

SENATE BILL 296

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1999 Regular Session  
(9r0772)

**ENROLLED BILL**  
*-- Economic and Environmental Affairs/Appropriations --*

Introduced by **Senator Miller**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Institutions of Higher Education - Affiliated Foundations**

3 FOR the purpose of ~~repealing a requirement that certain affiliated foundations~~  
4 ~~operate subject to policies adopted by the governing boards of public institutions~~  
5 ~~of higher education~~; authorizing the presidents of the University System of  
6 Maryland constituent institutions to establish certain foundations under certain  
7 circumstances; ~~requiring a certain report by a certain date~~; clarifying that a  
8 certain affiliated foundation may not be considered an agency or  
9 instrumentality of the State or unit of the Executive Branch; clarifying that a  
10 financial obligation or liability of a certain affiliated foundation may not be  
11 considered a debt or obligation of the State or the University System of  
12 Maryland; and generally relating to public institutions of higher education.

13 BY repealing and reenacting, with amendments,  
14 Article - Education  
15 Section 15-104  
16 Annotated Code of Maryland

1 (1997 Replacement Volume and 1998 Supplement)

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

4 **Article - Education**

5 15-104.

6 (a) It is the public policy of the State that endowment funds of public  
7 institutions of higher education and gifts, donations, bequests, private endowments,  
8 and private grants received by public institutions of higher education or their  
9 governing boards, including any income therefrom:

10 (1) Shall be used in accordance with the wishes of the donors; and

11 (2) May not be used as a substitute for State General Fund  
12 appropriations.

13 (b) (1) The public institutions of higher education are encouraged to  
14 promote private fundraising by strengthening institutional development activities  
15 and by maintaining relationships with affiliated foundations.

16 (2) Affiliated foundations that are independently established for this  
17 purpose shall ~~operate~~ subject to policies adopted by the governing boards and ~~BE~~  
18 approved for form and legal sufficiency by the Attorney General.

19 (3) THE PRESIDENTS OF THE UNIVERSITY SYSTEM OF MARYLAND  
20 CONSTITUENT INSTITUTIONS MAY ESTABLISH CAMPUS-BASED FOUNDATIONS. EACH  
21 FOUNDATION NEED NOT BE APPROVED BY THE BOARD OF REGENTS OF THE  
22 UNIVERSITY SYSTEM OF MARYLAND BUT SHALL OPERATE SUBJECT TO POLICIES  
23 ADOPTED BY THE BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF MARYLAND  
24 IN CONSULTATION WITH THE PRESIDENTS OF THE UNIVERSITY SYSTEM OF  
25 MARYLAND CONSTITUENT INSTITUTIONS.

26 (4) AN AFFILIATED FOUNDATION ESTABLISHED AND OPERATED UNDER  
27 THIS SUBSECTION MAY NOT BE CONSIDERED AN AGENCY OR INSTRUMENTALITY OF  
28 THE STATE OR A UNIT OF THE EXECUTIVE BRANCH FOR ANY PURPOSE.

29 (5) A FINANCIAL OBLIGATION OR LIABILITY OF AN AFFILIATED  
30 FOUNDATION ESTABLISHED AND OPERATED UNDER THIS SUBSECTION MAY NOT BE  
31 CONSIDERED A DEBT OR AN OBLIGATION OF THE STATE OR THE UNIVERSITY  
32 SYSTEM OF MARYLAND.

33 [(3)] ~~(4)~~ (6) Sections 15-501 through 15-504 of the State Government  
34 Article do not bar an official or employee of a public institution of higher education  
35 from becoming a director, official, or employee of an independent foundation  
36 organized to foster fundraising and provide related services for the benefit of the  
37 institution.

1            [(4)]    ~~(5)~~    (7)    No funds shall be accepted from an affiliated foundation  
2 by a public institution of postsecondary education unless the fiscal affairs of the  
3 affiliated foundation are audited annually by an independent certified public  
4 accountant.

5        ~~SECTION 2. AND BE IT FURTHER ENACTED, That the Board of Regents of~~  
6 ~~the University System of Maryland in consultation with the presidents of the~~  
7 ~~University System of Maryland constituent institutions shall report to the General~~  
8 ~~Assembly on or before September 1, 1999, in accordance with Section 2-1246 of the~~  
9 ~~State Government Article, on a plan to transfer to any foundation established under~~  
10 ~~this Act the assets held on behalf of any University System of Maryland constituent~~  
11 ~~institution.~~

12        ~~SECTION 3.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take  
13 effect July 1, 1999.