

April 16, 2010

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 2010 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 2010 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

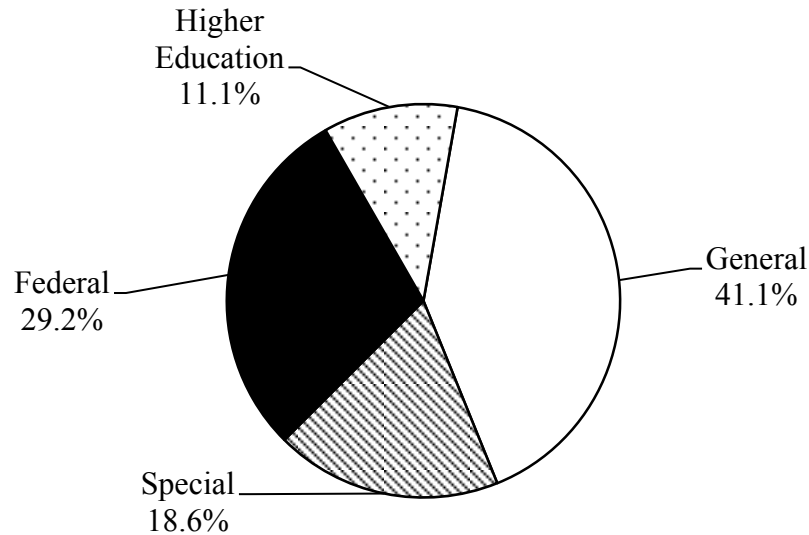
The projected general fund deficit was one of the major issues at the 2010 legislative session. General fund revenues have declined substantially due in large part to a downturn in the economy that began in late 2007 and continued to lag in fiscal 2010. Shortfalls ranging from \$2.0 billion to \$2.6 billion for the period encompassing fiscal 2011 to 2015 were estimated by the Department of Legislative Services in December 2009. The Governor and General Assembly closed the fiscal 2011 gap through a combination of constraining the growth in the budget and one-time fund transfers. In subsequent years, legislative action reduced the projected shortfalls to about \$1.6 billion. In the long term, some combination of revenue increases and spending reductions will be necessary to place the State back on the path of fiscal sustainability. Nominal downward revenue revisions since December 2009 suggest that finances are stabilizing; however, economic forecasts suggest that a slow recovery is in the offing.

The General Assembly enacted a \$32.0 billion budget for fiscal 2011 – a decrease of \$0.3 billion, or -1.0%, below fiscal 2010 spending levels. Federal stimulus funding from the American Recovery and Reinvestment Act of 2009 (ARRA) continues to play a central role in the fiscal 2010 and 2011 budgets, providing \$1.1 billion and \$1.3 billion to support State operations, respectively. The enacted budget is \$626.9 million, or -3.00% below the zero percent level recommended by the Spending Affordability Committee (SAC). The general fund cash balance is estimated at \$204.5 million at the end of fiscal 2011, in addition to 5.0% reserves of \$633.5 million in the Rainy Day Fund.

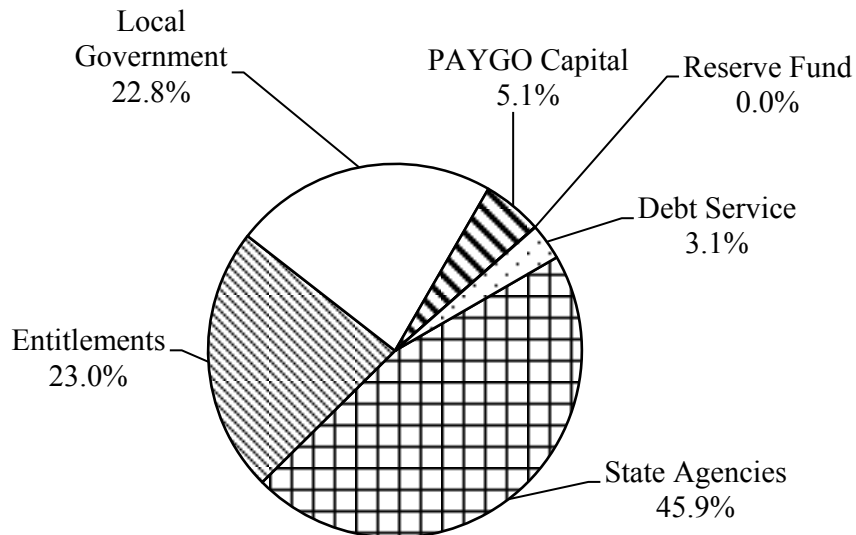
Budget in Brief

The Fiscal Year 2011 Budget Bill, *Senate Bill 140 (enacted)*, provides \$32.0 billion in appropriations for fiscal 2011 – a decrease of \$0.3 billion (-1.0%) below fiscal 2010. **Exhibit A-1.1** illustrates funding by type of revenue. Due to the continued provision of federal stimulus dollars, the proportion of the budget supported by federal funds remains close to 30% of total spending. Prior to fiscal 2010 federal dollars typically supported about 22% of total spending.

Exhibit A-1.1
Maryland's \$32.0 Billion Budget
Where It Comes From: Budget by Fund Source



Where It Goes: Budget by Purpose



PAYGO: pay-as-you-go capital

General funds constitute about 41% of the total budget, while federal dollars remain at about 29% of spending. Special funds provide approximately 19% of the budget, and higher education revenue provides the remaining 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 23% 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 \$286.3 million, or -2.1%, below fiscal 2010. Medicaid spending increases by \$155.3 million to reflect trends in inflation, utilization, and enrollment. Both the 2010 and 2011 budgets contain lower levels of general funds based on an enhanced level of federal stimulus matching funds. Increases for personnel costs also are included for retirement contributions (\$44.0 million) and health insurance (\$25.0 million). These increases are entirely offset by a decrease of nearly \$400.0 million in local education aid, although nearly all of that amount represents the use of special funds in lieu of general funds. Appropriations to the State Reserve Fund also decrease by \$99.9 million because there was no required appropriation from the closeout of fiscal 2009. Across-the-board reductions adopted by the legislature include \$12.0 million from the abolition of 500 regular positions and \$2.8 million due to electricity conservation efforts. This was in addition to across-the-board actions included in the allowance for hiring freeze savings, cutbacks in overtime, streamlining State operations, and savings in injured worker's expenses.

Special funds grow by \$317.8 million, or 5.6%, compared to the fiscal 2010 working appropriation. Decreases occur in highway and transit capital spending, Medicaid based on smaller special fund availability, Program Open Space, reduced spending at the Maryland Port Administration related to a public-private partnership, and special fund cashflow for the Comptroller's new Modernized Integrated Tax System. Approximately \$436.6 million in general fund reductions will be restored from special fund sources, including \$350.0 million from the Local Income Tax Reserve Account, and \$42.1 million from the Higher Education Investment Fund (HEIF), *Senate Bill 283/House Bill 470 (both passed)*. With the expected opening of the first two video lottery facilities in fiscal 2011, additional spending in the budget provides funding for the operator's share of revenue, funds for K-12 education, higher horse racing purses, racetrack redevelopment spending, and local impact aid. Additional transportation funds are also provided to the Washington Metropolitan Area Transit Authority to match federal dollars to be used toward the system's capital program needs.

Federal fund spending decreases by \$457.4 million, or 4.7%, mostly due to the expiration of one-time federal stimulus funds received in fiscal 2010. Local education and library aid decreases by \$237.2 million, or 16.9%, due to one-time stimulus monies that were distributed based on the Title 1 and special education aid formulas. PAYGO capital similarly decreases \$383.5 million, or 32.8%, due to a decline in federal stimulus funds for low income weatherization, rental housing programs, and transportation capital funding. Increases in federal aid are also received for Medicaid (\$143.3 million, or 3.9%) and assistance payments (\$244.5 million, or 42.8%), mostly for food stamps.

The budgets for public higher education institutions increase by \$117.5 million in total funds, or 3.4%, in fiscal 2011. This growth is in non-State funds derived from tuition and fees, grants and contracts, and auxiliary sources which support operations of higher education institutions, including the University System of Maryland (USM), Morgan State University (MSU), St. Mary's College of Maryland (SMCM), and Baltimore City Community College (BCCC). Aid to community colleges is essentially level funded in fiscal 2011, though BCCC receives a nominal 1.7% increase. Aid to non-public colleges and universities is also funded at the fiscal 2010 level of \$38.4 million.

With respect to personnel the budget assumes another 10 furlough days and temporary salary reductions in fiscal 2011 and does not provide for a general salary increase, merit pay, or a deferred compensation match. Legislative action abolished 568 regular positions, made the deferred compensation match discretionary instead of mandatory, and called for study of pension and post-retirement benefits. For a more detailed discussion of personnel issues, see the subpart "Personnel" within this part.

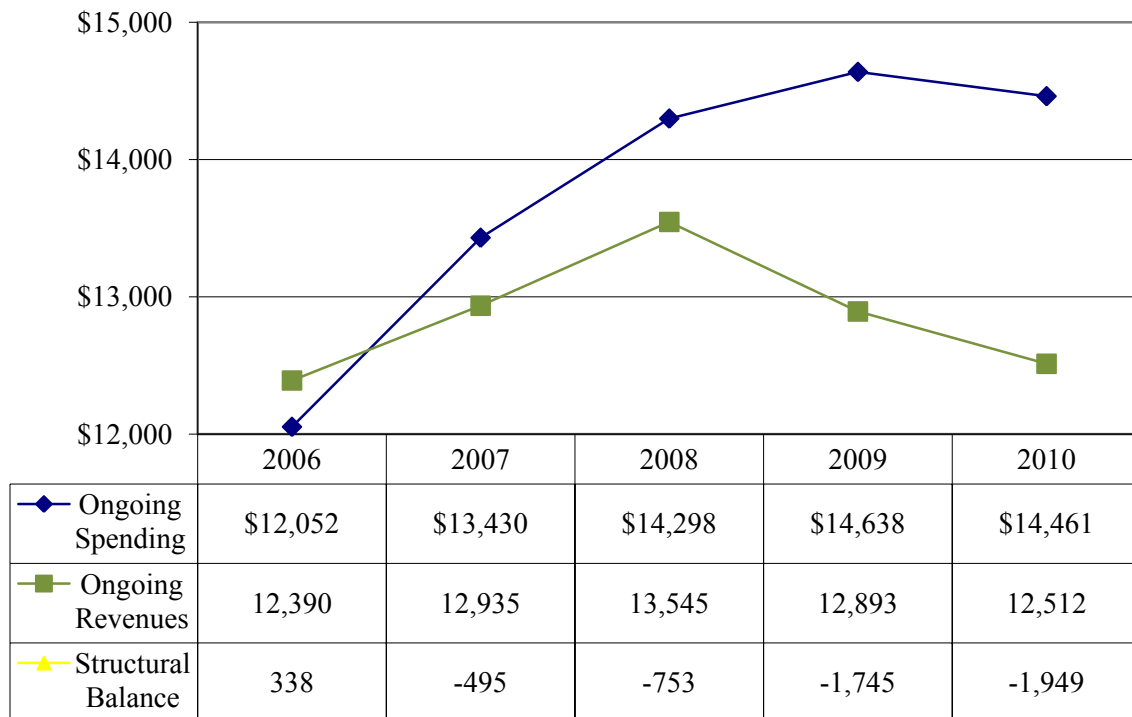
Framing the Session: 2009 Interim Activity

A continued economic downturn since 2007 has affected both revenues and spending needs. High unemployment, home foreclosures, and restrictive credit, are among the factors which have dampened income and sales tax revenue collections in Maryland. Between December 2008 and March 2010, the Board of Revenue Estimates (BRE) revised the fiscal 2010 general fund revenue estimates downward five times for a combined loss of more than \$2.4 billion below the December 2008 estimate. Nearly \$1 billion in fiscal 2010 spending was cut from agency budgets through the Board of Public Works (BPW), with more than one-half coming from general fund expenditures. The Spending Affordability Committee recommended a zero rate of budgetary growth for the 2010 session, which was the lowest level ever recommended. SAC also offered recommendations pertaining to use of the Rainy Day Fund and position growth.

BRE Revenue Revisions

As shown in **Exhibit A-1.2**, ongoing revenue fell by nearly 5% in fiscal 2009 followed by a 3% loss in fiscal 2010 to date. In September 2008, general fund revenue for fiscal 2010 was projected at \$14.7 billion. After a number of revisions, that figure was estimated at \$12.2 billion in March 2010, a decline of 17%. The structural revenue estimate in Exhibit A-1.2 is increased by approximately \$300 million with the adoption of a permanent revenue distribution of highway user revenues to the general fund in *Senate Bill 141 (passed)*.

Exhibit A-1.2
Ongoing General Fund Revenue and Spending Trends
Fiscal 2006-2010
(\$ in Millions)



Source: Board of Public Works

BPW Withdrawn Appropriations

As shown in **Exhibit A-1.3**, the Governor withdrew nearly one billion in spending from the fiscal 2010 budget through BPW at meetings held in July, August, and November 2009. There were budgetary savings from abolishing 533 positions and employee furloughs. 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.

Exhibit A-1.3
Fiscal 2010 Spending Withdrawn through the Board of Public Works
(\$ in Millions)

<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>
July 2009	\$205.3	\$8.0	\$54.3	\$267.6	39.0	18.5
August 2009	222.3	197.1	68.0	488.4	202.0	161.5
November 2009	102.8	40.4	57.3	200.5	68.5	43.5
Total	\$531.4	\$245.5	\$179.6	\$956.5	309.5	223.5

Source: Board of Public Works

SAC Recommendations

SAC prepared its final report to the Governor in December 2009 which included the following recommendations pertaining to the operating budget:

Spending Limit: The committee recommended limiting growth on a spending affordability basis to zero percent relative to the spending approved at the 2009 session. This was the lowest level recommended in the history of SAC.

Personnel: The committee opined that the current complement of 79,700 regular positions was appropriate for the delivery of State services. It was recommended that any new position needs be accommodated within the current overall level.

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 plan to achieve structural balance.

Governor's Spending Plan as Introduced

For the current fiscal year, the Governor proposed \$763.0 million of fiscal 2010 deficiencies. These included additional funding mostly for Medicaid, federal aid for students with disabilities, low income energy assistance, public safety, juvenile services, and tax credits. The fiscal plan submitted by the Administration provided for \$32.5 billion in total spending for fiscal 2011, balanced in part by across-the-board reductions, additional revenue assumptions, transfers and contingent reductions proposed in budget reconciliation legislation, and the expectation that additional federal aid would be provided to all states through the extension of the enhanced Medicaid match begun in fiscal 2009 in federal stimulus legislation. The budget was nearly \$600.0 million below the zero percent limit recommended by SAC, and did not use

any funds from the State Reserve Fund. The Governor's proposed spending plan proposed an estimated fiscal 2011 general fund balance of \$273.7 million

Across-the-board reductions of \$117.1 million assumed savings of \$76.7 million from another 10 days of combined furloughs and temporary salary reductions, \$3.0 million in overtime savings based on accident leave management; \$2.0 million from streamlining of State operations; \$10.0 million in hiring freeze and attrition savings; a change in the injured workers' settlement policy (\$5.0 million) and administrative costs (\$0.5 million); and a \$20.0 million savings in health insurance to reflect a balance in that account.

Nearly \$52.0 million in additional revenue was assumed, including telecommunications recoveries, proposed interest income transfers from special funds to the general fund, and offsetting revenues from a proposed job creation tax credit. The Administration also assumed \$389.0 million from an additional six months of enhanced federal stimulus funds through a reduction of general funds in the Medicaid budget.

As shown in **Exhibit A-1.4**, the Governor's plan for balancing the fiscal 2010 and 2011 budgets relied heavily on a combination of fund transfers and reductions contingent upon budget reconciliation legislation. Over \$1.7 billion was proposed to be transferred from a variety of accounts, with the largest amounts coming from Highway User Revenues (\$321.4 million in fiscal 2010 and \$340.3 million in fiscal 2011), and various PAYGO programs (\$330.1 million in fiscal 2010 and \$111.7 million in fiscal 2011). Other significant transfers from fund balances were proposed to come from higher education, the Heritage Structure Rehabilitation Tax Credit Reserve Fund, the Injured Workers' Insurance Fund, and the Land Records Fund. The Governor also proposed nearly \$700.0 million in general fund contingent reductions, with most tied to *Senate Bill 141 (passed)*, the Budget Reconciliation and Financing Act of 2010 (BRFA). Of this, \$350.0 million involved a proposed transfer from the Local Income Tax Reserve Account to the Education Trust Fund which would replace general fund local education aid, and over \$50.0 million would reduce or level fund certain local aid programs.

Other contingent reductions that were part of the Governor's spending plan relied on separate legislation. They included:

Senate Bill 279 (Ch. 4) prohibits a person from making a false or fraudulent claim for payment or approval by the State or the Department of Health and Mental Hygiene (DHMH) under a State health plan or program. Enactment of this legislation effects a \$9.0 million general fund reduction.

Senate Bill 283/House Bill 470 (both passed) permanently dedicate 6% of the corporate income tax to the HEIF. A contingent general fund reduction of \$42.1 million is offset by a corresponding loss of general fund revenue, thus there is no impact on the fund balance.

Exhibit A-1.4
Governor's Original Budget Plan
Fiscal 2010-2011
(\$ in Millions)

	<u>2010</u>	<u>2011</u>
Opening Balance	\$87.2	\$258.4
Revenues	\$12,299.5	\$12,671.7
Additional Revenues	168.0	0.8
Transfers	1,144.7	519.2
Subtotal	\$13,612.2	\$13,191.8
Appropriations and Deficiencies	\$14,036.1	\$13,978.1
BPW Withdrawn Appropriations	-531.4	0.0
Across-the-board Reductions	0.0	-87.8
Contingent Reductions	0.0	-676.9
Reversions	-63.7	-37.1
Subtotal	\$13,441.0	\$13,176.5
Closing Balance	\$258.4	\$273.7

BPW: Board of Public Works

Source: Maryland Budget Highlights, Fiscal 2011

Legislative Consideration of the Budget

As the legislature considered the budget, BRE revised general fund revenues downward by \$66.0 million for fiscal 2010, and the Governor submitted one supplemental budget which added \$12.8 million in spending. The General Assembly reduced the budget and positions as detailed below.

Revenue and Spending Changes

BRE Revenue Revisions: In March 2010, BRE revised the estimate of general fund revenue for fiscal 2010 downward by \$66.0 million. The estimate for fiscal 2011 was unchanged. Income and sales tax revenues continue to be negatively affected by the recession, as well as severe snow storms.

Supplemental Budget No. 1: The Governor introduced one supplemental budget that increased spending by a total of \$12.8 million. Additional funding of \$24.4 million was provided for Disparity Grants, another \$22.4 million corrected student enrollment undercounts

for a variety of formula-based education programs, and \$10.3 million was needed primarily to ensure sufficient funding in the State Board of Elections for 2010 election costs. Higher spending in the supplemental budget was offset by an expected \$65.9 million in general fund Medicaid savings based on the application of a higher federal matching rate for determining the Medicare clawback – State payments required to offset federal Medicare prescription drug costs for State residents eligible for both Medicare and Medicaid.

Reductions: The legislature reduced the fiscal 2010 budget by \$13.9 million based mostly on a \$12.3 million reduction in general funds for Medicaid, which will be replaced with special funds from the Senior Prescription Drug Assistance Program. Another \$1.5 million in general funds was reduced based on lower caseloads in the Temporary Disability Assistance Program. Changes adopted in the fiscal 2011 budget eliminated 568 regular positions and reduced \$968.0 million in all funds. Just under one-half of the total cuts are intended to be replaced from special fund sources.

Notable reductions included:

- \$350.0 million in education aid that will be replaced with special funds;
- \$244.5 million from local highway user revenues;
- \$54.0 million in Program Open Space related spending in the Departments of Agriculture and Natural Resources. Nearly all of this amount will be bond funded in fiscal 2011 and 2012;
- \$40.1 million from the Maryland Port Administration budget in cost savings related to the transfer of the Seagirt Marine Terminal to the private sector as part of a public-private partnership agreement;
- \$23.1 million to fund community college aid at the fiscal 2010 level;
- \$22.1 million from activities funded by the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund. A corresponding amount of revenue is also transferred to the general fund through budget reconciliation legislation;
- \$19.0 million to fund police aid at the fiscal 2010 level; and
- \$12.0 million in conjunction with the abolition of 500 regular positions by June 30, 2011.

The budget does not reflect special funds that are intended to replace general funded items, which were reduced at the 2010 session but which have yet to be appropriated. **Exhibit A-1.5** summarizes the items that will be restored with special funds. The largest item is a \$350.0 million general fund reduction in the Maryland State Department of Education (MSDE) Foundation Program that will be replaced by funds from the Local Income Tax Reserve Account that are being transferred to the Education Trust Fund.

Exhibit A-1.5
General Fund Reductions to Be Replaced with Special Funds
(\$ in Millions)

	FY 2010		FY 2011	
	<u>General Funds</u>	<u>Special Funds</u>	<u>General Funds</u>	<u>Special Funds</u>
Education			-\$350.0	\$350.0
Higher Education			-42.1	42.1
Medicaid	-\$2.0	\$2.0	-25.2	25.2
Judiciary			-11.9	11.9
Department of Information Technology			-5.0	5.0
Maryland School for the Deaf			-2.0	2.0
Department of Health and Mental Hygiene			-0.3	0.3
Attorney General			-0.2	0.2
Total	-\$2.0	\$2.0	-\$436.6	\$436.6

Final Actions Related to SAC

Limiting Spending Growth: As shown in **Exhibit A-1.6**, final action by the legislature reduced the budget to a -3.00% rate of growth as measured on a spending affordability basis. The SAC calculation typically does not include federal funds, but an adjustment has been included since the 2009 session 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 \$626.9 million below the zero percent rate recommended by the committee. The budget assumes \$389.0 million in general fund Medicaid savings from a six-month extension of the enhanced Medicaid match associated with the federal stimulus aid. These additional federal funds are not included in the SAC calculation; however, if they were included, spending would remain below the limit.

Exhibit A-1.6
Operating Budget Affordability Limit
(\$ in Millions)

<u>Funds</u>	<u>2009 Session</u>	<u>2010 Session</u>	<u>\$ Change</u>	<u>% Change</u>
General	\$13,150.2	\$13,313.1	\$162.9	1.24%
Special	4,150.7	3,768.7	-381.9	-9.20%
Higher Education	2,100.0	2,160.4	60.4	2.88%
ARRA Funds	1,464.0	995.7	-468.3	-31.98%
Estimated Budget Growth	\$20,864.8	\$20,238.0	-\$626.9	-3.00%
SAC Limit	\$20,864.8	\$20,864.8	\$0.0	0.00%
Over (Under) Limit			-626.9	-3.00%

If Medicaid Extension Funding Is Included

ARRA Funds		389.0	389.0	
Estimated Budget Growth	\$20,864.8	\$20,627.0	-\$237.9	-1.14%

ARRA: American Recovery and Reinvestment Act of 2009

SAC: Spending Affordability Committee

Personnel: Although the budget as introduced was 155 positions below the fiscal 2010 level, the legislature abolished another 568 positions. Of this, 500 positions are to be abolished by the Governor by June 30, 2011. At 79,016 positions, the fiscal 2011 complement is below the 79,700 cap recommended by SAC for this session. Thus, the final action for State employment is consistent with SAC recommendation.

State Reserve Fund Balance: No funds are transferred to support fiscal 2011 spending, maintaining a \$633.5 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 use the fund only as a last resort.

Summary of Fiscal 2010 Legislative Activity

Exhibit A-1.7 summarizes final legislative action on the general fund budget. In addressing the write down of revenues and additional spending in the one supplemental budget, the General Assembly adopted \$1.6 billion in transfers. Of this, \$263.8 million was implemented through Chapter 487 of 2009. Approximately \$449.4 million of the \$968.0 million in reductions are contingent upon the BRFA of 2010. Based upon these actions, the closing fiscal 2010 balance is estimated at \$153.7 million, and fiscal 2011 would end with a projected \$204.5 million balance.

Exhibit A-1.7 Final Legislative Budget Action Fiscal 2010-2011 (\$ in Millions)

	<u>FY 2010</u>	<u>FY 2011</u>
Opening Balance	\$87.2	\$153.7
Revenues	\$12,420.8	\$12,733.3
Legislation	0.0	-60.0
Transfers	1,073.8	519.2
Subtotal	\$13,494.6	\$13,192.5
Appropriations/Supplementals/Deficiencies/BPW	\$13,505.5	\$13,734.8
Reductions	-1.5	-104.5
Contingent Reductions	-12.3	-457.5
Reversions	-63.7	-31.1
Subtotal	\$13,428.0	\$13,141.7
Closing Balance	\$153.7	\$204.5

BPW: Board of Public Works

Exhibit A-1.8 illustrates the actions of the Governor and the legislature relative to current services spending forecasted in the Department of Legislative Services fiscal 2011 baseline budget estimate. As shown, the Governor constrained the growth in fiscal 2011 spending by \$1.1 billion mostly by assuming additional federal Medicaid aid at the higher match level, constraining employee compensation, Medicaid cost containment, and higher assumptions of video lottery terminal revenue.

Exhibit A-1.8
Reductions from General Fund Baseline Spending Estimate
Fiscal 2011
(\$ in Millions)

	Governor's Proposal	Final
General Fund Baseline Spending Estimate (December 2009)	\$14,805	\$14,805
Changes Incorporated in Governor's Allowance Not Requiring Legislative Approval		
Net Changes to Statutory Formula Calculations	\$63	\$63
Additional VLT Revenues for Education	-101	-101
Enhanced Medicaid Match Assumed for Six Months/Medicare Clawback	-416	-416
Medicaid – Cost Containment	-152	-152
Public Assistance – Higher Costs and More Federal Monies	-39	-39
Property Tax Credits	7	7
Higher Education	-34	-34
Corrections	-51	-51
Health and Human Resources	-67	-67
State Personnel – Salaries and Benefits	-269	-269
Other Agency Reductions	-43	-43
Subtotal	-\$1,101	-\$1,101
Reductions Proposed by the Governor Requiring Legislative Approval		
Police Aid Formula/Local Health Grants	-\$23	-\$23
Bond Fund Aging Schools/Transportation Inflation	-10	-10
Local Income Tax Reserve for Education Fund Swap	-350	-350
Community College Formula	-23	-23
Sellinger Formula for Private Higher Education	-22	-14
Medicaid – Nursing Home Assessment/CRF Swap	-25	-25
Higher Education Investment Fund (SB 283/HB 470)	-42	-42

	<u>Governor's Proposal</u>	<u>Final</u>
False Claims Act (SB 279/HB 525)	-9	-9
Judicial/Legislative Personnel – Furlough and Salary Reduction	-6	-4
Other	-16	-8
Subtotal	-\$527	-\$508
Reductions Initiated by Legislature		
Baltimore City Grant		-\$3
Use Special Funds for Judiciary Information Technology Projects		-12
Judiciary Operating Expenditures		-8
Temporary Disability Assistance Payments		-6
Reduce State Positions by 500		-12
Electricity Savings		-3
Other Reductions		-11
Subtotal		-\$54
Total General Fund Expenditures	\$13,177	\$13,142
ARRA Used to Replace General Funds	\$1,279	\$1,279
Income Tax Reserve Fund Swap	350	350
Adjusted Expenditures	\$14,806	\$14,771

ARRA: American Recovery and Reinvestment Act of 2009

CRF: Cigarette Restitution Fund

VLT: video lottery terminal

The Governor also proposed over \$500 million in reductions contingent upon legislation. The largest item was the \$350 million fund swap of general funds from the Local Income Tax Reserve Account, through the Education Trust Fund. Final legislative action adopted nearly all of the Administration's proposals. The legislature also adopted over \$50 million in additional general fund reductions.

Outlook for Future Budgets

As shown in **Exhibit A-1.9**, there is a cash balance of \$205 million projected at the end of fiscal 2011, while ongoing spending exceeds ongoing revenues by \$1,892 million. The fiscal 2011 structural deficit is closed by federal stimulus grants totaling \$1,279 million, a local income tax reserve account transfer to support local education totaling \$350 million, other transfers totaling \$179 million, and one-time revenues totaling \$25 million.

Exhibit A-1.9
General Fund Budget Outlook
Fiscal 2009-2015
(\$ in Millions)

	2009	2010	2011	2012	2013	2014	2015	2011-15 Avg Annual Change
Revenues	Actual	Working	Allowance	Est.	Est.	Est.	Est.	
Opening Fund Balance	\$487	\$87	\$154	\$205	\$0	\$0	\$0	
Transfers	189	791	175	61	60	57	61	
One-time Revenues/Legislation	871	192	25	0	0	0	0	
Subtotal One-time Revenue	\$1,548	\$1,070	\$353	\$266	\$60	\$57	\$61	-35.6%
Ongoing Revenues	\$12,893	\$12,512	\$13,033	\$13,601	\$14,363	\$15,063	\$15,762	
Revenue Adjustments – Legislation	0	0	-40	-46	-47	-45	-46	
Subtotal Ongoing Revenue	\$12,893	\$12,512	\$12,993	\$13,555	\$14,316	\$15,018	\$15,716	4.9%
Total Revenues and Fund Balance	\$14,440	\$13,582	\$13,346	\$13,821	\$14,376	\$15,076	\$15,776	4.3%
Ongoing Spending								
Operating Spending*	\$14,638	\$14,465	\$15,025	\$15,476	\$16,333	\$17,011	\$17,796	
VLT Revenues Supporting Education	0	-11	-114	-145	-372	-479	-523	
Multi-year Commitments	0	7	25	15	15	65	65	
Ongoing Spending – Legislation	0	0	-51	-34	-37	-39	-56	
Subtotal Ongoing Spending	\$14,638	\$14,461	\$14,885	\$15,312	\$15,939	\$16,558	\$17,282	3.8%
One-time Spending								
PAYGO Capital	\$14	\$0	\$1	\$1	\$1	\$1	\$1	
One-time Reductions	0	-4	-464	0	0	0	0	
Federal Stimulus Funds	-445	-1,144	-1,279	0	0	0	0	
Appropriation to Rainy Day Fund	147	115	0	50	50	50	50	
Subtotal One-time Spending	-\$285	-\$1,033	-\$1,743	\$51	\$51	\$51	\$51	n/a
Total Spending	\$14,353	\$13,428	\$13,142	\$15,363	\$15,990	\$16,609	\$17,333	7.2%
Ending Balance	\$87	\$154	\$205	-\$1,542	-\$1,614	-\$1,534	-\$1,557	
Rainy Day Fund Balance	\$692	\$614	\$632	\$661	\$699	\$734	\$767	
Balance Over 5% of GF Revenues	47	-12	-1	-19	-19	-20	-21	
As % of GF Revenues	5.37%	4.91%	4.99%	4.86%	4.87%	4.87%	4.87%	
Structural Balance	-\$1,745	-\$1,949	-\$1,892	-\$1,757	-\$1,623	-\$1,540	-\$1,566	

GF: general fund

PAYGO: pay-as-you-go

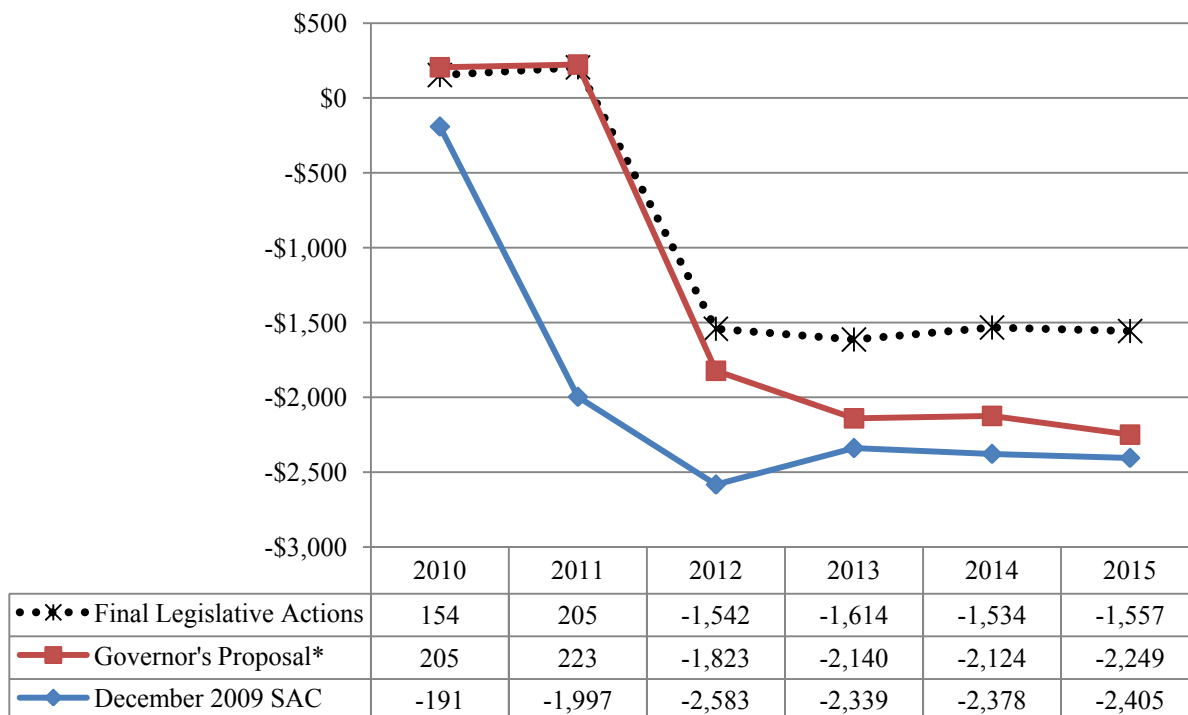
VLT: video lottery terminal

* Includes \$199 million in fiscal 2010 deficiency appropriations.

Actions taken by the General Assembly reduce the deficit in the out-years. **Exhibit A-1.10** shows that actions taken by the General Assembly are projected to reduce the out-year deficits to less than \$1.6 billion in fiscal 2012, compared to \$2.6 billion projected in December 2009 and \$1.8 billion projected in the spending plan introduced by the Governor. The out-year deficit remains near \$1.6 billion through fiscal 2015. This is also less than the deficits assumed by the Administration, which were projected to increase to \$2.2 billion in fiscal 2015. The deficit is reduced by limiting spending and by increasing revenues. Most of the changes are attributable to ongoing actions taken in *Senate Bill 141 (passed)*, such as:

- increasing revenues by permanently transferring 19.3% of Gasoline and Motor Vehicle Revenue Account revenues into the general fund beginning in fiscal 2013, which is projected to provide \$339 million in fiscal 2013 and increase to \$361 million in fiscal 2015;

Exhibit A-1.10
Projected General Fund Balances
Fiscal 2010-015
(\$ in Millions)



* Governor's Proposal adjusted to reflect Supplemental Budget No. 1.

- constraining spending by limiting K-12 education formula increases to 1%, which is expected to reduce spending by \$4 million in fiscal 2012 and increase to \$117 million in fiscal 2015; and
- constraining community college spending by freezing fiscal 2012 spending and slowing out-year growth, reducing spending by \$48 million in fiscal 2012 and \$67 million in fiscal 2015.

The budget bill and budget committee intent language would also reduce the out-year deficit, through the following:

- limiting fiscal 2012 personnel costs to fiscal 2011 levels, which is projected to constrain fiscal 2012 spending by \$139 million and fiscal 2015 spending by \$91 million;
- delete 500 positions, which is expected to reduce spending by \$12 million in fiscal 2012 and \$21 million in fiscal 2015; and
- freeze the State per student grant to the University System of Maryland and Morgan State University in fiscal 2012, constraining spending by \$47 million in fiscal 2012 and \$53 million by fiscal 2015.

Other legislation also reduced the out-year deficit, including:

- ***Senate Bill 279 (Ch. 4)*** (Maryland False Claims Act of 2010) reduces general fund expenditures by \$9.0 million in fiscal 2011;
- ***House Bill 1505 (passed)*** (Central Collection Unit – Collection of Debts Owed by the State) is projected to provide \$2.0 million in revenues annually beginning in fiscal 2011; and
- ***House Bill 1389 (passed)*** (Traffic Cases – State Police Helicopters and Ambulance, Fire, and Rescue Companies) is projected to provide \$3.5 million in general fund revenues beginning in fiscal 2013 and \$8.5 million by fiscal 2015.

Legislation also resulted in additional costs, including:

- ***House Bill 475 (passed)*** (Smart, Green, and Growing – The Sustainable Communities Act of 2010) is expected to increase State expenditures by \$15 million in fiscal 2012 to 2014;
- ***Senate Bill 887 (passed)*** (State Correctional Officers Bill of Rights) is projected to increase costs by \$3 million annually beginning in fiscal 2011; and
- ***Senate Bill 280 (passed)*** (Sexual Offenders Lifetime Supervision) is projected to increase costs by approximately \$318,000 in fiscal 2011 and \$1,380,000 in fiscal 2015.

Budget-related Legislation

Budget Reconciliation and Financing Legislation

Senate Bill 141 (passed), the Budget Reconciliation and Financing Act (BRFA) of 2010, implements \$1.6 billion in actions that were of immediate benefit (fiscal 2010 and 2011) to the general fund. These actions are summarized in **Exhibit A-1.11**.

Actions within the BRFA of 2010 can be categorized into five major types: fund balance transfers; expanded use of special funds; changes in grants and formulas; revenue actions; and miscellaneous other provisions. Many of these actions provide ongoing structural relief by constraining growth in mandated formulas and allowing the use of special funds in lieu of general funds.

Exhibit A-1.11 Summary of Actions in the Budget Reconciliation and Financing Act of 2010

Fund Transfers	\$1,042.4 million
Contingent Reductions	418.6 million
Revenues	94.3 million
Total Budgetary Action	\$1,555.3 million

Fund Balance Transfers

As shown in **Exhibit A-1.12**, the BRFA of 2010 transfers \$600.6 million from various operating program fund balances to the general fund. The largest component from the operating funds is \$397.7 million from the Highway User Revenue account over the course of fiscal 2010 and 2011; the amounts noted here are in addition to the transfers enacted in Chapter 487 of 2009 (the BRFA of 2009) which affect fiscal 2010 and 2011. The fiscal 2010 transfer (\$136.2 million) implements the reduction to special fund spending made by BPW; the general fund transfer is adjusted downward to allow the local jurisdictions to retain the payments they have already received in fiscal 2010. To compensate for the reduction in the fiscal 2010 transfer to the general fund, the fiscal 2011 transfer was increased by the same amount, to a total of \$261.5 million. The long-term outlook for the general fund is improved by a permanent distribution of 19.3% of the Gasoline and Motor Vehicle Revenue Account to the general fund, which is estimated at \$339.4 million for fiscal 2013.

Exhibit A-1.12
Transfers to the General Fund
Budget Reconciliation and Financing Act of 2010
(\$ in Millions)

	<u>FY 2010</u>	<u>FY 2011</u>
Highway User Revenues	\$136.2	\$261.5
Vehicle Theft Prevention Fund – BPW Cut Special Funds	1.8	
Horse Racing Local Impact Grants	0.6	0.5
University System of Maryland Fund Balance	133.3	11.7
Morgan State University Fund Balance	2.1	0.8
St. Mary's College of Maryland Fund Balance	0.2	0.2
Baltimore City Community College	1.4	0.8
Oil Disaster Containment Cleanup and Contingency Fund	1.0	
Oil Reserve Fund	1.2	
Tidal Wetlands Compensation Fund	1.0	
Oil Contaminated Site Environmental Cleanup Fund	3.0	
Used Tire Cleanup and Recycling Fund	1.1	
Clean Air Fund	0.3	
Radiation Control Fund	0.5	
Program Open Space – Replace with Bonds Per 2009 BRFA	4.5	
Land Trust Grant Fund – Maryland Environmental Trust	1.5	
Waterway Improvement Fund – BPW Cut Special Fund Expenditures	1.0	
Shore Erosion Control Construction Loan Fund	0.3	
Chesapeake and Atlantic Coastal Bays 2010 Trust Fund	2.5	
State Chemist Reserve Account – Agriculture	0.2	
Health Boards and Commissions	1.2	1.3
Spinal Cord Injury Research Trust Fund	1.6	0.5
Community Health Resources Commission Fund	1.8	
Maryland Health Care Commission Fund	0.5	
Various Special Funds – Housing and Community Development	0.4	
Occupational and Professional Licensing Design Board Fund	0.3	
Insurance Regulation Fund – Maryland Insurance Administration	2.0	
State Insurance Trust Fund	5.2	
Cash Management Improvement Fund – Treasurer's Office	0.7	
Injured Workers' Insurance Fund – Reserve for Future State Liabilities	6.0	
Charter Unit – State Department of Assessments and Taxation	3.0	
Central Collection Unit – Department of Budget and Management	0.5	-0.6
Correctional Enterprises Fund	0.5	
Central Business Licensing System – Various Special Fund Transfers		0.5
Furlough and Temporary Salary Reduction – Special Fund Savings		6.0
Total	\$317.4	\$283.2

BPW: Board of Public Works

BRFA: Budget Reconciliation and Financing Act

Other sizeable transfers were made from the fund balances of the University System of Maryland (\$145.0 million over fiscal 2010 and 2011, of which \$35.2 million represents a portion of furlough savings transferred from fund balance) and other segments of higher education (\$5.5 million); a variety of environmental and health funds totaling \$17.9 million and \$6.0 million, respectively; and savings from furloughs and salary reductions in special-funded agencies which provide another \$7.6 million. Of the transfers proposed by the Governor in the BRFA as introduced, the General Assembly declined to make those from the Heritage Structure Rehabilitation Tax Credit Reserve account, from certain accounts of the Injured Workers' Insurance Fund, and from the Land Records Improvement Fund.

Exhibit A-1.13 shows that over fiscal 2010 and 2011, an additional \$441.8 million is transferred from capital programs under Program Open Space (\$207.1 million), environmental improvement funds (\$219.8 million), and housing development funds (\$14.8 million). The capital budget bill of 2010 provides \$176.9 million to replace the transfer of unexpended balances; an additional \$102.3 million replaces fiscal 2011 revenues being diverted to the general fund. Pre-authorizations for fiscal 2012 and 2013, alternative fund sources, and legislative intent language address the remaining amounts in subsequent fiscal years. For a more detailed discussion, see the subpart "Capital Budget" within this part.

Expanded Use of Special Funds

The BRFA of 2010 modifies the authorized uses of a number of special funds, in the short- or long-term, to provide general fund relief. The largest of these is the one-time use of \$350 million from balances within Local Income Tax Reserve Account, to support education aid formulas. These funds will be transferred to the Education Trust Fund. An additional \$200 million may be borrowed from the Local Income Tax Reserve Account if the enhanced federal Medicaid match is not extended beyond December 31, 2010.

In the health area, reductions to programs supported by the Cigarette Restitution Fund, namely tobacco cessation and prevention programs and academic health center grants, provide an additional \$8.2 million in lieu of general funds for the Medicaid program in fiscal 2011 and \$13.4 million on an ongoing basis. A permanent increase in the assessment on nursing homes to 4% similarly provides \$17.0 million for Medicaid. Finally, the use of fund balances in the Senior Prescription Drug Assistance Program and the Community Health Resources Commission provide \$17.5 million for the Kidney Disease and Medicaid programs on a one-time basis.

Exhibit A-1.13
Capital Program Transfers to the General Fund
Budget Reconciliation and Financing Act of 2010
(\$ in Millions)

	<u>Amount</u>
<u>Fiscal 2010 (Unexpended Capital Balances)</u>	
Local Share Program Open Space	\$103.1
Capital Development – Program Open Space	22.7
Rural Legacy Program	10.6
Agricultural Land Preservation	10.0
State Land Acquisition – Program Open Space	4.6
Ocean City Beach Replenishment – Program Open Space	2.1
Ocean City Beach Replenishment – Other	3.4
Waterway Improvement Fund	12.5
Bay Restoration Fund	155.0
Neighborhood Business Development Fund	3.6
Community Legacy Financial Assistance Fund	0.4
Special Loan Programs Fund	2.1
Total	\$330.1
<u>Fiscal 2011 (Special Fund Transfers)</u>	
Program Open Space/Agricultural Land Preservation	\$54.0
Bay Restoration Fund	45.0
Waterway Improvement Fund	3.9
Neighborhood Business Development Fund	3.2
Homeownership Programs Fund	3.0
Special Loan Programs Fund	2.5
Total	\$111.7

Permanent authorization is provided for the Judiciary to use the Land Records Improvement Fund for information technology projects; for the Department of the Environment to use the Oil Disaster Containment, Clean-up, and Contingency Fund for oil-related activities in water pollution control programs; and for the Department of Natural Resources to use certain hunting license revenues. On a one-time basis, \$2.0 million from the Universal Service Trust Fund will support the budget of the Maryland School for the Deaf; \$5.0 million from the 9-1-1 Fund will be used for the development of the computer aided dispatch/records management system for the Department of State Police; and \$650,000 from the Fair Campaign Financing Fund will support consultants to evaluate a variety of voting system issues and to develop a web-based campaign finance reporting system. The use of up to 50% of the Strategic Energy Investment Fund for low income energy assistance programs is extended through fiscal 2012.

For fiscal 2011 only, \$500,000 of the revenues generated by the admissions and amusement tax on electronic bingo and electronic tip jars is distributed as local impact aid to the jurisdictions which have these machines. An additional \$500,000 is directed, consistent with current law, to the Special Fund for the Preservation of Cultural Arts in Maryland. The uses of this fund were expanded slightly, and the fiscal 2011 funds are expressly allocated to the Baltimore Symphony Orchestra and the National Philharmonic.

Formulas and Mandated Spending

In the area of public education, long-term savings are realized by implementation of a 1% cap through fiscal 2015 on the inflationary adjustment that is applied to the per-pupil foundation amount (which affects the foundation aid program and the special needs formulas) and to student transportation grants. The Aging Schools program is held at the fiscal 2011 level of \$6.1 million, and library grants are frozen at the fiscal 2012 per capita amounts. Savings in fiscal 2012 and 2013 will result from the legislative directive that the Maryland State Department of Education renegotiate its contract with the SEED School to reduce enrollment. The Share the State Fair! program is repealed.

The growth in mandated formulas in higher education is constrained by holding appropriations level through fiscal 2012 and then slowly increasing the applicable percentage of selected public university per-student funding. The Cade formula for community college aid, the Sellinger formula for private colleges and universities, and the formula for Baltimore City Community College all reach their prior mandated percentages of 29.0%, 15.5%, and 68.5%, respectively, in fiscal 2021.

State Aid for Police Protection is frozen at the fiscal 2010 level through fiscal 2012, and local health department grants are re-based at the fiscal 2010 amount. State support for Community Adult Rehabilitation Centers will end after fiscal 2011, and an omission in Chapter 487 of 2009 regarding the repeal of State payments for the retirement costs of certain local officials is corrected, resulting in ongoing savings. The formula for disparity grants is modified to use November 1 taxable income amount in the calculation, rather than August 15.

The inflationary adjustment in the formula for the Maryland State Arts Council is suspended for fiscal 2011 and 2012; the budget for the Maryland Tourism Board is reduced to \$5.0 million for each of those years; and reimbursement rates for group homes and nonpublic special education placements are frozen at the fiscal 2010 level for fiscal 2011. The general fund mandate requiring a specified level of support to the Women, Infants, and Children program is repealed, as is the required employer match for employee deferred compensation contributions. With limited exceptions, no funds are provided in the fiscal 2011 budget for employee raises, bonuses, and incentive payments.

The BRFA of 2010 continues a provision that relieves the Governor of the need to comply with the Rainy Day Fund “automatic sweeper” if doing so would jeopardize federal funding. Similarly, with certain exceptions, notably education aid and statutory provisions elsewhere in the BRFA, the Governor is given discretion to not provide increases in the fiscal 2012 budget over the level appropriated in fiscal 2011.

Revenue Actions

The BRFA of 2010 implements several short-term revenue adjustments, as shown in **Exhibit A-1.14**. The actions listed here do not benefit the general fund beyond fiscal 2011. The BRFA contains a provision that directs revenue from settlements of litigation over telecommunications agreements to the general fund (instead of the Major Information Technology Development Fund) through fiscal 2012, but the timing and magnitude of the revenue attainment from these sources is uncertain. The “automatic sweeper” of the balance from the Central Collection Fund to the general fund was modified to allow the fund to retain 15% of expenditures.

Exhibit A-1.14
General Fund Revenues
Budget Reconciliation and Financing Act of 2010
(\$ in Millions)

	<u>FY 2010</u>	<u>FY 2011</u>
Special Fund Interest – Accrue to General Fund	\$11.9	\$11.0
Moving Violations Revenue from Fire and Helicopter Funds	1.5	0.0
Cultural Arts Share of Admissions and Amusement Tax	3.4	2.4
HEIF Share of Constellation Corporate Income Tax	7.7	0.0
TTF Share of Constellation Corporate Income Tax	26.3	0.0
Chesapeake and Atlantic Coastal Bays 2010 Trust Fund Revenue	8.0	22.1
Total	\$58.8	\$35.5

HEIF: Higher Education Investment Fund

TTF: Transportation Trust Fund

Miscellaneous Provisions

As a first step to addressing the monumental and growing expenses associated with employee and teacher retirement payments and post-retirement benefits, the BRFA of 2010 creates the Public Employees’ and Retirees’ Benefit Sustainability Commission. The commission is charged with reviewing and evaluating the recruitment practices, retention incentives, actuarial liabilities, actuarial funding method, cost drivers, employee contribution rates, and the comparability and affordability of the benefit systems. The commission is to report specific and actionable recommendations in advance of the 2011 legislative session, and its recommendations are to be implemented no later than fiscal 2013.

The BRFA of 2010 contains a provision requiring the budget bill to include information on the allocation of across-the-board reductions, except those involving the abolition of positions or items covered under collective bargaining agreements.

The statute governing the periodic meetings of the Judicial Compensation Commission was modified, and a three-year limit has been imposed on application for public safety death benefits. Carry-forward funds from other scholarship programs are to be applied to those on the waiting list for funds under the Charles W. Riley Fire and Emergency Medical Services Tuition Reimbursement Program. The BRFA of 2010 repeals authorization provided in Chapter 487 of 2009 to use funds derived from the Fair Campaign Financing Fund for any election modernization purpose if not used to purchase a new optical scan voting system; rather, the funds revert to the Fair Campaign Financing Fund. The BRFA of 2010 also repeals the income tax add-on that allowed contributions to that fund. The required payment for the InterCounty Connector, which is being satisfied with general obligation bond funding, is reduced in fiscal 2011 with the remaining balance to be paid in fiscal 2012.

Federal Stimulus Funding

In February 2009, President Barack H. Obama signed the ARRA into law. ARRA's provisions support State programs by funding infrastructure, education programs, and human services programs, as well as providing discretionary funds. **Exhibit A-1.15** shows that ARRA appropriations total \$4.5 billion over the fiscal 2009 to 2011 period including \$1.6 billion in fiscal 2011.

Funds Supporting State General Fund Commitments

With respect to the State budget, ARRA's most significant impact relates to the funds that can support State general fund commitments. The fiscal 2011 budget includes \$1.3 billion to 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 \$778 million in fiscal 2011. Of this, \$389 million has been authorized by the ARRA through December 31, 2010. These funds are available because the legislation increased the federal share of Medicaid funding by increasing the Federal Medical Assistance Percentage. The budget assumes an additional \$389 million will be authorized to support the last half of the fiscal year.

Exhibit A-1.15
Federal Stimulus
Fiscal 2009-2011
(\$ in Millions)

Federal Stimulus Funds Appropriated in the State Budget

<u>Code</u>	<u>Agency Title</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>Total</u>
ARRA Funds Supplanting General Funds					
M00	Department of Health and Mental Hygiene	\$443.5	\$767.6	\$778.0	\$1,989.1
N00	Department of Human Resources	1.5	1.5	1.5	4.5
Q00	Department of Public Safety and Correctional Services	0.0	53.7	53.2	106.9
R00	Maryland State Department of Education	0.0	297.3	422.3	719.7
R62	Maryland Higher Education Commission	0.0	0.0	0.0	0.0
V10	Department of Juvenile Services	0.0	4.5	4.5	9.0
W10	Department of State Police	0.0	19.9	19.9	39.7
Subtotal		\$445.0	\$1,144.5	\$1,279.4	\$2,868.9
ARRA Funds Not Supplanting General Funds					
C90	Public Service Commission	\$0.0	\$0.0	\$0.4	\$0.4
D13	Maryland Energy Administration	0.0	44.8	23.6	68.3
D15	Executive Boards, Commissions, and Offices	0.1	13.2	11.4	24.7
D26	Department of Aging	0.0	2.0	0.0	2.0
J00	Maryland Department of Transportation	15.0	304.0	211.7	530.7
M00	Department of Health and Mental Hygiene	2.7	0.0	2.8	5.5
N00	Department of Human Resources	66.9	88.1	48.1	203.2
P00	Department of Labor, Licensing, and Regulation	1.8	34.9	0.0	36.8
R00	Maryland State Department of Education	6.8	403.3	9.4	419.5
S00	Department of Housing and Community Development	6.5	183.0	2.8	192.2
T00	Department of Business and Economic Development	0.3	0.0	0.0	0.3
U00	Maryland Department of the Environment	0.0	132.4	2.5	134.9
W00	Department of State Police	0.0	2.4	0.4	2.8
X00	Public Debt	0.0	0.9	7.6	8.5
Subtotal		\$100.1	\$1,208.8	\$320.7	\$1,629.6
Total		\$545.1	\$2,353.3	\$1,600.1	\$4,498.5

The ARRA provides \$879.8 million in Fiscal Stabilization funds. The legislation requires that 81.8%, which totals \$719.7 million, support education programs. The education funds must first be used to restore elementary and secondary school reductions to 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 elementary and secondary education increases, the largest of which support the geographic cost of education index and supplemental grants (\$108.6 million), compensatory education (\$66.3 million), and local employee fringe benefits (\$228.1 million).

The ARRA allows that 18.2% of the Fiscal Stabilization funds can support general government services. These discretionary funds total \$82.4 million in fiscal 2011. The funds support State agency operations, including employee salaries at the Departments of Public Safety and Correctional Services, Juvenile Services, and State Police.

Other Federal Fiscal Stimulus Funds

The remaining ARRA appropriations total \$320.7 million. These funds provide additional support for State agencies but do not supplant any general funds. The largest share provides \$211.7 million for transportation capital programs, including the State Highway Administration (\$144.4 million) and the Maryland Transit Administration (\$66.7 million). Other uses of these funds include the Supplemental Nutrition Assistance Program at the Department of Human Resources (\$21.7 million) and energy efficiency programs at the Maryland Energy Administration (\$19.7 million).

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. Additional funds may be appropriated by budget amendment if the State is awarded these grants.

To promote accountability, State and federal governments have web sites that track the ARRA spending. Maryland's web site is <http://statestat.maryland.gov/recovery.asp>, and the federal government's web site is <http://www.recovery.gov/>

Higher Education

The fiscal 2011 State budget includes new general funds and HEIF totaling \$1.2 million or a 0.1% increase over fiscal 2010 for higher education institutions.

Higher Education Investment Fund: Language in the fiscal 2011 budget bill reduces the general fund appropriation for higher education by \$42.1 million contingent upon the reauthorization of HEIF, replacing those general funds with HEIF special funds. *Senate Bill 283/ House Bill 470 (both passed)* continues the allocation of 6% of the corporate income tax to the HEIF.

Tuition Freeze Lifted: After freezing resident undergraduate tuition for four years for students at USM institutions and MSU, institutions are allowed to increase tuition rates by 3.0%. Furthermore, funds are provided to USM and MSU equivalent to an additional 2.0% increase in tuition rates. SMCM, which is formula funded and is not included in the tuition limit agreement, will also increase tuition by 3.0% in fall 2010.

Community Colleges: Overall funding for community colleges declines by \$0.1 million in fiscal 2011, which includes the Senator John A. Cade Funding Formula, State-paid retirement, and miscellaneous grant programs. The Cade formula appropriation represents 21.8% of the per-student funding that the selected public four-year institutions are receiving in fiscal 2011. BCCC, as the State's only State-operated community college, has its own formula, which for fiscal 2011 sets State support at 66.6% of the current year State appropriation per student at selected four-year public institutions. BCCC receives an increase of 1.7%, or \$0.6 million, in fiscal 2011.

Independent Institutions: Independent institutions receive \$38.4 million through the Joseph A. Sellinger Formula in fiscal 2011, the same amount received in fiscal 2010. The fiscal 2011 funding equates to 9.8% of the fiscal 2011 State support per student at selected four-year public institutions.

Transportation

Transportation Trust Fund

Net special fund revenue to the Transportation Trust Fund is expected to total \$2.4 billion in fiscal 2011, including \$215.0 million in estimated Consolidated Transportation Bonds (CTBs). Operating expenses for all modes totals \$1.5 billion; a decrease of \$19.6 million, or -1.3%, compared to the fiscal 2010 working appropriation.

Operating Budget

Overall, budgeted spending declines in fiscal 2011 due to \$40.6 million in reductions at the Maryland Port Administration (MPA) related to the long-term lease of the Seagirt Marine Terminal to a private entity. The savings in MPA helped to offset other increases in spending. Specific increases include \$13.1 million at the Motor Vehicle Administration due to accounting changes in the Vehicle Emissions Inspection Program, \$8.7 million in increased operating subsidy payments to the Washington Metropolitan Area Transit Authority, and \$5.0 million for budgeted snow removal expenditures at the State Highway Administration.

Capital Budget

The capital budget totals \$1,515.6 million a decrease of \$119.2 million, or -7.3%, compared to the fiscal 2010 working appropriation. Most of the decrease can be attributed to a decline in federal stimulus funds.

Transportation Debt Limits

The budget establishes a ceiling for maximum debt outstanding for CTBs as of June 30, 2011, at \$1.8 billion. A ceiling for non-traditional debt issued is set at \$628.3 million.

Highway User Revenues Changes

During the 2009 interim, BPW reduced Highway User Revenues (HUR) by \$159.5 million. This reduction coupled with downward transportation revenue revisions resulted in a working appropriation of \$140.5 million and a total general fund transfer of \$321.4 million in fiscal 2010. The Administration proposed to maintain the local distribution at \$140.5 million in fiscal 2011 and 2012 with general fund transfers of \$340.3 million in each fiscal year. Baltimore City was proposed to receive approximately 93% of the local funding with the balance distributed between the counties and municipalities.

The General Assembly maintained the total level of general fund transfers from fiscal 2010 to 2012; however, the funding levels in each fiscal year differ compared to the Administration's plan. Local jurisdictions received a fiscal 2010 payment based upon the fiscal 2010 legislative appropriation which resulted in the counties and municipalities having received more funding than was provided for in the working appropriation. To address this, the General Assembly decreased the planned fiscal 2010 general fund transfer by \$23.2 million to reflect the funding already received by the jurisdictions. In fiscal 2011 and 2012, the total local distribution was maintained at the levels provided for in the Administration's proposal. The general fund transfer was increased in fiscal 2011 by \$23.1 million to \$363.4 million, and the Maryland Department of Transportation's (MDOT) share was reduced by \$23.7 million to allow for the increased general fund transfer. **Exhibit A-1.16** provides the funding percentages for MDOT, the general fund, and local jurisdictions from fiscal 2010 to 2013.

Due to the continued fiscal difficulties confronting the general fund, a permanent 19.3% general fund share of HUR, or \$339.4 million, was adopted beginning in fiscal 2013. After 71.5% is provided to MDOT, 9.2% is available for distribution to the local jurisdictions, with 7.5% available for Baltimore City, 1.4% for the counties, and 0.3% for the municipalities. The BRFA provides that a group would look at the local distributions to determine if changes in the allocations should be made in the future.

Finally, the HUR distribution methodology for local jurisdictions was changed. The distribution for the general fund, Baltimore City, counties, and municipalities are specified as a percentage of total revenues. The county and municipal distributions are still based upon road miles and registrations; however, the county share is based upon total statewide county only road miles and registrations, and the municipal share is based upon total statewide municipal only road miles and registrations.

Exhibit A-1.16
Highway User Revenue Distribution
Fiscal 2010-2013

	Fiscal 2010		Fiscal 2011		Fiscal 2012		Fiscal 2013	
	<u>Percent</u>	<u>Dollars</u>	<u>Percent</u>	<u>Dollars</u>	<u>Percent</u>	<u>Dollars</u>	<u>Percent</u>	<u>Dollars</u>
MDOT	70.0%	\$1,070.2	68.5%	\$1,082.3	71.5%	\$1,185.9	71.5%	\$1,257.5
General Fund	19.5%	298.1	23.0%	363.4	20.4%	338.4	19.3%	339.4
Baltimore City	8.6%	131.5	7.9%	124.8	7.5%	124.4	7.5%	140.4
Counties	1.5%	22.9	0.5%	7.9	0.5%	8.3	1.4%	26.2
Municipalities	0.4%	6.1	0.1%	1.6	0.1%	1.7	0.3%	5.6
Total	100.0%	\$1,528.9	100.0%	\$1,580.0	100.0%	\$1,658.6	100.0%	\$1,769.2

MDOT: Maryland Department of Transportation

State Reserve Fund

The Rainy Day Fund, Dedicated Purpose Account (DPA), and Catastrophic Event Account are projected to have a combined \$634.5 million fund balance at the end of fiscal 2011. Activity in fiscal 2010 and 2011 is shown in **Exhibit A-1.17**. The fiscal 2011 budget includes an appropriation of \$15.0 million in the DPA for the Prince George's County Health System.

The end-of-year Rainy Day Fund balance is projected to be 5.0% of general fund revenues in fiscal 2011. State law provides that a \$50.0 million appropriation is required if the Rainy Day Fund Balance is less than 7.5% of general fund revenues and a \$100.0 million appropriation if the fund balance is less than 3.0% of general fund revenues. The out-year forecast assumes \$50.0 million appropriations from fiscal 2013 to 2015. *Senate Bill 141 (passed)* suspends this requirement if the Governor determines that the appropriation could result in a loss of federal ARRA funds.

Personnel

State expenditures for employee compensation, estimated to be \$6.5 billion in fiscal 2011, constitute a major component of the budget. Regular employee expenditures increase by \$5.1 million, or 0.1%, over fiscal 2010 levels while contractual employee expenditures for fiscal 2011 total \$213.1 million.

Exhibit A-1.17
State Reserve Fund Activity
Fiscal 2010-2011
(\$ 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 6/30/09	\$691.8	\$0.6	\$8.4
Fiscal 2010 Appropriations	139.9	0.0	0.0
Withdrawn Appropriation ¹	-25.0		
Expenditures			
Prince George's County Health System		-0.6	
Transfers to General Fund			
Fiscal 2010 Budget Bill	-210.0		
2009 BRFA			-7.4
Estimated Interest	18.1		
Estimated Balances 6/30/10	\$614.8	\$0.0	\$1.0
Fiscal 2011 Appropriations	0.0	171.9	0.0
Contingent Reduction		-156.9	
Expenditures			
Prince George's County Health System		-15.0	
Transfers to General Fund	0.0		0.0
Estimated Interest	18.7		
Estimated Balances 6/30/11	\$633.5	\$0.0	\$1.0
Balance in Excess of 5% GF Revenues	-\$0.1		

BRFA: Budget Reconciliation and Financing Act
GF: general funds

¹ November 18, 2009 Board of Public Works Action.

Source: Department of Budget and Management

Employee Compensation

Constraints on employee compensation in fiscal 2010 were continued in fiscal 2011 as benefits such as salary increments for employees performing at or above established standards, cost-of-living increases, and the State match of \$600 for employees participating in deferred compensation plans were not funded. Moreover, a furlough and temporary salary reduction plan mirroring that instituted during fiscal 2010 was built into the fiscal 2011 budget. State employee salaries will fall by an average of 2.6% to satisfy the 5 to 10 day furlough and service reduction requirements that comprise the Administration's plan.

Health Insurance

State subsidies for employee and retiree health insurance total \$897.5 million in fiscal 2011. This amount is \$13.2 million more than the fiscal 2010 level, despite cost increases of nearly 8.0%. State expenditures were tempered by a one-time payment lag related to changes to plan providers and savings from alterations to the prescription drug program. Employee and retiree premiums will remain constant for fiscal 2011 as a consequence of these savings. The State will end fiscal 2011 with no reserve above the level required to pay claims incurred in one year but not paid for until the next. Future growth in costs will henceforth be reflected in increased State and member contributions.

Workforce Changes

In fiscal 2011, the size of the regular State workforce decreases by 0.9%, or 719.3 positions. The General Assembly deleted 568.0 of these positions, as shown in **Exhibit A-1.18**. In accordance with a provision designed to encourage voluntary separation from State service, 500 of the legislative abolitions will be carried out over the course of fiscal 2011, instead of at the end of fiscal 2010.

The Public Employees' and Retirees' Benefit Sustainability Commission was established to provide an external review of State funded pensions and post retirement benefits provided to State and public education employees. Its findings and recommendations will be utilized in the 2011 session to make alterations to these programs that ensure their continued sustainability. Also, the mandate requiring the State matching employee contributions to deferred compensation accounts was removed, making it discretionary according to the amount of funding provided in the budget. In committee narrative, intent was expressed to maintain employee compensation levels for fiscal 2012 at the fiscal 2011 levels.

By the Numbers

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

Exhibit A-1.18
Regular Full-time Equivalent Positions
Fiscal 2010- 2011

<u>Department/Service Area</u>	<u>FY 2010 Work. Approp.</u>	<u>FY 2011 Allowance</u>	<u>Legis. Reductions</u>	<u>FY 2011 Legis. Approp.</u>
Health and Human Services				
Health and Mental Hygiene	6,583.9	6,570.7	-1.0	6,569.7
Human Resources	6,741.9	6,691.9	0.0	6,691.9
Juvenile Services	2,254.1	2,240.1	0.0	2,240.1
Subtotal	15,579.8	15,502.6	-1.0	15,501.6
Public Safety				
Public Safety and Correctional Services	11,307.6	11,307.6	-4.0	11,303.6
Police and Fire Marshal	2,415.5	2,425.5	-5.0	2,420.5
Subtotal	13,723.1	13,733.1	-9.0	13,724.1
Transportation	9,012.0	9,012.0	-49.0	8,963.0
Other Executive				
Legal (Excluding Judiciary)	1,504.1	1,489.5	-1.0	1,488.5
Executive and Administrative Control	1,633.4	1,623.5	-7.0	1,616.5
Financial and Revenue Administration	1,991.0	1,966.0	0.0	1,966.0
Budget and Management	450.3	451.3	0.0	451.3
Retirement	204.0	208.0	-1.0	207.0
General Services	593.0	593.0	0.0	593.0
Natural Resources	1,287.0	1,284.0	0.0	1,284.0
Agriculture	405.5	412.5	0.0	412.5
Labor, Licensing, and Regulation	1,680.2	1,668.6	0.0	1,668.6
MSDE and Other Education	1,960.7	1,948.7	0.0	1,948.7
Housing and Community Development	311.0	311.0	0.0	311.0
Business and Economic Development	238.0	235.0	0.0	235.0
Environment	970.0	970.0	0.0	970.0
Subtotal	13,228.2	13,161.1	-9.0	13,152.1
Executive Branch Subtotal	51,543.1	51,408.8	-68.0	51,340.8
Higher Education	23,863.8	23,846.8	0.0	23,846.8
Judiciary	3,581.3	3,581.3	0.0	3,581.3
Legislature	747.0	747.0	0.0	747.0
<i>Section 45 Executive Branch Reduction</i>			-500.0	-500.0
Grand Total	79,735.1	79,583.8	-568.0	79,015.8

MSDE: Maryland State Department of Education

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

Exhibit A-1.19 shows the impact of the legislative budget on the general fund balance for fiscal 2010 and 2011. The fiscal 2010 balance is estimated to be \$153.7 million. At the end of fiscal 2011, the closing balance is estimated to be \$204.5 million.

Exhibit A-1.19
Final Budget Status
Status as of April 12, 2010

	<u>FY 2010</u>	<u>FY 2011</u>
Starting General Fund Balance	\$87,172,364	\$153,740,762
Revenues		
BRE Estimated Revenues – December 2009	\$12,299,470,284	\$12,671,714,715
BRE Revenue Revision – March 2010	-65,973,967	0
Ch. 487 of 2009 Budget Reconciliation Legislation	216,288,248	124,357,649
Budget Reconciliation Legislation – Revenues	58,809,560	35,501,428
Budget Reconciliation Legislation – Transfers	647,489,809	394,861,585
Other Legislation	0	-60,030,620
Additional Revenues	128,484,971	26,094,993
Subtotal Revenues	\$13,284,568,905	\$13,192,499,750
Net Transfer to the GF from the Rainy Day Fund	95,052,421	0
Subtotal Available Revenues	\$13,466,793,690	\$13,346,240,512
Appropriations		
General Fund Appropriations Net of Rainy Day Fund	\$13,712,407,444	\$13,733,452,157
Deficiencies	219,017,987	0
Supplemental Budget No. 1	-9,482,946	1,345,453
Board of Public Works Withdrawn Appropriations	-531,426,769	0
Legislative Reductions/Contingent Legislation	-13,783,053	-562,045,054
Estimated Agency Reversions	-63,679,735	-31,058,000
Subtotal Appropriations	\$13,313,052,928	\$13,141,694,556
Closing General Fund Balance	\$153,740,762	\$204,545,956

BRE: Board of Revenue Estimates

GF: general fund

Exhibit A-1.20, the fiscal note on the budget bill, depicts the Governor's allowance, funding changes made through Supplemental Budget No. 1, legislative reductions, and final appropriations for fiscal 2010 and 2011 by fund source. The Governor's original request provided for \$32.5 billion (net of projected general fund reversions) in fiscal 2011 expenditures and \$763.0 million in fiscal 2010 deficiencies.

The Governor added a net \$12.7 million in fiscal 2010 and 2011 spending in one supplemental budget. The legislature made \$11.9 million in reductions to current year appropriations, resulting in a net appropriation of \$32.3 billion for fiscal 2010. Net reductions of \$531.3 million were adopted to the fiscal 2011 budget, consisting of \$968.0 million in total fund reductions offset by \$436.6 million in special funds that replaces general fund cuts. This resulted in a final appropriation of \$32.0 billion.

Exhibit A-1.21 illustrates budget changes by major expenditure category by fund. Total spending decreases by \$308.4 million, or -1.0%, after accounting for the special fund appropriations that replace general funds cut during the session. Debt service grows by 6.4%; aid to local government decreases by 2.1% largely due to the end of one-time pass-through federal stimulus funding for K-12 education. Entitlement spending grows by 5.8% due to additional federal assistance payments for food stamps and Medicaid expenditures, with each growing by about \$200 million. State agency spending (net of reversions and contingent reductions) declines -0.2%. PAYGO capital expenditures decrease by 22.7% driven largely by one-time federal stimulus funding for low income weatherization, transportation capital, and rental housing program.

Exhibit A-1.20
Fiscal Note
Summary of the Fiscal 2011 Budget Bill – Senate Bill 140

	<u>General Funds</u>	<u>Special Funds</u>	<u>Federal Funds</u>	<u>Education Funds</u>	<u>Total Funds</u>
Governors Allowance					
Fiscal 2010 Budget ⁽¹⁾	\$13,451,266,506	\$5,663,150,630	\$9,793,827,062	\$3,423,240,410	\$32,331,484,608
Fiscal 2011 Budget ⁽²⁾	13,702,394,157	5,871,053,267	9,342,490,453	3,540,741,546	32,456,679,423
Supplemental Budget No. 1					
Fiscal 2010 Deficiencies	-\$9,482,946	-\$28,500,000	\$1,434,690	\$0	-\$36,548,256
Fiscal 2011 Budget	1,345,453	29,008,053	18,938,121	0	49,291,627
Subtotal	-\$8,137,493	\$508,053	\$20,372,811	\$0	\$12,743,371
Budget Reconciliation and Financing Act of 2010					
Fiscal 2010 Deficiencies	-\$12,258,053	\$2,000,000 ⁽³⁾	\$0	\$0	-\$10,258,053
Fiscal 2011 Contingent Reductions	-406,414,854	363,744,812 ⁽⁴⁾	0	0	-42,670,042
Subtotal	-\$418,672,907	\$365,744,812	\$0	\$0	-\$52,928,095
Conference Committee Reductions					
Fiscal 2010 Deficiencies	-\$1,525,000	-\$76,008	\$0	\$0	-\$1,601,008
Fiscal 2011 Budget	-155,630,200	-309,436,272 ⁽⁵⁾	-23,602,376	0	-488,668,848
Total Reductions	-\$157,155,200	-\$309,512,280	-\$23,602,376	\$0	-\$490,269,856
Appropriations					
FY 2010 Budget	\$13,428,000,507	\$5,636,574,622	\$9,795,261,752	\$3,423,240,410	\$32,283,077,291
FY 2011 Budget	13,141,694,556	5,954,369,860	9,337,826,198	3,540,741,546	31,974,632,160
Change	-\$286,305,951	\$317,795,238	-\$457,435,554	\$117,501,136	-\$308,445,131

⁽¹⁾ Reflects \$763.0 million in proposed deficiencies, including \$219.0 million in general funds, \$114.0 million in special funds, \$427.5 million in federal funds, and \$2.5 million in current unrestricted funds. Reversion assumptions total \$63.7 million, including \$30.0 million in unspecified reversions and \$33.7 million in targeted reversions.

⁽²⁾ Reflects estimated general fund reversions of \$30.0 million and \$1.1 million in targeted reversions. In addition, there are \$117.1 million in across-the-board reductions in the budget bill, consisting of \$87.8 million in general funds, \$24.6 million in special funds, \$3.0 million in federal funds, and \$1.7 million in higher education funds.

⁽³⁾ \$2.0 million in special funds that will be added back to the budget by budget amendment to replace general fund reductions.

⁽⁴⁾ Includes \$394.5 million in special funds that will be added back to the budget by budget amendment to replace general fund reductions.

⁽⁵⁾ Includes \$42.1 million in special funds that will be added back to the budget by budget amendment to replace general fund reductions.

Exhibit A-1.21
State Expenditures – General Funds
(\$ in Millions)

<u>Category</u>	<u>Actual FY 2009</u>	<u>Adjusted Work. Appr. FY 2010</u>	<u>Legislative Approp. FY 2011</u>	<u>FY 2010 to FY 2011</u>	
				<u>\$ Change</u>	<u>% Change</u>
Debt Service	\$0.0	\$0.0	\$0.0	\$0.0	n/a
County/Municipal	213.5	189.6	178.5	-11.2	-5.9%
Community Colleges	254.7	256.2	256.1	-0.1	0.0%
Education/Libraries	5,442.7	5,258.5	4,890.5	-368.0	-7.0%
Health	57.4	37.3	37.3	0.0	0.0%
<i>Aid to Local Governments</i>	<i>\$5,968.3</i>	<i>\$5,741.6</i>	<i>\$5,362.4</i>	<i>-379.3</i>	<i>-6.6%</i>
Foster Care Payments	243.0	240.4	244.9	4.5	1.9%
Assistance Payments	38.2	95.5	53.3	-42.2	-44.2%
Medical Assistance	1,903.1	1,588.3	1,743.6	155.3	9.8%
Property Tax Credits	57.3	73.2	73.5	0.3	0.5%
<i>Entitlements</i>	<i>\$2,241.6</i>	<i>\$1,997.4</i>	<i>\$2,115.2</i>	<i>117.9</i>	<i>5.9%</i>
Health	1,402.2	1,355.3	1,376.0	20.7	1.5%
Human Resources	308.0	271.3	262.2	-9.1	-3.4%
Systems Reform Initiative	33.8	24.4	20.7	-3.8	-15.4%
Juvenile Services	266.9	260.6	257.0	-3.6	-1.4%
Public Safety/Police	1,255.5	1,171.8	1,192.1	20.4	1.7%
Higher Education	1,131.9	1,147.6	1,145.5	-2.1	-0.2%
Other Education	398.4	313.9	350.6	36.7	11.7%
Agric./Natl. Res./Environment	122.4	105.7	104.1	-1.6	-1.5%
Other Executive Agencies	547.7	521.8	549.9	28.1	5.4%
Legislative	73.6	75.4	75.6	0.2	0.3%
Judiciary	367.4	366.6	370.3	3.8	1.0%
Across-the-board Reductions	0.0	0.0	-35.3	-35.3	n/a
<i>State Agencies</i>	<i>\$5,907.9</i>	<i>\$5,614.5</i>	<i>\$5,668.9</i>	<i>54.4</i>	<i>1.0%</i>
Total Operating	\$14,117.7	\$13,353.5	\$13,146.5	-\$207.0	-1.6%
Capital/Heritage Reserve Fund	23.7	5.1	10.8	5.7	113.4%
Reserve Funds	146.5	114.9	15.0	-99.9	-87.0%
Appropriations	\$14,352.9	\$13,473.5	\$13,172.3	-\$301.2	-2.2%
Reversions	0.0	-45.5	-30.6	14.9	-32.7%
Grand Total	\$14,352.9	\$13,428.0	\$13,141.7	-\$286.3	-2.1%

Note: The fiscal 2010 working appropriation includes deficiencies, targeted reversions, and legislative reductions to the deficiencies.

Exhibit A-1.21 (Continued)
State Expenditures – Special and Higher Education Funds*
(\$ in Millions)

<u>Category</u>	<u>Actual FY 2009</u>	<u>Work. Appr. FY 2010</u>	<u>Legislative Approp. FY 2011</u>	<u>FY 2010 to FY 2011</u>	
				<u>\$ Change</u>	<u>% Change</u>
Debt Service	\$881.5	\$944.7	\$998.3	\$53.6	5.7%
County/Municipal	523.0	195.4	178.4	-17.1	-8.7%
Community Colleges	0.0	0.0	0.0	0.0	n/a
Education/Libraries	1.4	13.0	467.0	454.0	3492.4%
Health	0.0	0.0	0.0	0.0	n/a
<i>Aid to Local Governments</i>	<i>\$524.4</i>	<i>\$208.4</i>	<i>\$645.4</i>	<i>\$436.9</i>	<i>209.6%</i>
Foster Care Payments	0.1	0.1	0.1	0.0	-10.9%
Assistance Payments	17.1	13.4	16.4	3.0	22.4%
Medical Assistance	386.0	542.0	453.9	-88.1	-16.3%
Property Tax Credits	0.0	0.8	0.0	-0.8	-100.0%
<i>Entitlements</i>	<i>\$403.1</i>	<i>\$556.3</i>	<i>\$470.3</i>	<i>-\$86.0</i>	<i>-15.5%</i>
Health	260.2	297.0	297.2	0.2	0.1%
Human Resources	67.2	98.2	100.9	2.7	2.7%
Systems Reform Initiative	0.5	0.0	0.0	0.0	n/a
Juvenile Services	0.2	0.2	0.2	0.0	0.0%
Public Safety/Police	194.9	224.3	222.0	-2.4	-1.1%
Higher Education	3,312.0	3,471.8	3,590.0	118.3	3.4%
Other Education	34.4	52.9	45.1	-7.7	-14.6%
Transportation	1,422.1	1,434.8	1,413.4	-21.4	-1.5%
Agric./Natl. Res./Environment	165.9	204.7	217.4	12.7	6.2%
Other Executive Agencies	464.9	558.4	598.7	40.4	7.2%
Legislative	0.3	0.1	0.1	0.0	0.0%
Judiciary	41.9	53.0	48.6	-4.4	-8.2%
Across-the-board Reductions	0.0	0.0	-2.3	-2.3	n/a
<i>State Agencies</i>	<i>\$5,964.6</i>	<i>\$6,395.3</i>	<i>\$6,531.4</i>	<i>\$136.0</i>	<i>2.1%</i>
Total Operating	\$7,773.7	\$8,104.8	\$8,645.4	\$540.6	6.7%
Capital	985.0	955.0	849.7	-105.4	-11.0%
Grand Total	\$8,758.7	\$9,059.8	\$9,495.1	\$435.3	4.8%

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

Note: Fiscal 2010 working appropriation includes deficiencies, targeted reversions, and legislative reductions to the deficiencies. The fiscal 2011 legislative appropriation includes \$436.6 million in special fund spending that will be added by budget amendment to replace general fund reductions.

Exhibit A-1.21 (Continued)
State Expenditures – Federal Funds
(\$ in Millions)

<u>Category</u>	<u>Actual FY 2009</u>	<u>Work. Appr. FY 2010</u>	<u>Legislative Approp. FY 2011</u>	<u>FY 2010 to FY 2011</u>	
				<u>\$ Change</u>	<u>% Change</u>
Debt Service	\$0.0	\$0.9	\$7.6	\$6.8	791.4%
County/Municipal	41.3	82.0	108.6	26.6	32.4%
Community Colleges	0.0	0.0	0.0	0.0	n/a
Education/Libraries	701.1	1,406.1	1,168.9	-237.2	-16.9%
Health	4.5	4.5	4.5	0.0	0.0%
<i>Aid to Local Governments</i>	<i>\$746.9</i>	<i>\$1,492.6</i>	<i>\$1,282.0</i>	<i>-\$210.6</i>	<i>-14.1%</i>
Foster Care Payments	108.2	125.4	107.0	-18.5	-14.7%
Assistance Payments	703.4	571.8	816.2	244.5	42.8%
Medical Assistance	3,161.5	3,686.8	3,830.4	143.6	3.9%
Property Tax Credits	0.0	0.0	0.0	0.0	n/a
<i>Entitlements</i>	<i>\$3,973.1</i>	<i>\$4,384.0</i>	<i>\$4,753.6</i>	<i>\$369.6</i>	<i>8.4%</i>
Health	883.6	913.3	960.1	46.7	5.1%
Human Resources	570.8	565.6	525.0	-40.6	-7.2%
Systems Reform Initiative	7.3	7.3	7.7	0.4	5.1%
Juvenile Services	7.4	16.2	16.0	-0.2	-1.3%
Public Safety/Police	21.6	107.4	96.8	-10.6	-9.9%
Higher Education	0.0	0.0	0.0	0.0	n/a
Other Education	212.5	301.0	227.2	-73.8	-24.5%
Transportation	93.7	88.4	90.2	1.8	2.0%
Agric./Natl. Res./Environment	58.5	81.0	69.1	-11.9	-14.7%
Other Executive Agencies	459.5	665.1	524.4	-140.6	-21.1%
Judiciary	3.8	4.2	4.0	-0.2	-4.8%
Across-the-board Reductions	0.0	0.0	-10.6	-10.6	n/a
<i>State Agencies</i>	<i>\$2,318.8</i>	<i>\$2,749.5</i>	<i>\$2,509.8</i>	<i>-\$239.8</i>	<i>-8.7%</i>
Total Operating	\$7,038.7	\$8,627.0	\$8,553.0	-\$74.0	-0.9%
Capital	720.2	1,168.3	784.8	-383.5	-32.8%
Grand Total	\$7,758.9	\$9,795.3	\$9,337.8	-\$457.4	-4.7%

Note: Fiscal 2010 includes \$428.9 million in deficiencies.

Exhibit A-1.21 (Continued)
State Expenditures – State Funds
(\$ in Millions)

<u>Category</u>	<u>Actual FY 2009</u>	<u>Adjusted Work. Appr. FY 2010</u>	<u>Legislative Approp. FY 2011</u>	<u>FY 2010 to FY 2011</u>	
				<u>\$ Change</u>	<u>% Change</u>
Debt Service	\$881.5	\$944.7	\$998.3	\$53.6	5.7%
County/Municipal	736.5	385.1	356.8	-28.3	-7.3%
Community Colleges	254.7	256.2	256.1	-0.1	0.0%
Education/Libraries	5,444.1	5,271.5	5,357.5	86.0	1.6%
Health	57.4	37.3	37.3	0.0	0.0%
<i>Aid to Local Governments</i>	<i>\$6,492.7</i>	<i>\$5,950.1</i>	<i>\$6,007.8</i>	<i>\$57.7</i>	<i>1.0%</i>
Foster Care Payments	243.0	240.5	245.0	4.5	1.9%
Assistance Payments	55.3	108.9	69.7	-39.3	-36.0%
Medical Assistance	2,289.2	2,130.3	2,197.4	67.1	3.2%
Property Tax Credits	57.3	74.0	73.5	-0.5	-0.6%
<i>Entitlements</i>	<i>\$2,644.7</i>	<i>\$2,553.7</i>	<i>\$2,585.6</i>	<i>\$31.9</i>	<i>1.2%</i>
Health	1,662.5	1,652.4	1,673.2	20.9	1.3%
Human Resources	375.2	369.6	363.1	-6.4	-1.7%
Systems Reform Initiative	34.3	24.4	20.7	-3.8	-15.4%
Juvenile Services	267.1	260.8	257.2	-3.6	-1.4%
Public Safety/Police	1,450.5	1,396.1	1,414.1	18.0	1.3%
Higher Education	4,443.9	4,619.4	4,735.5	116.2	2.5%
Other Education	432.8	366.8	395.8	29.0	7.9%
Transportation	1,422.1	1,434.8	1,413.4	-21.4	-1.5%
Agric./Natl. Res./Environment	288.3	310.4	321.5	11.1	3.6%
Other Executive Agencies	1,012.6	1,080.1	1,148.6	68.5	6.3%
Legislative	74.0	75.5	75.7	0.2	0.3%
Judiciary	409.2	419.5	419.0	-0.6	-0.1%
Across-the-board Reductions	0.0	0.0	-37.7	-37.7	n/a
<i>State Agencies</i>	<i>\$11,872.4</i>	<i>\$12,009.8</i>	<i>\$12,200.2</i>	<i>\$190.4</i>	<i>1.6%</i>
Total Operating	\$21,891.4	\$21,458.3	\$21,791.9	\$333.6	1.6%
Capital/Heritage Reserve Fund	1,008.7	960.1	860.5	-99.6	-10.4%
Reserve Funds	146.5	114.9	15.0	-99.9	-87.0%
Appropriations	\$23,111.6	\$22,533.3	\$22,667.4	\$134.1	0.6%
Reversions	0.0	-45.5	-30.6	14.9	-32.7%
Grand Total	\$23,111.6	\$22,487.8	\$22,636.8	\$149.0	0.7%

Note: The fiscal 2010 working appropriation includes deficiencies, targeted reversions, and legislative reductions to the deficiencies. The fiscal 2011 legislative appropriation includes \$436.6 million in special fund spending that will be added by budget amendment to replace general fund reductions.

Exhibit A-1.21 Continued)
State Expenditures – All Funds
(\$ in Millions)

<u>Category</u>	<u>Actual FY 2009</u>	<u>Adjusted Work. Appr. FY 2010</u>	<u>Legislative Approp. FY 2011</u>	<u>FY 2010 to FY 2011</u>	
				<u>\$ Change</u>	<u>% Change</u>
Debt Service	\$881.5	\$945.5	\$1,006.0	\$60.4	6.4%
County/Municipal	777.8	467.1	465.4	-1.6	-0.4%
Community Colleges	254.7	256.2	256.1	-0.1	0.0%
Education/Libraries	6,145.2	6,677.6	6,526.4	-151.2	-2.3%
Health	61.9	41.8	41.8	0.0	0.0%
<i>Aid to Local Governments</i>	<i>\$7,239.5</i>	<i>\$7,442.7</i>	<i>\$7,289.8</i>	<i>-\$152.9</i>	<i>-2.1%</i>
Foster Care Payments	351.3	365.9	351.9	-14.0	-3.8%
Assistance Payments	758.7	680.7	885.9	205.2	30.1%
Medical Assistance	5,450.6	5,817.1	6,027.8	210.8	3.6%
Property Tax Credits	57.3	74.0	73.5	-0.5	-0.6%
<i>Entitlements</i>	<i>\$6,617.8</i>	<i>\$6,937.7</i>	<i>\$7,339.2</i>	<i>\$401.5</i>	<i>5.8%</i>
Health	2,546.1	2,565.7	2,633.3	67.6	2.6%
Human Resources	946.0	935.2	888.1	-47.1	-5.0%
Systems Reform Initiative	41.5	31.8	28.4	-3.4	-10.7%
Juvenile Services	274.5	277.0	273.2	-3.8	-1.4%
Public Safety/Police	1,472.0	1,503.5	1,510.9	7.4	0.5%
Higher Education	4,443.9	4,619.4	4,735.5	116.2	2.5%
Other Education	645.4	667.8	622.9	-44.9	-6.7%
Transportation	1,515.9	1,523.2	1,503.6	-19.6	-1.3%
Agric./Natl. Res./Environment	346.8	391.4	390.6	-0.8	-0.2%
Other Executive Agencies	1,472.1	1,745.2	1,673.1	-72.1	-4.1%
Legislative	74.0	75.5	75.7	0.2	0.3%
Judiciary	413.0	423.7	423.0	-0.8	-0.2%
Across-the-board Reductions	0.0	0.0	-48.2	-48.2	n/a
<i>State Agencies</i>	<i>\$14,191.2</i>	<i>\$14,759.4</i>	<i>\$14,710.0</i>	<i>-\$49.4</i>	<i>-0.3%</i>
Total Operating	\$28,930.1	\$30,085.2	\$30,344.9	\$259.7	0.9%
Capital/Heritage Reserve Fund	1,728.9	2,128.4	1,645.3	-483.1	-22.7%
Reserve Funds	146.5	114.9	15.0	-99.9	-87.0%
Appropriations	\$30,870.5	\$32,328.6	\$32,005.2	-\$323.3	-1.0%
Reversions	0.0	-45.5	-30.6	14.9	-32.7%
Grand Total	\$30,870.5	\$32,283.1	\$31,974.6	-\$308.4	-1.0%

Note: The fiscal 2010 working appropriation includes deficiencies, targeted reversions, and legislative reductions to the deficiencies. The fiscal 2011 legislative appropriation includes \$436.6 million in special fund spending that will be added by budget amendment to replace general fund reductions.

Capital Budget

The 2010 General Assembly passed a capital budget program totaling \$3.062 billion, including \$1.516 billion for the transportation program. Apart from transportation, the program totals \$1.546 billion: \$1.140 billion is funded with general obligation (GO) bonds authorized in the Maryland Consolidated Capital Bond Loan of 2010 (MCCBL), the 2010 capital budget bill *Senate Bill 142 (passed)*; \$4.543 million is funded with Qualified Zone Academy Bonds (QZAB) authorized in *Senate Bill 202 (passed)*; \$224.6 million is funded on a pay-as-you-go (PAYGO) basis in the operating budget; \$150.0 million is funded with revenue bonds to be issued by the Maryland Department of the Environment to support State and local efforts to upgrade wastewater treatment plants; and \$27.0 million is funded with academic revenue bonds for University System of Maryland facilities authorized in *Senate Bill 897 (passed)*.

Exhibit A-2.1 presents an overview of the State's capital program for fiscal 2011, **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 2010 MCCBL. The 2010 MCCBL includes funding for:

- State facilities, including colleges and universities, hospitals, Department of Disabilities accessibility modifications, correctional facilities, and the public safety communication system;
- grants to local governments for public 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, 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
Capital Program Summary for the 2011 Session
(\$ in Millions)

Function	Bonds		Current Funds (PAYGO)			Total
	General Obligation	Revenue	General	Special	Federal	
State Facilities						\$26.2
Facilities Renewal	\$10.4	\$0.0	\$0.0	\$0.0	\$0.0	
State Facilities Other	15.8	0.0	0.0	0.0	0.0	
Health/Social						43.7
Health Other	20.9	0.0	0.0	0.0	0.0	
Health State Facilities	5.8	0.0	0.0	0.0	0.0	
Private Hospitals	17.0	0.0	0.0	0.0	0.0	
Environment						643.5
Agriculture	29.8	0.0	0.0	14.3	2.0	
Energy	0.0	0.0	0.0	3.3	4.0	
Environment	172.3	150.0	0.8	105.3	24.7	
Natural Resources	118.2	0.0	0.0	3.6	15.3	
Public Safety						25.9
Local Jails	5.5	0.0	0.0	0.0	0.0	
State Corrections	17.8	0.0	0.0	0.0	0.0	
State Police	2.5	0.0	0.0	0.0	0.0	
Education						268.8
Education Other	9.1	0.0	0.0	0.0	0.0	
School Construction	259.7	0.0	0.0	0.0	0.0	
Higher Education						352.0
Community Colleges	78.7	0.0	0.0	0.0	0.0	
Morgan State University	30.5	0.0	0.0	0.0	0.0	
Private Colleges/Universities	8.0	0.0	0.0	0.0	0.0	
University System	207.8	27.0	0.0	0.0	0.0	
Housing/Community Development						79.0
Housing	37.4	0.0	0.0	23.4	17.9	
Housing Other	0.2	0.0	0.0	0.1	0.0	
Economic Development						14.3
Economic Development	4.3	0.0	0.0	0.0	0.0	
Historic Tax Credit	0.0	0.0	10.0	0.0	0.0	
Local Projects						43.3
Local Project Administration	25.8	0.0	0.0	0.0	0.0	
Local Project Legislative	17.6	0.0	0.0	0.0	0.0	

Function	Bonds		Current Funds (PAYGO)			Total
	General Obligation	Revenue	General	Special	Federal	
Transportation						89.3
Highways	89.3	0.0	0.0	0.0	0.0	
De-authorizations						-39.7
De-authorizations	-39.7	0.0	0.0	0.0	0.0	
Total Fiscal 2011	\$1,144.5	\$177.0	\$10.8	\$150.0	\$63.8	\$1,546.1
Transportation	\$0.0	\$205.0	\$0.0	\$484.4	\$826.2	\$1,515.6
Grand Total Fiscal 2010	\$1,144.5	\$382.0	\$10.8	\$634.4	\$890.0	\$3,061.7

Exhibit A-2.2
Capital Program for the 2010 Session

		Bonds		Current Funds (PAYGO)			
Budget Code	Project Title	General Obligation	Revenue	General	Special	Federal	Total Funds
State Facilities							
DA0201A	MDOD: Accessibility Modifications	\$1,600,000	\$0	\$0	\$0	\$0	\$1,600,000
DE0201A	BPW: Saratoga State Center Garage	350,000	0	0	0	0	350,000
DE0201B	BPW: Facilities Renewal Fund	10,000,000	0	0	0	0	10,000,000
FB01A	DoIT: Public Safety Communications System	14,200,000	0	0	0	0	14,200,000
Subject Category Subtotal:		\$26,150,000	\$0	\$0	\$0	\$0	\$26,150,000
Health/Social							
DA07A	MDOA: Senior Citizens Activities Centers	\$250,000	\$0	\$0	\$0	\$0	\$250,000
MA01A	DHMH: Community Health Facilities	7,423,000	0	0	0	0	7,423,000
MA01B	DHMH: Federally Qualified Health Centers	3,218,000	0	0	0	0	3,218,000
MM06	DHMH: New Secure Evaluation and Therapeutic Treatment Center	1,150,000	0	0	0	0	1,150,000
RQ00A	UMMS: Trauma, Critical Care, and Emergency Medicine Services Expansion Project	10,000,000	0	0	0	0	10,000,000
VE01A	DJS: Southern Maryland Regional Detention Center	4,650,000	0	0	0	0	4,650,000
ZA00E	MISC: Johns Hopkins Medicine – Cardiovascular and Critical Care Tower	2,500,000	0	0	0	0	2,500,000
ZA00F	MISC: Johns Hopkins Medicine – Pediatric Trauma Center	5,000,000	0	0	0	0	5,000,000

Budget Code	Project Title	Bonds		Current Funds (PAYGO)			Total Funds
		General Obligation	Revenue	General	Special	Federal	
ZA00G	MISC: Kennedy Krieger Institute – Inpatient Clinical Research Center	2,000,000	0	0	0	0	2,000,000
ZA01A	MHA: Sinai Hospital of Baltimore, Inc.	425,000	0	0	0	0	425,000
ZA01B	MHA: University Specialty Hospital	455,000	0	0	0	0	455,000
ZA01C	MHA: Carroll Hospital Center	700,000	0	0	0	0	700,000
ZA01D	MHA: Union Hospital of Cecil County	2,000,000	0	0	0	0	2,000,000
ZA01E	MHA: Civista Medical Center	165,000	0	0	0	0	165,000
ZA01F	MHA: Harford Memorial Hospital	1,015,000	0	0	0	0	1,015,000
ZA01G	MHA: Peninsula Regional Medical Center	240,000	0	0	0	0	240,000
Section 17	MISC: Sinai Hospital – Samuelson Children’s Hospital at Sinai	2,500,000	0	0	0	0	2,500,000
Subject Category Subtotal:		\$43,691,000	\$0	\$0	\$0	\$0	\$43,691,000
Environment							
DA1302	MEA: Jane E. Lawton Loan Program	\$0	\$0	\$0	\$2,187,925	\$2,562,075	\$4,750,000
DA1303	MEA: State Agency Loan Program	0	0	0	1,100,000	1,400,000	2,500,000
KA05A	DNR: Community Parks and Playgrounds	2,500,000	0	0	0	0	2,500,000
KA05B	DNR: Rural Legacy Program	16,953,500	0	0	0	0	16,953,500
KA05C	DNR: Natural Resources Development Fund	10,126,000	0	0	0	0	10,126,000
KA05D	DNR: Program Open Space	65,183,500	0	0	1,500,000	14,262,274	80,945,774
KA05E	DNR: Critical Maintenance Program	6,586,000	0	0	0	0	6,586,000
KA05F	DNR: Dam Rehabilitation Program	150,000	0	0	0	0	150,000
KA05G	DNR: Ocean City Beach Replenishment Fund	6,459,000	0	0	1,000,000	0	7,459,000
KA05H	DNR: Waterway Improvement Fund	10,192,000	0	0	1,066,000	1,000,000	12,258,000

Budget Code	Project Title	Bonds		Current Funds (PAYGO)			Total Funds
		General Obligation	Revenue	General	Special	Federal	
LA11A	MDA: Maryland Agricultural Land Preservation	17,814,000	0	0	12,060,000	2,000,000	31,874,000 ¹⁰
LA12A	MDA: Tobacco Transition Program	2,000,000	0	0	2,256,000	0	4,256,000
LA15A	MDA: Maryland Agricultural Cost Share	10,000,000	0	0	0	0	10,000,000
UA010304	MDE: Hazardous Substance Cleanup Program	0	0	800,000	0	0	800,000
UA010312	MDE: Bay Restoration Fund – Septic Systems	0	0	0	9,000,000	0	9,000,000
UA01A	MDE: Enhanced Nutrient Removal	125,000,000	150,000,000	0	0	0	275,000,000 ¹¹
UA01B	MDE: Maryland Water Quality Revolving Loan Fund	3,292,000	0	0	90,208,000	16,500,000	110,000,000
UA01C	MDE: Maryland Drinking Water Revolving Loan Fund	2,242,000	0	0	6,075,000	8,183,000	16,500,000
UA04A1	MDE: Biological Nutrient Removal Program	33,300,000	0	0	0	0	33,300,000
UA04A2	MDE: Supplemental Assistance Program	5,000,000	0	0	0	0	5,000,000
UA04B	MDE: Water Supply Financial Assistance Program	3,500,000	0	0	0	0	3,500,000
Subject Category Subtotal:		\$320,298,000	\$150,000,000	\$800,000	\$126,452,925	\$45,907,349	\$643,458,274
Public Safety							
QB0801A	DPSCS: Vocational Education Building	\$321,000	\$0	\$0	\$0	\$0	\$321,000
QP00A	DPSCS: New Youth Detention Facility	17,520,000	0	0	0	0	17,520,000 ¹²
Section 2	DSP: New Hagerstown Barrack and Garage	2,525,000	0	0	0	0	2,525,000
Section 2	DPSCS: St. Mary's County Detention Center	5,513,000	0	0	0	0	5,513,000
Subject Category Subtotal:		\$25,879,000	\$0	\$0	\$0	\$0	\$25,879,000

		Bonds	Current Funds (PAYGO)				
Budget Code	Project Title	General Obligation	Revenue	General	Special	Federal	Total Funds
Education							
DE0202A	BPW: Public School Construction Program	\$250,000,000	\$0	\$0	\$0	\$0	\$250,000,000
DE0202B	BPW: Aging Schools Program	5,109,000	0	0	0	0	5,109,000
DE0202BQ	BPW: Aging Schools Program – Qualified Zone Academy Bonds	4,543,000	0	0	0	0	4,543,000
RA01A	MSDE: Public Library Grant Program	5,000,000	0	0	0	0	5,000,000
RE01A	MSD: Bus Loop and Parking Lot – Frederick Campus	1,606,000	0	0	0	0	1,606,000
Section 2	MSDE: Western Regional Library	2,500,000	0	0	0	0	2,500,000
Subject Category Subtotal:		\$268,758,000	\$0	\$0	\$0	\$0	\$268,758,000
Higher Education							
RB21A	UMB: School of Pharmacy Addition and Renovation	\$2,606,000	\$0	\$0	\$0	\$0	\$2,606,000
RB22A	UMCP: Physical Sciences Complex	41,100,000	0	0	0	0	41,100,000
RB22B	UMCP: Maryland Fire and Rescue Institute – North East Regional Training Center	331,000	0	0	0	0	331,000
RB22C	UMCP: Shipley Field Improvements	100,000	0	0	0	0	100,000
RB22D	UMCP: East Campus Redevelopment	5,000,000	0	0	0	0	5,000,000
RB23A	BSU: Campuswide Site Improvements	200,000	0	0	0	0	200,000
RB23B	BSU: Turf Field	1,000,000	0	0	0	0	1,000,000
RB25A	UMES: New Engineering and Aviation Science Building	3,000,000	0	0	0	0	3,000,000
RB26A	FSU: New Center for Communications and Information Technology	2,681,000	0	0	0	0	2,681,000

Part A – Budget and State Aid

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Budget Code	Project Title	Bonds		Current Funds (PAYGO)			Total Funds
		General Obligation	Revenue	General	Special	Federal	
RB27A	CSU: New Science and Technology Center	6,497,000	0	0	0	0	6,497,000
RB28A	UB: New Law School Building	37,300,000	0	0	0	0	37,300,000 ¹⁷
RB31A	UMBC: New Performing Arts and Humanities Facility	37,400,000	0	0	0	0	37,400,000 ¹⁸
RB36RB	USMO: Facility Renewal	0	17,000,000	0	0	0	17,000,000
RI00A	MHEC: Community College Facilities Grant Program	43,359,000	0	0	0	0	43,359,000 ¹⁹
RM00A	MSU: Bancker Hall Renovation	3,265,000	0	0	0	0	3,265,000
RM00B	MSU: New School of Business Complex	250,000	0	0	0	0	250,000
ZA00I	MICUA: Goucher College	3,000,000	0	0	0	0	3,000,000
ZA00J	MICUA: Hood College	2,000,000	0	0	0	0	2,000,000
ZA00K	MICUA: Stevenson University	3,000,000	0	0	0	0	3,000,000
Section 2	MSU: Morgan State University: New Center for the Built Environment	26,935,000	0	0	0	0	26,935,000 ²⁰
Section 2	BSU: Bowie State University: New Fine and Performing Arts Building	32,053,000	0	0	0	0	32,053,000 ²¹
Section 2	TU: Towson University: New College of Liberal Arts Complex Phase II	28,650,000	10,000,000	0	0	0	38,650,000 ²²
Section 2	SU: Salisbury University: New Perdue School of Business	9,869,000	0	0	0	0	9,869,000 ²³
Section 2	MHEC: Community College Facilities Grant Program	35,386,000	0	0	0	0	35,386,000 ²⁴
Subject Category Subtotal:		\$324,982,000	\$27,000,000	\$0	\$0	\$0	\$351,982,000

		Bonds		Current Funds (PAYGO)			
Budget Code	Project Title	General Obligation	Revenue	General	Special	Federal	Total Funds
Housing/Community Development							
DW0110A	MDOP: Maryland Historical Preservation Loan Program	\$200,000	\$0	\$0	\$100,000	\$0	\$300,000
S00A2402	DHCD: Community Development Block Grant Program	0	0	0	0	10,000,000	10,000,000
S00A2507	DHCD: Rental Housing Programs	0	0	0	21,500,000	5,200,000	26,700,000
SA24A	DHCD: Community Legacy Program	4,646,000	0	0	0	0	4,646,000
SA24B	DHCD: Neighborhood Business Development Program	6,666,000	0	0	0	0	6,666,000
SA25A	DHCD: Partnership Rental Housing Program	4,100,000	0	0	1,900,000	0	6,000,000
SA25B	DHCD: Homeownership Programs	8,500,000	0	0	0	0	8,500,000
SA25C	DHCD: Shelter and Transitional Housing Facilities Grant Program	2,000,000	0	0	0	0	2,000,000
SA25D	DHCD: Special Loan Programs	9,520,000	0	0	0	2,700,000	12,220,000
SA25E	DHCD: Maryland Affordable Housing Trust	2,000,000	0	0	0	0	2,000,000
Subject Category Subtotal:		\$37,632,000	\$0	\$0	\$23,500,000	\$17,900,000	\$79,032,000
Economic Development							
DA03A	MSA: Ocean City Convention Center Expansion	\$4,300,000	\$0	\$0	\$0	\$0	\$4,300,000
D40W1112	MDOP: Maryland Heritage Structure Rehabilitation Tax Credit Program	0	0	10,000,000	0	0	10,000,000
Subject Category Subtotal:		\$4,300,000	\$0	\$10,000,000	\$0	\$0	\$14,300,000

		Bonds		Current Funds (PAYGO)			
Budget Code	Project Title	General Obligation	Revenue	General	Special	Federal	Total Funds
Local Projects							
ZA00A	MISC: Baltimore Museum of Art	2,500,000	0	0	0	0	2,500,000
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
ZA00H	MISC: Lyric Opera House – Stage House Expansion	1,500,000	0	0	0	0	1,500,000
ZA00L	MISC: Maryland Zoo in Baltimore – Infrastructure Improvements	5,000,000	0	0	0	0	5,000,000
ZA00M	MISC: National Aquarium in Baltimore – Capital Infrastructure Projects	3,500,000	0	0	0	0	3,500,000
ZA00N	MISC: National Children’s Museum	5,000,000	0	0	0	0	5,000,000
ZA00O	MISC: St. Ann’s Infant and Maternity Home	750,000	0	0	0	0	750,000
ZA00P	MISC: Devil’s Backbone Dam	550,000	0	0	0	0	550,000
ZA00Q	MISC: Wicomico Youth and Civic Center	1,500,000	0	0	0	0	1,500,000
ZA00R	MISC: South River High School Athletic Field Lights	200,000	0	0	0	0	200,000
ZA00S	MISC: Bates Middle School Track	100,000	0	0	0	0	100,000
ZA00T	MISC: Old Mill High School Athletic Field Lights	200,000	0	0	0	0	200,000
ZA02	Local Senate Initiatives	7,500,000	0	0	0	0	7,500,000
ZA02	Local House Initiatives	7,500,000	0	0	0	0	7,500,000
Subject Category Subtotal:		\$43,300,000	\$0	\$0	\$0	\$0	\$43,300,000
Transportation							
ZA00D	MDTA: InterCounty Connector	\$89,278,441	\$0	\$0	\$0	\$0	\$89,278,441
Subject Category Subtotal:		\$89,278,441	\$0	\$0	\$0	\$0	\$89,278,441

Budget Code	Project Title	Bonds		Current Funds (PAYGO)			Total Funds
		General Obligation	Revenue	General	Special	Federal	
	De-authorizations						
Section 2	Additional De-authorizations	-\$10,239,441	\$0	\$0	\$0	\$0	-\$10,239,441
Section 2	De-authorizations as Introduced and Amended	-29,486,000	0	0	0	0	-29,486,000
	Subject Category Subtotal:	-\$39,725,441	\$0	\$0	\$0	\$0	-\$39,725,441
	Non-Transportation Total	\$1,144,543,000	\$177,000,000	\$10,800,000	\$149,952,925	\$63,807,349	\$1,546,103,274
	Transportation Total	\$0	\$205,000,000	\$0	\$484,442,000	\$826,247,000	\$1,515,689,000
	Grand Total	\$1,144,543,000	\$382,000,000	\$10,800,000	\$634,394,925	\$890,054,349	\$3,061,792,274

BPW: Board of Public Works
 BSU: Bowie State University
 CSU: Coppin State University
 DHCD: Department of Housing and Community Development
 DHMH: Department of Health and Mental Hygiene
 DoIT: Department of Information Technology
 DJS: Department of Juvenile Services
 DNR: Department of Natural Resources
 DPSCS: Department of Public Safety and Correctional Services
 DSP: Department of State Police
 FSU: Frostburg State University
 MDA: Maryland Department of Agriculture

MDE: Maryland Department of the Environment
 MDOA: Maryland Department of Aging
 MDOD: Maryland Department of Disabilities
 MDOP: Maryland Department of Planning
 MDTA: Maryland Transportation Authority
 MEA: Maryland Energy Administration
 MHA: Maryland Hospital Administration
 MHEC: Maryland Higher Education Commission
 MICUA: Maryland Independent College and University Association
 MSA: Maryland Stadium Authority
 MSD: Maryland School for the Deaf

MSDE: Maryland State Department of Education
 MSU: Morgan State University
 SU: Salisbury University
 TU: Towson University
 UB: University of Baltimore
 UMB: University of Maryland, Baltimore
 UMBC: University of Maryland Baltimore County
 UMCP: University of Maryland, College Park
 UMES: University of Maryland Eastern Shore
 UMMS: University of Maryland Medical System
 USMO: University System of Maryland Office

¹ This reflects funds pre-authorized in the 2009 Maryland Consolidated Capital Bond Loan (MCCBL) for fiscal 2011.

² Language restricts the \$2.0 million special fund appropriation for the Jane E. Lawton Program to be used only to fund loans through the State Agency Loan Program.

³ The \$10.6 million general obligation (GO) bond authorization fully replaces unexpended available fund balance transferred to the general fund in the Budget Reconciliation and Financing Act of 2010 (BRFA). The authorization also provides \$6.3 million to partially replace the \$12.6 million of special funds allocated through the transfer tax formula also transferred to the general fund in the BRFA of 2010. A separate provision provides a pre-authorization in the amount of \$6.3 million for the 2011 session to provide the remainder of the replacement funding.

⁴ This reflects the full replacement of available unexpended fund balance transferred to the general fund in the BRFA of 2010.

⁵ The GO bond authorization includes \$5.0 million to partially replace the fiscal 2011 allocation of \$10.0 million of transfer tax for Program Open Space Stateside transferred to the general fund in the BRFA of 2010. A separate provision provides a pre-authorization in the amount of \$5.0 million for the 2011 session to provide the remainder of the replacement funding.

⁶ This reflects GO bond replacement for \$3.3 million of unexpended fund balance and \$3.2 million of fiscal 2011 transfer tax allocation transferred to the general fund in the BRFA of 2010.

⁷ This reflects the partial replacement of \$0.7 million of fund balance transferred to the general fund in the BRFA of 2010 – \$0.2 million is replaced in fiscal 2011 with the remaining \$0.5 million programmed in the 2010 *Capital Improvement Program* (CIP) for fiscal 2012.

⁸ This reflects the full replacement of local and stateside transfer tax allocations and local participation funds available in the Ocean City Beach Replenishment Fund transferred to the general fund in the BRFA of 2010.

⁹ The GO bond funds reflect the partial replacement of available unexpended fund balance transferred to the general fund in the BRFA of 2010. A total of \$16.4 million is transferred to the general fund with \$10.2 million of GO bond fund replacement in fiscal 2011 and another \$6.3 million of GO bond replacement programmed for fiscal 2012 in the 2010 CIP.

¹⁰ The authorization reflects the full replacement of \$10.0 million of unexpended fund balance transferred to the general fund in the BRFA of 2010. The authorization also provides \$7.8 million to replace the fiscal 2011 allocation of transfer tax revenues for this program transferred to the general fund in the BRFA of 2010; the remaining \$4.0 million to fully fund the program is derived from an appropriation to the Maryland Agricultural and Resource-Based Industry Development Corporation which cannot be used for the installment purchase program and instead will be used to support Maryland Agricultural Land Preservation Foundation easements.

¹¹ The BRFA of 2010 transfers \$155.0 million of unexpended fund balance and another \$45.0 million of fiscal 2011 revenues from the Bay Restoration Fund of which \$125.0 million is replaced with GO bond funds in fiscal 2011, and another \$75.0 million of GO bond replacement is programmed for fiscal 2012 in the 2010 CIP.

¹² An additional \$38.0 million is included as a pre-authorization for fiscal 2012 and \$26.5 million included as a pre-authorization for fiscal 2013 to complete the construction funding for this project and allow the project to be bid for construction during fiscal 2011.

¹³ An additional \$12.2 million is available from Interagency Committee on School Construction contingency funds bringing the total amount available in fiscal 2011 to \$262.2 million.

¹⁴ Language authorizes the use of \$1.0 million of Qualified Zone Academy Bonds for the Aging Schools Program to be distributed in accordance with Section 5-206 of the Education Article.

¹⁵ An additional \$2.5 million is included as a pre-authorization for fiscal 2012.

¹⁶ An additional \$44.1 million is included as a pre-authorization for fiscal 2012 and \$10.6 million included as a pre-authorization for fiscal 2013 to complete the construction funding for this project and allow the project to be bid for construction during fiscal 2011.

¹⁷ An additional \$38.5 million is included as a pre-authorization for fiscal 2012 to complete the construction funding for this project and allow the project to be bid for construction during fiscal 2011.

¹⁸ An additional \$38.4 million is included as a pre-authorization for fiscal 2012 to complete the construction funding for this project and allow the project to be bid for construction during fiscal 2011.

¹⁹ There is an additional \$35.4 million pre-authorized for fiscal 2011 in the 2009 MCCBL bringing the total amount of new funds authorized in fiscal 2011 to \$78.8 million.

²⁰ This reflects the GO bond funds pre-authorized in the 2009 MCCBL for fiscal 2011.

²¹ This reflects the GO bond funds pre-authorized in the 2009 MCCBL for fiscal 2011. The amount authorized is \$2.0 million lower than the pre-authorized amount and also allows the funds to be used for equipment as amended which reflects savings based on the construction contract bid and award.

²² This reflects the GO bond funds pre-authorized in the 2009 MCCBL for fiscal 2011. The amount authorized is \$7.1 million lower than the pre-authorized amount and also allows the funds to be used for equipment as amended which reflects savings based on the construction contract bid and award.

²³ This reflects the GO bond funds pre-authorized in the 2009 MCCBL for fiscal 2011. The amount authorized is \$4.5 million lower than the pre-authorized amount and also allows the funds to be used for equipment as amended which reflects savings based on the construction contract bid and award.

²⁴ This reflects the GO bond funds pre-authorized in the 2009 MCCBL for fiscal 2011. The amount authorized is \$4.2 million lower than the pre-authorized amount which reflects savings based on the construction contract bid and award for the Hagerstown Community College Arts and Science Complex and Prince George's Community College Center for Health Studies.

²⁵ The special fund appropriation consists of special fund revenues available and to accrue in the Rental Housing Program as well as special funds to be transferred from the Homeownership and Special Loan programs. All transferred funds are replaced with GO bond funds in the fiscal 2011 capital budget.

²⁶ This includes \$0.4 million of GO bond funds to replace fund balance transferred to the general fund in the BRFA of 2010.

²⁷ This includes GO bond funds to replace \$3.6 million of available fund balance and \$3.2 million of fiscal 2011 special fund revenues transferred to the general fund in the BRFA of 2010.

²⁸ This includes GO bond funds to replace \$3.0 million of fiscal 2011 special fund revenues transferred to the general fund in the BRFA of 2010.

²⁹ This includes GO bond funds to replace \$2.1 million of available fund balance and \$2.5 million of fiscal 2011 special fund revenues transferred to the general fund in the BRFA of 2010.

Exhibit A-2.3 Legislative Projects/Initiatives – 2010 Session

<u>Project Title</u>	<u>Senate Initiative</u>	<u>House Initiative</u>	<u>Total Funding</u>	<u>Match/ Requirements</u>
Statewide				
Capital Area Food Bank	\$0	\$125,000	\$125,000	Soft (1)
Linwood Center	0	500,000	500,000	Soft (1)
Little Sisters of the Poor	500,000	0	500,000	Soft (all)
Maryland Food Bank	0	125,000	125,000	Grant
Museum of Industry	250,000	0	250,000	Soft (all)
Museum of the Maryland Historical Society	150,000	0	150,000	Grant
National Center for Children and Families Youth Activities Center	0	250,000	250,000	Soft (all)
Subtotal:	\$900,000	\$1,000,000	\$1,900,000	
Allegany				
Allegany Museum	\$75,000	\$75,000	\$150,000	Soft (all)
Subtotal:	\$75,000	\$75,000	\$150,000	
Anne Arundel				
Annapolis High School Booster Club Concession Stand	\$0	\$75,000	\$75,000	Soft (2, 3)
Coordinating Center for Home and Community Care Building Facilities	200,000	0	200,000	Hard
Reece Road Community Health Center	250,000	0	250,000	Soft (1)
Southern and Broadneck High School Field Lights	0	375,000	375,000	Soft (all)
William Paca House	0	200,000	200,000	Soft (3)
Subtotal:	\$450,000	\$650,000	\$1,100,000	
Baltimore City				
2101-2111 Pennsylvania Avenue Development Project	\$35,000	\$0	\$35,000	Hard
Academy of Success Community Empowerment Center	0	100,000	100,000	Soft (2, 3)
Baltimore Leadership School for Young Women	135,000	0	135,000	Soft (3)
Collington Square Community Kitchen	100,000	0	100,000	Hard
Creative Alliance	0	50,000	50,000	Soft (1, 2)
Dayspring Square	0	200,000	200,000	Soft (1, 3)

<u>Project Title</u>	<u>Senate Initiative</u>	<u>House Initiative</u>	<u>Total Funding</u>	<u>Match/ Requirements</u>
Baltimore City (Cont.)				
Druid Hill Family Center Y Revitalization	65,000	0	65,000	Hard
Fine Arts Center for Archbishop Curley High School	100,000	0	100,000	Hard
Franklin Entrepreneurial and Apprenticeship Center	45,000	75,000	120,000	Hard
Glen Avenue Firehouse	0	75,000	75,000	Soft (all)
Greenmount West Community Resource Center	0	100,000	100,000	Soft (1, 2)
Maryland SPCA Adoption Center Expansion	50,000	50,000	100,000	Hard
Port Discovery	75,000	25,000	100,000	Hard
Sandi's Learning Center	100,000	0	100,000	Hard
Southeast Neighborhood Development Center	150,000	150,000	300,000	Hard
Stadium Place	200,000	100,000	300,000	Soft (2, 3)
Swann Avenue Firehouse	0	75,000	75,000	Soft (all)
The Women's Veteran's Center	20,000	30,000	50,000	Soft (2)
Subtotal:	\$1,075,000	\$1,030,000	\$2,105,000	
Baltimore				
Arbutus Volunteer Fire Department Hall	\$0	\$100,000	\$100,000	Grant
Augsburg Lutheran Home of Maryland	150,000	150,000	300,000	Hard
Automotive Vocational Training Center	0	100,000	100,000	Soft (2, 3)
Baltimore County Humane Society	75,000	75,000	150,000	Soft (all)
HopeWell Cancer Support Facility	75,000	100,000	175,000	Hard
Milford Mill Academy Sign	0	40,000	40,000	Grant
North County Park	0	100,000	100,000	Grant
Owings Mills High School Stadium	50,000	50,000	100,000	Soft (2)
Randallstown High School	0	40,000	40,000	Grant
Woodlawn High School	0	40,000	40,000	Grant
Subtotal:	\$350,000	\$795,000	\$1,145,000	
Calvert				
Kellam's Field	\$125,000	\$125,000	\$250,000	Soft (all)
Subtotal:	\$125,000	\$125,000	\$250,000	
Carroll				
Carroll County Agriculture Center	\$150,000	\$0	\$150,000	Soft (2, 3)
Subtotal:	\$150,000	\$0	\$150,000	

<u>Project Title</u>	<u>Senate Initiative</u>	<u>House Initiative</u>	<u>Total Funding</u>	<u>Match/ Requirements</u>
Cecil				
Lower Susquehanna Heritage Greenway	\$0	\$150,000	\$150,000	Soft (1, 2)
Subtotal:	\$0	\$150,000	\$150,000	
Charles				
Hospice House	\$45,000	\$150,000	\$195,000	Soft (all)
Kamp A-Kom-Plish Facility	80,000	0	80,000	Hard
Potomac Heights Housing Complex	75,000	0	75,000	Soft (all)
Subtotal:	\$200,000	\$150,000	\$350,000	
Dorchester				
Dorchester Center for the Arts Performance Hall	\$10,000	\$0	\$10,000	Soft (2)
Dorchester County Family YMCA	70,000	0	70,000	Soft (all)
Richardson Maritime Heritage Center	50,000	0	50,000	Soft (1)
Subtotal:	\$130,000	\$0	\$130,000	
Frederick				
Way Station	\$200,000	\$100,000	\$300,000	Soft (1, 3)
Subtotal:	\$200,000	\$100,000	\$300,000	
Garrett				
Oakland B&O Museum	\$100,000	\$100,000	\$200,000	Soft (all)
Subtotal:	\$100,000	\$100,000	\$200,000	
Harford				
Nuttal Avenue Park	\$0	\$100,000	\$100,000	Hard
The Citizens Care and Rehabilitation Center	0	100,000	100,000	Hard
Subtotal:	\$0	\$200,000	\$200,000	
Howard				
Alpha Ridge Park	\$0	\$75,000	\$75,000	Hard
Carroll Baldwin Hall	50,000	0	50,000	Soft (all)
Living Farm Heritage Museum	0	35,000	35,000	Soft (2, 3)
Symphony Woods Park	190,000	60,000	250,000	Hard
Troy Regional Park	225,000	230,000	455,000	Hard
Watson Telescope Observatory	25,000	0	25,000	Soft (all)
Subtotal:	\$490,000	\$400,000	\$890,000	

<u>Project Title</u>	<u>Senate Initiative</u>	<u>House Initiative</u>	<u>Total Funding</u>	<u>Match/ Requirements</u>
Montgomery				
Cabin John Park Tai Chi Court	\$0	\$40,000	\$40,000	Soft (2, 3)
Camp Brighton Woods	40,000	100,000	140,000	Soft (3)
Cinnamon Woods Environmental and Safety Lighting Upgrade	100,000	0	100,000	Hard
Garrett Park Community Center	100,000	0	100,000	Soft (1, 2)
Identity House	30,000	100,000	130,000	Soft (1, 2)
Ivymount School Annex Building	125,000	50,000	175,000	Soft (3)
JFGH Activity Center	150,000	0	150,000	Soft (all)
Lake Whetstone Hillside Stabilization	20,000	0	20,000	Hard
Maydale Nature Center	20,000	35,000	55,000	Grant
Miracle League Baseball Field	125,000	125,000	250,000	Hard
Montgomery Village Martin Roy Park Pavilion	30,000	0	30,000	Hard
National Labor College Academic Services Building	150,000	0	150,000	Soft (3)
RCI Group Home Renovations	75,000	25,000	100,000	Hard
Rockville Fitness Center and Exercise Room Expansion	20,000	100,000	120,000	Soft (all)
Sandy Spring Museum	65,000	35,000	100,000	Soft (2, 3)
Threshold Services Group Home Renovations	0	50,000	50,000	Soft (all)
Warner Manor	275,000	0	275,000	Hard
Subtotal:	\$1,325,000	\$660,000	\$1,985,000	
Prince George's				
Allen Pond Park	\$80,000	\$0	\$80,000	Hard
Bladensburg Market Square II	100,000	0	100,000	Soft (all)
CASA Multi-Cultural Service Center	0	200,000	200,000	Soft (2)
Community Forklift Facility	100,000	100,000	200,000	Hard
Daughter for the Day	65,000	0	65,000	Soft (2)
Evangel Assembly Family Life Center	65,000	0	65,000	Soft (2)
Forestville Military Academy Track	180,000	0	180,000	Soft (all)
Glenarden Senior Center	0	50,000	50,000	Grant
Henson Valley Montessori School	0	100,000	100,000	Hard
John E. Feggans Center Renovation	150,000	55,000	205,000	Hard
La Vida Sana (Healthy Living Farm)	50,000	25,000	75,000	Soft (all)
Largo High School PTSA Track Renovation	180,000	0	180,000	Soft (all)
LARS Facility Renovation	0	100,000	100,000	Hard

<u>Project Title</u>	<u>Senate Initiative</u>	<u>House Initiative</u>	<u>Total Funding</u>	<u>Match/ Requirements</u>
Prince George's (Cont.)				
Laurel Police Department Facility – Community Space	150,000	0	150,000	Soft (3)
Marlboro Meadows Senior Center	50,000	0	50,000	Soft (1, 2)
Marleigh Community Safety and Surveillance System	20,000	0	20,000	Hard (U)
Prince George's Volunteer Fire Department	0	250,000	250,000	Soft (all)
SEED Recreation Center	0	50,000	50,000	Hard
Sheriff Road Village Center	0	100,000	100,000	Soft (all)
South County Community Center	125,000	175,000	300,000	Soft (1, 3)
St. Mary's School Gymnasium and Multi-Purpose Room	25,000	0	25,000	Hard
Thomas Johnson Middle School Sign Board	25,000	0	25,000	Soft (2)
Walker Mill Daycare and Training Center	0	100,000	100,000	Soft (2)
Youth Fitness Facility	20,000	0	20,000	Hard
Subtotal:	\$1,385,000	\$1,305,000	\$2,690,000	
Queen Anne's				
Hospice of Queen Anne's	\$25,000	\$0	\$25,000	Hard
Kennard High School Restoration	75,000	0	75,000	Soft (2)
Queen Anne's County YMCA	50,000	0	50,000	Soft (1)
Subtotal:	\$150,000	\$0	\$150,000	
St. Mary's				
St. Mary's County Fairgrounds	\$0	\$60,000	\$60,000	Soft (all)
United States Colored Troops Memorial Monument	0	150,000	150,000	Soft (all)
Subtotal:	\$0	\$210,000	\$210,000	
Talbot				
Family Support Center	\$10,000	\$0	\$10,000	Soft (1, 2)
Subtotal:	\$10,000	\$0	\$10,000	
Washington				
Deafnet Building	\$50,000	\$50,000	\$100,000	Soft (3)
Museum of Fine Arts	50,000	50,000	100,000	Hard
Rural Heritage Transportation Museum	75,000	0	75,000	Hard
Subtotal:	\$175,000	\$100,000	\$275,000	

<u>Project Title</u>	<u>Senate Initiative</u>	<u>House Initiative</u>	<u>Total Funding</u>	<u>Match/ Requirements</u>
Wicomico				
Parsonsborg Volunteer Fire Company Community Center	\$100,000	\$150,000	\$250,000	Soft (all)
Salisbury Zoological Park Animal Health Clinic	10,000	150,000	160,000	Soft (3)
Subtotal:	\$110,000	\$300,000	\$410,000	
Worcester				
Pocomoke City Volunteer Fire Company Community Center	\$100,000	\$150,000	\$250,000	Soft (all)
Subtotal:	\$100,000	\$150,000	\$250,000	
Total Senate and House Initiatives	\$7,500,000	\$7,500,000	\$15,000,000	

Match Key: 1 = Real Property; 2 = In Kind Contributions; 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 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.

Operating Budget Relief and Fund Transfers

As shown in **Exhibit A-2.4**, the GO bond program was used to reduce operating budget appropriations and to replace funds transferred from various capital accounts to the general fund. The fiscal situation has limited the use of PAYGO funds to support the capital program and resulted in the shift of funding for certain grant and loan programs to the bond program. In addition, GO bond funds have been used to fund the State's commitment to the InterCounty Connector (ICC) in lieu of using general funds. Moreover, the use of fund transfers, including fund balance and estimated fiscal 2011 fund revenues, from various capital program special fund accounts is a major component of the fiscal 2011 budget plan, impacting both the operating and capital budgets. In total, the budget includes transfers amounting to \$443.8 million, comprised of \$330.1 million of fund balance and another \$113.7 million of fiscal 2011 revenues that would otherwise be appropriated as special funds in the fiscal 2011 budget. The budget plan replaces most of the fiscal 2011 transferred revenues with GO bonds in fiscal 2011; \$11.3 million of Stateside Program Open Space (POS) and Rural Legacy Program fiscal 2011 transfers are pre-authorized for the 2011 session. The planned replacement of fund balance transfers is to be spread out over three fiscal years with \$176.9 million replaced in fiscal 2011, \$127.9 million in fiscal 2012, and \$33.7 million in fiscal 2013. **Exhibit A-2.5** illustrates the proposed fund transfers and multi-year general obligation bond replacement plan.

Exhibit A-2.4 Operating Budget Relief

(\$ in Millions)

- **InterCounty Connector Funding:** Budgeted at \$126.9 million in the capital budget as introduced, the amount was reduced to \$89.3 million in the capital budget as passed to reflect a more fiscally prudent Transportation Trust Fund cash flow projection and the anticipated fiscal 2011 expenditures for the project. The required statutory changes are included in the Budget Reconciliation and Financing Act of 2010 (BRFA) that would require budgeting the remaining \$67.6 million in fiscal 2012 to complete the State's \$264.9 million support of the project from either general funds or general obligation (GO) bonds.

\$89.3
- **Fund Balance Replacement:** The budget and the BRFA of 2010 provide for the transfer of \$330.1 million of unexpended fund balance from multiple capital program accounts. A multi-year GO bond replacement plan includes \$176.9 million in the fiscal 2011 capital budget. Another \$116.6 million is programmed in the 2010 *Capital Improvement Program* for fiscal 2012 and \$33.8 million in fiscal 2013.

176.9
- **Special Fund Revenue Replacement:** The budget and the BRFA of 2010 provide for the transfer of \$113.7 million of estimated fiscal 2011 revenues from multiple capital program accounts. The 2010 MCCBL provides \$102.4 million to partially replace the transferred funds and pre-authorizes \$11.3 million to provide the remaining funds necessary to fully replace with transfers.

113.7
- **Use of GO Bond Funds to Fund Capital Programs Traditionally Funded with General Funds:** This includes \$14.2 million for the Public Safety Communication System; \$15.9 million for the Department of Housing and Community Development revolving loan program; \$5.5 million for the Department of the Environment water quality and drinking water loan programs; \$6.1 million to bond fund the Aging Schools Program; and \$2.0 million to replace cigarette restitution special funds for Tri-County Council of Southern Maryland programs.

43.7

Total **\$423.6**

Source: Fiscal 2011 Operating and Capital Budgets; Budget Reconciliation and Financing Act of 2010

Exhibit A-2.5
Fund Transfers and Multi-year General Obligation Bond Replacement Plan
(\$ in Millions)

<u>Program</u>	<u>Transfers</u>			<u>Fund Replacement</u>				<u>Total Amount of Fund Transfers to Be Replaced in the CIP</u>
	<u>Prior Special Fund Balance</u>	<u>FY 2011 Special Funds</u>	<u>Total Transfers</u>	<u>FY 2011 Special Funds – Replaced in FY 2011</u>	<u>Prior Funds – Replaced in FY 2011</u>	<u>Funds – Replaced in FY 2012</u>	<u>Funds – Replaced in FY 2013</u>	
Waterway Improvement Program	\$12.5	\$3.9	\$16.4	\$3.9	\$6.3	\$6.3	\$0.0	\$16.4
Program Open Space (POS) – Stateside	4.6	13.1	17.6	8.1	3.0	6.6	0.0	17.6
POS – Local	103.1	12.4	115.5	12.4	41.8	29.0	32.3	115.5
Rural Legacy	10.6	12.6	23.3	6.3	10.6	6.3	0.0	23.3
Ocean City Beach Replenishment – POS	2.1	1.0	3.1	1.0	2.1	0.0	0.0	3.1
Ocean City Beach Replenishment – Local	3.4	0.0	3.4	0.0	3.4	0.0	0.0	3.4
Natural Resources Development Fund	17.7	0.0	17.7	0.0	10.1	3.8	1.4	15.3
Critical Maintenance Program	3.2	3.2	6.3	3.2	3.2	0.0	0.0	6.3
Dam Rehabilitation Program	0.7	0.0	0.7	0.0	0.2	0.5	0.0	0.7
House Assessment Program	0.9	0.0	0.9	0.0	0.3	0.4	0.1	0.7
Hurricane Isabel Funds	0.2	0.0	0.2	0.0	0.0	0.0	0.0	0.0
Neighborhood Business Development	3.6	3.2	6.8	3.2	3.6	0.0	0.0	6.8
Community Legacy Program	0.4	0.0	0.4	0.0	0.4	0.0	0.0	0.4
Homeownership Programs	0.0	3.0	3.0	3.0	0.0	0.0	0.0	3.0
Special Loan Programs	2.1	2.5	4.6	2.5	2.1	0.0	0.0	4.6
Tobacco Transition Program	0.0	2.0	2.0	2.0	0.0	0.0	0.0	2.0
Agricultural Land Preservation Program	10.0	11.8	21.8	11.8	10.0	0.0	0.0	21.8
Bay Restoration Fund	155.0	45.0	200.0	45.0	80.0	75.0	0.0	200.0
Total	\$330.1	\$113.7	\$443.7	\$102.3	\$176.9	\$127.9	\$33.7	\$440.9

CIP: *Capital Improvement Program*

Debt Affordability

As shown in **Exhibit A-2.6**, the long range plan adopted by the Capital Debt Affordability Committee (CDAC) in December 2009 provides for a total of over \$4.85 billion in debt authorizations from 2010 to 2014. While the committee increased its recommended GO bond authorization for the 2010 session by \$150 million, total proposed authorizations decline by \$400 million from fiscal 2011 to 2015. The reduction to out-year authorizations is intended to keep State debt within the limits set by CDAC. The Board of Revenue Estimates' December 2009 and subsequent March 2010 reductions in projected revenues have made the level of debt proposed by CDAC in the committee's 2008 report unaffordable, resulting in the out-year authorization reductions.

Exhibit A-2.6
Capital Debt Affordability Committee Recommended Levels of
General Obligation Bond Authorizations
2010-2014 Legislative Sessions
(\$ in Millions)

<u>Session</u>	<u>2008 Report Recommended Authorizations</u>	<u>2009 Report Recommended Authorizations</u>	<u>Authorization Change</u>
2010	\$990	\$1,140	\$150
2011	1,020	925	-95
2012	1,050	925	-125
2013	1,080	925	-155
2014	1,110	935	-175
Total	\$5,250	\$4,850	-\$400

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

The 2010 MCCBL passed by the General Assembly is consistent with the \$1.14 billion level of new GO debt authorizations recommended by CDAC. An additional \$39.7 million in GO bonds from prior years is de-authorized in the capital budget of 2010, thereby increasing the amount of new GO debt included in the capital program to \$1.184 billion. Included in the \$1.18 billion of new debt is \$143.3 million authorized in the 2009 MCCBL to complete the funding for various projects that were split-funded over fiscal 2010 and 2011 as a mechanism to allow the projects to be bid and construction to commence during fiscal 2010.

The State's capital program for fiscal 2011 also includes other actions that affect debt affordability, debt issuance, and future capital budgets.

- The Maryland Department of the Environment plans to issue \$150.0 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 67 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.
- ***Senate Bill 319 (passed)*** establishes an African American Heritage Preservation Program to identify and preserve buildings, communities, and sites of historical and cultural importance to the African American experience in Maryland. The program must be developed and administered by the Maryland Historical Trust in partnership with the Commission on African American History and Culture. Beginning in fiscal 2012, the Governor must include \$1.0 million in the annual capital budget submission for program grant projects.
- ***Senate Bill 1018 (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.
- The 2010 MCCBL includes \$260.4 million of general obligation bond authorizations that will not take effect until fiscal 2012 and another \$72.5 million that will not take effect until fiscal 2013. **Exhibit A-2.7** shows the pre-authorizations for the 2011 and 2012 sessions and the amounts funded in the fiscal 2011 budget for the respective projects.

Exhibit A-2.7
Pre-authorizations Included in the 2010 MCCBL for the
2011 and 2012 Sessions

<u>Project Title</u>	<u>2010 Session Authorization Amounts</u>	<u>2011 Session Pre-authorization Amounts</u>	<u>2012 Session Pre-authorization Amounts</u>
BPW: State Government Center – Annapolis Legislative Facilities Lowe House Office Building	\$0	\$4,250,000	\$4,000,000
MSDE: Western Maryland Regional Library	2,500,000	2,500,000	0
MHEC: Community College Facilities Grant Program	78,745,000	33,633,000	0
DNR: Natural Resources Development Fund – Harriet Tubman Underground Railroad State Park – Visitor Center	0	1,650,000	0
DPSCS: New Youth Detention Facility (BCDC)	17,520,000	38,000,000	25,600,000
UMCP: Physical Sciences Complex	41,100,000	44,100,000	10,600,000
UB: New Law School Building	37,300,000	38,500,000	0
UMBC: New Performing Arts and Humanities Facility	37,400,000	37,400,000	0
DNR: Local Program Open Space	54,141,000	40,366,000	32,283,000
DSP: State Police Helicopters	0	20,000,000	0
Totals	\$268,706,000	\$260,399,000	\$72,483,000

BCDC: Baltimore City Detention Center

BPW: Board of Public Works

DNR: Department of Natural Resources

DPSCS: Department of Public Safety and Correctional Services

DSP: Department of State Police

MCCBL: Maryland Consolidated Capital Bond Loan

MHEC: Maryland Higher Education Commission

MSDE: Maryland State Department of Education

UB: University of Baltimore

UMBC: University of Maryland Baltimore County

UMCP: University of Maryland, College Park

Note: The proposed pre-authorization for the Maryland Higher Education Commission Community College Grant Program would allow for the split funding of community college projects started last session by the legislature. This year's list includes \$9,466,000 for Howard Community College – Allied Health Building; \$6,064,000 for Hagerstown Community College – Arts and Sciences Complex; \$868,000 for Prince George's Community College – Center for Health Studies; \$2,586,000 for Prince George's Community College – Circulation/Roadway Modifications; \$3,500,000 for Anne Arundel Community College – Library Renovation and Addition; \$3,245,000 for College of Southern Maryland – Phase II Campus Development; and \$7,904,000 for Harford Community College – Susquehanna Center.

Higher Education

The fiscal 2011 capital program for all segments of higher education is \$352 million, including GO bonds and academic revenue bonds. Of the total funding, four-year public institutions receive \$266.2 million and independent colleges receive \$8.0 million. Community colleges, including Baltimore City Community College, receive \$78.7 million in fiscal 2011. The *Capital Improvement Program* (CIP), after legislative changes to the fiscal 2011 capital budget, shows \$1.674 billion in State capital spending for higher education projects from fiscal 2011 through 2015. **Exhibit A-2.8** shows the fiscal 2010 and 2011 legislative appropriation for higher education capital projects and the funds anticipated in the CIP for fiscal 2012 through 2015. **Exhibit A-2.9** shows the fiscal 2011 capital funding by institution.

Exhibit A-2.8
Higher Education Authorized and Planned Out-year Capital Funding
Fiscal 2010-2015
(\$ in Thousands)

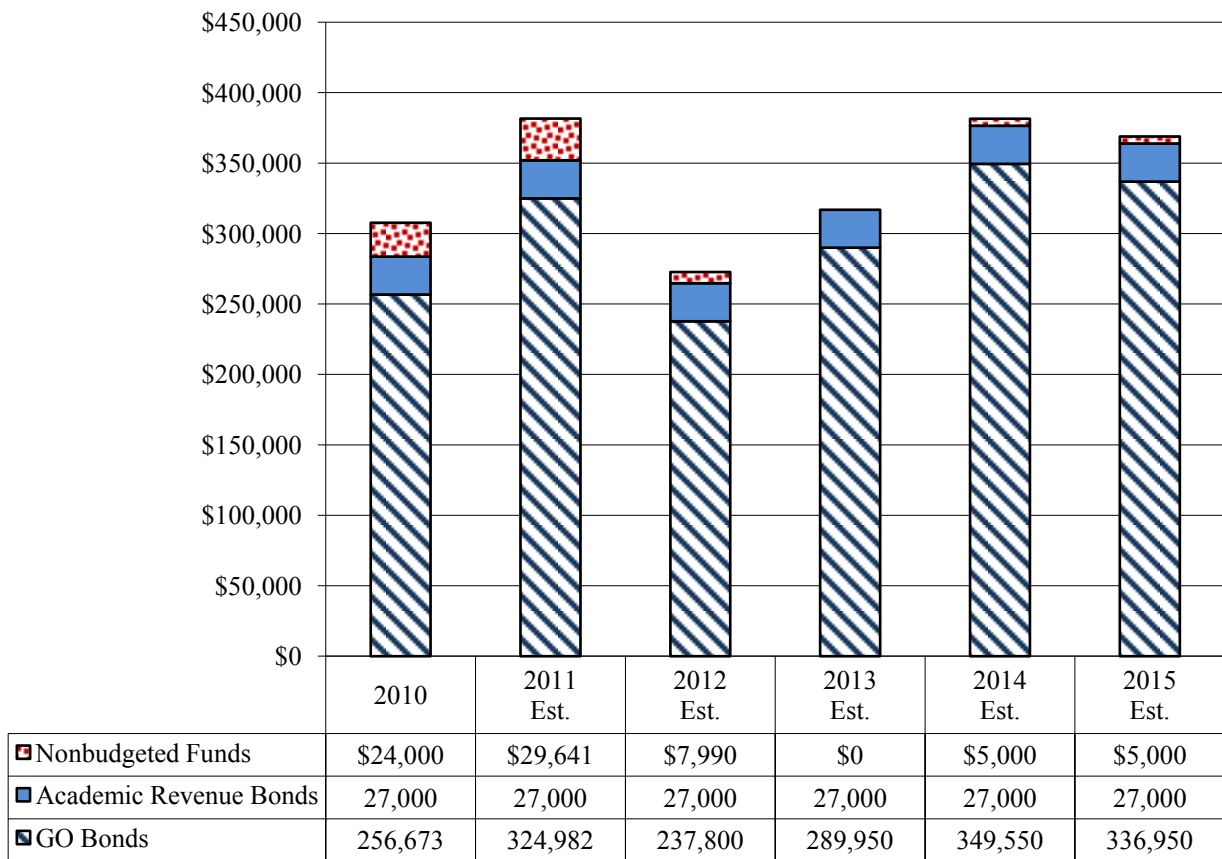


Exhibit A-2.9
Higher Education Capital Funding by Institution
Fiscal 2011
(\$ in Thousands)

<u>Institution</u>	<u>Capital Funding</u>
University of Maryland, Baltimore	\$2,606
University of Maryland, College Park	46,531
Towson University	38,650
Coppin State University	6,497
University of Baltimore	37,300
Bowie State University	33,253
Salisbury University	9,869
University System of Maryland – Facility Renewal	17,000
University of Maryland Eastern Shore	3,000
Frostburg State University	2,681
University of Maryland Baltimore County	37,400
Morgan State University	30,450
Independent Colleges	8,000
Community Colleges	78,745
Total	\$351,982¹

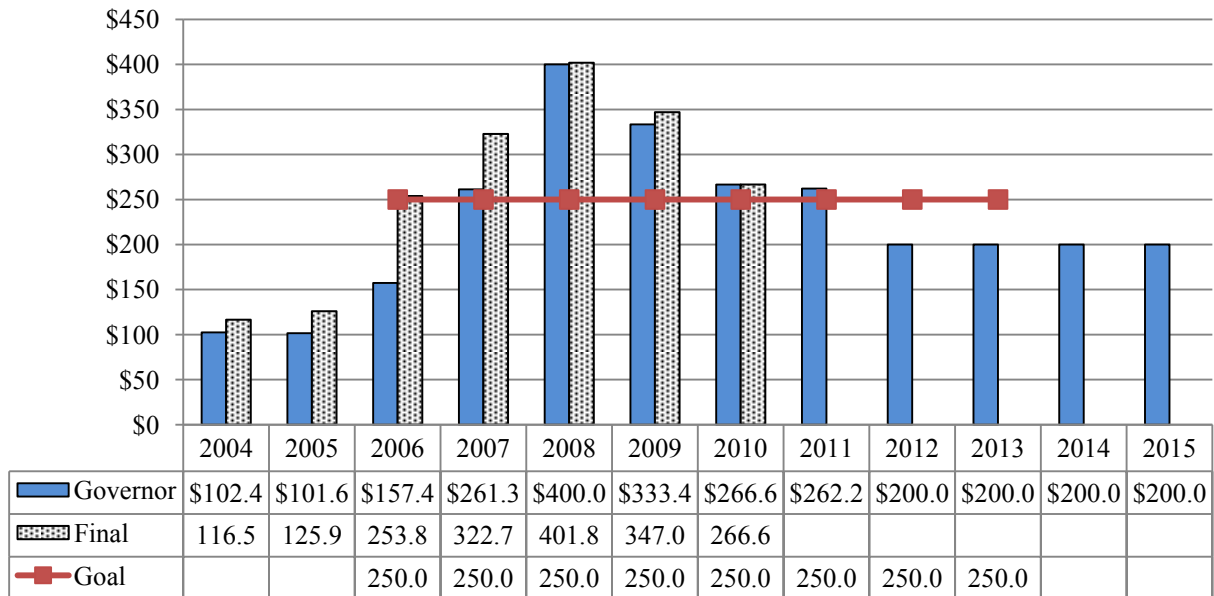
¹ This does not include \$10.0 million authorized for the University of Maryland Medical System. This also does not include \$29.6 million of nonbudgeted funds representing private donor contributions.

School Construction

Capital Funding

The fiscal 2011 capital budget includes \$250.0 million in general obligation bonds for public school construction. An additional \$12.2 million in unexpended funds from prior years is available from the Statewide Contingency Fund, of which \$4.9 million is reserved for specific local school systems. The local school systems requested approximately \$722.1 million for fiscal 2011, of which \$529.0 million is eligible for State funding. The Public School Facilities Act of 2004 (Chs. 306 and 307) established a State goal to provide \$2.0 billion in State funding over eight years to address school construction needs, or \$250.0 million per year from fiscal 2006 to 2013. Fiscal 2011 will be the sixth consecutive year that the goal has been met or exceeded, with the State providing a total of \$1.85 billion for school construction since fiscal 2006, as illustrated in **Exhibit A-2.10**.

Exhibit A-2.10
Public School Construction Funding
 (\$ in Millions)



Aging Schools Program

The Aging Schools Program is funded through the capital budget rather than the operating budget in fiscal 2011. The capital budget as passed by the General Assembly includes \$5.1 million in general obligation bonds and \$1.0 million in Qualified Zone Academy Bonds to meet the statutory requirement of \$6.1 million for the program. Since 2001, the State has issued \$47.6 million in QZABs allocated by the federal government to Maryland; all but \$21.3 million has been expended. QZABs are an alternative bond program that the federal government authorizes with bond holders receiving federal tax credits in lieu of interest.

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 2011 budget appropriations from the transfer tax and direct transfer tax revenue to the general fund. The transfer actions taken affect prior year transfer tax appropriations available as unexpended fund balance and fiscal 2011 revenues. In each instance, the amount of diverted transfer tax to the general fund is replaced with GO bond funds authorized in the 2010 MCCBL or through pre-authorization provisions included in the 2010 MCCBL for fiscal 2012 and 2013. **Exhibit A-2.11** shows how transfer tax revenue will be replaced with general obligation bonds in fiscal 2011, and **Exhibit A-2.12** shows how the fiscal 2011 transfer tax and GO bond replacement is distributed across all operating and capital programs.

Exhibit A-2.11
Programs Traditionally Funded with Transfer Tax Revenue
Fiscal 2011
(\$ in Millions)

	<u>Transfer Tax Special Funds</u>	<u>Other Special Funds</u>	<u>Federal</u>	<u>GO Bonds</u>	<u>Total</u>
Department of Natural Resources					
Program Open Space					
State ¹	\$2.7	\$0.0	\$11.1	\$9.4	\$23.2
Local ²	0.0	0.0	0.0	54.1	54.1
Capital Development ³	0.0	0.0	3.2	19.9	23.1
Rural Legacy Program ⁴	0.0	0.0	0.0	17.0	17.0
Heritage Conservation Fund	0.0	0.0	0.0	1.7	1.7
Department of Agriculture					
Agricultural Land Preservation ⁵	0.0	12.1	2.0	17.8	31.9
Total	\$2.7	\$12.1	\$16.3	\$119.9	\$151.0

¹ The Program Open Space – State funding reflects \$2.7 million in special funds for the Baltimore City Direct Grant (\$1.5 million) and operating expenses per the Budget Reconciliation and Financing Act of 2009 (\$1.2 million). The \$9.4 million in general obligation bond authorization reflects \$5.0 million for State land acquisition, \$3.0 million in prior year State funds replacement, and \$1.4 million in additional funding for the Baltimore City Direct Grant. In addition, \$5.0 million in general obligation debt is pre-authorized for the 2011 session in order to complete the replacement of fiscal 2011 transfer tax funding directed to the general fund.

² The Program Open Space – Local funding reflects \$41.8 million in general obligation bond authorization to replace prior year funds transferred to the general fund and \$12.4 million in general obligation bond authorization to replace fiscal 2011 transfer tax funds transferred to the general fund. In addition, there are general obligation bond pre-authorizations of \$29.0 million for fiscal 2012 and \$32.3 million for fiscal 2013 to replace fully the \$103.1 million in prior year funds transferred to the general fund.

³ The Capital Development funding reflects \$3.2 million in federal funds for the Harriet Tubman Underground Railroad State Park – Visitor Center. The general obligation bond authorization of \$19.9 million reflects the following:

- \$15.8 million to replace available fund balance transferred to the general fund in the BRFA of 2010 – Natural Resources Development Fund (\$10.1 million), Critical Maintenance Program (\$3.2 million), Ocean City Beach Replenishment (\$2.1 million), House Assessment Program (\$0.2 million), Dam Rehabilitation Program (\$0.2 million); and
- \$4.2 million to replace new fiscal 2011 funding transferred to the general fund – Critical Maintenance Program (\$3.2 million) and Ocean City Beach Replenishment (\$1.0 million).

⁴ The Rural Legacy Program funding reflects \$10.6 million in general obligation bond authorization to replace prior year fund balance transferred to the general fund and \$6.3 million to replace a portion of the fiscal 2011 transfer tax allocation transferred to the general fund. There is an additional \$6.3 million in general obligation debt pre-authorized for the 2011 session.

⁵ The Agricultural Land Preservation funding reflects \$10.0 million in general obligation bond authorization to replace prior year funds directed to the general fund and \$7.8 million in general obligation bond authorization to replace a portion of the fiscal 2011 transfer tax funding directed to the general fund. The overall funding does not reflect an additional \$4.0 million available due to the infeasibility of Maryland Agricultural and Resource-Based Industry Development Corporation's Installment Purchase Agreements Program.

Exhibit A-2.12

Distribution of Transfer Tax Revenues to Programs and GO Bond Replacement

	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>
Revenues				
Budgeted Revenue Estimate	\$188.58	\$166.30	\$114.74	\$149.89
Less Administrative Expenses	-5.66	-4.99	-4.66	-\$4.50
Attainment Adjustment	75.50	-51.96	-35.05	-52.64
Net Available for Allocation	\$258.43	\$109.35	\$75.03	\$92.76
Allocations				
Program Open Space (POS)				
POS Bonds Debt Service	\$0.00	\$0.00	\$0.00	\$6.80
POS Local	95.60	18.59	6.15	0.00
Forest and Park Service	0.00	21.00	21.00	21.00
Heritage Areas Authority	3.00	3.00	3.00	3.00
POS State Land Acquisition	61.76	20.87	10.57	0.00
POS State Rural Legacy	8.00	8.00	0.00	0.00
POS State Capital Development	24.64	9.52	0.00	0.00
POS State Park Operating	1.20	1.20	1.20	1.20
POS Subtotal	\$194.21	\$82.18	\$41.92	\$32.00
Other Allocations				
Additional State Land Acquisition	\$2.58	\$1.09	\$0.76	\$2.72
Agricultural Land Preservation	44.06	18.64	0.00	4.00
Rural Legacy Additional	12.92	5.47	0.00	0.00
Heritage Conservation Fund	4.65	1.97	1.37	0.00
Other Subtotal	\$64.22	\$27.17	\$2.13	\$6.72
Total Transfer Tax Allocations	\$258.43	\$109.35	\$44.06	\$38.72
GO Bond Replacement – Fiscal 2011 and 2011 Session Pre-authorizations				
POS State	\$0.00	\$0.00	\$0.00	\$11.41
POS Local	0.00	0.00	0.00	12.35
POS State Rural Legacy	0.00	0.00	8.00	8.00
POS State Capital Development	0.00	0.00	6.16	4.15
Agricultural Land Preservation	0.00	0.00	13.00	7.81
Rural Legacy Additional	0.00	0.00	3.81	4.64
Heritage Conservation Fund	0.00	0.00	0.00	1.67
Total GO Bond Replacement	0.00	0.00	30.97	50.04
Total Funding	\$258.43	\$109.35	\$75.03	\$88.75

State Aid to Local Government

Overview

State aid to local governments will total \$6.4 billion in fiscal 2011, representing a \$185.5 million increase from the prior year. Local school systems, as in prior years, will receive most of the increases, whereas funding to county and municipal governments will continue to decrease. Over the last four years, State aid to local school systems has increased by \$1.2 billion, while funding to county and municipal governments has decreased by \$582.9 million. The increase in education aid has been partially funded from monies received under the federal American Recovery and Reinvestment Act that was passed in 2009. State aid for public schools in fiscal 2010 includes \$297.3 million in federal ARRA funding. For fiscal 2011, the amount totals \$422.3 million. Under the ARRA, these funds do not continue after fiscal 2011. **Exhibit A-3.1** compares State aid by governmental entity in fiscal 2010 and 2011. **Exhibit A-3.2** shows the annual change in State aid over the last four years.

Exhibit A-3.1
State Aid to Local Governments
Fiscal 2010 and 2011
(\$ in Millions)

	<u>FY 2010</u>	<u>FY 2011</u>	<u>Difference</u>	<u>% Difference</u>
Public Schools	\$5,507.0	\$5,717.5	\$210.5	3.8%
Libraries	64.1	65.5	1.5	2.3%
Community Colleges	256.2	256.1	-0.1	0.0%
Health	37.3	37.3	0.0	0.0%
County/Municipal	396.9	370.6	-26.3	-6.6%
Total	\$6,261.5	\$6,447.0	\$185.5	3.0%

Exhibit A-3.2
Annual Change in State Aid
Fiscal 2008-2011
(\$ in Millions)

	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>Total</u>
Public Schools	\$690.9	\$212.9	\$127.8	\$210.5	\$1,242.0
Libraries	8.6	-0.7	0.6	1.5	10.0
Community Colleges	35.8	13.0	1.5	-0.1	50.2
Health	3.3	-9.6	-20.1	0.0	-26.4
County/Municipal	-46.8	-168.5	-341.3	-26.3	-582.9
Total	\$691.9	\$47.1	-\$231.5	\$185.5	\$693.0

Support for Local Programs Impacted by Cost Containment

Due to declining general fund revenues, the Board of Public Works reduced fiscal 2010 appropriations for several local aid programs in August 2009. Aid for community colleges was reduced by \$10.5 million and local health department grants were reduced by \$20.1 million. Police aid grants for counties and municipalities were lowered by \$20.6 million. Finally, highway user revenues for county and municipal transportation purposes were reduced by an additional \$159.5 million beyond the \$161.9 million reduction that was enacted during the 2009 session.

For most of the aid programs reduced by BPW, the underlying statutes for the aid programs would have required higher funding levels in fiscal 2011. Through the Budget Reconciliation and Financing Act of 2010, the General Assembly approved \$390.8 million in reductions to these and other statutorily mandated local programs in fiscal 2011 (**Exhibit A-3.3**). A portion of the reductions was offset by an additional \$24.4 million in funding under the disparity grant program. As a result, local governments will realize a net reduction in statutorily mandated funding of \$366.4 million in fiscal 2011 (**Exhibit A-3.4**). State funding for local highways and transportation projects received the largest share of reductions, with funding being reduced by \$339.7 million. Local governments were scheduled to receive \$474.0 million¹ in funding under the local highway user revenues in fiscal 2011; however, this amount was reduced by 71.7%. As a result, local governments will only receive \$134.3 million in highway user revenues in fiscal 2011, with Baltimore City receiving \$124.8 million and the State's other jurisdictions receiving \$9.5 million (**Exhibit A-3.5**).

¹The Budget Reconciliation and Financing Act of 2009 reduced the formula allocation for local highway user revenues by \$101.9 million in fiscal 2011. As a result, State funding was reduced from \$474.0 million in fiscal 2011 to \$372.1 million. Provisions in the Budget Reconciliation and Financing Act of 2010 reduced the funding to \$134.3 million.

Exhibit A-3.3
Reductions in State Aid to Local Governments in Fiscal 2011
From Statutorily Mandated Amounts

County	Student Transportation	Community College Aid	Police Aid	Highway User Revenues	Local Health	Miscellaneous Grants	Total Effect
Allegany	-\$82,213	-\$558,350	-\$306,897	-\$6,081,719	\$156,258	\$0	-\$6,872,921
Anne Arundel	-371,049	-3,164,440	-2,126,688	-26,628,471	-37,864	-177,599	-32,506,111
Baltimore City	-301,203	0	-45,980	-66,028,713	-1,450,303	-625,625	-68,451,824
Baltimore	-466,615	-3,998,211	-3,304,917	-35,824,844	-1,205,542	-20,737	-44,820,866
Calvert	-101,385	-239,854	-261,934	-5,952,861	109,399	0	-6,446,635
Caroline	-47,013	-150,216	-121,630	-4,229,719	84,849	0	-4,463,729
Carroll	-173,532	-795,275	-571,085	-11,981,833	-28,829	-39,282	-13,589,836
Cecil	-91,009	-540,769	-349,805	-6,686,415	54,517	0	-7,613,481
Charles	-184,639	-765,563	-429,703	-8,647,391	35,839	0	-9,991,457
Dorchester	-42,867	-135,487	-137,047	-4,695,385	31,909	0	-4,978,877
Frederick	-208,637	-937,165	-761,412	-15,867,821	19,663	0	-17,755,372
Garrett	-54,597	-263,289	-82,805	-5,305,709	80,123	0	-5,626,277
Harford	-217,321	-1,154,111	-982,059	-13,933,097	-251,040	0	-16,537,628
Howard	-267,727	-1,459,396	-747,623	-13,247,130	-163,871	-35,770	-15,921,517
Kent	-28,513	-61,741	-72,569	-2,400,273	34,544	0	-2,528,552
Montgomery	-574,922	-4,154,023	-5,074,771	-37,632,104	-168,744	0	-47,604,564
Prince George's	-625,622	-2,551,167	-1,749,925	-32,406,074	-1,438,324	-70,484	-38,841,596
Queen Anne's	-60,335	-176,256	-152,327	-4,917,720	47,138	0	-5,259,500
St. Mary's	-114,970	-251,128	-318,260	-6,659,880	-70,358	0	-7,414,596
Somerset	-33,271	-87,314	-86,863	-2,823,011	-9,899	0	-3,040,358
Talbot	-28,901	-137,084	-146,101	-3,903,363	94,262	0	-4,121,187
Washington	-121,401	-808,898	-528,429	-10,182,255	71,308	0	-11,569,675
Wicomico	-91,561	-495,554	-368,770	-7,897,254	126,430	0	-8,726,709
Worcester	-54,369	-199,770	-228,372	-5,756,952	162,019	0	-6,077,444
Unallocated	0	0	-19,500	0	0	0	-19,500
Total	-\$4,343,672	-\$23,085,061	-\$18,975,472	-\$339,689,995	-\$3,716,516	-\$969,497	-\$390,780,213

Exhibit A-3.4
Net Reductions in State Aid in Fiscal 2011
From Statutorily Mandated Amounts

County	State Aid Reductions	Disparity Grants	Total Effect
Allegany	-\$6,872,921	\$1,266,756	-\$5,606,165
Anne Arundel	-32,506,111	0	-32,506,111
Baltimore City	-68,451,824	4,648,700	-63,803,124
Baltimore	-44,820,866	0	-44,820,866
Calvert	-6,446,635	0	-6,446,635
Caroline	-4,463,729	0	-4,463,729
Carroll	-13,589,836	0	-13,589,836
Cecil	-7,613,481	0	-7,613,481
Charles	-9,991,457	0	-9,991,457
Dorchester	-4,978,877	0	-4,978,877
Frederick	-17,755,372	0	-17,755,372
Garrett	-5,626,277	75,308	-5,550,969
Harford	-16,537,628	0	-16,537,628
Howard	-15,921,517	0	-15,921,517
Kent	-2,528,552	0	-2,528,552
Montgomery	-47,604,564	0	-47,604,564
Prince George's	-38,841,596	18,277,664	-20,563,932
Queen Anne's	-5,259,500	0	-5,259,500
St. Mary's	-7,414,596	0	-7,414,596
Somerset	-3,040,358	85,749	-2,954,609
Talbot	-4,121,187	0	-4,121,187
Washington	-11,569,675	0	-11,569,675
Wicomico	-8,726,709	0	-8,726,709
Worcester	-6,077,444	0	-6,077,444
Unallocated	-19,500	0	-19,500
Total	-\$390,780,213	\$24,354,177	-\$366,426,036

Exhibit A-3.5
Reductions to Highway User Revenues in Fiscal 2011
From Mandatory Funding Levels

County	Statutory Funding Level	Funding Reductions	Legislative Appropriation	Percent Reduction
Allegany	\$6,305,115	-\$6,081,719	\$223,396	-96.5%
Anne Arundel	27,535,520	-26,628,471	907,049	-96.7%
Baltimore City	190,845,000	-66,028,713	124,816,287	-34.6%
Baltimore	37,027,923	-35,824,844	1,203,079	-96.8%
Calvert	6,154,733	-5,952,861	201,872	-96.7%
Caroline	4,376,630	-4,229,719	146,911	-96.6%
Carroll	12,401,410	-11,981,833	419,577	-96.6%
Cecil	6,917,849	-6,686,415	231,434	-96.7%
Charles	8,941,446	-8,647,391	294,055	-96.7%
Dorchester	4,858,544	-4,695,385	163,159	-96.6%
Frederick	16,431,390	-15,867,821	563,569	-96.6%
Garrett	5,487,485	-5,305,709	181,776	-96.7%
Harford	14,415,302	-13,933,097	482,205	-96.7%
Howard	13,691,891	-13,247,130	444,761	-96.8%
Kent	2,483,340	-2,400,273	83,067	-96.7%
Montgomery	38,943,523	-37,632,104	1,311,419	-96.6%
Prince George's	33,557,199	-32,406,074	1,151,125	-96.6%
Queen Anne's	5,082,966	-4,917,720	165,246	-96.7%
St. Mary's	6,883,198	-6,659,880	223,318	-96.8%
Somerset	2,919,329	-2,823,011	96,318	-96.7%
Talbot	4,042,135	-3,903,363	138,772	-96.6%
Washington	10,545,203	-10,182,255	362,948	-96.6%
Wicomico	8,177,990	-7,897,254	280,736	-96.6%
Worcester	5,960,878	-5,756,952	203,926	-96.6%
Total	\$473,986,000	-\$339,689,995	\$134,296,005	-71.7%

Changes by Program

Twenty counties will receive an increase in State aid in fiscal 2011, while four counties will receive a decrease. **Exhibit A-3.6** summarizes the distribution of direct aid by governmental unit and shows the estimated State retirement payments for local government employees. **Exhibit A-3.7** shows total State aid in fiscal 2010 and 2011 by program.

Primary and Secondary Education

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 2011 is set at \$6,694, and the student enrollment count used for the program totals 817,610 students. Enrollment for the formula is based on the September 30, 2009, 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 2011, a \$36.8 million, or 1.3%, increase from the prior year. In addition, \$46.5 million in supplemental grants will be provided to nine 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 eight local school systems that are due to a miscalculation in school system wealth bases in fiscal 2009. Under the Budget Reconciliation and Financing Act of 2010 the inflationary increase in the foundation amount is capped at 1% through fiscal 2015.

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 97.0% 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 50.0% of the program's cost. State aid under the compensatory education program will total \$1 billion in fiscal 2011, representing a \$100.9 million, or 10.7%, increase over the prior year due to a 11.6% increase in the student count. The per pupil State funding amount for fiscal 2011 is set at \$3,247, and the student enrollment count used for the program totals 306,606.

A-3.6

State Assistance to Local Governments – Fiscal 2011 Legislative Appropriation
(\$ in Thousands)

County	County – Municipal	Community Colleges	<i>Direct State Aid</i>				Retirement	Total	Change Over FY 2010	% Change
			Public Schools	Libraries	Health	Subtotal				
Allegany	\$8,676	\$5,898	\$83,670	\$758	\$909	\$99,910	\$10,604	\$110,514	-\$1,610	-1.4%
Anne Arundel	8,635	28,695	294,144	1,913	3,142	336,528	76,536	413,064	25,943	6.7%
Baltimore City	220,240	0	872,075	6,461	6,675	1,105,452	83,503	1,188,955	30,333	2.6%
Baltimore	10,786	36,335	525,841	5,249	4,302	582,514	99,745	682,258	20,468	3.1%
Calvert	1,267	2,206	86,901	402	370	91,147	17,683	108,829	2,162	2.0%
Caroline	2,936	1,434	42,617	273	538	47,799	5,249	53,048	372	0.7%
Carroll	2,212	7,409	140,799	982	1,232	152,635	27,149	179,783	801	0.4%
Cecil	1,379	5,252	100,188	717	806	108,342	15,666	124,009	4,210	3.5%
Charles	1,954	7,042	150,492	791	995	161,274	25,698	186,972	3,482	1.9%
Dorchester	2,881	1,293	31,843	244	429	36,690	4,560	41,250	1,712	4.3%
Frederick	3,389	8,667	209,002	1,140	1,512	223,710	39,128	262,838	7,846	3.1%
Garrett	2,857	3,343	24,376	155	437	31,168	4,658	35,826	-938	-2.6%
Harford	3,350	10,240	209,609	1,548	1,737	226,485	37,165	263,650	3,988	1.5%
Howard	4,617	13,901	210,196	770	1,215	230,699	63,068	293,766	20,533	7.5%
Kent	580	589	10,012	96	336	11,613	2,448	14,061	-91	-0.6%
Montgomery	15,058	40,821	526,108	2,662	3,015	587,663	181,460	769,123	70,685	10.1%
Prince George's	42,216	22,412	884,253	5,648	5,007	959,537	133,491	1,093,028	-14,076	-1.3%
Queen Anne's	844	1,682	31,133	132	418	34,209	6,945	41,154	1,025	2.6%
St. Mary's	1,417	2,310	95,031	624	809	100,191	15,271	115,462	2,984	2.7%
Somerset	5,636	808	23,726	263	429	30,863	3,216	34,079	214	0.6%
Talbot	857	1,308	11,194	101	329	13,790	4,040	17,831	528	3.0%
Washington	2,150	7,857	144,452	1,128	1,381	156,968	19,965	176,933	5,099	3.0%
Wicomico	3,780	4,587	115,327	838	947	125,480	14,654	140,134	1,615	1.2%
Worcester	1,434	1,849	17,967	138	313	21,701	8,502	30,203	1,208	4.2%
Unallocated	21,439	6,463	26,656	15,658	0	70,216	0	70,216	-2,961	-4.0%
Total	\$370,591	\$222,403	\$4,867,616	\$48,690	\$37,283	\$5,546,583	\$900,402	\$6,446,985	\$185,529	3.0%

A-3.6 (Cont.)
State Assistance to Local Governments
Dollar Difference Between Fiscal 2011 Legislative Appropriation and Fiscal 2010 Working Appropriation
(\$ in Thousands)

County	County – Municipal	Community Colleges	Direct State Aid				Subtotal	Retirement	Total
			Public Schools	Libraries	Health				
Allegany	-\$440	-\$25	-\$2,350	-\$12	\$0	-\$2,826	\$1,216	-\$1,610	
Anne Arundel	-1,018	-734	18,007	78	0	16,333	9,609	25,943	
Baltimore City	-8,880	0	31,327	-86	0	22,361	7,971	30,333	
Baltimore	-1,442	-673	15,165	3	0	13,053	7,415	20,468	
Calvert	-329	12	519	4	0	206	1,956	2,162	
Caroline	-276	40	116	0	0	-120	492	372	
Carroll	-722	-177	-764	0	0	-1,663	2,464	801	
Cecil	-396	41	2,863	12	0	2,520	1,690	4,210	
Charles	-432	39	875	-4	0	478	3,004	3,482	
Dorchester	-316	36	1,591	2	0	1,313	399	1,712	
Frederick	-1,064	84	4,358	40	0	3,418	4,428	7,846	
Garrett	-337	-83	-988	-1	0	-1,409	471	-938	
Harford	-743	-286	1,939	-1	0	910	3,078	3,988	
Howard	-397	-28	12,389	4	0	11,968	8,565	20,533	
Kent	-153	16	-150	1	0	-285	195	-91	
Montgomery	-1,609	-1,534	52,540	56	0	49,452	21,233	70,685	
Prince George’s	-1,581	-1,248	-25,292	-315	0	-28,436	14,360	-14,076	
Queen Anne’s	-280	47	389	5	0	161	864	1,025	
St. Mary’s	-345	13	1,604	-5	0	1,266	1,718	2,984	
Somerset	-176	1	47	2	0	-125	339	214	
Talbot	-258	37	260	0	0	39	489	528	
Washington	-663	-26	3,598	11	0	2,920	2,179	5,099	
Wicomico	-518	8	406	16	0	-87	1,702	1,615	
Worcester	-357	3	565	0	0	210	997	1,208	
Unallocated	-3,607	-96	692	49	0	-2,961	0	-2,961	
Total	-\$26,337	-\$4,531	\$119,704	-\$138	\$0	\$88,698	\$96,832	\$185,529	

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

A-3.6 (Cont.)
State Assistance to Local Governments
Percent Change: Fiscal 2011 Legislative Appropriation over Fiscal 2010 Working Appropriation

County	<i>Direct State Aid</i>						Retirement	Total
	County – Municipal	Community Colleges	Public Schools	Libraries	Health	Subtotal		
Allegany	-4.8%	-0.4%	-2.7%	-1.5%	0.0%	-2.8%	12.9%	-1.4%
Anne Arundel	-10.5%	-2.5%	6.5%	4.3%	0.0%	5.1%	14.4%	6.7%
Baltimore City	-3.9%	n/a	3.7%	-1.3%	0.0%	2.1%	10.6%	2.6%
Baltimore	-11.8%	-1.8%	3.0%	0.1%	0.0%	2.3%	8.0%	3.1%
Calvert	-20.6%	0.5%	0.6%	1.0%	0.0%	0.2%	12.4%	2.0%
Caroline	-8.6%	2.9%	0.3%	0.1%	0.0%	-0.2%	10.3%	0.7%
Carroll	-24.6%	-2.3%	-0.5%	0.0%	0.0%	-1.1%	10.0%	0.4%
Cecil	-22.3%	0.8%	2.9%	1.8%	0.0%	2.4%	12.1%	3.5%
Charles	-18.1%	0.5%	0.6%	-0.5%	0.0%	0.3%	13.2%	1.9%
Dorchester	-9.9%	2.9%	5.3%	0.9%	0.0%	3.7%	9.6%	4.3%
Frederick	-23.9%	1.0%	2.1%	3.7%	0.0%	1.6%	12.8%	3.1%
Garrett	-10.6%	-2.4%	-3.9%	-0.4%	0.0%	-4.3%	11.3%	-2.6%
Harford	-18.2%	-2.7%	0.9%	0.0%	0.0%	0.4%	9.0%	1.5%
Howard	-7.9%	-0.2%	6.3%	0.5%	0.0%	5.5%	15.7%	7.5%
Kent	-20.9%	2.9%	-1.5%	1.5%	0.0%	-2.4%	8.6%	-0.6%
Montgomery	-9.7%	-3.6%	11.1%	2.1%	0.0%	9.2%	13.3%	10.1%
Prince George's	-3.6%	-5.3%	-2.8%	-5.3%	0.0%	-2.9%	12.1%	-1.3%
Queen Anne's	-24.9%	2.9%	1.3%	3.9%	0.0%	0.5%	14.2%	2.6%
St. Mary's	-19.6%	0.5%	1.7%	-0.8%	0.0%	1.3%	12.7%	2.7%
Somerset	-3.0%	0.2%	0.2%	0.8%	0.0%	-0.4%	11.8%	0.6%
Talbot	-23.1%	2.9%	2.4%	0.1%	0.0%	0.3%	13.8%	3.0%
Washington	-23.6%	-0.3%	2.6%	1.0%	0.0%	1.9%	12.2%	3.0%
Wicomico	-12.0%	0.2%	0.4%	2.0%	0.0%	-0.1%	13.1%	1.2%
Worcester	-19.9%	0.2%	3.2%	-0.2%	0.0%	1.0%	13.3%	4.2%
Unallocated	-14.4%	-1.5%	2.7%	0.3%	n/a	-4.0%	n/a	-4.0%
Total	-6.6%	-2.0%	2.5%	-0.3%	0.0%	1.6%	12.1%	3.0%

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

Exhibit A-3.7
Total State Assistance to Local Governments

<u>Program</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>Difference</u>
Foundation Aid	\$2,726,705,897	\$2,763,479,579	\$36,773,682
Supplemental Program	51,200,359	46,496,417	-4,703,942
Geographic Cost of Education Index	126,343,414	126,612,027	268,613
Compensatory Education	940,182,917	1,041,059,587	100,876,670
Student Transportation – Regular	217,183,583	220,692,402	3,508,819
Student Transportation – Special Education	24,363,000	23,726,000	-637,000
Special Education – Formula	267,403,814	264,001,563	-3,402,251
Special Education – Nonpublic Placements	112,770,182	112,770,182	0
Special Education – Infants and Toddlers	10,389,104	10,389,104	0
Limited English Proficiency Grants	148,627,048	151,196,206	2,569,158
Aging Schools	6,108,986	6,108,990	4
Teacher Quality Incentives	5,552,000	5,552,000	0
Adult Education	6,933,622	6,933,622	0
Food Service	7,156,664	7,156,664	0
Out-of-county Placements	6,000,001	6,120,000	119,999
Headstart	1,800,001	1,800,001	0
Judy Hoyer Centers	10,575,000	10,575,000	0
Guaranteed Tax Base	63,753,733	47,391,600	-16,362,133
Other Programs	14,862,927	15,554,854	691,927
Total Primary and Secondary Education	\$4,747,912,252	\$4,867,615,798	\$119,703,546
Library Formula	\$33,219,400	\$33,032,330	-\$187,070
Library Network	15,608,631	15,657,837	49,206
Total Libraries	\$48,828,031	\$48,690,167	-\$137,864
Community College Formula	\$199,802,448	\$194,407,433	-\$5,395,015
Grants for ESOL Programs	3,741,592	3,812,145	70,553
Optional Retirement	12,920,000	13,824,000	904,000
Small College Grant/Allegany and Garrett Grant	3,911,064	3,896,346	-14,718
Statewide Programs	6,558,772	6,462,776	-95,996
Total Community Colleges	\$226,933,876	\$222,402,700	-\$4,531,176

<u>Program</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>Difference</u>
Highway User Revenue	\$160,534,815	\$134,296,005	-\$26,238,810
Elderly and Handicapped Transportation Aid	4,305,938	4,305,938	0
Paratransit	2,926,702	2,926,702	0
Total Transportation	\$167,767,455	\$141,528,645	-\$26,238,810
Police Aid	\$45,420,982	\$45,420,982	\$0
Fire and Rescue Aid	10,000,001	10,000,001	0
Vehicle Theft Prevention	1,461,834	1,860,000	398,166
9-1-1 Grants	16,390,000	9,400,000	-6,990,000
Community Policing	1,974,000	1,974,000	0
Foot Patrol/Drug Enforcement Grants	4,275,980	4,228,210	-47,770
Law Enforcement Training Grants	50,000	100,000	50,000
Stop Gun Violence Grants	928,478	928,478	0
Violent Crime Grants	4,750,714	4,750,714	0
Baltimore City State's Attorney Grant	1,959,195	1,959,195	0
Domestic Violence Grants	196,354	196,354	0
War Room/Sex Offender Grant	1,495,313	1,445,313	-50,000
Annapolis Crime Grant	174,000	174,000	0
School Vehicle Safety Grant	550,000	550,000	0
Body Armor	49,088	49,088	0
Total Public Safety	\$89,675,939	\$83,036,335	-\$6,639,604
Program Open Space	\$9,224,477	\$15,252,842	\$6,028,365
Critical Area Grants	370,000	316,930	-53,070
Total Recreation/Environment	\$9,594,477	\$15,569,772	\$5,975,295
Local Health Formula	\$37,283,483	\$37,283,484	\$1
Disparity Grant	\$121,436,013	\$121,436,013	\$0
Horse Racing Impact Aid	\$602,800	\$705,600	\$102,800
Payments in Lieu of Taxes	1,005,837	1,005,837	0
Security Interest Filing Fees	2,575,000	0	-2,575,000
Video Lottery Terminal Impact Aid	0	6,809,000	6,809,000
Senior Citizens Activities Center	450,000	500,000	50,000
Statewide Voting Systems	3,820,659	0	-3,820,659
Total Other Direct Aid	\$8,454,296	\$9,020,437	\$566,141
Total Direct Aid	\$5,457,885,822	\$5,546,583,351	\$88,697,529

<u>Program</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>Difference</u>
Retirement – Teachers	\$759,076,574	\$849,836,103	\$90,759,529
Retirement – Libraries	15,253,934	16,853,392	1,599,458
Retirement – Community Colleges	29,239,820	33,712,536	4,472,716
Total Payments-in-behalf	\$803,570,328	\$900,402,031	\$96,831,703
Total State Assistance	\$6,261,456,150	\$6,446,985,382	\$185,529,232

ESOL: English for Speakers of Other Languages

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 74.0% 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 2011 is set at \$2,477, and the student enrollment count used for the program totals 102,159. State funding for public special education programs will total \$264.0 million in fiscal 2011, representing a \$3.4 million, or 1.3% decrease over the prior year. Funding for nonpublic placements is estimated to remain unchanged in fiscal 2011 at \$112.8 million. 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 30.0% of any expense above that sum. The State pays 70.0% of the costs above the base local funding.

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 Budget Reconciliation and Financing Act of 2010 sets the inflation rate for student transportation grants at 1.0% for fiscal 2011 through fiscal 2015 and reduces the minimum annual inflation adjustment from 3.0 to 1.0%. This causes a \$4.3 million reduction in student transportation funding in fiscal 2011. As a result, the fiscal 2011 State budget includes

\$220.7 million for regular transportation services and \$23.7 million for special transportation services. This represents a \$2.9 million, or 1.2%, 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 99.0% of the annual per pupil foundation amount, with the State providing funding for 50.0% of the program's cost. The fiscal 2011 grant per LEP student is \$3,314. State funding for the program will total \$151.2 million in fiscal 2011, representing a \$2.6 million, or 1.7%, increase over the prior year. The number of LEP students in Maryland totals 44,062 for the 2009-2010 school 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 2011 funding totals \$126.6 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 is based on local support for education relative to local wealth. The grant cannot exceed 20% of the per pupil foundation amount. Nine local school systems will qualify for grants totaling \$47.4 million in fiscal 2011.

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 2011 with an additional \$4.6 million for school wiring. The Budget Reconciliation and Financing Act of 2010 authorizes general obligation (GO) bond funds to be used instead of general funds for the Aging Schools Program in fiscal 2011.

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 2011 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.

Teacher Quality Incentives: The State provides salary enhancements for teachers obtaining national certification and a stipend for teachers and other nonadministrative certificated school employees working in low-performing schools. The fiscal 2011 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 2011 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 2011, 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 2011, the same amount that was provided in the prior year.

School-based Health Centers: The fiscal 2011 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 2011.

Teachers' Retirement Payments: The State pays 100.0% 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 3.5% and applying the contribution rate certified by the retirement system. Teachers' retirement payments will total \$849.8 million in fiscal 2011, representing a \$90.8 million, or 12.0%, increase over the prior year.

Local Libraries

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 40.0% of the minimum program, and the counties provide 60.0%. 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 the Budget Reconciliation and Financing Act of 2009 froze 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; however, the Budget Reconciliation and Financing Act of 2010 freezes the per resident amount at that level for subsequent years. Due to these changes, State funding in fiscal 2011 will total \$33.0 million, which represents a \$0.2 million, or 0.6%, 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 the Budget Reconciliation and Financing Act of 2009 decreased 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. The Budget Reconciliation and Financing Act of 2010 continues funding at this level in subsequent years. Due to these changes, State funding in fiscal 2011 will total \$9.4 million for the State Library Resource Center and \$6.2 million for the regional centers.

Retirement Payments: The State pays 100.0% of the employers' 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 \$16.9 million in fiscal 2011, a \$1.6 million, or 10.5%, increase from the prior year.

Community Colleges

Senator John A. Cade Funding Formula: The Budget Reconciliation and Financing Act of 2010 reduces funding under the Cade formula to \$194.4 million in fiscal 2011 and 2012 and resets the phase-in of scheduled formula enhancements. The formula enhancements will be fully phased in by fiscal 2021 at 29% of the per student funding provided to selected public

four-year institutions. This provision results in a \$23.1 million reduction in statutorily mandated funding and a \$5.4 million reduction in the amount of funding provided in the prior year.

Special Programs: State funding in fiscal 2011 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 \$6.5 million. The English as a Second Language program will receive \$3.8 million.

Retirement Payments: The State pays 100.0% 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 \$33.7 million in fiscal 2011 – a \$4.5 million, or 15.3%, increase. In addition, State funding for the optional retirement program will total \$13.8 million in fiscal 2011, representing a \$0.9 million, or 7.0%, increase.

Local Health Departments

The State provides funds to support the delivery of public health services in each of Maryland's 24 jurisdictions. These services include child health, communicable disease prevention, maternal health, family planning, environmental health, and administration of the departments. Due to declining revenues, the fiscal 2010 appropriation for grants to local health departments was reduced from \$57.4 million to \$37.3 million by BPW in August 2009. Under the statute, funding would have increased to \$41.0 million in fiscal 2011; however, the Budget Reconciliation and Financing Act of 2010 reduces the base appropriation for the targeted local health formula for fiscal 2011 and 2012 to \$37.3 million and provides for inflationary increases to the program in fiscal 2013. As a result, State aid for local health departments will total \$37.3 million in fiscal 2011, the same amount as in the prior year.

County and Municipal Governments

Highway User Revenues: The State shares various transportation revenues, commonly referred to as highway user revenues, with the counties and municipalities. Due to declining revenues, BPW reduced fiscal 2010 highway user revenues by \$159.5 million in August 2009. This amount was in addition to the \$161.9 million reduction from the statutory funding level that resulted from the 2009 legislative session actions. These reductions coupled with downward revisions in transportation revenues would have resulted in highway user grants of \$140.5 million in fiscal 2010. The Budget Reconciliation and Financing Act of 2010, however, partially restores the fiscal 2010 funding to reflect payments received by the counties and municipalities before BPW reduced the appropriation. This results in an estimated \$160.5 million in highway user grants.

Prior to the fiscal 2010 reductions, Maryland local governments received 30.0% of highway user revenues. For fiscal 2011 and 2012, the Budget Reconciliation and Financing Act of 2010 lowers the local shares to 8.5 and 8.1%, respectively. Based on current revenue estimates this will result in grants totaling \$134.3 million each year. Of this amount, Baltimore

City will receive about \$124.5 million, the counties will receive about \$8.0 million, and municipalities will receive \$1.6 million. Beginning in fiscal 2013, the overall local share is 9.2% of highway user revenues: 7.5% for Baltimore City; 1.4% for counties; and 0.3% for municipalities.

Other Transportation Aid: State funding for elderly/disabled transportation grants will total \$4.3 million in fiscal 2011, while State funding for paratransit grants will total \$2.9 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. Due to declining revenues, the fiscal 2010 appropriation for police aid was reduced from \$66.0 million to \$45.4 million by BPW in August 2009. Under the statute, the fiscal 2011 funding level would have totaled \$64.4 million; however, the Budget Reconciliation and Financing Act of 2010 limits the amount a local government may receive through the police aid formula in both fiscal 2011 and 2012 to the amount the jurisdiction receives in fiscal 2010. This limitation reduces police aid by \$19.0 million in fiscal 2011. Therefore, after the crime laboratory adjustment, police aid will total \$45.4 million in fiscal 2011.

Public Safety Grants: State funding for targeted public safety grants will total \$14.2 million in fiscal 2011. 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 Capital City Safe Streets Program, 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 nonlapsing 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 \$1.9 million in fiscal 2011.

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 million in fiscal 2011.

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 total \$9.4 million in fiscal 2011.

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. Local POS grants will total \$12.4 million in fiscal 2011, which represents a \$6.2 million increase from the prior year. In addition, Baltimore City will receive a \$2.9 million special POS grant.

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 75.0% 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 75.0% of the State average. The Budget Reconciliation and Financing Act of 2009 included a provision, beginning in fiscal 2011, that caps each county's funding under the program at the fiscal 2010 level. As a result, State funding for disparity grants was scheduled to total \$97.1 million in fiscal 2011, a \$24.4 million decrease from the prior year. The Budget Reconciliation and Financing Act of 2010, however, changes the statute to use more recent income tax data to determine the grants and maintains the cap on each county's funding. This change results in an additional \$24.4 million in funding and ensures that the counties will receive the same funding as in fiscal 2010. Baltimore City and seven counties (Allegany, Caroline, Dorchester, Garrett, Prince George's, Somerset, and Wicomico) qualify for disparity grants. The fiscal 2011 grant under the statute is based on population estimates for July 2008 and calendar 2008 local income tax revenues raised from a 2.54% local income tax rate.

State Aid

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 2011 State budget includes

\$5.5 billion to fund these programs. Part A, section 1 of each county's statistical tables compares aid distributed to the county in fiscal 2010 and 2011.

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 \$900.4 million in fiscal 2011. 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 2011 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 \$943.5 million statewide for these programs in fiscal 2011. In addition, \$38.2 million from the Cigarette Restitution Fund will also be spent on these programs in fiscal 2011. 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 2011 budget includes \$82.2 million in general funds and \$20.0 million in special funds for these programs. In addition, the budget includes \$32.1 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 2011 funding for these family health programs totals \$15.8 million in general funds and \$35.8 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 nonemergency situations, and coordination and outreach services for Medicaid and special needs populations in the HealthChoice program. The fiscal 2011 funding for these programs totals \$30.5 million in general funds and \$29.8 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 2011 budget includes \$374.9 million in general funds and \$319.6 million in federal funds for mental health services.
- ***Prevention and Disease Control:*** The Family Health Administration and the Infectious Disease and Environmental Health Administration are responsible for chronic and hereditary disease prevention (cancer, heart disease, diabetes, etc.) and the prevention and control of infectious diseases. 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. The former AIDS Administration is now part of the Infectious Disease and Environmental Health Administration. General fund appropriations in fiscal 2011 total \$9.9 million along with \$33.9 million in federal funds. In addition, the budget includes \$18.2 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 2011 budget includes \$430.3 million in general funds and \$312.5 million in federal funds for these programs.

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 2011 estimates of funding for those programs that are available by subdivision. Note that fiscal 2011 funding for both homeless and women's services is allocated among the subdivisions on the basis of each jurisdiction's share of fiscal 2010 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 2011 budget includes \$4.2 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 2011 funding for these programs equals \$3.5 million in general funds. In addition, the fiscal 2011 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 2011 budget includes \$10.4 million in general funds and \$29.7 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 2011 budget includes \$85.4 million in general funds and \$115.3 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 2011 funding is \$13.3 million in general funds and \$25.6 million in federal funds. In this report, the fiscal 2011 general funds are allocated among the subdivisions on the basis of each jurisdiction's share of fiscal 2010 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 2011 funding is \$9.9 million in general funds.
- **Community Services:** Included in this category are the senior information and assistance program and the senior nutrition 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 2011 funding for these programs totals \$3.4 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 2011 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 2011. 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 2011 budget includes \$255.2 million in funding for local school construction: \$5.2 million from the program's contingency fund and \$250.0 million in general obligation bonds. As of the publication of this report, \$187.1 million of the total fiscal 2011 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 2011 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 2011 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 2010</u>	<u>FY 2011</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$43,504	\$42,911	-\$593	-1.4
Compensatory Education	21,962	21,775	-187	-0.9
Student Transportation	4,310	4,374	64	1.5
Special Education	6,899	6,727	-173	-2.5
Limited English Proficiency Grants	147	160	13	8.8
Guaranteed Tax Base	8,227	6,753	-1,475	-17.9
Adult Education	188	188	0	0.0
Aging Schools	98	98	0	0.0
Other Education Aid	684	684	0	0.0
Primary & Secondary Education	\$86,019	\$83,670	-\$2,351	-2.7
Libraries	770	758	-12	-1.6
Community Colleges	5,923	5,898	-25	-0.4
Health Formula Grant	909	909	0	0.0
* Transportation	942	433	-509	-54.0
* Police and Public Safety	566	566	0	0.0
* Fire and Rescue Aid	240	240	0	0.0
Recreation and Natural Resources	69	138	69	100.0
Disparity Grant	7,299	7,299	0	0.0
Total Direct Aid	\$102,737	\$99,911	-\$2,826	-2.8
Aid Per Capita (\$)	1,422	1,377	-45	-3.2
Property Tax Equivalent (\$)	2.69	2.52	-0.17	-6.3

* 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 2011 State payments for Allegany County for teachers, librarians, and community college faculty are estimated to be \$10,604,000.

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 2011 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 2010) 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	\$4,120,000
Family Health and Primary Care	219,000
Medical Care Services	875,000
Mental Health	5,739,000
Prevention and Disease Control	367,000
Developmental Disabilities	5,517,000

Social Services

Homeless Services	77,000
Women's Services	84,000
Adult Services	196,000
Child Welfare Services	1,898,000

Senior Citizen Services

Long-term Care	274,000
Community Services	155,000

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

South Penn Elementary School – construction	\$586,000
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Allegany Community College

Automotive Technology and Physical Plant Building – renovate	790,000
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Community Parks and Playgrounds

Baker Memorial Park	114,000
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Chesapeake Bay Water Quality Projects

Braddock Run – interceptor improvements	650,000
Cumberland Combined Sewer – overflow improvements	500,000
Frostburg Combined Sewer – overflow improvements	500,000
Westernport Combined Sewer – overflow improvements	400,000

Water Supply Financial Assistance Program

Frostburg – water main improvements	500,000
Lonaconing – water improvements	400,000

Waterway Improvement

Mason Recreation Complex – ADA parking	10,000
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Other Projects

Allegany Museum	150,000
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D. Capital Projects for State Facilities in the County**Department of Natural Resources**

National Park Service – parkwide boating facilities maintenance	\$99,000
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Department of Public Safety and Correctional Services

Western Correctional Institution – vocational education building	321,000
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University System of Maryland

Frostburg State – Center for Communications and Information Technology	2,681,000
Frostburg State – Lane Center renovation and addition	2,000,000

Anne Arundel County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$173,028	\$183,003	\$9,975	5.8
Compensatory Education	41,572	48,050	6,478	15.6
Student Transportation	20,213	20,628	415	2.1
Special Education	25,072	24,818	-254	-1.0
Limited English Proficiency Grants	5,363	6,615	1,251	23.3
Geographic Cost of Education Index	8,655	8,786	130	1.5
Adult Education	403	403	0	0.0
Aging Schools	506	506	0	0.0
Other Education Aid	1,324	1,335	11	0.8
Primary & Secondary Education	\$276,136	\$294,144	\$18,006	6.5
Libraries	1,835	1,913	78	4.3
Community Colleges	29,428	28,695	-734	-2.5
Health Formula Grant	3,142	3,142	0	0.0
* Transportation	3,361	1,569	-1,792	-53.3
* Police and Public Safety	4,497	4,497	0	0.0
* Fire and Rescue Aid	806	806	0	0.0
Recreation and Natural Resources	741	1,486	745	100.5
* Other Direct Aid	248	277	29	11.7
Total Direct Aid	\$320,194	\$336,529	\$16,335	5.1
Aid Per Capita (\$)	624	646	21	3.4
Property Tax Equivalent (\$)	0.37	0.40	0.03	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 2011 State payments for Anne Arundel County for teachers, librarians, and community college faculty are estimated to be \$76,536,000.

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 2011 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 2010) 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	\$3,063,000
Family Health and Primary Care	642,000
Medical Care Services	1,446,000
Mental Health	22,125,000
Prevention and Disease Control	832,000
Developmental Disabilities	39,163,000

Social Services

Homeless Services	174,000
Women's Services	184,000
Adult Services	180,000
Child Welfare Services	4,080,000

Senior Citizen Services

Long-term Care	674,000
Community Services	150,000

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

Brooklyn Park Elementary School – construction	\$1,387,000
Eastport Elementary School – renovations (HVAC/electrical)	616,000
Germantown Elementary School – construction	2,624,000
Linthicum Elementary School – construction	1,156,000
Northeast High School – construction	2,300,000
Odenton Elementary School – renovations (electrical)	66,000
Overlook Elementary School – construction	2,453,000
Pershing Hill Elementary School – construction	4,500,000
Ridgeway Elementary School – construction	1,442,000
Sunset Elementary School – construction	1,156,000

Anne Arundel Community College

Library – renovation and addition	4,935,000
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Community Health Facilities Grant Program

Main Street Housing, Inc.	588,000
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Community Parks and Playgrounds

Chambers Park	61,000
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Chesapeake Bay Restoration Fund

Annapolis Wastewater Treatment Plant (WWTP) – enhanced nutrient removal	6,000,000
Broadneck WWTP – enhanced nutrient removal	6,000,000
Broadwater WWTP – enhanced nutrient removal	4,600,000
Cox Creek WWTP – enhanced nutrient removal	20,000,000
Patuxent WWTP – enhanced nutrient removal	4,680,000

Waterway Improvement

Annapolis – public boating facilities improvements	99,000
Duvall Creek – dredging	500,000
Local dredge material placement sites – countywide	50,000
Rockhold Creek – federal navigation project	99,000

Other Projects

Annapolis High School Booster Club – concession stand	75,000
Bates Middle School – track	100,000
Coordinating Center for Home and Community Care	200,000
Old Mill High School – athletic field lights	200,000
Reece Road Community Health Center	250,000
South River High School – athletic field lights	200,000
Southern and Broadneck High School – field lights	375,000
William Paca House	200,000

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

Sandy Point State Park – stone jetty improvements	\$550,000
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Baltimore City

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$399,608	\$394,028	-\$5,581	-1.4
Compensatory Education	269,495	312,797	43,302	16.1
Student Transportation	18,335	18,251	-84	-0.5
Special Education	82,574	81,462	-1,111	-1.3
Limited English Proficiency	10,595	11,007	413	3.9
Grants				
Guaranteed Tax Base	33,281	27,659	-5,622	-16.9
Geographic Cost of Education	21,893	21,904	11	0.1
Index				
Adult Education	1,136	1,136	0	0.0
Aging Schools	1,388	1,388	0	0.0
Other Education Aid	2,443	2,443	0	0.0
Primary & Secondary Education	\$840,748	\$872,075	\$31,328	3.7
Libraries	6,548	6,461	-86	-1.3
Health Formula Grant	6,675	6,675	0	0.0
Transportation	131,865	125,196	-6,669	-5.1
Police and Public Safety	9,921	9,921	0	0.0
Fire and Rescue Aid	930	930	0	0.0
Recreation and Natural Resources	3,568	3,885	318	8.9
Disparity Grant	79,052	79,052	0	0.0
Other Direct Aid	3,783	1,255	-2,528	-66.8
Total Direct Aid	\$1,083,090	\$1,105,450	\$22,360	2.1
Aid Per Capita (\$)	1,701	1,734	34	2.0
Property Tax Equivalent (\$)	2.84	2.85	0.01	0.4

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 2011 State payments for Baltimore City for teachers, librarians, and community college faculty are estimated to be \$83,503,000.

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 2011 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 2010) 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	\$36,225,000
Family Health and Primary Care	4,661,000
Medical Care Services	7,739,000
Mental Health	127,540,000
Prevention and Disease Control	950,000
Developmental Disabilities	48,644,000

Social Services

Homeless Services	1,804,000
Women's Services	678,000
Adult Services	2,460,000
Child Welfare Services	30,895,000

Senior Citizen Services

Long-term Care	1,938,000
Community Services	940,000

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

Barclay Elementary/Middle School #54 – renovations (HVAC)	\$1,544,000
Dr. Rayner Browne Elementary/Middle School #25 – renovations (HVAC)	340,000
Dr. Roland N. Patterson, Sr. Building #82 – renovations (HVAC)	1,552,000
Franklin Square Elementary/Middle School #95 – renovations (boiler)	284,000
Grove Park Elementary/Middle School #224 – renovations (HVAC)	270,000
Hazelwood Elementary/Middle School #210 – renovations (HVAC)	1,640,000
Paul L. Dunbar Middle School #133 – renovations (HVAC/window)	6,208,000
Thomas Johnson Elementary/Middle School #84 – renovations (roof/chiller)	1,044,000
W.H. Lemmel Building #79 – renovations (roof/windows/fire safety)	4,890,000
Westside Elementary School #24 – renovations (boilers)	944,000
Windsor Hills Elementary/Middle School – renovations (chiller/AHU)	436,000

Community Health Facilities Grant Program

Community Housing Associates, Inc.	2,900,000
Project PLASE, Inc.	400,000
Tuerk House, Inc.	1,500,000

Federally Qualified Health Centers Grant Program

Total Health Care, Inc.	128,000
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Shelter and Transitional Facilities

Dayspring Programs	1,000,000
Project PLASE Vets Transitional	100,000

Partnership Rental Housing Program

Bailey Disability Units	2,580,619
Thompson 22	861,329

Community Parks and Playgrounds

Federal Hill Park	240,000
Northwestern High School	75,000
Woodbourne Park	200,000

Chesapeake Bay Water Quality Projects

Patapsco WWTP – nutrient removal	22,150,000
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Chesapeake Bay Restoration Fund

Patapsco WWTP – enhanced nutrient removal	30,000,000
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Waterway Improvement

City Fire Department – purchase dive team and fire boat marine equipment	25,000
Inner Harbor Marina – wind mill generators for boat slips	31,950

Other Projects

2101-2111 Pennsylvania Avenue Development Project	35,000
Academy of Success Community Empowerment Center	100,000
Archbishop Curley High School – Fine Arts Center	100,000
Baltimore Leadership School for Young Women	135,000
Baltimore Museum of Art	2,500,000
Baltimore Zoo – infrastructure improvements	5,000,000
Collington Square Community Kitchen	100,000
Creative Alliance	50,000
Dayspring Square	200,000
Druid Hill Family Center Y	65,000
East Baltimore Biotechnology Park	5,000,000
Franklin Entrepreneurial and Apprenticeship Center	120,000
Glen Avenue Firehouse	75,000
Greenmount West Community Resource Center	100,000
Johns Hopkins Health System – Cardiovascular and Critical Care Tower	2,500,000
Johns Hopkins Health System – Pediatric Trauma Center	5,000,000
Kennedy Krieger Institute	2,000,000
Lyric Opera House	1,500,000
Maryland SPCA Adoption Center	100,000
Museum of Industry	250,000

Aid to Local Government – Baltimore City**A-105**

Museum of the Maryland Historical Society	150,000
National Aquarium in Baltimore	3,500,000
Port Discovery	100,000
Sandi's Learning Center	100,000
Sinai Hospital	425,000
Sinai Hospital – Samuelson Children's Hospital	2,500,000
Southeast Neighborhood Development Center	300,000
Stadium Place	300,000
Swann Avenue Firehouse	75,000
University Specialty Hospital	455,000
Women's Veteran's Center	50,000

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

Saratoga State Center – garage improvements	\$350,000
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Department of Public Safety and Correctional Services

Baltimore City Detention Center – youth facility	17,520,000
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Morgan State University

Banneker Hall – renovation and telecommunications infrastructure	3,265,000
Center for the Built Environment and Infrastructure Studies	26,935,000
School of Business and Management – new complex	250,000

University System of Maryland

Baltimore – Pharmacy Hall addition and renovation	2,606,000
Coppin State – Science and Technology Center	6,497,000
University of Baltimore – Law School	37,300,000

Other

University of Maryland Medical System – shock trauma center	10,000,000
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Baltimore County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$323,556	\$328,787	\$5,231	1.6
Compensatory Education	93,820	102,676	8,856	9.4
Student Transportation	26,278	26,649	371	1.4
Special Education	44,214	44,658	444	1.0
Limited English Proficiency Grants	11,026	11,204	179	1.6
Geographic Cost of Education Index	5,317	5,329	12	0.2
Adult Education	795	795	0	0.0
Aging Schools	874	874	0	0.0
Other Education Aid	4,796	4,868	72	1.5
Primary & Secondary Education	\$510,676	\$525,840	\$15,165	3.0
Libraries	5,246	5,249	3	0.1
Community Colleges	37,009	36,335	-673	-1.8
Health Formula Grant	4,302	4,302	0	0.0
Transportation	3,888	1,599	-2,290	-58.9
Police and Public Safety	6,317	6,317	0	0.0
Fire and Rescue Aid	1,161	1,161	0	0.0
Recreation and Natural Resources	836	1,680	844	101.0
Other Direct Aid	25	29	4	16.0
Total Direct Aid	\$569,460	\$582,512	\$13,052	2.3
Aid Per Capita (\$)	725	738	13	1.8
Property Tax Equivalent (\$)	0.64	0.65	0.01	1.6

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 2011 State payments for Baltimore County for teachers, librarians, and community college faculty are estimated to be \$99,745,000.

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 2011 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 2010) 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	\$4,779,000
Family Health and Primary Care	338,000
Medical Care Services	2,779,000
Mental Health	53,253,000
Prevention and Disease Control	1,378,000
Developmental Disabilities	60,000,000

Social Services

Homeless Services	189,000
Women's Services	351,000
Adult Services	705,000
Child Welfare Services	5,629,000

Senior Citizen Services

Long-term Care	1,417,000
Community Services	232,000

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

Catonsville Center for Alternative Studies – renovations (boilers)	\$256,000
Dundalk and Sollers Point High Schools – construction	1,700,000
G.W. Carver Center for Arts and Technology – construction	11,142,759
Norwood Elementary School – renovations (roof)	216,861
Randallstown High School – renovations (HVAC)	3,075,000
Riverview Elementary School – renovations (HVAC/chiller)	308,000
West Towson Elementary School – construction	3,031,380

Public Libraries

Sollers Point Library – construction	500,000
Towson Library – renovation	110,000

Baltimore Community College

Catonsville – F Building renovation and expansion	2,452,000
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Senior Centers Grant Program

Arbutus Senior Center	250,000
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Chesapeake Bay Restoration Fund

Back River WWTP – enhanced nutrient removal	19,790,000
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Waterway Improvement

Bowley's Quarter Volunteer Fire Department – purchase fire/rescue boat	50,000
Channel marker improvements – countywide	50,000
Cockeysville Volunteer Fire Department – purchase marine fire/rescue equipment	5,300
Submerged aquatic vegetation monitoring – countywide	10,000
White Marsh Volunteer Fire Department – purchase marine fire/rescue equipment	14,100

Other Projects

Arbutus Volunteer Fire Department	100,000
Augsburg Lutheran Home of Maryland	300,000
Automotive Vocational Training Center	100,000
Baltimore County Humane Society	150,000
Forbush School	2,500,000
Goucher College – Julia Rogers Library	3,000,000
HopeWell Cancer Support Facility	175,000
Little Sisters of the Poor	500,000
Milford Mill Academy	40,000
North County Park	100,000
Owings Mills High School – stadium	100,000
Randallstown High School – dark room	40,000
Stevenson University – School of Design	3,000,000
Woodlawn High School	40,000

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

Gunpowder Falls State Park – shoreline stabilization/replace dock/dredging	\$50,000
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University System of Maryland

Baltimore County – parking improvements	1,000,000
Baltimore County – Performing Arts and Humanities Facility	37,400,000
Baltimore County – residence hall renovations	11,700,000
Towson University – College of Liberal Arts Complex	38,650,000
Towson University – residence halls renovations	14,000,000

Calvert County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$63,227	\$62,705	-\$522	-0.8
Compensatory Education	7,925	9,188	1,264	15.9
Student Transportation	5,384	5,441	57	1.1
Special Education	5,897	5,715	-182	-3.1
Limited English Proficiency Grants	761	668	-93	-12.2
Geographic Cost of Education Index	2,342	2,337	-5	-0.2
Adult Education	200	200	0	0.0
Aging Schools	38	38	0	0.0
Other Education Aid	609	609	0	0.0
Primary & Secondary Education	\$86,383	\$86,901	\$519	0.6
Libraries	398	402	4	1.0
Community Colleges	2,194	2,206	12	0.5
Health Formula Grant	370	370	0	0.0
* Transportation	808	405	-403	-49.9
* Police and Public Safety	514	514	0	0.0
* Fire and Rescue Aid	200	200	0	0.0
Recreation and Natural Resources	74	149	74	100.0
Total Direct Aid	\$90,941	\$91,147	\$206	0.2
Aid Per Capita (\$)	1,025	1,022	-4	-0.4
Property Tax Equivalent (\$)	0.65	0.65	-0.01	-0.9

* 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 2011 State payments for Calvert County for teachers, librarians, and community college faculty are estimated to be \$17,683,000.

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 2011 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 2010) 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	\$604,000
Family Health and Primary Care	134,000
Medical Care Services	361,000
Mental Health	2,764,000
Prevention and Disease Control	437,000
Developmental Disabilities	6,774,000

Social Services

Homeless Services	30,000
Women's Services	136,000
Adult Services	86,000
Child Welfare Services	762,000

Senior Citizen Services

Long-term Care	129,000
Community Services	19,000

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

Calvert High School – construction	\$5,450,000
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College of Southern Maryland

La Plata – Business Classroom Building renovation and expansion	563,000
Prince Frederick – campus development	4,766,000

Community Health Facilities Grant Program

Calvert County Government	1,150,000
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Chesapeake Bay Restoration Fund

Chesapeake Beach WWTP – enhanced nutrient removal	5,000,000
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Waterway Improvement

North Beach – town pier maintenance dredging	99,000
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Other Projects

Chesapeake Beach – Kellam’s Field	250,000
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Caroline County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$25,508	\$25,003	-\$505	-2.0
Compensatory Education	10,454	11,204	750	7.2
Student Transportation	2,421	2,441	21	0.9
Special Education	2,237	2,233	-4	-0.2
Limited English Proficiency Grants	854	933	79	9.3
Guaranteed Tax Base	563	339	-225	-40.0
Aging Schools	50	50	0	0.0
Other Education Aid	415	415	0	0.0
Primary & Secondary Education	\$42,502	\$42,618	\$116	0.3
Libraries	273	273	0	0.0
Community Colleges	1,394	1,434	40	2.9
Health Formula Grant	538	538	0	0.0
* Transportation	615	307	-308	-50.1
* Police and Public Safety	223	223	0	0.0
* Fire and Rescue Aid	209	209	0	0.0
Recreation and Natural Resources	33	65	32	97.0
Disparity Grant	2,132	2,132	0	0.0
Total Direct Aid	\$47,919	\$47,799	-\$120	-0.3
Aid Per Capita (\$)	1,446	1,433	-14	-1.0
Property Tax Equivalent (\$)	1.50	1.52	0.02	1.3

* 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 2011 State payments for Caroline County for teachers, librarians, and community college faculty are estimated to be \$5,249,000.

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 2011 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 2010) 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	\$411,000
Family Health and Primary Care	265,000
Medical Care Services	474,000
Mental Health	3,089,000
Prevention and Disease Control	256,000
Developmental Disabilities	2,531,000

Social Services

Homeless Services	39,000
Women's Services	63,000
Adult Services	111,000
Child Welfare Services	659,000

Senior Citizen Services

Long-term Care	517,000
Community Services	106,000

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	\$3,767,061
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Chesapeake College

Kent Humanities Building – renovation	268,000
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Community Parks and Playgrounds

Chambers Park	90,000
Hillsboro Playground	70,000

Waterway Improvement

Public boating facilities – countywide maintenance	50,000
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Carroll County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$105,445	\$103,313	-\$2,132	-2.0
Compensatory Education	10,359	11,680	1,322	12.8
Student Transportation	9,289	9,370	82	0.9
Special Education	12,391	12,412	21	0.2
Limited English Proficiency Grants	682	645	-37	-5.4
Geographic Cost of Education Index	2,589	2,570	-20	-0.8
Adult Education	50	50	0	0.0
Aging Schools	137	137	0	0.0
Other Education Aid	621	622	0	0.0
Primary & Secondary Education	\$141,563	\$140,799	-\$764	-0.5
Libraries	982	982	0	0.0
Community Colleges	7,587	7,409	-177	-2.3
Health Formula Grant	1,232	1,232	0	0.0
* Transportation	1,460	571	-889	-60.9
* Police and Public Safety	1,044	1,044	0	0.0
* Fire and Rescue Aid	264	264	0	0.0
Recreation and Natural Resources	166	333	167	100.6
Total Direct Aid	\$154,298	\$152,634	-\$1,664	-1.1
Aid Per Capita (\$)	911	897	-14	-1.5
Property Tax Equivalent (\$)	0.70	0.73	0.03	4.3

* 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 2011 State payments for Carroll County for teachers, librarians, and community college faculty are estimated to be \$27,149,000.

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 2011 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 2010) 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	\$2,349,000
Family Health and Primary Care	183,000
Medical Care Services	631,000
Mental Health	7,531,000
Prevention and Disease Control	455,000
Developmental Disabilities	12,934,000

Social Services

Homeless Services	68,000
Women's Services	267,000
Adult Services	72,000
Child Welfare Services	1,354,000

Senior Citizen Services

Long-term Care	308,000
Community Services	54,000

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

Hampstead Elementary School – renovations (HVAC)	\$450,000
Robert Moton Elementary School – construction	500,000
Westminster High School – renovations (HVAC)	5,000,000

Public Libraries

Eldersburg Library – renovation	85,000
North Carroll Library – renovation	125,000

Community Parks and Playgrounds

Green’s Playground	140,000
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Chesapeake Bay Water Quality Projects

Hampstead WWTP – nutrient removal	50,000
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Chesapeake Bay Restoration Fund

Freedom District WWTP – enhanced nutrient removal	6,400,000
Hampstead WWTP – enhanced nutrient removal	150,000
Taneytown WWTP – enhanced nutrient removal	3,000,000
Westminster WWTP – enhanced nutrient removal	6,000,000

Other Projects

Carroll County Agriculture Center	150,000
Carroll Hospital Center	700,000

Cecil County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$64,888	\$65,163	\$275	0.4
Compensatory Education	16,505	19,252	2,746	16.6
Student Transportation	4,772	4,822	50	1.0
Special Education	7,718	7,756	38	0.5
Limited English Proficiency Grants	545	563	19	3.5
Guaranteed Tax Base	2,009	1,744	-265	-13.2
Adult Education	104	104	0	0.0
Aging Schools	96	96	0	0.0
Other Education Aid	688	688	0	0.0
Primary & Secondary Education	\$97,325	\$100,188	\$2,863	2.9
Libraries	704	717	12	1.7
Community Colleges	5,211	5,252	41	0.8
Health Formula Grant	806	806	0	0.0
* Transportation	848	366	-482	-56.8
* Police and Public Safety	635	635	0	0.0
* Fire and Rescue Aid	206	206	0	0.0
Recreation and Natural Resources	86	173	86	100.0
Total Direct Aid	\$105,821	\$108,343	\$2,522	2.4
Aid Per Capita (\$)	1,059	1,075	16	1.5
Property Tax Equivalent (\$)	0.95	0.98	0.03	3.2

* 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 2011 State payments for Cecil County for teachers, librarians, and community college faculty are estimated to be \$15,666,000.

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 2011 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 2010) 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	\$1,084,000
Family Health and Primary Care	182,000
Medical Care Services	564,000
Mental Health	6,779,000
Prevention and Disease Control	438,000
Developmental Disabilities	7,632,000

Social Services

Homeless Services	36,000
Women's Services	113,000
Adult Services	127,000
Child Welfare Services	1,514,000

Senior Citizen Services

Long-term Care	148,000
Community Services	39,000

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

North East High School – renovations (windows/doors)	\$551,761
Thomson Estates Elementary School – renovations (HVAC/roof)	779,513

Community Parks and Playgrounds

Ferry Slip Park	91,000
Marina Park Playground	154,000

Waterway Improvement

Charlestown – public boating facilities	50,000
Chesapeake City – public boating facilities	5,800
Port Deposit Marina Park – relocate floating docks	50,000
Port Deposit – public boating facilities	50,000

Hazardous Substance Cleanup Program

Dwyer Site	800,000
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Other Projects

Lower Susquehanna Heritage Greenway	150,000
Union Hospital	2,000,000

Charles County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$103,232	\$104,218	\$986	1.0
Compensatory Education	21,116	22,849	1,733	8.2
Student Transportation	9,706	9,814	108	1.1
Special Education	7,714	7,829	114	1.5
Limited English Proficiency Grants	818	731	-87	-10.6
Guaranteed Tax Base	2,213	228	-1,985	-89.7
Geographic Cost of Education Index	3,462	3,467	5	0.1
Adult Education	335	335	0	0.0
Aging Schools	50	50	0	0.0
Other Education Aid	971	972	1	0.1
Primary & Secondary Education	\$149,617	\$150,493	\$875	0.6
Libraries	795	791	-4	-0.5
Community Colleges	7,003	7,042	39	0.6
Health Formula Grant	995	995	0	0.0
* Transportation	1,192	608	-584	-49.0
* Police and Public Safety	801	801	0	0.0
* Fire and Rescue Aid	242	242	0	0.0
Recreation and Natural Resources	152	305	153	100.7
Total Direct Aid	\$160,797	\$161,277	\$480	0.3
Aid Per Capita (\$)	1,142	1,134	-8	-0.7
Property Tax Equivalent (\$)	0.81	0.86	0.05	6.2

* 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 2011 State payments for Charles County for teachers, librarians, and community college faculty are estimated to be \$25,698,000.

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 2011 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 2010) 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	\$1,922,000
Family Health and Primary Care	337,000
Medical Care Services	527,000
Mental Health	5,072,000
Prevention and Disease Control	554,000
Developmental Disabilities	10,751,000

Social Services

Homeless Services	72,000
Women's Services	71,000
Adult Services	125,000
Child Welfare Services	1,974,000

Senior Citizen Services

Long-term Care	202,000
Community Services	16,000

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

Arthur Middleton Elementary School – construction	\$644,000
Eva Turner Elementary School – construction	1,646,000
Indian Head Elementary School – construction	915,000
John Hanson Middle School – renovations (boiler)	1,436,000
Mary Burgess Neal Elementary School – construction	250,828

College of Southern Maryland

La Plata – Business Classroom Building renovation and expansion	563,000
Prince Frederick – campus development	4,766,000

Community Parks and Playgrounds

Tilghman Lake	100,000
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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	5,000,000
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Water Supply Financial Assistance Program

Lower Patapsco Aquifer – well construction/development/testing	1,000,000
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Waterway Improvement

Marbury – replace fire/rescue boat and equipment	50,000
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Other Projects

Civista Medical Center	165,000
Hospice House	195,000
Melwood Recreation Center – Kamp A-Kom-Plish	80,000
Potomac Heights Housing Complex	75,000

Dorchester County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$18,699	\$19,104	\$405	2.2
Compensatory Education	6,963	8,094	1,131	16.2
Student Transportation	2,229	2,263	33	1.5
Special Education	1,422	1,362	-60	-4.2
Limited English Proficiency Grants	273	335	62	22.7
Guaranteed Tax Base	8	28	20	250.0
Adult Education	148	148	0	0.0
Aging Schools	38	38	0	0.0
Other Education Aid	472	472	0	0.0
Primary & Secondary Education	\$30,252	\$31,844	\$1,591	5.3
Libraries	242	244	2	0.8
Community Colleges	1,257	1,293	36	2.9
Health Formula Grant	429	429	0	0.0
* Transportation	680	336	-344	-50.6
* Police and Public Safety	249	249	0	0.0
* Fire and Rescue Aid	217	217	0	0.0
Recreation and Natural Resources	28	56	28	100.0
Disparity Grant	2,023	2,023	0	0.0
Total Direct Aid	\$35,377	\$36,691	\$1,314	3.7
Aid Per Capita (\$)	1,106	1,145	39	3.5
Property Tax Equivalent (\$)	1.00	1.03	0.03	2.8

* 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 2011 State payments for Dorchester County for teachers, librarians, and community college faculty are estimated to be \$4,560,000.

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 2011 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 2010) 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	\$1,632,000
Family Health and Primary Care	175,000
Medical Care Services	474,000
Mental Health	4,792,000
Prevention and Disease Control	314,000
Developmental Disabilities	2,444,000

Social Services

Homeless Services	35,000
Women's Services	22,000
Adult Services	129,000
Child Welfare Services	797,000

Senior Citizen Services

Long-term Care	569,000
Community Services	302,000

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

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

Dorchester Career and Technology Center – construction \$5,000,000

Chesapeake College

Kent Humanities Building – renovation 268,000

Community Parks and Playgrounds

Meadow Avenue Park 84,000

Chesapeake Bay Water Quality Projects

Cambridge Combined Sewer – overflow improvements 650,000

Susquehanna Point/Madison/Woolford – sewer collection system installation 400,000

Chesapeake Bay Restoration Fund

Cambridge WWTP – enhanced nutrient removal 5,400,000

Water Supply Financial Assistance Program

East New Market – new wells 70,000

Waterway Improvement

Cambridge Municipal Marina – design and construct restroom 50,000

Public boating facilities – countywide maintenance 99,000

Other Projects

Dorchester Center for the Arts Performance Hall 10,000

Dorchester County Family YMCA 70,000

Richardson Maritime Heritage Center 50,000

D. Capital Projects for State Facilities in the County

Department of Natural Resources

Harriet Tubman Underground Railroad State Park – improvements (federal funds) \$3,166,312

Frederick County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$145,613	\$146,856	\$1,244	0.9
Compensatory Education	20,776	23,999	3,223	15.5
Student Transportation	11,316	11,408	92	0.8
Special Education	14,270	14,233	-36	-0.3
Limited English Proficiency Grants	5,181	5,020	-161	-3.1
Geographic Cost of Education Index	6,280	6,276	-4	-0.1
Adult Education	310	310	0	0.0
Aging Schools	183	183	0	0.0
Other Education Aid	717	717	0	0.0
Primary & Secondary Education	\$204,646	\$209,002	\$4,358	2.1
Libraries	1,099	1,140	40	3.6
Community Colleges	8,583	8,667	84	1.0
Health Formula Grant	1,512	1,512	0	0.0
* Transportation	2,424	1,183	-1,241	-51.2
* Police and Public Safety	1,491	1,491	0	0.0
* Fire and Rescue Aid	363	363	0	0.0
Recreation and Natural Resources	175	352	177	101.1
Total Direct Aid	\$220,293	\$223,710	\$3,417	1.6
Aid Per Capita (\$)	976	981	5	0.5
Property Tax Equivalent (\$)	0.69	0.75	0.06	8.7

* 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 2011 State payments for Frederick County for teachers, librarians, and community college faculty are estimated to be \$39,128,000.

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 2011 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 2010) 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	\$1,741,000
Family Health and Primary Care	237,000
Medical Care Services	713,000
Mental Health	13,678,000
Prevention and Disease Control	492,000
Developmental Disabilities	17,239,000

Social Services

Homeless Services	145,000
Women's Services	139,000
Adult Services	156,000
Child Welfare Services	2,104,000

Senior Citizen Services

Long-term Care	236,000
Community Services	70,000

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

Linganore High School – construction	\$3,950,482
West Frederick Middle School – construction	7,001,518

Public Libraries

Walkersville Library – construction	450,000
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Frederick Community College

Building F – vacant space conversion	131,000
Science/Technology Hall – renovation and addition	462,000

Community Parks and Playgrounds

Doub’s Meadow Park	12,000
Woodsboro Regional Park	84,000

Chesapeake Bay Water Quality Projects

Emmitsburg WWTP – nutrient removal	2,700,000
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Chesapeake Bay Restoration Fund

Emmitsburg WWTP – enhanced nutrient removal	5,210,000
Frederick WWTP – enhanced nutrient removal	10,000,000

Waterway Improvement

Brunswick – ADA access and other boat ramp improvements	99,000
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Other Projects

Hood College – heating infrastructure replacement	2,000,000
Way Station	300,000

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

National Park Service – parkwide boating facilities maintenance	\$99,000
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Other

School for the Deaf – bus loop and parking lot	1,606,000
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Garrett County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$15,647	\$14,559	-\$1,088	-7.0
Compensatory Education	4,850	5,058	208	4.3
Student Transportation	2,776	2,803	27	1.0
Special Education	1,455	1,320	-135	-9.3
Limited English Proficiency Grants	10	10	0	0.0
Adult Education	39	39	0	0.0
Aging Schools	38	38	0	0.0
Other Education Aid	550	550	1	0.2
Primary & Secondary Education	\$25,365	\$24,377	-\$987	-3.9
Libraries	155	155	-1	-0.6
Community Colleges	3,426	3,343	-83	-2.4
Health Formula Grant	437	437	0	0.0
* Transportation	673	301	-372	-55.3
* Police and Public Safety	155	155	0	0.0
* Fire and Rescue Aid	200	200	0	0.0
Recreation and Natural Resources	35	70	35	100.0
Disparity Grant	2,131	2,131	0	0.0
Total Direct Aid	\$32,577	\$31,169	-\$1,408	-4.3
Aid Per Capita (\$)	1,097	1,055	-42	-3.8
Property Tax Equivalent (\$)	0.69	0.63	-0.06	-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 2011 State payments for Garrett County for teachers, librarians, and community college faculty are estimated to be \$4,658,000.

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 2011 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 2010) 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	\$553,000
Family Health and Primary Care	144,000
Medical Care Services	743,000
Mental Health	2,488,000
Prevention and Disease Control	341,000
Developmental Disabilities	2,268,000

Social Services

Homeless Services	47,000
Women's Services	102,000
Adult Services	37,000
Child Welfare Services	751,000

Senior Citizen Services

Long-term Care	171,000
Community Services	66,000

C. Selected State Grants for Capital Projects

Community Parks and Playgrounds

Deer Park	\$75,000
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Waterway Improvement

Broadford Lake – boat access dock replacement	15,000
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Other Projects

Oakland B&O Museum	200,000
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Harford County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$147,616	\$146,430	-\$1,186	-0.8
Compensatory Education	26,666	30,023	3,357	12.6
Student Transportation	11,607	11,734	127	1.1
Special Education	18,902	18,694	-208	-1.1
Limited English Proficiency Grants	1,942	1,788	-154	-7.9
Adult Education	172	172	0	0.0
Aging Schools	217	217	0	0.0
Other Education Aid	547	550	4	0.7
Primary & Secondary Education	\$207,669	\$209,608	\$1,940	0.9
Libraries	1,549	1,548	-1	-0.1
Community Colleges	10,525	10,240	-286	-2.7
Health Formula Grant	1,737	1,737	0	0.0
* Transportation	1,684	693	-991	-58.8
* Police and Public Safety	1,786	1,786	0	0.0
* Fire and Rescue Aid	376	376	0	0.0
Recreation and Natural Resources	247	495	248	100.4
Total Direct Aid	\$225,573	\$226,483	\$910	0.4
Aid Per Capita (\$)	939	934	-5	-0.5
Property Tax Equivalent (\$)	0.79	0.79	0.00	0.0

* 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 2011 State payments for Harford County for teachers, librarians, and community college faculty are estimated to be \$37,165,000.

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 2011 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 2010) 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	\$1,604,000
Family Health and Primary Care	237,000
Medical Care Services	885,000
Mental Health	11,285,000
Prevention and Disease Control	544,000
Developmental Disabilities	18,356,000

Social Services

Homeless Services	79,000
Women's Services	188,000
Adult Services	150,000
Child Welfare Services	1,991,000

Senior Citizen Services

Long-term Care	372,000
Community Services	70,000

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

Bel Air High School – construction	\$8,800,000
Deerfield Elementary School – construction	2,150,000

Harford Community College

Susquehanna Center – renovation and expansion	7,904,000
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Community Health Facilities Grant Program

Harford Habitat for Humanity	230,000
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Chesapeake Bay Restoration Fund

Joppatowne WWTP – enhanced nutrient removal	2,632,000
Sod Run WWTP – enhanced nutrient removal	7,228,000

Water Supply Financial Assistance Program

Havre de Grace – water main improvements	750,000
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Waterway Improvement

Broad Creek Landing – boat ramp renovation	50,000
Havre de Grace – Green Street floating transient pier	50,000
Havre de Grace Marina – maintenance dredging	50,000
Havre de Grace Marina – renovate boat ramp/access piers to include ADA parking	25,000
Joppatowne – maintenance dredging	30,000

Other Projects

Citizens Care and Rehabilitation Center	100,000
Harford Memorial Hospital	1,015,000
Nuttall Avenue Park	100,000

D. Capital Projects for State Facilities in the County

University System of Maryland

College Park – Maryland Fire/Rescue Institute North East Regional Training Center \$331,000

Howard County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$141,811	\$150,701	\$8,890	6.3
Compensatory Education	16,186	18,570	2,385	14.7
Student Transportation	14,681	15,077	396	2.7
Special Education	12,713	12,635	-79	-0.6
Limited English Proficiency Grants	5,720	6,425	704	12.3
Geographic Cost of Education Index	4,903	4,984	81	1.7
Adult Education	438	438	0	0.0
Aging Schools	88	88	0	0.0
Other Education Aid	1,267	1,279	12	0.9
Primary & Secondary Education	\$197,807	\$210,197	\$12,389	6.3
Libraries	766	770	4	0.5
Community Colleges	13,928	13,901	-28	-0.2
Health Formula Grant	1,215	1,215	0	0.0
Transportation	1,884	1,037	-846	-44.9
Police and Public Safety	2,256	2,256	0	0.0
Fire and Rescue Aid	392	392	0	0.0
Recreation and Natural Resources	438	880	442	100.9
Other Direct Aid	43	50	7	16.3
Total Direct Aid	\$218,729	\$230,698	\$11,969	5.5
Aid Per Capita (\$)	795	818	23	2.9
Property Tax Equivalent (\$)	0.44	0.50	0.06	14.7

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 2011 State payments for Howard County for teachers, librarians, and community college faculty are estimated to be \$63,068,000.

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 2011 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 2010) 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	\$1,483,000
Family Health and Primary Care	160,000
Medical Care Services	621,000
Mental Health	8,191,000
Prevention and Disease Control	496,000
Developmental Disabilities	21,002,000

Social Services

Homeless Services	91,000
Women's Services	121,000
Adult Services	51,000
Child Welfare Services	1,873,000

Senior Citizen Services

Long-term Care	294,000
Community Services	19,000

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

Atholton High School – renovations (roof)	\$709,000
Clarksville Middle School – construction	3,173,000
Hammond Elementary School – construction	1,756,223
Hammond Middle School – construction	1,350,000
Mt. Hebron High School – construction	2,485,497
Northfield Elementary School – construction	2,532,280
Swansfield Elementary School – renovations (roof)	340,000

Public Libraries

Miller Branch Library – new branch/historical center	500,000
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Howard Community College

Allied Health Building – construction	9,465,000
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Other Projects

Alpha Ridge Park	75,000
Carroll Baldwin Hall	50,000
Linwood Center	500,000
Living Farm Heritage Museum	35,000
Symphony Woods Park	250,000
Troy Regional Park	455,000
Watson Telescope Observatory	25,000

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

Secure Evaluation and Therapeutic Treatment Center	\$1,150,000
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Kent County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$4,738	\$4,378	-\$360	-7.6
Compensatory Education	2,179	2,382	203	9.3
Student Transportation	1,463	1,485	22	1.5
Special Education	911	913	2	0.2
Limited English Proficiency Grants	172	156	-16	-9.3
Geographic Cost of Education Index	139	138	-1	-0.7
Adult Education	79	79	0	0.0
Aging Schools	38	38	0	0.0
Other Education Aid	441	442	1	0.2
Primary & Secondary Education	\$10,160	\$10,011	-\$149	-1.5
Libraries	94	96	1	1.1
Community Colleges	573	589	16	2.8
Health Formula Grant	336	336	0	0.0
* Transportation	377	203	-174	-46.2
* Police and Public Safety	131	131	0	0.0
* Fire and Rescue Aid	204	204	0	0.0
Recreation and Natural Resources	21	42	21	100.0
Total Direct Aid	\$11,896	\$11,612	-\$284	-2.4
Aid Per Capita (\$)	590	574	-17	-2.9
Property Tax Equivalent (\$)	0.37	0.37	0.00	0.0

* 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 2011 State payments for Kent County for teachers, librarians, and community college faculty are estimated to be \$2,448,000.

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 2011 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 2010) 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	\$1,720,000
Family Health and Primary Care	128,000
Medical Care Services	409,000
Mental Health	1,322,000
Prevention and Disease Control	470,000
Developmental Disabilities	1,539,000

Social Services

Homeless Services	2,000
Women's Services	15,000
Adult Services	62,000
Child Welfare Services	401,000

Senior Citizen Services

Long-term Care	517,000
Community Services	106,000

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

C. Selected State Grants for Capital Projects

Chesapeake College

Kent Humanities Building – renovation	\$268,000
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Waterway Improvement

Turner’s Creek – construct boating access pier	99,000
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Montgomery County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$223,604	\$264,653	\$41,050	18.4
Compensatory Education	90,997	100,688	9,692	10.7
Student Transportation	33,554	34,336	782	2.3
Special Education	46,749	47,565	816	1.7
Limited English Proficiency Grants	44,132	43,827	-305	-0.7
Geographic Cost of Education Index	30,946	31,440	494	1.6
Adult Education	465	465	0	0.0
Aging Schools	603	603	0	0.0
Other Education Aid	2,519	2,531	12	0.5
Primary & Secondary Education	\$473,569	\$526,108	\$52,541	11.1
Libraries	2,606	2,662	56	2.1
Community Colleges	42,355	40,821	-1,534	-3.6
Health Formula Grant	3,015	3,015	0	0.0
* Transportation	4,429	1,691	-2,738	-61.8
* Police and Public Safety	9,847	9,847	0	0.0
* Fire and Rescue Aid	1,283	1,283	0	0.0
Recreation and Natural Resources	1,109	2,238	1,129	101.8
Total Direct Aid	\$538,213	\$587,665	\$49,452	9.2
Aid Per Capita (\$)	566	605	39	6.9
Property Tax Equivalent (\$)	0.29	0.33	0.04	13.8

* 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 2011 State payments for Montgomery County for teachers, librarians, and community college faculty are estimated to be \$181,460,000.

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 2011 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 2010) 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	\$3,253,000
Family Health and Primary Care	559,000
Medical Care Services	3,002,000
Mental Health	33,049,000
Prevention and Disease Control	1,283,000
Developmental Disabilities	72,606,000

Social Services

Homeless Services	305,000
Women's Services	189,000
Adult Services	757,000
Child Welfare Services	4,493,000

Senior Citizen Services

Long-term Care	914,000
Community Services	200,000

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

Bells Mill Elementary School – construction	\$7,460,000
Belmont Elementary School – renovations (HVAC)	735,000
Cashell Elementary School – construction	3,592,000
Colonel Z. Magruder High School – renovations (HVAC)	730,000
Cresthaven Elementary School – construction	5,856,595
Eastern Middle School – renovations (HVAC)	376,000
Francis Scott Key Middle School – construction	1,310,405

Public Libraries

Gaithersburg Library – addition and renovation	600,000
Silver Spring Library – construction	250,000

Montgomery College

Germantown – Bioscience Education Center	16,082,000
Rockville – Science Center	4,244,000

Community Parks and Playgrounds

Poolesville Tot Lot	60,000
Washington Woods Park Playground	76,000

Chesapeake Bay Water Quality Projects

Blue Plains WWTP – nutrient removal	6,000,000
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Chesapeake Bay Restoration Fund

Blue Plains WWTP – enhanced nutrient removal	20,000,000
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Other Projects

Cabin John Park Tai Chi Court	40,000
Camp Brighton Woods	140,000
Cinnamon Woods – environmental and safety lighting upgrade	100,000
Garrett Park Community Center	100,000
Identity House	130,000
Ivymount School – Annex Building	175,000
Jewish Foundation for Group Homes, Inc.	150,000
Lake Whetstone – hillside stabilization	20,000
Maydale Nature Center	55,000
Miracle League Baseball Field	250,000
Montgomery Village – Martin Roy Park Pavilion	30,000
National Labor College – Academic Services Building	150,000
National Center for Children and Families – Youth Activities Center	250,000
Residential Continuum, Inc. – group home renovations	100,000
Rockville Fitness Center and Exercise Room	120,000
Sandy Spring Museum	100,000
Threshold Services – group home renovations	50,000
Warner Manor	275,000

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

National Park Service – parkwide boating facilities maintenance	\$99,000
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Prince George's County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$515,894	\$488,759	-\$27,135	-5.3
Compensatory Education	186,308	196,457	10,149	5.4
Student Transportation	36,619	36,613	-6	0.0
Special Education	66,333	64,154	-2,179	-3.3
Limited English Proficiency Grants	54,098	55,203	1,106	2.0
Guaranteed Tax Base	6,796	0	-6,796	-100.0
Geographic Cost of Education Index	39,048	38,612	-435	-1.1
Adult Education	771	771	0	0.0
Aging Schools	1,209	1,209	0	0.0
Other Education Aid	2,470	2,474	5	0.2
Primary & Secondary Education	\$909,546	\$884,252	-\$25,291	-2.8
Libraries	5,962	5,648	-315	-5.3
Community Colleges	23,661	22,412	-1,248	-5.3
Health Formula Grant	5,007	5,007	0	0.0
* Transportation	4,436	1,931	-2,505	-56.5
* Police and Public Safety	15,504	15,456	-48	-0.3
* Fire and Rescue Aid	1,132	1,132	0	0.0
Recreation and Natural Resources	946	1,904	958	101.3
Disparity Grant	21,695	21,695	0	0.0
* Other Direct Aid	85	99	14	16.5
Total Direct Aid	\$987,974	\$959,536	-\$28,438	-2.9
Aid Per Capita (\$)	1,204	1,150	-54	-4.5
Property Tax Equivalent (\$)	1.00	0.96	-0.04	-3.5

* 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 2011 State payments for Prince George’s County for teachers, librarians, and community college faculty are estimated to be \$133,491,000.

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 2011 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 2010) 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	\$8,983,000
Family Health and Primary Care	1,622,000
Medical Care Services	4,050,000
Mental Health	35,866,000
Prevention and Disease Control	1,183,000
Developmental Disabilities	62,691,000

Social Services

Homeless Services	626,000
Women’s Services	326,000
Adult Services	627,000
Child Welfare Services	6,532,000

Senior Citizen Services

Long-term Care	833,000
Community Services	196,000

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

Avalon Elementary School – construction	\$1,000,000
Doswell E. Brooks Elementary School – construction	2,137,837
Fairwood Elementary School – construction	2,000,000
Friendly High School – science facilities	1,028,000
Greenbelt Middle School – construction	7,622,000
Henry Ferguson Elementary School – construction	1,000,000
Hyattsville Area Elementary School – construction	900,000
Indian Queen Elementary School – renovations (chiller)	491,000
Marlton Elementary School – construction	650,000
Parkdale High School – science facilities	861,000
Stephen Decatur Middle School – construction	675,000
William Beanes Elementary School – construction	850,000

Public Libraries

Spauldings Library – renovation	400,000
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Prince George's Community College

Campuswide – circulation and roadway modifications	2,586,000
Center for Health Studies	6,511,000

Community Health Facilities Grant Program

Family Service Foundation, Inc.	654,000
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Federally Qualified Health Centers Grant Program

Greater Baden Medical Services, Inc.	1,700,000
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Community Parks and Playgrounds

Jericho Park	77,000
Snowden Park Playground	80,000

Chesapeake Bay Water Quality Projects

Blue Plains WWTP – nutrient removal	6,000,000
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Chesapeake Bay Restoration Fund

Blue Plains WWTP – enhanced nutrient removal	20,000,000
Parkway WWTP – enhanced nutrient removal	6,000,000

Waterway Improvement

Laurel Volunteer Fire Department – purchase marine fire/rescue equipment	3,800
Public boating facilities – countywide maintenance	50,000

Other Projects

Allen Pond Park	80,000
Bladensburg Market Square	100,000
CASA Multi-Cultural Service Center	200,000
Community Forklift Facility	200,000
Daughter for the Day	65,000
Evangel Assembly Family Life Center	65,000
Forestville Military Academy	180,000
Glenarden Senior Center	50,000
Henson Valley Montessori School	100,000
John E. Feggans Center	205,000
La Vida Sana – Healthy Living Farm	75,000
Largo High School – track renovation	180,000
Laurel Advocacy Referral Services – facility renovation	100,000
Laurel Police Department – community space facility	150,000
Marlboro Meadows Senior Center	50,000
Marleigh Community Safety and Surveillance System	20,000

National Children's Museum	5,000,000
Prince George's Volunteer Fire Department	250,000
SEED Recreation Center	50,000
Sheriff Road Village Center	100,000
South County Community Center	300,000
St. Ann's Infant and Maternity Home	750,000
St. Mary's School – gymnasium and multi-purpose room	25,000
Thomas Johnson Middle School – sign board	25,000
Walker Mill Daycare and Training Center	100,000
Youth Fitness Facility	20,000

D. Capital Projects for State Facilities in the County

Department of Natural Resources

Fort Washington Marina – maintenance and improvements	\$50,000
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University System of Maryland

Bowie State – campuswide site improvements	200,000
Bowie State – Fine and Performing Arts Building	32,053,000
Bowie State – new student center	20,835,000
Bowie State – turf field	1,000,000
College Park – East Campus redevelopment	5,000,000
College Park – fraternity/sorority houses renovation	11,670,000
College Park – Physical Sciences Complex	41,100,000
College Park – Research and Education Center	1,650,000
College Park – Residence Hall air conditioning	8,870,000
College Park – Satellite Central Utility Building expansion	6,250,000
College Park – Shipley Field	100,000

Queen Anne’s County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$20,622	\$20,248	-\$374	-1.8
Compensatory Education	3,231	3,961	730	22.6
Student Transportation	3,094	3,134	40	1.3
Special Education	2,164	2,198	34	1.6
Limited English Proficiency Grants	398	360	-39	-9.8
Geographic Cost of Education Index	554	551	-3	-0.5
Adult Education	88	88	0	0.0
Aging Schools	50	50	0	0.0
Other Education Aid	543	543	1	0.2
Primary & Secondary Education	\$30,744	\$31,133	\$389	1.3
Libraries	127	132	5	3.9
Community Colleges	1,635	1,682	47	2.9
Health Formula Grant	418	418	0	0.0
* Transportation	612	287	-325	-53.1
* Police and Public Safety	266	266	0	0.0
* Fire and Rescue Aid	200	200	0	0.0
Recreation and Natural Resources	45	90	45	100.0
Total Direct Aid	\$34,047	\$34,208	\$161	0.5
Aid Per Capita (\$)	723	713	-10	-1.4
Property Tax Equivalent (\$)	0.38	0.39	0.01	2.6

* 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 2011 State payments for Queen Anne's County for teachers, librarians, and community college faculty are estimated to be \$6,945,000.

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 2011 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 2010) 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	\$537,000
Family Health and Primary Care	204,000
Medical Care Services	598,000
Mental Health	1,603,000
Prevention and Disease Control	282,000
Developmental Disabilities	3,596,000

Social Services

Homeless Services	13,000
Women's Services	19,000
Adult Services	43,000
Child Welfare Services	488,000

Senior Citizen Services

Long-term Care	114,000
Community Services	42,000

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

Kennard Elementary School – construction	\$1,874,000
Sudlersville Middle School – construction	3,276,000

Chesapeake College

Kent Humanities Building – renovation	268,000
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Community Health Facilities Grant Program

Banjo Lane Apartments	250,000
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Shelter and Transitional Facilities

Queen Anne’s County Coalition Emergency Services	10,000
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Community Parks and Playgrounds

Queenstown Playground	99,000
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Waterway Improvement

Centreville Wharf – shoreline stabilization and boat slips	99,000
Corsica River – maintenance dredging	50,000
Grasonville – replace fire/rescue boat	50,000
Kent Island – purchase marine fire/rescue equipment	7,500

Other Projects

Hospice of Queen Anne’s, Inc.	25,000
Kennard High School – restoration	75,000
Queen Anne’s County YMCA	50,000

St. Mary's County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$66,595	\$67,156	\$ 562	0.8
Compensatory Education	12,317	13,521	1,204	9.8
Student Transportation	6,129	6,294	165	2.7
Special Education	6,581	6,189	-392	-6.0
Limited English Proficiency Grants	501	562	61	12.2
Geographic Cost of Education Index	214	219	5	2.3
Adult Education	181	181	0	0.0
Aging Schools	50	50	0	0.0
Other Education Aid	858	858	0	0.0
Primary & Secondary Education	\$93,426	\$95,030	\$1,605	1.7
Libraries	629	624	-5	-0.8
Community Colleges	2,297	2,310	13	0.6
Health Formula Grant	809	809	0	0.0
* Transportation	919	489	-430	-46.8
* Police and Public Safety	559	559	0	0.0
* Fire and Rescue Aid	200	200	0	0.0
Recreation and Natural Resources	84	169	85	101.2
Total Direct Aid	\$98,923	\$100,190	\$1,267	1.3
Aid Per Capita (\$)	974	973	-1	-0.1
Property Tax Equivalent (\$)	0.77	0.77	0.00	0.0

* 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 2011 State payments for St. Mary's County for teachers, librarians, and community college faculty are estimated to be \$15,271,000.

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 2011 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 2010) 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	\$2,677,000
Family Health and Primary Care	132,000
Medical Care Services	545,000
Mental Health	4,282,000
Prevention and Disease Control	324,000
Developmental Disabilities	1,995,000

Social Services

Homeless Services	63,000
Women's Services	122,000
Adult Services	96,000
Child Welfare Services	1,228,000

Senior Citizen Services

Long-term Care	151,000
Community Services	58,000

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

Leonardtown Middle School – construction	\$5,550,000
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Public Libraries

Leonardtown Library – construction	765,000
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College of Southern Maryland

La Plata – Business Classroom Building renovation and expansion	563,000
Prince Frederick – campus development	4,766,000

Local Jail Loan

County Detention Center – minimum security addition	5,513,000
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Partnership Rental Housing Program

Greenview Village	1,703,052
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Chesapeake Bay Restoration Fund

Marlay-Taylor WWTP – enhanced nutrient removal	6,000,000
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Waterway Improvement

Public boating facilities – countywide maintenance	99,000
Ridge Volunteer Fire Department – purchase marine fire/rescue equipment	10,000
St. Jerome Creek – jetty feasibility study	100,000

Other Projects

St. Mary’s County Fairgrounds	60,000
United States Colored Troops Memorial Monument	150,000

Somerset County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$12,315	\$12,171	-\$144	-1.2
Compensatory Education	6,603	7,093	491	7.4
Student Transportation	1,741	1,743	3	0.2
Special Education	1,321	1,371	51	3.9
Limited English Proficiency Grants	640	417	-222	-34.7
Guaranteed Tax Base	760	629	-130	-17.1
Adult Education	132	132	0	0.0
Aging Schools	38	38	0	0.0
Other Education Aid	130	130	0	0.0
Primary & Secondary Education	\$23,680	\$23,724	\$49	0.2
Libraries	261	263	2	0.8
Community Colleges	807	808	1	0.1
Health Formula Grant	429	429	0	0.0
* Transportation	506	310	-196	-38.7
* Police and Public Safety	162	162	0	0.0
* Fire and Rescue Aid	216	216	0	0.0
Recreation and Natural Resources	20	40	20	100.0
Disparity Grant	4,908	4,908	0	0.0
Total Direct Aid	\$30,989	\$30,860	-\$129	-0.4
Aid Per Capita (\$)	1,186	1,189	3	0.3
Property Tax Equivalent (\$)	1.76	1.73	-0.04	-2.0

* 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 2011 State payments for Somerset County for teachers, librarians, and community college faculty are estimated to be \$3,216,000.

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 2011 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 2010) 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	\$918,000
Family Health and Primary Care	204,000
Medical Care Services	455,000
Mental Health	3,139,000
Prevention and Disease Control	328,000
Developmental Disabilities	7,758,000

Social Services

Homeless Services	8,000
Women's Services	27,000
Adult Services	70,000
Child Welfare Services	780,000

Senior Citizen Services

Long-term Care	569,000
Community Services	279,000

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	\$6,000,000
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Community Parks and Playgrounds

Crisfield Municipal Park	136,000
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Waterway Improvement

Crisfield – public boating facilities maintenance	50,000
Public boating facilities – countywide maintenance	50,000
Smith Island – dredging for transient boat slips	40,000

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

Somers Cove Marina – new fencing and replace transformers/electric wiring	\$238,550
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University System of Maryland

Eastern Shore – Engineering and Aviation Science Building	3,000,000
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Talbot County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$4,277	\$4,291	\$14	0.3
Compensatory Education	3,372	3,673	301	8.9
Student Transportation	1,458	1,475	17	1.2
Special Education	801	811	10	1.2
Limited English Proficiency Grants	512	429	-82	-16.0
Aging Schools	38	38	0	0.0
Other Education Aid	477	477	0	0.0
Primary & Secondary Education	\$10,935	\$11,194	\$260	2.4
Libraries	101	101	0	0.0
Community Colleges	1,272	1,308	37	2.9
Health Formula Grant	329	329	0	0.0
* Transportation	564	259	-305	-54.1
* Police and Public Safety	264	264	0	0.0
* Fire and Rescue Aid	239	239	0	0.0
Recreation and Natural Resources	48	95	48	100.0
Total Direct Aid	\$13,752	\$13,789	\$37	0.3
Aid Per Capita (\$)	380	380	1	0.3
Property Tax Equivalent (\$)	0.14	0.14	0.00	0.0

* 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 2011 State payments for Talbot County for teachers, librarians, and community college faculty are estimated to be \$4,040,000.

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 2011 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 2010) 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	\$643,000
Family Health and Primary Care	142,000
Medical Care Services	312,000
Mental Health	2,695,000
Prevention and Disease Control	270,000
Developmental Disabilities	2,766,000

Social Services

Homeless Services	32,000
Women's Services	35,000
Adult Services	45,000
Child Welfare Services	767,000

Senior Citizen Services

Long-term Care	517,000
Community Services	108,000

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

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

Easton Elementary/Dobson Head Start – construction	\$344,000
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Public Libraries

Talbot County Free Library – renovation and expansion	765,000
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Chesapeake College

Kent Humanities Building – renovation	268,000
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Community Parks and Playgrounds

RTC Park	283,000
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Waterway Improvement

Oxford – public boating facilities maintenance	99,000
Public boating facilities – countywide maintenance	90,000
St. Michaels – West Harbor Road boat ramp replacement	99,000

Other Projects

Family Support Center	10,000
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Washington County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$88,158	\$90,285	\$2,126	2.4
Compensatory Education	30,613	32,520	1,907	6.2
Student Transportation	6,478	6,537	59	0.9
Special Education	9,106	8,815	-291	-3.2
Limited English Proficiency Grants	1,901	1,776	-125	-6.6
Guaranteed Tax Base	3,137	3,058	-79	-2.5
Adult Education	152	152	0	0.0
Aging Schools	135	135	0	0.0
Other Education Aid	1,174	1,174	0	0.0
Primary & Secondary Education	\$140,854	\$144,452	\$3,597	2.6
Libraries	1,117	1,128	11	1.0
Community Colleges	7,882	7,857	-26	-0.3
Health Formula Grant	1,381	1,381	0	0.0
* Transportation	1,493	698	-795	-53.2
* Police and Public Safety	960	960	0	0.0
* Fire and Rescue Aid	230	230	0	0.0
Recreation and Natural Resources	131	262	131	100.0
Total Direct Aid	\$154,048	\$156,968	\$2,920	1.9
Aid Per Capita (\$)	1,060	1,076	16	1.5
Property Tax Equivalent (\$)	1.04	1.11	0.08	7.3

* 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 2011 State payments for Washington County for teachers, librarians, and community college faculty are estimated to be \$19,965,000.

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 2011 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 2010) 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	\$2,328,000
Family Health and Primary Care	148,000
Medical Care Services	748,000
Mental Health	8,022,000
Prevention and Disease Control	382,000
Developmental Disabilities	11,103,000

Social Services

Homeless Services	176,000
Women's Services	94,000
Adult Services	288,000
Child Welfare Services	2,674,000

Senior Citizen Services

Long-term Care	374,000
Community Services	109,000

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

Antietam Academy – construction	\$1,000,000
Eastern Elementary School – construction	5,000,000

Public Libraries

Washington County Free Library – renovation and expansion	500,000
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Hagerstown College

Arts and Sciences Complex	5,849,000
Performing and Visual Arts Education Center	5,276,000

Shelter and Transitional Facilities

Way Station Homeless Vets	890,000
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Community Parks and Playgrounds

Hancock Community Center Playground	24,000
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Chesapeake Bay Water Quality Projects

Winebrenner WWTP – nutrient removal	1,100,000
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Chesapeake Bay Restoration Fund

Conococheague WWTP – enhanced nutrient removal	5,000,000
Winebrenner WWTP – enhanced nutrient removal	3,180,000

Waterway Improvement

Williamsport – River Bottom Park renovate boat ramp and provide ADA parking	50,000
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Other Projects

Deafnet Building	100,000
Devil's Backbone Dam	550,000
Museum of Fine Arts	100,000
Rural Heritage Transportation Museum	75,000

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

Hagerstown Barrack/Garage/Communications Building – construction	\$2,525,000
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Department of Natural Resources

National Park Service – parkwide boating facilities maintenance	99,000
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Department of Education

Western Maryland Regional Library – renovations and expansion	2,500,000
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Wicomico County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$63,977	\$64,967	\$990	1.5
Compensatory Education	30,097	29,107	-990	-3.3
Student Transportation	4,908	4,904	-4	-0.1
Special Education	6,279	6,362	82	1.3
Limited English Proficiency Grants	1,853	1,986	133	7.2
Guaranteed Tax Base	6,759	6,954	195	2.9
Adult Education	277	277	0	0.0
Aging Schools	107	107	0	0.0
Other Education Aid	664	664	0	0.0
Primary & Secondary Education	\$114,921	\$115,328	\$406	0.4
Libraries	822	838	16	1.9
Community Colleges	4,578	4,587	8	0.2
Health Formula Grant	947	947	0	0.0
* Transportation	1,118	512	-606	-54.2
* Police and Public Safety	665	665	0	0.0
* Fire and Rescue Aid	230	230	0	0.0
Recreation and Natural Resources	87	175	88	101.1
Disparity Grant	2,197	2,197	0	0.0
Total Direct Aid	\$125,565	\$125,479	-\$86	-0.1
Aid Per Capita (\$)	1,335	1,332	-3	-0.2
Property Tax Equivalent (\$)	1.62	1.65	0.03	1.9

* 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 2011 State payments for Wicomico County for teachers, librarians, and community college faculty are estimated to be \$14,654,000.

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 2011 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 2010) 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	\$1,504,000
Family Health and Primary Care	424,000
Medical Care Services	935,000
Mental Health	7,776,000
Prevention and Disease Control	390,000
Developmental Disabilities	7,183,000

Social Services

Homeless Services	30,000
Women's Services	94,000
Adult Services	37,000
Child Welfare Services	1,433,000

Senior Citizen Services

Long-term Care	569,000
Community Services	330,000

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	\$7,000,000
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Wor-Wic Tech Community College

Allied Health Building	9,375,000
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Partnership Rental Housing Program

County Housing Authority	855,000
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Chesapeake Bay Restoration Fund

Fruitland WWTP – enhanced nutrient removal	2,800,000
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Water Supply Financial Assistance Program

Salisbury – elevated water tower	630,000
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Waterway Improvement

Public boating facilities – countywide maintenance	50,000
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Salisbury – purchase marine fire/rescue boat and equipment	50,000
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Salisbury – public marina maintenance	99,000
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Other Projects

Parsonsborg Volunteer Fire Company Community Center	250,000
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Peninsula Regional Medical Center	240,000
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Salisbury Zoological Park – Animal Health Clinic	160,000
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Wicomico Youth and Civic Center	1,500,000
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D. Capital Projects for State Facilities in the County**University System of Maryland**

Salisbury University – campuswide dormitory renovations	\$6,700,000
Salisbury University – Perdue School of Business	9,869,000

Worcester County

A. Direct Aid and Retirement Payments

1. Direct Aid

	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$6,344	\$6,290	-\$54	-0.9
Compensatory Education	5,819	6,442	623	10.7
Student Transportation	2,785	2,822	36	1.3
Special Education	1,357	1,446	89	6.6
Limited English Proficiency Grants	504	374	-130	-25.8
Adult Education	90	90	0	0.0
Aging Schools	38	38	0	0.0
Other Education Aid	466	466	0	0.0
Primary & Secondary Education	\$17,403	\$17,968	\$564	3.2
Libraries	138	138	0	0.0
Community Colleges	1,846	1,849	3	0.2
Health Formula Grant	313	313	0	0.0
* Transportation	988	545	-443	-44.8
* Police and Public Safety	458	458	0	0.0
* Fire and Rescue Aid	261	261	0	0.0
Recreation and Natural Resources	85	170	85	100.0
Total Direct Aid	\$21,492	\$21,702	\$210	1.0
Aid Per Capita (\$)	436	442	6	1.4
Property Tax Equivalent (\$)	0.11	0.12	0.01	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 2011 State payments for Worcester County for teachers, librarians, and community college faculty are estimated to be \$8,502,000.

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 2011 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 2010) 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	\$2,227,000
Family Health and Primary Care	236,000
Medical Care Services	599,000
Mental Health	2,785,000
Prevention and Disease Control	509,000
Developmental Disabilities	3,763,000

Social Services

Homeless Services	30,000
Women's Services	55,000
Adult Services	50,000
Child Welfare Services	819,000

Senior Citizen Services

Long-term Care	569,000
Community Services	284,000

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**Wor-Wic Tech Community College**

Allied Health Building	\$9,375,000
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Community Parks and Playgrounds

Robin Park	75,000
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Chesapeake Bay Water Quality Projects

Snow Hill WWTP – nutrient removal	2,800,000
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Chesapeake Bay Restoration Fund

Pocomoke City WWTP – enhanced nutrient removal	1,950,000
Snow Hill WWTP – enhanced nutrient removal	2,980,000

Water Supply Financial Assistance Program

Snow Hill – water main improvements	150,000
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Waterway Improvement

Ocean City – acquire fire/rescue boat and equipment	50,000
Public boating facilities – countywide maintenance	50,000
Snow Hill – Byrd Park maintenance and improvements	50,000

Other Projects

Ocean City Convention Center – expansion	4,300,000
Pocomoke City Volunteer Fire Company – Community Center	250,000

D. Capital Projects for State Facilities in the County

Department of Natural Resources

Ocean City – beach replenishment

\$2,000,000

Part B

Taxes

Property Tax

Property Tax Administration

Homestead Property Tax Credit for Federal Employees Stationed Out of State

Senate Bill 520/House Bill 199 (both passed) enables homeowners employed by the federal government who are stationed out of state for not more than six consecutive years to be eligible to continue to receive the tax credit in the taxable year following their resumption of living in the residence, provided they are otherwise eligible for the tax credit. The tax credit will be calculated on the prior year's taxable assessment determined as if the tax credit had not been lost when the homeowner was stationed outside of Maryland.

Notice of Appeal

House Bill 6 (passed) requires a sales contract for specified single-family residential real property to contain notice of the purchaser's right to appeal the classification or valuation of the property by the State Department of Assessments and Taxation (SDAT) within 60 days of the sale if the property is transferred after January 1 but before July 1.

Semi-annual Payment Schedule for Small Business Property

Property taxes for owner-occupied residential property are due under a semiannual schedule. The first installment is due on July 1 and may be paid without interest on or before September 30. The second installment is due on December 1 and may be paid without interest on or before December 31. Local governments are authorized to impose a maximum service charge of up to 1.65% of the second payment to cover lost interest for the three-month delay in taxes collected and associated administrative fees. However, homeowners may elect to pay the full year's property tax on or before September 30 to avoid the service charge or interest.

Property taxes for property other than owner-occupied residential property are due on July 1 and may be paid without interest on or before September 30.

House Bill 484 (passed) requires county and municipal governments to establish a semiannual payment schedule for State, county, municipal, and special taxing district property taxes for small business property with a total property tax bill of \$50,000 or less.

Tax Sales

Foreclosure of Right of Redemption

Senate Bill 372 (passed) alters the existing notice procedures a certificate of sale purchaser must follow prior to filing a complaint to foreclose the right of redemption. *Senate Bill 372* requires the second of two notices to be sent by first-class certified mail, postage prepaid, return receipt requested, and bearing a postmark from the U.S. Postal Service. The envelope must also be prominently marked “Notice of Delinquent Property Tax.” If an affidavit filed prior to a final judgment foreclosing the right of redemption provides evidence that the affidavit was sent by certified mail in compliance with the bill’s provisions, then the notice provisions are deemed satisfied and the failure of the tax-delinquent owner to receive the required notice does not invalidate the proceeding.

Senate Bill 373 (Ch. 65) is emergency legislation that authorizes the Mayor and City Council of Baltimore City to file a complaint to foreclose all rights of redemption in specified abandoned property at any time after the city becomes the purchaser by operation of law. *Senate Bill 373* also exempts the Mayor and City Council of Baltimore City from issuing specified required notices for such property. However, for properties to which the notice requirement applies, the bill establishes that the notice indicate costs, rather than attorney’s fees, for recording the certificate of sale must be paid to redeem the property.

Auctioneer’s Fees – Howard and Prince George’s Counties

The auctioneer’s fee for properties sold at a tax sale auction in Howard and Prince George’s counties is currently set at a maximum of \$10 on a day when up to three properties are sold and \$3 per property on a day when four or more properties are sold. *House Bill 277 (passed)* alters the auctioneer fee for property sold at a tax sale in Howard and Prince George’s counties by setting the fee at \$10 for each property sold.

Bi-county Commissions

Currently, Prince George’s County does not apply the homestead property tax credit on county tax rates imposed for the Maryland-National Capital Park and Planning Commission (M-NCPPC), the Washington Suburban Transit Commission (WSTC), and the Washington Suburban Sanitary Commission (WSSC). As such, these rates are not subject to the county’s homestead cap which was 3% for fiscal 2009, 5% for fiscal 2010, and 0% for fiscal 2011. This means that these tax rates are applied to each homeowner’s phased-in assessment, rather than their taxable assessment after the homestead tax credit is applied.

Senate Bill 683 (passed) specifies that the homestead property tax credit applies to any State, county, or municipal property tax, including a tax imposed by a bi-county commission. Bi-county commission includes M-NCPPC, WSSC, and WSTC. The homestead tax credit percentage that will be used for taxes imposed for a bi-county commission is 10%. For the tax year beginning July 1, 2010, bi-county commission property taxes will be subject to a 10% homestead tax credit cap applied to the prior year's taxable assessment for State property tax purposes.

Disabled Veterans

The real property of disabled veterans is exempt from taxation if specified requirements are met. A disabled veteran is an individual who is honorably discharged or released under honorable circumstances from active service in any branch of the U.S. Armed Forces. In addition, real property owned by the surviving spouse of a disabled veteran and the surviving spouse of an individual who died in the line of duty while in active military, naval, or air service of the United States is exempt from taxation.

Senate Bill 139 (passed) alters the definition of disabled veteran for purposes of this property tax exemption. A disabled veteran is defined as an individual who is honorably discharged or released under honorable circumstances from active military, naval, or air service as defined in 38 U.S.C. Section 101. This extends coverage to include commissioned officers of the Public Health Services and the National Oceanic and Atmospheric Administration.

Local Option Property Tax Credits

Urban Agricultural Property

House Bill 1062 (passed) authorizes local governments to grant a five-year property tax credit for urban agricultural property. Urban agricultural property is defined as real property that is at least one eighth of an acre and not more than two acres in size; located in a priority funding area; and used exclusively for urban agricultural purposes. Urban agricultural purposes is defined as (1) crop production activities, including the use of mulch or cover crops to ensure maximum productivity and minimize runoff and weed production; (2) environmental mitigation activities, including stormwater abatement and groundwater protection; (3) community development activities, including recreational activities, food donations, and food preparation and canning classes; (4) economic development activities, including employment and training opportunities, and direct sales to restaurants and institutions; and (5) temporary produce stands used for the sale of produce raised on the premises.

Grocery Stores in Low-income Areas

House Bill 1135 (passed) authorizes a local government to grant a property tax credit for real property that is used for a grocery store located in a low-income area. A grocery store is defined as an establishment whose primary business is selling food at retail to the general public for off-premises consumption and at least 20% of the gross receipts of which are derived from

the retail sale of fresh produce, meats, and dairy products. A low-income area must be designated by each local government for the purposes of the property tax credit.

Habitat for Humanity

Senate Bill 652/House Bill 850 (both passed) authorize local governments to grant a property tax credit against the county or municipal property tax for real property owned by Habitat for Humanity that is used exclusively for the purpose of rehabilitation and transfer to a private owner and is not occupied by administrative or warehouse buildings owned by Habitat for Humanity. Habitat for Humanity must submit an annual report to the appropriate jurisdiction where a tax credit has been granted each year that documents the organization's real property holdings in the jurisdiction and all transactions involving such holdings.

Tax Credit for Replacement Homes – Eminent Domain

Chapters 558 and 559 of 2007 authorized local governments to grant a property tax credit for a property that is purchased as a replacement for a principal residence which was acquired either through condemnation or negotiation under the threat of condemnation for public use by the State, a political subdivision, or instrumentality of the State. The credit lasts for five years and may not exceed 100% of the property tax attributable to the eligible homestead assessment granted on the acquired dwelling in the first taxable year, and is then reduced by 20% in each subsequent year over the five-year life of the credit.

Senate Bill 413 (passed) alters the existing local property tax credit for a replacement home purchased after a homeowner is displaced through eminent domain by repealing the five-year phase-out of the tax credit.

Local Property Taxes

Allegany County

Senate Bill 552/House Bill 623 (both passed) authorize Allegany County or a municipality in the county to grant a property tax credit for any property within the area known as the Memorial Hilltop Centre. The tax credit may not be granted for more than 10 years.

Senate Bill 947/House Bill 1219 (both passed) authorize Allegany County or a municipality in the county to grant a property tax credit for specified properties that were formerly designated and operated as the Western Maryland Health System (WMHS) Braddock Hospital. The tax credit may not be granted for more than 10 years.

Anne Arundel County

Senate Bill 658/House Bill 724 (both passed) authorize Anne Arundel County or a municipality in the county to grant a property tax credit for specified property owned by Arundel Habitat for Humanity, Inc.

Baltimore County

Senate Bill 112/House Bill 595 (Chs. 38 and 39) authorize Baltimore County to grant a property tax credit against the county property tax for real property owned by the Rosewald Beach Civic League.

Carroll County

Senate Bill 925/House Bill 1112 (both passed) expand the Carroll County green building tax credit to include all property on which a person installs environmentally friendly or “green” technologies. Environmentally friendly technologies include conserving water, incorporating recycled or recyclable materials, and incorporating renewable and energy efficient power generation.

Charles County

House Bill 796 (passed) authorizes Charles County to grant a four-year property tax credit for owner-occupied real property that was (1) formerly owned by Habitat for Humanity of Charles County with the intention of relinquishing ownership; (2) used by Habitat for Humanity of Charles County exclusively for the purpose of rehabilitation and transfer to a private owner; and (3) was transferred to a private owner who meets the criteria established by Habitat for Humanity of Charles County. The amount of the property tax credit is equal to 100% in the first taxable year after the transfer; 75% in the second taxable year; 50% in the third taxable year; 25% in the fourth taxable year; and is phased out after the fourth taxable year.

Frederick County

Senate Bill 450/House Bill 476 (both passed) is emergency legislation that requires Frederick County, for fiscal 2011, to grant a property tax setoff to its municipalities in an amount at least equal to the tax setoffs granted for fiscal 2009. For fiscal 2012, the property tax setoffs must be at least equal to the amounts granted in the prior year. The required tax setoff amounts are to be adjusted based on the percentage by which the county property tax rate exceeds the constant yield tax rate.

Harford County

Senate Bill 1013/House Bill 1117 (both passed) expand an existing Harford County property tax credit for specified owner-occupied residential properties located near a refuse disposal system to include additional properties.

Montgomery County

House Bill 861 (passed) authorizes Montgomery County, or a municipality in the county, to provide a property tax credit for improvements made by an eligible business entity to qualified enterprise zone property; and for personal property owned by an eligible business entity located on qualified enterprise zone property. In addition, a business entity that receives an enterprise

zone property tax credit or the new property tax credit provided in the bill must provide to a tenant under a lease agreement an amount equivalent to the enterprise zone property tax credit or the additional credit that is attributable to any improvements made by the tenant.

An eligible business entity is defined as a person who operates or conducts a trade or business on qualified enterprise zone property but does not own the property. Qualified enterprise zone property is defined as real property that (1) is used in a trade or business by an eligible business entity; (2) is not used for residential purposes; and (3) is located in an enterprise zone and eligible for an enterprise zone property tax credit.

Queen Anne's County

Senate Bill 752/House Bill 592 (both passed) authorize Queen Anne's County to grant a property tax credit for property owned by the foster parent of a child.

St. Mary's County

House Bill 1466 (passed) authorizes St. Mary's County or a municipality in the county to grant a property tax credit for property that is leased to a nonprofit school and is used exclusively for primary or secondary educational purposes.

Income Taxes

Job Creation and Recovery Tax Credit

Senate Bill 106 (Ch. 1) creates a State income tax credit for employers who hire qualified individuals between the effective date of the Act (March 25, 2010) and December 31, 2010. The amount of the credit is \$5,000 per eligible employee hired, not to exceed \$250,000 per taxpayer. The Department of Labor, Licensing, and Regulation is authorized to award \$20 million in credits on a first-come, first-served basis.

A qualified employee is an individual who at the time of hiring (1) is a State resident; (2) is receiving unemployment insurance benefits or has exhausted unemployment insurance benefits within the past 12 months; and (3) is not employed full time. The Act also establishes the tax credit application and certification process and specifies the circumstances under which the credit may be claimed. If the maximum amount of credits are awarded, credits could be claimed for about 4,000 individuals who were receiving or had exhausted unemployment insurance benefits, resulting in an estimated reduction of \$19 million in general fund revenues and \$1 million in Transportation Trust Fund revenues in fiscal 2011.

Heritage Structure Rehabilitation Tax Credit Program

Established in 1996, the Heritage Structure Rehabilitation Tax Credit program provides, subject to certain limitations, a credit for a portion 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. Under current law, the credit is scheduled to expire as of July 1, 2010.

As proposed by the Governor, *House Bill 475 (passed)* would have reestablished the Heritage Structure Rehabilitation Tax Credit Program as the Sustainable Communities Tax Credit Program, transforming the program into a traditional tax credit program not subject to an annual appropriation. As introduced, *House Bill 475* also would have increased funding for the program by authorizing the Maryland Historical Trust (MHT) to award a total of \$50 million in commercial credits over fiscal 2011 through 2013, as well as expanding eligibility requirements for the program to include certain nonhistoric residential and commercial properties.

As passed by the General Assembly, *House Bill 475* extends and alters the existing Heritage Structure Rehabilitation Tax Credit Program to be the Sustainable Communities Tax Credit Program but retains the commercial program as a budgeted tax credit. The bill also makes several changes to the program as discussed below.

Under the expiring program, the credit was generally equal to 20% of qualified rehabilitation expenditures, not to exceed \$3 million for commercial rehabilitations and \$50,000 for a single-family, owner-occupied residence. The bill retains these credit values and increases the value of the credit to 25% for a commercial rehabilitation that meets specified energy efficiency standards. Eligibility for the credit is also expanded to qualified rehabilitated (nonhistoric) commercial buildings located in a Main Street Maryland Community or, beginning in fiscal 2012, a sustainable community as defined by the bill. Under the bill, the credit for these qualified rehabilitated structures is equal to 10% of qualified rehabilitation expenses; no more than 10% of commercial credits awarded in each fiscal year may be awarded to these qualified rehabilitated structures. In addition to expanding eligibility under the commercial program to qualified rehabilitated structures, the bill alters the criteria by which MHT awards commercial credits. The bill requires the Governor to provide an appropriation for the commercial credit in fiscal 2011 through 2014.

MHT's authority to award an unlimited amount of residential credits under the program is extended to applications received through June 30, 2014. While the bill also retains most of the current residential program's certification process and eligibility criteria, the bill alters the definition of a qualifying single-family, owner-occupied residence to mean a structure or a portion of a structure occupied by the owner and the owner's immediate family as their primary or secondary residence, including a residential unit in a cooperative project owned or leased to a cooperative housing corporation and leased for exclusive occupancy to, and occupied by, a member of the corporation and the member's immediate family.

The bill also includes provisions relating to the designation of areas in the State as sustainable communities, including various changes relating to the Community Legacy and Neighborhood Business Development Programs, Base Realignment and Closure zones, transit-oriented development zones, and the Smart Growth Subcabinet. For a discussion of these

issues, see the subpart “Planning and Land Use” within Part D – Local Government of this *90 Day Report*.

For fiscal 2011, the State budget as enacted by the General Assembly includes \$10 million for the Sustainable Communities Tax Credit.

Income Tax Credits

Sunset Extensions

Senate Bill 64 (passed) extends from June 30, 2012, to June 30, 2021, the termination date for research and development income tax credits awarded to businesses for Maryland qualified research and development expenses. The time period in which tax credits may be earned is extended to tax years 2011 through 2019.

Senate Bill 221 (passed) extends the Qualifying Employees with Disabilities Tax Credit, allowed for employers who hire qualified individuals with disabilities, through June 30, 2011, and authorizes credits to be claimed on behalf of individuals hired through that date.

House Bill 464 (passed) extends the termination date of the clean energy incentive tax credit to December 31, 2015. The bill also (1) extends to January 1, 2016, the date by which a facility must begin producing qualified energy in order to claim the credit; (2) prohibits the Maryland Energy Administration from issuing an initial credit certificate for less than \$1,000; and (3) makes the credit refundable.

Other Income Tax Legislation

Income Tax Checkoffs

Senate Bill 318/House Bill 830 (both passed) establish a Developmental Disabilities Waiting List Equity Fund Contribution checkoff on the individual income tax return. After the Comptroller deducts administrative expenses, contributions will be credited to the Waiting List Equity Fund within the Department of Health and Mental Hygiene.

Senate Bill 141 (passed), BRFA of 2010, includes a provision repealing an income tax checkoff on the individual income tax return for the Fair Campaign Financing Fund. For a discussion of other provisions of *Senate Bill 141* relating to the Fair Campaign Financing Fund, see the subpart “Elections” within Part C – State Government of this *90 Day Report*. For a discussion of the provisions of *Senate Bill 141* generally, see the subpart “Operating Budget” within Part A – Budget and State Aid of this *90 Day Report*.

Maryland Business Tax Reform Commission

Senate Bill 336/House Bill 395 (both passed) accelerate the due date for the final report of the Maryland Business Tax Reform Commission from December 15, 2011, to December 15, 2010.

Sales and Use Tax

Veterans Organizations

Current law provides a State sales and use tax exemption for sales made to a bona fide nationally organized and recognized veterans' organization or an auxiliary of the organization or its units if the organization is qualified as tax exempt under § 501(c)(19) of the Internal Revenue Code (IRC). The current exemption for § 501 (c)(19) veterans' organizations and veterans' auxiliary organizations is scheduled to terminate at the end of June 30, 2012.

Senate Bill 237/House Bill 203 (both passed) provide a State sales and use tax exemption for sales made to veterans' organizations that are organized under § 501(c)(4) of the IRC. Veterans' organizations were originally tax exempt under IRC § 501(c)(4) as social welfare organizations. However, the IRC was amended in 1972 to include a category of tax exempt organizations specifically for veterans' organizations. While many veterans organizations in Maryland have reclassified under § 501(c)(19), some of the smaller organizations have remained classified under § 501(c)(4) while providing similar services as the organizations classified under § 501(c)(19). Therefore, *Senate Bill 237/House Bill 203* apply only to veterans' organizations that did not reclassify under IRC § 501(c)(19), such as the Jewish War Veterans and the Military Order of the Purple Heart.

Corporate Lodging Facilities

House Bill 855 (passed) exempts from the State sales and use tax the sale of a right to occupy a room or lodgings as a transient guest at a dormitory or other lodging facility that (1) is operated solely in support of a corporate or any other headquarters, training, conference, or awards facility or campus; (2) provides lodging solely for employees, contractors, vendors, and other invitees of the corporation that owns the dormitory or lodging facility; and (3) does not offer lodging services to the general public.

Authorized Rebate Programs for Household Appliances

Senate Bill 1081 (passed) specifies that prior to a State agency issuing or authorizing a rebate to be issued by a nongovernment entity to reduce the cost of retail sales of household appliances under a program to promote energy efficiency, the State agency or nongovernment entity must require the buyer to certify that the household appliance was purchased in the State or that the applicable State sales and use tax was paid.

Miscellaneous Taxes

Motor Vehicle Excise Tax

Tax Credit for Electric Vehicles

House Bill 469 (passed) establishes a tax credit against the motor vehicle titling tax in an amount equal to 100% of the tax imposed for the purchase of qualified plug-in electric vehicles, not to exceed \$2,000. The credit is limited to 1 vehicle per individual and 10 vehicles per business entity. The credit is available for the purchase of a qualifying vehicle between October 1, 2010, and June 30, 2013.

Recordation and Transfer Taxes

Debt Forgiven in “Short Sale”

For purposes of local recordation taxes, which are applied to the consideration payable for, or of the principal amount of the debt secured by, an instrument of writing, the consideration includes the amount of any mortgage or deed of trust assumed by the grantee. For purposes of the State transfer tax, the consideration payable to which the tax applies also includes the amount of any mortgage or deed of trust assumed by the grantee.

Anne Arundel County recently decided to charge the recordation tax not only on the amount paid by a buyer, but also on the amount of debt forgiven by the seller’s lender in a “short sale” in which the lender allows the sale of property for less than the amount owed on the mortgage. The county based its tax assessment on the notion that the debt forgiven by the lender in the “short sale” should be treated as consideration and added to the price actually paid for the property by the buyer to determine the amount of the recordation tax.

In response to questions regarding the county’s decision, the Attorney General opined that the county’s decision was not supported by State law and that counties do not have the authority to include debt forgiven by the seller’s lender in calculating the consideration on which the recordation tax is based. As a result, the county reversed its original decision to impose the recordation tax on the amount of debt forgiven by the seller’s lender in a short sale.

Senate Bill 657/House Bill 590 (both passed) clarify that, for purposes of local recordation taxes and State and county transfer taxes, the consideration payable for an instrument of writing to which the taxes apply includes only the amount paid or delivered in return for the sale of the property and does not include any debt forgiven or no longer secured by a mortgage or deed of trust on the property.

Agricultural Land Transfer Tax

Senate Bill 59 (passed) alters the distribution of revenues from the agricultural land transfer tax by repealing recently enacted changes to the law regarding the dedication of revenues for use as part of the Maryland Agricultural and Resource-Based Industry Development

Corporation's installment purchase agreement program. For a further discussion of *Senate Bill 59*, see the subpart "Agriculture" within Part K – Natural Resources, Environment, and Agriculture of this *90 Day Report*.

Dorchester County Transfer Tax

Dorchester County imposes a transfer tax of 0.75% on the value of real property transactions. Under current law, this authority expires June 30, 2014. *Senate Bill 223 (passed)* repeals the termination date for Dorchester County's authority to impose a transfer tax.

Inheritance Tax

Exemption for Surviving Spouses

House Bill 443 (passed) exempts from the State inheritance tax the receipt of property that passes from a decedent to a surviving spouse of (1) a deceased child of the decedent; or (2) a deceased lineal descendent of a child of the decedent, if the surviving spouse has not remarried.

Estate Tax

Payment Deferral for Qualified Agricultural Property

Senate Bill 396 (passed) requires the Comptroller to allow a payment deferral for up to three years for the Maryland estate tax imposed on qualified agricultural property that passes from a decedent to or for the use of a qualified recipient. Qualified agricultural property is real or personal property that is used primarily for farming purposes. A qualified recipient is an individual who enters into an agreement to use qualified agricultural property for farming purposes after the decedent's death. Any deferred tax is due immediately if the qualified agricultural property ceases to be used for farming purposes.

The amount of tax eligible for deferral is the amount, up to a maximum of \$375,000, equal to the Maryland estate tax owed multiplied by the percentage resulting from dividing the value of the qualified agricultural property that passes from the decedent to or for the use of a qualified recipient by the value of the gross estate of the decedent. Under the bill, the deferred tax is required to be paid, without interest, in accordance with a payment schedule prescribed by the Comptroller over a three-year period beginning in the fourth year after the due date.

Miscellaneous Local Taxes

Gross Receipts Tax – Heavy Equipment Rental Property

Senate Bill 685 (passed) replaces the local personal property tax on certain heavy equipment rental property with a 2% tax on the gross receipts from the short-term lease or rental of heavy equipment property by a person whose principal business is the short-term lease or

rental of heavy equipment property at retail. The gross receipts tax does not apply to a business located in a county or municipality that does not impose a personal property tax.

Under the bill, a person who owns a business with gross receipts subject to the tax must collect the tax from rental customers and remit the tax on a quarterly basis. A person with gross receipts subject to the tax is required to file an annual report on personal property with the State Department of Assessments and Taxation and to the county or municipal corporation where the heavy equipment rental business is located. Local governments must calculate the difference between the total gross receipts tax remitted during the previous calendar year and the amount of property tax calculated that would have been due. The local government must then provide a statement to each person who owns a business with gross receipts subject to the tax regarding the total gross receipts tax remitted during the previous calendar year, the total personal property tax calculated that would have been due, and the “gross receipts shortage” or “gross receipts surplus.” To the extent there is a gross receipts shortage between the calculated personal property tax owed and the amount of gross receipts taxes paid, the person must pay the difference to the appropriate local government.

Part C

State Government

State Agencies, Offices, and Officials

State Officials

Salaries of Governor and Constitutional Officers

In the last year of an election cycle, the Governor's Salary Commission makes recommendations to the General Assembly on salaries for the Governor and Lieutenant Governor for the following four-year term. Similarly, the General Assembly Compensation Commission makes recommendations concerning the salaries for members of the General Assembly for the next four-year term. For a discussion of the work of this commission, see the subpart "General Assembly" within this part of this *90 Day Report*. The General Assembly may endorse or reduce each commission's proposals but may not increase the proposed salaries.

In 2010, the Governor's Salary Commission recommended that the salaries for the Governor and Lieutenant Governor remain the same for the first two years of the new term and then increase for each of the last two years of the term. *House Joint 3 (passed)* rejects the salary recommendations of the commission. Thus, the salaries of the Governor and Lieutenant Governor will remain the same for the next four-year term of office.

In addition to making salary recommendations for the Governor and Lieutenant Governor, the Governor's Salary Commission makes recommendations regarding the salaries of the Attorney General, Comptroller, Secretary of State, and Treasurer for the next four-year term of office. *Senate Bill 143/House Bill 184 (both failed)* would have implemented recommended salary increases for these constitutional officers for the last two years of the next four-year term of office. Because the bills failed, the salaries for those offices will remain the same for the next four-year term.

State Agencies

Advisory Councils, Committees, and Commissions

The State Drug and Alcohol Abuse Council was established in 2004 by an executive order and reauthorized in 2008. Among other things, the council is charged with preparing and annually updating a two-year strategic plan that establishes priorities for the delivery and funding of drug and alcohol abuse services in the State. *House Bill 219 (passed)* codifies the council. The bill adds the Public Defender of Maryland, or the Public Defender's designee, to the membership of the council and requires the Alcohol and Drug Abuse Administration to provide staff for the council.

The scope of the Governor's Office of the Deaf and Hard of Hearing is expanded by *Senate Bill 79 (passed)* to include individuals who are deaf-blind. Deaf-blind individuals have a combination of hearing and visual losses that cause difficulties in communicating, especially for children. Although the office was not required to do so by law, the office has been serving the deaf-blind community. Also, the office is no longer charged with acquiring and distributing visual smoke detectors because local fire departments have taken over that role. The bill adds two members to the Maryland Advisory Council for the Deaf and Hard of Hearing. The two members are the Secretary of Aging, or the Secretary's designee, and an individual with knowledge or expertise relating to the deaf-blind.

Reorganization

The Maryland Emergency Management Agency (MEMA) is part of the Maryland Military Department and is responsible for coordinating the State response to any major emergency or disaster. Formerly, the Adjutant General of the Maryland Military Department, with the approval of the Governor, had the responsibility of appointing the director of MEMA. *Senate Bill 73 (Ch. 24)* shifts that responsibility to the Governor and requires the director to be directly responsible to the Governor for carrying out the State emergency management program. The Act also removes the role of the Adjutant General from the development of mutual aid agreements regarding the employment of personnel.

Disclosure of Personal Information on State Government Web Sites

Under current law, while most business entities are prohibited from publicly posting or displaying an individual's Social Security number, State and local governments are exempt from the prohibition. *House Bill 1042 (passed)* places similar restrictions on State government. Beginning June 1, 2010, departments and independent units of State government, as well as State courts, are prohibited, to the extent practicable, from publicly posting or displaying on an Internet web site maintained or paid for by the department, independent unit, or court an individual's personal information. Personal information is defined as an individual's Social Security number or driver's license number. An individual that is the subject of the personal information or, if that individual has a legal disability, the parent or legal representative of the individual may request the official custodian of the public record to mask personal information that is on the Internet version of a public record. The request must be in writing and provide an

accurate description of the public record. If an official custodian receives a request to mask the personal information, the official custodian is required to mask the personal information and give the individual written notice that the information has been masked. These provisions, however, do not apply to a public record after 72 years from the date the record was made or received by State government. The bill also provides similar restrictions regarding personal information in a deed or other recordable instrument.

The Military and Veterans

Militia

The Maryland militia, with certain exceptions, consists of citizens of Maryland or individuals who are foreign born but are residents of Maryland and have declared an intention to become citizens of the United States. *Senate Bill 72 (Ch. 23)* expands the pool of eligible individuals to those who are citizens of the United States and who take an oath of allegiance to Maryland.

During peace time, enlisted members of the State's organized militia are considered to be covered employees under the State's workers' compensation law, with the State being considered the employer. If an enlisted member is injured during training as part of the Maryland State Guard or on active duty under order of the Governor in time of civil disorder, labor disorder, natural disaster, or other event that requires the support of the State militia, the employee is entitled to receive wage replacement benefits. The amount of the wage replacement benefits are based on the soldier's average weekly wage. To determine the average weekly wage, either the wage provided for active duty under the Public Safety Article or the actual wages earned by the soldier in employment in the National Guard can be used. *Senate Bill 53 (passed)* adds the actual wages earned by the soldier in the soldier's civilian employment at the time of entry into State active duty as a third type of compensation that can be used. The average weekly wage is based on the greatest of those three types of compensation.

Department of Veterans Affairs

Washington Cemetery was established in 1870 as a burial place for Civil War soldiers who died in various battles fought in the State. Since that time, the Washington Cemetery Board of Trustees has overseen the cemetery. However, because so little oversight is required, the Board of Trustees has not met in several years. *Senate Bill 78 (Ch. 29)* abolishes the Board of Trustees and transfers the supervision of the cemetery to the Maryland Department of Veterans Affairs.

The Department of Veterans Affairs, under *Senate Bill 1033/House Bill 1353 (both passed)*, is required to develop a Military Health Care Provider Transition Plan. The purpose of the plan is to increase the number of veterans with expertise in health care workforce shortage areas to transition into civilian health care provider positions. For a more detailed discussion of this issue, see the subpart "Health Occupations" within Part J – Health and Human Services of this *90 Day Report*.

Revenue and Investments

Under the Minority Business Enterprise (MBE) Linked Deposit Program, a bank provides a loan to a certified MBE through the Department of Housing and Community Development at an interest rate two percentage points lower than the bank otherwise would charge. In return, the State Treasurer's Office purchases a certificate of deposit from that bank in an amount equal to the amount of the loan and accepts a 2% point reduction in the interest rate of the investment. *Senate Bill 208/House Bill 834 (both passed)* alter the program to allow the State Treasurer to invest in any type of interest bearing account, rather than limiting the investments to certificates of deposit.

State Designations

The federal government recognizes September 15 through October 15 as National Hispanic Heritage Month. September 15 was chosen because it is the anniversary of independence for numerous Latin American countries. *Senate Bill 415/House Bill 34 (both passed)* establish Hispanic Heritage Month at the State level by requiring the Governor to issue a proclamation. The purpose of the designation is to recognize the contributions that Hispanic Americans have made to the State.

Beginning in 2006, a yearly memorial service has been held at the Maryland Fire-Rescue Services Memorial in the City of Annapolis in early June. The memorial service is formally recognized through *Senate Bill 715/House Bill 910 (both passed)*, which require the Governor to annually proclaim the first Sunday in June as the day to honor the fire, rescue, and emergency services workers of the State who made the ultimate sacrifice in the performance of their duties. On that day, the State flag is to be flown at half-staff and memorial plaques containing the names of the workers who made the ultimate sacrifice will be placed on the memorial by the Maryland Fire-Rescue Services Memorial Foundation.

The main duties of the State Archivist are to preserve, describe, and make accessible to the government and the public records deemed to have permanent historical, educational, and administrative value. *Senate Bill 166/House Bill 345 (both passed)* authorize the State Archivist to review, evaluate, and make recommendations to the General Assembly regarding State designations. The State Archivist must review, evaluate, and make a recommendation regarding a State designation if requested by the President of the Senate, Speaker of the House of Delegates, Chair of the Senate Education, Health, and Environmental Affairs Committee, or the Chair of the House Health and Government Operations Committee.

Senate Bill 164/House Bill 346 (both passed) repeal the Advisory Committee on the Naming of State Facilities and Bridges, which has met only twice since it was established in 2005. The advisory committee was charged with considering and evaluating requests to name State facilities, other than those at public institutions of higher education, for individuals and accepting public testimony at its hearings.

Elections

Voting System

Funding Not Provided for New Voting System

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 the State Board of Elections (State board) to certify a voting system that provides a voter-verifiable paper record for use in each election beginning in 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.

Chapter 428 of 2009 amended the requirements of Chapters 547 and 548 of 2007 by allowing the State’s current DRE touch screen voting machines to be used to provide access to voters with disabilities until a voting machine becomes available that complies with the accessibility requirements of VVSG and provides a voter-verifiable paper record.

The State board moved forward with procurement of an optical scan voting system in 2009 in accordance with these statutory requirements, but before a contract could be awarded, funding for the new system was not included in the fiscal 2011 budget. As a result, the 2010 gubernatorial elections will instead be conducted using the State’s current DRE touch screen voting system.

The Attorney General’s Office advises that despite the statutory requirement that an optical scan voting system be used in each election beginning with the 2010 primary election, the Governor acted within his constitutional budgetary powers in not including funding for a new voting system in the fiscal 2011 budget. Absent this funding, the State board is not legally obligated to purchase a new voting system. The Attorney General’s Office also advises that the State may continue to use the current DRE touch screen voting system, which has not been decertified, until the Governor provides funding for a new system.

A provision of *Senate Bill 141 (passed)*, the Budget Reconciliation and Financing Act of 2010 (BRFA), relates to funding for the procurement of an optical scan voting system. Chapter 487 of 2009, the Budget Reconciliation and Financing Act of 2009, allowed for the transfer of up to \$2 million from the Fair Campaign Financing Fund to the Maryland Information Technology Development Project Fund for the purpose of purchasing a new optical scan voting system. (For additional information about the Fair Campaign Financing Fund, see the discussion below under “Campaign Finance.”) If the funds are not used for that purpose, Chapter 487 requires that they be transferred to the Maryland Election Modernization Fund, which may be used for a variety of purposes to improve the electoral process. The BRFA of 2010 repeals the language in Chapter 487 requiring the transfer of funds not used for a new voting system to the Election Modernization Fund, and instead requires that they revert to the Fair Campaign

Financing Fund, where they may be used to subsidize the procurement of an optical scan voting system in the future.

Study of Voting System Issues

The BRFA of 2010 also requires the Department of Legislative Services to hire a consultant to study issues relating to the State's voting system. The department is authorized to spend up to \$150,000 from the Fair Campaign Financing Fund for the study. The consultant is required to study several issues concerning the cost of continuing to use the State's current voting system as compared to the cost of obtaining a new optical scan voting system. The consultant is also required to estimate the life span of the State's current voting system and make recommendations for procuring and implementing an optical scan voting system in a cost effective manner. In making its findings and recommendations, the consultant is required to consult with voting system experts and review the voting system contracts and policies of other jurisdictions. The report of the consultant is due to the Governor and the General Assembly by December 1, 2010.

Voter Registration

Under the Maryland Constitution, generally every citizen of the United States, age 18 or older, who is a resident of the State as of the close of registration prior to an election is entitled to vote. The constitution requires individuals to be registered in order to vote and requires the General Assembly to provide by law for a uniform registration of the names of all voters in the State that meet the constitutional requirements. Qualifications to register to vote are set out in the Election Law Article and are similar to the voter eligibility requirements in the constitution, though certain individuals, including individuals under guardianship for mental disability, are not qualified to be registered voters. Several bills passed this session alter those statutory qualifications.

Individuals under Guardianship for Mental Disability

The Maryland Constitution gives the General Assembly the authority to "regulate or prohibit the right to vote of a person ... under care or guardianship for mental disability" and, as mentioned above, under the Election Law Article an individual under guardianship for mental disability is not qualified to be a registered voter. Maryland is among a majority of states that prohibit persons with mental disabilities from voting to one extent or another, whether based on guardianship or otherwise.

In Maryland, a guardian is generally appointed for an individual when a circuit court determines that the individual cannot make or communicate responsible decisions concerning his or her person, or cannot manage his or her property and affairs effectively, for reasons including mental disability. A person's capacity to vote, however, is not part of the court's determination and concerns have been raised that the prohibition of individuals under guardianship for mental disability from registering to vote can deny persons that are competent to vote the right to do so.

Senate Bill 28/House Bill 816 (both passed) specify that in order for an individual under guardianship for mental disability to be disqualified from registering to vote, a court of competent jurisdiction must have specifically found by clear and convincing evidence that the individual cannot communicate, with or without accommodations, a desire to participate in the voting process.

Individuals under Age 18

Under the Election Law Article, one of the requirements to become registered to vote is that an individual be at least age 18 or will turn 18 on or before the day of the next succeeding general or special election. The Maryland voter registration application requires the applicant to sign an oath swearing or affirming that, among other things, the applicant “will be at least 18 years old or older by the next General Election.”

Senate Bill 292/House Bill 217 (both passed) allow an individual who is at least age 16 to register to vote, provided the individual meets other voter registration requirements. Some other states, such as Florida, Hawaii, and Oregon have similar laws that allow an individual under age 18 to “pre-register,” though the individual may not be immediately eligible to vote in an upcoming election due to the individual’s age. Maryland’s voter registration database currently has the functionality to enter individuals who will not be 18 or older by the next general election while not including those individuals in the electronic poll books and election registers for an election until they are eligible to vote.

Senate Bill 292/House Bill 217 provide that an individual under age 18 may vote in a primary election in which candidates are nominated for a general or special election that will occur when the individual is at least age 18, but may not vote in any other election. Whether an individual under age 18 may vote in a Maryland primary election before reaching the age of 18 came into question after the issuance of a 2006 Court of Appeals opinion (*Lamone v. Capozzi*), which addressed the applicability of certain election-related provisions of the Maryland Constitution to primary elections. Individuals who were 17 but would be 18 on or before the next general election had previously been permitted to vote in the primary election. The issue eventually came before the Court of Appeals, which issued an order in February 2008 stating that registered 17-year-olds who would be 18 on or before the November 2008 general election must be allowed to vote in the 2008 presidential primary election, with the exception of certain special and municipal election contests.

Senate Bill 292/House Bill 217 also allows a registered voter to change party affiliation (or nonaffiliation) at any time that voter registration is open. This eliminates an existing restriction under which a voter may not change party affiliation during an extended period prior to a primary election and a specified period prior to a special congressional election. The bills also specify that the number of signatures needed to seek nomination by petition must be determined as of January 1 of the year of the primary election for which the nomination is sought.

Campaign Finance

Online Campaign Finance Reporting System

Senate Bill 141, the BRFA of 2010, authorizes the transfer of up to \$500,000 from the Fair Campaign Financing Fund to the State board for the purpose of procuring an online campaign finance reporting system. The new system will replace ELECTrack, the electronic filing software that campaign finance entities currently use to report campaign finance information to the State board. With the implementation of the new system, it will be possible to report campaign finance information using any computer with an Internet connection, not just a computer on which ELECTrack is installed. The State board also advises that the new system will be more cost effective to operate than ELECTrack because it will no longer be necessary to send out costly software updates each time there is a change in campaign finance reporting requirements under State law.

Fair Campaign Financing Fund Tax Checkoff

The BRFA of 2010 also includes an amendment eliminating the line on the State income tax form that allows taxpayers to voluntarily donate to the Fair Campaign Financing Fund. Any amount donated is in addition to the taxpayer's tax liability. The Fair Campaign Financing Fund exists to provide public campaign financing to qualifying candidates for Governor and Lieutenant Governor. However, according to the 2004 report of the Study Commission on Public Funding of Campaigns in Maryland, the fund "has remained essentially unused to date" and "has rarely reached a functional level." In Chapter 487 of 2009, the BRFA of 2009, the General Assembly declared that the fund "cannot operate as originally contemplated" and allocated money in the fund for the purchase of an optical scan voting system. This action was in accordance with advice from the Attorney General that the General Assembly may constitutionally spend the money in the fund on any initiative that enhances the electoral process, because this would fulfill the general intent of the donors to the fund. By eliminating the tax checkoff, the BRFA of 2010 ensures that taxpayers will no longer be donating to a fund that the General Assembly has declared to be defunct and which is now being used for other purposes.

Campaign Finance Reports

For each election in which a campaign finance entity participates, it generally must file campaign finance reports at various times prior to and after the primary and general elections. The reports must contain information required by the State board with respect to all contributions received and all expenditures made by or on behalf of the campaign finance entity during a reporting period. Annual reports generally must also be filed on the third Wednesday in January. An affidavit may be filed in place of a campaign finance report when a campaign finance entity has not raised or spent a cumulative amount of \$1,000 or more, exclusive of the candidate filing fee, since the campaign finance entity was established or since the campaign finance entity's last campaign finance report was filed.

House Bill 378 (passed) requires a ballot issue committee to file an additional campaign finance report prior to a general election, on or before the fourth Friday preceding the election.

Currently a ballot issue committee must file a report on or before the second Friday before a general election and on or before the third Tuesday after a general election.

The bill also specifies that a campaign finance entity of a candidate for election to the central committee of a political party that is authorized to file an affidavit of limited contributions and expenditures in place of a campaign finance report is not required to file the affidavit or a campaign finance report on the campaign finance reporting dates prior to and after primary and general elections. Those campaign finance entities, however, must still file an affidavit or a campaign finance report on the third Wednesday in January.

Authority to Make Disbursements

Under the Election Law Article, assets received by or on behalf of a campaign finance entity must be delivered to and maintained by the treasurer for the purposes of the campaign finance entity. Assets may be disbursed only if they have passed through the hands of the treasurer and only in accordance with the purposes of the entity. With certain exceptions, the treasurer must make all disbursements for a campaign finance entity. *House Bill 1440 (passed)* allows a chairman of a campaign finance entity, who is not a candidate, to make a disbursement on behalf of the campaign finance entity in the same manner as the treasurer if the treasurer is temporarily unable to perform the duties of the office. The chairman, however, must submit a report concerning the expenditure to the treasurer within seven days after making the disbursement for the account book of the campaign finance entity.

House Bill 1440 also repeals the office of subtreasurer of a campaign finance entity. Under existing law, a treasurer is allowed to appoint a subtreasurer for any county, each precinct in a county, or any political subdivision, who must deposit, disburse, and account for funds in the same manner as, and under the authority of, the treasurer. According to the State board, subtreasurers have not been used by campaign finance entities in recent years.

Voting Offenses – Injunctive Relief

The Attorney General’s Task Force on Voting Irregularities indicated in an April 2008 report that “organized efforts to suppress or discourage voting have occurred in Maryland.” The task force recommended that the Attorney General put in place an ongoing procedure to investigate acts of voter intimidation and to take legal action where appropriate. It also recommended that the Attorney General consider convening a multistate task force to work with the U.S. Department of Justice regarding broader coordination of legal efforts to prosecute voter suppression activities targeted at minority groups.

Senate Bill 114/House Bill 266 (both failed), as amended by the House, would have authorized the Attorney General or any registered voter to seek injunctive relief in circuit court when a person, political committee, campaign finance entity, or other organization or entity has engaged, or there are reasonable grounds to believe the person or entity is about to engage, in specified prohibited actions related to voter fraud and voter suppression. These prohibited actions include, among other things, voting more than once and influencing a voter’s decision whether to go to the polls through force, threat, bribery, or fraud.

Redistricting – Counting of Prison Inmates

With congressional and legislative redistricting approaching, *Senate Bill 400/House Bill 496 (both passed)* require that population counts used after each decennial census to create congressional districts, legislative districts of the General Assembly, and county and municipal legislative districts exclude individuals who, as determined by the decennial census, were incarcerated in State or federal correctional facilities and were not State residents prior to their incarceration. The bills also require that individuals incarcerated in State or federal correctional facilities who were residents of the State before their incarceration be counted at their last known residence before incarceration. For further discussion of *Senate Bill 400/House Bill 496* see the subpart “General Assembly” within Part C – State Government of this *90 Day Report*.

Ethics

Maryland Public Ethics Laws

Local Elected Officials and School Board Members

Senate Bill 315 (passed) requires county and municipal corporation conflict of interest and financial disclosure provisions for elected local officials and school board members to be equivalent to or exceed State conflict of interest and financial disclosure requirements, subject to local modifications if necessary. The provisions or regulations must require an elected local official or school board member to file a financial disclosure statement on or before April 30 of each year. The local ethics commission or the appropriate entity of each county and municipal corporation is required to certify to the State Ethics Commission on or before October 1 of each year that the county or municipal corporation is in compliance with the requirements for elected local officials. A candidate for election to an office of an “elected local official” is also required to comply with the financial disclosure requirements of the Public Ethics Laws.

Liquor Control Boards

Somerset and Worcester counties are two of only five counties in the State that regulate alcoholic beverages by means of a liquor control board. A liquor control board is authorized by statute to operate county liquor dispensaries that make wholesale or retail “package” sales of certain types of alcoholic beverages to regulate price and competition within the county. In 2009, the State Ethics Commission sought an opinion of the Attorney General as to whether liquor control boards are State or local entities for the purpose of applying the Maryland Public Ethics Laws. In response to the Attorney General’s determination that a liquor control board is a State entity, *House Bill 1309 (Ch. 170)* adds the liquor control boards for Somerset and Worcester counties to the definition of “executive unit” for purposes of governance by the Public Ethics Laws.

Local Bills

Howard County: *House Bill 230 (Ch. 138)* specifies that, for purposes of the Public Ethics Laws disclosure provisions specific to Howard County, the definition of “applicant” includes, as to an application for a zoning regulation, any person authorized to sign the application. The Act requires the administrative assistant to the zoning board and the administrator of the county council to prepare a summary report compiling all affidavits and disclosures filed under the Howard County-specific disclosure provisions promptly on receipt, instead of at least twice each calendar year. This summary report must be available for immediate inspection by the general public upon written request.

Procurement

Most of the procurement legislation passed during the 2010 General Assembly session focused on two main areas: the State’s Minority Business Enterprise (MBE) program and environmentally friendly construction and purchasing requirements. Other successful bills address the State procurement preference programs and miscellaneous aspects of State procurement law.

Minority Business Enterprise Program

The State’s MBE program establishes a goal that at least 25% of the total dollar value of each agency’s procurement contracts be awarded to MBEs, including 7% to African American-owned businesses and 10% to woman-owned businesses. The program applies to all State procurements for goods and services. Before a minority-owned business may participate in the program, the Maryland Department of Transportation (MDOT) must certify that the business meets statutory requirements regarding its legitimacy as a business enterprise as well as the minority status and personal net worth of its ownership.

MBE legislation passed in 2010 streamlines the certification process for small, minority-owned businesses seeking to participate in the program and expands the program’s applicability to more State-funded endeavors. *Senate Bill 130/House Bill 250 (both passed)* require MDOT to promote and facilitate certification of MBEs that are already certified as minority-owned businesses by the U.S. Small Business Administration or by a county whose certification process is substantially similar to the State’s process. *Senate Bill 131/House Bill 251 (both passed)* require MDOT to promote and facilitate the electronic submission of some or all of an application seeking certification as an MBE. Currently, applicants may complete a portion of the application online but must print out and mail the completed application and all supporting documentation. *Senate Bill 546/House Bill 923 (both passed)* require MDOT to complete its review of an application for MBE certification and notify an applicant of its decision within 90 days of receiving a complete application. After notifying the applicant in writing, MDOT may extend the notification requirement by no more than 60 days.

House Bill 209 (passed) requires that any hospital or institution of higher education that is not already subject to the MBE requirements and that receives a grant of at least \$500,000

funded by State general obligation bonds submit an annual report to the Governor's Office of Minority Affairs (GOMA) detailing the extent to which the recipient has contracted with, or intends to contract with, MBE firms to work on the funded project. The bill's reporting requirement extends through fiscal 2014 for grant recipients and fiscal 2015 for GOMA. *Senate Bill 893/House Bill 908 (both passed)* specify that procurements by the Maryland Clean Energy Center are subject to the MBE program requirements. For a further discussion of *Senate Bill 893/House Bill 908*, see the subpart "Economic and Community Development" within Part H – Business and Economic Issues of this *90 Day Report*.

Senate Bill 849 (passed) requires that the annual report submitted by each State procurement unit to GOMA include the number and names of certified MBEs that participated as prime contractors or as subcontractors on procurement contracts awarded by the unit that year. For each MBE named in the report, the bill requires the unit to also list all procurement contracts awarded by the unit to that MBE.

Senate Bill 2/House Bill 222 (both passed) establish a Task Force on the Minority Business Enterprise Program and Equity Investment Capital, which is charged with exploring strategies for increasing venture capital investment in minority-owned firms.

Environmentally Friendly State Construction and Purchasing

The State's High Performance Building Act (Ch. 124 of 2008) requires that most new or renovated State buildings and new school buildings meet or exceed either the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) criteria for a silver rating or a comparable rating according to a nationally recognized, accepted, and appropriate standard approved by the Department of Budget and Management and the Department of General Services (DGS). As of 2010, only the LEED high-performance building standard is recognized under the Act. *Senate Bill 234/House Bill 1044 (both passed)* require that community college capital projects that receive State funds comply with the State's High Performance Building Act (*i.e.*, achieve at least a LEED silver rating). The bills allow community colleges to apply for and receive a waiver from this requirement under the Act's existing procedures.

Senate Bill 693/House Bill 1164 (both passed) promote the use of environmentally preferable purchasing throughout State government through a variety of study and reporting requirements and the establishment of the Maryland Green Purchasing Committee. The committee must provide information and assistance regarding environmentally preferable purchasing to State agencies by, among other things, developing and implementing a strategy that may include statewide policies, guidelines, programs, and regulations, and developing a "best practices" manual. The bill also requires DGS to study and report on the use of compost as a fertilizer on State property and establishes a goal for DGS to compost all landscape waste on State property that it operates. The percentage of paper purchased by DGS that must be recycled increases from 40% to 90%.

Senate Bill 791 (passed) authorizes the Board of Public Works (BPW), on the recommendation of DGS, to waive the statutory requirement for a mandatory termination clause for a multi-year State contract to procure renewable energy for the State. In considering whether to grant a waiver, BPW must consider the effects of its decision on the ability of an energy vendor to obtain financing for the renewable energy generation project.

Small Business and Other Preference Programs

Senate Bill 71 (Ch. 22) reauthorizes the Small Business Reserve (SBR) Program for six years, until September 30, 2016. The SBR program requires most State procurement units to structure their procurements so that at least 10% of the total dollar value of their procurements is made directly to small businesses.

Senate Bill 171/House Bill 359 (both passed) establish a procurement preference program in which, beginning July 1, 2012, each State agency tries to award 0.5% of the value of its procurement contracts to small businesses owned and operated by veterans. To participate in the program, veteran-owned businesses must be verified by the Center for Veterans' Enterprise within the U.S. Department of Veterans Affairs.

Miscellaneous Procurement Legislation

Senate Bill 979/House Bill 1370 (both passed) define a “public-private partnership” and establish a framework of reporting requirements and oversight procedures for State entities that enter into such partnerships. For a more detailed discussion of this issue, see the subpart “Transportation” within Part G – Transportation and Motor Vehicles of this *90 Day Report*.

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 for which at least 50% of the project cost is paid by State funds. *Senate Bill 451/House Bill 1100 (both passed)* restrict the ability of an employee to file a civil lawsuit for recovery of unpaid wages under the State's prevailing wage law, and instead require the employee first to file a complaint with the Commissioner of Labor and Industry. Only in instances in which an employer fails to comply with an order from the commissioner to reimburse unpaid wages may an employee or the commissioner file a civil lawsuit for unpaid wages and up to triple damages.

House Bill 647 (passed) exempts from most aspects of State procurement law any grants, agreements, or partnerships related to conservation service opportunities that are negotiated or entered into by the Department of Natural Resources with nonprofit entities.

House Bill 531 (passed) changes the membership of the Task Force to Study the Procurement of Health and Social Services by State Agencies, expands its scope to include the procurement of education services, transfers its staffing responsibility to the Board of Public Works, and extends its authorization by two years until June 30, 2012. The task force was established by Chapters 438 and 439 of 2008 and must report preliminary findings and

recommendations by November 30, 2010, and its final findings and recommendations by November 30, 2011.

Personnel

State Employees

Impact of Budget Actions on State Employees

In fiscal 2011, which begins on July 1, 2010, State employees will continue to be impacted by the State's weak fiscal condition in several ways. Due to budgetary constraints, State employees will again not receive cost-of-living increases, merit increases, or deferred compensation matches. Moreover, a furlough and temporary salary reduction plan mirroring that instituted during fiscal 2010 was built into the fiscal 2011 budget. State employee salaries will fall by an average of 2.6% to satisfy the 5- to 10-day furlough and service reduction requirements that comprise the Administration's plan.

In fiscal 2011, the size of the regular State workforce decreases by 0.91%, or 719.3 positions – of which the General Assembly eliminated 568 positions. In accordance with a provision designed to encourage voluntary separation from State service, 500 of the positions abolished by the General Assembly will be carried out over the course of fiscal 2011, instead of at the end of fiscal 2010.

The Budget Reconciliation and Financing Act of 2010

The Budget Reconciliation and Financing Act of 2010 (BRFA) – *Senate Bill 141 (passed)* – includes a provision that prohibits performance bonuses, merit increases, and cost-of-living adjustments to State employees in fiscal 2011, except for increases necessary to retain faculty at public senior higher education institutions and a performance bonus for the Chief Investment Officer (CIO) of the State Retirement and Pension System. The bonus dispersed to the CIO may not exceed 10% of the CIO's salary in fiscal 2011.

In addition, the BRFA bill establishes a Public Employees' and Retirees' Benefit Sustainability Commission. The commission was established to provide an external review of recruitment practices, retention incentives, and State funded pensions, fringe benefits, and post retirement benefits provided to State and public education employees. For a further discussion of the commission, see the subpart "Pensions and Retirement" within this part of this *90 Day Report*.

Retiree Health

Senate Bill 444/House Bill 771 (both passed) extend the termination date of the Blue Ribbon Commission to Study Retiree Health Care Funding Options by two years, until June 30, 2012. For a more detailed discussion of *Senate Bill 444/House Bill 771*, see the subpart “Pensions and Retirement” within this part of this *90 Day Report*.

Collective Bargaining

During the 2010 legislative session, several bills were introduced that affect labor relations with various groups of employees.

Family Child Care Providers

The child care subsidy program, administered by the Maryland State Department of Education (MSDE), provides financial assistance with child care costs to eligible families through each local department of social services. In 2007, Governor O’Malley signed an executive order authorizing collective bargaining for registration and registration-exempt family child care providers participating in the child care subsidy program. An October 15, 2009 memorandum of understanding between the Governor, MSDE, and the Service Employees International Union (SEIU) recognized SEIU as the exclusive collective bargaining representative for all registered and registration-exempt family child care providers participating in the child care subsidy program. The memorandum of understanding also specified that if legislation expanding the rights of providers to engage in collective bargaining is signed by the Governor, SEIU may reopen negotiations related to these expanded rights.

House Bill 465 (passed) codifies collective bargaining rights for child care providers and authorizes the negotiation and implementation of service fees. Under the bill, the State must conclude that a collective bargaining agreement as a whole will not adversely impact providers who are not members of the main employee organization before a service fee for nonmember providers can be authorized through an agreement reached by the State and the providers’ exclusive collective bargaining representative. The bill also establishes a private fund to protect child care providers against extreme hardship or loss of livelihood resulting from late State payments. The bill also requires the Early Learning Programs Section of MSDE to report to the Senate Finance and House Economic Matters committees each year through 2013 on the status of the Maryland Child Care Subsidy Program as it relates to family child care providers.

Public School Teachers

State public school teachers enjoy collective bargaining rights throughout the State; however, the State Board of Education is the ultimate arbiter of all disputes between local boards of education and the local employee organizations representing school system personnel. Local employee organizations view this bargaining process as unfair. *Senate Bill 590/House Bill 243 (both passed)*, also known as the “Fairness in Negotiations Act,” establishes a Public School Labor Relations Board (PSLRB) to arbitrate impasses that cannot be resolved through mediation. Any such arbitration is binding but subject to the availability of funds. Under the bills, the State

Board of Education will no longer decide public school labor relations disputes, and the authority of the State Superintendent of Schools to declare labor impasses is repealed. The bills also establish a new mediation process for resolving disputes and establish a new process for the PSLRB to decide the negotiability of topics.

The bills require the staff for the State Labor Relations Board and the Higher Education Labor Relations Board to also staff the PSLRB. Prior decisions of the State Board of Education are not binding but may be considered precedent. PSLRB must report on the implementation of the bill by July 1, 2014, and the legislation sunsets on June 30, 2015. For a further discussion of *Senate Bill 590/House Bill 243*, see the subpart “Primary and Secondary Education” within Part L – Education of this *90 Day Report*.

Maryland Transportation Authority Police Officers

The Maryland Transportation Authority (MDTA) is a nonbudgeted agency that manages, operates, and maintains the State’s seven toll facilities. MDTA’s Police Force is responsible for security and law enforcement services at bridge and highway toll facilities, Baltimore/Washington International Thurgood Marshall Airport, the Port of Baltimore, and the Motor Vehicle Administration’s headquarters. The MDTA Police Force is the seventh largest law enforcement agency in the State and is the only State law enforcement agency to operate without funds budgeted for it in the State’s operating budget. Rather, funding for the operation of the authority is derived from the revenues it generates. Since MDTA is not considered to be a unit of the Maryland Department of Transportation, it is not subject to the general State collective bargaining law.

In the 2009 session, the General Assembly’s budget committees directed MDTA to work with representatives from MDTA police to reach agreement on a process to grant collective bargaining rights to MDTA police and to submit legislation in the 2010 session to effectuate this change. In a letter dated January 15, 2010, however, MDTA indicated that, due to a pending lawsuit, it had not entered into a collective bargaining discussion with MDTA police and did not plan to introduce legislation during the 2010 session.

House Bill 815 (passed) includes in the general State collective bargaining law MDTA Police Officers at the rank of first sergeant and below. The collective bargaining rights and procedures in the bill do not apply to employees who are supervisory, managerial, or confidential employees, as defined in regulations adopted by the Secretary of the Department of Budget and Management. The bill also requires that MDTA police officers must have a separate bargaining unit.

Librarians

Senate Bill 225/House Bill 881 (both failed) would have established collective bargaining rights and procedures for employees in public library systems in each county, except for Prince George’s County and Montgomery County, which already have collective bargaining provisions for their public library employees.

State Employee Disciplinary Actions

State Correctional Officers' Bill of Rights

The Law Enforcement Officers' Bill of Rights was enacted in 1974 to guarantee police officers specified procedural safeguards in any investigation that could lead to disciplinary action. But while it extends to police officers of specified State and local agencies, it does not extend to any correctional officers in the State. *Senate Bill 887 (passed)* addresses this situation by granting employment, investigation, and discipline-related rights to State correctional officers who are employees of the Department of Public Safety and Correctional Services working in a State correctional facility whose duties relate to the investigation, care, custody, control, or supervision of inmates.

Senate Bill 887 supersedes any inconsistent provision of any other State or local law that conflicts with the provisions of the bill. The measure does not limit the authority of a managing official to regulate the competent and efficient operation and management of a State correctional facility by reasonable means, including the transfer and reassignment of employees, but subject to certain conditions.

State Employee Appointments and Appraisals

Natural Resources Law Enforcement Officers – Appointment

Senate Bill 660/House Bill 989 (both passed) authorize the Secretary of Natural Resources to appoint without examination (1) a Department of Natural Resources (DNR) law enforcement officer who holds a commissioned rank to the rank of major; and (2) a DNR law enforcement officer who holds a commissioned rank of not less than captain to the rank of lieutenant colonel. Appointed officers under the bill will continue to serve at the pleasure of the Secretary of Natural Resources, and upon termination of an appointment, the Secretary may return the officer to a vacant officer position or promote the officer to a higher rank to which the officer became eligible for promotion during the appointment.

State Employee Appraisals

The Performance Appraisal Task Force, which consists of various State agencies and labor organizations, was established in November 2008 as a result of collective bargaining negotiations between the State and the exclusive bargaining representatives of State employees. The task force was charged with reviewing the current employee appraisal procedures and suggesting changes to increase both the effectiveness of employee performance appraisal evaluations and the overall completion of performance appraisals by supervisors. *House Bill 275 (Ch. 142)*, which alters the performance appraisal process for employees in the State Personnel Management System, reflects the recommendations of the task force.

Employee performance appraisals continue to be conducted semiannually, but the enactment establishes that one annual appraisal – the mid-year performance appraisal – is an informal evaluation that is excluded from the grievance process. Under *House Bill 275*,

employees may only be given a rating of outstanding, satisfactory, or unsatisfactory in a performance appraisal, and employees are no longer required to participate in the performance appraisal process by preparing a self-assessment. Finally, the new law allows anonymous surveys to be used to evaluate the performance of managers or supervisors only if their supervisors requires them.

Pensions and Retirement

Retiree Pension Benefits

Each year, retirement allowances paid to retirees and beneficiaries of the State Retirement and Pension System (SRPS) are adjusted automatically for inflation. All cost-of-living adjustments (COLAs) are based on average annual changes to the Consumer Price Index for all urban consumers (CPI-U) but vary in size by retirement or pension plan. Except in very limited circumstances, the various statutory COLA provisions do not prohibit a negative adjustment; however, prior to 2009, the CPI-U had not had a negative change since automatic COLAs were first instituted in the early 1970s. The CPI-U declined by 0.356% over the previous year as of December 31, 2009. This decline would have resulted in a negative adjustment for fiscal 2011.

Senate Bill 317/House Bill 775 (Chs. 56 and 57) require that retirement allowances for most SRPS retirees not be subject to COLAs in fiscal 2011 if the average change in the CPI-U from 2008 to 2009 is negative. If COLAs are not applied in fiscal 2011, then fiscal 2012 retirement allowances must be reduced by the difference between fiscal 2010 allowances and the allowances that would have been paid in fiscal 2011 if COLAs had been applied. The Acts do not apply to retirees of the Legislative Pension Plan or the Judges' Retirement System, whose benefits are linked to the salaries of active legislators and judges, respectively. The Acts also require the SRPS Board of Trustees to study options for addressing future situations in which the CPI-U is negative and report its findings and recommendations to the General Assembly.

Senate Bill 508/House Bill 768 (both passed) were prompted by the discovery during the summer of 2009 that retirement benefits for approximately 50 retirees of the Employees' Pension System (EPS) or the Employees' Retirement System (ERS) had been miscalculated based on erroneous compensation data provided by the Maryland School for the Deaf (MSD), resulting in overpayments to the retirees. The bills temporarily freeze, instead of reduce, the retirement allowances for EPS/ERS retirees who previously had worked for MSD and had their retirement benefits miscalculated. When the frozen allowances equal the allowances that the retirees should be receiving in the absence of the miscalculation, including annual COLAs, the retirees resume receiving annual COLAs.

Reemployment Earnings Limitations

Several bills passed during the 2010 session address the conditions under which SRPS retirees may be reemployed without being subject to a benefit reduction. The reduction is equal

to the amount by which the sum of the reemployed retiree's current annual compensation and initial retirement allowance exceeds the member's average final compensation at the time of retirement.

House Bill 635 (passed) allows a retiree of the Judges' Retirement System (JRS) to be reemployed by any unit of State government without a reduction to the retiree's allowance. Currently, JRS retirees are exempt only if they are assigned temporarily to sit in a State court or if they are employed as a faculty member of a public institution of higher education. The bill prohibits a retiree from being rehired within 45 days of retirement. This prohibition, however, does not apply to a retiree who is assigned temporarily to sit in a State court. The bill also requires the Chief Judge of the Court of Appeals to report annually on the income and employment status of any JRS retirees covered by the bill's exemption. The bill terminates June 30, 2014. **Senate Bill 829 (passed)** excludes certain forms of compensation from the calculation of annual compensation used to determine a benefit reduction for a retiree of the Teachers' Retirement System or Teachers' Pension System who was a college or university faculty member on a 10-month contract and who is reemployed by the retiree's former employer. Specifically, the bill excludes bonuses, overtime, summer school salaries, and other forms of supplemental income from the determination of the retiree's annual compensation while reemployed.

State Retirement Agency Investments and Administration

Senate Bill 793 (passed) requires the SRPS Board of Trustees to submit an annual report to the General Assembly regarding its investments in venture capital funds. The report must list the names of and total amount invested in each venture capital fund that focuses on information technology, green technology, medical device technology, or bioscience. It must also provide the aggregate amount of SRPS assets invested by venture capital funds in companies headquartered in Maryland as well as businesses in each of the four industries listed above.

House Bill 926 (passed) requires the SRPS Board of Trustees to provide mailing addresses for State retirees not more than twice a year to a mail processing center to provide direct mailings on behalf of the Maryland Retired School Personnel Association (MRSPA). The bill also exempts MRSPA from current law requiring SRPS to notify retirees before it provides information about them to a public employee organization and requires the board to report to the General Assembly regarding any complaints it receives from retirees. The bill terminates June 30, 2011.

Retiree Health Benefits

Senate Bill 444/House Bill 771 (both passed) extend the termination date of the Blue Ribbon Commission to Study Retiree Health Care Funding Options by two years, until June 30, 2012. It also extends the deadline for submission of a final report by two years and requires the commission to submit an interim report by December 31, 2010. The commission is charged with developing a plan to fully fund the State's liabilities stemming from subsidized health benefits provided to State retirees.

Senate Bill 1000/House Bill 1294 (both passed) clarifies that employees and retirees of the Baltimore Metropolitan Council who were previously employees of the Baltimore Regional Council of Governments are eligible to participate in the State's group health insurance plan for employees and retirees.

Special Circumstances

During the 2010 session, the General Assembly passed several bills to allow a limited number of members or surviving spouses who are confronting unique circumstances to apply for or claim benefits to which they are not otherwise entitled. ***Senate Bill 709 (passed)*** allows the surviving beneficiary of a deceased member of SRPS plans to file an application for disability retirement benefits on behalf of the deceased member if the member filled out and signed a preliminary application or a disability application for disability benefits within a week before the member's death, and the application is received by the State Retirement Agency within 30 days after the member's death.

Senate Bill 480/House Bill 619 (both passed) allow a member of the Law Enforcement Officers' Pension System (LEOPS) who previously earned service credit in the noncontributory EPS while employed by the Harford County Sheriff's Office to transfer that service credit to LEOPS. Because of an extended break in service between the individual's membership in EPS and membership in LEOPS, the individual was not eligible to apply for the transfer under current law. ***House Bill 1443 (passed)*** allows a former member of EPS to purchase service credit toward early retirement for a period of time during which the individual was a contractual employee of the Wicomico County Health Department. The bills also allow the individual to join the State's group health insurance plan for employees and retirees as long as the individual receives a retirement allowance from the State.

Senate Bill 497 (passed) requires SRPS to consider an EPS retiree who (1) previously worked for the Maryland Court of Appeals, (2) died within 30 days of retiring in March 2008, and (3) selected the basic allowance as having died while still an active member of EPS. The bill entitles the individual's surviving spouse to a lump sum death benefit consisting of the return of the deceased member's employee contributions plus interest and an amount equal to the deceased member's average final compensation at the time of retirement.

Joint Committee on Pensions

As is its practice every year, the Joint Committee on Pensions sponsored several bills at the request of the SRPS Board of Trustees to clarify, update, or correct provisions of existing pension law. The General Assembly passed all of these bills.

Senate Bill 495/House Bill 770 (both passed) clarify that a survivor benefit may be paid to the surviving spouse or children of a deceased former member of SPRS who retired with a deferred vested allowance. ***Senate Bill 496/House Bill 773 (both passed)*** clarify that unused sick leave credit may not be used in calculating creditable service for the purpose of qualifying for the Deferred Retirement Option Program under LEOPS. ***Senate Bill 498/House Bill 774***

(both passed) raise the cap on average final compensation from \$10,000 to \$25,000 under which retirees of the employees' retirement and pension systems and the teachers' retirement and pension systems are exempt from the reemployment earnings limitation described above.

Senate Bill 550/House Bill 1134 (both passed) require local governments that elect to participate in any of several retirement or pension systems administered by SRPS to submit the necessary documentation to SRPS by July 1 of the first fiscal year following the local government's election to participate in the State system. If the local government does not meet the statutory deadline, its enrollment in the State system is delayed by one year. *Senate Bill 567/House Bill 772 (both passed)* repeal provisions that allow members of the noncontributory portion of EPS who are subject to member contributions to withdraw their contributions and interest and still receive a pension benefit based solely on employer contributions.

Benefit Sustainability Commission

The Budget Reconciliation and Financing Act (BRFA) of 2010, *Senate Bill 141 (passed)*, establishes a Public Employees' and Retirees' Benefit Sustainability Commission, which is charged with studying and making recommendations with respect to all aspects of State funded benefits and pensions provided to State employees and public education employees. A specific charge is to evaluate a proposal included in the version of the BRFA that passed the Senate to share a portion of teacher retirement costs with local school boards; the cost-sharing proposal was not included in the final version of the BRFA that passed both houses. In addition, another cost-saving proposal, *Senate Bill 959 (failed)* proposed that local school boards pay the share of teacher pension costs stemming from annual salary increases and new hires.

The commission may also choose to examine the State's pension funding policies. *Senate Bill 1061/House Bill 1379 (both failed)* proposed phasing out the current "corridor" funding policy over five years and establishing a "partial funding rate" of 90% of the full actuarial rate as the new default contribution rate.

General Assembly

Legislative Compensation

In accordance with the requirements of the Maryland Constitution, a General Assembly Compensation Commission convenes every four years to determine whether the salaries and benefits paid to legislators should be increased during the next following term of office. Unless the General Assembly affirmatively acts to lower the amounts, or reject the increases completely, the commission's recommendations automatically take effect. *Senate Joint Resolution 5 (passed)* rejects the commission's recommended salary and benefits increases and modifies provisions relating to legislative pensions.

Compensation Commission Recommendations

The General Assembly Compensation Commission report submitted at the beginning of the 2010 session recommended that salaries remain at current levels for the first two years of the next term of office – \$43,500 for members and \$56,500 for presiding officers. The commission also recommended that if the State’s annual unemployment rate was 5% or lower for calendar 2012, the salary for members of the General Assembly would increase to \$45,500 on January 1, 2013, and remain at that level for calendar 2014. A similar \$2,000 increase would take effect for the presiding officers, to \$58,500. Under the commission’s recommendation, if the State unemployment rate for calendar 2012 was greater than 5%, but 5% or lower for calendar 2013, the salary for members of the General Assembly would increase to \$45,500 only for calendar 2014. Compensation for presiding officers would also increase by \$2,000 under those conditions.

The commission recommended that the annual in-district travel allowance should increase from \$500 to \$650. The commission’s plan also would have replaced the current \$225 per-day limit for reimbursement of approved out-of-state travel expenses with a requirement that such reimbursements be subject to the most current published federal General Services Administration (GSA) daily per-diem rates for meals and lodging. The average reimbursement rate of \$222 under the GSA schedule is comparable to the current \$225 limit.

The commission recommended two changes to the Legislative Pension Plan that were not rejected. As a result, members who have served, or currently serve, in active duty military would be eligible to claim up to three years of military service credit after accruing eight years of creditable service in the Legislative Pension Plan. Second, the commission’s resolution repealed or amended two optional forms of retirement allowances due to Internal Revenue Service concerns that the optional allowances put the plan’s tax-exempt status at risk; similar changes were made to the employees’ and teachers’ plans administered by the State Retirement and Pension System. Those pension-related recommendations are not affected by the passage of [*Senate Joint Resolution 5*](#) and will be implemented in the next term of office.

Final Disposition

[*Senate Joint Resolution 5*](#) rejects the salary recommendations of the General Assembly Compensation Commission, and instead maintains the annual salaries, set in 2006, over the entirety of the next four-year term. The resolution also rejects the commission’s recommendations to alter in-district and out-of-state travel, pension credits, and retirement allowances.

Additionally, the resolution provides that membership in the Legislative Pension Plan will be optional for members serving in the 2011-2014 term of office.

Under the resolution, a member forfeits the benefits of his or her legislative pension if convicted of a crime, committed during the member’s term of office, that is a felony or serious misdemeanor relating to the member’s public duties. The convicted member will be entitled to a

return of the member's contributions, plus interest, but less any benefits already paid in the case of a retired member. The benefits would be restored if the conviction is overturned.

Legislative Redistricting – Counting of Prison Inmates

After the completion of the national census that is being taken this year, Maryland will redraw the boundaries of its legislative districts so that they will again be of substantially equal population. Under U.S. Census Bureau guidelines, inmates of a correctional facility at the time of the census are classified as residing in the correctional facility. Some of the State's largest prisons are located in low-population-density areas of the State, thereby skewing the numbers that are used to draw the new district lines. Prison inmates, almost without exception, have lost their right to vote while serving their sentences.

Senate Bill 400/House Bill 496 (Chs. 66 and 67) require that population counts used to create the 47 legislative districts of the General Assembly (as well as for congressional districts, county governing bodies, and municipalities) exclude incarcerated individuals in either State or federal correctional facilities who were not State residents prior to their incarceration. The Acts also require that incarcerated individuals be counted as residents of the local jurisdiction their last known address before their incarceration if they were State residents prior to their incarceration.

The average annual inmate population in State correctional facilities is approximately 27,000. The federal Bureau of Prisons reports 1,503 prisoners in the State's only federal prison. In addition, there are approximately 9,300 individuals in local detention centers, but those facilities are not included in the bills.

Constitutional Convention

The Maryland Constitution requires that every 20 years there be a statewide ballot question to "take the sense of the People in regard to calling a Convention for altering this Constitution." The requirement next applies to the general election of 2010. The Constitution further provides that if "a majority of voters at such election or elections" vote for the convention, the General Assembly must provide by law at its next session for the holding of the convention and the elections of convention delegates. This language has been interpreted to require a majority of the total number of voters in the election, not just those voting on the convention question, in order for a convention to be required. Any new constitution or amendment to the existing constitution adopted by a convention would be submitted to the voters of the State for ratification or rejection. *Senate Bill 26 (Ch. 9)* implements this requirement, placing the question on the November 2010 ballot.

A constitutional convention has never been called in accordance with this provision of the Maryland Constitution, although Maryland has otherwise held five constitutional conventions in the State's history, most recently in 1967-1968.

Audits of School Systems

Senate Bill 323/House Bill 189 (Chs. 58 and 59) remove the termination date on the requirement the Office of Legislative Audits (OLA) of the General Assembly conduct an audit of each local system. The new law clarifies that such an audit is to be conducted once every six years on an ongoing basis to evaluate the effectiveness of the financial management practices of the local school systems.

A 2004 enactment established procedures to ensure fiscal accountability of local school systems by providing for a legislative audit of each system at least once during the six-year period ending June 30, 2010. These procedures were developed after it was revealed in 2004 that two local school systems had deficits in their operating budgets. OLA reported that, as of January 2010, it had issued audit reports on 18 of the 24 local school systems. The audits contain over 300 recommendations addressing issues in 11 operational areas, such as procurement, information systems security, facility management, and transportation services. Audits for five other school systems are in progress, and the audit of the one remaining school system will be initiated during spring 2010.

Transparency

There was considerable interest this session in enhancing citizens' access to information about bills as they move through the legislative process, particularly regarding committee hearing procedures and the results of committee voting. Although no bills on this subject passed, several were referred for study during the 2010 legislative interim. In addition, the General Assembly directed that the Department of Legislative Services (DLS) post to the General Assembly's official Internet web site the final committee vote-tally on each bill, showing how each committee member voted.

Annotated Code

Code Revision – Washington Suburban Sanitary Commission (WSSC)

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 DLS, and the work is exhaustively reviewed by prominent members of the legal community prior to being introduced as bills.

Senate Bill 96 (Ch. 37) revises, restates, and recodifies the laws of the State relating to WSSC, which were previously codified in Article 29. Instead of creating a new article of the Annotated Code, which is the norm for Code Revision bills, the Act adds a new "Division II" to the existing Public Utility Companies Article, and it also renames the article to be the "Public Utilities Article." The decision to codify the nonsubstantive revision of the laws relating to

WSSC was based on the fact that as a State agency, it functions as a public utility that provides water and sewer services to Montgomery and Prince George’s counties.

Senate Bill 249 (Ch. 52), a companion bill to the revision, corrects cross-references to the new WSSC codification 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, DLS has long had the statutory authority to prepare legislation to make these sorts of changes both in the statutory text and bill titles of prior years’ enactments.

These corrective measures are the Annual Corrective Bill, *Senate Bill 470 (Ch. 72)*, and the Annual Curative Bill, *Senate Bill 469 (Ch. 71)*, respectively. Neither enactment contains any substantive change.

Statutory Legislative Committees

Joint Committee on Unemployment Insurance Oversight

Senate Bill 34/House Bill 267 (both passed) continue the Joint Committee on Unemployment Insurance Oversight as a permanent statutory committee. The joint committee was created in 2007 to study the State’s unemployment insurance system, examine the need for alterations in the system in order to maintain the Unemployment Insurance Trust Fund, and ensure fairness of the system. The joint committee had been scheduled to terminate on December 31, 2010.

The bills also require the joint committee to conduct a study of how State and federal unemployment insurance law relate to seasonal industries. The report is to be submitted by December 1, 2010.

For further discussion of these bills, see the subpart “Unemployment Insurance” within Part H – Business and Economic Issues of this *90 Day Report*.

New Study Committees and Task Forces with Legislative Membership

Each year, the General Assembly creates study committees and task forces of limited duration 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 relate to new study groups that are to include members of the General Assembly.

Transportation Funding

Senate Bill 229/House Bill 710 (both passed) establish the Blue Ribbon Commission on Maryland Transportation Funding. The two-year commission will be charged with reviewing,

evaluating, and making recommendations on various matters relating to the Transportation Trust Fund, mass transit, and highways in Maryland.

The Transportation Trust Fund is a nonlapsing special fund that provides dedicated funding for transportation, particularly for highway construction and maintenance purposes. The fund consists of tax and fee revenues, operating revenues, bond proceeds, and fund transfers.

The commission is to consist of 28 members, including 2 members of the Senate and 2 members of the House of Delegates.

Minority Business Enterprise and Equity Investment Capital

Continuing the work of a similar task force that terminated last year, *Senate Bill 2/House Bill 222 (both passed)* establish the Task Force on the Minority Business Enterprise Program and Equity Investment Capital. The group will include two senators and two delegates among its members.

The State's Minority Business Enterprise (MBE) program establishes a goal that at least 25% of the total dollar value of each State agency's procurement contracts be awarded to MBEs, including 7% to African American-owned businesses and 10% to women-owned businesses. The task force created by the bills will study how to facilitate the acquisition of investment equity capital by MBEs in the State in a manner that (1) allows minority business enterprise owners to retain operational control of the business enterprise and (2) provides adequate protection to equity investors.

Nanobiotechnology

The Task Force to Study Nanobiotechnology is created by *House Bill 795 (Ch. 163)*. It will include one senator and one delegate among its members. Nanobiotechnology is defined as the engineering of functional systems or devices, particularly in the field of medicine, at the molecular level. The task force will study the benefits of this technology and the State's role in promoting it and is to report its findings and recommendations by January 1, 2011. The Department of Business and Economic Development and the Maryland Technology Development Corporation will staff the task force.

Universal Design for Learning

Universal Design for Learning is an approach to education curriculum design in which the curriculum is intentionally and systemically designed from the beginning to address students' individual differences. Universal Design for Learning specifically recommends the use of flexible instruction materials, techniques, and strategies.

Senate Bill 467 (passed) establishes a Task Force to Explore the Incorporation of the Principles of Universal Design for Learning into the Education Systems in Maryland. The task force, which will include one member of the Senate and one member of the House of Delegates, will study the concept and issue a report by the end of 2010.

Solar Hot Water Systems in Prince George’s County

The Task Force on Solar Hot Water Systems in Prince George’s County, created by *Senate Bill 1067 (passed)*, will study the development of a business plan to achieve substantial use of solar hot water systems in a way that saves money for Prince George’s County residents and businesses and that reduces carbon emissions. The task force will include among its membership one senator and one delegate who each represents the county.

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. 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 termination dates on the following regulatory agencies were extended. Some of these bills also contain substantive changes in a board’s powers and duties, and those changes are discussed in the appropriate subject-area parts of this *90 Day Report*.

- *Senate Bill 103/House Bill 134 (both passed)* extend the State Board of Landscape Architects until 2024.
- *Senate Bill 104/House Bill 135 (both passed)* extend the State Board of Chiropractic and Massage Therapy Examiners until 2022.
- *Senate Bill 145/House Bill 132 (both passed)* extend the State Board of Examiners in Optometry until 2023.
- *Senate Bill 146 (Ch. 40)/House Bill 131 (passed)* extend the State Board of Physical Therapy Examiners until 2022.
- *Senate Bill 147 (Ch. 41)/House Bill 130 (passed)* extend the State Board for Professional Land Surveyors until 2024.
- *Senate Bill 148 (passed)/House Bill 133 (Ch. 131)* extend the State Board of Pilots until 2022.
- *Senate Bill 149 (passed)/House Bill 136 (Ch. 134)* extend the State Board of Plumbing until 2023.

- *Senate Bill 325/House Bill 501 (both passed)* extend the State Board of Dental Examiners until 2021. For a more detailed discussion of changes to the laws relating to this board, see the subpart “Health Occupations” within of Part J – Health and Human Services of this *90 Day Report*.
- *Senate Bill 326/House Bill 487 (both passed)* extend the State Board of Waterworks and Waste Systems Operators until 2021. For a more detailed discussion of changes to the law relating to this board, see the subpart “Environment” within Part K – Natural Resources, Environment, and Agriculture of this *90 Day Report*.
- *Senate Bill 327/House Bill 197 (both passed)* extend the State Board of Barbers and the State Board of Cosmetologists, respectively, until 2021. For a more detailed discussion of changes to the laws relating to these boards, see the subpart “Business Occupations” within Part H – Business and Economic Issues of this *90 Day Report*.

Part D

Local Government

Local Government – Generally

Counties

Compilation of Local Laws

Each charter and code home rule county must annually provide, without charge, a copy of a certain compilation of laws enacted during the year to the State Archives, the State Law Library, the Department of Legislative Services, and each member of the county's legislative delegation. *Senate Bill 174/House Bill 111 (both passed)* allow charter and code home rule counties to provide members of their legislative delegation an annual notice stating that a digital copy of the compilation of local laws is available on the Internet, as an alternative to furnishing each member with a printed copy of the compilation. The bills also clarify that copies furnished to State agencies must be in printed form.

Powers of Local Governments

Maryland counties operate under three forms of government: commission, code home rule, and charter home rule. As part of a nonsubstantive revision of the laws of Maryland relating to local governments that is overseen by the Department of Legislative Services, ambiguities were uncovered as to the application of a number of provisions of Article 25 of the Code to the various forms of county government. *House Bill 777 (passed)* clarifies that powers granted by State law under Article 25 are applicable to charter counties and code counties and clarifies how other provisions of Article 25 apply to charter counties, code counties, commission counties and Baltimore City.

Municipalities

Planning Commissions

The Maryland Department of Planning describes a planning commission as “an appointed body that advises the municipal or county governing body on all matters relating to the planning of growth and development, including the comprehensive plan, zoning, subdivision and other issues.” *House Bill 1244 (passed)* requires a planning commission appointed by a municipality to hold meetings quarterly, instead of monthly, or more often as the planning commission’s duties require and allows the chairperson of a commission to cancel the quarterly meeting if there is no business before the planning commission.

Land Bank Authorities

Land bank authorities are generally nonprofit or quasi-governmental entities formed for the purpose of transforming vacant, tax delinquent and abandoned property for the benefit of the surrounding property and larger community. *House Bill 1464 (passed)* allows the governing body of each municipality to create a land bank authority. A land bank authority may acquire, rehabilitate, own, and sell or transfer properties. Though a land bank authority may establish a land acquisition fund and issue bonds for the purchase and rehabilitation of properties, it does not have power of eminent domain and cannot levy any tax or special assessment.

Agreements among Municipalities

Senate Bill 394 (passed) expressly allows municipalities to enter into agreements with other municipalities for purposes including joint administration of the municipalities, procurement activities, the provision of municipal services, and the joint funding and management of projects that are centrally located to the municipalities.

Legislation Applicable to Both Counties and Municipalities

Binding Arbitration

Numerous counties and municipalities in Maryland have enacted local laws regarding the use of binding arbitration in collective bargaining disputes. Recent legal disputes have called into question the validity of these local laws. *Senate Bill 1123 (passed)* retroactively authorizes a county or municipality to adopt a local law or ordinance that allows for binding arbitration to resolve collective bargaining disputes regarding negotiations for employee wages, benefits, or terms and conditions of employment, if the county or municipality has already adopted such a local law or ordinance.

Business Improvement Districts

Business improvement districts (BIDs) in the United States have traditionally been established by groups of local businesses and property owners with the goal of attracting customers, clients, and shoppers to the district through coordinated improvements and shared

marketing efforts. *House Bill 1182 (passed)* establishes a process for the creation of BID. A district corporation may receive money from its incorporating local government, the State, or nonprofit organizations, charge fees for its services, employ individuals and hire consultants, and use the services of other governmental units. A local government establishing BID must provide for a tax within BID that is sufficient to support its operations, but the tax imposed may not count against a county or municipality tax cap. A district corporation is governed by a board of directors appointed by the members of the district.

Annual Financial Reports

Political subdivisions (counties, municipalities, and special taxing districts) must submit an annual audit and an annual financial report, commonly known as the *Uniform Financial Report* (UFR) to the Department of Legislative Services (DLS) by November 1 of each year. However, local governments with a population greater than 400,000 may take until January 1 to file the audit and annual financial report. In recent years, the General Assembly has altered the report filing deadlines for the audit and UFR in Howard County, Frederick County, and Wicomico County, all counties with a population under 400,000. Political subdivisions must also submit an annual comprehensive report on their financial condition to the State Treasurer and DLS.

Senate Bill 347/House Bill 839 (both passed) alter the timeframe in which a political subdivision must submit the annual comprehensive report to coincide with the date when the annual audit and the UFR must be submitted to DLS. *Senate Bill 994/House Bill 1110 (both passed)* change the filing due date for Queen Anne's County's annual financial report and annual audit from November 1 to January 1. Similarly, *House Bill 511 (passed)* changes the filing due date for St. Mary's County's annual financial report and annual audit from November 1 to January 1.

Special Taxing Districts

All counties have authority to establish special taxing districts for limited purposes, such as providing drainage improvements or providing street lighting. In addition, charter home rule and code home rule counties have broad authority under the Express Powers Act to create special taxing districts to carry out most "municipal-type services." In addition, the General Assembly has granted 12 counties (Anne Arundel, Baltimore, Calvert, Cecil, Charles, Garrett, Harford, Howard, Prince George's, St. Mary's, Washington, and Wicomico) and Baltimore City broad authority to create special taxing districts and to levy *ad valorem* taxes and issue bonds and other obligations for purposes of financing infrastructure improvements. The types of infrastructure improvements authorized include storm drainage systems, water and sewer systems, roads, lighting, parking, parks and recreational facilities, libraries, schools, transit facilities, and solid waste facilities.

Tax Limitation Exemption for Transportation Improvements

Anne Arundel, Montgomery, Prince George's, Talbot, and Wicomico counties have amended their charters to limit property tax rates or revenues. *Senate Bill 828 (passed)* exempts

certain financing costs for transportation improvements from a county tax limitation that would apply to *ad valorem* or special taxing districts. The bill authorizes county governments to enact a law to provide for the issuance of tax exempt bonds to finance the costs of transportation improvements for which the principal, interest, and any premium must be paid from and secured by special taxes collected by the county in a special taxing district.

Calvert County

In Calvert County, a special taxing district may not be created or special tax levied until a petition requesting a district is received from a homeowners' association. *Senate Bill 957/House Bill 1200 (both passed)* ensure that any, or a portion of, funds remaining in a special taxing district established in Calvert County after its termination may be applied to a future special taxing district established for the same subdivision, applied to a special taxing district reserve fund as agreed to by the county commissioners and the homeowners' association, or returned to owners of property in the district.

Local Laws

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.

Baltimore City

Police Department Death Relief Fund

The Baltimore City Police Department Death Relief Fund was established to pay a special one-time death benefit to eligible beneficiaries on the death of a police officer or civilian employee of the Baltimore City Police Department. A September 2009 independent audit report on the fund included recommendations that (1) the death benefit for a death that is proximately caused by injuries sustained or harm inflicted in the course of the performance of an officer's duty be increased from \$5,000 to \$10,000 because the board of trustees has already begun paying out benefits in that amount and (2) the designation of "captain" be replaced with "deputy major" because the City Police Department no longer uses the designation of "captain." *Senate Bill 173/House Bill 226 (both passed)* codify these recommendations.

Community Benefits District in East Baltimore

Baltimore City currently has four community benefits districts that provide various services, such as street lighting or additional security services, to residents and businesses in the district (Downtown Management Partnership, Charles Village District, Midtown District, and Waterfront District). *Senate Bill 1022 (passed)* allows the city to establish a community benefits district, and corresponding district authority, in the East Baltimore section of the city. The district authority would administer programs and activities to be conducted by the district authority; promote and market the district; provide supplemental security and maintenance

services; provide amenities in public areas; provide park and recreational programs and functions; and provide other services and functions as approved by an ordinance of the Mayor and the Baltimore City Council. The district's financial plan, including its annual budget, tax rates, and schedule of charges must be approved by the Baltimore City Board of Estimates.

Motor Fuel for Dirt Bikes

It is a civil offense in Baltimore City for a service station or other person to sell, transfer, or dispense motor fuel for delivery into a dirt bike or an unregistered motorcycle or similar vehicle. *Senate Bill 1006/House Bill 1025 (Chs. 114 and 115)* make it a misdemeanor for an individual to dispense motor fuel into a dirt bike from a retail pump at a service station in Baltimore City. The Acts define dirt bike to mean a motorcycle or other similar vehicle that is not required to be registered. Violators are subject to a fine of up to \$1,000 and imprisonment for up to 90 days, or both, and a possible suspension of the driver's license. If a person who violates the Acts is a minor, the court may order that a fine be paid by the minor or by a parent or guardian and the driving privilege of the minor may be suspended for between 30 and 90 days. Also, service stations are required to post a conspicuous sign stating the respective prohibitions; for failing to do so, they may first receive a warning and will be subject to a fine of up to \$100 for a second offense.

Calvert County

Regulation of Tattooing and Body Piercing

Tattooing and body piercing are regulated by the Maryland Department of Health and Mental Hygiene for the purpose of preventing and containing the spread of infection and illness. *House Bill 601 (passed)* authorizes Calvert County to adopt ordinances that regulate tattoo artist or body-piercing services and requires the Calvert County Health Department to enforce ordinances adopted under the bill.

Noise Control

Senate Bill 958/House Bill 1201 (both passed) authorize Calvert County to adopt environmental noise standards, sound level limits, and noise controls as necessary to protect public health, welfare, and property, provided that the requirements of the ordinance are not less stringent than or in conflict with State law. A violation of an ordinance is a civil offense subject to a fine of up to \$10,000. The county sheriff enforces the ordinance.

Cecil County

Board of Electrical Examiners

Senate Bill 728/House Bill 340 (both passed) repeal various provisions of local law related to the Cecil County Board of Electrical Examiners, including provisions regarding the establishment of the board; appointment and compensation of its members; the length of board terms; election of its officers; and the frequency and conduct of board meetings. Also repealed

are various duties and powers of the board, including licensing of master electricians and the board's electrical standards. State law provides counties with the authority to develop rules and regulations relating to electrical inspectors and issuing electrical permits.

Animal Control

The Animal Control Task Force appointed by the Cecil County Commissioners in 2009 recommended that State law be amended to provide the county with greater authority to regulate and license domestic animals. *Senate Bill 729 (passed)* authorizes the Cecil County Commissioners to provide by ordinance for comprehensive regulation of domestic animals and wild animals held in captivity, including licensing and control.

Budget and Taxation

Senate Bill 733 (passed) alters certain Cecil County budget and taxation laws. A public notice for a hearing on the county budget no longer must contain a copy of the proposed county budget and the names of nonprofit agencies receiving grants in the budget. Instead, the public notice must indicate that the proposed county budget will be available on the county web site and will be reproduced and made available to the public on request. Property tax payment timelines are altered to conform with Title 10, Subtitles 1 and 2 of the Tax – Property Article of the State code. Also, while tax sales have been held at the county courthouse, they will instead be held at the county administration building.

Collective Bargaining

Several counties in the State have collective bargaining for emergency medical services (EMS) employees. *Senate Bill 731 (passed)* authorizes Cecil County to enact an ordinance to allow collective bargaining between the county and specified EMS employees. Binding interest arbitration is not authorized and no particular method, means, or scope of bargaining between the county and the employee organization is prescribed.

Several counties in the State have collective bargaining for deputy sheriffs. *Senate Bill 726 (passed)* authorizes the representatives of deputy sheriffs at the rank of sergeant and below in Cecil County to bargain collectively with the sheriff and the Cecil County Commissioners on specified wages, benefits, and working conditions. The bill provides for nonbinding mediation and requires Cecil County to enact a local ordinance authorizing nonbinding arbitration if mediation fails to result in an agreement.

Dorchester County

The Dorchester County Sanitary Commission is a public corporate body authorized to operate as a monopoly in the provision of water and sewer services. The commission is the governing body of the county's sanitary district, and its members are appointed by the Dorchester County Council to six-year terms. *Senate Bill 40 (passed)/House Bill 113 (Ch. 129)* increase the number of sanitary commissioners from five to six.

Frederick County

Numerous “pay-as-you-throw” programs have been implemented nationwide, with the intent of increasing recycling in affected communities. *House Bill 678 (passed)* authorizes Frederick County to establish a pay-as-you-throw pilot program. Under the program, a solid waste hauler charges a residential customer a fee for the curbside collection of solid waste based on the volume of waste collected. A municipality may participate in the program only with approval of the governing body of the municipality.

Garrett County

The Garrett County Volunteer Fire and Rescue Association is responsible for the establishment of primary and secondary service areas for fire, rescue, and ambulance services in the county and for resolving disputes concerning service areas, mutual aid agreements, or communications. *Senate Bill 615/House Bill 733 (both passed)* establish a Garrett County Emergency Services Board. The bills transfer responsibility for resolving disputes related to service areas, mutual aid agreements, or communications from the Garrett County Volunteer Fire and Rescue Association, to the newly established board, and specify how disputes must be resolved. The Emergency Services Board is required to perform various duties relating to emergency fire, rescue, and medical services in the county. The bills provide that the board is the final step in the establishment of primary and secondary service areas for fire, rescue, and ambulance services in Garrett County.

In addition, *Senate Bill 615/House Bill 733* repeal the minimum property tax rates imposed by Garrett County for funding volunteer fire departments, increase the frequency with which the county commissioners are required to make payments to the volunteer fire departments, establish that the current minimum payments made from property tax assessments for funding rescue squads are the maximum amount of the payments and alter when those payments are made, and modify the required uses of funds provided to both volunteer fire departments and rescue squads. Finally, the bills modify requirements for volunteer fire departments and rescue squads that receive county funds and authorize the county commissioners to withhold funds if they fail to meet all the standards and policies recommended by the newly established board.

Harford County

Senate Bill 152 (passed) authorizes the Secretary of the Environment to delegate enforcement of sound level limits and noise control rules for Harford County to the Sheriff of Harford County, except with regard to lawful hunting or specified trapshooting, skeetshooting, or other target shooting in the county.

Howard County

Under the Public Ethics Law, in Howard County, an applicant for a zoning map amendment, a zoning regulation amendment, or an individual or entity, known as a party of

record, that participates in a specified manner in the adoption and approval of a comprehensive zoning plan must file an affidavit stating whether the applicant (1) has made specified political contributions to a candidate or the candidate's political committee for election as Howard County Executive or to the Howard County Council, who becomes elected, or to a group, combination, or organization of candidates; or (2) is currently engaging in business with the Howard County Executive or a member of the Howard County Council. An applicant or party of record that has made, or whose family member has made, a contribution or contributions must file a specified disclosure regarding the contributions.

House Bill 230 (Ch. 138) specifies that, for these purposes, the definition of "applicant" includes any person authorized to sign the application. The Act also requires the administrative assistant to the zoning board and the administrator of the county council to prepare a summary report compiling all affidavits and disclosures filed under these provisions promptly on receipt, instead of at least twice each calendar year. In addition, the Act provides that the summary report must be available for immediate inspection upon written request.

Montgomery County

For economic development purposes, counties are authorized to create industrial development authorities to promote economic development. These authorities may offer loans and provide grants to private enterprises but are not authorized to make a direct equity investment in an enterprise. Local governments must establish and follow an investment policy consistent with guidelines established by the State Treasurer which generally require a local government investment policy to adhere to the same investments authorized under the State Finance and Procurement Article of the Annotated Code and do not allow a local government to make a direct equity investment in a business in the State.

House Bill 891 (passed) authorizes Montgomery County, through the county's economic development fund, to make an equity investment in a company that is located in the county or agrees to relocate its business to the county. The county may not acquire an ownership interest exceeding 25% of any enterprise. The bill specifies how funds invested by the county may be used and establishes the terms of an equity investment that must be set forth in a funding agreement. A funding agreement must prohibit the county from participating in selection of the management of the company; engaging in oversight of the operation of the company; or assuming any present or future liability of the company. Notice of each equity investment made under *House Bill 891* must be posted in a readily accessible and clearly identified location on the Montgomery County government web site within five days after the date on which the county initiates the equity investment transaction.

Prince George's County

Prince George's County currently has a number of agencies and authorities involved with economic development activities in the county. *The Prince George's County Redevelopment Authority* facilitates redevelopment through partnerships with other private- or public-sector partners by providing planning for community development and neighborhood revitalization;

facilitating the development of real estate; providing technical assistance to strengthen local community development and other organizations; and coordinating revitalization and redevelopment efforts within Prince George's County. *The Prince George's County Revenue Authority* was established to streamline procurement, land acquisition, and land disposition processes; provide staff expertise in land development, economic development, and capital financing and facilities maintenance; and finance revenue bonds for government and the public/private sectors.

House Bill 704 (passed) authorizes Prince George's County to merge the county Redevelopment Authority, the county Revenue Authority, and any other unit of county government whose purpose relates to economic development in the county. An entity resulting from a merger will have the same powers, duties, and limitations of the individual merging entities.

Queen Anne's County

Chapter 608 of 2001 authorized counties and municipalities to apply to the Department of Business and Economic Development (DBED) to establish arts and entertainment districts within the county or municipality. DBED can use the Maryland Economic Development Assistance Fund to provide financial assistance to arts and entertainment enterprises and arts and entertainment projects. According to the Maryland State Arts Council, there are currently 18 arts and entertainment districts in the State. An area designated as an arts and entertainment district must be a contiguous geographic area that is wholly within a priority funding area, however, **House Bill 822 (Ch. 164)** allows Queen Anne's County, subject to approval by the Secretary of Business and Economic Development, to establish an arts and entertainment district composed of noncontiguous areas.

Washington County

County Contributions to Private or Cooperative Public Improvements Projects

Generally, Washington County may not enter into a contract to which the county is a party where the amount involved exceeds \$25,000 without first advertising for bids. **House Bill 458 (passed)** increases, from \$50,000 to \$100,000, the maximum value of a contract which the Washington County Commissioners may enter into for a public improvement project without first advertising for bids if the majority of the responsibility for the public improvement is with another public or private entity. Any action by the county commissioners to participate in such a project must be taken at a regularly scheduled meeting of the county commissioners and must be based on written price quotations from at least three contractors.

Emergency Communications Center – Polygraph Examinations

With certain exceptions, an employer 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. Exceptions to the prohibition include State and local law

enforcement officers; specified correctional officers; and applicants for employment or an employees of specified correctional facilities and detention centers.

Applicants for employment as law enforcement dispatchers in Washington County formerly were eligible to undergo a polygraph test during their application process because the dispatchers were employed by an exempt local law enforcement agency. However, the Emergency Communications Center in Washington County is now an independent entity. *House Bill 453 (passed)* specifies that applicants for employment with the Washington County Emergency Communications Center may be required to take a lie detector test.

Salary Study Process

The Washington County Salary Study Commission was created by Chapter 85 of 1994, to study the salaries of certain officials, including the Board of County Commissioners, the Board of Education, Orphans' Court judges, the Sheriff, the State's Attorney, the County Treasurer, the Board of Supervisors of Elections, and the Board of Liquor License Commissioners. The commission is required to issue a report containing recommendations to the county commissioners for review and consideration every four years. The county commissioners may accept, reduce, or reject but may not increase the recommendations of the commission and submit their recommendations to the legislative delegation concerning the salaries studied by the commission.

House Bill 966 (passed) alters the method for selecting the one at large member of the Washington County Salary Study Commission by requiring the member to be appointed by the Washington County Retired Teachers Association instead of by the Washington County Council of PTA's. The bill repeals the requirement that the commission study the salary of the State's Attorney. The bill alters the requirement that the Washington County Commissioners submit salary recommendations to the county legislative delegation to include only recommendations for salaries for the county commissioners and the sheriff and requires the county commissioners to set by local law the other salaries reviewed by the commission within 45 days after receiving the recommendations. Also, the bill establishes criteria that the commission must consider for each office in formulating its report and recommendations to the county commissioners.

Bi-county Agencies

Maryland-National Capital Park and Planning Commission

The Maryland-National Capital Park and Planning Commission (M-NCPPC) is a bi-county 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 10-member commission with 5 members appointed by the County Executive of Prince George's County and confirmed by the county council and 5 members appointed by the Montgomery County Council with the approval of the county executive.

Commission Contracts

House Bill 1481 (*passed*) is emergency legislation which prohibits, in Montgomery County, a lease, contract, or agreement entered into by M-NCPPC from containing a provision that (1) authorizes a person other than M-NCPPC to close a park or park facility; or (2) grants a person other than M-NCPPC the authority to close or require the closing of an existing park or park facility under the jurisdiction of M-NCPPC to prevent competition.

Development Permit Review

House Bill 576 (*passed*) establishes an expedited approval process in Prince George's County of applications for development permits for qualifying redevelopment projects, so as to encourage environmentally responsible urban renewal and revitalization. Prince George's County is generally required to approve or disapprove applications for development permits for qualifying redevelopment projects and to provide applicants with written notice of the approval or disapproval within 90 days of receiving the application except under specified circumstances. A qualifying redevelopment project is defined as a development project to rehabilitate dilapidated real property through demolition, reconstruction, or reuse that incorporates specified environmentally responsible design elements.

Washington Suburban Sanitary Commission

The Washington Suburban Sanitary Commission (WSSC) is the eighth largest water and wastewater utility in the country and provides water and sewer services to 1.8 million residents in Montgomery and Prince George's counties. WSSC 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.

Code Revision

Senate Bill 96 (*Ch. 37*) revises, restates, and recodifies the laws of the State that relate to the Washington Suburban Sanitary Commission. The bill transfers specified provisions of Article 29 – Washington Suburban Sanitary District to Article 28 – Maryland-National Capital Park and Planning Commission, adds a new division (Division II – Washington Suburban Sanitary Commission) to the Public Utilities Article, and adds specified provisions to Article 24 – Political Subdivisions – Miscellaneous Provisions.

Senate Bill 249 (*Ch. 52*) corrects specified cross-references to the Public Utility Companies Article in the Annotated Code of Maryland to reflect the renaming of the article to the Public Utilities Article. **Senate Bill 249** also corrects specified cross-references to Article 29 – Washington Suburban Sanitary District.

Division II of the Public Utilities Article, entitled “Washington Suburban Sanitary Commission,” and the transfer of other provisions resulting from these bills, is a product of the continuing nonsubstantive revision of the Annotated Code of Maryland by the legal staff of the Office of Policy Analysis of the Department of Legislative Services.

Planning and Land Use

Maryland Sustainable Growth Commission

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. The task force released a report in January 2009 providing detailed recommendations for various actions by the State and local governments, including a proposal for additional study by a broader group.

In response to the recommendation of the task force, the Administration introduced *Senate Bill 278/House Bill 474 (both passed)* to repeal the Task Force on the Future for Growth and Development in Maryland and establish a Maryland Sustainable Growth Commission. The commission is to provide the State with a broad representation of stakeholders who can continue to promote a smart and sustainable growth agenda and is intended to build on the task force’s work by providing a forum to analyze and advise on a myriad of planning issues.

The duties of the commission include:

- assessing and advising on the progress of State, regional, and local planning toward achieving the goals of the State economic growth, resource protection, and planning policy;
- making recommendations on the adequacy, coordination, and implementation of funding mechanisms and other State assistance for planning activities and infrastructure and land preservation needs;
- promoting planning coordination and interjurisdictional cooperation;
- advising on the content, preparation, and implementation of the State development, transportation, and housing plans;
- promoting and making recommendations regarding efficient and predictable model State and local government regulations to achieve the goals of the State economic growth, resource protection, and planning policy;
- evaluating the continuing viability and effectiveness of State and local government smart growth indicators and recommending changes to those indicators;

- reviewing reports on adequate public facilities submitted by local governments;
- developing and assisting with smart growth educational and outreach programs;
- periodically reviewing educational requirements for members of planning boards and commissions and boards of appeals;
- recommending changes in State law, regulations, policies, and procedures necessary to achieve State planning goals; and
- serving as an advisory board to the Smart Growth Subcabinet.

The bills require that commission members who represent a region of the State must have knowledge of smart growth and planning issues. Members, excluding *ex officio* members or their designees, serve five-year terms. The Maryland Department of Planning is required to provide staff support for the commission. The commission must submit an annual report on its activities and recommendations to the Governor, the Presiding Officers, and specified committees of the General Assembly. The bills take effect July 1, 2010, and terminate on December 31, 2020.

The Sustainable Communities Act of 2010

House Bill 475 (*passed*) is an Administration bill that reestablishes the Heritage Structure Rehabilitation Tax Credit Program as the Sustainable Communities Tax Credit Program, extends the program's termination date through fiscal 2014, and alters eligibility requirements for the program. For a detailed discussion on the Sustainable Communities Tax Credit Program as contained in this bill, see the subpart "Income Tax" within Part B – Taxes of this *90 Day Report*.

House Bill 475 also makes several changes to other State programs, including the Community Legacy and Designated Neighborhood Programs, so as to streamline and better integrate these revitalization programs and enhance the State's ability to obtain federal financial assistance. The bill coordinates the review of the State's revitalization programs through the Smart Growth Subcabinet and requires the subcabinet to weigh in on Base Realignment and Closure (BRAC) and transit-oriented development zone designations.

Smart Growth Subcabinet

House Bill 475 increases membership of the Smart Growth Subcabinet by adding the Secretary of Health and Mental Hygiene; Secretary of Labor, Licensing, and Regulation; and Director of the Maryland Energy Administration. The subcabinet is required to work together to create, enhance, support, and revitalize sustainable communities and make recommendations to the Department of Business and Economic Development (DBED) on BRAC Zone designations, the Department of Housing and Community Development (DHCD) on sustainable community designations, the Maryland Department of Planning (MDP) on the Sustainable Communities Tax Credit program, and the Maryland Department of Transportation (MDOT) on transit-oriented development (TOD) districts.

Community Legacy and Neighborhood Business Development Programs

House Bill 475 states that it is the intent of the General Assembly that the community legacy and neighborhood business development programs be used to create and support sustainable communities. Accordingly, community legacy areas and community legacy plans are eliminated and replaced with sustainable communities and sustainable community plans. Under both the community legacy program and neighborhood business development program, designated neighborhoods are eliminated and replaced as sustainable community designations.

A sustainable community is the part of a priority funding area that is designated by the Smart Growth Subcabinet on the recommendation of the Secretary of Housing and Community Development, has been designated as a BRAC revitalization zone, or has been designated as a TOD district. A sustainable community plan is a plan consisting of one or more community legacy projects or other revitalization projects to prevent or reverse the decline or disinvestment in a sustainable community through improvements in residential, commercial, or other public or private properties. The bill also eliminates the Community Legacy Board and the advisory board to the Community Legacy Board.

To maintain a sustainable community designation, an updated plan and application must be sent every five years to DHCD. The bill also provides for the conversion of existing community legacy areas and designated neighborhoods to sustainable communities under specified circumstances.

BRAC Revitalization Zones

Within 60 days after a submission date from an eligible local government, the Secretary of Business and Economic Development may designate one or more BRAC revitalization and incentive zones from among the areas described in the application. *House Bill 475* eliminates a requirement that the Secretary must consult with the cabinet Secretaries or designees of Transportation, Housing and Community Development, Environment, and Planning before designating a BRAC Revitalization and Incentive Zone. The bill instead provides that the Secretary of Business and Economic Development may designate a zone after receiving a recommendation from the Smart Growth Subcabinet.

Maryland Department of Transportation

House Bill 475 contains intent language requiring MDOT to consider sustainable communities as it considers annual revisions to the Consolidated Transportation Program. The department is also required to consult twice annually with the Smart Growth Subcabinet on how to work cooperatively to make mutual investments toward creating and supporting sustainable communities across the State.

House Bill 475 alters how the Secretary of Transportation may designate a TOD district. The bill provides that the Secretary may designate a TOD district after considering a recommendation of the Smart Growth Subcabinet and repeals a requirement that the Secretary

first consult with the Secretaries of Business and Economic Development, General Services, Housing and Community Development, Environment, and Planning.

Part E

Crimes, Corrections, and Public Safety

Criminal Law

Maryland Gang Prosecution Act of 2010

The proliferation of gangs and their migration from urban communities to suburban and rural locations, which began more than two decades ago, is a significant problem in most areas of the country, including Maryland. It is estimated that there are over 600 active gangs in the State with over 11,000 members. In addition to traditional street gang activity, the Department of Public Safety and Correctional Services has identified approximately 4,000 inmates as participating in over 260 different gangs inside its correctional facilities.

Senate Bill 517 (passed) is intended to strengthen the prosecution of gangs in the State. The bill modifies the definition of “criminal gang” by repealing the requirement that an association of three or more persons whose members meet certain criteria be ongoing and by repealing “an identifying sign, symbol, name, leader, or purpose” as common factors and substituting “an overt or covert organizational or command structure.” The bill adds the following offenses to the list of underlying crimes that serve to prove criminal gang activity: (1) misdemeanor second-degree assault; (2) wearing, carrying, or transporting a handgun; (3) misdemeanor inducing false testimony or avoidance of a subpoena; (4) misdemeanor retaliation for testimony; (5) misdemeanor intimidation or corruption of a juror; (6) human trafficking; (7) receiving the earnings of a prostitute; and (8) operation of a brothel.

Other provisions require a sentence for subsequent gang participation offenses or gang participation offenses that result in the death of a victim to run consecutively to any sentence for an underlying crime on which the conviction was based. Additionally, *Senate Bill 517* makes organizing, supervising, financing, or managing a criminal gang a felony. A violator is subject to imprisonment for up to 20 years and/or a fine of up to \$100,000. A sentence must run consecutively to a sentence for any crime based on the act establishing a violation.

Drug Crimes

Distribution to or Possession of Salvia by a Minor

Salvia is the common name for *Salvia divinorum* or *Salvinorum A*, an herbaceous plant native to Mexico. According to the U.S. Drug Enforcement Administration, it is usually sold as dried leaves in various degrees of potency and can cause a variety of hallucinogenic effects.

According to news accounts, Salvia has proliferated on the Internet and at college-area paraphernalia shops. The increased availability of the substance and its physical effects have motivated at least 18 states to enact laws to regulate or restrict the availability, possession, or sale of Salvia. In Maryland, Ocean City banned Salvia products in August 2009 in response to extensive availability of the substance in boardwalk shops and numerous reports of police officers having to restrain individuals under the influence of Salvia. Worcester County enacted a countywide ban effective September 2009.

Senate Bill 17/House Bill 1145 (both passed) prohibit the distribution of Salvia to, or possession of Salvia by, an individual under age 21. In a prosecution for a violation of distribution of Salvia to an individual under age 21, it is a defense that the defendant examined the purchaser's or recipient's driver's license or other valid identification that positively identified the purchaser or recipient as at least 21 years of age. A violator is guilty of a misdemeanor and subject to a maximum \$300 fine for a first violation. For a second violation occurring within two years after the first violation, the maximum fine is \$1,000. For each subsequent violation occurring within two years after the preceding violation, the maximum fine is \$3,000.

A violation of the prohibition against a person under the age of 21 possessing Salvia is a code violation, subjecting an adult violator to the issuance of a citation and a maximum \$500 fine for a first violation and \$1,000 for a second or subsequent violation. A minor who violates the prohibition against possession of Salvia is subject to juvenile court procedures and dispositions, including referral to substance abuse education or rehabilitation. *Senate Bill 17/House Bill 1145* take effect June 1, 2010.

Effect of Previous Conspiracy and Out-of-state Convictions

House Bill 517 amends the third-strike mandatory minimum 25-year sentence for specified drug-related offenses by adding as another qualifying offense, a minimum 180-day confinement based on a conviction for a prior drug conspiracy or for a similar offense under the laws of another state or federal law. *House Bill 517* responds to a ruling by the Court of Special Appeals in *Harris v. State*, 169 Md. App. 98 (2006), in which the court vacated and remanded for re-sentencing the lower court's 25-year mandatory sentence because the appellant had not served more than 180 days in confinement for a qualifying offense under the third-time offender statute. The time the appellant had served for conspiracy to distribute cocaine did not count since that offense was not specified as a qualifying offense under the third-time offender statute.

Human Trafficking

Senate Bill 261/House Bill 283 (both passed) extend the application of the human trafficking statute by subjecting individuals who knowingly aid, abet, or conspire in the violation of human trafficking laws or knowingly benefit financially from ventures or activities in violation of State human trafficking laws to the same penalties imposed on a person who violated the applicable statute.

The bills change from a misdemeanor to a felony the current prohibition on knowingly taking or detaining another with the intent to use force, threat, coercion, or fraud to compel the other to marry the person or a third person or perform certain sexual acts. *Senate Bill 261/House Bill 283* expand the current prohibition on human trafficking to include prohibitions on forced participation in a “sexually explicit performance” and interference with the possession of a passport, immigration document, or government identification document of another while violating or attempting to violate State human trafficking laws. “Sexually explicit performance” is defined as a public or private, live, photographed, recorded, or videotaped act or show in which the performer is wholly or partially nude, and which is intended to sexually arouse or appeal to the prurient interest of patrons or viewers.

Crimes Involving Children

Increased Penalties for Sexual Assaults on Children

Under current law, a 5-year mandatory minimum, nonsuspendable, nonparolable sentence is required for a defendant over the age of 18 years who is convicted of second degree rape or second degree sexual offense involving a victim under age 13. *Senate Bill 622/House Bill 254 (both passed)* increase the penalties in these cases. The mandatory minimum sentence is increased from 5 years to 15 years imprisonment and the maximum term of imprisonment is increased from 20 years to imprisonment for life.

Depiction of Child in Pornographic Material

House Bill 1053 (passed) expands the State’s prohibition against child pornography by prohibiting a person from knowingly promoting, advertising, soliciting, distributing, or possessing with the intent to distribute any matter, visual representation, or performance in a manner that reflects the belief, or that is intended to cause another to believe, that the representation depicts a minor engaged as a subject of sadomasochistic abuse or sexual conduct. According to authorities, this provision is needed because it is often difficult to prove that pornography on the Internet involves real children.

Penalties for Trespass and Wanton Trespass on Posted Property

Senate Bill 670/House Bill 818 (passed) increase the maximum misdemeanor penalties applicable to the crimes of trespass on posted property and wanton trespass on private property. For each crime, which has a current law maximum penalty of 90 days imprisonment and a

\$500 fine or both, the bill retains the current law penalty as applicable to a first offense. For a second crime that occurs within two years of the first offense, a violator is subject to maximum penalties of six months imprisonment or a \$1,000 fine or both. Subsequent offenses occurring within two years of the previous offense subject a violator to maximum penalties of a one-year imprisonment or a \$2,500 fine or both.

Assault on Probation or Parole Agent

A person may not intentionally cause physical injury to another if the person knows or has reason to know that the other is a law enforcement officer, including a correctional officer, engaged in the performance of the officer's official duties. A violator is guilty of the felony of second degree assault and subject to maximum penalties of imprisonment for 10 years and a fine of \$5,000 or both. *Senate Bill 255/House Bill 365 (both passed)* expand the scope of this crime to include parole and probation agents engaged in official duties.

Escape from Private Secure Juvenile Facility

The Department of Juvenile Services (DJS) reports that in fiscal 2009, there were 12 escapes from secure facilities operated by DJS. A person may not escape from (1) a detention center for juveniles; (2) certain facilities for juveniles operated by DJS and specified in statute; or (3) a place identified in a juvenile community detention order, and in the course of the escape commit an assault. A violator is guilty of the felony of escape in the first degree and subject to maximum penalties of a fine of \$20,000 and/or 10 years imprisonment.

A person may not escape from (1) unless otherwise punishable as escape in the first degree, a detention center for juveniles or certain facilities for juveniles operated by DJS and specified in statute; (2) a place identified in a home detention order or agreement; or (3) a place identified in a juvenile community detention order. A violator is guilty of the misdemeanor of escape in the second degree and subject to maximum penalties of a fine of \$5,000 and/or three years imprisonment.

House Bill 75 (Ch. 123) expands the elements of the crime of escape in the first degree and escape in the second degree to include a prohibition against escape from a privately operated, hardware secure facility for juveniles committed to DJS. A "hardware secure facility" means a facility that is securely locked or fenced to prevent escape. While DJS reports that it does not currently contract with any vendor to operate a hardware secure facility, *House Bill 75* ensures that if it enters into such a contract in the future, a person who escapes from a privately operated facility will be subject to the same penalties as a person who escapes from a DJS-operated facility.

Exception to Prohibition on Carrying a Firearm

A regulated firearm is any handgun or any of the 45 assault weapons (or copies) identified in the Code. Among other restrictions, a person may not possess a regulated firearm in

the State if the person was convicted of a crime of violence or a violation of specified drug crimes.

When issuing a temporary or final protective order in family situations, the court may order the respondent to surrender to law enforcement authorities any firearm in the respondent's possession for the duration of the protective order.

Senate Bill 22/House Bill 905 (both passed) establish an exception to the prohibition against wearing, carrying, or transporting a handgun or other firearm by a person who is carrying a court order to surrender the weapon if (1) the firearm is unloaded; (2) the person has notified a law enforcement unit that the person is transporting the firearm to the unit in accordance with the court order; and (3) the person is transporting the firearm directly to the unit. The bills make the same exception in the other statutes addressing possession of firearms.

Unauthorized Access to Computers for Sabotage

The security of the nation's power grid and public utilities has been a growing concern since the attacks on September 11, 2001. During the past decade, public utility companies have implemented remotely controlled operations in an effort to streamline operations and cut costs. While the added convenience and cost savings that result from these systems have obvious benefits, the wireless Internet connections on which they rely make these companies more vulnerable to cyber attacks. According to recent news reports, utility companies will spend more than \$21 billion on cyber security over the next five years.

House Bill 778 (passed) prohibits a person from intentionally and willfully gaining unauthorized access to computer services with the intent to interrupt or impair the functioning of the State government; a service, device, or system related to the production, transmission, delivery, or storage of electricity or natural gas in the State that is owned, operated, or controlled by a person other than a public service company; or a service provided in the State by a public service company. If the violation causes a loss of \$50,000 or more, the crime is a felony punishable by imprisonment for up to 10 years and a fine of up to \$25,000 or both. If the loss is less than \$50,000, the crime is a misdemeanor and punishable by imprisonment for up to five years and a fine of up to \$25,000 or both.

Criminal Procedure

Sexual Offenders

The federal Sex Offender Registration and Notification Act (SORNA), enacted as Title I of the Adam Walsh Child Protection and Safety Act of 2006 (P.L. 109-248), requires conformity by the states with various aspects of sex offender registration provisions, including registration of specified juvenile offenders, collection of specific information from registrants, verification, duration of registration, access to and sharing of information, and penalties for failure to register. Failure to comply with SORNA puts a state at risk to lose 10% of Byrne Justice Assistance

grants, which all states use to pay for such things as drug task forces, anti-gang units, police overtime, and other law enforcement activities.

Notification, Registration, and Penalties

Senate Bill 854/House Bill 936 (both passed) substantially revise Maryland's sex offender registration law in an effort to comply with SORNA and increase penalties for certain sex offenses committed against minors. Among their provisions, the bills:

- replace references to the four existing categories of sexual offenders with the three tiers of categorization under SORNA;
- specify that a Tier I sex offender must register every six months for 15 years, a Tier II sex offender must register every six months for 25 years, and a Tier III sex offender must register every three months for life;
- require a sex offender to register in each county where the sex offender habitually lives and define the term "habitually lives" to include any place where a person visits for longer than five hours per visit more than five times within a 30-day period;
- require a sex offender who is homeless to register in person within a specified period of time with the local law enforcement unit in the county where the registrant habitually lives and to reregister weekly while habitually living in the county;
- generally narrow all registration, changes of information, and notification deadlines to three days;
- require new in-person reporting requirements relating to institutions of higher education;
- require local law enforcement notifications for any registrant when a change of residence occurs;
- require new notifications and timeframes relating to a change of name, leaving the United States for residence or work in a foreign country, or a temporary residency and require new notifications by local law enforcement units to the Department of Public Safety and Correctional Services (DPSCS) of such changes;
- add information that must be included in a registration statement, such as a copy of the registrant's passport or immigration papers, Social Security number (and purported Social Security numbers), locations where all vehicles are kept, and landline and cell telephone numbers;
- require DPSCS to post on the Internet certain identifying information about each registrant, including the registrant's name and crime;

- prohibit registration information provided to the public by DPSCS from including certain personal information including the sexual offender’s Social Security number, driver’s license number, and certain medical information;
- require a registrant who establishes a new electronic mail address or other online identity to provide written notice of the new online identity to the sexual offender registry;
- provide for the retroactivity of certain provisions of the Act;
- establish a listing of juvenile sex offenders that is maintained by DPSCS and is accessible only by law enforcement personnel for law enforcement purposes; and
- increase the maximum and mandatory minimum penalties for a person convicted of rape in the second degree of a child under the age of 13 years, or sexual offense in the second degree against a child under the age of 13 years, to life imprisonment and 15 years, respectively.

Sexual Offender Advisory Board

Chapter 4 of the 2006 special session created a Sexual Offender Advisory Board, with specified reporting requirements, to review technology for the tracking of offenders; review the effectiveness of the State’s laws concerning sex offenders; review the laws of other jurisdictions regarding sex offenders; review practices and procedures of the Parole Commission and the Division of Parole and Probation regarding supervision and monitoring of sex offenders; review developments in the treatment and assessment of sex offenders; and develop standards for conditions of extended sex offender parole supervision based on current and evolving best practices in the field of sex offender management.

Senate Bill 856/House Bill 931 (both passed) alter the composition of the Sexual Offender Advisory Board by adding specified government officials and other members with expertise in sexual abuse and related crimes. The bills expand the duties of the board to include developing criteria for measuring a person’s risk of reoffending, studying the issue of civil commitment of sexual offenders, and considering ways to increase cooperation among states with regard to sexual offender registration and monitoring.

Restrictions on Pretrial Release and Inclusion on RAP Sheet

House Bill 1046 (passed) prohibits a District Court Commissioner from authorizing the pretrial release of a defendant who is a registered sex offender. 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. A State record of arrest and prosecution (a “RAP” sheet) that is accessible to judicial officers making pretrial release determinations must prominently indicate, when applicable, that the subject of the report is a registered sex offender or subject to a term of lifetime sexual offender supervision.

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. There is a rebuttable presumption that such a defendant will flee or pose such a danger. The bill makes the imposition of lifetime sexual offender supervision a reportable offense to the Criminal Justice Information System Central Repository.

Violation of Pretrial or Posttrial Release No Contact Order

House Bill 60 (passed) creates a new crime that prohibits a person charged with committing a sexual crime against a minor from violating a condition of pretrial or posttrial release prohibiting the person from contacting the victim. The bill authorizes a police officer to arrest a person without a warrant if the police officer has probable cause to believe that the person has violated a condition of pretrial or posttrial release as prohibited under the Act. A violator is guilty of a misdemeanor and subject to imprisonment not exceeding 90 days.

Lifetime Supervision

For a discussion of *Senate Bill 280/House Bill 473 (both passed)* which provides for the lifetime supervision of certain sex offenders, see the subpart "Public Safety" within this Part of this *90 Day Report*.

Death Penalty

Persons charged with first degree murder, if found guilty, are subject to penalties of life imprisonment, life imprisonment without parole, or death. Pursuant to Chapter 186 of 2009, the death penalty may only be imposed in 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. A defendant is prohibited from being sentenced to death if the State relies solely on evidence provided by eyewitnesses in its case.

Senate Bill 404 (failed) sought to extend eligibility for the death penalty to cases in which the State presents the court or jury with fingerprint evidence or photographic evidence that conclusively links a defendant convicted of first degree murder to the murder. In addition, the bill sought to require that biological or DNA evidence and allowable video evidence presented by the State in a death penalty case conclusively link the defendant to the murder.

Post-conviction Matters

Writ of Actual Innocence

Pursuant to legislation enacted in 2009, a convicted person may file a petition for a writ of actual innocence 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 petition must be in writing and may be filed at any time. A court is required to hold a hearing on the petition if the petition meets specified content requirements and contains a request for a hearing. A court may dismiss a petition without a hearing if the petitioner fails to state a claim or assert grounds on which relief may be granted. The petitioner has the burden of proof in a proceeding on a writ of actual innocence, and courts have the option of setting aside the verdict, resentencing the petitioner, granting a new trial, or correcting the petitioner's sentence. The court must state the reasons for its ruling on the record.

Senate Bill 135/House Bill 128 (both passed) limit the availability of a petition for a writ of actual innocence to a person who was charged by indictment or criminal information with a crime triable in circuit court and convicted of that crime. The bills also (1) require a petitioner to notify the State in writing of the filing of a petition; (2) authorize the State to file a response to a petition within 90 days of receiving notice or under a set time period ordered by the court; (3) specify that a victim or the victim's representative must be notified of and has a right to attend a hearing on the petition; and (4) clarify that a court may only dismiss a petition without holding a required hearing if the court finds that the petition fails to assert grounds on which relief may be granted.

Expiration of Sentences

Sentencing is the judgment imposing punishment that is formally pronounced by the court on a defendant after the defendant's conviction in a criminal proceeding. Statutory provisions often specify a maximum sentence but not a minimum sentence. *Senate Bill 109 (passed)/House Bill 1023 (Ch. 165)* repeal obsolete statutory provisions enacted in the 1800s requiring a court to sentence a defendant for a period of imprisonment that will expire between April 1 and August 31 if the court considers it expedient and authorizing a court to reduce a defendant's sentence to no less than 18 months imprisonment if the punishment required for the crime is at least two years imprisonment.

Victims' Rights

Criminal Injuries Compensation Board

The Criminal Injuries Compensation Board (CICB) in the Department of Public Safety and Correctional Services provides financial assistance for innocent victims of crime. The board may compensate victims who suffer physical or psychological injury for their medical expenses and loss of earnings. *Senate Bill 442/House Bill 138 (Chs. 69 and 70)* subject a claim filed with the CICB to review under applicable provisions of the Administrative Procedure Act. If a claimant requests a hearing after the board has issued proposed findings of fact, conclusions of law, or orders, the board must hold a hearing in accordance with the Administrative Procedure Act before issuing final findings of fact, conclusions of law, or orders.

Office of the Public Defender

Eligibility for Services

The Office of the Public Defender (OPD) provides legal representation services to persons charged with criminal offenses who cannot afford to hire private attorneys. OPD determines eligibility for services by evaluating the financial ability of the applicant to pay for a competent private attorney and all other necessary expenses of representation. Financial ability is determined by a number of factors, including the individual's assets, income, the nature of the offense, and the length and complexity of the proceedings.

OPD is required to investigate the financial status of an applicant when the circumstances merit. OPD may require an applicant to execute and deliver written requests or authorizations that are necessary under law to provide OPD with access to confidential records of public or private sources to determine eligibility. OPD, on request, may obtain information without charge from a public record office or other unit of the State or local government.

State law specifies that tax information, including the amount of income disclosed in a tax return, may be disclosed to an employee or officer of the State who, by reason of the employment or office, has the right to the information. However, federal law generally prohibits the disclosure of tax information. Although there are exceptions for the disclosure of tax information to state agencies, the exception is limited to those agencies charged with state tax administration. *House Bill 121 (passed)* authorizes OPD to submit requests to the Department of Labor, Licensing, and Regulation (DLLR) and the Comptroller's Office for information regarding the employment status and income of individuals applying for the services of OPD. Each request must be accompanied by a signed authorization in a form acceptable to the responding agency. DLLR and the Comptroller's Office are required to comply with the requests.

Board of Trustees

The Public Defender is the head of OPD and is appointed by and serves at the pleasure of the Board of Trustees of the Office of the Public Defender. The board is composed of three members who are appointed by the Governor and serve three-year terms. Each member must be a resident of the State, and two must be active attorneys admitted to practice before the Maryland Court of Appeals. Maryland's current Public Defender was appointed after the board voted in August 2009 to remove his predecessor from office.

Senate Bill 97/House Bill 122 (both passed) repeal the requirement that the Public Defender serve at the pleasure of the Board of Trustees of the Office of the Public Defender and instead authorize the Board of Trustees, by a vote of at least seven members, to remove the Public Defender from office only for (1) misconduct in office; (2) persistent failure to perform official duties; or (3) conduct prejudicial to the proper administration of justice.

The bills also make several changes to the composition and appointment of members of the Board of Trustees of the Public Defender. Under the bills, the board consists of 13 members.

Eleven members are appointed by the Governor with the advice and consent of the Senate. The 11 members must include a representative from each judicial circuit of the State. The President of the Senate and the Speaker of the House of Delegates must each appoint 1 member to the board. Each member of the board must be an active attorney admitted to practice before the Court of Appeals of the State and must (1) have significant experience in criminal defense or other matters related to the board's work; or (2) have demonstrated a strong commitment to quality representation of indigent defendants. The Attorney General, the State Prosecutor, and State's Attorneys are prohibited from serving on the board, as are current members or employees of the Judicial Branch or a law enforcement agency in the State. Board members serve three-year terms and may be reappointed. Members continue to serve until a qualified successor is appointed. The initial members of the board must be appointed by December 31, 2010. A board member serving on the bill's effective date (June 1, 2010) must continue to serve until a successor is appointed and qualifies.

The bills clarify that the Public Defender serves for a term of six years. The Public Defender serving on June 1, 2010, may continue to serve for six years and may be reappointed after the expiration of his/her term.

Identity Fraud

Uniform Reporting Form

It is against State law to commit identity fraud, including possessing or obtaining any individual's personal identifying information without the consent of that individual under specified circumstances or knowingly and willfully assuming the identity of another under specified circumstances. *Senate Bill 815/House Bill 785 (both passed)* requires the Police Training Commission to develop a uniform identity fraud reporting form that (1) makes transmitted data available on or before October 1, 2011, for use by each law enforcement agency of State and local government; and (2) may authorize the data to be transmitted to the Consumer Sentinel program in the Federal Trade Commission. The form must be developed with the cooperation of the Office of the Attorney General, the Governor's Office of Crime Control and Prevention, and the Federal Trade Commission.

Juvenile Law

Lead Testing

According to the federal Centers for Disease Control and Prevention (CDC), adverse health effects exist in children with blood lead levels less than 10 micrograms per deciliter. Lead poisoning has various side effects, including learning disabilities and behavioral problems. According to the most recent data available, the number of children with elevated blood lead levels has been decreasing at both the State and national level. At the State level, out of the 106,452 children up to 72 months of age tested for lead in 2008, 713 (0.7%) were found to have blood lead levels greater than 10 micrograms per deciliter. This compares with 23.9% in 1993,

the first year in which this data was tracked, and is the sixteenth straight year in which the rate has dropped. According to the Maryland Department of the Environment, lead paint dust from deteriorated lead paint or home renovation is the major source of exposure for children in Maryland.

House Bill 1011 (passed) authorizes the juvenile court, after a delinquency petition has been filed but before adjudication, to order the child to undergo blood lead level testing. Before trial, a court exercising criminal jurisdiction in a case involving a child may also order the child to undergo blood lead level testing. The results of the test must be provided to the child, the child's parent or guardian, the child's attorney, and the State's Attorney.

Juvenile Facilities

48-Bed Committed Facilities

The Department of Juvenile Services (DJS) must serve children in the juvenile services system with programming that:

- ensures the safety of the community and the children served;
- holds delinquent children accountable to victims and communities;
- assists children to develop competencies to become successful members of society;
- delivers services on a regional basis through at least four operational regions;
- ensures that a committed facility owned by DJS serves no more than 48 children at one time; and
- uses detention and committed facilities that are operationally separate from each other and that do not share common program space, including dining halls and educational or recreational facilities.

DJS operates facilities to diagnose, care for, train, educate, and properly rehabilitate children who need services. DJS is also authorized to contract with private providers to place children in other facilities that meet State licensing criteria. While State-owned committed facilities are required by law to serve no more than 48 children at one time, no such restriction on capacity currently exists for private committed facilities licensed by DJS. "Committed facilities" provide for the diagnosis, care, training, education, and rehabilitation of children in DJS custody.

Senate Bill 330/House Bill 173 (both passed) requires DJS to ensure that each committed facility licensed by DJS serves no more than 48 children at one time, unless the Secretary of DJS finds good cause for a facility to serve more than 48 children at one time.

Escape

House Bill 75 (*passed*) alters the elements of the crime of escape in the first degree and escape in the second degree to include a prohibition against escape from a privately operated, hardware secure facility for juveniles committed to DJS. A “hardware secure facility” is defined as a facility that is securely locked or fenced to prevent escape. The bill also excludes a “hardware secure facility” from the statutory definition of a place of confinement. For further discussion of **House Bill 75**, see the subpart “Criminal Law” within this Part of this *90 Day Report*.

Public Safety

Sex Offender Legislation

On Christmas Day, 2009 – less than three weeks before the 2010 session began – the body of an 11-year-old girl was found in a wooded area of Wicomico County near the Maryland-Delaware line. Police determined that the girl had been abducted, sexually assaulted, and murdered. A registered sex offender in Maryland and Delaware has been charged with committing the crime. Spurred on by this case, legislators introduced a total of 84 bills regarding sexual offenses. Although the bills varied in content, the following significant bills emerged.

Lifetime Supervision

A law passed in the 2006 special session provided for extended supervision of sexual offenders by requiring specified sexual offenders to have a term of extended sexual offender parole supervision for a minimum of three years to a maximum of life, with the ability to petition for discharge after that minimum period. Strengthening that law and addressing unintentional operational difficulties that have arisen since the 2006 law was enacted, **Senate Bill 280/House Bill 473** (*both passed*) require the lifetime supervision of the following sexual offenders for a crime committed on or after October 1, 2010:

- a sexually violent predator;
- a person convicted of first or second degree rape, first degree sexual offense, or certain circumstances of second degree sexual offense;
- a person convicted of attempted first or second degree rape, first degree sexual offense, or the same form of second degree sexual offense cited above;
- sexual abuse of a minor if the violation involved penetration of a child under the age of 12;
- a person required to register with the person’s supervising authority because the person was at least 13 years old but not more than 18 years old at the time of the act; or

- a person convicted more than once arising out of separate incidents of a crime that requires registration.

For a person who is required to register because the person was at least 13 years old but not more than 18 years old at the time of the act, the term of lifetime sexual offender supervision begins when the person's obligation to register in juvenile court begins and expires when the person's obligation to register expires, unless the juvenile court finds after a hearing that there is a compelling reason for the supervision to continue and orders the supervision to continue for a specified time.

The bills authorize a court to sentence a person convicted of a certain third degree sex offense to lifetime supervision and require a risk assessment before that sentence is imposed. The bills also eliminate the role of the Maryland Parole Commission to administer or enter agreements for extended parole supervision of sexual offenders and deletes reference to an "extended parole supervision offender." Also eliminated is extended supervision for a period less than life.

The bills prohibit a person subject to lifetime supervision from knowingly or willfully violating the conditions of the supervision, with the following penalties:

- for a first offense, the person is guilty of a misdemeanor and subject to maximum penalties of imprisonment for five years and/or a fine of \$5,000; for a second or subsequent offense, the person is guilty of a felony and subject to maximum penalties of imprisonment for 10 years and/or a fine of \$10,000;
- a person imprisoned for a violation of lifetime supervision is not entitled to diminution credits and continues to be subject to lifetime supervision upon release until discharge from supervision, as specified. A court may remand the person to a correctional facility pending the hearing or a determination on a charge of violation of a condition of lifetime sexual offender supervision.

The sentencing court shall hear and adjudicate a petition for discharge from lifetime sexual offender supervision. The court may not deny a petition for discharge without a hearing. Further, the court may not discharge a person unless the court makes a finding on the record that the petitioner is no longer a danger to others. The judge who originally imposed the lifetime sexual offender supervision shall hear the petition. If the judge has been removed from office, has died or resigned, or is otherwise incapacitated, another judge may act in the matter.

The sentencing court or juvenile court must impose special conditions of lifetime sexual offender supervision at the time of sentencing or imposition of the registration requirement in juvenile court and advise the person of the length, conditions, and consecutive nature of that supervision. Before imposing the special conditions, the court must order a presentence investigation. The bills delineate allowable special conditions, including global positioning satellite (GPS) tracking or equivalent technology and required participation in a sexual offender treatment program. The sentencing court may adjust the special conditions of such lifetime supervision in consultation with the person's sexual offender management team.

The Department of Public Safety and Correctional Services (DPSCS) is required to adopt regulations necessary to carry out the duties of DPSCS relating to lifetime offender supervision.

Finally, the bills require notice to victims or a victim’s representative of hearings relating to lifetime sexual offender supervision.

Advisory Board

Senate Bill 856/House Bill 931 (both passed) alter the composition of the Sexual Offender Advisory Board by adding specified members with expertise in sexual abuse and related crimes and expand the duties of the board. For a more detailed discussion of these bills, see the subpart “Criminal Procedure” within this Part of this *90 Day Report*.

Notification and Registration

Senate Bill 854/House Bill 936 (both passed) substantially revise Maryland sex offender registration law and increase penalties for certain sex offenses committed against minors. Among their provisions, the bills replace reference to the four existing categories of sexual offenders with the three tiers of categorization under the federal Adam Walsh Child Protection and Safety Act and increase the number of years for which sex offenders must register. The bills also increase the maximum and mandatory minimum penalties for a person convicted of rape in the second degree of a child under the age of 13 years, or sexual offense in the second degree against a child under the age of 13 years, to life imprisonment and 15 years, respectively. For a more detailed discussion of these bills, see the subpart “Criminal Procedure” within this Part of this *90 Day Report*.

Diminution Credits

House Bill 289 (passed) prohibits the earning of diminution credits to reduce the term of confinement of an inmate who is serving a sentence in a State or local correctional facility for committing first or second degree rape or first or second degree sexual offense against a victim under 16 years of age. The bill, however, may not be construed to require an inmate to serve a longer sentence than is authorized by the statute under which the inmate was convicted.

Another bill dealing with diminution credits, *House Bill 599 (passed)* prohibits the earning of diminution credits in a State or local correctional facility to reduce the term of confinement of an inmate who is serving a sentence for committing third degree sexual offense against a child under the age of 16 after being previously convicted of committing a third degree sexual offense against a child under the age of 16.

Pretrial and Posttrial Release

House Bill 1046 (passed) prohibits a District Court Commissioner from authorizing the pretrial release of a defendant who is a registered sex offender. For a more detailed discussion of this bill, see the subpart “Criminal Procedure” within this Part of this *90 Day Report*.

House Bill 60 (*passed*) prohibits a person charged with committing a sexual crime against a minor from violating a condition of pretrial or posttrial release that prohibits the person from contacting the victim. For a more detailed discussion of this bill, see the subpart “Criminal Procedure” within this Part of this *90 Day Report*.

Prosecutions

Senate Bill 261 (*passed*) expands the prohibition on human trafficking to include forced participation in a “sexually explicit performance.” For a more detailed discussion of this issue, see the subpart “Criminal Law” within this Part of this *90 Day Report*.

Police and Corrections Personnel

Blue Alert Program

House Bill 1473 (*passed*) requires the Department of State Police (DSP) to establish a Blue Alert Program to provide a system for rapid dissemination of information to assist in locating and apprehending a “missing offender” who is suspected of killing or seriously injuring a law enforcement officer. DSP is required to adopt guidelines and develop procedures for issuing a Blue Alert. DSP must also provide training and assistance to local law enforcement agencies and recruit broadcasters, local volunteer groups, and other members of the public for assistance in a Blue Alert.

Polygraph Examinations

An individual may be required to pass a polygraph examination before being appointed to serve as a correctional officer in a State correctional facility under **House Bill 1402** (*passed*). The bill authorizes the Division of Correction (DOC) to require the examination.

Police Training Commission

The Police Training Commission operates approved police training schools and prescribes standards for and certifies schools that offer police and security training. **Senate Bill 820/House Bill 779** (*Chs. 107 and 108*) require the Commission to expand the curriculum and the minimum courses of study of police training conducted by police training schools to include special training on, attention to, and the study of the exploitation of children; the contact with and treatment of victims of crimes and delinquent acts; the notices, services, support, and rights under State law available to victims and victims’ representatives; and notification of the rights of victims of identity fraud under federal law.

Unsubstantiated Complaints

Senate Bill 629/House Bill 120 (*Chs. 87 and 88*) specify that, under the Law Enforcement Officers’ Bill of Rights, evidence of a formal complaint against a law enforcement officer is not admissible in an administrative or judicial proceeding if (1) the investigation

resulted in an exoneration of the officer or an unsustained or unfounded finding; or (2) the hearing board acquitted the officer, dismissed the action, or made a not guilty finding.

State Correctional Officers' Bill of Rights

Senate Bill 887 (passed) establishes exclusive procedures for the investigation and discipline for alleged misconduct of a State employed correctional officer working in a State correctional facility and establishes new timeframes relating to interrogations and appeals. Under the bill, investigations of alleged misconduct may be carried out by the appointing authority as well as the Internal Investigations Unit of the Division of Correction. The bill requires all correctional officer disciplinary cases to be decided by an internal hearing board or under grievance provisions of the State Personnel and Pensions Article.

The bill's provisions supersede any inconsistent provisions of any other State law that conflicts with its provisions to the extent of the conflict. These provisions do not limit the appointing authority to regulate the competent and efficient operation and management of a State correctional facility by any reasonable means including transfer and reassignment of employees if that action is not punitive in nature and the appointing authority determines it to be in the best interests of the internal management of the correctional facility.

Fire and Rescue

Volunteer Company Assistance Fund

House Bill 1555 (passed) is an emergency bill that allows money from the Senator William H. Amoss Fire, Rescue, and Ambulance Fund or the Volunteer Company Assistance Fund (VCAF) to be distributed to include fire, rescue, and ambulance companies located outside of Maryland if they have been members of the Maryland State Firemen's Association for at least the past 10 years and have a first due response area in Maryland. The bill will affect two fire companies serving Caroline and Wicomico counties: The Delmar Volunteer Fire Company and the Marydel Volunteer Fire Company.

Emergency Management

Membership of EMS Board and Advisory Council

Under *Senate Bill 1086/House Bill 497 (both passed)*, the membership of the statewide Emergency Medical Services (EMS) Advisory Council is raised from 29 to 31. Added members are to be a helicopter pilot and a member of the general public. Among its powers and duties, the EMS Board develops and adopts an Emergency Medical System plan to ensure effective coordination and evaluation of emergency medical services delivered in Maryland.

Flag Benefit for Family of EMS Provider

Maryland's Secretary of State is required to issue a State flag to the family of a firefighter, police officer, member of the military, or sworn member of the office of State Fire

Marshal who is killed in the performance of duty. Under *Senate Bill 305 (passed)*, the family of a professional or volunteer emergency medical services provider who is killed in the performance of duty will also be issued a State flag.

Hazardous Material Response Team

Senate Bill 247/House Bill 516 (Chs. 50 and 51) provide an employee of a hazardous material response team of a local government agency with the same death benefit and funeral benefit that other public safety employees qualify for in the event they are killed in the line of duty. The benefits are applicable to the extent that the local government employer maintains sufficient funds in reserve for the payment of one death benefit and one reasonable funeral benefit. A local government is not required to place such funds in reserve each year. However, upon a qualifying death with sufficient funds in reserve, the local government must pay the Department of Public Safety and Correctional Services (DPSCS) the amount to cover the benefit.

Safety of Buildings and Other Structures

Boilers and Pressure Vessels

House Bill 85 (passed) specifies that owners of uninsured boilers and pressure vessels must contract for required inspections with an authorized third-party inspector, the Chief Boiler Inspector, or another State inspector. It specifies the types of inspections reserved for the State's Chief Boiler Inspector and deputy inspectors, establishes qualifications for special inspectors, and adjusts the fee structure for State inspections to reflect these changes.

Accessibility Standards

House Bill 757 (failed) would have required a structure of three or fewer dwelling units, for which a building permit is issued on or after October 1, 2013, to contain at least one entrance that meets accessibility standards specified in the bill.

Elevators in Assisted Living Programs

Under *Senate Bill 265 (passed)*, the Commissioner of Labor and Industry may adopt specified regulations to authorize and regulate the installation and inspection of noncommercial elevator units in assisted living programs with five or fewer beds that are licensed by the Department of Health and Mental Hygiene. There are currently 1,377 assisted living facilities in the State, of which 718 have five or fewer beds.

Electrical Installations

House Bill 87 (passed) requires certification by the State Fire Marshal of nongovernmental electrical inspectors in the State for the inspection of electrical installations for conformity with the National Electrical Code or any adopted local code or amendments. The bill repeals all prior statutory provisions relating to the regulation of nongovernmental electrical inspectors.

The requirements of *House Bill 87* do not apply to (1) public utilities, their affiliated companies, and electrical appliances and devices used in their work; (2) the inspection or certification of an electrical installation by a unit of a county government authorized to conduct electrical inspections; or (3) an electrical installation of the State or federal government during an emergency if it is necessary for the public welfare as a result of the emergency.

Weapons and Ammunition

Nearly three dozen bills were introduced regarding firearms and ammunition. Among them were:

Firearms Applications

House Bill 119 (Ch. 130) allows the transfer of a firearms application by a licensee or a law enforcement agency to the Secretary of State Police by electronic means approved by the Secretary, in addition to FAX machine or certified mail.

Senate Bill 167 (failed) would have required additional recordkeeping and reporting requirements for State-regulated firearm dealer licensees. The bill would have required that a licensed dealer keep records of all receipts, sales, and other dispositions of firearms affected in connection with the dealer's business. Under the bill, the Secretary of State Police or the Secretary's designee would have been required to disapprove an application for a State-regulated firearms dealer's license if it is determined that the applicant intends that a person not qualified for a license or whose license has been revoked or suspended will participate in the management or operation of the business or hold an interest in the business.

Other failed bills include *Senate Bill 645/House Bill 820 (both failed)* that would have established new requirements for the sale or transfer of firearms, and new recordkeeping and reporting requirements for State-regulated firearm dealer licensees; *House Bill 1328 (failed)* that would have made it a misdemeanor to knowingly violate the State's restrictions on the possession of a regulated firearm by a person under 21 years old or the State's restrictions on the removal or alteration of an identification mark or number on a firearm; and *Senate Bill 563/House Bill 354 (both failed)* that would have prohibited a person from possessing ammunition for a firearm if the person was previously convicted of a crime of violence or specified controlled dangerous substances (CDS) violations.

Inmates

Individuals with Mental Illness

Senate Bill 761/House Bill 1335 (both passed) require the managing official at a local correctional facility to provide an inmate who is diagnosed with a mental illness access to a 30-day supply of medication for his or her mental illness when the inmate is released. Part of the supply may be provided by prescription if the inmate is provided sufficient medication on release to remain medication-compliant until the prescription can be filled. The requirement only applies to an inmate who has been incarcerated in a local correctional facility for at least 60 days,

and only if a treating physician determines that the possession of medication will be in the best interest of the inmate.

Senate Bill 86 (failed) would have authorized the Department of Public Safety and Correctional Services to issue nonnarcotic medications and prescriptions to inmates awaiting release and limited the liability of medical personnel who provided the prescriptions.

Part F

Courts and Civil Proceedings

Judges and Court Administration

Maryland Legal Services Corporation Fund

The Maryland Legal Services Corporation (MLSC) was established by legislation in 1982. It receives and distributes funds to nonprofit grantees that provide legal assistance to eligible clients in civil cases. MLSC's primary sources of revenue are from the Interest on Lawyer Trust Accounts (IOLTA) program and surcharges on filing fees in civil cases. As a result of historically low interest rates, IOLTA revenue has declined from \$6.7 million in fiscal 2008 to a projected total of \$2 million in fiscal 2010. While revenues have fallen, MLSC grantees report an increase in demand for legal services.

To help meet the shortfall, *Senate Bill 248 (passed)* increases the maximum surcharge on civil cases filed in circuit court from \$25 to \$55. In the District Court, the maximum authorized surcharge increases from \$5 to \$8 for summary ejectment cases, and from \$10 to \$18 for all other civil cases.

The bill also requires the executive director of MLSC to prepare an informational budget for the corporation and to submit the budget to the General Assembly each year.

The bill contains a termination provision that would abrogate the measure at the end of June 30, 2013.

Election of Circuit Court Judges

Judges of the circuit courts are elected at the general election by the qualified voters of the respective county or Baltimore City in which the circuit court sits. This is a "contested" election, in which any challenger who meets the constitutional requirements may run. Each

judge holds the office for 15 years from the time of election, and until either a successor is elected and qualified, or the judge reaches the age of 70, whichever occurs first.

Senate Bill 833/House Bill 1385 (both failed) would have proposed an amendment to the Maryland Constitution to alter the method of selection and tenure of circuit court judges. The bills would have proposed that circuit court judges be selected by gubernatorial appointment, subject to confirmation by the Senate, followed by approval or rejection by the voters in a retention election, rather than a contested election. The bills also would have decreased the term of office from 15 to 10 years following election.

District Court Mailings

The District Court currently mails a separate notice for each *nolle prosequi*, dismissal, or stet to the defendant, the defendant's attorney of record, and the charging officer. This is done even when the individuals were present in court at the time of the dismissal, *nolle prosequi*, or stet. Defendants who had more than one charge arising out of the same set of circumstances receive separate notifications for each *nolle prosequi*, dismissal, or stet.

House Bill 698 (Ch. 160) requires a clerk of the District Court to mail notice of a dismissal, *nolle prosequi*, or stet to a defendant and the defendant's attorney of record if both the defendant and the defendant's attorney of record are not present in court when the dismissal or *nolle prosequi* is entered or the charge is stettet. The clerk is prohibited from mailing notice if the defendant's whereabouts are unknown or if either the defendant or the defendant's attorney of record is present in court when the dismissal or *nolle prosequi* is entered or the charge is stettet.

Orphans' Court Judges in Baltimore City

House Bill 417 (passed) proposes an amendment to the Maryland Constitution that prescribes additional qualifications for judges of the orphans' court in Baltimore City. If ratified by the voters at the November 2010 general election, an orphans' court judge in Baltimore City will be required to be a member in good standing of the Maryland Bar who is admitted to practice law in the State. The amendment continues the requirements that an orphans' court judge in Baltimore City be a citizen of the State and a resident of Baltimore City for the 12 months preceding the election.

Civil Actions and Procedures

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 279 (Ch. 4)* modeled extensively on the federal False

Claims Act, implements *qui tam* provisions under State law in cases involving false or fraudulent claims against a State health plan or State health program. The Act (1) prohibits a person from making a false or fraudulent claim for payment or approval by the State or the Department of Health and Mental Hygiene (DHMH) under a State health plan or State health program; (2) authorizes the State to file a civil action against a person who makes a false health claim; (3) establishes liability for civil penalties and up to treble damages for making a false health claim; (4) permits a private citizen to file a civil action on behalf of the State against a person who has made a false health claim, but requires the action to be dismissed if the State declines to intervene; (5) requires the court to award a certain percentage of the proceeds of the action to the private citizen initiating the action; and (6) prohibits retaliatory actions by a person against an employee, contractor, or grantee for disclosing a false claim or engaging in other specified false claims-related activities.

Bankruptcy Homestead Exemption

In any federal bankruptcy proceeding under Title 11 of the U.S. Code (the federal Bankruptcy Code), an individual debtor domiciled in the State may exempt up to \$5,000 worth of real property or personal property. The State has opted out of several federal bankruptcy exemptions, including exemptions for personal property and owner-occupied residential property. Thus, in a bankruptcy proceeding, an individual debtor domiciled in the State is not entitled to the federal exemptions provided by § 522(d) of the federal Bankruptcy Code. *Senate Bill 782/House Bill 456 (both passed)* authorize an individual debtor domiciled in the State to exempt the following in a bankruptcy proceeding: (1) personal property up to \$5,000; and (2) owner-occupied residential real property up to the amount permitted under the federal Bankruptcy Code. The exemption for owner-occupied residential real property (“homestead exemption”) (1) may be claimed if the individual debtor and specified family members have not successfully claimed the exemption on the property in question within the eight years prior to the filing of the bankruptcy proceeding; and (2) may not be claimed by both a husband and a wife in the same bankruptcy proceeding. As of April 1, 2010, the federal homestead exemption is \$21,625. The amount of the exemption is adjusted every three years.

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 119 (passed)* proposes a constitutional amendment to increase, from over \$10,000 to over \$15,000, the amount in controversy in civil proceedings in which the right to a trial by jury may be limited by legislation. *Senate Bill 118 (passed)* makes statutory changes to implement the proposed 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 \$15,000.

Defense of Dwelling or Place of Business – Civil Immunity, Attorney’s Fees and Costs

A person who has reasonable grounds to believe that the person is being attacked may use force that is reasonably necessary for protection against the potential injury. A person may not use force that is likely to cause death or serious bodily injury unless the person reasonably believes that he or she is in danger of serious bodily injury. In evaluating claims of self-defense in the criminal context, some states, like Maryland, have adopted a standard known as the “castle doctrine.” Under the castle doctrine, a person facing the danger of an attack upon his/her dwelling does not have a duty to retreat from the home to escape the danger, but instead is allowed to stand his/her ground and may kill the attacker if it is necessary to repel the attack.

Senate Bill 411 (passed) specifies that a person is not liable for damages for a personal injury or the death of an individual who enters the person’s dwelling or place of business if (1) the person reasonably believes that force or deadly force is necessary to repel an attack by the individual; and (2) the amount and nature of the force used by the person is reasonable under the circumstances. Immunity does not attach, however, if the person is convicted of a crime of violence, second degree assault, or reckless endangerment as a result of the incident. “Person” does not include a government entity. A court may award costs and reasonable attorney’s fees to a defendant who prevails in a claim of immunity established by this bill. The bill does not limit or abrogate any immunity from civil liability or defense under any other provision of the Maryland Code or at common law.

Design Professionals

Indemnity Agreements

At common law, a contract can be unenforceable if it has an illegal purpose, is contrary to public policy, or is unconscionable, among other reasons. Current statutory law establishes that construction or property maintenance contracts or agreements that purport to indemnify the promisee against property damage or bodily injury caused by or resulting from the sole negligence of the promisee or indemnitee (or the person’s agents or employees) are against public policy and are void and unenforceable. The prohibition also applies to promises, agreements or understandings connected to these contracts or agreements but does not apply to insurance-related and workers’ compensation contracts. *House Bill 168 (passed)* adds architectural, engineering, inspecting, and surveying services to the list of services for which indemnity agreements are considered void and unenforceable as a matter of public policy under State law. The bill also clarifies that the prohibition on these types of indemnity agreements does not apply to a general indemnity agreement required for a surety bond.

Land Surveys

Current law provides a “statute of repose” for lawsuits related to errors in a land survey. Under the statute of repose, no cause of action accrues and a person may not seek contribution or indemnity for damages incurred for an error in a survey of land unless an action for damages is

brought within 15 years of the survey, or within 3 years after the discovery of the error, whichever occurs first. *Senate Bill 531/House Bill 907 (both passed)* reduce this statute of repose from 15 to 10 years after the survey, or within 3 years after the discovery of the error, whichever occurs first.

Freedoms of Speech and Press

Foreign Defamation Lawsuits

In 2008, the United Nations' Committee on Human Rights criticized "libel tourism" for its stifling effects on public interest reporting and the press. "Libel tourism" is a term used for instances when plaintiffs use foreign courts with more lenient defamation laws to sue publishers and writers. Under the Maryland Uniform Foreign Money-Judgments Recognition Act, a foreign judgment that is final and conclusive may be recognized and, therefore, enforced under certain circumstances in this State. *Senate Bill 13/House Bill 193 (both passed)* authorize a State court to exercise personal jurisdiction, to the extent permitted by the U.S. Constitution, over any person who obtains a judgment in a defamation proceeding outside of the United States against any person who is a State resident or has assets in the State. This authority is solely for the purpose of providing declaratory relief with respect to determining the personal liability of the person for the judgment or determining whether the judgment may not be recognized under State law, if certain conditions apply. The bills also prohibit a court from recognizing a foreign defamation judgment unless the court first determines that the defamation laws as applied in the foreign jurisdiction provide at least as much protection for freedoms of speech and the press as the federal and State constitutions. A court is also prohibited from recognizing a foreign judgment if the cause of action resulted in a defamation judgment against the provider of an interactive computer service, as defined by federal law, unless the State court before which the matter is brought determines that the judgment is in compliance with the applicable federal statute.

Testimonial Privilege

With limited exceptions, a judicial, legislative, or administrative body, or anybody that has the power to issue subpoenas, may not compel any person who is, or has been, employed by the news media in any news gathering or news disseminating capacity to disclose (1) the source of any news or information procured by the person while employed by the news media, whether or not the source has been promised confidentiality; or (2) any news or information procured by the person while employed by the news media, in the course of pursuing professional activities, for communication to the public but which is not so communicated, in whole or in part. *House Bill 257 (Ch. 140)* extends this testimonial privilege to students engaged in any news gathering or news disseminating capacity recognized by their schools as a scholastic activity or in conjunction with an activity sponsored, funded, managed, or supervised by school staff or faculty ("school-related activity"). The privilege applies to any news or information procured by the student in the course of pursuing the scholastic or school-related activity. As is the case with the journalist privilege under current law, if a person eligible to claim the privilege disseminates a

source of news information while pursuing a professional, scholastic, or school-related activity, the protection from compelled disclosure is not waived by the person.

Strategic Lawsuits Against Public Participation

Strategic Lawsuits Against Public Participation (SLAPP) suit laws protect individuals and groups, many with few assets, from defending costly legal challenges to their lawful exercise of such constitutionally protected rights as free speech, assembly, and the right to petition the government. Covered activities may include writing letters to the editor, circulating petitions, organizing and conducting peaceful protests, reporting unlawful activities, speaking at public meetings, and similar actions. Plaintiffs in these lawsuits, who typically have far greater resources than defendants, may allege a number of legal wrongs. The goal of these lawsuits is often not to win the case, but rather to cause the defendants to devote such significant resources to defending it that they are unable to continue the challenged activities.

Senate Bill 990/House Bill 1250 (both passed) change the statute pertaining to SLAPP suits. The bills expand the definition of a SLAPP suit to include (1) a suit that inhibits the exercise of federal or State constitutional rights of free speech (rather than the current limited application of SLAPP status to suits in which there is an intent to inhibit those rights); and (2) a suit based on communications regarding any issue of public concern (rather than the current limited application to matters within the authority of a government body).

Nuisance – Prostitution

Under the State's drug-related nuisance abatement provisions, a "nuisance" is a property that is used for specified drug-related activity. *Senate Bill 399 (passed)* classifies real property used for prostitution as a nuisance subject to a similar abatement action under the statute authorizing abatement of a nuisance when property is used for drug offenses. For a more detailed discussion of this issue, see the subpart "Real Property" within this Part F – Courts and Civil Proceedings of this *90 Day Report*.

Family Law

Same-sex Marriage

Background

In 2004, Massachusetts became the first state to issue marriage licenses to same-sex couples after the state's highest court ruled that authorizing civil unions for same-sex couples while prohibiting them from marrying was unconstitutional. Same-sex marriage is now legal in four other states: Connecticut (2008); Iowa (2009); Vermont (2009); and New Hampshire (2010). In addition, the District of Columbia passed legislation legalizing same-sex marriage in 2009.

Under the Full Faith and Credit Clause of the U.S. Constitution, states usually are required to give full faith and credit to the public acts, records, and judicial proceedings of every other state. Therefore, Maryland recognizes foreign marriages that are validly entered into in another state. For example, Maryland recognizes a common law marriage from a foreign jurisdiction, although common law marriages are not valid in Maryland. *Henderson v. Henderson*, 199 Md. 449 (1952). However, a state is not required to apply another state's law in violation of its own legitimate public policy. See *Nevada v. Hall*, 440 U.S. 410 (1979). Similarly, the *Henderson* court stated that Maryland is not bound to give effect to marriage laws that are “repugnant to its own laws and policy.” 199 Md. at 459.

Since 1973, Maryland law has provided that only a marriage between a man and a woman is valid in this State. In 2004, the Office of Attorney General informally advised that the Maryland law prohibiting same-sex marriage could create a valid public policy exception to the general rule that marriages valid where performed are valid anywhere (Advice of Counsel Letter to the Honorable Joseph. F. Vallario, Jr., Chairman, House Judiciary Committee, February 24, 2004).

However, on February 23, 2010, the Attorney General issued a formal opinion on the question of whether Maryland may recognize same-sex marriages legally performed in other jurisdictions. The Attorney General concluded that although not free of all doubt, the Court of Appeals “... is likely to respect the law of other states and recognize a same-sex marriage contracted validly in another jurisdiction.” (See 95 Op. Att’y Gen. 3 (2010) at 54.) The opinion advised that in light of evolving State public policies that favor, at least for some purposes, domestic partnerships and same-sex intimate relationships, the court would not readily invoke the public policy exception to the general rule of recognition of out-of-state marriages. The extent to which the Attorney General’s opinion will alter State agency policies and actions toward same-sex spouses who enter, visit, or reside in Maryland remains to be seen.

Legislative Activity

In response to this opinion, emergency bills, *Senate Bill 1120/House Bill 1532 (both failed)*, were introduced to prohibit a unit of State or local government from altering any policy, procedure, rule, or regulation in effect on February 22, 2010 (the day before the opinion was issued), to the extent that the alteration requires or depends on a determination of whether a marriage must be recognized by the State. The prohibition would have been effective until the issue of recognition of same-sex marriage legally performed in other jurisdictions is decided by the Court of Appeals or addressed by the General Assembly through the enactment of a law.

In addition, *House Simple Resolution 1 (failed)* called for the impeachment of Attorney General Douglas F. Gansler for alleged “incompetency and willful neglect of duty,” based, in part, on his rendering of the opinion regarding same-sex marriages.

A number of other bills relating to same-sex marriage were also considered by the General Assembly. *Senate Bill 852/House Bill 90 (both failed)* would have established that a marriage between two individuals of the same sex that is validly entered into in another state or in a foreign country is not valid in Maryland and that marriages between individuals of the same

sex are against the public policy of the State. *Senate Bill 1097/House Bill 1079 (both failed)* would have proposed an amendment to the Maryland Constitution establishing that a marriage between a man and a woman is the only domestic legal union valid or recognized in the State.

Alternatively, *Senate Bill 582/House Bill 808 (both failed)* would have altered the definition of a valid marriage by specifying that a marriage between two individuals who are not otherwise prohibited from marrying is valid in Maryland. *House Bill 1279 (failed)* would have altered the definition of a valid marriage by repealing the reference to a man and a woman and specifying instead that only a marriage between consenting adults is valid in Maryland. This bill was contingent on the passage of *House Bill 1176 (failed)* which would have proposed an amendment to the Maryland Constitution to establish that a marriage between two consenting adults is valid in Maryland.

Child Support

Child Support Guidelines

In any proceeding to establish or modify child support, a court is required to use the child support guidelines. The basic child support obligation is established in accordance with a schedule provided in statute. There is a rebuttable presumption that the amount of child support that would result from the application of the guidelines is the correct amount of support to be awarded. The presumption may be rebutted by evidence that the application of the guidelines would be unjust or inappropriate in a particular case. The current schedule uses the combined monthly adjusted actual income of both parents and the number of children for whom support is required to determine the basic child support obligation. The maximum combined monthly income subject to the schedule is \$10,000.

Maryland's child support guidelines were originally enacted in 1989 in response to federal child support mandates. The current child support schedule is based on economic estimates of child-rearing expenditures as a proportion of household consumption developed in 1988 using national data on household expenditures from the 1972-1973 Consumer Expenditure Survey conducted by the U.S. Bureau of Labor Statistics.

At least every four years, the Child Support Enforcement Administration (CSEA) of the Department of Human Resources is required to review the guidelines to ensure that their application results in appropriate child support award amounts and to report its findings and recommendations to the General Assembly. During the 2008 interim, CSEA conducted its most recent review of the guidelines and, based on that review, proposed legislation this interim to update the current child support guidelines.

Senate Bill 252/House Bill 500 (both passed) revise the schedule of basic child support obligations used to calculate child support amounts under the child support guidelines to reflect changes in child-rearing costs and income levels. The revised schedule is based on the results of a federal study on child-rearing costs that was conducted in 1990 using data from 1980-1986, updated to 2008 price levels. The schedule is also adjusted to account for Maryland's above average housing costs.

Because it has become more common for combined monthly incomes to exceed \$10,000 and therefore fall outside of the guidelines, the bills also expand the current guidelines to include combined monthly incomes of up to \$15,000.

The bills also repeal a provision of current law establishing that the adoption or revision of the child support guidelines may be grounds for requesting a modification of a child support award based on a material change in circumstances if the use of the guidelines would result in a change in the award of 25% or more. Instead, the bills specifically provide that the adoption or revision of the guidelines is not a material change of circumstances for the purpose of a modification of a child support award.

Child Support Enforcement

Interception of Abandoned Property: CSEA is authorized to certify to the Comptroller that a child support obligor is in arrears in paying child support if the amount of the arrearage exceeds \$150 and CSEA is providing services as specified under the federal Social Security Act. This certification applies to persons receiving payments from the State, including vendors and State employees who are due travel payments and other employment-related reimbursements, and individuals who receive State tax income refunds. If CSEA makes a certification to the Comptroller, CSEA must notify the obligor that a certification has been made, and the obligor has the right to request an investigation.

When the Comptroller receives a certification regarding child support arrearages from CSEA, the Comptroller withholds the amount of the arrearage from any payment or tax refund due to the obligor and forwards the withheld amount to CSEA. The obligor must be notified of the amount paid to CSEA and that the obligor has a right to appeal the interception to the Office of Administrative Hearings. When CSEA receives an intercepted payment, it retains any portion of the payment that does not exceed the amount of the arrearage and pays to the obligor any part of the payment that exceeds the child support arrearage owed.

According to CSEA, the State Tax Refund Intercept Program has been successful since its inception in 1980 and has collected millions of dollars in child support payments. ***House Bill 963 (passed)*** expands the interception program by requiring the Comptroller to intercept abandoned property in which a child support obligor has an interest, in addition to any payments due the obligor, to defray a child support arrearage.

Maryland Uniform Interstate Family Support Act: Maryland's Uniform Interstate Family Support Act (UIFSA) governs the interstate issuance and enforcement of child support. ***House Bill 74 (Ch. 122)*** made several technical revisions to Maryland's UIFSA in order to ensure compliance with federal requirements. The most significant changes include (1) expanding the ability of the State to exercise personal jurisdiction over a nonresident individual if the individual resided with the child in the State; (2) specifying that if the Attorney General determines that a support agency is neglecting or refusing to provide services to an individual, the Attorney General is authorized to provide services directly to the individual; (3) clarifying that, in situations in which a request to determine which of multiple child support orders that have been issued for the same obligor and the same child controls, the requesting party is

responsible for providing notice to each party whose rights may be affected by this determination; (4) establishing that a party to a proceeding under UIFSA may not object to documentary evidence transmitted electronically from another state based on the means of transmission; and (5) clarifying that neither spousal immunity nor immunity based on the relationship of parent and child is available in a UIFSA proceeding.

Notification of Change of Address or Employment: Under current law, child support recipients and obligors must provide notice of a change in address or employment by sending the information to a support enforcement agency, return receipt requested. The information may also be entered online, if the agency's web site allows for such updates. Although not specified in statute, many local child support enforcement agency offices allow recipients or obligors to provide notice of a change in address or employment either in-person, by telephone, or through an electronic communication. ***House Bill 1454 (passed)*** specifically authorizes child support recipients and obligors to send notice of a change in address or employment to a child support enforcement agency by filing in person at the agency and obtaining proof of filing or by calling or sending an electronic communication to the agency and obtaining proof of change.

Child Abuse and Neglect

Reporting of Risk of Sexual Abuse

Statutory requirements regarding the reporting of child abuse apply only if the reporter suspects that abuse has actually occurred. State law does not establish reporting requirements if a reporter believes that a child may be at substantial risk of abuse. ***Senate Bill 559/House Bill 811 (both passed)*** authorize an individual to notify the local department of social services or the appropriate law enforcement agency if the individual has reason to believe that a parent, guardian, or caregiver of a child allows the child to reside with or be in the presence of an individual, other than the child's parent or guardian, who (1) is registered on the sexual offender registry based on the commission of an offense against a child; and (2) based on additional information, poses a substantial risk of sexual abuse to the child.

After confirming that the allegations in the report regarding the individual's history are true and that there is specific information that the child is at substantial risk of sexual abuse, the local department must make a thorough investigation to protect the health, safety, and welfare of any child or children who may be at substantial risk of sexual abuse.

The investigation must be conducted in conjunction with an appropriate law enforcement agency. As part of the investigation, the local department must (1) determine whether the child is safe; (2) determine whether sexual abuse of the child has occurred; (3) offer appropriate services to the family; and (4) immediately decide whether to file a Child in Need of Assistance (CINA) petition. To the extent possible, an investigation must be completed as soon as practicable, but not later than 30 days after receipt of a report.

Public Disclosure of Information

The federal Child Abuse Prevention and Treatment Act (CAPTA) requires states to adopt provisions allowing for the public disclosure of findings or information relating to a case of child abuse or neglect which resulted in a child fatality or near fatality. A 2008 report produced by the Children’s Advocacy Institute and First Star compared and graded the child death and near death disclosure laws and policies of each state. The evaluation considered (1) whether a state had a public disclosure policy as mandated by CAPTA; (2) whether a state’s policy was codified in statute; (3) the ease of access to the information; (4) the scope of information authorized for release; and (5) whether a state allowed public access to abuse or neglect proceedings. While the State is in compliance with CAPTA, this report gave Maryland, along with nine other states, a grade of “F.” In evaluating the ease of access to information about child abuse or neglect which resulted in a child fatality or near fatality, the report criticized Maryland’s policy as being “permissive with severely restrictive conditional language.”

Senate Bill 948/House Bill 1141 (both passed) respond to the report’s criticism of State laws by allowing greater public disclosure of information from child welfare records. Such disclosure is intended to increase public awareness and confidence that the Department of Human Resources is providing appropriate services to abused or neglected children and not using confidentiality as a shield from disclosing appropriate public information regarding service delivery in child protective service cases where there is a fatality or near fatality.

The bills make it mandatory, rather than discretionary, for the director of a local department of social services or the Secretary of Human Resources to disclose, on request, specified information regarding child abuse or neglect if (1) the information is limited to actions or omissions of the local department, the Department of Human Resources, or an agent of the department; (2) the child named in a report has suffered a fatality or near fatality; and (3) the State’s Attorney’s Office has consulted with and advised the local director or Secretary that disclosure would not jeopardize or prejudice a related investigation or prosecution.

The bills repeal the requirement that the alleged abuser or neglecter be charged criminally before the information may be disclosed, and also repeal a provision that permitted disclosure only if the local director or the Secretary determines that the disclosure is not contrary to the best interests of the child, the child’s siblings, or other children in the household, family, or care of the alleged abuser or neglecter.

Disclosure of Records and Reports to the Division of Parole and Probation

All records and reports concerning child abuse and neglect are confidential; however, records of child abuse or neglect must be disclosed pursuant to an order of the court or an administrative law judge and, under certain circumstances and on a written request, to the Baltimore City Health Department. Child abuse and neglect records may be disclosed on request to employees or persons of interest as specified in statute, including specified personnel of the Department of Human Resources and local departments of social services, law enforcement personnel, and individuals who are providing treatment or care to a child who is the subject of a report of child abuse or neglect. Unauthorized disclosure of child abuse or neglect records is a

misdemeanor and is subject to penalties of up to 90 days imprisonment and/or a fine of up to \$500.

House Bill 1330 (passed) requires the disclosure of a report or record concerning child abuse or neglect to the Division of Parole and Probation if, as a result of a report or investigation of suspected child abuse or neglect, the local department of social services has reason to believe that an individual who lives in or has a regular presence in a child's home is registered on the sexual offender registry based on the commission of an offense against a child.

Guardianship Review Hearings

A juvenile court must hold an initial guardianship review hearing no later than 180 days after the date of an order granting guardianship to establish a permanency plan for a child. Additional review hearings must be held at least once each year after the initial review hearing until the juvenile court's jurisdiction terminates. *House Bill 161 (passed)* is intended to bring Maryland into compliance with federal law enacted in 2008, by requiring the court to consult on the record with the child in an age-appropriate manner at least every 12 months in a guardianship review hearing.

Child Advocacy Centers

Child advocacy centers are child-focused entities that investigate, diagnose, and treat children who may have been abused or neglected. The centers include local law enforcement officers, prosecutors, and the local departments of social services, and may include child mental health service providers and other children and family service providers. The centers are intended to reduce trauma on abuse victims by eliminating the need to have the child repeat their story to multiple individuals and also reduce the amount of resources used in obtaining information.

Although not required by statute, the Department of Human Resources provides funding to 12 child advocacy centers, the majority of which are located within local departments of social services. However, the funding which is currently used to support the centers under the Victims of Crime Act is designated to be transferred to the Governor's Office of Crime Control and Prevention.

House Bill 1043 (passed) requires the Governor's Office of Crime Control and Prevention (GOCCP) to establish and sustain child advocacy centers in the State and requires that the State Victims of Crimes Fund, which provides services for victims and witnesses of crimes and delinquent acts and is administered by the State Board of Victim Services under the authority of GOCCP, be used to support the centers.

Domestic Violence

Shielding of Court Records

Court records, including those relating to a domestic violence or peace order 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 the custodian's office during normal business hours to inspect the record. Subject to certain exceptions, a court record that is kept in electronic form is open to inspection to the same extent that a record in paper form is open to inspection. The Maryland Judiciary's web site includes a link to "CaseSearch," which provides public Internet access to information from court 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 CaseSearch indefinitely and are not removed except by a court-ordered expungement.

Senate Bill 935/House Bill 1149 (both passed) authorize a respondent to file a written request to shield all records relating to a domestic violence or peace order proceeding if the domestic violence or peace order petition was denied or dismissed at any stage of the proceeding. "Shield" is defined as removing information from public inspection. "Shielding" means (1) with respect to a record kept in a court house, removing to a separate secure area to which persons who do not have a legitimate reason for access are denied access; and (2) with respect to electronic information about a proceeding on the web site maintained by the Maryland Judiciary, removing the information from the public web site. A court record includes (1) an index, docket entry, petition, memorandum, transcription of proceedings, electronic recording, order, and judgment; and (2) any electronic information about a proceeding on the web site maintained by the Maryland Judiciary (*i.e.*, "CaseSearch").

A request for shielding may not be filed within three years after the denial or dismissal of the petition, unless the respondent files a general waiver and release of all the respondent's tort claims related to the proceedings. The court must schedule a hearing on the shielding request and provide notice of the hearing to the petitioner or the petitioner's attorney of record. After the hearing, the court must order the shielding of court records relating to domestic violence protective order or peace order proceedings if the court finds (1) that the petition was denied or dismissed at the interim, temporary, or final order stage of a protective order or peace order proceeding; (2) that a final protective order or peace order has not been previously issued in a proceeding between the petitioner and the respondent; and (3) that none of the following are pending at the time of the hearing: (i) an interim or temporary protective order or peace order issued in a proceeding between the petitioner and the respondent; or (ii) criminal charge against the respondent arising from alleged abuse against the petitioner.

The court may, for good cause, deny the shielding if the petitioner appears at the hearing and objects. In determining whether there is good cause to grant the request to shield court records, the court must balance the privacy of the respondent and potential danger of adverse consequences to the respondent against the potential risk of future harm and danger to the petitioner and the community.

The following persons are not prohibited from accessing a shielded record for a legitimate reason: (1) a law enforcement officer; (2) an attorney who represents or has represented the petitioner or the respondent in a proceeding; (3) a State's Attorney; (4) an employee of a local department of social services; or (5) a "victim services provider." A "victim services provider" means a nonprofit organization that has been authorized by the Governor's Office of Crime Control and Prevention or the Department of Human Services to have access to records of shielded peace orders or protective orders to assist victims of abuse. Other individuals may subpoena or file a motion for access to a shielded record. If the court finds that the individual has a legitimate reason for access, the court may grant access to the shielded record under the terms and conditions that the court determines. The court must balance the person's need for access with the respondent's right to privacy and the potential harm of unwarranted adverse consequences to the respondent that disclosure may create.

Within 60 days after entry of a shielding order, each custodian of court records subject to the order of shielding must advise in writing the court and the respondent of compliance with the order.

The bills also require the court, before granting, denying, or modifying a final protective order, to review all open and shielded court records involving the person eligible for relief and the respondent, including records involving criminal matters and domestic violence and peace order proceedings. However, the court's failure to review records does not affect the validity of a protective order that is issued.

Extension of Final Protective Order

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, generally up to a maximum of 12 months. A final protective order may be issued for up to two years if it 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 expired, if the prior final protective order was issued for a period of at least six months.

Senate Bill 867/House Bill 534 (both passed) authorize a judge to extend the term of a final protective order for up to two years if, during the term of the protective order, the judge finds by clear and convincing evidence that the respondent named in the protective order has committed a subsequent act of abuse against a person eligible for relief named in the protective order. Prior to extending a final protective order, the judge must give notice to the respondent and all affected persons eligible for relief and hold a hearing. In determining the period of extension, the judge must consider the following factors: (1) the nature and severity of the subsequent act of abuse; (2) the history and severity of abuse in the relationship between the respondent and any person eligible for relief named in the protective order; (3) any pending criminal charges against the respondent and the type of charges; and (4) the nature and extent of the injury or risk of injury caused by the respondent.

Domestic Violence Central Repository

On July 1, 2008, the Maryland Judiciary launched a statewide database (central repository) that includes all protective orders and peace orders issued by District Court and circuit court judges and District Court commissioners. The repository was designed to provide Maryland's law enforcement agencies with real time, secure access to imaged copies of protective orders and peace orders. This enables law enforcement officers to verify the existence and content of an order at any time, particularly when responding to domestic violence calls, and to facilitate immediate arrests for violations. The central repository is also intended to enable court personnel to eliminate conflicting or simultaneous orders between District and circuit courts that share concurrent jurisdiction over domestic violence cases.

House Bill 625 (passed) codifies the central repository by requiring the Administrative Office of the Courts to maintain a Domestic Violence Central Repository to store the following domestic violence orders issued in the State: (1) interim protective orders; (2) temporary protective orders; (3) final protective orders; (4) peace orders; and (5) peace orders issued pursuant to a juvenile cause. Peace orders issued pursuant to a juvenile cause must only be stored during the term of the peace order.

GPS Monitoring of Abusers

A judge may allow the pretrial release of a defendant charged with violating specified provisions of a temporary or final protective order on suitable bail or any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community. On entering a judgment of conviction, the court may suspend the imposition or execution of the sentence and place the defendant on probation on conditions that the court considers proper.

“Active electronic monitoring” is electronic monitoring that takes place on a 24-hour basis. The monitoring law enforcement agency receives reports in real time, that is, at the time an infraction occurs. A monitoring system that is connected to a global positioning satellite (GPS) tracking system enables the law enforcement agency to know not only when the defendant went out of range, but precisely to what location the defendant went.

House Bill 665 (passed) and *House Bill 1336 (passed)* establish GPS tracking system pilot programs in Prince George's and Washington counties, respectively. The bills require those counties to implement GPS tracking system pilot programs that authorize the court, as a condition of a defendant's pretrial release on a charge of violating a protective order, to order that the defendant be supervised by means of active electronic monitoring. The bills also establish that on entering a judgment of conviction for failing to comply with the relief granted in a protective order, if a court suspends the imposition or execution of sentence and places the defendant on probation, the court may order that the defendant be supervised by means of active electronic monitoring for the duration of the protective order.

The bills require the sheriff and the Administrative Judge for the District Court in each county to submit a report evaluating the pilot programs by September 1, 2012. The bills take effect October 1, 2010, and terminate September 30, 2012.

Child Care

Background Checks

State law requires criminal background investigations of certain individuals who work or volunteer with children. *Senate Bill 61 (Ch. 18)* adds the following two facilities serving minors to the list of facilities whose employees are required to obtain a criminal history check: (1) a licensed home health or residential service agency authorized to provide home or community-based health services for minors; and (2) privately operated recreation centers and programs.

Additionally, the bill requires the Department of Public Safety and Correctional Services to provide a full Report of Arrests and Prosecutions (RAP) sheet, which includes arrest information, rather than the “filtered” RAP sheet provided under current law, which reports only the existence of a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending change.

Inspections of Family Day Care Homes and Child Care Centers

Currently, Maryland State Department of Education (MSDE) regulations must, at a minimum, provide for announced inspection by the MSDE of each registered family day care home prior to the issuance of an initial registration and at least once every two years thereafter to determine whether applicable requirements, including those relating to recordkeeping are being met. MSDE must also inspect each child care center operating under a license or a letter of compliance (1) on an announced basis before issuing the license or letter of compliance and at least every two years thereafter; and (2) on an unannounced basis at least once during each 12-month period that the license or letter of compliance is in effect to determine whether safe and appropriate child care is being provided.

Senate Bill 176 (passed) alters these requirements by requiring announced inspections prior to the issuance of an initial or continuing registration, license, or letter of compliance for these entities and repealing the requirement for a subsequent inspection every two years thereafter. Eliminating the requirement for announced inspections every two years is intended to allow for more unannounced inspections, which provide a more accurate assessment of the facility on a daily basis.

Window Coverings

According to the U.S. Consumer Product Safety Commission (CPSC), almost once a month a child between the ages of 7 months and 10 years dies from window cord strangulation. In December 2009, CPSC recalled millions of window coverings, including Roman shades and roll up blinds, due to the serious risk of strangulation to young children. CPSC has identified

window coverings with cords as one of the top five hidden hazards in the home, and recommends the use of cordless window coverings in all homes where children live or visit.

Senate Bill 605/House Bill 646 (both passed) require that all new and replacement window coverings installed in a foster home, family day care home, or child care center in the State on or after October 1, 2010, be cordless. Window coverings in place before the bill's effective date must meet minimum safety standards to be established in regulations jointly adopted by the Department of Human Resources and the Maryland State Department of Education. A person who fails to comply with the established minimum standards may be required to replace existing window coverings with cordless ones.

Human Relations

Discrimination in Places of Public Accommodation

Under State law, an owner or operator of a place of public accommodation may not refuse, withhold from, or deny to any person any of the accommodations, advantages, facilities, or privileges of the place of public accommodation because of the person's race, sex, age, color, creed, national origin, marital status, sexual orientation, or disability. A "place of public accommodation" includes (1) a hotel, motel, or other lodging establishment; (2) a facility serving food or alcoholic beverages, including facilities on the premises of a retail establishment or gasoline station; (3) entertainment, sports, or exhibition venues; and (4) a public or privately operated retail establishment offering goods, services, entertainment, recreation, or transportation.

Senate Bill 68/House Bill 1501 (both passed) require a place of public accommodation, on request, to keep closed captioning activated on any closed-captioning television receiver that is in use during regular hours in any public area. Places of public accommodation are excluded from this requirement if (1) no television receiver of any kind is available in the public area or (2) the only public television receiver available in the public area is not a closed-captioning receiver. A "closed-captioning television receiver" means a receiver of television programming that has the ability to display closed captioning.

As a result of Federal Communications Commission requirements, most televisions in use today have the ability to display closed captioning, and a high percentage of television programs have closed captions. The bills are intended to improve access for the deaf and hard of hearing to television broadcasts in public places.

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 583/House Bill 1022 (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.

Housing Discrimination

State law prohibits housing discrimination because of race, sex, color, religion, national origin, marital status, familial status, sexual orientation, or disability. *Senate Bill 243 (failed)* would have added discrimination based on a person’s lawful source of income to this list.

Real Property

Residential Foreclosures

Background

The State’s multi-faceted approach to the foreclosure crisis has involved legislative reforms of mortgage lending laws, extensive consumer outreach efforts, and enhanced mortgage industry regulation and enforcement. Legislation passed during the 2008 and 2009 sessions (1) created the Mortgage Fraud Protection Act, Maryland’s first comprehensive mortgage fraud statute; (2) tightened mortgage lending standards and required a lender to give due regard to a borrower’s ability to repay a loan; (3) reformed the foreclosure process to provide homeowners with more time and additional notices before their properties are sold; and (4) required additional notices to be given to residential tenants renting properties in foreclosure. Consumer outreach efforts have included statewide public workshops to assist distressed homeowners in coordination with the Maryland Foreclosure Prevention Pro Bono Project.

Despite the impact of extensive State legislative and consumer outreach efforts, foreclosure activity in Maryland continues to rise as State residents feel the effects of rising unemployment and declining home values. According to Mortgage Bankers Association data for the fourth quarter of 2009, 10% of residential mortgage loans in Maryland were delinquent – the highest delinquency rate in 36 years. Among the states, Maryland is ranked fifteenth in mortgage delinquencies and fourteenth in foreclosure starts. The Department of Housing and Community Development (DHCD) estimates that 311,000 of the 1.3 million active residential mortgages in the State have outstanding loan balances that exceed the values of their respective homes.

Over the course of six to eight weeks in fall 2009, the Governor convened a workgroup of various stakeholders to explore options for instituting a foreclosure mediation program in Maryland. The workgroup examined the existing foreclosure process in the State and analyzed the advantages and disadvantages of other states' mediation programs.

Foreclosure Mediation

House Bill 472 (passed), an Administration measure that grew out of the workgroup's efforts, seeks to prevent a homeowner from losing his or her home through foreclosure when loan modification may be available and requires the consideration of other loss mitigation options where appropriate. The bill strengthens the disclosures contained in a notice of intent to foreclose and requires the notice to be accompanied by a loss mitigation application along with instructions and other useful information. An order to docket or complaint to foreclose must be accompanied by either a final loss mitigation affidavit or a preliminary loss mitigation affidavit. If the filing concerns owner-occupied residential property and is accompanied by a final loss mitigation affidavit, the filing must also be accompanied by a request for foreclosure mediation form. If the filing is accompanied by a preliminary loss mitigation affidavit, the secured party must file a final loss mitigation affidavit at least 30 days before the date of a foreclosure sale and no earlier than 28 days after the filing of the order to docket or complaint to foreclose.

If the residential property subject to the foreclosure action is owner-occupied, the mortgagor or grantor may file with the court a request for foreclosure mediation, to be conducted by the Office of Administrative Hearings (OAH) before the foreclosure sale is scheduled. The request must be made within 15 days after service or mailing of the final loss mitigation affidavit. OAH must schedule a foreclosure mediation within 60 days after transmittal of the request from the court. For good cause, OAH may extend the time for completing a foreclosure mediation for a period not exceeding 30 days. At the foreclosure mediation, the mortgagor or grantor must be present and may be accompanied by a housing counselor and legal representation; the secured party, or a representative of the secured party who must have authority to settle the matter or be able to readily contact a person with authority to settle the matter, must also be present. OAH must file a report on the outcome of the request for a foreclosure mediation within the earlier of 5 days after the foreclosure mediation is held or the end of the 60-day period plus any extension granted. If the parties do not reach an agreement, or the 60-day period expires without an extension, the foreclosure attorney may schedule the foreclosure sale. If the residential property is owner-occupied and foreclosure mediation is requested, the foreclosure sale may be held at least 15 days after the date the foreclosure mediation is held or, if a foreclosure mediation is not held, at least 15 days after the date OAH files its report.

The bill imposes a \$300 filing fee on every order to docket or complaint to foreclose a mortgage or deed of trust on residential property, and requires a borrower to pay a \$50 filing fee with a request for foreclosure mediation. All filing fee revenue must be distributed to the newly created Housing Counseling and Foreclosure Mediation Fund administered by DHCD. The purposes of the fund are to (1) support nonprofit and government housing counselors and other nonprofit entities with providing legal assistance to homeowners or occupants who are trying to

avoid foreclosure or manage foreclosure proceedings, and homebuyer education, housing advice, or financial counseling for homeowners and prospective homeowners; (2) support the establishment and operation of nonprofit housing counseling entities; (3) support efforts by the Department of Labor, Licensing, and Regulation to contact and provide advice and assistance to homeowners and occupants facing financial difficulty or foreclosure, and provide advice and assistance to prospective homeowners; and (4) assist in funding the costs of foreclosure mediations provided by OAH. The bill applies prospectively and does not apply to any order to docket or complaint to foreclose on residential property filed before the effective date. The bill takes effect July 1, 2010.

Fund revenues are expected to increase by \$11.1 million in fiscal 2011, \$7.8 million in fiscal 2012, \$5.5 million in fiscal 2013, \$3.9 million in fiscal 2014, and \$2.8 million in fiscal 2015. Fund expenditures in the fiscal 2011 budget include \$3,980,785 to DHCD to support nonprofit and government housing counseling services; \$784,387 to OAH to implement the foreclosure mediation program; \$228,865 to the Judiciary to process foreclosure actions in high-impact jurisdictions; and \$225,000 to the Office of the Commissioner of Financial Regulation to implement an electronic notice of intent to foreclose tracking system.

Authority to Exercise a Power of Sale

Some circuit courts have interpreted deeds of trust that omit the name of the trustee or contain the name of an entity, rather than a natural person, to be void. These courts have, at times, required foreclosing attorneys to file a petition to foreclose rather than allowing a foreclosure to proceed under a power of sale provision. *Senate Bill 562/House Bill 633 (both passed)* clarify that the person exercising a power of sale must be an individual and that the failure of the lien instrument to properly designate an individual does not invalidate the ability to foreclose under a power of sale clause.

Tenants in Foreclosure

Chapters 614 and 615 of 2009 required notices of foreclosure to be sent to all occupants of a residential property (1) when a foreclosure action is filed; (2) no earlier than 30 days and no later than 10 days prior to 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 654/House Bill 711 (both passed)* alter the State-approved notices to occupants of residential property subject to a foreclosure proceeding to conform to the federal Protecting Tenants at Foreclosure Act of 2009. Specifically, the bills incorporate the federal definition of a “bona fide” tenant in State law; require that a 90-day notice to vacate be sent to a bona fide tenant stating the landlord’s basis for terminating the tenancy; and alter the contents of notices required to be sent to occupants of residential property subject to foreclosure. The bills take effect June 1, 2010.

Consumer Disclosures

Real Estate Settlement Disclosures

Chapters 356 and 357 of 2008 created the Commission to Study the Title Insurance Industry in Maryland. The commission, among other things, was required to study affiliated business arrangements among title insurance producers, builders, title insurance companies, realtors, lenders, and other businesses involved with the settlement of real estate transactions to determine the impact of those arrangements on title insurance rates.

Senate Bill 1019/House Bill 1471 (both passed) codify one of the commission's recommendations. Specifically, the bills establish that a person who participates in an "affiliated business arrangement" as defined under the federal Real Estate Settlement Procedures Act (RESPA) is not in violation of State law that otherwise prohibits affiliates from participating in a real estate settlement solely because that person participates in an affiliated business arrangement and receives consideration as a result of that participation as long as that person complies with existing RESPA disclosure requirements.

Disclosure of Right to Appeal Tax Valuation or Classification

Under existing law, a taxpayer may appeal the valuation or classification of his or her home to the State Department of Assessments and Taxation (SDAT) by submitting a written appeal within 45 days of receiving an SDAT assessment notice or by requesting a petition for review before a certain date for the next taxable year. In addition, an appeal may be filed within 60 days of purchasing a property that was transferred after January 1 but before July 1.

House Bill 6 (passed) requires a sales contract for single-family residential real property to contain a specified notice of the purchaser's right to appeal the classification or valuation of the property by SDAT within 60 days of the sale if the property is transferred after January 1 but before July 1.

Common Ownership Communities

Condominiums, homeowners associations, and cooperative housing corporations, collectively referred to as common ownership communities (COC), were the focus of a large number of bills introduced this session.

Notice of Proposed Budget of a Homeowners Association

Under current law, a condominium's council of unit owners is required annually to prepare and submit a proposed budget to unit owners at least 30 days before its adoption at an open meeting. The proposed budget must include certain details on expenditures for reserves and capital items. *Senate Bill 416/House Bill 695 (both passed)* place similar notice, publication, content, and adoption requirements on the board of directors of a homeowners association (HOA). The proposed budget and notice of the meeting may be provided to lot owners electronically, by posting on the HOA web page, or inclusion in an HOA newsletter.

Except for an expenditure made by an HOA to repair conditions that might constitute a danger to the health or safety of lot owners or cause significant damage to the development, any expenditure of more than 15% of the previously adopted budgeted amount must be approved by a budget amendment at a special meeting of the lot owners.

Implied Warranties on Common Areas and Common Elements

Under current law, in addition to the implied warranties on any parcel of improved real property, there is an implied warranty on the common elements of a condominium from the developer to the council of unit owners. The warranty applies to the roof, foundation, external and supporting walls, and other structural elements. The warranty provides that the developer is responsible for correcting any defect in materials or workmanship and that the common elements are within acceptable industry standards in effect when the building was constructed. Current law provides for a similar implied warranty on the common areas in a homeowners association.

For a condominium, *Senate Bill 597 (passed)* extends the length of time of the implied warranty to the later of three years from the first transfer of title to a unit owner or two years from the date the unit owners, other than the developer and its affiliates, first elect a controlling majority of the board of directors for the council of unit owners. For an HOA, the bill extends a declarant's implied warranty on improvements to common areas to the later of two years from the first transfer of title to a lot to a member of the public or two years from the date on which the lot owners, other than the declarant and its affiliates, first elect a controlling majority of the governing body of the HOA.

Senate Bill 597 also requires certain common elements in a residential condominium, such as roofs, exterior walls, and foundations, to be designated in the declaration as "common elements" rather than as parts of the "units" to ensure that the implied warranties apply to those common elements. The bill prohibits any amendment to the declaration's description and designation of the common elements until after the date the unit owners, other than the developer and its affiliates, first elect a controlling majority of the board of directors for the council of unit owners. This bill applies to a condominium or homeowners association for which a declaration, bylaws, and plat are recorded in the local land records on or after October 1, 2010.

Fidelity Insurance

Chapters 77 and 78 of 2009 require the governing body of any COC to purchase fidelity insurance to provide indemnification against losses resulting from criminal misconduct or fraudulent acts or omissions of the COC's officers, directors, management companies, or associated agents or employees. *Senate Bill 800 (passed)* exempts very small COCs from the requirement of purchasing fidelity insurance. If a COC has four or fewer members, units, or lot owners and less than \$2,500 of gross common charges, gross annual assessment, or gross annual fees for a three-month period, *Senate Bill 800* provides that the COC is not required to purchase or maintain fidelity insurance coverage.

House Bill 702 (passed) authorizes the governing body of a COC to satisfy the fidelity insurance requirement by purchasing a fidelity bond. Both fidelity insurance and fidelity bonds

protect a COC from the misconduct and fraudulent activities of an officer, director, or employee. In general, as compared to an insurance policy, a fidelity bond may provide advantages such as broader coverage, no required deductible, lower cost, and simpler administration.

Cancellation of Condominium Property Insurance

A condominium must maintain property and casualty insurance on its common elements and areas. The insurer may not cancel that insurance until 30 days after notice has been mailed to the council of unit owners and any unit owner or mortgagee issued a certificate of insurance. *House Bill 1514 (passed)* updates this cancellation requirement to conform to the statutory cancellation requirement for all other forms of commercial insurance. Generally, for reasons other than nonpayment of the premium, the bill requires the insurer to provide written notice 45 days before cancelling the policy. For nonpayment of a premium, written notice must be provided 10 days before the date of cancellation.

Condominiums and Homeowners Associations and Priority of Liens

A significant concern for condominiums and HOAs in these times of financial difficulty is the payment of the required monthly assessment by a unit owner or lot owner. *House Bill 842 (failed)* would have provided that in the event of foreclosure of an encumbrance recorded before a lien for unpaid assessments, the condominium or HOA lien would have priority in an amount of up to four months of unpaid assessments and up to \$500 of related interest and fees. In addition, *House Bill 842* would have required a governing body of a condominium to impose a security deposit on each unit owner in the amount of two months of common assessments and related charges.

Landlord-Tenant Law

Victims of Domestic Violence or Sexual Assault

Senate Bill 554/House Bill 1382 (both passed) provide certain protections for a residential tenant or a legal occupant who is a victim of domestic violence or sexual assault, including the ability to terminate a lease or change the locks of the residence. A legal occupant is defined as an individual who resides on the premises with the actual knowledge and permission of the landlord.

In order to terminate the lease, the tenant or legal occupant must provide the landlord with written notice of (1) an intent to vacate the premises; and (2) the individual's status as a victim of domestic violence or sexual assault. A copy of an enforceable final protective order or peace order issued for the benefit of the tenant or legal occupant is considered notice of victim status. Once the tenant or legal occupant provides written notice to terminate the lease, the tenant has 30 days to vacate. The tenant is responsible for the rent for the 30-day period.

If the protective order or peace order requires the offender to either refrain from entering or vacate the residence of the tenant or legal occupant, the tenant or legal occupant may request, in writing, that the landlord change the locks of the premises. The landlord has until the close of

the next business day after receiving the request to change the locks. If the landlord does not change the locks within that time period, the tenant may have a locksmith change the locks and shall give the landlord a duplicate key. The landlord who changes the locks may charge the tenant a reasonable fee and withhold the fee from the security deposit or charge the fee as additional rent if the tenant fails to pay.

Abatement of Nuisance on Property

Background

Under the State's drug-related nuisance abatement statute, a "nuisance" is a property that is used for certain illegal drug activities. A community association, State's Attorney, or city or county attorney or solicitor is authorized to bring an action to abate the nuisance when residential or commercial property is being used for such activities.

Generally, in a drug-related nuisance abatement case, the court may order a tenant with knowledge of the nuisance to vacate the property within 72 hours or an owner or operator with knowledge to submit a plan of correction for court approval to ensure that the property will not again be used for a nuisance. If an owner fails to comply with a drug-related nuisance abatement order, the court may issue a contempt order or order any other relief. In addition, the court may order the property to be sold, at the owner's expense, or demolished under certain circumstances.

Prostitution-related Nuisance

Because prostitution can have similar harmful effects on neighborhoods, *Senate Bill 399 (passed)* expands the scope of a nuisance abatement action to cover the use of real property for prostitution. If an owner, including an owner-occupant, fails to comply with an order to vacate or submit a plan of correction relating to the use of a property for prostitution, the court, after a hearing, may issue a contempt order. The court may not, in a prostitution-related abatement action, order the property sold or demolished, or award court costs and attorneys fees to a community association that is a prevailing party.

Real Property – Wrongful Detainer

In response to recent court cases, *Senate Bill 443/House Bill 605 (both passed)* clarify that a wrongful detainer action is for use by persons other than landlords claiming possession of real property and that certain provisions of law governing an action for wrongful detainer do not apply if (1) the person in actual possession has been granted possession under a court order; (2) a remedy is available under existing landlord-tenant laws; or (3) any other exclusive means to recover possession is provided by statute or rule. To further clarify its application, the bills transfer the wrongful detainer statute from Title 8 (Landlord-Tenant) of the Real Property Article to Title 14 (Miscellaneous Rules).

Mobile Home Parks

Plans for Dislocated Residents

Under Chapters 621 and 622 of 2008, a mobile home park owner in St. Mary's County who applies for a change in land use of the park is required to submit a relocation plan for the residents who will be dislocated as a result of the change. An owner who fails to submit a relocation plan or does not comply with its terms is in default of the plan and the application for change of land will not be approved until the owner submits and complies with the plan. The plan must include a list of all residents and their contact information, a relocation timeline, a list of mobile home parks with vacancies, and a budget reflecting an amount of money for each dislocated resident to cover costs of moving the mobile home.

Senate Bill 235/House Bill 103 (both passed) expand statewide the requirement for a resident relocation plan. If the park operator elects to close a park with more than 38 sites, the park owner must pay relocation assistance in an amount equal to 10 months' rent, excluding taxes and utilities, to each displaced household. The bills provide that a mobile home park owner who undertakes a reasonable good faith inquiry to obtain the information for inclusion in the relocation plan does not incur liability and may not be stopped from obtaining possession of the premises if the information in the plan is not accurate. Further, the bills provide a timetable for paying the relocation assistance and authorize local jurisdictions to provide additional relocation assistance.

Annual Payment of Rent

Under current law, the term of payment stipulated in a mobile home park rental agreement may be monthly, quarterly, semiannually, or annually. *House Bill 242 (passed)* prohibits a mobile home park rental agreement from requiring an annual payment of rent. However, a prospective mobile home park resident may request, and a park owner may agree to, an annual payment of rent for a site.

Affordable Housing Land Trusts

Senate Bill 780/House Bill 869 (both passed) establish the Affordable Housing Land Trust Act as a new means to create and maintain permanently affordable housing in the State. An affordable housing land trust is a nonprofit or governmental entity that provides affordable housing to low- and moderate-income families through an affordable housing land trust agreement. The bills (1) establish the powers and duties of an affordable housing land trust; (2) specify the contents of an affordable housing land trust agreement; (3) require an affordable housing land trust to register with the State Department of Assessments and Taxation; (4) exempt an affordable housing land trust from certain time limits relating to the possibility of reverter and right of entry, and from provisions governing the creation and redemption of reversionary interests; and (5) specify that an affordable housing land trust agreement is not a ground lease and is not subject to existing provisions of law applicable to ground leases.

Private Transfer Fees

Private transfer fees are similar to ground rents and are typically created as 99-year deed restrictions. The covenant is typically recorded against the title to the property and requires the buyer, and all future buyers, to pay the original seller a fee of up to 1% of the purchase price upon each transfer of the property. *Senate Bill 666/House Bill 1298 (both passed)* prohibit a person who conveys a fee simple interest in real property from recording a covenant against the title to the real property for the payment of a transfer fee. The emergency bills establish that a covenant that requires the payment of a transfer fee on the conveyance of a fee simple interest in real property is void.

Installation and Use of Clotheslines on Residential Property

Senate Bill 224 (passed) prohibits any contract, deed, covenant, lease, or other similar residential governing document from banning the installation or use of clotheslines on the property of a homeowner or tenant. The bill applies to any single-family residential dwelling or townhome, including condominiums, homeowners associations, and housing cooperatives. The bill's provisions do not apply, however, to a property with more than four dwelling units or to a restriction concerning the installation or use of clotheslines on specified historic properties. The bill, however, permits reasonable restrictions relating to aesthetic considerations and the placement of clotheslines for safety purposes in the event of emergencies.

Local Laws – Prince George's County

Home Builders – Community Amenities

House Bill 642 (passed) requires, in Prince George's County, that a contract of sale for residential property that includes an agreement by the home builder to build a community amenity must include a disclosure statement identifying the amenity and specifying when the amenity will be completed. Any advertisement for the development must also include the same information. A "community amenity" includes a country club, golf course, health club, park, swimming pool, tennis court, and walking trail. The required disclosure statement must be dated and signed by the purchaser and home builder and included with the sales contract.

If a purchaser does not receive the disclosure statement on or before executing the sales contract, the purchaser has an unconditional right, after providing written notice to the home builder, to rescind the sales contract at any time before or within five days of receipt of the disclosure statement. Additionally, a home builder who fails to make a community amenity available as specified in the sales contract may be liable for breach of contract.

Community Association Property Management Services

House Bill 566 (passed) requires the Prince George's County Office of Community Relations to establish a community association managers registry. Any entity that provides community association management services for a condominium homeowners association, or

cooperative housing corporation in the county must register and renew annually by January 31 of each year and pay a fee of \$100. Community association management services include (1) managing and maintaining community-owned properties such as pools, golf courses, or community centers; (2) collecting monthly assessments; (3) preparing budgets and financial statements; (4) negotiating contracts; and (5) executing the decisions of the governing body.

Estates and Trusts

Maryland General and Limited Power of Attorney Act

A power of attorney is an authorization for one person (the agent) to act on behalf of another (the principal). In 2006, the National Conference of Commissioners on Uniform State Laws promulgated a Uniform Power of Attorney Act. *Senate Bill 309/House Bill 659 (both passed)* incorporate existing provisions governing powers of attorney, with minor alterations, and provisions derived from the uniform act into a new Maryland General and Limited Power of Attorney Act.

The bills provide two statutory form powers of attorney and an optional form for use by an agent to certify facts concerning a power of attorney. One of the statutory forms (the “Maryland Statutory Form Personal Financial Power of Attorney”) provides an agent with broad authority as specified on the form, while the other statutory form (the “Maryland Statutory Form Limited Power of Attorney”) allows a principal to specifically indicate which of the various powers are given to an agent.

The bills specify that a principal may delegate to one or more agents the authority to do any act specified in the statutory forms, though the acts specified in the statutory forms may not be deemed to invalidate or limit the validity of other authorized acts that a principal may delegate to an agent.

Other provisions of the bills address:

- requirements for proper execution of a power of attorney, including acknowledgement before a notary public and attestation by two or more adult witnesses;
- when a power of attorney becomes effective, and, if effective on the occurrence of a future event or contingency or the principal’s incapacity, the determination of the occurrence of the event or contingency or the principal’s incapacity;
- validity and enforceability of a power of attorney;
- required acceptance of a statutory form power of attorney, and sanctions applicable to a refusal of an acknowledged statutory form power of attorney;
- when a power of attorney terminates and when an agent’s authority terminates;

- standards applicable to an agent's actions and other requirements of an agent; liability of an agent; and disclosure by an agent of receipts, disbursements, or transactions conducted on behalf of the principal on request by specified persons or entities, including the principal, or by order of a court;
- persons that may petition a court to construe a power of attorney or review an agent's conduct, and grant appropriate relief; and the principal's ability to have the petition dismissed, unless the court finds the principal lacks capacity to revoke the agent's authority or the power of attorney;
- entitlement of an agent to reimbursement of expenses reasonably incurred on behalf of the principal and, if the principal indicates in the power of attorney that the agent is entitled to compensation, authorization of the agent to receive compensation based on what is reasonable under the circumstances or on another basis as set forth in the power of attorney;

The bills do not supersede other laws applicable to financial institutions or other entities. To the extent those other laws are inconsistent with the bills, the other laws prevail.

Wills and Trusts

Maryland International Wills Act

The Uniform International Wills Act (UIWA) was drafted, and approved and recommended for enactment in all states by the National Conference of Commissioners on Uniform State Laws in 1977. *Senate Bill 340/House Bill 448 (Chs. 63 and 64)* establish the Maryland International Wills Act, a slightly modified version of the UIWA, and are intended to eliminate the need to execute multiple wills for different countries and reduce the costs and problems associated with having a Maryland will accepted by foreign courts.

Chapters 63 and 64 establish requirements and procedures for a will to be made in the form of an international will, including:

- a requirement that the will be made in writing and by hand or any other means, although it may be in any language;
- requirements for the execution of an international will, including that at least two witnesses and a person authorized to act in connection with international wills attest the will by signing their names in the presence of the person making the will;
- requirements for the placement of signatures on a will and numbering of multiple sheets in a will, although failure to comply with these provisions does not affect the validity of a will that complies with the requirements for execution;
- a requirement that a certificate be attached to the will (for which a statutory form is provided), signed by an authorized person, which, in the absence of evidence to the

contrary, is conclusive of the formal validity of the will as an international will, although the absence or irregularity of a certificate does not affect the formal validity of a will.

An “authorized person” or “person authorized to act in connection with international wills” is a person, including a member of the diplomatic and consular service of the United States designated by Foreign Service Regulations, who is admitted, and currently licensed, to practice law before the courts in this State, or by the laws of the United States is empowered to supervise the execution of international wills.

Construction of References in Will or Trust to Federal Estate Tax or Generation-skipping Transfer Tax

Under the Economic Growth and Tax Relief Reconciliation Act of 2001, the federal estate tax does not apply to the estates of deceased persons dying after December 31, 2009, and the generation-skipping transfer tax does not apply to generation-skipping transfers after December 31, 2009. The Act itself will terminate December 31, 2010, at which point the federal estate and generation-skipping transfer tax laws as they existed prior to the enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001 will apply. Because of the one-year suspension of the federal estate tax and generation-skipping transfer tax, references to those taxes in wills and trust documents of persons dying in 2010 could result in unintended distributions from an estate or trust.

Senate Bill 337 (Ch. 62)/House Bill 449 (passed), both emergency bills, require that specified words, phrases, and provisions (generally relating to or based upon the federal estate tax or generation-skipping transfer tax laws) that are included in specified wills or trusts (those of deceased persons who die after December 31, 2009, and before January 1, 2011) be deemed to refer to the federal estate tax or generation-skipping transfer tax laws as applied to estates of persons dying or generation-skipping transfers made on December 31, 2009. The Act establishes exceptions and a provision limiting its applicability if a federal estate tax or generation-skipping transfer tax becomes applicable before January 1, 2011. The Act also allows the personal representative or any interested person under a will or other instrument to bring a proceeding to determine whether references to the federal estate tax and generation-skipping transfer tax laws should be construed with respect to the law as it existed after December 31, 2009.

Property Held as Tenants by the Entireties – Transfer to Trust

Property jointly held by a husband and wife as tenants by the entirety is protected from the claims of their separate creditors. However, the legal protection of owning property as tenants by the entirety is lost when they transfer the property to a trustee of a trust.

Senate Bill 25 (passed) establishes that property held by a husband and wife as tenants by the entirety that is conveyed to a trustee has the same immunity from the claims of their separate creditors as it would if they had continued to hold the property or its proceeds as tenants by the entirety as long as the husband and wife remain married, the property or its proceeds continues to be held in trust, and both the husband and wife are beneficiaries of the trust. After a conveyance to a trustee, the property transferred shall no longer be held by the husband and wife as tenants

by the entirety. After the death of the first of the husband and wife to die, all property held in trust that was immune from the claims of their separate creditors immediately prior to the individual's death continues to have the same immunity from the claims of the decedent's separate creditors as would have existed if the husband and wife had continued to hold the property conveyed in trust, or its proceeds, as tenants by the entirety. To the extent that the surviving spouse remains a beneficiary of the trust, the property shall be subject to the claims of the separate creditors of the surviving spouse.

The immunity from the claims of separate creditors may be waived as to any specific creditor or any specifically described trust property by (1) the express provisions of a trust instrument; or (2) the written consent of both the husband and the wife.

With specified exceptions, immunity from the claims of separate creditors is waived if a trustee executes and delivers a financial statement for the trust that fails to disclose the requested identity of property held in trust that is immune from the claims of separate creditors. This waiver is effective only as to the person to whom the financial statement is delivered by the trustee, as to the particular trust property held in trust for which the immunity from the claims of separate creditors is insufficiently disclosed on the financial statement, and as to the transaction for which the disclosure was sought.

In any dispute relating to the immunity of trust property from the claims of a separate creditor of a husband or wife, the trustee has the burden of proving the immunity of the trust property from the creditor's claims.

The bill also exempts the following items from execution on a judgment and from the claims of creditors in bankruptcy: (1) the debtor's beneficial interest in any trust property that is immune from the claims of the debtor's creditors under the bill; and (2) with respect to claims by a separate creditor of a husband or wife, trust property that is immune from the claims of the separate creditors of the husband or wife under the bill.

Effect of Deed Granting Property from Trust or Estate

In Maryland, because a trust or probate estate is a fiduciary relationship between one or more fiduciaries and the person to whom a fiduciary duty is owed, it cannot be the transferor or transferee of property. Instead, the trustee(s) or personal representative(s) for the trust or estate, respectively, are the owners of the property subject to a trust or in an estate. Problems, then, may be created when a trust or estate is inadvertently designated in a deed as the grantor of property. *Senate Bill 341/House Bill 337 (both passed)* establish that a grant of property by deed from an estate of a deceased person or from a trust has the same effect as if the person granted the property had received the property from the personal representative(s) for the estate or trustee(s) acting for the trust, respectively, on the effective date of the deed. The bills apply to any grant of property by a trust or estate contained in a deed existing on or after October 1, 2010.

Estates

Extension of Time for Taking Elective Share

Instead of property left to a surviving spouse by will, the surviving spouse may elect to take a specified share (one-third if there is a surviving lineal descendant of the deceased spouse or one-half if there is no surviving lineal descendant) of the net estate of the deceased spouse. Under current law, the surviving spouse must make the election within the later of nine months after the date of the decedent's death or six months after the first appointment of a personal representative under a will. The orphans' court may extend the time for election, *before its expiration*, for a period not to exceed three months at a time, upon notice given to the personal representative and for good cause shown. The Maryland Rules similarly indicate that, within the period for making an election, the surviving spouse may file with the court a petition for an extension of time and the court may grant extensions not to exceed three months at a time, provided each extension is granted before the expiration of the period originally prescribed or extended by a previous order. *Senate Bill 338 (passed)/House Bill 329 (Ch. 146)* repeal statutory language specifying that an extension of the time for a surviving spouse to elect to take an elective share of the deceased spouse's estate must be authorized by the court prior to the expiration of the time period for making the election. The Act instead specifies only that the surviving spouse must file a petition (with a copy given to the personal representative) with the orphans' court for an extension of time within the period for making an election.

Unlawfully Obtaining Property of Vulnerable Adult or Elderly Individual

House Bill 327 (passed) establishes that a person who is convicted of unlawfully obtaining property from a vulnerable adult or individual who is at least age 68 is disqualified, to the extent of the person's failure to restore the property or its value, from inheriting, taking, enjoying, receiving, or otherwise benefiting from the estate, insurance proceeds, or property of the victim of the offense, whether by operation of law or pursuant to a legal document executed or entered into by the victim before the person was convicted. The bill also (1) establishes that if a person is disqualified from benefiting from the estate or other property, the person is treated as if the person predeceased the victim; and (2) requires that if the person receives a distribution in violation of law, the person must make restitution to the person who should have received the distribution. A fiduciary or other person who distributes property in good faith and without actual knowledge of a conviction is not personally liable for the distribution. The bill applies only prospectively.

Guardianships

Maryland Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act

The circuit courts in Maryland have exclusive jurisdiction over guardianship and protective proceedings for disabled persons. A guardian is appointed for a disabled person if the court determines (1) the person is unable to manage the person's property and affairs effectively,

for any number of specified reasons, and has or may be entitled to property or benefits that require proper management; or (2) based on clear and convincing evidence, the person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his or her person because of any mental disability, disease, habitual drunkenness, or drug addiction, and no less restrictive form of intervention is available that is consistent with the person's welfare or safety.

Senate Bill 231/House Bill 1275 (both passed) establish the Maryland Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act. The bills are a modified version of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act drafted, approved, and recommended in 2007 for enactment in all states by the National Conference of Commissioners on Uniform State Laws.

The bills address jurisdiction of Maryland courts over adult guardianship and protective proceedings, in relation to courts in other states, and related issues. The bills contain various provisions concerning:

- circumstances under which a Maryland court has jurisdiction to appoint a guardian or issue a protective order appointing a conservator or guardian of property to administer/manage the property of an adult, in relation to courts in other states; the duration of jurisdiction once the court has appointed a guardian or issued a protective order; the ability of a Maryland court to decline jurisdiction if it determines a court of another state is a more appropriate forum; and factors to be considered in determining whether the court is an appropriate forum;
- options available to a court if it determines it acquired jurisdiction because of unjustifiable conduct, including the assessment of specified fees, costs, and expenses against the party that engaged in unjustifiable conduct;
- rules applicable when a petition for the appointment of a guardian or issuance of a protective order is filed both in Maryland and in another state;
- communication and cooperation between a Maryland court and a court in another state regarding a guardianship or protective proceeding;
- testimony of witnesses in another state;
- notice requirements applicable to the filing of petitions for appointment of a guardian or issuance of a protective order;
- transfer of a guardianship or conservatorship to another state; and
- registration of a guardianship or protective order issued in another state, in a court in Maryland.

The bills apply to guardianship and protective proceedings beginning on or after October 1, 2010.

Payment of Expenses After Death of Ward

Guardians of minors or disabled persons who die are treated differently than guardians of minors or disabled persons who reach majority or cease to be disabled, respectively, with regard to unpaid claims and expenses at the end of the guardianship. Because of the statutory order of payment of claims against an estate with insufficient assets to pay all claims in full, commissions or other expenses of a guardian of a minor or disabled person who dies may go unpaid if there are limited assets in the estate. *Senate Bill 339/House Bill 328 (both passed)* require the guardian of the property of a minor or disabled person, on the death of the minor or disabled person, to pay from the estate all commissions, fees, and expenses shown on the court-approved final guardianship account before delivering the balance of the estate to an appointed personal representative or other person entitled to it.

Qualifications of Baltimore City Orphans' Court Judges

Under the Maryland Constitution, each county and Baltimore City elects three judges to the orphans' court of their respective jurisdictions (with the exception of Montgomery and Harford counties where a circuit court judge sits as the orphans' court). The orphans' court judges must be citizens of the State and residents, for the preceding 12 months, in the city or county in which they are elected. Orphans' court judges are not required to be attorneys or members of the State bar.

House Bill 417 (passed) proposes a constitutional amendment, prescribing additional qualifications for judges of the orphans' court in Baltimore City. If ratified by the voters of the State at the November 2010 general election, an orphans' court judge in Baltimore City will be required to be a member in good standing of the Maryland Bar who is admitted to practice law in the State. The amendment continues the requirements that an orphans' court judge in Baltimore City be a citizen of the State and a resident of Baltimore City for the 12 months preceding the election.

Part G

Transportation and Motor Vehicles

Transportation

Transportation Planning

The *Consolidated Transportation Program* (CTP) is the Maryland Department of Transportation's (MDOT) six-year budget for the construction, development, and evaluation of transportation capital projects. It is revised annually to reflect updated information and changing priorities. The CTP contains a list of current and anticipated major and minor capital projects for the fiscal year in which it is issued and for the next five fiscal years, including an expanded description of major capital projects; a detailed breakdown of the costs of a project, project expenditures to date, expected expenditures for the current fiscal year, projected annual expenditures for the next five years, and total project costs; and MDOT's estimates of the source and amount of revenues required to fund projects in the CTP.

House Bill 1155 (passed) alters the process under which MDOT evaluates and selects capital projects to be included in the construction program of the CTP. A local government or other government agency that requests a major capital project for inclusion in the CTP is required to submit a document to MDOT discussing the need for the project and how the project addresses the State's transportation goals and supports local government land use plans. MDOT must evaluate requests for major capital projects based on the State's goals and, as appropriate, criteria as determined by the information submitted by the proposing entity and the availability of funding. As part of this evaluation, MDOT must acknowledge the difference between urban and rural transportation needs.

The CTP must include a purpose and need summary statement that includes (1) a general description and summary that describes why a project is necessary and satisfies State goals, including the current State transportation and climate action plan goals; (2) the location of the project, including a map of the project limits, project area, or transportation corridor; and (3) a summary of how the project meets the selection criteria for inclusion in the capital program.

The Smart Growth Subcabinet is required under the bill to conduct an annual review of transportation goals, benchmarks, and indicators. MDOT and a previously established advisory committee, consisting of various transportation experts, representatives of State and local government, and representatives of environmental, business, and community interests, are required to consider the impact of the State's transportation investment on the environment, environmental justice, communities, and economic development. The bill also requires consideration of the State's climate plan action goals when establishing the State's transportation goals, benchmarks, and indicators.

MDOT develops several different transportation planning documents. MDOT published a Statewide 20-Year Bicycle-Pedestrian Master Plan in 2002 and recently confirmed that the plan is still relevant. The *Maryland Transportation Plan* (MTP) is a 20-year forecast of State transportation needs based on MDOT's anticipated financial resources during that 20-year period, and it must be revised every five years through an inclusive public participation process. The latest MTP was released in January 2009, and the next update is expected in 2014.

House Bill 282 (Ch. 145) requires MDOT to review and update the Statewide 20-year Bicycle-Pedestrian Master Plan each year that the MTP is revised. Additionally, the bill requires MDOT, in developing the CTP, to (1) ensure that there is an appropriate balance between funding for new highway construction projects and projects that retrofit existing transportation projects with facilities for pedestrians and bicycle riders; and (2) place increased emphasis, in transit-oriented areas within priority funding areas (PFAs), on projects that retrofit existing transportation projects with additional facilities and accessibility for pedestrians and bicycle riders. By directing State spending to PFAs, the State seeks to make the most efficient and effective use of existing infrastructure; preserve existing neighborhoods; and preserve Maryland's fields, farms, and open spaces.

Transportation Funding

The General Assembly addressed a number of issues concerning the funding of Transportation needs in the State. **Senate Bill 229/House Bill 710 (both passed)** establish a Blue Ribbon Commission on Maryland Transportation Funding. The commission must review, evaluate, and make recommendations on (1) the current State funding sources and structure of the Transportation Trust Fund; (2) short- and long-term transit construction and maintenance funding needs; (3) short- and long-term highway construction and maintenance funding needs; (4) short- and long-term pedestrian and bicycle facility construction and maintenance funding needs; (5) options for public-private partnerships to meet transportation funding needs; (6) the structure of regional transportation authorities and their ability to meet transportation needs; (7) the impact of economic development and smart growth on transportation funding; and (8) options for sustainable, long-term revenue sources for transportation. The commission must submit an interim report by January 1, 2011, and a final report by November 1, 2011, providing findings and recommendations to the Governor and the General Assembly.

Senate Bill 828 (passed) exempts certain financing costs for transportation improvements from a county tax limitation that would apply to *ad valorem* or special taxing districts. For a

more detailed discussion of this issue, see the subpart “County and Municipal Governments” within Part D – Local Government of this *90 Day Report*.

Also, several changes were made to the distribution of Highway User Revenues in fiscal 2011 and future years. For a more detailed discussion of this issue, see the subpart “Operating Budget” within Part A – Budget and State Government of this *90 Day Report*.

Public-Private Partnerships

Across the nation, there is growing interest in utilizing private-sector financing as a means to maintain and expand capital infrastructure investment. In Maryland, public-private partnership (P3) agreements have been utilized primarily to finance transportation infrastructure. More recently, however, P3s have also facilitated the proposed multi-year phased redevelopment of the State center complex in Baltimore City and the financing of the Department of Health and Mental Hygiene’s new public health laboratory. *Senate Bill 979/House Bill 1370 (both passed)* define a P3 and establish a framework of P3 reporting requirements and oversight procedures for State entities. The bills require the State Treasurer or the Maryland Transportation Authority to analyze each proposed public-private partnership agreement, and the Board of Public Works is prohibited from approving a public-private partnership agreement until the budget committees of the General Assembly have had 30 days to review and comment on the analysis of the agreement. The bills also establish a Joint Legislative and Executive Commission on Oversight of Public-Private Partnerships. Among other duties, the commission is required to study and make recommendations concerning the appropriate manner of conducting legislative oversight of public-private partnerships and recommend broad policy parameters within which public-private partnerships should be negotiated. The commission must submit a final report by December 1, 2011, to the Governor and the General Assembly. The commission terminates at the end of June 30, 2012.

Transportation Personnel Policy

The Maryland Transportation Authority (MDTA) manages, operates, and maintains the State’s seven toll facilities (four bridges, two tunnels, and one highway) and operates the seventh largest police force in the State. While Maryland’s collective bargaining law applies to employees of the Executive Branch’s principal departments, since MDTA is not considered a unit of MDOT, it is not subject to State collective bargaining law. *House Bill 815 (passed)* expands the application of collective bargaining provisions to all MDTA police officers at or below the rank of first sergeant and requires these officers to have a separate bargaining unit.

While most Executive Branch employees are members of the State Personnel Management System, MDOT employees are members of the independent Transportation Service Human Resources System. *Senate Bill 368 (passed)* repeals the authority of the Secretary of Transportation to abolish any position other than positions specifically provided for in the Transportation Article of the Annotated Code; however, the Secretary maintains the authority to create any position in accordance with State law and determine the qualifications, appointment, removal, tenure, terms of employment, and compensation of employees.

State Highways

Sidewalk or Bicycle Pathway Construction

To ensure that the State's investments in transportation retain their value and remain safe, MDOT allocates funds for activities aimed at preserving the existing transportation system before pursuing capacity expansion projects. In addition, PFAs were established by the Smart Growth and Neighborhood Conservation Act of 1997 to focus State spending in order to strengthen the State's efforts to control sprawl, enhance land use, and control pollution. *House Bill 786 (passed)* requires the State Highway Administration (SHA) to categorize a sidewalk or bicycle pathway construction project as "system preservation" and give the project funding priority if (1) it is located in a PFA; (2) the adjacent roadway is not being concurrently constructed or reconstructed; and (3) SHA determines a substantial public safety risk or significant impediment to pedestrian access exists. The State is authorized to assume all costs for constructing or reconstructing these sidewalks or bicycle pathways.

Mobile Produce Vendors along State Highways

While mobile seafood vendors may be authorized to operate in a State highway right-of-way with a lease from the State, mobile produce vendors have not been afforded this opportunity. *Senate Bill 477/House Bill 611 (both passed)* extend existing State leasing requirements for mobile seafood vendors operating on a State highway right-of-way to mobile produce vendors. The State is authorized to require a mobile seafood or produce vendor to submit an application and pay a reasonable fee to be applied to administrative costs. The State may not enter into a lease with a mobile produce vendor unless the applicable county licenses mobile produce vendors.

Road Salt Management

Ensuring mobility and safety on roads during inclement weather is a priority for SHA as well as local governments, businesses, and homeowners. When ice does form on roads, salt (sodium chloride) is the most commonly used deicer. However, salt can saturate and destroy a soil's natural structure and result in more erosion and sediment transport to the Chesapeake Bay; damage and kill vegetation; and damage exposed rebar, bridges, and automobiles. While SHA primarily uses salt, other more environmentally benign materials such as sugar beet molasses and potassium acetate are also used to keep roads clear during the winter. *Senate Bill 775/House Bill 903 (both passed)* state the findings of the General Assembly regarding the adverse environmental impacts of road salt, and state the intent of the General Assembly to "reduce to the greatest extent possible" those adverse impacts. Toward that end, the bills require SHA, in consultation with the Maryland Department of the Environment, to develop a road salt management best practices guidance document by October 1, 2011, for use by local jurisdictions and the State to minimize the adverse environmental impacts of road salt runoff. The SHA is required under the bills to update the best practices document each year and publish the document on the SHA website.

High Occupancy Vehicle Lanes

Senate Bill 602 /House Bill 674 (both passed) authorize a plug-in vehicle affixed with a State permit designating it as such to use high occupancy vehicle (HOV) lanes. A plug-in vehicle is defined in the bills as a motor vehicle that, among the requirements, “is propelled to a significant extent by an electric motor that draws electricity” from a rechargeable battery. A plug-in vehicle that obtains a specified permit may use each HOV lane designated by SHA, regardless of the number of passengers in the vehicle. SHA is authorized to limit the number of permits issued. The bills will remain in effect for three years and, unless extended by future legislation, will terminate at the end of September 2013.

Motor Vehicles

Distracted Driving

Handheld Cell Phones

Senate Bill 321 (passed) would allow Maryland to join six states (California, Connecticut, New Jersey, New York, Oregon, and Washington) and the District of Columbia in prohibiting the use of handheld phones by drivers while operating a motor vehicle. The bill prohibits the use of a handheld telephone by the driver of a school vehicle that is carrying passengers and is in motion and by the holder of a learner’s instructional permit or provisional driver’s license who is age 18 or older. Any other driver over the age of 18, while driving, a motor vehicle that is in motion, is prohibited from using a handheld telephone other than to initiate or terminate a wireless telephone call or to turn the handheld telephone on or off. (Note that drivers under the age of 18 were already subject to a prohibition on the use of telephone and text messaging devices while driving.) These prohibitions do not apply to the emergency use of a handheld telephone, including calls to a 9-1-1 system, a hospital, an ambulance service provider, a fire department, a law enforcement agency, or a first aid squad, or to law enforcement or emergency personnel when acting within the scope of official duty. In addition, *House Bill 934 (passed)* establishes an exemption from the prohibition established in *Senate Bill 321* for the use of a handheld telephone utilizing push-to-talk technology by an individual operating a commercial motor vehicle.

The offense is enforceable as a secondary action only. Accordingly, a police officer must detain a driver for another violation of the Maryland Vehicle Law before issuing a citation for using a handheld cell phone. For a first offense, the violator is subject to a maximum fine of up to \$40 and points may not be assessed against the driver’s license unless the offense contributes to an accident. The court is authorized to waive the fine for a first-time conviction if the person proves that the person has acquired a hands-free accessory, attachment, add-on, or built-in feature for the handheld telephone that will allow the person to operate a motor vehicle in compliance with the provisions of the bill. For a second or subsequent offense, the fine is \$100.

Video Display Devices

DVD players and other types of electronic video display devices are becoming increasingly popular in vehicles. Most DVD players are intended to be viewed by passengers; however, in-dash models are becoming more common. Many of these video players have built-in safety functions that prevent them from being used while the vehicle is in motion; however, these functions can be easily bypassed.

Many states (at least 38) prohibit the operation of televisions within the view of drivers. According to the National Conference of State Legislatures, at least 14 of those states have enacted prohibitions to include other types of video displays, with some of these states also providing specific exemptions for visual displays that assist with navigation, parking, or safe driving. Since 2009, however, there has been a concerted push by auto makers to include full Internet connectivity, with access to video feeds, in vehicles for all occupants – including the driver. This push has occurred in spite of concerns about the impact of such systems on the problem of driver distraction. The trend toward use of video displays has been driven, in part, by a desire for additional vehicle safety features including real-time displays of the vehicle perimeter, better location tracking by GPS, and more targeted roadside assistance.

During the 2010 session, the General Assembly considered various issues related to the use of video display devices in vehicles. *Senate Bill 322 (passed)* establishes equipment standards that prohibit television-type receiving equipment and video display equipment that is turned on and displaying an image visible to the driver in a motor vehicle driven on a highway. The bill prohibits a person from driving in violation of the equipment standards but adds certain exceptions including electronic display equipment displaying information or images related to the operation or safety of the motor vehicle. The bill does not apply to video display equipment on a vehicle used by a public service company.

Traffic Citations

Failure to Appear

The Department of State Police (DSP) has provided anecdotal evidence that, in over 50% of the traffic cases scheduled for trial, the trooper who issued the citation was not needed because the violator did not appear for the trial. For example, in Somerset County, on February 3, 2009, 115 cases were scheduled where DSP troopers were required to appear. Fifty-five cases were heard but 63, or 55%, of the cases were not heard due to the failure of the violator to appear. In Washington County, from January 7, 2009, to February 4, 2009, DSP troopers were required to appear at 381 cases scheduled for trial. In 225 cases, the violator did not appear for trial. For a typical day within that period, the violators failed to appear between 38.0% and 63.6% of the time. This anecdotal evidence appears to indicate what DSP and other local police departments have claimed to experience; specifically, that the violator fails to appear for traffic court about 50% of the time.

As a result, *Senate Bill 560/House Bill 829 (both passed)* alter how a person must comply on receipt of a traffic citation for an offense not punishable by incarceration. The bills

require that the citation contain a notice that a person must, within 30 days after receipt of the citation, either (1) pay the full amount of the preset fine; (2) request a hearing for sentencing and disposition in lieu of trial; or (3) request a trial date at the date, time, and place established by the District Court by writ or trial notice. The citation is also a notice that, on the failure of the person to take one of the above-mentioned actions within 30 days, the Motor Vehicle Administration (MVA) will be notified, which may result in the suspension of the person's driver's license. The bills also require notification to the person charged with a traffic offense that, if MVA decides to suspend the person's driver's license for failing to respond to the citation, driving on a suspended license is an incarcerable offense.

Surcharges

House Bill 1389 (passed) expands the list of motor vehicle violations for which a \$7.50 surcharge is added after a conviction. Since 2006, the surcharges have been credited 50% to the Volunteer Company Assistance Fund (VCAF) and 50% to the State Police Helicopter Replacement Fund (SPHRF). After \$20 million is credited to VCAF, 100% of the surcharges collected thereafter must be credited to SPHRF. *House Bill 1389* alters this distribution of collected surcharges. The bill provides that, as of October 1, 2010, collected surcharges would no longer be credited to SPHRF. Instead, the bill requires the Comptroller, each year, to credit the collected surcharges to the VCAF until a total of \$20 million is credited. After that threshold is met, the collected surcharges would be credited to the State general fund.

Rules of the Road

Limited Speed Vehicles

Senate Bill 344 (passed) prohibits the sale of a passenger or multipurpose vehicle that is designed with a maximum speed of between 25 and 55 miles per hour unless a standard emblem designating it as a "limited speed vehicle" is affixed to the vehicle by the dealer. The bill also prohibits a person from driving a designated passenger or multipurpose vehicle on a highway if the maximum speed capability of the vehicle does not exceed the speed limit by at least five miles per hour.

Drunk Driving

According to the National Conference of State Legislatures, about 1.4 million drivers are arrested nationwide for alcohol impairment annually. About 146,000 ignition interlock devices are in use, a proportion of 10%. Forty-seven states and the District of Columbia authorize or mandate the use of an ignition interlock system to deter alcohol-impaired driving. In states where the use of ignition interlock is mandatory, it is usually required either for repeat offenders, drivers with a high blood alcohol content (BAC), as a condition of probation, or in exchange for limited restoration of driving privileges.

Increasingly, however, states are requiring the use of ignition interlock devices for any standard drunk driving conviction (BAC of 0.08 or higher), even for first offenses. In 2005, New Mexico became the first state in the country to enact legislation requiring the use of ignition

interlock devices for all convicted drunk drivers, including first-time offenders. As of January 2010, 10 other states (Alaska, Arizona, Arkansas, Hawaii, Illinois, Louisiana, Nebraska, New York, Utah, and Washington) mandate the use of ignition interlock for any drunk driving conviction. *Senate Bill 564 (failed)* would have required, rather than authorized, MVA to establish an Ignition Interlock System Program, with a fee to cover program costs, and to establish minimum standards for all ignition interlock service providers. The bill would have required participation from persons who have been convicted of a first or subsequent violation of driving while under the influence of alcohol, under the influence of alcohol *per se*, or impaired by alcohol. A person required to participate in the program would have to successfully complete the program or be subject to suspension of the driver's license. A violator would have been required to participate in the program for six months for a first violation, one year for the second violation, and three years for the third or subsequent violation, unless the court ordered a longer period of program participation.

Bicycles and Other Vehicles

Senate Bill 624 (passed) repeals the general requirement that a bicycle operator use the shoulder if it is safe and paved to a smooth surface. *Senate Bill 624* also specifies that, in a place where a person may ride a bicycle on a sidewalk, a person may ride from the curb or edge of the roadway in or through a crosswalk to the opposite curb or edge. The bill alters the definition of "bicycle" by repealing provisions that specify that a bicycle must have a rear drive and a specified wheel configuration and establishes instead that a bicycle is a vehicle that (1) is designed to be operated by human power; (2) has two or three wheels, with one being more than 14 inches in diameter; and (3) has a drive mechanism other than by pedals directly attached to a drive wheel. The definition of "crosswalk" is expanded to mean the connection of lateral lines of a bicycle way where a bicycle way and roadway of any type meet as measured from the curbs or the edges of the roadway.

Senate Bill 51 (passed) requires a driver of a vehicle to safely overtake a bicycle, electric personal assistive mobility device (EPAMD), or a motor scooter at a distance of at least three feet, unless at the time, the bicycle, EPAMD, or motor scooter rider fails to ride to the right side of the roadway, comply with a requirement to ride in a bike lane or shoulder, or maintain a steady course. The passing rule under the bill also does not apply if the highway on which the vehicle is being driven is not wide enough to lawfully pass the bicycle, EPAMD, or motor scooter at a distance of at least three feet.

Titling and Registration

Off-highway Recreational Vehicles

An off-highway recreational vehicle (OHRV) is a vehicle commonly known as an all-terrain vehicle, dirt bike, or snowmobile. *Senate Bill 466 (passed)* incorporates an "off-highway recreational vehicle" within the definition of a "vehicle" and, as such, subjects OHRVs to the requirement to be titled. For an OHRV purchased on or after October 1, 2010, an

excise tax will be imposed, unless a sales and use tax is collected at the time of the OHRV's purchase.

Motor Vehicle Salvage

“Salvage” refers to a vehicle that has been (1) damaged to the extent that the cost to repair the vehicle for legal operation on a highway exceeds 75% of the fair market value of the vehicle prior to sustaining the damage; (2) acquired by an insurance company as a result of a claim settlement; or (3) acquired by an automotive dismantler and recycler as an abandoned vehicle or for rebuilding or use as parts.

An insurance company must obtain a salvage certificate for each vehicle acquired as a result of a claim settlement following an accident in the State. On a salvage application, an insurance company is required to check any of the following statements that apply to the salvage vehicle:

- the cost to repair the vehicle for highway operation is greater than 75% of the fair market value of the vehicle before sustaining the damage, and the vehicle is repairable;
- the cost to repair the vehicle for highway operation is greater than 75% of the fair market value of the vehicle before sustaining the damage, and the damage is cosmetic only;
- the vehicle is not rebuildable, will be used for parts only, and is not to be retitled;
- the vehicle has been stolen; or
- the vehicle has sustained flood damage.

House Bill 1199 (passed) alters the consideration of costs in making the determination as to whether a vehicle is deemed to be salvage and the statements to be reflected on a salvage or title certificate. If a vehicle is acquired by an insurance company as a result of a claim settlement and the cost to repair the vehicle is *75% or less* of the fair market value of the vehicle before sustaining damage, under the bill the vehicle is considered salvage. The bill also establishes a new title certificate brand that reads “X-Salvage” for a vehicle for which the cost to repair is 75% or less of the fair market value of the vehicle before incurring damage. However, in determining whether a vehicle is salvage or which statement to display on a salvage certificate, the bill prohibits consideration of any cost associated with the vehicle's towing or storage, any costs associated with repairing cosmetic damage, or the cost of renting another vehicle. In addition, the bill repeals the “cosmetic damage” title brand and the statement reflecting cosmetic damage on the salvage application form.

Vehicle Equipment

Temporary Tire Repair and Inflation System

All Class A passenger vehicles sold in Maryland must be equipped by the manufacturer with a spare tire, unless the vehicle is equipped with “run-flat” tires, or unless other technological improvements become available that are consistent with federal motor vehicle safety standards. According to DSP, several major automobile manufacturers have developed a tire repair and inflation system to be installed in newly sold vehicles, which is designed to render the spare tire obsolete. Because these systems do not qualify as run-flat systems and are not federally sanctioned, *House Bill 485 (passed)* establishes an exemption from the spare tire requirement for Class A passenger and Class M multipurpose vehicles equipped with the factory-installed temporary tire repair and inflation system.

Seat Belts on Former School Buses

Senate Bill 245/House Bill 550 (both passed) exempt vehicles formerly registered as Type I school buses that are used to transport children by nursery schools, camps, day nurseries, or day care centers for children with intellectual disabilities from the requirement to have each seat equipped with a seatbelt.

Miscellaneous Vehicle Laws

Motor Vehicle Towing

The Task Force to Study Motor Vehicle Towing Practices made several recommendations regarding statewide regulation of private, nonconsensual towing, the creation of penalties (civil and criminal), consumer protection measures, and providing towers with a regulated process for the disposal of unclaimed vehicles. *Senate Bill 788/House Bill 1120 (both failed)* would have generally implemented the recommendations of the task force. The bills would have made the current private parking lot towing protections for Baltimore City and Baltimore County applicable statewide; capped the maximum tow distance and towing, storage, and overall fees; required the towing service to provide specified notice of a tow to the police and to the owner and other interested parties; established a towing and storage lien as well as applicable procedures governing the use and enforcement of such liens; regulated the disposition of a vehicle subject to a lien and sold at auction; and established new penalties.

Exceptional Hauling Permits

The State Highway Administration may issue exceptional hauling permits to forest product-transport vehicles of a certain size and configuration for use only in Allegany and Garrett counties. The permits address concerns that trucks bearing forest products are allowed to carry loads of up to 88,000 pounds in West Virginia and Pennsylvania but had been subject to a lower weight limit in Maryland. The permits allow heavier loads to be hauled in the two Western Maryland counties subject to the required use of a sixth axle to help redistribute the

load. *Senate Bill 509/House Bill 667 (both passed)* extend the program to Dorchester, Somerset, Talbot, Wicomico, and Worcester counties on the Eastern Shore.

Parking for Individuals with Disabilities

Each parking lot that is constructed or altered after October 1, 1996, must conform to the requirements of the Maryland Accessibility Code and, by October 1, 2010, all parking lots in the State must conform to these requirements. The Accessibility Code references the Americans with Disabilities Act (ADA) guidelines and requires a certain number of compliant parking spaces for individuals with disabilities, including van accessible spaces, depending on a property's characteristics. *Senate Bill 940/House Bill 1416 (both passed)* allow for compliance with the Accessibility Code parking space requirements by restriping a parking lot to provide the required number of parking spaces. If the restriping reduces the total number of parking spaces below what is required by local zoning law, the bill requires the relevant jurisdiction to grant the property owner an exception to the zoning ordinance.

Fatal Traffic Accidents

Generally, states allow some type of victim impact statement in the judicial forum, usually at the sentencing of an individual convicted of a crime. Most states also allow victim impact statements at parole hearings, and some even allow victim impact statements at bail hearings. However, states traditionally have not extended participation by victims or victims' representatives to administrative hearings.

Senate Bill 189/House Bill 1156 (both passed) authorizes MVA to suspend, for a maximum of six months, the license of a driver convicted of a moving violation that contributed to a traffic fatality, and establishes the right of the victim's representative to be notified of the license suspension hearing held as a result of the moving violation. The bill gives the victim's representative the right to give an oral or written statement for consideration at the hearing. As is required for other specified instances when MVA initiates an action to suspend a driver's license, the licensee must receive adequate notice of the action and may request a hearing as specified under the Maryland Vehicle Law.

Saddle-mount and Full-mount Combination Vehicles

A "saddle-mount and full-mount combination" refers to a tractor-trailer or unloaded truck towing one or more other trucks in "piggyback" configuration, with the front wheels up on the preceding truck. In 2007, the Federal Highway Administration prohibited states from imposing an overall length limit of other than 97 feet for these vehicle combinations. Failure to comply with the new federal regulations would subject the State to withholding of 10% of federal highway funds. Thus, *Senate Bill 66 (passed)* increases the maximum allowable length of saddle-mount and full-mount combinations on publicly maintained highways from 75 to 97 feet.

Sale of Motor Fuel for Dirt Bikes

The Baltimore City Code prohibits a service station and any other person from selling, transferring, or dispensing motor fuel for delivery into a dirt bike or an unregistered motorcycle or similar vehicle. This prohibition may be enforced by issuance of a civil citation but does not preclude additional civil or criminal remedies. *Senate Bill 1006/House Bill 1025 (Chs. 114 and 115)* prohibit a person from dispensing motor fuel into a “dirt bike” from a retail pump at a service station in Baltimore City and requires these service stations to post a conspicuous sign stating the bill’s prohibition and the similar prohibition for service stations in the Baltimore City Code. The Acts make a violation a misdemeanor and impose maximum penalties of a fine of up to \$1,000 or imprisonment for up to 90 days or both.

A court that convicts a person must also notify MVA of the conviction. MVA may suspend the person’s driver’s license for up to 30 days for a first offense and is required to suspend the license for 30 days for a subsequent offense. If the defendant is a minor, the court may order that a fine be paid by the minor, a parent or guardian, or both, but may only order a parent or guardian to pay a fine if given the opportunity to be heard and to present evidence.

The bill’s prohibition on dispensing motor fuel for use in a dirt bike does not extend to an owner or employee of a service station. However, if a service station does not post a conspicuous sign in accordance with the bill, the dealer must receive a warning for the first offense and is subject to a civil penalty of \$100 for a subsequent offense.

Part H

Business and Economic Issues

Business Occupations

State Board of Public Accountancy – Disciplinary Authority

The State Board of Public Accountancy regulates and licenses certified public accountants (CPA) and issues permits to business entities that provide accountancy services. As of November 2009, there were about 19,900 licensed CPAs in the State and about 730 firms with CPA permits.

House Bill 407 (Ch. 152) specifies that the board may deny licensure or a permit to an applicant or discipline a licensee or firm permit holder if the applicant, licensee, or permit holder has been sanctioned by a regulatory entity established by law for an act or omission that directly relates to the practice of public accountancy. The bill also establishes that a holder of a permit issued by the board may be fined up to \$5,000 for violations of the Maryland Public Accountancy Act.

State Real Estate Commission

The State Real Estate Commission protects the health, safety, and welfare of the public through its regulatory activities in regard to real estate transactions. The commission licenses all real estate brokers, associate brokers, and salespersons; processes complaints against licensees; and administers the Real Estate Guaranty Fund. Approximately 48,000 individuals are licensed by the commission.

Services Provided through Teams

The commission advises that there is confusion among consumers, and even some real estate professionals, regarding the practice of real estate services through teams. Maryland laws and regulations do not recognize or regulate teams, but industry trends throughout the State and

country increasingly include the performance of services through teams. *House Bill 406 (passed)* establishes requirements for the provision of real estate services through teams of licensed real estate agents. Two or more associate real estate brokers or licensed real estate salespersons operate as a team when they (1) work together on a regular basis to provide real estate brokerage services; (2) represent themselves to the public as being party of one entity; and (3) designate themselves by a collective name such as a team or a group. The team leader is responsible for the supervision of other team members; the team must adhere to all office rules, practices, and procedures established by the real estate broker and/or the branch office manager. The bill also establishes guidelines for team advertisements.

Continuing Education for Commission Licensees

House Bill 83 (passed) changes the commission's continuing education requirements by requiring licensees to complete a three-clock-hour course on the principles of agency and agency disclosure once every four years. Real estate team leaders, brokers, and branch office managers must complete a three-clock-hour course on the requirements of broker supervision once every four years. The bill also establishes that continuing education course providers must pay the commission a \$25 course application fee before their courses may be offered to licensees to fulfill renewal requirements.

State Commission of Real Estate Appraisers and Home Inspectors – Administrative Sanctions and Civil Penalties

The State Commission of Real Estate Appraisers and Home Inspectors regulates real estate appraisers pursuant to the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989. As of June 1, 2009, there were about 3,100 licensed or certified appraisers and 1,200 appraiser trainees in the State, as well as about 900 licensed home inspectors.

House Bill 408 (Ch. 153) authorizes the commission to impose a civil penalty of up to \$5,000 against a licensed home inspector in lieu of or in addition to administrative sanctions. The bill also specifies that the commission must consider certain factors when determining whether to grant or renew a license or take disciplinary action against a licensed home inspector due to the criminal history of the applicant or licensee. DLLR advises that most of the statutes governing occupational and professional licensing boards require the board or commission to consider these factors before granting or denying licensure or imposing administrative sanctions. Such provisions exist in the corresponding section of statute applicable to real estate appraisers.

State Board of Individual Tax Preparers – Examination Requirements

The State Board of Individual Tax Preparers was established by Chapter 623 of 2008 (Maryland Individual Tax Preparers Act). According to DLLR, Chapter 623 has not been implemented because the necessary staff and corresponding funds have not yet been authorized to create the board. However, the fiscal 2011 budget includes a \$201,611 special fund appropriation to implement the Act. Individuals are required to register with the board before

providing individual tax preparation services in the State. Registration is valid for two years; a continuing education requirement must be fulfilled for renewal. To qualify, an individual must be a high school graduate and pay a registration fee. *Senate Bill 555/House Bill 873 (Chs. 85 and 86)* repeal the requirement that the examination administered by the board may not be less stringent than the Individuals section of the Special Enrollment Examination for enrolled agents.

State Board for Professional Engineers – Continuing Professional Competency Requirements

The State Board for Professional Engineers regulates the practice of professional engineering in the State and has authority over a variety of disciplines collectively known as engineering. The board regulates over 17,000 professional engineers. *House Bill 80 (Ch. 124)* requires board licensees to demonstrate continuing professional competency as a condition of license renewal. The continuing professional competency requirements do not apply to the first renewal of a license and are phased in beginning on October 1, 2012. Professional engineers with significant experience in the field may be issued a retired status license if they choose not to fulfill the continuing professional competency requirements and may later reactivate their original licenses upon completion of the new requirements. Similar to emeritus status, holders of retired licenses may use the designation “professional engineer, retired” but may not engage in the practice of professional engineering.

State Board of Pilots – Limited Licenses

Maryland law provides for three categories of limited licenses, conditioned by the maximum draft of the vessel that the holder may pilot, and for an unlimited license. Limited license holders must have trained as apprentice pilots for two years and are granted a limited license based on their ability, skill, and experience determined by the State Board of Pilots through observation of their performance. *House Bill 82 (Ch. 125)* changes the categories of limited licenses issued by the board. Limited licenses based on vessel drafts of 32 feet, 36 feet, and 40 feet replace the current categories of 28 feet, 34 feet, and 37 feet, respectively.

Plumbing

Greywater Recycling

The National Standard Plumbing Code (NSPC) defines greywater as water that has been used for washing dishes, laundering clothes, or bathing. Under that definition, essentially any water, other than toilet wastes, draining from a household is greywater. Although greywater may contain grease, food particles, hair, and any number of other impurities, it may still be suitable for reuse as nonpotable water. Reusing greywater serves two purposes: it reduces the amount of freshwater needed to supply a household, and it reduces the amount of wastewater entering sewer or septic systems. NSPC specifies how systems must be designed, installed, and maintained to prevent contamination of the potable water supply.

House Bill 224 (Ch. 137) specifies that a county may not adopt or enforce a provision of a local plumbing code that prohibits a greywater recycling system, as authorized under the State plumbing code. The bill defines “greywater” as used, untreated water generated by washing machines, showers, and bathtubs. The bill specifies that greywater does not include water from toilets, kitchen sinks, or dishwashers.

Lead-free Materials

House Bill 372 (passed) requires that pipes and materials used in the installation or repair of plumbing intended to dispense water for human consumption be lead-free. The bill defines “lead-free” as containing not more than a weighted average lead content of 0.25% for the wetted surfaces of a pipe, pipe-fitting, plumbing fitting, or fixture; 0.2% lead for solder and flux; 8.0% lead by dry weight for pipes and pipe-fittings; and containing a percentage of lead for plumbing fittings and fixtures that is in compliance with standards established in the federal Safe Drinking Water Act. The bill prohibits the sale of pipes and other plumbing supplies if they are not lead-free and are intended for use with water for human consumption. Sale of solder or flux that is not lead-free is permitted if it carries a label indicating that it is not to be used to install or repair plumbing to be used to dispense water intended for human consumption.

State Board of Plumbing

Senate Bill 149 (passed)/House Bill 136 (Ch. 134) implement the recommendations of the 2009 preliminary sunset evaluation conducted by DLS and extend the termination date for the State Board of Plumbing by 10 years to July 1, 2023. These recommendations were adopted at the December 15, 2009 LPC meeting. The bills require an evaluation of the board by July 1, 2022.

The bills also include a related reporting requirement that addresses, among other things, the board’s disposition of consumer complaints going back at least to 2006, including its effectiveness in resolving complaints in a timely manner; the imposition of fines on licensees or individuals who engage in malpractice, in particular the frequency and average amount of such fines and whether or not industry regulation and consumer protection would benefit from increasing fine amounts; and the size of the board’s fiscal 2010 surplus or funding gap following the restructuring of the division, and any changes to the board’s staffing or fees necessary to address its fiscal status.

Other Regulated Occupations

Display of Licenses and License Numbers

DLLR oversees licensing boards for electricians, plumbers and gas fitters, and HVACR contractors in the State. Each board establishes standards for the industry, but the degree of local licensing varies in each area. Most counties require local licensure of electricians, whereas a State license for plumbers, gas fitters, or HVACR contractors authorizes work throughout the State, with some exceptions. State license numbers must be displayed on work vehicles of plumbers, gas fitters, and HVACR contractors.

House Bill 956 (passed) specifies that a county or municipal corporation may not require a person licensed as a plumber or gas fitter to display a county or municipal corporation certificate number on each vehicle used to provide plumbing or gas fitting services. This provision does not apply to Baltimore County or areas of the State under the jurisdiction of the Washington Suburban Sanitation Commission. Likewise, a county, other than Anne Arundel County, or a municipal corporation may not require a person licensed to provide HVACR services to display a county or municipal corporation certificate number on a work vehicle. The bill requires licensed master electricians to display either a State or a county license number on vehicles used to provide electrical services; however, counties or municipal corporations may not require electricians who already display a license number to display additional license numbers on company vehicles.

State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors

The State board of Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors, within DLLR's Division of Occupational and Professional Licensing, comprises three licensed master HVACR contractors, a master electrician, a master plumber, and two consumers. According to DLLR, the increasingly technical inquiries posed to the board, number of applications for licensure, and consumer complaints that the board must review at each meeting require the input of at least two additional HVACR contractors. Thus, **House Bill 84 (Ch. 126)** increases the membership of the board by adding two additional HVACR contractors to the board. The Act also repeals language that currently prohibits two members of the board from being residents of the same city, county, or other political subdivision.

State Board of Barbers and State Board of Cosmetologists

Senate Bill 327/House Bill 197 (both passed) extend the termination dates for the State Board of Barbers and State Board of Cosmetologists by 10 years to July 1, 2021, and require evaluation of the boards by July 1, 2020. The bills change various statutory provisions related to the regulation of barbers and cosmetologists in the State. In particular, the bills (1) make inspection procedures for beauty salons consistent with those of barbershops; (2) authorize the cosmetology board to increase license fees to up to \$50 for cosmetologists, senior cosmetologists, estheticians, and nail technicians; (3) change license renewal provisions for apprentice cosmetologists; and (4) require the boards to adopt regulations that detail curriculum standards for use by the State Board of Education or the Maryland Higher Education Commission in approving applications for instruction in the practice of barbering or cosmetology at public schools or private career schools. The bills also include a requirement that the boards submit reports to specified committees of the General Assembly on their implementation of specified recommendations made in the evaluation.

State Board for Professional Land Surveyors

Senate Bill 147 (Ch. 41)/House Bill 130 (passed) implement the recommendations of the 2009 preliminary sunset evaluation conducted by DLS and extend the termination date for the State Board for Professional Land Surveyors by 11 years to July 1, 2024. These

recommendations were adopted at the December 15, 2009 LPC meeting. The bills require an evaluation of the board by July 1, 2023. The bills also include a related reporting requirement regarding the implementation of a board member training program.

State Board of Examiners of Landscape Architects

Senate Bill 103 (passed)/House Bill 134 (Ch. 132) implement the recommendations of the 2009 preliminary sunset evaluation conducted by DLS and extend the termination date for the State Board of Examiners of Landscape Architects by 11 years to July 1, 2024. These recommendations were adopted at the December 15, 2009 LPC meeting. The bills require an evaluation of the board by July 1, 2023. The bills also include a related reporting requirement regarding instituting a continuing education program and allowing individuals who have a college degree in a field related to landscape architecture to sit for the licensing exam.

State Board of Pilots

Senate Bill 148 (passed)/House Bill 133 (Ch. 131) implement the recommendations of the 2009 preliminary sunset evaluation conducted by DLS and extend the termination date for the State Board of Pilots by nine years to July 1, 2022. These recommendations were adopted at the December 15, 2009 LPC meeting. The bills require an evaluation of the board by July 1, 2021.

The bills also include a related reporting requirement that details the steps that have been taken to, among other things, determine whether additional requirements, such as a federal pilot license, should be a requirement for State pilot licensing; increase the pilot-in-training application and licensing fees to reflect inflation and help offset board expenses; develop statutory, regulatory, or other provisions to ensure adequate review and evaluation of the Association of Maryland Pilots' annual audits; and (6) improve the tracking of, and ensure compliance with, pilot continuing education requirements.

Business Regulation

Motor Fuel Suppliers – Games of Chance

Prior to 1968, motor fuel suppliers, refiners, or retail service stations commonly promoted their businesses using games of chance. Chapter 465 of 1968, however, prohibited motor fuel suppliers from engaging in, sponsoring, promoting, advertising, or otherwise performing or participating in games of chance that are offered to the public at retail service stations. Even so, a supplier of motor fuel authorized to operate a retail service station could still participate in games of chance as long as the games were promoted or sponsored by entities other than a refiner or supplier of motor fuel. *House Bill 1032 (passed)* allows, through September 30, 2013, motor fuel suppliers that supply products to retail service stations to sponsor, advertise, or perform games of chance if the service station dealer agrees to participate in the promotional games.

The promotional games in use prior to 1968 typically involved small-scale prizes such as free merchandise or discounted products or services. The types of games envisioned today might also include sweepstakes similar to those conducted by soft drink companies and fast food restaurants. A general prohibition on conditioning participation in a game of chance on a purchase remains in the Commercial Law Article.

Tobacco Products – Licensure for “Other Tobacco Products”

“Other tobacco products” (OTPs) are cigars or any rolled tobacco (other than a cigarette), that is intended for consumption either by smoking, chewing, or as snuff. Every state other than Pennsylvania and the District of Columbia requires some type of licensure, registration, or permit for OTPs.

The Comptroller advises that a common scheme of OTP tax evasion is for a wholesaler to purchase untaxed OTPs from an outside source in another state for sale to in-state retailers at a discounted rate. These wholesalers underreport taxes owed to the State. Retailers also purchase untaxed OTPs directly from out-of-state wholesalers. *House Bill 88 (passed)* attempts to address this problem by requiring licensure of OTP retailers, wholesalers, storage warehouses, and tobacconists that operate in the State as well as any manufacturers that produce OTPs in Maryland.

The bill also specifies that OTP wholesalers are generally responsible for paying the OTP tobacco tax, institutes a bond requirement for wholesalers to secure their tax payments, prohibits certain types of OTP sales such as Internet sales, and requires the Comptroller to adopt regulations to carry out the bill’s provisions. The bill is contingent on successfully securing funding for implementation; the Comptroller and the Administrative Office of the Courts have to certify to specified legislative committees when they have entered into a memorandum of understanding providing for funding to implement the bill.

Franchisees

Federal Trade Commission regulations require that a franchisor furnish a prospective franchisee with a copy of the franchisor’s disclosure statement at least 14 calendar days before the prospective franchisee signs an agreement or makes a payment to the franchisor. *House Bill 1202 (Ch. 168)* alters the disclosure requirements under the Maryland Franchise Registration and Disclosure Law to make the disclosure requirements consistent with federal law. The Act modifies the timeframe by which a franchisor must give a prospective franchisee a copy of the offering prospectus and each proposed agreement relating to the franchise.

A franchisor may not sell a franchise without providing the specified documents by the earlier of (1) 14 calendar days before the franchisee executes any binding agreement with the franchisor; (2) 14 calendar days before the payment of any consideration relating to the franchise; or (3) a reasonable request by a prospective franchisee to receive a copy of the offering prospectus. A person who violates the timeframes in the bill is subject to existing civil and criminal penalty provisions.

Business Oversight

International Marriage Brokers

The total number of foreign fiancées entering the United States each year more than doubled between 1998 and 2002, and studies suggest that approximately 500 companies deliver “international marriage broker” services in the United States. After several publicized accounts of domestic abuse of women who met their husbands through international marriage brokers, lawmakers in Washington passed laws to regulate international marriage brokers operating in that state. Hawaii, Missouri, and Texas have enacted similar legislation. These statutes, as well as the federal International Marriage Broker Regulation Act of 2005, generally work to provide foreign nationals with information about their potential spouses and the resources available to them in the United States.

Senate Bill 129/House Bill 65 (both passed) require an international marriage broker to provide basic human rights information to an individual who is not a citizen or resident of the United States and who uses the services of or is recruited by an international marriage broker for dating, matrimonial, or social referral services. A client has to provide the broker with marital history information and notify the broker about any previously sponsored international spouse. The broker has to conduct a State and national criminal history records check of the client, including a search of the sex offender registry. The broker must then provide the criminal and marital history information of the client to the recruit before providing personal contact information about the recruit to the client. Additionally, before any personal contact information about the recruit is disclosed to the client, the marriage broker must obtain written consent from the recruit, in the recruit’s native language. The bill does not apply to traditional marriage brokers that operate on a nonprofit basis and comply with applicable laws or to entities that charge comparable rates and services regardless of gender or citizenship and do not principally provide international dating services.

Lodging Establishments – Human Trafficking

The U.S. State Department has estimated that approximately 600,000 to 800,000 people are trafficked annually across international borders worldwide. Approximately half of these victims are minors. But according to the Maryland Sentencing Guidelines Database, just four people were convicted of human trafficking from fiscal 2001 through 2009. In an attempt to respond that problem, *Senate Bill 542/House Bill 1322 (both passed)* authorize law enforcement to issue a civil citation to require the posting of signs in lodging establishments where arrests leading to convictions for prostitution, solicitation of a minor, or human trafficking have occurred. In determining whether to issue a citation, law enforcement has to consider any assistance it receives from a lodging establishment in an investigation leading to a conviction for a predicate violation.

The required sign must be developed by the Department of Labor, Licensing, and Regulation (DLLR) and posted on the department’s web site. The sign must include specified information about human trafficking and the contact number for a national resource center

hotline. Additionally, the sign has to be at least 3x5 inches in size and in multiple languages, at least English, Spanish, and any other language required for a jurisdiction under the federal Voting Rights Act. Violators are subject to a civil penalty of up to \$1,000. Each guest room that does not have a sign is not a separate violation.

Dealers and Processors

Junk Dealers and Scrap Metal Processors: High demand for metals such as copper and aluminum tend to encourage metal theft in the United States. As a result, in 2009, 25 states introduced legislation to address the increase of theft of junk or scrap metal. Recent attempts to more comprehensively regulate junk or scrap metal have succeeded in local jurisdictions like Baltimore City and Baltimore County but have not been successful at a statewide level. [*Senate Bill 99/House Bill 1174 \(both passed\)*](#) modify the definition of junk and scrap metal to include articles made wholly or substantially of enumerated metals and alloys. For example, the bills define certain used articles, such as catalytic converters, metal bleachers, hard-drawn copper, metal beer kegs, cemetery urns, grave markers, and propane tanks, as junk or scrap metal. Other used materials owned by public utilities are likewise defined as junk or scrap metal by the bills.

The bills also alter recordkeeping requirements for all junk dealers and scrap metal processors that operate in the State. For each purchase, a junk dealer or scrap metal processor has to keep specified transactional information. In turn, dealers and processors must then report certain information to law enforcement by the end of the business day after each transaction. The recordkeeping and reporting requirements do not apply to an item acquired from a licensed dealer or processor; a unit of government; or a commercial enterprise with a valid business license with which the dealer or processor has entered into a written contract. The bills also exempt automotive dismantlers, recyclers, and scrap processors licensed under the Transportation Article if they only acquire whole vehicles for certain purposes.

The bills preempt the right of a county or municipality to regulate the resale of junk or scrap metal; however, local licensing schemes are not preempted. State or local law enforcement agencies with reasonable cause to believe junk or scrap metal is stolen may issue a written hold notice for up to 15 days.

An initial violation of the bill is a misdemeanor subject to a fine of up to \$500. A fine of up to \$5,000, imprisonment for up to one year, or both, applies to subsequent offenses.

Secondhand Precious Metal Object Dealers: DLLR regulates dealers who acquire and trade secondhand precious metal objects, including gold, iridium, palladium, platinum, silver, precious and semiprecious stones, and pearls. Dealers of these objects, including individuals, retail jewelers, and pawnbrokers not otherwise regulated by a county, must be licensed before doing business in the State. Licensees are required to record specified information for each transaction, and records must be kept for at least three years after the date of the transaction. [*House Bill 318 \(passed\)*](#) modifies recordkeeping and reporting requirements for secondhand precious metal object dealers and repeals a provision that allows them to conduct business for up to seven days at an event that takes place at a location other than the dealer's fixed business address.

Returnable Containers – Plastic Secondary Packaging

Senate Bill 11/House Bill 1267 (Chs. 7 and 8) prohibit anyone other than a manufacturer of plastic secondary packaging from purchasing four or more units of these items for the purpose of recycling, shredding, or destroying them. The Acts also require purchasers of plastic secondary packaging to make a written record of each transaction involving four or more of these items. Persons who violate these provisions are guilty of a misdemeanor and subject to a fine of \$100.

Units of plastic secondary packaging are typically constructed of high-density polyethylene, which yields approximately 8¢ per pound from recyclers. According to the International Dairy Foods Association (IDFA), distributors pay about \$4 for each new milk crate they purchase. IDFA estimates that about 20 million milk crates are stolen annually in the United States; replacing the stolen milk crates costs dairy producers roughly \$80 million to \$100 million per year.

Maryland Locksmiths Act – Revisions – Definitions and Records Inspection

Senate Bill 512/House Bill 291 (Chs. 81 and 82) allow licensed locksmiths to maintain their fixed business address outside the State and require them to make required records available for inspection by DLLR after receiving reasonable notice. Chapters 551 and 552 of 2009 (Maryland Locksmiths Act) specify that the State may issue licenses only to applicants who have a fixed business address in Maryland. Licenses cannot be granted for an address that is a hotel or motel room, a motor vehicle, or a post office box. According to the Attorney General, the definition of fixed business address in Chapters 551 and 552, in that the location must be in Maryland, violates the Commerce Clause of the U.S. Constitution. Chapters 551 and 552 establish that persons or businesses that provide locksmith services in the State must be licensed by July 1, 2010. However, DLLR advises that a necessary appropriation for the locksmith licensing program has not yet been made; therefore, licensure of locksmiths will not begin by that date.

Collection Agency Licensing Fees

Collection Agencies that operate in Maryland must be licensed by the State Collection Agency Licensing Board within Office of the Commissioner of Financial Regulation. The current license fee for a two-year license, \$400, has not been increased since it was established in 1996, and does not recoup the costs the board incurs in regulating licensees. Nationwide, the average collection agency licensing fee exceeds \$450 per year. *House Bill 402 (Ch. 149)* repeals the existing \$400 statutory fees for new and renewal collection agency licensees and requires the board to establish fees by regulation. A new fee for the investigation of prospective collection agency licensees is also authorized. Fees for new licensees and renewal licensees may not exceed \$900 for every two-year licensing term. Any fees established by the board have to be reasonable, cover the actual direct and indirect costs of regulating collection agencies, and be published by the board.

Office of Cemetery Oversight – Preneed Trust Accounts

The Office of Cemetery Oversight, which is housed within DLLR, regulates cemeteries and associated burial goods sales under the Maryland Cemetery Act. The sale of preneed goods and services is a common practice in the death care industry. Preneed contracts allow individuals to pre-purchase these items and services before their death or the death of a loved one.

Under State law, once a buyer has paid half of the preneed contract price, the seller must put in trust the buyer's remaining payments (the second 50% of the total preneed contract price) as the seller receives the payments. Within 30 days of receiving the buyer's last payment, the seller must ensure that the trust is funded at 55% of the total contract price. Currently, if a seller fails to make the appropriate deposits, the director has no direct statutory authority to compel the seller to correct any underfunding, including interest, in the preneed trust account. Thus, *House Bill 403 (Ch. 150)* gives the Director of the Office of Cemetery Oversight the statutory authority to require sellers of preneed goods and services to correct any underfunding, including interest, due to a preneed trust fund.

Home Improvement Commission – Guaranty Fund Jurisdiction

The Maryland Home Improvement Commission (MHIC) administers the Home Improvement Guaranty Fund for the purpose of providing limited restitution, a maximum of \$20,000 per claim and \$100,000 total per contractor, to consumers who file valid claims against home improvement contractors licensed with the commission. Generally, the guaranty fund is maintained through fees charged to licensed home improvement contractors at the time of their original licensure and when they renew their licenses. Losses due to actions of unlicensed contractors are not eligible for restitution from the guaranty fund. *House Bill 409 (passed)* prohibits MHIC from making an award in excess of the amount of the claim. DLLR advises that, by limiting awards from the guaranty fund to the amount a homeowner paid a licensed contractor, the bill simplifies the process of determining the amount of actual loss suffered by a homeowner as MHIC does not have the resources necessary to hire experts to evaluate and estimate the cost of repairing or completing an unworkman-like or abandoned home improvement project.

State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors

The State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors (HVARC), within DLLR's Division of Occupational and Professional Licensing, comprises three licensed master HVACR contractors, a master electrician, a master plumber, and two consumers. According to DLLR, the increasingly technical inquiries posed to the board, the number of applications for licensure, and consumer complaints that the board must review at each meeting, require the input of at least two additional HVACR contractors. Thus, *House Bill 84 (Ch. 126)* increases the membership of the board by adding two additional HVACR contractors to the board. The Act also repeals language that currently prohibits two members of the board from being residents of the same city, county, or other political subdivision.

Motorcycle Dealers in Anne Arundel County

House Bill 393 (*passed*) allows motorcycle dealers in Anne Arundel County to conduct business on Sundays. Except in Howard, Montgomery, Prince George's, and Wicomico counties, a new or used automobile 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. In Anne Arundel County, a dealer may sell or show trailers or mobile homes but not other motor vehicles. Chapter 425 of 2009 authorized motorcycle dealers in Worcester County to conduct business on Sundays.

Public Service Companies

Electricity – Renewable Energy

Maryland's Renewable Energy Portfolio Standard (RPS) was established in 2004 in order to recognize the economic, environmental, fuel diversity, and security benefits of renewable energy resources; establish a market for electricity from those resources in Maryland; and lower consumers' cost for electricity generated from renewable sources. RPS is a policy that requires suppliers of electricity to meet a portion of their energy supply needs with eligible forms of renewable energy. An electricity supplier must meet RPS by accumulating "renewable energy credits" (RECs) created from various renewable energy sources classified as Tier 1 and Tier 2 renewable sources. An electricity supplier must pay an alternative compliance payment (ACP) for any shortfall in meeting RPS. For most renewable sources, the percentages of RPS gradually increase while ACP remains constant.

Owners of renewable generating facilities sell RECs associated with their facilities and the payment received for those RECs helps to offset a portion of the installation costs. RECs can be purchased and traded in an open exchange, allowing electricity suppliers to purchase RECs directly from generators or through a third-party reseller.

Chapter 120 of 2007 revised Maryland's RPS to include a solar carve-out within Tier 1, requiring that at least 0.005% of electricity in 2008 be from solar generation increasing to at least 2.0% in 2022. The Act also increased total Tier 1 requirements by the amount of the added solar component. Chapters 125 and 126 of 2008 amended Maryland's RPS by increasing the percentage requirements of the Tier 1 RPS to equal 20% in 2022 and beyond.

The solar band of RPS differs from nonsolar RPS by starting with a high initial ACP, 45 cents per solar REC (SREC) in 2008, gradually decreasing to 5 cents per SREC in 2023 and beyond. As the solar percentages of RPS increase, the solar ACP decreases – offsetting the financial impact of increased compliance requirements in later years. Solar ACP payments are deposited in the Maryland Strategic Energy Investment Fund which is administered by MEA and used to provide financial assistance for the deployment of solar generation in the State.

Senate Bill 277 (*passed*) increases the percentage requirements of RPS that must be obtained from Tier 1 solar energy sources each year between 2011 and 2016; increases ACP

through 2016; and establishes additional reporting requirements for the Public Service Commission (PSC). The amount of electricity in the State that must be supplied from Tier 1 solar sources is shown in **Exhibit 1**. **Exhibit 2** shows the increased solar requirements under the bill as megawatt-hours of electricity.

Exhibit 1
Renewable Energy Portfolio Standards and Alternative Compliance Payments
Under Current Law and Under Senate Bill 277

<u>Year</u>	<u>Tier 1 Solar Current Law</u>	<u>Tier 1 Solar Senate Bill 277</u>	<u>Solar ACP Current Law</u>	<u>Solar ACP Senate Bill 277</u>
2011	0.04%	0.05%	\$0.35	\$0.40
2012	0.06%	0.10%	0.35	0.40
2013	0.10%	0.20%	0.30	0.40
2014	0.15%	0.30%	0.30	0.40
2015	0.25%	0.40%	0.25	0.35
2016	0.35%	0.50%	0.25	0.35

Source: Department of Legislative Services

Exhibit 2
Solar RPS Needs and ACP
Under Current Law and Under [Senate Bill 277](#)

<u>Compliance Year</u>	<u>Maryland Electricity Sales Forecast in MWh</u>	<u>Solar RPS in MWh Current Law</u>	<u>Solar RPS in MWh Senate Bill 277</u>	<u>ACP \$ per MWh Current Law</u>	<u>ACP \$ per MWh Senate Bill 277</u>
2011	64,808,000	25,923	32,404	\$350	\$400
2012	65,760,000	39,456	65,760	350	400
2013	66,406,000	66,406	132,812	300	400
2014	66,981,000	100,472	200,943	300	400
2015	67,457,000	168,643	269,828	250	350
2016	68,352,000	239,232	341,760	250	350

Source: Public Services Commission, Department of Legislative Services

The cost of complying with increased solar RPS and ACP will be incurred by all electricity suppliers in the State and passed on, directly or indirectly, to all electric customers, including the State and local governments. As introduced by the Governor, the bill would have increased solar RPS and slowed the scheduled decrease in ACP through 2026 and cost electricity customers more than \$1.2 billion over that period. The General Assembly amended the bill to slightly reduce the increase in the solar RPS percentage requirement and return the solar RPS and ACP curves to current law beginning in 2017. **Exhibit 3** illustrates the cost of complying with the increased solar RPS under *Senate Bill 277* in its final posture. The exhibit assumes that 50% of the increased solar RPS is met through SRECs and 50% is met through ACP, with the value of an SREC equaling 75% of ACP.

Exhibit 3
Solar RPS Cost Increase
Under *Senate Bill 277*
(\$ in Millions)

<u>Compliance Year</u>	<u>Increase in ACP Payments</u>	<u>Increase in SREC Cost</u>	<u>Total Increase in Compliance Costs</u>
2011	\$1.9	\$1.5	\$3.4
2012	6.2	4.7	10.9
2013	16.6	12.5	29.1
2014	25.1	18.8	44.0
2015	26.1	19.6	45.7
2016	29.9	22.4	52.3
Total	\$106.0	\$79.5	\$185.4

Note: ACP from a given compliance year assumed to be paid in the following fiscal year.

Note: Totals may not add up due to rounding.

Source: Department of Legislative Services

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, wind, or micro-combined heat and power electric generating facility that is (1) located on the customer's premises or contiguous property; (2) interconnected and operated in parallel with an electric company's transmission and distribution facilities; and (3) 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 this session alter the way in which customers receive credits from excess generation and expand the net energy metering program.

Credits from Excess Generation

Under current law, an eligible customer-generator may carry forward credits from excess generation, in the form of a negative kilowatt-hour reading, for up to 12 months or until the customer-generator's consumption of electricity from the grid eliminates that credit. At the expiration of the 12-month accrual period, any credits from excess generation revert to the electric company and may not be recovered by the eligible customer-generator.

Senate Bill 355/House Bill 801 (both passed) alter the net energy metering program by changing the way an eligible customer-generator may accrue credits from excess generation from a kilowatt-hour (kWh) basis to a dollar basis. The bill repeals the requirement that an accrued generation credit expires at the end of a 12-month period and requires that the value of generation credits be based on the prevailing market price of electricity in the PJM Interconnection energy market. The bill also specifies the conditions under which an electric company must provide payment to an eligible customer-generator for excess generation credits. In adopting implementing regulations, PSC must consider a number of factors, including the technology available at each electric company and the appropriate value of generation credits.

The bill also requires PSC to convene a technical working group to address issues relating to the pricing mechanisms for different hours and seasons, meter aggregation, and the transfer of generation credits or aggregation of generation among separate accounts. PSC is required to report by January 11, 2011 to the Senate Finance Committee and the House Economic Matters Committee on the technical work group's recommendations.

Qualifying Generating Facilities for Purposes of Net Energy Metering

Senate Bill 529/House Bill 821 (both passed) adds a fuel cell power system to the types of generation eligible for net metering. A fuel cell is defined as an integrated power plant system containing a stack, tubular array, or other functionally similar configuration used to electrochemically convert fuel to electric energy. This may include an inverter and fuel processing system and other plant equipment to support the plant's operation or its energy conversion, including heat recovery. Although a fuel cell power system does not typically use a renewable energy source, distributed generation such as a fuel cell power system provides a meaningful benefit by alleviating congestion in electric transmission lines and lessening overall demand for electricity during periods of peak demand.

Energy Conservation

The U.S. Department of Energy indicates that solar hot water is one of the most cost-effective ways to incorporate renewable technologies into a building and that a typical residential solar hot water system reduces the need for conventional water heating by about two-thirds.

Senate Bill 1067 (passed) establishes a Task Force on Solar Hot Water Systems in Prince George's County. The task force must develop a business plan to achieve substantial use of solar hot water systems over a relatively short period of time in a way that saves money for Prince George's County residents and businesses and that reduces carbon emissions. In addition to developing the business plan, the task force must study and report to specified legislative committees and units of county government on several matters relating to the practical deployment of solar hot water systems, incentives, and market structures.

Electricity Rates, Regulation, and Customer Choice

Effective July 2000, the Maryland Electric Customer Choice and Competition Act of 1999, Chapters 3 and 4 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. Electric generation was separated from regulated transmission and delivery services, and was allowed to develop in a form of free market. Due to many factors, the robust competitive retail electricity market that some anticipated in 1999 has failed to develop in the State.

During the 2010 legislative session, proposed legislation placed more emphasis on advancing the competitive market for electricity in the State than on reregulating the market for electricity. *House Bill 1340 (failed)* would have required each distribution utility to provide competitive suppliers with specified customer account information for its residential and small commercial customers under specified conditions.

House Bill 1372 (failed) would have required PSC to provide specified user-friendly information on electric customer choice on its web site. The bill also would have required PSC to develop and air public service announcements publicizing customer choice and to convene a workgroup to advise it on implementation of the bill. The workgroup would have made recommendations on additional customer education mechanisms on customer choice and established an appropriate schedule for developing, funding, and deploying customer education materials on customer choice.

With the separation of generation from regulated utility services and the elimination of price regulation of generation, PSC no longer actively determines the need for additional supply sources as it did before restructuring. A number of bills during the 2010 legislative session sought to address long-term energy planning in the State. Notably, *House Bill 522 (failed)* sought to require PSC to provide estimates of the State's long-term energy needs and identify all reasonable options for meeting these needs. The bill would have required PSC to rank options with regard to long-term cost stability, reliability of supply, consistency with the State's

environmental laws and goals, and minimization of adverse environmental impacts in that order and make recommendations based on those rankings. Under the bill, PSC would also have been required to consider environmental goals before taking final action on an application for a certificate of public convenience and necessity.

Telephone Bills – Third-party Vendor Billing

Billing aggregators and clearinghouses provide billing and collection services to long distance carriers, independent telephone companies, information service providers, and many other service providers. These aggregators and clearinghouses accumulate service charges for a telephone customer from different service providers and transmit them to the local telephone company for inclusion in the customer's local telephone bill. While usually legitimate, third-party vendor billing has also been widely used for fraudulent charges for services that were never ordered, authorized, received, or used.

Over more than a decade, PSC proceedings and legislation have dealt with abusive practices involving telephone services such as “slamming,” unauthorized changes in a telephone service or billing provider without a customer's consent, and “cramming,” the practice of including charges for services that the customer has not authorized in the customer's local telephone service bill. Chapters 543 and 544 of 1999 addressed the “slamming,” but the “cramming” has not previously been addressed by legislation or a final order of PSC.

Senate Bill 643/House Bill 880 (Chs. 89 and 90) address the latter practice. Under “cramming,” charges that appear on a customer's bill may be listed as one-time charges or may occur as recurring monthly charges for services to which the customer may not have subscribed or may have inadvertently subscribed. Cramming may occur through sweepstakes entry forms, responses to telemarketing questionnaires, or a collect call acceptance, among many other methods.

The bills prohibit a third-party vendor or its billing agent from submitting charges to a telephone company or reseller unless the third-party vendor or billing agent first obtains an ordering customer's express authorization. This authorization must be separate from any solicitation material or entry forms for sweepstakes or contests and must include information about the ordering customer, the date of the authorization, an explanation of the services and charges, and an affirmation by the ordering customer that the ordering customer is at least 18 years old and authorized to order the services. A third-party vendor or billing agent must retain a copy of the authorization for two years.

A customer is not liable for third-party vendor billing charges unless the customer (1) has received notice that free blocking of third-party vendor billing may be available to the customer; and (2) is provided access to itemized third-party vendor charges and the name and telephone number of the third-party vendor or its billing agent. A customer who has made the dispute in a timely manner is not liable for the charge unless the third-party vendor or billing agent provides a copy of the required authorization.

For a further discussion of this and other issues focusing on consumer protection, see the subpart “Commercial Law – Consumer Protection” within Part I – Financial Institutions, Commercial Law, and Corporations in this *90 Day Report*.

Underground Facilities

There is a one-call system known as “Miss Utility” in the State that protects underground facilities from inadvertent damage caused by demolition and excavation. The program requires owners of underground facilities, such as water and sewer mains, telephone, cable, and electric lines, and steam heating pipes, to register as members of the one-call system. The system provides contractors with a single point of contact, so that one notification suffices to mark the location of all known underground facilities in the vicinity of proposed demolition or excavation. Generally, public utilities, local governments, and other owners of underground public facilities must belong to a one-call system. *Senate Bill 911 (passed)* alters provisions of State law regulating the protection of underground facilities.

Underground Facilities Safety and Marking Procedures: The bill requires owners of underground facilities, which includes units of the State under the bill, to become members of the one-call system. On notice of a planned excavation or demolition, the owners must provide for the marking of their underground facilities. The Maryland Department of Transportation (MDOT), its administrations, and the Maryland Transportation Authority (MDTA) must become members of the one-call system through a separate agreement.

A person that intends to perform an excavation or demolition in the State must initiate a ticket request by notifying the one-call system via telephone or through initiating an interactive Internet ticket. A ticket is valid for 12 business days after the day the ticket is transmitted to an owner-member. The bill establishes procedures for situations where an owner-member is unable to mark an underground facility within the required time period of two business days and allows an owner-member and a person seeking to excavate to determine a mutually agreeable arrangement for having the facilities marked in those cases.

An individual that submits a ticket to the one-call system must indicate if the planned excavation is within rights-of-way of MDOT, its administrations, or MDTA and provide a permit or authorization number granted from that entity. Under current law which is not changed under the bill, the entity may charge up to \$35 for an initial marking and \$15 for a remarking as reimbursement for expenses incurred.

The bill alters the specific practices and procedures used in marking underground facility locations, specifying that colors used in marking must adhere to certain national standards. The owner of a private residence must notify the one-call system if the excavation or demolition requires the use of machinery. Further, a person performing an emergency excavation or demolition must notify the one-call system so that owner-members will in turn be informed of the emergency excavation. A person that abuses the emergency excavation and demolition procedures is subject to civil penalties specified in the bill.

A designer, such as an architect, professional engineer, professional land surveyor, or licensed landscape architect who prepares a drawing for a project may also initiate a single ticket request to the one-call system. A designer ticket request may not be used for excavation or demolition.

Maryland Underground Facilities Damage Prevention Authority: *Senate Bill 911* also establishes a Maryland Underground Facilities Damage Prevention Authority to hear complaints stemming from violations of laws protecting underground facilities. The authority may administer a hearing, compel attendance of a witness, and may assess a civil penalty or reach a settlement. A person aggrieved by a decision of the authority may request judicial review by the circuit court. The bill establishes various provisions relating to hearings and judicial review.

It is the intent of the General Assembly that the authority not be funded by appropriations from the State budget. However, the authority may obtain funding for its operational expenses from a federal or State grant, any filing and administrative fees for complaints heard by the authority, and any other source. The authority may exempt an individual from paying any complaint filing fee or administrative fee if the individual cannot afford to pay a fee. The authority may not impose a charge or assessment against any person other than for complaints filed, directly or indirectly, to obtain funding for its operational expenses. Beginning January 1, 2012, the authority must report each year to the Governor and the General Assembly on its activities and recommendations.

The bill also establishes a Maryland Underground Facilities Damage Prevention Education and Outreach Fund to cover the costs of public education and outreach programs and the development of safety procedures to prevent damage to underground facilities. The special fund is administered by the authority and consists of civil penalties, investment earnings, and any other monies paid into the fund. The fund may be used to make grants to local governments or private entities consistent with the purposes of the fund.

Civil Penalties: *Senate Bill 911* increases the amount of a civil penalty that may be imposed for violating the requirement to provide notice before excavation or demolition from \$1,000 to \$2,000 for a first offense and from \$1,000 to \$4,000 for each subsequent offense. For other violations, a civil penalty may not exceed \$2,000. The authority assesses these civil penalties, subject to certain limitations and requirements. Instead of or in addition to civil penalties, the authority may take other actions to limit damage to underground facilities.

Master Electric and Gas Meters

When a developer constructs a new apartment building, the developer must select either individual electric and gas meters for each occupancy unit, or a master meter arrangement under which the owner bills tenants for electricity charges. A building owner who selects a master meter arrangement must determine electric and gas charges for tenants by installing submeters which measure actual energy use and are approved by PSC. In apartment buildings, centralized heating, ventilation, and air conditioning (HVAC) systems may offer greater efficiencies than having individual systems for each building occupant. As a result, PSC may authorize an

electric or gas company to provide service for central heating or cooling systems to an occupancy unit without individual metering or submetering if PSC is satisfied that the service will result in a substantial net savings of energy. A building owner may use an energy allocation system, as approved by PSC, to bill each occupant for the cost of electricity or gas consumed for heating and cooling purposes. If an energy allocation system is used, it must be based on a measuring device.

Senate Bill 538/House Bill 1138 (both passed) authorize PSC to allow the use of a master electric or gas meter for HVAC services without requiring individual metering or submetering in a residential multiple-occupancy building as long as the utility bill for HVAC services is included in the rent for that unit. PSC must be satisfied that the use of a master meter will result in a net savings of energy over the energy savings that would result from individual metering or submetering. Each individually leased or owned occupancy unit must have individual metered service for other energy services and must directly receive the utility bill for those other services. Before authorizing the use of a master meter for HVAC services, PSC may review the proposed allocation of HVAC system expenses among individual units and common areas served by the master meter. An electric company may inspect and test a master meter authorized under the bill. The bills terminate after three years, on June 30, 2013.

Insurance Other Than Health

Insurers and Insurance Producers

Audits, Investments, and Operations of Insurers

To better protect policyholders, allow Maryland to maintain its accreditation from the National Association of Insurance Commissioners (NAIC), and provide consistency in the filing of financial reports and financial information, *House Bill 69 (Ch. 120)* increases the oversight tools available to the Maryland Insurance Administration (MIA). The Act specifically addresses NAIC requirements in the areas of:

- specifying criteria that nonlife insurers must consider with respect to investments in securities lending transactions;
- limiting to five years the length of time during which a partner in an accounting firm responsible for preparing an audited financial report for an insurer may act in the same or similar capacity for the insurer and the insurer's subsidiaries or affiliates;
- authorizing the Maryland Insurance Commissioner to require an insurer, nonprofit health service plan, dental plan organization (DPO), managed care organization (MCO), or health maintenance organization (HMO) to file an audited financial report earlier than the statutory deadline, with 90 days' advance notice; and

- specifying criteria against which an insurer's financial condition and results of operations can be compared to determine if the insurer is operating in a hazardous financial manner.

The Act also (1) modifies the nonprofit health service plan audited financial reporting requirement; (2) moves up the date by which DPO must file a statement of its financial condition; and (3) makes the annual statement filing requirements and applicable penalties for DPO consistent with requirements for other insurers.

Insurance Producers

Under Chapters 98, 99, and 376 of 2009, an insurer is required to provide notice of any increase in premium for policies of commercial insurance and workers' compensation insurance, not only an increase above the former 20% threshold. The 2009 legislation allows an insurer to comply with this requirement by providing (1) to the named insured and the insurance producer, if any, a written notice of increase or a renewal offer with a reasonable estimate of the premium; or (2) to the named insured alone, a copy of the renewal policy that includes the renewal premium. However, an independent insurance producer who is working with the named insured may not be fully aware of the renewal policy's terms and premium if the insurer only sends a copy of the renewal policy to the named insured and not to the insurance producer. *House Bill 249 (passed)* requires an insurer who notifies the named insured of a premium increase by sending a copy of the renewal policy also to send to the independent insurance producer, if any, either a copy of the renewal policy by postal or electronic mail, or notice of the availability of that renewal policy on the insurer's online electronic system.

Domestic Reinsurers

Changes in corporate structure through merger or acquisition may affect the domicile of an insurer and the regulatory fees that the insurer must pay to the state where it maintains specified assets. Under *Senate Bill 547/House Bill 305 (Chs. 83 and 84)*, a domestic reinsurer that was domiciled in Maryland before December 31, 1995, and that moves its home office to another state may maintain its regulatory domicile in Maryland if it maintains certain required assets in Maryland, pays an annual assessment to Maryland, and makes its general ledger accounting records available to the Maryland Insurance Commissioner.

Life Insurance, Health Insurance, and Annuities

Misleading Use of Senior or Retiree Credentials

One area of continuing concern is the use of potentially misleading credentials or designations to market financial instruments to the elderly. The sale of an inappropriate financial vehicle to a senior citizen by an individual using a fraudulent or misleading professional designation may result in financial devastation of the senior citizen.

Senate Bill 774/House Bill 882 (both passed) make it unlawful for any person to use a senior or retiree credential or designation in a misleading way in connection with the offer, sale, or purchase of life insurance, health insurance, or an annuity. The bills further require the

Maryland Insurance Commissioner to adopt regulations in consultation with the Maryland Securities Commissioner to define what constitutes a misleading use of a senior or retiree credential or designation. The bills conform to similar Maryland legislation enacted in 2009 with respect to sellers of securities, rather than to the more specific National Association of Insurance Commissioners model regulation on the sale of these products by an insurance producer using a senior-specific certification or professional designation.

Insolvency Protection for Annuity Holders

The Maryland Life and Health Guaranty Corporation guarantees the payment of certain life insurance, health insurance, and annuity benefits when an insurer becomes impaired or insolvent, subject to statutory limits. Under *House Bill 423 (passed)*, the maximum benefit for which the corporation may become liable to the holder of an annuity increases from \$100,000 to \$250,000 in the present value of annuity benefits, including net cash surrender and net cash withdrawal values, with respect to any one life. This change is in line with the National Association of Insurance Commissioners model regulations. Maximum benefits for life insurance death benefits and health insurance benefits are unchanged.

Property and Casualty Insurance

Homeowner's Insurance

After a fire or other casualty to property insured under a homeowner's, farm owner's, or dwelling insurance policy, it may take a considerable amount of time to repair or replace the dwelling or other property due to ongoing investigation into the casualty, delays in obtaining building permits and other construction difficulties, or limited seasonal availability of replacement goods. For policies that include the replacement value of damaged property, an insured will typically file first for the actual cash value of the property, and then file one or more additional claims for the amount by which the replacement cost exceeds the actual cash value. Some insurers have required a homeowner to submit all replacement cost claims within 180 days after the date of loss, whether or not the homeowner has finalized costs available at that time.

In order to allow an insured to obtain full repayment for repair or replacement for damaged property on a replacement cost basis, *Senate Bill 647/House Bill 854 (Chs. 91 and 92)* require each policy of homeowner's, farm owner's, or dwelling insurance issued in the State with replacement coverage to allow an insured to file a claim for the additional replacement cost for not less than two years after the date of loss. However, so that the insurer knows what claims may be outstanding, the insurer may require the insured to notify the insurer, within 180 days after the date of loss, of the insured's *intent* to repair or replace the dwelling or personal property.

Motor Vehicle Liability Insurance

Unchanged since Maryland enacted compulsory motor vehicle insurance in 1972, the minimum motor vehicle liability coverage limits increase to \$30,000 for any one person and

\$60,000 for any two or more persons under *House Bill 825 (passed)*, from the current limits of \$20,000 and \$40,000, respectively.

Maryland’s motor vehicle insurance consists of four types of privately purchased coverage: (1) motor vehicle liability coverage, which is designed to pay the overall costs attributable to an accident, including bodily injury, property damage, and lost wages; (2) uninsured motorist coverage, similar to motor vehicle liability coverage for incidents involving an uninsured motorist, also at minimums of \$20,000 and \$40,000; (3) waivable personal injury protection (PIP), no-fault coverage for medical expenses, with a statutory minimum of \$2,500; and (4) optional no-fault collision coverage for damage to the automobile. *House Bill 825* alters the limits of the first type of coverage, motor vehicle liability, with the other three coverages remaining unchanged.

While many states have variations of the four types of coverage, they strike different balances among required and optional coverages for bodily injury, property damage, and economic damages. Although in isolation the new Maryland limits are higher than comparable required coverage in adjoining states, the single-party and multiparty liability coverage requirements are only part of the picture. A more complete view includes regional PIP and uninsured motorist coverage requirements. A number of nearby states have PIP requirements in excess of \$15,000, as opposed to Maryland’s PIP level of \$2,500.

Among the issues discussed in the consideration of *House Bill 825* were (1) the differences between the costs of medical care, property, and wages in 1972 and 2010; (2) the proportion of claims settled within current statutory coverage minimums; (3) the potential impact of increasing statutory minimums on premiums across the State; and (4) the potential impact of premium increases on customers of the insurer of last resort, Maryland Automobile Insurance Fund (MAIF), as compared with customers of other carriers. Proponents of the bill argued that increasing mandatory coverage levels would assist in making innocent victims in auto accidents whole at a time when costs have increased across the board and a difficult economy magnifies the harm caused by an accident. Opponents of the bill argued that increasing mandatory coverage minimums would increase the number of motorists choosing to drop coverage and risk driving uninsured.

In the area of coordination of health insurance benefits and PIP benefits, *Senate Bill 704/House Bill 1073 (both passed)* prohibit health insurers, nonprofit health service plans, and health maintenance organizations (HMOs) from requiring that PIP benefits under a motor vehicle liability insurance policy be paid before benefits under a health insurance policy or contract. For a complete discussion of these bills, see the subpart “Health Insurance” within Part J – Health and Human Services of this *90 Day Report*.

Condominium Insurance

For a discussion of the procedures for cancelling property insurance and comprehensive general liability insurance for condominiums under *House Bill 1514 (passed)*, see the subpart “Real Property” within Part F – Courts and Civil Proceedings of this *90 Day Report*.

Title Insurance

Title Insurance Reform

Starting in 2008, the Commission to Study the Title Insurance Industry in Maryland met to review issues relating to practices in the title insurance industry in Maryland. Over the course of two years, the commission heard testimony about rate setting, affiliated businesses, closing practices, and the use and qualifications of title insurance producer independent contractors (TIPICs). As a result of extensive hearings and discussions, *House Bill 1470 (passed)* was introduced in the 2010 session to address a number of major issues.

The bill prohibits a title insurance producer from using or accepting the services of a TIPIC unless the TIPIC is covered by the producer's fidelity bond, surety bond, or letter of credit. The bill expressly states that a producer is the legal principal of the TIPIC and is liable for all of the TIPIC's actions, even unintentional conduct, within the scope of the TIPIC's employment. The bill requires specified contact information to be included on a mortgage or deed of trust when executed by a TIPIC. Since the TIPIC is covered under the title insurance producer's security, the bill exempts a TIPIC from having to file a separate blanket fidelity bond, blanket surety bond, or letter of credit with the Maryland Insurance Commissioner.

House Bill 1470 also requires MIA and the Department of Labor, Licensing, and Regulation (DLLR) to collaborate on a number of issues relating to title insurance and real estate practices. The agencies must jointly develop a "Title Insurance Consumer's Bill of Rights" that explains a consumer's rights and responsibilities in a real estate transaction closing. The document must be made available to the public on MIA and DLLR web sites and be provided to a consumer at the same time that the consumer receives a good faith estimate in connection with a mortgage loan.

The bill further requires the two agencies to share information regarding complaints received involving real estate closings and work collaboratively to track any patterns of problem transactions or licensees. By December 31, 2010, MIA and DLLR must report to the Senate Finance Committee and the House Economic Matters Committee on the status of the Consumer's Bill of Rights, regulations, and collaboration between the agencies.

Reserve Requirements for Domestic Title Insurers

The current national recession has placed financial strains on title insurance companies, in light of depressed home sales and property values that contribute to the lower pricing of and compensation derived from commissions on title insurance policies. As a result, a number of title insurance underwriters across the nation have found it necessary to redomicile in states with low reserve requirements. In order not to lose the State's last domestic title insurer, *Senate Bill 900 (passed)* alters the statutory reserve requirements for domestic title insurers and establishes gradually increasing paid-in capital stock and minimum surplus that a domestic title insurer must maintain. The mandatory statutory reserve or unearned premium reserve is decreased to 8% from the 10% required under current law. The bill also decreases from six years to three years, the schedule for release of excess reserves, starting in calendar 2010.

Horse Racing and Gaming

Horse Racing

None of the six bills introduced relating to horse racing passed in the 2010 session.

Gaming – Implementation of Video Lottery Terminals

Building on legislation first enacted in 2007 for the regulation of video lottery terminals (VLTs), *Senate Bill 882 (passed)* makes numerous clarifying and technical changes regarding the implementation of VLTs in the State. The changes generally follow the recommendations of the Video Lottery Facility Location Commission, which is the commission designated to award up to 15,000 VLTs at five authorized locations around the State.

Several of the significant provisions of the bill involve the VLT facility authorized for Allegany County. Under the bill, if the licensee for the Allegany County VLT facility purchases the Rocky Gap Lodge and Golf Resort, the licensee will be entitled to receive, for the first five years of operation, an additional 2.5% from the proceeds generated at the facility that would otherwise go to the Racetrack Facility Renewal Account. In addition, if the licensee purchases the Rocky Gap Lodge and Golf Resort, current law authorizing a racetrack license and racing days in Allegany County would be repealed.

The bill also repeals a requirement that a permanent VLT facility in Allegany County must be physically separate from the Rocky Gap Lodge and Golf Resort, and instead provides that the facility must be in a separate building that may be adjacent or connected to the lodge and resort. Subject to approval by the State Lottery Commission and the Video Lottery Facility Location Commission, an individual or business entity may enter into a management agreement to operate a VLT facility in Allegany County that the individual or business entity does not own.

Among other changes, the bill extends the term of various VLT employee and manufacturer licenses from one to three years, allows the State Lottery Commission to exempt certain institutional investors from providing certain background information, and lowers the threshold for ownership at which an individual or business entity will be considered to have an ownership interest in the property or business of an applicant or licensee.

Gaming – Expansion of VLTs and Additional Types of Gaming

Several bills were introduced to expand the number of VLTs and VLT locations authorized in the State or to expand gambling opportunities to include table games or card games. None of these bills passed.

House Bill 1288 (failed) would have allowed the Video Lottery Facility Location Commission to award additional licenses to certain alcoholic beverages license holders that offer a keno-type game or video gaming device in their establishments and to nonprofit fraternal organizations that hold an alcoholic beverages license. Under the bill, the commission would

have been authorized to allocate up to 5,000 additional video lottery terminals. The bill was contingent upon voter approval of *House Bill 1066 (failed)*, which would have amended the Maryland Constitution to provide for the additional 5,000 video lottery terminals.

Two bills would have authorized VLTs to be located at Baltimore-Washington International Thurgood Marshall Airport. *House Bill 513 (failed)* would have amended the Maryland Constitution to allow VLTs to be housed at the airport. Contingent on the ratification of the amendment by Maryland voters, *House Bill 512 (failed)* would have authorized up to 2,500 VLTs at the airport.

Senate Bill 795/House Bill 608 (failed) would have placed an amendment to the Maryland Constitution before the voters to allow a holder of a video lottery operation license to offer table games, including poker, blackjack, craps, and roulette. *Senate Bill 1035 (failed)* would have authorized a license for the commercial operation of card games within a specified area in Prince George's County, subject to passage by voter referendum.

Local Gaming Legislation

House Bill 56 (failed) would have added Worcester County to the list of counties in which specified nonprofit fraternal, religious, and war veterans' organizations may own and operate up to five slot machines at its principal meeting hall in the county in which the eligible organization is located. An amendment to the bill passed in the Senate would have allowed voters in the State to vote on allowing a for-profit company to hold card games at a location within one mile of the intersection of Interstate 95 and MD Route 414 in Prince George's County.

Economic and Community Development

Tax Credit Legislation

Senate Bill 106 (Ch. 1) creates a tax credit against the State income tax for employers who hire qualified individuals between the effective date of the Act, and December 31, 2010. The Department of Labor, Licensing, and Regulation (DLLR) is authorized to award \$20 million in credits on a first-come, first-served basis. For a more detailed discussion of this issue, see the subpart "Income Tax" within Part B – Taxes of this *90 Day Report*.

Businesses located within a Maryland enterprise zone are eligible for local property tax credits and State income tax credits for ten years after the designation of the enterprise zone. Under current law, the Secretary of Business and Economic Development is authorized to designate up to six enterprise zones during one calendar year and a county may not receive more than one designation in that calendar year. *House Bill 1163 (passed)* expands the amount of enterprise zones that may be designated per county in a calendar year from one to two.

Senate Bill 64 (Ch. 20) extends the termination date for the research and development tax credits from June 30, 2012, to June 30, 2021. The Department of Business and Economic

Development (DBED) is authorized to award \$6 million in credits in each year, the same amount provided under the current tax credit program. For a more detailed discussion of this issue, see the subpart “Income Tax” within Part B – Taxes of this *90 Day Report*.

In addition, *Senate Bill 140 (passed)* authorized the transfer of \$2 million from stem cell research to the Maryland Biotechnology Investment Tax Credit program.

Special Taxing Districts

The General Assembly has granted 12 counties (Anne Arundel, Baltimore, Calvert, Cecil, Charles, Garrett, Harford, Howard, Prince George’s, St. Mary’s, Washington, and Wicomico) and Baltimore City broad authority to create special taxing districts and to levy *ad valorem* taxes and issue bonds and other obligations for purposes of financing certain infrastructure improvements including storm drainage systems, water and sewer systems, roads, sidewalks, lighting, parking, park and recreational facilities, libraries, schools, transit facilities, and solid waste facilities. Special taxing districts may utilize tax increment financing (TIF), which 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.

Chapter 182 of 2009 expanded the special taxing district authority of these counties and certain municipalities to include using special taxing districts to finance the costs of infrastructure improvements located in or supporting an area designated as a transit-oriented development (TOD), including the cost for operation and maintenance of infrastructure improvements. Chapter 182 also authorized the Maryland Economic Development Corporation (MEDCO) to enter into agreements with these counties and municipalities to use proceeds from a special taxing district, including TIF, to repay debt service on bonds issued by MEDCO on behalf of TOD projects. In addition, Chapter 182 allowed local tax revenues generated within, or that are otherwise attributable to the district, to be used by the district to pay bond debt service or MEDCO obligations or to pay for certain activities within the special taxing district.

House Bill 1161 (passed) extends the municipality and county special taxing district and bonding authority for a TOD granted in Chapter 182 to an area designated as a State hospital redevelopment. A State hospital redevelopment is any combination of private or public commercial, residential, or recreational uses, improvements, and facilities that is part of a comprehensive coordinated development plan or strategy involving property that was formerly occupied by a State-owned or -operated hospital or other institution that provided services to individuals with mental disorders, or a State residential center; or property that is adjacent or reasonably proximate to the “former hospital” property. The State hospital redevelopment must be designated by the Smart Growth Subcabinet and the local government or multicounty agency with land use and planning responsibility for the relevant area.

House Bill 1182 (passed) authorizes a county or municipality to create a business improvement district and establishes the process under which a district may be created. The purpose of a business improvement district is to promote the general welfare of residents,

employers, property owners, and others within the district. Except as limited by its articles of incorporation or a local law, a district corporation may (1) receive money from its incorporating local government, the State, or nonprofit organizations; (2) charge fees for its services; (3) employ individuals and hire consultants; and (4) use the services of other governmental units. A local government establishing a business improvement district must impose a tax within the business improvement district to provide for district operations; however, the tax imposed may not count against a county or municipal corporation tax cap. At least 80% of the owners of the total number of parcels of nonexempt property in the geographic area of the proposed district must express the intent to establish a district corporation.

Department of Business and Economic Development

Maryland Economic Adjustment Fund

The Maryland Economic Adjustment Fund (MEAF), established in 1994 in response to the pending 1995 Base Realignment and Closure (BRAC) process, provides funds to new or existing companies in communities affected by defense adjustments. *Senate Bill 54 (Ch. 14)* makes several changes to MEAF including (1) eliminating the MEAF Committee; (2) altering eligibility requirements under the loan program and eliminating the priority currently provided to defense contractors; (3) eliminating the minimum interest rate that must be charged on loans; and (4) altering application requirements.

Maryland Military Installation Council

Chapter 335 of 2003 created the Maryland Military Installation Strategic Planning Council, consisting of representatives of State agencies and federal military installations, to serve as an advocate for military facilities located in Maryland and coordinate State agency planning in response to changes caused by BRAC. Chapter 634 of 2006 renamed the council the Maryland Military Installation Council and extended the termination date of the council to December 31, 2011. *Senate Bill 55 (Ch. 15)* (1) repeals the December 31, 2011 termination date for the council; (2) increases membership of the council to 24 by including the Secretary of Veterans Affairs, the Adjutant General of the Maryland National Guard, and the President of the Indian Head Defense Alliance; and (3) establishes four-year, staggered terms for appointed members.

Maryland Technology Development Corporation

Chapter 446 of 2008 established the Coordinating Emerging Nanobiotechnology Research (CENTR) Program and Fund and required the Maryland Technology Development Corporation (TEDCO) to provide operating and capital grants for nanobiotechnology research projects. The purpose of the CENTR 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 795 (Ch. 163)* establishes a task force to study the benefits of nanobiotechnology as it relates to job creation, the development of lifesaving treatments, reductions in health care costs, the development of commercial products, the

generation of State revenue, and improvements to the quality of life for State residents. The task force is also charged with studying the State's role in supporting Maryland's leadership in nanobiotechnology and with making recommendations regarding actions that the State should take to promote the growth of nanobiotechnology industries in the State.

Housing

Department of Housing and Community Development

Microenterprise Loans: The Neighborhood Business Development Program, also referred to as the Neighborhood Business Works Program, provides gap financing for small businesses in designated areas approved by local governments with the concurrence of the Secretary of Housing and Community Development. *House Bill 66 (Ch. 118)* establishes a new initiative within the Department of Housing and Community Development's (DHCD) Neighborhood Business Development Program to authorize DHCD to partner with intermediary organizations to facilitate better access to capital by microenterprises within designated neighborhoods. A microenterprise is a business of no more than five employees, requiring no more than \$35,000 in start-up capital, and which does not have access to the traditional commercial banking sector. Financial assistance provided to microenterprises under the measure may be used for development costs, working capital, or business expenses. The bill also requests DHCH to adopt regulations to establish standards for determining the eligibility of an entity to administer a microenterprise loan program. DHCD may provide financial assistance to a microenterprise by a direct loan or through an approved entity.

Group Home Financing: The Group Home Financing Program (GHFP) provides loans to group home sponsors to finance the costs of acquiring, constructing, and rehabilitating buildings as group homes for low-income individuals, elderly households, individuals with disabilities, and other State residents with special housing needs. *Senate Bill 83 (passed)* authorizes DHCD to use a GHFP loan to refinance an existing mortgage loan on a group home and use the loan proceeds to finance certain closing costs, and allows DHCD to modify the terms of a GHFP loan that is at risk of being in default.

Affordable Housing

Senate Bill 780/House Bill 869 (both passed) establish the Affordable Housing Land Trust Act as a new means to create and maintain permanently affordable housing in the State. The bills authorize an affordable housing land trust to acquire residential real property or an interest in property; make improvements on residential real property; enter into affordable housing land trust agreements with qualified persons; and engage in other activities related to the sale, leasing, management, maintenance, and preservation of properties under the control of the affordable housing land trust. For a more detailed discussion of this issue, see the subpart "Real Property" within Part F – Courts and Judicial Proceedings of this *90 Day Report*.

Chesapeake Conservation Corps Program

The Chesapeake Bay Trust is a private, nonprofit grant-making organization established by the General Assembly in 1985 to promote public awareness and participation in the restoration and protection of the water quality and aquatic and land resources of the Chesapeake Bay and other aquatic and land resources of the State. *Senate Bill 311/House Bill 943 (both passed)* establishes a Chesapeake Conservation Corps Program within the trust. The measure mandates that, for fiscal 2011 through 2015, \$250,000 annually from the Environmental Trust Fund be provided to the trust for the purpose of funding energy conservation projects through the Corps Program that encourage youth participation. For long-term funding of the Corps Program, the bill requires the trust and the Corps Board, established to advise the trust in the development and implementation of the Corps Program, to seek federal and private funding for the Corps Program.

For a further discussion of *Senate Bill 311/House Bill 943*, see the subpart “Natural Resources” within Part K – Natural Resources, Environment, and Agriculture of this *90 Day Report*.

Maryland Clean Energy Center

The Maryland Clean Energy Center (MCEC) was established under Chapter 137 of 2008 to (1) promote economic development and jobs in the clean energy industry sector in the State; (2) promote the deployment of clean energy technology in the State; (3) serve as an incubator for the development of clean energy industry in the State; (4) collect, analyze, and disseminate industry data; and (5) provide outreach and technical support to further the clean energy industry in the State. *Senate Bill 893/House Bill 908 (both passed)* make changes to State law relating to MCEC. The bill specifies that a majority of the appointed and qualified members of the board of directors is a quorum and that the board may act with an affirmative vote of a majority of the appointed and qualified members of the board. The bill specifies that MCEC, its board, and employees are subject to provisions of the State Finance and Procurement Article that establish requirements of units and contractors aimed at achieving specified levels of participation by minority business enterprises in procurement contracts. The measure also includes an employee or official of MCEC under the definition of “state personnel” under the Maryland Tort Claims Act, who have specified immunity from suit in courts in the State and from liability in tort.

Workers’ Compensation

Exemption for Corporate or Limited Liability Company Officer

Officers or members of specified entities – including corporations and limited liability companies – are covered employees for purposes of workers’ compensation coverage if they provide a service for the company for monetary compensation. However, officers or members of these entities may elect to be exempt from such coverage. The statutory provision that allows officers of close corporations to elect to exempt themselves from workers’ compensation

coverage only applies to entities formed in Maryland. Thus, an officer of an identical entity formed under the laws of another jurisdiction technically is precluded from making the same election. **House Bill 405 (passed)** specifies that officers of a close corporation incorporated outside of Maryland may elect to be exempt from workers' compensation coverage.

The bill also allows officers of ordinary corporations to elect exemption from workers' compensation coverage. However, no more than five officers of an ordinary corporation may elect such an exemption.

Coverage for Allegany County Deputy Sheriffs

Until two years ago, Allegany County deputy sheriffs were eligible for the occupational disease presumption available under workers' compensation law; however, they became ineligible when the responsibility for patrol duty in the county was moved to another law enforcement agency. In *Soper v. Montgomery County*, 294 Md. 331, 449 A.2d 1158 (1982), the Maryland Court of Appeals found that the presumption for occupational disease is not extended to deputy sheriffs in counties that have established police departments, if the duties of the deputy sheriffs are dissimilar from the primary duties performed by police officers and do not involve unusual hazards, stresses, and strains.

Senate Bill 482/House Bill 618 (Chs. 75 and 76) restore the occupational disease presumption for an Allegany County deputy sheriff who suffers from heart disease or hypertension that results in death or partial or total disability. The bills also make such an individual eligible for enhanced workers' compensation benefits for permanent partial disabilities. A deputy sheriff who is awarded a claim of fewer than 75 weeks for permanent partial disability is compensated by Allegany County at the higher rate for awards of 75 to 250 weeks, which is two-thirds of the deputy sheriff's average weekly wage, not to exceed one-third of the State average weekly wage.

Assessments for Uninsured Employers

The Uninsured Employers' Fund (UEF) pays workers' compensation benefit awards ordered by the Workers' Compensation Commission (WCC) in cases where uninsured employers default on payments. UEF derives its revenue from assessments on awards and settlements against employers or insurers. UEF imposes a 1% assessment and may increase the assessment by up to 1% if UEF determines the fund balance is inadequate to meet anticipated losses. The assessment may be suspended if the fund balance exceeds \$5 million. UEF also collects penalty assessments from sanctions on uninsured employers and recovers benefits and medical expenses paid by UEF on uninsured claims.

UEF is authorized to institute a civil action to recover money paid under an award for workers' compensation of an uninsured employer. When WCC makes a decision on a claim against an uninsured employer, it may impose a penalty assessment on the employer of at least \$150 but not more than \$500 as well as 15% of any award made, up to \$2,500 for any one claim.

House Bill 1295 (passed) increases the penalty assessment paid to UEF when WCC awards a claim against an uninsured employer. The penalty assessment against the uninsured employer increases to at least \$500 but not more than \$1,000, as well as 15% of any award made in the claim, up to \$5,000 in any one claim.

Death Benefits for Dependents

Chapters 616 and 617 of 2009 required WCC to conduct a study of the statutory provisions related to death benefit payments to individuals dependent on a covered employee. *Senate Bill 953/House Bill 1318 (both failed)* resulted from recommendations of a workgroup established by WCC during the 2009 interim to study the death benefit provisions of the workers' compensation law. The bills would have altered the calculation of benefits paid by employers or insurers to surviving spouses, children, and other dependents to replace income lost when a person dies due to a work-related accident or occupational disease. Benefits would have been paid to surviving dependent spouses and children proportionally to reflect family income. The bills also would have eliminated the statutory distinction between wholly and partially dependent spouses and children. Thus, the actual amount of benefits received by the dependents of a covered employee would have been based on the average weekly wage of the deceased and the percentage of the total earnings the deceased person contributed to the family income. In general, surviving dependent spouses and children would have received their calculated benefits for at least 5 and up to 12 years. There would have been several exceptions, including that all dependents terminate on the date the deceased would have reached 70 years of age, if 5 years of benefits have been paid.

Status and Renaming of the Injured Workers' Insurance Fund

The Injured Workers' Insurance Fund (IWIF) administers workers' compensation for the State and provides workers' compensation insurance to firms unable to procure insurance in the private market. IWIF only writes policies in Maryland and is the exclusive residual workers' compensation insurer in the State. Also serving as a competitive insurer in the market place, IWIF is a major insurer in the State with approximately one-third share of the market.

Senate Bill 507/House Bill 1008 (both failed) as introduced would have changed the status of IWIF from that of a quasi-State agency to a statutorily created not-for-profit, mutual insurer. To reflect its new status, IWIF would have been renamed the Chesapeake Employers' Mutual Insurance Company. The company would have retained its public purpose as the insurer of last resort and would have continued to guarantee the availability of workers' compensation insurance in the State. The bills would have established that the State has no interest in the assets of the company and may not borrow or appropriate from the company's revenues or assets. The assets of the company would have been held by the company in trust for the policyholders, injured workers, and the company's creditors. Certain employees would no longer have been subject to any law or regulation governing State employment or compensation. As amended in the Senate, *Senate Bill 507* would have renamed IWIF as the Chesapeake Employers' Insurance Company and given it greater autonomy to establish employee compensation. The bill also would have required the Maryland Insurance Administration to

conduct a two-part study of the company that addressed the extent to which it should be subject to the premium tax and the extent to which the State has an interest in its assets. The Department of Budget and Management, in consultation with the State Retirement Agency, also would have been required to determine the fairest and most effective way to phase out the company's participation in the Maryland State Retirement and Pension System

Medical Presumptions

Workers' compensation law establishes a presumption of compensable occupational diseases to certain public employees who are exposed to unusual hazards in the course of their employment. In general, certain employees may be presumed to have an occupational disease that was incurred in the line of duty if the employee has heart disease, hypertension, or lung disease that results in partial or total disability or death; or the employee suffers from leukemia or pancreatic, prostate, rectal, or throat cancer (caused by contact with a toxic substance encountered in the line of duty) and the disease prevents the employee from performing normal job duties. In some cases employees are required to have met a suitable standard of physical examination before beginning employment and to have completed at least five years of service with their current employers.

Senate Bill 646/House Bill 1280 (both failed) would have expanded the types of occupational diseases that fall under the occupational disease presumptions related to firefighters and other similar personnel. Paid or volunteer firefighters or firefighting instructors, volunteer rescue squad members, advanced life support unit members, or sworn members of the Office of the State Fire Marshal employed by specified units of government would have been presumed to have an occupational disease if they suffered from esophageal, brain, or lung cancer caused by contact with a toxic substance encountered in the line of duty under *House Bill 1280* as amended in the House. The amended version would have also provided that the occupational disease presumptions are rebuttable.

Unpaid Work-based Learning Experiences

Senate Bill 58 (passed) establishes that individuals placed in unpaid work-based learning experiences by the Maryland State Department of Education's Division of Rehabilitation Services (known as DORS) are considered "covered employees" under the workers' compensation law. As "covered employees," these individuals are eligible for medical services and treatment for work-related injuries. Legislation enacted in 2003 established similar "covered employee" status to high school students participating in unpaid work-based learning experiences that are coordinated by a county board or private noncollegiate institution. Employers sponsoring "DORS consumers" must maintain workers' compensation coverage for these individuals throughout the course of their employment. The Department of Education must reimburse employers, up to \$250 per participant, for premium increases associated with adding DORS consumers to their workers' compensation insurance policies.

Unemployment Insurance

Unemployment insurance (UI) 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 UI program. Funding for the program is provided by employers through UI taxes paid to both the federal government for administrative and other expenses and to the states for deposit in their unemployment insurance trust funds (UITFs). Using federal tax revenues, the program is administered pursuant to state law by state employees. Each state's law prescribes the tax structure, qualifying requirements, benefit levels, and disqualification provisions. These laws must, however, conform to broad federal guidelines.

Chapter 169 of 2005 altered Maryland's UI charging and taxation system by creating a series of experience tax rate tables that are based on the balance in the Maryland UITF. An employer's unemployment experience determines the rate charged within each of the six tables. If the balance of UITF exceeds 5% of total taxable wages in the State (as measured on September 30 of the current year), the lowest tax rate table (Table A) is used to calculate employer rates for the following calendar year. When UITF is depleted to the point the balance is less than 3% of the taxable wages, the highest tax rate table (Table F) is used to determine employer rates. The first \$8,500 of an employee's earnings is taxed for purposes of UI. State and local governments and some nonprofit organizations reimburse UITF dollar-for-dollar in lieu of paying State and federal UI taxes.

Benefits paid from UITF 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 \$410 per week, increasing to \$430 in October 2010, based on earnings in the base period.

Unemployment Insurance Trust Fund

The balance of UITF has fluctuated historically, growing in strong economic times to over \$1.0 billion in each of calendar 2007 and 2008. On September 30, 2009, the balance in UITF fell to \$301.7 million. This significant decline, combined with a recent decline of over \$1.0 billion of the taxable wage base to \$17.8 billion, places Maryland employers in the highest tax rate table beginning in January 2010. Table F requires employers to pay a minimum of 2.2% and a maximum of 13.5% (\$187 to \$1,147.50 per employee per year) depending on their UI experience rating.

The main driver of the decline of UITF, and therefore the increase in UI charges to employers, is the increased claims for UI benefits resulting from the economic downturn. The State's unemployment rate increased from 5.4% in December 2008 to 7.5% by December 2009. Average monthly payouts from UITF grew from \$36 million in 2007 to \$89 million in 2009. Benefit payouts reached a peak in March 2009 of \$24 million per week. Initial claims grew from about 203,000 in calendar 2006 to about 362,000 in calendar 2008 and over 416,000 in

calendar 2009. Unemployment benefits remain an important factor in the decline of UITF balances, as payment rates have been slow to decrease.

Senate Bill 107 (Ch. 2) enacts a number of measures to mitigate the impact of increased UI contributions charged to employers. For calendar 2010 and 2011, the Department of Labor, Licensing, and Regulation (DLLR) must offer a variety of payment plan options to employers, allowing contributions due on taxable wages for the first nine months of the calendar year to be paid through December. DLLR also has to adopt regulations offering employers a payment plan for any calendar year after 2011 in which employer contributions are to be calculated using Table F. These payment plans must allow payments for contributions due for the first six months of the year to be spread through August of that year.

The Act also reduces the interest rate charged to businesses that fail to make employer contributions or reimbursement when payment is due under certain circumstances. The monthly interest rate is reduced from 1.5% to 0.5% of the outstanding balance for calendar 2010 and 2011 and any year thereafter in which employer contributions are calculated using tax rate Table F. This equates to reducing the interest penalty from 18% to 6% on an annualized basis.

Senate Bill 107 also qualifies Maryland to receive \$126.8 million in federal stimulus funds which will be placed into UITF to increase the trust fund balance and reduce future employer contributions, as discussed below.

Unemployment Insurance Modernization

The American Recovery and Reinvestment Act of 2009 (ARRA) included \$7 billion in federal incentives to be provided to states that enact specified UI system alterations. Maryland's allotment of the total funding is estimated at \$126.8 million; however, these funds are only available to the State UITF if UI benefits are expanded in specified ways. To qualify for the full amount of federal stimulus funds, Maryland must adopt an alternative base period. Adopting an alternative base period only qualifies the State for one-third of the \$126.8 million allotment. After a state has adopted the alternative base period into law, the remaining two-thirds of the allotment is awarded if the state has also adopted at least two of four additional changes specified by the legislation. These changes include (1) making part-time workers eligible for benefits; (2) providing coverage to individuals who separate from work for compelling family reasons (illness of a family member, safety reasons due to domestic violence, and change in spouse's employment location); (3) providing Workforce Investment Act (WIA) training benefits for at least 26 weeks in high demand industries; or (4) adding a \$15 weekly allowance to UI payments for dependents.

Even though UI benefits were extended to individuals seeking part-time work during the 2009 legislative session, Maryland did not qualify to receive federal stimulus funds. Thus, in addition to making minor changes to part-time UI eligibility, *Senate Bill 107* enacts additional changes to UI benefits by allowing an alternative base period to be used to determine eligibility and expanding eligibility for UI benefits to include individuals enrolled in a qualifying job

training program. The provisions in the Act make Maryland eligible for a one-time payment of \$126.8 million in federal incentive funds.

Alternative Base Period

The base period is the time period during which a claimant's wages earned are examined to determine a claimant's eligibility for UI benefits. In Maryland, and most states historically, the first four of the last five completed calendar quarters preceding the claim are considered the base period. Using the traditional base period, a lag of up to six months between the end of the base period and the date on which an individual becomes unemployed and files an unemployment claim may occur. As a result, the worker's most recent employment history is not considered when determining eligibility for UI benefits.

Senate Bill 107 allows an individual who does not qualify for UI benefits under the traditional base period to use an "alternative base period" for determining eligibility. The alternative base period, which consists of the four most recently completed calendar quarters preceding the start of the benefit year, may be used for calculation of benefits beginning March 1, 2011, for claims filed on or after March 6, 2011.

Expansion of Benefits for Employment Training

Senate Bill 107 allows an individual who is unemployed and has exhausted all rights to UI benefits under State and federal law to seek the equivalent of up to 26 times the individual's average weekly benefit amount by enrolling in an employment training program authorized by WIA that prepares the individual for entry into a "demand occupation." These provisions take effect March 1, 2011, and apply to claimants in approved training on or after March 6, 2011. Maryland does not currently offer State UI benefits to individuals enrolled in employment training, although federal payments are available under certain conditions.

The individual must be separated from a "declining occupation" or must have been involuntarily terminated from employment as a result of a permanent reduction of operations at the individual's former place of employment. An individual must enroll in training before the end of the benefit year established for the employment separation that made the individual eligible for the training benefit. Training benefits may not be payable for more than one year following the end of the benefit year established. Additionally, an individual may not receive UI training benefits if that individual is receiving similar stipends or other allowances for nontraining costs. An individual cannot be denied additional training benefits if the individual is unavailable to work or not actively seeking work.

Other Changes to Unemployment Insurance Benefits

To offset the cost of expanded UI benefits, *Senate Bill 107* also reduces UI benefit eligibility to certain claimants. The Act increases the minimum amount of qualifying wages an individual must earn during the base period to be eligible for UI benefits from \$900 to \$1,800 effective March 1, 2012, for claims filed beginning March 4, 2012. Accordingly, the minimum

weekly available benefit amount is increased from \$25 to \$50, reflecting the current amount available to a claimant with at least \$1,800 in qualifying earnings.

The Act also (1) abolishes UI benefits for claimants who become ill or disabled and are unable to seek work after filing for benefits due to the illness or disability; (2) increases the disqualification penalty for claimants who are dismissed for misconduct or gross misconduct; and (3) reduces the amount of earnings a claimant who becomes partially employed may receive that do not affect a claimant's weekly benefit. This amount is decreased from \$100 to \$50 effective March 1, 2011, for claims filed on or after March 6, 2011.

Joint Committee on Unemployment Insurance Oversight

The Joint Committee on Unemployment Insurance Oversight, initially established in 2005 to continue the work of predecessor legislative working groups, 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 UI benefits. *Senate Bill 34/House Bill 267 (both passed)* establish the joint committee as a permanent statutory committee rather than allow it to terminate as scheduled on December 31, 2010. The bills also require the joint committee to study State and federal UI law as it relates to employers engaged in seasonal industries. The study must consider the impact of UI benefit payments on employers in a county where the average unemployment rate exceeds the State average and how the obligations and payments may be reduced for employer units engaged in seasonal industries. The joint committee must report to the Governor and the General Assembly by December 1, 2010.

Senate Bill 107 directs the Joint Committee on Unemployment Insurance Oversight to study changes and make recommendations by December 1, 2010, on a cost-neutral plan to implement a graduated increase of the maximum weekly benefit to equal 54% of the average weekly wage. The study, including any research findings, must include a determination of whether (1) the impact of lowering the earnings disregard serves as a disincentive for claimants to return to work (possibly part-time work which may turn into full-time work); and (2) the earnings disregard should be changed from a flat amount to a fraction of weekly wages or benefits. If the study indicates that the amount of the wages subtracted in the calculation of the weekly benefit amount should be increased above \$50, the joint committee has to determine a method to offset that amount with equivalent savings to UITF. If the study is inconclusive, the joint committee has to monitor the impact of lowering the earnings disregard.

Labor and Industry

Wage Payment and Collection Law

Maryland's Wage Payment and Collection Law governs the payment of wages by employers in the State. The provisions of the law include a requirement that an employer pay the employee on a regular schedule and only allows the employer to make certain deductions from the wages. If an employer violates the law, the employee may be entitled to an amount not

exceeding three times the wage owed to the employee. Under the State's Wage and Hour Law, the definition of "wage" traditionally has included overtime pay. *Senate Bill 694/House Bill 214 (Chs. 99 and 100)* clarify that the definition of "wage" as used in the State's Wage and Hour Law includes overtime pay.

If the Commissioner of Labor and Industry determines that an employer has violated the provisions of the Wage Payment and Collection Law, the commissioner is authorized to try to resolve the issue informally; with the written consent of the employee, ask the Attorney General to bring an action on behalf of the employee; or bring an action on behalf of the employee. *House Bill 404 (Ch. 151)* establishes an administrative procedure for resolving wage complaints if the failure to pay wages involves \$3,000 or less. Under the bill, the commissioner may review and investigate the complaint and may either issue an order requiring the employer to pay the wages or dismiss the claim. In response to the commissioner's decision, the employer may request a *de novo* hearing before the Office of Administrative Hearings, but if a hearing is not requested, the commissioner's finding becomes a final order.

Retail Employee Shift Breaks

Beginning on March 1, 2011, employees who work at retail establishments with 50 or more employees will be entitled to shift breaks. The provisions of *Senate Bill 789/House Bill 1299 (both passed)* only apply to employers who are either retail establishment businesses in the State or employers that own one or more retail establishment franchises with the same trade name. Wholesalers and restaurants are exempted from the bills' provisions. Employees covered by collective bargaining agreements or employment policies that include shift breaks equal to or greater than those required by the bills are also excluded from the bills' provisions. Other exemptions from the bills' provisions include employees who are exempt from the overtime pay requirements of the Fair Labor Standards Act; work for State, county, or municipal governments; work in a corporate office or other office location; or work at least four hours at a single location with five or fewer employees.

Senate Bill 789/House Bill 1299 specifically mandate that for retail employees that work between four to six hours, employers are required to provide nonworking shift breaks of at least 15 minutes, unless the requirement is waived in writing. If employees work for more than six consecutive hours, employers must provide nonworking shift breaks of at least 30 minutes. Finally, for employees working at least eight consecutive hours, employers are required to provide nonworking shift breaks of at least 15 minutes for every additional four hours an employee works. Certain breaks may be considered a "working shift break" if the type of work prevents an employee from being relieved or an employee is allowed to consume a meal and the time is counted towards an employee's work hours. The working shift break requires a written agreement between the employee and the employer.

Employees may file complaints with the Commissioner of Labor and Industry for violations of the shift break requirements. If the commissioner receives a complaint, the commissioner is required to either try to resolve the issue informally or determine whether the employer has violated the shift break requirements. In determining whether a violation has

occurred, the commissioner is required to consider whether there was a threat to public health or safety at the time of an alleged violation. If the commissioner determines that the shift break requirements have been violated, the commissioner, subject to certain hearing and notice requirements, must issue an order compelling compliance and, in the commissioner's discretion, assess a civil penalty. The commissioner has the flexibility to determine the amount of a civil penalty. If an employer fails to comply with an order by the commissioner, the commissioner may bring in an action to the court.

Civil Air Patrol Leave

The Civil Air Patrol (CAP) is the official civilian auxiliary of the U.S. Air Force and is a volunteer group that performs search and rescue and disaster relief operations. Under current law, employers may not discharge employees for participating in CAP activities (1) if the employee submits written proof that the employee's participation was required; or (2) when the employee is responding to an emergency declared by the Governor. *House Bill 1323 (passed)* expands the protections for employees who are members of CAP by prohibiting an employer from discriminating against an employee or discharging an employee for membership in CAP if the employee has been employed for at least 90 days. The bill also requires employers to give CAP employees at least 15 days of unpaid leave each year to use when responding to an emergency CAP mission. CAP employees must give their employers as much notice as possible of the intended dates of the leave. Once a CAP employee returns from the leave, the employer is required to restore the employee to the position the employee held prior to taking leave.

Prevailing Wage

Senate Bill 451/House Bill 1100 (both passed) requires an employee to file a complaint with the Commissioner of Labor and Industry prior to filing a civil suit for recovery of unpaid wages under the State's Prevailing Wage Law. An employee is only authorized to file a civil suit if the employer fails to comply with an order issued by the commissioner that requires the employer to reimburse unpaid wages to the employee. For a more detailed discussion of this issue, see the subpart "Procurement" within this part of this *90 Day Report*.

Alcoholic Beverages

Statewide Bills

The Maryland Winery Modernization Act

The number of licensed wineries in the State has grown significantly in the past five years, from 17 to 41. Statistics compiled by the Comptroller's office, which issues licenses for wineries, indicate that the amount of wine sold by Maryland wineries has more than tripled in 10 years.

In keeping pace with this growth, *Senate Bill 858 (passed)*, effective June 1, 2010, changes the State wine laws in several ways. While simplifying the licensing process for limited wineries (that is, wineries that in general use only available Maryland agricultural products) the bill greatly broadens the scope of operations and activities of a limited winery licensee. Further, the measure establishes a permit for liquor stores and certain other alcoholic beverages licensees, enabling them to sell wine at farmer's markets that are listed by the Maryland Department of Agriculture. Finally, the bill requires the Comptroller to issue reports on two issues affecting the wine industry.

Limited Wineries: A limited winery is allowed to use available Maryland agricultural products to (1) ferment and bottle wine; (2) distill and bottle pomace brandy; (3) sell and deliver the wine and pomace brandy to a wholesale licensee or permit holder in the State or a person outside the State that is authorized to acquire the wine and pomace brandy; and (4) sell its wine and pomace brandy in limited quantities to persons participating in a guided tour of the winery.

Senate Bill 858 greatly expands the ability of a limited winery to sell its product to visitors to its facility. Not only may a limited winery sell or provide on its premises samples of wine and pomace brandy it produces, the limited winery may also sell or serve its visitors a wide variety of food items, including soup, cured meat, bread, chili, and ice cream.

Unless otherwise specified, a limited winery may only sell wine, brandy, or specified food or provide samples for off-premises consumption and sampling from 10 a.m. to 10 p.m. The same activities for on-premises consumption may be conducted from 10 a.m. to 6 p.m. each day. However, if guests are attending a planned promotional event or other organized activity on the licensed premises, the permissible hours are from 10 a.m. to 10 p.m. The bill specifies that in Garrett County, Sunday sales only apply if approved through referendum by the voters of the county.

Farmer's Market: *Senate Bill 858* also authorizes the Comptroller to issue a farmer's market permit to a holder of a license (1) other than a Class 4 limited winery license, such as a liquor store, that allows the holder to sell alcoholic beverages to the public for consumption off the licensed premises; and (2) that was issued by the local licensing board of the jurisdiction in which the farmer's market will be held.

A permit may only be used at the farmer's market identified in the permit during the hours of the farmer's market. In addition, the permit may be used only at one of the 103 farmer's markets listed in the farmer's market directory of Maryland Department of Agriculture. The Comptroller may issue only one permit for use at each farmer's market. A permit authorizes the holder to (1) occupy stall space at a farmer's market; (2) offer and sell sealed containers of wine to consumers for consumption off the licensed premises of the farmer's market; and (3) provide, at no charge, samples of wine not to exceed one ounce per brand to consumers for consumption on the licensed premises of the farmer's market. All wine offered for sale or samplings by the permit holder must be the product of a Class 4 limited winery.

Study of Direct Shipment of Wine: *Senate Bill 858* addresses another wine-related issue that proved controversial during the session – that of the direct shipment of wine from out-of-

state wineries to Maryland consumers. The bill requires the Comptroller, on or before December 31, 2010, to submit a report to the General Assembly on the viability and efficacy of instituting the policy of permitting the direct shipment of wine to consumers in the State. The report must include (1) an evaluation of the best practices used by the states and the District of Columbia that allow direct wine shipment; (2) an evaluation of related fiscal, tax, and other public policy and regulatory issues; and (3) determinations regarding specified factors, including the benefits and costs to consumers and the best practices for preventing access by underage wine drinkers.

Finally, the bill requires the Comptroller to report to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee on the impact that the limitation of special event permits has had on the growth of the Maryland wine industry. The report is due by December 1, 2012.

Maximum Alcohol Content

Senate Bill 905 (failed) would have prohibited a person from selling at retail an alcoholic beverage with an alcohol content by volume of 95% (190 proof) or more. A violator would have been guilty of a misdemeanor and subject to a fine of up to \$1,000.

Direct Wine Shipments from Outside Maryland

Senate Bill 566/House Bill 716 (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. Under *Senate Bill 858*, however, the Comptroller must report to the General Assembly on or before December 31, 2010, on the viability and efficacy of allowing direct shipment of wine to consumers in the State.

Local Laws

City of Annapolis

Renewal fees for alcoholic beverages licenses in the City of Annapolis are generally due in full by April 30 of each year. Due to an increase in alcoholic beverages license fees that became effective as of July 1, 2009, several license holders asked the city for additional time or for the ability to make more than one payment for the renewal of the licenses. *House Bill 1531 (Ch. 172)*, an emergency enactment, authorizes the mayor, counselor, and aldermen of Annapolis to determine a periodic basis on which payments for the renewal of an alcoholic beverages license may be made.

Anne Arundel County

House Bill 947 (passed) creates for a 3-year period a Class BWST, beer, wine, and spirits (on-premises) tasting license in Anne Arundel County. A Class BWST license may only be issued to a holder of a Class BWL beer, wine, and liquor (on-premises) license. The bill increases, from \$50 to \$150, the annual fee for a Class BWT beer and wine tasting license and

establishes a \$500 fee for a Class BWST license. The bill takes effect July 1, 2010, and terminates June 30, 2013.

Under *House Bill 947*, a Class BWST license holder is allowed to provide the on-premises consumption of the following alcoholic beverages for tasting or sampling purposes only:

- liquor in a quantity not exceeding one-half ounce from any of five brands to any one person in a day;
- light wine in a quantity not exceeding one ounce from each brand to any one person; and
- beer in a quantity not exceeding three ounces to any one person.

Baltimore City

Park Heights Redevelopment Area: Senate Bill 456/House Bill 279 (both passed) specify that in the Park Heights Redevelopment Area of Baltimore City establishments may not begin selling alcoholic beverages until 9 a.m. This restriction applies to the holders of Class B-D-7 licenses; Class A, B, and D beer and light wine licenses; and Class A, B, and D beer, wine, and liquor licenses. The bills take effect June 1, 2010.

Unlicensed Restaurants: Senate Bill 376/House Bill 1326 (both passed) prohibit an establishment in Baltimore City that is not licensed by the Baltimore City Board of License Commissioners from giving, serving, or dispensing alcoholic beverages on its premises, unless the establishment is a restaurant and (1) the alcoholic beverages are brought to the restaurant by the patron; (2) the alcoholic beverages are consumed with a meal; (3) there is no charge for admission; and (4) the Baltimore City Fire Department determines that the maximum seating capacity of the restaurant is 50. The bills also authorize the Baltimore City Police Department to close an establishment if the department determines that the public health, safety, or welfare requires emergency action. The bills repeal provisions of law allowing bottle clubs in Baltimore City and take effect July 1, 2010.

Baltimore City has the Class WS license for wine sampling and the Class BWT license for beer and wine tasting. The holder of either class of license is permitted to serve the relevant type of alcoholic beverage in amounts specified in statute. Each license is valid for one day and no applicant may be granted more than 12 licenses per year. Chapter 342 of 2009 authorized the Baltimore City Board of Liquor License Commissioners to issue a Class BWLT beer, wine, and liquor tasting license for on-site consumption in Ward 27, Precinct 42 of the 41st Legislative District of Baltimore City; Ward 27, Precinct 41 of the 43rd Legislative District of Baltimore City; and Ward 11, Precinct 5 of the 44th Legislative District of Baltimore City.

Beer, Wine, and Liquor Tasting (BWLT) Licenses: Senate Bill 120 (passed) authorizes the board to issue a Class BWLT beer, wine, and liquor (on-premises) tasting license to a holder of a Class A beer, wine, and liquor license in Ward 27, Precinct 44 of the 41st Legislative District. The bill takes effect June 1, 2010.

Class C Licenses: *Senate Bill 377 (passed)* authorizes the Baltimore City Board of Liquor License Commissioners to collect from a holder of a special Class C beer, wine, and liquor license reimbursement for costs incurred by the board while monitoring the event for which the license is issued. The bill takes effect July 1, 2010.

Baltimore County

Towson Commercial Revitalization District: *Senate Bill 122/House Bill 391 (both passed)* alter requirements in Baltimore County relating to the capital investment, average daily receipts, and seating capacity for some restaurants that apply for the transfer of a Class B or Class D license and the issuance of a Class B (beer, wine, liquor) license for use in the Towson Commercial Revitalization District (TCRD).

The bills take effect June 1, 2010, and allow the county Board of License Commissioners to authorize the transfer of up to 10 beer, wine, and liquor (on-sale) licenses into TCRD if the licenses meet specified criteria.

Senate Bill 122/House Bill 391 create an exception to the minimum seating capacity and average daily receipts requirement and repeal the provision relating to the minimum capital investment requirement. Instead, the bills establish that the board may require that, for not more than seven restaurants, applicants for license transfer and issuance must demonstrate a minimum capital investment of \$500,000, excluding the costs of the land and building shell. For not more than three restaurants, the board may require that applicants for license transfer and issuance to (1) demonstrate a capital investment, excluding the costs of the land and building shell, of not less than \$50,000 or more than \$400,000; (2) maintain average daily receipts from the sale of food that are at least 70% of the total daily receipts of the restaurant; and (3) have a minimum seating capacity of 40 persons and a maximum seating capacity of 100 persons in the area dedicated to restaurant operations, with the seating capacity in the bar area not exceeding 15% of the total seating capacity of the restaurant.

Tasting Licenses: *House Bill 1496 (Ch. 171)* authorizes the county board of license commissioners to issue a Class BWT beer and light wine tasting or a Class BWLT beer, wine, and liquor tasting license for 104 days, which may be used consecutively or nonconsecutively. The annual fee is \$400. The Act takes effect July 1, 2010.

Carroll County

Senate Bill 926/House Bill 1114 (both passed) authorize the holder of a Class B beer, wine, and liquor license in Carroll County to sell wine for off-premises consumption if the area used for the preparation and consumption of food and beverages occupies at least 90% of the total square footage of the licensed premises. The holder of the license may not sell more than six bottles of wine to an individual at one time. The bills take effect July 1, 2010.

Cecil County

House Bill 535 (Ch. 154) establishes a Class EF (entertainment facility) beer, wine, and liquor license in Cecil County. The license authorizes the sale of beer, wine, and liquor by the drink and by the bottle, from one or more outlets in the entertainment facility, for consumption anywhere within the premises. One or more Class EF licenses may be issued for the same facility. Despite provisions that generally limit the number of alcoholic beverage licenses that can be issued based on the number of registered voters, the board of license commissioners may issue a Class EF license to an applicant that has a capital investment in the facility, not including any real property, of at least \$35 million. The Class EF license authorizes (1) music and dancing; and (2) the sales and serving of beer, wine, and liquor throughout the entertainment facility during the days and hours that the facility is open for business. The annual license fee is \$7,500, and the bill takes effect July 1, 2010. An entertainment facility is already under construction in Cecil County and scheduled to open in late 2010.

Dorchester County

Club Membership Requirements: Senate Bill 41 (Ch. 11)/House Bill 110 (passed) reduce the minimum membership requirements in Dorchester County for armed forces organizations or clubs from (125 to 50) and for fraternal organizations (from 250 to 125) to obtain a Class C beer, wine, and liquor license. The Act takes effect July 1, 2010.

Minimum Seating Capacity: Senate Bill 47/House Bill 1056 (both passed) lower the minimum seating capacity requirement from 75 to 50 for bona fide restaurants, motels, and hotels with restaurant facilities in Dorchester County to obtain a Class B (on-sale) beer, wine, and liquor license from the Dorchester County Board of License Commissioners. The bills take effect July 1, 2010.

Frederick County

Senate Bill 449 (passed) expands the hours during which authorized Class A (off-sale) license holders may sell alcoholic beverages in Frederick County. The bill takes effect June 1, 2010. Under the bill, Class A (off-sale) license holders may be open from 6 a.m. until 2 a.m. the following day on Monday through Saturday and on Sunday from 11 a.m. until 2 a.m. the following day.

Garrett County

Effective July 1, 2010, **House Bill 400 (Ch. 148)** alters the qualifications for obtaining a wine festival license in Garrett County by extending eligibility to a person eligible for any type of special Class C license issued by the county board of license commissioners. The Act also requires the board of license commissioners to hold a hearing on each application for a wine festival license and to publish a notice of the application in a newspaper of general circulation at least seven days before the hearing.

Harford County

Senate Bill 153 (Ch. 43)/House Bill 668 (passed) alter the process for selecting nominees to the Harford County Liquor Control Board. The measures require the county executive to submit the name of one nominee to the Harford County Senators and Delegates of the General Assembly and specify procedures for the approval or rejection of the nominee.

Under the new law, at least 60 days prior to the expiration of a board member's term, or for a vacancy other than one resulting from an expired term, as soon as practicable, the county executive must submit the name of one nominee to the Harford County Senators and Delegates (collectively known as the Harford County Delegation) for its advice and consent. If the delegation does not approve or reject the nominee within seven working days, the nominee is considered to be approved. If the delegation rejects the nominee, the county executive must nominate a new individual within seven working days of receiving notice of the rejection. This process must continue until a nominee is approved. The county executive then is to submit the name of the approved nominee to the county council for its advice and consent.

Howard County

B-SBW License: House Bill 730 (Ch. 162) establishes a Class B special beer and wine (B-SBW) (off-sale) license in Howard County. The Act takes effect July 1, 2010. Under the Act, the board of license commissioners may issue a Class B-SBW license only to a holder of a Class B beer, wine, and liquor (seven-day) (on-sale) license that is issued for a restaurant. The term of a Class B-SBW license issued to a successful applicant must be the same as that of the Class B beer, wine, and liquor license that the applicant holds.

Prior to issuance of a license, the applicant must complete a form that the board of license commissioners provides and pay an annual license fee of \$500. The same advertising, posting of notice, and public hearing requirements as those for other Class B licenses must be met. A holder of a Class B-SBW license may sell beer and wine for consumption off the licensed premises only to persons who have purchased food or alcohol from the licensed premises. A Class B-SBW license holder may not display or provide shelving for beer or wine for off-premises sales in areas of the establishment that are accessible to the public. Off-sale alcoholic beverages receipts collected under a Class B-SBW license must be included in the calculation of average daily receipts from the sale of alcohol under provisions of law that define "restaurant."

The hours for sale for a Class B-SBW license are from 10 a.m. to midnight, Monday through Sunday. A holder of a Class B-SBW license may exercise the privileges of the license only if the licensed premises is open for business as a restaurant. The board of license commissioners may adopt regulations to carry out the Act's provisions, including placing a limit on the number of licenses to be issued.

House Bill 730 also authorizes a holder of a Class A, B, or C license in Howard County to employ an individual who is at least 18 years old to sell or serve alcoholic beverages.

Findings of Hearing Board: Under *House Bill 717 (Ch. 161)* the Howard County Appointed Alcoholic Beverage Hearing Board, on determining whether to approve an application for any new Class A (off-sale) license, is required to include findings as to each of several specified factors in its written decision. The Act takes effect July 1, 2010.

Before approving an application and issuing a license, the board must consider:

- the public need and desire for the license;
- the number and location of existing licensees and the potential effect on existing licensees of the license applied for;
- the potential commonality or uniqueness of the services and products to be offered by the applicant's business;
- the impact on the general health, safety, and welfare of the community, including issues relating to crime, traffic, parking, or convenience; and
- any other necessary factor as determined by the board.

House Bill 717 specifies that the board must include in its written decision findings as to each of these factors.

Montgomery County

Repeal of Sunset Provision: In 1989, Montgomery County increased the license fee for a Class B beer, wine, and liquor license and a Class B-BWL (H-M) beer, wine, and liquor license from \$2,000 to \$2,500 to help fund alcoholic beverage enforcement activities. Subsequently, a series of sunset extensions kept the fee increase in effect for a few years at a time. The last in the series of sunset extensions, Chapter 48 of 2005, extended the termination date until June 30, 2010. *House Bill 1205 (Ch. 169)* repeals that termination date, thus making the \$2,500 license fee permanent.

Farmers' Markets: *House Bill 823 (passed)* authorizes the Comptroller's Office to issue up to 12 additional winery special event permits in a calendar year to a licensed Class 4 Maryland limited winery for use at farmers' markets in Montgomery County listed on the Maryland Department of Agriculture Farmers' Market Directory. The holder of a winery special event permit is prohibited from selling wine by the glass. A farmers' market administrator or its designee is required to be present during hours when wine is being sold and to be certified by an approved alcohol awareness program. The bill takes effect June 1, 2010.

Prince George's County

Farmers' Markets: *House Bill 559 (passed)* authorizes the Comptroller's Office to issue up to 12 additional winery special event permits in a calendar year to a licensed Class 4 Maryland limited winery for use at farmers' markets in Prince George's County listed on the

Maryland Department of Agriculture Farmers' Market Directory. The holder of an additional winery special event permit issued under the bill is prohibited from selling wine by the glass. A farmers' market administrator or its designee is required to be present during hours when wine is being sold and to be certified by an approved alcohol awareness program. The bill takes effect June 1, 2010.

Special Entertainment Permit: *House Bill 558 (passed)* authorizes the board of license commissioners to issue a special entertainment permit to the holder of any Class B (on-sale) license. The permit authorizes a holder, after 9 p.m. and until 2 a.m., to impose a cover charge, offer facilities for patron dancing, and provide entertainment. The board must determine the number of days in a week that the permit holder may exercise the privileges of the permit. The annual permit fee is \$1,500, which is in addition to the annual fee for the Class B license.

The bill (1) specifies hearing requirements for the issuance, renewal, and revocation of an entertainment permit; (2) requires applicants to develop security plans for the establishments for which the permits are sought and to submit their plans to the board and to the Chief of the Prince George's County Police Department; and (3) specifies procedural requirements and penalties for violations. The board must hold a public hearing before approving an application for and issuing an entertainment permit, and on receipt of a petition, to revoke an entertainment permit or protest the renewal of a permit.

Under *House Bill 558* a circuit court of the county is authorized to issue a temporary restraining order to immediately close the premises if the county establishes that the security plan has not been implemented and that emergency action is required to protect the health, safety, or welfare of the public. Also the board is authorized to immediately suspend a permit if the board reasonably believes that the permit holder violated the terms and conditions of the permit. The bill takes effect July 1, 2010, and the board is required to report on the activities of permit holders and the impact of entertainment permits on the county by November 1, 2013.

Class B-AE License: *Senate Bill 151 (Ch. 42)* authorizes the board of license commissioners to issue a Class B-AE (arts and entertainment) beer, wine, and liquor license. The annual license fee is set at \$2,750. The license may be issued only to an establishment in the county's approved arts and entertainment district for consumption of alcoholic beverages on the licensed premises. The board may issue up to five Class B-AE licenses; however, a person may not hold more than two licenses. The board is required to adopt regulations to carry out these provisions, including regulations specifying hours and days of sale.

Waterfront Entertainment Retail Complex: *House Bill 571 (passed)* creates a special Class D beer and wine (seven-day) (on- and off-sale) license in Prince George's County to be issued for use within property zoned as a waterfront entertainment retail complex. The license allows beer and wine to be sold seven days per week from 9:00 a.m. to 2:00 a.m. the next day, with no food requirements. The annual license fee is \$660. *House Bill 571* also authorizes the board of license commissioners to grant an additional Class D beer and wine license allowing for on- and off-sale of beer and wine during the days and hours designated for an event, not to exceed seven consecutive days. Such an event must be held within the property of a conceptual

site plan, at least part of which includes a zoned waterfront entertainment retail complex. This license does not prohibit a holder of the license from holding another alcoholic beverages license of a different class or nature. The fee for this license is \$100 per day. The bill authorizes the county to adopt regulations for implementation. The bill takes effect June 1, 2010.

National Harbor: In 2009, legislation was enacted that authorized the Prince George's County Board of License Commissioners to issue a special three-day Class C beer, wine, and liquor license to a nonprofit organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code. The special license entitles the holder to sell beer, wine, or liquor on- or off-premises at the National Harbor Complex. The fee for a special license is \$150 per day. The special license may not be issued to any one organization for more than three consecutive days in a single calendar year. However, *House Bill 574 (Ch. 158)* prohibits the issuance of a special three-day Class C beer, wine, and liquor license at National Harbor to any one organization for two consecutive years. The Act takes effect July 1, 2010.

Fee and Salary Increases: According to the board of license commissioners, alcoholic beverages license fees in the county have not been increased in 10 years. In the county, there are 581 alcoholic beverages license holders, excluding the holders of special limited licenses. This includes 47 Class A, B, and D beer licenses; 90 Class A, B, C, and D beer and wine licenses; and 444 Class A, B, and C beer, wine, and liquor licenses.

House Bill 567 (Ch. 156) increases alcoholic beverages license fees in Prince George's County by an average of \$172 per license issued. The Act also increases the annual salary for alcoholic beverages inspectors in the county from \$9,976 to \$10,900. The Act takes effect July 1, 2010. As a result of this enactment, county licensing revenues are estimated to increase by approximately \$103,600 annually beginning in fiscal 2011.

License Extinguishment: *House Bill 570 (passed)* authorizes a person to obtain a Class A alcoholic beverages license of any kind in Prince George's County for the purpose of having the board of license commissioners declare it extinguished. The person must inform the board of the purpose of the acquisition, and within 10 days must surrender the license to the board along with evidence to satisfy the board that all taxes or obligations to wholesalers or other persons have been paid. A license extinguished in this manner may not be replaced by the board and counts toward the statutory limits on alcoholic beverages licenses in Prince George's County. A person who obtains a license for the purpose of extinguishing it may not exercise the privileges of the license or further transfer or sell the license. The bill authorizes the board to impose a penalty of up to \$1,000 for a violation of the bill. The bill takes effect July 1, 2010.

Class A/Class 4 Light Wine Licenses: *House Bill 573 (Ch. 157)* authorizes the issuance of a Class A light wine license in Prince George's County and exempts any winery applying for such a license from any quotas as to the number of licenses in the election district where the winery is located. Only three counties (Allegany, Charles, and Prince George's) were not authorized to issue this type of license. The Act takes effect July 1, 2010.

Notification of Issuance of Licenses and Permits: *House Bill 582 (passed)* requires the board of license commissioners to notify the chief of police, the fire chief, the director of the

Department of Environmental Resources, and any relevant municipal corporation when the board issues a special Class C license. The notice is to include the time, place, and expected size of the event for which the license is issued. Notice must also be given to the board, the chief of police, the fire chief, the director of the Department of Environmental Resources, and any relevant municipal corporation when an administrative official in the county issues a use and occupancy permit that allows entertainment to be held for various organizations or the public. The bill takes effect June 1, 2010.

Beer, Wine, and Liquor Tastings: *House Bill 1478 (passed)* establishes a beer tasting license; a beer/wine tasting license; and a beer, wine, and liquor tasting license in Prince George's County. A beer tasting license is available to the holder of a beer license; a beer and wine license; or a beer, wine, and liquor license. A beer/wine tasting license is available to the holder of a beer and wine license or a beer, wine, and liquor license. A beer, wine, and liquor tasting license is available only to the holder of a beer, wine, and liquor license. The holder of a beer license may only obtain a beer tasting license. The additional fee for the new beer tasting license is \$110. The county board of license commissioners is required to set the annual fee for a beer/wine tasting license and a beer, wine, and liquor tasting license. The bill takes effect July 1, 2010.

St. Mary's County

Senate Bill 904 (passed) requires the county board of license commissioners to issue not more than one Class A alcoholic beverages license with an off-sale privilege for each unit of 1,350 people in each election district in the county. The license quota must be maintained using the population figures of the most recent St. Mary's County Planning Commission Annual Report. The bill also prohibits the transfer of licenses between election districts unless the transfer can be made without exceeding the license quota. The bill takes effect July 1, 2010, and applies only prospectively. There are 43 Class A licenses with an off-sale privilege in St. Mary's County. According to the Maryland Department of Planning, the population of St. Mary's County totaled 101,578 as of July 2008.

Somerset County

House Bill 451 (passed) authorizes the county board of license commissioners to issue a local caterer's license to the holders of specified Class B restaurant or hotel (on-sale) licenses. The annual license fee is \$550. The caterer's license authorized by the bill allows the holder of a Class B restaurant or hotel (on-sale) beer and light wine license to provide beer and light wine at events that are held off the Class B restaurant or hotel licensed premises; and the holder of a Class B restaurant or hotel beer, wine, and liquor license to provide alcoholic beverages at events that are held off the Class B restaurant or hotel licensed premises. License holders must also provide food at a catered event.

The bill also authorizes the board to proceed administratively against a licensee who is granted probation before judgment for a violation of the prohibitions against the sale of an alcoholic beverage to a person under age 21 or to a person who was visibly under the influence of alcohol. The bill takes effect July 1, 2010.

Washington County

House Bill 399 (*passed*) authorizes the county board of license commissioners to issue a beer tasting license to the holder of a Class A or Class B beer and wine license or a Class A or Class B beer, wine, and liquor license. The annual license fee is \$100. The board must regulate the quantity of beer served to each person and the number and size of bottles or other containers of beer being served. The bill takes effect July 1, 2010.

Wicomico County

Licenses; Employment at Licensed Premises: **Senate Bill 196/House Bill 551** (*both passed*) authorize the county board of license commissioners to issue a beer tasting license and a beer/wine tasting license. The bills establish fees for both licenses. The bills also specify that the Comptroller may only issue one Class 6 pub-brewery license or one Class 7 micro-brewery license, but not both, in an enterprise zone in Wicomico County to a person who holds no more than three Class B beer, wine, and liquor licenses and repeal laws authorizing the board of license commissioners to issue the license. Finally, the bills authorize an individual who is at least 16 years old and who has a work permit to be employed to stock alcoholic beverages or clear tables and bar areas in Wicomico County.

Micro-brewery Licenses: **Senate Bill 195** (*passed*) authorizes a Class 7 micro-brewery licensee in Wicomico County to sell beer at retail to customers for consumption off the licensed premises in refillable containers that are sealed by the licensee at the time of each refill. The bill takes effect July 1, 2010. There are currently 15 Class 7 micro-brewery licenses issued in the State; however, the Comptroller's office has not issued any micro-brewery licenses in Wicomico County. There are 46 Class B beer, wine, and liquor license holders in Wicomico County.

Worcester County

House Bill 1431 (*passed*) adds Worcester County to the list of jurisdictions in which (1) the holder of a Class 6 pub-brewery license may sell malt beverages for off-premises consumption under specific conditions; (2) a Class 7 micro-brewery license may be issued; and (3) the licensee may sell at retail, beer for consumption off the licensed premises in refillable containers that are sealed by the micro-brewery licensee at the time of each refill. The bill takes effect July 1, 2010.

Part I

Financial Institutions, Commercial Law, and Corporations

Financial Institutions

Nondepository Trust Companies and Savings Banks – Suspension and Conversion

The Office of the Commissioner of Financial Regulation is responsible for regulating and supervising State-chartered banks, credit unions, and trust companies. Supervision includes periodic on-site evaluations as well as off-site monitoring programs. The office monitors and evaluates State-chartered banks, including examining and evaluating their capital, asset quality, management, earnings and liquidity position, sensitivity to market risk, as well as their internal controls and risk management systems.

House Bill 1136 (passed) grants the Office of the Commissioner of Financial Regulation the express authority to take immediate actions where emergency conditions threaten the continued safe and sound operations of a nondepository trust company. The bill requires a nondepository trust company to pledge securities or a surety bond of up to \$3,000,000 to defray the costs of a potential receivership. In addition, the bill authorizes the Commissioner of Financial Regulation to appoint any agents, counsel, employees, and assistants and to retain any officers or employees needed to effectively undertake a receivership.

In response to a growing interest among federal savings banks to convert to a Maryland-chartered savings bank, *House Bill 1136* also establishes a streamlined process for converting from a federal savings bank to a Maryland-chartered savings bank and sets fees for the conversion.

Credit Unions and Depository Institutions – Savings Raffles

Senate Bill 886/House Bill 990 (both passed) authorize credit unions and depository institutions to conduct a savings promotion raffle that gives consumers a chance to win cash

prizes for making deposits in a specified bank account, subject to the approval of the Commissioner of Financial Regulation and the prior authorization of specified federal regulators.

Mortgage Lender Licenses

Under Chapters 7 and 8 of 2008, an applicant for a new mortgage lender's license or for renewal of a current license must meet specified minimum net worth requirements completed in accordance with generally accepted accounting principles (GAAP). However, using GAAP to compute net worth can be costly, particularly for smaller firms that simply broker and do not make mortgage loans. *Senate Bill 787 (Ch. 106)* allows a mortgage lender to comply with the minimum net worth requirements by using an alternative basis of accounting approved by the Commissioner of Financial Regulation.

Employees of the Office of the Commissioner of Financial Regulation – Background Checks

House Bill 1152 (Ch. 167) requires the Commissioner of Financial Regulation to conduct criminal history record checks on applicants for employment with the commissioner and authorizes the commissioner to conduct record checks of existing employees.

Redeposit of Local Government Funds into Insured Accounts

Senate Bill 777/House Bill 844 (Chs. 102 and 103) authorize local governments to deposit unexpended or surplus money in any federally insured bank or savings and loan association in excess of the Federal Deposit Insurance Corporation (FDIC) maximum insurance coverage limit without the State financial institution pledging collateral to secure the deposits under specified conditions. The unexpended or surplus money must be initially placed for deposit with a State financial institution that is selected by the local government to arrange for the redeposit of the money through a deposit placement program.

Commercial Law – Credit Regulation

Mortgage Lending

Reverse Mortgage Loans

Although Maryland passed comprehensive residential mortgage reform laws during the 2008 and 2009 sessions, the State does not have any consumer protections specifically governing reverse mortgage loans. *Senate Bill 878/House Bill 799 (both passed)* prohibit a lender or an arranger of credit from requiring a borrower to purchase an annuity, a long-term care insurance policy, or other financial or insurance product as a condition of receiving a reverse mortgage loan. The bills also prohibit a lender or an arranger of credit from referring a borrower to a third-party to purchase an annuity or any other financial or insurance product before the later of the loan closing date or the expiration of the borrower's right to rescind the loan agreement. On

receiving a prospective borrower's application for a reverse mortgage loan, a lender or an arranger of credit must provide the prospective borrower with a checklist advising the borrower to discuss certain issues with a housing counselor.

For a more detailed discussion of these bills, see the subpart "Consumer Protection" within this part.

Homebuyer Education or Counseling

House Bill 1399 (passed) requires a lender that makes a first mortgage loan secured by owner-occupied residential property in the State to provide a borrower with a written recommendation that the borrower complete homebuyer education or housing counseling. The bill prohibits a lender from closing on a mortgage loan unless the lender has provided the borrower with the notice required under the bill. The bill also repeals provisions of law that require a lender or credit grantor to provide a borrower with information on homebuyer education or counseling in connection with specified high-interest or high-fee mortgage loans.

Mortgage Broker Fees

Senate Bill 943/House Bill 1254 (Chs. 111 and 112) authorize a mortgage broker to charge a borrower for the actual cost of specified goods and services obtained by the mortgage broker at the written request of the borrower. Specifically, the Acts allow a mortgage broker to recover the costs of obtaining a condominium document or subordination agreement document at the written request of the borrower. A mortgage broker also may charge a borrower for third-party fees paid by the mortgage broker for goods or services that are approved by the Commissioner of Financial Regulation and required to complete the loan application process.

Consumer Credit Regulation

Credit Services Businesses – Fees

Under Maryland law, the maximum permissible interest rate a person may charge on a loan is 33%. However, the Office of the Commissioner of Financial Regulation received complaints that certain companies in the business of making short-term, high-interest loans employed a new business model to circumvent the State's interest rate limit. Under this model, a lender would transfer its loans through a licensed credit services business. Although the lender would charge a permissible interest rate, the credit services business also would charge the consumer a fee for arranging the extension of credit. When combined, the interest and fee greatly exceed State interest limits. *House Bill 79 (passed)* addresses this practice by prohibiting a credit services business from charging or receiving a fee in connection with a loan that, when combined with an interest charge, exceeds the interest rate permitted by law.

Automobile Loan Financing

Senate Bill 898/House Bill 1076 (both passed) authorize a balloon payment on an installment automobile loan that exceeds \$30,000. The bills give Maryland automobile dealers

the ability to offer the same financing products to customers that are available in several surrounding jurisdictions, including Virginia, Delaware, and the District of Columbia. Specifically, car dealers in these jurisdictions may offer a hybrid form of automobile financing that combines a traditional automobile loan with elements of a lease agreement. At the end of the loan term, the consumer may return the car to the dealer or elect to purchase the automobile at the agreed on price – the “balloon” amount due on the loan.

Credit Card Blacklisting Act

Recent reports indicate that, in some cases, credit card companies are making credit determinations based on where a cardholder shops or which mortgage lender a cardholder uses. *Senate Bill 523 (passed)* establishes the Credit Card Blacklisting Act, which prohibits a consumer credit provider from using such criteria to trigger a default under, or alter the terms of, a consumer credit contract without the consumer’s prior written consent.

A more detailed discussion of this bill may be found under the subpart “Consumer Protection” within this part.

Commercial Law – Consumer Protection

Refund Anticipation Loans and Checks

Refund anticipation loans, also called tax refund loans, are short-term, high-cost loans secured by a taxpayer’s anticipated income tax refund. The loans are marketed by, and facilitated through, income tax preparers. Some income tax preparers also offer refund anticipation checks, a nonloan alternative to a refund anticipation loan. A refund anticipation check is a payment device, such as a paper check or prepaid debit card, issued by a bank that is authorized to receive the taxpayer’s income tax refund electronically from the Internal Revenue Service.

A 2010 report of the National Consumer Law Center found that refund anticipation loans cost taxpayers an estimated \$738 million in loan fees nationwide in 2008. The report also found that refund anticipation checks cost taxpayers an estimated \$360 million during that same period.

House Bill 1206 (passed) establishes certain consumer protections in connection with refund anticipation loans and refund anticipation checks. The bill requires that a person who facilitates a refund anticipation loan or refund anticipation check provide the consumer with certain written and oral disclosures. In the case of a refund anticipation loan, the required disclosures include the amount of any loan fee; a statement that the product is a one- to two-week loan; and a notice that the consumer is liable for the full amount of the loan, even if the consumer’s tax refund is less than expected. The required disclosures in connection with a refund anticipation check include a statement that the consumer may receive a tax refund in the same amount of time without paying any fee if the consumer’s tax return is filed electronically and the refund is deposited directly into the consumer’s bank account.

Beyond the required disclosures, the bill establishes certain restrictions on refund anticipation loans and checks. Specifically, the bill prohibits a facilitator from requiring a consumer to take out a refund anticipation loan as a condition to obtaining tax preparation services, charging any fee other than the fee imposed by the lender, or arranging for any third party to charge a fee in connection with a refund anticipation loan or check.

Telephone Bills – Third-party Billing Charges

Senate Bill 643/House Bill 880 (Chs. 89 and 90) address the practice of “cramming,” in which a third party adds a charge to a telephone customer’s bill for a service the customer did not order, agree to, or use. Although third-party billing is used for legitimate charges, it has been widely used for fraudulent charges as well. In many cases, these fraudulent charges are small, \$2 to \$3, and the description that appears on a customer’s bill makes it difficult for the customer to recognize the charges as fraudulent.

To combat the practice of cramming, *Senate Bill 643/House Bill 880* prohibit a third-party vendor from submitting charges to a telephone company unless the third-party vendor first obtains authorization from the customer. The authorization must include, among other things, the customer’s name and telephone number, an explanation of the product or service being purchased and all applicable charges, and an affirmation from the customer that the charges may be billed to the customer’s telephone bill.

The Acts further provide that a customer is not liable for third-party vendor charges unless the customer (1) receives notice that the telephone company allows third-party billing; (2) receives an itemization of third-party charges, identifying them separately from other charges; and (3) is provided with the name and telephone number of the third-party vendor. Finally, the Acts provide that a customer is not liable for any third-party charges that the customer disputes within a reasonable time, unless the third-party vendor has provided a copy of the customer’s authorization to the telephone company and the customer.

For a discussion of these Acts in the context of public service companies, see the subpart “Public Service Companies” within Part H – Business and Economic Issues of this *90 Day Report*.

Reverse Mortgages

Approximately 90% of reverse mortgages are insured under the federal Home Equity Conversion Mortgage (HECM) program, which is administered by the U.S. Department of Housing and Urban Development. The remainder of the reverse mortgage market is comprised of proprietary reverse mortgages, which are underwritten by private lenders. Federally insured HECM loans are subject to federal regulation. Proprietary reverse mortgages, however, are largely unregulated.

To address the lack of regulation in the proprietary loan market, *Senate Bill 878/House Bill 799 (both passed)* require that lenders making proprietary reverse mortgages comply with federal regulations governing HECM loans. For example, federal regulations require housing

counseling in connection with a HECM loan. By incorporating federal regulations regarding HECM loans, the bills require housing counseling for proprietary reverse mortgages as well. The bills also require that a lender, upon receiving an application for a reverse mortgage loan, provide a prospective borrower with a checklist advising the borrower to discuss with the housing counselor specific issues that may affect the borrower's ability to manage a reverse mortgage loan. The checklist requirement applies to both HECM and proprietary reverse mortgage loans.

Beyond the loan itself, there are consumer risks associated with the cross-selling of financial products to a reverse mortgage borrower, a practice that many consumer advocates consider predatory. Federal law prohibits a lender from conditioning the extension of a HECM loan on a requirement that the borrower purchase insurance, an annuity, or similar financial product, except for those products that are customary in mortgage lending. *Senate Bill 878/House Bill 799* prohibit any lender from requiring a borrower to purchase an annuity, long-term care policy, or other financial or insurance product as a condition to obtaining a reverse mortgage loan. The bills also prohibit a lender from referring a borrower to any person for the purchase of an annuity or other insurance product before the closing date of the loan or the expiration of the borrower's right to rescind the loan, whichever is later.

Consumer Credit

Recent reports indicate that, in some cases, credit card companies have made credit determinations based on where a cardholder shops or which mortgage lender a cardholder uses. *Senate Bill 523 (passed)* prohibits a consumer credit provider, including a credit card company, from using such criteria to trigger a default under a consumer credit contract or alter the terms of the contract without the consumer's prior written consent. The bill provides that a provision in a consumer credit contract that triggers a default or authorizes the credit provider to alter the terms of the contract based on such criteria is unenforceable.

Commercial Law – Generally

Uniform Commercial Code – Fraudulent Financing Statements

When a borrower uses personal property as collateral for a loan, the lender may protect its interest in the property by filing a Uniform Commercial Code (UCC) financing statement with the State Department of Assessments and Taxation (SDAT). Financing statements filed with SDAT provide public notice of the lender's interest in the property and establish priority among the borrower's creditors.

However, in rare instances, individuals have misused the UCC filing system by filing fraudulent financing statements to harass another person. Although a fraudulent financing statement does not create any legal liability for the named debtor, it can cause the named debtor economic harm. When a fraudulent financing statement purports to relate to a large outstanding debt, a prospective lender that discovers the financing statement may be unwilling to extend

credit to the person named in the financing statement. A fraudulent financing statement, therefore, can impair an individual's capacity to obtain credit. Also, it can be costly and time-consuming for a person named in a fraudulent financing statement to remove the financing statement from the public records.

House Bill 202 (passed) prohibits a person from filing a financing statement that the person knows to contain false information. A person who violates the bill's provisions is guilty of a misdemeanor and is subject to a maximum fine of \$500 for each fraudulent financing statement or amendment to a financing statement filed with SDAT.

Equipment Dealer Contract Act

The Equipment Dealer Contract Act provides statutory protections for dealers of certain equipment, such as construction, farm, utility, and industrial equipment. Among other things, the Act 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 302 (Ch. 55) expands the scope of the Equipment Dealer Contract Act to cover dealers of outdoor power sports equipment. Outdoor power sports equipment includes all-terrain vehicles, dirt bikes, and snowmobiles, as well as attachments and repair parts for such equipment. The Act applies all the statutory protections of the Equipment Dealer Contract Act to outdoor power sports equipment dealers.

Debt Settlement Services

The debt relief industry comprises various sub-industries, including the debt management services industry and the expanding debt settlement services industry. In Maryland, companies that provide debt management services are subject to the licensing and regulatory provisions of the Maryland Debt Management Services Act. Although more than 30 states regulate providers of debt settlement services, Maryland does not. **Senate Bill 701/House Bill 392 (both passed)** direct the Commissioner of Financial Regulation, in consultation with the Consumer Protection Division of the Office of the Attorney General, to study the debt settlement services industry and report its findings to the Senate Finance Committee and House Economic Matters Committee on or before December 1, 2010. The study must determine how the debt settlement services industry would be best regulated in the State, including the option of establishing a licensure requirement and the fiscal impact of regulating the industry if licensure were required. In conducting the study, the Commissioner of Financial Regulation must establish a workgroup comprised of relevant stakeholders.

Corporations and Associations

Benefit Corporations

Maryland law recognizes both a C corporation that elects to be taxed under Subchapter C of the Internal Revenue Code and an S corporation that elects to be taxed as a small business corporation under Subchapter S of the Internal Revenue Code. *Senate Bill 690/House Bill 1009 (Chs. 97 and 98)* authorize a Maryland corporation to elect to be a benefit corporation which, unlike a traditional C or S corporation, must have as its purpose the creation of one or more public benefits.

Under the Acts, a corporation may elect to be a benefit corporation by amending or including in its charter a statement that the corporation is a benefit corporation. A benefit corporation must have the purpose of creating a general public benefit, defined in the Acts as a “material, positive impact on society and the environment ... through activities that promote a combination of specific public benefits.” Specific public benefits are defined to include preserving the environment, improving human health, and promoting the arts, sciences, or advancement of knowledge. The Acts require the election of benefit corporation status and the termination of that status to be approved by the corporation’s stockholders. Clear reference to the fact that a corporation is a benefit corporation must appear prominently at the head of each charter document and on each certificate representing outstanding stock of the benefit corporation.

Senate Bill 690/House Bill 1009 also (1) establish specific duties of the directors of a benefit corporation; (2) provide for immunity from liability for directors who perform their duties in accordance with required standards of care; (3) require annual benefit reports to be delivered to each stockholder; and (4) provide for the termination of benefit corporation status.

General Corporation Law

Senate Bill 688/House Bill 972 (Chs. 95 and 96) alter various provisions of the Maryland General Corporation Law relating to charter documents, delegation of powers of the board of directors, stockholder meetings, notices, and proposals, and involuntary dissolutions of corporations.

Execution of Charter Documents

The Acts expand the individuals who may sign and acknowledge and witness or attest specified charter documents for a corporation, business trust, or real estate investment trust. Under *Senate Bill 688/House Bill 972*, the charter documents may be signed and acknowledged by the chief financial officer or any other authorized officer or agent of the corporation, business trust, or real estate investment trust, and witnessed or attested by a treasurer, chief financial officer, or assistant treasurer. In addition, the chief financial officer and any other authorized officer or agent of a corporation, business trust, or real estate investment trust may verify under oath the contents of the charter documents.

Charter Provisions Relating to Classes and Series of Stock

Senate Bill 688/House Bill 972 extend to a series of stock a corporation's authority to provide by its charter for various rights of classes of stock and authorize a charter to give the holders of one or more classes or series of stock exclusive voting rights on a charter amendment that would alter only the contract rights of the specified class or series.

Delegation of Powers of Board of Directors

Senate Bill 688/House Bill 972 authorize a board to delegate to an executive or other committee of the board the power to authorize dividends on stock but repeal the authority of the board of directors of a corporation to delegate to a committee of the board the power to fix the amount and other terms of a distribution.

Stockholder Proposals, Meetings, and Notices

A corporation's charter or bylaws may require a stockholder proposing a nominee for election to the board of directors or any other matter to be considered at a stockholders meeting to provide advance notice to the corporation before a date or within a period of time specified in statute, or another time specified in the charter or bylaws. *Senate Bill 688/House Bill 972* repeal the specific time periods established by statute. The Acts also authorize a meeting of stockholders, before it is convened, to be postponed from time to time to a date not more than 120 days after the original record date set for the meeting.

In addition, the Acts alter the requirements for providing notice to stockholders by (1) allowing a corporation, for any notice it is required to give to stockholders, to provide a single notice to all stockholders who share the same address unless otherwise requested by a stockholder; and (2) providing that a notice of a charter amendment, instead of including a copy of the amendment or a summary of the changes it will effect, may identify a web site at which the amendment or summary may be accessed.

Dissolution of Corporations

In general, stockholders entitled to vote in the election of a corporation's directors may petition a court to dissolve the corporation on the grounds that the stockholders are so divided that directors cannot be elected. *Senate Bill 688/House Bill 972* exclude stockholders of a corporation that has a class of equity securities registered under the federal Securities and Exchange Act of 1934 from provisions of law establishing this right.

Real Estate Investment Trusts

A real estate investment trust (REIT) is an unincorporated business trust or association in which property is acquired, held, managed, administered, controlled, invested, or disposed of for the benefit and profit of any person who may be a shareholder. A REIT is formed by filing a declaration of trust with the Maryland State Department of Assessments and Taxation (SDAT). *Senate Bill 501/House Bill 412 (Chs. 79 and 80)* make changes to the law governing a REIT's

declaration of trust and specify the circumstances under which a REIT may file a certificate of notice with SDAT.

The Acts add a definition of “declaration of trust” to the provisions of law governing REITs to clarify that the term refers to the document as originally accepted for record by SDAT and that document as subsequently amended, corrected, or supplemented by specified articles or a certificate of correction. The Acts also clarify that a REIT may provide in its declaration of trust that the holders of one or more classes or series of shares have exclusive voting rights on an amendment to the declaration of trust that would alter only the contract rights of the specified class or series.

Senate Bill 501/House Bill 412 further authorize the board of trustees of a REIT with equity securities registered under the federal Securities and Exchange Act of 1934 to amend the REIT’s declaration of trust to authorize a reverse stock split that does not exceed a specified ratio by a majority vote of the trustees and without shareholder action. Finally, the Acts specify the circumstances under which REIT may file a certificate of notice for record with SDAT.

Maryland Business Trust Act

Chapter 452 of 1999 enacted the Maryland Business Trust Act (MBTA) which authorized the establishment of business trusts in Maryland. Under MBTA, a business trust is defined as an unincorporated business, trust, or association created by a governing instrument under which property is held, managed, administered, controlled, invested, reinvested, or operated by a trustee, or business or professional activities for profit are carried on by a trustee, for the benefit of persons who have a beneficial interest in the trust property.

Senate Bill 784/House Bill 971 (both passed) extensively revise MBTA and rename it as the Maryland Statutory Trust Act. For consistency with corresponding statutes in other states, the bills repeal the definition of “business trust,” define a “statutory trust,” and make conforming terminology changes where appropriate throughout the Annotated Code. Under the bills, a “statutory trust” means an unincorporated business, trust, or association that is (1) formed by filing an initial certificate of trust with SDAT; and (2) governed by a governing instrument. The term includes a business trust formed under MBTA.

While many of the changes made are technical or stylistic, *Senate Bill 784/House Bill 971* also (1) clarify the requirements for formation and governance of a statutory trust; (2) clarify the general powers of a statutory trust; (3) authorize the governing instrument of a statutory trust to contain provisions relating to the nature and division of beneficial interests in the statutory trust; (4) clarify the types of consideration that may be contributed for a beneficial interest in a statutory trust; (5) clarify the powers, duties, and liabilities of trustees of a statutory trust and the procedures by which trustees and beneficial owners may take specified actions; and (6) alter the procedures for the merger or consolidation of a statutory trust. In addition, the bills establish registration and other requirements for foreign business trusts that do business in the State as well as penalties for failing to register.

Part J

Health and Human Services

Public Health – Generally

Medicaid

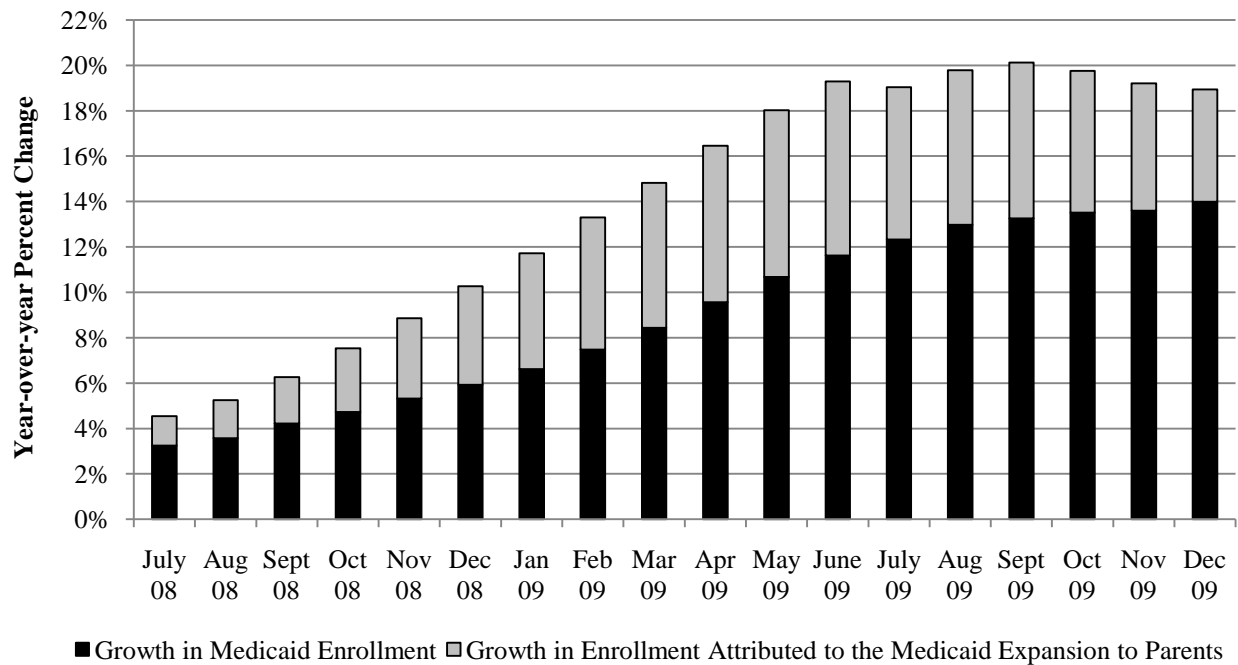
Fiscal 2011 Budget Actions

The fiscal 2011 Medicaid budget totals almost \$6.2 billion. A key assumption in the fiscal 2011 budget is that the enhanced federal matching rate available under the federal American Recovery and Reinvestment Act of 2009 (ARRA) will continue until the end of fiscal 2011 rather than expire December 31, 2010, an assumption that saves \$389 million in general funds. At the time of writing, that extension was expected but had not yet been enacted.

The major driver to growth in the Medicaid budget continues to be enrollment. Since the summer of 2008, enrollment in Medicaid (excluding the Maryland Children's Health Program (MCHP) and the Primary Adult Care program (PAC)) has increased steadily from just over 500,000. Enrollment growth was estimated at 15.6% in fiscal 2009. Current Department of Legislative Services (DLS) projections anticipate average monthly enrollment topping 700,000 in fiscal 2010 (a 16.5% increase over fiscal 2009) and continuing to increase, albeit at a lesser rate, to approaching 740,000 in fiscal 2011 (a 4.3% increase over fiscal 2010).

Contributions to this enrollment increase are the health care reform expansion of Medicaid to parents and the deteriorating economy. As shown in **Exhibit J1-1**, in fiscal 2009, enrollment growth was evenly fuelled by health care reform and the economy (as evidenced by the growth of Temporary Cash Assistance (TCA) enrollees, especially children). Beginning in fiscal 2010, the impact of health care expansion on enrollment, while still significant, is clearly less important than the economy. DLS anticipates that in fiscal 2011 most of the enrollment growth will continue to be from TCA enrollees.

Exhibit J1-1
Year-over-year Change in Medicaid Monthly Enrollment
Fiscal 2009-2010 Year-to-date



Note: Excludes the Maryland Children's Health Program and the Primary Adult Care Program.

Source: Department of Health and Mental Hygiene; Department of Legislative Services

The fiscal 2011 budget contains little in the way of funding for anything above that required to support enrollment and utilization trends although there is \$70 million for a 5.4% Managed Care Organization (MCO) rate increase and it is anticipated (although not actually included in the fiscal 2011 budget at this point) that there will be a 2.0% rate increase for nursing homes. The funding to support the nursing home rate increase represents a portion of the increase in the nursing facility quality assessment contained in the Budget Reconciliation and Financing Act (BRFA) of 2010.

The budget also contains numerous cost containment actions, the most notable a \$123.0 million general fund savings in inpatients costs. These general funds will be back-filled by a hospital assessment (70% of the assessment passed on through higher rates, 30% off hospital bottom-lines). Other significant cost containment actions included the continuation of a fiscal 2010 action aligning Medicaid and Medicare rates for certain dually eligible individuals (a fiscal 2011 savings of \$31.2 million), collecting rebates on MCO pharmacy expenditures (\$20.5 million, which also requires a change in federal law), savings generated from the passages

of the False Health Claims Act (\$20.0 million), and savings based on swapping general funds for special funds from the higher nursing facility quality assessment (\$17.0 million).

Medicaid Eligibility for Nursing Facility Level of Care

The nursing facility level of care standard is the medical eligibility standard that individuals must meet in order to receive nursing home services through Medicaid. This standard is also linked to the eligibility of most home- and community-based waiver programs, the Program of All-Inclusive Care for the Elderly, and medical day care services. In 2008, the Department of Health and Mental Hygiene (DHMH) was prompted to alter its nursing facility level of care standard in response to the final ruling in the case of *Ida Brown v. Department of Health and Mental Hygiene*.

On July 1, 2008, DHMH changed its nursing facility level of care standard to allow services to be covered for a broader range of individuals who have cognitive, functional, and behavioral needs. The amended criteria removed the requirement that an individual must require the direct involvement of a licensed health care professional to meet the nursing facility level of care standard.

Senate Bill 429/House Bill 278 (Chs. 143 and 144) require DHMH to report to the Senate Finance Committee, the House Health and Government Operations Committee, and the Medicaid Advisory Committee (MAC) at least 90 days prior to making any change to medical eligibility for Medicaid long-term care services, including nursing facility services, home- and community-based waiver services, and other services that require nursing facility level of care. DHMH must also discuss the report, which must include specified information related to the change to medical eligibility, at a meeting of MAC.

False Claims Act

The federal Deficit Reduction Act of 2005 established incentives for states to enact certain antifraud legislation modeled after the federal False Claims Act (FCA). States that enact qualifying legislation are eligible to receive an increase of 10% of the recovery funds (by a corresponding 10% reduction in the federal share). To qualify, a state false claims act must provide (1) liability to the state for false or fraudulent claims; (2) provisions for *qui tam* actions to be initiated by whistleblowers and for the rewarding of those whistleblowers in amounts that are at least as effective as those provided by the federal FCA; (3) the placing of *qui tam* actions under seal for 60 days for review by the state Attorney General; and (4) civil penalties not less than those provided in the federal FCA, to be imposed on those who have been judicially determined to have filed false claim acts.

Senate Bill 279 (Ch.4) prohibits a person from making a false or fraudulent claim for payment or approval by the State or DHMH under a State health plan or program; (2) authorizes the State to file a civil action against a person who makes a false health claim; (3) establishes civil penalties for making a false health claim *qui tam* action; (4) permits a private citizen to file a civil action on behalf of the State against a person who has made a false health claim; (5) requires the court to award a certain percentage of the proceeds of the action to the private

citizen initiating the action; and (6) prohibits retaliatory actions by a person against an employee, contractor, or grantee for disclosing a false claim or engaging in other specified false claims-related activities. The statute of limitations for any action brought under the Act is six years from the date of the violation or three years after the date when material facts were known or reasonably should have been known by the private party initiating the action on behalf of the State, the State's Inspector General, or the director of the State's Medicaid Fraud Control Unit, but in no event more than 10 years after the date on which the violation is committed.

The Governor's proposed fiscal 2011 budget includes \$20 million in reductions (\$9 million in general funds, \$11 million in federal funds) contingent on enactment of the Maryland False Health Claims Act of 2010. DHMH indicates that these savings will result due to associated damages in the civil process that cannot be awarded under current law and additional volume of false claims cases.

Efforts to Increase Enrollment

House Bill 1375 (passed) extends the termination date on the requirement (per Chapter 692 of 2008) for taxpayers to indicate on their income tax return whether each dependent child for whom an exemption is claimed has health insurance, and continues the penalty prohibition for not providing this information or providing inaccurate information from June 30, 2011, to June 30, 2014. The bill also extends through tax year 2012 the requirement for the Comptroller to send applications and enrollment instructions to a taxpayer who indicates that a dependent child does not have health care coverage and who does not exceed the highest income eligibility standard for Medicaid or MCHP.

The bill also requires the Comptroller to add a box on income tax returns that allows a taxpayer to "opt in" to sharing their information with DHMH for the purpose of enrolling their dependent children into Medicaid or MCHP. The bill also requires DHMH and the Comptroller to enter into a data-sharing agreement for this purpose. Sharing information will allow the Comptroller to better target the mailings of applications and enrollment instructions and will help evaluate the effectiveness of using the tax system to increase enrollment of low-income children into Medicaid and MCHP.

Community Services

Access Assistance to Nursing Facility Residents for Home- and Community-based Services

House Bill 899 (passed) requires specified information provided by social workers to nursing facility residents regarding home- and community-based services to be provided upon both admission and discharge.

Home- and Community-based Services Waiver Access

House Bill 849 (passed) prohibits DHMH from denying an individual access to a home- and community-based services waiver due to lack of funding if, in addition to meeting other

existing criteria, at least 30 consecutive days of the individual's nursing facility stay are eligible to be paid for by the Medicaid program, rather than requiring that nursing home services be paid for by Medicaid for at least 30 consecutive days immediately prior to the application.

Developmental Disabilities Administration Recipient Appeals

To clarify an appeal process that is required by federal law as part of the State's Medicaid waiver agreement for home- and community-based services, *Senate Bill 465/House Bill 900 (both passed)* require the Secretary of Health and Mental Hygiene to provide a recipient of Medicaid-waiver services who has been denied services according to his or her plan of habilitation with a notice within 30 days of the denial and an opportunity for a Medicaid fair hearing. The notice must include the reason for the denial and appeal instructions.

Community Provider Rate Adjustments

Senate Bill 633/House Bill 1034 (both passed) require that, beginning in fiscal 2012, rates paid by DHMH to a community developmental disabilities services provider and a community mental health services provider for approved services rendered to an eligible individual be aligned with annual cost adjustments for units of State government in the Governor's proposed budget. The inflationary cost adjustments used to establish the inflationary cost adjustment for providers may not exceed 4%. The bills repeal language that makes the adjustment contingent on the limitations of the State budget and require the Community Services Reimbursement Rate Commission (CSRRC) to determine a weighted average cost structure of providers. In addition, the bills require DHMH, in consultation with specified community services stakeholders, to conduct a study for purposes of recommending a plan to develop a rate-setting methodology for providers. The study will also include an analysis of the future role of CSRRC and other entities involved in the rate-setting process. The bills terminate June 30, 2016.

Low-Intensity Support Service Program

The Low-Intensity Support Service (LISS) Program is a statewide program provided by the Developmental Disabilities Administration (DDA) for individuals with a developmental disability. Program services help individuals with developmental disabilities improve their quality of life, remain in their own homes, and increase or maintain independence. Only individuals that do not qualify for Medicaid use LISS. *Senate Bill 920/House Bill 1226 (both passed)* specify that individuals who wish to apply for LISS are not required to submit a DDA service application or complete a Medicaid eligibility application if the services will be provided to a minor. The bills also authorize DDA to develop a simplified LISS application process and generally codify existing waiver provisions and eligibility criteria. DDA must establish a cap of no less than \$3,000 per individual *per fiscal year* to a qualifying individual and must deliver services dependent on the allocation and availability of funds.

Tobacco

Cigarette Restitution Funds for Tobacco Programs

The Tobacco Use Prevention and Cessation Program aims to reduce the use of tobacco products and to reduce the burden of tobacco-related morbidity and mortality in the State. Cigarette Restitution Funding (CRF) for statewide Academic Health Centers supports grants to State institutions for the purpose of enhancing cancer research that may lead to a cure for a targeted cancer and increases the rate at which cancer research translates into treatment protocols in the State. However, over the past several years, the State fiscal crisis has prompted reductions to the mandated funding levels for various CRF programs.

The BRFA of 2010, *Senate Bill 141 (passed)*, continues to adjust these funding levels. Specifically, the Tobacco Use Preventions and Cessation Program is funded at \$6 million in fiscal 2011 and 2012 and \$10 million in fiscal 2013 and thereafter. The bill also consolidates funding for the statewide Academic Health Centers into Cancer Research Grants, repealing the Tobacco Disease Research and Network Grants. The bill sets funding for Academic Health Center grants at \$2.4 million for fiscal 2011 and 2012 and \$13 million in fiscal 2013 and thereafter.

Mental Health

Division of Correction facilities in the State must provide an inmate with a mental illness with a 30-day supply of medication upon release. *Senate Bill 761/House Bill 1335 (both passed)* require the managing official at a local correctional facility to provide an inmate diagnosed with a mental illness upon release access to a 30-day supply of medication for his or her mental illness. Part of the supply may be provided by prescription if the inmate is provided sufficient medication on release to remain medication-compliant until the prescription can be filled. The requirement only applies to an inmate who has been incarcerated in a local correctional facility for at least 60 days, and only if a treating physician determines that the possession of medication will be in the best interest of the inmate. A local correctional facility, facility employee, or agent may not be held liable for issuing or prescribing medication to an inmate on his or her release.

Miscellaneous Public Health Issues

Prohibition on Bisphenol-A

Bisphenol-A (BPA) is a compound found in many plastics. In January 2010 the U.S. Food and Drug Administration (FDA) released findings stating that the FDA had some concern about the effects of BPA on the brain behavior and prostate gland in fetuses, infants, and young children. *Senate Bill 213/House Bill 33 (Chs. 46 and 47)* prohibit a person from manufacturing, distributing, or knowingly selling child care articles that contain BPA on or after January 10, 2012. The Act defines “child care article” as an empty bottle or cup to be filled with

food or liquid that is designed or intended by a manufacturer to be used by a child under the age of four years.

Biomonitoring Program

Environmental factors have been linked to numerous diseases such as asthma, leukemia, learning disabilities, cancer, and developmental disabilities. Through biomonitoring, the federal Centers for Disease Control and Prevention (CDC) collects annual data on human exposure to 212 chemicals, including pesticides, polychlorinated biphenyls, mercury, and second-hand smoke. However, the current survey design does not permit CDC to estimate exposure to environmental chemicals on a state-by-state basis. *House Bill 181 (passed)* requires DHMH and MDE to conduct a study to determine the feasibility of establishing a biomonitoring program in the State. DHMH must report its findings to specified legislative committees by June 20, 2011.

Producer Mobile Farmer's Market License

There is extensive variation across counties regarding licenses for farmer's markets. Farmers who choose to sell produce at farmer's markets in multiple jurisdictions have to pay numerous licensing fees. *Senate Bill 198 (passed)* addresses this variation by prohibiting local jurisdictions from requiring a license for the sale of raw agricultural products in a farmer's market and requires DHMH to establish a producer mobile farmer's market license. An individual holding a producer mobile farmer's market license may transport and sell certain goods at farmer's markets throughout the State. DHMH must inspect each mobile unit operating under the license at least once per year, and local health departments must enforce the bill and report any violations to DHMH.

Seasonal Farmer's Market Producer Sampling License

Senate Bill 199 (passed) authorizes a county to establish a seasonal farmer's market producer sampling license for a producer to prepare and offer samples of a farm product at a farmer's market. DHMH must adopt specific regulations related to the sampling license. Moreover, the county issuing the license must adopt an ordinance that sets a license fee and provides for the enforcement of provisions of law under which the license was issued, including penalties for violations. The license is valid for the season for which it is issued and for all farmer's markets in the county.

Medical Marijuana

Senate Bill 627/House Bill 712 (both failed) would have authorized the legal use of marijuana for medical purposes under specified circumstances. Among other things, the bills would have set up a system in which DHMH would license growers and dispensaries and monitor the dispensation of medical marijuana in the State.

Health Occupations

General Revisions to the Health Occupations Boards

Chapter 212 of 2008 created the Task Force on the Discipline of Health Care Professionals and Improved Patient Care. The task force submitted its report on February 2, 2009, which includes 24 recommendations. *Senate Bill 291/House Bill 114 (both passed)* provide statutory authority for many of the task force's recommendations by setting standardized guidelines for all health occupations boards' policies and procedures that include the composition of the boards, the appointment of specified board staff, and the disciplinary and sanctioning procedures of the boards. Significant provisions include:

- requiring the establishment of disciplinary subcommittees for complaint investigation, determination of whether to bring charges, and participation in preadjudication case resolution conferences;
- setting a statute of limitations of six years after which time a board may not bring charges against a licensee except under specified circumstances;
- requiring a board that uses peer review in standard of care cases to provide the individual being reviewed with a copy of the final peer review report and an opportunity to submit a written response to the final report before the board takes action against the individual; and
- authorizing training, mentoring, or other forms of remediation for licensees in lieu of formal hearings under specified circumstances.

Dental Hygienists

Under current law, a dental hygienist practices under the indirect supervision of a dentist, which means the dentist authorizes the procedure and remains in the office while it is being performed. To more efficiently serve patients and promote proper preventive oral health care, dentistry practices in Maryland have trended toward permitting hygienists to work under less restrictive supervisory requirements. *Senate Bill 719/House Bill 1302 (both passed)* authorize a dental hygienist to practice in a nursing home or an assisted living facility under the general supervision of a dentist. The dental hygienist is authorized to practice in accordance with a written agreement between the hygienist and the dentist and if specified consultation requirements, patient needs assessments, and assurances relating to the facility are met.

Electrologists

Senate Bill 241/House Bill 215 (Chs. 48 and 49) make changes to the practice of electrology in the State, which is regulated by the State Board of Nursing with the guidance of the Electrology Practice Committee. Specifically, the bills require applicants for licensure to pass both a national certification examination and a clinical examination given by the board,

extend the date by which renewal applicants must have had a criminal history records check until 2011, and thereafter require an additional criminal history records check every 12 years, rather than every 10 years. The bills also establish that a quorum is a majority of the full authorized membership of the committee, provide that members of the committee are entitled to specified compensation and reimbursement, and require the board to send renewal notices to electrology licensees three months before a license expires.

Military Health Care Providers

In 2006, the Statewide Commission on the Shortage in the Health Care Workforce reported that gaps exist between projected demand and reported supply from Maryland postsecondary health care programs. In 2007, the Secretary of Health and Mental Hygiene reported that the lack of standardization among the various branches of the military has made it difficult for educational institutions and health occupations boards to determine a veteran's level of clinical and course work training, thus making it more difficult for a veteran to obtain the necessary credentials to pursue a career in health care in Maryland. *Senate Bill 1033/House Bill 1353 (both passed)* address both of these reports by requiring the Department of Veterans Affairs to develop a Military Health Care Provider Transition Plan to increase the number of veterans, including current and former members of the Reserve forces and National Guard, with expertise in health care workforce shortage areas to transition into civilian health care provider positions. The plan must be completed and reported to the General Assembly by January 1, 2012.

Morticians and Funeral Directors

Licensure Requirements

Under *House Bill 200 (passed)* an applicant for a funeral director's license must pass the arts and sciences state board examinations administered by the Conference of Funeral Service Examining Boards (CFSEB) of the United States rather than the national board examination administered by CFSEB. Additionally, the State Board of Morticians and Funeral Directors must advise applicants for a mortician or funeral director's license that a license issued in Maryland does not necessarily allow the licensee to practice in another state.

Regulation of Crematories

House Bill 995 (passed) requires the board and the Office of Cemetery Oversight to establish a process for regulating crematories that provides for registration and issuance of permits or licensure, as appropriate, based on the regulatory entity. A crematory is regulated either by the office or the board based on the crematory's ownership. The operation or ownership of a crematory incinerator at a licensed medical facility or educational institution is exempt from the bill's provisions. By October 1, 2011, the office and the board must adopt identical regulations in numerous specified areas and must determine whether to adopt financial stability requirements for crematories.

Nurses

Membership of the State Board of Nursing and the Certified Nursing Assistant Advisory Committee

The memberships of the State Board of Nursing and the Certified Nursing Assistant Advisory Committee are altered in *Senate Bill 266/House Bill 302 (Chs. 53 and 54)*. The bills add to the board a registered nurse member who has practiced acute care for at least five years, practices currently, and holds a bachelor of science degree in nursing, require that a registered nurse member practice in a supervised group living setting, and require that a licensed practical nurse member practice as a delegating nurse in a supervised group living setting. An adult medical day care nursing assistant is added to the committee. The bills also alter the process for board member nominations by requiring the board to notify all active licensees and appropriate professional nursing organizations of a vacancy, and then authorizing any professional nursing organization that represents at least 25 affected nurses, or any active nurse with a valid petition, to submit a list of qualified individuals for the vacancy.

Licensure and Certification Requirements

Applicants to the board for licensure or certification must submit to an examination by a board-designated health care provider if the board has objective evidence that an applicant under review may cause harm to a patient (*Senate Bill 632/House Bill 624 (both passed)*). The bills also establish biennial renewal beginning in January 2013 and provide for the staggering of license renewal so that licensees born in even-numbered years renew in even-numbered years and licensees born in odd-numbered years renew in odd-numbered years. The bills remove skilled nursing assistants from the list of certified professionals regulated by the board, require the board to send renewal notices to licensees and certificate holders three months before a license expires, and exempt from licensure applicants who have passed a board-approved examination but are waiting for the completion of the required criminal history records check. Thereafter, the bills require an additional criminal history records check every 12 years, rather than every 10 years.

Nurse Practitioners

In order to provide more independence from physician supervision, *Senate Bill 484/House Bill 319 (Chs. 77 and 78)* alter the scope of practice for nurse practitioners. The bills require a nurse practitioner to have an approved attestation of a collaboration agreement with a licensed physician and to both refer to, and consult with, physicians and health care providers as needed. Further, the bills define a nurse practitioner's scope of practice, authorize temporary practice letters under specified circumstances, and provide title protection for nurse practitioners. The bills repeal the requirement that the board and the State Board of Physicians jointly adopt regulations concerning the prescriptive authority of nurse practitioners and requires the board, in consultation with the State Board of Physicians, to develop a plan to implement the Maryland Nurse Practice Act.

Pharmacists

Therapy Management Contracts

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. The termination date of the Therapy Management Contract Program was extended from May 31, 2008, to September 30, 2010, by Chapter 650 of 2008. *Senate Bill 165/House Bill 600 (Chs. 44 and 45)* repeal the September 30, 2010 termination date for the authorization of therapy management contracts.

Wholesale Distributors

The Wholesale Distributor Permitting and Prescription Drug Integrity Act, established by Chapters 352 and 353 of 2007, imposed additional permitting requirements for wholesale prescription drug distributors. Among other requirements, the Act requires a pedigree, or history of the distribution chain, for prescription drugs that are distributed in Maryland. *Senate Bill 163/House Bill 868 (both passed)* clarify the conditions under which the State Board of Pharmacy may exempt wholesale distributors under “deemed status” from initial and routine inspection requirements. The Department of Health and Mental Hygiene may purchase and distribute prescription drugs and devices for public health purposes in accordance with regulations adopted by the department in consultation with the board. These purchases and distributions are exempt from wholesale distribution requirements. Under the bills, wholesale distributors in states that do not qualify for reciprocity and that seek a permit in the State must be accredited by an organization approved by the board. Out-of-state wholesale distributors that receive a permit by reciprocity are subject to criminal history record checks and surety bond requirements.

Physician Assistants

Senate Bill 308/House Bill 323 (both passed) require physician assistants to be licensed rather than certified by the State Board of Physicians to practice in the State. The bills remove the requirement for a delegation agreement between a physician and a physician assistant to be approved by the board before a physician assistant may practice under certain circumstances. Specifically, the bills clarify the supervisory roles of the primary and alternate supervising physicians, increase the number of physician assistants a physician may supervise in specified settings from two to four, and establish an approval process for delegation agreements containing advanced duties that:

- allows physician assistants to begin performing advanced duties in credentialed facilities on submission of a delegation agreement to the board while providing the board 90 days to approve, reject, or alter the delegation agreement; and

- requires the board to approve delegation agreements before physician assistants may practice advanced duties in non-credentialed facilities or administer general or neuroaxial anesthesia.

Physicians

Under *House Bill 870 (passed)*, the State Board of Physicians may take disciplinary action against a licensed physician who performs a cosmetic surgical procedure in an office or facility that is not accredited by specified organizations or certified to participate in the Medicare program.

Professional Counselors and Therapists

Membership of the State Board for Professional Counselors and Therapists

In order to allow individuals to serve on the State Board for Professional Counselors and Therapists who have been lawfully practicing in their field as certified counselors and were grandfathered into licensure without meeting the educational and training requirements of the new law, *House Bill 1188 (passed)* repeals the requirement that members of the board need to hold a master's or doctoral degree in the field and need to meet the educational and supervised practice requirements of the law.

Licensure Requirements

House Bill 863 (passed) clarifies that an applicant for licensure to practice clinical marriage and family therapy must hold a master's or doctoral degree in a marriage and family field from an accredited educational institution approved by the board. The bill also increases the requisite credit hours for certification as a professional alcohol and drug counselor and an associate alcohol and drug counselor.

Psychologists

Senate Bill 1041/House Bill 1064 (both passed) require an applicant for licensure as a psychologist to submit to a State and national criminal history records check. The State Board of Examiners of Psychologists may not issue a license if the criminal history records information for an applicant has not been received.

Social Workers

Chapters 86 and 87 of 2009 required the State Board of Social Work Examiners to establish a workgroup to examine issues affecting the status of clinical social workers in the workforce. The General Assembly had concerns that many highly qualified employment candidates, experienced licensed social workers from other states, were lost because of certain board statutes and regulations. *House Bill 927 (passed)* is a product of the workgroup. The bill provides that to become licensed as a certified social worker or a certified social worker-clinical

in Maryland, an out-of-state applicant must be of good moral character, be at least 18 years old, pay an application fee, be licensed in another state at a specified level of licensure, have passed an examination in that other state as a condition of licensure, and have performed a specified number of clinical hours.

Sunset Legislation

Approximately 70 entities, including each of the boards regulated under the Health Occupations Article, are subject to periodic evaluation conducted by the Department of Legislative Services in accordance with the Maryland Program Evaluation Act. The Act establishes a process better known as “sunset review” as most agencies evaluated are also subject to termination or “sunset.” This year, the General Assembly reauthorized the State Board of Physical Therapy Examiners through *Senate Bill 146 (Ch. 40)/House Bill 131 (passed)*, the State Board of Examiners in Optometry through *Senate Bill 145/House Bill 132 (both passed)*, the State Board of Chiropractic and Massage Therapy Examiners through *Senate Bill 104 (passed)/House Bill 135 (Ch. 133)*, and the State Board of Dental Examiners through *Senate Bill 325/House Bill 501 (both passed)*.

Health Care Facilities and Regulation

Hospital Financial Assistance, Debt Collection, and Patient Notification Policies

In February 2009, the Health Services Cost Review Commission (HSCRC) released a report on the financial assistance and credit and collection practices of Maryland hospitals. HSCRC found that while Maryland hospitals generally adhere to voluntary standards for financial assistance, the State lacked standards for hospital credit and collection policies, hospitals’ policies were ambiguous and varied, and oversight of third-party collection agencies may have been insufficient. In response, Chapters 310 and 311 of 2009 required hospitals to provide free care to patients with family incomes up to 150% of federal poverty guidelines (FPG) and reduced-cost care to low-income patients with higher family incomes. Each hospital must 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.

Chapters 310 and 311 also required HSCRC 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 by October 1, 2009, on incentives for hospitals to provide free and reduced-cost care to patients without the means to pay their hospital bills.

HSCRC’s report included 36 recommendations, and *Senate Bill 328/House Bill 933 (Chs. 60 and 61)*, largely based on those recommendations, further alter the requirements for hospital financial assistance and debt collection policies and make the requirements applicable to chronic care hospitals that are subject to rates set by HSCRC. The Acts require hospitals to

provide reduced-cost medically necessary care to patients with family income below 500% FPG who have a financial hardship. However, hospitals may seek and HSCRC may approve a different income threshold based on specified factors. In addition, the Acts (1) outline practices a hospital must follow if it finds a patient to be eligible for free care after collecting money from the patient for services provided; (2) further refine information that must be provided to patients, in specified places, and at specified times, and; (3) set uniform standards for hospital debt collection policies including a prohibition on a hospital forcing the sale or foreclosure of a patient's primary residence to collect an outstanding debt.

Freestanding Medical Facilities

A "freestanding medical facility" is a facility in which medical and health services are provided that is physically separate from a hospital or hospital grounds and is an administrative part of a hospital or related institution. Freestanding medical facilities must be open 24 hours a day, seven days a week, and provide stabilizing treatment to a patient presenting with an emergency medical condition regardless of a patient's medical condition, insurance status, or ability to pay. There are three freestanding medical facilities in the State; two are pilot projects.

With the exception of the freestanding medical facility in Bowie, the State Health Services Cost Review Commission (HSCRC) does not set rates for freestanding medical facilities. *Senate Bill 593/House Bill 699 (both passed)* require HSCRC to set rates for hospital services provided at freestanding medical facilities issued a certificate of need (CON) by the Maryland Health Care Commission (MHCC) after July 1, 2015; a freestanding medical facility licensed prior to July 1, 2007; and freestanding medical facility pilot projects. The bills require all payors subject to the rate-setting authority of HSCRC, including insurers, nonprofit health service plans, health maintenance organizations (HMOs), managed care organizations (MCOs), and the Medical Assistance Program (Medicaid), to pay the HSCRC rates for hospital services at a freestanding medical facility issued a CON after July 1, 2015, and freestanding medical facility pilot projects. However, the bills limit HSCRC's fiscal 2011 rate setting authority to hospital services provided at the freestanding medical facility pilot project in Queen Anne's County and requires that those rates be set in a manner that does not impact the State budget in fiscal 2011.

The Department of Health and Mental Hygiene must issue a license to a freestanding medical facility that meets licensure requirements and, after July 1, 2015, receives a certificate of need from the MHCC. The bills essentially prohibit the licensure of any additional freestanding medical facilities before that date.

Health Insurance

Assignment of Benefits

An assignment of benefits, in the context of health insurance, is when an insured assigns the right to receive payment from a health insurance plan to a provider. Some health insurance plans do not honor the assignment of benefits by an insured to a provider that does not

participate in a health insurer's provider panel, instead sending payment directly to the insured. In the 2009 interim, the Joint Committee on Health Care Delivery and Financing studied issues relating to the assignment of benefits and issued a report on recommendations for legislation that would require health insurers to honor an assignment of benefits by an insured to a nonparticipating physician.

Senate Bill 314 (passed) requires preferred provider insurance policies (PPOs) issued by health insurers to honor an assignment of benefits by an insured to a nonpreferred physician. If the assignment is made to a nonpreferred on-call physician or a hospital-based physician, the physician may not balance bill an insured for the difference between the insurer's payment and the physician's billed charges. The bill specifies formulas for rates that health insurers must pay nonpreferred on-call physicians and hospital-based physicians that receive an assignment of benefits from an insured of a PPO. For on-call physicians, the formula for payment is the greater of 140% of the average rate the insurer pays to participating providers, or the average rate that the insurer paid on January 1, 2010, indexed by the Medicare Economic Index, to a nonparticipating provider. For hospital-based physicians, the insurer must pay the greater of 140% of the average rate the insurer pays to providers under contract or the final allowed amount for the same covered service as of January 1, 2010, that the insurer paid the physician.

Nonhospital-based physicians that seek assignment of benefits must first give an insured a disclosure specified in the bill.

The bill's provisions relating to assignment of benefits take effect July 1, 2011, and terminate September 30, 2015.

The bill requires the Maryland Health Care Commission, in consultation with the Maryland Insurance Administration and the Office of the Attorney General, to study various aspects of the impact of the bill and submit reports to the General Assembly by July 1, 2012, and October 1, 2014. The Maryland Insurance Administration is required to study payments by PPOs before the effective date of the bill and report on the amounts to the Governor and the General Assembly on or before December 1, 2010.

Patient Centered Medical Homes and Improved Coordination of Care

As health care costs continue to rise more quickly than inflation, providers, insurers, and policymakers are examining ways to coordinate care in an effort to improve quality and control costs.

Patient Centered Medical Homes

The medical home model is one way to provide comprehensive care that is designed around the patient's needs. The Maryland Health Quality and Cost Council studied ways to implement a medical home demonstration project in the State. A workgroup established by the council found several legal issues that needed to be overcome before moving forward with a demonstration project, including potential antitrust issues, State laws regarding incentive payments, and State standards for confidentiality of medical records.

Senate Bill 855/House Bill 929 (Chs. 5 and 6) address issues raised by the council as barriers to implementing a medical home demonstration project in the State. The Acts require the Maryland Health Care Commission to establish the Maryland Patient Centered Medical Home Program (the program) if the commission concludes that the program will likely result in the delivery of more efficient and effective health care services and is in the public interest. The Acts require prominent health insurance carriers in the State to participate in the program, while other carriers may participate. The commission is also permitted to authorize single carrier medical homes.

Health insurance carriers that participate in the program or that implement a single carrier medical home may pay a patient centered medical home, including specified incentives, for coordinated covered medical services provided to covered individuals. These carriers may also share medical information about a covered individual who elects to participate in a medical home with the individual's medical home and other treating providers.

The Maryland Health Care Commission must conduct an independent evaluation of the program's effectiveness in reducing health care costs and improving health care outcomes, and report its findings to specified committees by December 1, 2014. The Acts terminate December 21, 2015.

Clinically Integrated Organizations

TriState Health Partners (TriState), a physician-hospital organization based in Hagerstown, Maryland, is working to integrate and coordinate the provision of health care to patients by TriState's physician members and the Washington County Hospital. The Federal Trade Commission's Bureau of Competition advised TriState in April 2009, that it would not raise an antitrust challenge to the organization's clinical integration program because the proposed cooperation among doctors and a hospital had the potential to lower health care costs and improve quality of care.

Senate Bill 723/House Bill 1093 (both passed) authorize contracts between health insurance carriers and clinically integrated organizations (CIOs) to include a provision to pay for coordination of care services and bonuses or incentives to promote efficient, medically appropriate delivery of medical services. The Insurance Commissioner may adopt regulations that specify the types of payments and incentives that are permissible. The bills require health insurance carriers to share medical information about covered individuals with a CIO and its members if there is a written agreement specifying how medical information will be shared, the information is used by the CIO to promote efficient, medically appropriate health care delivery or to coordinate care, and there are procedures for disclosing to individuals how information will be shared. A CIO is defined in the bills as a joint venture between a hospital and physicians (such as TriState) that has received an advisory opinion from the Federal Trade Commission and has been established to improve the practice patterns of the participating health care providers and promote the efficient, medically appropriate delivery of covered services, as well as a joint venture that the Insurance Commissioner determines meets the federal criteria for an accountable care organization.

Mandated Benefits Coverage

Coordination of State Law with Federal Mandated Benefit Requirements

Senate Bill 57 (Ch. 17) conforms State law to the new federal Mental Health Parity and Addiction Equity Act of 2008 by requiring that large group contracts that offer mental health or substance abuse disorder benefits offer the benefits in parity with medical and surgical benefits. The Act also conforms the State's reconstructive breast surgery mandate to federal law.

Expansion of Child Wellness Mandate

Maryland's child wellness benefit mandate requires insurers and nonprofit health service plans to provide coverage for a package of child wellness benefits that includes a specified list of services. *Senate Bill 700/House Bill 1017 (both passed)* require health insurers and nonprofit health service plans to include in the minimum package of child wellness services coverage for visits for obesity evaluation and management and visits for and costs of developmental screening as recommended by the American Academy of Pediatrics.

Repeal of Reporting Requirement on Surgical Treatment of Morbid Obesity

Chapter 486 of 2004, as amended by Chapter 301 of 2005, required the Maryland Insurance Administration to report annually on complaints filed with the Administration relating to the denial of coverage for the surgical treatment of morbid obesity and the outcome of those complaints. The Administration's last two annual reports recommended that the reporting requirement be eliminated because all regulated markets in the State now mandate this coverage and complaints are limited to cases outside the jurisdiction of the Administration. *Senate Bill 1031 (passed)* repeals this annual reporting requirement.

The Maryland Health Insurance Plan and the Senior Prescription Drug Assistance Program

The Maryland Health Insurance Plan (MHIP) is the State's high-risk pool for medically uninsurable individuals. The Board of MHIP is also charged with oversight of the Senior Prescription Drug Assistance Program, a program that provides a subsidy to low-income seniors for Medicare Part D premiums and coverage gap costs.

Extension of Termination Date for Senior Prescription Drug Assistance Program

House Bill 67 (Ch. 119) extends the termination date for the Senior Prescription Drug Assistance Program to December 31, 2012, and extends the limit of \$14 million on the subsidy for the program through fiscal 2013.

Maryland Health Insurance Plan and Option for Governmental Payers

Some MHIP members have premiums paid for by third-party governmental units, including the Maryland AIDS Drug Assistance Program and some county governments. Placing

individuals in MHIP and paying their premiums is advantageous for the governmental units because it allows them to shift medical and prescription drug costs to MHIP. However, MHIP has reported that these members tend to have substantially higher plan costs compared to average plan members.

House Bill 1050 (Ch. 166) authorizes MHIP to establish a plan option for members whose premiums are paid by a governmental unit. The bill also authorizes MHIP, in setting premium rates and cost-sharing arrangements for this plan option, to include amounts to limit cost shifting from another governmental unit to the plan as long as they are not set at a level that would make it cost-prohibitive for the governmental unit. Finally, the bill authorizes MHIP to limit plan option eligibility and limit or eliminate any premium subsidy based on income for a member whose premiums are paid by a governmental unit.

Insurance Producers and Sales to Seniors

Required Continuing Education for Insurance Producers

House Bill 71 (Ch. 121) requires insurance producers who market the Senior Prescription Drug Assistance Program or assist a Medicare beneficiary to enroll in the program to receive continuing education that directly relates to the program. The Act authorizes the Board of Directors of the Maryland Health Insurance Plan to adopt regulations that require the training.

Insurance Producers and the Misleading Use of a Senior or Retiree Credential or Designation

Senate Bill 774/House Bill 882 (both passed) prohibit insurance producers from using a senior or retiree credential or designation in a way that is or would be misleading in connection with the offer, sale, or purchase of life insurance, health insurance, or annuities. For a further discussion of **Senate Bill 774/House Bill 882**, see the subpart “Insurance” within Part H – Business and Economic Issues of this *90 Day Report*.

Financial Oversight of Insurers

House Bill 69 (Ch. 120) makes various changes to requirements regarding financial audits, investments, and other operations as they relate to insurers, nonprofit health service plans, dental plan organizations, managed care organizations, and health maintenance organizations. The changes include specifying the criteria that nonlife insurers must consider regarding investments in securities lending transactions and authorizing the Insurance Commissioner to require insurance carriers to file an audited financial report earlier than the statutory deadline. For a more detailed description of the Act, see the subpart “Insurance” within Part H – Business and Economic Issues of this *90 Day Report*.

Coordination of Health Insurance Benefits with Personal Injury Protection Coverage

In general, an insurer that issues, sells, or delivers a motor vehicle liability insurance policy in the State must provide personal injury protection coverage, known as PIP, for the medical, hospital, and disability benefits to individuals injured in a motor vehicle accident. Benefits are payable despite the fault or nonfault of the insured or benefits recipient, or any collateral source of medical, hospital, or wage continuation benefits. The minimum medical, hospital, and disability benefit under PIP is \$2,500 for payment of all reasonable and necessary expenses that arise from a motor vehicle accident and are incurred within three years after the accident for specified services and lost income. If an insured has both PIP coverage and collateral coverage, the insurer or insurers may coordinate the policies to ensure nonduplication of benefits, subject to appropriate reductions in premiums for one or both of the policies. The insured may choose to coordinate the policies by indicating which policy will be the primary policy, or reject the coordination of policies and nonduplication of benefits.

A decision by the Maryland Special Court of Appeals in October 2009 upheld a health insurer's right to exclude liability for medical expenses covered by an auto insurer's PIP coverage. The court ruled that health insurance was not included under the "collateral source of medical, hospital, or wage continuation benefits" referenced in Title 19 of the Insurance Article.

Senate Bill 704/House Bill 1073 (both passed) prohibit health insurance policies, policies of nonprofit health service plans, and health maintenance organization contracts from containing a provision that requires PIP benefits to be paid before benefits under the health insurance policy or contract.

Provisions of Health Insurance Bills Relating to Federal Health Care Reform

On March 23, 2010, the federal Patient Protection and Affordable Care Act was enacted. The Act significantly expands Medicaid and makes many changes to insurance regulation. As a result, the General Assembly passed several bills that dealt with various provisions of federal health reform.

Maryland Health Insurance Plan and Ability to Apply for National High Risk Pool Funds

The Patient Protection and Affordable Care Act made \$5 billion available to states to create high-risk pools meeting federal standards that will operate until the significant insurance reforms enacted in federal health care reform take effect in 2014. *House Bill 1564 (Ch. 173)* authorizes the Board of Directors for MHIP, to elect for MHIP to administer a national temporary high-risk pool program for the State and enter into any necessary administration agreements. The Act authorizes the MHIP board to limit enrollment based on the amount of federal funding available to the program and to establish a separate benefit package delivery

system and premium rate for enrollees according to standards for benefit packages and premium rates established under federal law for the program.

Authority of Insurance Commissioner to Enforce Federal Insurance Reforms

Some provisions in the Patient Protection and Affordable Care Act relating to insurance regulation will take effect in the next year, including:

- prohibiting health plans from denying coverage to children with pre-existing conditions;
- banning insurance companies from dropping people from coverage when they get sick;
- requiring health plans to allow young people up to the age of 26 to remain on their parents' insurance policy; and
- banning lifetime caps on health coverage.

Senate Bill 57 makes these provisions applicable to health insurance plans in the State and gives the Insurance Commissioner the authority to enforce these provisions against regulated health insurance plans in the State. This applicability and authority terminate on June 30, 2011.

Effect of State Health Insurance Laws on Grandfathered Health Plans

The Patient Protection and Affordable Health Care Act exempts grandfathered health plans from certain aspects of health reform. A grandfathered health plan is any health plan that was in effect on March 23, 2010. However, it is currently not clear whether State insurance laws enacted after March 23, 2010, will impact the grandfathered status of a health plan. *Senate Bill 57* provides that a State insurance law enacted after January 1, 2010, does not apply to a grandfathered health plan if the law would prevent a group health plan or health insurance coverage from being considered a grandfathered health plan.

Health Insurance Regulation – Miscellaneous

Electronic Transmission of Uniform Consultation Referral Forms

Health insurers that require insureds to have a written referral to receive consultation services must use a uniform consultation form adopted by the Insurance Commissioner. *House Bill 292 (passed)* authorizes the uniform consultation form to be transmitted electronically. The bill also requires the Insurance Commissioner, in consultation with the Maryland Health Care Commission, to adopt standards for the electronic transmission of the data elements in the uniform consultation referral form by regulation.

Required Bonus Payments for After Hours and Weekend Care

House Bill 435 (passed) requires health insurance carriers to pay a bonus to primary care providers for services provided in the office after 6 p.m. and before 8 a.m. or on weekends and

national holidays. A carrier must provide for and describe the terms of the required bonus payment in a separate clause in the carrier's contract with the primary care provider. However, a group model health maintenance organization is not required to make bonus payments to physicians that are employed by the physician group under contract with the group model health maintenance organization.

Prohibited Provisions in Dental Provider Contracts

Chapters 549 and 550 of 2009 directed the Maryland Insurance Administration to conduct a review of 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. In its findings, the Administration indicated that dentists' negotiating power is potentially limited when new fee schedules are introduced by carriers and recommended that, to provide dentists with additional negotiating power, the General Assembly pass legislation allowing a dentist to opt out of a new fee schedule introduced by a carrier after the date the dentist and the carrier entered into a contract.

Senate Bill 637/House Bill 804 (both passed) prohibit a provider contract from containing a provision that requires a participating dental provider, as a condition of continued participation in a capitated dental provider panel or a fee-for-service dental provider panel, to accept an added, revised, or amended fee schedule that contains a lower fee.

Individual Health Benefit Plans and Frequency of Premium Increases

House Bill 814 (passed) prohibits health insurance carriers from increasing an individual's premium for an individual health benefit plan more frequently than once every 12 months, unless the increase is solely due to the enrollment of a new family member in the plan.

Coverage of Annual Preventive Care

Senate Bill 313/House Bill 878 (both passed) require health insurance carriers to provide coverage for a single annual preventive care visit that is covered under the health insurance policy or contract at any time during the plan year established in the policy or contract.

Medicare Supplement Policies and Repeal of Requirement to Offer Plan I

Effective June 1, 2010, the federal government will no longer offer Medicare supplement policy plan I. *Senate Bill 56 (Ch. 16)* repeals a requirement that insurance carriers make available Medicare supplement policy plan I to an individual who is eligible for Medicare due to a disability during the six-month period following the individual's enrollment in Part B of Medicare.

Health Maintenance Organizations and Administrative Service Provider Contracts

Senate Bill 885/House Bill 261 (both passed) specify that medical laboratories are not subject to oversight requirements regarding health maintenance organizations and administrative service provider contracts.

Social Services – Generally

Current law requires financial and compliance audits of local departments of social services at least once every two years. However, current staffing levels of the Office of the Inspector General of the Department of Human Resources (DHR) do not permit two year audits. Thus, *House Bill 368 (Ch. 147)* alters the frequency of these audits from at least once every two years to at least once every three years. This change ensures adequate audit coverage and is consistent with the three-year audit cycle utilized by the Office of Legislative Audits and most other State audit agencies.

“2-1-1” is the abbreviated dialing code assigned by the Federal Communications Commission for consumer access to community information and referral services. *Senate Bill 527/House Bill 693 (both passed)* replace four self-funded pilot programs used to administer the Health and Human Services Referral System with “2-1-1 Maryland,” a State nonprofit information network that may approve up to five nonprofit call centers to provide 2-1-1 services in the State. In addition, the bills alter the membership, term limits, and duties of the Health and Human Services Referral Board.

The Elderly

The Maryland Long-Term Ombudsman Program within the Maryland Department of Aging receives and resolves complaints made by or for residents of long-term care facilities. In order to align State law with the long-term care provisions of the federal Older Americans Act (OAA) and to ensure continued federal funding, *House Bill 536 (Ch. 155)* conforms State law regarding the State’s Long-Term Care Ombudsman Program to OAA. In response to the recommendations contained in a March 2009 consultant report regarding how to improve ombudsman services among local jurisdictions in the State, the bill establishes the Office of the Long-Term Care Ombudsman in the Department of Aging and the selection process for a State Long-Term Care Ombudsman. In addition to other responsibilities, the ombudsman must personally, or through designated ombudsmen, identify, investigate, and resolve complaints from any source made by, or on behalf of, a resident of a long-term care facility in the State relating to any action, inaction, or decision that may adversely affect a resident under specified circumstances.

Children

Child Abuse and Neglect

Senate Bill 559/House Bill 811 (both passed) authorize an individual to notify the local department of social services or the appropriate law enforcement agency if the individual has reason to believe that a parent, guardian, or caregiver of a child allows the child to reside with or be in the regular presence of an individual, other than the child's parent or guardian, who (1) is registered on the sexual offender registry based on the commission of an offense against a child; and (2) based on additional information, poses a substantial risk of sexual abuse to the child. For a more detailed discussion of this issue, see the subpart "Family Law" within Part F – Courts and Civil Proceedings of this *90 Day Report*.

Senate Bill 948/House Bill 1141 (both passed) require the director of a local department of social services or the Secretary of Human Resources to disclose, on request, specified information regarding child abuse or neglect if (1) the information is limited to actions or omissions of the local department, DHR, or an agent of DHR; (2) the child named in a report has suffered a fatality or near fatality; and (3) the State's Attorney's Office has consulted with and advised the local director or the Secretary that disclosure of the information would not jeopardize or prejudice a related investigation or prosecution. For a more detailed discussion of this issue, see the subpart "Family Law" within Part F – Courts and Civil Proceedings of this *90 Day Report*.

In order to provide the Division of Parole and Probation in the Department of Public Safety and Correctional Services with information about sex offenders in close contact with children, *Senate Bill 892/House Bill 1330 (both passed)* require the disclosure of a report or record concerning child abuse or neglect to the Division of Parole and Probation if, as a result of a report or investigation of suspected child abuse or neglect, the local department of social services has reason to believe that an individual who lives in or has a regular presence in a child's home is registered on the sexual offender registry based on the commission of an offense against a child. For a more detailed discussion of this issue, see the subpart "Family Law" within Part F – Courts and Civil Proceedings of this *90 Day Report*.

Advocacy for Children

A child advocacy center is a child-focused entity within or outside a health care facility that investigates, diagnoses, and treats children who may have been abused or neglected. *House Bill 1043 (passed)* requires the Governor's Office of Crime Control and Prevention to establish and sustain child advocacy centers in the State. For further discussion of this issue, see the subpart "Criminal Procedure" within Part E – Crimes, Corrections, and Public Safety of this *90 Day Report*.

Family Day Care Homes, Child Care Centers, Residential Services Agencies, and Foster Homes

In order to codify an executive order and a resulting memorandum of understanding, *House Bill 465 (passed)* establishes collective bargaining rights for “family child care providers” who participate in Maryland’s Child Care Subsidy Program. *House Bill 465* authorizes family child care providers to designate which provider organization, if any, is to be the exclusive representative of all family child care providers in the State. For a more detailed discussion of this issue, see the subpart “Personnel” within Part C – State Government of this *90 Day Report*.

According to the U.S. Consumer Product Safety Commission, almost once a month a child between seven months and ten years dies from window cord strangulation and another child suffers a near strangulation. *Senate Bill 605/House Bill 646 (both passed)* require that all new and replacement window coverings installed in a foster home, family day care home, or child care center in the State on or after October 1, 2010, be cordless. The bills require window coverings in place before the bill’s effective dates to meet minimum safety standards established in regulations jointly adopted by DHR and the Maryland State Department of Education (MSDE). For further discussion of this issue, see the subpart “Family Law” within Part F - Courts and Civil Proceedings of this *90 Day Report*.

Due to the various incident reporting systems of DHR, the Department of Juvenile Services (DJS), and the Department of Health and Mental Hygiene (DHMH), there is concern that the best interests of children in out-of-home placements are not being met because treatment decisions can be made without knowledge of all of the relevant incident reports that have generated on a particular child. *Senate Bill 478 (passed)* requires DHMH, DJS, and DHR, in conjunction with licensed providers of residential child care services, to establish an interagency workgroup to develop a uniform reporting system to be used by any State agency that licenses or purchases care and services for children who are placed in State-licensed residential facilities. The workgroup must also recommend regulations that require the interagency sharing of certain incident reports and that require any department that licenses or monitors residential child care facilities to adhere to specific incident reporting policies and practices. The bill requires the workgroup to report its findings and recommendations on or before September 1, 2011, to the Governor’s Office for Children, the Governor, and the General Assembly.

Senate Bill 61 (Ch. 18) adds employees and employers of a licensed home health or residential service agency, authorized to provide home- or community-based health services for minors, to the list of entities that must apply for a national and State criminal history records check. The Act also expands this requirement to include employees and employers of privately operated recreation centers or programs. For further discussion of this issue, see the subpart “Family Law” within Part F – Courts and Civil Proceedings of this *90 Day Report*.

Senate Bill 176 (passed) alters the requirements for regulations that MSDE must adopt relating to inspections of family day care homes and child care centers. For registered family day care homes, the regulations must require announced inspections prior to the issuance of an initial or continuing registration and repeals the requirement for announced inspections at least

every two years afterwards. For child care centers, the bill specifies that announced inspections are to be made prior to issuing the initial or continuing license or letter of compliance and repeals the requirement for announced inspections of these child care centers every two years afterwards. For further discussion of this issue, see the subpart “Family Law” within Part F – Courts and Civil Proceedings of this *90 Day Report*.

Child Support

Maryland has not updated its child support schedule since it, under mandate from the federal government, adopted guidelines in 1989. *Senate Bill 252/House Bill 500 (both passed)* revise the schedule of basic child support obligations used to calculate child support amounts under the State’s child support guidelines. The bills establish that the adoption or revision of the child support guidelines is not a material change of circumstance for the purpose of a modification of a child support award. For a more detailed discussion of this issue, see the subpart “Family Law” within Part F – Courts and Civil Proceedings of this *90 Day Report*.

Current law authorizes the Child Support Enforcement Administration (CSEA) to certify to the State Comptroller that any obligor is in arrears in paying child support if the amount of the arrearage exceeds \$150. The State Comptroller may withhold the amount of the arrearage from any payment or tax refund due to the obligor and forward the amount to CSEA. *House Bill 963 (passed)* extends the interception program to include the value of any abandoned property that is held by the State Comptroller. For further discussion of this issue, see the subpart “Family Law” within Part F – Courts and Civil Proceedings of this *90 Day Report*.

The Disabled

Developmental Disabilities Administration

The Developmental Disabilities Administration (DDA) provides direct services to individuals in institutions operated by DDA and through funding of a service delivery system supporting individuals in the community. In order to clarify an appeals process that is currently required by federal law as part of the State’s Medicaid waiver agreement for home- and community-based services, *Senate Bill 465/House Bill 900 (both passed)* require the Secretary of Health and Mental Hygiene to provide a recipient of Medicaid-waiver services who has been denied services according to his or her plan of habilitation with specified written notice within 30 days after the denial and an opportunity for a Medicaid fair hearing.

In order to enable a family to provide for the needs of a child or an adult with a developmental disability living in the home or support an adult with a developmental disability living in the community, *Senate Bill 290/House Bill 1226 (both passed)* establish a Low-Intensity Support Services Program in DDA. The services must be flexible to meet the needs of individuals or families. DDA must establish a cap of no less than \$3,000 of services per individual per fiscal year to a qualifying individual. DDA may waive the cap under specified circumstances.

Closed Captioning

According to the National Institute on Deafness and Other Communication Disorders, approximately 17% of American adults say that they have some degree of hearing loss. These numbers are likely to increase as the baby boomer generation ages, as roughly one-third of Americans 65 to 74 years of age and 47% of those 75 and older have hearing loss. In addition, hearing damage is the most common disability for veterans. *Senate Bill 68/House Bill 1501 (both passed)* require a place of public accommodation, on request, to keep closed captioning activated on any closed-captioning television receiver that is in use during regular hours in any public area. The bills exclude places of public accommodation from this requirement if (1) no television receiver of any kind is available in the public area; or (2) the only public television receiver available is not a closed-captioning television receiver. For further discussion of this issue, see the subpart “Human Relations” within part F – Courts and Judicial Proceedings of this *90 Day Report*.

Part K

Natural Resources, Environment, and Agriculture

Natural Resources

Chesapeake Conservation Corps Program

There are several existing programs in the State that seek to engage young adults in service projects in Maryland, including AmeriCorps, the Maryland Conservation Corps, and the Civic Justice Corps. Additionally, the Governor's Office on Service and Volunteerism supports and promotes service and volunteer efforts by, among other things, providing training and technical assistance to volunteer organizations.

Senate Bill 311/House Bill 943 (both passed) establish a Chesapeake Conservation Corps Program within the Chesapeake Bay Trust to, among other purposes, provide young adults with meaningful service opportunities and promote, preserve, protect, and conserve the environment. The purpose of the Corps Program is to:

- mobilize, educate, and train young individuals to work with communities and schools to promote energy conservation and mitigate and prevent threats to the environment;
- provide opportunities to young individuals, especially disadvantaged youth, to be trained for "green collar" careers;
- educate and train people to promote, preserve, protect, and sustain the environment after a corps project is complete;
- coordinate and facilitate efforts to foster public-private partnerships in specified areas; and
- channel available public and private resources to the protection, conservation, and preservation of the State's environment.

In fiscal 2011 through 2015, \$250,000 annually from the Department of Natural Resources' (DNR) Environmental Trust Fund must be allocated to the trust for specified energy conservation projects through the Corps Program. In addition to those funds, the program must be funded with up to \$250,000 in additional funds that may be allocated by the trust through its annual budget process. Further, for long-term funding of the program, the trust and the Corps Board, which is established by the bills to advise the trust in the development and implementation of the program, must seek federal and private funds for the Corps Program.

The trust must provide grants to qualified organizations for the creation or expansion of full- and part-time corps programs that involve citizens of all ages throughout the State. Such programs must engage and develop volunteers and stipend volunteers in environmental and energy projects. A "qualified organization" is a nonprofit organization; a school; a community association; a service, youth, or civic group; an institution of higher education; a county or municipality; or a unit of State government. The trust is also required to develop specified plans related to the recruitment of volunteers, the central administration of volunteer stipend payments, and the establishment of mechanisms to assist in team building and increase the understanding and sense of commitment to the program by volunteer participants.

Forest Conservation

Forest Conservation Fund

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. DNR administers the State Forest Conservation Fund to facilitate the afforestation or reforestation requirements when an applicant cannot reasonably accomplish these requirements on- or off-site. In addition, a local approval authority may establish and administer a local forest conservation fund to apply in that local jurisdiction instead of the State fund. A State or local forest conservation fund consists of payments made by an applicant in lieu of performance of afforestation or reforestation requirements and penalties collected for noncompliance with specified forestry requirements. If an applicant demonstrates to the satisfaction of the appropriate State or local approval authority that the requirements for planting on- or off-site cannot be reasonably accomplished, the applicant must currently pay to the appropriate fund 30 cents per square foot of the area of required planting.

House Bill 1352 (passed) alters the rates for contributions to the State Forest Conservation Fund and local forest conservation funds by establishing higher rates for projects located outside priority funding areas (PFAs). Project applicants paying into the State Forest Conservation Fund must pay (1) 30 cents per square foot of the area of required planting for a project inside a PFA; and (2) 36 cents per square foot of the area of required planting for a project outside a PFA. After September 30, 2014, project applicants paying into the State Forest Conservation Fund must pay (1) at a rate adjusted for inflation for a project inside a PFA; and (2) at a rate that is 20% higher for a project outside a PFA. When applicants are paying into a local forest conservation fund, the rates must be (1) at least the same as the State Forest Conservation Fund for a project inside a PFA; and (2) at a rate that is 20% higher for a project

outside a PFA. Local jurisdictions with contribution rates higher than the minimum State contribution rate may use a rate for projects inside a PFA that is 20% lower than the rate for projects outside a PFA; however, they must still meet at least the State contribution rates. Additionally, local jurisdictions with contribution rates higher than the minimum State contribution rate may use a rate for projects outside a PFA that is 20% higher than the rate for projects inside a PFA.

Generally, after two years or three growing seasons, unused money deposited into local forest conservation funds must be returned to the original contributor for specified tree planting. However, since counties with local forest conservation funds may implement even more stringent criteria, DNR advises that most counties do not return funds. *Senate Bill 361/House Bill 606 (both passed)* repeals the funding return requirement, which will give local programs the flexibility to implement tree planting efforts at the most strategic times.

Forest Product Operators License

Any person engaged in a forest products business, including every type of forest products manufacturing plant (e.g., sawmills, pulpwood and logging contractors, and firewood dealers) must have a license issued by DNR. Other business types, such as mulch suppliers, land clearing and tree removal companies, and lumber brokers, may be licensed by DNR. There were 489 licensed forest product operators in 2009, and DNR estimates that the number of licensees will remain constant or grow minimally over the next few years.

House Bill 356 (passed) establishes an application process within DNR for a forest product operator's license. Forest product operator's license applicants are required to submit applications for a one-year license on DNR-approved forms, demonstrate compliance with specified labor requirements, and pay a license fee. License fee revenue may not exceed the costs of carrying out forest product operator licensing. DNR is authorized to suspend or revoke a forest product operator's license and a license suspension and revocation process is established.

Woodland Incentives Program

The Woodland Incentives Program (WIP) provides cost-share assistance to specified private forestland owners for tree planting, site preparation, and timber stand improvement practices. Cost-share assistance may not exceed (1) 75% of the actual cost incurred by the applicant, (2) \$5,000 per calendar year, except in specified circumstances, and (3) \$15,000 over a three-year period if DNR has approved a three-year plan for woodland resource development. Among other things, WIP applicants must submit a woodland management plan, application, and statement of intent to DNR. The application must provide specified information about the practice to be implemented, the approximate cost of the practice to be implemented, and the land upon which the practice is to be implemented. The statement of intent must affirm that the owner (1) intends to use the cost-share assistance for long-range timber growing and improvement; (2) is not receiving or using federal funds for implementation of an approved practice on the same land described in the application; and (3) has no knowledge of another application that is pending for cost-share assistance to be used on the land described in the application.

Senate Bill 69 (passed) repeals a condition that WIP applicants not receive or use federal funds for implementation of an approved practice on the same land described in the WIP application; however, owners may not receive a total of State and federal cost-share assistance in an amount that exceeds 100% of the actual cost of the approved practice.

State Boat Act

In calendar 2009, there were approximately 200 significant boating accidents reported statewide; 16 of these accidents caused 17 fatalities. DNR advises that the prosecution of impaired vessel operators is currently difficult, as operators have the right to refuse a breath or blood test to determine alcohol or drug concentration.

Senate Bill 475 (passed) alters the substantive and procedural provisions related to testing vessel operators to determine alcohol concentration or drug or controlled substance content. Specifically, the bill establishes that a person who operates or attempts to operate a vessel on State waters is deemed to have consented to take a test to determine alcohol concentration or drug or controlled substance content if the person is detained by a police officer who has reasonable grounds to believe that the person has been operating or attempting to operate a vessel while under the influence of or impaired by alcohol, drugs, or a controlled dangerous substance. A court is authorized to prohibit a person convicted of a specified violation from operating a vessel on State waters for up to one year if the person refused to take a test when requested by a police officer or was tested and the result indicated an alcohol concentration of 0.08 or more. The bill also requires a vessel operator who is involved in an accident resulting in death or life-threatening injury to another person, and is detained by a police officer, who has reasonable grounds to believe that the person has been operating or attempting to operate a vessel while under the influence of alcohol or drugs, to submit to breath and/or blood tests to determine whether the operator is under the influence or impaired by alcohol or drugs. Medical personnel who administer authorized tests are not liable for civil damages, as long as the acts or omissions do not rise to the level of gross negligence.

Senate Bill 92 (Ch. 35) requires individuals younger than age 16 who operate a vessel to (1) possess a certificate of boating safety education; (2) be under the supervision of a person who was born before July 1, 1972, and is aboard the vessel; or (3) be under the supervision of a person who has obtained a certificate of boating safety education and is aboard the vessel – if the vessel is 11 feet or longer, the person who is supervising has to be at least 18 years old. New requirements are established related to the use of personal flotation devices (PFDs) by children on recreational vessels. Specifically, the Act deletes weight requirements and modifies the definition of “child” from individuals younger than age 7 to individuals younger than age 13, effectively requiring individuals younger than age 13 to wear a PFD on vessels shorter than 21 feet.

DNR’s Abandoned Boat and Debris Removal Program supports the removal of abandoned boats and debris that are hazardous to the general boating public or pose a health or environmental hazard. Once a vessel is abandoned, it may be disposed of or removed by the property owner, DNR, or a local jurisdiction authorized by DNR. ***House Bill 527 (passed)***

reduces the length of time, from 90 days to 30 days, that a vessel must remain at a private dock or at or near waters' edge on private property without consent in order to be declared abandoned.

Puritan Tiger Beetle

The majority of the world's population of the puritan tiger beetle occurs in Maryland. Of the estimated 5,000 puritan tiger beetles in the world, approximately 3,000 to 4,000 of them are in Maryland. They are found on eroding, unvegetated cliffs along the Chesapeake Bay in Calvert County and along the Sassafras River between Kent and Cecil counties. Many of the cliffs are held in private ownership.

Senate Bill 1020/House Bill 295 (Chs. 116 and 117) require the Secretary of Natural Resources to issue a permit for the "incidental taking" of the endangered puritan tiger beetle under specified conditions. "Incidental taking" is the taking of listed species that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Permit applicants must submit a conservation plan that, among other things, specifies any measures the Secretary requires as being reasonably necessary or appropriate for the purposes of the plan. The Secretary must adopt implementation and enforcement regulations.

Natural Resources Law Enforcement

DNR's Natural Resources Police (NRP) serves as a public safety agency with statewide authority to enforce all conservation, boating, and criminal laws, as well as to provide primary law enforcement services for State parks, State forests, and public lands owned by DNR. NRP is also responsible for maritime and rural search and rescue and is designated as the State's lead agency for homeland security on State waters.

Senate Bill 987 (passed) clarifies and expands DNR's law enforcement responsibilities and authority, establishes a new commemorative lifetime hunting license, requires a report on specified funding policies, and establishes other provisions related to promoting public recognition of and appreciation for NRP and studying ways to improve NRP's effectiveness. Specifically, the bill establishes that NRP has statewide authority to enforce conservation, boating, and criminal laws and (1) provides maritime and rural search and rescue services; (2) provides public education in hunting, boating, and water safety; (3) provides primary law enforcement services for State parks, State forests, wildlife management areas, and public lands owned and managed by DNR; and (4) serves as the lead agency for maritime homeland security on State waterways. DNR is required to issue a limited number of new commemorative lifetime hunting licenses to nonprofit organizations until December 31, 2011. Nonprofit organizations may, in cooperation with DNR, market and sell the licenses, and any proceeds must be allocated to NRP for conservation law enforcement.

Senate Bill 660/House Bill 989 (both passed) authorize the Secretary of Natural Resources to appoint without examination a (1) DNR law enforcement officer (LEO) who holds a commissioned rank to the rank of major; and (2) a DNR LEO who holds a commissioned rank of not less than captain to the rank of lieutenant colonel. These appointed LEOs must continue

to serve at the pleasure of the Secretary of Natural Resources. Upon termination of an appointment, the Secretary may return the LEO to a vacant LEO position or promote the LEO to a higher rank to which the LEO became eligible for promotion during the appointment.

Regulation of For-hire Water Carriers

The Public Service Commission (PSC) currently regulates 12 for-hire water carrier companies that have a total of 35 vessels. *House Bill 988 (passed)* transfers authority for regulating for-hire water carriers from PSC to DNR. A “for-hire water carrier” is a vessel used to accept or solicit passengers for (1) transportation between points along State waters in exchange for remuneration; and (2) sightseeing and touring in State waters in exchange for remuneration. Prior to registering a vessel, for-hire water carriers must show, to DNR’s satisfaction, that they hold an insurance policy or a bond in an amount that is required of a motor vehicle carrying the same number of passengers in accordance with specified PSC regulations. DNR is authorized to adopt implementing regulations and encouraged to make these regulations apply the same insurance and bonding rates that are currently applied under specified PSC regulations.

Hunting and Fishing

Fishing

Oysters

The Department of Natural Resources (DNR) has recently strengthened its efforts to protect and enhance Maryland’s native oyster population. To further this goal, *Senate Bill 342/House Bill 1191 (both failed)* would have required DNR, under specified circumstances, to revoke a tidal fish license for commercial oyster harvesting for the offenses of (1) taking oysters located more than 200 feet within a closed or prohibited area; (2) taking oysters with gear prohibited in a specific area; (3) taking oysters by more than one hour outside of a time restriction; (4) taking oysters during closed seasons; and (5) taking oysters from a leased area by a person other than the leaseholder or the leaseholder’s designee. If a tidal fish licensee receives a citation for one of these offenses, the bills would have required DNR to hold a hearing, in accordance with the Administrative Procedure Act, within 60 days after issuing the citation. If the presiding officer at the hearing finds that the licensee knowingly committed the offense, the bills would have required DNR to revoke the licensee’s tidal fish license for commercial oyster harvesting. The bills also would have prohibited a person whose tidal fish license is revoked, under the bills, from using or receiving a transfer of another tidal fish license to catch oysters. Additionally, *Senate Bill 342*, as passed by the Senate, would have prohibited DNR from establishing any new oyster sanctuaries until April 1, 2011.

DNR regulates oyster harvesting in State waters. Any person who owns or is responsible for operating any dredge boat must have a license to catch oysters by dredge boat. There are a variety of approaches that use various tools to gather oysters. *House Bill 218 (passed)* repeals a

prohibition against possessing or using a devil catcher, devil diver, or similar device on a dredge boat.

Clams

State law specifies certain areas in which a person may not catch or attempt to catch soft-shell clams with a hydraulic clam dredge or any other gear except hand-held tools. *Senate Bill 422/House Bill 1059 (both passed)* increase the time period during which soft-shell clam harvesting is authorized in part of Dorchester County's portion of the Choptank River.

Fishery Management

DNR is required to prepare a fishery management plan for a number of specified species, including blue crabs, yellow perch, striped bass, menhaden, and oysters. A "fisheries management plan" is a document or report that contains a systematic description of a given fishery and the objectives and conservation and management measures for the fishery. Conservation and management measures adopted under a fisheries management plan seek to prevent overfishing while attempting to achieve the best and most efficient utilization of the State's fishery resources. *Senate Bill 29 (passed)* authorizes DNR to prepare fishery management plans for any species of fish if, after consultation with the Tidal Fisheries Advisory Commission and the Sport Fisheries Advisory Commission, the management plans are determined to be necessary based on an assessment of the species' population, distribution, or habitat needs or other biological, ecological, or socioeconomic factors concerning the species. The bill also requires DNR to include information related to overfishing and sustainable harvesting in a fishery management plan if DNR determines that a fishery has been or is currently overfished; however, DNR may waive these requirements under specified conditions.

Licenses and Fees

DNR may suspend or revoke a tidal fish license under specified circumstances. *House Bill 98 (passed)* alters the grounds for suspension or revocation of a tidal fish license to include a serious violation of a State or federal commercial fisheries law that results in a conviction or an accepted plea of *nolo contendere*. The bill prohibits an individual who is convicted of or receives an accepted plea of *nolo contendere* for a violation of federal or State fisheries law that results in a license suspension from using or receiving temporarily transferred tidal fish licenses during the period of suspension.

A variety of fishing licenses authorize fishing during different time periods, for specific species, and within specific geographic areas. *House Bill 1345 (passed)* expands the requirement to obtain specified recreational tidal fishing licenses to State waters of the Atlantic Ocean and the Atlantic coastal bays and tributaries. The bill modifies the duration, fees, and other terms of existing tidal and nontidal recreational fishing licenses and provides for a new special commercial fishing pier license. The bill further requires specified individuals who fish recreationally in tidal waters and who are not required to obtain a license, to register with DNR and provide DNR with specified information. Finally, the bill repeals the termination date for specified fishing license fee increases that were enacted in 2007 and scheduled to terminate

July 1, 2010. DNR's special fund revenues are estimated to increase by \$3.0 million in fiscal 2011 as a result of the bill; much of this expected increase is due to the repeal of the termination date for the 2007 fishing license fee increases.

Aquaculture

Aquaculture means the commercial rearing of fish or aquatic plants for sale, trade, barter, or shipment. An individual may not engage in aquaculture unless the individual obtains a permit from DNR. Certain aquaculture activities may also trigger the requirement to obtain a tidal wetlands license from the Board of Public Works (BPW) or a wetlands permit from the Maryland Department of the Environment (MDE). *Senate Bill 3/House Bill 89 (both passed)* exempt aquaculture activities for which a DNR permit has been obtained from the requirement to pay application fees when applying to MDE for wetlands and waterways permits or to BPW for a wetlands license. For further discussion of this legislation, see the subpart "Environment" within this part of this *90 Day Report*.

Aquaculture operations sometimes require improved access to navigable waters and the development of working marinas. To develop a marina on State wetlands, a person must obtain a tidal wetlands license from BPW. *Senate Bill 1128/House Bill 1568 (both passed)* authorize BPW to issue a tidal wetlands license for a specified development project to expand a marina that may not meet MDE's marina siting requirements under specified conditions. For further discussion of this legislation, see the subpart "Environment" within this part of this *90 Day Report*.

Hunting

Licenses

A person generally may not hunt or attempt to hunt during open season any game birds or mammals in the State without obtaining a hunting license. *Senate Bill 847 (passed)* authorizes any person serving in the U.S. armed forces who has a service-connected disability and possesses valid military identification while hunting on private property to hunt without a hunting license, bow and arrow deer stamp, black powder deer stamp, or bonus antlered deer stamp.

Deer and Turkey Hunting on Sundays

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, Frederick, 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. *House Bill 246 (Ch. 139)* authorizes deer hunting on private property with a bow and arrow during open season on the above-noted Sundays in Allegany and Garrett counties. *Senate Bill 978/House Bill 851 (both passed)* authorize deer hunting on private property with a bow and arrow on the above-noted Sundays in Talbot County. *House Bill 301 (passed)* authorizes deer hunting on private property with a bow and arrow

during open season on the above-noted Sundays in Calvert and Charles counties, and allows the use of a crossbow in all authorized counties on these Sundays. The bill also authorizes a person in Calvert, Charles, and St. Mary's counties to hunt deer on private property on the first Sunday of the bow hunting season in November and each Sunday in the deer firearms season. *Senate Bill 289/House Bill 245 (both passed)* authorize a person to hunt turkey in Allegany and Garrett counties on the last Sunday in April and the first Sunday in May, except if either day is Easter Sunday.

House Bill 1518 (failed) would have authorized DNR to allow deer hunting on private property in all local jurisdictions, except Baltimore, Carroll, Howard, and Prince George's counties and Baltimore City, during open season on Sundays from the first Sunday in October through the second Sunday in January of the following year.

Waterfowl Hunting

By regulation, DNR establishes an offshore waterfowl hunting zone. Within this zone, a person may hunt waterfowl while standing on the natural bottom, from a boat that is drifting or being sculled, or from a boat that is anchored. In most areas, a person must be at least 800 yards from shore. In specified waters, the minimum required distance is 400 yards. *House Bill 686 (passed)* and *Senate Bill 1043/House Bill 1472 (both passed)* add the waters of St. Mary's County to the list of waters with a minimum required distance of 400 yards. *Senate Bill 1043/House Bill 1472* also add the waters of Tangier Sound, Fishing Bay, Monie Bay, Manokin River, Big Annemessex River, Pocomoke Sound, and Kedges Straights in the waters of Dorchester, Somerset, and Wicomico counties to the list of waters with a minimum required distance of 400 yards.

Environment

Water Management

Stormwater Management

State law requires each county and municipality to adopt ordinances necessary to implement a stormwater management program. In general, land may not be developed without submitting, and getting approval of, a stormwater management plan from a county or municipality. The developer must certify that all development will be done according to an approved plan. Every three years, the Maryland Department of the Environment (MDE) is required to review local stormwater management programs and monitor their implementation.

According to MDE, while nitrogen loading to the Chesapeake Bay from agricultural and wastewater sources in Maryland has been decreasing since 1985, stormwater loading from developed areas during that same timeframe has been increasing. In order to address this issue, the Stormwater Management Act of 2007 (Chapters 121 and 122) required MDE to adopt regulations and a model ordinance that require *environmental site design* (ESD). ESD involves small-scale practices, nonstructural techniques, and better site planning to mimic natural

hydrologic runoff characteristics and minimize the impact of impervious surfaces from land development. On May 4, 2009, MDE adopted regulations requiring the use of ESD to the maximum extent practicable. The new ESD regulations were to apply to new projects that do not have certain final plans approved by May 4, 2010.

After the regulations were adopted, however, numerous concerns regarding the 2009 ESD regulations were raised by local jurisdictions, developers, and others. In general, the concerns related to the need for grandfathering of certain projects that have reached an advanced stage in the development process, the cost and feasibility of ESD, potential conflicts between the regulations' more stringent requirements for redevelopment projects and the State's ongoing Smart Growth efforts, and the enforcement and long-term maintenance for ESD practices.

To address some of these concerns, in March 2010 MDE submitted emergency regulations to the General Assembly's Administrative, Executive, and Legislative Review (AELR) Committee. On the grandfathering issue, the emergency regulations allow local governments to incorporate waiver provisions into their ordinances for projects that have completed part of the development review process but have not received final approval by May 4, 2010. A grandfathered project that receives an administrative waiver may proceed with the development under the stormwater regulations in effect as of May 4, 2009. The emergency regulations also provide local governments with greater flexibility in addressing the new requirements for redevelopment projects by providing for alternative stormwater management measures under specified conditions. In response to concerns that the emergency regulations may have been substantially delayed, *House Bill 1125 (failed)*, as amended in the House, would have generally codified the provisions of the emergency regulations. However, the AELR Committee approved the emergency regulations on April 6, 2010, and the bill's hearing in the Senate Education, Health, and Environmental Affairs Committee was subsequently cancelled.

While the grandfathering date provided in the emergency regulations is anticipated to allow an indeterminate number of development projects to proceed under the older stormwater regulations, the new emergency regulations are still significantly more stringent than the provisions contained in several bills introduced during the 2010 session. For example, *House Bill 964 (failed)* would have delayed the implementation of the 2009 ESD regulations until May 4, 2020. Similarly, *House Bill 1408 (failed)* would have delayed ESD regulations May 4, 2012, and also would have required MDE to repeal and replace ESD regulations with new regulations developed in consultation with certain stakeholder groups.

Senate Bill 686/House Bill 999 (both failed) addressed a different matter related to stormwater management and would have required each county and municipality to establish annual stormwater remediation fees and local watershed protection and restoration funds by July 1, 2011, to help finance the implementation of local stormwater management plans. The fee would have been the same for all residential property owners, but based on the amount of impervious surface for nonresidential properties.

Water Quality

The General Assembly passed several bills addressing water quality through financial incentives and inducements and reorganization of special funds.

Consolidation and Administration of Environmental Funds: A study completed by MDE in 2009 recommended merging the Sewage Sludge Utilization Fund and penalties collected under the sediment and erosion control statute into the Maryland Clean Water Fund. The Maryland Clean Water Fund must be used for various activities, including identifying, monitoring, and regulating the proper discharge of effluent into State waters and the management, conservation, protection, and preservation of the State's groundwater and surface water. In determining the use of the fund, MDE is required to give priority to activities relating to the water quality of the Chesapeake Bay and its tributaries.

House Bill 1425 (passed) effectuates the recommended consolidation. The bill eliminates the Sewage Sludge Utilization Fund, transfers its outstanding fund balance, and redirects money from the fund's various sources to the Maryland Clean Water Fund. In addition, the bill redirects penalties collected as a result of violations of the erosion and sediment control laws to the Maryland Clean Water Fund. The bill expands the required uses of the Maryland Clean Water Fund to reflect the sewage sludge utilization and the erosion and sediment control activities covered by existing funds repealed by the bill.

The General Assembly also passed legislation that will allow Maryland to qualify for additional federal funding for water quality activities. ***House Bill 73 (passed)*** expands the authorized uses of the Maryland Water Quality Revolving Loan Fund (MWQRLF) to include providing assistance authorized or required under various federal laws. MWQRLF created in 1988 to provide low-interest loans to public entities for wastewater and other water quality capital projects. Chapter 168 of 2009 expanded the authorized use of the fund to include grants, negative interest loans, forgiveness of principal, subsidized interest rates, and other forms of assistance as authorized or required by the American Recovery and Reinvestment Act of 2009. Enactment of ***House Bill 73*** will allow MDE to qualify for additional federal funding of an estimated \$49 million in fiscal 2012 and \$47 million in fiscal 2013.

Septic System Upgrades: In 2009, legislation was enacted that requires new or replacement onsite sewage disposal (septic) systems located in the Chesapeake and Atlantic Coastal Bays Critical Area (Critical Area) to utilize best available technology for nitrogen removal. ***House Bill 62 (passed)*** requires MDE, in for calendar 2010 through 2012, to provide funding for the entire cost difference between a conventional septic system and one utilizing best available technology (BAT) for nitrogen removal. This assistance, from the Bay Restoration Fund, will be provided to a homeowner that is required under current law to replace a failing system on property in the Critical Area. The bill also states that it is the General Assembly's intent to authorize the use of an economic means test to determine the financial assistance awarded to a homeowner for the cost difference between a conventional septic system and one utilizing BAT. The bill is consistent with MDE's current practices.

Bay Restoration Fee Collection: Chapter 428 of 2004 established a bay restoration fee on users of wastewater facilities, onsite sewage disposal systems, and sewage holding tanks. That Act did not create a statutory lien for unpaid fees. In 2007, the Maryland Office of the Attorney General issued an opinion that an unpaid tax or fee does not constitute a lien on real property unless the lien is expressly provided by law. To enhance enforcement for collection of the bay restoration fee, *Senate Bill 36/House Bill 45 (both passed)* specify that in Dorchester County an unpaid bay restoration fee is a lien against the property served by a wastewater facility, onsite sewage disposal system, or sewage holding tank. A notice of any lien must be recorded in the county's land records. *House Bill 1109 (passed)* applies these same provisions in Caroline County.

Wetlands Protection

Aquaculture: The Wetlands and Waterways Program within MDE administers a program for the management, conservation, and protection of Maryland's tidal wetlands and nontidal wetlands and waterways. Permits granted for work in privately owned wetlands are issued by MDE; licenses granted for work in State-owned wetlands are issued by the Board of Public Works (BPW). In general, a person may not dredge, fill, construct or repair, or conduct certain other activities in State tidal wetlands without a license issued by BPW. MDE is required to forward a report of its recommendations to BPW on each tidal wetlands license application; current MDE regulations describe numerous criteria MDE must use in evaluating tidal wetlands license applications. In addition, an individual may not engage in aquaculture unless permitted by the Department of Natural Resources (DNR).

Senate Bill 3/House Bill 89 (both passed) exempt aquaculture activities permitted by DNR from the requirement to pay application fees when applying to MDE for wetlands and waterways permits or to BPW for a wetlands license. Application fees can range from \$750 to tens of thousands of dollars depending on the size of the project. In addition, *Senate Bill 1128/House Bill 1568 (both passed)* authorize BPW to issue a tidal wetlands license to expand a marina located in an area where it would currently be prohibited if certain project characteristics are met and the project generally furthers State aquaculture policies. Due to the specificity of the bill's provisions, BPW and MDE advise that the bill will likely only apply to one current nonprofit aquaculture organization located in Dorchester County and dedicated to oyster restoration, economic stimulus and recovery, and wetland creation and preservation.

Marine Contractors: According to the Maryland Marine Contractors Association, there are about 200 marine contractor companies in the State. Currently, a person must have a contractor license issued by the Maryland Home Improvement Commission (MHIC) before acting as a contractor in the State. However, some marine contractors have expressed concern about the time it takes MDE to process wetlands and waterways permit applications and also about the substandard work of unqualified marine contractors. *Senate Bill 382 (passed)* establishes licenses specifically for marine contractors to be issued by a new Marine Contractors Licensing Board housed within MDE. All marine contractors will be licensed exclusively by the board and must register with the board by December 31, 2010. Individuals (or the entities they work for) will be required to have a license prior to performing marine contractor services in the

State. “Marine contractor services” means construction, demolition, installation, alteration, repair, or salvage activities located in, on, over, or under State or private tidal wetlands. However, residential and commercial property owners are authorized to perform marine contractor services on their own property, as long as they obtain the necessary local, State, or federal authorization. Marine contractors licensed by the new board are exempt from obtaining a license from MHIC.

Miscellaneous

State Board of Waterworks and Waste Systems Operators: *Senate Bill 326/House Bill 487 (both passed)* embody the statutory recommendations developed by the Department of Legislative Services (DLS) during the 2009 sunset evaluation of the State Board of Waterworks and Waste Systems Operators. An operator of either waterworks or waste system participates in the control of the flow, treatment, or discharge of water or wastewater. A superintendent is certified as the individual who is in charge at the facility. DLS sunset evaluation found that a significant number of waterworks and waste systems in the State do not employ operators and superintendents as required by law and that the administrative and enforcement databases used to track the employment of operators and superintendents are antiquated and insufficient.

The bills extend the termination date for the State Board of Waterworks and Waste Systems Operators from July 1, 2011, to July 1, 2021, and require an evaluation of the board by July 1, 2020. The bills also require that the board, in conjunction with MDE, report to specified committees of the General Assembly by October 1, 2011, on several matters related to the board, including updating the board’s databases. The board’s composition is altered to replace the representative from DNR with a representative from the Maryland Environmental Service. Finally, the bills eliminate several obsolete provisions and also clarify that it is the duty of MDE, and not the board, to enforce the requirement that facilities employ certified superintendents and operators.

Waste Management/Hazardous Substances

Solid Waste Management

Recycling and Solid Waste Source Reduction: In 1988, the Maryland Recycling Act required each county to submit a recycling plan. Jurisdictions with more than 150,000 residents were required to reduce their solid waste by 20%, and jurisdictions with less than 150,000 residents were required to reduce their solid waste by 15%. According to MDE, by 2000, every county had met or exceeded their percentage requirements under the Maryland Recycling Act. Further legislation enacted in 2000 established a voluntary statewide diversion goal of 40% by 2005. Counties have flexibility to determine the best way to reach the required recycling rates.

House Bill 982 (passed) requires MDE, in consultation with local governments, waste haulers, material resource facilities, and other affected parties, to conduct a study to evaluate solid waste management processes that reduce the solid waste stream through recycling and source reduction, including:

- the expansion of recycling efforts in nonresidential markets;
- the feasibility of commodity-specific targets; and
- long-term funding for solid waste and recycling management in the State

MDE must submit an interim report to the General Assembly by December 15, 2010, and a final report by December 15, 2011, on the results of the study.

House Bill 685 (passed) requires a county's recycling plan to address a strategy for collecting and recycling fluorescent and compact fluorescent lights that contain mercury. A county's recycling plan must be revised to reflect the new requirements by October 1, 2011. A county may utilize recycling, exchange, and take-back programs that have been established by fluorescent and compact fluorescent light manufacturers and vendors in its strategy.

Frederick County introduced legislation to establish a Pay-As-You-Throw (PayT) Pilot Program. *House Bill 678 (passed)* authorizes Frederick County to establish a PayT pilot program. Under the pilot program, a solid waste hauler charges a residential customer a fee for the curbside collection of solid waste based on the volume of waste collected.

State Government Materials Procurement: Senate Bill 693/House Bill 1164 (both passed) promote the use of environmentally preferable purchasing throughout State government. Specifically, the bills:

- increase the percentage of paper purchased by the Department of General Services (DGS) that must be recycled from 40% to 90%;
- require each State unit to report to MDE on the unit's procurement of recycled materials;
- require DGS to study and report on the use of compost as a fertilizer on State property; and
- establish a goal for DGS to compost all landscape waste on State property that it operates and, to the extent practicable, to increase the percentage of landscaped property that is fertilized by compost each year.

The bills also establish a Maryland Green Purchasing Committee to provide the State with information and assistance regarding environmentally preferable purchasing. In developing a best practices manual and strategy for environmentally preferable purchasing, the committee is required to consider advanced electricity metering, policies to reduce heating and cooling in State buildings, energy efficient data management systems, and recyclable products for the procurement of food and beverage containers and utensils. The bills establish other requirements for the committee, such as developing green purchasing guidelines and completing specified reports.

Plastic Bags: Americans use an estimated 50 to 80 billion plastic bags annually and, due to concerns about the environmental impact of plastic and paper bags, there is growing interest in discouraging their use. *Senate Bill 462/House Bill 351 (both failed)* would have required stores to charge and collect a fee of 5 cents per disposable carryout bag provided to a customer. A portion of the 5-cent fee could have been retained by the store. The balance of the fee would have been remitted to the Chesapeake Atlantic Coastal Bays 2010 Trust Fund to, among other things, support an intensive public information and outreach campaign regarding the effects of disposable carryout bags on the Chesapeake Bay.

Coal Combustion By-products

Coal combustion by-products (CCBs) are noncombustible materials generated from burning coal, which are generally either disposed of or beneficially used. According to MDE, uses of some CCBs include mine reclamation, structural fill applications, or as a substitute for cement in the production of concrete. Approximately two million tons of CCBs are generated each year in Maryland, primarily from nine power plants. In 2006, about 46% of CCBs were placed in four major disposal sites or used in ten major beneficial use projects in Maryland.

Under certain geologic conditions, some CCBs can produce high concentrations of potentially toxic constituents (such as arsenic, boron, cadmium, iron, lead, manganese, selenium, sulfate, and thallium) in soil that may leach into surface or groundwater. According to a 2007 report by the U.S. Environmental Protection Agency, groundwater contaminated with CCB waste poses a substantial cancer risk. 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. Therefore, MDE developed new regulations for the handling of CCBs that took effect on December 1, 2008. Under the regulations, disposal facilities need to meet all of the same standards required for industrial solid waste landfills and noncoal mine reclamation sites that use CCBs must meet similar standards. Additionally, MDE recently submitted draft regulations defining beneficial uses for CCBs, which specify certain productive uses that do not create an unreasonable risk to public health or the environment.

Despite these recent regulatory actions, several bills were introduced during the 2010 session to further restrict the disposal and use of CCBs. All but one bill failed. *House Bill 1508 (passed)* prohibits MDE from the issuing a permit to install a new refuse disposal system that accepts CCBs for disposal or a new noncoal mine reclamation site that uses CCBs if the site would be located in the Critical Area. Existing Critical Area Commission regulations state that certain new development activities or facilities because of their intrinsic nature or potential for adversely affecting habitats or water quality, may not be permitted in the Critical Area except under specified conditions. In addition, existing regulations address certain disposal facilities. However, the regulations do not specifically address CCBs.

Natural Gas, Minerals, and Oil

Natural Gas: The Marcellus shale formation is a geologic feature in the Appalachian Range (including some or all of Washington, Allegany, and Garrett counties) which has recently attracted significant attention from the energy industry for its rich natural gas deposits.

Geologists have long known about the natural gas resources contained within the formation but had considered the gas to be not economically recoverable until the recent development of new drilling technology reliant on a process called hydrofracturing. Wells in Pennsylvania, New York, Ohio, and West Virginia are already producing gas from the Marcellus shale and several companies have leased over 100,000 acres of land in Maryland for drilling into the formation.

The U.S. Environmental Protection Agency recently commented on drilling preparations conducted by New York State and stated several concerns regarding the overuse of water supplies from the hydrofracturing process, water quality issues from disposal of extracted well material, potential overburdening of local wastewater treatment facilities, air quality issues, and a lack of management of naturally occurring radioactive materials disturbed during drilling. In order to address these types of health and environmental concerns, MDE advises that additional staff will be necessary to properly review all drilling permit applications and conduct additional regulatory activities. Thus, *House Bill 72 (passed)* establishes an Oil and Gas Fund to support MDE's administration of a regulatory program that oversees the drilling, development, production, and storage of oil and gas wells in the State. As a primary revenue source for the fund, the bill requires MDE to set and collect permit and production fees, the revenues from which are limited to the amount necessary to implement the program.

Minerals: State mining law did not previously contain provisions designed to ensure that unused mineral interests revert to the State, as is common among other states with historically significant mining industries. In order to clear certain legal obstacles for landowners and mining and drilling companies, *Senate Bill 288/House Bill 320 (both passed)* codifies certain provisions of the Uniform Dormant Mineral Interests Act. The bills, modified from a national model mining statute, establish the criteria by which a mineral interest in real estate becomes subject to reversion; authorizes the owner of the surface estate located above a mineral interest to bring an action to terminate the mineral interest; specifies how a mineral interest may be preserved; and governs the disposition of a terminated mineral interest. The bills also authorize a petition to be brought where the owner of a mineral interest is missing or unknown, and allow the appropriate circuit court to then place the interest in trust for a period of five years during which time the trustee may lease the minerals to the owner of the surface estate.

Oil Pollution: Chapter 177 of 2005 required MDE to convene a workgroup to review and assess the long-term funding needs of the State's oil pollution programs. Although that report has not been finalized yet, MDE indicates that *Senate Bill 1117 (passed)* generally implements the workgroup's recommendations. The bill increases the fee assessed on oil transferred into the State until July 1, 2013 (from 3 cents per barrel to 5.75 cents per barrel); authorizes the fiscal 2011 transfer of up to \$500,000 from the Oil Contaminated Site Environmental Cleanup Fund to the Maryland Oil Disaster Containment, Clean-Up and Contingency Fund; allows owners of heating oil tanks to continue to apply for assistance from the Reimbursement Fund through June 30, 2013; and expands the authorized uses of the Maryland Oil Disaster Containment, Clean-Up and Contingency Fund to include oil-related activities in water pollution control programs. The bill is anticipated to generate an additional \$2.9 million in special fund revenues in fiscal 2011 due to the fee increase.

Miscellaneous

Brominated Flame Retardants: Polybrominated diphenyl ethers, or PBDEs, are a subcategory of brominated flame retardants. PBDEs have been routinely used in the plastic housing of computers and circuit boards and in the foam and textiles used in furniture. Manufacturers of two types of PBDEs agreed to voluntarily discontinue production at the end of 2004 due to environmental and health concerns. However, one type of PBDE, known as decaBDE, is still used in a wide range of products.

MDE has advised that, although decaBDE may be minimally toxic, it bioaccumulates in both wildlife and people and that concentrations in U.S. citizens are generally higher than in other countries. Several states, including Maine and Washington, have enacted legislation prohibiting the use of decaBDE in certain products, and the U.S. Environmental Protection Agency has reached agreement with manufacturers and importers to voluntarily phase out decaBDE from most uses by December 31, 2012 (with the exception of transportation and military equipment), and from all uses by December 31, 2013. *Senate Bill 556 (passed)* phases out the manufacture, lease, sale, and distribution of products containing decaBDE in Maryland as follows:

- beginning December 31, 2010, mattresses, upholstered furniture designed for residential use, or electrical or electronic equipment;
- beginning December 31, 2012, any product, except transportation or military equipment or components thereof; and
- beginning December 31, 2013, transportation or military equipment or components thereof.

Environmental Impacts of Road Salt: *Senate Bill 775/House Bill 903 (both passed)* require the State Highway Administration, in consultation with MDE, to develop a road salt management best practices guidance document by for use by local jurisdictions and the State to minimize the adverse environmental impacts of road salt runoff in the State. For a more detailed discussion of this issue, see the subpart “Transportation” within Part G – Motor Vehicles and Transportation of this *90 Day Report*.

Hazardous Substances: The Controlled Hazardous Substance Advisory Council was established by Chapter 618 of 1976 to advise and assist MDE on issues such as the identification of controlled hazardous substances and the development of regulations for their management and disposal. The council previously consisted of 13 members who serve terms of 6 years. Among other things, *Senate Bill 88 (passed)* increases the term length to 10 years and requires the council to meet only at the request of the Secretary of the Environment.

Other Environmental Issues

Environmental Justice: The Commission on Environmental Justice and Sustainable Communities (CEJSC), which was established by executive order in 2001 and codified in 2003,

is tasked with examining issues of environmental justice and sustainable communities for all Marylanders. “Environmental justice” means equal protection from environmental and public health hazards for all people regardless of race, income, culture, and social status. *Senate Bill 60 (passed)* expands the membership of CEJSC from 15 to 20 members. The additional members include representatives from the departments of Housing and Community Development, Transportation, and Business and Economic Development, as well as 2 additional members appointed by the Governor. The bill also specifies that at least 2 of the 12 members appointed by the Governor must represent affected communities concerned with environmental justice.

Inclusion of Small and Minority Business Enterprises: The Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund within MDE provides financial assistance for urban and suburban stormwater management practices and stream and wetland restoration. *House Bill 68 (passed)* requires recipients of grants over \$500,000 from the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund to take steps to include small, minority-owned, and women-owned businesses in the participation of funded projects.

Noise Control: A political subdivision may not adopt a noise control ordinance that is less stringent than the noise standards, sound level limits, and noise control rules and regulations adopted pursuant to Title 3 of the Environment Article. Sound level limits and noise control rules must be enforced by MDE, using the services of appropriate local government agencies to the maximum extent possible. Sheriffs are not local government officials, but rather constitutionally mandated officers of the State. *Senate Bill 152 (passed)* authorizes the Secretary of the Environment to delegate enforcement of specified noise control rules and regulations to the Harford County Sheriff. Similarly, *House Bill 1201 (passed)* provides that the Calvert County Sheriff’s Office may enforce noise controls adopted by the County through ordinance, as authorized under the bill.

Dental Radiation Machines: MDE’s Radiation Machines Division regulates manufactured electronic sources of radiation to minimize the amount of unnecessary radiation exposure received by the general public. State regulations, which derive in part from U.S. Food and Drug Administration statutory requirements, require that all radiation exposures be “As Low As Reasonably Achievable.” Various administrative, civil, and criminal penalties apply to violations of the State’s radiation control laws and regulations. *Senate Bill 664 (passed)* requires a State inspector of dental radiation machines to provide notice to a dental office or facility if there is a violation that does not present a serious and probable danger to patients or employees. The notice must:

- explain the nature of the violation and the required corrective action;
- indicate that the office or facility has 20 days to comply with the corrective action; and
- inform the dental office or facility to let MDE know that the corrective action has been completed.

If the corrective action is completed in the 20-day period, MDE may not impose a fine on the office or facility for the violation.

Water Service Billing: *House Bill 812 (passed)* requires a political subdivision to send a water service bill to the property, the property owner, or the property owner's designee for each property served. The legislation also authorizes the bill to be sent on a monthly basis.

Agriculture

Nutrient Trading on Agricultural Land

Nutrient trading is a market-based approach for protecting and improving water quality. Nutrient trading involves (1) establishing a total amount of allowable pollution in a specified area and allocating this amount among the participating sources; and (2) allowing sources to trade in ways that meet local and watershed-wide water quality goals. Once pollution allowances are allocated, sources with low-cost pollution reduction options have an incentive to reduce nutrient loadings beyond what is required of them and to sell the excess credits to sources with higher control costs. This framework allows sources facing high pollution reduction costs to purchase less costly reductions from other sources.

House Bill 974 (passed) authorizes the Maryland Department of Agriculture (MDA) to establish requirements for the voluntary certification and registration of nutrient credits on agricultural land. The requirements must include (1) application and eligibility requirements for certification; (2) standards for quantifying nutrient credits resulting from any existing or proposed agronomic, land use, and structural practice; (3) requirements governing the duration and maintenance of credits; and (4) establishment of a credit registry accessible to the public. The Secretary of Agriculture is authorized to suspend or revoke approval or certification of nutrient credits when specified violations occur.

Commercial Feed

Most states rely on the model statutes and regulations adopted by the Association of American Feed Control Officials (AAFCO) to establish legal requirements for the commercial feed industry. To make State law consistent with AAFCO recommendations, among other things, *Senate Bill 82 (Ch. 31)* modifies specified commercial feed-related definitions and prohibits a person from adulterating or misbranding commercial feed, distributing a commercial feed that is not registered with MDA, removing or disposing of a commercial feed in violation of a "stop sale" order, and altering/destroying any required label on commercial feed products.

Pest Control and Farm Quarantine

The Secretary of Agriculture has the authority to control or eliminate mosquitoes, including authority to contract with any county, municipality, or special taxing district to control or eliminate mosquitoes in or adjacent to the jurisdiction and authority to make inspections,

investigations, studies, and determinations to ascertain the effect of mosquitoes and methods for their control or elimination in any part of the State. *House Bill 420 (passed)* authorizes the Secretary to issue an order that a person abate mosquito habitat if, in cooperation with the local health authority, the Secretary finds that a person is causing or allowing mosquitoes to breed or develop on any property in a manner that may pose a threat to public health. After all reasonable attempts of abatement have failed, such orders must be served on the person who is causing or allowing mosquitoes to breed or develop. If that person cannot be found, the order must be served on the owner or occupant of the property where the mosquitoes exist. The Secretary is authorized to bring an action to enjoin a violation of an order. In addition, standards for issuance of an injunction are established and criminal penalties for failing to comply with an order are established.

MDA regulates the sale, distribution, exchange, use, storage, and disposal of pesticides and certifies consultants and applicators in various categories of pest control activities. MDA also issues licenses and permits to pest control and pest control consulting businesses and public agencies that apply pesticides. *Senate Bill 93 (passed)* requires pest control businesses to register annually with MDA each employee, other than a certified applicator, who offers or performs pest control at each business location. The initial application fee and the annual renewal fee are both \$30. A \$30 late fee is established that is applicable to late license, certification, or registration renewals under the Pesticide Applicator's Law. MDA's authority to charge a \$10 fee for pest control exams retaken after the initial exam is also clarified.

In accordance with the State Emergency Operations Plan, MDA coordinates all of its hazard preparedness and response activities with other federal, State, and local agencies and the agricultural industry. However, MDA lacked clear statutory authority to adequately prepare for, respond to, and recover from chemical and radiological emergencies affecting farmland and agricultural products on farms. *Senate Bill 90 (Ch. 34)* authorizes the Secretary of Agriculture to establish a farm quarantine and issue appropriate orders to control or restrict the use of farmland, crops, livestock, poultry, or a farm product existing on a farm that has been exposed to or contaminated by a radiological or chemical toxic material or agent or is infected or infested with a disease or pest. The Act also establishes quarantine notice requirements; provisions to allow landowners, tenants, or animal owners to request an alteration of a quarantine or order; additional powers of the Secretary; and enforcement provisions.

Agricultural Land Preservation

The Maryland Agricultural Land Preservation Foundation (MALPF) purchases agricultural preservation easements that restrict development on prime farmland and woodland in perpetuity. In addition to funding from the State transfer tax, MALPF is funded with agricultural land transfer taxes, general obligation bonds, local matching funds, and federal funds. As of January 2010, MALPF had cumulatively purchased or had a pending contract to purchase conservation easements on 2,079 farms covering 283,169 acres.

Senate Bill 95 (Ch. 36) authorizes MALPF to establish a Farmland Preservation Partnership Program to preserve productive agricultural and forested lands. MALPF may form

partnerships with public and private entities for the purpose of purchasing agricultural preservation easements on qualifying farms; however, the partners must cover the full purchase price, which may include administrative costs in specified circumstances. Farmland Preservation Partnership Program easements are not subject to MALPF's ranking, valuation, or development restrictions, except as determined by MALPF's Board of Trustees.

Chapter 610 of 2008 requires \$4.0 million in agricultural land transfer tax revenue to be allocated to the Maryland Agricultural and Resource-Based Industry Development Corporation (MARBIDCO) for an installment purchase agreement (IPA) program focused on agricultural land preservation. MARBIDCO and MALPF had intended to offer IPAs for periods of 15, 20, 25, or 30 years. However, State constitutional provisions concerning tax-supported debt prohibit the use of IPAs with terms longer than 15 years. Accordingly, MARBIDCO has been limited to offering leveraged IPAs for easement purchases funded from transfer tax revenues with terms of 15 years or less. However, MALPF may implement self-funded IPAs for terms beyond 15 years by providing grants to MARBIDCO for individual easement purchases.

Under current law, after July 1, 2010, agricultural land transfer tax revenue transferred to MARBIDCO must be used to purchase easements with IPAs and may not be transferred to MALPF. *Senate Bill 59 (passed)* repeals provisions requiring \$4.0 million to be dedicated to MARBIDCO's IPA program, expressing the General Assembly's intent that counties be encouraged to establish priority preservation areas (PPAs) for agricultural land preservation and requiring new funds provided to MALPF for easement acquisitions to be used only in PPAs after July 1, 2010.

Agricultural Product Sales

A 2009 statewide public opinion survey covering various policy issues found that 78% of Marylanders are more likely to select fresh fruit, vegetables, or other farm products in their local grocery store if the products are identified as grown by a Maryland farmer. However, advertising, particularly in retail stores, can be unclear. *House Bill 421 (passed)* authorizes the Secretary of Agriculture to adopt standards to regulate the use of the terms "locally grown" and "local" to advertise or identify an agricultural product and prohibits a person from knowingly advertising or identifying any agricultural product in violation of those standards. Before adopting the standards, the Secretary must convene and consult with an advisory group of interested stakeholders to determine the definition of the term "locally grown."

Several bills addressing agricultural product sales at farmers' markets were introduced during the 2010 legislative session. *Senate Bill 199 (passed)* authorizes a county to establish a seasonal farmer's market producer sampling license for a producer to prepare and offer samples of a farm product at a farmer's market. *Senate Bill 198 (passed)* prohibits local jurisdictions from requiring a license for the sale of raw agricultural products in a farmer's market and requires the Department of Health and Mental Hygiene to establish a producer mobile farmer's market license. For a more detailed discussion of these bills, see the subpart "Public Health – Generally" within Part J – Health and Human Services of this *90 Day Report*.

Departmental Boards and Programs

The Maryland Horse Industry Board (MHIB) has licensed and inspected horse stables in the State for more than 40 years. In addition, MHIB has a broad mission related to serving as an information resource about, supporting research on, and promoting the equine industry in Maryland. *Senate Bill 62 (Ch. 19)* requires that all funds collected by MHIB be paid into the Maryland Horse Industry Fund. The inspection and license renewal fees charged by MHIB are increased by \$25 each, to \$50 and \$75, respectively. The \$75 license fee must be paid upon application for a license in addition to being paid when renewing a license. By making these changes, it is anticipated that MHIB will no longer need a general fund appropriation.

The State Board of Veterinary Medical Examiners (SBVME) is responsible for licensing and registering veterinarians, licensing and inspecting veterinary hospitals, licensing animal control facilities, and registering veterinary technicians. There are currently 2,471 licensed and registered veterinarians, 506 licensed veterinary hospitals, and 29 licensed animal control facilities. SBVME regulations establish various violations and associated civil penalties for veterinarians for initial and subsequent violations. *Senate Bill 81 (Ch. 30)* modifies provisions that currently limit to \$5,000 the amount of a monetary penalty that SBVME may impose. In lieu of or in addition to suspension of a license, or in addition to revocation of the license, SBVME may impose a penalty of up to \$5,000 for a first offense. For a second or subsequent offense, in addition to suspension or revocation of the license, SBVME may impose a penalty of up to \$10,000.

Part L

Education

Primary and Secondary Education

Education Funding

State Aid

State aid for primary and secondary education will increase by \$210.5 million in fiscal 2011 to a total of \$5.7 billion, 3.8% more than fiscal 2010 aid. State aid provided directly to the local boards of education increases by \$119.7 million or 2.5%, while teachers' retirement costs, which are paid by the State on behalf of the local school systems, grows from \$759.1 million to \$849.8 million, an increase of 12%.

Fiscal 2010 to 2011 changes in major State education aid programs are shown in **Exhibit L-1**. The largest increase is in the compensatory education program, which provides funding based on the number of students in the State eligible for free and reduced priced meals. That population increased by nearly 32,000 students or 11.6% from fall 2008 to fall 2009, resulting in an increase in State funding for the compensatory education program of \$100.9 million. Teachers' retirement payments continue to grow, too, with an increase of \$90.8 million provided for fiscal 2011. The increase in retirement costs is due to 2.7% growth in aggregate school system salary bases and an increase in the State's contribution rate from 13.15% to 14.34% of salaries. The \$90.8 million increase brings the two-year rise in retirement costs for local board of education employees to \$228.1 million. State funding for this program is paid into the State's pension fund and does not pass through local school system budgets.

Exhibit L-1
Change in State Education Aid
Fiscal 2010-2011
(\$ in Millions)

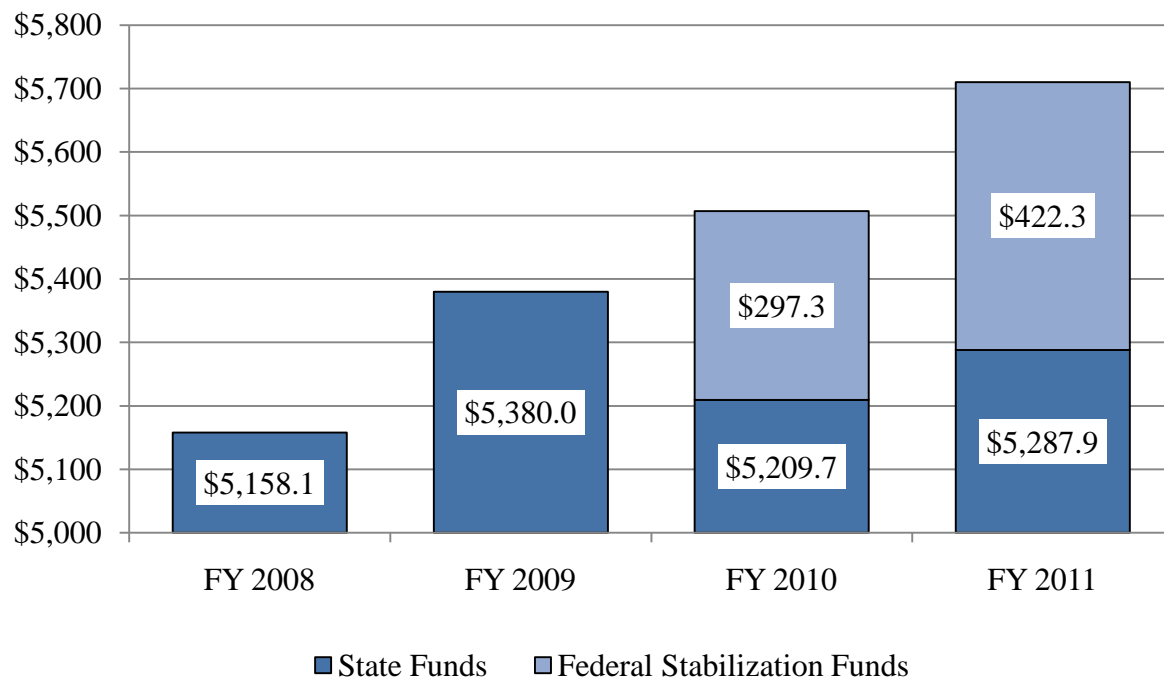
<u>Program</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Change</u>	<u>% Change</u>
Foundation Program	\$2,726.7	\$2,763.5	\$36.8	1.3%
Geographic Cost of Education Index	126.3	126.6	0.3	0.2%
Supplemental Grants	51.2	46.5	(4.7)	-9.2%
Compensatory Education	940.2	1,041.1	100.9	10.7%
Special Education Formula	267.4	264.0	(3.4)	-1.3%
Limited English Proficiency	148.6	151.2	2.6	1.7%
Guaranteed Tax Base	63.8	47.4	(16.4)	-25.7%
Student Transportation	<u>241.5</u>	<u>244.4</u>	<u>2.9</u>	1.2%
Bridge to Excellence Subtotal	\$4,565.8	\$4,684.7	\$118.9	2.6%
Nonpublic Special Education	112.8	112.8	0.0	0.0%
Other Direct Aid	<u>69.4</u>	<u>70.2</u>	<u>0.8</u>	1.2%
Direct Aid Subtotal	\$4,747.9	\$4,867.6	\$119.7	2.5%
Teachers' Retirement	759.1	849.8	90.8	12.0%
Education Aid Total	\$5,507.0	\$5,717.5	\$210.5	3.8%

Source: Department of Legislative Services

For a second year in a row, increases in the Bridge to Excellence formulas and teachers' retirement were funded to a large extent by the federal American Recovery and Reinvestment Act of 2009 (ARRA), which is providing the State with \$719.7 million in education funding from the State Fiscal Stabilization Fund. Maryland is using these funds to support increases in major education aid programs in fiscal 2010 and 2011. After using \$297.3 million in federal stabilization funds to support formula increases in fiscal 2010, the fiscal 2011 State budget includes the remaining \$422.3 million in stabilization funds to support the formulas in the coming school year. With the exception of a \$4.3 million reduction to the student transportation program executed by *Senate Bill 141 (passed)*, the Budget Reconciliation and Financing Act of 2010 (BRFA), all of the major State aid programs are fully funded in fiscal 2011 with the help of federal support from ARRA. The BRFA of 2010 sets the inflationary increase in student transportation aid at 1% in fiscal 2011, a reduction from the 3% increase that would otherwise have been required.

As shown in **Exhibit L-2**, the federal funds have allowed the State to decrease its use of State funds in support of education aid from the \$5.4 billion spent in fiscal 2009, even as education aid has increased by \$337.4 million from fiscal 2009 to 2011. With no federal stabilization funds available after fiscal 2011, a large infusion of State funds will be needed in fiscal 2012 to support accumulated aid increases from the last two years and further increases expected next year. In addition, the BRFA of 2010 allocates \$350 million from the State's Local Income Reserve Account to the Education Trust Fund to be used in fiscal 2011 to support education aid. This, too, is a revenue source that may not be available in fiscal 2012.

Exhibit L-2
Use of State and Federal Funds to Support State Aid Formulas
Fiscal 2008-2011
(\$ in Millions)



Source: Department of Legislative Services

Limited Increases in Fiscal 2012 and Beyond

To avoid too steep of a funding cliff in fiscal 2012, the Budget Reconciliation and Financing Act of 2009 limits inflationary growth in the major education aid programs, including student transportation, to 1% in fiscal 2012. The BRFA of 2010 continues the 1% limit for three additional years, through fiscal 2015. The minimum inflationary increase for student transportation aid is also permanently reduced from 3% to 1% in the BRFA of 2010. Other future reductions to direct State aid specified in the BRFA of 2010 include a permanent decrease

in State funding for the Aging Schools Program to \$6.1 million annually and a requirement that the Maryland State Department of Education (MSDE) renegotiate its contract with the SEED School of Maryland, a residential boarding school for at-risk children run by a private operator, in order to reduce student enrollment in the program and decrease required State funding for the program in fiscal 2012 and 2013.

The Senate version of the BRFA of 2010 also included provisions that would have begun shifting some of the costs of the 100% State-paid teachers' retirement to local boards of education in fiscal 2012. The final version of the bill approved by the General Assembly instead establishes a Public Employees' and Retirees' Benefit Sustainability Commission to examine the sustainability of the State's current benefit structure and evaluate appropriate contribution levels for the employers of public education employees. The commission must submit reports by December 15, 2010, and June 30, 2011, with actionable recommendations that can be implemented no later than fiscal 2013.

Local Maintenance of Effort

In the aggregate, the State and local governments are roughly equivalent partners in providing the majority of funding for public schools. Most State aid is allocated through statutory formulas, and minimum local government appropriations to boards of education are set through the maintenance of effort (MOE) requirement. To be eligible for increases in State education aid under § 5-202 of the Education Article (which includes the State share of the foundation program, the State's largest aid to education program; the geographic cost of education index; and the supplemental grant), a local jurisdiction must meet MOE by providing at least as much funding per pupil to the local school system as it provided in the previous fiscal year. Chapter 175 of 1996 added a waiver provision that allows counties to request from the State Board of Education a partial or temporary waiver from the MOE requirement. Until fiscal 2010, the waiver option had never been used, but three counties (Montgomery, Prince George's, and Wicomico) applied for waivers for fiscal 2010. All three applications were denied by the State Board of Education, and Montgomery and Prince George's counties did not meet MOE.

To provide a legislative remedy, *Senate Bill 476 (Ch. 73)* and *House Bill 223 (Ch. 74)* prohibit the imposition, in fiscal 2010, of the State penalty for not meeting the MOE requirements. The bills eliminate a general fund reduction of \$23.4 million in fiscal 2010 from State aid to Montgomery County. (Although it did not meet its MOE obligation, Prince George's County was not facing potential penalty.) The bills also require the Senate Budget and Taxation Committee and the House Ways and Means Committee to study the appropriate calculation of the penalty for failing to meet the MOE requirement and the appropriate party against whom the penalty should be applied. The committees must report their findings and recommendations to the Legislative Policy Committee by December 31, 2010. Developed by the Joint Legislative Workgroup to Study State, County, and Municipal Fiscal Relationships, *Senate Bill 310/House Bill 304 (both failed)* would have expanded the factors that must be considered when the State Board of Education is determining whether to issue a waiver for the county MOE

requirement. The MOE waiver process for fiscal 2011, therefore, will be the same as the fiscal 2010 process.

Public School Construction

Capital Funding

The fiscal 2011 capital budget includes \$250 million in general obligation bonds for public school construction. An additional \$12.2 million in unexpended funds from prior years is available from the Statewide Contingency Fund. The local school systems requested a total of approximately \$722.1 million for fiscal 2011, of which \$529 million is eligible for State funding. The Public School Facilities Act of 2004 (Chapters 306 and 307) established a State goal to provide \$2 billion in State funding over eight years to address school construction needs, or \$250 million per year from fiscal 2006 to 2013. Fiscal 2011 will be the sixth consecutive year that the goal has been met or exceeded, with the State providing a total of \$1.85 billion for school construction since fiscal 2006.

Aging Schools Program

The Aging Schools Program is funded through the capital budget rather than the operating budget in fiscal 2011. The capital budget as passed by the General Assembly includes \$5.1 million in general obligation bonds and \$1 million in Qualified Zone Academy Bonds (QZABs) to meet the statutory requirement of \$6.1 million for the program. The BRFA of 2010 alters future funding for the Aging Schools Program, rebasing it at \$6.1 million permanently. Previously, funds were set to be rebased at \$10.4 million beginning in 2012, and an annual inflationary factor was to resume in 2013.

Since 2001, the State has issued \$47.6 million in QZABs allocated by the federal government to Maryland; all but \$21.3 million has been expended. QZABs are an alternative bond program that the federal government authorizes with bond holders receiving federal tax credits in lieu of interest. *Senate Bill 202 (passed)* authorizes the State to issue \$4.5 million in QZABs. Of this amount, \$1 million is allocated to the Aging Schools Program. The bonds must be issued by December 31, 2010.

Physical Education Facilities

Almost all public middle and high schools in the State, except small specialized schools, are designed with gymnasiums; however, some school systems have built elementary schools with only multipurpose rooms or “cafeteriums.” *Senate Bill 256/House Bill 334 (both passed)* require MSDE to adopt regulations requiring public school buildings that are newly constructed or completely renovated and occupied on or after January 1, 2013, to include a gymnasium and support spaces for physical education instruction. The regulations must include a waiver process for a local school system based on land or zoning constraints. The bills also require MSDE to develop guidelines for facilities for physical education programs.

Local Business Preference

In procuring school construction services, local governments are required to adhere to certain requirements contained in State procurement law and Board of Public Works regulations, including the use of competitive sealed bidding under most circumstances, adherence to the State's prevailing wage and minority business enterprise program requirements, and awarding contracts to the responsible bidder with the lowest responsive bid. *Senate Bill 551 (passed)* authorizes a local government to give preference first to businesses located in the county and then to businesses located in other counties in the State in bidding for school construction projects that are not subject to the State's prevailing wage law. School construction projects under \$500,000 or less than 50% State funded are not subject to the State prevailing wage law. The bill is most likely to affect all locally funded projects and State-funded projects in six counties where the State pays less than 50% of total project costs: Anne Arundel, Baltimore, Kent, Montgomery, Talbot, and Worcester counties.

Local School Construction Bills

Baltimore City: The federal American Recovery and Reinvestment Act of 2009 (ARRA) authorized states and large local education agencies to issue up to \$22 billion over two years in Qualified School Construction Bonds (QSCBs) for the construction, rehabilitation, and repair of school facilities, or to purchase land on which to build school facilities. Forty percent of the authorization was given directly to the 100 school districts with the highest number of school-age children living below the poverty level, including the Baltimore City Public School System (BCPSS). ARRA authorizes BCPSS to issue up to \$58.1 million in QSCB bonds in 2009 and the same amount in 2010. Unused portions of an annual QSCB allocation carry over to the following year. BCPSS has used all but \$7.3 million of its 2009 authorization, which took BCPSS up to its current \$100 million bonding cap. *Senate Bill 179 (passed)* exempts the full value of QSCBs issued by BCPSS from the \$100 million statutory cap on outstanding debt that BCPSS may issue.

Washington County: Chapter 598 of 2005 required the Washington County Board of County Commissioners to establish an Advisory School Design Committee to review all construction plans for school capital improvement projects costing more than \$2 million. The committee's role is to ensure that the construction and operational plans for each project provide an effective educational environment in a cost-efficient manner. *House Bill 734 (passed)* repeals the termination date of the committee, codifies its existence in the Public Local Laws of Washington County, and expands the committee's role in reviewing school capital improvement project designs.

Race to the Top Reforms

Race to the Top (RTTT) is a \$4 billion competitive grant program authorized under ARRA, of which Maryland is eligible to receive up to \$250 million. The program seeks to encourage and reward states that are implementing significant reforms around four specific areas: (1) adopting standards and assessments that prepare students to succeed in college and the

workplace and to compete in the global economy; (2) building data systems that measure student growth and success and inform teachers and principals how they can improve instruction; (3) recruiting, developing, and retaining effective teachers and principals, especially where they are needed most; and (4) turning around the lowest-achieving schools. Using specified criteria, the U.S. Secretary of Education will determine which states receive grants and the amounts of the grants.

Round 1 applications were due in January 2010. In March 2010, the U.S. Department of Education announced that Delaware and Tennessee will receive RTTT awards based on their Round 1 applications. Maryland decided not to apply in Round 1 and to instead wait for Round 2 in order to strengthen its application. A draft application was released on April 13, 2010, and the final application is due in June 2010.

Education Reform Act 2010

The greatest weight under RTTT application, 28% or 138 out of a total 500 points available, is allocated to various aspects of providing high-quality teachers and leaders. From these 138 points, 15 points are allocated to designing and implementing rigorous, transparent, and fair evaluation systems for teachers and principals that differentiate effectiveness using multiple rating categories that take into account data on student growth as a significant factor. Additional points (28) are allocated to using these evaluations to inform important decisions, including whether to grant tenure. Fifteen points are allocated to ensuring the equitable distribution of teachers and principals in high poverty or high minority schools.

In December 2009, Maryland did not receive a grant from the Bill and Melinda Gates Foundation to assist with the writing of RTTT application. In rejecting Maryland's bid for a grant, the Gates Foundation cited similar criteria being used by the U.S. Department of Education to judge RTTT applications.

In an effort to be responsive to the RTTT goal of having highly effective teachers and principals, especially in the lowest performing and highest poverty schools, *Senate Bill 899/House Bill 1263 (both passed)* lengthen the amount of time before which a teacher gains tenure from two to three years, require student growth to be a significant component of teacher performance evaluations, and establish locally negotiated incentives for highly effective teachers and principals who teach in a school in improvement, corrective action, or restructuring, in a school categorized by the local school system as a Title I school, or in a school among the 25% of schools in the State with the highest proportion of students eligible for free and reduced price meals.

P-20 Council

The Governor's P-20 Leadership Council of Maryland, which is primarily charged with aligning pre-kindergarten through postsecondary education and ensuring that Maryland will produce and maintain a competitive workforce, is codified in *Senate Bill 286 /House Bill 466 (both passed)*. Most recently, the P-20 Council convened the College Success Task Force to

develop a definition and implementation plan for college readiness in Maryland. The bills establish the membership of the council and add members to the council, including legislative members. An annual report of the council's work and any recommendations are due by December 15 of each year to the Governor and the General Assembly.

Maryland Longitudinal Data System

The State is working to develop a comprehensive statewide longitudinal data system (LDS), a key component of applications for RTTT funds and one of the assurances that the State was required to make in order to receive funds from the State Fiscal Stabilization Fund authorized by ARRA. Maryland has already received over \$13 million in federal grants, of which \$8 million have been spent, to develop the State's current student-level data system. The current system, managed by MSDE, includes most of the 10 essential components of an effective data system as laid out by the *Data Quality Campaign*, which will be used to evaluate LDS in state RTTT allocations. However, Maryland's system currently does not link to higher education or a unique teacher identifier, which are two required elements. According to the *Data Quality Campaign*, 31 states have the ability to match student-level prekindergarten to grade 12 data to higher education data. Maryland has applied for \$13.1 million additional federal funds to link K-12 data with higher education data.

Senate Bill 275 (passed) establishes the Maryland Longitudinal Data System (MLDS) as a statewide data system that contains individual-level student data and workforce data from all levels of education and five years into the State's workforce, following graduation from an institution of higher education. MLDS links student and workforce information that is already being collected by State agencies and institutions of higher education. The bill requires MLDS to be fully operational by December 31, 2014. The bill also establishes a Maryland Longitudinal Data System Center within State government to serve as a central repository for the data, ensure compliance with federal privacy laws, perform research on the data sets, and fulfill education reporting requirements and approved public information requests.

Innovative School Scheduling Models

In addition to competitive priorities for RTTT, the guidance from the federal government also includes "invitational priorities." One of these invitational priorities is school-level conditions for reform, innovation, and learning, which includes implementing new structures and formats for the school day or year that result in increased learning time. *Senate Bill 452/House Bill 439 (both passed)* require the State Board of Education to explore the use of innovative school scheduling models, including extended year, year-round schooling, or other school scheduling models that do not allow for prolonged lapses in instructional time, in low-performing or at-risk public schools. The State board is also required to encourage local boards to use the school scheduling models that are determined to be most effective in enhancing student achievement in low-performing or at-risk public schools.

School Safety

Safe Schools Act

In an attempt to be responsive to gangs and gang activity in schools, *House Bill 1160 (passed)* addresses the notification of school officials of the status of certain students by courts and law enforcement agencies under specified circumstances. The authority of the courts is expanded to include notification relating to students adjudicated delinquent. The bill also expands the list of crimes that, when committed by a student, law enforcement agencies must report to local superintendents, principals, and school security officers to include second-degree assault; malicious destruction of property; auto theft; inducing false testimony or avoidance of subpoena; retaliation for testimony; and intimidation or corruption of a juror.

Under the bill, the State Board of Education must develop a model policy to address gang activity or similar destructive or illegal group behavior in schools by March 31, 2011. Using the State board's model policy, each local school system must establish and submit a local policy or regulations to the State Superintendent of Schools by September 1, 2011, and develop educational programs to address gang activity or similar destructive or illegal group behavior. By January 1, 2011, and each year thereafter, MSDE must submit a report on implementation of the policies.

Cultural Competency for Law Enforcement Officers Assigned to Schools

Some school systems have memorandums of understanding with local law enforcement agencies to have specially trained officers, known as school resource officers, in schools. *Senate Bill 1007/House Bill 983 (both passed)* require that the Maryland Police Training Commission, in consultation with MSDE, develop a cultural competency model training curriculum for law enforcement officers assigned to public schools. The bills also encourage a law enforcement officer assigned to patrol a school building or school to complete the cultural competency model training curriculum before beginning the assignment.

Collective Bargaining for Education Employees

Senate Bill 590/House Bill 243 (both passed) establish a Public School Labor Relations Board (PSLRB) to administer and enforce the labor relations laws for local boards of education and their employees. The authority of the State Board of Education to decide public school labor relations disputes and the authority of the State Superintendent of Schools to declare labor impasses are repealed.

In 2007, Governor Martin O'Malley signed an executive order authorizing collective bargaining for family child care providers participating in the child care subsidy program. *House Bill 465 (passed)* establishes these rights in State law. The bill requires that only one appropriate bargaining unit of family child care providers be established in the State, and the election and certification of the exclusive representative must be conducted by the State Labor Relations Board. Collective bargaining must include all matters related to the terms and conditions of participation by family child care providers in the child care subsidy program.

For further discussions of *Senate Bill 590/House Bill 243* and *House Bill 465*, see Part B – State Government – Personnel.

Individuals with Disabilities

Individualized Education Program Meetings

At least five business days before a scheduled meeting of an individualized education program (IEP) team meeting, *Senate Bill 540/House Bill 269 (both passed)* require that appropriate school personnel provide the parents of a child with a disability with accessible copies of all documents relating to the IEP meeting. Documents prepared by a school psychologist or other medical professional that are to be discussed at the meeting may be provided to the parents orally and in writing prior to the meeting. Appropriate school personnel may fail to comply with these requirements in the event of extenuating circumstances; however, in the event of an extenuating circumstance, the circumstance must be communicated to the parents. Finally, the bills require that appropriate school personnel provide the parents of the child with a copy of the completed IEP, or if it has not been completed, a draft copy of the IEP no later than five business days after a scheduled meeting.

Alternate Maryland School Assessment

By July 1, 2011, *Senate Bill 557 (passed)* requires MSDE to review the Alternate Maryland School Assessment (Alt-MSA) with the goal of reducing the time required to administer the assessment. As part of the review, MSDE must consider providing greater guidance and taking primary responsibility for the creation of the Alt-MSA. MSDE also has to survey and solicit recommendations from teachers of severely disabled students and students who are likely to be impacted by the Alt-MSA regarding satisfaction, or lack thereof, with the Alt-MSA. By October 1, 2011, MSDE must report to the Governor and to specified legislative committees regarding the review.

Braille Standards

By September 1, 2012, *Senate Bill 230/House Bill 413 (both passed)* require the State Board of Education to establish standards for the mastery of Braille for use in English, language arts, and mathematics instruction of students who are blind or visually impaired. The bills also require the State board and the Professional Standards and Teacher Education Board to review and, as appropriate, modify certification and recertification requirements for teachers of students who are blind or visually impaired by September 1, 2013.

Emotional Disability

During the 2008-2009 academic year approximately 8,400 children in Maryland were identified as being emotionally disturbed to the degree of having a disability. This represents about 8.1% of children with disabilities and is the most prevalent disability after specific learning disabilities, speech and language impairments, and other health impairments. *Senate Bill 204/House Bill 11 (both passed)* change references to “emotional disturbance” to

“emotional disability” within the definition of a child with a disability. Documents reflecting the new terminology may not be used until all printed documents using “emotional disturbance” have been used.

Other Education Legislation

Student Wellness

The federal Centers for Disease Control and Prevention reports that suicide is the third leading cause of death for youth between the ages of 10 and 24. *House Bill 973 (passed)* requires each local board of education to provide each student in grades 6 through 12 with the telephone number of the Maryland Youth Crisis Hotline (1-800-422-0009) by printing the number prominently in the school handbook and printing the telephone number on a student’s school identification card, if provided.

Virtual Schools

On or after September 1, 2011, *House Bill 1362 (passed)* authorizes a local board of education to establish a virtual school, subject to the approval of MSDE. A student who is eligible for enrollment in a public school in the State may enroll in a virtual school. Enrolled students must be provided with a sequential curriculum approved by the State Board of Education, as well as regular assessments. A virtual school must provide the parents or guardians of enrolled students with instructional materials, including software, and information on the closest public facility that offers access to a computer, printer, and Internet connection.

Comprehensive Master Plans

Senate Bill 74 (Ch. 25) requires local boards of education to continue submitting annual updates to their master plans in October 2010 and October 2011 and delays the requirement that local boards of education submit new five-year comprehensive master plans from October 15, 2010, until October 15, 2012. Local boards may submit a preexisting management plan in lieu of a comprehensive master plan or update. If the State Superintendent of Schools determines that a preexisting plan meets the requirements for the comprehensive master plan, the State Superintendent must approve the management plan in lieu of a comprehensive master plan or update. Beginning in 2013, rather than 2011, each annual master plan update must cover a five-year period.

Information Availability to Military Recruiters

The Armed Services Vocational Aptitude Battery (ASVAB) is a test created by the U.S. Department of Defense in the 1960s to assess the men and women who want to enlist in the U.S. Armed Forces. The test results are used to determine whether or not an individual qualifies for military service, and if so, for which jobs the individual qualifies. *Senate Bill 778/House Bill 176 (Chs. 104 and 105)* require any public school that administers ASVAB to choose the score reporting “Option 8,” which prohibits the general release of any student information to military recruiters. Each public school must also send written notice to the ASVAB

representative coordinating the school's administration of the test that the school is required to choose "Option 8" and must also notify students taking ASVAB and their parents and guardians of the requirement. A student or a student's parent or guardian may choose to release the student's personal information and ASVAB score to military recruiters by individually submitting a release form to the military services.

Charter Schools

For a charter school located on a federal military base, *Senate Bill 834 (passed)* authorizes the State Board of Education to grant a waiver from the requirement that a public charter school be open to all students on a space available basis. However, the public charter school located on the base must admit students with parents who are not assigned to the base to at least 35% of its total available space and must admit all students on a lottery basis.

Student Member of the Board Voting Rights

Senate Bill 536 (passed) authorizes the student member on the State Board of Education to vote on matters relating to the budget. The bill does not impact the current law that prohibits the student member from voting on matters relating to appeals to the State board and the dismissal of or other disciplinary action involving personnel.

Higher Education

Funding

For higher education institutions, the fiscal 2011 State budget includes new general funds and Higher Education Investment Funds (HEIF) totaling \$1.2 million or a 0.1% increase over fiscal 2010. **Exhibit L-3** shows State support for higher education institutions over the two-year period, which includes general funds and HEIF in both years.

Exhibit L-3
State Support for Maryland Institutions of Higher Education
Fiscal 2010 and 2011
(\$ in Thousands)

	<u>FY 2010</u>	<u>FY 2011</u>	<u>\$ Change FY 10-11</u>	<u>% Change FY 10-11</u>
University System of Maryland	\$1,055,471	\$1,056,406	\$935	0.1%
Morgan State University	73,249	72,946	-303	-0.4%
St. Mary's College	17,215	17,518	303	1.8%
MD Higher Ed. Comm. Special Grants	8,390	7,999	-391	-4.7%
Community Colleges ¹	256,174	256,115	-59	0.0%
Baltimore City Community College	40,203	40,902	699	1.7%
Private Institutions	38,446	38,446	0	0.0%
Total	\$1,489,147	\$1,490,332	\$1,185	0.1%

¹Community Colleges' funds include the Senate John A. Cade formula, other programs, and fringe benefits. Numbers may not sum due to rounding.

Note: Includes general funds and Higher Education Investment Funds. Reflects statewide across-the-board furlough and health insurance savings.

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

Higher Education Investment Fund

HEIF was established by Chapter 3 of the 2007 special session, which increased the corporate income tax rate from 7.0% to 8.25%, dedicating 6.0% of corporate tax revenues to higher education. *Senate Bill 238/House Bill 470 (both passed)* make permanent the 6.0% distribution of corporate tax revenues to HEIF beginning in fiscal 2011. *Senate Bill 238/House Bill 470* also establish a Tuition Stabilization Trust Account within HEIF to retain funds for stabilizing tuition costs for resident undergraduate students. In years of increasing corporate income tax revenues, funds must be deposited into the trust account. The bills also establish the goal that any increase in resident undergraduate tuition and academic fees at public senior higher education institutions in any given year should be limited to a percent not to exceed the increase in the three-year rolling average of the State's median family income. Finally, St. Mary's College of Maryland (SMCM) was exempted from the bill; therefore, SMCM is no longer eligible to receive funds from HEIF, and the goal of limiting tuition increases does not apply to SMCM.

Language in the fiscal 2011 budget reduces the general fund appropriation for higher education by \$41.2 million contingent upon the reauthorization of HEIF, replacing those general funds with HEIF special funds.

Tuition Freeze Lifted

After freezing resident undergraduate tuition for four years for students at the University System of Maryland (USM) institutions and Morgan State University (MSU), institutions are allowed to increase tuition rates by 3.0% for the 2010-2011 academic year. Furthermore, funds are provided to USM and MSU equivalent to an additional 2.0% increase in tuition rates. SMCM, which is formula funded and is not included in the tuition limit agreement, will also increase tuition by 3.0% in fall 2010. In total, State funding for the public four-year institutions, including SMCM, increases \$935,220 in fiscal 2011.

Community Colleges

Overall, funding for local community colleges declines by \$0.1 million in fiscal 2011, which includes the Senator John A. Cade Funding Formula, State-paid retirement, and miscellaneous grant programs. Retirement costs increase by \$23.0 million resulting in an equal offset in the Cade formula, a 2.6% decline from fiscal 2010. The Cade formula appropriation represents 21.8% of the per-student State funding that the selected public four-year institutions are receiving in fiscal 2011.

Baltimore City Community College (BCCC), as the State's only State-operated community college, has its own formula, which for fiscal 2011 sets State support at 66.6% of the current year State appropriation per student at selected four-year public institutions. BCCC receives an increase of 1.7%, or \$0.7 million, in fiscal 2011.

Independent Institutions

Independent institutions receive \$38.4 million through the Joseph A. Sellinger Formula in fiscal 2011, the same amount received in fiscal 2010. The fiscal 2011 funding equates to 9.8% of the fiscal 2011 State support per student at selected four-year public institutions.

Statutory Formula Adjustments

To reduce the State's long-term structural deficit, the statutory formulas for community colleges, BCCC, and independent institutions were adjusted in *Senate Bill 141 (passed)*, the Budget Reconciliation and Financing Act (BRFA) of 2010. For fiscal 2012, all three formulas are set at the fiscal 2011 funding level. Increases in the percent of State support per student at selected four-year institutions will begin in fiscal 2013 so that each formula reaches its maximum statutory level in fiscal 2021, as shown in **Exhibit L-4**.

Exhibit L-4
Percent of State Support per Student Used in Statutory Formulas
Fiscal 2011-2021

<u>Segment</u>	<u>FY11</u>	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>FY16</u>	<u>FY17</u>	<u>FY18</u>	<u>FY19</u>	<u>FY20</u>	<u>FY21</u>
Community Colleges	21.8%	20.0%	21.0%	22.0%	23.0%	24.0%	25.0%	26.0%	27.0%	28.0%	29.0%
Private Institutions	9.8%	9.2%	10.0%	10.5%	11.0%	11.5%	12.00%	13.0%	14.0%	15.0%	15.5%
BCCC	66.6%	63.0%	63.5%	64.0%	64.5%	65.0%	65.5%	66.0%	66.5%	67.5%	68.5%

Source: Department of Legislative Services, Senate Bill 141 – Budget Reconciliation and Financing Act of 2010

Capital

Fiscal 2011 capital funding to public four-year institutions totals \$265.2 million. This includes \$27.0 million in academic revenue bonds authorized by the Academic Facilities Bonding Authority bill, *Senate Bill 897 (passed)*, and issued directly by the USM, and \$24.0 million in nonbudgeted funds from the institutions. Community colleges receive \$78.7 million and independent institutions receive \$8.0 million for capital projects in the fiscal 2011 capital budget. The State continued the practice of split funding capital projects in the *Capital Improvement Program* and the capital budget bill, committing a total of \$143.6 million in fiscal 2012 for 10 projects, 7 of which are at community colleges. For these 10 projects, the capital budget includes a preauthorization of funding for fiscal 2012.

Senate Bill 897 also increases the bonding authority of USM by \$150 million, from \$1.05 billion to \$1.2 billion, beginning in fiscal 2011.

Student Financial Assistance

Budget and Related Actions

Student financial aid programs receive a total of \$103.5 million in the fiscal 2011 budget, a \$363,000 or 0.3% decrease from fiscal 2010. Need-based aid is reduced by \$1.1 million or approximately 1%. As introduced, the BRFA of 2010 included several proposed changes to financial aid programs, with contingent actions in the State budget bill, that were not adopted by the General Assembly including eliminating funds for new Distinguished Scholars awards and repealing the Tolbert Student Grant Program for private career schools. In addition, the conference committee on the BRFA did not adopt the House amendment that would have abolished the Delegate and Senatorial Scholarships and transferred the fiscal 2011 funds to other State financial aid programs.

The General Assembly approved changes to the Charles W. Riley Fire and Emergency Medical Services Tuition Reimbursement Program in the BRFA of 2010. The program was altered to allow recipients to receive partial or full reimbursement of tuition costs as provided in the State budget. In addition, for fiscal 2011 only, the bill requires that the program be fully funded using scholarship carry-forward funds and expresses legislative intent that nonneed-based scholarship carry-forward funds be used before need-based funds.

Office of Student Financial Assistance

Senate Bill 80 (passed) clarifies the scope of the duties and the authority of the Office of Student Financial Assistance in the Maryland Higher Education Commission (MHEC). The bill codifies current practice by clarifying that, in addition to scholarships and grants, all other student financial aid assistance programs are awarded or administered by the office. The office is authorized to adopt rules and regulations governing the requirements for performing a service obligation, conditions for repayment of student financial assistance for an individual's failure to perform a service obligation, and specifications for waiver and deferment of a service obligation or repayment. The bill also repeals an obsolete requirement for a recipient of a scholarship to furnish a surety bond.

Other Higher Education Legislation

Green Buildings

Senate Bill 234/House Bill 1044 (both passed) require local community college capital projects that receive State funds to comply with the State's High Performance Buildings Act. The High Performance Buildings Act (Chapter 124 of 2008) requires most new or renovated State buildings, including higher education buildings, and new public school buildings to be constructed as high performance buildings. A high performance building is defined as a building that meets or exceeds the U.S. Green Building Council's Leadership in Energy and Environmental Design criteria for a silver rating or a comparable numeric rating according to a nationally recognized, accepted, and appropriate standard approved by the Department of Budget and Management and the Department of General Services. A community college may apply for a waiver from this requirement under existing waiver procedures. The requirement applies prospectively to community college capital projects that have not initiated a request for proposals for the selection of an architectural and engineering consultant on or before July 1, 2011.

Exempt Institutions

In general, an institution of postsecondary education may not operate in Maryland without a certificate of approval from MHEC. Current law exempts specified institutions from obtaining a certificate if the institution is under charter from the General Assembly or if a religious institution meets certain qualifications. Unlike an approved institution, MHEC does not review the programs, facilities, and resources of an exempt institution.

MHEC has received complaints from students as a result of several exempt institutions improperly referring to or advertising their exempt status. *Senate Bill 91 (passed)* prohibits a

religious institution operating without a certificate of approval from making a verbal or written statement that the institution is approved by MHEC, including a statement on any certificate, diploma, academic transcript, or other document or in any advertisement, publication, or web site. In addition, an institution may not enroll a student in the institution unless, before enrollment, written notice is given and a written acknowledgment is obtained from the student that the institution's instructional program is only designed for people seeking to learn about the particular religious faith and other specified information.

Legislative Audits

Currently, the Legislative Auditor distributes discussion notes relating to preliminary findings to the president of a public senior higher education institution and, in the case of a constituent institution of USM, to the Director of the USM Office of Internal Audit. In order to ensure that the USM Chancellor and governing boards are aware of any substantial preliminary findings prior to release of the final report, *Senate Bill 1124 (passed)* broadens the dissemination of the discussion notes by requiring the Legislative Auditor to send a copy of the discussion notes relating to any preliminary findings of substantial fiscal impropriety to the USM Chancellor; the presidents of the USM institutions, MSU, and SMCM; and the governing boards of the respective institutions that were subject to the examination.

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