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By: **Delegate F. Turner**

Introduced and read first time: January 20, 2003

Assigned to: Appropriations

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A BILL ENTITLED

1 AN ACT concerning

2 **Higher Education - Moratorium on New Programs**

3 FOR the purpose of prohibiting an institution of postsecondary education from  
4 establishing new programs; prohibiting the president of a constituent institution  
5 of the University System of Maryland from establishing new programs;  
6 repealing the Graduate Professional Certificate Program; providing for the  
7 effective date of certain provisions of this Act under certain circumstances;  
8 declaring the intent of the General Assembly; requiring the Secretary of the  
9 Maryland Higher Education Commission to report to the General Assembly on  
10 or before a certain date; providing for the termination of certain provisions of  
11 this Act; and generally relating to a moratorium on new programs at institutions  
12 of postsecondary education.

13 BY repealing and reenacting, with amendments,  
14 Article - Education  
15 Section 11-206(a) and (b) and 11-206.1  
16 Annotated Code of Maryland  
17 (2001 Replacement Volume and 2002 Supplement)

18 BY repealing and reenacting, with amendments,  
19 Article - Education  
20 Section 11-206(a)  
21 Annotated Code of Maryland  
22 (2001 Replacement Volume and 2002 Supplement)  
23 (As enacted by Chapter 515 of the Acts of the General Assembly of 1999)

24 BY repealing  
25 Article - Education  
26 Section 11-206.2  
27 Annotated Code of Maryland  
28 (2001 Replacement Volume and 2002 Supplement)

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

3 **Article - Education**

4 11-206.

5 (a) This section does not apply to[

6 (1) New programs proposed to be implemented by a constituent  
7 institution of the University System of Maryland using existing program resources in  
8 accordance with § 11-206.1 of this subtitle; and

9 (2) Programs] PROGRAMS offered by institutions of higher education  
10 that operate in the State without a certificate of approval in accordance with §  
11 11-202(c)(2) or (3) of this subtitle.

12 (b) (1) Prior to the proposed date of implementation, the governing body of  
13 an institution of postsecondary education shall submit to the Commission each  
14 proposal for[

15 (i) A new program; or

16 (ii) A] A substantial modification of an existing program.

17 (2) The Commission shall review each such proposal and:

18 (i) With respect to each public institution of postsecondary  
19 education, either approve or disapprove the proposal;

20 (ii) With respect to each nonpublic institution of higher education,  
21 either recommend that the proposal be implemented or that the proposal not be  
22 implemented; and

23 (iii) With respect to a private career school, either approve or  
24 disapprove the proposal.

25 (3) If the Commission fails to act within 60 days of the date of  
26 submission of the completed proposal, the proposal shall be deemed approved.

27 (4) Except as provided in paragraph (3) of this subsection, a public  
28 institution of postsecondary education and private career school may not implement a  
29 proposal without the prior approval of the Commission.

30 (5) Except as provided in paragraph (3) of this subsection, and subject to  
31 the provisions of § 17-105 of this article, a nonpublic institution of higher education  
32 may implement a proposal that has not received a positive recommendation by the  
33 Commission.





1 (ii) Meets criteria for the quality of new programs, developed in  
2 consultation with the Commission; and

3 (iii) Can be implemented within the existing program resources of  
4 the institution, verified by a process established in consultation with the Commission;  
5 and

6 (3) Approve the proposed new program within 60 days if the program  
7 meets the criteria in paragraph (2) of this subsection, subject to the provisions of  
8 subsections (c) and (d) of this section].

9 [(c) Within 30 days of receipt of a notice of an institution's intent to establish a  
10 new program in accordance with subsection (a) of this section, the Commission may  
11 file, or the institutions of higher education in the State may file with the Commission,  
12 an objection to implementation of a proposed program provided the objection is based  
13 on:

14 (1) Inconsistency of the proposed program with the institution's  
15 approved mission;

16 (2) Unreasonable program duplication which would cause demonstrable  
17 harm to another institution; or

18 (3) Violation of the State's equal educational opportunity obligations  
19 under State and federal law.

20 (d) (1) If an objection is filed under subsection (c) of this section by the  
21 Commission or an institution within 30 days of receipt of a notice of an institution's  
22 intent to establish a new program, the Commission shall immediately notify the  
23 institution's governing board and president.

24 (2) The Commission shall determine if an institution's objection is  
25 justified based on the criteria in subsection (c) of this section.

26 (3) An objection shall be accompanied by detailed information  
27 supporting the reasons for the objection.

28 (4) If the Commission determines that an objection is justified, the  
29 Commission shall negotiate with the institution's governing board and president to  
30 modify the proposed program in order to resolve the objection.

31 (5) If the objection cannot be resolved within 30 days of receipt of an  
32 objection, the Commission shall make a final determination on approval of the new  
33 program.

34 (e)] (C) (1) The Commission shall:

35 (i) Identify programs established under subsection (a) of this  
36 section that are inconsistent with the State Plan for Higher Education; and

1 (ii) Identify low productivity programs.

2 (2) If the Commission identifies any programs that meet the criteria set  
3 forth in paragraph (1) of this subsection, the Commission shall notify the president of  
4 the institution.

5 (3) If the Commission notifies a president of an institution under  
6 paragraph (2) of [the] THIS subsection, within 60 days the president of the institution  
7 shall provide to the Commission in writing:

8 (i) An action plan to abolish or modify the program; or

9 (ii) Justification for the continuation of the program.

10 [(f)] (D) The Commission and the governing boards of the public institutions  
11 of higher education shall jointly develop a definition and accepted criteria for  
12 determining low productivity programs.

13 [(g)] (E) The Commission shall:

14 (1) Monitor the program development and review process established  
15 under this section;

16 (2) Report annually to the Governor, the Board of Regents, and, in  
17 accordance with § 2-1246 of the State Government Article, the General Assembly on  
18 the nature and extent of any duplication or proliferation of programs; and

19 (3) On or before January 1, 2004, submit a report to the Governor, the  
20 Board of Regents, and, in accordance with § 2-1246 of the State Government Article,  
21 the General Assembly on:

22 (i) The impact of the program development and review process on  
23 the quality and accessibility of postsecondary education in the State; and

24 (ii) Any increased costs due to duplication of programs.

25 [11-206.2.

26 (a) In this section, "Graduate Professional Certificate Program" means a  
27 program that:

28 (1) Offers and awards a graduate certificate for successful completion of  
29 the number of courses required by the appropriate national professional association  
30 or state licensure or certification board for business and health professions and  
31 occupations; and

32 (2) Satisfies the requirements beyond the baccalaureate level for  
33 licensure or certification in a profession or occupation.

1 (b) An institution of higher education may establish a Graduate Professional  
2 Certificate Program if the institution offers a degree program directly related to the  
3 area of licensure or certification.

4 (c) (1) The president of an institution of higher education shall notify the  
5 governing board of the institution and the Commission of the institution's intent to  
6 offer a Graduate Professional Certificate Program.

7 (2) The Program shall be approved by the Commission and implemented  
8 consistent with the provisions of this section.]

9 SECTION 4. AND BE IT FURTHER ENACTED, That it is the intent of the  
10 General Assembly that enactment of the prohibition on the establishment of new  
11 programs in institutions of postsecondary education shall terminate when the  
12 Secretary of the Maryland Higher Education Commission determines that 50% or  
13 more of the State's teaching, nursing, and pharmacy workforce has graduated from  
14 institutions in the State.

15 SECTION 5. AND BE IT FURTHER ENACTED, That the Secretary of the  
16 Maryland Higher Education Commission shall report annually to the General  
17 Assembly on or before September 30, in accordance with § 2-1246 of the State  
18 Government Article, on the success of meeting the goal of 50% or more of the State's  
19 teaching, nursing, and pharmacy workforce having graduated from institutions in the  
20 State. The report shall provide the General Assembly with information about and  
21 recommendations for appropriate legislation relating to this goal.

22 SECTION 6. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall  
23 take effect on the taking effect of the termination provision specified in Section 11 of  
24 Chapter 515 of the Acts of the General Assembly of 1999 as amended by Section 1 of  
25 Chapter 244 of the Acts of the General Assembly of 2002. If that termination provision  
26 takes effect, Section 1 of this Act shall be abrogated and of no further force and effect.  
27 This Act may not be interpreted to have any effect on that termination provision.

28 SECTION 7. AND BE IT FURTHER ENACTED, That, subject to the provisions  
29 of Section 6 of this Act, this Act shall take effect October 1, 2003.