

# SENATE BILL 294

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CF HB 593

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By: **Senators Ellis, Augustine, Beidle, Carter, Elfreth, Griffith, Guzzone, Hayes, Kagan, King, Lee, McCray, Patterson, Pinsky, Reilly, Smith, Sydnor, Waldstreicher, Washington, and West**

Introduced and read first time: January 22, 2020

Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 19, 2020

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Higher Education – Annual Revenues of For-Profit Institutions – Limitation on**  
3 **Enrollment**  
4 **(Veterans’ Education Protection Act)**

5 FOR the purpose of prohibiting certain for-profit institutions of higher education and  
6 private career schools from enrolling certain students if, beginning in a certain fiscal  
7 year, certain revenue sources exceed a certain proportion of annual revenues;  
8 requiring the Maryland Higher Education Commission to adopt certain regulations;  
9 defining certain terms; and generally relating to institutions of postsecondary  
10 education.

11 BY repealing and reenacting, without amendments,  
12 Article – Education  
13 Section 10–101(a), (c), (d), (h), (i), and (j) and 11–202.2(a)  
14 Annotated Code of Maryland  
15 (2018 Replacement Volume and 2019 Supplement)

16 BY adding to  
17 Article – Education  
18 Section 11–210  
19 Annotated Code of Maryland  
20 (2018 Replacement Volume and 2019 Supplement)

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



## Preamble

WHEREAS, 317,000 veterans live in Maryland; and

WHEREAS, The federal Servicemen's Readjustment Act of 1944 (GI Bill) provided tuition and living expenses to veterans for a college or vocational school; and

WHEREAS, The Post-9/11 GI Bill included expanded benefits for college and living expenses for veterans who served on or after September 11, 2001; and

WHEREAS, The 90/10 Rule of the federal Higher Education Act of 1965 was established as a market viability test to protect taxpayers from artificially propping up failing institutions incapable of attracting at least 10% of their revenue from a private source; and

WHEREAS, The 90/10 Rule contains a loophole that excludes funds of the United States Department of Veterans Affairs and the United States Department of Defense in the cap on federal funds that institutions of postsecondary education otherwise collect; and

WHEREAS, Predatory for-profit institutions of higher education and private career schools aggressively recruit veterans by recruiting on bases and at Veterans Affairs hospitals to access GI benefits and exploit the 90/10 loophole; now, therefore,

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

**Article – Education**

10–101.

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

(c) “Commission” means the Maryland Higher Education Commission.

(d) “For-profit institution of higher education” means an institution of higher education that generally limits enrollment to graduates of secondary schools, awards degrees at the associate, baccalaureate, or graduate level, and is not a public or private nonprofit institution of higher education.

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

(2) “Institution of higher education” includes public, private nonprofit, and for-profit institutions of higher education.

1 (i) (1) "Institution of postsecondary education" means a school or other  
2 institution that offers an educational program in the State for individuals who are at least  
3 16 years old and who have graduated from or left elementary or secondary school.

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

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

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

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

15 11-202.2.

16 (a) (1) In this subtitle the following words have the meanings indicated.

17 (2) "Fully online distance education program in the State" means a  
18 program, originating outside the State, offered by an out-of-state institution in which:

19 (i) A student domiciled in Maryland enrolls;

20 (ii) 51% or more of the program is offered through electronic  
21 distribution; and

22 (iii) The Commission determines that the portion of the program  
23 offered at a location in the State, if any, does not require a certificate of approval under §  
24 11-202 of this subtitle for the institution to operate in the State.

25 (3) "Out-of-state institution" means an institution of higher education  
26 whose primary campus exists outside Maryland and whose authority to grant degrees is  
27 conferred by another state.

28 11-210.

29 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
30 INDICATED.

31 (2) "ANNUAL REVENUE" MEANS THE REVENUE GENERATED DURING  
32 AN INSTITUTION OF POSTSECONDARY EDUCATION'S FISCAL YEAR THAT CAN BE

1 INCLUDED IN ITS CALCULATION RELATED TO COMPLIANCE WITH 20 U.S.C. §  
2 1094(A)(24).

3 (3) (I) "FEDERAL FUNDS" MEANS ANY FEDERAL FINANCIAL  
4 ASSISTANCE PROVIDED TO AN INSTITUTION OF POSTSECONDARY EDUCATION  
5 THROUGH A GRANT, A CONTRACT, A SUBSIDY, A LOAN, A GUARANTEE, AN INSURANCE  
6 POLICY, OR ANY OTHER MEANS.

7 (II) "FEDERAL FUNDS" INCLUDES FEDERAL FINANCIAL  
8 ASSISTANCE THAT IS DISBURSED TO A FOR-PROFIT INSTITUTION OF HIGHER  
9 EDUCATION OR A PRIVATE CAREER SCHOOL UNDER ANY FEDERAL LAW ON BEHALF  
10 OF A STUDENT TO BE USED TO ATTEND THE INSTITUTION OR SCHOOL.

11 (III) "FEDERAL FUNDS" DOES NOT INCLUDE ANY MONTHLY  
12 HOUSING STIPEND PROVIDED UNDER THE FEDERAL POST-9/11 VETERANS  
13 EDUCATIONAL ASSISTANCE ACT OF 2008.

14 ~~(4) "INSTITUTIONAL DEBT" MEANS:~~

15 ~~(I) A STUDENT'S OBLIGATION TO PAY MONEY TO AN~~  
16 ~~INSTITUTION OF POSTSECONDARY EDUCATION FOR COURSE CREDIT OR OTHER~~  
17 ~~EDUCATIONAL SERVICES, INCLUDING OBLIGATIONS THAT HAVE BEEN REDUCED TO~~  
18 ~~JUDGMENT; OR~~

19 ~~(II) A STUDENT'S LOAN OR OTHER DEBT ARRANGEMENT FOR~~  
20 ~~COURSE CREDIT OR OTHER EDUCATIONAL SERVICES AT AN INSTITUTION OF~~  
21 ~~POSTSECONDARY EDUCATION THAT IS:~~

22 ~~1. GUARANTEED BY THE INSTITUTION OF~~  
23 ~~POSTSECONDARY EDUCATION; OR~~

24 ~~2. MADE BY ANY ENTITY THAT IS AFFILIATED WITH THE~~  
25 ~~INSTITUTION OF POSTSECONDARY EDUCATION.~~

26 (B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, THIS SECTION APPLIES  
27 TO:

28 (1) A FOR-PROFIT INSTITUTION OF HIGHER EDUCATION APPROVED  
29 TO OPERATE IN THE STATE;

30 (2) A FOR-PROFIT INSTITUTION OF HIGHER EDUCATION THAT  
31 ENROLLS MARYLAND RESIDENTS IN A FULLY ONLINE DISTANCE EDUCATION  
32 PROGRAM IN THE STATE; AND

1           **(3) A PRIVATE CAREER SCHOOL APPROVED TO OPERATE IN THE**  
2 **STATE THAT HAS NOT BEEN DETERMINED BY THE INTERNAL REVENUE SERVICE TO**  
3 **BE AN ORGANIZATION TO WHICH CONTRIBUTIONS ARE TAX DEDUCTIBLE IN**  
4 **ACCORDANCE WITH § 501(C)(3) OF THE INTERNAL REVENUE CODE.**

5           **(C) AN INSTITUTION OR A SCHOOL DESCRIBED IN SUBSECTION (B) OF THIS**  
6 **SECTION SHALL:**

7           **(1) BE APPROVED BY THE COMMISSION TO RECEIVE EDUCATION**  
8 **ASSISTANCE UNDER THE FEDERAL POST-9/11 VETERANS EDUCATIONAL**  
9 **ASSISTANCE ACT OF 2008; AND**

10           **(2) HAVE RECEIVED FUNDS TO PAY FOR STUDENTS' TUITION, FEES,**  
11 **OR OTHER INSTITUTIONAL CHARGES THROUGH TITLE IV OF THE FEDERAL HIGHER**  
12 **EDUCATION ACT OF 1965 DURING THE PRIOR ACADEMIC YEAR FOR WHICH THE**  
13 **TUITION, FEES, AND OTHER INSTITUTIONAL CHARGES COLLECTED PER FULL-TIME**  
14 **EQUIVALENT STUDENT ENROLLED WOULD NOT BE COVERED IN FULL BY THE**  
15 **AMOUNT OF THE MAXIMUM LEVEL OF FEDERAL PELL GRANT FUNDS.**

16           **(D) AT LEAST 10% OF THE INSTITUTION'S OR SCHOOL'S ANNUAL REVENUE**  
17 **SHALL BE FROM A SOURCE OTHER THAN FEDERAL FUNDS ~~OR INSTITUTIONAL DEBT.~~**

18           **(E) AN INSTITUTION OR A SCHOOL DESCRIBED UNDER SUBSECTION (B) OF**  
19 **THIS SECTION MAY NOT ENROLL NEW MARYLAND RESIDENTS IN A PROGRAM IF,**  
20 **BEGINNING IN FISCAL YEAR 2023:**

21           **(1) IN 2 OUT OF 3 OF THE IMMEDIATELY PRECEDING FISCAL YEARS**  
22 **THE INSTITUTION OR SCHOOL FAILS TO SATISFY THE PROVISIONS OF SUBSECTION**  
23 **(D) OF THIS SECTION; OR**

24           **(2) FOR 2 CONSECUTIVE YEARS THE INSTITUTION OR SCHOOL FAILS**  
25 **TO SATISFY THE PROVISIONS OF SUBSECTION (D) OF THIS SECTION.**

26           **(F) ON OR BEFORE DECEMBER 1, 2020, THE COMMISSION SHALL ADOPT**  
27 **REGULATIONS TO CARRY OUT THIS SECTION.**

28           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
29 1, 2020.