

# SENATE BILL 445

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CF HB 470

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By: **Senators Pinsky, Elfreth, Ellis, Kagan, Lam, Sydnor, Washington, and Young**  
Introduced and read first time: January 27, 2020  
Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **For-Profit Institutions of Higher Education and Private Career Schools –**  
3 **Instructional Spending – Requirements**

4 FOR the purpose of stating the applicability of certain requirements to certain for-profit  
5 institutions of higher education and private career schools; requiring certain  
6 institutions and schools to report certain information on revenues and spending to  
7 the Maryland Higher Education Commission on or before a certain date each year;  
8 requiring that, on or after a certain date each year, certain institutions and schools,  
9 in order to maintain approval to operate in the State and to enroll certain students,  
10 must submit a plan to the Commission detailing the institution's steps to use a  
11 certain percentage of certain revenue on instructional spending and to provide a  
12 certain refund under certain circumstances; prohibiting, on or after a certain date,  
13 certain institutions and schools, in order to maintain approval to operate in the State  
14 and to enroll certain students, from charging students a certain amount of tuition,  
15 fees, or other institutional charges; requiring the Commission to publish certain  
16 information on its website in a certain manner by a certain date; establishing that  
17 certain actions be considered as unfair, abusive, or deceptive trade practices under  
18 a certain definition; requiring the Commission to adopt certain regulations on or  
19 before a certain date; defining certain terms; and generally relating to instructional  
20 spending at for-profit institutions of higher education and private career schools.

21 BY adding to  
22 Article – Education  
23 Section 11–210  
24 Annotated Code of Maryland  
25 (2018 Replacement Volume and 2019 Supplement)

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

28 **Article – Education**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



1 **11-210.**

2 (A) (1) IN THIS SECTION THE FOLLOWING TERMS HAVE THE MEANINGS  
3 INDICATED.

4 (2) "ACADEMIC YEAR" MEANS THE TIME PERIOD FROM JULY 1 TO  
5 JUNE 30.

6 (3) "FULLY ONLINE DISTANCE EDUCATION PROGRAM IN THE STATE"  
7 HAS THE MEANING STATED IN § 11-202.2 OF THIS SUBTITLE.

8 (4) (I) "INSTRUCTIONAL SPENDING" HAS THE MEANING STATED IN  
9 THE FEDERAL INTEGRATED POSTSECONDARY EDUCATION DATA SYSTEM.

10 (II) "INSTRUCTIONAL SPENDING" DOES NOT INCLUDE  
11 SPENDING FOR:

12 1. ADMISSIONS;

13 2. ADVERTISING;

14 3. RECRUITING; OR

15 4. OTHER ACTIVITIES RELATED TO STUDENTS WHO ARE  
16 NOT YET ENROLLED IN AN INSTITUTION.

17 (5) "TUITION AND FEES" HAS THE MEANING STATED IN THE FEDERAL  
18 INTEGRATED POSTSECONDARY EDUCATION DATA SYSTEM.

19 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,  
20 THIS SECTION APPLIES TO:

21 (I) A FOR-PROFIT INSTITUTION OF HIGHER EDUCATION  
22 APPROVED TO OPERATE IN THE STATE BY THE COMMISSION;

23 (II) A FOR-PROFIT INSTITUTION OF HIGHER EDUCATION THAT:

24 1. ENROLLS AT LEAST 25 MARYLAND STUDENTS IN A  
25 FULLY ONLINE DISTANCE EDUCATION PROGRAM IN THE STATE; AND

26 2. RECEIVED A TOTAL TUITION REVENUE FROM  
27 MARYLAND STUDENTS GREATER THAN \$100,000 IN THE IMMEDIATELY PRECEDING

1 ACADEMIC YEAR; AND

2 (III) A PRIVATE CAREER SCHOOL THAT:

3 1. IS APPROVED TO OPERATE IN THE STATE BY THE  
4 COMMISSION; AND

5 2. HAS NOT BEEN DETERMINED BY THE INTERNAL  
6 REVENUE SERVICE TO BE AN ORGANIZATION TO WHICH CONTRIBUTIONS ARE  
7 TAX DEDUCTIBLE IN ACCORDANCE WITH 26 U.S.C. 501(c)(3).

8 (2) THIS SECTION DOES NOT APPLY TO AN INSTITUTION THAT,  
9 DURING THE ACADEMIC YEAR IMMEDIATELY PRECEDING THE YEAR IN WHICH THE  
10 REPORT IN SUBSECTION (C) OF THIS SECTION IS FIRST DUE:

11 (i) DID NOT RECEIVE FUNDS TO PAY FOR STUDENTS' TUITION,  
12 FEES, OR OTHER INSTITUTIONAL CHARGES THROUGH A FEDERAL OR STATE  
13 PROGRAM; OR

14 (ii) DID NOT CHARGE A MARYLAND STUDENT AN AMOUNT IN  
15 EXCESS OF THE MAXIMUM ELIGIBLE AWARD FROM A FEDERAL PELL GRANT.

16 (c) ON OR BEFORE JUNE 30 EACH YEAR, AN INSTITUTION UNDER THIS  
17 SECTION SHALL REPORT TO THE COMMISSION BASED ON ALL ENROLLED STUDENTS:

18 (1) THE AMOUNT OF TUITION REVENUE COLLECTED DURING THE  
19 IMMEDIATELY PRECEDING ACADEMIC YEAR;

20 (2) THE AMOUNT OF INSTRUCTIONAL SPENDING DURING THE  
21 IMMEDIATELY PRECEDING ACADEMIC YEAR; AND

22 (3) THE PERCENTAGE OF THE INSTITUTION'S TUITION REVENUE  
23 USED FOR INSTRUCTIONAL SPENDING DURING THE IMMEDIATELY PRECEDING  
24 ACADEMIC YEAR.

25 (d) ON OR AFTER JULY 1, 2022, AND EACH JULY 1 THEREAFTER, IF AN  
26 INSTITUTION UNDER THIS SECTION DID NOT USE AT LEAST 50% OF ITS TUITION  
27 REVENUE ON INSTRUCTIONAL SPENDING DURING THE ACADEMIC YEAR  
28 IMMEDIATELY PRECEDING THE YEAR IN WHICH THE REPORT IN SUBSECTION (C) OF  
29 THIS SECTION IS FIRST DUE, IN ORDER FOR THE INSTITUTION TO MAINTAIN ITS  
30 CERTIFICATE OF APPROVAL TO OPERATE IN THE STATE OR TO ENROLL MARYLAND  
31 STUDENTS IN A FULLY ONLINE DISTANCE EDUCATION PROGRAM IN THE STATE, THE  
32 INSTITUTION:

1           **(1) SHALL SUBMIT A CORRECTIVE ACTION PLAN TO THE COMMISSION**  
2 **DETAILING THE STEPS THAT IT WILL TAKE TO USE AT LEAST 50% OF ITS TUITION**  
3 **AND FEE REVENUE ON INSTRUCTIONAL SPENDING IN THE IMMEDIATELY**  
4 **FOLLOWING ACADEMIC YEAR;**

5           **(2) MAY NOT CHARGE MARYLAND STUDENTS WHO ENROLL IN**  
6 **CLASSES FOR THE IMMEDIATELY FOLLOWING ACADEMIC YEAR AN AMOUNT OF**  
7 **TUITION, FEES, OR OTHER INSTITUTIONAL CHARGES IN EXCESS OF TWO TIMES THE**  
8 **AMOUNT SPENT PER STUDENT ON INSTRUCTIONAL SPENDING IN THE IMMEDIATELY**  
9 **PRECEDING ACADEMIC YEAR; AND**

10           **(3) SHALL PROVIDE A REFUND TO EACH MARYLAND STUDENT WHO**  
11 **ATTENDED THE INSTITUTION DURING THE IMMEDIATELY PRECEDING ACADEMIC**  
12 **YEAR EQUAL TO THE AMOUNT OF TUITION CHARGED TO THE MARYLAND STUDENT**  
13 **IN EXCESS OF THE INSTRUCTIONAL SPENDING PER STUDENT AMOUNT MULTIPLIED**  
14 **BY TWO.**

15           **(E) ON OR BEFORE AUGUST 31 EACH YEAR, THE COMMISSION SHALL**  
16 **PUBLISH ON ITS WEBSITE, IN A CLEAR AND CONSPICUOUS MANNER:**

17           **(1) THE INFORMATION REPORTED IN ACCORDANCE WITH**  
18 **SUBSECTION (C) OF THIS SECTION;**

19           **(2) IF APPLICABLE, THE MAXIMUM TUITION THAT MAY BE CHARGED**  
20 **BY AN INSTITUTION IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION; AND**

21           **(3) IF APPLICABLE, A CORRECTIVE ACTION PLAN PROVIDED BY AN**  
22 **INSTITUTION IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION.**

23           **(F) IN ADDITION TO ANY ACTION THAT THE COMMISSION MAY TAKE IN**  
24 **ACCORDANCE WITH § 11-107 OF THIS TITLE, IT SHALL BE AN UNFAIR, ABUSIVE, OR**  
25 **DECEPTIVE TRADE PRACTICE AS DEFINED IN § 13-301 OF THE COMMERCIAL LAW**  
26 **ARTICLE FOR AN INSTITUTION TO VIOLATE ANY PROVISION OF THIS SECTION.**

27           **(G) ON OR BEFORE JANUARY 1, 2021, THE COMMISSION SHALL ADOPT**  
28 **REGULATIONS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SECTION.**

29           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
30 1, 2020.