

Department of Legislative Services  
Maryland General Assembly  
2021 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 259  
Appropriations

(Delegate Ivey)

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Historically Black Colleges and Universities – Independence From University  
System of Maryland

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This bill establishes the State’s historically black colleges and universities (HBCUs) as independent of the University System of Maryland (USM) by removing Bowie State University (BSU), Coppin State University (CSU), and the University of Maryland Eastern Shore (UMES) from USM. To that end, the bill establishes a Board of Regents for each of the three separating universities and establishes their power and duties. Each of the boards consists of 15 members, as specified, who are appointed by the Governor with the advice and consent of the Senate. The bill also establishes other related requirements to establish the institutions as separate. **The bill takes effect July 1, 2021.**

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Fiscal Summary

**State Effect:** As early as FY 2022, BSU, CSU, and UMES higher education expenditures may increase, potentially meaningfully, due to lost efficiencies. Alternatively, higher education resources may need to be shifted from existing projects and priorities. Potential additional general fund and higher education expenditures for other agencies and remaining USM institutions due to lost efficiencies. The separating institutions lose access to the combined borrowing power of USM for capital projects funded by revenue bonds. Potential impact on endowment and quasi-endowment revenues and expenditures. Beginning in FY 2023, BSU, CSU, and UMES are budgeted separately.

**Local Effect:** None.

**Small Business Effect:** Minimal, as discussed below.

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## **Analysis**

**Bill Summary:** In general, the governing structures of the separated HBCUs mirrors that of the State's other HBCU, Morgan State University (MSU), which is not part of USM. The major difference from MSU's governing structure is the required composition of the boards. As with MSU under current law, under the bill, each institution's president serves at the pleasure of its board rather than the USM Board of Regents.

### *Board of Regents*

The government of each university is vested in its board. The bill establishes three boards, one to govern each of the three universities separated from USM under the bill.

Each board consists of 15 members appointed with the advice and consent of the Senate. Two members must be students that serve one-year terms; the remaining members must include (1) a minimum of five members, including the chair, who have attended a HBCU; (2) three members selected by the alumni association of the university; and (3) one member selected by the local chapter of the National Association for the Advancement of Colored People. The membership of the board must, to the extent practicable, be representative of the student body demographics of the university.

Except for the student members, each member serves for five years and until a successor is appointed and qualifies. The terms of members are staggered as required by the terms provided for members of the board on July 1, 2021. A member may not serve more than two consecutive terms.

Except for the student members, no more than three members of the board who are not alumni of the university may be residents of other states. A member appointed to fill a vacancy in an unexpired term serves only for the remainder of that term and until a successor is appointed and qualifies.

Each member of the board serves without compensation but is entitled to reimbursement for expenses.

### *Operation of the Board and the President*

Each year, each board must select one of its nonstudent members as its chair and may elect any other officer it requires. The board must determine the time and place of its meetings and may adopt rules for the conduct of its meetings. A majority of the members constitutes a quorum for the transaction of business. The board may take no formal action without the approval of a majority of the board members.

The bill also establishes the responsibilities, powers, duties, and authorities of the presidents of the institutions.

#### *Additional Requirements*

The bill establishes that specified requirements that apply to USM under current law apply to the separate institutions – for instance, the requirement that the Legislative Auditor audit each institution. Moreover, the bill establishes that the Maryland Tort Claims Act applies to claims or actions against each university, board, and its employees.

#### *Transfer of Property, Funds, Employees, and Other Matters*

By September 1, 2021, USM must transfer the use of or other legal interest in real or personal property occupied or used by BSU, CSU, or UMES to the respective institution.

The appropriate appropriations, including State and federal funds must be transferred on July 1, 2021. Funding for the services and programs of BSU, CSU, and UMES, as appropriate, must be provided for in the fiscal 2023 State budget. On July 1, 2021, all functions, powers, duties, books, records, and other specified matters must be transferred to the respective institution.

All employees who are transferred as a result of the bill must be transferred without diminution of their rights, benefits, employment, or retirement status.

Unless otherwise prohibited, other specified duties and interests transfer.

#### *High Economic Impact Economic Development Activity*

To promote the economic interests of the State, each of the three universities must utilize its powers as a public corporation to undertake high impact economic development activities that support (1) job creation and workforce development; (2) technology transfer, commercialization, and entrepreneurship; and (3) increased sponsored research funding and other revenues. Under current law, USM as a whole has this responsibility. USM retains this responsibility for the constituent institutions that remain members.

**Current Law:** BSU, CSU, and UMES are constituent institutions of USM.

The USM Board of Regents must appoint a chancellor of USM. The chancellor is the chief executive officer of USM and the chief of staff for the board. Among other duties, the chancellor must coordinate and arbitrate among the institutions and centers of USM. The chancellor serves at the pleasure of the USM board.

Except as specified, in consultation with the chancellor and after a thorough search, the USM board must appoint a qualified person as president of each constituent institution. The USM board must approve any search committee membership convened to recommend a qualified person as president of a constituent institution. The president of each constituent institution serves at the pleasure of the USM board. Subject to the authority and applicable regulations and policies of the USM board, each president has specified powers and duties, including the authority to establish and appoint a board of visitors. Boards of visitors do the following: (1) provide advice to the president; (2) assist in community relations; (3) assist in institutional development; or (4) provide any other assistance requested by the president. Each board of visitors must submit an annual report. The boards of visitors are encouraged to meet periodically with the chancellor and board of regents to develop close working relationships.

In consultation with the presidents of the constituent institutions and the USM campuses, the USM chancellor must develop an overall plan that (1) is consistent with the State Plan for Higher Education in accordance with the charter and with the constituent institutions' approved mission statements; (2) sets forth both long-range and short-range goals, objectives, and priorities for postsecondary education, research, and service provided by USM and methods and guidelines for achieving and maintaining them; and (3) incorporates specified priorities, including enhancing historically African American institutions and recognizing the role of UMES as the State's 1890 land grant institution.

In consultation with the institutions and the chancellor, the USM board must (1) establish standards for funding based on differences in the size and mission of the constituent institutions and (2) review, modify as necessary, and approve consolidated budget requests for appropriations for USM with respect to the operating and capital budgets. These requests for appropriations are organized by constituent institution and submitted to the Maryland Higher Education Commission (MHEC). After the submission, on a date set by the Governor, the presidents of the USM campuses must have the opportunity to meet with the Governor to present their institution's annual budget request and proposals for capital projects for the next fiscal year. The presidents may recommend that the Governor approve or enhance the requests for appropriations submitted by the USM board.

Each USM institution must develop and implement a collegiate recovery program to provide supports and services for students recovering from alcohol or drug addiction based on the standards and guidelines established for the program by the USM board on recommendation of the chancellor.

**State Fiscal Effect:** Under current law, USM leverages its buying power to reduce unit costs for its constituent institutions. For example, it does this to reduce its information technology systems costs. Under the bill, BSU, CSU, and UMES may lose access to these reduced prices negotiated by USM. Further, the separation may reduce USM's leverage to

negotiate the lowest prices for the remaining institutions. Thus, unit costs for BSU, CSU, and UMES for some products and services likely increase, and unit costs for the remaining USM institutions may also increase.

In addition, many constituent institutions share operational resources to reduce costs. For example, the University of Maryland, College Park Campus (UMCP) operates UMES' enterprise resource planning (ERP) system, the institution's financial and human resources software. Under the bill, UMES may need to form a new agreement with UMCP, which may increase UMES costs. Alternatively, if UMES is required to build its own ERP system, UMES higher education expenditures increase by hundreds of thousands of dollars to build and support a new system.

Thus, as early as fiscal 2022, BSU, CSU, and UMES higher education expenditures likely increase due to lost efficiencies. Higher education expenditures for the remaining USM institutions may also increase. Alternatively, the institutions may need to reduce services or functionality or redirect resources from other projects. Any of these impacts cannot be reliably estimated.

Likewise, the institutions lose access to the combined borrowing power of USM, which has the authority to issue academic and auxiliary revenue bonds. Thus, USM institutions can borrow capital funding as an entity separate from the State with an AA1 rating. (MSU also has this authority.) With less access to capital funding, BSU, CSU, and UMES may need to delay capital projects. Any such impact cannot be reliably estimated.

As part of the separation, the treatment of BSU, CSU, and UMES endowment and quasi-endowment funds managed by the University System of Maryland Foundation may also be affected. Any such arrangements may impact the foundation's revenues or expenditures but cannot be reliably estimated.

There are other potential impacts on BSU, CSU, and UMES, as well as on other USM institutions, none of which can be reliably estimated. Further, staff resources at the institutions and USM office will need to be directed to the separation rather than existing projects and priorities.

Separating BSU, CSU, and UMES from USM is not anticipated to materially impact total general fund appropriations or general fund appropriations for any particular institution. Instead of negotiating with the USM chancellor, and appealing to the Governor, the three separate institutions will submit annual budget requests directly to the Department of Budget and Management (DBM). DBM may incur one-time costs to update the computerized budget system, but this is likely absorbable within existing resources.

Replacing the institutions' boards of visitors with boards of regents is not anticipated to materially affect higher education finances.

**Small Business Effect:** To the extent that the three institutions take part in high-impact economic development activities that are more or less or different from those that USM would take, there may be minimal impact on small businesses. However, any such impact cannot be reliably estimated.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Department of Information Technology; Governor's Office; University System of Maryland; Department of Budget and Management; Maryland Department of the Environment; Maryland Department of Planning; Department of Public Safety and Correctional Services; Board of Public Works; Department of State Police; Department of Legislative Services - Office of Legislative Audits; Department of Legislative Services

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