

SENATE BILL 682

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1999 Regular Session
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By: **The President (Administration) and Senators Blount, Hoffman, Lawlah,
Middleton, and Neall**

Introduced and read first time: February 15, 1999

Rules suspended

Assigned to: Budget and Taxation and Economic and Environmental Affairs

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

1 payments to certain institutions not exceed certain amounts; establishing
2 certain eligibility criteria; requiring certain foundations to provide certain
3 information annually; defining certain terms; providing for the application of
4 Private Donation Incentive Program funds; prohibiting Private Donation
5 Incentive Program funds from being included in the computation of certain
6 types of aid; providing for the administration of the Private Donation Incentive
7 Program; establishing a new program review and approval process for the
8 institutions in the University System of Maryland; exempting the University
9 System of Maryland from certain requirements for information technology and
10 telecommunication; exempting the University System of Maryland from certain
11 provisions of law governing the oversight of public improvement projects by the
12 Department of General Services; requiring the Department of General Services
13 to advise the Board of Public Works on certain contracts that exceed a certain
14 amount under certain circumstances; requiring certain procurements by the
15 University System of Maryland to comply with certain policies and procedures;
16 requiring certain contracts that exceed a certain amount to be subject to review
17 and approval by the Board of Public Works; making certain employees of the
18 University System of Maryland eligible to participate in collective bargaining
19 under certain circumstances and contingent on the passage of certain
20 legislation; authorizing presidents to establish and abolish certain programs
21 under certain circumstances; requiring the Board of Regents to review certain
22 actions; requiring the Commission to review certain actions to determine
23 whether they comply with certain requirements of State and federal law;
24 requiring presidents to resolve certain concerns regarding compliance with
25 certain laws before implementing certain programs; requiring the Commission
26 to monitor the new program development and review process and submit a
27 certain report; providing for the termination of the program development and
28 review process after a certain period of time; defining a certain term; requiring
29 the Commission to develop certain funding guidelines; requesting the Governor
30 to include certain funding in certain budgets; requiring the Governor to convene
31 a certain conference for certain purposes and to establish a group to review
32 certain reporting requirements and make certain recommendations by a certain
33 date; and generally relating to the coordination, governance, and funding of
34 higher education in the State.

35 BY adding to

36 Article - Education

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

41 Annotated Code of Maryland

42 (1997 Replacement Volume and 1998 Supplement)

43 BY repealing and reenacting, with amendments,

44 Article - Education

45 Section 11-105(h), 11-206, 11-302, 11-303, 12-102, 12-104, 12-105, 12-106,

1 12-109(e)(1), (2), (3), and (16), 12-111, 13-203, 13-205, 13-207, and
2 17-104
3 Annotated Code of Maryland
4 (1997 Replacement Volume and 1998 Supplement)

5 BY repealing and reenacting, without amendments,
6 Article - Education
7 Section 12-109(e)(5) and (g)
8 Annotated Code of Maryland
9 (1997 Replacement Volume and 1998 Supplement)

10 BY repealing and reenacting, with amendments,
11 Article - State Finance and Procurement
12 Section 3-401, 3-703, 4-402, 4-406, 4-410, and 11-203
13 Annotated Code of Maryland
14 (1995 Replacement Volume and 1998 Supplement)

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

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

24 Preamble

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 **Article - Education**

16 10-101.

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

20 11-105.

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

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

28 (i) The Board of Regents of the University System of Maryland;

29 (ii) The Board of Regents of Morgan State University;

30 (iii) The Board of Trustees of St. Mary's College of Maryland;

31 (iv) The Maryland Higher Education Loan Corporation;

32 (v) The State Advisory Council for Title I of the Higher Education
33 Act of 1965;

34 (vi) The Board of Trustees of Baltimore City Community College;
35 and

1 (vii) The Board of the Maryland Higher Education Investment
2 Program.

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

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

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

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

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

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

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

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

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

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

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

- 1 1. The University System of Maryland;
- 2 2. Morgan State University;
- 3 3. St. Mary's College of Maryland;
- 4 4. All funding for the Maryland Higher Education
5 Commission, including the funding of:
- 6 A. The Joseph A. Sellinger Program;
- 7 B. The Senator John A. Cade Funding Formula;
- 8 C. Fringe benefits provided under aid to community colleges;
9 and
- 10 D. All scholarship and grant programs administered by the
11 Commission; and
- 12 5. Baltimore City Community College.

13 (ii) It is the intent of the General Assembly that, barring
14 unforeseen economic conditions, the Governor shall include in the annual budget
15 submission for Fiscal Year 2000 and each year thereafter, an amount of General Fund
16 State support for higher education equal to or greater than the amount appropriated
17 in the prior year.

18 (iii) It is the goal of the State that General Fund and capital state
19 support for higher education be funded annually in amounts that are no less than the
20 following percentages of total General Fund State revenues:

- 21 1. 12.5 percent in Fiscal Year 2000;
- 22 2. 13.5 percent in Fiscal Year 2001;
- 23 3. 14.5 percent in Fiscal Year 2002;
- 24 4. 15 percent in Fiscal Year 2003; and
- 25 5. 15.5 percent in Fiscal Year 2004.

26 11-302.

27 (a) (1) The president of each public institution of higher education is
28 responsible for developing a mission statement.

29 (2) The president shall submit the mission statement to the institution's
30 governing board.

31 (3) Upon the direction of the governing board, the president shall update
32 the mission statement at least every 5 years.

1 (b) (1) The governing board:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (ii) The governing board shall negotiate with the Commission and
35 amend the statement or direct the president of the institution to prepare a new

1 statement] IF THE COMMISSION DETERMINES THAT THE MISSION STATEMENT IS
2 INCONSISTENT WITH THE STATE PLAN FOR HIGHER EDUCATION, THE COMMISSION
3 SHALL RETURN THE STATEMENT TO THE GOVERNING BOARD WITH COMMENTS
4 THAT INCLUDE THE SPECIFIC AREAS OF INCONSISTENCY.

5 11-303.

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

- 10 (1) Specific] SPECIFIC short and long-range goals and measurable
11 objectives to be achieved THROUGH THE IMPLEMENTATION OF THE INSTITUTION'S
12 PERFORMANCE ACCOUNTABILITY PLAN AS REQUIRED UNDER § 11-304 OF THIS
13 SUBTITLE[, including graduation and retention rates and equal opportunity goals;
- 14 (2) Level of academic degrees offered;
- 15 (3) Fields of academic degrees offered;
- 16 (4) Characteristics of students and other populations to be served;
- 17 (5) Characteristics of faculty;
- 18 (6) A list of institutional peers;
- 19 (7) Areas of research activity;
- 20 (8) Areas of service activity including economic development and
21 services to the public schools; and
- 22 (9) Other items as required by the Commission].

23 SUBTITLE 7. COLLEGE PREPARATION INTERVENTION PROGRAM.

24 11-701.

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

29 11-702.

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

1 11-703.

2 THE COLLEGE PREPARATION INTERVENTION PROGRAM MAY INCLUDE
3 ACTIVITIES TO:

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

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

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

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

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

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

22 (II) THE CAMPUS ENROLLMENT AND TRANSFER PATTERNS OF
23 STUDENTS;

24 (III) THE PROGRAM CHOICES OF THE STUDENTS;

25 (IV) THE PERFORMANCE OF THE STUDENTS ON ACHIEVEMENT
26 TESTS; AND

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

28 11-704.

29 EACH YEAR, THE COMMISSION SHALL SUBMIT A REPORT TO THE GOVERNOR
30 AND THE GENERAL ASSEMBLY OF MARYLAND ADDRESSING THE STATUS OF THE
31 COLLEGE PREPARATION INTERVENTION PROGRAM.

32 11-705.

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

1 12-102.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (1) Serves without compensation; and

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

3 12-104.

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

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

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

12 (2) ADOPT AND ALTER AN OFFICIAL SEAL;

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

14 (4) MAINTAIN AN OFFICE AT THE PLACE THE BOARD OF REGENTS MAY
15 DESIGNATE;

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

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

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

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

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

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

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

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

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

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

10 (3) The charter of any constituent institution.

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

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

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

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

17 (i) The concurrence of the Maryland Higher Education
18 Commission; and

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

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

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

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

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

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

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

1 [(g) (1) The Board:

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

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

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

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

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

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

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

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

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

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

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

1 (II) CONSISTENT WITH THE GOALS, OBJECTIVES, AND PRIORITIES
2 OF THE BOARD OF REGENTS AND ITS LEGAL RESPONSIBILITY FOR THE EFFICIENT
3 MANAGEMENT OF THE UNIVERSITY, SHALL DELEGATE TO THE PRESIDENT OF EACH
4 CONSTITUENT INSTITUTION AUTHORITY TO MAKE AND IMPLEMENT POLICIES
5 PROMOTING THE MISSION OF THAT INSTITUTION, INCLUDING THE AUTHORITY TO
6 ESTABLISH POLICIES APPROPRIATE TO THE INSTITUTION'S MISSION, SIZE,
7 LOCATION, AND FINANCIAL RESOURCES.

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

10 (3) THE BOARD OF REGENTS SHALL DEVELOP POLICIES AND
11 GUIDELINES THAT:

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

14 (II) ESTABLISH AND MONITOR HIGH STANDARDS OF OPERATION,
15 INCLUDING MEETING APPROPRIATE QUALITY BENCHMARKS, USING RESOURCES
16 WISELY AND EFFICIENTLY, MANAGING PERSONNEL EQUITABLY, ADHERING TO
17 INSTITUTIONAL MISSION, AND MEETING THE EDUCATIONAL NEEDS OF THE
18 STUDENTS; AND

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

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

28 (M) THE BOARD OF REGENTS MAY DISTRIBUTE STRATEGIC INCENTIVE FUNDS
29 TO A CONSTITUENT INSTITUTION TO ENCOURAGE ATTAINMENT OF ITS APPROVED
30 MISSION.

31 12-105.

32 (a) (1) In consultation with the institutions and the Chancellor, the Board
33 shall:

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

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

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

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

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

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

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

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

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

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

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

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

24 (3) (i) Such borrowing does not create or constitute any indebtedness
25 or obligation of the State or any political subdivision of the State other than the
26 University.

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

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

31 (i) In the State treasury; or

32 (ii) As the State Treasurer directs.

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

1 (3) All unexpended or unencumbered balances of the University's
2 revenues:

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

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

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

9 (4) The provisions of this subsection may not be interpreted in any way
10 that would diminish the authority of the Board of Regents under [§ 12-104(b)] §
11 12-104(C) of this article.

12 (5) The interest or other income from the investment of any funds of the
13 University shall be credited to the University, provided that any interest estimated to
14 be earned on the State appropriation must be offset by an equivalent reduction in
15 State General Fund support, and such amount will be reported annually, subject to §
16 2-1246 of the State Government Article, to the General Assembly.

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

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

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

26 12-109.

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

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

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

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

1 (16) Have the authority to establish AND APPOINT an institutional board
2 to:

3 (i) Provide advice to the president;

4 (ii) Assist in community relations;

5 (iii) Assist in institutional development; or

6 (iv) Provide any other assistance requested by the president;

7 (g) (1) Subsection (e)(5) of this section may not be construed to require any
8 additional State General Fund support.

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

11 12-112.

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

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

18 (II) THE POLICIES AND PROCEDURES DEVELOPED UNDER
19 SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL PROMOTE THE PURPOSES OF THE
20 STATE PROCUREMENT LAW AS SET FORTH IN § 11-201 OF THE STATE FINANCE AND
21 PROCUREMENT ARTICLE.

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

29 12-113.

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

35 (B) (1) A BUSINESS ENTITY ESTABLISHED, INVESTED IN, FINANCED, OR
36 OPERATED IN ACCORDANCE WITH THIS SUBSECTION MAY NOT BE CONSIDERED AN

1 AGENCY OR INSTRUMENTALITY OF THE STATE OR A UNIT OF THE EXECUTIVE
2 BRANCH FOR ANY PURPOSE; AND

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

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

9 (1) THE BUSINESS ENTITIES ESTABLISHED IN ACCORDANCE WITH THIS
10 SECTION;

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

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

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

16 13-203.

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

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

35 (2) Both employee and department head or chairman or designee shall
36 continue to review the matter, either privately or with the help of others in the
37 employee's immediate work unit who are directly involved in the grievance. Each
38 department head or chairman or designee shall use judgment in keeping superiors
39 informed of the status of each grievance and, if necessary, request guidance, advisory
40 committees, or other assistance consistent with departmental policy. If either the

1 employee or the department head or chairman or designee feels the need for aid in
2 arriving at a solution, the campus personnel department may be requested to provide
3 resource staff or any other available resource personnel may be invited to participate
4 in further discussions. The addition of such participants does not relieve the
5 department head or chairman or designee and the employee from responsibility for
6 resolving the problem.

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

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

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

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

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

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

3 13-205.

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

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

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

43 (2) Rejection on Promotional, Transfer, or Horizontal Change Probation.
44 Within 5 days of receipt of the recommendation of the department head or chairman

1 to reject, an employee who is promoted and then rejected within the probationary
2 period for the new class and for whom a vacancy in the former class is not available
3 may file an answer with the [Chancellor or the Chancellor's] PRESIDENT OR THE
4 PRESIDENT'S designated representative and request an investigation of the proposed
5 rejection. Within 20 days, if possible, after receipt, the [Chancellor or the
6 Chancellor's] PRESIDENT OR THE PRESIDENT'S designated representative shall
7 investigate the proposed rejection. The same rule applies to an employee who has
8 completed a probationary period in one classification and makes a horizontal change
9 to a new classification, and is rejected in the new classification or who transfers to
10 another department in the same classification and is rejected. Within 15 days
11 following the conclusion of the investigation, the written decision shall be rendered to
12 the employee. If the investigation is timely requested and the rejection is upheld, step
13 three of the grievance procedure is available to the rejected employee. The appeal
14 shall be submitted within 10 days after receipt of the written University decision.

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

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

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

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

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

41 (2) Within 5 working days of the notice of suspension, the employee may
42 request in writing that the [Chancellor or the Chancellor's] PRESIDENT OR THE
43 PRESIDENT'S designated representative, in addition to conducting a hearing on the

1 merits, conduct a preliminary hearing to determine whether or not the employee may
2 continue to work with pay pending the disposition of the charges.

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

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

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

11 (ii) Whether other employment and status alternatives should be
12 considered.

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

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

15 (ii) Allege mitigating circumstances; and

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

17 1. Return to the position with pay;

18 2. Transfer to another position with pay; or

19 3. Suspension with pay.

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

25 13-207.

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

34 (b) The Governor shall provide in the annual State budget adequate funds for
35 the satisfaction of any final monetary or benefit award or judgment that has been

1 rendered in favor of the employee against the University in any administrative,
2 arbitration, or judicial proceeding.

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

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

11 17-104.

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

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

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

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

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

28 SUBTITLE 3. PRIVATE DONATION INCENTIVE PROGRAM.

29 17-301.

30 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
31 INDICATED.

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

33 (C) "ELIGIBLE INSTITUTION" MEANS:

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

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

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

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

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

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

15 17-302.

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

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

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

26 (3) AN AMOUNT EQUAL TO ONE-THIRD OF THE AMOUNT IN EXCESS OF
27 \$1,250,000 OR ANY PORTION THEREOF OF PLEDGED AMOUNTS.

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

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

31 (2) IN THE FISCAL YEAR FOLLOWING THE FISCAL YEAR DURING WHICH
32 THE AMOUNTS ARE PAID.

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

34 (1) \$250,000 TO EACH COMMUNITY COLLEGE;

35 (2) \$1,250,000 EACH TO THE UNIVERSITY OF MARYLAND, COLLEGE PARK,
36 AND THE UNIVERSITY OF MARYLAND, BALTIMORE; AND

1 (3) \$750,000 TO EACH OTHER ELIGIBLE INSTITUTION.

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

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

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

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

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

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

15 17-303.

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

21 17-304.

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

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

29 17-305.

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

1 17-306.

2 THE MARYLAND HIGHER EDUCATION COMMISSION SHALL:

3 (1) ADOPT REGULATIONS NECESSARY FOR THE ADMINISTRATION OF
4 THIS SUBTITLE; AND

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

9 **Article - State Finance and Procurement**

10 3-401.

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

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

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

17 (3)] (2) the Maryland Port Administration; OR

18 (3) THE UNIVERSITY SYSTEM OF MARYLAND.

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

24 3-703.

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

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

31 4-402.

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

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

- 1 (ii) any housing authority created under Article 44A of the Code;
- 2 (iii) the Maryland-National Capital Park and Planning
3 Commission;
- 4 (iv) the Washington Suburban Sanitary Commission;
- 5 (v) the Baltimore County Metropolitan District; [or]
- 6 (vi) a county, municipal corporation, or unit of a county or municipal
7 corporation; OR
- 8 (VII) THE UNIVERSITY SYSTEM OF MARYLAND.

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

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

15 (c) The Board of Public Works shall adopt regulations in accordance with Title
16 10, Subtitle 1 of the State Government Article establishing procedures for the
17 exemption of specific projects of units of State government under subsection (b) of this
18 section.

19 4-406.

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

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

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

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

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

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

34 (5) AT THE REQUEST OF THE BOARD OF PUBLIC WORKS, THE
35 DEPARTMENT SHALL ADVISE THE BOARD OF PUBLIC WORKS ON ANY CONTRACT

1 THAT EXCEEDS \$500,000 IF THE CONTRACT INVOLVES AN ENGINEERING QUESTION
2 OR A MATTER CONCERNING A PUBLIC IMPROVEMENT UNDERTAKEN BY THE
3 UNIVERSITY SYSTEM OF MARYLAND.

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

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

8 (2) tabulate and record the bids; and

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

10 (c) The Department shall supervise each appraisal related to a public
11 improvement.

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

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

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

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

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

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

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

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

32 4-410.

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

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

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

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

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

9 (2) for architectural and engineering services costing more than
10 \$100,000, the Department shall make a recommendation for the award of a contract;

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

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

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

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

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

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

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

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

32 (5) the Department shall prepare an agenda item for the Board of Public
33 Works authorizing transfer to the University of the funds equal to the contract, plus
34 5% for use as a contingency fund for change orders. If the 5% contingency fund is
35 insufficient to complete the project, the Department shall review the change
36 conditions and make a recommendation to the Board of Public Works concerning the
37 transfer of additional funds;

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

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

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

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

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

16 11-203.

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

19 (1) procurement by:

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

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

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

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

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

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

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

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

- 1 (ix) the Maryland State Planning Council on Developmental
2 Disabilities, for services to support demonstration, pilot, and training programs;
- 3 (x) the Maryland Automobile Insurance Fund;
- 4 (xi) the Maryland Historical Trust for:
- 5 1. surveying and evaluating architecturally, archeologically,
6 historically, or culturally significant properties; and
- 7 2. other than as to architectural services, preparing historic
8 preservation planning documents and educational material;
- 9 (xii) the University of Maryland, for University College Overseas
10 Programs, if the University adopts regulations that:
- 11 1. establish policies and procedures governing procurement
12 for University College Overseas Programs; and
- 13 2. promote the purposes stated in § 11-201(a) of this subtitle;
- 14 (xiii) St. Mary's College of Maryland;
- 15 (xiv) the Department of Business and Economic Development, for
16 negotiating and entering into private sector cooperative marketing projects that
17 directly enhance promotion of Maryland and the tourism industry where there will be
18 a private sector contribution to the project if not less than 50% of the total cost of the
19 project, if the project is reviewed by the Attorney General and approved by the
20 Secretary of Business and Economic Development or the Secretary's designee;
- 21 (xv) the Forvm for Rural Maryland; and
- 22 (xvi) the Maryland State Lottery Agency, for negotiating and
23 entering into private sector cooperative marketing projects that directly enhance
24 promotion of the Maryland State Lottery and its products, if the cooperative
25 marketing project:
- 26 1. provides a substantive promotional or marketing value
27 that the lottery determines acceptable in exchange for advertising or other
28 promotional activities provided by the lottery;
- 29 2. does not involve the advertising or other promotion of
30 alcohol or tobacco products; and
- 31 3. is reviewed by the Attorney General and approved by the
32 Maryland Lottery Director or the Director's designee.
- 33 (2) procurement by a unit from:
- 34 (i) another unit;

- 1 (ii) a political subdivision of the State;
- 2 (iii) an agency of a political subdivision of the State;
- 3 (iv) a government, including the government of another state, of the
4 United States, or of another country;
- 5 (v) an agency or political subdivision of a government; or
- 6 (vi) a bistate, multistate, bicounty, or multicounty governmental
7 agency; or

8 (3) procurement in support of enterprise activities for the purpose of:

- 9 (i) direct resale; or
- 10 (ii) remanufacture and subsequent resale.

11 (b) (1) The following provisions of this Division II apply to each procurement
12 enumerated in subsection (a) of this section:

- 13 (i) § 11-205 of this subtitle ("Fraud in procurement");
- 14 (ii) § 12-204 of this article ("Board approval for designated
15 contracts");
- 16 (iii) Title 12, Subtitle 2 of this article ("Supervision of Capital
17 Expenditures and Real Property Leases");
- 18 (iv) § 13-219 of this article ("Required clauses - Nondiscrimination
19 clause");
- 20 (v) § 13-221 of this article ("Disclosures to Secretary of State");
- 21 (vi) Title 16 of this article ("Debarment of Contractors"); and
- 22 (vii) Title 17 of this article ("Special Provisions - State and Local
23 Subdivisions").

24 (2) A procurement by an entity listed in subsection (a)(1)(i) through (xv)
25 of this section shall be made under procedures that promote the purposes stated in §
26 11-201(a) of this subtitle.

27 (3) (i) A unit that procures human, social, or educational services from
28 an entity enumerated in subsection (a)(2) of this section shall publish in the Contract
29 Weekly notice of a procurement contract or an extension or renewal of a procurement
30 contract if:

31 1. the procurement contract, extension, or renewal costs
32 more than \$25,000; and

Article - Education

1

2 11-206.

3 (A) THIS SECTION DOES NOT APPLY TO:

4 (1) THE BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF
5 MARYLAND; AND6 (2) PROGRAMS OFFERED BY INSTITUTIONS OF HIGHER EDUCATION
7 THAT OPERATE IN THE STATE WITHOUT A CERTIFICATE OF APPROVAL IN
8 ACCORDANCE WITH § 11-202(C)(2) OR (3) OF THIS SUBTITLE.9 [(a)] (B) (1) Prior to the proposed date of implementation, the governing
10 body of an institution of postsecondary education shall submit to the Commission
11 each proposal for:

12 (i) A new program; or

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

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

15 (i) With respect to each public institution of postsecondary
16 education, either approve or disapprove the proposal;17 (ii) With respect to each nonpublic institution of higher education,
18 either recommend that the proposal be implemented or that the proposal not be
19 implemented; and20 (iii) With respect to a private career school, either approve or
21 disapprove the proposal.22 (3) If the Commission fails to act within 150 days of the date of
23 submission of the completed proposal, the proposal shall be deemed approved.24 (4) Except as provided in paragraph (3) of this subsection, a public
25 institution of postsecondary education and private career school may not implement a
26 proposal without the prior approval of the Commission.27 (5) Except as provided in paragraph (3) of this subsection, and subject to
28 the provisions of § 17-105 of this article, a nonpublic institution of higher education
29 may implement a proposal that has not received a positive recommendation by the
30 Commission.31 (6) (i) If the Commission disapproves a proposal, the Commission
32 shall provide to the governing body that submits the proposal a written explanation of
33 the reasons for the disapproval.

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

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

7 (i) The name of the program; and

8 (ii) The expected date of discontinuation.

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

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

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

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

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

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

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

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

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

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

34 (ii) Notwithstanding the provisions of subparagraph (i) of this
35 paragraph, if the Commission determines that 2 or more existing programs offered by
36 institutions under the governance of different governing boards are unreasonably

1 duplicative, the governing boards of the institutions of postsecondary education at
2 which the programs are offered shall have 180 days from the date of the Commission's
3 determination to formulate and present to the Commission a joint plan to eliminate
4 the duplication.

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

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

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

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

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

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

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

27 11-206.1.

28 (A) (1) A PRESIDENT OF A CONSTITUENT INSTITUTION OF THE UNIVERSITY
29 SYSTEM OF MARYLAND MAY ESTABLISH A NEW PROGRAM OR ABOLISH AN EXISTING
30 PROGRAM IF THE ACTION:

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

33 (II) CAN BE IMPLEMENTED WITHIN THE EXISTING RESOURCES OF
34 THE INSTITUTION.

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

1 (I) THE BOARD OF REGENTS; AND

2 (II) THE MARYLAND HIGHER EDUCATION COMMISSION.

3 (B) THE BOARD OF REGENTS SHALL:

4 (1) REVIEW THE ACTIONS TAKEN UNDER SUBSECTION (A) OF THIS
5 SECTION; AND

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

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

9 (II) CAN BE IMPLEMENTED WITHIN THE EXISTING RESOURCES OF
10 THE INSTITUTION.

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

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

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

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

21 (D) (1) THE COMMISSION SHALL:

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

25 (II) IDENTIFY LOW PRODUCTIVITY PROGRAMS.

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

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

32 (F) THE COMMISSION SHALL:

33 (1) MONITOR THE PROGRAM DEVELOPMENT AND REVIEW PROCESS
34 ESTABLISHED UNDER THIS SECTION;

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

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

8 (I) THE IMPACT OF THE PROGRAM DEVELOPMENT AND REVIEW
9 PROCESS FOR THE UNIVERSITY SYSTEM OF MARYLAND ON THE QUALITY AND
10 ACCESSIBILITY OF POSTSECONDARY EDUCATION IN THE STATE; AND

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

12 11-303.

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

19 (B) THE MISSION STATEMENT DEVELOPED BY THE PRESIDENT OF A
20 CONSTITUENT INSTITUTION OF THE UNIVERSITY SYSTEM OF MARYLAND SHALL
21 INCLUDE INFORMATION NECESSARY TO MEET THE REQUIREMENTS OF THE
22 PROGRAM DEVELOPMENT AND REVIEW PROCESS ESTABLISHED UNDER § 11-206.1 OF
23 THIS TITLE.

24 12-106.

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

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

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

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

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

3 (v) Recognizes the need to enhance its historically African
4 American institutions;

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

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

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

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

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

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

19 (b) The Board of Regents shall, on an ongoing basis, review and determine
20 whether any University programs are inconsistent with the University's mission or
21 whether any constituent institution's programs are inconsistent with that
22 institution's mission]. The Board shall also assure that the University's programs are
23 not unproductive or unreasonably duplicative, taking into account the missions of the
24 institutions], student demand, and efficient use of the University's resources.

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

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

29 (i) Any new program; and

30 (ii) Any substantial expansion, curtailment, or discontinuance of
31 any existing program;

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

36 (II) ENSURE THAT THE NEW PROGRAM:

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

4 2. CAN BE IMPLEMENTED WITHIN THE EXISTING
 5 RESOURCES OF THE INSTITUTION;

6 [(3)] (2) Prescribe minimum admission standards;

7 [(4)] (3) Establish general guidelines for tuition and fees;

8 [(5)] (4) Establish and implement:

9 (i) Procedures for transfer of student and faculty between
 10 constituent institutions;

11 (ii) Cooperative programs among the constituent and other
 12 institutions to assure appropriate flexibility in the University System of Maryland;
 13 and

14 (iii) Standards for the reciprocal acceptance of credits; and

15 [(6)] (5) (i) Review annually the long-range and short-range plans,
 16 goals, and objectives of each constituent institution for consistency with the objectives
 17 and priorities of the Board;

18 (ii) Monitor the progress of each constituent institution toward
 19 approved goals and objectives; and

20 (iii) Hold the president accountable for progress toward the goals
 21 and objectives.

22 (d) In consultation with the Chancellor and the presidents, the Board may
 23 adopt policies providing for:

24 (1) The discipline, suspension, expulsion, or reinstatement of any
 25 student; and

26 (2) The recognition and conduct of student organizations and athletic
 27 programs and activities.

28 12-109.

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

31 (2) Have the authority to develop new academic programs and curtail or
 32 eliminate existing programs IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN
 33 § 11-206.1 OF THIS ARTICLE;

1 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
2 read as follows:

3 **Article - Education**

4 12-111.

5 (a) Except as otherwise provided by law, appointments of the University
6 System of Maryland are not subject to or controlled by the provisions of the State
7 Personnel and Pensions Article that govern the State Personnel Management System.

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

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

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

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

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

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

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

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

28 **Chapter 345 of the Acts of 1995**

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

33 SECTION 5. AND BE IT FURTHER ENACTED, That the Maryland Higher
34 Education Commission shall develop operating and capital budget funding guidelines,
35 in accordance with the requirements of § 11-105 of the Education Article, based on
36 current and aspirational peer institution comparisons and other appropriate factors.

1 The Maryland Higher Education Commission shall develop the funding guidelines in
2 consultation with the segments of higher education.

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

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

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

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

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

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

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

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

18 If the funding guidelines are not developed and operational by December 1,
19 1999, the Governor is requested to include in the fiscal 2001 operating budget:

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

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

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

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

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

1 SECTION 7. AND BE IT FURTHER ENACTED, That to initiate the strategic
2 planning process coordinated by the Maryland Higher Education Commission, that
3 will culminate in the development of a State Plan for Higher Education that is
4 supported by all major stakeholders, the Governor is requested to convene a State
5 Conference on Higher Education in 1999. Participants in the Conference shall include
6 public and private leaders; representatives of all institutions, including faculties,
7 staff, and boards of visitors; members of the Maryland Higher Education Commission
8 and governing boards; and other interested stakeholders. Following the Conference,
9 the Maryland Higher Education Commission shall continue to coordinate the
10 development of the State Plan. The State Plan shall be updated every 2 years and
11 culminate in a State Conference for Higher Education, hosted by the Governor, to
12 focus the public agenda on higher education.

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

- 17 (1) Eliminating redundant reports;
- 18 (2) Consolidating similar reports; and
- 19 (3) Developing a relational database capable of generating reports in
20 various formats.

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

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

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

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