
By: **The Speaker (Administration) and Delegates Kopp, Rawlings, Conway,
Edwards, and Shriver**

Introduced and read first time: February 15, 1999

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Higher Education - University System of Maryland - Coordination,**
3 **Governance, and Funding**

4 FOR the purpose of authorizing the Maryland Higher Education Commission and the
5 Board of Regents of the University System of Maryland to distribute certain
6 incentive funding to certain institutions under certain circumstances; altering
7 the role of the Commission in reviewing the operating and capital budgets of the
8 University System of Maryland; altering the role of the Commission in the
9 review of mission statements developed by public institutions of higher
10 education; altering the requirements for the contents of mission statements and
11 requiring the Commission, with the assistance of the presidents of certain
12 institutions, to establish and periodically update the format of mission
13 statements; reestablishing the College Intervention Preparation Program to
14 raise the level of academic preparedness of disadvantaged students who go on to
15 college; altering the governance and management of the University System of
16 Maryland and establishing the University as a public corporation with certain
17 powers and responsibilities; requiring the Board of Regents to delegate certain
18 authority to certain presidents under certain circumstances; requiring the
19 Board of Regents to develop certain policies on standards of operation and
20 accountability; providing the president of the University of Maryland, College
21 Park with the opportunity to meet with the Governor to present the University's
22 budget request at a certain time; clarifying that the presidents have the
23 authority to appoint institutional boards; exempting the University System of
24 Maryland from certain provisions of the State procurement law; requiring the
25 Board of Regents, subject to review and approval by the Board of Public Works,
26 to develop certain policies and procedures governing procurement; requiring the
27 Board of Regents to develop an information technology plan that meets certain
28 requirements; authorizing the Board of Regents to establish, invest in, operate,
29 and finance certain business entities under certain circumstances; altering
30 certain employee grievance procedures; reestablishing the Private Donation
31 Incentive Program; establishing how the amount of matching funds under the
32 Private Donation Incentive Program will be determined and payments under
33 the Private Donation Incentive Program will be made; requiring that the
34 payments to certain institutions not exceed certain amounts; establishing

1 certain eligibility criteria; requiring certain foundations to provide certain
2 information annually; defining certain terms; providing for the application of
3 Private Donation Incentive Program funds; prohibiting Private Donation
4 Incentive Program funds from being included in the computation of certain
5 types of aid; providing for the administration of the Private Donation Incentive
6 Program; establishing a new program review and approval process for the
7 institutions in the University System of Maryland; exempting the University
8 System of Maryland from certain requirements for information technology and
9 telecommunication; exempting the University System of Maryland from certain
10 provisions of law governing the oversight of public improvement projects by the
11 Department of General Services; requiring the Department of General Services
12 to advise the Board of Public Works on certain contracts that exceed a certain
13 amount under certain circumstances; requiring certain procurements by the
14 University System of Maryland to comply with certain policies and procedures;
15 requiring certain contracts that exceed a certain amount to be subject to review
16 and approval by the Board of Public Works; making certain employees of the
17 University System of Maryland eligible to participate in collective bargaining
18 under certain circumstances and contingent on the passage of certain
19 legislation; authorizing presidents to establish and abolish certain programs
20 under certain circumstances; requiring the Board of Regents to review certain
21 actions; requiring the Commission to review certain actions to determine
22 whether they comply with certain requirements of State and federal law;
23 requiring presidents to resolve certain concerns regarding compliance with
24 certain laws before implementing certain programs; requiring the Commission
25 to monitor the new program development and review process and submit a
26 certain report; providing for the termination of the program development and
27 review process after a certain period of time; defining a certain term; requiring
28 the Commission to develop certain funding guidelines; requesting the Governor
29 to include certain funding in certain budgets; requiring the Governor to convene
30 a certain conference for certain purposes and to establish a group to review
31 certain reporting requirements and make certain recommendations by a certain
32 date; and generally relating to the coordination, governance, and funding of
33 higher education in the State.

34 BY adding to

35 Article - Education

36 Section 10-101(l), 11-105(b)(7), 11-206.1; 11-701 through 11-705, inclusive, to
37 be under the new subtitle "Subtitle 7. College Preparation Intervention
38 Program"; 12-112, 12-113; and 17-301 through 17-306, inclusive, to be
39 under the new subtitle "Subtitle 3. Private Donation Incentive Program"
40 Annotated Code of Maryland
41 (1997 Replacement Volume and 1998 Supplement)

42 BY repealing and reenacting, with amendments,

43 Article - Education

44 Section 11-105(h), 11-206, 11-302, 11-303, 12-102, 12-104, 12-105, 12-106,
45 12-109(e)(1), (2), (3), and (16), 12-111, 13-203, 13-205, 13-207, and

1 17-104
2 Annotated Code of Maryland
3 (1997 Replacement Volume and 1998 Supplement)

4 BY repealing and reenacting, without amendments,
5 Article - Education
6 Section 12-109(e)(5) and (g)
7 Annotated Code of Maryland
8 (1997 Replacement Volume and 1998 Supplement)

9 BY repealing and reenacting, with amendments,
10 Article - State Finance and Procurement
11 Section 3-401, 3-703, 4-402, 4-406, 4-410, and 11-203
12 Annotated Code of Maryland
13 (1995 Replacement Volume and 1998 Supplement)

14 BY repealing
15 Chapter 345 of the Acts of the General Assembly of 1995
16 Section 4

17 BY repealing and reenacting, with amendments,
18 Article - Education
19 Section 11-303
20 Annotated Code of Maryland
21 (1997 Replacement Volume and 1998 Supplement)
22 (As enacted by Section 1 of this Act)

23 Preamble

24 WHEREAS, The Task Force to Study the Governance, Coordination and
25 Funding of the University System of Maryland was charged with examining issues
26 related to the University System 10 years after its creation in 1988. The Task Force
27 completed this examination and submitted its findings and recommendations to the
28 Governor and General Assembly; and

29 WHEREAS, The Task Force found that, despite changes caused by technology
30 which are redefining the delivery of higher education, the goals, principles, and duties
31 of public higher education set forth in the 1988 legislation remain valid, vital and
32 essential. Every institution within the University System of Maryland has made
33 significant progress towards reaching these goals despite less State funding than
34 anticipated due to the recession of the 1990's. However, the Task Force also found that
35 the goals should be augmented and set in priority order; and

36 WHEREAS, The Task Force clearly affirmed that the State's first priority is the
37 enhancement of the flagship campus, University of Maryland, College Park, to
38 achieve national eminence; and

1 WHEREAS, The Task Force found that the 1988 legislation envisioned the
2 University System of Maryland as a decentralized system with the Board of Regents,
3 Chancellor and administration responsible for system-wide policy and governance
4 and the Presidents responsible for management of the campuses; and

5 WHEREAS, The Task Force found that the University System does add value to
6 the quality and goals of higher education in Maryland, and should be fine-tuned, not
7 abandoned. However, the Task Force also found that management authority had not
8 been delegated by the Board to the presidents to the extent envisioned, and that the
9 University System of Maryland and the individual campuses are encumbered by
10 State administrative regulations and procedures and an excessive number of
11 mandated reports; and

12 WHEREAS, The Task Force found that the presidents of University institutions
13 must have significant autonomy to manage their institutions, while being
14 accountable to the Board of Regents, as envisioned in the 1988 legislation; and

15 WHEREAS, The Task Force recommended the concept of reestablishing the
16 University System of Maryland as a public corporation with management flexibility
17 necessary to respond to the needs of the students, State and citizens in a changing
18 economy; and

19 WHEREAS, The Task Force found that the Maryland Higher Education
20 Commission has a vital role in assessing and articulating the statewide higher
21 education needs and goals of the State, and in coordinating the segments of higher
22 education; and

23 WHEREAS, The Task Force also found that the role of the Maryland Higher
24 Education Commission in the budget process appears to overlap with the authority of
25 the Board of Regents and requires clarification. It also found that the Maryland
26 Higher Education Commission academic program approval process and review of
27 existing programs are also areas of significant overlap and potential barriers to the
28 ability of University institutions to respond quickly to public demands and needs; and

29 WHEREAS, The Task Force reviewed the 1998 State Plan for Higher Education
30 and found it to be a useful strategic planning document, but felt that the Plan did not
31 contain sufficient detail to provide a complete framework to guide higher education
32 and lacked buy-in from major stakeholders. Further, the Task Force believes that
33 institutional mission statements should lend support to the State Plan for Higher
34 Education and must evolve to reflect environmental and market conditions; and

35 WHEREAS, The Task Force recognizes that the University must gain greater
36 private financial support. The Task Force supports the reestablishment of the Private
37 Donation Incentive Program to encourage private giving and promote excellence in
38 higher education; and

39 WHEREAS, The Task Force supports the College Preparation Intervention
40 Program and encourages the State to take advantage of matching federal funds to
41 reestablish this successful program; and

1 WHEREAS, The Task Force recommended that the University System
 2 institutions receive greater, more stable State funding in order to meet its mission
 3 goals. While calculating a funding base for all institutions should be treated as an
 4 urgent matter, certain allocations are needed immediately to provide a head-start on
 5 addressing serious fiscal deficiencies; and

6 WHEREAS, The Task Force reaffirmed that higher education is an engine that
 7 drives economic growth and will be key to competing successfully in the 21st century.
 8 The Governor and General Assembly are strongly committed to higher education in
 9 Maryland; now, therefore,

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

12 **Article - Education**

13 10-101.

14 (L) "STATE PLAN FOR HIGHER EDUCATION" MEANS THE PLAN FOR
 15 POSTSECONDARY EDUCATION AND RESEARCH REQUIRED TO BE DEVELOPED BY THE
 16 MARYLAND HIGHER EDUCATION COMMISSION UNDER § 11-105(B) OF THIS ARTICLE.

17 11-105.

18 (b) (7) THE COMMISSION MAY DISTRIBUTE STRATEGIC INCENTIVE FUNDS
 19 TO AN INSTITUTION OF HIGHER EDUCATION TO ENCOURAGE ATTAINMENT OF THE
 20 GOALS AND PRIORITIES SET FORTH IN THE STATE PLAN FOR HIGHER EDUCATION.

21 (h) (1) On or before a date set by the Commission, each of the following
 22 governing boards and agencies shall submit to the Commission its annual operating
 23 budget requests and proposals for capital projects, by constituent institutions for the
 24 next fiscal year:

- 25 (i) The Board of Regents of the University System of Maryland;
- 26 (ii) The Board of Regents of Morgan State University;
- 27 (iii) The Board of Trustees of St. Mary's College of Maryland;
- 28 (iv) The Maryland Higher Education Loan Corporation;
- 29 (v) The State Advisory Council for Title I of the Higher Education
 30 Act of 1965;
- 31 (vi) The Board of Trustees of Baltimore City Community College;
 32 and
- 33 (vii) The Board of the Maryland Higher Education Investment
 34 Program.

1 (2) In consultation with the Department of Budget and Management, the
2 Commission shall present to the Governor, on or before a date set by the Governor,
3 and simultaneously submit a copy to the General Assembly, a consolidated operating
4 and capital budget for higher education that includes the operating and capital
5 budget requests of the governing boards and institutions listed in paragraph (1) of
6 this subsection, the operating budget request of the Commission, a report on the
7 current funding of the adopted sets of peer institutions, and recommendations
8 regarding the funding of higher education.

9 (3) In cooperation with the Department of Budget and Management, and
10 without affecting the authority or responsibility of the Department under the State
11 Finance and Procurement Article, the Commission shall:

12 (i) Review proposals for capital projects and improvements
13 proposed by the public institutions of higher education in this State, and by the
14 Maryland Independent College and University Association; and

15 (ii) Develop and submit to the Governor and the General Assembly
16 recommendations as to these projects, which shall be consistent with the [plan]
17 STATE PLAN FOR HIGHER EDUCATION provided for in this section.

18 (4) In submitting recommendations pursuant to paragraph (2) of this
19 subsection, the Commission shall comment on the overall level of funding for higher
20 education IN ORDER TO ACHIEVE THE GOALS ESTABLISHED IN THE STATE PLAN FOR
21 HIGHER EDUCATION, and may comment regarding funding priorities among
22 segments of higher education and, within public senior higher education, among
23 institutions. In reviewing the various budgets and submitting recommendations
24 thereon, the Commission:

25 (i) May not require, of any segment or institution, a detailed
26 budget presentation that tends to duplicate other presentations required in the
27 budget process; [and]

28 (ii) As to the funding priority of any institution, may comment only
29 on the entity as a whole and not on any separate unit of the institution; AND

30 (III) AS TO THE OPERATING AND CAPITAL BUDGETS OF THE BOARD
31 OF REGENTS OF THE UNIVERSITY SYSTEM OF MARYLAND:

32 1. MAY REVIEW AND COMMENT ONLY WITHIN THE BROAD
33 CONTEXT OF THE STATE PLAN FOR HIGHER EDUCATION; AND

34 2. MAY NOT DISAGREE WITH A BUDGET ITEM APPROVED BY
35 THE BOARD OF REGENTS UNLESS THE ITEM IS CLEARLY INCONSISTENT WITH THE
36 STATE PLAN FOR HIGHER EDUCATION.

37 (5) (i) In this paragraph, "higher education" means:

38 1. The University System of Maryland;

1 (i) Shall review the mission statement and may require the
2 president to prepare a revised mission statement;

3 (ii) May adopt the mission statement as submitted or with
4 amendments; and

5 (iii) Shall submit the statement to the Commission.

6 (2) (i) In the case of constituent institutions of the University System
7 of Maryland, the Chancellor of the University System of Maryland shall review the
8 statement prior to its consideration by the Board of Regents and make
9 recommendations.

10 (ii) Before adopting the mission statements, the Board of Regents
11 shall review the statements individually and on a systemwide basis to assure that:

12 1. They are consistent with the Charter and the systemwide
13 plan; AND

14 2. [They will not result in unnecessary duplication of
15 academic programs; and

16 3.] They will promote the efficient and effective use of the
17 institution's and System's resources.

18 (iii) The Board shall consolidate the statements into an adopted
19 systemwide statement.

20 (c) (1) The Commission shall review the mission statement TO DETERMINE
21 WHETHER THE MISSION STATEMENT IS CONSISTENT WITH THE STATE PLAN FOR
22 HIGHER EDUCATION.

23 (2) [The Commission shall approve the statement if the Commission
24 finds that the statement:

25 (i) Is consistent with the Charter and the statewide plan;

26 (ii) Will not result in the unreasonable duplication of academic
27 programs; and

28 (iii) Will promote the efficient and effective use of the State's higher
29 education resources.

30 (3) (i) If the Commission does not approve the statement, the
31 Commission shall return the statement together with its objections to the governing
32 board.

33 (ii) The governing board shall negotiate with the Commission and
34 amend the statement or direct the president of the institution to prepare a new
35 statement] IF THE COMMISSION DETERMINES THAT THE MISSION STATEMENT IS
36 INCONSISTENT WITH THE STATE PLAN FOR HIGHER EDUCATION, THE COMMISSION

1 SHALL RETURN THE STATEMENT TO THE GOVERNING BOARD WITH COMMENTS
2 THAT INCLUDE THE SPECIFIC AREAS OF INCONSISTENCY.

3 11-303.

4 The Commission, WITH THE ASSISTANCE OF THE PRESIDENTS OF THE
5 INSTITUTIONS REQUIRED TO DEVELOP MISSION STATEMENTS UNDER THIS
6 SUBTITLE, shall establish AND PERIODICALLY UPDATE the format of mission
7 statements to include [at least the following items:

8 (1) Specific] SPECIFIC short and long-range goals and measurable
9 objectives to be achieved THROUGH THE IMPLEMENTATION OF THE INSTITUTION'S
10 PERFORMANCE ACCOUNTABILITY PLAN AS REQUIRED UNDER § 11-304 OF THIS
11 SUBTITLE[, including graduation and retention rates and equal opportunity goals;

12 (2) Level of academic degrees offered;

13 (3) Fields of academic degrees offered;

14 (4) Characteristics of students and other populations to be served;

15 (5) Characteristics of faculty;

16 (6) A list of institutional peers;

17 (7) Areas of research activity;

18 (8) Areas of service activity including economic development and
19 services to the public schools; and

20 (9) Other items as required by the Commission].

21 SUBTITLE 7. COLLEGE PREPARATION INTERVENTION PROGRAM.

22 11-701.

23 IN COOPERATION WITH THE STATE'S PUBLIC INSTITUTIONS OF
24 POSTSECONDARY EDUCATION THE COUNCIL OF MARYLAND'S K-16 PARTNERSHIP,
25 AND THE LOCAL SCHOOL SYSTEMS, THE COMMISSION SHALL ESTABLISH AND
26 ADMINISTER A COLLEGE PREPARATION INTERVENTION PROGRAM.

27 11-702.

28 THE PURPOSE OF THE COLLEGE PREPARATION INTERVENTION PROGRAM IS TO
29 RAISE THE LEVEL OF ACADEMIC PREPAREDNESS OF ECONOMICALLY AND
30 ENVIRONMENTALLY DISADVANTAGED STUDENTS WHO GO ON TO COLLEGE.

31 11-703.

32 THE COLLEGE PREPARATION INTERVENTION PROGRAM MAY INCLUDE
33 ACTIVITIES TO:

1 (1) IMPROVE DIAGNOSIS OF BASIC SKILL DEFICIENCIES OF MIDDLE AND
2 HIGH SCHOOL STUDENTS TO ENHANCE THE PREPAREDNESS OF THE STUDENTS FOR
3 COLLEGE;

4 (2) ESTABLISH A TESTING PROGRAM, USING PRESENTLY
5 ADMINISTERED TESTS TO THE EXTENT POSSIBLE, TO EVALUATE ACHIEVEMENT
6 LEVELS AND ASSESS THE PREPARATION OF HIGH SCHOOL STUDENTS WHO ARE
7 POTENTIALLY COLLEGE BOUND;

8 (3) COMPILE A LIST OF COURSES OF STUDY RECOMMENDED FOR
9 COLLEGE PREPARATION AND DISTRIBUTE COPIES OF THE LIST TO THE HIGH
10 SCHOOL STUDENTS AND THEIR PARENTS;

11 (4) PROVIDE INFORMATION REGARDING COLLEGE PREPARATION TO
12 HIGH SCHOOL STUDENTS IN A TIMELY MANNER SO THE STUDENT CAN MAKE
13 COURSE CHANGES TO BE BETTER PREPARED FOR COLLEGE; AND

14 (5) IMPROVE INFORMATION TO HIGH SCHOOLS AND LOCAL SCHOOL
15 SYSTEMS CONCERNING THE PERFORMANCE OF THEIR GRADUATES AT THE COLLEGE
16 LEVEL IN AT LEAST THE FOLLOWING AREAS:

17 (I) THE ADEQUACY OF PREPARATION OF THE STUDENTS IN BASIC
18 SKILLS ON THE STUDENTS' ENTRY INTO COLLEGE;

19 (II) THE CAMPUS ENROLLMENT AND TRANSFER PATTERNS OF
20 STUDENTS;

21 (III) THE PROGRAM CHOICES OF THE STUDENTS;

22 (IV) THE PERFORMANCE OF THE STUDENTS ON ACHIEVEMENT
23 TESTS; AND

24 (V) THE RATE OF RETENTION AND GRADUATION OF STUDENTS.

25 11-704.

26 EACH YEAR, THE COMMISSION SHALL SUBMIT A REPORT TO THE GOVERNOR
27 AND THE GENERAL ASSEMBLY OF MARYLAND ADDRESSING THE STATUS OF THE
28 COLLEGE PREPARATION INTERVENTION PROGRAM.

29 11-705.

30 THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN
31 APPROPRIATION OF AT LEAST \$750,000 FROM THE GENERAL FUND OF THE STATE FOR
32 THE COLLEGE PREPARATION INTERVENTION PROGRAM.

33 12-102.

34 (A) (1) THERE IS A BODY CORPORATE AND POLITIC KNOWN AS THE
35 UNIVERSITY SYSTEM OF MARYLAND.

1 (2) THE UNIVERSITY IS AN INSTRUMENTALITY OF THE STATE AND A
2 PUBLIC CORPORATION.

3 (3) THE UNIVERSITY IS AN INDEPENDENT UNIT OF STATE
4 GOVERNMENT.

5 (4) THE EXERCISE BY THE UNIVERSITY OF THE POWERS CONFERRED BY
6 THIS SUBTITLE IS THE PERFORMANCE OF AN ESSENTIAL PUBLIC FUNCTION.

7 [(a)] (B) The government of the University System of Maryland is vested in
8 the Board of Regents of the University System of Maryland.

9 [(b)] (C) The Board of Regents consists of 17 members as follows:

10 (1) One member shall be a full-time student in good academic standing
11 at an institution under the jurisdiction of the Board;

12 (2) One member shall be the State Secretary of Agriculture ex officio;
13 and

14 (3) The remaining members of the Board shall be residents of the State
15 and shall be appointed from the general public.

16 [(c)] (D) In making appointments to the Board, the Governor shall consider
17 representation from all parts of the State.

18 [(d)] (E) Except for the Secretary of Agriculture, each member of the Board
19 shall be appointed by the Governor, with the advice and consent of the Senate.

20 [(e)] (F) (1) Except for the student member, each appointed member serves
21 for a term of 5 years from July 1 of the year of appointment and until a successor is
22 appointed and qualifies. These members may be reappointed.

23 (2) The student member shall be appointed for a term of 1 year, from
24 July 1, and may be reappointed if the student remains a student at any campus of the
25 University System of Maryland.

26 (3) A member appointed to fill a vacancy in an unexpired term serves
27 only for the remainder of that term and until a successor is appointed and qualifies.

28 [(f)] (G) Except for the Secretary of Agriculture, a member may not serve
29 more than 2 consecutive full terms.

30 [(g)] (H) Each member of the Board:

31 (1) Serves without compensation; and

32 (2) Is entitled to reimbursement for expenses in accordance with the
33 Standard State Travel Regulations.

1 12-104.

2 (a) In addition to any other powers granted and duties imposed by this title,
3 and subject to the provisions of Title 11 and any other restriction expressly imposed
4 by law, or by any trust agreement involving a pledge of property or money, the Board
5 of Regents has the powers and duties set forth in this section.

6 (B) IN ADDITION TO THE POWERS SET FORTH ELSEWHERE IN THIS TITLE, THE
7 UNIVERSITY MAY:

8 (1) EXERCISE ALL THE CORPORATE POWERS GRANTED MARYLAND
9 CORPORATIONS UNDER THE MARYLAND GENERAL CORPORATION LAW;

10 (2) ADOPT AND ALTER AN OFFICIAL SEAL;

11 (3) SUE AND BE SUED, COMPLAIN, AND DEFEND IN ALL COURTS;

12 (4) MAINTAIN AN OFFICE AT THE PLACE THE BOARD OF REGENTS MAY
13 DESIGNATE;

14 (5) ENTER INTO CONTRACTS OF ANY KIND, AND EXECUTE ALL
15 INSTRUMENTS NECESSARY OR CONVENIENT WITH RESPECT TO ITS CARRYING OUT
16 THE POWERS IN THIS SUBTITLE TO ACCOMPLISH THE PURPOSES OF THE
17 UNIVERSITY;

18 (6) SUBJECT TO THE PROVISIONS OF SUBSECTION (H) OF THIS SECTION,
19 ACQUIRE, HOLD, LEASE, USE, ENCUMBER, TRANSFER, EXCHANGE, OR DISPOSE OF
20 REAL AND PERSONAL PROPERTY; AND

21 (7) IN ADDITION TO THE POWERS SET FORTH IN TITLE 19 OF THIS
22 ARTICLE AND SUBJECT TO THE APPROVAL OF THE BOARD OF PUBLIC WORKS,
23 BORROW MONEY FROM ANY SOURCE FOR ANY CORPORATE PURPOSE, INCLUDING
24 WORKING CAPITAL FOR ITS OPERATIONS, RESERVE FUNDS OR INTEREST, AND
25 MORTGAGE, PLEDGE, OR OTHERWISE ENCUMBER THE PROPERTY OR FUNDS OF THE
26 UNIVERSITY, AND CONTRACT WITH OR ENGAGE THE SERVICES OF ANY PERSON IN
27 CONNECTION WITH ANY FINANCING, INCLUDING FINANCIAL INSTITUTIONS,
28 ISSUERS OF CREDIT, OR INSURERS.

29 [(b)] (C) The Board of Regents:

30 (1) Is responsible for the management of the University System of
31 Maryland and has all the powers, rights, and privileges that go with that
32 responsibility, including the power to conduct or maintain any institutions, schools, or
33 departments in the University at the locations the Board determines; AND

34 (2) May not be superseded in its authority by any other State agency or
35 office in managing the affairs of the University System of Maryland or of any
36 constituent institutions and centers under the Board's jurisdiction []; and

1 (3) Shall have all the powers of a Maryland corporation which are not
2 expressly limited by law].

3 [(c)] (D) [The] IN ADDITION TO THE POWERS CONFERRED ON IT BY THIS
4 TITLE, THE Board has all the powers conferred on it by:

5 (1) The act of incorporation of the Maryland College of Agriculture;

6 (2) The Charter of the University of Maryland; and

7 (3) The charter of any constituent institution.

8 [(d)] (E) The Board may:

9 (1) Apply for, accept, and spend any gift or grant from the federal
10 government, any foundation, or any other person; and

11 (2) Maintain and manage GIFT AND endowment funds.

12 [(e)] (F) (1) The Board may establish new institutions and branches subject
13 to:

14 (i) The concurrence of the Maryland Higher Education
15 Commission; and

16 (ii) The approval of the Governor and the General Assembly.

17 (2) Without the approval of the Governor and the General Assembly, the
18 Board may not change the name of any constituent institution.

19 (3) Subject to the approval of the Governor and the General Assembly,
20 the Board may merge, consolidate, or close any constituent institution.

21 (4) In its discretion, the Board may establish, merge, consolidate, or close
22 any center or institute.

23 [(f)] (G) (1) With the approval of the Board of Public Works, the Board of
24 Regents may sell or exchange any part of its properties.

25 (2) Money received from the sale of property may be used, if approved by
26 the Board of Public Works, only to purchase or improve property and facilities. This
27 money may not be applied to the Annuity Bond Fund Account.

28 (H) WITH THE APPROVAL OF THE BOARD OF PUBLIC WORKS, THE BOARD OF
29 REGENTS MAY ACQUIRE BY GIFT, PURCHASE, OR EXCHANGE, ANY REAL OR
30 PERSONAL PROPERTY, OR INTERESTS IN PROPERTY.

31 [(g)] (1) The Board:

32 (i) Has the power to sue or be sued; and

1 (ii) May carry comprehensive liability insurance to protect the
 2 Board, its agents and employees, and the agents and employees of any institution
 3 under its jurisdiction.

4 (2) The determination whether to purchase insurance, and its scope and
 5 limitations, shall be within the Board's discretion, taking into account commercial
 6 availability and affordability and the existence and extent of insurance secured by the
 7 State Treasurer.

8 (3) (i)] (I) (1) Title 12, Subtitle 1 of the State Government Article
 9 ("Maryland Tort Claims Act") applies to claims or actions against the University
 10 System of Maryland and its employees.

11 [(ii)] (2) Subject to all exclusions and limitations in that subtitle,
 12 the immunity of the University System of Maryland is waived to the extent of any
 13 insurance coverage purchased under this subsection.

14 [(4)] (3) Nothing in this subsection shall be construed to waive or
 15 abrogate sovereign immunity with respect to any claim that is not covered by or
 16 exceeds the limits of an insurance policy.

17 [(5)] (4) Nothing in this subsection shall be construed to waive or
 18 abrogate the immunity of the University System of Maryland under the Eleventh
 19 Amendment to the United States Constitution.

20 [(h)] (J) (1) Subject to Title 10, Subtitle 5 of the State Government Article
 21 ("Open Meetings" Law), the Board may make rules and regulations, and prescribe
 22 policies and procedures, for the management, maintenance, operation, and control of
 23 the University System of Maryland.

24 (2) Except with respect to [classified employee] grievance appeals
 25 INVOLVING EMPLOYEES IN POSITIONS DESIGNATED BY THE BOARD OF REGENTS AS
 26 COMPARABLE TO SKILLED SERVICE AND PROFESSIONAL SERVICE POSITIONS IN THE
 27 STATE PERSONNEL MANAGEMENT SYSTEM, Title 10, Subtitles 1 and 2 of the State
 28 Government Article ("Administrative Procedure Act") are not applicable to the [Board
 29 of Regents] UNIVERSITY.

30 [(i)] (K) (1) Except as provided in subsections [(e) and] (f) AND (G) of this
 31 section, the Board:

32 (I) [may] MAY delegate any part of its authority over the affairs of
 33 the [constituent institutions and centers] UNIVERSITY to the Chancellor or the
 34 Presidents, or to any advisory bodies that the Board establishes under § 12-201 of
 35 this title; AND

36 (II) CONSISTENT WITH THE GOALS, OBJECTIVES, AND PRIORITIES
 37 OF THE BOARD OF REGENTS AND ITS LEGAL RESPONSIBILITY FOR THE EFFICIENT
 38 MANAGEMENT OF THE UNIVERSITY, SHALL DELEGATE TO THE PRESIDENT OF EACH
 39 CONSTITUENT INSTITUTION AUTHORITY TO MAKE AND IMPLEMENT POLICIES
 40 PROMOTING THE MISSION OF THAT INSTITUTION, INCLUDING THE AUTHORITY TO

1 ESTABLISH POLICIES APPROPRIATE TO THE INSTITUTION'S MISSION, SIZE,
2 LOCATION, AND FINANCIAL RESOURCES.

3 (2) Any delegation of authority may be modified or rescinded by the
4 Board of Regents at any time in whole or in part.

5 (3) THE BOARD OF REGENTS SHALL DEVELOP POLICIES AND
6 GUIDELINES THAT:

7 (I) PROVIDE DIRECTION TO THE PRESIDENTS OF THE
8 CONSTITUENT INSTITUTIONS ON COMPLIANCE WITH APPLICABLE LAW AND POLICY;

9 (II) ESTABLISH AND MONITOR HIGH STANDARDS OF OPERATION,
10 INCLUDING MEETING APPROPRIATE QUALITY BENCHMARKS, USING RESOURCES
11 WISELY AND EFFICIENTLY, MANAGING PERSONNEL EQUITABLY, ADHERING TO
12 INSTITUTIONAL MISSION, AND MEETING THE EDUCATIONAL NEEDS OF THE
13 STUDENTS; AND

14 (III) HOLD THE PRESIDENT ACCOUNTABLE FOR MEETING THE
15 OBJECTIVES IN THE INSTITUTION'S PERFORMANCE ACCOUNTABILITY PLAN
16 DEVELOPED IN ACCORDANCE WITH TITLE 11, SUBTITLE 3 OF THIS ARTICLE.

17 [(j)] (L) By September 1 of each year, the Board shall submit an annual
18 position accountability report to the Department of Budget and Management,
19 Department of Legislative Services, the Maryland Higher Education Commission,
20 and, in accordance with § 2-1246 of the State Government Article, the General
21 Assembly, reporting the total positions created and the cost and the funding source for
22 any positions created by the University in the previous fiscal year.

23 (M) THE BOARD OF REGENTS MAY DISTRIBUTE STRATEGIC INCENTIVE FUNDS
24 TO A CONSTITUENT INSTITUTION TO ENCOURAGE ATTAINMENT OF ITS APPROVED
25 MISSION.

26 12-105.

27 (a) (1) In consultation with the institutions and the Chancellor, the Board
28 shall:

29 [(1)] (I) Establish standards for funding based on differences in the size
30 and mission of the constituent institutions;

31 [(2)] (II) Review, modify, as necessary, and approve consolidated budget
32 requests for appropriations for the University System of Maryland with respect to:

33 [(i)] 1. The operating budget; and

34 [(ii)] 2. The capital budget; and

35 [(3)] (III) Submit these requests for appropriations organized by
36 constituent institutions to the Commission, Governor, and General Assembly.

1 (2) AFTER THE BOARD SUBMITS THE REQUESTS FOR APPROPRIATIONS
2 TO THE COMMISSION, GOVERNOR, AND GENERAL ASSEMBLY, ON A DATE SET BY THE
3 GOVERNOR, THE PRESIDENT OF THE UNIVERSITY OF MARYLAND, COLLEGE PARK
4 SHALL HAVE THE OPPORTUNITY TO MEET WITH THE GOVERNOR TO PRESENT THE
5 INSTITUTION'S ANNUAL BUDGET REQUEST AND PROPOSALS FOR CAPITAL PROJECTS
6 FOR THE NEXT FISCAL YEAR TO:

7 (I) DISCUSS HOW THE REQUESTS FOR APPROPRIATIONS
8 SUBMITTED BY THE BOARD IMPACTS THE MISSION OF THE UNIVERSITY OF
9 MARYLAND, COLLEGE PARK AS THE STATE'S FLAGSHIP INSTITUTION; AND

10 (II) RECOMMEND THAT THE GOVERNOR APPROVE OR ENHANCE
11 THE REQUESTS FOR APPROPRIATIONS SUBMITTED BY THE BOARD.

12 (b) (1) Subject to [§ 12-104(f)] § 12-104(G) of this article and any other
13 limitations of law, the Board may acquire, sell, exchange, and lease property.

14 (2) The title to any land acquired by the University System of Maryland
15 shall be in the State of Maryland for the use of the University System of Maryland.

16 (c) (1) The Board may borrow money to acquire interests in personal
17 property, including fixtures, for the University System of Maryland, on such terms
18 and conditions as the Board considers proper.

19 (2) Such borrowing may be secured by the personal property acquired or
20 revenues derived from such property.

21 (3) (i) Such borrowing does not create or constitute any indebtedness
22 or obligation of the State or any political subdivision of the State other than the
23 University.

24 (ii) Such borrowing does not constitute a debt or obligation
25 contracted by the General Assembly or pledge the faith and credit of the State within
26 the meaning of Article III, § 34 of the Maryland Constitution.

27 (d) (1) All income of the University shall be deposited:

28 (i) In the State treasury; or

29 (ii) As the State Treasurer directs.

30 (2) By an approved budget amendment, the University may spend, or
31 encumber, within the fiscal year in which they are received, revenues received in
32 excess of those estimated for any fiscal year.

33 (3) All unexpended or unencumbered balances of the University's
34 revenues:

35 (i) Shall be reported to the Comptroller at the end of the fiscal year
36 for which the appropriation was made;

1 (ii) Do not revert to the general treasury of the State at the end of
2 each fiscal year; and

3 (iii) Shall be available for expenditure through an appropriation
4 contained in a budget bill or through an approved budget amendment.

5 (4) The provisions of this subsection may not be interpreted in any way
6 that would diminish the authority of the Board of Regents under [§ 12-104(b)] §
7 12-104(C) of this article.

8 (5) The interest or other income from the investment of any funds of the
9 University shall be credited to the University, provided that any interest estimated to
10 be earned on the State appropriation must be offset by an equivalent reduction in
11 State General Fund support, and such amount will be reported annually, subject to §
12 2-1246 of the State Government Article, to the General Assembly.

13 (e) The University shall provide the Board of Public Works, and any member
14 of the General Assembly, with any information on any phase of operation of the
15 University that may be requested.

16 (f) The Legislative Auditor shall audit all expenditures and accounts of the
17 University System of Maryland, in accordance with §§ 2-1220 through 2-1227 of the
18 State Government Article.

19 (g) Notwithstanding any other provision of law, the University shall use the
20 statewide Financial Management Information System as administered by the
21 Executive Branch as its accounting, budgeting, personnel, and payroll system.

22 12-109.

23 (e) Subject to the authority and applicable regulations and policies of the
24 Board of Regents, each president shall:

25 (1) Develop a plan of institutional mission[, goals, priorities, and a set of
26 peer institutions] in accordance with Subtitle 3 of Title 11 of this article;

27 (3) Formulate operating and capital budget requests **DESIGNED TO**
28 **FURTHER THE MISSION OF THE INSTITUTION;**

29 (5) Subject to the provisions of subsection (g) of this section, have
30 authority to create any position within existing funds available to the University, to
31 the extent the cost of the position, including the cost of any fringe benefits, is funded
32 from existing funds;

33 (16) Have the authority to establish **AND APPOINT** an institutional board
34 to:

35 (i) Provide advice to the president;

36 (ii) Assist in community relations;

1 (iii) Assist in institutional development; or
2 (iv) Provide any other assistance requested by the president;
3 (g) (1) Subsection (e)(5) of this section may not be construed to require any
4 additional State General Fund support.

5 (2) The total number of positions authorized under subsection (e)(5) of
6 this section shall be limited as specified annually in the State budget bill.

7 12-112.

8 (A) (1) EXCEPT AS PROVIDED IN § 11-203(E) OF THE STATE FINANCE AND
9 PROCUREMENT ARTICLE, THE UNIVERSITY IS EXEMPT FROM DIVISION II OF THE
10 STATE FINANCE AND PROCUREMENT ARTICLE.

11 (2) (I) SUBJECT TO REVIEW AND APPROVAL BY THE BOARD OF PUBLIC
12 WORKS, THE BOARD OF REGENTS SHALL DEVELOP POLICIES AND PROCEDURES
13 GOVERNING PROCUREMENTS BY THE UNIVERSITY.

14 (II) THE POLICIES AND PROCEDURES DEVELOPED UNDER
15 SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL PROMOTE THE PURPOSES OF THE
16 STATE PROCUREMENT LAW AS SET FORTH IN § 11-201 OF THE STATE FINANCE AND
17 PROCUREMENT ARTICLE.

18 (B) THE BOARD OF REGENTS SHALL DEVELOP AN INFORMATION
19 TECHNOLOGY PLAN FOR THE UNIVERSITY SYSTEM OF MARYLAND THAT INCLUDES
20 INFORMATION TECHNOLOGY POLICIES AND STANDARDS, INCLUDING POLICIES AND
21 STANDARDS FOR INFORMATION MANAGEMENT AND TELECOMMUNICATION
22 SYSTEMS, THAT ARE FUNCTIONALLY COMPATIBLE WITH THE STATE INFORMATION
23 TECHNOLOGY PLAN ESTABLISHED UNDER TITLE 3, SUBTITLE 4 OF THE STATE
24 FINANCE AND PROCUREMENT ARTICLE.

25 12-113.

26 (A) CONSISTENT WITH § 15-107 OF THIS ARTICLE AND ANY OTHER
27 APPLICABLE LAW, THE BOARD OF REGENTS MAY ESTABLISH, INVEST IN, FINANCE,
28 AND OPERATE BUSINESSES OR BUSINESS ENTITIES WHEN THE BOARD FINDS THAT
29 DOING SO WOULD FURTHER ONE OR MORE GOALS OF THE UNIVERSITY AND IS
30 RELATED TO THE MISSION OF THE UNIVERSITY.

31 (B) (1) A BUSINESS ENTITY ESTABLISHED, INVESTED IN, FINANCED, OR
32 OPERATED IN ACCORDANCE WITH THIS SUBSECTION MAY NOT BE CONSIDERED AN
33 AGENCY OR INSTRUMENTALITY OF THE STATE OR A UNIT OF THE EXECUTIVE
34 BRANCH FOR ANY PURPOSE; AND

35 (2) A FINANCIAL OBLIGATION OR LIABILITY OF A BUSINESS ENTITY
36 ESTABLISHED, INVESTED IN, FINANCED, OR OPERATED IN ACCORDANCE WITH THIS
37 SUBSECTION MAY NOT BE A DEBT OR OBLIGATION OF THE STATE OR UNIVERSITY.

1 (C) THE BOARD OF REGENTS SHALL SUBMIT TO THE GOVERNOR, AND IN
2 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL
3 ASSEMBLY, AN ANNUAL REPORT ON:

4 (1) THE BUSINESS ENTITIES ESTABLISHED IN ACCORDANCE WITH THIS
5 SECTION;

6 (2) FUNDS INVESTED IN, AND FINANCING PROVIDED TO, BUSINESS
7 ENTITIES ESTABLISHED IN ACCORDANCE WITH THIS SECTION;

8 (3) OWNERSHIP INTERESTS IN ANY BUSINESS ENTITIES ESTABLISHED
9 IN ACCORDANCE WITH THIS SECTION; AND

10 (4) THE CURRENT STATUS OF THE BUSINESS ENTITIES.

11 13-203.

12 (a) If, following informal discussion with the supervisor, a dispute remains
13 unresolved, the grievance procedure is available. There are three steps in the
14 grievance procedure.

15 (b) (1) Step One. Step one is the initiation of a complaint. Grievances shall
16 be initiated within 30 calendar days of the action involved, or within 30 calendar days
17 of the employee having reasonable knowledge of the act, unless these time limits are
18 further delimited as stated in § 13-205. Appeals within the grievance procedure shall
19 be timed from receipt of the written opinion of management or from when such
20 opinion is due, whichever comes first. An aggrieved employee or the employee's
21 designated representative may present the grievance in writing to the department
22 head or chairman or designee for formal consideration. If the grievance is presented
23 to the department head or chairman or designee, within 5 days after the receipt of the
24 written grievance a conference shall be held with the aggrieved or the employee's
25 designated representative and within 5 days after the conclusion of the conference a
26 decision shall be rendered in writing to the aggrieved or the employee's designated
27 representative. If the aggrieved employee is not satisfied with the decision rendered
28 at this step, the employee or the employee's designated representative may appeal in
29 writing to step two within 5 days.

30 (2) Both employee and department head or chairman or designee shall
31 continue to review the matter, either privately or with the help of others in the
32 employee's immediate work unit who are directly involved in the grievance. Each
33 department head or chairman or designee shall use judgment in keeping superiors
34 informed of the status of each grievance and, if necessary, request guidance, advisory
35 committees, or other assistance consistent with departmental policy. If either the
36 employee or the department head or chairman or designee feels the need for aid in
37 arriving at a solution, the campus personnel department may be requested to provide
38 resource staff or any other available resource personnel may be invited to participate
39 in further discussions. The addition of such participants does not relieve the
40 department head or chairman or designee and the employee from responsibility for
41 resolving the problem.

1 (c) Step Two. The appeal shall be submitted to the president of the constituent
2 institution or the president's designated representative within 5 days after the receipt
3 of the written decision at step one. The president or the president's designated
4 representative shall hold a conference with the aggrieved or the employee's
5 designated representative within 10 days of receipt of the written grievance appeal
6 and render a written decision within 15 days after the conclusion of the conference.

7 (d) Step Three. In the case of any still unresolved grievance between an
8 employee and the constituent institution, the aggrieved employee, after exhausting
9 all available procedures provided by the constituent institution, may submit the
10 grievance to either arbitration or to the [Secretary of Budget and Management]
11 CHANCELLOR. In either case, the appeal shall be submitted within 10 days after the
12 receipt of any written decision pertaining to that grievance and issued by the
13 constituent institution. If the grievance is arbitrated, the parties shall select an
14 arbitrator by mutual agreement. If they are unable to reach a mutual agreement, an
15 arbitrator shall be supplied by the American Arbitration Association by their
16 procedures. Any fees resulting from arbitration are assessed by the arbitrator equally
17 between the two parties. The arbitration award is advisory to the [Secretary of
18 Budget and Management] CHANCELLOR and an additional appeal or hearing may
19 not be considered. The [Secretary of Budget and Management] CHANCELLOR shall
20 make the final decision that is binding on all parties.

21 (e) The [Secretary of Budget and Management] CHANCELLOR shall have the
22 power to award back pay in any grievance and the president of the constituent
23 institution shall enforce such order. In any reclassification case in which the
24 [Secretary] CHANCELLOR, or his designated representative, determines that an
25 employee has been misclassified, the [Secretary] CHANCELLOR may, in his
26 discretion, award back pay to the employee for a period not to exceed one year prior to
27 the initial filing of the grievance.

28 (f) (1) During any stage of a complaint, grievance, or other administrative
29 or legal action that concerns State employment by a full-time or part-time employee
30 of an institution, or by a temporary or contractual employee of an institution, the
31 employee may not be subjected to coercion, discrimination, interference, reprisal, or
32 restraint by or initiated on behalf of an institution solely as a result of that employee's
33 pursuit of a grievance, complaint, or other administrative or legal action that
34 concerns State employment.

35 (2) An employee of an institution may not intentionally take or assist in
36 taking an act of coercion, discrimination, interference, reprisal, or restraint against
37 another employee solely as a result of that employee's pursuit of a grievance,
38 complaint, or other administrative or legal action that concerns State employment.

39 (3) An employee who violates the provisions of this subsection is subject
40 to disciplinary action, including termination of employment.

1 13-205.

2 (a) Within 5 days from the date on which the employee receives the charges
3 for removal as evidenced by the return receipt or other evidence of delivery of the
4 charges to the employee an employee who is suspended under charges for removal
5 may request an opportunity to be heard in his own defense. Within 30 days if possible
6 after receipt, the [Chancellor or the Chancellor's] PRESIDENT OR THE PRESIDENT'S
7 designated representative shall investigate the charges and give the employee an
8 opportunity to be heard. Testimony shall be taken under oath and both the
9 department head or chairman or designee and the employee has the right of
10 representation by counsel and the right to present witnesses and give evidence.
11 Within 15 days following the conclusion of the conference, the written decision shall
12 be rendered to the employee. In the case of appeals from charges pending removal,
13 the department head or chairman or designee may request through appropriate
14 channels the Attorney General's representative to the University to serve as counsel.
15 In case no hearing is timely requested, the Campus Director of Personnel shall act
16 upon the charges or order such other actions as are indicated by the findings in the
17 case. If a hearing is timely requested and the removal is upheld, step three of the
18 grievance procedure shall be available to the removed individual. The appeal shall be
19 submitted within 10 days after receipt of the written University decision.

20 (b) Within 5 days, an employee who is notified of demotion may file a written
21 answer with the [Chancellor or the Chancellor's] PRESIDENT OR THE PRESIDENT'S
22 designated representative and request an investigation of the demotion. Within 20
23 days, if possible, after receipt, the [Chancellor or the Chancellor's] PRESIDENT OR
24 THE PRESIDENT'S designated representative shall investigate the demotion and give
25 the employee an opportunity to be heard. Within 15 days following the conclusion of
26 the investigation, the written decision shall be rendered to the employee. If an
27 investigation is timely requested and the demotion is upheld, step three of the
28 grievance procedure is available to the demoted employee. The appeal shall be
29 submitted within 10 days after receipt of the written University decision.

30 (c) (1) Rejection on Original Probation. Within 5 days of the notice of
31 rejection, an employee who is rejected on original probation may file a written request
32 with the [Chancellor or the Chancellor's] PRESIDENT OR THE PRESIDENT'S
33 designated representative for a hearing. Within 20 days, if possible, after receipt, the
34 [Chancellor or the Chancellor's] PRESIDENT OR THE PRESIDENT'S designated
35 representative shall conduct a hearing. Within 15 days following the conclusion of the
36 hearing, the written decision shall be rendered to the employee. If the hearing is
37 timely requested and the rejection is upheld, step three of the grievance procedure is
38 available. The appeal shall be submitted within 10 days after receipt of the written
39 University decision. Rejection for cause is not required in the case of an employee
40 rejected on original probation.

41 (2) Rejection on Promotional, Transfer, or Horizontal Change Probation.
42 Within 5 days of receipt of the recommendation of the department head or chairman
43 to reject, an employee who is promoted and then rejected within the probationary
44 period for the new class and for whom a vacancy in the former class is not available
45 may file an answer with the [Chancellor or the Chancellor's] PRESIDENT OR THE

1 PRESIDENT'S designated representative and request an investigation of the proposed
2 rejection. Within 20 days, if possible, after receipt, the [Chancellor or the
3 Chancellor's] PRESIDENT OR THE PRESIDENT'S designated representative shall
4 investigate the proposed rejection. The same rule applies to an employee who has
5 completed a probationary period in one classification and makes a horizontal change
6 to a new classification, and is rejected in the new classification or who transfers to
7 another department in the same classification and is rejected. Within 15 days
8 following the conclusion of the investigation, the written decision shall be rendered to
9 the employee. If the investigation is timely requested and the rejection is upheld, step
10 three of the grievance procedure is available to the rejected employee. The appeal
11 shall be submitted within 10 days after receipt of the written University decision.

12 (d) (1) This subsection does not apply to suspensions pending charges for
13 removal.

14 (2) Alleged infractions shall be investigated by the responsible
15 supervisor or administrator or designee at the earliest opportunity following
16 knowledge of it, and the investigation shall be promptly completed. All suspensions of
17 employees shall be implemented within 3 days of the alleged infraction or knowledge
18 of the alleged infraction by the responsible supervisor or administrator. All
19 suspension days shall be consecutive.

20 (3) The employee or the employee's designated representative may
21 submit a written appeal on a disciplinary suspension to the [Chancellor or the
22 Chancellor's] PRESIDENT OR THE PRESIDENT'S designated representative within 5
23 days of notification of the suspension, or the employee or the employee's designated
24 representative may appeal the suspension within 3 days of notification of the
25 suspension to the department head or chairman or designee. The department head or
26 chairman or designee shall hear the case within 3 days from the receipt of the written
27 appeal. If the appeal is unheard or unanswered as a result of management delay, the
28 employee shall be reinstated with full back pay.

29 (4) If the suspension is upheld by the [Chancellor or the Chancellor's]
30 PRESIDENT OR THE PRESIDENT'S designated representative, step three of the
31 grievance procedure is available to the employee. If the employee chooses to appeal to
32 the department head or chairman or designee, any further appeals shall proceed
33 through steps two and three of the grievance procedure.

34 (e) (1) If an employee is suspended without pay pending a hearing on
35 disposition of charges for removal, the President or the President's designated
36 representative shall notify the employee in writing of the reasons for the suspension
37 at the time of the notice of the suspension.

38 (2) Within 5 working days of the notice of suspension, the employee may
39 request in writing that the [Chancellor or the Chancellor's] PRESIDENT OR THE
40 PRESIDENT'S designated representative, in addition to conducting a hearing on the
41 merits, conduct a preliminary hearing to determine whether or not the employee may
42 continue to work with pay pending the disposition of the charges.

1 (3) The President or the President's designated representative shall
2 conduct a preliminary hearing within 5 working days after the [Chancellor or the
3 Chancellor's] PRESIDENT OR THE PRESIDENT'S designated representative receives in
4 writing the request from the suspended employee for the preliminary hearing.

5 (4) The preliminary hearing shall be limited to the issues of:

6 (i) Whether suspension without pay is necessary to protect the
7 interests of the University of Maryland or the employee pending final disposition of
8 the charges; and

9 (ii) Whether other employment and status alternatives should be
10 considered.

11 (5) At the preliminary hearing, the employee may:

12 (i) Rebut the reasons given for the suspension;

13 (ii) Allege mitigating circumstances; and

14 (iii) Offer alternatives to the suspension, including:

15 1. Return to the position with pay;

16 2. Transfer to another position with pay; or

17 3. Suspension with pay.

18 (6) Within 5 days after the preliminary hearing is completed, the
19 [Chancellor or the Chancellor's] PRESIDENT OR THE PRESIDENT'S designated
20 representative shall render a written decision that is conclusive as to the issue of
21 whether or not the employee may continue to work with pay pending the disposition
22 of the charges.

23 13-207.

24 (a) The defense of sovereign immunity may not be available to the University,
25 unless otherwise specifically provided by the laws of Maryland, in any administrative,
26 arbitration, or judicial proceeding held pursuant to this section, [to the rules and
27 regulations of the Secretary of Budget and Management,] or the personnel policies,
28 rules, and regulations for classified employees of the University System of Maryland
29 involving any type of employee grievance or hearing, including, but not limited to
30 charges for removal, disciplinary suspensions, involuntary demotions, or
31 reclassifications.

32 (b) The Governor shall provide in the annual State budget adequate funds for
33 the satisfaction of any final monetary or benefit award or judgment that has been
34 rendered in favor of the employee against the University in any administrative,
35 arbitration, or judicial proceeding.

1 (c) Awards under this section that have not been satisfied pursuant to
2 subsection (d) of this section, shall be reported to the Comptroller of the Treasury, who
3 shall maintain and report annually to the Governor an accounting of existing awards.
4 Upon appropriation of funds by the legislature, the Comptroller of the Treasury shall
5 satisfy existing awards in order of date of award.

6 (d) If the University has sufficient funds available to satisfy any award under
7 this section at the time the award is rendered, the award shall be satisfied as soon as
8 practicable but not more than 20 days after the award becomes final.

9 17-104.

10 (a) The Maryland Higher Education Commission shall compute the amount of
11 the annual apportionment for each institution that qualifies under this subtitle by
12 multiplying:

13 (1) The number of full-time equivalent students enrolled at the
14 institution during the fall semester of the fiscal year preceding the fiscal year for
15 which the aid apportionment is made, as determined by the Maryland Higher
16 Education Commission times;

17 (2) An amount equal to 16 percent of the State's General Fund per
18 full-time equivalent student appropriation to the 4-year public institutions of higher
19 education in this State for the preceding fiscal year.

20 (b) Full-time equivalent students enrolled in seminarian or theological
21 programs shall be excluded from the computation required by subsection (a) of this
22 section.

23 (C) PAYMENTS OF STATE GENERAL FUNDS UNDER SUBTITLE 3 OF THIS TITLE
24 SHALL BE EXCLUDED FROM THE COMPUTATION REQUIRED BY SUBSECTION (A) OF
25 THIS SECTION.

26 SUBTITLE 3. PRIVATE DONATION INCENTIVE PROGRAM.

27 17-301.

28 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
29 INDICATED.

30 (B) "BASE YEAR" MEANS JULY 1, 1998 THROUGH JUNE 30, 1999.

31 (C) "ELIGIBLE INSTITUTION" MEANS:

32 (1) EACH PUBLIC SECTOR HIGHER EDUCATION INSTITUTION
33 IDENTIFIED IN §§ 10-101(J) AND 12-101(4) OF THIS ARTICLE OR ITS AFFILIATED
34 FOUNDATION; AND

35 (2) EACH COMMUNITY COLLEGE THAT RECEIVES STATE FUNDING
36 UNDER TITLE 16, SUBTITLE 3 OF THIS ARTICLE OR ITS AFFILIATED FOUNDATION.

1 (D) (1) "ELIGIBLE PRIVATE DONOR" MEANS AN INDIVIDUAL, CORPORATION,
2 PARTNERSHIP, OR OTHER FORM OF BUSINESS ORGANIZATION, PUBLIC OR PRIVATE
3 FOUNDATION, OR OTHER NONPROFIT ORGANIZATION.

4 (2) "ELIGIBLE PRIVATE DONOR" DOES NOT INCLUDE THE STATE, A
5 SUBDIVISION OF THE STATE, THE FEDERAL GOVERNMENT, OR A FOREIGN
6 GOVERNMENT.

7 (E) "ELIGIBLE PROGRAM" MEANS AN ENDOWMENT FOR AN ACADEMIC
8 PURPOSE THAT DOES NOT CONTAIN UNREASONABLE RESTRICTIONS AS TO USE AS
9 FURTHER DEFINED BY THE MARYLAND HIGHER EDUCATION COMMISSION.

10 (F) "ENDOWMENT" MEANS A DONATION OR GIFT THAT HAS BEEN PROVIDED
11 UNDER THE CONDITION THAT THE PRINCIPAL REMAIN INTACT AND BE INVESTED IN
12 PERPETUITY FOR THE PURPOSE OF PRODUCING INCOME.

13 17-302.

14 (A) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, EACH
15 ELIGIBLE INSTITUTION SHALL RECEIVE FROM THE STATE, IN THE MANNER AND
16 SUBJECT TO THE LIMITATIONS OF THIS SUBTITLE, WITH RESPECT TO THE AMOUNTS
17 PLEDGED BY ELIGIBLE PRIVATE DONORS AS VOLUNTARY DONATIONS AT ANY TIME
18 DURING THE PREVIOUS FISCAL YEAR TO THE ELIGIBLE INSTITUTION FOR ELIGIBLE
19 PROGRAMS AS FOLLOWS:

20 (1) AN AMOUNT EQUAL TO THE FIRST \$250,000 OR ANY PORTION
21 THEREOF OF PLEDGED AMOUNTS;

22 (2) AN AMOUNT EQUAL TO ONE-HALF OF THE NEXT \$1,000,000 OR ANY
23 PORTION THEREOF OF PLEDGED AMOUNTS; AND

24 (3) AN AMOUNT EQUAL TO ONE-THIRD OF THE AMOUNT IN EXCESS OF
25 \$1,250,000 OR ANY PORTION THEREOF OF PLEDGED AMOUNTS.

26 (B) PAYMENTS SHALL BE MADE BY THE STATE:

27 (1) ONLY WITH RESPECT TO PLEDGED AMOUNTS THAT ARE PAID BY THE
28 ELIGIBLE PRIVATE DONOR TO THE ELIGIBLE INSTITUTION BEFORE JULY 1, 2004; AND

29 (2) IN THE FISCAL YEAR FOLLOWING THE FISCAL YEAR DURING WHICH
30 THE AMOUNTS ARE PAID.

31 (C) PAYMENTS BY THE STATE UNDER THIS SUBTITLE MAY NOT EXCEED:

32 (1) \$250,000 TO EACH COMMUNITY COLLEGE;

33 (2) \$1,250,000 EACH TO THE UNIVERSITY OF MARYLAND, COLLEGE PARK,
34 AND THE UNIVERSITY OF MARYLAND, BALTIMORE; AND

35 (3) \$750,000 TO EACH OTHER ELIGIBLE INSTITUTION.

1 (D) (1) TO DETERMINE ELIGIBILITY FOR STATE PAYMENTS, EACH
2 DONATION SHALL BE COMPARED TO THE AMOUNT DONATED DURING THE BASE
3 YEAR. THE FOLLOWING CRITERIA SHALL BE THE BASIS FOR COMPARISON:

4 (I) EACH DONATION MUST BE FROM A NEW DONOR; OR

5 (II) EACH DONATION MUST REPRESENT AN INCREASE OVER THE
6 AMOUNT GIVEN BY THE DONOR DURING THE BASE YEAR.

7 (2) A DONATION RECEIVED DURING THE BASE YEAR THAT FULFILLS A
8 PLEDGE MADE PRIOR TO THE BASE YEAR MAY NOT BE INCLUDED IN THE
9 DETERMINATION OF THE AMOUNT DONATED DURING THE BASE YEAR.

10 (3) EACH DONATION MUST BE SPECIFICALLY DESIGNATED AS AN
11 ENDOWMENT.

12 (E) AN INSTITUTION MAY NOT RECEIVE FUNDS FOR A DONATION THAT
13 QUALIFIES FOR A CONTRIBUTION BY THE STATE UNDER § 16-317 OF THIS ARTICLE.

14 17-303.

15 AN AFFILIATED FOUNDATION OF AN ELIGIBLE INSTITUTION THAT RECEIVES
16 STATE PAYMENTS SHALL PROVIDE TO THE MARYLAND HIGHER EDUCATION
17 COMMISSION AN ANNUAL AUDIT OF ALL PLEDGED AND PAID AMOUNTS AND THEIR
18 SOURCES, AND A COPY OF THE ANNUAL AUDIT SHALL BE PROVIDED TO THE
19 LEGISLATIVE AUDITOR.

20 17-304.

21 (A) AMOUNTS PAID BY THE STATE UNDER THIS SUBTITLE MAY BE APPLIED TO
22 ANY ELIGIBLE PROGRAM AT THE ELIGIBLE INSTITUTION TO WHICH THE PAYMENT IS
23 MADE.

24 (B) NO MORE THAN ONE-HALF OF THE TOTAL AMOUNT TO BE PAID BY THE
25 STATE UNDER PROVISIONS OF THIS SUBTITLE MAY BE APPROPRIATED IN ANY
26 FISCAL YEAR. THE PROVISIONS OF § 7-302 OF THE STATE FINANCE AND
27 PROCUREMENT ARTICLE DO NOT APPLY TO UNUSED PROGRAM FUNDS.

28 17-305.

29 AMOUNTS PAID BY THE STATE TO AN ELIGIBLE INSTITUTION UNDER THIS
30 SUBTITLE MAY NOT DIRECTLY OR INDIRECTLY REDUCE THE STATE GENERAL FUND
31 OR CAPITAL FUND SUPPORT FOR THE ELIGIBLE INSTITUTION.

32 17-306.

33 THE MARYLAND HIGHER EDUCATION COMMISSION SHALL:

34 (1) ADOPT REGULATIONS NECESSARY FOR THE ADMINISTRATION OF
35 THIS SUBTITLE; AND

1 (2) SUBMIT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF
 2 THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY AN ANNUAL
 3 REPORT SUMMARIZING THE TOTAL AMOUNT OF FUNDS PLEDGED BY ELIGIBLE
 4 PRIVATE DONORS AND TOTAL AMOUNT OF FUNDS RAISED.

5 **Article - State Finance and Procurement**

6 3-401.

7 (a) This subtitle does not apply to changes relating to or the purchase, lease,
 8 or rental of information technology by:

9 (1) [the University College of the University System of Maryland for use
 10 in University College overseas programs;

11 (2)] public institutions of higher education solely for academic or research
 12 purposes; [or

13 (3)] (2) the Maryland Port Administration; OR

14 (3) THE UNIVERSITY SYSTEM OF MARYLAND.

15 (b) Notwithstanding any other provision of law, except as provided in
 16 subsection (a) of this section, this subtitle applies to all units of the Executive Branch
 17 of State government including [the University System of Maryland and all other]
 18 PUBLIC institutions of higher education OTHER THAN THE UNIVERSITY SYSTEM OF
 19 MARYLAND.

20 3-703.

21 (a) The provisions of this subtitle may not apply to a telecommunication
 22 system or service that is owned or operated by THE UNIVERSITY SYSTEM OF
 23 MARYLAND OR a unit of the Legislative or Judicial Branch.

24 (b) The provisions of this subtitle may not preempt the authority of [the
 25 University System of Maryland or] the Maryland Public Broadcasting Commission to
 26 own, operate, or manage telecommunication systems, services, or equipment.

27 4-402.

28 (a) (1) Except as provided in § 4-409 of this subtitle, this subtitle does not
 29 apply to any public improvement made by:

30 (i) the Department of Transportation or a unit in that Department;

31 (ii) any housing authority created under Article 44A of the Code;

32 (iii) the Maryland-National Capital Park and Planning
 33 Commission;

34 (iv) the Washington Suburban Sanitary Commission;

1 (v) the Baltimore County Metropolitan District; [or]
2 (vi) a county, municipal corporation, or unit of a county or municipal
3 corporation; OR

4 (VII) THE UNIVERSITY SYSTEM OF MARYLAND.

5 (2) Except as provided in §§ 4-406, 4-410, and 4-410.1 of this subtitle or
6 as otherwise provided by law, [the University System of Maryland,] Morgan State
7 University[,] and St. Mary's College of Maryland are subject to the provisions of this
8 subtitle.

9 (b) The Board of Public Works may exempt specific projects of a unit of the
10 State government from the provisions of this subtitle.

11 (c) The Board of Public Works shall adopt regulations in accordance with Title
12 10, Subtitle 1 of the State Government Article establishing procedures for the
13 exemption of specific projects of units of State government under subsection (b) of this
14 section.

15 4-406.

16 (a) (1) Except as provided in paragraph (4) of this subsection, the
17 Department shall advise the Board of Public Works and any unit of the State
18 government in connection with any engineering question or matter concerning a
19 public improvement.

20 (2) The Department shall supervise any engineering question or matter
21 concerning a public improvement.

22 (3) Any contract, plan, or specification for any public improvement that
23 involves an engineering question:

24 (i) shall be submitted to the Department; and

25 (ii) is subject to the approval of the Department.

26 (4) With respect to any engineering question or a matter concerning a
27 public improvement, the Department shall advise [the University System of
28 Maryland and] Morgan State University in accordance with the provisions of § 4-410
29 of this subtitle.

30 (5) AT THE REQUEST OF THE BOARD OF PUBLIC WORKS, THE
31 DEPARTMENT SHALL ADVISE THE BOARD OF PUBLIC WORKS ON ANY CONTRACT
32 THAT EXCEEDS \$500,000 IF THE CONTRACT INVOLVES AN ENGINEERING QUESTION
33 OR A MATTER CONCERNING A PUBLIC IMPROVEMENT UNDERTAKEN BY THE
34 UNIVERSITY SYSTEM OF MARYLAND.

35 (b) Except as provided in §§ 4-410 and 4-410.1 of this subtitle, the
36 Department shall:

1 (1) represent the Board of Public Works at the opening of bids for a
2 public improvement;

3 (2) tabulate and record the bids; and

4 (3) advise the Board of Public Works on the bids.

5 (c) The Department shall supervise each appraisal related to a public
6 improvement.

7 (d) (1) The Department shall collect and maintain a complete and accurate
8 file of drawings and plats of the location of all public improvements.

9 (2) The Department shall collect and maintain records of construction
10 costs and progress on each public improvement.

11 (3) The Department shall adequately store and protect any original
12 drawing, plat, record, or specification.

13 (e) The Department shall examine and approve or disapprove each plan and
14 specification prepared in connection with the preparation or execution of a contract
15 for a public improvement.

16 (f) (1) The Department shall inspect and approve or disapprove any
17 material, equipment, and methods used in making public improvements and shall
18 inspect each public improvement during the course of construction or repair.

19 (2) The duty of the Department under this subsection does not relieve an
20 architect or engineer of any supervisory responsibility for which the architect or
21 engineer is employed.

22 (g) (1) The provisions of subsections (a), (b), (e), and (f) of this section do not
23 apply to State correctional facilities as defined in § 11-101 of this article.

24 (2) In accordance with Article 41, § 4-104.1 of the Code, the Department
25 of Public Safety and Correctional Services shall perform the duties specified in
26 subsections (a), (b), (e), and (f) of this section for State correctional facilities.

27 4-410.

28 (a) This section applies to any public improvement project of [the University
29 System of Maryland and] Morgan State University.

30 (b) [For purposes of this section, the University System of Maryland consists
31 of the constituent institutions and centers specified in § 12-101 of the Education
32 Article.

33 (c) In this section, "University" means the [University System of Maryland
34 and] Morgan State University.

35 [(d)] (C) For any public improvement project regardless of the source of funds:

1 (1) architectural and engineering services shall be procured in
2 accordance with Title 13, Subtitle 3 of this article;

3 (2) for architectural and engineering services costing more than
4 \$100,000, the Department shall make a recommendation for the award of a contract;

5 (3) for architectural and engineering services costing less than \$100,000,
6 the Department shall make the procurement;

7 (4) for all design projects exceeding \$100,000 in contract value, the
8 University shall submit periodic status reports to the Department; and

9 (5) for all projects exceeding \$500,000 in contract value, the University
10 shall submit periodic status reports to the Department.

11 [(e)] (D) For any public improvement project financed in whole or in part with
12 proceeds of a consolidated capital bond loan or with State General Fund
13 appropriations, the following additional procedures shall apply:

14 (1) for architectural and engineering contracts exceeding \$100,000, the
15 Department must request the Board of Public Works to authorize the transfer of the
16 contract amount to University funds. Any additional funds that may be needed may
17 be transferred by an action of the Board of Public Works upon review by the
18 Department;

19 (2) plans, specifications, schematics, design development, contract and
20 bid documents shall be reviewed by the Department concurrent with University
21 review;

22 (3) the Department may have a representative present at bid openings;

23 (4) the University shall analyze construction bids, recommend contractor
24 selections, and notify the Department of its recommended selection and the date the
25 item will be on the Board of Public Works' agenda;

26 (5) the Department shall prepare an agenda item for the Board of Public
27 Works authorizing transfer to the University of the funds equal to the contract, plus
28 5% for use as a contingency fund for change orders. If the 5% contingency fund is
29 insufficient to complete the project, the Department shall review the change
30 conditions and make a recommendation to the Board of Public Works concerning the
31 transfer of additional funds;

32 (6) all program changes not authorized in the original scope of the
33 project shall be approved by the Department of Budget and Management and the
34 Department prior to commitment by the University;

35 (7) at completion of the project, any unused amount of construction
36 contingency funds or planning fund authorization shall be returned to the Board of
37 Public Works by an action agenda item of the University; and

1 (8) the Department shall be part of the final inspection of the project and
2 final acceptance may not occur without the Department's concurrence.

3 [(f)] (E) (1) For any public improvement project funded solely from funds
4 other than State general funds or the proceeds of a general obligation bond loan, the
5 University is responsible for procuring public improvement and public
6 improvement-related services, for planning, and for management of all aspects of the
7 project.

8 (2) Any contract under this subsection is subject to approval by the
9 Board of Public Works.

10 11-203.

11 (a) Except as provided in subsection (b) of this section, this Division II does
12 not apply to:

13 (1) procurement by:

14 (i) the Blind Industries and Services of Maryland;

15 (ii) the Maryland State Arts Council, for the support of the arts;

16 (iii) the Maryland Health and Higher Educational Facilities
17 Authority, if no State money is to be spent on a procurement contract;

18 (iv) the Maryland Higher Education Supplemental Loan Authority,
19 if no State money is to be spent on a procurement contract;

20 (v) the Maryland Industrial Training Program in the Department
21 of Business and Economic Development, for training programs for new or expanding
22 businesses or industries;

23 (vi) the Maryland Food Center Authority, to the extent the
24 Authority is exempt under Title 13, Subtitle 1 of Article 41 of the Code;

25 (vii) the Maryland Public Broadcasting Commission, for services of
26 artists for educational and cultural television productions;

27 (viii) public institutions of higher education, for cultural,
28 entertainment, and intercollegiate athletic procurement contracts;

29 (ix) the Maryland State Planning Council on Developmental
30 Disabilities, for services to support demonstration, pilot, and training programs;

31 (x) the Maryland Automobile Insurance Fund;

32 (xi) the Maryland Historical Trust for:

33 1. surveying and evaluating architecturally, archeologically,
34 historically, or culturally significant properties; and

- 1 (vi) a bistate, multistate, bicounty, or multicounty governmental
2 agency; or
- 3 (3) procurement in support of enterprise activities for the purpose of:
- 4 (i) direct resale; or
- 5 (ii) remanufacture and subsequent resale.
- 6 (b) (1) The following provisions of this Division II apply to each procurement
7 enumerated in subsection (a) of this section:
- 8 (i) § 11-205 of this subtitle ("Fraud in procurement");
- 9 (ii) § 12-204 of this article ("Board approval for designated
10 contracts");
- 11 (iii) Title 12, Subtitle 2 of this article ("Supervision of Capital
12 Expenditures and Real Property Leases");
- 13 (iv) § 13-219 of this article ("Required clauses - Nondiscrimination
14 clause");
- 15 (v) § 13-221 of this article ("Disclosures to Secretary of State");
- 16 (vi) Title 16 of this article ("Debarment of Contractors"); and
- 17 (vii) Title 17 of this article ("Special Provisions - State and Local
18 Subdivisions").
- 19 (2) A procurement by an entity listed in subsection (a)(1)(i) through (xv)
20 of this section shall be made under procedures that promote the purposes stated in §
21 11-201(a) of this subtitle.
- 22 (3) (i) A unit that procures human, social, or educational services from
23 an entity enumerated in subsection (a)(2) of this section shall publish in the Contract
24 Weekly notice of a procurement contract or an extension or renewal of a procurement
25 contract if:
- 26 1. the procurement contract, extension, or renewal costs
27 more than \$25,000; and
- 28 2. the procurement is made for 3rd party clients described in
29 § 13-106 of this article.
- 30 (ii) The notice required under this paragraph shall be published not
31 more than 30 days after the execution and approval of the procurement contract or
32 the extension or renewal of the procurement contract.

1 (4) The purchase of advisory services from the General Selection Board
 2 or the Transportation Selection Board under § 13-305 of this article shall be governed
 3 by the Maryland Architectural and Engineering Services Act.

4 (c) Except as provided in Title 14, Subtitle 3 of this article, this Division II
 5 does not apply to the Maryland Stadium Authority.

6 (d) Except as provided in Title 14, Subtitle 3 of this article and except for that
 7 portion of any real property that is owned and occupied by the Board of Trustees of
 8 the State Retirement and Pension System, this Division II does not apply to the
 9 Board of Trustees of the State Retirement and Pension System for:

10 (1) services of managers to invest the assets of the State Retirement and
 11 Pension System, including real and personal property;

12 (2) expenditures to manage, maintain, and enhance the value of the
 13 assets of the State Retirement and Pension System in accordance with investment
 14 guidelines adopted by the Board of Trustees; and

15 (3) services related to the administration of the optional retirement
 16 program under Title 30 of the State Personnel and Pensions Article.

17 (E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND
 18 TITLE 14, SUBTITLE 3 OF THIS ARTICLE, THIS DIVISION II DOES NOT APPLY TO THE
 19 UNIVERSITY SYSTEM OF MARYLAND.

20 (2) (I) A PROCUREMENT BY THE UNIVERSITY SYSTEM OF MARYLAND
 21 SHALL COMPLY WITH THE POLICIES AND PROCEDURES DEVELOPED BY THE
 22 UNIVERSITY AND APPROVED BY THE BOARD OF PUBLIC WORKS IN ACCORDANCE
 23 WITH § 12-112 OF THE EDUCATION ARTICLE.

24 (II) 1. ANY CONTRACT FOR SERVICES OR CAPITAL IMPROVEMENTS
 25 WITH A VALUE THAT EXCEEDS \$500,000 SHALL REQUIRE THE REVIEW AND APPROVAL
 26 OF THE BOARD OF PUBLIC WORKS.

27 2. IN ITS REVIEW OF A CONTRACT FOR SERVICES OR
 28 CAPITAL IMPROVEMENTS WITH A VALUE THAT EXCEEDS \$500,000 THE BOARD OF
 29 PUBLIC WORKS MAY REQUEST THE COMMENTS OF THE APPROPRIATE AGENCIES,
 30 INCLUDING THE DEPARTMENT OF BUDGET AND MANAGEMENT AND THE
 31 DEPARTMENT OF GENERAL SERVICES.

32 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 33 read as follows:

34 **Article - Education**

35 11-206.

36 (A) THIS SECTION DOES NOT APPLY TO:

1 (1) THE BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF
2 MARYLAND; AND

3 (2) PROGRAMS OFFERED BY INSTITUTIONS OF HIGHER EDUCATION
4 THAT OPERATE IN THE STATE WITHOUT A CERTIFICATE OF APPROVAL IN
5 ACCORDANCE WITH § 11-202(C)(2) OR (3) OF THIS SUBTITLE.

6 [(a)] (B) (1) Prior to the proposed date of implementation, the governing
7 body of an institution of postsecondary education shall submit to the Commission
8 each proposal for:

9 (i) A new program; or

10 (ii) A substantial modification of an existing program.

11 (2) The Commission shall review each such proposal and:

12 (i) With respect to each public institution of postsecondary
13 education, either approve or disapprove the proposal;

14 (ii) With respect to each nonpublic institution of higher education,
15 either recommend that the proposal be implemented or that the proposal not be
16 implemented; and

17 (iii) With respect to a private career school, either approve or
18 disapprove the proposal.

19 (3) If the Commission fails to act within 150 days of the date of
20 submission of the completed proposal, the proposal shall be deemed approved.

21 (4) Except as provided in paragraph (3) of this subsection, a public
22 institution of postsecondary education and private career school may not implement a
23 proposal without the prior approval of the Commission.

24 (5) Except as provided in paragraph (3) of this subsection, and subject to
25 the provisions of § 17-105 of this article, a nonpublic institution of higher education
26 may implement a proposal that has not received a positive recommendation by the
27 Commission.

28 (6) (i) If the Commission disapproves a proposal, the Commission
29 shall provide to the governing body that submits the proposal a written explanation of
30 the reasons for the disapproval.

31 (ii) After revising a proposal to address the Commission's reasons
32 for disapproval, the governing body may submit the revised proposal to the
33 Commission for approval.

34 [(b)] (C) (1) Prior to discontinuation, each institution of postsecondary
35 education that proposes to discontinue an existing program shall provide written
36 notification to the Commission specifying:

1 (i) The name of the program; and

2 (ii) The expected date of discontinuation.

3 (2) By rule or regulation, the Commission may require the payment by a
4 private career school of a refund to any student or enrollee who, because of the
5 discontinuation of an ongoing program, is unable to complete such program.

6 [(c)] (D) The Commission shall review and make recommendations on
7 programs in nonpublic institutions of higher education that receive State funds.

8 [(d)] (E) (1) In this subsection, "governing board" includes the board of
9 trustees of a community college.

10 (2) The Commission shall adopt regulations establishing standards for
11 determining whether 2 or more programs are unreasonably duplicative.

12 (3) The Commission may review existing programs at public institutions
13 of postsecondary education if the Commission has reason to believe that academic
14 programs are unreasonably duplicative or inconsistent with an institution's adopted
15 mission.

16 (4) The Commission may make a determination that an unreasonable
17 duplication of programs exists on its own initiative or after receipt of a request for
18 determination from any directly affected public institution of postsecondary
19 education.

20 (5) (i) If the Commission makes a determination under paragraph (4)
21 of this subsection the Commission may:

22 1. Make recommendations to a governing board on the
23 continuation or modification of the programs;

24 2. Require any affected governing board to submit a plan to
25 resolve the duplication; and

26 3. Negotiate, as necessary, with any affected governing board
27 until the unreasonable duplication is eliminated.

28 (ii) Notwithstanding the provisions of subparagraph (i) of this
29 paragraph, if the Commission determines that 2 or more existing programs offered by
30 institutions under the governance of different governing boards are unreasonably
31 duplicative, the governing boards of the institutions of postsecondary education at
32 which the programs are offered shall have 180 days from the date of the Commission's
33 determination to formulate and present to the Commission a joint plan to eliminate
34 the duplication.

35 (iii) If in the Commission's judgment the plan satisfactorily
36 eliminates the duplication, the governing board of the affected institutions shall be so
37 notified and shall take appropriate steps to implement the plan.

1 (iv) If in the Commission's judgment the plan does not satisfactorily
2 eliminate the duplication, or if no plan is jointly submitted within the time period
3 specified in paragraph (6) of this subsection, the governing board of the affected
4 institutions shall be so notified. The Commission may then seek to eliminate the
5 duplication by revoking the authority of a public institution of postsecondary
6 education to offer the unreasonably duplicative program.

7 (6) (i) Prior to imposing a sanction under paragraph (5) of this
8 subsection, the Commission shall give notice of the proposed sanction to the
9 governing board of each affected institution.

10 (ii) 1. Within 20 days of receipt of the notice, any affected
11 institution may request an opportunity to meet with the Commission and present
12 objections.

13 2. If timely requested, the Commission shall provide such
14 opportunity prior to the Commission's decision to impose a sanction.

15 (iii) The Commission's decision shall be final and is not subject to
16 further administrative appeal or judicial review.

17 [(e) The provisions of this section do not apply to programs offered by
18 institutions of higher education that operate in the State without a certificate of
19 approval in accordance with § 11-202(c)(2) or (3) of this subtitle.]

20 11-206.1.

21 (A) (1) A PRESIDENT OF A CONSTITUENT INSTITUTION OF THE UNIVERSITY
22 SYSTEM OF MARYLAND MAY ESTABLISH A NEW PROGRAM OR ABOLISH AN EXISTING
23 PROGRAM IF THE ACTION:

24 (I) IS CONSISTENT WITH THE INSTITUTION'S APPROVED MISSION
25 STATEMENT UNDER SUBTITLE 3 OF THIS TITLE; AND

26 (II) CAN BE IMPLEMENTED WITHIN THE EXISTING RESOURCES OF
27 THE INSTITUTION.

28 (2) THE PRESIDENT SHALL REPORT ANY PROGRAMS THAT ARE
29 ESTABLISHED OR ABOLISHED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS
30 SUBSECTION TO:

31 (I) THE BOARD OF REGENTS; AND

32 (II) THE MARYLAND HIGHER EDUCATION COMMISSION.

33 (B) THE BOARD OF REGENTS SHALL:

34 (1) REVIEW THE ACTIONS TAKEN UNDER SUBSECTION (A) OF THIS
35 SECTION; AND

36 (2) ENSURE THAT ANY NEW PROGRAM ESTABLISHED BY A PRESIDENT:

1 (I) IS CONSISTENT WITH THE INSTITUTION'S APPROVED MISSION
2 STATEMENT UNDER SUBTITLE 3 OF THIS TITLE; AND

3 (II) CAN BE IMPLEMENTED WITHIN THE EXISTING RESOURCES OF
4 THE INSTITUTION.

5 (C) (1) THE COMMISSION SHALL DETERMINE WHETHER A NEW PROGRAM
6 ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION COMPLIES WITH THE
7 EQUAL EDUCATIONAL OPPORTUNITY REQUIREMENTS OF STATE AND FEDERAL LAW.

8 (2) IF THE COMMISSION DETERMINES THAT A NEW PROGRAM
9 ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION VIOLATES AN EQUAL
10 EDUCATIONAL OPPORTUNITY REQUIREMENT OF STATE OR FEDERAL LAW:

11 (I) THE COMMISSION SHALL NOTIFY THE PRESIDENT OF THE
12 INSTITUTION AND THE BOARD OF REGENTS OF THE COMMISSION'S CONCERNS; AND

13 (II) THE INSTITUTION SHALL WORK WITH THE COMMISSION TO
14 RESOLVE THE CONCERNS BEFORE IMPLEMENTING THE PROGRAM.

15 (D) (1) THE COMMISSION SHALL:

16 (I) IDENTIFY PROGRAMS ESTABLISHED UNDER SUBSECTION (A)
17 OF THIS SECTION THAT ARE INCONSISTENT WITH THE STATE PLAN FOR HIGHER
18 EDUCATION; AND

19 (II) IDENTIFY LOW PRODUCTIVITY PROGRAMS.

20 (2) IF THE COMMISSION IDENTIFIES ANY PROGRAMS THAT MEET THE
21 CRITERIA SET FORTH IN PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION
22 SHALL NOTIFY THE PRESIDENT OF THE INSTITUTION.

23 (E) THE COMMISSION AND THE BOARD OF REGENTS OF THE UNIVERSITY
24 SYSTEM OF MARYLAND SHALL JOINTLY DEVELOP A DEFINITION AND ACCEPTED
25 CRITERIA FOR DETERMINING LOW PRODUCTIVITY PROGRAMS.

26 (F) THE COMMISSION SHALL:

27 (1) MONITOR THE PROGRAM DEVELOPMENT AND REVIEW PROCESS
28 ESTABLISHED UNDER THIS SECTION;

29 (2) REPORT ANNUALLY TO THE GOVERNOR, THE BOARD OF REGENTS,
30 AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE
31 GENERAL ASSEMBLY ON THE NATURE AND EXTENT OF ANY DUPLICATION OR
32 PROLIFERATION OF PROGRAMS; AND

33 (3) ON OR BEFORE JANUARY 1, 2002, SUBMIT A REPORT TO THE
34 GOVERNOR, THE BOARD OF REGENTS, AND, IN ACCORDANCE WITH § 2-1246 OF THE
35 STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

1 (I) THE IMPACT OF THE PROGRAM DEVELOPMENT AND REVIEW
2 PROCESS FOR THE UNIVERSITY SYSTEM OF MARYLAND ON THE QUALITY AND
3 ACCESSIBILITY OF POSTSECONDARY EDUCATION IN THE STATE; AND

4 (II) ANY INCREASED COSTS DUE TO DUPLICATION OF PROGRAMS.

5 11-303.

6 (A) The Commission, with the assistance of the presidents of the institutions
7 required to develop mission statements under this subtitle, shall establish and
8 periodically update the format of mission statements to include specific short and
9 long-range goals and measurable objectives to be achieved through the
10 implementation of the institution's performance accountability plan as required
11 under § 11-304 of this subtitle.

12 (B) THE MISSION STATEMENT DEVELOPED BY THE PRESIDENT OF A
13 CONSTITUENT INSTITUTION OF THE UNIVERSITY SYSTEM OF MARYLAND SHALL
14 INCLUDE INFORMATION NECESSARY TO MEET THE REQUIREMENTS OF THE
15 PROGRAM DEVELOPMENT AND REVIEW PROCESS ESTABLISHED UNDER § 11-206.1 OF
16 THIS TITLE.

17 12-106.

18 (a) (1) In consultation with the Presidents of the constituent institutions,
19 the Chancellor shall develop an overall plan that:

20 (i) Is consistent with the statewide plan for higher education in
21 accordance with the Charter and with the mission statements [approved by the
22 Commission;] DEVELOPED IN ACCORDANCE WITH § 11-302 OF THIS ARTICLE;

23 (ii) Sets forth both long-range and short-range goals, objectives,
24 and priorities for postsecondary education, research, and service provided by the
25 University System of Maryland and methods and guidelines for achieving and
26 maintaining them;

27 (iii) Enhances the mission of the University of Maryland, College
28 Park as the State's flagship campus with programs and faculty nationally and
29 internationally recognized for excellence in research and the advancement of
30 knowledge;

31 (iv) Maintains a coordinated Higher Education Center for Research
32 and Graduate and Professional Study in the Baltimore area;

33 (v) Recognizes the need to enhance its historically African
34 American institutions;

35 (vi) Affirms the need for increased access for
36 economically-disadvantaged and minority students;

1 (vii) Encourages and supports high quality undergraduate and
2 teacher preparation programs on its campuses;

3 (viii) Stimulates outreach to the community and the State through
4 close relationships with public elementary and secondary schools, business and
5 industry, and governmental agencies; and

6 (ix) Addresses and responds to continuing higher education needs in
7 order to maintain an educated work force in Maryland.

8 (2) The Board shall review, modify, as necessary, and approve the overall
9 plan.

10 (3) By July 1 of each year, the Board shall submit to the Maryland
11 Higher Education Commission, to the Governor and, subject to § 2-1246 of the State
12 Government Article, to the General Assembly an annual review of the plan.

13 (b) The Board of Regents shall, on an ongoing basis, review and determine
14 whether any University programs are inconsistent with the University's mission or
15 whether any constituent institution's programs are inconsistent with that
16 institution's mission[. The Board shall also assure that the University's programs are
17 not unproductive or unreasonably duplicative, taking into account the missions of the
18 institutions], student demand, and efficient use of the University's resources.

19 (c) With respect to each institution under its jurisdiction, and subject to the
20 provisions of Title 11 of this article, in consultation with the Chancellor, the Board
21 shall:

22 (1) (I) Review [and approve before implementation each proposal for:

23 (i) Any new program; and

24 (ii) Any substantial expansion, curtailment, or discontinuance of
25 any existing program;

26 (2) Review existing programs and make necessary determinations for
27 the continuation or modification, or the elimination of unreasonable duplication, in
28 existing programs] EACH NEW PROGRAM ESTABLISHED BY THE PRESIDENT OF A
29 CONSTITUENT INSTITUTION; AND

30 (II) ENSURE THAT THE NEW PROGRAM:

31 1. IS CONSISTENT WITH THE INSTITUTION'S APPROVED
32 MISSION STATEMENT IN ACCORDANCE WITH TITLE 11, SUBTITLE 3 OF THIS ARTICLE;
33 AND

34 2. CAN BE IMPLEMENTED WITHIN THE EXISTING
35 RESOURCES OF THE INSTITUTION;

36 [(3)] (2) Prescribe minimum admission standards;

1 (b) After appointment, employees in positions designated by the University
 2 shall be regarded and treated in the same manner as skilled service or professional
 3 service employees, with the exception of special appointments, in the State Personnel
 4 Management System and:

5 (1) Have all rights and privileges of skilled service or professional service
 6 employees, with the exception of special appointments, in the State Personnel
 7 Management System;

8 (2) Have the right of appeal as provided by law in any case of alleged
 9 injustice;

10 (3) Shall be paid salaries not less than those paid in similar
 11 classifications in other State agencies; [and]

12 (4) Shall retain their vacation privileges, retirement status, and benefits
 13 under the State retirement systems; AND

14 (5) HAVE THE RIGHT TO PARTICIPATE IN COLLECTIVE BARGAINING IN
 15 ACCORDANCE WITH TITLE 3 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

16 (c) Subject to subsection (b) of this section, the Board of Regents shall
 17 establish general policies and guidelines governing the appointment, compensation,
 18 advancement, tenure, and termination of all classified personnel.

19 SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 20 read as follows:

21

Chapter 345 of the Acts of 1995

22 [SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall remain
 23 effective for a period of 4 years and, at the end of June 30, 1999, with no further action
 24 required by the General Assembly, this Act shall be abrogated and of no further force
 25 and effect.]

26 SECTION 5. AND BE IT FURTHER ENACTED, That the Maryland Higher
 27 Education Commission shall develop operating and capital budget funding guidelines,
 28 in accordance with the requirements of § 11-105 of the Education Article, based on
 29 current and aspirational peer institution comparisons and other appropriate factors.
 30 The Maryland Higher Education Commission shall develop the funding guidelines in
 31 consultation with the segments of higher education.

32 Awaiting the development of the funding guidelines, the Governor is requested
 33 to include in a fiscal 2000 supplemental budget:

34 (1) A minimum funding level of \$5,000 per full-time equivalent student
 35 in fiscal year 2000 as specified in the Maryland Fiscal Year 2000 Operating Budget
 36 Book to each degree granting institution in the University System of Maryland,
 37 except for the University of Maryland University College;

1 (2) A minimum funding level of \$12,284 per full-time equivalent student
2 in fiscal year 2000 as specified in the Maryland Fiscal Year 2000 Operating Budget
3 Book to the University of Maryland, College Park;

4 (3) An additional \$7 million for the University of Maryland, Baltimore;

5 (4) An additional \$5 million for the University of Maryland Baltimore
6 County;

7 (5) An additional \$1.3 million for Bowie State University;

8 (6) An additional \$1.3 million for Coppin State University; and

9 (7) An additional \$1.3 million for University of Maryland Eastern Shore.

10 If the funding guidelines are not developed and operational by December 1,
11 1999, the Governor is requested to include in the fiscal 2001 operating budget:

12 (1) A minimum funding level of \$5,000 per full-time equivalent student
13 in fiscal year 2001 as specified in the Maryland Fiscal Year 2001 Operating Budget
14 Book to each degree granting institution in the University System of Maryland,
15 except for the University of Maryland University College; and

16 (2) A minimum funding level of \$13,443 per full-time equivalent student
17 in fiscal year 2001 as specified in the Maryland Fiscal Year 2001 Operating Budget
18 Book to the University of Maryland, College Park.

19 SECTION 6. AND BE IT FURTHER ENACTED, That the Governor is
20 requested to provide funds to:

21 (1) The Maryland Higher Education Commission to be used for strategic
22 incentive funding to distribute to institutions of higher education that encourage
23 attainment of statewide goals and priorities under § 11-105(b)(7) of the Education
24 Article; and

25 (2) The Board of Regents of the University System of Maryland to be
26 used as incentive funds to encourage each constituent institution to accomplish its
27 approved mission under § 12-104(k) of the Education Article.

28 SECTION 7. AND BE IT FURTHER ENACTED, That to initiate the strategic
29 planning process coordinated by the Maryland Higher Education Commission, that
30 will culminate in the development of a State Plan for Higher Education that is
31 supported by all major stakeholders, the Governor is requested to convene a State
32 Conference on Higher Education in 1999. Participants in the Conference shall include
33 public and private leaders; representatives of all institutions, including faculties,
34 staff, and boards of visitors; members of the Maryland Higher Education Commission
35 and governing boards; and other interested stakeholders. Following the Conference,
36 the Maryland Higher Education Commission shall continue to coordinate the
37 development of the State Plan. The State Plan shall be updated every 2 years and

1 culminate in a State Conference for Higher Education, hosted by the Governor, to
2 focus the public agenda on higher education.

3 SECTION 8. AND BE IT FURTHER ENACTED, That the Governor is
4 requested to appoint a group to conduct a thorough review of higher education
5 reporting requirements with the goal of reducing the number of required reports to a
6 minimum. The group should consider:

7 (1) Eliminating redundant reports;

8 (2) Consolidating similar reports; and

9 (3) Developing a relational database capable of generating reports in
10 various formats.

11 By December 31, 1999, the group is requested to submit a report to the Governor
12 and, in accordance with § 2-1246 of the State Government Article, the General
13 Assembly, that includes recommendations for changes in State statute, regulations,
14 and policies of the University System of Maryland to achieve the reduction of required
15 reports.

16 SECTION 9. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
17 take effect July 1, 1999. It shall remain effective for a period of 3 years and, at the end
18 of June 30, 2002, with no further action required by the General Assembly, Section 2
19 of this Act shall be abrogated and of no further force and effect.

20 SECTION 10. AND BE IT FURTHER ENACTED, That Section 3 of this Act
21 shall take effect July 1, 1999, contingent on the taking effect of Chapter
22 ____ (S.B.129/H.B.179) of the Acts of the General Assembly of 1999 and the inclusion
23 of the University System of Maryland in the applicability of the collective bargaining
24 provisions set forth in Chapter ____, and if Chapter ____ does not become effective or
25 the University System of Maryland is not subject to the collective bargaining
26 provisions in Chapter ____, Section 3 of this Act shall be null and void without the
27 necessity of further action by the General Assembly.

28 SECTION 11. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 July 1, 1999.