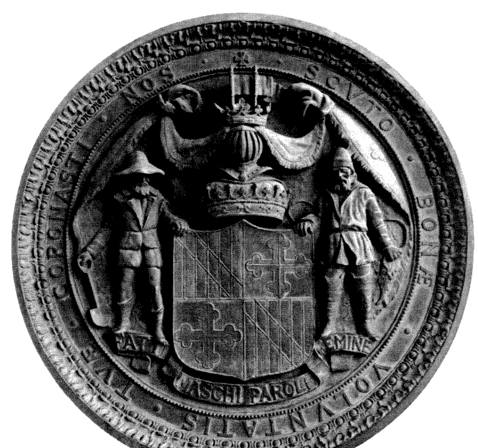
Summary Reports of Committees

To the Legislative Policy Committee

2017 INTERIM REPORT



Annapolis, Maryland
January 2018

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Co-Chair

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Speaker of the House
Co-Chair

MARYLAND GENERAL ASSEMBLY

Legislative Policy Committee

January 3, 2018

Members of the Legislative Policy Committee
Members of the Maryland General Assembly

Ladies and Gentlemen:

Pursuant to Section 2-409(b) of the State Government Article, attached for your review and information is a compilation of the 2017 interim activities and recommendations of the standing, joint statutory, and special joint committees of the General Assembly.

For further information and copies of this summary report or individual committee reports, please contact Ryan Bishop, staff for the Legislative Policy Committee, at (410) 946-5350 or (301) 970-5350.

We wish to thank the committee chairs and the staff from the Department of Legislative Services that were assigned to assist them for their time, effort, and contributions during the 2017 interim.

Sincerely,

Thomas V. Mike Miller, Jr.
Co-Chair

Michael E. Busch
Co-Chair

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Part I

Standing Committees

Senate Budget and Taxation Committee

Maryland General Assembly
Senate Budget and Taxation Committee
2017 Interim
Membership Roster

Edward J. Kasemeyer, Chair
Richard S. Madaleno, Jr., Vice Chair

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James E. DeGrange, Sr.
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George C. Edwards
Bill Ferguson
Guy Guzzone
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Nathanial J. McFadden
Roger Manno
Douglas J. J. Peters
Andrew A. Serafini

Committee Staff

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Nancy J. King
Nathaniel J. McFadden
Roger Manno
Douglas J. J. Peters
Andrew A. Serafini

THE SENATE OF MARYLAND
BUDGET AND TAXATION COMMITTEE

December 6, 2017

The Honorable Thomas V. Mike Miller, Jr., Co-Chair
The Honorable Michael E. Busch, Co-Chair
Members of the Legislative Policy Committee

Ladies and Gentlemen:

The Senate Budget and Taxation Committee had another very productive interim. The full committee visited the Port of Baltimore, attended a site visit to various locations in Baltimore County and Baltimore City, and received its interim fiscal briefing. Additionally, the Education, Business, and Administration subcommittee visited various sites in Hagerstown and the Capital Budget subcommittee visited a location in Annapolis. The Health and Human Services subcommittee and the Public Safety, Transportation, and Environment subcommittee did not meet during the 2017 interim. The committee is pleased to present the report of its interim activities.

Full Committee Activities

On July 25, the committee went on a site visit to the Port of Baltimore. Specifically, the committee received an overview of the new Point Breeze Terminal, visited the Mercedes Benz Auto Processing Facility, and took a tour of the Harbor.

On October 17, the committee attended the first meeting of the Spending Affordability Committee to receive the fiscal briefing for fiscal year 2019 from the Department of Legislative Services.

On October 19, the committee visited locations in Baltimore County and Baltimore City. Specifically, the committee visited Stevenson University regarding the redevelopment of the Rosewood Center property. The committee also visited Pimlico Race Course for a tour of the track facilities and toured the Career and Technical Education Program offerings at the Community College for Baltimore County, Catonsville. Finally, the committee visited the site of the new Guinness facility and toured Heavy Seas Brewery.

Subcommittee Activities

Capital Budget

The Capital Budget subcommittee visited and toured the James Brice House in Annapolis.

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Education, Business, and Administration

The Education, Business, and Administration subcommittee visited several education and economic development related sites in Hagerstown.

In addition to the above activities, the committee members were very active in numerous other commissions, committees, and studies. I would like to thank the committee members for their continued dedication, representatives of the public and private organizations who kept us informed and expressed their views, as well as our committee counsel and staff for their support.

Respectfully submitted,

Edward J. Kasemeyer
Chair

EJK/ESS/kjl

cc: Ms. Carol L. Swan
Mr. Ryan Bishop

Senate, Education, Health, and Environmental Affairs Committee

Maryland General Assembly
Education, Health, and Environmental Affairs Committee
2017 Interim
Membership Roster

Senator Joan Carter Conway, Chair
Senator Paul G. Pinsky, Vice Chair

Senators

Gail H. Bates
Cheryl C. Kagan
Shirley Nathan-Pulliam
Barbara A. Robinson
Johnny Ray Salling
Bryan W. Simonaire
Steve Waugh
Ronald N. Young
Craig J. Zucker

Committee Staff

Sara C. Fidler
Justin S. Kozinn
Stacy M. Goodman

Joan Carter Conway
Chair

Paul G. Pinsky
Vice Chair

Gail Bates
Cheryl C. Kagan
Shirley Nathan-Pulliam
Barbara Robinson
Johnny Ray Salling
Bryan W. Simonaire
Steve Waugh
Ronald N. Young
Craig J. Zucker

THE SENATE OF MARYLAND
EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE

December 1, 2017

The Honorable Thomas V. Mike Miller, Jr., President of the Senate
The Honorable Michael E. Busch, Speaker of the House of Delegates
The Honorable Members of the Legislative Policy Committee

Ladies and Gentlemen:

The Senate Education, Health, and Environmental Affairs Committee respectfully submits the following summary of its 2017 interim activities.

Education

The State Plan under the Federal Every Student Succeeds Act

The Every Student Succeeds Act is the most recent re-authorization of the federal Elementary and Secondary Education Act, which provides federal funds for elementary and secondary education. During the Legislative Session, Chapter 29 (House Bill 978) *Education – Accountability – Consolidated State Plan and Support and Improvement Plans* was enacted to require the State's accountability plan (State Plan) to include specified school quality and academic indicators, as well as to establish a composite score that provides for meaningful differentiation of schools.

On September 6, 2017, the committee was briefed by the State Board of Education regarding the elements of the State Plan as well as comments that had been received from various stakeholders, including comments from the Legislative Policy Committee. Despite Governor Hogan's decision not to sign the State Plan, it was signed by State Superintendent Karen B. Salmon on September 15, 2017, and the State Department of Education submitted the plan to the United States Department of Education (USDE) on September 18, 2017. The Secretary of USDE must approve the State Plan no later than 120 days after submission, which will be January 16, 2018. If the Secretary determines that the State Plan fails to meet the requirements, USDE must offer the State an opportunity to revise and resubmit its plan. The committee will continue to follow the State Plan as it moves through the process.

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Site Visit to P-TECH at Dunbar

Chapter 144 of 2016 established P-TECH Schools in Maryland, which are public schools that offer grades 9 through 14 and integrate high school, college, and the workplace. The result is a seamless pathway that enables students to graduate in six years or less with a high school diploma, an associate's degree or certificate, and relevant professional experience. On October 18, 2017, the committee visited one of the first P-TECH schools to open in Maryland, located at Paul Laurence Dunbar High School in Baltimore City. Committee members visited classrooms and met with second–year students, teachers, mentors, and representatives of the Dunbar P-TECH industry partners: Johns Hopkins Hospital; University of Maryland, Baltimore Campus; and Kaiser Permanente.

Higher Education

The committee has long taken an interest in the regulation of for–profit institutions of higher education that operate in the State. To that end, on September 6, 2017, the committee was briefed by the Secretary of the Maryland Higher Education Commission (MHEC) regarding the current status of former students of ITT Technical Institute – Educational Services, Inc., a for-profit institution of higher education that closed abruptly on September 6, 2016. Additionally, the committee was briefed on proposed regulations that would create a guaranty fund to protect students against these types of precipitous closures in the future.

At the briefing, MHEC explained that of the 711 Maryland students affected by the ITT closure, 309 had federal loans discharged and 328 were covered by the 11 transfer agreements that MHEC signed with Maryland institutions to effectuate a teach-out, which allows students to complete their programs of study at another institution. This leaves 74 Maryland ITT students who have not received relief through loan discharge or a teach-out; however, MHEC reports that no student complaints have been received.

Regarding the proposed regulations that would create a guaranty fund to protect students against the precipitous closure of for-profit institutions of higher education, several stakeholders as well as members of the committee expressed concern that the regulations were not consistent with the statutory authority and legislative intent of Chapters 552 and 553 of 2016. Further, committee members were disappointed that the guaranty fund was not retroactive and therefore would be unavailable to former ITT students. Despite a request by the Administrative, Executive, and Legislative Review Committee to MHEC to delay final adoption of the regulations, on November 3, 2017, MHEC submitted a letter indicating its intention to move forward with final adoption of the regulations at its December 13, 2017 meeting.

Election Law

On April 24, 2017, the Office of Legislative Audits released an audit report critical of some of the operations and practices of the State Board of Elections, particularly in the areas of ballot security, voter registration information protection and integrity, disaster preparedness, contracting, and financial management. In response, the State Administrator of Elections acknowledged and agreed with most of the auditor's findings, but stated that most of the deficiencies have been addressed.

In June, 2017, the State Board of Elections reported detecting suspicious activity on its online voter registration system prior to the 2016 election. The online voter registration system is used by voters to register to vote, update personal information, and request absentee ballots, but is entirely separate from the State's voter registration database, which is not connected to the internet. The State Administrator said cybersecurity experts were summoned to evaluate the activity and verified that the system was not penetrated. The suspicious activity was confirmed by the Department of Homeland Security in September when it sent notification to Maryland and 20 other states that hackers had targeted various parts of their election systems.

To address the concerns about the overall security of our State's election systems and findings of the audit report, the committee held a joint briefing with the House Committee on Ways and Means on September 6, 2017. The committee heard from State election officials and State auditors regarding the findings of the audit report. The committee also heard from the chair of the U.S. Election Assistance Commission, various researchers and academics, and State election officials concerning election cybersecurity issues.

Environment

On October 18, 2017, the committee visited Masonville Cove and met with individuals from the Maryland Port Administration and the Living Classrooms Foundation. The committee received an update on the cleanup of the Masonville Cove upland area and stream, as well as education outreach efforts being undertaken at the Masonville Cove facility. The committee also discussed Maryland's Dredged Material Management Program's efforts to find innovative and beneficial uses for collected sediment and dredged materials.

Health Occupations

In order to better understand the challenges that face health care practitioners in a hospital or hospital-related setting, specifically in the field of oncology, the committee visited the Johns Hopkins Sidney Kimmel Comprehensive Cancer Center (SKCCC) on October 18, 2017.

The visit included presentations from the director of SKCCC, physicians, and other administrative officers of SKCCC, as well as a tour of the facility.

Public Safety/Housing

During the 2017 Legislative Session, the committee heard testimony on Senate Bill 722 *Public Safety – Light Frame Combustible Construction – Requirements*. Among other things, the bill would have required the Department of Housing and Community Development to adopt by regulation statewide building codes concerning fire safety features for specified buildings over three stories high that are constructed with light frame combustible construction. Additionally, the bill would have prohibited a multi-family construction project that uses light frame combustible methods from proceeding unless a fire watch warden certified by the Office of the State Fire Marshal within the Department of State Police is present 24 hours a day.

On October 10, 2017, the committee held a briefing as the result of a continuing discussion sparked by Senate Bill 722. During the briefing, Steve Lohr, Fire Chief in Hagerstown, spoke in favor of the bill's intent and imposing restrictions on materials in order to promote safer buildings. Tom Ballentine, Vice President for Policy and Government Relations at NAIOP Maryland, Sam W. Francis, Senior Director, National Programs for the American Wood Council, Willy Moore, President of Southway Builders, and Chris Parts, an architect representing the American Institute of Architects, spoke out against the provisions of the bill and emphasized that the problem is not with construction materials but instead with insufficient safety protocols during the final construction phases where sprinkler systems are often installed, but not yet active.

The committee greatly appreciates the assistance of the many private citizens, public officials, and legislative staff who participated in the activities of the committee during the 2017 interim.

Sincerely,

Joan Carter Conway
Chair, Senate Education, Health, and
Environmental Affairs Committee

cc: Mr. Ryan Bishop
Ms. Carol L. Swan
Ms. Ryane M. Necessary
Members of the Education, Health, and Environmental Affairs Committee

Senate Finance Committee

Maryland General Assembly
Senate Finance Committee
2017 Interim
Membership Roster

Thomas M. Middleton, Chair
John C. Astle, Vice Chair

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Joanne C. Benson
Brian J. Feldman
Stephen S. Hershey, Jr.
J.B. Jennings
Katherine A. Klausmeier
James N. Mathias, Jr.
Nathaniel T. Oaks
Edward R. Reilly
James Rosapepe

Committee Staff

Tami Burt
David Smulski
Patrick Carlson

Thomas M. Middleton
Chair

John C. Astle
Vice Chair

Joanne C. Benson
Brian J. Feldman
Stephen S. Hershey, Jr.
J. B. Jennings
Katherine Klausmeier
James N. Mathias, Jr.
Nathaniel T. Oaks
Edward R. Reilly
Jim Rosapepe

THE SENATE OF MARYLAND
Finance Committee

December 18, 2017

The Honorable Thomas V. Mike Miller Jr., Co-Chair
The Honorable Michael E. Busch, Co-Chair
Members of the Legislative Policy Committee

Ladies and Gentlemen:

The Senate Finance Committee respectfully submits its report summarizing the committee's activities during the 2017 interim. The full committee met seven times during the 2017 interim, one of which was a site visit to several locations in Baltimore City. The Health and Transportation subcommittees did not meet.

Members of the committee may have participated in other committees, task forces, and commissions including the Workers' Compensation Benefit and Insurance Oversight Committee; the Joint Audit Committee; the Joint Committee on Unemployment Insurance Oversight; the Joint Committee on Fair Practices and State Personnel Oversight; the Joint Committee on Cybersecurity, Information Technology, and Biotechnology; the Joint Committee on Behavioral Health and Opioid Use Disorders; the Task Force to Study Family and Medical Leave Insurance; the Rural Health Care Delivery Workgroup; the Maryland Health Insurance Coverage Protection Commission; and the Maryland Financial Consumer Protection Commission. The activities of these committees, task forces, and commissions that met during the interim are not summarized in this report.

The committee expresses its appreciation for the advice and assistance provided by governmental officials, State agency staff, and members of the public during the 2017 interim. The committee looks forward to the same spirit of cooperation and assistance during the forthcoming 2018 session.

Respectfully submitted,

Thomas M. Middleton

Thomas M. Middleton
Chair

TMM/TDB/ncs

cc: Ms. Carol L. Swan
Mr. Ryan Bishop

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Site Visit to Baltimore City

Natural Gas Pipeline Replacement Project

On October 3, 2017, the committee visited a BGE natural gas pipeline replacement project in the Franklin Square Community in Baltimore City. Chapter 161 of 2013 authorized gas companies to file plans with the Public Service Commission (PSC) requesting authorization to include a surcharge on customers' bills to recover costs associated with proposed eligible infrastructure replacement projects. The Act provided a framework for PSC to approve utilities' plans and review actual expenditures on an on-going basis. Included in a program called "Strategic Infrastructure Development and Enhancement" (STRIDE), the projects are designed to modernize the utility gas distribution system in order to enhance system safety and reliability for customers at a faster pace than would occur without the program. Under the program, all replacements are to be completed within 30 years (with critical replacements occurring first), significantly accelerating the pace of replacement over pre-STRIDE levels. The program focuses on replacing outmoded, obsolete, aging, and potentially unsafe gas materials such as cast iron and uncoated steel pipes with modern, durable equipment. To fund the expanded investment, the Act authorized a monthly charge, limited to $2 per month for each residential gas customer (currently set at $1.34 for BGE residential customers). By allowing near real-time cost recovery on critical gas distribution system replacement, the utilities may utilize more utility capital dollars to invest in infrastructure enhancements. BGE reports that, as a result of the program, more than 150 miles of aging cast iron and unprotected steel gas mains and more than 32,000 service pipes across the BGE service territory have been replaced in four years.

Following the tour of the gas pipeline replacement project, the committee visited TouchPoint Baltimore at Mondawmin Mall. The committee heard from a contractor whose business has significantly grown due to STRIDE. Further, the committee heard from speakers about a funding collaboration between Whiting-Turner and BGE. Following the civil unrest in Baltimore City, the two corporations came up with the idea of funding TouchPoint as a way to contribute to the revitalization of the city by partnering with four nonprofits: Thread, Center for Urban Families, Baltimore Corps, and Invested Impact. The facility provides a work space for the nonprofits to help city residents. Services provided include mentoring, tutoring, workforce development, life skills support, leadership development, and entrepreneurial support. The goal is to encourage other corporations and nonprofits to implement this model in other communities for maximum impact.

Johns Hopkins Hospital

The committee also visited Johns Hopkins Hospital on October 3, 2017. The visit included a tour of and presentation on the hospital's emergency department (ED) and Capacity Command Center, a $10 million investment to manage beds and improve patient flow. Among other topics, the committee discussed with hospital staff issues relating to the treatment of behavioral health patients in the ED. The number of psychiatric patients in the ED has doubled in the past two years. Psychiatric patients present a challenge for the hospital as these patients have longer lengths of stay. Hopkins staff emphasized the need for additional psychiatric beds in State facilities to free up capacity in the hospital. A State investment to establish additional psychiatric beds would reduce the total cost of care provided by hospitals and better enable hospitals to meet the requirements of the All-Payer Model.

In addition, the visit to Johns Hopkins Hospital included a tour of the Johns Hopkins Broadway Center for Addiction. The Broadway Center provides outpatient addiction treatment and wrap-around services to more than 150 patients. The addiction treatment includes methadone maintenance therapy, as well as treatment with buprenorphine and naltrexone. The Broadway Center provides a full complement of addiction counseling and group classes. The wrap–around services provided by the Broadway Center include housing for up to six months, basic medical services and coordination, HIV and Hepatitis C testing and treatment, managed care organization (MCO) case management, support services from peer recovery specialists, and a morning "café" and mid-day lunch for patients. Most of the Broadway Center patients are over the age of 40 and about half have had three or more prior substance abuse treatment episodes. Staff have observed a reduction in visits to the ED among patients who receive treatment at the Broadway Center. Embedding Priority Partners, an MCO, in the Broadway Center has improved the delivery of preventive health care and care coordination for patients. The committee heard from a patient who was experiencing success in recovery due to the holistic approach to care delivery provided by the Broadway Center.

Briefing on Collective Bargaining in Maryland Community Colleges

On October 17, 2017, the committee heard from proponents and opponents to Senate Bill 652 of 2017, Education – Community Colleges – Collective Bargaining. The bill would have authorized community colleges in Maryland to engage in collective bargaining with their employees, including faculty and adjunct faculty. Montgomery County Community College (MCCC), Prince George's County Community College, Baltimore County Community College, and Baltimore City Community College are currently the only community colleges authorized to engage in collective bargaining.

The meeting opened with committee staff providing an overview of Senate Bill 652, which was followed by a panel representing labor organizations. David Rodich of the Service Employees International Union (SEIU) gave a general overview of collective bargaining. David Helfman of the Maryland State Education Association (MSEA) pointed out that a separate vote on service fees can work against a union, and so far in the schools, service fees have had little to no effect. Glen Middleton of the American Federation of State, County, and Municipal Employees (AFSCME) Council 67 relayed that at community colleges with collective bargaining classified employees are represented by AFSCME and these employees tend to live in the same areas as students. Chuck Cook of the AFL-CIO reaffirmed that legislation is needed to give workers the right to bargain collectively.

A second panel consisted of representatives of MCCC, which is the only community college with collective bargaining that includes faculty and adjunct faculty. Robert Roop and Heather Pratt of MCCC commented that the Montgomery County Council has worked with labor organizations since the late 1970s, and that 52% of MCCC's budget comes from the county.

The final panel consisted of representatives from community colleges and the Maryland Association of Community Colleges (MACC). Bernie Sadusky of MACC stated that there is no revenue to cover the cost of collective bargaining and the State has not been meeting its 33% funding obligation. Dr. Dawn Lindsey, President of Anne Arundel Community College, stated that there is no groundswell demand among employees for collective bargaining. Dr. Maureen Murphy, President of the College of Southern Maryland, commented that the community colleges do not have the infrastructure to conduct negotiations and that the costs will shift to tuition. Dr. Ray Hoy, President of Wor-Wic Community College, stated that tuition for Wor-Wic students would have to be raised by 200% to get to the level of financial support that is provided by Montgomery County.

At the conclusion of the briefing, the chair stated that the Finance Committee would continue working on the issue later in the interim.

9-1-1 Modernization Workgroup

On November 2, 2017, several members of the committee participated with several members of the Government Operations and Estates and Trusts subcommittee of the House Health and Government Operations Committee in a 9-1-1 Modernization Workgroup. The workgroup was convened in response to Senate Bill 466 of 2017, which did not pass, to study the current status of 9-1-1 service and the steps involved with continuing to enhance the system. At its meeting, the workgroup received presentations from the Emergency Number Systems Board (ENSB), the Maryland Association of Counties (MACo), local Public Safety Answering Point (PSAP) directors, and telecommunications companies.

Scott Roper, ENSB Executive Director, provided an overview of the duties of ENSB, the 9-1-1 fees imposed in Maryland, the current status of 9-1-1 service, and ENSB's efforts to implement Next Generation 9-1-1 (NG911). ENSB is studying NG911 through an independent consultant, which has been hired to (1) conduct general NG911 program management; (2) conduct a readiness assessment and deliver a procurement strategy; (3) conduct a GIS gap analysis and coordinated GIS data development; (4) implement a procurement strategy and implementation plan; and (5) provide grant writing support. The consultant has accomplished and continues to provide support for the program management task and has begun the next two tasks. After a procurement strategy is finalized, ENSB is expected to submit a request for proposals to implement a statewide NG911 system.

ENSB was further represented by Anthony Myers, ENSB Chair, and Jack Markey and Steve Souder, ENSB members. The ENSB representatives emphasized the importance of ensuring that the existing 9-1-1 system continues at peak operability during a transition to a new system.

Kevin Kinnally, Policy Associate at MACo, expressed the importance of enhancing Maryland's 9-1-1 system and MACo will advance this issue as part of its 2018 legislative agenda. The PSAP directors that addressed the workgroup represented Charles, Dorchester, Kent, and Montgomery counties. Each of the directors expressed the importance of transitioning to NG911 to increase each PSAP's ability to respond efficiently and effectively to callers, including allowing PSAP's to access not only more accurate information about caller location, but also information that will assist emergency personnel in communicating with callers and responding more efficiently. NG911 would allow PSAPs to receive text, chat, video, location, and various other types of data from a 9-1-1 call. In addition to discussing the importance of upgrading the 9-1-1 system, each of the PSAP directors noted that county expenditures for 9-1-1 systems outweigh 9-1-1 fee revenues. The PSAP directors asked the workgroup to examine the current funding formula for 9-1-1 systems with the goal of closing this gap.

Representatives from Comcast (Sean Looney), Verizon (Anthony Montani), and AT&T (Denis Dunn and Jean Claud Rizk) presented the perspectives of telecommunications companies on 9-1-1 system modernization. The group emphasized that a successful transition to NG911 will depend on appropriate planning, coordination, and funding. To address the funding gap for 9-1-1 systems, the telecommunications representatives all expressed support for imposing a 9-1-1 fee on each telephone line, rather than a single fee charged to a bill with potentially multiple lines. Mr. Montani further raised the possibility of imposing a 9-1-1 fee on Internet service.

The committee plans to further discuss these issues as legislation is anticipated to be introduced during the 2018 session.

Low Cost Automobile Insurance Policy Workgroup

On November 7, 2017, several members of the committee participated with several members of the House Economic Matters Committee in a Low Cost Automobile Insurance Policy workgroup. The workgroup was convened in response to Senate Bill 533/House Bill 1295 of 2017, which did not pass, to review the provisions of the low cost automobile insurance program in California. At its meeting, the workgroup received presentations from consumer advocates, a representative of the Consumer Federation of America (CFA) and California Board of Low Cost Auto Insurance Program, the Maryland Insurance Administration (MIA), insurers, producers, and the Maryland Association for Justice.

Marceline White, Executive Director of the Maryland Consumer Rights Coalition, explained the reasons why the State should consider a program similar to the state-sponsored program in California. Ms. White stated that low income individuals are unable to afford the high premiums for the minimum insurance required in Maryland and a low-cost program could lower the State's uninsured motorist rate. Doug Heller, representative of CFA and the California board, explained that the market in California, utilizing an assigned risk plan, is similar to the market served by the Maryland Automobile Insurance Fund (MAIF). Since inception, over 121,700 residents of California have received insurance through the program, with about 14,000 active policies at this time. About 94% of applications assigned were from uninsured motorists. Recently, the program reduced barriers to participation and increased public awareness efforts, which resulted in more applicants for the program. Qualifying drivers purchase a bare bones policy costing approximately $330 to $475 per year ($15,000/$30,000 bodily injury limits and $7,500 property damage limits). Other consumer advocates providing comments included: Marty Schwartz, Vehicles for Change; Melissa Wells, CHOICE; Holly Mirbella, CASH Campaign of Maryland; and Eric Norton, Central Transportation Alliance.

Robert Baron, Assistant Commissioner, and Michael Paddy, Government Relations Associate, MIA, explained that despite the administration's opposition to the legislation last session, the administration supports some efforts to assist economically challenged individuals but that the details of such assistance need more discussion. Mark McCurdy, Executive Director, and Sandy Dodson, Government Relations, MAIF, indicated that personal injury protection (PIP) and uninsured motorist coverage account for a large part of the total liability premium. The percentage of no-PIP policies has grown as a result of legislation last year which was aimed at making automobile insurance policies more affordable. MAIF's concern about a low-cost program is that potentially 62% of its 59,000 policies sold would qualify for the low-cost program. MAIF's current annual premium is $1,815, while it is estimated that a low-cost program would cost $1,254. If all of its qualifying policyholders switched to the low-cost program, MAIF's financial situation would be severely impacted. Other insurers (the Property Casualty Insurers Association of America (PCI), the American Insurance Association (AIA), and the National Association of Mutual Insurance Companies) commended the idea of trying to lower the uninsured motorist rate. However, they expressed concern with having a mandatory direct assignment program and the unintended consequences of allowing a low-cost program (which may not be self-sustaining) in a market that is now very competitive.

Various producer representatives (Insurance Agents and Brokers of Maryland, Independent Insurance Agents of Maryland, and producer Shannon O'Hare) expressed concerns about allowing a lower limits coverage for some when the General Assembly has decided that the minimum mandatory limits apply to all. While they supported lowering the PIP limits for some as provided in legislation last session, they expressed concern that, without adequate coverage purchased by drivers, there may be more uncompensated victims.

The committee plans to further discuss these issues as legislation is anticipated to be introduced during the 2018 session.

Personal Motor Vehicle Rental Workgroup

On November 30, 2017, several members of the committee participated with several members of the House Economic Matters Committee and House Environment and Transportation Committee in a Personal Motor Vehicle Rental workgroup. The workgroup was convened in response to Senate Bill 1056/House Bill 1520 of 2017, which did not pass, to review the operations and insurance issues relating to a personal motor vehicle rental market (also known as peer-to-peer sharing). At its meeting, the workgroup received presentations from Turo, Inc., rental car companies (including the American Car Rental Association – ACRA), MIA, and insurers.

Michelle Peacock, Vice President and Head of Government Relations, Alex Benn, Chief Operating Officer, and Chris DiPietro of Turo, Inc. explained that their mission is to put the world's 1 billion cars to better use. Turo is not a car rental company and does not own or operate any fleet or facilities in Maryland. Using an app, hosts (car owners) share cars and experience opportunities to earn money; hosts and guests (renters) are protected with up to $1 million in liability insurance and guests can choose from over 850 makes and models of cars in over 5,000 cities. In Maryland, 700 hosts share cars, 79,000 residents are signed up to use the service, and 2,000 out-of-state travelers use Turo to book travel within the State.

Rental car company and ACRA representatives included Eric Bryant, Greg Scott, Tomi Gerber (Enterprise), and John DeRose (Enterprise). Both Turo and rental car company representatives discussed operations issues, including rates and charges, prohibited use of vehicles, odometer requirements, and inspection of vehicle requirements. Rental car companies are subject to a variety of operations requirements, while personal motor vehicle rental companies are not. There was discussion about the fees and charges rental car companies pay, compared to the personal motor vehicle rental companies. Generally, rental car companies charge renters an 11.5% State sales tax, in addition to other customer charges and airport charges. Owners who rent under a personal motor vehicle rental company pay income taxes on their earned revenues. The workgroup discussed the need for a level playing field. Turo representatives explained that Turo is different from a rental car company and should not be subject to the same requirements. The rental car companies indicated that they are also getting into new technological products but do not feel that those products should be under a different set of regulations.

Robert Baron, Associate Commissioner, and Tyler Hoblitzell, Legislative and Regulatory Analyst, MIA, explained MIA's process for convening interested parties during the summer of 2017 to discuss issues relating to insurance requirements for the personal motor vehicle rental industry. Two important insurance issues were identified: (1) the appropriate source to provide the primary liability insurance during the rental transaction and (2) whether there is a need for a limited lines license requirement in the personal motor vehicle rental market. MIA's report concluded that "as the sharing economy continues to expand across many market segments, there will be a continuing need for the Legislature to review the operations of new business models to ensure robust consumer protection and equitable treatment of new and traditional business models that may be operating in the same space." Legislation was passed in California, Washington state, and Oregon to ensure that insurance requirements are met; however, these statutes may need to be updated. MIA is in the process of surveying other states as to how they regulate this industry with regard to insurance requirements. Turo representatives indicated that guests may choose their protection level at checkout before paying for their trip; Turo's coverage is secondary for guests, meaning that the guests' insurance on their own vehicle is primary, but if the guest does not have other insurance, Turo provides the state's minimum liability insurance coverage. A guest may (1) decline purchasing insurance from Turo; (2) purchase basic coverage; or (3) purchase premium coverage. A host receives primary coverage of $1 million in liability insurance from Turo, but also may choose (1) basic coverage; (2) standard coverage; or (3) premium coverage.

Mark McCurdy, Executive Director, Sandy Dodson, Government Relations, and Chris Crawford, Director of Claims, MAIF; Nancy J. Egan, Esq., State Government Relations Counsel, and Robert C. Passmore, Assistant Vice President, Personal Lines Policy, Property Casualty Insurers Association of America (PCI); and Eric M. Goldberg, Vice President, AIA indicated that they are working with Turo on draft insurance language. MAIF indicated that the current law should not be changed with regard to the insurance following the vehicle, except in limited circumstances. PCI indicated that they are supportive of developing rules for the car-sharing industry but that those rules need to be clear. They are going to review the transportation network company legislation to see if similar insurance language can be used for the personal motor vehicle rental industry. The rental car companies stressed that while establishing insurance requirements are important, other operations issues may need to be addressed as well. The rental car companies indicated that regulations are needed for bad actors.

The committee plans to further discuss these issues, with an emphasis on insurance and tax and other fee issues, as legislation is anticipated to be introduced during the 2018 session.

Briefing on Public Service Commission Activities and Energy Update

On December 6, 2017, the committee heard from representatives of PSC: W. Kevin Hughes, Chair; Commissioner Anthony J. O'Donnell; Commissioner Odogwu Obi Linton; Marissa Gillett, Senior Advisor to the Chair; and Andrew Johnston, Director of Government Relations and Assistant General Counsel. Chair Hughes and the other PSC representatives provided the following information relating to PSC activities.

- *EmPOWER Electric Energy Efficiency Goals:* Chapters 14 and 780 of 2017 codified the PSC's July 2015 order regarding electric energy efficiency goals and the prospective cost-effectiveness framework. As a result, electric utilities are required to ramp up their energy efficiency portfolios at a rate of 0.2% savings per year, until reaching the goal of achieving incremental annual energy savings equivalent to 2% of their retail sales baseline. BGE, Delmarva Power and Light (DPL), PEPCO, and Potomac Edison are achieving their goals; SMECO is lagging behind since they do not have the commercial and industrial customer base like other utilities to contribute to reaching the goal. To achieve goals, utilities submit plans for cost-effective energy efficiency and conservation programs and services to PSC for approval (an example includes a program that provides a rebate to a ratepayer if the ratepayer purchases an energy efficient appliance to replace an old inefficient appliance).

- *Federal Issues:* Both PSC and the National Association of Regulatory Utility Commissioners Subcommittee on Nuclear Issues-Waste Disposal (the national association representing the state public service commissioners) are advocating for Congress to advance the Yucca Mountain repository for used nuclear fuels and other waste. Currently, nuclear waste is sitting in numerous nuclear facilities throughout communities nationwide, including Calvert Cliffs. Nuclear waste fee collection from ratepayers has halted until the issue of citing is resolved. PSC is advocating for a Federal Energy Regulatory Commission (FERC) rehearing and revision of the proposed cost allocation for the Artificial Island transmission project. The current cost-allocation proposal unfairly assesses more than 90% of costs to Delmarva Zone ratepayers, even though they receive only 10% of the benefits. FERC Proposed Rulemaking on Grid Reliability and Resilience Pricing would require regional transmission organizations like PJM to provide additional compensation to electric generation sources that meet certain on-site supply and other criteria. PSC is concerned about the impact on electricity prices and its ratemaking authority, as well as the State's sovereignty over its fuel mix and programs like the Regional Greenhouse Gas Initiative (RGGI).

- *Regional Greenhouse Gas Initiative (RGGI):* In August 2017, RGGI announced consensus on a set of draft program elements for the post-2020 path forward. Specifically, there would be an additional 30% cap reduction by 2030. Nine states (including Maryland) are RGGI members. It is anticipated that Virginia and New Jersey may become members in 2018. Average regional projected ratepayer impacts for residential customers as a percentage of total bills is 0.3%. Maryland has received approximately \$583 million in RGGI allowance proceeds since 2009, of which \$41 million was received in fiscal 2017.

- *Maryland Renewable Portfolio Standard Program (RPS)*: Maryland is on track to meet the RPS standards, as required under Chapters 1 and 2 of 2017, of 25% by 2020. The current year compliance requirement is 15.6% in 2017 and 18.3% in 2018; minimal alternative compliance penalties were required to be paid.

- *Qualified Offshore Wind Projects:* In May 2017, PSC issued an order to award Offshore Renewable Energy Credits to two offshore wind developers: U.S. Wind, Inc. (248 MW) and Skipjack Offshore Energy, LLC (120 MW). Together, the projects are projected to yield over \$1.8 billion of in–state spending, spurring the creation of almost 9,700 jobs. Net ratepayer bill impacts are projected to be \$1.34 for residential customers, which is less than the statutory ceiling of \$1.50. PSC attached conditions to the order. Both projects must proceed through the federal permitting process administered by the U.S. Department of the Energy (Bureau of Ocean Energy Management).

- *For-hire Transportation:* PSC's regulations to streamline Baltimore City and Baltimore County taxis were finalized in June 2017; in October 2017, PSC proposed extending these regulations to taxis operating in Hagerstown and Cumberland. In August 2017, PSC proposed formal screening standards for all PSC-regulated for–hire vehicles. Almost -66,000 transportation network operator licenses have been issued, and PSC representatives noted that the process continues to work well.

- *Grid Modernization:* At the end of 2016, PSC opened a "public conference" to provide a targeted review to ensure that electric distribution systems in Maryland are customer-centered, affordable, reliable, and environmentally sustainable. PSC established five workgroups: Rate Design; Interconnection; Competitive Markets and Customer Choice; Electric Vehicles; and Energy Storage. Each workgroup is reviewing their issues and anticipate reporting findings and recommendations in 2018.

- *Other:* There are 14 solar facility applications for a total of 316.4 MW pending for PSC approval. The number of double poles has dropped to about 15,000 as of October 2017, as compared to over 36,000 as of January 2016. PSC received a partial settlement on December 1, 2017, to the merger of Alta Gas and Washington Gas; a PSC decision is anticipated in April 2018. PSC completed a rate case with PEPCO (average rate increase of $3.86 per month) and is currently reviewing rate cases with DPL, SMECO, and Choptank. BGE filed a STRIDE plan on December 1, 2017; other utility STRIDE plans are anticipated in 2018.

The committee plans to follow some of these issues during the session and next interim.

Follow-up Briefing on Collective Bargaining in Maryland Community Colleges

On December 6, 2017, the committee held a second briefing on collective bargaining at Maryland community colleges. The committee again heard from proponents and opponents to Senate Bill 652 of 2017, Education – Community Colleges – Collective Bargaining. The first panel consisted of a representative from MACC and representatives from community colleges. Bernie Sadusky opened the meeting by relaying that the members of the panel would discuss community college governance procedures and also provide information that was requested at the October 17 briefing.

Dr. Lindsey, President of Anne Arundel Community College, discussed the governance process at the community college. In order to be accredited, a community college must have specific governance procedures and all colleges must comply with shared governance. There is a faculty organization that focuses on matters affecting faculty, and a group that focuses on matters affecting administrative staff. The main reason that Anne Arundel Community College opposes collective bargaining is the administrative cost of conducting negotiations, which for MCCC amounts to $450,000 per year. Dr. Ray Hoy, President of Wor-Wic Community College, provided requested data on:

- community college enrollment numbers for each community college;

- employee retention and turnover by group and by funding and the reasons for turnover;
- each county's financial contribution for the community colleges that serve multiple counties;
- average compensation by employee group (including faculty and adjunct faculty) for each community college;
- from MCCC a zero-based estimate for the administrative cost of collective bargaining; and
- information presented at the October 17 briefing, to the extent possible, not including Montgomery County data.

Dr. Hoy pointed out that 42% of community college funding comes from students and 22% from the State, and that when there are more students, the colleges get less money from the State.

The second panel consisted of representatives from various labor organizations, who were asked to provide information on union dues. David Rodich of SEIU stated that the dues rate at MCCC for adjunct faculty is $37 per month for higher paid faculty (based on number of credit hours taught), and $32 per month for lower paid faculty. SEIU only charges dues when they are teaching and even if you teach at multiple schools you only pay dues once. Sean Johnson of MSEA stated that MSEA is primarily concerned with matters concerning full-time faculty. Glen Middleton of AFSCME Council 67 reported dues for employees at community colleges where AFSCME has a presence, including Baltimore County Community College, MCCC, and Prince George's Community College. The dues are the same at all three colleges, $38 per month for full-time employees and $28 per month for part-time employees. Donna Edwards of the AFL-CIO reiterated that collective bargaining is a fair process and they would like to give people an option of whether they want collective bargaining.

The meeting concluded with the chair stating that the work on collective bargaining for Maryland community colleges would continue during the 2018 session.

Briefing on Forensic Behavioral Health Services in State Hospitals and Nursing Home Complaint Investigations by the Maryland Department of Health

Briefing on Access to Forensic Behavioral Health Services

On December 13, 2017, the committee was joined by the Senate Judicial Proceedings Committee, House Health and Government Operations Committee, and House Judiciary Committee for a joint briefing on the evaluation and admission of court-involved individuals into treatment in the State's forensic behavioral health system. Concerns have been raised that court-involved individuals with behavioral health disorders continue to experience delays in accessing psychiatric beds in hospitals operated by the Behavioral Health Administration (BHA hospitals). The committees heard from representatives of the Judiciary, the Maryland Department of Health (MDH), employees at State facilities, union representatives, and members of the public.

The Honorable John Morrissey, Chief Judge of the District Court of Maryland, identified three issues in need of attention: (1) MDH admission policies are hindering the ability of the Judiciary to enforce orders for psychiatric evaluation and treatment at BHA hospitals; (2) statutory provisions are unclear as to when court commitment orders must be followed; and (3) there is a lack of available psychiatric beds in BHA hospitals. The Honorable George Lipman, a judge on the Baltimore City District Court, echoed these concerns and indicated that District Court judges feel helpless in their ability to order that individuals be admitted to receive treatment in BHA hospitals within a reasonable period of time. Judge Lipman also indicated that the issuance of civil contempt orders to compel MDH to admit individuals into treatment is an inadequate remedy, that detention centers are unsuitable environments for the restoration of competency to stand trial, and that it is unclear whether the MDH plan for increasing the number of beds available will be effective. The Honorable Kathleen Cox, the Administrative Judge in Baltimore County, stated that a large number of individuals in detention centers are suffering from a mental health condition, that many of these individuals are more acutely ill than observed in the past, and that the delay in treatment presents a danger to these individuals.

Mr. Dennis Schrader, Acting Secretary of the Maryland Department of Health, reported that MDH has reduced the number of individuals on the waiting list to receive court-ordered evaluation and treatment from a peak of 52 in June 2017 to 14 in December 2017. The average number of days an individual must wait to receive evaluation and treatment has also dropped from 23 days in June 2017 to 11 in October 2017. MDH is expanding its bed capacity this fall and winter to be ready for an increase in commitment orders that is expected to occur during the spring and summer of next year. The plan is to add 95 beds in BHA hospitals, including 20 beds at the Clifton T. Perkins Hospital Center in December 2017. Secretary Schrader also reported that MDH is adding 121 PINs at BHA hospitals, which includes a shift of 101 vacant MDH PINs and 20 new PINs from the Governor to support the expansion. Regarding concerns that have been raised about assaults on staff at BHA hospitals, Secretary Schrader indicated that MDH is promoting a culture of workplace safety for employees and has achieved a 28% reduction in "struck by patient or third party" injury claims at BHA hospitals from fiscal 2015 to 2017.

BHA hospital employees and union representatives testified about the difficult working environment in BHA hospitals. BHA employees must contend with assaults on staff by patients, insufficient compensation, high staff turnover, and temporary staffing arrangements. BHA employees also expressed concern about the delay in the administration of medication to patients. BHA employees urged the State to hire more staff, increase compensation, and address the disparity in pay experienced by employees at the Eastern Shore Hospital Center and other BHA hospitals when compared with compensation received by staff at the Clifton T. Perkins Hospital Center.

The chair recommended that MDH conduct a cost-benefit analysis of expending resources to provide prompt evaluation and treatment of forensic patients. There may be cost savings if forensic patients are stabilized and returned to the community in a timelier manner.

Briefing on Nursing Home Complaint Investigations

Secretary Dennis Schrader from MDH and Dr. Howard Haft, Deputy Secretary of Public Health Services at MDH, presented a PowerPoint on the Office of Health Care Quality's (OHCQ) efforts to improve survey performance. The Secretary stated that MDH has increased the number of positions within OHCQ since the most recent U.S. Department of Health and Human Services (HHS) Inspector General's report from 202.2 in fiscal 2018 to 214.2 in fiscal 2019 (projected), and noted the improvements in the surveyor deficit over the years. The Secretary also provided information on the civil money penalties that have been collected from nursing homes, which have increased substantially. Penalty amounts, on average, have risen from $5,304 in fiscal 2011 to $234,751 in fiscal 2017.

Mr. Joseph DeMattos, President and Chief Executive Officer of the Health Facilities Association of Maryland (HFAM), and Ms. Danna Kauffmann on behalf of Mid-Atlantic Lifespan presented the perspectives of the long-term care providers regarding the investigation of complaints. Mr. DeMattos noted that the issue being addressed is the timely survey of facilities in Maryland, not on the quality of care being provided in the facilities. Mr. DeMattos stated that the increase in civil money penalties is not an indication of lack of quality care in facilities but due to changes in how fines are determined by HHS. He noted that the family satisfaction survey conducted by the Maryland Health Care Commission of HFAM facilities is at 86% satisfaction. Ms. Kauffman also emphasized that the civil money penalty spike is due to a change in the fining policy at HHS and is not a reflection of the quality of care being provided in Lifespan facilities.

As part of the public comment, Ms. Eileen Bennett, the long-term care Ombudsman for Montgomery County, stated that her unit has 6.5 staff who can give 1/2 hour per year to each resident in a facility in her county.

Senate Judicial Proceedings Committee

Maryland General Assembly
Judicial Proceedings Committee

2017 Interim
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Robert Cassilly
Michael J. Hough
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Victor R. Ramirez
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THE SENATE OF MARYLAND
JUDICIAL PROCEEDINGS COMMITTEE

December 13, 2017

The Honorable Thomas V. Mike Miller, Jr., Co-Chairman
The Honorable Michael E. Busch, Co-Chairman
Members of the Legislative Policy Committee

Ladies and Gentlemen:

The Senate Judicial Proceedings Committee respectfully submits this summary report of its activities during the 2017 legislative interim. The committee met three times this interim, for briefings on public safety in Baltimore City, the backlog of civil asbestos cases, and the availability of psychiatric beds at State run inpatient facilities. Additionally, individual members of the committee served on a number of workgroups, commissions, and task forces.

Public Safety in Baltimore City

On September 12, 2017, joint with the Baltimore City Senate Delegation, the committee received a briefing on public safety in Baltimore City. At the briefing, officials from local and State government as well as stakeholders in the Baltimore community provided testimony regarding many of the crime and public safety issues currently being faced in Baltimore City. The speakers highlighted measures currently being taken by officials and community members to address these issues and offered insights on potential legislative action from the General Assembly.

Backlog of Civil Asbestos Cases

Committee narrative in the 2014 Joint Chairmen's Report (JCR) directed the Judiciary to undertake a study of the asbestos docket in the Circuit Court for Baltimore City. Specifically, the JCR raised concerns about a backlog of approximately 11,000 civil asbestos cases filed in the circuit court and requested that the Judiciary evaluate options for resolving the pending cases in a more expeditious manner. In response, the circuit court conducted and submitted an assessment of its asbestos case inventory and proposed a plan to implement a new strategy for managing the docket.

On October 17, 2017, the Senate Judicial Proceedings Committee held a briefing to review the status of the asbestos case backlog. At the briefing, representatives from the Judiciary, the plaintiffs' bar, and the defense bar shared their experiences with the circuit court's new case management approach and offered suggestions for how management of the docket could be further improved. The briefing highlighted a fundamental disagreement between plaintiff's attorneys and defense attorneys regarding the size and nature of the backlog. Plaintiffs' attorneys reported that approximately 22,000 cases are still pending on the "active" asbestos docket. An additional

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7,000 cases are on the court's "inactive" docket, which is comprised of cases filed by plaintiffs who allege exposure to asbestos but who are not currently impaired. However, attorneys for the defendants questioned the viability of many of these cases. They noted that over 2,900 cases have been closed since the inception of the circuit court's new docketing procedures. Some of these cases had already been resolved but had never been removed from the docket; others lacked sufficient documentation to proceed.

Availability of Psychiatric Beds

On December 13, 2017, members of the committee participated in a briefing jointly held by the Senate Finance Committee, the House Judiciary Committee, and the House Health and Government Operations Committee on the availability of forensic beds in State mental hospitals. At the briefing, members of the Judiciary and representatives from the Maryland Department of Health (MDH) provided testimony regarding a surge in average wait times during the summer of 2017 for admissions to State mental hospitals for individuals who were found to be incompetent to stand trial. The increase in wait times resulted in the acting Secretary of MDH, Dennis Schrader, as well as other MDH officials being found in constructive civil contempt for failing to comply with commitment orders. Judges John Morrissey, George Lipman, and Kathleen Cox provided testimony regarding the circumstances that brought about this situation, likely solutions, and the challenges still ahead. Acting Secretary Schrader provided testimony regarding the positive steps that MDH has taken and continues to take to streamline efficiency, improve wait times, and provide adequate and timely services to patients. Finally, staff members from two of the State's mental hospitals spoke about the conditions staff members face at the facilities that individuals found incompetent to stand trial in the State are admitted to, and indicated that increased staffing and support is necessary to ensure personnel safety.

The Judicial Proceedings Committee wishes to thank the many individuals who participated in the committee's activities during the 2017 interim; we are grateful to these individuals for sharing their time and expertise with the committee.

Sincerely,

Bobby A. Zirkin, Chair
Senate Judicial Proceedings Committee

BAZ/AMM/ero

cc: Mr. Ryan Bishop
Ms. Carol L. Swan
Ms. Ryane M. Necessary

House Appropriations Committee

General Assembly of Maryland
House Appropriations Committee
2017 Interim
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Chair

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Vice Chair

THE MARYLAND HOUSE OF DELEGATES
Appropriations Committee

December 1, 2017

The Honorable Thomas V. Mike Miller, Jr., Co-Chair
The Honorable Michael E. Busch, Co-Chair
Members of the Legislative Policy Committee

Ladies and Gentlemen:

I am pleased to provide the 2017 interim report for the House Appropriations Committee. The committee had a productive interim with two full committee briefings as well as a two-day site visit to various locations in Southern Maryland.

Baltimore Clayworks Briefing

On May 2, 2017, the full committee held a briefing to discuss the sale of the Baltimore Clayworks, Inc. facility in Baltimore City. Baltimore Clayworks received a total of $800,000 in State capital funds between fiscal 1999 and 2006. Baltimore Clayworks also received annual operating grants of varying amounts through the Maryland State Arts Council, most recently totaling $71,533 in fiscal 2016 and $86,578 in fiscal 2017. The Baltimore Clayworks Interim Executive Director and Acting President of the Board of Trustees discussed the planned sale of the Baltimore Clayworks buildings, citing a history of longstanding issues with financial instability. However, the purchase agreement was canceled in early July 2017, and the board of trustees filed for bankruptcy and shut down operations shortly thereafter.

The chair of the Capital Budget Subcommittee, along with the chairs of the Joint Audit Committee and the Capital Budget Subcommittee of the Senate Budget and Taxation Committee, requested information from the Department of Commerce and the Department of General Services concerning the processes available to recover any previously invested or awarded State funds from Baltimore Clayworks. Concerning the annual operating grants, it is the committee's understanding that any grant funds awarded prior to, or in, fiscal 2017 are not recoverable and that the organization did not receive grant funds in fiscal 2018. The capital grant agreement, however, does allow for recoupment of funds.

Fiscal Briefing

On October 17, 2017, the full committee held a fiscal briefing jointly with the Senate Budget and Taxation Committee, the House Ways and Means Committee, and the Spending Affordability Committee. The Department of Legislative Services (DLS) reported on the economic outlook, revenue estimates, general fund forecast, and the status of the reserve fund.

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DLS indicated that the fiscal 2018 working appropriation would leave a fund balance of $111 million and a negative structural balance of $255 million.

Site Visit – Southern Maryland

On September 6, 2017, the full committee visited Jefferson Patterson Park, Dominion Energy Cove Point, St. Mary's College of Maryland (SMCM), and Historic St. Mary's City. The Department of Planning highlighted ongoing conservation efforts at the Jefferson Patterson Park, including work completed at the Maryland Archaeological Conservation Laboratory and upcoming capital renovation projects for the Patterson House. At Dominion Energy Cove Point, the committee was briefed on the liquefaction facilities' operations and economic impact. The visits to SMCM and Historic St. Mary's City afforded the committee an opportunity to tour the campus and speak to students.

The committee continued its tour on September 7, 2017, with visits to the College of Southern Maryland (CSM), the St. Mary's County Detention Center, and Charlotte Hall Veterans Home. CSM discussed the school's efforts to collaborate with other community institutions to effectively respond to changing workforce needs. While touring the St. Mary's County Detention Center, the committee learned about local detention operations and facility capital needs. The Department of Veterans Affairs provided a tour of the Charlotte Hall Veterans Home facilities and discussed staffing needs and other operational issues. By visiting different locations in Southern Maryland, the committee gained valuable insight into these unique facilities and the populations they serve.

The committee extends its appreciation for the assistance and information provided by State and local officials, private citizens, and the staff of the DLS during the 2017 interim.

Sincerely,

Maggie McIntosh
Chair

MM/HED/eck

Enclosures

cc: Ms. Carol L. Swan
Mr. Ryan Bishop

House Economic Matters Committee

Maryland General Assembly
House Economic Matters Committee
2017 Interim
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Delegate Sally Y. Jameson, Vice Chair

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Delegate Dereck Davis
25th Legislative District
Prince George's County

Chair
Economic Matters Committee

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The Maryland House of Delegates

Annapolis, Maryland 21401

December 12, 2017

The Honorable Thomas V. Mike Miller, Jr., Co-chair
The Honorable Michael E. Busch, Co-chair
Members of the Legislative Policy Committee

Ladies and Gentlemen:

On behalf of the House Economic Matters Committee, I am submitting a summary report of our activities during the 2017 legislative interim.

When the 2017 legislative session ended, the members of the Economic Matters Committee anticipated taking one retreat and studying several issues within its subject matter jurisdiction. In addition, the committee referred issues to various entities for further study and collaborative work.

In early October, the committee's members and staff visited various sites around the Eastern Shore to enrich our collective understanding of economic development, renewable energy, workforce development, and internet privacy issues. On the first day of the retreat, the committee visited two facilities in Westover, Maryland: (1) the Eastern Correctional Institution Facility; and (2) the associated co-generation plant that serves the facility. The prison tour included operations of the Maryland Correctional Enterprises conducted on site, prison security procedures, and inmate-conducted training of service dogs for disabled veterans. The tour of the co-generation facility provided information on the generation of electricity from renewable sources, including the use of locally grown wood. The generation facility provides a significant proportion of the electricity used by the prison facility, minimizing the purchase of electricity from the grid. On the second day of the retreat, the committee was briefed by the Department of Commerce on economic development activities that primarily benefit the Eastern Shore, as well as a few projects in Southern Maryland. The retreat concluded with a background briefing on national perspectives on internet privacy issues.

The committee continues to be concerned about a number of issues in the regulation of alcoholic beverages in the State. In light of the continued interest in the evolution and development of the manufacture, distribution, and sales of alcoholic beverages in the State, the committee held a briefing on December 5, 2017, to receive information on the economics of the industry. Presenters from three trade associations provided information on facts and trends across the nation and in Maryland concerning production breweries, distribution, and retail sales issues. While some of the discussion arose from public discourse on House Bill 1283 of 2017, which altered the licensing of general beer manufacturers and their operations under Class 5 licenses, the briefing also addressed structural issues that have raised concerns in the committee for many years.

As anticipated, the committee has received a report on the status of the development of updated and strengthened model legislation on travel insurance by the National Association of Insurance Commissioners (NAIC). Maryland Insurance Commissioner Al Redmer is chairing the NAIC workgroup on that topic, and the draft model legislation is well underway, with a likely final draft to become available sometime in 2018. The committee continues to coordinate with the Senate Finance Committee on insurance issues, and has participated in joint workgroups with that committee on low-cost automobile insurance and on peer-to-peer automobile rental services.

In the area of renewable energy, the committee is monitoring the proceedings of the study of the renewable energy portfolio standard by the Power Plant Research Program in light of the passage of House Bill 1414 of 2017, and the energy storage study that the program is conducting under House Bill 773 of 2017. The committee will also review the activities of the new Maryland Energy Innovation Institute and the coordination of the Maryland Clean Energy Center with it under House Bill 410/Senate Bill 313 of 2017.

The committee may take up the status of these and other matters of concern in briefings early in the 2018 session.

The Economic Matters Committee wishes to thank those agencies and individuals who contributed their time and talent during this 2017 interim to inform and advise the committee.

Respectfully submitted,

Dereck E. Davis

Dereck E. Davis
Chair

DED/RKS:SMG/kms

cc: Ms. Carol L. Swan
Mr. Ryan Bishop

House Environment and Transportation Committee

Maryland General Assembly
House Environment and Transportation Committee
2017 Interim
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Chairman

THE MARYLAND HOUSE OF DELEGATES
Environment and Transportation Committee

December 6, 2017

The Honorable Thomas V. Mike Miller, Jr., Co-Chairman
The Honorable Michael E. Busch, Co-Chairman
Members of the Legislative Policy Committee

Ladies and Gentlemen:

On behalf of the Environment and Transportation Committee, I am submitting this summary report of the committee's activities during the 2017 interim.

The committee identified a number of issues for study this interim, primarily by way of work group meetings. In addition, the committee went on two site visits. Lastly, many members worked diligently throughout the interim to assist the work of the committee as appointees to several task forces and study commissions created by legislation or regulation.

Study Topics

Septic Systems

During the 2017 session, the committee considered but did not pass legislation (House Bill 281) intended to address nitrogen pollution from septic systems located outside of the Chesapeake and Atlantic Coastal Bays Critical Area (Critical Area). Recognizing the importance of reducing nutrient pollution to waters of the State, the committee established a workgroup, comprised of members of the Environment Subcommittee, to further examine the issue of nitrogen pollution from septic systems.

The workgroup held a work session on July 26 to discuss, among other things (1) the amount of pollution from septic systems; (2) the impact of expanding the use of best available technology (BAT) for septic systems outside of the Critical Area; (3) whether the Bay Restoration Fund prioritizes funding appropriately to best address pollution from septic systems; and (4) the operation and maintenance of septic systems, including septic system pump-outs. The workgroup heard from representatives of the Maryland Department of the Environment and stakeholders representing the interests of county government, builders, environmental protection advocates, on site wastewater professionals, and realtors.

The workgroup also held a work session on October 5 to further discuss this topic. While different issues were discussed by workgroup members, the primary topics concerned (1) possible incentives for the operation and maintenance of septic systems, including possible incentives for septic system pump-outs; (2) the tracking of data related to the operation and maintenance of septic systems; (3) whether a BAT policy should also focus on impaired waterways outside the Critical Area; and (4) whether efforts within the Critical Area should be enhanced.

Market-share Liability for Damages Caused by Lead-based Paint

The committee held a work session on October 25 to gather information and perspectives on the topic of market-share liability for damages caused by lead-based paint. The committee invited various stakeholders involved with the issue. The committee received statements from representatives of lead pigment and paint manufacturers, healthy home advocates, tort reform advocates, and housing, while legal advocates for a market-share liability policy did not attend.

Polystyrene

During the 2017 session, the committee considered but did not pass House Bill 229, which would have placed restrictions on the use of polystyrene products in the food services industry, as well as on the use of polystyrene packaging products, such as packing peanuts. On October 25, the committee held a work session to discuss House Bill 229 and related topics. The committee heard statements from the sponsor of the 2017 legislation, as well as from stakeholders representing the interests of environmental protection advocates, county government, retailers, restaurants, and food service ware manufacturers.

Forest Conservation Act

Senate Bill 365/House Bill 599 of 2017 (both failed) sought to make several changes to the Maryland Forest Conservation Act. Senate Bill 365, as amended by the Senate, would have established the Task Force on the Forest Conservation Act Offset Policy to review and study specified issues relating to the impact of development on forested land and the extent to which forest loss is offset through reforestation policies under the Act. The committee held a work session on November 1 to further examine how the Act operates and whether changes to the Act are warranted. The committee heard from a representative of the Department of Natural Resources (DNR) and stakeholders representing the interests of county and local government, builders, and environmental protection and sustainable forestry advocates.

Solar Energy and Land Management

Recently, the cost of solar energy has decreased. In response to this development, on November 1, the committee held a work session to examine whether utility scale solar energy development could be encouraged without unduly impacting current land use and preservation objectives. The committee received background information and perspectives on the topic from a variety of stakeholders, including representatives of DNR, the Maryland Energy Administration, and the Maryland Department of Agriculture, as well as from stakeholders representing the interests of county government, renewable energy advocates, and environmental protection advocates.

Personal Motor Vehicle Rentals

House Bill 1520/Senate Bill 1056 of 2017 (both failed) would have established a statutory framework for the rental of a personal motor vehicle to another person through the use of an Internet-based platform. Because of the complexity of the issues raised, the committee referred the legislation to interim study by a workgroup consisting of members of the committee, the House Economic Matters Committee, and the Senate Finance Committee. After numerous meetings with the Maryland Insurance Administration and other interested stakeholders, the workgroup held a public work session on November 30 to discuss the issues raised by the legislation, including (1) operational issues related to State taxes, the use of BWI Airport property, safety, and standards for personal motor vehicle rentals in light of standards that apply to vehicle rental companies; and (2) motor vehicle insurance issues.

Full Committee Site Visit

May

On May 30, the committee toured the Baltimore County Central Acceptance Facility in Cockeysville to learn more about single stream recycling.

July

On July 21, some members of the committee participated in "A Day on the Bay" event hosted by DNR to learn more about water quality monitoring, oysters, and land resources programs.

The Environment and Transportation Committee wishes to thank the many private citizens and public officials who participated in the committee's activities during the 2017 interim; their time and talents are greatly appreciated.

Respectfully submitted,

Delegate Kumar P. Barve

KPB/LPL:TPT:CCF:TG/kjl
cc: Carol Swan
Ryan Bishop

House Health and Government Operations Committee

General Assembly of Maryland
Health and Government Operations Committee
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THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401-1991

December 15, 2017

The Honorable Thomas V. Mike Miller, Jr., Co-Chairman
The Honorable Michael E. Busch, Co-Chairman
Members of the Legislative Policy Committee

Ladies and Gentlemen:

This letter responds to your request for a summary of the interim work of the Health and Government Operations Committee. The full committee met on September 21, 2017; October 3, 2017; and December 13, 2017. On September 21, 2017, the committee received a briefing on the prescription drug monitoring program, insurance solvency, network adequacy regulations, and health insurance rates approved by the Maryland Insurance Administration for 2018. On October 3, 2017, the committee received a briefing on maternal and child health and from the Rural Healthcare Delivery Workgroup. On December 13, 2017, the committee held a joint briefing with the Senate Finance Committee, the Senate Judicial Proceedings Committee, and the House Judiciary Criminal Justice Subcommittee on forensic beds in State hospitals and the inspections of nursing homes in the State. On November 2, 2017, members of the Government Operations and Estates and Trusts Subcommittee participated with members of the Senate Finance Committee in the 9-1-1 Modernization Workgroup.

The Health and Government Operations Committee appreciates the advice and assistance of the private citizens and public officials who participated in the committee's activities during the 2017 interim. As chairman, I would also like to thank the committee members and staff for their time and effort.

Respectfully submitted,

Shane Pendergrass

Shane E. Pendergrass, Chairman
Health and Government Operations Committee

SEP/ERH:LIS:LAR/bao

Enclosure
cc: Members, Health and Government Operations Committee
Mr. J. Ryan Bishop
Ms. Carol L. Swan

Health and Government Operations Committee Interim Report

Prescription Drug Monitoring Program

Deputy Chief of Staff Webster Ye, from the Maryland Department of Health (MDH), Office of Governmental Affairs, briefed the committee on the Prescription Drug Monitoring Program (PDMP). PDMP collects controlled dangerous substance (CDS) prescription dispensing information and enables authorized users to access the data for clinical, investigative, research, and public education purposes to improve the health and safety of Maryland citizens. On or before July 1, 2017, all CDS prescribers and pharmacists were required to register with PDMP, and MDH reported a 70.27% compliance rate with the registration mandate. A requirement that pharmacists and prescribers use PDMP goes into effect on July 1, 2018.

The Office of Controlled Substance Administration (OCSA) is responsible for issuing CDS registrations to any individual or business that manufacturers, distributes, dispenses, stores, labels, or conducts research with CDSs in Maryland. OCSA regulates approximately 40,000 CDS registrants through its Administrative Division, Business and Operations Division, and Enforcement Division. Currently, OCSA uses a paper application process for new and renewal applications but is moving toward an electronic process for renewal applications.

In July 2017, the Governor's Opioid Operating Command Center selected OCSA to receive approximately $250,000 in funding to hire additional staff to formulate data and investigate cases that may result in action against a CDS registrant. Additionally, OCSA has developed a list of "red flags" for the use of practitioners and providers. OSCA provides education on PDMP and red flags for physicians, pharmacists, and the public and is developing regular position opioid control initiatives for practitioners and providers.

MDH indicated that it would continue to fulfill the primary initiatives of PDMP and enhance the coordination of PDMP and OSCA. MDH recommended that, in light of the expansion of the Enforcement Division and its responsibilities, the General Assembly take a careful and deliberative approach to any potential changes in PDMP authority during the 2018 session. Over the next year, MDH intends to:

- achieve 100% compliance with PDMP's mandatory registration requirement;
- continue outreach and education efforts on CDS prescriptions to lower the number of unnecessary or inappropriate prescriptions in Maryland; and
- prepare for and achieve compliance with the July 1, 2018 PDMP mandatory use and dispensing mandate.

Dr. Kishor Vinay Parekh, Director of Adult Psychiatric Emergency Services, Co-Medical Director – Johns Hopkins Broadway Center for Addiction, shared the Johns Hopkins Broadway Center for Addiction's experience with PDMP. Johns Hopkins Broadway Center for Addiction employees found duplicative information and records included in PDMP. Additionally, there is concern that the mandatory use requirement will have unintended consequences. Johns Hopkins Broadway Center for Addiction is working with PDMP to address the concerns.

Insurance Solvency

Maryland Insurance Commissioner Alfred W. Redmer, Jr. and Associate Commissioner Vincent P. O'Grady – Examination and Audit – from the Maryland Insurance Administration (MIA), briefed the committee on insurance solvency. The U.S. Insurance Regulatory Mission is to protect the interests of policyholders and facilitate an effective and efficient insurance marketplace. In the United States, insurance regulation is state-based, while the National Association of Insurance Commissioners (NAIC) establishes standards and provides regulatory support for the states. NAIC established the following seven financial solvency core principles: (1) regulatory reporting, disclosure, and transparency; (2) off-site monitoring and analysis; (3) on-site risk-focused examinations; (4) reserves, capital adequacy, and solvency; (5) regulatory control of significant, broad-based, risk-related transactions/activities; (6) preventive and corrective measures, including enforcements; and (7) exiting the market and receivership. Insurance companies file financial statements with insurance regulators using statutory accounting principles that were designed to address solvency concerns, focus on funds available to satisfy obligations to policyholders, and are based on a liquidation concept.

In Maryland, MIA is the independent State agency that acts as the State-based insurance regulator. The Examination and Auditing Unit within MIA focuses on evaluating current and prospective risks in order to develop timely corrective measures and decrease the frequency and severity of insolvencies. Causes of insolvency include deficient reserves, inadequate pricing, rapid growth, fraud, catastrophic losses, problems with affiliates, investment problems, business changes, and reinsurer failures. MIA has a multidisciplinary early warning committee that meets quarterly to identify market analysis indicators for potential insolvency. MIA also evaluates insurers' capital adequacy by calculating risk-based capital through comparison of an insurer's actual capital to a formulaic calculation of the company's overall risk.

Recently, the insolvency of two companies has impacted Maryland. Evergreen Health, a cooperative under the Affordable Care Act (ACA), which had 40,000 Marylanders as members at its peak, was placed into receivership on July 31, 2017. Penn Treaty, a long-term care insurance carrier, which had approximately 900 policyholders in Maryland, was placed into liquidation on March 1, 2017. The effects of the insolvency of these two companies may include higher rates, premiums and surcharges, less competition, partially paid or unpaid debts, and delayed payments.

Network Adequacy Regulations

Commissioner Redmer and Associate Commissioner Robert D. Morrow – Life and Health – from MIA, briefed the committee on the proposed network adequacy regulations. House Bill 1318 and Senate Bill 929 of 2016 required MIA to adopt network adequacy regulations in consultation with stakeholders on or before December 31, 2017. MIA established a workgroup in 2016 to assist in drafting the regulations. The workgroup held nine public meetings on a number of topics and reviewed federal and other State requirements. The workgroup accepted comments and submissions from stakeholders and posted them on MIA's website. The regulations for health benefit plans were published in the *Maryland Register* and, at the committee meeting on September 19, 2017, MIA informed the committee that it was reviewing comments. The regulations establish distance standards for urban, suburban, and rural regions and provide that region designation will be based on population density by zip code as determined with assistance from the Maryland Department of Planning. The regulations also address appointment wait times and provider-to-enrollee ratios. Carriers can apply for a one-year waiver from any requirement, and waivers will be granted for good cause. Additionally, carriers will be required to file an annual access plan. Carriers may request that certain information in an access plan be considered confidential; however, carriers must complete and file an executive summary form that is not confidential. MIA continues to work on the dental network adequacy regulations.

Two representatives from Consumer Health First (CHF), Leni Preston, the President, and Robyn Elliott, a lobbyist, told committee members that distance standards and appointment wait times are very important and that the regulations should ensure that underserved individuals have resources. CHF also expressed concern with the waiver process. CHF is concerned that the process undermines consumers and was not considered in statute.

Health Insurance Rates Approved by MIA for 2018

Commissioner Redmer and Chief Actuary Todd Switzer, from MIA, briefed the committee on the rates approved in the individual and small group markets. The small group market that includes approximately 257,000 Marylanders remains a competitive marketplace. The average rate increase approved in the small group market for 2018 was 1.7%.

In contrast, only two carriers, Kaiser Permanente and CareFirst BlueCross BlueShield (CareFirst), remain in the individual nonMedigap market that includes approximately 243,000 Marylanders. Carriers requested an average 43.1% average rate increase, but MIA only approved a 33.0% average rate increase. Factors considered in approving the rate increases included (1) reinstatement of the 3.0% health insurer fee that was waived in 2017; (2) healthy members leaving the market; (3) higher actual claims than expected; and (4) an approximate 8.0% increase in claims costs. MIA did not consider whether or not the federal government would continue making cost-sharing subsidies to carriers.

Chet Burrell, President and Chief Executive Officer (CEO), CareFirst, told the committee that the ACA has reached its target population, but the individual market is unsustainable. In Maryland, Medicaid enrollment has grown by 51.0% since 2013, and the uninsured rate dropped from 11.3% in 2010 to 6.1% in 2016. However, the individual market, which includes 169,857 CareFirst members, has remained in constant flux with an approximate one-third turnover rate each year. Of the two carriers in the individual market, CareFirst is the only carrier in 13 counties, and 75.0% of the individual market is made up of CareFirst members.

CareFirst attributes the 50% rate increase requested for the individual market in 2018 to several factors. During the first few years of the ACA, CareFirst requested too little in rate increases, and MIA approved even less than what was requested, resulting in an approximate loss of $500,000,000 to CareFirst. For 2018, CareFirst requested 15% higher rates to recoup past losses and break even. Additionally, the requested rate increase included 12% for utilization costs and 3% due to the reinstatement of the health insurer tax. However, the largest factor in the requested rate increase was morbidity acceleration due to the loss of healthier members, which accounted for 20% of the requested rate increase. As rates have increased, healthier members have decided that they cannot afford health insurance and have opted out of the market. This trend is only expected to increase in light of the federal government indicating that it will no longer enforce the individual mandate. CareFirst estimates that the individual market will collapse within the next two years if changes are not made. To minimize the chances of collapse, CareFirst recommends:

- moving to one standard product in the individual market that has a $1,000 deductible with a $3,500 out-of-pocket maximum and includes all essential health benefits;

- placing a stop loss limit of $50,000 per person per year with the federal government paying 80% using funding required by the ACA for advance premium tax credits and cost-sharing reductions, and carriers paying 20%; and

- continuing to provide premium subsidies for lower income individuals.

Maternal and Child Health

In August 2017, the committee requested a briefing from MDH on specific information related to maternal and child health to be presented at the October 3, 2017 briefing. In particular, the committee requested data on trends by county and race over the previous five years in infant mortality rates, prenatal care visits, primary care visits, and post-partum follow-up. The committee also requested data on the number of women who died in childbirth and for any published recommendations for improvements for the Maternal Mortality Review Board. In addition, the committee asked MDH to examine the differences in behavioral health services by county and race over the previous five years in mental health disorder treatment services, substance use disorder (SUD) treatment services, and SUD screening services. The committee also asked MDH to provide data on the number of pregnant women diagnosed with SUDs.

At the October 3, 2017 briefing, Mr. Ye provided information to the committee on pregnant women receiving SUD services by their county of residence and race. The committee requested follow-up information from MDH that was responsive to the initial request for data on maternal and child health. In November 2017, MDH provided a document to the committee that contained specific data related to infant mortality, prenatal and primary care, post-partum follow-up, women who died in childbirth, mental health and SUD treatment and screening, pregnant women with SUDs, and women with SUDs who became pregnant too soon after the birth of their child. A review of published recommendations for improvements from the Maternal Mortality Review Board was also provided.

Update from the Rural Healthcare Delivery Workgroup

Chapter 420 of 2016 – Freestanding Medical Facilities – Certificate of Need, Rates, and Definitions – established the Rural Healthcare Delivery Workgroup to oversee a study of the rural health care needs in the State's five Mid-Shore counties to specifically recommend policies that address the health care needs of residents of those counties and to improve the health care delivery system in the Mid-Shore. Michael J. (Ben) Steffen, Executive Director, Maryland Health Care Commission, along with co-chairs Deborah Mizeur and Joseph A. Ciotola, from the Rural Healthcare Delivery Workgroup, updated the committee on the findings of the workgroup on October 3, 2017. Ms. Mizeur and Mr. Ciotola outlined the issues examined in the study, the framework for the study, and the development of recommendations.

The study resulted in the following three broad categories of recommendations: (1) foster collaboration and build coalitions in rural areas to serve rural communities; (2) bring care as close to the patient as possible to improve access; and (3) foster participation in statewide models and programs in rural Maryland. In order to foster collaboration and build coalitions, the workgroup recommends building a rural health collaborative and launching a rural community health demonstration program. To bring care as close to the patient as possible, the workgroup recommends strengthening the workforce by improving both recruitment and training of health care professionals, expanding the availability of telehealth and mobile capacity, and expanding community paramedicine and mobile integrated health. To foster participation in statewide models, the workgroup recommends developing the health care workforce needed for rural communities to succeed in the Total Cost of Care Demonstration, establishing a special rural community hospital, and charging the Community Health Resources Commission with incubating pilot projects in rural communities. Mr. Steffen stated that the workgroup will be working with the Governor's office to develop consensus on legislative proposals based on the findings of the workgroup for introduction during the 2018 session.

Forensic Beds in State Hospitals

The Honorable John P. Morrissey, Chief Judge of the District Court of Maryland, explained the Incompetent to Stand Trial (IST) and Not Criminally Responsible (NCR) process and cited three issues that necessitated the briefing: tension between MDH admission policy and the Judiciary's need to enforce orders, lack of clarity in statute regarding timing requirements for placement, and staffing of beds needed to treat individuals found IST or NCR. He stressed the need for a bright line for when court orders should be followed.

The Honorable George M. Lipman, Judge in the Baltimore City Mental Health Court, stated that the briefing represented the sixth time that he had addressed the legislature on this issue. He cited the *Powell v. Maryland Department of Health* case, which held that the current statute does not authorize the court to set a deadline for placement. He stated that legislation is necessary to give trial courts the authority to set a date for admission. He said MDH has the discretion on whether to admit an individual who is ordered committed by the court and that the judiciary must currently abide by MDH internal policies. The issue of delays in admission has been around for many years and has been the subject of *Joint Chairman Report* studies, from 2008 and 2010, that recommended additional staffing for State hospitals. He also provided a chart of the defendants in his court who were adjudicated IST and the days from the date a court order is signed to the date of admission. Judge Lipman said the State needs to examine whether the beds are open, staffed, and functioning and that the key is whether the beds are staffed.

The Honorable Kathleen G. Cox, Administrative Judge from Baltimore County, noted the differences among jurisdictions, particularly that there are issues with smaller jurisdictions as well in getting IST/NCR individuals into treatment. She also noted the issue with court orders not being followed and who is accountable for placing individuals found IST or NCR. She also stressed the need for staffing available beds and that there is a struggle to find appropriate beds in a timely manner. Judge Cox said there is a resource piece to this problem in that regular positions need to be filled. She also stated that there needs to be more clarity in the IST/NCR statutes and that using contempt orders to address the problem is not a solution.

Dennis R. Schrader, Secretary of Health, provided a presentation with data on the IST/NCR process. In Maryland, 535 of the 2,253 evaluations in fiscal 2017 were in Baltimore City. He agreed that a 30-day wait is not acceptable, but 30 days was set as policy because the other option was to leave the timeline open ended. Preliminary November data indicated an average wait time of 11 days. He stated that it is clear that more beds need to be added and provided a chart of the State facilities and the plan for expanding fully staffed beds and regular positions. In addition, Bon Secours and Adventist are adding beds. He said 101 vacant regular positions have been shifted to address this issue and that 20 new regular positions have been received by Governor Lawrence J. Hogan, Jr. to address the expansion. MDH has appointed a director of hospitals within the Behavioral Health Administration (BHA) to address the issue and the effort to expand capacity across the entire hospital system. MDH has also established a centralized admissions office to process all court orders and to serve as a single point of contact. He said MDH is considering legislative changes to address the issue as well. Secretary Schrader provided an overview of the recommendations of the forensic services workgroup and MDH's efforts to implement the recommendations. Secretary Schrader addressed the contempt order, noting that the judiciary had granted a stay and that MDH will continue to implement plans for improvement in this area. The current priorities of MDH include: (1) expanding bed capacity for mental illness treatment at MDH hospitals to make placements within 30 days or less; (2) fulfilling the 21-day requirement for placement for 8-507 orders; (3) improving customer service; and (4) collaborating with stakeholders across the whole system of care. Barbara J. Bazron, Deputy Secretary of BHA, David Lasher, Chief of Staff, and John Robison, Director of Hospitals at BHA, were also part of the MDH panel.

Representatives from AFT – Healthcare Maryland and the American Federation of State, County, and Municipal Employees (AFSCME) also addressed the committee. Scott Hanekamp, President of AFSCME Local 611, addressed the issues at the Thomas B. Finan Center, including attacks on staff. Timothy Bolden, from AFSCME Local 770, addressed the issues at Eastern Shore Hospital Center and stated that the facility had lost 63 nurses in a year due to the unsafe work environment. Rosemary Wertz, field coordinator for AFT – Maryland, stated that there is a crisis in staffing, and they cannot recruit or keep staff. She appreciates the shift in regular positions but questions how medical professionals will be attracted and maintained. There have been no salary increases or other incentives to attract staff, and something needs to be done to improve recruitment and retention of these individuals.

As part of public comment, Evelyn Burton, representing Families for Care, addressed the issue of individuals in emergency rooms and the unavailability of treatment at State hospitals. Marilyn Martin, a concerned citizen, stressed the need for the availability of outpatient treatment. Aliyah Jones, from Bon Secours, stated that Bon Secours is excited about its partnership with the State and had its first patient admitted in October and were able to release that individual back into the community with 23 days of admission. Jessica Honke, the policy and advocacy director from the National Alliance on Mental Illness – Maryland, noted that the State has consistently reduced funds and beds over the years. She is encouraged by MDH's current efforts but is concerned about the needs of nonforensic patients. Mary Pizzo, from the Office of the Public Defender, wants judicial discretion in the statute for placing individuals.

Investigations of Complaints in Maryland Nursing Homes

Secretary Schrader and Dr. Howard M. Haft, Deputy Secretary of Public Health Services at MDH, provided a presentation on the Office of Health Care Quality's (OHCQ) efforts to improve survey performance. He stated that MDH has increased the number of positions within OHCQ since the Inspector General's report, from 202.2 positions in fiscal 2018 to 214.2 positions in fiscal 2019 (projected), and noted the improvements in the surveyor deficit over the years. He also reviewed the civil money penalties that have been collected from nursing homes, which have increased substantially. Penalty amounts, on average, have risen from \$5,304 in fiscal 2011 to \$234,751 in fiscal 2017.

Joseph DeMattos, Jr., President and CEO of the Health Facilities Association of Maryland, and Danna Kauffmann, on behalf of Mid-Atlantic Lifespan, presented the perspective of the long-term care providers regarding the investigation of complaints. Mr. DeMattos noted that the issue being addressed is the timely survey of facilities in Maryland, not on the quality of care being provided in the facilities. He said the increase in civil money penalties is not an indication of lack of quality care in facilities but due to changes in how fines are determined. He noted that the family satisfaction survey of the Health Facilities Association of Maryland is at 86% satisfaction. Ms. Kauffman also emphasized that the civil money penalty spike is due to a change in the fining policy at the Centers for Medicare and Medicaid Services and is not a reflection of the quality of care being provided in facilities.

As part of public comment, Eileen Bennett, the long-term care ombudsman for Montgomery County, stated that her unit has 6.5 staff who can give half an hour per year to each resident in a facility in her county.

9-1-1 Modernization Workgroup

The 9-1-1 Modernization Workgroup was convened in response to Senate Bill 466 of 2017 (did not pass) to study the current status of 9-1-1 service and the steps involved with continuing to enhance the system. The workgroup met once during the interim and received presentations from the Emergency Number Systems Board (ENSB), the Maryland Association of Counties (MACo), local Public Safety Answering Point (PSAP) directors, and telecommunications companies.

Scott Roper, ENSB Executive Director, provided an overview of the duties of ENSB, the 9-1-1 fees imposed in Maryland, the current status of 9-1-1 service, and ENSB's efforts toward implementing Next Generation 9-1-1 (NG911). ENSB is studying NG911 through an independent consultant, which has been hired to: (1) conduct general NG911 program management; (2) conduct a readiness assessment and deliver a procurement strategy; (3) conduct a geographic information system (GIS) gap analysis and coordinated GIS data development; (4) implement a procurement strategy and implementation plan; and (5) provide grant writing support. The consultant has accomplished and continues to provide support for the program management task and has begun the next two tasks. After a procurement strategy is finalized, ENSB is expected to submit a request for proposals to implement a statewide NG911 system.

ENSB was further represented by Anthony Myers, ENSB Chair, and Jack Markey and Steve Souder, ENSB members. The ENSB representatives emphasized the importance of ensuring that the existing 9-1-1 system continues at peak operability during a transition to a new system.

Kevin Kinnally, Policy Associate at MACo, expressed the importance of enhancing Maryland's 9-1-1 system and will advance this issue as part of its legislative agenda for 2018.

The PSAP directors that addressed the workgroup represented Montgomery, Charles, Kent, and Dorchester Counties. Each of the directors expressed the importance of transitioning to NG911 to increase each PSAP's ability to respond efficiently and effectively to callers, including allowing PSAPs to access not only more accurate information about caller location, but also information that will assist emergency personnel in communicating with callers and responding more efficiently. NG911 would allow PSAPs to receive text, chat, video, location, and various other types of data from a 9-1-1 call.

In addition to discussing the importance of upgrading the 9-1-1 system, each of the PSAP directors noted that county expenditures for 9-1-1 systems outweigh 9-1-1 fee revenues. The PSAP directors asked the workgroup to examine the current funding formula for 9-1-1 systems with the goal of closing this gap.

Representatives from Comcast (Sean Looney), Verizon (Anthony Montani), and AT&T (Denis Dunn and Jean Claud Rizk) presented to the workgroup to provide the perspective of telecommunications companies on 9-1-1 system modernization. The group emphasized that a successful transition to NG911 will depend on appropriate planning, coordination, and funding. To address the funding gap for 9-1-1 systems, the telecommunications representatives all expressed support for imposing a 9-1-1 fee on each telephone line rather than a single fee charged to a bill with potentially multiple lines. Mr. Montani further raised the possibility of imposing a 9-1-1 fee on Internet service.

House Judiciary Committee

Maryland General Assembly
House Judiciary Committee
2017 Interim
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Kathleen M. Dumais, Vice Chairman

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Joseph F. Vallario, Jr.
Chair

Kathleen M. Dumais
Vice Chair

The Maryland House of Delegates

Judiciary Committee

December 1, 2017

The Honorable Thomas V. Mike Miller, Jr., Co-Chairman
The Honorable Michael E. Busch, Co-Chairman
Members of the Legislative Policy Committee

Ladies and Gentlemen:

The House Judiciary Committee respectfully submits this summary report of its activities during the 2017 interim.

In May, I informed you that the House Judiciary Committee intended to continue to study proposals to alter pretrial release procedures.

The committee did not, in fact, meet this interim. However, we plan to hold a briefing on the status of pretrial release procedures in the State during the early part of the 2018 session.

Sincerely,

Joseph F. Vallario, Jr.

Joseph F. Vallario, Jr.
Chairman

JFV/CER/ero

cc: Mr. Ryan Bishop
Ms. Carol L. Swan
Ms. Ryane M. Necessary
Members of the Judiciary Committee

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House Ways and Means Committee

Maryland General Assembly
House Ways and Means Committee
2017 Interim
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THE MARYLAND HOUSE OF DELEGATES
WAYS AND MEANS COMMITTEE

December 6, 2017

The Honorable Thomas V. Mike Miller Jr., Co-Chair
The Honorable Michael E. Busch, Co-Chair
Members of the Legislative Policy Committee

Ladies and Gentleman:

The House Ways and Means Committee respectfully submits its report of activities for the 2017 interim. The committee had a productive interim that included site visits, interim studies, and briefings that will inform the committee's legislative work during the 2018 session of the General Assembly and in future years. A summary of the committee's activities is listed below.

Full Committee

On June 15, 2017, the committee held an organizational meeting, followed by a briefing from the Maryland Stadium Authority (MSA) on Phase I of the Market and Economic Study of Pimlico Race Course. The study, requested by the Maryland Racing Commission and managed by MSA, was conducted to evaluate Pimlico Race Course's ability to serve as the permanent home for the Preakness Stakes. Phase I examined existing conditions at Pimlico and recommended significant capital improvements to the race course facilities and infrastructure. The second and final phase of the study is expected in 2018.

On August 29, 2017, the committee visited several sites in Baltimore City that were related to economic development, taxes, and gaming. The committee began its day with a tour of the Amazon Fulfillment Center. The center is a one million square foot building where 4,000 people are employed to process online orders with the help of robots and other technology. The facility is a prime example of how State tax credits and other incentives can be used to bring a major economic development project with many new jobs to the State. The Amazon facility received $43.0 million in tax credits and loans to locate in Baltimore City, including $35.0 million in Enterprise Zone tax credits, $5.5 million in One Maryland tax credits, $1.7 million in job creation tax credits, and $800,000 in credits for building on a brownfields site.

The committee then toured the Under Armour campus and Sagamore's economic development project at Port Covington. At Under Armour, the tour began at City Garage, a business incubator and makerspace facility. At the Lighthouse, the committee saw where designers and engineers collaborate to make standard manufacturing practices more cost effective. Finally, the committee got a glimpse of Sagamore's redevelopment project at Port Covington,

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promising to revitalize Baltimore's waterfront, clean up environmentally damaged shoreline, and create jobs. The tour also included the project's newest ventures – the Pendry Hotel in Fells Point and the Sagamore Spirit distillery in Port Covington. The committee concluded its day with a tour of the Horseshoe Casino and an Orioles baseball game at Camden Yards. Each tour proved informative and beneficial to the committee's work.

On September 6, 2017, the committee met jointly with the Senate Education, Health, and Environmental Affairs Committee for a hearing on the cybersecurity of election systems. The hearing focused on a report issued by the Office of Legislative Audits (OLA) in April 2017 that found deficiencies with the cybersecurity practices of the State Board of Elections (SBE). At the hearing, SBE reported that nearly all of OLA's recommendations had been implemented or were in the process of being implemented. The committees also heard testimony from the chair of the U.S. Election Assistance Commission, two computer science professors, and the Brennan Center for Justice on additional measures to protect election systems from cyberattacks. Following the briefing, the election law subcommittee met to discuss potential legislative proposals to strengthen election cybersecurity.

Finally, on October 17, 2017, the committee met jointly with the Senate Budget and Taxation Committee, the House Appropriations Committee, and the Spending Affordability Committee for a fiscal briefing from the Department of Legislative Services (DLS).

Education Subcommittee

On October 18, 2017, the education subcommittee visited several schools in Baltimore City and Baltimore County. The subcommittee started its day at the Pathways in Technology Early College High School (P-TECH) at Paul Laurence Dunbar High School in Baltimore City. Students enrolled in a P-TECH school receive mentoring and career exposure from the industry partners, and can graduate from the program with a high school diploma and an associate's degree within four to six years.

The subcommittee then visited the Baltimore Leadership School for Young Women (BLSYW), a charter school in Baltimore City. The subcommittee learned about BLSYW's college readiness and college counseling program. Since BLSYW is a combined middle school and high school, these college readiness programs and opportunities are available to students beginning in grade 6.

Lastly, the subcommittee went to Sollers Point Technical High School in Dundalk. Sollers Point Tech is a Baltimore County regional magnet school that partners with regional high schools to provide students with career and technology education programs. The subcommittee visited various large-scale workshops and working classrooms and observed students working on diesel truck engines, baking pinwheel pastries, building a cottage, and learning computer coding.

The subcommittee conducted studies focused on two bills from the 2017 session that were referred to interim study. On October 31, 2017, the subcommittee held an interim study on House Bill 1486 (Teachers and Teacher Preparation Programs – Research-Based Reading Instruction). The subcommittee invited stakeholders to discuss how the State could generally improve teacher preparation programs and increase in-state training. On November 1, 2017, the subcommittee held an interim study on House Bill 1351 (Education – Foreign Language Requirement – Computer Programming Language Courses). The members and stakeholders discussed legislative ways to better incorporate computer science and computer coding in the middle school and high school curriculum.

On November 1, 2017, the subcommittee held a briefing on the Achieving Collegiate Excellence and Success (ACES) program at Montgomery College. ACES is a collaborative effort between Montgomery College, Montgomery County Public Schools, and the Universities at Shady Grove to support students and provide a seamless path to a bachelor's degree. Coaches with the ACES program provide individualized academic and student support to targeted students.

Revenues Subcommittee

On September 26, 2017, members of the revenues subcommittee met for a work session to review and consider legislation implementing past recommendations of the Tax Credit Evaluation Committee regarding the Enterprise Zone, film production activity, and One Maryland tax credits. Members made suggestions to improve the Enterprise Zone and One Maryland credits and recommended that the committee follow up with the agencies that administer the credits. At this time, no legislative action has been recommended by the subcommittee.

The committee would like to extend its gratitude to the State and local officials as well as other private and public individuals who contributed their time, effort, knowledge, and talent during the 2017 interim to inform and advise the committee on issues of interest to the committee. The committee would also like to thank DLS and the committee staff for their continued support.

Respectfully submitted,

Anne R. Kaiser

Anne R. Kaiser
Chair

cc: Mr. J. Ryan Bishop
Ms. Carol Swan

Part II

Statutory and Special Joint Committees

Joint Committee on
Administrative, Executive, and Legislative Review

Maryland General Assembly
Joint Committee on Administrative, Executive, and Legislative Review (AELR)
2017 Membership Roster

Senator Roger Manno (Senate Chair)
Delegate Samuel I Rosenberg (House Chair)

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Adelaide C. Eckardt
Guy Guzzone
James N. Mathias, Jr.
Nathaniel T. Oaks
Victor R. Ramirez
Barbara Robinson
William C. Smith, Jr.
Steve Waugh

Delegates

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Luke Clippinger
Robert L. Flanagan
Marvin E. Holmes, Jr.
Jay A. Jacobs
Susan K. McComas
Dan K. Morhaim
Kirill Reznik
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Committee Staff

George H. Butler
Crystal L. Lemieux
Kathryn H. Selle

Roger Manno
Senate Chair

Samuel I. "Sandy" Rosenberg
House Chair

MARYLAND GENERAL ASSEMBLY
Joint Committee on Administrative, Executive, and Legislative Review

December 14, 2017

The Honorable Thomas V. Mike Miller, Jr., Co-chair
The Honorable Michael E. Busch, Co-chair
Members of the Legislative Policy Committee

Dear Members of the Legislative Policy Committee:

The following report of the Joint Committee on Administrative, Executive, and Legislative Review for 2017 is submitted in accordance with § 2-506(b) of the State Government Article.

Functions of the Committee

The committee has several statutory review functions relating to the activities of the Executive Branch. The committee's primary role is to review regulations issued by State administrative agencies. The specific statutory functions of the committee are as follows:

- review of all regulations proposed by State executive agencies before publication of the regulations in the *Maryland Register*;

- review and approval of all requests from State executive agencies for the immediate adoption, through the emergency process, of proposed regulations;

- discretionary review of the operations of any executive agency;

- discretionary inquiry into any alleged failure of an officer or employee of any branch of State government to comply with the laws of the State;

- review and approval of any executive order promulgated by the Governor pursuant to the Governor's emergency energy powers under Title 14, Subtitle 3 of the Public Safety Article;

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- review of executive agency "work plans" and "evaluation reports" submitted in the course of an agency's cyclical review of its existing regulations under the Regulatory Review and Evaluation Act, as implemented by Executive Order 01.01.2003.20;

- ongoing supervisory responsibilities under the "State Documents Law" relating to the publication of the *Maryland Register* and the *Code of Maryland Regulations* (COMAR) and;

- other specific review responsibilities established by statute.

Statistical Overview

As of December 12, 2017, the committee had received 8 regulations submitted by executive agencies in 2017 for emergency approval and 267 regulations proposed for adoption within normal timeframes, for an overall total of 275 regulations. In 2016, the committee received 13 emergency regulations and 364 proposed regulations for a total of 377 regulations.

The committee has compiled statistics since 1993 on the number of regulations received by the committee from each agency. The Maryland Department of Health (MDH), formerly the Department of Health and Mental Hygiene, consistently has been the most prolific in submitting regulations to the committee. In 2017, MDH submitted 107 regulations to the committee, of which 2 were emergency proposals and 105 were proposed regulations. The regulations submitted by MDH constituted 40% of the total number of regulations the committee received for the year.

The Department of Natural Resources, which submitted 1 emergency regulation and 27 proposed regulations for a total of 28 regulations, was the second most prolific source of regulations. The Department of Labor, Licensing, and Regulation was the third highest source of regulations in 2017, submitting 2 emergency regulations and 15 proposed regulations, for a total of 17 regulations. Other agencies submitting significant numbers of regulations were the State Board of Education (13 proposed regulations), the Maryland Department of the Environment (11 proposed regulations), the Maryland Higher Education Commission (10 proposed regulations), the Maryland Insurance Administration (10 proposed regulations), the Workers' Compensation Commission (9 proposed regulations), the Department of Public Safety and Correctional Services (8 proposed regulations), and the Maryland Department of Transportation (1 emergency regulation and 6 proposed regulations).

Supervisory Responsibilities under the State Documents Law

As part of its supervisory responsibilities under the "State Documents Law" (Title 7, Subtitle 2 of the State Government Article), the committee continued to monitor significant developments concerning publications of the Division of State Documents (DSD), a unit within the Office of the Secretary of State. DSD publishes the *Maryland Register* and the *Code of Maryland Regulations* (COMAR).

Existing Agency Operations and Regulations

Under § 2-506(b) of the State Government Article, the committee is required to comment on any recommendations to bring about the more efficient operation of the branches of the State government and on any legislative action that is needed to change or reverse a regulation of a unit of the Executive Branch. The committee has been satisfied with the continued cooperation it receives from the Executive Branch and is pleased to report that no recommendations for change are required at this time.

The committee wishes to note its appreciation for the continued cooperation of the Executive Branch and its various agencies in making the process of legislative review of regulations successful.

Respectfully submitted,

Roger Manno (CHB) — Samuel I. Rosenberg (CHB)

Senator Roger Manno	Delegate Samuel I. Rosenberg
Senate Chair	House Chair (Presiding)

RM:SIR/GHB:CLL:KHS/cr

cc: Ms. Carol L. Swan
Mr. Ryan J. Bishop

Joint Audit Committee

Maryland General Assembly
Joint Audit Committee
2017 Interim
Membership Roster

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Delegate C. William Frick, House Chairman

Senators

Gail H. Bates
Adelaide C. Eckardt
George C. Edwards
Guy Guzzone
Cheryl C. Kagan
Richard S. Madaleno, Jr.
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Douglas J. J. Peters
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Carolyn J. B. Howard
Michael A. Jackson
Stephen W. Lafferty

Committee Staff

Stephen M. Ross
Hannah E. Dier

MARYLAND GENERAL ASSEMBLY
JOINT AUDIT COMMITTEE

December 5, 2017

The Honorable Thomas V. Mike Miller, Jr., Co-chair
The Honorable Michael E. Busch, Co-chair
Members of the Legislative Policy Committee

Ladies and Gentlemen:

The Joint Audit Committee respectfully submits the report of its activities during the 2017 interim. The committee's work covered the following principal areas of activity:

Review of Selected Legislative Audit and Fraud Hotline Issues

The committee met on September 13 and December 5 to review several legislative audits conducted by the Office of Legislative Audits (OLA) in accordance with the authority granted to the committee by Section 2-1224 of the State Government Article. The committee reviewed the audits listed below:

- Maryland Department of Health
    - Office of the Secretary and Other Units
    - Medical Care Programs Administration
- Department of Human Services
    - Office of the Secretary and Related Units
    - Social Services Administration

At the December 5 meeting, OLA also provided the committee with an update on hotline-related performance and findings. At the instruction of the committee, OLA implemented a statewide fraud hotline in February 2003. Although initially anticipated to receive approximately 200 calls per year, the hotline's actual annual call volume has consistently exceeded expectations. In calendar 2016, the hotline received 515 calls. OLA also provided an update on hotline-related findings as to the following units:

- Department of Juvenile Services
(Report of November 1, 2017 – questionable procurement activity)

- Baltimore City Community College
(Report of November 14, 2017 – questionable procurement activity)

OLA has referred both of these matters to the Criminal Division of the Office of the Attorney General.

Summary and Follow-up Audit Reports

The audit reports issued by OLA from December 1, 2016, to July 31, 2017, including those proposed for committee monitoring, were reviewed by the committee at the September 13 meeting. The reports issued by OLA from August 1, 2017, to November 30, 2017, also including those proposed for committee monitoring, were reviewed by the committee at the December 5 meeting.

The summary analyses of items in fiscal compliance audits as of June 30, 2017, were reviewed by the committee at the December 5 meeting. Agencies with five or more repeat audit findings are required to provide status reports to OLA on corrective actions taken on all findings within nine months of the related audit reports.

Review of the follow-up audit process from 2006 through June 2017 revealed the following:

- Between 2006 and October 2010, 38 audit reports had five or more repeat audit findings, requiring 30 agencies to submit one or more quarterly status reports.

- Since October 2010, only six audit reports have had five or more repeat findings. Of those six audit reports, the quarterly status report process has concluded for three audits, the report process is ongoing for one audit, and the report process has not yet begun for the two most recent audits.

- The percentage of repeat audit findings in State agencies has decreased from 40% in June 2006, to 23% in June 2017. As of June 2017, 6% of findings were repeated after the second subsequent audit.

Budget Actions on Repeat Audit Findings

Since 2013, the *Joint Chairmen's Report* (JCR) has annually included budget bill language restricting appropriations for agencies with four or more repeat audit findings until corrective action has been taken. In 2016, the JCR included fund restrictions for two agencies with four or more repeat audit findings. The two agencies collectively addressed two of nine repeat audit findings. The restricted funds for one agency were fully released, and funds for the second agency were not released.

The 2017 JCR also required two agencies to take corrective actions for repeat audit findings, one agency for which funds were not previously released. A portion of the administrative appropriations for fiscal 2018 has been withheld from these agencies until OLA submits a report to the budget committees on the status of corrective actions for repeat audit findings. Both agencies have submitted reports to OLA stating that the findings have been corrected.

OLA will review the agency reports. OLA conclusions regarding the corrective actions taken on the eight repeat audit findings will be reported to the budget committees within 45 days prior to the end of fiscal 2018.

Additional Areas of Committee Study

- *Local School System Audits* – Chapter 261 of 2016 established a voluntary exemption process from the general requirement that OLA, at least once every six years, conduct an audit of each local school system. Although the committee initially approved an exemption request for Charles County and six other counties in December 2016, based on receipt of the required exemption request letters, the committee subsequently received a letter in May 2017 from the Board of County Commissioners of Charles County withdrawing its support for that county's exemption. The committee therefore reconsidered the exemption, and Charles County will now be subject to audit during the current cycle.

- *Department of Information Technology Audit Request* – As outlined in an August 10, 2017 letter from the Department of Legislative Services (DLS) to the Presiding Officers, the Department of Information Technology (DoIT) sought approval from the Board of Public Works (BPW) for $3.7 million in payments to Periscope Holdings, Inc. (Periscope) for work completed on a voided October 2016 work order with NICUSA, Inc. (NIC). BPW approved the payments by a 2-1 vote, but concerns remain regarding a lack of available information to substantiate the payments and unverified labor charge figures. By letter dated September 13, 2017, the committee requested that OLA review the work order between DoIT and NIC, the labor charges incurred by Periscope, and the work performed by Periscope to determine whether the charges submitted to the State are proper. The committee further requested that OLA issue its report on the review's results by the start of the 2018 session of the General Assembly.

The committee extends its appreciation for the assistance and information provided by State and local officials, private citizens, and the staff of DLS during the 2017 interim.

Respectfully submitted,

Senator Craig J. Zucker
Senate Chair

Delegate C. William Frick
House Chair

CJZ:CWF/HED/mag

cc: Ms. Carol L. Swan
Mr. Ryan Bishop
Mr. Thomas J. Barnickel III

Joint Committee on Behavioral Health and Opioid Use Disorders

Maryland General Assembly
Joint Committee on Behavioral Health and Opioid Use Disorders
2017 Interim
Membership Roster

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Delegate Eric M. Bromwell, House Chair

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Thomas M. Middleton
Douglas J.J. Peters
Edward R. Reilly

Delegates

Christian Miele
Dan K. Morhaim
Joseline A. Peña-Melnyk
Sheree Sample-Hughes

Committee Staff

Erin R. Hopwood
David A. Smulski

Support Staff

Kamar Merritt

THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401-1991

JOINT COMMITTEE ON BEHAVIORAL HEALTH AND OPIOID USE DISORDERS

December 14, 2017

The Honorable Thomas V. Mike Miller, Jr., Co-Chairman
The Honorable Michael E. Busch, Co-Chairman
The Honorable Members of the Legislative Policy Committee

Ladies and Gentlemen:

The Joint Committee on Behavioral Health and Opioid Use Disorders was established by Chapter 464 of 2015. The purposes of the joint committee are to review the final report of the Governor's Heroin and Opioid Emergency Task Force, review and monitor the activities of the Governor's Inter-Agency Heroin and Opioid Coordinating Council; monitor the effectiveness of the State's Overdose Prevention Plan, local overdose prevention plans, and strategic planning practices to reduce prescription drug abuse in the State; and efforts to enhance overdose response laws, regulations, training, and local overdose fatality review teams. The joint committee is required to identify areas of concern and, as appropriate, recommend corrective measures to the Governor and General Assembly. The joint committee met twice during the 2017 interim and is pleased to present its 2017 annual report.

The joint committee held its first briefing on July 18, 2017. The joint committee heard presentations from the Maryland Department of Health (MDH), the Legal Action Center, and Public Policy Partners on Medicaid Parity; various practitioners and LifeBridge Health on alternative methods for treating opioid addiction; former Masters of Public Health students on the real-time surveillance of the opioid addiction crisis; and SAS on data analytics.

Ms. Tricia C. Roddy of MDH described Medicaid parity, its history, and the department's status complying with federal law. Essentially, federal law requires equivalent reimbursement between somatic and nonsomatic conditions from the Medicaid program and access to mental health services must be as easy as access to health services. Ms. Roddy pointed out that although mental health parity was enacted in 2008, it did not apply to Medicaid until 2016 when the federal Centers for Medicare and Medicaid Services (CMS) passed its final rule. All states must comply with the 2016 CMS rule by October 2017. The goal of the department was to be in compliance by October 2, 2017. MDH has added new services in response to advocate concerns, and the payment for methadone rebundling has been altered to allow counselors to bill separately, which should increase access.

Ms. Ann T. Ciekot and Ms. Ellen Weber spoke on behalf of various stakeholders affected by Medicaid parity. Ms. Ciekot relayed that they support the work of MDH, and that although parity actually passed in 2008, the timelines for Medicaid are more recent. So far, the stakeholders are pleased with Telehealth progress and are supportive of residential treatment for adults.

While the behavioral health component of Medicaid parity is moving along, Ms. Weber said that there are problems with the substance use disorder benefit. As of July 1, 2017, prior authorization requirements and reimbursement rate requirements were not met. Prior authorization for substance abuse services is subject to parity act requirements, and all substance abuse is subject to prior authorization, unlike many health conditions under Medicaid. Providers cannot get reimbursed unless many forms are completed. Basically, there is a 3-day period for prior authorization for emergencies, and 14 days for nonemergency services. Regarding reimbursement rates, all processes have to be the same for all conditions. Parity analysis requires the preceding, but MDH has not supplied any information regarding a mandated analysis of reimbursement rates.

Regarding the concerns of Ms. Weber, MDH was asked to respond. The department must perform an analysis of managed care organization services before it addresses the concerns of Ms. Weber. CMS has allowed some flexibility for prior authorizations. Medicare is the benchmark, and since Medicare does not cover community services, the department asked CMS for guidance about how to deal with rate adjustments.

Several individuals provided information on alternative methods for treating opioid addiction. These methods are outside the norm for treating opioid addiction and often are not covered by health insurance.

Ms. Sue Italiano reported that she is a concerned citizen and has seen the consequences of addiction. Some of the alternative methods she mentioned and provided information on included Buddhist meditation, herbal plant medication, and acupuncture. Mr. Jonathan Bronson is a licensed acupuncturist, and he described the role of acupuncture. Mr. Bronson receives referrals from a brain and spine medical practice and treats patients directly for all types of addiction. He has also provided services in the Baltimore City Detention Center. Acupuncture treats the underlying causes of addiction and reduces nerve pain as an alternative to drugs.

Dr. Ajibike O. Salako-Akande is part of an incubator program at the University of Maryland Baltimore County, and her company, Getwele Natureuceuticals, is developing a series of natural supplements designed to interrupt the processes of the various stages of all types of addiction. Ms. Martha D. Nathanson and Ms. Staci Hodge of LifeBridge Health did not discuss alternative methods but rather relayed to the committee Lifebridge Health's processes for treating pain. Lifebridge Health never initially prescribes opioids for pain, although some of its treatments are also not covered by insurance.

Mr. Brian A. Smith and Ms. Madeline Jackson were graduate students when they wrote an article on the possibility of real-time surveillance of the opioid addiction crisis. They proposed treating the opioid crisis the same as other public health epidemics, accessing the most recent data available regarding overdoses and deaths, and sharing the data with law enforcement and public officials. Ms. Jen Dunham and Mr. John Olszewski of SAS agreed that real time data is a start, but they advocated using demographics to see death rates and locations of deaths to show where to place resources.

The joint committee held its second briefing on September 26, 2017. The joint committee heard presentations from MDH and the Governor's Office on Crime Control and Prevention (GOCCP) on the Governor's Opioid Use Initiatives; various experts on safe consumption spaces; the Mosaic Group on Screening, Brief Intervention, and Referral to Treatment (SBIRT); and the Maryland Hospital Association (MHA) on discharge protocols.

Secretary Dennis R. Schrader of MDH, Mr. Birch Barron of MDH's Opioid Operational Command Center, and Mr. V. Glenn Fueston, Jr., of GOCCP provided an overview of efforts by the Executive Branch to address the State's opioid epidemic. The panel focused on the $22 million in funding authorized by the Governor to fight the heroin and opioid epidemic, which includes $2 million for a crisis stabilization center in Baltimore City. Secretary Schrader noted that MDH is working to increase public awareness of the State's 24/7 crisis hotline and to link individuals who call the hotline to treatment in a more efficient manner. Mr. Barron stated that the Governor has provided $4 million in funding for 24 local partnerships in the State called Opioid Intervention Teams that are designed to meet the needs of the jurisdiction. Mr. Fueston stated that GOCCP is focused on data driven funding, collaboration across disciplines, making funding consistent with the goals of justice reinvestment, and the use of evidence-based practices when treating substance use. Secretary Schrader discussed the State's Medication Assisted Treatment programs and heroin coordinator program. MDH has funded 15 heroin coordinators and is collecting data from every overdose. Through the heroin coordinator program, 44 drug trafficking organizations have been identified and 1,292 individuals who experienced nonfatal overdoses have been referred to treatment.

Several individuals presented information on safe consumption spaces. Major Neill Franklin of the Law Enforcement Action Partnership (LEAP) stated that data demonstrates the success of safe consumption spaces in eliminating overdose deaths. He stated that these facilities get to the addicted individuals before they would normally access treatment. He believes that police officers who patrol areas with substantial substance use problems are in favor of the facilities because they lead to a reduction in crime and a reduction in individuals using substances in public spaces. Dr. Susan Sherman, a professor from the Johns Hopkins Bloomburg School of Public Health, provided background to the joint committee on safe consumption spaces, including the various models in operation in the world and evidence demonstrating how safe consumption spaces increase linkages to treatment. Mr. Amos Irwin of LEAP provided information from study findings he authored that were published in the *Harm Reduction Journal*. The article outlined the benefits of safe consumption spaces, including preventions of overdoses and health care savings. The article states that opening a safe consumption site in Baltimore City would prevent four HIV cases a year (saving $1.4 million), and would save an additional $7.0 million to $8.0 million each year in health care costs.

Ms. Marla Oros, president of the Mosaic Group, gave a presentation on SBIRT. Ms. Oros discussed the planning and implementation of the various SBIRT grants in the State. She provided detail on the State's Substance Abuse and Mental Health Services Administration (SAMSHA) grant, which began in August 2014 and will end in June 2019. Under the SAMSHA grant, SBIRT is operational in 12 jurisdictions with 96 sites, including 10 hospitals, 15 school-based health centers, and 2 detention centers. Ms. Oros described two different SBIRT models, the primary care and hospital model. The primary care model fully integrates SBIRT into the standard screening process by incorporating questions regarding drug and alcohol use. In the hospital model, peer recovery coaches or nurses screen as part of triage, develop a treatment plan, and follow-up with the patient after discharge to refer the patient to treatment.

Ms. Oros also provided information on the Overdose Survivors Outreach Program (OSOP), which targets emergency department patients who present with a nonfatal overdose, provides Narcan, educates patients on the risks of another overdose and of dying, and attempts to have patients consent to treatment. In addition, Ms. Oros informed the joint committee about the buprenorphine emergency department "fast track" program and the Comprehensive Hospital Substance Use Response Program (CHSURP). The goal of CHSURP is to combine SBIRT, OSOP, and the buprenorphine fast track program and is operational in nine Maryland hospitals. Finally, Ms. Oros provided data to the joint committee on the referrals to treatment that have been made through OSOP (40% of the patients encountered) and the buprenorphine program (54% of patients encountered).

The Heroin and Opioid Prevention Effort (HOPE) and Treatment Act of 2017 required each hospital in the State to have a protocol for discharging a patient who received treatment by the hospital for a drug overdose or was identified as having a substance use disorder. Ms. Nicole Dempsey Stallings of MHA briefed the joint committee on the discharge protocols that were required by the HOPE Act. Ms. Stallings stated that webinars have been scheduled with the hospitals and that the hospitals will submit their policies to MHA by January 1, 2018. Ms. Stallings stated that MHA will keep the joint committee updated once the policies are submitted.

The joint committee held two very informative and comprehensive briefings during the 2017 interim. We wish to thank the committee members for their participation, the many individuals who briefed the committee, and the committee staff for their support.

Sincerely,

Katherine Klausmeier

E. M. Bromwell EH

Senator Katherine Klausmeier
Senate Chair

Delegate Eric M. Bromwell
House Chair

KK:EMB/ERH:DAS/kmc

cc: Members of the Joint Committee on Behavioral Health and Opioid Use Disorders
Mr. J. Ryan Bishop
Ms. Carol L. Swan

Joint Committee on the
Chesapeake and Atlantic Coastal Bays Critical Area

Maryland General Assembly
Joint Committee on the Chesapeake and Atlantic Coastal Bays Critical Area

2017 Interim
Membership Roster

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Delegate Dana Stein, House Chair

Senators

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Johnny Ray Salling
Bryan W. Simonaire
William C. Smith, Jr.

Delegates

Carl Anderton, Jr.
Alfred C. Carr, Jr.
Stephen W. Lafferty
Brooke E. Lierman

Staff

T. Patrick Tracy

THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401-1991
December 8, 2017

The Honorable Thomas V. Mike Miller, Jr., Co-Chairman
The Honorable Michael E. Busch, Co-Chairman
Members of the Legislative Policy Committee

Ladies and Gentlemen:

The Joint Committee on the Chesapeake and Atlantic Coastal Bays Critical Area respectfully submits the following summary of its 2017 interim activities.

During recent interims, the joint committee has monitored the implementation of Chapter 119 of 2008 (Chesapeake and Atlantic Coastal Bays Critical Area Protection Program – Administrative and Enforcement Provisions), which enacted specific recommendations that resulted from a 2007 comprehensive review of the critical area law. During the 2017 interim, the joint committee continued to monitor the ongoing implementation of this legislation and the corresponding regulations to ensure compliance with legislative intent and to determine if any further legislation is necessary.

In addition, on December 13, 2017, the joint committee will hold a briefing on current issues related to the Critical Area Program to be presented by the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays. The commission will address topics including (1) solar panels in the critical area; (2) forest conservation in the critical area; (3) State development projects in the critical area, especially in light of standards and policies developed by the Coast Smart Council; and (4) continuing legal matters related to the development on Little Dobbins Island in the Magothy River. We will continue to forward you the dates and locations of any future meetings and site visits as soon as they are scheduled.

The joint committee greatly appreciates the assistance of the commission and its staff, the Department of Natural Resources, the Office of the Attorney General, the local programs, and the other public officials who participated in the activities of the joint committee during the 2017 interim.

Respectfully submitted,

James N. Mathias, Jr./kjc
Senator James N. Mathias, Jr.
Presiding Chair

Dana Stein/kjc
Delegate Dana Stein
House Chair

cc: Carol Swan
Ryan Bishop

Joint Committee on Children, Youth, and Families

Maryland General Assembly
Joint Committee on Children, Youth, and Families
2017 Interim Membership Roster

Senator Nancy J. King, Senate Chair
Delegate Ariana B. Kelly, House Chair

Senators

Gail H. Bates
Joanne C. Benson
Joan Carter Conway
Adelaide C. Eckardt
Bill Ferguson
Michael J. Hough
Shirley Nathan-Pulliam

Delegates

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Tawanna P. Gaines
Ana Sol Gutiérrez
Antonio L. Hayes
Meagan C. Simonaire
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Mary L. Washington

Committee Staff

Caroline L. B. Boice
Hannah E. Dier

Support Staff

Nikki Burns

THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401

JOINT COMMITTEE ON CHILDREN, YOUTH, AND FAMILIES

December 13, 2017

The Honorable Thomas V. Mike Miller, Jr., Co-chairman
The Honorable Michael E. Busch, Co-chairman
Members of the Legislative Policy Committee

Ladies and Gentlemen:

The Joint Committee on Children, Youth, and Families respectfully submits the following summary of its 2017 interim activities.

The joint committee met three times during the interim to consider issues related to child care and public benefits for families in the State. The meetings were held as follows:

- September 12, 2017 – Hearing: an overview of 2017 session legislation related to committee issue areas, presentation of follow-up information from the January 2017 *Maryland's Child Care Subsidy Program* report;

- October 10, 2017 – Hearing: presentation of child care subsidy (CCS) reports required by legislation passed during the 2017 session, an overview of prekindergarten expansion options and recommendations of the Workgroup to Study the Implementation of Universal Access to Prekindergarten for 4-Year-Olds; and

- November 7, 2017 – Hearing: a summary of the two-generation approach and activities of the Governor's Two Generation Family Economic Security Commission and Pilot Program, and an interim wrap-up discussion.

The meeting on September 12, 2017, consisted of two presentations by the Department of Legislative Services (DLS). The first presentation summarized proposed and enacted legislation from the 2017 session, including fiscal 2018 budget actions, related to the committee's areas of jurisdiction. The second presentation focused on CCS, and provided an update and more detailed information supplemental to the January 2017 *Maryland's Child Care Subsidy Program* report produced by DLS for the committee. This presentation included an explanation of how the federal Child Care Development Fund block grant works, as well as an analysis of Maryland's low provider rates and high family copayments compared to neighboring jurisdictions.

The committee again heard about CCS at its October 10, 2017 meeting. The Maryland State Department of Education (MSDE) presented two reports required by legislation passed during the 2017 session: one report (required by Chapter 740) identifying that Maryland should implement a hybrid alternative methodology to the market rate survey for setting CCS reimbursement rates; and the other report (required by Chapters 209 and 210) containing a biennial analysis of CCS reimbursement rates. Also at the October meeting, the committee heard a presentation from the Center for American Progress summarizing prekindergarten in Maryland. The presentation included a review of relevant literature; a comparison of prekindergarten in Maryland to prekindergarten in other states; an analysis of current enrollment, capacity, and funding for prekindergarten; an estimate of the costs and benefits to universal prekindergarten; and discussion of funding models for universal prekindergarten.

Finally, the meeting on November 7, 2017, began with a joint briefing with the Joint Committee on Ending Homelessness on the Governor's Two Generation Family Economic Security Commission. Representatives from the Department of Human Services; the Department of Labor, Licensing, and Regulation; and Ascend at the Aspen Institute presented information relating to the intergenerational cycle of opportunity for children and families, strategies for implementing a statewide two-generational approach in Maryland, and barriers to implementing such an approach. The meeting concluded with a discussion by committee members on recommendations and potential legislation regarding child care subsidies, expansion of prekindergarten, and changes needed to facilitate implementation of the two-generational approach.

The Joint Committee on Children, Youth, and Families wishes to thank those individuals who contributed their time and talent during the 2017 interim to inform and advise the joint committee.

Respectfully submitted,

Nancy J. King
Senator Nancy J. King
Senate Chair

Ariana Kelly
Delegate Ariana B. Kelly
House Chair

NJK:ABK/HED/nb

cc: Members of the Joint Committee on Children, Youth, and Families
Mr. Ryan Bishop
Ms. Carol L. Swan

Joint Committee on Cybersecurity, Information Technology, and Biotechnology

Joint Committee on Cybersecurity, Information Technology, and Biotechnology 2017 Interim Membership Roster

Senator James C. Rosapepe, Co-chair
Delegate C. William Frick, Co-chair

Senators

Senator Brian J. Feldman
Senator Bill Ferguson
Senator Stephen S. Hershey, Jr.
Senator J. B. Jennings
Senator Susan C. Lee

Delegates

Delegate Benjamin F. Kramer
Delegate Aruna Miller
Delegate Warren E. Miller
Delegate Dan K. Morhaim
Delegate C. T. Wilson

Committee Staff

Tami D. Burt
Richard L. Duncan
Jody J. Sprinkle

JOINT COMMITTEE ON CYBERSECURITY, INFORMATION TECHNOLOGY, AND BIOTECHNOLOGY

December 18, 2017

The Honorable Thomas V. Mike Miller, Jr., Co-chair
The Honorable Michael E. Busch, Co-chair
Members of the Legislative Policy Committee

Ladies and Gentlemen:

The Joint Committee on Cybersecurity, Information Technology, and Biotechnology respectfully submits this summary report of its 2017 interim activities. The committee's statutory charge is to "work to broaden the support, knowledge, and awareness of advances in cybersecurity, information technology, and biotechnology to benefit the people of Maryland, evaluate State cybersecurity systems and the adequacy of economic development and job skills training programs to advance cybersecurity in the State, and make recommendations regarding actions to promote cybersecurity, information technology, and biotechnology industries in the State." The committee met twice during the interim: October 26 and December 5, 2017.

At the first meeting, the committee was briefed on the need for technology infrastructure to support smart-medicine solutions and the status of providing public school digital (broadband) equity in connecting all K-12 students. At the second meeting, the committee was briefed on the status of the Department of Human Services' efforts to modernize its systems to that it may use big data to assist in providing government services, several examples of smart-medicine solutions developed by Johns Hopkins, the challenges and concerns with the cybersecurity of the Internet of Things, and the status of the federal Internet consumer privacy policy.

On behalf of the committee, we wish to thank those individuals who contributed their time and effort during the 2017 interim in assisting the committee with its work.

Respectfully submitted,

James C. Rosapepe | William Frick

James C. Rosapepe
Senate Chair

C. William Frick
House Chair

JCR:CWF/TDB/nac

cc: Ms. Carol L. Swan
Mr. Ryan Bishop

Joint Committee on Cybersecurity, Information Technology, and Biotechnology 2017 Interim Report

Need for Technology Infrastructure to Support Smart-Medicine Solutions

On October 26, 2017, the committee heard from David Sharp, Ph.D., Director, Center for Health Information Technology and Innovative Care Delivery, Maryland Health Care Commission (MHCC). Mr. Sharp presented the following information on the need for technology infrastructure to support smart-medicine solutions.

- *Electronic Health Records (EHRs):* EHR adoption in hospitals is widespread, with Maryland at 100% and the nation at 96%. Maryland has received over $300.0 million to use for implementing EHR. Maryland has distributed $223.0 million to Medicare (with an average of $4.8 million received per hospital) and $83.0 million to Medicaid (with an average of $1.8 million received per hospital). The hospitals are building upon meaningful use achievements as they prepare to meet new metrics that aim to link optimization of EHR data and quality. Remaining ahead of the national average, State EHR incentives influenced earlier adoption among Maryland physicians (over $9.0 million paid to practices since 2011). Office-based physicians in hospital-owned practices are more likely to have adopted EHRs than those in independent practices. EHR adoption among long term care (or comprehensive care) facilities has steadily increased over the past four years. About half of the adopters report using at least basic features of the EHR.

- *Health Information Exchange (HIE):* The continued diffusion of HIE is essential to achieving the HIE goal of providing the right information to the right place at the right time. HIE is a critical component to support the shifting business model in health care from volume to value. Accelerating availability of electronic information to guide decision making and promote care coordination is a priority for Maryland and the nation. Nine HIEs have registered with MHCC. As a State-designated HIE, the Chesapeake Regional Information System for Our Patients (CRISP) is tasked with building the technical infrastructure to support a statewide HIE. Eight other regional HIEs facilitate local exchange activities (six are owned and operated by acute care hospitals). Registered entities must meet the statutory definition of HIE and adopt privacy security protections above the minimum required by the Health Insurance Portability and Accountability Act (HIPAA) and the Health Information Technology for Economic and Clinical Health Act (HITECH). As technology continues to evolve, stakeholders have expressed concerns that the HIE definition in statute is too narrowly defined.

- *Telehealth:* About 77% of Maryland hospitals have adopted telehealth, as compared to 71% nationwide. Of the total Maryland hospitals, a higher percent of the health systems hospitals have adopted telehealth than community-based hospitals. The adoption among the hospitals is in various phases from exploratory discussions to deploying telehealth projects in specific specialties and identifying ways to sustain these projects over time. All hospitals report that improving quality of care is the leading reason for adopting telehealth. Adoption among office-based physicians in Maryland is about 7%, much lower than the national average of 49%. Of the total Maryland physicians, adoption is highest among psychiatrists followed by dermatologists.

- *Telehealth and Mobile Health Grants:* Since 2014, MHCC has awarded 5 rounds of telehealth grants to 12 organizations totaling $525,000. These grantees implemented diverse use cases to test the effectiveness of telehealth with various technology, patients, providers, clinical protocols, and care settings. Examples include (1) enhancing care coordination between comprehensive care facilities and acute care hospitals; (2) reducing hospital admissions and readmissions through remote patient monitoring; and (3) supporting chronic care management of high risk patients. In 2016, MHCC awarded an mHealth grant to one organization totaling $100,000. This grantee implemented a unique use case to test the effectiveness of an mHealth application in managing pediatric patients with asthma. The objectives of mHealth are to increase consumer access to health care services, information, and education; and enable consumers to take more responsibility in managing their health.

- *Breaches*: Significant hacking incidents have occurred in the last few years, causing breaches of individual health records. Over 114 million records were compromised in 2015, compared to 41 million records between 2010 and 2014. In relation to other states, Maryland ranks above the 50th percentile for number of breaches between 2010 and 2016. Maryland remains midway in number of breaches occurring between 2010 and 2016 in comparison to states with similar characteristics. Breaches involving a hacking/IT incident and unauthorized access/disclosure account for at least a third of all breaches in Maryland and in comparative states. To reduce the risk of breaches, additional protections and awareness are needed. Incident response plans need to include specific cybersecurity procedures. The human element needs to be managed through robust security education and awareness programs. There needs to be appropriate oversight of business associates that handle protected heath information.

The committee is interested in hearing at a future meeting from several grantees to learn about how they are using grant funds and how the grant funds are beneficial to promoting the acceleration of technology. The committee plans to further discuss whether the health care community can come together to develop best practices to prevent breaches. Possible additional funding, legislation, or other actions may be needed to assist in moving the industry toward implementing protections.

Status of Providing Public School Digital (Broadband) Equity in Connecting All K-12 Students

Also on October 26, the committee heard from Kristy Michel, Deputy Superintendent for Finance and Administration, Maryland State Department of Education (MSDE); and Antonio Herrera, Chief Information Officer, MSDE. The speakers presented the following information on the status of providing public school digital (broadband) equity in connecting all K-12 students.

- *Maryland Takes Action to Close Fiber Gap:* MSDE conducted a statewide survey of local school systems in mid-2016 to determine internet speed, capacity, type of connection, and where there might be a lack of capacity. With the Governor's Office and the Education Superhighwy, MSDE engaged 12 CIO's to offer technical assistance and support for e-Rate applications. The federal E-rate program, established by the Federal Communications Commission (FCC), is designed to assist schools in implementing Internet access to the schools and within the schools. MSDE also worked with the Board of Public Works and the Public School Construction Program to modify COMAR to allow local education agencies (LEAs) to access existing school construction funds for e-Rate eligible broadband construction.

- *Maryland Broadband Fiber Initiative:* In late 2015, the State had over 200 schools that were without a direct fiber connection; all the schools without fiber connection had broadband speed connections through other means, such as microwave. The State decided to move all schools to fiber connections to allow for flexibility in upgrading or downgrading service levels to meet demand. In early 2016, Maryland was among seven states accepted into the National Governors Association's "Educational Broadband Policy Academy." For this intensive year-long effort, the policy academy partnered with the nonprofit Education SuperHighway (ESH) for its technical and policy expertise. The mission of the policy academy is to help connect as many K-12 as possible to fiber optic Internet by assessing existing educational fiber infrastructure, identifying challenges, and providing technical and policy guidance to close any gap. MSDE worked collaboratively with the Governor's Administration, the Department of Information Technology (DoIT), and local school system on this initiative. MSDE's Chief Information Officer (CIO) and the e-Rate policy subject matter expert worked with the K-12 District CIOs to provide improved tracking on connectivity, capacity, and schools without fiber connection. As of October 2017, more than 99% of Maryland's public schools have fiber optic broadband-only 12 out of 1,434 schools lack fiber connections, and of these, 5 have fiber projects under way. The remaining have broadband via cable, microwave, or other technology.

- *Limited Time for LEAs to Save up to 90% on Broadband Construction:* In October 2017, Maryland received the final Universal Service Administration Company (USAC) approval of its state-matching eligibility. School systems are now able to apply for the matching funds. Next school year is the final e-Rate cycle for the federal government to match state funds for up to 10% of approved broadband construction projects on top of a district's existing e-Rate discount. By acting now, school systems may be reimbursed up to 90% of their eligible broadband construction. E-rate will continue, but the federal match will not.

- *Internet Bandwidth:* All schools have reported having adequate Internet bandwidth. In the past 2 years, 12 districts made significant improvements to their Internet bandwidth. Many more districts made improvements to internal infrastructure and Wide-Area Networking (WAN). In less than 2 years, Maryland has improved its broadband bandwidth by 20% across the State.

The committee expressed concern that there are 12 schools (mostly elementary schools) without fiber connectivity (although they do have broadband Internet using other means). The committee requested MSDE to provide the committee with the projected timeline for each school to be connected. The committee also requested MSDE to provide information related to the adequacy of bandwidth in each school, the devices used in each school, and the cost to eliminate any shortage of bandwidth in each school.

Status of the Department of Human Services' Efforts to Modernize its Systems so that it May Use Big Data to Assist in Providing Government Services.

On December 5, the committee heard from Secretary Lourdes Padilla, Department of Human Services (DHS); Subi Muniasamy, Chief Technology Officer, DHS; and Michael Leahy, Secretary, Department of Information Technology (DoIT). The speakers presented the following information on its MD THINK system, a modernized system that will allow it to use big data to assist in providing government services.

- *MD THINK Vision:* MD THINK envisions establishing a modernized technology platform for enhanced service delivery to Maryland residents. The database system will provide a shared technology platform hosted on the Cloud, as well as a shared data repository for health and human services applications across the State. DHS is working with DoIT to develop the system which can be used by multiple administrations within DHS (such as the Child Support Administration, the Social Services Administration, and the Financial Assistance Administration) and also multiple agencies, thereby creating efficiencies in managing data. Since multiple agencies need similar data, sharing data means entering the data at a single input and eliminates duplicate verification of data efforts.

- *Timeline:* Completed in phases through September 2020, the system will be used for eligibility and exchange on long term care services (effective June 2018), for child welfare and juvenile services (effective March 2019), and child support replacement services (May 2020). By having one system with significant data fields across multiple agencies, there will be more opportunities for "big data" analysis aimed at improving services. A MD THINK team in DHS is responsible for technical delivery and performance, as well as coordination across vendor and agencies. A Steering Committee was established comprised of the agencies that are anticipated to use the system (including the Department of Human Services, the Department of Juvenile Services, the Department of Health, the Department of Information Technology, the Department of Budget and Management, and the Maryland Health Benefit Exchange). For its cybersecurity strategy, MD THINK will adhere to National Institute of Standards and Technology (NIST) and Federal Information Security Management Act (FISMA) standards. Other agencies (including the Department of Labor, Licensing, and Regulation; and Department of Public Safety and Correctional Services) will be integrated into the system in the next phase. The system will be designed so other agencies can easily be connected.

The committee expressed support for the implementation of MD THINK and requested DHS to let the committee know if there are any actions the legislature should take to assist with moving the process forward. The committee would like an update in about a year on the progress. Also, the committee requested DHS to provide information that specifies the benefits of the system for each involved agency. Specifically, how will the system help each agency and with the new system, how can each agency do a better job providing government services to consumers?

Several Examples of Smart-Medicine Solutions

Also, on December 5, the committee heard from Dwight Raum, Vice President and Chief Technology Officer, Johns Hopkins University and Johns Hopkins Health System; Gregory Krauss, Professor of Neurology, Johns Hopkins University School of Medicine; and Sezin Palmer, Mission Area Executive for National Health, Johns Hopkins University Applied Physics Laboratory. The presenters presented the following information on several examples of smart-medicine solutions.

- *InHealth:* In transforming research and patient care, there is a digital shift of medicine. Johns Hopkins *in*Health is a vision that each health decision is fully informed by scientific knowledge. Researchers combine clinical, genetic, lifestyle, and other data sources to create innovative health analysis tools intended to improve decision making in the prevention and treatment of a range of conditions, including cancer, cardiovascular disease, autoimmune disorders, and infectious disease. In all of Johns Hopkins scientific endeavors, it seeks to provide the right care to the right person at the right time. Its goals are to capture clinically-relevant and biologically-anchored subgroups more intentionally at scale, use such subgroups to diagnose and treat more efficiently and to discover mechanisms, and integrate discovery and deliver. Hopkins' Technology Innovation Center has a team of 27 technology professionals. The center partners with faculty and health IT start-ups to intersect medicine and technology.

- *Examples:* The center has a partnership with Multiple Sclerosis (MS) Centers of Excellence. Current optical coherence tomography (OCT) scans exist as standalone reports and are not easily available for longitudinal or cohort analysis. OCT scans are used to view retinal thinning since that condition correlates with the disability of progression for MS patients. The solution is a prognosis health analysis tool to rapidly extract structured data from OCT scans for comparison. Another example is the IVC Filter Alert System which catches blood clots. A third example is the EpiWatch, a highly successful research App. The watch collects seizure biosensor and labelling data for non-electroencephalogram (EGG) seizure detection and helps persons with epilepsy manage their disease. In revolutionizing care for patients of epilepsy, the watch monitors seizures and alerts caregivers and helps to improve medication dosage and adherence which results in preventing seizures.

The committee requested Johns Hopkins to let the committee know if there are any actions the legislature can do to assist with maximizing their efforts. The committee would like a briefing next year from Johns Hopkins on their strategy for coming up with innovative health analysis tools.

Challenges and Concerns with Cybersecurity of the Internet of Things

Additionally, on December 5, the committee heard from Charles Ames, Director, Statewide Security Services, Department of Information Technology (DoIT). Mr. Ames presented the following information on the challenges and concerns with cybersecurity of the Internet of Things (IoT).

- *Privacy Concerns:* A growing IoT, or the Network of Everything, brings with it an enormous burden on the social contract governing citizens, businesses, and governments. Although able to solve or inform an unending variety of individual or business problems, the IoT challenges the basic concepts of privacy, or at least intensifies privacy concerns. From the beginning of U.S. telephony, the data the phone companies used to route calls were mandated to be held so that the calls existence could be a matter for law enforcement to collect and for courts to consider. Today, there are cases where both companies and law enforcement reach into a user's cell phone location history and browsing data history to establish behavioral patterns either to improve marketing, in the first case, or as evidence in the latter case. The enormous amount of private and descriptive data made available by the common use of the IoT (*e.g.,* smart phones and Internet browsers) places the burden of maintaining privacy on the user.

- *Traditional Devices:* The Pew Research Center indicates that the median household in 2016 had at least 5 Internet-connected devices. Further, 20% of households had more than 10 connected devices. Approximately 8.4 billion connected "things" will be in use in 2017, up 31% from 2016. Predictions are that more than 20 billion devices are anticipated to be connected to the Internet in the next few years. These IoT devices are mostly the traditional items that are meant to be connected to the internet for full functionality. Their protections against exploitation varies widely by device and user. In most cases, these items (*e.g.*, PCs, smartphones, printers, and tablets) have security features, though they may not be completely understood by their users. Other IoT devices include TV sets, appliances, traffic scanners, assistance devices such as Alexa and Siri, and modern vehicles.

- *Other Devices:* A second group of IoT devices are those that are: obsolete, no longer actively maintained or monitored, possibly no longer securable, or ones where the method of connection was not securely designed. In the workplace, these items should be included in a traditional security strategy. They include: truck scales, medical devices, manufacturing equipment, and kiosks. A third group of IoT devices are those that were never designed to be connected to the Internet or a part of the IoT. In the workplace, these devices often remain unknown to security and network professionals, and there are few, if any, means to secure the devices. These include: generations of industrial controls (gas valves and water systems); and formerly manually-controlled devices that now have modern electronic controls (*e.g.,* thermostats, retrofitted older vehicle controller access networks, and telco switching centers).

- *Russian Electric Grid Hack:* In 2015, Russian hackers socially engineered, or fooled, key electrical grid operators in the Ukraine into betraying their own network credentials. Using those credentials, the hackers were able to remotely turn off the power to vast regions of the Ukraine. Importantly, the power was able to be restored within hours only because the physical switches had yet to be replaced, and the engineers who knew how to operate the switches were still available. Otherwise, the IoT, which eliminates much of the physical switching requirements, as well as the engineers required to operate the physical switches, would have been exploited as a weapon.

- *Federal Legislation and Awareness Campaign:* In response to security lapses and breaches, the IoT Cybersecurity Improvement Act was introduced in Congress in 2017 to require security standards for U.S. Government purchased IoT devices. There are generally ways to control how devices communicate on the networks they are connected to. However, this is not a readily available capability for many small businesses and residential homes. *Via* an awareness campaign, information could be disseminated to residents and businesses, while also including instructions on common techniques that can improve security on many of these devices, such as setting up passwords and ensuring devices communicate over encrypted connections.

Status of the Federal Internet Consumer Privacy Policy

Lastly, on December 5, the committee heard from Laura M. Moy, Deputy Director, Center on Privacy & Technology, Georgetown University Law Center. Ms. Moy presented the following information on the status of the federal Internet consumer privacy policy.

- *Consumers Feel They Lost Control of Their Privacy:* Ms. Moy, a consumer and privacy advocate, indicated that consumers feel that they have lost control of their private information, and consistently are asking for greater control. About 91% agree or strongly agree that consumers have lost control of how personal information is collected and used by companies, and 68% believe current laws are not good enough in protecting consumers' privacy online. Policymakers should consider how to give consumers greater control over the personal information they share in many different contexts. However, there is no one-size-fits-all approach for privacy. Rather, privacy laws and regulations should be context-specific, carefully tailored based on the avoid-ability of the information sharing, the sensitivity of the information shared, and the expectations of consumers. Consumers are in the greatest need of greater control when they do not have a choice about whether to share the information in the first place. There are a variety of laws that protect consumer information in specific contexts in which sharing is unavoidable – such as the information shared by students in an educational context, by consumers in a financial context, by customers in a telecommunications context, and by patients in a medical context.

- *Credit Reporting Agencies and ISPs:* Consumers do not get to choose whether or not their information is shared with credit reporting agencies (CRAs), and, therefore, that information should be afforded strong protection by default. Further, consumers need strong default privacy rules for Internet service providers (ISPs). In the modern era, it is difficult or even impossible to get an education, apply for a job, run a business, or conduct banking without an Internet connection through an ISP. Not only are consumers unable to avoid sharing information with ISPs, but the information consumers share may be deeply private. As the consumer's gateway to the Internet, ISPs have broad, unfettered access into nearly everything the consumer does online. A complete record of the websites a consumer visits and the applications they use, especially in combination with details about the timing, duration, and volume of traffic, can be used to determine their medical conditions, employment status, family status, political leanings, romantic and sexual preferences, and sleep habits.

- *ISP Options:* Consumers' personal data does not belong to ISPs; it rightfully belongs to consumers. While consumers pay their bills for their Internet connections, they do not also need to pay through their personal data. They only share private information with ISPs so that their Internet traffic can be routed to the right place. They do not expect ISPs to collect, retain, and use that information to make money off of them. In areas where consumers have only one option for high-speed broadband, consumers cannot switch providers if they dislike the privacy practices of their ISP. In areas where there are two or three possible providers, switching costs, contract termination fees, installation fees, and the time investment necessary to research and adopt an alternative make it difficult for a subscriber of one provider to switch to another.

- *No Federal Privacy Rules:* There is not much that the average consumer can do to hide their online activities from their ISP. The few things consumers can do to protect their own privacy from their ISPs add up to a handful of weak tools. In recognition of the need for strong broadband privacy protections, in October 2016 the Federal Communications Commission (FCC) issued rules that would have required ISPs to provide their customers with meaningful choices about their personal information, and to keep customer data secure. However, in March 2017, Congress used the Congressional Review Act to eliminate those rules. As a result, there are no federal rules that currently govern the privacy obligations of ISPs.

Note: Senate Bill 1200 of 2017 (did not pass) would have prohibited an ISP from selling or transferring consumer's personally identifying information to a person without the consumer's express and affirmative permission. Likewise, an ISP would not have been allowed to send or display to a consumer an advertisement that has been selected to be sent or displayed because of the consumer's browsing history without the consumer's express and affirmative permission.

The committee understands that about 20 states have attempted to pass Internet privacy legislation. The committee requested Ms. Moy to provide the committee with information about what other states have done.

Joint Committee on Fair Practices and State Personnel Oversight

Maryland General Assembly
Joint Committee on Fair Practices and State Personnel Oversight

2017 Interim Membership Roster

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Delegate Adrienne A. Jones, House Chair

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Joanne C. Benson
Adelaide C. Eckardt
Barbara Robinson

House Members

Jefferson L. Ghrist
Aruna Miller

Committee Staff

David A. Smulski

THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401

December 14, 2017

The Honorable Thomas V. Mike Miller, Jr., Co-Chair
The Honorable Michael E. Busch, Co-Chair
Members of the Legislative Policy Committee

Ladies and Gentlemen:

The Joint Committee on Fair Practices and State Personnel Oversight is charged with overseeing the employment policies and personnel systems of the executive branch of State government and the State's equal employment opportunity policies and procedures. The committee met once during the 2017 interim on September 27, and is pleased to present its interim report.

The meeting began with the committee receiving an update on changes to the "Professional Assistants" employment category in the Maryland State Department of Education (MSDE). Kristy Michel, Deputy Superintendent for the Division of Finance and Administration and Chief Operating Officer, of MSDE, reported that the previous policies were adopted in 1995 and continued on with only minor revisions. The changes to the policy were necessary to bring these positions into alignment with State law, and to provide a fair process for a professional assistant to appeal a termination.

The meeting continued with Cindy Kollner, Executive Director, Office of Personnel Services and Benefits, Department of Budget and Management (DBM), updating the committee on the status of efforts to address workplace bullying in State agencies. DBM implemented a new policy last year after negotiating the policy with the various employee bargaining units. Ms. Kollner provided an overview of the policy. Since the policy was adopted there 12 findings of bullying, and three employees were terminated. Some agencies did not meet with complainants, DBM sent out notifications to agencies to meet with complaints. For bullying to occur there needs to be persistent behavior, and the State adopted a generally accepted definition of bullying. A racial or ethnic slur is more appropriately an Equal Opportunity Employment complaint, it should be dealt with the appropriate process. Prior to 2017 there was no data collection on bullying because there was no policy on workplace bullying.

The committee also received its annual update on the State Equal Employment Opportunity Program (EEO) and the EEO complaint process from Glynis Watford, the Statewide Equal Employment Opportunity Coordinator. Although the most recent report is not yet available, Ms Watford described the role of the EEO Coordinator, and relayed the activities of the of office. Regarding employees with EEO complaints, an employee has 30 days to complain, and the agency Fair Practice Officer has 30 days to investigate the complaint. After the employee notified of the outcome of the investigation, the employee has ten days to appeal decision to State EEO coordinator, who has 30 days to investigate the complaint.

The final formal segment of the meeting was an update from Ms. Kollner on the implementation of the Payroll Recovery Act, Chapter 783 of 2017. DBM was wrong on the number of complaints it thought it would have received under the law, so far there have been few complaints and unions have showed restraint. The process is much smoother for paying employee under Workday. Workday requires immediate update of information, so there are fewer time lags regarding the determination of overtime payments. In the prisons, biometric time clocks were installed to make is easier to calculate pay for correctional officers. At the conclusion of DBM's presentations they were asked to provide some data on special appointees grade 19 and below, as well as data on political special appointments.

The meeting concluded with public testimony from representatives of AFSCME, and representatives of other employee exclusive bargaining representatives.

We wish to thank the committee members for their participation, the representatives of public and private organizations who kept us informed and expressed their views, and the committee staff for their support.

Sincerely,

Anthony Muse

C. Anthony Muse
Senate Chair

Adrienne Jones

Adrienne A. Jones
House Chair

CAM:AAJ/DAS/cr

cc: Ms. Carol Swan
Mr. Ryan Bishop

Joint Committee on Federal Relations

Maryland General Assembly
Joint Committee on Federal Relations
2017 Interim
Membership Roster

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Delegate Alfred C. Carr, Jr., Co-chair

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Scott D. Kennedy
Laura M. Vykol

THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401

Joint Committee on Federal Relations

December 15, 2017

The Honorable Thomas V. Mike Miller, Jr, Co-chair
The Honorable Michael E. Busch, Co-chair
Members of the Legislative Policy Committee

Ladies and Gentlemen:

The Joint Committee on Federal Relations respectfully submits the attached report on its activities during the 2017 interim. The committee's primary focus this interim was two briefings held on October 25 and December 5. The October 25 briefing focused on the federal budget, federal tax reform, and base realignment and closure (BRAC). The December 5 briefing focused on Washington Metropolitan Area Transit Authority (WMATA) financing and governance reform. As in past years, the committee also conducted its annual review of interstate compacts.

On a separate note, Department of Legislative Services staff identified two instances in which legislation may be appropriate to address contingent laws related to interstate compacts that have gone for a long period of time without taking effect (due to the contingent language not being fulfilled). We, as chairs of the committee, have agreed to introduce the legislation in the 2018 session, in one instance removing obsolete content from the Maryland Code and in the other instance improving the clarity of the code.

The committee looks forward to continuing its role as a forum for discussion of important issues in State-federal relations.

Sincerely,

Brian J. Feldman
Senate Co-chair

Alfred C. Carr, Jr.
House Co-chair

BJF:ACC/SDK:LMV/nac

Enclosure

cc: Mr. Ryan Bishop
Ms. Carol Swan

Joint Committee on Federal Relations
2017 Interim Report

Briefing on the Federal Budget, Tax Reform, and Base Realignment and Closure

On October 25th, the committee was briefed by speakers from the National Conference of State Legislatures (NCSL) on the federal budget and tax reform legislation. The committee was also briefed by representatives from the Department of Commerce's Office of Military and Federal Affairs on base realignment and closure (BRAC).

Federal Budget and Tax Reform Legislation

For the first panel, Max Behlke, the Director of Budget and Tax at NCSL, and Jake Lestock, Policy Specialist of Budget and Tax at NCSL, briefed the committee on the status of the federal budget and tax reform legislation.

Mr. Behlke and Mr. Lestock provided an overview of the federal budget process, and updated the committee on actions taken to date. Congress passed a temporary Continuing Resolution (CR) for federal fiscal year (FFY) 2018 on September 8th, 2017, which funded the federal government through December 8th, 2017, raised the debt ceiling limit, and provided hurricane response relief. Following passage of the CR, the House of Representatives passed a budget resolution for FFY 2018 which laid the groundwork for the budget process, and included cuts in Medicare and Medicaid. The resolution also established the framework for congress to pass tax reform legislation through budget reconciliation, which eliminates the threat of a filibuster by allowing the legislation to pass the senate with a simple majority. Mr. Behlke and Mr. Lestock also made the committee aware of federal programs that expired on September 30, 2017, such as the Children's Health Insurance Program (CHIP), which would need legislation for reauthorization. At the time of the briefing, legislation had yet to be passed to reauthorize CHIP, although both houses had versions of CHIP legislation under consideration. Mr. Behlke and Mr. Lestock indicated that if a budget was not passed by the expiration of the CR on December 8th, then the federal government would shut down.

Mr. Behlke and Mr. Lestock then discussed the latest information on tax reform legislation and the potential impact on states. Maryland would be particularly impacted by a proposal in the tax reform legislation to eliminate the State and Local Tax (SALT) deduction. Elimination of the SALT deduction could result in 45% of Maryland taxpayers paying higher taxes due to the fact that Maryland is a high income state and individuals with higher incomes tend to itemize their taxes rather than taking the standard deduction. Congress was prioritizing tax legislation and NCSL expected the House of Representatives to pass tax reform by the end of November. Mr. Behlke commented on the political tension between Congress needing to pass a budget and raise the debt ceiling again, while simultaneously attempting to pass tax reform legislation that would increase the deficit.

Mr. Behlke and Mr. Lestock closed their portion of the hearing with a brief discussion of e-commerce and the growth of online sales. South Dakota passed legislation in 2016 that requires an out-of-state seller to collect state taxes if they generate more than $100,000 in revenues from sales into the state the previous calendar year, or had more than 200 separate transactions. Mr. Behlke indicated that this law will most likely end up in the Supreme Court in 2018, and that NCSL will be filing briefs to support South Dakota's law.

Base Realignment and Closure

The second panel included Brigadier General J. Michael Hayes and Lisa Swoboda from the Department of Commerce's Office of Military and Federal Affairs. Brigadier General Hayes and Ms. Swoboda provided an update on BRAC in Maryland and discussed the future potential for another round of BRAC.

The BRAC process in Maryland is led by Lieutenant Governor Boyd K. Rutherford. Military facilities in Maryland are primarily dedicated to research, testing, evaluation, and procurement. Defense installations are approaching one-fifth of the Maryland economy. Given that another round of BRAC is likely to occur at some point in the future, Brigadier General Hayes recommends the State stays engaged with BRAC projects, programs, and funding. The Department of Defense (DoD) Office of Economic Adjustment (OEA) assists communities impacted and dealing with the ripple effects of defense decisions. Maryland receives federal grants from DoD OEA to support community efforts and help diversify the defense industry and grow the economy. Impacts to the DoD budget would most likely have significant impacts since Maryland is ranked 5th in defense spending nationally.

Ms. Swoboda discussed the State's most recent and ongoing efforts related to BRAC. The Maryland Defense Network is a free searchable database of Maryland companies to encourage subcontractors to start teaming up to be more competitive for larger contracts and to target business development assistance to companies at risk due to defense dependency. The Maryland Defense Diversification Assistance Program aims to assist 100 defense contractors throughout the State, and make recommendations on how companies can diversify to minimize their risk. These programs also help contractors work with commercial markets in addition to defense markets. The State is also implementing regional pilot programs, such as in Southern Maryland which is the most defense-dependent region; Aberdeen Proving Ground is the second most defense-dependent region.

The committee asked Brigadier General Hayes and Ms. Swoboda to comment on the current BRAC projects in the State, specifically related to transportation projects. The response was that more funding is needed. The program – Defense Access Road Program – included $90 million allocated to six intersections and $35 million allocated for a tunnel from the National Institutes of Health. Brigadier General Hayes feels the program needs to be invigorated, but has had no traction in the last couple of years. In regards to the committee's question about specific actions the Maryland General Assembly could take to assist with future potential BRAC changes, the panel recommended continuing efforts to widen I-270 since transportation seems to be the item of greatest concern.

Briefing on WMATA Financing and Governance Reform

On December 5th, the committee held a briefing on issues relating to Washington Metropolitan Area Transit Authority (WMATA) financing and governance reform. The participants in the briefing were (1) Paul J. Wiedefeld, General Manager and CEO, WMATA; (2) Chuck Bean, Executive Director, Metropolitan Washington Council of Governments (COG); (3) Pete K. Rahn, Secretary, Maryland Department of Transportation (MDOT); and (4) Delegate Marc Korman, a member of the joint committee as well as one of a group of 10 Maryland legislators from Montgomery County and Prince George's County that presented reform proposals in a June 2017 report.

Participants' Initial Remarks

The main points made by the briefing participants in their initial remarks with respect to WMATA financing and governance reform are described below. Questions and answers are summarized further below.

Paul Wiedefeld

WMATA's Focus: WMATA is focused on three things: (1) safety and security of the Metro system, riders, and employees (a large focus of which has been the SafeTrack effort); (2) service reliability (including adding more, newer rail cars); and (3) fiscal management (including addressing a funding deficit of $100 million last year through internal cuts, resulting in the elimination of 700 positions, and improving capital program delivery). WMATA has made measurable improvements in each area, but continues to focus on those areas and efforts.

Plan for Addressing Long-Term Needs: To address long-term needs, WMATA came out with a plan called "Keeping Metro Safe, Reliable, and Affordable", consisting of both a capital and operating element:

- *Capital* – A federally-mandated needs assessment conducted by WMATA points to a $25 billion investment need over the next 10 years, $15 billion of which WMATA is recommending targeting based on what can be physically completed and without too great of an impact on service while making improvements. To meet that target, WMATA is recommending additional capital funding of $500 million per year. The agency is also recommending that growth of current jurisdictional contributions of capital funding be capped at 3% per year to keep up with inflation. The agency strongly believes that the federal government needs to continue to play a special role in the system. Current federal funding ($150 million per year), matched by jurisdictions, that will expire should continue. The system's needs are fairly straightforward. It is a 40 year-old system, with assets that wear out, and needs reinvestment. Similar issues are being dealt with in other cities across the country.

- *Operating* – Operating costs have been increasing at twice the rate of revenues. Revenues are affected by various factors ranging from Metro's performance to changing social dynamics (*e.g.* telecommuting, Uber, biking, price of fuel). To address that, WMATA has suggested capping annual growth of operating costs at 3%. The agency is also suggesting switching from a defined benefit pension program to a defined contribution retirement program for new, represented employees, and is also looking at competitive contracting for new services (for instance, the agency has recently put out an request for proposals for a new bus garage in Virginia), for which unions would be able to compete. An additional suggestion is amending the National Capital Area Interest Arbitration Standards Act (Wolf Act) to clarify certain parameters for binding arbitration, particularly to make sure that employees are compared to like employees in the region and not people in other parts of the country. Finally, WMATA is suggesting a contingency fund, built up over time (roughly 1% of the budget each year), that could cover costs of unexpected things that occur, like large marches, without having to make cuts elsewhere or go back to jurisdictions for more money in the middle of a budget cycle.

Funding Proposals in the Region: The various proposals are a recognition of the importance of Metro to the region and a clear understanding of the financial need, particular with respect to capital investment. Mr. Wiedefeld indicated that he knows that other proposals are scheduled to come out (*e.g.* COG, Gov. McAuliffe) and all are good things to have on the table as the region wrestles through very complex issues. Mr. Wiedefeld also commented that he thinks there is a consensus that the issues must be dealt with, and soon.

Chuck Bean

Status of Metrorail Safety Commission: Mr. Bean provided an update on the creation of the Metrorail Safety Commission – a subject the committee focused on in 2016 – indicating that the commissioners are being appointed (Maryland's have already been appointed). COG has an executive recruiter under contract to search for an executive director, only to be hired once the commissioners are in place, and has procured administrative support so that the commission can hit the ground running.

Benefits of WMATA: Metro spurs economic activity and more efficient land use, and provides community and environmental benefits (including reduced congestion). A study by the Northern Virginia Transportation Commission concluded that $600 million is generated for the Virginia general fund through sales and income taxes as a result of Metro.

COG's Recent Work on Metro Issues: COG's recent work on Metro issues has included: (1) the creation of a technical panel in June 2016, consisting of city and county managers, to assess WMATA's funding needs, explore revenue options, determine the economic value of Metro, and identify performance metrics for safety, reliability, and financial management; (2) hosting two regional Metro forums with the Greater Washington Board of Trade; and (3) establishing the COG Metro Strategy Group in January 2017, consisting of D.C., Maryland, and Virginia local and state elected officials (including Senator Feldman), to determine the best way to establish a dedicated funding source for Metro.

COG's Statement of Principles on Metro: Mr. Bean also discussed COG's Statement of Principles on Metro, including that bridging the gap in long-term capital needs is the funding priority, a dedicated funding source or sources that is/are earmarked to Metro and fully bondable is/are needed, and reform of governance and operations optimally would be accomplished without reopening the WMATA compact.

Capital Funding Need: COG's technical panel analysis, Secretary Ray LaHood's review, and Paul Wiedefeld have all identified the capital funding gap as requiring an additional \$500 million per year, to pay for a backlog of state of good repair capital needs, meet safety and reliability requirements, and provide for additional critical capital needs with identified costs.

Overview of Proposals: Mr. Bean provided an overview of the financing and governance reform proposals from Virginia (Secretary LaHood, Governor McAuliffe), Maryland (Governor Hogan, the group of ten Maryland legislators), District of Columbia (Mayor and Council – dedicated funding legislation), Congress (Congressman Delaney, Congressmen Brown and Raskin, Congresswoman Comstock), and other entities in the region (Northern Virginia Transportation Commission, Federal City Council, Amalgamated Transit Union Local 689). Mr. Bean indicated that the major players from the business community appear to be the Federal City Council, Greater Washington Board of Trade, and the Greater Washington Partnership.

Prospects for Regional Agreement: Mr. Bean indicated that, from his perspective, having this number of proposals is a good thing, drawing attention to the importance of the issue. Arguably there is more attention and putting forth of proposals than at any time in WMATA's 40-year history. He is hoping that areas of disagreement will be narrowed and things will continue to move forward, with a long-term resolution for Metro hopefully agreed on in this upcoming legislative session for Maryland and Virginia, and WMATA's capital needs met for the beginning of its fiscal year beginning July 1, 2018.

Secretary Rahn

Governor's Funding Approach, and Importance of WMATA: Governor Hogan has put forward an approach that requires all of the jurisdictions/partners funding WMATA to come to the table and bear their share of the responsibility for improvement to the system. WMATA is critical to the Capital region and Secretary Rahn [appearing to speak on behalf of both the department and the Administration in general, in this and a number of following statements] has confidence in Mr. Wiedefeld's ability to manage the organization and improve its performance.

Federal Funding Withheld in Relation to Metrorail Safety Commission: Federal funding being withheld in relation to the Metrorail Safety Commission will not be released until the commission is certified by the Federal Transit Administration. Secretary Rahn is very confident that the commission will be certified sometime next year.

Plan for Additional WMATA Capital Funding: Regarding additional capital funding for WMATA, the Governor's plan is that all four jurisdictions put \$125 million up annually for a period of four years, providing \$2 billion over that period to WMATA. Secretary Rahn indicated that he keeps hearing conflicting reports from various jurisdictions as far as their willingness to take part in that approach. He believes it is a common sense approach. He does not believe that the jurisdictions are going to reach agreement on a long-term funding approach this year that will meet the test of being dedicated and the Governor's plan will buy the jurisdictions time and still allow WMATA to make progress. Secretary Rahn also believes the federal government needs to be included as bearing a portion of the overall $500 million per year. WMATA is unique in that it is the nation's system, not just the three jurisdictions' system.

Condition of Metro System Must Improve: It is critical for WMATA's short-term and long-term viability that the system's condition improve.

Maryland's Existing WMATA Funding: 77% of State transportation revenues come from motorists and their cars, and 59% of transportation revenue is expended on transit, representing a significant transfer of income from drivers to transit. Maryland already contributes a significant amount to WMATA. Over the last three years, Maryland has provided $1.4 billion to WMATA and is providing $501 million this year. Maryland is paying its share and has also invested in other approaches (*e.g.*, Purple Line) to address transit and congestion in the Capital region.

Existing WMATA Funding Supports Bond Issuances: With respect to talk about a dedicated funding source so that bonds can be issued, WMATA has been issuing bonds based on its existing revenue stream. Maryland and the other jurisdictions, to Secretary Rahn's knowledge, have never not provided the amounts requested by WMATA. Secretary Rahn is quite sure that the credit rating agencies have viewed that as a steady revenue stream that bonds can be supported by, with a high rating.

Delegate Korman

Context for Writing the June 19 Report: The June 19, 2017 report by the group of the Maryland legislators was written within the context of amending the WMATA Compact, but a lot of the changes could be implemented without amending the compact as well.

Funding Alone is Not Viable: The group's basic proposition is that funding alone is not politically or substantively viable as a strategy to improve Metro's performance. It is difficult to justify putting more money into a system that people are frustrated by, and there are ways that Metro can and must improve.

Jurisdictions Should Have Discretion to Choose Funding Source: Each of the jurisdictions should be given discretion as to how to meet the funding goal identified by WMATA, but the funding mechanism would both need to be sufficient to meet the funding amount and meet the needs of the bond rating agencies to give the bonds a favorable rating. WMATA currently issues bonds, but the bond rating they get is not very good in comparison to transit systems that have dedicated funding.

Slightly Modify Maryland's Current Funding Approach: The group's general view on funding provided by Maryland is that the approach of providing funding from the Transportation Trust Fund has been working and that could be slightly modified to meet the requirements of the funding being dedicated.

Strengthen Office of Inspector General: Improving oversight by the WMATA Office of Inspector General (OIG) is important. The group recommends that the OIG be strengthened by giving it more of the powers provided under federal law. The WMATA General Manager's idea of moving the OIG to the U.S. Department of Transportation (USDOT) OIG could make sense. The group also recommends that the office be funded at a fixed percentage of the overall WMATA budget to ensure sufficient funding.

Increase Transparency: The group is also recommending increasing transparency, including: (1) issuing a strategic plan every five years, through a public process; (2) strengthening vital signs reporting, including benchmarking metrics against other transit systems; and (3) a more public capital budget process that includes a five- or six-year projected plan similar to the State's Consolidated Transportation Program (something WMATA is already doing, but that could be strengthened and, if the compact is opened, written into the compact).

Reform the Riders' Advisory Council: The group is recommending reforming the Riders' Advisory Council so that the members are appointed independently (maybe by local jurisdictions) and not by WMATA. Similar to the recommendation for the OIG, the council could be allocated a fixed percentage of the WMATA budget each year.

Restructure the WMATA Board: The group would like the WMATA board to: (1) be more politically accountable; (2) have relevant knowledge and expertise; (3) have more connection to the funding entities; (4) be smaller; and (5) have sufficient staff support. They are recommending having the board consist just of the three jurisdictions' transportation secretaries or their designees, and the local governments and the federal government would have *ex officio* seats. D.C recently began having the D.C. Director of Transportation sit on the board.

Great Progress from Other Proposals: The group's report was put out in June in order to be part of the solution, but there has been a lot of great progress by others since then stepping up to be part of the solution, including the Governor, with his proposal for a bridge funding approach.

Questions and Answers

The following questions were asked by the committee members and other invited legislators, followed by the briefing participants' answers.

Paul Wiedefeld and Chuck Bean

Question: When will federal funding that has been withheld due to the jurisdictions' delay in establishing the Metrorail Safety Commission be restored?

Answer: [Chuck Bean] Mr. Bean believes that USDOT is looking for the commission to be put in operation and when that is done the funding should be restored.

Question: What is the breakdown of the percentage of ridership among the jurisdictions, and the breakdown of funding for WMATA?

Answer: [Paul Wiedefeld] It is roughly 1/3 each, for both ridership and funding.

Question: Has strengthening the WMATA OIG been included in other proposals besides the group of ten Maryland legislators' proposal, and what has the general sentiment been toward that idea?

Answer: [Chuck Bean] COG's focus has been on funding, but when proposals regarding the OIG have come up, they have been generally positively received. Mr. Bean indicated that he thinks there is a productive way forward on the issue.

[Paul Wiedefeld] The OIG works for the WMATA board, not the General Manager. Mr. Wiedefeld is suggesting that the OIG be a part of the USDOT OIG and have it be independent from WMATA.

Question: [directed to Chuck Bean] There was a recent letter in the Washington Post about the way transit is funded in Hong Kong. Do you have any comment on the potential for use of the value capture method to fund Metro?

Answer: [Chuck Bean] COG has not studied that in depth. If value capture is aligned with the idea of taxing value of property adjacent to Metro that is attributed to Metro, analysis of the use of property taxes for funding Metro has been done. Funding through property taxes would be a more problematic method than other options, given the variance in area-specific (property) tax policies in the Metro area. It would be worth pursuing, however.

Question: [directed to Paul Wiedefeld] If the WMATA compact is not going to be reopened, have you thought about ways to increase transparency at WMATA and increase convenience for riders? (Also mentioned OIG's requested budget increase.)

Answer: [Paul Wiedefeld] OIG's budget is set by the WMATA board, not the General Manager, so additional money requested by OIG is the board's decision. The Riders' Advisory Council answers to the board, not the General Manager, but Mr. Wiedefeld thinks there are things WMATA can do internally. He and his top managers meet with the council on a quarterly basis. They are doing more outreach to the customer, through social media and other efforts, but can do more.

Question: [directed to Paul Wiedefeld] Can you describe how the board is structured, what board members are paid, and what their staff situation is?

Answer: [Paul Wiedefeld] It is a 16-member board. Eight members are voting members and there are eight alternates. There are four members each from Maryland, Virginia, D.C., and the federal government. In Maryland, two are appointed by the Governor and two are appointed by Montgomery and Prince George's counties through the

Washington Suburban Transit Commission. In Virginia, the Governor appoints one, the Northern Virginia Transit Commission appoints one, and the two others are decided on by a number of local governments. In D.C., the council approves the members in concert with the mayor. The federal government's members are approved by the USDOT Secretary. In reality, the alternate members have become, in effect, board members, over time, in terms of committee structure, but do not participate in board votes. They are all part-time and board member compensation varies (for some no compensation and others expense reimbursement and/or salary). OIG is in effect the board's staff. The board can put out contracts – have done that in the past, for consultants and things of that sort.

Question: Maryland has never had elected officials on the board, but the other jurisdictions do, traditionally, is that correct?

Answer: [Paul Wiedefeld] Mr. Wiedefeld indicated he believed that was the case.

Question: [directed to Chuck Bean] What has been the reaction of other jurisdictions to one of the suggestions for reform of not allowing for elected officials to be appointed to the board?

Answer: [Chuck Bean] In Virginia, the localities pay into WMATA, so their reaction is that they want to make sure that they have a seat at the table if they are making the investment. As a side note, Mr. Bean indicated that the board's reluctance to support service reductions for maintenance seemed to be related to constituent pressure.

Question: Is a copy available, of the legal opinion Secretary LaHood has indicated his law office has prepared regarding how reforms can be made without a change in the WMATA compact?

Answer: [Paul Wiedefeld] Mr. Wiedefeld indicated that it was his understanding it would be released that day along with Secretary LaHood's formal report.

Question: How much in bond revenue, supported by the $500 million, do you foresee using?

Answer: [Paul Wiedefeld] It would depend on the capital program and the fluctuations in the capital program. Mr. Wiedefeld provided examples of bond proceeds being used for larger capital projects with long lifespans.

Question: So you would be spending beyond the $500 million each year, using bond revenues?

Answer: [Paul Wiedefeld] Yes.

Question: Is it correct that WMATA is the only system in the United States that does not have a dedicated funding source?

Answer: [Paul Wiedefeld] Yes, but only when looking at major rail systems. There are other transit systems that do not have dedicated revenue.

Question: For those major rail systems, is there a predominant way that the dedicated funding is provided?

Answer: [Paul Wiedefeld] COG has done a number of studies, but generally it is a tax (sales, property (value added potentially), fuel).

Question: Is it a correct characterization that Maryland and Virginia are both currently generally on the side of each jurisdiction determining how to provide additional funding that works for them, while D.C. believes it should be a regional sales tax?

Answer: [Chuck Bean] Yes, that is a fair characterization. WMATA is unique from other systems in terms of the multiple jurisdictions involved, which makes it difficult, and requires dialogue between them.

Question: Governor McAuliffe has indicated he would provide dedicated funding in his budget submission. Is it known whether that would be dependent on the other jurisdictions doing the same?

Answer: [Chuck Bean] It is fair to say that only a few people around the Governor know exactly what he will propose in his budget on December 18, but he has been forthright that it will be dedicated funding. Mr. Bean indicated he thinks there is an assumption that there must be some parity from the other jurisdictions to reach the $500 million.

Question: What role could COG play in bringing the three jurisdictions together?

Answer: [Chuck Bean] As a rule of thumb, the smaller the group, the more candid the conversation. If there is a small group with executive and legislative branch representation from each jurisdiction, for candid conversation, the differences in positions might be able to be narrowed in the next few months.

Question: How much of WMATA funding comes from the localities as opposed to the states?

Answer: [Chuck Bean] It is a little different in each jurisdiction. The Northern Virginia counties provide funding.

[Paul Wiedefeld] In Maryland, funding is at the State level, from transportation funding. In D.C., it comes from the general fund. In Virginia, State funding comes generally from transportation funding and city and county funding comes from their general funds. Part of the challenge in the Virginia localities is that WMATA funding is competing against other government funding priorities. That is the reason why those local elected officials in Virginia want to be at the table, because of what it means to their budgets.

Question: When we talk about the current division of contribution rates between the three jurisdictions, is it correct that the Virginia localities' contributions are lumped together with the state's contributions?
Answer: [Paul Wiedefeld] Yes.

Question: Are the Virginia localities' contributions mandated by the state?

Answer: [Paul Wiedefeld] Their amounts are mandated through the compact. The compact is between the three jurisdictions and the federal government, but then, for Virginia, that has been broken down.

Question: Maryland doesn't have an equivalent set up like that?

Answer: [Paul Wiedefeld] No. Maryland used to. Montgomery and Prince George's counties used to be significant providers of funding, but that was changed a number of years ago.

Question: So Maryland's contribution is not coming specifically from the counties, it is coming from the entire Transportation Trust Fund, statewide?

Answer: [Paul Wiedefeld] Yes.

Question: There was a previous six-year capital funding agreement signed by the jurisdictions. Is there some way to use that as a template for funding going forward and what would the pluses and minuses be?

Answer: [Paul Wiedefeld] Virginia localities are wrestling with where to get the additional funding without an additional funding source.

Question: But could each jurisdiction decide on its own how to raise revenues for the capital expenditures?

Answer: [Paul Wiedefeld] Mr. Wiedefeld indicated that his position is that each jurisdiction has its own pressures and they need to figure out in their own jurisdictions what makes the most sense to meet the need. What he's hearing from different jurisdictions is that they don't have the capacity for additional funding any longer. It is a little more straightforward in Maryland, and more complicated in other jurisdictions.

Question: If the jurisdictions could each come up with the funding, could the six-year funding agreement template be followed, providing a predictable funding source for that period of time at least?

Answer: [Paul Wiedefeld] If they could come up with the funding, but apparently they cannot.

Question: The measurement of on-time arrivals increased from 7 out of 10 to 9 out of 10 over the course of a year. Were the metrics used for those two measurements the same or different? Is the way that it's measured a common formula used in other jurisdictions?

Answer: [Paul Wiedefeld] The metrics were not the same and in fact the ones that they are applying now are much tougher. Past metrics did not account for trains that arrived on time but that could not be boarded because they were too crowded. WMATA created a system that measures when riders enter the system and when they leave. They are trying to get eventually to a Waze type of app. They are trying to get more people to use it because that provides more data.

Secretary Rahn

Question: The Governor's funding proposal seemed to indicate a confidence in the $500 million figure, but your recent comments seemed to suggest otherwise, can you clarify that?

Answer: Secretary Rahn indicated that he believes there is high confidence in the $500 million figure over the short-term, but to extrapolate it to a longer period is where he has questions. He would like to have much more involvement with WMATA staff to understand their capital needs. Secretary Rahn and the Governor believe that the $500 million per year figure is legitimate for the four year period.

Question: How did you arrive at four years for the funding plan?

Answer: Secretary Rahn indicated that it was a number that seemed appropriate. The complexity of arriving at a long-term solution suggests it could take a longer period of time to arrive at. Four years should provide an adequate amount of time to reach a solution and if it happens sooner, that would be great.

Question: Would the Governor and executive branch be open-minded to putting together a relatively small group from the different jurisdictions, facilitated by COG, to work through the issues?

Answer: Secretary Rahn indicated that he could not speak for the Governor on whether he would be open to that. Continuing communication between the jurisdictions is going to be important, but he cannot commit to that idea on behalf of the Governor.

Question: Does the Transportation Trust Fund have the capacity to increase the State's contribution to WMATA in the short-term?

Answer: The Transportation Trust Fund is programmed through the Consolidated Transportation Program (CTP) and it is "zero sum". If something is added, something needs to be taken out. To fund the Governor's proposal, it was hoped that there would be something out of the federal government regarding their infrastructure plan, but that has not happened yet. New federal revenues, though, would provide the State the opportunity to address the additional WMATA capital funding need. Otherwise, those resources would need to be taken from other projects within the CTP.

Question: Is it correct that Maryland's payment for operating the Purple Line will be $150 million per year, beginning when it starts operating?

Answer: The availability payment, of roughly $150 million will start once it is open for revenue service, which currently is projected for 2022, but which Secretary Rahn indicated he believes will need to move because of legal issues that have occurred. In the meantime, Maryland has committed $159 million for ongoing expenses for construction and management. Maryland is spending, over the course of the Purple Line's construction, somewhere in the range of $200 million.

Question: Is the availability payment currently in the CTP?

Answer: Yes, it is in the CTP that will be presented to the General Assembly in January, in FY 2023.

Question: How is the potential for the Purple Line to draw some fare revenue away from WMATA being planned for?

Answer: MDOT's calculation is that there will be an increase in Metro riders that will come from the Purple Line that will outweigh the loss in ridership from Metro to the Purple Line, resulting in a net positive effect of 7,000 riders on Metro fare revenue. There will also be the opportunity for the Purple Line to replace WMATA bus routes running along the same path and result in WMATA savings.

Question: Does MDOT face some of the same constraints that WMATA is looking to overcome through competitive contracting, switching new employees to defined contribution retirement plans, and changing binding arbitration parameters?

Answer: Yes, MDOT does.

Question: Are you looking at making the same changes, or is MDOT on the same track as WMATA?

Answer: MDOT is restricted by federal requirements, to some extent, in making changes.

Question: Why is Maryland's approach for new WMATA capital funding better than the other approaches outlined in the briefing?

Answer: It provides an opportunity to take an in-depth look at what the costs are. It is also insisting that the federal government provides its share.

Question: Is it correct that because Maryland's approach is for a shorter period of time, it allows the outcome of that funding to be monitored?

Answer: Yes, it does. And the Governor has said he is not going to raise taxes. But the Governor's plan is revenue-agnostic for other jurisdictions. Maryland's revenue would have to come out of the Transportation Trust Fund and they are hopeful for additional federal revenues to the fund.

Delegate Korman

Question: [Statement thanking Delegate Korman and others for their work on the issue and expressing opposition to a regional sales tax and the burden it would place solely on Montgomery and Prince George's counties as opposed to the State as a whole.]

Answer: Delegate Korman indicated that there are also questions about a regional sales tax in Virginia, since Virginia residents would end up providing a greater amount of funding through the tax than Virginia currently contributes.

Interstate Compacts

Annual Interstate Compact Review

The committee annually conducts a review of Maryland's membership in various interstate compacts, covering compacts over a four-year cycle. The review focuses on whether Maryland's membership in the compacts continues to serve the interests of the State and/or whether any legislative modifications are needed. Committee staff sent questionnaires to the State agencies involved and prepared summaries of the agencies' responses for review by the committee members for the following interstate compacts:

- Appalachian States Low-Level Radioactive Waste Compact;
- Interstate Corrections Compact;
- Interstate Agreement on Detainers;
- Driver's License Compact;
- Interstate Commission on Educational Opportunity for Military Children;
- Interstate Insurance Product Regulation Compact;
- National Crime Prevention and Privacy Compact; and
- National Racing Compact.

The State agencies involved with each of these compacts indicated that Maryland's membership in the compacts continues to serve the interests of the State and that no legislative modifications are needed.

Interstate Compact-Related Contingent Laws

Each interim, Department of Legislative Services (DLS) staff review changes to State law that were made contingent on some other action(s) occurring before the changes take effect, to determine whether those action(s) have occurred. During the 2017 interim, DLS staff approached the chairs of the committee about potentially introducing legislation to repeal or modify certain contingent changes relating to interstate compacts, given the committee's traditional role of reviewing interstate compacts, that have gone a long period of time without taking effect and were potentially obsolete.

With the chairs' agreement, DLS staff further researched five such contingent changes, including contacting the relevant State agency that handles each applicable interstate compact to get the agency's view on whether the changes are obsolete and appropriate for nonsubstantive, code revision-type legislative action to repeal or modify the changes. In the case of three of those changes, the relevant State agencies involved did not support legislative action at this time, but those changes may make sense to revisit in later interims. The remaining two changes, however, described below, appear to be appropriate for legislative action during the 2018 session. The chairs of the committee have agreed to introduce legislation that would implement the proposed actions.

Proposed Actions

References to Maryland Department of Planning in WMATA Compact: Repeal the contingency in Chapter 209 of 2000, allowing it to take effect. Chapter 209 of 2000 makes a minor technical change to the WMATA Compact, redesignating the Maryland "Office of Planning" as the "Department of Planning" in Article VI, §§ 14(c)(3) and 15(a)(10) of the compact, to reflect the agency's current name. Contingent language in Chapter 209, however, has prevented it from taking effect.

Northeast Interstate Dairy Compact: Repeal Chapter 226 of 1998 (which enacts the Northeast Interstate Dairy Compact). Chapter 226 has not taken effect because of contingent language included in the chapter law and the compact has not been in operation in other states since congressional consent for the compact expired in 2001.

Joint Committee on Gaming Oversight

Maryland General Assembly
Joint Committee on Gaming Oversight
2017 Interim
Membership Roster

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Frank S. Turner, House Chairman

Senators

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George C. Edwards

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Delegates

Pamela Beidle

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Committee Staff

Matthew J. Bennett

Charity L. Scott

THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401-1991

JOINT COMMITTEE ON GAMING OVERSIGHT

December 12, 2017

The Honorable Thomas V. Mike Miller Jr., Co-Chair
The Honorable Michael E. Busch, Co-Chair
Members of the Legislative Policy Committee

Ladies and Gentleman:

The Joint Committee on Gaming Oversight is charged with examining the status of the State's gaming program and the implementation of new laws relating to gaming. The committee met once during the 2017 interim and is pleased to present this summary of its activities.

At its October 10, 2017 meeting, the committee received testimony on the topics of gaming revenues, sports betting, skill-based games, and problem gambling services as summarized below:

- The State Lottery and Gaming Control Agency discussed the evolution of gaming in the region and also presented information on the amount of revenue received from lottery game sales and video lottery terminals and the distribution of that revenue.

- Ms. Sara Slane, Senior Vice President of Public Affairs for the American Gaming Association, provided testimony on the efforts to legalize sports betting in the United States and the pending Supreme Court case on the issue, *Christie v. NCAA*.

- Mr. Joseph Weinberg, Chief Executive Officer (CEO) of Cordish Global Gaming, gave remarks on behalf of Live! Casino in favor of legislative action to legalize sports betting in Maryland.

- Mr. Blaine Graboyes, CEO of GameCo, presented information on skill-based video game gambling machines and e-sports and his company's efforts to bring in a new generation of casino customers.

- The Maryland Center for Excellence on Problem Gambling provided updates on its treatment services reimbursement program and discussed the possible impact on problem gambling rates if sports betting is legalized.

December 12, 2017
Page 2

We wish to thank the committee members for their participation, the representatives of the public and private organizations who kept us informed, and our committee staff for their support.

Respectfully submitted,

Nancy J. King

Senator Nancy J. King
Senate Chair

Frank S. Turner

Delegate Frank S. Turner
House Chair

cc: Ms. Carol Swan
Mr. J. Ryan Bishop

Joint Committee on Ending Homelessness

Maryland General Assembly
Joint Committee on Ending Homelessness
2017 Interim Membership Roster

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Delegate Mary L. Washington (House Chair)

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Jason A. Kramer
Tonya D. Zimmerman

Support Staff

Kamar Merritt

JOINT COMMITTEE ON ENDING HOMELESSNESS

December 14, 2017

The Honorable Thomas V. Mike Miller, Jr., Co-Chairman
The Honorable Michael E. Busch, Co-Chairman
Members of the Legislative Policy Committee

Ladies and Gentlemen:

The Joint Committee on Ending Homelessness is pleased to submit a summary report of its 2017 interim activities. This report also serves as the committee's annual report. This was the committee's third year of activity. The committee met three times this interim (September 13, October 11, and November 8). The committee also completed a site visit at My Sister's Place on September 26 and joined the Joint Committee on Children, Youth, and Families for a briefing on November 7.

The committee's work this interim continued activities from the first year of exploring issues related to homelessness while also focusing on potential areas of recommendations. The meetings included a review of the results of the Youth Reach MD count of unaccompanied homeless youth; the impacts of federal changes on affordable housing development, homelessness and the child welfare system; legislation from the 2017 session; a fair housing settlement between the U.S. Department of Housing and Urban Development and the Department of Housing and Community Development (DHCD); the transition of the Bureau of Homeless Services from the Department of Human Services to DHCD; and the annual report of the Interagency Council on Homelessness. The committee also heard from the United Way of Central Maryland and Maryland Community Action Partnership. Attached is a summary of the committee's interim studies as well as the recommendations of the committee.

We wish to thank the joint committee members for their participation, representatives of public and private organizations who kept us informed, and our committee staff for their support.

Respectfully submitted,

Richard Madaleno

Mary Washington

Richard S. Madaleno, Jr
Senate Chair

Mary L. Washington
House Chair

RSM:MLW/TDZ:JAK/km

Enclosure

cc: Members of the Joint Committee on Ending Homelessness
Mr. J. Ryan Bishop
Ms. Carol L. Swan

Joint Committee on Ending Homelessness
Interim Report

The Joint Committee on Ending Homelessness (JCEH) was established by Chapter 427 of 2014, which became effective June 1, 2015. To ensure that public resources, programs, and policies are coordinated and effective in preventing, mitigating the effects of, and ending homelessness in Maryland, the committee is to study issues related to homelessness including (1) housing; (2) income; (3) health care; (4) education; (5) government supports; and (6) veterans experiencing homelessness. The committee is to consult with governmental agencies, community-based organizations, and other stakeholders to identify State policies, programs, and actions that should or could prevent, mitigate the effects of, and end homelessness in Maryland. The committee is to review and make recommendations, including identifying new laws, regulations, programs, services, and budgetary priorities to meet these goals. The committee is also required to search for any intradepartmental or interdepartmental gaps, inconsistencies, and inefficiencies in the implementation or attainment of the State policies, programs, and actions related to these goals. The committee is required to submit an annual report to the General Assembly of its activities and recommendations. This report fulfills this requirement.

Chapter 104 of 2016 expanded the membership of JCEH from 10 to 16, allowing for 8 members from both the House of Delegates and the Senate. The chapter became effective October 1, 2016. The committee currently has 5 Senate members and 7 House of Delegate members.

During this third year of activity as a committee, JCEH held three meetings (September 13, October 11, and November 8), joined the Joint Committee on Children, Youth, and Families for a briefing on November 7, and conducted a site visit on September 26. Topics discussed at these meetings included:

- a summary of relevant legislation proposed and enacted during the 2017 session;
- an overview of the Youth Reach MD count of unaccompanied homeless youth results;
- a review of the impact of federal policy uncertainty on affordable housing development and other affordable housing challenges;
- a review of homelessness and the child welfare system;
- a review of the fair housing settlement between the Department of Housing and Community Development (DHCD) and the U.S. Department of Housing and Urban Development (HUD);

- a review of two-generation strategies and the work of the Governor's Two-Generation Family Economic Security Commission;

- a discussion of the work of the United Way of Central Maryland (UWCM), including its study of Maryland's Asset Limited, Income Constrained, Employed (ALICE) households;

- a discussion of the work of the Maryland Community Action Partnership (MCAP) and the Community Action Agencies (CAA) in Maryland;

- a review of the transition of the Bureau of Homeless Services from the Department of Human Services (DHS) to DHCD; and

- a review of the Interagency Council on Homelessness' (ICH) 2017 Annual Report and policy recommendations.

The joint committee's site visit took place at My Sister's Place Women's Center in Baltimore City. My Sister's Place is a comprehensive resource center for homeless women and their children in Baltimore City. The joint committee's site visit consisted primarily of serving lunch at the facility as well as learning about the work of My Sister's Place.

Homelessness in Maryland

The joint committee held two briefings that included information describing homelessness in the State. One of these briefings was included as part of the review of the ICH annual report. The other briefing was by the University of Maryland School of Social Work (UMSSW) Institute for Innovation and Implementation on the Youth Reach MD findings.

ICH Briefing

ICH presented a number of statistics related to homelessness in Maryland. The majority, though not all, of the information comes from the required annual Point-in-Time (PIT) count. Every other year (including 2015 and 2017), the PIT count includes both the sheltered and unsheltered populations; in the other even years, only a count of the sheltered population is undertaken. The 2017 PIT count showed a decrease in the number of homeless individuals in Maryland (a decrease of more than 13% since 2015). However, ICH also reports the total number of homeless individuals served during the year in Maryland. For that, ICH reported a figure of 31,095 individuals, which is an increase over both 2016 and 2015. ICH noted that the 2017 PIT count found a 9% decrease in the chronically homeless population and a 25% decrease in the number of homeless veterans. However, the 2017 count found an increase of 1% of school-aged youth who are homeless. In 2016 (the most recent data available), ICH explained that there were 181 deaths of individuals experiencing homelessness, which is more than double the number from 2007 (72).

ICH's annual report also highlighted a decrease in available shelter beds and transitional housing units since 2016, with decreases of 2% and 3% respectively, found during the 2017 Housing Inventory Count. ICH explained that in 2017 there were only enough emergency shelter beds to meet the needs of 64% of the homeless population found in the 2017 PIT count. In the presentation, ICH noted that there was also a 17% decrease in cold weather beds. ICH also includes a count of the estimated number of encampments statewide and by region. ICH stated that there were 231 encampments statewide; the largest number of these encampments were found in Anne Arundel county (35), the Southern Maryland region (28), and the Mid-shore region (25). Additional detail on the 2017 PIT and Housing Inventory Counts may be found in the ICH's 2017 annual report.

ICH also highlighted a number of accomplishments of the council since the prior report. These accomplishments included the transition of homeless services programs and the Bureau of Homeless Services from DHS to DHCD. Chapter 105 of 2017 statutorily transferred the Bureau of Homeless Services and related programs to DHCD. The chapter became effective July 1, 2017. The transition included 4 positions and several programs. Initially, the programs transfer as they currently exist; however, over the next year a transition team will meet and discuss the functioning of the current programs and recommendations for changes. Potential areas of change include areas of overlap and areas where either statute or regulation run counter to best practices. This review will culminate in a report due in December 2018, which is to be a final evaluation of the transition and include any recommendations to ensure the effective delivery of homeless services in the State.

Youth Reach MD

JCEH received a briefing on findings from the most recent Youth Reach MD count of unaccompanied homeless youth. Youth Reach MD defines unaccompanied homeless youth as individuals 24 years or younger, not in the physical custody or care of a parent/legal guardian, lacking a fixed, regular, or adequate nighttime residence. During calendar 2017, Youth Reach MD made several changes to the process from lessons learned during the initial count and expanded the number of locations conducting the count. In calendar 2017, the count was conducted in 18 jurisdictions by 10 continuums of care (CoC). The count was conducted in each CoC over a two-week period in either March or April. In the 2017 survey, Youth Reach MD's participating CoCs administered 1,830 surveys, of which 806 met the Youth Reach MD definition of unaccompanied homeless youth. The majority of these youth were in Baltimore City (505, or 62.7%), with Anne Arundel County having the second highest number of these youth (96). Of note, in the CoCs participating in both the initial count and the 2017 count, the number of unaccompanied homeless youth was lower in the 2017 count. Of the 806 youth that met the Youth Reach MD definition of unaccompanied homeless youth, only 417 met the HUD definition of homeless. Youth Reach MD found that in the CoCs conducting the count there was 1 unaccompanied homeless youth for every 1,000 youth. Other findings from the count include

- 13% were under the age of 18;

- 68% were identified as Black/African American;
- 21% were identified as lesbian, gay, bisexual, transgender, or questioning (LGBTQ);
- 42% reported not having a high school diploma or equivalent, but 29% are currently in school;
- 38% (307) reported having spent the previous night doubled up (the most common place to have slept the most recent night);
- 20% (164) indicated that they had been in foster care at some point; and
- 29% (237) indicated that they had been in jail at some point and 24% (196) had been in juvenile detention.

According to the survey data, youth sought a variety of services with the most common being nutritional services, short-term housing, and health care and mental health treatment.

Homelessness and the Child Welfare System

DHS and UMSSW Institute for Innovation and Implementation presented to the joint committee on the current efforts around homelessness and the child welfare system. DHS noted that children do not enter foster care solely due to a lack of housing, but many children entering foster care have histories of homelessness. For example, in fiscal 2015, 2016, and 2017, between 9% and 10% of children entering care had homelessness/housing instability included as an issue at the time of entry into out-of-home placement. In the assessments given to families, DHS noted that more than 10% of families had residential stability as an item that required action in fiscal 2016 that figure was slightly lower in fiscal 2017. Similarly, residential stability was an issue requiring action in assessment of the permanency plan caregiver in more than 10% of assessments in each fiscal 2016 and 2017. In addition, through the Thrive@25 program survey data, UMSSW found that 100% of former foster youth had stayed with a friend since leaving foster care and 99% had stayed in shelters.

DHS undertakes activities during the transition plan, which seeks to prepare foster youth for life after they age out of care. These include developing transition plans and placing children in independent or semi-independent living programs. Independent living services are available for youth ages 18 to 21 who were in an out-of-home placement on their eighteenth birthday. DHS has also worked with DHCD and the Governor's Office of Crime Control and Prevention on the New Futures Bridge Program that provides rental assistance to foster youth and domestic violence victims. Just over one-half of the referrals (154 of 299) have been for foster youth. Through the time of the presentation, only 29 foster youth had been housed through this program. DHS also works with DHCD on the Family Unification program that provides vouchers for youth ages 18 to 24 exiting care, for those seeking to reunify with family but housing is a major barrier, or for a family at imminent risk for up to 36 months. DHS also provided a timeline for maximizing resources for youth to achieve self-sufficiency. The timeline included youth ages 18 to 21 in semi-independent/independent living programs, youth ages 21 to 24 in the family unification program, and then youth age 24 living with a roommate, private housing, or another subsidy program.

Under a Thrive@25 demonstration project, DHS has developed an enhanced transition planning process that is more youth-driven. The transition meeting frequency increases in this model to occur every two to three months (four to six times per year) rather than the typical one to two times per year. The model also focuses on youths' goals. Under the program there is also housing available with a priority for former foster youth. This project is currently underway in the Mid-shore region. DHS is applying for an additional demonstration project (if the federal government makes funds available) to continue work on the Thrive@25 program.

Affordable Housing Development

JCEH received briefings at two of its meetings related to affordable housing. The presentations were by the Maryland Affordable Housing Coalition (MAHC) and the Community Development Network of Maryland (CDN). The CDN included in its presentation a review of a housing affordability study completed by Enterprise Community Partners. These and similar issues were also discussed by the MAHC. The study was primarily drawn from existing data sources. Key findings from the study include

- 31.0% of low-income households (those earning 80.0% or less of Area Median Income (AMI)) are moderately cost-burdened and 40.0% are severely cost-burdened;

- 14.0% of extremely low-income households (those earning 30.0% or less of AMI) are moderately cost-burdened, and 72.0% are severely cost-burdened);

- between calendar 2007 and 2015, median rent has increased while median income has not;

- Baltimore County and Baltimore City each had waitlists in 2016 for housing choice vouchers exceeding 20,000 households; other jurisdictions also had significant waitlists, and a number of jurisdictions have waitlists that are closed; and

- 34.2% (24,937 units) of federally assisted affordable housing units with expiring subsidies have an expiration date between 2017 and 2020.

A key point discussed in both presentations was the impact the uncertainty surrounding federal tax reform has had on affordable housing development through the Low-Income Housing Tax Credit (LIHTC). Federal tax reform could include changes to corporate taxes, which would lower tax liabilities. This type of change devalues tax credits. For example, there is less value to a company for a 10-year tax credit if the company believes it would not have a tax liability in three years. One presenter gave an example of the impact of this uncertainty on the value of the LIHTC. The presenter stated that a developer could receive $1.05 per tax credit for 10 years prior to the election, but now the value is $0.93 per tax credit. This creates a financing gap of $1.5 million to $2.0 million per project. This gap in financing means that more funding is needed from other sources including State sources. However, these programs are often already oversubscribed. One of the presenters explained that there is the potential for federal legislation that would stabilize the LIHTC.

The presenters also highlighted other challenges for affordable housing development including:

- limited amount of land zoned for multifamily housing and competition for that land between market rate and affordable development;

- increased cost of development due to local land use policies, comprehensive energy and green building standards, and construction costs generally including those related to legislation; and

- negative community views of affordable housing development.

Fair Housing Settlement

Mr. Matthew J. Heckles from DHCD presented to the committee on a recent settlement between DHCD, the Baltimore Regional Housing Campaign, and HUD. The original complaint was filed in 2011 and was focused on a provision in the Qualified Allocation Plan at the time (the plan in which DHCD lays out how it will award points for various features of developments to allocate LIHTCs), which required developers to have "express local consent." This provision allowed local leaders to keep affordable housing developments out of certain communities. Under the settlement, DHCD agreed to (1) create 1,050 new units in communities of opportunity in the Baltimore region and preserve 450 units of affordable housing in the same region; and (2) provide more flexibility in certain development features and incent certain features such as larger unit sizes, access to transportation, and broader marketing plans. Communities of opportunity are communities with higher quality schools, certain house values, *etc.*, or generally, areas where there is currently a lack of affordable housing but better schools and opportunities for those that live in them. Last year 18 of the 20 allocations of LIHTC were in communities of opportunity. However, DHCD prefers more balance to ensure affordable housing is available more broadly. DHCD believes that the timeline for the development provided in the settlement will ensure that these commitments will not hurt development in other areas of the state.

Two-generation Strategies

On November 7, 2017, the joint committee joined the Joint Committee on Children, Youth, and Families for a briefing on the Two-Generation Family Economic Security Commission and Pilot Program. In the briefing, the joint committee heard about efforts to ensure that the focus is on improving outcomes for both adults and children that come in contact with any part of the public assistance or child welfare systems. The commission is still examining how this type of strategy will be implemented statewide; however, there are examples of this type of work already occurring in Maryland. For example, an individual from Allegany County described examples of work being done in that jurisdiction. In Allegany County, a whole family assessment is conducted, and a self-sufficiency plan is established that focuses on the family's goals. In addition, a Head Start program was located on the campus of the community college, which provides benefits for both children's readiness to learn and the adults' education and eventually employment outcomes. An interim report is due in December 2017 with a final report due in December 2018.

Service Providers

The joint committee heard from two service providers: UWCM and MCAP. The primary focus of the UWCM presentation was on ALICE households. These are households without enough net worth to live at poverty level for three months without income, insufficient liquid assets, and less than $4,632 in savings. The majority (53%) work in jobs that pay less than $20 per hour. UWCM stated that 743,738 households in Maryland (35%) are ALICE households. ALICE households are distributed throughout the State. Howard County has the fewest ALICE households as a share of all households (22%), while Somerset has the highest (over 50%). UWCM stated that a survival budget in Maryland for a two-adult, two-child household (one infant and one preschooler) is $61,224. Of the top occupations, UWCM stated that 24% of them pay enough to support this survival budget with both parents working. UWCM explains that housing is the second most expensive item in the budget for families with children. Approximately 31% of those rental units that are affordable to ALICE households are subsidized. UWCM identified a number of strategies to assist ALICE households. These strategies include those that can be employed by family and friends, nonprofits, employers, and the government. Government strategies include various public assistance programs, tax credits for caregivers, education vouchers and charter school options, job training and educational assistance, and reduced student loan burdens.

MCAP is a network of CAAs throughout Maryland; Washington, DC; and Delaware. The CAAs in MCAP's network served 221,452 low-income households in Maryland and additional households in the other jurisdictions. The CAAs provide a variety of services including homelessness prevention, affordable housing and foreclosure prevention, homeless shelters, workforce development, energy assistance, Head Start, and budget counseling and financial education. Not all CAAs provide the same programs since the programs are designed to serve the individual community in which the organization is located. MCAP said that CAAs in nine jurisdictions operate homeless shelters. The CAAs also provide independent living facilities for low-income seniors; rapid housing, rental and mortgage assistance; first-time homebuyers classes; and fair housing programs. The primary funding source for the CAAs is the Community Service Block Grant (CSBG). DHCD administers the CSBG to 17 CAAs, which covers all jurisdictions in Maryland. CSBG funding in Maryland in fiscal 2015 was approximately $9.2 million. MCAP indicated that the CSBG is a program that has been considered for federal fund reductions, which would impact the CAAs significantly.

Recommendations

The joint committee has made several recommendations, including those to study some issues in the future. Recommendations for further study will serve as a potential starting point for joint committee meetings in the 2018 interim.

(1) The joint committee agreed to send a letter to the Governor to encourage the funding for the Housing Navigator and Aftercare program at the level provided in Chapters 637 and 638, which codified the existing program in the DHCD and required a higher funding level than has been provided for the program, subject to the limitations of the State budget. The chapters provided for a funding level of $516,828 (double the current funding level), which would allow for additional navigators. The program currently operates in six jurisdictions. The letter sent by the committee is enclosed with this report.

(2) The joint committee agreed to continue to monitor federal homelessness and affordable housing programs and consider options if the impacts indicate action is needed to support affordable housing development.

(3) The joint committee agreed to look at tax issues that surround ownership of units held in a community land trust in future meetings.

(4) The joint committee also agreed to look at issues surrounding the reason for encampments, particularly in Charles County, and the decrease in cold weather shelters to reverse these trends in future meetings.

The Joint Committee on Ending Homelessness Also Supports Recommendations by Various Organizations

During the 2017 interim, a number of the presenters to the joint committee made policy recommendations for the joint committee's consideration. The joint committee agreed to support a number of the recommendations made by the groups, at least in concept. The joint committee is not sponsoring legislation in these areas; however, individual members may choose to sponsor legislation in these areas.

Interagency Council on Homelessness

The ICH policy subcommittee presented a series of recommendations to the joint committee. The joint committee focused on a set of these recommendations that contained certain goals and budget requests. The joint committee supports the goals and intends to begin looking at ways to reach these goals in the future. However, the joint committee did not take a stance on the budget requests ICH included with the goals. The goals supported by the joint committee are to:

(1) reduce nonchronic homelessness by 50% over three years;

(2) reduce chronic homelessness by 20% annually;

(3) increase funding for training and staffing so that providers may lower barriers to emergency shelter and expand coordinated entry services to be in compliance with federal requirements;

(4) increase funding for providers to offer more medical respite care programs statewide that provide a place for individuals who are homeless leaving hospitals that need more care than is able to be provided in a shelter;

(5) increase funding to ensure that all emergency shelters are compliant with the Americans with Disabilities Act; and

(6) increase funding to expand the Supplemental Security Income/Social Security Disability Insurance Outreach, Access and Recovery (SOAR) program to increase the number of SOAR-certified staff who assist the homeless to qualify for federal benefits.

Youth Reach MD

The joint committee also supports the recommendations of Youth Reach MD, which are to:

(1) create housing solutions accessible to and designed for and with youth, including rapid rehousing, youth shelters, and youth drop-in centers;

(2) create housing services for youth previously or currently involved with the child welfare system, juvenile services systems, or corrections systems;

(3) invest in supportive services for youth experiencing or at risk of homelessness, including developing or improving educational support services, job training and full-time employment with benefits, services for parenting youth, evidence-informed clinical services for youth and families, services for transition-age foster youth, and nutritional assistance, health care, and behavioral health services;

(4) explore opportunities to decrease disproportionality and overrepresentation in youth homelessness among certain populations, including African American youth, LGBTQ youth, and parenting/pregnant youth; and

(5) support continued and improved monitoring of youth homelessness by conducting regular statewide counts of homeless youth and exploring opportunities for State agencies to routinely share and link data.

Community Development Network of Maryland

The joint committee also supports the recommendations of CDN, which are to:

(1) include budget language to require DHCD to study the issue of affordable housing preservation and develop recommendations for refinancing products, policies, and strategies to ensure that Maryland does not lose affordable housing units;

(2) update and revise the 1999 Assisted Affordable Housing Preservation Act, which requires among other things a notice to certain officials and residents of a notice prior to undertaking certain protected action for certain assisted housing projects (protected actions include prepayment of a mortgage, the termination before expiration of or failure to exercise a state renewal option under an agreement for project-based Section 8 rental assistance for any units in an assisted project, the expiration (or failure to extend after expiration) an agreement providing for project-based rental assistance to any units in an assisted project, and the sale or conveyance of an assisted project by an owner in conjunction with certain other activities), to include notice to local officials related to expiring affordable housing;

(3) explore capacity and parity for nonprofit affordable housing developers;

(4) recommend funding that includes housing for those earning 30% of the AMI (deeply affordable housing);

(5) create designated funding sources for more affordable housing units including the Maryland Affordable Housing Trust Fund and creation of a Community Development Fund or other innovative community development funds; and

(6) discuss health and affordable housing links.

Joint Committee on Legislative Ethics

Maryland General Assembly
Joint Committee on Legislative Ethics
2017 Membership Roster

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Adrienne A. Jones, Acting House Chairman

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Katherine Klausmeier
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MARYLAND GENERAL ASSEMBLY

JOINT COMMITTEE ON LEGISLATIVE ETHICS

November 29, 2017

The Honorable Thomas V. Mike Miller, Jr.
The Honorable Michael E. Busch
Members of the Legislative Policy Committee

Ladies and Gentlemen:

The Joint Committee on Legislative Ethics met three times during the 2017 interim. At those meetings, the Committee reviewed disclosures and disclaimers filed by legislators. In addition, the Committee reviewed the provisions of Chapter 31 of the Acts of 2017 – Public Integrity Act of 2017. The Committee revised a number of Opinions and forms to implement the Act and to clarify other legislative ethics issues. As you know, any other activities of the Committee are required, by law, to remain confidential.

The Committee will continue to meet on an as-needed basis.

Respectfully submitted,

James E. DeGrange, Sr.
Senate Chairman

Adrienne A. Jones
Acting House Chairman

Enclosure

DWD/dag

Joint Committee on Legislative Information Technology and Open Government

Maryland General Assembly
Joint Committee on Legislative Information Technology and Open Government
2017 Interim Membership Roster

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Luke Clippinger, House Chairman

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Warren E. Miller
Dan K. Morhaim
Pat Young

Committee Staff
Lindsay A. Rowe
Kathryn H. Selle

Maryland General Assembly
Joint Committee on Legislative Information Technology and Open Government

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This report is submitted to satisfy the requirement of State Government Article § 2-10A-14.

Subject to § 2-1246 of this title, the committee shall submit a report to the Legislative Policy Committee on or before December 1 of each year. The report shall include (1) a description of the work of the committee and (2) any recommendations of the committee.

THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401-1991

Joint Committee on Legislative Information Technology and Open Government

December 1, 2017

The Honorable Thomas V. Mike Miller, Jr., Co-chairman
The Honorable Michael E. Busch, Co-chairman
Members of the Legislative Policy Committee

Ladies and Gentlemen:

The Joint Committee on Legislative Information Technology and Open Government respectfully submits its 2017 interim activities report. The joint committee met on November 8, 2017, and its work is summarized below.

Open Meetings Compliance Board

Jonathan Hodgson, Chair of the Open Meetings Compliance Board, described the board membership and noted that the members' packets contained the board's twenty-fifth annual report and a report on the cost-benefit analysis required by Chapters 525 and 526 of 2017. The report sought to determine the costs and benefits to the State of tracking the names and public body affiliations of individuals who complete a class on the Open Meetings Act. The report concluded that the best and most cost-effective method of monitoring compliance with the training requirement and maintaining accurate information is to require individual agencies and public bodies to maintain their own compliance data. Regarding the annual report, Mr. Hodgson stated that the board received 32 complaints during fiscal 2017.

In response to questions, Mr. Hodgson explained that the board does not have the power to impose sanctions for violations of the Act, but if the board finds a violation and issues an opinion, the public body must read the opinion into the record at its next meeting as a public acknowledgement of the violation. The opinions are designed to have precedent value and be instructive to other public bodies. Mr. Hodgson further stated that the board is not proposing legislation but remains concerned about the amount of time provided for it to consider and make recommendations on legislative proposals. He explained that when the board does not have sufficient time to conduct a meeting and offer a thoughtful position, its default position is to oppose the legislation. Finally, committee members and Mr. Hodgson had a further discussion about enforcement of the Act, noting that while the board does not have the ability to impose a penalty, a court may impose a civil penalty under certain circumstances.

Public Information Act Compliance Board

John H. West III, Chair of the Public Information Act (PIA) Compliance Board, described the board's membership and responsibilities and noted that the members' packets contained the board's second annual report. He briefly summarized the number and outcome of complaints received and referred the committee members to the report for more detail. Mr. West emphasized the value and competency of the Public Access Ombudsman in resolving complaints. He also noted that agencies are providing better explanations of costs charged for PIA responses.

Mr. West highlighted several of the recommendations for legislative action that were included in the board's report. The board would like the legislature to address a recurring issue faced by inmates who are indigent but nonetheless have fee waiver requests denied. The board also recommends that contractors involved in the storage and retention of government records be subject to the same record management requirements as the public body. To increase the benefits of referring cases to the Ombudsman, the board recommends authorizing referrals at any time and expanding the timeframe for review in cases referred to the Ombudsman. Finally, Mr. West noted that the board currently benefits from the technological expertise of one of its members and recommends requiring at least one member to possess such expertise so that the board can continue to effectively review complaints.

In response to questions from committee members, Mr. West agreed to look into whether Governor Larry Hogan's Administration intends to propose legislation on any of the recommended matters.

Office of the Public Access Ombudsman

Lisa Kershner, Public Access Ombudsman, briefed the committee on the establishment of the Office of the Public Access Ombudsman and its activities. Ms. Kershner provided documents summarizing the Ombudsman's work and operations and comments relating to the Office of the Attorney General's Interim Report on the Implementation of the PIA (December 2016). She discussed the various types of requestors and noted that many requests come from incarcerated individuals. She also described the diverse community of responders with which she has worked. In response to questions, Ms. Kershner noted that almost all agencies have been receptive to working with her office.

Ms. Kershner highlighted several types of issues that she has mediated, including withholding of documents; withholding of information within documents through redaction; fee issues, including amounts charged and denials of waivers; and failure to respond to a request. Ms. Kershner estimated that an agency's failure to respond represented between 18% and 22% of cases brought to the Ombudsman. In response to questions, Ms. Kershner stated that instances of failure to respond occur at the State and local levels and that this issue is not unique to just a few agencies. Ms. Kershner clarified that she does not have the authority to issue a decision on a complaint but that she helps resolve disputes between requestors and responding agencies.

Ms. Kershner also outlined several strategies that have worked for agencies responding to PIA requests, including (1) establishing a clear internal process for fielding and handling PIA requests through to conclusion, including clear direction on when to communicate with the requestor; (2) staff training, particularly when staff turnover is frequent; and (3) messaging from the top of the agency to set the tone and direction to employees of what is expected with regard to PIA requests. Ms. Kershner further stated that agencies should have clear and functional record retention and management programs, providing an efficient way to retrieve electronic records. She noted that these policies would provide additional benefits to agencies, including providing for efficient continuity of operations, emergency preparedness, and access for historical and research purposes. Ms. Kershner stated she hopes to facilitate programs in which agencies can share PIA experiences, information, and knowledge. While some agencies have robust systems which include online tracking of requests, others, particularly smaller agencies, would need additional resources to improve their systems. In response to questions, Ms. Kershner highlighted several agencies with exemplary PIA training programs for staff or online PIA request tracking systems.

Ms. Kershner provided comments regarding potential legislation in her written materials and highlighted for the committee her recommendation that the legislature examine the handling of personal information under the PIA. In response to questions, Ms. Kershner added that she hoped the legislature would consider (1) a compliance monitoring program that would not function as enforcement but as an audit examining an agency's performance to determine how well its PIA process is working and where there is room for improvement and (2) establishing an alternative to the court process for requestors who cannot afford an attorney or who have time-sensitive requests. In response to additional questions, she described the need for a process that would allow an agency to issue a temporary denial and seek court guidance without naming a requestor as a respondent and the need to require fee waivers for indigent inmates.

Office of Information Systems Projects

Michael Gaudiello, Director of the Office of Information Systems (OIS) in the Department of Legislative Services (DLS), briefed the joint committee on the status of ongoing and new OIS projects. He explained that OIS worked with the Office of Policy Analysis to develop an online bill drafting review process. He also described enhancements made to the new web-based floor system that was used during the 2017 session. Regarding changes to the constituent tracking application, OIS remains committed to moving forward with the project and anticipates implementing a pilot program during the 2018 interim, with a full rollout for the 2019 session.

Mr. Gaudiello also explained that after replacing all House floor laptops before the 2017 session, OIS observed a 35% failure rate during session and contacted Dell, facilitating a recall and replacement with a new Dell model at no cost to the Maryland General Assembly (MGA). In addition, during the annual interim upgrades, OIS has provided every office with an external hard drive and instructions to periodically backup files to help recover from any issues with viruses or computer failures. Mr. Gaudiello reminded committee members about the OIS training program, including the opportunity for members to request that a specialized class be developed if needed.

Regarding new projects, OIS is now managing the telecommunications office and SAP operations. OIS has upgraded the 9-1-1 server and the telecom switch for the voicemail system to current software versions and replaced the 9-1-1 server hardware. OIS also upgraded SAP software and moved the SAP servers to the MGA virtual server environment, allowing OIS to reduce costs by removing and not replacing six physical servers. OIS is developing an expanded SAP application to allow timesheet entry by members' staff and MGA contractors. The expanded application will be Internet based and will not require MGA network connectivity. OIS is also investigating functionality with mobile devices. OIS expects to rollout the expanded timesheet functionality after the 2018 session.

To implement Chapter 816 of 2017, which requires the last two weeks of the legislative session to be video streamed live by Maryland Public Television (MPT), OIS is working with MPT to ensure that the supporting facilities and infrastructure are in place. The streams will be available on the MGA website and bills receiving extended discussion on the floor will be marked and linked on the bill page for viewing. In addition, OIS is developing applications for mobile devices, including a pilot project for the 2018 session in which the Health and Government Operations Committee will record all committee votes on an iPad application and an application to make the MGA website more user friendly when viewed on a mobile device. Finally, Mr. Gaudiello described the new DLS website and its functionality. The first phase of the new website was launched in October 2017. The second phase will launch after the 2018 session and will include an RSS feed and open data downloads.

In response to questions regarding changes to the constituent tracking application, Mr. Gaudiello noted that the Microsoft Dynamics Customer Relationship Management system can be customized and is mobile friendly, cost effective, and able to handle large amounts of data. He also discussed steps OIS has already taken, including obtaining feedback from members. Delegate Young made a motion to survey members regarding the customization of the system. Delegate Lewis seconded the motion and the committee members present voted unanimously in favor. OIS will be working with Delegate Young to develop the survey.

In response to questions regarding members tracking the status of their own legislation requests, Mr. Gaudiello agreed to work with the Office of Policy Analysis to explore options. Regarding the issue of establishing and using electronic bill files to store and distribute bill testimony, Mr. Gaudiello stated that it would not be technically challenging or very expensive but is a policy matter. Mr. Gaudiello agreed to explore the topic further and provide a written summary to the joint committee before the start of the 2018 session.

Public Comment

No members of the public submitted comments.

The joint committee appreciates the advice and assistance of the private citizens and public officials who participated in the joint committee's activities during the 2017 interim. We also wish to thank the staff of the Department of Legislative Services for their assistance.

Respectfully submitted,

James E. DeGrange, Sr.
Senate Co-chair

Luke Clippinger
House Co-chair

JED:LC/LAR:KHS/mlm

cc: Mr. Warren G. Deschenaux
Mr. Ryan Bishop
Ms. Carol Swan
Ms. Ryane Necessary

Joint Committee on the Management of Public Funds

Maryland General Assembly
Joint Committee on the Management of Public Funds

2017 Interim Membership Roster

Senator Cheryl C. Kagan, Senate Chair (Presiding)
Delegate Ana Sol Gutiérrez, House Chair

Senators

Joanne C. Benson
Richard S. Madaleno, Jr.
Edward R. Reilly

Delegates

Carolyn J. B. Howard
David E. Vogt, III
Alonzo T. Washington

Committee Staff

Trevor S. Owen
Benjamin B. Wilhelm

Joint Committee on the Management of Public Funds

December 1, 2017

The Honorable Thomas V. Mike Miller, Jr., Co-chair
The Honorable Michael E. Busch, Co-chair
Members of the Legislative Policy Committee

Ladies and Gentlemen:

The Joint Committee on the Management of Public Funds is pleased to present this report on its activities undertaken during the 2017 interim in the conduct of its charge to oversee the general management of State public funds. The joint committee met twice and was briefed on several relevant topics, including 9-1-1 modernization, the activities of the Comptroller's and Treasurer's offices, and audits of local governments.

A summary of the activities of the joint committee is enclosed. In addition, electronic copies of the written testimonies provided to the joint committee are available by request through committee staff Trevor S. Owen (trevor.owen@mlis.state.md.us) or Ben Wilhelm (benjamin.wilhelm@mlis.state.md.us).

The joint committee greatly appreciates the assistance of the many individuals who participated in the activities of the joint committee during the 2017 interim.

Respectfully submitted,

Senator Cheryl C. Kagan
Senate Chair (Presiding)

Delegate Ana Sol Gutiérrez
House Chair

CCK:ASG/BBW:TSO/dag

Enclosure

cc: Ms. Carol L. Swan
Mr. Ryan Bishop

Joint Committee on the Management of Public Funds 2017 Interim Report

The Joint Committee on the Management of Public Funds held two hearings in Annapolis during the 2017 interim.

July 18, 2017 Hearing

Briefing on 9-1-1 Modernization

The joint committee invited the Maryland Association of Counties (MACo), local public safety answering point (PSAP) directors, and the Emergency Number Systems Board (ENSB) to brief the committee regarding the sufficiency of funding for current 9-1-1 systems in the State and migration to Next Generation 9-1-1. In addition, the Comptroller's Office attended and submitted written testimony on how 9-1-1 fees are collected for landlines, wireless phones, and prepaid wireless phones as well as how those funds are directed by his office.

Maryland Association of Counties and Local PSAP Directors

Mr. Kevin Kinally and Ms. Robin Eilenberg of MACo began the briefing with a general overview of 9-1-1 systems in Maryland and the need to migrate to Next Generation 9-1-1 to keep pace with evolving telecommunications technology, along with the costs and risks of doing so. Mr. R. Ross Coates, Public Safety Manager of the Harford County Department of Emergency Services and Ms. Charlynn Flaherty, Associate Director of Public Safety Communications for Prince George's County, offered additional testimony and addressed questions from the joint committee on how next generation systems will impact their jurisdictions and noted the transition costs to migrate to the new systems. All panel participants agreed that current funding is not sufficient to cover current operations, let alone the expense of acquiring and operating new systems, which will approximately double the cost for the PSAPs during the transition. The joint committee also discussed different fee structures for funding 9-1-1 systems, including per line surcharges.

Emergency Number Systems Board

Mr. Scott Roper, Executive Director of ENSB, board chair Mr. Anthony Myers, and board members Mr. Steve Souder and Mr. Jack Markey provided additional information to the joint committee on the State's role in the delivery of 9-1-1 service. They updated the joint committee on progress in the procurement of Next Generation 9-1-1, for which ENSB anticipates issuing a request for proposals (RFP) in summer 2018. ENSB reported that the development of the RFP is ongoing and provided an explanation of how the process will proceed through 2018. The joint committee also continued its discussion of the technical, fiscal, and logistical aspects of Next

Generation 9-1-1 with the ENSB representatives. In response to inquiries from the co-chairs, ENSB clarified that implementation of text to 9-1-1 service is also proceeding under a separate RFP with the goal of procuring a single contract for this service statewide. Finally the co-chairs posed questions to ENSB on how it collects and audits 9-1-1 surcharges from telecommunications companies. Mr. Roper explained how the ENSB monitors remittances by carriers and the technical challenges to collecting and auditing mobile phone records. Mr. Roper also noted that an audit was conducted in 2008 which found a total of $154,000 in underpayments over two years and cost $185,000.

Comptroller's Office

At the request of the co-chairs, representatives of the Comptroller's Office attended the hearing and prepared written testimony on how the State collects 9-1-1 fees on prepaid wireless phones. The testimony explains that fees are collected and reported in the same manner as sales and use taxes and reported by retailers on the same form. The Comptroller's Office directs these funds to the 9-1-1 Trust Fund and makes a monthly transfer to ENSB.

October 10, 2017 Hearing

Comptroller's Office – Update on Activities

Comptroller Peter Franchot provided an update on the activities of the Comptroller's Office. He told the committee that his office again focused on providing effective and efficient services to taxpayers during the 2017 tax filing season. In an effort to improve its call center operations, the office opened its first remote call center in Salisbury this year and plans to open a second remote call center in Hagerstown at the start of next year's tax filing season. The Comptroller's Office also staffs its Annapolis call center with several employees who speak multiple languages in an effort to better serve non-English-speaking taxpayers.

The Comptroller's Office advised that during the most recent tax season, the State collected a gross amount of $17 billion and processed more than 3.0 million individual tax returns. Of those 3.0 million tax returns, more than 85% were filed electronically. The joint committee requested that the conferees discuss the resolution of a recent issue with the improper sorting of some taxpayers into the wrong taxing districts. The Comptroller's Office explained its new protocols for confirming its records are accurate and committed to biannual outside audits.

The Comptroller's Office also discussed its continued efforts to protect State taxpayers against fraud and identity theft. During the most recent year, the Comptroller's Office blocked more than 10,000 fraudulent tax returns worth more than $16.0 million. The Comptroller thanked the members of the joint committee and the General Assembly for unanimously passing the Taxpayer Protection Act during the 2017 session. The legislation is designed to strengthen the Comptroller's ability to protect Maryland taxpayers by providing the office with greater statutory authority to go after financial predators. The committee and the conferees discussed how the Comptroller protects its data and what taxpayers can do to protect themselves.

The Comptroller's Office notified the joint committee that the office's Bureau of Revenue Estimates is in the process of finalizing a study examining a considerable shift in the age composition of the State's tax base and the dynamic effect this shift has had and will continue to have on State revenues. This study is due to be released in December 2017.

The co-chairs also asked whether it would be possible to receive additional information on the impact of recently passed legislation that affects revenues. In particular, the committee requested more timely reporting of revenues generated by slots and casino gambling, and requested updated information on the impact of recent legislation on these revenue contributions to the Education Trust Fund. The Comptroller committed to providing that information.

The joint committee was not asked to sponsor any legislation by the Office of the Comptroller for the 2018 legislative session.

State Treasurer's Office – Update on Activities

State Treasurer Nancy Kopp provided an update on the activities of the Treasurer's Office. Treasurer Kopp reported that in August 2017 all three rating agencies affirmed the State's AAA bond rating. Maryland is 1 of only 11 states in the nation with AAA ratings from each of the three rating agencies.

There is general consensus among the rating agencies that Maryland's debt policies, fiscal management, highly educated workforce, and diverse economy are all credit positives; however, the State's debt and pension burdens and uncertainty in the federal government are concerns. All three rating agencies point to the State's history of strong, sound financial management, and the State's debt affordability guidelines and rapid amortization of debt are credit strengths that help offset concerns about the State's debt burden. Standard & Poor's and Moody's state that the Capital Debt Affordability Committee (CDAC) and the debt affordability process have a positive stabilizing effect on the State's debt profile.

In September 2017, CDAC recommended $995 million for new general obligation bond authorizations to support the fiscal 2019 capital program. CDAC further recommended that the authorization of $995 million be maintained in future fiscal years. With these debt levels, the debt affordability ratios remain within the CDAC benchmarks of 4% debt outstanding to personal income and 8% debt service to revenues.

The Treasurer and the joint committee also discussed the State Insurance Fund and how the State procures insurance for State property. The Treasurer suggested that maintenance of State facilities is important to the rates the State pays for insurance and their condition is deteriorating.

The joint committee was not asked to sponsor any legislation by the State Treasurer's Office for the 2018 legislative session.

Office of Legislative Audits – Review of Local Government Audit Reports

Robert Garman, Assistant Director of Quality Assurance in the Office of Legislative Audits (OLA), presented information on the desk reviews of local government audits for fiscal 2016.

OLA's report identified two local governments – Crisfield and Pocomoke City – as having potential financial problems. The City of Crisfield had an unrestricted general fund deficit of nearly $215,000 as of June 30, 2016. Pocomoke City was identified as having negative financial trends and ratios in its general fund, including recent year expenditures exceeding revenues that has led to a large decrease in available fund balance.

OLA's report summarized the most significant and frequent problem areas the agency found during its annual review of local government audits. These problem areas include failing to file an audit report, failing to present the audit or financial statements in accordance with generally accepted auditing and accounting principles, failing to present all required statements, lacking adequate disclosures, and the issuance of qualified or adverse opinions by an auditor. The Town of Marydel had not filed audit reports for fiscal 2013-2016 due in large part to the town's previous mayor embezzling funds and destroying accounting records. The Town of Deer Park had not filed audit reports for fiscal 2014-2016. Three local governments – Bel Air Special Taxing Area, Hyattsville, and Mount Savage Special Taxing Area – had not filed audit reports for fiscal 2014-2016, and two other local governments – Glenarden and Mount Rainier – had not filed an audit report for fiscal 2016.

OLA reported that a letter describing the areas of noncompliance with the audit guidelines was sent to each local government and its independent auditor. For areas of noncompliance with State laws and potential financial problems, OLA requests that the local governments provide written descriptions of the actions to be taken to eliminate the conditions, when appropriate. OLA then reviews and evaluates the responses. The joint committee recommended that OLA also communicate areas of noncompliance with the counties in which these local governments are located so that they are aware of the matter and can potentially aid in its resolution.

Joint Committee on Pensions

Maryland General Assembly
Joint Committee on Pensions
2017 Interim
Membership Roster

Guy Guzzone, Senate Chair
Benjamin S. Barnes, House Chair

Senators

Adelaide C. Eckardt
Bill Ferguson
Edward J. Kasemeyer
Roger P. Manno
Nathaniel J. McFadden
Andrew A. Serafini
Craig J. Zucker

Delegates

Barrie S. Ciliberti
Keith E. Haynes
Michael A. Jackson
Carol L. Krimm
Brooke E. Lierman
Tony McConkey
Patrick G. Young, Jr.

Committee Staff

Phillip S. Anthony
Dana K. Tagalicod
Matthew B. Jackson

MARYLAND GENERAL ASSEMBLY
JOINT COMMITTEE ON PENSIONS

December 13, 2017

The Honorable Thomas V. Mike Miller, Jr., Co-Chair
The Honorable Michael E. Busch, Co-Chair
Members of the Legislative Policy Committee

Ladies and Gentlemen:

The Joint Committee on Pensions herewith submits a report of its 2017 interim activities and legislative recommendations. The joint committee met three times during the 2017 interim and addressed three pension topics and six legislative proposals requested by the Board of Trustees for the State Retirement and Pension System. The joint committee made recommendations on many of these items at its final meeting for the 2017 interim. The joint committee also had its annual briefings on the actuarial valuation of the system and the system's investments.

We thank the joint committee members for their diligence and attention to the work of the committee. Also, on behalf of the committee members, we thank Phillip S. Anthony, Dana K. Tagalicod, Matthew B. Jackson, and Cathy Kramer of the Department of Legislative Services and the staff of the Maryland State Retirement Agency for their assistance.

Sincerely,

Guy Guzzone KMC
Senator Guy Guzzone
Senate Chair

Benjamin S. Barnes/eck
Delegate Benjamin S. Barnes
House Chair

GG:BSB/PSA:DKT/eck

Enclosure
cc: Mr. Ryan Bishop
Ms. Carol Swan

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Joint Committee on Pensions
2017 Interim Report

Over the course of three meetings during the 2017 interim, the Joint Committee on Pensions addressed several pension topics and six legislative proposals requested by the Board of Trustees for the State Retirement and Pension System (SRPS). The joint committee also had its annual briefings on the actuarial valuation of the system and the system's investments.

Results of the 2017 Actuarial Valuation and Fiscal 2019 Contribution Rates

From fiscal 2016 to 2017, SRPS's funded status (the ratio of projected actuarial assets to projected actuarial liabilities) improved from 69.5% at the end of fiscal 2016 to 70.9% at the end of fiscal 2017 (these figures exclude funding for local governments that participate in the State plan.) The total State unfunded liability decreased from $19.121 billion to $18.854 billion.

Several combined factors set the system up for continued improvement in its funding status, including the increasing number of new members entering the system under the reformed benefit structure enacted in 2011, the elimination of the corridor funding method, and continued supplemental contributions above the actuarially determined contribution.

Fiscal 2019 Contribution Rates at Actuarial Determined Contribution Rates

Exhibit 1 shows that the employer contribution rate for the Teachers' Combined Systems (TCS) will decrease from 16.45% in fiscal 2018 to 16.16% in fiscal 2019, and the contribution rate for the Employees' Combined Systems (ECS) will increase from 19.22% in fiscal 2018 to 19.23% in fiscal 2019. The aggregate contribution rate, including contributions for public safety employees and judges, decreases from 18.34% in fiscal 2018 to 18.15% in fiscal 2019. Based on projected payroll growth and other factors, the SRPS actuary estimates that total employer pension contributions will increase from $1.907 billion in fiscal 2018 to $1.930 billion in fiscal 2019.[1] The contribution rates are the actuarially determined contribution rates and reflect the board of trustees decision to lower the investment return assumption from 7.55% to 7.50%. The funding rates and contribution amounts are inclusive of the required $75 million supplemental contribution required by Chapter 489 of 2015.

[1] System contributions are based on the fiscal 2017 system valuation presented on November 7, 2017, to the joint committee by the SRPS actuary, Gabriel, Roeder, Smith, & Co., and include the supplemental contributions established by Chapter 489 of 2015.

Exhibit 1
State Pension Contributions
Fiscal 2018 and 2019
($ in Millions)

	2018		2019	
Plan	**Rate**	**Contribution**	**Rate**	**Contribution**
Teachers'	16.45%	$1,122.6	16.16%	$1,130.0
Employees'	19.22%	639.1	19.23%	648.5
State Police	81.36%	79.8	79.41%	83.6
Judges'	46.45%	21.8	44.53%	21.9
Law Enforcement Officers'	40.77%	43.7	40.81%	45.7
Aggregate	**18.34%**	**$1,906.9**	**18.15%**	**$1,929.6**

Note: Except for the Teachers' Combined System (TCS), contribution rates and dollar amounts reflect State funds only, excluding municipal contributions. For TCS, they reflect the combined total of State and local contributions. Figures also reflect the $75 million supplemental contribution established by Chapter 489 of 2015.

Source: Gabriel, Roeder, Smith & Co.

Employer contribution rates were subject to multiple influences this year, some exerting upward pressure and others downward pressure. Investment returns over the five-year smoothing period exert upward pressure on the fiscal 2019 contribution rates. Increased membership under the reformed benefits exerts downward pressure on the rates. Chapter 489 eliminated the corridor funding method, which restricted the growth of contribution rates for TCS and the ECS, the two largest plans within SRPS. This ensures that the budgeted contribution rate is the actuarially determined rate necessary to fully fund the system.

In addition to eliminating the corridor method and returning the system to full actuarially determined funding, Chapter 489 also provides for a supplemental contribution of $75.0 million each year until the system is 85% funded. Additionally, Chapter 489 included a sweeper provision, which will direct a portion of unspent general funds to the system as additional supplemental payments in fiscal 2017 through 2020. Since fiscal 2017 ended with an unappropriated fund balance totaling $256.3 million, the Administration is required to include an additional $50.0 million appropriation for State pension contributions, the maximum required by Chapter 489.

State Retirement and Pension System Investment Performance

The system's investment return for fiscal 2017 was 10.02% net of management fees, exceeding the assumed rate of return for the first time in three years. The performance was driven primarily by growth equity returns, which made up 49.0% of the portfolio and returned 18.53% for the fiscal year. The system's assets totaled $49.1 billion as of June 30, 2017, an increase of over $3.6 billion over fiscal 2016. Additionally, as of September 30, 2017, the fund has increased to $50.3 billion, the first time the fund has exceeded $50.0 billion. As noted below, the strongest performing asset classes were public and private equity, credit, and real estate.

The system as a whole performed 15 basis points above the benchmark. Public equity, private equity, credit, and natural resources and infrastructure all had strong returns above the assumed rate of return of 7.55%. Commodities and nominal fixed income had the poorest returns, at -8.22% and -2.35%, respectively, though nominal fixed income returned above its benchmark. Absolute return's performance of 3.31% was 285 basis points below its benchmark return of 6.16%. The system's cash and cash equitization program had the best performance relative to its benchmark, returning 5.11% against a benchmark of 0.46%. The system's five-year return through June 30, 2017, is 7.64%.

Board Requested Legislation

Nonvested Account Member Contributions of Active Members

The State Retirement Agency (SRA) was notified in April 2017 of a member who had accrued 18 months of service in the Alternate Contributory Pension Selection (ACPS) of the Employees' Pension System (EPS). In June 2012, the member left State employment but did not withdraw member contributions from EPS. After an absence of more than four years, the individual returned to State service. Because the individual was not vested in the ACPS when they left State service, and the membership status had lapsed (due to a break in service of more than four years), the individual was enrolled as a member in the Reformed Contributory Pension Benefit (RCPB). The individual's ACPS member contributions have ceased to accrue interest, as the ACPS membership period (four years) ended, and the individual was not vested.

Upon returning to service, the member requested a return of the ACPS member contributions. However, because the individual is once again a State employee, a return of the ACPS member contributions would be considered an in-service distribution under Internal Revenue Code provisions, Treasury Regulations, and Revenue Rulings, and could jeopardize the qualified status of the SRPS. Additionally, refunding the ACPS member contributions could subject the individual to a federal tax penalty. The individual noted that the ACPS member contributions will no longer be earning any interest while being held by the system, describing the contributions as being in "pension purgatory". Acknowledging that a legislative proposal to address this issue could result in additional costs to the system, the board recommended three options for the joint committee's consideration.

The first option proposed by the board would allow a member to transfer nonvested inactive ACPS service into the individuals active RCPB account. Currently, only members with vested accounts in one tier of EPS may combine the prior service with their current active EPS account. The proposal would also require a member who combines their prior nonvested service to be responsible for making up any difference in member contributions for the ACPS service. The board notes this approach would allow affected individuals to make use of their prior ACPS service. SRA notes that there are approximately 445 ACPS inactive accounts that could be impacted by this approach. The employer contributions associated with these accounts are allocated as system gains, and reduce future employer contributions. As such, this approach would have an actuarial cost.

The second option proposed by the board would be to allow these individuals to transfer their nonvested ACPS service into RCPB but would only allow this service to apply toward eligibility service. SRA advises that this proposal would have a likely insignificant cost because it would not allow service to be used for calculation of the final benefit, only eligibility to receive a benefit.

The third option proposed by the board would be to allow the individual to begin earning interest on their inactive ACPS accounts. This proposal would not provide for any combination of the inactive ACPS service with the individual's active RCPB service.

The joint committee will sponsor legislation to allow employee contributions for nonvested ACPS service to earn interest while an individual is an active member in the RCPB.

Judicial Retirement System – Retirement by Order of the Court of Appeals

Provisions in the Judges' Retirement System (JRS) provide in part that an individual who becomes a member of JRS on or after July 1, 2012, is entitled to a JRS retirement allowance "when retired by order of the Court of Appeals, with less than five years of eligibility service, if the member has eligibility service equal to the mandatory retirement age required by Article IV, § 3 of the Maryland Constitution minus the member's age when the member first becomes a member."

This provision was added through Chapter 150 of 2015. The intent of this legislation was to ensure that an individual who was older than age 65 when appointed to the bench on or after July 1, 2012, would receive a benefit when reaching mandatory retirement age. As drafted, "retired by order of the Court of Appeals" was intended to mean the same as being required to retire due to reaching the mandatory retirement age. The fiscal and policy note for the legislation states a "JRS member who must retire by order of the Court of Appeals with less than five years of eligibility service may receive a prorated allowance if the member's service equals the mandatory retirement age in the Maryland Constitution minus the member's age when the member first became a JRS member."

Legal counsel for SRA has informed SRA staff that language stating "when retired by order of the Court of Appeals" is not the same as stating a JRS member is required to retire due to reaching mandatory retirement age and noted that the pension statute distinguishes between retirement at the mandatory retirement age and retirement by order of the Court of Appeals. Reported judicial decisions consistently have used the phrase "by order of the Court of Appeals" to signify a particular order of that court in a particular case, and usually involve the court's disciplinary role. To distinguish between requiring a member to retire due to reaching mandatory retirement age and being required to retire by order of the Court of Appeals, the board recommended amending the provisions that address eligibility for retirement by JRS members to clarify that a member who has reached mandatory retirement age is eligible for an allowance if the member has fewer than five years of service. The board indicated that this proposal would codify existing practice.

The joint committee will sponsor the requested legislation.

Board of Trustees Oath

Section 21-104(c) of the State Personnel and Pensions Article requires any individual elected or appointed as a trustee to the board of trustees for the system to take and subscribe to an oath of office that charges trustees with certain duties of diligence and honesty when administering the affairs of the board. However, Article I, Section 9 of the Maryland Constitution and Article 37 of the Maryland Declaration of Rights address oaths of office that elected or appointed individuals are required to take. Article I, Section 9 of the Maryland Constitution provides in part that "every person elected, or appointed, to any office of profit or trust, under this Constitution, or under the Laws, made pursuant thereto, shall, before he enters upon the duties of such office, take and subscribe the following oath." Article 37 of the Maryland Declaration of Rights provides in part that, "nor shall the Legislature prescribe any other oath of office than the oath prescribed by this Constitution."

Legal counsel for the board have advised that in light of these provisions included in the Maryland Constitution and the Declaration of Rights, new trustees to the board should not take the oath required under § 21-104(c) of the State Personnel and Pensions Article. Since 2014, new trustees have only taken the oath as provided for in Article I, Section 9 of the Maryland Constitution. The board recommended replacing the existing language in § 21-104(c) with language that specifically references trustees taking the oath provided for under Article I, Section 9. The board indicated that this proposal would codify existing practice.

The joint committee will sponsor the requested legislation.

Modification of Municipal Pension Surcharges

The 2011 reforms caused the pooled employer cost to decrease by about 2% of pay. Most of that decrease was due to the increase in employee contribution rates for the ACPS participants, from 5% to 7%. Participating governmental units (PGU) with participants subject to the Non-Contributory Pension Benefit (NCPB) or the Employees' Contributory Pension Benefit (ECPB) benefitted from the decrease in employer contributions although there was no offsetting increase in employee contributions from their NCPB and ECPB participants. This was the result of a specific provision included in the 2011 reforms that exempted these employees from participating in RCPB.

The board recommended the establishment of a new surcharge of 2% of pay for each of the employers participating in NCPB or ECPB. Due to the magnitude of this proposed change to the employer contribution rate and the impact to these PGUs, the board also recommended that these changes be phased in over a five-year period, beginning with the December 2019 billing and a fully implemented surcharge by the December 2023 billing.

The joint committee decided to hold the requested legislation so that more detailed information on the impacts of the legislation can be obtained.

Administrative Expense Cap Calculation

Section 21-315(c) of the State Personnel and Pensions Article states that each year "the Board of Trustees shall estimate the amount, not exceeding 0.22% of the payroll of members, necessary for the administrative and operational expenses of the board of trustees and the State Retirement Agency." Legislation enacted during the 2000 session included the allowances of retirees and earnable compensation of former members as part of the calculation. That change included a three year sunset termination. However, after the provision terminated, the cap calculation continued to include these costs.

In its fiscal 2018 budget analysis of SRA, the Department of Legislative Services (DLS) noted that the agency advises that it has included the cost of benefits paid to retirees in the calculation of member payroll even though statute clearly states that retirees are not members. It was also noted that the calculation includes the payroll of inactive members even though many of those individuals are likely no longer members, since membership in most instances terminates four years after separation from employment. The inclusion of retiree benefits and inactive compensation in the calculation of the spending cap has been a longstanding practice (since 2000), so any change to the method of calculation would be extremely disruptive to agency operations as this calculation includes a broader compensation base. Language was included in the 2017 *Joint Chairmen's Report* (JCR) requiring SRA to submit a report regarding the calculation of the spending cap and make recommendations for clarifying legislation.

In its report, the board recommended legislation that would permanently restore the inclusion of retiree benefits and inactive member compensation with active member salaries when calculating the administrative expense cap. The board noted that this would codify the existing practice for calculating the cap and should not have any effect on costs.

The joint committee will sponsor the requested legislation.

In its report, the board also made recommendations for legislative options that would alter the 0.22% administrative expense cap. The board noted that anticipated information technology projects over the next few years could impact SRA's ability to stay under the 0.22% cap through fiscal 2022. To alleviate the stress these projects may have on SRA's budget, the board proposed three legislative options:

- ***Option A***: Increase the administrative expense cap to 0.26% through fiscal 2022.
- ***Option B***: Exempt funding of the Maryland Pension Administration System and other major information technology projects from the administrative expense cap.
- ***Option C***: Permanently increase the administrative expense cap to 0.26%.

All of the above options were proposed under the context that the calculation of the administrative expense cap would be based on active member payroll, retiree benefits, and former member compensation.

The joint committee will sponsor legislation to increase the cap to 0.26% through fiscal 2022. As this issue may be affected by legislation regarding investment division governance, the joint committee noted that the amount of the increase under this legislation may need to be adjusted.

Investment Division Governance

During the 2016 interim, the board requested legislation to give SRA authority to set the compensation of personnel in the SRA Investment Division and to establish positions within the division. Legislation introduced during the 2017 session did not pass, but language was included in the 2017 JCR requiring SRA to submit a report on how the requested authority would be utilized. That report was presented at the October 25, 2017 meeting of the joint committee.

The report noted that "it would be in the best interest of SRPS to be provided the additional authority to allow it to make necessary adjustments to the investment management program through time, specifically in the areas of compensation, creating and eliminating positions, and procuring investment-related products and services," The report noted that while authority to set compensation will not eliminate turnover, it would reduce compensation related turnover, providing more staff continuity to the system. The report noted the ability to control the positions within the division (initially creating additional positions) would allow more senior managers to pass down necessary administrative functions to junior staff positions, allowing senior staff to focus more on developing and enhancing investment strategies. The report further noted that with control over personnel, the division can be structured so that no critical functions are the sole responsibility of one individual. Control over the number of division staff "will enable the division to expand the universe of potential managers or investments to pursue, enhance the methodology of evaluating those opportunities, or design tactical strategies to adjust the mix of investments for intermediate-term performance." As the fund has grown, the complexity of the assets under management has also grown. The request for staffing authority would allow SRA to expand its staff resources as both the complexity of the fund assets and the size of the assets under management is expected to grow.

Longer term, the report indicates that economies of scale will likely necessitate moving to internal management functions. The report noted that out of 24 peer-plans with assets greater than $40 billion, only 4 (including the system) had no internal management functions. The report noted that in the early 2000s, about one-third of system assets were under internal management, but the internal management functions were stopped due to the inability to attract and retain personnel to perform the function. The report noted that a mix of internal and external management will be necessary and that moving into internal management will be a long-term process, phasing up to a target of 50% of assets managed internally over a 10-year period.

Previously, DLS had noted that a shift to internal management would require significant operational changes. Performance measures would need to be adopted to monitor and evaluate the effectiveness of internal management of system assets compared to external management. Additionally, guidelines and reporting requirements would need to be implemented to track the internal management of system funds, as well as any expansion or reduction of internal management once implemented. The report acknowledged that personnel will need to be evaluated more stringently under higher compensation structures and given the higher expectations for asset management.

One of the arguments for internal management is that it can reduce fees paid for asset management. The report noted that fee savings of just 1 basis point would net the system $5 million. Utilization of internal management would have the potential to significantly reduce management fees, resulting in net gains to the system. However, SRA has been effective at negotiating favorable fee arrangements with external managers, and external management provides the system with options to select asset managers and to diversify the management of assets among multiple managers. When particular managers do not perform well, the system is able to terminate the management arrangement and place the funds under management elsewhere. If assets under internal management fail to adequately perform, the investment performance would be an SRA personnel issue, rather than a manager selection issue. Flexibility and diversification in managements of assets will need to be balanced with potential cost savings from reduced fees. Additionally, turnover of internal management personnel could affect investment performance continuity.

The board requested legislation that would allow the board to approve the annual budget for the Investment Division, including the number of division employees, the compensation levels for the division employees (including bonus compensation authority), and expenditures for the products and services necessary to enhance and preserve the assets of the system.

In its presentation to the joint committee, SRA noted that the requested legislation will ensure that no critical functions will be the responsibility of only one person in the Investment Division. Additionally, authority over division personnel will free up senior staff from administrative functions, so they can focus more on investment activities. SRA also noted that control over personnel and compensation will reduce turnover and promote continual improvement and accountability of division staff.

DLS noted that if the joint committee decided to sponsor the requested legislation, it may want to consider including the incorporation of controls and limitations on the exercise of the board's authority. In its report, SRA discussed tracking division staff compensation against a universe of peer systems, as well as setting a cap on bonus compensation and requiring quantifiable performance measures when granting bonuses. DLS recommended that the joint committee may also want to consider including reporting requirements detailing the exercise of the granted authority. Inclusion of a periodic report and review of division staffing would also provide both the legislature and the system a designated opportunity to review the implementation of the granted authority and make recommendations for improved procedures and to address any deficiencies.

The joint committee will sponsor the requested legislation, which will include controls for the exercise of the granted authority and will also include review and reporting requirements.

With respect to its request for authority over the Investment Division personnel and services expenses, the board refrained from making a recommendation regarding the funding source for these costs if granted the requested authority. At its regular board meetings and as noted at the October joint committee meeting, the board discussed whether the division funding should be treated as an investment expense or whether the division funding should be treated as an administrative expense included within SRA's annual State budget allocation.

If the division costs were included within SRA's annual budget allocation, those costs would flow through the administrative fees charged to all participating employers in the system. This would raise costs to all participating employers but would not be deducting these costs from investment returns, leaving more funds to be invested.

The other option would be to treat division costs as investment expenses. Part of the long-term vision for the division is to bring some investment functions in-house as the system assets grow and in-house management will provide investment efficiencies that will reduce management fees and is intended to improve overall returns. In-house management would replace the current fee based external management which is treated as an investment expense. There is a nexus for investment division staff costs to be considered investment expenses. As external managers are investment expenses, returns are reported net of fees, reflecting the impact management costs have on the gross returns. As one of the goals of granting the board authority over the division's costs is to improve the quality of investment performance, funding the division as an investment expense (which will reduce gross returns) will provide a measure by which the performance of the division can be evaluated. If the costs of the division will impact the net return values, this would create incentive to control costs as well as incentivize positive performance. As the system already reports returns net of fees, SRA could be required to report the investment returns net of fees including the costs of the investment division if the committee decided to charge division costs as investment expenses. Additionally under this option, the legislation should consider how division costs should be considered under the administrative expense cap. If division costs are charged as off-budget investment expenses, this would free up some room under the cap calculation.

For the legislation sponsored by the joint committee to grant authority to the board over costs of the investment division, the committee indicated that the legislation should provide that those costs are to be charged as investment related expenses not included in the calculation of administrative fees charged to participating employers.

Additional Topics

Report on the Review of 10-Year Vesting

Chapter 397 of 2011 increased the time period required for an employee hired on or after June 30, 2011, to vest in the employees' and teachers' pension systems and other pension systems for public safety employees from 5 to 10 years. In response to several bills introduced during the 2017 session that attempted to address recruitment and retention in State government, the budget committees, in the 2017 JCR, requested that SRA study the impact of the 10-year vesting requirement enacted under Chapter 397.

In undertaking the study, the actuary for the system analyzed the potential added cost to the system if the legislature elected to reduce 10-year vesting to 5-year vesting for all active members as of June 30, 2017. The actuary determined that the projected employer contributions would increase as follows:

- for fiscal year 2020, by $7.9 million;
- for fiscal years 2020 through 2024, by a cumulative $52.0 million; and
- by fiscal year 2038, which is the conclusion of the system's 25-year amortization period, by a cumulative $427.0 million.

With regard to the funded status of the system, the actuary determined that reducing the vesting period to five years would not have an impact on the system reaching either 80% funded or 100% funded status. Additionally, the report addressed legislative considerations for the following former members if five-year vesting was implemented: (1) those who have withdrawn their accumulated contributions from the system; and (2) those who terminated employment with more than five years of eligibility service but did not elect to withdraw their employee contributions when they left.

Ultimately, the study noted that returning to 5-year vesting provides the greatest advantage to members of State and local pension plans, while 10-year vesting benefits the system. SRA noted that, while it is believed that lower vesting periods do serve as a "sweetener" to accept employment with a participating employer, certain stakeholders do not believe that 10-year vesting is the deciding factor in whether an individual accepts or rejects a job offer from a participating employer. Additionally, certain stakeholders do not believe that employees are leaving employment with participating employers solely because it takes 10 years to vest in their pension system.

Report on Membership in EPS for Individuals Employed Less Than 500 Hours Per Fiscal Year

Membership in EPS is mandatory for most elected and appointed officials of participating governmental units who began serving between July 1, 2004, and June 30, 2015. A compliance review conducted by SRA noted that three elected and appointed officials employed for a participating employer were identified as not being enrolled in EPS despite meeting eligibility requirements. The officials questioned whether they should be enrolled because they work less than 500 hours per fiscal year and the officials were concerned that, despite paying a member contribution, they would not be entitled to a benefit from EPS because working less than 500 hours per fiscal year would result in them failing to accrue any eligibility or creditable service. In an attempt to address the concerns of the officials, Chapter 281 of 2017 required SRA and DLS to conduct a study regarding membership in EPS for individuals who are employed in a position for which the budgeted hours per fiscal year are less than 500 hours and to report their findings and recommendations to the joint committee.

The study noted that although other categories of individuals who are otherwise eligible for membership in EPS are not required to enroll in EPS if they work less than 500 hours in a fiscal year, this exception does not apply to elected and appointed officials. Therefore, it is not erroneous to require elected and appointed officials who began serving between July 1, 2004, and June 30, 2015, to be enrolled in EPS even if they work less than 500 hours in a fiscal year. Additionally, the study noted that a member of EPS who works less than 500 hours per fiscal year is able to accrue creditable and eligibility service if they are in a contributory tier of EPS or are reported as full-time employees.

Finally, the study noted that very limited remedies are available to elected and appointed officials who object to being enrolled in EPS. A member who disputes his or her enrollment may request the board to review the member's eligibility. If an individual is not already enrolled in EPS, legislation could be introduced that would prohibit the individual, while serving in that position, from being enrolled in EPS. If an individual is enrolled in EPS, the individual cannot unilaterally choose to disenroll after he or she is enrolled; legislation would be required to provide for disenrollment. Legislation could be introduced that would disenroll the individual; however, any such legislation could potentially have adverse tax consequences to SRPS because employees of an employer participating in the employer pick-up program are allowed only a single election at commencement of employment.

Joint Subcommittee on
Program Open Space and Agricultural Land Preservation

Maryland General Assembly
Joint Subcommittee on Program Open Space and Agricultural Land Preservation
2017 Interim
Membership Roster

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Delegate Jim Gilchrist, House Chairman

Senators

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Cheryl C. Kagan
James N. Mathias, Jr.
Steve Waugh

Delegates

Andrew Cassilly
Tawanna P. Gaines
Shane Robinson
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Committee Staff

Andrew D. Gray
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THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401
December 8, 2017

The Honorable Thomas V. Mike Miller, Jr., Co-Chairman
The Honorable Michael E. Busch, Co-Chairman
Members of the Legislative Policy Committee

Ladies and Gentlemen:

The Joint Subcommittee on Program Open Space and Agricultural Land Preservation respectfully submits this summary report of its activities during the 2017 interim.

The subcommittee held a briefing on November 8 to receive an update on the State's land conservation programs. Ms. Joanne Throwe, Deputy Secretary of the Department of Natural Resources (DNR); Ms. Michelle Cable, Administrator at the Maryland Agricultural Land Preservation Fund (MALPF); Mr. Matthew Teffeau, Director, Government Relations, Maryland Department of Agriculture; and Mr. Pat Keller, Assistant Secretary for Planning Services at the Maryland Department of Planning (MDP) participated in the briefing. The following representatives from DNR were also present to answer questions from subcommittee members: Ms. Emily Wilson, Director of Land Acquisition and Planning; and Ms. Allison Cordell, Legislative Liaison.

State and Federal Funding for Land Conservation Programs

Ms. Throwe opened the meeting by noting that Chapter 10 of 2016 (Program Open Space – Transfer Tax Repayment – Use of Funds) requires $197 million to be repaid to transfer-tax funded programs between fiscal 2019 and 2029. In addition, DNR pursues a variety of federal grant funds for acquisition projects, including the Land and Water Conservation Fund (National Park Service), National Coastal Wetlands Conservation Grant Program (U.S. Fish and Wildlife Service), Regional Conservation Partnership Program (U.S. Department of Agriculture), and Department of Defense – Readiness and Environmental Protection Integration (REPI) program through an Encroachment Protection Agreement. Ms. Throwe indicated that since fiscal 2010, Program Open Space (POS) Stateside has leveraged $12.8 million in federal funds, POS Local has leveraged $11.1 million in federal funds, and the Rural Legacy Program has leveraged $8.0 million in federal funding.

Ms. Cable provided an update on the status of the REPI Program. During the 2017 legislative session, Senator Thomas M. Middleton introduced a bill aimed at paving the way for REPI funds to be used for MALPF easement acquisitions. Although the bill passed, it failed to address certain statutory inconsistencies between the MALPF and REPI programs regarding condemnation proceedings. Ms. Cable reported that over the summer, MALPF held a series of meetings with the Navy and various stakeholders to determine how best to address these inconsistencies and enable the MALPF and REPI programs to work together.

Achieving Land Preservation Goals and Enhancing the Effectiveness of Land Preservation Programs

Ms. Throwe indicated that between 2010 and 2016, approximately 1,004,577 acres of land in the Chesapeake Bay watershed have been permanently protected. This means that 50% of the land goal adopted in the 2014 Chesapeake Bay Watershed Agreement has been met, bringing the total amount of protected land in the watershed to 8.8 million acres. Collectively, the Chesapeake Bay watershed states are on track to achieve the goal of protecting an additional two million acres throughout the watershed by 2025.

Ms. Throwe also addressed efforts to enhance the effectiveness of land preservation programs, particularly through the use of transfer tax funding. According to statute, the majority of funding for State land preservation and recreation programs is provided through the collection of a 0.5% State property transfer tax. Ms. Throwe indicated that this funding mechanism successfully ties development to available funding for open space and recreational facilities for the public good. Of note, transfer tax funding for land preservation and recreation programs and the continued partnerships among State programs, local governments, conservation groups and land trusts has resulted in approximately as much land being preserved as has been developed in Maryland.

Senate Joint Resolution 10 of 2002 called for the protection of 1,030,000 acres of agricultural land by 2022 through four programs: MALPF, Rural Legacy, local purchase-of-development and transfer-of-development rights programs, and GreenPrint. Mr. Keller of MDP presented on the status of achieving this goal. As of October 16, 2017, the four programs have preserved 636,743 acres, or 61.8% of the goal. To reach the preservation goal of 1,030,000 acres by 2022, another 393,257 acres must be placed under easement over the next five years. Mr. Keller was optimistic about the pace of preservation accelerating, noting that the State is on track to see 14,000 additional acres preserved each year as a result of increased funding from the transfer tax repayment under Chapter 10 of 2016.

Maryland Agricultural Land Preservation Foundation

Ms. Cable updated the subcommittee on the MALPF program, which currently holds easements on more than 2,200 properties, covering over 304,000 acres, at a public investment of almost $700 million. As in previous years, MALPF combined two fiscal years during the 2017/2018 easement acquisition cycle in order to maximize the number of acres purchased. The amount of funding available for this easement acquisition cycle is $51,896,299, which includes $41,792,085 in State funds and $9,531,084 in local jurisdiction funds. MALPF will most likely close the 2017/2018 cycle in late winter or early spring of 2018. New easement applications will be accepted for the fiscal 2019 cycle on July 1, 2018. MALPF's Board of Trustees will decide whether or not to combine the fiscal 2019 and 2020 cycles after the budget has been approved during 2018 legislative session.

Ms. Cable also updated the joint subcommittee on policies and regulations concerning allowed uses of agricultural preservation land. In 2017, the MALPF Board approved three regulations entitled: (1) Guidelines for Wetland Easement Overlays and Stream and Streamside Easement Overlays; (2) Guidelines for Granting Overlay Easements and Rights-of-way; and (3) Guidelines for Forest Easement Overlays. The MALPF Board also approved a new policy, "Guidelines for Requested Uses of Land in the Maryland Agricultural Land Preservation Foundation," commonly referred to as the "Uses Policy." The new Uses Policy is intended to reflect the changing practices and operations conducted on agricultural properties across the State. For example, Ms. Cable noted that many landowners have inquired about hosting commercial events, such as weddings, on MALPF easement properties. Ms. Cable said that she expects more event-related requests to be submitted under the new Uses Policy.

Promoting Sustainable Farming and Forestry

Mr. Teffeau addressed a recent report titled "The Future of Sustainable Farming and Forestry in Maryland," which was commissioned by the Harry R. Hughes Center for Agro-Ecology, Inc. and prepared by the American Farmland Trust, MDP, and Land Stewardship Solutions, LLC. He indicated that, after a century of decline in most agricultural sectors, there is reason to be optimistic about the future of Maryland agriculture. He highlighted the strong connection between poultry and grain, the State's top two agricultural sectors, which benefit from their proximity to each other on the Eastern Shore. He also highlighted the local food movement and evolving consumer preferences that are creating opportunities for small-scale livestock, fruit, vegetable, and value added production. However, he noted that agricultural land in Maryland is still under significant development stress and a substantial amount of prime agricultural land is rented. This stress is mitigated somewhat by the agricultural easement preservation work of MALPF and the Rural Legacy Program. Mr. Teffeau described other stressors as well, including environmental policies that hold Maryland farmers to higher standards than their competitors in other States. He emphasized the need to provide farmers with tools and resources to fulfill their obligations under the State's environmental laws.

Program Open Space Local Land Acquisition Standards

Chapter 406 of 2017 (Program Open Space – Attainment of Acquisition Goals – Local Government Apportionment and Use of Funds) made changes to State law governing the use of Program Open Space (POS) local funding. The law also required the joint subcommittee to review land acquisition standards for POS local and report its findings and recommendations to the Senate Education, Health, and Environmental Affairs Committee and the House Environment and Transportation Committee on or before October 1, 2018. Specifically, the law directed the joint subcommittee to "review the State's standard for land acquisition of 30 acres per 1,000 people to determine whether adjustments may be made to the standard to encourage the additional acquisition of land under Program Open Space."

Ms. Throwe explained that under DNR's 2017 Land Preservation, Parks, and Recreation Plan (LPPRP) Guidelines, counties are no longer required to use the 30 acre per 1,000 people metric. Instead, the guidelines instruct local jurisdictions to establish land acquisition targets based on (1) a proximity analysis that considers where the public can readily access existing parks and recreation facilities, and (2) a park equity analysis that identifies population centers that lack access to parks and recreational facilities. Ms. Throwe indicated that, by analyzing and mapping a county's parks and recreation inventory in relation to population density and taking into consideration the known needs and demands of users (as determined via surveys, participation rate figures, public input, etc.), a more accurate determination of deficiencies in service can be made and better plans formulated to address them.

The joint subcommittee also heard from representatives of the Maryland Association of Counties, Maryland Recreation & Parks Association, and Partners for Open Space regarding the new land acquisitions standards. These representatives urged the joint subcommittee and the legislature at large to refrain from making changes to the standards at this time. Local jurisdictions are currently in the process of updating their LPPRPs based on the new guidelines and submitting them to DNR and MDP for review. The stakeholders recommended allowing this process to continue and perhaps reviewing the issue at the joint subcommittee's meeting next interim. The joint subcommittee will likely vote on this recommendation sometime during the 2018 legislative session.

On behalf of the subcommittee, we wish to thank the individuals who contributed their time and effort during the 2017 interim in assisting the subcommittee with its work. We also wish to thank the members of the subcommittee for their participation and our staff for their support.

Respectfully submitted,

Ronald N. Young

Senator Ronald N. Young
Senate Chairman

Delegate James W. Gilchrist
House Chairman

cc: Ms. Carol L. Swan
Mr. Ryan Bishop

Spending Affordability Committee

Maryland General Assembly
Spending Affordability Committee
2017 Interim
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Delegate Ben Barnes, House Chair

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Senate Chair

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House Chair

MARYLAND GENERAL ASSEMBLY

Spending Affordability Committee

December 20, 2017

The Honorable Thomas V. Mike Miller, Jr., Co-Chairman
The Honorable Michael E. Busch, Co-Chairman
Members of the Legislative Policy Committee

Dear Colleagues:

We are pleased to submit the fiscal policy recommendations of the Spending Affordability Committee made during the 2017 interim. These recommendations were adopted by the committee at its meeting on December 19, 2017. The committee reviewed data concerning the economic condition of the State, revenue and expenditure trends during the past several years, personnel data, the Transportation Trust Fund, and the results of the Capital Debt Affordability Committee report.

Recommendations were made concerning the fiscal 2019 spending limit, the potential impact of the federal fiscal environment, reserve fund balances, capital debt, and State positions.

The Spending Affordability Committee has completed its assigned tasks. As required by law, the recommendations of the committee have been submitted to the Governor and the Legislative Policy Committee.

We are most appreciative of the time and effort expended by each member of the committee. A special note of thanks and appreciation is extended to the members of the Citizens Advisory Committee for their valuable assistance and input.

Sincerely,

Senator Roger Manno
Presiding Chair

Delegate Ben Barnes
House Chair

Enclosure

RM:BB/RJR/kjl

Legislative Services Building · 90 State Circle · Annapolis, Maryland 21401-1991

2017 Spending Affordability Committee Report and Recommendations to the Governor and the Legislative Policy Committee

The Spending Affordability Committee was created in 1982 (Chapter 585). The committee is composed of equal numbers of senators and delegates and includes the Presiding Officers, the majority and minority leaders, the chairmen of the fiscal committees (or their designees), and other members appointed by the Presiding Officers. A citizen advisory committee assists the committee.

The committee's primary responsibility is to recommend to the Governor and the General Assembly a level of spending for the State operating budget that is reflective of the current and prospective condition of the State's economy. Historically, this has been in the form of a recommended growth limit. More recently, however, efforts to close the structural budget gap have been the focus of the committee's recommendations. The full list of the committee's prior recommendations and legislative action on the operating budget are reflected in the table in **Appendix 1**. Since its inception 35 years ago, the recommendation of the committee has been adhered to by the legislature in all but one year.

Often, growth in personal income is used as a proxy for the State's economic performance. The committee notes that operating spending in relation to the State's economy, as measured by the personal income statistic, has fluctuated between 6.7% and 7.6% over the past 30 years. The unprecedented increases under the Bridge to Excellence in Public Schools Act raised spending as a percentage of income during the period of 2004 to 2008. By 2009, the ratio reached 7.5%, the highest level since 1991, in part, due to falling income. Conversely, rising income and reduced State spending caused the ratio to drop to 7.2% in 2010; the rate has fluctuated between 7.2% and 7.5% since.

The committee's statutory responsibility is to consider spending in relation to the State's economy. In its review of the State's economy, the committee considered income and wealth factors in developing a broad understanding of Maryland's economic position. In determining the spending recommendation, the committee has considered economic performance, revenue estimates, and budget requirements.

Economy

Since the recession ended, Maryland has generally underperformed relative to the nation as a whole with employment growth below the United States in each year from 2011 to 2016. Maryland's recovery from the recession was derailed as the federal budget reductions of recent years, along with the government shutdown in fall 2013, had a significant impact on the economy. Inflation-adjusted wage income per worker fell in Maryland for three years in a row (2011-2013) and grew 0.8% in 2014. The economy improved in 2015 and 2016 with employment growth of 1.5% and 1.4%, respectively. The real wage per worker was up 3.0% in 2015 due, in part, to extraordinarily low inflation. Wage growth weakened in 2016 and because inflation accelerated, the real wage per worker was up just 0.3%. The data available for 2017 shows employment growth of 2.0%, but alternate measures of the labor market suggest the increase is closer to 1.3%. Wage income grew 2.7% in the first half of 2017.

In September, the Board of Revenue Estimates (BRE) issued a revised economic forecast for Maryland, its first since December 2016. BRE revised the economic outlook largely in line with recent performance. Employment growth for 2017 was revised up from 1.0% to 1.3%, but BRE did not alter the forecast of employment in future years. In December 2017, BRE made no change to its employment forecast but lowered the estimated personal income growth to 3.6% in 2017 and 3.7% in 2018, due mostly to revisions of nonwage income.

Revenues

Fiscal 2017 general fund revenues were above the estimate by $90 million, or 0.5%. General fund revenues totaled $16.6 billion in fiscal 2017, an increase of 3.1% over fiscal 2016. The overattainment was due mostly to the personal income tax, the insurance premiums tax, and the estate tax. General fund personal income tax revenues were above the estimate by $77 million and grew 5.9% over fiscal 2016.

Fiscal 2018 general fund revenues through October are up 3.1% over fiscal 2017. In September, BRE lowered their estimate for fiscal 2018 general fund revenues by $53 million, or 0.3%. The personal income tax estimate was revised down by $15.0 million. In December, BRE reduced the general fund estimate for fiscal 2018 by $73.2 million and increased the estimate for fiscal 2019 by $11.0 million. The revision reflects the revised economic outlook along with assumed tax planning in anticipation of a major federal tax bill resulting in the shifting of income from tax year 2017 to 2018. This has the effect of lowering expected income tax revenue in fiscal 2018 and increasing it in fiscal 2019. The revision also reflects very weak growth of sales tax revenues through the first four months of fiscal 2018.

Budget Requirements

Taking into consideration the revenue projections by BRE in December 2017, the committee is currently projecting an ending general fund balance of $63.2 million at the close of fiscal 2018. This projected balance also reflects September 6, 2017 Board of Public Works (BPW) reductions, a larger than anticipated fiscal 2018 starting balance driven by high levels of closeout reversions, and anticipated spending shortfalls requiring fiscal 2018 general fund deficiency appropriations of $121.1 million.

Deficiencies are anticipated due to underattainment of Education Trust Fund revenues earmarked to support K-12 education aid; Medicaid's lower than budgeted pharmacy rebate and special fund revenue attainment; higher than expected Medicaid spending on substance use disorder services; repayment of disallowed federal fund claims by the Developmental Disabilities Administration (DDA); additional costs associated with a new Department of Public Safety and Correctional Services (DPSCS) pharmacy contract; and lower than expected federal funding for the Department of Human Services. Deficiency requirements would have been higher except for the assumption of a projected decline in health insurance costs based on a large fiscal 2017 ending fund balance and savings promised from a new pharmacy contract.

After considering the impact of BPW reductions on fiscal 2018 and 2019, the baseline estimate for fiscal 2019 projects general fund growth of 5.3% when capital and reserve fund appropriations are included, resulting in a projected general fund deficit of $287.0 million. General fund budget growth includes $417.3 million for entitlements, mandated formulas, and other ongoing requirements. The largest increase is in the Medicaid program which is estimated to see general fund growth of $271.5 million. This growth is driven by rate increases, the assumption by the State of a larger share of the costs for the Affordable Care Act expansion population, modestly higher enrollment levels, and a decline in available special fund revenue. Education aid formulas are expected to require $160.1 million in new general fund support. Growth in Medicaid, education aid, and other ongoing requirements is moderated by lower general fund expenditures on foster care and assistance payments based on caseload and enrollment trends, property tax credit programs, and debt service.

In terms of State agency spending, the baseline assumes $364.5 million in general fund growth. Personnel costs, excluding higher education, account for $102.7 million of this growth. The baseline assumes a 1% general salary increase for fiscal 2019 effective July 1, 2018, with a general fund cost of $23.3 million plus regular increment increases totaling $41.9 million. The baseline also reflects lowering current turnover rates at a cost of $43.0 million. Employee retirement costs grow relatively little from fiscal 2018, $5.4 million. These expected increases are partially offset by $11.0 million in anticipated savings in health insurance costs.

Other significant State agency costs include general fund support for the University System of Maryland (USM) to cover growth in base costs not supported by tuition and Higher Education Investment Fund revenue ($58.1 million); rate increases and placement costs in DDA ($35.5 million); growth in uninsured behavioral services funding, especially for individuals with substance use disorders ($18.0 million); a variety of major information technology development projects ($16.7 million); implementation of the More Jobs for Marylanders Act ($11.0 million); and costs supported by fiscal 2018 deficiencies that carry over into fiscal 2019 ($29.2 million).

The committee projects that the State will close fiscal 2019 with a balance of $881.7 million in the Revenue Stabilization Account (Rainy Day Fund), which represents just over 5.0% of general fund revenues. The statutorily mandated appropriation for fiscal 2019 will be $196.3 million.

Current baseline projections estimate the General Fund to have a cash shortfall of $287 million at the close of fiscal 2019. **Exhibit 1** provides both the cash and structural balance projections for the General Fund through fiscal 2023.

Exhibit 1
General Fund Budget Outlook
Fiscal 2018-2023
($ in Millions)

	2018 Working Approp.	2019 Baseline	2020 Est.	2021 Est.	2022 Est.	2023 Est.
Cash Balance	$63	-$287	-$889	-$1,200	-$1,340	-$1,493
Structural Balance	-302	-298	-832	-1,103	-1,261	-1,414

Recommendations

In light of the considerations discussed earlier, the committee proposes the following recommendations for the 2018 session:

1. Operating Budget Spending Limit and Sustainability

The spending affordability process was put in place in 1982 with the goal of calibrating the growth in State spending to growth in the State's economy. In implementing that objective, a unique method of classifying and accounting for State spending was developed and has been periodically revised as circumstance has required. For the past several years, the traditional establishment of a growth limit has been replaced with recommendations to reduce the structural deficit that developed as a result of plummeting revenues, substantial short-term federal assistance, and extensive reliance on one-time budget balancing actions experienced in the first part of the past decade.

The significant efforts undertaken since fiscal 2011 to close the structural imbalance have reduced the magnitude of the deficit for the near future. However, the dampening effect of changing demographics, low inflation, and the proliferation of non-taxable goods and services on general fund revenues combined with increased funding demands for entitlement programs and other mandatory formulas means the spending gap persists. Current projections indicate a structural deficit totaling $298 million in fiscal 2019 growing to more than $1.4 billion by fiscal 2023. Ongoing operating spending growth is forecast to outpace revenue growth by 1.2 percentage points annually.

As such, the committee recommends that the budget as submitted by the Governor and as approved by the General Assembly shall eliminate 100% of the structural deficit for fiscal 2019. The committee reserves the right to revisit the limit once the impacts of federal tax changes and federal spending cuts are evaluated.

2. Federal Tax and Spending Changes

Congress is poised to enact significant changes to federal tax law. At the same time, the uncertainty surrounding federal spending, with the potential for federal government shutdown, sequestration, or the failure to reauthorize the Children's Health Insurance Program, could also have a serious effect on Maryland. BRE is currently preparing a detailed analysis of the impact of proposed changes on Maryland taxpayers, the economy, and State and local revenues. The impact of any federal changes will ultimately be incorporated into the fiscal 2019 budget. Modifications to statute may be necessary to either decouple or align State law with the federal changes.

The committee recommends that any federal tax law or spending changes that impact State and local finances be a primary consideration in the development of the fiscal 2019 general fund budget. The fiscal committees should undertake, as part of the normal legislative process, a critical examination of each federal tax law and spending change that affects State and local finances and how those changes impact the State's overall fiscal situation. In addition, special attention should be paid to how these changes may affect, positively or negatively, lower and middle income taxpayers in the State.

3. Fund Balances

A. Rainy Day Fund

In addition to its general fund recommendations, the committee recommends a prudent use of the Rainy Day Fund to address general fund needs. The committee projects a Rainy Day Fund balance totaling $881.6 million at the end of fiscal 2019, which is 5.0% of ongoing general fund revenues. Fiscal 2017 closed with an unassigned general fund balance of $256.3 million. Under statute, $10.0 million remains in the general fund, $50.0 million is appropriated into the State pension fund, and $196.3 million is appropriated into the Rainy Day Fund. This appropriation, as well as interest earnings, is expected to increase the fiscal 2019 balance to $1,073.6 million, which is 6.1% of general fund revenues. **The committee recommends that the balance in the Rainy Day Fund be maintained at 5.0% of estimated revenue and authorizes the use of any funds above that balance to address imminent cash shortfalls in fiscal 2018 and 2019.**

B. General Fund Balance

The State budget is built on a series of imperfect assumptions about the economy, State revenues, and State spending. Downward revisions to the State's revenue estimate have been common in recent years as revenues perform sluggishly despite favorable employment news. And almost every fiscal year, the Executive Branch requests, and the General Assembly approves, millions of dollars in deficiency appropriations to cover higher than expected costs. These trends necessitate attentiveness to maintaining alignment between spending on ongoing revenues. **Therefore, the committee recommends a minimum ending balance of at least $100 million in the General Fund for fiscal 2019. The committee reserves the right to revisit the limit once the impacts of federal tax changes and federal spending cuts are evaluated.**

4. Capital Budget

A. General Obligation Debt

In its 2017 report, the Capital Debt Affordability Committee (CDAC) recommended limiting general obligation (GO) bond authorizations to $995 million each year through fiscal 2027. This is consistent with the recommendation made by CDAC in its 2015 and 2016 reports with the purpose of slowing the growth in debt service costs and preserving additional debt capacity for the future.

Although CDAC's recommendation is advisory and the committee has differed in its recommendation in recent years, the committee does support CDAC's debt affordability criteria, which limits debt service to 8% of State revenues and debt outstanding to 4% of State personal income. The committee also supports the objective to slow the growth in debt service costs and reduce the debt service to revenue ratio. The committee remains concerned, however, that CDAC's recommendation to freeze authorizations through fiscal 2027 will reduce the purchasing power of the capital program. It is estimated that construction inflation at 2% per annum will diminish the purchasing power by a total of $191 million from fiscal 2019 through 2023.

CDAC's objective can be achieved without substantially eroding the purchasing power of the capital program. In its 2015 report, the committee recommended increasing the fiscal 2016 authorization, which totaled $1,045 million, by 1% annually through the planning period. This 1% annual growth rate would equate to an authorization level of $1,075 million for the 2018 session. This moderate growth rate limits increases in GO bond authorizations to projected State property tax revenue increases. Since general funds and other State revenues are projected to increase at an annual rate in excess of 1%, this reduces the ratio of debt service to revenues in the out-years.

The committee recommends the authorization of $1,075 million in new GO bonds for the 2018 session. In addition, for planning purposes, out-year annual authorizations should be limited to 1% growth, so that capital spending does not increase at a greater rate than State property tax revenues, which is the primary revenue source supporting debt service. The proposed limit keeps the State well within CDAC's debt affordability criteria.

B. Higher Education Debt

USM intends to issue up to $24 million in academic debt for fiscal 2019. This is $8 million less than was authorized for fiscal 2018 but is consistent with the amount programmed in the 2017 *Capital Improvement Program* for fiscal 2019. This level of issuance will result in a debt service ratio within the 4.5% of current unrestricted funds and mandatory transfers criterion recommended by the system's financial advisers. Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College do not plan on issuing any debt in fiscal 2018.

The committee concurs in the recommendation of CDAC that $24 million in new academic revenue bonds may be authorized in the 2018 session for USM.

5. State Employment

Personnel costs comprise approximately 20% of the State's operating budget. The State's workforce has declined from 81,106 in fiscal 2002 to 80,119 at the start of fiscal 2019 as a result of position ceilings, voluntary separation programs, and position reductions. Declines have been sharpest in Executive Branch agencies, dropping from 55,980 in fiscal 2002 to 49,469 in fiscal 2018. Over 4,500 positions have been added in higher education during this period.

In recent years, there has been a substantial increase in vacant positions and vacancy rates in Executive Branch agencies, despite cost containment actions to abolish vacant positions. Vacancies increased by 233 positions over the course of the past year, from 5,067 positions in October 2016 to 5,300 positions in October 2017 (increasing the vacancy rate from 10.2% to 10.7%, respectively). The committee is concerned that a significant number of these vacancies are within agencies that have been identified as chronically understaffed.

A preliminary study by the Department of Legislative Services has identified understaffing as a significant issue at a number of State agencies. Some agencies identified as understaffed have substantial complements of vacant positions despite the availability of funding to fill them while others lack the positions and funding to begin to improve their staffing levels. The committee is concerned that a number of critical classes of positions in State agencies are understaffed, such as correctional officers, direct care providers, and positions in the Department of State Police, which could adversely impact public safety and care for vulnerable populations. **Given the staffing shortages, the committee recommends discontinuing the position cap that the State has had in place for a number of years. The committee encourages the Governor to act expeditiously to fill positions in understaffed agencies, particularly in agencies such as DPSCS that are experiencing higher levels of vacancies. To the extent that agencies are unable to fill positions because of hiring standards, excessive turnover expectancy, or inadequate compensation, the Administration should develop a plan to address these barriers through targeted compensation enhancements, reduced levels of turnover expectancy, or a re-examination of hiring requirements. A plan should be submitted to the budget committees no later than June 1, 2018.**

Appendix 1
Prior Recommendations and Legislative Action on the Operating Budget
($ in Millions)

	Committee Recommendation		Legislative Action	
Session Year	Growth Rate	Amount	Growth Rate	Amount
1983	9.00%	$428.0	5.70%	$269.8
1984	6.15%	326.7	8.38%	402.0
1985	8.00%	407.2	7.93%	404.6
1986	7.70%	421.5	7.31%	402.2
1987	7.28%	430.2	7.27%	429.9
1988	8.58%	557.5	8.54%	552.9
1989	8.79%	618.9	8.78%	618.2
1990	9.00%	691.6	8.98%	689.7
1991	5.14%	421.8	5.00%	410.0
1992	No recommendation		10.00%	823.3
1993	2.50%	216.7	2.48%	215.0
1994	5.00%	443.2	5.00%	443.2
1995	4.50%	420.1	4.50%	420.0
1996	4.25%	415.0	3.82%	372.8
1997	4.15%	419.6	4.00%	404.6
1998	4.90%	514.9	4.82%	506.6
1999	5.90%	648.8	5.82%	640.6
2000[1]	6.90%	803.0	6.87%	800.0
2001[2]	6.95%	885.3	6.94%	884.6
2002	3.95%	543.2	3.40%	468.1
2003	2.50%	358.2	0.94%	134.1
2004	4.37%	635.2	4.33%	629.0
2005[3]	6.70%	1,037.1	6.69%	1,036.3
2006[3]	9.60%	1,604.7	9.57%	1,599.0
2007	7.90%	1,450.0	7.51%	1,378.4
2008	4.27%	848.7	4.16%	826.8
2009[4]	0.70%	145.7	0.19%	39.2
2010[4]	0.00%	0.0	-3.00%	-626.9
2011	Reduce FY 2012 structural deficit by 33⅓%		36.90%/46.00%[5]	
2012	Reduce FY 2013 structural deficit by 50.0%		50.60%	
2013	Reduce FY 2014 structural deficit by $200.0 million			-211.2
2014	4.00%	937.8	2.76%	646.4
	Reduce FY 2015 structural deficit by $125.0 million			-126.1
2015	Reduce FY 2016 structural deficit by 50.0%		68.27%	
2016	4.85%	1,184.2	4.55%	1,111.2
2017	Reduce FY 2018 structural deficit by at least 50%.		90.19%	

[1]2000 legislative action does not reflect $266 million of Cigarette Restitution Fund (CRF) appropriations. CRF dollars were excluded because it had not previously been available to the State. The 2000 growth rate, including CRF dollars, was 9.16%.

[2]Methodology revised effective with the 2001 session.

[3]The committee initially approved a limit of 5.70% for 2005 and 8.90% for 2006.

[4]Legislative action calculation includes federal funds under the American Recovery and Reinvestment Act of 2009 used in lieu of ongoing general fund spending.

[5]Spending reduction/total reduction.

Joint Committee on Unemployment Insurance Oversight

Workers' Compensation Benefit and Insurance Oversight Committee

Joint Committee on Workers' Compensation Benefit and Insurance Oversight 2017 Membership Roster

Senator Katherine Klausmeier, Co-chair
Delegate Kriselda Valderrama, Co-chair
Senator Brian J. Feldman
Delegate Cheryl D. Glenn
Delegate Sally Y. Jameson (monitor)

Representative of Maryland Business Community:
Mary Anne Reuschling

Representative of the Maryland Labor Organization:
Vacant

Representative of Maryland Building and Construction Labor Organization:
Tom P. Hayes

Two Members of the Public:
Michael G. Comeau
Debora Fajer-Smith

Member of Insurance Industry:
Thomas J. Phelan

Member of a Workers' Compensation Rating Organization:
David Benedict

Member of Medical and Chirurgical Faculty of Maryland:
Gary W. Pushkin, M.D.

Members of the Bar:
Rudolph L. Rose, Defense Lawyer
P. Matthew Darby, Plaintiff Lawyer

Maryland Certified Rehabilitation Service Provider:
Jody Malcolm

Self-insured Local Government Entity:
Ronald J. Travers

Workers' Compensation Commissioner – Ex-officio:
Maureen Quinn

Committee Staff

Tami Burt, Laura Atas, and Ricky Duncan

Joint Committee on Workers' Compensation Benefit and Insurance Oversight

December 18, 2017

The Honorable Thomas V. Mike Miller, Jr., Co-chair
The Honorable Michael E. Busch, Co-chair
Members of the Legislative Policy Committee

Ladies and Gentlemen:

The Joint Committee on Workers' Compensation Benefit and Insurance Oversight respectfully submits the summary report of its 2017 interim activities. The committee met once during the interim (December 4) to consider a number of issues that affect the State's workers' compensation insurance market. Attached is a summary of the issues that the committee considered.

During the 2018 session, the joint committee plans to conduct its annual review of workers' compensation related legislation and discuss any outstanding issues raised during the interim.

The joint committee is appreciative of the advice and assistance provided by governmental officials, members of the public, and legislative staff during the 2017 interim and looks forward to the same spirit of cooperation and assistance during the 2018 session.

Respectfully submitted,

Katherine Klausmeier

Senator Katherine Klausmeier
Senate Chair

Kriselda Valderrama

Delegate Kriselda Valderrama
House Chair

KK:KV/LHA/nac

cc: Ms. Carol L. Swan
Mr. Ryan Bishop

Joint Committee on Workers' Compensation Insurance and Benefit Oversight
2017 Interim Report

At the committee's interim meeting on December 4, 2017, the committee observed a moment of silence for Robert Zarbin who passed in July 2017. As a member of the Maryland Association for Justice (MAJ), Bob participated over many years in numerous committee meetings where lively discussions on workers' compensation legislative issues took place among the interested parties. Subsequently, the members considered a number of issues, including an annual update on the Workers' Compensation Commission's operations (WCC), an update on the status of Chesapeake Employers' Insurance Company (Chesapeake) complying with the National Council on Compensation Insurance Holding, Inc. (NCCI) rating policies, a discussion of workers' compensation rates for 2018, and a review of anticipated legislation. Below is a summary of the issues that the committee considered.

Workers' Compensation Commission Annual Report

Mr. Karl Aumann, Chair of WCC, began his comments by indicating that the workers' compensation market is stable. WCC's annual report states that the number of claims filed in fiscal 2017 decreased by 1.5% over the prior year, continuing a downward trend from recent prior fiscal years. In fiscal 2017, 23,336 claims were filed, compared to 23,683 claims filed in fiscal 2016. Commensurate with the decrease in the number of claims filed, WCC experienced a 5.6% decrease in the number of hearings scheduled. WCC scheduled 41,414 hearings in fiscal 2017, compared to 43,891 hearings in fiscal 2016.

Beyond the WCC's duties to adjudicate claims, WCC has followed through with a systems modernization initiative. While WCC has been paperless for 20 years, the computer system infrastructure needs updating from optical imaging to magnetic medium, which would provide a more efficient and reliable system. WCC is working with the Department of Information Technology to prepare a request for proposals to solicit bids for this initiative.

Chairman Aumann indicated that a serious concern is the number of employers who are uninsured, as seen in Uninsured Employers' Fund (EUF) hearing dockets. WCC is working diligently to identify uninsured employers and penalize them based on recent legislation that increased fines. Chairman Aumann also indicated that the volume of doctor dispensing of opioids and the cost of prescription drugs have decreased. He cited that this may be the result of collective efforts from the collection of data by NCCI, the implementation of the prescription drug monitoring program (PDMP), the nationwide attention on opioid abuse, and recent Centers for Disease Control and Prevention (CDC) guidelines. WCC Commissioner Maureen Quinn noted that there is still opioid abuse in the State, especially in rural areas where there are not enough pain treatment doctors.

Update on the Status of Chesapeake Employers' Insurance Company Complying with NCCI Rating Policies

David E. Benedict, State Relations Executive, Regulatory Division, NCCI, indicated that the transition of Chesapeake complying with NCCI rating policies is going smoothly. Carmine D'Alessandro, Chief Legal Officer, Chesapeake, concurred. Legislation enacted in 2012 privatized the Injured Workers' Insurance Fund (IWIF), the State's state-administered workers' compensation carrier, through a conversion to Chesapeake effective October 1, 2013. Legislation enacted in 2015 facilitated the full affiliation of Chesapeake with NCCI, through a 7-year transition period to be fully effective January 1, 2023. A long transition period is needed since Chesapeake has a large market share in the workers' compensation market in Maryland. Chesapeake and NCCI have developed transition milestones for each year of the transition period.

Workers' Compensation Rates for 2018

David E. Benedict, State Relations Executive, Regulatory Division, NCCI, indicated that its workers' compensation loss costs rates filing was approved by the Maryland Insurance Administration (MIA) during the summer of 2017. Effective January 1, 2018, the overall loss costs rate decreased by 13% (there are 5 employment categories), making it the fourth consecutive year with a decrease (an overall 28% decrease over the four-year period). Loss costs rates are used by insurers to develop their premium rates to ensure that the insurers are collecting adequate premiums to cover claims. The decrease in loss costs is the result of a lower frequency of claims and less severity of claims than in recent years. A similar trend is occurring nationwide.

Proposed 2018 Legislation

Enhanced Benefits for Correctional Officers

Jim Lanier and Jim MacAlister, representing MAJ, indicated that MAJ's primary legislative initiative is providing enhanced benefits for State correctional officers. House Bill 1101/Senate Bill 576 of 2017, which did not pass, would have altered the definition of "public safety employee" to include State correctional officers, thereby making these officers eligible for enhanced workers' compensation benefits. Normally, an employee who is awarded compensation for a permanent partial disability for a period of less than 75 weeks is eligible to receive weekly benefits of one-third of his or her average weekly wage, but that amount may not exceed 16.7% of the State average weekly wage. However, a public safety employee is eligible for enhanced workers' compensation benefits if awarded compensation for less than 75 weeks. In such a case, the employer or its insurer must pay the public safety employee at a compensation rate set for an award period of greater than 75 weeks but less than 250 weeks. Thus, a public safety employee is eligible to receive approximately double the weekly benefits – two-thirds of his or her average weekly wage, but that amount may not exceed one-third of the State average weekly wage. The State average weekly wage for 2017 is $1,052.

According to the Department of Public Safety and Correctional Services, there are approximately 7,000 State correctional officers. Mr. Lanier and Mr. MacAlister stressed that police officers have this benefit and that correctional officers have risky professions compared to other occupations, due primarily to confrontations with inmates.

Temporary Total Disability Benefits and Concurrent Employment

Debora Fajer-Smith, who represents claimants, explained an issue that was identified in *Clifford Buckler v. Willett Construction Company (No. 11 Sept. Term 1996, Decided by the Court of Appeals of Maryland April 14, 1997)*. According to the decision, the appeal arose out of a workers' compensation claim for temporary total disability (TTD) benefits. The claimant sustained a compensable accidental injury arising out of and in the course of his employment. The issue the court decided was whether the claimant was entitled to receive TTD benefits as a result of the accidental injury he suffered while working for one employer, which rendered him unable to perform that job, but allowed him to continue to work at his second job. The court held that under the workers' compensation law, an employee cannot recover TTD benefits when the employee maintains the non-injury employment while injured. The decision indicated that the statute does not define the terms "temporary partial disability" and "temporary total disability". Temporary partial disability benefits (TPD) are those paid to an injured worker who has rejoined the workforce but has not yet reached maximum medical improvement from the effects of the injury. On the other hand, TTD benefits are those paid to an injured worker who is wholly disabled and unable to work because of the injury.

Ms. Fajer-Smith suggested legislation that defines the TPD and TTD terms. Further, the legislation would allow a covered employee who is receiving TTD benefits as a result of an accidental personal injury to earn wages from concurrent employment that the covered employee engaged in at the time of the accidental personal injury if (1) the covered employee is unable to perform at the employment where the injury occurred but is able to perform at the concurrent employment; (2) the type and duties of employment at the concurrent employer are not similar to the type and duties of employment at the employer where the injury occurred; and (3) the covered employee's physician certifies that the type and duties of the employment at the concurrent employer will not impede the healing process of the covered employee. Ms. Fajer-Smith indicated, as one of the reasons to support the legislation that studies show that employees who continue to work will return to full capacity quicker. Rudy Rose, defense attorney for employers, responded that TTD benefits are based on wage earning capacity and that injured workers need to concentrate on their healing process in order to get back to work quickly.

The co-chairs suggested that the interested parties meet to determine if a compromise proposal may be worked out.

Multiple Claims for Similar Injuries

Bob Erlandson, representing the Maryland Self-Insurers' & Employers' Compensation Association (MSIECA), explained an issue that was identified in *Charles C. Reger v. Washington County Board of Education et al (No. 68 Sept. Term 2016, Decided by the Court of Appeals of Maryland August 4, 2017).* According to the decision, the appeal arose out of a workers' compensation claim involving the payment of both ordinary disability benefits and TTD benefits for the same injury. The issue the court decided was whether WCC correctly applied the law to find that the employer/insurer were entitled to offset the ordinary disability benefits already paid by the State Retirement Agency to the claimant against the TTD benefits paid to him by the employer (or its insurer). The court affirmed WCC's finding. Because both sets of benefits were awarded to compensate the claimant for the same injuries, according to the law, the benefits were legally "similar benefits," and the statutory offset was properly applied to prevent a double recovery for the same injury. Indicating that the court's rationale was wrong, Mr. Erlandson suggested legislation to clarify that the injured worker should be compensated for loss of earnings, and should not be able to file for multiple benefits. This is similar to language in House Bill 344/Senate Bill 751 of 2017, which did not pass. There was discussion among committee members and interested parties about the costs to public employers of providing multiple benefits, other offsets that are allowed, the responsibility of the Subsequent Injury Fund (SIF), and future credits.

The co-chairs suggested that interested parties meet to determine if a compromise proposal may be worked out.

MIA Fraud Investigation Authority for Claimants Against Self-Insured Employers

Bob Erlandson, represents MSIECA, explained that, through correspondence with MIA, he learned that MIA does not have authority to investigate or prosecute any fraud claims involving claims against self-insured employers for workers' compensation benefits (includes all self-insureds – private and government). Currently, fraud cases would need to be investigated and prosecuted through the local district attorney's office. Mr. Erlandson suggests legislation that would allow MIA to investigate fraud claims against self-insured private and public employers.

The co-chairs suggested that interested parties meet to determine if a compromise proposal may be worked out.

Recovery of Damages in an Action Filed Against a Third Party

Ilene Ticer, defense attorney for employers, suggested that a change is needed to the workers' compensation law that relates to an action against a third party after compensation is awarded or paid for a claim. Under current law, if a claim is filed and compensation is awarded or paid, a self-insured employer, an insurer, SIF, or UEF may bring an action for damages against the third party who is liable for the injury or death of the covered employee. If any of these entities recovers damages exceeding the amount of compensation paid or awarded, the entity must deduct from the excess amount its costs and expenses for the action and pay the balance of the excess amount to the covered employer. Ms. Ticer recommends striking SIF from the list of entities that may recover third party damages since the action against a third party relates to the injury and does not relate to a preexisting condition. SIF is responsible for paying the portion of the claim dealing with the preexisting condition.

Further discussion is needed with SIF to determine the impacts of this proposal.

Temporary Total Disability – Credit if Medical Treatment is Delayed/Suspended Due to an Unrelated Medical Condition

Ilene Ticer, defense attorney for employers, suggested that the TTD provision of the workers' compensation law be amended to provide that an employer (or its insurer) may be entitled to a TTD benefit credit if the medical treatment of the employee is delayed or suspended solely because of an unrelated medical condition. The credit should only be allowed for compensation paid during the period that medical treatment was delayed or suspended. This language is similar to House Bill 943/Senate Bill 257 of 2016, which did not pass. There was discussion among committee members and interested parties about whether an employer (or its insurer) should pay TTD when the delay or suspension is not the fault of the employer and the fact that the employee is not working and therefore has no income.

The co-chairs suggested that interested parties meet to determine if a compromise proposal may be worked out.

Part III

Special Committees – Senate of Maryland

Senate Special Committee on Substance Abuse

Part IV

Special Committees – House of Delegates

House Special Committee on Drug and Alcohol Abuse