANSFORMING THE BUSINESS MODEL OF PUBLIC HIGHER
16 EDUCATION TO PROVIDE WORLD-CLASS EDUCATION, RESEARCH, AND PUBLIC
17 SERVICE AT BELOW-AVERAGE COSTS.

18 (B) ON OR BEFORE NOVEMBER 1, 2011, AND ON NOVEMBER 1 EVERY
19 SECOND YEAR THEREAFTER, THE BOARD OF REGENTS SHALL SUBMIT, IN
20 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, A REPORT
21 ON THE POLICIES AND PROCEDURES IT HAS IMPLEMENTED IN ACCORDANCE
22 WITH SUBSECTION (A) OF THIS SECTION TO THE HOUSE APPROPRIATIONS
23 COMMITTEE, THE HOUSE WAYS AND MEANS COMMITTEE, THE SENATE
24 BUDGET AND TAXATION COMMITTEE, AND THE SENATE EDUCATION, HEALTH,
25 AND ENVIRONMENTAL AFFAIRS COMMITTEE OF THE GENERAL ASSEMBLY.

26 15-106.6.

27 (b) (1) There is a Higher Education Investment Fund.

28 (c) (1) Within the Fund there is a Tuition Stabilization Trust Account.

29 (2) (i) The Trust Account is established to retain revenues for
30 stabilizing tuition costs for resident undergraduate students.

31 (ii) In years of increasing corporate tax revenues that are
32 allocated to the Fund under § 2-613.1 of the Tax - General Article, funds shall be
33 deposited into the Trust Account.

1 (iii) Funds in the Trust Account shall be used only to stabilize
2 tuition at public senior higher education institutions.

3 [(iv) It is the goal of the State that any increase in resident
4 undergraduate tuition and academic fees at public senior institutions of higher
5 education in any given year should be limited to a percent not to exceed the increase in
6 the 3-year rolling average of the State's median family income.]

7 **15-106.8.**

8 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
9 MEANINGS INDICATED.

10 (2) "ACADEMIC YEAR" HAS THE MEANING STATED IN § 15-106.5
11 OF THIS SUBTITLE.

12 (3) "GOVERNING BOARD" MEANS:

13 (I) THE BOARD OF REGENTS OF THE UNIVERSITY SYSTEM
14 OF MARYLAND;

15 (II) THE BOARD OF REGENTS OF MORGAN STATE
16 UNIVERSITY; AND

17 (III) THE BOARD OF TRUSTEES OF ST. MARY'S COLLEGE OF
18 MARYLAND.

19 (4) "PUBLIC SENIOR HIGHER EDUCATION INSTITUTION" HAS THE
20 MEANING STATED IN § 10-101 OF THIS ARTICLE.

21 (5) "TUITION" HAS THE MEANING STATED IN § 15-106.5 OF THIS
22 SUBTITLE.

23 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A GOVERNING
24 BOARD MAY DEVELOP A PILOT LONG-TERM TUITION PLAN FOR A PUBLIC
25 SENIOR HIGHER EDUCATION INSTITUTION.

26 (C) THE PURPOSE OF THE PILOT LONG-TERM TUITION PLAN IS TO
27 ENSURE THAT THE FOLLOWING INDIVIDUALS ARE INFORMED OF THE TUITION
28 THAT WILL BE CHARGED FOR 4 ACADEMIC YEARS OF ENROLLMENT AT A PUBLIC
29 SENIOR HIGHER EDUCATION INSTITUTION:

30 (1) A RESIDENT UNDERGRADUATE STUDENT WHO ENROLLS IN
31 THE PUBLIC SENIOR HIGHER EDUCATION INSTITUTION; AND

1 **(2) AN INDIVIDUAL WHO APPLIES FOR ADMISSION TO THE PUBLIC**
2 **SENIOR HIGHER EDUCATION INSTITUTION.**

3 **(D) BEFORE THE IMPLEMENTATION OF A PILOT LONG-TERM TUITION**
4 **PLAN BY A GOVERNING BOARD, THE GOVERNING BOARD SHALL SUBMIT THE**
5 **PLAN TO THE COMMISSION FOR REVIEW AND APPROVAL.**

6 18-304.

7 (a) (1) Except as provided in § 18-307 of this subtitle, the Office shall
8 determine the amount of each Delegate Howard P. Rawlings Educational Excellence
9 Award based on the financial need of the applicant.

10 (2) In determining the amount of financial need, the Office shall
11 consider regional cost-of-living differences.

12 (3) In determining the percent of financial need used to calculate an
13 award for a community college student receiving a Delegate Howard P. Rawlings
14 Educational Excellence Award, the Commission shall use the following percentages:

15 (i) For fiscal year 2007, not less than 55%; and

16 (ii) For fiscal year 2008 and each fiscal year thereafter, not less
17 than 60%.

18 **(4) IN DETERMINING THE AMOUNT OF AN AWARD, THE OFFICE**
19 **SHALL DEVELOP A GRADUATED SCALE BASED ON THE STUDENT'S FINANCIAL**
20 **NEED.**

21 (b) (1) Except as provided in paragraph (2) of this subsection, a Delegate
22 Howard P. Rawlings Educational Excellence Award may be awarded in \$100
23 increments and the award for a single year may not be less than \$400 or more than
24 ~~[\$3,000]~~ **\$6,000.**

25 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Higher
26 Education Commission shall modify the Guaranteed Access Grant under Title 18,
27 Subtitle 3 of the Education Article so that 100% of need is met for students with family
28 incomes of up to 150% of the federal poverty level and that smaller grants are made to
29 students with family incomes between 150% and 200% of the federal poverty level.

30 SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the
31 General Assembly to move the sum of the State General Fund appropriation and
32 tuition for institutions in the University System of Maryland, on a per student basis,
33 to at least the average of their peer institutions as determined by the Maryland
34 Higher Education Commission, in order to be consistent with Chapter 246 of the Acts

1 of 1988, which formed the University System of Maryland, and with Chapter 515 of
2 the Acts of 1999, also known as the Larson Commission Act.

3 SECTION 4. AND BE IT FURTHER ENACTED, That it is the intent of the
4 General Assembly to continue to support Maryland's historically African American
5 institutions in accordance with the agreement reached between the State of Maryland
6 and the United States Department of Education, Office of Civil Rights in December
7 2000.

8 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 July 1, 2011.