

April 17, 2009

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 General Assembly

Ladies and Gentlemen:

I am pleased to present you with *The 90 Day Report – A Review of the 2009 Legislative Session*.

Once again *The 90 Day Report* consists of a single volume. The report is divided into 12 parts, each dealing with a major policy area. Each part contains a discussion of the majority of bills passed in that policy area, including comparisons with previous sessions and current law, background information, as well as a discussion of significant bills that did not pass. Information relating to the Operating Budget, Capital Budget, and aid to local governments is found in Part A.

I hope that you will find *The 90 Day Report* as helpful this year as you have in the past. *The Effect of the 2009 Legislative Program on the Financial Condition of the State* will be issued after the Governor has taken final action on all bills.

Sincerely,

Karl S. Aro
Executive Director

KSA/ncs

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Part A

Budget and State Aid

Operating Budget

Overview

The General Assembly enacted a \$32.3 billion budget for fiscal 2010; an increase of \$1.1 billion, or 3.4%, above fiscal 2009. Federal stimulus funding from the American Recovery and Reinvestment Act of 2009 (ARRA) was instrumental in balancing the fiscal 2009 and 2010 budgets, following nearly \$1.2 billion of downward general fund revenue revisions in March 2009. In the aggregate, Maryland is expected to receive over \$4.1 billion, of which \$2.3 billion will directly support existing budgetary commitments. Additional aid will support new infrastructure spending, enhance local education funding, and fund a variety of programs.

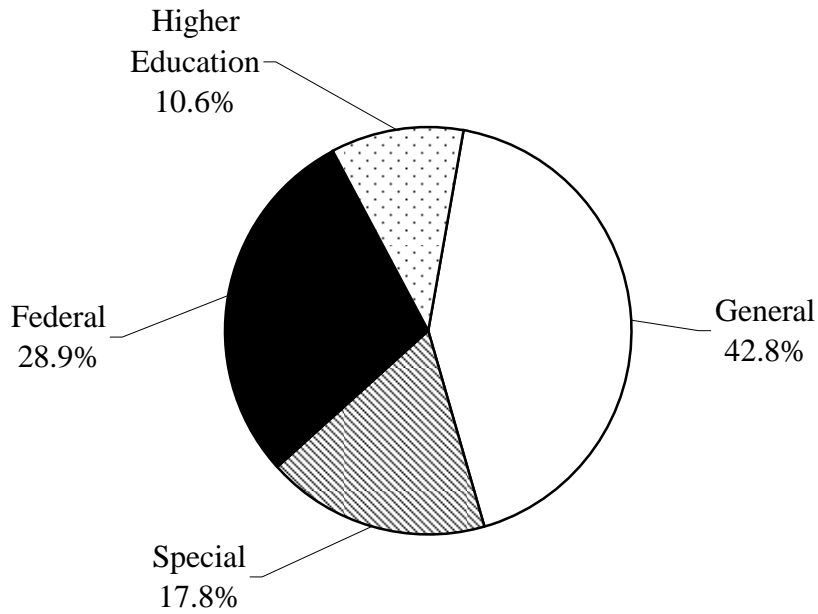
Budget growth (including the use of stimulus funding) is \$106.4 million below the 0.70% level recommended by the Spending Affordability Committee (SAC). Spending increases for local education and library aid, higher education, Medicaid, pay-as-you-go (PAYGO) capital, and debt service payments are largely supported by federal dollars. The fiscal 2010 cash balance is estimated at \$96.2 million, in addition to reserves of \$651.1 million, or 5.0%, of general fund revenues in the Rainy Day Fund.

While the budget is balanced on a cash basis, a structural imbalance of \$1.7 billion exists between ongoing revenues and spending. General fund revenues are projected to decrease by 2.3% in fiscal 2009 and 1.6% in fiscal 2010 before rebounding in fiscal 2011. Remaining federal stimulus dollars will be applied to the fiscal 2011 budget, and \$747 million in balance and cash reserves are available. The direction of the economy and its effect on revenues remains uncertain. The long-term forecast shows that under current assumptions, the State faces significant cash and structural deficits which will require significant additional actions to ensure balanced budgets.

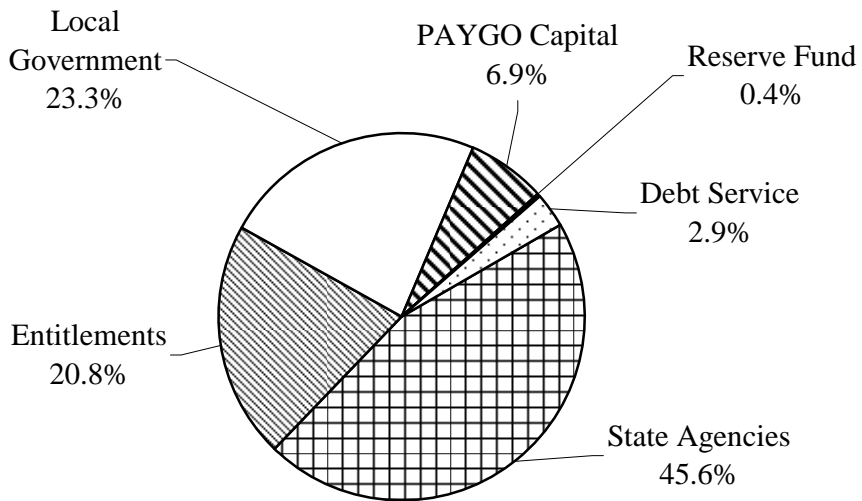
Budget in Brief

The Fiscal Year 2010 Budget Bill, *House Bill 100 (enacted)*, provides \$32.3 billion in appropriations for fiscal 2010. **Exhibit A-1.1** illustrates funding by fund.

Exhibit A-1.1
Maryland's \$32.3 Billion Budget
Where It Comes From: Budget by Fund Source



Where It Goes: Budget by Purpose



PAYGO: pay-as-you-go capital

Between fiscal 2009 and 2010, due to a large short-term infusion of federal stimulus dollars, the proportions of the budget supported by general and federal funds is substantially changed in fiscal 2010. General funds decrease from 48%, to just under 43% of the budget. Federal funds increase from 22% to about 29% of spending. Special fund dollars make up 18% of the budget, and higher education revenue provides 11%.

State agency operations constitute the largest area of spending, representing 46% of the total budget. Aid to local governments accounts for 23% of the budget, and 21% supports entitlement programs. Remaining appropriations fund PAYGO capital spending, debt service on State general obligation bonds, and transfers to the State Reserve Fund.

General fund appropriations decrease by \$516.8 million, or 3.6%, below fiscal 2009. However the year-over-year change is misleading due to withdrawn general fund spending which is replaced by federal stimulus dollars. There are additional general funds for employee health and retirement cost increases, higher education, and health programs. Appropriations to the State Reserve Fund total \$139.9 million, a decrease of \$6.6 million compared to 2009. PAYGO capital spending also declines by \$14.9 million. For a more detailed discussion of the interplay between general and federal fund appropriations, see the subpart “Federal Stimulus Funding” within this part.

Special funds decrease by \$150.1 million, or 2.6%, compared to the fiscal 2009 working appropriation. The appropriation provides increases for Medicaid funded from the Rate Stabilization Fund and the Maryland Health Care Coverage Fund to expand coverage to parents of children already eligible for services. Energy assistance programs are funded by the auction of Regional Greenhouse Gas Initiative (RGGI) carbon dioxide allowances, and roughly \$39 million in education aid is supported by video lottery terminal licensing fees. Debt service expenses paid from the Annuity Bond Fund increase \$57 million. These increases are more than offset by \$160 million in reductions to highway user revenues for local jurisdictions, a shift of \$31 million in Program Open Space (POS) spending to bond funding, reduced spending from the Chesapeake Bay 2010 Trust Fund, and contingent reductions in other energy conservation related programs.

Federal funds grow by \$1.6 billion, or 21.1%, largely related to funds received and appropriated from the ARRA of 2009. Education and library aid to local jurisdictions increases by \$572.1 million, or 81.8%. Federal stimulus dollars provide \$156.5 million passed through the Title I formula, \$137.3 million for increased teacher retirement costs, \$110.3 million to fully fund the Geographic Cost of Education Index, \$107.3 million for special education funding formulas (IDEA), and lesser amounts for Compensatory Education, Student Transportation, and other expenses. PAYGO capital receives an increase of \$371.6 million, or 47.1%. Federal stimulus dollars are applied to transportation capital programs, environmental infrastructure, and housing, veterans, and military projects. Significant increases of federal aid are also received for Medicaid (\$342.1 million, or 10.7%), temporary cash assistance payments (\$99.7 million, or 19.3%), and a variety of programs and purposes ranging from workforce development programs to public safety grants.

The budgets for public higher education institutions increase by \$33.5 million in total funds, or 2.2%, in fiscal 2010. These funds support operations of higher education institutions, including the University System of Maryland (USM), Morgan State University (MSU), St. Mary's College of Maryland (SMCM), community colleges and Baltimore City Community College (BCCC), and aid to nonpublic institutions. State funding permits undergraduate resident tuition to be frozen for a fourth consecutive year, exclusive of SMCM. Aid to community colleges and BCCC, as well as to the nonpublic institutions, increases by more than 3.0% in fiscal 2010.

Due to fiscal conditions, State personnel funding has been reduced. The Governor abolished 893.65 positions during the session and submitted a budget which did not include funding for a general salary increase, merit pay, or a deferred compensation match. For a more detailed discussion of personnel issues, see the subpart "Personnel" within this part.

Framing the Session: 2008 Interim Activity

A downturn in the economy since December 2007 impacted revenue collections, as actual fiscal 2008 attainment fell some \$73 million below expectations. Fiscal 2009 revenue estimates were revised downward by approximately \$432 million in September 2008 as problems in the housing market and the subprime mortgage crisis affected the financial sector as well. The Governor implemented several rounds of cost containment through the Board of Public Works (BPW). Revenues were again written down by \$415 million in December 2008.

Against this backdrop, SAC recommended a 0.70% rate of budgetary growth for the 2009 session, which was the lowest level ever recommended. SAC also offered recommendations pertaining to the level of the Rainy Day Fund and position growth.

BPW Withdrawn Appropriations

As shown in **Exhibit A-1.2**, the Governor withdrew over \$500 million in spending from the fiscal 2009 budget through BPW at meetings held in June, October, and November 2008 and in March 2009. There were budgetary savings from abolishing 1,735.4 positions, employee furloughs, and a hiring freeze. Nearly \$50 million was reduced from funds set aside toward the State's Other Post Employment Benefits (OPEB) liability. Cutbacks were made to agency spending, local aid, PAYGO, and entitlement programs. In some cases, reductions were offset by the availability of special fund balances or federal funds.

SAC Recommendations

SAC prepared its final report to the Governor in December 2008 which included the following recommendations pertaining to the operating budget:

Spending Limit: The committee recommended limiting growth on a spending affordability basis to 0.70% over spending approved at the 2008 session.

Exhibit A-1.2
Fiscal 2009 Spending Withdrawn through the Board of Public Works

<u>Date of BPW Action</u>	<u>General Funds</u>	<u>Special Funds</u>	<u>Federal Funds</u>	<u>Total Funds</u>	<u>Filled Positions</u>	<u>Vacant Positions</u>
June 2008	\$50.1	\$7.4	\$17.6	\$75.1	0.0	11.5
October/November 2008	297.2	21.1	31.1	349.4	40.0	790.2
March 2009	67.1	9.6	5.0	81.6	2.0	891.7
Total	\$414.4	\$38.1	\$53.7	\$506.1	42.0	1,693.4

Source: Board of Public Works

Personnel: The committee found that fiscal conditions rendered the State's position complement to be unsustainable, and recommended that 1,000 positions should be abolished from the budget.

State Reserve Fund: SAC continued to recommend prudent use of the Rainy Day Fund. Use of the balance below 5.0% was recommended only as a last resort and in combination with a multi-year deficit reduction plan. Instead, it was suggested that federal stimulus dollars be used to address short-term budget balancing needs.

Governor's Spending Plan as Introduced

The fiscal plan submitted by the Administration provided for \$32.0 billion in total spending for fiscal 2010 and \$286.2 million of fiscal 2009 deficiencies. In balancing the budget, the Governor relied upon \$1.1 billion in proposed transfers and nearly \$450.0 million in contingent reductions, which largely relied upon budget reconciliation legislation. The Administration also recognized \$350.0 million in federal stimulus funds through a reduction of general funds in the Medicaid budget. Fiscal 2009 deficiency appropriations totaling \$286.2 million were proposed with the budget, consisting of \$92.8 million in general funds, \$77.7 million in special fund items, and \$115.7 million in federal fund appropriations.

The budget was below the limit recommended by SAC, reflected the planned abolition of over 1,000 Executive Branch positions, and utilized \$210.0 million in the Rainy Day Fund, which was the balance above the recommended 5% level. The Governor's proposed spending plan resulted in an estimated fiscal 2010 general fund balance of \$45.9 million.

As shown in **Exhibit A-1.3**, the Governor's plan for balancing the fiscal 2009 and 2010 budgets relied heavily on a combination of fund transfers and reductions contingent upon budget reconciliation legislation. Chief among these was use of Rainy Day Fund balances above 5%, as well as a one-time transfer from a local income tax refund reserve account. In addition to spending already withdrawn by BPW, the Governor proposed to reduce another \$154 million in spending. Finally, balance in fiscal 2010 relied upon \$449 million in spending reductions contingent upon budget reconciliation and other legislation, a variety of across-the-board budget cuts totaling \$86 million and additional revenue and reversion assumptions.

Exhibit A-1.3
Governor's Original Budget Plan
Fiscal 2009-2010
(\$ in Millions)

	<u>2009</u>	<u>2010</u>
Opening Balance	\$487.1	\$424.1
Revenues	\$13,673.9	\$13,738.3
Additional Revenues	7.8	27.4
Transfers	841.9	250.1
Subtotal	\$14,523.6	\$14,015.8
Appropriations and Deficiencies	\$15,172.4	\$14,969.1
BPW Withdrawn Appropriations	-501.3	0.0
Across-the-board Reductions	0.0	-85.6
Contingent Reductions	0.0	-449.3
Reversions	-84.5	-40.2
Subtotal	\$14,586.6	\$14,394.0
Closing Balance	\$424.1	\$45.9

BPW: Board of Public Works

Source: Maryland Budget Highlights Fiscal 2010

Legislative Consideration of the Budget

As the legislature considered the budget, the Board of Revenue Estimates (BRE) revised general fund revenues downward by a combined \$1.2 billion for fiscal 2009 and 2010, and the Governor submitted two supplemental budgets which added \$1.4 billion in mostly federal fund supported spending. The General Assembly reduced the budget and positions as detailed below.

Revenue and Spending Changes

BRE Revenue Revisions: In March 2009, BRE revised its estimate of general fund revenue for fiscal 2009 downward by \$445.5 million and \$716.5 million for fiscal 2010. Income and sales tax revenues continue to be negatively affected by the recession.

Supplemental Budgets No. 1 and 2: The Governor introduced two supplemental budgets that increased spending by a total of \$1.4 billion. Nearly \$2.3 billion in additional federal funds were appropriated, with the bulk of that derived from federal stimulus legislation. This was offset by nearly \$900 million in withdrawn general fund appropriations. The bulk of federal funds were applied to Medicaid and education programs.

Reductions: The legislature reduced the fiscal 2009 budget by \$16.1 million based on overbudgeted funds for small business health insurance and a cut in school assessments. Changes adopted in the fiscal 2010 budget eliminated 101.5 regular positions and reduced \$911.6 million in all funds.

Notable reductions included:

- \$161.9 million from special fund local highway user revenues;
- \$98.8 million from the Reserve Fund, including \$63.0 million for the InterCounty Connector (ICC) (largely funded in the capital budget) and \$35.8 million above 5.0%;
- \$71.1 million from general and special fund programs supported by RGGI, of which \$35.6 million was a contingent reduction for low income energy assistance that will be restored by special fund budget amendment;
- \$53.5 million in Medicaid funding that will be restored using available special fund balances;
- \$46.5 million from higher education general funding based on enactment of a provision in the Budget Reconciliation and Financing Act (BRFA) of 2009 to extend the Higher Education Investment Fund (HEIF). This amount will be restored by special fund budget amendment;
- \$34.0 million from community college aid, leaving sufficient funds to increase the appropriation over fiscal 2009 levels;
- \$31.0 million from POS which is funded in the capital budget;
- \$30.8 million in overbudgeted education formula aid; and

- \$24.0 million for all general fund reimbursements of local jail costs, in conjunction with budget reconciliation legislation converting the funding to a grant program.

The budget does not reflect \$192.0 million of special funds that are intended to replace general funded items, which were reduced at the 2009 session but which have yet to be appropriated. **Exhibit A-1.4** summarizes the most significant items that will be restored with special funds.

Exhibit A-1.4
General Fund Reductions to Be Replaced with Special Funds
(\$ in Millions)

	<u>General</u> <u>Funds</u>	<u>Special</u> <u>Funds</u>
Medicaid	-\$80.5	\$80.5
Higher Education	-46.5	46.5
Department of Human Resources	-35.6	35.6
Department of Health and Mental Hygiene	-15.7	15.7
Maryland School for the Deaf	-5.0	5.0
Department of Natural Resources	-2.6	2.6
Department of Information Technology	-2.0	2.0
Maryland Department of the Environment	-1.8	1.8
Department of Public Safety and Correctional Services	-1.4	1.4
Attorney General	-0.8	0.8
Total	-\$192.0	\$192.0

Source: Department of Legislative Services

Final Actions Related to SAC

Limiting Spending Growth: As shown in **Exhibit A-1.5**, final action by the legislature reduced the budget to a 0.19% rate of growth as measured on a spending affordability basis. The SAC calculation typically does not include federal funds, but an adjustment is included this year to account for the significant influx of federal stimulus aid which was used in part to offset general fund appropriations. With this adjustment, final action on the budget is \$106.4 million below the 0.70% rate recommended by the committee. On the customary basis, the budget is \$1.6 billion below the limit.

Exhibit A-1.5
Operating Budget Affordability Limit
(\$ in Millions)

<u>Funds</u>	<u>2008</u> <u>Session</u>	<u>2009</u> <u>Session</u>	<u>\$</u> <u>Change</u>	<u>%</u> <u>Change</u>
General	\$14,812.6	\$13,195.5	-\$1,617.0	-10.92%
Special	4,001.9	4,087.3	85.4	2.13%
Higher Education	1,993.2	2,100.0	106.9	5.36%
Estimated Budget Growth	\$20,807.6	\$19,382.8	-\$1,424.8	-6.85%
SAC Limit	\$20,807.6	\$20,953.2	\$145.7	0.70%
Over (Under) Limit			-1,570.4	-7.55%
<u>Adjusted for Federal Stimulus</u>				
Estimated Budget Growth	\$20,807.6	\$19,382.8	-1,424.8	-6.85%
Estimated SAC Eligible Federal Stimulus		\$1,464.0		
Adjusted Estimate for Budget Growth	\$20,807.6	\$20,846.8	39.2	0.19%
SAC Limit	\$20,807.6	\$20,953.2	145.7	0.70%
Over (Under) Limit			-106.4	0.70%

SAC: Spending Affordability Committee

Personnel: In March 2009, the Governor abolished 893.65 positions. Action at the 2009 session reduced another 101.5 regular positions. In conjunction with positions abolished by the Governor in preparing the allowance, the State's position complement for fiscal 2010 is over 1,000 positions lower than the fiscal 2009 working appropriation. This is consistent with the SAC recommendation.

State Reserve Fund Balance: Although \$210.0 million was transferred to support fiscal 2010 spending, budget action at the 2009 session leaves a \$651.1 million balance in the Rainy Day Fund. This constitutes a 5% balance. Final action on the budget complied with the SAC recommendation to maintain at least a 5% balance and to first use federal stimulus funds.

Summary of Fiscal 2009 Legislative Activity

Exhibit A-1.6 summarizes final legislative action on the budget. In addressing the write down of revenues and additional spending in the two supplemental budgets, the General Assembly adopted \$1.4 billion in transfers including many of the proposed transfers recommended in the Governor's original budget plan. Approximately \$331.0 million of the \$575.0 million in reductions are contingent upon the BRFA of 2009. Based upon these actions, the closing fiscal 2009 balance is estimated at \$441.3 million, and fiscal 2010 is projected to end with a \$96.2 million balance.

Exhibit A-1.6 Final Legislative Budget Action Fiscal 2009-2010 (\$ in Millions)

	<u>2009</u>	<u>2010</u>
Opening Balance	\$487.1	\$441.3
Revenues	\$13,287.8	\$13,011.7
Legislation	0.0	14.2
Transfers	980.4	426.3
Subtotal	\$14,268.2	\$13,452.2
Approp./Supp./Deficiencies/BPW	\$14,393.1	\$14,400.5
Reductions	-1.0	-243.0
Contingent Reductions	-1.6	-329.9
Reversions	-76.4	-30.4
Subtotal	\$14,314.1	\$13,797.3
Closing Balance	\$441.3	\$96.2

BPW: Board of Public Works

Source: Maryland Budget Highlights Fiscal 2010

In addition to actions within budget reconciliation legislation, two bills increasing general fund revenues contribute to the closing general fund balance for fiscal 2010.

An estimated \$7.0 million in revenue is attributable to *House Bill 193 (passed)*, which extends for two years, the termination date under which existing qualified organizations and licensed commercial entities may operate electronic instant bingo machines that would otherwise be illegal under the law.

Senate Bill 552 (passed) requires the Comptroller to declare an amnesty period for delinquent taxpayers for the month of September 2009, for penalties and interest due attributed to the nonpayment, nonreporting, or underreporting of income taxes, withholding taxes, sales and use taxes, or admissions and amusement taxes that are paid during the amnesty period. An estimated \$7.2 million would be credited to the general fund.

Outlook for Future Budgets

As shown in **Exhibit A-1.7**, there is a cash balance of \$96 million projected at the end of fiscal 2010, while ongoing spending exceeds ongoing revenues by \$1,695 million. Fiscal 2010 spending is supported by federal stimulus totaling \$1,027 million, reducing the general fund balance by \$345 million, fund transfers totaling \$234 million, and one-time revenues totaling \$229 million.

The shortfall is projected to increase in fiscal 2011 and decline in fiscal 2012. The fiscal 2011 increase is due to projected increases in entitlements (led by Medicaid growth) and agency growth attributable to increases in personnel costs (such as the annual salary increase, health insurance, and retirement costs) and the one-time nature of many of the reductions taken in agency budgets (such as Department of Information Technology project deferrals).

Video lottery terminal bids received for machines in February 2009 were for less than the number of projected machines. The revenue bids were revised to reflect a slower implementation, thus delaying support for education programs. Instead of supporting programs in fiscal 2011, the estimates now assume substantial funding in fiscal 2012. The narrowing of the budget gap in fiscal 2012 is attributable to \$366 million in video lottery terminal revenues.

Exhibit A-1.7
General Fund Budget Outlook
Fiscal 2009-2014
(\$ in Millions)

	2009	2010	2011	2012	2013	2014	2010-2014
<u>Revenues</u>	<u>Working</u>	<u>Allowance</u>	<u>Est.</u>	<u>Est.</u>	<u>Est.</u>	<u>Est.</u>	<u>Avg Annual Change</u>
Opening Fund Balance	\$487	\$441	\$96	\$0	\$0	\$0	
Transfers	197	234	64	52	66	55	
One-time Revenues/Legislation	852	229	113	14	7	8	
Subtotal One-time Revenue	\$1,536	\$905	\$274	\$66	\$73	\$63	-48.7%
Ongoing Revenues	\$13,221	\$12,975	\$13,642	\$14,433	\$15,021	\$15,674	
Revenue Adjustments – Legislation	0	13	13	10	2	0	
Subtotal Ongoing Revenue	\$13,221	\$12,988	\$13,655	\$14,444	\$15,022	\$15,674	4.8%
Total Revenues and Fund Balance	\$14,757	\$13,894	\$13,929	\$14,510	\$15,095	\$15,736	3.2%
Ongoing Spending							
Operating Spending ⁽¹⁾	\$14,592	\$14,723	\$15,973	\$16,697	\$17,523	\$18,355	
VLT Spending Supporting Education	0	-39	-13	-366	-614	-664	
Subtotal Ongoing Spending	\$14,592	\$14,684	\$15,961	\$16,331	\$16,909	\$17,691	4.8%
One-time Spending							
PAYGO Capital	\$14	\$1	\$1	\$1	\$1	\$1	
Federal Stimulus Funds	-437	-1,027	-854	0	0	0	
Appropriation to Reserve Fund	147	140	50	50	50	50	
Subtotal One-time Spending	-\$276	-\$886	-\$803	\$51	\$51	\$51	n/a
Total Spending	\$14,315	\$13,797	\$15,158	\$16,382	\$16,960	\$17,742	6.5%
Ending Balance	\$441	\$96	-\$1,229	-\$1,872	-\$1,864	-\$2,006	
Rainy Day Fund Balance	693	651	683	723	754	786	
Balance over 5% of GF Revenues	32	0	0	2	3	3	
As % of GF Revenues	0	0	0	0	0	0	
Structural Balance	-\$1,371	-\$1,695	-\$2,306	-\$1,887	-\$1,886	-\$2,018	

VLT: video lottery terminal

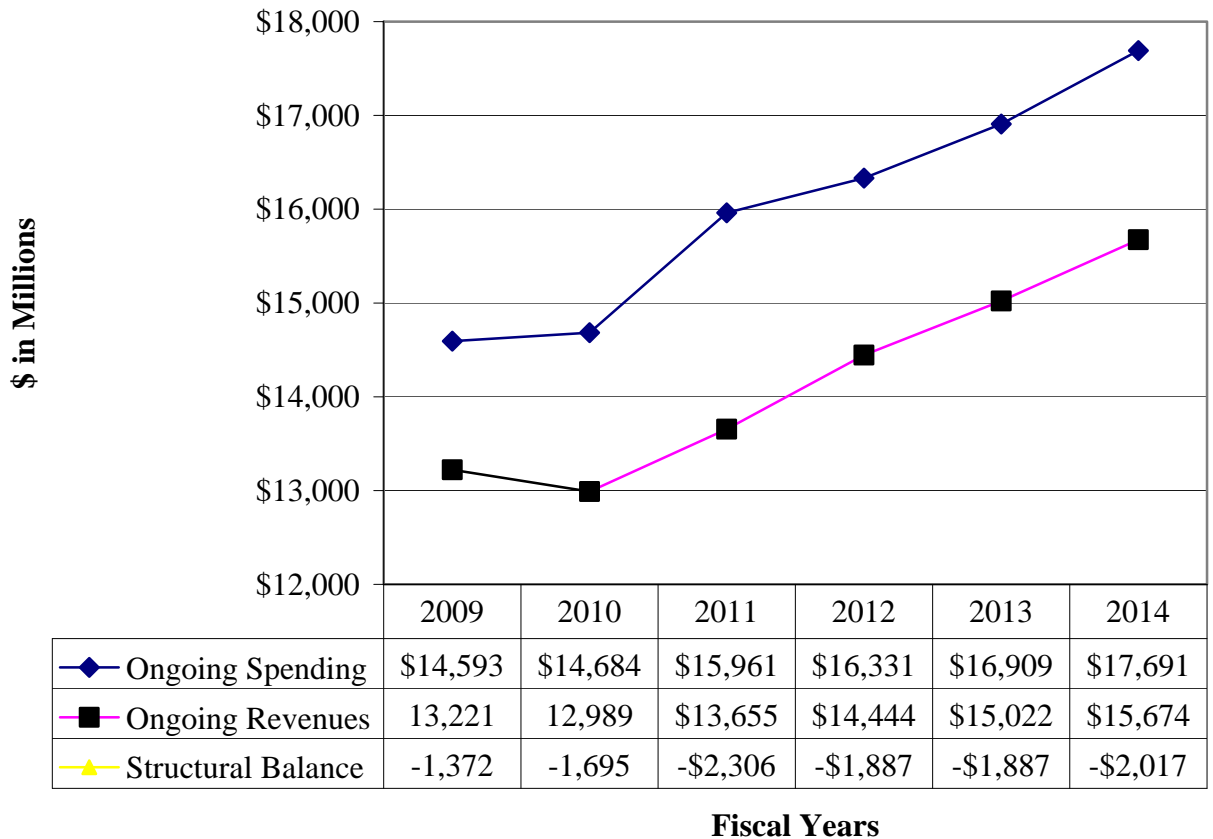
GF: general fund

PAYGO: pay-as-you-go

⁽¹⁾ Assumes General Obligation Bond debt service costs supported by State property tax of \$0.112 per \$100 of assessable base. Consistent with administration policy, debt service cost increases in excess of revenues generated by State property taxes are supported by general funds.

As shown in **Exhibit A-1.8**, the structural deficit increases to \$2.3 billion in fiscal 2011 based on a number of factors including personnel and Medicaid growth, as well as the short-term nature of reductions adopted in fiscal 2010. Revenue from video lottery terminals is expected to be received in fiscal 2011, which reduces the deficit to about \$1.9 billion. By fiscal 2014, the shortfall is expected to climb to just over \$2.0 billion. When economic recovery occurs, it can be expected to improve the overall fiscal picture in the out-years. However, even a robust increase in revenue is unlikely to fully resolve the current imbalance between ongoing revenues and spending. Future balance will depend upon a multi-year approach involving spending reductions in combination with possible revenue considerations.

Exhibit A-1.8
Projected General Fund Structural Deficit
Fiscal 2009-2014
(\$ in Millions)



Budget-related Legislation

Budget Reconciliation and Financing Legislation

House Bill 101 (passed), the BRFA of 2009 implements \$1.3 billion in actions that benefit the general fund. These actions are summarized in **Exhibit A-1.9**

Exhibit A-1.9 Summary of Actions in the Budget Reconciliation and Financing Act of 2009 (\$ in Millions)

Fund Transfers	\$1,001.7 million
Contingent Reductions	284.9 million
Fiscal 2010 Revenues	-1.3 million
Total Budgetary Action	\$1,285.3 million

Source: Department of Legislative Services

Actions within the BRFA of 2009 can be categorized into five major types: fund balance transfers; use of special fund revenues in lieu of general funds; changes in formula calculations; revenue actions; and miscellaneous other provisions.

Fund Balance Transfers

As shown in **Exhibit A-1.10**, the BRFA of 2009 implements 32 separate fund balance transfers from 29 different funds. The largest single transfer is from the local income tax refund reserve (\$366.8 million), to be replenished over 10 years by the counties. The next largest is a series of actions related to POS and related programs (totaling \$172.3 million). The capital budget includes bond authorization for \$71.3 million to cover prior land purchases and \$31.0 million in lieu of PAYGO funds for Rural Legacy, State capital development projects, and agricultural land preservation. This \$102.3 million, plus an additional \$70.0 million in unencumbered State land acquisition funds, is transferred to the general fund.

A transfer of \$161.9 million is made from highway user revenues to the general fund, with a concomitant reduction in payments to local jurisdictions. Of this total, \$101.9 million is reduced in accordance with the highway user formula, except that municipalities are reduced a total of only \$3.7 million. The remaining \$60.0 million reduction, allocated to Baltimore City and the counties only, is allocated based on wealth and tax effort.

Exhibit A-1.10
Transfers to the General Fund
Budget Reconciliation and Financing Act of 2009
(\$ in Millions)

<u>Fiscal 2009</u>	<u>Amount</u>
Local Income Tax Reserve for Refunds	\$366.8
Dedicated Purpose Account – ICC/Prince George’s Hospital	73.0
Helicopter Replacement Fund	52.7
University System of Maryland Fund Balance	29.0
Injured Workers’ Insurance Fund for Future Liability	28.0
State Insurance Trust Fund	10.0
Maryland Trauma Physician Services Fund	17.0
Community Health Resources Fund	12.1
Maryland Automobile Insurance Fund – Uninsured Account	7.0
Central Collection Unit – Department of Budget and Management	5.0
Economic Development Opportunities (Sunny Day) Fund	5.0
Maryland Economic Development Assistance Fund	6.0
Senior Drug Prescription Program	2.6
Bond Fund Recent Program Open Space Land Purchases	71.3
Program Open Space Balances – State	70.0
Oil Disaster Containment, Cleanup, and Contingency Fund	2.0
Used Tire Cleanup and Recycling Fund	3.0
Small Business Pollution Compliance Loan Fund	0.3
Board of Physicians	3.2
Board of Nursing	0.5
Maryland Health Care Commission	2.0
Insurance Regulation Fund – Maryland Insurance Administration	1.6
Vehicle Theft Prevention Fund	1.0
School Bus Safety Enforcement Fund	0.9
Expedited Service Fund – Assessments and Taxation	0.4
State Self-Insured Unemployment Insurance Reserve	10.0
Universal Service Trust Fund	5.0
Subtotal	\$785.4
<u>Fiscal 2010</u>	
Central Collection Unit – Department of Budget and Management	\$10.0
Catastrophic Event Account	7.4
Program Open Space and Agricultural Land Preservation Allocations	31.0
Maryland Economic Development Assistance Fund	6.0
Local Highway User Revenues	161.9
Subtotal	\$216.3
Total Transfers	\$1,001.7

ICC: InterCounty Connector

Source: Department of Legislative Services

Other significant transfers include \$65.0 million from the Dedicated Purpose Account (DPA) to support the construction costs of the ICC – \$55.0 million in general obligation bonds are provided instead. Similarly, \$52.7 million is transferred from the State Police Helicopter Replacement Fund, and \$52.5 million in bond authorization is provided.

A number of other special fund balances were subject to transfer, including \$29.0 million from USM; \$28.0 million from the State employees' workers' compensation fund held by the Injured Workers' Insurance Fund; \$17.0 million from the Maryland Trauma Physician Services Fund; \$15.0 million from the Central Collection Unit (CCU); \$12.1 million from the Community Health Resources Commission Fund; and \$12.0 million from the Maryland Economic Development Assistance and Authority Fund. A provision effective in fiscal 2011 will automatically transfer excess balances from the CCU to the general fund.

Use of Special Funds in Lieu of General Funds

In a number of instances, the BRFA of 2009 expanded authorized uses of special funds to allow for a contingent reduction of general funds. In the health arena, the Health Care Coverage Fund is tapped to cover the 2010 support of the Prince George's Hospital Center (\$12.0 million), for general Medicaid purposes (\$53.5 million), and for Medicaid hospital payments (\$9.0 million). The statutory requirements for allocating Cigarette Restitution Funds were amended for two years, reducing the Statewide Academic Health Center and Tobacco Prevention and Cessation grants; these changes provide \$19.5 million to offset the need for general funds in several health programs. Special funds in the Maryland Health Insurance Program (\$4.5 million), the Community Health Resources Commission (\$9.1 million) and the AIDS drug rebate program (\$0.9 million) are used in a number of health programs in lieu of general funds.

In the environmental area, the BRFA of 2009 reduces the motor fuel and short-term vehicle rental taxes directed to the Chesapeake Bay 2010 Trust Fund by \$21.5 million, instead directing those revenues to the general fund. The uses of the Strategic Energy Investment Fund, supported by the auction of carbon dioxide allowances, are altered for two years, most significantly to increase the proportion of funds available for low-income energy bill payment assistance, saving an estimated \$35.6 million in general funds each year. An additional \$5.0 million is available for cover crop programs through the Bay Restoration Fund, and several funds are accessed to support operating expenses in the Departments of Natural Resources and the Environment, totaling \$3.7 million. In related provisions, the BRFA of 2009 raises the contingency fund limit for POS and make the Maryland Historical Trust and Historic St. Mary's City eligible for POS capital development funding.

Finally, Medicare Part D reimbursements are applied to the State Employees and Retirees Health and Welfare Benefits Fund in lieu of general funds; the Universal Service Trust Fund supports a portion of the budget for the Maryland School for the Deaf; and the Fair Campaign Financing Fund is authorized to partially fund the new Optical Scan Voting System.

Mandate Relief and Formula Changes

With both specific actions and by a global provision, the BRFA of 2009 alters the fiscal 2010 and future formula calculations in a number of instances. Many are in effect only for one, two, or three years, but these changes moderate the growth that would otherwise occur in the budget. The global provision allows the Governor to not fund any increases in 2011 or 2012 over the amount funded in 2010, with exceptions for certain education formulas, retirement payments, contributions to the Rainy Day Fund, and any statute expressly addressed in this BRFA.

The most significant specific changes are made in preK-12 and higher education. For fiscal 2012, a 1% inflation cap is applied to the foundation aid per pupil amount and student transportation grant to moderate the general fund impact when federal funds from the ARRA are no longer available to support the growth in education formulas. The cost-sharing arrangement for special education nonpublic placements is also changed, so that the State share is reduced from 80 to 70% of costs above the local base share, beginning in fiscal 2010. Overpayments of education and library aid, caused by an error in the wealth calculations for fiscal 2009, will be recouped in 2010 and 2011.

County public library and regional library formulas are also altered to moderate the growth in per capita funding. The prior enhancement goals of \$16.00 and \$8.50, respectively, are attained in 2013. Similarly, the Aging Schools Program is funded at \$6.1 million for fiscal 2010 (through the capital budget) and fiscal 2011 and at \$10.4 million in 2012; inflationary increases from this reduced base resume in fiscal 2013. Finally, the eligibility and bonus payments under the Quality Teacher Incentive program are altered.

In higher education, the formulas for community colleges, BCCC, and private colleges and universities are moderated to be more affordable in the next few years. In all three cases, the formulas are “trued up,” meaning that they rely on the funding provided to public four-year institutions in the same year, rather than lagging behind for a year. As with the library formulas, enhancements are provided over the next several years, with the Cade and BCCC formulas reaching their maximum in 2014, and the Sellinger formula in 2015. The percentage of public four-year per student funding is reduced under the true up plan (compared to the percentages in the prior statute), but the same dollar amount of funding is achieved.

In the environmental and economic development areas, the general fund mandate for the Waterway Improvement Fund is eliminated; for two years, the grant to the Maryland Agricultural and Resource-Based Industry Development Corporation is reduced, as is the payment-in-lieu-of-taxes generated from forest and park revenues from non-timber sales. General fund support for the Maryland Tourism Board is maintained at \$6.0 million annually; the Maryland State Arts Council will be funded at \$13.5 million in 2010 and 2011, after which funding will grow at the rate of general fund revenue growth.

Several areas of mandate relief apply to local government aid. The local jail reimbursement program is converted to a grant program based on a flat per diem amount for the number of inmates serving 12-18 months. The BRFA of 2009 also establishes a cap at the 2010 level for each county's disparity grant payment, and eliminates the State responsibility for payment of prior jail reimbursement expenses and for the retirement costs of certain local employees.

Finally, the rates to be paid to group home operators are frozen for 2010 at the 2009 level, and payments to nonpublic placement providers can only increase 1%. Merit increases (with certain exceptions) and the match to deferred compensation contributions are eliminated for 2010.

Revenue Actions

The BRFA of 2009 raises the monthly fee under the Drinking Driver Monitoring Program to \$55 and removes the sunset on the fee, and for three years, reduces the commissions paid to lottery agents from 5.5 to 5.0%. The Maryland-mined coal tax credit is reduced to \$4.5 million for three years and then set at \$6.0 million in 2013 and 2014 before decreasing to \$3.0 million for 2015 to 2020. The BRFA of 2009 reduces the local jurisdictions' share of highway user revenues from 30.0 to 28.5% beginning in 2012, and reauthorizes, for 2010 only, the allocation of a share of corporate income tax receipts to the Higher Education Investment Fund.

Finally, the BRFA of 2009 addresses several federal tax changes enacted as part of the ARRA of 2009. Specifically, the State will remain coupled to favorable tax treatment of the earned income tax credit, enhanced unemployment insurance benefits, and new vehicle excise or sales taxes. Conversely, the State will be decoupled for tax years 2009 and 2010 for provisions related to cancellation of corporate debt.

Other Provisions

The BRFA of 2009 establishes a framework and authority to use bonds in place of transfer tax revenues for capital-eligible POS programs for three years. Contingent on the failure of *House Bill 960 (passed)* and on the Prince George's County Board of Education proceeding with the purchase or lease of a new administration building, Foundation Aid for Prince George's County Schools is reduced by \$36 million in fiscal 2010. A mechanism is established to provide funds in agency budgets for the development and implementation of a new human resource management technology system. Interagency barriers between the Departments of Human Resources and Juvenile Services (DJS) are removed to facilitate the ability of DJS to claim full reimbursement under the federal IV-E program.

Counties are given additional time, and with an expedited review, to submit requests for a waiver of maintenance of effort for education spending. The BRFA of 2009 also clarifies future maintenance of effort requirements in the event a waiver is granted for 2010. An extension of two years, to 2014, is provided for the Maryland State Department of Education to be delivering

educational programming in all facilities operated by DJS. The Maryland Higher Education Commission is required to incorporate the recommendations of the Commission to Develop the Maryland Model for Funding Higher Education into the updated State Plan and to implement those recommendations that do not require legislation.

Federal Stimulus Funding

On February 17, 2009, President Barack Obama signed the ARRA into law. ARRA's provisions support programs by funding infrastructure, education programs, human services programs, and providing discretionary funds. The legislation also affects taxes, by excluding portions of unemployment compensation from gross income and a temporarily increasing the earned income credit. **Exhibit A-1.11** shows that the ARRA provides \$4.1 billion in formula funding provided to Maryland governments. Of this amount, almost \$2.5 billion was appropriated at the 2009 session.

The federal grants provide \$396.0 million for educational programs, \$765.2 million for infrastructure programs, and \$546.2 million for other programs. These funds provide additional federal support and do not supplant general funds. ARRA also includes \$101.8 million in grants to local governments and aid organizations that are not appropriated in the State budget. These funds will be distributed directly to the local governments and aid organizations.

The legislation also provides federal grants for which State and local governments must compete. For example, this includes grants to support law enforcement officers, habitat conservation, and the arts. At this point, it is unclear how much of these funds the State will receive and they are not included in the ARRA estimates for Maryland.

Funds Supporting State General Fund Commitments

With respect to the State budget, ARRA's most significant impact relates to the \$2.3 billion that can support State general fund commitments. These funds support Medicaid, education, and discretionary State spending. The funds are used in the place of general funds to sustain State funding from fiscal 2009 to 2011. When the funds are no longer available, the State will need to replace the funds or reduce spending.

Medicaid funds total \$1,435.9 million and are available from October 2008 through the end of December 2010. The largest share is \$891.8 million attributable to a 6.2% increase in the State's Federal Medical Assistance Percentage. The State receives another \$544.1 million based on projected unemployment rates. The federal legislation provides additional funding a state whose unemployment rate rises by 1.5% since the recession began in December 2007. Maryland qualifies for this throughout the period. Additional funds are received for States whose unemployment rate rises by 2.5%. The budget assumes that Maryland meets this threshold as of February 2009.

Exhibit A-1.11
Impact of the ARRA on Maryland and Local Budgets
Fiscal 2009 and 2010 – Appropriations Compared to Total Available Funds
(\$ in Millions)

<u>Program</u>	<u>2009</u>	<u>2010</u>	<u>Unapprop.</u>	<u>Total</u>
Supporting State General Fund Commitments				
Fiscal Stabilization – Education	\$0.0	\$295.9	\$425.3	\$721.2
Fiscal Stabilization – Discretionary	1.5	79.6	79.4	160.5
Medicaid Assumed in Fiscal 2010 Budget	0.0	350.0	0.0	350.0
Additional Medicaid	435.0	302.0	348.9	1,085.9
Subtotal	\$436.5	\$1,027.5	\$853.5	\$2,317.5
Education Grants Appropriated in the State Budget				
Special Education	\$0.0	\$107.3	\$100.7	\$208.0
Title I	0.0	156.8	22.9	179.7
Education Technology	0.0	4.3	4.1	8.3
Subtotal	\$0.00	\$268.40	\$127.70	\$396.00
Infrastructure Appropriated in the State Budget				
Highways	\$0.0	\$249.0	\$182.0	\$431.0
Transit Capital	0.0	93.1	86.2	179.3
HOME Investment Partnerships Program	0.0	31.7	0.0	31.7
Clean Water	0.0	96.0	0.3	96.3
Drinking Water	0.0	27.0	0.0	27.0
Subtotal	\$0.0	\$496.8	\$268.4	\$765.2
Other Grants Appropriated in the State Budget				
State Energy Programs	\$1.5	\$0.0	\$56.0	\$57.5
Weatherization	6.6	28.1	31.0	65.6
Community Services Block Grant	0.0	12.6	1.1	13.7
Homelessness Prevention	0.0	5.7	0.0	5.7
Community Development Block Grant	0.0	2.2	0.0	2.2
Foster Care	8.6	11.5	5.8	25.9
Food Assistance	36.8	47.0	145.6	229.4
Temporary Assistance for Need Families	20.0	0.6	8.6	29.2
Ind. Living, Homeless Educ. & Work Study	0.4	0.9	2.9	4.2
Child Care & Development Block Grant	0.0	19.0	5.0	24.0
Vocational Rehabilitation	3.4	3.4	0.0	6.9
UI/Workforce Inv./Dislocated Workers	1.8	34.9	7.8	44.5
Preventive Health BG/Immunization	0.0	0.0	4.0	4.0
Byrne Grants/Public Safety Grants	0.0	13.1	20.3	33.4
Subtotal	\$79.2	\$178.9	\$288.1	\$546.2
Total State Grants	\$515.7	\$1,971.5	\$1,537.8	\$4,025.0
Federal Grants Not Appropriated in the State Budget				
Local Homelessness Prevention	n/a	n/a	n/a	\$16.8
Local Community Development Block Grant	n/a	n/a	n/a	12.8
Head Start	n/a	n/a	n/a	7.9
Local Byrne Grants	n/a	n/a	n/a	15.8
Public Housing	n/a	n/a	n/a	48.4
Subtotal				\$101.8
Total Grants for Maryland Governments	\$515.7	\$1,971.5	\$1,537.8	\$4,126.8

Note: Numbers may not sum to total due to rounding.

Source: Department of Legislative Services

The budget introduced by the Administration assumed \$350 million in federal funds for Medicaid in fiscal 2010. Supplemental Budget No. 1 provided another \$435 million in fiscal 2009 and \$302 million in fiscal 2010. Another \$348.9 million is projected in fiscal 2011. The funds are used to replace general funds and match federal funds.

Exhibit A-1.12 shows that the ARRA provides \$881.6 million in Fiscal Stabilization funds. The legislation requires that 81.8%, which totals \$721.2 million, support education programs. The education funds must first be used to restore elementary and secondary school reductions to the fiscal 2008 spending levels. Since Maryland has increased spending, this does not apply. Remaining funds must be used to support State formula increases in fiscal 2010 and 2011 for elementary and secondary education or to restore reductions made to State higher education funding below fiscal 2008 or 2009 levels. The Administration has applied these funds to support these elementary and secondary education increases. Supplemental Budget No. 1 provides \$295.9 million in fiscal 2010, leaving another \$425.3 million in unappropriated funds that can be used in fiscal 2011.

Finally, the ARRA allows that 18.2% of the Fiscal Stabilization funds can support general government services. These discretionary funds total \$160.5 million, of which \$1.5 million was appropriated in fiscal 2009 and \$79.6 million was appropriated in fiscal 2010. To promote accountability, State and federal governments have web sites that track the ARRA spending. Maryland's web site can be found at <http://statestat.maryland.gov/recovery.asp>, and the federal government's web site can be found at <http://www.recovery.gov/>.

Higher Education

Every segment of higher education will receive an increase in State funds in fiscal 2010. Overall, new general, HEIF, and federal funds total \$33.5 million, or a 2.2% increase over fiscal 2009.

Higher Education Investment Fund: Language in the fiscal 2010 budget bill reduced the general fund appropriation for higher education by \$46.5 million contingent on the reauthorization of HEIF, replacing those general funds with HEIF. The BRFA of 2009, reauthorizes the allocation of corporate tax revenues to HEIF for an additional year, fiscal 2010, and allows HEIF to be allocated to USM research institutes.

Tuition Freeze: In an effort to continue to make college affordable for Maryland residents, the tuition freeze is extended for a fourth year for resident undergraduate students at USM institutions and MSU. A total of \$17 million of discretionary federal funds made available through the ARRA of 2009 is used to freeze tuition rates, an amount equivalent to approximately a 4.0% tuition increase at USM institutions and 5.0% at MSU. St. Mary's College of Maryland is not affected by the tuition freeze and will increase tuition 5.0% in fall 2009.

Exhibit A-1.12
ARRA – Federal Stabilization Spending by Program
Fiscal 2009-2010
(\$ in Millions)

<u>Program</u>	<u>2009</u>	<u>2010</u>	<u>Unapprop.</u>	<u>Total</u>
Fiscal Stabilization – Education				
Foundation Program	\$0.0	\$110.3	\$0.0	\$110.3
Compensatory Education	0.0	26.3	0.0	26.3
Teacher Retirement	0.0	137.3	0.0	137.3
Limited English Proficient Grant	0.0	4.7	0.0	4.7
Student Transportation	0.0	17.3	0.0	17.3
Unappropriated	0.0	0.0	425.3	425.3
Subtotal	\$0.0	\$295.9	\$425.3	\$721.2
Fiscal Stabilization – Discretionary				
Community College Formula Fund Swap	\$0.0	\$14.5	\$0.0	\$14.5
Higher Education Funding Fund Swap	0.0	17.6	0.0	17.6
MSP Salary Expenses Fund Swap	0.0	18.0	0.0	18.0
DJS Per Diem Placement Costs Fund Swap	0.0	0.7	0.0	0.7
DHR Temporary Disability Assistance Program	1.5	1.5	0.0	3.0
DPSCS Overtime, Food, and Utility Costs	0.0	21.6	0.0	21.6
DJS Salary Expenses	0.0	3.8	0.0	3.8
MSP Salary, Fuel, and Utility Costs	0.0	1.9	0.0	1.9
Unappropriated	0.0	0.0	79.4	79.4
Subtotal	\$1.5	\$79.6	\$79.4	\$160.5
Total Fiscal Stabilization	\$1.5	\$375.5	\$504.6	\$881.6

ARRA: American Recovery and Reinvestment Act of 2009

DHR: Department of Human Resources

DJS: Department of Juvenile Services

DPSCS: Department of Public Safety and Correctional Services

MSP: Maryland State Police

Note: Numbers may not sum to total due to rounding.

Source: Department of Legislative Services

State Aid for Independent Institutions: Fiscal 2010 funding through the Joseph A. Sellinger Program, increases \$1.7 million over fiscal 2009, or 3.4%. The fiscal 2010 funding equates to 12.9% of fiscal 2010 general fund support per student at selected four-year public institutions.

Community College Funding: Fiscal 2010 funding through the Senator John A. Cade funding formula grows by 3.8% over fiscal 2009. This appropriation represents 23.6% of the per-student funding that selected public four-year institutions receive in fiscal 2010. When additional funds for fringe benefits and other programs are included, the overall community college budget increases 5.0%, or \$12.8 million. BCCC, as the State’s only State-operated community college, has its own formula, which for fiscal 2010, sets State support at 65.1% of the current year State appropriations per student at selected four-year public institutions. BCCC receives an increase of 3.4%, or \$1.4 million. The availability of discretionary federal stimulus funds allowed for a reduction of general funds for community colleges (\$14.5 million) and BCCC (\$0.6 million) with federal funds appropriated in equal amounts.

State Reserve Fund

The Rainy Day Fund, DPA, and Catastrophic Event Account have a combined \$652.1 million fund balance projected at the end of fiscal 2010. Activity in fiscal 2010 is listed in **Exhibit A-1.13** and detailed below.

Fiscal 2009 Actions

Dedicated Purpose Account

- Through the BRFA, two fiscal 2009 appropriations totaling \$73.0 million were withdrawn and transferred to the general fund. This included \$65.0 million for the ICC, and \$8 million toward the State’s commitment to the Prince George’s County Hospital.

Fiscal 2010 Actions

Rainy Day Fund

- \$139.9 million is appropriated to the Rainy Day Fund. Section 7-311 of the State Finance and Procurement Article requires that in the budget for the second subsequent fiscal year, the Governor appropriate an amount equal to the unappropriated general fund balance at closeout exceeding \$10.0 million into the Rainy Day Fund. At the end of fiscal 2008, the unappropriated general fund balance totaled \$185.7 million so the Governor included \$175.7 million in the allowance. This amount was reduced by \$35.8 million to \$139.9 million based on revised revenue estimates which lowered the amount necessary to equal 5.0%; and

Exhibit A-1.13
State Reserve Fund Activity
Fiscal 2009 and 2010
(\$ in Millions)

	<u>Rainy Day</u> <u>Fund</u>	<u>Dedicated</u> <u>Purpose Acct.</u>	<u>Catastrophic</u> <u>Event Acct.</u>
Estimated Balances 6/30/08	\$684.8	\$22.0	\$8.4
Fiscal 2009 Appropriations	146.5	85.0	0.0
Expenditures			
Substance Abuse Case Mgmt. Compact		-2.0	
Prince George's County Hospital		-12.0	
Transfers to General Fund			
Fiscal 2009 Budget Bill	-125.0		
BPW on October 15, 2008		-20.0 ¹	
Fiscal 2010 Budget Bill	-45.0		
BRFA of 2009		-73.0 ²	
Estimated Interest	31.3		
Estimated Balances 6/30/09	692.6	0.0	8.4
Fiscal 2010 Appropriations	139.9		0.0
Transfers to General Fund	-210.0		-7.4 ³
Estimated Interest	28.6		
Estimated Balances 6/30/10	\$651.1	\$0.0	\$1.0
Balance in Excess of 5% GF Revenues	\$0.0		

BPW: Board of Public Works

GF: general fund

¹ The Administration's cost containment plan included reducing the \$85 million appropriation for the ICC by \$20 million. The plan was approved by the BPW on October 15, 2008.

² The BRFA of 2009 transfers the remaining \$8.0 million dedicated to the Prince George's County Hospital and the remaining \$65.0 million dedicated to the ICC, to the general fund.

³ The BRFA of 2009 transfers \$7.4 million from the Catastrophic Event Account to the general fund..

Source: Department of Budget and Management

- \$210.0 million is transferred to the general fund from the Rainy Day Fund to support fiscal 2010 operations.

Dedicated Purpose Account

- Although the allowance had contained \$63.0 million to support continued construction of the ICC, it was reduced as part of the plan to balance the budget. Ultimately, \$55.0 million was included in the capital budget based on cash flow needs for the project.

Rainy Day Fund Outlook

The end-of-year fiscal 2010 Rainy Day Fund balance is projected to be \$651.1 million, which is 5.0% of general fund revenues. State law provides that if the fund balance is less than 7.5% of general fund revenues, a \$50.0 million appropriation is required. The forecast assumes these appropriations in the out-years.

Personnel

State expenditures for employee compensation, estimated to be \$7.0 billion in fiscal 2010, constitute a major component of the budget. Regular employee expenditures increase \$145.0 million, or 2.19%, to \$6.8 billion while contractual employee expenditures for fiscal 2010 total \$204.8 million.

Health Insurance

To meet rising health insurance costs, the State budget includes health insurance payments of \$869.6 million in fiscal 2010, a \$128.6 million, or 17.4%, increase over the \$741.0 million budgeted in fiscal 2009. The increase is substantial in part because fiscal 2009 appropriations were reduced artificially due to availability of unexpended balances from prior years in the health insurance account.

Employee Compensation

The regular employee compensation package for fiscal 2010 was lessened from that provided to the workforce in fiscal 2009 due to fiscal constraints. Benefits *not* available to State employees are:

- salary increments, also known as merit increases, for employees who are performing at or above established standards for their classification;
- cost-of-living increases;

- the State match of \$600 for those employees participating in individual deferred compensation plans; and
- the pre-funding of OPEB liability, which chiefly represents the estimated value of health insurance subsidies for future retirees.

Workforce Changes

Relative to fiscal 2008 the overall fiscal 2009 personnel complement decreases by almost 800 positions. In response to direction from SAC, the Governor had proposed to abolish 1,000 positions in the fiscal 2010 budget; instead however, 893.65 regular positions were abolished in March 2009 through the BPW. All but 2 were vacant. In total 1,048.7 positions were abolished in fiscal 2009 from Executive Branch agencies. The abolitions were offset by the creation of 179 positions in higher education and 71 positions added by the Judiciary. In fiscal 2010, the General Assembly deleted 101.5 positions, as shown in **Exhibit A-1.14**.

Exhibit A-1.14
Regular Full-time Equivalent Positions
Fiscal 2009 and 2010

<u>Department/Service Area</u>	<u>2008 Actual</u>	<u>2009 Wkg. Approp.</u>	<u>08-09 Change</u>	<u>2010 Allowance</u>	<u>2010 Legis. Approp.</u>	<u>Legis. Reductions</u>
Health and Human Services						
Health and Mental Hygiene	7,493.9	7,111.6	-382.3	6,827.2	6,827.2	0.0
Human Resources	6,961.4	6,701.4	-260.0	6,642.9	6,642.9	0.0
Juvenile Services	2,221.7	2,255.1	33.4	2,254.1	2,254.1	0.0
Subtotal	16,676.9	16,068.0	-608.9	15,724.1	15,724.1	0.0
Public Safety						
Public Safety and Correctional Services	11,641.5	11,372.6	-268.9	11,395.6	11,395.6	0.0
Police and Fire Marshal	2,457.5	2,422.5	-35.0	2,420.5	2,420.5	0.0
Subtotal	14,099.0	13,795.1	-303.9	13,816.1	13,816.1	0.0
Transportation	8,994.0	9,134.5	140.5	9,134.5	9,079.5	-55.0
Other Executive						
Legal (Excluding Judiciary)	1,582.1	1,535.6	-46.5	1,520.6	1,520.6	0.0
Executive and Admin. Control	1,660.6	1,639.2	-21.4	1,640.9	1,639.9	-1.0
Financial and Revenue Admin.	2,024.5	1,991.5	-33.0	1,994.0	1,994.0	0.0
Budget and Management	434.8	440.8	6.0	451.3	451.3	0.0
Retirement	203.0	204.0	1.0	204.0	204.0	0.0
General Services	638.0	592.0	-46.0	598.0	598.0	0.0
Natural Resources	1,343.5	1,345.5	2.0	1,340.5	1,340.5	0.0
Agriculture	436.5	418.5	-18.0	422.5	422.5	0.0
Labor, Licensing, and Regulation	1,492.7	1,443.2	-49.5	1,693.2	1,693.2	0.0
MSDE and Other Education	2,182.2	2,136.2	-46.0	1,940.7	1,940.7	0.0
Housing and Community Development	311.0	311.0	0.0	311.0	311.0	0.0
Business and Economic Development	276.0	258.0	-18.0	258.0	256.0	-2.0
Environment	957.0	950.0	-7.0	949.0	949.0	0.0
Subtotal	13,541.9	13,265.5	-276.4	13,323.7	13,320.7	-3.0
Executive Branch Subtotal	53,311.8	52,263.1	-1,048.7	51,998.4	51,940.4	-58.0
Higher Education	23,612.8	23,791.8	179.0	23,927.6	23,927.6	0.0
Judiciary	3,498.3	3,569.3	71.0	3,624.8	3,581.3	-43.5
Legislature	747.0	747.0	0.0	747.0	747.0	0.0
Grand Total	81,169.8	80,371.1	-798.7	80,297.7	80,196.2	-101.5

MSDE: Maryland State Department of Education

Source: Department of Budget and Management, Department of Legislative Services

By the Numbers

A number of exhibits summarize the legislative budget action. These exhibits are described below.

Exhibit A-1.15 shows the impact of the legislative budget on the general fund balance for fiscal 2009 and 2010. The fiscal 2009 balance is estimated to be \$441.3 million. At the end of fiscal 2010, the closing balance is estimated to be \$96.2 million.

Exhibit A-1.15
Final Budget Status
Status as of April 13, 2009

	<u>FY 2009</u>	<u>FY 2010</u>
Starting General Fund Balance	\$487,111,012	\$441,298,701
Revenues		
BRE Estimated Revenues – December 2008	\$13,665,969,759	\$13,738,264,311
BRE Revenue Revision – March 2009	-445,516,000	-716,484,000
Supplemental Budget No. 1	5,000,000	8,000,000
Supplemental Budget No. 2	6,000,000	2,000,000
Transfer of Special Fund Balances (Ch. 147 of 2008)	25,000,000	0
Budget Reconciliation Legislation – Revenues	0	-1,378,944
Budget Reconciliation Legislation – Transfers	785,403,172	216,289,248
Other Legislation	0	14,200,000
Additional Revenues	56,382,018	-18,684,426
Subtotal Revenues	\$14,098,238,949	\$13,242,206,189
Net Transfer to the GF from the Rainy Day Fund	23,456,658	34,252,421
Subtotal Available Revenues	\$14,608,806,619	\$13,717,757,311
Appropriations		
General Fund Appropriations Net of Rainy Day Fund	\$14,933,014,942	\$14,707,721,171
Deficiencies	92,831,069	0
Supplemental Budget No. 1	-384,111,692	-478,066,180
Supplemental Budget No. 2	19,252,056	-4,877,602
Board of Public Works Withdrawn Appropriations	-414,452,460	0
Legislative Reductions/Contingent Legislation	-2,598,760	-572,831,945
Estimated Agency Reversions	-76,427,237	-30,400,000
Subtotal Appropriations	\$14,167,507,918	\$13,621,545,444
Closing General Fund Balance	\$441,298,701	\$96,211,867

BRE: Board of Revenue Estimates

GF: general fund

Exhibit A-1.16, the fiscal note on the budget bill, depicts the Governor's allowance, funding changes made through Supplemental Budgets No. 1 and 2, legislative reductions, and final appropriations for fiscal 2009 and 2010 by fund source. The Governor's original request provided for \$32.0 billion (net of projected general fund reversions) in fiscal 2010 expenditures and \$286.2 million in fiscal 2009 deficiencies.

Exhibit A-1.16
Fiscal Note
Summary of the Budget Bill – House Bill 100

	<u>General Funds</u>	<u>Special Funds</u>	<u>Federal Funds</u>	<u>Education Funds</u>	<u>Total Funds</u>
Governors Request					
Fiscal 2009 Deficiency Budget ⁽¹⁾	\$14,673,410,635	\$5,852,313,348	\$7,097,216,279	\$3,302,036,527	\$30,924,976,789
Fiscal 2010 Budget	14,853,468,750 ⁽²⁾	6,096,140,884 ⁽³⁾	7,662,764,966	3,407,891,319	32,020,265,919
Original Budget Request	\$29,526,879,385	\$11,948,454,232	\$14,759,981,245	\$6,709,927,846	\$62,945,242,708
Supplemental Budget No. 1					
Fiscal 2009 Deficiency Budget	-\$374,819,631 ⁽⁴⁾	\$5,400,000	\$505,386,850	\$0	\$135,967,219
Fiscal 2010 Budget	-478,466,180 ⁽⁴⁾	-55,100,000	943,172,667	0	409,606,487
Subtotal	-\$853,285,811	-\$49,700,000	\$1,448,559,517	\$0	\$545,573,706
Supplemental Budget No. 2					
Fiscal 2009 Deficiency Budget	\$18,059,016 ⁽⁴⁾	\$36,749,065	\$95,920,140	\$11,928,370	\$162,656,591
Fiscal 2010 Budget	-4,877,602	2,409,631	727,154,173	0	724,686,202
Subtotal	\$13,181,414	\$39,158,696	\$823,074,313	\$11,928,370	\$887,342,793
Budget Reconciliation and Financing Act of 2009					
Fiscal 2009 Withdrawn Appropriations	-\$1,598,760	-\$13,500,000	\$0	\$0	-\$15,098,760
Fiscal 2010 Contingent Reductions	-329,864,637	-254,838,745	-7,171,633	-599,021	-592,474,036
Subtotal	-\$331,463,397	-\$268,338,745	-\$7,171,633	-\$599,021	-\$607,572,796
Conference Committee Reductions					
Fiscal 2009 Deficiency Budget	-\$1,000,000	\$0	\$0	\$0	-\$1,000,000
Fiscal 2010 Budget	-242,967,308	-57,762,034	-3,368,829	-382,834	-304,481,005
Total Reductions	-\$243,967,308	-\$57,762,034	-\$3,368,829	-\$382,834	-\$305,481,005
Appropriations					
Fiscal 2009 Deficiency Budget	\$14,314,051,260	\$5,880,962,413	\$7,698,523,269	\$3,313,964,897	\$31,207,501,839
Fiscal 2010 Budget	13,797,293,023	5,730,849,736	9,322,551,344	3,406,909,464	32,257,603,567
Change	-\$516,758,237	-\$150,112,677	\$1,624,028,075	\$92,944,567	\$1,050,101,728

⁽¹⁾ Reflects \$284.2 million in total deficiencies, minus \$81.6 million in total appropriations withdrawn by the Board of Public Works on March 4, 2009, minus \$84.5 million in estimated agency general fund reversions.

⁽²⁾ Reflects estimated general fund reversion of \$30.0 million, minus \$85.6 million in across-the-board general fund reductions reflected in the budget as introduced.

⁽³⁾ Reflects a special reduction of \$1.0 million in the Prince George's County share of highway user revenues in the budget as introduced toward repayment of prior year FedEx Field infrastructure improvements.

⁽⁴⁾ Net of additional reversions estimated in each of Supplemental Budgets No. 1 and No. 2.

The Governor added a net \$1.4 billion in fiscal 2009 and 2010 spending via two supplemental budgets. Nearly \$2.3 billion in federal funds were added, much of which reflects spending of federal stimulus funds received under the ARRA of 2009.

The legislature made \$16.1 million in reductions to current year appropriations, resulting in a net appropriation of \$31.2 billion for fiscal 2009. Reductions of \$897.0 million were adopted to the fiscal 2010 budget, which resulted in a final appropriation of \$32.3 billion.

Exhibit A-1.17 illustrates budget changes by major expenditure category by fund. Total spending grows by \$1.1 billion, or 3.4%. Debt service grows by 6.5%; aid to local governments and entitlement spending each grow by 3.7%; and State agency spending (net of reversions and contingent reductions) rises 2.0%. PAYGO capital expenditures increase by 13.5% driven largely by additional federal stimulus funding.

As noted, approximately \$192.0 million in special fund appropriations will be added to the fiscal 2010 budget due to general fund reductions that were adopted where special fund balances were available. If those funds are included, special fund appropriations would increase by \$41.8 million or 0.7% and total spending would increase by \$1.2 billion or 4.0%.

Exhibit A-1.17
State Expenditures – General Funds
(\$ in Millions)

<u>Category</u>	<u>Actual</u>	<u>Adjusted</u>	<u>Legislative</u>	<u>FY 2009-2010</u>	
	<u>FY 2008</u>	<u>Work. Appr.</u> <u>FY 2009</u>	<u>Appropriation</u> <u>FY 2010</u>	<u>\$ Change</u>	<u>% Change</u>
Debt Service	\$29.3	\$0.0	\$0.0	\$0.0	n/a
Aid to Local Governments					
County/Municipal	241.7	214.7	211.1	-3.6	-1.7%
Community Colleges	241.7	254.7	252.8	-1.9	-0.7%
Education/Libraries	5,223.0	5,436.8	5,230.0	-206.8	-3.8%
Health	67.0	57.4	57.4	0.0	0.0%
Subtotal	\$5,773.4	\$5,963.5	\$5,751.3	-\$212.3	-3.6%
Entitlements					
Foster Care Payments	246.3	243.0	244.1	1.1	0.5%
Assistance Payments	33.7	38.2	35.5	-2.7	-7.1%
Medical Assistance	2,214.5	1,904.3	1,676.3	-228.0	-12.0%
Property Tax Credits	56.3	57.3	61.0	3.8	6.6%
Subtotal	\$2,550.9	\$2,242.7	\$2,016.9	-\$225.8	-10.1%
State Agencies					
Health	1,369.5	1,401.3	1,435.4	34.0	2.4%
Human Resources	295.7	308.5	288.7	-19.8	-6.4%
Systems Reform Initiative	38.7	30.7	29.1	-1.6	-5.3%
Juvenile Services	266.7	267.0	263.8	-3.2	-1.2%
Public Safety/Police	1,215.6	1,256.7	1,230.0	-26.6	-2.1%
Higher Education	1,129.5	1,131.9	1,168.7	36.8	3.3%
Other Education	386.6	398.5	381.0	-17.5	-4.4%
Agric./Nat'l. Res./Environment	146.6	122.8	120.5	-2.3	-1.9%
Other Executive Agencies	566.3	549.9	567.9	18.0	3.3%
Legislative	70.8	76.4	76.7	0.3	0.4%
Judiciary	343.8	369.1	374.8	5.7	1.5%
Across-the-board Reductions	0.0	0.0	-25.5	-25.5	n/a
Subtotal	\$5,929.9	\$5,912.8	\$5,911.0	-\$1.8	0.0%
Subtotal	\$14,283.5	\$14,119.1	\$13,679.2	-\$439.9	-3.1%
Capital/Heritage Reserve Fund	41.9	23.0	8.2	-14.9	-64.5%
Transfer to MDTA	0.0	65.0	0.0	-65.0	-100.0%
Reserve Funds ⁽¹⁾	162.8	146.5	139.9	-6.6	-4.5%
Appropriations	\$14,488.2	\$14,353.6	\$13,827.3	-\$526.3	-3.7%
Reversions	0.0	-39.6	-30.0	9.6	-24.2%
Grand Total	\$14,488.2	\$14,314.1	\$13,797.3	-\$516.8	-3.6%

MDTA: Maryland Transportation Authority

Note: The fiscal 2009 working appropriation includes the March 4, 2009 Board of Public Works actions, targeted reversions, deficiencies, and legislative cuts to the deficiencies.

⁽¹⁾ Excludes \$65 million in fiscal 2009 appropriated to the Dedicated Purpose Account that is to be transferred to MDTA. These monies are included in the transfer to the MDTA line.

Exhibit A-1.17 (Continued)
State Expenditures – Special and Higher Education Funds*
(\$ in Millions)

<u>Category</u>	<u>Actual</u> <u>FY 2008</u>	<u>Work. Appr.</u> <u>FY 2009</u>	<u>Legislative</u> <u>Appropriation</u> <u>FY 2010</u>	<u>FY 2009 to FY 2010</u>	
				<u>\$ Change</u>	<u>% Change</u>
Debt Service	\$782.2	\$887.4	\$944.7	\$57.2	6.5%
Aid to Local Governments					
County/Municipal	664.8	536.1	355.3	-180.8	-33.7%
Community Colleges	0.0	0.0	0.0	0.0	n/a
Education/Libraries	0.2	1.4	41.2	39.8	2856.5%
Health	0.0	0.0	0.0	0.0	n/a
Subtotal	\$665.0	\$537.5	\$396.5	-\$141.0	-26.2%
Entitlements					
Foster Care Payments	0.1	0.1	0.1	0.0	0.0%
Assistance Payments	13.4	13.4	13.4	0.0	0.0%
Medical Assistance	231.4	395.8	425.8	30.0	7.6%
Property Tax Credits	0.5	0.0	0.0	0.0	n/a
Subtotal	\$245.4	\$409.3	\$439.3	\$30.0	7.3%
State Agencies					
Health	232.8	266.8	279.1	12.2	4.6%
Human Resources	86.1	58.5	74.5	16.0	27.4%
Systems Reform Initiative	0.6	0.7	0.0	-0.7	-100.0%
Juvenile Services	0.4	0.2	0.2	0.0	0.0%
Public Safety/Police	203.1	213.7	221.2	7.5	3.5%
Higher Education	3,098.4	3,387.4	3,414.5	27.1	0.8%
Other Education	37.6	42.8	45.0	2.1	5.0%
Transportation	1,399.2	1,460.1	1,472.3	12.2	0.8%
Agric./Nat'l. Res./Environment	119.1	179.6	194.0	14.4	8.0%
Other Executive Agencies	438.3	541.5	540.1	-1.4	-0.3%
Legislative	0.2	0.3	0.1	-0.2	-66.7%
Judiciary	39.1	53.8	53.0	-0.8	-1.5%
Across-the-board Reductions	0.0	0.0	-0.6	-0.6	n/a
Subtotal	\$5,655.0	\$6,205.4	\$6,293.3	\$87.9	1.4%
Subtotal	\$7,347.5	\$8,039.6	\$8,073.8	\$34.2	0.4%
Capital	1,172.4	1,155.3	1,063.9	-91.4	-7.9%
Grand Total	\$8,519.8	\$9,194.9	\$9,137.8	-\$57.2	-0.6%

⁽¹⁾ Includes higher education fund (current unrestricted and current restricted) net of general and special funds.

Note: The fiscal 2009 working appropriations reflects the March 4, 2009 Board of Public Works actions and \$131.8 million in deficiencies.

Exhibit A-1.17 (Continued)
State Expenditures – Federal Funds
(\$ in Millions)

<u>Category</u>	<u>Actual</u> <u>FY 2008</u>	<u>Work. Appr.</u> <u>FY 2009</u>	<u>Legislative</u> <u>Appropriation</u> <u>FY 2010</u>	<u>FY 2009 to FY 2010</u>	
				<u>\$ Change</u>	<u>% Change</u>
Debt Service	\$0.0	\$0.0	\$0.0	\$0.0	n/a
Aid to Local Governments					
County/Municipal	42.0	45.5	82.0	36.5	80.2%
Community Colleges	0.0	0.0	14.5	14.5	n/a
Education/Libraries	707.7	699.4	1,271.5	572.1	81.8%
Health	4.5	4.5	4.5	0.0	0.0%
Subtotal	\$754.2	\$749.4	\$1,372.5	\$623.1	83.2%
Entitlements					
Foster Care Payments	106.2	133.6	126.0	-7.5	-5.6%
Assistance Payments	511.3	515.7	615.5	99.7	19.3%
Medical Assistance	2,418.6	3,183.3	3,525.4	342.1	10.7%
Property Tax Credits	0.0	0.0	0.0	0.0	n/a
Subtotal	\$3,036.1	\$3,832.6	\$4,266.9	\$434.3	11.3%
State Agencies					
Health	808.5	883.2	902.8	19.7	2.2%
Human Resources	475.6	528.8	516.4	-12.4	-2.3%
Systems Reform Initiative	14.9	7.3	7.3	0.0	0.0%
Juvenile Services	9.4	11.7	15.1	3.4	28.8%
Public Safety/Police	17.1	29.1	73.6	44.5	152.9%
Higher Education	0.0	0.0	17.6	17.6	n/a
Other Education	203.8	244.3	237.3	-7.0	-2.9%
Transportation	79.2	80.1	80.6	0.4	0.5%
Agric./Nat'l. Res./Environment	54.7	66.1	70.9	4.8	7.2%
Other Executive Agencies	414.0	473.0	597.4	124.4	26.3%
Judiciary	3.3	4.4	4.2	-0.2	-3.7%
Across-the-board Reductions	0.0	0.0	-0.2	-0.2	n/a
Subtotal	\$2,080.4	\$2,328.0	\$2,523.1	\$195.1	8.4%
Subtotal	\$5,870.8	\$6,910.0	\$8,162.4	\$1,252.5	18.1%
Capital	690.6	788.6	1,160.1	371.6	47.1%
Grand Total	\$6,561.3	\$7,698.5	\$9,322.6	\$1,624.0	21.1%

Note: The fiscal 2009 working appropriations reflects the March 4, 2009 Board of Public Works actions and \$717.0 million in deficiencies.

Exhibit A-1.17 (Continued)
State Expenditures – State Funds
(\$ in Millions)

<u>Category</u>	<u>Actual</u> <u>FY 2008</u>	<u>Adjusted</u> <u>Work. Appr.</u> <u>FY 2009</u>	<u>Legislative</u> <u>Appropriation</u> <u>FY 2010</u>	<u>FY 2009 to FY 2010</u>	
				<u>\$ Change</u>	<u>% Change</u>
Debt Service	\$811.5	\$887.4	\$944.7	\$57.2	6.5%
Aid to Local Governments					
County/Municipal	906.5	750.8	566.4	-184.4	-24.6%
Community Colleges	241.7	254.7	252.8	-1.9	-0.7%
Education/Libraries	5,223.2	5,438.2	5,271.3	-166.9	-3.1%
Health	67.0	57.4	57.4	0.0	0.0%
Subtotal	\$6,438.3	\$6,501.1	\$6,147.8	-\$353.3	-5.4%
Entitlements					
Foster Care Payments	246.4	243.1	244.2	1.1	0.5%
Assistance Payments	47.1	51.6	48.9	-2.7	-5.2%
Medical Assistance	2,445.9	2,300.1	2,102.1	-198.0	-8.6%
Property Tax Credits	56.8	57.3	61.0	3.8	6.6%
Subtotal	\$2,796.3	\$2,652.0	\$2,456.2	-\$195.8	-7.4%
State Agencies					
Health	1,602.3	1,668.1	1,714.4	46.3	2.8%
Human Resources	381.8	366.9	363.2	-3.8	-1.0%
Systems Reform Initiative	39.3	31.4	29.1	-2.3	-7.4%
Juvenile Services	267.2	267.2	264.0	-3.2	-1.2%
Public Safety/Police	1,418.7	1,470.4	1,451.3	-19.1	-1.3%
Higher Education	4,227.8	4,519.3	4,583.1	63.9	1.4%
Other Education	424.3	441.4	426.0	-15.4	-3.5%
Transportation	1,399.2	1,460.1	1,472.3	12.2	0.8%
Agric./Nat'l. Res./Environment	265.7	302.4	314.4	12.1	4.0%
Other Executive Agencies	1,004.6	1,091.4	1,108.0	16.6	1.5%
Legislative	71.1	76.7	76.8	0.1	0.1%
Judiciary	382.9	422.9	427.8	4.9	1.2%
Across-the-board Reductions	0.0	0.0	-26.0	-26.0	n/a
Subtotal	\$11,584.9	\$12,118.2	\$12,204.3	\$86.2	0.7%
Subtotal	\$21,631.0	\$22,158.7	\$21,753.0	-\$405.7	-1.8%
Capital/Heritage Reserve Fund	1,214.3	1,178.3	1,072.1	-106.2	-9.0%
Transfer to MDTA	0.0	65.0	0.0	-65.0	-100.0%
Reserve Funds ⁽¹⁾	162.8	146.5	139.9	-6.6	-4.5%
Appropriations	\$23,008.1	\$23,548.5	\$22,965.1	-\$583.5	-2.5%
Reversions	0.0	-39.6	-30.0	9.6	-24.2%
Grand Total	\$23,008.1	\$23,509.0	\$22,935.1	-\$573.9	-2.4%

MDTA: Maryland Transportation Authority

Note: The fiscal 2009 working appropriation includes the March 4, 2009 Board of Public Works actions, targeted reversions, deficiencies, and legislative cuts to the deficiencies.

⁽¹⁾ Excludes \$65 million in fiscal 2009 appropriated to the Dedicated Purpose Account that is to be transferred to MdTA. These monies are included in the transfer to MDTA.

Exhibit A-1.17 (Continued)
State Expenditures – All Funds
(\$ in Millions)

Category	Actual	Adjusted	Legislative	FY 2009-2010	
	FY 2008	Work. Appr. FY 2009	Appropriation FY 2010	\$ Change	% Change
Debt Service	\$811.5	\$887.4	\$944.7	\$57.2	6.5%
Aid to Local Governments					
County/Municipal	948.5	796.3	648.4	-147.9	-18.6%
Community Colleges	241.7	254.7	267.3	12.6	4.9%
Education/Libraries	5,930.9	6,137.6	6,542.8	405.2	6.6%
Health	71.5	61.9	61.9	0.0	0.0%
Subtotal	\$7,192.5	\$7,250.5	\$7,520.3	269.8	3.7%
Entitlements					
Foster Care Payments	352.6	376.6	370.2	-6.4	-1.7%
Assistance Payments	558.4	567.3	664.4	97.0	17.1%
Medical Assistance	4,864.5	5,483.4	5,627.5	144.1	2.6%
Property Tax Credits	56.8	57.3	61.0	3.8	6.6%
Subtotal	\$5,832.4	\$6,484.6	\$6,723.1	238.5	3.7%
State Agencies					
Health	2,410.8	2,551.3	2,617.2	65.9	2.6%
Human Resources	857.4	895.7	879.6	-16.2	-1.8%
Systems Reform Initiative	54.2	38.7	36.4	-2.3	-6.0%
Juvenile Services	276.6	278.9	279.1	0.2	0.1%
Public Safety/Police	1,435.7	1,499.5	1,524.9	25.4	1.7%
Higher Education	4,227.8	4,519.3	4,600.8	81.5	1.8%
Other Education	628.0	685.7	663.3	-22.4	-3.3%
Transportation	1,478.5	1,540.2	1,552.9	12.6	0.8%
Agric./Nat'l. Res./Environment	320.4	368.5	385.4	16.8	4.6%
Other Executive Agencies	1,418.6	1,564.4	1,705.4	141.0	9.0%
Legislative	71.1	76.7	76.8	0.1	0.1%
Judiciary	386.2	427.3	432.0	4.7	1.1%
Across-the-board Reductions	0.0	0.0	-26.2	-26.2	n/a
Subtotal	\$13,665.3	\$14,446.2	\$14,727.4	\$281.2	1.9%
Subtotal	\$27,501.7	\$29,068.7	\$29,915.5	\$846.8	2.9%
Capital/Heritage Reserve Fund	1,904.9	1,966.9	2,232.2	265.3	13.5%
Transfer to MDTA	0.0	65.0	0.0	-65.0	-100.0%
Reserve Funds ⁽¹⁾	162.8	146.5	139.9	-6.6	-4.5%
Appropriations	\$29,569.4	\$31,247.1	\$32,287.6	\$1,040.5	3.3%
Reversions	0.0	-39.6	-30.0	9.6	-24.2%
Grand Total	\$29,569.4	\$31,207.5	\$32,257.6	\$1,050.1	3.4%

MDTA: Maryland Transportation Authority

Note: The fiscal 2009 working appropriation includes the March 4, 2009 Board of Public Works actions, targeted reversions, and \$575.6 million in deficiencies.

⁽¹⁾ Excludes \$65 million in fiscal 2009 appropriated to the Dedicated Purpose Account that is to be transferred to tMDTA. These monies are included in the transfer to the MDTA line.

Capital Budget

The 2009 General Assembly passed a capital budget program totaling \$3.505 billion, including \$1.720 billion for the transportation program. Apart from transportation, the program totals \$1.785 billion: \$1.110 billion is funded with general obligation (GO) bonds authorized in the Maryland Consolidated Capital Bond Loan of 2009 (MCCBL), the 2009 capital budget bill *House Bill 102 (passed)*; \$498.0 million is funded on a pay-as-you-go (PAYGO) basis in the operating budget; \$80.0 million is funded with revenue bonds to be issued by the Maryland Department of the Environment (MDE) to support State and local efforts to upgrade wastewater treatment plants; up to an additional \$70.0 million of revenue bonds can be issued to support Department of Natural Resources (DNR) Program Open Space (POS) as authorized by *House Bill 783 (passed)*; and \$27.0 million is funded with academic revenue bonds for University System of Maryland facilities authorized in *House Bill 598 (passed)*.

Exhibit A-2.1 presents an overview of the State’s capital program for fiscal 2010, **Exhibit A-2.2** lists capital projects and programs by function and fund source, and **Exhibit A-2.3** provides the individual legislative initiative projects funded in the 2009 MCCBL. The 2009 MCCBL includes funding for:

- State facilities, including colleges and universities, hospitals, District Court facilities, Department of Disabilities accessibility modifications, and correctional facilities;
- grants to local governments for school construction, community college facilities, and local detention centers;
- health and social services facilities, such as senior citizen centers, juvenile services facilities, community health and addiction facilities, and low-income housing;
- environmental programs, such as the Chesapeake Bay Water Quality programs, underground heating and oil storage tank replacement, Community Parks and Playgrounds, Agricultural Cost-Share and Tobacco Transition programs, and Drinking and Stormwater programs; and
- local projects and legislative initiatives.

Exhibit A-2.1
Summary of the Capital Program
(\$ in Millions)

Function	Bonds		Current Funds (PAYGO)			Total
	General Obligation	Revenue	General	Special	Federal	
State Facilities						\$75.2
Facilities Renewal	\$22.4	\$0.0	\$0.0	\$0.0	\$0.0	
Other	34.4	0.0	0.0	0.1	18.3	
Health/Social						35.5
State Facilities	19.8	0.0	0.0	0.0	0.0	
Private Hospitals	5.0	0.0	0.0	0.0	0.0	
Other	10.7	0.0	0.0	0.0	0.0	
Environment						667.2
Energy	0.0	0.0	0.0	10.0	0.0	
Natural Resources	101.9	70.0	0.0	23.9	13.4	
Agriculture	25.0	0.0	0.0	15.9	2.0	
Environment	30.5	80.0	0.0	141.6	145.8	
Maryland Environmental Service	7.2	0.0	0.0	0.0	0.0	
Public Safety						156.1
State Corrections	63.9	0.0	0.0	0.0	10.0	
State Police	64.2	0.0	0.0	0.0	0.5	
Local Jails	17.5	0.0	0.0	0.0	0.0	
Education						284.9
School Construction	266.4	0.0	0.0	0.0	0.0	
Other	18.5	0.0	0.0	0.0	0.0	
Higher Education						333.2
University System	134.7	27.0	0.0	0.0	0.0	
Morgan State University	44.8	0.0	0.0	0.0	0.0	
St. Mary's College	1.7	0.0	0.0	0.0	0.0	
Community Colleges	87.5	0.0	0.0	0.0	0.0	
Private Colleges/Universities	9.0	0.0	0.0	0.0	0.0	
Medical System	28.5	0.0	0.0	0.0	0.0	
Housing/Community Development						106.2
Housing	19.2	0.0	0.0	23.6	52.1	
Other	1.0	0.0	7.0	3.3	0.0	

Function	Bonds		Current Funds (PAYGO)			Total
	General Obligation	Revenue	General	Special	Federal	
Local Projects/Miscellaneous						127.0
Administration	57.0	0.0	0.0	0.0	0.0	
Legislative	15.0	0.0	0.0	0.0	0.0	
Highways – InterCounty Connector	55.0	0.0	0.0	0.0	0.0	
Deauthorizations						-30.8
Deauthorization	-30.8	0.0	0.0	0.0	0.0	
Total Fiscal 2010	\$1,110.0	\$177.0	\$7.0	\$218.4	\$242.1	\$1,754.5
Fiscal 2009 Deficiencies	\$0.0	\$0.0	\$0.0	\$0.0	\$30.5	\$30.5
Transportation	\$0.0	\$325.0	\$0.0	\$394.3	\$1,000.8	\$1,720.1
Grand Total Fiscal 2010	\$1,110.0	\$502.0	\$7.0	\$612.7	\$1,273.4	\$3,505.1

Exhibit A-2.2
Capital Program – 2009 Session

Budget Code	Project Title	Bonds		Current Funds (PAYGO)			Total Funds
		General Obligation	Revenue	General	Special	Federal	
State Facilities							
DA02.01A	DOD: Accessibility Modifications	\$1,600,000	\$0	\$0	\$0	\$0	\$1,600,000
DE02.01A	BPW: Lowe House Building Alterations	4,000,000	0	0	0	0	4,000,000 ¹
DE02.01B	BPW: State House Old House Chamber	3,136,000	0	0	0	0	3,136,000
DE02.01C	BPW: DGS Facility Renewal Fund	10,403,000	0	0	0	0	10,403,000
DE02.01D	BPW: DGS Asbestos Abatement Program	2,000,000	0	0	0	0	2,000,000
DE02.01E	BPW: DGS Underground Storage Tank	1,368,000	0	0	0	0	1,368,000
DE02.01F	BPW: Catonsville District Court	350,000	0	0	0	0	350,000
DE02.01G	BPW: Rockville District Court	17,990,000	0	0	0	0	17,990,000 ²
D50H01.04	Military Department: Salisbury Armory	5,701,000	0	0	0	9,800,000	15,501,000
D50H01.04s2	Military Department: Edgewood Readiness Ctr.	0	0	0	0	4,100,000	4,100,000
D55P00.04A	Veterans Affairs: Eastern Shore Cemetery	0	0	35,000	0	431,000	466,000
D55P00.04B	Veterans Affairs: Rocky Gap Cemetery	0	0	25,000	0	245,000	270,000
D55P00.06s2	Veterans Home Program	0	0	0	0	3,700,000	3,700,000
DW01.08A	Planning: Jefferson Patterson – Renovations	1,876,000	0	0	0	0	1,876,000
FB04A	DoIT: High Speed Data Network	950,000	0	0	0	0	950,000
FB04B	DoIT: Public Safety Communications System	7,500,000	0	0	0	0	7,500,000
	Subtotal	\$56,874,000	\$0	\$60,000	\$0	\$18,276,000	\$75,210,000
Health/Social							
DA07A	Aging: Senior Centers Grant Program	\$1,683,000	\$0	\$0	\$0	\$0	\$1,683,000
MA01A	DHMH: Community Health Facilities	8,414,000	0	0	0	0	8,414,000

Budget Code	Project Title	Bonds		Current Funds (PAYGO)			Total Funds
		General Obligation	Revenue	General	Special	Federal	
MF03A	DHMH: Deer’s Head Center – Kidney Dialysis	608,000	0	0	0	0	608,000
MF05A	DHMH: New Forensic Medical Center	2,846,000	0	0	0	0	2,846,000
MJ02A	DHMH: New Public Health Laboratory	6,450,000	0	0	0	0	6,450,000
ML01A	DHMH: Patient Safety Improvements	4,000,000	0	0	0	0	4,000,000
VD01B	DJS: Baltimore City Juvenile Treatment Ctr.	4,000,000	0	0	0	0	4,000,000
VE01A	DJS: Cheltenham – New Detention Center	2,547,000	0	0	0	0	2,547,000
ZA03A	MHA: Kennedy Krieger – Pediatric Inpatient	600,000	0	0	0	0	600,000
ZA03B	MHA: Sinai Hospital – Post Anesthesia	260,000	0	0	0	0	260,000
ZA03C	MHA: Calvert Memorial – Emergency Dept.	800,000	0	0	0	0	800,000
ZA03D	MHA: Civista Medical – Dialysis Center	90,000	0	0	0	0	90,000
ZA03E	MHA: Upper Chesapeake – Residential Hospice	600,000	0	0	0	0	600,000
ZA03F	MHA: Howard County General – Progressive Care	250,000	0	0	0	0	250,000
ZA03G	MHA: Chester River Hospital – Pharmacy	330,000	0	0	0	0	330,000
ZA03H	MHA: St. Mary’s Hospital – Medical Surgical Unit	1,800,000	0	0	0	0	1,800,000
ZA03I	MHA: Atlantic General – Pharmacy	270,000	0	0	0	0	270,000
	Subtotal	\$35,548,000	\$0	\$0	\$0	\$0	\$35,548,000
	Environment						
D13A13.02	MEA: Jane E. Lawton Conservation Program	\$0	\$0	\$0	\$6,750,000	\$0	\$6,750,000
D13A13.03	MEA: State Agency Loan Program	0	0	0	3,250,000	0	3,250,000
K00A05.10A	DNR: Rural Legacy Program	11,812,252	0	0	0	0	11,812,252
K00A05.10B	DNR: Program Open Space	71,300,000	70,000,000	0	18,856,906	2,000,000	162,156,906
K00A05.10C	DNR: Natural Resources Development	8,978,984	0	0	0	8,984,000	17,962,984
K00A05.10D	DNR: Critical Maintenance Projects	1,250,000	0	0	0	0	1,250,000
K00A05.10E	DNR: Dam Rehabilitation Program	500,000	0	0	0	1,400,000	1,900,000

Budget Code	Project Title	Bonds		Current Funds (PAYGO)			Total Funds
		General Obligation	Revenue	General	Special	Federal	
K00A11.02	DNR: Waterway Improvement Fund	0	0	0	5,000,000	1,000,000	6,000,000
KA05A	DNR: Community Parks and Playgrounds	5,000,000	0	0	0	0	5,000,000
KA17A	DNR: Aquatic Life Restoration Program	3,000,000	0	0	0	0	3,000,000
L00A11.11	MDA: Agricultural Land Preservation	12,999,780	0	0	10,585,220	2,000,000	25,585,000
L00A12.13	MDA: Tobacco Transition Program	5,000,000	0	0	5,335,000	0	10,335,000
LA15A	MDA: Agricultural Cost-Share Program	7,000,000	0	0	0	0	7,000,000
U00A01.03	MDE: Water Quality Loan Program	3,292,000	0	0	86,208,000	16,500,000	106,000,000
U00A01.03S1	MDE: Water Quality Loan Program	0	0	0	0	96,000,000	96,000,000
U00A01.05	MDE: Drinking Water Loan Program	2,242,000	0	0	4,383,000	6,375,000	13,000,000
U00A01.05S1	MDE: Drinking Water Loan Program	0	0	0	0	27,000,000	27,000,000
U00A01.11A	MDE: Chesapeake Bay Restoration – ENR	0	80,000,000	0	50,000,000	0	130,000,000
U00A01.12	MDE: Chesapeake Bay Restoration – Septic	0	0	0	1,000,000	0	1,000,000
UA04A(1)S1	MDE: CBWQ Nutrient Removal – BNR	16,000,000	0	0	0	0	16,000,000
UA04A(2)S1	MDE: Supplemental Assistance Program	5,000,000	0	0	0	0	5,000,000
UA04A(3)	MDE: Small Creek and Estuary Restoration	969,000	0	0	0	0	969,000
UA04A(4)	MDE: CBWQ Stormwater Pollution	531,000	0	0	0	0	531,000
UA04B	MDE: Water Supply Assistance Program	2,500,000	0	0	0	0	2,500,000
UB00A1	MES: Water/Sewer Infrastructure – Charlotte Hall	210,000	0	0	0	0	210,000
UB00A2	MES: Water/Sewer Infrastructure – Cheltenham	337,000	0	0	0	0	337,000
UB00A3	MES: Water/Sewer Infrastructure – East Pre-release	440,000	0	0	0	0	440,000
UB00A4	MES: Water/Sewer Infrastructure – Elk Neck	1,151,000	0	0	0	0	1,151,000
UB00A5	MES: Water/Sewer Infrastructure – JCC	4,459,000	0	0	0	0	4,459,000
UB00A6	MES: Water/Sewer Infrastructure – MCI-H	438,000	0	0	0	0	438,000
UB00A3	MES: Water/Sewer Infrastructure – South Pre-release	198,000	0	0	0	0	198,000
Subtotal		\$164,608,016	\$150,000,000	\$0	\$191,368,126	\$161,259,000	\$667,235,142

Budget Code	Project Title	Bonds		Current Funds (PAYGO)			Total Funds
		General Obligation	Revenue	General	Special	Federal	
Public Safety							
Q00A01.05	DPSCS: Jessup Community Corrections Facility	\$13,224,000	\$0	\$0	\$0	\$10,000,000	\$23,224,000
QB08.01A	DPSCS: WCI – Vocational Education Building	11,166,000	0	0	0	0	11,166,000
QB08.01B	DPSCS: WCI – Rubble Landfill Closure Cap	1,815,000	0	0	0	0	1,815,000
QB08.02A	DPSCS: NBCI – MCE Upholstery Plant	6,845,000	0	0	0	0	6,845,000
QD00A	DPSCS: Patuxent Inst. Fire Safety Improvements	11,881,000	0	0	0	0	11,881,000
QG00A	DPSCS: Public Safety Training Ctr. Rifle Range	1,172,000	0	0	0	0	1,172,000
QP00A	DPSCS: Baltimore Correctional – Women’s Ctr.	5,959,000	0	0	0	0	5,959,000
QP00B	DPSCS: Baltimore Correctional – Youth Ctr.	11,800,000	0	0	0	0	11,800,000
W00A01.13s2	DSP: Data Center	0	0	0	0	496,857	496,857
WA00A	DSP: Headquarters Building K	1,665,000	0	0	0	0	1,665,000
WA00B	DSP: State Police Helicopter Replacement	52,500,000	0	0	0	0	52,500,000
WA01C	DSP: New Hagerstown Barrack and Garage	10,050,000	0	0	0	0	10,050,000 ²
ZB02A	Local Jails: Cecil County – Additions/Alterations	9,857,000	0	0	0	0	9,857,000
ZB02B	Local Jails: Prince George’s – 96-Bed Housing	7,635,000	0	0	0	0	7,635,000
ZB02C	Local Jails: St. Mary’s – Minimum Security	0	0	0	0	0	0 ⁵
Subtotal		\$145,569,000	\$0	\$0	\$0	\$10,496,857	\$156,065,857
Education							
D25E03.02	Aging Schools Program	\$6,108,986	\$0	\$0	\$0	\$0	\$6,108,988 ³
DE02.02A	Public School Construction	260,000,000	0	0	0	0	260,000,000 ³
DE02.02B	Relocatable Classrooms	250,000	0	0	0	0	250,000
RA01A	MSDE: County Library Capital Grants	5,000,000	0	0	0	0	5,000,000
RA01B	MSDE: Western Maryland Regional Library	5,000,000	0	0	0	0	5,000,000
RA01C	MSDE: State Library Resource Center	1,550,000	0	0	0	0	1,550,000

Budget Code	Project Title	Bonds		Current Funds (PAYGO)			Total Funds
		General Obligation	Revenue	General	Special	Federal	
RE01A	MD School for Deaf – Bus Loop and Parking	205,000	0	0	0	0	205,000
RE01B	MD School for Deaf – Cafeteria/Student Ctr.	5,284,000	0	0	0	0	5,284,000
RE01C	MD School for Deaf – Parking/Athletic Field	1,487,000	0	0	0	0	1,487,000
Subtotal		\$284,884,986	\$0	\$0	\$0	\$0	\$284,884,988
Higher Education							
RB21A	UMB: Pharmacy Hall Addition and Renovation	\$13,756,305	\$0	\$0	\$0	\$0	\$13,756,305
RB22A	UMCP: Physical Sciences Complex – Phase I	4,618,000	0	0	0	0	4,618,000
RB22B	UMCP: Maryland Fire & Rescue Institute	7,700,000	0	0	0	0	7,700,000
RB23A	BSU: Campuswide Site Improvements	3,237,000	0	0	0	0	3,237,000
RB23B	BSU: New Fine & Performing Arts Complex	25,028,000	9,000,000	0	0	0	34,028,000 ⁶
RB24A	TU: New College of Liberal Arts Complex	34,725,000	1,000,000	0	0	0	35,725,000 ⁷
RB27B	CSU: Science and Technology Center	9,745,000	0	0	0	0	9,745,000
RB27C	CSU: Data Centers Expansion	2,371,000	0	0	0	0	2,371,000
RB28A	UB: New Law School	5,416,000	0	0	0	0	5,416,000
RB29A	SU: New Perdue School of Business	28,000,000	0	0	0	0	28,000,000 ⁸
RB36rb	USM: Facility Renewal	0	17,000,000	0	0	0	17,000,000
RC00A	BCCC: Main Building Renovation – Liberty	3,214,000	0	0	0	0	3,214,000
RD00A	SMC: Anne Arundel Hall Reconstruction	1,685,000	0	0	0	0	1,685,000
RI00A	MHEC: Community College Const. Grant	84,332,000	0	0	0	0	84,332,000 ⁹
RM00A	MSU: Campuswide Utilities Upgrade	5,264,000	0	0	0	0	5,264,000
RM00B	MSU: Campuswide Site Improvements	6,321,000	0	0	0	0	6,321,000
RM00C	MSU: Montebello & Northwood Demolition	2,185,000	0	0	0	0	2,185,000
RM00D	MSU: Lillie Carroll Jackson Museum	2,763,000	0	0	0	0	2,763,000
RM00E	MSU: New Center for Built Environment	27,370,000	0	0	0	0	27,370,000 ¹⁰

Budget Code	Project Title	Bonds		Current Funds (PAYGO)			Total Funds
		General Obligation	Revenue	General	Special	Federal	
RM00F	MSU: New School of Business Complex	942,794	0	0	0	0	942,794
RQ00A	UMMS: R Adams Cowley Shock Trauma Ctr. I	13,500,000	0	0	0	0	13,500,000
RQ00B	UMMS: R Adams Cowley Shock Trauma Ctr. II	15,000,000	0	0	0	0	15,000,000
ZA01N	MICUA: Baltimore International College	3,000,000	0	0	0	0	3,000,000
ZA01O	MICUA: College of Notre Dame of MD	3,500,000	0	0	0	0	3,500,000
ZA01P	MICUA: Capitol College	2,500,000	0	0	0	0	2,500,000
	Subtotal	\$306,173,099	\$27,000,000	\$0	\$0	\$0	\$333,173,099
	Housing/Community Development						
DB01A	Historic St. Mary's: Interpretive Center	\$816,000	\$0	\$0	\$0	\$0	\$816,000
D40W01.10A	Planning: Maryland Historical Trust Loan	150,000	0	0	150,000	0	300,000
D40W01.12	Planning: Historic Tax Credit Fund	0	0	7,000,000	0	0	7,000,000
S00A24.02A	DHCD: Community Development Block Grants	0	0	0	0	11,000,000	11,000,000
S00A24.02B	DHCD: Neighborhood Business Development	0	0	0	3,100,000	0	3,100,000
S00A24.02S1	DHCD: Neighborhood Revitalization	0	0	0	0	2,152,108	2,152,108
S00A25.07	DHCD: Rental Housing Programs	2,900,000	0	0	12,600,000	4,750,000	20,250,000
S00A25.07S1	DHCD: Rental Housing Programs	0	0	0	0	31,702,000	31,702,000
S00A25.08	DHCD: Homeownership Programs	2,800,000	0	0	5,700,000	0	8,500,000
S00A25.09	DHCD: Special Loan Programs	1,850,000	0	0	5,300,000	2,500,000	9,650,000
SA24A	DHCD: Community Legacy Program	4,200,000	0	0	0	0	4,200,000
SA25A	DHCD: Partnership Rental Housing Program	6,000,000	0	0	0	0	6,000,000
SA25B	DHCD: Shelter and Transitional Housing Facility	1,500,000	0	0	0	0	1,500,000
	Subtotal	\$20,216,000	\$0	\$7,000,000	\$26,850,000	\$52,104,108	\$106,170,108

Budget Code	Project Title	Bonds		Current Funds (PAYGO)			Total Funds
		General Obligation	Revenue	General	Special	Federal	
Local Projects							
ZA00A	Misc: Charles E. Smith Life Communities	\$650,000	\$0	\$0	\$0	\$0	\$650,000
ZA00B	Misc: East Baltimore Biotechnology Park	5,000,000	0	0	0	0	5,000,000
ZA00C	Misc: Forbush School	2,500,000	0	0	0	0	2,500,000
ZA00D	Misc: GREEN HOUSE at Stadium Place	4,500,000	0	0	0	0	4,500,000
ZA00E	Misc: Housing and Resource Center	2,000,000	0	0	0	0	2,000,000
ZA00F	Misc: MDTA – InterCounty Connector	55,000,000	0	0	0	0	55,000,000
ZA00G	Misc: Jewish Council for the Aging	275,000	0	0	0	0	275,000
ZA00H	Misc: Jewish Foundation for Group Homes	75,000	0	0	0	0	75,000
ZA00I	Misc: Johns Hopkins Medicine/Critical Care	7,000,000	0	0	0	0	7,000,000
ZA00J	Misc: Johns Hopkins Medicine/Pediatric Center	10,000,000	0	0	0	0	10,000,000
ZA00K	Misc: Kennedy Krieger/Inpatient Clinical Bldg.	2,000,000	0	0	0	0	2,000,000
ZA00L	Misc: Lyric Opera House – State House	1,500,000	0	0	0	0	1,500,000
ZA00M	Misc: Maryland Hall for the Creative Arts	500,000	0	0	0	0	500,000
ZA00Q	Misc: National Children’s Museum	1,500,000	0	0	0	0	1,500,000
ZA00R	Misc: Park Heights Redevelopment	1,500,000	0	0	0	0	1,500,000
Z00S	Misc: Robert E. Lee Park	3,000,000	0	0	0	0	3,000,000
Z00T	Misc: Sinai Hospital – Pediatric Wing	2,500,000	0	0	0	0	2,500,000
ZA00U	Misc: St. Ann’s Infant and Maternity Home	750,000	0	0	0	0	750,000
ZA00V	Misc: WestSide Revitalization	2,000,000	0	0	0	0	2,000,000
ZA00W	Misc: Linthicum Veterans Memorial	185,000	0	0	0	0	185,000
ZA00X	Misc: Knights of St. John Woodville School	225,000	0	0	0	0	225,000
ZA00Y	Misc: East Campus Redevelopment	5,000,000	0	0	0	0	5,000,000
ZA00Z	Misc: Garrett College Athletic and Recreation Ctr.	3,000,000	0	0	0	0	3,000,000
ZA00AA	Misc: Maryland Science Center	300,000	0	0	0	0	300,000
ZA00AB	Misc: Anne Arundel Community College Turf Field	1,000,000	0	0	0	0	1,000,000
ZA01	Legislative Initiative Grants	15,000,000	0	0	0	0	15,000,000
Subtotal		\$126,960,000	\$0	\$0	\$0	\$0	\$126,960,000

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Budget Code	Project Title	Bonds		Current Funds (PAYGO)			Total Funds
		General Obligation	Revenue	General	Special	Federal	
Deauthorizations							
ZF00	Deauthorizations as Introduced	-\$11,164,000	\$0	\$0	\$0	\$0	-\$11,164,000
	Additional Deauthorizations	-19,669,101	0	0	0	0	-19,669,101
	Subtotal	\$1,110,000,000	\$177,000,000	\$7,060,000	\$218,218,126	\$242,135,965	\$1,754,414,093
Fiscal 2009 Deficiencies							
K00A05.10	DNR: Program Open Space	\$0	\$0	\$0	\$0	\$6,490,078	\$6,490,078
S00A24.02	DHCD: Neighborhood Revitalization	0	0	0	0	17,357,928	17,357,928
S00A24.07	DHCD: Rental Housing Programs	0	0	0	0	6,676,126	6,676,126
	Subtotal	\$0	\$0	\$0	\$0	\$30,524,132	\$30,524,132
	Non-transportation Total	\$1,110,000,000	\$177,000,000	\$7,060,000	\$218,218,126	\$272,660,097	\$1,784,938,225
	Transportation	\$0	\$325,000,000	\$0	\$394,340,835	\$1,000,827,000	\$1,720,167,835 ¹²
	Grand Total	\$1,110,000,000	\$502,000,000	\$7,060,000	\$612,558,961	\$1,273,487,097	\$3,505,106,060

Notes:

¹ This amount does not include \$3.5 million preauthorized in the 2009 Maryland Consolidated Bond Loan (MCCBL) for fiscal 2011. The \$4.0 million authorization in addition to the pre-authorization will allow the project to be bid for construction in fiscal 2010.

² The 2008 MCCBL included a \$23.8 million pre-authorization for the Rockville District Court – the 2009 MCCBL as introduced reduced this pre-authorization to \$18.0 million. The 2008 MCCBL also included a \$14.8 million pre-authorization for the New Hagerstown Barrack and Garage, but the 2009 MCCBL increased this pre-authorization to \$15.1 million. Amendments to the capital budget bill reduce the 2008 session preauthorization for the New Hagerstown Barrack and Garage project by \$5.0 million and provide a pre-authorization for the remaining amount for fiscal 2011 with language that allows the project to be bid for construction in fiscal 2010.

³ The 2009 MCCBL as introduced included language authorizing the use of bond premiums from the sale of State general obligation bonds in March 2009 and in fiscal 2010 available in the State and Local Facilities Loan Fund for the Aging Schools Program. The final capital budget bill struck this language and instead provides general obligation bond funds for this purpose. The \$260.0 million for Public School Construction (IAC) is also supplemented with \$5.2 million from the IAC Contingency Fund bringing the total to \$265.2 million.

⁴ The Budget Reconciliation and Financing Act of 2009 provides for the transfer of \$172.0 million of transfer tax revenue to the general fund – the 2009 MCCBL replaces \$102.0 million of the transferred funds with general obligation bond funds – House Bill 783 allows for the sale of revenue bonds backed by future transfer tax revenues which can be used to replace up to an additional \$70.0 million of diverted transfer tax revenues and would provide the full replacement of all transfer tax diversions.

⁵ This amount does not include \$5.5 million preauthorized in the 2009 MCCBL for fiscal 2011.

⁶ This amount does not include \$27.0 million preauthorized in the 2009 MCCBL for fiscal 2011. The \$34.0 million general obligation bond and Academic Revenue Bond authorizations in addition to the pre-authorization will allow the project to be bid for construction in fiscal 2010.

⁷ This amount does not include \$35.8 million preauthorized in the 2009 MCCBL for fiscal 2011. The \$35.7 million general obligation bond and Academic Revenue Bond authorizations in addition to the pre-authorization will allow the project to be bid for construction in fiscal 2010.

⁸ This amount does not include \$14.3 million preauthorized in the 2009 MCCBL for fiscal 2011. The \$28.0 million authorization in addition to the pre-authorization will allow the project to be bid for construction in fiscal 2010.

⁹ This amount does not include \$39.6 million preauthorized in the 2009 MCCBL for fiscal 2011. The \$84.3 million authorization in addition to the pre-authorization will allow Prince George's Community College's Center for Health Studies, Montgomery College's Germantown Bioscience Center, Hagerstown Community College's Arts and Sciences Complex, and Wor-Wic Community College's Allied Health Building projects to be bid for construction in fiscal 2010 and allow the Community Colleges Facilities Grant Program to fund all 22 projects on the Maryland Association of Community Colleges' priority list during fiscal 2010.

¹⁰ This amount does not include \$26.9 million preauthorized in the 2009 MCCBL for fiscal 2011. The \$27.4 million authorization in addition to the pre-authorization will allow the project to be bid for construction in fiscal 2010.

¹¹ This amount does not include \$2.5 million preauthorized in the 2009 MCCBL for fiscal 2011.

¹² This does not reflect a \$114.0 million reduction in the amount of bonds to be issued due to revised forecasts for the special fund capital program. The revised estimates made between the January and March 2009 forecast indicate that the debt coverage ratio would be exceeded; therefore, the amount of anticipated bonds to be issued is expected to be \$114.0 million less than what is currently reflected in the fiscal 2010 appropriation.

BCCC: Baltimore City Community College

BNR: Biological Nutrient Removal

BPW: Board of Public Works

BSU: Bowie State University

CBWQ: Chesapeake Bay Water Quality

CSU: Coppin State University

DGS: Department of General Services

DHCD: Department of Housing and Community Development

DHMH: Department of Health and Mental Hygiene

DJS: Department of Juvenile Services

DNR: Department of Natural Resources

DOD: Department of Disabilities

DoIT: Department of Information Technology

DPSCS: Department of Public Safety and Correctional Services

DSP: Department of State Police

ENR: Enhanced Nutrient Removal

HSMCC: Historic St. Mary's City Commission

JCC: Jessup Community Corrections

MCE: Maryland Correctional Enterprises

MCI-H: Maryland Correctional Institution – Hagerstown

MDA: Maryland Department of Agriculture

MDE: Maryland Department of the Environment

MDP: Maryland Department of Planning

MDTA: Maryland Transportation Authority

MEA: Maryland Energy Administration

MES: Maryland Environmental Service

MHA: Maryland Hospital Association

MHEC: Maryland Higher Education Commission

MICUA: Maryland Independent College and University Association

MSDE: Maryland State Department of Education

MSU: Morgan State University

NBCI: North Branch Correctional Institution

SMC: St. Mary's College

SU: Salisbury University

TU: Towson University

UB: University of Baltimore

UMB: University of Maryland, Baltimore

UMCP: University of Maryland, College Park

UMMS: University of Maryland Medical System

USM: University System of Maryland

WCI: Western Correctional Institution

**Exhibit A-2.3
Legislative Projects/Local Initiatives**

<u>Project Title</u>	<u>House Initiative</u>	<u>Senate Initiative</u>	<u>Other</u>	<u>Total Funding</u>	<u>Match/ Requirements</u>
Statewide					
Baltimore Museum of Industry – Life Safety System Upgrades	\$40,000	\$40,000		\$80,000	Soft (1, 2)
Capital Area Food Bank	125,000	175,000		300,000	Soft (1)
Easter Seals Inter-Generational Center	35,000	35,000		70,000	Hard
Maryland Food Bank Distribution Center Roof	125,000	125,000		250,000	Hard
Maryland Science Center Green Roof	100,000		\$300,000	400,000	Soft (all)
National Center for Children and Families Youth Activities Ctr.	100,000	150,000		250,000	Soft (3)
National Children’s Museum	1,750,000	1,750,000	1,500,000	5,000,000	Soft (3)
Port Discovery	100,000	225,000		325,000	Hard
Therapeutic Pool for People with Disabilities	125,000	225,000		350,000	Hard
Subtotal	\$2,500,000	\$2,725,000		\$7,025,000	
Allegany					
Allegany Museum	\$100,000	\$125,000		\$225,000	Soft (all)
Subtotal	\$100,000	\$125,000		\$225,000	
Anne Arundel					
Aleph Bet Jewish Day School		\$45,000		\$45,000	Soft (2, 3)
Annapolis Summer Garden Theatre Renovation	\$50,000			50,000	Hard
Benson-Hammond House Renovation	60,000			60,000	Soft (1, 2)
Coordinating Center for Home and Community Care Bldg. Facilities		30,000		30,000	Hard
Historical Freetown Renovation	150,000			150,000	Hard
Homeport Farm Park Building Rehabilitation Project	100,000			100,000	Hard
Light House Shelter		50,000		50,000	Soft (1, 3)
Linthicum Veterans Memorial			\$185,000	185,000	Grant
MTR Education and Rehabilitation Center		25,000		25,000	Soft (1, 3)
Southern High School Field House	50,000			50,000	Hard
Subtotal	\$410,000	\$150,000		\$745,000	

<u>Project Title</u>	<u>House Initiative</u>	<u>Senate Initiative</u>	<u>Other</u>	<u>Total Funding</u>	<u>Match/ Requirements</u>
Baltimore City					
Academy of Success Community Empowerment Center		\$50,000		\$50,000	Soft (2, 3)
American Visionary Art Museum	\$150,000			150,000	Soft (2, 3)
Center for Urban Families		75,000		75,000	Hard
Eastside Youth Center Expansion	75,000			75,000	Hard
Fine Arts Center for Archbishop Curley High School		200,000		200,000	Hard
Garrett-Jacobs Mansion	150,000	50,000		200,000	Soft (2, 3)
Girl Scout Urban Program and Training Center	100,000	50,000		150,000	Soft (all)
Healthy Start Client Service Center	150,000			150,000	Hard
Iota Phi Theta Love/Action Center		15,000		15,000	Hard
Parks and People Headquarters at Auchentoroly Terrace		50,000		50,000	Hard
Roland Park Fire Station Rehabilitation		110,000		110,000	Soft (U, 2, 3)
Southwest Senior and Community Multipurpose Center		125,000		125,000	Soft (all)
Women's Industrial Exchange		125,000		125,000	Soft (all)
Subtotal	\$625,000	\$850,000		\$1,475,000	
Baltimore					
Automotive Vocational Training Center	\$100,000	\$125,000		\$225,000	Soft (1, 2)
Good Shepherd Center		75,000		75,000	Hard
HopeWell Cancer Support Facility	200,000	50,000		250,000	Hard
Leadership Through Athletics Facility	35,000			35,000	Hard
Owings Mills Jewish Community Center	200,000	75,000		275,000	Soft (all)
Storyville Children's Learning Center – Woodlawn Library	250,000			250,000	Hard
Todd's Inheritance		50,000		50,000	Hard
Subtotal	\$785,000	\$375,000		\$1,160,000	
Calvert					
Exploration of Captain John Smith Exhibit	\$50,000			\$50,000	Soft (2)
North Beach Boardwalk		\$250,000		250,000	Soft (all)
Subtotal	\$50,000	\$250,000		\$300,000	

<u>Project Title</u>	<u>House Initiative</u>	<u>Senate Initiative</u>	<u>Other</u>	<u>Total Funding</u>	<u>Match/ Requirements</u>
Caroline					
Adkins Arboretum Native Garden Gateway	\$100,000	\$25,000		\$125,000	Hard
Subtotal	\$100,000	\$25,000		\$125,000	
Charles					
Hospice House	\$105,000	\$145,000		\$250,000	Soft (2)
Jaycees Field of Dreams		30,000		30,000	Soft (1, 2)
Subtotal	\$105,000	\$175,000		\$280,000	
Frederick					
Mental Health Association Building	\$200,000	\$50,000		\$250,000	Soft (3)
The John Hanson Memorial		50,000		50,000	Hard
Subtotal	\$200,000	\$100,000		\$300,000	
Harford					
The Citizens Care and Rehabilitation Center	\$200,000			\$200,000	Soft (3)
Subtotal	\$200,000			\$200,000	
Howard					
Former Ellicott City Post Office		\$150,000		\$150,000	Soft (1)
Linwood Center	\$150,000			150,000	Soft (1)
Robinson Nature Center	150,000			150,000	Hard
Troy Regional Park		150,000		150,000	Hard
Subtotal	\$300,000	\$300,000		\$600,000	
Montgomery					
Black Rock Center for the Arts		\$50,000		\$50,000	Soft (2)
Dance Exchange		50,000		50,000	Soft (2)
Gaithersburg Community Museum	\$250,000			250,000	Hard
Imagination Stage	150,000	125,000		275,000	Soft (3)
Lake Whetstone Facilities		80,000		80,000	Hard
Latino Economic Development Corporation Facility		175,000		175,000	Soft (2, 3)

<u>Project Title</u>	<u>House Initiative</u>	<u>Senate Initiative</u>	<u>Other</u>	<u>Total Funding</u>	<u>Match/ Requirements</u>
MacDonald Knolls Center	100,000			100,000	Hard
Northgate Homes Lighting Upgrade		40,000		40,000	Hard
Olney Theatre Center Campus		150,000		150,000	Soft (all)
Poolesville Skate Park	100,000	75,000		175,000	Soft (U, 1)
RCI Group Home Renovations		30,000		30,000	Hard
Renovation of "Falling Green" at OBGC Park	100,000	50,000		150,000	Soft (all)
Rockville Historic Post Office Renovation		100,000		100,000	Soft (3)
Subtotal	\$700,000	\$925,000		\$1,625,000	
Prince George's					
African-American History Museum		\$50,000		\$50,000	Hard
Bowie Police Dispatch Center		25,000		25,000	Soft (1)
Capitol Heights Municipal Building	\$100,000			100,000	Soft (all)
Chosen Youth Group Basketball Court		25,000		25,000	Grant
Concord Historic Site		100,000		100,000	Hard
Cosca Regional Skate Park	250,000			250,000	Hard
District Heights Field Renovation	100,000	100,000		200,000	Soft (1)
Elizabeth Seton High School Sports Facilities		50,000		50,000	Hard (U)
Greenbelt Consumer Cooperative Renovation		100,000		100,000	Hard
Harmony Hall Manor		100,000		100,000	Hard
Kappa Alpha Psi Playground Equipment		10,000		10,000	Soft (3)
Knights of St. John Woodville School			\$225,000	225,000	Soft (1, 2)
LARS Facility Renovation	100,000			100,000	Hard
Laurel Boys and Girls Club		100,000		100,000	Soft (all)
Lincoln Vista Neighborhood Park Recreation Building		15,000		15,000	Soft (1)
Olde Mill Community and Teaching Center		25,000		25,000	Soft (1)
Palmer Park Boys and Girls Club		100,000		100,000	Grant
Shabach Adult Day Care and Senior Center		25,000		25,000	Soft (1)
South Bowie Boys and Girls Club Concession Stand	50,000			50,000	Hard (U)
Whitemarsh Turf Field		25,000		25,000	Soft (2)
YMCA Potomac Overlook	100,000			100,000	Soft (all)
Subtotal	\$700,000	\$850,000		\$1,775,000	

<u>Project Title</u>	<u>House Initiative</u>	<u>Senate Initiative</u>	<u>Other</u>	<u>Total Funding</u>	<u>Match/ Requirements</u>
Queen Anne’s					
Kennard High School Restoration	\$100,000	\$100,000		\$200,000	Soft (2, 3)
Subtotal	\$100,000	\$100,000		\$200,000	
St. Mary’s					
Cedar Lane Apartment Renovations		\$125,000		\$125,000	Hard
Pathway’s Facility Renovation	\$175,000			175,000	Soft (1)
Subtotal	\$175,000	\$125,000		\$300,000	
Talbot					
Oxford Community Center		\$75,000		\$75,000	Soft (2)
YMCA Fire Safety System Upgrade	\$100,000	25,000		125,000	Hard
Subtotal	\$100,000	\$100,000		\$200,000	
Washington					
Barbara Ingram School for the Arts		\$150,000		\$150,000	Soft (all)
Doleman Black Heritage Museum		25,000		25,000	Hard
Museum of Fine Arts	\$100,000			100,000	Hard
Subtotal	\$100,000	\$175,000		\$275,000	
Wicomico					
Parsonsborg Volunteer Fire Company Community Center	\$250,000			\$250,000	Soft (all)
Senior Training Center for the Blind		\$150,000		150,000	Hard
Subtotal	\$250,000	\$150,000		\$400,000	
Total Senate and House Initiatives	\$7,500,000	\$7,500,000		\$17,210,000	

Match Key: 1 = real property; 2 = in kind contribution, 3 = prior expended funds; U = unequal match

In addition to GO debt, the State's capital program is funded with general, special, and federal funds appropriated in the operating budget referred to as PAYGO funds which are used primarily to support economic development, housing, and environmental programs. The use of PAYGO funds is generally restricted to capital grant and loan programs for which the use of tax-exempt debt is limited under federal tax guidelines, programs that are administered through the use of special non-lapsing funds for which revenue from principal and interest payments are used to support additional appropriations, and in instances where federal funds assist in the capitalization of State revolving grant and loan fund programs. The PAYGO portion of the fiscal 2010 capital program was increased by the availability of additional federal funds provided through the American Recovery and Reinvestment Act of 2009 (ARRA), most notably an additional \$123.0 million for MDE Water Quality Loan and Drinking Water Loan programs and \$33.9 million for Department of Housing and Community Development foreclosure assistance. Despite the increased availability of federal funds to support the capital program, the GO bond program was used to reduce operating budget appropriations and to replace POS funds transferred to the general fund as shown in **Exhibit A-2.4**.

Exhibit A-2.4
Use of General Obligation Bond Program to Relieve Pressure on the
Operating Budget
(\$ in Millions)

<ul style="list-style-type: none"> ● Transfer Tax Diversion to the General Fund: Transfers to the general fund include \$31.0 million of fiscal 2010 transfer tax revenues that would have otherwise supported various Program Open Space (POS) programs and \$71.3 million of stateside POS fund balance all of which was replaced with GO bond authorizations in the 2009 Maryland Consolidated Capital Bond Loan. An additional \$70.0 million of stateside POS fund balance was also transferred to the general fund; however, replacement of these transferred funds is authorized with revenue bonds through <i>House Bill 783 (passed)</i>. Total POS transfers authorized in the 2009 Budget Reconciliation and Financing Act (BRFA) amount to \$172.3 million. 	\$102.3
<ul style="list-style-type: none"> ● InterCounty Connector Funding: Budgeted at \$146.9 million in the capital budget bill as introduced, the amount was reduced to \$55.0 million in the capital budget as passed to reflect a more fiscally prudent Transportation Trust Fund cash flow projection and the anticipated fiscal 2010 expenditures for the project. The required statutory changes are included in the 2009 BRFA. 	55.0
<ul style="list-style-type: none"> ● Medevac Helicopter Replacement: The BRFA of 2009 includes the transfer of the \$51.5 million fund balance from the State Police Helicopter Replacement Fund to the general fund which effectively eliminated the use of the fund for the purposes of procuring Medevac helicopters. The \$52.5 million of general obligation (GO) bond funds are intended to fund the purchase of three helicopters during fiscal 2010. 	52.5
<ul style="list-style-type: none"> ● Use of GO Bond Funds to Fund Capital Programs Traditionally Funded with General Funds: This principally includes \$7.5 million for the Public Safety Communication System; \$15.0 million for the Department of Housing and Community Development revolving loan program; and \$5.5 million for Maryland Department of the Environment water quality and drinking water loan programs. 	28.1
<p>Total</p>	\$238.1

Source: Department of Budget and Management

Debt Affordability

As shown in **Exhibit A-2.5**, the long range plan adopted by the Capital Debt Affordability Committee (CDAC) in November 2008 provides for a total of over \$5.25 billion in debt authorizations from 2009 to 2013. This is an increase of \$150.0 million over the amount recommended by CDAC in its October 2007 report for the five-year planning period considered by the committee. The revised GO bond debt limit is not programmed to remain in the base permanently as the committee recommended the additional GO bond authorizations beginning with the 2010 session return to the level recommended in the committee's 2007 report.

Exhibit A-2.5
Capital Debt Affordability Committee Recommended Levels of
General Obligation Bond Authorizations
2009-2013 Legislative Sessions
(\$ in Millions)

<u>Session</u>	<u>2007 Report Recommended Authorizations</u>	<u>2008 Report Recommended Authorizations</u>	<u>Increased Authorization</u>
2009	\$960	\$1,110	\$150
2010	990	990	0
2011	1,020	1,020	0
2012	1,050	1,050	0
2013	1,080	1,080	0
Total	\$5,100	\$5,250	\$150

Source: *Report of the Capital Debt Affordability Committee on Recommended Debt Authorizations*, October 2007 and November 2008

For the 2009 session, CDAC recommended \$1.11 billion of new GO bond authorizations to support the capital program. The 2009 MCCBL passed by the General Assembly is consistent with the level of new GO debt authorizations recommended by CDAC. An additional \$30.8 million in GO bonds from prior years is deauthorized in the capital budget of 2009, thereby increasing the amount of new GO debt included in the capital program to \$1.14 billion. Included in the \$1.14 billion of new debt is \$18.0 million authorized in the 2008 MCCBL to complete the Rockville District Court; \$10.1 million authorized in the 2008 MCCBL for the Department of State Police New Hagerstown Barrack and Garage (\$14.8 million was preauthorized in the 2008 MCCBL for this project, but this amount was reduced to \$10.1 million with an additional \$5.0 million preauthorized for the 2010 session capital budget bill which allows the project to be bid for construction during fiscal 2010); and \$5.0 million authorized in the Southern Maryland Regional Strategy-Action Plan for Agriculture Loan of 2001 for the Tobacco Transition Program as amended by Chapter 46 of 2006, which completes the State's bond funded Tobacco Transition Program.

The State's capital program for fiscal 2010 also includes other actions that affect debt affordability, debt issuance, and future capital budgets.

- The Maryland Department of the Environment plans to issue \$80.0 million in revenue bonds to fund the upgrade of wastewater treatment plants. Chapter 428 of 2004 established the Bay Restoration Fund and authorized the Administration to issue bonds to provide grants to upgrade the 66 largest wastewater treatment plants in the State. Security for the bonds is the revenues from a fee imposed on users of wastewater facilities, septic systems, and sewage holding tanks. The bonds are considered State tax supported debt and are, therefore, incorporated in the CDAC's annual debt affordability analysis.
- **House Bill 783 (passed)** authorizes \$70.0 million in bond funds for DNR's State Program Open Space land acquisition program and authorizes the transfer of up to \$5.0 million of this amount to the Maryland Department of Agriculture's Maryland Agricultural Land Preservation Fund (MALPF). Property transfer tax revenue must be used to pay principal and interest on the POS bonds prior to any other distribution. POS bond funds are intended to supplement other POS funds and may not affect the POS funding allocation formula specified in current law. Also, POS bond funds may not be used to reimburse the State for the acquisition of land prior to the bill's effective date.
- The 2009 MCCBL includes \$172.1 million of general obligation bond authorizations that will not take effect until fiscal 2011. The pre-authorizations include \$3.5 million to fund renovations and alterations of the Lowe House Office Building; \$5.0 million to complete the design, construction, and capital equipping of the Western Maryland Regional Library in Hagerstown; \$26.9 million for the construction of the New Center for the Built Environment at Morgan State University; \$34.1 million for the construction of a new Fine and Performing Arts Building at Bowie State University; \$35.8 million to fund the construction of the Towson University New College of Liberal Arts Complex Phase II; \$14.3 million for the construction of the Salisbury University New Perdue School of Business; \$39.6 million for four community college projects; \$5.0 million to complete the construction funding for the Department of State Police New Hagerstown Barrack and Garage; \$2.5 million to complete the State grant to Sinai Hospital for the Samuelson Children's Hospital; and \$5.5 million for construction of the Phase I addition to the St. Mary's County Detention Center. The fiscal 2010 authorizations for all but Sinai Hospital and St. Mary's County Detention Center projects include language added by the General Assembly that allows for the contracts to be bid without the full authorization needed to fully fund the contract. The pre-authorization for the St. Mary's County Detention Center does not include this language since the project will not commence during fiscal 2010, and Sinai Hospital funding is provided as a grant.

Debt Management

The 2009 session included legislation that affects the State's capital program for fiscal 2010 and also includes other actions that affect debt management.

- **House Bill 1081 (passed)** amends prior authorization bond bills by extending matching fund deadlines, extending deadlines for expending or encumbering funds, altering the purposes for which funds may be used, modifying certification requirements, renaming grant recipients, or altering project locations which are consolidated into an omnibus bill. Prior to the 2008 session, individual prior authorization bills were passed by the General Assembly. **House Bill 1081** also amended prior Qualified Zone Academy Bond (QZAB) authorizations to expand the eligible uses of these bond funds to include equipment. In addition, the bill authorizes the Comptroller to advance funds for authorized QZAB expenditures, provided that the next sale of QZABs includes at least the amount of funds advanced.
- **Senate Bill 1060 (passed)** allows the Board of Public Works (BPW) to sell GO bonds at a private, negotiated sale if the board determines that (1) extraordinary credit market conditions exist; and (2) the terms and conditions of a negotiated sale are more advantageous to the State than the terms that can be obtained through a public, competitive sale. However, it declares State policy to be that the preferred method of sale of GO bonds is by public, competitive sale. The bill authorizes BPW to issue bonds in a form that qualifies for tax credits, interest subsidies, or other federal tax benefits, and also ratifies the validity of any tax credit bonds sold prior to the bill's effective date.
- **House Bill 1330 (passed)** authorizes BPW to issue up to \$2 million in general obligation bonds to replenish specified capital reserve funds to be established and administered by the Community Development Administration. The bonds may only be issued if (1) the balance of a capital reserve fund falls below the minimum capital reserve requirement; and (2) operating revenues generated by the local government infrastructure projects for which the capital reserve funds support are insufficient. The bill further stipulates that it is the intent of the General Assembly that the general obligation bonds not be included as part of the annual general obligation debt limit unless and until the bonds are issued.
- **House Bill 809 (passed)** – Under current law, if the State Treasurer issues variable-rate bonds, the ongoing cost of fiscal agents for those bonds is most likely paid with a series of special fund appropriations from bond proceeds. The Treasurer's Office estimates annual costs of \$250,000 for each \$100 million of variable debt issued. Authorizing payment from the Annuity Bond Fund for the cost of fiscal agents associated with variable interest rate bonds and interest rate exchange agreements has no overall effect on State expenditures for debt service but may provide an operational benefit by not requiring separate appropriations for these expenses. The bill specifies that the ongoing servicing costs of variable-rate bonds be paid in the same manner as principal and interest.

- Uncodified Section 11 of the Public School Facilities Act of 2004 directs CDAC to review school construction funding needs and make specific recommendations regarding additional funding for school construction when recommending the State’s annual debt limit and GO bond authorization level. The 2009 MCCBL struck this provision after issues were raised concerning the need for such a requirement since CDAC’s role does not include funding level recommendations for other capital programs or projects.
- **House Bill 1192 (passed)** requires a for-profit or nonprofit entity or association that receives State aid during a fiscal year and is not a unit of State or local government to submit a report to the Department of Information Technology (DoIT) by September 1 after each fiscal year the grantee receives State aid. DoIT must develop and operate a searchable web site, accessible to the public at no cost, which provides grantee report information in a specified format. The Office of Legislative Audits is authorized to conduct audits or reviews of grantees. State aid is defined as a contribution, grant, or subsidy of \$50,000 or more provided through the State operating or capital budget or by the action of a unit of State government from State funds appropriated to that unit. State aid does not include reimbursements to providers participating in a State program. Grantee reports must contain the following information: a summary of the purpose for which the State aid was provided; the number of jobs created or retained as a result of the State aid; the amount and source of any funds, other than State aid, the grantee secured for the same purpose for which the State aid was provided, or as a result of the State aid; a description of how the State aid served the citizens of the State; and the number of citizens served as a result of the State aid.

Higher Education

The fiscal 2010 capital program for all segments of higher education is \$304.7 million, including GO bonds and academic revenue bonds. Of the total funding, four-year public institutions receive \$208.2 million and independent colleges receive \$9.0 million. Community colleges, including Baltimore City Community College, receive \$87.5 million in fiscal 2010, the highest funding level in a single year for community colleges. The *Capital Improvement Program* (CIP), after legislative changes to the fiscal 2010 capital budget, shows \$1.691 billion in capital spending for higher education projects from fiscal 2010 through 2014. **Exhibit A-2.6** shows the fiscal 2009 and 2010 legislative appropriation for higher education capital projects and the funds anticipated in the CIP for fiscal 2011 through 2014. **Exhibit A-2.7** shows the fiscal 2010 capital funding by institution.

Exhibit A-2.6
Higher Education Authorized and Planned Out-year Capital Funding
Fiscal 2009-2014
(\$ in Thousands)

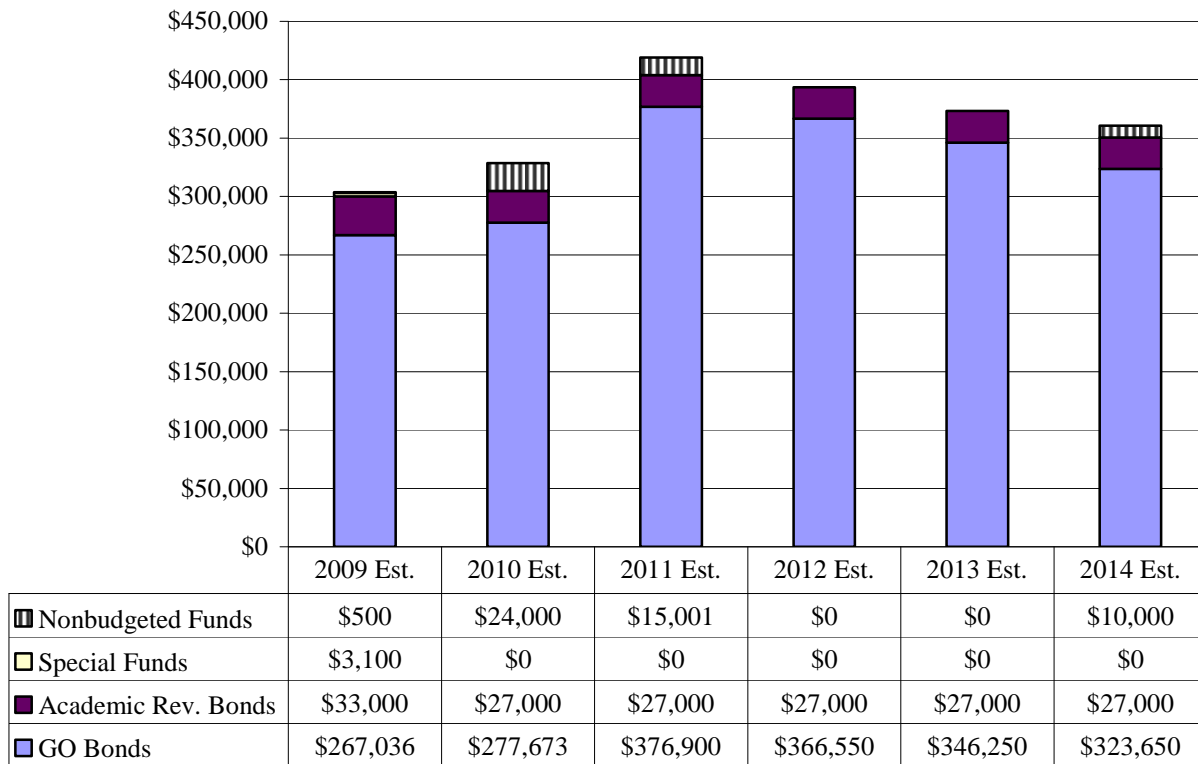


Exhibit A-2.7
Higher Education Capital Funding by Institution
Fiscal 2010
(\$ in Thousands)

<u>Institution</u>	<u>Capital Funding</u>
University of Maryland, Baltimore	\$13,756
University of Maryland, College Park	12,318
Towson University	35,725
Coppin State University	12,116
University of Baltimore	5,416
Bowie State University	37,265
Salisbury University	28,000
University System of Maryland – Facility Renewal	17,000
St. Mary’s College of Maryland	1,685
Morgan State University	44,846
Independent Colleges	9,000
Baltimore City Community College	3,214
Community Colleges	84,332
Total	\$304,673¹

¹This does not include \$28.5 million authorized for the University of Maryland Medical System. This also does not include \$24.0 million of nonbudgeted funds representing private donor contributions.

School Construction

The fiscal 2010 budget for public school construction contains \$265.2 million. The budget includes \$260.0 million in general obligation bonds, and \$5.2 million from the Public School Construction Program’s Statewide Contingency Fund, of which \$1.9 million is reserved for specific local school systems. The Public School Facilities Act of 2004 established a State goal to provide \$2.0 billion in State funding over the following eight years to address deficiencies, or \$250.0 million per year through fiscal 2013. Fiscal 2010 will be the fifth consecutive year that the goal has been met or exceeded. The local school systems have requested a total of approximately \$766.0 million for fiscal 2009, of which \$493.6 million is eligible for funding.

Seventy-five percent of the preliminary \$260.0 million school construction allocation announced by the Governor in October, or \$195.0 million, was recommended for specific projects by the Interagency Committee on School Construction (IAC) and approved by BPW in January 2009. The IAC, in accordance with a new requirement codified in the fiscal 2008 capital budget bill language, made recommendations equal to 90% of the total allowance, an additional \$39.3 million, in March 2009. This was presented to the General Assembly and will be reviewed by BPW for approval after May 1, 2009.

Capital-eligible public school funding is also supported through the Aging Schools Program. As introduced, the capital budget bill authorized the use of \$6.1 million of bond premium revenues from the Annuity Bond Fund. However, as passed, the capital budget bill strikes the use of bond premiums and instead includes \$6.1 million in general obligation bond funds for the program. The capital budget also includes \$250,000 for the Relocatable Classroom Repair Fund. For additional information on school construction, see Part L – Education – Primary and Secondary Education.

Transfer Tax

The property transfer tax is the primary funding source for State land conservation programs. In light of the fiscal condition of the State, a number of actions reduce the fiscal 2010 budget appropriations from the transfer tax and direct transfer tax revenue to the general fund. This is the first time in four years that the transfer tax is directed to the State's general fund and the actions taken affect fiscal 2009 and 2010. In each instance, the amount of diverted transfer tax to the general fund is replaced with either GO bond funds authorized in the 2009 MCCBL or through the authorization of revenue bonds backed by future transfer tax revenues authorized in separate legislation.

In fiscal 2009, \$70 million of the unencumbered balance for POS stateside is directed to the general fund through the BRFA of 2009. This action is accompanied by [*House Bill 783 \(passed\)*](#) which authorizes the Department of Natural Resources to issue up to \$70 million in revenue bonds for which the debt service is pledged with future transfer tax revenues. A more detailed discussion of this bill may be found under Part K – Natural Resources, Environment, and Agriculture of this *90 Day Report*.

Also in fiscal 2009, \$71.3 million in transfer tax revenue that would have been used for two property purchases is directed to the general fund through the BRFA of 2009. The State Treasurer issued a Declaration of Official Intent for each of the two property purchases at the time the purchases were taken before the Board of Public Works. The Declaration of Official Intent is a form filed with the Internal Revenue Service that allows for the reimbursement of State expenditures with tax-exempt general obligation bond proceeds within 18 months of the original expenditure. The capital budget includes \$71.3 million in general obligation bonds to replace the funds for the Foster Property (\$14.4 million) and Maryland Province of the Society of Jesus Properties (\$56.9 million) purchases.

In fiscal 2010, \$18 million of the fiscal 2010 transfer tax funding for POS capital development projects and Rural Legacy Program allocations and \$13 million of the transfer tax funding for the Maryland Agricultural Land Preservation Program (MALPP) are directed to the general fund. The combined amount of \$31 million is reimbursed on a one-for-one basis in the fiscal 2010 capital budget with general obligation bonds. **Exhibit A-2.8** shows how transfer tax revenue will be replaced with general obligation bonds in fiscal 2010.

Exhibit A-2.8
Programs Traditionally Funded with Transfer Tax Revenue
Fiscal 2010
(\$ in Millions)

	<u>Transfer Tax</u> <u>Special Funds</u>	<u>Other</u> <u>Special Funds</u>	<u>Federal</u>	<u>GO</u> <u>Bonds</u>	<u>Total</u>
Department of Natural Resources					
Program Open Space					
State	\$12.6	\$0	\$1.0	\$0	\$13.6
Local	6.1	0	1.0	0	7.1
Capital Development	0	0	0	6.2	6.2
Rural Legacy Program	0	0	0	11.8	11.8
Heritage Conservation Fund	1.4	0	0	0	1.4
Department of Agriculture					
Agricultural Land Preservation	0	10.6	2.0	13.0	25.6
Total	\$20.1	\$10.6	\$4.0	\$31.0	\$65.6

A total of \$44.1 million will be available for local and State land conservation projects in fiscal 2010, as shown in **Exhibit A-2.9**; however, there is an additional \$11.8 million for the Rural Legacy Program and \$13.0 million for MALPP in the fiscal 2010 capital budget. The decrease in transfer tax funds available for fiscal 2010 is due to the directing of funds to the general fund and to lower transfer tax estimates that reflect a sluggish real estate market. The decrease in funding partially is mitigated by a lower amount of underattainment. Both fiscal 2009 and 2010 are impacted by underattainment of revenues from fiscal 2007 and 2008, respectively. The fiscal 2007 underattainment impacting fiscal 2009 is \$52.0 million while the fiscal 2008 underattainment impacting fiscal 2010 is \$35.0 million.

Exhibit A-2.9
Land Conservation Funded by the Property Transfer Tax
Fiscal 2009 and 2010
(\$ in Millions)

	<u>Fiscal 2009</u> <u>Appropriation</u>	<u>Fiscal 2010</u> <u>Allowance</u>	<u>Fiscal 2010</u> <u>Appropriation</u>
Program Open Space (POS)			
POS State	\$20.9	\$11.8	\$11.8
POS Local	18.6	6.1	6.1
Additional State Land Acquisition	1.1	0.8	0.8
Maryland Agricultural Land Preservation Program (MALPP)	18.6	13.0	0 *
Rural Legacy	13.5	11.8	0 *
Heritage Conservation Fund	2.0	1.4	1.4
Maryland Heritage Areas Authority	3.0	3.0	3.0
Forest and Park Service	21.0	21.0	21.0
Total	\$98.7	\$68.9	\$44.1

Note: POS and MALPP receive funding from other sources (federal funds, agricultural transfer tax, and matching funds from local jurisdictions). For fiscal 2010, MALPP receives \$13.0 million in general obligation bonds, and Rural Legacy Program receives \$11.8 million in replacement of the transfer tax allocation. For fiscal 2010, there is \$9.8 million for State land acquisition. Of the total \$12.6 million in POS State land acquisition funds, \$1.6 million is directed to three capital projects in Baltimore City, and \$1.2 million is directed to operating expenses through the fiscal 2010 budget.

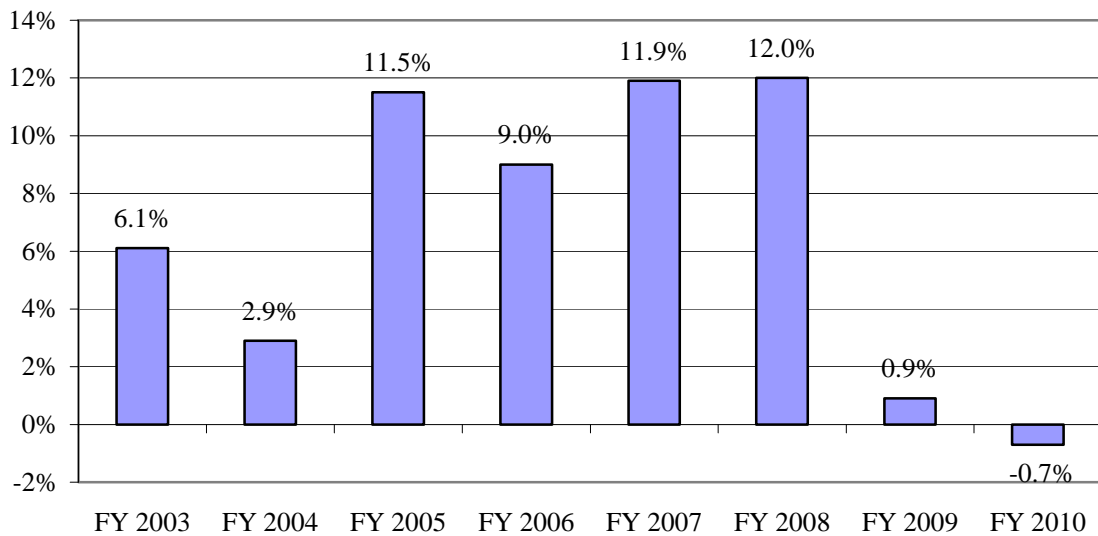
* General obligation bond funds are authorized in the 2009 Maryland Consolidated Capital Bond Loan to fully replace the transfer tax special funds originally intended to be used to support the MALPP and Rural Legacy programs.

State Aid to Local Government

Overview

The slow-down in the State’s economy coupled by declining revenues affected the ability of the General Assembly to fully fund local programs in fiscal 2010. Even with the influx of federal stimulus funds, most of which were targeted to education programs, State aid to local governments will decrease by \$42.6 million, or 0.7 %, from the prior year. However, local school systems and community colleges will realize a modest increase in State funding in the upcoming year. State aid to local school systems will increase by \$127.9 million, or 2.4%; whereas, community colleges will receive a \$12.6 million, or 4.9%, increase in State aid. Increased funding for local school systems is due primarily to increased federal funding under the American Recovery and Reinvestment Act of 2009. Public libraries will receive a slight increase in State funding (0.5%) in fiscal 2010 while local health departments will be level funded in the upcoming year. County and municipal governments, however, will experience a significant decrease in State funding. The State aid decrease is estimated at \$183.4 million in fiscal 2010. Over the last three years, State aid to county and municipal governments has decreased by \$386.2 million. **Exhibit A-3.1** shows the annual increase in State aid over the last eight years. **Exhibit A-3.2** shows the change in State aid in fiscal 2010 by governmental entity.

Exhibit A-3.1
Annual Growth in State Aid to Local Governments



Source: Department of Legislative Services

Exhibit A-3.2
State Aid to Local Governments
Fiscal 2009 and 2010
(\$ in Millions)

	<u>2009</u>	<u>2010</u>	<u>Difference</u>	<u>% Difference</u>
Public Schools	\$5,379.3	\$5,507.3	\$127.9	2.4%
Libraries	63.8	64.1	0.3	0.5%
Community Colleges	254.7	267.3	12.6	4.9%
Health	57.4	57.4	0.0	0.0%
County/Municipal	750.8	567.4	-183.4	-24.4%
Total	\$6,506.0	\$6,463.3	-\$42.6	-0.7%

Source: Department of Legislative Services

State Support for Local Governments Impacted by Cost Containment

The General Assembly approved \$301.8 million in reductions to local government programs in fiscal 2010. State aid accounts for \$268.7 million of the reductions, while local park and jail programs account for the remaining \$33.1 million. Nearly two-thirds of the total reductions will affect county and municipal governments, while local school systems will have to absorb 22% of the reductions (**Exhibit A-3.3**). State funding for local highways and transportation projects received the largest share of the reductions.

Exhibit A-3.3
Legislative Actions Impacting State Aid to Local Governments
(\$ in Millions)

	<u>FY 2010</u>	<u>Percent of Total</u>
Public Schools	-\$65.1	21.6%
Libraries	-4.7	1.5%
Community Colleges	-34.0	11.3%
Health	0.0	0.0%
County/Municipal	-198.0	65.6%
Total	-\$301.8	100.0%

Source: Department of Legislative Services

Funding for local highway user grants will be reduced by \$101.9 million in fiscal 2010, with an additional \$60.0 million reduction based on local wealth and tax effort. State retirement payments for certain local officials will be eliminated resulting in a \$2.5 million reduction. Local school systems will realize a \$65.1 million reduction over current law, most of which involves nonpublic placements for special education students, the aging schools program, and recapture of formula overpayments in the prior year. Funding for local libraries will be reduced by \$4.7 million; whereas, community college funding increases required under current law will be reduced by \$34.0 million.

The General Assembly also approved a measure that prohibits the Department of Natural Resources from making revenue sharing payments to counties in fiscal 2010 and 2011, with the exception of payments for revenues generated from the sale of lumber. The allocation to counties represent either 15 or 25% of the revenue derived from forests and parks, depending on the percent of county land dedicated to State forest and parks. Local revenues are projected to decrease by \$1.9 million in fiscal 2010 and \$2.0 million in fiscal 2011.

In addition, State funding for local jail reimbursements will decrease by \$31.3 million in fiscal 2010. Since the implementation of a statutory change in 1986, the State has partially reimbursed local jails for the confinement of inmates who have been sentenced under the Division of Correction jurisdiction and are serving sentences in local correctional facilities for more than 3 months but not more than 18 months. Reimbursement costs are estimated to be \$29.6 million for fiscal 2010. The Budget Reconciliation and Financing Act of 2009 converts the reimbursement to a grant program that will provide each county at least \$45 for each inmate day between 12 and 18 months, based on actual data from the most recent fiscal year. It is estimated that the grants would total \$13.3 million in fiscal 2010; however, the General Assembly eliminated all funding for the reimbursements in fiscal 2010, thereby, deferring implementation of the grant until 2011. The Budget Reconciliation and Financing Act of 2009 also converts to a grant program the State reimbursements for each day an inmate who is sentenced to a State correctional facility is held in a local correctional facility. This action is estimated to reduce the reimbursements about \$1.7 million.

Exhibits A-3.4 through **A-3.6** show the funding reductions by program for each county. Even with these reductions, State aid for most local school systems, community colleges, and local libraries will increase in fiscal 2010.

Exhibit A-3.4
Legislative Reductions to State Education Aid Programs in Fiscal 2010
(\$ in Thousands)

County	Fiscal 2009 Overpayments	Nonpublic Placements	Aging Schools ¹	Unallocated Education Aid ²	Total Reductions
Allegany	-\$879	-\$114	-\$89	\$0	-\$1,082
Anne Arundel	-5,154	-1,307	-460	0	-6,922
Baltimore City	0	-3,246	-1,263	0	-4,509
Baltimore	-5,992	-1,941	-795	0	-8,728
Calvert	-896	-117	-35	0	-1,047
Caroline	-357	-28	-46	0	-430
Carroll	-1,430	-447	-125	0	-2,001
Cecil	-976	-235	-87	0	-1,299
Charles	-2,545	-167	-46	0	-2,758
Dorchester	-338	-8	-35	0	-381
Frederick	-2,148	-290	-166	0	-2,604
Garrett	0	-25	-35	0	-60
Harford	-1,963	-635	-198	0	-2,796
Howard	-3,167	-429	-80	0	-3,676
Kent	0	-16	-35	0	-50
Montgomery	0	-1,704	-548	0	-2,252
Prince George's	-68	-3,593	-1,100	0	-4,761
Queen Anne's	-497	-45	-46	0	-588
St. Mary's	-1,418	-90	-46	0	-1,553
Somerset	0	0	-35	0	-35
Talbot	0	-3	-35	0	-38
Washington	-1,770	-208	-123	0	-2,101
Wicomico	-1,241	-27	-97	0	-1,366
Worcester	0	0	-35	0	-35
Unallocated	0	-1,435	0	-12,587	-14,022
Total	-\$30,838	-\$16,110	-\$5,558	-\$12,587	-\$65,094

¹The capital budget includes \$6.1 million to be used for the aging schools program.

²Includes quality teacher incentives (\$5.3 million), school improvement grants (\$4.8 million), environmental education (\$150,000), math and science initiatives (\$1.0 million), headstart (\$1.2 million), and the principal fellowship program (\$159,793).

Source: Department of Legislative Services

Exhibit A-3.5
Legislative Reductions to State Aid to Local Governments in Fiscal 2010
(\$ in Thousands)

County	Education Aid	Library Aid¹	Community Colleges	Highway User Revenues	Additional Highway User	Local Employee Retirement²	Total Reductions
Allegany	-\$1,082	-\$60	-\$815	-\$1,832	-\$319	-\$17	-\$4,125
Anne Arundel	-6,922	-235	-4,734	-7,997	-9,059	-39	-28,986
Baltimore City	-4,509	-513	0	-19,871	-2,963	-2,672	-30,528
Baltimore	-8,728	-488	-5,600	-10,757	-8,901	-29	-34,502
Calvert	-1,047	-44	-349	-1,778	-1,193	0	-4,412
Caroline	-430	-23	-212	-1,272	-304	-11	-2,252
Carroll	-2,001	-97	-1,187	-3,592	-1,639	-46	-8,562
Cecil	-1,299	-64	-780	-1,991	-1,004	-20	-5,158
Charles	-2,758	-79	-1,114	-2,578	-1,551	0	-8,082
Dorchester	-381	-21	-187	-1,407	-320	-10	-2,326
Frederick	-2,604	-119	-1,360	-4,738	-2,573	0	-11,395
Garrett	-60	-16	-398	-1,593	-350	-11	-2,429
Harford	-2,796	-146	-1,728	-4,172	-2,150	0	-10,992
Howard	-3,676	-55	-2,136	-3,961	-3,202	-23	-13,053
Kent	-50	-10	-80	-715	-239	0	-1,095
Montgomery	-2,252	-186	-6,311	-11,236	-12,088	-14	-32,086
Prince George's	-4,761	-532	-3,924	-9,788	-5,600	-13	-24,619
Queen Anne's	-588	-13	-262	-1,472	-682	-13	-3,030
St. Mary's	-1,553	-60	-358	-1,979	-947	-11	-4,908
Somerset	-35	-21	-121	-850	-108	0	-1,134
Talbot	-38	-7	-197	-1,172	-968	-19	-2,401
Washington	-2,101	-97	-1,179	-3,048	-1,349	0	-7,775
Wicomico	-1,366	-68	-721	-2,376	-569	-12	-5,111
Worcester	-35	-10	-294	-1,746	-1,921	-15	-4,020
Unallocated	-14,022	-1,696	0	0	0	0	-15,718
Total	-\$65,094	-\$4,659	-\$34,049	-\$101,920	-\$60,000	-\$2,974	-\$268,696

¹Includes a reduction of \$553,243 to recapture fiscal 2009 overpayments that occurred because of an error in the wealth base calculation for Montgomery County.

²Includes a reduction of \$500,000 for a miscellaneous grant to Baltimore City.

Exhibit A-3.6
Total Legislative Reductions to Local Governments in Fiscal 2010
(\$ in Thousands)

County	State Aid Programs	Park Revenues	Local Jail Reimbursement¹	Jail Backup	Total Reductions
Allegany	-\$4,125	-\$155	-\$330	-\$39	-\$4,649
Anne Arundel	-28,986	-255	-3,880	-151	-33,273
Baltimore City	-30,528	0	0	0	-30,528
Baltimore	-34,502	-166	-3,410	-67	-38,144
Calvert	-4,412	-5	-800	-10	-5,226
Caroline	-2,252	-47	-170	-27	-2,495
Carroll	-8,562	-13	-890	-30	-9,495
Cecil	-5,158	-92	-100	-76	-5,426
Charles	-8,082	-29	-1,280	-95	-9,485
Dorchester	-2,326	0	-390	-5	-2,721
Frederick	-11,395	-108	-2,230	-74	-13,807
Garrett	-2,429	-297	-150	-6	-2,881
Harford	-10,992	-37	-2,850	-85	-13,964
Howard	-13,053	-48	-1,040	-78	-14,218
Kent	-1,095	0	-210	-4	-1,309
Montgomery	-32,086	-69	-5,070	-255	-37,479
Prince George's	-24,619	-9	-2,940	-553	-28,121
Queen Anne's	-3,030	-2	-410	-20	-3,463
St. Mary's	-4,908	-106	-940	-29	-5,983
Somerset	-1,134	-38	-240	-7	-1,419
Talbot	-2,401	-4	-190	-8	-2,603
Washington	-7,775	-107	-900	-54	-8,836
Wicomico	-5,111	0	-710	-9	-5,830
Worcester	-4,020	-294	-440	-15	-4,769
Unallocated	-15,718	0	0	0	-15,718
Total	-\$268,696	-\$1,882	-\$29,570	-\$1,694	-\$301,843

¹Excludes an additional \$11.9 million owed by the State for past reimbursements that is being eliminated as a liability.

Reliance on State Aid

State aid is the largest revenue source for most county governments in Maryland, accounting for 25.8% of total county revenues. In five counties (Anne Arundel, Baltimore, Queen Anne’s, Talbot, and Worcester), State aid is the second largest revenue source after property taxes. In Howard County, State aid is the third largest revenue source after both property and income taxes. Whereas in Montgomery County, State aid is the fourth largest revenue source after property and income taxes and service charges. For municipal governments, State aid is the third largest revenue source representing 8.2% of total municipal revenues. As with counties, the reliance on State aid varies for municipalities, ranging from 2.2% of total revenues for municipalities in Talbot County to 28.4% for municipalities in Kent County. State aid to municipalities is targeted primarily to highway maintenance, police and fire services, and parks and recreation.

Dependence on State aid varies across Maryland with less affluent jurisdictions relying on State aid as their primary revenue source and more affluent jurisdictions relying more heavily on local property and income taxes. For example, State aid accounts for 14% of total revenues in Montgomery County but 49% in Somerset County. This difference reflects the State’s policy of targeting resources to less affluent jurisdictions that have a lower capacity to raise revenues from local sources. Utilizing local wealth measures to distribute State aid improves the fiscal equity among counties by making certain counties less dependent on their own tax base to fund public services thereby offsetting the inequalities in the revenue capacity among local governments. Currently, nearly 70% of State aid is distributed inversely to local wealth. The disparity in local tax capacities among counties in Maryland is illustrated in **Exhibit A-3.7** which shows the per-capita local wealth and State aid amounts for each county for fiscal 2010.

Changes by Program

Four counties will receive an increase in State aid in fiscal 2010, while 20 counties will receive a decrease. **Exhibit A-3.8** summarizes the distribution of direct aid by governmental unit and shows the estimated State retirement payments for local government employees. **Exhibit A 3.9** compares total State aid in fiscal 2009 and 2010 by program.

Exhibit A-3.7
Comparison of Local Wealth Measures and State Aid Allocation
Fiscal 2010

County	Per Capita Property Base	Per Capita Income Base	Per Capita Total Wealth	Percent of State Avg.	Per Capita Ranking	Per Capita State Aid	Per Capita Ranking
Allegany	\$18,705	\$12,039	\$30,744	42.0%	24	\$1,611	3
Anne Arundel	64,678	24,633	89,311	122.0%	6	782	20
Baltimore City	21,922	11,321	33,243	45.4%	23	1,875	1
Baltimore	42,175	22,370	64,546	88.1%	15	868	19
Calvert	58,970	21,909	80,879	110.4%	7	1,235	11
Caroline	35,130	13,391	48,521	66.3%	20	1,676	2
Carroll	48,397	21,803	70,201	95.9%	12	1,096	16
Cecil	42,510	16,953	59,463	81.2%	16	1,243	10
Charles	53,594	18,785	72,378	98.8%	11	1,340	8
Dorchester	41,044	13,607	54,651	74.6%	18	1,329	9
Frederick	53,630	22,722	76,352	104.3%	9	1,168	13
Garrett	59,596	13,139	72,736	99.3%	10	1,354	7
Harford	44,158	21,033	65,191	89.0%	13	1,117	15
Howard	69,934	30,153	100,087	136.7%	4	1,019	17
Kent	58,312	18,248	76,560	104.5%	8	778	21
Montgomery	79,176	30,100	109,276	149.2%	3	756	22
Prince George's	43,570	15,067	58,637	80.1%	17	1,374	5
Queen Anne's	71,809	22,018	93,828	128.1%	5	913	18
St. Mary's	46,006	19,017	65,023	88.8%	14	1,145	14
Somerset	25,371	8,527	33,898	46.3%	22	1,372	6
Talbot	101,413	26,933	128,345	175.3%	2	527	24
Washington	38,355	16,011	54,366	74.2%	19	1,227	12
Wicomico	30,915	15,073	45,988	62.8%	21	1,530	4
Worcester	166,510	19,307	185,817	253.7%	1	633	23
Total	\$52,244	\$20,985	\$73,228	100.0%		\$1,147	

Exhibit A-3.8
State Aid to Local Governments
Fiscal 2010 Legislative Appropriation
(\$ in Thousands)

County	<i>Direct State Aid</i>						Retirement	Total	Change Over FY 2009	Percent Change
	County - Municipal	Community Colleges	Public Schools	Libraries	Health	Subtotal				
Allegany	\$12,776	\$6,172	\$85,796	\$770	\$1,398	\$106,912	\$9,437	\$116,349	-\$1,111	-0.9%
Anne Arundel	19,782	30,876	276,775	1,835	4,834	334,102	66,893	400,994	-9,675	-2.4%
Baltimore City	264,460	0	837,682	6,548	10,269	1,118,959	75,532	1,194,491	-15,979	-1.3%
Baltimore	29,379	38,826	509,674	5,246	6,619	589,744	92,446	682,190	-16,713	-2.4%
Calvert	4,385	2,309	86,163	398	569	93,824	15,729	109,553	-162	-0.1%
Caroline	5,655	1,447	42,572	273	828	50,775	4,758	55,533	-1,491	-2.6%
Carroll	9,266	7,949	140,868	982	1,895	160,960	24,672	185,633	-3,632	-1.9%
Cecil	5,231	5,449	97,582	704	1,241	110,208	13,983	124,191	-2,138	-1.7%
Charles	6,636	7,374	149,531	795	1,530	165,865	22,700	188,566	-2,474	-1.3%
Dorchester	5,923	1,283	30,269	242	660	38,376	4,159	42,535	-1,711	-3.9%
Frederick	12,352	8,999	204,266	1,099	2,326	229,042	34,672	263,715	-2,331	-0.9%
Garrett	6,240	3,548	25,354	155	673	35,970	4,227	40,197	-1,358	-3.3%
Harford	11,582	11,054	207,607	1,549	2,673	234,464	34,126	268,591	-4,315	-1.6%
Howard	11,365	14,581	197,243	766	1,869	225,825	54,449	280,274	3,225	1.2%
Kent	2,053	549	10,225	94	517	13,438	2,248	15,686	-977	-5.9%
Montgomery	33,127	44,285	474,400	2,606	4,638	559,056	160,047	719,103	44,049	6.5%
Prince George's	60,890	24,861	909,487	5,962	7,703	1,008,904	119,184	1,128,088	-2,238	-0.2%
Queen Anne's	3,669	1,794	30,684	127	643	36,916	6,094	43,010	-1,400	-3.2%
St. Mary's	5,259	2,369	93,210	629	1,244	102,711	13,549	116,260	-2,684	-2.3%
Somerset	7,555	804	23,681	261	661	32,962	2,872	35,834	96	0.3%
Talbot	2,667	1,346	10,922	101	506	15,542	3,555	19,097	-1,425	-6.9%
Washington	8,213	8,243	140,965	1,117	2,125	160,663	17,786	178,449	-926	-0.5%
Wicomico	8,951	4,811	114,889	822	1,457	130,930	12,947	143,877	5,186	3.7%
Worcester	3,696	1,963	17,387	138	481	23,665	7,505	31,170	-2,223	-6.7%
Unallocated	26,249	7,159	30,951	15,609	0	79,967	0	79,967	-20,229	-20.2%
Total	\$567,361	\$238,050	\$4,748,182	\$48,828	\$57,359	\$5,659,780	\$803,570	\$6,463,350	-\$42,633	-0.7%

Note: County/Municipal includes the municipal share of police aid, highway user revenue, and fire aid.

State Aid to Local Governments
Fiscal 2009 Working Appropriation
(\$ in Thousands)

County	<i>Direct State Aid</i>						Retirement	Total
	County - Municipal	Community Colleges	Public Schools	Libraries	Health	Subtotal		
Allegany	\$14,721	\$5,920	\$86,711	\$770	\$1,398	\$109,520	\$7,940	\$117,460
Anne Arundel	38,650	29,873	281,097	1,991	4,834	356,445	54,224	410,669
Baltimore City	287,943	0	841,498	6,586	10,269	1,146,296	64,174	1,210,469
Baltimore	51,579	38,748	518,214	5,422	6,619	620,582	78,321	698,902
Calvert	7,139	2,229	86,486	446	569	96,869	12,845	109,715
Caroline	7,555	1,413	42,989	280	828	53,064	3,959	57,024
Carroll	15,155	7,414	143,861	1,038	1,895	169,363	19,901	189,264
Cecil	8,561	5,143	98,984	732	1,241	114,660	11,669	126,329
Charles	11,211	7,210	152,207	853	1,530	173,011	18,029	191,040
Dorchester	7,971	1,252	30,782	248	660	40,913	3,333	44,246
Frederick	20,341	8,621	205,960	1,135	2,326	238,383	27,663	266,046
Garrett	8,292	3,374	25,480	164	673	37,982	3,573	41,555
Harford	18,718	10,580	210,795	1,627	2,673	244,393	28,512	272,906
Howard	19,785	13,822	197,049	763	1,869	233,289	43,760	277,049
Kent	3,149	536	10,468	104	517	14,773	1,890	16,663
Montgomery	59,454	43,263	431,517	2,610	4,638	541,482	133,572	675,054
Prince George's	78,971	23,679	918,884	6,522	7,703	1,035,759	94,567	1,130,326
Queen Anne's	6,048	1,751	30,847	133	643	39,422	4,989	44,410
St. Mary's	8,454	2,287	95,018	659	1,244	107,662	11,282	118,944
Somerset	8,116	766	23,647	263	661	33,453	2,284	35,737
Talbot	4,996	1,314	10,504	101	506	17,420	3,103	20,523
Washington	13,103	7,785	140,787	1,135	2,125	164,936	14,439	179,375
Wicomico	10,627	4,580	110,294	811	1,457	127,769	10,922	138,691
Worcester	7,695	1,869	17,129	137	481	27,310	6,082	33,392
Unallocated	30,381	7,108	46,353	16,353	0	100,195	0	100,195
Total	\$748,615	\$230,534	\$4,757,561	\$50,883	\$57,359	\$5,844,952	\$661,031	\$6,505,983

Note: County/Municipal includes the municipal share of police aid, highway user revenue, and fire aid.

State Aid to Local Governments

**Dollar Difference Between Fiscal 2010 Legislative Appropriation and Fiscal 2009 Working Appropriation
(\$ in Thousands)**

County	<i>Direct State Aid</i>						Retirement	Total
	County - Municipal	Community Colleges	Public Schools	Libraries	Health	Subtotal		
Allegany	-\$1,945	\$252	-\$915	\$0	\$0	-\$2,608	\$1,497	-\$1,111
Anne Arundel	-18,868	1,003	-4,322	-156	0	-22,343	12,668	-9,675
Baltimore City	-23,483	0	-3,816	-38	0	-27,337	11,358	-15,979
Baltimore	-22,199	78	-8,540	-176	0	-30,838	14,125	-16,713
Calvert	-2,754	80	-323	-48	0	-3,045	2,883	-162
Caroline	-1,900	35	-417	-7	0	-2,289	798	-1,491
Carroll	-5,889	536	-2,993	-57	0	-8,403	4,771	-3,632
Cecil	-3,330	307	-1,402	-27	0	-4,452	2,314	-2,138
Charles	-4,575	164	-2,677	-58	0	-7,146	4,672	-2,474
Dorchester	-2,047	31	-513	-7	0	-2,536	826	-1,711
Frederick	-7,990	378	-1,693	-36	0	-9,341	7,010	-2,331
Garrett	-2,051	174	-126	-9	0	-2,012	654	-1,358
Harford	-7,137	474	-3,189	-78	0	-9,929	5,614	-4,315
Howard	-8,420	759	194	3	0	-7,463	10,688	3,225
Kent	-1,096	13	-243	-9	0	-1,335	358	-977
Montgomery	-26,327	1,022	42,883	-4	0	17,574	26,476	44,049
Prince George's	-18,081	1,182	-9,396	-560	0	-26,856	24,618	-2,238
Queen Anne's	-2,379	43	-163	-6	0	-2,505	1,105	-1,400
St. Mary's	-3,196	82	-1,808	-30	0	-4,951	2,268	-2,684
Somerset	-561	39	33	-2	0	-492	588	96
Talbot	-2,329	32	418	0	0	-1,878	453	-1,425
Washington	-4,891	458	178	-18	0	-4,273	3,347	-926
Wicomico	-1,675	231	4,595	10	0	3,161	2,025	5,186
Worcester	-3,999	94	258	1	0	-3,645	1,422	-2,223
Unallocated	-4,132	50	-15,402	-744	0	-20,229	0	-20,229
Total	-\$181,254	\$7,516	-\$9,379	-\$2,055	\$0	-\$185,172	\$142,539	-\$42,633

Note: County/Municipal includes the municipal share of police aid, highway user revenue, and fire aid.

State Aid to Local Governments

Percent Change: Fiscal 2010 Legislative Appropriation over Fiscal 2009 Working Appropriation

County	<i>Direct State Aid</i>						Retirement	Total
	County - Municipal	Community Colleges	Public Schools	Libraries	Health	Subtotal		
Allegany	-13.2%	4.3%	-1.1%	0.0%	0.0%	-2.4%	18.9%	-0.9%
Anne Arundel	-48.8%	3.4%	-1.5%	-7.8%	0.0%	-6.3%	23.4%	-2.4%
Baltimore City	-8.2%	n/a	-0.5%	-0.6%	0.0%	-2.4%	17.7%	-1.3%
Baltimore	-43.0%	0.2%	-1.6%	-3.2%	0.0%	-5.0%	18.0%	-2.4%
Calvert	-38.6%	3.6%	-0.4%	-10.8%	0.0%	-3.1%	22.4%	-0.1%
Caroline	-25.1%	2.4%	-1.0%	-2.3%	0.0%	-4.3%	20.2%	-2.6%
Carroll	-38.9%	7.2%	-2.1%	-5.5%	0.0%	-5.0%	24.0%	-1.9%
Cecil	-38.9%	6.0%	-1.4%	-3.7%	0.0%	-3.9%	19.8%	-1.7%
Charles	-40.8%	2.3%	-1.8%	-6.8%	0.0%	-4.1%	25.9%	-1.3%
Dorchester	-25.7%	2.4%	-1.7%	-2.7%	0.0%	-6.2%	24.8%	-3.9%
Frederick	-39.3%	4.4%	-0.8%	-3.2%	0.0%	-3.9%	25.3%	-0.9%
Garrett	-24.7%	5.2%	-0.5%	-5.4%	0.0%	-5.3%	18.3%	-3.3%
Harford	-38.1%	4.5%	-1.5%	-4.8%	0.0%	-4.1%	19.7%	-1.6%
Howard	-42.6%	5.5%	0.1%	0.4%	0.0%	-3.2%	24.4%	1.2%
Kent	-34.8%	2.4%	-2.3%	-8.8%	0.0%	-9.0%	18.9%	-5.9%
Montgomery	-44.3%	2.4%	9.9%	-0.1%	0.0%	3.2%	19.8%	6.5%
Prince George's	-22.9%	5.0%	-1.0%	-8.6%	0.0%	-2.6%	26.0%	-0.2%
Queen Anne's	-39.3%	2.4%	-0.5%	-4.6%	0.0%	-6.4%	22.1%	-3.2%
St. Mary's	-37.8%	3.6%	-1.9%	-4.5%	0.0%	-4.6%	20.1%	-2.3%
Somerset	-6.9%	5.0%	0.1%	-0.9%	0.0%	-1.5%	25.7%	0.3%
Talbot	-46.6%	2.4%	4.0%	0.4%	0.0%	-10.8%	14.6%	-6.9%
Washington	-37.3%	5.9%	0.1%	-1.6%	0.0%	-2.6%	23.2%	-0.5%
Wicomico	-15.8%	5.0%	4.2%	1.3%	0.0%	2.5%	18.5%	3.7%
Worcester	-52.0%	5.0%	1.5%	1.0%	0.0%	-13.3%	23.4%	-6.7%
Unallocated	-13.6%	0.7%	-33.2%	-4.6%	n/a	-20.2%	n/a	-20.2%
TOTAL	-24.2%	3.3%	-0.2%	-4.0%	0.0%	-3.2%	21.6%	-0.7%

Note: County/Municipal includes the municipal share of police aid, highway user revenue, and fire aid.

Exhibit A-3.9
Total State Aid to Local Governments by Program

<u>Program</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>Difference</u>
Foundation Aid	\$2,781,004,660	\$2,727,298,112	-\$53,706,548
Supplemental Program	36,638,221	48,437,254	11,799,033
Geographic Cost of Education Index	37,879,747	126,375,388	88,495,641
School Improvement Incentive Grants	23,200,000	0	-23,200,000
Revenue Stabilization Grants	14,829,747	0	-14,829,747
Compensatory Education	914,367,170	940,680,532	26,313,362
Student Transportation – Regular	200,438,351	217,198,939	16,760,588
Student Transportation – Special Education	24,640,000	25,138,000	498,000
Special Education – Formula	272,742,094	268,441,042	-4,301,052
Special Education – Nonpublic Placements	127,604,166	112,770,182	-14,833,984
Special Education – Infants and Toddlers	10,389,104	10,389,104	0
Limited English Proficiency Grants	143,945,941	148,635,531	4,689,590
Aging Schools	11,108,986	6,108,986	-5,000,000
Teacher Quality Incentives	10,069,000	5,552,000	-4,517,000
Adult Education	6,933,622	6,933,622	0
Food Service	7,156,663	7,156,663	0
Gifted and Talented Grants	413,829	0	-413,829
Out-of-county Placements	5,200,001	6,000,001	800,000
Headstart	3,000,000	1,800,000	-1,200,000
School Reconstitution	8,629,600	0	-8,629,600
Judy Hoyer Centers	10,575,000	10,575,000	0
Guaranteed Tax Base	89,883,270	63,828,679	-26,054,591
Other Programs	16,911,984	14,862,927	-2,049,057
Total Primary and Secondary Education	\$4,757,561,156	\$4,748,181,962	-\$9,379,194
Library Formula	\$34,529,807	\$33,219,400	-\$1,310,407
Library Network	16,353,054	15,608,631	-744,423
Total Libraries	\$50,882,861	\$48,828,031	-\$2,054,830
Community College Formula	\$202,637,824	\$210,318,368	\$7,680,544
Grants for ESOL Programs	3,695,686	3,741,592	45,906
Optional Retirement	11,984,000	12,920,000	936,000
Small College Grant/Allegany and Garrett Grant	3,743,007	3,911,065	168,058
Statewide Programs	8,473,596	7,158,772	-1,314,824
Total Community Colleges	\$230,534,113	\$238,049,797	\$7,515,684
Highway User Revenue	\$478,269,299	\$308,481,001	-\$169,788,298
Elderly and Handicapped Transportation Aid	6,315,789	4,315,790	-1,999,999
Paratransit	2,806,000	2,806,000	0
Total Transportation	\$487,391,088	\$315,602,791	-\$171,788,297

<u>Program</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>Difference</u>
Police Aid	\$65,931,446	\$66,032,280	\$100,834
Fire and Rescue Aid	10,000,000	10,000,000	0
Vehicle Theft Prevention	2,336,450	2,325,000	-11,450
9-1-1 Grants	13,550,000	16,390,000	2,840,000
Community Policing	2,000,000	2,000,000	0
Foot Patrol/Drug Enforcement Grants	4,332,300	4,332,300	0
Law Enforcement Training Grants	100,000	50,000	-50,000
Stop Gun Violence Grants	940,707	940,707	0
Violent Crime Grants	4,826,537	4,813,287	-13,250
Baltimore City State's Attorney Grant	1,985,000	1,985,000	0
Domestic Violence Grants	183,613	198,940	15,327
War Room/Sex Offender Grant	1,467,216	1,464,350	-2,866
Annapolis Crime Grant	174,000	174,000	0
School Vehicle Safety Grant	550,000	550,000	0
Body Armor	49,535	49,735	200
Total Public Safety	\$108,426,804	\$111,305,599	\$2,878,795
Program Open Space	\$20,089,207	\$9,224,477	-\$10,864,730
Critical Area Grants	645,000	645,000	0
Total Recreation/Environment	\$20,734,207	\$9,869,477	-\$10,864,730
Local Health Formula	\$57,359,207	\$57,359,207	\$0
Disparity Grant	\$115,489,636	\$121,436,013	\$5,946,377
Horse Racing Impact Aid	\$1,205,600	\$1,205,600	\$0
Payments in Lieu of Taxes	1,005,222	1,005,837	615
Security Interest Filing Fees	3,075,000	2,575,000	-500,000
Senior Citizens Activities Center	500,000	500,000	0
Statewide Voting Systems	10,787,218	3,860,658	-6,926,560
Total Other Direct Aid	\$16,573,040	\$9,147,095	-\$7,425,945
Total Direct Aid	\$5,844,952,112	\$5,659,779,972	-\$185,172,140
Retirement – Teachers	\$621,769,420	\$759,076,574	\$137,307,154
Retirement – Libraries	12,887,508	15,253,934	2,366,426
Retirement – Community Colleges	24,179,168	29,239,819	5,060,651
Retirement – Local Employees	2,194,900	0	-2,194,900
Total Payments-in-behalf	\$661,030,996	\$803,570,327	\$142,539,331
Total State Assistance	\$6,505,983,108	\$6,463,350,299	-\$42,632,809

ESOL: English as a second language

Source: Department of Legislative Services

Primary and Secondary Education

State funding for public schools remains a high priority. Over the last eight years, State funding for public schools has increased by over \$2.6 billion, even though the State government was confronted with major fiscal challenges during most of this period. On a per pupil basis, State funding has increased from \$3,432 in fiscal 2002 to \$6,758 in fiscal 2010, a 96.9% increase. In fiscal 2010, local school systems will receive \$5.5 billion in State funding – a \$127.9 million, or 2.4%, increase. State funding for public school construction projects will total around \$260 million in fiscal 2010. Over the last eight years, the State has provided nearly \$2.0 billion in funding for public school construction.

Foundation Program: The foundation program is the basic State education funding mechanism for public schools which ensures a minimum per pupil funding level and requires county governments to provide a local match. The formula is calculated based on a per pupil foundation amount and student enrollment. The per pupil foundation amount for fiscal 2010 is set at \$6,694, and the student enrollment count used for the program totals 814,779 students. Enrollment for the formula is based on the September 30, 2008, full-time equivalent student enrollment count. Less affluent local school systems, as measured by assessable base and net taxable income, receive relatively more aid per pupil than wealthier school systems. The State provides funding for roughly 50% of the program's cost.

State aid under the foundation program will total \$2.8 billion in fiscal 2010. This amount includes \$48.4 million in supplemental grants for 11 local school systems. The supplemental grants were established during the 2007 special session to guarantee increases of at least 1% in State education aid for all local school systems during the two years, fiscal 2009 and 2010, that inflationary increases for the per pupil foundation amount were eliminated. Supplemental grants will not be recalculated in future years but will continue at fiscal 2010 levels, less a \$4.7 million reduction in fiscal 2011 that will recapture overpayments to 8 local school systems that are due to a miscalculation in school system wealth bases in fiscal 2009.

The foundation program decreases \$41.9 million, or 1.5%, from the prior year. This reflects the elimination of the inflationary increase in the per pupil foundation, a small decrease in enrollment, and the recapture of \$30.8 million in overpayments that occurred in fiscal 2009 because of an error in the wealth base calculation for Montgomery County.

Compensatory Education: The compensatory education program provides additional funding based on the number of economically disadvantaged students. The formula recognizes disparities in local wealth by adjusting the grants per eligible student by local wealth. The formula is calculated based on 97% of the annual per pupil amount used in the foundation program and the number of students eligible for free and reduced-price meals. The State provides funding for 50% of the program's cost. State aid under the compensatory education program will total \$940.7 million in fiscal 2010, representing a \$26.3 million, or 2.9%, increase

over the prior year. The per pupil State funding amount for fiscal 2010 is set at \$3,247, and the student enrollment count used for the program totals 274,924.

Special Education: State aid for special education recognizes the additional costs associated with providing programs for students with disabilities. Most special education students receive services in the public schools; however, if an appropriate program is not available in the public schools, students may be placed in a private school offering more specialized services. The State and local school systems share the costs of these nonpublic placements.

The special education formula is calculated based on 74% of the annual per pupil foundation amount and the number of special education students from the prior fiscal year. The per pupil State funding amount for fiscal 2010 is set at \$2,477, and the student enrollment count used for the program totals 102,951. State funding for public special education programs will total \$268.4 million in fiscal 2010, representing a \$4.3 million, or 1.6% decrease over the prior year. Funding for nonpublic placements is \$112.8 million in fiscal 2010, representing a \$14.8 million, or 11.6%, decrease over the prior year. The decrease reflects a change in the cost share formula for nonpublic placements. Under current law, a local school system pays its respective local share of the basic cost of education for each nonpublic placement plus two times the total basic cost of education in the system, as well as 20% of any expense above that sum. The State pays 80% of the costs above the base local funding. Due to the Budget Reconciliation and Financing Act, the State share decreases from 80 to 70% of the costs above the base local share; while the local share of these costs increases from 20 to 30%.

Student Transportation: The State provides grants to assist local school systems with the cost of transporting students to and from school. The grants consist of three components: regular student ridership funds; special education student ridership funds; and additional enrollment funds. The regular student ridership funds are based on the local school system's grant in the previous year increased by inflation; increases cannot exceed 8% or be less than 3%. Local school systems with enrollment increases receive additional funds. The special education student ridership funds are based on a \$1,000 per student grant for transporting disabled students. The fiscal 2010 budget includes \$217.2 million for regular transportation services and \$25.1 million for special transportation services. This represents a \$17.3 million, or 7.7%, increase from the prior year.

Limited English Proficiency: The State provides grants based on non- and limited-English proficient (LEP) students using a definition consistent with federal guidelines. The LEP formula is based on 99% of the annual per pupil foundation amount, with the State providing funding for 50% of the program's cost. The fiscal 2010 grant per LEP student is \$3,314. State funding for the program will total \$148.6 million in fiscal 2010, representing a \$4.7 million, or 3.3% increase over the prior year. The number of LEP students in Maryland totals 42,532 for the 2008-2009 school year, a 5.3% increase from the prior year.

Geographic Cost of Education Index: This is a discretionary formula that provides additional State funds to local school systems where costs for educational resources are higher

than the State average. Funding for the formula was provided in fiscal 2009 for the first time, and fiscal 2010 funding totals \$126.4 million reflecting a 100% phase-in for the formula. Thirteen local school systems receive funding from the geographic cost of education index formula.

Guaranteed Tax Base Program: The Bridge to Excellence in Public Schools Act included an add-on grant for jurisdictions with less than 80% of statewide per pupil wealth that contributed more than the minimum required local share under the foundation program in the prior year. The grant equals the difference between actual and required spending per pupil, up to 20% of the per pupil foundation amount. Ten local school systems will qualify for grants totaling \$63.8 million in fiscal 2010.

Aging Schools Program: The Aging Schools program provides State funding to local school systems for improvements, repairs, and deferred maintenance of public school buildings. These repairs are generally not covered by the capital school construction program and are necessary to maintain older public schools. State funding for the Aging Schools program will total \$6.1 million in fiscal 2010 with an additional \$6.1 million for school wiring.

Judy Hoyer and Head Start Programs: These programs provide financial support for the establishment of centers that provide full-day, comprehensive, early education programs, and family support services that will assist in preparing children to enter school ready to learn. This program also provides funding to support childhood educators, and statewide implementation of an early childhood assessment system. The fiscal 2010 State budget includes \$7.6 million for Judy Center grants, \$3.0 million for school readiness and program accreditation, and \$1.8 million for head start programs.

School Improvement Grants: Grants are provided to schools and local school systems that are low-performing in meeting adequate yearly progress targets. Schools and local school systems receiving grants may be categorized in three stages – in improvement, corrective action, or restructuring. The grants support technical assistance and professional development for school personnel to improve school performance. State funding for school improvement grants totaled \$8.6 million in fiscal 2009; however, funding was discontinued in fiscal 2010.

Teacher Quality Incentives: The State provides salary enhancements for teachers obtaining national certification, a signing bonus for teachers graduating in the top of their class, and a stipend for teachers and other non-administrative certificated school employees working in low-performing schools. The Budget Reconciliation and Financing Act of 2009 alters eligibility and bonus amounts for the Quality Teacher Incentives, including the elimination of the \$1,000 salary signing bonuses for qualifying teachers. Together, the changes result in a \$5.3 million funding reduction for teacher quality incentives. The fiscal 2010 State budget includes \$4.2 million for teacher quality incentives; \$96,000 for the Governor’s Teacher Excellence Award Program which distributes awards to teachers for outstanding performance; and \$1.4 million for teacher quality and national certification grants.

Food and Nutrition Services: In addition to federal funds provided under the School Lunch Act of 1946, the State provides matching funds to support food and nutrition programs for low-income children. The programs provide free and reduced price breakfasts, lunches, and snacks to public or private nonprofit school students. All public schools in the State are required to provide subsidized or free nutrition programs for eligible students. The fiscal 2010 State budget includes \$7.2 million for food and nutrition services.

Infants and Toddlers Program: This program involves a statewide community-based interagency system of comprehensive early intervention services for eligible children who are less than three years old. Eligible children include those who have developmental delays or disabilities. State funding for infants and toddlers programs will total \$10.4 million in fiscal 2010, the same amount that was provided in the prior year.

Adult Education: The State provides funding for adult education services through four programs: adult general education; external diploma program; literacy works grant; and adult education and literacy works. The State budget includes \$6.9 million for adult education programs in fiscal 2010, the same amount that was provided in the prior year.

School-based Health Centers: The fiscal 2010 State budget includes \$2.7 million for school-based health centers, which provide primary medical care as well as social, mental health, and health education services for students and their families. The funding for these centers was transferred from the Subcabinet Fund to the Maryland State Department of Education in fiscal 2007.

Science and Math Education Initiative: This program includes summer sessions for teachers and an equipment incentive fund to strengthen science and math education. The State budget includes \$1.3 million for this initiative in fiscal 2010.

Environmental Education: The fiscal 2010 State budget includes \$0.6 million for student participation in an outdoor education program that opened in August 2005 at North Bay in Cecil County. The program, which can serve 11,000 students per year, is structured as a four-night stay for sixth graders that provides an outdoor education experience aligned with the State curriculum.

Principal Development Program: Chapter 408 of 2005 established a statewide Principal Fellowship and Leadership Development Program, which provides incentive payments for distinguished principals to work in low-performing schools. Funding for this program totaled \$160,000 in fiscal 2009; however, funding is discontinued in fiscal 2010.

Teachers' Retirement Payments: The State pays 100% of the employer's share of retirement costs for local school system employees in the Teachers' Retirement and Pension Systems maintained by the State. Rather than distributing the aid to the local boards of education and billing them for the retirement contributions, the State appropriates a lump-sum payment to the retirement system "on behalf of" the local boards. The appropriation is calculated by increasing the second prior year's salary base by 5% and applying the contribution

rate certified by the retirement system. Teachers' retirement payments will total \$759.1 million in fiscal 2010, representing a \$137.3 million, or 22.1%, increase over the prior year. The large increase reflects 8.1% growth in the teachers' salary base and a 12.4% increase in the contribution rate applied to the salary base.

Local Libraries

Local libraries receive over 20% of their funding from the State government. In fiscal 2010, State aid to local libraries will total \$64.1 million, representing a \$312,000, or 0.5%, increase over the prior year.

Minimum Per Capita Library Program: The State provides assistance to public libraries through a formula that determines the State and local shares of a minimum per capita library program. The minimum library program is specified in statute. Overall, the State provides 40% of the minimum program, and the counties provide 60%. However, the State/local share of the minimum program varies by county depending on local wealth. Chapter 481 of 2005 started a phase-in of enhancements for the library aid formula, increasing the per resident allocation by \$1 per year from \$12 per resident in fiscal 2006 to \$16 per resident by fiscal 2010. However, Chapter 2 of the 2007 special session deferred the \$1 formula increase for fiscal 2009 and restarted the phase-up in fiscal 2010.

The Budget Reconciliation and Financing Act of 2009 freezes the per resident amount used in the local library aid formula at \$14 for fiscal 2010 and 2011. The phase-in of formula enhancements restarts in fiscal 2012 at \$15 per resident and reaches the \$16 per resident formula target by fiscal 2013. This change results in a \$3.0 million reduction in fiscal 2010 relative to the previously established funding level. The fiscal 2010 amount also reflects a reduction of \$553,243 to recapture fiscal 2009 overpayments that occurred because of a wealth base calculation error for Montgomery County. Due to these changes, State funding in fiscal 2010 will total \$33.2 million, which represents a \$1.3 million, or 3.8%, decrease over the prior year.

State Library Network: The network consists of the Central Library of the Enoch Pratt Free Library System in Baltimore City, three regional resource centers, and metropolitan cooperative service programs. The Enoch Pratt Free Library operates as the designated State Library Resource Center. In addition to the State center, regional resource centers serve Western Maryland (Hagerstown), Southern Maryland (Charlotte Hall), and the Eastern Shore (Salisbury). Funding for the State Library Resource Center has equaled \$1.85 per State resident since fiscal 2004. Chapter 481 of 2005 started a phase-in of enhancements for the regional resource centers, increasing the per resident allocation by \$1.00 per year to move from \$4.50 per resident in fiscal 2006 to \$8.50 per resident by fiscal 2010. However, Chapter 2 of the 2007 special session deferred the \$1.00 formula increase for fiscal 2009 and restarted the phase-up in fiscal 2010.

The Budget Reconciliation and Financing Act of 2009 decreases the per resident allocations to the State Library Resource Center and the State's three regional resource centers. Funding for the State Library Resource Center is reduced from \$1.85 per State resident to \$1.67 per resident for fiscal 2010 and 2011. Funding for regional resource centers decreases to \$6.75 per resident of the region in fiscal 2010 and 2011 and increases to \$7.50 per resident in fiscal 2012 and \$8.50 per resident in fiscal 2013. Due to these changes, State funding in fiscal 2010 will total \$9.4 million for the State Library Resource Center and \$6.2 million for the regional centers.

Retirement Payments: The State pays 100% of the employer's share of retirement costs for local library employees in the Teachers' Retirement and Pension Systems maintained by the State. State funding for library retirement payments will total \$15.3 million in fiscal 2010, a \$2.4 million, or 18.4%, increase from the prior year.

Community Colleges

Local community colleges receive about 25% of their funding from the State government. In fiscal 2010, State aid to local community colleges will total \$267.3 million – a \$12.6 million, or 4.9%, increase from the prior year. Baltimore City Community College, which is operated by the State, will receive a State appropriation of \$41.7 million in fiscal 2010.

Senator John A. Cade Funding Formula: The fiscal 2010 State budget includes \$210.3 million for the Senator John A. Cade formula, an increase of \$7.7 million over the fiscal 2009 amount. The increase reflects 3.1% growth in full-time equivalent enrollment at community colleges, a 0.5% increase in the per pupil funding amount, and a \$295,000 hold harmless grant for the Community College of Baltimore County that will bring funding for the school back to its fiscal 2008 level. In future years, funding for the Cade formula will be determined by taking a percentage of the funding provided to the public four-year institutions of higher education in the same fiscal year rather than the prior fiscal year. This change was made in the Budget Financing and Reconciliation Act of 2009 which also reestablished a phase-in of future enhancements for the Cade formula.

Special Programs: State funding in fiscal 2010 will total \$3.3 million for the small college grants and \$0.6 million for the Allegany/Garrett counties unrestricted grants. Funding for statewide and regional programs will total \$7.2 million. The English as a Second Language program will receive \$3.7 million.

Retirement Payments: The State pays 100% of the employer's share of retirement costs for community college faculty in the Teachers' Retirement and Pension Systems maintained by the State. State funding for community college retirement payments will total \$29.2 million in fiscal 2010 – a \$5.1 million, or 20.9% increase. In addition, State funding for the optional retirement program will total \$12.9 million in fiscal 2010, representing a \$0.9 million, or 7.8%, increase.

Local Health Departments

The State provides funds to support the delivery of public health services in each of Maryland's 24 jurisdictions. Support for this program is formula-driven, with increases based on inflation and population growth. Due to cost containment, State aid for local health departments will total \$57.4 million in fiscal 2010, the same amount as in the prior year.

County and Municipal Governments

Less than 10% of State aid goes to county and municipal governments. State funding for counties and municipalities will total \$567.4 million in fiscal 2010, representing a \$183.4 million, or 24.4%, decrease over the prior year. Over the last four years, State aid to counties and municipalities has decreased by approximately \$386.2 million, with State aid in fiscal 2007 totaling \$953.5 million. State aid to county and municipal governments is targeted primarily to highway maintenance, police and fire services, and parks and recreation. The State also provides disparity grants to less affluent counties to address the differences in the abilities of counties to raise revenues from the local income tax.

Highway User Revenues: Due to fiscal constraints, the General Assembly approved measures that reduced State funding for local transportation purposes. The Budget Reconciliation and Financing Act of 2009 reduces the formula allocation by \$101.9 million in fiscal 2010 and 2011, while establishing Baltimore City's share at 10.8%. The municipality share of the formula reduction is set at approximately \$3.7 million under the legislation. Funding for the counties and Baltimore City is also reduced by an additional \$60 million in fiscal 2010 based on wealth and local tax effort. Beginning in fiscal 2012, local governments will receive 28.5% of the share of highway user funds instead of 30%. Due to these changes and lower revenue attainment, local governments will receive \$308.5 million in local highway user revenues in fiscal 2010, representing a \$169.8 million decrease from the prior year.

Other Transportation Aid: State funding for elderly/disabled transportation grants will decrease by \$2.0 million, with funding set at \$4.3 million in fiscal 2010. State funding for paratransit grants will remain at \$2.8 million.

Police Aid Formula: Maryland's counties and municipalities receive grants for police protection through the police aid formula. The police aid formula allocates funds on a per capita basis, and jurisdictions with a higher population density receive greater per capita grants. Municipalities receive additional grants based on the number of sworn officers. The Maryland State Police recovers 30% of the State crime laboratories costs relating to evidence-testing services from each county's formula allocation. After the crime laboratory adjustment, police aid will total \$66.0 million in fiscal 2010, representing a \$0.1 million, or 0.2%, increase from the prior year.

Public Safety Grants: State funding for targeted public safety grants will total \$14.4 million in fiscal 2010. These grants include violent crime grants for Baltimore City and Prince George's County, police foot patrol and community policing grants for Baltimore City, a drug enforcement grant for Prince George's County, S.T.O.P. gun violence grants, school bus traffic enforcement grants, domestic violence grants, law enforcement and correctional officers training grants, Baltimore City war room, sex offender and compliance enforcement, and the body armor grants. In addition, \$2.0 million will be provided to the Baltimore City State's Attorney Office to assist in the prosecution of gun offenses and repeat violent offenders and \$174,000 will be provided to the Annapolis Crime Project, an ongoing initiative to fight crime in the City of Annapolis.

Vehicle Theft Prevention Program: This program provides grants to law enforcement agencies, prosecutors' offices, local governments, and community organizations for vehicle theft prevention, deterrence, and educational programs. Funds are used to enhance the prosecution and adjudication of vehicle theft crimes. Funding for the program is provided through the Vehicle Theft Prevention Fund, a non-lapsing dedicated fund that receives up to \$2.0 million a year from penalties collected for lapsed or terminated insurance coverage. Additional funds are received from inspection fees collected for salvaged vehicle verification. State funding for this program will total \$2.3 million in fiscal 2010.

Fire, Rescue, and Ambulance Services: The State provides formula grants to the counties, Baltimore City, and qualifying municipalities for local and volunteer fire, rescue, and ambulance services. The grants are for equipment and renovation projects, not operating costs. The program is funded through the Maryland Emergency Medical System Operations Fund. The grant level is set at \$10.0 million in fiscal 2010.

9-1-1 Emergency Systems Grant: The State imposes a 25-cent fee per month on telephone subscribers that is deposited into a trust fund that provides reimbursements to counties for improvements and enhancements to their 9-1-1 systems. Counties may only use the trust fund money to supplement their spending, not to supplant it. State funding to local 9-1-1 emergency systems will increase to \$16.4 million in fiscal 2010.

Program Open Space Grants: Under Program Open Space (POS), the State provides grants to local governments for land acquisition and the development of parks and recreation facilities. The State property transfer tax funds POS and related programs. Local POS grants will total \$6.1 million in fiscal 2010, which represents a \$12.4 million decrease from the prior year. In addition, Baltimore City will receive a \$3.1 million special POS grant. The decrease in local POS grants is due primarily to the downturn in the real estate market. In the last four years, State funding for POS has decreased by \$128.0 million. In addition, legislation passed at the 2007 special session redirected \$21.0 million of local POS funds to the Maryland Park Service.

Disparity Grants: Disparity grants address the differences in the abilities of counties to raise revenues from the local income tax, which is the third largest revenue source for counties after State aid and property taxes. Counties with per capita local income tax revenues less than 75% of the State's average receive grants, assuming all counties impose a 2.54% local income

tax rate. Aid received by a county equals the dollar amount necessary to raise the county's per capita income tax revenues to 75% of the State average. In fiscal 2010, Baltimore City and seven counties (Allegany, Caroline, Dorchester, Garrett, Prince George's, Somerset, and Wicomico) qualify for disparity grants. The fiscal 2010 State budget includes \$121.4 million for disparity grants, a \$5.9 million increase from the prior year. The fiscal 2010 grant under the statute is based on population estimates for July 2007 and calendar 2007 local income tax revenues raised from a 2.54% local income tax rate. State funding for disparity grants will be affected in future years due to a provision in the Budget Reconciliation and Financing Act of 2009 that caps each county's funding under the program at the fiscal 2010 level.

Retirement Payments for Certain Local Officials: Under State law, appointed or elected officials of the State are eligible to be members of the State employees' retirement systems. The statute specifies that this provision applies to State's Attorneys and sheriffs. Over the years, judicial decisions and Attorney General opinions have interpreted these provisions to include the following officials: county treasurers; county commissioners; orphans' court judges; bingo board members; and liquor and license board members. The fiscal 2010 budget included \$2.5 million for employer retirement costs associated with these locally paid officials and employees. The Budget Reconciliation and Financing Act of 2009 eliminates funding for this program beginning in fiscal 2010.

Local Voting Grants: The State budget includes \$10.8 million in fiscal 2009 and \$3.9 million in fiscal 2010 to purchase voting machines and support the statewide voting system.

State Assumed Functions in Baltimore City

The State assumption of functions or responsibilities performed by local governments is another aspect of State/local fiscal relationships. There was considerable activity in this area in the 1970s when the State assumed the responsibility for several programs including the District Court, Medical Assistance, public assistance, and property assessments. During the 1990s, the State assumed several local government functions in Baltimore City to help reduce the city's fiscal pressures. These services included the local community college, city detention center, and the central booking facility. The cost for these assumed functions will total \$184.3 million in fiscal 2010 – a \$9.3 million, or 5.3%, increase from the prior year.

County Level Detail

This section includes information for each county on State aid, State funding of selected services, and capital projects in the county. The three parts included under each county are described below.

Direct Aid and Retirement Payments

Direct Aid: The State distributes aid or shares revenue with the counties, municipalities, and Baltimore City through over 40 different programs. The fiscal 2010 State budget includes \$5.7 billion to fund these programs. Part A, section 1 of each county's statistical tables compares aid distributed to the county in fiscal 2009 and 2010.

Retirement Payments: County teachers, librarians, and community college faculty are members of either the teachers' retirement or pension systems maintained and operated by the State. The State pays the employer share of the retirement costs on behalf of the counties for these local employees. These payments total \$803.6 million in fiscal 2010. Although these funds are not paid to the local governments, each county's allocation is estimated from salary information collected by the State retirement systems. These estimates are presented in Part A, section 2 of each county.

Estimated State Spending on Health and Social Services

The State funds the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. Part B of each county shows fiscal 2010 allocation estimates of general and special fund appropriations for health services, social services, and senior citizen services.

Health Services: The Department of Health and Mental Hygiene, through its various administrations, funds in whole or part community health programs that are provided in the local subdivisions. These programs are described below. General fund spending totals \$957.1 million statewide for these programs in fiscal 2010. In addition, \$43.5 million from the Cigarette Restitution Fund will also be spent on these programs in fiscal 2010. This does not include spending at the State mental health hospitals, developmental disability facilities, or chronic disease centers.

- **Alcohol and Drug Abuse:** The Alcohol and Drug Abuse Administration funds community-based programs that include primary and emergency care, intermediate care facilities, halfway houses and long-term care programs, outpatient care, and prevention programs. The fiscal 2010 budget includes \$85.9 million in general funds and \$17.1 million in special funds for these programs. In addition, the budget includes \$30.0 million in federal funds for addiction treatment services.
- **Family Health and Primary Care Services:** The Family Health Administration funds community-based programs through the local health departments in each of the subdivisions. These programs include maternal health (family planning, pregnancy

testing, prenatal and perinatal care, etc.) and infant and child health (disease prevention, child health clinics, specialty services, etc.). Primary care services are funded for those people who previously received State-only Medical Assistance. Fiscal 2010 funding for these family health programs totals \$15.1 million in general funds and \$29.8 million in federal funds.

- **Medical Care Services:** The Medical Care Programs Administration provides support for the local health departments and funding for community-based programs that serve senior citizens. The geriatric services include operating grants to adult day care centers and an evaluation program administered by the local health departments to assess the physical and mental health needs of elderly individuals. This category also includes grants to local health departments related to eligibility determination for the Medicaid and Children’s Health programs, transportation services for Medicaid recipients in non-emergency situations, and coordination and outreach services for Medicaid and special needs populations in the HealthChoice program. The fiscal 2010 funding for these programs totals \$28.4 million in general funds and \$30.1 million in federal funds.
- **Mental Health:** The Mental Hygiene Administration oversees a wide range of community mental health services that are developed and monitored at the local level by Core Service Agencies. The Core Service Agencies have the clinical, fiscal, and administrative responsibility to develop a coordinated network of services for all public mental health clients of any age within a given jurisdiction. These services include inpatient hospital and residential treatment facility stays, outpatient treatment, psychiatric rehabilitation services, counseling and targeted case management services. The fiscal 2010 budget includes \$382.0 million in general funds and \$294.1 million in federal funds for mental health services.
- **Prevention and Disease Control:** The Community Health Administration and the Family Health Administration are responsible for chronic and hereditary disease prevention (cancer, heart disease, diabetes, etc.). They also provide for the promotion of safe and effective immunization practices, the investigation of disease outbreaks, and continuous disease surveillance and monitoring with the support of local health departments and the medical community. General fund appropriations in fiscal 2010 total \$10.0 million along with \$16.0 million in federal funds. In addition, the budget includes \$26.5 million from the Cigarette Restitution Fund for tobacco use prevention and cessation and for cancer prevention and screening at the local level.
- **Developmental Disabilities:** The Developmental Disabilities Administration’s community-based programs include residential services, day programs, transportation services, summer recreation for children, individual and family support services, including respite care, individual family care, behavioral support services, and community supported living arrangements. The fiscal 2010 budget includes \$433.9 million in general funds and \$313.3 million in federal funds for these programs.

- **AIDS:** The AIDS Administration funds counseling, testing, education and risk reduction services through the local health departments. Fiscal 2010 funds for these services total \$1.8 million in general funds. The budget for the AIDS Administration also includes \$21.5 million in federal funds for these services.

Social Services: The Department of Human Resources provides funding for various social and community services in the subdivisions. Part B of each county's statistical tables shows fiscal 2010 estimates of funding for those programs that are available by subdivision. Note that fiscal 2010 funding for both homeless and women's services is allocated among the subdivisions on the basis of each jurisdiction's share of fiscal 2009 funding and may change.

- **Homeless Services:** The State funds programs which provide emergency and transitional housing, food, and transportation for homeless families and individuals. Funding is available by county for the housing counselor, service-linked housing and emergency and transitional housing programs. The fiscal 2010 budget includes \$5.1 million in general funds for these programs.
- **Women's Services:** The State provides funding for a variety of community-based programs for women. These include the battered spouse program, rape crisis centers, and crime victim's services. Total fiscal 2010 funding for these programs equals \$4.0 million in general funds. In addition, the fiscal 2010 budget includes \$9.1 million in federal funds for women's services.
- **Adult Services:** The State social services departments in each of the subdivisions provide a variety of services to disabled, elderly, neglected, and exploited adults. Services include information and referral, crisis intervention, case management, protective services, in-home aid, and respite care for families. The fiscal 2010 budget includes \$10.5 million in general funds and \$31.6 million in federal funds for adult services.
- **Child Welfare Services:** The State social services departments in each of the subdivisions offer programs to support the healthy development of families, assist families and children in need, and protect abused and neglected children. Services include adoptive services, foster care programs, family preservation programs, and child protective services. The fiscal 2010 budget includes \$91.0 million in general funds and \$123.7 million in federal funds.

Senior Citizen Services: The Department of Aging funds a variety of services for senior citizens mostly through local area agencies on aging. In Part B of each county, these programs have been combined into two broad categories: long-term care and community services. The total fiscal 2010 funding is \$13.6 million in general funds and \$24.8 million in federal funds. In this report the fiscal 2010 general funds are allocated among the subdivisions on the basis of each jurisdiction's share of fiscal 2009 funding and may change.

- **Long-term Care:** This category includes the following programs: frail and vulnerable elderly, senior care, senior guardianship, the ombudsman program, and the innovations in aging program. The total fiscal 2010 funding is \$10.0 million in general funds.
- **Community Services:** Included in this category are the senior information and assistance program, the senior nutrition program, and the insurance counseling program. Also included is a hold harmless grant for certain counties that received less federal funding under the Older Americans Act when 2000 census population figures were factored into the funding formula. Fiscal 2010 funding for these programs totals \$3.6 million in general funds.

Capital Grants and Capital Projects for State Facilities

Selected State Grants for Capital Projects: The State provides capital grants for public schools, community colleges, local jails, community health facilities, water quality projects, waterway improvements, homeless shelters, and other cultural, historical, and economic development projects. Projects are funded from either bond sales or current revenues. Part C lists projects in the counties authorized by the fiscal 2010 State operating and capital budgets. Projects at regional community colleges are shown for each county that the college serves. The projects listed for the various loan programs are those currently anticipated for fiscal 2010. The actual projects funded and/or the amount of funding for specific projects could change depending on which projects are ready to move forward and final costs.

The fiscal 2010 budget includes \$262.2 million in funding for local school construction: \$2.2 million from the program's contingency fund and \$260.0 million in general obligation bonds. As of the publication of this report, \$195.0 million of the total fiscal 2010 funding has been allocated to specific projects. These projects are listed in part C for each county.

Capital Projects for State Facilities Located in the County: Part D for each county shows capital projects, authorized by the fiscal 2010 operating and capital budgets, at State facilities and public colleges and universities by the county in which the facility is located. If a facility is located in more than one county, such as a State park, the total amount of the capital project is shown for all relevant counties. For each capital project, the total authorized amount is given, regardless of funding source, although federally funded projects are generally shown separately. For the universities, projects funded from both academic and auxiliary revenue bonds are included. The projects funded with auxiliary revenue bonds are those anticipated for fiscal 2010 but the actual projects funded could be different. This report does not include transportation projects.

Allegany County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$44,991	\$43,498	-\$1,492	-3.3
Compensatory Education	21,637	21,956	319	1.5
Student Transportation	4,009	4,310	300	7.5
Special Education	7,085	6,696	-389	-5.5
Limited English Proficiency Grants	165	147	-18	-10.9
Guaranteed Tax Base	7,683	8,224	541	7.0
Adult Education	188	188	0	0.0
Aging Schools	178	98	-80	-44.9
Other Education Aid	775	678	-97	-12.5
Primary & Secondary Education	86,711	85,795	-916	-1.1
Libraries	770	770	0	0.0
Community Colleges	5,920	6,172	252	4.3
Health Formula Grant	1,398	1,398	0	0.0
* Transportation	6,700	4,333	-2,367	-35.3
* Police and Public Safety	868	870	3	0.3
* Fire and Rescue Aid	205	205	0	0.0
Recreation and Natural Resources	205	69	-137	-66.8
Disparity Grant	6,743	7,299	556	8.2
Total Direct Aid	\$109,520	\$106,911	-\$2,609	-2.4
Aid Per Capita (\$)	1,509	1,480	-29	-1.9
Property Tax Equivalent (\$)	3.21	2.82	-0.40	-12.5

* Municipal governments within the county receive a share of these funds.

2. Retirement Payments

County teachers and librarians are members of either the teachers’ retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2010 State payments for Allegany County for teachers, librarians, and community college faculty are estimated to be \$9,437,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2010 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county’s share of prior year funding (fiscal 2009) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services

Alcohol and Drug Abuse	\$4,302,000
Family Health and Primary Care	230,000
Medical Care Services	751,000
Mental Health	5,848,000
Prevention and Disease Control	415,000
Developmental Disabilities	5,597,000
AIDS	27,000

Social Services

Homeless Services	101,000
Women’s Services	96,000
Adult Services	241,000
Child Welfare Services	2,031,000

Senior Citizen Services

Long-term Care	321,000
Community Services	160,000

C. Selected State Grants for Capital Projects**Senior Centers Grant Program**

Cumberland Senior Center	\$280,000
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Partnership Rental Housing Program

Frederick Street	820,000
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Community Parks and Playgrounds

Barton Little League Complex	15,000
Barton Meadow Park	25,000
Frostburg Recreation Complex	45,000
Hot Stove Park	74,000
Lonaconing Recreation Area	143,000

Chesapeake Bay Water Quality Projects

Cumberland Combined Sewer – overflow improvements	400,000
Frostburg Combined Sewer – overflow improvements	400,000
George’s Creek WWTP – nutrient removal	159,000
Westernport Combined Sewer – overflow improvements	400,000

Water Supply Financial Assistance Program

Lonaconing – water improvements	300,000
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Other Projects

Allegany Museum	225,000
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D. Capital Projects for State Facilities in the County

Department of Public Safety and Correctional Services

North Branch Correctional Institution – upholstery plant	\$6,845,000
Western Correctional Institution – rubble landfill closure cap	1,815,000
Western Correctional Institution – vocational education building	11,166,000

Maryland Veterans Administration

Rocky Gap Veterans Cemetery – install columbaria	25,000
Rocky Gap Veterans Cemetery – install columbaria (federal funds)	245,000

University System of Maryland

Frostburg State – Lane Center renovation/addition	15,020,000
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Anne Arundel County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$182,020	\$172,986	-\$9,034	-5.0
Compensatory Education	39,904	41,572	1,668	4.2
Student Transportation	18,719	20,214	1,495	8.0
Special Education	28,235	25,955	-2,280	-8.1
Limited English Proficiency Grants	4,460	5,362	902	20.2
Geographic Cost of Education Index	2,588	8,656	6,068	234.5
Adult Education	403	403	0	0.0
Aging Schools	920	506	-414	-45.0
Other Education Aid	3,847	1,120	-2,727	-70.9
Primary & Secondary Education	281,096	276,774	-4,322	-1.5
Libraries	1,991	1,835	-156	-7.8
Community Colleges	29,873	30,876	1,003	3.4
Health Formula Grant	4,834	4,834	0	0.0
* Transportation	28,411	10,987	-17,424	-61.3
* Police and Public Safety	6,825	6,825	0	0.0
* Fire and Rescue Aid	809	809	0	0.0
Recreation and Natural Resources	2,185	741	-1,444	-66.1
* Other Direct Aid	420	420	0	0.0
Total Direct Aid	\$356,444	\$334,101	-\$22,343	-6.3
Aid Per Capita (\$)	696	652	-44	-6.3
Property Tax Equivalent (\$)	0.44	0.39	-0.05	-11.4

* Municipal governments within the county receive a share of these funds.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2010 State payments for Anne Arundel County for teachers, librarians, and community college faculty are estimated to be \$66,893,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2010 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2009) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services

Alcohol and Drug Abuse	\$3,411,000
Family Health and Primary Care	624,000
Medical Care Services	1,436,000
Mental Health	22,544,000
Prevention and Disease Control	1,123,000
Developmental Disabilities	39,529,000

Social Services

Homeless Services	206,000
Women's Services	201,000
Adult Services	190,000
Child Welfare Services	4,498,000

Senior Citizen Services

Long-term Care	649,000
Community Services	155,000

C. Selected State Grants for Capital Projects**Public Schools**

Bodkin Elementary School – construction	\$727,000
Broadneck Elementary School – construction	1,579,000
Central Elementary School – construction	2,411,000
Chesapeake High School – renovations (roof)	1,665,000
Crofton Woods Elementary School – construction	2,129,000
Hilltop Elementary School – construction	2,129,000
Marley Glen Special Education School – renovations (electrical)	65,000
Oak Hill Elementary School – construction	727,000
Pershing Hill Elementary School – construction	3,164,000
Ruth Eason Special Education School – renovations (electrical)	65,000
Severna Park Elementary School – renovations (HVAC)	603,000
Severna Park Middle School – construction	200,929
Southgate Elementary School – construction	2,933,346
Windsor Farm Elementary School – construction	615,725

Anne Arundel Community College

Library – renovation and addition	781,000
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Shelter and Transitional Facilities

Light House Shelter	885,852
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Community Parks and Playgrounds

Davis Park	26,000
Highland Beach Park	41,000
Turner Playground	56,000

Chesapeake Bay Restoration Fund

Cox Creek WWTP – enhanced nutrient removal	5,000,000
Maryland City WWTP – enhanced nutrient removal	1,888,000
Patuxent WWTP – enhanced nutrient removal	664,000

Waterway Improvement

Annapolis – public boating facilities improvements	50,000
Anne Arundel County Fire Department – acquire fire/rescue boat	50,000
Fort Smallwood Park – design boat launch ramp	99,000
Rockhold Creek – federal channel dredging	500,000
Submerged aquatic vegetation monitoring – countywide	10,000

Other Projects

Aleph Bet Jewish Day School	45,000
Annapolis Summer Garden Theatre	50,000
Anne Arundel Community College – turf field	1,000,000
Benson-Hammond House	60,000
Coordinating Center for Home and Community Care	30,000
Historical Freetown Elementary – renovation	150,000
Homeport Farm Park	100,000
Light House Shelter	50,000
Linthicum Veterans Memorial	185,000
Maryland Hall for the Creative Arts	500,000
Maryland Therapeutic Riding Education and Rehabilitation Center	25,000
Southern High School Field House	50,000

D. Capital Projects for State Facilities in the County**General Government**

Lowe House Office Building – renovations	\$4,000,000
State House – Old House of Delegates Chamber restoration	3,136,000

Department of Public Safety and Correctional Services

Jessup Community Corr. Facility – minimum security complex (federal funds)	10,000,000
Jessup Community Corr. Facility – minimum security complex	13,224,000

Maryland Environmental Service

Jessup Correctional Complex – Dorsey wastewater treatment plant improvements	4,459,000
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Baltimore City

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$406,512	\$398,667	-\$7,844	-1.9
Compensatory Education	268,143	269,615	1,473	0.5
Student Transportation	17,241	19,198	1,957	11.4
Special Education	82,686	79,319	-3,368	-4.1
Limited English Proficiency Grants	9,355	10,601	1,246	13.3
Guaranteed Tax Base	37,894	33,352	-4,542	-12.0
Geographic Cost of Education Index	6,516	21,907	15,391	236.2
Adult Education	1,136	1,136	0	0.0
Aging Schools	2,524	1,388	-1,136	-45.0
Other Education Aid	9,492	2,498	-6,994	-73.7
Primary & Secondary Education	841,499	837,681	-3,817	-0.5
Libraries	6,586	6,548	-38	-0.6
Health Formula Grant	10,269	10,269	0	0.0
Transportation	193,365	166,761	-26,604	-13.8
Police and Public Safety	10,097	10,080	-16	-0.2
Fire and Rescue Aid	939	939	0	0.0
Recreation and Natural Resources	3,459	3,568	109	3.2
Disparity Grant	75,524	79,052	3,528	4.7
Other Direct Aid	4,559	4,060	-499	-10.9
Total Direct Aid	\$1,146,297	\$1,118,958	-\$27,337	-2.4
Aid Per Capita (\$)	1,798	1,757	-41	-2.3
Property Tax Equivalent (\$)	3.42	3.19	-0.22	-6.4

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2010 State payments for Baltimore City for teachers, librarians, and community college faculty are estimated to be \$75,532,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2010 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2009) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services

Alcohol and Drug Abuse	\$40,389,000
Family Health and Primary Care	4,201,000
Medical Care Services	7,572,000
Mental Health	129,959,000
Prevention and Disease Control	1,395,000
Developmental Disabilities	49,249,000
AIDS	497,000

Social Services

Homeless Services	2,159,000
Women's Services	683,000
Adult Services	2,668,000
Child Welfare Services	33,119,000

Senior Citizen Services

Long-term Care	1,907,000
Community Services	929,000

C. Selected State Grants for Capital Projects**Public Schools**

Hilton Elementary School #21 – renovations (boilers)	\$1,785,000
Leith Walk Elementary/Middle School #245 – construction	8,401,000
Patapsco Elementary/Middle School #163 – renovations (fire safety)	214,000
Rognel Heights Elementary/Middle School #89 – renovations (boilers)	476,000
Violetville Elementary/Middle School #226 – construction	7,156,000

Public Libraries

Canton Library – renovation	400,000
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Community Health Facilities Grant Program

Community Housing Associates, Inc.	3,500,000
The Baltimore Station	1,000,000

Shelter and Transitional Facilities

House of Freedom II	614,148
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Partnership Rental Housing Program

Thompson 22	1,650,000
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Community Parks and Playgrounds

Burdick Park	140,000
Druid Hill Park	230,000
Easterwood Park	130,000
Windsor Hills Park	110,000

Chesapeake Bay Water Quality Projects

Patapsco WWTP – nutrient removal	12,685,000
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Chesapeake Bay Restoration Fund

Patapsco WWTP – enhanced nutrient removal	29,492,000
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Waterway Improvement

City Fire Department – acquire dive team and fire boat equipment	20,000
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Other Projects

Academy of Success Community Empowerment Center	50,000
American Visionary Art Museum	150,000
Archbishop Curley High School – Fine Arts Center	200,000
Baltimore International College – Culinary Arts Center	3,000,000
Baltimore Museum of Industry	80,000
Center for Urban Families	75,000
College of Notre Dame – Knott Science Center	3,500,000
East Baltimore Biotechnology Park	5,000,000
Eastside Youth Center	75,000
Garrett-Jacobs Mansion	200,000
Girl Scout Urban Program and Training Center	150,000
GREEN HOUSE at Stadium Place	4,500,000
Healthy Start Client Service Center	150,000
Housing and Resource Center	2,000,000
Iota Phi Theta Love/Action Center	15,000
Johns Hopkins Health System – Cardiovascular and Critical Care Tower	7,000,000
Johns Hopkins Health System – Pediatric Trauma Center	10,000,000
Kennedy Krieger Institute	2,600,000
Lyric Opera House	1,500,000
Maryland Science Center – green roof	400,000
Park Heights Revitalization	1,500,000
Parks and People Headquarters at Auchentoroly Terrace	50,000
Port Discovery	325,000
Roland Park Fire Station – rehabilitation	110,000
Sinai Hospital	2,760,000
Southwest Senior and Community Multipurpose Center	125,000
Therapeutic Pool for People with Disabilities	350,000
WestSide Revitalization Project	2,000,000
Women’s Industrial Exchange	125,000

D. Capital Projects for State Facilities in the City**Baltimore City Community College**

Liberty Campus – renovate main building	\$3,214,000
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Department of Health and Mental Hygiene

Forensic Medical Center – construction	2,846,000
Public Health Laboratory – construction	6,450,000

Department of Juvenile Services

Baltimore City Juvenile Treatment Center – construction	4,000,000
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Department of Public Safety and Correctional Services

Baltimore City Detention Center – Women’s Center	5,959,000
Baltimore City Detention Center – Youth Facility	11,800,000

Department of Education

State Library Resource Center	1,550,000
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Morgan State University

Campuswide – site improvements	6,321,000
Campuswide – utility upgrades	5,264,000
Center for the Built Environment and Infrastructure Studies	27,370,000
Lillie Carroll Jackson Museum – renovation	2,763,000
Montebello Complex and Northwood Shopping Center – demolition	2,185,000
School of Business and Management – new complex	942,794

University System of Maryland

Baltimore – Pharmacy Hall addition and renovation	13,756,305
Coppin State – data center expansion	2,371,000
Coppin State – Science and Technology Center	9,745,000
University of Baltimore – Law School	5,416,000

Other

UMD Medical System – Shock Trauma Center

28,500,000

Baltimore County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$338,819	\$323,562	-\$15,257	-4.5
Compensatory Education	88,843	93,820	4,977	5.6
Student Transportation	24,519	26,278	1,759	7.2
Special Education	45,456	43,447	-2,008	-4.4
Limited English Proficiency Grants	10,344	11,024	680	6.6
Geographic Cost of Education Index	1,607	5,318	3,711	230.9
Adult Education	795	795	0	0.0
Aging Schools	1,590	874	-716	-45.0
Other Education Aid	6,242	4,555	-1,687	-27.0
Primary & Secondary Education	518,215	509,673	-8,541	-1.6
Libraries	5,422	5,246	-176	-3.2
Community Colleges	38,748	38,826	78	0.2
Health Formula Grant	6,619	6,619	0	0.0
Transportation	38,168	17,604	-20,564	-53.9
Police and Public Safety	9,719	9,719	0	0.0
Fire and Rescue Aid	1,170	1,170	0	0.0
Recreation and Natural Resources	2,471	836	-1,635	-66.2
Other Direct Aid	50	50	0	0.0
Total Direct Aid	\$620,582	\$589,743	-\$30,838	-5.0
Aid Per Capita (\$)	787	751	-36	-4.6
Property Tax Equivalent (\$)	0.76	0.66	-0.10	-13.2

2. Retirement Payments

County teachers and librarians are members of either the teachers’ retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2010 State payments for Baltimore County for teachers, librarians, and community college faculty are estimated to be \$92,446,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2010 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county’s share of prior year funding (fiscal 2009) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services

Alcohol and Drug Abuse	\$5,650,000
Family Health and Primary Care	335,000
Medical Care Services	2,518,000
Mental Health	54,263,000
Prevention and Disease Control	1,777,000
Developmental Disabilities	60,921,000

Social Services

Homeless Services	229,000
Women’s Services	379,000
Adult Services	727,000
Child Welfare Services	5,982,000

Senior Citizen Services

Long-term Care	1,463,000
Community Services	244,000

C. Selected State Grants for Capital Projects**Public Schools**

Battle Grove Elementary School – renovations (roof)	\$961,000
Carney Elementary School – renovations (roof)	809,000
Catonsville High School – construction	2,798,000
Catonsville High School – renovations (roof)	898,000
Chesapeake Terrace Elementary School – renovations (windows/doors)	256,000
Colgate Elementary School – renovations (roof)	400,000
Dundalk Elementary School – renovations (boilers)	256,000
G.W. Carver Center for Arts and Technology – construction	7,700,000
Glyndon Elementary School – renovations (boilers)	256,000
Halstead Academy – renovations (roof)	828,000
Hebbsville Elementary School – renovations (windows/doors)	529,000
Oliver Beach Elementary School – renovations (boilers)	256,000
Perry Hall Middle School – renovations (roof)	1,340,000
Pine Grove Middle School – renovations (wall repair)	502,000
Pot Spring Elementary School – renovations (roof)	773,000
Seventh District Elementary School – renovations (roof/windows/doors)	821,000
Shady Spring Elementary School – renovations (windows/doors)	230,000
Stemmers Run Middle School – renovations (boilers)	308,000
Towson West Elementary School – construction	1,600,000

Public Libraries

Randallstown Library – renovation	255,000
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Community College of Baltimore County

Catonsville – new library	800,000
Essex – F Building renovation	7,377,000
Owings Mills Education Center	850,000
Systemwide – roof replacements	1,689,000

Senior Centers Grant Program

Arbutus Senior Center	250,000
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Waterway Improvement

Bear Creek – maintenance dredging	100,000
Bowley’s Quarter Volunteer Fire Department – fire/rescue boat improvements	17,500
Channel marker improvements – countywide	25,000
County Fire Department – acquire cold water suits	4,800
North Point/Edgemere Volunteer Fire Department – replace fire/rescue boat	50,000
Shallow Creek – maintenance dredging	400,000
Submerged aquatic vegetation monitoring – countywide	10,000

Other Projects

Automotive Vocational Training Center	225,000
Forbush School	2,500,000
Good Shepherd Center	75,000
HopeWell Cancer Support Facility	250,000
Leadership Through Athletics Facility	35,000
Maryland Food Bank	250,000
Owings Mills Jewish Community Center	275,000
Robert E. Lee Park	3,000,000
Storyville Children’s Learning Center	250,000
Todd’s Inheritance	50,000

D. Capital Projects for State Facilities in the County

General Government

Catonsville District Court – property acquisition	\$350,000
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Maryland State Police

Headquarters Building K – renovation	1,665,000
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Department of Natural Resources

Mill Pond – dam replacement	115,000
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University System of Maryland

Baltimore County – residence hall renovations	2,000,000
Baltimore County – student recreation fields and courts	500,000
Towson University – College of Liberal Arts Complex	35,725,000
Towson University – residence halls renovations	1,400,000
Towson University – University Union addition and renovation	6,000,000
Towson University – West Village dining commons	34,000,000

Calvert County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$65,070	\$63,230	-\$1,841	-2.8
Compensatory Education	7,326	7,922	596	8.1
Student Transportation	4,994	5,384	390	7.8
Special Education	6,001	5,577	-424	-7.1
Limited English Proficiency Grants	618	761	143	23.1
Geographic Cost of Education Index	715	2,342	1,628	227.7
Adult Education	200	200	0	0.0
Aging Schools	70	38	-31	-44.3
Other Education Aid	1,492	709	-784	-52.5
Primary & Secondary Education	86,486	86,163	-323	-0.4
Libraries	446	398	-48	-10.8
Community Colleges	2,229	2,309	80	3.6
Health Formula Grant	569	569	0	0.0
* Transportation	5,932	3,320	-2,612	-44.0
* Police and Public Safety	791	791	0	0.0
* Fire and Rescue Aid	200	200	0	0.0
Recreation and Natural Resources	216	74	-142	-65.7
Total Direct Aid	\$96,869	\$93,824	-\$3,045	-3.1
Aid Per Capita (\$)	1,098	1,058	-40	-3.6
Property Tax Equivalent (\$)	0.75	0.67	-0.08	-10.7

* Municipal governments within the county receive a share of these funds.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2010 State payments for Calvert County for teachers, librarians, and community college faculty are estimated to be \$15,729,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2010 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2009) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services

Alcohol and Drug Abuse	\$686,000
Family Health and Primary Care	150,000
Medical Care Services	360,000
Mental Health	2,817,000
Prevention and Disease Control	467,000
Developmental Disabilities	6,812,000

Social Services

Homeless Services	33,000
Women's Services	200,000
Adult Services	77,000
Child Welfare Services	811,000

Senior Citizen Services

Long-term Care	126,000
Community Services	19,000

C. Selected State Grants for Capital Projects**Public Schools**

Calvert County Special School – renovations (roof)	\$290,000
Calvert Middle School – construction	5,130,000
Mutual Elementary School – renovations (HVAC)	787,000

College of Southern Maryland

La Plata – Business Classroom Building renovation/expansion	5,293,000
Prince Frederick – campus development	1,040,000

Community Parks and Playgrounds

North Beach Bay Overlook	21,000
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Chesapeake Bay Restoration Fund

Chesapeake Beach WWTP – enhanced nutrient removal	8,200,000
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Water Supply Financial Assistance Program

Dares Beach/Chesapeake Heights – new well	100,000
East Prince Frederick – new tower, well, and arsenic treatment	400,000

Waterway Improvement

Chesapeake Beach – shore stabilization and boat ramp repair	95,000
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Other Projects

Bayside History Museum – Captain John Smith Exhibit	50,000
Calvert Memorial Hospital	800,000
North Beach – boardwalk	250,000

D. Capital Projects for State Facilities in the County

Maryland Office of Planning

Jefferson Patterson Park and Museum – riverside trails and exhibit stations	\$1,876,000
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Caroline County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$25,612	\$25,514	-\$98	-0.4
Compensatory Education	10,215	10,449	234	2.3
Student Transportation	2,264	2,421	157	6.9
Special Education	2,546	2,210	-336	-13.2
Limited English Proficiency Grants	861	854	-7	-0.8
Guaranteed Tax Base	832	562	-270	-32.5
Aging Schools	91	50	-41	-45.1
Other Education Aid	569	513	-56	-9.8
Primary & Secondary Education	42,990	42,573	-417	-1.0
Libraries	280	273	-7	-2.5
Community Colleges	1,413	1,447	35	2.5
Health Formula Grant	828	828	0	0.0
* Transportation	4,657	2,942	-1,715	-36.8
* Police and Public Safety	344	344	0	0.0
* Fire and Rescue Aid	205	205	0	0.0
Recreation and Natural Resources	96	33	-64	-66.7
Disparity Grant	2,253	2,132	-122	-5.4
Total Direct Aid	\$53,066	\$50,777	-\$2,290	-4.3
Aid Per Capita (\$)	1,612	1,532	-80	-5.0
Property Tax Equivalent (\$)	1.85	1.69	-0.16	-8.6

* Municipal governments within the county receive a share of these funds.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2010 State payments for Caroline County for teachers, librarians, and community college faculty are estimated to be \$4,758,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2010 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2009) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services

Alcohol and Drug Abuse	\$448,000
Family Health and Primary Care	237,000
Medical Care Services	505,000
Mental Health	3,148,000
Prevention and Disease Control	304,000
Developmental Disabilities	2,560,000
AIDS	30,000

Social Services

Homeless Services	59,000
Women's Services	62,000
Adult Services	102,000
Child Welfare Services	663,000

Senior Citizen Services

Long-term Care	542,000
Community Services	136,000

Note: Senior citizen services funding supports services in Caroline, Kent, and Talbot counties.

C. Selected State Grants for Capital Projects

Public Schools

Colonel Richardson High School – construction \$4,900,000

Public Libraries

Denton Library – renovation 50,000

Chesapeake College

Kent Humanities Building – renovation 6,030,000

Community Parks and Playgrounds

Chambers Park 81,000

Goldsboro Children’s Playground and Picnic Area 158,000

Ridgely Railroad Building 75,000

Chesapeake Bay Water Quality Projects

Federalsburg – Maple Avenue/South Main Street inflow and infiltration correction 300,000

Federalsburg WWTP – nutrient removal 685,000

Water Supply Financial Assistance Program

Federalsburg – water main improvements 160,000

Waterway Improvement

Boat ramp facility maintenance – countywide 50,000

Other Projects

Adkins Arboretum – Native Garden Gateway 125,000

D. Capital Projects for State Facilities in the County

Department of Natural Resources

Martinak State Park – pier replacement

\$50,000

Carroll County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$109,705	\$105,546	-\$4,158	-3.8
Compensatory Education	9,559	10,354	795	8.3
Student Transportation	8,634	9,289	655	7.6
Special Education	12,615	11,592	-1,023	-8.1
Limited English Proficiency Grants	772	682	-90	-11.7
Geographic Cost of Education Index	787	2,589	1,802	229.0
Adult Education	50	50	0	0.0
Aging Schools	250	137	-112	-44.8
Other Education Aid	1,490	629	-861	-57.8
Primary & Secondary Education	143,862	140,868	-2,992	-2.1
Libraries	1,038	982	-57	-5.5
Community Colleges	7,414	7,949	536	7.2
Health Formula Grant	1,895	1,895	0	0.0
* Transportation	12,796	7,231	-5,565	-43.5
* Police and Public Safety	1,606	1,606	0	0.0
* Fire and Rescue Aid	262	262	0	0.0
Recreation and Natural Resources	491	166	-324	-66.0
Total Direct Aid	\$169,364	\$160,959	-\$8,402	-5.0
Aid Per Capita (\$)	1,001	950	-50	-5.0
Property Tax Equivalent (\$)	0.83	0.75	-0.09	-10.8

* Municipal governments within the county receive a share of these funds.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2010 State payments for Carroll County for teachers, librarians, and community college faculty are estimated to be \$24,672,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2010 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2009) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services

Alcohol and Drug Abuse	\$2,433,000
Family Health and Primary Care	180,000
Medical Care Services	760,000
Mental Health	7,674,000
Prevention and Disease Control	563,000
Developmental Disabilities	13,104,000
AIDS	20,000

Social Services

Homeless Services	91,000
Women's Services	353,000
Adult Services	105,000
Child Welfare Services	1,486,000

Senior Citizen Services

Long-term Care	321,000
Community Services	56,000

C. Selected State Grants for Capital Projects

Public Schools

Mt. Airy Elementary School – renovations (roof)	\$502,000
South Carroll High School – construction	1,881,000
Westminster High School – renovations (HVAC)	3,000,000
William Winchester Elementary School – construction	1,889,000
Winfield Elementary School – construction	248,000

Public Libraries

Eldersburg Library – renovation	124,000
Westminster Library – renovation	183,000

Community Health Facilities Grant Program

Main Street Housing, Inc.	345,000
Prologue	118,000

Community Parks and Playgrounds

Jones Park	100,000
Memorial Park	120,000
Mount Airy Rails-to-Trails – pathway lighting	82,000
Westminster – citywide park upgrades	50,000

Chesapeake Bay Restoration Fund

Freedom District WWTP – enhanced nutrient removal	6,400,000
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Waterway Improvement

Piney Run Park – acquire patrol boat motor	4,000
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D. Capital Projects for State Facilities in the County

Department of Public Safety and Correctional Services

Public Safety Training Center – rifle range

\$1,172,000

Cecil County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$67,197	\$64,864	-\$2,333	-3.5
Compensatory Education	14,746	16,507	1,761	11.9
Student Transportation	4,432	4,772	340	7.7
Special Education	8,396	7,977	-419	-5.0
Limited English Proficiency Grants	546	545	-1	-0.2
Guaranteed Tax Base	2,626	2,013	-613	-23.3
Adult Education	104	104	0	0.0
Aging Schools	175	96	-79	-45.1
Other Education Aid	762	705	-58	-7.6
Primary & Secondary Education	98,984	97,583	-1,402	-1.4
Libraries	732	704	-27	-3.7
Community Colleges	5,143	5,449	307	6.0
Health Formula Grant	1,241	1,241	0	0.0
* Transportation	7,149	3,962	-3,187	-44.6
* Police and Public Safety	953	977	24	2.5
* Fire and Rescue Aid	206	206	0	0.0
Recreation and Natural Resources	253	86	-167	-66.0
Total Direct Aid	\$114,661	\$110,208	-\$4,452	-3.9
Aid Per Capita (\$)	1,150	1,103	-47	-4.1
Property Tax Equivalent (\$)	1.10	0.99	-0.10	-9.1

* Municipal governments within the county receive a share of these funds.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2010 State payments for Cecil County for teachers, librarians, and community college faculty are estimated to be \$13,983,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2010 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2009) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services

Alcohol and Drug Abuse	\$1,163,000
Family Health and Primary Care	178,000
Medical Care Services	559,000
Mental Health	6,908,000
Prevention and Disease Control	419,000
Developmental Disabilities	7,680,000
AIDS	20,000

Social Services

Homeless Services	40,000
Women's Services	175,000
Adult Services	136,000
Child Welfare Services	1,622,000

Senior Citizen Services

Long-term Care	126,000
Community Services	40,000

C. Selected State Grants for Capital Projects

Public Schools

Leeds Elementary School – renovations (HVAC) \$1,538,000

Public Libraries

North East Library – site acquisition 800,000

Cecil Community College

Bainbridge Center 1,084,000

Physical Education Building – renovation and addition 500,000

Local Jail Loan

County Correctional Facility – renovations and additions 9,857,000

Community Health Facilities Grant Program

Community Coalition for Affordable Housing 300,000

Community Parks and Playgrounds

Chesapeake City Park 33,000

Daydream Park 142,000

Meadow Park – playground and rock walls 60,000

Perryville Youth Park 2,000

Trinity Woods Park 118,000

Chesapeake Bay Water Quality Projects

Perryville WWTP – nutrient removal 998,000

Water Supply Financial Assistance Program

North East – water distribution system 140,000

Whitaker Woods – water system 300,000

Waterway Improvement

Chesapeake City Volunteer Fire Company – acquire fire/rescue equipment	25,000
Elk River Park – construct marina services building	50,000

D. Capital Projects for State Facilities in the County**Maryland Environmental Service**

Elk Neck State Park – wastewater treatment plant upgrade	\$1,151,000
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Charles County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$107,562	\$103,217	-\$4,345	-4.0
Compensatory Education	19,544	21,107	1,563	8.0
Student Transportation	8,990	9,706	716	8.0
Special Education	7,781	7,645	-136	-1.7
Limited English Proficiency Grants	776	818	42	5.4
Guaranteed Tax Base	4,052	2,194	-1,858	-45.9
Geographic Cost of Education Index	1,038	3,462	2,424	233.5
Adult Education	335	335	0	0.0
Aging Schools	91	50	-41	-45.1
Other Education Aid	2,038	996	-1,042	-51.1
Primary & Secondary Education	152,207	149,530	-2,677	-1.8
Libraries	853	795	-58	-6.8
Community Colleges	7,210	7,374	164	2.3
Health Formula Grant	1,530	1,530	0	0.0
* Transportation	9,292	5,010	-4,282	-46.1
* Police and Public Safety	1,232	1,232	0	0.0
* Fire and Rescue Aid	242	242	0	0.0
Recreation and Natural Resources	445	152	-293	-65.8
Total Direct Aid	\$173,011	\$165,865	-\$7,146	-4.1
Aid Per Capita (\$)	1,232	1,178	-54	-4.4
Property Tax Equivalent (\$)	0.93	0.84	-0.09	-9.7

* Municipal governments within the county receive a share of these funds.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2010 State payments for Charles County for teachers, librarians, and community college faculty are estimated to be \$22,700,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2010 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2009) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services

Alcohol and Drug Abuse	\$1,974,000
Family Health and Primary Care	344,000
Medical Care Services	508,000
Mental Health	5,168,000
Prevention and Disease Control	489,000
Developmental Disabilities	10,848,000
AIDS	88,000

Social Services

Homeless Services	80,000
Women's Services	79,000
Adult Services	138,000
Child Welfare Services	2,068,000

Senior Citizen Services

Long-term Care	209,000
Community Services	17,000

C. Selected State Grants for Capital Projects

Public Schools

Dr. Gustavus Brown Elementary School – construction	\$2,344,000
Mary Burgess Neal Elementary School – construction	4,398,000

College of Southern Maryland

La Plata – Business Classroom Building renovation/expansion	5,293,000
Prince Frederick – campus development	1,040,000

Community Parks and Playgrounds

La Plata – parks, playgrounds and tennis courts	114,000
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Chesapeake Bay Water Quality Projects

Benedict Central Sewer – collection and treatment system	400,000
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Chesapeake Bay Restoration Fund

La Plata WWTP – enhanced nutrient removal	3,390,000
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Waterway Improvement

Tenth District Volunteer Fire Department – acquire new fire/rescue boat	50,000
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Other Projects

Civista Medical Center	90,000
Hospice House	250,000
Jaycees Field of Dreams	30,000

D. Capital Projects for State Facilities in the County

Department of Natural Resources

Cedarville State Park – dam repair	\$75,000
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Maryland Environmental Service

Southern Maryland Pre-Release Unit – wastewater treatment plant upgrade	198,000
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Dorchester County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$18,437	\$18,715	\$278	1.5
Compensatory Education	7,376	6,960	-415	-5.6
Student Transportation	2,066	2,229	164	7.9
Special Education	1,488	1,425	-63	-4.2
Limited English Proficiency Grants	370	273	-97	-26.2
Guaranteed Tax Base	300	7	-293	-97.7
Adult Education	148	148	0	0.0
Aging Schools	70	38	-31	-44.3
Other Education Aid	529	475	-54	-10.2
Primary & Secondary Education	30,784	30,270	-511	-1.7
Libraries	248	242	-7	-2.8
Community Colleges	1,252	1,283	31	2.5
Health Formula Grant	660	660	0	0.0
* Transportation	5,152	3,264	-1,887	-36.6
* Police and Public Safety	381	383	2	0.5
* Fire and Rescue Aid	225	225	0	0.0
Recreation and Natural Resources	82	28	-54	-65.9
Disparity Grant	2,131	2,023	-108	-5.1
Total Direct Aid	\$40,915	\$38,378	-\$2,534	-6.2
Aid Per Capita (\$)	1,285	1,199	-85	-6.6
Property Tax Equivalent (\$)	1.27	1.08	-0.18	-14.2

* Municipal governments within the county receive a share of these funds.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2010 State payments for Dorchester County for teachers, librarians, and community college faculty are estimated to be \$4,159,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2010 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2009) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services

Alcohol and Drug Abuse	\$1,731,000
Family Health and Primary Care	177,000
Medical Care Services	485,000
Mental Health	4,883,000
Prevention and Disease Control	387,000
Developmental Disabilities	2,473,000
AIDS	104,000

Social Services

Homeless Services	39,000
Women's Services	24,000
Adult Services	148,000
Child Welfare Services	797,000

Senior Citizen Services

Long-term Care	636,000
Community Services	441,000

Note: Senior citizen services funding supports services in Dorchester, Somerset, Wicomico, and Worcester counties.

C. Selected State Grants for Capital Projects**Public Schools**

North Dorchester Middle School – construction	\$1,469,000
School of Technology – construction	3,500,000

Chesapeake College

Kent Humanities Building – renovation	6,030,000
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Community Parks and Playgrounds

East New Market – tennis courts	40,000
Riverfront Park	162,000

Chesapeake Bay Water Quality Projects

Cambridge Combined Sewer – overflow improvements	600,000
Susquehanna Point/Madison/Woolford – sewer collection system installation	300,000

Chesapeake Bay Restoration Fund

Cambridge WWTP – enhanced nutrient removal	550,000
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Waterway Improvement

Elliott Island and Chapel Cove – navigation improvements	100,000
Neck District Volunteer Fire Company – acquire fire rescue boat and equipment	21,000
Public boating facilities – countywide maintenance	50,000

D. Capital Projects for State Facilities in the County**Department of Natural Resources**

Cambridge Marine Terminal – construct marine railway	\$275,000
Harriet Tubman Underground Railroad State Park – improvements	4,409,107
Harriet Tubman Underground Railroad State Park – improvements (federal funds)	8,984,000
Langralls Creek – construct boat ramp and channel dredging	100,000

Maryland Veterans Administration

Eastern Shore Veterans Cemetery – install columbaria (federal funds)	431,000
Eastern Shore Veterans Cemetery – install columbaria	35,000

Frederick County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$151,165	\$145,687	-\$5,478	-3.6
Compensatory Education	19,681	20,775	1,094	5.6
Student Transportation	10,582	11,316	734	6.9
Special Education	14,693	13,821	-872	-5.9
Limited English Proficiency Grants	4,658	5,181	524	11.2
Geographic Cost of Education Index	1,899	6,282	4,384	230.9
Adult Education	310	310	0	0.0
Aging Schools	332	183	-149	-44.9
Other Education Aid	2,640	711	-1,929	-73.1
Primary & Secondary Education	205,960	204,266	-1,692	-0.8
Libraries	1,135	1,099	-36	-3.2
Community Colleges	8,621	8,999	378	4.4
Health Formula Grant	2,326	2,326	0	0.0
* Transportation	17,176	9,519	-7,657	-44.6
* Police and Public Safety	2,294	2,294	0	0.0
* Fire and Rescue Aid	364	364	0	0.0
Recreation and Natural Resources	507	175	-333	-65.7
Total Direct Aid	\$238,383	\$229,042	-\$9,340	-3.9
Aid Per Capita (\$)	1,061	1,015	-46	-4.3
Property Tax Equivalent (\$)	0.79	0.72	-0.07	-8.9

* Municipal governments within the county receive a share of these funds.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2010 State payments for Frederick County for teachers, librarians, and community college faculty are estimated to be \$34,672,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2010 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2009) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services

Alcohol and Drug Abuse	\$1,975,000
Family Health and Primary Care	266,000
Medical Care Services	615,000
Mental Health	13,937,000
Prevention and Disease Control	561,000
Developmental Disabilities	17,356,000
AIDS	43,000

Social Services

Homeless Services	210,000
Women's Services	142,000
Adult Services	166,000
Child Welfare Services	2,376,000

Senior Citizen Services

Long-term Care	238,000
Community Services	72,000

C. Selected State Grants for Capital Projects**Public Schools**

Oakdale High School – construction	\$4,800,224
West Frederick Middle School – construction	8,201,776

Frederick Community College

Building F – vacated space conversion	1,629,000
Classroom and Student Center Building	421,000
Fine Arts and Library Buildings – interior space conversion	90,000

Community Parks and Playgrounds

Amber Meadows Park	27,000
Brunswick Park	54,000
Canada Hill Playground	20,000
Carrollton Park	28,000
Emmitsburg Community Park	41,000
Eyler Park	142,000
Harry Pfeifer Park	37,000
Lions Merryland Park	45,000
Woodsboro Regional Park	129,000

Chesapeake Bay Restoration Fund

Thurmont WWTP – enhanced nutrient removal	4,310,000
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Waterway Improvement

Brunswick – construct jetty	50,000
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Other Projects

John Hanson Memorial	50,000
Mental Health Association Building	250,000

D. Capital Projects for State Facilities in the County

Other

School for the Deaf – bus loop and parking lot	\$205,000
School for the Deaf – cafeteria and student center	5,284,000

Garrett County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$15,796	\$15,653	-\$143	-0.9
Compensatory Education	4,806	4,848	42	0.9
Student Transportation	2,573	2,776	203	7.9
Special Education	1,614	1,445	-169	-10.5
Limited English Proficiency Grants	3	10	7	233.3
Adult Education	39	39	0	0.0
Aging Schools	70	38	-31	-44.3
Other Education Aid	579	545	-34	-5.9
Primary & Secondary Education	25,480	25,354	-125	-0.5
Libraries	164	155	-9	-5.5
Community Colleges	3,374	3,548	174	5.2
Health Formula Grant	673	673	0	0.0
* Transportation	5,741	3,636	-2,104	-36.6
* Police and Public Safety	238	238	0	0.0
* Fire and Rescue Aid	200	200	0	0.0
Recreation and Natural Resources	101	35	-66	-65.3
Disparity Grant	2,012	2,131	119	5.9
Total Direct Aid	\$37,983	\$35,970	-\$2,011	-5.3
Aid Per Capita (\$)	1,282	1,211	-71	-5.5
Property Tax Equivalent (\$)	0.87	0.77	-0.10	-11.5

* Municipal governments within the county receive a share of these funds.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2010 State payments for Garrett County for teachers, librarians, and community college faculty are estimated to be \$4,227,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2010 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2009) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services

Alcohol and Drug Abuse	\$599,000
Family Health and Primary Care	169,000
Medical Care Services	659,000
Mental Health	2,535,000
Prevention and Disease Control	328,000
Developmental Disabilities	2,300,000

Social Services

Homeless Services	79,000
Women's Services	113,000
Adult Services	39,000
Child Welfare Services	827,000

Senior Citizen Services

Long-term Care	183,000
Community Services	67,000

C. Selected State Grants for Capital Projects

Public Schools

Northern High School – renovations (roof) \$666,000

Community Parks and Playgrounds

Broadford Lake Park 88,000

Grantsville Community Park 8,000

Water Supply Financial Assistance Program

Grantsville – water line extension 500,000

Waterway Improvement

Friendsville Community Park – upgrade comfort station 26,000

Other Projects

Garrett College – Athletic and Community Recreation Center 3,000,000

Harford County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$152,882	\$147,599	-\$5,283	-3.5
Compensatory Education	24,815	26,654	1,839	7.4
Student Transportation	10,815	11,607	792	7.3
Special Education	19,067	18,864	-204	-1.1
Limited English Proficiency Grants	2,040	1,942	-98	-4.8
Adult Education	172	172	0	0.0
Aging Schools	395	217	-178	-45.1
Other Education Aid	609	552	-57	-9.4
Primary & Secondary Education	210,795	207,607	-3,189	-1.5
Libraries	1,627	1,549	-78	-4.8
Community Colleges	10,580	11,054	474	4.5
Health Formula Grant	2,673	2,673	0	0.0
* Transportation	14,877	8,210	-6,667	-44.8
* Police and Public Safety	2,738	2,747	9	0.3
* Fire and Rescue Aid	377	377	0	0.0
Recreation and Natural Resources	727	247	-479	-65.9
Total Direct Aid	\$244,394	\$234,464	-\$9,930	-4.1
Aid Per Capita (\$)	1,018	976	-43	-4.2
Property Tax Equivalent (\$)	0.93	0.83	-0.11	-11.8

* Municipal governments within the county receive a share of these funds.

2. Retirement Payments

County teachers and librarians are members of either the teachers’ retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2010 State payments for Harford County for teachers, librarians, and community college faculty are estimated to be \$34,126,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2010 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county’s share of prior year funding (fiscal 2009) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services

Alcohol and Drug Abuse	\$1,755,000
Family Health and Primary Care	217,000
Medical Care Services	871,000
Mental Health	11,499,000
Prevention and Disease Control	630,000
Developmental Disabilities	18,528,000

Social Services

Homeless Services	103,000
Women’s Services	213,000
Adult Services	156,000
Child Welfare Services	2,187,000

Senior Citizen Services

Long-term Care	346,000
Community Services	72,000

C. Selected State Grants for Capital Projects**Public Schools**

Bel Air High School – construction	\$13,000,000
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Public Libraries

Churchville Library – construction	500,000
Whiteford Library – expansion	373,000

Community Health Facilities Grant Program

Key Point Health Services	128,000
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Senior Centers Grant Program

Fallston Senior Center	400,000
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Community Parks and Playgrounds

Bel Air Reckord Armory Park	129,000
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Chesapeake Bay Water Quality Projects

Havre de Grace WWTP – nutrient removal	1,158,000
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Chesapeake Bay Restoration Fund

Aberdeen WWTP – enhanced nutrient removal	6,300,000
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Waterway Improvement

Darlington Volunteer Fire Company – acquire fire/rescue boat	50,000
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Other Projects

Citizens Care and Rehabilitation Center	200,000
Upper Chesapeake Health System	600,000

D. Capital Projects for State Facilities in the County

Department of Natural Resources

Friends Pond – dam repair \$310,000

Military

Edgewood Readiness Center – HVAC replacement (federal funds) 4,100,000

University System of Maryland

College Park – MD Fire and Rescue Institute North East Regional Training Center 7,700,000

Howard County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$145,325	\$141,799	-\$3,526	-2.4
Compensatory Education	14,869	16,186	1,317	8.9
Student Transportation	13,506	14,566	1,060	7.8
Special Education	13,021	12,497	-523	-4.0
Limited English Proficiency Grants	5,666	5,720	53	0.9
Geographic Cost of Education Index	1,462	4,904	3,442	235.4
Adult Education	438	438	0	0.0
Aging Schools	160	88	-72	-45.0
Other Education Aid	2,604	1,047	-1,557	-59.8
Primary & Secondary Education	197,051	197,245	194	0.1
Libraries	763	766	3	0.4
Community Colleges	13,822	14,581	759	5.5
Health Formula Grant	1,869	1,869	0	0.0
Transportation	14,547	6,978	-7,569	-52.0
Police and Public Safety	3,471	3,471	0	0.0
Fire and Rescue Aid	391	391	0	0.0
Recreation and Natural Resources	1,289	438	-851	-66.0
Other Direct Aid	86	86	0	0.0
Total Direct Aid	\$233,289	\$225,825	-\$7,464	-3.2
Aid Per Capita (\$)	852	821	-31	-3.6
Property Tax Equivalent (\$)	0.49	0.48	-0.01	-2.0

2. Retirement Payments

County teachers and librarians are members of either the teachers’ retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2010 State payments for Howard County for teachers, librarians, and community college faculty are estimated to be \$54,449,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2010 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county’s share of prior year funding (fiscal 2009) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services

Alcohol and Drug Abuse	\$1,567,000
Family Health and Primary Care	146,000
Medical Care Services	553,000
Mental Health	8,347,000
Prevention and Disease Control	628,000
Developmental Disabilities	21,131,000

Social Services

Homeless Services	116,000
Women’s Services	127,000
Adult Services	59,000
Child Welfare Services	1,901,000

Senior Citizen Services

Long-term Care	274,000
Community Services	21,000

C. Selected State Grants for Capital Projects**Public Schools**

Atholton High School – renovations (roof)	\$300,000
Clemens Crossing Elementary School – construction	674,000
Elkridge Elementary School – construction	877,000
Mt. Hebron High School – construction	8,500,000
Northfield Elementary School – construction	2,444,957
Waterloo Elementary School – construction	1,204,043

Public Libraries

Miller Branch Library – new branch/historical center	800,000
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Howard Community College

Allied Health Building	2,004,000
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Community Health Facilities Grant Program

Humanim	295,000
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Senior Centers Grant Program

North Laurel Park Community Center	400,000
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Partnership Rental Housing Program

Guilford Gardens	3,500,000
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Chesapeake Bay Water Quality Projects

Brampton Hills – stream stabilization	500,000
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Chesapeake Bay Restoration Fund

Little Patuxent WWTP – enhanced nutrient removal	22,470,000
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Other Projects

Ellicott City Post Office	150,000
Howard County General Hospital	250,000
Linwood Center	150,000
Robinson Nature Center	150,000
Troy Regional Park	150,000

D. Capital Projects for State Facilities in the County

Department of Natural Resources

Union Dam – restoration (federal funds)	\$1,400,000
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Department of Public Safety and Correctional Services

Patuxent Institution – fire safety improvements and window replacement	11,881,000
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Other

School for the Deaf – parking lot and athletic field	1,487,000
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Kent County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$4,939	\$4,752	-\$187	-3.8
Compensatory Education	2,192	2,179	-13	-0.6
Student Transportation	1,367	1,463	96	7.0
Special Education	825	787	-38	-4.6
Limited English Proficiency Grants	170	172	3	1.8
Geographic Cost of Education Index	43	139	96	223.3
Adult Education	79	79	0	0.0
Aging Schools	70	38	-31	-44.3
Other Education Aid	783	615	-168	-21.5
Primary & Secondary Education	10,468	10,224	-242	-2.3
Libraries	104	94	-9	-8.7
Community Colleges	536	549	13	2.4
Health Formula Grant	517	517	0	0.0
* Transportation	2,672	1,617	-1,056	-39.5
* Police and Public Safety	201	201	0	0.0
* Fire and Rescue Aid	214	214	0	0.0
Recreation and Natural Resources	61	21	-40	-65.6
Total Direct Aid	\$14,773	\$13,437	-\$1,334	-9.0
Aid Per Capita (\$)	739	667	-72	-9.7
Property Tax Equivalent (\$)	0.51	0.45	-0.06	-11.8

* Municipal governments within the county receive a share of these funds.

2. Retirement Payments

County teachers and librarians are members of either the teachers’ retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2010 State payments for Kent County for teachers, librarians, and community college faculty are estimated to be \$2,248,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2010 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county’s share of prior year funding (fiscal 2009) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services

Alcohol and Drug Abuse	\$1,771,000
Family Health and Primary Care	115,000
Medical Care Services	392,000
Mental Health	1,347,000
Prevention and Disease Control	517,000
Developmental Disabilities	1,519,000
AIDS	25,000

Social Services

Homeless Services	2,000
Women’s Services	15,000
Adult Services	53,000
Child Welfare Services	412,000

Senior Citizen Services

Long-term Care	542,000
Community Services	136,000

Note: Senior citizen services funding supports services in Caroline, Kent, and Talbot counties.

C. Selected State Grants for Capital Projects**Public Schools**

Chestertown Middle School – renovations (elevator)	\$197,000
Garnett Elementary School – renovations (elevator)	191,000

Chesapeake College

Kent Humanities Building – renovation	6,030,000
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Community Parks and Playgrounds

Betterton Ark Park	126,000
Chestertown Community Park	144,000

Chesapeake Bay Water Quality Projects

Chesterville – wastewater collection and treatment system	500,000
Edesville/Lover’s Lane – wastewater collection system	450,000

Water Supply Financial Assistance Program

Edesville/Lover’s Lane – water line extension	300,000
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Waterway Improvement

Galena Volunteer Fire Company – acquire fire/rescue boat and equipment	21,500
Green Lane Boat Ramp – replace bulkhead	50,000

Other Projects

Chester River Hospital Center	330,000
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Montgomery County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$200,273	\$223,469	\$23,196	11.6
Compensatory Education	85,773	90,997	5,224	6.1
Student Transportation	31,482	33,555	2,073	6.6
Special Education	48,811	47,682	-1,129	-2.3
Limited English Proficiency Grants	42,610	44,132	1,522	3.6
Geographic Cost of Education Index	9,187	30,947	21,760	236.9
Adult Education	465	465	0	0.0
Aging Schools	1,096	603	-493	-45.0
Other Education Aid	11,821	2,550	-9,271	-78.4
Primary & Secondary Education	431,518	474,400	42,882	9.9
Libraries	2,610	2,606	-4	-0.2
Community Colleges	43,263	44,285	1,022	2.4
Health Formula Grant	4,638	4,638	0	0.0
* Transportation	39,752	15,561	-24,191	-60.9
* Police and Public Safety	15,149	15,149	0	0.0
* Fire and Rescue Aid	1,308	1,308	0	0.0
Recreation and Natural Resources	3,246	1,109	-2,137	-65.8
Total Direct Aid	\$541,484	\$559,056	\$17,572	3.2
Aid Per Capita (\$)	582	588	6	1.0
Property Tax Equivalent (\$)	0.29	0.30	0.01	3.4

* Municipal governments within the county receive a share of these funds.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2010 State payments for Montgomery County for teachers, librarians, and community college faculty are estimated to be \$160,047,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2010 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2009) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services

Alcohol and Drug Abuse	\$3,666,000
Family Health and Primary Care	651,000
Medical Care Services	3,007,000
Mental Health	33,675,000
Prevention and Disease Control	1,420,000
Developmental Disabilities	71,899,000
AIDS	148,000

Social Services

Homeless Services	373,000
Women's Services	291,000
Adult Services	800,000
Child Welfare Services	4,538,000

Senior Citizen Services

Long-term Care	981,000
Community Services	208,000

C. Selected State Grants for Capital Projects**Public Schools**

Bannockburn Elementary School – renovations (roof)	\$558,000
Galway Elementary School – construction	4,795,204
Robert Frost Middle School – renovations (HVAC)	503,000
Sherwood High School – renovations (roof)	562,796
Strathmore Elementary School – renovations (HVAC)	520,000
Thomas W. Pyle Middle School – construction	121,000
Walter Johnson High School – construction	13,595,000
Watkins Mill High School – renovations (roof)	710,000

Montgomery College

Germantown – Bioscience Education Center	16,081,500
Rockville – Science Center	1,015,000

Community Health Facilities Grant Program

Housing Opportunities Commission of Montgomery County	1,000,000
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Senior Centers Grant Program

Rockville Senior Center	350,000
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Community Parks and Playgrounds

Rockville Civic Center Park	153,000
Rockville Senior Center Park	112,000
Woottons Mill Park	76,000

Chesapeake Bay Water Quality Projects

Booze Creek – stream restoration	440,000
Germantown Estates – stormwater retrofit	306,000

Chesapeake Bay Restoration Fund

Damascus WWTP – enhanced nutrient removal	625,000
Seneca WWTP – enhanced nutrient removal	7,089,000

Other Projects

BlackRock Center for the Arts	50,000
Charles E. Smith Life Communities	650,000
Dance Exchange	50,000
Easter Seals Inter-Generational Center	70,000
Gaithersburg Community Museum	250,000
Imagination Stage	275,000
Jewish Council for the Aging	275,000
Jewish Foundation for Group Homes, Inc.	75,000
Lake Whetstone – boat house, dock, and related facilities	80,000
Latino Economic Development Corporation	175,000
MacDonald Knolls Center	100,000
National Center for Children and Families – Youth Activities Center	250,000
Northgate Homes – lighting upgrade	40,000
Olney Boys and Girls Club Community Park – renovation of “Falling Green”	150,000
Olney Theatre	150,000
Poolesville Skate Park	175,000
Residential Continuum, Inc. – group home renovations	30,000
Rockville Historic Post Office – renovation	100,000

D. Capital Projects for State Facilities in the County**General Government**

Rockville District Court – construction	\$17,990,000
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Prince George’s County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$516,275	\$514,724	-\$1,551	-0.3
Compensatory Education	189,185	186,673	-2,511	-1.3
Student Transportation	34,237	36,659	2,422	7.1
Special Education	70,069	67,087	-2,982	-4.3
Limited English Proficiency Grants	55,117	54,103	-1,014	-1.8
Guaranteed Tax Base	24,868	6,830	-18,038	-72.5
Geographic Cost of Education Index	11,809	39,061	27,251	230.8
Adult Education	771	771	0	0.0
Aging Schools	2,199	1,209	-990	-45.0
Other Education Aid	14,354	2,370	-11,984	-83.5
Primary & Secondary Education	918,884	909,487	-9,397	-1.0
Libraries	6,522	5,962	-560	-8.6
Community Colleges	23,679	24,861	1,182	5.0
Health Formula Grant	7,703	7,703	0	0.0
* Transportation	35,155	18,940	-16,215	-46.1
* Police and Public Safety	18,005	18,005	0	0.0
* Fire and Rescue Aid	1,135	1,135	0	0.0
Recreation and Natural Resources	2,793	946	-1,847	-66.1
Disparity Grant	21,714	21,695	-20	-0.1
* Other Direct Aid	170	170	0	0.0
Total Direct Aid	\$1,035,760	\$1,008,904	-\$26,857	-2.6
Aid Per Capita (\$)	1,250	1,229	-21	-1.7
Property Tax Equivalent (\$)	1.17	1.02	-0.15	-12.8

* Municipal governments within the county receive a share of these funds.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2010 State payments for Prince George's County for teachers, librarians, and community college faculty are estimated to be \$119,184,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2010 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2009) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services

Alcohol and Drug Abuse	\$9,605,000
Family Health and Primary Care	1,065,000
Medical Care Services	3,931,000
Mental Health	36,546,000
Prevention and Disease Control	2,050,000
Developmental Disabilities	64,002,000
AIDS	334,000

Social Services

Homeless Services	752,000
Women's Services	363,000
Adult Services	611,000
Child Welfare Services	6,782,000

Senior Citizen Services

Long-term Care	822,000
Community Services	202,000

C. Selected State Grants for Capital Projects**Public Schools**

Bond Mill Elementary School – renovations (chiller)	\$426,000
Bowie High School – science facilities	2,724,000
Charles Carroll Middle School – renovations (ventilators)	562,000
Francis T. Evans Elementary School – renovations (roof)	850,000
Greenbelt Middle School – construction	6,350,000
H. Winship Wheatley Special Center – renovations (roof)	1,205,000
Hyattsville Middle School – renovations (roof)	1,135,000
John E. Howard Elementary School – construction	867,000
Laurel High School – science facilities	1,838,000
Oxon Hill Elementary School – construction	2,167,000
Suitland High School – renovations (roof)	2,128,000
Suitland High School Annex – renovations (roof)	1,062,000

Public Libraries

Greenbelt Library – renovation	320,000
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Prince George’s Community College

Campuswide – circulation and roadway modifications	358,000
Campuswide – upgrade electrical and communication systems	4,892,000
Center for Health Studies	18,066,000

Local Jail Loan

County Detention Center – expansion	7,635,000
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Community Health Facilities Grant Program

Family Service Foundation, Inc.	566,000
Vesta, Inc.	115,000

Community Parks and Playgrounds

Bartlett Park	65,000
Goodwin Park	80,000
Greenwood Village Playground	22,000
Heurich Park	110,000
Roland B. Sweitzer Community Park	100,000

Chesapeake Bay Water Quality Projects

Beaverdam Creek – stormwater retrofit	225,000
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Chesapeake Bay Restoration Fund

Parkway WWTP – enhanced nutrient removal	7,750,000
Piscataway WWTP – enhanced nutrient removal	2,180,000
Western Branch WWTP – enhanced nutrient removal	23,192,000

Waterway Improvement

Laurel Volunteer Rescue Squad – acquire water rescue equipment	3,480
Prince George’s County Fire/EMS Department – replace fire/rescue boat	50,000

Other Projects

African-American History Museum	50,000
Bowie – Police Dispatch Center	25,000
Bowie Boys and Girls Club – Whitmarsh Turf Field	25,000
Capitol College – Innovation and Leadership Institute	2,500,000
Capitol Heights Municipal Building	100,000
Chosen Youth Group – basketball court	25,000
Concord Historic Site – Capitol Heights	100,000
Cosca Regional Skate Park	250,000
District Heights – recreational field renovations	200,000
Elizabeth Seton High School – sports facilities	50,000
Greenbelt Consumer Cooperative	100,000
Harmony Hall Manor	100,000
Kappa Alpha Psi – playground equipment	10,000
Knights of St. John Hall	225,000
Laurel Advocacy Referral Services – facility renovation	100,000

Aid to Local Government – Prince George’s County

A-161

Laurel Boys and Girls Club	100,000
Lincoln Vista Neighborhood Park Recreation Building	15,000
National Children’s Museum	5,000,000
Olde Mill Community and Teaching Center	25,000
Palmer Park Boys and Girls Club	100,000
Shabach Adult Day Care and Senior Center	25,000
South Bowie Boys and Girls Club – concession stand	50,000
St. Ann’s Infant and Maternity Home	750,000
YMCA Potomac Overlook	100,000

D. Capital Projects for State Facilities in the County

Department of Juvenile Services

Cheltenham Youth Facility – new detention center	\$2,547,000
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Maryland Environmental Service

Cheltenham Youth Facility – water tower improvements	337,000
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University System of Maryland

Bowie State – campuswide site improvements	3,237,000
Bowie State – Fine and Performing Arts Building	34,028,000
Bowie State – new student center	1,445,000
College Park – Denton Dining Hall renovation	14,300,000
College Park – East Campus redevelopment	5,000,000
College Park – fraternity/sorority houses renovation	2,060,000
College Park – golf course improvements	1,800,000
College Park – Journalism Building renovation	6,400,000
College Park – Physical Sciences Complex	4,618,000
College Park – Residence Hall air conditioning	8,930,000
College Park – Residence Hall central utility expansion	7,500,000
College Park – Satellite Central Utility Building expansion	1,300,000
College Park – telecommunication infrastructure	5,500,000

Queen Anne's County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$21,176	\$20,615	-\$561	-2.6
Compensatory Education	2,956	3,231	275	9.3
Student Transportation	2,859	3,094	235	8.2
Special Education	2,378	2,115	-263	-11.1
Limited English Proficiency Grants	371	398	27	7.3
Geographic Cost of Education Index	165	554	389	235.8
Adult Education	88	88	0	0.0
Aging Schools	91	50	-41	-45.1
Other Education Aid	764	539	-225	-29.5
Primary & Secondary Education	30,848	30,684	-164	-0.5
Libraries	133	127	-6	-4.5
Community Colleges	1,751	1,794	43	2.5
Health Formula Grant	643	643	0	0.0
* Transportation	5,309	3,014	-2,295	-43.2
* Police and Public Safety	408	410	2	0.5
* Fire and Rescue Aid	200	200	0	0.0
Recreation and Natural Resources	131	45	-86	-65.6
Total Direct Aid	\$39,423	\$36,917	-\$2,506	-6.4
Aid Per Capita (\$)	846	784	-63	-7.4
Property Tax Equivalent (\$)	0.47	0.44	-0.03	-6.4

* Municipal governments within the county receive a share of these funds.

2. Retirement Payments

County teachers and librarians are members of either the teachers’ retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2010 State payments for Queen Anne’s County for teachers, librarians, and community college faculty are estimated to be \$6,094,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2010 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county’s share of prior year funding (fiscal 2009) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services

Alcohol and Drug Abuse	\$621,000
Family Health and Primary Care	156,000
Medical Care Services	511,000
Mental Health	1,634,000
Prevention and Disease Control	313,000
Developmental Disabilities	3,601,000
AIDS	4,000

Social Services

Homeless Services	14,000
Women’s Services	22,000
Adult Services	45,000
Child Welfare Services	552,000

Senior Citizen Services

Long-term Care	115,000
Community Services	45,000

C. Selected State Grants for Capital Projects**Public Schools**

Bayside Elementary School – renovations (HVAC)	\$433,000
Centreville Middle School – renovations (boiler)	133,000
Kent Island Elementary School – construction	481,000

Chesapeake College

Kent Humanities Building – renovation	6,030,000
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Community Parks and Playgrounds

Mill Stream Park	221,000
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Chesapeake Bay Water Quality Projects

Northwest Creek – restoration	29,000
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Waterway Improvement

Queen Anne’s Waterman’s Boat Basin – rehabilitation	420,000
United Communities Volunteer Fire Department – acquire fire/rescue boat	18,000

Other Projects

Kennard High School – restoration	200,000
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D. Capital Projects for State Facilities in the County**Maryland Environmental Service**

Eastern Pre-Release Facility – wastewater treatment plant improvements	\$440,000
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St. Mary’s County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$65,654	\$66,557	\$ 903	1.4
Compensatory Education	13,701	12,335	-1,366	-10.0
Student Transportation	5,701	6,129	429	7.5
Special Education	6,930	6,422	-507	-7.3
Limited English Proficiency Grants	598	502	-96	-16.1
Guaranteed Tax Base	1,075	0	-1,075	-100.0
Geographic Cost of Education Index	64	214	150	234.4
Adult Education	181	181	0	0.0
Aging Schools	91	50	-41	-45.1
Other Education Aid	1,023	818	-205	-20.0
Primary & Secondary Education	95,018	93,208	-1,808	-1.9
Libraries	659	629	-30	-4.6
Community Colleges	2,287	2,369	82	3.6
Health Formula Grant	1,244	1,244	0	0.0
* Transportation	7,164	4,115	-3,049	-42.6
* Police and Public Safety	845	860	15	1.8
* Fire and Rescue Aid	200	200	0	0.0
Recreation and Natural Resources	246	84	-162	-65.9
Total Direct Aid	\$107,663	\$102,709	-\$4,952	-4.6
Aid Per Capita (\$)	1,073	1,011	-61	-5.7
Property Tax Equivalent (\$)	0.93	0.83	-0.09	-9.7

* Municipal governments within the county receive a share of these funds.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2010 State payments for St. Mary's County for teachers, librarians, and community college faculty are estimated to be \$13,549,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2010 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2009) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services

Alcohol and Drug Abuse	\$2,750,000
Family Health and Primary Care	128,000
Medical Care Services	527,000
Mental Health	4,363,000
Prevention and Disease Control	356,000
Developmental Disabilities	7,767,000

Social Services

Homeless Services	69,000
Women's Services	170,000
Adult Services	106,000
Child Welfare Services	1,302,000

Senior Citizen Services

Long-term Care	133,000
Community Services	59,000

C. Selected State Grants for Capital Projects

Public Schools

Benjamin Banneker Elementary School – renovations (roof/HVAC)	\$743,000
Greenview Knolls Elementary School – renovations (HVAC)	1,000,000
Oakville Elementary School – renovations (HVAC)	520,000

College of Southern Maryland

La Plata – Business Classroom Building renovation/expansion	5,293,000
Prince Frederick – campus development	1,040,000

Partnership Rental Housing Program

Indian Bridge	30,000
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Waterway Improvement

Public boating facilities – countywide maintenance	50,000
St. George’s Island – replace pier	56,720

Other Projects

Cedar Lane Apartments – renovations	125,000
Pathway’s Inc. – facility renovation	175,000
St. Mary’s Hospital	1,800,000

D. Capital Projects for State Facilities in the County

Department of Natural Resources

Point Lookout State Park – renovate administration building	\$1,366,000
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Historic St. Mary’s City Commission

Maryland Heritage Interpretive Center	816,000
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Maryland Environmental Service

Charlotte Hall Veterans Home – wastewater treatment plant improvements	210,000
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Maryland Veterans Administration

Charlotte Hall Veterans Home (federal funds)	3,700,000
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St. Mary's College

Anne Arundel Hall – reconstruction	1,685,000
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Somerset County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$13,074	\$12,315	-\$759	-5.8
Compensatory Education	5,899	6,601	702	11.9
Student Transportation	1,617	1,741	123	7.6
Special Education	1,331	1,326	-4	-0.3
Limited English Proficiency Grants	454	640	186	41.0
Guaranteed Tax Base	892	759	-133	-14.9
Adult Education	132	132	0	0.0
Aging Schools	70	38	-31	-44.3
Other Education Aid	179	129	-50	-27.9
Primary & Secondary Education	23,648	23,681	34	0.1
Libraries	263	261	-2	-0.8
Community Colleges	766	804	39	5.1
Health Formula Grant	661	661	0	0.0
* Transportation	3,223	2,163	-1,060	-32.9
* Police and Public Safety	249	249	0	0.0
* Fire and Rescue Aid	215	215	0	0.0
Recreation and Natural Resources	59	20	-39	-66.1
Disparity Grant	4,371	4,908	538	12.3
Total Direct Aid	\$33,455	\$32,962	-\$490	-1.5
Aid Per Capita (\$)	1,286	1,262	-24	-1.9
Property Tax Equivalent (\$)	2.05	1.86	-0.19	-9.3

* Municipal governments within the county receive a share of these funds.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2010 State payments for Somerset County for teachers, librarians, and community college faculty are estimated to be \$2,872,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2010 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2009) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services

Alcohol and Drug Abuse	\$949,000
Family Health and Primary Care	261,000
Medical Care Services	474,000
Mental Health	3,199,000
Prevention and Disease Control	360,000
Developmental Disabilities	1,996,000
AIDS	53,000

Social Services

Homeless Services	8,000
Women's Services	31,000
Adult Services	75,000
Child Welfare Services	857,000

Senior Citizen Services

Long-term Care	636,000
Community Services	441,000

Note: A portion of women's services funding supports services in Somerset, Wicomico, and Worcester counties. Senior citizen services funding supports services in Dorchester, Somerset, Wicomico, and Worcester counties.

C. Selected State Grants for Capital Projects

Public Schools

Washington High School – construction \$4,121,000

Community Health Facilities Grant Program

Somerset County Health Department 1,600,000

Community Parks and Playgrounds

Crisfield Municipal Park 196,000

Waterway Improvement

Jenkins Creek – replace dock 50,000

Public boating facilities – countywide maintenance 40,000

D. Capital Projects for State Facilities in the County

Department of Natural Resources

Janes Island State Park – nature center improvements \$1,550,000

Somers Cove Marina – fuel dock renovations 250,000

Talbot County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$4,249	\$4,278	\$29	0.7
Compensatory Education	3,112	3,372	260	8.4
Student Transportation	1,345	1,458	114	8.5
Special Education	832	798	-35	-4.2
Limited English Proficiency Grants	429	512	82	19.1
Aging Schools	70	38	-31	-44.3
Other Education Aid	467	467	0	0.0
Primary & Secondary Education	10,504	10,923	419	4.0
Libraries	101	101	0	0.0
Community Colleges	1,314	1,346	32	2.4
Health Formula Grant	506	506	0	0.0
* Transportation	4,236	1,996	-2,240	-52.9
* Police and Public Safety	406	406	0	0.0
* Fire and Rescue Aid	217	217	0	0.0
Recreation and Natural Resources	137	48	-89	-65.0
Total Direct Aid	\$17,421	\$15,543	-\$1,878	-10.8
Aid Per Capita (\$)	481	429	-52	-10.8
Property Tax Equivalent (\$)	0.19	0.15	-0.04	-21.1

* Municipal governments within the county receive a share of these funds.

2. Retirement Payments

County teachers and librarians are members of either the teachers’ retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2010 State payments for Talbot County for teachers, librarians, and community college faculty are estimated to be \$3,555,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2010 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county’s share of prior year funding (fiscal 2009) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services

Alcohol and Drug Abuse	\$678,000
Family Health and Primary Care	155,000
Medical Care Services	383,000
Mental Health	2,746,000
Prevention and Disease Control	299,000
Developmental Disabilities	2,777,000
AIDS	32,000

Social Services

Homeless Services	36,000
Women’s Services	43,000
Adult Services	46,000
Child Welfare Services	798,000

Senior Citizen Services

Long-term Care	542,000
Community Services	136,000

Note: Senior citizen services funding supports services in Caroline, Kent, and Talbot counties.

C. Selected State Grants for Capital Projects**Public Schools**

Easton Elementary School – renovations (roof)	\$436,000
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Chesapeake College

Kent Humanities Building – renovation	6,030,000
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Community Parks and Playgrounds

Waylands Park	69,000
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Chesapeake Bay Water Quality Projects

Talbot County/Martingham Utilities Cooperative WWTP – improvements	100,000
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Waterway Improvement

Oak Creek Landing – replace boat ramp	25,000
Oxford – repair Tilghman Street boat ramp	25,000
Oxford Ferry Dock – rebuild transient boating dock	25,000
Public boating facilities – countywide maintenance	50,000
St. Michaels – replace Mulberry Street bulkhead	8,000

Other Projects

Oxford Community Center	75,000
YMCA – fire safety system upgrade	125,000

D. Capital Projects for State Facilities in the County**Department of Natural Resources**

Black Walnut Point NRMA – shore erosion control	\$1,653,877
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Washington County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$90,407	\$88,171	-\$2,237	-2.5
Compensatory Education	27,793	30,620	2,827	10.2
Student Transportation	5,979	6,479	500	8.4
Special Education	9,903	9,256	-647	-6.5
Limited English Proficiency Grants	1,555	1,901	347	22.3
Guaranteed Tax Base	3,527	3,136	-390	-11.1
Adult Education	152	152	0	0.0
Aging Schools	245	135	-110	-44.9
Other Education Aid	1,226	1,115	-112	-9.1
Primary & Secondary Education	140,787	140,965	178	0.1
Libraries	1,135	1,117	-18	-1.6
Community Colleges	7,785	8,243	458	5.9
Health Formula Grant	2,125	2,125	0	0.0
* Transportation	11,033	6,373	-4,661	-42.2
* Police and Public Safety	1,450	1,476	26	1.8
* Fire and Rescue Aid	233	233	0	0.0
Recreation and Natural Resources	387	131	-256	-66.1
Total Direct Aid	\$164,935	\$160,663	-\$4,273	-2.6
Aid Per Capita (\$)	1,137	1,105	-32	-2.8
Property Tax Equivalent (\$)	1.20	1.10	-0.10	-8.3

* Municipal governments within the county receive a share of these funds.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2010 State payments for Washington County for teachers, librarians, and community college faculty are estimated to be \$17,786,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2010 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2009) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services

Alcohol and Drug Abuse	\$2,756,000
Family Health and Primary Care	179,000
Medical Care Services	667,000
Mental Health	8,174,000
Prevention and Disease Control	465,000
Developmental Disabilities	11,195,000

Social Services

Homeless Services	228,000
Women's Services	106,000
Adult Services	303,000
Child Welfare Services	2,789,000

Senior Citizen Services

Long-term Care	357,000
Community Services	118,000

C. Selected State Grants for Capital Projects

Public Schools

Antietam Academy – construction	\$4,036,000
Hancock Middle/High School – renovations (roof)	880,000
Pangborn Elementary School – construction	162,000
Rockland Woods Elementary School – construction	1,274,000

Public Libraries

Washington County Free Library – expansion	800,000
Western Maryland Regional Library	5,000,000

Hagerstown College

Arts and Science Complex	6,892,000
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Community Health Facilities Grant Program

Way Station, Inc.	800,000
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Community Parks and Playgrounds

Funkhouser Park	35,000
Hager Park	35,000
Taylor Park	82,000
Widmeyer Park	43,000

Waterway Improvement

Williamsport – River Bottom Park replace boat launching facilities	50,000
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Other Projects

Barbara Ingram School for the Arts	150,000
Doleman Black Heritage Museum	25,000
Museum of Fine Arts	100,000

D. Capital Projects for State Facilities in the County

Maryland State Police

Hagerstown Barrack/Garage/Communications Building – construction	\$10,050,000
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Maryland Environmental Service

Maryland Correctional Institution – wastewater treatment plant improvements	438,000
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Wicomico County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$64,102	\$63,972	-\$130	-0.2
Compensatory Education	26,676	30,127	3,452	12.9
Student Transportation	4,568	4,908	340	7.4
Special Education	6,189	6,257	68	1.1
Limited English Proficiency Grants	1,512	1,852	341	22.6
Guaranteed Tax Base	6,135	6,752	617	10.1
Adult Education	277	277	0	0.0
Aging Schools	194	107	-87	-44.8
Other Education Aid	640	636	-4	-0.6
Primary & Secondary Education	110,293	114,888	4,597	4.2
Libraries	811	822	10	1.2
Community Colleges	4,580	4,811	231	5.0
Health Formula Grant	1,457	1,457	0	0.0
* Transportation	8,403	5,422	-2,980	-35.5
* Police and Public Safety	1,004	1,024	20	2.0
* Fire and Rescue Aid	221	221	0	0.0
Recreation and Natural Resources	258	87	-171	-66.3
Disparity Grant	742	2,197	1,455	196.1
Total Direct Aid	\$127,769	\$130,929	\$3,162	2.5
Aid Per Capita (\$)	1,365	1,392	27	2.0
Property Tax Equivalent (\$)	1.77	1.70	-0.08	-4.5

* Municipal governments within the county receive a share of these funds.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2010 State payments for Wicomico County for teachers, librarians, and community college faculty are estimated to be \$12,947,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2010 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2009) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services

Alcohol and Drug Abuse	\$1,751,000
Family Health and Primary Care	471,000
Medical Care Services	899,000
Mental Health	7,923,000
Prevention and Disease Control	425,000
Developmental Disabilities	7,246,000

Social Services

Homeless Services	33,000
Women's Services	110,000
Adult Services	45,000
Child Welfare Services	1,549,000

Senior Citizen Services

Long-term Care	636,000
Community Services	441,000

Note: A portion of women's services funding supports services in Somerset, Wicomico, and Worcester counties. Senior citizen services funding supports services in Dorchester, Somerset, Wicomico, and Worcester counties.

C. Selected State Grants for Capital Projects

Public Schools

J.M. Bennett High School – construction \$6,200,000

Public Libraries

Pittsville Library – replacement 20,000
Salisbury Main Library – site acquisition 375,000

Wor-Wic Community College

Allied Health Building 7,850,500

Senior Centers Grant Program

Salisbury-Wicomico Senior Center 200,000

Community Parks and Playgrounds

Fruitland Playground 35,000

Chesapeake Bay Water Quality Projects

Delmar WWTP – nutrient removal 1,300,000

Water Supply Financial Assistance Program

Salisbury – elevated water tower 300,000

Waterway Improvement

Nanticoke Harbor – replace jetty and dredge harbor 50,000
Public boating facilities – countywide maintenance 50,000

Other Projects

Parsonsburg Volunteer Fire Company Community Center	250,000
Senior Training Center for the Blind	150,000

D. Capital Projects for State Facilities in the County**Department of Health and Mental Hygiene**

Deer's Head Center – new kidney dialysis unit	\$608,000
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Military

Salisbury Armory – addition and renovation	5,701,000
Salisbury Armory – addition and renovation (federal funds)	9,800,000

University System of Maryland

Salisbury University – campuswide dormitory renovations	6,991,000
Salisbury University – Perdue School of Business	28,000,000

Worcester County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$6,402	\$6,344	-\$58	-0.9
Compensatory Education	5,616	5,819	203	3.6
Student Transportation	2,581	2,785	204	7.9
Special Education	1,420	1,357	-63	-4.4
Limited English Proficiency Grants	496	504	8	1.6
Adult Education	90	90	0	0.0
Aging Schools	70	38	-31	-44.3
Other Education Aid	454	450	-4	-0.9
Primary & Secondary Education	17,129	17,387	259	1.5
Libraries	137	138	1	0.7
Community Colleges	1,869	1,963	94	5.0
Health Formula Grant	481	481	0	0.0
* Transportation	6,485	2,645	-3,840	-59.2
* Police and Public Safety	704	704	0	0.0
* Fire and Rescue Aid	262	262	0	0.0
Recreation and Natural Resources	244	85	-159	-65.2
Total Direct Aid	\$27,311	\$23,665	-\$3,645	-13.3
Aid Per Capita (\$)	553	480	-73	-13.2
Property Tax Equivalent (\$)	0.13	0.12	-0.01	-7.7

* Municipal governments within the county receive a share of these funds.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2010 State payments for Worcester County for teachers, librarians, and community college faculty are estimated to be \$7,505,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2010 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2009) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services

Alcohol and Drug Abuse	\$2,353,000
Family Health and Primary Care	249,000
Medical Care Services	566,000
Mental Health	2,838,000
Prevention and Disease Control	519,000
Developmental Disabilities	3,818,000
AIDS	56,000

Social Services

Homeless Services	33,000
Women's Services	62,000
Adult Services	55,000
Child Welfare Services	850,000

Senior Citizen Services

Long-term Care	636,000
Community Services	441,000

Note: A portion of women's services funding supports services in Somerset, Wicomico, and Worcester counties. Senior citizen services funding supports services in Dorchester, Somerset, Wicomico, and Worcester counties.

C. Selected State Grants for Capital Projects

Public Schools

Pocomoke High School – construction \$403,000

Wor-Wic Community College

Allied Health Building 7,850,500

Community Parks and Playgrounds

Cypress Park 75,000

North Surf Park 80,000

Chesapeake Bay Water Quality Projects

Pocomoke City – sewer system installation 65,000

Snow Hill WWTP – nutrient removal 100,000

Chesapeake Bay Restoration Fund

Pocomoke City WWTP – enhanced nutrient removal 500,000

Waterway Improvement

Ocean City – acquire fire/rescue boat 50,000

Public boating facilities – countywide maintenance 50,000

West Ocean City – replace boat ramp and add floating docks 50,000

Other Projects

Atlantic General Hospital 270,000

D. Capital Projects for State Facilities in the County

Department of Natural Resources

Natural Resources Police – renovate Ocean City boathouse	\$25,000
Pocomoke River State Park – Shad Landing parking lots	150,000

Part B Taxes

Property Tax

Property Tax Administration

Homestead Property Tax Credit Eligibility

Under current law, homeowners are required to file an application with the State Department of Assessments and Taxation (SDAT) to qualify for the homestead property tax credit program. When a property transfers between January 1 and July 1 and the deed is not recorded until after July 1, the new property owner has 60 days from the date of transfer to submit an application to receive the homestead property tax credit. Along with the application, the property owner must submit a copy of the deed and request that the date of the deed be used as the date of transfer rather than the recordation date.

Senate Bill 87 (passed) extends to September 1 the deadline for filing an application for the homestead property tax credit program when a property transfers to a new owner between January 1 and July 1 and the deed is not recorded until after July 1. In addition, *Senate Bill 87* authorizes SDAT to reinstate the homestead property tax credit to a homeowner who fails to file the required application for the tax credit by a specified deadline.

Exempt Manufacturing Personal Property

Except for property used exclusively for charitable or educational purposes or property owned by a housing authority, property tax on wholly exempt property is abated for the taxable year that follows the date on which the property became exempt. If an owner of property subject to an exemption on June 30 files an application for abatement with SDAT on or before the following September 1, the tax is abated for the taxable year.

Senate Bill 88 (passed) specifies that the property tax exemption for manufacturing personal property will be granted for a taxable year, if the owner files an application with SDAT for an exemption within six months of receiving the first assessment notice for the taxable year that includes the manufacturing personal property.

Revaluation of Home Improvements

Real property is valued and assessed once every three years. No adjustments are made in the interim, except in the case of (1) a zoning change; (2) a substantial change in property use; (3) substantially completed improvements which add at least \$50,000 in value to the property; or (4) a prior erroneous assessment.

Senate Bill 538 (passed) alters one of the property revaluation criteria by specifying that substantially completed improvements to real property that add at least \$100,000 in value to a dwelling will trigger a real property revaluation.

Tax Sales

Fees for Reimbursement

Senate Bill 348/House Bill 169 (both passed) clarify the types of expenses for which a holder of a certificate of sale from a tax sale may be reimbursed. If an action to foreclose the right of redemption has not been filed, and the property is redeemed more than four months after the date of the tax sale, the holder of a certificate of sale may be reimbursed for costs for recording the certificate of sale, a title search fee up to \$250, and reasonable attorney's fees up to \$500. *Senate Bill 348/House Bill 169* apply prospectively and do not apply to any tax sale or related proceeding held prior to the effective date of the legislation.

Auctioneer's Fees – Caroline County

The auctioneer's fee for properties sold at a tax sale in Caroline County is currently set at \$10 per property sold, but in no event may the auctioneer's fee be less than \$50 a day or greater than \$200 a day. *Senate Bill 328/House Bill 269 (both passed)* alter the auctioneer's fee for property sold at a tax sale in Caroline County by setting the fee at \$10 for each property sold.

Renewable Energy Incentives

Property Tax Assessment of Alternative Energy Property

Alternative Energy Incentive Act of 2009: House Bill 1171 (passed) exempts residential wind energy property used to generate electricity for a residential structure on the property from State and local real property taxes. *House Bill 1171* also clarifies that solar energy property, for property tax exemption purposes, includes equipment that uses solar thermal electric energy.

For a more detailed discussion of the sales tax provision of this bill, see subpart "Sales Tax" within Part B – Taxes of this *90 Day Report*.

Exemptions for Solar Energy Property: Senate Bill 621 (passed) extends the existing property tax exemption for specified solar energy property to include solar energy property used to generate electricity supplied to the electric grid. *Senate Bill 621* is intended to account for

solar energy property that is purchased and which may send electricity back to the grid via net-metering.

For a more detailed discussion of the sales tax provision of this bill, see subpart “Sales Tax” within Part B – Taxes of this *90 Day Report*.

Local Option Property Tax Credits

Marine Trade Waterfront Property

Senate Bill 644 (passed) authorizes a local government to grant a property tax credit for “marine trade waterfront property.” Marine trade waterfront property is defined as real property that (1) is adjacent to the tidal waters of the State; (2) is used primarily for an activity or business that requires direct access to, or location in, marine waters due to the nature of the activity or business; and (3) for the most recent three-year period, has produced an average annual gross income of at least \$1,000. Marine trade waterfront property includes marinas, boat ramps, boat hauling and repair facilities, fishing facilities, and any other boating facilities; and land that is adjacent to or under improvements used primarily for an activity or business that requires access to, or location in, marine waters due to the nature of the activity or business.

Senior Citizens

Chapter 455 of 2006 authorized Baltimore City, counties, and municipalities to grant a tax credit against the county or municipal property tax imposed on real property that is owned and used as the principal residence of an individual who is at least 70 years old and of limited income. *House Bill 781 (passed)* lowers the minimum age requirement from 70 to 65 years of age for this property tax credit.

Local Property Taxes

Baltimore City

Baltimore City may currently grant a property tax credit against city property taxes imposed on newly constructed dwellings owned by qualified owners. After June 30, 2009, additional owners of such properties may not be granted the credit.

Senate Bill 227/House Bill 143 (both passed) modify the existing Baltimore City property tax credit for newly constructed dwellings and extend the tax credit’s termination date to June 30, 2014. In addition to extending the termination date of the tax credit, *Senate Bill 227/House Bill 143* authorize Baltimore City to (1) establish maximum limits on the cumulative amount of the credit that may be allowed for any year; (2) establish two application periods for the tax credit; and (3) grant a one-time amnesty period for owners who previously failed to meet the application deadline and who were denied the tax credit.

Baltimore County

Senate Bill 158 (passed) authorizes Baltimore County to grant a property tax credit against the county property tax for real property owned by the Civic League of Inverness.

House Bill 795 (Ch. 154) authorizes Baltimore County to grant a property tax credit against the county property tax for real property owned by the Loreley Beach Community Association.

Dorchester and Talbot Counties

Senate Bill 335/House Bill 42 (both passed) authorize Dorchester and Talbot counties or a municipality in either county to grant a property tax credit against the county or municipal property tax for specified real property owned by Habitat for Humanity of Talbot and Dorchester counties.

Harford County

Continuing Care Facility for the Aged: Senate Bill 821 (passed) authorizes Harford County or a municipality in Harford County to grant a property tax credit for property owned or operated by a continuing care facility for the aged. In order to qualify for the credit, the property must be exempt, or be owned or operated by a person that is exempt, from federal income tax under Section 501(c)(3) of the Internal Revenue Code. The property must also be available for use in connection with the facility.

Homes Near a Refuse Disposal System: Senate Bill 228/House Bill 865 (both passed) alter the eligibility criteria of the existing Harford County property tax credit for specified owner occupied residential properties located near a refuse disposal system by (1) repealing the requirement that the residential property be completed on or before June 30, 1988; and (2) extending the property tax credit to properties completed by January 1, 1989 and located in an area that consists of Magnolia Road to Trimble Road to Fort Hoyle Road and to Magnolia Road.

Prince George's County

Senate Bill 403/House Bill 959 (both passed) authorize Prince George's County to grant a property tax credit for real or personal property owned or leased by a certified green business. A green business is defined as a business that is certified by Prince George's County and primarily (1) distributes, manufactures, markets, or sells green products; (2) provides services relating to green products; or (3) provides research and development relating to green products. Green products are products that are energy or water efficient, use healthy, nontoxic materials, are made from recycled or renewable resources, or make current products more energy efficient.

Washington County

House Bill 1184 (passed) authorizes Washington County to provide a payment deferral of the county property tax for residential real property occupied as the principal residence of the owner, provided that at least one of the owners has lived in the dwelling for the previous five years, is at least 65 years old, and meets specified income requirements. *House Bill 1184* also authorizes Washington County or a municipality in the county to grant a three-year property tax credit for specified residential rental property.

Income Taxes

Budget Reconciliation and Financing Act

Among other items, *House Bill 101 (passed)*, the Budget Reconciliation and Financing Act (BRFA) of 2009, includes several income tax provisions related to recently enacted federal tax legislation.

Federal Stimulus Tax Provisions

On February 17, 2009, President Barack Obama signed the American Recovery and Reinvestment Act (ARRA) into law. Several of the federal tax provisions affecting individuals also impact the calculation of Maryland income tax liability. State revenues will be impacted by an exclusion from income for up to \$2,400 of unemployment compensation in tax year 2009, an income tax deduction for qualified motor vehicle excise taxes paid on vehicle purchases made between November 12, 2008, and January 1, 2010, and a temporary expansion of the earned income credit.

The Budget Reconciliation and Financing Act of 2002 (Chapter 440) included a general one-year “decoupling” provision. Under this provision, within 60 days after an amendment of the Internal Revenue Code (IRC) is enacted, the Comptroller must submit a report to the Governor and the General Assembly that outlines the changes in the IRC, the impact on State revenues, and how different types of taxpayers will be affected. If the Comptroller determines that the federal tax change will impact State revenues by at least \$5 million (positive or negative) in the fiscal year that begins during the calendar year in which the federal tax change was enacted, the federal tax change does not apply for Maryland income tax purposes for any taxable year that begins in the calendar year in which the federal tax change is enacted. After this first tax year, amendments to the IRC apply for Maryland income tax purposes unless otherwise explicitly provided by law.

House Bill 101 states that the automatic decoupling provision described above does not apply to any amendment of the Internal Revenue Code enacted under ARRA. The State will not decouple from the temporary expansion of the earned income credit or from the deductions for unemployment compensation and motor vehicle excise taxes paid. As a result, general fund revenues will decrease by \$35.9 million in fiscal 2010 and by \$10.0 million in fiscal 2011.

The American Recovery and Reinvestment Act also includes significant business tax incentives, including three provisions from which the State is permanently “decoupled”: (1) Section 179 expensing; (2) bonus depreciation; and (3) a five-year carryback election of net operating losses for losses incurred by eligible small businesses. Based on the language in ARRA related to the carryback of net operating losses, *House Bill 101* contains language that clarifies that the State is permanently decoupled from the carryback of qualifying net operating losses.

Under current federal law, taxpayers must generally recognize income when the taxpayer cancels or repurchases its debt for an amount less than its adjusted issue price. ARRA allows certain businesses to delay recognition of this income under specific circumstances in tax year 2009 and 2010. In response to concerns that this provision could significantly decrease State revenues, *House Bill 101* permanently decouples the State from the cancellation of debt income provisions enacted by ARRA.

Heritage Structure Rehabilitation Tax Credit Program

Established in 1996, the Heritage Structure Rehabilitation Tax Credit Program provides, subject to certain limitations, a credit for 20% of the qualified expenditures for rehabilitating a certified historic structure. In 2004, the General Assembly substantially altered the tax credit program, including converting the commercial credit part of the program from a traditional tax credit program to a tax credit program that is subject to an annual budgetary appropriation with an aggregate limit.

As proposed by the Governor, *Senate Bill 258/House Bill 309 (both failed)* would have extended the Maryland Heritage Structure Rehabilitation Tax Credit Program through June 30, 2014 and made several changes to the program including:

- converting the commercial program to a conventional tax credit program that is not subject to an annual appropriation;
- eliminating the reserve fund used to offset future revenue losses from the commercial program;
- eliminating the geographic restriction on and competitive awarding of commercial credits; and
- increasing the value of the credit to 25% for the commercial rehabilitation of a building that meets or exceeds specified green building standards.

The bill would have authorized the Maryland Historic Trust to award a total of \$100 million in commercial credits on a first-come, first-served basis to applicants as well as an unlimited amount of residential credits.

Employees with Disabilities Tax Credit Extension

The Qualifying Employees with Disabilities Tax Credit allows employers who hire a qualified individual with disabilities to claim a tax credit for certain wages paid to the employee. *Senate Bill 604 (passed)* extends the Qualifying Employees with Disabilities Tax Credit through June 30, 2010, and authorizes credits to be claimed on behalf of individuals hired through that date.

Other Tax Credit Legislation

Maryland's Biotechnology Investment Tax Credit program provides income tax credits for investments in qualified Maryland biotechnology companies. *Senate Bill 800/House Bill 493 (both passed)* clarify several provisions related to the existing biotechnology investment tax credit program, accelerates applicability of recently enacted changes to the program, and alters the time period in which the credit can be recaptured as provided in current law.

Under the Neighborhood and Community Assistance Tax Credit Program, a business entity can claim tax credits for 50% of contributions in excess of \$500 made to Department of Housing and Community Development approved projects conducted by nonprofit organizations in a priority funding area. *House Bill 1399 (Ch. 166)* expands eligibility of the Neighborhood and Community Assistance Tax Credit to include donations made by individuals.

Senate Bill 554 (passed) prohibits a person from installing or replacing an on-site sewage disposal system on property in the Chesapeake and Atlantic Coastal Bays Critical Area unless the system utilizes the best available nitrogen removal technology. The bill also creates a subtraction modification against the individual income tax for certain costs of upgrading a septic system. A more detailed discussion of this issue may be found under the subpart "Environment" within Part K – Natural Resources, Environment, and Agriculture of this *90 Day Report*.

Tax Administration

Senate Bill 96/House Bill 810 (both passed) require income tax return preparers who prepare more than a specified number of State income tax returns each tax year to file these returns with the Comptroller electronically.

Senate Bill 698/House Bill 883 (both passed) require the Comptroller, beginning in 2011, to directly deposit an income tax refund into at least two accounts at one or more financial institutions at the request of a taxpayer.

Sales Tax

Sales to Veterans' Organizations

Chapters 217 and 218 of 2006 provided for a State sales and use tax exemption for sales made to a bona fide nationally organized and recognized veterans' organization or auxiliary of an organization or its units if the organization is qualified as tax exempt under Section 501(c)(19) of the Internal Revenue Code (IRC). Under current law, the exemption expires on June 30, 2009.

Senate Bill 44 (passed) extends the termination date for the sales and use tax exemption for sales to veterans' organizations that are qualified as tax exempt under Section 501(c)(19) of the IRC from June 30, 2009 to June 30, 2012.

Alternative Energy Incentives

Two bills providing sales tax incentives for the use of alternative energy sources passed during the 2009 session.

Current law provides exemptions under the State sales and use tax for the purchase of solar energy equipment used to heat or cool a structure, generate electricity to be used in a structure, or provide hot water for use in a structure and for the purchase of geothermal equipment that uses ground loop technology to heat and cool a structure. *Senate Bill 621 (passed)* extends the existing sales and use tax exemption for solar energy equipment to include solar energy equipment used to generate electricity supplied to the electric grid. *Senate Bill 621* is intended to account for solar energy equipment used to send electricity back to the grid via net-metering.

House Bill 1171 (passed) provides a sales and use tax exemption for the purchase of equipment installed on residential property that uses wind energy to generate electricity for a residential structure on the property.

Senate Bill 621 and *House Bill 1171* also provide property tax exemptions for solar energy property installed to generate electricity to be supplied to the electric grid and for residential wind energy equipment. For a further discussion of the property tax provisions of these bills, see subpart "Property Tax" within Part B – Taxes of this *90 Day Report*.

Miscellaneous Taxes

Tax Amnesty Program

Senate Bill 552 (passed) requires the Comptroller to declare an amnesty period for delinquent taxpayers from September 1, 2009, through October 30, 2009, for civil penalties and one-half of the interest due and attributable to the nonpayment, nonreporting, or underreporting of income taxes, withholding taxes, sales and use taxes, or admissions and amusement taxes. Taxpayers may qualify for the amnesty provided under the bill if the delinquent tax, together

with one-half of any interest due, is paid during the amnesty period or if the taxpayer during the amnesty period enters into a payment agreement with the Comptroller to pay the full amount due before January 1, 2011.

The amnesty program does not apply to (1) any business that, as of September 1, 2009, has more than 500 employees in the United States or is a member of a corporate group that has more than 500 employees in the United States; (2) any tax for which a taxpayer was granted amnesty under the Maryland Tax Amnesty Program in 2001; or (3) any taxpayer that was eligible to participate in the July 1 through November 1, 2004, Settlement Period relating to the use of Delaware Holding Companies by corporate taxpayers.

Inheritance Tax Exemption – Domestic Partners

Senate Bill 785 (passed) exempts from the State inheritance tax the receipt by a decedent's domestic partner of an interest in a joint primary residence that at the time of the death was held in joint tenancy by the decedent and the domestic partner.

Estate Tax Returns

Under current law, Maryland estate tax returns and inheritance tax returns must be filed with the county register of wills where the decedent resided at the time of death. Each register is required to certify to the Comptroller the amount of inheritance tax paid for each decedent for whom a Maryland estate tax return is filed with the register. *Senate Bill 156 (passed)* allows estate tax returns to be filed with either the Comptroller or the register of wills.

Maryland-mined Coal Credit

Chapters 247 and 248 of 2006 imposed a cap on the total amount of Maryland-mined coal credits that may be claimed against the public service company franchise tax or income tax each year, phasing out the credit completely over a 15-year period. Under current law, the maximum amount of credits that may be approved in each tax year is \$9 million in calendar 2009 and 2010; \$6 million in calendar 2011 through 2014; and \$3 million in calendar 2015 through 2020. *House Bill 101 (passed)*, the Budget Reconciliation and Financing Act of 2009, reduces the cap to \$4.5 million for each of calendar 2009 through 2012. Under the bill, the cap will return to \$6 million for 2013 and 2014, then fall to \$3 million for 2015 through 2020, before the credit is phased out completely in 2021.

Alcoholic Beverage Tax – Procedures and Penalties

All taxes administered by the Comptroller, except the alcoholic beverage tax, are subject to an appeals process. Under current law, a person wishing to appeal an alcoholic beverage tax assessment must make the appeal to the Maryland Tax Court. *Senate Bill 64 (passed)*, makes several changes to the administration of the State alcoholic beverage tax by (1) establishing an administrative appeals process for persons who are subject to an alcoholic beverage tax assessment; (2) authorizing the Comptroller to alter or abate an alcoholic beverage tax

assessment; and (3) increasing the maximum penalty for failure to pay the alcoholic beverage tax, from 10% to 25% of the tax due.

Miscellaneous Local Taxes

Anne Arundel County

Under current law, Anne Arundel County is authorized to impose a tax on space rentals, including a hotel rental tax, and any revenue generated within the boundaries of the City of Annapolis from the hotel rental tax is retained by the City of Annapolis. *Senate Bill 11 (passed)* requires that portions of the Anne Arundel County hotel tax, including portions of the City of Annapolis's share, be distributed to the Arts Council of Anne Arundel County and the Annapolis and Anne Arundel County Conference and Visitors Bureau.

Under *Senate Bill 11*, for fiscal 2010 and 2011, from the county's share of the hotel tax revenues, Anne Arundel County is required to distribute 7% to the Conference and Visitors Bureau and \$260,000 to the Arts Council. Beginning in fiscal 2012, the bill provides for a phased increase in the percentages of the county's share of the hotel tax revenue to be distributed to the Conference and Visitors Bureau and the Arts Council and also requires a portion of the City of Annapolis's share to be distributed to the Conference and Visitors Bureau and the Arts Council. For fiscal 2014 and subsequent fiscal years, *Senate Bill 11* requires that, from both the county's and the city's shares of the hotel tax revenues, 3% be distributed to the Arts Council and 17% be distributed to the Conference and Visitors Bureau.

Charles County

House Bill 1370 (passed) authorizes Charles County to create special taxing districts for the financing, refinancing, or reimbursement of costs associated with the development of resort hotels and conference centers within a waterfront planned community. Under the bill, the county is authorized to impose within the boundaries of a special taxing district a hotel rental tax in addition to the hotel rental tax imposed generally in the county and to pledge the revenues from that tax for payment of bonds issued for purposes of the special taxing district. The rate of the special hotel rental tax may not exceed the general hotel rental tax rate, as imposed by Charles County on the date that the special taxing district is created (currently 5%).

Part C

State Government

State Agencies, Offices, and Officials

State Agencies

Attorney General – Representation

Senate Bill 667/House Bill 289 (both passed) clarify the role of the State Attorney General regarding representation of State government officers and units. The bills specify that the Attorney General is the legal advisor for each government officer and unit of State government and is required to perform all legal work for the State. Outside counsel may be hired, however, if a law expressly so provides or the Attorney General grants prior approval. The bills do not alter the current statutory exceptions to the Attorney General’s authority.

Advisory Councils, Committees, and Commissions

Maryland Youth Advisory Council: The Maryland Youth Advisory Council was established in 2008 to inform the Governor and the General Assembly of issues concerning youth. The duties of the council include recommending one legislative proposal each year, conducting public hearings on the issues of importance to youth, conducting public awareness campaigns, and submitting a report on its activities by June 1 of each year. *Senate Bill 463/House Bill 485 (Chs. 69 and 70)* expand the term of youth members of the Maryland Youth Advisory Council from nine months to one year in order to encompass the period of summer vacation. The Maryland State Department of Education will be required to allow a youth member up to four lawful absences from school per school year if the youth member is attending to council business. The terms of the youth members currently serving on the council are extended to one year.

Maryland Commission on Women: In 1971, the General Assembly established the Maryland Commission on Women. The commission advises State government on and serves as a statewide resource for social, political, and economic opportunities for women. *Senate Bill 149/House Bill 1153 (Chs. 34 and 35)* alter the appointment process for members of the commission. The members will now be appointed by the Governor with the advice and consent

of the Senate. Previously, the President of the Senate and the Speaker of the House had a role in the selection of members. Approximately one-half of the members are appointed from among the nominations offered by organizations whose interests relate to woman. The remaining appointments are made from among applicants who apply on their own behalf. The Governor has the authority to either reappoint or replace members who were appointed by the Speaker or the President and whose terms expire in 2009, 2010, and 2011.

Reorganization

Senate Bill 764/House Bill 1146 (both failed) would have reorganized emergency services in the State. The bills would have established the Department of Emergency Services as a principal department of State government. It would have included:

- the Maryland Emergency Management Agency;
- the Emergency Medical Services System;
- the Charles McC. Mathias, Jr., National Study Center;
- the R. Adams Cowley Shock Trauma Center;
- a licensing program for ambulance services;
- the State Board of Paramedics;
- the Automate External Defibrillator Program; and
- the Maryland Fire and Rescue Institute.

The State Board of Paramedics would also have been established. The bills would have abolished the Maryland Institute for Emergency Medical Services Systems and the State Emergency Medical Services.

Miscellaneous

House Bill 457 (Ch. 141) repeals the requirement that the principal departments and other Executive Branch units submit an organizational chart to the General Assembly each year. The different departments and units are now required to post the organizational chart, including a description of the department or unit and each subunit and the name and title of each individual who heads a subunit, on the department or unit web site.

Each State agency is required to have a recycling plan. By July 1, 2010, under *House Bill 595 (passed)*, the plan must include a system for recycling aluminum, glass, paper, and plastic. It also must include the placement of collection bins in State-owned or State-operated buildings in locations where it is practical and economically feasible. The plans must be implemented by each agency by January 1, 2012.

The Military and Veterans

House Bill 1473 (*passed*) clarifies, reorganizes, and updates various provisions of law related to the State’s organized militia. Changes related to the Maryland Defense Force (MDDF) pertain to the powers of the Adjutant General, the mission of MDDF, the qualifications for membership, and the oaths taken by members. Among the revisions, **House Bill 1473** clarifies that the Adjutant General is responsible for appointing and removing officers and generally overseeing MDDF. The legislation also specifies that MDDF may only be drafted into the military service of the United States by the President of the United States and specifies the circumstances under which the enlistment period may be extended.

House Bill 1561 (*passed*) establishes the Maryland Veterans Trust Fund as a special nonlapsing fund which is administered by the Secretary of Veterans Affairs. The money in the fund is to be used to make grants and loans to veterans and their families, public and private programs that support veterans and their families, and to any other programs that the Secretary considers appropriate. The money is also to be used to pay the costs of administering the fund. The fund consists of gifts and grants that are given to the Department of Veteran Affairs.

The Commission on the Establishment of a Maryland Women in Military Service Monument was reestablished by **Senate Bill 367/House Bill 944** (*both passed*). The bills altered the duties to require the commission to monitor compliance with the recommendations of the commission and to coordinate and monitor the effort to build a Maryland Women in Military Service Monument. **Senate Bill 367/House Bill 944** also authorize the commission to enter into memoranda of understanding with government entities regarding the funding, design, construction, or placement of the monument.

Senate Bill 501/House Bill 907 (*both failed*) would have required the Governor to withhold approval of the transfer of the National Guard to federal control unless the U.S. Congress adopts explicit authorization for the use of military force or a declaration of war. The Governor would have been required to request the return of the National Guard to the State if an authorization for the use of military force expired or was no longer valid.

Interstate Compacts

In October 2008, the U.S. Congress passed legislation that authorized the appropriation of \$1.8 billion over 10 years to the Washington Metropolitan Area Transit Authority (WMATA). The legislation conditioned the distribution of funds on certain amendments being made to the WMATA compact and matching funds being allocated by Maryland, Virginia, and the District of Columbia. **Senate Bill 915** (*Ch. 111*) amends the WMATA compact and mandates the appropriation of funds to meet the requirements of the federal legislation. For a more detailed discussion of this issue, see the subpart “Transportation” within Part G – Transportation and Motor Vehicles of this *90 Day Report*.

State Designations

The negro baseball leagues were established at a time when African American players were unable to play major-league professional baseball due to racism and Jim Crow laws. The golden age of the leagues began in 1920, with the last league disbanding in the 1960s. Baltimore was home to two negro league teams that won several pennants and championships. *Senate Bill 248/House Bill 84 (Chs. 46 and 47)* direct the Governor to annually proclaim the second Saturday in May as Negro Baseball League Day.

House Bill 439 (failed) would have repealed the Advisory Committee on the Naming of State Facilities and Bridges which has met only twice since it was established in 2005. As amended by the Senate, the legislation also would have authorized the State Archivist, upon request or at his discretion, to review, evaluate, and make recommendations to the General Assembly regarding State designations and commemorative days, weeks, and months.

Miscellaneous

American-made Flags

Senate Bill 7/House Bill 7 (Chs. 7 and 8) require flags of the United States and the State of Maryland that are purchased with State money and are displayed on State property to be manufactured in the United States. The Department of General Services already exclusively purchases American-made flags, so *Senate Bill 7/House Bill 7* codify existing practice.

State Grantee Database

Information concerning for-profit or nonprofit entities and associations that are grantees of at least \$50,000 in State aid must be reported by the State agencies providing the grants to the Department of Budget and Management under *Senate Bill 556/House Bill 1192 (both passed)*. A report must provide:

- the name, address, and zip code of each grantee that received State aid from the grantor during the previous fiscal year;
- the amount of any State aid provided to the grantee; and
- a description of the State aid provided to the grantee.

The information will be available to the public on a web site operated by the Department of Information Technology. The web site must allow an individual to search the information by name of grantee, the name of grantor, and the zip code of any grantee that received State aid. *Senate Bill 556/House Bill 1192* also authorize the Office of Legislative Audits to conduct an audit or review of a grantee.

Lobbying by Former Officials

A former State official or public official of the Executive Branch would have been prohibited from assisting or representing another party for compensation in a matter that is the subject of legislative action for one year after the official leaves employment under *House Bill 475 (failed)*. The prohibition would not have applied to a former official who is representing a municipal corporation, county, or State governmental entity.

Elections

Early Voting Implementation

Over the past several election cycles, the number of voters across the United States who cast their votes prior to election day by early and/or absentee voting has increased as states enact laws and implement policies that afford more opportunities for voters to do so. Over 30 states offer no-excuse, in-person early voting in some form whether at designated early voting sites or limited to election offices or other locations. A review of the 2008 general election, by the Pew Center on the States' *electionline.org* (written in December 2008), indicated that preliminary data suggested nearly 30% of votes – an estimated 38 million – were cast before election day.

Legislation implementing early voting was enacted in Maryland in 2006 (Chapters 5 and 61) but later struck down by the Maryland Court of Appeals as unconstitutional. The legislation would have allowed for a five-day early voting period prior to primary and general elections and would have allowed early voters to vote at any early voting polling place (three locations in the State's larger counties, and one in all other counties) in the voter's county of residence.

After the Court of Appeals struck down the early voting laws in 2006, Chapter 513 was adopted in the 2007 session, which proposed a constitutional amendment that would authorize the enactment of legislation providing for early voting during the two weeks immediately preceding an election, on no more than 10 other days prior to election day. Chapter 513 also specified that the provisions of Chapters 5 and 61 of 2006 that had allowed for early voting would not take effect if the constitutional amendment became effective and that applicable provisions of the Annotated Code of Maryland containing the voided laws were repealed. The constitutional amendment was subsequently approved by the voters at the 2008 general election, and bills to newly implement early voting were introduced in the 2009 session.

House Bill 1179 (passed) establishes an early voting period, for the 2010 gubernatorial primary and general elections, from the second Friday before the primary or general election through the Thursday before the election, excluding Sunday. On each day, "early voting centers" are open between 10 a.m. and 8 p.m. The bill specifies a different early voting period for the 2012 presidential primary and general elections, from the second Saturday before the primary or general election through the Thursday before the election, including Sunday. For those elections, early voting centers are open between 10 a.m. and 8 p.m. on the Saturday and the Monday through the Thursday during the early voting period, and between 12 noon and 6 p.m. on the Sunday during the early voting period.

Under the bill, the number of early voting centers in a given county depends on the number of registered voters in that county. A county with fewer than 150,000 registered voters has one early voting center; a county with more than 150,000, but fewer than 300,000 registered voters, has three early voting centers; and a county with more than 300,000 registered voters has five early voting centers. A voter may vote at any early voting center in a voter's county of residence. The State Board of Elections (SBE), in collaboration with the local board of elections in each county, designates each early voting center, and SBE and each local board must, beginning 30 days prior to each early voting period, undertake steps to inform the public about early voting and the location of early voting centers in each county.

General fund expenditures may increase by \$2.5 million to \$3.2 million over the course of fiscal 2010 and 2011 to implement early voting for the 2010 gubernatorial elections, with certain costs not yet determined. Some of those costs may be borne in part by local boards of elections. Local government expenditures may increase by \$1 million in jurisdictions with five early voting centers, \$.6 million in jurisdictions with three early voting centers, and \$.2 million in jurisdictions with one early voting center, with potential additional costs being incurred (including any portion of those accounted for above as State general fund expenditures that may be borne by local boards) that are not yet determined.

New Voting System

Background

Concerns about the accuracy and security of the State's Direct Recording Electronic (DRE) touch screen voting machines led to enactment of legislation in 2007 mandating a new voting system. Chapters 547 and 548 of 2007 require SBE to certify a voting system that provides a voter-verifiable paper record for use in each election occurring on or after January 1, 2010. A "voter-verifiable paper record" includes a paper ballot to be read by an optical scan voting machine. Chapters 547 and 548 also require a certified voting system to provide access to voters with disabilities in accordance with the federal Voluntary Voting System Guidelines (VVSG) adopted under the Help America Vote Act.

The U.S. Election Assistance Commission (EAC) administers a voting system testing and certification program in which independent laboratories are accredited by EAC to test voting systems to determine whether they comply with the VVSG. To date, the EAC has certified only one voting system as complying with the VVSG. That voting system, however, does not provide a voter-verifiable paper record. It is unclear if, or when, a voting system that produces a voter-verifiable paper record and meets the accessibility standards of the VVSG will become available.

SBE issued a request for proposals in January 2009 for procurement of optical scan voting machines and ballot marking devices that allow the disabled to mark a paper ballot. However, SBE indicated that without a change in the certification requirements in State law, it would be unable to enter into a contract and would not be able to meet the 2010 deadline for implementation of an optical scan voting system.

“Hybrid” Voting System: *House Bill 893 (passed)* allows the State to proceed with procurement of a voting system that produces a voter-verifiable paper record for the 2010 elections. The bill specifies certain alternative certification standards that apply if there is no voting system commercially available that satisfies all of the requirements of current law. The bill authorizes SBE to implement temporarily a hybrid voting system which would combine optical scan voting machines and the State’s current DRE touch screen voting machines, which do not provide a voter-verifiable paper record. The new optical scan voting system would not be required to comply with the VVSG or be examined by a testing laboratory approved by EAC.

Under the hybrid voting system, voters would have the option of casting a paper ballot, but at least one DRE voting machine would also be available in each polling place. The DRE machine would provide access to voters with disabilities but also be available for use by all voters. When SBE determines that a voting machine is available that satisfies the accessibility requirements of the VVSG, produces a voter-verifiable paper record, and is compatible with the voting system in use in polling places, it must certify and deploy the machine within two years and discontinue the use of any voting machines that do not provide a voter-verifiable paper record. The bill terminates following the first election when voting machines are used that produce a voter-verifiable paper record and meet the accessibility requirements of the VVSG for voters with disabilities.

Fiscal Impact

As introduced by the Governor, the fiscal 2010 budget included approximately \$5.8 million for a new voting system. That amount represented \$2.9 million in State general funds and \$2.9 million in special funds from local election reform payments. State law requires that the cost of acquiring and operating the statewide voting system be split evenly between the State and the counties. The estimated total cost of a new optical scan voting system is \$39 million, with payments extending from fiscal 2009 to 2015.

The General Assembly amended the fiscal 2010 budget to reduce the amount of State general funds available for the new voting system by \$2 million, contingent on enactment of *House Bill 101 (passed)*, the Budget Reconciliation and Financing Act of 2009, which authorizes the replacement of those funds with an equal amount from the Fair Campaign Financing Fund (further discussed below under Campaign Finance). The Fair Campaign Financing Fund exists to provide public campaign financing for qualifying gubernatorial candidates.

If a hybrid voting system is implemented under *House Bill 893*, State and local expenditures may decrease. This is due to the foregone cost of purchasing ballot marking devices for the disabled, who would instead use the State’s current DRE voting machines. State general fund expenditures may decrease by approximately \$478,500 in fiscal 2010 and an average of \$1.2 million in subsequent fiscal years, through fiscal 2014. Local government expenditures may decrease by a similar amount. The estimate of decreased expenditures does not account for any associated effect on voting system services costs resulting from using the DRE machines instead of procuring ballot marking devices. The expenditure reductions may

also be offset or eliminated in the future if accessible voting machines that meet the requirements of the VVSG are acquired and deployed under the bill. Additional administrative costs arising from the need to administer elections using two voting systems also may offset expenditure reductions for local governments under this bill.

Campaign Finance

Public Financing of Campaigns/Campaign Contributions

According to the National Conference of State Legislatures (NCSL), limits on campaign contributions, public financing of election campaigns, and disclosure of campaign finance activity are the main avenues by which states seek to regulate campaign finance. Contribution limits vary widely from state to state and from office to office within a state, according to NCSL, with five states placing no limits on contributions. NCSL indicates that half the states operate programs that provide public funds to candidates or political parties (or both), including those that provide funds directly to individual candidates, those that provide funds to political parties, and those that provide tax incentives to individuals who make political contributions.

Public financing of campaigns received considerable attention during the 2009 session. As discussed further below, *Senate Bill 663 (failed)*, as amended by the Senate Education, Health, and Environmental Affairs Committee, would have established a system of public campaign financing for General Assembly members, increased existing private campaign contribution limits, and authorized county governments to enact laws to regulate public campaign finance activity for county elective offices.

Public Financing: Maryland law currently provides for public financing of gubernatorial campaigns, but with the exception of the 1994 gubernatorial race, the program has not been used. A 2004 report by the Study Commission on Public Financing of Campaigns in Maryland found that the gubernatorial Fair Campaign Financing Fund, from which public contributions are distributed, had rarely reached a functional level and that the expenditure limit that participating gubernatorial tickets are subject to under the law is more than likely “far below the minimum amount of funds needed to launch a credible campaign effort[.]”

In March 2009, the Fair Campaign Financing Fund had a balance of \$5.2 million, capitalized by contributions made to the fund via a tax add-on that appears on State personal income tax returns. The tax add-on generated an average of \$119,000 annually for the fund from fiscal 2006 to 2008. The expenditure limit under the public financing law, which applies separately to each primary and general election, is equal to 30 cents (adjusted annually beginning January 1, 1997, in accordance with the Consumer Price Index) multiplied by the population of the State. Thus, the per election expenditure limit for participating gubernatorial tickets in the 2006 elections was \$2.1 million.

The amended *Senate Bill 663* would have repealed the gubernatorial Public Financing Act and established a system of public financing for General Assembly candidates. Under the bill, the system would have first applied to 2014 General Assembly campaigns. A candidate wishing to participate in the public financing system would have been required to collect a

specified amount of qualifying contributions from registered voters in the candidate’s legislative district (or subdistrict) to become eligible for a public contribution. In exchange for public funding, a participating candidate would have been subject to specified expenditure limits; however, the participating candidate would be eligible for a supplemental public contribution in the event contributions received or expenditures made by an opposing nonparticipating candidate exceeded the expenditure limit.

To ensure at least a “working balance” for the proposed General Assembly public financing program, under the bill the balance of the money in the gubernatorial Fair Campaign Financing Fund would have been transferred to the Public Election Fund for General Assembly candidates and a tax check-off system would have been established to allow individuals filing personal State income tax returns to direct \$5 of the individual’s State tax liability to the Public Election Fund to support public financing for General Assembly elections.

Contribution Limits: The amended *Senate Bill 663* also would have increased the contribution limits that persons may make to campaigns. Under current State law, over a four-year election cycle a person generally may not give aggregate contributions of more than \$4,000 to any one campaign finance entity or more than \$10,000 to all campaign finance entities. These limits were set in 1991. The bill would have increased to \$4,400 the aggregate amount that could be contributed to any one campaign finance entity and to \$15,000 the amount that could be contributed to all campaign finance entities in a four-year election cycle. The bill would also have increased from \$6,000 to \$6,600 the limit on the cumulative amount of transfers that a campaign finance entity may make, directly or indirectly, to any one other campaign finance entity.

Local Government Regulation of Public Campaign Finance Activity: Finally, the amended *Senate Bill 663* would have granted counties throughout the State the authority to enact laws to regulate public campaign finance activity for county elective offices. A system for public campaign finance activity established by a county, however, would have been required to be regulated in accordance with State law by SBE.

Late Filing of Affidavits

Campaign finance entities generally must file campaign finance reports at various times prior to and after primary and general elections in which they participate and annually on the third Wednesday in January. The reports must contain information required by SBE with respect to all contributions received and all expenditures made by or on behalf of the campaign finance entity during a reporting period. A campaign finance entity that has not raised or spent a cumulative amount of \$1,000 or more since the establishment of the campaign finance entity, or since the filing of its last campaign finance report, may file an affidavit to that effect instead of a full campaign finance report. However, under current law campaign finance entities have to file a full campaign finance report if a filing deadline is missed and may not file an affidavit late. *House Bill 1395 (passed)* allows campaign finance entities to file an affidavit late, subject to late filing fees.

Procurement

Most of the procurement legislation passed during the 2009 legislative session related to the State's minority business enterprise (MBE) program; several bills facilitate the participation of minority-owned firms as MBEs in State procurement and modify reporting requirements. Other successful bills address apprenticeship requirements on public works projects and miscellaneous procurement procedures and purchasing requirements.

Minority Business Enterprise Program

Senate Bill 611/House Bill 389 (both passed) prohibit a prime contractor from falsely including an MBE in a bid or proposal for a State procurement and require the Governor's Office of Minority Affairs (GOMA) to operate a fraud hotline that may be used to report violations. Among other requirements, a prime contractor must ensure that MBEs included in a bid or proposal actually perform services under the contract.

Senate Bill 489/House Bill 471 (both passed) require that the personal net worth cap for business owners that determines eligibility for the State's MBE program, currently \$1.5 million, be adjusted annually according to the Consumer Price Index and exempt up to \$500,000 of retirement savings plans from the calculation of personal net worth. *Senate Bill 211/House Bill 641 (both passed)* allow a woman-owned business that is owned by a member of a racial or ethnic minority group to be certified as both a woman-owned business and as a business owned by a member of a recognized racial or ethnic minority group under the MBE program. The legislation also allows a dual-certified firm to participate in any given State procurement as either a woman-owned business or as a business owned by a member of a racial or ethnic minority group, but not both.

Senate Bill 568 (passed) requires the Maryland Department of Transportation to include in its directory of certified MBEs a list of MBEs that are no longer qualified because the personal net worth of one or more of an MBE's owners exceeds the statutory cap or because the MBE no longer qualifies as a small business under federal guidelines. *House Bill 1297 (passed)* requires the Board of Public Works to adopt regulations that promote and provide for the counting and reporting of MBEs as prime contractors. The bill also requires that annual MBE reports prepared by GOMA to include information on the prevalence of MBEs as prime contractors. *Senate Bill 946/House Bill 1336 (both passed)* require State procurement units to submit copies of their annual MBE utilization reports to the General Assembly's Joint Committee on Fair Practices.

Public Works Projects

House Bill 644 (passed) establishes a State Apprenticeship Training Fund and requires contractors and some subcontractors who work on public works contracts that are subject to the prevailing wage law to either participate in an apprenticeship training program, make payments to a registered apprenticeship program or to an organization that operates a registered program, or contribute to the fund. Payments made to apprenticeship programs or organizations that operate the programs must be used only to support the programs and will be subject to auditing

requirements. The State fund must promote preapprenticeship programs and other workforce development programs in public secondary schools. Contributions to the State fund are expected to be approximately \$200,000 in the first year and decline gradually thereafter as more contractors opt to participate in apprenticeship programs rather than contribute to the fund.

Procurement Procedures and Purchasing Requirements

House Bill 533 (passed) promotes intergovernmental cooperative purchasing by requiring State Executive Branch agencies and local governments to facilitate participation by State and local agencies and nonprofit organizations in service and supply contracts. However, contracts for capital construction and improvements, as well as contracts valued at less than \$100,000 are exempt. Moreover, State and local governments may exempt any contract for which they determine that intergovernmental purchasing (1) is not in their best interest; (2) undermines the contract's timing or effect; or (3) interferes with the ability to meet MBE or other related goals.

Senate Bill 187/House Bill 124 (both passed) do not allow State procurement units to “bundle” a procurement, limit the number of competitive bidders or offerors, or limit participation to a predetermined group of bidders or offerors for the purpose of precluding or limiting the participation of MBEs or small businesses in State procurement. Bundle means the consolidation of two or more activities that were previously performed under separate contracts into one contract that may be too large to be accessible to MBEs or small businesses.

Senate Bill 132/House Bill 91 (both passed) exempt from most of the requirements of the State procurement law any procurement by the Department of General Services (DGS) for the renovation of a structure built during the 18th or 19th century and listed in or eligible to be listed in the National Register of Historic Places. The Maryland Historical Trust estimates that approximately 20 State-owned buildings under DGS authority could be subject to this procurement exemption, among the most significant of which is the State House.

Senate Bill 7/House Bill 7 require that United States and State flags displayed on State property and purchased with State funds be made in the United States. For a further discussion of Senate Bill 7 or House Bill 7, see the subpart “State Agencies, Offices, and Officials” within Part C – State Government of this *90 Day Report*.

Personnel

Impact of Budget Actions on State Employees

In fiscal 2010, State employees will be impacted by the State's deteriorating fiscal condition in several ways. Due to budgetary constraints, State employees will not receive merit increases, cost-of-living increases, or deferred compensation matches in fiscal 2010. However, under a recently proposed change to regulations, same sex domestic partners of State employees and their dependents may be covered under the State's health insurance plan.

State Employee Labor Relations

During the 2009 legislative session, a number of bills were introduced that affect labor relations with State employees.

Collective Bargaining – Service Fees from Nonunion Members

Senate Bill 264 (passed), also known as “The Fair Share Act,” changes the current law so as to authorize the State to collectively bargain with the exclusive representative of a bargaining unit for service fees from State employees who are not members of that exclusive representative. An employee who has religious objections to paying the service fee will be allowed instead to pay an amount not to exceed the service fee to a charitable organization. The bill does not apply to the State’s public four-year higher education institutions or Baltimore City Community College.

Innovative Idea Awards Program

The State’s Innovative Idea Awards Program rewards State employees who propose ideas that save the State money, increase revenue, improve the quality of service, or otherwise significantly benefit the State. Before awards are granted, they must be reviewed by a review committee in each principal unit of State government. *House Bill 461 (passed)* requires half of the members of a principal unit’s review committee to be selected from the exclusive representatives, if any exist. The review committee must be consulted in the submission of ideas to the Governor’s Award Panel. The bill also specifies that an employee may submit an innovative idea by application or through the employee’s supervisor.

At-will Employment

The State Employee’s Rights and Protections Act of 2007 required the Department of Legislative Services (DLS), with the assistance of the Department of Budget and Management, the Maryland Department of Transportation, and State employee labor unions, to study at-will employment and make recommendations for legislative and administrative changes to the State’s personnel systems. The Department of Legislative Services completed the study in December 2008 and issued a report. *House Bill 735 (passed)* implements many of the recommendations of the report.

The bill repeals the automatic at-will status of a number of groups of employees throughout State government, including the Department of Business and Economic Development, the State Department of Education, and several health-related commissions. In addition, the measure limits the number of special appointment positions in the Office of the Attorney General that may be filled with regard to political affiliation, belief, or opinion. Special appointment and at-will positions in the executive and management services affected by the bill will remain at-will until they become vacant.

The bill allows for flexibility in recruiting for certain skilled and professional service positions in the State Personnel Management System. It also repeals the Legislative Joint Committee on Fair Practices and establishes in its place the Joint Committee on Fair Practices and State Personnel Oversight. The new joint committee has oversight of employment policies and personnel systems in the Executive Branch of State government, matters of equal employment opportunity policies and practices in State government, and certain procurement practices.

The Secretary of Budget and Management is required under the bill to compile a report similar to the federal *Plum Book* every four years. By December 31 of each gubernatorial election year, the Secretary of Budget and Management must submit a report to the Governor and the Presiding Officers of the General Assembly on the total number of individuals employed with regard to political affiliation, belief, or opinion in the State.

Finally, the bill requires the Secretary of Budget and Management, in consultation with department secretaries and agency heads, to evaluate all skilled service and professional service positions considered special appointments to determine whether these positions should continue to be considered special appointments. A report on the evaluation is due January 1, 2012.

Benefits for Emergency Responders

Senate Bill 177/House Bill 787 (both passed) provide hazardous material response team employees of the Department of the Environment with the same death benefit that other public safety employees qualify for in the event they are killed in the line of duty. The bills define hazardous material response team employees as individuals who are on call 24 hours a day to provide emergency response to a discharge of oil or a release of hazardous material or other emergency response activity.

Senate Bill 711 (passed) requires the Secretary of Budget and Management to provide an option to purchase up to \$200,000 of additional life insurance coverage to State employees who fly in a helicopter or scuba dive in the course of their employment with the State or, as a result of their employment with the State, face a significant likelihood of receiving a less favorable life insurance rating than other State employees. The bill also authorizes the Secretary of State Police and the Secretary of Budget and Management to award death benefits and funeral expenses on behalf of active police employees in good standing with the Department of State Police who died while participating in off-duty training exercises directly related to maintaining fitness for duty on or after November 1, 2008.

Maryland Whistleblower Law – Confidentiality

Senate Bill 81 (passed) requires confidential treatment of information obtained in the course of an investigation of an alleged violation of the Maryland Whistleblower Law. The bill applies retroactively to any investigation of a complaint that was initiated or completed before the October 1, 2009 effective date of the bill.

Pensions and Retirement

Reemployment of Retirees

Subject to limited exceptions, retirees who receive a retirement benefit from the State are subject to a dollar-for-dollar reduction in their retirement allowance if they are reemployed by the same employer for whom they worked at the time of their retirement. Two bills that passed during the 2009 session address exceptions to this provision.

Senate Bill 1019/House Bill 1495 (both passed) exempt a reemployed retiree of the State Police Retirement System (SPRS) from a retirement allowance reduction if the retiree is reemployed by the Department of State Police at a rank of trooper first class, is reemployed for no more than four years, is younger than age 60, and terminates participation in the Deferred Retirement Option Program. It also provides a disability benefit to a reemployed SPRS retiree who is incapacitated while reemployed as either a trooper first class or as a helicopter pilot with the Maryland State Police Aviation Command. Finally, it provides a death benefit to the surviving family members of an SPRS retiree who is killed while reemployed in either of the same two capacities. The death benefit applies retroactively and, therefore, provides a death benefit to the surviving spouse of an SPRS retiree who was reemployed as a helicopter pilot and died in a crash in September 2008.

House Bill 1513 (passed) repeals for two years the four-year limitation on contractual reemployment as health care practitioners during which retirees of the Employees' Retirement System (ERS) or Employees' Pension System (EPS) are exempt from a reduction to their retirement allowance.

Local Pension Bills

Senate Bill 962/House Bill 1383 (both passed) require employees of the Town of University Park to become members of EPS as a condition of their employment. Current employees receive eligibility and service credit at the rate of 70% of their past service credit with the town.

House Bill 745 (passed) requires members of the Town of Sykesville to become members of EPS as a condition of their employment. Current employees receive eligibility and service credit at the rate of 75% of their past service with the town.

House Bill 879 (*passed*) authorizes the Board of County Commissioners for Frederick County to enact an ordinance authorizing the divestment of Frederick County pension funds that are currently invested in companies doing business in Iran or Sudan.

Death Benefits

Chapter 519 of 2008 extended line-of-duty death benefits to surviving family members of State employees who are members of ERS or EPS and who were killed while performing the duties of their job. After the 2008 legislative session ended, but prior to the enactment of Chapter 519, an employee of the Maryland Transportation Authority (MDTA) was killed while performing the duties of his job. **Senate Bill 65** (*Ch. 15*) extends the existing line-of-duty death benefit to provide a retroactive death benefit to the surviving family members of this employee of MDTA. By receiving the death benefit, the employee's family is also eligible to participate in the State's subsidized health plan.

Service Credit Transfers and Purchases

House Bill 872 (*passed*) allows an EPS member previously employed by the Maryland Transit Administration to purchase service credit at full cost (employer and employee share, with interest) for past employment with the Washington Suburban Transit Commission (WSTC). The member may use funds from the Montgomery County Government's retirement savings plan that were deposited by the county on his behalf during his employment with WSTC.

House Bill 1051 (*passed*) allows a permanent employee of the City of Annapolis to receive creditable service in EPS for the time the individual was a contractual employee but made employee contributions to EPS and on whose behalf the City of Annapolis made employer contributions. The bill affects two Annapolis employees who were mistakenly classified as regular employees when they were contractual employees and, therefore, not eligible for membership in EPS.

Optional Retirement Program

The Optional Retirement Program (ORP) is a voluntary defined contribution plan primarily for higher education faculty at public institutions who choose not to participate in the State Retirement and Pension System (SRPS).

Senate Bill 66 (*passed*) establishes that community colleges, except for Baltimore City Community College, are independent employing institutions with respect to their employees' eligibility for ORP and administration of supplemental retirement plans. Under current law, the Maryland Higher Education Commission serves as the official employing institution with respect to ORP membership for community college employees, although each community college tends to carry out administrative functions with respect to its employees' participation in ORP. Therefore, the bill conforms State law to existing practice.

Joint Committee on Pensions

The General Assembly passed six measures sponsored by the Joint Committee on Pensions at the request of the SRPS Board of Trustees.

Senate Bill 593/House Bill 446 (both passed) expand the reasons for which a member of the SRPS Board of Trustees may be granted an excused absence from a board meeting to include jury duty and attendance at investment or fiduciary training. It also repeals requirements that investment and fiduciary training for trustees be conducted in the State and by entities who are not affiliated with any of the system's external investment managers. Instead, training must be approved by the chairman of the board. In addition, the bills provide that an elected employee representative on the board must be given reasonable time during work hours to attend board and committee meetings. Finally, the board must report annually to the Joint Committee on Pensions on the cost and nature of travel expenses incurred by staff and trustees.

Senate Bill 179/House Bill 466 (both passed) authorize the SRPS board to adopt regulations allowing managers to monitor and record incoming telephone calls to employees of the Member Services Division for training and quality control purposes. The Member Services Division provides benefit information to members and retirees, most of which is provided over the telephone.

Senate Bill 178/House Bill 448 (both passed) raise the cap on management fees that the SRPS board can pay to external asset managers, not including managers of real estate and alternative assets, from 0.3% to 0.5% of the market value of managed assets. The bills also clarify the chief investment officer's authority to invest in alternative investment vehicles and select external investment managers.

Senate Bill 226/House Bill 473 (both passed) require employees of local governments whose employer choose to participate in SRPS as a participating governmental unit (PGU) to elect participation by the effective date of the authorizing legislation of the local government. Under current law, PGU employees typically have either six months or one year from the effective date to decide whether to participate in a State plan. The bills also make technical changes to reflect the fact that, due to statutory changes over the past decade, PGUs may join or withdraw from either the Correctional Officers' Retirement System or the Law Enforcement Officers' Pension System.

Senate Bill 591/House Bill 975 (both passed) conform State pension law to reflect recent changes to the federal Uniformed Services Employment and Reemployment Rights Act of 1994 and the Heroes Earnings Assistance and Relief Tax Act of 2007. Among other mostly technical changes, the bills entitle members of State or local retirement and pension plans who are killed in the line of duty while serving in the military to death and disability benefits provided by their plans as if they had returned to work and then died or become disabled.

Senate Bill 592/House Bill 977 (both passed) make technical changes to State pension law to reflect recent changes to the federal Internal Revenue Code.

Employer Contributions for Teachers

Four bills that would have required counties to pay a portion of the employer pension contribution for members of either the Teachers' Retirement System or Teachers' Pension System were referred for further study during the interim. *Senate Bill 710/House Bill 1046 (both failed)* and *Senate Bill 648/House Bill 525 (both failed)* would have frozen the State's share of employer pension contributions for teachers at fiscal 2010 levels and required local governments to pay the difference in succeeding years, either capped at 50% of the total or without a cap.

General Assembly

Generally

Legislative Continuances in Court Proceedings

A member of the General Assembly, or a desk officer of either chamber, is entitled to an automatic continuance in a legal proceeding that conflicts with a legislative session if he or she is an attorney in the case. *House Bill 1115 (failed)* would have expanded the provision to apply as well to instances in which a legislator or desk officer is a party to the case.

Annotated Code

Code Revision – Human Relations Law

The General Assembly is nearing the completion of the long-term project to revise Maryland's entire code of statutory laws. The purpose of the Code Revision project is to reorganize statutory provisions and restate them in clear language and a modern format. There are no substantive changes made to the law being revised. The Code Revision project is staffed by the Department of Legislative Services, and the work is exhaustively reviewed by prominent members of the legal community prior to being introduced as bills.

House Bill 51 (Ch. 120) revises, restates, and recodifies the laws of the State relating to the Maryland Commission on Human Relations, prohibitions against discrimination, and remedies for discrimination. Instead of creating a new article of the Annotated Code, which is the norm for Code Revision bills, *House Bill 51* adds the new "Title 20 – Human Relations" to the existing State Government Article.

House Bill 52 (Ch. 121), a companion bill to the revision, corrects cross-references to the new Human Relations title that appear in other parts of the Annotated Code of Maryland.

Annual Corrective and Curative Bills

Because the General Assembly delegates very little editorial control to the publishers of the Annotated Code with respect to making nonsubstantive and technical changes in the Code,

the Department of Legislative Services has long had the statutory authority to prepare legislation to make these sorts of changes both in the statutory text and titles of prior years' enactments.

These corrective measures are the Annual Corrective Bill, *Senate Bill 382 (Ch. 60)* and the Annual Curative Bill, *Senate Bill 440 (Ch. 68)*. Neither enactment contains any substantive change.

Joint Legislative Committees

Information Technology and Biotechnology

There is currently a Joint Technology Oversight Committee, composed of five senators and five delegates, which was established in an uncodified section of legislation enacted in 2000. *House Bill 438 (Ch. 140)* codifies the provision and changes its name to the Joint Information Technology and Biotechnology Committee. The membership is increased by one senator and one delegate, and the joint committee is additionally charged with working to broaden the support, knowledge, and awareness of biotechnology to benefit the people of Maryland.

Children, Youth, and Families

The Joint Committee on Children, Youth, and Families, which is composed of 20 members of the General Assembly, was scheduled to terminate on June 30, 2009. With the enactment of *Senate Bill 413* and *House Bill 244 (Chs. 63 and 64)*, the joint committee is extended indefinitely.

Emergency Medical Services

Senate Bill 1063/House Bill 265 (both failed) would have established a Joint Oversight Committee on Emergency Medical Services to monitor the procurement of State Police Medevac helicopters, review protocol changes for emergency medical services field providers, oversee efforts to address recommendations relating to the use of Medevac helicopters, and monitor ongoing safety improvements for State Police Medevac helicopters.

New Study Committees and Task Forces with Legislative Membership

Each year, the General Assembly creates temporary study committees and task forces to conduct in-depth studies of important issues that are not possible to undertake during the legislative session because of the pace of activities. The following bills of the 2009 session relate to study committees and task forces that include members of the General Assembly in their membership.

Women in Military Service Monument

In 2005, a Task Force on the Establishment of a Maryland Women Veterans Monument was created to identify and recommend the funding, design, construction, and placement of an appropriate monument to honor Maryland women who have served in the United States

uniformed services. The task force terminated that same year after submitting a report of its recommendations, which included a call for a new commission to move the process forward.

Subsequently, in 2006, a 10-member Commission on the Establishment of a Maryland Women in Military Service Monument was formed to again identify and recommend the funding, design, construction, and placement of an appropriate monument dedicated to women from Maryland who served in the uniformed forces of the United States. The commission terminated in 2007. The commission's final report recommended that the monument be funded by a combination of State bonds and private fundraising. The proposed location for the monument is Fort Meade. Although Fort Meade remains a possible location, there may be a need to identify alternative locations due to the difficulty of procuring the federal property planned for use. Funds have not been secured for the project, nor have specific sources of funding been identified.

Senate Bill 376/House Bill 944 (both passed) revive the Commission on the Establishment of a Maryland Women in Military Service Monument in order to complete the task. The revived commission will include among its members one senator and one delegate, each to be a member of the General Assembly's Veterans' Caucus.

Quiet Vehicles and Pedestrian Safety

Because pedestrians, and particularly blind people, depend on sound cues produced by internal-combustion engines to safely cross streets, the increase in quieter hybrid, electric, and other low-emission vehicles presents a growing safety concern.

An enactment in 2008 established the Maryland Quiet Vehicles and Pedestrian Safety Task Force to study the effects of vehicle sound on pedestrian safety; review available research on the effects of vehicle sound on pedestrian safety and consult with consumer groups and safety advocates; conduct hearings to accept testimony; and make recommendations regarding a minimum sound level, the nature and characteristics of the minimum sound that should be required for all new vehicles sold and licensed in Maryland, and the use of technology to enhance the safety of blind pedestrians.

The task force published a final report in 2008, concluding that there is sufficient anecdotal evidence of this emerging problem, but finding that a lack of data from the federal government and automobile industry is preventing progress in addressing this concern. Therefore, the report recommended that the task force be reconstituted and include a member of the House of Delegates and the Senate. The report also recommended that the General Assembly adopt a resolution encouraging the State's congressional delegation to support federal legislation, that the Governor write to the U.S. Department of Transportation to encourage adoption of regulatory standards, and that the task force actively engage with the State and federal government and industry on how to achieve progress on making quiet vehicles safer for pedestrians.

Senate Bill 370/House Bill 367 (both passed) reconstitute the Maryland Quiet Vehicles and Pedestrian Safety Task Force and add the recommended senator and delegate to the task force membership.

Autism

Senate Bill 963/House Bill 503 (both passed) establish the Maryland Commission on Autism, which will include one member of the Senate and one member of the House of Delegates. The commission will make recommendations regarding services for individuals with autism spectrum disorders; develop a statewide plan for a system of training, treatment, and services for individuals with autism; and evaluate ways to promote autism spectrum disorder awareness.

Autism is the most common condition in a group of developmental disorders known as autism spectrum disorders. Autistic children have trouble with social interaction as well as verbal and nonverbal communication, and they exhibit repetitive behaviors or narrow, obsessive interests. In the past decade, the number of children identified with characteristics of autism has increased significantly in nearly every jurisdiction in Maryland. Maryland's schools have seen a marked rise in the prevalence of these disorders in school-aged children.

Prisoner Re-entry

The federal Second Chance Act was enacted in 2008 to improve outcomes for people returning to the community from prisons and jails, nationwide. The federal law authorizes grants to government agencies and community and faith-based organizations to provide employment assistance, substance abuse treatment, housing, family programming, mentoring, victims support, and other services that can help reduce re-offending and violations of probation and parole. The goal is to reduce the rate of recidivism, which in Maryland has been hovering near the 50% mark for several years.

Senate Bill 908/House Bill 637 (both passed) establish a Task Force on Prisoner Reentry, which will include among its membership two senators and two delegates.

The task force's charge, among other duties, is to develop a comprehensive strategic reentry plan as specified under the federal Second Chance Act.

Prison Violence

Senate Bill 817 (Ch. 102) continues until the end of 2010 the Task Force to Study Prison Violence in Maryland, which was established in 2007. The task force includes one member from the Senate of Maryland and one from the House of Delegates.

Program Evaluation (“Sunset Review”)

The Maryland Program Evaluation Act, enacted in 1978, is utilized by the General Assembly as a mechanism to monitor and evaluate approximately 70 regulatory boards,

commissions, and other agencies of the Executive Branch of State government. The Department of Legislative Services (DLS) is required under this law to periodically undertake the evaluations according to a statutorily based schedule. These evaluations are more commonly known as “sunset review” because the agencies subject to review are usually also subject to termination (“sunset”) unless legislation is enacted to reauthorize them. The methodology for conducting the evaluations by DLS involves an extensive evaluation process by DLS staff. The goals of the process have evolved to reflect the General Assembly’s interest in identifying the strengths and weaknesses of the various regulatory entities that are subject to program evaluation and addressing through legislation appropriate issues relating to the structure, performance, and practices of the agencies.

This session, the evaluation and termination dates on the following regulatory agencies were extended:

- ***House Bill 62 (Ch. 123)*** extends the Maryland Board of Veterinary Medical Examiners by 10 years and requires a report on registered veterinary technicians, penalty authority, public outreach, and disciplinary caseload.
- ***Senate Bill 117 (Ch. 29)*** extends the State Board of Well Drillers by 10 years. The Act also requires the board to prepare a report, in conjunction with the Department of the Environment, on its plans to increase fees and to track consumer complaints and related disciplinary actions.
- ***House Bill 61 (Ch. 122)*** extends the State Athletic Commission by 10 years and requires a report on the implementation of mixed martial arts regulations.
- ***Senate Bill 119 (passed)*** extends the Horse Racing Act for three years. The Horse Racing Act requires the Maryland Racing Commission, the Maryland-bred Race Fund Advisory Committee, and the Standardbred Race Fund Advisory Committee to be evaluated every 10 years. ***Senate Bill 119*** allows for delayed full evaluation of the three entities until July 1, 2013, and exempts them from preliminary evaluation requirements.

The Athletic Trainer Advisory Committee is created as a subunit the Board of Physicians under the provisions of ***Senate Bill 247/House Bill 173 (both passed)***. The new advisory committee will be the subject to an evaluation in 2012 and termination in 2013.

Part D

Local Government

Local Government – Generally

Construction Permits

Senate Bill 958/House Bill 921 (both passed) extend through June 30, 2010, the duration of approved State, county, and municipal permits for proposed construction and development that were approved on or after January 1, 2008. The bills do not apply to several specified issued permits or permit approvals. By December 31, 2009, the Maryland Department of Planning must report to the General Assembly on the impact of the bills, whether the extension period should be lengthened, and what other alternatives might be available to the State and local jurisdictions.

The bills do not affect the authority of the State, a county, or a municipal corporation to revoke or modify a permit and do not affect the obligation of permit holders to pay any applicable renewal fees. Affected permits may be cancelled if the State, a county, or a municipal corporation determines that the permit presents a threat to the public health, safety, or welfare of its citizens.

Organizations Representing Education Employees

In Maryland, certificated and noncertificated school employees generally bargain separately. However, in some counties, specific categories of noncertificated professionals are included with certificated employees for collective bargaining purposes. *House Bill 577 (passed)* includes registered nurses employed by the Carroll County Public School System in one of the county's collective bargaining units established for certificated school employees.

A public school employee may refuse to join or participate in the activities of employee organizations. However, an employee organization designated as an exclusive representative of public school employees must represent all employees in the unit fairly and without discrimination, whether or not the school employees are members of the employee organization. Nonmember service or representation fees for certificated school employees are authorized in several counties. *Senate Bill 560/House Bill 122 (both passed)* authorize the Calvert County

Board of Education and the employee organizations representing certificated public school employees to negotiate a reasonable service or representation fee to be charged to nonmembers.

House Bill 1374 (passed) authorizes a fourth bargaining unit to represent noncertificated employees of the Baltimore City Public School System. If the public school employer chooses to designate it, the additional unit would represent Baltimore City school police officers up through the rank of lieutenant.

Environmental Health and Clean Energy

Emerald Ash Borer

The emerald ash borer is an exotic invasive pest responsible for the death of more than 25 million ash trees in Michigan, Indiana, and Ohio, and it currently threatens Maryland's ash trees. The discovery of this federally regulated pest in 2006 in an area where it was believed to have been eradicated prompted the issuance of a quarantine over all of Prince George's County. The quarantine was extended into Charles County when emerald ash borer was detected there in 2008. Removal and destruction of all ash trees in defined areas is the accepted method for eradicating the emerald ash borer. From 2006 through early 2008, more than 35,000 ash trees were removed from 16,000 acres in southern Prince George's County.

House Bill 796 (passed) creates an Emerald Ash Borer Grant Fund to help local governments, businesses, and organizations purchase authorized equipment to remove, dispose of, and replace trees infested by the emerald ash borer that are located within emerald ash borer quarantine areas. The Secretary of Agriculture is authorized to administer the fund and must establish grant application procedures. Grants may not exceed the amount a specified entity has appropriated to finance purchases of equipment to remove, dispose of, and replace infested trees in specified areas.

Environmental Health Monitoring and Testing

House Bill 259 (passed) requires a person responsible for violations of certain provisions of the Environment Article to reimburse the Maryland Department of the Environment or a county for costs incurred in conducting certain environmental health monitoring or testing related to the release of a hazardous substance, discharge of oil, or discharge of a pollutant in the waters of the State. A person may not be required to reimburse a county if the person has entered into a consent order with the department. Also, reimbursement to a county is not allowed if the environmental health monitoring or testing by the county is duplicative of activities conducted by the State, or was not reasonably necessary to protect human health and the environment.

Clean Energy

The Maryland Energy Administration administers several programs aimed at encouraging energy efficiency and renewable energy projects in the State. *House Bill 1567 (passed)* authorizes a county or municipal corporation to enact an ordinance or resolution establishing a

Clean Energy Loan Program to provide loans to residential and commercial property owners for the financing of energy efficiency and certain renewable energy projects. A property owner must repay a loan through a surcharge on the owner’s property tax bill.

Under the bill, a county or municipal corporation that establishes a Clean Energy Loan Program may issue bonds to provide financing for loans made through the program. An ordinance or resolution establishing a program must specify eligibility requirements and the terms and conditions of the bond issuance, in accordance with the local government’s procedures for authorization to sell bonds. Bonds may be issued through competitive or negotiated sale and may utilize fixed or variable interest rates.

Finances and Trade

Maryland-National Capital Park and Planning Commission

House Bill 1517 (passed) transfers local property tax revenues collected by the Maryland-National Capital Park and Planning Commission (M-NCPPC) to Montgomery and Prince George’s counties. M-NCPPC must transfer \$5 million to Montgomery County and \$60 million to Prince George’s County from taxes levied against the assessable base in each respective county. For a more detailed discussion of this bill, see the subpart “Bicounty Agencies” of this Part D of this *90 Day Report*.

Local Debt Policies and Reporting

Each local government must annually submit a comprehensive report on its financial condition to the Department of Legislative Services. State law specifies what must be included in this report, which includes the total indebtedness and types of debt. Local governments also must establish and follow an investment policy consistent with guidelines established by the State Treasurer. For this requirement, local government includes Baltimore City, counties, municipal corporations, community colleges, and the Washington Suburban Sanitary Commission.

Senate Bill 458/House Bill 811 (both passed) clarify the reporting requirements of local governments and public corporations and authorities that are authorized to issue debt. The bills also require local governments to adopt debt policies consistent with State and local laws, and constitutional requirements. Public corporations of the State include the Maryland Economic Development Corporation, Maryland Agricultural and Resource-Based Industry Development Corporation, and Maryland Technology Development Corporation. Some examples of authorities include the Maryland Transportation Authority, Maryland Stadium Authority, Maryland Food Center Authority, and Maryland Health and Higher Education Facilities Authority.

Deposits of Unexpended or Surplus Money

The Federal Deposit Insurance Corporation (FDIC) insures deposits in most banks and savings and loan associations located in the United States. Depositors are protected against the

loss of their deposits if an FDIC-insured bank or savings and loan association fails. In October 2008, FDIC deposit insurance was temporarily increased from \$100,000 to \$250,000 per depositor through December 31, 2009. *Senate Bill 617/House Bill 1191 (Chs. 84 and 85)* alter the maximum amount of unexpended or surplus funds that a local government may deposit into a financial institution from \$100,000 to the amount equal to the applicable FDIC maximum insurance coverage limit.

Foreign Trade Zones

A foreign trade zone (FTZ) is a designated site at which special customs procedures may be used. These procedures allow domestic activity involving foreign items to take place prior to formal customs entry. Federal law specifies that a FTZ must be within or adjacent to a U.S. Customs and Border Protection port of entry.

Senate Bill 347/House Bill 94 (Chs. 52 and 53) amend the Baltimore City Charter to conform the definition of a foreign trade zone with the legal boundary definition established by the U.S. Department of Commerce (Foreign Trade Zone Board). The Act also implements federal policy by requiring that a person that wishes to have a site in the State designated as a FTZ apply to the grantee that is closest to the site before applying to another grantee for designation approval.

Counties

Each session, the General Assembly considers a number of bills affecting only one county. The following discussion is intended to provide a sampling of bills of that nature that passed.

Allegany County

The Upper Potomac River Commission operates the Savage River Dam in Garrett County. Funding for the Savage River Dam is provided by Allegany County and other downstream users. *Senate Bill 450/House Bill 489 (both passed)* alter the borrowing authority of Allegany County relating to the Upper Potomac River District (UPRD). The bills repeal a \$200,000 limitation in the borrowing authority of the county and authorize the county to issue bonds and incur debt on behalf of the Upper Potomac River Commission to maintain and repair infrastructure within the river district in accordance with the county's current borrowing procedures, as specified in State law for counties operating under the Code Home Rule form of government. The bill also repeals the requirement that a special tax be levied within the river district to repay the bonds and that the issuance of such bonds be approved by county voters.

Baltimore City

Baltimore City was involved in a lengthy legal dispute after the city police commissioner was relieved from command by the mayor in November 2004 and was sent 45 days notice that his contract of employment, which provided for removal of the commissioner without cause, was

to be terminated. Central to the dispute was the extent of the mayor's authority to remove the police commissioner. In March 2008, the Court of Appeals found that the Public Local Laws of Baltimore City enable the mayor to remove the police commissioner only for specified cause and that the conflicting provision in the employment contract was invalid. *Senate Bill 180/House Bill 92 (Chs. 39 and 40)* give the Mayor of Baltimore City authority to remove the city police commissioner at the pleasure of the mayor, and specifies that this authority is an exception to the prohibition against a city ordinance or act of any municipal officer interfering with the powers of the police commissioner.

Calvert County

Hazardous Materials Cleanup Costs

House Bill 148 (passed) authorizes the Calvert County Commissioners to seek reimbursement of costs incurred in the cleanup of hazardous materials in Calvert County from the person responsible for the release of the hazardous materials.

Rescue and Fire Company Volunteer Benefits

House Bill 520 (passed) provides members of a rescue dive team with benefits comparable to those now provided to members of a volunteer fire company or a volunteer rescue squad under the county's length of service award program. Also, the maximum burial benefit for qualified volunteers who have completed 25 years of certified service is increased from \$3,000 to \$6,000, and the maximum burial benefit for active service volunteers who reach age 70 but have completed less than 25 years of certified service, is increased from \$120 to \$240 for each year of certified service.

Payment to the County Sheriff

House Bill 686 (passed) authorizes Calvert County on or after January 1, 2011, to pay the county sheriff an amount equal to the amount of contributions the county would have made to the county's Employees' Savings Plan (ESP) for the years of service the individual accrued as the county sheriff prior to joining ESP. The amount paid may be in one or multiple payments, as determined by the county commissioners. The bill's provisions take effect at the beginning of the sheriff's next term of office.

Animal Control Fines and Dog Licenses

House Bill 216 (passed) requires that any fine paid for violation of Calvert County ordinances regarding the regulation, humane treatment, and keeping of domestic animals be paid to the Calvert County Treasurer. The bill also authorizes two- and three-year dog licenses to be issued in Calvert County.

Caroline County

Subject to specific exceptions, employers in the State generally may not require or demand, as a condition of employment, prospective employment, or continued employment, that an individual submit to or take a lie detector or similar test. Among the exceptions to the prohibition are individuals applying for specified employment with the county detention centers in Baltimore, Calvert, Cecil, Charles, Harford, and Washington counties; the Baltimore City Jail; the Frederick County Adult Detention Center; and the Prince George's County Department of Corrections or the Anne Arundel County Department of Detention Facilities. *Senate Bill 23/House Bill 548 (both passed)* authorize the Caroline County Department of Corrections to require or demand that an applicant for employment as a correctional officer, or employment in any other capacity that involves direct contact with an inmate in the department, submit to or take a lie detector test.

Carroll County

The purchase of development rights is a tool used by local jurisdictions to preserve agricultural and forestry land. *Senate Bill 780/House Bill 911 (both passed)* authorize Carroll County to enter into an agreement to purchase development rights. A payment obligation in an agreement authorized by the bills is a general obligation of the county, may not be subject to annual appropriation, and is not subject to any limitations that would otherwise be required in the county's charter, public local law, or public general law. An agreement authorized by the bills, the transfer or assignment of the agreement, and any payment required are exempt from State and local taxes. Anne Arundel, Baltimore, Howard, and Prince George's counties have had the same authority to purchase development rights as provided in the bills since 2007.

Cecil County

Distribution of Tobacco Products to Minors

It is a misdemeanor for a person to distribute tobacco products to a minor under certain circumstances. *House Bill 941 (passed)* makes it a civil infraction to distribute tobacco products, cigarette rolling papers, and tobacco-related coupons to minors in Cecil County. The bill subjects violators to civil penalties of \$300 for the first violation, \$500 for the second violation, and \$750 for each subsequent violation.

Regulation of Domestic Animals

House Bill 1045 (passed) decreases from two to one the number of persons in Cecil County who must make a sworn complaint in the District Court in Cecil County alleging that a domestic animal disturbs the peace and quiet of an inhabited neighborhood before a summons to the owner or keeper to appear before the court must be issued. The bill also increases the maximum penalty for failing to comply with county law or a court order related to domestic animals disturbing the peace of a neighborhood or the keeping of a vicious dog from \$25 to \$500.

Charles County

A volunteer worker for a unit of a political subdivision in Allegany, Carroll, Cecil, Charles, Frederick, Garrett, Queen Anne's, St. Mary's, Somerset, Washington, or Worcester counties is not an employee covered by workers' compensation. *Senate Bill 376/House Bill 380 (both passed)* establish that auxiliary volunteers of the Charles County Sheriff's Office are employees covered by workers' compensation while performing work assigned by the sheriff. The bills also specify how the average weekly wage is computed for an auxiliary volunteer of the Charles County Sheriff's Office if the volunteer is entitled to workers' compensation. There are about 20 auxiliary volunteers of the Charles County Sheriff's Office.

Frederick County

Retirement Benefits for County Commissioners

The Frederick County Commissioners consists of five elected members who are entitled to an annual salary of \$45,000; reimbursement for expenses incurred while performing board duties, as provided in the county budget; and fringe benefits regularly provided to county employees. *House Bill 477 (passed)* authorizes the Frederick County Commissioners to establish that its members also receive benefits provided in the county retirement program or to establish criteria and retirement benefits specific to the commissioners. However, no criterion or benefit may exceed those provided to members of the General Assembly and the compensation of a commissioner may not increase during the commissioner's current term.

Penalty for Overdue Water and Sewer Charges

Frederick County must turn off a property's water if a water and sewer charge is unpaid 30 days after the date a bill for the charge is sent and after written notice is left on the premises or sent to the property owner's last known address. The water service may not be turned on until the charge has been paid, along with a \$10 penalty. Frederick County advises that shutting off and then restoring water service to a property costs the county approximately \$100. *Senate Bill 607/House Bill 82 (both passed)* require the Frederick County Commissioners to establish a reasonable penalty for overdue water and sewer charges.

Garrett County

State's Attorney Salary

In 2005, the salary of the State's Attorney for Garrett County was tied to the salary of a District Court judge, which eliminated the need for review of the salary by the Garrett County Salary Study Commission as was required to be done every four years. *Senate Bill 224 (passed)* repeals the requirement that the commission study the salary of the State's Attorney. The commission may still recommend an increase or decrease in the State's Attorney salary.

Natural Gas

Recently, energy companies have shown interest in locating natural gas from a geologic formation in Garrett County. *Senate Bill 651/House Bill 803 (both passed)* alter various provisions of law regarding natural gas production in Garrett County. The tax rate on natural gas production decreases from 7% to 5.5% of the wholesale market value at the well head. The bills also change required distribution of related tax revenues, specifying that one-eleventh of the revenues be distributed to municipalities in the county on a per capita basis and the rest be distributed to the county.

Signs Adjacent to State and Local Roadways

For the past several years, the Garrett County Commissioners have discussed concerns about the height, location, and size of advertising signs in the county. Signs are regulated in part of the county but not countywide. *House Bill 606 (passed)* authorizes the county commissioners to enact ordinances regulating the height, size, location, and setback of an advertising sign adjacent to a State or county road in Garrett County, provided that these ordinances are not less stringent than any applicable State or federal law.

Howard County

House Bill 1369 (passed) requires an applicant for a zoning regulation amendment in Howard County to disclose, under oath, any political contributions of at least \$500 over the preceding 48 months to a candidate for county executive or county council; and business relationships with either the county executive or a member of the county council. This same disclosure requirement already applies to an applicant for a zoning map amendment or an individual who participates in the adoption and approval of a comprehensive zoning plan.

Montgomery County

The State and political subdivisions are authorized to operate traffic control signal monitoring systems to catch red light violations. Montgomery County is authorized to operate automated enforcement systems in specified areas to detect drivers who violate speeding laws. *House Bill 822 (passed)* allows the use of automated enforcement systems at railroad crossings in Montgomery County to identify, and issue citations to those who illegally pass through railroad crossings. The bill establishes the procedure for the use of the automated systems and a maximum civil penalty of \$100. Prince George's County currently administers automated enforcement at railroad crossings.

St. Mary's County

House Bill 1559 (passed) establishes a Task Force to Study the Governance and Structure of the St. Mary's County Metropolitan Commission. The task force must study the governance and structure of the commission and how best to continue the provision of water and sewer services to county citizens. The task force will terminate on August 31, 2010.

Washington County

Washington County public laws prohibit the assignment of a master electrician’s license to another individual or company, even if the master electrician plans to directly supervise the activity. This effectively prevents a Washington County general contractor who administers a contract from hiring a master electrician as a subcontractor because the employees of the general contractor cannot perform electrical work under the supervision of the master electrician. *House Bill 1220 (passed)* authorizes the Washington County Board of Examiners and Supervisors to allow master electricians to assign their licenses to individuals who work under the direct supervision of the electrician, even if these individuals are not employees of the master electrician.

Wicomico County

Counties, municipal corporations, and taxing districts must file an annual financial report covering the full period of the previous fiscal year to the Department of Legislative Services (DLS) and an annual audit report to the State legislative auditor. *Senate Bill 574 (passed)* alters the filing date by which Wicomico County must submit its annual financial report to DLS and its annual audit to the State Legislative Auditor from November 1 to January 1.

Worcester County

Except in Howard, Montgomery, and Prince George’s counties, a new or used car dealer may not sell, barter, deliver, give away, show, or offer for sale a motor vehicle or certificate of title for a motor vehicle on a Sunday. *House Bill 846 (passed)* allows motorcycle dealers in Worcester County to conduct business on Sunday.

Municipal Governments

Tax Increment Financing

Tax increment financing (TIF) is a method of public project financing whereby the increase in the property tax revenue generated by new commercial development in a specific area, the TIF district, pays for bonds issued to finance site improvements, infrastructure, and other project costs located on public property. *Senate Bill 39 (passed)* expands the authority of a municipal corporation to use TIF to encourage redevelopment in revitalization areas; mixed use centers; blighted areas; and developed areas and growth areas, as defined in a county or municipal corporation land use plan, through the installation of specified infrastructure improvements (e.g., streets, utilities, and park facilities).

Audit Requirements

Municipal corporations and State-created taxing districts must have an annual, independent audit conducted by a certified public accountant. However, municipal corporations

and taxing districts with annual revenues below \$50,000 in the prior four fiscal years may petition the Office of Legislative Audits for a waiver allowing an audit to occur once every four years instead. State law requires a county-created special taxing district to conduct an annual audit unless annual expenditures are below \$50,000, in which case an audit may occur once every four years or more frequently if required by the county. *Senate Bill 146/House Bill 19 (Chs. 32 and 33)* increase the eligibility threshold for a municipal corporation or State-created special taxing district to receive an audit every four years to \$250,000 and similarly increases the threshold for a county-created special taxing district to be eligible for an audit every four years to \$250,000.

Land Annexations

A December 2005 Maryland Department of Planning report indicated that, from 1997 through 2005, the acreage of municipal corporations in Maryland had grown by an estimated 11%, or 27,453 acres, as a result of annexation, with the greatest percentage increases occurring in Western Maryland and on the Eastern Shore. Chapter 381 of 2006 altered State law regarding municipal annexation by, among other things, requiring municipalities that exercise zoning authority to include a municipal growth element in their comprehensive plans and for annexations on or after October 2009, requiring a municipal annexation plan that is consistent with the municipal growth element.

Senate Bill 350/House Bill 220 (both passed) exempt proposed municipal annexations of parcels of land that are five acres or less, and that are part of a lot containing at least one other parcel that has been part of the municipal corporate area for at least three years, from the requirements that consent be obtained from a specified percentage of area residents and property owners and that the proposed annexation be subject to a referendum. A municipal corporation, however, may not annex a total of more than 25 acres under the exceptions of the bills, and the bills do not apply to land zoned for agricultural use. Provisions of the bills terminate September 30, 2011.

Commercial Sign Regulations

A municipal corporation may enact reasonable regulations concerning buildings and signs to be erected within its limits, including a building code and the requirement for building permits; however, a municipal corporation may not pass a local law that is inconsistent, or in conflict, with any ordinance, rule or regulation passed, ordained or adopted by the Maryland-National Capital Park and Planning Commission (M-NCPPC) and the Washington Suburban Sanitary Commission. *House Bill 1141 (passed)* authorizes municipal corporations in Montgomery County to enact local laws imposing additional or stricter commercial sign regulations than are imposed by the State, M-NCPPC, or the county.

Bi-county Agencies

Maryland-National Capital Park and Planning Commission

The Maryland-National Capital Park and Planning Commission (M-NCPPC) is a bicounty agency empowered by the State in 1927 to acquire and administer a regional system of parks within the Maryland-Washington Regional District and administer a general plan for the physical development of the area. In 1970, M-NCPPC became responsible for managing the Prince George’s County public recreation program. M-NCPPC is governed by a ten member commission with five members appointed by the County Executive of Prince George’s County and confirmed by the county council, and five members appointed by the Montgomery County Council with the approval of the county executive.

Planning Functions

M-NCPPC is currently required, at the discretion of the district council for each county, to initiate and adopt a general plan for the development of that portion of the regional district located in each county. While State law does not specify how often the general plan must be updated, the commission is required to initiate and adopt amendments to the general plan “from time to time.” M-NCPPC must also initiate and adopt a map of each county within the regional district divided into local planning areas and must initiate and adopt a local area master plan for each area which also may be amended from time to time.

House Bill 1138 (passed) requires the M-NCPPC to review the general plan for the development of the Prince George’s County portion of the Maryland-Washington Regional District two years after each U.S. decennial census. The Prince George’s County District Council must also consider whether to amend the local area master plan within the regional district once every six years. The decision to amend the local area master plan must be in writing and include reasons for the decision.

House Bill 1141 (passed) authorizes municipalities located in Montgomery County to enact local laws imposing additional or stricter commercial sign regulations than are imposed by the State, the M-NCPPC, or the county. Under current law, the legislative body of a municipality may enact reasonable regulations concerning buildings and signs to be erected within the limits of the municipality, including a building code and the requirement for building permits; however, the legislative body of a municipality may not pass an ordinance that is inconsistent or in conflict with any ordinance, rule or regulation passed, ordained or adopted by M-NCPPC and the Washington Suburban Sanitary Commission. The bill clarifies that municipalities located in Montgomery County have the same authority that all municipalities have in the rest of the State.

Fund Balance Transfer

Prince George’s County and Montgomery County levy taxes against property in each county on behalf of M-NCPPC and pay the aggregate amount collected from these taxes to

M-NCPPC. State law specifies the specific purposes for which M-NCPPC may expend these tax proceeds in each county. These purposes include the acquisition, maintenance, development, and operation of the park system in the county; acquisition of park lands; recreational purposes; administrative purposes; and repayment of outstanding bonds or bonds issued in the future. *House Bill 1517 (passed)* transfers \$65 million total in local property tax revenues collected by the M-NCPPC to the two counties.

M-NCPPC is required to transfer \$5 million to Montgomery County and \$60 million to Prince George's County from taxes levied against the assessable base in each county. The transfer of funds may not result in a projected deficit in M-NCPPC funds. Specifically, the bill directs M-NCPPC to make payments of \$15 million to Prince George's County on December 1, 2009, March 1, 2010, December 1, 2010, and March 1, 2011. The bill does not specify how these funds are to be used. On or before October 1, 2009, M-NCPPC must transfer \$5 million to Montgomery County. These funds may only be expended by the county for purchasing interests in real property to prevent nonagricultural uses of lands designated for agricultural preservation.

Employee Protections

House Bill 1135 (passed) specifies that an employee of the M-NCPPC, other than a park police officer, who suffers from Lyme disease is presumed, if certain criteria are met, to have a compensable occupational disease if he or she did not have the disease before being assigned to work regularly in an outdoor wooded environment. This provision already applies to park police officers. Further discussion of this bill is provided in Part H – Worker's Compensation of this *90 Day Report*.

Bicycle and Pedestrian Advisory Committee

The Governor currently appoints a 21-member Bicycle and Pedestrian Advisory Committee to provide guidance to various State agencies concerning funding of bicycle and pedestrian related programs, public education and awareness of bicycle and pedestrian related activities and safety, and other issues. *House Bill 1144 (passed)* adds an additional representative of the M-NCPPC to this advisory committee.

Washington Suburban Sanitary Commission

The Washington Suburban Sanitary Commission (WSSC) is the eighth largest water and wastewater utilities in the country and provides water and sewer services to 1.8 million residents in Montgomery and Prince George's counties. It has over 460,000 customer accounts, serves an area of around 1,000 square miles, and currently employs more than 1,500 people. The agency operates four reservoirs, two water filtration plants, and six wastewater treatment plants. Additionally, the Blue Plains Water Pollution Control Plant handles as much as 169 million gallons per day under a cost sharing agreement with WSSC. The agency maintains nearly 5,500 miles of water main lines and over 5,300 miles of sewer main lines.

Employee Protections

House Bill 1133 (Ch. 162) requires the WSSC to implement whistleblower protection regulations by October 1, 2010. The regulations must be similar to existing protections for Executive Branch State employees, as provided in State law. Adopted whistleblower protections must prohibit a manager or supervisor from taking or refusing to take a personnel action as a reprisal against an employee who discloses information that the employee reasonably believes evidences (1) an abuse of authority, gross mismanagement, or gross waste of money; (2) a substantial and specific danger to public health or safety; or (3) a violation of law. WSSC must provide employees with written notice of the protections and remedies provided by the whistleblower regulations and must establish a system in which complaints or grievances may be filed and investigated. The regulations must also set forth remedial actions that may be taken by the WSSC if a violation is found to have occurred.

Financial Oversight

WSSC is currently required to file a certified copy of the annual audit and current financial statements with the County Executive and County Council of Prince George’s County and the County Executive of Montgomery County. **House Bill 1136 (passed)** requires these reports to be filed with the Montgomery County Council and authorizes the Montgomery County Council or its duly authorized agents, at any time, to audit and examine the books and records of WSSC provided that the audit or examination is without cost to WSSC.

Similarly, **House Bill 1134 (passed)** requires the WSSC to file a certified copy of the annual audit and current financial statements with the Montgomery County and Prince George’s County Senate and House Delegations to the Maryland General Assembly.

System Development Charges

Montgomery and Prince George’s county councils are authorized to grant a full or partial exemption from the system development charge imposed by WSSC to nonprofit organizations that exclusively provide youth services. The exemption amount is limited to \$80,000 and is scheduled to terminate June 30, 2009.

House Bill 1139 (passed) extends authorization for Montgomery and Prince George’s counties to exempt nonprofit youth services organizations from system development charges imposed by WSSC until December 31, 2010. The bill also expands this exemption to include nonprofit organizations that primarily, rather than exclusively, provide recreational and educational programs and services to youth.

Zoning and Planning

Smart, Green, and Growing

The Task Force on the Future for Growth and Development in Maryland (established by Chapter 381 of 2006 and modified by Chapter 626 of 2007) is charged with studying a wide range of smart growth and land use issues impacting Maryland and is required to advise the Smart Growth Subcabinet until it terminates in December 2010. The task force released a report in January 2009 providing detailed recommendations for various actions by the State and local governments. The Administration introduced three measures, *Senate Bill 273/House Bill 294 (both passed)*, *Senate Bill 276/House Bill 295 (both passed)*, and *Senate Bill 280/House Bill 297 (both passed)* all stemming from the report's recommendations.

Planning Visions and Local Government Planning Tools

The Maryland Economic Growth, Resource Protection, and Planning Act of 1992 (the Planning Act), sought to organize and direct comprehensive planning, regulating, and funding by State, county, and municipal governments in furtherance of a specific economic growth and resource protection policy. The Planning Act is organized around eight statutory vision statements which must be pursued in county and municipal comprehensive plans, where priorities for land use, economic growth, and resource protection are established. The visions must also be followed by the State in undertaking its various programs. Both State and local funding decisions on public construction projects must adhere to the visions.

The Administration advises that the State planning visions have never been modernized to reflect and keep pace with current growth and development patterns and trends or Maryland's commitment to smart growth. *Senate Bill 273/House Bill 294* implement a key recommendation of the task force to modernize the visions by replacing the State's 8 existing planning visions with 12 new visions.

The 12 new visions address quality of life and sustainability; public participation; growth areas; community design; infrastructure; transportation; housing; economic development; environmental protection; resource conservation; stewardship; and implementation.

The bills also address two local government planning tools: adequate public facilities ordinances (APFOs) and transfer of development rights (TDR) programs. As to the first tool, generally local governments enact APFOs to ensure that infrastructure necessary to support proposed new development is built concurrently with, or prior to, that new development. APFOs are an effort to time the provision of public facilities (water, sewer, schools, roads, and emergency services) to be consistent with development demand and local comprehensive plans. While APFOs can be a strong tool to influence and guide growth, they are more frequently used when certain public facilities have already reached capacity. When communities have weak comprehensive plans or weak comprehensive plan implementation, APFOs may prompt sprawl development inadvertently.

The bills require specified local jurisdictions to report to the Maryland Department of Planning (MDP) on APFOs restrictions in priority funding areas (PFAs) every two years. The report must include information about the location of the restriction; infrastructure affected by the restriction; estimated date for resolving the restriction; the proposed resolution of the restriction, if available; date a restriction was lifted, as applicable; and terms of the resolution that removed the restriction. In addition, the bills require MDP to report on the statewide impact of APFOs every two years. The report has to identify (1) geographic areas and facilities within PFAs that do not meet local adequate public facility standards; and (2) scheduled or proposed improvements to facilities in local capital improvement programs.

As to the second planning tool, *Senate Bill 273/House Bill 294* authorize local jurisdictions to establish TDR programs within PFAs to purchase land for the development and construction of public facilities. Generally, under TDR programs, residents who occupy certain areas in a county (sending areas) are precluded from selling their land to developers. In exchange, these landowners are awarded TDRs which may be sold on the open market to developers. These rights are applied by developers to designated receiving areas (areas where the county is attempting to foster development). Under the bills, proceeds from the sale of development rights in PFAs must be used for site acquisition and facility construction in PFAs; however, if the public facility is a school or educational facility, the proceeds may be used only for land acquisition. In addition, the bills prohibit development rights associated with land owned by a local jurisdiction on October 1, 2009, from being sold or transferred under the bills after the bills takes effect on October 1, 2009.

Annual Reports – Smart Growth Goals, Measures, and Indicators and Implementation of Planning Visions

Senate Bill 276/House Bill 295 make several administrative and substantive changes to State law governing the annual report that local planning commissions are required to prepare. Specifically, the bills make the annual report requirement applicable to charter counties and Baltimore City so that all local jurisdictions are expressly required to submit this report. The bills provide for a specific date, July 1, by when each planning commission must file the annual report with the local legislative body and require the annual report to state which ordinances or regulations have been adopted or changed to implement the planning visions. MDP is authorized to submit comments on an annual report.

The more substantive changes made by *Senate Bill 276/House Bill 295* involve the establishment of land use goals and the inclusion in the annual report of measures and indicators to demonstrate compliance with the land use goals. As to the land use goals, the bills state that the statewide land use goal is to increase the current percentage of growth located within PFAs, and to decrease the percentage of growth located outside PFAs. A local jurisdiction is required to develop a percentage goal toward achieving the statewide goal. If all the land within the boundaries of a municipal corporation is a PFA, the municipality is not required to establish a local goal for achieving the statewide goal.

As to the measures and indicators, *Senate Bill 276/House Bill 295* list the following items that must be included in the annual report:

- the amount and share of growth being located inside and outside PFAs;
- the net density of growth being located inside and outside PFAs;
- the creation of new lots and issuance of building permits inside and outside PFAs;
- the development capacity analysis;
- the number of acres preserved using local agricultural land preservation funding; and
- specified information on achieving the statewide goal.

A county or municipal corporation that issues fewer than 50 building permits for new residential units per year is not required to include information in the annual report on measures and indicators.

In addition, the bills authorize MDP to adopt regulations that detail the manner in which the measures and indicators are to be submitted and transmitted in the annual report. MDP must also develop measures and indicators that will be collected by MDP and consider which measures and indicators can be collected by the National Center for Smart Growth Research and Education (National Center). On or before January 1 of each year, MDP, in consultation with the National Center, must submit a report to the Governor and the General Assembly on the measures and indicators collected. All of this information must be posted on the National Center's web site. Lastly, the Task Force on the Future for Growth and Development, in consultation with local governments, the National Center, and other stakeholders, must recommend by July 1, 2009 additional measures and indicators to be collected by the State, the National Center, or a local jurisdiction in specified categories of information.

Smart and Sustainable Growth

The Maryland Court of Appeals ruled in *David Trail, et al. v. Terrapin Run, LLC et al.*, 403 Md. 523 (2008), that a special exception could be granted to a local comprehensive plan even if it did not strictly conform to the comprehensive plan. However, the broad language of the majority opinion was seen by many to mean that local land use ordinances and regulations need not be consistent with the locally adopted comprehensive plan. This ambiguity had the potential to undermine Article 66B and the central role that comprehensive plans play in State land use laws and associated decisions regarding specific development projects.

Senate Bill 280/House Bill 297 expressly overturn the Court of Appeals ruling in *Terrapin Run* by requiring that specified actions taken by local governments, including the granting of a special exception, must be "consistent with" their local comprehensive plans. The bills define what is "consistent with," or having "consistency with," a comprehensive plan to mean generally that an action taken by a local government related to local planning, water and

sewer plan review, annexation requirements, and critical area growth allocations will “further, and not be contrary to” specified items in the plan. The specified items are policies, timing of the implementation of the plan, timing of development, timing of rezoning, development patterns, land uses, and densities or intensities. The bills create a separate definition of “consistency” for ordinances and regulations applicable within PFAs that omits land uses and densities and intensities so that these items do not interfere with the ability of a local jurisdiction to enact ordinances related to planned unit developments, mixed uses, and density bonuses within a PFA.

In addition, the bills expressly require local jurisdictions to enact, adopt, amend, and execute a comprehensive plan. Lastly, the bills require members of local government planning commissions and boards of appeal to complete an educational course on the role of the comprehensive plan, proper standards for special exceptions and variances as applicable, and the jurisdiction’s own land use ordinances and regulations. The Task Force on the Future for Growth and Development is required to develop recommendations on the educational course for local jurisdictions, and MDP is required to develop an online planning education course for local jurisdictions by January 1, 2010. Local jurisdictions are authorized to develop their own educational course in lieu of MDP’s education course.

Miscellaneous Land Use Issues

Transit-oriented Development

Senate Bill 274/House Bill 300 (both passed) authorize certain counties and municipalities to finance the costs of infrastructure improvements located in or supporting a transit-oriented development (TOD), including the cost for operation and maintenance of infrastructure improvements. The Maryland Economic Development Corporation (MEDCO) may enter into agreements with certain counties and municipalities to use proceeds from a special taxing district, including tax incremental financing, to repay debt service on bonds issued by MEDCO on behalf of TOD projects. For a further discussion of *Senate Bill 274/House Bill 300*, see the subpart “Economic and Community Development” under Part H – Business and Economic Issues of this *90 Day Report*.

BRAC Community Enhancement Act

House Bill 1429 (passed) changes the effective date of a 10-year BRAC Revitalization and Incentive Zone from the date the Secretary of Business and Economic Development designates a zone to the date the first property in a zone becomes a qualified property. The bill also changes the annual date by which local jurisdictions must notify the State Department of Assessments and Taxation (SDAT) regarding qualified properties from November 1 to February 1, and the annual date that SDAT calculates payments to local jurisdictions from December 1 to March 1. For a further discussion of *House Bill 1429*, see the subpart “Economic and Community Development” under Part H – Business and Economic Issues of this *90 Day Report*.

Part E

Crimes, Corrections, and Public Safety

Criminal Law

Financial Exploitation of the Elderly

Generally, Maryland criminal law does not provide criminal sanctions based on the age of the victim. *Senate Bill 304/House Bill 583 (both passed)* expand the prohibition against financial exploitation of vulnerable adults to include persons who are at least 68 years old. The bills prohibit a person from knowingly and willfully obtaining by deception, intimidation, or undue influence the property of an individual that the person knows or reasonably should know is at least 68 years old, with intent to deprive the individual of the individual's property. The bills are intended to protect seniors that may be vulnerable to exploitation by sales persons, service providers, in-home care providers, or even family and friends because they may be lonely and isolated and may suffer from loss of memory.

A violator is subject to existing penalties applicable when the victim is a vulnerable adult. When the value of the property obtained is \$500 or more, a violator is guilty of a felony and subject to maximum penalties of 15 years imprisonment and/or a \$10,000 fine. When the value of the property is less than \$500, a violator is guilty of a misdemeanor and subject to maximum penalties of 18 months imprisonment and/or a \$500 fine.

Hate Crimes

Maryland's current hate crimes law provides that because of another's race, color, religious beliefs, sexual orientation, or national origin, a person may not take certain actions against another. These actions include commission of a crime; defacement, damage, destruction, or attempted defacement, damage, or destruction of property; or burning or attempting to burn an object on the person's property.

This session, two bills expanded the protected classes under the State's hate crimes law. Under *Senate Bill 151 (passed)*, protected classes will include the homeless and a person's gender. The term "homeless" means lacking a fixed, regular, and adequate nighttime residence or having a primary nighttime residence that is a supervised shelter designed for temporary living

or a place not designed for or ordinarily used by humans as a regular sleeping accommodation. *House Bill 560 (passed)* adds disability as a protected class. Both *Senate Bill 151* and *House Bill 560* also add the attempt to commit a crime motivated by bias as a prohibited offense under the law.

Theft

Under current law, a person convicted of theft of property with a value of \$500 or more is guilty of a felony and subject to maximum penalties of imprisonment for 15 years and/or a \$25,000 fine. A person convicted of theft of property with a value of less than \$500 is guilty of a misdemeanor and subject to maximum penalties of imprisonment for 18 months and/or a \$500 fine. In addition, the sentencing category of petty theft provides for the prosecution of theft where the value of the property or services involved is less than \$100. A violator is guilty of a misdemeanor and subject to maximum penalties of 90 days imprisonment and/or a \$500 fine.

House Bill 66 (passed) increases the maximum property value for misdemeanor theft from \$500 to \$1,000 and creates three tiers of felony theft:

- when the value of the item stolen is between \$1,000 and \$10,000, the maximum penalty is 10 years imprisonment and/or a \$10,000 fine;
- when the value of the item stolen is between \$10,000 and \$100,000, the maximum penalty is 15 years imprisonment and/or a \$15,000 fine; and
- when the value of the item stolen is \$100,000 or more, the maximum penalty is 25 years imprisonment and/or a \$25,000 fine.

Fraudulent Conversion of Rental Property

A person may not fraudulently convert to the person's own use a good or thing of value received under a written contract or written lease entered into for the purpose of renting or leasing things for valuable consideration. A violator is guilty of a misdemeanor and on conviction is subject to maximum penalties of 60 days imprisonment and/or \$1,000 fine.

Senate Bill 192/House Bill 501 (both passed) clarify the language of this prohibition to ensure that it applies to both rent-to-rent and rent-to-own situations. The bills also require that property subject to a fraudulent conversion charge have a value of \$1,500 or more and provide for merger with a theft conviction arising out of the same act or transaction.

Underage Drinking

Resulting from findings by the Task Force to Combat Driving Under the Influence of Drugs and Alcohol, an Administration bill, *House Bill 299 (passed)*, creates a code violation for an individual younger than age 21 who consumes an alcoholic beverage. It also establishes misdemeanor penalties for adults who violate State law by knowingly obtaining or attempting to

obtain an alcoholic beverage or furnishing or allowing consumption of alcohol by an individual younger than 21.

Under *House Bill 299*, an individual younger than 21 may not consume an alcoholic beverage. A violator commits a code violation but may not be stopped on suspicion of the violation unless observed in possession of an alcoholic beverage. The consumption prohibition does not apply if an adult furnishes the alcoholic beverage or allows possession or consumption, the individual and the adult are members of the same immediate family, and the beverage is furnished and consumed within the private residence or area immediately surrounding the residence of the adult. It also does not apply if the consumption occurs during participation in a religious ceremony.

Someone younger than 21 who violates prohibitions against misrepresentation of age, underage possession, or possessing a false ID must be issued a code violation citation. Someone younger than 18 who obtains or attempts to obtain an alcoholic beverage from an alcoholic beverages licensee or a minor who furnishes or facilitates the possession or consumption of an alcoholic beverage by an individual younger than 21 must be issued a citation for a code violation. Prepayment of the fine is not permitted and the accused individual must appear in court.

House Bill 299 makes an adult guilty of a misdemeanor if the adult knowingly obtains or attempts to obtain alcohol for consumption by someone younger than 21 or furnishes or allows possession or consumption of alcohol, as specified, by such an individual. An adult violator is subject to a maximum fine of \$2,500 for a first offense and \$5,000 for a second or subsequent offense. The bill clarifies that these criminal penalties do not alter the current law penalties applicable to alcoholic beverage licensees.

Manufacture of Controlled Dangerous Substances

House Bill 626 (passed) removes the current law prohibition against the manufacture of a controlled dangerous substance from the provision that prohibits distributing and dispensing a controlled dangerous substance and places it with the provision that prohibits the manufacture, distribution, or possession of certain items used to produce controlled dangerous substances. While this is primarily a technical change, the bill also establishes that a violation of the prohibition against manufacturing a controlled dangerous substance or manufacturing, distributing, or possessing items used to produce a controlled dangerous substance is an “underlying crime” for purposes of the criminal gang offenses subtitle.

Possession of Child Pornography

Under current law, a person may not knowingly possess and intentionally retain a film, videotape, photograph, or other visual representation depicting an actual child under age 16 (1) engaged as a subject of sadomasochistic abuse; (2) engaged in sexual conduct; or (3) in a state of sexual excitement. A violator is guilty of a misdemeanor and subject to maximum penalties of a fine of \$2,500 and/or two years imprisonment for a first violation. Second and

subsequent violations are subject to maximum penalties of a fine of \$10,000 and/or five years imprisonment.

Senate Bill 99/House Bill 9 (both passed) increase the penalties for this offense. The maximum imprisonment penalty for a misdemeanor first offense is increased from two years to five years. For a second or subsequent offense, the maximum imprisonment penalty is increased from 5 years to 10 years and the offense becomes a felony. The bill also grants concurrent jurisdiction to the District Court and the circuit courts for possession of child pornography as a second or subsequent offense.

Human Trafficking

Chapters 340 and 341 of 2007 renamed the crime of pandering to human trafficking, and created an enhanced penalty for human trafficking involving a minor. Under the bills, a person who commits human trafficking involving a victim who is a minor is guilty of a felony and subject to maximum penalties of 25 years imprisonment and/or a fine of \$15,000. A person who commits human trafficking involving an adult victim is guilty of a misdemeanor and subject to maximum penalties of 10 years imprisonment and/or a fine of \$5,000. *House Bill 542 (Ch. 143)* expands the prohibition by adding the knowing inducement or enticement of another into prostitution and by eliminating the need for persuasion, inducement, or enticement to prostitution to have been made by threat or promise.

Removal of Human Remains

House Bill 482 (passed) modifies current law prohibitions against removing human remains without authority to allow certain family members or designated representatives to arrange for the removal of human or cremated remains from a burial site within a cemetery and reinterment in the same burial site or another burial site within the boundary of the same cemetery. In order of priority, these individuals may authorize the removal of remains: (1) the surviving spouse or domestic partner of the decedent; (2) an adult child; (3) a parent; (4) an adult sibling; (5) a representative acting under signed authorization of the decedent; or (6) an acting guardian at the time of death. A reinterment under the bill may be done without the authorization of the State's Attorney.

Under *House Bill 482*, a person who arranges for reinterment of remains within the same cemetery must, within 30 days after the reinterment, publish a notice of this action in a newspaper of general circulation in the county where the cemetery is located. The notice must include specified information related to the reinterment. Within 45 days after the reinterment, a person who arranges the reinterment must provide a copy of the notice to the Office of Cemetery Oversight. The location of the remains must be entered into the inventory of the local burial sites or, if no inventory exists, into a record or inventory deemed appropriate by the Maryland Historical Trust.

Interfering with Transit Operators and School Bus Drivers

House Bill 631 (*passed*) prohibits a person from obstructing, hindering, or interfering with a school bus driver while the driver is engaged in the performance of official duties. A violator is guilty of a misdemeanor and subject to maximum penalties of a \$1,000 fine and/or 90 days imprisonment. **House Bill 631** also expands the existing prohibition against obstructing, hindering, or interfering with the operation or operator of a transit vehicle or railroad passenger car to include a station agent, conductor, or station attendant employed by specified entities. Maximum misdemeanor penalties are increased from a \$500 fine to a \$1,000 fine and/or 90 days imprisonment.

Criminal Procedure

Death Penalty

Implementation of the death penalty was effectively halted nationwide when the U.S. Supreme Court agreed to hear the appeal in *Baze v. Rees* (553 U.S. ___, 128 S.Ct. 1520 (2008)). In September 2007, the court granted *certiorari* to consider the constitutionality of the lethal injection process in Kentucky. The case had wide-ranging implications because the Kentucky procedures for lethal injection are substantially similar to the procedures used in many other states, including Maryland. In April 2008, the court affirmed the decision of the Kentucky Supreme Court and ruled that Kentucky's lethal injection protocol did not constitute cruel and unusual punishment. Following the decision in *Baze*, nine states carried out executions during the remainder of 2008.

Prior to developments in the *Baze* case, the ruling of the Maryland Court of Appeals in *Evans v. State*, 395 Md. 256 (2006) halted executions in Maryland. In that case, the court rejected a race-based constitutional challenge, but found that the procedures for lethal injection were implemented without the input required by the Administrative Procedure Act (APA). The court held that the Division of Correction (DOC) protocols directing the administration of lethal injection are ineffective until either (1) the protocols are adopted as regulations under the APA; or (2) the General Assembly exempts the protocols from the procedures required by the APA. To date, new regulations to adopt the protocols have not been issued by Department of Public Safety and Correctional Services. As a result, implementation of the death penalty has effectively been halted in Maryland since the ruling in *Evans*. Evans' civil rights claim in the United States District Court of Maryland that the use of lethal injection in Maryland is cruel and unusual punishment because of the combination of chemicals used, the lack of medical expertise of correctional officers who administer the injections and the condition of his veins after years of drug use is pending. That case was put on hold after the Court of Appeals decision halted executions in the State.

Political and social arguments for and against the use of capital punishment have persisted over many years both nationally and in Maryland. Although questions about the use of the death penalty previously focused on the morality of state-sanctioned killing, more attention is

now being paid to the ability of government to administer the system fairly – without racial, geographic, or socioeconomic inequities – and in a way that minimizes the risk of executing innocent persons. Chapters 430 and 431 of 2008 established the Maryland Commission on Capital Punishment to study all aspects of capital punishment as currently and historically administered in the State. The commission held five public hearings during which it heard testimony from judges, law professors, attorneys, and others with expertise in or experience with the death penalty. The commission held five additional meetings to discuss the evidence presented at the hearings. In a 13-9 vote, the commission recommended abolishing capital punishment in Maryland. Among other things, the commission found that:

- racial and geographic disparities exist in how the death penalty is applied;
- death penalty cases are more costly than nondeath penalty cases and take a greater toll on the survivors of murder victims;
- there is no persuasive evidence that the risk of execution is a deterrent to crime; and
- the unavailability of DNA evidence in some cases opens the “real possibility” of wrongly executing an innocent person.

The commission’s minority report cited the reasons below, among other things, as support for retaining the death penalty in Maryland.

- Maryland is more judicious in its application of the death penalty compared to other states and compared to death penalty imposition in the State prior to 1978. The State has an extensive statutory scheme before the death penalty may be imposed, and the death penalty is sought in a low percentage of murder cases.
- Advances in technology, Maryland’s extensive review process, and post-conviction DNA reforms have reduced the chance that an innocent person may be sentenced to death as far as is humanly possible. The slight chance that this may occur does not justify repealing the death penalty.
- The death penalty does have a deterrent effect; it protects future victims and is a deterrent from committing future murders for individuals already serving life sentences. The minority report also indicated that if the death penalty is repealed, it should, at the very least, be retained for cases involving murders of correctional police officers.

As introduced, *Senate Bill 279 (passed)* sought to repeal the death penalty in Maryland. However, the bill was amended to restrict the death penalty to cases in which the State presents the court or jury with (1) biological evidence or DNA evidence that links the defendant with the act of murder; (2) a videotaped, voluntary interrogation and confession of the defendant to the murder; or (3) a video recording that conclusively links the defendant to the murder. The bill also prohibits a defendant from being sentenced to death if the State relies solely on evidence provided by eyewitnesses.

If the State has already properly filed a notice of intent to seek a death sentence in a case that does not qualify for the death penalty under the bill, that notice must be considered withdrawn and it shall be considered that the State properly filed a notice to seek a sentence of life imprisonment without the possibility of parole.

The bill expresses that it is the intent of the General Assembly that expanded victim services for survivors of homicide victims be funded by savings resulting from the restrictions on the death penalty included in the bill. The bill also requires the Governor’s Office of Crime Control and Prevention (GOCCP) to submit a report to the House Judiciary and Senate Judicial Proceedings committees on how these services should be expanded. The report is due November 1, 2009.

Sexual Offenders

SORNA, which is Title I of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 248-109), calls for conformity by the states with various aspects of sex offender registration provisions, including registration by specified juvenile offenders, specific information to be collected from registrants, verification, duration of registration, access to and sharing of information, retroactive application and penalties for failure to register.

Retroactive Application of Offender Registry

Senate Bill 425 (passed) applies Maryland’s offender registry provisions retroactively to include (1) a person convicted on or after July 1, 1997, of an offense committed before that date, for which registration as a sexually violent predator or sexually violent offender is required; and (2) a person convicted on or after October 1, 1995, of an offense committed before that date, for which registration as a child sex offender is required. The bill also requires the Department of Public Safety and Correctional Services to notify individuals required to register under the bill who are not currently in custody or under supervision.

Delinquent Acts as Predicate for Registration

A police record concerning a child is confidential and must be maintained separate from those of adults. Its contents may not be divulged, by subpoena or otherwise, except by court order upon a showing of good cause or as otherwise provided under provisions of the Education Article relating to arrests for reportable offenses.

Senate Bill 218 (passed) requires a person who has been adjudicated delinquent for an act that would constitute first or second degree rape or first or second degree sexual assault if committed by an adult to register with a supervising authority at the time the juvenile court’s jurisdiction terminates (usually at age 21), for inclusion on the State’s sex offender registry if (1) the person was at least 13 years old at the time the qualifying delinquent act was committed; (2) the State’s Attorney or the Department of Juvenile Services requests that the person be required to register; (3) the court determines by clear and convincing evidence after a hearing (90 days prior to the time the juvenile court’s jurisdiction is terminated) that the person is at

significant risk of committing a sexually violent offense or an offense for which registration as a child sexual offender is required; and (4) the person is at least 18 years old.

Concurrent Court Jurisdiction – Subsequent Offense of Failure to Register

Senate Bill 989/House Bill 376 (both passed) authorizes concurrent jurisdiction between the District Court and circuit court in a criminal case in which a person is charged with a second or subsequent offense of knowingly failing to register, knowingly failing to furnish required notice, or knowingly providing false information of a material fact to the State's sex offender registry. The second or subsequent offense is a felony subject to maximum penalties of five years imprisonment and/or a \$10,000 fine.

Frequency of Photograph

House Bill 96 (passed) alters the time requirement for an updated photograph to be included in the sexual offender registry for all categories of sexual offenders from once a year to every six months.

Post-conviction

Writ of Actual Innocence

Under The Maryland Rules, a defendant may file a motion for a new trial within 10 days after a verdict. A court may grant the motion if it is in the interest of justice. A court is also authorized under the Maryland Rules to grant a new trial or other appropriate relief if newly discovered evidence exists that could not have been discovered by due diligence in time to move for a new trial within 10 days after the verdict. Motions based on the newly discovered evidence must be filed within one year after the later of the date the court imposed a sentence or received a mandate from one of the State's appellate courts. If the defendant was sentenced to death, however, the defendant may move for a new trial at any time if the newly discovered evidence shows that the defendant is innocent of the capital crime or an aggravating circumstance or other condition of eligibility that was actually found by the court or jury in imposing the death sentence. A defendant may also make a motion at any time if the motion is based on DNA or related evidence that, if proven, exonerates the defendant.

Senate Bill 486 (passed) authorizes a convicted person to file a petition for a writ of actual innocence at any time in the circuit court in the county in which the conviction was imposed if the person claims that there is newly discovered evidence that creates a substantial or significant possibility that the outcome in the case may have been different and the evidence could not have been discovered in time to move for a new trial. The bill also contains procedural requirements for the court and content requirements for the petition.

De Novo Appeals

A defendant convicted in the District Court has the right to appeal the conviction in a circuit court. Most appeals from District Court decisions are tried *de novo*. In *de novo* appeals,

the court hearing the appeal treats the appeal as if the previous trial never took place and conducts an entirely new trial. Under the Maryland Rules, the conviction remains in effect pending the appeal; however, the filing of an appeal ordinarily stays any sentence of imprisonment if a court releases the defendant pending the appeal.

Discretion is left to the trial court (the District Court in the case of an appeal to a circuit court) as to whether to release a convicted defendant pending appeal. The District Court must consider certain factors when making its determination. A defendant who is denied a request for release pending appeal and stay of sentence by the District Court may request that a circuit court review the District Court's decision. In response to a motion, the circuit court may modify the District Court's decision. A defendant may also petition for a writ of *habeas corpus*.

House Bill 569 (passed) alters this process by authorizing a circuit court, in a criminal appeal that is tried *de novo*, to stay a sentence of imprisonment imposed by the District Court and release a defendant pending trial in the circuit court upon the defendant's filing of a notice of appeal to the circuit court.

Violation of Probation

Under current law, if the District Court wishes to charge a person with violation of probation, it must do so within the probationary period. This timeline is different from the one used in the circuit courts, where revocation of probation proceedings may begin at any time, as long as "the State proceeds with reasonable promptness and diligence." *State v. Miller*, 289 Md. 443, 424 A.2d 1109 (1981).

In some instances, defendants alleged to have violated probation could not be brought in for a hearing because there was insufficient time within the probation period for probation agents to submit required documentation to the District Court after learning of alleged violations. In an attempt to address this problem, **Senate Bill 145 (passed)** authorizes the District Court to institute proceedings for violation of probation during the period of probation or within 30 days after the violation, whichever is later. The bill also requires that a violation of probation hearing in District Court be timely and extends the applicability of other provisions relating to termination and violation of probation in District Court to circuit court.

Occupational Licenses or Certificates – Criminal Conviction

House Bill 635 (passed) prohibits a department from denying an occupational license or certificate to an applicant solely on the basis that the applicant has previously been convicted of a crime, other than a crime of violence, unless the department determines that (1) there is a direct relationship between the applicant's previous conviction and the specific occupational license or certificate sought; or (2) the issuance of the license or certificate would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public. The bill defines "department" as the Maryland Department of Agriculture; the Maryland Department of the Environment; the Department of Health and Mental Hygiene; the Department of Human Resources; the Department of Labor, Licensing, and Regulation; or the Department of Public Safety and Correctional Services, or any unit of one of these agencies. The bill also states that it

is the policy of the State to encourage the employment of nonviolent ex-offenders and remove barriers to their ability to demonstrate fitness for occupational licenses or certifications required by the State.

Drug or Alcohol Abuse – Court-ordered Evaluation and Treatment of Defendant

House Bill 1347 (passed) specifies that for the purpose of commitment of an individual to the Department of Health and Mental Hygiene (DHMH) under the provision of law authorizing substance abuse treatment as an alternative to incarceration, a court may extend probation for one year beyond the usual maximum time period of five years in circuit court or three years in District Court. The extended probation must be under the supervision of the Division of Parole and Probation. The court may extend probation only if the defendant consents in writing and the extension is only for a commitment to DHMH for treatment. The bill also clarifies that a court ordered alcohol or drug abuse evaluation or commitment of a criminal defendant may occur before or after sentencing or before or during a term of probation.

Miscellaneous

Firearm Offenses – Restrictions on Pretrial Release of Repeat Offenders

In general, District Court commissioners have the authority to order the pretrial release of a defendant. However, there are certain offenses for which a defendant is not eligible for pretrial release or for which only a judge, rather than a District Court commissioner, is authorized to grant pretrial release. *Senate Bill 181/House Bill 88 (Chs. 41 and 42)* prohibit a District Court commissioner from authorizing the pretrial release of a defendant charged with one of nine specified firearms offenses if the defendant has been previously convicted of one of those crimes. A judge is authorized to release such a defendant on suitable bail, on any other conditions reasonably assuring that the defendant will not flee or pose a danger to others, or both bail and such other conditions.

The bill also specifies that, under the Maryland Rule governing the review of a commissioner's pretrial release order, when such a defendant is presented to the court, the judge must order a continued detention if the judge determines that bail or other conditions of release would not protect against flight or a danger to others. Under the bill, there is a rebuttable presumption that such a defendant will flee or pose such a danger.

Victims' Rights – Appearance of Victim at Hearing on Motion for Revision, Modification, or Reduction of Sentence

Senate Bill 620 (passed) establishes that if a victim or victim's representative fails to appear at a hearing on a motion for a revision, modification, or reduction of a sentence or disposition in a circuit court or juvenile court, the prosecuting attorney must state on the record that proceeding without the appearance of the victim or representative is justified because (1) the victim or representative was contacted by the prosecuting attorney and waived the right to attend the hearing; (2) efforts were made to contact the victim or representative and to the best knowledge and belief of the prosecuting attorney, the victim or representative cannot be located;

or (3) the victim or representative has not filed a victim notification form. If the court is not satisfied by the statement that proceeding without the appearance of the victim or representative is justified, or if no statement is made, the court may postpone the hearing.

The bill was introduced in response to *Hoile v. State*, 404 Md. 591 (2008) in which the Court of Appeals held that a victim who had submitted a victim notification form but was not notified of the reconsideration hearing in which the defendant’s sentence was reduced has no remedy.

Medical Emergency after Alcohol or Drug Ingestion – Mitigating Factor

House Bill 1273 (passed) provides that the act of seeking medial assistance for another person who is experiencing a medical emergency after ingesting alcohol or drugs may be used as a mitigating factor in a criminal prosecution.

Juvenile Law

Juvenile Records

Disclosure

Under current law, a court record pertaining to a child is confidential and its contents may not be divulged, by subpoena or otherwise, except by court order on a showing of good cause. This prohibition does not restrict access to and the use of court records or fingerprints in court proceedings involving the child by personnel of the court, the State’s Attorney, counsel for the child, a court-appointed special advocate for the child, or authorized personnel of Department of Juvenile Service (DJS). Subject to certain exceptions, the restriction also does not prohibit access to and confidential use of the court record or fingerprints of a child by DJS or in an investigation and prosecution by a law enforcement agency.

A public agency may not disclose information and records on children, youth, and families served by that agency to other public agencies serving the same youth, children, and families without written consent of an appropriate person of interest or another individual authorized to give consent.

House Bill 1382 (passed) creates two additional exceptions to the general rule of confidentiality of juvenile records. The bill allows access to and confidential use of a juvenile court record by the Department of Human Services for the purpose of claiming federal Title IV-E funds. The department is liable for an unauthorized release of a court record under the bill.

Additionally, the bill authorizes DJS to provide access to and confidential use of a treatment plan of a child by an agency in the District of Columbia or Virginia if the agency (1) performs the same functions in its jurisdiction as the Department of Juvenile Services does in Maryland; (2) has a reciprocity agreement with Maryland; and (3) has custody of the child. A

shared record may only provide information that is relevant to the supervision, care, and treatment of the child. The department is liable for an unauthorized release of a court record and must adopt regulations to implement the bill.

Expungement of Criminal Charges

Currently, a person may file a petition for expungement of a criminal charge transferred to the juvenile court after the date of the decision not to file a delinquency petition or after the decision on the delinquency petition of facts-not-sustained.

The court may grant a petition for expungement to a person when the person becomes 21 years old if a charge transferred to the juvenile court resulted in the adjudication of the person as a delinquent child. A court must grant a petition for expungement of a criminal charge that was transferred to the juvenile court if the charge did not result in the filing of a delinquency petition or the decision on the delinquency petition was that there was a finding of facts-not-sustained.

House Bill 1227 (passed) requires a court to grant a petition for expungement of a criminal charge that was transferred to the juvenile court. The bill repeals current statutory provisions limiting the circumstances under which a person may obtain an expungement of a criminal charge transferred to the juvenile court.

Sexual Offenders

Senate Bill 218 (passed) requires a person who has been adjudicated delinquent for an act that would constitute first or second degree rape or sexual offense to register with a supervising authority at the time the juvenile court's jurisdiction terminates (generally at age 21) for inclusion on the State's sex offender registry if specified conditions are met. For a more detailed discussion of this bill, see the subpart "Criminal Procedure" under this Part E – Crimes, Corrections, and Public Safety of this *90 Day Report*.

Juvenile Hearings

A juvenile court must conduct all hearings in an informal manner. In any proceeding in which a child is alleged to be in need of supervision or to have committed a delinquent act that would be a misdemeanor if committed by an adult or in a peace order proceeding, the court may exclude the general public from a hearing and admit only the victim and those persons with a direct interest in the proceeding.

Generally, in a proceeding in which a child is alleged to have committed a delinquent act that would be a felony if committed by an adult, the court has to conduct in open court any hearing or proceeding at which the child has a right to appear. The court is permitted, on a showing of good cause, to exclude the general public and admit only the victim and persons with a direct interest in the proceedings and their representatives. Except on a showing of good cause, a court must announce, in open court, adjudications and dispositions for cases in which a child is

alleged to have committed an act which would be a felony if committed by an adult. On a showing of good cause, the court may exclude the general public and admit only the victim and those persons having a direct interest in the proceeding and their representatives.

House Bill 1183 (passed) requires the juvenile court, on petition of the State’s Attorney, to exclude the general public from the testimony of a victim during a hearing or other proceeding in a case in which the victim of an alleged delinquent act is a child, and admit during the testimony only the victim and those persons with a direct interest in the proceeding and their representatives. The court may receive the testimony of the victim in open court on a finding of good cause.

Juvenile Programs

Juvenile Justice Alternative Education Program

The Juvenile Justice Alternative Education Pilot Program was originally established by Chapter 685 of 2001 as a program for public school students who had been suspended, expelled, or identified as candidates for suspension or expulsion. The program was required to (1) provide programs designed to promote self-discipline and reduce disruptive behavior; (2) ensure that students continue to receive appropriate educational and related services during their suspension and expulsion terms; and (3) offer services to facilitate students’ transitions back to schools after they have served their suspension and expulsion terms.

All local school systems currently have a type of alternative education program available to their students who face long-term suspension or expulsion. However, Prince George’s County is the only jurisdiction currently operating a program that originated as a juvenile justice alternative education program.

House Bill 201 (passed) authorizes a juvenile court, in a county that has established a juvenile justice alternative education program, to order a student who is suspended, expelled, or identified as a candidate for suspension or expulsion from school to attend that program. The bill takes effect July 1, 2009, and terminates on June 30, 2012.

Child in Need of Supervision Pilot Programs – Extension

A “child in need of supervision” (CINS) is a child who requires guidance, treatment, or rehabilitation and (1) is required by law to attend school and is habitually truant; (2) is habitually disobedient, ungovernable, and beyond the control of the person having custody of him; (3) departs himself so as to injure or endanger himself or others; or (4) has committed an offense applicable only to children.

Chapter 601 of 2005 required the Secretary of Juvenile Services to establish a Child in Need of Supervision Pilot Program in Baltimore City and Baltimore County. The Governor was required to include \$250,000 annually in the fiscal 2007 through 2010 State budgets. The program must select community-based providers that offer assessment, intervention, and referral services to children in Baltimore City and Baltimore County who are alleged to be in need of

supervision. The designated assessment service providers must be contracted and funded by the local management in Baltimore City and Baltimore County.

A juvenile intake officer who receives a complaint alleging that a child in Baltimore County or Baltimore City is in need of supervision must refer the child and the child's parents to one of the selected providers unless the intake officer concludes that the court has no jurisdiction or that neither an informal adjustment nor judicial action is appropriate. The provider must meet with the child and the child's parents two to six times to discuss the child's school performance, family interactions, peer relationships, and health, including drug and alcohol use. The provider must review all available, relevant records concerning the child, conduct an assessment of the child, and establish a case plan and record for providing services to the child.

An intake officer may not authorize the filing of a delinquency or CINS petition or peace order request or propose an informal adjustment for the child unless the provider has filed a report with the court stating the date of the initial meeting with the child and that all attempts to provide assessment, intervention, and referral services have failed. Any information provided by a child incident to a referral to a selected provider may not be admitted in evidence in any adjudicatory hearing, peace order proceeding, or criminal proceeding against the child.

The pilot program terminates September 30, 2010.

House Bill 788 (passed) extends to June 30, 2013, the termination date of the Child in Need of Supervision Pilot Program in Baltimore City and Baltimore County. The bill requires the Governor to include a general fund appropriation of \$250,000 for the Department of Juvenile Services in fiscal 2011, 2012, and 2013 to continue funding the pilot program. The bill takes effect July 1, 2009.

Truancy

Except as otherwise provided by law, each child who resides in Maryland and is 5 years or older and under 16 years, must regularly attend a public school unless the child is otherwise receiving regular, thorough instruction during the school year. Each person who has legal custody or care and control of a child who is at least age 5, but younger than age 16, must see that the child attends school or receives instruction. Any person who has legal custody or care and control of a child who is at least 5 years old, but younger than 16 years, who fails to see that the child attends school or receives instruction is guilty of a misdemeanor.

Chapter 551 of 2004 authorized a three-year Truancy Reduction Pilot Program (TRPP) in the juvenile courts in Dorchester, Somerset, Wicomico, and Worcester counties.

Under the program, a school official is authorized to file a civil petition alleging that a child who is required to attend school has failed to do so without lawful excuse. For students under the age of 12 years, prior to participation in TRPP, a criminal charge must be filed against the student's legal custodian and dismissed or placed on the inactive docket prior to participation in TRPP.

In making a disposition on the truancy petition, the court may order the student to (1) attend school; (2) perform community service; (3) attend counseling, including family counseling; (4) attend substance abuse evaluation and treatment; (5) attend mental health evaluation and treatment; or (6) comply with a curfew set by the court. Following the disposition hearing, a hearing is scheduled to review family assessment findings and determine appropriate services. Participants are eligible for graduation from the program when they have remained in the program for 90 days without any unexcused absences.

House Bill 1321 (*passed*) repeals the termination date for existing Truancy Reduction Pilot Programs and clarifies that provisions of law relating to the programs apply only in a county in which the circuit administrative judge has established a Truancy Reduction Pilot Program and to the extent that funds are provided in the State budget. The bill requires the Chief Judge of the Court of Appeals to submit an annual report to the General Assembly on each program by November 1. The bill takes effect June 1, 2009.

Drivers' License Suspensions

Senate Bill 219 (*passed*) expands the offenses committed by drivers younger than age 18 for which the Motor Vehicle Administration (MVA) must impose a mandatory drivers' license suspension. Specifically, the bill requires the clerk of the court to report to MVA a child adjudicated delinquent or found to have committed a delinquent act (without an adjudication) for the offenses of (1) failing to remain at the scene of an accident involving bodily injury, death, or property damage; and (2) fleeing and eluding a police officer. On notification, MVA must suspend the license of the child for six months for a first adjudication or finding that the child committed the offenses and for one year for a second or subsequent adjudication or finding. A more detailed discussion of this bill may be found under Part G – Transportation and Motor Vehicles of this *90 Day Report*.

Department of Juvenile Services Employees – Criminal History Records Checks

Within the first month of employment with the department, the Department of Juvenile Services must apply to the Criminal Justice Information System (CJIS) Central Repository for a federal and State criminal history records check for each of its employees. The CJIS Central Repository is required to provide the requested information.

The CJIS Central Repository is established within the Department of Public Safety and Correctional Services to collect, manage, and disseminate Maryland Criminal History Record Information for criminal justice and noncriminal justice (*e.g.*, employment and licensing) purposes.

House Bill 1385 (*passed*) requires the Department of Juvenile Services to apply for an initial criminal history records check for each of its employees on or before the first day of employment, rather than within the first month. Additionally, the bill requires CJIS to provide to the Department of Juvenile Services and the affected employee a revised printed statement of the

employee's criminal history record information if new information is reported after the date of the initial records check.

Public Safety

Freedom of Association and Assembly

In July 2008, it became publicly known that the Department of State Police (DSP) had engaged in hundreds of hours of covert surveillance of meetings and rallies of anti-death penalty and anti-war groups in 2005 and 2006. Although no indication of any intention to engage in criminal activity by the subjects of the surveillance was discovered, DSP provided reports to databases accessible by local and federal law enforcement agencies.

On July 31, 2008, the Governor appointed former Attorney General Stephen H. Sachs to conduct an independent review of the facts and circumstances surrounding the covert surveillance operation. Mr. Sachs completed his review and submitted a report on September 29, 2008. Based on the recommendations included in the Sachs report, *Senate Bill 266/House Bill 311 (both passed)* establish the responsibilities of law enforcement agencies relating to investigations affecting First Amendment activities and the rights of persons, groups, and organization engaged in First Amendment activities. These activities include constitutionally protected speech or association; or conduct related to freedom of speech, free exercise of religion, freedom of the press, the right to assemble; or the right to petition the government.

The bills prohibit a law enforcement agency from conducting a "covert investigation" of a person, a group, or an organization engaged in First Amendment activities, unless the law enforcement agency's chief or designee makes a written finding in advance, or as soon as is practicable afterwards, that the covert investigation is justified because:

- it is based on a reasonable, articulable suspicion that the person, group, or organization is planning or engaged in criminal activity; and
- a less intrusive method of investigation is not likely to yield satisfactory results.

Under the bills, membership or participation in a group or organization engaged in First Amendment activities does not alone establish reasonable, articulable suspicion of criminal activity.

The bills require that a law enforcement agency conduct all investigations involving First Amendment activities for a legitimate law enforcement objective and, in the process of conducting the investigation, safeguard the constitutional rights and liberties of all persons. A law enforcement agency may not investigate, prosecute, disrupt, interfere with, harass, or discriminate against a person engaged in a First Amendment activity to punish, retaliate against, or prevent or hinder the person from exercising constitutional rights. An investigation involving

First Amendment activities must be terminated when logical leads have been exhausted or no legitimate law enforcement objective justifies the continuance of the investigation.

The bills also direct that information maintained in a criminal intelligence file be evaluated for the reliability of the source of the information and the validity and accuracy of the information. A law enforcement agency must accurately classify intelligence information in its databases to properly reflect the purpose for which the information is collected. When a law enforcement agency lists in a database a specific crime for which an individual, a group, or an organization is under suspicion, the agency must ensure that the classification is accurate based on the information available to the agency at the time.

By January 1, 2010, DSP and all other law enforcement agencies in Maryland covered under the bills must adopt regulations or policies governing the conduct of covert investigations of persons, groups, or organizations engaged in First Amendment activities and the collection, dissemination, retention, database inclusion, purging, and auditing of intelligence information relating to persons, groups, or organizations engaged in First Amendment activities. Also by that date, DSP must report to the Senate Judicial Proceedings Committee and the House Judiciary Committee on the status of matters relating to its Case Explorer database. Finally, DSP must contact all persons who have been described in the Case Explorer database as being suspected of involvement in terrorism, or who have been labeled in that database as a terrorist, but as to whom DSP has no reasonable, articulable suspicion of involvement in terrorism; afford those persons an opportunity to review and obtain copies of the relevant database entries; and subsequently purge those entries.

Law Enforcement and Correctional Officers

SWAT Team Activation and Deployment

In July 2008, members of the Prince George’s County Sheriff’s SWAT team raided the home of the Mayor of the Town of Berwyn Heights in search of a drug-filled package that had been addressed to the residence. Two dogs belonging to the mayor’s family were shot and killed by SWAT team members during the raid. Investigations subsequent to the SWAT team raid indicated that the mayor and his family were victims of a smuggling scheme that used FedEx to ship drugs and that they knew nothing about the box intercepted by police.

In response to that incident and others, *Senate Bill 447/House Bill 1267 (both passed)* require that, beginning January 1, 2010, a “law enforcement agency” that maintains a SWAT team report the following information to the Governor’s Office of Crime Control and Prevention (GOCCP) and the appropriate county or municipal governing body, on a biannual basis:

- the number of times the team was activated and deployed by the law enforcement agency in the previous six months;
- the name of the county and/or municipality and zip code of the location where the team was deployed for each activation;

- the reason for each activation and deployment;
- the legal authority, including type of warrant, if any, for each activation and deployment; and
- the result of each activation and deployment.

A summary of the biannual reports must be prepared each year by GOCCP and submitted to the Governor, the General Assembly, and each law enforcement agency by September 1.

Execution of Warrants

House Bill 1545 (passed) allows the Director of the Division of Parole and Probation (DPP) to authorize parole and probation employees of the division to execute warrants for the arrest of probationers for an alleged violation of probation. DPP is currently authorized to execute warrants only for the retaking of persons for a violation of the terms of a parole or mandatory supervision release. For violation of probation warrants issued by the courts, DPP must rely on local law enforcement units for the execution of the warrant.

Queen Anne's County – Local Detention Center

Under *House Bill 942 (Ch. 158)* the Queen Anne's County Commissioners, by resolution or law, is expressly authorized to allow the warden of the Queen Anne's County Detention Center to continue the management of the detention center. The Warden currently manages the operations of the county detention center under the authority granted by the county commissioners.

Special Police Commissions

House Bill 550 (passed) requires the Secretary of State Police, on completion of an investigation of an applicant for a special police commission, to notify the applicant of the final decision as to whether to recommend to the Governor the denial or the granting of the application. A person aggrieved by a final decision of the Secretary to recommend a denial of an application may take an appeal as a contested case in accordance with provisions of the Administrative Procedure Act governing contested cases. The bill requires the Secretary to include the final disposition of an appeal in recommendations made to the Governor relating to special police commission applications.

Silver Alert Program

Senate Bill 303/House Bill 317 (both passed) create a statewide Silver Alert Program within DSP to provide a system for rapid dissemination of information to assist in locating a missing person. The bill requires DSP to take several specific procedural, training, local assistance, and recruitment actions, as well as to consult with the State Highway Administration and the Maryland State Department of Education, to implement the bill's objectives.

The bill is effective October 1, 2009, if DSP can implement the program with existing budgeted resources. If DSP determines by July 1, 2009, that the department cannot do this, the Department of Legislative Services must be notified of that determination and the provisions of the bill are void.

Public Safety Personnel

Anne Arundel County – Federal Reimbursement for Emergency Medical Services

House Bill 953 (Ch. 159) requires an authorized agreement between the federal government and a fire, rescue, or emergency medical services entity in Anne Arundel County to include a provision that entitles the county entity to obtain reimbursement from the appropriate federal authority for all or part of the cost of providing fire protection on property under U.S. jurisdiction in accordance with federal law. Under current law, this requirement applies statewide, except in Anne Arundel County. The bill eliminates the exemption for Anne Arundel County.

Death Benefits for Emergency Response Team

A hazardous material response team employee of the Maryland Department of the Environment (MDE) is granted the same death benefit (including allowable funeral expenses) that other public safety employees qualify for, in the event they are killed in the line of duty, under *Senate Bill 177/House Bill 787 (both passed)*. The bills define an employee on a hazardous material response team as an individual who is on call 24 hours a day to provide emergency response to a discharge of oil or a release of hazardous material or other emergency response activity.

The Department of Public Safety and Correctional Services (DPSCS) is already required to pay a death benefit to the surviving spouse, child, dependent parent, or estate of each of the following individuals who is killed or dies in the performance of duties: (1) a law enforcement officer; (2) a correctional officer; (3) a volunteer or career firefighter or rescue squad member; (4) a sworn member of the State Fire Marshal's Office; (5) a public safety aviation employee; or (6) a Maryland resident who was a member of the uniform services of the United States serving in the Afghanistan or Iraq conflict. An additional death benefit of \$50,000 must be paid by the Department of Budget and Management (DBM) to the survivors of a public safety employee of the State who is killed in the performance of duties.

MDE must, each year, place sufficient funds in reserve for the payment of one death benefit from a combination of the State Hazardous Substance Control Fund and the Oil Disaster Containment, Cleanup, and Contingency Fund. Upon a qualifying death, MDE must pay DPSCS the amount to cover the benefit.

Medevac Helicopters

The Budget Reconciliation and Financing Act of 2009, *House Bill 101 (passed)*, includes the transfer of the \$51.5 million fund balance from the State Police Helicopter Replacement Fund to the general fund which effectively eliminated the use of the Replacement Fund for the purposes of procuring Medevac helicopters. The \$52.5 million of general obligation bond funds are intended to fund the purchase of three helicopters during fiscal 2010.

Senate Bill 650 (failed) would have required that there be two fleets of helicopters operating in the State, one for emergency medical services and one for law enforcement, homeland security, and search and rescue. The law enforcement fleet would be operated by the State Police, while the emergency medical services fleet would be operated by a private entity based on a contract awarded through the State procurement process.

In a legislative response to a Medevac helicopter crash in September 2008, *House Bill 265 (failed)* would have established a Joint Oversight Committee on Emergency Medical Services to monitor helicopter procurement and other matters dealing with the use of helicopters and would have increased the membership of the State Emergency Medical Services Board by adding a member of the public as well as a director of operations who is a helicopter pilot employed by the DSP Aviation Command.

Report on Strip Searches

House Bill 988 (failed) would have required the Secretary of Public Safety and Correctional Services to report monthly to the Attorney General on strip searches of Department of Public Safety and Correctional Services employees taken to determine the presence of contraband.

Inmates and Prison Release

Task Force on Prisoner Reentry

Senate Bill 908/House Bill 637 (both passed) establish a Task Force on Prisoner Reentry. Consisting of members of the Senate and House of Delegates, other government officials, and members of the public, including individuals who were formerly committed to a State correctional facility, the task force must:

- examine ways to pool resources and funding streams to promote lower recidivism rates for returning offenders and minimize the harmful effects of offenders' time in prison, jail, or a juvenile facility on families and communities of offenders by collecting data and best practices in offender reentry from demonstration grantees and other agencies and organizations;
- analyze the statutory, regulatory, rules-based, and practice-based hurdles to reintegration of adult and juvenile offenders into the community;

- investigate guidelines and criteria to track outcomes of inmate reentry program participation, including program approvals, day-to-day program participation, and program graduation and other types of program completion and noncompletion;
- research longitudinal data tracking of the pre- and post-release impact of reentry programs;
- investigate the number of idle inmates in each State correctional facility; and
- develop a comprehensive strategic reentry plan as specified under the federal Second Chance Act of 2007.

An interim report to the Governor and the General Assembly is required by December 31, 2010, and a final report of findings and recommendations is required by December 31, 2011.

Task Force to Study Prison Violence in Maryland

Chapter 518 of 2007 created the Task Force to Study Prison Violence in Maryland. An interim report was made to the Governor and the General Assembly in December 2007. A final report of findings and recommendations of the task force was due by December 31, 2008, but was not made. The task force terminated on January 31, 2009.

Senate Bill 817 (Ch. 102) reconstitutes the Task Force to Study Prison Violence in Maryland that was created in 2007. The reconstituted body will continue to evaluate available information on (1) the scope, nature, patterns, and causal relationships of violence in the State's prisons; (2) the impact of illegal drugs on violence in the State's prisons; (3) the impact of exposure to lead and other pollutants on violence in the State's prisons; (4) the best practices of other state correctional systems in dealing with prison violence; (5) the impact of contraband on violence in the State's prisons; (6) the role of gang activity on violence in the State's prisons; and (7) other issues that the task force considers relevant.

An interim report to the Governor and the General Assembly is required by December 31, 2009, and a final report of findings and recommendations are required by December 31, 2010.

Violent Offenders

For Division of Correction (DOC) inmates whose terms of confinement include consecutive or concurrent sentences for a crime of violence or a crime involving a controlled dangerous substance, the deduction in the sentence for good conduct is calculated at 5 days per calendar month. For all other inmates the deduction is calculated at 10 days per calendar month. An inmate may also receive deductions calculated at 5 days per calendar month for work tasks and education and 10 days per calendar month for special projects. However, the total deduction may not exceed 20 days per calendar month.

These credits are awarded as they are earned. When an inmate's total number of diminution credits is equal to the remainder of sentence, including consideration for any losses of credits, the inmate is eligible for mandatory supervision release.

Senate Bill 654/House Bill 638 (both passed) specify that an inmate convicted of a violent crime committed on or after October 1, 2009, is not eligible for a mandatory supervision release resulting from earned diminution credits until after the inmate becomes eligible for parole. The bills also require circuit court judges to state in open court, at the time of imposition of sentence for a violent crime (including burglary), the minimum time that must be served for mandatory release eligibility, as well as that for minimum parole eligibility.

Identification Cards for Released Inmates

In a November 24, 2008 *Joint Chairmen's Report on the Provisions of Re-entry Services to Inmates*, the Department of Public Safety and Correctional Services (DPSCS) advised that an important component of inmate release planning is DOC's role in facilitating and expediting the provision of personal identification documents prior to release.

Senate Bill 186 (passed) requires the Commissioner of Correction to issue an identification card to an inmate before being released from confinement in a State correctional facility. The identification card must comply with the requirements for secondary identification for the purpose of an identification card issued by the Motor Vehicle Administration (MVA). The bill is intended to help newly released inmates meet identification requirements of MVA, which have been changed in light of the federal REAL ID Act of 2005. This bill codifies a current practice, including a pilot program operating under a memorandum of understanding between the Division of Correction and MVA.

Mandatory Supervision

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. In Baltimore City, the local correctional facilities are State facilities and operated by DOC. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC.

House Bill 1447 (passed) increases, from 12 to 18 months, the minimum term of confinement that a Division of Correction (DOC) inmate must serve before being granted a conditional mandatory supervision release. This change eliminates the need for mandatory supervision by the Division of Parole and Probation (DPP) for persons sentenced to a term of 18 months or less, upon release from a DOC facility. The requirement does not exist for inmates released from local correctional facilities.

Immigrants and Illegal Aliens

Three public safety bills related to immigrants and illegal aliens in the State did not pass. *Senate Bill 988 (failed)* would have required the Division of Parole and Probation to forward certain information to the U.S. Immigration and Customs Enforcement Agency (ICE) if a presentence investigation report indicated that the individual has an immigration status. *Senate Bill 1000 (failed)* would have required a State law enforcement agency that receives State funds to enroll in the ICE Agency’s Delegation of Authority Program to perform immigration law enforcement functions. Finally, *House Bill 486 (failed)* would have required all local government officials, personnel, and agents to fully comply with and support the enforcement of federal laws prohibiting the entry into or presence or residence in the United States of illegal aliens.

For a detailed discussion of the issuance of driver’s licenses by the Motor Vehicle Administration according to the citizenship or lawful status of the license applicant, see the subpart “Motor Vehicles” within Part G – Transportation of this *90 Day Report*.

Weapons and Ammunition

Electronic Control Devices

Electronic control devices, such as stun guns and devices made by TASER International, Inc., are employed to disrupt the body’s electrical system, and to temporarily incapacitate the person. *Senate Bill 850/House Bill 539 (both passed)* prohibit an electronic control device from being sold and activated unless (1) the device and any cartridge attached to the device each display a serial number; (2) an instructional manual or audio or audio visual instructions are provided to the purchaser; (3) the manufacturer maintains a record of the original owner of the device; and (4) the manufacturer or seller has obtained a State and federal criminal history records check of the original owner. The bills limit use of a device to a person who is at least 18 years old and has never been convicted of a crime of violence.

The illegal possession or use of an electronic control device is a misdemeanor and a violator is subject to maximum penalties of two months imprisonment and/or a \$500 fine. If the violation occurs while the person is committing a separate felony, the violator is guilty of a felony and subject to maximum penalties of three years imprisonment and/or a \$5,000 fine.

Ammunition

House Bill 1042 (failed) would have prohibited a person from possessing ammunition for a firearm if the person previously was convicted of a crime of violence or any of certain drug offenses.

Safety of Buildings and Other Structures

Fire Sprinkler Contractors

House Bill 1532 (*passed*) removes the exemption by which a subcontractor of a licensee may work as a fire sprinkler contractor without being licensed. The bill requires any person, business, or contractor who provides services as a fire sprinkler contractor in the State to be licensed by the State Fire Marshal.

Elevator Inspections

House Bill 613 (*Ch. 145*) establishes that State inspectors conduct final inspections of all new elevators prior to initial certification; final inspections of modernized or altered elevators; investigations of accidents and complaints; follow-up inspections to confirm corrective action; comprehensive five-year inspections; and quality control monitoring of inspections conducted by third-party elevator inspectors.

Elevators owned by units of State or local government may be certified either by the State or by their owners. Other elevator owners in the State must hire qualified third-party elevator inspectors to conduct annual safety inspections to ensure that the elevator complies with the State safety code and other regulations adopted by the Commissioner of Labor and Industry.

Except for minor violations that do not affect health or safety, the commissioner must issue a citation to an elevator owner if an elevator has violated the safety code or other regulation within the past six months. The commissioner may establish regulations for the issuance of a warning notice instead of a citation for a *de minimus* violation that has no direct effect on health or safety.

The commissioner may delegate to the Office of Administrative Hearings the authority to hold a hearing and issue a proposed finding of fact, conclusion of law, or a proposed or final order. An administrative law judge's decision becomes a final order of the commissioner unless, within 15 days of the issuance of a proposed decision, the commissioner or owner requests a review of the decision. After review of the proposed order, the commissioner may issue a final administrative order.

Individuals who violate the safety code or an adopted regulation may be fined up to \$5,000 per unit. The amount of the penalty is determined based on the gravity of the violation, the owner's good faith, and the owner's history of violations. Fines may be doubled for willful or habitual violators. If the violation is not corrected within 10 days, the commissioner may impose a civil penalty of up to \$1,000 for each day a violation continues.

Senate Bill 290 (*failed*) would have exempted certain licensed assisted living programs from the general registration and inspection requirements for installing an elevator but would have authorized the adoption of regulations to enhance the safety of elevator units installed in those programs.

Part F

Courts and Civil Proceedings

Judges and Court Administration

Judicial Compensation

The Judicial Compensation Commission, established in 1980, is required to review judicial salaries and pensions and make recommendations to the Governor and the General Assembly once every four years. A joint resolution incorporating the salary recommendations must be introduced in each house of the General Assembly by the fifteenth day of the session following the commission's proposals. The General Assembly may amend the joint resolution to decrease, but not to increase, any of the salary recommendations, and it may not reduce the salary of a judge below current levels. Failure by both houses of the General Assembly to adopt or amend a joint resolution within 50 calendar days after its introduction results in the adoption of the salary recommendations. If the General Assembly rejects any of the commission's recommendations, the salaries of the judges remain unchanged, unless modified under other provisions of law.

In 2005, a four-year phased in salary plan recommended by the commission was implemented after the General Assembly did not adopt or amend the joint resolution containing the salary plan within 50 days after its introduction. In the fall of 2008, the commission finalized recommendations to increase the salaries of all Maryland judges by \$39,858 over a four-year period. The commission's recommendations were incorporated in *Senate Joint Resolution 4/House Joint Resolution 2 (both failed)* introduced in the 2009 session. Under the then current law, the commission was not scheduled to meet again until 2012.

Senate Bill 307 (Ch. 2) is an emergency measure that provides that for the 2009 session only, the failure of the General Assembly to act on the joint resolution of the Judicial Compensation Commission by the fiftieth day of the session may not be deemed to have made effective the salary increases recommended in the joint resolution. In recognition of the failure to take salary action for the Judiciary, the Act also alters the time period for the compensation commission to meet. Under the Act, the commission will meet again September 1, 2009, and every four years thereafter, aligning the schedule of the Judicial Compensation Commission with

the meeting schedules of the Governor's and General Assembly's compensation commissions. The Act rendered action on *Senate Joint Resolution 4/House Joint Resolution 2* unnecessary.

Circuit Court Judgeships

At the suggestion of the Legislative Policy Committee, in 1979 the Chief Judge of the Court of Appeals began an annual procedure of formally certifying to the General Assembly the need for additional judges in the State. The annual certification is prepared based upon a statistical analysis of the work load of the courts and the comments of the circuit administrative judges and the Chief Judge of the District Court.

Senate Bill 497 (passed) alters the number of resident judges of the circuit courts by adding one additional judgeship each in Baltimore City, and in Anne Arundel, Baltimore, and Montgomery counties. The Maryland Judiciary's annual certification of need for additional judgeships certified the need for at least three judgeships in each of these jurisdictions. The bill is contingent on the appropriation of funds in the State budget for fiscal 2010 or 2011. The fiscal 2010 budget includes an appropriation of \$621,274 to fund these judgeships, contingent on the enactment of *Senate Bill 497*.

Civil Actions and Procedures

Local Government Tort Claims Act

The Local Government Tort Claims Act (LGTCAs) limits the liability of a local government to \$200,000 per individual claim and \$500,000 per total claims that arise from the same occurrence for damages from tortious acts or omissions. By providing that a local government is liable for the tortious acts or omissions of its employees acting within the scope of employment, the LGTCAs prevents local governments from asserting a common law claim of governmental immunity from liability for such acts of its employees.

An action for unliquidated damages against an entity covered by the LGTCAs or its employees may not be brought unless notice of the claim meeting specific requirements is given within 180 days of the injury. Except for statutory notice requirements for Baltimore City, the LGTCAs does not contain any specific provisions exclusively devoted to notice to a local government that is not a county. *Senate Bill 974/House Bill 1378 (both passed)* clarify to whom notice must be given for claims under the LGTCAs by creating a clear distinction between notice given to counties and notice given to other local governments under the LGTCAs. Under the bill, if the defendant local government is a county, the notice must be given to the county commissioners or the county council, unless otherwise specified in statute. If the notice is to be given to a defendant local government that is not a county, the notice must be given to the corporate authorities of the defendant local government.

False Claims

Under the English common law, a private individual could bring a *qui tam* action in court on behalf of the Crown. If the individual was successful, he or she would receive a part of the penalty imposed. In the United States, the practice exists as a component of some whistleblower statutes. *Senate Bill 830/House Bill 915 (both failed)*, modeled on the federal False Claims Act, would have implemented *qui tam* provisions under State law in cases involving false or fraudulent claims against the State. The bills would have (1) prohibited a person from knowingly making a false or fraudulent claim for money, property, or services against the State; (2) authorized a person to bring an action involving claims covered under the Act on behalf of the State; (3) permitted the State to intervene in and proceed with an action initiated on its behalf by a private person; (4) imposed penalties on persons found to be in violation of the Act; (5) entitled an individual who initiates an action on behalf of the State and who prevails in the action to a share of the proceeds; and (6) prohibited retaliatory actions by an employer against an employee for disclosure of the employer's participation in any violation of the bill's provisions. Similar Administration bills, *Senate Bill 272/House Bill 304 (both failed)*, would have applied only to false claims against a State health plan or State health program.

Liability of Lead Pigment Manufacturers

In 1978, lead-based paint was banned nationwide for consumer use by the federal government because of the dangers of lead poisoning and its effect on the cognitive and physical development of young children.

Several courts in other states have awarded damages based on collective liability theories devised to remedy the problem of product identification in some tort cases. For example, the California Supreme Court in *Sindell v. Abbott Laboratories*, 26 Cal. 3d 588 (1980) stated that defendants who were negligent in the production and marketing of a dangerous chemical known as DES should bear the cost of the injury, rather than imposing the cost on innocent plaintiffs, notwithstanding that the plaintiffs could not definitely identify which specific manufacturers actually produced the products that caused their injuries. In 2005, the Wisconsin Supreme Court applied a similar doctrine when it held that although the plaintiff could not prove which lead paint manufacturer produced the paint that caused the lead poisoning, the suit could proceed on both negligence and strict liability theories against all manufacturers of lead paint, *Stephen Thomas v. Clinton L. Mallett, et al.*, 701 N.W.2d 523 (Wis. 2005). Maryland courts have generally rejected liability theories that allow a plaintiff to recover based on a defendant's market share within an industry where that particular defendant's involvement in the plaintiff's injury is uncertain. *See, e.g., Owens-Illinois, Inc. v. Zenobia*, 325 Md. 665 (1992).

House Bill 1156 (failed) would have changed the standard of liability in negligence and product liability actions involving lead-based paint in a residential building in Baltimore City by providing that proof that an individual manufacturer's lead pigment in lead-based paint caused the damage is not necessary and establishing the manner of apportionment of damages among multiple manufacturers found liable. The bill also would have created the Maryland Lead Restitution Fund, which would have consisted of funds received by the State for its claims

against manufacturers of lead pigment and others in the lead paint industry for violations of State law. The fund would have been used primarily for lead abatement and lead hazard elimination in properties in Baltimore City.

Statute of Limitations in Civil Actions for Child Sexual Abuse

Generally a civil action must be filed within three years from the date it accrues unless another statutory provision provides a different period of time within which an action may be commenced. Under the “discovery rule,” which is applicable generally in all actions, a cause of action accrues when the claimant in fact knew or reasonably should have known of the wrong. If a cause of action involves a minor, the statute of limitations is tolled until the minor reaches the age of majority, which is age 18. An action for damages arising out of an alleged incident of sexual abuse that occurred while the victim was a minor must be filed within seven years of the date that the victim attains the age of majority. *Senate Bill 238 (failed)* would have extended the statute of limitations in these cases to 32 years from the date the victim attains the age of majority. The bill also would have revived an action that otherwise would be barred as of January 1, 2010, solely because of the statute of limitations, so long as the cause of action was commenced before January 1, 2012.

Civil Jury Trials – Amount in Controversy

Under the English common law, parties to a civil case at law were entitled to a trial by jury regardless of the amount in controversy. Article 23 of the Declaration of Rights of Maryland preserves the right to a trial by jury in a civil case if the amount in controversy exceeds \$10,000. *Senate Bill 469/House Bill 354 (both failed)* would have proposed a constitutional amendment to increase, from over \$10,000 to over \$20,000, the amount in controversy in civil proceedings in which the right to a trial by jury may be limited by legislation. *Senate Bill 468/House Bill 355 (both failed)* would have made statutory changes to implement the constitutional amendment by specifying that a party in a civil action may not request a jury trial if the amount in controversy does not exceed \$20,000.

Family Law

Domestic Violence

Surrender of Firearms

From June 2007 to July 2008, 75 individuals in Maryland were killed as a result of domestic violence. Fifty-six percent of these deaths were attributable to firearms.

Federal law prohibits anyone who is subject to a domestic violence order of protection or who has been convicted of a misdemeanor crime of domestic violence from possessing, in any way affecting commerce, or from receiving, any firearm or ammunition that has been shipped or transported in interstate or foreign commerce. The federal law does not apply to orders issued

ex parte (which means the prohibition does not apply to those emergency, interim, or temporary orders that are issued without the presence of the respondent). The federal prohibition also only applies to orders that (1) specifically prohibit the respondent from harassing, stalking, or threatening an intimate partner or a child of the partner or respondent; and (2) include a finding that the respondent represents a credible threat to the physical safety of the partner or child or specifically prohibit the use, attempted use, or threatened use of physical force against the intimate partner or child that would reasonably be expected to cause bodily injury. Additionally, under Maryland law, it is a crime for a respondent against whom a final protective order has been issued to possess any regulated firearms (*i.e.*, handguns and assault rifles).

Under current law, if, after a hearing on a domestic violence petition for relief from abuse, whether *ex parte* or otherwise, a judge finds that there are reasonable grounds to believe a person eligible for relief has been abused, the judge may issue a temporary protective order, effective for seven days, to protect the person. A judge does not have the authority to order the respondent to surrender firearms as part of a temporary protective order. At the expiration of the temporary protective order, if a judge finds by clear and convincing evidence that abuse has occurred, the judge may grant a final protective order to protect the victim. A final protective order *may* order the respondent to surrender to law enforcement any firearm in the respondent's possession for the duration of the order.

Senate Bill 267/House Bill 296 (both passed) require a final protective order to order the respondent to surrender to law enforcement authorities any firearm in the respondent's possession and to refrain from possession of any firearm for the duration of the protective order.

Senate Bill 268/House Bill 302 (both passed) authorize a court, when issuing a temporary protective order, to order the respondent to surrender to law enforcement any firearm in the respondent's possession and to refrain from possession of any firearm for the duration of the temporary protective order if the abuse consisted of (1) the use of a firearm by the respondent against a person eligible for relief; (2) a threat by the respondent to use a firearm against a person eligible for relief; (3) serious bodily harm to a person eligible for relief caused by the respondent; or (4) a threat by the respondent to cause serious bodily harm to a person eligible for relief.

Each of the four bills require a law enforcement officer to provide to the respondent information on the process for retaking the firearm after the expiration of the order and to transport and store the firearm in a protective case, if one is available, and in a manner intended to prevent damage to the firearm during the time the protective order is in effect. The respondent may retake possession of the firearm at the expiration of the temporary protective order, unless the respondent is ordered to surrender the firearm in a protective order or the respondent is not otherwise entitled to own or possess the firearm. The respondent may retake possession of the firearm at the expiration of any final protective order, unless the protective order is extended or the respondent is not otherwise legally entitled to own or possess the firearm.

Insurance of Handgun Permit

In order to be issued a permit to carry a handgun by the Secretary of State Police, an applicant must meet statutory criteria, including a showing of a good and substantial reason to

wear, carry, or transport a handgun. A good and substantial reason includes a finding that the permit is necessary as a reasonable precaution against apprehended danger.

Senate Bill 586/House Bill 359 (both failed) would have required the Secretary of State Police to issue a handgun permit to a victim of domestic violence who has been issued a temporary or final protective order, assuming the individual met other statutory handgun permit requirements. Specifically, the bills would have added an individual who has been issued a temporary or final protective order to those individuals who, after meeting other statutory handgun permit requirements, are deemed to have a “good and substantial reason” to wear, carry, or transport a handgun.

Protective Orders

Enforcement

Chapters 395 and 396 of 2008 authorized a judge who awards temporary custody of a minor child in a final protective order to order a law enforcement officer to use all reasonable and necessary force to return the minor child to the custodial parent at the time the final protective order is served or as soon as possible after entry of the order. *Senate Bill 714/House Bill 464 (both passed)* extend that authority to interim and temporary protective orders.

Notification of Service

House Bill 1196 (passed) provides for the notification to a petitioner for relief from domestic violence of the service of interim, temporary, or final protective order on the respondent. The bill requires a law enforcement officer to electronically notify the Department of Public Safety and Correctional Services of the service of an interim or temporary protective order on the respondent within two hours after the service. If the petitioner has requested notification of the service of a protective order, the department must (1) notify the petitioner of the service on the respondent of an interim or a temporary protective order within one hour after a law enforcement officer electronically notifies the department of the service; and (2) notify the petitioner of the service on the respondent of a final protective order within one hour after knowledge of service of the order on the respondent. The bill is contingent on the receipt of federal funds under the American Recovery and Reinvestment Act of 2009 and, if enacted, terminates December 31, 2011.

Extension of Temporary Protective Order

If, after a hearing on a petition, whether *ex parte* or otherwise, a judge finds that there are reasonable grounds to believe a person eligible for relief has been abused, the judge may issue a temporary protective order. The temporary protective order is effective for a maximum of seven days after service of the order. A judge is authorized to extend the temporary protective order as needed to effectuate service of the order where necessary to provide protection or for other good cause. An extension of a temporary protective order may not exceed 30 days. *Senate Bill 601/House Bill 98 (both passed)* authorize a judge to extend a temporary protective order

for up to six months, rather than up to 30 days, to effectuate service of the order where necessary to provide protection or for other good cause.

Duration of Final – Subsequent Act of Abuse

In a domestic violence proceeding, if a judge finds by clear and convincing evidence that abuse has occurred, or if the respondent consents to the entry of a protective order, the judge may grant a final protective order to protect any person eligible for relief from abuse. All relief granted in a final protective order is effective for the period stated in the order, not to exceed 12 months. For good cause shown, a judge may extend the term of a protective order for six months beyond the specified period after giving notice to all affected persons eligible for relief and the respondent and after a hearing. *Senate Bill 811/House Bill 971 (both passed)* extend, from one to two years, the maximum duration of a final protective order that is issued against a respondent for an act of abuse committed within one year after the date that a prior final protective order issued against the same respondent on behalf of the same person eligible for relief expires, if the final protective order was issued for a period of at least six months.

Expungement of Records

Court records, including those relating to a domestic violence proceeding, that are maintained by a court are presumed to be open to the public for inspection. Generally, a custodian of a court record must permit a person, who appears in person in the custodian's office, to inspect the record. The Judiciary's web site also includes a link to a database that provides public Internet access to information from case records maintained by the Judiciary. Maryland District Court traffic, criminal and civil case records and Maryland circuit court criminal and civil case records are available. Records can remain in the database indefinitely and are not removed except for court-ordered expungement. Subject to certain exceptions, a court record that is kept in electronic form is open to inspection to the same extent that the record is open to inspection in paper form.

In September 2008, there were 1667 final protective orders that were denied or dismissed for various reasons (*e.g.*, denied because the petitioner could not meet the burden of proof or the petitioner is not a person eligible for relief under the statute; dismissed because of lack of personal jurisdiction, lack of service, the petitioner failed to appear, or the petitioner requested dismissal). In October 2009, there were 1288 final protection orders denied or dismissed, and in December 2008, there were 1334 final protective orders denied.

Senate Bill 467/House Bill 1181 (both failed) would have provided for the expungement of court records relating to domestic violence protective order proceedings if a domestic violence petition is denied or dismissed.

Child Custody

Relocation of Child

In any custody or visitation proceeding, the court may include as a condition of a custody or visitation order a requirement that either party provide advance written notice of at least 45 days to the court, the other party, or both, of the intent to relocate the permanent residence of the party or the child either within or outside the State. The court must waive the notice requirement on a showing that the notice would expose the child or either party to abuse or for any other good cause. If either party is required to relocate in less than the 45-day period specified in the notice requirement, the court may consider as a defense to any action brought for a violation of the requirement that (1) relocation was necessary due to financial or other extenuating circumstances; and (2) the required notice was given within a reasonable time after learning of the necessity to relocate.

Senate Bill 299 (passed) increases the number of days' notice (from 45 to 90) that a court may require a party to a custody or visitation order to give before relocating the residence of the party or the child. The bill also requires the court to set an expedited hearing if either party files a petition regarding a proposed relocation within 20 days of the written notice.

Military Duty

The federal Soldiers and Sailors Relief Act protects the interests of active duty military personnel. Under this law (now the Servicemembers Civil Relief Act), federal court hearings may be stayed to protect the interests of active military personnel. The law requires at least a 90-day stay in a federal court or administrative hearing if requested by the service member. Additional stays may be granted at the discretion of the federal judge or hearing official. However, the federal law does not protect deployed military personnel regarding child custody and visitation proceedings in State courts.

House Bill 422 (passed) establishes special provisions for custody proceedings involving a parent subject to military deployment. The legislation specifies that any order or modification of an existing child custody or visitation order issued by a court during a term of a deployment of a parent must specifically reference the deployment of the parent. A parent who petitions the court for an order or modification of an existing order after returning from deployment must specifically reference the date of the end of the deployment in the petition. If the petition is filed within 30 days after the end of the deployment, the court must set a hearing on the petition on an expedited basis. On a finding that extenuating circumstances prohibited the filing of the petition within 30 days, the court may set a hearing on the petition on an expedited basis whenever the petition is filed.

Any custody or visitation order issued based on the deployment of a parent must require that (1) the other parent reasonably accommodate the leave schedule of the parent who is subject to the deployment; (2) the other parent facilitate opportunities for telephone and electronic mail contact between the parent who is subject to the deployment and the child during the time of

deployment; and (3) the parent who is subject to the deployment provide timely information regarding the parent’s leave schedule to the other parent.

Child Abduction by a Relative

Abduction of a child by a parent or other relative was traditionally considered a family matter rather than a criminal matter. A parent who abducted or hid a child in violation of a lawful custody order could be cited for contempt of court, but any penalties imposed were usually not severe. In the 1960s and 1970s, a rapidly increasing divorce rate led to a correspondingly higher number of children who were subject to custody orders and also led to an increasing number of parental abductions, or “custodial interference” cases. The federal Parental Kidnapping Prevention Act was enacted in 1980 to help custodial parents whose children had been taken across state lines regain custody of those children. In the majority of states, including Maryland, penalties apply when a parent or another covered relative hides a child, whether or not that person has lawful custody.

House Bill 267 (passed) increases the penalty for a parent or relative convicted of abducting a child to another state or harboring, hiding, or detaining a child in another state for not more than 30 days from a maximum of 30 days imprisonment and/or a \$250 fine to a maximum of one year imprisonment and/or a \$1,000 fine. If the child is in another state for more than 30 days, the penalties are increased from a maximum of one year imprisonment and/or a \$1,000 fine to a maximum of three years imprisonment and/or a fine of \$2,500. If the child is taken or detained outside of the United States, the maximum term of imprisonment is increased from three to five years. The bill also adds as a required element for the crime of child abduction by a relative that the relative abduct, detain, or harbor the child with the intent to deprive the lawful custodian of custody of the child.

Disability of Parent, Guardian, Custodian, or Party

Senate Bill 613/House Bill 689 (passed) limit the relevance of a disability of a parent, guardian, custodian, or party in certain Child in Need of Assistance (CINA), custody, and visitation proceedings. Specifically the bills establish that, in making a disposition on a CINA petition, a disability of the child’s parent, guardian, or custodian is relevant only to the extent that the court finds, based on evidence in the record, that the disability affects the ability of the parent, guardian, or custodian to give proper care and attention to the child and the child’s needs. In determining whether to grant custody and guardianship of a CINA to a relative or nonrelative, a disability of the relative or nonrelative is relevant only to the extent that the court finds, based on evidence in the record, that the disability affects the best interest of the child. In any custody or visitation proceeding, a disability of a party is relevant only to the extent that the court finds, based on evidence in the record, that the disability affects the best interest of the child.

Additionally, the bills prohibit (1) local departments of social services, guardians, or child placement agencies from withholding consent to an adoption solely because of a disability of the prospective adoptive parent; (2) a court from denying an adoption petition solely because of a disability of the petitioner; and (3) a child from being committed to the custody or

guardianship of a local department, and a local department from seeking custody of a child, solely because the child's parent or guardian has a disability.

Child Support

Medical Support

Under current law, a court may include in any child support order a provision requiring either parent to include the child in the parent's health insurance coverage if (1) health insurance is available through an employer or any form of group health insurance coverage; and (2) the child can be covered at a reasonable cost to the parent.

The federal Deficit Reduction Act of 2005 amended federal requirements regarding medical support for children and directed the Secretary of Health and Human Services to issue implementing regulations. The regulations are intended to increase the number of children who receive medical support, either through private health insurance or cash medical support. *Senate Bill 70 (passed)* is intended to ensure that State law conforms to these new federal requirements by requiring a court to include in any support order under Title IV, Part D of the Social Security Act (*i.e.*, cases in which the recipient is receiving Temporary Assistance for Needy Families (TANF) or has filed an application for support enforcement services) that is established or modified, a provision requiring one or both parents to include the child in the parent's health insurance coverage if (1) the parent can obtain health insurance coverage through an employer or any form of group health insurance coverage; (2) the child can be included at a "reasonable cost" to the parent; and (3) the health insurance coverage is "accessible" to the child. The cost of health insurance is deemed reasonable if the cost of adding the child to existing health insurance coverage, or the difference between self-only and family coverage does not exceed 5% of the actual income of the parent ordered to pay for the coverage. Coverage that insures primary care services located within the lesser of 30 miles or 30 minutes from the child's primary residence is considered to be accessible.

If health insurance is not available at a reasonable cost at the time a support order is established or modified, the court (1) may include a provision requiring one or both parents to include the child in the parent's health insurance coverage if health insurance coverage at a reasonable cost becomes available in the future; and (2) shall include a provision requiring one or both parents to provide cash medical support in an amount not to exceed 5% of the actual income of the parent ordered to provide cash medical support at a reasonable cost. Court-ordered cash medical support must be added to the basic child support obligation calculated under the child support guidelines and divided by the parents in proportion to their adjusted income.

Cash medical support is defined as an amount paid toward the cost of health insurance provided by a public entity, by one or both parents through employment or otherwise, or for other medical costs not covered by insurance, including extraordinary medical expenses. In addition to requiring one or both parents to provide health insurance coverage, the court may order one or both parents to provide cash medical support in an amount not to exceed 5% of the

actual income of the parent ordered to provide cash medical support. Cash medical support must be added to the basic child support obligation calculated under the child support guidelines and divided by the parents in proportion to their adjusted actual incomes. The court may not order the obligee to pay cash medical support toward the cost of health insurance provided by a public entity for which the obligee does not pay a premium, including the Maryland Children’s Health Program.

Guidelines

Federal regulations require states to review their child support guidelines at least once every four years. In Maryland, the Child Support Enforcement Administration of the Department of Human Resources is required to review the child support guidelines to ensure the determination of appropriate child support award amounts and to report its findings and recommendations to the General Assembly. *House Bill 1401 (failed)* proposed several changes to the child support guidelines, including (1) revising the current guidelines to reflect more recent estimates of child-rearing expenditures; (2) expanding the guidelines to include monthly incomes of up to \$30,000; (3) altering the definition of “actual income” and establishing a formula by which parents who have additional children living with them receive an adjustment in calculating the adjusted actual income; and (4) authorizing a court to consider all income and assets of each parent in determining whether a deviation from the guidelines is appropriate.

Child Abuse and Neglect

Birth Match Program

The Department of Human Resources maintains a “central registry” of which is a database containing information concerning its child abuse and neglect cases. The department may identify an individual in a central registry as responsible for abuse or neglect applies only if the individual has been found guilty of the criminal charge arising from the allegation or if the individual has been found responsible for the abuse or neglect and has unsuccessfully appealed the finding or failed to exercise appeal rights.

Some states, including Michigan, have implemented “birth match” programs that link information from a central registry with birth data. Michigan’s Family Independence Agency is alerted whenever there is a birth in a family where children have previously been removed for abuse or neglect and the parental rights have been terminated. Information is then forwarded to child protective services that visit the newborn’s family and perform an assessment.

Senate Bill 421/House Bill 144 (both passed), Maryland’s version of a birth match program, require the Executive Director of the Social Services Administration in the Department of Human Resources to provide the Secretary of Health and Mental Hygiene with identifying information regarding individuals who have had their parental rights terminated and have been identified as responsible for abuse or neglect in a central registry.

The Secretary must provide the Executive Director with birth record information for a child born to an individual whose identifying information has been provided to the Secretary

within the previous five years. If the Executive Director receives birth record information for a child born to an individual whose identifying information has been provided as described above, the Executive Director must (1) verify the identity of the birth parent; and (2) notify the local department of social services of the county in which the child resides so that the local department may review its records and, when appropriate, provide an assessment of the family and offer services if needed.

Citizens Review Board for Children

The Citizens Review Board for Children (CRBC) must (1) examine the policies, procedures, and practices of State and local agencies; and (2) by reviewing specific cases, evaluate the extent to which State and local agencies are effectively discharging their child protection responsibilities in accordance with the State child welfare plan, federal child protection standards, and any other criteria the State board considers important to ensure the protection of children. Additionally, there must be at least one local board of review in each county. CRBC reviews and coordinates the activities of the local review boards and reviews policy issues, procedures, legislation, resources, and barriers relating to out-of-home placement and the establishment of permanency for children.

Currently, at least one review is required within the first 12 months after a child enters an out-of-home placement and subsequent reviews are required when the court, the local department of social services, an interested person, or the local board raises a concern that the local board may address through its findings and recommendations. *Senate Bill 933/House Bill 1337 (both passed)* alter the existing duties of CRBC and local boards of review. Specifically, the bills require the Department of Human Resources and CRBC to adopt regulations requiring that local boards review case based on priorities agreed upon the department and CRBC as stated in a memorandum of agreement. Additionally, local boards are required to report on the following when reporting to the juvenile court and the local department of social services on each minor child whose case is reviewed: (1) the identification of barriers to achieve timely permanency; (2) whether the child is receiving appropriate services to achieve the stated permanency goal; and (3) any reasonable efforts made towards promoting the child's relationship with individuals who will play a lasting, supporting role in the child's life.

Termination of Parental Rights

In ruling on a petition for guardianship of a child, a juvenile court must give primary consideration to the health and safety of the child and consideration to all other factors needed to determine whether the termination of parental rights is in a child's best interests. In *In Re: Adoption of Rashawn Kevon H.*, 402 Md. 477 (2007), the Court of Appeals recognized an implicit presumption that the interest of a child is best met by continuing the parental relationship. This presumption is based on the fundamental constitutional right of parents to raise their children without undue influence by the State. The presumption may be rebutted only by clear and convincing evidence that a parent is either unfit or that exceptional circumstances exist that would make the continued relationship detrimental to the child's best interest. In addition to consideration of the factors currently specified in statute, a court is required to make

clear and specific findings based on the evidence with respect to each of the factors. A trial court must determine expressly whether the findings are sufficient either to show that a parent is unfit or that exceptional circumstances exist that would make continuation of the parental relationship detrimental to the child's best interest.

The *Rashawn* case was remanded in order for the trial court to make and articulate clear and specific findings with respect to each of the relevant statutory factors. *Senate Bill 58 (passed)* codifies the *Rashawn* opinion by establishing that after the consideration of existing statutory factors, a juvenile court, in order to grant guardianship of a child without parental consent and over the child's objections, must also find by clear and convincing evidence that a parent is unfit to remain in a parental relationship with the child or that exceptional circumstances exist that make a continuation of the parental relationship detrimental to the best interests of the child such that terminating the parent's rights is in the child's best interest.

Marriage

A marriage ceremony may be performed in Maryland by any religious official of a body or order authorized by rules or custom to perform a marriage ceremony, a clerk of court, a deputy clerk of court designated by the county administrative judge for the county circuit court, or a judge. *Senate Bill 870 (passed)* expands the definition of "judge" to include a judge of the United States Tax Court and specifies that such a judge of the United States Tax Court may perform marriage ceremonies in Maryland.

Human Relations

Revision of Article 49B

House Bill 51 (Ch. 120) is a nonsubstantive code revision bill that revises, restates, and recodifies State laws relating to prohibitions against various forms of discrimination, remedies for unlawful discrimination, and the Maryland Commission on Human Relations. It repeals most of the provisions of Article 49B (Human Relations Commission) of the Annotated Code of Maryland and adds a new title, designated as "Title 20. Human Relations," to the State Government Article. *House Bill 52 (Ch. 121)* corrects cross-references to Article 49B throughout the Annotated Code and makes a technical correction. *House Bill 53 (passed)* makes substantive changes in the new Title 20 of the State Government Article to address issues flagged for consideration by the General Assembly in the revisor's notes in *House Bill 51*, including repealing obsolete and unconstitutional provisions, conforming the protected classes in provisions prohibiting discrimination, and filling in gaps and correcting errors in provisions relating to enforcement. *House Bill 54 (passed)* clarifies that provisions authorizing certain complainants to elect or file a civil action apply only to alleged unlawful employment practices and not to all discriminatory acts.

Employment Discrimination

Discriminatory Compensation Claims

In *Ledbetter v. Goodyear Tire & Rubber Co.*, 550 U.S. 618 (2007), the U.S. Supreme Court held that a complainant claiming pay discrimination under federal law must allege discriminatory pay decisions that occurred within the applicable period for filing a charge with the Equal Employment Opportunity Commission (EEOC). Since Ms. Ledbetter based her complaint on discriminatory acts that occurred long before she filed her charge with the EEOC, she was not entitled to relief.

Senate Bill 368/House Bill 288 (Chs. 56 and 57) respond to that decision by authorizing the recovery of back pay for up to two years preceding the filing of a complaint under State law for employment discrimination based on an unlawful employment practice that occurred outside the statute of limitations for filing a complaint but was similar or related to an unlawful practice with regard to discrimination in compensation that occurred during the complaint filing period. The Acts specify that an unlawful employment practice with respect to discrimination in compensation occurs when (1) a discriminatory compensation decision or other practice is adopted; (2) an individual becomes subject to a discriminatory compensation decision or other practice; or (3) an individual is affected by the application of a discriminatory compensation decision or other practice, including each time wages, benefits, or other compensation is paid, resulting wholly or partly from the discriminatory decision or other practice. The Acts mirror language in recent federal legislation, the *Lilly Ledbetter Fair Pay Act of 2009*, which was signed by the President on January 29, 2009.

Individuals with Disabilities

Under the Americans with Disabilities Act (ADA), an employer is required to make a reasonable accommodation to the known disability of a qualified applicant or employee if it would not impose an “undue hardship” on the operation of the employer’s business. “Undue hardship” is defined as an action requiring significant difficulty or expense when considered in light of an employer’s size, financial resources, and the nature and structure of its operation. Reasonable accommodations may include making existing facilities used by employees more readily accessible, modifying work schedules, adjusting or modifying examinations or training materials, and providing qualified readers or interpreters.

Senate Bill 670/House Bill 393 (both passed) are designed to make State law more consistent with the ADA and to codify existing caselaw and regulations. The bills expand the definition of “disability” applicable to provisions of law relating to employment discrimination. Under the bills, “disability” includes a record of having a physical or mental impairment or being regarded as having a physical or mental impairment. The bills prohibit an employer from failing or refusing to make a reasonable accommodation for the known disability of an otherwise qualified employee unless the accommodation would cause undue hardship on the conduct of the employer’s business. The bills also prohibit an employer or labor organization from retaliating against any employee, applicant, or member who has opposed any prohibited employment

practice or participated in an investigation, proceeding, or hearing relating to a discrimination charge.

Gender Identity

Thirteen states and the District of Columbia have passed laws prohibiting discrimination based upon gender identity. Since 2002, Baltimore City has had laws prohibiting discrimination based upon gender identity and expression in employment, public accommodations, education, and housing. In 2007, Montgomery County added gender identity as a covered basis under county law prohibiting discrimination in employment, housing, cable television services, and taxicab services. Governor Martin O'Malley issued an executive order in August 2007 that included gender identity and expression as a proscribed basis for discrimination in State personnel actions.

Senate Bill 566/House Bill 474 (both failed) would have prohibited discrimination based on “gender identity” in public accommodations, labor and employment, and housing throughout the State. The bills would have defined gender identity as a gender-related identity, appearance, expression, or behavior of an individual, regardless of the individual’s sex at birth. The bills also would have prohibited discrimination based on gender identity and sexual orientation in State personnel actions and in the leasing of property for commercial usage.

Real Property

Residential Foreclosures

Background

In 2008, property foreclosure activity in the State increased to 10,030 events during the fourth quarter, an increase of 25.8% from the third quarter. The Commissioner of Financial Regulation received more than 64,000 notices of intent to foreclose during calendar 2008. In January 2009, the Department of Housing and Community Development estimated that foreclosure events in the State would increase in the near future, as the State’s 5.8% unemployment rate in December 2008 was at a 15-year high.

Foreclosures of residential property affect tenants, as well as the property owners, because a tenant currently does not have a right to remain in a home sold at foreclosure. Accordingly, an increasing number of residential tenants face eviction due to the increase in residential foreclosures. Baltimore City responded to this issue in 2008 by enacting a local law requiring a purchaser of residential property at a foreclosure sale, tax sale, or judicial sale to provide the occupant with two weeks notice of the execution of a writ of possession. Recent changes to the Maryland Rules, effective May 1, 2009, also require notices to be sent to the occupant of residential property when a foreclosure action is filed and before the date of the foreclosure sale.

Notice of Foreclosure to Residential Tenants

Two emergency measures, *Senate Bill 842/House Bill 776 (both passed)* require notices of foreclosure to be sent to all occupants of a residential property at three separate times during the foreclosure process: (1) when a foreclosure action is filed; (2) no earlier than 30 days and no later than 10 days before the foreclosure sale; and (3) after the entry of a judgment awarding possession of the property and before any attempt to execute the writ of possession. *Senate Bill 842/House Bill 776* also specify the contents of each notice and require that each notice be sent by first-class mail in a specially marked envelope.

Notice of Foreclosure to Local Governments

In an action to foreclose a lien on real property, current law requires the person authorized to make the sale of the property to notify the county or municipal corporation where the property is located at least 15 days before the sale. Within 10 days of receiving this notification, the local government must notify that person of any outstanding liens, charges, taxes, or assessments on the property.

House Bill 640 (Ch. 149) affords local governments the opportunity to receive an earlier notice of foreclosure on residential property. The Act authorizes a county or municipal corporation to enact a local law that requires notice to be given to the local government when a foreclosure action is filed on residential property located in the jurisdiction. The local law must require the person authorized to make the sale to notify the local government within five days after filing an order to docket or a complaint to foreclose the mortgage or deed of trust. The notice must provide the name and contact information of the person authorized to make the sale, the street address of the subject residential property, and the names and addresses, if known, of all owners of the residential property.

Mortgage Fraud – Clarification of Scope

The Federal Bureau of Investigation reports that mortgage fraud is one of the fastest growing financial crimes in the United States. Chapters 3 and 4 of 2008 enacted the Maryland Mortgage Fraud Protection Act, a comprehensive statute that establishes criminal penalties; authorizes the Attorney General, a State's Attorney, and the Commissioner of Financial Regulation to take enforcement action; and allows victims of mortgage fraud to bring private actions seeking damages and attorney's fees from alleged violators.

The 2008 Act defines "mortgage fraud" as any action by a person made with the intent to defraud that involves knowingly making, using, or facilitating the use of a deliberate misstatement, misrepresentation, or omission during the mortgage lending process with the intent that it will be relied on by a mortgage lender, borrower, or any other party in the lending process.

House Bill 79 (Ch. 126) clarifies that the 2008 Act applies to the preparers of documents such as appraisals by expanding the definition of "mortgage fraud" to include the intentional

creation or production of a document containing a misstatement, misrepresentation, or omission that is created before and used during the lending process.

Foreclosure Procedures – Clarification of Scope

Chapters 1 and 2 of 2008 changed the foreclosure process for residential property, including allowing a mortgagor or grantor to cure the default by paying all past due payments, penalties, and fees up to one business day before the foreclosure sale. Although current law generally addresses foreclosure procedures for residential property, the right of a mortgagor or grantor to cure a default is not explicitly limited to residential property. Thus, a foreclosing lender of commercial property may be forced to accept the amount necessary to cure the default and reinstate the loan.

Senate Bill 807/House Bill 798 (both passed) clarify that the definition of “residential property” applicable to the law governing residential foreclosure procedures means property improved by four or fewer single-family dwelling units that are designed principally for, and are intended for, human habitation. The bills also clarify that the mortgagor or grantor “of residential property” may cure a default up to one business day before the foreclosure sale of the property. With these changes, commercial lenders retain the ability to accelerate a loan in default and demand early repayment of an outstanding debt.

Common Ownership Communities

Condominiums, homeowners associations, and cooperative housing corporations, collectively referred to as common ownership communities (COC), continue to be the focus of a large number of bills introduced each session. Several bills introduced during this session were prompted by recommendations of the final report of the Task Force on Common Ownership Communities, issued in December 2006.

Transition of Control

One of the findings of the task force was that a developer should be required to supply the COC resident governing body with a list of the common elements and all contracts entered into by the developer or the developer-controlled governing body that affect the COC. *Senate Bill 742/House Bill 667 (Chs. 95 and 96)* establish the procedures for the transition of control of a condominium or homeowners association from a developer to the governing body of each community that is elected by its owners. The Acts require a meeting to elect the governing body of the community to be held within 60 days from the date a certain percentage of the units or lots have been sold to the public. The developer must also deliver to each unit owner or lot owner a notice that the minimum number of units or lots have been sold and when the meeting will be held. Within 30 days of that meeting, the developer must deliver copies of specified records, contracts, and financial statements of the community to the newly elected governing body.

Fidelity Insurance

Senate Bill 541/House Bill 687 (Chs. 77 and 78) require the governing body of a COC to purchase fidelity insurance no later than the time of the first conveyance of a unit or lot to a person other than the developer. The fidelity insurance provides for the indemnification of the COC against losses resulting from acts or omissions arising from fraud, dishonesty, or criminal acts by the COC's officers, directors, managing agents, management companies, or associated agents or employees. The amount of the fidelity insurance must equal the lesser of either three months' worth of gross common charges or annual charges and the total amount held in all investment accounts at the time the fidelity insurance is issued or \$3,000,000.

Repair or Replacement of Damage or Destruction by Council of Unit Owners

Property insurance and the repair of damaged property is another significant concern for COCs. *Senate Bill 201/House Bill 287 (both passed)* clarify that the responsibility of a condominium's council of unit owners to repair or replace the common elements extends to the condominium units, exclusive of improvements installed in the units by unit owners other than the developer, in the event of damage or destruction to the condominium – notwithstanding inconsistent provisions in the council of unit owners' bylaws.

The bills are designed to overturn the Court of Appeals ruling in *Anderson v. Council of Unit Owners of The Gables on Tuckerman Condominium, et al.*, 404 Md. 560 (2008) by placing an affirmative duty on the council of unit owners of a condominium to repair damage or destruction to the condominium that originated in a unit, and to purchase property insurance that reflects this duty.

The condominium's council of unit owners must maintain property insurance on the common elements and units, exclusive of improvements installed in the units by unit owners other than the developer. The bills further require a unit owner to pay the deductible of the condominium's master insurance policy, up to the statutory limit of \$5,000, if the cause of the damage originated from the owner's unit. Notice of a unit owner's responsibility for the insurance deductible must be included in a condominium sales contract and given annually in writing by the council of unit owners to each unit owner.

Closed Meetings of Board of Directors or Other Governing Body

In response to complaints concerning closed meetings from homeowners and condominium owners who have expressed concern about their inability to be present at meetings that may affect their interests, *Senate Bill 171 (Ch. 38)/House Bill 553 (passed)* and *Senate Bill 172 (passed)/House Bill 552 (Ch. 144)* limit the authority of a board of directors or other governing body of a condominium or a homeowners association, respectively, to close a meeting. Among other things, the bills repeal a provision that authorizes a closed meeting by an individually recorded affirmative vote of two-thirds of the board or committee members present, for an exceptional reason so compelling as to override the general public policy in favor of open meetings.

Public Inspection of Books and Records

House Bill 137 (passed) alters provisions dealing with the public inspection and copying of the books and records of a COC. The bill applies to members of cooperative housing corporations, condominium unit owners, and lot owners in homeowners associations, as well as a member's or owner's mortgagee, authorized agent, or attorney. Among other things, the bill requires that all books or records of a COC be made available for both inspection and copying by an authorized party, and prohibits a COC from withholding from public inspection information on individual salaries, wages, bonuses, and other compensation paid to employees. A written request for a copy of financial statements or minutes must be complied with within 21 days of the request if the document was prepared within three years of the request; if the document was prepared more than three years before the date of the request, the COC has 45 days to send the requested document. Any charge for copying may not exceed the limits authorized for copying under Title 7, Subtitle 2 of the Courts Article (*i.e.*, \$.50 per page for copies made by a court clerk and \$.25 per page for copies made by a customer).

Drug Nuisances on Commercial Property

Under the State's drug-related nuisance abatement statute, a "nuisance" is a property that is used (1) by persons who assemble for the specific purpose of illegally administering a controlled dangerous substance; (2) for the illegal manufacture or distribution of a controlled dangerous substance or controlled paraphernalia; or (3) for the storage or concealment of a controlled dangerous substance in sufficient quantity to indicate an intent to manufacture, distribute, or dispense a controlled dangerous substance or controlled paraphernalia.

A community association, State's Attorney, or city or county attorney or solicitor is authorized to bring an action to abate a nuisance when residential property is being used for certain illegal drug activities. A plaintiff must give the tenant and owner of record of commercial property 45 days' notice before bringing an abatement action.

According to testimony concerning efforts to abate drug-related nuisances on commercial property in Baltimore City, the majority of targeted properties are not legitimate businesses, but rather fronts for operations selling and storing illegal drugs. Testimony further indicated that the six-week advance notice requirement has hampered efforts to abate drug activity in local communities in a timely fashion.

Senate Bill 159/House Bill 99 (both passed) reduce the number of days of notice that must be given to the tenant and owner of commercial property before an action to abate a drug nuisance may be filed. In Baltimore City, the prior notice period is shortened from 45 days to 15 days; in all other jurisdictions, 30 days' notice must be given.

Mechanics' Liens

Senate Bill 364/House Bill 544 (Chs. 54 and 55) authorize the establishment of a mechanic's lien for interior design services that pertain to interior construction and are provided

by a certified interior designer. “Interior design services” are defined as rendering or offering to render services for a fee or other valuable consideration, in the preparation and administration of interior design documents (including drawings, schedules, and specifications) pertaining to the planning and design of interior spaces including furnishings, layouts, fixtures, cabinetry, lighting fixtures, finishes, materials, and interior construction not materially related to or materially affecting the building systems, all of which must comply with applicable laws, codes, regulations, and standards.

Real Property Sales Contracts

New Home Sales Contracts

Realtors often include a standard clause in a contract for the sale of an existing home making the sale contingent on the purchaser obtaining financing. Many new home builders use their own form contracts, however, which may not contain a financing contingency clause. In that case, consumers may find themselves bound by a contract to purchase a new home, even if they cannot secure financing. *Senate Bill 657 (Ch. 92)* requires a contract for the initial sale of a new home to be contingent on the purchaser obtaining a written commitment for a loan secured by the property, unless the contract expressly states otherwise. If the contract is contingent on the purchaser obtaining financing, the contract must state the maximum interest rate the purchaser is obligated to accept.

Disclosure of Conservation Easements

Conservation easements allow landowners to protect natural resources and preserve open space by limiting future development and restricting the use of the land. Since 2007, the seller of property encumbered by a conservation easement must provide the purchaser a copy of all conservation easements encumbering the property as well as including in the sales contract a statement with specified information about the conservation easement and the purchaser’s rights and responsibilities regarding the conservation easement. The purchaser has the right to rescind the contract if a seller fails to meet these requirements within 20 calendar days after entering into the contract.

Senate Bill 1027/House Bill 754 (both passed) alters provisions concerning notice requirements and rescission rights when real property encumbered by a conservation easement is sold. Under the bills, the vendor must deliver the notice about the purchaser’s rights and responsibilities regarding a conservation easement and a copy of all conservation easements to the purchaser before entering into a contract for the sale of the property. The purchaser who receives the notice and copies of the easement on or before entering into a contract of sale may not rescind the contract based on the information received from the vendor. If the notice and easement copies are given after the sales contract is signed, the purchaser is allowed to rescind the sales contract any time before, or within five days after, receipt of the notice and easement copies.

Estates and Trusts

Estates

Admission of Copy of Executed Will

In many cases, the decedent's original will cannot be found, but copies are available. There is uncertainty regarding whether a copy of an original executed will may be admitted to probate in the absence of the original will, and the issue is addressed differently among the counties. In some counties, the register of wills admits a copy of an executed will in place of an original as a matter of course, while in other counties, admission of a copy of an executed will requires judicial probate. *Senate Bill 154 (Ch. 37)* allows an interested person to file a petition for the admission of a copy of an executed will at any time before administrative or judicial probate if the original is alleged to be lost or destroyed, a copy evidencing the signatures of the decedent and witnesses is offered, and all heirs and persons that receive property under the will execute a specified consent to probate of the copy. An orphans' court may authorize the petitioner to proceed with administrative probate and authorize the register of wills to accept the copy or require the filing of judicial probate.

Determination by Orphans' Court of Title to Personal Property

Senate Bill 153/House Bill 399 (both passed) increase the limit on the value of personal property (from \$20,000 to \$50,000) for which an orphans' court may determine questions of title for the purpose of determining what personal property is properly includable in an estate. The current limit was first enacted in 1994 and has not been updated since then. Disputes over vehicles, bank accounts, and household personal property now often involve amounts that exceed \$20,000, requiring these disputes to be heard in circuit court.

Valuation of Real and Leasehold Property

Within three months of appointment, a personal representative for an estate must prepare and file an inventory of property owned by the decedent at the time of the decedent's death, indicating the fair market value of each item listed as of the date of death. Generally, the personal representative must secure an independent appraisal of each item of property in the inventory. However, real and leasehold property may be valued at the full cash value for property tax assessment purposes, unless the property is assessed on the basis of its use value.

House Bill 582 (passed) adds an additional exception to the appraisal requirement. The bill allows real and leasehold property in an estate to be valued at the contract sales price for the property, instead of an appraisal at fair market value, if (1) the price is set forth on a settlement statement for an arm's length contract of sale of the property; and (2) the settlement on the contract occurs within one year after the decedent's death. This provision does not apply to property assessed for property tax purposes on the basis of its use value.

Trust for Care of Animal

The validity and enforceability of a trust created for the care of an animal is currently not addressed by Maryland statutory law, and there does not appear to be any Maryland case law on the subject, which has raised concern that such a trust may be unenforceable in this State. *House Bill 149 (Ch. 132)* allows for the creation and enforcement of a trust to provide for the care of an animal alive during the lifetime of the person creating the trust and provides that the common law rule against perpetuities does not apply to the trust. A trust created under the Act would last for the lifetime of the animal or animals and may be enforced by a person appointed under the terms of the trust, or if no person is appointed, a person appointed by the court. A person with an interest in the welfare of the animal may ask the court to appoint a person to enforce the trust or remove a person appointed. The property of the trust could only be used for the intended purpose of the trust, unless the court determines that the value of the trust exceeds the amount required for the intended use. Unless otherwise provided by the terms of the trust, property not required for the intended use must be distributed to the person who created the trust, or if that person is deceased, the person's successors in interest. The Act applies only to trusts created on or after October 1, 2009.

Guardianship of Minors

Senate Bill 905/House Bill 634 (both passed) specify that an orphans' court may exercise jurisdiction over the guardianship of the person of a minor if the presiding judge of the orphans' court is a member of the bar, regardless of whether the minor has property, may inherit property, or is destitute. An orphans' court that exercises, or is requested to exercise, this jurisdiction may transfer the matter to a circuit court, on a finding that the best interests of the child require use of the equitable powers of the circuit court, and may waive the costs, if any, of the transfer.

Fiduciaries

Powers of Personal Representatives and Fiduciaries

Senate Bill 152 (passed) allows a personal representative to become a limited partner in a partnership or a member in a limited liability company, including a single member limited liability company. In addition, the bill allows a fiduciary to continue as or become a member in a limited liability company, including a single member limited liability company. The bill would allow a personal representative to keep a small business running for the estate of a decedent, thereby helping to preserve its value, especially if the decedent was an owner or a major partner in the business. The personal representative would also be protected from personal liability in the business.

Maryland Uniform Prudent Management of Institutional Funds Act

House Bill 200 (Ch. 134) enacts the Maryland Uniform Prudent Management of Institutional Funds Act (UPMIFA). The Act is a modified version of the 2006 UPMIFA drafted,

approved, and recommended for enactment in all states by the National Conference of Commissioners on Uniform State Laws (NCCUSL). According to NCCUSL, the 2006 UPMIFA has so far been adopted in 28 states and the District of Columbia. NCCUSL also drafted and approved in 1972 the Uniform Management of Institutional Funds Act (UMIFA), which was enacted by 47 states, including Maryland and the District of Columbia. The Maryland UMIFA was enacted by Chapter 838 of 1973 and has not been substantively amended since. UPMIFA updates standards for the management and investment of charitable funds and endowment spending and includes provisions concerning:

- management and investment conduct, including exercising ordinary business care and prudence under the existing prevailing facts and circumstances, an express obligation regarding cost management, a standard of whole portfolio management, a diversification requirement, and provision for a special skills standard of performance;
- expenditure or accumulation of endowment funds, including elimination of the concept of historic dollar value;
- a rebuttable presumption of imprudence for the appropriation for expenditure in any year of an amount greater than 7% of the fair market value of an endowment fund and a requirement that the Attorney General be notified of such an appropriation (not applicable to appropriations permitted under other law or by the gift instrument);
- delegation of management and investment functions, including (1) requiring that ordinary business care and prudence under the existing prevailing facts and circumstances be exercised in selecting an external agent, establishing the scope and terms of the delegation, and periodically reviewing the actions of the agent; (2) establishing a duty of reasonable care for the agent; and (3) subjecting the agent to court jurisdiction;
- release or modification of a restriction on the management, investment, or purpose of an institutional fund with the consent of the donor;
- standards for the release or modification of a restriction on the management, investment, or purpose of an institutional fund (1) by a court of competent jurisdiction (modification only), on application of an institution; or (2) in the case of a fund with a total value of less than \$50,000 that has been in existence for more than 20 years, by the institution 60 days after notification of the Attorney General; and
- standards for the modification of a charitable purpose or restriction on the use of an institutional fund by a court of competent jurisdiction on application of an institution.

The Act applies to institutional funds existing on or established after the date the bill takes effect (April 14, 2009). With respect to funds existing on the date the Act takes effect, it only governs decisions made or actions taken on or after that date.

Powers of Attorney

Senate Bill 150/House Bill 852 (both failed) would have established the Maryland Uniform Power of Attorney Act and repealed existing statutory provisions relating to powers of attorney. The failed legislation was a modified version of the 2006 Uniform Power of Attorney Act drafted, approved, and recommended for enactment in all states, by the National Conference of Commissioners on Uniform State Laws, which was based on a national review of state power of attorney legislation, a national survey sent to state bar associations and other pertinent organizations, and input from various other sources.

Part G

Transportation and Motor Vehicles

Transportation

Consolidated Transportation Bond Issuances

The recent credit crisis and lack of liquidity in the capital market during the fall of 2008 created a sluggish competitive bond market. If MDOT had needed to issue bonds in the public competitive bond market last fall, it is possible that very few or possibly no bids would have been received.

Senate Bill 1011/House Bill 1425 (both passed) identify a public, competitive sale as the preferred method of issuance of consolidated transportation bonds and authorize MDOT to issue consolidated transportation bonds at a private, negotiated sale if the Secretary of MDOT determines that (1) extraordinary credit market conditions exist that warrant the use of this method rather than a public, competitive sale; and (2) the terms and conditions, including price, interest rates, and payment dates, that can be achieved by a private negotiated sale are more advantageous to the State. The bills require the resolution authorizing the issuance of consolidated transportation bonds to specify whether the bonds are to be sold at a public or private sale. Also, a requirement that bond issuances be advertised at least once in a newspaper of general circulation in Baltimore City is eliminated.

Mass Transit

Washington Metropolitan Area Transit Authority Compact

WMATA was established to plan, finance, develop, and operate a balanced regional transportation system for the national capital area. It was created by interstate compact of the State of Maryland, the Commonwealth of Virginia, and the District of Columbia with the consent of the U.S. Congress. Maryland ratified the compact in 1965 (Chapter 869 of 1965).

In October 2008, the U.S. Congress passed Public Law 110-432 authorizing up to \$1.5 billion in federal funds for WMATA capital and preventive maintenance improvements over 10 years, beginning in fiscal 2009. However, this federal law was made contingent upon

the passage of specified amendments to the WMATA Compact by Maryland, Virginia, and the District of Columbia prior to distribution of federal funds. As required by federal law, *Senate Bill 915 (Ch. 111)/House Bill 572 (passed)* amend the WMATA Compact to add two federally appointed, voting board members; require an Office of the Inspector General at WMATA; and require Virginia, Maryland, and the District of Columbia to make payments from a dedicated funding source to match up to \$1.5 billion in federal funds for WMATA capital and preventive maintenance projects. The bills designate the Transportation Trust Fund as Maryland's dedicated funding source for matching specified federal funds. The bills take effect upon enactment of similar legislation by Virginia and the District of Columbia and approval by the U.S. Congress.

Public Hearings

Senate Bill 506/House Bill 199 (both passed) require the Maryland Transit Administration (MTA) to hold public hearings prior to reducing the frequency, number of days, or days of service for a commuter bus or commuter rail route without substituting a comparable level of service, unless the reduction is temporary or the result of a specified circumstance. The bills define what constitutes inadequate notification of public hearings and broaden the notification provision to include defective notification. MTA must make a reasonable effort to correct public notices deemed inadequate or defective. If specified notification requirements are not met or the notice contains erroneous information, the notice is inadequate or defective. The bills require MTA to notify the governing body of each county or municipal corporation affected by a proposed service change at least 30 days prior to the public hearing on that proposal.

Red Line Area Transit Study

The Red Line is a proposed 14-mile, east-west transit line that would run from Woodlawn through downtown Baltimore to the Johns Hopkins Bayview Medical Center Campus. It would link to the north-south light rail, metro, and Maryland Area Regional Commuter trains. The Red Line is estimated to cost \$1.6 billion, and construction is scheduled to begin in 2012. More than 42,000 people per day are expected to use this transit line, resulting in approximately 67,000 fewer daily automobile vehicle miles traveled.

Senate Bill 614/House Bill 426 (both passed) prohibit MTA from acquiring real property for construction of the Red Line transit project if the acquisition results in involuntary residential displacement. The bills establish the intent of the General Assembly that MTA develop and implement workforce development strategies that maximize the participation of Red Line area residents in jobs created by the Red Line. The bills also express the intent of the General Assembly that the Maryland Congressional Delegation seek to increase the level of federal funding for and formula participation in New Starts transit projects to a level consistent with other surface transportation investments and reduce bias in the federal New Starts funding formula against the northeastern and industrial regions of the United States.

Transit Service Alterations

The Public Service Commission (PSC) and Office of the People’s Council (OPC) are required to submit reports that make recommendations on specified MTA proposals that may affect the operation of transit facilities as a coordinated regional transit system. The PSC is required to prioritize development of these reports above any other matters and submit the reports prior to a public hearing on any such proposal. Also, the OPC is required to attend and represent the public interest at MTA hearings. However, while the PSC has authority over common carriers’ rates, terms, and service, it does not have this type of authority regarding MTA services. Furthermore, the PSC does not have any particular expertise in matters relating to mass transit. In light of these facts, and since the MTA consults widely with various advisory groups on transit service proposals, *Senate Bill 60 (passed)* repeals these PSC and OPC reporting and hearing attendance requirements.

Maryland Port Administration

Access to Port-related Information

After the events of September 11, 2001, concerns were raised over the security of U.S. ports and waterways. The Maryland Port Administration (MPA) is implementing a variety of efforts aimed at improving its physical and informational security systems. MPA initiated the federally mandated Transportation Worker Identification Credential in December 2008, and other ongoing efforts include installing or upgrading fencing, lighting, cyber lock controlled gates, intelligent closed-circuit television systems, access controlled systems, and communication systems. Consistent with these efforts, during the 2009 session, the General Assembly sought to address concerns regarding the potential availability under the Maryland Public Information Act of sensitive information relating to port security.

There are numerous restrictions on the disclosure of information under the Maryland Public Information Act, including disclosure of specified information about bridges, tunnels, airports, and mass transit facilities; however, information about the ports is not specifically restricted. *Senate Bill 75 (passed)* authorizes the State and local governments to keep specified records related to ports confidential. Records may be withheld only if public inspection would jeopardize the security of any building, structure, or facility; facilitate the planning of a terrorist attack; or endanger life or safety. The bill is not intended to limit inspection of MPA or Maryland Aviation Administration records by a specified exclusive representative, as authorized by specified memoranda of understanding and federal law; however, an exclusive representative must sign a nondisclosure agreement prior to inspecting such public records.

Maryland Port Administration Jurisdiction

Through its efforts to increase waterborne commerce, MPA promotes the economic well being of the State of Maryland and manages the State-owned facilities at the Helen Delich Bentley Port of Baltimore. The port is a vast industrial complex that encompasses 45 miles of shoreline and 3,403 waterfront acres. It includes 7 public terminals owned and operated by

MPA, as well as 23 private terminals. Unlike many State entities, the port operates in a highly competitive market, with direct competition not only from private industry but also from other ports up and down the east coast, as well as some Canadian ports. MPA's territorial jurisdiction with respect to powers and duties is restricted to sites located in or near any of the navigable waters of the State. *Senate Bill 61 (passed)* expands MPA's jurisdiction by authorizing it to operate at in-land properties or facilities that it acquires, leases, or operates for the transport or storage of cargo and equipment.

Other Transportation Issues

State Highway Administration – Snow Removal

Senate Bill 209 (passed) authorizes the State Highway Administration to hire an owner of a registered farm truck for snow removal services when a statewide or local emergency is declared. The farm trucks, and the owner and operator of the farm truck, must meet specified minimum requirements.

Bicycle and Pedestrian Advisory Committee

The Governor appoints a Bicycle and Pedestrian Advisory Committee to provide guidance to State agencies concerning funding of bicycle and pedestrian related programs, public education and awareness of bicycle and pedestrian related activities and safety, and other issues. *House Bill 1144 (passed)* adds a representative of the Maryland-National Capital Park and Planning Commission to the Bicycle and Pedestrian Advisory Committee.

Criminal History Checks

Under current MDOT policy, background investigations conducted on prospective employees check the candidate's date of birth, Social Security number, and criminal convictions. However, using the current process, MDOT is not able to obtain information on individuals who reside outside of the State of Maryland. In fiscal 2008, 3.7% of MDOT employees resided outside the State.

House Bill 1521 (passed) authorizes the Secretary of MDOT to request, for a specified prospective or current MDOT employee, a State and national criminal history record information (CHRI) check from the Criminal Justice Information System (CJIS) Central Repository of the Department of Public Safety and Correctional Services. When applying for a CHRI check, the Secretary of MDOT must submit specified fees and two complete sets of fingerprints taken on specified forms to the CJIS Central Repository. The CJIS Central Repository must forward the results of the check to MDOT and the prospective or current employee. CHRI checks are confidential, may not be disseminated, and may be used only for specified employment purposes.

Motor Vehicles

Licensing and Registration

Verification of Lawful Status

On May 11, 2005, former President George Bush signed into law the REAL ID Act that requires federal agencies to accept only personal identification cards that meet certain standards for official purposes. The U.S. Department of Homeland Security (DHS) issued final REAL ID regulations in January 2008. The O'Malley Administration has announced that Maryland will comply with the REAL ID Act and that the State has been granted a deadline extension until December 31, 2009, for submission of its REAL ID certification. The final regulations allow a state to request, by October 11, 2009, an additional extension to May 10, 2011. This additional extension may only be granted if a state certifies material compliance by January 1, 2010, with the 18 benchmarks contained in DHS's "Material Compliance Checklist" that was issued as an attachment to the final regulations. The summary of the final regulations states that "[t]he eighteen milestones are all mandatory requirements under the Act; one of the most important ones, however, is the state's ability to verify that the applicant is lawfully present in the United States." This mandate imposes a new requirement for applicants of driver's licenses in Maryland and requires a statutory change by the General Assembly. If a second extension is granted, a state must begin issuing REAL ID compliant ID cards on May 11, 2011. If an extension is not granted, then, beginning December 31, 2009, Maryland driver's licenses and identification cards will no longer be accepted by federal agencies for official purposes, such as boarding a federally regulated aircraft. The final regulations clarify that a state-submitted consolidated security plan must address the security of only those facilities that are critical to the issuance, manufacturing, and production of identification.

As of April 2009, Maryland was one of five states (along with Hawaii, New Mexico, Utah, and Washington) that extended the privilege to drive to individuals who do not have lawful status. However, *House Bill 387 (passed)* defines "lawful status" as it applies to the issuance of identification cards, driver's licenses, and moped operator permits, and establishes a two-tiered approach to the issuance of these documents by the Motor Vehicle Administration (MVA), with the documents issued under one of these tiers considered invalid for certain official federal purposes. MVA may issue these documents, including driver's licenses and the associated driving privilege, to an individual who held the document sought for renewal on April 18, 2009, regardless of lawful status or the absence of a valid Social Security number. However, MVA documents issued on or after July 1, 2010, must expire on July 1, 2015, and MVA may no longer undertake this two-tier issuance after July 1, 2015. In addition to providing one tier of MVA documents to individuals who cannot demonstrate lawful status or do not possess a valid Social Security number, the two-tier approach also enables MVA documents to be issued to individuals who encounter identity verification problems in the MVA verification process prescribed by federal regulations.

Individuals who verify citizenship or lawful status are eligible to receive one of the documents for a period of up to five years as determined by MVA, or for only as long as the

individual's lawful status remains valid. The bill also requires MVA to develop a plan to address physical security requirements for MVA locations and other information and privacy safeguards for MVA document issuance processes.

Speed Monitoring Systems – Statewide Implementation

School Zone Speed Monitoring Systems

Senate Bill 277 (passed) expands statewide the authorization for the use of speed monitoring systems in school zones. In school zones, local law enforcement agencies or their contractors may issue citations or warnings to vehicle owners for speeding at least 12 miles per hour above the posted speed limit. The maximum fine for a citation is \$40. The bill allows Montgomery County to retain its authority to use speed monitoring systems in specified residential areas, although the speed tolerance is raised from 10 to 12 miles per hour.

A speed monitoring system may be placed in a school zone for operation between 6:00 a.m. and 8:00 p.m. Monday through Friday. Before a speed monitoring system may be used in a local jurisdiction, its use must be authorized by the governing body by ordinance or resolution adopted after reasonable notice and a public hearing. The ordinance or resolution must require the issuance of warnings only during the first 30 days, at a minimum, after the first speed monitoring system is placed in a local jurisdiction. Before activating an unmanned stationary speed monitoring system, a local jurisdiction must publish notice of its location on the local jurisdiction's web site and in a general circulation newspaper in the jurisdiction. The local jurisdiction must also ensure that each school zone sign indicates that speed monitoring systems are used in school zones.

Any fines or penalties collected by the District Court from school zone speed monitoring systems are remitted to the Comptroller and distributed to various transportation-related funds. Fines or penalties that are collected from uncontested citations accrue to the local governments that have implemented the speed zone systems. The bill authorizes local jurisdictions to use any revenues generated from school zone automated speed enforcement in excess of the amount necessary to recover implementation costs solely for public safety purposes, including pedestrian safety programs. However, if after recovering implementation costs the balance of revenues generated exceeds 10% of the local jurisdiction's total revenues for the fiscal year, then any amount above 10% must be remitted to the Comptroller and deposited in the general fund of the State.

Highway Work Zone Speed Monitoring Systems

Senate Bill 277 also authorizes State and local law enforcement agencies or their contractors to issue citations or warnings for speeding at least 12 miles per hour above the posted speed limit in highway work zones that are set up on expressways or controlled access highways where the speed limit is 45 miles per hour or greater. A conspicuous road sign warning of the use of speed monitoring systems must be placed at a reasonable distance from the work zone. The maximum fine is \$40. A law enforcement agency or its contractor may only issue warnings during the 30 days after the first work zone system is in place. All fines collected for work zone

speed control violations, whether prepaid or imposed by the District Court in a contested case, must be deposited into a newly established special fund, then distributed to the State Highway Administration and the Department of State Police (DSP) to cover the implementation and administration costs of the speed control systems. Before October 1, 2012, any remaining balance after covering these costs must be paid to DSP to fund its roadside police enforcement activities. On or after October 1, 2012, any remaining balance is deposited into the Transportation Trust Fund.

Driving While Using Electronic Text Messaging Devices

Experts estimate that the nearly 250 million wireless phone users in the United States sent about 158 billion text messages in 2006. It is unknown how many of these messages were sent while people were operating motor vehicles, but driving while texting appears to be a growing trend. A study by Nationwide Insurance estimated that 20% of all drivers send or receive text messages. A Zogby poll of drivers between the ages of 18 and 24 revealed that 66% admitted to texting while driving. While few studies have quantified the distraction caused by texting while driving, and no state has published data showing a link between texting and vehicle accidents, experts have estimated that driver inattention is a factor in 80% of motor vehicle crashes and 65% of near crashes. As a result, driver distraction appears to be a factor in about 4.9 million accidents, causing 34,000 fatalities and 2.1 million injuries.

Senate Bill 98/House Bill 72 (both passed) prohibit a driver from using a text messaging device to write or send a text message while operating a motor vehicle in motion or in the travel portion of the roadway. A violator is guilty of a misdemeanor and subject to a maximum fine of \$500. The prohibition does not apply to the use of a global positioning system or the use of a text messaging device to contact a 9-1-1 system. A “text messaging device,” as defined in the bills, means a handheld device used to send a text message or an electronic message via a short message service, wireless telephone service, or electronic communication network.

Drunk and Drugged Driving

Task Force to Combat Driving Under the Influence of Drugs and Alcohol

Chapters 533 and 534 of 2007 established the Task Force to Combat Driving Under the Influence of Drugs and Alcohol. The task force was created to address (1) actions necessary to implement national best practices for combating drunk and drugged driving offenses; (2) new State initiatives to address all impaired driving populations; (3) actions to sustain and enhance the public’s awareness and concern for the dangers imposed by impaired driving; and (4) strategies for improved coordination of management, funding, and resources at State and local levels.

The task force reported that an increasing number of people arrested for driving under the influence of alcohol or while impaired by alcohol and/or drugs are repeat offenders and any alcohol-related driving event is a reliable predictor of future recidivism.

Modified Suspension for Subsequent Offense: *Senate Bill 262 (passed)* contains provisions recommended by the task force. The bill clarifies that, unless otherwise specified, MVA is authorized to impose a one-year driver's license suspension on a person who is convicted of *any* drunk or impaired driving offense more than once within a five-year period. On request of a person whose license is suspended under this provision, MVA may issue a restricted driver's license for the suspension period if the person participates in the Ignition Interlock System Program.

The bill *requires* MVA to impose a one-year driver's license suspension on any driver convicted of driving under the influence of alcohol or while impaired by a controlled dangerous substance after a previous conviction of these offenses within a five-year period. The mandatory suspension period may be modified under specified circumstances. After notice and hearing requirements are met and MVA imposes a mandatory suspension of a driver's license, MVA may modify the mandatory suspension by imposing a suspension period of at least 45 days and ordering the person to maintain, for the remainder of the one-year suspension period, an ignition interlock system on each motor vehicle owned or operated by the person. The person's driver's license must carry a restriction that prohibits the person from driving a motor vehicle that is not equipped with an ignition interlock system and allows the person to drive only to and from work, school, an alcohol or drug treatment program, or an ignition interlock system service facility. Such a person who participates in the Ignition Interlock System Program for at least three months is exempt from the requirement of having to maintain an ignition interlock system on each motor vehicle owned or operated by the person after the expiration of the one-year mandatory suspension period.

Limitations on Probation Before Judgment: *Senate Bill 259/House Bill 301 (both passed)* extend, from 5 to 10 years, the period during which a prior conviction for specified alcohol- and/or drug-related driving offenses disqualifies a person from eligibility to be placed on probation before judgment (PBJ) for subsequent offenses. If a defendant is ordered into treatment as a condition of probation, the bills also extend, from 5 to 10 years, the period during which a court is prohibited from striking or staying the entry of judgment and placing the defendant on probation if, in that time, the defendant has been convicted of an alcohol- and/or drug-related driving offense or was placed on PBJ after being charged with an alcohol- and/or drug-related driving offense.

Violation of Alcohol Restrictions: *Senate Bill 263/House Bill 305 (both passed)* make the conviction for a violation of an alcohol restriction on a driver's license that is imposed by the MVA a misdemeanor. The bills subject a person who violates this restriction to maximum penalties of up to two months imprisonment and/or a fine of \$500. The bills also establish that the violation of any restriction imposed on a driver's license or the violation of any rule or regulation under the Maryland Vehicle Law may subject the violator to up to two months imprisonment and/or a fine of up to \$500.

Drinking Driver Monitor Program (DDMP) Fee Increase

Special program fees for DDMP were established by the Budget Reconciliation and Financing Act of 2005 (Chapter 444). The fees were set at \$45 per month, a level expected to generate \$7.6 million annually and allow DDMP to be self-supporting. The fees have generated only about \$6.5 million annually, however, resulting in general fund deficiency appropriations of \$1.0 million in fiscal 2006, and \$1.5 million each in fiscal 2007 and 2008 to cover the full operating costs of the program. The DDMP fees terminate on June 30, 2010. *House Bill 101 (passed)*, the Budget Reconciliation and Financing Act of 2009, increases the monthly fee for participation in DDMP from \$45 to \$55 and removes the termination date for the fee so that all program participants continue to pay the fee after fiscal 2010.

Teen Driving Safety

According to a 2006 study conducted by the Johns Hopkins Bloomberg School of Public Health, graduated driver licensing (GDL) programs reduce the incidence of fatal crashes by 16-year-old drivers by 11%. Analyzing various components of state GDL laws, the researchers found that, the greater the number of program components, the fewer the number of traffic accident fatalities. Thus, states with a five-component program reduced fatalities by 18% as compared with states with no graduated licensing laws, and states with a six- or seven-component program were able to reduce fatalities by 21%. The Insurance Institute for Highway Safety (IIHS) has given Maryland's GDL system its highest possible rating.

Senate Bill 265/House Bill 303 (both passed) enhance the restrictions of Maryland's GDL system. Under the bills, MVA is prohibited from issuing:

- a provisional license to anyone younger than 16 years, 6 months, or within 9 months of being convicted or granted probation before judgment for a moving violation; or
- a driver's license to anyone younger than 18, or within 18 months of either the granting of probation before judgment for a moving violation or the imposition of a provisional driver's license restriction, or from the date of restoration of a provisional license that has been cancelled.

For an individual younger than 18 who held a provisional license on the date of a violation for which the individual was convicted or granted probation before judgment, MVA may:

- for a second offense, suspend the driver's license for 30 days and impose an education and employment only restriction for 90 days following the suspension;
- for a third offense, suspend the license for up to 180 days, require the driver to attend a young driver improvement program, and impose an education and employment only restriction for 180 days following the suspension; and

- for a fourth or subsequent offense, revoke the license for at least 180 days and require the driver to apply for reinstatement of the revoked license, including retaking and passing the skills and driving examinations.

Finally, the bills require MVA to submit an application for a criminal history records check for a driving instructor candidate to the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services. The information obtained from the Central Repository is confidential and must be forwarded to the driving instructor candidate and MVA.

In addition, *Senate Bill 219 (passed)* requires the clerk of the court to report to MVA on any child found to have committed a delinquent act for (1) failing to remain at the scene of an accident involving bodily injury, death, or property damage; or (2) fleeing and eluding a police officer. MVA must then suspend the license of the child for six months for a first offense and for one year for a second or subsequent offense. The bill also requires MVA to suspend the provisional license of an individual younger than age 18, who accumulates five or more points in a 12-month period, for six months for a first offense and one year for a second or subsequent offense. If a provisional license holder younger than age 18 is guilty of reckless or negligent driving, aggressive driving, or engaging in a racing or a speed contest, MVA must suspend the license for six months for a first offense and one year for a second or subsequent offense.

Manufacturers and Dealers

Senate Bill 668 (passed) adds and clarifies prohibitions for the protection of motor vehicle dealerships from discriminatory or coercive business practices by manufacturers, distributors, and factory branches and otherwise strengthens various dealership franchise rights.

Part H

Business and Economic Issues

Business Occupations

Crane Operators – Certificate of Competence

In 2008, there was a much publicized fatality involving a crane accident at a construction site in the State. This accident followed other fatal crane accidents in New York and Florida. In response, the Department of Labor, Licensing, and Regulation (DLLR) formed the Crane Safety Task Force to address the safety issues related to cranes and hoisting equipment. The task force recommended new regulations that attempt to strengthen crane safety standards and require mandatory inspections. The Maryland Occupational Safety and Health program is responsible for enforcing the new regulations, which took effect on April 6, 2009.

Senate Bill 991 (passed) specifies that a person may not operate a crane or authorize operation of a crane in the State for the purposes of construction or demolition work unless the operator holds a certificate of competence. A certificate of competence is a certification obtained through an accredited organization that states that the holder demonstrates knowledge of and training in safe crane operating procedures. Crane operators must carry the certificate while operating the crane and make the certificate available upon request of the Commissioner of Labor and Industry. The bill applies to persons who operate tower cranes, but not to those who operate many other types of power equipment. If a crane operator does not provide proof of certification, the commissioner must issue a written notice requiring the operation of the crane to cease unless it is operated by a person with a valid certificate. The commissioner may bring an enforcement action against persons who fail to comply with the written notice; violators are guilty of a misdemeanor and are subject to a fine of up to \$1,000.

State Board of Public Accountancy

The State Board of Public Accountancy regulates and licenses certified public accountants (CPA) and issues permits to business entities that provide accountancy services. There are 13,290 active licensed CPAs and 5,527 inactive CPAs in the State; 739 firms also have CPA permits.

Reinstatement Fee for Expired Firm Permits

Partnerships, limited liability companies, and corporations offering certified public accountancy services must hold a permit if operating an office in the State that performs attest services or if performing certain attest services for a client with a home office in Maryland. In general, firms must also be permitted if an office in the State uses the title “CPA” or “CPA firm.” Permits expire every two years on December 31. Reinstatement fees are required of individuals who seek renewal after the expiration of their license, but this requirement does not apply to firms that hold permits. *House Bill 1440 (passed)* authorizes the board to reinstate permits and charge reinstatement fees, set by the board, if firms allow their permits to lapse but are otherwise entitled to be permitted.

Continuing Education

The board establishes continuing education requirements that certified public accountants must fulfill in order to renew their licenses every two years. In general, licensees must complete at least 80 hours in programs approved by the board for each two-year license term. No more than 40 of these hours may be met through participation in a course of home study or service as a teacher, lecturer, or discussion leader in a board-approved course. *Senate Bill 128/House Bill 69 (Chs. 30 and 31)* repeals the provision that restricts certified public accountants to meeting no more than 40 hours of the continuing education requirement for renewal through a course of home study or service as a teacher, lecturer, or discussion leader.

Required Peer Reviews

A peer review is a periodic independent review of a firm’s quality control system in accounting and auditing. The purpose of this review is to determine whether a firm’s auditing practices conform to professional standards. Generally performed once every three years, a peer review examines whether a firm can demonstrate the competencies necessary for performing accounting, auditing, and attestation engagements in accordance with professional, State, and/or federal standards. *Senate Bill 204 (passed)*, a departmental bill, modifies governing standards and procedures for peer reviews in the State for licensees and firms performing certified public accountancy services. The changes reflect revised standards adopted by the American Institute of Certified Public Accountants (AICPA).

The bill requires a system review of licensees or permit holders that perform engagements governed by the U.S. Government Accountability Office, and for licensees or permit holders who conduct audits of issuers not registered with the U.S. Securities and Exchange Commission performed under the standards of the Public Company Accounting Oversight Board. The services performed by a licensee or permit holder that would require an engagement review are modified to include the following activities conducted in accordance with AICPA standards: (1) reviews of historical financial statements; (2) compilations of historical financial statements with or without disclosures; and (3) engagements for attestation services other than the examination of prospective statements.

The bill removes the requirement that an individual maintain ownership or management of a firm or have comparable responsibility in order to conduct a peer review. However, the bill maintains these criteria for an individual serving as a “team captain” of a system review.

State Board of Cosmetologists – Executive Director

The State Board of Cosmetologists is housed within the Division of Occupational and Professional Licensing of DLLR. Staff for the board consists of an executive director, an assistant executive director, administrative personnel, and 12 authorized inspector positions. The executive director serves in this capacity for both this board and the State Board of Barbers. The executive director is currently responsible for overseeing day-to-day operations of the board, and must be a licensed senior cosmetologist or master barber.

DLLR recently completed a recruitment process for the executive director position and found the licensing requirement to be a major impediment to identifying qualified applicants. Eliminating the requirement may facilitate filling any future vacancy. Further, the existing requirements for the executive director are inconsistent with the provisions governing other licensing boards and commissions that regulate business occupations and professions. *House Bill 1450 (passed)*, a departmental bill, repeals the requirement that the executive director of the State Board of Cosmetologists be a licensed senior cosmetologist or a master barber.

State Board of Stationary Engineers, State Board of Plumbing, and State Board of Heating, Ventilation, Air Conditioning, and Refrigeration Contractors

House Bill 1452 (passed), a departmental bill, exempts individuals licensed as stationary engineers, plumbers, gas fitters, and heating, ventilation, air conditioning and refrigeration contractors in specified jurisdictions outside the State, including Virginia and New Jersey, from the State’s licensing examinations in those trades if these individuals have relocated to the State because of a family member’s relocation to the State through the Base Realignment and Closure (BRAC) process. The request for a waiver must be made before July 1, 2012. The boards shall require applicants seeking waiver of the examination requirements to furnish documentation verifying that their relocation is a direct result of a family member’s involvement in the BRAC process.

Business Regulation

Maryland Locksmiths Act

From 2005 to 2006 the number of complaints about locksmiths received by the Better Business Bureau (BBB) increased almost 75%. According to BBB, several locksmith companies, all using similar methods, are significantly overcharging consumers – often for unnecessary services – and failing to give refunds or respond to consumer complaints. These companies pose as local locksmiths using local phone numbers and fake street addresses.

Consumers think they are dealing with a local business, but inquiries are forwarded to a national call center. A representative at the call center then coordinates with a local person, often someone without a fixed business address or a marked work vehicle, to provide locksmith services. In many cases the actual price for services is significantly higher than the price quoted over the phone and cash is often the only accepted form of payment.

Senate Bill 507/House Bill 370 (both passed) requires businesses providing locksmith services in Maryland to be licensed by the Secretary of Labor, Licensing, and Regulation by July 1, 2010. The bills require criminal background checks and photo identification of the business owner and each employee in order to be licensed; set forth the authority of the Secretary in administering the provisions, including the establishment of applicable fees for the two-year license, and adopting and enforcing regulations; establish violations and penalties related to the provision of locksmith services for licensed and nonlicensed individuals; establish invoice and record-keeping requirements for locksmiths; and require the Secretary to report to specified committees of the General Assembly assessing the appropriateness of competency-based credentials for licensed locksmiths and the nature and number of complaints regarding locksmiths.

The bills specify that the Secretary may issue licenses only to applicants who have a fixed business address. Licenses may not be granted for an address that is a hotel or motel room, a motor vehicle, or a post office box. The owner of a business must issue a photo identification card to each employee who provides locksmith services on behalf of the business, and employees are required to display the card while providing services on behalf of the business. Licensees must display their license conspicuously at the place of business and any advertisements, business cards, or other public notifications must include the name and license number of the licensed locksmith.

Licensees must include the following information on each receipt or invoice for locksmith services: (1) the address where the services were provided; (2) the type of lock serviced; (3) a vehicle identification number, if applicable; and (4) the quoted and actual costs of the service. Locksmiths are required to keep service records for three years after the date of the service call. Upon request, a licensee must provide to law enforcement or the Department of Labor, Licensing, and Regulation with a copy of service record. Licensed locksmiths also must maintain general liability insurance in the amount of at least \$300,000, with appropriate coverage for the practice of the business. Violators of the Act are subject to civil penalties.

The licensing provisions of the bills do not prohibit:

- emergency responders from performing emergency opening services in the line of duty;
- the replacing of the core or cylinder of a lock that was designed by the manufacturer to be changed by an end user;
- the installation or repair of a lock by the manufacturer of the lock;

- the installation or repair of an automatic lock by a repair and service facility or manufacturer;
- sales demonstrations by locksmith suppliers;
- the installation of locks by building trades personnel on projects that require a building permit;
- key duplication;
- the installation of locks by a retailer at the place of business, or off premises if the installation is incidental to the retailer’s normal course of business;
- the installation or replacement of locks by a licensed security systems technician; or
- the installation, repair, replacement, rekeying, or adjusting of locks by a property owner or management company.

Gasoline Products

Service Station Dealers

Senate Bill 392/House Bill 377 (Chs. 61 and 62) permanently extend market protections for service station dealers, fuel producers, and jobbers that were subject to expiration. The Acts eliminate the sunset on a conditional prohibition on the Comptroller issuing a certificate of registration to a retail service station dealer that markets fuel through retail service stations that have been structurally modified since July 1, 1977. The conditional prohibition is designed to protect independent service station dealers from larger entities. On the other hand, the Acts also permanently allow motor fuel producers, refiners, and wholesalers who supply retail station dealers to extend voluntary allowance discounts to all dealers in an unequal manner. Company-owned retailers are more likely to receive discounts than independent service stations.

Senate Bill 858/House Bill 1100 (both failed) would have restricted the ability of gasoline refiners to sell, transfer, or assign a fee simple or leasehold interest in a “marketing premises” that is leased to a service station dealer.

Dyed Diesel Fuel

A person may not operate a motor vehicle on a State highway with dyed diesel fuel in the vehicle’s propulsion tank, unless allowed to do so under federal law or regulation. Only the operator of the motor vehicle may be charged in such cases; the Comptroller expressed concern that, even though the vehicle owner or agent may be the responsible party in some cases, such individuals cannot be held accountable. *House Bill 163 (passed)*, a departmental bill, specifies who may be charged with a violation of using dyed diesel fuel in a motor vehicle driven on State highways. A person is guilty of a violation if he or she commits, attempts to commit, or conspires to commit a violation; aids or abets another in the commission of a violation; or

intentionally induces, directs, causes, coerces, or permits another to commit a violation. A party may be charged as a principal, an agent, or an accessory.

Biomass and Biofuels

Senate Bill 555/House Bill 1379 (both failed) would have allowed an electric utility customer engaging in net energy metering, that generates electricity from cellulosic feedstock grown on the customer's premises, to recover accrued generation credit for net electricity supplied to the utility at the end of an existing 12-month generation credit accrual period. The bills also would have required, for fuel sold or offered in the State, specified levels of biodiesel content for diesel, and specified levels of cellulosic biofuel content for gasoline. The requirements would have been conditioned upon a certain amount of in-state production of biodiesel and cellulosic biofuel.

Vehicle Advertising

Senate Bill 859/House Bill 547 (both passed) prohibit a dealer from advertising a vehicle's purchase price unless the price is the full delivered purchase price, excluding certain taxes, title fees, and any freight or dealer processing charges. The bills require the full price to be printed in the largest price-related font found in the advertisement. The bill also repeals the presumption that an advertisement is not false, deceptive, or misleading if it complies with federal law.

Tobacco Products

The Comptroller requested legislation to further regulate tobacco products. *Senate Bill 1059 (passed)* effectively requires every cigarette sold in Maryland to come through a licensed distribution chain. The bill expands the definition of a licensed cigarette manufacturer to include a person who operates a cigarette manufacturing plant outside the United States; those who are considered to be manufacturers under the Master Settlement Agreement; and manufacturers who sell unstamped cigarettes to a licensed cigarette wholesaler located outside of the State. The bill also makes the definition of cigarette "manufacturer" in the fire safety performance law consistent with other statutes enforced by the Comptroller's Office.

House Bill 653 (passed), a departmental bill, allows cigarettes to be sold or distributed for the purpose of consumer testing in a controlled setting without meeting fire safety certification requirements. Cigarettes used for consumer testing in an uncontrolled setting must continue to meet the fire safety certification requirements. The bill allows manufacturers to submit descriptions of cigarettes to the Comptroller as "confidential under seal" to protect proprietary information. Descriptions must include brand, style, length, circumference, flavor, and package information. The bill remains in effect until a federal reduced cigarette ignition propensity standard is adopted and becomes effective.

Retail Licenses

Bulk Vending Machines

Individuals who sell goods through vending machines must be licensed by the State. The cost for each license is \$2.50 per year. *Senate Bill 174/House Bill 171 (both passed)* exempt bulk vending machines from State licensing requirements for vending machines. The National Bulk Vending Association reports that bulk vending represents less than 1% of the total vending industry. Unlike full-line vending (e.g., snack and soda vending), bulk vending machines contain unsorted merchandise and dispense a product without selection by the customer. According to the Comptroller's Office, the number of vending machine licenses has declined 4.4% each year between 2004 and 2008.

Soda Fountains

A business must have a soda fountain license if it operates a soda fountain in the State. An applicant for a soda fountain license must pay fees ranging from \$10 to \$60 for each soda fountain, depending on geographical location. The Comptroller's Office recently clarified that the statutory provisions related to the licensure of soda fountains include establishments that operate soft drink dispensers, but that only one license per location is required. Although thousands of businesses in the State operate soft drink dispensers, there were only 76 soda fountain licenses issued in 2008 throughout the State. *House Bill 1573 (passed)* repeals the requirement that businesses in the State be licensed if they operate a soda fountain machine.

Home Builder Guaranty Fund – Fee Collection by Local Governments

Chapters 480 and 481 of 2008 instruct the Consumer Protection Division of the Office of the Attorney General to establish a Home Builder Guaranty Fund to compensate claimants for an actual loss that results from an act or omission by a registered home builder. Home Builder Guaranty Fund fees are collected by the building and permits department of the county in which the construction takes place. No provision exists that allows counties to retain a portion of the fee to cover administrative costs. *Senate Bill 377/House Bill 662 (Chs. 58 and 59)* permit local governments to retain up to 2% of the fees collected to cover administrative costs. The Acts also specify that municipalities, in addition to counties, must collect the fee, and that the fee must be on a per-house or, for multi-unit developments, a per-unit basis.

Business Oversight

Athletic Commission

The State Athletic Commission manages, supervises, and regulates the sports of boxing, kickboxing, professional wrestling, and – more recently through Chapters 607 and 608 of 2008 – mixed martial arts. The commission is subject to periodic evaluation and has a termination date. A preliminary evaluation conducted by the Department of Legislative Services (DLS) found that the commission plays an important role in regulating boxing, kickboxing, and wrestling, but

evaluation of the commission's new role in regulating mixed martial arts is not yet possible. DLS recommended waiving further evaluation and enacting legislation to extend the commission's termination date by 10 years to July 1, 2021. To aid in future evaluations, DLS recommended that the commission maintain specified information on mixed martial arts each fiscal year and that, as an interim measure prior to the next scheduled evaluation, the commission report on its implementation of mixed martial arts regulation by October 1, 2013. *House Bill 61 (Ch. 122)* implement those recommendations.

Charitable Organization Audits and Reviews

Senate Bill 806/House Bill 452 (Chs. 100 and 101) raise the income levels that determine whether a charitable organization in the State must submit an audit or review. Charitable organizations with gross annual incomes of more than \$500,000 from charitable donations must submit an audit performed by an independent certified public accountant (CPA) when registering with the Secretary of State. Charitable organizations with gross incomes between \$200,000 and \$500,000 must submit a review by a CPA; the Secretary of State may require an audit or review if the amount of gross income is less than \$500,000.

Inflatable Amusement Attraction Inspections

Senate Bill 82 (Ch. 21), a departmental bill, exempts "inflatable amusement attractions" from mandatory inspection before beginning operation at a new location. Instead, under the Act, inflatable amusement attractions are subject to annual inspection.

Metal Processors and Dealers

Senate Bill 597 (passed) requires secondhand precious metal object dealers, including pawnbroker dealers, to submit required transaction information to law enforcement units electronically, rather than by paper record. The Governor's Office of Crime Control and Prevention (GOCCP) may authorize the primary law enforcement unit to require paper reporting from dealers in its jurisdiction for one year if the law enforcement unit does not have an electronic reporting system in place. Conversely, GOCCP may authorize a local law enforcement unit to receive records electronically even if the primary law enforcement unit cannot do so. By December 1, 2009, GOCCP, in consultation with the Department of Labor, Licensing, and Regulation and local law enforcement units, must report to specified legislative committees regarding the appropriate scope of licensing and reporting requirements for the sale of secondhand items in Maryland by all participants in the secondhand industry.

Senate Bill 32/House Bill 207 (both failed) as well as *House Bill 23 (failed)* would have established reporting requirements and more extensive recordkeeping requirements for junk dealers and scrap metal processors doing business in the State.

Public Service Companies

During the 2009 legislative session, increasing electric rates combined with unusually cold weather during the winter heating season resulted in many State residents receiving uncommonly high electric bills. As a result of these high bills, the legislature explored efforts to prevent customers from having service terminated and considered other measures to lower the cost of electricity in the State.

Electric Restructuring and Generation Supply

History

Effective July 2000, the Maryland Electric Customer Choice and Competition Act of 1999, Chapters 3 and 4 of the Acts of 1999, restructured the electric utility industry in the State to allow electric retail customers to potentially shop for electric power from various electric suppliers. The Act required electric companies to divest themselves of generating facilities or to create a structural separation between the unregulated generation of electricity and the regulated distribution and transmission of electricity. Some electric companies created separate entities to operate unregulated and regulated businesses under a single holding company structure and other companies divested generation facilities. With the elimination of the generation functions from regulation, PSC no longer determines the need for additional supply sources as it did before restructuring.

Electric restructuring was intended to bring increased efficiencies to the electric utility industry, resulting in lower overall costs for industrial, commercial, and eventually residential customers. The result has been quite different. Growth in demand based on increasing population, as well as the proliferation of new devices requiring electricity, has contributed to diminishing any tendency toward lower prices from efficiencies created by restructuring, at least as to the residential sector. This demand, coupled with the lack of any substantial new generating capacity in the State, constrained transmission facilities, and little in the way of substantial increase in transmission capacity has led the State to the brink of threatened brownouts during times of peak demand as soon as 2013.

In response to the concern that deregulation had not served the public interest, the General Assembly, through Chapter 549 of the Acts of 2007 (SB 400), required PSC to conduct studies and complete reports on electric industry reregulation and to assess the availability of adequate transmission and generation facilities to serve the electrical load demands of all customers in the State. In December 2008, PSC, at a cost of approximately \$2 million, completed a study of the efforts for new generation and possibilities for reregulation.

In this report PSC outlined various options for “reregulation” considering tradeoffs among direct costs, risks, and benefits. PSC concluded that it would not recommend that the legislature seek to return the existing generation fleet to full cost-of-service regulation under which the ratepayers bear all prudently incurred costs to own and operate a generation plant, plus a rate of return, in light of the costs, risks, and likely disruptions that might result from acquiring

the plants. The study valued only the impact of the cost of purchasing the assets for fair market value of one service territory relative to ratepayer benefits and did not attempt to quantify the complexities and risks that might result in added costs.

Instead, PSC recommended incremental, forward-looking reregulation when appropriate. Other options considered in the report focused on measures to mitigate price volatility for residential consumers that included directing utilities to enter into long-term contracts for new generation, establishing a State power authority to initiate power projects, adopting integrated resource planning to coordinate a variety of efforts, and aggressively intervening in proceedings of the Federal Energy Regulatory Commission to shape PJM wholesale market policies.

Plans to Restructure Electricity Markets

Senate Bill 844 (failed) would have established an integrated resource planning process similar to the process that was in place prior to electric restructuring in 1999 and would have required PSC to initiate a proceeding to investigate the electricity needs of the State. In this proceeding, PSC would have been required to consider whether to direct the construction of one or more generation facilities, and if so, the appropriate electric capacity and fuel source. The bill would have also required PSC to consider if it should require additional energy efficiency, conservation, and demand response measures. Each electric company would have been required to develop and submit long-range plans regarding electricity needs and the means to meet those needs.

Based on the evaluation of the long-range plans, the bill would have required PSC to order construction of new electric generation facilities if this was deemed to be in the public interest. Any new generation facilities constructed in the State, as directed by PSC, would have been operated under cost-of-service regulation principles. Instead of ordering an electric company to construct an electric generating facility, PSC would have had the option to require an electric company to procure the necessary electricity through (1) a bilateral contract with another person for all or part of the output of a new generation facility; or (2) a competitive bidding process in which the electric company would solicit bids for all or part of the output of a new generation facility. Electricity sold to residential and small commercial customers would have been regulated under cost-of-service regulation principles. PSC would have also been required to complete a plan for transitioning residential and small commercial customers to a regulated market for electricity. PSC would have been required to implement a program to require electric companies to offer to its residential and small commercial customers the option to purchase green electricity supply.

Senate Bill 844 would have excluded on-site generation facilities; waste-to-energy facilities; facilities with a generating capacity of 70 megawatts or less; and eligible customer-generators under the net energy metering program. The bill also exempted generation facilities owned or controlled by local governments and small rural electric cooperatives. The bill specified that a generating facility that had submitted an application for a certificate of public convenience and necessity to PSC before July 1, 2009, would not be affected by the bill and could be constructed and operated as merchant generation. However, these facilities would have

been allowed to “opt in” and operate a planned generating facility under cost-of-service regulation.

Alternative Generation

Senate Bill 14 (passed) authorizes the Maryland Environmental Service (MES) to engage in additional types of energy projects and services, such as the production, generation or distribution of energy, the undertaking of energy conservation measures, and engaging in research and development studies. As such, MES is authorized to act as a State agency assisting in the deployment of electricity generation facilities in suitable areas. MES is expected to cooperate with private entities to develop generation facilities rather than acting alone to build these plants. The bill also allows counties and municipalities to enter into energy projects and other agreements with MES without regard to certain limitations or other provisions regulating the procurement or awarding of public contracts. For a further discussion of *Senate Bill 14*, see the subpart “Environment” within Part K – Natural Resource, Environment, and Agriculture of this *90 Day Report*.

Environmental Trust Fund

An environmental surcharge per kilowatt hour of electricity distributed in the State by an electric company is collected by the Comptroller and placed in the Environmental Trust Fund for the use by the Power Plant Research Program (PPRP). PPRP conducts assessments and impact studies to evaluate sites for suitability in the use as electric powerplants. The surcharge amount may not exceed 0.15 mills per kilowatt hour (kWh) or \$1,000 per month for any residential, commercial, or industrial customer. The surcharge is currently set at 0.15 mills per kilowatt hour. PSC is required to authorize electric companies to add the full amount of the surcharge to retail customers’ bills. *House Bill 1407 (Ch. 167)* extends the termination date of the environmental surcharge from June 30, 2010, to June 30, 2015. For a further discussion of *House Bill 1407*, see the subpart “Environment” within Part K – Natural Resources, Environment, and Agriculture of this *90 Day Report*.

Other Electricity and Energy Issues

Low-income Customer Protections

Electric Universal Service Program: The Electric Universal Service Program (EUSP) was established under the Electric Customer Choice Act of 1999 to assist low-income electric customers with their current and past-due electric bills and to implement energy efficiency measures to reduce future electric bills. The Act required PSC to establish the program, make it available to low-income electric customers statewide, and provide oversight over the program which is administered by the Office of Home Energy Programs, the agency within the Department of Human Resources (DHR) responsible for several energy programs.

Recent electricity rate increases and higher energy costs generally, combined with the deterioration in the economy, have led to an increasing demand for energy assistance. Except for the number of households receiving Maryland Energy Assistance Program (MEAP) benefits,

there are significant increases in applications for EUSP in fiscal 2009 compared with a year earlier.

Prior to fiscal 2009, Maryland limited the use of federal Low-Income Home Energy Assistance Program (LIHEAP) funding to MEAP, which provides assistance for home heating from a variety of fuels. EUSP, which provides assistance for electricity costs, was funded entirely from State funds – both special and general. A substantial increase in LIHEAP funding combined with the requirement that states spend at least 90% of the recent annual LIHEAP allocation by the end of federal fiscal 2010, has led DHR to begin using LIHEAP funds for EUSP as well in fiscal 2009. Under Chapters 128 and 129 of the Acts of 2008 (SB 268/HB 368), beginning in fiscal 2009, 17% of proceeds from the Regional Greenhouse Gas Initiative (RGGI) carbon auction were allocated to support the EUSP program. The Governor's Budget Reconciliation and Financing Act of 2009 (*House Bill 101 (passed)*) increased the share of RGGI auction funds going to EUSP to up to 50% in fiscal 2010 and 2011.

Senate Bill 703/House Bill 736 (both passed) are emergency bills which alter the restrictions on how DHR may provide EUSP benefits for low-income energy bill assistance. The requirement that assistance offered through EUSP meet at least 50% of determined need is removed. The bills eliminate the \$1.5 million limit on the total amount of assistance that DHR can provide each year to retire arrearages for electric customers. The bills also allow qualifying customers to retire arrearages if they have not had an arrearage retired within the past seven years, rather than the former once-in-a-lifetime limitation on arrearage retirement. *Senate Bill 703/House Bill 736* also extends from three to six months after the end of the fiscal year the time that unexpended bill assistance and arrearage retirement funds in the EUSP fund that were collected in the fiscal year shall be used to provide additional assistance. The bills specify that low-income weatherization funding, administered through the Department of Housing and Community Development, is available only to assist residential electric customers, rather than being used for more general improvement projects. DHR may establish minimum and maximum benefits available to an electric customer through the bill assistance and arrearage retirement components. DHR may coordinate benefits under EUSP with benefits under MEAP.

Senate Bill 703/House Bill 736 also require the PSC's annual report on EUSP to reflect the benefit changes specified in the bills. PSC must also include in its annual report the amount of money DHR receives and is projected to receive for low-income energy assistance from any fund source. These fund sources include the Maryland Strategic Energy Investment Fund; MEAP; and any other federal State, local, or private source.

Termination of Electric and Gas Service: The Code of Maryland Regulations (COMAR 20.31.03.03) prohibits a utility from terminating gas or electric service to residential buildings if the forecasted temperature at 6 a.m. is not expected to exceed 32 degrees Fahrenheit for the next 24 hours. *Senate Bill 1057/House Bill 453 (both passed)* prohibit a public service company from terminating electric or gas service to a residential customer for nonpayment on a day that the forecasted high temperature is 32 degrees Fahrenheit or below in that customer's designated weather station area, similar to the regulation. In addition, the bills prohibit a public service company from terminating electric service to a customer on a day that the forecasted

temperature is 95 degrees Fahrenheit or higher in that customer’s designated weather station area. Each public service company that provides electric or gas service must designate weather station areas within its service area for use in administering weather-related restrictions on service terminations to residential customers. PSC must adopt regulations to implement the bill.

Net Energy Metering

Net energy metering measures the difference between the electricity that is supplied by an electric company and the electricity that is generated by an eligible customer-generator and fed back to the electric company over the eligible customer-generator’s billing period, and bills the customer only for the difference. An “eligible customer-generator” is a customer that owns and operates, or leases and operates, a biomass, solar, or wind electric generating facility located on the customer’s premises, interconnected and operated in parallel with an electric company’s transmission and distribution facilities, and intended primarily to offset all or part of the customer’s own electricity requirements.

The net energy metering program provides a meaningful benefit to eligible customer-generators because during times of peak generation, excess electricity is fed into the electric grid and the customer-generator is only charged for the net difference of electricity used each month. The practical effect is that customer-generators are able to use the utility grid as battery storage, so excess energy produced at any given instant can be captured for later use. Legislative proposals passed this session expand the net energy metering program.

Senate Bill 981/House Bill 1057 (both passed) expanded the definition of an eligible customer generator to include a customer that contracts with a third party that owns and operates eligible generation located on the customer’s premises or contiguous property. This expansion may benefit local governments and commercial and residential property owners who may allow a third party to place solar panels or wind turbines on their property by allowing the property owner to benefit from net energy metering. As an example, a commercial business could allow a third party to install solar panels on the roof of a structure that is on or adjacent to the customer’s property.

In addition, *House Bill 1057* added micro combined heat and power (micro CHP) to the types of generation eligible for net metering. Micro CHP is defined as the simultaneous or sequential production of useful thermal energy and electrical or mechanical power not exceeding 30 kilowatts. Micro CHP can be installed in an individual home. An installation typically consists of a Stirling engine that converts natural gas into both electricity and heat. The electricity that the micro CHP engine generates can be used in the home and through net energy metering, and any excess generation can be fed into the utility grid. Waste heat from the generator can be used for hot water and space heating in the home. Although micro CHP does not typically use a renewable energy source, dispersed generation such as micro CHP provides a meaningful benefit by alleviating congestion in electric transmission lines and lessening overall demand for electricity during periods of peak demand.

EmPOWER Maryland Conservation and Efficiency Programs

The EmPOWER Maryland Energy Efficiency Act of 2008 requires electric companies to procure and provide customers with energy conservation and energy efficiency programs and services that are designed to achieve targeted electricity savings and demand reductions for specified years through 2015. Electric company plans must include program descriptions, anticipated costs, projected electricity savings, and other information PSC requests. Electric companies must consult with the Maryland Energy Administration regarding cost recovery, program design, and adequacy to meet the target reductions. PSC must review the plans for adequacy and cost effectiveness in achieving the electricity savings and demand reduction targets.

Senate Bill 955 (passed) requires an electric company to include procedures for competitive selection of heating, ventilation, and air conditioning (HVAC) service providers if the company's EmPOWER Maryland energy efficiency plan seeks to provide HVAC or refrigeration services for its customers. PSC may waive this requirement on request by the electric company and for good cause shown. The energy efficiency plan and any update to the plan must include a certification that customers of the electric company's regulated services will not subsidize the operations of the affiliate. An electric company that enters into a contract with an affiliate to provide HVAC or refrigeration services in connection with an energy efficiency program or service must notify PSC within 30 days after entering into the contract; the notification must certify that customers of the electric company's regulated services will not subsidize the operations of the affiliate.

There are two companies that provide HVAC services and are affiliated with an electric company in the State. Constellation Energy, the holding company that owns Baltimore Gas and Electric (BGE) also owns BGE Home, an unregulated subsidiary that provides HVAC services. PEPCO Holdings, Inc., the company that owns PEPCO and Delmarva Power, also owns PEPCO Energy Services, an unregulated subsidiary that provides HVAC services.

Passenger-for-hire Services

A person may not operate a vehicle that provides passenger-for-hire services in the State unless licensed as a passenger-for-hire driver by PSC. A passenger for-hire service includes limousine and sedan services. Limousines are Class Q vehicles which must be registered with the Motor Vehicle Administration (MVA); the annual registration fee is \$185 per vehicle (paid biennially) and a special vehicle registration plate is issued. Sedans are Class B vehicles and pay a lower registration fee. However, sedans also pay an annual \$40 assessment fee to PSC, which limousines do not pay.

Senate Bill 688/House Bill 1088 (both passed) add to the definition of a "limousine" a vehicle that is driven as part of a service that advertises itself, or has registered with PSC, as a limousine service. Substantively, the bills prohibit an individual from operating a for-hire limousine with capacity to carry up to 15 people, unless the individual has a for-hire driver's license issued by PSC; and prohibits an individual from allowing another to operate the specified

limousine unless the operator possesses the PSC driver's license and the limousine displays a special limousine registration plate issued by MVA. These offenses are misdemeanors that subject the violator to up to one year imprisonment, a fine of up to \$1,000, or both, and for the limousine operator only, two points under the Maryland Vehicle Law. In repealing a current exemption, the bills also require limousine services to pay the \$40 assessment each year to PSC to support the For-Hire Driving Services Enforcement Fund.

Insurance Other Than Health

Insurance Professionals

Fraudulent Insurance Acts

House Bill 160 (Ch. 133), a departmental bill, expands the scope of fraudulent insurance acts to make it a fraudulent insurance act for a person to act as or represent to the public that the person is an insurance producer or public adjuster in the State if the person has not received the appropriate license or otherwise complied with regulatory provisions for insurance professionals under Title 10 of the Insurance Article. Under the Act, a person may not, without the appropriate license or approval, represent oneself to be an adviser, bail bondsman, public adjuster, vehicle damage adjuster and appraiser, or motor vehicle rental company that provides insurance coverage.

Insurance Producers – Continuing Education

For license renewal periods before October 1, 2009, the Maryland Insurance Commissioner may not require an individual holding an insurance producer's license to complete more than 16 hours of continuing education per renewal period if the producer has held a license for less than 25 years. Under Chapter 331 of 2008, for licenses renewed on or after October 1, 2009, the continuing education requirements may increase as the commissioner may require an insurance producer to complete up to 24 hours of continuing education per renewal period. However, the commissioner may require only up to 16 hours of continuing education per renewal period for title insurance producer licensees, and only up to 8 hours per renewal period if an insurance producer has held a license for 25 or more consecutive years as of October 1, 2008.

Senate Bill 616/House Bill 246 (both passed) prohibit the commissioner from requiring an insurance producer to receive more than 16 hours of continuing education per renewal period if the insurance producer is also a licensed funeral director or licensed mortician who (1) sells only life insurance policies or annuity contracts that fund a pre-need contract and (2) is not a viatical settlement broker. Without the bills, the commissioner could require funeral directors and morticians to complete up to 24 hours of continuing education per renewal period beginning October 1, 2009.

Title Insurance Producers

The Compliance and Enforcement Unit of the Maryland Insurance Administration (MIA) investigates consumer complaints about title insurance producers, including:

- the failure of a producer to pay the balance of a prior mortgage;
- misappropriation of escrow funds; and
- the falsification or forgery of closing documents.

The number of complaints related to title insurance has increased significantly in recent years. In conjunction with the Department of Labor, Licensing, and Regulation (DLLR), MIA spent much of 2008 investigating problems and irregularities related to real estate transactions. MIA found instances of mismanagement or misappropriation of escrow funds totaling more than \$5 million. In identifying specific regulatory gaps, MIA has determined that current bonding amounts required under statute are insufficient to protect consumers when a misappropriation of funds occurs.

Chapters 356 and 357 of 2008 created the Commission to Study the Title Insurance Industry in Maryland. The commission, staffed by DLLR and MIA, is required to report on its findings and make recommendations to the Governor and the General Assembly by December 15, 2009. To develop its recommendations, the commission must, among other things (1) review the mechanisms available to enforce State laws relating to the title insurance industry and the effectiveness of those mechanisms; (2) identify title industry issues affecting Maryland consumers; and (3) identify ways to improve consumer education about title insurance.

The commission met twice during the 2008 interim. In addition to having its organizational meeting, the commission discussed limiting the control of funds received to licensed title insurance producers and increasing the amount of the required fidelity bond and surety bond or letter of credit.

Senate Bill 86 (passed), a departmental bill, provides that only a licensed title insurance producer may exercise control over trust money, with exceptions for trust money entrusted to law firms or title insurers. The bill further increases the amount of the fidelity bond and the amount of the blanket surety bond or letter of credit that title insurers must maintain as a condition of licensure from \$100,000 to \$150,000. The increased amounts apply to title insurance producer licenses issues or renewed after October 1, 2009. The Commission to Study the Title Insurance Industry in Maryland must review the adequacy of the bonding and letter of credit requirements and include its findings in its report to the Governor and the General Assembly. The bill takes effect June 1, 2009.

Property and Casualty Insurers

Financial Regulation

The National Association of Insurance Commissioners (NAIC) developed risk-based capital (RBC) standards as a measure of the capital surplus an insurer should retain in relation to its size and risk profile. RBC is calculated by applying factors to various assets, premiums, and company reserves. The factors applied in the capital requirements calculation are higher for items with the greatest underlying risk, and lower for safer items.

House Bill 161 (passed), a departmental bill, subjects property and casualty insurers to additional financial regulation by MIA and defines a company action level event for RBC reporting requirements. Under the bill, a company action level event for a property and casualty insurer occurs when total adjusted capital (1) is greater than or equal to its company action level RBC; (2) is less than the product of its authorized control level RBC and 3.0; and (3) triggers the trend test calculation in the property and casualty RBC instructions.

The bill keeps State law consistent with required NAIC standards. Conformity with national standards will allow the State to maintain its NAIC accreditation and its ability to serve as the primary regulator of domestic insurers.

Midterm Cancellation of Policies

Maryland law clearly prohibited midterm cancellations of policies until 2006. In that year, in a reorganization of law relating to cancellations and nonrenewals, the former prohibition on midterm cancellations was inadvertently rewritten as an authorization to do so. *House Bill 165 (passed)*, a departmental bill, corrects that error and provides specific guidance on situations that may merit midterm cancellations, while prohibiting all others.

The bill prohibits insurers that write policies of personal insurance, commercial insurance, and private passenger motor vehicle insurance from cancelling policies midterm except under specified circumstances. The bill also applies to insurers that write policies of homeowner's insurance under which a one-time guaranteed fully refundable deposit is required for a stated amount of coverage. Under the bill, an insurer may cancel a policy midterm only when there is (1) a material misrepresentation or fraud in connection with the application, policy, or presentation of a claim; (2) a matter or issue related to the risk that constitutes a threat to public safety; (3) a change in the condition of the risk that results in an increase in the hazard insured against; (4) nonpayment of premium; (5) suspension or revocation of the driver's license or motor vehicle registration of a named insured or covered driver for reasons related to the driving record of the named insured or covered driver; or (6) in the case of homeowner's insurance only, an arson conviction. The limitation on midterm cancellations does not apply to the Maryland Automobile Insurance Fund.

Notices of Cancellation or Nonrenewal

Chapter 88 of 2008 codified the requirement that insurers send notices of policy or binder cancellation by certificate of mail. However, MIA's Property and Casualty Consumer Complaints Division has received complaints of companies mailing notices to the insured at an address other than the last known address (*i.e.*, the address provided on the binder or policy application).

To remedy this problem, *Senate Bill 85 (Ch. 23)*, a departmental bill, requires insurers that provide personal insurance to send notices of binder or policy cancellation or nonrenewal to the last known address of the named insured. Further, the Act requires insurers that provide commercial property insurance or commercial liability insurance to send notices of binder or policy cancellation during the 45-day underwriting period to the last known address of the named insured.

Notices of Premium Increases

Generally, insurers writing commercial and workers' compensation insurance only have to notify the named insured and insurance producer if a renewal policy premium increases by 20% or more. Notice must be given at least 45 days before the policy's renewal date and include (1) the expiring policy premium; (2) the renewal policy premium; (3) the telephone number for the insurer or insurance producer; and (4) a statement that the insured may call to request additional information.

House Bill 162 (passed), a departmental bill, which takes effect January 1, 2010, requires insurers that write policies of commercial insurance and workers' compensation insurance to provide notice of the renewal policy premium to the named insured and insurance producer, if any, at least 45 days prior to the renewal date, regardless of the amount of the policy premium increase. An insurer can meet the notice requirement by including the new premium in a renewal policy, notice of renewal or continuation of coverage, or renewal offer that includes a reasonable estimate of the renewal policy premium.

The bill exempts a commercial policyholder that pays aggregate property and casualty premiums of at least \$25,000 per year and meets certain revenue, net worth, employment, or other relevant criteria. These exempt commercial customers pay significant premiums, frequently across several commercial lines of insurance. Their policies may be staggered, and have constantly changing declarations, coverage, and well negotiated premiums. A 45-day notice requirement would impede the negotiation process for these customers and their insurers.

Transfers of Policyholders Between Insurers

Chapter 117 of 2008 authorized private passenger motor vehicle insurers and homeowners' insurers to transfer policyholders among affiliates within the same insurance group holding company system, with the transfer being classified as a renewal.

Senate Bill 768/House Bill 648 (Chs. 98 and 99) classify the transfer of a policyholder by a commercial insurer or workers' compensation insurer to an affiliate within the same insurance holding company system as a renewal, rather than a cancellation or intention not to renew the policy, if the premium does not increase and there is no reduction in coverage. Similarly, the issuance of a new policy to replace an expiring policy of commercial insurance or workers' compensation insurance issued by an affiliate within the same insurance holding company system is a renewal if the premium does not increase and there is no reduction in coverage. The Acts require the commercial insurer or workers' compensation insurer providing the new policy to notify the policyholder of the transfer. The provisions related to transfer of policyholders apply to all policies of commercial insurance and workers' compensation insurance issued, delivered, or renewed in the State on or after October 1, 2009.

The Acts also incorporate the premium increase notice provisions of *House Bill 162*. Those provisions require a commercial insurer or a worker's compensation insurer to provide notice of all premium increases, regardless of amount, at least 45 days before the expiration of current coverage to all but exempt commercial policyholders.

Rating, Retiering, and Discounts

Insurers are prohibited from considering claims, traffic accidents, or traffic violations that are more than three years old when underwriting, cancelling, or non-renewing automobile liability or homeowner's insurance policies. However, the Property and Casualty Consumer Complaints Division of MIA often receives complaints from consumers who have been placed in a higher-rated tier for claims or accidents that occurred more than three years prior to the effective date of the policy or renewal.

In order to make the law for homeowner's insurance parallel to the law on automobile liability insurance, *House Bill 164 (passed)*, a departmental bill, prohibits an insurer under a homeowner's insurance policy from classifying or maintaining an insured for more than three years in a classification that entails a higher premium due to a specific claim. The bill prohibits an insurer under a homeowner's insurance policy from reviewing a period beyond the three years prior to the application date or proposed effective date for a new policy, or the effective date of the renewal for a renewal policy.

The removal of, reduction of, or refusal to apply a discount does not violate the bill's provisions if the action results from a claim filed within the preceding five years. An insurer that grants a claim-free discount to an insured under a homeowner's or automobile liability insurance policy does not violate the bill. The bill further prohibits an insurer under personal injury protection coverage from retiring a policy for a claim made under that coverage, in addition to the prohibition on a surcharge for such a claim.

Portable Electronics Insurance Regulation

Senate Bill 792/House Bill 868 (both passed) create a regulatory framework the sale of for portable electronics insurance, which is defined under the bills as insurance that provides

coverage for the repair or replacement of portable electronics, including coverage against loss by disappearance, theft, mechanical failure, malfunction, damage, and any other applicable peril. The bills require a vendor to hold to a limited lines license to sell a portable electronics insurance policy in connection with a portable electronics transaction. The bills define a vendor as a person in the business of leasing, selling, or providing portable electronics, or selling or providing service related to their use, to customers in the State, and a portable electronics transaction as (1) the sale or lease of portable electronics by a vendor to a customer; or (2) the sale of service related to the use of portable electronics.

A vendor may use supervised employees or authorized representatives to sell or offer coverage if they are trained in accordance with the requirements stated in the bills. The acts of an employee or authorized representative are deemed the acts of the vendor.

A limited lines license issued under the bills authorizes the vendor or the vendor's employees or authorized representative to sell a portable electronics insurance policy if (1) the policies have been filed with and approved by the commissioner; (2) the vendor holds an appointment with each authorized insurer that the vendor intends to represent; (3) the vendor provides disclosures approved by the commissioner at each sale location that:

- summarize the material terms of the coverage;
- state that the portable electronics insurance may duplicate existing coverage;
- state that the portable electronics insurance would become primary to other coverage;
- state that purchase of coverage is not required to enter into the portable electronics transaction;
- describe claim filing procedures and requirements;
- state that the customer may cancel coverage at any time, with a return of unearned premium; and
- provide the toll-free MIA hotline number; and
- the vendor provides an approved training program for its employees and authorized representatives.

Coverage under a policy of portable electronics insurance sold in connection with a portable electronics transaction is primary to other valid and collectible coverage, such as homeowner's, renter's, and private passenger automobile insurance policies.

The bills authorize the commissioner to suspend, revoke, or refuse to renew a limited lines license issued to a vendor after notice and hearing if the vendor or an employee or authorized representative of the vendor has committed any of a list of violations or prohibited omissions. Instead of or in addition to taking action against the licensee, the commissioner may

impose fines of up to \$2,500 per violation and require restitution to any person who has suffered financial injury because of the violation.

Portable electronics insurance may be offered on a month-to-month or other periodic basis as a group or master commercial inland marine policy issued to a vendor under which individual customers may elect to purchase coverage. Except as otherwise specified, an insurer may not terminate or change the terms and conditions of a portable electronics insurance policy without providing the policyholder and covered customers with at least 60 days' notice. Coverage may be terminated after 45 days' notice if the vendor discovers fraud or a material misrepresentation in obtaining coverage or in the presentation of a claim, and after 10 days' notice for nonpayment of premium. An insurer may automatically terminate coverage under a portable electronics insurance policy if the covered customer ceases to have active service related to the use of portable electronics with the vendor or if the covered customer exhausts the aggregate limit of liability under the policy and the insurer sends notice of termination within 15 business days after exhaustion of the limit.

If a covered customer requests a reinstatement of portable electronics insurance coverage, the customer is eligible for reinstatement up to 12 months after the date of exhaustion of the coverage limit. If a vendor terminates a policy, the vendor must give a covered customer written notice by certificate of mail at least 45 days before the termination date. A vendor does not have to provide such notice if the vendor is informed that the covered customer has obtained substantially similar alternative coverage from another insurer without lapse of coverage.

Exemption from Insurance Laws

Except as otherwise specified, the insurance laws of the State do not apply to certain nonprofit lodges, societies, orders, or associations that provide certain types of life insurance, disability insurance, or survivor benefits to members. An order, society, or association that limits its membership to individuals engaged in one or more hazardous occupations in the same or similar lines of business is also exempted from the insurance laws of the State.

The Navy Mutual Aid Association (Navy Mutual) is a not-for-profit association and Congressionally chartered veterans service organization that provides approximately 95,920 members of the Sea Services (Navy, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, and the U.S. Public Health Service) with life insurance and survivor benefits. Navy Mutual was formed in 1879 and provides life insurance and annuities only to active duty, reserve, and retired members of the Sea Services and their families.

Senate Bill 645/House Bill 537 (both passed) provide that the statutory exemption granted to fraternal benefit societies from regulation under the insurance laws of the State also applies to an association, whether or not a fraternal benefit society, that was organized before 1880 and the members of which are officers or enlisted, regular or reserve, active, retired, or honorably discharged members of the Armed Forces or Sea Services of the United States.

Slavery Era Insurance Policy Reporting

In 2000, California became the first state to enact legislation requiring insurers to investigate and report any information that could be found in their records pertaining to slaveholder insurance policies. This legislation gave the California insurance commissioner the power to request slave insurance information from insurers doing business in the state. According to the California reports, a number of insurers found records of such policies issued during the slavery era, including ACE USA, Aetna Life Insurance Company, AIG, Manhattan Life, New York Life, Penn Mutual, Providence Washington Insurance Company, and Royal & Sun Alliance. The findings were ultimately made available to the public by the state. Illinois and Iowa have enacted similar legislation.

Senate Bill 751 (Ch. 97) requires an insurer authorized to do business in the State to submit a report on slavery era insurance policies to the commissioner by October 1, 2011. A “slaveholder insurance policy” is defined as a policy issued to or for the benefit of a slaveholder that insured against a slave’s injury or death. The required report must include information in the records of the insurer about each slaveholder insurance policy issued in the State by the insurer, or the insurer’s predecessor, during the slavery era (years prior to 1865). The insurer also must provide a copy of each document in the insurer’s records that relates to the information. The commissioner is required to issue a report on the information and submit a report to the Governor and the General Assembly by April 1, 2012. Copies of the report must be made available to the public, published on MIA’s web site, and maintained at the law library of the University of Maryland School of Law.

Unfair and Deceptive Practices

A person may not directly or indirectly give inducements to a life insurance contract, health insurance contract, or annuity contract, including:

- a rebate of insurance premiums;
- a favor or advantage relating to dividends or benefits;
- paid employment or a contract for services; or
- any valuable consideration or other inducement not specified in the contract.

Educational materials, promotional items, or merchandise that cost less than \$10, regardless of whether an insurance policy or annuity is purchased, are excluded. Similar provisions limit offers of consideration for other types of insurance policies.

Senate Bill 8 (Ch. 9) increases from \$10 to \$25 the limit on the value of educational materials, promotional items, or merchandise that an insurer may give to a person not specified in an annuity contract or an insurance contract or policy.

Horse Racing and Gaming

Horse Racing

State Purchase or Condemnation of Thoroughbred Racetracks and the Preakness Stakes

In May of each year, the Preakness Stakes, the second leg of the Triple Crown series for thoroughbreds, is run at Pimlico Race Course in Baltimore City. Pimlico and the Preakness Stakes are currently owned by the Magna Entertainment Corporation, which filed for Chapter 11 bankruptcy protection in March. As part of its bankruptcy filing, Magna Entertainment stated its intent to auction a group of its horse racing assets, including Pimlico and Laurel Park in Anne Arundel County. The bankruptcy filing also raised the possibility that the Preakness Stakes could be sold and transferred out of Maryland.

In response, *Senate Bill 1072 (Ch. 3)*, as an emergency measure, authorizes the State to acquire, by purchase or condemnation for public use with just compensation, some or all of the following real, tangible, and intangible private property, including any associated property or property rights:

- (1) Pimlico Race Course;
- (2) Laurel Park;
- (3) Bowie Race Course Training Center in Prince George’s County;
- (4) the Preakness Stakes trophy known as the Woodlawn Vase;
- (5) the name, common law and statutory copyrights, service marks, trademarks, trade names, contracts, and horse racing events associated with the Preakness Stakes and the Woodlawn Vase;
- (6) all property of the Maryland Jockey Club of Baltimore City, Inc., or its successors and assigns, including stock and equity interests associated with it; and
- (7) all property of the Laurel Racing Assoc., Inc., the Laurel Racing Association Limited Partnership, or their successors and assigns, including stock and equity interests associated with them.

The Act states that, in accordance with the Maryland Constitution, the private property may be taken immediately on payment for the property, consistent with procedures for quick-take condemnation. All condemnation proceedings must be conducted in accordance with Title 12 of the Real Property Article and Title 12, Chapter 200 of the Maryland Rules.

Under the Act, the Maryland Economic Development Corporation (MEDCO) is authorized to borrow money and issue bonds to finance the cost of acquiring by purchase or completing the condemnation process for public use of the properties. If MEDCO acquires property, it must consult with specified State elected officials before disposing of the property. MEDCO must also report monthly to certain legislative committees on the status of the State's business plan for the management and disposition of any assets acquired under the Act.

Purse Dedication Account

Under the statute authorizing video lottery terminals (VLTs) in the State, 7% of VLT proceeds, not to exceed \$100 million annually, are to be paid into a Purse Dedication Account. The money in the account is to be used for the Maryland-Bred Race Fund, the Standardbred Race Fund, and thoroughbred and standardbred purses.

House Bill 1212 (passed) reduces the amount of funds to be distributed from the Purse Dedication Account to the Maryland-Bred Race Fund and the Standardbred Race Fund while increasing the amount to be allocated to thoroughbred and standardbred purses. The bill decreases the revenue allocation to the respective bred funds from 15% to 11% and increases the revenue allocation to purses from 85% to 89%.

Maryland Horse Racing Act – Sunset Extension and Program Evaluation

Senate Bill 119 (passed) extends the termination date of the Maryland Racing Commission, the Maryland-Bred Race Fund Advisory Committee, and the Standardbred Race Fund Advisory Committee from July 1, 2011, to July 1, 2014. In addition, the bill requires full evaluations of these entities to be conducted by the Department of Legislative Services no later than July 1, 2013.

Maryland Million

Senate Joint 2 (passed) urges the Maryland Million, LTD to rename the day of racing known as the Maryland Million in memory of Jim McKay. The Maryland Million is among the premier sire stakes events in the nation and was founded by Jim McKay.

Gaming – Bingo

House Bill 193 (passed) increases the State admissions and amusement tax rate imposed on the net proceeds from electronic bingo and electronic tip jars from 20% to 30% and sets certain limits on the total State and local admissions and amusement tax rates that may be imposed. Additional revenues derived from the tax rate increase would be distributed to the newly created Special Fund for Preservation of Cultural Arts in Maryland. The special fund is to be used to prevent the closure or termination of cultural arts organizations, including museums, in the State. The bill also extends the termination date for the operation of certain electronic bingo machines until July 1, 2012.

Local Gaming Legislation

Allegany County

Senate Bill 343 (passed) provides that Allegany County may use local impact grants received from video lottery terminal revenues for improvements throughout the county and to pay down the debt incurred by the county in the construction and related costs for the golf course, lodge, and other improvements in Rocky Gap State Park.

Frederick County

Senate Bill 868/House Bill 719 (both passed) ease a requirement to be met by a licensed distributor from whom certain establishments or proprietors may purchase a tip jar or punchboard for gaming purposes. Under the bills, a licensed distributor does not need to have an office in Frederick County but may have an office anywhere in the State.

Harford County

House Bill 146 (passed) requires the Sheriff of Harford County to charge \$10 for a 50/50 gaming license and also requires specified organizations to have a 50/50 license in order to conduct a 50/50 game, except for a game held at a meeting of the organization. The bill also increases from \$50 to \$500 the maximum money prize for a 50/50 game, a bingo game, and a members-only instant bingo game.

Worcester County

House Bill 773 (passed) increases the temporary license fee for specified bingo events from “\$3 for each day bingo is conducted” to “\$25, in addition to \$5 for each day bingo is conducted.” The bill increases the maximum admission fee for a bingo event from \$1 to \$5, increases the maximum prize value for one bingo game from \$50 to \$200, and increases the maximum jackpot from \$1,000 to \$5,000. Lastly, the bill also allows “Winner Take All” games without a prize limit. The bill repeals a prohibition against conducting bingo outside the election district in which the main office, headquarters, or usual meeting place of the applicant for a license is located and repeals prohibitions on Sunday bingo and specified forms of bingo advertising.

House Bill 1553 (passed) provides that if a video lottery facility is at a racetrack location at the Ocean Downs Race Course, the county commissioners shall appoint the local development council that is to be established for the area. However, the senator from the district where the facility is located or the senator’s designee would serve as a member of the council, as well as the delegates from the district or the delegates’ designees. The bill also requires that the percentage of local impact grants from video lottery terminal proceeds provided to Worcester County be reduced from 70% to 60% and that 10% of the proceeds be distributed to the Ocean Pines Association, to be used for a specified public infrastructure purpose.

Economic and Community Development

Transit-oriented Development

Transit-oriented development (TOD) is an approach to development that leverages transit stations as the foundation for vibrant communities with a dense mix of commercial, residential, and retail development. By clustering development around transit sites, TOD seeks to maximize the State's investment in transit by promoting increased ridership and enhanced opportunities for pedestrian and bicycle mobility.

The Maryland Department of Transportation (MDOT) is partnering with local agencies to identify and implement land use regulations that support transit and pedestrian-friendly development in proximity to major transit facilities. MDOT has also conducted analysis and planning to identify station area needs and opportunities. Further, MDOT undertakes mixed-use, transit focused, and pedestrian-friendly developments with private partners, and leverages available federal funds to facilitate TOD development.

Chapter 123 of 2008 established the definition for transit-oriented development. "Transit oriented development" means a mix of private or public parking facilities; commercial and residential structures; and uses, improvements, and facilities customarily appurtenant to such facilities and uses, that (1) is part of a deliberate development plan or strategy involving property that is located within one-half mile of the passenger boarding and alighting location of a planned or existing transit station; (2) is planned to maximize the use of transit, walking, and bicycling by residents and employees; and (3) is designated as TOD by the Secretary of Transportation in consultation with other specified State agencies and the local government or multicounty agency with land use and planning responsibility for the relevant area.

Maryland Economic Development Corporation

The Maryland Economic Development Corporation (MEDCO) is a publicly chartered corporation created in 1984 to attract new business and expanding existing businesses in Maryland through the development, expansion, and modernization of facilities. To do so, MEDCO owns and leases certain properties and makes loans to organizations that require financing to acquire or develop properties. MEDCO also serves as a consultant or development manager on certain projects.

MEDCO purchases or develops property that is leased to others under favorable terms. MEDCO also makes direct loans to companies throughout the State to maintain or develop facilities, and it often serves as the conduit for loans administered by the Department of Business and Economic Development (DBED). MEDCO issues bonds to raise funds for its loans, primarily revenue bonds and notes payable to government agencies such as DBED. The debt represents nonrecourse obligations because MEDCO is not liable to bondholders and lenders should a project or borrower default. Each project must have self-supporting revenues, and no projects are cross-collateralized. As a result, MEDCO debt is not debt of the State, and there is no implied State guaranty or State obligation to protect bondholders from losses.

Tax Increment Financing

Tax increment financing (TIF) is a method of funding public projects under which the increase in the property tax revenue generated by new commercial development in a specific area, the TIF district, repays bonds issued to finance site improvements, infrastructure, and other project costs located on public property.

Cross-filed Administration bills, *Senate Bill 274/House Bill 300 (both passed)*, authorize certain local governments to finance the costs of infrastructure improvements located in or supporting a TOD, including the cost for operation and maintenance of infrastructure improvements. MEDCO may enter into agreements with the local governments to use proceeds from a special taxing district, including tax incremental financing, to repay debt service on bonds MEDCO issues on behalf of TOD projects. TIF-supported bonds may cover the expense of construction, operation, or maintenance of infrastructure improvements and local tax revenues attributed to the development may be pledged for repayment of MEDCO bonds. Once the interest and principal on the bonds are repaid, the special taxing district is dissolved and any excess funds remaining may be used for additional TOD or may revert to the local government's general fund.

Property Related to the Preakness Stakes

Senate Bill 1072 (Ch. 3) authorizes the State to acquire by purchase or condemnation, for public use and with just compensation, private property relating to Pimlico Race Course, Laurel Park racetrack, the Bowie Race Course Training Center, and other tangible and intangible property related to the Preakness Stakes. MEDCO is authorized to borrow money and issue bonds to finance the cost of the acquisition by the State of the properties listed in the bill, in accordance with applicable legal standards. If MEDCO acquires property under the bill, the corporation must consult with specified State elected and appointed officials before disposing of the property. MEDCO must report monthly to specified legislative committees on the status of the State's business plan for the management and disposition of any assets acquired under the bill.

For a more detailed discussion of the revenue distribution provisions of this Act, see the subpart "Horse Racing and Gaming" within Part H – Business and Economic Issues of this *90 Day Report*.

BRAC Revitalization and Incentive Zones

In order to address an excess capacity of military facilities, the U.S. Congress created a process in 1990 known as Base Realignment and Closure (BRAC). The most recent round of plans regarding military installations nationwide became effective in November 2005.

Chapter 338 of 2008 authorized the Secretary of Business and Economic Development (DBED) to designate BRAC Revitalization and Incentive Zones in the State. Local governments may apply to have a BRAC Zone located within their jurisdiction. Up to six BRAC Zones may

be designated annually at two times during a calendar year. Qualified property is commercial or residential property that DBED determines enhances economic development in a BRAC Zone.

BRAC Zone designation benefits are primarily tax-related financial incentives, including State support of up to 100% of the increase in the State property tax of any qualifying property and 50% of the local property tax for any increase in the local tax revenues collected on the increased value of qualifying property. These financial incentives may begin in fiscal 2010 and continue for 10 consecutive years and are limited to the amount appropriated in the State budget, up to \$5 million per year. If the total amount of incentive payments for BRAC Zones exceeds \$5 million in any year, the payments are allocated on a *pro rata* basis. Local jurisdictions and businesses in the BRAC Zone may also receive priority consideration for financial assistance projects in the BRAC Zone from DBED, the Maryland Department of Planning, the Department of Housing and Community Development, or any other appropriate State program.

House Bill 1429 (passed) a departmental bill, changes the effective date of a 10-year BRAC Zone from the date the Secretary of DBED designates a zone to the date the first property in a zone becomes a qualified property. The bill also changes the annual date by which local jurisdictions must notify the State Department of Assessments and Taxation (SDAT) regarding qualified properties from November 1 to February 1, and the annual date that SDAT calculates payments to local jurisdictions from December 1 to March 1. In addition, the Secretary of DBED must notify the General Assembly delegation when a county submits an application for designation of a BRAC Zone.

Military Personnel Service-disabled Veterans No-interest Loan Program

Chapter 389 of 2006 established the Military Service-Related Loan Program to assist military reservists and National Guard personnel called to active duty, service-disabled veterans, and businesses that employ or are owned by such persons. The program is administered by DBED in consultation with the Maryland Department of Veterans Affairs. *House Bill 1451 (passed)* a departmental bill, renames the Military Service-Related Loan Program to be the Military Personnel and Service-Disabled Veterans No-Interest Loan Program. It also adds two new eligible classes of recipients of loans (businesses owned by service-disabled veterans and businesses employing a service-disabled veteran) and states a preference for funding service-disabled veterans if funds are scarce.

Maryland Not-For-Profit Development Center Program

Chapter 313 of 2008 created the Maryland Not-For-Profit Development Center Program to provide training and technical assistance to nonprofit organizations throughout the State. Revenue from a \$50 nonrefundable processing fee on articles of incorporation filed by a nonstock corporation are dedicated to a special fund to support the program. *Senate Bill 860/ House Bill 1193 (Chs. 105 and 106)* clarify the requirements that a not-for-profit entity must meet to qualify to receive assistance from the Maryland Not-For-Profit Development Center Program by defining the terms “not-for-profit entity” and “qualified not-for-profit entity.”

Maryland Public Arts Initiative Program

Chapter 393 of the Acts of 2005 established the Commission on Public Art to promote the installation of artwork in public facilities in the State, provide for the acquisition of public art to be owned by the State, provide for the preservation of public art assets, and establish a grant fund for local governments. *House Bill 1406 (passed)*, a departmental bill, repeals the termination date of the program.

State Technology Support

Jane E. Lawton Conservation Fund

The Jane E. Lawton Conservation Loan Program, administered by the Maryland Energy Administration (MEA), was established under Chapters 466 and 467 of 2008 to provide financial assistance in the form of low interest loans to nonprofit organizations, local jurisdictions, and eligible businesses, for improvements or modifications that enhance the energy efficiency and reduce the operating expenses of a structure. The Acts also established the Jane E. Lawton Conservation Fund to consist of money appropriated in the State budget to the program, money received from any public or private source, interest and investment earnings, and loan repayments and prepayments. The fund is used to pay the expenses of the program and provide loans to eligible borrowers and projects.

Loans from the fund may be used for the costs of implementing projects; the costs of procuring necessary technology, equipment, licenses, or materials; and the costs of construction, rehabilitation, or modification, including the purchase and installation of any necessary machinery, equipment, or furnishings.

House Bill 1442 (Ch. 169) expands the purposes of the Jane E. Lawton Conservation Loan Program and eligible projects under the program to include the development and use of renewable energy resources, including installation of infrastructure for renewable energy generation by local jurisdictions and nonprofit organizations. The Act also specifies additional local government entities eligible to receive loans under the program; allows a loan to be deposited in a revolving loan fund of a county's economic development commission to provide capital for renewable energy infrastructure projects; and authorizes local jurisdictions to offer excess electricity generated from a project financed under the program for trade on the wholesale market.

Assistive Technology Loan Program

Chapter 9 of 2008 established the Department of Information Technology as a principal department of State government and transferred all duties, responsibilities, budgeted funds, and employees from the Office of Information Technology within the Department of Budget and Management to the new department. *House Bill 1479 (passed)*, a departmental bill, adds the Secretary of Information Technology or designee to the membership of the Board of Directors of the Assistive Technology Loan Program and removes the Secretary of Budget and Management or designee.

CENTR Maryland Program and Fund

Chapter 446 of 2008 established the Coordinating Emerging Nanobiotechnology Research in Maryland (CENTR Maryland) Program and Fund. The Maryland Technology Development Corporation (TEDCO) administers the program to provide operating and capital grants for nanobiotechnology research projects. Specifically, the purpose of the CENTR Maryland Program is to support advanced nanobiotechnology research at higher education institutions and promote Maryland as a key location for private-sector firms in the industry. *House Bill 1124 (Ch. 160)* requires TEDCO to foster public-private partnerships as feasible to carry out the purpose of the program.

Joint Technology Oversight Committee

The General Assembly established the Joint Technology Oversight Committee General Assembly in 2000 to review and report on the implementation of the Maryland Uniform Computer Information Transactions Act, but the committee's activities have broadened since then. *House Bill 438 (Ch. 140)* repeals the Joint Technology Oversight Committee and establishes and codifies the Joint Information Technology and Biotechnology Committee. The bill increases committee membership from 10 to 12 by adding one senator and one delegate. The duties of the reconstituted committee are to broaden the support, knowledge, and awareness of information technology and biotechnology.

Tipton Airport Authority

Chapter 539 of 1997 authorized Anne Arundel County to establish the Tipton Airport Authority as a public corporation to acquire, equip, maintain, and operate Tipton Airport at Fort George G. Meade. Under current law, the Tipton Airport Authority may not extend any runway beyond 4,000 feet. *House Bill 262 (passed)* extends, from 4,000 to 4,200, the maximum allowable runway length for Tipton Airport.

Housing

Local Government Infrastructure Program

The Local Government Infrastructure Program (LGIF program) is one of the 18 units established in the Division of Development Finance at the Department of Housing and Community Development (DHCD). Another unit, the Community Development Administration (CDA), is authorized to purchase local government debt obligations for the financing of infrastructure projects. CDA is the bond issuing entity of the DHCD. Local government infrastructure financing projects are often initiatives that cannot be funded through limited State resources, including municipal public works facilities and trucks, town halls, fire stations, police cars, and communication, water, and sewer infrastructure systems.

The LGIF program provides an efficient and economical means for local governments to access affordable capital in order to finance essential infrastructure projects. The LGIF program is particularly suitable for local governments that do not issue bonds routinely, for those with

limited access to the capital marketplace, or for those for which managing the complexities of public financing on their own is inconvenient or expensive. The LGIF program allows local governments to access CDA’s bonding authority and expertise to make these investments affordable and efficient.

The LGIF program previously used private municipal bond insurers to provide credit enhancements to achieve affordable interest rates for local government sponsors. However, recently many bond insurers either went out of business, do not insure small issues, or now have rates that are not affordable to local governments.

To overcome the loss of bond insurers, *Senate Bill 931/House Bill 1331 (both passed)*, authorize the creation of a capital debt reserve fund to back bonds issued by the LGIF program. The reserve fund would be used to pay the principal and interest on the bonds, notes, and other obligations of CDA. The capital debt reserve fund would be replenished through the use of operating reserves as well as existing authority to intercept local government payments from the State should a payment fail. As a final contingency, these bills authorize the use of State bond funds to recapitalize the debt reserve fund. *Senate Bill 932/House Bill 1330 (both passed)* authorize up to \$2 million to replenish the debt reserve fund. The authority to issue the bonds is enabling only, and the proceeds would serve as a loan to the CDA that would be repaid within five years.

Community Development Administration – Mortgage Loans

DHCD has traditionally financed mortgages through the issuance of mortgage revenue bonds that are then used to purchase qualifying mortgage loans from lender partners. These loans are held in the CDA’s portfolio and mortgage loan repayments are used to repay bondholders. This method of financing mortgages has allowed CDA to offer safe competitive mortgage products for many years. However DHCD, like many other housing agencies, has recently encountered challenges with declining investor confidence. *Senate Bill 1045/House Bill 1546 (both passed)* first authorize the CDA to purchase mortgage-backed securities from a government-sponsored enterprise (GSE). The bills define a GSE as the Federal National Mortgage Association (“Fannie Mae”); the Federal Home Loan Mortgage Corporation (“Freddie Mac”); the Federal Home Loan Bank; or another agency chartered by the federal government with similar powers. CDA would still issue tax-exempt mortgage revenue bonds and would purchase loans from its lender partners, but the offering statement for the bonds would indicate that the loans would immediately be packaged and sold to a GSE in exchange for mortgage-backed securities (MBS). Payments on the MBS are guaranteed by the GSE; therefore, investors would be willing to offer a better price on the bonds since the investors are not relying on mortgage repayments that could default. This would allow CDA to be more competitive in the marketplace and increase its volume of loans.

Secondly, *Senate Bill 1045/House Bill 1546* grant CDA the authority to exchange bond-funded mortgage loans currently in its portfolio for AAA-rated MBS supported by GSEs. In essence, the legislation allows DHCD to take an asset of lower quality, as determined by the

rating agencies, and exchange it for AAA-backed securities. The intent of the bills is to strengthen and improve the financial position of DHCD's single-family bond indenture.

Community Legacy Program

Chapter 657 of 2001 established the Community Legacy Program to create a process and funding source for several types of revitalization projects. Community legacy projects include those that help create or preserve housing opportunities, support demolition of buildings or improvements to enhance land use, and develop public infrastructure (*e.g.*, parking, landscaping) related to a community legacy project. Chapter 314 of 2003 required no less than 10% of the Community Legacy Financial Assistance Fund to be used for neighborhood intervention projects. *House Bill 1414 (passed)*, a departmental bill, makes three changes to the neighborhood intervention project component of the Community Legacy Program. The bill:

- reorganizes the application process for three similar neighborhood intervention projects into one;
- alters, from a minimum of 10% to a maximum of 15%, the total amount of funding from the Community Legacy Financial Assistance Fund that may be directed to the neighborhood projects; and
- in case of an emergency or when urgent approval is required, authorizes the Secretary of DHCD to approve a project without the approval of the Community Legacy Board; and caps at 10% the money in the fund that may be reserved for emergency or urgent approval projects.

Linked Deposit Program

Chapter 396 of 2006 established a Linked Deposit Program in DHCD to provide low-interest loans to State-certified minority business enterprises (MBEs). Banks that participate in the program make loans to certified MBEs as long as the loan period does not exceed 10 years, and the criteria used for making the loans are the same used for other loans. The loans made to MBEs must carry interest rates 2% below market rates for similar loans. *House Bill 1554 (passed)*, a departmental bill, allows borrowers under the program to apply for loans directly from participating lenders rather than through DHCD. The bill also exempts decertified MBEs from having their loans reduced if their decertification is due to revenue or employment growth. The bill terminates September 30, 2021.

Workers' Compensation

Death Benefits for Partially Dependent Individuals

Surviving spouses who were partially dependent at the time of the covered employee's death are entitled to a death benefit for the period of partial dependency or until \$60,000 has been paid. *Senate Bill 863/House Bill 899 (both passed)* increase the maximum workers'

compensation payment to partially dependent or partially self-supporting individuals to \$75,000. The bills also require the Workers' Compensation Commission (WCC) to conduct a study on statutory provisions related to death benefit payments to individuals dependent on a covered employee. The study must determine legislative changes that would provide fair and equitable benefits to wholly dependent individuals and partially dependent individuals and provide for coordination among all of the death benefit provisions. WCC must report its findings and recommendations to the Senate Finance Committee and the House Economic Matters Committee by December 1, 2009. The bills apply to any claims filed for death benefits on or after September 1, 2007.

Injured Workers' Insurance Fund

Regulation and Status

The Injured Workers' Insurance Fund (IWIF) administers workers' compensation benefits for the State and provides workers' compensation insurance to firms on a competitive basis and serves as the workers' compensation insurer of last resort. IWIF only writes workers' compensation policies in Maryland, cannot decline businesses that seek coverage, and adjusts rates in response to changing market conditions based on approval of its board. In Maryland, IWIF is a major insurer with an approximate one-third market share.

Senate Bill 959 (passed) specifies that, with certain exceptions, IWIF is subject to the same insurance law requirements as any authorized domestic workers' compensation insurer in the State. Since IWIF operates as a third-party administrator, IWIF must register with the Maryland Insurance Commissioner and is subject to State insurance law provisions related to such entities. IWIF must serve as a competitive insurer in the marketplace for workers' compensation insurance, guarantee the availability of such insurance in the State, serve as the insurer of last resort, and engage only in the business of workers' compensation insurance. However, IWIF is not required to pay the premium tax charged to other insurers in the State or join the National Council on Compensation Insurance. Also, although IWIF's rates are not subject to regulation by the Insurance Commissioner, the Insurance Commissioner is required to examine IWIF at least once every five years to determine whether IWIF's rate making practices produce actuarially sound rates and are not excessive, inadequate, or unfairly discriminatory.

Board – Term Limits

The IWIF board consists of nine members appointed by the Governor with the advice and consent of the Senate. Terms are five years in length and are staggered to prevent simultaneous appointments. Board members are permitted to serve two five-year terms, but a partial term of a year or more counts as a full term. As a result, board members appointed to a partial term of, for example, 13 months may only serve a total of 6 years. *Senate Bill 161 (passed)* alters the term limits and specifies that a member of the board may not serve for more than either two full terms or a total of 10 years.

Misclassification of Employees as Independent Contractors

Senate Bill 909 (passed) establishes, for the purpose of enforcement only, a presumption that work performed by an individual paid by an employer creates an employer-employee relationship, subject to specified exemptions. To overcome the presumption of covered employment under workers' compensation, an employer must establish that the individual performing the services is an independent contractor in accordance with common law or is specifically exempted under the workers' compensation law. WCC must pay, through an assessment on insurers, the costs of administering the workplace fraud program by the Commissioner of Labor and Industry. If an employer has failed to properly classify an individual as an employee, WCC must order the employer to secure workers' compensation coverage for the employee. If an employer knowingly failed to classify an employee, the employer is subject to a civil penalty of up to \$5,000 per employee. For a more detailed discussion of the Workplace Fraud Act of 2009, see the subpart "Labor and Industry" within Part H – Business and Economic Issues of this *90 Day Report*.

Maryland-National Capital Park and Planning Commission Employees – Lyme Disease Presumption

Lyme disease is a bacterial disease that is transmitted by the bite of an infected tick. Symptoms include fever, headache, fatigue, and skin rash. Left untreated, Lyme disease may spread to the joints, heart, and nervous system. Most cases, particularly those cases diagnosed soon after transmission of the disease, can be effectively treated with antibiotics. Lyme disease is most common in the New England and mid-Atlantic regions. There were more than 2,576 reported cases of Lyme disease in Maryland in 2007. The State's rate of infection is the sixth highest in the nation and more than three times the national average.

Workers' compensation law establishes a presumption of compensable occupational disease to certain public employees who are exposed to unusual hazards in the course of their employment. Under specified circumstances, covered employees are entitled to workers' compensation benefits in addition to any benefits that the individual is entitled to receive under the retirement system. The weekly total of workers' compensation and retirement benefits may not exceed the weekly salary paid to the individual.

Chapter 98 of 2008 specifies that Maryland-National Capital Park and Planning Commission (M-NCPPC) park police officers who suffer from Lyme disease are presumed to have a compensable occupational disease if the condition was not preexisting. The presumption applies only while the officer is assigned to a position that regularly places him or her in an outdoor wooded environment, or for three years following such an assignment. *House Bill 1135 (passed)* extends that presumption to other employees of M-NCPPC who suffer from Lyme disease if they did not have the disease before being assigned to work regularly in an outdoor wooded environment and meet other specified criteria.

Charles County – Auxiliary Volunteer of Sheriff’s Office

A volunteer worker for a unit of a political subdivision in Allegany, Carroll, Cecil, Charles, Frederick, Garrett, Queen Anne’s, St. Mary’s, Somerset, Washington, or Worcester counties is not a covered employee under workers’ compensation. However, volunteer deputy sheriffs in Cecil County are considered covered employees while performing duties assigned by the sheriff. *Senate Bill 376/House Bill 380 (both passed)* establish that auxiliary volunteers of the Charles County Sheriff’s Office are covered employees while performing work assigned by the sheriff. The bills also specify how the average weekly wage is computed for auxiliary volunteers if they are entitled to workers’ compensation.

Workers’ Compensation Commission – Authority – Employer Compliance

Senate Bill 987/House Bill 1436 (both failed) would have enhanced the authority of WCC to proactively investigate and enforce the statutory requirement that employers maintain workers’ compensation insurance for their covered employees. Under current law, WCC determines that an employer has failed to obtain workers’ compensation insurance when an employee of the employer files a claim for an accidental injury or occupational disease. The bills would have increased penalties for noncompliant employers.

Unemployment Insurance

Unemployment insurance provides temporary, partial wage replacement benefits to persons who are unemployed through no fault of their own and who are willing to work, able to work, and actively seeking employment. Both the federal and state governments have responsibilities for the unemployment insurance program. Funding for the program is provided by employers through unemployment insurance taxes paid to both the federal government for administrative and other expenses and to the states for deposit in their unemployment insurance trust funds. Using federal tax revenues, the program is administered pursuant to state law by state employees. Each state law prescribes the tax structure, qualifying requirements, benefit levels, and disqualification provisions. These laws must, however, conform to broad federal guidelines.

Benefits paid from the unemployment insurance trust fund are based on the amount of money that the employee earned during the base period (the first four of the last five completed calendar quarters prior to the date the employee filed a claim). The weekly benefit amount provided by the Maryland Unemployment Insurance Law ranges from \$25 to a maximum of \$380. The maximum duration that weekly benefits may be paid is 26 weeks. Through federal tax revenues, a 20-week extension of unemployment insurance benefits is currently in effect for eligible claimants who have exhausted their first 26 weeks of benefits; as of April 12, 2009, the federal extension increases by 13 weeks (for a total of 33 weeks of emergency unemployment insurance benefits) as a result of the unemployment rate exceeding 6%. Additionally, any

benefits paid for the week ending February 28, 2009, or later are increased by \$25 per week through federal initiative.

The Joint Committee on Unemployment Insurance Oversight, established in 2005, has monitored laws and policies that affect the State unemployment system, including administrative and federal funding issues and has studied other potential legislative changes to the unemployment insurance benefits. A number of proposals passed during the 2009 session, which include providing benefits to part-time workers, increasing the maximum weekly benefit amount, and postponing benefits to claimants receiving severance payments, were expressly supported by the joint committee during the 2008 interim.

Maximum Benefit Payments

The weekly unemployment insurance benefit amount for which a claimant is eligible is based on the quarterly wages paid to the claimant for covered employment during the quarter of the claimant's base period in which those wages were highest. The maximum benefit amount has increased four times in the last decade (2000, 2002, 2005, and 2007) by a total of \$120 per week.

Senate Bill 576/House Bill 740 (both passed) increase the maximum allowed weekly benefit amount from \$380 to \$410 for claims establishing a new benefit year on or after October 4, 2009. For claims establishing a new benefit year on or after October 3, 2010, the maximum weekly benefit is increased from \$410 to \$430.

Benefit payments paid from the Unemployment Insurance Trust Fund are expected to increase by \$14.9 million in fiscal 2010, \$28.3 million in fiscal 2011, \$30.6 million in fiscal 2012, \$30.5 million in fiscal 2013, and \$31.3 million in fiscal 2014. Revenues received by the trust fund also increase from chargebacks to and reimbursement paid by employers, partially offsetting the impact of increased benefit payments. In 2008, the State administered unemployment benefits to 139,541 new claimants.

Part-time Eligibility

To be eligible for unemployment benefits, an individual must be able to work, available for work, and actively seeking work. A claimant may not impose conditions and limitations on his or her willingness to work and still be available. Although not explicitly stated in statute, eligibility applies only to full-time work. Approximately 30 other states allow UI benefits for part-time workers, including Delaware, New Jersey, and North Carolina as well as the District of Columbia. None of the states specifically requires a certain number of weekly work hours.

Senate Bill 270/House Bill 310 (Chs. 5 and 6) make an individual whose availability to work is restricted to part-time work eligible for unemployment benefits, if the individual works predominantly throughout the year on a part-time basis for at least 20 hours per week. A part-time worker is eligible for benefits based on wages predominantly earned from part-time work; must be actively seeking part-time work; must be available for part-time work for at least the number of hours worked at the part-time worker's previous employment; cannot impose any

other restrictions on the part-time worker's ability or availability to work; and must be in a labor market in which a reasonable demand exists for part-time work. A qualified part-time worker with a disability may not have the disability used as a disqualifying factor. A part-time worker is not considered to be unemployed if working all hours for which the part-time worker is available.

Expanding unemployment insurance benefits to include individuals with a history of part-time work is estimated to affect approximately 422,095 workers in the State, as part-time workers comprise 14% of the total Maryland labor force. As a result, unemployment insurance benefit payments paid from the Unemployment Insurance Trust Fund are expected to increase by \$5.6 million in fiscal 2009, \$22.4 million in fiscal 2010, \$20.3 million in fiscal 2011 and 2012, and \$20.5 million in fiscal 2013. Revenues received by the trust fund also increase from chargebacks to and reimbursement paid by employers, partially offsetting the impact of increased benefit payments.

Misclassification of Employees as Independent Contractors

Senate Bill 909 (passed) establishes for the purpose of enforcement only, a presumption that work performed by an individual paid by an employer creates an employer-employee relationship, subject to specified exemptions. To overcome the presumption of covered employment under the unemployment insurance law, an employer must establish that the individual performing services is an independent contractor in accordance with a test (the ABC test) specified under unemployment insurance law or specifically exempted under the unemployment insurance law.

If an employer has failed to properly classify an individual as an employee, any unpaid contribution payments accrue interest at a rate of 2% per month after a 45-day grace period. If any employer has knowingly failed to classify an employee, the employer is subject to a civil penalty of up to \$5,000 per employee. The Secretary of Labor, Licensing, and Regulation must consider as strong evidence that the employer did not knowingly fail to properly classify an individual where the employer received a determination from the IRS that the worker or similarly situated worker is an independent contractor. An employer that has knowingly failed to classify an employee must pay the unemployment insurance contribution rate that is 2 percentage points above what the employer would have had to pay if the employer had not knowingly failed to classify an employee. For a more detailed discussion of the Workplace Fraud Act of 2009, see the subpart "Labor and Industry" under Part H – of this *90 Day Report*.

Determination of Benefits Based on Severance or Dismissal Payments

If an individual's job has been abolished, any severance or dismissal payments received are not deductible from unemployment insurance benefits. If an individual's job has *not* been abolished, he or she cannot receive unemployment benefits until any severance or dismissal pay has been exhausted. *House Bill 242 (passed)* specifies that *all* severance and dismissal payments are deductible from unemployment insurance benefits, regardless of whether the unemployment is a result of job abolition.

Making all severance payments deductible from unemployment insurance benefits reduces the overall number of weeks of benefits that claimants receiving severance receive unemployment insurance benefits. As a result, expenditures from the Unemployment Insurance Trust Fund are anticipated to decrease by \$6.5 million in fiscal 2010, \$6.2 million in fiscal 2011, and \$6.1 million in fiscal 2014. The reduction in benefits paid also reduces unemployment insurance taxes and reimbursement paid by certain employers.

Exemptions from Coverage

An individual performing services for a business in return for compensation in the form of wages is likely covered for unemployment insurance purposes. The employer reports the wages to the Division of Unemployment Insurance and pays unemployment insurance taxes on those wages. If a person is not a covered employee, the person's wages are not reported, and the employer does not pay unemployment insurance taxes for those services.

Most exemptions from covered employment under Maryland law mirror Federal Unemployment Tax Act exemptions. However, Maryland has enacted State-only exemptions not included in the federal act (*e.g.*, yacht salespersons, Class E and F truck drivers, and messenger service drivers). In the 2009 legislative session, two additional categories of employment were added to the list of professions exempt from unemployment insurance coverage.

Senate Bill 470 (passed) exempts officiating services performed by recreational sports officials from unemployment insurance coverage. Recreational sports officials include individuals who contract to perform officiating services at sporting events sponsored by a county government, municipal government, or government-affiliated entity. A recreational sports official does not include any individual who performs officiating services directly for a nonprofit or governmental organization and is considered covered for purposes of unemployment insurance.

House Bill 1453 (passed) exempts work performed by a home worker from unemployment insurance coverage as long as certain conditions are met. The Secretary of Labor, Licensing, and Regulation must be satisfied that the work is (1) performed according to specifications furnished by the person for whom the services are performed; (2) the work is performed on textiles furnished by the person for whom the services are provided; and (3) the textiles must be returned to the person for whom the services are performed or that person's designee. A similar exemption is provided in federal law.

Labor and Industry

Misclassification of Employees as Independent Contractors

When a company hires an employee, the company is responsible for paying half of that employee's Social Security and Medicare taxes, as well as premiums for workers' compensation

and unemployment insurance coverage. Employers also withhold federal, State, and local income taxes. By contrast, an independent contractor pays all of his or her Social Security and Medicare taxes and is still responsible for paying income taxes in full. Independent contractors are not covered by workers' compensation or unemployment insurance, nor do they receive overtime compensation or benefits such as health insurance. Further, employees are provided with labor protections, such as the wage laws. These laws do not apply to independent contractors. Employers save money by classifying workers as independent contractors instead of employees.

Senate Bill 909 (passed) provides that, in the construction services and landscaping services industries, an employer may not fail to properly classify an individual who performs work for remuneration paid by the employer. For purposes of enforcement of the labor law, which includes wage protections for minimum wage, living wage, and overtime work, work performed by an individual is presumed to create an employer-employee relationship unless the individual is specifically exempt under the bill or is an independent contractor as determined by a test (the ABC test) specified in the bill.

The Commissioner of Labor and Industry is authorized to enter a place of business or work site to observe work, interview individuals, and copy records and has general authority to investigate as necessary to determine compliance with the labor laws. An employer in violation of failing to properly classify an individual as an employee shall be issued a citation and have an opportunity for a hearing.

The commissioner has the burden of proof to show that the employer has knowingly failed to properly classify an individual as an employee. The commissioner shall consider, as strong evidence, that the employer did not knowingly fail to properly classify an individual where the employer (1) sought and obtained evidence that the individual is an exempt person or, as an independent contractor, withholds reports, and remits payroll taxes on behalf of all individuals working for the independent contractor, pays unemployment insurance, and maintains workers' compensation insurance; or (2) classifies all workers who perform the same or substantially the same tasks for the employer as independent contractors and has received a determination from the Internal Revenue Service that the individual or a worker who performs the same or substantially the same tasks is the individual as an independent contractor.

If the employer requests a hearing, the commissioner is required to delegate to the Office of Administrative Hearings the authority to hold the hearing; a decision of the office is a final order of the commissioner. An aggrieved party may appeal. An employer found in violation is required to, within 45 days of the final order, to pay restitution to any individual not properly classified and to otherwise come into compliance with all applicable labor laws, including those related to income tax withholder, unemployment insurance, workers' compensation, and wage laws. An employer who did not knowingly fail to classify an individual as an employee may not be assessed a civil penalty, unless the employer fails to timely comply with a final order. An employer who knowingly fails to classify an individual as an employee is subject to a civil penalty of up to \$5,000 for each employee. Harsher penalties may be assessed on the employer

with a previous violation. If a final order has been issued, the individual may not bring a civil action against the employer.

For a further discussion of the unemployment insurance and workers' compensation aspects of *Senate Bill 909*, see subparts "Unemployment Insurance" and "Workers' Compensation" under this part of this *90 Day Report*.

State Apprenticeship Training Fund

Contractors working on eligible public works projects must pay their employees the prevailing wage rate. Eligible public works projects are those valued at more than \$500,000 and carried out by the State, or a political subdivision, agency, person, or entity for which at least 50% of the project cost is paid for by State funds. Public works projects include bridges, buildings, ditches, roads, allies, waterworks, or sewage disposal plants constructed for public use or benefit, or paid for entirely or in part by public money.

House Bill 644 (passed) creates the State Apprenticeship Training Fund, which is a special nonlapsing fund within the Department of Labor, Licensing, and Regulation (DLLR), and requires contractors on projects subject to the prevailing wage law and subcontractors on projects worth \$100,000 or more, to either participate in an apprenticeship training program; make payments to a registered apprenticeship program or to an organization that operates a registered program; or contribute to the fund. A contractor or subcontractor that elects to make payments to the fund must make payments, as determined by the Secretary of Labor, Licensing, and Regulation not to exceed 25 cents per hour for each employee in each covered craft.

The purpose of the fund is to promote pre-apprenticeship programs and other workforce development programs in the State's public secondary schools and community colleges, and to cover the cost of implementing the bill's provisions. Payments to the fund are considered to satisfy any required apprenticeship program contributions under the prevailing wage determination, and may be deducted from the required prevailing wage rate that must be paid to an employee. An employer that has made willfully a false or fraudulent representation or omission regarding a material fact in connection with prevailing wage records is liable for a civil penalty of up to \$1,000 for each employee.

Maryland Workforce Corporation

Employers seeking to train their workforce may avail themselves of several State and federal programs, through the Department of Business and Economic Development or DLLR, to assist in increasing workers' skills for new technologies and production processes. *House Bill 1526 (passed)* establishes the Maryland Workforce Corporation as an instrumentality of the State to work with State agencies to:

- develop a plan and framework for workforce development and training programs;
- secure public and private funds for the programs;

- provide grants and other assistance to support its programs;
- contract with training providers to conduct education and skills training programs; and
- act as a research and development resource in finding solutions for new and emerging workforce issues.

The Maryland Workforce Corporation may not offer or provide educational or skills training unless no other training providers are available. As an instrumentality of the State, the corporation's employees are subject to the State's ethics laws, the Public Information Act, and the Open Meetings Act. However, the corporation is exempt from the State procurement law, and other laws generally governing State employees and the activities of State agencies. The Secretary of Labor, Licensing, and Regulation may allocate funds to the corporation for its expenses, as provided in the State budget.

Clarification of the Flexible Leave Act

A private-sector employer that employs 15 or more individuals and provides paid leave to an employee under either a collective bargaining agreement or an employment policy is required to also allow an employee to use earned paid leave to care for a child, spouse, or parent with an illness. The employee may only use the paid leave that the employee has earned. If an employer offers more than one type of paid leave to an employee, the employee may elect the type and amount of leave with pay to use for caring for the sick family member. Employers are prohibited from discriminating against or threatening an employee who exercises rights under the law or files a complaint against the employer for a violation of the provisions of the law.

Senate Bill 562 (passed) amends and clarifies provisions of last session's Flexible Leave Act (Chapter 644 of 2008). The bill specifies that the flexible leave law applies to employers with 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year. The definition of "leave with pay" is clarified to mean paid time that is earned and available to an employee based on hours worked, or as an annual grant of a fixed number of days of leave for performance of service. Leave with pay does not include a benefit provided under an employee welfare benefit plan subject to the federal Employee Retirement Income Security Act of 1974; an insurance benefit, including benefits from an employer's self-insured plan; workers' compensation; unemployment compensation; a disability benefit; or a similar benefit. The definition of immediate family is clarified to mean only a child, spouse, or parent – with "child" and "parent" further defined.

The bill specifies the purpose of the flexible leave law is to allow an employee to use leave with pay to care for an immediate family member who is under the same conditions and policy rules that would apply if the employee took leave for the employee's own illness. Also, an employee may only use leave with pay that has been earned and narrows the provision prohibiting an employer from discharging, demoting, suspending, disciplining, or threatening to take such actions against an employee. Lastly, the bill forbids an employer from taking disciplinary action against an employee, or threatening to do so, because the employee has taken

authorized leave; opposed a practice made unlawful by the bill; or made a charge, testified, assisted, or participated in an investigation, proceeding, or hearing related to the 2008 Flexible Leave Act.

Certification of Crane Operators

Employers who hire employees to operate power equipment, including cranes, must develop and carry out an employee safety training program designed to inform employees of, and train employees in, standards for the safe operation of power equipment. *Senate Bill 991 (passed)* prohibits a person from operating a crane or authorizing the operation of a crane in the State for the purposes of construction or demolition work unless the operator holds a certificate of competence. For a further discussion, see the subpart “Business Occupations” under Part H – Business and Economic Issues of this *90 Day Report*.

Alcoholic Beverages

Statewide Laws

Winery Special Event Permits

Winery special permits enable wineries in the State to sell their product at retail at special events, such as fairs and farmers’ markets. Normally, a winery may use a winery special permit for up to three consecutive days. *House Bill 833 (Ch. 156)* allows a winery to use a winery special permit throughout the nine-day Montgomery County Agricultural Fair. *House Bill 970 (failed)* as introduced would have allowed the Comptroller to issue to a winery 24 extra winery special permits for use in farmers’ markets in Prince George’s County.

Maximum Alcohol Content

Senate Bill 295 (failed) would have prohibited a person from selling at retail “grain alcohol” – that is, an alcoholic beverage with an alcohol content by volume of 95% (190 proof) or more. The bill would have provided that a violator would be guilty of a misdemeanor and on conviction subject to a fine not exceeding \$1,000.

Resident Dealer’s Permit

Senate Bill 162 (passed) establishes a resident dealer’s permit for alcoholic beverages. The bill authorizes the Comptroller to issue the permit to an alcoholic beverages importer who has been a resident of the State for at least two years immediately before filing an application, who does not own a warehouse or hold or have an interest in a wholesaler or retailer license, and who sells directly through a licensed Maryland wholesaler. Resident dealers are subject to a \$200 annual permit fee. The bill also increases the annual fee, from \$100 to \$200, for public storage and transportation, nonresident dealer, and bulk transfer permits issued by the Comptroller.

Enhanced Beer (“Alcopops”)

The definition of “beer” includes beverages that are derived in part from added sweeteners rather than from malt and other material used in fermentation. Accordingly, persons need to possess only a beer license, as opposed to a beer, wine, and liquor license, to sell these beverages. In addition, they are taxed at the 9 cents per gallon rate for beer and not at the \$1.50 per gallon rate for distilled spirits. *Senate Bill 786/House Bill 1180 (both failed)* would have kept treating these “enhanced beer” beverages, also known as “alcopops,” as beer for taxation purposes but would have categorized them as liquor for purposes of retail sales.

Direct Wine Shipment from Outside the State

Senate Bill 338/House Bill 1262 (both failed) would have established a licensing procedure by which out-of-state wineries and other persons would have been able to ship wine directly to residents in the State.

Local Laws

Class W Winery Licenses

A number of local bills were introduced to establish a new Class W winery license simultaneously in 11 jurisdictions. Each of the bills failed. These bills would have allowed wineries holding the Class W license in part to sell wine at retail on or off the premises; sell and serve food incidental to the sampling of wine; and maintain tables, chairs, and other appropriate indoor and outdoor furnishings to enable patrons to consume wine and food.

Allegany County

Volunteer Company License: House Bill 624 (Ch. 147) establishes a Class C volunteer company (on-sale and off-sale) beer, wine, and liquor license for a volunteer fire company, a volunteer ambulance company, or a combined volunteer fire and ambulance company. The annual license fee is \$500. Patrons of an establishment licensed under the Act are not limited to the members and guests of the fire or ambulance companies that hold the license.

City of Annapolis

Administrative Action: Senate Bill 25 (Ch. 14) adds the City of Annapolis to the list of jurisdictions in which the granting of probation before judgment for an alcoholic beverages violation does not bar the board of license commissioners from taking administrative action against the violator. The bill also raises, from \$1,000 to \$2,000, the maximum fine that the board may impose instead of suspending a license.

Anne Arundel County

Omnibus Bill: House Bill 1304 (passed) makes a variety of changes to the alcoholic beverages laws in the county. Most notably, the bill establishes a beer, wine, and liquor hotel-

limited service (on-sale) license that allows large hotels to sell alcoholic beverages daily at one or more locations within the hotel. The bill alters the current beer and wine hotel-limited service (on sale) license. The annual fee is \$2,400 for a beer and wine license and \$2,800 for a beer, wine, and liquor license. The bill also creates a similar license for beer and wine sales only.

Further, the bill increases the salary of the Board of License Commissioners' attorney from \$12,000 to \$20,000, requires the board to obtain State and national criminal history records checks for license applicants, and allows the board to issue a special outdoor license to certain license holders that allows them to provide outdoor entertainment. The annual fee for a special outdoor license is \$100. The bill increases the maximum fine, from \$1,000 to \$2,500, that the board may impose on violators of the alcoholic beverages laws.

Yacht Club License: Under *Senate Bill 434 (Ch. 65)* a Class C (yacht club) license may be issued to a yacht club that maintains slips, boat parking spaces, or berths for at least 50 boats on at least one acre. Currently, a license may only be issued to yacht clubs with at least 75 boats on at least five acres.

Baltimore City

BWLT License: Beer, wine, and liquor tasting or sampling events may take place in certain locations in the city, under *Senate Bill 983/House Bill 1454 (both passed)*. The bills allow a Class BWLT beer, wine, and liquor tasting license to be issued to a holder of a Class A beer, wine, and liquor license for ward 27, precinct 41 of the 43rd legislative district, ward 27, precinct 42 of the 41st legislative district, and ward 11, precinct 5 of the 44th legislative district. An applicant for a BWLT license may obtain a daily tasting license that may be used for up to 12 times in any annual license year (\$20 for a daily license), a 26-day license (\$200 for an annual license), or a 52-day license (\$300 for an annual license).

Drinking Games: *Senate Bill 233 (failed)* would have prohibited the holder of a retail alcoholic beverages license or the owner or operator of a bottle club from allowing drinking games or contests on the premises.

Baltimore County

Towson Commercial Revitalization District: *Senate Bill 543/House Bill 1439 (both passed)* increases, from 2 to 10, the number of beer, wine, and liquor (on-sale) licenses that may be transferred into the Towson Commercial Revitalization District, provided the licenses are from election district 15 in the county, were issued on or before December 31, 2008, and are in existence on June 1, 2009.

Citizenship Status: *House Bill 731 (Ch. 152)* requires that an application for an alcoholic beverages license include a statement whether the applicant is a natural-born citizen or a naturalized citizen and, if the applicant is not a natural-born citizen or a naturalized citizen, information or documentation required by the board of liquor license commissioners to show proof of alien status. The board may obtain information from the Social Security Administration

and the Department of Homeland Security – Immigration and Customs Enforcement to verify the applicant’s citizenship or alien status.

Calvert County

BWST License and Winery Permits: *Senate Bill 518/House Bill 217 (both passed)* establish a special beer, wine, and spirits tasting (BWST) license to enable a holder of a Class A beer and wine license or a Class A beer, wine, and liquor license to hold tastings 365 days a year. Another feature of the bills is that they allow a winery special event permit to be issued to a winery in the State for unlimited use for one night each week, from June through November, at the North Beach Friday Night Farmers’ Market. The bills impose certain fines relating to the sale of alcoholic beverages to underage individuals and to individuals who are visibly under the influence of any alcoholic beverage. The bills also increase the salaries of the chairman and members of the board of license commissioners. The salary raises will take effect at the beginning of the next following term of office.

Caroline County

Special Multiple Event Licenses: Instead of a license holder having to purchase several individual event licenses for a particular class of license, *Senate Bill 37/House Bill 46 (both passed)* establish a special multiple event license so that a license holder conveniently may purchase one license to cover multiple events.

Charles County

License Suspensions: *House Bill 1364 (passed)* repeals the provision preventing a license suspension for four days or less from taking effect on a Friday, Saturday, or Sunday.

Administrative Proceedings: *House Bill 442 (passed)* adds Charles County to the list of counties in which the granting of a probation before judgment to a license holder for selling or furnishing alcoholic beverages to an underage individual does not bar the board of license commissioners from proceeding administratively against the license holder for the violation.

Proximity to Church: The prohibition against issuing a license to sell alcoholic beverages in a building within 500 feet of a church or other place of worship is repealed by *House Bill 1463 (passed)*.

Increased Penalties: *House Bill 372 (passed)* increases the fine from \$1,000 to \$2,500 for any violation of the alcoholic beverages laws that affect the county. The bill also raises the specific fine for selling alcoholic beverages to underage individuals from \$500 to \$750 for a first offense by a license holder, with the amount of the fine for each subsequent offense to be determined by the board of license commissioners, and from \$150 to \$500 for an offense by an employee of the license holder.

Dorchester County

Omnibus Bill: *Senate Bill 333/House Bill 425 (Chs. 50 and 51)* authorize the board of license commissioners to issue Class B caterer's licenses and beer and wine sampling or tasting licenses, establish license fees, specify eligibility and maintenance criteria for the licenses, modify statutory language pertaining to geographic areas in the county in which premises may not be issued an alcoholic beverage licenses, create additional exemptions from the geographic restrictions for certain premises, and authorize the alcoholic beverages inspector to issue summonses for witnesses to appear at inquiries and hearings conducted by the board. The bill also increases the compensation for the board's chairman and regular members by \$500 to \$3,000 and \$2,500, respectively; the increase will take effect at the beginning of the next following term of office.

New Board of License Commissioners: *Senate Bill 1010/House Bill 1508 (both failed)* would have repealed statutory provisions designating the Dorchester County Council as the Dorchester County Board of License Commissioners and specified nomination and appointment procedures for a new board of license commissioners.

Frederick County

Multivenue Wine License: Nonprofit organizations may hold simultaneous fundraising wine events at up to five venues within walking distance of each other, under *House Bill 1512 (passed)*. The venues must be located in districts in the county that allow the consumption of wine. Holders of the one-day multivenue wine license may sell wine by the glass for on-premises consumption or by the bottle for off-premises consumption or may allow a holder of a Class 4 limited winery license to conduct a wine tasting. Under regulations to be adopted by the board of license commissioners, guests are to be prohibited from transporting wine from one venue to another.

Fundraisers for Nonprofits in the 10th Election District: Under *House Bill 905 (failed)* a nonprofit organization in the 10th election district would have been able to obtain a one-day special beer and wine license for use at a fundraising event for the organization.

Part-time Inspectors: *Senate Bill 608 (Ch. 83)* authorizes the board of license commissioners to appoint not more than two part-time alcoholic beverages inspectors to add to the one full-time inspector that the board has on staff.

Garrett County

Off-site Retail Deliveries: *House Bill 334 (Ch. 137)* authorizes an alcoholic beverages license holder or a holder's employee to make an off-site retail delivery of alcoholic beverages if the deliverer is at least 21 years old and certified by an approved alcohol awareness program and the deliverer and purchaser endorse a delivery form that the board of license commissioners approves. The annual license fee for the delivery option is \$150 plus an issuing fee of \$150. The bill also requires the board to charge an issuing fee of \$100 for a wine and beer tasting

license, a \$10 fee for the issuance of any duplicate alcoholic beverages license fee, and a \$200 fee for the assignment or transfer of an alcoholic beverages fee.

Howard County

Citizenship Status: *House Bill 731 (Ch. 152)* requires that an application for an alcoholic beverages license include a statement whether the applicant is a natural-born citizen or a naturalized citizen and, if the applicant is not a natural-born citizen or a naturalized citizen, information or documentation required by the board of liquor license commissioners to show proof of alien status. The board may obtain information from the Social Security Administration and the Department of Homeland Security – Immigration and Customs Enforcement to verify the applicant’s citizenship or alien status.

Hearing Board and Liquor Board Personnel: Under *House Bill 616 (Ch. 146)*, personnel needed to carry out the duties of the Appointed Alcoholic Beverage Hearing Board and the board of license commissioners are to be included in the staff of the county council and supervised by the county council administrator.

Montgomery County

Licenses in Kensington: *House Bill 835 (Ch. 157)* expands the commercial area in the Town of Kensington in which the board of license commissioners may issue special B-K beer and wine or special B-K beer, wine, and liquor licenses for restaurants. The expanded area includes Kensington Parkway and Frederick Avenue, from Montgomery Avenue to Silver Creek.

Corporate Training Center License: *House Bill 821 (Ch. 155)* establishes a Special Class B-Corporate Training Center beer, wine, and liquor license for use in a corporate headquarters support facility that services only the workforce training and education needs of employees, customers, and visitors to the corporate headquarters of a corporation that employs at least 500 employees in the county. The bill allows only on-premises consumption of alcoholic beverages. The annual license fee is \$2,500.

Supermarkets: *House Bill 1365 (failed)* would have authorized a Class A beer and light wine license to be issued to a supermarket in the Rockville Town Center.

Prince George’s County

Laurel Commons: *Senate Bill 886 (passed)* adds Laurel Commons to the list of areas designated as underserved in the county in which a license holder may hold or have an interest in an additional Class B beer, wine, and liquor license for a restaurant. Under the bill, a license holder may hold not more than four Class B beer, wine, and liquor licenses in underserved areas, if Laurel Commons is one of those areas.

Successor Corporations: If two corporations with alcoholic beverages licenses for restaurants merge, consolidate, or undergo a share exchange that results in a single successor corporation during the time period beginning on September 1, 2007, and ending on June 1, 2008,

House Bill 1037 (passed) specifies that the number of licenses the successor corporation may hold is the sum of the licenses held by the two corporations after the successor corporation was formed if the number of licenses held is eight or less.

Salaries of Inspectors: House Bill 1019 (failed) would have provided that the salaries of each alcoholic beverages inspector be \$10,900. The board of license commissioners employs 32 inspectors.

Specialty Stores: House Bill 1499 (failed) would have authorized the issuance of a Class A (off-sale) beer and light wine license to certain specialty food stores.

Bottle Clubs: A bottle club is an establishment that is not licensed by the board of license commissioners but that allows patrons to bring their own alcoholic beverages to the establishment. **House Bill 969 (passed)**, in effect, prohibits a “bottle club” from operating in the county. The bill prohibits a bottle club selling, giving, serving, dispensing, keeping, or allowing to be consumed in the bottle club any alcoholic beverage, setups, or other component parts of mixed alcoholic drinks. The bill also prohibits a bottle club from evading the alcoholic beverages laws in the county. Further, the bill extends its prohibition to a bottle club that allows a paying patron to consume alcoholic beverages from supplies that are purchased or otherwise brought to the premises or establishment by an owner or operator of the establishment or an agent of the owner or operator.

Beer, Wine, and Liquor License at National Harbor: House Bill 1021 (passed) establishes a special three-day Class C beer, wine, and liquor license for a nonprofit organization for use at the National Harbor complex. The license allows beer, wine, and liquor to be sold for consumption on or off the premises. The fee for the license is \$150 per day. The bill also allows a wholesaler licensed in Maryland to donate alcoholic beverages to the holder of the license.

Proof of Applicant’s Legal Status: An applicant for an alcoholic beverages license in the county who is not a United States citizen will have to provide a statement with accompanying proof that the applicant is in legal status in accordance with federal law, under **House Bill 964 (passed)**.

Open Containers: It is illegal in the county for a person to drink an alcoholic beverage or possess an alcoholic beverage in an open container in certain areas in the county, such as in a shopping center or adjacent parking area or other outside areas to which the general public is invited for business purposes, unless authorized by the owner of the establishment. **House Bill 963 (passed)** requires a person who is charged with a misdemeanor for a violation to comply with the command in the charging document to appear in court by appearing in court in person.

Wine Festival License: House Bill 962 (passed) establishes a wine festival license entitling a license holder to display and sell wine at the Prince George’s County Wine Festival for consumption on or off the premises. The bill requires that the weekend chosen for the wine festival not conflict with the Anne Arundel County Beer and Wine Festival, the Calvert County Wine Festival, the Charles County Beer and Wine Festival, or the Howard County Wine

Festival, and that it not occur within 14 days before or after the Maryland Wine Festival in Carroll County.

St. Mary’s County

Maximum Fine for Sales Violations: *House Bill 1271 (passed)* increases the maximum fine for a violation of the laws regulating the sale of alcoholic beverages in the county from \$500 to \$1,000.

Somerset County

Liquor Board Borrowing Limit: The amount that the county liquor control board may borrow is raised from \$50,000 to \$150,000, under *House Bill 227 (passed)*.

Talbot County

Limited Wineries: A Class 4 manufacturer’s (limited winery) license entitles the license holder to produce wine and pomace brandy at the licensed plant. *Senate Bill 334/House Bill 105 (both passed)* allow a license holder in the county to produce wine and pomace brandy also at each warehouse for which the holder has been issued an individual storage permit. The bills, however, prohibit the holder from serving or selling wine and pomace brandy at a warehouse to the public.

Worcester County

Liquor Board Borrowing Limit: The amount that the county liquor control board may borrow is raised, from \$5 million to \$6 million, under *House Bill 1522 (passed)*.

Part I

Financial Institutions, Commercial Law, and Corporations

Financial Institutions

Mortgage Lenders and Mortgage Loan Originators

Since 2007, changes in the real estate market and the economy in general have had a number of negative effects on lenders and borrowers, both nationwide and in Maryland. One of the most significant of these effects has been a marked increase in the number of foreclosures affecting homeowners and their mortgage lenders. Many such foreclosures have involved residential properties that were financed through sub-prime loans and nonbank loan originators, leading to increased concerns regarding the lending practices that surround these nontraditional financing methods.

To address these and other issues relating to the mortgage foreclosure crisis, Chapters 7 and 8 of 2008 made a number of substantive changes to the laws relating to mortgage lending and the regulation of mortgage lenders. Chapters 7 and 8 authorized the Commissioner of Financial Regulation to participate in the establishment and implementation of a multistate automated licensing system for mortgage lenders and mortgage loan originators and to adopt regulations that waive or modify licensing requirements in order to facilitate the implementation of the multistate system.

Senate Bill 269 (Ch. 4) revises the State's mortgage lender and mortgage loan originator laws to conform to the requirements of the federal Secure and Fair Enforcement Mortgage Licensing Act of 2008 (SAFE Act). The Act (1) alters the licensing requirements, initial license terms, and renewal license terms for mortgage lenders and mortgage loan originators; (2) requires applicants and licensees to submit certain information and fees to the Nationwide Multistate Licensing System and Registry (NMLSR); (3) increases civil penalties for violations of the mortgage lender and mortgage loan originator laws; and (4) authorizes the Commissioner of Financial Regulation to issue interim mortgage loan originator licenses and affiliated insurance producer-mortgage loan originator licenses.

Under the Act, an applicant for a mortgage lender or mortgage loan originator license must provide the NMLSR with fingerprints for a criminal history background check, an

NMLSR-approved form containing the applicant's personal history and experience, and an authorization form that allows the NMLSR and the commissioner to obtain independent credit reports and other information about the applicant. In addition, the Act (1) prohibits an individual from engaging in the business of a mortgage loan originator unless the individual holds a valid license issued by the commissioner; (2) establishes exemptions from the licensing requirement; and (3) establishes conditions under which the commissioner may not issue a mortgage loan originator license. The Act also establishes prelicensing education, prelicensing testing, and surety bond requirements for mortgage loan originators, and requires each mortgage loan originator licensee to obtain a unique identifier number issued by the NMLSR upon obtaining an initial or renewal license on or after July 1, 2009.

To comply with the SAFE Act, the initial and renewal terms of a mortgage lender license and a mortgage loan originator license are changed from two years to one year. Regulations that went into effect on January 1, 2009, to begin the transitioning of mortgage lender and mortgage loan originator licensees to the NMLSR also establish a new fee schedule that sets an annual fee of \$1,000 for a mortgage lender license and a \$225 annual fee for a mortgage loan originator license.

Supervision of Bank Branches

Similar to legislation from the 2008 session that streamlined the procedures a bank must comply with to acquire or establish an affiliate, *House Bill 1555 (passed)* creates an expedited process for the establishment of a bank branch in the State. The bill also allows an out-of-state bank to open a *de novo* branch in Maryland if the bank's home state has reciprocal laws. The Commissioner of Financial Regulation is authorized to issue civil penalties against a bank or credit union that violates a cease and desist order or otherwise engages in an unsafe or unsound practice or a practice that is injurious to the public interest. The bill further allows the commissioner to close a public hearing regarding the assessment of civil penalties under extraordinary circumstances.

Financial Literacy

Senate Bill 140/House Bill 120 (both passed) increase the membership of the Task Force to Study How to Improve Financial Literacy in the State and provide additional staffing. The bills also extend the task force's reporting date to December 1, 2009, and its termination date to June 30, 2010. The task force was established by Chapters 186 and 187 of 2008.

Credit Regulation

Mortgage Fraud

Chapters 3 and 4 of 2008 created the Maryland Mortgage Fraud Protection Act, a comprehensive mortgage fraud statute that authorizes the Attorney General, a State's Attorney, and the Commissioner of Financial Regulation to take action to enforce the Act, including the

imposition of criminal penalties. *House Bill 79 (Ch. 126)* expands the definition of “mortgage fraud” under the Maryland Fraud Protection Act to include knowingly creating or producing a document for use during the lending process that contains a deliberate misstatement, misrepresentation, or omission with the intent that the document be relied on by a mortgage lender, borrower, or any other party to the lending process. This Act is intended to clarify that the Maryland Mortgage Fund Protection Act applies to the preparers of documents used in the lending process, such as appraisals.

Mortgage Lending – Exception to Proof of Ability to Repay Requirement

Under Chapters 7 and 8 of 2008, a lender may not make a mortgage loan without giving due regard to the borrower’s ability to repay the loan in accordance with its terms, including the fully indexed rate of the loan, if applicable, as well as property taxes and homeowner’s insurance. Due regard must include (1) consideration of the borrower’s debt-to-income ratio; and (2) verification of the borrower’s gross monthly income and assets by review of third-party documentation, including W-2 forms, income tax returns, payroll receipts, records of a financial institution, or other third-party documents that provide reasonably reliable evidence of the borrower’s income or assets. The income and asset verification requirements do not apply to mortgage loans approved for government guaranty by the Federal Housing Administration, the Veterans Administration, or the Community Development Administration.

Due to the downturn in the economy and the deteriorating residential real estate market that began in 2008, many homeowners are unable to refinance their mortgages at lower rates because of high loan-to-value ratios on their homes. In response to this situation, *Senate Bill 1036/House Bill 1535 (Chs. 114 and 115)* expand the exemptions from the income and asset verification requirements to include (1) refinancing mortgage loans offered under the federal Homeowner Affordability and Stability Plan and made available by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association; and (2) loans approved for government guaranty by the U.S. Department of Agriculture and the Maryland Department of Housing and Community Development.

The Home Affordability and Stability Plan is a \$75 billion federal initiative to provide loan modifications and refinancing opportunities to millions of American households. One of the goals of the plan is to allow distressed homeowners to refinance at lower rates and reduce their monthly mortgage payments. The Acts are intended to remove an obstacle that would prevent Maryland homeowners from fully participating in the federal program. The Acts are emergency measures that took effect April 14, 2009, the date they were signed by the Governor.

Commercial Law

Maryland Antitrust Act

The United States Supreme Court recently overruled 97 years of jurisprudence when it held, in *Leegin Creative Leather Products, Inc. v. PSKS, Inc.*, 551 U.S. ___, 127 S.Ct. 2705 (2007), that the federal Sherman Antitrust Act requires courts to apply a “rule of reason” standard rather than a “*per se* illegal” standard when considering the legality of minimum vertical price-fixing arrangements, also known as minimum resale price maintenance. Minimum vertical price-fixing involves an agreement between a manufacturer and retailers to establish a minimum price below which goods may not be sold.

Because the General Assembly has directed Maryland courts to look to federal court interpretations of federal antitrust laws when construing the Maryland Antitrust Act, the Supreme Court’s decision could influence how Maryland courts interpret and apply the State’s antitrust laws. *Senate Bill 239/House Bill 657 (Chs. 43 and 44)* ensure that Maryland courts will not follow the Supreme Court’s *Leegin* decision. The Acts codify existing Maryland case law by providing that the practice of minimum vertical price-fixing is a *per se* violation of the Maryland Antitrust Act.

Equipment Dealer Contract Act

The Equipment Dealer Contract Act provides statutory protections for dealers of construction, farm, utility, or industrial equipment. Among other things, it prohibits a wholesaler, supplier, or distributor of such equipment from cancelling, failing to renew, or substantially altering a dealer’s supply contract without good cause. The Equipment Dealer Contract Act also requires that a wholesaler, supplier, or distributor, at the option of the dealer, repurchase the dealer’s inventory upon the termination of a supply contract.

Senate Bill 896/House Bill 1068 (Chs. 109 and 110) expand the scope of the Equipment Dealer Contract Act to cover dealers of commercial heating, ventilation, and air conditioning equipment or repair parts. The Acts, therefore, provide dealers of commercial heating, ventilation, and air conditioning equipment with all the statutory protections available under the Equipment Dealer Contract Act.

Misrepresentations in Telephone Directory Advertisements and Listings

In response to concerns about businesses advertising in local telephone directories using local telephone numbers and false local addresses, the General Assembly passed *Senate Bill 10/House Bill 175 (Chs. 10 and 11)*. The Acts prohibit a person from causing to be published in a telephone directory any business telephone listing or advertisement that misrepresents the address of the business. The Acts specifically exempt banks, trust companies, savings banks, savings and loan associations, and credit unions, and the Acts do not apply to a publisher, printer, or distributor of a telephone directory.

A person who violates the provisions of the Acts is subject to a maximum civil fine of \$500 for each violation. A separate violation is committed for each edition of a local telephone directory or local telephone advertising directory in which a prohibited advertisement or telephone listing is published.

Automotive Warranty Enforcement Act

The Automotive Warranty Enforcement Act, or “lemon law,” provides legal remedies to purchasers of new cars, small trucks, and multipurpose vehicles (including motorcycles). Under the Automotive Warranty Enforcement Act, a manufacturer must replace a vehicle or provide a refund, minus an allowance for use, if the manufacturer or its agent, after a reasonable number of attempts, is unable to repair a defect or condition that arises during the Act’s warranty period and substantially impairs the vehicle’s use and market value.

Senate Bill 133 (passed) extends the Automotive Warranty Enforcement Act’s warranty period for a vehicle from the earlier of 15,000 miles or 15 months to the earlier of 18,000 miles or 24 months. The extension of the warranty period does not extend a manufacturer’s express warranty but merely extends the period during which the Act’s legal remedies are available to a consumer.

Parental Controls for Internet Access

Senate Bill 550 (passed) requires Internet access providers with subscribers in the State to create parental controls and to make the features available to each subscriber in the State at or near the time of subscription. An Internet access provider must allow a subscriber, in a commercially reasonable manner, to block all access to the Internet, as well as:

- block a child’s access to specified web sites or a category of web sites;
- restrict a child’s access to subscriber-approved web sites;
- restrict a child’s access to web sites approved by the parental control provider; or
- monitor a child’s Internet use by reporting to the subscriber each web site a child visits or web site the child was denied access to by the parental control.

The bill also allows an Internet access provider or a third party to charge a subscriber a fee to use the parental control features. The bill is limited to Internet access providers that offer direct Internet access to residential customers in exchange for consideration. It does not apply to libraries or educational institutions. A violation of the bill is an unfair or deceptive trade practice under the Maryland Consumer Protection Act and subject to its civil and criminal penalty provisions.

Corporations and Associations

Corporations

Corporate Records, Stock, Distributions, and Stockholder Inspection Rights

Senate Bill 626/House Bill 378 (both passed) alter various provisions of the Maryland General Corporation Law relating to recordkeeping requirements, elimination of fractional shares, redemption of stock, distributions of earnings, and stockholder inspection rights.

Location of Bylaws and Statement of Affairs: The bills eliminate the requirement that the original or a certified copy of a corporation's bylaws, including any amendments, be kept at the corporation's principal office. *Senate Bill 626/House Bill 378* also allow the annual statement of affairs of a corporation to be placed on file at any office or agency specified in the corporation's bylaws and specify the form in which the statement of affairs must be kept.

Elimination of Fractional Shares: The bills allow a corporation to eliminate a fractional interest in shares of stock by rounding up to a full share, rather than rounding off – whether up or down – to a full share.

Redemption of Shares by Open-end Investment Companies: *Senate Bill 626/House Bill 378* increase from \$500 to \$1,000 the net asset value of shares that may be redeemed by a corporation that is registered as an open-end investment company under the federal Investment Company Act of 1940. Correspondingly, if the aggregate net asset value of the shares to be redeemed should increase to an amount greater than \$1,000, rather than \$500, between the date of the notice of redemption and the actual date of redemption, the notice is of no further force and effect, and the redemption may not take place. The mandatory redemption of shares allows an open-end investment company to eliminate small investment accounts that are often beneath a minimum threshold investment and are not economical for the company to maintain.

Distributions from Net Assets: Generally, a corporation may not make a distribution or pay a dividend to stockholders if, after the distribution or payment, the corporation (1) would not be able to pay its debts as they become due in the usual course of business; or (2) the corporation's total assets would be less than the sum of its total liabilities plus the amount needed to satisfy the preferential rights of stockholders if the corporation were dissolved. *Senate Bill 626/House Bill 378* alter this prohibition by authorizing a corporation to make distributions from the corporation's net earnings for (1) the fiscal year in which the distribution is made; (2) the preceding fiscal year; or (3) the immediately preceding eight fiscal quarters, provided the corporation can pay its debts in the usual course of business. This change is intended to give Maryland corporations that have negative stockholder equity but are able to pay their debts when due more flexibility to make distributions from net earnings.

Stockholder's Right of Inspection: Under the Maryland General Corporation Law, a stockholder, holder of a voting trust certificate, or an agent of the stockholder or certificate holder has a right to inspect specified corporate documents including a corporation's bylaws,

minutes of stockholder meetings, and a corporation's annual statement of affairs. *Senate Bill 626/House Bill 378* require that a request to inspect the records be made in writing and that, within seven days after a request is presented to an officer or the resident agent of the corporation, the corporation have the requested documents available for inspection at its principal office.

Fees for Dishonored Checks

Senate Bill 68 (Ch. 16) authorizes the State Department of Assessments and Taxation to collect a fee of \$30 if a check or other negotiable instrument that is presented to the department for personal property or corporate document filings is returned for nonpayment. The fees collected are to be paid into the general fund and used to offset bank charges incurred by the State in connection with the dishonored checks.

Professional Corporations

The Maryland Professional Service Corporation Act authorizes members of specified professions to organize their practice as a professional corporation. This business form allows licensed individuals to obtain the benefits of limited liability and other advantages that only are available to corporations under federal tax law. Ownership of stock in a professional corporation is limited to individuals who hold licenses in the profession. In general, services rendered through a professional corporation must be within a single profession.

The General Assembly considered two changes to the Maryland Professional Service Corporation Act during the 2009 session. *Senate Bill 634 (Ch. 88)* alters the conditions under which a professional service corporation may render services within two or more professions. This Act authorizes a corporation to be a professional corporation for the purpose of rendering the same, similar, or related professional services within two or more professions, instead of requiring that the combination of professional purposes be authorized by the State licensing law applicable to each profession in the combination.

Maryland corporation law requires the corporate name of a professional corporation to contain the surname of one or more stockholders of the corporation unless (1) the corporation's name is approved by the appropriate licensing unit; (2) a certificate of authorization to use the name is issued by the licensing unit; and (3) the certificate is attached to the corporation's articles of incorporation. *House Bill 498 (passed)* exempts a professional corporation in which a majority of the stockholders are physicians licensed by the State Board of Physicians from this requirement.

Foreign Business Entities – Proof of Good Standing

Foreign limited liability companies, foreign limited liability partnerships, foreign limited partnerships, and foreign corporations are required to register with the State Department of Assessments and Taxation before doing any interstate, intrastate, or foreign business within Maryland. *Senate Bill 67 (passed)* requires these business entities to provide proof of good standing from the entity's home jurisdiction when registering with the department. This

requirement is intended to prevent a foreign business entity that is out of compliance with the laws of its home jurisdiction to use its registration in Maryland as an indication that it is a legitimate business, and to allow the department to verify that the business entity was lawfully formed in another jurisdiction.

Securities – Senior Investment Protection Act

Under the Maryland Securities Act, it is unlawful for a person, in connection with the offer, sale, or purchase of a security, to engage in a fraudulent or deceptive act or practice. A person who violates the Act is subject to administrative, civil, and criminal penalties, including the denial, suspension, or revocation of the person's registration to do business in the State.

Senate Bill 684/House Bill 571 (both passed) are intended to address the growing use of senior-specific certifications or professional designations that misleadingly imply expertise in advising or servicing senior investors. The bills make it unlawful for any person to use a senior or retiree credential or designation in a way that is or would be misleading in connection with (1) the offer, sale, or purchase of securities; (2) receiving any consideration from another person for advice about the value of securities or their purchase or sale; or (3) acting as a broker-dealer, agent, investment adviser, or investment adviser representative. *Senate Bill 684/House Bill 571* require the Maryland Securities Commissioner to define what constitutes a misleading use of a senior or retiree credential or designation and establish enhanced criminal penalties for a willful violation of the law. *Senate Bill 684/House Bill 571* are emergency measures that will take effect when signed by the Governor.

Part J

Health and Human Services

Public Health – Generally

Medicaid

Fiscal 2010 Budget Actions

The fiscal 2010 budget increases funding for Medicaid, the Maryland Children’s Health Program (MCHP), and the Primary Adult Care program (PAC) by \$180.9 million or 3.2%. The Medicaid expansion to parents (enacted under Chapter 7 of the special session of 2007) accounts for \$54.7 million of that increase. General fund support declines by \$222.3 million or 11.2% due to additional federal funds provided under the federal American Recovery and Reinvestment Act of 2009 (ARRA) and increased availability of special funds.

Under ARRA, each state receives a temporary, across-the-board 6.2% increase to its federal medical assistance percentage (FMAP) – the federal government’s share of Medicaid expenses. Also, an unemployment-related FMAP bonus is available to states that experience increased unemployment rates. Both of these provisions are available for the period of October 1, 2008, through December 31, 2010. For Maryland, ARRA funds are expected to total \$1.4 billion, \$891.8 million from the across-the-board increase and \$544.1 million from projected increases in the unemployment rate.

Most medical care program providers do not receive a rate increase in the fiscal 2010 budget, with the exception of providers in the Older Adults, Living at Home, and Medical Day Care waiver programs, and managed care organizations (MCOs). Although enhancements for physician and dental rates were expected for fiscal 2010, dental rates were level funded and physician rates were reduced by about 1.5%.

As introduced, the fiscal 2010 budget included contingent language assuming savings of \$24.0 million with the passage of the Maryland False Health Claims Act of 2009, *Senate Bill 272/House Bill 304 (both failed)*, and the Health Program Integrity and Recovery Act of 2009, *House Bill 1476 (failed)*. Supplemental Budget No. 2 included additional language that reinstated hospital medical day limits and reduced physician rates contingent on the failure

of *Senate Bill 272/House Bill 304*. As these bills failed, the Medicaid budget is reduced by \$29.0 million, \$20.0 million to reflect hospital medical day limits and \$9.0 million in physician rate reductions.

False Claims

The federal Deficit Reduction Act of 2005 established incentives for states to enact certain antifraud legislation modeled after the federal False Claims Act. States that enact qualifying legislation are eligible to receive an increase of 10% of the recovery of funds (by a corresponding 10% reduction in the federal share).

Senate Bill 272/House Bill 304 (both failed) would have established a State false claims act, anticipated to qualify for enhanced recoveries. The bills would have prohibited a person from making a false or fraudulent claim for payment or approval under a State health plan or program. The bills also would have authorized the State to file a civil action against a person who makes a false health claim, established civil penalties for making a false health claim, permitted a private citizen to file a civil action on behalf of the State against a person who has made a false health claim, and required the court to award a certain percentage of the proceeds of the action to the private citizen initiating the action.

Coverage of Independent Foster Care Adolescents

Youth in State foster care receive medical care through Medicaid. However, this coverage often terminates when the youth turns 18 and leaves the foster care system. Many continue to qualify for Medicaid or MCHP through their nineteenth or twenty-first birthdays. *House Bill 580 (passed)* requires Medicaid to provide coverage for independent foster care adolescents who are not otherwise eligible for Medicaid benefits and who have annual household incomes up to 300% of federal poverty guidelines. Independent foster care adolescents are individuals younger than age 21 who, on their eighteenth birthday, were in State foster care.

Substance Abuse

Senate Bill 952/House Bill 739 (both passed) require substance abuse services equivalent to those provided to adults under the Medicaid program to be provided to adults covered under PAC. In fiscal 2010, the bills authorize the Governor to transfer \$3.3 million in general or special funds from the Alcohol and Drug Abuse Administration (ADAA) to Medicaid to provide substance abuse services under PAC and to increase the rates paid to providers for substance abuse services provided through PAC and Medicaid. Beginning in fiscal 2011, the bills require the Governor to include sufficient funding to provide these services. Separate budget action restricted fiscal 2010 funds in the Alcohol and Drug Abuse Administration budget for these same purposes. In addition, the bills require MCOs to submit specific information regarding substance abuse treatment services. The Department of Health and Mental Hygiene (DHMH) has to collaborate with MCOs to establish a process and criteria to qualify certified addiction treatment programs as paneled providers.

Long-term Care

Senate Bill 761/House Bill 113 (both passed) require DHMH to study the feasibility of creating a coordinated care program to reform the provision of Medicaid long-term care services in a manner that improves and integrates the care of individuals to meet the differing needs of seniors and adults with disabilities in the State. DHMH must submit an interim report by September 1, 2009, and a final report by December 1, 2010. The bills require the Secretary of Health and Mental Hygiene to convene specified stakeholders to evaluate and make recommendations related to a Coordinated Care Program. The stakeholder process must include a review of long-term plans, consensus reports, experiences, and best practices in the State and in other states relating to the management and coordination of long-term care supports and services, as well as DHMH's plan for evaluating the existing home- and community-based services infrastructure. If the General Assembly passes legislation that requires the submission of a federal waiver, DHMH must submit the waiver by June 1, 2011.

Outreach and Enrollment in Baltimore City Public School System

House Bill 500 (passed) requires the Baltimore City Public School System and DHMH to increase outreach for Medicaid and MCHP to parents and guardians in Baltimore City whose students are enrolled in the National School Lunch Program.

Electronic Health Records

In 2007, the Task Force to Study Electronic Health Records found that health information technology (IT) dissemination, including adoption and use of electronic health records (EHR) has not occurred rapidly in Maryland in part due to the high costs for health care providers.

House Bill 706 (passed) requires the Maryland Health Care Commission (MHCC) to adopt regulations requiring the State Employee and Retiree Health and Welfare Benefits Program and carriers that issue or deliver health benefit plans in the State (“State-regulated payors”) to provide incentives to providers to promote the adoption and meaningful use of EHR. Any incentives must have monetary value, facilitate the use of EHR, recognize and be consistent with existing payor incentives, and take into account certain federal incentives. MHCC and the Health Services Cost Review Commission (HSCRC) must designate a State health information exchange (HIE), while MHCC has to designate one or more management service organizations to offer EHR services. Beginning the later of January 1, 2015, or the date established for the imposition of penalties under ARRA, each provider using EHR that seeks payment from a State-regulated payor must use EHR that are certified by a national certification organization designated by MHCC and capable of connecting to and exchanging data with the State HIE. State-regulated payors may reduce payments to health care providers for noncompliance with these requirements.

House Bill 706 also requires HSCRC, in consultation with hospitals, payors, and the federal Centers for Medicare and Medicaid Services (CMS), to assure that hospitals receive payments provided under ARRA and implement any changes in hospital rates required by CMS to ensure compliance with ARRA. DHMH, in consultation with MHCC, has to develop a

mechanism to assure that health care providers that participate in Medicaid receive the payments provided for adoption and use of EHR technology under ARRA.

Mental Health

Senate Bill 874/House Bill 415 (both passed) allow an individual in a mental health facility to designate an advocate to participate in the treatment and discharge planning process except when the individual is a child or disabled adult whose parent or legal guardian has requested that a specific advocate not participate. The bills require an individual in a mental health facility to receive treatment in accordance with his or her advance directive and clarify use of restraints. Finally, the bills place conditions on advocate participation and prohibit the bills' provisions from being construed to grant certain authority not otherwise in law or limit authority established elsewhere in law.

Autism

Autism Spectrum Disorders can cause severe and pervasive impairment in thinking, feeling, language, and the ability to relate to others. In the past decade, the number of children identified with characteristics of Autism Spectrum Disorders has increased significantly in nearly every jurisdiction in the State. *Senate Bill 963/House Bill 503 (both passed)* establish the Maryland Commission on Autism, staffed by DHMH and the Maryland State Department of Education, to make recommendations regarding services for individuals with autism spectrum disorders; develop a statewide plan for a system of training, treatment, and services for individuals with autism; evaluate ways to promote autism spectrum disorder awareness; and review the findings of any summit or conference convened by the State regarding autism spectrum disorders. The commission must report its preliminary findings and recommendations to the General Assembly by June 1, 2011, and its final report by September 30, 2012.

Behavioral Health Services for Veterans

Chapters 555 and 556 of 2008 established a new program for behavioral health services for Maryland veterans of the Afghanistan and Iraq conflicts. Although the program's call center has received 267 calls since its inception, very few veterans have actually been provided program-funded behavioral health services through the Mental Hygiene Administration. Instead, veterans have been connected to services through the U.S Department of Veterans Affairs (VA) or through other available, pro-bono services outside of the program.

House Bill 1475 (passed) extends behavioral health services benefits to *all* Maryland veterans of foreign wars who have been discharged or released from service under conditions other than dishonorable and are not receiving services from the VA, rather than to veterans only of the Iraq and Afghanistan conflicts. In addition, the bill broadens the geographic coverage area for short-term behavioral services provided to these veterans, where existing federal and State services are determined by DHMH to be inadequate, from rural areas to any area in the State.

Miscellaneous Public Health Issues

Oral Health

Chapter 527 of 2007 established an Oral Health Safety Net Program within DHMH's Office of Oral Health to award grants to local health departments, federally qualified health centers, and entities providing dental services within State facilities to increase dental provider capacity for the underserved. *Senate Bill 63 (passed)* repeals the September 30, 2011 termination date for the program which results in general fund expenditures of \$1.3 million in fiscal 2012 and future years to continue issuing grants at the current funding level.

Environmental Health

State law prohibits a person from manufacturing, selling, offering for sale, importing, or distributing a lead-containing children's product. *House Bill 119 (Ch. 129)* is an emergency bill which alters the definition of a child, for purposes of regulating lead-containing children's products, to include individuals younger than age 13. The bill also incorporates the federal Consumer Product Safety Act of 2008 into the State's framework for the regulation of children's products containing lead.

Bisphenol-A (BPA) is a compound found in many plastics. Some studies have shown that BPA may have hormone-like effects on the developing reproductive system and result in neurobehavioral changes on the offspring of laboratory test animals. *House Bill 15 (failed)* would have prohibited the sale, manufacture, or distribution of child care articles that contain BPA on or after January 1, 2011.

Health Occupations

Athletic Trainers

Senate Bill 247/House Bill 173 (both passed) require that on or after October 1, 2011, an individual be licensed by the State Board of Physicians before practicing athletic training in the State. The practice of athletic training is defined as applying the principles and methods of prevention, clinical evaluation and assessment, immediate care, and treatment, rehabilitation, and reconditioning to the management of athletic injuries for athletes in good overall health under the direction of a licensed physician. The bills establish an Athletic Trainer Advisory Committee within the board to develop and recommend regulations, continuing education requirements, and practice protocols for athletic trainers.

Dental Hygienists

Senate Bill 602/House Bill 576 (both passed) expand the scope of practice for a licensed dental hygienist to include specified manual curettage (removal of dead tissue from gums) and the administration of local anesthesia. The bills authorize the Board of Dental Examiners to adopt regulations governing the education, training, evaluation, examination, and administration

associated with this expanded scope of practice. The bills also allow more flexibility in the unsupervised clinical hours that dental hygienists may work by making the 60% threshold currently applicable to any given calendar week applicable to a three-month period instead.

Massage Therapists

Chapter 243 of 2008 renamed the Board of Chiropractic Examiners as the Board of Chiropractic and Massage Therapy Examiners and repealed the Massage Therapy Advisory Committee. Three licensed massage therapists and one chiropractor were added to the board's membership, which previously had no massage therapist members. While the Massage Therapy Advisory Committee was repealed with the bill's October 1, 2008 effective date, the terms of the massage therapy board members do not begin until July 1, 2009. *Senate Bill 789/House Bill 1460 (both passed)* authorize the massage therapy members of the board to begin their terms two months earlier on May 1, 2009.

Nursing Home Administrators

Senate Bill 471 (Ch. 71) expands the membership of the State Board of Nursing Home Administrators by adding an additional nursing home administrator member and a representative of the Office of Health Care Quality as an *ex officio* member. The bill also establishes new requirements for board members and the executive director including that:

- one of the nursing home administrator members have experience with the Eden Alternative Green House or a similar program, if practicable;
- of the two required non-nursing home professional members, one be a doctor or nurse who specializes in geriatrics and the other be a geriatric social worker;
- one of the consumer members have or have had a family member living in a nursing home; and
- the executive director possess, at a minimum, a bachelor's degree.

Pharmacists

Dispensation of Prescription Medications

Regulations of the State Board of Pharmacy require a pharmacy permit holder to provide patients with information regarding the patient's role and responsibility in preventing medication errors and how to report medication errors. *Senate Bill 242 (Ch. 45)* requires pharmacy permit holders to inform consumers of the process for resolving incorrectly filled prescriptions by posting a readable sign in a conspicuous location at the point where prescriptions are dispensed to consumers or by including that information with each filled prescription. Licensed dentists, physicians, or podiatrists who prepare and dispense their own prescriptions must comply with

these requirements; however, an exemption exists for a pharmacy to which the public does not have access that is owned or operated by specified facilities, such as a hospital.

Administration of Vaccinations

Under current law, a pharmacist may administer an influenza vaccination to any person or a pneumococcal pneumonia or herpes zoster vaccination to an adult who has a prescription from a physician, in accordance with regulations set jointly by the Board of Pharmacy, Board of Physicians, and Board of Nursing. *Senate Bill 700 (passed)* expands the types of vaccinations that may be administered by a pharmacist to any vaccination that the Board of Pharmacy, Board of Physicians, and Board of Nursing determines is in the best interest of the community and is administered in accordance with regulations adopted jointly by the three boards. The vaccinations may only be administered by a pharmacist who has verified successful completion of a certification course that included instruction in the Centers for Disease Control and Prevention’s guidelines and recommendations regarding vaccinations and who is certified in basic cardiopulmonary resuscitation.

Drug Therapy Management

The Drug Therapy Management Program, established by Chapter 249 of 2002, authorizes a physician and a pharmacist to enter into a therapy management contract that specifies treatment protocols that may be used to provide disease specific care to a patient. *Senate Bill 791/House Bill 725 (both passed)* exempt group model health maintenance organizations from this law and set standards for licensed physicians and licensed pharmacists who wish to provide drug therapy management to patients in a group model health maintenance organization. For a further discussion of *Senate Bill 791/House Bill 725*, see the subpart “Health Insurance” within this part of this *90 Day Report*.

Pharmacy Permits

Senate Bill 309/House Bill 252 (both passed) extend the term of a pharmacy permit from one to two years and require the State Board of Pharmacy to send each permit holder a renewal notice by October 1 of the year in which the permit expires. The bills also remove the requirement that, along with a renewal notice, the board send a renewal application to a permit holder.

Polysomnographic Technologists

Chapter 595 of 2006 required the State Board of Physicians to license and regulate the practice of polysomnography – the monitoring and recording of physiologic data during sleep, including sleep-related respiratory disturbances. *Senate Bill 433/House Bill 597 (both passed)* delay the date by which a polysomnographic technologist must be licensed by the State Board of Physicians in order to practice in the State until October 1, 2011, and extend the date by which licensure applicants can fulfill the requirements for a waiver of education requirements.

Psychologists

Senate Bill 951/House Bill 654 (both passed) alter the definition of a doctoral degree in psychology to expand the types of doctoral programs the State Board of Examiners of Psychology may recognize as qualifying an applicant for a license to practice psychology in the State. A qualifying degree may be accredited by the Canadian Psychological Association or meet the qualifying criteria determined by the Council for the National Register of Health Service Providers in Psychology if the degree was received from a doctoral program in psychology that meets specified requirements. The bills also repeal the requirement that at least one year of required supervised professional experience occur after a doctoral degree has been awarded.

Social Workers

Senate Bill 628/House Bill 510 (Chs. 86 and 87) require the Board of Social Work Examiners, when reviewing an application for licensure to practice social work, to notify each applicant of whether the applicant has been approved to take the licensure examination within 60 days after the application was submitted. The board is also required to establish a workgroup of interested stakeholders to examine and make recommendations to the General Assembly regarding the substance of licensure and the process by which licenses are issued.

Miscellaneous

Billing for Anatomic Pathology Services

House Bill 1150 (Ch. 163) authorizes a clinical laboratory, a physician, or a group practice that provides anatomic pathology services for a patient in Maryland to bill the health care practitioner who orders but does not supervise or perform an anatomic pathology service on a Pap test specimen provided that the health care practitioner complies with specific disclosure and ethics requirements. The bill also authorizes a health care practitioner who collects a Pap specimen to bill a patient or payor for the service as long as the same disclosure and ethics requirements are met.

Loan Assistance Repayment Program

To address the workforce shortage of physicians in the State, *Senate Bill 627/House Bill 714 (both passed)* alter the eligibility for the Janet L. Hoffman Loan Assistance Repayment Program by removing primary care physicians from the program and establishing a separate Maryland Loan Assistance Repayment Program for these health care practitioners. A more detailed discussion of these bills may be found under Part L – Education of this *90 Day Report*.

Health Care Facilities and Regulation

Hospitals

Financial Assistance and Debt Collection Policies

In February 2009, the Health Services Cost Review Commission (HSCRC) released a report on financial assistance and credit and collection practices of Maryland hospitals. HSCRC found that Maryland hospitals generally adhere to voluntary standards for financial assistance. However, HSCRC also determined that the State lacks standards for hospital credit and collection activities, hospitals' policies are ambiguous and varied, and oversight of third-party collection agencies may be insufficient.

Senate Bill 776/House Bill 1069 (both passed) alter requirements for hospital financial assistance and debt collection policies. At a minimum, hospitals must provide free care to patients with family incomes up to 150% of federal poverty guidelines and reduced-cost care to low-income patients with higher family incomes in accordance with the mission and service area of the hospital. Each hospital has to develop a financial assistance information sheet for patients and submit to HSCRC a debt collection policy that adheres to specified standards. A hospital that knowingly violates any financial assistance policy or regulation is subject to a fine of up to \$50,000 per violation. HSCRC is required to establish a workgroup on patient financial assistance and debt collection, to review the need for uniform policies among hospitals, and to study and make recommendations on incentives for hospitals to provide free and reduced-cost care to patients without the means to pay their hospital bills.

Electronic Health Records

House Bill 706 (passed) requires the State Employee and Retiree Health and Welfare Benefits Program and health insurance carriers issuing or delivering health benefit plans in the State to provide incentives to providers, including facilities where health care is provided to patients or recipients, to promote the adoption and meaningful use of electronic health records. A more detailed discussion of this bill may be found under Part J – Public Health of this *90 Day Report*.

Trauma Centers

Senate Bill 464/House Bill 521 (both passed) expand eligibility for reimbursement for Level III trauma centers from the Maryland Trauma Physician Services Fund by doubling the maximum number of reimbursable trauma on-call hours annually and authorizing reimbursement for costs incurred to maintain trauma physicians on-call in plastic surgery, major vascular surgery, oral or maxillofacial surgery, and thoracic surgery. Reimbursement is contingent upon availability of funds. Each year by May 1, the Maryland Health Care Commission (MHCC) must determine appropriate levels of payment that can be sustained from the trauma fund given expected revenue. If revenue is insufficient to meet expected payments, MHCC is prohibited from reimbursing Level III trauma centers for more than 35,040 trauma on-call hours or for those

practice areas specified under the bills until the remaining costs eligible for reimbursement are fully funded.

Prince George's Hospital Authority

The Prince George's County Health System, which includes Prince George's Hospital Center, has been faced with financial difficulties for the past several years, experiencing lost market share, revenue losses, low liquidity, significant deferred capital needs, poor bond ratings, and a disadvantageous payor mix. Both the State and Prince George's County have provided significant financial support to help the hospital meet its financial needs.

Chapter 680 of 2008 established the Prince George's County Hospital Authority to implement a competitive bidding process for transferring the system to new ownership. Under Chapter 680, an agreement to transfer the system was to be reached prior to the beginning of the 2009 session. This did not occur. To support ongoing efforts to transfer the system, *Senate Bill 1039/House Bill 1486 (Chs. 116 and 117)* alter the scope of the authority, including authorizing an extension of the bidding process, clarifying the duration of State and county funding commitments, and authorizing MHCC to issue an exemption from the certificate of need process and waive requirements of the State Health Plan. The authority must complete its obligations prior to the expiration of the authority on May 22, 2010, and certain State agencies have to designate consultants to advise the authority.

The fiscal 2010 budget includes \$12.0 million in operating support for the authority. The State has also committed to provide long-term financial support of \$75.0 million in operating funds (\$15.0 million in fiscal 2011 through 2015) and \$24.0 million in capital funds (\$4.0 million in fiscal 2012 and \$10.0 million in fiscal 2013 and 2014). Under *Senate Bill 1039/House Bill 1486 (Chs. 116 and 117)*, the State and Prince George's County must be relieved of some or all of their long-term funding obligations to support the system only to the extent that any fund balance remains after the transfer of all of the system's components to a new owner(s), or after the authority has expired without agreement on the transfer of all of the system's components to a new owner(s).

Bon Secours Hospital

Bon Secours Hospital is a 125-bed community hospital located in West Baltimore. Over the past three years, the financial challenges facing the hospital escalated significantly due to volume declines and the need for \$14.0 million in annual physician subsidies due to a disadvantageous payor mix. To assist the hospital in the short-term, the fiscal 2010 budget includes authorization for a one-time \$5.0 million operating grant. To receive the grant, the Board of Directors of Bon Secours Hospital, Baltimore, Inc. must report on a long-term, comprehensive, and sustainable solution to the hospital's financial issues, including a plan for implementing by fiscal 2011, a sustainable primary care centric approach that in addition to urgent care services will include expanded primary care access; improved mental health services; additional substance abuse assessment and treatment services; and other critical community services.

Nursing Homes

Chapter 200 of 2008 required the Department of Health and Mental Hygiene (DHMH) to develop a plan for accountability measures to use in a pay-for-performance (P4P) program. Funding for the P4P program will be derived from a reallocation of a portion of the rate increase funded by the quality assessment imposed on nursing facilities in the State. In December 2008, DHMH submitted a plan under which eligible providers will receive a composite score based on five specific scoring criteria.

Senate Bill 664/House Bill 782 (both passed) require DHMH to phase in the distribution of revenues to nursing facilities under the P4P program beginning July 1, 2010. By July 1, 2009, DHMH must send each nursing facility the scoring criteria, the performance of the facility relative to the scoring criteria, and the monies that would be received by the facility using the scoring criteria. Beginning July 1, 2010, DHMH must distribute 50% of the revenues from the quality assessment being used in the P4P program based on the scoring criteria. Beginning July 1, 2011, DHMH must fully implement the P4P program. By December 1, 2009, and annually thereafter, DHMH has to make necessary changes to the P4P program to determine the effect on providers and whether the measures are objective, measurable, and, when considered in combination, have a correlation to residents' quality of life and care. The bill also requires DHMH to consult with stakeholders to assess the State's long-term care reimbursement methodology and report its findings by October 1, 2010.

Continuing Care Retirement Communities

Continuing care retirement communities (CCRCs) offer a full range of housing, residential services, and health care in order to serve older residents as their medical needs change over time. CCRCs are required to establish internal grievance procedures. *House Bill 843 (passed)* expands the required components for internal grievance procedures and allows subscribers and providers to seek nonbinding mediation within 30 days after the conclusion of an internal grievance procedure. Internal grievance procedures must at least allow a subscriber or group of subscribers to submit a written complaint, require the provider to assign personnel to investigate the grievance, and give a subscriber the right to meet with management within 30 days after submission of a written grievance.

The Maryland Department of Aging regulates CCRCs, including providing approval of continuing care agreements – an agreement between a provider and a subscriber to provide continuing care. *House Bill 952 (passed)* requires the department to review continuing care agreements or any other related agreements within 120 days of receipt, instead of the current 180 days. However, if the department submits comments or requests additional information from the provider, the 120-day review period is frozen until the requested information is received. If a provider seeks to modify an approved agreement, the department must limit its review to that modification.

Health Insurance

Relationship between Health Insurance Carriers and Health Care Providers

In the 2009 session, legislation addressed the contractual relationship between health insurance carriers and health care providers. Several bills, discussed below, were a result of recommendations of the Task Force on Health Care Access and Reimbursement, which issued its final report in December 2008. Other bills resulting from recommendations of the task force, *Senate Bill 627/House Bill 714 (both passed)* are discussed under Part L – Education of this 90 Day Report.

Payments to Nonparticipating Providers by Health Maintenance Organizations

In its final report, the Task Force on Health Care Access and Reimbursement recommended changes to the formula used to determine what a health maintenance organization must pay to a nonparticipating provider for covered services provided to an enrollee of a health maintenance organization. *Senate Bill 380/House Bill 255 (both passed)* alter these rates. The bills take effect January 1, 2010, and terminate on December 31, 2014. For a nonevaluation and management service, the bills require a health maintenance organization (HMO) to pay noncontracting health care providers no less than 125% of the average rate the HMO paid as of January 1 of the previous calendar year in the same geographic area, to a similarly licensed contracting provider for the same covered service.

For covered evaluation and management services, an HMO must pay a noncontracting health care provider at the greater of:

- 125% of the average rate the HMO paid as of January 1 of the previous calendar year in the same geographic area, for the same covered service, to similarly licensed contracting providers; or
- 140% of the Medicare rate for the same covered service, to a similarly licensed provider in the same geographic area as of August 1, 2008, inflated by the Medicare Economic Index.

The bills require an HMO to calculate the average rate paid to similarly licensed providers under written contract with the HMO for the same covered service using a specified calculation (the sum of the contracted rate for all occurrences of the Current Procedural Terminology (CPT) code for that service divided by the total number of occurrences of the CPT code).

The bills also authorize the Maryland Insurance Administration to investigate and enforce a violation of the bills and require the Maryland Health Care Commission to annually review payment to health care providers to determine compliance with the bill and report its findings to the Maryland Insurance Administration.

Use of Physician Rating Systems by Health Insurance Carriers

In its final report the Task Force on Health Care Access and Reimbursement also recommended that the General Assembly pass legislation requiring that health plans licensed by the Maryland Insurance Administration fully disclose to consumers and physicians important aspects of their physician rating systems. In developing legislation, the task force recommended looking at the consent agreement developed by the Office of the Attorney General of the State of New York for health plans in that state.

Senate Bill 661/House Bill 585 (both passed) establish requirements for the Maryland Health Care Commission to approve ratings examiners to review physician rating systems. The bill prohibits health insurance carriers from using a physician rating system unless the system is approved by a ratings examiner. The bills require health insurance carriers to establish an appeals process for physicians to contest a rating in the system and to disclose any changes in evaluations to physicians at least 45 days before making the information available to enrollees. The bills also require the Maryland Insurance Administration to report annually to the Governor and the General Assembly on the number and types of appeals that have been filed by physicians with carriers regarding an evaluation in a physician rating system and the number of entities that the Maryland Health Care Commission has approved as ratings examiners. The bills take effect January 1, 2010.

Credentialing by Insurance Carriers

Finding that credentialing of health care providers is time consuming and expensive for hospitals and health plans, the Task Force on Health Care Access and Reimbursement recommended that the Maryland Insurance Administration and the Office of Health Care Quality should align their standards using the Council for Affordable Quality Healthcare provider data source. *Senate Bill 646/House Bill 526 (Chs. 90 and 91)* authorize the Insurance Commissioner to designate as the uniform credentialing form a credentialing application developed by a nonprofit alliance of health plans and trade associations for an online credentialing system if the application is available to providers at no charge and use of the application is not conditioned on submitting the application to a carrier online.

Required Incentives for Electronic Health Records

House Bill 706 (passed) requires the Maryland Health Care Commission to adopt regulations, on or before September 1, 2011, that require State-regulated payors to provide incentives to health care providers to promote the adoption and meaningful use of electronic health records. Prior to the adoption of these regulations, the Maryland Health Care Commission must submit reports to the Senate Finance Committee and the House Health and Government Operations Committee in January 2010 and January 2011 on plans for the required regulations. A more detailed discussion of this bill may be found under the subpart “Public Health – Generally” within Part J – Health and Human Services of this *90 Day Report*.

Clarification of Prompt Pay Requirements

Errors may occur during the electronic processing of claims submitted by health care providers that result in the initial denial of a claim that was properly submitted (a “clean claim”). The health care provider must then resubmit the claim. *Senate Bill 439/House Bill 440 (Chs. 66 and 67)* clarify that if a health insurance carrier fails to pay a clean claim for reimbursement or otherwise violates clean claims requirements, the carrier must pay interest on the amount of the claim that remains unpaid 30 days after the receipt of the initial clean claim for reimbursement.

Requirements for Insurer Provider Panels

House Bill 141 (Ch. 131) prohibits an insurer from using an insurance provider panel if the provider contract for the insurer provider panel requires a provider to participate on the insurer provider panel as a condition of participating on an HMO or non-HMO provider panel. An entity arranging an insurer provider panel must provide a health care provider with a schedule of applicable fees for up to the 50 most common services billed by a provider in that specialty at the time of contract, 30 days prior to a change, or upon request.

Provider Contracts for Dental Provider Panels

Senate Bill 481/House Bill 145 (both passed) prohibit a provider contract from requiring a provider, as a condition of participating in a fee-for-service dental provider panel, to participate in a capitated dental provider panel. The bills also require the Maryland Insurance Administration to review dental provider contracts, the terms and conditions of the contracts, and the impact that the contracts have on the dental profession and report its findings and recommendations by December 31, 2009, to the House Health and Government Operations Committee and the Senate Finance Committee.

Individual Market Regulation

Senate Bill 79 (passed) alters various aspects of the regulation of health insurance offered in the individual market.

Preexisting Conditions

In the individual market, carriers may medically underwrite policies. The carrier may inquire about conditions for which the applicant has received medical care or advice during the seven years immediately preceding the date of application. This is known as the “look back” period. An insurer or nonprofit health service plan must cover any condition revealed in the application or add an exclusionary rider for that particular condition. However, the insurer or nonprofit health service plan may exclude coverage for a preexisting condition identified in the look back period that is not revealed in the initial application for up to two years.

All states allow preexisting condition limitations in the individual market. Sixteen states have a look back period of 6 months or less, and 28 states have a maximum exclusion period of

12 months or less (including Pennsylvania, Virginia, and West Virginia). Twelve states and the District of Columbia have no limit on the look back period, and 8 states and the District of Columbia have no limit on the maximum exclusion period.

Senate Bill 79 alters preexisting condition provisions for individual health benefit plans by providing that a health insurance application form or nonprofit health service plan application form for specified individual health benefit plans may not contain inquiries about (1) a preexisting condition, illness, or disease for which the applicant has not received medical care or advice during the five years immediately before the date of application; or (2) medical screening, testing, monitoring, or any other similar medical procedure that the applicant received during the five years immediately before the date of application.

Under the bill, a carrier may not attach an exclusionary rider to an individual health benefit plan unless the carrier obtains the prior written consent of the policyholder. A carrier may impose a preexisting condition exclusion or limitation on an individual for a condition that was not discovered during the underwriting process only if the exclusion or limitation (1) relates to a condition for which medical care was received during the 12-month period immediately preceding the effective date of the individual's coverage; (2) extends for a period of not more than 12 months after the effective date of the coverage; and (3) is reduced by the aggregate of any applicable periods of creditable coverage.

Finally, a preexisting condition exclusion or limitation may not be imposed on an individual who is covered under any creditable coverage as specified but may be imposed on or after the end of the first 63-day period during which the individual was not covered for the entire period under any creditable coverage.

House Bill 32 (passed) contains provisions that are identical to the preexisting condition provisions of *Senate Bill 79*.

Out-of-state Association Contracts

Individuals may purchase health insurance through an association that has been issued a group contract for its members. Association health plans provide an alternative to individual policies for those who do not have access to employer-based group coverage; however, they are not group insurance plans and, therefore, are not subject to the same regulation. Generally, Maryland law does not apply to contracts sold through associations in other states, even when coverage is provided to residents of Maryland.

Twelve carriers offer nonemployment based health insurance coverage to individuals in Maryland on a medically underwritten basis. Of these, three require the individual to join an out-of-state association (GoldenRule/FACT, Mega Life Insurance Company/NASE, and Time Insurance/Health Advocate Alliance). Other carriers offer coverage directly to an individual or through an association plan (such as AARP).

Senate Bill 79 requires carriers that require evidence of individual insurability and offer coverage under an out-of-state association contract to Maryland residents to disclose certain

information to applicants for coverage under the contract. A carrier must disclose (1) that coverage is conditioned on association membership; (2) all costs related to joining and maintaining membership in the association; (3) that membership fees or dues are in addition to the premium for coverage; (4) that the terms and conditions of coverage are determined by the association and carrier; (5) the health insurance benefits otherwise mandated in Maryland that are not included in the contract; (6) that the Maryland resident may purchase an individual health benefit plan that includes the mandated benefits that are not included in the contract; (7) that the contract is not regulated by the Maryland Insurance Commissioner; and (8) that the terms and conditions of coverage may be changed without the consent of a member. Carriers that collect membership fees or dues on behalf of an association must disclose this information on the enrollment application. The bill also authorizes the Insurance Commissioner to require a carrier that provides coverage under an out-of-state association contract to report annually to the Commissioner on the number of State residents covered under the out-of-state association contract.

House Bill 39 (passed) contains identical provisions on the regulation of out-of-state association contracts.

Restrictions on Rescission of Contracts and Certificates

After two years from the date of issue of a policy, no misstatements, except fraudulent misstatements, made by the applicant in the initial application for coverage may be used to void the policy or deny a claim for loss incurred or disability.

In 2008, the U.S. House of Representatives Committee on Oversight and Government Reform investigated rescission practices in the individual health insurance market after regulators in California and Connecticut uncovered evidence of improper rescissions.

Senate Bill 79 prohibits an insurer, nonprofit health service plan, or a health maintenance organization that conditions coverage on evidence of individual insurability from rescinding coverage on the basis of written information submitted on or with or omitted from an application unless the carrier completed medical underwriting and resolved all reasonable medical questions related to the written information before issuing the health benefit plan. A carrier must prove that any rescission of a health benefit plan complies with these provisions.

House Bill 235 (passed) contains identical provisions to the rescission provisions of *Senate Bill 79*.

Loss Ratios

Loss ratios are the ratios of incurred claims to premiums earned (the share of premium revenues spent on medical care). Carriers must include loss ratios for all health benefit plans specific to the State in their required annual reports to the Insurance Commissioner. *Senate Bill 79* requires the Maryland Insurance Administration to study options to raise or define medical loss ratios in the individual, small group, and large group health insurance markets that incentivize reduction of health care costs and improvement of health care quality and report its

findings by December 1, 2009. Specifically, the administration is required to (1) study medical loss ratio requirements in other states to determine innovative ways to encourage health insurance carriers to incentivize adoption of electronic health records, implement wellness programs, and implement chronic care management programs; and (2) examine tiered medical loss ratio requirements in the small group market.

Small Group Market Regulation

Changes to the Comprehensive Standard Health Benefit Plan

Chapter 243 of 2007 required the Maryland Health Care Commission to conduct a study of the Comprehensive Standard Health Benefit Plan, the plan required to be offered in the small group health insurance market, and report by December 1, 2007, on options available to encourage more employers to enter the small group market. The commission asked its actuary, Mercer, to examine the plan and make recommendations to encourage participation, retention, prudent use of benefits, maintenance of a healthy lifestyle, and the use of care management. Options examined by Mercer included minimizing or eliminating the benefit “floor” and “ceiling”; altering rating principles by broadening the rating band to better reflect age-related risk, incorporating gender, allowing a 5% to 10% rate variation based on health factors, allowing premiums for new groups to be adjusted for health factors and blended to modified community rate over three to five years; increasing the small group size from 2-50 employees to 2-75 employees; and allowing the Health Insurance Portability and Accountability Act compliant preexisting condition exclusions.

Senate Bill 637/House Bill 674 (both passed) make several changes to small group market regulation as a result of the recommendations by Mercer. Specifically, the bills:

- permit preexisting condition limitations to the extent that they are allowed in the large group;
- repeal the floor on the Comprehensive Standard Health Benefit Plan;
- change the rating of health benefit plans issued in the small group market, effective July 1, 2010. The bills permit the use of health status in rating upon entry of a small employer into the small group, phased out over a period of three years. A carrier may charge based on this adjustment for health status an additional 10% above or below the community rate in the first year of enrollment, 5% above or below the community rate in the second year of enrollment, and 2% above or below the community rate in the third year of enrollment. The bills also authorize health insurance carriers to vary a rate charged for a health benefit plan in the small group up to 50% above or below the community rate based on age and geography;
- require the Maryland Health Care Commission to maintain on its web site an application that small businesses may use to compare premiums for health benefit plans offered through the small group market; and

- require the commission to report to the Governor and the General Assembly by December 1, 2009, on potential options for allowing plans with fewer benefits than the Comprehensive Standard Health Benefit Plan to be sold in the small group market and whether any additional authority is needed to effectively implement the premium comparison application.

Required Extended Election Period for Federal Subsidy

The American Recovery and Reinvestment Act of 2009 (ARRA) provides certain individuals involuntarily terminated by their employer a premium subsidy (65% of the premium for up to nine months) to help cover the costs of continuation of their group health benefits available under the Consolidated Omnibus Budget Reconciliation Act (COBRA). ARRA provides this subsidy both to those individuals who qualify for COBRA under federal law (employers with 20 or more employees) and to those who qualify for continuation coverage under State law (employers with less than 20 employees).

ARRA makes this subsidy available to individuals who were involuntarily terminated after September 1, 2008, and before December 31, 2009. For those individuals who became eligible for COBRA before February 16, 2009, the date of enactment of ARRA, but who declined coverage, ARRA provides a second election period. However, while this second election period is automatic for those who qualify for COBRA under federal law, states must act to provide this second election period to those who qualify for continuation coverage under state law.

Senate Bill 84 (Ch. 22) makes necessary changes to State law to enable individuals in small firms that were involuntarily terminated from their jobs between September and February to have a second opportunity to elect continuation coverage and obtain a federal premium subsidy. The bill requires health insurance carriers to allow an extended election period for continuation coverage for individuals who are eligible for continuation coverage under State law and are eligible for a federal subsidy or would be if an election of continuation coverage was in effect on the date of enactment of ARRA.

Regulation of Nonprofit Health Service Plans

Bills were passed during the 2009 session that specifically impact nonprofit health service plans that operate in the State.

Hearings and Orders on the Impact of Out-of-state Laws

In December 2008, the Council of the District of Columbia approved the Medical Insurance Empowerment Amendment Act of 2008. This Act requires the Commissioner for the Department of Insurance, Securities, and Banking of the District of Columbia to determine whether the portion of CareFirst's surplus attributable to the District of Columbia is excessive and order CareFirst to divest itself of excessive surplus through community health reinvestment. The Act also requires CareFirst to offer, set specified affordability and adequacy standards for,

and advertise the availability of an open enrollment program. More specifically, CareFirst must make an open enrollment program available to a minimum of 2,500 subscribers from the District of Columbia and may not charge a premium that exceeds 125% of standard market rates.

Senate Bill 1070/House Bill 1534 (both passed) authorize the Maryland Insurance Commissioner to hold a hearing if another state enacts a law that requires a nonprofit health service plan operating in Maryland to provide a program or benefits for the residents of another state. The hearing must review and evaluate the impact of the law on the nonprofit health service plan, including the impact on surplus, premium rates for policies issued or delivered in Maryland, and solvency. The Commissioner must determine whether the impact on the nonprofit health service plan is harmful to the interests of subscribers covered by policies issued or delivered in Maryland and issue an appropriate order to protect the subscribers, where necessary. The order may prohibit the nonprofit health service plan from subsidizing the program or benefits for the residents of another state through premiums charged to subscribers under policies issued or delivered in Maryland or use of any surplus earned through policies issued or delivered in Maryland.

Senior Prescription Drug Assistance Program

House Bill 1472 (passed) makes clarifying changes to the Senior Prescription Drug Assistance Program (SPDAP) and specifies how CareFirst must provide a subsidy for assistance with the Medicare Part D coverage gap for individuals enrolled in SPDAP.

The bill clarifies that there are two subsidies provided to SPDAP: (1) a subsidy under § 14-106 of the Insurance Article, which funds the SPDAP premium subsidy and is capped at \$14.0 million in fiscal 2010; and (2) a subsidy under § 14-106.2 of the Insurance Article, which provides assistance with the Medicare Part D coverage gap and is provided in an amount of \$4.0 million in years in which CareFirst incurs a specified surplus.

The bill also alters the timing of the second subsidy to simplify administration of SPDAP. Beginning with calendar 2009, CareFirst must transfer \$4.0 million to SPDAP if it has a surplus that exceeds 800% of specified consolidated risk-based capital (RBC) requirements. CareFirst is not required to make the transfer if its surplus does not exceed the specified level. The RBC threshold for determining the transfer is based on the corporation's annual March 1 filing with the Maryland Insurance Administration. By September 1 of each year, CareFirst must notify SPDAP whether it will transfer the \$4.0 million subsidy during the next calendar year. CareFirst must pay the \$4.0 million subsidy to SPDAP in quarterly installments of \$1.0 million beginning October 1 for the next calendar year.

Mandated Benefits Coverage

There are 43 mandated health insurance benefits that certain carriers must provide to their enrollees. Several bills that passed during the 2009 session added to or modified these mandates.

Breast Cancer Screening

House Bill 405 (passed) alters the health insurance mandate regarding coverage of mammograms by requiring insurers, nonprofit health service plans, and health maintenance organizations to provide coverage for breast cancer screening in accordance with the latest screening guidelines issued by the American Cancer Society. As of March 2008, these guidelines include:

- Yearly mammograms recommended starting at age 40 and continuing for as long as a woman is in good health.
- Clinical breast exam as part of a periodic health exam every three years for women in their twenties and thirties and annually for women age 40 and older.
- Women at high risk (greater than 20% lifetime risk of breast cancer) should get an MRI and a mammogram annually.

Hospitalization and Home Visits Following a Mastectomy

The estimated incidence of mastectomies nationally for women younger than age 65 is 0.018%, with 65% of patients sent home within 24 hours. Anecdotal evidence suggests that, in the absence of a mandate, 48-hour inpatient stays are often covered or approved by carriers when medically necessary or requested by the physician or patient. In 2008, 20 states required coverage for an inpatient stay following a mastectomy, with 8 requiring a minimum 48-hour stay, and the remainder generally requiring that length of stay be determined by the physician.

Senate Bill 173/House Bill 41 (both passed) require insurers, nonprofit health service plans, and HMOs to provide coverage for a minimum 48-hour inpatient hospital stay following a mastectomy. A patient may request a shorter length of stay. For a patient who receives less than a 48-hour inpatient stay or who undergoes a mastectomy on an outpatient basis, a carrier must provide coverage for one home visit scheduled to occur within 24 hours after discharge and an additional home visit if prescribed. Carriers may not deny, limit, or impair the participation of physicians under contract with the carrier for advocating the interest of mastectomy patients, including lengthier inpatient stays or additional home visits. Carriers must provide notice annually about the coverage provided under the bills.

Coverage for Off-label Use of Drugs

Off-label use of a drug is the prescription of a medication in a manner different from that approved by the federal Food and Drug Administration. As many as one of every five drugs prescribed in the United States may be for off-label use. Off-label use is particularly prevalent in cancer therapy, where as many as 50% to 75% of all drug uses are off-label.

Under Maryland law, if a policy or contract of health insurance provides coverage for drugs, coverage must be provided for an off-label use of the drug if the drug is recognized for treatment in any of the standard reference compendia or in the medical literature. Coverage of

an off-label use of a drug must include medically necessary services associated with the administration of the drug. The mandate does not require coverage of a drug if has determined use of the drug to be contraindicated or if the drug is experimental and not approved for any indication. *Senate Bill 985/House Bill 456 (Chs. 112 and 113)* alter the definition of “standard reference compendia” for purposes of mandated coverage of off-label use of drugs to mean any authoritative compendia as recognized periodically by the federal Secretary of Health and Human Services or the Maryland Insurance Commissioner.

Prosthetic Parity Act

Prosthetic devices enable amputees to perform everyday activities, return to work, exercise, and contribute to society. An estimated 14,000 nonelderly individuals live with limb loss in Maryland. The cost of prosthetic devices generally ranges from \$2,000 to \$40,000, with some advanced prostheses costing as much as \$100,000.

Eleven states require coverage of prosthetic devices. Most of these states cap reimbursement at Medicare levels and either limit deductibles or copayments to Medicare levels (\$100, 20%) or require them to be comparable to other benefits under the plan.

Senate Bill 341/House Bill 579 (both passed) require insurers, nonprofit health service plans, and health maintenance organizations to provide coverage for prosthetic devices, components of prosthetic devices, and repair of prosthetic devices. “Prosthetic device” means an artificial device to replace, in whole or in part, a leg, arm, or eye. Prosthetic devices may not be subject to a higher copayment or coinsurance requirement than those required for any primary care benefits. A carrier may not impose an annual or lifetime dollar maximum on coverage for prosthetic devices, separate from any maximum that applies in the aggregate to all covered benefits. A carrier may not establish requirements for medical necessity or appropriateness for prosthetic devices that are more restrictive than those under the Medicare Coverage Database.

Health Insurance Regulation – Miscellaneous

Antifraud Plans

Under current law, if an insured has a compensable injury or disability at the time of a claim, insurers have no way to determine if the insured later ceases to be entitled to the benefit. In some cases, an insured no longer entitled to benefits may continue to collect payments, which is insurance fraud subject to existing penalties. In the absence of affirmative statements of continued eligibility, prosecuting these cases of insurance fraud has been difficult for the Maryland Insurance Administration.

Authorized insurers, nonprofit health service plans, and fraternal benefit societies are required to create and file with the Insurance Commissioner an insurance antifraud plan that includes specific procedures to prevent and report insurance fraud and facilitate prosecution of insurance fraud cases. *House Bill 142 (passed)* extends this requirement to third-party administrators.

In addition, the bill provides that as part of an antifraud plan, authorized insurers may require in writing that individuals receiving disability benefits periodically affirm that they remain entitled to the benefits and have had no change in the condition entitling them to the benefits. An insurer that requires affirmation must disclose to the individual receiving benefits that knowingly and willfully providing false information or knowingly and willfully failing to provide information is a crime subject to a fine and imprisonment.

Annuity Contracts and Qualified State Long-Term Care Insurance Partnership

The federal Qualified State Long-Term Care Insurance Partnership began in the early 1990s. The program allows individuals to retain a greater portion of their assets under Medicaid if the individual purchases a long-term care insurance policy and exhausts the benefits of the policy. States benefit because Medicaid becomes the last payor of long-term care services rather than the first.

Maryland's Qualified State Long-Term Care Insurance Partnership program is not fully operational, but carriers should begin selling qualified long-term care insurance policies under the program in 2009. Final regulations were effective in December 2008, and carriers may file for certification from the Maryland Insurance Administration. The Department of Health and Mental Hygiene filed the required State Plan Amendment with the federal Centers for Medicare and Medicaid Services in December 2008 but as of March 2009 is awaiting a response.

Senate Bill 716/House Bill 590 (both passed) repeal the requirement that the outline of coverage, which carriers must provide to long-term care insurance applicants, include a statement as to whether the policy or contract is approved under the Qualified State Long-Term Care Insurance Partnership. The bills also require that a certificate issued under group long-term care insurance include a statement as to whether the policy or contract is intended to qualify as a partnership policy under the Qualified State Long-Term Care Insurance Partnership.

Senate Bill 716/House Bill 590 also authorize an annuity contract to include a rider or supplemental contract provision that offers a contract holder reimbursement or payment for long-term care. Beginning January 1, 2010, the federal government will begin to treat long-term care coverage included with an annuity contract as tax qualified. Thus, the bills' provision regarding annuities will allow State residents to take advantage of the option of purchasing long-term care insurance coverage through an annuity policy on a tax-qualified basis.

Definition of Coverage Decisions – Pharmacy Inquiries

When filling a prescription for a patient, a pharmacist or pharmacy staff member may call a carrier or pharmacy benefits manager (PBM) to inquire as to whether a particular medication is covered, whether prior authorization is required, or what the appropriate copayment amount is. *Senate Bill 854/House Bill 1071 (Chs. 103 and 104)* exclude a "pharmacy inquiry" from the definition of coverage decision for purposes of the internal appeals process for carrier coverage decisions and subsequent complaints to the Maryland Insurance Commissioner. A "pharmacy inquiry" is defined as an inquiry submitted by a pharmacist or pharmacy on behalf of a member

to a carrier or a PBM at the point of sale about the scope of pharmacy coverage, pharmacy benefit design, or formulary under a health benefit plan.

Medicare Coverage and Continuation Coverage – Provisions that Relate to Federal Laws and Programs

Senate Bill 84 (Ch. 22) reenacts provisions of law established under Chapter 289 of 2005, which terminated on June 30, 2008. Carriers that sell Medicare supplement plan policies must make available a Medicare supplement policy plan A to disabled individuals younger than age 65 during the six-month period after the individual enrolls in Medicare Part B. A carrier may not charge such individuals a rate higher than the average of the premiums paid by all policy holders age 65 and older in the State who are covered under that plan A policy.

The Act also addresses an issue emerging from new federal requirements relating to Medicare supplement plans by altering minimum requirements for Medicare supplement policies.

Required Reports by the Maryland Insurance Administration

Senate Bill 636 (Ch. 89) repeals a provision of law that would apply the rules of the small group health insurance market to the entire commercial market if and when a certain trigger is reached. Instead, the Maryland Insurance Commissioner, by December 1 of each year, must report to the General Assembly on the estimated number of insured and self-insured contracts for health benefit plans in the State and the number of insured and self-insured lives younger than age 65 enrolled in health benefit plans in the State. An obsolete reporting requirement is also repealed.

Regulation of Wellness Programs

Senate Bill 638/House Bill 610 (both passed) authorize a carrier to provide reasonable incentives to an insured, subscriber, or member for participation in a bona fide wellness program under specified circumstances and clarify that it is not discrimination or a rebate for a carrier to provide such incentives if the incentives are provided as specified. The definition of “bona fide wellness program” is expanded to include programs designed to promote health or prevent and control injury, but no longer includes promoting healthy lifestyle choices. “Health factor” means health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability, or disability. “Incentive” means a discount of a premium or contribution, a waiver of all or part of a cost-sharing mechanism, the absence of a surcharge, the value of a benefit that would otherwise not be provided, or a specified rebate. The definition of “wellness benefit” in the small group health insurance market is also altered to conform to the provisions of the bills.

A carrier may not make participation in a bona fide wellness program a condition of coverage. Participation must be voluntary, and a penalty may not be imposed on an insured, subscriber, or member for nonparticipation. A carrier may not market the bona fide wellness program solely as an incentive or inducement to purchase coverage from the carrier. A bona fide

wellness program may not condition an incentive on an individual satisfying a standard related to a health factor except as specified.

Incentives may be based on an individual satisfying a standard related to a health factor if (1) all incentives for participation do not exceed 20% of the cost of specified coverage under the plan; (2) the program is reasonably designed to promote health or prevent disease; (3) the program gives individuals the opportunity to qualify for the incentive at least annually; (4) the program is available to all similarly situated individuals; and (5) individuals are provided a reasonable alternative standard or a waiver of the standard.

A bona fide wellness program must be construed to be reasonably designed to promote health or prevent disease if the program (1) has a reasonable chance of improving the health of or preventing disease in participating individuals; (2) is not overly burdensome; (3) is not a subterfuge for discriminating based on a health factor; and (4) is not highly suspect in the method chosen to promote health or prevent disease.

A carrier must provide a reasonable alternative standard or a waiver of the standard for any individual for whom it is unreasonably difficult due to a medical condition or medically inadvisable to attempt to satisfy the otherwise applicable standard. A carrier may seek verification that a health factor makes it unreasonably difficult or medically inadvisable to satisfy or attempt to satisfy the otherwise applicable standard. A carrier must disclose the availability of a reasonable alternative standard or waiver. A denial by a carrier of a request for an alternative standard or waiver of a standard constitutes an adverse decision.

The Insurance Commissioner may request a review of a carrier's bona fide wellness program by an independent review organization to determine if the program meets the bills' requirements. The expense of the review must be paid by the carrier.

Drug Therapy Management in Group Model Health Maintenance Organizations

Senate Bill 791/House Bill 725 (both passed) allow licensed physicians and licensed pharmacists participating in a group model health maintenance organization (HMO) to provide drug therapy management to patients under specified circumstances. The bills also exempt group model HMOs that wish to provide drug therapy management to a patient from having to enter into a therapy management contract with the patient.

The drug therapy management authorized under the bills must be provided under a physician-pharmacist agreement that is approved by the State Board of Pharmacy and State Board of Physicians and must also be provided through the internal pharmacy operations of the HMO.

The bills require that a patient be informed of drug therapy management procedures; that he or she may decline to participate or withdraw from drug therapy management participation at any time; and, that neither the physician nor pharmacist has been coerced or given economic incentives, except for normal reimbursement, or involuntarily required to participate. The

patient’s documented informed consent to participate in drug therapy management must be obtained after making the required disclosure.

These bills are also discussed under the subpart “Health Occupations” within Part J – Health and Human Services of this *90 Day Report*.

Human Services

Social Services

The Family Investment Program (FIP) is the State’s program for serving welfare recipients and assisting recipients in becoming self-sufficient through job training and employment assistance. *House Bill 268 (passed)* requires the Secretary of the Department of Budget and Management, with the assistance of the Secretary of the Department of Human Resources (DHR), to develop and implement a plan to hire FIP recipients, children of current or former recipients, foster youth, and child support obligors in various State agencies. In addition, similar FIP hiring programs for local governments and entities that contract with the State are also amended to add children of current or former recipients, foster youth, and child support obligors. The bill also establishes that current job skills enhancement programs within the FIP must target job training for the above mentioned individuals for employment in energy and environmental industries and construction.

Temporary Cash Assistance (TCA) provides financial assistance to dependent children and other family members deprived of support due to the death, incapacitation, underemployment, or unemployment of one or both parents. TCA is the cash assistance component of the FIP. As a condition of receiving TCA, the recipient must assign child support rights to the State. *House Bill 1466 (passed)* brings the State in compliance with the Federal Deficit Reduction Act of 2005 by repealing a provision that requires TCA applicants and recipients to assign to the State the right to receive child support accrued prior to receiving TCA. Under the bill, the applicant or recipient must assign to the State all right, title, and interest in support only for the period that the family receives TCA.

The Office of Home Energy Programs (OHEP) within DHR provides home energy assistance to Maryland residents through local agencies in each jurisdiction. The Electric Universal Service Program (EUSP), which is administered by DHR and overseen by the Public Service Commission, helps make electric bills more affordable to low-income customers through bill assistance and arrearage retirement. *Senate Bill 703/House Bill 736 (both passed)* makes changes to the EUSP by eliminating the \$1.5 million limit on the total amount of assistance that DHR may provide annually for the retirement of arrearages. This bill also allows a household to benefit from arrearage retirement once every seven years, rather than once in a lifetime.

A more detailed discussion of energy assistance issues may be found under subpart “Public Service Companies” within Part H – Business and Economic Issues of this *90 Day Report*.

The Elderly

Continuing Care Retirement Communities (CCRCs) offer a full range of housing, residential services, and health care in order to serve older residents as their medical needs change over time. *House Bill 843 (passed)* expands the components that a CCRC must include in its internal grievance procedures and allows subscribers and providers to seek mediation within 30 days after the conclusion of an internal grievance procedure. For a further discussion of this bill, see the subpart “Health Care Facilities and Regulation” within Part J – Health and Human Services of this *90 Day Report*.

Senate Bill 761/House Bill 113 (both passed) require the Secretary of the Department of Health and Mental Hygiene (DHMH) to report to the General Assembly on the feasibility of creating a coordinated care program to reform the provision of long-term care services under the Medical Assistance program. The goal is to improve and integrate the care of individuals, including health care services, and to meet the various needs of seniors and adults with disabilities in the State. A more detailed discussion of this bill may be found under subpart “Public Health – Generally” under Part J – Health and Human Services of this *90 Day Report*.

In order to better coordinate services and provide additional consumer input, *House Bill 1480 (passed)* adds the Secretary of the Department of Veterans Affairs, the Director of the Governor’s Office of the Deaf and Hard of Hearing, and the Chair of the Commission on Aging to the membership of the Interagency Committee on Aging Services.

The duties of the State Advisory Council on Quality Care at the End of Life include monitoring trends in care to Marylanders with life-threatening illnesses and studying the impact of State statutes, regulations, and policies on the provision of care at the end of life. *Senate Bill 1054 (Ch. 118)* adds a representative of the nursing home industry to the membership of the State Advisory Council on Quality of Care at the End of Life.

The Disabled

Employers are prohibited from discrimination in various aspects of employment because of an individual’s disability. For purposes of employment discrimination, a disability is defined as a physical disability, infirmity, malformation, or disfigurement that is caused by bodily injury, birth defect, or illness, including epilepsy, or a mental impairment or deficiency.

Senate Bill 670/House Bill 393 (both passed) expand the definition of a disability to include a record of having a physical or mental impairment or being regarded as having a physical or mental impairment. The bill prohibits an employer from failing or refusing to make a reasonable accommodation for the known disability of an otherwise qualified employee. However, an employer is not required to accommodate an employee’s disability if doing so would cause undue hardship on the employer’s business. In addition, the bill prohibits an employer from retaliation against an employee, applicant, or member who has opposed any prohibited employment practice or participated in an investigation, proceeding, or hearing relating to a discrimination charge.

Children

Child Abuse and Neglect

Under current law, newly employed child welfare casework staff are hired provisionally and must complete a training program and pass a competency test before being granted permanent employment status. In order to streamline the hiring process for experienced caseworkers, fill vacancies with experienced workers, and assign cases sooner, *Senate Bill 83 (passed)* requires the Secretary of DHR to develop and implement mandatory standards that exempt newly hired individuals who have documented and verified casework experience or hold appropriate State licensure from the training program. However, the Secretary must require a caseworker who is exempted from the training program and who fails the competency test to participate in the program and take and pass the competency test before being granted permanent employment status.

As part of efforts to protect the future children of abusive parents, *Senate Bill 421/House Bill 144 (both passed)* require the Secretary of DHMH to notify the executive director of the Social Services Administration in DHR when an individual whose parental rights have been terminated and who has been identified in a central registry as responsible for child abuse or neglect has a subsequent child. If the executive director receives birth record information for an individual whose parental rights have been terminated, the executive director must (1) verify the identity of the birth parent; and (2) notify the local department of social services so that the department may review its records and, when appropriate, provide an assessment of the family and offer any needed services.

Child Support

In order to ensure that State law conforms with regulations adopted by the federal Office of Child Support Enforcement and to avoid a substantial loss of federal funds, *Senate Bill 70 (passed)* requires a court to include in any support order that is established or modified a provision requiring one or both parents to include the child in the parent's health insurance coverage if (1) the parent can obtain health insurance coverage through an employer or any form of group health insurance coverage; (2) the child can be included at a "reasonable cost" to the parent; and (3) the health insurance coverage is "accessible" to the child. If health insurance coverage at a reasonable cost is not available at the time a support order is established or modified, the court (1) may require one or both parents to include the child in the parent's health insurance coverage if health insurance coverage at a reasonable cost becomes available in the future; and (2) shall require one or both parents to provide cash medical support in an amount not to exceed 5% of the actual income of the parent ordered to provide cash medical support. The grant for Child Support Enforcement Services to the State, which totaled \$81.8 million in fiscal 2009 and the grant for Temporary Assistance for Needy Families, which totaled approximately \$229.1 million in fiscal 2009, are at risk of being suspended in Maryland if State law does not conform to federal requirements.

Adoption

“Post adoption services” means medical treatment, mental health services, parenting classes, or other direct services provided by DHR after a child is adopted and to assist in preventing the child from being returned to the care and supervision of DHR. *House Bill 683 (passed)* expands the eligibility for post adoption support services provided under the Post Adoption Support Services Pilot Program to all adoptions in the State. In order to ensure the equitable distribution of funds, DHR (1) must allow the delivery of post adoption services to at least 125 families and may award up to \$2,000 to each family; (2) must dedicate 80% of the funds to families of children adopted through local departments and 20% of the funds to remaining adoptive families; and (3) after October 31, 2009, but before November 30, 2009, must evaluate the distribution of funds as set forth above, and may reallocate funds if necessary to achieve an equitable distribution. The bill extends the termination date of the program until December 31, 2010.

Foster Care

Chapter 536 of 2004 required the Governor’s Office for Children, in cooperation with DHR and the Department of Juvenile Services (DJS), to plan for and determine the cost of an objective and standardized system of outcomes evaluation for out-of-home placements used by State agencies. Chapter 133 of 2007 required DHR, DJS, and the Governor’s Office for Children to develop, coordinate, and implement a system for outcomes evaluation by July 1, 2008, to measure the effectiveness of residential child care programs. The Governor’s Office for Children manages the ongoing work of the group and developed a data collection system known as the Children Services Outcome Measurement System. *Senate Bill 690/House Bill 713 (both passed)* require the Governor’s Office for Children to measure the effectiveness of “treatment foster care homes” based on the existing “systems for outcomes evaluation” process currently used for residential child care programs. Beginning July 2011, this requirement will expand to include residential programs operated by or under contract with DJS and foster care homes approved by a local department of social services.

Chapter 506 of 2000 established the tuition waiver program for children in foster care homes. Chapter 644 of 2007 extended the program to foster care children in out-of-home placements. In order to provide an incentive for foster parents to adopt an entire family of children, and accordingly, keep families together, *Senate Bill 372/House Bill 538 (both passed)* expand eligibility for tuition and mandatory fee waivers for public institutions of higher education in Maryland to younger siblings of foster care recipients who have been adopted by the same family. To be eligible, the foster care children must share one or both parents before the adoption and be adopted from an out-of-home placement, at the same time, by the same family. The bill also expands eligibility to foster care recipients who were adopted from an out-of-home placement after their thirteenth, rather than fourteenth, birthday.

Family Day Care Homes and Child Care Centers

According to Save the Children, over 11 million children in the United States under the age of five are in some type of child care arrangement while their parents work, yet most states

have not taken necessary steps to ensure that child care facilities are prepared to respond to the needs of children in the event of emergencies. *Senate Bill 356/House Bill 712 (both passed)* require the Maryland State Department of Education (MSDE) to adopt regulations requiring family day care homes and child care centers to have written emergency preparedness plans for emergency situations that require the evacuation, sheltering in place, or other protection of children. Before adopting the regulations, MSDE and the State Superintendent of Schools must consult with the Maryland Emergency Management Agency, the Maryland Emergency Management Association, the Maryland Institute for Emergency Medical Services Systems, and the Maryland Department of Disabilities.

Joint Committee on Children, Youth, and Families

The Joint Committee on Children, Youth, and Families is charged with identifying State policies and actions that promote conditions of well-being for Maryland's children, youth, and families. The joint committee must report on its work and any recommendations to the General Assembly by December 1 of each year. The joint committee is scheduled to terminate on June 30, 2009. *Senate Bill 413/House Bill 244 (Chs. 63 and 64)* repeal the termination date of the joint committee.

Part K

Natural Resources, Environment, and Agriculture

Natural Resources

Land Conservation

Program Open Space

Program Open Space (POS), established by the General Assembly in 1969 and administered by the Department of Natural Resources (DNR), provides funds for State and local acquisition and development of public outdoor recreational sites, facilities, and open space. The State share focuses on the acquisition of land for natural resource conservation, including low-impact recreational activities where appropriate. The local jurisdiction's share is used primarily for the acquisition and development of high-impact recreational sites and facilities. POS is currently funded through special funds derived from the State's transfer tax which imposes a 0.5% tax on all real property recorded in the State.

House Bill 783 (passed) authorizes \$70 million in bond funds for DNR's POS land acquisition program and authorizes the transfer of up to \$5 million of this amount to the Maryland Department of Agriculture's (MDA) Maryland Agricultural Land Preservation Fund (MALPF). DNR is required to use these POS bond funds for State land acquisition that is supported by current appraisals and presents a unique opportunity due to reduced price, extraordinary location, or environmental value. MDA is required to use these POS bond funds for the purchase of easements that present a unique opportunity due to reduced price, extraordinary location, or agricultural value. Property transfer tax revenue must be used to pay principal and interest on the POS bonds prior to any other distribution. The bill specifies that transfer tax revenues allocated to only State POS land acquisition and MALPF, to the extent any debt service is attributable to MALPF, must be reduced by an amount equal to the debt service for the fiscal year.

It has been DNR's longstanding practice to allow local jurisdictions to use POS funding for projects that facilitate the enjoyment of traditional outdoor recreation activities in an indoor setting, including indoor aquatic centers, community centers, golf course buildings, tennis facilities, and nature centers. During the summer of 2008, the Department of Legislative

Services' Office of Legislative Audits suggested that DNR refrain from using POS to fund indoor recreational facilities that do not support outdoor recreation as a primary function until the Office of the Attorney General endorsed such use. In response, DNR has refrained from seeking Board of Public Works' approval for such projects until the enactment of clarifying legislation.

Senate Bill 163 (passed) authorizes the use of local POS funds for indoor and outdoor recreation and open space purposes. If an indoor facility is funded with local POS funds, it must incorporate, to the maximum extent practicable, the nonstructural site design practices in the Maryland Stormwater Design Manual. Indoor facilities greater than 7,500 square feet must also meet or exceed a specified green building rating. The bill also alters State reimbursement provisions so that if a local governing body uses local POS funds for an indoor recreational facility located outside a priority funding area, the State must reimburse the local jurisdiction 50% of the total project cost. Further, if a local jurisdiction uses local POS funds for the acquisition of land inside a priority funding area and agrees to limit the amount of impervious surface on the land to no more than 10%, the State must reimburse the local jurisdiction 90% of the total project cost. The bill also requires the Maryland Department of Planning to evaluate, and report on, the degree to which specified State goals are being effectively addressed by the local POS process.

Conservation Easements

A conservation easement is a voluntary agreement that allows landowners to limit the type or amount of development on their property while retaining private ownership of the land. A purchaser has the right to rescind a contract for the sale of real property encumbered by a conservation easement in Maryland if (1) the seller fails to give, on or before entering into the contract of sale, or within 20 days afterward, a copy of all conservation easements encumbering the property; and (2) the contract of sale fails to contain a statement with specified information about the conservation easement and the purchaser's rights and responsibilities. Within 30 calendar days after the property is sold, the purchaser must give notice of the sale, including specified information, to the owner of the conservation easement.

Senate Bill 1027/House Bill 754 (both passed) require a vendor of real property encumbered by a conservation easement to deliver to the purchaser a specified notice and a copy of all conservation easements encumbering the property on or before entering into a contract for the sale of the property, alter the forms of the notice, and modify a vendor's right to rescind the sale contract based on disclosure of any conservation easements. The bills also expand the definition of a conservation easement to include an easement, covenant, restriction, or condition on real property that is owned by a local government and funded by DNR, the Rural Legacy Program, or a local agricultural preservation program; or required by a permit issued by Maryland Department of the Environment.

Forest Conservation

Forest Conservation Act

Enacted in 1991, the Forest Conservation Act provides a set of minimum standards that developers must follow when designing a new project that affects forest land. Local governments are responsible for making sure these standards are met but may choose to implement even more stringent criteria. If there is no local agency in place to review development plans, DNR does so. In general, the Act calls for a minimum amount of forest cover on development sites based upon the site's zoning. *Senate Bill 549 (passed)* seeks to encourage sustainable management of the State's forest resources. Among other things, the bill:

- requires local agricultural preservation advisory boards and forest conservation district boards to meet annually with each other;
- modifies right-to-farm provisions to include silvicultural (forestry) operations;
- renames the Forest Advisory Commission as the Sustainable Forestry Council and specifies its purpose;
- modifies the allowable uses of the Forest or Park Reserve Fund to include offsetting the costs to DNR for developing and implementing a forest health emergency contingency program;
- expands the Woodland Incentives Fund's revenue sources and uses;
- authorizes local forestry boards to impose fees to offset specified costs;
- modifies the issues that may be addressed within the land use element of a local jurisdiction's comprehensive plan to include forestry, and modifies the State Economic Growth, Resource Protection, and Planning Policy to include the promotion of sustainable forestry management;
- encourages the provision of incentives to promote in-state production of renewable energy, with consideration being given to biomass-fueled facilities; and
- requires DNR to develop specified strategies, plans, recommendations, programs, and reports.

No Net Loss of Forests

In a January 2007 report, the Maryland Transition Work Group on Environment and Natural Resources recommended that the State adopt a no net loss of forests goal through legislative and executive actions. Maryland loses 8,600 acres of forested land each year. The work group noted that the maintenance of forests is as vital to restoring the Chesapeake Bay as

any investments in sewage treatment or air quality controls. A No Net Loss of Forest Task Force was established by Chapter 176 of 2008 to (1) develop a specific plan, including programs and other necessary actions, to achieve and maintain a no net loss of forests; and (2) draft legislation for the 2009 session to ensure that there is a process to achieve a no net loss of forest in the State beginning in 2010. The task force completed a final report in January 2009 that set forth a variety of recommendations.

Senate Bill 666 (passed) requires DNR to cooperate with forestry-related stakeholder groups to determine the meaning of no net loss of forests for any State policy and to develop proposals for creating a State policy on no net loss of forests. By December 1, 2011, DNR is required, in consultation with forestry-related stakeholder groups, to submit a report on policies to achieve no net loss of forests in the State. The bill amends several provisions of the Forest Conservation Act, including (1) increasing the fee-in-lieu contribution rate to State and local Forest Conservation Funds; (2) limiting the exemptions for forest clearing associated with a single lot, a linear project, and a dwelling house to a maximum disturbance of 20,000 (instead of 40,000) square feet of forest; (3) limiting the exemption for construction of dwelling houses to owners and their children; (4) eliminating an exemption for areas that were previously developed and covered by paved surface; and (4) requiring that priority be given to specified trees, shrubs, plants, and areas for retention and protection, unless a variance is granted.

Roadside Tree Management

A person generally must obtain a permit from DNR in order to cut down or trim a roadside tree. Cutting or clearing of public utility rights-of-way or land for licensed electric generating stations is exempt from the Forest Conservation Act, subject to specified conditions including conducting the cutting or clearing so as to minimize the loss of forest. *Senate Bill 581 (passed)* authorizes local jurisdictions to adopt laws concerning the planting, care, and protection of roadside trees that (1) are more stringent than State requirements if they do not conflict with current law; and (2) do not apply to specified cutting, clearing, and maintenance of public utility rights-of-way. Local governments with local roadside tree laws are authorized to issue stop work orders against violators of the local laws. DNR may authorize local governments to enforce specified roadside tree laws. Local jurisdictions are prohibited from issuing building permits that will result in specified impacts on roadside trees until a DNR permit is obtained. The bill establishes a penalty for trimming, cutting, removing, or injuring a roadside tree or failing to obtain a permit that may not exceed \$2,000 for a first offense and \$5,000 for a second or subsequent offense. Finally, the State Highway Administration is required to integrate roadside tree protection requirements into construction and maintenance contracts.

Licensed Tree Experts

A person may not solicit, advertise, or represent himself or herself to the public as a tree expert, or practice as a tree expert without a license issued by DNR. Applicable misdemeanor penalties include a fine of up to \$500 for a first offense, and a fine of up to \$1,000 or both a fine and imprisonment for up to one year for a second or subsequent offense. *Senate Bill 217 (passed)* prohibits a person from advertising tree services, including treatment, care, or removal

of trees, unless the advertisement includes the license number of the licensed tree expert advertising services in a specified form or a statement that all tree services are limited to trees 20 feet tall or less. A violator is subject to existing criminal penalties.

Chesapeake Bay and Atlantic Coastal Bays Critical Areas

Senate Bill 1065/House Bill 1569 (both passed) repeal specified provisions relating to contested case hearings and establish new provisions regarding judicial review of certain permit determinations by the Maryland Department of the Environment with respect to the issuance, denial, renewal, or revision of specified permits and by the Board of Public Works with respect to a license to dredge or fill in State wetlands. The bills also impact proceedings involving variances for a development activity in the Chesapeake and Atlantic Coastal Bays Critical Area buffer. For a further discussion of *Senate Bill 1065* or *House Bill 1569*, see the subpart “Environment” within Part K – Natural Resources, Environmental, and Agriculture of this *90 Day Report*.

Somers Cove Marina

Somers Cove Marina was established in 1958 and was deeded to DNR in 1980 by the City of Crisfield. The marina was operated by DNR from 1996 to 2007. Chapter 240 of 2008 established a Somers Cove Marina Commission as a body politic and corporate and an instrumentality of the State. The commission was established to, among other things, (1) maintain the existing Somers Cove Marina Improvement Fund in a bank account separate from State funds; (2) adopt operating and capital budgets and assess slip and other fees and charges at the marina to implement a specified master plan; and (3) set policy and provide general oversight of marina operations.

House Bill 1373 (passed) makes several changes to the Somers Cove Marina Commission’s personnel status, vehicle use authority, and procurement authority. Specifically, it authorizes (1) commission employees, who are not DNR employees, to use DNR vehicles and equipment; (2) DNR to transfer vehicles, equipment, and other inventory to the commission; and (3) the commission’s executive director to use an emergency procurement procedure so long as there is as much competition as possible and a written report justifying the emergency procurement is submitted. Procurement in support of enterprise activities for the purpose of direct resale or remanufacture and subsequent resale is exempted from specified procurement provisions. The bill also designates employees or officials of the commission as State personnel under the Maryland Tort Claims Act.

Hunting and Fishing

Fishing

Oyster Restoration

The Chesapeake Bay's oyster population acts as a natural filter, and at its peak removed 133 million pounds of nitrogen annually. Affected by diseases, habitat loss, and harvest pressures, the oyster stock has declined to less than 1% of its park population, and the remaining oysters remove only about 250,000 pounds of nitrogen from the bay each year. Consequently, oyster restoration is an urgent priority for the Department of Natural Resources (DNR).

Buried Oyster Shell Dredging: DNR is authorized to plant oyster shells to facilitate oyster propagation and restoration. State law requires DNR to apply for an oyster shell dredging permit if the Oyster Advisory Commission (OAC) recommends the application. OAC is required to review the draft environmental impact statement of DNR concerning oyster restoration alternatives, for which publication was delayed until June 2009 before making any recommendations. Because of this delay, *Senate Bill 175/House Bill 103 (both passed)* extend the deadline by which DNR must apply for an oyster shell dredging permit from December 1, 2008, to July 1, 2009.

Oyster Shell Purchasing Program: The 2007 interim report of OAC concluded that implementation of a large-scale oyster bar habitat rehabilitation program is necessary for oyster restoration in the bay. This program would be dependent on the availability of large quantities of oyster shell and alternate substrate materials. To make DNR more competitive in the oyster shell market, *Senate Bill 810/House Bill 177 (both passed)* repeal the 25 cent per bushel limit on DNR oyster shell purchases and require DNR to consult with OAC and the Tidal Fisheries Advisory Commission on the annual value DNR will pay for fresh oyster shells and for the transportation and placement of fresh oyster shells.

Shellfish Leasing Program: In September 2008, the Maryland Department of Agriculture, in consultation with DNR, the Maryland Department of the Environment (MDE), the Department of Health and Mental Hygiene, the Maryland Aquaculture Coordinating Council, and the University of Maryland, published *Maryland Shellfish Aquaculture Plan: Enhancing the Environment through Private Sector Investment*. This report included nine recommendations about how to develop a sustainable fisheries industry while creating opportunity for prospective shellfish growers to establish aquaculture businesses in Maryland waters. *Senate Bill 271/House Bill 312 (both passed)* implement several of the recommendations in the report. Specifically, the bills establish (1) public shellfish fishery areas on which leasing is prohibited; (2) Aquaculture Enterprise Zones for aquaculture leasing and submerged land aquaculture leases, which have no limits on proximity to natural oyster bars, county of location, corporate or out-of-state leaseholding, or acreage; and (3) aquaculture demonstration leases for educational, conservation, or ecological purposes. A leaseholder in an Aquaculture Enterprise Zone is not required to obtain water quality approval from MDE or a tidal wetlands permit.

Fish and Fisheries Laws

Established in 2007, the Task Force on Fishery Management is charged with overseeing a full review of fishery management processes and developing legislative and other recommendations for methods to improve, modernize, and streamline fishery management. In its December 1, 2008 report, the task force made several recommendations which became the subject of legislation passed by the General Assembly in the 2009 session.

Conflicting Law: The task force found that obsolete or contradictory laws and regulations have created management problems for DNR. *Senate Bill 169 (passed)* repeals and modifies provisions of State fish and fisheries laws, primarily relating to the allowable manner, places, and times for catching, and size limits applicable to, certain species of fish (including crabs, oysters, and clams), that either are inconsistent with DNR regulations or fishery management plans, unnecessary, or obsolete.

Recreational Fisheries Enforcement: The task force also found that the statutory authority for recreational license suspensions differed for tidal and nontidal licenses, preventing DNR from streamlining and clarifying a process for suspending recreational fishing licenses. As a result, DNR has very rarely suspended recreational licenses. *Senate Bill 164 (passed)* makes DNR's authority to revoke or suspend recreational fishing licenses consistent with respect to both tidal and nontidal recreational fishing licenses.

Commercial Fisheries Enforcement: *House Bill 1355 (passed)* alters the grounds for suspension or revocation of a tidal fish license or authorization by requiring DNR to adopt regulations, in consultation with the Tidal Fisheries Advisory Commission and the Sport Fisheries Advisory Commission, governing the suspension or revocation of these licenses and authorizations. The regulations must include enhanced penalties for repeated violations of State fisheries laws and violations of provisions regulating species deemed to be in need of special protection (including striped bass, crabs, oysters, and menhaden).

Recently DNR and others have requested that fines for commercial fishery violations be increased because the fines are so low that they have lost their deterrent effect. *House Bill 1419 (passed)* increases the maximum fines applicable to misdemeanor violations of State fish and fisheries laws from \$500 to \$1,000 for a first violation, and from \$1,000 to \$2,000 for a second or subsequent violation. The bill also allows for restitution for the resource value, as established by regulation, of any fish injured, killed, or destroyed.

Hunting

Sunday Deer Hunting

There are three seasons to hunt deer in Maryland: deer bow hunting season; deer firearms season; and deer muzzle loader season. With specified exceptions, hunting game birds or mammals on Sundays is prohibited. Among the exceptions, in Dorchester, St. Mary's, Somerset, Washington, Wicomico, and Worcester counties, a person may hunt deer on private

property with a bow and arrow during open season on the last three Sundays in October and the second Sunday in November. In addition, DNR may allow deer hunting on private property on the first Sunday of the bow hunting season in November and the first Sunday of the deer firearms season. This provision, however, does not apply in Baltimore, Carroll, Frederick, Howard, and Prince George's counties and in Baltimore City. *Senate Bill 609/House Bill 1245 (both passed)* authorize deer hunting on private property on the above-noted Sundays in Frederick County.

Environment

Air Quality

Greenhouse Gas Emissions Reduction Act of 2009

According to the Intergovernmental Panel on Climate Change, the world's temperatures are climbing and human activities are very likely contributing to this increase. Continued global warming is expected to affect sea levels and weather patterns, resulting in impacts on human health, the environment, and the economy. In 2005, Maryland's greenhouse gas (GHG) footprint totaled approximately 109 million metric tons of carbon dioxide equivalent.

According to the Maryland Commission on Climate Change, in 2005 the largest GHG emission sources in Maryland were electricity consumption and transportation. Other sources include residential, commercial, and industrial fuel use; industrial processes; waste management; agriculture; and the fossil fuel industry. Due to increases in population and consumption, Maryland's GHG emissions are expected to continue to grow over time. Although Maryland has already taken steps to reduce GHG emissions from certain sources, without any new programs, the commission estimates that Maryland can expect to exceed emissions of 130 million metric tons of CO₂ equivalent by 2020.

At the federal level, climate change policy consists largely of voluntary programs and partnerships to meet a national goal of reducing the GHG intensity of the American economy by 18% from 2002 to 2012. Although several bills addressing GHG reductions have been introduced in the United States Congress in recent years, to date, no federal legislation has been enacted.

Because the federal government has not yet taken significant action on this issue, several states are moving ahead with their own efforts to reduce GHG emissions. In Maryland, although legislation was introduced during both the 2007 and 2008 sessions to require reductions in GHG emissions, that legislation was not successful. Nevertheless, Maryland has implemented numerous policies and programs in recent years that address energy conservation and efficiency, renewable energy, alternative energy sources, and GHG emissions.

In August 2008 the Maryland Commission on Climate Change issued its Climate Action Plan, which includes a comprehensive assessment of climate change impacts in Maryland and a review and assessment of the costs of inaction. Most notably, the plan recommends the adoption

of goals to reduce GHG emissions from 2006 levels by 10% by 2012; 15% by 2015; 25 to 50% by 2020; and 90% by 2050.

Senate Bill 278/House Bill 315 (both passed) require the State to develop plans, adopt regulations, and implement programs to reduce GHG by 25% from 2006 levels by 2020. The Maryland Department of the Environment (MDE) is required to implement various measures designed to ensure that the GHG reductions produce economic benefits for the State and do not adversely affect specified communities or economic interests. MDE must publish a GHG emissions inventory for the year 2006, a “business as usual” projection of GHG emissions for the year 2020, and a triennial inventory update beginning in 2011. The bills require an academic study of the economic impact of the GHG emissions reductions on the manufacturing sector, with oversight provided by a newly created task force. The bills require several reports on the need for, and progress toward, the 2020 GHG reduction goal and any additional goal later prescribed by law. The goal to reduce GHG emissions 25% below 2006 levels by 2020 terminates on December 31, 2016.

Exhibit K-1 provides a timeline for these activities and other key dates specified in the bill.

Exhibit K-1
Key Dates under the Greenhouse Gas Emissions Reduction Act of 2009

<u>Date</u>	<u>Action</u>
June 1, 2011	Publish 2006 inventory and 2020 business as usual projection
December 31, 2011	MDE deadline to submit proposed reduction plan to Governor and General Assembly, following public workshops
Calendar 2011	MDE to publish 2011 inventory
January 1, 2012	MDE deadline to approve manufacturer GHG reduction plans for voluntary early action credits
December 31, 2012	MDE deadline to adopt final reduction plan
Calendar 2014	MDE to publish 2014 inventory
October 1, 2015	Deadline for submission of independent academic study of economic impact on manufacturing sector
October 1, 2015	MDE deadline for submission of report on progress toward 2020 reduction goal and other recommendations and analyses
December 31, 2016	Termination of the 2020 reduction goal
Calendar 2017	MDE to publish 2017 inventory
October 1, 2020	MDE deadline for submission of report on progress toward 2020 reduction goal, and toward achieving reductions needed by 2050 based on contemporary science
December 31, 2020	State deadline to reduce GHG emissions by 25% below 2006 level, unless otherwise specified
Calendar 2020	MDE to publish 2020 inventory
Calendar 2023	MDE to publish 2023 inventory
October 1, 2025	MDE deadline for submission of report on progress toward any further reduction goals required, if applicable, and toward achieving reductions needed by 2050 based on contemporary science

The final GHG reduction plan may not require emissions reductions for the State's manufacturing sector or otherwise impose additional costs to the sector that are not already required under current law or associated with the Regional Greenhouse Gas Initiative. In developing and implementing the plan, MDE must consider the impact on rural communities of

any transportation-related measures, consider whether the measures would result in an increase in electricity costs to consumers in the State and, consider the impact of the plan on the ability of the State to attract, expand, and retain commercial aviation services and to conserve, protect, and retain agriculture. MDE must ensure that the GHG reductions do not directly cause a loss of existing manufacturing jobs in the State.

Alternative Energy and Energy Efficiency

Alternative energy and energy efficiency are two other policy components of the State’s strategy to reduce greenhouse gas emissions. Although the lead agency responsible for the promotion of clean energy is the Maryland Energy Administration (MEA), the Maryland Environmental Service (MES) is seen as having a role in fostering the growth of renewable energy. MES is an independent State agency, created in 1970, to provide technical services to clients for engineering, design, financing, construction, and project management and operation. Currently, the only energy projects that MES is authorized to undertake are those with a waste-to-energy or recycling component. However, *Senate Bill 14 (passed)* allows MES to engage in the production, generation or distribution of energy from renewable or other energy sources, to undertake energy conservation measures, and to conduct research and development studies. For a further discussion of *Senate Bill 14*, see the subpart “Public Service Companies” within Part H – Business and Economic Issues of this *90 Day Report*.

Under *House Bill 1442 (Ch. 169)*, the Jane E. Lawton Conservation Loan Program is expanded to facilitate the growth of renewable energy. The Act adds renewable energy to the list of projects eligible for funding under the program and also authorizes additional forms of governmental entities to receive program funds. For a further discussion of this bill, see the subpart “Economic and Community Development” within Part H – Business and Economic Issues of this *90 Day Report*.

Another approach to small-scale clean energy financing is authorized by *House Bill 1567 (passed)*, which authorizes a county or municipality to enact an ordinance or resolution establishing a Clean Energy Loan Program to provide loans to residential and commercial property owners for the financing of energy efficiency and renewable energy projects. For a more detailed discussion of the bill, see the subpart “County and Municipal Governments” within Part D – Local Government of this *90 Day Report*.

Currently, the purchase of solar energy equipment that is used to heat or cool or provide hot water for a building, or to generate electricity for a building, is exempt from the State sales and use tax. In addition, solar energy property is not generally subject to real property tax. *Senate Bill 621 (passed)* extends these existing tax exemptions to solar energy equipment or property used to generate electricity supplied to the electric grid.

House Bill 1171 (passed) adds residential wind energy equipment used to generate electricity for a residential structure to the exemptions from the State sales and use tax. The bill also exempts residential wind energy equipment used to generate electricity for a residential structure from State and local real property taxes. The bill further clarifies that, for property tax

exemption purposes, solar energy equipment includes equipment that uses solar thermal electric energy.

Environmental Trust Fund

House Bill 1407 (Ch. 167) extends the termination date for the environmental surcharge imposed on electricity generated in the State from June 30, 2010, to June 30, 2015. Revenue generated from the environmental surcharge is deposited in the Environmental Trust Fund (ETF) within the Department of Natural Resources (DNR) and used primarily to support DNR's Power Plant Research Program (PPRP). ETF supports activities associated with the assessment and management of the cultural, economic, and environmental impacts of electric power generation and transmission facilities. PPRP, which is funded entirely from revenues generated from the environmental surcharge, currently provides this oversight.

Green Building

Chapter 116 of 2007 codified the Maryland Green Building Council, which had been established by executive order but had been dormant for several years. In December 2007, the council issued its first report with a list of recommendations that were subsequently codified in Chapter 124 of 2008, the High Performance Buildings Act. Chapter 124 of 2008 required most new or renovated State buildings and new school buildings to be constructed as high-performance buildings, subject to waiver processes established by the Departments of Budget and Management (DBM) and General Services (DGS) and the Board of Public Works (BPW). Chapter 124 exempts buildings under a certain size, certain types of buildings, and buildings that receive a waiver from various State agencies.

Senate Bill 212/House Bill 154 (both passed) require the Green Building Council to evaluate high performance building technologies, list the types of buildings that the technology should not be applied to, and report to the Governor on recommendations for the most cost-effective technology and how to expand green building in the State.

Senate Bill 625 (passed) requires the Department of Housing and Community Development (DHCD) to adopt the International Energy Conservation Code (IECC) and to consider changes to the International Building Code (IBC) to enhance energy conservation and efficiency before adopting a subsequent version of the Maryland Building Performance Standard (MBPS). DHCD may adopt energy conservation requirements that are more stringent, but not less stringent, than in the IECC. The bill also requires that local governments implement and enforce the most current MBPS and any modifications within 6 months of adoption by the State. A local jurisdiction may also adopt a local amendment to the MBPS as long as the amendment does not weaken any energy conservation and efficiency provisions in the MBPS.

Senate Bill 163 (passed) authorizes the use of local Program Open Space (POS) funds for both indoor and outdoor recreation and open space purposes. The bill requires that indoor facilities funded with local POS funds meet or exceed the U.S. Green Building Council's LEED

Green Building silver rating if the facility is 7,500 square feet or more. For additional discussion of this legislation, see the subpart “Natural Resources” under this part of this *90 Day Report*.

Chesapeake Bay Restoration

Septic System Upgrades

Chapter 428 of 2004 established the Bay Restoration Fund, which is administered by the Water Quality Financing Administration within MDE. The main goal of the fund is to reduce nutrient pollution to the Chesapeake Bay by upgrading the wastewater treatment facilities and septic systems with enhanced nutrient removal technology. Of the revenue collected from users of septic systems and sewage holding tanks, 60% must be deposited into a separate account (the “Septics Account”) within the fund primarily for making grants and loans to septic system owners to upgrade their systems. Until recently, Septics Account revenues have significantly exceeded expenditures, creating excess funding capacity and a large account balance estimated at over \$20 million as of March 2009.

A number of bills were introduced in the 2009 session to authorize funds in the additional uses of funds in the Septics Account. *Senate Bill 554 (passed)* prohibits both the installation of a new septic system, as well as the replacement of a failing septic system, within the Chesapeake and Atlantic Coastal Bays Critical Area unless the new or replaced system utilizes the best available technology for nitrogen removal. Financial assistance is provided with funding from the Septics Account as well as a tax deduction for those who do not receive such funding.

Another type of wastewater treatment system of concern for the health of the Bay are individual sewerage systems. Unlike septic systems, which rely on the treatment of sewage through appropriate soils, individual sewerage systems discharge directly to surface water without soil treatment. According to MDE, these systems present a significant oversight and enforcement problem for local governments. *Senate Bill 721/House Bill 1105 (both passed)* prohibit the installation of an individual sewerage system for residential use unless an existing septic system fails and cannot be repaired or replaced by any means and the installation is approved by MDE.

Stormwater Management

State law requires each county and municipality to adopt ordinances necessary to implement a stormwater management program. Every three years, MDE reviews local stormwater management programs and provides technical assistance. Chapters 121 and 122 of 2007 required MDE to establish stormwater management regulations on the use of “environmental site design” expected to significantly improve the effectiveness of new and retrofitted stormwater facilities. Chapters 121 and 122 also required MDE to evaluate a stormwater management fee system to enhance stormwater management financing. In May 2008, MDE released its evaluation and noted that stormwater management in Maryland is implemented with little financial support from the State, creating certain local funding needs.

Stormwater User Charge: *Senate Bill 672/House Bill 1457 (both failed)* would have required counties and municipalities to establish a stormwater user charge to generate sufficient revenues to fund specified local stormwater management activities. The charge would have been a flat fee for all residential property owners and based on impervious surface areas for commercial property owners.

Impervious Surfaces: Additionally, *House Bill 34 (failed)* would have required all counties to determine and report the total area of impervious surfaces to MDE, which, in consultation with the Maryland Department of Planning (MDP), would develop and maintain a State database of impervious surfaces.

Water Quality

Sewage Sludge: Sewage sludge is one of the final products of the treatment of sewage at wastewater treatment plants. Sewage treatment breaks down organic matter and kills disease-causing organisms leading to the creation of the sludge. The U.S. Environmental Protection Agency has long promoted the beneficial use of sewage sludge. Despite this, some academic researchers note that there remain risks of applying treated sewage sludge to agricultural land as fertilizer.

According to MDE, more than 700,000 wet tons of sewage sludge are generated in Maryland each year. MDE reports that in Maryland approximately 50% of sewage sludge is applied to agricultural land (an increase from 31% in 2006); 21% is used for land reclamation such as restoring surface mines; 18% is composted or pelletized and made into a commercial soil supplement; and 11% is disposed of in landfills or incinerated (a decrease from 13% in 2006). Since 2006 the share of sewage sludge being hauled out-of-state has been phased out from 41% to zero.

When MDE receives an application for a permit to utilize sewage sludge, it must mail a copy of the permit to the county and any municipal corporation where the sewage sludge utilization site is to be located and to any county within one mile of the site. *House Bill 1058 (passed)* requires a copy of the permit to be mailed to the appropriate county's executive and legislative body, the executive of any municipal corporation where the sewage sludge utilization site is to be located, and to the executive and legislative body of any county within one mile of the site.

Miscellaneous: The American Recovery and Reinvestment Act of 2009 provides a substantial amount of federal funding for water quality and drinking water infrastructure improvements in Maryland. The two primary federal funding sources for water policy in the State are the Clean Water State Loan Fund and the Drinking Water State Loan Fund. To make use of this federal stimulus funding for water quality and drinking water enhancements, *House Bill 1417 (Ch. 168)* establishes certain accounts within the Maryland Water Quality Financing Administration at MDE and expands the existing authorized uses of Water Quality Loan Fund and Drinking Water Loan Fund money.

Another MDE fund, the Small Business Pollution Compliance Loan Fund, was repealed by *House Bill 1416 (passed)*. This fund was created in 1998 to assist small businesses with the costs associated with installation of pollution control and the compliance with air pollution regulatory requirements. However, since its establishment only one loan has been made. Money within the fund will revert to the general fund.

The Maryland Clean Water Fund may realize a slight increase in revenues on an annual basis due to the enhanced penalty established by *Senate Bill 408 (passed)*. The bill increases from \$1,000 to \$5,000 the maximum penalty for a violation of any of the water pollution laws in Title 9 of the Environment Article.

A local sanitary commission may currently enforce the collection of unpaid benefit assessments or other charges when an individual's payment is at least 60 days overdue by suing the owner of record or filing a bill in equity to enforce a lien through a decree of sale of property. In Allegany, Dorchester, and Somerset counties, the sanitary commission may also disconnect service. *House Bill 218 (Ch. 135)* extends this authorization to Garrett County.

Waste Management

Coal Combustion By-products

According to MDE, between 2 million and 2.5 million tons of coal combustion by-products (CCBs) are generated each year, primarily from nine power plants in Maryland. This amount is anticipated to increase as new and more effective environmental controls are installed at power plants to sequester CCBs from the combustion process.

CCBs are either disposed of or used. According to MDE, beneficial uses of coal ash include mine reclamation, structural fill applications, or as a substitute for cement in the production of concrete. Under certain geologic conditions, certain types of coal ash can produce high concentrations of potentially toxic or carcinogenic constituents that may leach into surface or groundwater. In addition, without proper controls, MDE reports that coal ash released into the air in large quantities can create a public nuisance and/or cause respiratory problems.

On October 1, 2007, MDE filed a consent order in Anne Arundel County Circuit Court to settle the environmental enforcement action taken against BBSS, Inc. and Constellation Power Source Generation, Inc. for CCB contamination of public drinking water wells in the vicinity of BBSS' Gambrills sand and gravel mine. Among other provisions, the consent order required the facility owners and operators to pay a civil penalty of \$1 million. On December 30, 2008, a Baltimore Circuit Judge approved a \$54 million settlement in the class-action lawsuit brought by Gambrills residents.

To address these issues, MDE developed new CCB disposal regulations that took effect December 1, 2008. Generally these regulations require CCB disposal facilities to meet the same technical standards required for industrial solid waste landfills, and conform to local zoning and land-use requirements and each county's 10-year solid waste management plan. The regulations also address the use and disposal of CCBs in mine reclamation projects by imposing a number of

standards that must be met at the site and by restricting such use and disposal to certain types of CCBs.

Although these new regulations are now in effect, MDE advised that they were yet being fully implemented due to a lack of funds. To this end, *House Bill 1556 (passed)* establishes a Coal Combustion By-Products Management Fund comprised of fees collected by MDE on each ton of CCBs generated. The fee must be adjusted annually by MDE to ensure that all revenues collected cover the cost to implement MDE's coal combustion management program, without producing excess revenues.

In addition to developing the CCB disposal regulations, MDE advises that it is also working to adopt regulations to define beneficial uses of CCBs. *House Bill 1305 (passed)* requires MDE to submit these beneficial use regulations to the Joint Committee on Administrative, Executive, and Legislative Review, as well as additional regulations to control fugitive air emissions from the transportation of CCBs, by the end of this year.

Recycling

Beginning January 1, 1992, each State agency was required to implement a recycling plan created in part by the Office of Recycling to reduce through recycling the amount of the solid waste stream generated for disposal by the State government by at least 20% or to an amount that is determined practical and economically feasible, but in no case less than 10%. *House Bill 595 (passed)* requires the State to include in its required recycling plans a system for recycling aluminum, glass, paper, and plastic. The bill requires the placement of collection bins in State-owned or State-operated office buildings where it is determined to be practical and economically feasible. Each agency must begin implementation of this plan by January 1, 2012.

In 1988, the Maryland Recycling Act required each county to submit a recycling plan. Counties have flexibility to determine the best way to reach the required recycling rates. *Senate Bill 473/House Bill 1290 (both passed)* add a requirement for a county recycling plan to include a strategy for collecting, processing, marketing, and disposing of recyclable materials from county public schools. The bill also requires counties to revise their recycling plan by October 1, 2010 to address the new requirement.

Mercury Switch Disposal

Each year, approximately 10 to 12 million vehicles are retired from useful life in North America. According to the Clean Car Campaign, mercury-containing switches account for more than 99% of the mercury used in automobiles, with each switch containing nearly one gram of mercury. According to a 2004 analysis by the Clean Car Campaign, in the United States alone, automobiles will be responsible for the environmental release of up to 493,000 pounds of mercury from the estimated 217 million switches installed in vehicles from 1974 through 2003.

In August 2006, a coalition of organizations and industry sectors signed a memorandum of understanding and established the National Vehicle Mercury Switch Recovery Program (NVMSRP) to remove mercury-containing switches from scrap vehicles. The program will

terminate in 2017 when estimates indicate that 90% of the vehicle mercury switches will be retired. Maryland joined NVMSRP in January 2007. MDE has partnered with End of Life Vehicle Solutions Corporation (ELVS), the NVMSRP contractor, and the Maryland Auto and Truck Recyclers Association to encourage vehicle recyclers and dismantlers to participate in the program. Under NVMSRP, a \$4 million fund has been established to reward dismantlers and recyclers on a first-come first-served basis for their efforts by paying \$1 per mercury light switch or assembly received and \$3 per antilock braking system module received. ELVS will provide educational materials and will collect and recycle switches at no cost to recyclers and dismantlers. According to a recent model developed by ELVS, the number of mercury light switches in end-of-life vehicles in Maryland is projected to decrease from 59,000 in 2008 to 28,000 in 2017.

House Bill 1263 (passed) requires vehicle manufacturers that sold motor vehicles with mercury switches in the State to develop a mercury minimization plan relating to mercury switch removal from vehicles. Requirements of the plan include information identifying the make, model, and year of vehicles that may contain mercury switches; educational and training materials to assist vehicle recyclers in removing mercury switches; and proposals for safe storage and disposal of mercury switches. Manufacturers must pay at least \$4 per mercury light switch removed and \$6 for each mercury antilock braking switch assembly removed by a vehicle recycler. The bill also requires vehicle recyclers to remove mercury switches from end-of-life vehicles and to keep certain records. A portion of the money collected from mercury switch removal must be deposited into the State Recycling Trust Fund. Finally, the bill establishes penalties for violations of specified provisions in the bill. The provisions of the bill are scheduled to terminate at the end of 2017.

Environmental Standing

Generally, a party to a civil action must be authorized to participate in the action, either by statute or by having common law “standing.” Standing means that a party has a sufficient stake in a controversy to be able to obtain judicial resolution of that controversy.

Maryland law currently limits standing to those who are “aggrieved” by the agency decision. “Aggrievement” has been defined by court decisions to mean that the plaintiff has a specific interest or property right that has been affected by the disputed action or decision in a way that is different from the effect on the general public. With respect to cases involving challenges to specific types of permits, Maryland courts have defined “aggrievement” to mean the ownership of property either adjacent to, or within sight or sound range of the property that is the subject of the complaint.

The Court of Appeals has held that associations and organizations lack standing to sue where it has no property interest of its own, distinct from that of its individual members. In *Medical Waste Ass’n. v. Maryland Waste Coalition*, 327 Md. 596 (1992), the Court of Appeals stated that if an individual or organization is seeking to redress a public wrong, the individual or organization has no standing unless the wrong suffered is different in character and kind from that suffered by the general public.

Senate Bill 1065/House Bill 1569 (both passed) expand standing for individuals and associations and organizations in bringing challenges related to a license to dredge and fill on State wetlands, and permits issued under the Environment Article pertaining to ambient air quality control, landfills/incinerators, discharge pollutants, structures used for sewage sludge storage or distribution, controlled hazardous substance facilities, hazardous materials facilities, low-level nuclear waste facilities, water appropriation and use, nontidal wetlands, gas and oil drilling, surface mining, and private wetlands. Federal standing is also provided to persons to participate in certain buffer zone variance actions in the Chesapeake and Atlantic Coastal Bays Critical Area.

The bills provide that the federal tests for standing shall be used to determine whether a party may contest a determination by MDE or Board of Public Works (BPW) when making determinations on the issuance, denial, renewal, or revision of the covered permits and license.

Federal law is broader than State law in its determination of standing. Under federal law, a party has standing if its use and enjoyment of the area is affected by the challenged action/decision or if the party has a particular interest in the property affected. Federal law also makes little distinction between individual and group standing. Under federal case law, in order to have standing, “a plaintiff must show (1) it has suffered an ‘injury in fact’ that is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical; (2) the injury is fairly traceable to the challenged action of the defendant; and (3) it is likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision.”

Federal case law requires an association to meet a three-part test in order to have standing. Under the test, an association has standing if (1) one or more members of the association have standing as individuals; (2) the interests that the association seeks to protect in the case are germane to the association’s purpose; and (3) neither the claim asserted nor the relief requested requires the participation of the member with individual standing in the lawsuit.

A person, including associations and organizations, may request judicial review of a determination if the person meets the threshold standing requirements under federal law and participated in a public participation process through the submission of oral or written comments. In order to streamline the process by which the covered permits and license are challenged, the bills prohibit the covered permits and license from being challenged in a contested case process, and instead provide for judicial review on the administrative record.

Petitions for judicial review must be filed with the circuit court for the county where the application for the permit or license states that the proposed activity will occur. Judicial review is limited to an administrative record and objections raised during the public comment period, with limited exceptions. A petition for judicial review shall be filed and conducted in accordance with the Maryland Rules of Civil Procedure.

The bills specify what materials constitute an administrative record for purposes of judicial review, and require MDE or BPW to make certain materials from the administrative record available when the department issues a draft permit or tentative determination. MDE or BPW are required to extend any public comment period by 60 days upon request.

For a proceeding involving a variance for a development activity in the Chesapeake and Atlantic Coastal Bays Critical Area buffer, a person or association who meets federal standing requirements may participate as a party in a local administrative proceeding involving the variance. A person who meets this requirement may also (1) participate as a party in an administrative proceeding at a board of appeals even if the person was not a party to the original administrative proceeding; and (2) petition for judicial review and participate as a party even if the person was not a party to the action which is the subject of the petition.

Senate Bill 824/House Bill 1053 (both failed) also sought to address the issue of providing broader standing to bring court challenges addressing environmental issues. The bills would have applied to claims pertaining to administrative decisions and provisions under the Environment Article, the Maryland Environmental Policy Act, the Forest Conservation Act, and the Chesapeake and Atlantic Coastal Bays Critical Area Protection Program. “Administrative decision” was defined as any permit, license, renewal, or other form of authorization, or any standard, ordinance, rule, regulation, or order that is issued by a State or local governmental unit or agency, including a county board of appeals. The bills also permitted any person to bring a “citizen suit” civil action against any person or governmental entity alleged to have violated provisions in the Environment Article and certain provisions of the Natural Resources Article.

Environmental Permitting and Enforcement

Notice

A number of bills were introduced to enhance public notice of the environmental permitting process. *Senate Bill 47/House Bill 1078 (both passed)* require MDE to post notice of applications for certain permits on the department’s web site and also require MDE to provide a method for interested persons to electronically request additional notices related to particular permit applications. The following permits are subject to the bills requirement: ambient air quality control, landfills/incinerators, discharge pollutants, structures used for sewage sludge storage or distribution, controlled hazardous substance facilities, hazardous materials facilities, and low-level nuclear waste facilities.

Statute of Limitations

Chapter 194 of 2008 established a three-year statute of limitations for violations of most environmental violations in order to improve the State’s ability to successfully prosecute or sue violators where delayed discovery of violations would prevent a court action from being instituted under current law. The general statute of limitations in the Courts and Judicial Proceedings Article for prosecution of a misdemeanor is one year. *House Bill 420 (passed)* extends the same three-year statute of limitations to suits brought by local governments for civil penalties for environmental violations.

Cost Recovery

The cost of cleanup and restoration of natural resources is one factor that MDE considers when assessing administrative penalties for a violation of certain environmental laws. Under the

current law, however, environmental health monitoring or testing conducted in affected areas is not specifically considered by MDE in determining the level of penalty to be assessed on a person responsible for the environmental violation. *House Bill 259 (passed)* requires persons responsible for violations of certain provisions of the Environment Article to reimburse the MDE or a county for costs incurred in conducting certain testing related to the release of a hazardous substance, discharge of oil, or discharge of a pollutant to the waters of the State. A county may recover costs through filing a civil action against a responsible person, or may request MDE recover costs on behalf of the county. A person may not be required to reimburse a county if the person has entered into a consent order with the department. Finally, reimbursement to a county is not allowed if the environmental health monitoring or testing by the county is duplicative of activities conducted by the State, or was not reasonably necessary to protect human health and the environment.

Agriculture

Agricultural Land Preservation

The Maryland Agricultural Land Preservation Foundation (MALPF) within the Maryland Department of Agriculture (MDA) preserves productive agricultural land and woodland by purchasing easements that forever restrict development on the land. Funding for the purchase of easements comes from property transfer tax and agricultural land transfer tax revenues, county matching funds, and federal grant funding. As of January 2009, MALPF had cumulatively purchased or had a pending contract to purchase conservation easements on 2,005 farms covering 274,950 acres.

Corrective Easements

New appraisal requirements may place a significant financial burden on landowners with MALPF easements who seek to settle property boundary disputes, resolve violations, and make other changes to benefit farming. *House Bill 676 (Ch. 150)* exempts MALPF from provisions of law requiring independent property appraisals when it enters into corrective easements with landowners to adjust boundary lines, resolve easement violations, or accommodate a plan that will benefit agricultural operations, as determined by MALPF. Also, the Act authorizes MALPF to exchange and release land subject to an easement with other farmland that meets specified requirements.

Condemnation of Easement Land

Easement properties are being increasingly threatened by the exercise of eminent domain. Landowners with MALPF easements have an incentive to encourage governments to purchase easement land for public purposes since landowners are reimbursed for the full current appraised fair market value. Since repayment for condemnation of agricultural easement land is not returned to MALPF, condemnation may result in a decrease in the value of the State's investment in agricultural land preservation.

House Bill 1418 (passed) makes condemnation of land under a MALPF easement, for economic development, residential development, or parkland purposes, subject to approval by the Board of Public Works (BPW) after review and recommendation by MALPF. Condemnation of easement land for roads, water lines or pipelines, sewer lines or pipelines, power transmission lines or natural gas pipelines, and stormwater or drainage facilities is not subject to BPW approval. The condemning authority, which is expanded to include any governmental authority, must demonstrate that a greater public purpose exists than that served by the MALPF easement and there is no reasonable alternative site.

Access to Records

The Maryland Public Information Act grants the public a broad right of access to records that are in the possession of State and local government agencies. However, allowing public scrutiny of MALPF records can be problematic. Revealing landowners' asking prices provides information that allows competitors of the landowner and of MALPF to act to the detriment of the landowner and the State. Also, revealing relative rankings during the easement acquisition cycle creates expectations, misperceptions, and possible controversy. *Senate Bill 73 (Ch. 17)* requires that specified records related to the purchase of agricultural land preservation easements remain confidential until the end of the easement acquisition cycle.

Imposition of Civil Penalties

MALPF is finding more violations on easement properties as the program matures and properties in the program are assumed by new owners. While there have been only a few willful violations, violation-related litigation and the seriousness of the violations have increased. *Senate Bill 89 (Ch. 24)* authorizes the Board of Trustees of MALPF, after an opportunity for a hearing and a reasonable amount of time to correct the alleged violation, to impose a civil penalty on an owner of a property that is subject to an easement of up to \$2,500 per violation for specified violations, but not more than \$50,000 per administrative hearing.

Valuation of Terminated Easements

MALPF has used two different appraisal methods to establish the value of agricultural property. Prior to approximately 1990, an easement's value was the difference between the fair market value of the property with easement restrictions in place and without easement restrictions in place. After 1990, easement values were determined by subtracting the value of

the property for agricultural production from the appraised fair market value. When the current method for determining agricultural value was enacted, similar language was not integrated into law outlining how the repayment value of a terminated easement was to be calculated. *Senate Bill 90 (Ch. 25)* requires that the appraisal method used to determine the agricultural value of a MALPF easement being terminated be identical to the appraisal method used when the easement was originally purchased by MALPF.

Residential Uses

Subject to MALPF approval, a landowner may construct housing for tenants fully engaged in the operation of the farm. Construction may not exceed one tenant house per 100 acres, unless MALPF grants an exception based on a showing of compelling need. The land on which a tenant house is constructed may not be subdivided or conveyed to any person. In addition, the tenant house may not be conveyed separately from the original parcel.

Senate Bill 362 (passed) authorizes landowners to convert an existing dwelling house into a tenant house and construct one replacement dwelling house for the landowner's use. However, MALPF must approve the construction of the replacement dwelling house as well as specified characteristics of the dwelling house. Also, landowners interested in constructing tenant housing on easement land must show a compelling need. Finally, the landowner must execute an agreement prohibiting the replacement dwelling house from being separately conveyed from the original parcel and record this agreement among specified land records.

Commercial Uses

MALPF easement properties may not be used for commercial, industrial, or residential purposes unless MALPF determines the purposes are compatible with agriculture and forestry. Commercial agricultural uses allowed by MALPF include the growing of field crops, vegetables, and fruit; dairy and livestock operations, including chickens; and managing land for forest resources. *Senate Bill 358/House Bill 290 (both failed)* would have authorized renewable energy generation on MALPF easement land, and *Senate Bill 291/House Bill 333 (both failed)* would have authorized natural gas drilling on MALPF easement land.

Fertilizer, Grass, and Organic Farming

Several states have adopted requirements aimed, at least in part, at reducing the impact of phosphorus and nitrogen contained in fertilizer on water quality. In 2006, the Chesapeake Executive Council (consisting of the Governors of Maryland, Pennsylvania, and Virginia; the Mayor of the District of Columbia; the U.S. Environmental Protection Agency Administrator; and the Chair of the Chesapeake Bay Commission), along with Delaware and West Virginia, signed a memorandum of understanding with members of the lawn care product manufacturing industry establishing a commitment to achieve a 50% reduction (from 2006 levels) in the pounds of phosphorus applied in lawn care products in the Chesapeake Bay Watershed by 2009.

Senate Bill 553/House Bill 609 (both passed) prohibit, beginning on April 1, 2011, a lawn fertilizer with available phosphoric acid content greater than 5% from being labeled for use on established lawns or grass or with spreader settings. They also specify the language concerning fertilizer application that must appear conspicuously on the fertilizer container. Seed starter fertilizer for use on newly established lawns or turf is exempt from the labeling requirements. Retail establishments, beginning on April 1, 2011, are prohibited from selling or distributing for sale fertilizer for established lawns and grass unless it is low-phosphorous fertilizer; however, licensed landscaping contractors and their agents are exempt. By April 1, 2011, lawn care fertilizer manufacturers must reduce the amount of available phosphoric acid resulting from the application of their products in the State by 50% from 2006 levels; and manufacturers who begin to sell or distribute specified fertilizer on or after April 1, 2010, may not exceed an average of 1.5% available phosphoric acid. Finally, specified lawn care fertilizer manufacturers are required to report annually beginning in 2011 on the phosphorous content in fertilizer.

Lawn and Turf Grass

Senate Bill 91 (Ch. 26) extends the time period, from 9 to 15 months, within which cool season lawn and turf grass seed may be sold, offered or exposed for sale, or transported in the State after it has been tested to determine the percentage of germination required to be included on seed labels. Also, cool season lawn and turf grass seed must be labeled with a “sell by” date that falls within 15 months from the month following the date of the test. The Act makes State law consistent with language in the Recommended Uniform State Seed Law developed by the Association of American Seed Control Officials and federal law and implementing regulations. Also, the Act establishes a “sell by” date to facilitate inspection of seed lots for compliance and give consumers a readily visible quality.

Organic Farming

MDA administers a certification program required under statute, which governs production and handling of organic agricultural commodities in accordance with the requirements of the federal Organic Food Production Act. Among the requirements for organic certification under the U.S. Department of Agriculture’s National Organic Program, no prohibited substances may be applied to the land from which harvested crops are intended to be sold, labeled, or represented as “organic” for three years preceding the harvest of the crop. When transitioning to organic, crop yields are usually reduced and farmers usually experience a revenue loss. The farmers, however, cannot represent their products as organic and obtain the price premium paid for organic products until the completion of the transition period.

Senate Bill 516/House Bill 449 (both passed) establish a Maryland Organic Transition Investment Pilot Program within MDA to provide financial assistance to producers for eligible costs associated with transitioning to organic agricultural production. An Organic Agriculture Development Fund is also established consisting primarily of money received from the federal government or any entity receiving federal funding for purposes consistent with the program.

The Secretary of Agriculture must develop and implement the program, which terminates June 30, 2012.

The Secretary of Agriculture is required to set a reasonable fee, not exceeding \$500, to defray the cost of conducting field inspections and laboratory analysis associated with MDA's organic certification program. *Senate Bill 77 (Ch. 19)* eliminates the \$500 fee cap, to allow fee increases sufficient to cover operating expenses without delays in issuing organic certifications. Also, MDA is no longer required to adopt regulations creating the organic certification program and instead must conform to applicable federal regulations.

Forest Pests

The emerald ash borer is an exotic invasive pest responsible for the death of more than 25 million ash trees in Michigan, Indiana, and Ohio, and it currently threatens Maryland's ash trees. The discovery of this federally regulated pest in 2006 in an area where it was believed to have been eradicated prompted the issuance of a quarantine over all of Prince George's County, according to federal protocols. The quarantine was extended into Charles County when emerald ash borer was detected there in 2008. This quarantine prohibits the movement of any regulated article out of the county, as well as movement of regulated articles from infested to noninfested areas of the county.

House Bill 796 (passed) creates an Emerald Ash Borer Grant Fund to help local governments, businesses, and organizations purchase authorized equipment to remove, dispose of, and replace trees infested by the emerald ash borer that are located within emerald ash borer quarantine areas. The Secretary of Agriculture is authorized to administer the fund and must establish grant application procedures. Grants may not exceed the amount a specified entity has appropriated to finance purchases of equipment to remove, dispose of, and replace infested trees in specified areas. "Authorized equipment" is any equipment necessary for the management of forest land, including equipment for construction and staging of marshaling areas, planting trees, and removal of trees; vehicles capable of transporting harvested trees; wood chippers; materials required to administer approved products to ash trees planted in quarantined areas; and any other equipment determined by the Secretary of Agriculture.

Departmental Boards, Authorities, and Programs

State Board of Veterinary Medical Examiners

The Maryland General Assembly created the State Board of Veterinary Medical Examiners (SBVME) in 1894. SBVME's mission is to protect the public and animal health and welfare through effective licensure of veterinarians, veterinary technicians, and veterinary hospitals under its jurisdiction; effective discipline of veterinarians, veterinary technicians, and operators of veterinary hospitals under its jurisdiction, when warranted; and adoption of reasonable standards for the practice of veterinary medicine in the State of Maryland. SBVME consists of seven members appointed by the Governor; five of whom are licensed and registered veterinarians. The board regulates just over 2,400 veterinarians, just over 500 veterinary

hospitals, and approximately 315 registered veterinary technicians. Veterinarians and veterinary hospitals must be licensed by the board. Veterinarians must also register annually with the board.

Senate Bill 116 (passed)/House Bill 62 (Ch. 123) extend the termination date for SBVME by 10 years to July 1, 2021, and require an evaluation of the board by July 1, 2020.

SBVME has the exclusive power to establish and alter the standards of preliminary and professional education and training requirements for applicants for a veterinary license. *House Bill 1413 (passed)* authorizes SBVME to establish an annual continuing education requirement of at least 12 hours for veterinarians as a condition of license renewal.

Veterinary students cannot gain clinical, hands-on experience in a veterinary hospital setting while attending veterinary medical school since individuals must have a diploma in order to seek licensure to practice veterinary medicine. *Senate Bill 78 (Ch. 20)* allows a veterinary student who has successfully completed three years of veterinary education at an SBVME-approved institution to practice veterinary medicine under the supervision of a licensed veterinarian. In addition, any veterinary student has the same immunity from civil liability afforded to a licensed veterinarian, but only when working under the supervision of a licensed veterinarian. This immunity applies in circumstances where, for no fee or compensation, veterinary aid, care, or assistance is rendered in an emergency situation and the owner or custodian of the animal is not available to grant permission.

Maryland Horse Industry Board

The Maryland Horse Industry Board (MHIB) has licensed and inspected horse stables in the State for more than 40 years. In addition, MHIB provides information about, supports research on, and promotes the equine industry in Maryland.

House Bill 955 (passed) clarifies the various types of equine-related activities that fall under MHIB's regulatory authority and specifies that horse racing and standardbred stables or farms using horses for working or cultivating the soil or herding or cutting livestock activities are not subject to MHIB regulation. The bill also requires that equine activities be treated as agricultural activities for purposes of State law relating to MHIB.

House Bill 973 (passed) increases the maximum per ton assessment, from \$2 to \$6, which MHIB may impose on commercial equine feed sold in Maryland. Funds collected from the equine feed assessment may only be used by MHIB for education, research, and promotional materials and activities intended to benefit the Maryland equine industry. MHIB assesses the fee on mills that manufacture equine feed sold in Maryland, and mills pass that cost on to the consumer who may then request reimbursement for the fee from the department.

State Tobacco Authority

The State Tobacco Authority was created to license and regulate tobacco producers, buyers, and sellers in order to alleviate the disorderly conditions surrounding the marketing of

leaf tobacco in the State. The authority's regulatory responsibilities are focused on tobacco auctions; however, the last auction was held in March 2006. *Senate Bill 74 (Ch. 18)* abolishes the State Tobacco Authority and repeals related provisions of State law defining the powers and responsibilities of the authority and regulating the sale of leaf tobacco in Maryland.

Part L Education

Primary and Secondary Education

Fiscal 2010 State Education Aid

State aid for primary and secondary education will increase by \$127.9 million to a total of \$5.5 billion in fiscal 2010, 2.4% above the fiscal 2009 level. State aid provided directly to the local boards of education decreases by \$9.4 million or 0.2%, while teachers' retirement costs, which are paid by the State on behalf of the local school systems, grows from \$621.8 million to \$759.1 million, an increase of 22.1%.

Changes in the Bridge to Excellence programs and other major State education aid programs are shown in **Exhibit L-1**. The largest increase in any of the education aid programs is in teachers' retirement, which increases by \$137.3 million. The State pays 100% of the employers' share of retirement costs for most professional school system employees. The large increase is due to 8.1% growth in aggregate school system salary bases and an increase in the contribution rate from 11.70% to 13.15%. State funding for this program is paid into the State's pension system and does not pass through local school system budgets.

Although direct aid decreases slightly, there is a \$64.5 million or 1.4% increase in funding for the Bridge to Excellence programs, the State's primary education aid formulas. The foundation program, which ensures a minimum base amount of State and local per pupil funding and is the State's largest aid program, decreases by \$63.7 million from fiscal 2009 due to declining enrollment, the second year of a freeze in the per student grant amount, and the recapture in fiscal 2010 of \$30.8 million in State aid overpayments to local school systems that occurred because of an error in the fiscal 2009 wealth base calculation. However, funding for other programs, most notably an \$88.5 million increase to fully fund the geographic cost of education index (GCEI), offsets the loss of foundation aid and provides for the overall increase in Bridge to Excellence funding.

Exhibit L-1
State Education Aid
Fiscal 2009 and 2010
(\$ in Thousands)

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Change</u>	<u>% Change</u>
Foundation Program	\$2,791,044	\$2,727,298	(\$63,746)	-2.3%
Geographic Cost of Ed Index	37,880	126,375	88,496	233.6%
Supplemental Grant	26,599	48,437	21,838	82.1%
Compensatory Education	914,367	940,681	26,313	2.9%
Special Education Formula	272,742	268,441	(4,301)	-1.6%
Limited English Proficiency	143,946	148,636	4,690	3.3%
Guaranteed Tax Base	89,883	63,829	(26,055)	-29.0%
Student Transportation	<u>225,078</u>	<u>242,337</u>	<u>17,259</u>	7.7%
Bridge to Excellence Subtotal	\$4,501,539	\$4,566,033	\$64,494	1.4%
Nonpublic Special Education	\$127,604	\$112,770	(\$14,834)	-11.6%
Other Direct Aid*	<u>128,418</u>	<u>69,378</u>	<u>(59,039)</u>	-46.0%
Total Direct Aid	\$4,757,561	\$4,748,182	(\$9,379)	-0.2%
Teachers' Retirement	<u>\$621,769</u>	<u>\$759,077</u>	<u>\$137,307</u>	22.1%
Education Aid Grand Total	\$5,379,331	\$5,507,259	\$127,928	2.4%

*Fiscal 2009 includes grants provided to offset the withdrawal of \$37.9 million in funding for the geographic cost of education index.

Increases in teachers' retirement and the Bridge to Excellence formulas were made possible to a large extent by the enactment of the federal American Recovery and Reinvestment Act of 2009 (ARRA), which provided the State with \$721.2 million in State Fiscal Stabilization Funds that Maryland will use to support increases in these programs in fiscal 2010 and 2011. The fiscal 2010 State budget includes \$295.9 million in stabilization funds to finance statutory formula increases in retirement payments, GCEI, supplemental grants, compensatory education, limited English proficiency, and student transportation. The use of the federal funds to support fiscal 2010 primary and secondary education formulas is detailed in **Exhibit L-2**. Another \$425.3 million in federal stabilization funds is expected to be available for use to fund education aid programs in fiscal 2011.

Exhibit L-2
Use of Federal State Fiscal Stabilization Funds
For State Education Aid Programs
Fiscal 2010

	<u>FY 2009</u>	<u>FY 2010</u>	<u>Increase</u>
Teachers' Retirement	\$621,769,420	\$759,076,574	\$137,307,154
Geographic Cost of Education Index	37,879,747	126,375,388	88,495,641
Compensatory Education	914,367,170	940,680,531	26,313,361
Supplemental Grant	26,599,120	48,437,254	21,838,134
Student Transportation	225,078,351	242,336,939	17,258,588
Limited English Proficiency	143,945,941	148,635,531	<u>4,689,590</u>
State Fiscal Stabilization Funds Used for Education in Fiscal 2010			\$295,902,468

In addition to the stabilization funds supporting State education aid formulas, ARRA makes use of existing federal programs in order to target additional aid directly to local school systems. In fiscal 2010 and 2011, Maryland will receive a total of \$136.0 million in additional federal funding under Title I of the Elementary and Secondary Education Act (Title I) and an additional \$214.7 million in federal funding from the Individuals with Disabilities Education Act (IDEA). Title I requires school systems to improve educational opportunities for economically disadvantaged children, and IDEA funds are used to provide free and appropriate public education to students with disabilities, including early education and infants and toddlers. The projected fiscal 2009 to 2010 change in direct State education aid for each local school system is shown in **Exhibit L-3** with estimates of annualized amounts of federal Title I and IDEA funds. More detail on State education aid for each county can be found in Part A – Budget and State Aid of this *90 Day Report*.

Education Aid Adjustments in the Budget Reconciliation and Financing Act

The Budget Reconciliation and Financing Act of 2009 (BRFA), *House Bill 101 (passed)*, includes provisions that change three mandated education aid formulas for fiscal 2010 and future fiscal years. First, the BRFA changes the cost share formula for nonpublic special education placements. To finance the placement of a child in a nonpublic setting, the local school system contributes the local share of the basic cost to educate a nondisabled student, plus 200% of the total basic cost of education in the district. Any additional costs to place the child were previously split 80/20 between the State and local school system; the BRFA permanently changes that cost share split to 70/30. The change in the formula results in an estimated \$16.1 million reduction in the amount needed to support fiscal 2010 placement costs. The BRFA

also limits fiscal 2010 increases in the rates paid to providers of nonpublic placements to 1%, saving an additional \$3.9 million.

Exhibit L-3
Change in Direct State Education Aid and
Annualized Additional Title I and IDEA Funds
Fiscal 2010
(\$ in Thousands)

School System	FY 2009-2010 Change in Direct State Aid	Annualized ARRA Enhancements	
		Title I	IDEA
Allegany	(\$888)	\$669	\$1,376
Anne Arundel	(4,282)	3,032	9,431
Baltimore City	(3,775)	26,013	14,203
Baltimore	(8,532)	8,210	13,663
Calvert	(320)	341	1,868
Caroline	(414)	317	710
Carroll	(2,967)	0	3,284
Cecil	(1,377)	840	2,070
Charles	(2,675)	780	2,904
Dorchester	(511)	340	593
Frederick	(1,692)	1,094	4,436
Garrett	(123)	302	593
Harford	(3,188)	1,283	4,764
Howard	222	0	5,103
Kent	(237)	129	290
Montgomery	42,886	5,906	17,284
Prince George's	(9,367)	11,315	15,116
Queen Anne's	(138)	185	885
St. Mary's	(1,749)	417	2,004
Somerset	33	677	385
Talbot	418	189	584
Washington	205	1,390	2,769
Wicomico	4,582	1,278	1,790
Worcester	260	419	825
Unallocated	(15,752)	0	0
Total	(\$9,379)	\$65,127	\$106,929

The BRFA of 2009 also alters mandated Teacher Quality Incentives, which provide stipends and bonuses to qualifying teachers. The changes are expected to save the State approximately \$5.3 million per year. Finally, a required \$11.7 million general fund expenditure for the Aging Schools Program is eliminated through the BRFA, although the fiscal 2010 capital budget provides \$6.1 million in general obligation bonds for the program.

The BRFA of 2009 also makes changes to the Bridge to Excellence funding formulas beginning in fiscal 2012. In fiscal 2011 the inflationary factor for the per pupil foundation amount will be applied to the formulas, but the BRFA establishes a 1% cap on growth in the per pupil amount and the student transportation grants for fiscal 2012 only. The restriction was established in recognition of the additional federal funds that are available to support education aid programs in fiscal 2010 and 2011 but will no longer be available in fiscal 2012.

Lastly, the BRFA changes the deadline for counties to apply to the State Board of Education for waivers of the maintenance of effort provision, which requires each local jurisdiction to provide at least as much per pupil funding for the local school system as was provided the previous fiscal year. Prior to the change, the deadline to apply for a waiver was April 1, and eight counties applied for waivers within that timeframe. The BRFA extends the application deadline to May 1. School systems that applied by April 1 will get a response from the State board by May 15, and any systems that utilize the BRFA extension will get a response by June 1. The BRFA of 2009 also clarifies required future year funding levels for counties that receive maintenance of effort waivers. The required per pupil county contributions must equal the greater of the prior year or second prior year funding levels.

Fiscal 2010 Public School Construction Funding

Capital Funding

The fiscal 2010 budget for public school construction includes \$260.0 million in general obligation bonds. An additional \$5.2 million in unexpended funds from prior years is available from the Statewide Contingency Fund, of which \$1.9 million is reserved for specific local school systems. Although the Maryland Stadium Authority was scheduled to transfer \$2.4 million in special funds for public school construction, these funds were deleted from the budget due to fiscal constraints.

The Public School Facilities Act of 2004 established a State goal to provide \$2 billion in State funding over eight years to address deficiencies, or \$250 million per year from fiscal 2006 to 2013. Fiscal 2010 will be the fifth consecutive year that the goal has been met or exceeded. The local school systems have requested a total of approximately \$766.0 million for fiscal 2010, of which \$493.6 million is eligible for State funding.

Aging Schools Program

The Aging Schools Program is funded through the capital budget rather than the operating budget in fiscal 2010. The fiscal 2010 capital budget as introduced included a \$6.1 million transfer of bond premiums from the annuity bond fund for the program, a

\$5.5 million decrease from the mandate funding level for the program. The capital budget as passed by the General Assembly instead includes \$6.1 million in general obligation bond funds for the program. The BRFA of 2009 alters future funding levels for the Aging Schools Program, reducing the fiscal 2011 requirement to \$6.1 million before rebasing the program at \$10.4 million in fiscal 2012. An annual inflationary factor will resume in fiscal 2013.

House Bill 1081 (passed) allows an additional use for previously authorized Qualified Zone Academy Bonds (QZABs) that were originally authorized for the Aging Schools Program. The federal government has allocated \$36.5 million in QZABs to Maryland since 2001; approximately \$22 million has yet to be expended by local school systems. **House Bill 1081** authorizes the use of QZABs to purchase equipment for eligible schools, which is one of several other allowable uses for QZABs under the Internal Revenue Code. QZABs are an alternative bond program that the federal government has authorized with bond holders receiving federal tax credits in lieu of interest.

Education Legislation

In addition to providing for public school operations and facilities, the General Assembly considered and passed bills relating to military children, student health and wellness, graduation, the MDK12 Library, suspension and expulsion, data collection, early childhood education, and local level education administration.

Interstate Compact on Educational Opportunity for Military Children

According to the Council of State Governments, on average a child of a member of the military changes schools more than twice during high school and most military children will be in six to nine different school systems from kindergarten to grade 12. These transfers frequently create bureaucratic problems that can disadvantage the academic performance of military children. **Senate Bill 257/House Bill 306 (both passed)** join Maryland to the Interstate Compact on Educational Opportunity for Military Children to facilitate for these children: the timely transfers of educational records; the continuation of schooling at the same grade level and in similar programs and courses; inclusion in extracurricular activities; on-time graduation; and the provision of comparable special educational services for students with disabilities, as appropriate. With the enactment of the legislation, Maryland will join at least 14 other states in the compact.

Student Health and Wellness

Anaphylactic Allergies: According to the National Institutes of Health, the prevalence of food allergies appears to be increasing. Allergic reactions to food can range from mild skin rashes and gastrointestinal discomfort to severe anaphylaxis, which can cause swelling of the airways, breathing difficulty, and in extreme cases, death. **House Bill 26 (passed)** requires a principal, in consultation with a school health professional, to take steps to reduce the risk of student exposure to anaphylactic causative agents. The principal must designate a peanut- and tree nut-free table in the cafeteria and establish procedures for self-administration of medication

by a student with an anaphylactic allergy under specified circumstances. The bill also limits the liability of school staff who responds in good faith to a student having an anaphylactic allergic reaction.

Physical Fitness: The National Conference of State Legislatures reports that, over the last 30 years, the percentage of children who are overweight has more than quadrupled for children ages 6 to 11 and more than tripled for youths ages 12 to 19. *Senate Bill 879/House Bill 1264 (both passed)* authorize local school systems to develop and implement annual wellness policy implementation and monitoring plans with the support of the Maryland State Department of Education (MSDE). The bills also require MSDE to establish an Advisory Council on Health and Physical Education to develop and coordinate programs to educate students about the importance and benefits of physical movement.

Green Cleaning Supplies: *House Bill 1363 (passed)* requires local boards of education to procure for use in schools, to the extent practicable and economically feasible, green product cleaning supplies, which are defined as those that have positive environmental attributes such as biodegradability, low toxicity, low volatile organic compound content, reduced packaging, and low life cycle energy use. The bill applies prospectively and does not affect cleaning supplies in inventory or under contractual obligation for purchase as of the bill's effective date.

Dating Violence Education: *Senate Bill 1049 (passed)* requires the State Board of Education to encourage local boards to incorporate age appropriate lessons on dating violence into their health education curriculum.

Graduation and Middle College Programs

English 12 and Algebra II are the courses that most commonly prevent a student from graduating early from high school. In response to this, *Senate Bill 689 (passed)* requires the State Superintendent of Schools to implement a credit-by-examination process for English 12 and Algebra II by the 2010-2011 school year. Additionally, the bill requires MSDE to report to the State Superintendent regarding the feasibility of and interest in establishing middle college programs for students in Maryland. A middle college is a secondary school authorized to grant diplomas in its own name, which is located on a college campus and allows students to take college courses while also taking high school courses. Under the bill, if the State Superintendent determines that there is sufficient interest and capability to implement middle college programs in the State, the State Superintendent must implement a middle college program in interested school systems beginning in the 2010-2011 school year.

MDK12 Digital Library

In 2000, the Chief of the School Library Services Branch at MSDE recommended that a group of school library media administrators study the feasibility of forming a statewide consortium to take advantage of cost-effective licensing of fee-based online services for K-12 schools in Maryland. A survey of local school systems in Maryland found that many local school systems were licensing online services, that licensing fees were not consistent throughout Maryland, and that licensing fees were too high for some local school systems to afford.

Furthermore, evidence from other states suggested that discounts from digital purchasing consortia can be significant.

In 2002, MSDE awarded Montgomery County Public Schools (MCPS) a federal *Enhancing Education Through Technology* (Title IID) grant to form a statewide purchasing consortium. Over the next five years MCPS worked with the 23 other local school systems to form the MDK12 Digital Library, a statewide purchasing consortium for the K-12 community designed to give teachers, students, and parents access to a collection of online resources to support teaching and learning at a savings to the individual school systems.

With the federal grant that supports this project expiring on September 30, 2009, *Senate Bill 235 (passed)* codifies the MDK12 Digital Library, a digital content purchasing consortium, within MSDE. The bill establishes a steering committee to administer the digital library that consists of one representative from each local school system, one representative from MSDE, and one representative from a private nonprofit school selected to represent the private nonprofit schools in the State. Members of the MDK12 Digital Library may include the public school systems of the State and private nonprofit schools that are approved by MSDE. Members must agree to report digital content usage data to the steering committee and solely use the pricing agreements established by the steering committee. The steering committee is required to submit a report on the financial status and operations of the MDK12 Digital Library to MSDE by October 1 of each year.

Suspension and Expulsion

In the 2007-2008 school year, there were nearly 168,000 student suspensions, including 16,500 for attendance-related infractions. *Senate Bill 241/House Bill 660 (both passed)* prohibit the suspension or expulsion of a student from school solely for attendance-related offenses; however, the bills include an exception from this prohibition for in-school suspensions. *House Bill 201 (passed)* authorizes a juvenile court, in a county that has established a juvenile justice alternative education program, to order a student who is suspended, expelled, or identified as a candidate for suspension or expulsion from school to attend that county's program.

Data Collection

Class Size: Senate Bill 990/House Bill 379 (both passed) require MSDE to develop, by the beginning of the 2012-2013 school year, a uniform data collection method to track the number of students who regularly participate in each classroom teacher's class as of September 30 of each year. Local school systems will then be required to implement the method and report the results to MSDE by December 1, and MSDE must report the data by January 31 of each year.

Teacher Identification Number: In an attempt to facilitate the study of education policy questions, such as identifying which forms of teacher training and certification have the greatest impact on a student's academic growth in the classroom, *House Bill 587 (passed)* authorizes MSDE to assign a unique identification number to each public school teacher. The identification number must be randomly generated and may not provide personally identifiable information.

Use of the identification number must be limited to matching data from multiple databases and years and meeting State and federal reporting requirements.

Standardized Course Numbering System: *House Bill 588 (passed)* authorizes MSDE to develop a standardized course numbering system to facilitate the collection of data on student participation in courses offered by public schools. If MSDE develops this system, a local school system that has not adopted the standardized system must provide a translation between its system and the standardized system. In an effort to mitigate the potential fiscal impact of this required translation, the bill reflects the intent of the General Assembly that a local school system that has not adopted the standardized system be able to access and use any federal or State funds otherwise available for this purpose.

Early Childhood Education

Preschool for All Business Plan: *Senate Bill 234/House Bill 184 (both passed)* require MSDE to consult with and accept comments from local superintendents of schools and local governing bodies regarding Maryland's Preschool for All Business Plan before preparing and publishing a final version. The finalized business plan is due to the Governor and the General Assembly by December 1, 2009. The bills prohibit MSDE from implementing a finalized business plan until an ongoing funding source has been identified.

Emergency Preparedness Plans: *Senate Bill 356/House Bill 712 (both passed)* require family day care homes and child care centers to have written emergency preparedness plans for emergency situations that require the evacuation, sheltering in place, or other protection of children. The plan must include: a designated relocation site and evacuation route; procedures for notifying parents of a relocation; procedures to address the needs of individual children, including those with special needs; procedures for the reassignment of staff duties, as appropriate; and procedures for communicating with local emergency management officials.

Local Level Education Legislation

Parent-Teacher Association Matching Fund Program

Established by Chapter 637 of 2007, the Parent-Teacher Association Matching Fund Pilot Program is an unfunded discretionary education aid program authorized in Baltimore City and Prince George's County. *Senate Bill 16 (passed)* renames the Parent-Teacher Association Matching Fund Pilot Program to be the Organization of Parents and Teachers Matching Fund Pilot Program to clarify that any organization of parents and teachers in Baltimore City or Prince George's County is eligible for the program, not only those affiliated with the national and trademarked Parent-Teacher Association. The bill also extends the termination date of the program from September 30, 2010, to September 30, 2012.

Local Boards of Education

Fiscal Accountability: Chapter 148 of 2004 established procedures to ensure fiscal accountability of local school systems by requiring biannual financial reports, prohibiting school

budget deficits, and providing for legislative audits. These procedures were developed after it was discovered in 2004 that two local school systems had deficits in their operating budgets. Beginning with the period ending November 30, 2004, local school systems have been submitting the unaudited financial reports twice each year. MSDE reports the biannual financial status reports have not disclosed any evidence of fiscal instability and there have been no general fund deficit balances disclosed in the last four fiscal years. *Senate Bill 448/House Bill 623 (both passed)* repeal the requirement that local school systems file biannual financial status reports with MSDE.

House Bill 841 (passed) requires the Montgomery County Board of Education to develop and operate a free, public, searchable web site by January 1, 2011, that includes data on specified board payments of \$25,000 or more.

Prince George's County: In addition to other provisions, *House Bill 960 (passed)* prohibits the Prince George's County Board of Education from expending any funds for the purpose of leasing, acquiring, or purchasing property under or in connection with a lease entered into in June 2008 for the consolidation of administrative offices of the board. Contingent on the failure of *House Bill 960* the BRFA of 2009 reduces State Foundation aid by \$36 million in fiscal 2010 if the board proceeds with the lease or purchase of a new administration building.

Senate Bill 500 (passed) requires the Prince George's County Board of Education to develop and implement a pilot program in three county high schools that includes a semester-long elective course in financial literacy. The bill requires the submission of a report on the success of the pilot program to the Prince George's County Senate and House delegations of the General Assembly.

Board Composition: *Senate Bill 629/House Bill 639 (both passed)* restructure the Harford County Board of Education from a seven-member appointed board to a nine-member board composed of six elected members and three appointed members. The bill establishes residency requirements for board members and procedures for removing members and filling board vacancies.

Senate Bill 964/House Bill 455 (both passed) restructure the Caroline County Board of Education, subject to voter approval via referendum, by requiring that three members be elected by county residents from education districts established by the county commissioners and two members be appointed by the Governor with the advice and consent of the Senate. If the referendum passes, the three elected board members would be elected at the November 2012 general election.

School Bus Operation

Unless it fails to meet applicable safety standards, a conventional school bus may be operated for up to 12 years, except in Dorchester, Somerset, Wicomico, and Worcester counties where it may be operated for up to 15 years. *Senate Bill 21/House Bill 110 (both passed)*

establish this provision as a permanent provision of law in Dorchester County. *Senate Bill 29/House Bill 43 (both passed)* add Talbot County and *Senate Bill 965/House Bill 727 (both passed)* add Caroline County to the counties where school buses may be operated for up to 15 years.

Higher Education

Funding

Every segment of higher education will receive an increase in State funds in fiscal 2010. Overall, new general funds, Higher Education Investment Fund (HEIF), and federal funds total \$33.5 million or a 2.2% increase over fiscal 2009. **Exhibit L-4** shows State support for higher education institutions over the two-year period, which includes general funds and HEIF in both years and discretionary federal stimulus funds in fiscal 2010.

Higher Education Investment Fund

Chapter 2 of the 2007 special session created HEIF and also increased the corporate income tax rate from 7.00 to 8.25%, dedicating 6.00% of corporate tax revenues to higher education through the fund. *Senate Bill 275/House Bill 308 (both failed)* would have made permanent the 6.00% distribution of the total funds generated through the corporate income tax to the HEIF and 9.15% to the general fund, rather than distributing the entire 15.15% to the general fund, beginning in fiscal 2010. However, *House Bill 101 (passed)*, the Budget Reconciliation and Financing Act (BRFA) of 2009, includes a one-year reauthorization of the corporate tax dedication to HEIF. Language in the fiscal 2010 budget bill reduced the general fund appropriation for higher education by \$46.5 million contingent on the reauthorization of HEIF, replacing those general funds with HEIF. Section 36 of the BRFA expresses the intent of the General Assembly to adopt legislation to make permanent the dedication of the 6.00% of corporate tax revenues to higher education, if the General Assembly determines it to be affordable and fiscally prudent.

Tuition Frozen for Fourth Consecutive Year

To continue the ongoing effort to make college more affordable for Maryland residents, the tuition freeze established under the Tuition Affordability Act, Chapters 57 and 58 of 2006 and continued by Chapter 294 of 2007, will be extended for a fourth year for resident undergraduate students at University System of Maryland (USM) institutions and Morgan State University (MSU) for the 2009-2010 academic year. Discretionary federal stimulus funds made available through the American Recovery and Reinvestment Act of 2009 (ARRA) are provided in the fiscal 2010 budget to offset the loss of revenue of not raising tuition 4% at USM institutions and 5% at MSU.

Exhibit L-4
State Support for Maryland Institutions of Higher Education
Fiscal 2009 and 2010
(\$ in Thousands)

	<u>FY 2009</u>	<u>FY 2010</u>	<u>\$ Change</u> <u>FY 09-10</u>	<u>% Change</u> <u>FY 09-10</u>
University System of Maryland	\$1,077,681	\$1,096,318	\$18,637	1.7%
Morgan State University	74,056	75,255	1,199	1.6%
St. Mary's College	16,925	17,365	440	2.6%
MD Higher Ed. Comm. Special Grants	11,657	9,036	-2,621	-22.5%
Community Colleges ¹	254,520	267,290	12,770	5.0%
Baltimore City Community College	41,001	42,386	1,385	3.4%
Private Institutions	50,456	52,178	1,722	3.4%
Total	\$1,526,296	\$1,559,828	\$33,532	2.2%

¹Community College funds include the Senator John A. Cade formula, other programs, and fringe benefits.

Note: Includes general funds, Higher Education Investment Funds, and discretionary federal stimulus funds (appropriated in lieu of general funds). Reflects statewide across-the-board reductions for deferred compensation and cell phones.

Source: Maryland State Budget Books, Department of Legislative Services

Four-year Institutions

USM will receive an increase of \$18.6 million or 1.7% increase over fiscal 2009. General funds increase \$2.5 million while \$16.1 million in discretionary federal funds from ARRA are used to offset the loss of tuition revenue so USM institutions can freeze resident undergraduate tuition for a fourth year. General, HEIF, and federal funds will support ongoing operating costs, modest enrollment growth, and program enhancements.

MSU receives a total increase of \$1.2 million or 1.6% increase over fiscal 2009. Of this increase, \$0.3 million are general funds and \$0.9 million are federal funds from ARRA. General, HEIF, and federal funds will support ongoing operating expenses, enrollment growth, and initiatives. The increase in general funds at St. Mary's College of Maryland is \$439,470, or 2.6% over fiscal 2009. This appropriation is equal to what is required by statute.

State aid for private institutions, through the Joseph A. Sellinger Program, increases \$1.7 million over fiscal 2009, or 3.4%. This equates to 12.9% of per student State support for selected public four-year institutions in the current year.

Community Colleges

Fiscal 2010 funding through the Senator John A. Cade funding formula grows by 3.8% over fiscal 2009. This appropriation represents 23.6% of the per student funding that selected public four-year institutions receive in fiscal 2010. When additional funds for fringe benefits and other programs are included, the overall community college budget increases 5.0%, or \$12.8 million.

Baltimore City Community College (BCCC), as the State's only State-operated community college, has its own formula, which for fiscal 2010 sets State support at 65.1% of the current year State appropriations per student at selected public four-year institutions. BCCC receives an increase of 3.4%, or \$1.4 million. The availability of discretionary federal stimulus funds allowed for a reduction of general funds for community colleges (\$14.5 million) and BCCC (\$0.6 million) with federal funds appropriated in equal amounts.

Formulas “Trued Up”

The statutory formulas for aid to community colleges, BCCC, and private institutions were adjusted in the BRFA to make them more affordable over the next several years. The formulas were also “trued up” to base them on current year per-student funding at selected public four-year institutions. Previously, appropriations were based on a percentage of per-student funding in the prior fiscal year. The BRFA also implements a phase in schedule for the formulas, as shown in **Exhibit L-5**. Since the current year appropriation for public institutions is generally higher than appropriations in the previous year, the final percentage is slightly lower than it was using prior year appropriations but the same funding level is achieved as under current law. For community colleges and BCCC, fiscal 2014 represents the final phase-in year while private institutions reach the final percentage in fiscal 2015.

Capital

The State altered how it funds major capital projects at higher education institutions in the 2009 *Capital Improvement Program* and in **House Bill 102 (passed)**, the fiscal 2010 capital budget bill. Funding for projects at 13 public four-year institutions was split over two years if construction costs topped \$25 million and the construction schedule supported split funding. Projects were also split funded at community colleges, one at Baltimore City Community Colleges and five within the Community College Construction Grant program. Split funding allowed the State to support all of the community colleges' requested projects. For every project expecting final construction funding in fiscal 2011, the capital budget includes a preauthorization of funding.

Senate Bill 176/House Bill 402 (both passed) increase the bonding authority of BCCC by \$50 million, from \$15 million to \$65 million. The legislation also authorizes BCCC to issue bonds for academic facilities in addition to auxiliary facilities. The Capital Debt Affordability Committee must include in its annual report its estimate of the amount of new bonds for academic facilities that may be prudently authorized for BCCC.

Exhibit L-5
Statutory Formula Phase-in Schedule
Fiscal 2010-2015

<u>Segment</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
Community Colleges	23.6%	24.0%	26.0%	28.0%	29.0%	29.0%
Private Institutions	12.9%	13.0%	13.5%	14.0%	14.5%	15.5%
BCCC	65.1%	65.5%	66.0%	67.0%	68.5%	68.5%

Source: Department of Legislative Services, BRFA of 2009

Higher Education Funding Model Commission

Chapters 57 and 58 of 2006 established the Commission to Develop the Maryland Model for Funding Higher Education to evaluate the relative roles of State general fund support and tuition and fees revenues at public institutions of higher education. The commission was charged with reviewing options and making recommendations relating to the development of a statewide framework for higher education funding that would be consistent and stable and ensure that all of Maryland's public higher education institutions are affordable and accessible to the State's residents. The commission was further charged with making funding recommendations to ensure that Maryland's historically black institutions (HBIs) are comparable and competitive with other public institutions in the State. *Senate Bill 861/House Bill 789 (both failed)* would have implemented the recommendations of the commission, including by 2020 (1) State funding for public higher education institutions should be funded at the seventy-fifth percentile of funding per student of a group of comparable institutions located in competitor states and State funding of HBIs should be set at the eightieth percentile of funding of a group of comparable institutions located in competitor states; (2) set total in-state tuition and fees at public institutions of higher education at or below the fiftieth percentile of comparable institutions located in competitor states, and limit increases in tuition and fees to the three-year rolling average of the State's median family income; and (3) set State need-based financial aid per student at the seventy-fifth percentile of competitor states. The legislation also would have made permanent the 6.00% distribution of the total funds generated through the corporate income tax to the HEIF and 9.15% to the general fund rather than distributing the entire 15.15% to the general fund beginning in fiscal 2010.

Although the commission legislation did not pass due to fiscal constraints, intent language was added to *House Bill 101*, the BRFA of 2009, that the General Assembly should adopt the recommendations of the commission when fiscally prudent to do so. In addition, the BRFA directs the Maryland Higher Education Commission (MHEC) to incorporate the recommendations of the commission into the updated State Plan for Higher Education and to implement the recommendations that do not require legislation.

State Plan for Higher Education

MHEC is required by statute to submit a quadrennial review of the State Plan for Higher Education (State Plan) by July 1, 2008, and every fourth year thereafter. Prior to 2006, MHEC was required to update the State Plan every two years. The State Plan was last updated in 2004. The State Plan is to establish statewide goals for postsecondary education and outline actions to achieve these goals. As a part of the process, MHEC will take into consideration the findings from the final report of the Commission to Develop the Maryland Model for Funding Higher Education. During the 2008 session, the commission was granted an extension of the deadline for submission of the final report to December of 2008. In order to consider the findings in the final report of the commission and any legislation that may be enacted implementing the commission's recommendations, *House Bill 1403 (passed)* extends the deadline by which MHEC must submit a quadrennial review of the State Plan for Higher Education to the Governor and the General Assembly from July 1, 2008 to July 1, 2009.

College Textbook Competition and Affordability

The issue of college textbook affordability has garnered considerable attention from the General Assembly over the past few years. With the 2004 release of "Rip-off 101," the U.S. Public Interest Research Group (PIRG) launched an effort to inform the public about practices by textbook publishers that, according to PIRG, result in higher college textbook prices. A July 2005 report from the U.S. Government Accountability Office (GAO-05-806) found that college textbook prices increased by 186% from 1986 to 2004, more than twice the rate of inflation but less than the 240% increase in tuition over the same period.

Signed into law on August 14, 2008, the Higher Education Opportunity Act of 2008 (HEOA) has provisions that take effect July 1, 2010, which attempt to address concerns about college textbook prices. Under HEOA, publishers are required to provide pricing information to course instructors as they choose textbooks for their students. The legislation also requires institutions of higher education to make international standard book numbers (ISBNs) or other textbook details for both required and supplemental material available on Internet course schedules. Upon request, institutions must provide textbook and enrollment information to their college bookstores. Institutions are also encouraged to provide information on their web sites about cost saving methods such as renting textbooks, purchasing used textbooks, textbook buy-back programs, and alternative content delivery programs. HEOA also established a textbook rental pilot program to study its effectiveness in reducing textbook costs.

Chapter 295 of the Acts of 2007 required the Department of Legislative Services (DLS) to conduct a survey of college bookstore and textbook adoption policies and practices at higher education institutions. DLS organized a briefing that took place on January 10, 2008, and included testimony from DLS, college students, faculty, on campus and off campus bookstores, textbook publishers, and Maryland PIRG. Utilizing the information gathered by the study, Senate Bill 657/House Bill 1067 were introduced in the 2008 session. A version of the bill was passed by both chambers; however, they were not able to come to a final agreement.

Senate Bill 183/House Bill 85 (both passed) require each public institution of higher education to develop and implement a campaign to make faculty aware of textbook issues, a procedure by which bookstores and students are made aware of textbook information that must be disclosed, and a best-practices process for faculty in selecting textbooks and course materials. Additionally, all institutions of higher education must develop a process to make faculty aware of certain required disclosures by publishers.

On the request of a bookstore that sells textbooks and course materials and is licensed by the Comptroller to do business in Maryland, an institution of higher education must provide specific information on the textbooks and course materials that have been selected by faculty members, including the title, author, publisher, edition, copyright and publication date, the ISBN, and the anticipated enrollments for the courses. This textbook information must also be posted on the institution's web site three weeks after selection by a faculty member or when the order is finalized, whichever occurs earlier. Additionally, the institution must post on its web site notification about whether earlier editions of assigned textbooks will suffice.

Publishers and campus bookstores are required to provide and sell textbooks and supplemental materials in the same manner as selected and ordered by faculty except for the purpose of providing lower-cost options to students. Publishers are required to make bundled materials available separately, each separately priced. Finally, the legislation requires various reports from the segments of higher education regarding best practices, textbook rental programs, and the feasibility of a digital marketplace.

Tuition Assistance

Higher Education Workforce Initiatives for Base Realignment and Closure

To further address higher education needs related to the Base Realignment and Closure (BRAC) process, *House Bill 923 (passed)* authorizes community colleges and BCCC trustees to waive out-of-state and out-of-county tuition for a student who resides in the State or county but does not meet the residency requirement for in-state or in-county tuition purposes and has moved to the State as an employee or a family member of an employee as part of the BRAC process. A BRAC employee or family member of a BRAC employee attending a community college who receives in-state tuition under the bill is counted as an in-state resident for purposes of calculating State aid for community colleges and BCCC using the statutory funding formulas.

Children in Foster Care

Chapter 506 of 2000 established the tuition waiver program for children in foster care homes. Chapter 644 of 2007 extended the program to foster care children in out-of-home placements. In order to provide an incentive for foster parents to adopt an entire family of children and keep siblings together, *Senate Bill 372/House Bill 538 (both passed)* expand eligibility for tuition and mandatory fee waivers for public institutions of higher education in Maryland to younger siblings of foster care recipients who have been adopted by the same family. To be eligible, the foster care children must share one or both parents before the adoption and be adopted from an out-of-home placement at the same time, by the same family.

The bill also expands eligibility to foster care recipients who were adopted from an out-of-home placement after their thirteenth, rather than fourteenth, birthday.

Members of the Maryland National Guard

The Military Department may provide tuition assistance for any active member of the National Guard attending an eligible institution in an amount equal to 50% of the cost of in-state tuition for any regularly scheduled undergraduate credit course, vocational-technical course, or trade course. To be eligible for tuition assistance, a Guard member must have at least 24 months of service remaining. *House Bill 1465 (passed)* expands the types of courses for which the Military Department may provide tuition assistance to include graduate and professional credit courses. The bill also clarifies that tuition includes graduate, professional, vocational-technical and trade school credit courses. A member who receives assistance under this bill for an undergraduate credit, vocational-technical, or trade course is required to remain an active member for at least two years following the completion of the course. A member who receives assistance for a graduate or professional credit course is required to remain an active member for at least four years following the completion of the course.

Children of Fallen State or Local Public Safety Employees and Members of the Maryland National Guard Exempt from Nonresident Tuition

For institutions within USM, the Board of Regents sets tuition policies, including the determination of which students are eligible for resident tuition. The basic policy requires students to be identified as permanent residents of Maryland to qualify for resident tuition, meaning they have lived continuously in the State for at least 12 months immediately prior to attendance at a USM institution. The Board of Regents of Morgan State University also has a policy that requires one year of residency in Maryland to qualify for resident tuition. Community colleges in Maryland generally have a three-month residency requirement.

House Bill 1404 (passed) requires that children of certain State or local public safety employees killed in the line of duty be exempt from paying nonresident tuition at a public institution of higher education. State and local public safety employees are specified as a person who is a career or volunteer member of a fire department; a career or volunteer member of an ambulance company or squad; a career or volunteer member of a rescue company or squad; a law enforcement officer; a correctional officer; or a member of the Maryland National Guard who was a resident of Maryland at the time of death. The bill also requires the governing board of each public institution of higher education, in consultation with MHEC, to adopt policies to implement this exemption.

Senate Bill 373 (passed) exempts a member of the Maryland National Guard who is not a State resident but who joined or subsequently served in the Guard to provide a critical military occupational skill or to be a member of the Air Force critical specialty code, from paying nonresident tuition at public institutions of higher education in Maryland.

Student Financial Assistance

Scholarships for Members of the Armed Forces

Chapter 221 of 1990 established the Edward T. Conroy Memorial Scholarship. The scholarship program awards postsecondary education financial assistance to the following categories of students:

- the child of a member of the armed forces who died or suffered a service-connected 100% permanent disability;
- the child of a member of the armed forces who was declared to be a prisoner of war or missing in action as a result of the Vietnam conflict;
- an individual who was a prisoner of war as a result of the Vietnam conflict;
- the child or surviving spouse of a State or local public safety employee killed in the line of duty;
- a public safety employee who is disabled;
- a veteran who suffers a service-related disability of 25% or greater and has exhausted all federal veterans' educational benefits; and
- the child or spouse of a victim of the September 11, 2001, terrorist attacks.

Senate Bill 802/House Bill 710 (both passed) authorizes eligible postsecondary institutions, rather than the Office of Student Financial Aid in MHEC, to determine eligibility and award scholarships under the Edward T. Conroy Memorial Scholarship Program.

The Veterans of the Afghanistan and Iraqi Conflicts Scholarship was established by Chapter 290 of the Acts of 2006 to provide postsecondary education scholarships to veterans returning from Afghanistan and Iraq. *House Bill 937 (passed)* requires State scholarship and grant money retained in the State budget at the end of a fiscal year to be used to make awards to students during subsequent fiscal years under the Edward T. Conroy Memorial Scholarship Program and in the Veterans of the Afghanistan and Iraqi Conflicts Scholarship in addition to need-based scholarship programs already specified.

Part-Time Grant Program

The Part-Time Grant Program was established by Chapter 462 of the Acts of 1991 to award grants to part-time undergraduate students who are residents of the State. *House Bill 948 (passed)* authorizes an institution of higher education to use up to 10% of its allocation under the Part-Time Grant Program to provide grants to students who are enrolled in at least three but less than six semester hours of courses each semester.

Chapter 297 of 2007 created the Dual Enrollment Grant to provide financial assistance to students taking courses in both high school and college. Since a program was being created specifically for dually enrolled students, the Part-Time Grant Program, which at that time allowed institutions to use funds for dually enrolled students, was amended to remove all references to dually enrolled students. *House Bill 1396 (passed)* expands eligibility for the

Part-Time Grant Program to again include students who are dually enrolled in Maryland high schools and an institution of higher education. It clarifies that a dually enrolled student does not need to receive both high school and college credit from a course to be eligible for a Part-Time Grant. The bill permanently reauthorizes the Dual Enrollment Grant Program and renames it the Early College Access Grant Program. In addition to any funds allocated under the Early College Access Grant Program, institutions may use up to 10% of the Part-Time Grant allocation to provide grants to students who are dually enrolled.

Janet L. Hoffman Loan Assistance Repayment Program

The Janet L. Hoffman Loan Assistance Repayment Program (LARP) provides loan repayment assistance in exchange for certain service commitments to help ensure that sufficient numbers of primary care physicians, dentists, and professionals are serving underserved areas of the State or low-income families. *Senate Bill 627/House Bill 714 (both passed)* alters the eligibility for LARP, by removing primary care physicians from the program (currently known as the LARP-PCS program) and establishing a separate Maryland Loan Assistance Repayment Program for physicians. The bill also creates a Maryland Loan Assistance Repayment Program Fund, consisting of revenue generated through an increase to the rate structure of all hospitals in the State and any other money. The new special fund must be used by the Office of Student Financial Assistance in MHEC to administer the program. The bill sets program eligibility standards, prioritizes funding for loan repayment, and specifies a role for the Department of Health and Mental Hygiene in identifying additional physician shortages. The Maryland Health Care Commission and the Department of Business and Economic Development must report to the General Assembly on or before December 1, 2009, on the feasibility of providing assistance to physician practices.

Other Higher Education Legislation

Community Colleges

House Bill 361 (passed) grants the status of police officer and law enforcement officer to members of the Hagerstown Community College police force, making them subject to the Law Enforcement Officers' Bill of Rights and eligible for certification as police officers by the Maryland Police Training Commission.

Senate Bill 1035 (passed) alters the number of members of the Prince George's Community College Board of Trustees from eight to nine and alters the composition from seven residents of Prince George's County appointed by the Governor and one regularly enrolled student to one member from each legislative district in Prince George's County, for a total of eight, appointed by the Governor and one regularly enrolled student.

Duplicative Academic Programs

Federal law defines "unnecessary" program duplication between historically black and traditionally white institutions in states that had a prior segregated system of higher education as "those instances where two or more institutions offer the same nonessential or noncore program.

Under this definition, all duplication at the bachelor's level of nonbasic liberal arts and sciences course work and all duplication at the master's level and above are considered to be unnecessary" (*United States v. Fordice*). Duplicative programs may be allowed if there is sound educational justification.

Senate Bill 402/House Bill 900 (both failed) would have required MHEC to review any determinations it made regarding unreasonable or unnecessary duplication of programs approved or implemented between July 1, 2005, and December 1, 2005, and after July 1, 2007, if an objection to the determination was filed by a historically black institution (Morgan State University, Coppin State University, Bowie State University, or the University of Maryland Eastern Shore). If MHEC determined that there is unnecessary duplication, the bill would have required it to determine that the duplication is also unjustified if the program violates the State's agreement with the U.S. Department of Education Office for Civil Rights or the State's equal educational opportunity obligations. The bill would have authorized judicial review in the circuit court of unnecessary program duplication determinations made by MHEC. The bill would also have required Morgan State University or the University of Baltimore to accept students in good standing who are enrolled in a program at Towson University that is discontinued under an order of MHEC or a court.

Institutions of Postsecondary Education Certificates of Approval

Most postsecondary institutions must obtain a certificate of approval from MHEC before they are allowed to operate in the State. However, MHEC grants a certificate of approval exemption to institutions under charter from the General Assembly and religious institutions meeting certain qualifications. Unlike an approved institution, an exempt institution does not undergo review of its programs, facilities, and resources. **Senate Bill 72 (passed)** prohibits an institution of postsecondary education that may operate without a certificate of approval issued by MHEC from making reference to its approval or exemption from approval on any certificate, diploma, academic transcript or other document, in advertisements or publications, or on a web site. A violator is subject to a fine of up to \$5,000 for each violation.

House Bill 1435 (passed) authorizes the Secretary of MHEC to issue a cease and desist order, issue a notice of violation, and impose a penalty of up to \$5,000 to an institution of postsecondary education operating without a required certificate of approval. In imposing a penalty, the Secretary is required to consider the seriousness of the violation, the harm caused by the violation, the good faith of the institution and any corrective actions taken, any history of previous violations, and other pertinent circumstances. The bill also requires an institution of postsecondary institution to have MHEC approval before offering certain programs. The Secretary may require any institution that offers unapproved programs to refund all tuition and fees paid by students enrolled in the program. The Secretary may also revoke the certificate of approval of any institution that fails to make a required refund within the time specified by the Secretary.

House Bill 1435 further authorizes MHEC to revoke or suspend a private career school's certificate of approval if the certificate of approval is sold, pledged, or transferred without prior

approval from MHEC or there is a change of ownership of a school. In addition to issues currently allowed, MHEC may also limit its hearings on the revocation or suspension of a private career school's certificate of approval to whether the alleged sale, pledge, or transfer, or change of ownership of a private career school, in fact occurred.

Libraries

House Bill 101 (passed), the Budget Reconciliation and Financing Act of 2009 (BRFA), alters the aid formulas for the local libraries, the regional libraries, and the State Library Resource Center.

Local Library Aid Formula: The library aid formula determines State and local minimum required payments to each of the 24 local library boards. The State pays approximately 40% of the total formula cost on a wealth-equalized basis, with the local jurisdictions providing the remaining 60%.

The BRFA of 2009 decreases the per resident amount used in the local library aid formula to \$14.00 for fiscal 2010 and 2011. The phase-in of formula enhancements started by Chapter 481 of 2005 restarts in fiscal 2012 at \$15.00 per resident and reaches the \$16 per resident formula target by fiscal 2013. Therefore, the State aid to local public library systems decreases by \$2.4 million in fiscal 2010, \$4.9 million in fiscal 2011, and \$2.4 million in fiscal 2012.

The reduction in the per resident amount also decreases the required minimum local funding amount, although the counties and Baltimore City could continue to fund their local libraries above the minimum required level. There is no local maintenance of effort requirement for libraries outside the local share of the library aid formula.

State Library Resource Center: The State Library Resource Center, located at the Central Library of the Enoch Pratt Free Library System in Baltimore City, was created in 1971 to expand access statewide to specialized library services and materials.

Funding for the State Library Resource Center has equaled \$1.85 per State resident since fiscal 2004. The BRFA of 2009 decreases the per resident allocations to the State Library Resource Center by reducing funding to \$1.67 per resident for fiscal 2010 and 2011. As a result, mandated general fund expenditures for the State library Resource Center decrease by \$1.0 million in fiscal 2010.

Regional Libraries: There are three regional resource centers located in Charlotte Hall, Hagerstown, and Salisbury and serving Southern Maryland, Western Maryland, and the Eastern Shore, respectively.

In the BRFA of 2009, funding for the regional resource centers decreases to \$6.75 per resident of the region in fiscal 2010 and 2011 and increases to \$7.50 per resident in fiscal 2012 and \$8.50 per resident in fiscal 2013. The net effect is a \$0.7 million reduction in fiscal 2010.

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