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By: **Senators Conway, Britt, Currie, Exum, Gladden, Hughes, Jones, Kelley,  
Lawlah, and McFadden**

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Committee Report: Favorable with amendments

Senate action: Adopted

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Institutions of Maryland Higher Education Commission - Review of**  
3 **Duplicative Academic Programs and Funding – Parity**

4 FOR the purpose of ~~amending the Maryland Charter for Higher Education to require~~  
5 ~~certain funding policies to allocate certain resources in a certain manner to~~  
6 ~~certain similarly classified institutions of higher education; requiring the~~  
7 ~~Maryland Higher Education Commission to ensure that parity exists between~~  
8 ~~certain academic programs at certain institutions of higher education and that~~  
9 ~~certain programs receive equitable and comparable funding; requiring the~~  
10 ~~Commission to determine whether certain proposed academic programs meet~~  
11 ~~certain requirements; prohibiting the Commission from approving certain~~  
12 ~~duplicative academic programs; requiring the Commission to consider certain~~  
13 ~~programs unnecessarily and unreasonably duplicative if the program meets~~  
14 ~~certain criteria; requiring the Commission to review certain existing programs~~  
15 ~~at certain institutions for certain reasons; requiring the Commission to initiate~~  
16 ~~and conduct a review of certain programs if a certain request for a certain~~  
17 ~~determination is made by certain institutions; providing that certain decisions~~  
18 ~~of the Commission concerning duplication of existing academic programs is~~  
19 ~~subject to administrative appeal and judicial review; requiring the Commission~~  
20 ~~to contract with a consultant to conduct a comprehensive review of similarly~~  
21 ~~classified institutions of higher education in the State for certain purposes;~~  
22 ~~requiring the consultant to consider certain factors in the review required by~~  
23 ~~this Act; defining a certain term; and generally relating to institutions of higher~~  
24 ~~education and parity of academic programs and funding requiring the Maryland~~  
25 ~~Higher Education Commission to make a certain determination concerning a~~  
26 ~~program implemented after a certain date under certain circumstances;~~

1 providing that certain decisions of the Commission concerning duplication of  
 2 academic programs are subject to judicial review in the circuit court in  
 3 accordance with certain rules; and generally relating to the review of duplicative  
 4 academic programs.

5 BY repealing and reenacting, with amendments,  
 6 Article - Education  
 7 Section ~~10-101, 10-203, 11-105(h), and 11-206~~ and 11-206.1  
 8 Annotated Code of Maryland  
 9 (2004 Replacement Volume and 2005 Supplement)

10 ~~BY repealing and reenacting, without amendments,~~  
 11 ~~Article - Education~~  
 12 ~~Section 11-105(a)~~  
 13 ~~Annotated Code of Maryland~~  
 14 ~~(2004 Replacement Volume and 2005 Supplement)~~

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

17 **Article - Education**

18 ~~10-101.~~

- 19 (a) ~~In this division the following words have the meanings indicated.~~
- 20 (b) ~~"Charter" means the Maryland Charter for Higher Education.~~
- 21 (c) ~~"Commission" means the Maryland Higher Education Commission.~~
- 22 (d) ~~"Governing board" means:~~
- 23 (1) ~~The Board of Regents of the University System of Maryland;~~
- 24 (2) ~~The Board of Regents of Morgan State University;~~
- 25 (3) ~~The Board of Trustees of St. Mary's College of Maryland; and~~
- 26 (4) ~~The Board of Trustees of Baltimore City Community College.~~
- 27 (e) ~~"Governing body" means:~~
- 28 (1) ~~A governing board;~~
- 29 (2) ~~A board of trustees of a community college;~~
- 30 (3) ~~The governing entity of nonpublic institutions of higher education; or~~
- 31 (4) ~~The governing entity of a regional higher education center.~~

1 (f) "Institution of higher education" means an institution of postsecondary  
 2 education that generally limits enrollment to graduates of secondary schools, and  
 3 awards degrees at either the associate, baccalaureate, or graduate level.

4 (g) (1) "Institution of postsecondary education" means a school or other  
 5 institution that offers an educational program in the State for individuals who are at  
 6 least 16 years old and who have graduated from or left elementary or secondary  
 7 school.

8 (2) "Institution of postsecondary education" does not include:

9 (i) Any adult education, evening high school, or high school  
 10 equivalence program conducted by a public school system of the State; or

11 (ii) Any apprenticeship or on the job training program subject to  
 12 approval by the Apprenticeship and Training Council.

13 (h) "Private career school" means a privately owned and privately operated  
 14 institution of postsecondary education other than an institution of higher education  
 15 that furnishes or offers to furnish programs, whether or not requiring a payment of  
 16 tuition or fee, for the purpose of training, retraining, or upgrading individuals for  
 17 gainful employment as skilled or semiskilled workers or technicians in recognized  
 18 occupations or in new and emerging occupations.

19 (i) "Program" or "educational program" means an organized course of study  
 20 that leads to the award of a certificate, diploma, or degree.

21 (j) "Public senior higher education institution" means:

22 (1) The constituent institutions of the University System of Maryland;

23 (2) Morgan State University; and

24 (3) St. Mary's College of Maryland.

25 (k) "Regional higher education center" means a higher education facility in the  
 26 State that:

27 (1) Is operated by a public institution of higher education in the State or  
 28 a nonpublic institution of higher education operating under a charter granted by the  
 29 General Assembly and includes participation by two or more institutions of higher  
 30 education in the State;

31 (2) Consists of an array of program offerings from institutions of higher  
 32 education approved to operate in the State by the Commission or by an act of the  
 33 General Assembly that specifically satisfies the criteria set forth in § 10-212(b) of this  
 34 title;

35 (3) Offers multiple degree levels; and

1           (4)     Is either approved by the Commission to operate in the State or is  
2 established by statute.

3           (4)     "Secretary" means the Secretary of Higher Education.

4           (M)     ~~"SIMILARLY CLASSIFIED INSTITUTIONS" MEANS INSTITUTIONS OF  
5 HIGHER EDUCATION THAT SHARE A SIMILAR CLASSIFICATION UNDER THE  
6 CARNEGIE CLASSIFICATION OF INSTITUTIONS OF HIGHER EDUCATION REPORT  
7 PUBLISHED BY THE CARNEGIE FOUNDATION.~~

8           ~~(m)~~   (N)     "State Plan for Higher Education" means the plan for postsecondary  
9 education and research required to be developed by the Maryland Higher Education  
10 Commission under § 11-105(b) of this article.

11 ~~10-203.~~

12           (a)     ~~It is the goal of the State that public senior higher education institutions  
13 be funded at 100 percent of funding guidelines developed by the Maryland Higher  
14 Education Commission.~~

15           (b)     ~~Funding policies shall allocate State resources efficiently while providing  
16 incentives for quality and institutional diversity.~~

17           (C)     ~~FUNDING POLICIES SHALL ALLOCATE STATE RESOURCES COMPARABLY  
18 AND EQUITABLY TO SIMILARLY CLASSIFIED INSTITUTIONS OFFERING SIMILAR OR  
19 DUPLICATE ACADEMIC PROGRAMS.~~

20           ~~(c)~~   (D)     Funding proposals for public senior higher education institutions  
21 shall include:

22                   (1)     ~~Base funding in accordance with the role and mission of the  
23 institution, as approved by the Maryland Higher Education Commission;~~

24                   (2)     ~~Special initiative funding:~~

25                           (i)     ~~For academic programs at historically African American  
26 colleges and universities; and~~

27                           (ii)    ~~For the reward of academic innovation and enhancement; and~~

28                   (3)     ~~Capital funding to support construction, operation, and maintenance  
29 of a physical plant that is consistent with each institution's mission.~~

30           ~~(d)~~   (E)     (1)     Funding proposals for regional higher education centers may  
31 include:

32                           (i)     ~~Ongoing operating support to provide access to affordable  
33 postsecondary education in unserved and underserved areas of the State;~~

34                           (ii)    ~~Incentive funding to promote collaboration among the  
35 institutions of higher education and regional higher education centers; and~~

1 (iii) Capital funding to support construction, operation, and  
2 maintenance of a physical plant consistent with the approved mission statement of  
3 the center.

4 (2) Operating funds for each regional higher education center that is  
5 administered by the University System of Maryland shall be included in the  
6 appropriation of the system office as a separate line item in the Governor's operating  
7 budget.

8 ~~[(e)]~~ (F) Student financial aid programs should be developed in order to  
9 provide reasonable access to the appropriate academic programs for individuals who  
10 exhibit financial need, who are educationally disadvantaged, or who exhibit special  
11 merit.

12 ~~11-105.~~

13 (a) In addition to any other powers granted and duties imposed by this title  
14 and subject to any restrictions imposed by law, the Commission has the powers and  
15 duties set forth in this section.

16 (h) The Commission:

17 (1) May secure, compile, and evaluate information on any matter within  
18 its authority, in the format it requires, from any person, agency, regional higher  
19 education center, or institution subject to its authority;

20 (2) May engage in research, data compilation, and publication of reports  
21 concerning postsecondary education in the State;

22 (3) Through its representatives, may visit at any reasonable times and  
23 make reasonable inspections of any institution of postsecondary education or regional  
24 higher education center subject to its authority;

25 (4) In consultation with the segments of higher education, shall develop  
26 guidelines to assess the adequacy of operating and capital funding based on  
27 comparisons with institutions designated as peer institutions and other appropriate  
28 factors; ~~[and]~~

29 (5) (I) SHALL ENSURE THAT PARITY EXISTS BETWEEN DUPLICATE  
30 ACADEMIC PROGRAMS THAT EXISTED ON OR BEFORE JULY 1, 2006 AT  
31 GEOGRAPHICALLY PROXIMATE INSTITUTIONS AND THAT THE PROGRAMS RECEIVE  
32 EQUITABLE AND COMPARABLE FUNDING; AND

33 (II) IN ASSESSING COMPARABILITY AND PARITY AS REQUIRED  
34 UNDER ITEM (I) OF THIS PARAGRAPH, SHALL CONSIDER THE FOLLOWING CRITERIA:

35 1. AN INSTITUTION'S STUDENT FACULTY RATIO AS IT  
36 RELATES TO THE CARNEGIE CLASSIFICATION, MISSION, AND COMPOSITION OF THE  
37 STUDENT BODY OF THE INSTITUTION;

- 1                                 ~~2.     THE DISTRIBUTION OF FINANCIAL AID CONSISTENT WITH~~  
2 ~~THE NEEDS OF THE STUDENT POPULATION SERVED BY THE INSTITUTION;~~
- 3                                 ~~3.     THE COMPOSITION AND QUALITY OF FACULTY AND STAFF~~  
4 ~~AT THE INSTITUTION;~~
- 5                                 ~~4.     THE QUALITY OF THE INSTITUTION'S FACILITIES, BOTH~~  
6 ~~DEDICATED AND NONDEDICATED;~~
- 7                                 ~~5.     THE QUALITY AND EXISTENCE OF AUXILIARY RESEARCH~~  
8 ~~CENTERS AND INSTITUTES;~~
- 9                                 ~~6.     THE AMOUNT OF OPERATIONAL FUNDING;~~
- 10                                ~~7.     SCHOLARSHIPS AND FELLOWSHIPS; AND~~
- 11                                ~~8.     ANY OTHER FACTORS THAT AID IN THE DETERMINATION~~  
12 ~~OF PROGRAM PARITY; AND~~

13                 ~~{(5)}~~   ~~(6)     In consultation with the Department of Budget and~~  
14 ~~Management, annually shall make recommendations consistent with the Charter and~~  
15 ~~the plan under subsection (b) of this section on the appropriate level of funding for~~  
16 ~~higher education.~~

17 11-206.

18         (a)     This section does not apply to:

19                 (1)     New programs proposed to be implemented by public and nonpublic  
20 institutions of higher education using existing program resources in accordance with  
21 § 11-206.1 of this subtitle; and

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

25         (b)     (1)     Prior to the proposed date of implementation, the governing body of  
26 an institution of postsecondary education shall submit to the Commission each  
27 proposal for:

28                             (i)     A new program; or

29                             (ii)    A substantial modification of an existing program.

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

31                             ~~(4)     DETERMINE WHETHER THE PROPOSAL MEETS THE~~  
32 ~~REQUIREMENTS OF SUBSECTION (E) OF THIS SECTION; AND~~

33                             ~~{(i)}~~   ~~(H)    +~~     With respect to each public institution of  
34 postsecondary education, either approve or disapprove the proposal;

1                    ~~{(ii)}~~    ~~2-~~     With respect to each nonpublic institution of higher  
2 education, either recommend that the proposal be implemented or that the proposal  
3 not be implemented; and

4                    ~~{(iii)}~~    ~~3-~~     With respect to a private career school, either approve or  
5 disapprove the proposal.

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

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

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

15                   (6)     (i)     If the Commission disapproves a proposal, the Commission  
16 shall provide to the governing body that submits the proposal a written explanation of  
17 the reasons for the disapproval.

18                               (ii)    After revising a proposal to address the Commission's reasons  
19 for disapproval, the governing body may submit the revised proposal to the  
20 Commission for approval.

21                   (c)     (1)     Prior to discontinuation, each institution of postsecondary education  
22 that proposes to discontinue an existing program shall provide written notification to  
23 the Commission specifying:

24                               (i)     The name of the program; and

25                               (ii)    The expected date of discontinuation.

26                   (2)     By rule or regulation, the Commission may require the payment by a  
27 private career school of a refund to any student or enrollee who, because of the  
28 discontinuation of an ongoing program, is unable to complete such program.

29                   (d)     The Commission shall review and make recommendations on programs in  
30 nonpublic institutions of higher education that receive State funds.

31                   (e)     (1)     In this subsection, "governing board" includes the board of trustees of  
32 a community college.

33                               (2)    The Commission shall adopt regulations establishing standards for  
34 determining whether 2 or more programs are unreasonably duplicative.

1           ~~(3)~~   ~~(4)~~    THE COMMISSION MAY NOT APPROVE A NEW ACADEMIC  
2 PROGRAM THAT UNNECESSARILY AND UNREASONABLY DUPLICATES AN EXISTING  
3 ACADEMIC PROGRAM.

4           ~~(H)~~    THE COMMISSION SHALL CONSIDER A PROPOSED PROGRAM  
5 UNNECESSARILY AND UNREASONABLY DUPLICATIVE IF THE PROGRAM:

6                           1.    ~~DUPLICATES A PROGRAM OF ANOTHER INSTITUTION OF~~  
7 ~~HIGHER EDUCATION LOCATED WITHIN 35 MILES OF THE INSTITUTION SEEKING~~  
8 ~~APPROVAL OF THE PROPOSED PROGRAM; AND~~

9                           2.    A.    ~~IS A BACCALAUREATE LEVEL PROGRAM THAT IS NOT~~  
10 ~~A BASIC LIBERAL ARTS AND SCIENCE FOUNDATION COURSE; OR~~

11                           B.    ~~IS A GRADUATE LEVEL PROGRAM.~~

12           ~~{(3)}~~   ~~(4)~~   ~~(4)~~    The Commission ~~{may}~~ ~~SHALL~~ review existing programs  
13 at public institutions of postsecondary education if the Commission has reason to  
14 believe that academic programs are unreasonably duplicative or inconsistent with an  
15 institution's adopted mission.

16           ~~{(4)}~~   ~~(H)~~    The Commission ~~may~~:

17                           ~~(I)~~    MAY make a determination that an unreasonable duplication of  
18 programs exists on its own initiative ~~or SHALL INITIATE AND CONDUCT A REVIEW~~  
19 ~~after; AND~~

20                           ~~(II)~~    AFTER receipt of a request for determination from any directly  
21 affected public institution of postsecondary education, SHALL MAKE A  
22 DETERMINATION CONCERNING A PROGRAM THAT IS APPROVED OR IMPLEMENTED  
23 AFTER JULY 1, 2006.

24           (5)    (i)    If the Commission makes a determination under paragraph  
25 (4)~~(H)~~ of this subsection the Commission may:

26                           1.    Make recommendations to a governing board on the  
27 continuation or modification of the programs;

28                           2.    Require any affected governing board to submit a plan to  
29 resolve the duplication; and

30                           3.    Negotiate, as necessary, with any affected governing board  
31 until the unreasonable duplication is eliminated.

32                           (ii)   Notwithstanding the provisions of subparagraph (i) of this  
33 paragraph, if the Commission determines that 2 or more existing programs offered by  
34 institutions under the governance of different governing boards are unreasonably  
35 duplicative, the governing boards of the institutions of postsecondary education at  
36 which the programs are offered shall have 180 days from the date of the Commission's



1 determination to formulate and present to the Commission a joint plan to eliminate  
2 the duplication.

3 (iii) If in the Commission's judgment the plan satisfactorily  
4 eliminates the duplication, the governing board of the affected institutions shall be so  
5 notified and shall take appropriate steps to implement the plan.

6 (iv) If in the Commission's judgment the plan does not satisfactorily  
7 eliminate the duplication, or if no plan is jointly submitted within the time period  
8 specified in paragraph ~~(6)~~ (7) of this subsection, the governing board of the affected  
9 institutions shall be so notified. The Commission may then seek to eliminate the  
10 duplication by revoking the authority of a public institution of postsecondary  
11 education to offer the unreasonably duplicative program.

12 (6) A DECISION OF THE COMMISSION UNDER THIS SUBSECTION, BASED  
13 ON A REQUEST UNDER SUBSECTION (E)(4) OF THIS SECTION, IS SUBJECT TO JUDICIAL  
14 REVIEW IN THE CIRCUIT COURT IN ACCORDANCE WITH MARYLAND RULE 7-201 ET  
15 SEQ. AND § 10-222 OF THE STATE GOVERNMENT ARTICLE.

16 ~~(6)~~ (7) (i) Prior to imposing a sanction under paragraph (5) of this  
17 subsection, the Commission shall give notice of the proposed sanction to the  
18 governing board of each affected institution.

19 (ii) 1. Within 20 days of receipt of the notice, any affected  
20 institution may request an opportunity to meet with the Commission and present  
21 objections.

22 2. If timely requested, the Commission shall provide such  
23 opportunity prior to the Commission's decision to impose a sanction.

24 (iii) The Commission's decision ~~{shall be final and}~~ is ~~{not}~~ subject  
25 to further administrative appeal ~~{or}~~ ~~AND~~ judicial review.

26 ~~SECTION 2. AND BE IT FURTHER ENACTED, That:~~

27 ~~(a) On or after July 1, 2006, and subject to subsection (b) of this section, the~~  
28 ~~Commission shall contract with an independent consultant to conduct a~~  
29 ~~comprehensive review of similarly classified institutions of higher education in the~~  
30 ~~State that offer similar academic programs. The consultant's review shall determine~~  
31 ~~whether the State has distributed resources equitably so that the similarly classified~~  
32 ~~institutions are comparable and are able to compete equally for the student~~  
33 ~~population served by the duplicate academic programs;~~

34 ~~(b) the governing bodies or a designee of the governing bodies of the~~  
35 ~~institutions of higher education that are being compared shall jointly select the~~  
36 ~~consultant;~~

37 ~~(c) the independent consultant shall consider the following factors in~~  
38 ~~conducting the review required under subsection (a) of this section:~~

- 1 (1) ~~the distinctiveness of each institution's programmatic mission;~~
- 2 (2) ~~the uniqueness, quality, and mix of an institution's academic~~  
3 ~~programs;~~
- 4 (3) ~~operational funding provided to the institution including~~  
5 ~~consideration of whether the funding is consistent with the mix and degree level of~~  
6 ~~academic programs offered, how the funding supports the development of research~~  
7 ~~infrastructure, and whether the funding is consistent with the academic profile of the~~  
8 ~~student body;~~
- 9 (4) ~~the student faculty ratio and how the ratio supports the mission of~~  
10 ~~the institution;~~
- 11 (5) ~~the expanse, functionality, and architectural quality of the physical~~  
12 ~~features of the institution;~~
- 13 (6) ~~the appearance, attractiveness, ambiance, and security of the campus~~  
14 ~~including paths, walkways, landscaping, and lighting;~~
- 15 (7) ~~the surrounding public infrastructure including roads, lighting, and~~  
16 ~~access to public transportation;~~
- 17 (8) ~~the availability, quality, and adequacy of facilities necessary to~~  
18 ~~support the mission and programs offered by an institution;~~
- 19 (9) ~~the amount of funding required to support the student body's quality~~  
20 ~~of life on campus; and~~
- 21 (10) ~~any other factors that the institutions or the consultant consider~~  
22 ~~necessary or helpful in determining the comparability of the institutions; and~~
- 23 (d) ~~the consultant shall complete its review and submit its findings and~~  
24 ~~recommendations to the Commission on or before December 31, 2006.~~

25 11-206.1.

26 (a) In this section the following words have the meanings indicated.

27 (1) "Public institution of higher education" means:

28 (i) A public senior higher education institution; and

29 (ii) A community college.

30 (2) "Nonpublic institution of higher education" means a regionally  
31 accredited institution of higher education eligible for aid under § 17-103 of this title.

32 (b) (1) A president of a public institution of higher education may propose to  
33 establish a new program or abolish an existing program if the action:

1 (i) Is consistent with the institution's adopted mission statement  
2 under Subtitle 3 of this title; and

3 (ii) Can be implemented within the existing program resources of  
4 the institution.

5 (2) A president of a nonpublic institution of higher education may  
6 propose to establish a new program if the action:

7 (i) Is consistent with the mission statement published in the  
8 official catalog of the nonpublic institution; and

9 (ii) Can be implemented within the existing resources of the  
10 institution.

11 (3) The president of a public institution of higher education shall report  
12 any programs that are proposed to be established or abolished in accordance with  
13 paragraph (1) of this subsection to:

14 (i) The institution's governing board; and

15 (ii) The Maryland Higher Education Commission.

16 (4) The president of a nonpublic institution of higher education shall  
17 report any programs that are proposed to be established in accordance with  
18 paragraph (2) of this subsection to the Commission.

19 (5) Upon receipt of a proposed new program, the Commission shall notify  
20 all other institutions of higher education in the State.

21 (c) The governing board of a public institution of higher education shall:

22 (1) Review the actions taken under subsection (b) of this section;

23 (2) Ensure that any new program proposed to be established by a  
24 president:

25 (i) Is consistent with the institution's approved mission statement  
26 under Subtitle 3 of this title;

27 (ii) Meets a regional or statewide need consistent with the  
28 Maryland State Plan for Postsecondary Education;

29 (iii) Meets criteria for the quality of new programs, developed in  
30 consultation with the Commission; and

31 (iv) Can be implemented within the existing program resources of  
32 the institution, verified by a process established in consultation with the Commission.

33 (d) The Board of Regents of the University System of Maryland shall approve  
34 the proposed new program within 60 days if the program meets the criteria in

1 subsection (c)(2) of this section, subject to the provisions of subsections (e) and (f) of  
2 this section.

3 (e) Within 30 days of receipt of a notice of an institution's intent to establish a  
4 new program in accordance with subsection (b) of this section, the Commission may  
5 file, or the institutions of higher education in the State may file with the Commission,  
6 an objection to implementation of a proposed program provided the objection is based  
7 on:

8 (1) Inconsistency of the proposed program with the institution's  
9 approved mission for a public institution of higher education and the mission  
10 statement published in the official catalog of a nonpublic institution of higher  
11 education;

12 (2) Not meeting a regional or statewide need consistent with the  
13 Maryland State Plan for Postsecondary Education;

14 (3) Unreasonable program duplication which would cause demonstrable  
15 harm to another institution; or

16 (4) Violation of the State's equal educational opportunity obligations  
17 under State and federal law.

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

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

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

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

29 (5) If the objection cannot be resolved within 30 days of receipt of an  
30 objection, the Commission shall make a final determination on approval of the new  
31 program for a public institution of higher education or a final recommendation on  
32 implementation for a nonpublic institution of higher education.

33 (6) A DECISION OF THE COMMISSION UNDER THIS SUBSECTION, AFTER  
34 AN OBJECTION UNDER SUBSECTION (E)(3) OF THIS SECTION, IS SUBJECT TO  
35 JUDICIAL REVIEW IN THE CIRCUIT COURT IN ACCORDANCE WITH MARYLAND RULE  
36 7-201 ET SEQ. AND § 10-222 OF THE STATE GOVERNMENT ARTICLE.

37 (g) (1) The Commission shall:

1                   (i)     Identify programs established under subsection (b) of this  
2 section that are inconsistent with the State Plan for Higher Education; and

3                   (ii)    Identify low productivity programs at public institutions of  
4 higher education.

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

8                   (3)     If the Commission notifies a president of an institution under  
9 paragraph (2) of this subsection, within 60 days the president of the institution shall  
10 provide to the Commission in writing:

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

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

13                   (h)     The Commission and the governing boards of the public institutions of  
14 higher education shall jointly develop a definition and accepted criteria for  
15 determining low productivity programs.

16                   (i)     The Commission shall:

17                   (1)     Monitor the program development and review process established  
18 under this section;

19                   (2)     Report annually to the Governor and, in accordance with § 2-1246 of  
20 the State Government Article, the General Assembly on the nature and extent of any  
21 duplication or proliferation of programs; and

22                   (3)     Make available a copy of the report under paragraph (2) of this  
23 subsection to the public institutions of higher education and the nonpublic  
24 institutions of higher education.

25       SECTION ~~3-~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take  
26 effect July 1, 2006.