SENATE DOCKET, NO. FILED ON: 1/9/2009

**SENATE . . . . . . . . . . . . . . . No.**

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The Commonwealth of Massachusetts

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PRESENTED BY:

**O'Leary, Robert (SEN)**

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General
 Court assembled:*

 The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act Relative to Funding Public Institutions of Higher Education .

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

PETITION OF:

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| Name: | District/Address: |
| O'Leary, Robert (SEN) | Cape and Islands |

The Commonwealth of Massachusetts

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**In the Year Two Thousand and Nine**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

An Act Relative to Funding Public Institutions of Higher Education .

 *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1.

(a) Section 9 of chapter 15A of the general laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the third paragraph.

(b) Section 22 of said chapter 15A, as so appearing, is hereby amended by inserting after the first paragraph the following: -

 The board of trustees of each state and community college shall, for each academic year beginning on or after July 1, 2009, fix and establish tuition and fee rates for each college. In-state tuition rates for the college shall preserve affordability for residents of the commonwealth. Out-of-state tuition rates shall appropriately balance the financial needs of the college with the need to be competitive with peer institutions regionally and nationwide

For each academic year beginning on or after July 1, 2009, all tuition and fees received by a state or community college shall be retained by the board of trustees of each state or community college in a revolving trust fund or funds and shall be expended by the board of trustees of the state or community college. Every such trust fund shall be established in accordance with and subject to the requirements of section 14 of chapter 73 of the general laws Any balance remaining in the trust fund or funds at the end of the fiscal year shall continue to be held in said trust fund or funds, shall remain available for expenditure in subsequent fiscal years, and shall not revert to the general fund. All such trust funds shall be subject to audit by the state auditor.

Notwithstanding any general or special law to the contrary, unless the state appropriation is less than the previous fiscal year’s appropriation, the rate of increase for in-state tuition and general fees shall not exceed the 3-year average of the consumer price index for Massachusetts (CPI). Each college may request a higher rate of increase within parameters and procedures set by the board of higher education, in conjunction with the presidents of the state and community colleges and upon the approval of the board of higher education. In determining approval, the board shall take into consideration the overall well-being of the institution, the quality of the academic programs, multiple years of underfunding of the institutions, any 9C cuts, so-called, that may have been instituted, and the additional financial burden on the student population of the institutions. Should the state appropriation be less than the previous fiscal year appropriation, the institutions shall first utilize not less than 25% of the combined total of their unrestricted reserve funds, including the student charges stabilization fund established pursuant to this act. For the purposes of this section, unrestricted reserves shall not include funds from auxiliary enterprise activities, grants and contracts, continuing education programs, gifts or plant funds. Following this, should their funding level still fall short of the previous year’s appropriation, the institutions may increase student charges to attain the level of the previous fiscal year’s appropriation plus the 3 year average of the consumer price index.

Insofar as is practicable, the final rates of student charges shall be established for the subsequent academic year no later than 15 days prior to the deadline for submission of state and federal financial aid applications by students attending institutions of higher education.

For employees of any state or community college who, after July 1, 2009, are paid from tuition retained pursuant to this section, fringe benefits shall be funded as if those employees’ salaries were supported by state appropriations. This paragraph shall apply only to fringe benefits associated with salaries paid from tuition retained by the board of trustees of a state or community college as a direct result of the authority granted by the preceding paragraph of this section..

Notwithstanding the provisions of this section to the contrary, the board of trustees of a state or community college may fix and establish a tuition rate and charges reduction for residents of bordering states to not less than 1 and ½ times the institution’s in-state tuition and fee rates, if it determines that the institution is below enrollment capacity and the projected cost to the institution and the commonwealth of the reduction would be minimal when taking into account the projected enrollment growth associated with such an adjustment. The board of trustees shall seek reciprocal arrangements from bordering states where no such tuition reduction is available for residents of the commonwealth.

(c) Section 1A of chapter 75 of the general laws, as so appearing, is hereby amended by striking out clause (p) in the fifth paragraph and inserting in place thereof, the following clause: -

 (p) to fix and establish tuition rates of said university and to retain such tuition in accordance with this section

(d) Said section 1A of said chapter 75, as so appearing, is hereby further amended by inserting after the fifth paragraph the following: -

 The board of trustees shall, for each academic year beginning on or after July 1, 2009, fix and establish tuition and fee rates for the university. In-state tuition rates shall preserve affordability for residents of the commonwealth. Out-of-state tuition rates shall appropriately balance the financial needs of the university with the need to be competitive with peer institutions regionally and nationwide.

 For each academic year beginning on or after July 1, 2009, all tuition and fees received by the university shall be retained by the board of trustees in a revolving trust fund or funds and all be expended as the board of trustees may direct for the operation and support of the university . Each such trust fund shall be established with and subject to the requirements of section 11. Any balance in said trust fund or funds at the end of the fiscal year shall continue to be held in said trust fund or funds, shall remain available for expenditure in subsequent fiscal years, and shall not revert to the general fund. Any such trust funds shall be subject to audit by the state auditor.

Notwithstanding any general or special law to the contrary, unless the state appropriation is less than the previous fiscal year’s appropriation, the rate of increase for in-state tuition and general fees shall not exceed the 3-year average of the consumer price index for Massachusetts (CPI). The university may request a higher rate of increase within parameters and procedures set by the secretary of education, in conjunction with the board of trustees of the university and the president of the university and upon the approval of the secretary of education. In determining approval, the secretary shall take into consideration the overall well-being of the institution, the quality of the academic programs, multiple years of underfunding of the institutions, any 9C cuts, so-called, that may have been instituted, and the additional financial burden on the student population of the institution. Should the state appropriation be less than the previous fiscal year appropriation, the university shall first utilize not less than 25% of the combined total of their unrestricted reserve funds, including the student charges stabilization fund established pursuant to this act. For the purposes of this section, unrestricted reserves shall not include funds from auxiliary enterprise activities, grants and contracts, continuing education programs, gifts or plant funds. Following this, should their funding level still fall short of the previous year’s appropriation, the institutions may increase student charges to attain the level of the previous fiscal year’s appropriation plus the 3 year average of the consumer price index.

Insofar as is practicable, the final rates of student charges shall be established for the subsequent academic year no later than 15 days prior to the deadline for the submission of state and federal financial aid applications by students attending institutions of higher education as set forth in section 5.

For employees of the university who, after July 1, 2009, are paid from tuition retained pursuant to this section, fringe benefits shall be funded as if those employees’ salaries were supported by state appropriations. This paragraph shall apply only to fringe benefits associated with salaries paid from tuition retained by the board of trustees as a direct result of the authority granted by the preceding paragraph of this section.

Notwithstanding the provisions of this section to the contrary, the board of trustees of the university may fix and establish a tuition rate and charges reduction for residents of bordering states to not less than 1 and ½ times the institution’s in-state tuition and fee rates if it determines that the institution is below enrollment capacity and the projected cost to the institution and the commonwealth of the reduction would be minimal when taking into account he projected enrollment growth associated with such adjustment. The board of trustees shall seek reciprocal arrangements from bordering states where no such tuition reduction is available for residents of Massachusetts.

(d) Said chapter 15A is hereby amended by adding, after section 41, the following section: -

Section 42. (a) Notwithstanding any general or special law to the contrary, each community college, each state college and the university of Massachusetts shall create at the institution a reserve fund, hereinafter referred to as the “student charges stabilization fund”, for their respective institution. There shall be deposited annually into the student charges stabilization fund of each institution the following: (1) any moneys which, within 60 days following the end of the fiscal year, the institution certifies to the state comptroller are moneys that were appropriated to the institution for that fiscal year and that were not expended during, and remain unencumbered for expenditure in respect of, that fiscal year; provided, that notwithstanding any general or special law to the contrary, all such moneys shall remain available for expenditure, without further appropriation, in subsequent fiscal years and shall not revert to the General Fund; and provided further that the state comptroller shall transfer any such moneys remaining in the state treasury to the institution within 30 days of receipt of the institution’s certification; (2) moneys that are appropriated to an institution which are required by the legislature to be deposited into the institutions student charges stabilization fund; and (3) other moneys that an institution may elect to deposit into its student charges stabilization fund, including student tuition and fee revenue. Student charges stabilization fund moneys shall be deposited in an interest bearing account credited to its respective institution.

(b) Each institution shall deposit 5 per cent of any growth in state appropriation and tuition and fees from the prior year into their student charges stabilization fund.

(c) The board of trustees at each community college, state college and the university may, in a fiscal year and upon the vote of the board, expend moneys in its student charges stabilization fund whenever in any such fiscal year the moneys made available to the institution do not meet the commonwealth’s annual full funding obligations with respect to the operating requirements of the institution set forth in section 1. Among the uses as the boards of trustees of each state or community college or the university, shall direct for the operation and support of the institution, the moneys shall first be used to reduce the need for increases in tuition and fees and to mitigate such increases should they become necessary.

(e) Section 19 of chapter 15A, as so appearing, is hereby amended by inserting after the second paragraph the following: -

The commonwealth shall bear the cost of providing any waivers granted under this section; provided further, that institutions shall not be required, on a year to year basis to grant waivers of a total value greater than those granted during the 2007 academic year.

(f) Notwithstanding the provisions of this section to the contrary, the Massachusetts College of Art and Design and the Massachusetts Maritime Academy shall be governed by section 25 of chapter 45 of the acts of 2005.

(g) The secretary of education shall undertake a review of the tuition retention program not later than July 1, 2014. Within said review, the secretary shall make any recommendations as to legislative changes to the program, including but not limited to, the repeal of said program.