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R62I0001
Maryland Higher Education Commission

Testimony of Dr. James D. Fielder, Jr., Acting Secretary of Higher Education, to the House Appropriations Subcommittee for Education and Economic Development and the Senate Budget and Taxation Subcommittee for Education, Business and Administration

February 3 and 8, 2016

Fiscal 2016 Actions

1. **The Secretary of Higher Education should comment on whether special fund fees have proven sufficient to replace lost general funds. - pg. 12**

Based upon fee collections through January 2016, special fund fees have not proven sufficient to replace lost general funds.

MHEC has provided a history of the Program Review Special Fund on the following page. Statutory law limits MHEC's ability to carryover fund balances in excess of \$100,000 in Special Funds collected by program reviews. As a consequence, MHEC has transferred to the General Fund approximately \$1.5 million of excess program fees collected over the period of fiscal 2012-2015. Due to the authorization of the State Authorization Reciprocity Agreement (SARA), it is anticipated that program review fee collections will be reduced in this and future years. This will result in the need to access the \$100,000 fund balance to cover anticipated expenses (shortfall) through year-end. Any deficiencies in excess of \$100,000 will need to be absorbed through our current general fund appropriation (which is currently under severe strain). MHEC would like to explore other options with respect to the treatment of these fees, such as:

- 1.) keeping all program fees without a fund balance cap;
- 2.) trying to recoup prior year fund balances \$1.5 million (which were reverted) to cover future revenue shortfalls; or
- 3.) increasing General Fund appropriations to cover the cost of the program.

**Maryland Higher Education Commission
Online Certification and Program Review Fees**

	FY 2012	FY 2013	FY 2014	FY 2015	EST (REV) FY 2016	EST FY 2017
Program Review Fees (01423)						
In-state(6657)	83,450.00	114,400.00	159,400.00	271,936.97	163,949.57	200,000.00
Out-of-state(6963)	310,451.00	374,701.30	549,700.00	685,950.00	240,000.00	240,000.00
Revenue Total	393,901.00	489,101.30	709,100.00	957,886.97	403,949.57	440,000.00
Revenue Reversion(6963)	(40,644.00)	(230,485.80)	(443,840.89)	(345,454.41)	0.00	0.00
Net Revenue	353,257.00	258,615.50	265,259.11	612,432.56	403,949.57	440,000.00
Expenditures	253,208.00	258,664.50	265,259.11	612,432.56	550,000.00	601,995.00
Cash Balance (carry forward)	100,049.00	100,000.00	100,000.00	100,000.00	(46,050.43)	(161,995.00)
On-line Certification Fees (01433)						
Revenue (6963)	0.00	249,000.00	216,000.00	232,850.00	120,000.00	129,000.00
Revenue Reversions(6963)	0.00	(168,507.35)	(107,594.11)	(161,488.27)	0.00	0.00
Expenditures	0.00	80,492.65	108,405.89	71,361.73	118,748.00	165,000.00
Cash Balance (carry forward)	0.00	0.00	0.00	0.00	1,252.00	(34,748.00)
Combined programs						
Total Revenue	393,901.00	738,101.30	925,100.00	1,190,736.97	523,949.57	569,000.00
Revenue Reversions	(40,644.00)	(398,993.15)	(551,435.00)	(506,942.68)	0.00	0.00
Total Expenditures	253,208.00	339,157.15	373,665.00	683,794.29	668,748.00	766,995.00
Total Cash Balance (carry forward)	100,049.00	100,000.00	100,000.00	100,000.00	(44,798.43)	(196,743.00)

Proposed Budget

- DLS Recommends rerunning the Sellinger Aid formula to account for the statewide health insurance reduction. This reduces Sellinger aid in fiscal 2017 by \$141,204. – pg. 15**

MHEC concurs with this recommendation on the basis that it is consistent with the reductions applied to the public four-year institutions that support the formula.

- 2. The Secretary should comment on the ability of MHEC and DBM to ensure that institutional grant funds are not double counted in the budget if the IT grant remains in the MHEC budget and MHEC should use the budget amendment process as directed in 2015 budget bill language when transferring these grants to State institutions to ensure budget transparency. – pg. 18**

MHEC would point out that the oversight by all agencies involved with grants provided to institutions through the Education Grants program is sufficient to prevent double counting of the funds. MHEC has been managing these types of pass-through grants since the agency was created in 1988.

An advantage of managing the grant funds through the Educational Grants program is that, as included in MHEC's budget, these funds are recognizable and easily identifiable. Additionally, the requirements for reports from MHEC regarding these funds, as well as through review by both DBM and DLS through the annual budget process, should provide sufficient transparency. Finally, adding a requirement that these funds can only be expended through a budget amendment may slow down the ability of institutions to receive grant funding in a timely manner.

- 3. The Secretary should comment on the how RHECs align with the State plan's goals to provide improved opportunity and access to all of Maryland's citizens. – pg. 20**

The State's regional higher education centers will continue to play a critically important role in college completion, particularly given the State Plan's emphasis on strengthening and expanding options for Maryland community college students to transfer and complete the bachelor's degree. The centers served over 2,663 students in fiscal 2015. These centers continue to provide access to affordable higher education in geographic areas of the State which are otherwise underserved by four-year institutions. With their regional focus, they also provide support by offering courses and programs needed by business and industry in the local areas served.

- 4. The Secretary should comment on the status of a potential new RHEC in Frederick and of updating the programs at the University Center in Northeastern Maryland and any other notable developments at Maryland RHECs. – pg. 20**

The Frederick CREST Center was approved by MHEC in November 2015. In that approval, MHEC set out several conditions for the Center. These are:

- Maryland colleges and universities seeking to offer programs at CREST must first obtain approval from MHEC prior to those programs being offered;
- Program offerings at CREST must be responsive to educational needs identified in the *Frederick Higher Education Needs Assessment* and consistent with CREST's STEM-based research mission;

- The CREST Governing Board will work collaboratively with Frederick Community College, Hood College, and Mount St. Mary’s University to ensure that program offerings at CREST do not duplicate those at these institutions
- The CREST Governing Board must submit a mission statement for the Center every four years; and
- CREST must abide by all financial responsibilities of regional higher education centers in the state.

The higher education needs assessments performed for both the Frederick and Northeastern Maryland regions identified programs of need outside those offered by locally-based institutions that could be provided at each center. In Frederick, the assessment identified several STEM programs that are in demand by businesses in the Frederick region. The assessment for Northeastern Maryland did a similar identification for that region.

The Frederick CREST Center has a board that was modified from a regional higher education advisory board to a governing board for the Center in the 2015 session. There is also a higher education advisory board in Northeastern Maryland that works closely with the University Center. Both boards are charged with identifying the educational needs for their respective regions and recommending programs to be considered for delivery at each center. MHEC will continue to work with these boards to assist with the identification and implementation of programs that are needed in each respective region, while also ensuring that programs being considered or proposed do not duplicate programs already being delivered by area colleges and universities.

5. The Secretary should comment on progress toward resolving the statutory issues with DHMH, DLLR, and the Board of Physicians to maximize the use of HPSIG. – pg. 22

MHEC met with the Board of Physicians this past summer to discuss the issues. In addition, a Joint Chairmen’s Report entitled “Report on Uses of Physicians’ Fee Revenue” was submitted. In that report MHEC raised the following concerns and made three recommendations:

“Concerns

The Health Occupations Article, §1-204 (HO §1-204) was enacted into law in 1988 before the HPSIG statute ED §18-803, which was enacted in 1991. The list of seven health occupations has remained the same in HO §1-204 since it was first enacted by Chapter 606, Laws of Maryland 1988. This list was the basis for the list of health occupations in the HPSIG statute when that statute was enacted by Chapter 404, Laws of Maryland 1991. However, the two statutes did not read exactly the same and the match between the health occupations listed is not perfect. Below is what the two statutes originally included:

HEALTH OCCUPATIONS §1-204	EDUCATION ARTICLE §18-803 (originally §18-804.1)
Nurse	Registered Nurse or Licensed Practical Nurse

Cytotechnologist	Laboratory Technician, Medical Technician
Hospital Pharmacist	Pharmacist
Occupational Therapist	Occupational Therapist
Physical Therapist	Physical Therapist
Radiation Technologist	Radiographer
Respiratory Therapist	Respiratory Therapist

In 1992 and 1993, the HPSIG statute was amended to add additional occupations (physician who engages in family practice or pediatrics, physical therapist assistant, occupational therapist assistant). The current list of health occupations in the HPSIG statute reflects those last amendments made by Chapter 398, Laws of Maryland 1992 and Chapter 628, Laws of Maryland 1993. However, HO §1-204 was not amended in 1992 and 1993. There have been no changes to the list of health occupations in the HPSIG statute in the last twenty years and there have been no changes made to the list of health occupations in HO §1-204 since its original enactment in 1988.

Each statute gave (and still gives) the Secretary of the Department of Health and Mental Hygiene (DHMH) the duty to “survey hospitals and related institutions for areas of shortage” HO §1-204(b)(1) and the authority to “certify annually to MHEC those health occupations in short supply.” ED §18-803(g)(1). The underlined terms in the above paragraph are the problematic, but important, part of this process. These provisions do not give the Secretary of DHMH carte blanche to decide any health occupation as an area of shortage, because these are defined terms in their respective statutes. In HO §1-204(a)(3) “area of shortage” is defined to mean “those health occupations for which the average statewide employment vacancy rate at hospitals or related institutions exceeds 7 percent,” and “health occupation” is defined in HO §1-204(a)(1) to mean the list of seven occupations that were originally put into that statute as listed above. Similarly, “health occupation” is defined in the HPSIG statute to mean the original list above with the additions made in 1992 and 1993.

The HPSIG statute, Education Article, §18-803, indicates an eligible institution may receive a grant in the amount of \$1,500 for each eligible graduate for each academic program that produces graduates eligible to sit for the appropriate national examination for certification, licensure, or registration in one of the current shortage areas identified by DHMH. The number of eligible graduates is calculated according to the following formula: Number of current graduates less the number of graduates from the lowest graduate output year greater than zero commencing in the academic year 1990 -1991. This formula grant process does not allow for discretionary distribution of available funding. If an institution meets eligibility criteria, the institution is awarded funding according to the current statute. Institutions are not required to submit detailed grant proposals. Grant proposals provide valuable information on funding needs, goals and objectives, activities and timelines, evaluation measures, budgets, etc. Without this vital information, it is difficult to measure the impact of grant funding.

Recommendations

The current statute provides no authority to go outside of the listed health occupations, only to identify in the statute listed which health occupations are in short supply. Some of these specific health workforce shortage areas no longer apply (i.e. no workforce shortage in that area based on current data). The statute should be amended to remove specified health occupations to allow the statute to meet the evolving health personnel shortage needs.

The current statute indicates a health occupation is considered to be an area of shortage if ‘the average statewide employment vacancy rate at hospitals or related institutions exceeds 7 percent.’ However, there are currently no health occupations that exceed 7 percent. The statute should be updated to either remove or lower the percentage.

The current statute distributes funding through a formula grant process. This process limits oversight and compliance monitoring opportunities. The statute should be amended to replace the formula grant process with a competitive grant process that provides for the discretionary distribution of funds and increases oversight, compliance monitoring, and evaluation of funding impact.”

MHEC feels that close examination of these three recommendations offered in the report will assist in clarifying some of the issues that have raised so many concerns with this program.

Also, please see Senate Bill 217, State Board of Physicians – Distribution of Fees by Comptroller – Loan Assistance Repayment for Physicians and Physician Assistants. This bill alters the circumstances under which the Comptroller is required to distribute fees received from the State Board of Physicians to the Office of Student Financial Assistance to be used to make grants under the Maryland Loan Assistance Repayment Program for Physicians and Physician Assistants. In addition, it repeals specified provisions of law that require the Comptroller to distribute specified fees to the Health Personnel Shortage Incentive Grant Program thus defunding the HPSIG program through those fees.

Issues

1. The Secretary should comment on the status of all 55 institutions revising and adopting updated sexual assault policies as of February 2016. – pg. 24

Since the submission of the Joint Chairmen’s Report response in November, 2015, additional institutions have made progress incorporating MHEC’s recommendations into their policies and coming into compliance with the law. Of the institutions noted in the analysis, two have responded to MHEC for assistance (Ner Israel Rabbinical College and Seafarers Harry Lundberg School of Seamanship) and we are working with them as they make adjustments to their policies, MOUs, and implementing the campus climate survey. However, the remaining three institutions have not responded to any requests from MHEC. As noted in the analysis, MHEC offered a workshop on November 30, 2015 for those institutions that had not responded to the request for the purpose of offering

assistance in preparing a policy, developing an MOU, and completing a campus climate survey. Three institutions sent representatives: two that had already submitted a policy for review and requested assistance/clarification in implementing the campus climate survey, and one that requested assistance with all three components.

MHEC will continue to reach out to the three remaining institutions until we achieve 100% compliance.

Statute requires MHEC to “Periodically review and make recommendations for changes in these policies.”

As noted in the analysis “as MHEC lacks any strong power to compel these institutions to comply in the short term, MHEC will continue to communicate with these institutions and considers their progress toward compliance as ‘pending.’”

- 2. The Secretary, Director of Maryland Association of Community Colleges, and President of MICUA should comment on any next steps for Maryland institutions to come into compliance with federal regulations on sexual assault policies, observations about the development and deployment of the campus climate survey tool, and any other role MHEC may play to facilitate compliance for all postsecondary education institutions in Maryland. – pg. 26**

Many institutions are still in the process of establishing an MOU with their local law enforcement agency as well as a rape crisis center. It should be noted that this is not due to lack of effort on the part of the institutions. The institutions are working through these challenges and the MOUs should be in place by summer.

The development of the campus climate survey tool was a collaborative effort on the part of several representatives of public and independent two-year and four-year colleges and universities. They incorporated ideas from a number of national groups and initiatives, and modified these ideas based on their own direct experience with sexual assault and other sexual misconduct on their own campuses and those of their colleagues. Their efforts to prepare a useful instrument in a very short period reflects not only the dedication of these individuals and their institutions, but also the broad commitment of colleges and universities to seek out information about their communities and find opportunities to combat the destructive effects of sexual assault and other sexual misconduct on college campuses.

- 3. The Secretary should comment on how funding in the fiscal 2017 budget should be evaluated using the funding guideline model. – pg. 31**

The operating funding guidelines provide an important assessment tool in the allocation of State appropriations to public four-year colleges and universities. They provide a “benchmark” by which the appropriation of each institution can be compared. In addition, they also provide the opportunity to assess each institution’s performance on specific metrics against peer institutions from the other states. One important aspect of this model, in contrast to “formulaic” models implemented in other states, is that this

model is an iterative tool, along with the budget requests and other institutional reports that can be used to inform budget decisions. It is not a funding formula, but provides a “benchmark,” rather than a mandate, for State funding to each Maryland public four-year institution. The model provides an assessment of funding while maintaining the flexibility to make important funding decisions outside the model should circumstances call for the consideration of additional factors.

The funding guidelines set high benchmarks for funding levels. As discussed in the analysis, the funding level set for the historically black colleges and universities is the 80th percentile of the competitor state peers, and at the 75th percentile of the peer groups for the nonhistorically black colleges and universities. This was the result of the State’s goal to fund the system of higher education at among the highest levels within the country. A review of each institution shows the level of funding guideline attainment reached by the institution in fiscal 2016. A review of all the institutions shows what level of attainment was achieved by institutions relative to each other. Evaluation of these levels of attainment can be drawn from this information for additional discussion of funding levels appropriated to each institution.

In addition to the “internal” information considered in the annual budget submissions from each of the public institutions in the funding, the funding guidelines provide a valuable “external” review of the level of funding provided to the Maryland public institutions. The funding guideline benchmarks provide a quick, comparable and useful comparison of Maryland institutions to their peer institutions from competitor states (California, Pennsylvania, Virginia, North Carolina, New Jersey, New York, Massachusetts, Ohio, Minnesota and Washington). MHEC recommends that the guidelines continue to be used as a valuable reference as one additional consideration factor for State appropriations. Finally, comparison to competitor states are used to inform questions on additional policy issues, such as higher education spending, as was discussed in this year’s Higher Education Overview, and other areas, such as the achievement gap, as has been used in prior years.

- 4. The Secretary should comment on work towards filling the MHEC director of grants management position and new federal or private sources to support MHEC outreach programming. The Secretary should also comment on what the new \$250,000 in funding will support in fiscal 2017, especially new web content, and what goals MHEC has to stretch that funding for maximum impact. – pg. 32**

The vacancy posting for the director of grants is moving through DBM and we hope to post very soon. Once this position is filled we will be in a better position to move forward in pursuing new grants whether through federal government or foundation sources.

The new funding will be used to initiate implementation of the “Statewide Near Completer Incentive Plan and Communication Campaign,” which was developed in response to the 2013 Joint Chairmen’s Report request. While this plan was developed

with a projected budget of \$2 million (see Fiscal Note for Senate Bill 740, 2013), we are confident that we can utilize in-house expertise combined with much creativity to initiate the program as envisioned by the General Assembly when SB 740, The College and Career Readiness and College Completion Act of 2013, was passed. Additional avenues to explore will be the development of internships for students in order to provide them with the opportunity to work on the campaign. Also, by connecting these resources to the College Access Challenge grant, the GEAR-UP grant, and the One Step Away program, MHEC can develop a comprehensive program to enhance our current outreach efforts. This will maximize our efforts to leverage both staff and financial resources.

5. Finally, the Secretary should discuss potential partnerships with nonprofits and the timeline for creating and managing MDCAN. – pg. 32

The Maryland Higher Education Commission (MHEC) has been designated as the lead state agency for the College Access Challenge Grant Program (CACG) since 2008. In the proposed federal fiscal year 2014 project, MHEC committed to establishing a Maryland College Access Network, through networking with K-12 and higher education institutions, government agencies, nonprofit college and career readiness organizations, Maryland's business sector, and others to improve postsecondary outcomes for all Marylanders. The Network's major goals will be to share effective outreach strategies, increase knowledge about student financial aid options, reach more students with a unified message about the importance of postsecondary education for improved career options and increase the number of credential workers in Maryland. MHEC will publish a semi-annual newsletter, offer webinars to share outreach news and ideas and share network resources with the Network members throughout the state to support the State's college access, success and completion goals.

Activity will address four major challenges: 1) unplanned transitions due to student horizons focused on high school graduation, 2) academic preparation, 3) postsecondary education financing and 4) scaling services to Marylander's unique needs. The network goals are aligned with Maryland's Strive to 55 which aims to increase the percent of the population with credentials and degrees by reducing duplication of efforts and creating synergy among providers, supporting professional development, strengthening public messaging and conducting and disseminating relevant research.

The Maryland College Access Network, once established, will be evaluated based on membership growth, member surveys, and overall state metrics on college enrollments, grant aid disbursement, and FAFSA completion. MHEC plans to establish such network in two phases: planning and implementation.

The timeline for implementation will be developed with the assistance of the MDCAN Planning Team.

Recommended Actions

**Amount
Reduction**

**Position
Reduction**

1. Reduce general funds for the Sellinger – pg. 33 \$ 141,204 GF

MHEC concurs with this recommendation on the basis that it is consistent with the reductions applied to the public four-year institutions that support the formula.

2. Add the following language to the general fund appropriation: - pg. 33

Provided that it is the intent of the General Assembly that institutional grants to a public 4-year institution should be transferred only by budget amendment to that institution.

Explanation: This action provides greater clarity to the General Assembly on when an institution receives an institutional grant from the Maryland Higher Education Commission and also prevents funds from being double counted in the working appropriation.

MHEC opposes this recommended action on the basis that it would not provide greater clarity and could slow the disbursement of grant funds through the budget amendment process.

3. Add the following language to the general fund appropriation: - pg. 33

, provided that \$4,900,000 in general funds designated to enhance the State’s four historically black colleges and universities may not be expended until the Maryland Higher Education Commission submits a report to the budget committees outlining how the funds will be spent. The budget committees shall have 45 days to review and comment on the report. Funds restricted pending receipt of a report may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if the report is not submitted to the budget committees.

Explanation: This annual language restricts the expenditure of funds until the commission reports to the budget committees on the plans for spending funds designated to enhance the State’s four historically black colleges and universities (HBCU).

Information Request

Author

Due Date

HBCU enhancement
expenditure report

Maryland Higher
Education Commission

July 1, 2016

MHEC concurs with this recommended action.

4. Modify the following language to the general fund appropriation: - pp. 33 & 34

Complete College Maryland	250,000
Improving Teacher Quality.....	975,000
Office of Civil Rights Enhancement Fund	4,900,000
Regional Higher Education Centers	2,150,000
College Access Challenge Grant Program	1,000,000
Washington Center for Internships and Academic Seminars	175,000
University of Maryland, Baltimore – WellMobile	285,000
John R. Justice Grant	25,000
St. Mary’s College of Maryland Information Technology Grant	1,133,000
.....	0

Explanation: This is a technical amendment to reduce educational grants.

MHEC defers to the President of St. Mary’s College of Maryland.

	<u>Amount Reduction</u>	<u>Position Reduction</u>
5. Reduce Educational Grants funding by deleting the St. Mary’s College of Maryland Information Technology Grant because the institution is already receiving additional State support outside of its funding formula in fiscal 2016 for this purpose. – pg. 34	1,133,000 GF	

MHEC defers to the President of St. Mary’s College of Maryland

6. Adopt the following narrative: - pp. 34 &35

Report on Best Practices and Annual Progress Toward the 55% Completion Goal:
 The committees understand that in order to meet the State’s goal to have at least 55% of Maryland’s residents age 25 to 64 holding at least one degree credential by 2025, accurate and timely information on degree progression and best practices is needed to ensure that the State is on track to meet the goal. The committees request that the Maryland Higher Education Commission (MHEC) annually collect and analyze student- and transcript-level data on progression, graduation, and other relevant metrics from each public institution of higher education, including community colleges and regional higher education centers. MHEC should submit a report by December 15 each year that analyzes the data and shows each institution’s progress toward the State and institutional goals in 2025. The report should also include a summary of best practices and findings on the effectiveness of institutions’ programs, as well as any concerns regarding lack of progress or best practices that are not being implemented by institutions.

In addition, the committees request that MHEC, on behalf of the Governor and General Assembly and in collaboration with the Governor’s Prekindergarten-20 Council, convene a biennial Summit on Completion that provides a forum for representatives of all segments of education (including K-12), economic and workforce development, and other stakeholders to share best practices on college completion that are underway in Maryland and hear from experts on best practices in other states that may be replicated in Maryland. A summary of the summit should be included in the annual report on best practices and progress toward the 55% goal.

Information Request	Author	Due Date
Report on best practices and progress toward 55% completion goal	MHEC	December 15, 2016, and each year thereafter

MHEC concurs with this recommended action.

7. Adopt the following narrative: - p. 35

Report on Outcomes of Students Participating in Access and Success Programs by Cohort: The committees understand that as part of the State’s agreement with the federal Office for Civil Rights, the State has provided annual funding to Maryland’s public historically black colleges and universities (HBCU) to improve retention and graduation rates. From fiscal 2001 to 2006, the funds were budgeted through the Maryland Higher Education Commission (MHEC) and released after each HBCU submitted proposals to MHEC outlining how the funds would be spent in the coming year. Beginning in fiscal 2007, Access and Success funds were appropriated directly to HBCUs. The committees request that MHEC collect progression, retention, and graduation data from each public HBCU on all students participating in the Access and Success program in fiscal 2015. Data should be analyzed and presented by institution and program. Data should include the throughput completion rate in credit-bearing coursework for required remedial classes and graduation rates. The report should include a summary of fiscal 2015 programs supported by Access and Success funds and a statement from each institution on how findings from the 2014 report have been used to inform and improve programs and student services supported by Access and Success funds. The report shall be submitted by October 15, 2015, and every year thereafter.

Information Request	Author	Due Date
Report on the fiscal 2016 outcomes by cohort of students participating in Access and Success programs	MHEC	October 15, 2016, and annually thereafter

MHEC concurs with this recommended action.