Department of Legislative Services

Office of the Executive Director
Maryland General Assembly

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Executive Director

April 15, 2004

Honorable Thomas V. Mike Miller, Jr., President of the Senate
Honorable Michael E. Busch, Speaker of the House of Delegates
Honorable Members of the General Assembly

Ladies and Gentlemen:

I am pleased to present you with *The 90 Day Report - A Review of the 2004 Legislative Session.*

Once again *The 90 Day Report* consists of a single volume. *The Report* is divided into 13 parts, each dealing with a major policy area. Each part contains a discussion of the majority of bills passed in that policy area, including comparisons with previous sessions and current law, background information, and a discussion of significant bills that did not pass. Information relating to the Operating Budget, Capital Budget, and aid to local governments is found in Part A.

I hope that you will find *The 90 Day Report* as helpful this year as you have in the past. The *Effect of the 2004 Legislative Program on the Financial Condition of the State* will be issued after the Governor has taken final action on all bills.

Sincerely,

Karl S. Aro
Executive Director

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Part A
Budget and State Aid

Operating Budget

Efforts to balance the budget over the past several years largely centered on a combination of budget reductions, one-time fund transfers, imposition of short-term revenue increases, and to a lesser extent ongoing revenue enhancements. These efforts ensured balance on a cash basis, but failed to address the underlying problem. Legislation to permit video lottery terminals at horse racing facilities, a key component of the newly elected Governor's plan to fund education aid and address the structured budget deficit, failed at the 2003 session.

Budget in Brief

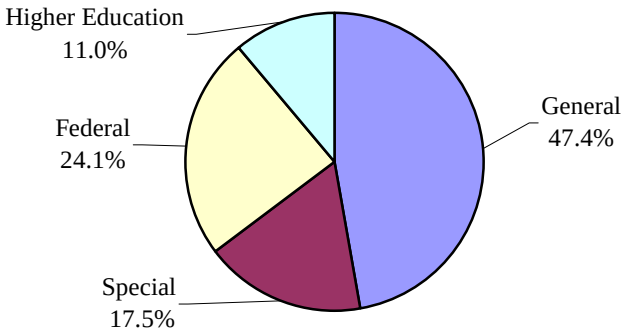
Governor Ehrlich introduced a fiscal 2005 spending plan that again relied upon one-time revenues, limited ongoing revenues, and contingent budget reductions. The Administration's vision for fiscal equilibrium in subsequent years again relied upon the introduction of video lottery terminals, a position later endorsed by passage through the Senate.

The House of Delegates developed an alternative concept built around a package of revenue enhancements offset by property tax relief and expansion of the refundable earned income tax credit. These issues were ultimately resolved by the failure to adopt any major ongoing revenue measures, and a flurry of activity in the final days of session to produce a balanced operating budget, budget reconciliation and revenue legislation, and a capital budget.

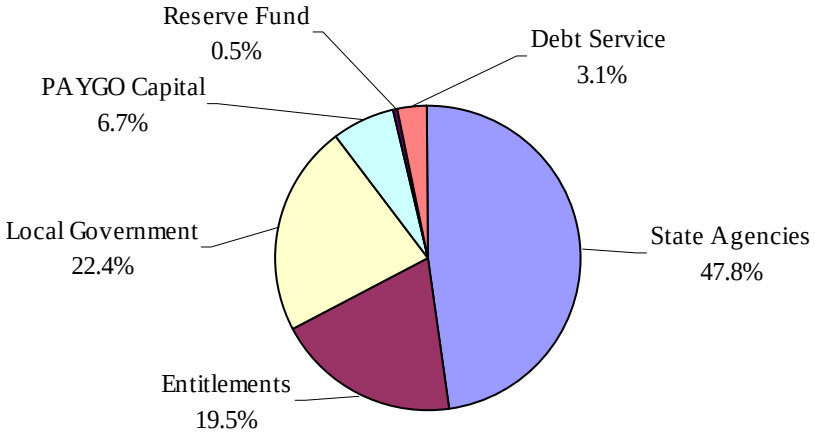
As enacted, the Budget Bill, ***Senate Bill 125 (enacted),*** provides $23.6 billion in appropriations for fiscal 2005, an increase of $710.5 million (3.1%) over fiscal 2004. **Exhibit A-1.1** illustrates funding by type of revenue. Slightly less than one-half of the budget is supported by general funds, with lesser proportions supported by dedicated special funds, federal aid, and higher education dollars. State agency operations constitute the largest area of spending, representing 47.8 percent of the total budget. Aid to local governments accounts for 22.4 percent of the budget, and 19.5 percent supports entitlement programs.

Exhibit A-1.1

Maryland's $23.6 Billion Budget
Where It Comes from: Budget by Fund Source



Where It Goes: Budget by Purpose



Remaining appropriations fund PAYGO capital spending, pay debt service on State general obligation bonds, and set aside funds in accounts of the State's Reserve Fund.

General fund spending grows $887.6 million, or 8.6 percent above the fiscal 2004 level. Ongoing spending rises 7.7 percent, when appropriations to the State Reserve Fund and for PAYGO capital are excluded. General fund budget growth is driven mostly by spending on entitlements and aid to local jurisdictions, which grow 11.2 percent and 8.5 percent respectively. State aid increases primarily due to Chapter 288, Acts of 2002, the Bridge to Excellence in Public Schools Act, which mandates substantial annual increases in education aid through fiscal 2008. Entitlement spending is driven mostly by the Medicaid program and reflects the substitution of general funds for one-time federal and special funds received in fiscal 2004. Within State agencies, another $90 million is provided to substitute for one-time federal aid that was received in fiscal 2004 and used to fund the Department of State Police budget. Funding for a number of small enhancements was included for need-based scholarships, a second phase of personnel to reduce public defender caseloads, juvenile justice programs, and substance abuse treatment.

Higher education fund appropriations increase by $118.9 million, or 4.8 percent in fiscal 2005. Most of this additional spending reflects tuition and other revenue growth. Federal and special fund appropriations both decrease in the budget. Special funds decrease by $133.4 million, or 3.1 percent due largely to project cash flow in the transportation capital program. Federal funds decline $162.7 million, or 2.8 percent due again to transportation capital cash flow but also due to the one-time federal aid that was received in fiscal 2004 that artificially boosted the appropriation.

Actions related to State personnel provide for a $752 per employee general salary increase, salary increments, selected position reclassifications, and more generally for fringe benefit cost increases. A position cap was again adopted for fiscal 2005, with the modification that it now only applies to non-higher education positions in the Executive Branch. The cap was set at 52,834 regular authorized positions, which will require the abolition of another 351 positions by the Governor by June 15, 2004. Funding for the employee deferred compensation match program was again deleted from the budget as a cost savings measure. For a more detailed discussion of personnel issues see the subpart "Personnel" within this Part A.

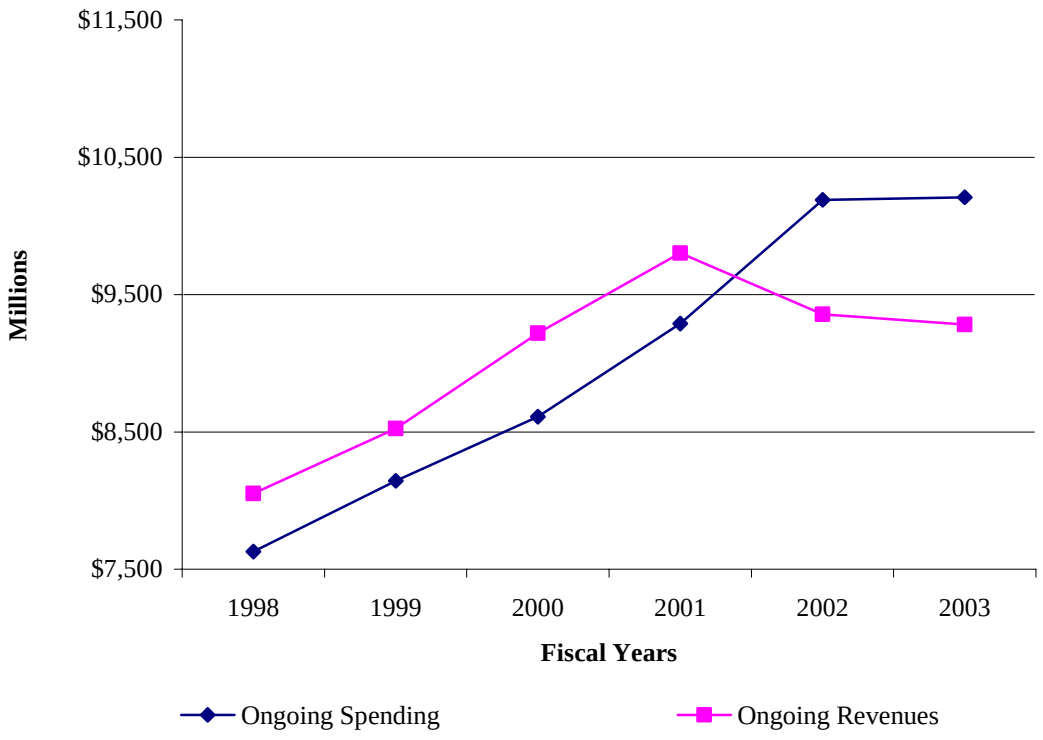
Framing the Session

What Is Past Is Prologue

The circumstances facing the General Assembly in 2004 were shaped by events and actions that were set in motion as early as 2001, as general fund revenues fell during the economic downturn that began in March 2001 and were exacerbated by terrorist action in September 2001. Legislation enacted in 2002 established annual funding mandates for local education aid, but contained a "trigger" provision that had to be acted upon in 2004.

Revenue Decline: As indicated in **Exhibit A-1.2**, actual ongoing general fund revenue attainment fell 5 percent in fiscal 2002 and another 1 percent in 2003. Although efforts were undertaken to reduce spending, appropriations were not reduced to the level that revenues had fallen. So, even though economic activity has improved recently the growth is from a lower base.

Exhibit A-1.2
Ongoing Revenue and Expenditure Trends
Fiscal 1998 – 2003



Bridge to Excellence in Public Schools Act Developments: Chapter 288, Acts of 2002 mandated significant increases in primary and secondary education aid. The legislation required roughly 10 percent increases in education aid, which was expected to result in a cumulative increase of $1.3 billion by fiscal 2008. First year funding was provided by an increase in the cigarette tax, but revenue to fully fund complete implementation was not provided.

A provision in the bill stipulated that full funding would remain in effect only if the legislature affirmed its affordability by joint resolution during the 2004 session. Otherwise, lesser increases of about 5 percent annually would go into effect. On July 2, 2003, the Attorney

General issued an opinion that the joint resolution "trigger" could be an unconstitutional legislative veto. This new wrinkle complicated consideration of the "trigger" issue during the session.

2003 Interim Activity

Significant federal and State actions during the 2003 interim impacted the general fund balance and required subsequent adjustments by the executive to ensure balance. The cumulative effect of vetoed legislation, one-time federal aid, budget reductions, revenue revisions, and the recommendations of the Spending Affordability Committee served to frame the 2004 session and the decisions required by the legislature.

Corporate/Health Maintenance Organizations Tax Veto

House Bill 753, passed during the 2003 session, would have contributed $135 million toward the general fund balance through changes in State corporate income tax law (principally to address use of Delaware Holding Companies), imposition of a 10 percent corporate income tax surcharge for three years, and application of the 2 percent insurance premium tax to health maintenance organizations and Medicaid managed care organizations. The Governor vetoed the legislation in May 2003, creating a roughly $100 million hole in the fiscal 2004 projected general fund end-of-year balance.

One-time Federal Funds

In May 2003 the President signed the Jobs and Growth Tax Relief Reconciliation Act of 2003 into law, which implemented certain federal tax cuts over a 10-year period but also provided the states with one-time fiscal assistance. Maryland received approximately $350 million distributed between fiscal 2003 ($123 million) and 2004 ($127 million). This was comprised of general aid ($90 million each year) that was used to supplant general funds in the State Police budget each year, and increased reimbursements for the Medicaid program. This unexpected aid more than offset the revenue loss due to the veto of House Bill 753, and was the primary reason the State ended fiscal 2003 with a $122.7 million general fund balance.

Reductions to the Fiscal 2004 Budget

By June 2003 the administration began exploring options for reducing the budget as an incremental step toward reducing the long-term structural deficit. Provisions in the State Finance and Procurement Article permit the Governor to reduce certain appropriations by up to 25 percent. Based on an interpretation of budget bill language pertaining to the allotment of funds, the administration placed $655.1 million of agency general fund appropriations in contingency reserve. On July 30, 2003, the Governor proposed and the Board of Public Works (BPW) adopted $208.2 million in reductions ($204.3 million general funds and $3.0 million in special funds) to the fiscal 2004 appropriation, with the intent of reducing the long-term structural deficit. The reductions included the abolition of 82.5 filled and 879.58 vacant regular positions. The savings were achieved by curbing government services, substituting federal and

special funds for general funds, reducing the bureaucracy, cutting grants to higher education institutions and local governments, and shifting costs to providers through rate reductions and program recipients through fees. Separated employees were granted four weeks of leave with pay, and an additional 90 days of State paid health insurance. The remaining portions of funds held in reserve were released by the Governor in late August 2003.

Economic Ups and Downs

Throughout the year the economy showed improvement, driven largely by consumer spending. Low interest rates helped to fuel the real estate market and mortgage refinancing. While increased productivity during the recovery resulted in job losses nationally, employment in Maryland grew. Even the stock market showed positive gains, with occasional fits and starts over the lingering occupation in Iraq and fears of terrorism. The Board of Revenue Estimates (BRE) revised its fiscal 2004 general fund estimate downward by $91 million due to tempered estimates of personal and corporate income tax receipts and lower than expected lottery sales. The BRE estimate for fiscal 2005 revenue projected 4.5 percent growth. Despite the good economic news, it is important to remember that revenue growth was projected from a lower base because of the sharp drop in revenue beginning in fiscal 2002.

Spending Affordability Committee Recommendations

The Spending Affordability Committee prepared its final report to the Governor in December 2003, which included a number of recommendations pertaining to the operating budget. These included:

Spending Limit and Sustainability: The committee recommended limiting growth on a spending affordability basis to 4.37 percent over spending approved at the 2003 session, with the intent that the fiscal 2005 budget be developed in the context of out-year sustainability. To this end, the committee recommended that the imbalance between ongoing revenues and ongoing expenditures be resolved by fiscal 2006

Personnel: The committee recommended continuation of a ceiling of 74,100 regular positions in the Executive Branch that had been initially placed on the fiscal 2004 budget. It was further recommended that any new positions should be limited to those needed for public safety, homeland security, new facilities, and workload increases and essential services at 24-hour operated facilities, offset by abolitions elsewhere in the budget.

State Reserve Fund: Wishing to ensure that the State maintain a 5 percent reserve in the Rainy Day Fund, the committee cautioned that all other cash balances and options be exhausted prior to tapping reserve balances. To the extent reserves were to be used, the committee directed that a realistic plan to achieve structural balance between ongoing revenues and spending by fiscal 2006 would need to be submitted by the Governor.

Governor's Commission on the Structure and Efficiency of State Government

By executive order the Governor appointed a commission to examine independent agencies and commissions. The commission was chaired by former Governor Marvin Mandel. A final report, issued on December 8, 2003, included 54 recommendations on various agencies and programs. Most of the major recommendations for change included those which suggested the merger or transfer of all or parts of existing agencies, or changes in scope or organization of coordinating bodies.

Governor's Spending Plan as Introduced

Governor Ehrlich's spending plan submitted during the 2004 session included a combination of actions designed to ensure balance in fiscal 2004 and 2005. This included the budget bill, three budget reconciliation bills, and legislation to address corporate income tax compliance. The original fiscal 2005 budget totaled $23.9 billion, exclusive of reversions and $222 million in contingent reductions dependent on provisions in the budget reconciliation legislation. Based on these assumptions, the closing fiscal 2005 general fund balance was estimated at $1.7 million.

As introduced the budget package was $32.8 million above the 4.37 percent growth rate recommended by the Spending Affordability Committee, for a growth rate of 4.6 percent as measured under the spending affordability process. It also included 78 new positions above the recommended limit.

Reserve Fund and Prior Year One-time Revenue

In compliance with statutory provisions the allowance included an appropriation of $112.7 million to the Rainy Day Fund, representing the unappropriated fiscal 2003 general fund surplus in excess of $10.0 million. Of this amount, the budget assumes the use of $91.0 million from the Rainy Day Fund for a net increase to the account of $21.7 million.

Balance in the fiscal 2004 and 2005 budgets is also built, in part, upon one-time funding transfers of $375.9 million in fiscal 2004 and $128.3 million in fiscal 2005 authorized by the Budget Reconciliation and Financing Act of 2003. The majority of these transfers come from the Transportation Trust Fund (TTF), the Transfer tax, and a portion of the local share of highway user revenues.

Additional Revenue, Transfer, Reversion, and Contingent Appropriation Assumptions

The Governor assumed additional revenues beyond those estimated by BRE. This included $9.4 million for fiscal 2004 and an additional $179.5 million for fiscal 2005 also based largely on contingent revenue increases proposed in separate legislation. This included $83.6 million in prior and future year corporate income tax collections based on efforts to address the Delaware Holding Company issue, $38.6 million based on imposition of the lowest

county income tax rate for nonresidents, and $29.0 million reflecting a proposed $1,200 per-bed nursing home assessment among others.

Through budget reconciliation legislation the Administration also proposed a series of one-time transfers which in aggregate would provide $257.0 million to the general fund – $112.2 million comes from the transfer tax, including an estimated $41.9 million in fiscal 2004 over attainment. Other large transfers include $81 million related to the accelerated disbursement of unclaimed local taxes (with a similar amount shared with the local jurisdictions), $51.2 million from the local share of highway user revenues, and a series of smaller transfers. Revenues and transfers are discussed in greater length later in this section under the Budget Reconciliation and Financing Act of 2004.

Legislative Consideration of the Budget

The legislature's actions during the 2004 session were guided by the debate on the out-year structural deficit. The need to replenish lost revenue and to provide funding to meet the commitment made to education spending was recognized during the 2003 session, but agreement a long-term solution was not reached. While long-term funding options were contemplated, other issues placed additional demands on the legislature's time. This included revenue revisions, supplemental budgets, cash flow deficits in the Baltimore City school system, and a major transportation initiative, all of which commanded varying degrees of prominence in February and March 2004.

Revenue and Spending Changes

BRE Revenue Revisions: In March 2004, the BRE revised its estimate of general fund revenues for fiscal 2004 upward by $26.8 million and $4.0 million for fiscal 2005. This was due largely to growth in sales tax revenue, which was influenced by federal tax cuts and rebates and rebuilding efforts following Hurricane Isabel, as well as higher than expected abandoned property receipts.

Supplemental Budget No. 1 and No. 2: In Supplemental Budget No. 1, the Governor increased general fund spending by $11.6 million, fueled in part by $10.1 million in unrecognized revenue from Local Management Board Funds. Spending largely centered on added services for a number of children, juvenile, and family support services. Supplemental Budget No. 2 recognized the additional $30 million in BRE revenue revisions, offset by the loss of $10.0 million from the failed proposal to privatize the Carter Center in DHMH. This second supplemental proposed to spend an additional $13 million in general funds for expenses in the Department of Juvenile Services (DJS), recovery costs related to Hurricane Isabel, deficiency funds for the Transitional Emergency Medical and Housing Assistance program, and miscellaneous grants and other program funding. Combined, the two supplemental budgets increased the degree to which the budget exceeded the Spending Affordability Committee limit to $64.1 million.

Legislative Budget Action

Actions to balance the fiscal 2005 budget involved a combination of budget reductions (including reductions contingent upon enactment of budget reconciliation legislation), transfers, withdrawn appropriations, additional revenue actions, and other statutory changes through ***Senate Bill 508 (passed),*** the Budget Reconciliation and Financing Act of 2004. Based on estimated under funding of $150 million in the budget, the budget committees set as a goal a sufficient general fund balance to address under funded items, to provide a greater cushion for unexpected needs, or to help balance the fiscal 2006 budget.

Reductions: The legislature pared the Governor's fiscal 2004 deficiency budget by just under one million in general funds, and reduced the fiscal 2005 allowance by $291.8 million in all funds. The largest reduction, $51.2 million, was made to local highway user revenues as part of the Governor's original spending plan. Cutbacks in the personnel area were related to imposition of the position ceiling and an associated reduction of $13.0 million, deletion of $9.0 million for the deferred compensation match, and $4.8 for over budgeted funding for the cost-of-living adjustment. The proposed $25 million initial payment to the TTF was deleted from the Dedicated Purpose Account due to the lack of an overarching repayment plan. Instead, a provision in Senate Bill 508 institutes a mechanism to capture unappropriated end-of-year general fund surpluses until full repayment is achieved (see the discussion under the "State Reserve Fund" subpart within this Part for greater detail on this item).

Other noteworthy spending reductions totaling $57 million, which are contingent upon enactment of Senate Bill 508 include $20.9 million of the final year of funding for the Teacher Salary Challenge program, $24.6 million due to failure of a proposed Medicaid nursing home per-bed assessment, $9.0 million from the Rainy Day Fund assuming that the balance requirement be based only on the official BRE December revenue estimate, and a one-time reduction for nonpublic special education placements based on a higher local cost share in fiscal 2005.

Transfers: Final action on Senate Bill 508 resulted in total transfers of $255.2 million in fiscal 2005. This was approximately the same amount proposed originally by the Governor, with the only exception being that proposed transfers of $521,000 from three health boards were rejected during budget action and replaced by a $500,000 surplus balance in the Homebuilder's Fund in the Office of the Attorney General. Specific detail on all fund transfers is provided under the Budget Reconciliation and Financing Act of 2004 subpart within this Part.

Withdrawn Appropriations: The legislature adopted the $124.3 million in withdrawn fiscal 2004 appropriations for the Department of State Police, Medicaid, and school wiring lease payments as proposed by the administration, and identified an additional $1.8 million in over budgeted lease payment expenses in the State Board of Elections. Via Senate Bill 508 then, a total of $126.1 million was withdrawn.

Revenues: ***House Bill 297 (passed)***, an Administration bill, includes several measures designed to prevent corporations from avoiding the Maryland corporate income tax by shifting income away from the State through the use of Delaware Holding Companies and other State tax avoidance techniques. The bill takes effect July 1, 2004, and is applicable to all taxable years beginning after December 31, 2003.

Additional revenues totaling $8.2 million in fiscal 2004, and $112.2 million in fiscal 2005 were adopted in Senate Bill 508. The larger measures included $43.9 million from decoupling from various federal law changes, $38.6 million to implement a minimum local income tax rate on nonresidents, and a one-year extension of a reduced sales tax vendor credit.

Under Funding: Final action on the budget left an estimated fiscal 2005 balance of $130 million. This provided funding for programs estimated to be under funded in the fiscal 2005 budget, including Medicaid, mental health services, foster care, special education nonpublic placements, federal fund under attainment in the Department of Human Resources (DHR), statewide employee health insurance expenses, and under budgeted local jail per diem reimbursements.

Final Actions and Spending Affordability Committee Recommendations

Limiting Spending Growth to 4.37 Percent and Addressing Future Sustainability: As shown in **Exhibit A-1.3**, final action by the legislature reduced the budget to a 4.33 percent rate of growth as measured on a spending affordability basis. This is $6.1 million below the 4.37 percent recommended by the committee. However, the limit would be exceeded upon the enactment of ***House Bill 1188 (passed)***, which is a supplementary appropriation act. Under the legislation, a 10 percent surcharge on corporate income taxes would be imposed for three years, to supplement State higher education funding while limiting tuition increases to 5 percent annually. The bill provides a $27.0 million special fund appropriation for higher education in fiscal 2005, offset by $13.3 million in tuition reductions for a net impact of $13.7 million. Since action in the budget bill had placed the budget $6.1 million below the recommended spending limit, enactment of House Bill 1188 would place the overall State budget $7.6 million above the limit.

As described in the Outlook for Future Budgets subpart of this Part, final action at the 2004 session yielded little progress toward addressing the out-year structural deficit by fiscal 2006 as recommended by the Spending Affordability Committee.

Exhibit A-1.3
Operating Budget Affordability Limit
($ in Millions)

Funds	2003 Session	2004 Session	$ Change	% Change
General	$10,421.5	$10,824.4	$402.8	3.87%
Special	2,679.6	2,765.8	86.1	3.21%
Higher Education	1,433.6	1,573.7	140.1	9.77%
SAC Growth	**$14,534.7**	**$15,163.8**	**$629.0**	**4.33%**
SAC Limit	$14,534.7	$15,169.9	$635.2	4.37%
Variance			-6.1	-0.04%
HB 1188 Supplementary Appropriation *			$13.7	
Revised Variance			7.6	4.42%

* The spending affordability limit would be exceeded by $7.6 million upon the enactment of HB 1188 which provides a supplementary appropriation for higher education.

***Personnel*:** As discussed in the Personnel subpart of this Part, the legislature imposed a position ceiling of 52,834, which applies only to the Executive Branch (i.e., excluding higher education). This level is slightly lower than the 74,100 level recommended by the Spending Affordability Committee. As submitted, the Governor's allowance provided funding for 78 more new positions than was recommended. Legislative action on the budget deleted 139 positions, and the position ceiling will require the abolition of another 351.4 positions; a total of 490.4.

State Reserve Fund Use: Consistent with State law the allowance included a $112.7 million appropriation for the Rainy Day Fund; however, the Administration's spending plan assumed that $91.0 million would be utilized in support of the general fund balance. A $9.0 million reduction implemented through the Budget Reconciliation and Financing Act of 2004 to reflect use of the official BRE revenue estimate from December 2003 left the fund with a $519.6 million balance, equivalent to 5 percent of estimated revenues and in compliance with the spending affordability recommendation.

The Long-term – Addressing the Out-year Structural Deficit

Each chamber of the legislature adopted its own plan for addressing the long-term general fund structural deficit. **Exhibit A-1.4** illustrates the major elements of each chamber's proposals on fiscal 2005 revenues. However, no major funding proposal was adopted and the Spending Affordability Committee recommendation to address the ongoing structural shortfall by 2006 was not met.

Exhibit A-1.4
Senate and House Major Revenue Proposals
Fiscal 2005

	Senate	House	Final
Sales Tax			
Increase Sales Tax Rate from 5% to 6%	–	$549.7	–
Sales Tax Base – Real Estate Prop. Management/Health Clubs	–	60.7	–
Re-enact Snack Tax	$16.8	–	–
Continue Reduced Vendor Discount	15.6	18.4	15.6
Individual Income Tax			
6% Income Tax Bracket – $150,000 Ind./$200,000 Joint	–	294.2	–
Minimum Local Income Tax Rate on Nonresidents	38.6	38.6	38.6
Decoupling from Recent Federal Tax Changes	47.5	47.5	47.5
Fees, Abandoned Property, DDA Facilties Assessment	17.5	8.5	15.9
Subtotal Budget Reconciliation and Financing Act (SB 508)	**$135.9**	**$1,017.5**	**$117.5**
Corporate Income Tax – Delaware Holding Companies (HB 297)	36.7	36.7	36.7
Revenue Offsets			
Reduce State Property Tax from 13.2 cents to 5 cents	–	-$348.0	–
Expand Refundable Earned Income Tax Credit	–	-4.5	–
Grand Total	**$172.6**	**$701.8**	**$154.2**

Outlook for Future Budgets

As shown in **Exhibit A-1.5**, a potential shortfall of $1.0 billion between revenues and current services spending is still projected for fiscal 2006. By fiscal 2009, the gap could exceed $2.1 billion. Key factors contributing to the shortfall include continued implementation of the Bridge to Excellence in Public Schools Act of 2002 (Chapter 288) and steadily increasing Medicaid spending. Reliance on short-term revenues and one-time transfers, critical components of budget balancing efforts in fiscal 2004 and 2005, dwindles in fiscal 2006. As shown in the exhibit, the State has contingency resources in excess of $500 million in the Rainy Day Fund that are available to mitigate the problem.

Current Services

Cost increases reflect salary and fringe benefit growth (e.g., increments, annual cost-of-living adjustments of about 2 percent, and health insurance) and inflation. Caseload and entitlement growth are also expected to drive future spending needs. Medicaid costs alone are expected to rise by about $200 million per year due to medical inflation and caseload increases.

Bridge to Excellence in Public Schools Act

Ongoing implementation of the Bridge to Excellence in Public Schools Act of 2002 is the most significant factor driving out-year expenses. If the act is fully implemented, State spending on education aid will exceed fiscal 2005 levels by about $400 million in fiscal 2006, $762 million in fiscal 2007, and $1.19 billion in fiscal 2008 when the phase-in is complete.

Legislation

Forecasted revenues are expected to increase by $133.2 million in fiscal 2005 due largely to Senate Bill 508, and House Bill 297. The revenue gain declines to $119.7 million in fiscal 2006 and then fluctuates between $104 million and $129 million through the remainder of the forecast period. The decline in additional revenues reflects the phase-out of the sales tax vendor credit after fiscal 2006 and a provision relating to business depreciation which initially generates additional revenue but results in revenue losses in subsequent years.

Legislation passed at the 2004 session will also increase State spending in future years. Senate Bill 508 encourages the Governor to provide additional education aid to offset geographic differences in the cost of education. If the Governor elects to fully fund this provision, the State will spend an additional $53.4 million on education aid in fiscal 2006 growing to $106 million in fiscal 2009. House Bill 1188, the Higher Education Affordability and Access Act, enhances State support for the University System of Maryland and Morgan State University with

Exhibit A-1.5
General Fund Budget Outlook
($ in Millions)

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Revenues						
Fund Balance	$122.7	$218.4	$130.3	$0.0	$0.0	$0.0
Transfer from Rainy Day Fund	0.0	91.0	0.0	0.0	0.0	0.0
2002 and 2003 Session BRFA Transfers	375.9	384.1	0.0	0.0	0.0	0.0
	$498.6	**$693.4**	**$130.3**	**$0.0**	**$0.0**	**$0.0**
Operating Revenues	9,882.5	10,395.1	10,808.6	11,245.0	11,674.2	12,121.2
Short-term Revenues	91.7	63.6	0.0	0.0	0.0	0.0
Miscellaneous Revenue Adjustments	0.0	4.7	8.9	9.2	9.4	9.7
Additional Revenues – Legislation	8.0	133.2	119.7	104.6	113.9	129.1
	$9,982.1	**$10,596.6**	**$10,937.2**	**$11,358.7**	**$11,797.5**	**$12,260.1**
Total Revenues	**$10,480.7**	**$11,290.0**	**$11,067.5**	**$11,358.7**	**$11,797.5**	**$12,260.1**
Spending						
Operating Spending	$10,300.3	$11,126.9	$11,995.2	$12,766.4	$13,669.1	$14,279.0
Additional Expenditures – Legislation	0.0	-39.0	66.1	78.5	161.0	155.7
	$10,300.3	**$11,087.9**	**$12,061.3**	**$12,844.9**	**$13,830.1**	**$14,434.7**
PAYGO Capital	0.7	1.2	0.0	0.0	0.0	0.0
Appropriation to Reserve Fund	10.0	106.7	11.2	2.9	1.5	0.5
Appropriation to Transportation Trust Fund			50.0	-	-	-
	$10.7	**$107.9**	**$61.2**	**$2.9**	**$1.5**	**$0.5**
Reversions	-48.6	-36.0	-35.0	-35.0	-35.0	-35.0
Total Expenditures	**$10,262.3**	**$11,159.7**	**$12,087.5**	**$12,812.8**	**$13,796.6**	**$14,400.2**
Ending Balance	**$218.4**	**$130.3**	**-$1,020.0**	**-$1,454.1**	**-$1,999.1**	**-$2,140.2**
Revenue Stabilization Fund						
Ending Balance	$496.7	$519.6	$546.9	$568.0	$589.9	$613.0
As a Percent of General Fund Revenues	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%
5% of General Fund Revenues	497.2	519.6	546.9	567.9	589.9	613.0
Excess over 5% of General Fund Revenues	-0.5	0.0	0.0	0.1	0.0	0.0

special funds in fiscal 2005 through 2007 but shifts these expenses and associated increases for community colleges and private institutions to the general fund beginning in fiscal 2008. General fund expenses are expected to exceed the baseline estimate for higher education by almost $59 million in fiscal 2008 and $63 million in fiscal 2009.

The extension of the Heritage Tax Credit, ***House Bill 679* (passed),** increases general fund expenditures by $20.2 million in fiscal 2006 and $30.2 million in fiscal 2007 and 2008. The act also reduces general fund revenues for fiscal 2005 through 2008 by about $7 million per year.

Given the current financial scenario, the State is facing major decisions at the 2005 session. Various measures could be considered to generate sufficient revenues, including implementation of video lottery terminals and/or modifications to the income tax and sales tax. An alternative scenario could involve more limited revenue enhancements coupled with significant spending reductions. Statutory changes to the Bridge to Excellence in Public Schools Act or a significant restructuring of State spending and/or State/local intergovernmental relationships would need to be part of this discussion. Action by the Governor in submitting a fiscal 2006 budget can be expected to begin framing the debate over the future fiscal course that Maryland will take.

Budget-related Legislation

Legislation that pertained to performance-based budgeting, the Constitutional constraints on the budget process, and the Governor's authority to reduce appropriations by up to 25 percent during the fiscal year was considered this year.

Managing for Results

***Senate Bill 381* (passed)** codifies the State's Managing for Results (MFR) process originally established in 1997. The bill continues the current practice of agencies identifying a mission statement, selecting goals, and choosing objectives and performance measures that assist them in measuring progress towards their goals. DBM is required to develop a State Comprehensive Plan for MFR that sets the overarching goals and direction for State government. This plan will be reported to the General Assembly each January and will consist of up to 10 goals and 50 to 100 performance measures from across State government.

Constitutional Budget Authority

Senate Bill 370/House Bill 1247 (both failed) would have proposed a modification to Article III, Section 52 of the State Constitution which presently limits the legislature's budget authority to only reducing proposed appropriations for Executive Branch agencies. Had the legislation passed and the amendment been adopted by voters at the 2004 general election, the General Assembly would have had the ability to increase and make additional appropriations for Executive Branch agencies. Maryland is the only state in which the legislature lacks this authority. This ability would have been limited to the level of funding in the Governor's allowance. The Governor would have been given the ability to line-item veto changes made by the legislature. Vetoes could have been considered within 30 days of a veto, in an extraordinary session of the legislature.

Reductions in Appropriations

House Bill 622/Senate Bill 261 (both failed) proposed to alter the maximum reduction, from 25 percent to 10 percent, that the Governor, with approval of BPW, can make to an appropriation in the State budget. Generally the Governor has exercised this authority during times of economic downturn when it became necessary to reduce spending in order to maintain a balanced budget, and the legislature was not in session. The bill further proposed to require BPW to provide at least a 21-day public notice and an invitation to comment on proposed reductions in appropriations by the public, the Legislative Policy Committee, and the budget committees. BPW would have had to hold a public hearing no earlier than 15 days after the public comment, and the Department of Legislative Services would have been required to prepare an analysis of the effects of the proposed reductions within 10 days of the public notice.

The Budget Reconciliation and Financing Act of 2004

The Budget Reconciliation and Financing Act of 2004 (BRFA), ***Senate Bill 508 (passed)***, consolidates into one bill most of the provisions necessary to bring the fiscal 2005 budget into balance. The BRFA preserves general funds by providing relief from mandated funding levels, in some cases deferring or eliminating funding requirements; expanding the uses of specified existing special funds; and withdrawing fiscal 2004 appropriations. The BRFA also raises general fund revenues, largely from a combination of one-time transfers and ongoing fee and tax changes. New special fund revenues from increased fees for specified programs help to reduce the reliance on the general fund as well. The net impact on the general fund over fiscal 2004 and 2005, due to the BRFA, is $530.5 million. The longer-term impact is minimal as ongoing new revenues are offset by increased spending due to provisions in the BRFA.

As shown in **Exhibit A-1.6**, most of that amount is due to one-time-only actions – transferring $255.2 million to the general fund from various special funds; the sale of about $750,000 in State assets; withdrawing $126.1 million in appropriations, primarily due to the receipt of one-time federal financial assistance; and $47.0 million in contingent reductions and deferred spending.

Exhibit A-1.6

BRFA Impact on General Fund

Fiscal 2004 and 2005

	FY 2004	FY 2005
Spending Impacts		
Withdrawn appropriations – one-time effect	-$126,124,507	
Contingent reductions due to special fund fee increases – ongoing effect		-$2,105,375
Other contingent reductions – one-time effect		-43,011,794
Reduced reliance due to expanded use of special funds – ongoing effect		-678,744
Deferred spending – one-time effect		-4,008,317
Increased spending – mix of one-time and ongoing effects	3,869,170	17,147,512
Subtotal	***-$122,255,337***	***-$32,656,718***
Revenue Impacts		
Special fund transfers to the general fund – one-time effect		$255,238,676
Proceeds from the sale of State assets – one-time effect	$247,590	500,000
General fund tax revenues – ongoing effect	2,257,985	97,898,564
General fund fee revenues – ongoing effect		5,296,049
Other general fund revenue enhancements – ongoing effect	5,694,464	8,472,463
Subtotal	***$8,200,039***	***$367,405,752***
Net Impact on General Fund	**$130,455,376**	**$400,062,470**

Additional detail on the special fund transfers, withdrawn appropriations, and the sale of State assets is shown in **Exhibit A-1.7**. Most of these actions were proposed by the Administration.

Exhibit A-1.7
Transfers, Withdrawn Appropriations, and Sale of Assets in the BRFA
Fiscal 2004 and 2005

	FY 2004	FY 2005
Transfers to the General Fund:		
Unclaimed local income tax		$81,000,000
DNR – POS State projects – transfer tax revenues		28,668,276
DNR – POS local projects – transfer tax revenues		28,467,966
MDA – MALPP – transfer tax revenues		13,144,480
Overattainment of transfer tax revenues		41,886,000
MDOT – SHA – highway user revenues		51,220,064
DHMH – Spinal Cord Injury Research Trust Fund		2,557,790
DHMH – Board of Social Work Examiners Fund		251,000
DHMH – Board of Physicians Fund		628,000
DLLR – Racing Commission Special Fund		415,100
DBM – Central Collection Unit		4,500,000
DPSCS – State Use Industries		2,000,000
OAG – Home Builder Registration Fund		500,000
Subtotal Transfer Revenue		***$255,238,676***
Proceeds from Sale of State Assets:		
DNR – proceeds from sale of yacht	$247,590	
Proceeds from sale of Executive Branch surplus vehicles		$500,000
Subtotal Sale of Assets Revenue	***$247,590***	***$500,000***
Withdrawn Fiscal 2004 Appropriations:		
Board of Elections – Help America Vote Act – availability of federal funds	$1,847,000	
BPW – IAC – school wiring – amount not needed for debt service	2,923,440	
DHMH – Medicaid – availability of federal funds	31,300,000	
State Police – various offices – availability of federal funds	90,054,067	
Subtotal Withdrawn Appropriations	***$126,124,507***	
Total	**$126,372,097**	**$255,738,676**

BPW = Board of Public Works
DBM = Department of Budget and Management
DHMH = Department of Health and Mental Hygiene
DLLR = Department of Labor, Licensing, and Regulation
DNR = Department of Natural Resources
DPSCS = Department of Public Safety and Correctional Services
IAC = Interagency Agency Committee
MDA = Maryland Department of Agriculture
MDOT = Maryland Department of Transportation
MALPP = Maryland Agricultural Land Preservation Program
OAG = Office of the Attorney General
POS = Project Open Space
SHA = State Highway Administration

Major Transfer Provisions

The BRFAs of 2002 and 2003 each included a series of transfers from special funds to the general fund. The BRFA of 2004 continues the practice, tapping some of the same funds and targeting new ones. The revenues due to transfers from special funds primarily come from the unclaimed local income tax, the transfer tax, and highway user revenues.

Unclaimed Local Income Tax: The $81.0 million transfer of unclaimed local income tax to the general fund is tied to two additional provisions in the BRFA: (1) an equivalent amount is also transferred to counties, municipalities, and special taxing districts for a total transfer of $162.0 million and (2) statutory provisions regarding the unallocated Individual Revenue Account are altered so that the Comptroller will reserve each year from the current collection an amount estimated to be refunded within three years and distribute the balance to local jurisdictions.

Transfer Tax Revenues: The BRFA redirects to the general fund (1) $70.3 million in transfer tax special fund revenue that would have supported POS and the MALPP in fiscal 2005; and (2) $41.9 million in estimated fiscal 2004 transfer tax funds attained over the original fiscal 2004 estimate made in December 2002 that would otherwise support programs in fiscal 2006. This diversion of $112.2 million in transfer tax revenue is in addition to $95.2 million in fiscal 2005 transfer tax revenue that was redirected to the general fund in accordance with the BRFA of 2003. A portion of that total, $18.1 million due to overattainment, was transferred in fiscal 2004. The balance, $77.1 million, was preauthorized for fiscal 2005.

The BRFA also allocates $1.5 million of any additional fiscal 2004 overattainment of transfer tax revenues to Baltimore City for its parks. The fiscal 2005 budget does not provide funding for Baltimore City's park operations and maintenance; historically a $1.5 million annual allocation of transfer tax revenues has been provided for this purpose.

Highway User Revenues: The BRFA of 2003 transferred $102.4 million in local highway user revenues to the general fund in fiscal 2004 and limited Baltimore City's share to

$170.0 million for fiscal 2004 and 2005. The BRFA of 2003 also contained a provision transferring $51.2 million in local highway user revenues to the general fund in fiscal 2005. The BRFA transfers an additional $51.2 million to the general fund; the total amount of highway user revenues so diverted in fiscal 2005 will be the same as in fiscal 2004 – $102.4 million. Accordingly, available highway user grants will decrease from $433.1 million to $381.9 million.

The BRFA also clarifies that Baltimore City's share of highway user revenues may increase according to an established formula if revenues exceed current estimates. In addition, the BRFA requires repayment of recent transfers from the Transportation Trust Fund (TTF) to the general fund by including TTF in the provisions relating to the disposition of any unappropriated general fund balance.

Tax Provisions

The BRFA contains several provisions affecting existing taxes. Specifically, the BRFA:

- imposes a tax at the lowest county income tax rate (1.25 percent) on individuals who are currently subject to the State income tax but not to the county income tax (certain nonresidents) for all tax years beginning after December 31, 2003, accounting for a $38.6 million increase in fiscal 2005 general fund revenues;

- halves the sales and use tax vendor collection credit for two additional years, maintaining the credit at the reduced level through fiscal 2006 and increasing general fund revenues by $15.4 million in fiscal 2005 (the BRFA of 2002 halved the credit for two years, through fiscal 2004);

- reduces the distribution from the insurance premium tax to the Spinal Cord Injury Research Trust Fund to $500,000, thereby increasing the revenue to the general fund by $500,000 in fiscal 2006 and subsequent years; and

- decouples from federal tax changes in four areas:

    - limits to $25,000 the amount that may be deducted as an expense under section 179 of the Internal Revenue Code, thereby continuing the decoupling from federal changes in 2003 that increased the amount to $100,000, and maintains the $200,000 threshold for beginning a phase-out;

    - limits the depreciation deduction allowed for specified large sport utility vehicles used for business purposes for purchases on or after June 1, 2004, in the same manner that the depreciation deduction for other passenger vehicles is limited;

    - sets the State estate tax effective exemption amount at $1.0 million, decoupling from the federal unified credit amount (additional Comptroller staffing will be required); and

- requires the Maryland estate tax to be determined without regard to the deduction for death taxes allowed for purposes of the federal estate tax.

Combined, these provisions raise general fund revenues of $2.3 million in fiscal 2004 and $97.9 million in fiscal 2005. The tax provisions are discussed in greater detail in Part B.

Fee Provisions

The BRFA includes numerous fee provisions, many of which are discussed in other parts of this report, as appropriate. Most of the new fees and the increased existing fees were proposed by the Administration.

Increased Existing Statutory Fees: The BRFA increases existing statutory fees for licenses, certificates, permits, filings, affected lead properties, and lead-free rental unit reports in the Departments of Agriculture, Assessments and Taxation (SDAT) and the Environment as well as the Offices of the Attorney General and Administrative Hearings as shown in **Exhibit A-1.8**. All of the special fund fee increases reduce reliance on general funds by effectuating contingent general fund reductions in the fiscal 2005 budget.

Newly Imposed Fees and New Fee-setting Authority: The BRFA imposes new filing and processing fees in SDAT and modifies others to be nonrefundable (raising $494,700 in general funds annually). The BRFA also authorizes the Secretary of Health and Mental Hygiene to establish fees by regulation to cover the administrative costs associated with inspections, investigations, permits, licenses, certifications, or registrations undertaken or issued under the Health-General Article (raising more than $1.0 million in general funds in fiscal 2005). Accordingly, the BRFA repeals existing fees throughout the Health-General Article and provides for general fee-setting authority. In addition, the BRFA authorizes fees to be set for issuance and renewal of certification for programs certified to perform medication-assisted treatment (methadone treatment clinics – expected to raise $90,000 in general funds).

Additional Fee Provisions: The BRFA includes several other fee-related actions. Specifically, the BRFA:

- provides that, in fiscal 2005 only, the costs of the Maryland Health Care Commission and the Health Services Cost Review Commission include administrative costs incurred by the Department of Health and Mental Hygiene on behalf of the commissions – accordingly, the BRFA provides for cost recovery for the department and increases the total amount of fees that may be assessed by the health regulatory commissions for one year;

- doubles the statutory cap on inspection fees related to wells and food establishments that may be charged by local health departments;

Exhibit A-1.8
Statutory Fee Increases in the BRFA

Description	Number Issued	Current Fee	Proposed Fee	Amount of Increase	Additional Revenue
Maryland Department of Agriculture					
Pest consultant certificate	30	$65	$75	$10	$300
Pest control applicator certificate	3,400	65	75	10	34,000
Pest control business license	1,498	125	150	25	37,450
Pest control consulting business license	30	125	150	25	750
Nursery certificate	400	75	100	25	10,000
Nursery broker/dealer license	1,100	75	100	25	27,500
Wholesale seedsman permit	310	50	100	50	15,500
Office of the Attorney General					
Filing for exempt securities*	1,600	100	400	300	480,000
Health Club – no upfront fees**	16	50	75	25	400
Health Club – initiation fees less than $200**	426	150	300	150	63,900
Health Club – initiation fees over $200 bonded**	76	800	1,200	400	30,400
Office of Administrative Hearings					
Filing an MVA-related appeal*	28,530	15	125	110	3,138,300
Filing all other appeals*	1,292	15	50	35	45,220
Maryland Department of the Environment					
Lead-affected rental unit	65,000	10	15	5	325,000
Lead-free report	4,500	5	10	5	22,500
Total					**$4,231,220**

*Fees collected are deposited in the general fund.
**Health clubs are charged one of three different fees depending on whether they hold a surety bond and collect fees in advance of service.

- reduces the statutory fees for initial and biennial renewal registration of home builders;
- exempts rental cars from increased vehicle registration fees at an annual cost of $1.3 million to TTF; and
- requires the Motor Vehicle Administration to reduce its fees if cost recovery exceeds 100 percent.

Other Revenue Enhancement Provisions

Intermediate Care Facilities for the Mentally Retarded (ICF-MR) Assessment: The BRFA imposes an assessment of 6 percent on all income of ICF-MRs. This provision will apply only to the four State residential centers for the developmentally disabled – the Rosewood Center, Holly Center, Potomac, and Joseph D. Brandenburg Center – if it is deemed permissible under Section 1903(W) of the Social Security Act, which relates to provider donations and health care taxes. The assessment will raise $5.7 million in general fund revenue annually, offset by the general fund share of the assessment, which is $3.9 million. The federal Medicaid program will provide matching funds to cover the federal share of the assessment, an estimated $1.8 million beginning in fiscal 2004, resulting in a net gain of $1.8 million to the general fund.

Report-Remit for Abandoned Property: The BRFA accelerates the time frame for a person holding abandoned property to pay or deliver that property to the Comptroller, requiring payment or delivery at the time of filing a report on the property rather than 265 days after the report is filed. Accelerating receipt of abandoned property will have a one-time effect of $2.5 million in advance receipts in fiscal 2005 as well as increased interest income each year.

Other Funding Relief

The BRFA includes several provisions to preserve general funds by deferring, shifting, or eliminating funding requirements. In addition, the bill broadens the purposes for which certain special funds may be used and defers or modifies special fund spending requirements. Most of these provisions were originally proposed by the Administration and many of them effectuate contingent reductions in the fiscal 2005 budget. The major provisions are also discussed in other parts of this report, as appropriate.

K-12 Education Provisions: While education costs at private residential treatment centers (RTCs) are paid according to the statutory funding requirements for nonpublic special education placements, local school systems do not share similarly in education costs for children in the three State Regional Institutes for Children and Adolescents (RICAs), which are simply public RTCs. The BRFA aligns responsibility for education funding at the three RICAs with that of private RTCs, consistent with all other nonpublic special education placements. This change effectuates a general fund reduction of $3.8 million, which will be ongoing.

The BRFA also eliminates or reduces three funding requirements for K-12 education in the fiscal 2005 budget. Specifically, the BRFA:

- reduces the State's share of nonpublic placement special education funding to 75 percent above the base amount for one year only, effectuating a general fund reduction of $6.4 million;

- reduces funding for the Extended Elementary Education Program (more commonly known as EEEP) by 12.5 percent for one year, effectuating a $2.4 million general fund reduction; and

- repeals the Governor's Teacher Salary Challenge program one year before its termination date, effectuating a $20.9 million general fund reduction.

Higher Education Provisions: Four provisions in the BRFA impact higher education funding. Specifically, the BRFA:

- bases the allowance for Baltimore City Community College on the prior-year appropriation rather than the prior-year allowance;

- delays Private Donation Incentive Payments to non-historically black institutions by one year, so that the fiscal 2005 cost of $2.4 million will be deferred and the final payment year will be fiscal 2009;

- authorizes deferral of remaining unfunded State obligations from fiscal 2002 and 2003 for the Innovative Partnerships for Technology Program for another year, shifting $1.6 million to fiscal 2006; and

- modifies eligibility for the size-factor component of the community college funding formula for fiscal 2005 only, allowing each board of trustees that received funding under that component in fiscal 2004 to receive funding in fiscal 2005.

Other Funding Relief Provisions: The BRFA also impacts funding requirements throughout State government, preserving not only general funds but also special funds and federal funds. Specifically, the BRFA:

- repeals the mandated funding requirement for the Office of Tourism Development and rebases the mandated funding for the Maryland Tourism Development Board at $6 million in fiscal 2006 and subsequent years;

- repeals Individual Development Accounts within the Department of Human Resources (DHR) two years before the demonstration program terminates, for general fund savings of $110,692 in fiscal 2006;

- makes several changes to the Tobacco Use Prevention and Cessation Program and Cancer Prevention, Education, Screening, and Treatment Program:

    - postpones the next Tobacco Study required under the Tobacco Use Prevention and Cessation Program by one year to fiscal 2006;

    - reduces the mandated appropriation for activities aimed at reducing tobacco use to $12 million for fiscal 2005 only;

    - reduces funding for the two statewide academic health centers (The Johns Hopkins Institutions and the University of Maryland Medical Group) to implement the local public health program in Baltimore City under the Cancer Prevention, Education, Screening, and Treatment Program to $1.2 million for each academic health center for fiscal 2005 only; and

    - postpones a comprehensive evaluation of the Cigarette Restitution Fund Program for one year;

- merges the two accounts within the Volunteer Company Assistance Fund (VCAF) but retains the purposes for which those accounts may be used, broadens the use of the Maryland Emergency Medical Systems Operation Fund to permanently include all purposes within VCAF, and expands authority to use VCAF for grants to widows and orphans and related administrative expenses, thereby freeing up general funds;

- charges the TTF for its share of administering the corporate income tax, effectuating a general fund reduction of $557,600;

- specifies that the Board of Revenue Estimates' December general fund revenue forecast be used to determine the minimum balance in the Rainy Day Fund, effectuating a general fund reduction of $9.0 million;

- repeals the authorization to expand the capital program with bond premiums;

- requires $62 million in the Annuity Bond Fund to be held in reserve to stabilize the future property tax rate for debt service;

- prohibits any funding for a rail system based on magnetic levitation technology in fiscal 2006 and subsequent years;

- codifies the $750,000 funding requirement for community outreach and education programs within the Lead Poisoning Prevention Program and allows those funds to be used for enforcement purposes as well; and

- continues to allow use of the Waterway Improvement Fund within DNR for administrative expenses in the short-term but phases out use of the fund for administrative expenses by fiscal 2010.

Additional BRFA Provisions

The BRFA includes numerous additional provisions, some of which require or authorize additional spending. Other provisions codify mandated funding and current practice, require various reports, enhance oversight or accountability, repeal obsolete provisions of law, and make technical corrections. For example, the BRFA:

- codifies the formula for the geographic cost of education index, with funding as provided in the State budget beginning in fiscal 2006 – the cost for this provision is $53.4 million in fiscal 2006, if fully funded, escalating to $106.0 million in fiscal 2009;

- authorizes the transfer of $442,210 from the Spinal Cord Injury Research Trust Fund to the Department of Aging to supplement federal grants to local agencies and mandates an equivalent general fund appropriation in fiscal 2006, which will hold harmless for two years rural counties that would have seen a reduction in these grants;

- transfers $1.0 million from the State Use Industries to the Maryland State Department of Education in fiscal 2006 through 2009 to supplement funding for correctional education;

- requires a county or statewide academic health center receiving a local public health cancer grant to use at least 60 percent of these funds for screening, diagnosis, and treatment services;

- requires a study of merging two weatherization programs by DHR, the Department of Housing and Community Development, and the Public Service Commission;

- requires the Maryland Transportation Authority to provide notification of new projects before proceeding and to have legislation authorizing the sale of bonds; and

- places limits on the issuance of GARVEE debt and requires the Capital Debt Affordability Committee to examine GARVEE bonds and recommend a prudent level of annual bond authorization for the Maryland Department of Transportation (MDOT).

Selected Budgetary Initiatives

Project RESTART

The Department of Public Safety and Correctional Services (DPSCS) incarcerates more than 28,000 inmates and detainees and the recidivism rate exceeds 51 percent. To combat the recidivism rate, DPSCS proposed a conceptual framework for a new initiative: Reentry Enforcement Services Targeting Addiction, Rehabilitation, and Treatment or "RESTART."

RESTART anticipates moving away from a system of confinement and control to a system that focuses on rehabilitation and cognitive restructuring. The underlying premise is that by causing the offender to cease his/her criminal behavior, the recidivism rate will drop, the offender will become a productive member of society, the State will save money on incarceration costs, and the public's safety will increase through lower crime. DPSCS' plan to finance the RESTART initiative is based on its finding that excess correctional officers are currently employed by the department. As correctional officer positions become vacant, DPSCS plans to convert the vacant positions to staff the RESTART initiative.

The General Assembly authorized DPSCS to convert up to 50 vacant correctional officer positions and utilize up to an additional $1.7 million to implement pilot programs in two separate regions of the State. DPSCS, in conjunction with the Maryland State Department of Education (MSDE), DHMH, and DBM, must submit a report to the budget committees which fully describes the plan and addresses the General Assembly's concerns before it may implement the pilot programs.

Public Defender

The fiscal 2005 budget includes $1.7 million to continue the initiative began last year, to reduce excessive Public Defender caseloads. The new monies will be used for 68.5 new positions and account for a significant portion of the $3.5 million and 5.7 percent increase in the Public Defender appropriation over the fiscal 2004 working appropriation. The first-year focus of the caseload initiative was to phase in staffing to reduce caseloads in Baltimore City and address the need for attorneys in District and juvenile courts in rural districts. Year two of the caseload initiative will address the need for attorneys in the District and juvenile courts in the metropolitan/suburban counties as well as Baltimore City.

The agency's Caseloads Initiative has three components: (1) reduce excessive public defender caseloads to comply with American Bar Association standards; (2) establish a funding/staffing formula linked to Maryland specific caseload standards; and (3) install a case management system to improve case management and provide accurate caseload/workload data to increase accountability and streamline the budget process.

Health

DDA Funding: The Developmental Disabilities Administration (DDA) provides direct services to individuals with mental or physical impairments that result in substantial functional limitations and are likely to continue indefinitely. Services are provided in four State residential centers and through funding of a coordinated service delivery system that supports the integration of these individuals into the community.

The DDA budget grows $44 million in fiscal 2005, a result of several recent initiatives intended to increase access to and quality of community services. Of the increase, $18 million is dedicated to the third year of the initiative to increase wages for community direct service workers. Concern that direct care workers employed by community providers were not being compensated at the rate of employees in State residential centers led to legislation, enacted in 2001, to eliminate the wage disparity over a five-year period. The initiative is expected to increase the hourly wage and fringe benefits of community direct service workers 8.5 percent in fiscal 2005, from $13.01 to $14.12.

The fiscal 2005 budget also includes funds for expansion of community services. The transitioning youth program, which provides supported employment and day services for students graduating from the school system, will expand to an additional 475 students in fiscal 2005 at a cost of $7 million. Residential, day, and support services will also be expanded to an estimated 400 individuals on an emergency basis at a cost of $5 million in the next fiscal year.

The remainder of the increase provides funds for the annualization of fiscal 2004 community placements, inflation in community services costs, and deinstitutionalization.

Closure of Crownsville Hospital: As submitted by the Governor, the fiscal 2005 operating and capital budgets contained several actions that implement the October 2003 *Joint Chairmen's Report* response consolidating State-run psychiatric beds utilizing a system of two rather than three large regional hospitals and recommending the closure of Crownsville Hospital in Anne Arundel County. Those actions and the final status of those proposals are summarized in **Exhibit A-1.9**.

Exhibit A-1.9
State-run Psychiatric Hospital Consolidation and the Fiscal 2005 Operating and Capital Budgets

Item	Funding	Comment and Legislative Action
Deficiency appropriation	$916,000	Renovation of two buildings at both Spring Grove and Springfield hospitals to accommodate patients transferred from Crownsville. Approved by the General Assembly.
Operating budget savings	-$11,800,000	Operating savings from the closure of Crownsville. Of this amount, $6.8 million is removed from the base budget and thus not subject to legislative action.
Operating budget expenditures	$5,000,000	Reinvestment of savings into expansion of community mental health services. The General Assembly adopted budget bill language directing $4 million of these savings to be used for regional service expansion in Anne Arundel, Prince George's, Calvert, Charles, and St. Mary's counties; and $1 million to move patients currently at Crownsville who are ready for discharge into the community ($1 million).
Recycling of fiscal 2004 operating funds and Capital budget expenditures	$150,000 (GF) $9,625,000 (GO)	Design and construct a 48-bed addition to the maximum-security wing at Perkins in order to expand overall capacity in the State-run psychiatric hospital system. Overall, the consolidated system will have a net gain of 34 beds. Approved by the General Assembly.

Source: Department of Legislative Services

DHMH is proceeding with the closure of Crownsville, having begun to transfer patients. While most employees at Crownsville will be transferred to other hospitals, 133.3 positions will be abolished as a result of the hospital closure, and the Governor's budget requires the abolition of these positions by the end of fiscal 2005. Of these positions, approximately 109 are currently filled. At the time of this writing, it is not certain how many of these 109 employees will be laid-off as a result of closure. DHMH has committed to work to find them alternative positions in State government.

Education

Need-based Scholarships: The fiscal 2005 budget includes $83.3 million in general funds for the Maryland Higher Education Commission (MHEC) Scholarship programs. The total scholarship appropriation is $87.4 million. This is an increase of $7.4 million over the fiscal 2004 working appropriation. Educational Excellence awards increase $10.4 million, offsetting a $4 million reduction to HOPE Scholarships. Fiscal 2005 marks the first increase in need-based financial aid since fiscal 2001, and will help alleviate a current waiting list for need-based of over 5,000 students. With this increase, MHEC will award approximately 4,138 additional students over fiscal 2004 and will help offset the increased tuition and fee rates for current and new recipients. The current average award amount is $2,175 and reflects the most recent tuition and fee increases.

Hickey School Education Program: The Charles H. Hickey, Jr. School is the largest secure juvenile confinement facility operated by DJS. In response to adverse audit findings at the school, Chapter 53, Acts of 2003 required that MSDE take over the education programs at the Hickey from DJS on July 1, 2004. This takeover was contingent upon the inclusion in the budget of funds for the program. The Governor's budget as submitted included approximately $10.1 million for the program proposed by MSDE, including $7.6 million in the correctional education budget and $2.5 million in nonpublic placement funds. Supplemental Budget No. 1 also included a $300,000 fiscal 2004 deficiency appropriation to begin installation of relocatable classrooms at Hickey and to also begin hiring an advance team of key administrators prior to the takeover date at the beginning of fiscal 2005.

The General Assembly reduced the appropriations submitted in the Governor's budget. The General Assembly provided $5.2 million in fiscal 2005 funds and $212,500 in fiscal 2004 funds. The General Assembly also prohibited the expenditure of nonpublic placement funds at Hickey due to the likelihood of a deficit in nonpublic placements. The level of funds approved by the General Assembly provides for per pupil spending for special education students consistent with the average cost of a nonpublic day placement; per pupil spending for non-special education students consistent with the DJS average; and additional funds for equipment, supplies and relocatable classrooms. MSDE must develop an educational plan for Hickey that will fall within the available resources.

Cigarette Restitution Fund

The General Assembly established the Cigarette Restitution Fund (CRF) in 1999 to collect and redistribute monies received as a result of settling outstanding litigation with the five major tobacco companies. Legislation passed during the 2000 legislative session established the Tobacco Use Prevention and Cessation Program and the Cancer Prevention, Education, Screening, and Treatment Program to reduce tobacco use and the occurrence of cancer- and tobacco-related diseases. These programs, in addition to several other health-related programs, comprise the majority of CRF spending. Funds also support education and crop conversion initiatives. **Exhibit A-1.10** details the distribution of funds in recent years.

The fiscal 2005 appropriation includes more than $117 million for CRF-supported programs, $62 million less than in fiscal 2004. The decline in spending from the fund reflects a decline in available revenue. Although tobacco settlement revenue is expected to decline incrementally from fiscal 2004 to 2005, the reduction in revenue is primarily attributable to the depletion of surplus and special reserve funds in fiscal 2004. Reductions in available revenue resulted in lower appropriations for the CRF tobacco and cancer programs, as well as a $55 million reduction in funds for Medicaid. CRF reductions to Medicaid were offset by a like amount of general funds.

Transportation

Revenues

Provisions relating to transportation revenues were adopted in the budget bill, Senate Bill 508, and other legislation, as outlined below:

Transportation Trust Fund Forecast: The Maryland Department of Transportation (MDOT) estimates that the TTF will receive $2.13 billion in revenue from State-sourced taxes and fees in fiscal 2005, including $754 million in motor fuel taxes, $728 million in titling taxes, and $343 million in vehicle registration fees. MDOT projects that sales of consolidated transportation bonds will generate an additional $350 million in revenue. A total of $1.626 billion in State and federal funds is expected to be available for the capital program in fiscal 2005.

Revenue Enhancements: ***House Bill 1467 (Ch. 9)*** increases annual vehicle registration fees for all classes of vehicles and requires MVA to recover the cost of its annual capital expenditures through its miscellaneous fees; rental vehicles were subsequently exempted from the vehicle registration fee increase through a provision adopted in Senate Bill 508. As a result of the actions taken through this bill, including the fee increases and the increased bonding that can be supported by these revenues, an additional $1.3 billion in capital funding and an additional $230 million in local highway user revenues is expected to be available during the fiscal 2005 to 2009 period above the amounts projected in the original fiscal 2004 forecast.

Exhibit A-1.10
Cigarette Restitution Fund
Fiscal 2003 – 2005
($ in Millions)

	FY 03 Actual Spending	FY 04 Working Appropriation	FY 05 Legislative Appropriation
Health			
Management	$0.4	$0.6	$0.4
Tobacco	19.6	14.3	9.5
Cancer	37.2	32.9	30.5
Substance Abuse	18.5	17.1	17.1
Maryland Health Care Foundation	1.0	-	-
Medicaid	104.0	106.6	51.5
Subtotal	**$180.7**	**$171.5**	**$109.0**
Education			
Aid to Nonpublic Schools	$3.6	$3.0	$3.0
Judy Hoyer Centers	4.0	-	-
Teacher Mentoring	2.5	-	-
Teacher Certification	1.6	-	-
Technology Academy	1.7	-	-
Access/Success	1.0	-	-
Subtotal	**$14.4**	**$3.0**	**$3.0**
Crop Conversion	**$6.3**	**$5.1**	**$5.7**
Attorney General	**$0.0**	**$0.0**	**$0.2**
Total Expenses	**$201.4**	**$179.6**	**$117.7**
Transfer to the General Fund	-3.8		

Source: Department of Budget and Management

Highway User Revenues: In fiscal 2005, $102 million will be diverted from local highway user revenue and transferred to the general fund. Including this transfer and the increased revenue expected to be generated by the provisions contained in House Bill 1467, a total of $427 million is expected to be distributed to Baltimore City and the counties in highway user revenues; this represents an increase of $89 million over the amount of highway user revenues projected to be available in the original fiscal 2004 TTF forecast. Actions taken in Senate Bill 508 provide that Baltimore City will receive at least $170 million of the $383 million in highway user revenues provided in the Governor's allowance plus 12.25 percent of all increases from all sources in total highway user revenues above the amount estimated in the fiscal 2005 budget.

Mechanism for Repaying the TTF: A provision in Senate Bill 508 amends the Rainy Day Fund's sweeper provision to provide a funding source to repay the TTF for $315 million transferred in fiscal 2004 and 2005 to the general fund. This provision requires that when there is a surplus of unappropriated funds in the general fund at the close of a fiscal year, the first $10 million of any such surplus will be retained by the general fund, while the next $11 million to $60 million in such surpluses will be transferred to the TTF. Any surplus amount exceeding $60 million will be appropriated to the Rainy Day Fund. This provision will remain in effect until such time as the full $315 million has been repaid to the TTF.

Debt

As noted below, provisions relating to transportation debt affect the issuance of GARVEE bonds, Consolidated Transportation Bonds, and nontraditional debt:

Limits on GARVEE Bonds: The General Assembly established new limits on the use by MDOT and by the Maryland Transportation Authority (MdTA) of Grant Anticipation Revenue Vehicles (GARVEE bonds). Under a provision adopted in the Senate Bill 508, the maturity of any GARVEE issued by MDOT or MdTA may not exceed 15 years, while the annual payments for principal and interest on these bonds may not exceed 13 percent of the State's average annual authorization level in the current federal authorization act for federal highway aid. These limits are in keeping with limits established by other states as well as with current market trends and are supported by two rating agencies. This action would allow the issuance of just over $600 million in GARVEE bonds (contingent on the amount of federal aid received by the State through the next federal transportation reauthorization). These limits are not intended to constrain financing options for the proposed InterCounty Connector highway.

Ceiling on Consolidated Transportation Debt: House Bill 1467 increases the maximum allowable aggregate amount of outstanding and unpaid consolidated transportation bonds and bonds of prior issues to $2 billion. The budget bill establishes a ceiling on maximum debt outstanding related to the issuance of Consolidated Transportation Bonds in fiscal 2005, to $1.472 billion.

Ceiling on Nontraditional Debt: The fiscal 2005 budget establishes an annual ceiling on nontraditional debt issued by MDOT or by other agencies on behalf of MDOT at $769 million. This includes all debt instruments that are not consolidated transportation bonds or GARVEE bonds. Nontraditional debt limits may be increased during the course of the fiscal year provided that notification is given to the budget committees explaining the need for the additional issuances.

Legislative Oversight of Maryland Transportation Authority Capital and Debt: Two provisions were adopted in Senate Bill 508 to strengthen the General Assembly's oversight over the MdTA. The first provision requires MdTA to provide notification to the budget committees and to the House Committee on Ways and Means 45 days before entering into any contract or agreement to acquire or construct a new revenue-producing transportation facilities project. The second provision, which takes effect in fiscal 2006, specifies that the General Assembly must approve through legislation MdTA's issuance of revenue bonds. Similar to the oversight process for higher education academic revenue bonds, MdTA will be required to submit for the approval of the General Assembly an annual bond bill that specifies the projects for which bonds are to be sold during the forthcoming fiscal year, as well as the total amount of bonds that are to be issued for each project.

Transit

Maglev: The fiscal 2005 budget authorizes MDOT to process a budget amendment for $1.0 million in federal funds to support the completion of a final environmental impact statement on the Maglev system. However, MDOT is prohibited from utilizing any additional federal funds for any other purpose related to Maglev. Further, a provision was adopted in Senate Bill 508 prohibiting the State from expending any funds from any source for the purpose of studying, developing, or constructing a Maglev system effective July 1, 2005.

Farebox Recovery: Chapters 210 and 211, Acts of 2000 lowered the required annual farebox recovery rate from 50 percent to 40 percent for Baltimore area transit services and instituted new performance reporting requirements for both the MTA system and the transit systems operated by Prince George's and Montgomery counties. These chapters were scheduled to sunset at the end of fiscal 2004. ***Senate Bill 282/House Bill 682 (both passed)*** eliminated the sunset provision, thereby maintaining the required farebox recovery rate for Baltimore area transit services at 40 percent and retaining the additional performance reporting requirements for both the Baltimore area services and services operated by Prince George's and Montgomery counties.

State Reserve Fund

The State Reserve Fund is projected to have a fund balance totaling approximately $522.6 million at the end of fiscal 2005. Actions in both fiscal 2004 and 2005 are illustrated in **Exhibit A-1.11** and detailed below:

Fiscal 2004 Actions

- $11.4 million transfer of Temporary Assistance for Needy Families (TANF) funds to support welfare activities;
- $8.2 million transfer from the Joseph Fund Account to support child welfare services;
- $10 million deficiency appropriation into the Catastrophic Event Account; and
- $7.2 million proposed transfer from the Catastrophic Event Account to support Hurricane Isabel reconstruction.

Fiscal 2005 Actions

- $112.7 million appropriation to the Revenue Stabilization Account (Rainy Day Fund) attributable to unanticipated general fund surplus in fiscal 2003 offset by a $9 million reduction to the Rainy Day Fund appropriation implemented through legislation clarifying the fund's minimum fund balance requirement. Section 3-216 of the State Finance and Procurement Article requires that the end of year fund balance be 5 percent of general fund revenues. The law does not clarify how the balance is determined. Senate Bill 508 includes a provision that requires that the fund's 5 percent fund balance be based on revenues projected by the BRE in December prior to the beginning of the legislative session;
- $91 million transfer from the Rainy Day Fund to the general fund proposed by the Administration in the budget bill; and
- $3 million appropriation to the Dedicated Purpose Account for DHCD to support homeowners whose primary residences were destroyed by Hurricane Isabel.

Out-year Forecast for the Rainy Day Fund

Current projections assume that the Rainy Day Fund's fiscal 2005 end-of-year balance will be approximately $520 million, which is 5.0 percent of general fund revenues. To maintain a balance that is 5 percent of general fund revenues, net appropriations totaling $11.2 million in fiscal 2006, $2.9 million in fiscal 2007, $1.5 million in fiscal 2008, and $0.5million in

Exhibit A-1.11

State Reserve Fund Activity

Fiscal 2004 and 2005
($ in Millions)

	Rainy Day Fund	Dedicated Purpose Acct.	Catastrophic Event Acct.	Joseph Fund Acct.
Balances on Hand 6/30/03	**$490.2**	**$11.4**	**$0.2**	**$8.2**
Fiscal 2004 Appropriations	0.0	0.0	0.0	0.0
Fiscal 2004 Deficiency Appropriations			10.0	
Expenditures				
Child Welfare Services				-8.2
TANF/Welfare Programs		-11.4		
Hurricane Isabel Reconstruction			-7.2	
Estimated Interest	6.5			0.0
Estimated Balances 6/30/04	**$496.7**	**$0.0**	**$3.0**	**$0.0**
Fiscal 2005 Appropriations	103.7	3.0	0.0	0.0
Transfers to General Fund	-91.0			
Hurricane Isabel Reconstruction		-3.0		
Estimated Interest	10.2			0.0
Estimated Balances 6/30/05	**$519.6**	**$0.0**	**$3.0**	**$0.0**
Balance in Excess of 5% GF Revenues	**$0.0**			

Note: Totals may not sum due to rounding.

Source: Department of Budget and Management

fiscal 2009 will be required. Pursuant to statute there may be appropriations of unanticipated general fund surpluses, but it is projected that these appropriations will be reduced to support operating budget activities. By fiscal 2009, the Rainy Day Fund's end-of-year balance is projected to be $613 million, which is 5.0 percent of projected revenues.

TTF Repayment

Chapter 203, Acts of 2003 (the Budget Reconciliation and Financing Act of 2003) transferred $314.9 million from the TTF to the general fund. The Act also required that the Governor develop a plan to reimburse the TTF. Although no plan was submitted as required, the General Assembly adopted a provision in Senate Bill 508 instituting a process by which a portion of unappropriated general fund surpluses will reimburse the TTF.

Under current law the Governor must appropriate any unappropriated general fund surplus exceeding $10 million into the Rainy Day Fund two years after the surplus was realized. For example, this resulted in the Governor allocating $112.7 million in the fiscal 2005 allowance, attributable to the $122.7 million unappropriated general fund surplus at the end of fiscal 2003.

Senate Bill 508 requires the transfer of up to $50 million annually from the general fund to the TTF until the entire $314,913,000 is repaid. Specifically, this provision requires that:

- up to the first $10 million is retained by the general fund;
- between $11 million and $60 million is transferred to the TTF; and
- the Governor must appropriate any amount exceeding $60 million into the Rainy Day Fund.

Current revenue estimates project that fiscal 2004 will have an unappropriated general fund surplus totaling $137.1 million at the end of the fiscal year. If this surplus is realized, the new provision requires the Governor to transfer $50 million from the general fund to the TTF in fiscal 2006.

Personnel

Employee Compensation

State expenditures for employee compensation, estimated to be $5.5 billion in fiscal 2005, constitute a major component of the budget. Regular employee expenditures increase $194.2 million, or 4.0 percent to $5.1 billion, while contractual employee expenditures increase $6.1 million, or 1.5 percent over the fiscal 2004 working appropriation.

In fiscal 2005 many components of compensation unavailable to regular employees in fiscal 2004 are again available. A $752 flat-rate general salary increase and merit or increment increases are available to all eligible employees. Fiscal 2005 annual salary review (ASR) upgrades and/or reclassifications are available to public defenders, social services attorneys, assistant general counsels (human relations), assistant State prosecutors, direct service workers in DJS, property assessors, lab scientists, administrative law judges, banking financial examiners, and a number of entry-level positions requiring a college degree. ASRs provide for increased salaries through upgrades to better enable the State to compete for employees within the relevant labor markets for these position classifications. The direct service worker and lab scientist classifications' descriptions and salary plans will also be reworked to better reflect current job responsibilities.

In addition to the components of compensation detailed above, there are three more items of note.

- First, the State's match of up to $600 in contributions to individual deferred compensation plans is not funded for fiscal 2005;

- Second, although there is a $22.8 million increase in fiscal 2005 for health insurance, status quo coverage in fiscal 2005 requires an increase of approximately $70.0 million. Further, budget language requires that any changes in health insurance coverage have to be agreed upon as a result of signed memoranda of understanding negotiated with labor organizations; and

- Third, workers' compensation insurance shows a relatively large increase due to an Injured Workers' Insurance Fund operating account surplus available in fiscal 2004 but no longer available in fiscal 2005.

Position Cap

The General Assembly abolished 139 full-time equivalent (FTE) regular positions and adopted budget bill language applying a cap on regular positions in non-higher education Executive Branch agencies of 52,834. Specific position abolitions taken during the 2004 session primarily affect the Division of Correction (50.0 FTEs), the Department of Human Resources (32.0 FTEs), the Judiciary (20.0 FTEs), and the Department of Juvenile Services (13.0 FTEs), as demonstrated in **Exhibit A-1.12**. The Administration is obligated to abolish enough additional positions to meet the cap, with the proviso that 50 percent come from the Officials and Administrators job family or government relations classifications. One exception allows the Administration to "raise" the cap by the number of non-State funded positions added in fiscal 2004 through the "Rule of 250" or Section 19 of the fiscal 2004 budget bill (Chapter 202, Acts of 2003). By the end of the 2004 session, 50.0 FTE non-State funded positions had been added through this mechanism, bringing the total obligation for abolitions to 351.4 FTEs. The budget bill also requires reductions of $9.0 million in general funds and $4.0 million in

Exhibit A-1.12
Regular Full-time Equivalent Positions
Fiscal 2004 Working Appropriation to 2005 Legislative Appropriation

Department/Service Area	2004 Working Approp.	New Positions (Net)[1]	2005 Allowance	Session Actions	2005 Legis. Approp.
Legislative	730.0	0.0	730.0	0.0	730.0
Judiciary	3,223.8	20.0	3,243.8	-20.0	3,223.8
Legal	1,445.1	71.5	1,516.6	0.0	1,516.6
Executive & Administrative Control	1,569.9	12.5	1,582.4	-7.0	1,575.4
Financial & Revenue Administration	2,031.7	17.0	2,048.7	-6.0	2,042.7
Budget & Management	472.3	0.0	472.3	0.0	472.3
Retirement	180.5	0.0	180.5	0.0	180.5
General Services	714.0	-8.0	706.0	0.0	706.0
Transportation	9,095.5	39.0	9,134.5	-3.0	9,131.5
Natural Resources	1,454.0	-8.0	1,446.0	-3.0	1,443.0
Agriculture	434.0	0.0	434.0	0.0	434.0
Health & Mental Hygiene	7,709.8	-88.7	7,621.1	-2.0	7,619.1
Human Resources	7,381.1	-6.0	7,375.1	-32.0	7,343.1
Labor, Licensing, & Regulation	1,519.1	-17.0	1,502.1	0.0	1,502.1
Public Safety & Correctional Services	11,231.0	30.0	11,261.0	-50.0	11,211.0
MSDE and Other Education	1,883.9	70.0	1,953.9	-2.0	1,951.9
Housing & Community Development	392.9	0.0	392.9	0.0	392.9
Business & Economic Development	299.0	0.0	299.0	0.0	299.0
Environment	951.0	1.0	952.0	-1.0	951.0
Juvenile Services	1,938.9	47.0	1,985.9	-13.0	1,972.9
Police & Fire Marshal	2,479.5	11.0	2,490.5	0.0	2,490.5
Subtotal	**57,136.9**	**191.3**	**57,328.2**	**-139.0**	**57,189.2**
Higher Education	20,966.2	0.0	20,966.2	0.0	20,966.2
Total	**78,103.0**	**191.3**	**78,294.3**	**-139.0**	**78,155.3**
Non-higher Education Total	53,183.1	171.3	53,354.4	-119.0	53,235.4
Non-State funded non-higher education positions added through BPW during fiscal 2004					50.0
Positions affected by fiscal 2005 position cap			53,354.4		53,185.4
Additional reductions needed to reach cap of 52,834			**-520.4**		**-351.4**

[1] These are total additional positions net of abolitions, transfers, and Board of Public Works additions. They include a reduction of 133.3 positions which reflects the implementation of bed reconfiguration in the Mental Hygiene Administration.

special funds. These reductions are attributable to position abolitions but may be taken in any object or subobject of expenditure and will result in budgetary savings in future years.

By the Numbers

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

Exhibit A-1.13 shows the impact of the legislative budget on the general fund balance for fiscal 2004 and 2005. The fiscal 2004 balance, including actions through Senate Bill 508, is estimated to be $218.4 million. At the end of fiscal 2005, the closing balance is estimated to be $130.3 million.

Exhibit A-1.14, the fiscal note on the budget bill, depicts the Governor's allowance, funding changes made through Supplemental Budgets No. 1 & 2, actions through Senate Bill 508, legislative reductions, and final appropriations for fiscal 2004 and 2005 by fund source. The Governor's original request provided for $23.9 billion (exclusive of projected reversions and contingent reductions) in fiscal 2005 expenditures and fiscal 2004 deficiencies. The Governor added $44.2 million in fiscal 2004 and 2005 spending via the two supplemental budgets. The legislature made $367.3 million in reductions and contingent reductions to the total budget request, resulting in additional appropriations of $209.9 million for fiscal 2004 (net of $126.1 million in withdrawn appropriations), and $23.6 billion for fiscal 2005.

Exhibit A-1.15 illustrates budget changes by major expenditure category by fund. Total spending grows 3.1 percent. As discussed in the Budget in Brief subpart of this Part, debt service grows 8.2 percent; aid to local governments increases by 7.5 percent; entitlements grow 2.9 percent, and State agency spending rises 2.7 percent. PAYGO capital expenditures decrease 13.4 percent, largely due to cash flow changes and project completions in the transportation capital program. A $106.7 million appropriation to the State Reserve Fund largely passes through the Rainy Day Fund to the general fund balance, as indicated in Exhibit A-1.13 which shows a net decrease of $21 million to general fund revenues.

Exhibit A-1.13
Final Budget Status
Status as of April 12, 2004

	FY 2004	FY 2005
Starting General Fund Balance	**$122,652,618**	**$218,361,060**
Revenues (2004 and 2005)		
BRE Estimated Revenues – December 2003	$9,943,666,980	$10,391,116,880
BRE Revenue Revision – March 2004	26,784,000	3,993,000
Budget Reconciliation and Financing Act of 2003	375,931,253	128,313,786
Budget Reconciliation and Financing Act of 2004 Transfers	0	255,238,676
Budget Reconciliation and Financing Act of 2004 Revenues	8,200,039	112,167,076
Other Legislation – New Revenues	0	21,079,500
Supplemental Budget No. 1	0	500,000
Additional revenues	3,466,245	68,272,921
	$10,358,048,517	**$10,980,681,839**
Net Transfer to the GF from the Rainy Day Fund 2004 Session	0	-21,652,618
Subtotal Available Revenues	**$10,480,701,135**	**$11,177,390,281**
Appropriations		
General Fund Appropriations Net of Rainy Day Fund	$10,549,279,263	$11,250,627,037
Deficiencies	78,254,189	0
Supplemental Budget No. 1	-3,947,735	5,323,382
Supplemental Budget No. 2	7,335,443	5,642,467
BPW Withdrawn Appropriations	-204,289,897	0
BRFA Withdrawn Appropriations	-126,124,507	0
Legislative Reductions/BRFA Contingent Reductions	-986,681	-178,524,951
Estimated Agency Reversions	-37,180,000	-36,000,000
Subtotal Appropriations	**$10,262,340,075**	**$11,047,067,935**
Closing General Fund Balance	**$218,361,060**	**$130,322,346**

Exhibit A-1.14
Fiscal Note
Summary of the Budget Bill – Senate Bill 125

	General Funds	Special Funds	Federal Funds	Education Funds	Total Funds
Governor's Request:					
FY 2004 Deficiency Budget	$78,254,189	$2,000,000	$243,775,367	$0	$324,029,556
FY 2005 Budget	11,327,279,655 [1]	4,253,561,284	5,723,801,651	2,598,634,378	23,903,276,968
Original Budget Request	**$11,405,533,844**	**$4,255,561,284**	**$5,967,577,018**	**$2,598,634,378**	**$24,227,306,524**
Supplemental Budget No. 1 and 2:					
FY 2004 Deficiency Budget	$12,975,367	$0	$0	$0	$12,975,367
FY 2005 Budget	10,965,849	14,306,278	5,926,267	0	31,198,394
	$23,941,216	**$14,306,278**	**$5,926,267**	**$0**	**$44,173,761**
Budget Reconciliation and Financing Act of 2004:					
FY 2004 Withdrawn Appropriations	-126,124,507 [2]	0	0	0	-126,124,507
Total BRFA Actions	**-$126,124,507**	**$0**	**$0**	**$0**	**-$126,124,507**
Conference Committee Reductions:					
FY 2004 Deficiency Budget	-$986,681	$0	$0	$0	-$986,681
FY 2005 Budget	-121,107,782	-77,274,168	-40,259,378	0	-238,641,328
FY 2005 Contingent Appropriations	-57,417,169 [3]	-70,280,722 [3]	0	0	-127,697,891
Total Reductions	**-$179,511,632**	**-$147,554,890**	**-$40,259,378**	**$0**	**-$367,325,900**
Appropriations:					
FY 2004 Deficiency Budget	-$35,881,632	$2,000,000	$243,775,367	$0	$209,893,735
FY 2005 Budget	11,159,720,553	4,120,312,672	5,689,468,540	2,598,634,378	23,568,136,143
Total Appropriation	**$11,123,838,921**	**$4,122,312,672**	**$5,933,243,907**	**$2,598,634,378**	**$23,778,029,878**

[1] Reflects general fund reversions of $35 million and an across-the-board reduction of $1 million in estimated savings due to implementation of some portion of the recommendations of the Commission on the Structure and Efficiency of State Government.

[2] The Budget Reconciliation and Financing Act of 2004 withdraws $126.1 million in fiscal 2004 appropriations, including $31.3 million from the Medicaid program and $90.0 million from the State Police budgets due to one-time federal aid, $1.8 million fro

[3] Contingent language in the budget bill (either as submitted by the Governor or as amended by the committee) makes reductions of $57.4 million in general funds and $70.3 million in special funds. General fund reductions include those due to health clu

Exhibit A-1.15
State Expenditures – General Funds
($ in Millions)

Category	Actual FY 2003	Work. Appr. FY 2004	Leg. Appr. FY 2005	FY 2004 to FY 2005 $ Change	FY 2004 to FY 2005 % Change
Debt Service	$182.5	$0.0	$0.0	$0.0	n/a
Aid to Local Governments					
County/Municipal	228.2	206.0	207.9	1.9	0.9%
Community Colleges	182.6	174.9	184.0	9.1	5.2%
Education/Libraries	3,040.2	3,369.4 *	3,683.2	313.9	9.3%
Health	61.9	60.4	60.9	0.4	0.7%
	$3,512.9	**$3,810.7**	**$4,136.1**	**$325.4**	**8.5%**
Entitlements					
Foster Care Payments	143.2	169.3	172.5	3.3	1.9%
Assistance Payments	48.5	86.6	75.6	-11.0	-12.7%
Medical Assistance	1,559.1	1,624.4 *	1,848.8	224.4	13.8%
Property Tax Credits	48.2	48.9	47.7	-1.2	-2.5%
	$1,799.0	**$1,929.1**	**$2,144.6**	**$215.5**	11.2%
State Agencies					
Health	1,193.3	1,183.7	1,222.4	38.7	3.3%
Human Resources	303.6	294.5	317.4	22.9	7.8%
Systems Reform Initiative	38.1	36.5	35.8	-0.7	-2.0%
Juvenile Justice	158.9	169.3	172.9	3.7	2.2%
Public Safety/Police	845.0	842.6 *	948.0	105.4	12.5%
Higher Education	895.7	837.5	839.7	2.1	0.3%
Other Education	268.2	262.3	283.5	21.2	8.1%
Agric./Natl. Res./Environment	146.3	135.6	130.4	-5.2	-3.8%
Other Executive Agencies	487.2	461.8	535.8	74.0	16.0%
Judicial/Legislative	321.1	334.9	340.1	5.2	1.6%
Across-the-board Cuts	0.0	0.0	-18.8	-18.8	n/a
	$4,657.5	**$4,558.6**	**$4,807.2**	**$248.6**	5.5%
Subtotal	**$10,152.0**	**$10,298.4**	**$11,087.9**	**$789.4**	**7.7%**
Capital	31.3	0.7	1.2	0.5	77.8%
Reserve Fund	181.0	10.0	106.7	96.7	966.5%
Appropriations	**$10,364.2**	**$10,309.1**	**$11,195.7**	**$886.6**	**8.6%**
Reversions	0.0	-37.0	-36.0	1.0	-2.7%
Grand Total	**$10,364.2**	**$10,272.1**	**$11,159.7**	**$887.6**	**8.6%**

Note: Fiscal 2004 reflects deficiency appropriations of $83.9 million and $1.0 million in cuts to the deficiencies.

* Reflects targeted reversions. Targeted reversions total $126.1 million, $121.4 million of which is due to temporary federal aid.

Exhibit A-1.15 (Continued)
State Expenditures – Special and Higher Education Funds*
($ in Millions)

Category	Actual FY 2003	Work. Appr. FY 2004	Leg. Appr. FY 2005	FY 2004 to FY 2005 $ Change	FY 2004 to FY 2005 % Change
Debt Service	$857.4	$680.0	$735.9	$55.9	8.2%
Aid to Local Governments					
County/Municipal	474.5	396.8	408.5	11.7	3.0%
Community Colleges	0.8	0.0	0.0	0.0	n/a
Education/Libraries	121.7	0.3	0.2	0.0	-3.5%
Health	0.0	0.0	0.0	0.0	n/a
	$597.0	**$397.0**	**$408.8**	**$11.7**	**3.0%**
Entitlements					
Foster Care Payments	0.1	0.2	0.1	-0.1	-39.3%
Assistance Payments	20.0	16.3	17.3	1.0	6.3%
Medical Assistance	121.8	119.9	74.1	-45.8	-38.2%
Property Tax Credits	0.0	0.0	0.0	0.0	-12.7%
	$142.0	**$136.5**	**$91.6**	**-$44.9**	**-32.9%**
State Agencies					
Health	183.9	172.4	168.5	-3.9	-2.3%
Human Resources	68.3	65.6	48.2	-17.4	-26.6%
Systems Reform Initiative	0.0	2.5	2.4	-0.1	-4.6%
Juvenile Justice	0.1	0.2	0.2	0.0	0.0%
Public Safety/Police	148.2	154.5	163.7	9.2	5.9%
Higher Education	2,243.9	2,485.6	2,604.6	119.0	4.8%
Other Education	37.7	32.7	31.0	-1.8	-5.4%
Transportation	1,071.4	1,049.7	1,088.2	38.5	3.7%
Agric./Natl. Res./Environment	97.1	100.5	106.1	5.5	5.5%
Other Executive Agencies	283.0	383.7	350.9	-32.7	-8.5%
Judicial/Legislative	13.6	33.1	33.7	0.6	1.8%
Across-the-board Cuts	0.0	0.0	-7.6	-7.6	n/a
	$4,147.2	**$4,480.7**	**$4,589.8**	**$109.2**	**2.4%**
Subtotal	**$5,743.5**	**$5,694.2**	**$5,826.1**	**$131.9**	**2.3%**
Capital	972.7	1,039.3	892.9	-146.4	-14.1%
Grand Total	**$6,716.3**	**$6,733.4**	**$6,718.9**	**-$14.5**	**-0.2%**

Note: Fiscal 2004 reflects deficiency appropriations of $2.0 million.

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

Exhibit A-1.15 (Continued)
State Expenditures – Federal Funds
($ in Millions)

Category	Actual FY 2003	Work. Appr. FY 2004	Leg. Appr. FY 2005	FY 2004 to FY 2005 $ Change	FY 2004 to FY 2005 % Change
Debt Service	$0.0	$0.0	$0.0	$0.0	n.a.
Aid to Local Governments					
County/Municipal	19.5	22.4	27.6	5.2	23.1%
Community Colleges	0.0	0.0	0.0	0.0	n/a
Education/Libraries	630.9	682.6	708.7	26.1	3.8%
Health	4.5	4.5	4.5	0.0	0.0%
	$654.9	**$709.5**	**$740.8**	**$31.3**	**4.4%**
Entitlements					
Foster Care Payments	102.0	83.9	81.6	-2.3	-2.7%
Assistance Payments	346.5	273.2	323.1	49.9	18.2%
Medical Assistance	1,713.4	2,042.8	1,956.0	-86.8	-4.3%
Property Tax Credits	0.0	0.0	0.0	0.0	n/a
	$2,161.9	**$2,399.9**	**$2,360.6**	**-$39.3**	**-1.6%**
State Agencies					
Health	595.3	663.4	670.1	6.6	1.0%
Human Resources	540.3	526.9	523.1	-3.8	-0.7%
Systems Reform Initiative	24.9	28.5	25.0	-3.5	-12.1%
Juvenile Justice	14.0	14.8	15.4	0.6	4.0%
Public Safety/Police	100.6	24.7	7.3	-17.4	-70.6%
Higher Education	0.0	0.0	0.0	0.0	n/a
Other Education	107.5	115.0	121.8	6.8	5.9%
Transportation	76.8	79.9	75.1	-4.8	-6.0%
Agric./Natl. Res./Environment	48.9	55.8	51.4	-4.4	-7.9%
Other Executive Agencies	395.8	438.5	405.7	-32.8	-7.5%
Judicial/Legislative	2.4	1.9	2.7	0.8	41.4%
	0.0	0.0	-3.5	-3.5	n/a
	$1,906.6	**$1,949.3**	**$1,894.1**	**-$55.3**	**-2.8%**
Subtotal	**$4,723.3**	**$5,058.7**	**$4,995.5**	**-$63.2**	**-1.3%**
Capital	650.3	793.4	694.0	-99.4	-12.5%
Grand Total	**$5,373.6**	**$5,852.1**	**$5,689.5**	**-$162.7**	**-2.8%**

Note: Fiscal 2004 reflects deficiency appropriations of $243.8 million.

Exhibit A-1.15 (Continued)
State Expenditures – State Funds
($ in Millions)

Category	Actual FY 2003	Work. Appr. FY 2004	Leg. Appr. FY 2005	FY 2004 to FY 2005 $ Change	FY 2004 to FY 2005 % Change
Debt Service	$1,039.9	$680.0	$735.9	$55.9	8.2%
Aid to Local Governments					
County/Municipal	702.7	602.8	616.4	13.7	2.3%
Community Colleges	183.4	174.9	184.0	9.1	5.2%
Education/Libraries	3,161.8	3,369.6 *	3,683.5	313.9	9.3%
Health	61.9	60.4	60.9	0.4	0.7%
	$4,109.9	**$4,207.7**	**$4,544.8**	**$337.1**	**8.0%**
Entitlements					
Foster Care Payments	143.4	169.5	172.7	3.2	1.9%
Assistance Payments	68.5	102.8	92.9	-10.0	-9.7%
Medical Assistance	1,680.9	1,744.3 *	1,923.0	178.6	10.2%
Property Tax Credits	48.3	48.9	47.7	-1.2	-2.5%
	$1,941.0	**$2,065.6**	**$2,236.2**	**$170.6**	**8.3%**
State Agencies					
Health	1,377.1	1,356.0	1,390.9	34.8	2.6%
Human Resources	372.0	360.1	365.6	5.4	1.5%
Systems Reform Initiative	38.1	39.0	38.2	-0.8	-2.1%
Juvenile Justice	159.0	169.5	173.2	3.7	2.2%
Public Safety/Police	993.2	997.1 *	1,111.7	114.6	11.5%
Higher Education	3,139.6	3,323.1	3,444.3	121.2	3.6%
Other Education	305.9	295.0	314.5	19.5	6.6%
Transportation	1,071.4	1,049.7	1,088.2	38.5	3.7%
Agric./Natl. Res./Environment	243.4	236.1	236.5	0.3	0.1%
Other Executive Agencies	770.3	845.5	886.7	41.2	4.9%
Judicial/Legislative	334.8	368.0	373.8	5.8	1.6%
Across-the-board Cuts	0.0	0.0	-26.4	-26.4	n/a
	$8,804.7	**$9,039.3**	**$9,397.0**	**$357.8**	**4.0%**
Subtotal	**$15,895.5**	**$15,992.6**	**$16,913.9**	**$921.3**	**5.8%**
Capital	1,004.0	1,039.9	894.1	-145.9	-14.0%
Reserve Fund	181.0	10.0	106.7	96.7	966.5%
Appropriations	**$17,080.5**	**$17,042.6**	**$17,914.7**	**$872.1**	**5.1%**
Reversions	0.0	-37.0	-36.0	1.0	-2.7%
Grand Total	**$17,080.5**	**$17,005.6**	**$17,878.7**	**$873.1**	**5.1%**

Note: Fiscal 2004 reflects deficiency appropriations of $85.9 million and $1.0 million in cuts to the deficiencies.

* Reflects targeted reversions. Targeted reversions total $126.1 million, $121.4 million of which is due to temporary federal aid.

Exhibit A-1.15 (Continued)
State Expenditures – All Funds
($ in Millions)

Category	Actual FY 2003	Work. Appr. FY 2004	Leg. Appr. FY 2005	FY 2004 to FY 2005 $ Change	FY 2004 to FY 2005 % Change
Debt Service	$1,039.9	$680.0	$735.9	$55.9	8.2%
Aid to Local Governments					
County/Municipal	722.1	625.2	644.0	18.9	3.0%
Community Colleges	183.4	174.9	184.0	9.1	5.2%
Education/Libraries	3,792.7	4,052.2 *	4,392.1	340.0	8.4%
Health	66.4	64.9	65.4	0.4	0.7%
	$4,764.7	**$4,917.2**	**$5,285.6**	**$368.4**	**7.5%**
Entitlements					
Foster Care Payments	245.4	253.4	254.2	0.9	0.3%
Assistance Payments	415.0	376.0	415.9	39.9	10.6%
Medical Assistance	3,394.2	3,787.2 *	3,879.0	91.8	2.4%
Property Tax Credits	48.3	48.9	47.7	-1.2	-2.5%
	$4,102.8	**$4,465.5**	**$4,596.8**	**$131.3**	**2.9%**
State Agencies					
Health	1,972.4	2,019.4	2,060.9	41.5	2.1%
Human Resources	912.3	887.0	888.7	1.7	0.2%
Systems Reform Initiative	63.0	67.5	63.2	-4.3	-6.4%
Juvenile Justice	173.0	184.3	188.5	4.2	2.3%
Public Safety/Police	1,093.8	1,021.8 *	1,119.0	97.2	9.5%
Higher Education	3,139.6	3,323.1	3,444.3	121.2	3.6%
Other Education	413.4	410.0	436.3	26.3	6.4%
Transportation	1,148.2	1,129.7	1,163.4	33.7	3.0%
Agric./Natl. Res./Environment	292.2	291.9	287.9	-4.0	-1.4%
Other Executive Agencies	1,166.1	1,284.0	1,292.4	8.4	0.7%
Judicial/Legislative	337.2	369.9	376.5	6.6	1.8%
Across-the-board Cuts	0.0	0.0	-29.9	-29.9	n/a
	$10,711.3	**$10,988.6**	**$11,291.1**	**$302.5**	**2.8%**
Subtotal	**$20,618.8**	**$21,051.3**	**$21,909.4**	**$858.1**	**4.1%**
Capital	1,654.3	1,833.3	1,588.1	-245.3	-13.4%
Reserve Fund	181.0	10.0	106.7	96.7	966.5%
Appropriations	**$22,454.1**	**$22,894.7**	**$23,604.1**	**$709.5**	**3.1%**
Reversions	0.0	-37.0	-36.0	1.0	-2.7%
Grand Total	**$22,454.1**	**$22,857.7**	**$23,568.1**	**$710.5**	**3.1%**

Note: FY 2004 reflects deficiency appropriations of $329.7 million and $1.0 million in cuts to the general fund deficiencies.

* Reflects targeted reversions. Targeted reversions total $126.1 million, $121.4 million of which is due to temporary federal aid.

Capital Budget

The 2004 General Assembly passed a capital budget totaling $2.3 billion, including $1.4 billion for the transportation program. Of the total amount, $655 million is funded with general obligation bonds; approximately $1.4 billion is funded on a pay-as-you-go (PAYGO) basis in the operating budget; and $230 million is funded with revenue bonds, including higher education academic bonds ($25 million) and transportation bonds ($205 million). **Exhibit A-2.1** presents an overview of the State's Capital program for fiscal 2005. **Exhibit A-2.2** shows the sources and uses of the funds for the nontransportation capital program.

General obligation debt totaling $663.7 million is authorized in the Maryland Consolidated Capital Bond Loan of 2004 ***Senate Bill 191 (passed)***. This includes $5 million authorized in the Southern Maryland Regional Strategy-Action Plan for Agricultural Loan of 2001, and $30.4 million authorized in the Maryland Consolidated Capital Bond Loan of 2003 for legislative initiative projects. This is offset by deauthorizations of $8.7 million in previously authorized debt resulting in a net increase of $655 million.

The Maryland Consolidated Capital Bond Loan of 2004 includes funding for:

- State facilities including colleges and universities, hospitals, office buildings, and correctional facilities;
- grants to local governments for school construction and facilities at community colleges;
- health and social services facilities such as senior citizen and adult day care centers, juvenile service facilities, and community health, disabilities, and addiction facilities;
- environmental programs such as the Chesapeake Bay Water Quality, asbestos abatement, GreenPrint, Program Open Space, and Rural Legacy programs;
- housing and community development such as the Partnership Rental Housing and Community Legacy programs; and
- local projects and legislative initiatives.

Exhibit A-2.1
Summary of the Capital Programs as Passed for the 2004 Session

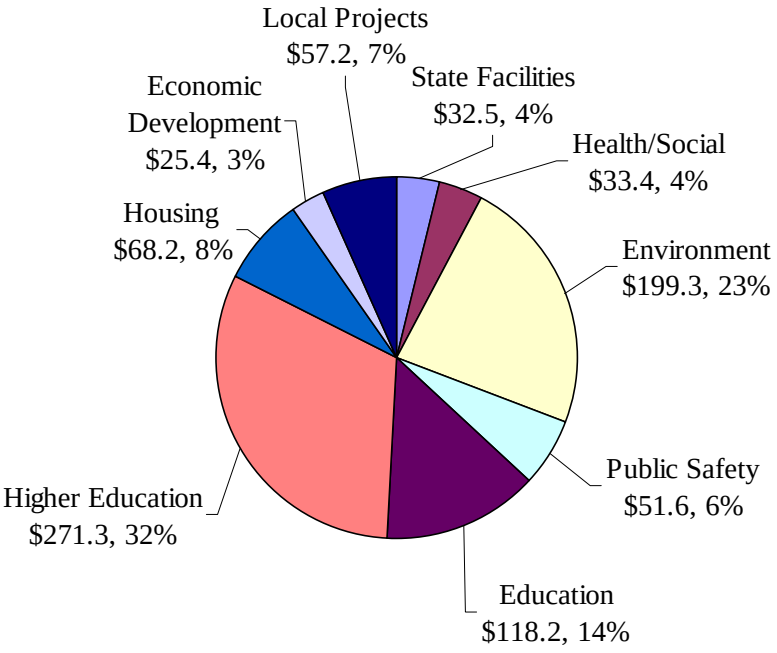
	Bonds			Current Funds (PAYGO)			
Function	**General Obligation**	**Agency**	**Recycled**	**General**	**Special**	**Federal**	**Total**
State Facilities							**$32.5**
Facilities Renewal	$12.8	$0.0	$0.0	$0.0	$0.3	$0.0	
Other	19.0	0.0	0.0	0.0	0.0	0.4	
Health/Social							**$33.4**
State Facilities	3.3	0.0	0.0	0.0	0.0	0.0	
Private Hospitals	7.5	0.0	0.0	0.0	0.0	0.0	
Other	22.6	0.0	0.0	0.0	0.0	0.0	
Environment							**$199.3**
Natural Resources	31.5	0.0	0.0	0.0	18.3	2.5	
Agriculture	16.0	0.0	0.0	0.0	13.2	3.5	
Environment	35.3	0.0	0.0	0.0	35.5	37.2	
Environmental Services	3.3	0.0	0.0	0.0	0.0	0.0	
Energy	0.0	0.0	0.0	0.0	3.0	0.0	
Public Safety							**$51.6**
State Corrections	34.2	0.0	0.0	0.0	0.0	0.0	
Local Jails	15.3	0.0	0.0	0.0	0.0	0.0	
State Police	1.1	0.0	0.0	1.0	0.0	0.0	
Education							**$118.2**
School Construction	114.2	0.0	0.0	0.0	2.4	0.0	
Other	1.6	0.0	0.0	0.0	0.0	0.0	
Higher Education							**$271.3**
University System	145.8	25.0	0.0	0.0	0.0	0.0	
Morgan State University	8.3	0.0	0.0	0.0	0.0	0.0	
St. Mary's College	26.7	0.0	0.0	0.0	0.0	0.0	
Community Colleges	47.0	0.0	0.0	0.0	0.0	0.0	
Private Colleges/Universities	8.5	0.0	0.0	0.0	0.0	0.0	
UMMS	10.0	0.0	0.0	0.0	0.0	0.0	
Housing/Community Development							**$68.2**
Housing	23.3	0.0	0.0	0.0	22.4	16.8	
Other	5.7	0.0	0.0	0.0	0.0	0.0	
Economic Development							**$25.2**
Economic Development	13.5	0.0	0.0	0.0	11.7	0.0	
Local Projects							**$57.4**
Administration	26.8	0.0	0.0	0.2	0.0	0.0	
Legislative	30.4	0.0	0.0	0.0	0.0	0.0	
Deauthorizations	-8.7	0.0	0.0	0.0	0.0	0.0	**-$8.7**
Subtotal	**$655.0**	**$25.0**	**$0.0**	**$1.2**	**$106.9**	**$60.4**	**$848.5**
Transportation	0.0	205.0	0.0	0.0	581.0	661.1	**$1,447.1**
Grand Total	**$655.0**	**$230.0**	**$0.0**	**$1.2**	**$687.8**	**$721.5**	**$2,295.6**

Note: Numbers may not sum to total due to rounding.
UMMS = University of Maryland Medical System

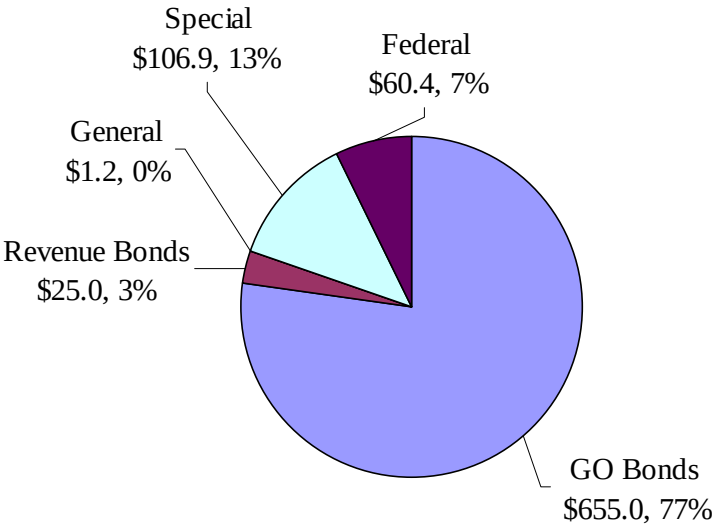
Exhibit A-2.2

Nontransportation Capital

Uses



Sources



In addition to being used to fund the same types of projects funded with general obligation debt, PAYGO funds are used primarily to support environmental, housing, and economic development programs. Also, ***House Bill 1068 (passed)*** authorizes $25 million in debt for academic facilities at the University System of Maryland. **Exhibit A-2.3** lists capital projects by fund source. The individual legislative initiative projects are listed in **Exhibit A-2.4**

Exhibit A-2.3
Capital Program as Passed – 2004 Session

Budget Code	Project Title	Bonds: Go Bonds	Bonds: Agency	Current Funds: General	Current Funds: Special	Current Funds: Federal	Total
State Facilities							
DA02.01(A)	OID: Accessibility Modifications	$1,600,000	$0	$0	$0	$0	$1,600,000
DE02.01(A)	State House Renovations	4,600,000	0	0	0	0	4,600,000
DE02.01(B)	2100 Guilford Avenue	5,344,000	0	0	0	0	5,344,000
DE02.01(C)	301 West Preston Street	1,700,000	0	0	0	0	1,700,000
DE02.01(D)	DGS: Capital Facility Renewal	6,049,000	0	0	300,000	0	6,349,000
DE02.01(E)	Public Safety Communications System	5,000,000	0	0	0	400,000	5,400,000
DE02.01(F)	DGS: Asbestos Abatement Program	2,000,000	0	0	0	0	2,000,000
DE02.01(G)	Construction Contingency Fund	2,000,000	0	0	0	0	2,000,000
DE02.01(H)	Underground Heating Storage Tank Replacement	500,000	0	0	0	0	500,000
DE02.01(I)	Centreville District Court Park	0	0	0	0	0	0
DE02.01(J)	DGS: CFC Mitigation Fund	350,000	0	0	0	0	350,000
DE02.01(K)	Rockville District Court	2,378,000	0	0	0	0	2,378,000
DE02.01(L)	Centreville District Court/Multiservice Center	230,000	0	0	0	0	230,000
	Subtotal	**$31,751,000**	**$0**	**$0**	**$300,000**	**$400,000**	**$32,451,000**
Health/Social							
DA07(A)	Aging: Senior Citizens Activities Centers	1,986,000	0	0	0	0	1,986,000
MA01(A)	DHMH: Community Health Facilities	8,447,000	0	0	0	0	8,447,000
MA01(B)	DHMH: Federally Qualified Health Centers	2,400,000	0	0	0	0	2,400,000

Budget Code	Project Title	Bonds: Go Bonds	Bonds: Agency	Current Funds: General	Current Funds: Special	Current Funds: Federal	Total
ML10(A)	Clifton T. Perkins Hospital Center: Security Wing	9,625,000	0	0	0	0	9,625,000
VA01(A)	DJS: Juvenile Services Facilities	3,337,000	0	0	0	0	3,337,00
VA01(B)	DJS: Charles H. Hickey, Jr. School	2,691,000	0	0	0	0	2,691,000
ZA00(O)	Prince George's Hospital Center	4,025,000	0	0	0	0	4,025,000
ZC01(A)	MHA: Franklin Square Hospital	209,000	0	0	0	0	209,000
ZC01(B)	MHA: Greater Baltimore Medical Center	535,000	0	0	0	0	535,000
ZC01(C)	MHA: Holy Cross Health	1,522,000	0	0	0	0	1,522,000
ZC01(D)	MHA: Laurel Regional Hospital	675,000	0	0	0	0	675,000
ZC01(E)	MHA: Prince George's Hospital	300,000	0	0	0	0	300,000
ZC01(F)	MHA: St. Joseph Medical Center	230,000	0	0	0	0	230,000
	Subtotal	**$33,399,000**	**$0**	**$0**	**$0**	**$0**	**$33,399,000**
Environment							
DA13.02	MEA: Community Energy Loans	0	0	0	1,500,000	0	1,500,000
DA13.03	MEA: State Agency Loans	0	0	0	1,500,000	0	1,500,000
KA05(A)	DNR: GreenPrint Program	3,000,000	0	0	0	0	3,000,000
KA05(B)	DNR: Program Open Space	15,000,000	0	0	0	2,000,000	17,000,000
KA05(C	DNR: State Capital Improvements	3,572,000	0	0	0	0	3,572,000
K00A02	DNR: Pocomoke Shade Landing	0	0	0	363,000		363,000
K00A02	DNR: Critical Maintenance	0	0	0	3,500,000		3,500,000
KA05(D)	DNR: Community Parks and Playground	5,000,000	0	0	0	0	5,000,000
KA05(E)	DNR: Rural Legacy Program	2,000,000	0	0	0	0	2,000,000
KA17(A)	DNR: Oyster Restoration Program	3,000,000	0	0	0	0	3,000,000
K00A02	DNR: Ocean City Beach Replacement	0	0	0	2,000,000	0	2,000,000
K00A02	DNR: Waterway Improvement	0	0	0	11,950,000	500,000	12,450,000
K00A02	DNR: Shore Erosion Control Program	0	0	0	500,000	0	500,000
LA11(A)	MDA: Agricultural Land Preservation	5,000,000	0	0	8,580,000	3,500,000	16,080,000
LA11	MDA: Tobacco Transition	5,000,000	0	0	4,653,000	0	9,653,000

Budget Code	Project Title	Bonds Go Bonds	Bonds Agency	Current Funds General	Current Funds Special	Current Funds Federal	Total
LA15(A)	MDA: Agricultural Cost Share	6,000,000	0	0	0	0	6,000,000
UA01(A)	MDE: Water Quality Revolving Loan Fund	6,407,000	0	0	32,840,000	30,753,000	70,000,000
UA01(B)	MDE: Drinking Revolving Loan Fund	1,860,000	0	0	2,687,000	6,453,000	11,000,000
UA01(C)	MDE: Hazardous Substance Cleanup Program	1,500,000	0	0	0	0	1,500,000
UA04(A1)	MDE: CBWQ Nutrient Removal	17,000,000	0	0	0	0	17,000,000
UA04(A2)	MDE: CBWQ Supplemental Assistance	5,000,000	0	0	0	0	5,000,000
UA04(A3)	MDE: CBWQ Small Creeks and Estuaries	500,000	0	0	0	0	500,000
UA04(A4)	MDE: Stormwater Pollution Control	500,000	0	0	0	0	500,000
UA04(B)	MDE: Water Supply Assistance Fund	2,500,000	0	0	0	0	2,500,000
UB00(A)	MES: Infrastructure Improvement Fund	3,257,000	0	0	0	0	3,257,000
	Subtotal	**$86,096,000**	**$0**	**$0**	**$70,073,000**	**$43,206,000**	**$199,375,000**
Public Safety							
QB04(A)	DPSCS: Correctional Training Center	1,060,000	0	0	0	0	1,060,000
QB05(A)	DPSCS: MCIW Support Services	54,000	0	0	0	0	54,000
QB06(A)	DPSCS: Brockbridge Correctional Facility	8,451,000	0	0	0	0	8,451,000
QB0801(A)	DPSCS: WCI-New Warehouse	0	0	0	0	0	0
QB0802(A)	DPSCS: NBCI Housing Unit	17,536,000	0	0	0	0	17,536,000
QD00(A)	DPSCS: Patuxent Institute Electrical Services	385,000	0	0	0	0	385,000
QG00(A)	DPSCS: Public Safety Training Center	940,000	0	0	0	0	940,000
QP00A)	DPSCS: BCDC Property Acquisition	2,500,000	0	0	0	0	2,500,000
QP00(B)	DPSCS: BCDC Women's Detention Center	3,335,000	0	0	0	0	3,335,000
WA01(A)	DSP: Forensic Science Laboratory	784,000	0	1,000,000	0	0	1,784,000
WA01(B)	DSP: Easton Barrack and Garage	307,000	0	0	0	0	307,000
ZB02(A)	Local Jails: Baltimore County Detention Center	10,000,000	0	0	0	0	10,000,000
ZB02(B)	Local Jails: Charles County Detention Center	336,000	0	0	0	0	336,000

Budget Code	Project Title	Bonds Go Bonds	Bonds Agency	Current Funds General	Current Funds Special	Current Funds Federal	Total
ZB02(C)	Local Jails: Montgomery County Detention Center	3,048,000	0	0	0	0	3,048,000
ZB02(D)	Local Jails: Prince George's Correctional Center	1,214,000	0	0	0	0	1,214,000
ZB02(E)	Local Jails: Worcester County Jail	660,000	0	0	0	0	660,000
	Subtotal	**$50,610,000**	**$0**	**$1,000,000**	**$0**	**$0**	**$51,610,000**
Education							
DE02.02(A)	Public School Construction	114,226,000	0	0	2,400,000	0	116,626,000
RP00.05(A)	MPBC: Digital Interconnection Network System	500,000	0	0	0	0	500,000
RE01(A)	MSDE: Elementary and Support Services Building	681,000	0	0	0	0	681,000
RE01(B)	MSDE: Family Education Building	402,000	0	0	0	0	402,000
RE01(C)	MSDE: Main Building Elevator/Columbia Campus	50,000	0	0	0	0	50,000
	Subtotal	**$115,859,000**	**$0**	**$0**	**$2,400,000**	**$0**	**$118,259,000**
Higher Education							
RB21(A)	UMB: Dental School	9,000,000	10,000,000	0	0	0	19,000,000
RB21(B)	UMB: Howard Hall Renovation	4,665,000	0	0	0	0	4,665,000
RB22(A)	UMCP: Biological Sciences Research Building	55,805,000	0	0	0	0	55,805,000
RB22(B)	UMCP: Engineering and Applied Sciences Building	2,400,000	0	0	0	0	2,400,000
RB23(A)	BSU: Center for Business and Graduate Studies	17,550,000	0	0	0	0	17,550,000
RB24(A)	TU: College of Liberal Arts Complex	4,242,000	0	0	0	0	4,242,000
RB24(B)	TU: Fine Arts Building	3,575,000	0	0	0	0	3,575,000
RB25(A)	UMES: Social Sciences Building	3,063,000	0	0	0	0	3,063,000
RB27(A)	CSC: Campuswide Utilities/Security Upgrade	9,440,000	0	0	0	0	9,440,000
RB27(B)	CSC: Grace Jacobs Building	3,375,000	0	0	0	0	3,375,000
RB27(C)	CSC: Physical Education Complex	2,704,000	0	0	0	0	2,704,000

Budget Code	Project Title	Bonds: Go Bonds	Bonds: Agency	Current Funds: General	Current Funds: Special	Current Funds: Federal	Total
RB27(D)	CSC: Telecommunications Upgrade	2,500,000	0	0	0	0	2,500,000
RB27(E)	CSC: Conner Administration Building	1,829,000	0	0	0	0	1,829,000
RB28(A)	UB: 1300 North Charles Street	0	0	0	0	0	0
RB29(A)	SU: Teacher Education – Technology Complex	3,009,000	0	0	0	0	3,009,000
RB31(A)	UMBC: Chemistry Building Renovation	3,000,000	0	0	0	0	3,000,000
RB35(A)	UMBI: Center Advanced Research in Biotech.	5,000,000	0	0	0	0	5,000,000
RB36rb	USM: Facility Renewal	0	15,000,000	0	0	0	15,000,000
RC00(A)	BCCC: Main Building Liberty Campus	14,675,000	0	0	0	0	14,675,000
RD00(A)	SMC: New Academic Building	18,576,000	0	0	0	0	18,576,000
RD00(B)	SMC: Student Services Building	8,109,000	0	0	0	0	8,109,000
RI00(A)	MHEC: Community Colleges	38,881,000	0	0	0	0	38,881,000
RI00(B)	MHEC: Mont. College/Takoma Park Expansion	8,100,000	0	0	0	0	8,100,000
RM00(A)	MSU: Northwood Property Acquisition	5,700,000	0	0	0	0	5,700,000
RM00(B)	MSU: Banneker Hall Renovation	1,367,000	0	0	0	0	1,367,000
RM00(C)	MSU: Montebello E-Wing Demolition	0	0	0	0	0	0
RM00(D)	MSU: Campuswide Site Improvements	696,000	0	0	0	0	696,000
RM00(E)	MSU: Communications Center/Pedestrian Bridge	0	0	0	0	0	0
RM00(F)	MSU: Campuswide Utility Upgrades	489,000	0	0	0	0	489,000
RQ00(A)	UMMS: Diagnostic and Treatment Facilities Improvement	5,000,000	0	0	0	0	5,000,000
RQ00(B)	UMMS: Ambulatory Care Facilities Improvement	5,000,000	0	0	0	0	5,000,000
RQ00(C)	Walter P. Carter Center Renovations	0	0	0	0	0	0
ZA00(G)	MICUA: Columbia Union College	2,250,000	0	0	0	0	2,250,000
ZA00(H)	MICUA: Johns Hopkins University	2,000,000	0	0	0	0	2,000,000
ZA00(I)	MICUA: Sojourner Douglass College	2,000,000	0	0	0	0	2,000,000
ZA00(J)	MICUA: Villa Julie College	2,250,000	0	0	0	0	2,250,000
	Subtotal	**$246,250,000**	**$25,000,000**	**$0**	**$0**	**$0**	**$271,250,000**

Budget Code	Project Title	Bonds: Go Bonds	Bonds: Agency	Current Funds: General	Current Funds: Special	Current Funds: Federal	Total
Housing/Community Development							
DB01(A)	HSMCC: St. John's Archeological Site	5,700,000	0	0	0	0	5,700,000
SA23(A)	DHCD: MHT Capital Grant	700,000	0	0	0	0	700,000
SA23(B)	DHCD: MHT Revolving Fund	250,000	0	0	200,000	0	450,000
SA24(A)	DHCD: Community Legacy Program	5,000,000	0	0	0	0	5,000,000
SA25(A)	DHCD: Rental Housing Program	7,409,000	0	0	4,247,000	0	11,656,000
SA25(B)	DHCD: Partnership Rental Program	6,000,000	0	0	0	0	6,000,000
SA25(C)	DHCD: Homeownership Program	2,989,000	0	0	4,511,000	0	7,500,000
SA25(D)	DHCD: Shelter and Transitional Housing	1,000,000	0	0	0	0	1,000,000
S00A2306	DHCD: Special Loans Program	0	0	0	7,350,000	1,200,000	8,550,000
S00A2306	DHCD: Neighborhood Business Development	0	0	0	6,091,000	0	6,091,000
S00A2306	DHCD: Community Development Block Grants	0	0	0	0	10,000,000	10,000,000
	Subtotal	**$29,048,000**	**$0**	**$0**	**$22,399,000**	**$16,844,000**	**$68,291,000**
Economic Development							
DE02.01(M)	TEDCO: Technology Incubator	1,500,000	0	0	0	0	1,500,000
TF00(A)	DBED: Economic Development Assistance Fund	12,000,000	0	0	11,750,000	0	23,750,000
	Subtotal	**$13,500,000**	**$0**	**$0**	**$11,750,000**	**$0**	**$25,250,000**
Local Projects							
D06E02.01	Wheaton Multi-Purpose Youth Center	0	0	200,000	0	0	200,000
ZA00(A)	B&O Railroad Museum	1,500,000	0	0	0	0	1,500,000
ZA00(B)	Baltimore City West Side Revitalization	4,500,000	0	0	0	0	4,500,000
ZA00(C)	Baltimore Zoo Facilities Renewal	750,000	0	0	0	0	750,000
ZA00(D)	Catholic Charities – Our Daily Bread	2,000,000	0	0	0	0	2,000,000
ZA00(E)	East Baltimore Biotechnology Park	4,500,000	0	0	0	0	4,500,000
ZA00(F)	Kennedy Krieger Institute	1,500,000	0	0	0	0	1,500,000
ZA00(K)	Maryland Science Center	2,000,000	0	0	0	0	2,000,000

Budget Code	Project Title	Bonds: Go Bonds	Bonds: Agency	Current Funds: General	Current Funds: Special	Current Funds: Federal	Total
ZA00(L)	TEDCO Incubator Program	1,000,000	0	0	0	0	1,000,000
ZA00(M)	National Aquarium in Baltimore	3,000,000	0	0	0	0	3,000,000
ZA00(N)	National Research Institute for the Blind	1,500,000	0	0	0	0	1,500,000
ZA00(P)	Rockville Town Center Redevelopment	1,500,000	0	0	0	0	1,500,000
ZA00(Q)	Sheppard Pratt Hospital	1,000,000	0	0	0	0	1,000,000
ZA00(R)	Strathmore Hall Performing Arts Center	2,000,000	0	0	0	0	2,000,000
ZZ00	Legislative Initiatives	30,400,000	0	0	0	0	30,400,000
	Subtotal	**$57,150,000**	**$0**	**$200,000**	**$0**	**$0**	**$57,350,000**
Subtotal		**$663,663,000**	**$25,000,000**	**$1,200,000**	**$106,922,000**	**$60,450,000**	**$857,260,250**
Transportation		$0	$205,000,000	$0	$580,944,807	$661,153,000	$1,447,097,000
Deauthorizations		-$8,663,000	$0	$0	$0	$0	$0
Grand Total		**$655,000,000**	**$230,000,000**	**$1,200,000**	**$687,866,807**	**$721,603,000**	**$2,295,669,807**

Exhibit A-2.4
Legislative Projects – 2004 Session – Final Action

Senate Legislative Projects

Project Title	County	Senate Projects Amount	Senate Projects Match
Statewide Projects			
Baltimore Zoo Trams		$450,000	Soft(U,2)
Joseph Meyerhoff Symphony Hall		600,000	Soft(2,3)
Maryland School for the Blind		300,000	Hard
Maryland Food Bank		962,000	Soft(3)
National Capital Trolley Museum		75,000	Soft(2,3)
Local Projects			
Eastport Fire Station and Paramedic Unit	Anne Arundel	250,000	Soft(all)
Emergency Operations Center	Anne Arundel	75,000	Hard
Marley Neck School Center	Anne Arundel	50,000	Hard
Odenton Heritage Complex	Anne Arundel	250,000	Soft(all)
Baltimore Clayworks	Baltimore City	100,000	Soft(2,3)
Bethel A.M.E. Museum and Cyber Community Center	Baltimore City	250,000	Soft(all)
Carroll Mansion Museum	Baltimore City	75,000	Soft(2)
Center for Poverty Solutions	Baltimore City	250,000	Hard
Dallas Street Community Educational Center	Baltimore City	300,000	Soft(all)
Family Life Project	Baltimore City	150,000	Soft(all)
Great Blacks in Wax Museum	Baltimore City	300,000	Soft(all)
League for People with Disabilities	Baltimore City	50,000	Hard
Lyndhurst Recreation Center	Baltimore City	100,000	Hard(U)
Northwood Baseball Little League	Baltimore City	200,000	Hard
Outward Bound Leakin Park Project	Baltimore City	100,000	Soft(all)
Polish Home Hall Cultural Center	Baltimore City	150,000	Soft(2,3)
Children's Home	Baltimore	250,000	Hard
Eastern Regional Trail Network	Baltimore	250,000	Hard
Inverness Community Center	Baltimore	700,000	Hard
Recreation Facilities Revitalization	Baltimore	800,000	Hard
Boys and Girls Club of So. Md. Expansion	Calvert	500,000	Soft(1)
Carroll Hospice	Carroll	100,000	Soft(1)
African American Heritage Society	Charles	300,000	Soft(all)
Veterans Memorial	Charles	50,000	Soft(all)
Dorchester County Historical Society	Dorchester	250,000	Soft(2)
YMCA	Dorchester	10,000	Soft(2)
American Red Cross	Frederick	350,000	Hard

Senate Projects

Project Title	County	Amount	Match
Salem School	Garrett	425,000	Soft(all)
Sexual Assault/Spousal Abuse Resource Ctr.	Harford	150,000	Hard
Blandair Mansion	Howard	500,000	Hard
Boys and Girls Club Gymnasium	Montgomery	500,000	Soft(all)
Easter Seals Inter-Generational Center and Regional Head Quarters	Montgomery	100,000	Soft(1)
Goodwill Industries Intl Member Services Center	Montgomery	100,000	Soft(3)
Imagination Stage	Montgomery	100,000	Soft(2,3)
Kensington Recreation Center	Montgomery	100,000	Soft(1)
Lone Oak	Montgomery	250,000	Soft(all)
Melvin J. Berman Hebrew Academy Auditorium	Montgomery	150,000	Hard
Olney Skate Park	Montgomery	350,000	Hard
Our House Youth Home	Montgomery	25,000	Hard
South Valley Park	Montgomery	50,000	Hard
Takoma Park Community Learning Center	Montgomery	300,000	Soft(all)
Volunteer and Training Center	Montgomery	250,000	Soft(2,3)
Wheaton Multi-Service Youth Facility	Montgomery	100,000	Hard
African American Cult Heritage Center at N. Brentwood	Prince George's	250,000	Hard
Bowie Center for the Performing Arts	Prince George's	250,000	Hard
Camp Springs Boys and Girls Club	Prince George's	150,000	Soft(2,3)
College Park City Hall	Prince George's	100,000	Hard
Concorde Mansion	Prince George's	700,000	Hard
District Heights Street Lights	Prince George's	25,000	Soft(U,2)
Friends of Pullen Performing Arts Center	Prince George's	250,000	Soft(3)
Ivy Youth and Family Center	Prince George's	300,000	Soft(all)
Laurel Senior Center	Prince George's	150,000	Soft(1,2)
Marlton Gazebo	Prince George's	100,000	Soft(2)
Hospice House	Queen Anne's	150,000	Soft(1,3)
Old Carvers Hgts - S. Hampton Comm Village	St. Mary's	250,000	Soft(1,2)
Agricultural and Civic Center	Somerset	18,000	Hard
Barbara Ingram School for the Arts	Washington	400,000	Soft(U,all)
Pocomoke City Fair	Worcester	60,000	Soft(2,3)
Total		**$15,200,000**	

House Legislative Projects

Project Title	County	CBRI* Amount	New House Projects Amount	Match
Statewide				
Lyric Opera House	State		150,000	Hard
Baltimore Museum of Industry	State		150,000	Soft (2)
Local Projects				
Mount Olive Community Life Center	Anne Arundel	300,000		
Salvation Army Centennial Wing	Anne Arundel	250,000		
Maryland Fire-Rescue Services Memorial Sculpture	Anne Arundel	200,000		
Carrie Weedon Science Center	Anne Arundel		25,000	Hard
Emergency Operations Center	Anne Arundel		50,000	Hard
Maryland Hall for the Creative Arts	Anne Arundel		150,000	Hard
Children's Theatre of Annapolis	Anne Arundel		100,000	Soft (2,3)
Marley Neck School Center	Anne Arundel	150,000		
Baltimore Center for Children	Baltimore City	400,000		
Baltimore Medical System	Baltimore City	200,000		
Chase Brexton Health Services, Inc.	Baltimore City	100,000		
Dr. Bob's Place	Baltimore City	200,000		
Grace and Saint Peter's School	Baltimore City	250,000		
I Can't We Can	Baltimore City	500,000		
Hearing and Speech Agency	Baltimore City	350,000		
League for People with Disabilities	Baltimore City	500,000		
Family Life Project	Baltimore City		120,000	Soft (all)
Moveable Feast	Baltimore City		175,000	Hard
Tutu’s Place	Baltimore City	175,000		
Odyssey School	Baltimore	500,000		
Irvine Nature Center	Baltimore	200,000		
Children's Home	Baltimore		200,000	Hard
Landsdowne Athletic Facility	Baltimore		125,000	Hard
Old Schoolhouse Redevelopment	Caroline	100,000		
National Guard Armory	Caroline		100,000	Soft(2)
Goodwill Industries of Monocacy Valley	Carroll	100,000		
Carroll Hospice	Carroll	500,000		
Historic Tome School	Cecil		100,000	Hard
Thomas Stone H.S. Swimming Pool Complex	Charles	500,000		
PAL Center at Sagner	Frederick	50,000		
American Red Cross	Frederick	250,000		
Garrett County Exhibition Hall	Garrett	300,000		
Salem School	Garrett		75,000	
Boys and Girls Club	Harford	140,000		
Kent County Recreation and Community Complex	Kent	500,000		
Gaithersburg Youth Center	Montgomery	300,000		
Joshua Group Ministries	Montgomery	175,000		

Project Title	County	CBRI* Amount	New House Projects Amount	Match
Whitman-Walker Clinic	Montgomery	200,000		
Chelsea School	Montgomery	300,000		
Black Rock Center for the Arts	Montgomery	300,000		
Sandy Spring Slave Museum and African Art Gallery	Montgomery	75,000		
Easter Seals Inter-Generational Center and Regional Head Quarters	Montgomery		100,000	Soft(1)
Wheaton Multi-Service Youth Facility	Montgomery		200,000	Hard
Our House Youth Home	Montgomery	200,000		
Imagination Stage	Montgomery	300,000		
Community Serv. for Autistic Adults and Children	Montgomery	300,000		
Ebenezer Community Life Center	Prince George's	200,000		
Anacostia Watershed Society	Prince George's	100,000		
Bethel Recreation Center	Prince George's	250,000		
Cheverly Community Center	Prince George's	100,000		
Community Crisis Center	Prince George's	100,000		
Melwood Horticultural Training Center Facilities	Prince George's	200,000		
Bowie Center for the Performing Arts	Prince George's	200,000		
Sojourner Truth Collection	Prince George's	200,000		
District Heights Street Lights	Prince George's		25,000	Grant
Ivy Youth and Family Center	Prince George's		200,000	Soft (all)
Mission of Love	Prince George's		100,000	Hard
Historic Christ Church	Queen Anne's	167,500		
Patuxent River Naval Air Museum and Visitors Center	St. Mary's	225,000		
Piney Point Lighthouse Museum	St. Mary's		100,000	Soft(2)
Alice B. Tawes Nursing Home	Somerset	500,000		
Agricultural and Civic Center	Somerset	25,000		
Academy Art Museum	Talbot	300,000		
American Red Cross – Washington County	Washington	250,000		
Boys and Girls Club of Washington County	Washington	100,000		
Girls, Inc.	Washington	200,000		
Cumberland Valley Technology Center	Washington	200,000		
Salisbury City Park	Wicomico	150,000		
Boulevard Theatre Performing Arts Complex	Wicomico		175,000	Soft(all)
Youth and Civic Center	Wicomico	217,500	80,000	Soft(2,3)
Pocomoke River Discovery Center	Worcester	150,000		
Subtotal – New Local Projects			**$2,500,000**	
Total – Local Projects		**$12,700,000**	**$2,500,000**	

*CRBI = Community Based Regional Initiatives

Debt Affordability

In its September 2002 report, the Capital Debt Affordability Committee (CDAC) indicated that after two years of authorization in excess of $700 million, future authorizations would revert to their former levels. General obligation debt authorizations for both fiscal 2003 and 2004 were increased to accommodate projects previously authorized to utilize PAYGO general funds. This would have meant a $555 million authorization for the 2004 session. However, concerns were expressed that the level of debt proposed by CDAC in 2002 was insufficient to meet the State's needs. It was noted that spending pressures, such as prior commitments and the Administration's priorities, exceeded the resources available for the capital program. To meet these needs, the committee recommended increasing the amount of general obligation debt authorized by $95 million and excluding $5 million for tobacco buyout bonds annually from fiscal 2005 to 2009.

Exhibit A-2.5 compares the levels and ratios reported for debt outstanding and debt service for both the 2002 and 2003 *Report of the Capital Debt Affordability Committee on Recommended Debt Authorizations*. In both cases, the State is well within the debt limits. As with the CDAC analysis, the debt outstanding and debt service includes general obligation bonds, transportation bonds, Stadium Authority Debt, and capital leases.

Exhibit A-2.5

Capital Debt Affordability Committee Comparison of 2002 and 2003 Recommendations

Fiscal 2005 – 2009

	2002 Debt Levels Analyzed under Current Financial Conditions					2003 Recommendation				
Fiscal Year	New GO Auth.	Debt Out-standing	Debt/ P. I.	Debt Service	Debt Serv./ Tax Rev.	New GO Auth.	Debt Out-standing	Debt/ P. I.	Debt Serv.	Debt Serv./ Tax Rev.
2005	$555	$6,525	2.90%	$820	6.45%	$655	$6,556	2.92%	$820	6.45%
2006	570	6,716	2.84%	834	6.23%	670	6,803	2.88%	836	6.25%
2007	585	6,848	2.75%	848	6.07%	685	7,011	2.81%	854	6.11%
2008	600	6,961	2.65%	877	6.00%	700	7,213	2.74%	888	6.07%
2009	615	7,081	2.55%	920	6.02%	715	7,428	2.68%	940	6.15%

The Governor's capital budget as introduced required $655 million in net new general obligation debt. The budget as passed by the General Assembly includes $655 million in net new general obligation debt, consistent with the recommendation of CDAC and the Spending Affordability Committees. This budget contains general obligation bond funding for a number of capital programs that are typically funded with PAYGO including programs administered by the Department of Housing and Community Development, Environment, Natural Resources, and Business and Economic Development.

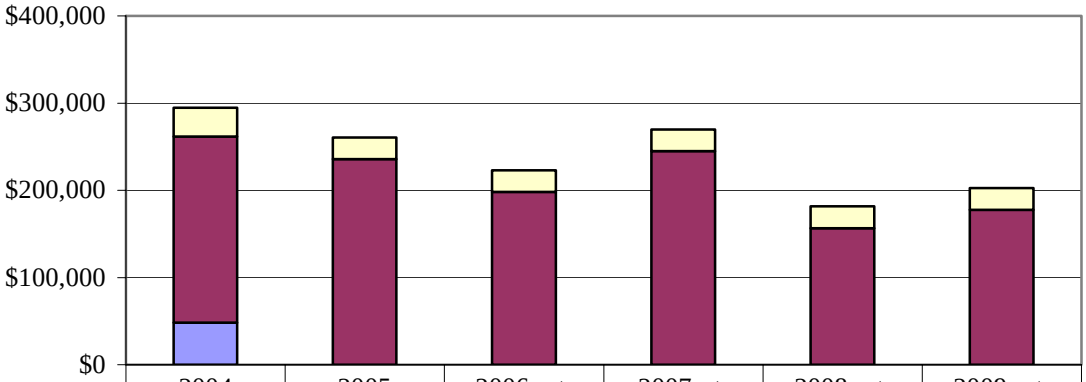
Debt Management

Chapter 153, Acts of 2003 specifies that the authority to spend an appropriation for a capital project terminates seven years after the effective date of the appropriation act that authorized the project unless (1) the appropriation act provides otherwise or (2) in an emergency the Board of Public Works (BPW) unanimously grants a temporary exception for one year. This termination applies to appropriations and authorizations of State debt as codified in Section 7-305 (D) (3) and Section 8-128 (C) of the State Finance and Procurement Article. ***Senate Bill 713 (passed)*** as amended exempts allocated State funds for local Program Open Space and any unspent funds within the Ocean Beach Replenishment Fund from the seven-year termination statutory provisions.

Higher Education

The fiscal 2005 capital program for all segments of higher education is $261.3 million, including general obligation bonds and academic revenue bonds. The *Capital Improvement Program* (CIP), after legislative changes to fiscal 2005, shows $1.138 billion in capital spending for higher education projects over fiscal 2005 through 2009 period. **Exhibit A-2.6** shows the fiscal 2004 and 2005 legislative appropriation for higher education capital and the funding anticipated in the CIP for fiscal 2006 through 2008. **Exhibit A-2.7** shows the fiscal 2005 allocation of capital funding by institution.

Exhibit A-2.6
Higher Education Fiscal 2004 – 2009
Authorized and Planned Out-year Capital Funding
($ in Thousands)



	2004	2005	2006 est.	2007est.	2008 est.	2009 est.
ARB	$33,085	$25,000	$25,000	$25,000	$25,000	$25,000
GO	$213,432	$235,752	$198,000	$244,900	$156,650	$177,600
GO Replacement	$48,194					

Exhibit A-2.7
Higher Education
Fiscal 2005 Allocation of Capital Funding by Institution
($ in Thousands)

Institution	Fiscal 2005 Capital Funding
University of Maryland, Baltimore	$23,665
University of Maryland, College Park	58,205
Bowie State University	17,550
Towson University	7,817
University of Maryland, Eastern Shore	3,063
Coppin State College	19,848
Salisbury University	3,009

Institution	Fiscal 2005 Capital Funding
University of Maryland, Baltimore County	3,000
University of Maryland Biotechnology Institute	5,000
University System of Maryland	15,000
Baltimore City Community College	14,675
St. Mary's College of Maryland	26,685
Community Colleges	46,981
Morgan State University	7,252
Independent Colleges	8,500
Total	**$261,250**

Public School Construction

The fiscal 2005 capital budget includes $116.6 million for public school construction. BPW allocated $75.5 million of the $116.6 million in January 2004. The remaining $41.1 million will be allocated by the BPW in April or May 2004. **Exhibit A-2.8** shows the current allocations for each jurisdiction.

The new funding consists of $114.2 million in general obligation bonds and $2.4 million in special fund PAYGO for new construction projects, systemic renovation projects, renovated high school science facilities, relocatable classroom repair, upgrade and moving costs, and improvements and repairs to existing school buildings under the Aging School Program.

The $2.4 million in special fund PAYGO is from the Maryland Stadium Authority (MSA) pursuant to Section 13-715.2 of the Financial Institutions Article which requires MSA to annually contribute $2.4 million for public school construction in each of fiscal 2001 through 2010.

In addition to the $1.6 million of general obligation bond funds provided for the Aging School Program, the fiscal 2005 operating budget includes an additional $8.77 million to support this program. The operating budget also contains $4.4 million in general funds for a lease repayment on funds borrowed to wire all schools for technology under the Technology in Maryland Schools Program.

School construction spending should increase substantially under the goals established by ***Senate Bill 787*** **/*House Bill 1230*** ***(both passed)***. Those bills set as a goal the authorization of $3.85 billion for school construction over the next eight years, $2.0 billion ($250 million per year) in State financing and the remainder from the counties. These bills are discussed in greater length in Part L of this *90 Day Report*.

Exhibit A-2.8
Public School Construction Allocations

LEA	FY 2005 Allocation
Allegany	$125
Anne Arundel	4,237
Baltimore City	7,721
Baltimore County	5,150
Calvert	3,127
Caroline	269
Carroll	3,968
Cecil	8,246
Charles	3,423
Dorchester	991
Frederick	6,057
Garrett	598
Harford	2,437
Howard	4,300
Kent	555
Montgomery	6,310
Prince George's	6,474
Queen Anne's	338
St. Mary's	2,683
Somerset	600
Talbot	0
Washington	2,375
Wicomico	3,993
Worcester	1,500
Subtotal	**$75,477**
To Be Allocated – April/May 2004	**41,149**
Total	**$116,626**

Source: Department of Legislative Services and the *Fiscal 2005 Public School Construction Capital Improvement Program*

Transfer Tax

In light of the fiscal condition of the State, nearly all fiscal 2005 transfer tax revenue ($147,374,444) will be transferred to the general fund. In addition, $41,886,000 in transfer tax revenue generated in fiscal 2004 over the estimated collection amount will be transferred to the general fund in fiscal 2005. The programs funded by the transfer tax that will be impacted by these transfers include the following: Program Open Space, Maryland Agricultural Land Preservation Foundation, Rural Legacy, and the Heritage Conservation Fund. To partially offset this diversion of special funds, the fiscal 2005 general obligation bond program includes funding for many of these programs. **Exhibit A-2.9** shows how the programs traditionally supported with transfer tax revenue are funded in fiscal 2005.

Exhibit A-2.9
Programs Traditionally Funded with Transfer Tax Revenue

	Transfer Tax Special	Other Special	Federal	GO Bonds	Total
Department of Natural Resources					
Program Open Space					
State	$1,000,000	$0	$1,000,000	$0	$2,000,000
Local	0	0	1,000,000	15,000,000	16,000,000
Critical Maintenance/Improvements	3,863,000	0	0	3,572,000	7,435,000
Rural Legacy	0	0	0	2,000,000	2,000,000
Heritage Conservation Fund	0	0	0	0	0
Department Housing/Community Development					
Heritage Areas Authority	1,000,000	0	0	0	1,000,000
Department of Agriculture					
Agricultural Land Preservation	0	8,580,000	3,500,000	5,000,000	17,080,000
Total	**$5,863,000**	**$8,580,000**	**$5,500,000**	**25,572,000**	**$45,515,000**

Aid to Local Governments

Overview of State Aid to Local Governments

State aid to local governments is one of the largest and fastest growing components of the State budget. The annual growth in State aid for fiscal 2005 totals 11.1 percent, compared to 2.5 percent in fiscal 2004 and 6.1 percent in fiscal 2003. Over the last ten years, State aid has increased at an average annual rate of 5.9 percent. State aid accounts for approximately 37 percent of the State's general fund budget and 26 percent of the State's general/special fund budget. The 11.1 percent growth in State aid in fiscal 2005 will exceed other components of the State budget. State funding increases by 8.3 percent for entitlements and 4.0 percent for State agencies.

Public schools continue to receive the largest share of State aid, accounting for 77.5 percent of total State aid. In fiscal 2005, public schools will receive $3.6 billion in State aid, representing a $321.3 million, or 9.7 percent increase over the prior year. Community colleges will receive $184.0 million in aid in fiscal 2005, representing a $9.1 million increase. Local health departments and libraries will realize a slight increase in funding. For the first time in three years, State funding for counties and municipalities will increase. State funding for counties and municipalities will total $758.2 million in fiscal 2005, representing a $138.2 million, or 22.3 percent increase over the prior year. The increases in fiscal 2005 more than offset prior year reductions to local government programs. **Exhibit A-3.1** shows the increase in State aid in fiscal 2005 by governmental entity.

Exhibit A-3.1
State Aid to Local Governments in Fiscal 2004 and 2005
($ in Millions)

	FY 2004	FY 2005	$ Difference	% Difference
Public Schools	$3,313.4	$3,634.7	$321.3	9.7%
Libraries	49.3	50.4	1.1	2.3%
Community Colleges	174.9	184.0	9.1	5.2%
Local Health	60.4	60.9	0.4	0.7%
County/Municipal	619.9	758.2	138.2	22.3%
Total	**$4,217.9**	**$4,688.2**	**$470.2**	**11.1%**

Reductions to State Aid Programs

During the 2004 legislative session, actions were taken to reduce State aid to local governments in fiscal 2005. These aid reductions are included in the numbers shown in Exhibit A-3.1. The fiscal 2005 State budget as introduced by the Governor included $117.4 million in proposed funding reductions to State aid programs. Most of the reductions ($95.4 million) were targeted to county and municipal governments through local highway user revenues, program open space, utility property tax grant, and senior citizen grants. However, three public school programs (nonpublic placements for special education students, student transportation, and teacher salary grants) were reduced by $22.0 million. The Governor's proposed funding reductions were contingent upon the enactment of legislation. The Budget Reconciliation and Financing Act (BRFA) of 2003 already provided for a $51.2 million reduction to local highway user revenues, reductions to Program Open Space, and a $4.9 million reduction to community colleges. The combined impact of the 2004 contingent legislation and the 2003 BRFA would have resulted in a $210.8 million reduction in State aid programs in fiscal 2005.

The General Assembly accepted several of the reductions proposed by the Governor; however, reductions to the utility property tax grant, senior citizen grants, and student transportation grants were rejected. Instead, the General Assembly decided to eliminate all funding for teacher salary grants and reduce funding for the extended elementary education program. In addition, due to the passage of the Administration bill that increases the State motor vehicle registration fee, State funding for local highway user revenues will increase by $44.4 million in fiscal 2005. **Exhibit A-3.2** shows the aid reductions from statutorily mandated amounts reflected in the fiscal 2005 budget passed by the General Assembly. The amounts include certain reductions proposed by the Governor which were implemented through the Budget Reconciliation and Financing Act and the additional reductions made by the General Assembly. The amounts also include additional local highway user revenues provided in ***House Bill 1467 (passed)***. In total, certain State aid programs were reduced by $50.0 million in fiscal 2005. These reductions were fully offset by the overall increases in State aid programs in fiscal 2005. In addition, local governments will benefit from the proposal to distribute $81 million in unclaimed local income tax revenues in fiscal 2005. This revenue enhancement will be in addition to the annual distribution of unclaimed local income tax revenues.

Exhibit A-3.2

Statutory State Aid Changes for Fiscal 2005

County	Highway User Revenues	HB 1467 Highway User Revenues	Program Open Space	Nonpublic Placements	Extended Elementary	Teacher Salary Challenge	Total Changes
Allegany	-$1,192,148	$611,310	-$149,711	-$26,500	-$43,539	-$408,459	-$1,209,047
Anne Arundel	-4,984,869	2,556,142	-1,622,357	-556,158	-161,908	-1,138,184	-5,907,334
Baltimore City	0	18,126,295	-1,071,692	-1,558,951	-516,847	-3,782,066	11,196,739
Baltimore	-6,845,418	3,510,194	-1,828,682	-917,364	-148,721	-1,796,203	-8,026,193
Calvert	-992,380	508,873	-163,428	-76,188	-56,726	-132,721	-912,569
Caroline	-801,537	411,012	-70,851	-7,619	-43,935	-155,390	-668,320
Carroll	-2,232,489	1,144,776	-366,909	-186,255	-21,457	-468,987	-2,131,321
Cecil	-1,239,826	635,758	-188,815	-68,900	-101,203	-568,896	-1,531,882
Charles	-1,524,265	781,613	-332,924	-80,163	-133,743	-432,022	-1,721,503
Dorchester	-895,806	459,351	-60,766	-994	-51,497	-43,127	-592,838
Frederick	-2,929,129	1,501,999	-386,074	-80,825	-101,516	-616,485	-2,612,030
Garrett	-1,017,498	521,753	-76,425	-2,650	-38,935	-86,291	-700,046
Harford	-2,536,063	1,300,443	-541,954	-208,390	-106,287	-673,682	-2,765,933
Howard	-2,487,007	1,275,288	-959,124	-207,964	-31,915	-833,477	-3,244,199
Kent	-459,598	235,673	-45,661	-795	-34,956	-41,513	-346,851
Montgomery	-7,187,966	3,685,847	-2,440,057	-689,188	-158,242	-5,918,217	-12,707,824
Prince George's	-6,133,881	3,145,333	-2,063,396	-1,539,165	-216,447	-2,278,413	-9,085,970
Queen Anne's	-898,202	460,580	-99,548	-14,575	-43,852	-104,946	-700,543
St. Mary's	-1,180,513	605,344	-183,723	-52,669	-109,161	-257,074	-1,177,796
Somerset	-536,068	274,885	-43,610	-2,981	-38,706	-112,377	-458,857
Talbot	-727,011	372,797	-104,649	-2,253	-39,331	-64,877	-565,324
Washington	-1,880,761	964,417	-287,107	-97,422	-74,829	-345,795	-1,721,497
Wicomico	-1,437,541	737,142	-191,367	-17,225	-98,787	-523,635	-1,531,413
Worcester	-1,100,087	564,103	-189,136	0	-35,269	-111,474	-871,863
Total	**-$51,220,064**	**$44,390,928**	**-$13,467,966**	**-$6,395,191**	**-$2,407,809**	**-$20,894,311**	**-$49,994,413**

Source: Department of Legislative Services

Reliance on State Aid

State aid is the largest revenue source for most county governments in Maryland, representing 27.5 percent of total county revenues. In five counties (Anne Arundel, Baltimore, Howard, Talbot, and Worcester), State aid is the second largest revenue source after property taxes; while in Montgomery County, State aid is the third largest revenue source after both property and income taxes. The dependence on State aid varies across the State, with less affluent jurisdictions relying on State aid as their primary revenue source while more affluent jurisdictions rely more heavily on local property and income taxes. For example, State aid accounts for 15 percent of total revenues in Montgomery County but over 50 percent in Caroline and Somerset counties.

State aid is the third largest revenue source for municipalities, representing 10 percent of total revenues. As with counties, the reliance on State aid varies for municipalities, ranging from 4 percent of total revenues for municipalities in Talbot County to 34 percent for municipalities in Garrett County, where State aid is the largest revenue source.

Changes in State Aid by Program

The increase in State aid in fiscal 2005 ranges from 2.5 percent in Garrett County to 13.9 percent in Worcester County. The increase in 15 counties will exceed 10 percent. **Exhibit A-3.3** summarizes the distribution of direct aid by governmental entity and shows the estimated State retirement payments for local government employees. **Exhibit A-3.4** compares total State aid in fiscal 2004 and 2005 by program.

Exhibit A-3.3

State Assistance to Local Governments
Fiscal 2005 Legislative Appropriation
($ in Thousands)

	Direct State Aid								Change	
County	**County - Municipal**	**Community Colleges**	**Public Schools**	**Libraries**	**Health**	**Subtotal**	**Retirement**	**Total**	**Over FY 2004**	**Percent Change**
Allegany	$13,562	$4,627	$51,673	$619	$1,480	$71,961	$4,975	$76,936	$4,798	6.7%
Anne Arundel	49,156	21,803	195,326	1,815	5,144	273,245	34,598	307,843	24,945	8.8%
Baltimore City	280,056	0	628,506	5,426	10,908	924,896	48,748	973,644	65,844	7.3%
Baltimore	58,914	32,046	347,127	4,041	7,045	449,174	53,442	502,616	60,256	13.6%
Calvert	13,191	1,173	59,787	321	599	75,072	7,935	83,007	8,327	11.2%
Caroline	6,517	1,050	28,236	219	873	36,896	2,527	39,424	2,721	7.4%
Carroll	15,193	5,198	100,858	769	2,012	124,029	12,242	136,271	14,649	12.0%
Cecil	8,273	3,576	67,228	532	1,317	80,925	7,144	88,069	10,316	13.3%
Charles	13,418	5,466	97,259	669	1,626	118,437	10,879	129,316	15,188	13.3%
Dorchester	7,286	897	21,488	194	694	30,558	2,257	32,816	2,428	8.0%
Frederick	20,879	5,745	131,194	932	2,473	161,223	16,304	177,527	19,150	12.1%
Garrett	8,348	2,588	20,142	150	707	31,936	2,334	34,270	825	2.5%
Harford	19,741	7,897	144,224	1,194	2,843	175,899	17,432	193,332	18,835	10.8%
Howard	21,425	9,312	126,181	639	1,983	159,540	25,728	185,267	17,357	10.3%
Kent	2,924	431	8,303	85	541	12,284	1,457	13,741	1,239	9.9%
Montgomery	75,975	28,744	275,330	2,218	4,921	387,188	87,279	474,467	53,361	12.7%
Prince George's	73,703	17,965	630,089	5,464	8,181	735,402	60,420	795,822	92,670	13.2%
Queen Anne's	5,676	1,123	21,177	122	676	28,775	3,252	32,027	2,538	8.6%
St. Mary's	8,335	1,662	61,371	484	1,321	73,173	6,967	80,140	8,255	11.5%
Somerset	7,022	604	16,002	228	692	24,548	1,465	26,013	1,681	6.9%
Talbot	4,619	1,167	9,122	83	530	15,520	2,190	17,710	2,077	13.3%
Washington	12,892	5,211	80,174	841	2,260	101,377	9,160	110,537	12,061	12.2%
Wicomico	11,189	3,302	66,486	608	1,547	83,131	6,768	89,899	10,301	12.9%
Worcester	6,847	1,390	14,029	119	504	22,889	3,736	26,625	3,245	13.9%
Unallocated	11,447	5,028	30,190	14,177	0	60,841	1	60,842	17,157	39.3%
Total	**$756,590**	**$168,001**	**$3,231,504**	**$41,948**	**$60,878**	**$4,258,922**	**$429,241**	**$4,688,162**	**$470,224**	**11.1%**

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

Exhibit A-3.3 (Continued)
State Assistance to Local Governments
Dollar Difference Between Fiscal 2005 Legislative Appropriation and Fiscal 2004 Working Appropriation
($ in Thousands)

	Direct State Aid							
County	**County - Municipal**	**Community Colleges**	**Public Schools**	**Libraries**	**Health**	**Subtotal**	**Retirement**	**Total**
Allegany	$262	$200	$4,088	-$14	$20	$4,556	$242	$4,798
Anne Arundel	13,440	1,162	8,660	-53	71	23,279	1,665	24,945
Baltimore City	16,314	0	47,311	-38	0	63,587	2,257	65,844
Baltimore	18,857	340	38,394	78	3	57,672	2,585	60,256
Calvert	2,900	128	4,892	22	8	7,949	378	8,327
Caroline	702	53	1,832	1	12	2,600	121	2,721
Carroll	4,606	444	8,938	44	28	14,060	589	14,649
Cecil	2,240	283	7,417	13	18	9,970	346	10,316
Charles	4,010	267	10,310	52	22	14,661	527	15,188
Dorchester	716	46	1,564	-16	10	2,319	109	2,428
Frederick	6,417	157	11,669	85	34	18,362	788	19,150
Garrett	-629	103	1,239	-11	10	712	113	825
Harford	6,291	545	11,081	41	39	17,996	839	18,835
Howard	7,088	652	8,343	12	27	16,122	1,234	17,357
Kent	720	22	418	1	7	1,169	70	1,239
Montgomery	28,543	419	19,942	56	2	48,962	4,399	53,361
Prince George's	14,972	473	74,056	228	28	89,757	2,913	92,670
Queen Anne's	1,566	57	757	-7	9	2,382	157	2,538
St. Mary's	2,493	124	5,268	16	18	7,919	337	8,255
Somerset	169	46	1,380	5	10	1,610	71	1,681
Talbot	1,132	59	772	0	7	1,971	106	2,077
Washington	3,215	324	8,064	-16	31	11,618	443	12,061
Wicomico	1,508	253	8,203	-11	21	9,974	327	10,301
Worcester	1,462	107	1,489	0	7	3,065	180	3,245
Unallocated	-711	2,033	15,604	232	0	17,157	0	17,157
Total	**$138,283**	**$8,297**	**$301,688**	**$718**	**$442**	**$449,428**	**$20,796**	**$470,224**

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

Exhibit A-3.3 (Continued)

Percent Change: Fiscal 2005 Legislative Appropriation over Fiscal 2004 Working Appropriation

			Direct State Aid					
County	**County - Municipal**	**Community Colleges**	**Public Schools**	**Libraries**	**Health**	**Subtotal**	**Retirement**	**Total**
Allegany	2.0%	4.5%	8.6%	-2.3%	1.4%	6.8%	5.1%	6.7%
Anne Arundel	37.6%	5.6%	4.6%	-2.8%	1.4%	9.3%	5.1%	8.8%
Baltimore City	6.2%	n.a.	8.1%	-0.7%	0.0%	7.4%	4.9%	7.3%
Baltimore	47.1%	1.1%	12.4%	2.0%	0.0%	14.7%	5.1%	13.6%
Calvert	28.2%	12.3%	8.9%	7.2%	1.4%	11.8%	5.0%	11.2%
Caroline	12.1%	5.4%	6.9%	0.2%	1.4%	7.6%	5.0%	7.4%
Carroll	43.5%	9.3%	9.7%	6.1%	1.4%	12.8%	5.1%	12.0%
Cecil	37.1%	8.6%	12.4%	2.4%	1.4%	14.1%	5.1%	13.3%
Charles	42.6%	5.1%	11.9%	8.5%	1.4%	14.1%	5.1%	13.3%
Dorchester	10.9%	5.4%	7.9%	-7.7%	1.4%	8.2%	5.1%	8.0%
Frederick	44.4%	2.8%	9.8%	10.1%	1.4%	12.9%	5.1%	12.1%
Garrett	-7.0%	4.1%	6.6%	-7.1%	1.4%	2.3%	5.1%	2.5%
Harford	46.8%	7.4%	8.3%	3.5%	1.4%	11.4%	5.1%	10.8%
Howard	49.4%	7.5%	7.1%	1.9%	1.4%	11.2%	5.0%	10.3%
Kent	32.7%	5.4%	5.3%	1.6%	1.4%	10.5%	5.1%	9.9%
Montgomery	60.2%	1.5%	7.8%	2.6%	0.0%	14.5%	5.3%	12.7%
Prince George's	25.5%	2.7%	13.3%	4.3%	0.3%	13.9%	5.1%	13.2%
Queen Anne's	38.1%	5.4%	3.7%	-5.6%	1.4%	9.0%	5.1%	8.6%
St. Mary's	42.7%	8.0%	9.4%	3.5%	1.4%	12.1%	5.1%	11.5%
Somerset	2.5%	8.3%	9.4%	2.4%	1.4%	7.0%	5.1%	6.9%
Talbot	32.5%	5.4%	9.2%	0.0%	1.4%	14.5%	5.1%	13.3%
Washington	33.2%	6.6%	11.2%	-1.9%	1.4%	12.9%	5.1%	12.2%
Wicomico	15.6%	8.3%	14.1%	-1.8%	1.4%	13.6%	5.1%	12.9%
Worcester	27.2%	8.3%	11.9%	0.2%	1.4%	15.5%	5.1%	13.9%
Unallocated	-5.9%	67.9%	107.0%	1.7%	n.a.	39.3%	0.4%	39.3%
Total	**22.4%**	**5.2%**	**10.3%**	**1.7%**	**0.7%**	**11.8%**	**5.1%**	**11.1%**

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

Exhibit A-3.4
Total State Assistance to Local Governments

Direct State Aid

Program	FY 2004	FY 2005	Difference
Foundation Aid	$2,013,431,101	$2,114,566,822	$101,135,721
Compensatory Education	350,797,986	488,097,363	137,299,377
Student Transportation - regular	150,267,234	156,458,125	6,190,891
Student Transportation - special education	16,741,800	19,076,400	2,334,600
Special Education - formula	116,239,080	157,646,477	41,407,397
Special Education - nonpublic placements	103,967,833	108,762,309	4,794,476
Special Education - infants & toddlers	5,199,999	5,199,999	0
Limited English Proficiency Grants	38,870,353	51,298,596	12,428,243
Extended Elementary	19,262,500	16,854,691	-2,407,809
Baltimore City Partnership	28,186,032	21,139,524	-7,046,508
Aging Schools	10,370,000	10,370,000	0
Teacher Quality Incentives	7,884,000	7,550,000	-334,000
Adult Education	2,513,622	2,513,622	0
Food Service	6,264,664	6,264,664	0
Gifted and Talented Grants	534,829	534,829	0
Out-of-County Placements	6,863,043	7,263,043	400,000
Teacher's Salary Grant	5,313,564	0	-5,313,564
Headstart	3,000,000	3,000,000	0
School Reconstitution	11,779,600	11,779,600	0
Challenge Grants	6,788,827	3,788,827	-3,000,000
Guaranteed Tax Base	0	19,131,666	19,131,666
Other Programs	25,539,741	20,207,353	-5,332,388
Total Primary & Secondary Education	**$2,929,815,808**	**$3,231,503,910**	**$301,688,102**
Library Formula	27,284,507	27,770,841	486,334
Library Network	13,944,964	14,177,084	232,120
Total Libraries	**$41,229,471**	**$41,947,925**	**$718,454**
Community College Formula	142,701,092	146,554,896	3,853,804
Grants for ESOL Programs	2,343,100	2,500,000	156,900
Optional Retirement	8,565,414	9,243,721	678,307
Small College Grant/Allegany & Garrett Grant	3,100,002	3,100,002	0
Statewide Programs	2,994,828	6,602,775	3,607,947
Total Community Colleges	**$159,704,436**	**$168,001,394**	**$8,296,958**

Program	FY 2004	FY 2005	Difference
Highway User Revenue	366,104,083	426,646,792	60,542,709
Elderly and Handicapped Transportation Aid	4,315,788	4,315,788	0
Paratransit	2,806,000	2,806,000	0
Total Transportation	**$373,225,871**	**$433,768,580**	**$60,542,709**
Police Aid	61,072,412	62,429,381	1,356,969
Fire And Rescue Aid	10,000,000	10,000,000	0
Vehicle Theft Prevention	1,238,844	1,238,844	0
9-1-1 Grants	5,300,000	5,300,000	0
Community Policing	2,000,000	2,000,000	0
Foot Patrol/Drug Enforcement Grants	4,462,500	4,462,500	0
Law Enforcement Training Grants	100,000	100,000	0
Stop Gun Violence Grants	1,000,000	955,500	-44,500
Violent Crime Grants	5,000,000	4,514,000	-486,000
Baltimore City State's Attorney Grant	1,288,470	1,735,000	446,530
Domestic Violence Grants	200,000	200,000	0
School Vehicle Safety Grant	550,000	550,000	0
Body Armor	50,000	50,000	0
Total Public Safety	**$92,262,226**	**$93,535,225**	**$1,272,999**
Program Open Space	20,593,888	15,000,000	-5,593,888
Critical Area Grants	802,000	801,000	-1,000
Total Recreation/Environment	**$21,395,888**	**$15,801,000**	**-$5,594,888**
Local Health Formula	**60,435,704**	**60,877,984**	**442,280**
Utility Property Tax Grant	**26,201,592**	**30,615,201**	**4,413,609**
Disparity Grant	**105,831,420**	**93,102,399**	**-12,729,021**
Unclaimed Local Income Tax *	**0**	**81,000,000**	**81,000,000**
Horse Racing Impact Aid	1,341,400	1,341,400	0
Payments in Lieu of Taxes	1,604,472	1,604,472	0
Security Interest Filing Fees	3,163,016	3,196,000	32,984
Baltimore City Lead Paint Abatement Grant	375,000	375,000	0
Senior Citizens Activities Center	400,000	500,000	100,000
Statewide Voting Systems	2,517,051	1,751,187	-765,864
Property Tax Credits	-10,010,000	0	10,010,000
Total Other Direct Aid	**-$609,061**	**$8,768,059**	**$9,377,120**
Total Direct Aid	**$3,809,493,355**	**$4,258,921,677**	**$449,428,322**

Program	FY 2004	FY 2005	Difference
	Payments-in-behalf		
Retirement - Teachers	383,567,009	403,179,150	19,612,141
Retirement - Libraries	8,018,751	8,439,070	420,319
Retirement - Community Colleges	15,234,305	16,045,736	811,431
Retirement - Local Employees	1,624,743	1,576,711	-48,032
Total Payments-in-Behalf	**$408,444,808**	**$429,240,667**	**$20,795,859**
Total State Assistance	**$4,217,938,163**	**$4,688,162,344**	**$470,224,181**

* One-time accelerated disbursement of unclaimed local income tax revenues.

Primary and Secondary Education

State funding for public schools remains a high priority for the General Assembly. While State spending has been constrained in recent years, public schools continue to receive record increases in State funding. Public schools will realize a $321.3 million increase in State funding in fiscal 2005, which represents a 9.7 percent increase from the prior year. Direct aid to local school systems will total $3.2 billion in fiscal 2005 representing a $301.7 million, or 10.3 percent increase from the prior year and teachers' retirement payments will total $403.2 million representing a $19.6 million, or 5.1 percent increase from the prior year. The following is a brief discussion of the major State education aid programs.

Foundation Program: The foundation program ensures a minimum funding level per pupil and requires the counties to provide a local match. The formula is calculated based on a per pupil foundation amount and student enrollment. State aid under the foundation program will total $2.1 billion in fiscal 2005, representing a $101.1 million, or 5.0 percent increase over the prior year. The per pupil foundation amount for fiscal 2005 is set at $5,029. This represents a $263, or 5.5 percent increase over the fiscal 2004 per pupil foundation amount of $4,766. Enrollment for the formula is based on the September 30, 2003, student enrollment count. Enrollment increased by 0.8 percent, from 821,984 students in 2002 to 828,961 students in 2003.

Compensatory Aid: The compensatory aid formula provides additional funding based on the number of economically disadvantaged students. The formula recognizes local fiscal disparities in wealth by adjusting the grants per compensatory education student by local wealth. The formula is calculated based on 97 percent of the annual per pupil amount used in the foundation program and the number of students eligible for free and reduced price meals in the prior fiscal year. State aid under the compensatory aid program will total $488.1 million in fiscal

2005, representing a $137.3 million, or 39.1 percent increase over the prior year. The per pupil funding amount for fiscal 2005 is set at $1,805. This represents a $464, or 34.6 percent increase over the fiscal 2004 per pupil amount of $1,341. The enrollment count used for the program in fiscal 2005 totals 264,409 students.

Teachers' Retirement Payments: The State pays 100 percent of the employer's share of retirement costs for local school system employees in the Teachers' Retirement and Pension Systems maintained by the State. Rather than distributing the aid to the local boards of education and billing them for the retirement contributions, the State appropriates a lump-sum payment to the retirement system "on behalf of" the local boards. The appropriation is calculated by increasing the second prior year's salary base by 5 percent and applying the contribution rate established by the retirement system's actuary. Teachers' retirement payments will total $403.2 million in fiscal 2005, representing a 5.1 percent increase over the fiscal 2004 working appropriation due to an increase in the salary base.

Student Transportation: Each local school system receives a grant for student transportation based on the county's grant in the previous year increased by inflation. Increases cannot exceed 8.0 percent or be less than 3.0 percent. Local school systems with enrollment increases receive additional funds. The State also provides a grant of $600 per student for transporting disabled students. The fiscal 2005 budget includes $156.5 million for regular transportation services and $19.1 million for special transportation services. The Governor proposed adjusting the regular student transportation grant by limiting the inflationary increase to the consumer price index (CPI) with no minimum upwards adjustment. This would have reduced State funding by $3.0 million in fiscal 2005. However, the General Assembly did not adopt this proposed reduction.

Special Education: State aid for special education recognizes the additional costs associated with providing programs for students with disabilities. Most special education students receive services in the public schools; however, if an appropriate program is not available in the public schools, students may be placed in a private school offering more specialized services. The State and local school systems share the costs of these nonpublic placements. The special education formula is calculated based on 74 percent of the annual per pupil foundation amount and the number of special education students from the prior fiscal year. State funding for public special education programs will total $157.6 million in fiscal 2005, representing a $41.4 million, or 35.6 percent increase over the prior year. Funding for nonpublic placements will total $108.8 million in fiscal 2005, representing a $4.8 million, or 4.6 percent increase over the prior year.

The Budget Reconciliation and Financing Act of 2004, ***Senate Bill 508 (passed)***, contains a significant revision to the funding of nonpublic placements. The costs for those students with severe disabilities who are placed in nonpublic day facilities or residential treatment centers (RTCs) are shared between the local school systems and the State. The bill reduces the State's share of nonpublic placement special education funding by increasing the local share of funding. Under current law, for each nonpublic placement a local school system pays its respective local

share of the basic cost of education plus two times the total basic cost of education, and 20 percent of any expense above that sum. The State pays for the remaining 80 percent of the costs above the base local funding. The bill shifts more of the costs above the base local share to local school systems by increasing the current local share of 20 percent to 25 percent in fiscal 2005 only. The fiscal 2005 budget bill includes a reduction of $6.4 million for this program to reflect this change in the State's share of costs.

Limited English Proficiency: The State provides grants to support programs for non- and limited-English proficient (LEP) students using a definition consistent with federal guidelines. The LEP formula is based on 99 percent of the annual per pupil foundation amount. The fiscal 2005 grant per LEP student is $1,842, a $474, or 34.6 percent increase over the fiscal 2004 grant per LEP student. State funding for the program will total $51.3 million in fiscal 2005, representing a $12.4 million, or 32.0 percent increase over the prior year. The number of LEP students in Maryland total 27,832 for the 2003-2004 school year.

Extended Elementary Education Program: As part of the Bridge to Excellence in Public Schools Act of 2002, certain mandated State aid programs are phased out by fiscal 2008, while other programs with enhanced funding that distribute State aid to local school systems based on student enrollments and local wealth are phased in. One of the programs to be eliminated is the Extended Elementary Education Program (EEEP), which funds pre-kindergarten programs for students identified as having a high risk of failure in school. Under current law, EEEP is fully funded at approximately $19.3 million in fiscal 2005 through 2007 but would not be funded in fiscal 2008 and subsequent years. The Budget Reconciliation and Financing Act of 2004, ***Senate Bill 508 (passed)***, reduces funding for fiscal 2005 only by 12.5 percent, effectuating a contingent general fund reduction of $2,407,713 in the budget bill. Accordingly, funding for EEEP will total $16.9 million in fiscal 2005. Funding would rebound to $19.3 million in fiscal 2006 and 2007.

Judy Hoyer and Head Start Programs: This program provides financial support for the establishment of centers that provide full-day, comprehensive, early education programs, and family support services that will assist in preparing children to enter school ready to learn. This program also provides funding to support childhood educators, and statewide implementation of an early childhood assessment system. The fiscal 2005 State budget includes $7.6 million for Judy Center grants, $3.0 million for school readiness and program accreditation, and $3.0 million for head start programs.

Infants and Toddlers Program: This program provides for a statewide community-based interagency system of comprehensive early intervention services for eligible children who are less than three years old. Eligible children include those who have developmental delays or disabilities. State funding for infants and toddlers programs will total $5.2 million in fiscal 2005.

Adult Education: The State provides funding for adult education services through four programs: adult general education, external diploma program, literacy works grant, and adult education and literacy works. State funding for adult education programs will total $2.5 million

in fiscal 2005. The State does not use a statutory formula to determine the level of funding for adult education and literacy programs.

Teacher Quality Incentives: The State provides salary enhancements for teachers obtaining national certification, a signing bonus for teachers graduating in the top of their class, and a stipend for teachers working in a reconstitution-eligible or challenge school. The fiscal 2005 State budget includes $7.6 million for these teacher quality incentives.

Challenge Grants: These grants are distributed to schools where the average daily attendance is low, the dropout rate is high, and student scores on State tests are low. State funding for the program totals $6.8 million in fiscal 2004 and $3.8 million in fiscal 2005. The fiscal 2005 budget includes language that specifies that the grants provided in fiscal 2005 be proportional to the grants received in fiscal 2004 as the State transitions the challenge grant program to be consistent with new accountability standards and the federal No Child Left Behind requirement after fiscal 2005.

Baltimore City Partnership Grant: This program is part of the State's effort to reform the Baltimore City Public School System. Baltimore City will receive $21.1 million in fiscal 2005. This funding is phasing out as the Bridge to Excellence in Public Schools Act of 2002 formulas phase in.

Aging Schools Program: The aging school program provides State funding to local school systems for improvements, repairs, and deferred maintenance of public school buildings that are more than 15 years old. These repairs are generally not covered by the capital school construction program and are necessary to maintain older public schools. State funding for the aging schools program will total $10.37 million in fiscal 2005.

The Public School Facilities Act of 2004, ***Senate Bill 787 (passed)*** and ***House Bill 1230 (passed),*** implement many of the recommendations of the Task Force to Study Public School Facilities including a provision that alters the allocation of the Aging Schools Program beginning in fiscal 2006. This bill bases the program's funding on the current percentage of pre-1970 square footage and retains the current $65,000 and $85,000 minimum allocations. Local school systems with 0.49% or less of the statewide pre-1970 square footage receive $65,000 and local school systems with 0.50% but less than 1.0% of the statewide pre-1970 square footage receive $85,000. Seven local school systems would receive more funding while nine local school systems would receive less funding. A provision in the fiscal 2005 capital budget indicates that the intent of the General Assembly is that a county will receive in fiscal 2006 at least 75 percent of the funding provided in fiscal 2005. The special grant is phased out after fiscal 2008.

Teacher Salary Challenge Program: The Budget Reconciliation and Financing Act of 2004, ***Senate Bill 508 (passed)***, repeals the Governor's Teacher Salary Challenge program one year before its termination date under current law. Established by Chapters 492 and 493 of 2000, under the program, the State provided a 1.0 percent match to school systems that increased teacher salaries by at least 4.0 percent in fiscal 2001 and 2002. Other components of the program provided grants to less wealthy school systems. Chapter 420 of 2001 continued the funding through fiscal 2003. The Bridge to Excellence in Public Schools Act of 2002 mandated

that the funds be phased out by fiscal 2006 as the new Bridge to Excellence formulas significantly increased overall aid to local school systems. The bill effectuates a contingent reduction of $20.9 million in the fiscal 2005 budget bill.

Guaranteed Tax Base Program: The Bridge to Excellence in Public Schools Act included an add-on grant for jurisdictions with less than 80 percent of statewide per pupil wealth that contributed more than the minimum required local share under the foundation program in the prior year. The grant equals the difference between actual and required spending per pupil, up to 20 percent of the per pupil foundation amount. The grants are phased-in, beginning at 25 percent in fiscal 2005 and ending at 100 percent in fiscal 2008. For fiscal 2005, eight jurisdictions will qualify for grants totaling $19.1 million.

Local Libraries

State aid to local libraries will total $50.4 million in fiscal 2005, representing a $1.1 million, or 2.3 percent increase over the prior year.

Minimum Per Capita Library Program: The State provides assistance to public libraries through a formula that determines the State and local shares of a minimum per capita library program. The minimum library program is specified in statute. For fiscal 2005, the program is based on a $12 per capita grant. Overall, the State provides 40 percent of the minimum program and the counties provide 60 percent. However, the State/local share of the minimum program varies by county depending on local wealth. In fiscal 2005, State funding for the library program will total $27.8 million, representing a $0.5 million, or 1.8 percent increase over the prior year.

State Library Network: The network consists of the Central Library of the Enoch Pratt Free Library System in Baltimore City, three regional resource centers, and metropolitan cooperative service programs. The Enoch Pratt Free Library operates as the designated State Library Resource Center. It will receive $10.2 million in State funding in fiscal 2005, which equals $1.85 per State resident. In addition to the State center, regional resource centers serve Western Maryland (Hagerstown), Southern Maryland (Charlotte Hall), and the Eastern Shore (Salisbury). The regional centers will receive $3.9 million in fiscal 2005, which equals to $4.50 per resident in the region served.

Retirement Payments: The State pays 100 percent of the employer's share of retirement costs for local library employees in the Teachers' Retirement and Pension Systems maintained by the State. State funding for library retirement payments will total $8.4 million in fiscal 2005, representing a $0.4 million, or 5.2 percent increase.

Community Colleges

State aid to local community colleges will total $184.0 million in fiscal 2005, representing a $9.1 million, or 5.2 percent increase from the prior year.

Senator John A. Cade Funding Formula: State funding under the formula will total $146.6 million in fiscal 2005, a $3.9 million, or 2.7 percent increase from the prior year.

Special Programs: State funding will remain at $2.5 million for the small college grants and $0.6 million for the Allegany/Garrett counties unrestricted grants. Funding for statewide and regional programs will total $5.0 million, representing a $2.0 million, or 66.0 percent increase. State funding for the ESOL program will total $2.5 million in fiscal 2005, a $0.2 million, or 6.7 percent increase from the prior year. The Innovative Partnership for Technology program will receive $1.6 million in funding. The Budget Reconciliation and Financing Act of 2004, ***Senate Bill 508 (passed),*** defers an additional $1.6 million for this program until fiscal 2006.

Retirement Payments: The State pays 100 percent of the employer's share of retirement costs for community college faculty in the Teachers' Retirement and Pension Systems maintained by the State. State funding for community college retirement payments will total $16.0 million in fiscal 2005, a $0.8 million, or 5.3 percent increase. In addition, State funding for the optional retirement program will total $9.2 million in fiscal 2005, representing a $0.7 million, or 7.9 percent increase.

Local Health Departments

The State provides funds to support the delivery of public health services in each of Maryland's 24 local jurisdictions. Support for this program is formula-driven, with increases based on inflation and population growth. State aid for local health departments will total $60.9 million in fiscal 2005, representing a $0.4 million or 0.7 percent increase.

County and Municipal Governments

State funding for counties and municipalities will total $758.2 million in fiscal 2005, representing a $138.2 million or 22.3 percent increase over the prior year. Local highway user revenues and unclaimed local income tax revenues account for most of the aid increases.

Highway User Revenues: Local governments were originally scheduled to receive $484.7 million in local highway user revenues in fiscal 2005. However, cost containment action taken at the 2003 session transferred $51.2 million in local highway user revenues in fiscal 2005 to the State's general fund. Furthermore, the Budget Reconciliation and Financing Act of 2004, ***Senate Bill 508 (passed),*** transfers an additional $51.2 million to the State's general fund in fiscal 2005. Due to these two actions, local highway user revenues are reduced by $102.4 million in fiscal 2005, from $484.7 million to $382.3 million. This reduction is partly offset by ***House Bill 1467 (passed)*** which increases the State motor vehicle registration fee. This legislation will provide local governments with an additional $44.4 million in local highway user revenues in fiscal 2005. Based on these actions, local highway user revenues will total $426.6 million in fiscal 2005, which is a $60.5 million or 16.5 percent increase.

Other Transportation Aid: State funding for elderly/disabled transportation grants will remain at $4.3 million in fiscal 2005 and funding for paratransit grants will remain at $2.8 million.

Police Aid Formula: Maryland's counties and municipalities receive grants for police protection through the police aid formula. The police aid formula allocates funds on a per capita

basis, and jurisdictions with a higher population density receive greater per capita grants. Municipalities receive additional grants based on the number of sworn officers. The Budget Reconciliation and Financing Act of 2003, directs the Maryland State Police to recover 30 percent of the State crime laboratories costs relating to evidence-testing services from local jurisdictions. A portion of the assessment is based on each jurisdiction's share of total Part I crime in the State, and the remaining portion of the assessment is based on the assessable wealth of each jurisdiction. Part I crimes are defined as murder, forcible rape, robbery, aggravated assault, breaking and entering, larceny-theft, and motor vehicle theft. After the crime laboratory adjustment, police aid will total $62.4 million in fiscal 2005, representing a $1.4 million or 2.2 percent increase from the prior year.

Public Safety Grants: State funding for targeted public safety grants will total $12.8 million in fiscal 2005. These grants includes violent crime grants for Baltimore City and Prince George's County, police foot patrol and community policing grants for Baltimore City, a drug enforcement grant for Prince George's County, S.T.O.P. gun violence grants, school bus traffic enforcement grants, domestic violence grants, law enforcement and correctional officers training grants, and the body armor grants. In addition, the Baltimore City State's Attorney Office will receive $1.7 million in fiscal 2005 to assist in the prosecution of gun offenses and repeat violent offenders.

Vehicle Theft Prevention Program: This program provides grants to law enforcement agencies, prosecutors' offices, local governments, and community organizations for the purpose of establishing vehicle theft prevention, deterrence, and educational programs. Funds are used to enhance the prosecution and adjudication of vehicle theft crimes. Funding for the program is provided through the Vehicle Theft Prevention Fund, a non-lapsing dedicated fund that receives up to $2.0 million a year from penalties collected for lapsed or terminated insurance coverage. Additional funds are received from inspection fees collected for salvaged vehicle verification. State funding for this program will total $1.2 million in fiscal 2005.

Fire, Rescue, and Ambulance Services: The State provides formula grants to the counties, Baltimore City, and qualifying municipalities for local and volunteer fire, rescue, and ambulance services. The grants are for equipment and renovation projects, not operating costs. The program is funded through the Maryland Emergency Medical System Operations Fund (MEMSOF). The grant level is set at $10.0 million in fiscal 2005.

911 Emergency Systems Grant: State funding to local 911 emergency systems will remain at $5.3 million in fiscal 2005.

Program Open Space Grants: Under Program Open Space, the State provides grants to the counties and Baltimore City for land acquisition and the development of parks and recreation facilities. The State property transfer tax funds Program Open Space and related programs. The Budget Reconciliation and Financing Act of 2004, ***Senate Bill 508 (passed),*** redirected $28.5 million transfer tax revenues to the general fund in fiscal 2005. GO bond funding in the amount of $15.0 million is provided to help offset this decrease. Accordingly, local governments will realize a $13.5 million reduction in Program Open Space funding in fiscal 2005.

Disparity Grants: The disparity grants address the differences in the capacities or abilities of the counties to raise revenues from the local income tax. Counties with per capita local income tax revenue less than 75 percent of the State's average receive grants. Aid received by a county equals the dollar amount necessary to raise the county's per capita income tax revenues to 75 percent of the State average. The fiscal 2005 budget includes $93.1million for disparity grants, which includes $92.6 million in statutory grants and a $0.5 million discretionary grant for Garrett County. The discretionary grant is to ensure that Garrett County does not realize a net decrease in State aid in fiscal 2005.

Utility Restructuring Grant: Ten counties and Baltimore City receive an electricity generating equipment property tax grant which partially offsets lost local revenues resulting from the electric and gas utility tax reform passed in the 1999 session. The grants totaled $15.3 million in fiscal 2001 and $30.6 million in fiscal 2002 and 2003. The fiscal 2004 appropriation was reduced by $4.4 million, or 14.4 percent by the Board of Public Works on July 30, 2003. The adjusted appropriation for fiscal 2004 totaled $26.2 million. The Governor proposed eliminating funding for the grant contingent upon the enactment of legislation. However, the General Assembly rejected this proposal, and the grants were fully funded at $30.6 million in fiscal 2005.

Unclaimed Local Income Tax Revenues: The Budget Reconciliation and Financing Act of 2004, ***Senate Bill 508 (passed)***, modifies the time frame for the Comptroller's Office to hold unclaimed local income tax revenue in its local income tax reserve account from three years to one year and provides for a one-time distribution of $81.0 million each to the State and the local jurisdictions.

State Aid

County Level Detail

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

Direct Aid and Retirement Payments

Direct Aid: The State distributes aid or shares revenue with the counties, municipalities, and Baltimore City through over 45 different programs. The fiscal 2005 State budget includes $4.6 billion to fund these programs. In addition, the counties will receive a one-time accelerated distribution of $81 million in unclaimed local income tax revenues. Part A, section 1 of each county's statistical tables compares aid distributed to the county in fiscal 2004 and 2005.

Retirement Payments: County teachers, librarians, and community college faculty are members of either the teachers' retirement or pension systems maintained and operated by the State. The State pays the employer share of the retirement costs on behalf of the counties for these local employees as well as certain elected local officials such as sheriffs and state's attorneys. These payments total $429.2 million in fiscal 2005. Although these funds are not paid to the local governments, each county's allocation is estimated from salary information collected by the State retirement systems. These estimates are presented in Part A, section 2 of each county.

Estimated State Spending on Health and Social Services

The State funds the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. Part B of each county shows fiscal 2005 allocation estimates of general and special fund appropriations for health services, social services, and senior citizen services.

Health Services: The Department of Health and Mental Hygiene, through its various administrations, funds in whole or part community health programs that are provided in the local subdivisions. These programs are described below. General fund spending totals $786.2 million statewide for these programs in fiscal 2005. In addition, $53.5 million from the Cigarette Restitution Fund will also be spent on these programs in fiscal 2005. This does not include spending at the State mental health hospitals, developmental disability facilities, or chronic disease centers.

- ***Alcohol and Drug Abuse:*** The Alcohol and Drug Abuse Administration funds community-based programs that include primary and emergency care, intermediate care facilities, halfway houses and long-term care programs, outpatient care, and prevention programs. The fiscal 2005 budget includes $85.6 million in general funds and $17.2

million in special funds for these programs. In addition, the budget includes $25.3 million in federal funds for addiction treatment services.

- ***Family Health and Primary Care Services:*** The Family Health Administration funds community-based programs through the local health departments in each of the subdivisions. These programs include maternal health (family planning, pregnancy testing, prenatal and perinatal care, etc.) and infant and child health (disease prevention, child health clinics, specialty services, etc.). Primary care services are funded for those people who previously received State-only Medical Assistance. Fiscal 2005 funding for these family health programs totals $19.6 million in general funds and $22.9 million in federal funds.

- ***Geriatric and Children's Services:*** The Medical Care Policy Administration provides funding for community-based programs that serve senior citizens and children. The geriatric services include operating grants to adult day care centers and an evaluation program administered by the local health departments to assess the physical and mental health needs of elderly individuals. The children's services include the Early, Periodic Screening Diagnosis and Treatment (EPSDT) program and the Adolescent Case Coordinator program that assures at risk or pregnant teenagers receive needed health services. The fiscal 2005 funding for these programs totals $26.7 million in general funds.

- ***Mental Health:*** The Mental Hygiene Administration oversees a wide range of community mental health services that are developed and monitored at the local level by Core Service Agencies. The Core Service Agencies have the clinical, fiscal, and administrative responsibility to develop a coordinated network of services for all public mental health clients of any age within a given jurisdiction. These services include in-patient and out-patient hospital services, in-patient and out-patient mental health services, psychiatric rehabilitation services, targeted case management services, rental assistance, pharmacy services, private practitioners, and other clinic services. The fiscal 2005 budget includes $318.9 million in general funds and $224.4 million federal funds for mental health services.

- ***Prevention and Disease Control:*** The Community Health Administration and the Family Health Administration are responsible for chronic and hereditary disease prevention (cancer, heart disease, diabetes, etc.). They also provide for the promotion of safe and effective immunization practices, the investigation of disease outbreaks, and continuous disease surveillance and monitoring with the support of local health departments and the medical community. General fund appropriations in fiscal 2005 total $7.0 million. In addition, the budget includes $36.1 million in Cigarette Restitution Funds for tobacco use prevention and cessation and for cancer prevention and screening at the local level.

- ***Developmental Disabilities:*** The Developmental Disabilities Administration's community-based programs include residential services, day programs, transportation

services, summer recreation for children, individual and family support services, including respite care, individual family care, behavioral support services, and community supported living arrangements. The fiscal 2005 budget includes $326.6 million in general funds and $198.0 in federal funds for these programs.

- ***AIDS:*** The AIDS Administration funds counseling, testing, education and risk reduction services through the local health departments. Fiscal 2005 funds for these services total $2.6 million in general funds. The budget for the AIDS Administration also includes $19.0 million in federal funds for these services.

Social Services: The Department of Human Resources provides funding for various social and community services in the subdivisions. Part B of each county's statistical tables shows fiscal 2005 estimates of funding for those programs that were available by subdivision. Note that fiscal 2005 funding for homeless and women's services is allocated among the subdivisions on the basis of each jurisdiction's share of fiscal 2004 funding and may change.

- ***Homeless Services:*** The Community Services Administration funds programs which provide emergency and transitional housing, food, and transportation for homeless families and individuals. Funding is available by county for the housing counselor, service-linked housing and emergency and transitional housing programs. The fiscal 2005 budget includes $4.9 million in general funds for these programs.

- ***Women's Services:*** The Community Services Administration provides funding for a variety of community-based programs for women. These include the battered spouse program, rape crisis centers, displaced homemakers program, and crime victim's services. Total fiscal 2005 funding for these programs equals $5.4 million in general funds. In addition, the fiscal 2005 budget includes $8.9 million in federal funds for women's services.

- ***Adult Services:*** The State social services departments in each of the subdivisions provide a variety of services to disabled, elderly, neglected, and exploited adults. Services include information and referral, crisis intervention, case management, protective services, in-home aid, and respite care for families. The fiscal 2005 budget includes $8.0 million in general funds and $31.8 million in federal funds for adult services.

- ***Child Welfare Services:*** The State social services departments in each of the subdivisions offer programs to support the healthy development of families, assist families and children in need, and protect abused and neglected children. Services include adoptive services, foster care programs, family preservation programs, and child protective services. The fiscal 2005 budget includes $69.4 million in general funds and $77.5 million in federal funds.

Senior Citizen Services: The Department of Aging funds a variety of services for senior citizens mostly through local agencies on aging. In Part B of each county, these programs have been combined into two broad categories: long-term care and community services. The total

fiscal 2005 funding is $11.4 million in general funds and $22.7 million in federal funds. In this report the fiscal 2005 general funds are allocated among the subdivisions on the basis of each jurisdiction's share of fiscal 2004 funding and may change.

- ***Long-Term Care:*** This category includes the following programs: frail and vulnerable elderly, senior care, senior guardianship, the ombudsman program, and the innovations in aging program. The total fiscal 2005 funding is $9.1 million in general funds.

- ***Community Services:*** Included in this category are the senior information and assistance program, the senior nutrition program, and the insurance counseling program. Fiscal 2005 funding for these programs totals $2.4 million in general funds.

Capital Grants and Capital Projects for State Facilities

Selected State Grants for Capital Projects: The State provides capital grants for public schools, community colleges, local jails, community health facilities, adult day care centers, water quality projects, waterway improvements, homeless shelters, and other cultural, historical, and economic development projects. Projects are funded from either bond sales or current revenues. Part C lists projects in the counties authorized by the fiscal 2005 State operating and capital budgets. Projects at regional community colleges are shown for each county that the college serves. For some loan programs (senior citizen centers, adult day care facilities and community mental health/addictions/developmental disabilities facilities), funding was not provided for all requested projects. Since it is not known which projects will be funded, all requested projects for these loans are shown in this report. The report this year includes local projects that were pre-authorized for fiscal 2005 in the capital budget adopted at the 2003 legislative session. These projects were not included in last year's report.

The fiscal 2005 budget includes $116.6 million in new funding for local school construction: $2.4 million in special funds, and $114.2 million in general obligation bonds. As of the publication of this report, $75.5 million of the total fiscal 2005 funding has been allocated to specific projects. These projects are listed in Part C for each county.

Capital Projects for State Facilities Located in the County: Part D for each county shows capital projects, authorized by the fiscal 2005 operating and capital budgets, at State facilities and public colleges and universities by the county in which the facility is located. For facilities that are located in more than one county, such as a State park, the total amount of the capital project is shown for all relevant counties. For each capital project, the total authorized amount is given, regardless of funding source although federally funded projects are generally shown separately. For the universities, projects funded from both academic and auxiliary revenue bonds are included. This report does not include transportation projects.

Allegany County

A. Direct Aid and Retirement Payments

1. Direct Aid

	FY 2004	FY 2005	$ Diff.	% Diff.
	($ in Thousands)			
Foundation Aid	$31,758	$32,340	$582	1.8
Compensatory Education	7,925	10,573	2,648	33.4
Student Transportation	3,094	3,173	79	2.5
Special Education	2,687	3,339	651	24.2
Limited English Proficiency Grants	22	38	15	69.9
Extended Elementary	348	305	(44)	(12.5)
Teacher Salary Grant	376	0	(376)	(100.0)
Aging Schools	355	355	0	0.0
School Technology/Modernization	61	12	(48)	(80.0)
Other Education Aid	959	1,539	581	60.6
Primary & Secondary Education	47,585	51,674	4,088	8.6
Libraries	633	619	(14)	(2.3)
Community Colleges	4,427	4,627	200	4.5
Health Formula Grant	1,460	1,480	20	1.4
* Transportation	4,767	5,754	987	20.7
* Police and Public Safety	879	869	(10)	(1.2)
* Fire and Rescue Aid	238	238	0	0.0
Recreation and Natural Resources	193	167	(26)	(13.6)
Disparity Grant	7,505	5,902	(1,603)	(21.4)
Property Tax Credits	(283)	0	283	(100.0)
** Unclaimed Local Income Tax	0	632	632	0.0
Total Direct Aid	**$67,404**	**$71,962**	**$4,558**	**6.8**
Aid Per Capita ($)	913	978	64	7.0
Property Tax Equivalent ($)	2.59	2.68	0.09	3.6

* Municipal governments within the county receive a share of these funds.
** One-time accelerated disbursement of unclaimed local income tax revenue.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees as well as certain elected local officials such as sheriffs and State's Attorneys. Fiscal 2005 State payments for Allegany County for teachers, librarians, community college faculty, and local officials are estimated to be $4,975,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2005 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2004) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services	
Alcohol and Drug Abuse	$3,725,000
Family Health and Primary Care	396,000
Geriatric and Children's Services	694,000
Mental Health	5,177,000
Prevention and Disease Control	554,000
Developmental Disabilities	4,434,000
AIDS	25,000
Social Services	
Homeless Services	98,000
Women's Services	189,000
Adult Services	128,000
Child Welfare Services	1,739,000
Senior Citizen Services	
Long-term Care	305,000
Community Services	74,000

C. Selected State Grants for Capital Projects

Public Schools

Eckhart Alternative School – renovations (roof)	$125,000

Allegany Community College

Library – renovations, phase I	207,000
Physical Education Building – renovation/expansion	1,313,000

Federally Qualified Health Centers Grant Program

Tri–State Community Health Center	500,000

Chesapeake Bay Water Quality Loan

Celanese WWTP – nutrient removal	508,750
Cumberland Combined Sewer – overflow improvements	250,000
Cumberland Combined Sewer – SCADA evaluation	50,000
Frostburg – stormwater retrofit	79,000
Frostburg Combined Sewer – overflow elimination	250,000
Stoney Run/Westernport – septic upgrade	100,000
Westernport Combined Sewer – overflow improvements	200,000

Water Supply Assistance Loan

Clarysville – water project	300,000
Westernport Water Filtration Plant – upgrade	300,000

D. Capital Projects for State Facilities in the County

Department of Natural Resources

National Park Service – Fifteen Mile Creek boat ramp	80,000

Department of Public Safety & Corrections

North Branch Correctional Inst. – housing unit/support	17,536,000

Anne Arundel County

A. Direct Aid and Retirement Payments

1. Direct Aid

	FY 2004	FY 2005	$ Diff.	% Diff.
	($ in Thousands)			
Foundation Aid	$136,875	$138,655	$1,780	1.3
Compensatory Education	10,114	15,431	5,317	52.6
Student Transportation	14,274	14,757	483	3.4
Special Education	18,267	20,429	2,162	11.8
Limited English Proficiency Grants	1,618	2,122	505	31.2
Extended Elementary	1,295	1,133	(162)	(12.5)
Aging Schools	570	570	0	0.0
School Technology/Modernization	749	339	(409)	(54.7)
Other Education Aid	2,905	1,890	(1,015)	(35.0)
Primary & Secondary Education	186,667	195,326	8,661	4.6
Libraries	1,868	1,815	(53)	(2.8)
Community Colleges	20,640	21,803	1,162	5.6
Health Formula Grant	5,074	5,144	71	1.4
* Transportation	19,802	23,930	4,128	20.8
* Police and Public Safety	6,365	6,466	101	1.6
* Fire and Rescue Aid	813	812	(1)	(0.1)
Recreation and Natural Resources	2,259	1,807	(452)	(20.0)
Utility Property Tax Grants	6,753	7,820	1,068	15.8
Property Tax Credits	(769)	0	769	(100.0)
** Unclaimed Local Income Tax	0	7,827	7,827	0.0
* Other Direct Aid	495	495	0	0.0
Total Direct Aid	**$249,967**	**$273,245**	**$23,278**	**9.3**
Aid Per Capita ($)	484	523	39	8.0
Property Tax Equivalent ($)	0.61	0.59	(0.01)	(1.8)

* Municipal governments within the county receive a share of these funds.
** One-time accelerated disbursement of unclaimed local income tax revenue.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees as well as certain elected local officials such as sheriffs and State's Attorneys. Fiscal 2005 State payments for Anne Arundel County for teachers, librarians, community college faculty, and local officials are estimated to be $34,598,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2005 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2004) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services	
Alcohol and Drug Abuse	$2,804,000
Family Health and Primary Care	671,000
Geriatric and Children's Services	1,206,000
Mental Health	18,071,000
Prevention and Disease Control	1,674,000
Developmental Disabilities	30,057,000
Social Services	
Homeless Services	205,000
Women's Services	339,000
Adult Services	142,000
Child Welfare Services	4,147,000
Senior Citizen Services	
Long-term Care	593,000
Community Services	138,000

C. Selected State Grants for Capital Projects

Public Schools

Annapolis High School – renovations (HVAC)	$827,000
Annapolis High School – science facilities	375,000
Chesapeake High School – science facilities	1,614,000
Marley Elementary School – construction	1,421,000

Anne Arundel Community College

Construct new building	2,384,000

Senior Citizen Activity Centers

Bates Senior Center	600,000

Waterway Improvement

Annapolis – pilings, docks and moorings	99,000
Annapolis Harbor – renovations	50,000
Anne Arundel Fire Central Division – boat/equipment	50,000
Bodkin Creek – dredging	390,000
City Fire Department – rescue equipment	50,000
Cockey Creek – dredging	103,500
Cypress Creek – dredging	515,000
Deale/Galesville/Woodland Fire Departments – equipment	50,000
Eli's Long Cove – dredging	227,000
Little Magothy – dredging	227,000
Rivera Beach/Lake Shore Fire Departments – equipment	50,000
Selby Bay – dredging	75,000
Truxton Park – ramp renovation	99,000

Other Projects

Carrie Weedon Science Center	25,000
Children's Theater of Annapolis	100,000
Eastport Fire Station and Paramedic Unit	250,000
Emergency Operations Center	125,000

Marley Neck School Center	200,000
Maryland Fire-Rescue Services Memorial Sculpture	200,000
Maryland Hall for the Creative Arts	150,000
Mount Olive Community Life Center	300,000
Odenton Heritage Complex	250,000
Salvation Army Centennial Wing	250,000

D. Capital Projects for State Facilities in the County

General Government

State House – renovations	4,600,000

Department of Public Safety & Corrections

Brockbridge Correctional Facility – kitchen/dining/warehouse renovation	8,451,000
Correctional Institution for Women – support services/state use buildings	54,000

Maryland Environmental Service

Jessup Correctional Complex – water tower repair	425,000
Sandy Point State Park – water tower repair	434,000

Baltimore City

A. Direct Aid and Retirement Payments

1. Direct Aid

	FY 2004	FY 2005	$ Diff.	% Diff.
	($ in Thousands)			
Foundation Aid	$326,132	$327,774	$1,642	0.5
Compensatory Education	128,909	171,084	42,175	32.7
Student Transportation	13,750	13,738	(12)	(0.1)
Special Education	59,767	67,721	7,954	13.3
Limited English Proficiency Grants	1,739	3,363	1,624	93.4
Extended Elementary	4,135	3,618	(517)	(12.5)
Baltimore City Partnership	28,186	21,140	(7,047)	(25.0)
Teacher Salary Grant	3,549	0	(3,549)	(100.0)
Aging Schools	1,635	1,635	0	0.0
School Technology/Modernization	2,010	909	(1,100)	(54.8)
Other Education Aid	11,384	17,524	6,140	53.9
Primary & Secondary Education	581,196	628,506	47,310	8.1
Libraries	5,464	5,426	(38)	(0.7)
Health Formula Grant	10,908	10,908	0	0.0
Transportation	170,443	188,569	18,126	10.6
Police and Public Safety	8,613	8,672	60	0.7
Fire and Rescue Aid	985	978	(7)	(0.7)
Recreation and Natural Resources	3,414	1,194	(2,220)	(65.0)
Disparity Grant	75,061	69,559	(5,501)	(7.3)
Utility Property Tax Grants	340	453	113	33.3
Property Tax Credits	(766)	0	766	(100.0)
** Unclaimed Local Income Tax	0	4,944	4,944	0.0
Other Direct Aid	5,653	5,686	33	0.6
Total Direct Aid	**$861,311**	**$924,895**	**$63,584**	**7.4**
Aid Per Capita ($)	1,373	1,487	115	8.3
Property Tax Equivalent ($)	4.26	4.39	0.13	3.1

** One-time accelerated disbursement of unclaimed local income tax revenue.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees as well as certain elected local officials such as sheriffs and State's Attorneys. Fiscal 2005 State payments for Baltimore City for teachers, librarians, community college faculty, and local officials are estimated to be $48,748,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2005 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2004) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services	
Alcohol and Drug Abuse	$39,022,000
Family Health and Primary Care	4,248,000
Geriatric and Children's Services	6,996,000
Mental Health	110,281,000
Prevention and Disease Control	4,054,000
Developmental Disabilities	38,141,000
AIDS	443,000
Social Services	
Homeless Services	2,101,000
Women's Services	1,318,000
Adult Services	1,657,000
Child Welfare Services	26,232,000
Senior Citizen Services	
Long-term Care	1,738,000
Community Services	705,000

C. Selected State Grants for Capital Projects

Public Schools

Baltimore School for the Arts #415 – construction	$3,000,000
Collington Square Elementary/Middle School – renovations (roof)	720,000
Digital Harbor High School #416 – construction	709,000
Gwynns Falls Elementary School #60 – renovations (roof)	400,000
John E. Howard Elementary School #61 – renovations (window/doors)	251,000
Johnston Square Elementary School #16 – renovations (ATC)	498,000
Maree G. Farring Elementary School #203 – renovations (roof)	324,000
Moravia Park Pre-K-8 Campus – renovations (roof)	486,000
Mt. Royal Elementary/Middle School – renovations (roof/windows/doors)	864,000
Northwood Elementary School – renovations (windows/doors)	469,000

Juvenile Justice Bond Program

UMAR Boxing Program – academic learning center	88,000

Community Mental Health/Addictions/Dev. Disabilities

Echo House, Inc.	1,600,000
Health Care for the Homeless	1,600,000
Humanim	509,000
Quarterway Houses, Inc.	1,250,000
The Associated Jewish Community Federation of Baltimore	177,000

Federally Qualified Health Centers Grant Program

Baltimore Medical System, Inc.	400,000
People's Community Health Center, Inc.	500,000

Shelter & Transitional Facilities

AIRS Young Adult Transitional Housing	375,000

Chesapeake Bay Water Quality Loan

Patapsco WWTP – nutrient removal	3,000,000

Waterway Improvement

Baltimore Marine Unit Police – equipment	5,000
Canton Waterfront – upgrade police/fire dept. piers	75,000
First Responder Units – equipment	45,000
Liberty/Prettyboy Reservoirs – boat ramps, parking, etc.	99,000

Other Projects

Baltimore & Ohio Railroad Museum	1,500,000
Baltimore Center for Children	400,000
Baltimore Clayworks	100,000
Baltimore Medical System	200,000
Baltimore Museum of Industry	150,000
Baltimore Zoo – facilities renewal	750,000
Baltimore Zoo – trams	450,000
Bethel A.M.E. Museum and Cyber Community Center	250,000
Carroll Mansion Museum	75,000
Catholic Charities – Our Daily Bread	2,000,000
Center for Poverty Solutions	250,000
Chase Brexton Health Services, Inc.	100,000
Dallas Street Community Educational Center	300,000
Dr. Bob's Place	200,000
East Baltimore Biotechnology Park	4,500,000
Franklin Square Hospital	209,000
Grace and St. Peter's School	250,000
Great Blacks in Wax Museum	300,000
Greater Baltimore Medical Center, Inc.	535,000
Greater Harvest Family Life Center	270,000
I Can't We Can	500,000
Joseph Meyerhoff Symphony Hall	600,000
Kennedy Krieger Institute	1,500,000

Lyndhurst Recreation Center	100,000
Lyric Opera House	150,000
Maryland School for the Blind	300,000
Maryland Science Center	2,000,000
Moveable Feast	175,000
National Aquarium in Baltimore	3,000,000
National Research and Training Institute for the Blind	1,500,000
Northwood Baseball Little League	200,000
Outward Bound Leakin Park Project	100,000
Polish Home Hall Cultural Center	150,000
Sojourner-Douglass College	2,000,000
St. Joseph Medical Center	230,000
The Hearing and Speech Agency	350,000
The League for People with Disabilities	550,000
TuT's Place	175,000
West Side Revitalization Project	4,500,000

D. Capital Projects for State Facilities in the City

General Government

2100 Guilford Avenue – addition/renovation	5,344,000
301 W. Preston Street – perimeter piping replacement	1,700,000

Baltimore City Community College

Liberty Campus – renovate main building	14,675,000

Department of Public Safety & Corrections

Baltimore City Detention Center – property acquisition	2,500,000
Baltimore City Detention Center – Women's Center	3,335,000

Morgan State University

Banneker Hall – telecommunication infrastructure renovation	1,367,000

Campuswide – site improvements	696,000
Campuswide – utility upgrades	489,000
Northwood Shopping Center – acquisition	5,700,000

University System of Maryland

Coppin State – Connor Administration Building upgrade exterior	1,829,000
Coppin State – Grace Jacobs Building addition and upgrade	3,375,000
Coppin State – new parking garage	5,600,000
Coppin State – Physical Education Complex	2,704,000
Coppin State – telecommunications upgrade	2,500,000
Coppin State – utilities/security systems improvements	9,440,000
UMD at Baltimore – Dental School Building construction	19,000,000
UMD at Baltimore – renovate Howard Hall	4,665,000

Other

UMD Medical System – diagnostic and treatment facility	10,000,000

Baltimore County

A. Direct Aid and Retirement Payments

1. Direct Aid

	FY 2004	FY 2005	$ Diff.	% Diff.
	($ in Thousands)			
Foundation Aid	$221,238	$241,586	$20,348	9.2
Compensatory Education	28,276	40,936	12,660	44.8
Student Transportation	18,269	19,287	1,018	5.6
Special Education	24,838	29,390	4,552	18.3
Limited English Proficiency Grants	2,902	3,987	1,085	37.4
Extended Elementary	1,190	1,041	(149)	(12.5)
Aging Schools	2,940	2,940	0	0.0
School Technology/Modernization	1,322	352	(971)	(73.4)
Other Education Aid	7,758	7,609	(149)	(1.9)
Primary & Secondary Education	308,733	347,128	38,394	12.4
Libraries	3,963	4,041	78	2.0
Community Colleges	31,706	32,046	340	1.1
Health Formula Grant	7,043	7,045	3	0.0
Transportation	26,628	32,296	5,669	21.3
Police and Public Safety	9,519	9,562	43	0.5
Fire and Rescue Aid	1,190	1,186	(4)	(0.3)
Recreation and Natural Resources	2,555	2,037	(518)	(20.3)
Utility Property Tax Grants	1,346	1,795	449	33.3
Property Tax Credits	(1,230)	0	1,230	(100.0)
** Unclaimed Local Income Tax	0	11,988	11,988	0.0
Other Direct Aid	50	50	0	0.0
Total Direct Aid	**$391,503**	**$449,174**	**$57,671**	**14.7**
Aid Per Capita ($)	501	570	70	13.9
Property Tax Equivalent ($)	0.82	0.89	0.07	8.8

** One-time accelerated disbursement of unclaimed local income tax revenue.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees as well as certain elected local officials such as sheriffs and State's Attorneys. Fiscal 2005 State payments for Baltimore County for teachers, librarians, community college faculty, and local officials are estimated to be $53,442,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2005 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2004) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services	
Alcohol and Drug Abuse	$4,836,000
Family Health and Primary Care	246,000
Geriatric and Children's Services	2,125,000
Mental Health	41,977,000
Prevention and Disease Control	2,719,000
Developmental Disabilities	45,998,000
AIDS	35,000
Social Services	
Homeless Services	228,000
Women's Services	649,000
Adult Services	473,000
Child Welfare Services	5,105,000
Senior Citizen Services	
Long-term Care	1,380,000
Community Services	229,000

C. Selected State Grants for Capital Projects

Public Schools

Sudbrook Magnet Middle School – construction	$650,000
Woodholme Elementary School – construction	4,500,000

Baltimore Community College

Catonsville – central utility plant	1,568,000
Catonsville – sprinkler system in Barn, D and E buildings	240,000
Essex – Humanities and Arts Building	1,170,000

Local Jail Loan

County Detention Center – expansion	10,000,000

Juvenile Justice Bond Program

The Good Shepherd Center	200,000

Community Mental Health/Addictions/Dev. Disabilities

Key Point Health Services	282,000

Senior Citizen Activity Centers

Woodlawn Senior Center	232,000

Chesapeake Bay Water Quality Loan

Tall Trees – stream restoration	60,000
Woodvalley – stream restoration	71,000

Waterway Improvement

Baltimore County Fire Department – equipment	10,500
Brown Cove – channel dredging	30,000
Chesterwood Park – new boat ramp and pier	75,000
Countywide – complete sub-aquatic vegetation surveys	75,000
Duck Creek and Deep Creek – dredging	20,000
Muddy Gut Creek – dredging	100,000
Pleasure Island – dredge materials placement site	75,000
Strawberry Point Marine Police Unit – equipment	45,000

Hazardous Substance Cleanup Program

Sauer Dump	350,000

Other Projects

Children's Home	250,000
Eastern Regional Trail Network	250,000
Inverness Community Center	700,000
Irvine Nature Center	200,000
Landsdowne Athletic Facility	125,000
Maryland Food Bank	962,000
Recreation Facilities Revitalization	800,000
Sheppard Pratt Hospital	1,000,000
The Children's Home	200,000
The Odyssey School	500,000
Villa Julie College – academic building	2,250,000

D. Capital Projects for State Facilities in the County

Department of Juvenile Justice

Charles H. Hickey, Jr. School – educational facility renovation	108,000

Maryland State Police

Forensic Science Laboratory – construction	1,784,000

Department of Natural Resources

Gunpowder Falls State Park – Hammerman Beach Services Building	2,350,000

University System of Maryland

Baltimore County – Chemistry Building south wing renovation	3,000,000
Baltimore County – residence hall renovations	2,000,000
Towson University – College of Liberal Arts Complex	4,242,000
Towson University – Fine Arts Building addition/renovate	3,575,000
Towson University – Residence Tower window wall upgrade	400,000
Towson University – Towson Center Arena improvements	300,000

Calvert County

A. Direct Aid and Retirement Payments

1. Direct Aid

	FY 2004	FY 2005	$ Diff.	% Diff.
	($ in Thousands)			
Foundation Aid	$44,657	$47,314	$2,657	6.0
Compensatory Education	2,634	3,593	960	36.4
Student Transportation	3,616	3,832	216	6.0
Special Education	2,787	3,822	1,035	37.1
Limited English Proficiency Grants	106	203	98	92.7
Extended Elementary	454	397	(57)	(12.5)
Aging Schools	65	65	0	0.0
Other Education Aid	578	561	(17)	(2.9)
Primary & Secondary Education	54,897	59,787	4,892	8.9
Libraries	300	321	22	7.2
Community Colleges	1,044	1,173	128	12.3
Health Formula Grant	591	599	8	1.4
* Transportation	3,953	4,775	822	20.8
* Police and Public Safety	694	733	38	5.5
* Fire and Rescue Aid	200	200	0	0.0
Recreation and Natural Resources	224	182	(42)	(18.7)
Utility Property Tax Grants	5,425	6,097	671	12.4
Property Tax Credits	(205)	0	205	(100.0)
** Unclaimed Local Income Tax	0	1,205	1,205	0.0
Total Direct Aid	**$67,123**	**$75,072**	**$7,949**	**11.8**
Aid Per Capita ($)	784	853	69	8.8
Property Tax Equivalent ($)	0.98	1.00	0.02	2.0

* Municipal governments within the county receive a share of these funds.
** One-time accelerated disbursement of unclaimed local income tax revenue.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees as well as certain elected local officials such as sheriffs and State's Attorneys. Fiscal 2005 State payments for Calvert County for teachers, librarians, community college faculty, and local officials are estimated to be $7,935,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2005 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2004) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services	
Alcohol and Drug Abuse	$732,000
Family Health and Primary Care	168,000
Geriatric and Children's Services	336,000
Mental Health	2,433,000
Prevention and Disease Control	492,000
Developmental Disabilities	4,825,000
Social Services	
Homeless Services	31,000
Women's Services	110,000
Adult Services	50,000
Child Welfare Services	646,000
Senior Citizen Services	
Long-term Care	114,000
Community Services	21,000

C. Selected State Grants for Capital Projects

Public Schools

Appeal Elementary School – renovations (mechanical)	$577,000
Calvert Career Center – construction	2,000,000
Huntingtown High School – construction	550,000

College of Southern Maryland

La Plata – planning of new building	447,000
La Plata – Science and Technology Building	1,120,000

Waterway Improvement

Countywide – replace VFD inflatable boats with motors	22,500
Town of North Beach – pier decking	99,000

Other Projects

Boys and Girls Club of Southern Maryland	500,000

D. Capital Projects for State Facilities in the County

Department of Natural Resources

Calvert Cliffs State Park – roads and parking	722,000

Caroline County

A. Direct Aid and Retirement Payments

1. Direct Aid

	FY 2004	FY 2005	$ Diff.	% Diff.
	($ in Thousands)			
Foundation Aid	$17,485	$17,963	$478	2.7
Compensatory Education	4,167	5,202	1,035	24.8
Student Transportation	1,695	1,751	56	3.3
Special Education	983	1,389	407	41.4
Limited English Proficiency Grants	185	265	80	43.1
Extended Elementary	351	308	(44)	(12.5)
Teacher Salary Grant	197	0	(197)	(100.0)
Aging Schools	85	85	0	0.0
School Technology/Modernization	15	12	(3)	(18.9)
Other Education Aid	1,241	1,261	20	1.6
Primary & Secondary Education	26,404	28,236	1,832	6.9
Libraries	218	219	1	0.2
Community Colleges	997	1,050	53	5.4
Health Formula Grant	861	873	12	1.4
* Transportation	3,190	3,854	664	20.8
* Police and Public Safety	317	319	2	0.7
* Fire and Rescue Aid	200	200	0	0.0
Recreation and Natural Resources	99	79	(20)	(20.3)
Disparity Grant	2,149	1,814	(335)	(15.6)
Property Tax Credits	(140)	0	140	(100.0)
** Unclaimed Local Income Tax	0	252	252	0.0
Total Direct Aid	**$34,295**	**$36,896**	**$2,601**	**7.6**
Aid Per Capita ($)	1,114	1,186	73	6.5
Property Tax Equivalent ($)	2.36	2.39	0.03	1.2

* Municipal governments within the county receive a share of these funds.
** One-time accelerated disbursement of unclaimed local income tax revenue.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees as well as certain elected local officials such as sheriffs and State's Attorneys. Fiscal 2005 State payments for Caroline County for teachers, librarians, community college faculty, and local officials are estimated to be $2,527,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2005 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2004) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services	
Alcohol and Drug Abuse	$404,000
Family Health and Primary Care	179,000
Geriatric and Children's Services	487,000
Mental Health	3,473,000
Prevention and Disease Control	362,000
Developmental Disabilities	1,826,000
Social Services	
Homeless Services	58,000
Women's Services	398,000
Adult Services	65,000
Child Welfare Services	554,000
Senior Citizen Services	
Long-term Care	521,000
Community Services	92,000

Note: Women's services funding supports services in Caroline, Dorchester, Kent, Queen Anne's, and Talbot counties. Senior citizen services funding supports services in Caroline, Kent, and Talbot counties.

C. Selected State Grants for Capital Projects

Public Schools

Lockerman Middle School – renovations (roof)	$269,000
Malcolm Elementary School – renovations (roof)	390,000

Chesapeake College

Campus Infrastructure Project	1,563,000
Caroline College Center – renovation/addition	375,000

Federally Qualified Health Centers Grant Program

Choptank Community Health System, Inc.	500,000

Chesapeake Bay Water Quality Loan

Federalsburg WWTP – nutrient removal	380,000
Marshyhope Creek – stream restoration	100,000
Town of Denton – Second Street pump station	267,000

Water Supply Assistance Loan

Federalsburg – water tower replacement	275,000
Nelphine Heights/Jonestown – water distribution	404,000

Waterway Improvement

Choptank Marina – channel dredging	70,000
Crouse Park – hydraulic study	25,000
Denton – construct bulkhead (federal funds)	100,000
Federalsburg Boat Ramp – erosion protection	59,000

Hazardous Substance Cleanup Program

Skipjack Chemical Site	575,000

Other Projects

National Guard Armory	100,000
Old Schoolhouse Redevelopment	100,000

Carroll County

A. Direct Aid and Retirement Payments

1. Direct Aid

	FY 2004	FY 2005	$ Diff.	% Diff.
	($ in Thousands)			
Foundation Aid	$75,078	$80,872	$5,794	7.7
Compensatory Education	3,009	4,404	1,395	46.4
Student Transportation	6,347	6,678	331	5.2
Special Education	6,088	7,613	1,525	25.1
Limited English Proficiency Grants	147	154	7	5.1
Extended Elementary	172	150	(21)	(12.5)
Aging Schools	385	385	0	0.0
School Technology/Modernization	61	12	(48)	(80.0)
Other Education Aid	633	589	(45)	(7.0)
Primary & Secondary Education	91,920	100,857	8,938	9.7
Libraries	725	769	44	6.1
Community Colleges	4,754	5,198	444	9.3
Health Formula Grant	1,984	2,012	28	1.4
* Transportation	8,696	10,545	1,849	21.3
* Police and Public Safety	1,471	1,531	60	4.1
* Fire and Rescue Aid	260	262	2	0.6
Recreation and Natural Resources	508	409	(99)	(19.6)
Property Tax Credits	(348)	0	348	(100.0)
** Unclaimed Local Income Tax	0	2,447	2,447	0.0
Total Direct Aid	**$109,970**	**$124,030**	**$14,060**	**12.8**
Aid Per Capita ($)	669	742	73	11.0
Property Tax Equivalent ($)	1.01	1.04	0.04	3.7

* Municipal governments within the county receive a share of these funds.
** One-time accelerated disbursement of unclaimed local income tax revenue.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees as well as certain elected local officials such as sheriffs and State's Attorneys. Fiscal 2005 State payments for Carroll County for teachers, librarians, community college faculty, and local officials are estimated to be $12,242,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2005 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2004) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services	
Alcohol and Drug Abuse	$2,653,000
Family Health and Primary Care	185,000
Geriatric and Children's Services	513,000
Mental Health	5,607,000
Prevention and Disease Control	702,000
Developmental Disabilities	9,486,000
Social Services	
Homeless Services	88,000
Women's Services	170,000
Adult Services	42,000
Child Welfare Services	1,221,000
Senior Citizen Services	
Long-term Care	285,000
Community Services	56,000

C. Selected State Grants for Capital Projects

Public Schools

North Carroll Middle School – construction	$1,000,000
Parrs Ridge Elementary School – construction	2,968,000

Juvenile Justice Bond Program

Bowling Brook – vocational/technical training center	737,000
Carroll County Youth Services Bureau, Inc.	125,000

Shelter & Transitional Facilities

Carroll County Emergency Shelter	250,000

Other Projects

Carroll Hospice	600,000
Goodwill Industries of Monocacy Valley	100,000

D. Capital Projects for State Facilities in the County

Department of Public Safety & Corrections

Public Safety Training Center – construct/renovate	940,000

Maryland Environmental Service

Springfield Hospital Center – water and wastewater infrastructure improvements	930,000

Cecil County

A. Direct Aid and Retirement Payments

1. Direct Aid

	FY 2004	FY 2005	$ Diff.	% Diff.
	($ in Thousands)			
Foundation Aid	$45,748	$49,409	$3,660	8.0
Compensatory Education	4,820	7,361	2,541	52.7
Student Transportation	3,347	3,547	200	6.0
Special Education	3,437	4,639	1,202	35.0
Limited English Proficiency Grants	140	223	83	59.0
Extended Elementary	810	708	(101)	(12.5)
Teacher Salary Grant	568	0	(568)	(100.0)
Aging Schools	355	355	0	0.0
School Technology/Modernization	45	36	(8)	(18.9)
Other Education Aid	541	949	408	75.4
Primary & Secondary Education	59,811	67,227	7,417	12.4
Libraries	519	532	13	2.4
Community Colleges	3,292	3,576	283	8.6
Health Formula Grant	1,299	1,317	18	1.4
* Transportation	4,890	5,917	1,027	21.0
* Police and Public Safety	865	882	17	1.9
* Fire and Rescue Aid	206	206	0	0.0
Recreation and Natural Resources	262	210	(52)	(19.7)
Property Tax Credits	(189)	0	189	(100.0)
** Unclaimed Local Income Tax	0	1,059	1,059	0.0
Total Direct Aid	**$70,955**	**$80,926**	**$9,971**	**14.1**
Aid Per Capita ($)	752	840	88	11.7
Property Tax Equivalent ($)	1.26	1.33	0.07	5.2

* Municipal governments within the county receive a share of these funds.
** One-time accelerated disbursement of unclaimed local income tax revenue.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees as well as certain elected local officials such as sheriffs and State's Attorneys. Fiscal 2005 State payments for Cecil County for teachers, librarians, community college faculty, and local officials are estimated to be $7,144,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2005 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2004) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services	
Alcohol and Drug Abuse	$1,082,000
Family Health and Primary Care	181,000
Geriatric and Children's Services	472,000
Mental Health	5,979,000
Prevention and Disease Control	534,000
Developmental Disabilities	5,411,000
AIDS	10,000
Social Services	
Homeless Services	39,000
Women's Services	43,000
Adult Services	95,000
Child Welfare Services	1,549,000
Senior Citizen Services	
Long-term Care	121,000
Community Services	39,000

C. Selected State Grants for Capital Projects

Public Schools

Cecil Manor Elementary School – construction	$315,000
Elkton High School – construction	7,300,000
Gilpin Manor Elementary School – construction	158,000
North East Elementary School – construction	158,000
Thomson Estates Elementary School – construction	315,000

Cecil Community College

Elkton Center	918,000

Juvenile Justice Bond Program

Youth Services Agency/Cecil Co. Partnership – Comm. Adventure Learning Center	344,000

Water Supply Assistance Loan

Cecilton – water system upgrade	173,000

Waterway Improvement

Beck's Landing – additional transient boat slips	40,000
Chesapeake City – construct transient boat pier (federal funds)	100,000
Port Deposit Marina Park – construct comfort station/jetty	99,000
River Bend Park/River Point Landing – boat ramp/bulkhead	99,000
Town of Charlestown Fire Boat Pier – dredging	49,000
Town of Charlestown Stone Wharf – dredging	49,000
Town of Perryville – transient pier	99,000

Hazardous Substance Cleanup Program

Dwyer Site	575,000

Other Projects

Historic Tome School	100,000

Charles County

A. Direct Aid and Retirement Payments

1. Direct Aid

	FY 2004	FY 2005	$ Diff.	% Diff.
	($ in Thousands)			
Foundation Aid	$66,828	$73,748	$6,920	10.4
Compensatory Education	6,909	9,161	2,252	32.6
Student Transportation	6,363	6,770	408	6.4
Special Education	4,095	4,997	902	22.0
Limited English Proficiency Grants	237	389	151	63.7
Extended Elementary	1,070	936	(134)	(12.5)
Aging Schools	65	65	0	0.0
School Technology/Modernization	49	12	(37)	(75.3)
Other Education Aid	1,334	1,181	(153)	(11.4)
Primary & Secondary Education	86,950	97,259	10,309	11.9
Libraries	617	669	52	8.5
Community Colleges	5,199	5,466	267	5.1
Health Formula Grant	1,603	1,626	22	1.4
* Transportation	6,029	7,292	1,262	20.9
* Police and Public Safety	1,089	1,156	68	6.2
* Fire and Rescue Aid	224	227	3	1.4
Recreation and Natural Resources	460	371	(89)	(19.4)
Utility Property Tax Grants	1,892	2,523	631	33.3
Property Tax Credits	(286)	0	286	(100.0)
** Unclaimed Local Income Tax	0	1,850	1,850	0.0
Total Direct Aid	**$103,777**	**$118,439**	**$14,662**	**14.1**
Aid Per Capita ($)	768	856	89	11.6
Property Tax Equivalent ($)	1.12	1.17	0.06	5.0

* Municipal governments within the county receive a share of these funds.
** One-time accelerated disbursement of unclaimed local income tax revenue.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees as well as certain elected local officials such as sheriffs and State's Attorneys. Fiscal 2005 State payments for Charles County for teachers, librarians, community college faculty, and local officials are estimated to be $10,879,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2005 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2004) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services	
Alcohol and Drug Abuse	$1,764,000
Family Health and Primary Care	172,000
Geriatric and Children's Services	438,000
Mental Health	4,546,000
Prevention and Disease Control	588,000
Developmental Disabilities	7,693,000
AIDS	141,000
Social Services	
Homeless Services	76,000
Women's Services	135,000
Adult Services	102,000
Child Welfare Services	1,595,000
Senior Citizen Services	
Long-term Care	180,000
Community Services	21,000

C. Selected State Grants for Capital Projects

Public Schools

Indian Head Elementary School – relocatable classrooms	$33,000
North Point High School – construction	3,000,000

College of Southern Maryland

La Plata – planning of new building	447,000
La Plata – Science and Technology Building	1,120,000

Local Jail Loan

County Detention Center – addition/renovation	336,000

Chesapeake Bay Water Quality Loan

Indian Head WWTP – nutrient removal	328,000
Mattawoman WWTP – nutrient removal	3,000,000

Waterway Improvement

Cobb Island – pier, boat lift, and equipment	50,000
Mallows Bay – public launch ramp	99,000
Matingly Park/Slavin's Landing – new double-wide ramp	99,000
Tenth District Volunteer Fire Department – equipment	10,000

Other Projects

African American Heritage Society	300,000
Thomas Stone High School Swimming Pool Complex	500,000
Veterans Memorial	50,000

D. Capital Projects for State Facilities in the County

Department of Natural Resources

Smallwood State Park – dredging	95,000
Smallwood State Park – engineering funds	90,000
Smallwood State Park – pier and bulkhead repairs	35,000
Smallwood State Park – replace floating pier	50,000

Dorchester County

A. Direct Aid and Retirement Payments

1. Direct Aid

	FY 2004	FY 2005	$ Diff.	% Diff.
	($ in Thousands)			
Foundation Aid	$13,211	$13,804	$593	4.5
Compensatory Education	3,103	3,917	814	26.2
Student Transportation	1,548	1,615	67	4.3
Special Education	740	913	173	23.4
Limited English Proficiency Grants	111	184	72	65.0
Extended Elementary	412	360	(51)	(12.5)
Aging Schools	65	65	0	0.0
Other Education Aid	733	630	(103)	(14.1)
Primary & Secondary Education	19,923	21,488	1,565	7.9
Libraries	210	194	(16)	(7.7)
Community Colleges	851	897	46	5.4
Health Formula Grant	684	694	10	1.4
* Transportation	3,554	4,296	742	20.9
* Police and Public Safety	357	352	(5)	(1.5)
* Fire and Rescue Aid	243	243	0	0.0
Recreation and Natural Resources	85	68	(17)	(20.4)
Disparity Grant	2,344	1,891	(454)	(19.4)
Utility Property Tax Grants	141	187	47	33.3
Property Tax Credits	(154)	0	154	(100.0)
** Unclaimed Local Income Tax	0	250	250	0.0
Total Direct Aid	**$28,238**	**$30,560**	**$2,322**	**8.2**
Aid Per Capita ($)	926	1,002	76	8.2
Property Tax Equivalent ($)	1.55	1.59	0.04	2.4

* Municipal governments within the county receive a share of these funds.
** One-time accelerated disbursement of unclaimed local income tax revenue.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees as well as certain elected local officials such as sheriffs and State's Attorneys. Fiscal 2005 State payments for Dorchester County for teachers, librarians, community college faculty, and local officials are estimated to be $2,257,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2005 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2004) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services	
Alcohol and Drug Abuse	$1,523,000
Family Health and Primary Care	228,000
Geriatric and Children's Services	441,000
Mental Health	4,563,000
Prevention and Disease Control	430,000
Developmental Disabilities	1,826,000
AIDS	228,000
Social Services	
Homeless Services	38,000
Women's Services	398,000
Adult Services	85,000
Child Welfare Services	735,000
Senior Citizen Services	
Long-term Care	589,000
Community Services	222,000

Note: Women's services funding supports services in Caroline, Dorchester, Kent, Queen Anne's, and Talbot counties. Senior citizen services funding supports services in Dorchester, Somerset, Wicomico, and Worcester counties.

C. Selected State Grants for Capital Projects

Public Schools

Hurlock Elementary School – renovations (mechanical)	$405,000
Judy Center – renovations (structural)	182,000
North Dorchester High School – renovations (sanitary)	218,000
North Dorchester Middle School – renovations (sanitary)	186,000

Chesapeake College

Campus Infrastructure Project	1,563,000
Caroline College Center – renovation/addition	375,000

Chesapeake Bay Water Quality Loan

Cambridge Combined Sewer – overflow improvements	300,000
Hurlock WWTP – nutrient removal	200,000
Wrights Creek – stream restoration	110,000

Waterway Improvement

Bestpitch Ferry – dock/road/parking/ramp improvements	140,000
Cambridge – reconstruct boat ramp (federal funds)	300,000
Chapel Cove – channel dredging	80,000
City of Cambridge – acquire new fire/rescue boat	50,000
City of Cambridge – upgrade/expand municipal boat basin	250,000
Elliot's Island – improve jetty	75,000
Kirwans – bulkhead/parking lot/ramp upgrade	40,000
Shorter Wharf and Liner Road – parking lot/ramp repairs	60,000
Tedious Creek – replace bulkhead	80,000
Town of Secretary – parking lot expansion and boat ramp	99,000

Other Projects

Dorchester County Historical Society	250,000
YMCA	10,000

Frederick County

A. Direct Aid and Retirement Payments

1. Direct Aid

	FY 2004	FY 2005	$ Diff.	% Diff.
	($ in Thousands)			
Foundation Aid	$98,508	$105,526	$7,018	7.1
Compensatory Education	5,828	8,225	2,398	41.1
Student Transportation	7,355	7,768	413	5.6
Special Education	5,098	7,056	1,958	38.4
Limited English Proficiency Grants	821	1,059	238	29.0
Extended Elementary	812	711	(102)	(12.5)
Aging Schools	85	85	0	0.0
School Technology/Modernization	209	12	(197)	(94.2)
Other Education Aid	810	752	(58)	(7.1)
Primary & Secondary Education	119,526	131,194	11,668	9.8
Libraries	847	932	85	10.1
Community Colleges	5,588	5,745	157	2.8
Health Formula Grant	2,439	2,473	34	1.4
* Transportation	11,975	14,401	2,426	20.3
* Police and Public Safety	2,021	2,124	104	5.1
* Fire and Rescue Aid	352	354	2	0.7
Recreation and Natural Resources	525	430	(95)	(18.1)
Property Tax Credits	(410)	0	410	(100.0)
** Unclaimed Local Income Tax	0	3,570	3,570	0.0
Total Direct Aid	**$142,863**	**$161,223**	**$18,360**	**12.9**
Aid Per Capita ($)	651	718	66	10.2
Property Tax Equivalent ($)	0.96	0.99	0.04	3.7

* Municipal governments within the county receive a share of these funds.
** One-time accelerated disbursement of unclaimed local income tax revenue.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees as well as certain elected local officials such as sheriffs and State's Attorneys. Fiscal 2005 State payments for Frederick County for teachers, librarians, community college faculty, and local officials are estimated to be $16,304,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2005 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2004) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services	
Alcohol and Drug Abuse	$1,900,000
Family Health and Primary Care	211,000
Geriatric and Children's Services	498,000
Mental Health	9,733,000
Prevention and Disease Control	808,000
Developmental Disabilities	12,486,000
AIDS	43,000
Social Services	
Homeless Services	210,000
Women's Services	68,000
Adult Services	132,000
Child Welfare Services	1,726,000
Senior Citizen Services	
Long-term Care	231,000
Community Services	68,000

C. Selected State Grants for Capital Projects

Public Schools

Crestwood Middle School – construction	$1,500,000
Middletown Elementary School – renovations (roof)	244,000
Tuscarora Elementary School – construction	1,000,000
Tuscarora High School – construction	2,500,000
Urbana High School – construction	813,000

Community Mental Health/Addictions/Dev. Disabilities

Way Station, Inc.	135,000

Chesapeake Bay Water Quality Loan

Brunswick WWTP – nutrient removal	982,950

Waterway Improvement

Lander – expand parking and upgrade access road	75,000
Point of Rocks – new boat ramp and parking lot	99,000
Potomac River – boat ramp and paving maintenance	99,000

Other Projects

American Red Cross	600,000
Police Activity League Center at Sagner	50,000

D. Capital Projects for State Facilities in the County

Maryland Environmental Service

Western Maryland State Parks – water and wastewater infrastructure improvements	475,000

Other

School for the Deaf – elementary and student support services building	681,000
School for the Deaf – family education and early intervention building	402,000

Garrett County

A. Direct Aid and Retirement Payments

1. Direct Aid

	FY 2004	FY 2005	$ Diff.	% Diff.
	($ in Thousands)			
Foundation Aid	$12,764	$12,925	$161	1.3
Compensatory Education	2,465	3,301	836	33.9
Student Transportation	1,982	2,037	55	2.8
Special Education	805	1,034	229	28.4
Extended Elementary	311	273	(39)	(12.5)
Aging Schools	85	85	0	0.0
Other Education Aid	490	487	(3)	(0.5)
Primary & Secondary Education	18,902	20,142	1,239	6.6
Libraries	162	150	(11)	(7.1)
Community Colleges	2,485	2,588	103	4.1
Health Formula Grant	698	707	10	1.4
* Transportation	4,016	4,858	843	21.0
* Police and Public Safety	241	241	0	(0.2)
* Fire and Rescue Aid	200	200	0	0.0
Recreation and Natural Resources	105	85	(20)	(18.9)
Disparity Grant	4,589	2,717	(1,872)	(40.8)
Utility Property Tax Grants	9	12	3	33.3
Property Tax Credits	(183)	0	183	(100.0)
** Unclaimed Local Income Tax	0	236	236	0.0
Total Direct Aid	**$31,224**	**$31,936**	**$712**	**2.3**
Aid Per Capita ($)	1,044	1,072	27	2.6
Property Tax Equivalent ($)	1.35	1.29	(0.06)	(4.4)

* Municipal governments within the county receive a share of these funds.
** One-time accelerated disbursement of unclaimed local income tax revenue.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees as well as certain elected local officials such as sheriffs and State's Attorneys. Fiscal 2005 State payments for Garrett County for teachers, librarians, community college faculty, and local officials are estimated to be $2,334,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2005 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2004) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services	
Alcohol and Drug Abuse	$855,000
Family Health and Primary Care	238,000
Geriatric and Children's Services	517,000
Mental Health	3,898,000
Prevention and Disease Control	385,000
Developmental Disabilities	1,793,000
Social Services	
Homeless Services	78,000
Women's Services	215,000
Adult Services	25,000
Child Welfare Services	730,000
Senior Citizen Services	
Long-term Care	132,000
Community Services	59,000

C. Selected State Grants for Capital Projects

Public Schools

Northern High School – renovations (structural)	$598,000

Garrett Community College

Learning Resource Center	2,842,000

Chesapeake Bay Water Quality Loan

Accident – wastewater system improvements	350,000
Grantsville – stormwater management	100,000
Keysers Ridge – sewer	150,000
Maple Grove – stream restoration	29,000

Water Supply Assistance Loan

Deer Park – water system	250,000

Waterway Improvement

Friendsville – install comfort station	5,000

Other Projects

Garrett County Exhibition Hall	300,000
Salem School	500,000

D. Capital Projects for State Facilities in the County

Maryland Environmental Service

Deep Creek State Park – water and wastewater infrastructure improvements	555,000

Harford County

A. Direct Aid and Retirement Payments

1. Direct Aid

	FY 2004	FY 2005	$ Diff.	% Diff.
	($ in Thousands)			
Foundation Aid	$105,582	$111,673	$6,091	5.8
Compensatory Education	8,668	10,812	2,143	24.7
Student Transportation	7,943	8,279	336	4.2
Special Education	8,652	11,214	2,562	29.6
Limited English Proficiency Grants	383	581	198	51.8
Extended Elementary	850	744	(106)	(12.5)
Aging Schools	400	400	0	0.0
School Technology/Modernization	195	121	(74)	(37.8)
Other Education Aid	470	401	(69)	(14.8)
Primary & Secondary Education	133,143	144,225	11,081	8.3
Libraries	1,154	1,194	41	3.5
Community Colleges	7,352	7,897	545	7.4
Health Formula Grant	2,804	2,843	39	1.4
* Transportation	9,954	12,054	2,100	21.1
* Police and Public Safety	2,107	2,159	52	2.5
* Fire and Rescue Aid	364	366	2	0.5
Recreation and Natural Resources	752	604	(148)	(19.7)
Utility Property Tax Grants	646	861	215	33.3
Property Tax Credits	(372)	0	372	(100.0)
** Unclaimed Local Income Tax	0	3,698	3,698	0.0
Total Direct Aid	**$157,904**	**$175,901**	**$17,997**	**11.4**
Aid Per Capita ($)	677	745	68	10.1
Property Tax Equivalent ($)	1.09	1.14	0.04	3.8

* Municipal governments within the county receive a share of these funds.
** One-time accelerated disbursement of unclaimed local income tax revenue.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees as well as certain elected local officials such as sheriffs and State's Attorneys. Fiscal 2005 State payments for Harford County for teachers, librarians, community college faculty, and local officials are estimated to be $17,432,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2005 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2004) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services	
Alcohol and Drug Abuse	$1,659,000
Family Health and Primary Care	497,000
Geriatric and Children's Services	737,000
Mental Health	8,088,000
Prevention and Disease Control	921,000
Developmental Disabilities	13,594,000
AIDS	44,000
Social Services	
Homeless Services	101,000
Women's Services	201,000
Adult Services	102,000
Child Welfare Services	1,968,000
Senior Citizen Services	
Long-term Care	327,000
Community Services	62,000

C. Selected State Grants for Capital Projects

Public Schools

Deerfield Elementary School – relocatable classrooms	$33,000
Edgewood Middle School – renovations (roof)	595,000
North Harford Elementary School – relocatable classrooms	16,000
North Harford Middle School – renovations (plumbing)	293,000
North Harford High School – construction	1,500,000

Harford Community College

Bel Air Hall – addition and renovations	244,000
Havre de Grace Hall – renovation	931,000
Joppa Hall – addition and renovations	480,000

Senior Citizen Activity Centers

Havre de Grace Senior Center	554,000

Chesapeake Bay Water Quality Loan

Oaklyn Manor Road – sewer	130,000
Woodbridge – stream restoration	30,000

Waterway Improvement

Havre de Grace Yacht Basin – replace piers/slips	300,000
Otter Point Creek – design boat launch facility	60,000
Otter Point Creek/Bush River – design dredge material site	75,000
Swan Harbor Farm – construct new pier	250,000
Tydings Island – shoreline protection for dredge site	200,000

Other Projects

Boys and Girls Club	140,000
Sexual Assault/Spousal Abuse Resource Center	150,000

Howard County

A. Direct Aid and Retirement Payments

1. Direct Aid

	FY 2004	FY 2005	$ Diff.	% Diff.
	($ in Thousands)			
Foundation Aid	$93,011	$97,615	$4,604	5.0
Compensatory Education	4,005	5,937	1,932	48.3
Student Transportation	9,591	10,181	591	6.2
Special Education	7,204	8,593	1,389	19.3
Limited English Proficiency Grants	2,118	2,355	236	11.2
Extended Elementary	255	223	(32)	(12.5)
Aging Schools	65	65	0	0.0
School Technology/Modernization	497	218	(279)	(56.1)
Other Education Aid	1,092	993	(99)	(9.1)
Primary & Secondary Education	117,838	126,180	8,342	7.1
Libraries	627	639	12	1.9
Community Colleges	8,659	9,312	652	7.5
Health Formula Grant	1,956	1,983	27	1.4
Transportation	10,026	12,085	2,060	20.5
Police and Public Safety	2,872	2,934	62	2.2
Fire and Rescue Aid	376	377	1	0.4
Recreation and Natural Resources	1,333	1,068	(265)	(19.9)
Property Tax Credits	(375)	0	375	(100.0)
** Unclaimed Local Income Tax	0	4,855	4,855	0.0
Other Direct Aid	105	105	0	0.0
Total Direct Aid	**$143,417**	**$159,538**	**$16,121**	**11.2**
Aid Per Capita ($)	526	572	46	8.7
Property Tax Equivalent ($)	0.59	0.60	0.01	1.3

** One-time accelerated disbursement of unclaimed local income tax revenue.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees as well as certain elected local officials such as sheriffs and State's Attorneys. Fiscal 2005 State payments for Howard County for teachers, librarians, community college faculty, and local officials are estimated to be $25,728,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2005 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2004) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services	
Alcohol and Drug Abuse	$1,475,000
Family Health and Primary Care	133,000
Geriatric and Children's Services	440,000
Mental Health	6,130,000
Prevention and Disease Control	749,000
Developmental Disabilities	15,550,000
AIDS	44,000
Social Services	
Homeless Services	113,000
Women's Services	243,000
Adult Services	54,000
Child Welfare Services	1,724,000
Senior Citizen Services	
Long-term Care	253,000
Community Services	23,000

C. Selected State Grants for Capital Projects

Public Schools

Bellows Spring Elementary School – construction	$210,000
Elkridge Elementary School – construction	130,000
Forest Ridge Elementary School – construction	170,000
Hollifield Station Elementary School – construction	210,000
Jeffers Hill Elementary School – construction	65,000
New Northern High School – construction	3,320,000
St. John's Lane Elementary School – construction	130,000
Thunder Hill Elementary School – construction	65,000

Howard Community College

Administration Building/Smith Theatre – renovation	380,000
Arts and Humanities Instructional Building and Parking Lot	1,648,000
Athletic Fields and Nature Trail	400,000
Student Services Building	67,000

Community Mental Health/Addictions/Dev. Disabilities

Main Street Housing	318,000

Senior Citizen Activity Centers

Glenwood Senior Center	600,000

Partnership Rental Housing Program

Tiber Hudson	1,408,000

Waterway Improvement

Centennial Lake – construct boardwalk	35,000

Other Projects

Blandair Mansion	500,000
Johns Hopkins University – library storage facility	2,000,000

D. Capital Projects for State Facilities in the County

Department of Health & Mental Hygiene

Perkins Hospital – new maximum security wing	9,625,000

Department of Natural Resources

Union Dam – dam rehabilitation	500,000

Department of Public Safety & Corrections

Patuxent Institution – electrical service upgrade	385,000

Other

School for the Deaf – main building elevator	50,000

Kent County

A. Direct Aid and Retirement Payments

1. Direct Aid

	FY 2004	FY 2005	$ Diff.	% Diff.
	($ in Thousands)			
Foundation Aid	$4,594	$4,595	$1	0.0
Compensatory Education	889	1,243	353	39.8
Student Transportation	1,046	1,078	33	3.1
Special Education	409	455	46	11.3
Limited English Proficiency Grants	71	98	27	38.4
Extended Elementary	280	245	(35)	(12.5)
Teacher Salary Grant	3	0	(3)	(100.0)
Aging Schools	65	65	0	0.0
Other Education Aid	529	524	(5)	(0.9)
Primary & Secondary Education	7,886	8,303	417	5.3
Libraries	84	85	1	1.6
Community Colleges	409	431	22	5.4
Health Formula Grant	534	541	7	1.4
* Transportation	1,881	2,262	381	20.2
* Police and Public Safety	196	197	1	0.4
* Fire and Rescue Aid	207	207	0	0.0
Recreation and Natural Resources	63	51	(12)	(19.3)
Property Tax Credits	(143)	0	143	(100.0)
** Unclaimed Local Income Tax	0	208	208	0.0
Total Direct Aid	**$11,117**	**$12,285**	**$1,168**	**10.5**
Aid Per Capita ($)	564	620	56	10.0
Property Tax Equivalent ($)	0.71	0.74	0.02	3.4

* Municipal governments within the county receive a share of these funds.
** One-time accelerated disbursement of unclaimed local income tax revenue.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees as well as certain elected local officials such as sheriffs and State's Attorneys. Fiscal 2005 State payments for Kent County for teachers, librarians, community college faculty, and local officials are estimated to be $1,457,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2005 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2004) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services	
Alcohol and Drug Abuse	$1,669,000
Family Health and Primary Care	125,000
Geriatric and Children's Services	358,000
Mental Health	1,527,000
Prevention and Disease Control	340,000
Developmental Disabilities	1,174,000
Social Services	
Homeless Services	2,000
Women's Services	398,000
Adult Services	34,000
Child Welfare Services	331,000
Senior Citizen Services	
Long-term Care	521,000
Community Services	92,000

Note: Women's services funding supports services in Caroline, Dorchester, Kent, Queen Anne's, and Talbot counties. Senior citizen services funding supports services in Caroline, Kent, and Talbot counties.

C. Selected State Grants for Capital Projects

Public Schools

Kent County High School – renovations (HVAC)	$555,000

Chesapeake College

Campus Infrastructure Project	1,563,000
Caroline College Center – renovation/addition	375,000

Community Mental Health/Addictions/Dev. Disabilities

Kent Center, Inc.	1,600,000

Chesapeake Bay Water Quality Loan

Chestertown WWTP – nutrient removal	500,000
Kennedyville WWTP – collection system upgrades	250,000
Millington WWTP	250,000
Town of Betterton – bluff control	13,000

Water Supply Assistance Loan

West Millington – water system	50,000

Waterway Improvement

Bayside Public Landing – replace bulkhead/finger piers	100,000
Cannon Street – replace bulkhead	50,000
Turner's Creek – replace breakwater	100,000
Wilmer Park – bulkheading	50,000

Other Projects

Kent County Recreation and Community Complex	500,000

Montgomery County

A. Direct Aid and Retirement Payments

1. Direct Aid

	FY 2004	FY 2005	$ Diff.	% Diff.
	($ in Thousands)			
Foundation Aid	$164,336	$161,375	($2,962)	(1.8)
Compensatory Education	20,174	35,497	15,323	76.0
Student Transportation	24,196	26,169	1,972	8.2
Special Education	22,740	27,520	4,779	21.0
Limited English Proficiency Grants	16,168	18,609	2,441	15.1
Extended Elementary	1,266	1,108	(158)	(12.5)
Aging Schools	1,170	1,170	0	0.0
School Technology/Modernization	1,298	618	(679)	(52.4)
Other Education Aid	4,040	3,265	(774)	(19.2)
Primary & Secondary Education	255,388	275,331	19,942	7.8
Libraries	2,162	2,218	56	2.6
Community Colleges	28,325	28,744	419	1.5
Health Formula Grant	4,920	4,921	2	0.0
* Transportation	27,886	33,838	5,953	21.3
* Police and Public Safety	14,133	14,511	379	2.7
* Fire and Rescue Aid	1,296	1,297	1	0.1
Recreation and Natural Resources	3,358	2,718	(640)	(19.1)
Utility Property Tax Grants	2,074	2,766	691	33.3
Property Tax Credits	(1,314)	0	1,314	(100.0)
** Unclaimed Local Income Tax	0	20,846	20,846	0.0
Total Direct Aid	**$338,228**	**$387,190**	**$48,962**	**14.5**
Aid Per Capita ($)	361	406	46	12.7
Property Tax Equivalent ($)	0.36	0.36	0.01	1.8

* Municipal governments within the county receive a share of these funds.
** One-time accelerated disbursement of unclaimed local income tax revenue.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees as well as certain elected local officials such as sheriffs and State's Attorneys. Fiscal 2005 State payments for Montgomery County for teachers, librarians, community college faculty, and local officials are estimated to be $87,279,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2005 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2004) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services	
Alcohol and Drug Abuse	$3,657,000
Family Health and Primary Care	401,000
Geriatric and Children's Services	2,511,000
Mental Health	24,312,000
Prevention and Disease Control	2,272,000
Developmental Disabilities	54,376,000
AIDS	199,000
Social Services	
Homeless Services	369,000
Women's Services	177,000
Adult Services	417,000
Child Welfare Services	4,222,000
Senior Citizen Services	
Long-term Care	943,000
Community Services	190,000

C. Selected State Grants for Capital Projects

Public Schools

Clopper Mill Elementary School – renovations (roof)	$205,000
Colonel Z. Magruder High School – relocatable classrooms	50,000
Gaithersburg Elementary School – construction	642,000
Kensington/Parkwood Elementary School – construction	1,100,000
Lake Seneca Elementary School – renovations (roof)	239,000
Oak View Elementary School – construction	1,000,000
Quince Orchard Middle School #2 – construction	2,000,000
S. Christa McAuliffe Elementary School – renovations (roof)	174,000
Somerset Elementary School – construction	900,000

Montgomery College

Rockville and Germantown – replace three roofs	217,000
Takoma Park – Central Plant	1,362,000
Takoma Park – Student Services/Cultural Arts Center	8,100,000

Local Jail Loan

Montgomery County Detention Center	3,048,000

Juvenile Justice Bond Program

National Center for Children and Families	1,843,000

Community Mental Health/Addictions/Dev. Disabilities

Community Services for Autistic Adults and Children, Inc.	750,000

Shelter & Transitional Facilities

Econolodge Special Needs Housing	220,000

Chesapeake Bay Water Quality Loan

Blue Plains WWTP – nutrient removal	2,000,000
Booze Creek – stream restoration	100,000
Dunlop – stormwater management	106,000

Other Projects

Black Rock Center for the Arts	300,000
Boys and Girls Club Gymnasium	500,000
Chelsea School	300,000
Columbia Union College	2,250,000
Community Services for Autistic Adults and Children	300,000
East County Center for Science and Technology Incubator	1,000,000
Easter Seals Inter-Generational Center and Regional Headquarters	200,000
Gaithersburg Youth Center	300,000
Goodwill Industries International – Member Services Center	100,000
Holy Cross Hospital	1,522,000
Imagination Stage	400,000
Joshua Group Ministries	175,000
Kensington Recreation Center	100,000
Lone Oak	250,000
Melvin J. Berman Hebrew Academy Auditorium	150,000
National Capital Trolley Museum	75,000
National Center for Children and Family – Volunteer and Training Center	250,000
Olney Skate Park	350,000
Our House Youth Home	225,000
Rockville Town Center – redevelopment	1,500,000
Sandy Spring Slave Museum and African Art Gallery	75,000
South Valley Park	50,000
Strathmore Hall Performing Arts Center	2,000,000
Takoma Park Community Learning Center	300,000
Wheaton Multi-Service Youth Facility	500,000
Whitman-Walker Clinic	200,000

D. Capital Projects for State Facilities in the County

General Government

New District Court – Rockville	2,378,000

University System of Maryland

Biotechnology Institute – Center for Advanced Research	5,000,000

Prince George's County

A. Direct Aid and Retirement Payments

1. Direct Aid

	FY 2004	FY 2005	$ Diff.	% Diff.
	($ in Thousands)			
Foundation Aid	$380,370	$412,137	$31,767	8.4
Compensatory Education	82,126	113,291	31,165	37.9
Student Transportation	24,820	26,326	1,506	6.1
Special Education	44,078	49,865	5,787	13.1
Limited English Proficiency Grants	10,789	15,868	5,079	47.1
Extended Elementary	1,732	1,515	(216)	(12.5)
Aging Schools	970	970	0	0.0
School Technology/Modernization	1,727	1,152	(576)	(33.3)
Other Education Aid	9,421	8,965	(456)	(4.8)
Primary & Secondary Education	556,033	630,089	74,056	13.3
Libraries	5,236	5,464	228	4.3
Community Colleges	17,492	17,965	473	2.7
Health Formula Grant	8,153	8,181	28	0.3
* Transportation	24,226	29,306	5,080	21.0
* Police and Public Safety	17,391	17,674	283	1.6
* Fire and Rescue Aid	1,105	1,104	(2)	(0.2)
Recreation and Natural Resources	2,887	2,298	(589)	(20.4)
Disparity Grant	6,793	5,510	(1,283)	(18.9)
Utility Property Tax Grants	7,309	7,745	436	6.0
Property Tax Credits	(1,162)	0	1,162	(100.0)
** Unclaimed Local Income Tax	0	9,886	9,886	0.0
* Other Direct Aid	181	181	0	0.0
Total Direct Aid	**$645,644**	**$735,403**	**$89,759**	**13.9**
Aid Per Capita ($)	756	850	94	12.5
Property Tax Equivalent ($)	1.41	1.50	0.09	6.2

* Municipal governments within the county receive a share of these funds.
** One-time accelerated disbursement of unclaimed local income tax revenue.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees as well as certain elected local officials such as sheriffs and State's Attorneys. Fiscal 2005 State payments for Prince George's County for teachers, librarians, community college faculty, and local officials are estimated to be $60,420,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2005 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2004) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services	
Alcohol and Drug Abuse	$9,008,000
Family Health and Primary Care	1,117,000
Geriatric and Children's Services	3,134,000
Mental Health	34,217,000
Prevention and Disease Control	2,044,000
Developmental Disabilities	49,747,000
AIDS	311,000
Social Services	
Homeless Services	553,000
Women's Services	504,000
Adult Services	326,000
Child Welfare Services	6,030,000
Senior Citizen Services	
Long-term Care	727,000
Community Services	177,000

C. Selected State Grants for Capital Projects

Public Schools

Bladensburg High School – construction	$2,500,000
Homer Avenue Elementary School – construction	1,000,000
James Madison Middle School – renovations (boiler)	874,000
Panorama Elementary School – construction	500,000
Port Towns Elementary School – construction	1,100,000
Regional High School – construction	500,000

Prince George's Community College

Accokeek Hall – renovation	2,195,000
Bladen Hall – renovate student services wing	333,000
Campuswide – energy management system upgrade	2,102,000
High Technology Center	11,500,000
Sprinkler System and Water Main – replacement	245,000

Local Jail Loan

County Correctional Center – expansion	1,214,000

Community Mental Health/Addictions/Dev. Disabilities

Melwood Horticultural Training Center	1,200,000

Chesapeake Bay Water Quality Loan

Beaverdam Creek – stormwater management	202,000
Blue Plains WWTP – nutrient removal	2,000,000

Waterway Improvement

Baden Fire Department – dive team rescue equipment	10,000
Ft. Washington Marina – design replacement pier	50,000
Prince George's Fire Department – equipment for underwater recovery	20,000

Other Projects

African American Cultural Heritage Center at North Brentwood	250,000
Anacostia Watershed Society	100,000
Bethel Recreation Center	250,000
Bowie Center for the Performing Arts	450,000
Camp Springs Boys and Girls Club	150,000
Cheverly Community Center	100,000
City of District Heights – street lights	50,000
College Park City Hall	100,000
Community Crisis Center	100,000
Concorde Mansion	700,000
Ebenezer Community Life Center	200,000
Friends of Pullen Performing Arts Center	250,000
Ivy Youth and Family Center	500,000
Laurel Regional Hospital	675,000
Laurel Senior Center	150,000
Marlton Gazebo	100,000
Melwood Horticultural Training Center Facilities	200,000
Mission of Love	100,000
Prince George's Hospital Center	4,325,000
Sojourner Truth Collection	200,000

D. Capital Projects for State Facilities in the County

University System of Maryland

Bowie State – Center for Business and Graduate Studies	17,550,000
Bowie State – Holmes and Tubman Halls addition/renovate	1,200,000
College Park – Biological Sciences Research Building	55,805,000
College Park – Engineering and Applied Sciences Building	2,400,000
University College – new parking garage	4,500,000

Queen Anne's County

A. Direct Aid and Retirement Payments

1. Direct Aid

	FY 2004	FY 2005	$ Diff.	% Diff.
	($ in Thousands)			
Foundation Aid	$15,360	$15,496	$136	0.9
Compensatory Education	1,104	1,376	272	24.6
Student Transportation	2,090	2,170	81	3.9
Special Education	947	1,252	305	32.2
Limited English Proficiency Grants	68	88	20	28.9
Extended Elementary	351	307	(44)	(12.5)
Aging Schools	85	85	0	0.0
School Technology/Modernization	11	0	(11)	(100.0)
Other Education Aid	405	403	(2)	(0.6)
Primary & Secondary Education	20,421	21,177	757	3.7
Libraries	129	122	(7)	(5.6)
Community Colleges	1,066	1,123	57	5.4
Health Formula Grant	667	676	9	1.4
* Transportation	3,561	4,305	744	20.9
* Police and Public Safety	373	389	16	4.3
* Fire and Rescue Aid	200	200	0	0.0
Recreation and Natural Resources	135	111	(24)	(17.9)
Property Tax Credits	(159)	0	159	(100.0)
** Unclaimed Local Income Tax	0	671	671	0.0
Total Direct Aid	**$26,393**	**$28,774**	**$2,381**	**9.0**
Aid Per Capita ($)	593	635	42	7.1
Property Tax Equivalent ($)	0.66	0.64	(0.02)	(3.0)

* Municipal governments within the county receive a share of these funds.
** One-time accelerated disbursement of unclaimed local income tax revenue.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees as well as certain elected local officials such as sheriffs and State's Attorneys. Fiscal 2005 State payments for Queen Anne's County for teachers, librarians, community college faculty, and local officials are estimated to be $3,252,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2005 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2004) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services	
Alcohol and Drug Abuse	$577,000
Family Health and Primary Care	191,000
Geriatric and Children's Services	476,000
Mental Health	1,745,000
Prevention and Disease Control	421,000
Developmental Disabilities	2,543,000
Social Services	
Homeless Services	14,000
Women's Services	398,000
Adult Services	26,000
Child Welfare Services	599,000
Senior Citizen Services	
Long-term Care	111,000
Community Services	32,000

Note: Women's services funding supports services in Caroline, Dorchester, Kent, Queen Anne's, and Talbot counties.

C. Selected State Grants for Capital Projects

Public Schools

Centreville Middle School – renovations (HVAC)	$338,000

Chesapeake College

Campus Infrastructure Project	1,563,000
Caroline College Center – renovation/addition	375,000

Partnership Rental Housing Program

Foxtown Apartments	1,275,000

Chesapeake Bay Water Quality Loan

Centreville WWTP – nutrient removal	200,000

Waterway Improvement

Corsica River – channel dredging	175,000
Dominion – repair bulkhead/install eight new slips	95,000
Matapeake – re-surface parking lot	10,000
Queenstown – fire/rescue boat and equipment	25,000

Other Projects

Historic Christ Church	167,500
Hospice House	150,000

D. Capital Projects for State Facilities in the County

General Government

Centreville District Court – expansion	230,000

St. Mary's County

A. Direct Aid and Retirement Payments

1. Direct Aid

	FY 2004	FY 2005	$ Diff.	% Diff.
	($ in Thousands)			
Foundation Aid	$42,592	$45,474	$2,881	6.8
Compensatory Education	4,428	5,855	1,428	32.2
Student Transportation	4,028	4,229	201	5.0
Special Education	3,244	4,124	880	27.1
Limited English Proficiency Grants	257	285	28	11.0
Extended Elementary	873	764	(109)	(12.5)
Aging Schools	85	85	0	0.0
School Technology/Modernization	38	12	(26)	(67.9)
Other Education Aid	558	544	(15)	(2.6)
Primary & Secondary Education	56,103	61,372	5,268	9.4
Libraries	467	484	16	3.5
Community Colleges	1,538	1,662	124	8.0
Health Formula Grant	1,303	1,321	18	1.4
* Transportation	4,856	5,834	978	20.1
* Police and Public Safety	769	794	25	3.2
* Fire and Rescue Aid	200	200	0	0.0
Recreation and Natural Resources	254	205	(49)	(19.4)
Property Tax Credits	(236)	0	236	(100.0)
** Unclaimed Local Income Tax	0	1,303	1,303	0.0
Total Direct Aid	**$65,254**	**$73,175**	**$7,921**	**12.1**
Aid Per Capita ($)	703	777	74	10.5
Property Tax Equivalent ($)	1.12	1.19	0.07	6.4

* Municipal governments within the county receive a share of these funds.
** One-time accelerated disbursement of unclaimed local income tax revenue.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees as well as certain elected local officials such as sheriffs and State's Attorneys. Fiscal 2005 State payments for St. Mary's County for teachers, librarians, community college faculty, and local officials are estimated to be $6,967,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2005 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2004) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services	
Alcohol and Drug Abuse	$866,000
Family Health and Primary Care	118,000
Geriatric and Children's Services	448,000
Mental Health	2,623,000
Prevention and Disease Control	465,000
Developmental Disabilities	5,379,000
Social Services	
Homeless Services	67,000
Women's Services	209,000
Adult Services	81,000
Child Welfare Services	1,111,000
Senior Citizen Services	
Long-term Care	116,000
Community Services	54,000

C. Selected State Grants for Capital Projects

Public Schools

Dynard Elementary School – construction	$183,000
George W. Carver Elementary School – construction	2,500,000

College of Southern Maryland

La Plata – planning of new building	447,000
La Plata – Science and Technology Building	1,120,000

Community Mental Health/Addictions/Dev. Disabilities

Rock Creek Foundation	113,000

Waterway Improvement

Fox Harbor Landing – renovate transient pier	80,000
Leonardtown Wharf – replace bulkhead/const. new dock	150,000
Piney Point – revetment	65,000
St. Jerome Creek – dredge materials placement site	150,000
Wicomico Shores – stabilize shoreline/breakwater	99,000

Other Projects

Old Carvers Heights – South Hampton Community Village	250,000
Patuxent River Naval Air Museum and Visitors Center	225,000
Piney Point Lighthouse Museum	100,000

D. Capital Projects for State Facilities in the County

Department of Natural Resources

Greenwell State Park – pier ADA access	62,000
Point Lookout State Park – design parking and lighting	75,000

Historic St. Mary's City Commission

St. John's Archaeological Site	5,700,000

Maryland Environmental Service

St. Mary's College – water and wastewater system upgrades	438,000

St. Mary's College

Academic Building – construction	18,576,000
Student Services Building – construction	8,109,000

Somerset County

A. Direct Aid and Retirement Payments

1. Direct Aid

	FY 2004	FY 2005	$ Diff.	% Diff.
	($ in Thousands)			
Foundation Aid	$9,182	$9,496	$314	3.4
Compensatory Education	3,008	3,671	663	22.1
Student Transportation	1,218	1,254	36	2.9
Special Education	557	727	170	30.5
Limited English Proficiency Grants	83	119	36	43.5
Extended Elementary	310	271	(39)	(12.5)
Teacher Salary Grant	107	0	(107)	(100.0)
Aging Schools	65	65	0	0.0
Other Education Aid	93	399	306	330.7
Primary & Secondary Education	14,623	16,002	1,379	9.4
Libraries	223	228	5	2.4
Community Colleges	558	604	46	8.3
Health Formula Grant	682	692	10	1.4
* Transportation	2,172	2,615	444	20.4
* Police and Public Safety	231	240	8	3.6
* Fire and Rescue Aid	200	200	0	0.0
Recreation and Natural Resources	61	49	(12)	(20.4)
Disparity Grant	4,348	3,753	(595)	(13.7)
Property Tax Credits	(158)	0	158	(100.0)
** Unclaimed Local Income Tax	0	166	166	0.0
Total Direct Aid	**$22,940**	**$24,549**	**$1,609**	**7.0**
Aid Per Capita ($)	886	941	55	6.2
Property Tax Equivalent ($)	2.87	2.91	0.04	1.3

* Municipal governments within the county receive a share of these funds.
** One-time accelerated disbursement of unclaimed local income tax revenue.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees as well as certain elected local officials such as sheriffs and State's Attorneys. Fiscal 2005 State payments for Somerset County for teachers, librarians, community college faculty, and local officials are estimated to be $1,465,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2005 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2004) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services	
Alcohol and Drug Abuse	$2,303,000
Family Health and Primary Care	98,000
Geriatric and Children's Services	381,000
Mental Health	4,483,000
Prevention and Disease Control	377,000
Developmental Disabilities	1,532,000
AIDS	11,000
Social Services	
Homeless Services	7,000
Women's Services	359,000
Adult Services	34,000
Child Welfare Services	681,000
Senior Citizen Services	
Long-term Care	589,000
Community Services	222,000

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

C. Selected State Grants for Capital Projects

Public Schools

Intermediate School at Tawes – construction	$400,000
Woodson Elementary School – construction	200,000

Federally Qualified Health Centers Grant Program

Three Lower Counties Community Service, Inc.	500,000

Chesapeake Bay Water Quality Loan

Crisfield WWTP – nutrient removal	100,000

Waterway Improvement

Champ/St. Peter's Creek – design boat ramp	10,000
Dames Quarters – replace boat ramp/bulkhead	160,000
Dames Quarters – replace county dock	99,000
Deal Island – construct boat slips	99,000
Deal Island – replace boat ramp	99,000
Pocomoke – dredge materials placement site phragmities control	5,000
Somers Cove Marina - 25 additional boat slips	60,000
Somers Cove Marina - reconfigure Pier G	175,000
Somers Cove Marina - replace pier D & E decking	65,000
Tylerton – replace boat ramp	99,000

Other Projects

Agricultural and Civic Center	43,000
Alice B. Tawes Nursing Home	500,000

D. Capital Projects for State Facilities in the County

Department of Natural Resources	
Janes Island State Park – install pilings and piers	150,000
University System of Maryland	
Eastern Shore – social science/education/health building	3,063,000

Talbot County

A. Direct Aid and Retirement Payments

1. Direct Aid

	FY 2004	FY 2005	$ Diff.	% Diff.
	($ in Thousands)			
Foundation Aid	$5,025	$5,093	$67	1.3
Compensatory Education	878	1,461	583	66.4
Student Transportation	1,034	1,064	31	3.0
Special Education	378	516	138	36.5
Limited English Proficiency Grants	166	178	12	7.2
Extended Elementary	315	275	(39)	(12.5)
Aging Schools	155	155	0	0.0
School Technology/Modernization	11	0	(11)	(100.0)
Other Education Aid	388	380	(8)	(2.0)
Primary & Secondary Education	8,350	9,122	773	9.3
Libraries	83	83	0	0.0
Community Colleges	1,107	1,167	59	5.4
Health Formula Grant	523	530	7	1.4
* Transportation	2,905	3,507	602	20.7
* Police and Public Safety	392	392	0	0.0
* Fire and Rescue Aid	238	238	0	0.0
Recreation and Natural Resources	142	117	(25)	(17.9)
Property Tax Credits	(191)	0	191	(100.0)
** Unclaimed Local Income Tax	0	365	365	0.0
Total Direct Aid	**$13,549**	**$15,521**	**$1,972**	**14.6**
Aid Per Capita ($)	389	442	53	13.6
Property Tax Equivalent ($)	0.30	0.30	0.00	1.1

* Municipal governments within the county receive a share of these funds.
** One-time accelerated disbursement of unclaimed local income tax revenue.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees as well as certain elected local officials such as sheriffs and State's Attorneys. Fiscal 2005 State payments for Talbot County for teachers, librarians, community college faculty, and local officials are estimated to be $2,190,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2005 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2004) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services	
Alcohol and Drug Abuse	$650,000
Family Health and Primary Care	285,000
Geriatric and Children's Services	295,000
Mental Health	1,667,000
Prevention and Disease Control	363,000
Developmental Disabilities	2,054,000
AIDS	25,000
Social Services	
Homeless Services	35,000
Women's Services	398,000
Adult Services	34,000
Child Welfare Services	678,000
Senior Citizen Services	
Long-term Care	521,000
Community Services	92,000

Note: Women's services funding supports services in Caroline, Dorchester, Kent, Queen Anne's, and Talbot counties. Senior citizen services funding supports services in Caroline, Kent, and Talbot counties.

C. Selected State Grants for Capital Projects

Chesapeake College

Campus Infrastructure Project	$1,563,000
Caroline College Center – renovation/addition	375,000

Chesapeake Bay Water Quality Loan

Easton WWTP – nutrient removal	2,500,000
St. Michaels WWTP – nutrient removal	2,035,300
Tilghman Island Beach – failing septic systems	150,000

Waterway Improvement

Claiborne – replace bulkhead	100,000
Hollis Park – design bulkhead	25,000
Kingston – improve piers and parking lot	50,000
Knapp's Narrows and Dogwood Harbor – storage material site	200,000
New Bridge – repair parking lot	20,000
Oxford Ferry Landing – design transient boat dock	15,000
St. Michaels – fire/rescue boat	50,000

Other Projects

Academy Art Museum	300,000

D. Capital Projects for State Facilities in the County

Maryland State Police

Easton Barrack/Garage/Communication Building – construction	307,000

Washington County

A. Direct Aid and Retirement Payments

1. Direct Aid

	FY 2004	FY 2005	$ Diff.	% Diff.
	($ in Thousands)			
Foundation Aid	$53,533	$57,367	$3,833	7.2
Compensatory Education	7,665	10,945	3,280	42.8
Student Transportation	4,125	4,352	226	5.5
Special Education	4,343	5,369	1,026	23.6
Limited English Proficiency Grants	218	321	103	47.0
Extended Elementary	599	524	(75)	(12.5)
Aging Schools	200	200	0	0.0
School Technology/Modernization	290	133	(156)	(54.0)
Other Education Aid	1,137	965	(173)	(15.2)
Primary & Secondary Education	72,110	80,176	8,064	11.2
Libraries	857	841	(16)	(1.9)
Community Colleges	4,886	5,211	324	6.6
Health Formula Grant	2,228	2,260	31	1.4
* Transportation	7,572	9,130	1,557	20.6
* Police and Public Safety	1,356	1,367	11	0.8
* Fire and Rescue Aid	224	226	2	0.8
Recreation and Natural Resources	400	320	(80)	(20.1)
Disparity Grant	214	0	(214)	(100.0)
Utility Property Tax Grants	268	357	89	33.3
Property Tax Credits	(357)	0	357	(100.0)
** Unclaimed Local Income Tax	0	1,493	1,493	0.0
Total Direct Aid	**$89,758**	**$101,381**	**$11,623**	**12.9**
Aid Per Capita ($)	660	740	80	12.2
Property Tax Equivalent ($)	1.17	1.26	0.09	7.7

* Municipal governments within the county receive a share of these funds.
** One-time accelerated disbursement of unclaimed local income tax revenue.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees as well as certain elected local officials such as sheriffs and State's Attorneys. Fiscal 2005 State payments for Washington County for teachers, librarians, community college faculty, and local officials are estimated to be $9,160,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2005 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2004) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services	
Alcohol and Drug Abuse	$2,948,000
Family Health and Primary Care	170,000
Geriatric and Children's Services	720,000
Mental Health	9,047,000
Prevention and Disease Control	732,000
Developmental Disabilities	8,019,000
AIDS	202,000
Social Services	
Homeless Services	228,000
Women's Services	95,000
Adult Services	195,000
Child Welfare Services	2,449,000
Senior Citizen Services	
Long-term Care	352,000
Community Services	91,000

C. Selected State Grants for Capital Projects

Public Schools

Northern Middle School – renovations (roof)	$275,000
Salem Avenue Elementary School – construction	2,100,000

Partnership Rental Housing Program

Hagerstown III & IV	3,317,000

Chesapeake Bay Water Quality Loan

Funkstown – wastewater lagoons 2 and 3	400,000
Halfway Interceptor – force main improvements	100,000
Kemps Mill – sewage collection system	240,000
Rolling Hills – sewage collection and conveyance	100,000
Winebrenner WWTP	200,000

Water Supply Assistance Loan

Boonsboro – water extension	368,000
Mt. Aetna – water treatment reservoir	200,000
Pen Mar – water system	180,000

Waterway Improvement

Williamsport – acquire dive rescue equipment	14,725

Other Projects

American Red Cross	250,000
Barbara Ingram School for the Arts	400,000
Boys and Girls Club of Washington County	100,000
Cumberland Valley Technology Center	200,000
Girls, Inc.	200,000

D. Capital Projects for State Facilities in the County

Department of Public Safety & Corrections

Correctional Training Center – 192-cell medium security unit	1,060,000

Maryland Environmental Service

Western Maryland State Parks – water and wastewater infrastructure improvements	475,000

Wicomico County

A. Direct Aid and Retirement Payments

1. Direct Aid

	FY 2004	FY 2005	$ Diff.	% Diff.
	($ in Thousands)			
Foundation Aid	$41,873	$44,584	$2,711	6.5
Compensatory Education	8,198	12,194	3,997	48.8
Student Transportation	3,319	3,459	140	4.2
Special Education	2,112	3,011	899	42.6
Limited English Proficiency Grants	405	619	214	53.0
Extended Elementary	790	692	(99)	(12.5)
Teacher Salary Grant	502	0	(502)	(100.0)
Aging Schools	355	355	0	0.0
School Technology/Modernization	79	36	(43)	(54.0)
Other Education Aid	650	1,535	885	136.3
Primary & Secondary Education	58,283	66,485	8,202	14.1
Libraries	619	608	(11)	(1.8)
Community Colleges	3,049	3,302	253	8.3
Health Formula Grant	1,526	1,547	21	1.4
* Transportation	5,703	6,894	1,190	20.9
* Police and Public Safety	922	921	(1)	(0.1)
* Fire and Rescue Aid	233	233	0	0.0
Recreation and Natural Resources	267	213	(54)	(20.2)
Disparity Grant	2,829	1,957	(872)	(30.8)
Property Tax Credits	(273)	0	273	(100.0)
** Unclaimed Local Income Tax	0	970	970	0.0
Total Direct Aid	**$73,158**	**$83,130**	**$9,972**	**13.6**
Aid Per Capita ($)	829	932	103	12.4
Property Tax Equivalent ($)	1.69	1.79	0.10	6.2

* Municipal governments within the county receive a share of these funds.
** One-time accelerated disbursement of unclaimed local income tax revenue.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees as well as certain elected local officials such as sheriffs and State's Attorneys. Fiscal 2005 State payments for Wicomico County for teachers, librarians, community college faculty, and local officials are estimated to be $6,768,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2005 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2004) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services	
Alcohol and Drug Abuse	$1,680,000
Family Health and Primary Care	310,000
Geriatric and Children's Services	833,000
Mental Health	6,998,000
Prevention and Disease Control	593,000
Developmental Disabilities	5,151,000
AIDS	51,000
Social Services	
Homeless Services	31,000
Women's Services	359,000
Adult Services	43,000
Child Welfare Services	1,037,000
Senior Citizen Services	
Long-term Care	589,000
Community Services	222,000

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

C. Selected State Grants for Capital Projects

Public Schools

North Salisbury Elementary School – construction	$3,000,000
Westside Primary School – renovations (electrical)	280,000
Willards Elementary School – construction	713,000

Wor–Wic Tech Community College

Child Development Center	580,000
Remove lagoon and construct parking lot	561,000
Student Center – addition	322,000
Workforce Development Center	567,000

Chesapeake Bay Water Quality Loan

Delmar WWTP – nutrient removal	528,000
Salisbury WWTP – nutrient removal	2,000,000

Waterway Improvement

Cedar Hill – channel dredging	770,000

Other Projects

Boulevard Theater Performing Arts Complex	175,000
Salisbury City Park	150,000
Youth and Civic Center	297,500

D. Capital Projects for State Facilities in the County

University System of Maryland

Salisbury University – teacher education and technology complex	3,009,000

Worcester County

A. Direct Aid and Retirement Payments

1. Direct Aid

	FY 2004	FY 2005	$ Diff.	% Diff.
	($ in Thousands)			
Foundation Aid	$7,692	$7,749	$57	0.7
Compensatory Education	1,517	2,626	1,108	73.0
Student Transportation	1,954	2,018	64	3.2
Special Education	429	659	230	53.5
Limited English Proficiency Grants	114	192	78	68.0
Extended Elementary	282	247	(35)	(12.5)
Aging Schools	65	65	0	0.0
School Technology/Modernization	15	12	(3)	(18.9)
Other Education Aid	471	462	(9)	(1.9)
Primary & Secondary Education	12,539	14,030	1,490	11.9
Libraries	119	119	0	0.2
Community Colleges	1,283	1,390	107	8.3
Health Formula Grant	498	504	7	1.4
* Transportation	4,542	5,453	911	20.1
* Police and Public Safety	650	655	5	0.7
* Fire and Rescue Aid	247	247	0	0.0
Recreation and Natural Resources	253	211	(42)	(16.7)
Property Tax Credits	(308)	0	308	(100.0)
** Unclaimed Local Income Tax	0	281	281	0.0
Total Direct Aid	**$19,823**	**$22,890**	**$3,067**	**15.5**
Aid Per Capita ($)	392	446	54	13.9
Property Tax Equivalent ($)	0.24	0.23	(0.01)	(2.9)

* Municipal governments within the county receive a share of these funds.
** One-time accelerated disbursement of unclaimed local income tax revenue.

2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees as well as certain elected local officials such as sheriffs and State's Attorneys. Fiscal 2005 State payments for Worcester County for teachers, librarians, community college faculty, and local officials are estimated to be $3,736,000.

B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2005 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2004) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

Health Services	
Alcohol and Drug Abuse	$1,860,000
Family Health and Primary Care	210,000
Geriatric and Children's Services	475,000
Mental Health	2,279,000
Prevention and Disease Control	447,000
Developmental Disabilities	2,901,000
AIDS	23,000
Social Services	
Homeless Services	31,000
Women's Services	384,000
Adult Services	37,000
Child Welfare Services	767,000
Senior Citizen Services	
Long-term Care	589,000
Community Services	222,000

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

C. Selected State Grants for Capital Projects

Public Schools

Ocean City Elementary School – construction	$1,500,000

Wor–Wic Tech Community College

Child Development Center	580,000
Remove lagoon and construct parking lot	561,000
Student Center – addition	322,000
Workforce Development Center	567,000

Local Jail Loan

County Detention Center – renovation	660,000

Community Mental Health/Addictions/Dev. Disabilities

Worcester County Health Department	310,000

Waterway Improvement

Public Landing – bulkhead and boat slips	99,000
Public Landing – shoreline stabilization	99,000
Shell Mill – shoreline stabilization	25,000
West Ocean City – repair concrete boat ramp	25,000

Other Projects

Pocomoke City Fair	60,000
Pocomoke River Discovery Center	150,000

D. Capital Projects for State Facilities in the County

Department of Natural Resources

Ocean City – beach replenishment	2,000,000
Pocomoke River State Park – dredging	100,000
Pocomoke River State Park – repair parking/storm drains	100,000
Pocomoke River State Park – Shad Landing septic upgrade	363,000

Part B
Taxes

Property Tax

Budget Reconciliation and Financing Act

As amended by the House of Delegates, ***Senate Bill 508 (passed)***, the Budget Reconciliation and Financing Act of 2004, included a variety of tax provisions that would have increased revenues by approximately $1.0 billion. The House amendments to Senate Bill 508 also provided for a reduction in the State property tax rate from 13.2 cents per $100 of assessment to 5 cents per $100 of assessment. It was estimated that the property tax reduction would have saved Maryland homeowners and businesses approximately $350 million in property tax payments annually. These amendments to Senate Bill 508 were eliminated during conference committee deliberations. The other provisions of this bill are discussed in further detail in other parts of this *90 Day Report*.

Property Tax Administration

Application for Tax Exemption

Purchasers of exempt real and personal property must apply to the State Department of Assessments and Taxation (SDAT) in order to continue receiving the tax exemption on that property. ***House Bill 159 (passed)*** provides that if real property that is exempt from the property tax is transferred to another person and the use of the property continues to qualify for an exemption, the owner has until September 1 of the following taxable year to apply to SDAT for an exemption. House Bill 159 also provides that if personal property that is exempt from the property tax is transferred to another person and the use of the property continues to qualify for an exemption, the owner has to apply for an exemption within six months after the first assessment notice.

Hurricane Isabel – Damaged Property

Two bills were passed to address property tax issues arising from the extensive property damage done by Hurricane Isabel.

Generally, a property taxpayer is not eligible for a Homestead Property Tax Credit if the taxpayer does not occupy the property as the principal residence for more than six months out of the year. ***House Bill 216*** ***(passed)*** is an emergency bill in response to Hurricane Isabel to provide for the continuation of the Homestead Property Tax Credit for the current taxable year and two succeeding taxable years if a homeowner otherwise eligible for the credit does not actually reside in a dwelling for the required time period due to damage resulting from an accident or natural disaster, even if property has been removed from the assessment roll because of property damage due to an accident or natural disaster.

If a residential property is damaged or destroyed due to a natural occurrence and that property is not removed from the tax rolls, the assessment cannot increase out of the regular three-year assessment cycle if that property is replaced by an improvement of equal value. ***House Bill 435*** ***(passed)*** extends the special assessment of damaged or destroyed real property to all real property other than property used for commercial purposes. House Bill 435 expands current law to include all noncommercial properties such as farms and certain condominiums and clarifies that the bill applies to property improvements of comparable size, quality, construction, and utility.

Property Tax Credits

Agricultural Limited Liability Companies

Current law requires that property eligible for the Homestead Property Tax Credit be the principle residence of the taxpayer. As a result, Maryland farmers who have or will change the title of their property to a limited liability company (LLC) in order to protect themselves from potential legal liabilities are no longer eligible for the credit. ***House Bill 323*** ***(passed)*** extends the benefits provided to homeowners under the Homestead Property Tax Credit and semiannual property tax payment schedule to specified agricultural LLCs. An agricultural LLC is defined as an LLC that (1) owns real property that includes land receiving an agricultural use assessment and includes land used as a homesite that is part of the contiguous parcel receiving the agricultural land use assessment; (2) owns personal property used to operate the agricultural land; and (3) owns no other property. Under House Bill 323, eligible farmers would qualify for the credit as long as their principle residence is still on the property.

High Performance Buildings

House Bill 804 ***(passed)*** authorizes a county or municipal corporation to provide, by law, a property tax credit against the local property tax for specified "high performance buildings." The county or municipal corporation may provide for the amount of the credit, the duration of the credit, the criteria and qualifications necessary to receive the credit, and any other necessary provisions. A high performance building is defined as a building that achieves at least (1) a silver rating according to the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Green Building Rating System as adopted by the Maryland Green Building Council or (2) a comparable rating according to any other appropriate rating system. House Bill 804 also provides that, under LEED credit MR7 or a similar criterion in a

comparable rating system, credit may be awarded for the use of wood-based materials derived from all credible sources, including the sustainable forest initiative program, the Canadian Standards Association, the American Tree Farm System, and other credible certified sources programs.

Local Property Taxes

Allegany County

***House Bill 1010* (passed)** authorizes Allegany County or a municipal corporation in Allegany County to grant a property tax credit against the property tax imposed on property that has been subdivided into five or more lots for the purpose of residential development. When a subdivision occurs under current law, the land owner is required to pay increased taxes for each of the vacant residential building sites. Under House Bill 1010, the tax credit is for 100 percent of the tax imposed on the increase in assessment immediately after the property is subdivided. The credit does not apply to a lot transferred to new owner after the subdivision.

Gilchrist Museum

***Senate Bill 256* (passed)** authorizes Allegany County or a municipal corporation in Allegany County to grant a property tax credit for property owned by the Cumberland Cultural Foundation and known as the Gilchrist Museum.

Anne Arundel County

***House Bill 738* (passed)** authorizes Anne Arundel County to grant, by law, a property tax credit for real property that is owned by the Village Commons Community Center, Incorporated, or leased by the Anne Arundel Community College at Arundel Mills.

Baltimore City

***House Bill 543* (passed)** is an emergency bill that provides that in Baltimore City the auctioneer's fee for property sold in an electronic tax sale may be an amount of up to $10 for each property sold. Under current law, the auctioneer's fee is limited to $3 per property for any day when four or more properties are sold. The authorization to increase the per property auctioneer's fee for an electronic tax sale will enable the city to secure a vendor for an online tax sale auction so as to reduce city administrative costs in conducting the tax sale.

Howard County

***House Bill 1376* (passed)** provides that for Howard County property tax purposes, a planned development land assessment is available to qualified land for a period of no more than 20 consecutive years. Currently, there is no limitation on how long qualified land may receive a planned development land assessment. The bill takes effect July 1, 2009, and applies to tax years beginning after June 30, 2009.

Prince George's County

Chapters 326 and 786 of 1998 established a high-bid premium system to be applied to tax sales to discourage persons from bidding excessively high amounts. Under current law, for jurisdictions other than Baltimore City, the premium amount is set at 20 percent of any bid over 40 percent of the full cash value of the property. To provide additional protection for low-value/high-lien properties, Chapter 311 of 2002 provided that a high-bid premium assessed on property tax sales in Baltimore City be calculated as 20 percent of the amount that the high bid exceeds the greater of the lien amount or 40 percent of the property's full cash value. ***House Bill 683 (passed)*** requires that the high-bid premium assessed on property tax sales in Prince George's County be calculated in the same manner as in Baltimore City, 20 percent of the amount that the high bid exceeds the greater of the lien amount or 40 percent of the property's full cash value.

Senate Bill 319 (passed) authorizes Prince George's County to grant a property tax credit against the county property tax or special district tax for property that is (1) owned by a nonprofit, tax exempt community development corporation qualified under Section 501(c) (3) of the Internal Revenue Code; (2) not used for a commercial purpose; and (3) located in Prince George's County on Maryland Route 202 at the intersection with St. Joseph's Drive.

St. Mary's County

House Bill 1295 (passed) authorizes the St. Mary's County Commissioners to establish an emergency services tax on all real and personal property within the county for fire companies, rescue squads, and specified support services organizations. The county commissioners may set separate emergency services tax rates in each election district in the county, subject to specified maximum real and personal property tax rates. House Bill 1295 also provides for the distribution of emergency services tax revenues to specified emergency services providers and for specified purposes.

The St. Mary's County Commissioners must report to the St. Mary's County Delegation by December 1 of 2004, 2005, and 2006 on (1) the use of proceeds from the emergency services tax; (2) whether any emergency services tax increases have been offset by a reduction in the St. Mary's County real property tax rate; and (3) whether the St. Mary's County budget fully and adequately funds all necessary operational expenses for the county's volunteer rescue squads.

Washington County

Chapter 468 of 2003 authorized Washington County, by ordinance, to impose a building excise tax on construction and a transfer tax on an instrument of writing.

House Bill 1049 (passed) alters the uses for which the revenues from the Washington County building excise tax and transfer tax may be expended to include primary, secondary, and higher education capital expenditures. House Bill 1049 also expands the use of $400,000 in

transfer tax revenues that are to be used for agricultural preservation to include the purchase of easements and transferable development rights using installment purchase agreements.

Income Tax

Budget Reconciliation and Financing Act

The Budget Reconciliation and Financing Act of 2004, Senate Bill 508 includes several income tax provisions among a variety of measures to provide increased revenues needed to balance the State budget.

Imposing the Lowest County Income Tax Rate on Nonresidents with a Tax Liability

The bill imposes a tax at a rate equal to the lowest county income tax rate in Maryland (currently 1.25 percent) on individuals who are subject to the State income tax but are not subject to the county income tax. This change is applicable to tax years 2004 and beyond. Regular wage earners who work in Maryland but live in states with which Maryland has an income tax reciprocity agreement – Virginia, Pennsylvania, West Virginia, or the District of Columbia – would not be affected. However, wage earners who work in Maryland but live anywhere else would be affected by the bill, with one exception – residents of Wilmington, Delaware who work in Maryland are technically subject to the county income tax in Maryland since Wilmington imposes a similar tax on wages of Maryland residents who work there. More generally, the provision would apply to the business-related income of nonresidents. The change is estimated to increase general fund revenues by approximately $38.6 million in fiscal 2005, reflecting one and a half tax years, and $27.8 million in fiscal 2006.

Altering Provisions Related to Unclaimed Income Tax Revenue

The bill modifies the time frame for the Comptroller's Office to hold unclaimed local income tax revenue in its local income tax reserve account from three years to one year and provides for a one-time distribution of $81 million each to the State and the local jurisdictions in fiscal 2005. Currently, the State receives income tax revenue from withholding and quarterly estimated payments, which cover both the State and local income taxes. For tax year 2000, these payments totaled about $8.6 billion. Upon reconciling withheld taxes against local income tax liabilities, a certain portion of tax collections is "unclaimed" by local governments.

The unclaimed local income tax for the tax years 2001, 2002, and 2003 is estimated at $162 million for the three-year period. (The unclaimed local income tax for tax year 2000 will be distributed in June as it normally would.) Accordingly, local jurisdictions will receive one-half of that total amount in August 2004 rather than all of it over the course of several years. Under prior law, the unclaimed local income tax for these years would be distributed over the next three years (*e.g.*, tax year 2001 in June 2005, tax year 2002 in June 2006, etc.).

The revenues will be distributed to the local jurisdictions on a pro-rata basis using tax year 2002 income tax receipts from tax returns. In future years, local jurisdictions will continue

to receive a distribution in June of unclaimed local income tax revenue. Rather than this distribution being based on the third prior tax year, it will be a projection of the most recent tax year (*e.g.*, tax year 2004 in June 2005). The distributions to the local jurisdictions will thus be relatively up-to-date and the State will no longer be holding three years of local income tax revenue.

"Section 179" Expensing

In calculating Maryland individual or corporate income tax liability, the bill requires an adjustment to Maryland adjusted gross income by adding or subtracting from federal adjusted gross income to reflect the determination of the maximum aggregate costs the taxpayer may treat as an expense under Section 179 of the Internal Revenue Code for any taxable year without regard to the changes made to Section 179 by the federal Jobs and Growth Tax Relief Reconciliation Act of 2003. The provision applies to all taxable years beginning after December 31, 2002.

Federal tax changes in 2003 allowed for increased expensing under Section 179 of the Internal Revenue Code for small businesses for federal tax purposes which allowed for increased depreciation in the year property is purchased but lower depreciation in later years. Because the fiscal effect to the Maryland income tax was greater than $5 million in tax year 2003, State law requires an automatic decoupling from Maryland taxes for one tax year to allow the General Assembly the option to continue the decoupling.

This provision in Senate Bill 508 continues the decoupling for Maryland income tax purposes, providing for the determination of Maryland taxable income using depreciation calculated under the old Section 179 expensing provisions. The continued decoupling will result in a retention of an estimated $22.6 million in additional individual and corporate income tax revenues in fiscal 2005. Expiration of the decoupled federal provision will cause revenue increases to decrease, becoming negative in the out years. In addition, local income tax revenues are expected to increase by approximately $10.4 million in the near term, then decline in subsequent years.

Sport Utility Vehicle Depreciation

The bill decouples from the depreciation deduction allowed on the federal income tax return for specified large sport utility vehicles (SUVs) used for business purposes that are placed into service after May 31, 2004.

The bill requires an adjustment of the difference between (1) Maryland taxable income with the depreciation deduction allowed under current federal law for an SUV rated at more than 6,000 but not more than 14,000 pounds (gross vehicle weight) and (2) Maryland taxable income calculated using the depreciation deduction allowed using limitations applicable to vehicles rated at 6,000 pounds gross vehicle weight or less. The effect of this change is to subject a vehicle to the same limitation on annual depreciation expenses as is applicable to other lighter passenger vehicles under federal law. In conjunction with the general Section 179 expensing provision,

State general fund revenues from this provision could increase by $13.5 million and TTF revenues could increase by $2.3 million in fiscal 2005.

House Tax Package

The Budget Reconciliation and Financing Act as passed by the House included two significant income tax changes that were rejected in conference committee. The House version would have imposed a 6 percent surcharge on higher income individuals and increased the amount of refundable earned income tax credit.

Specifically, the House plan would have established a 6 percent income tax bracket for five tax years for Maryland taxable income exceeding $150,000 for single taxpayers and $200,000 for married taxpayers filing jointly, heads of household, or qualifying widows. It was estimated that this measure would have increased general fund revenues by approximately $294.2 million in fiscal 2005, $207.3 million in fiscal 2006, $216.3 million in fiscal 2007, $225.7 million in fiscal 2008, and $115.3 million in fiscal 2009.

The House version would have also increased the amount of the refundable earned income tax credit. The amount of the credit received by a taxpayer claiming the credit would have increased from 20 to 25 percent of the federal refundable earned income tax credit earned by the taxpayer. This increase would have been phased in by 1 percent in each tax year until reaching 25 percent in tax year 2008. It was estimated that this measure would decrease general fund revenues by approximately $4.5 million in fiscal 2005, increasing to $30.2 million at full implementation in fiscal 2009.

Delaware Holding Companies

The General Assembly passed two bills relating to the use by corporations of "Delaware Holding Companies" (DHCs) to avoid the Maryland income tax. House Bill 753 from the 2003 session, passed by the General Assembly but vetoed by the Governor, had included provisions to restrict the ability of corporations operating in Maryland to shift income out of the State through the use of DHCs and related State tax avoidance techniques. In the summer of 2003, the Court of Appeals issued a decision in two long-pending cases, *Comptroller of the Treasury v. SYL, Inc.*, and *Comptroller of the Treasury v. Crown Cork & Seal Company (Delaware), Inc.*, 375 Md. 78 (2003), ruling that two corporations doing business in Maryland could not use DHCs to shelter income earned in Maryland from the Maryland income tax.

The budget plan as introduced by the Governor included an assumption that $84 million in general fund revenues would be recognized, in part from corporations paying taxes owed for past-year liabilities. ***House Bill 297 (passed)*** provides prospective changes to the corporate income tax law designed to prevent tax avoidance through the use of DHCs. ***Senate Bill 187 (passed)*** provides for a settlement period to be administered by the Comptroller to settle past year issues relating to the decision of the Court of Appeals last summer.

House Bill 297 includes several measures designed to prevent corporations from avoiding the Maryland corporate income tax by shifting income away from the State through the use of

DHCs and other State tax avoidance techniques. The bill takes effect July 1, 2004, and is applicable to all taxable years beginning after December 31, 2003.

Major Provisions

The bill authorizes the Comptroller to distribute, apportion, or allocate gross income, deductions, credits, or allowances between and among two or more organizations, trades, or businesses, whether or not incorporated, whether or not organized in the United States, and whether or not affiliated, if (1) the organizations, trades, or businesses are owned or controlled directly or indirectly by the same interests and (2) the Comptroller determines that the distribution, apportionment, or allocation is necessary in order to reflect an arm's length standard, within the meaning of § 1.482-1 of the regulations of the Internal Revenue Service and to clearly reflect the income of those organizations, trades, or businesses (known as "Section 482 authority"). The bill requires affiliated groups of corporations to provide a report of intermember sales and other transactions, if requested by the Comptroller.

The bill requires a corporation, for purposes of determining Maryland taxable income, to add back to its taxable income any otherwise deductible interest expense or intangible expense paid directly or indirectly to one or more related members, as defined, unless the corporation establishes that (1) the transaction did not have as a principal purpose the avoidance of tax; (2) the interest expense was paid pursuant to an arm's length rate or price; and (3) either (a) the related member paid or incurred the interest or intangible expense to an unrelated person; (b) the related member paid state taxes in the aggregate on the amount received at an effective rate of at least 4 percent; or (c) in the case of an interest expense, the related members are banks. The bill defines the manner by which the 4 percent effective rate is calculated, provides for an alternative calculation of the 4 percent effective tax rate under certain circumstances, and grants the Comptroller the authority to determine by regulation additional alternative calculations, if necessary.

To avoid potential double taxation, the bill provides, under specified circumstances, a subtraction modification to the "payee" corporation (that received payments for intangible expenses from a related member) equal to the amount received as royalties, interest, or similar income from intangibles to the extent that the payor corporation (the related member that paid the intangible expenses) is subject to the addition modification for the intangible expenses.

Fiscal Impact

The fiscal impact from closing these tax-avoidance strategies cannot be precisely estimated; however, corporate tax revenues could increase by $37 million in fiscal 2005, with additional revenues increasing to $55 million in fiscal 2007 and thereafter. Under the existing distribution of corporate income tax revenue, 76 percent of the additional revenue from this bill would be dedicated to the general fund and 24 percent to the Transportation Trust Fund (TTF). Thirty percent of any additional TTF revenues would be distributed to local governments based on the State's highway user revenue sharing.

Settlement of Existing Litigation on Corporate Tax Avoidance

In conjunction with the prospective changes related to the use of DHCs and other State tax-avoidance techniques, ***Senate Bill 187 (passed)*** creates a statutory settlement period for the Comptroller to settle specified litigation, with provisions regarding penalties and interest and forgiveness of specified tax assessments.

Senate Bill 187 requires the Comptroller to administer a settlement period from July 1, 2004, through November 1, 2004, applicable to State corporate income tax that has been or may be assessed by the Comptroller on the basis of issues that were ruled on by the Maryland Court of Appeals in the decisions in *Comptroller of the Treasury v. SYL, Inc.*, and *Comptroller of the Treasury v. Crown Cork & Seal Company (Delaware), Inc.*, 375 Md. 78 (2003).

The bill allows a taxpayer to elect whether to have additional income tax calculated as though otherwise deductible payments were added back to the paying taxpayer's federal taxable income or as though the receiving taxpayer were subject to the State corporate income tax. The Maryland income tax may not be imposed more than once for the same transaction. The Comptroller is required to waive all penalties attributable to the taxes paid during the settlement period. The Comptroller is prohibited from assessing interest on taxes paid during the settlement period at a rate exceeding 6.5 percent.

If all taxes and related interest described above are paid during the settlement period for the taxpayer's taxable years beginning on or after January 1, 1995, and ending on or before December 31, 2003, then no assessment for any taxable year beginning before January 1, 1995, may be enforced.

Fiscal Estimate

The fiscal impact from the proposed settlement period on current litigation cannot be reliably estimated at this time and will depend on individual taxpayers' evaluation of the attractiveness of the Comptroller's current settlement offer versus the provisions of this bill. Under the bill, any firms that, during the settlement period, settle disputed tax liability from 1997 to the present would be absolved of any prior liability. Thus, theoretically, the full $79 million of pre-1997 liability could be lost as a result of the bill, including the $9 million already paid, which would have to be refunded.

In practice, as noted above, a significant number of taxpayers have rejected the Comptroller's settlement offer. The Comptroller will be required to pursue these taxpayers in court, and litigation could drag on for several years, with the outcome not assured. The Comptroller thus may never recoup the full $79 million but only some portion thereof. Offsetting the losses from the bill's forgiveness of pre-1997 liabilities is the possibility that additional firms may use the settlement period to settle liabilities for the period from 1997 to present. The reduced interest, and waived penalty, may cause revenues to be realized more quickly from a settlement, even if the Comptroller were to ultimately prevail in litigation with individual taxpayers.

Heritage Structure Rehabilitation Tax Credit

The Maryland Heritage Rehabilitation Tax Credit program entered its seventh year of operation in 2004 amid debate over how the program should continue. Although praised as a development tool that can revitalize communities and generate tax revenues and employment, increasing concerns have been raised in recent years over the program's mounting and uncertain impact on the State's revenues.

Established in 1996, the heritage tax credit had been modified in each legislative session through 2003. Initial modifications resulted in a significant expansion of the credit, making it the State's largest economic development program. Prior to the 2002 legislative session, significant revenue losses ($50 to $84 million annually) resulting from the credit became apparent. This revelation led to the enactment of legislation in 2002 to control the State's fiscal exposure and to provide for termination of the program on June 1, 2004. In the 2002 legislative session, additional limits were placed on the heritage tax credit.

A task force appointed by the Governor met during the 2003 interim to evaluate the tax credit and determine whether the tax credit should be continued and in what form. The task force concluded that the tax credit program had been a very successful economic and community revitalization tool that generates more in new revenues for the State and local governments than the credit and recommended that the credit be continued with no overall aggregate cap on the credit.

***Senate Bill 190*/*House Bill 289* (both failed)**, proposed by the Administration, would have extended the heritage credit in much the same form as it currently exists, increasing the overall cap on commercial credits to $30 million per year. As originally introduced, ***House Bill 679* (passed)** would have converted the existing tax credit program into a grant program; however, the bill reestablishes the Maryland Heritage Structure Rehabilitation Tax Credit, but places the program under budgetary control, creating a competitive process, with an aggregate limit, for the awarding of commercial credits.

Major Provisions

House Bill 679 increases the existing total commercial credit cap in calendar 2004 from $15 to $25 million, of which $10 million must be awarded on a competitive basis by the Maryland Historical Trust (MHT). In order to qualify for a tax credit for tax year 2004, a commercial rehabilitation project must have received approval from MHT of its proposed rehabilitation plan by June 30, 2004. The bill creates a reserve fund to which funds are to be appropriated each of fiscal 2006 through 2008 for proposed commercial projects to be preliminarily approved in each fiscal year. The amount of commercial credits approved in each fiscal year cannot exceed the amount of money budgeted to the reserve fund for that fiscal year. There is no aggregate cap or reserve fund for tax credits for residential rehabilitations.

Subject to the applicable limitations, the credit allowed equals 20 percent of the qualified rehabilitation expenditures expended in the rehabilitation of a certified historic structure. The maximum credit for any project cannot exceed (1) $50,000 for noncommercial projects and

(2) the lesser of $3 million or the maximum amount stated on an initial credit certificate for commercial projects.

Taxpayers seeking the tax credit for the rehabilitation of a commercial property beginning in 2005 must submit an application to MHT between January 1 and March 31. For each approved commercial rehabilitation plan MHT must issue an initial credit certificate stating the maximum credit for which the project may qualify.

The bill creates a heritage structure rehabilitation tax credit reserve fund. The total amount of credits under initial credit certificates issued by MHT in each fiscal year cannot exceed the amount appropriated to the reserve fund in the State budget. The bill requires the Governor to appropriate to the reserve fund at least $20 million in fiscal 2006 and $30 million annually in fiscal 2007 and 2008. After the State budget had been approved by the General Assembly, the Governor may not reduce an appropriation to the reserve fund. For each fiscal year, if funds are transferred from the reserve fund for any reason other than the completion of a project for which an initial credit certificate was issued or the expiration of an initial credit certificate, the amount of total credits that can be approved by MHT is reduced by the amount of money transferred.

Not more than 50 percent of the total initial credit certificates issued in a fiscal year may be allocated for projects located in one county or Baltimore City. At least 10 percent of the total initial credit certificates issued are required to be allocated to commercial rehabilitations proposed by nonprofit organizations.

Within 15 days of each calendar quarter, MHT is required to notify the Comptroller as to the total commercial rehabilitations that were certified as being completed during the quarter. Upon this notification from MHT, the Comptroller is required to transfer from the reserve fund to the general fund the total amounts stated in initial credit certificates for each rehabilitation project completed during that quarter.

Initial credit certificates expire and the credit may not be claimed if a commercial rehabilitation is not completed by the end of the fiscal year following the fiscal year in which the certificate was issued. MHT may postpone the expiration date of a certificate indefinitely for reasonable cause. By October 1 of each year, MHT must report to the Comptroller the maximum amounts stated on the initial credit certificate for each commercial rehabilitation project for which the certificate has expired as of the prior fiscal year. Upon this notification, the Comptroller is required to transfer from the reserve fund to the general fund the amount of expired initial certificate credit amounts.

Fiscal Impact

Taking into account the increase in the commercial cap for calendar 2004 as well as the mandated appropriations to the program for fiscal 2006 through 2008, it is estimated that the bill's net effect will be a general fund decrease of approximately $7.6 million in fiscal 2005, $29.5 million in fiscal 2006, $39.3 million in fiscal 2007, and $41.0 million in fiscal 2008

Other Tax Credits

During the 2004 session, the General Assembly considered several proposals to extend the sunset dates for various tax credits that are scheduled to expire in the near future. Continued concerns about the potential impact of State tax credit expenditures on the State budget, especially in light of the State's continuing fiscal difficulties, led to greater overall scrutiny of tax credit legislation during the 2004 session.

One tax credit, the Job Creation Tax Credit, scheduled to expire after 2006, was extended by three years in ***House Bill 219 (passed)***. However, the General Assembly rejected several other proposals to extend existing credits beyond their current sunset dates. These include:

- ***Senate Bill 754/House Bill 218 (both failed)*** – Education – Tax Credit for Employer-Established Paid Work-Based Learning Programs (expired after tax year 2003);

- ***House Bill 821 (failed)*** – Tax Credit – Electric and Hybrid Vehicles – Extension (applies only to vehicles titled before July 1, 2004);

- ***House Bill 987 (failed)*** – Research and Development Tax Credit (expires after calendar 2004);

- ***House Bill 1496 (failed)*** – Energy – Taxes – Extension and Expansion of Credit for Renewable Energy (expires at the end of 2004); and

- ***Senate Bill 485/House Bill 714 (both passed)*** – Solar Energy Tax Credit (tax credit expires at end of 2004 – bills convert this into a grant program – see further discussion of this bill under Part K – Natural Resources, Environment, and Agriculture of this *90 Day Report*).

Tax Compliance

Senate Bill 68 (Ch. 22) exempts out-of-state nonprofit organizations and government entities that provide police, fire, rescue, and emergency services personnel during a Maryland state of emergency from State registration and income tax withholding requirements. In addition, the bill exempts the income earned during these emergencies by nonresident employees of these organizations from State income tax.

House Bill 1277 (passed) removes a requirement that the "total payment" for a sale of property be stated on every deed or on an affidavit accompanying the deed. Instead, the bill provides that for the sale of property by a nonresident for which the advance payment of income tax is required, the "total payment" for the sale must be described on a form specified by the Comptroller. The bill provides for an exemption from the requirement for property transferred pursuant to a deed or other instrument of writing that includes a required statement of

consideration indicating that the consideration payable is zero. The bill also alters the definition of "net proceeds" with regards to payments on the sale of property by nonresidents. Finally, the bill defines specified terms for purposes of a requirement that specified payments be made before a deed or other instrument of writing may be recorded under specified circumstances.

***Senate Bill 69* (Ch. 23)** alters the due date for filing income tax withholding returns for employers who collect less than $700 per quarter in withholding taxes. The due date changes from the last day to the fifteenth day of the month that follows the calendar quarter in which the taxes were withheld. It is estimated that this measure will increase general fund revenues by approximately $86,300 annually beginning in fiscal 2005.

Miscellaneous Income Tax Bills

***House Bill 1000* (passed)** establishes a Cancer Research Fund checkoff on the individual income tax return form. After the Comptroller deducts administrative expenses, the contributions are credited to the fund and distributed by the Department of Health and Mental Hygiene through the annual budget process to eligible entities for cancer research.

***House Bill 1125* (passed)** creates a Task Force on the Exemption of Law Enforcement Officers' Pensions from Taxation. The task force is charged with studying the issue of exempting members of the State Police Retirement System, the Law Enforcement Officers' Pension System, the Local Fire and Police System, any local pension or retirement system for law enforcement officers, and parole and probation officers who are members of the Employees' Retirement System or the Employees' Pension System from State income taxes on their pensions.

Sales Tax

Budget Reconciliation and Financing Act of 2004

Sales Tax Vendor Credit

To offset the expense of collecting and paying the State sales and use tax, vendors are allowed to retain a portion of the sales tax collected if they file their returns on a timely basis. This credit was temporarily halved for fiscal 2003 and 2004 by the Budget Reconciliation and Financing Act of 2002 so that vendors received 0.6 percent for the first $6,000 collected and 0.45 percent for any amount above that. Absent action by the General Assembly, in fiscal 2005, the credit would resume at 1.2 percent for the first $6,000 collected and 0.9 percent for any amount above that.

Senate Bill 508, the Budget Reconciliation and Financing Act of 2004, continues the vendor credit reduction for fiscal 2005 and 2006. General fund revenues are expected to increase by approximately $15.4 million in fiscal 2005 and $16.0 million in fiscal 2006. As the vendor credit applies to the sales tax on short-term vehicle rentals, additional revenues of about $130,000 each year would also accrue to the Transportation Trust Fund. The other revenue

enhancements included in Senate Bill 508 are discussed in further detail in other parts of this *90 Day Report*.

Failed Amendments to the Budget Reconciliation and Financing Act of 2004

There were several other provisions that were added to Senate Bill 508 by either the Senate or the House that ultimately did not pass. As passed by the Senate, Senate Bill 508 included a provision that would have imposed the 5 percent sales and use tax on snack foods, including potato chips, tortilla chips, corn chips, cheese puffs, pretzels, nuts, popcorn, pork rinds, and seeds. It was estimated that taxing snack foods would have increased general fund revenues by approximately $16 million annually.

As part of its net $670 million budget balancing and revenue raising package, the House of Delegates included amendments to Senate Bill 508 that would have increased the sales and use tax rate from 5 to 6 percent and would have broadened the sales tax base by taxing some services, including real estate property management, tanning salons, massage services, and physical fitness facility memberships. It was estimated that raising the sales tax rate by 1 percent would increase general fund revenues by approximately $550 million annually and taxing the services listed (at a 6 percent rate) would have increased revenues by over $60 million annually.

Streamlined Sales and Use Tax Agreement

The Streamlined Sales Tax Project was organized in March 2000 as an effort of state governments, with assistance from local governments and the private sector, to simplify and modernize sales and use tax collection and administration. Simplifying state sales tax structures would ease the burden of collecting these taxes by remote sellers (such as Internet and catalog retailers) and perhaps ultimately eliminate the constitutional and practical obstacles to these remote sellers collecting and remitting sales tax on purchases by Marylanders. The main motivators of the effort were the National Conference of State Legislatures, the National Governor's Association, the Federation of Tax Administrators, and the Multistate Tax Commission. The stated mission of the project was to develop measures to design, test, and implement a sales and use tax system that radically simplified sales and use taxes. The goal of the project was to provide states with a system of which the key features included (1) uniform definitions; (2) rate simplification; (3) state level administration; (4) uniform sourcing rules; (5) simplified exemption administration; (6) uniform audit procedures; and (7) state funding for the system.

***Senate Bill 400*/*House Bill 694* (both passed)** adopt the Streamlined Sales and Use Tax Agreement as adopted by the Streamlined Sales and Use Tax Project on November 12, 2002, contingent on the enactment of both specified trigger legislation by the U.S. Congress and conforming legislation by the General Assembly. Senate Bill 400/House Bill 694 also require the Comptroller to prepare and submit proposed regulations and draft legislation to identify and implement changes that need to be made to the State's laws, regulations, or policies in order to bring the State into compliance with the agreement and other changes recommended by the Comptroller.

Sales Tax Rate Increase

In addition to the proposed amendments to the Budget Reconciliation and Financing Act of 2004, several other bills were introduced that would have increased the sales and use tax rate. ***House Bill 102 (failed)***, ***House Bill 103 (failed)***, and ***House Bill 271 (failed)*** would have increased the general sales and use tax rate from 5 to 6 percent to address the State's structural fiscal deficit and/or to provide funding for the State's education initiatives. Raising the sales tax by 1 percent is estimated to increase State revenues by over $550 million annually.

Taxation of Services

A major shift has occurred in the national economy from consumption of goods, the traditional base of the tax, to consumption of services. Based on personal consumption expenditure data from the U.S. Department of Commerce, expenditures on services rose from 48 percent of total personal consumption expenditures in 1980 to 59 percent in 2002, while spending on goods fell as a percentage of total consumption. Average annual growth in expenditures was 7.7 percent for services versus 5.5 percent for goods over the same period. However, the sales and use tax historically has been imposed broadly on the sale or use of tangible personal property but only narrowly on a few specifically enumerated taxable services.

House Bill 84 (failed) would have applied the sales and use tax to a broad array of "luxury" services, including boat or aircraft repair and maintenance, marina services, tanning, saunas and steam baths, home cleaning, interior design and decorating, lawn and grounds care and landscaping, and golf course membership and fees. It was estimated that imposing the sales tax on the services enumerated in House Bill 84 could increase revenues by approximately $100 million annually.

House Bill 1364 (failed) would have applied the sales and use tax to a broader array of services, including cable TV, automotive repair, barber and beauty shops, direct mail advertising, personnel and temp services, and management consulting. It was estimated that imposing the sales tax on the services listed under House Bill 1364 could increase revenues by approximately $360 million annually.

Miscellaneous Taxes

Estate and Inheritance Taxes

Federal Decoupling

The federal Economic Growth and Tax Reconciliation Act of 2001 provided for the reduction and ultimate repeal of the credit allowed under the federal estate tax for state death taxes paid (federal credit). Maryland, like most states, had an estate tax that was linked directly to the federal credit. Without statutory changes by the General Assembly, the repeal of the federal credit under the 2001 federal tax Act would have automatically repealed the State estate

tax because of the link between the State tax and the federal credit. It was estimated that the elimination of the Maryland estate tax would have reduced general fund revenues by roughly $100 million annually by 2007.

As part of the 2002 Budget Reconciliation and Financing Act (Chapter 440), the Maryland estate tax was partially decoupled from the federal estate tax, continuing the State tax notwithstanding the phase-out and repeal of the federal credit. The State estate tax is now calculated as if the federal tax Act had not phased out the federal credit; however, it is calculated using other provisions of federal estate tax law in effect on the date of the decedent's death. The "unified credit" used to calculate the State estate tax, which effectively sets the threshold for taxability of an estate, is the unified credit in effect as of the decedent's death as set forth in federal law. Under the federal Act, the amount effectively exempted under the unified credit was increased from $700,000 to $1 million in 2002, and then phased up over a period of years to $3.5 million in 2009.

Unified Credit: As discussed above, Chapter 440 of 2002 decoupled the calculation of the Maryland estate tax liability from part of the calculation of the federal estate tax liability. However, Chapter 440 did not decouple the Maryland estate tax from the gradual increases in the unified credit allowed against the federal estate tax. The Maryland estate tax is calculated as the lesser of the federal estate tax after deducting the unified credit or the State death tax credit, reduced by any inheritance tax paid. As the unified credit increases, the amount of the Maryland estate tax will decline. The Budget Reconciliation and Financing Act of 2004, Senate Bill 508, has the effect of freezing the amount of the unified credit at $345,800 so as to exclude $1 million from the federal estate taxes for purposes of the Maryland estate tax calculation. This will affect the estate tax returns filed for decedents dying after December 31, 2003.

This provision of Senate Bill 508, which was initially encompassed in a separate bill introduced in the 2004 session, will increase the number of Maryland returns subject to State estate tax, even if no federal tax return has to be filed. This will result in a general fund revenue increase of approximately $9.1 million in fiscal 2005, growing to $26 million by fiscal 2009.

Deduction for State Death Taxes: By remaining coupled to the federal estate tax base, the "decoupled" Maryland estate tax will incorporate a provision of federal law effective beginning in 2005 that will allow a deduction for State death taxes paid, in lieu of the previously allowed credit for State death taxes paid. Allowing the deduction of State death taxes for purposes of determining the State death tax base will result in a circular calculation, because the tax being calculated results in a deduction from the tax base, which then alters the calculation of the tax owed.

Senate Bill 508 requires that the Maryland estate tax be determined without regard to the deduction for State death taxes allowed for purposes of the federal estate tax. The bill effectively creates an addition modification to the federal taxable estate for Maryland estate tax purposes in the amount deducted for State death taxes paid. A similar addition modification to the federal tax base is required under the Maryland income tax for State and local income taxes for which a deduction is allowed for federal income tax purposes. This provision, which was initially

introduced as a separate bill in ***House Bill 330 (failed)***, simplifies the calculation of the Maryland estate tax while preventing additional loss of revenue from the Maryland estate tax. As a result of this simplification, general fund revenues are expected to increase approximately $6.3 million in fiscal 2006, growing to $10.1 million by fiscal 2009.

Inheritance Tax

The inheritance tax is applied to the receipt of property from a decedent's estate. Under current law, direct beneficiaries and siblings are exempt from the inheritance tax. Direct beneficiaries include parents, grandparents, spouses, children, other lineal descendants, stepparents, and stepchildren. Since approximately 1980, the statute was interpreted to include stepparents and stepchildren as direct beneficiaries. In January 2004, the Baltimore County Register of Wills requested advice of counsel on whether a stepchild or stepparent relationship terminates, for the purposes of the exemption from the inheritance tax, when (1) the natural parent and the stepparent divorce or (2) the natural parent dies and the stepparent remarries. The advice of counsel stated that in both instances the relationship does terminate, with the result that the stepchild exemption is unavailable. ***Senate Bill 860 (passed)*** defines the terms "child" and "parent" under the inheritance tax to clarify that a former stepchild or former stepparent are to be treated as lineal beneficiaries. In addition, Senate Bill 860 extends the exemption for lineal beneficiaries to children and other lineal decedents of a stepchild or former stepchild of the decedent and to the spouses of those individuals.

Transportation Taxes

Vehicle Registration Fees

The Governor proposed ***House Bill 1467 (Chapter 9)*** in response to the findings of the 2003 Transportation Task Force, which reported significant under funded capital transportation needs. Chapter 1 increases State motor vehicle registration fee and alters the requirements for the level of miscellaneous fees charged by the Motor Vehicle Administration. A more detailed discussion of the Act can be found under Part G of this *90 Day Report*.

Titling Tax

As part of its amendments to Senate Bill 508, the 2004 BRFA, the House of Delegates introduced a revenue package which included an increase in the titling tax from 5 to 6 percent. In addition, the House proposal would have dedicated all corporate income tax revenues to the general fund and dedicated all short-term vehicle rental tax revenues to the Transportation Trust Fund (TTF). These proposed transportation revenue changes were rejected in the BRFA conference committee.

Senate Bill 712/House Bill 1332 (both passed) extend for three years the termination date for a provision of law that allows the purchase price of a motor home or travel trailer (RVs) to be lowered by the value of a trade-in for determining the vehicle excise tax. Under the bills, this provision, which has been in effect since 2001, will be extended until 2007.

Motor Fuel Tax

House Bill 228 ***(passed)*** extends to concrete pump trucks an existing motor fuel tax refund provision already available to concrete mixing motor vehicles. Mixing vehicles may claim a refund for 35 percent of motor fuel tax paid.

Vessel Excise Tax

Senate Bill 536/House Bill 848 ***(both passed)*** provide that time spent on commissioning procedures for new or used boats is not counted against the 90 days a vessel is allowed to be in the State before becoming subject to the vessel excise tax. The bill authorizes the Department of Natural Resources to adopt regulations to determine the state of principal use for the purpose of assessing the vessel excise tax. The bill also exempts from the vessel excise tax a transfer of a vessel to a licensed dealer for rental or leasing purposes, effective July 1, 2005**.**

Recordation and Transfer Taxes

Controlling Interest

Under current law, ownership of real property can be effectively transferred without payment of transfer and recordation taxes by transferring a controlling interest or ownership of an entity if the property is owned by a corporation, limited liability company, or partnership. ***House Bill 1*** ***(failed)*** would have imposed recordation and transfer taxes on the transfer of real property, with a value of $1 million or more, when the transfer is achieved through the sale of a "controlling" interest in a corporation, partnership, limited liability company, limited liability partnership, or other form of unincorporated business. House Bill 1 would have required that specified amounts of State and local recordation and transfer tax revenues be dedicated to school construction. A more detailed discussion of the proposed use of these revenues can be found in Part L of this *90 Day Report.*

Refinancing Instrument

Senate Bill 76 ***(passed)*** extends a current exemption from recordation tax for the refinancing of a mortgage or deed of trust to the trustee of a living trust as long as the property is used as the principal residence of the settlor of the trust and either the trustee or the settlor originally assumed or incurred the debt being refinanced.

Land Trusts

House Bill 820 ***(passed)*** broadens an existing exemption from recordation and transfer taxes for certain transfers made for conservation or preservation purposes, exempting the transfer of conservation easements and fee simple interests if the transfer is to a land trust and the land is used (1) to preserve a natural area; (2) for environmental education of the public; (3) for agricultural preservation; (4) for conservation; or (5) for maintenance of a natural area for public use or wildlife sanctuary. In addition, the bill expands existing authority for local governments

to grant property tax credits for conservation land, to include property used to conserve agricultural land and to promote agricultural use of the land.

Miscellaneous Taxes – Local

Hotel Rental Taxes

Several bills passed to authorize a county to impose a hotel rental tax or make changes to existing hotel rental taxes. ***House Bill 380 (passed)*** increases the maximum hotel rental tax rate from 3 to 5 percent in Somerset County. ***Senate Bill 441/House Bill 471 (both passed)*** authorize Frederick County to impose a hotel rental tax rate at a rate of up to 5 percent. ***House Bill 897 (passed)*** allows Talbot County to increase its current 3 percent hotel rental tax rate to 4 percent for calendar 2005 and 2006 only. The rate would then return to 3 percent in 2007. ***House Bill 539 (passed)*** allows Garrett County to treat unpaid hotel rental tax as a lien against the real and personal property of the person owing the tax, as with property taxes.

Hotel Surcharge – Dorchester County

House Bill 1547 (passed) imposes a hotel surcharge of 2.5 percent in Dorchester County on room rentals at facilities with at least 380 rooms. House Bill 1547 also establishes the Dorchester County Economic Development Fund within the Maryland Economic Development Corporation (MEDCO). Proceeds from the surcharge will be collected and remitted by the Comptroller on behalf of MEDCO and will be used to pay claims and bonds associated with the Chesapeake Bay Conference Center, also known as the Hyatt Regency Cambridge. Once MEDCO certifies to the Comptroller that all bonds regarding the conference center have been paid off, the surcharge will no longer be imposed.

Building Excise Taxes or Development Impact Taxes

Harford County: ***House Bill 965 (passed)***, the Harford County School Construction Financing Act of 2004, authorizes the Harford County Council, by ordinance, to impose a development impact fee not to exceed $10,000 on new construction or development. The revenues may be used only for school construction and renovation.

Dorchester County: ***Senate Bill 836/House Bill 1161 (both passed)*** authorize Dorchester County to impose a building excise tax on construction within the county. The revenues from the tax must be used to finance the capital costs of additional or expanded public works, improvements, and facilities required to accommodate new construction or development. The bills require that the tax rates must relate to the development or growth related infrastructure needs of the county and may not exceed $1 per square foot for nonresidential property, not to exceed $5,000 per lot or parcel. For residential property, the maximum tax rate is $5,000 per unit.

Code Home Rule Counties: ***House Bill 1162 (passed)*** increases from $2,000 to $5,000 the maximum development excise tax that may be imposed to finance public school facilities or improvements in code home rule counties on the Eastern Shore.

Frederick County – Solid Waste Disposal Fee or Tax

Currently, tipping fees collected at the Frederick County landfill are the sole source of revenue for its solid waste program. The county's solid waste program, which already has significant debt, is facing disposal capacity issues that will have significant implications for the county's Solid Waste Enterprise Fund. ***House Bill 876*/*Senate Bill 606* (both passed)** allow Frederick County to assess a tax for collecting and disposing of solid waste. It is expected that the county will set the tax at the level that, along with tipping fees, covers the operating and capital costs for collecting and disposing of solid waste, assumed to be around $23.50 per equivalent residential unit. Revenue could increase by $1.4 million in fiscal 2005, increasing to up to $2.9 million by fiscal 2008 and 2009.

Part C
State Government

State Agencies, Offices, and Officials

Managing for Results

Managing for Results (MFR) is a planning, performance measurement, and budgeting process that emphasizes the use of resources to achieve measurable results, accountability, efficiency, and continuous improvement in State government programs. MFR began in 1997 as an initiative by Governor Glendening. By the 2000 legislative session, agencies were to have developed complete MFR submissions, including key goals, objectives, and performance indicators with measurement data and use them to support their budget requests. In fiscal 2001 through 2003, the Office of Legislative Audits audited selected agency performance measures and found a general lack of data reliability.

Senate Bill 381 ***(passed)*** codifies the MFR process. The bill continues the current practice for each agency to develop an MFR Agency Strategic Plan that identifies a mission statement, selects goals, and chooses objectives and performance measures to assist in measuring progress toward the goals. The bill also requires the Department of Budget and Management (DBM) to review and update the current MFR State Comprehensive Plan and report to the General Assembly on the plan each year beginning with a first report on or before January 31, 2005. The bill also requires the Managing for Results Steering Committee within DBM to invite participation by three members from the Legislative Branch and to submit a report to the General Assembly on or before July 1, 2006, on the progress made in implementing the MFR process and on its effectiveness.

State Treasury

During the 2004 session, six cross filed bills that relate to the State Treasury were passed. Five of these were recommended by the Joint Committee on the Management of Public Funds.

Senate Bill 431/***House Bill 686*** ***(both passed)*** revise the procedures for administering the Undeliverable Checks Fund to comply with federal law and require a more efficient accounting and transfer of funds to the general fund. Specifically, these bills (1) eliminate a seven-year

limitation on issuing replacement checks; (2) clarify that when required by federal or State law or when considered proper by the Treasurer, undeliverable check funds may be returned to their source or transferred to another account; (3) reduce from seven to two years the time required to hold undeliverable checks before transfer to the general fund; and (4) clarify that undeliverable check funds are not subject to the Maryland Uniform Disposition of Abandoned Property Act.

***Senate Bill 433*/*House Bill 689* (both passed)** clarify that a fiscal agent appointed to pay principal and interest on State debt is required at least once every six months, in addition to accounting for bonds and coupons redeemed, to account for bonds and coupons not redeemed and to return unredeemed principal and interest to the Treasurer. These bills also require the Treasurer to deposit unredeemed principal and interest in an unpresented bond and coupon fund and dispose of the unredeemed funds as abandoned property.

***Senate Bill 434*/*House Bill 688* (both passed)** revise the procedures for administering the Unpresented Checks Fund. Specifically, these bills (1) eliminate a seven-year limitation on reissuing checks presented for payment; (2) provide that when required by federal or State law or when considered proper by the Treasurer, unpresented checks may be voided and the monies returned to their source or transferred to another account; and (3) clarify that State-issued unpresented check funds are not subject to the Maryland Uniform Disposition of Abandoned Property Act.

***Senate Bill 290*/*House Bill 690* (both passed)** clarify the authority of the Treasurer to make banking service agreements and to provide for the terms, conditions, and compensation for a financial institution providing banking services to the State or any State agency. These bills also allow earnings on deposits to offset bank service charges and require that all investment earnings be paid to the general fund. Finally, these bills provide that the Treasurer may authorize agency bank accounts and require that such accounts comply with regulations and policies of the Treasurer and the Comptroller.

***Senate Bill 291*/*House Bill 691* (both passed)** repeal the requirement that units of State government deposit all collections, fees, income, and other revenues into the State treasury monthly. Instead, these bills provide that units of State government must deposit these revenues into depositaries designated by the Treasurer in accordance with regulations and policies adopted by the Treasurer and the Comptroller.

***Senate Bill 324*/*House Bill 415* (both passed)** establish a Task Force on Lending Equity within Financial Institutions Providing State Depository Services. The bills require the task force to (1) identify data to demonstrate whether financial institutions provide adequate access to credit and capital for minority business enterprises; (2) advise the Treasurer in developing additional criteria for selecting of financial institutions as depositories; and (3) develop a strategy to implement a lending equity policy. The task force is to submit to the Governor and the General Assembly an interim report on or before December 1, 2004, and a final report on or before September 1, 2005.

State Agencies

Department of Disabilities

***Senate Bill 188* (passed)** creates the Department of Disabilities, abolishes the Governor's Office for Individuals with Disabilities (OID), creates the Maryland Commission on Disabilities, and creates an Interagency Disabilities Board within the new department. The bill transfers OID's employees, property, funds, and all associated administrative responsibilities to the new department. For a more detailed discussion of this bill, see the subpart "The Disabled" within Part M – Human Resources of this *90 Day Report*.

Office of Minority Health and Health Disparities

***Senate Bill 177*/*House Bill 86* (both passed)** create the Maryland Office of Minority Health and Health Disparities within the Department of Health and Mental Hygiene.

In addition to a number of other duties, Senate Bill 177/House Bill 86 require the office to:

- advocate for improving minority health care;
- assist the Secretary of Health and Mental Hygiene in identifying, coordinating, and establishing minority health priorities and work with the Office of Minority Affairs as necessary;
- conduct research and serve as a clearinghouse and resource library for information about minority health and health disparities;
- develop a strategic plan to improve public services and programs targeting minorities;
- develop grant-awarding criteria for programs to improve minority health care;
- identify and review health promotion and disease prevention strategies relating to the leading causes of death and disability among minority populations;
- develop and implement model public and private partnerships in racial and ethnic minority communities for health awareness campaigns and to improve the access, acceptability, and use of public health services;
- develop a statewide plan for increasing the number of racial and ethnic minority health care professionals;

- work with universities and colleges of medicine, nursing, pharmacy, and dentistry in Maryland and other health care professional training programs to develop courses with cultural competency, sensitivity, and health literacy to address racial and ethnic disparities in health care;

- seek to create a statewide alliance with community-based agencies and organizations, historically black colleges and universities, health care facilities, health care provider organizations, managed care organizations, and pharmaceutical manufacturers;

- apply for and accept any grant from the federal government, private foundations, or other sources available for programs related to minority health and health disparities; and

- work with the Office of Minority Affairs as necessary.

Maryland Agricultural and Resource-based Industry Development Corporation

House Bill 1179 (passed) creates the Maryland Agricultural and Resource-based Industry Development Corporation as a public corporation to provide financing to agricultural and resource-based businesses. The bill directs the corporation to report on its status to the Governor, the General Assembly, and specified State organizations within 90 days after the beginning of each fiscal year. For a more detailed discussion of this bill, see Part H – Business and Economic Issues of this *90 Day Report*.

State Lottery Agents – Commingling of Proceeds

Licensed lottery agents must deposit, with a bank that the Treasurer designates and to the credit of the State Lottery Fund, all receipts from the sale of State lottery tickets or shares, less any commission and validation prize payout. ***House Bill 750 (passed)*** authorizes a licensed agent of the State lottery to deposit specified receipts from the sale of State lottery tickets or shares with a bank that the licensed agent selects. The bill also authorizes a licensed agent to commingle proceeds collected or deposited from the sale of State lottery tickets or shares with business receipts of the licensed agent.

Department of Planning – Priority Funding Areas

The Smart Growth Areas Act of 1997 prohibits the State from providing funding for any growth-related project not located within a Priority Funding Area. The law allows for certain exceptions if the Board of Public Works determines that extraordinary circumstances exist or if the board approves the project as a transportation project that meets specified requirements. Prior to July 1, 2003, the board could request an advisory opinion concerning requests for exceptions from the State Economic Growth, Resource Protection, and Planning Commission. The commission, however, terminated on July 1, 2003.

Senate Bill 53 (passed) transfers authority from the defunct commission to the Department of Planning to render an advisory opinion to the Board of Public Works concerning

requests for exceptions. Upon receiving a request for an advisory opinion from the board and on request of a member of the public, the Department of Planning is required to hold a public meeting to gather relevant information before issuing the advisory opinion.

Advisory Committee on Tourism

***House Bill 99* (passed)** abolishes the Advisory Committee on Tourism. The General Assembly created this 40-member advisory committee in 1993 to collect data on the fiscal and social effects of tourism in Maryland and advise the Maryland Tourism Development Board on actions and incentives that would help the board carry out its duties. The advisory committee has since become a defunct organization as its role duplicated that of the board and has not met in seven years.

State Designations and Sister-state Relationship Program

State Designations

Title 13 of the State Government Article of the Annotated Code of Maryland lists various emblems and designations adopted by the State. In addition to the State flag and seal, the State has designated an official State bird, boat, cat, crustacean, dinosaur, dog, drink, fish, flower, folk dance, fossil shell, horse, insect, reptile, song, sport, summer theater, theater, and tree.

***Senate Bill 428* (passed)** adds Lacrosse as the State team sport and the Patuxent River Stone as the State gem.

Sister-state Relationship Program

Maryland has had a sister-state relationship program since 1989. Maryland has sister-state relationships with nine states in Belgium, Brazil, China, France, Japan, Korea, Mexico, Poland, and Russia. ***House Bill 179* (passed)** transfers lead agency responsibility for the Maryland Sister-state Relationship Program from the Office of International Trade in the Department of Business and Economic Development to the Office of the Secretary of State.

Miscellaneous

Acting Attorney General

***Senate Bill 164* (passed)** allows the senior deputy Attorney General to serve as Acting Attorney General if the Attorney General is temporarily unable or unavailable or during a term specified in any general written notice of temporary inability or unavailability by the Attorney General. In addition, if the Board of Public Works and presiding officers of the General Assembly by majority vote make a determination of the Attorney General's temporary inability or unavailability, the senior deputy Attorney General shall serve until the board and presiding officers by majority vote determine that the Attorney General is able to carry out the duties of the office and give notice of such determination to both the Attorney General and Acting Attorney General.

The bill would also give a circuit court exclusive jurisdiction upon petition by either a member of the Board of Public Works, a presiding officer of the General Assembly, the Attorney General, or the Acting Attorney General to determine any issue arising under the bill's provisions.

Office of Administrative Hearings – Fees for Filing Appeals

House Bill 508 ***(passed)*** increases the fees that the Chief Administrative Law Judge may set for filing appeals from $15 to $125 for an appeal of a driver's license suspension or revocation related to a violation of the Maryland vehicle law and to $50 for all other types of appeals. For a more detailed discussion of fee increases, see the subpart "Operating Budget" within Part A – Budget and State Aid of this *90 Day Report*.

Elections

Comprehensive State election reform measures adopted during the 2001 legislative session provided for a uniform statewide voting system (Chapter 564) and provisional voting (Chapter 424). On the federal level, the national Help America Vote Act (HAVA) passed by Congress in 2002 created a federal agency to implement various voting system and election administration standards required under the Act. HAVA establishes uniform election standards for every state, and approximately $3.6 billion in funding was authorized for the states over three federal fiscal years to assist in compliance. Maryland is eligible to receive up to $54 million in funding under the Act. The Act outlines requirements covering such subjects as disabled voter access to polling places, mail-in registration, statewide voter registration, and provisional balloting with various implementation deadlines ranging from 2003 to 2006.

These comprehensive State and federal reforms have converged in the past three years to mandate several large-scale initiatives for the State Board of Elections (SBE), including statewide voter registration and a statewide uniform electronic voting system. During the course of the reform efforts, several ancillary issues have arisen and were addressed during the 2004 legislative session.

Conduct of Elections

Electronic Voting System Security Voter Verified Paper Trail

In the wake of the 2000 presidential election recount in Florida, which thrust the operational shortcomings of many local voting systems into the national spotlight, pressure has been building to replace old and inefficient voting systems with more sophisticated and accurate electronic equipment known as direct electronic recording devices (DRE). The DRE generation of computerized voting systems are demonstrably efficient at reducing undervoting and overvoting as well as eliminating uncertainty as to the voters' intentions. Since November 2000, voting equipment usage in the 3,100 local jurisdictions around the nation has dramatically changed. As indicated in **Exhibit C-1** below, punchcard equipment of the variety used in

Florida has decreased by nearly half while DRE usage has more than doubled. Election Data Services estimates that in the November 2004 election, 28 percent of voters will cast their vote on a DRE voting unit and another 32 percent of voters will do so on an optical scan machine that uses machine readable paper ballots.

Exhibit C-1

Changes in Voting System Usage in the U.S.

Type	2000	Percentage	2004	Percentage	Change
Punch Card	582	19%	307	10%	-9%
Lever	452	14%	270	9%	-6%
Paper Ballot	373	12%	299	10%	-2%
Optical Scan	1,303	41%	1,418	46%	4%
Electronic (DRE)	293	9%	669	21%	12%
Mixed	137	4%	151	5%	0.5%
Total	3,140	100%	3,114	100%	

Source: Election Data Services, Voting Equipment Summary 2000 and 2004.

The apparent surge in voting system modernization has slowed amid concerns over the vulnerabilities of DRE software to hackers or substandard computer code and the ease with which the voting units themselves can be manipulated either physically through tampering or through the use of other electronic devices to intercept and modify election results. Several states, including Ohio, have commissioned security analyses of these voting systems to access the systems' vulnerability to election result manipulation. As states and localities performed these assessments, it became increasingly clear that the design and method of using DRE units rendered them susceptible to internal and external manipulation. Theoretical threats include scenarios in which a programmer would be able to insert codes that could surreptitiously change some votes recorded by a voter undetected.

The use of voter verified paper records or audit trails (VVPT) originated as a way to detect some types of irregularities in electronic vote recording by DREs. VVPT would allow a voter to review a paper printout of their selections and change their selections before a final vote is cast. The paper record would serve as the official ballot to be used in the event of a recount since it is assumed that a voter specifically verified this document, and thus is the best indication of voter intent. Eighteen states have considered some form of VVPT legislation to date. Oregon and California now require VVPT for the 2006 elections. The Secretary of State of Nevada has mandated VVPT beginning in the November 2004 presidential election.

Voter Verified Paper Records in Maryland: In August 2003, the Governor ordered an independent risk assessment of the State's uniform voting system after concerns about the overall security of electronic voting equipment arose in other states and were documented in a Johns Hopkins University report. The risk assessment of the voting system was performed by

Science Applications International Corporation which found 66 components of the voting system that required additional security measures. SBE responded and took action to correct the vulnerabilities in the system.

During the 2003 interim, leaders of the Senate and House of Delegates requested the Department of Legislative Services (DLS) to conduct its own review of the security issues flowing from the risk assessment commissioned by the Governor. This DLS review confirmed the findings of the previous assessment and uncovered additional software, hardware, and operational vulnerabilities. The assessment team of IT security consultants contracted by DLS to assist in the security review recommended the use of VVPT as necessary in some form.

***Senate Bill 393*/*House Bill 53* (both failed)** would have required the uniform electronic voting system to produce a paper record of each vote cast that would be made available for inspection and verification by a voter. A voter would have been able to correct any errors made on the ballot before the paper record is preserved at the polling place.

Penalties for Tampering with Voting Equipment: The review of the security of the statewide DRE voting system by DLS included an exercise involving a simulated attack on the hardware and software of the voting system. The results of the exercise found that the voting units could be easily unlocked and disabled. Given this possibility, ***House Bill 1390* (passed)** generally increases and changes from misdemeanors to felonies the penalties for concealing, damaging, destroying, tampering, removing, or defacing voting equipment or supplies. For example, tampering, damaging, or otherwise preventing the correct operation of voting equipment is reclassified as a felony and maximum fines for violation of the provision have been increased from $1,000 to $10,000.

Minors at Polling Places

State law generally prohibits children over the age of 10 from accompanying a voter inside the voting booth (exceptions are made for a voter who needs assistance due to a physical disability or an inability to read English). Following the 2002 election, a number of legislators heard from constituents who brought their older children with them on election day to observe the election process first hand but were denied access. Accordingly, several bills were introduced in the 2003 and 2004 legislative sessions that would have loosened the age restrictions. ***Senate Bill 95*** and ***House Bill 18* (both passed)** increase the maximum age at which a minor may accompany a voter into the voting booth from 10 to 12 and allow up to two minors under the age of 13 to be present in the voting booth provided that the child is in the care of the voter and does not disrupt or interfere with normal voting procedures.

Election of Circuit Court Judges

After the presidential primary in March 2004, a suit was filed in Anne Arundel County Circuit Court requesting an injunction to prevent SBE from certifying the primary results of circuit court judge candidates on the grounds that unaffiliated voters, who are generally not

permitted to vote in party nominating elections (the primary), are unconstitutionally disenfranchised from participating in the initial selection process for circuit court judges.

Circuit court judges are currently nominated by the two principal political parties during the primary election. Because Maryland holds closed primaries, in which only members of a particular political party may vote for that party's candidates for nomination, candidates for circuit court judge register their candidacies with both parties and appear on the ballots of both principal political parties during the primary. This practice of "cross-filing" candidacies dates back to 1941.

***House Bill 1544* (failed)** would have required a circuit court judge to be elected at a general election on a nonpartisan basis. Candidates for circuit court judge would not participate in party nominating primaries. The bill also would have established a deadline for filing a certificate of candidacy for the office and provided procedures for filling vacancies.

Procedural and Administrative Matters

Appointment and Removal of the State Administrator of Elections

Amid the controversy surrounding voting machine security discussed above and the statutorily required change in membership of the five-member SBE in 2003 from three Democratic members and two Republican members to three Republican and two Democratic members, two measures concerning the appointment and removal process of the State's chief election official were considered during the 2004 legislative session.

State law provides that the State Administrator of Elections be appointed by and serve at the pleasure of SBE. Removal requires an affirmative vote of four members of SBE who must set forth written charges stating the grounds for dismissal. Valid grounds for dismissal are incompetence, misconduct, or other good cause. SBE must give the State Administrator ample opportunity to be heard.

***Senate Bill 792* (failed)** would have provided the State Administrator with a judicial review process in response to any removal action by SBE. Any order of removal would be stayed until a final disposition by a court. The bill would have also given the Senate a role in the appointment of the State Administrator by requiring the advice and consent of that body before appointment. ***Senate Bill 295* (failed)** would have repealed the "good cause" requirement in State law that must be satisfied before SBE can take action to remove the State Administrator, essentially allowing the State Administrator to be terminable at will.

Campaign Finance

Public Financing of Campaigns

Chapter 169 of 2002 created a 15-member commission to study public funding of elections for candidates for statewide and State legislative offices. The commission was required

to collect information regarding current practice in Maryland and in other jurisdictions and determine the feasibility of implementing a public financing system for statewide and legislative candidates. The commission reported its findings and recommendations in February 2004 and supported the establishment of a system of publicly funded campaigns for the statewide offices of Governor/Lieutenant Governor, Comptroller, Attorney General, and candidates for the General Assembly.

Senate Bill 562 ***(failed)*** encapsulated the commission's recommendations for partial funding of statewide candidate campaigns and full funding for candidates to the General Assembly. The income tax check-off, qualifying contributions collected by participating candidates, seed money contributions, fines for violations of the election law, voluntary donations, and other sources were recommended as contributing revenue sources; however, the estimated cost of the program was nearly $58 million in each four-year election cycle. ***Senate Bill 725***/***House Bill 1317*** ***(both failed)*** also would have established a program for public financing for General Assembly candidates only. The costs of the program would have been supported primarily by several new fees and surcharges against drivers who are assessed points for violating certain traffic laws and drivers convicted of drunk driving, as well as a 10 percent surcharge on all civil and criminal fines.

Payment for Walk-around Services

In September 2003, the Maryland Court of Appeals invalidated the provision in Title 13 of the Election Article that prohibited a campaign finance entity or person acting on its behalf, from paying an individual for walk-around services on the grounds that the law was too vague and infringed on the free speech provisions of the U.S. Constitution and the Constitution of Maryland (*State v. Brookins*, 376 Md. 697 (2003)). Walk-around services are generally performed by paid campaign workers who engage in electioneering activities on election day such as distributing campaign material and urging voters to vote for a particular candidate.

Pursuant to the Court of Appeals' ruling, ***Senate Bill 301*** ***(passed)*** repeals the prohibition on a campaign finance entity from paying an individual for walk-around services and requires these payments to be made by check drawn from a designated campaign account. In addition, expenditures for walk-around services must be reported on the entity's campaign finance report.

Contributions

The widespread use of the Internet for political campaign activity has encouraged the use of credit cards as a cheaper, more convenient means of soliciting and contributing money. Since the Federal Election Commission recognized credit card payments as eligible contributions for purposes of the Presidential Election Campaign Fund in 1999, political campaigning via the Internet has increased substantially for candidates in all types of elections. ***Senate Bill 846*** and ***House Bill 733*** ***(both passed)*** remove the $100 transaction limit on credit card campaign contributions and allow credit card contributions up to the statutory limit of $4,000 to any one campaign finance entity and $10,000 to all campaign finance entities.

Ethics

Ethics Commission Orders – Judicial Review

Under current law, a final order of the State Ethics Commission is stayed during the course of any judicial review if a timely appeal has been filed. The period of judicial review can be quite lengthy if appeals are taken through the appellate courts. In proceedings to discipline a regulated lobbyist, for example, the period of appeals may allow the individual to continue lobbying for an extended period after being suspended or barred from lobbying by the commission. ***House Bill 298 (passed)*** specifies that the enforcement of a final order by the commission may be stayed at the discretion of the commission or the reviewing court. The bill will be applied prospectively and does not affect any matter or violation that occurred before the effective date of October 1, 2004.

Financial Disclosure

Sources of Earned Income

House Bill 608 (passed) clarifies that a public official or other individual required to file an annual financial disclosure statement with the State Ethics Commission must disclose all secondary employment of the individual or member of the individual's immediate family. Additionally, the individual filing the disclosure is no longer required to include a listing of a minor child's employment or a business entity of which the child is the sole or partial owner on the disclosure statement, unless the place of employment or the business entity is (1) subject to the regulation or authority of the agency that employs the individual; or (2) has contracts in excess of $10,000 with the agency that employs the individual.

Real Property Owned by Specified State Employees

House Bill 1318 (passed) requires the Governor to designate, by executive order, that specific State employees disclose to the State Ethics Commission any interest the employees have in real property in Maryland and any other information the Ethics Commission considers a conflict of interest related to those employees' employment. The designated employees include home inspectors, building code enforcement officials, lead inspectors, and environmental sanitarians. The State Ethics Commission may also require these employees to disclose any other information considered to be a conflict of interest relating to their employment. In addition, the bill provides that Baltimore City health and housing inspectors who inspect for lead hazards are considered "local officials" for purposes of the city's financial disclosure provisions.

Encumbrances on Real Property

Current law requires detailed information about debts owed by the public officials and other individuals who must file annual financial disclosure statements but only if the debt is owed to an entity that does business with the State. ***House Bill 610 (failed)*** would have modified the provision to require an individual filing a financial disclosure statement to include

information about any debt owed on real property, regardless of whether the creditor does business with the State. However, the bill also would have exempted real property debts from many of the specific disclosure details applicable to other types of debts.

Miscellaneous Information

The current form for the annual financial disclosure statement contains a page on which the official or employee may provide any additional information not specifically required by the Ethics Law. ***House Bill 650 (failed)*** would have eliminated this additional page in order to avoid the submission of voluminous extraneous documents that must be retained on file with the State Ethics Commission and (as to members of the General Assembly) the Joint Committee on Legislative Ethics.

Procurement

Task Force to Study Efficiency in Procurement

Created by Chapter 386 of 2003, the Task Force to Study Efficiency in Procurement was charged with studying the State procurement system and making recommendations to the Governor and General Assembly on ways to improve the State system, including the overall organization of the State system, the dispute resolution process, the procurement of information technology, and other efficiencies. The task force met throughout the 2003 interim and developed 31 recommendations which are outlined in the final report of the task force issued in December 2003. The recommendations of the task force were the impetus for many of the procurement bills introduced in the 2004 session.

Reverse Auctions

Reverse auctions allow the State to request supplies and then have businesses bid on the price at which they would supply those supplies. The auction lasts for a specified time and the lowest bidder receives the contract with the State. ***Senate Bill 722 (passed)*** repeals, for a period of three years, the $1 million floor on reverse auction bids for supplies and also adds authorization to procure services and equipment by auction bidding. Construction contracts and information technology service contracts are specifically excluded from the authorized uses of reverse auction bids. The bill also requires the Department of Legislative Services to review and evaluate the impact of repealing the $1 million floor on State expenditures and administrative efficiency.

Participation in Federal Contracts

Under current law, primary procurement units cannot participate in intergovernmental cooperative purchasing agreements if the State's participation is valued at less than $250,000. ***Senate Bill 831 (passed)*** authorizes primary procurement units to participate in federal contracts with no restriction on the value of the State's participation.

Ethics Law – Architectural and Engineering Services

Current law prohibits an individual, or the individual's employer, who assists an executive unit in the drafting of specifications, an invitation for bids, or a request for proposals for a particular procurement from participating in the procurement as a bidder or offeror. There are several exceptions, however, and providing architectural and engineering services for programming, master planning, or other project planning services does not preclude an individual or their employer from submitting a bid or proposals. ***Senate Bill 56* (passed)** includes the design of certain construction projects among the architectural and engineering services that an individual may provide for a project and still be able to submit a bid or proposal for that project. These design services, however, may not involve lead or prime design responsibilities or construction phase responsibilities on behalf of the State.

Dispute Resolution Process

***Senate Bill 416*/*House Bill 767* (both passed)** authorize units of State government to assert contract claims against contractors, provide for review of State claims, and specify that units of State government may appeal the final decision of a unit to the Maryland State Board of Contract Appeals (MSBCA). ***Senate Bill 600* (passed)** specifies that a contractor may be represented by legal counsel in any appeal before the MSBCA and permits individuals other than lawyers to represent contractors in expedited procedures (which are limited, by regulation, to disputes involving $10,000 or less) before MSBCA. ***Senate Bill 212*/*House Bill 430* (both failed)** would have established a three-year alternative dispute resolution pilot program for contract claims.

Whistleblower Protections

***House Bill 1044* (passed)** prohibits employers that enter into contracts with a unit of State government under the State procurement law from taking or refusing to take personnel actions against an employee as a reprisal for whistleblowing. Employers are prohibited from taking personnel action as a reprisal against an employee who discloses information regarding (1) an abuse of authority, gross mismanagement, or waste of money; (2) a substantial specific danger to public health or safety; or (3) a violation of law. Employers also are prohibited from taking a personnel action as a reprisal against an employee who objects to or refuses to participate in an activity, policy, or practice in violation of law.

Minority Business Enterprise (MBE)

The MBE program in Maryland began in 1978. In 1989, the U.S. Supreme Court held in the *City of Richmond v. J. A. Croson Co.* that state or local MBE programs using race-based classifications are subject to strict scrutiny under the equal protection clause of the Fourteenth Amendment to the U.S. Constitution. Since the *Croson* decision, the State has commissioned three minority business utilization studies to continue to provide support for Maryland's MBE program. Based on the study completed in January 2001, Chapter 339 of 2001 established the current overall goal of 25 percent for the total value of contracts being awarded to certified

minority business enterprises and separate goals of 7 percent for African American businesses and 10 percent for women-owned businesses.

The 2001 enactment also revised the definition of minority business enterprise to require that the daily business operations be managed by one or more socially and economically disadvantaged individuals who are also owners. The legislation defined socially and economically disadvantaged individuals and created a rebuttable presumption that individuals who fall within the defined criteria are socially and economically disadvantaged. Units are required to obtain waivers from the Governor's Office of Minority Affairs only if a successful bidder or offeror is unable to meet the MBE goal in an individual solicitation. State law requires that procurement units try to achieve the annual MBE goals, but there are no penalties for units failing to meet annual goals. Each procurement unit must (1) implement a program enabling the unit to evaluate each contract to determine the appropriateness of the goal and (2) meet the maximum feasible portion of the goals by using race neutral measures to facilitate MBE participation in the procurement process.

Governor's Commission on Minority Business Reform

The Governor's Commission on Minority Business Reform, established during the 2003 interim, reviewed the State's MBE program and issued its final report on December 31, 2003. The commission focused its review of the MBE program and small business procurement on (1) strengthening the Office of Minority Affairs to carry out its mandate, including resources for enforcement of State law, training, and evaluation of the MBE program and small business procurement; (2) assisting business development by creating a one-stop shop with which small and minority businesses could interact with the State, enforcing existing law, changing the procurement system, and providing more support for business development; (3) improving MBE and small business access to capital; and (4) providing incentives for certification as an MBE.

Based on the findings and recommendations of the commission, the Administration proposed two bills. ***Senate Bill 904*** ***(passed)*** creates a small business reserve program and requires certain agencies to award at least 10 percent of specified types of procurement contracts to small businesses. Specified units are required to award at least 10 percent of the units' total dollar value of goods, supplies, services, maintenance, construction, construction-related, architectural service, and engineering service contracts to small businesses. The bill specifies that any procurement of goods, supplies, services, maintenance, construction, construction-related, architectural service, and engineering service contracts is eligible for inclusion in the small business reserve.

Small businesses include all businesses certified by the Maryland Department of Transportation as minority business enterprises. A small business must be independently owned and operated, not the subsidiary of another business, and not dominant in its field of operation. The bill defines the categories of wholesale, retail, manufacturing, service, and construction and restricts the number of persons employed and the average amount of the gross sales in the most recently completed three fiscal years from operations in each category.

Senate Bill 903 ***(passed)*** establishes the Office of the Special Secretary for Minority Affairs. The duties of the special secretary are identical to the current duties of the Director of the Office of Minority Affairs. The bill also requires agencies to include a statement of the expected level of minority business participation in the specifications of invitations for bids and requests for proposals. The bill further specifies that MBE regulations must include a requirement that a bid or proposal based on a solicitation with an expected degree of MBE participation identify the specific commitment of certified MBEs at the time of submission.

Other MBE Legislation

The General Assembly also considered several other MBE bills. ***House Bill 483*** ***(passed)*** increases the total personal net worth an individual may have and still achieve MBE certification from $750,000 to $1.5 million. ***House Bill 721*** ***(passed)*** requires the MBE certification agency (currently the Maryland Department of Transportation) to develop and maintain a directory of all MBEs in the State that includes (1) all contact information available to the certification agency for the MBE; (2) the certification number and minority status of the MBE; (3) contact information for up to three professional references for the MBE; (4) other information the certification agency considers necessary or appropriate to encourage participation in the procurement process by MBEs; and (5) identification of MBEs that have become certified during the current calendar year.

Wage Rates – Service and Construction Contracts

Living Wage

Senate Bill 621 ***(passed)*** requires employers with State contracts for services valued at greater than $100,000 to pay their employees a "living wage." The living wage is set at $10.50 for fiscal 2005 and then adjusted annually by the Commissioner of Labor and Industry. If employers provide health insurance to workers, the employer may reduce the wages paid by all or part of the hourly cost of the employer's share of the premium for each employee. Employers are not required to pay a living wage (1) if higher wages are required under other provisions of State law; (2) to employees who are 17 years old or younger for the duration of the contract; or (3) to employees who work full time for less than 13 consecutive weeks for the duration of a contract subject to the living wage. The living wage does not apply to contracts (1) for services needed immediately to prevent or respond to an imminent threat to public health or safety; (2) with a public service company; (3) with a nonprofit organization; (4) between units; or (5) between a unit and a county or Baltimore City.

Living wage laws are currently in force in 105 localities and counties in the United States. There are currently no statewide living wage laws. Wage levels without health benefits range from $6.15 in New Orleans, Louisiana to $13.00 in Fairfax, California. In Maryland, Baltimore City and Montgomery and Prince George's counties have passed living wage laws. In Baltimore City, Ordinance 442 requires the payment of a living wage set by the Board of Estimates. The hourly wage rate in effect for fiscal 2004 is $8.70. The board revises the living

wage level annually. Montgomery and Prince George's counties each have living wage rates set at $10.50.

The Department of Labor, Licensing, and Regulation (DLLR) indicates that there are approximately 148,363 private sector employers in Maryland, with less than 10 percent of those being nonprofit. DLLR estimates that no more than 15 percent of total employers would be affected by the application of the living wage law.

Prevailing Wage Rates

The federal Davis-Bacon Act requires that federal or District of Columbia public works construction contracts over $2,000 contain a prevailing wage clause. Under the provisions of the Act, contractors or their subcontractors are required to pay workers employed directly upon the site of the work no less than the locally prevailing wages and fringe benefits paid on similar projects. Maryland adopted a prevailing wage law in 1945 but it only applied to road projects in Allegany, Garrett, and Washington counties. In 1969, the statute was amended to include public works projects of the State costing $500,000 or more. By definition, prevailing wages are the hourly wage rates paid in the locality in which the construction work is to be performed.

***Senate Bill 660*/*House Bill 425* (both failed)** would have increased the threshold amount at which the State prevailing wage rate applies to construction contracts from $500,000 to $2.5 million and would have required the Commissioner of Labor and Industry to adjust the threshold annually by the consumer price index or another appropriate index.

Currently, school construction projects fall under the prevailing wage law if 50 percent or more of the construction costs are State funded. ***House Bill 396* (failed)** and ***House Bill 532* (failed)** were identical bills that would have required that 75 percent or more of a school construction project be funded by State sources in order for the prevailing wage law to apply.

Applicability of Procurement Law to State Entities

Morgan State University

***Senate Bill 430* (passed)** expands the procurement authority of Morgan State University (MSU). The bill generally aligns MSU autonomy and procurement laws with those of St. Mary's College of Maryland (SMCM). Both MSU and SMCM are public higher education institutions outside the University System of Maryland (USM). SMCM was granted these powers in 1992, and USM was granted many of these powers in 1999. The bill expands the powers of MSU to include the acquisition and sale of property, the borrowing of money for any corporate purpose, and the ability to sue or be sued. MSU's current autonomy over capital construction projects is maintained.

The bill generally exempts MSU from State law governing procurement, information technology, and telecommunications. However, consistent with the current exemptions for USM, the bill requires Board of Public Works' approval of contracts for services or capital

improvements exceeding $500,000. Subject to review and approval by the Board of Public Works and the General Assembly's Administrative, Executive, and Legislative Review Committee, the Board of Regents of MSU is required to establish procurement policies and procedures that promote the purposes of State procurement law. MSU is also required to purchase supplies and services, to the maximum extent practicable, from State Use Industries, Blind Industries and Services, and sheltered workshops. The Board of Regents of MSU also is required to develop an information technology plan for MSU that is functionally compatible with the State information technology plan.

Procurement Exemptions

***House Bill 894* (passed)** exempts the College Savings Plans of Maryland from State procurement laws for services of managers to invest the assets of the Maryland Prepaid College Trust and for expenditures to manage, maintain, and enhance the value of the trust's assets. The bill provides that the trust would still be subject to the Minority Business Enterprise program. This exemption is identical to one that already exists in current law for the State Retirement and Pensions System. ***Senate Bill 849* (passed)** exempts USM from some of the existing procurement laws and policies when it procures investment management services and investments for its gift and endowment assets. Procurements must be made in accordance with the management and investment policies adopted by the Board of Regents of USM.

***House Bill 725* (failed)** would have repealed many of the current procurement exemptions for various units of State government and made the units subject to the requirements of the State procurement law. Senate Bill 600, discussed earlier, also requires the Department of Legislative Services, with the assistance and cooperation of the Board of Public Works (BPW) and State units, to conduct a study that reviews all exemptions from the State procurement law and submit a report to the Governor and General Assembly on or before December 1, 2004. Additionally, the bill requires the BPW to review the level of delegation of its procurement responsibilities to units of State government and whether there are appropriate safeguards and accountability measures in place to promote the purposes of the State's procurement law. This study also is due on or before December 1, 2004.

Procurement Preferences

Current law authorizes reciprocal preferences for resident bidders in competitive sealed procurements. ***House Bill 718* (passed)** expands the authorization of State units to provide reciprocal preferences to include all procurements that use the competitive sealed proposal method. Under the bill, State units may give a preference in any procurement using the competitive sealed proposals method, identical to the preference that another state would give to its residents, to a Maryland resident business if (1) a responsible offeror whose principal office or principal base of operations is in another state submits an offer; (2) the state in which the nonresident's principal office is located or the state in which the nonresident has its principal operation through which it would provide the goods or services provides a resident business preference; and (3) the preference does not conflict with a federal law or grant affecting the procurement contract.

House Bill 811 ***(passed)*** requires the Secretary of General Services, the Secretary of Transportation, and the Chancellor of the University System of Maryland to establish a price preference for the purchase of environmentally preferable products and equipment (EPPs). EPPs are products, including supplies, and equipment manufactured and designed for utilization in accordance with a broad range of measures that prevent or minimize environmental degradation, including (1) recycling; (2) resource conservation; (3) source reduction; (4) use of components that are free of toxic or degrading agents or contain the least amount of toxic or degrading agents necessary to meet applicable job specifications recycling; (5) use of innovative technology; (6) use of renewable resources; and (7) waste minimization.

Miscellaneous Procurement Provisions

Notice of Invitations for Bids, Requests for Proposals, and Awarding of Certain Contracts

Under current law, units are required to publish notice of invitations for bids, requests for proposals, and the award of certain contracts in the *Contract Weekly* and *Contract Weekly Online*. ***House Bill 702*** ***(passed)*** phases in a requirement to publish the information only on eMaryland Marketplace on and after July 1, 2006. Until July 1, 2006, the unit shall publish the information in the *Contract Weekly* and eMM. The bill prohibits units from charging a fee to access information on eMM. Instead, the agencies will deduct and retain a fee, established annually by the Department of Budget and Management by regulation, from the procurement contract price.

Debarment

House Bill 920 ***(passed)*** expands the list of offenses for which a person may be debarred (that is, legally prevented) from participation in the State procurement process to include a contractor competing for State contracts if they or any officer, employee, representative, agent, or consultant of the contractor knowingly (1) makes any offer or promise of future employment or business opportunity to, or engage in any discussion of future employment or business opportunity with, any procurement official of the agency conducting the procurement; (2) offers, gives, or promises to offer or give any money, gratuity, or other thing of value to any procurement official of the agency conducting the procurement; or (3) solicits or obtains from any officer or employee of an agency conducting the procurement, before the award of a contract, any proprietary or source selection information regarding the procurement.

Regulations and Procedures

Open Meetings Act

Senate Bill 87/***House Bill 73*** ***(both passed)*** authorize any person to file a petition with a circuit court to determine the applicability of open session requirements of the State's Open Meetings Act to a session of a public body, require a public body to comply with these

provisions of law, or void a public body's action. Previously, a person could only file a petition if the person was adversely affected by a public body's failure to comply with the open session requirements of the Open Meetings Act. In a recent case, a Howard County Circuit Court judge interpreted the "adversely affected" standard for standing under the Open Meetings Act to mean a specific interest or property right that has been specially affected in a way different from that suffered by the public generally. The case is now on appeal to the Court of Special Appeals.

Under the Open Meetings Act, a public body must meet in open session unless a closed session is authorized by law. Before a meeting in either closed or open session, a public body must give advance written notice of the meeting. The general public may attend meetings in open session. A public body may meet in closed session under limited circumstances, including the consultation with legal counsel and the discussion of specified personnel matters, the acquisition of real property for a public purpose, and specified expenditures.

***Senate Bill 111* (passed)** expands the definition of "public body" under the Open Meetings Act to include a board, commission, or committee appointed by an official who is subject to the policy direction of the Governor or the chief executive authority of a political subdivision. In addition, on the request of the Open Meetings Compliance Board, the bill requires a public body to include with its written response to a complaint filed with the board a copy of (1) the written notice of the meeting; (2) a written statement describing the reason for closing the meeting; and (3) the minutes and any tape recording of the meeting. Public bodies shall retain copies of meeting notices for at least one year after the date of the meeting. The bill also exempts a subcommittee of a public body from the definition of public body, unless the subcommittee is created by the Maryland Constitution; a State statute; a county charter; an ordinance; a rule, resolution, or bylaw; or an executive order of the Governor or the chief executive authority of a political subdivision. Finally, the bill authorizes a public body to tape record all sessions, not just closed sessions, as previously authorized.

Regulations

***Senate Bill 309*/*House Bill 429* (both passed)** modify the process for adopting emergency and proposed regulations. The bills provide that the Joint Committee on Administrative, Executive, and Legislative Review may not approve the emergency adoption of a proposed regulation earlier than 10 days after the committee's receipt of the regulation unless the Governor declares that immediate adoption is necessary to protect the public health or safety. The bills also require the General Assembly's web site to include certain information about emergency regulations received by the committee. In addition, a member of the public may register a request with the Department of Legislative Services to receive information about emergency regulations by U.S. mail or electronic mail. Finally, the bills authorize the committee to exercise any power it has over emergency or proposed regulations over specific, distinct, and severable provisions of an emergency or proposed regulation.

Personnel

Budget Actions on State Personnel

Employee Compensation

Total State expenditures for employee compensation, which are estimated to cost $5.5 billion in fiscal 2005, constitute a major component of the fiscal 2005 budget. Over the fiscal 2004 working appropriation, regular employee expenditures increase $194.2 million, or 4.0 percent, to $5.1 billion in the fiscal 2005 budget. Contractual employee expenditures increase $6.1 million, or 1.5 percent, over the fiscal 2004 working appropriation. In fiscal 2005, many components of compensation unavailable to regular employees in fiscal 2004 are again available. The Governor's proposed 1.6 percent general salary increase was replaced with a $752 flat-rate general salary increase; merit or increment increases are available to all eligible employees.

The State's match of up to $600 in contributions to individual deferred compensation plans is again not funded for fiscal 2005. Furthermore, although the fiscal 2005 budget allows a $22.8 million increase for health insurance, status quo coverage in fiscal 2005 requires an increase of approximately $70 million. Since the fiscal 2005 budget requires that any changes in health insurance coverage have to be agreed upon as a result of signed memoranda of understanding negotiated with labor organizations, the State could be facing a $50 million problem regarding the cost of employee health insurance. Workers' compensation insurance shows a relatively large increase due to an Injured Workers' Insurance Fund operating account surplus available in fiscal 2004 but no longer available in fiscal 2005.

Position Cap and Elimination

The fiscal 2005 budget again caps the number of Executive Branch personnel but, unlike last year, this cap excludes higher education positions. Accordingly, the 74,100 full-time equivalents (FTE) limit in fiscal 2004 was lowered to 52,834 FTEs for fiscal 2005; the number of Executive Branch FTE contractuals is capped at 2,811. An exception to the contractual ceiling is given to the Department of Juvenile Services, which may create up to 360 FTE contractual positions to operate the Charles H. Hickey Jr., School.

The fiscal 2005 budget directs the Governor to abolish the number of positions necessary to meet the fiscal 2005 cap and specifies that at least half of the position reductions must be classified as officials and administrators or positions related to government relations or public information. However, the Administration can raise the fiscal 2005 cap by the number of non-State positions added in fiscal 2004 through the "Rule of 250" or Section 19 of the 2003 budget bill (Chapter 202 of 2003).

For a more detailed discussion of budget actions on State personnel, see Part A – Budget and State Aid of this *90 Day Report*.

Health Insurance

On December 8, 2003, President Bush signed into law the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 which establishes a voluntary prescription drug benefit as Medicare Part D. ***Senate Bill 614*** ***(passed)*** requires the State Employee and Retiree Health and Welfare Benefit Plan (State plan) to continue to include a retiree prescription drug benefit plan. The State plan shall continue providing drug benefits to retirees despite the enactment of the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003 or any other federal law permitting states to discontinue prescription drug benefit plans to state retirees.

Military Administrative Leave

Chapter 389 of 2003 allowed State employees who serve in the military to receive paid leave while on active duty; the leave is limited to the difference between a member's federal active duty base salary and State base salary or direct wages and may not exceed an employee's State salary. Eligible employees must elect to use the military administrative leave authorized by Chapter 389 or the fully paid military leave (up to 15 days) allowed under a separate provision of law. The leave took effect July 1, 2003, and is scheduled to terminate July 1, 2004.

Senate Bill 394/***House Bill 201*** ***(both passed)*** extends the July 1, 2004, termination date to June 30, 2005, for military administrative leave granted to a regular employee of any branch of State government who is on, or called to, active duty on or after July 1, 2003. Approximately 250 Executive Branch employees are on active duty in addition to employees from other branches; 150 have participated in the military administrative leave program since it began.

Pensions and Retirement

Retiree Health Care

Postretirement Health Benefits Trust Fund

Maryland partially subsidizes the health insurance premiums for retired State employees. Like most other states, Maryland currently funds this subsidy on a "pay-as-you-go" basis. The State's actuary has informally estimated the unfunded liabilities associated with this subsidy to be approximately $3 billion. To address these growing costs and anticipate the time when government accounting standards may require recognition of these liabilities, ***Senate Bill 548***/***House Bill 1095*** ***(both passed)*** establish the Postretirement Health Benefits Trust Fund. The purpose of the fund is to assist the State in financing the postretirement health insurance subsidy paid by the State.

Beginning in fiscal 2006, any subsidy received by the State that is provided to employers as a result of the federal Medicare Prescription Drug, Improvement, and Modernization Act of

2003 or other similar federal subsidy must be deposited into the fund. The members of the Board of Trustees for the State Retirement and Pension System (SRPS) are the fund's trustees and are required to invest the fund's assets, to the extent possible, in the same manner as those of the other systems of SRPS. For fiscal 2006 through 2016, no payments may be made from the fund. For fiscal 2016 and each fiscal year thereafter, the board of trustees must transfer to the general fund, for the sole purpose of assisting in the payment of the State's postretirement health insurance subsidy, the lesser of (1) one-quarter of the prior year's investment gains; or (2) the amount necessary to pay the annual health insurance premium and other costs that constitute the State's postretirement health insurance subsidy. If for any reason the State discontinues the postretirement health insurance subsidy, the fund's assets must be transferred to the general fund.

Group health plans, such as the State plan, that provide employment-based retiree health care coverage with a drug benefit at least actuarially equivalent to the Medicare Part D plan will receive federal subsidies of 28 percent of costs for coverage (above $250 and up to $5,000) per qualified retiree in 2006. The federal subsidy is 28 percent in 2006, and then indexed in out-years to the annual growth in average per capita spending by Medicare beneficiaries for Part D drugs.

Maryland Transit Administration Retiree Health Benefit

Senate Bill 63/House Bill 835 (both passed) permit a surviving spouse or dependent child of a Maryland Transit Administration retiree to participate in the State Employees and Retirees Health and Welfare Benefits Plan after the retiree's death. These individuals had previously participated in the retiree health plan until an opinion by the Attorney General held that they were not eligible.

Employees of Child Support Services Vendors – Purchase of Additional Service Credit

The General Assembly passed Senate Bill 78/House Bill 812 of 2003 to allow members of the Employees' Retirement System (ERS) or the Employees' Pension System (EPS) who were formerly employed by a private vendor that provided child support services to receive or purchase additional service credit. That legislation was vetoed by Governor Ehrlich. During the 2004 session, the General Assembly voted to override the Governor's veto and the bills were signed into law as **Chapters 1 and 4 of 2004**.

Chapters 1 and 4 apply to 51 members of ERS or EPS who (1) were employees of the State prior to November 1, 1996; (2) as of November 1, 1996, were employed by a private vendor to provide child support enforcement services in Baltimore City; and (3) resumed employment with the State as of November 1, 2002. Chapters 1 and 4 allow these individuals to receive service credit for the time these individuals were employed by the private vendor through October 31, 2002, subject to an actuarial reduction of member contributions not repaid.

Reemployment of Retirees

A program to allow certain retirees of the Teachers' Pension System (TPS) and Teachers' Retirement System (TRS) to receive both a pension and a salary under specified circumstances will terminate on June 30, 2004. While the program had been effective in bringing approximately 900 retired educators back to work, legislators heard testimony on abuses of the program. These abuses included: teachers returning to high-performing schools when the purpose of the program had been to direct them to needier schools; teachers rehired at excessive salaries; and rehired teachers having only limited classroom duties, again in contravention to the goals of the program.

A retiree of a teachers' or employees' system who receives a service retirement allowance or vested allowance and who returns to employment with a participating employer of SRPS may receive a reduction in benefits. Benefits are reduced dollar-for-dollar by the amount that the retiree's earnings exceed the difference between the average final salary and the basic allowance at the time of retirement. This limitation applies if the retiree is reemployed with the same employer from which the individual retired or if the retiree becomes reemployed within 12 months of receiving an early service retirement allowance.

In the past five years, Chapter 518 of 1999, Chapter 245 of 2000, and Chapter 732 of 2001 created exemptions from the earnings limitation for retired teachers, principals, and supervisors of principals (respectively) who are reemployed under certain circumstances. These exemptions were enacted to address statewide teacher and principal shortages. In addition to the exemptions created for retired school personnel, Chapter 733 of 2001 created a temporary exemption from the earnings limitation for retired health care practitioners reemployed on a contractual basis by the Department of Health and Mental Hygiene in a State health care facility or county board of health. All four chapter laws terminate June 30, 2004. Individuals who have benefited from the exemptions created by these chapters will now be subject to the earnings limitations.

Despite the program's termination, there remain significant opportunities for retired teachers to return to teaching without impact to their pensions. Current law provides that a retiree of a teachers' or employees' system may be rehired without an earnings limitation if the retiree is reemployed by a different employer than the one from which the retiree retired. A retired Maryland teacher may therefore seek reemployment with a different local school system than the one from which the individual retired with no earnings limitation. A retiree may also be rehired on a part-time basis by the same school system from which they are left; in that case, the retiree would need to coordinate with the school system and the State Retirement Agency to determine the amount the member can earn under the reemployment earnings limitation so as not to trigger the earnings offset.

The Department of Legislative Services (DLS) expects that the termination of the exemptions will lead to a decline in the number of teachers who retire in their first year of eligibility. Teachers who retire sooner pay less employee contributions into the system and collect benefits from the system over a longer period of time. These two factors lead to an

increase in State pension liabilities. If the existing exemptions for the earnings limitations had been extended during the 2004 session, DLS estimates that total liabilities for SRPS would have increased by as much as $56.9 million. The termination of the exemptions will accordingly save SRPS approximately $56.9 million in actuarial liabilities.

The reemployment bills that were introduced during the 2004 session included ***House Bill 55 (failed)***, ***House Bill 306 (failed)***, ***House Bill 774 (failed)***, ***House Bill 1153 (failed)***, ***House Bill 1254 (failed)***, ***Senate Bill 8 (failed)***, and ***Senate Bill 308 (failed)***.

Special Pay Plan

Senate Bill 688 (passed) creates a Special Pay Plan effective July 1, 2005. A Special Pay Plan is a deferred compensation plan organized under section 401(a) of the Internal Revenue Code that allows an employer, in this case the State, to transfer the cash value of the unused annual leave and other undefined contributions at the time of an employee's separation from service into a tax-deferred account on behalf of the employee. The bill requires eligible State employees to deposit the value of their accrued annual leave remaining at the time of retirement into the Special Pay Plan. The Secretary of Budget and Management is required to select a designated company to administer the Special Pay Plan and may designate any unit of State government to oversee the Special Pay Plan. The employee would be able to manage the investment of the funds with the Special Pay Plan's third-party administrator, take the cash value of the unused annual leave, or roll over the unused annual leave to another qualified tax-deferred plan.

State employees may currently receive any unused annual leave as a lump-sum payment in their final payroll transaction. The lump-sum is determined by multiplying one-tenth of the employee's bi-weekly salary times the number of days of unused annual leave that were accrued at the end of the previous calendar year and current year annual leave that remains unused at the time of separation. For fiscal 2003, the State paid approximately $17 million in unused annual leave.

Exhibit C-2 provides a comparison of the payment of unused annual leave to the employee in a lump-sum cash distribution versus participation in a Special Pay Plan. The employee and employer would each save the 7.65 percent federal payroll taxes for FICA. The employee would also defer payment of federal, State, and local taxes until distributions are made from the Special Pay Plan account. Eligibility for mandatory participation in the program would be determined by regulation.

Exhibit C-2
Tax Implications of Lump-sum Distributions vs. Special Pay Plan
Net Employee Payment

	Current Law Lump-sum Distribution	Special Pay Plan
Cash Value of Unused Annual Leave	$10,000	$10,000
Federal Payroll Taxes (FICA) (7.65%)	765	-
Federal Income Tax Withholding (28%)[1]	2,800	Tax Deferred
State and Local Income Tax (4.75% State – 2.9% Local)[2]	765	Tax Deferred
Net Payment to Employee	**$5,670**	**$10,000**

[1]Assumes federal marginal tax rate of 28 percent.
[2]Reflects average local income tax rate of 2.9 percent.

Source: Department of Legislative Services

Joint Committee on Pensions

The Joint Committee on Pensions of the General Assembly introduced six bills in the 2004 session. Five of these bills were introduced at the request of the board of trustees for the State Retirement and Pension System (SRPS), and four were passed. In addition, the joint committee introduced one bill under its own initiative that did not pass.

House Bill 644 ***(passed)*** repeals the requirement that the board of trustees for SRPS reduce a disability retirement benefit by any related workers' compensation benefits, if the disability retirement benefit is received for an occupational disease. ***House Bill 891*** ***(passed)*** requires that creditable service, not eligibility service, will be the service criterion used to determine whether a member of the Law Enforcement Officers' Pension System (LEOPS) is eligible to participate in the system's deferred retirement option program. ***House Bill 892*** ***(passed)*** requires that the administrative and operational expenses of the board of trustees and the State Retirement Agency be allocated to the various retirement and pension systems of SRPS on a pro rata basis according to the total membership of each system, rather than the current method based on the subsystems' assets.

In an attempt to reduce the complexity of the State's pension law, ***House Bill 1057 (passed)*** amended 10 provisions of the State Personnel and Pensions Article. Some of the provisions effective July 1, 2004, are:

- optional membership in EPS is eliminated for an individual who after June 30, 2004, becomes (1) an elected or appointed official; (2) an employee of the Governor's Office; (3) an employee of the Senate or House of Delegates; or (4) a member of a participating governmental unit;

- the requirement that appointed officials must work a minimum of 130 days in order to participate in EPS is repealed, requiring these individuals to enroll in EPS if they work at least 500 hours in a given fiscal year; and

- the procedures for the board of trustees to temporarily suspend a disability retirement allowance are clarified.

The following provisions are effective January 1, 2005:

- transfers from the teachers' or employees' retirement systems to the pension systems are discontinued;

- the retirement system tier in LEOPS is closed to new members in LEOPS;

- the options for members of TRS and ERS to make alternate retirement selections or voluntary contributions are discontinued; and

- the Local Fire and Police System is closed to new participating governmental units.

Failed Joint Committee Bills

House Bill 645* (*failed*)**, introduced at the request of the board of trustees, would have clarified that the five-year restriction on benefits paid on transferred service credit would have applied to service retirements only, thus exempting disability benefits from this requirement. ***House Bill 643 (failed), introduced by the joint committee, would have altered the current procedures that govern the disability hearings for SRPS.

Miscellaneous Pension Bills

Senate Bill 78*/*House Bill 148* (*both passed*)** remove the requirement that the surviving spouse of a retired judge or former member must be age 50 or older to begin receiving the 50 percent survivor benefit that is normally paid to a spouse at the death of the retired judge. ***House Bill 507 (passed) removes the requirement for Board of Public Works' approval to rehire individuals on a temporary basis who retired under the Workforce Reduction Act of 1996 and the University System of Maryland Workforce Flexibility Act of 1998. The bill also removes the 2

percent aggregate limit on the reemployment of these individuals. ***Senate Bill 504*/*House Bill 1255* (both passed)** authorize the City of Salisbury to transfer its firefighters and paramedics from EPS to LEOPS.

***Senate Bill 397* (passed)** provides that a former member of the teachers' pension system would be able to claim prior military service credit if the former member (1) was employed by the Maryland Department of Agriculture on or after July 1, 1985; (2) left State employment on or after June 30, 1997; (3) had earned at least 12 years of service credit prior to separation from State service; and (4) lived outside of the U.S. for a period of at least three years after leaving State service.

General Assembly

State Budget – Legislature's Authority to Add or Increase Items

Under Article III, Section 52 of the Maryland Constitution, the General Assembly is prohibited from increasing any budget item or adding any new appropriations item to the executive budget for Executive Branch agencies. The General Assembly can only increase or add an appropriations item relating to the Legislative or Judicial Branch. In addition, appropriations in the Executive Branch cannot be transferred by the General Assembly from one department, agency, or unit of the Executive Branch to another. Maryland is the only state in which the legislature cannot increase or transfer appropriations for the Executive Branch in the annual operating budget bill.

***Senate Bill 370*/*House Bill 1247* (both failed)** would have amended the Constitution, subject to ratification by the voters, to allow the General Assembly to increase and make additional appropriations for Executive Branch agencies. The total appropriation for the Executive Branch approved by the General Assembly would be limited to the total allowance for the Executive Branch submitted by the Governor. Therefore, an addition in one area would have necessitated a reduction in one or more other areas. The Governor would have been given line-item veto authority for items within the Executive Branch budget that were increased or added by the General Assembly. If the Governor exercised that veto authority, the presiding officers could convene an extraordinary session within 30 days after the Governor's action. The extraordinary session would be limited solely to the budget vetoes.

Legislative Review of Reductions

An appropriation in the Executive Branch budget may be reduced when the Governor finds and declares the reduction to be necessary to avoid a deficit in the fiscal year for which the appropriation is made. A reduction made under this authority is subject to approval of the Board of Public Works, composed of the Governor, State Comptroller, and State Treasurer, and an appropriation may not be reduced more than 25 percent. However, the authority does not apply to appropriations in the budgets of the Legislative and Judicial branches, appropriations made for the payment of principal and interest on State debt, mandated appropriations for public schools,

the salary of a public officer during the term of office, or appropriations for the salary of any nontemporary employee in the State Personnel Management System.

House Bill 622 (failed) would have reduced the amount by which the Governor could cut an appropriation from 25 to 10 percent. It also would have required the Board of Public Works to provide at least a 21-day public notice and an invitation to the Legislative Policy Committee and budget committees of the General Assembly to comment on the proposed reduction. The bill would have required the Department of Legislative Services to prepare an analysis of the practical and fiscal effects of the proposed reductions within 10 days after the issuance of the public notice.

Office of Legislative Audits

During the course of an audit conducted by the Office of Legislative Audits (OLA), an apparent criminal violation may be discovered. ***House Bill 124 (passed)*** requires the Legislative Auditor to report an alleged criminal violation discovered during the course of an audit, review, or investigation to the Attorney General and an appropriate State's Attorney. The bill grants to the Attorney General the powers and duties of a State's Attorney, including the use of grand juries, to investigate and prosecute the alleged violations. The Attorney General and State's Attorney are also required to keep the Legislative Auditor's report confidential unless a prosecution is initiated.

***Senate Bill 144*/*House Bill 121* (both failed)** would have made several changes in the process for audits by OLA. The bill would have altered the audit schedule for the Maryland Agricultural Land Preservation Fund from once each year to once every three years. Audits of the Physician Rehabilitation Committee and licensees of the State Racing Commission would have been changed from once every two years to once every three years. Audits of licensees of the State Racing Commission would have been conducted contemporaneously with OLA's audit of the State Racing Commission. In addition, the bill would have repealed provisions requiring OLA to review the audit reports of local boards of education and local library boards.

Annotated Code

Code Revision

Although no new articles of the Annotated Code were produced this year as part of the ongoing Code Revision project, ***Senate Bill 75 (Ch. 26)*** was enacted to transfer miscellaneous provisions of the unrevised black volumes of the Code into appropriate revised articles (maroon volumes). This housekeeping measure, known as the "stragglers bill," also updates statutory language of the transferred provisions in the standard code revision style, without making substantive changes to the law. The Act recodifies provisions relating to:

- water companies;
- location of local correctional facilities;

- fines and forfeitures;
- catastrophic health emergencies;
- quarantine of vessels;
- complaints against civil and military officers;
- the Community Service Trust Fund;
- the Maryland African American Museum Corporation;
- costs of archeological work in a State construction project; and
- effect of military service on applications for licenses to engage in business.

Additionally, several provisions of law initially proposed for recodification were found by the review committee to be obsolete, and they are repealed in Senate Bill 75. In each instance, the Office of the Attorney General verified the finding that the provisions were no longer utilized. These provisions, none of which has been modified for 100 years or more, deal with:

- private institutions and societies for the care and protection of minors;
- withholding of wages by railroad companies; and
- provisions relating to the fees of local officers.

Another bill, ***House Bill 1052 (Ch. 66)***, makes a variety of corrections to errors and omissions in the Public Safety Article, a revised article that was enacted in 2003 as part of the ongoing Code Revision process.

Annual Corrective and Curative Bills

Because the General Assembly delegates very little editorial control to the publishers of the Annotated Code with respect to making nonsubstantive and technical changes in the Code, the Department of Legislative Services has long had the statutory authority to prepare legislation to make these sorts of changes both in the statutory text and bill titles of prior years' enactments.

These corrective measures are the Annual Corrective Bill, ***Senate Bill 74 (Ch. 25),*** and the Annual Curative Bill, ***Senate Bill 73 (Ch. 24)***, respectively. Neither enactment contains any substantive change.

Study Commissions and Task Forces

Each year, the General Assembly creates temporary study commissions and task forces to conduct in-depth studies of important issues that are not possible to undertake during the annual sessions because of the pace of activities. The following bills relate to the creation of only those new study commissions and task forces that include members of the General Assembly in their membership.

Business Owner Compensation in Condemnation Proceedings

When a governmental entity acquires land in a condemnation proceeding, the owner is paid the fair market value of the property taken and, under certain circumstances, relocation expenses. If the owner is a business, the business's "goodwill" is not considered in determining fair market value. ***Senate Bill 275 (passed)*** creates a Task Force on Business Owner Compensation in Condemnation Proceedings. The task force will study (1) the concept of business goodwill, with a focus on small business goodwill, and the appropriateness of developing a method to determine its value to calculate compensation in condemnation proceedings; (2) the feasibility of requiring condemning agencies to study the effect of condemnation on businesses; (3) the appropriateness of establishing a fund to provide financial assistance for affected businesses; (4) the feasibility of shortening the condemnation process to lessen uncertainty for businesses; (5) the appropriateness of making a legislative proposal on business owner compensation in condemnation proceedings; and (6) the circumstances in which condemnation can be used.

Lending Equity

At the request of the Governor's Commission on Minority Business Enterprise Reform, the General Assembly passed ***Senate Bill 324*/*House Bill 415* (both passed)** to create a Task Force on Lending Equity within Financial Institutions Providing State Depository Services. The task force will identify data to demonstrate whether financial institutions provide adequate access to credit and capital for minority business enterprises. The task force will also advise the State Treasurer in developing additional criteria for selection of financial institutions as depositories, and develop a strategy to implement a lending equity policy.

Parking for Individuals with Disabilities

Concerns about the potential for abuse in the process for obtaining parking placards and special registration plates for individuals with disabilities resulted in the passage of ***Senate Bill 368 (passed)***, which creates a Task Force on Parking for Individuals with Disabilities. The task force will study current laws regarding parking privileges for individuals with disabilities and make recommendations, including draft legislation and regulations, on issues relating to parking placards, special registration plates, and parking spaces designated for those individuals.

Missing Vulnerable Adults

Maryland does not have a statewide plan to address missing vulnerable adults. It has been suggested that a process comparable to the "Amber Alert" system might be established to help locate disoriented adults, such as those suffering from Alzheimer's disease, who become missing. ***House Bill 1016 (passed)*** creates a Task Force on Missing Vulnerable Adults. The task force will (1) identify, access, and compile data about missing adults; (2) make recommendations on establishing better communication between counties and the State when vulnerable adults are missing; (3) make recommendations to establish a system to locate and identify missing vulnerable adults and identify unclaimed deceased adults who may be missing vulnerable adults; (4) make recommendations for law enforcement protocols to work with the broadcast media to locate missing adults; and (5) investigate integration with Amber Alert and the broadcast media in locating missing vulnerable adults. A report of findings and recommendations will be made by October 1, 2005.

Elderly and Retiree Migration Into and Out of Maryland

The percentage of Maryland citizens who are over the age of 60 is expected to grow from 15 percent in 2000 to 23 percent in 2030. This demographic is affected by Marylanders moving out-of-state when they retire, as well as the movement of other seniors into the State. While the most current data regarding migration of people aged 65 and over show a net migration loss of Maryland residents aged 65 and older, there is a net migration gain for those aged 74 and over. ***Senate Bill 122*/*House Bill 966* (both passed)** create a Task Force to Study the Dynamics of Elderly and Retiree Migration Into and Out of Maryland. The task force will review all aspects of Maryland's elderly and retiree migration and evaluate its impact on tax policies and governmental expenditures for benefits. The task force will oversee and help prepare a comprehensive study to be conducted by the Maryland Institute for Governmental Service, the Maryland Institute for Policy Analysis and Research (University of Maryland, Baltimore County), Loyola College, and the Regional Economic Studies Institute.

Unemployment Insurance Financing

***Senate Bill 262*/*House Bill 479* (both passed)** extend the termination date of the Unemployment Insurance Funding Task Force by one year from December 31, 2003, to December 31, 2004. The task force, created in 2003, has been reviewing Maryland's overall unemployment insurance system. Specifically, the task force is charged with examining the fairness of the existing charging and taxation system; the fairness of the existing eligibility and benefit provisions; the need for altering the current system of charging and taxation in order to maintain the Unemployment Insurance Trust Fund at a level sufficient to meet benefit needs; and the impact of changes in the national and State economies and their relationship to changes in the fund.

Access to Public Records

The State's Public Information Act (PIA) regulates the access by members of the public to State and local government documents. Since its enactment in 1984, PIA has been the subject

of numerous amendments and proposed changes. In recent years, most attention has been directed to either the procedural aspects of PIA or to proposed additional exceptions to the general rule of unfettered public access. The General Assembly has not undertaken a comprehensive study of PIA for many years, and some feel that an assessment of the law as a whole (rather than consideration of items in a piecemeal fashion) would serve the underlying policy goal of open government.

House Bill 951 (passed) establishes a Study Commission to Study the Public's Access to Public Records to undertake such a study. The study commission will examine the law relating to access to public records, assess whether provisions may be obsolete, consult with the Judiciary on its study on public access to court records and the study's results, and make recommendations and propose legislation by December 1, 2004.

Exemption of Law Enforcement Officers' Pensions from Taxation

Income from accidental or special disability retirements is currently exempt from federal and State income tax, but ordinary pensions of public employees in hazardous professions are not. ***House Bill 1125 (passed)*** establishes a Task Force on the Exemption of Law Enforcement Officers' Pensions from Taxation. The task force will study the issue of exempting members of the State Police Retirement System, the Law Enforcement Officers' Pension System, the Local Fire and Police System, any local pension or retirement system for law enforcement officers, and parole and probation officers who are members of the Employees' Retirement System or the Employees' Pension System from State income taxes on their pensions. The study will focus on (1) the benefit that members would derive from an exemption; (2) the impact on State revenues and the ongoing structural budget deficit; (3) the impact on the State Retirement and Pension System; and (4) the administrative and legal changes necessary to implement such an exemption.

Criminal Offender Monitoring by Global Positioning Systems

House Bill 1242 (passed) creates a Task Force to Study Criminal Offender Monitoring by Global Positioning Systems (GPS). The task force will study how the State can utilize GPS technology to monitor certain classifications of individuals who have committed criminal offenses. Aspects to be investigated include how law enforcement can benefit from linkage to such technology to solve crimes and streamline workload; the feasibility of implementing a global positioning technology program, including a cost-benefit analysis; and issues relating to admissibility of evidence.

GPS was developed by the U.S. Department of Defense to provide navigation capabilities for the military. Since its implementation, GPS has been used in numerous civilian applications as well. The 24-satellite GPS system was completed in 1994, giving positioning accuracy of less than 100 meters in a typical civilian GPS receiver. Florida has been using GPS technology to monitor criminal offenders for several years, with 700 offenders currently being tracked by GPS. Florida has reportedly cut its recidivism rate among those tracked from 50 to 3 percent since the inception of the program.

Youth Gang Activities

Gang activities are on the rise in Maryland. Law enforcement-based research shows that there are approximately 3,600 gang members in Maryland, Washington, D.C., and Virginia. In Prince George's County alone, the police department reports that the county has 30 to 40 gangs, containing 300 to 400 young people, which are often involved in violent crime such as murder, carjacking, robbery, and assault with weapons. ***House Bill 1285* (passed)** creates a Task Force to Study Youth Gang Activities that will receive testimony from community members, police officers, teachers, and other experts regarding their experience in fighting emerging gang activities. The task force will (1) collect data concerning trends in youth gang activity in Baltimore City, Montgomery County, and Prince George's County; (2) examine prosecution diversion programs and "wrap-around services" available to youth offenders and their families and rate the success of those programs; (3) examine effective practices in other states; (4) perform an assets survey of current community-based gang initiatives in Baltimore City, Montgomery County, and Prince George's County; and (5) make appropriate recommendations.

Status of Women and Information Technology

According to a study by Computer Research Associates, the number of women who are choosing Information Technology (IT) for undergraduate study is declining. This decline is also evident in the number of women in the IT workforce. ***Senate Bill 917*/*House Bill 1538* (both passed)** create a Task Force on the Status of Women and Information Technology to study this decline and its impact on the future of the IT workforce in Maryland. The task force will develop a statewide Women and Information Technology Plan, as well as strategies for implementing and promoting the plan.

Program Evaluation ("Sunset Review")

The Maryland Program Evaluation Act, enacted in 1978, is utilized by the General Assembly as a mechanism to monitor and evaluate approximately 70 regulatory boards, commissions, and other agencies of the Executive Branch of State government. The Department of Legislative Services (DLS) is required under this law to periodically undertake the evaluations according to a statutorily based schedule. These evaluations are more commonly known as "sunset review" because the agencies subject to review are usually also subject to termination ("sunset") unless legislation is enacted to reauthorize them. The methodology for conducting the evaluations by DLS involves an extensive evaluation process by DLS staff. The goals of the process have evolved to reflect the General Assembly's interest in identifying the strengths and weaknesses of the various regulatory entities that are subject to program evaluation and addressing through legislation appropriate issues relating to the structure, performance, and practices of the agencies.

Bills extending the sunset dates on regulatory entities under the Program Evaluation Act are:

- State Board of Dietetic Practice – ***Senate Bill 110*/*House Bill 353* (both passed)**.

- Respiratory Care Professional Standards Committee – ***Senate Bill 72*/*House Bill 108* (both passed)**.

For an additional discussion of these bills, see under the subpart "Health Occupations" under Part J of this *90 Day Report*.

Part D
Local Government

Local Government – Generally

Inspection and Testing of Wells – Fees

The Budget Reconciliation and Financing Act of 2004, ***Senate Bill 508 (passed)***, doubles from $80 to $160 the maximum fee that may be charged by local health departments relating to the inspection and testing of wells.

Food Establishments – Licensing and Fees

The Budget Reconciliation and Financing Act of 2004 also doubles the maximum inspection fee for a seasonal food establishment from $35 to $70 and doubles the maximum inspection fee from $150 to $300 for other food establishments. However, local health departments in Baltimore City, Montgomery County, and Prince George's County are not subject to statutory caps for the food establishment licensing fees.

Regulation of Rental Residential Property – Statements by Property Owners

House Bill 1245 (passed) makes several changes to the laws regarding compliance with lead poisoning prevention requirements. One of the provisions concerns the regulation in any manner by a county or municipal corporation of residential property that is rented or leased. Specifically, House Bill 1245 requires the owner of the residential property to state in writing to a local government, before the local government licenses, registers, or certifies residential property to be rented or leased, that the property is not an affected property or is registered and inspected as required under the Environment Article. A more detailed discussion of this bill can be found under Part F – Courts and Civil Proceedings of this *90 Day Report.*

Coal Tax – Annual Meeting and Notice

House Bill 418 (passed) eliminates the requirement that the governing body of a county that collects coal taxes must meet annually with officials of municipal corporations and other

counties that receive coal tax revenues. Instead, the governing body of a county is required to notify these counties and municipalities annually that they may request a meeting with the governing body.

Public Local Laws

Each session, the General Assembly considers a number of bills each affecting only one county. The following discussion is intended to provide a sampling of bills of that nature that passed.

Allegany County

Paper Gaming – Licensing and Taxing

Paper gaming is permitted in Allegany County. A for-profit business in Allegany County that holds a Class A, C, or D alcoholic beverages license for on-premises consumption may hold paper gaming on the licensed premises after obtaining, among other things, a stamp that is to be displayed with the alcoholic beverages license. Licensed paper gaming device wholesalers are required to periodically provide to the county commissioners reports that list all customers to whom they sell paper gaming products.

House Bill 1011 ***(passed)*** prohibits a paper gaming licensee from having a paper gaming device on its premises that does not display a gaming sticker. The bill also prohibits the county commissioners from imposing a paper gaming tax on these entities that buy paper gaming devices from licensed wholesale vendors. House Bill 1011 also alters the reporting timeframe, from quarterly to monthly, by which licensed wholesale vendors of paper gaming devices must provide a list to the county commissioners of all customers to whom they sell paper gaming products. The bill repeals the restriction that a for-profit business that holds a Class A, C, or D retail alcoholic beverages license in Allegany County must have on-premises consumption privileges before engaging in paper gaming and repeals the requirement that such a licensee who has a paper gaming license must also obtain a stamp from the county commissioners to be displayed along with the alcoholic beverages license.

Anne Arundel County

Highways – Solicitation of Money

House Bill 187 ***(passed)*** authorizes the Anne Arundel County Council to enact a licensing program for individuals, charitable groups, and fire companies that wish to solicit money on county roads, median dividers, or intersections.

Right to Farm

Senate Bill 202/House Bill 825 ***(both passed)*** authorize the Anne Arundel County Council to adopt an ordinance, resolution, or regulation, or take any other action considered

necessary, to protect a person's right to farm or engage in agricultural or forestry operations. The county council must first hold a public hearing and provide reasonable notice of the hearing. This authority has been granted to several other counties, including St. Mary's County (Chapter 35 of 2002), Garrett County (Chapter 403 of 2001), Washington County (Chapter 442 of 1999), Somerset County (Chapter 739 of 1998), Dorchester County (Chapter 677 of 1997), Charles County (Chapter 64 of 1996), and Carroll County (Chapter 58 of 1994).

Baltimore City

Extinguishment of Ground Rents

***Senate Bill 748*/*House Bill 1087* (both passed)** authorize the Mayor and City Council of Baltimore to extinguish an irredeemable ground rent by condemning the property subject to the lease and making application to the State Department of Assessments and Taxation. Generally, an irredeemable ground rent is a lease that was created before 1884 that cannot be redeemed because the owner of the ground rent, or landlord, cannot be located or identified.

Tax Increment Financing

***House Bill 1203* (passed)** authorizes the Mayor and City Council of Baltimore to use proceeds from tax increment financing for the construction or rehabilitation of buildings that are abandoned property, distressed property, or will provide units of affordable housing.

Closing or Gating of Alleys

***House Bill 1533* (passed)** authorizes the Mayor and City Council of Baltimore to close or gate an alley no longer needed for through pedestrian or vehicular traffic. The bill also authorizes the mayor and city council to lease a closed or gated alley to an entity that consists of property owners whose lots abut the alley.

Baltimore County

Code of Public Local Laws – Legalization

***Senate Bill 134*/*House Bill 230* (both passed)** legalize the 2003 edition of the Baltimore County Code and any supplement to the 2003 edition to the extent to which the code or supplement contains laws adopted by the General Assembly.

Calvert County

Pretrial Release Program

***House Bill 729* (passed)** authorizes the Sheriff of Calvert County to establish a pretrial release program that offers alternatives to pretrial detention and to adopt regulations to administer the program. The bill authorizes a court to order an individual to participate in the county pretrial release program if the individual (1) appears before the court after being charged

and detained on bond and (2) meets the program's eligibility requirements. The court may issue such an order at the imposition of bond, on bond review, or at any other time during the individual's pretrial detention.

An individual is eligible for the program if the individual (1) is recommended to the court for placement in the program by the program staff; (2) has no other charges for a felony or a violation of a crime of violence pending in any jurisdiction; and (3) is not in detention for or been previously convicted of a crime of violence, a felony, or the crime of escape.

Condominiums – Conditions on the Right to Expand

House Bill 1228 (passed) extends the amount of time, from 15 to 18 years, in Calvert County during which a right is deemed reserved in the developer in an existing or new declaration for a condominium to add to the condominium any successive section described in the declaration and in the condominium plat. The bill also extends the termination date for this provision from September 30, 2005, to September 30, 2008.

Caroline County

There were no public local laws dealing solely with Caroline County passed in the 2004 session.

Carroll County

Abatement of Zoning and Construction Code Violations

House Bill 1387 (passed) authorizes the Carroll County Commissioners to assess against property abated for zoning violations the reasonable cost of abating the zoning violations. The bill also authorizes the county commissioners to restrain, correct, or abate violations of specified county construction codes and to assess against the property the reasonable cost of abating those violations. For each type of abatement, the assessment is to be added to the property tax bill of the property and is to be collected with annual property taxes and is subject to the same penalties and interest for nonpayment as provided by law for the nonpayment of county taxes. The assessment constitutes a lien against the property until paid.

House Bill 1387 also provides for a mechanism for persons to have hearings related to the abatement of specified zoning and construction code violations. A property owner aggrieved by the assessment may petition the Carroll County Commissioners for relief. Within 30 days after receipt of the petition, the county commissioners are required to hold a hearing on the propriety and reasonableness of the assessment, and the petitioner has the burden of showing good cause as to why the assessment should not be made.

Weed Nuisances

House Bill 1186 (Ch. 68) provides that, in Carroll County, the growth of weeds may not constitute a nuisance or menace and that the county commissioners may remove the weeds if the

land on which the weeds are growing is being used for a bona fide agricultural purpose or if the land is owned by the county and is specifically designated as a natural regeneration project area.

County Roads – Funding and Construction

Senate Bill 786 (Ch. 34) authorizes the Carroll County Commissioners, after notice and a public hearing, to adopt an ordinance designating a county road or segment of a road for construction by the county, with a portion of the cost of construction to be paid by the property owners over which the road is designated.

Volunteer Firemen's Association – Name Change

House Bill 1184 (Ch. 67) renames the Carroll County Volunteer Firemen's Association to be the Carroll County Volunteer Emergency Services Association.

Cecil County

Palm Readers, Fortune-tellers, and Soothsayers – Licensing

House Bill 469 (passed) repeals the requirement that palm readers, fortune-tellers, and soothsayers be licensed by the Board of County Commissioners of Cecil County in order to conduct business in the county.

County Expenses – Records and Statements of Accounts

Senate Bill 22 (passed) repeals the requirement that the Cecil County Board of County Commissioners publish all records of county expenses in its meeting minutes. Instead, the bill requires records of county expenses to be on file in the Treasurer's Office. The bill also increases from $200 to $500 the minimum expense payment amount that must be included on a monthly statement that is published in a newspaper in Cecil County.

Bridge or Road Construction or Repair Contracts

Senate Bill 160 (passed) raises the limit from $7,500 to $10,000 under which the Cecil County Commissioners are exempt from requirements to competitively bid procurements of bridge or road construction or repair contracts and the purchase or lease of road or construction equipment or machinery. The bill also removes a limitation on any one contractor being awarded a total of $20,000 worth of such contracts in a two-month period.

Charles County

Bel Alton High School Loan of 1996

Chapter 130 of 1996 authorized up to $250,000 in matching funds to the Bel Alton High School Alumni Restoration Committee, as grantee, for the repair, renovation, rehabilitation, and capital equipping of the Bel Alton High School in Charles County, to be used as a multiservice

center. Chapter 153 of 2003 established a seven-year limitation on the authority to spend an appropriation for a capital expenditure and a seven-year limitation on the authorization for State debt. ***Senate Bill 109 (Ch. 27)*** is an emergency Act that provides that the loan proceeds for the Bel Alton High School Loan of 1996 be expended or encumbered by the Board of Public Works for the project's purposes no later than June 1, 2006.

Dorchester County

Authorization to Harvest Seafood and Engage in the Seafood Industry

Senate Bill 671 (passed) authorizes the County Council of Dorchester County to adopt an ordinance, resolution, or regulation or take any other action that the council considers necessary to authorize a person to engage in specified activities related to the seafood industry and to harvest seafood. Before adopting such an ordinance, resolution, or regulation, the county council must first hold a public hearing and obtain the written consent of the Secretary of the Department of Natural Resources. In the event of conflict, federal or State law or written program guidance issued by a federal or State agency shall preempt any ordinance, resolution, or regulation adopted by the county council.

Sheriff – Salary

Senate Bill 672/House Bill 1444 (both passed) increase the salary of the Dorchester County Sheriff from $45,000 to $62,500 for calendar 2006. A $1,000 annual salary increase is provided until the sheriff's salary is set at $65,500 for calendar 2009 and each year thereafter.

Frederick County

Bond Rating Enhancement Reserve and Appropriation

Senate Bill 92/House Bill 523 (both passed) require the Frederick County Commissioners to establish and maintain a bond rating enhancement reserve and establish criteria for maintaining the reserve. The bills also authorize the Frederick County Commissioners to increase appropriations and expend the increased appropriations. Additionally, the bills require the county commissioners to (1) establish, by ordinance, criteria for increasing appropriations and expending the increased appropriations and (2) require that the increase in appropriations be derived from the county's unappropriated, undesignated general fund balance or bond rating enhancement reserve.

Loans to Volunteer Fire or Rescue Companies

Senate Bill 445/House Bill 259 (both passed) expand the authority of the Frederick County Commissioners to provide loans to approved volunteer fire and rescue companies by including loans for land or buildings to be used by the companies.

Nursing or Convalescent Homes

***Senate Bill 608*/*House Bill 282* (both passed)** authorize the Frederick County Commissioners to establish, maintain, and operate a nursing or convalescent home or homes and any other facilities and services for the proper care and treatment of the aged, convalescent, and chronically ill.

Participation in the Northeast Maryland Waste Disposal Authority

The Northeast Maryland Waste Disposal Authority was created in 1980 as a public instrumentality of the State. The authority's mission is to plan and develop waste management systems that meet the highest environmental standards while providing the most efficient and reliable waste disposal services possible. ***House Bill 246* (passed)** authorizes Frederick County to become a participant in the Northeast Maryland Waste Disposal Authority. To do so, the county must file certified copies of a resolution of participation with the Secretary of State and the Department of Legislative Services.

Garrett County

Code of Public Local Laws – Repeal of Obsolete Provisions

***House Bill 620* (Ch. 56)** repeals obsolete provisions of the Public Local Laws of Garrett County pertaining to appliance installers, billiard rooms and bowling alleys, crimes and punishments, firearms, manufacturers and miners, teachers' pensions, the poor or insane, the sheriff, thistles, and wages. The obsolete provisions of the county's Public Local Laws have been preempted by State law, superseded by other local laws and ordinances, or are out-of-date with current circumstances.

Harford County

Development Impact Fees – School

***House Bill 965* (passed)** authorizes the Harford County Council, by ordinance, to impose a maximum $10,000 development impact fee on new construction or development. The revenues can only be used for school site acquisition, school construction, school renovation, school debt reduction, or school capital expenses. Municipalities within the county must assist in the collection of the impact fee by either collecting and remitting the fee to the county, or requiring the fee to be paid directly to the county. Upon imposing a development impact fee, the county council must submit an annual report to the Harford County Delegation by May 31 of each year on the revenues generated by the impact fees and how the revenues were spent.

Howard County

Public School Facilities Surcharge

***House Bill 1445* (passed)** requires the Howard County Council, by ordinance, to impose a school facilities surcharge on residential new construction. The surcharge equals $1.00 per square foot of occupiable area in fiscal 2005. The surcharge does not apply to new residential construction sold for less than $200,000. The surcharge and exemption in future years are adjusted for inflation. Payment of the school facilities surcharge does not eliminate any authority to apply any test concerning the adequacy of school facilities under the county's adequate public school facility ordinance. The Howard County Executive must prepare an annual report on the school facilities surcharge by August 31 of each year that includes a detailed description of how fees were expended and the amount of fees collected. The report must be submitted to the county council and the county legislative delegations.

Kent County

Echo Hill Outdoor School Improvements Loan of 2001 – Revision

Chapter 243 of 2001 authorized up to $300,000 in matching funds to the Board of Directors of Echo Hill Outdoor School, Inc., as grantee, for the construction of an addition to Harris Hall, construction and capital equipping of an agricultural demonstration area including a barn, renovation of staff housing facilities, and renovation of nature preserve facilities.

***House Bill 1191* (passed)** alters the purpose of the project for the Kent County – Echo Hill Outdoor School Improvements Loan of 2001 to include the capital equipping of an addition to Harris Hall. The change in the purpose of the project would allow the grantee to use project funds to pay for office equipment and kitchen fixtures in Harris Hall.

Montgomery County

Fire and Explosive Investigators

***House Bill 784* (passed)** provides that a Montgomery County fire and explosive investigator is a law enforcement official under provisions authorizing the carrying of a handgun by law enforcement personnel. The bill provides that a Montgomery County fire and explosive investigator has the same authority as the State Fire Marshal and assistants, including the authority to make a warrantless arrest, while operating in Montgomery County and outside Montgomery County under certain circumstances, and allows the Montgomery County Fire Administrator to limit, in writing, certain authority granted to an investigator. The bill removes a Montgomery County fire and explosive investigator from current provisions granting fire and explosive investigators the same warrantless arrest power available to Prince George's County fire investigators for the commission of certain offenses, and excludes a Montgomery County fire and explosive investigator from the definition of "law enforcement officer" under provisions relating to the Law Enforcement Officers' Bill of Rights. House Bill 784 also includes a

Montgomery County fire and explosive investigator in the definition of "police officer" under provisions relating to the Maryland Police Training Commission and requires the Police Training Commission to certify Montgomery County fire and explosive investigators who meet the requirements of these provisions as police officers.

Prince George's County

Recordation – Assessment Books

***House Bill 569* (passed)** adds Prince George's County to the list of counties that may utilize a shortened recordation process. The Clerk of the Circuit Court for Prince George's County may record a deed or other document effecting a change in property ownership without the document first being submitted to the local office of the State Department of Assessments and Taxation (SDAT). The bill also authorizes the Clerk of the Circuit Court for Prince George's County, the Administrative Office of the Courts, SDAT, and the Prince George's County tax collector to formulate the procedure governing recordation under the bill to simplify the procedures for recordation while ensuring the integrity of the land and assessment records.

County Employees – Criminal History Records Checks

***House Bill 678* (passed)** authorizes the Chief Administrative Officer of Prince George's County to request a State or national criminal history records check from the Criminal Justice Information System Central Repository for prospective employees and requires the Chief Administrative Officer to pay the fees for such requests to the Department of Public Safety and Correctional Services. The bill also requires the county to adopt guidelines to carry out provisions of the bill.

Telecommunication Tax

***House Bill 589* (passed)** requires 10 percent of the annual Prince George's County telecommunications sales tax revenues to be spent on renovation projects or debt service on bonds for school renovations.

Queen Anne's County

Wine Tasting Licenses

***Senate Bill 523* (passed)** authorizes the Queen Anne's County Board of License Commissioners to issue a wine tasting (WT) license to holders of Class A beer and wine or Class A beer, wine, and liquor licenses. The WT license authorizes, for tasting and sampling only, the on-premises consumption of wine that does not exceed 22 percent alcohol by volume. The WT licensee is prohibited from serving more than two ounces from each brand to any one person and more than four ounces to any one person each day. The bill authorizes the board to adopt regulations for wine tasting and sampling. The annual fee is $100.

St. Mary's County

Sheriff – Home Detention and Work Release Programs

***House Bill 997* (passed)** authorizes the Sheriff of St. Mary's County to establish programs for home detention and work release and to adopt implementary regulations for each program. If a court imposed condition on an inmate is inconsistent with a regulation adopted under these provisions, the court imposed condition controls as to that inmate. A court is authorized to allow an inmate's participation in either program, as specified. The bill specifies the conditions under which an inmate may leave the detention center for participation in a program.

The sheriff and the Board of County Commissioners of St. Mary's County are authorized to determine and collect a reasonable monetary amount or program participation fee to pay for an inmate's food, lodging, and clothing costs incurred in the work release program. An inmate who violates a trust or condition that a court or the sheriff has established for program participation is subject to removal from the program and cancellation of any earned diminution credits.

St. Mary's County Metropolitan Commission – Nonvoting Member

The St. Mary's County Metropolitan Commission was created in 1957. The commission is charged with overseeing the St. Mary's County sanitary districts and is exempt from the State's sanitary district provisions. ***House Bill 1005* (passed)** adds one nonvoting member to the commission. The bill specifies the nonvoting member to be the commanding officer of the Patuxent River Naval Air Station or a designee who serves at the pleasure of the commanding officer. The nonvoting member of the commission must represent the interests of the U.S. Navy concerning the commission's water and sewer services at the base, must serve until the succeeding commanding officer is appointed, and is not entitled to compensation.

Impact Fees – Exceptions

***House Bill 1304* (passed)** authorizes the St. Mary's County Commissioners to waive the county's building impact fee for up to 30 newly constructed living units and defer or provide for the amortization of the building impact fee for up to 50 newly constructed living units. This provision only applies to units that are deemed affordable for individuals whose family income in the previous fiscal year was less than 50 percent of the county median family income and that are within a certain square footage as determined by the county commissioners. The amount of the building impact fees waived, deferred, or amortized cannot exceed $350,000 in any fiscal year. The county's operating budget must include the amount of impact fees waived, deferred, or amortized. In addition, the bill expands the uses of the building impact fee to include solid waste and park facilities. The terminates June 30, 2006.

Somerset County

County Commissioners – General Bonding Authority

***Senate Bill 259*/*House Bill 360* (both passed)** authorize the Somerset County Commissioners to borrow a maximum of $10 million each fiscal year beginning with fiscal 2005. The bills provide that the funds must be borrowed against the full faith and credit of the county and that the funds must be used for the construction of roads and bridges; the construction and capital equipping of public buildings, public schools, and solid waste facilities; and the purchase of real property for public purposes. The board is authorized to borrow these funds from the issuance and sale of general obligation bonds or by loans from private lending institutions. The board is required to first hold a public hearing on the proposed use of the funds, provide adequate and advance public notice of the hearing, and pass a borrowing resolution by at least a four-fifths vote.

Volunteer Fire Departments – Appropriations

***House Bill 424* (passed)** increases the appropriations made by the Somerset County Commissioners to volunteer fire companies operating in the county. The bill also provides that the required appropriation for fiscal 2009 must remain in effect for subsequent years unless altered by future enactment.

County Commissioners – Expense Reimbursement

***House Bill 361* (passed)** increases from $1,500 to $2,500 the total reimbursement amount that each member of the Somerset County Board of County Commissioners may receive each year for food and mileage expenses incurred during official duties.

Sale of Portion of Harbaugh Road in Lawson Election District

***House Bill 363* (passed)** authorizes the Somerset County Roads Board to sell all of the county's right, title, and interest in the portion of Harbaugh Road located in the Lawson Election District. The bill states that this authority may be exercised without public sale and when the property is no longer needed for public use.

Talbot County

Board of Education – Selection of Members – Straw Ballot

The Talbot County Board of Education consists of seven voting members appointed by the Governor and one nonvoting student member. Voting members serve five-year terms, and the student member serves a one-year term. With the approval of the Governor, the State Superintendent of Schools may remove a board member for immorality, misconduct in office, incompetency, willful neglect of duty, or failure to attend board meetings. If one of the seven voting members vacates the position, the Governor appoints a replacement. ***House Bill 1357* (passed)** submits to referendum the question of whether the Talbot County Board of Education

should remain an appointed board or change to board elected by the voters of Talbot County. The referendum must be on the ballot in Talbot County for the November 2004 general election, and the vote is advisory only.

Washington County

Washington County Water and Sewer Infrastructure Commission

House Bill 1211 (passed) establishes a two-year, 24-member Washington County Water and Sewer Infrastructure Commission to, among other things (1) study the existing capacity and deficiencies of water and sewer services in Washington County; (2) analyze future growth projections; and (3) consider an efficiency and cost-savings analysis of creating a regional authority that would consolidate the City of Hagerstown and the county water and sewer departments. The commission must develop a long-term plan. An interim report is due to the Washington County Delegation, the Washington County Board of County Commissioners, and the Hagerstown City Council by January 1, 2005; a final report is due by June 30, 2006.

Adequate Public Facilities

House Bill 1210 (passed) authorizes the Washington County Commissioners to provide, by ordinance, for the provision and financing of adequate public facilities concurrently with the need for those facilities. "Public facilities" is defined to mean schools, roads, water, wastewater, stormwater management facilities, and other infrastructure for public purposes. The bill details the various types of authority that may be provided to the county commissioners under the ordinance. The bill does not apply to land within a municipal corporation in the county or to developments approved prior to July 1, 2003.

Deputy State's Attorneys – Number

House Bill 541 (passed) increases the number of deputy State's Attorneys that the Washington County State's Attorney shall appoint from one to not more than two.

Wicomico County

Alcoholic Beverages – Licenses and Open Containers

Senate Bill 681/House Bill 778 (both passed) make several changes to the laws relating to alcoholic beverages in Wicomico County. Specifically, the bills authorize the Wicomico County Board of License Commissioners to create and issue a catering license and to create and issue a special beer festival license. The bills also provide that specified licenses may not be used as writs of execution or distraints for rent and prohibits open containers in the county.

Worcester County

Liquor Control Board – Salaries

***House Bill 945* (passed)** increases the annual salary of each member of the Worcester County Liquor Control Board from not less than $2,500 to not less than $3,000 beginning with the next term of office. The bill also expands the work-related duties eligible for mileage reimbursement to include official duties performed as a member of the board.

Municipal Governments

Annexations – Limitations on Uses of Land and Densities of Development

***Senate Bill 404*/*House Bill 912* (both passed)** were introduced as remedial legislation in response to a decision by the Maryland Court of Appeals. In *Mayor and Council of Rockville, et al. v. Rylyns Enterprises, Inc.*, 372 Md. 514 (2002), the court held that a limitation within an annexation agreement negotiated between a property owner and a municipal corporation that restricted the use of a newly annexed property was considered unlawful conditional or contract zoning. These bills clarify that, in an annexation agreement, a municipality may impose limitations on the use or density of development of the land to a more narrow application than otherwise allowed in the zoning district where the land is located.

Appeals of Decisions of Port Wardens

Generally, port wardens of a municipality are a five-member panel of municipal citizens appointed by the mayor who regulates the placement, erection, and construction of structures and other barriers within or on the waters of the municipal corporation. An aggrieved party may take an appeal of a decision of a board of port wardens initially to the legislative body of the municipality. In the alternative, ***Senate Bill 493*/*House Bill 1133* (both passed)** authorize an aggrieved party to appeal a decision of the board of port wardens directly to the circuit court for the appropriate county, if authorized to do so by an ordinance passed by the municipal corporation. Currently, the City of Annapolis is the only municipal corporation with a board of port wardens.

Junkyards and Related Facilities

***Senate Bill 610*/*House Bill 890* (both passed)** authorize a municipal corporation to adopt an ordinance for the licensing, control, location, or maintenance of junkyards and related facilities. A person who violates an ordinance regarding junkyards and related facilities is guilty of a misdemeanor and upon conviction is subject to a fine of at least $25 for each day there is a violation. These bills also authorize a municipal corporation to declare a violation of an ordinance regulating junkyards and related facilities to be a municipal infraction.

The provisions of an ordinance adopted under this authority may not be construed to apply to any business licensed on or before June 30, 2004, as an automotive dismantler and recycler or a scrap processor under the Transportation Article of the Annotated Code of Maryland.

All counties have similar authority to adopt an ordinance for the licensing, control, location, or maintenance of junkyards.

Urban Renewal Authority for Slum Clearance

The Town of Sudlersville (Queen Anne's County) in ***House Bill 1135 (passed)*** sought and received from the General Assembly urban renewal authority for slum clearance under the provisions of Article III, § 61 of the Constitution of Maryland. This bill adds an appendix to the charter of the Town of Sudlersville addressing the town's powers relating to urban renewal projects, the creation of an urban renewal agency, approval of an urban renewal plan, disposal and condemnation of property in an urban renewal area, and the issuance of general obligation and revenue bonds.

With the passage of this bill, 63 out of 156 municipal corporations have urban renewal powers under the Constitution.

Part E
Crimes, Corrections, and Public Safety

Criminal Law

Identity Theft

Identity theft is commonly regarded as one of the fastest growing crimes in the United States. In September 2003, the Federal Trade Commission (FTC) released an Identity Theft Survey Report, the results of which indicate that 9.9 million Americans may have been victimized by some form of identity theft in the past year. FTC received 516,740 fraud and identity theft consumer complaints in calendar 2003. It is not unusual for a defendant who has stolen a victim's identity to use the stolen identity in numerous jurisdictions throughout the State. ***Senate Bill 257***/***House Bill 457*** ***(both passed)*** provide that a prosecution for the crime of identity fraud may be commenced in any county in which an element of the crime occurred or where the victim resides. The bills also authorize the Attorney General to investigate and prosecute an identity fraud violation.

A number of other bills dealing with the problem of identity theft were introduced but received unfavorable consideration in committee. ***Senate Bill 325***/***House Bill 191*** ***(both failed)*** would have established a task force to study identity theft. ***Senate Bill 542***/***House Bill 190*** ***(both failed)*** would have allowed a victim of identity theft to seek expungement of any police, court, or other record resulting from the arrest of another person unlawfully using the victim's name or identity and would have authorized a court to order a person found guilty of identity theft to make restitution to the victim for the costs of an expungement proceeding. ***House Bill 255*** ***(failed)*** would have established an "identity fraud passport" to assist victims of identity theft.

Other Theft and Fraud

Motor Vehicles

Senate Bill 203/***House Bill 578*** ***(both passed)*** establish that it is not a defense to the crimes of carjacking or armed carjacking that a defendant did not intend to permanently deprive the possessor of the motor vehicle of the motor vehicle.

Petty Theft

***Senate Bill 513*/*House Bill 926* (both passed)** create a new petty theft sentencing category for existing theft, bad checks, and credit card offenses where the value of the goods, services, and other property involved in the offense is less than $100. A violator is guilty of a misdemeanor and subject to maximum penalties of 90 days' imprisonment and/or a $500 fine. This is one of several initiatives that the Maryland Judicial Conference requested be introduced in the 2004 session in an effort to reduce the number of jury trials held in circuit courts. Other bills include ***Senate Bill 517*/*House Bill 745* (both failed),** which would have divided misdemeanors into Class A and Class B misdemeanors; ***Senate Bill 516*/*House Bill 615* (both failed),** which would have provided that, in a criminal appeal that is tried de novo, there is no right to a jury trial unless the offense charged is subject to a penalty of imprisonment of more than 90 days, unless there is a constitutional right to a jury trial for the offense; and ***Senate Bill 701*/*House Bill 925* (both failed)**, which would have created a misdemeanor of third degree assault.

Government Identification Documents

***Senate Bill 571* (passed)** prohibits the possession or display with fraudulent intent of a fictitious or fraudulently altered government identification document. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for six months and/or a fine of $500.

Counterfeiting and Possession of Counterfeit Check, Letter of Credit, or Negotiable Instrument

***Senate Bill 837* (passed)** creates a new misdemeanor and expands the current felony relating to counterfeiting checks and other private instruments and documents.

Under the State's prohibition against counterfeiting private instruments and documents (a felony), this bill adds a check, a letter of credit, a negotiable instrument, and the endorsement or assignment of a check to the list of items a person may not counterfeit. The bill also prohibits a person from knowingly, willfully, and with fraudulent intent possessing a counterfeit of any of the enumerated items in the counterfeiting prohibition. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a fine of $1,000.

A prosecution for counterfeiting or possession of counterfeit documents may be commenced in any county in which an element of the crime occurred, the victim resided, or the victim conducts business (if the victim is not an individual).

Criminal Law Revisions

The Committee to Revise Article 27 is charged with making both substantive and stylistic changes to the State's criminal law. The committee is composed of legislators, judges, lawyers, and a victims' rights representative. As in past sessions, a number of laws were revised at the recommendation of the committee.

Resisting Arrest

The elements of common law prohibitions in Maryland are derived from court decisions. A number of common law offenses currently have no statutory penalty. The committee recommended the codification of the common law offense of resisting arrest. ***Senate Bill 355*/*House Bill 316* (both passed)** prohibit a person from resisting a lawful arrest or interfering with an individual who the person has reason to know is a police officer who is making or attempting to make a lawful arrest or detention of another person. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a fine of $5,000.

Escape

The forms of home detention listed in certain provisions of current law do not cover home detention programs administered by counties or other forms of custodial confinement. ***House Bill 575* (passed)** modifies the elements for first and second degree escape by transferring current escape offenses involving juvenile facilities, home detention orders, temporary releases from confinement, custodial confinement, and juvenile community detention orders from first degree escape to second degree escape. The bill also prohibits a person from knowingly violating restrictions on movement imposed under certain terms of release, failing to return to a place of confinement under certain circumstances, and tampering with certain monitoring devices.

Extortion

The Committee to Revise Article 27 recommended the revision of the State's extortion laws to clarify that threats to do "mental" and "economic" injury are also prohibited. ***Senate Bill 353*/*House Bill 634* (both passed)** revise and clarify the extortion laws of the State to include such threats. The bills also create uniform maximum penalties for all three types of extortion (false accusation, verbal threat, and written threat) – 10 years imprisonment and/or a $10,000 fine.

Contradictory Statements – Prosecution and Charging

The committee recommended that the current charging document for perjury by contradictory statements be revised. Current law requires only that, for charging and for conviction, there be two contradictory statements made under oath or affirmation, without specifying which one is false. It was suggested that this may be insufficient. ***Senate Bill 204*/*House Bill 635* (both passed)** make the following clarifications to the prohibition against perjury:

- a false statement must address a material fact; and

- the false statement must appear in an affidavit required by any State, federal, or local law or issued by any State, federal, or local governmental official with legal authority to require that an affidavit be issued.

The bills also provide that if two contradictory statements are made in different counties, the violation may be prosecuted in either county. In addition, the bills clarify the sample language for indictments, informations, or other charging documents for perjury and add new language for charging documents relating to contradictory statements.

The Internet

Spam Deterrence Act

***Senate Bill 604/House Bill 1320* (both passed)** prohibit a person from knowingly (1) using a protected computer of another to relay or retransmit multiple commercial email messages with the intent to deceive or mislead recipients or an email service provider as to the message's origin; (2) materially falsifying header information in multiple commercial email messages and intentionally initiating the transmission of the messages; (3) registering, using false information, for 15 or more email accounts or online user accounts or two or more domain names and intentionally initiating the transmission of multiple commercial email messages from one or any combination of accounts or domain names; (4) falsely representing the right to use five or more Internet protocol addresses and intentionally initiating the transmission of multiple commercial email messages from the Internet protocol addresses; (5) accessing a protected computer without authorization and intentionally initiating the transmission of multiple email advertisements from or through it; or (6) violating these provisions by providing or selecting email addresses by certain automated means (commonly known as harvesting). The bills also prohibit a person from conspiring to commit such acts.

Violation of these provisions is generally a misdemeanor with maximum penalties ranging from one year's imprisonment and/or a $5,000 fine to five years' imprisonment and/or a $10,000 fine. Violation of provisions other than the harvesting provisions in furtherance of a felony or by a person who has previously been convicted of an offense involving the transmission of multiple commercial email messages is a felony subject to maximum penalties of 10 years imprisonment and/or a $25,000 fine. The Attorney General may enforce criminal provisions of the bill in a circuit court or the District Court.

In addition, the court may direct a person convicted of violating the bills to forfeit to the State (1) any money and other income received as a result of the person's violation and (2) all computer equipment, software, and other personal property used in connection with a violation.

The Attorney General may institute a civil action against a violator to recover for the State a civil penalty of up to (1) $25,000 per day of the violation or (2) from $2 to $8 per commercial email message initiated in violation of the bills. The Attorney General may also seek an injunction to prohibit further violation of the bills. A civil action must be brought within two years after the commission of the violation.

Under the bills, "multiple" means (1) more than 10 commercial email messages during a 24-hour period; (2) more than 100 commercial email messages during a 30-day period; or (3) more than 1,000 commercial email messages during a one-year period. A "protected computer" means a computer used in intrastate or interstate communication.

Internet Child Pornography

***Senate Bill 720/House Bill 1208* (both passed)** require an investigative or law enforcement officer who receives information that an item of alleged child pornography resides on a server or other storage device controlled or owned by an interactive computer Internet service provider (ISP) to contact the ISP and request the voluntary compliance in removing the item within five business days, if practicable. If ISP does not voluntarily remove the item, the officer must apply for a court order.

ISP is authorized to petition the court for relief for cause from the order on grounds relating to the cost or technical feasibility of removal or the inability of ISP to comply without also removing data, images, or information not subject to these provisions. ISP must report the location of an item of child pornography to the State Police, under certain circumstances including that the server or other storage device is located in Maryland.

ISP who knowingly and willfully fails to report the required information, or who willfully does not remove the item in a timely fashion, is guilty of a misdemeanor and subject to a maximum fine of $5,000 for a first offense, $20,000 for a second violation, and $30,000 for each subsequent violation. A violator may be prosecuted, indicted, tried, and convicted in any county in or through which ISP provides Internet access, any communication from ISP traveled, or the communication from ISP originated or was terminated.

These provisions do not impose a duty on ISP to actively monitor its service or to affirmatively seek evidence of child pornography on its service. These provisions do not apply to ISP's transmission or routing of, or intermediate temporary storage or caching of, an image, information, or data that is otherwise subject to these provisions. ISP may not be held liable for any good faith action taken to comply with these provisions.

Use of Interactive Computer Service

***House Bill 194* (passed)** provides that a person who commits theft by use of an interactive computer service may be prosecuted, indicted, tried, and convicted in any county or state where the victim resides or the electronic communication originated or terminated. "Interactive computer service" is defined as an information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including a service or system that provides access to the Internet.

Unborn Victims of Crime

On April 1, 2004, President Bush signed legislation that makes it a separate offense to harm an "unborn child" while committing a violent federal crime against a pregnant woman.

Under the Unborn Victims of Violence Act, violence against a pregnant woman is considered two separate crimes, regardless of whether an assailant is aware of the pregnancy. It covers embryos and fetuses from conception.

Several unsuccessful bills were introduced on this subject during the session. The bills that drew the most attention were ***Senate Bill 349***/***House Bill 802*** ***(both failed)***. These bills would have provided that the laws relating to murder, attempted murder, voluntary or involuntary manslaughter, and other specified offenses apply to circumstances where the victim is "an unborn child." These provisions would not have applied to acts committed by the mother of the unborn child, acts committed during a legal abortion, or acts committed in accordance with specified medical practices.

House Bill 520 ***(failed)*** would have allowed for the prosecution of murder, manslaughter, or unlawful homicide for an act or omission that occurred while the victim was a viable fetus. ***House Bill 1267*** ***(failed)*** would have increased the maximum imprisonment penalties for a person convicted of second degree murder, manslaughter, and first and second degree assault when the person knew or had reason to know that the victim was pregnant.

Witness Intimidation

The intimidation of witnesses, including the commission of murder, has been a pervasive problem in Maryland's criminal justice system. Among other bills introduced on this subject, the Administration offered two initiatives. ***Senate Bill 185***/***House Bill 296*** ***(both failed)*** would have expanded, increased the possible seriousness of, and altered the penalties for the crimes of (1) inducing false testimony or avoidance of a subpoena; (2) retaliation for testimony; and (3) intimidating or corrupting a juror. The other initiative, ***Senate Bill 181***/***House Bill 301*** ***(both failed)***, would have expanded the list of aggravating circumstances that a jury must consider during a death penalty sentencing proceeding to include whether the defendant committed murder while committing one of the above listed offenses. For a discussion of other bills addressing the death penalty, see subpart "Criminal Procedure" within this Part E.

Sexual Offenses and Protection of Minors

Fourth Degree Sexual Offense

House Bill 1094 ***(passed)*** increases, from one to three years, the maximum incarceration penalty for a person convicted of fourth degree sexual offense if the person was previously convicted of a sexual crime or sexual abuse of a minor.

Spousal Defense

The Maryland Court of Appeals has held that if the parties are either living together or have not been continuously separated pursuant to a limited divorce, they retain the marital "exemption" applicable to fourth degree sexual offenses; and, if the parties are still living together, the exemption is also retained for rape and third degree sexual offenses, unless committed by actual force.

House Bill 923 ***(passed)*** provides that a person may be prosecuted for first degree rape, second degree rape, or third degree sexual offense against the person's legal spouse if the person in committing the crime uses force or threat of force and the act is without the consent of the spouse.

Sexual Solicitation of a Minor

Senate Bill 512 ***(passed)*** prohibits a person (with intent to commit certain sexual offenses) from knowingly "soliciting" a minor, or a law enforcement officer posing as a minor, to engage in activities that would be unlawful for the person to engage in under provisions relating to second degree rape or second or third degree sexual offense. For purposes of jurisdiction, a violation is considered to be committed in Maryland if the solicitation originated in Maryland or is received in the State. A violator is guilty of a felony and subject to maximum penalties of imprisonment for 10 years and/or a fine of $25,000.

Animal Protection

Dogfighting and Cockfighting

Senate Bill 365/House Bill 24 ***(both passed)*** provide that a person may not knowingly attend, as a spectator, a deliberately conducted event with fowl, cock, or other bird fighting. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for 90 days and/or a fine of $1,000.

The bills provide that a person may not possess, own, sell, transport, or train a dog with the intent to use the dog in a dogfight or knowingly allow premises under his or her control to be used for dogfighting. A violator is guilty of a felony and subject to maximum penalties of imprisonment for three years and/or a fine of $5,000.

The bills also provide that a person may not possess, with an intent to unlawfully use, an implement of cockfighting or any tool designed to enhance a bird's fighting ability for use in a deliberate bird fighting event. A person may not arrange or conduct an event where a bird fights with another bird. A person may not possess, own, sell, transport, or train a bird with the intent to use the bird in a cockfight or knowingly allow premises under the person's control to be used for a bird to fight with another bird. A violator is guilty of a felony and subject to maximum penalties of three years' imprisonment and/or a fine of $5,000.

Miscellaneous

Youth Gangs

House Bill 1285 ***(passed)*** creates a Task Force to Study Youth Gang Activities with specified responsibilities. The Secretary of Juvenile Services and the State's Attorney for Prince George's County are designated as co-chairs. The task force must submit an interim report to the General Assembly by December 1, 2004, and a final report by December 1, 2005.

Contaminated Food or Drink

House Bill 76 (passed) prohibits a person from knowingly and willfully causing another person to ingest bodily fluid without consent or by force or threat of force. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for 10 years and/or a fine of $2,500.

Impersonating a Law Enforcement Officer

Under current law, a person who impersonates a police officer is guilty of a misdemeanor and subject to maximum penalties of imprisonment for six months and/or a fine of $100. ***House Bill 313 (passed)*** increases the maximum penalties for this offense to imprisonment for two years and/or a fine of $2,000.

Visual and Camera Surveillance

House Bill 613 (passed) increases penalty provisions applicable to current law prohibitions against nonconsensual visual surveillance with prurient interest and deliberate surreptitious observation with a camera at a private residence. The maximum penalties for each offense increase from imprisonment for six months and/or a fine of $1,000 to imprisonment for one year and/or a fine of $2,500.

The bill also specifies that the prohibition against deliberate surreptitious observation with a camera at a private residence does not apply to lawful camera surveillance by a licensed private detective or security guard acting within the scope of the person's occupation.

Motion Picture Theatres – Prohibition against Audiovisual Recording

Piracy of motion pictures, especially by means of using camcorders in movie theatres has become a major problem nationwide. Introduced in response to this problem, ***House Bill 307 (passed)*** prohibits a person from knowingly operating an audiovisual recording function of a device in a motion picture theater, except in the lobby area, without the consent of the owner or lessee of the theater. The bill provides immunity from civil liability to an owner, lessee, agent, or employee of a motion picture theater who detains or causes the arrest of any person if there is probable cause to believe that the person committed a violation of the prohibition against audiovisual recording in the theater.

For a first violation, an offender is guilty of a misdemeanor and subject to maximum penalties of imprisonment for one year and/or a fine of $2,500 for each individual act in violation of the prohibition. For a subsequent violation, an offender is guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a fine of $10,000 for each individual bill in violation of the prohibition.

Litter Control

***House Bill 1020* (passed)** increases Maryland Litter Control Law monetary penalties in the following manner:

- from $1,000 to $1,500 for a person who disposes of litter in an amount not exceeding 100 pounds or 27 cubic feet and not for commercial gain;
- from $10,000 to $12,500 for a person who disposes of litter in an amount exceeding 100 pounds or 27 cubic feet, but not exceeding 500 pounds or 216 cubic fee, and not for commercial gain; and
- from $25,000 to $30,000 for a person who disposes of litter in an amount exceeding 500 pounds or 216 cubic feet or in any amount for commercial gain.

Criminal Procedure

Diversion for Substance Abuse Treatment

The latest prisoner survey released by the U.S. Department of Justice in July 2003 found that, after two years of slowing prison growth, the nation's incarcerated population rose at three times the rate of the previous year. Budget problems have made paying for the costs of growing prison populations an important issue nationwide. Many states have recently tried to modify their sentencing and release policies, particularly with respect to nonviolent drug offenders, in order to control incarceration costs.

***Senate Bill 194*/*House Bill 295* (both passed)** are a response to this problem. The bills provide for the evaluation of nonviolent offenders for drug or alcohol dependency and the diversion of such defendants to treatment services rather than incarceration. The bills provide for diversion of inmates by State's Attorneys and the Parole Commission to substance abuse treatment. The bills also provide direct access by courts to substance abuse evaluation, referral, and treatment. Additionally, the bills establish the Maryland Substance Abuse Treatment Fund as a nonlapsing fund to be used for evaluation and treatment of criminal defendants for drug or alcohol abuse problems. Finally, the bills require each county to have a local drug and alcohol abuse council to develop a local plan to meet the county's needs for drug and alcohol abuse evaluation, prevention, and treatment services and to review funding requests for the provision of services.

Death Penalty

The death penalty has been a major issue for several legislative sessions. This session several bills relating to the death penalty were introduced, but all failed. ***House Bill 521* (failed)** would have repealed the death penalty and all provisions relating to the death penalty; ***Senate Bill 744* (failed)** would have established the Maryland Commission on Capital Punishment; and

House Bill 118 (failed) and ***House Bill 985 (failed)*** would have altered certain procedures related to the investigation and prosecution of capital cases. There were also a number of bills that would have altered the list of aggravating circumstances that trigger eligibility for the death penalty. ***Senate Bill 287/House Bill 244 (both failed)*** and ***House Bill 947 (failed)*** would have added the commission of multiple murders in the first degree within a specified time period; ***House Bill 248 (failed)*** and ***Senate Bill 181/House Bill 301 (both failed)*** would have added the murder of certain victims and witnesses; and ***House Bill 250 (failed)***, ***Senate Bill 658 (failed), House Bill 1081 (failed)***, and ***House Bill 1231 (failed)*** would have added an off-duty law enforcement officer or correctional officer under certain circumstances, a prosecutor, and a person eligible for relief under an existing protective order to the list of people whose murder would be an aggravating factor.

Criminal Prosecutions

Under current law, the State must release a criminal defendant charged with a crime of violence on personal recognizance while the State is appealing a court ruling excluding evidence offered by the State or requiring the return of property seized in violation of the defendant's constitutional rights. This law recently came under scrutiny when two defendants charged with committing a murder in the Annapolis Historic District in September 2002 were released on personal recognizance after their confessions were ruled inadmissible, and the State appealed the rulings. ***Senate Bill 490/House Bill 80 (both passed)*** address the concerns with current law by authorizing a court to release a defendant charged with a crime of violence on any terms and conditions that the court considers appropriate or to remand the defendant to custody during the prosecution and determination of an appeal by the State.

Senate Bill 5/House Bill 124 (both passed) require the Legislative Auditor to report an alleged criminal violation discovered during the course of an audit, review, or investigation to the Attorney General and the appropriate State's Attorney. The bills grant to the Attorney General the powers and duties of a State's Attorney, including the use of grand juries, to investigate and prosecute the alleged violations. The Attorney General and State's Attorney must keep the auditor's report confidential unless a prosecution is initiated.

Senate Bill 242 (passed) extends the statute of limitations for a prosecution of a misdemeanor offense under the Insurance Article from one year to three years.

Law Enforcement

U.S. Park Police Enforcement Authority

The U.S. Park Police is a law enforcement organization within the Department of the Interior. It provides law enforcement services within National Park Service areas, including investigating and detaining persons suspected of committing offenses against the United States. Under current law, U.S. Park Police officers do not have authority to enforce Maryland law. Current operating procedures require Park Police officers to hold a suspect during an investigation until a Maryland police officer responds to pursue State charges (including signing

affidavits for search warrants, signing criminal complaints, and effecting arrests) for matters such as auto theft and crimes perpetrated by juvenile offenders. ***Senate Bill 139*/*House Bill 206* (both passed)** authorize U.S. Park Police officers to make arrests, conduct investigations, issue citations, and otherwise enforce the laws of the State within areas of the National Park System.

State Fire Marshal's Authority to Issue Search Warrants

Police officers may apply for and execute criminal search warrants. The current definition of "police officer" does not include the State Fire Marshal or deputy State fire marshals. Under ***House Bill 649* (passed)**, the State Fire Marshal and full-time investigative and inspection assistants in the Office of the State Fire Marshal may apply for and execute search warrants.

Issuing Citations for Gambling Offenses in Baltimore City

When a law enforcement officer makes an arrest, the officer must transport the offender to the police station and fill out the necessary paperwork, which can take the officer off the street for up to two hours. Authorizing an officer to issue a citation rather than making an arrest thus frees up the officer for additional street patrols or other duties. ***Senate Bill 425*/*House Bill 787* (both passed)** authorize police officers only in Baltimore City to issue citations for gambling offenses. A citation must be based on probable cause and contain identifying information, details of the crime, possible penalties, a notice stating that prepayment of a fine is not allowed (so that the individual must appear in court when summoned), and a notice that the court will promptly send the person charged a summons to appear for trial on a given date.

Bail

In November 2003, the Court of Appeals revised the Maryland Rules to provide that if a judicial officer sets bail at $2,500 or less, the officer must advise the defendant that the defendant may post a bail bond secured by either a corporate surety or a cash deposit of 10 percent of the full bail amount. ***House Bill 1053* (passed)** provides that, notwithstanding any other law or rule to the contrary, if expressly authorized by a court or District Court commissioner, a defendant may post a bail bond by executing it in the full penalty amount and depositing the greater of 10 percent of the penalty amount or $25 with the clerk of court.

Sentencing

Chapter 648 of 1999 established the Commission on Criminal Sentencing Policy. The commission is responsible for the State's voluntary criminal sentencing guidelines, including collecting sentencing guidelines worksheets and automating the information; monitoring sentencing practices; and, when necessary, adopting changes to the guidelines. ***House Bill 918* (passed)** requires the commission to include an entry location on a sentencing guidelines worksheet for a court in reporting on crimes involving theft or fraud to report the specific dollar amount, when available, of the economic loss to the victim.

***Senate Bill 884*/*House Bill 1220* (both passed)** repeal a requirement that a new sentence run consecutively to the time to be served on the original term when an individual is convicted of a crime while on parole. A court is required to determine if such a new sentence is to run concurrently or consecutively, as provided under Maryland Rule 4-351(a)(5). Under such circumstances, the bills require that, if a new sentence is to run consecutively, the new sentence must begin (1) if at the time of sentencing, parole is revoked, on expiration of the original confinement term or (2) if parole is not revoked, on the date that the consecutive sentence was imposed. In addition, the bills provide that if such a new sentence is to run consecutively, the reimposition of the original sentence on parole must begin as provided under a specified current law provision governing revocation of parole.

Release Dates of Inmates

Whenever an inmate in a State correctional facility is scheduled to be released on a Sunday or legal holiday, the inmate must be released on the preceding day. However, release services involving transportation, accounting, property management, and bed assignment are available only during regular business hours, Monday through Friday.

Under ***Senate Bill 39* (Ch. 15)**, if a release date is a Saturday, Sunday, or legal holiday, an inmate must be released on the first preceding regular business day. The bill also requires the Commissioner of Corrections to adopt regulations establishing an inmate release plan to help identify resources to assist inmates following release, including provision of transportation from the facility.

Criminal Injuries Compensation Board

The Criminal Injuries Compensation Board administers a compensation program for victims of crime, persons who have made efforts to prevent a crime, or the dependent survivors of such persons. Under certain circumstances, a crime victim or a dependent of a crime victim may be compensated for medical expenses, funeral expenses, property damage, disability or dependency claims, other necessary services, and lost wages. It is the board's responsibility to review and evaluate claims for monetary awards. The awards are dispensed from the Criminal Injuries Compensation Fund which obtains its principal source of money from court costs and criminal injuries compensation costs imposed in criminal cases.

A claimant for an award from the fund must file a claim within 180 days after the occurrence of the event on which the claim is based or 180 days after the death of the victim. For good cause, the board may extend the filing time up to two years. In a case of child abuse, a claimant may file a claim up to two years after the claimant knew or should have known of the abuse.

The board must make certain findings before it can make an award; however, the board may make an emergency award of up to $1,000 to a claimant prior to making a finding in the case if the board finds that an award will likely be made and that the claimant will suffer undue hardship unless immediate payment is made. The board must reduce any award made by the

amount of payments received or to be received as a result of the injury (1) from or on behalf of the offender; (2) from any other public or private source; or (3) as an emergency award.

***Senate Bill 43* (Ch. 16)** exempts the first $25,000 in life insurance proceeds from the amount of money that must be deducted from a final award made to a claimant from the fund. ***Senate Bill 44* (Ch. 17)** increases the maximum amount of an emergency award to $2,000 and also authorizes the board, on written request and for a compelling reason, to waive the requirement that a claimant repay all or part of an emergency award if it is in excess of the final award or if there is no final award made. Finally, ***Senate Bill 652* (passed)** increases the extension period for filing a claim to three years and increases the time for filing a claim relating to child abuse to three years.

Expungement

A person who has been charged with the commission of a crime may file a petition listing relevant facts for expungement of a police record, court record, or other record maintained by the State or a political subdivision under various circumstances listed in statute. These grounds include acquittal, dismissal of charges, entry of probation before judgment, entry of *nolle prosequi* (a decision not to prosecute), stet of charge (a decision to indefinitely postpone prosecution), and gubernatorial pardon. A person is not entitled to expungement if the petition is based on the entry of probation before judgment, a *nolle prosequi*, a stet, or a gubernatorial pardon and the person has subsequently been convicted of a crime or is a defendant in a criminal proceeding. Except in cases of gubernatorial pardon, a person may not expunge records of a conviction.

Several bills in the 2004 session sought to modify expungement procedures to improve the employment and housing prospects of people who have been charged with crimes. Only one passed. ***House Bill 624* (passed)** provides that, when all the charges against a defendant are disposed of by acquittal, dismissal, probation before judgment, *nolle prosequi*, or stet, the court must advise the defendant that the defendant may be entitled to expunge the records relating to the charges. (However, failure to do so does not affect the legality of the sentence or disposition of the case.)

***House Bill 142* (failed)** would have allowed a defendant to expunge charges that are currently not expungeable due to a subsequent conviction, if certain conditions were met. ***House Bill 332* (failed)** would have allowed a person convicted of a public nuisance crime to subsequently seek expungement of the associated criminal records, while ***House Bill 565* (failed)** would have authorized expungement of records for convictions of crimes that are not punishable by a term of imprisonment. Finally, ***House Bill 497* (failed)** would have expanded a current prohibition against expungement of records connected with a spousal assault trial.

Revisory Power of the Court

A court may revise a sentence if a motion is filed within 90 days after its imposition in the District Court if an appeal has not been perfected and, in a circuit court, whether or not an

appeal has been filed. There is no time limit restricting when the court may exercise this power. The court may not increase a sentence after the sentence has been imposed.

Several unsuccessful bills sought to limit the time period during which a court could revise a sentence. ***Senate Bill 333***/***House Bill 812*** ***(both failed)*** would have limited this period to one year after the motion was filed, while ***House Bill 1234*** ***(failed)*** would have set the limit at 15 months after the motion was filed, and ***House Bill 464*** ***(failed)*** would have set it at five years after the motion was filed.

Juvenile Law

Juvenile Services System Reform

Background

News reports before the 2004 session highlighted serious and chronic shortcomings within the juvenile justice system. In particular, reports of abusive treatment of youths at the Department of Juvenile Services' (DJS) Charles H. Hickey, Jr. School and Cheltenham Youth Facility and the physical conditions at these facilities repeatedly caught the attention of the Office of the Independent Juvenile Justice Monitor (OIJJM) within the Office for Children, Youth, and Families. OIJJM cited numerous problems – including child abuse, violence, overcrowding, a lack of appropriate services, and understaffing at the institutions.

In his campaign, subsequent speeches, and executive budget for the last two years, the Governor has proposed a number of reforms to the juvenile services system in the State, including:

- an expansion of juvenile drug courts;
- a Maryland State Department of Education (MSDE) takeover of educational services at DJS commitment facilities;
- adoption of transition plans for youths returning to public school from DJS facilities;
- a statewide truancy prevention plan to prevent children from entering the juvenile services system;
- mental health and health care reform;
- prevention of racial injustice and the development of racially neutral screenings and assessments of children in the juvenile services system;

- various management and staffing reforms, including a focus on wraparound services, improvements in information technology, and upgrades to staff training;

- the downsizing of juvenile facilities; and

- a proposal for a secure youth facility for youths facing incarceration in adult facilities.

The fiscal 2004 State budget included a total of $2 million for a number of the Governor's initiatives, including the expansion of juvenile drug courts, the implementation of management reforms, the addition of new mental health counselors, and the creation of an Office of Minority Justice Services within DJS. The fiscal 2005 State budget includes $5.2 million for MSDE to assume control of educational services at the Charles H. Hickey, Jr. School, $3.2 million for higher salaries for DJS direct care workers, $500,000 for juvenile drug court expansion, $4.2 million for increased residential per diems, and $900,000 for two evening reporting centers (Prince George's County and Baltimore City). The budget also includes $500,000 to develop a Facilities Master Plan (see discussion below).

Even with the increased attention and resources, problems at DJS and at juvenile detention and commitment facilities have continued over the last year. The U.S. Department of Justice is currently investigating conditions at the Charles H. Hickey, Jr. School and the Cheltenham Youth Facility. The investigation, which began in August 2002, is focusing on the physical safety of residents at the facilities, as well as the health and educational services provided at the facilities.

Reform Progress Reporting

In the 2004 session, the General Assembly responded to these serious problems by considering legislation to restructure the juvenile services system and establish smaller, geographically dispersed facilities. ***Senate Bill 543 (passed)*** is an emergency bill that requires DJS to provide a Facilities Master Plan by January 15, 2006, that implements an ideal service delivery system and addresses identified gaps in service delivery and specific facility needs including renovation and new construction.

The bill sets forth general principles to guide DJS in developing this system. The principles are:

- the safety of the community and the children served is insured, delinquent children are held accountable to victims and communities, and children develop competencies to assist them in becoming successful members of society:

- services are delivered regionally through operational regions;

- detention and committed facilities do not contain more than 48 children;

- detention facilities are geographically, physically, and operationally separate, remote, and distinct from committed facilities; and

- children awaiting a committed placement after disposition are not held in a facility with children awaiting court disposition.

Additionally, DJS, with the assistance and cooperation of MSDE and the Department of Health and Mental Hygiene (DHMH), is required to provide the following reports to the Governor and the General Assembly by December 31, 2004:

- a feasibility study of the maximum utilization of community-based services that will serve as alternatives to secure detention for youths who have historically been placed in secure detention and the development of family-centered aftercare plans;

- a joint recommendation with MSDE on how to provide an equal and adequate education to all youths isolated from customary community educational services;

- a joint assessment with DHMH of the costs and actions necessary to implement the three-year plan for enhanced mental health services;

- an identification and evaluation of appropriate somatic health, mental health, substance abuse, and nutrition services for youths in the juvenile justice system;

- a joint recommendation with DHMH on how to provide appropriate health care to youths in the juvenile justice system;

- a report on efforts to identify and reduce disproportionate minority confinement; and

- a management plan for evaluating staff functions and improving staff recruitment.

By December 31, 2004, the bill requires DJS to adopt regulations for its programs and facilities that are consistent with the existing State standards applied to private child residential programs and facilities.

The bill also limits to three years the term of any contract that DJS may enter into with a private vendor for the operation of the Hickey School. Finally, by July 1, 2007, all residential juvenile facilities must be operated by the department.

Educational Programming

In response to reform initiatives proposed by the Governor, Chapter 53 of 2003 required MSDE to assume control of the educational programming at the Charles H. Hickey, Jr. School on July 1, 2004, contingent on funding in the State budget. As noted, the fiscal 2005 State budget includes funding for the initiative. ***House Bill 1139*** ***(passed)*** establishes a Juvenile Services Education Program within MSDE that must provide educational services in all residential facilities of DJS by July 1, 2012.

The bill also establishes a Coordinating Council for Juvenile Services Educational Programs to develop, recommend, and approve an educational program for each residential facility. MSDE is required to report to the State Superintendent, the Governor, and the General Assembly on the aggregate educational outcome of the educational program for each residential facility.

Step-down Aftercare

To ease the transition of children from the custody of DJS to their homes and communities, ***Senate Bill 767*** ***(passed)*** requires DJS to establish a program of "step-down aftercare" for all children discharged from committed DJS residential placements. "Step-down aftercare" is a network of programs providing education, rehabilitation, and treatment.

Outcomes Evaluation

House Bill 1146 ***(passed)*** requires the Office for Children, Youth, and Families in cooperation with the Department of Human Resources and DJS to plan and determine the costs of implementing a system of outcomes evaluation to measure the effectiveness of programs serving the needs of children in out-of-home placement. By September 1, 2004, the agencies must report jointly to the General Assembly on the plan for the system of outcomes evaluation and the cost of testing and implementing the system.

Waiver of Counsel

Senate Bill 163/***House Bill 511*** ***(both passed)*** prohibit a court from accepting a child's waiver of counsel in a delinquency or child in need of supervision proceeding or a proceeding involving a citation for a violation unless (1) the child is in the presence of counsel and (2) the court determines that the waiver is knowing and voluntary. The court must consider various factors in determining whether the waiver is knowing and voluntary, including whether the child fully comprehends the nature of the allegations and proceedings and that counsel may be of substantial assistance.

Truancy Reduction and School Safety

Truancy Reduction Pilot Program

***House Bill 1443* (passed)** establishes a three-year Truancy Reduction Pilot Program in the juvenile courts in Dorchester, Somerset, Wicomico, and Worcester counties. The Circuit Administration Judge for the First Circuit is authorized to assign petitions alleging truancy and criminal cases against a parent for failure to ensure a child's attendance in school to a truancy docket in the Juvenile Court. The Circuit Administration Judge is required to submit a report evaluating the program to the Governor and the General Assembly by May 31, 2007.

Searches of Students on School Trips

Under current law, a principal, assistant principal, or school security guard of a public school may make a reasonable search of a student on school premises or on a school-sponsored trip. The search must be made in the presence of a third party and the searcher must have a reasonable belief that the student is carrying an item in violation of State law or a county board of education rule or regulation. ***House Bill 130* (passed)** specifies that a county board of education may authorize a public school teacher to make a reasonable search of a student on a school sponsored trip. To qualify to conduct a search, the teacher must be designated in writing by the principal and receive training to conduct a search commensurate with the training received by a principal.

Escape from Juvenile Facility

***House Bill 575* (passed)** modifies the elements for first and second degree escape by transferring current escape offenses involving juvenile facilities and juvenile community detention orders from first degree escape to second degree escape. A more detailed discussion of House Bill 575 may be found under the subpart "Criminal Law" of this Part E.

Public Safety

Assault Weapons

In 1994, Congress passed a federal assault weapons ban that prohibits the manufacture, sale, or importation (but not the possession) of specific models of semiautomatic assault weapons or their copies, as well as assault weapons that have a combination of certain military characteristics. The federal ban also restricts the manufacture and sale of ammunition magazines capable of holding more than 10 rounds (prior to the law, many firearms were sold standard with 30 round magazines). The law exempts assault weapons and large capacity magazines that were manufactured prior to the law's enactment on September 13, 1994.

The federal assault weapons ban is set to terminate on September 13, 2004. Congress has not yet acted on proposed legislation to extend the ban.

Maryland prohibited the sale and possession of "assault pistols" (defined as 15 specific semiautomatic pistols or their copies) in 1994. The State also maintains a registration system for the possession of machine guns (fully automatic weapons) in Maryland.

***Senate Bill 288*/*House Bill 1298* (both failed)** would have designated 45 specified firearms as "assault weapons" and, with certain exceptions, prohibited a person from transporting an assault weapon into the State or possessing, selling, offering to sell, transferring, purchasing, or receiving an assault weapon. A violator would have been guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a fine of $5,000.

The bills would have also required the Handgun Roster Board to compile, maintain, and publish a roster of prohibited assault weapons and send copies of the roster to all licensed firearms dealers.

Finally the bills would have prohibited a person from using an assault long gun or copycat weapon in the commission of a felony or crime of violence. A violator would have been guilty of a misdemeanor and, in addition to any other sentence imposed for the felony or crime of violence, subject to a maximum imprisonment penalty of 20 years for a first offense. For each subsequent violation, the person would have been required to be sentenced to a maximum imprisonment of 20 years. The bills would have required sentencing for such offenses to be consecutive rather than concurrent with any other sentence imposed for the felony or crime of violence.

Correctional Services

Correctional Standards

***House Bill 971* (passed)** requires the Maryland Commission on Correctional Standards to send a compliance plan to a State or local correctional facility if the commission determines that a correctional facility is in violation of specified minimum mandatory standards. The commission must reinspect a correctional facility that receives a compliance plan and send a letter of reprimand to the correctional facility if the commission determines that the facility is still in violation of the minimum mandatory standards. If, after the commission has sent a letter of reprimand and reinspected the facility, the facility continues to be in violation of the minimum mandatory standards, the commission must conduct a full standards and performance audit of the facility addressing specified items.

After completing an audit, the commission must send a letter to the correctional facility that includes a copy of the audit findings, the date by which the facility must comply with the audit findings, and other specified information. The commission must also send a copy of the letter and its contents to the executive and legislative body responsible for the correctional facility. Within a reasonable time after the date specified for compliance, the commission must conduct an unannounced inspection to verify that the correctional facility has complied with the audit findings.

If, after performing an unannounced inspection and holding a hearing on the issue, the commission determines that a correctional facility has not complied with the audit findings, the commission must (1) petition a circuit court for a court order requiring the correctional facility to comply with the audit findings or (2) issue an order to cease operation of the correctional facility or any of its components. The commission must provide to a correctional facility reasonable notice of a hearing and may subpoena witnesses.

***Senate Bill 883*/*House Bill 1368* (both passed)** require the Secretary of Public Safety and Correctional Services to adopt regulations that establish minimum mandatory standards applicable to victim notification and restitution.

Advisory Council on Offender Employment Coordination

***House Bill 1354* (passed)** adds the Secretary of Labor, Licensing, and Regulation to the Advisory Council on Offender Employment Coordination and extends the termination date of the council and the ending date for the terms of council membership from August 31, 2004, to August 31, 2007. The bill also eliminates the position of full-time Executive Director of the Council.

Project RESTART

The Department of Public Safety and Correctional Services (DPSCS) believes that the most effective way to combat high recidivism rates is to increase the amount and quality of the rehabilitative programming available to inmates and detainees. The General Assembly authorized DPSCS to convert up to 50 vacant correctional officer positions and use up to an additional $1.7 million to implement pilot programs in two separate regions of the State. For a more detailed discussion of this budget initiative, see Part A – Operating Budget of this *90 Day Report*.

Local Issues

***House Bill 382* (passed)** authorizes a court in Howard County, if the sentencing judge is unavailable, to allow an individual to participate in the work release program operated by the Howard County Department of Correction and provides that an individual is ineligible for participation in the work release program if other charges are pending for a crime of violence in any jurisdiction. The bill also provides that an inmate employed in a work release program is not an agent or employee of the court.

***House Bill 729* (passed)** authorizes the Sheriff of Calvert County to establish a pretrial release program that offers alternatives to pretrial detention. The bill authorizes a court to order an individual to participate in the pretrial release program if the individual appears before the court after being charged and detained on bond and meets the program's eligibility requirements. The court may issue such an order at the imposition of bond, on bond review, or at any other time during the individual's pretrial detention.

An individual is eligible for the program if the individual is (1) recommended to the court for placement in the program by the program staff; (2) has no other charges for a felony or a violation of a crime of violence pending in any jurisdiction; and (3) not in detention for or been previously convicted of a crime of violence, any felony, or the crime of escape.

***Senate Bill 67* (passed)** clarifies that a county may apply for State financial assistance for the construction of a new or enlarged existing correctional facility if the anticipated confinement of inmates serving sentences of more than 6 months but not exceeding 12 months would exceed specified capacity. The bill also alters a requirement that the Secretary of Public Safety and Correctional Services annually review growth rates relating to confinement of inmates by requiring a comparison to the number of inmates similarly sentenced before January 1, 1988.

Boiler and Pressure Vessel Safety

***House Bill 534* (passed)** authorizes the Commissioner of Labor and Industry in the Department of Labor, Licensing, and Regulation (DLLR) to set inspection schedules for low-pressure-steam or vapor-heating boilers, hot-water-heating boilers, hot-water-supply boilers, and pressure vessels through regulation instead of statute. The bill also defines "model steam boiler" and exempts such boilers from annual inspections. DLLR must report to various legislative committees by December 1, 2004, on its progress in reducing the number of overdue boiler inspections.

***House Bill 1126* (failed)** would have established a Safety Inspection Fund to provide for a portion of the cost of administering inspections of elevators, escalators, boilers, and pressure vessels. Monies in the fund would have come from inspection fees. The bill also would have made changes related to the inspection process for elevators, escalators, boilers, and pressure vessels. The bill was referred to interim study.

Miscellaneous

Global Positioning Systems

***Senate Bill 783*/*House Bill 1242* (both passed)** establish a Task Force to Study Criminal Offender Monitoring by Global Positioning Systems (GPS). The task force will study (1) how the State can utilize GPS technology to monitor individuals who have committed criminal offenses; (2) how law enforcement can benefit from linkage to such technology to solve crimes and streamline workload; (3) the feasibility of implementing a global positioning technology program, including a cost-benefit analysis; and (4) admissibility of evidence issues. The task force must submit an interim report to the Governor and the General Assembly by December 31, 2004, and a final report by December 31, 2005. DPSCS will provide staffing.

Alarm and Security Systems

***Senate Bill 377* (passed)**, an emergency bill, requires a custodian of a public record to deny inspection of the part of the record that identifies or contains personal information about a person that maintains an alarm or security system. However, the bill requires a custodian to

permit inspection by (1) the person in interest; (2) an alarm or security system company that currently provides alarm or security services to the person in interest; and (3) law enforcement and emergency services personnel.

Hazardous Materials

House Bill 493 ***(passed)*** requires a facility that stores, dispenses, uses, or handles threshold amounts of hazardous materials (as defined under federal law) to conduct a self-audit of the security of the facility and submit this analysis, along with a $2,500 fee, to the Maryland Department of the Environment. The first self-audit must be completed by October 1, 2005; it must be updated at least every five years. For a more detailed discussion of this bill, see Part K – Natural Resources, Environment, and Agriculture of this *90 Day Report*.

Part F
Courts and Civil Proceedings

Judges and Court Administration

Maryland Legal Services Corporation Fund

The Maryland Legal Services Corporation (MLSC) receives and distributes funds to nonprofit grantees that provide legal assistance to eligible clients in civil cases. MLSC is funded in part from surcharges on civil cases, which are established by the State Court Administrator. The current maximum surcharge is $10 for cases filed in circuit court and $2 for cases filed in District Court. In fiscal 2003, MLSC received $2.3 million from civil case surcharges.

***Senate Bill 316* (passed)** increases the maximum surcharge on civil cases filed in circuit court to $25. For cases filed in District Court, the surcharge increases to a maximum of $5 for summary ejectment cases and $10 for all other civil cases. Assuming the maximum surcharges are imposed and the number of cases in which the surcharges are imposed is constant, funding for MSLC will increase by approximately $5 million annually beginning in fiscal 2005.

Public Defender Caseload Initiative

The fiscal 2005 budget includes $1.7 million to continue the initiative begun last year to reduce excessive Public Defender caseloads. The new funds will be used for 68.5 new positions and account for a significant portion of the $3,516,588 or 5.7 percent increase in the appropriation for the Office of the Public Defender over the fiscal 2004 working appropriation. The first-year focus of the caseload initiative was to phase in staffing to reduce caseloads in Baltimore City and address the need for attorneys in the District Court and juvenile courts in rural areas. Year two of the caseload initiative will address the need for attorneys in the District Court and juvenile courts in the metropolitan/suburban counties as well as in Baltimore City.

The agency's caseloads initiative has three components: (1) reducing excessive public defender caseloads to comply with American Bar Association standards; (2) establishing a funding/staffing formula linked to Maryland specific caseload standards; and (3) installing a case management system to improve case management and provide accurate caseload/workload data to increase accountability and streamline the budget process.

Compensation of Judges

Judges

The Judicial Compensation Commission recommends judicial salary levels. The General Assembly may amend a joint resolution from the commission to decrease, but not to increase, any of the commission's salary recommendations.

In January 2004, the commission recommended that judges' salaries for fiscal 2005 through 2008 be increased during that period by (1) $30,000 for judges serving on the Court of Appeals; (2) $25,000 for judges serving on the Court of Special Appeals and the Chief Judge of the District Court; (3) $20,000 for circuit court judges; and (4) $15,000 for District Court judges. The proposed increases would have been phased in as follows: 15 percent in fiscal 2005, 25 percent in fiscal 2006, 30 percent in fiscal 2007, and 30 percent in fiscal 2008.

The General Assembly rejected the commission's recommendations by amending ***House Joint Resolution 1 (passed)***, keeping judicial salaries at their current levels.

Civil Actions and Procedures

Medical Malpractice

Recently, national attention has focused on what some are calling a medical malpractice insurance crisis. There is evidence in at least some parts of the country to support the claim that medical malpractice insurance is becoming unaffordable and/or unavailable, especially for individuals practicing in certain high-risk specialties such as obstetrics, neurosurgery, and orthopedic surgery. Certain areas have seen steep premium increases, the withdrawal of major insurance companies from the medical malpractice market, insurer-instituted moratoriums on the issuance of new policies, the closure of trauma centers and hospital maternity wards, the elimination of obstetrics from OB/GYN practices, an exodus of physicians from certain geographic areas, and increases in early retirements among physicians.

In 2003, the federal General Accounting Office (GAO) published a report that studied the extent of increases in medical malpractice insurance rates, analyzed the factors contributing to these increases, and identified any market changes that might make this period of rising insurance premiums different from previous such periods. GAO found that the largest contributor to increased premium rates was insurer losses on medical malpractice claims. Other contributing factors include decreased investment income, artificially low premium rates adopted while insurers competed for market share during boom years, and higher overall costs due largely to increased reinsurance rates for medical malpractice insurers.

Other states have been considering a variety of measures in response to the reduced availability of medical malpractice insurance and the steep increases in rates. These initiatives include tort reform measures such as caps on noneconomic and punitive damages, limits on

health care provider liability, changes to statutes of limitations and collateral source rules, and abolition of joint and several liability. Other measures include changes to physician discipline statutes and increased regulation of insurers.

Until recently, the medical malpractice insurance industry in Maryland had not experienced the steep rate increases that had occurred in other states. However, in June 2003, the Medical Mutual Liability Insurance Society of Maryland, the insurance provider to most of the State's private practice physicians, requested a 28 percent rate increase in medical malpractice insurance premiums. On August 15, 2003, the Maryland Insurance Commissioner approved the rate increase. The new rates became effective January 1, 2004. Opponents of the rate increase argued that a 3.7 percent rate increase was sufficient and that Medical Mutual was seeking to set aside more money than it would likely need for malpractice claims.

Medical Mutual Liability Insurance Society of Maryland's direct written premiums for calendar 2004 are projected to be $113.7 million to provide malpractice insurance to 6,200 physicians. Annual premiums range from about $10,000 for a general practitioner to over $100,000 for certain specialists such as obstetricians. Medical Mutual covers approximately 80 percent of private practice physicians. Many other physicians who are associated with or employed by hospitals or professional practice groups receive partial or full malpractice insurance subsidies from the hospitals or practice groups.

Medical Mutual's 28 percent increase and a predicted 40 percent increase next year prompted the introduction of a number of proposals during the 2004 session.

***House Bill 1299* (failed)**, the product of a House of Delegates workgroup consisting of members of the Economic Matters Committee, the Health and Government Operations Committee, and the Judiciary Committee, would have established a 12-member Task Force on Medical Malpractice, consisting of six members of the Senate and six members of the House of Delegates. The task force would have been required to (1) assess the extent to which the cost of medical malpractice liability coverage for health care providers increased in recent years; (2) determine the causes of the increases; (3) study any aspect of the health care, insurance, or legal systems related to medical malpractice liability; and (4) make recommendations to address the increased costs of malpractice liability coverage. The task force was to report its findings and recommendations to the Governor and the General Assembly by December 15, 2004.

The bill also would have made the following changes:

- required that, in situations where arbitration of a malpractice claim had been waived, the claim be subject to mediation;
- expanded the definition of "health care provider" under the health claims arbitration statute to include a medical day care center, hospice care program, assisted living program, and freestanding ambulatory care facility;
- modified the collateral source rule;

- required the filing of a supplemental certificate of a qualified expert after the completion of mediation and discovery;

- required that actions to recover damages against a health care provider's insurer for failure to settle a claim be brought in the same county in which a health care malpractice action was brought against the health care provider;

- required an arbitration panel or circuit court to itemize by specified categories any damages awarded; and

- required each insurer providing professional liability insurance to a health care provider in the State to report certain information to the Maryland Insurance Commissioner, and the Commissioner to compile and report this information to the General Assembly by September 1 of each year.

Senate Bill 193/House Bill 287 (both failed), which were proposed by the Administration, would have reduced the cap on noneconomic damages from $635,000 (with a $15,000 increase on October 1 of each year) to $500,000 for medical injuries; revised procedures for determining medical expenses; required the use of annuities for future economic and noneconomic damages in excess of $250,000; and established procedures under which a defendant could make an offer of judgment to an adverse party and recover attorney's fees and costs if the judgment entered is not more favorable than the offer.

SLAPP Suits

The term "SLAPP" is an acronym for "strategic lawsuit against public participation." SLAPP suit laws protect individuals and groups, many with few assets, from defending costly legal challenges to their lawful exercise of such constitutionally protected rights as free speech, assembly, and the right to petition the government. Challenged activities may include writing letters to the editor, circulating petitions, organizing and conducting peaceful protests, reporting unlawful activities, speaking at public meetings, and similar actions. Plaintiffs in these lawsuits, who typically have far greater resources than the defendants, do not necessarily want to win the case but rather to cause the defendants to devote such significant resources to defending it that they are unable to continue the challenged activities.

Senate Bill 464/House Bill 930 (both passed) provide immunity from civil liability to a defendant in a SLAPP suit who acts without constitutional malice in exercising constitutionally protected rights of free speech, free press, the right of assembly, and the right to petition the government. A defendant in an alleged SLAPP suit may move to dismiss the suit, or move to stay all court proceedings until the matter about which the defendant communicated to the government, or to the public at large, is resolved. A person acts with "constitutional malice" if the person makes a statement that the person knows is false, or acts with reckless disregard as to whether or not the statement is false.

Small Claims − Limited Liability Company (LLC) Member or Employee

A small claims action is a civil action for money in which the amount claimed does not exceed $5,000 exclusive of interest, costs, and attorney's fees. These actions are filed in District Court.

Current law generally prohibits an individual who is not admitted to the bar from representing clients in a Maryland court. ***Senate Bill 70 (passed)*** authorizes a member of an LLC, or an employee designated by a member, to appear in court on behalf of the LLC. Comparable authority had previously been granted to corporations, partnerships, and sole proprietorships. LLCs are hybrids of corporations and partnerships that combine benefits of each. They shield owners from personal liability, as do corporations. However, like partnerships, profits pass directly to the owners without taxation of the entity itself.

Exemptions from Execution

A person against whom a judgment has been entered, or who has filed a bankruptcy petition, is allowed to retain certain items that are not subject to the execution on the judgment or to creditor claims. ***Senate Bill 515 (passed)*** establishes new amounts for several categories of these items. In all instances the new level is double the current level:

- items necessary for the practice of any trade or profession, except those kept for sale, lease, or barter, $5,000 instead of $2,500;
- items held primarily for personal, family, or household use, $1,000 instead of $500;
- cash or property of any kind equivalent in value to $6,000 instead of $3,000, if within 30 days from the date of attachment or levy, the debtor elects to exempt cash or selected items of property in an amount not to exceed a cumulative value of $6,000 instead of $3,000; and
- in addition to the preceding items, in any bankruptcy proceeding brought pursuant to federal law, a debtor domiciled in the State may exempt the debtor's aggregate interest in real or personal property, not to exceed $5,000 instead of $2,500.

Federal law allows states to "opt-out" from federal bankruptcy code exemptions. The majority of states, including Maryland, have opted-out. Therefore, the exemptions provided under State law apply in a bankruptcy proceeding filed by a Maryland debtor. In addition to the items described above, State law provides exemptions for a variety of other property, including life insurance and annuities, money payable in the event of sickness, accident, injury, or death, and certain pension and retirement benefits.

Sales of Food, Drugs, Cosmetics, and Other Health-related Products

A person whose business or property has been injured or threatened with injury by a violation of the State's antitrust law may bring an action for damages, an injunction, or both against any person who committed the violation. The United States, the State, or any of the State's political subdivisions may bring such an action, regardless of whether it dealt directly or indirectly with the person who violated law. However, other indirect purchasers do not have standing to sue.

***Senate Bill 470* (failed)** would have authorized indirect purchasers to bring an action against a person who sold, distributed, or otherwise disposed of any drug, medicine, cosmetic, food, food additive, commercial feed, or medical device. To avoid duplicative damages, the bill would have allowed a seller or distributor to prove, as a complete or partial defense, that all or part of an alleged overcharge was passed on to another person who paid that overcharge.

Supersedeas Bonds

A defendant who appeals a judgment is required to post a bond, called a supersedeas bond, or other security, to stay execution of the judgment while the appeal is pending. When the judgment is for the recovery of money that is not otherwise secured, the amount of the bond ordinarily is the sum that will cover the whole amount of the judgment remaining unsatisfied, plus interest and costs.

If a defendant subject to a large damage award (such as a tobacco company) cannot afford to post a bond in the amount set by the court, the defendant may be forced to file bankruptcy to stay execution of the judgment during an appeal. ***Senate Bill 339*/*House Bill 1436* (both failed)** would have limited the amount of a supersedeas bond required in an appeal from a judgment entered in favor of a plaintiff in a civil action.

Family Law

Marriage and Divorce

Same-sex Marriages

Background: In November 2003, the Massachusetts Supreme Judicial Court ruled that under the state constitution, same-sex couples have the right to marry. Massachusetts state officials were given 180 days to implement the ruling, which is scheduled to go into effect in May 2004. Subsequent to that decision, the Massachusetts legislature passed a proposed constitutional amendment that defines marriage as a legal union between a man and a woman. The amendment would, however, permit civil unions between members of the same sex.

Same-sex marriage is legal in the Canadian provinces of Ontario and British Columbia as well as Belgium and the Netherlands. Several countries, including Denmark, France, and Germany, and the state of Vermont, allow same-sex couples to join in "civil unions" that provide

many of the same rights and benefits as marriage. New Jersey has recently enacted a law that would recognize some domestic partnerships, including same-sex couples, and would confer some legal rights on same-sex couples that married couples enjoy. However, the law does not establish authority for same-sex civil unions. California also provides limited legal recognition to domestic partnerships.

By contrast, in 1996, Congress passed the "Defense of Marriage Act," which defines marriage as a legal union between a man and a woman and authorizes states to deny recognition of a public act, record, or judicial proceeding of any other state respecting a relationship between persons of the same sex that is treated as a marriage under the laws of the other state. Approximately 39 states have passed defense of marriage acts, which deny recognition of same-sex marriages solemnized in another jurisdiction. Three states, including Maryland, enacted statutes before the 1996 federal law specifically defining marriage as a legal union only between a man and a woman.

Defense of Marriage in Maryland: Since 1973, Maryland law has defined a valid marriage as that which takes place only between a man and a woman. ***Senate Bill 673*/*House Bill 16* (both failed)** would have proposed an amendment to the Maryland Constitution defining valid marriage as a marriage between a man and a woman only. ***Senate Bill 746*/*House Bill 728* (both failed)** would have specified that a marriage between persons of the same sex that is valid in another state or foreign jurisdiction is not valid in Maryland.

Marriage Ceremonies

***House Bill 746* (passed)** clarifies the definition of "judge" for the purpose of performing marriage ceremonies. The bill also establishes that the fee paid to the judge for performance of a marriage ceremony is nonrefundable and payable to the clerk before a marriage license is issued. The fee is $30 in Cecil County and $25 in any other county.

Divorce – Transfer of Family Use Personal Property

Under current law, when the court grants an annulment, or a limited or an absolute divorce, the court may resolve any dispute between the parties with respect to ownership of personal property or real property. However, except as specified, the court may not transfer ownership of personal or real property from one party to the other. When the court determines the ownership of personal or real property, the court may grant a decree that states what the ownership interest of each party is and, for property owned by both parties, order a partition, or a sale and division of the proceeds.

In a proceeding for annulment or absolute divorce, if there is a dispute as to what property is marital property, the court must resolve the dispute within specified time frames. Except as otherwise provided, the court is required to determine the value of all marital property.

After the court determines which property is marital property and its value, the court may transfer ownership interest in a pension, retirement, profit sharing, or deferred compensation plan from one party to either or both parties, or grant a monetary award, or both, as an adjustment of

the rights and equities of the parties concerning marital property, whether or not alimony is awarded.

***Senate Bill 418*/*House Bill 836* (both passed)** expand the type of property that may be transferred by a court in an annulment or divorce proceeding to include, subject to the consent of any lienholders, family use personal property. "Family use personal property" means tangible personal property acquired during the marriage, owned by one or both of the parties, and used primarily for family purposes. Family use personal property includes motor vehicles, furniture, furnishings, and household appliances. It does not include property acquired by inheritance or gift or excluded by valid agreement.

Child Support

Child Support Guidelines – Revision

In a proceeding to establish or modify child support, whether temporary or permanent, the court is required to use the child support guidelines. The basic child support obligation is established in accordance with a schedule provided in statute. The basic obligation is based on the number of children and is divided between parents in proportion to their adjusted actual incomes.

***Senate Bill 328*/*House Bill 604* (both passed)** revise the schedule of basic child support obligations used to calculate the amount of a child support award under child support guidelines. The bills adjust the monthly income for the self-support reserve to $850 for low-income noncustodial parents and provide a basic child support obligation ranging from $20 to $150 per month, based on the resources and living expenses of the obligor and the number of children due support. The adoption or revision of the guidelines may be grounds for requesting a modification of a child support award if the use of the guidelines would result in a change of 25 percent or more in the award.

Driver's License Suspension

Enactment of federal welfare reform in 1996 required all state child support enforcement programs to impose driver's license, as well as professional and occupational license restrictions, on obligors who have not paid child support in a timely manner. ***Senate Bill 329*/*House Bill 605* (both passed)** make it discretionary, rather than mandatory, for the Child Support Enforcement Administration to notify the Motor Vehicle Administration to suspend the obligor's license when the obligor is 60 days or more out of compliance with the most recent court order in making child support payments and expand the grounds upon which a child support obligor can challenge a proposed suspension of the obligor's driver's license for failure to pay child support. The additional grounds include the following: (1) suspension of the obligor's license or privilege to drive would be an impediment to the obligor's current or potential employment or (2) suspension of the obligor's license or privilege to drive would place an undue hardship on the obligor because of the obligor's documented disability resulting in a verified inability to work or because of the obligor's inability to comply with the court order.

Third Party Payments

***Senate Bill 928* (passed)** includes any third party payment paid to or for a minor child as a result of the obligor's disability, retirement, or other compensable claim, in the obligor's income for purposes of calculating the amount of child support under the child support guidelines. The bill then requires the amount paid to the child to be set off against the child support obligation.

Under current law, a noncustodial parent is not entitled to an automatic credit against the child support obligation equal to the amount of Social Security disability dependency payments received by the minor child. However, a court in its discretion may, if the circumstances warrant, adjust the amount of the parent's child support obligation to avoid an unjust or inequitable result. *Drummond v. Stak*, 350 Md. 502 (1998).

Children in Need of Assistance and Adoption

Children in Need of Assistance

Out-of-home Placements: The Social Services Administration of the Department of Human Resources (DHR) is required to establish an out-of-home placement program for minor children who are (1) placed in a local department of social services' custody for not more than 180 days by a parent or legal guardian under a voluntary placement agreement; (2) abused, abandoned, neglected, or dependent, if a juvenile court determines continued residence in the child's home is contrary to the child's welfare and commits the child to the local department's custody or guardianship; or (3) placed in an out-of-home placement by a local department under a voluntary placement agreement.

In developing a permanency plan for a child in an out-of-home placement, the local department of social services must give primary consideration to the child's best interests. The local department must consider (1) the child's safety and health in the parent's home; (2) the child's attachment and emotional ties to natural parents and siblings; (3) the child's emotional attachment to the current caregiver and caregiver's family; (4) the length of time the child lived with the current caregiver; and (5) the potential harm if the child remains in State custody for an excessive period of time.

***Senate Bill 711* (passed)** alters the factors that a local department of social services is required to consider in determining a permanency plan for a child in an out-of-home placement to give priority to placing the child in the jurisdiction where the child's parent or guardian resides. The bill also requires the Special Secretary for the Office for Children, Youth, and Families, in consultation with DHR, the Department of Health and Mental Hygiene, and the Department of Juvenile Services to conduct a study of out-of-home placements.

Adoption

Certificates of Birth: Under the federal Child Citizenship Act of 2000, many foreign-born, adopted children acquire U.S. citizenship immediately upon entering this country.

Many other children acquire U.S. citizenship after residing in this country. Under Maryland law, these children with U.S. citizenship are not eligible to obtain a Maryland certificate of foreign birth. ***House Bill 211 (passed)*** clarifies Maryland law regarding the criteria for issuing a birth certificate for a person born outside of the United States. It also repeals the requirement that in order for the State to issue a certificate of foreign birth, the adopted person in question cannot be a U.S. citizen.

Search, Contact, and Reunion Services − Siblings: Since 1998, the Social Services Administration of DHR has been required to provide adoption search, contact, and reunion services. "Search, contact, and reunion services" means services (1) to locate adopted individuals and biological parents of adopted individuals; (2) to assess the mutual desire for communication or disclosure of information between adopted individuals and biological parents of adopted individuals; and (3) to provide, or provide referral to, counseling for adopted individuals and biological parents of adopted individuals. Biological parents of adopted individuals at least 21 years of age and adopted individuals themselves who are at least 21 years of age are currently allowed to apply for these services through the use of an approved confidential intermediary. However, birth siblings of adoptees and adoptees are excluded from actively searching for each other. ***House Bill 232 (passed)*** expands the adoption search, contact, and reunion services program within DHR to include siblings who have been adopted and who are at least 21 years old.

Child Custody

Uniform Child Custody Jurisdiction and Enforcement Act

Senate Bill 269/House Bill 400 (both passed) repeal the Maryland Uniform Child Custody Jurisdiction Act and adopt the Maryland Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), which was promulgated by the Uniform Law Commissioners in 1997 and has been adopted in 35 states. The bills reconcile State law with the federal Parental Kidnapping Prevention Act, limit child custody jurisdiction to one state, and address interstate enforcement of child custody orders. The new UCCJEA is intended to accomplish the same uniformity for custody and visitation determinations that exists in interstate child support with the promulgation of the Uniform Interstate Family Support.

Domestic Violence

Protective Order – Penalty

House Bill 1148 (passed) applies the criminal penalties for noncompliance with the relief granted in a final protective order to a respondent who fails to surrender any firearms in the respondent's possession to a law enforcement agency.

Child Care

Child Care Center Licenses

Current law requires DHR to inspect each registered family day care home before issuing an initial registration and at least once every two years thereafter. An unannounced inspection is required in any year that an initial or renewal inspection has not taken place. Under current law, a child care center may obtain an initial one-year license and must renew the license every year. ***Senate Bill 62*** ***(passed)*** extends the renewal time for family child care home registrations and child care center licenses. The bill requires announced inspections before a license is issued and at least every two years thereafter. Unannounced inspections of family day care homes and child care centers must be conducted at least once every 12 months to determine if child care is safe and appropriate.

Human Relations

Hate Crimes

Senate Bill 698/***House Bill 365*** ***(both failed)*** would have expanded the prohibition against committing a hate crime to include hate crimes based on a person's sexual orientation. The bill defined "sexual orientation" to mean the identification of an individual as to male or female homosexuality, heterosexuality, or bisexuality.

Slavery

Senate Joint Resolution 4/***House Joint Resolution 4*** ***(both failed)*** would have supported a resolution pending in the U.S. House of Representatives, which acknowledges the fundamental injustice and inhumanity of slavery, establishes a commission to consider reparations for African Americans, and is intended to educate Americans about the history of slavery and its current repercussions.

House Bill 898 ***(failed)*** would have required the Governor to apologize on behalf of the citizens of Maryland for the State's history of slavery, its long-held silence in the face of slavery, and the atrocities committed under slavery in the State. The apology would have been required to be made on September 22, 2004, the 142nd anniversary of the Emancipation Proclamation.

Religious Freedom

House Bill 1050 ***(failed)*** would have authorized an individual who prays in a public place to refer to a specific deity or religious leader, without being subject to criticism or censure by a State, county, or municipal official because of the individual's reference to a specific deity or religious leader.

Senate Joint Resolution 2*/*House Joint Resolution 5 ***(both failed)*** would have requested the U.S. Congress to pass legislation declaring that the power to (1) display the Ten Commandments; (2) recite the Pledge of Allegiance; and (3) recite the national motto, on or within property owned or administered by a state or political subdivision, is among the powers reserved to the states by the Tenth Amendment of the U.S. Constitution.

Minority Ownership of Automobile Dealerships

House Bill 342 ***(failed)*** would have established a task force to study the automobile industry in Maryland to determine why there are so few minority-owned dealerships in the State. The task force would have compiled statistics on the number of minority-owned dealerships in Maryland, compared the number of minorities who purchase automobiles to the number of minority-owned dealerships, and made recommendations on methods to increase the number of minority-owned dealerships.

Real Property

Lead Poisoning Prevention

Chapter 114 of 1994 enacted the "Reduction of Lead Risk in Housing Law." The law provides limited liability relief for owners of rental property built before 1950 or certain other residential rental property in exchange for the reduction of lead hazards in these older rental properties and limited compensation of children poisoned by lead. By December 31, 1995, the owner of an affected property must have registered the property with the Maryland Department of the Environment. At each change in occupancy, before the next tenant occupies the property, an owner must satisfy the risk reduction standard by passing a test for lead contaminated dust or performing specified lead hazard reduction treatments and having the property inspected. An affected property is exempt from the risk reduction standards under specified conditions.

House Bill 1245 ***(passed)*** makes several changes designed to increase compliance with the reduction of lead risk in housing law and to preserve the stock of available, affordable housing.

The bill requires the owner of residential real property, before a local government authorizes or certifies the property to be rented or leased, to state in writing under penalty of perjury (1) that the property is not an affected property under the lead risk reduction provisions; or (2) if the property is an affected property, that the property is registered with the department and the inspection certificate number for the property.

The bill also requires a landlord wishing to repossess an affected property because of a tenant's failure to pay rent to include in the written complaint (1) a statement that the landlord has registered the affected property as required and renewed the registration and (2) the inspection certificate number.

Alternatively, the landlord must include a statement that the landlord is unable to provide an inspection certificate number because (1) the landlord has requested that the tenant allow access to the property to perform remedial work; (2) the landlord has offered to relocate the tenant if the work would disturb the interior surface paint and pay the tenant's reasonable relocation expenses; and (3) the tenant has refused to allow access or refused to vacate the property so that the required work can be done.

In a civil action in which a property owner's immunity under the reduction of lead risk in housing law is challenged, the bill requires the court to (1) allow discovery limited solely to the issue of immunity; (2) determine whether there are any material issues of disputed fact as to whether the owner is entitled to immunity; (3) hold an evidentiary hearing on any issues of material fact, which must, on request of any party, be before a jury; and (4) determine as a matter of law whether the owner is entitled to immunity.

Condominiums, Cooperative Housing Corporations, and Homeowners Associations

Display of U.S. Flag

***House Bill 1017* (passed)** authorizes a homeowner or tenant to display on the premises of a residence one portable, removable flag of the United States, regardless of any deed, covenant, restriction, bylaw, or any other document concerning the display of flags or decorations on residential real property. The bill prohibits the terms of any document or agreement from prohibiting or unduly restricting the right of a homeowner or tenant to display such a flag. The bill applies to all residential real property.

Electronic Transmission of Notices and Votes

***Senate Bill 568/House Bill 878* (both passed)** authorize a cooperative housing corporation, a council of unit owners of a condominium, or a board of directors or governing body of a homeowners association, notwithstanding language contained in the entity's governing documents, to provide notice of a meeting or deliver information to a member or owner by electronic transmission if (1) the entity's governing body gives the entity the authority to do so; (2) the member or owner gives the entity prior written authorization to do so; and (3) an officer or agent of the corporation, council, or association certifies in writing that it has provided notice or delivered material or information as authorized by the member or owner.

The bills authorize a board of directors of a cooperative housing corporation, a council of unit owners of a condominium, or a board of directors or other governing body of a homeowners association, notwithstanding language contained the entity's governing documents, to authorize a member or owner to submit a vote or proxy by electronic transmission if the electronic transmission contains information that verifies that the vote or proxy is authorized by the member or owner. If the governing documents require voting by secret ballot and the anonymity of voting by electronic transmission cannot be guaranteed, voting by electronic transmission is permitted if the option of casting anonymous printed ballots is available.

Books and Records

Senate Bill 567/House Bill 879 ***(both passed)*** establish uniform standards for access to the books and records of cooperative housing corporations, condominiums, and homeowners associations. The bills require all books and records kept by or on behalf of a cooperative housing corporation to be made available for examination and copying by a member, a member's mortgagee, and their agents or attorneys during normal business hours, after reasonable notice.

For both cooperative housing corporations and condominiums, the bills authorize books and records to be withheld from public inspection to the extent that they concern (1) personnel records; (2) an individual's medical or financial records; (3) records relating to business transactions that are currently in negotiation; (4) written advice of legal counsel; or (5) minutes of a closed meeting of the governing body. The bills also authorize a reasonable charge on a person who desires to review or copy the books and records of a cooperative housing corporation or condominium.

The bills add the minutes of a closed meeting of the governing body to the books and records that a homeowners association may withhold from public inspection.

Deletion of Recorded Covenants and Restrictions

Senate Bill 692/House Bill 1042 ***(both passed)*** authorize a homeowners association to delete a recorded covenant or restriction that restricts ownership based on race, religious belief, or national origin from a deed or other declaration of property in a development if at least 85 percent of the lot owners in the development agree to the deletion. If a deed or other declaration expressly provides for a method of amendment or deletion, a homeowners association may use either method for deleting the covenants or restrictions. The governing body of a homeowners association must record the amendment with the clerk of the court in the jurisdiction in which the development is located.

Annual Charges

House Bill 566 ***(passed)*** requires a homeowners association that has authority to levy an annual charge on a development that contains at least 13,000 acres and has a population of at least 80,000 to base its annual charge on the phased-in assessment value of the property. The bill provides that any increase of more than 10 percent over the previous year's assessed value must be considered an unexpected windfall which is to be rebated or credited to the property owners in the following year. The bill does not require the windfall to be rebated or credited if the governing body certifies that the revenues from the annual charges are insufficient to pay outstanding bond obligations.

The bill also clarifies that the valuation of real property for the purposes of any private contract or covenant that was entered into or imposed prior to July 1, 1978, for the purpose of providing funds for public facilities or services through the imposition of payments or charges based on valuations made by the State for real property purposes is required to be 50 percent of the phased-in value of property.

The bill takes effect June 1, 2004, and applies retroactively to all annual charges imposed by a homeowners association made on or after January 1, 2003.

The only homeowners association that meets the requirements of the bill in terms of acreage and population is the Columbia Association in Howard County. Approximately 90,000 people reside in Columbia.

Disclosure Requirements – Chesapeake Bay Critical Area

Chapter 794 of 1984 established the Chesapeake Bay Critical Area Protection Program in the Department of Natural Resources to foster more sensitive development activity in a consistent and uniform manner along shoreline areas of the Chesapeake Bay and its tributaries. Chapter 433 of 2002 expanded the Chesapeake Bay Critical Area Law to include the Atlantic Coastal Bays and their tributaries. Under the program, development in the critical area is limited based on a local jurisdiction's critical area program. These restrictions, depending on the location of the property, may include limits on forest clearing, limits on impervious surfaces, setback requirements, and limits on housing densities.

***Senate Bill 482/House Bill 1030* (both passed)** require a contract or an addendum to a contract for the sale of real property to contain in conspicuous type a specific disclosure to buyers advising the buyers of the possibility that the property may fall within the Chesapeake and Atlantic Coastal Bays Critical Area.

Recordation of Deeds

***House Bill 180* (Ch. 40)** streamlines the deed recordation process by repealing the requirement that all deeds be presented at the local assessment office prior to recordation. Eleven counties currently use a "two-step" recordation process under which an instrument presented for recording in the land records must be endorsed with the certificate of the county tax collector and accompanied by an intake sheet. The clerk of the circuit court then sends a copy of the instrument and the intake sheet to the assessment office. The Act expands this streamlined process statewide, effective July 1, 2005.

Condemnation

***Senate Bill 275/House Bill 386* (both passed)** establish a Task Force on Business Owner Compensation in Condemnation Proceedings. The task force will study (1) the concept of business goodwill, with a focus on small business goodwill, and the appropriateness of developing a method to determine its value to calculate compensation in condemnation proceedings; (2) the feasibility of requiring condemning agencies to study the impact of condemnation on businesses; (3) the appropriateness of establishing a fund to provide financial assistance for affected businesses; (4) the feasibility of shortening the condemnation process to lessen uncertainty for businesses; (5) the appropriateness of making a legislative proposal on business owner compensation in condemnation proceedings applicable statewide or only in

Baltimore City; and (6) the circumstances in which condemnation can be used. The bills require the task force to report to the Governor and the General Assembly by December 31, 2005.

Interest on Security Deposits

Generally, a landlord is required to pay 4 percent simple interest, accruing at six-month intervals, on a tenant's security deposit and maintain all security deposits in branches of federally insured financial institutions doing business in the State. The deposits must be in interest-bearing accounts, and the accounts must be devoted exclusively to security deposits. A landlord may also hold the security deposits in insured certificates of deposit at branches of federally insured financial institutions doing business in the State or in securities issued by the federal government or the State.

***Senate Bill 372/House Bill 723* (both passed)** alter the amount of interest a landlord must pay a tenant upon return of the tenant's security deposit from 4 to 3 percent per annum.

Estates and Trusts

Maryland Uniform Disclaimer of Property Interests Act

***Senate Bill 541*/*House Bill 1348* (both passed)** adopt the revised Uniform Disclaimer of Property Interests Act (UDPIA) promulgated by the National Conference of Commissioners on Uniform State Laws in 1999. UDPIA establishes rules for disclaimers of property interests created by will, intestacy, or the exercise of testamentary powers of appointment. A disclaimer, when effective, treats the interest as if it had never been granted. UDPIA replaces the previous uniform act adopted in 1978.

The bills specify what interests may be disclaimed, the time when disclaimers are effective, and the effect on the distribution of disclaimed property interests. Generally, an heir in an intestate estate, a devisee of a will, a beneficiary of a trust or other nontestamentary transfer, a joint tenant in a joint tenancy with right of survivorship, a trustee of a trust, or any other fiduciary acting in a fiduciary capacity may disclaim a property interest under the bill. Any interest that may come to a person entitled to disclaim may be disclaimed, including a distribution of property in a probate estate, property due under a trust instrument, the property rights of a joint tenant at the death of another joint tenant, or the beneficiary rights following any other kind of nontestamentary or nonprobate transfer at death.

Small Trusts – Termination by Corporate Fiduciaries

Current State law allows a trust with a fair market value of $50,000 or less to be terminated without a court order by a corporate fiduciary acting as a trustee if the trustee determines that termination is in the best interest of the beneficiaries and the governing instrument does not expressly prohibit termination of the trust regardless of its size. The limit on the fair market value of a trust that may be terminated without a court order has not been

increased since the current law was originally enacted in 1991 (Ch. 170). ***Senate Bill 153*/*House Bill 617* (both passed)** increase to $100,000 the maximum amount of the fair market value of a trust that a corporate fiduciary may terminate without a court order. The bill also repeals the registered mail option for sending notice of a proposal to terminate a trust and sending a written objection to any such proposal.

Personal Representatives – Permanent Residents

***Senate Bill 646* (passed)** expands the class of individuals eligible for appointment as a personal representative of an estate to include a person who is a noncitizen, permanent resident of the United States and is (1) an ancestor of the decedent; (2) a descendant of the decedent; or (3) a sibling of the decedent. Previously, the personal representative status could only be granted to a non-citizen if the person was the spouse of the decedent and a permanent resident of the United States.

Election for Modified Administration – Trusts

Effective for decedents dying on or after October 1, 1997, special provisions for modified administration were enacted towards the goal of limiting the role of the register of wills and the orphans' court in the administration of certain smaller, less complex estates. The purpose of the provision was to encourage expeditious closing of an estate and distribution of assets. To this end, the formal inventory and account provisions under normal administration were replaced by the less rigorous final report.

***Senate Bill 686* (passed)** alters the circumstances under which modified administration may be elected. To qualify for the election, all trustees of each trust that is a residuary legatee of a testate decedent must be limited to the decedent's personal representative, surviving spouse, or children. The bill repeals a requirement that the trust be created in the will and clarifies that the trust must be a residuary legatee.

Part G
Transportation and Motor Vehicles

Transportation

Highways

Roadside Solicitation

The expanding practice of roadside solicitation of motorists has been a growing concern in recent years and has sparked State and local efforts to curb or stop the practice. Charles, Harford, and Washington counties prohibit roadside solicitation and Prince George's County does not allow children under the age of 15 to solicit from roadways and prohibits adults from encouraging them to do so. Several bills were introduced this session to further regulate or ban solicitation from median strips, intersections, and other roadside locations. ***Senate Bill 443***/***House Bill 283*** ***(both passed),*** prohibit solicitation on Frederick County roads, but two other bills, ***House Bill 61*** ***(failed)*** and ***House Bill 1323*** ***(failed),*** that would have eliminated soliciting on roadways statewide did not pass.

Another measure, ***House Bill 187*** ***(passed)*** creates a licensing program for the solicitation from county roads, median dividers, and intersections in Anne Arundel County by a nonprofit organization if the organization purchased a license and met specified licensing requirements. House Bill 187 resembles laws in other states that authorize roadway solicitation with the permission of the local jurisdiction or authorize certain nonprofits to solicit funds for charitable causes.

Reporting Requirements for Toll Increases

The Maryland Transportation Authority (MdTA) raised tolls at three locations in November 2001 and at five facilities in November 2003, excluding the Chesapeake Bay Bridge and the Potomac River (Nice) Toll Bridge. Toll revenues in fiscal 2005 will be $160 million, or 106 percent higher than in fiscal 2001, due primarily to these toll increases. ***House Bill 262*** ***(passed)*** requires the MdTA, before fixing or revising tolls on bridges, tunnels, or highways, to provide information to the fiscal committees of the General Assembly on the proposed toll changes, including (1) the annual revenues generated by the toll charges; (2) the proposed use of the revenues; and (3) the proposed commuter discount rates.

No Ballot for New Bridge

Traffic congestion on the Chesapeake Bay Bridges has increased by 23 percent between 1994 and 2001, prompting discussion of the need to construct another bridge across the bay. Maryland voters would have seen a question on the November 2004 general election ballot asking whether they approved of building another bridge across the Chesapeake Bay and committing State resources to do so under ***Senate Bill 159***/***House Bill 1527*** ***(both failed)***. The results would not have been binding. MdTA, which set aside $500,000 in the fiscal 2004 capital budget to study the issue, estimates that such a bridge would cost $1.5 to $3 billion to construct.

Magnetic Levitation Transportation System (Maglev)

The Baltimore-Washington area was one of two finalists in a competition for federal funding to construct a Maglev transportation system; however, the federal law requiring a competition is no longer in effect. Nonetheless, federal aid could be available for a proposed 40-mile Maglev project linking Camden Yards in Baltimore and Baltimore-Washington International Airport to Union Station in Washington, DC. Maglev would provide a 16-minute trip between Baltimore and Washington and could be expanded to provide service to other locations on the East Coast. The project's total cost is approximately $5 billion, or $125 million per mile. Maryland would be required to contribute about $500 million.

The fiscal 2005 budget includes $1 million in federal funding to complete the Environmental Impact Statement (EIS) for the Maglev system. Language adopted in the fiscal 2005 budget and a provision of the 2004 Budget Reconciliation and Financing Act prohibits the State from spending State funds on the study, development, or construction of a Maglev system. The State is authorized, however, to expend $1 million in federal aid to complete the EIS by July 1, 2005.

Funding

Grant Anticipation Revenue Vehicle (GARVEE)

GARVEE bonds are bonds that are backed by future federal transportation aid and provide one of the sources of potential revenue for the Intercounty Connector (ICC). Chapter 470 of 2002 authorized the use of GARVEE bonds for the Maryland Department of Transportation (MDOT). The Attorney General has declared that MdTA is also authorized to issue GARVEE bonds. Chapter 470 of 2002 established that GARVEE bonds could not have a maturity of more than 30 years, and MdTA's authority to issue revenue bonds limits the issuance of revenue bonds to a 40-year maturity. The amount of federal aid that may be pledged to repay GARVEE bonds is not limited for either MDOT or MdTA.

House Bill 962 ***(failed)*** would have repealed the authority of MDOT and MdTA to issue GARVEE bonds. ***House Bill 961*** ***(failed)*** would have limited GARVEE bonds so that annual debt service for GARVEE bonds could not exceed 10 percent of annual federal transportation aid and would have limited the term of GARVEE bonds to 15 years. ***Senate Bill 508*** ***(passed)***, the Budget Reconciliation and Financing Act of 2004, restricts the issuance of GARVEE bonds by

MDOT and MdTA by limiting the annual debt service on the bonds to 13 percent of annual federal transportation aid and limits the term for issued GARVEE bonds to 15 years. MdTA has indicated that it intends to use GARVEEs to finance planning and construction of the ICC. The limits imposed by the General Assembly on the use of GARVEEs will not adversely impact the ICC project. A more detailed discussion of this bill can be found under Part A – Budget and State Aid of this *90 Day Report*.

Department of Transportation Debt Limit

***House Bill 1467* (Ch. 9),** the Administration's transportation financing proposal that is discussed in more detail under the Motor Vehicles subpart of the Part G, also increases the amount of bonds that the Maryland Department of Transportation (MDOT) can issue by raising the debt limit from $1.5 to $2.0 billion. This change and the additional revenues will enable the department to sell approximately $505 million of additional consolidated transportation bonds between fiscal 2005 and 2009. Total debt service payments between fiscal 2005 and 2009 may increase by approximately $100 million. MDOT has identified several potential highway and transit projects for which the additional money could be spent, including Metrorail upgrades, safety projects on Routes 32, 113, and 450, and various road congestion improvements, such as the Hampstead and Hughesville bypasses and improvements to Interstates 495, 70, and 695.

Maryland Transit Administration

Maryland Senior Rides Demonstration Program

***Senate Bill 294*/*House Bill 626* (both passed)** create a Maryland Senior Rides Demonstration Program within the Maryland Transit Administration (MTA). The program awards grants of up to $100,000 to government and nonprofit entities to provide door-to-door transportation to low- to moderate-income seniors who have difficulty accessing existing transportation systems.

Farebox Recovery

***Senate Bill 282*/*House Bill 682* (both passed)** extend the June 30, 2004 termination date for Chapter 210 of 2000 to June 30, 2008. Chapter 210 requires MTA to recover at least 40 percent of the operating costs for its bus, light rail, and Metro services in the Baltimore region and established a goal of 50 percent for farebox recovery. In recent years, MTA has not been able to meet this requirement. Chapter 210 of 2000 also altered the definition of a service deficit for transit grants awarded to Prince George's and Montgomery counties to mean (1) revenues and all federal operating assistance or (2) 40 percent of the operating costs and all federal operating assistance.

Maryland Transportation Authority

***Senate Bill 508* (passed)**, the Budget Reconciliation and Financing Act of 2004, requires the Maryland Transportation Authority to notify the Senate Budget and Taxation Committee, the House Appropriations Committee, and the House Ways and Means Committee for review and

comment whenever it enters into a contract or agreement for the operation or ownership of a transportation facility. Senate Bill 508 and ***Senate Bill 191 (passed)***, the Maryland Consolidated Capital Bond Loan of 2004, also establish that MdTA must get authorization from the General Assembly to issue bonds for the financing of transportation projects beginning July 1, 2005. A more detailed discussion of these bills can be found in Part A – Budget and State Aid of this *90 Day Report*.

Transportation Trust Fund (TTF)

TTF Sweeper

Senate Bill 508 (passed), the Budget Reconciliation and Financing Act of 2004, requires that a general fund surplus in excess of $10 million be appropriated to the TTF. This appropriation may not exceed $50 million annually and is no longer required once the cumulative appropriations from the general fund to the TTF equal $314,913,000, the amount that was transferred from the TTF to the general fund by the 2003 Budget Reconciliation and Financing Act. A more detailed discussion of this bill can be found in Part A – Budget and State Aid of this *90 Day Report*.

Motor Vehicles

Drunk and Drugged Driving Enforcement

Driving While Impaired by Drugs

Penalties for Driving While Impaired by Drugs: Two studies by The Walsh Group in conjunction with the Shock Trauma Center at the University of Maryland Hospital indicated that drug use was very high among motor vehicle crash victims. Of the drivers age 16 to 44 admitted to the Trauma Unit, nearly one out of three injured drivers tested positive for marijuana use. ***House Bill 373 (passed)*** increases the maximum penalties for driving or attempting to drive while impaired by a controlled dangerous substance (CDS) by making the penalties commensurate with the penalties for driving or attempting to drive while under the influence of alcohol or under the influence of alcohol per se. A person who is convicted of driving or attempting to drive while impaired by a CDS within five years after a prior conviction for the same offense is subject to a mandatory minimum penalty of imprisonment for five days and is required to undergo a comprehensive drug abuse assessment. Enhanced penalties for driving or attempting to drive while impaired by a CDS while transporting a minor are added, commensurate with the penalties for driving while under the influence of alcohol or under the influence of alcohol per se while transporting a minor.

Required Assessment before Granting Probation before Judgment: According to the report, *Driving Under the Influence of Drugs Legislation in the United States*, prepared by The Walsh Group and the American Bar Association, as of the year 2000, 31 states provided for court-ordered substance abuse treatment or education for alcohol- or drug-related driving

offenders. ***House Bill 376 (passed)*** clarifies that if the court stays a judgment for various alcohol- or drug-related driving offenses, then before imposing a period of probation, the court may order the Department of Health and Mental Hygiene to evaluate the defendant to determine if the defendant is in need of and may benefit from an alcohol or drug treatment or education program. If an evaluation is ordered, the court must review the evaluation before imposing a period of probation.

Impaired Driving That Causes Life-threatening Injury or Death

Senate Bill 592 (passed) requires a person involved in an alcohol- and/or drug-related motor vehicle accident resulting in death or life-threatening injury to submit, at the direction of a police officer, to a test of breath or blood or to tests of both breath and blood to determine the person's alcohol concentration or any drug or controlled dangerous substance content of the person's blood.

Motor Vehicle Administration

Senate Bill 34 (passed) allows the Motor Vehicle Administration to delegate to the Office of Administrative Hearings the authority to conduct hearings and render final decisions for all cases under the Maryland Vehicle Law.

Vehicle Licensing and Registration

Vehicle Fees

The General Assembly raised the State vehicle registration fees for the first time in 17 years, as part of ***House Bill 1467 (Chapter 9)***. The Act's revenue raisers (described below) followed a series of meetings and public hearings by the Governor's Transportation Task Force in 2003. The task force identified $10.5 billion in underfunded capital transportation needs over the next six years and delineated several options to raise an additional $300 million per year for the Transportation Trust Fund (TTF) to fund road and transit projects, including increasing the gas and titling tax and the vehicle registration fee.

Several factors, including stagnant revenue, have contributed to the funding gap. While the number of vehicles and drivers in Maryland continue to increase, resulting in increased demand on highway facilities, transportation revenue sources have remained fixed. For example, the State gasoline tax has not been increased since 1992, and the 5 percent vehicle titling tax was last increased in 1978. The revenue gap was exacerbated in 2003 by a $300 million transfer from the TTF to close the deficit in the State's general fund.

Registration Fees: The legislation originally raised approximately $148 million in fiscal 2005 from registration fee increases on all classes of vehicles. The bulk of the revenue stems from an 87 to 89 percent jump in the fee paid on passenger cars, trucks, and sport utility vehicles (SUVs). The biennial registration fee for a Class A passenger car or Class M vehicle (*e.g.*, minivans) will increase by $47; car owners will pay $101, in addition to a $13.50 surcharge for various medical funds. The biennial fee for heavier vehicles such as SUVs will increase from

$81 (excluding surcharges) to $153. However, ***Senate Bill 508 (passed)***, the Budget Reconciliation and Financing Act of 2004 (BRFA) created an exemption for rental vehicles that covers passenger vehicles, trucks, and trailers (freight and nonfreight), as well as tractor-trailers. The annual estimated revenue loss associated with the exemption is over $1.3 million.

House Bill 1467 also permanently extends the Maryland Trauma Physician Services Fund (set to expire July 1, 2005) and the $2.50 annual surcharge on the State vehicle registration fee that supports the fund. The surcharge will generate approximately $12.4 million annually.

Miscellaneous Fees: BRFA will generate an additional $17 million in fiscal 2005 and $20 to $21 million annually thereafter by changing the formula used by the Motor Vehicle Administration (MVA) to set miscellaneous fees. The MVA has indicated that it will raise most of this revenue by imposing a $30 fee to release "flags" placed on the registration of Maryland drivers who do not pay their civil citations on time. Currently, the MVA only charges this in cases where a driver does not pay the citation by the time the vehicle's registration is renewed. In fiscal 2003, the MVA collected almost $191 million in miscellaneous fees. Following deductions for various funds, net miscellaneous fee revenue was $129.8 million. House Bill 1467 permits the MVA to establish and charge a fee for persons who fail to keep appointments made for noncommercial driver licensing tests. If a $20 fee is charged and 5 percent of the MVA customers miss their appointments, the fee will raise $150,000.

License Tags

Senate Bill 32 (passed) eliminates the 15-day limit on temporary vehicle registrations and authorizes the Motor Vehicle Administrator to determine the duration of temporary registration. It also requires all vehicles, whether purchased in Maryland or out-of-state, to be inspected within 60 days of registration.

Licensing of Undocumented Immigrants

House Bill 40 (failed) would have prohibited a person from knowingly allowing the person's motor vehicle to be driven on a highway by an individual the person knows is not lawfully admitted into or otherwise lawfully present in the United States. A violator would have been subject to a maximum fine of $500 and forfeiture of the motor vehicle to the State. In addition, the MVA would have been required to suspend for one year the license of anyone convicted of the crime.

Under MVA policies regarding valid identification documents, there are classes of non-citizens who are legally present in the U.S. but are nevertheless precluded from obtaining a driver's license. These noncitizen classes include refugees, asylees, temporary protective status grantees, Canadian citizens who are exempt from the requirement of carrying a passport, and individuals granted residence by an immigration judge. ***House Bill 41 (failed)*** would have prohibited the MVA from issuing a driver's license to an individual who is not lawfully present in the U.S. in accordance with federal law and regulations.

Standards for Commercial Driver's Licenses

On May 5, 2003, the federal Department of Homeland Security issued new regulations requiring detailed background investigations and fingerprinting of applicants for new and renewed commercial driver's licenses with a hazardous materials endorsement. States were required to implement the background check program by April 1, 2004.

Maryland requires a commercial driver who transports hazardous materials to obtain a State-issued endorsement. ***House Bill 855 (passed)*** requires that to obtain a State-issued endorsement, the operator must apply to the Criminal Justice Information Systems (CJIS) Central Repository for a national and State criminal history records check. Employers of commercial motor vehicle operators may pay for the background checks. The bill requires a check of Maryland criminal records as well as federal criminal records because Maryland criminal records contain more up-to-date information than the records maintained by the FBI. The MVA may not issue a hazardous material endorsement of a commercial driver's license without the approval of the Transportation Security Administration of the federal Department of Homeland Security.

The Federal Motor Carrier Safety Administration published a Final Rule to establish requirements under the Motor Carrier Safety Improvement Act of 1999. States are required to implement changes to commercial driver licensing and sanctioning procedures by September 30, 2005, or risk the loss of federal highway and Motor Carrier Safety Assistance Program funding. For the first year that Maryland is not in compliance with federal requirements, the State could lose 5 percent of federal highway funds or $15.4 million. In the second and subsequent years of noncompliance, the percentage of highway funds withheld could rise to 10 percent, or about $30 million. ***Senate Bill 396*/*House Bill 163* (both failed)** would have established new and stricter sanctions for holders of commercial driver's licenses and would have required uniform reporting procedures. Sanctions applied to the operators of commercial motor vehicles would have applied even if a driver was operating a noncommercial vehicle at the time of an alleged violation.

Vision Requirements

Vision Testing Exemption: The MVA reports that in fiscal 2002, 505,000 driver's license renewals were processed. About 1.3 million drivers age 21 to 40 in Maryland are licensed. Chapter 14 of 2000 repealed a requirement that a driver's license renewal applicant appear in person for every renewal. The MVA undertook comprehensive modernization of the driver licensing process from 1999 to 2001, which made mail-in renewal of driver's licenses possible. By eliminating the requirement for a vision screening once in that 10-year period, drivers in the 21 to 40 age group would be able to renew their licenses electronically, by mail, or other means. ***Senate Bill 35 (passed)*** provides that an individual who is at least 21 years old, but less than 40, may apply for renewal of a driver's license by mail, electronically, or by other authorized means without taking a vision test, if the individual passed a vision test authorized by the MVA within the previous six years.

Vision Standards: The changes made by the General Assembly in 1997 to authorize restricted licenses with lower vision requirements reflected the recommendations offered by the Workgroup for Modified Vision Standards, which consisted of medical professionals, MVA staff, and citizens. The workgroup was appointed after the MVA concluded that there was a significant population with vision problems that could not legally drive but could drive safely under specified restrictions. ***Senate Bill 822 (passed)*** repeals the September 30, 2004 termination date for a provision of law that established lower vision standards for Class C noncommercial driver's license applicants if the applicant simultaneously meets specified vision standards and is recommended for consideration for licensure by the applicant's licensed ophthalmologist or optometrist. An applicant must pass a driver's training course, and the Medical Advisory Board may place restrictions on the license.

Other Licensing Provisions

Conversion to Full Driver's License: With the increased automation of the driver's license renewal system, the MVA plans to mail full driver's licenses to holders of provisional licenses after completion of the qualifying period, since all identifying information, including photographs, will be available from the provisional license record. However, if the holder of a provisional license commits a moving violation after qualifying for a full license, but before actually receiving the full license, Maryland law requires the holder to wait an additional 18 months before qualifying for a full license. ***Senate Bill 33 (Ch. 13)*** authorizes the MVA to issue full driver's licenses to holders of provisional licenses who have been convicted of moving violations after conclusion of the provisional licensing period, but before the drivers have been able to obtain full driver's licenses.

Parking Access for the Disabled: ***Senate Bill 368 (passed)*** establishes a Task Force on Parking for Individuals with Disabilities. The task force is charged with studying current laws regarding parking privileges for individuals with disabilities, with a focus on laws governing parking spaces designated for Class M (multipurpose) vehicles and for the use of individuals with disabilities. The task force is required to report its findings and recommendations to the General Assembly by December 31, 2004.

Rules of the Road

Traffic Signal Interference

Mobile infrared transmitters, known as "MIRTs," are devices intended to change traffic lights. The technology used to be sold exclusively to police and fire departments, which have used it for years to clear intersections and halt opposing traffic in emergency situations. While initially the cost of a MIRT was prohibitive, copycat versions of the MIRT are now available for a much lower cost. As a result, these devices have become available to the general public. ***Senate Bill 457 (passed)*** and ***House Bill 381 (passed)*** both prohibit a person without lawful authority from possessing, with an intent to use, any device capable of transmitting an infrared, electronic, or other signal to a traffic control device or railroad sign or signal for the purpose of altering or otherwise interfering with the operation of the traffic control device or railroad sign or

signal. A violation is a misdemeanor with maximum penalties of imprisonment for two months and/or a fine of $500.

School Bus Safety

Special Bus Speed Eliminated: On some interstates and highways, especially in the more rural areas of the State, the speed differential between a school bus and other traffic can exceed 20 miles per hour, with the school bus limited to a maximum speed of 50 miles per hour. A vehicle traveling at much slower speeds than surrounding traffic can be at greater risk than if it is traveling at or close to the prevailing speed. Studies have indicated that safety improves as the speed variation among vehicles decreases. ***House Bill 65* (passed)** repeals the 50 miles per hour speed limit on school buses that are carrying passengers, thereby allowing school buses to travel at the posted speed limit on interstate and rural highways, which have speed limits that generally range from 55 to 65 miles per hour.

Enhanced Penalties: Chapter 332 of 2000 created a nonlapsing fund (through fiscal 2005) that allows the Department of State Police to provide annual grants of up to $35,000 to local law enforcement agencies to better enforce illegal passing of school vehicles. ***Senate Bill 280*/*House Bill 1223* (both passed)** seek to further improve enforcement by increasing, from $500 to $1,000, the maximum fine for a driver who fails to stop or remain stopped for a school vehicle that is stopped with activated alternately flashing red lights.

Pedestrian Safety

In Maryland, from the period July 1, 2002, to June 30, 2003, only 591 citations were issued for violating a pedestrian's right-of-way in a crosswalk. Only 18 citations were issued for passing a vehicle that was stopped for a pedestrian. To increase the incentive to enforce pedestrian right-of-way laws, violations of which are punishable by imprisonment and, as such require a court appearance, ***House Bill 954* (passed**) limits the circumstances under which a violation of a pedestrian right-of-way law may result in a term of imprisonment. Under the bill, a violation of the prohibition against a driver failing to stop for a pedestrian in a marked crosswalk or the prohibition against passing a vehicle stopped for a pedestrian in a marked or unmarked crosswalk at an intersection is punishable by imprisonment for up to two months only if the violation contributes to an accident. If violation of these provisions does not contribute to an accident, then the violators are subject to a maximum fine of $500 but not imprisonment.

Distracted Driving

The use of telephones while driving and the impact of other distractions on drivers has been a major issue for the past several years. In addition to telephones, cars now come equipped with on-board navigation systems, DVD players, and television monitors, all competing to divert the driver's attention away from the road. Nationwide, the National Highway Transportation Safety Administration estimates that 25 to 30 percent of motor vehicle crashes (about 1.2 million accidents) are caused by driver distraction.

One of the persistent issues with regulating hand-held telephone use or other interactive devices in motor vehicles is the absence of consistent findings or reliable statistics. Studies published in recent years by the New England Journal of Medicine, the Harvard Center for Risk Analysis, and the University of North Carolina Research Center, among others, have proven to be inconclusive. ***House Bill 29 (failed)*** would have prohibited the driver of a motor vehicle from operating a hand-held telephone while the vehicle is in motion, except in an emergency.

In 2003, the National Transportation Safety Board (NTSB) recommended that all states prohibit holders of learner's permits and intermediate or provisional licenses from using interactive wireless communication devices while driving. This recommendation was one of several pertaining to the overall problem of driver distraction that was part of an NTSB report. ***House Bill 5 (failed)*** and ***House Bill 189 (failed)*** would have required the MVA to impose a restriction on certain provisional licenses and learner's instructional permits to prohibit the licensee or permit holder from using an interactive or wireless communication device while operating a motor vehicle. ***Senate Bill 630 (failed)*** would have prohibited a driver under the age of 18 from operating any mobile telephone, whether hands-free or handheld, while the motor vehicle was in motion, except in an emergency.

Equipment and Inspections

Surge Breaks

According to the State Highway Administration, surge brakes, which function without requiring additional controls for the driver to operate, can provide additional safety for some vehicles such as rental trailers. The General Assembly passed legislation in 2002 (Senate Bill 302/House Bill 404) authorizing the use of surge brakes as an exception to the requirements for braking systems of certain trailers and semitrailers. The Governor vetoed the bills on the grounds that surge brakes did not meet federal or State transportation safety standards. ***Senate Bill 395/House Bill 551 (both passed)*** authorize the use of surge brakes under specified conditions.

Emergency Vehicles

House Bill 717 (passed) exempts emergency vehicles from size, weight, and load restrictions. Emergency vehicles include ambulances; vehicles used by rescue squads, fire departments, or the Maryland Institute for Emergency Medical Services Systems; or vehicles owned by federal, State, or local law enforcement agencies. Under previous law, restrictions regarding size, weight, and load did not apply to fire apparatus, farm equipment temporarily moved on a highway, or a vehicle with a special permit.

Part H
Business and Economic Issues

Business Occupations

Docking Masters and Pilots

To consolidate resources, ***House Bill 884*** ***(passed)*** transfers regulatory authority over docking masters from the State Board of Docking Masters to the State Board of Pilots and abolishes the State Board of Docking Masters. As docking masters will be licensed as pilots**,** House Bill 884 includes provisions to ensure the transition of docking master licensees to pilot licensees and expands the definition of pilotage to encompass operations normally undertaken by docking masters. Initially, all licensees will only be able to provide the services they provided prior to the consolidation. Membership on the State Board of Pilots is altered to replace one of the consumer members with a representative of the ship docking tugboat industry in the Port of Baltimore. In addition to these changes, the bill:

- adds an Incident Committee to the State Board of Pilots with the authority to review complaints submitted to the board and make a recommendation as to the disposition of each complaint;
- expands and makes more stringent the qualifications for pilots-in-training;
- expands the grounds for taking disciplinary action against licensees; and
- prohibits a licensed pilot from taking part in a port-wide job action or strike.

Real Estate Brokers and Salespersons

Licensure and Renewal

House Bill 1249 ***(passed)*** requires an individual applying for a license as a real estate broker, associate real estate broker, or real estate salesperson to complete a three-clock-hour

course in real estate ethics that is approved by the State Real Estate Commission. Generally, the bill phases in increased continuing education requirements for licensees who have been licensed for 10 years or more. After October 1, 2008, all licensees, except those who possess a graduate degree in law or real estate, will need to complete at least 15 hours of continuing education within the preceding two years to qualify for license renewal. Licensees with a graduate degree in law or real estate only need to complete 7.5 hours of continuing education for renewal. All licensees must complete a course in ethics, which addresses flipping and predatory lending, as part of their biennial continuing education requirements. The bill also provides for continuing education reciprocity with other states. The State Real Estate Commission must create a list of available continuing education opportunities and post it on the commission's web site.

Distribution and Liability of Trust Money

An individual involved in a real estate transaction may entrust a deposit, payment, or other money to a real estate broker, or to an associate real estate broker or real estate salesperson on behalf of a real estate broker, to hold for purposes of a real estate transaction. If the owner or beneficial owner of the trust money fails to complete the real estate transaction for which the trust money was entrusted, ***Senate Bill 366*** ***(passed)*** gives the broker sole discretion in the decision to distribute the money in accordance with specified provisions of law. A broker may not be liable for a decision not to distribute the trust money to the owner or beneficial owner.

Use of a Designated Name in Advertising

Chapter 583 of 2002 authorized licensed associate real estate brokers and real estate salespersons to use a professional name or "trade name" when providing brokerage services and in their advertisements if specified requirements were met. ***House Bill 701*** ***(passed)*** changes the term "trade name" to "designated name" and authorizes licensed real estate brokers to use designated names as well. The bill also repeals an advertising requirement, which would have taken effect on October 1, 2004, that is related to the size of the name of the business with which the licensee is associated.

Public Accountants

House Bill 145 ***(passed)*** expands the grounds for which the State Board of Public Accountancy may take disciplinary action against an applicant or a licensed public accountant. The board may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if the applicant or the licensee:

- has been sanctioned in another state in a matter relating to the practice of public accountancy; or

- has been sanctioned by a state or federal authority for acts or omissions directly relating to the fitness of the applicant or licensee to practice public accountancy.

Security Guards

Senate Bill 335*/*House Bill 752 ***(both passed)*** require the Secretary of State Police to assess a late fee of $5 per day if the Secretary does not receive the proper certification renewal form and renewal fees from a security guard on or before the first business day of the next calendar month immediately following the certification renewal date. The amount of late fees charged to an individual is capped at $150. If an applicant for certification renewal does not make timely renewal due to incapacity, hospitalization, active military duty, or other hardship, the Secretary may not charge the applicant a late fee.

Plumbers

House Bill 143 ***(passed)*** expands the grounds for which the State Board of Plumbing may take disciplinary action against an applicant or a licensed plumber. The board may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license for:

- failure to train and adequately control an individual who provides or assists in providing plumbing services while under the direction and control of a licensed master plumber;
- violation of any regulation adopted by the board; and
- violation of any provision of the Maryland Plumbing Act.

Business Regulation

Maryland Telephone Consumer Protection Act − Do Not Call Registry

Under regulations issued jointly by the Federal Trade Commission (FTC) and the Federal Communications Commission (FCC), individuals may enter their names into the National Do Not Call Registry. With limited exceptions, telemarketers are prohibited from calling telephone numbers that are entered in the registry. Once a number is entered into the registry, telemarketers must stop calling the number within three months after the date of entry. Violators are subject to a fine of up to $11,000 for each violating call. FCC, FTC, and states' attorneys general may sue in federal court to enforce the National Do Not Call Registry. A state must pass a law adopting the National Do Not Call Registry in order for its state's attorney general to enforce the registry in state courts.

Approximately 1.3 million Maryland telephone numbers have been listed in the national registry, and approximately 6,100 Marylanders have filed complaints with FTC related to the registry.

Senate Bill 88 ***(passed)*** authorizes the Office of the Attorney General (OAG) to enforce the National Do Not Call Registry and related telemarketing laws and rules in Maryland courts. Specifically, the bill prohibits a person from violating the National Do Not Call Registry that was adopted under regulations issued jointly by FTC and FCC. Violation of the bill is an unfair or

deceptive trade practice under the Maryland Consumer Protection Act. In addition to the civil damages remedies available under the Consumer Protection Act, the bill authorizes an individual who receives a call in violation of the bill to bring an action against the violator to recover attorney's fees and the greater of $500 or actual damages sustained as a result of the violation. Finally, the bill requires OAG to report to the Senate Finance Committee and the House Economic Matters Committee on or before July 1, 2005, on the status of enforcement of the provisions of the bill. The bill takes effect June 1, 2004.

Secondhand Precious Metal Object Dealers and Pawnbrokers

The Metropolitan Washington Council of Governments has created a task force to explore ways to assist local law enforcement agencies in tracking the movement of secondhand precious metal objects by secondhand dealers and pawnbrokers. The task force has enlisted 17 jurisdictions in Maryland, Virginia, and the District of Columbia to participate in a program that would use electronic submission of records for transactions of precious metal objects; five of these jurisdictions, including Montgomery County, will participate in a pilot program to implement the electronic method of transmitting records involving precious metal objects in secondhand stores.

House Bill 449 ***(passed)*** authorizes secondhand precious metal object dealers and pawnbrokers to electronically submit records of transactions involving secondhand precious metal objects to a local law enforcement agency in a format acceptable to the receiving law enforcement agency. Electronic transmission of records must be completed by the end of each business day.

Under the bill, the Secretary of Labor, Licensing, and Regulation must encourage dealers and local law enforcement agencies to develop a system for transmitting records electronically. By expanding the methods for transmitting records, local law enforcement agencies will increase their ability to track the movement of secondhand precious metal objects, leading to quicker recovery of stolen objects.

Registration of Service Station Dealers and Sale of Gasoline Products

House Bill 829 ***(passed)*** continues until October 1, 2009, the conditional prohibition on the Comptroller from issuing a certificate of registration to a retail service station dealer who markets motor fuel through a retail service station that has been altered, enlarged, or structurally modified after July 1, 1977. This prohibition would have terminated on October 1, 2004. When this law was first enacted in 1977, there was concern over the petroleum industry's trend away from local full-service gas stations and toward the "quick-stop" or "gas-n-go" type facilities, often run by large corporations, which were assumed to be less community-oriented and less responsive than locally owned full-service stations. This law was originally enacted to try to slow down this trend, which continues today in a slightly different form. The emerging trend is for a multi-corporate facility, combining a national fast-food eating and convenience store facility with a national fuel facility.

The bill also delays for five years the requirement that each producer, refiner, or wholesaler of motor fuel who supplies motor fuel to retail service station dealers extend all

voluntary allowances uniformly to all retail service station dealers supplied. Voluntary allowances are discounts suppliers offer retailers. There have been concerns on the part of independent service stations that company-owned retailers get more and better discounts than independent service stations.

Home Improvement Commission

***Senate Bill 45* (passed)** alters the timetable in which the Maryland Home Improvement Commission must provide written notification to an applicant for a license on whether the application has been approved or denied. That notification must be provided within 30 days after the first meeting of the commission following submission of the completed application. The bill preserves the requirement for the commission to notify an applicant in writing of an examination score within 30 days after the first meeting of the commission following an examination date.

When the notification provision amended by this bill was originally enacted, the examination for a license was the last stage of the application process. However, in 1993, the law was amended to require that an individual take and pass an examination as the first step in applying for a license. This bill makes the notice of the approval or denial of an application by the Home Improvement Commission consistent with the changes in the application process enacted in 1993.

Registration Fees

Health Club Services Providers

***Senate Bill 508* (passed),** the Budget Reconciliation and Financing Act (BRFA) of 2004, increases to $75, $300, and $1,200, respectively, the maximum annual registration and renewal fees that health club service providers must pay to the Division of Consumer Protection of the Office of the Attorney General. Health clubs are charged one of three different fees, depending on whether they hold a surety bond and collect fees in advance of service.

The Division of Consumer Protection indicates that the full authority for fees provided in the bill would be exercised; accordingly, the new fees would generate $220,200 annually beginning in fiscal 2005 with an annual net increase of $94,700 in fee revenue. As the program has not been self-supporting, the increased registration fees will cover program costs and eliminate the need for a general fund subsidy. BRFA effectuates a contingent general fund reduction of $54,285 in the fiscal 2005 budget.

Home Builders

Senate Bill 508 also halves registration fees for home builders. Specifically, BRFA reduces the initial fee for a two-year registration from $600 to $300 and reduces the biennial renewal fee from $300 to $150 for home builders with building permits for 10 or fewer new homes in the preceding calendar year and from $600 to $300 for home builders with building permits for 11 or more new homes in the preceding calendar year. BRFA also repeals the termination provision related to the statutory home builder registration fees with the effect that the fees will not revert to being set by regulation, subject to a statutory cap. The Home Builder

Registration Fund in the Consumer Protection Division would have had a projected fiscal 2005 ending fund balance of $2.2 million, far in excess of the annual program costs of less than $300,000. The reduced fees, coupled with a transfer of $500,000 to the general fund, will ensure that the fund balance does not become excessively large.

Tobacco Product Manufacturers

In 1998, Maryland and 45 other states signed a Master Settlement Agreement (MSA) with the four largest tobacco product manufacturers. The MSA settled state lawsuits against the tobacco companies to recover costs associated with treating smoking-related illnesses. The tobacco industry is expected to pay the 46 states more than $200 billion over 25 years. Maryland's annual share from all MSA revenue streams has ranged from about $150 million to almost $175 million in recent years. Payments are expected to drop slightly over the next couple of years but should rebound beginning in fiscal 2008 when strategic contribution payments of $28 million will supplement the annual payments. These funds are deposited into the State's Cigarette Restitution Fund from which the State supports cancer and tobacco programs, Medicaid, crop conversion, substance abuse treatment, and other initiatives.

Maryland enacted the MSA model statute in 1999, requiring tobacco product manufacturers to either join the MSA or deposit funds into escrow based on the number of cigarettes that they sell in Maryland. ***Senate Bill 240*/*House Bill 477* (both passed)** close an unintended loophole in the MSA model statute that permits a manufacturer that has geographically concentrated sales to obtain a refund of the vast majority of its escrow deposits. This refund allows a manufacturer to significantly lower the price of its cigarettes. As a result, the manufacturer may take sales away from MSA-participating manufacturers, resulting in reduced payments by MSA-participating manufacturers to the states. The lower cigarette price also makes them more attractive to youths, who tend to be more price-sensitive than adults.

The bills change the formula for the early release of escrow funds deposited by a tobacco product manufacturer that is not participating in the MSA. The formula specifies that the escrow payments must be based on the units sold in Maryland. If those escrow payments exceed the amount the manufacturer would have been required to pay if it had become a party to the MSA, any excess reverts back to the manufacturer. These bills take effect June 1, 2004.

Public Service Companies

Public Service Commission

Declaratory Judgments

***Senate Bill 175* (passed)** provides that a person challenging the validity of a regulation of the Public Service Commission (PSC) must do so under the declaratory judgment provisions of the Administrative Procedures Act (APA). The bill specifies that a party to a PSC proceeding, a person granted intervention in a PSC proceeding, or a person ordered to participate in a PSC proceeding that seeks to challenge a PSC decision to act by order rather than regulation must

seek judicial review of the PSC's decision within 30 days after PSC issues a final order in that proceeding.

Senate Bill 175 also provides that notwithstanding any provision of the APA, any order that PSC issued on or before June 30, 2000, in a generic or quasi-legislative proceeding and that is not the subject of a judicial proceeding pending as of June 1, 2004, is not invalid or unenforceable because the order fits the definition of a regulation subject to the adoption requirements of APA.

Electricity and Gas

Renewable Energy − Portfolio Standard, Fund, and Credit Trading System

***Senate Bill 869*/*House Bill 1308* (both passed)** require PSC to establish a Renewable Energy Portfolio Standard that applies to retail electricity sales in the State beginning in 2006. The bills also direct PSC to establish a market-based renewable energy credit system and a Maryland Renewable Energy Fund. Effective January 1, 2006, the bills repeal provisions of the State's electricity restructuring law that required maintenance of effort by electric companies in procuring electricity from renewable sources.

The bills require each electricity supplier to include in its portfolio of electricity for retail sales a specified percentage of energy derived from renewable sources. The requirement does not apply to retail electricity sales to (1) residential customers under a specified rate freeze or cap; (2) industrial process load exceeding 300 million kilowatt-hours for a single customer; or (3) a customer served by an electric cooperative under an agreement existing on October 1, 2004. **Exhibit H-1** sets forth the renewable energy portfolio standard.

Exhibit H-1
Renewable Energy Portfolio Standard

Year	Tier 1 Energy Resources	Tier 2 Energy Resources	Total
2006/2007	1%	2.5%	3.5%
2008/2009	2%	2.5%	4.5%
2010/2011	3%	2.5%	5.5%
2012/2013	4%	2.5%	6.5%
2014/2015	5%	2.5%	7.5%
2016/2017	6%	2.5%	8.5%
2018	7%	2.5%	9.5%
2019 and later	7.5%	0%	7.5%

Source: Department of Legislative Services

Eligible Sources and Credits: Tier 1 renewable energy sources include solar, wind, qualifying biomass, methane from the anaerobic decomposition of organic materials in a landfill or wastewater treatment plant, geothermal, ocean (including energy from waves, tides, currents, and thermal differences), and fuel cells powered by other Tier 1 sources. Qualifying biomass includes gasified animal and poultry waste, specified forest-related and agricultural materials, and crops grown as fuel.

Tier 2 renewable sources include hydroelectric power, the incineration of poultry litter, and waste-to-energy. Energy is also eligible for inclusion in meeting the standard through 2018 if it is generated from a Tier 2 renewable source (1) at a facility that existed on January 1, 2004, for hydroelectric and waste-to-energy sources; and (2) at a facility that incinerates processed poultry litter regardless of when the generating system was placed in service. Tier 1 energy can be counted for compliance with the Tier 2 standard, but Tier 2 sources cannot satisfy the Tier 1 standard. Each electricity supplier must submit an annual report to PSC demonstrating compliance with the portfolio standard for the preceding year.

An electricity supplier receives double credit toward meeting the standard for energy derived from solar energy. For credits created in 2004 and 2005, wind receives 20 percent extra credit; for 2006 through 2008, wind receives 10 percent extra credit. Landfill gas methane receives 10 percent extra credit from 2004 through 2008.

An industrial customer that is not on the standard offer service, as well as a renewable on-site generator, may independently acquire credits to meet the Tier 1 and Tier 2 standards applicable to that customer's load. A renewable on-site generator is defined as a person that generates electricity on-site from a Tier 1 or Tier 2 renewable source. Industrial customers receive credit for renewable on-site generation from a Tier 1 or Tier 2 source that displaces the

purchase of electricity by the industrial customer from the power grid. The customer may sell credits that exceed the amount needed to satisfy the portfolio standard for the customer's load.

Energy Fund and Compliance Fees: Senate Bill 869/House Bill 1308 establish a Maryland Renewable Energy Fund as a special, nonlapsing fund to encourage the development of generating resources for renewable energy. If retail electricity sales of an electricity supplier contain fewer kilowatt-hours from Tier 1 and Tier 2 renewable sources than are required to comply with the standard for that year, the supplier must pay a compliance fee in the following year at a rate of:

- 2 cents per kilowatt-hour of Tier 1 renewable source shortfall into the fund, and 1.5 cents per kilowatt-hour of Tier 2 shortfall; or

- for Tier 1 industrial process load only:

  - $0.008 for fiscal 2006 – 2008;
  - $0.005 for fiscal 2009 – 2010;
  - $0.004 for fiscal 2011 – 2012;
  - $0.003 for fiscal 2013 – 2014;
  - $0.0025 for fiscal 2015 – 2016; and
  - $0.002 for fiscal 2017 and later.

There is no compliance fee for any shortfall from required Tier 2 renewable sources for industrial load.

An electricity supplier may recover costs incurred in complying with the portfolio standard. A compliance fee can be recovered if (1) payment of the fee would be cheaper for ratepayers than the purchase of eligible energy resources; (2) there are not sufficient eligible energy resources available to comply with the standard; or (3) a wholesale electric supplier defaults or otherwise fails to deliver electricity under a contract approved by PSC. Any cost recovery must be disclosed to the customer in a manner determined by PSC. PSC may also waive the recovery of all or part of a compliance fee assessed on the load of a particular industrial or nonretail commercial customer for a particular year based on a demonstration of extreme economic hardship.

The Maryland Energy Administration (MEA) administers the fund under PSC oversight. The fund may only be used to make loans and grants to assist in the creation of new Tier 1 renewable energy sources in the State. The fund consists primarily of compliance fees and loan repayments. MEA is responsible for accepting and reviewing applications for projects. Administrative costs to the fund may not exceed 10 percent of the fund balance.

Energy Credit Trading System: The bills require PSC to establish a market-based renewable electricity trading system in which electricity suppliers can trade renewable energy credits (RECs) with each other to fulfill the energy portfolio standard.

The trading system should operate in conjunction with the generation attribute trading system (GATS) being developed by PJM, and may be operated by PJM or another entity. The system must include a registry of REC transactions among suppliers and maintain records of those transactions. The registry must provide current information on the status of RECs to owners and the public through the Internet and other means.

A renewable energy credit is defined as a credit equal to one megawatt-hour of retail electricity in the State that is derived from a Tier 1 or Tier 2 renewable source. A credit expires after three years and can be diminished or extinguished before the expiration date by the supplier that received the credit or a nonaffiliated entity of the electricity supplier. The bills allow a credit to be initially sold or transferred by the owner of the facility from which it is derived.

Wind Facility Siting: The bills require PSC to appoint a technical advisory group to study and make recommendations on the impact of wind-power facilities on avian and bat populations, including standards to avoid or minimize impacts from the construction and operation of facilities. The technical advisory group must report to PSC on or before June 1, 2005. PSC must adopt regulations on wind-power facility siting on or before July 1, 2006, taking into consideration the recommendations of the technical advisory group. The regulations may not apply to facilities for which an application for a certificate of public convenience and necessity has been submitted before their effective date. A related provision strongly urges wind-power facilities that are already in operation or under construction to study the impacts of their facilities on avian and bat populations and report the results to PSC.

Study Provisions and Performance Audits: In addition to the required annual report, the bills require that on or before December 1, 2009, PSC provide a status report to the Governor and the General Assembly. Starting on or before January 1, 2016, PSC is required to review the implementation of the bills and the environmental and economic impacts of the renewable portfolio standard, including the effect of the bills on Tier 2 renewable sources. PSC must report its recommendations to the Governor and the General Assembly on or before January 1, 2017. The bills also require the Office of Legislative Audits (OLA) to conduct a performance audit of the Maryland Renewable Energy Fund. OLA must report its findings to the Governor and the General Assembly on or before December 1, 2009.

Net Energy Metering

House Bill 1269 (passed) adds wind electric generating systems to the systems eligible for net energy metering and expands the categories of eligible customer-generators. The bill removes the following limitations from the definition of eligible customer-generator: (1) a single-family dwelling, which is a residence or principal residence of the customer on a general service tariff; (2) a public or nonpublic elementary or secondary school; or (3) a public or nonpublic institution of postsecondary education.

An eligible customer-generator may connect to the grid a solar- or wind-powered generating system with a capacity not exceeding 80 kilowatts.

Liquefied Petroleum Gas

The U.S. Department of Transportation's Office of Pipeline Safety (OPS) has jurisdiction over the safety of liquefied petroleum gas (LPG). According to OPS, its statutory authority authorizes state assumption of all or part of the regulatory and enforcement responsibility for intrastate LPG systems through annual certifications and agreements. OPS has delegated enforcement authority over LPG systems in Maryland to PSC through a memorandum of understanding. PSC inspects the systems and enforces federal regulations. The federal regulations have recently been amended to include facilities that serve at least two but fewer than 10 customers.

***Senate Bill 179* (passed)** conforms State law to the federal regulations. The bill expands PSC requirements to adopt and enforce safety standards for gas service installations to include locations that serve at least two but fewer than 10 customers by underground pipes from an LPG storage tank where a portion of the system is located in a public place.

Energy Efficiency Standards Act

The General Assembly overrode the Governor's veto on Senate Bill 394 of 2003 (Chapter 2) and on House Bill 747 of 2003 (Chapter 5). These bills establish minimum energy efficiency standards for specified new products to be sold in Maryland after March 1, 2005, or installed in Maryland after January 1, 2006. For a more detailed discussion of these bills, see the subpart "Environment" within Part K of this *90 Day Report*.

Energy Saving Investment Program

***Senate Bill 654* (failed)** would have established an Energy-Saving Investment Program consisting of energy efficiency programs and renewable energy projects funded through a surcharge on electric and gas bills. MEA would have administered the program, with oversight by PSC. The Energy-Saving Investment Program would have terminated in 2015.

Local Government Aggregation

A proposal to allow local governments to act as aggregators of electricity and gas demand in their respective boundaries resurfaced in ***Senate Bill 12*/*House Bill 23* (both failed)**.

The bills would have allowed a county or municipal corporation to act as an aggregator for the purchase of electricity on behalf of retail residential and small commercial customers unless PSC determined that more than 20 percent of those customers within the boundaries of the jurisdiction had selected an electric supplier other than the standard offer service supplier. PSC would have been required to establish standards and procedures implementing the bills by October 1, 2004. The type of aggregation under these bills is termed "opt-out," as residents of the jurisdiction would have been included in the aggregation program unless they had affirmatively declined to participate.

Use of Trade Names and Trade Marks

***Senate Bill 387* (failed)** would have prohibited a business entity that sold, marketed, installed, maintained, repaired, or provided specified products or services from using, as part of its trade name or trade mark, the trade name or trade mark of an electric or gas company if the entity was owned wholly or in part, directly or indirectly, by an electric or gas company or the parent company of an electric or gas company.

Telephone Companies

***Senate Bill 88* (passed)** prohibits a telemarketer from violating the National Do Not Call Registry that was adopted under regulations issued jointly by the Federal Trade Commission and the Federal Communications Commission, and related telemarketing statutes and rules. For a more detailed discussion of this provision, see the subpart "Business Regulation" within this part of the *90 Day Report*.

Solar Energy Grant Program

***Senate Bill 485*/*House Bill 714* (both passed)** create a solar energy grant program administered by MEA. The amount of the grant is equal to the lesser of (1) $3,000 or 20 percent of the total installed cost of photovoltaic property and (2) $2,000 or 20 percent of the total installed cost of solar water heating property. For a more detailed discussion of these bills, see the subpart "Environment" within Part K of this *90 Day Report*.

Insurance

Response to Hurricane Isabel

According to news reports shortly after Hurricane Isabel struck Maryland's shores on September 18, 2003, damage from the event was estimated to total $4 billion in Maryland. As of March 2004, the Federal Emergency Management Agency had approved approximately $94.9 million in aid to Marylanders because of Isabel-related storm damage. Of that, approximately $31.3 million was for individuals and households. The State Department of Assessments and Taxation has adjusted assessments downward by approximately $108.7 million on over 3,200 properties as a result of the storm. Many Maryland homeowners were dissatisfied with the handling of their Isabel-related claims under their homeowners' insurance policies, their flood insurance policies under the National Flood Insurance Program, or both.

Continuing Education Requirements of Insurance Producers

Generally, an insurance producer must receive continuing education as a condition of renewing the insurance producer's license every two years. The continuing education must relate to the kind or subdivision of insurance for which the insurance producer holds a license. ***Senate Bill 584*/*House Bill 177* (both passed)** require insurance producers who are licensed to sell property and casualty insurance and who sell flood insurance to receive continuing education that directly relates to flood insurance as part of their current continuing education requirements.

The new continuing education requirement related to flood insurance must be completed on or before September 30, 2006.

Hurricane Isabel Disaster Relief Act

As part of its response to the property damage caused by Hurricane Isabel, ***Senate Bill 415 (Ch. 7)***/***House Bill 3 (Ch. 8)*** establish a Hurricane Isabel Housing Rehabilitation and Renovation Program in the Department of Housing and Community Development. For a detailed discussion of these bills, see the subpart "Economic and Community Development: of this Part H.

Other Bills Introduced to Address Isabel's Aftermath

Several unsuccessful bills were also introduced in the aftermath of Hurricane Isabel, including ***Senate Bill 585***/***House Bill 1071 (both failed)***, which would have required an insurer that issues or delivers a homeowner's insurance policy to provide an applicant, at the time a policy is initially purchased, with a written notice stating that a standard homeowner's insurance policy does not cover losses from flood and specified information about flood insurance available under the National Flood Insurance Program. ***Senate Bill 579 (failed)*** would have required an insurer, to the extent possible, to use a single adjuster to determine the property damage for both a claim under a homeowner's insurance policy and a claim under the National Flood Insurance Program. ***Senate Bill 805***/***House Bill 1326 (both failed)*** would have authorized a consumer, under specified conditions, to ask the Maryland Insurance Commissioner to review, based on the property's condition, whether a homeowner's insurance premium amount may need to be decreased to reflect the property's lost value.

Senate Bill 583 (failed) would have required the Commissioner to file a report which would have included recommendations and observations regarding the flood insurance claim handling process. ***Senate Bill 834 (failed)*** would have applied a standard flood insurance policy issued by a licensed insurer to the State's unfair claim settlement practices law. ***Senate Joint Resolution 6 (failed)*** would have urged Congress to review the National Flood Insurance Program for improvements in coordination and handling of claims.

Regulation of Insurers, Insurance Producers, and Public Adjusters

Written Documentation of Appointment of Insurance Producers

Under Chapter 35 of 2003, an insurer must maintain a producer register of appointed insurance producers who sell, solicit, or negotiate insurance contracts for the insurer. ***Senate Bill 147***/***House Bill 819 (both passed)*** provide that, with limited exceptions, an insurance producer may not act on behalf of an insurer unless the producer has received written documentation of the appointment from the insurer, as opposed to being listed on the insurer's producer register.

Regulation of Business Entities that Employ Public Adjusters

Senate Bill 586/***House Bill 15 (both passed)*** provide for the regulation of business entities that employ public adjusters by the Maryland Insurance Commissioner. To qualify for a public adjuster license, a business entity must (1) be trustworthy and competent to transact

business as a public adjuster; (2) employ one or more individuals who are licensed as public adjusters; and (3) pay the applicable licensing fee. The bills require an individual to meet certain experience requirements to qualify for a license as a public adjuster. They provide a reciprocal waiver of licensing provision for applicants from states that also have reciprocal waiver of licensing provisions and add to the grounds for which the Insurance Commissioner may deny an application for licensure or discipline a licensee. Finally, the bills authorize the Insurance Commissioner to impose a civil penalty on, and require restitution from, a public adjuster who violates any provision of the Insurance Article and provide a criminal penalty for a person who acts as a public adjuster in the State without obtaining a license.

Premium Finance Companies

Fees for Electronic Payments: Generally, a premium financing company may not impose charges on an insured or prospective insured greater than those allowed by the laws governing premium finance agreements. The finance charge and initial service fee that a premium finance company may assess include all interest, fees, and charges incident to the premium finance agreement and the resulting extension of credit. ***Senate Bill 551/House Bill 941 (both passed)*** authorize a premium finance company to charge an electronic payment fee if the insured elects to pay the premium finance company by means of an electronic payment, including payment by credit card or debit card. The bills limit the electronic payment fee that may be charged to $8 for actual expenses incurred by the premium finance company for the electronic payment. Under the bills, the premium finance agreement is required to disclose the electronic payment fee.

People's Insurance Counsel

Senate Bill 546 (failed) would have required the Governor to appoint a People's Insurance Counsel with the advice and consent of the Senate to represent the interests of insurance consumers in Maryland.

Property and Casualty Insurance

Liability Insurance Claims by a Minor

Generally, recoveries in tort of at least $2,000 to a minor must be paid to a trustee or court-appointed guardian. A trusteeship does not require formal court appointment. The trustee must deposit the money on behalf of the minor in specified types of accounts or securities. Except on a circuit court order, the financial institution in which the money is deposited may not allow the withdrawal of the money except to pay it to the minor on attaining age 18. ***House Bill 1520 (passed)*** authorizes a parent of a minor or person in *loco parentis* of the minor to settle a claim under a liability insurance policy brought by the parent or person in *loco parentis* for the benefit of the minor. Payment of a claim settlement must comply with the requirements for recovery of tort claims on behalf of a minor. The bill eliminates the need for a civil action in place of a settlement, whereby the tortfeasor, the insurer, and the minor's parents or guardian all agree on liability and the amount of damages but the parents are not legally authorized to settle.

Homeowner's Insurance

Cancellation of Perpetual Insurance: ***Senate Bill 533/House Bill 833 (both passed)*** authorize an insurer to cancel a homeowner's insurance policy that requires a one-time deposit for a stated amount of coverage (perpetual insurance) if the cancellation (1) takes effect on the anniversary of the policy's inception; (2) is not based on a claim that occurred more than three years before the anniversary date of the policy on which the proposed cancellation would take effect; and (3) is otherwise in accordance with other antidiscrimination insurance laws.

Motor Vehicle Insurance

Use of Credit History: For private passenger motor vehicle insurance, an insurer may not (1) refuse to underwrite, cancel, refuse to renew, or increase the renewal premium based on the credit history of the insured or applicant; or (2) require a particular payment plan based on the credit history of the insured or applicant. An insurer may, subject to certain limitations, use an applicant's credit history to rate a new private passenger motor vehicle insurance policy. When an insurer does rate a new private passenger motor vehicle insurance policy based on an applicant's credit history, an insurer may, if actuarially justified, provide a discount or impose a surcharge of up to 40 percent. The provision that limits the amount of a discount or surcharge terminates September 30, 2004. ***Senate Bill 101/House Bill 504 (both passed)*** repeal the termination date applicable to the limit on surcharges and discounts that an insurer may use in rating a new private passenger motor vehicle insurance policy based on the credit history of the applicant. The bills also require the Maryland Insurance Administration to report on or before December 1, 2004, on a study by the National Association of Insurance Commissioners on whether credit scoring has a disparate impact on minority and low-income individuals.

Personal Injury Protection Waiver: If the first named insured does not wish to obtain personal injury protection (PIP) coverage, the insured must make an affirmative written waiver. Without an affirmative written waiver, the insurer must provide PIP coverage. Generally, a waiver covers each named insured, listed driver, and member of the first named insured's family residing in the household who is at least 16. A waiver of PIP coverage made by a person that is insured continuously by the Maryland Automobile Insurance Fund (MAIF) is effective until the waiver is withdrawn in writing. ***Senate Bill 236/House Bill 692 (both passed)*** provide that a waiver of PIP coverage under a motor vehicle liability insurance policy made by a person that is insured continuously by an insurer other than MAIF is effective until the waiver is withdrawn in writing.

Liability Coverage for Claims by Family Members: In *Bozman v. Bozman*, 376 Md. 461 (2003), the Court of Appeals completely abrogated the doctrine of interspousal tort immunity in Maryland. However, a spouse and other family members living in the household with the first named insured are barred by a provision known as "household exclusions" included in insurance policies from collecting from an insurer more than the State's mandatory minimum coverage limits of $20,000 per person and $40,000 per accident for bodily injury. Accordingly, ***Senate Bill 460/House Bill 486 (both passed)*** require an insurer to offer to the first named insured under a private passenger motor vehicle liability insurance policy liability coverage for claims made by a family member in the same amount as the liability coverage for claims made by a nonfamily member under the policy.

Senate Bill 460/House Bill 486 do not apply to liability coverage for a child of the first named insured. Chapter 199 of 2001 partially abrogated the doctrine of parent-child immunity. However, under Chapter 199, an action between a parent and a child for wrongful death, personal injury, or property damage arising out of the operation of a motor vehicle may not be restricted by the doctrine of parent-child immunity or any insurance policy provisions, up to the State's mandatory minimum coverage limits of $20,000 per person and $40,000 per accident for bodily injury.

Medical Malpractice Insurance

Several bills were introduced to address medical malpractice insurance rates, including ***Senate Bill 545***/***House Bill 1300*** ***(both failed)***, which would have limited the rate paid by the highest-rated medical specialty or combination of specialties if an insurer charges different rates for different medical specialties or combinations of specialties. ***Senate Bill 708*** ***(failed)*** would have required each insurer that writes medical malpractice insurance policies in the State to offer, in addition to a basic policy, additional policies with high deductibles. For a more complete discussion of bills relating to medical malpractice insurance, see Part F – Courts and Civil Proceedings of this *90 Day Report*.

Life Insurance

Viatical Settlement Providers and Brokers

A viatical settlement broker or provider facilitates the sale of a life insurance policy from an individual policyholder to an investor at a discount. Under a viatical settlement contract, the policyholder may receive a loan or compensation for the policyholder's use in an amount less than the expected death benefit in return for the policyholder's assignment or transfer of the death benefit to the investor. The investor then recovers the face value of the policy after the policyholder's death. ***Senate Bill 439*** ***(passed)*** establishes regulation of the viatical settlement industry. The bill requires viatical settlement providers and viatical settlement brokers to register with the Maryland Insurance Commissioner, establishes standards for these professionals, and establishes a framework for viatical settlement agreements.

Insurer Insolvencies

Property and Casualty Guaranty Corporation

The Property and Casualty Insurance Guaranty Corporation (corporation) is a private, nonprofit, nonstock corporation. Its purpose is to provide a mechanism for the payment of property and casualty insurance claims and other claims against an insolvent property and casualty insurer.

Claims Information of Insolvent Insurers: ***House Bill 1528*** ***(passed)*** authorizes the corporation to bring civil actions against specified representatives of insolvent insurers to obtain custody and control of files and records related to claims information and provides that the corporation is not subject to specified defenses in an action brought under the bill. In such an action, the corporation (1) has the absolute right through emergency equitable relief to obtain

custody and control of all claims information; and (2) is not subject to any defense, lien, or other legal or equitable ground that might be asserted against the insolvent insurer for refusal to surrender claims information.

Covered Claim: Under the laws governing the corporation, a "covered claim" is an insolvent insurer's unpaid obligation, including specified unearned premium. The definition of "covered claim" excludes specified claims. ***House Bill 1529 (passed***) expands the types of claims which are excluded from the definition of "covered claim," notwithstanding any other statutory provision specifically governing the corporation. Specifically, a "covered claim" does not include a claim filed with the corporation after the earlier of (1) 18 months after the date of the liquidation order or (2) the final date set by the court for filing claims against an insolvent insurer's liquidator or receiver. The bill also excludes from the definition a claim filed with the corporation or a liquidator for protection afforded under the insured's policy for losses that are incurred but not reported.

Impaired Insurers

House Bill 533 (Ch. 49) alters the definition of "impaired insurer" to reflect the use of the term by the National Association of Insurance Commissioners and the insurance industry. Under the bill, a stock insurer is defined as an impaired insurer if its assets, less all liabilities and required reserves, do not equal or exceed the capital stock and surplus required for authority to engage in insurance business as a stock insurer. The bill includes a dental plan organization with mutual insurers to determine whether the dental plan organization is an impaired insurer. Under the bill, an "impaired insurer" also means a mutual insurer, reciprocal insurer, dental plan organization, or nonprofit health services plan whose assets, less liabilities and required reserves, do not equal or exceed the minimum surplus required for authority to engage in insurance business. Funding agreements are a type of investment product issued by life insurers.

Life Insurer Insolvency

The Maryland Insurance Commissioner has authority to administer an insurer's insolvency and distribute funds to those who might have claims against the insurer. Generally, in the event of an insurer insolvency where there are no known or potential claims of the federal government, the priority of claims distribution is (1) administrative expenses; (2) the first $500 of compensation or wages owed to an officer or employee of the insurer; (3) claims made by policyholders, beneficiaries, or insureds; (4) liability claims against insureds; and (5) guaranty fund claims. ***Senate Bill 129/House Bill 231 (both passed)*** grant holders of funding agreements the same priority as policyholders, beneficiaries, and insureds in a liquidation proceeding for an insurer.

Surplus Lines Insurance

Policy and Inspection Fees

On a policy issued by a surplus lines insurer, a surplus lines broker may charge a fee of up to $100 on a personal lines policy or $250 on a commercial lines policy procured by a licensed insurance producer not affiliated with or controlled by the surplus lines broker and to

whom the broker pays a commission. A surplus lines broker may recoup from a prospective insured the actual cost of an inspection required for the placement of surplus lines insurance under specified circumstances. ***Senate Bill 238*/*House Bill 422* (both passed)** authorize, on a policy issued by an authorized insurer, a surplus lines broker who is also a licensed insurance producer not affiliated with or controlled by the surplus lines broker and to whom the surplus lines broker pays a commission to collect a policy fee on a commercial lines policy. The bills also authorize a surplus lines broker who is also a licensed insurance producer to recoup inspection costs on a policy issued by an authorized insurer.

Horse Racing and Gaming

Video Lottery Terminals

Background

In recent years, various proposals have been introduced to authorize electronic slot machines, known as video lottery terminals (VLTs), at the State's horse racing tracks and at tourist destinations throughout the State. Types of gaming already authorized in the State include, on a statewide level, pari-mutuel betting and the State lottery and, on a local level, commercial bingo and gaming activities conducted by or for the benefit of charitable organizations.

The Administration's VLT Proposal

Senate Bill 197/*House Bill 293 (both failed)*, introduced by the Administration, would have authorized up to 15,500 VLTs at six locations (four at horse racing tracks and two at nontrack locations), provided for one-time license application fees, created the Education Trust Fund and other special funds, and continued the current prohibition on additional forms of commercial gaming.

As amended and passed by the Senate, Senate Bill 197 would have authorized up to 15,500 VLTs at six locations (three at unspecified horse racing tracks and three at unspecified nontrack locations). Below is an overview of the major provisions of Senate Bill 197, as passed by the Senate.

Distribution of VLT Proceeds

Senate Bill 197 would have provided the following distribution of gross proceeds, after payout to players:

- from the proceeds generated by the racetrack locations:
    - 5 percent to the State Lottery Agency for administrative costs (after the first year, the distribution would have been 4.3 percent);

- 5 percent to the county(s) in which video lottery facilities would have been located;

- 9.3 percent to the Purse Dedication Account to enhance horse racing purses and to provide funds for the horse breeding industry (after the first year, the distribution would have increased to 10 percent);

- the amount stated on the VLT operators' bid proposals selected by the Video Lottery Facility Location Commission, not to exceed 36 percent, to VLT operation licensees; and

- the remainder of the proceeds to the Education Trust Fund established under the bill (a minimum of 44.7 percent).

- from the proceeds generated by the nontrack locations:

  - 5 percent to the State Lottery Agency for administrative costs (after the first year, the distribution would have been 4.3 percent);

  - 5 percent to the county(s) in which the video lottery facilities would have been located;

  - the amount stated on the VLT operators' bid proposals selected by the State Video Lottery Facility Location Commission, not to exceed 30 percent, to VLT operation licensees; and

  - the remainder of the proceeds to the Education Trust Fund (a minimum of 60 percent in the first year of operations and 60.7 percent thereafter).

Education Trust Fund

Senate Bill 197 would have created an Education Trust Fund as a special, nonlapsing fund that would have received the majority of revenues from VLT facilities to fund the Bridge to Excellence in Public Schools Act of 2002. Assuming an average win-per-day per machine of $285, as estimated by the Department of Legislative Services, the percentage allocated to the fund would have been approximately 51 percent.

Geographic Cost of Education Index (GCEI)

Senate Bill 197 would have established a formula for a Geographic Cost of Education Index (GCEI) to reflect regional differences in the cost of education. The bill would have established a formula for the GCEI and would have funded the fiscal 2005 cost of implementing the program with initial license fees established under the bill. For an in-depth discussion of the GCEI, see subpart "Education" within Part L of this *90 Day Report*.

Purse Dedication Account

Senate Bill 197 would have created a Purse Dedication Account to which 9.3 percent of gross proceeds from the track facilities would have been distributed in the first year and 10 percent in the following years. Funds from the account would have been distributed between the standardbred and thoroughbred racing industries based on the percentage of total live wagering in the State on each type of racing in the prior year, as follows:

- from the proceeds allocated to the thoroughbred racing industry, 89 percent would have been distributed to mile thoroughbred purses at Pimlico Race Course, Laurel Park, the proposed track in Allegany County and Timonium, and 11 percent would have been distributed to the Maryland-bred Race Fund; and

- from the proceeds allocated to the standardbred racing industry, 89 percent would have been distributed to standardbred purses at Rosecroft Raceway, Ocean Downs, and the proposed track in Allegany County, and 11 percent would have been distributed to the Standardbred Race Fund.

Local Development Councils and Transportation

From the local development grants that would have been provided to the counties where VLT facilities would have been located, Senate Bill 197 would have required that VLT proceeds be used in the immediate proximity of each VLT facility. The bill would have authorized the funds to be used for infrastructure improvements, public safety, and other needs in the communities in the immediate proximity of each facility. A Local Development Council would have been created in each area where a VLT facility would have been located to advise, comment, and make recommendations on the plan developed by the count which would have provided for the use of the local development grant funds. Counties would have been required under the bill to allocate at least 10 percent of their local development grant funds to provide grants to small, minority, and women-owned businesses in the county. The bill also provided that the State would have been authorized to pay for the reasonable transportation costs necessary to mitigate the impact on the communities in the immediate proximity to each VLT facility and to make each VLT facility accessible to the public.

Compulsive Gambling Fund

Senate Bill 197 would have assessed a $390 fee per VLT terminal to be paid by VLT operation licensees that would have been placed into a Compulsive Gambling Fund administered by the Department of Health and Mental Hygiene (DHMH). The fund would have been used to establish a 24-hour hotline, provide counseling and other support services for compulsive gamblers, and establish problem gambling prevention programs. The bill would also have required DHMH to conduct a prevalence study on compulsive gaming in the State.

Video Lottery Facility Location Commission

Senate Bill 197 would have established a Video Lottery Facility Location Commission to determine the distribution of the 15,500 VLTs among the six potential licensees and the percentage of operator share of the VLT gross proceeds. A VLT facility would have been prohibited from being located within four miles of another facility. Eligible applicants for VLT

licenses would have been required to submit an application and a minimum $10 million initial license fee by October 1, 2004.

Racetrack Locations: The commission would have been authorized to award a maximum of 9,000 VLTs to three racetracks. Each racetrack would have been able to receive up to 3,000 VLTs initially. Under the bill, three racetrack VLT licenses would have been able to be awarded from among Laurel Park, Pimlico Race Course, Rosecroft, and a proposed track in Allegany County of which one license would have been required to be awarded to a horse track in a rural area.

Nontrack Locations: The commission would have been authorized to award a maximum of 6,500 VLTs to nontrack locations. Each nontrack location would have been able to receive up to 2,500 VLTs initially. The nontrack locations would have been selected from among the following eligible jurisdictions: Prince George's County, Cecil County, and Baltimore City.

Lottery Commission Authority and Duties

VLTs would have been owned or leased by the State Lottery Commission and under the control of the commission. The commission would have had the authority to issue subpoenas and conduct investigations and hearings and would have been required to adopt regulations requiring a bond for faithful performance of the requirements of the bill. Commission employees would have been required to be present at VLT facilities during all hours of VLT operations for the purpose of certifying revenue from VLTs and receiving complaints from the public.

VLT Licenses

Licenses would have been required to be obtained by VLT operators, manufacturers, employees, and anyone that was hired by a VLT operator to manage a VLT facility. In addition, the commission would have been authorized to require others to be licensed.

Estimated Revenues

Under Senate Bill 197, the Department of Legislative Services (DLS) estimated that approximately $1.6 billion in gross proceeds (after prize payouts but before any distributions would have been made) could have been generated once all the proposed VLTs were operating at full market potential, which was estimated to occur in fiscal 2008. Once fully operational, DLS estimated that VLT revenues under the bill could have generated approximately $829 million annually for the ETF, $540 million annually to VLT licensees, $94 million annually to the Purse Dedication Account, and $81 million annually for local jurisdictions.

Other Video Lottery Terminal Bills

Several other VLT bills introduced include ***House Bill 818 (failed)***, ***House Bill 1257 (failed)***, and ***House Bill 1497 (failed)***. House Bill 818 would have authorized up to 11,500 VLTs at four horse racing tracks in the State. House Bill 1257 would have authorized up to 5,000 VLTs and up to 5,000 Keno video terminals. House Bill 1497 would have provided for a constitutional amendment that stated that the General Assembly could only authorize expanded

forms of gambling subject to the following restrictions: (1) a maximum of 13,000 VLTs could be authorized; (2) a maximum of six VLT licenses could be issued; and (3) a VLT license could be issued only if the majority of votes in the proposed county were in favor of the proposed amendment.

Local Gaming Legislation

Allegany County

***House Bill 1011* (passed)** prohibits a paper gaming licensee in Allegany County from having a paper gaming device on its premises that does not display a gaming sticker. The bill also prohibits the county commissioners from imposing a paper gaming tax on these entities that buy paper gaming devices from licensed wholesale vendors. The bill alters the reporting timeframe, from quarterly to monthly, by which licensed wholesale vendors of paper gaming devices must provide a list to the county commissioners of all customers to whom they sell paper gaming products. The bill repeals the restriction that a for-profit business that holds a Class A, C, or D retail alcoholic beverages license in Allegany County must have on-premises consumption privileges before engaging in paper gaming. The bill also repeals the requirement that such a licensee who has a paper gaming license must also obtain a stamp from the county commissioners to be displayed along with the alcoholic beverages license.

Washington County

***House Bill 1022* (passed)** makes several changes regarding tip jar gaming in Washington County. The bill (1) clarifies that a license must be obtained in order to wholesale for profit tip jar packet; (2) restricts tip jar wholesalers other than volunteer rescue and fire companies from owning, being immediately related to, or having an interest in the entity that owns a tip jar license; and (3) eliminates the restriction that the gross profits of a tip jar operated by certain establishments with alcoholic beverages licenses and holders of Class A beer, wine, and liquor licenses cannot exceed more than $250. In addition, the bill also requires the Washington County Gaming Commission to report annually to the Comptroller on the amount of revenue the commission received and the amount of funds the commission distributed.

Carroll County

***House Bill 1183* (passed)** increases the number of single-drawing raffles a qualifying organization in Carroll County can conduct during a year. Under the bill, a qualifying organization can annually conduct either (1) six single-drawing raffles where the prize awarded is $2,500 or more or (2) 10 single-drawing raffles where the prize awarded is $2,500 or less.

Horse Racing

Background

The horse racing industry in Maryland employs more than 9,000 people and generates approximately $600 million annually in total economic activity for the State. Like other states, Maryland's racing industry has lost market share in recent years to other forms of commercial

gaming. Some states, including two in this region, have revived their industries by introducing slot machines at racetracks. Maryland has taken other approaches to restructuring its racing industry in recent years, including subsidizing purses, providing tax relief, and expanding marketing efforts.

Racing Act of 2004

Chapter 309 of 2000 (The Racing Act of 2000) established the Maryland Racing Facility Redevelopment Program to assist horse racing facilities with capital improvements. In order to carry out the program, Chapter 309 required the State Racing Commission to review racing facility master plans submitted by eligible racing licensees and submit requests from those licensees to the Stadium Authority for approval to use proceeds from bonds issued by the Maryland Economic Development Corporation (MEDCO) for capital improvements or related expenditures. Chapter 309 also established the Racing Facility Redevelopment Bond Fund as a nonlapsing, revolving fund to be used to (1) pay the debt service on bonds issued by MEDCO and (2) cover the reasonable charges and expenditures incurred by the authority and MEDCO.

Since passage of Chapter 309, no capital improvements requiring the issuance of bonds have been undertaken at any of the State's horse racing tracks. Due to lack of participation, ***Senate Bill 170*** ***(passed)*** repeals the Maryland Racing Facility Redevelopment Program. In addition, provisions of the Racing Act of 2000 that were scheduled to sunset upon repayment of any issued bonds are changed to reflect their status prior to passage of the bill.

Senate Bill 170 also continues authorization established by the Racing Act of 2000 for representatives of thoroughbred racing tracks, owners and trainers, and breeders to agree to allocate the takeout for purses in a way other than that specified under current law. The bill (1) clarifies that the State racing tax rate is 0.32 percent of each mutuel pool; (2) provides that a portion of the "takeout" be directed to the Maryland Million, Ltd., for purses of Maryland Million races; and (3) rededicates uncashed pari-mutuel tickets to the horse racing special fund. Senate Bill 170 requires a thoroughbred licensee to deduct from the handle (1) all the breakage; (2) not more than 18 percent from each regular mutuel pool; (3) not more than 21 percent from each multiple mutuel pool on two horses; and (4) not more than 25.75 percent from each multiple mutuel pool on three or more horses.

Under Senate Bill 170, if the average handle is $600,000 or less for a harness race, the takeout is (1) not more than 18.75 percent from each regular mutuel pool; (2) not more than 20.75 percent from each multiple mutuel pool for two horses; and (3) not more than 26.75 percent from each multiple mutuel pool on three or more horses.

Economic and Community Development

Hurricane Isabel Relief Act

Hurricane Isabel struck Maryland's shores on September 18, 2003, and destroyed or seriously damaged homes in several areas, particularly in Baltimore, Queen Anne's, and Anne Arundel counties, where flooding reached as high as eight or nine feet. Approximately 17,000

Maryland residents have applied for federal assistance. While an estimated 50,000 Maryland families and businesses had federal flood insurance at the time Hurricane Isabel arrived, many homeowners affected by the storm discovered that their insurance either did not cover flood damage or did not cover all of the property rehabilitation, renovation, or replacement costs. According to the Maryland Department of Planning, the Federal Emergency Management Agency (FEMA) has distributed $30 million in housing and other types of aid to Maryland residents and the Small Business Administration has provided $60 million in loans to citizens whose businesses or homes were damaged by the storm. FEMA has provided temporary housing to 200 residents or families in trailers, pending rehabilitation of their homes.

Senate Bill 415*/*House Bill 3 ***(Chs. 7 and 8***) create a program to fill the gap not covered by insurance or other financial resources for homeowners affected by the hurricane who may not qualify for other State programs. The fiscal 2005 budget allocates $3 million to support the Hurricane Isabel Housing Rehabilitation and Renovation Program, and directs the Department of Housing and Community Development (DHCD) to use $3.1 million of its other appropriations for this program, for a total of $6.1 million. Almost 4,000 homeowners are expected to be eligible for program assistance.

The Acts provide low-interest loans for first or subordinate mortgages to rehabilitate or renovate primary residences. The interest rate must be set by DHCD between 0.0 percent and 2.5 percent and the payment of the principal must be deferred until the sale or refinancing of the first lien mortgage or trust of the primary residence. After income eligibility requirements are met, DHCD must give priority to families who have been relocated into temporary housing or have received, or who are eligible to receive, rental assistance from FEMA. While access to a private loan is not grounds for denying a loan under this program, DHCD may require a loan applicant to demonstrate that the applicant has applied for all possible governmental or commercial assistance. Also, DHCD may require local governments to demonstrate a contribution of resources before approving a loan.

The Acts also provide a credit enhancement or guarantee for a portion (80 to 115 percent of the fair market value of the property after rehabilitation, renovation or replacement) of privately obtained loans with similar requirements. The guarantee is intended for families who (1) otherwise meet the qualifications for a private loan; (2) have been relocated into temporary housing by FEMA or has received or qualified for FEMA rental assistance; and (3) whose primary residence has been found to be partially or totally uninhabitable. Homeowners may also apply for financial assistance under a buy-down program that lowers the amount the borrower pays on a loan received from the private market or DHCD. Any of the programs described above can be used for repairing or replacing water and sewer systems, including septic tanks. The extension of financial assistance under the Acts terminates at the end of May 31, 2005.

Resource-based Industries

Senate Bill 589*/*House Bill 1179 ***(both passed*)** create the Maryland Agriculture and Resource-based Industry Development Corporation (MARBIDCO) as a public corporation and instrumentality of the State to develop resource-based industries and markets and alleviate the shortage of nontraditional capital credit available for those businesses. The bills authorize MARBIDCO to issue revenue bonds to provide loans or other financial assistance for resource

industries, such as aquaculture, farming, horticulture, and timber. Loans can be used for several industry processes, including acquisition, soil conservation, pond construction, and building expansion or construction, as well as for the purchase of livestock, seeds, fertilizers, and pesticides. MARBIDCO is solely responsible for any debts it incurs, including debt service on bonds, and may not receive any State funds until the budget deficit is resolved.

Community Revitalization and Development

Under ***House Bill 1064 (passed)***, the "One Maryland" program that supports projects in economically distressed areas will terminate July 1, 2004, but the program's function and funding will continue to operate under the Maryland Economic Development Assistance Authority and Fund (MEDAAF). The program, formally known as the Smart Growth Economic Development Infrastructure Fund, has provided loans and grants to local governments for projects such as a $2.5 million investment for the Keyser Ridge Industrial Park in Western Maryland and a $3.6 million loan for the Mondawmin Mall in Baltimore City. The following jurisdictions qualify as distressed: Baltimore City and Allegany, Caroline, Cecil, Dorchester, Garrett, Somerset, and Worcester counties.

Microenterprises

House Bill 905 (passed) allows the Department of Housing and Community Development (DHCD) to set aside funds for microenterprises. These are businesses with five or fewer employees that require no more than $35,000 in start-up capital and do not have access to traditional commercial banking. There are approximately two million microentrepreneurs in the U.S., a majority of whom are women with children. Common industries for microenterprises include jewelry making, furniture repair, computer technology, and personal care services such as hair braiding. DHCD plans to finance the new program with approximately $1 million of revenue from the sale of loans in its portfolio. The bill allows the agency to sell loans at a discount but limits the sale proceeds to $4 million per fiscal year.

Minority Business Enterprises

Senate Bill 323/House Bill 806 (both passed) require a local government or private business that receives State funds from the Economic Development Opportunities Program Fund (Sunny Day) or Maryland Economic Development Assistance Authority and Fund to agree to encourage the procurement from minority businesses of goods and services purchased with the proceeds from the financial institutions.

Tax Credits

The General Assembly agreed to extend the life of two State tax credits for economic development. ***House Bill 219 (passed)*** extends the Job Creation Tax Credit for three years through January 1, 2010.

House Bill 679 (passed) significantly alters the requirements for the Heritage Structure Rehabilitation Tax Credit Program and extends the program until July 1, 2008. The bill increases the existing total commercial credit cap for the existing tax credit in 2004 to $25 million, of which $10 million must be awarded on a competitive basis. The maximum amount of

credits earned for an individual rehabilitation project cannot exceed (1) $50,000 for noncommercial projects or (2) the lesser of $3 million or the maximum amount stated on an initial credit certificate for commercial projects.

The Administration's proposal, ***Senate Bill 190***/***House Bill 289*** ***(both failed)***, would have extended the heritage credit to January 1, 2010, and capped the total amount of credits for commercial projects at $30 million.

A more detailed discussion of tax credits can be found in Part B – Taxes of this *90 Day Report*.

Other Financing Programs

New Program for Environmental Technology (Dredged Material Disposal): ***House Bill 1471*** ***(passed)*** creates a new program in the Department of Business and Economic Development (DBED) to provide financial assistance for the production and marketing of beneficial reuse technologies. Funding for the program is contingent on money appropriated to the Department of Transportation in the State budget. Dredged material is collected through maintenance dredging of approach channels to the Port of Baltimore, as well as the port itself, to ensure that these waterways are deep enough for ships, as well as planned modifications to accommodate larger vessels. According to the Port Administration, about four million cubic yards (mcy) of material must be dredged from the Chesapeake Bay each year to maintain shipping channels to Baltimore. Current placement capacity at existing sites is estimated at approximately 54 mcy, including expanded capacity at the Poplar Island site through dike raising.

Grants to Homebuyers under the Maryland Mortgage Program: Although no significant changes to existing economic development programs succeeded, ***Senate Bill 66*** ***(passed)*** authorizes the Community Development Administration to award grants to homebuyers for settlement costs. Previously, the agency had to use a separate loan program to help home buyers pay closing costs. The bill allows borrowers who receive loans under the Maryland Mortgage Program to receive a grant for closing cost assistance in exchange for a higher interest rate on their mortgage loans.

Refinancing Properties under the Historic Preservation Loan Fund: ***House Bill 663*** ***(passed)*** expands the uses of the Historic Preservation Loan Fund of the Maryland Historical Trust to authorize loans for refinancing historic properties. The fund may provide loans to nonprofit organizations, local jurisdictions, businesses, and individuals for acquiring, rehabilitating, or restoring historic properties, which are defined as those listed on, or eligible for, the National Register of Historic Places. There are approximately 1,300 National Register listings in Maryland, including 183 historic districts.

Task Force to Study Elderly and Retiree Migration

According to the Department of Aging, the number of Marylanders over the age of 60 will account for 23 percent of the State's population by the year 2030, compared to 15 percent (801,036) of the 2000 population. ***Senate Bill 122***/***House Bill 966*** ***(both passed)*** creates a Task Force to Study the Dynamics of Elderly and Retiree Migration Into and Out of Maryland. The

task force is charged with reviewing the dynamics of elderly and retiree migration into and out of the State and evaluating the impact that tax policies and benefits of Maryland and other states have on such migration, as well as the benefits that the elderly and retirees provide to the local community and the State. The task force must be appointed and begin its deliberations no later than July 1, 2004, and submit a report of its findings and recommendations to the Governor and the General Assembly by December 31, 2004.

Workers' Compensation

Workers' Compensation Benefits – Fraud

***Senate Bill 639*/*House Bill 837* (both passed)** require the Workers' Compensation Commission (WCC) to refer to the Insurance Fraud Division of the Maryland Insurance Administration (MIA) any case in which a preponderance of the evidence establishes that a person knowingly affected or knowingly attempted to affect the payment of compensation, fees, or expenses by means of a fraudulent representation. WCC is required to include in its annual report the number of cases referred to MIA. MIA's annual report must include the number of cases received from WCC and the resolution of the cases. WCC is also required, in consultation with MIA, to study how to prevent, identify, and deter workers' compensation fraud. WCC is to report its findings and recommendations to the Governor and the General Assembly on or before December 31, 2004.

Montgomery County Deputy Sheriffs

***House Bill 776* (passed)** includes Montgomery County deputy sheriffs in the list of public safety employees entitled to receive increased benefits for permanent partial disabilities under the State's workers' compensation laws. Deputy sheriffs who are awarded permanent partial disability claims of less than 75 weeks will be compensated at the rate used for awards of 75-250 weeks. Montgomery County, which is self-insured for workers' compensation, estimates annual increased claim payments of approximately $25,000.

Accidental Personal Injury – Definition

In response to a June 2003 decision by the Maryland Court of Appeals (*Harris v. Board of Education of Howard County*), the General Assembly considered several bills that would have altered the definition of an accidental personal injury to include a specific requirement that the injury occur as the result of an unusual activity. ***Senate Bill 113*/*House Bill 13* (both failed)**, ***Senate Bill 468* (failed)**, ***House Bill 749* (failed)**, and ***Senate Bill 638*/*House Bill 1069* (both failed)** would have essentially reversed the court decision and preserved the unusual standard.

The Court of Appeals held in *Harris* that, in order to be compensable, an accidental personal injury need not be the result of an unusual activity. While the case law dating to 1927 has generally supported the unusual activity standard, the *Harris* decision found no statutory basis for that standard and will presumably have the effect of aligning Maryland's definition of a compensable accidental personal injury more closely with workers' compensation law in 46 other states.

The Injured Workers' Insurance Fund (IWIF), the third-party administrator of the State's workers' compensation insurance and the insurer of last resort for workers' compensation coverage, estimates that *Harris* will increase its claims paid and other costs by approximately $20 million annually. The National Council on Compensation Insurance, Inc., the rating organization that collects workers' compensation claim data from other workers' compensation insurers operating in the State, estimates a 2 percent increase in costs as the result of *Harris*.

Unemployment Insurance

Unemployment Insurance Funding Task Force

***Senate Bill 262*/*House Bill 479* (both passed)** extend the termination date of a 13-member Unemployment Insurance Funding Task Force created in 2003 to study the existing charging and taxation system under current Maryland unemployment insurance law and make recommendations to improve the system. The task force, which held six meetings during the 2003 interim, issued an interim report in February 2004. The task force recommended that it continue to meet since it was unable to fully understand cost implications of all alternatives in order to develop a reform package. Under this legislation, the task force is to report its recommendations to the General Assembly by December 31, 2004.

Labor and Industry

Equal Pay Commission

***Senate Bill 250* (passed)** establishes for a period of two years an Equal Pay Commission which is to be staffed by the Department of Labor, Licensing, and Regulation. The commission is required to study wage disparities both in the public and private sectors, between men and women, and between minorities and nonminorities. In its study, the commission must consider those factors that cause or tend to cause wage disparities and actions that are likely to lead to the elimination and prevention of the disparities. The commission is required to present preliminary and final reports to the Governor and the Presiding Officers of the General Assembly by September 30, 2005, and 2006, respectively.

Broadcast Industry Contracts

***Senate Bill 459*/*House Bill 234* (both failed)** would have provided that a broadcast industry employment contract, which includes a provision requiring an employee or prospective employee to refrain from obtaining employment in a specified geographic area for a specified period of time following the expiration of the broadcast industry employment contract or on termination of employment without fault of the employee, is presumed to be unreasonable.

Status of Women and Information Technology

***Senate Bill 917*/*House Bill 1538* (both passed)** establish a Task Force on the Status of Women and Information Technology. The task force is to study the issues relating to the

declining involvement of girls and women in information technology and investigate strategies to address the challenges that will better meet the workforce demands of the State in all career areas where technology is used. The task force is to report to the Governor and the General Assembly on or before October 1 of each year through October 1, 2008. A more detailed discussion of those bills is found in Part C – State Government of this *90 Day Report*.

Alcoholic Beverages

Statewide Bills

Winery Special Event and Charity Wine Auction Permits

Senate Bill 27 **/*House Bill 393*** ***(both passed)*** increase to three permits per calendar year, the frequency in which a winery special event permit may be issued to a winery for use in a political subdivision. The bill repeals the requirement that a winery special event be organized and conducted by a nonprofit organization or government entity. The bill also decreases from $500 to $10 the fee for a charity wine auction permit.

Suspension of Driver's License

Senate Bill 594**/*House Bill 856*** ***(both failed)*** would have made driver's license suspension mandatory for certain alcohol-related violations committed by children. The bill also would have provided for reimbursement of alcohol awareness program costs by local alcoholic beverages licensing boards.

Local Bills

Allegany County

Out-of-state Licenses: ***House Bill 472*** ***(passed)*** prohibits the issuance of a new Class A or Class D beer license; beer and light wine license; or beer, wine, and liquor license to any person, corporation, or limited liability company holding an alcoholic beverages license in any other state or the District of Columbia. Current license holders may renew their licenses.

Anne Arundel County

Airport Licenses: ***Senate Bill 488*** ***(Ch. 33)/House Bill 864*** ***(passed)*** authorize any lessee, sublessee, or concessionaire at BWI Airport to hold an airport concessionaire license for multiple locations within the terminal building. A concessional license may be issued to a person who already holds one or more licenses of any other type issued by the Board of License Commissioners. The annual fee for the license and for one location from which alcoholic beverages may be sold is $5,000. The annual fee for each additional location is $5,000.

Limited Service Hotel License: ***House Bill 1450*** ***(passed)*** authorizes the Board of License Commissioners to issue a Class B-LSH (limited service hotel) beer and light wine license for use in a hotel that contains more than 100 rooms and operates a kitchen licensed as a food service facility. The licensee is authorized to sell beer and light wine in containers to

registered guests. Registered guests are authorized to consume these alcoholic beverages in their room and take unopened containers from the hotel premises. The license fee is $2,000.

Baltimore City

46th and 47th Alcoholic Beverages Districts: ***Senate Bill 384 (passed)*** makes several changes to alcoholic beverages law in Baltimore City. The Board of Liquor License Commissioners is authorized to issue a Class B (restaurant) beer, wine, and liquor license in Ward 26, Precinct 8 of the 46th alcoholic beverages district if the restaurant has a minimum capital investment of $700,000, a seating capacity exceeding 150 persons, and average daily receipts from the sale of food that are at least 65 percent of the total daily receipts.

The bill also prohibits the issuing or transferring of special one-day licenses or Class B beer, wine, and liquor licenses for use in Precincts 4 and 5 in Ward 1 of the 46th alcoholic beverages district. The issuance or transfer of an alcoholic beverages license to Precinct 5 in Ward 24 of the 47th alcoholic beverages district is also prohibited. The 46th and 47th alcoholic beverages districts must be coterminous at all times with their respective legislative districts as ordered in the legislative redistricting plan ordered by the Maryland Court of Appeals. The bill prevents the board from transferring an alcoholic beverages license between Precincts 4 and 5 in Ward 1 of the 46th alcoholic beverages district or within either one of those precincts.

The bill also allows a not-for-profit arts center in the Highlandtown Arts and Entertainment District that holds a Class C license on June 1, 2004, to apply, on or before May 31, 2005, to the board for conversion of the license to a Class B beer, wine, and liquor license.

Additionally, the issuance or transfer of a license that would result in a licensed premises to be within 300 feet of a church or school, or closer than the licensed premises was on June 1, 2004, is prohibited.

Licensed Premises Near Churches or Schools: The General Assembly passed legislation during the 2003 session (Senate Bill 532) to prohibit the issuance of a new license or removal of an existing license granting authority to sell alcoholic beverages within 300 feet of the nearest point of a church or school in the 46th Legislative District. The Governor vetoed the bill. During the 2004 session, the General Assembly voted to override the Governor's veto; the bill was signed into law as **Chapter 3 of 2004**.

Baltimore County

Hunt Valley Commercial/Mixed Use Focal Point: ***Senate Bill 201/House Bill 522 (both passed)*** authorize the Board of License Commissioners to transfer two beer, wine, and liquor (on-sale) retail licenses in Election District 15 into the Hunt Valley Commercial/Mixed Use Focal Point area for use as Class B (HV) beer, wine, and liquor restaurant (on-sale) licenses. A Class A (off-sale) or Class C (club) license, or any license prohibited from being transferred by law or local regulation other than crossing district lines, may not be transferred into the Hunt Valley Commercial/Mixed Use Focal Point area. Finally, the board may not issue more than three beer, wine, and liquor licenses in the Hunt Valley Commercial/Mixed Use Focal Point area.

Class BDR (Deluxe Restaurant) (On-sale) Beer, Wine, and Liquor Licenses: ***Senate Bill 796/House Bill 1218*** ***(both passed)*** repeal the requirement that one of the four Class B (on-sale) beer, wine, and liquor licenses that may be held by an individual as a sole proprietorship, partnership, corporation, unincorporated association, or limited liability company must be a Class BDR deluxe restaurant (on-sale) beer, wine, and liquor license.

Additional Class B (Restaurant) License: ***Senate Bill 797/House Bill 1219*** ***(both passed)*** authorize the holder of a Class B (on-sale, hotels and restaurants) beer, wine, and liquor license for the use of a sole proprietorship, partnership, corporation, unincorporated association, or limited liability company in the county to obtain an additional license for use in a restaurant in the Liberty Road Commercial Revitalization District.

Calvert County

Class A Light Wine License: ***Senate Bill 522/House Bill 431*** ***(both passed)*** authorize the Board of License Commissioners to issue a Class A light wine license to a holder of a Class 4 manufacturer's limited winery license in the county.

Carroll County

Retail Off-sale Privileges for Micro-breweries: ***House Bill 1187*** ***(Ch. 69)*** authorizes the holder of a Class 7 micro-brewery (on- and off-sale) license to sell at retail beer brewed under the license to customers for consumption off-premises in refillable containers that are sealed by the micro-brewery at the time of each refill.

Charles County

License Fees: ***House Bill 792*** ***(passed)*** increases by 20 percent the annual license fee for each alcoholic beverages license in the county. License fees range from $180 for a Class D beer license to $2,400 for a Class BLX beer, wine, and liquor license.

Dorchester County

Fines and Suspensions: ***Senate Bill 667*** ***(passed)*** authorizes the Board of License Commissioners to impose a fine up to $2,500, in addition to or instead of suspending a license, for a violation of alcoholic beverages laws that is cause for suspension. Imposition of this fine does not limit the imposition of any other penalty for the same violation and is independent of any court action based on the same violation.

Frederick County

Bed and Breakfast and Country Inn Licenses: ***Senate Bill 446/House Bill 478*** ***(both passed)*** authorize the Board of License Commissioners to issue separate on-sale beer, wine, and liquor licenses to bed and breakfast establishments (Class B-BB) and country inns (Class B-C1). The annual license fee for bed and breakfasts is $500, while the annual license fee for country inns is $2,500.

Garrett County

Underage Employees: ***House Bill 642*** ***(Ch. 58)*** clarifies that an alcoholic beverages licensee in Garrett County may employ an individual under the age of 18 years, as long as that individual does not handle alcoholic beverages.

Out-of-state Licenses: ***House Bill 472*** ***(passed)*** prohibits the issuance of a new Class A or Class D beer license; beer and light wine license; or beer, wine, and liquor license to any person, corporation, or limited liability company holding an alcoholic beverages license in any other state or the District of Columbia. Current license holders may renew their licenses.

Harford County

Tasting and Sampling Privileges: ***Senate Bill 229/House Bill 334*** ***(both passed)*** authorize Class A1 beer, wine, and liquor licensees to apply to the Board of Liquor Control for cordial, wine, and beer tasting or sampling (CWBT) licenses with 26-day, 52-day, or 365-day privileges. Class A beer and wine licensees are authorized to apply to the Board of Liquor Control for a wine and beer tasting or sampling (WBT) license.

Licenses Issued on Basis of Population: ***Senate Bill 230/House Bill 335*** ***(both passed)*** alter the methodology for determining how many Class A-1 (off-sale) beer, wine, and liquor licenses and Class A-2 (off-sale) beer, wine, and liquor licenses may be issued by the Liquor Control Board. The bills also repeal the restriction that the board may issue only one Class B-1 (on-sale) beer and wine or Class B-2 (on-sale) beer and wine license for every 3,000 individuals of the population.

Service of Summonses by Inspectors of the Board: ***Senate Bill 225/House Bill 336*** ***(both passed)*** authorize alcoholic beverages inspectors employed by the Liquor Control Board to serve summonses for witnesses.

Appeal of Decisions and Remand of Proceedings: ***Senate Bill 224/House Bill 337*** ***(both passed)*** add Harford County to the list of jurisdictions in which a circuit court may remand to an alcoholic beverages local licensing board any court proceedings regarding the action of the board about the approval, suspension, revocation, or restriction of a license or a licensee.

Liquor Control Board Operating Expenses and Salaries: ***Senate Bill 223/House Bill 338*** ***(both passed)*** provide that the full amount of the salaries of the members of the Liquor Control Board are to be included as expenses related to the administration and enforcement of the alcoholic beverages laws in Harford County.

License Transfers: ***Senate Bill 227/House Bill 339*** ***(both passed)*** repeal the following three requirements that must be met before the Liquor Control Board is required to transfer an alcoholic beverages license: (1) the location remains the same; (2) the license had been held for 15 years by the transferor prior to the date of application for transfer; and (3) there have been no violations within three years prior to the date of application for transfer.

Retail Sale of Light Wine Produced at Wineries: ***Senate Bill 228/House Bill 347*** (***both passed***) authorize Class 4 limited wineries that hold a Class A light wine license to keep for sale

and to sell at retail any amount of light wine or port wine produced at the winery that does not exceed 23 percent alcohol by volume.

Howard County

Out-of-state Licenses: ***House Bill 1392*** ***(Ch. 70)*** prohibits the issuance of a new Class A or Class D beer license; beer and light wine license; or beer, wine, and liquor license to any person, corporation, or limited liability company also holding an alcoholic beverages license in any other state or the District of Columbia. Current license holders may renew their licenses.

Montgomery County

East County License: ***House Bill 561*** ***(Ch. 51)*** authorizes the Board of License Commissioners to issue an East County Class B (restaurant) beer, wine, and liquor (on-sale) license. The license may be issued to a current holder of an original Class B license in the 2nd, 3rd, 4th, 6th, 7th, 8th, 9th, 10th, or 13th election districts. The East County license counts as one of the two additional "incentive" licenses and one of the six total licenses that a holder of an original license may obtain. The region for an East County license is bounded by the Howard County-Montgomery County line on the north, the Prince George's County-Montgomery County line on the east, the Capital Beltway (I-495) on the south, and a line 3,000 feet west of Columbia Pike on the west.

Special Class C Beer and Wine License: ***House Bill 560*** ***(Ch. 50)*** increases from $15 to $30 the daily license fee for a special Class C beer license and a special Class C beer and wine license.

Special Class C Beer, Wine, and Liquor License: ***House Bill 563*** ***(Ch. 53)*** increases from $30 to $60 the daily license fee for a special Class C beer, wine, and liquor license.

Beer and Wine Licenses in Kensington: ***House Bill 562*** ***(Ch. 52)*** adds a new beer and wine license that may be issued by the Board of License Commissioners on the same terms as the existing special two-day on-sale beer, wine, and liquor license. The new license is to be used by religious, fraternal, civic, or charitable clubs and organizations holding an event on municipal property located at 3710 Mitchell Street, Kensington, Maryland. The bill also adds a new beer and wine license that may be issued by the board on the same terms as an existing special B-K beer, wine, and liquor license for use by restaurants in specified areas of Kensington.

Rockshire Planned Residential Unit: ***House Bill 775*** ***(Ch. 61)*** authorizes the Board of License Commissioners to approve an application for an alcoholic beverages license for a restaurant in the Rockshire Planned Residential Unit Development if certain conditions are met.

Prince George's County

Continuing Care Retirement Communities: ***Senate Bill 221/House Bill 568*** ***(both passed)*** authorize residents and their guests in a continuing care retirement community that holds a Class C (on-sale) beer, wine, and liquor license to consume wine not purchased from the continuing care retirement community. The wine must be consumed with a meal in the dining room, and the continuing care retirement community must be operated by a nonprofit

organization for the continuing care of persons at least 60 years old. In addition, the organization must have been incorporated for at least one year, have obtained a certificate of registration from the Department of Aging, and must prepare and serve meals during regular operating hours to residents and their guests.

Open Containers: ***House Bill 596*** ***(passed)*** prohibits, unless authorized in writing by the owner of an establishment, the possession of an open container of any alcoholic beverage in specified areas, including malls, shopping centers, and retail establishments, and in any parked vehicle at a mall, shopping center, or retail establishment.

Queen Anne's County

Wine Tasting License: ***Senate Bill 523*** ***(passed)*** authorizes the Board of License Commissioners to issue a wine tasting (WT) license to holders of Class A beer and wine or Class A beer, wine, and liquor licenses. The WT license authorizes, for tasting and sampling only, the on-premises consumption of wine that does not exceed 22 percent alcohol by volume. The WT licensee is prohibited from serving more than two ounces from each brand to any one person and more than four ounces to any one person each day. The annual fee is $100.

Class A Light Wine License: ***Senate Bill 522/House Bill 431*** ***(both passed)*** authorize the Board of License Commissioners to issue a Class A light wine license to a holder of a Class 4 manufacturer's limited winery license in the county.

St. Mary's County

Class A Light Wine License: ***Senate Bill 522/House Bill 431*** ***(both passed)*** authorize the Board of License Commissioners to issue a Class A light wine license to a holder of a Class 4 manufacturer's limited winery license in the county.

Class B Licenses in Leonardtown: ***House Bill 1522*** ***(passed)*** exempts Class B (on-sale) beer, wine, and liquor licenses issued for premises in the Town of Leonardtown from the prohibition against the sale of alcoholic beverages in any building which is within 300 feet of a public or nonpublic kindergarten, elementary or secondary school, or church or other place of worship.

Washington County

Restrictions on Issuing Licenses: ***House Bill 549*** ***(passed)*** prohibits with certain exceptions the Board of License Commissioners from issuing an alcoholic beverages license to any licensee or applicant until all outstanding gaming proceeds, payments, and fines have been paid or judicially satisfied.

Special Wine Tasting License and Alcohol Awareness Training Program: ***House Bill 548*** ***(passed)*** authorizes the issuance of a wine tasting license to a Class B (on-off sale) beer, wine, and liquor licensee.

In addition, the bill requires an alcoholic beverages licensee or a person who is employed in a supervisory capacity designated by the licensee to be certified by an approved alcohol

awareness program and to be present during the hours which alcoholic beverages may be sold. A person certified by an approved alcohol awareness program may be absent from the licensed premises for a bona fide personal or business reason or an emergency if the absence lasts no more than two hours. The licensee is required to keep a log of such absences.

Wicomico County

Licenses and Open Containers: ***Senate Bill 681/House Bill 778*** ***(both passed)*** authorize the Board of License Commissioners to issue a caterer's license to the holder of a Class B (restaurant or hotel) beer and light wine license. Catered events must be held off the licensed premises, food and alcoholic beverages must be provided, and catering privileges may only be exercised during the days and hours of sale permitted for a Class B (restaurant or hotel) beer and light wine license.

In addition, the board may issue a special beer festival license to holders of Class 5 brewery, Class 6 pub-brewery, or Class 7 micro-brewery licenses.

The bills also prohibit the possession of an open container of any alcoholic beverage in specified areas, including malls, shopping centers, retail establishments, and any parked vehicle at a mall, shopping center, or retail establishment, unless permission is obtained in writing by the owner of an establishment.

Finally, under the bills, an alcoholic beverages license may not be subject to writs of execution by a judgment creditor of a licensee or distraint for rent.

Worcester County

Net Profits from Dispensaries: ***House Bill 1480*** ***(passed)*** clarifies that the Liquor Control Board is required to use the net profits of its liquor dispensaries first to pay all money advanced to or borrowed by the board that is currently due and owing.

Liquor Dispensaries and Homeowners Associations: ***House Bill 514*** ***(passed)*** authorizes the Liquor Control Board to establish and maintain a liquor dispensary in a housing development with a population of at least 10,000 that is overseen by a homeowners association and has a special police force. The bill also provides that a homeowners association is entitled to 50 percent of the net profits of alcoholic beverages sold at a dispensary located in the housing development. The homeowners association is required to use the profits for the benefit of the housing development's special police force.

Liquor Control Board – Salaries: ***House Bill 945*** ***(passed)*** increases the salary of the members of the Liquor Control Board from not less than $2,500 to not less than $3,000 beginning with the next term of office. The bill also expands the work-related duties eligible for mileage reimbursement to include official duties performed as members of the board.

Part I
Financial Institutions, Commercial Law, and Corporations

Financial Institutions

Savings Banks

Under current law, a savings bank may be acquired through a consolidation, merger, or transfer of assets, by a banking institution in the State, any other bank in the State, or any State or federal savings and loan association in the State, if the Commissioner of Financial Regulation gives written consent to the transaction after receiving the advice of the State Banking Board. ***Senate Bill 408/House Bill 423*** ***(both passed)*** authorize a savings bank to acquire another financial institution if the commissioner gives written consent to the transaction after receiving the advice of the State Banking Board. The bills also reduce the proportion of stock of a subsidiary savings bank that a parent mutual holding company must hold from 100 percent to a majority. Both changes seek to make it more attractive for federal savings banks to convert to state-chartered banks and to bring Maryland law into conformance with federal law.

Mortgage Lenders

Generally, a person may not act as a mortgage lender unless the person is licensed. To qualify for a mortgage lender license, an applicant must satisfy the Commissioner of Financial Regulation that the applicant is of good moral character and has sufficient financial responsibility, business experience, and general fitness to (1) engage in business as a mortgage lender; (2) warrant the belief that the business will be conducted lawfully, honestly, fairly, and efficiently; and (3) command the public's confidence. An applicant who is a sole proprietor must have three years of experience in the mortgage lending business.

Senate Bill 643/House Bill 1096 ***(both passed)*** authorize the commissioner to issue a mortgage lender license to a sole proprietor who does not meet the three-year experience requirement, if (1) the applicant is a licensed insurance producer in good standing and holds an appointment as an insurance producer for an insurer that controls, is controlled by, or is under common control with a specified financial institution; (2) the applicant agrees to broker loans only to that financial institution; (3) the financial institution and the affiliated insurer are identified in the license application; (4) the commissioner approves the selection of the financial

institution based on specified criteria; (5) the applicant meets all other requirements for a mortgage lender license; (6) the applicant has successfully completed at least 20 hours of classroom instruction in residential mortgage lending and passed an exam; (7) a representative of the financial institution signs the license application; and (8) the financial institution agrees to supervise the applicant and be held jointly and severably liable for the applicant's mortgage brokering activities.

A sole proprietor issued a license under Senate Bill 643/House Bill 1096 may not (1) help a borrower obtain a loan from another financial institution; (2) be compensated based on the loan amount, interest rate, fees, or other terms of the brokered loan or receive a finder's fee; (3) handle borrower or other third party funds; (4) refer a borrower to another licensed mortgage lender; or (5) make mortgage loans. A sole proprietor may forward a check to a financial institution under specified circumstances. It is anticipated that approximately 300 sole proprietors could become licensed under these bills.

Commercial Law

Consumer Protection

Privacy of Social Security Numbers

Senate Bill 117 (passed) prohibits specified disclosures of an individual's Social Security number (SSN). Violation of the bill is an unfair or deceptive trade practice under the Maryland Consumer Protection Act.

Senate Bill 117 prohibits a person, excluding a unit of State or local government, from (1) publicly posting or displaying an individual's SSN; (2) printing an individual's SSN on a card required to access products or services provided by the person providing the card; (3) requiring an individual to transmit the individual's SSN over the Internet without a secure connection or encryption protection; (4) requiring an individual to use the individual's SSN to access an Internet web site unless a password, unique personal identification, or other authentication device is also required; or (5) printing an individual's SSN on any material that is physically or electronically mailed or is transmitted by facsimile to the individual, unless required by State or federal law.

The bill does not apply to (1) the collection, release, or use of a SSN as required by State or federal law; (2) the inclusion of a SSN in an application form or document sent by mail under specified circumstances; or (3) the use of a SSN for internal verification or administrative purposes.

A person who uses an individual's SSN prior to January 1, 2005, in a prohibited manner may continue to do so until December 31, 1997, if (1) the use is continuous; and (2) the person provides an annual disclosure form stating an individual's right to stop the use of the individual's SSN. An individual's request to stop using the individual's SSN in a prohibited manner must be

honored within 30 days after receiving the request. A person may not deny products or services to an individual because of a request to stop using the individual's SSN.

Senate Bill 117 applies to all health insurance policies and contracts issued, delivered, or renewed on or after January 1, 2005. Issuers of health insurance policies or contracts in effect before January 1, 2005, must comply by January 1, 2006.

Telemarketing Enforcement – National Do Not Call Registry

***Senate Bill 88* (passed)** prohibits violations of the National Do Not Call Registry and related telemarketing laws and rules under the jurisdiction of the Federal Communications Commission and the Federal Trade Commission. Violation of the bill is an unfair or deceptive trade practice under the Maryland Consumer Protection Act. For a more detailed discussion of Senate Bill 88, see the subpart "Business Regulation" within this Part H.

Late Fees in Consumer Contracts

The parties to a consumer contract may agree to the payment of a late fee when a party fails to make a payment by the due date. A late fee is any charge or fee imposed because a payment is not made when due under the terms of the contract. The permissible amount for a late fee is determined by one of two alternative methods. Under the first method, the late fee may be the greater of up to either $5 per month or 10 percent per month of the past due amount; however, no more than three monthly late fees may be imposed for any single payment amount that is past due. Under the second method, the amount of the late fee may be up to 1.5 percent per month of the past due payment amount. ***Senate Bill 172*/*House Bill 455* (both passed)** repeal the October 1, 2005, termination provision for the authorization of a late fee in a consumer contract.

Household Goods Movers

***House Bill 810* (passed)** requires a household goods mover, under the Maryland Household Goods Movers Act, to provide a consumer with a written receipt that states (1) the household goods mover's legal name and (2) the address and telephone number of either the household goods mover's resident agent in the State or, if there is no resident agent, the principal place of business. Under the Maryland Household Goods Movers Act, a household goods mover may not enforce or threaten to enforce a carrier's lien against, or refuse to deliver, a consumer's household goods when providing household goods moving services for a move within the State. Violation of the Act is an unfair or deceptive trade practice subject to enforcement under the Maryland Consumer Protection Act and other applicable civil or criminal actions.

Credit Regulation

Mortgage or Deed of Trust – Required Insurance

Typically, a mortgage lender requires homeowner's insurance on secured property and if the property is in a flood plain separate flood insurance under the National Flood Insurance

Program. Under current law, a mortgage lender may not require a borrower, as a condition of receiving or maintaining a loan secured by a first mortgage or first deed of trust, to provide or purchase standard property insurance coverage against risks to any improvements on real property exceeding the replacement value of the improvements. ***House Bill 1447 (passed)*** prohibits a lender from requiring a borrower, as a condition to receiving or maintaining a loan secured by a first mortgage or first deed of trust, to provide or purchase flood insurance coverage under the National Flood Insurance Program exceeding the replacement value of the improvements on the real property.

Commercial Law – Generally

Revision of Title 7 of the Uniform Commercial Code

Generally, Title 7 of Maryland's Uniform Commercial Code (UCC) governs obligations and rules of construction governing negotiation and transfer of warehouse receipts, bills of lading, and other documents of title for transactions in which personal property is transferred.

The National Conference of Commissioners of Uniform State Laws (NCCUSL), along with the American Law Institute, completed work on a revised Article 7 to the UCC during 2003. The 2003 revision updates the original to provide a framework for the further development of electronic documents of title. This modernization of Article 7 addresses state, federal, and international developments, including the Uniform Electronic Transactions Act and the federal Electronic Signatures in Global and National Commerce Act (E-SIGN).

***Senate Bill 136*/*House Bill 140* (both passed)** repeal the current Title 7 to the Maryland UCC and adopt the revised Article 7 to the UCC, as recommended by NCCUSL. The bills also make various conforming changes in other titles of the UCC. Revised UCC Article 7 provides for control of electronic documents of title and the transfer of interests when electronic documents of title are used. The bills also provide for the application of Title 7 to E-SIGN. The bills make various changes to the rules of construction governing negotiation and transfer of warehouse receipts, bills of lading, and other documents of title for transactions in which personal property is transferred. The bills distinguish between electronic and tangible documents of title and provide for conversion between the two types of title documents.

Abandoned Property

Within one year after taking custody of unclaimed abandoned personal property, the Comptroller must sell the property at auction, acting as the administrator of abandoned property. A person who claims a legal interest in such property must file a claim to the property or to the proceeds from its sale. Under current law, for a claim to property sold at auction, the Comptroller must pay the claimant an amount equal to the sales price plus interest at the rate earned on invested State funds. For interest-bearing property, the Comptroller must pay interest at the lesser of 5 percent or the interest rate earned on the property while in the former holder's possession. If the Comptroller allows a claim, the Comptroller must pay the claimant interest for the period that the Comptroller held the property, up to five years. ***Senate Bill 276*/*House Bill 687* (both passed)** repeal the requirement for the Comptroller to pay interest to claimants of

(1) interest-bearing abandoned property and (2) the proceeds from the sale of other abandoned property.

Hotel and Retirement Community Operating Agreements

***Senate Bill 603*/*House Bill 703* (both passed)** provide rules of interpretation for operating agreements relating to the management, operation, or franchise of a hotel or a retirement community. If a conflict exists between the express terms and conditions of an operating agreement relating to the management, operation, or franchise of a hotel or retirement community and the terms and conditions implied by law governing the relationship between a principal and agent, the bills provide that the express terms and conditions govern. A court may order specific performance for anticipatory or actual breach, or attempted or actual termination of the operating agreement, notwithstanding an agency relationship between the parties to the agreement. The covenant of good faith and fair dealing is implied in an operating agreement unless the agreement states that a party may perform a duty or obligation at its sole discretion. Unless an operating agreement contains a covenant or other provision that specifically incorporates a duty into the agreement, no duties are implied under the agreement.

Corporations and Associations

Corporations – Miscellaneous Changes

***House Bill 737* (passed)** makes various changes to the laws governing corporate actions, including provisions governing a reverse stock split under a corporate charter, signatures on corporate securities, stockholder consent, and corporate dissolution.

The bill authorizes, unless a corporation's charter provides otherwise, the board of directors of a corporation to amend its corporate charter to effect a reverse stock split resulting in a ratio of no more than 10 to 1 in any 12-month period (1) upon approval of a majority of the entire board; and (2) without stockholder approval. Within 20 days after the effective time of the reverse stock split, the corporation must give written notice of the reverse split to each holder of record of the combined shares of stock as of the effective date. This only applies to a corporation with a class of equity securities registered under the Securities and Exchange Act of 1934 or registered as an open-ended investment company under the Investment Company Act of 1940.

The bill includes the chief executive officer, chief operating officer, chief financial officer, and vice chairman of the board of directors on the list of persons authorized to sign a stock certificate.

The bill also authorizes the holders of corporate common stock entitled to vote generally in the election of directors, if authorized by the corporate charter, to take, or consent to, any action (by delivering consent in writing or by electronic transmission) of the stockholders entitled to cast at least the minimum number of votes that would be necessary to authorize or

take the action at a stockholders meeting, if the corporation gives notice of the action to each holder of the class of common stock no later than 10 days after the action's effective date.

Finally, the bill allows a corporation's board of directors, as the board of directors rather than as director-trustees, to continue to handle corporate affairs when a corporation is voluntarily dissolved. Specifically, until a court appoints a receiver, the board of directors must manage the corporation solely for the purpose of winding up the corporation. Dissolution does not subject the corporation's directors to a different standard of conduct.

Budget Reconciliation and Financing Act

Senate Bill 508 ***(passed)***, the Budget Reconciliation and Financing Act, repeals the exemption for foreign insurance companies from the requirement of foreign corporations to pay a $300 filing fee with an annual report submitted to the State Department of Assessments and Taxation. The bill also requires business trusts to pay a $300 filing fee with an annual report submitted to the department. Lastly, Senate Bill 508 raises the filing fee for certain exempt securities from $100 to $400. For a more detailed discussion of Senate Bill 508, see the subpart "Operating Budget" under Part A – Budget and State Aid of this *90 Day Report*.

Part J
Health

Public Health – Generally

Medicaid

Managed Care Pilot Program for Long-term Care

***Senate Bill 819* (passed)** requires the Department of Health and Mental Hygiene (DHMH) to apply to the federal Centers for Medicare and Medicaid Services (CMS) for a waiver to establish the Community Choice Program (program), a managed care system that will operate in two areas of the State and provide long-term care services to eligible Medicaid enrollees. Prior to submitting the waiver to CMS, DHMH must submit the proposed waiver to the Legislative Policy Committee for its review and comment.

Individuals eligible for the program include (1) adults who are dually-eligible for Medicare and Medicaid; (2) adult Medicaid recipients who meet the nursing home level-of-care standard; and (3) Medicaid recipients over 65 years of age. Program recipients are required to enroll in a community care organization (CCO), which promotes the delivery of services in the most appropriate, cost-effective setting, including nursing facilities and community-based services. If an enrollee requires nursing home level of care, the enrollee may choose to receive services in a nursing home or in the community if community placement is cost effective. In addition, DHMH must make capitation payments to each CCO at a level that is actuarially adjusted for the benefits provided. DHMH must use the savings realized under the program to increase reimbursement rates to community providers and develop a statewide single point-of-entry system to accept applications, make eligibility determinations, enroll individuals, and provide coordinated services. The program terminates in May 2008.

The bill also requires DHMH to seek permission from CMS to alter the level-of-care standard for individuals to be medically eligible to receive services through the Waiver for Older Adults. An individual will be medically eligible if the individual requires (1) skilled nursing facility care or other related services; (2) rehabilitation services; or (3) health-related services above the level of room and board that are available only through nursing facilities, including individuals who have severe cognitive impairments.

Dental Services

Children enrolled in Medicaid have historically received very little dental care. In fiscal 1997, the final year that most Medicaid enrollees received dental care on a fee-for-service basis, only about 20 percent of children who were enrolled for most of the year used dental services. The General Assembly sought to address this trend by setting utilization targets that increased from 30 percent in calendar 2000 to 70 percent for calendar 2004. Despite enhanced funding for dental care and modest increases in visits, the utilization rate for HealthChoice managed care organization (MCO) enrollees still trails the statutory target. Utilization of restorative care (fillings) is especially low at only about 10 percent.

***House Bill 1134* (passed)** requires a Medicaid MCO, in coordination with participating dentists, enrollees, and families of enrollees, to develop a process to arrange to provide dental therapeutic treatment to individuals under 21 years old that requires (1) a participating dentist to notify an MCO when an enrollee needs therapeutic treatment and the dentist is unable to provide that treatment; (2) an MCO to provide an enrollee with a list of participating providers who offer therapeutic treatment services; and (3) an MCO to notify an enrollee that the MCO will provide further assistance if the enrollee has difficulty obtaining an appointment to receive therapeutic treatment.

Developmental Disabilities Administration

Funding Increase

The Developmental Disabilities Administration (DDA) provides services to individuals with mental or physical impairments that result in substantial functional limitations and are likely to continue indefinitely. Services are provided in four State residential centers and through a coordinated service delivery system that supports the integration of these individuals into the community.

The DDA budget grows $44 million in fiscal 2005, a result of several recent initiatives intended to increase access to and quality of community services. Of the increase, $18 million is dedicated to the third year of the initiative to increase wages for community direct service workers. Concern that direct care workers employed by community providers were not being compensated at the rate of employees in State residential centers led to legislation, enacted in 2001, to eliminate the wage disparity over a five-year period. The initiative is expected to increase the hourly wage and fringe benefits of community direct service workers 8.5 percent in fiscal 2005, from $13.01 to $14.12.

The fiscal 2005 budget also includes funds for expansion of community services. The transitioning youth program, which provides supported employment and day services for students graduating from the school system, will provide services to an additional 475 students in fiscal 2005 at a cost of $7 million. Residential, day, and support services will also be expanded to an estimated 400 individuals on an emergency basis at a cost of $5 million in fiscal 2005. The remainder of the increase provides funds for the annualization of fiscal 2004 community placements, inflation in community services costs, and deinstitutionalization.

Respite Care

House Bill 475 ***(passed)*** requires State residential centers to provide respite care for families caring for individuals with developmental disabilities in their homes. Beginning in fiscal 2006, the Holly Center, the Potomac Center, and the Brandenburg Center must each reserve not more than 4 percent of its total beds for respite care. The Rosewood Center must reserve at least 2 percent but not more than 4 percent of its total beds for respite care, as required under current law. The bill requires families caring for individuals with developmental disabilities in their homes to have a choice of obtaining respite care in a State residential center or a community setting.

Under the bill, DHMH must study the demand for respite care beds in State residential centers and determine how many beds could be reserved for respite care.

Mental Health

Specialty Mental Health Services

When DHMH implemented Medicaid managed care in 1998, specialty mental health services were carved out of the managed care structure and funded through the public mental health system. Specialty mental health services are defined as meeting certain medical necessity criteria utilizing accepted diagnostic tools.

Concerned that ongoing budget deficits in the specialty mental health services budget might result in an executive decision to end the carve-out, ***Senate Bill 754/House Bill 943*** ***(both passed)*** provide that, without the legislative approval of the General Assembly (1) the Secretary of Health and Mental Hygiene may not end the exclusion of specialty mental health services from the Medicaid HealthChoice managed care program; and (2) DHMH may not contract with a behavioral managed care organization to provide specialty mental health services.

Emergency Evaluations

Senate Bill 873 ***(passed)*** adds a clinical nurse specialist in psychiatric and mental health nursing and a psychiatric nurse practitioner to the list of individuals who may petition for an emergency evaluation of an individual if the nurse specialist or practitioner has examined the person and has reason to believe that the individual has a mental disorder and that the individual presents a danger to the life or safety of the individual or a another person. In addition, any licensed health care professional who petitions for an emergency evaluation must include the professional's license number on the petition.

Group Homes

House Bill 416 ***(passed)*** requires the Office for Children, Youth, and Families (OCYF), in coordination with DHMH, the Department of Human Resources, and the Department of Juvenile Services, to analyze and recommend how the Subcabinet Resources Directory may be used (1) to notify State and local elected officials about newly licensed children's group homes

in their jurisdictions and (2) by State and local elected officials, law enforcement agents, and other appropriate individuals to quickly identify the owner and agency that licenses a particular group home. By October 1, 2004, OCYF must report its results and recommendations to the Senate Finance Committee, the House Health and Government Operations Committee, and the Joint Committee on Children, Youth, and Families.

Health Care Decisions

Advance Directives

The legislature passed two pieces of legislation relating to advance directives. Advance directives are forms that allow an individual to express his or her preferences for the types of medical treatment and care he or she wishes to receive if the individual becomes incapacitated or unable to make informed medical decisions by illness or injury.

There is a gap between patients' preferences about end-of-life care and the interventions actually performed in health care facilities because the wishes expressed by an advance directive may in some cases not be honored due to the unavailability of completed forms or a provider's lack of understanding of how to translate the document into treatment of specific medical conditions. ***Senate Bill 352*/*House Bill 556*** ***(both passed)*** require the Office of the Attorney General to develop a "Patient's Plan of Care" form suitable for reflecting an individual's preferences for treatment and care, including the use of life-sustaining procedures and the transfer to a hospital from a nonhospital setting. The form will include a statement that the form can be modified at any time and will designate under which conditions the form must be reviewed. The form will travel with an individual upon transfer, and health care providers must review these forms as part of an individual's plan of care.

House Bill 557 ***(passed)*** requires DHMH, in consultation with the Office of the Attorney General, to develop an information sheet that provides information regarding advance directives and to develop a plan to widely distribute the information sheet to the general public.

Medical Decision Making Act of 2004

House Bill 1284 ***(failed)*** would have established a Life Partnership Registry in DHMH for same sex and opposite sex couples for the purpose of conferring rights to make medical decisions in certain circumstances.

Community Health

Health and Human Services Referral System

House Bill 981 ***(passed)*** establishes a Health and Human Services Referral Board within DHMH to oversee four self-funded pilot programs that currently utilize the 2-1-1 telephone service on a regional basis. The 2-1-1 service provides an automatic connection to an established information and referral source. The board must determine how to implement the 2-1-1 telephone service statewide and how to integrate emergency and nonemergency numbers. The

bill also establishes 2-1-1 as the primary information and referral telephone number for health and human services in Maryland.

Minority Health and Health Disparities

***Senate Bill 177*/*House Bill 86* (both passed)** establish the Office of Minority Health and Health Disparities within DHMH (see the subpart "State Agencies, Offices, and Officials" within Part C – State Government of this *90 Day Report*).

Disease Prevention

***Cervical Cancer:* *Senate Bill 499*/*House Bill 1067* (passed)** establish a Cervical Cancer Committee of the Maryland Comprehensive Cancer Control Plan (committee). The committee's duties include (1) collaborating with DHMH and the State Council on Cancer Control to promote public awareness on the causes, nature, detection, treatment, and prevention of cervical cancer; (2) identifying and examining the limitations of existing programs with respect to cervical cancer awareness and the availability of health insurance coverage and public services for cervical cancer diagnosis and treatment; (3) developing a statewide Cervical Cancer Prevention Plan; and (4) facilitating coordination and communication among State and local agencies and organizations to achieve the plan's goals. The committee will terminate in five years.

***Fetal Alcohol Syndrome:* *House Bill 1274* (passed)** requires the Secretary of Health and Mental Hygiene, working with other State agencies and to the extent funds are available, to establish and promote a statewide public education campaign on fetal alcohol syndrome and other effects of prenatal alcohol exposure.

Umbilical Cord Blood: Umbilical cord blood contains blood stem cells that could be used to treat various life-threatening diseases such as leukemia and sickle cell anemia. The stem cells in frozen cord blood remain available for transplantation for many years. A certified public cord blood bank makes cord blood available to any patient in need of a transplant, for research, and is not reserved for a family's private use. ***Senate Bill 332*/*House Bill 398* (passed)** require hospitals to allow pregnant patients to arrange for the donation of the cord blood from the umbilical cord of a newborn child to a certified public cord blood bank. A patient that arranges cord blood donation is prohibited from being charged for the costs associated with the donation. No hospital personnel may be required to collect cord blood for donation if it conflicts with a bona fide religious belief.

Prescription Drugs

Reducing medication errors has been identified as a means of reducing health care costs and increasing patient safety. Medication errors include dispensing the wrong drug or wrong dosage due to the illegibility of the original prescription from the health care provider. ***House Bill 433* (passed)** requires a written prescription to be legible. This bill also requires the Secretary of Health and Mental Hygiene, in conjunction with various other groups, to convene a

workgroup to study the issue of legibility of prescriptions and to make recommendations for any statutory or regulatory changes to improve patient safety.

Food Safety and Regulation

***House Bill 1397* (passed)** requires the Secretary of Health and Mental Hygiene to impound a milk product that is a threat to the public health because it is handled improperly, is not kept at the required temperature, is injurious to health if consumed, or is otherwise unsafe. If the Secretary impounds a milk product, the Secretary may order the milk be disposed of or rendered unusable, or impose a civil monetary penalty.

***Senate Bill 839*/*House Bill 1468* (both passed)** exempt bed and breakfast establishments (lodging or rooming houses with eight rooms or less for rent) from any regulation governing food service facilities adopted by DHMH or a local government relating to the construction or installation of commercial grade kitchen equipment. Each establishment that intends to serve hot meals to renters must be licensed to operate a food establishment and is subject to State and local health regulations that govern food safety and contamination. The county health officer must inspect each establishment for regulatory compliance.

***House Bill 780* (passed)** amends the definition of "excluded organization" to allow a volunteer fire company to serve food to the public for up to 30 consecutive days once a year, up from the current maximum of 14 consecutive days once a year, without requiring the company to be licensed to operate a food establishment.

Laboratories

***House Bill 580* (passed)**, specifies that the director of a medical laboratory outside Maryland that tests a human specimen from a person in Maryland must submit a report to the Secretary of Health and Mental Hygiene within 48 hours after an examination that shows evidence of specified diseases or conditions. The Secretary will notify the health officer of the jurisdiction where the patient resides of such a laboratory examination report. The bill adds all types of arbovirus infection, pesticide-related illness, and severe acute respiratory syndrome to the list of diseases and conditions required to be reported.

Biological Agents

Chapter 361 of 2002 established the Biological Agents Registry Program in DHMH to identify specified biological agents possessed and maintained by any person in the State. ***House Bill 666* (Ch. 59)** requires DHMH to adopt regulations providing for the release of specified information in the Biological Agents Registry to the Maryland Emergency Management Agency and the Maryland Department of the Environment for purposes of planning.

The registry may also release information to the Maryland Institute for Emergency Medical Services Systems (MIEMSS) so that MIEMSS can provide certain specified information to a police officer responding to an emergency and to a fire or emergency medical services entity performing emergency services, proceeding to a fire or other emergency, or dispatched on a call

for emergency services. Local jurisdictions must be informed of the location and nature of each biological agent in the registry that is within their jurisdiction.

Health Occupations

Altering Grounds for Discipline and Penalties Imposed

Several pieces of legislation amend the grounds for discipline of licensees or penalties to be imposed for a violation of the particular title that relates to the particular health occupation. Specifically, ***House Bill 944 (passed)*** adds acts of gross negligence and misconduct as grounds for denial, suspension, or revocation of an acupuncturist's license and raises the fines and imprisonment terms for a violation. ***House Bill 671 (passed)*** adds the commission of an immoral act or the failure to cooperate with an investigation of the Board of Professional Counselors and Therapists to the grounds for which a professional counselor or therapist's license may be denied, suspended, or revoked. ***House Bill 799 (passed)*** adds discipline by any branch of the U.S. Uniformed Services or Veterans Administration as grounds for discipline of a physical therapist and raises the fines and imprisonment terms for a violation.

Senate Bill 330 (failed) was an omnibus bill that would have standardized for a majority of the health occupations boards the maximum fine imposed for a violation of the applicable health occupations laws at $5,000 and the maximum imprisonment term for a first offense imposed for a violation of these laws at three years. The bill was referred to interim study by the Senate Education, Health, and Environmental Affairs Committee.

Board of Pharmacy – Administration of the Influenza Vaccination

The scope of practice of pharmacists is expanded through ***Senate Bill 389/House Bill 384 (both passed),*** which authorize a licensed pharmacist to administer an influenza vaccination in accordance with regulations adopted jointly by the Board of Pharmacy, the Board of Physicians, and the Board of Nursing. The regulations must establish a reasonable fee that may be charged for the administration of the vaccination and must provide for patient safety.

Board of Nursing – Certification of Medication Technicians

Senate Bill 405/House Bill 602 (both passed) require the Board of Nursing to certify medication technicians and require the board to consult with interested groups when developing regulations. The creation of a certification scheme for medication technicians seeks to address concerns regarding proper qualifications, training, and discipline of these individuals.

Board of Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists – Altering Board Membership

Although the Senate voted to override the Governor's veto of a bill to remove the physician members of the Board of Audiologists, Hearing Aid Dispensers, and Speech-Language

Pathologists, the House took no action on the matter. ***Senate Bill 281*/*House Bill 427* (both passed)** do not remove the physician members of the board but rather limit the voting powers of the physician members of the board in order that they may not vote on proposals that expand or restrict the practice of audiology or speech pathology.

Sunset Review of the Board of Dietetic Practice

The Department of Legislative Services recommended extending the Board of Dietetic Practice in its sunset review of the board in 2003. ***Senate Bill 110*/*House Bill 353* (both passed)** extend the board's termination date until July 1, 2015, and create a single dietitian-nutritionist license for the practice of dietetics rather than continuing separate licenses with virtually identical qualifications and scopes of practice.

Sunset Review of the Respiratory Care Professional Standards Committee

The Department of Legislative Services also recommended extending the termination date of the Respiratory Care Professional Standards Committee, which is a subunit of the Board of Physicians, as a result of its sunset review of the committee in 2003. ***Senate Bill 72*/*House Bill 1081* (both passed)** continue the committee until July 1, 2012.

Miscellaneous

Legislation was also introduced on behalf of the Board of Acupuncture and the Board of Dental Examiners. ***House Bill 627* (passed)** repeals a termination provision over the authority of substance abuse counselors and nurses, in addition to licensed acupuncturists, to practice auricular detoxification – an acupuncture technique applied to the ear that alleviates substance abuse. ***Senate Bill 361*/*House Bill 558* (both passed)** broaden the authority of the Board of Dental Examiners to regulate sedation and limit the authority of the board to require a permit in specified instances of sedation administration.

Health Care Facilities and Regulation

Crownsville Hospital

For the past several years, the General Assembly has encouraged the Department of Health and Mental Hygiene (DHMH) to consider closing a State mental health facility due to declining utilization of inpatient mental health services. Over the past 21 years, utilization has decreased from 4,390 beds to 1,204 in the State's various psychiatric facilities. However, in that time the State closed only one hospital, Highland Health in 1998. In 2003, at the request of the General Assembly, DHMH explored the feasibility of closing one of three large (over 200 beds) regional facilities (Crownsville, Spring Grove, or Springfield) and ultimately decided to close Crownsville Hospital Center located in Anne Arundel County.

Crownsville Budgetary Considerations

As submitted by the Governor, the fiscal 2005 operating and capital budgets contained several actions implementing DHMH's October 2003 *Joint Chairmen's Report* response consolidating State-run psychiatric beds utilizing a system of two rather than three large regional hospitals and recommending the closure of Crownsville Hospital in Anne Arundel County. Those actions and the final status of those proposals are summarized in **Exhibit J-1**.

Exhibit J-1
State-run Psychiatric Hospital Consolidation and the Fiscal 2005 Operating and Capital Budget

Item	Funding	Comment and Legislative Action
Deficiency appropriation	$916,000	Renovation of two buildings at both Spring Grove and Springfield hospitals to accommodate patients transferred from Crownsville. Approved by the General Assembly.
Operating budget savings	($11,800,000)	Operating savings from the closure of Crownsville. Of this amount, $6.8 million is removed from the base budget and thus not subject to legislative action.
Operating budget expenditures	$5,000,000	Reinvestment of savings into expansion of community mental health services. The General Assembly attached budget bill language directing $4 million of these savings to be used for regional service expansion in Anne Arundel, Prince George's, Calvert, Charles, and St. Mary's counties; and $1 million to move patients currently at Crownsville who are ready for discharge into the community.
Recycling of fiscal 2004 operating funds and capital budget expenditures	$150,000 (GF) $9,625,000 (GO)	Design and construct a 48-bed addition to the maximum-security wing at Perkins in order to expand overall capacity in the State-run psychiatric hospital system. Overall, the consolidated system will have a net gain of 34 beds. Approved by the General Assembly.

Source: Department of Legislative Services

DHMH is proceeding with the closure of Crownsville, having begun to transfer patients. While most employees at Crownsville will be transferred to other hospitals, 133.3 positions will be abolished as a result of the hospital closure, and the Governor's budget requires the abolition of these positions by the end of fiscal 2005. Of these positions, approximately 109 are currently filled. At the time of writing, it is not certain how many of these 109 employees will be laid-off as a result of closure. DHMH has committed to work to find them alternative positions in State government.

In a matter related to the closing of Crownsville Hospital, ***House Bill 1351*** ***(passed)*** provides that a cemetery owned by the State and located on the grounds of certain State facilities, primarily State-run hospitals, may not be sold if the facility is closed or sold. In addition, the cemetery must be maintained by the State and marked with a monument commemorating the individuals interred in the cemetery. Any easement to a State-owned cemetery that has been recorded with a county on or before October 1, 2004, may not be transferred or sold, unless the deed includes a restrictive covenant requiring any future owner to maintain the cemetery.

Community-based Services

Bills were introduced this session that attempted to use the savings achieved by the closure of Crownsville or another Mental Hygiene Administration (MHA) facility to increase access to community-based mental health services. ***Senate Bill 706*** ***(passed)*** requires that if any MHA facility is downsized, consolidated, or closed, all State property associated with the facility that is not transferred to another governmental entity must be sold or leased at fair market value, and the net proceeds of the sale or lease must be deposited into the Community-Based Services Fund. Proceeds in this fund are to be used to provide community-based services to the mentally ill. The bill only applies prospectively. The bill also requires the Waiting List Equity Fund, which is currently funded by the Community Services Trust Fund, to provide community-based services to individuals eligible for but not receiving services from the Developmental Disabilities Administration.

In addition, DHMH, the University of Maryland Medical System (UMMS), and the University of Maryland, Baltimore, must report to the legislature on any developments related to the proposed transfer of the Walter P. Carter Center to UMMS.

Other legislation, ***Senate Bill 620***/***House Bill 946*** ***(both passed)***, is intended to facilitate the transfer of nursing home residents to home- and community-based services by providing residents with additional information about those services.

Continuing Care Facilities

Senate Bill 785/***House Bill 1001*** ***(both passed)*** require a continuing care facility to establish an internal grievance procedure for addressing complaints. A facility must include in its disclosure statement to the Maryland Department of Aging a description of its internal grievance procedure. The facility must also provide a description of the grievance procedure to applicants and subscribers.

Nursing Facilities and Assisted Living Programs

Several bills were considered this session to strengthen consumer protection in nursing homes and assisted living programs. ***Senate Bill 343*/*House Bill 484* (both passed)** address family councils at nursing homes. A family council is a group of individuals who work together to protect the rights and improve the quality of life of residents in a nursing home. In the past, some nursing homes that directed family councils discouraged council autonomy. The bills attempt to correct any possible conflict of interest by specifying that a family council may consist of a resident's family members, or an individual appointed by the resident, or, if the resident is incapable of appointing an individual, an individual appointed by the resident's family. In order to facilitate the development of a family council, the owner, operator, or staff of a nursing home may lead the family council for no longer than six months, at which time the council must be led by a council member.

Last session, legislation failed that would have required notification of family members by a nursing home of a resident's change in condition. In response, DHMH issued regulations in late 2003 that embodied the intent of the failed legislation. ***Senate Bill 297* (passed)** codifies the regulations by requiring a nursing home to notify a resident and the resident's representative or family member of any changes in condition, events that resulted in a change of condition, unanticipated consequences of care, and any corrective actions.

***Senate Bill 810*/*House Bill 1190* (both passed)** strengthen quality of care in assisted living homes by imposing education requirements on assisted living managers. The bills require an assisted living manager who is employed by an assisted living program that is licensed for 17 or more beds to complete an approved manager training course, including an examination. Managers must meet these licensure requirements by 2006. In addition, the managers must also meet continuing education requirements.

Nursing Referral Agencies

Whereas residential service agencies require a doctor's order or a doctor's referral for the provision of specific services such as an IV antibiotic, nursing referral service agencies screen and refer licensed health professionals for the provision of skilled nursing services, home health aid services, or other home health care services at the request of a particular client. ***Senate Bill 550*/*House Bill 1425* (both passed)** establish a licensure scheme for nursing referral service agencies, formerly known as nurse registries, within DHMH.

Health Insurance

Nonprofit Health Service Plans

Regulation

In the wake of CareFirst BlueCross BlueShield's failed attempt to convert to a for-profit entity in 2002, the General Assembly strengthened State regulation of nonprofit health service plans in the 2003 session. Chapters 386 and 387 of 2003 made changes to the governance of nonprofit health service plans, specified a variety of public service requirements a nonprofit health service plan must meet to maintain its premium tax exemption, and established a Joint Oversight Committee to monitor compliance with the new requirements. The 2003 laws also required the Maryland Insurance Commissioner and the Attorney General to review the Commissioner's order denying the for-profit conversion and make recommendations regarding whether any changes to Maryland law were needed to ensure that regulatory oversight was sufficient to protect the public interest.

***Senate Bill 4*/*House Bill 341* (both passed)** incorporate the recommendations of the Commissioner and the Attorney General by:

- prohibiting a member of the board of directors of a nonprofit health service plan from using board membership for personal or financial enrichment;
- requiring the board to ensure that adequate consideration is given to an independent valuation of the plan before considering any bid or offer to acquire the plan and convert to a for-profit entity;
- holding plan officers to fiduciary standards similar to those to which board members are held;
- giving the Commissioner authority to impose a civil penalty on a plan officer or director in response to an unsound or unsafe business practice; and
- enhancing the due diligence standard required when the appropriate regulating entity considers an application for acquisition of a nonprofit health entity.

The bills also address concerns of the District of Columbia's Insurance Commissioner that the 2003 law usurped the Commissioner's authority over the CareFirst affiliate domiciled in the District of Columbia. To address these concerns, the bills specify that while a nonprofit health service plan doing business in the State must meet public service requirements established under Maryland law, to the extent these requirements conflict with the plan's legislatively enacted charter or any law, rule, or regulation of the jurisdiction in which the plan is domiciled, the charter and the laws, rules, and regulations of the jurisdiction of domicile control.

Authority of Insurance Commissioner over Compensation

In response to a federal court order and consent judgment that resolved several legal issues among the national BlueCross BlueShield Association, CareFirst, Inc., and the State, ***Senate Bill 29***/***House Bill 350*** ***(both passed)*** repeal the Maryland Insurance Commissioner's authority to approve compensation guidelines for all officers and executives of a nonprofit health service plan. Instead, a nonprofit health service plan's board is required to annually provide a copy of the board-approved compensation guidelines to the Commissioner. The Commissioner retains the authority under current law to ensure that compensation guidelines are developed in the manner required by statute and are implemented and followed

Expanding Health Care Coverage to the Uninsured

Two significant bills introduced in the 2004 session addressed the growing number of uninsured in the State. ***Senate Bill 737***/***House Bill 1008*** ***(both failed)*** were reintroductions of the Public-Private Partnership for Health Coverage for All Marylanders. The bills would have provided universal health care coverage for State residents by changing eligibility requirements in the Medicaid program, the Maryland Children's Health Program (MCHP), the Maryland Pharmacy Discount Program, the Maryland Health Insurance Plan, and the small group health insurance market. The program would have been funded by an increased tobacco tax and a new payroll tax on employers.

House Bill 1271 ***(failed)*** would have established the Maryland Community Health Resources Commission to increase access to health care for lower-income individuals and provide funding for community health resources around the State. As passed by the House, the bill would have expanded Medicaid coverage to provide primary care and office-based specialty care to individuals with incomes up to 116 percent of the federal poverty level guidelines (FPG) and to parents of MCHP enrollees with family incomes up to 200 percent of the FPG. These initiatives would have been funded by a 1 percent premium tax imposed on health maintenance organizations and Medicaid managed care organizations and, beginning fiscal 2008, with funds from the Cigarette Restitution Fund. The Senate Finance Committee amended the bill to provide comprehensive coverage to parents of MCHP enrollees with family incomes up to 150 percent of the FPG, funded by a 2 percent premium tax.

Maryland Health Insurance Plan

The Maryland Health Insurance Plan (MHIP), the State's high-risk insurance pool that covers medically uninsurable individuals, began implementation on July 1, 2003. While implementation was generally smooth, as of February 2004, 6,137 individuals were enrolled, well below the level of enrollment anticipated. Several statutory changes were proposed to address transitional issues and improve the effectiveness of the program.

House Bill 125 ***(passed)*** corrects a problem caused by the transfer of Medicare-eligible individuals from MHIP's predecessor, the Substantial, Available, and Affordable Coverage program, into MHIP. While these individuals technically were ineligible for MHIP because of

their Medicare eligibility, they were allowed to remain in MHIP until July 1, 2004. To ensure that these individuals will be able to purchase supplementary medical coverage when MHIP coverage terminates, the bill requires a health insurance carrier to issue a Medicare supplement policy to an individual who is eligible for Medicare due to age if the individual (1) transferred from a substantial, available, and affordable coverage plan to MHIP on July 1, 2003; (2) is terminated from MHIP as a result of Medicare eligibility; and (3) applies for the policy within six months after termination from MHIP. The Maryland Insurance Administration (MIA) is required to notify carriers of this requirement, and MHIP must provide notice of the availability of Medicare supplement coverage to eligible MHIP enrollees. These provisions terminate on July 1, 2005.

The bill also requires a carrier to make available both a Medicare supplement policy plan C and plan I to an individual who (1) is enrolled in MHIP; (2) is under the age of 65 but is eligible for Medicare due to a disability; (3) is terminated from MHIP due to Medicare eligibility; and (4) applies for the policy within six months after termination from MHIP.

House Bill 667 ***(passed)*** expands the size of the MHIP board and the board's authority over enrollment and premium rate setting. The bill adds two minority members to the board and allows the board to subsidize premiums, deductibles, and other policy expenses based on a member's income. The bill also allows the MHIP board to limit enrollment of otherwise eligible individuals whose premiums are paid for by a pharmaceutical manufacturer or its affiliate where the board determines that enrollment capacity is adversely impacted. Finally, the bill expands the types of funds that can be deposited into the MHIP fund to include donations and grant awards.

Small Group Health Insurance Market

In January 2004, the Maryland Health Care Commission (MHCC) reported to the General Assembly on a variety of options for covering the uninsured. One proposal included a limited benefit plan to be offered in the small group market. The primary advantage of this type of plan is its affordability.

Senate Bill 570 ***(passed)*** establishes a limited health benefit plan to be offered in the small group health insurance market. Certain prominent carriers, which are defined in the bill, must offer the limited benefit plan to a small employer that has not provided comprehensive insurance in the last 12 months and whose employees are paid an average annual wage not exceeding 75 percent of the average annual wage in the State. Benefits under the limited benefit plan may not exceed 70 percent of the actuarial value of the Comprehensive Standard Health Benefit Plan currently sold in the small group market. MHCC must report to the Governor and specified legislative committees on the number of limited benefit plans sold and other related data by January 1, 2008. The bill's provisions terminate June 30, 2008.

Other Initiatives

Reimbursement Rates for Podiatrists

***Senate Bill 437*/*House Bill 411* (both passed)** require health insurers, nonprofit health service plans, and health maintenance organizations to reimburse a licensed podiatrist for services provided at the same rate as the carriers would reimburse a physician for those same services. In 2003, MHCC studied payor differentials between physicians and other licensed health care providers. The study concluded that in 2002, on average, carriers reimbursed podiatrists at 91 percent of the rate that carriers reimbursed physicians for the same services.

Underwriting Standards

***House Bill 127* (passed)** requires a nonprofit health service plan and a health maintenance organization, at the request of the Maryland Insurance Commissioner, to file with the Commissioner a copy of its underwriting standards, including any amendments or supplements. The bill is intended to help the State monitor changes that affect people's ability to obtain private health insurance. If a large insurance carrier changes its underwriting standards, fewer people may be eligible for private coverage and may be required to enroll in MHIP.

Study of Affordable Health Insurance Coverage

***Senate Bill 131*/*House Bill 845* (both passed)** require MHCC and MIA to conduct studies of a variety of factors that affect the cost of health insurance in Maryland. Based on the studies, MHCC and MIA must develop recommendations on ways to make private health insurance more affordable for State residents and present an interim report on their findings and recommendations by January 1, 2005, and a final report by January 1, 2006.

Surgical Treatment of Morbid Obesity – Utilization Review

***Senate Bill 868*/*House Bill 1410* (both passed)** clarify that a health insurance carrier that is required to provide coverage for the surgical treatment of morbid obesity may require an insured or enrollee to satisfy guidelines approved by the National Institutes of Health (NIH) to qualify for the mandated benefit. The bills also establish a Task Force to Study Utilization Review of the Surgical Treatment of Morbid Obesity and require the task force to (1) review utilization review procedures currently used by health insurance carriers; (2) review NIH guidelines and any other nationally recognized guidelines or criteria for the surgical treatment of morbid obesity; and (3) recommend a set of guidelines or criteria that are appropriate for the utilization review of the surgical treatment and reasonable procedures for documenting patient compliance with the guidelines or criteria. The task force must report its findings and recommendations to specified legislative committees by December 1, 2004.

Review of Adverse Decisions of Health Insurance Carriers – Burden of Persuasion

A health insurance carrier must have an internal grievance process for a member to appeal a denial of coverage. A member subsequently may file a complaint with the Maryland

Insurance Commissioner to review a carrier's adverse decision. During the review of a complaint by the Commissioner, the carrier has the burden of persuasion to prove its adverse decision is correct. ***House Bill 1361 (passed)*** clarifies that the carrier also has the burden of persuasion to prove its adverse decision is correct in a review conducted by an administrative law judge.

Part K
Natural Resources, Environment, and Agriculture

Natural Resources

Preservation of State Waters

Chesapeake and Atlantic Coastal Bays Critical Area

Chapter 794 of 1984 established the Chesapeake Bay Critical Area Protection Program in order to minimize damage to water quality and wildlife habitat by fostering more sensitive development activity along the shoreline areas of the Chesapeake Bay and its tributaries. The law identified the "critical area" as all land within 1,000 feet of the mean high water line of tidal waters or the landward edge of tidal wetlands and all waters of and lands under the Chesapeake Bay and its tributaries. Viewed as particularly sensitive were the "buffer areas" falling within 100 feet of the shoreline. Because the unique and critical environmental functions of these buffers were regarded as compromised by clearing and construction, their protection was considered a cornerstone of the program.

The 1984 legislation also created a statewide Chesapeake Bay Critical Area Commission to oversee the development and implementation of local land use programs dealing with the critical area. Each local jurisdiction is charged with the primary responsibility for development and implementation of its own local program; that local authority, however, is subject to commission review and approval.

In three cases decided in 1999 and 2000, the Maryland Court of Appeals reinterpreted long-held understandings of "unwarranted hardship" in the context of local zoning variances in the buffer area. Legislation enacted in 2002, which in effect overruled the Court of Appeals in these cases, clarified the underlying intent to protect the viability of the buffer area. Also in 2002, the critical area program was expanded to include the Atlantic Coastal Bays.

In July 2003, the Court of Appeals again departed from widely understood principles of critical area law in the case of *Lewis v. Department of Natural Resources*. Allowing for the construction of a hunting camp in the environmentally sensitive buffer, this ruling was regarded as shifting the burden of proof from an applicant seeking a variance to a local program denying a

variance request. The impact of this shift, in effect requiring a local program to disprove the need for the variance, was predicted to cause significant escalation of administrative costs associated with each local program, thus crippling enforcement of the entire critical area program. Moreover, this decision was expected to impact a variety of other legal issues related to land use and zoning.

Intended to override the *Lewis* case, ***Senate Bill 694***/***House Bill 1009*** ***(both passed)*** make several changes to the Chesapeake and Atlantic Coastal Bays Critical Area Protection Program. The bills clarify legislative intent regarding human impacts on the bays and the importance of a minimum "buffer," and they codify current regulations requiring a local program to include the establishment of a minimum buffer. The bills specifically define "unwarranted hardship" to mean that, without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested. Also, key procedural aspects of a local jurisdiction's consideration of a variance are established in statute.

Finally, as a matter separate from the *Lewis* case, the bills enhance local program enforcement authority in two additional ways. First, violators of local program requirements are subject to prosecution or suit by local authorities. Local attorneys, however, generally have little experience with the critical area law and its program components. While violations may be referred to the Attorney General, that enforcement tool is not triggered unless the chairman of the commission has reason to believe that a local program has failed in its enforcement requirements, which is rarely the case. Thus, Senate Bill 694/House Bill 1009 streamline the process for referral to the Attorney General. Second, if, for example, a person cuts or clears trees within the critical area in violation of program regulations, the local jurisdiction may bring an action to require replanting or to restrain the violation. As for monetary damages, though, current law allows for a maximum of $500. Therefore, in order to deter program violations, these bills require local programs to establish penalties up to $10,000.

Also, although the Chesapeake and Atlantic Coastal Bays Critical Area Protection Program limits growth allocation to 5 percent of the total resource conservation area, local jurisdictions have been inconsistent in how they factor accessory dwelling units, such as in-law suites, guest houses, or employee quarters, into the calculation of this 1-in-20 acre density. ***Senate Bill 795***/***House Bill 1345*** ***(both passed)*** address this inconsistency by defining "dwelling unit" to include these accessory structures and by requiring, with certain exceptions, that a local jurisdiction count each dwelling unit for purposes of the 1-in-20 calculation.

Fundraising for Water Restoration Efforts

It is estimated that Maryland's cost to restore the Chesapeake Bay by 2010 will be nearly $8 billion. In an attempt to cultivate significant donations from the private sector for this effort, the Administration introduced ***Senate Bill 184***/***House Bill 288*** ***(both failed)*** which would have created the Chesapeake Bay Recovery Fund within the Department of Natural Resources (DNR). Funds were slated for bay restoration activities such as oyster restoration, cover crops, and the planting of bay grasses.

For a discussion of additional bills relating to the Chesapeake Bay, see the subpart "Environment" of this Part K.

Boating

Over the years, DNR has found that problems in vessel operation, such as wake damage, are usually not caused by all vessels, but by one select group of vessels of a specified type or size. Without the authority to adopt regulations governing the operations of only one type or size of vessel, DNR has traditionally addressed public concerns by restricting the operations of all vessels. In order to provide greater flexibility for waterway management, ***Senate Bill 61 (passed)*** allows DNR to differentiate by vessel type or size in its vessel regulations so that every vessel of the same type or size may be operated with equal freedom and with equal restrictions under the same circumstances.

Legislation enacted in 2001 (Ch. 429) prohibits a person from operating or permitting the operation of a vessel shorter than 21 feet if a child younger than the age of seven is aboard, unless the child is wearing a securely and properly attached personal flotation device (PFD). By modifying the definition of "child" to include an individual who weighs 50 pounds or less, regardless of age, ***Senate Bill 429 (passed)*** includes those individuals among those subject to the already existing PFD requirement. For children younger than the age of four, the bill authorizes additional PFD safety features through March 31, 2006; as of April 1, 2006, these additional safety features will be mandatory. Also, DNR is required to pursue outreach and public education efforts regarding boating safety for children and to report on these efforts and other pertinent data.

Finally, during the 2003 session, in order to be consistent with federal law, the General Assembly required that any collision involving two or more vessels, regardless of the amount of property damage, be reported to DNR. However, because this understanding of federal law was actually erroneous, ***House Bill 101 (Ch. 36)*** repeals this requirement. Rather, as under federal law, in the event of a collision in which there is only property damage, a report will be necessary only if the damage is at least $2,000.

Enforcement of Natural Resources Laws

At one time, DNR commissioned citizens to act on its behalf in order to enforce laws related to forest reserves, parks, and recreation areas. Because this relationship was often temporary, a set term allowed for a periodic review of those commissioned. Thus, a forest or park warden serves for a term of two years, and the Secretary of Natural Resources must regularly renew those commissions. Meanwhile, however, DNR has restricted the awarding of these commissions to permanent employees, and the review is automatic. Hence, ***Senate Bill 58 (Ch. 20)*** repeals the specification of a set term in order to eliminate the unnecessary administrative work of the renewal process.

During the 2003 session, the General Assembly directed the Department of Budget and Management (DBM), in consultation with the Department of State Police (DSP) and DNR, to

study ways in which DSP and sworn officers at DNR could make more efficient use of State law enforcement resources by consolidating the two organizations. Although DBM advised against combining the Natural Resources Police Force with DSP for several reasons, ***Senate Bill 811***/***House Bill 1406*** ***(both failed)*** would have transferred all Natural Resources Police personnel and their associated functions and duties to DSP.

On a related issue, DBM recommended consolidating the State forest and park rangers into the Natural Resources Police Force. Although there was no legislation addressing this recommendation, a memorandum of understanding between the State and the State Law Enforcement Officers' Labor Alliance effectuated this consolidation, which will take effect January 1, 2005.

Under the Jennings Randolph Lake Project Compact, Maryland and West Virginia are equally responsible for the establishment and enforcement of natural resources and boating laws applicable to the lake and its surrounding lands. Although each state has concurrent jurisdiction with the U.S. Army Corp of Engineers and the other state for the enforcement of the states' civil and criminal laws, the states have not had concurrent jurisdiction to enforce criminal laws beyond offenses related to natural resources and boating. ***House Bill 129*** ***(Ch. 37)*** amends the compact by authorizing concurrent enforcement of all criminal laws in the project by DNR and the West Virginia Division of Natural Resources. This bill does not take effect until West Virginia enacts a similar law, which is expected.

DNR Administration

Initiatives of the Special Funds Workgroup

Because of several concerns about DNR's use of its special funds, the *2002 Joint Chairmen's Report* requested the establishment of a workgroup to study these funds, their statutory requirements, the appropriate level of deductions for administrative expenses, possible streamlining measures to reduce DNR's tracking burden, and the propriety of DNR's use of these special funds. In January 2004, the workgroup recommended that obsolete provisions of the State Boat Act be repealed and that the statutory amount of Waterway Improvement Fund (WIF) monies used by the Natural Resources Police (NRP) be increased. Thus, ***Senate Bill 452***/***House Bill 538*** ***(both passed)*** repeal the requirements that DNR deposit $225,000 of its vessel excise tax revenues in the general fund, that DNR's use of funds collected from the vessel excise tax for enforcement of the State Boat Act be limited to $350,000 annually, and that appropriations from the WIF for marine operations of NRP be limited to $1 million annually. For the support of NRP marine operations, DNR may propose an appropriation from WIF up to $1.7 million in fiscal 2006 and $2 million annually thereafter.

Currently, DNR applies an administrative cost rate of about 10% to the WIF. The workgroup recommended annual budget language that would direct DNR to reduce the percentage of available WIF monies used for administrative purposes over the next five years as follows: 8% in fiscal 2006, 6% in fiscal 2007, 4% in fiscal 2008, 2% in fiscal 2009, and 0% in

fiscal 2010. ***Senate Bill 508 (passed)***, the Budget Reconciliation and Financing Act of 2004, incorporated the phase-out recommendation.

The workgroup also recommended that DNR codify its current practice with regard to the use of several of its special funds for administrative expenses. Thus, ***Senate Bill 640***/***House Bill 1258 (both passed)*** explicitly authorize DNR, unless otherwise authorized by statute, to use money in a fund or account established under the Natural Resources Article for administrative expenses directly related to the purposes of the fund or account. DNR must submit any changes in its methodology to the Senate Budget and Taxation Committee and the House Appropriations Committee for review and comment prior to implementing the change. The bills also modify several statutory provisions within the Natural Resources Article to authorize the use of various special funds and account for administrative expense.

Finally, because statutory language governing DNR's various special funds and accounts is inconsistent, the workgroup recommended that this language be updated so as to be consistent with current legislative drafting guidelines. In response to this recommendation, ***House Bill 1414 (passed)*** makes several technical changes regarding the management of these funds and accounts. In addition, the bill requires that specified special funds within DNR accrue their earned investment income.

Other Administrative Issues

All electric companies must pay an environmental surcharge per kilowatt hour of electric energy distributed in the State. This revenue is deposited in the Environmental Trust Fund (ETF) within DNR and used primarily to support DNR's Power Plant Research Program (PPRP). The ETF funds activities associated with the assessment and management of the cultural, economic, and environmental impacts of electric power generation and transmission facilities. In turn, PPRP, in cooperation with several specified State agencies, evaluates sites for their suitability for use as electric power plants, including related environmental and land use considerations; this information is then used by the Public Service Commission in considering requests for certificates of public convenience and necessity for new power plants and associated transmission lines. The surcharge is scheduled to terminate on June 30, 2005, but ***House Bill 503 (passed)*** extends the termination date for the environmental surcharge for five years to June 30, 2010. The surcharge generates approximately $9 million annually in revenue for the ETF.

According to the International Association of Fish and Wildlife Agencies, about 40 states have implemented Internet licensing systems since 1996. The percentage of total license sales sold through these systems varies significantly by state but ranges as high as 35 percent. ***Senate Bill 841 (passed)*** authorizes DNR to develop and implement an electronic system for the sale and issuance of licenses, permits, and registrations and the recording and releasing of security interests. DNR may adopt regulations to implement such a system and determine the appropriate fee levels that my be charged by a vendor and by DNR for the electronic transmission service.

Except upon the written request of a registered vessel owner or in certain other specified situations, DNR may not provide an owner's name, address, or other identifying information to another person. ***Senate Bill 642 (passed)*** authorizes DNR to disclose personal information

regarding registered vessel owners to a financial institution, as defined under the Financial Institutions Article, but only to verify the accuracy of personal information submitted by the individual to that financial institution. If the information is not accurate, the financial institution may obtain correct information for the purpose of preventing fraud, pursuing legal remedies, or recovering on a debt or security interest.

Unsuccessful Fee Measures

Finally, a number of departmental bills related to fees did not pass this session. Most prominent of these were ***Senate Bill 762***/***House Bill 1259*** ***(both failed)***, which would have modified the process by which departmental fees are increased. Rather than enacting changes in statute, as is now the usual process, a Natural Resources Fee Commission would have recommended changes to the Secretary, who, in turn, would have adopted regulations to establish fees. Also, ***Senate Bill 60*** ***(failed)*** would have increased fees for recreational fishing licenses and would have established a nonresident fee for some licenses and stamps. ***House Bill 181*** ***(failed)*** would have increased various fees paid to DNR under the State Boat Act and would have repealed the service charge for returned checks. ***House Bill 496*** ***(failed)*** would have authorized DNR to adopt regulations establishing procedures, participant criteria, and fees for participation in or access to wildlife management programs and services provided by DNR.

Hunting and Fishing

Hunting

Licenses

Owners of riparian property in Maryland (landowners) may license their shoreline to establish stationary blinds or blind sites or to prevent other people from doing so. After riparian landowners obtain licenses, Maryland residents not owning riparian property (squatters) may apply to license a blind site adjacent to shoreline that has not been previously licensed. The Department of Natural Resources (DNR) issues approximately 2,000 shoreline licenses annually to riparian landowners and another 2,500 annually to squatters. ***Senate Bill 59*** ***(passed)*** modifies the process used by DNR to issue shoreline and blind site licenses. First, the bill authorizes a riparian landowner to obtain a three-year license for a fee of $60 or the current annual license. Second, the bill requires squatters to possess a current or prior year hunting license to apply to DNR to license shoreline for an offshore blind site. Third, the bill repeals the provision requiring that unexpended funds revert to the general fund; instead, unexpended funds will be credited to the Wildlife Management and Protection Fund and may not be transferred to the general fund.

A "master hunting guide" is an individual who is licensed by DNR and owns or is responsible for the operation of a commercial hunting guide organization that outfits or guides hunters and receives payment for the outfitting or guiding of hunters. ***House Bill 492*** ***(passed)*** repeals the classification of master hunting guide and establishes two new licenses within DNR: a "waterfowl outfitter" is an individual who receives monetary consideration for the outfitting or guiding of hunters to hunt wild waterfowl; and a "waterfowl hunting guide" is an individual who

is an employee of a waterfowl outfitter and furnishes only personal guiding services in assisting a person to hunt. An individual must be licensed by DNR as a waterfowl outfitter or a waterfowl hunting guide before the individual may receive monetary consideration for outfitting or guiding hunters to hunt wild waterfowl. This bill takes effect February 1, 2005.

Black Bears

DNR is currently planning a limited black bear hunt for the 2004-2005 hunting season. ***House Bill 451 (failed)*** would have required a moratorium on black bear hunting until July 1, 2010, and also would have required DNR to survey the black bear population in 2009.

Fishing

Finfish

DNR has broad authority to regulate fishing seasons for various species of finfish. ***Senate Bill 13*/*House Bill 202 (both passed)*** authorize DNR to completely close an area of State waters to all finfishing if, in a written report made available to the general public, it finds that the closure is necessary (after consideration of several items specified in the bill) and it develops protocols and a reporting timeline to monitor the closure. DNR also must hold at least one public hearing on the closure. After a closure, DNR must, in another written report and in accordance with the reporting timeline, evaluate the effectiveness of the closure and determine what, if any, management changes are appropriate.

In general, a person may not buy, sell, ship, transport, or otherwise deal in finfish unless the person is licensed by DNR. Under current law, the following persons are exempt from these requirements: a person licensed by DNR to catch finfish for sale; a retail market, restaurant, or other establishment where finfish are sold or served to ultimate customers; and a person who buys finfish for personal use or consumption. ***Senate Bill 674*/*House Bill 1214 (both passed)*** also exempt a person who catches and sells finfish as bait.

DNR also regulates the nets a person may use when fishing for finfish. ***House Bill 1264 (passed)*** repeals statutory prohibitions and requirements relating to the use of staked gill nets (stake nets), that are already prohibited under current regulations. The bill also prohibits a person from setting at any time a fyke net within 300 feet of a pound net.

Shellfish

The native Chesapeake Bay oyster *(Crassostrea virginica)* plays a vital role in filtering pollutants from bay water and providing habitat for other marine life. At one time, Maryland produced between one and two million bushels of oysters each year. In recent years, however, two deadly parasitic diseases have been responsible for low harvests.

In an effort to address the native oyster shortage, there has been a growing focus on the feasibility of cultivating a nonnative oyster population, *Crassostrea ariakensis*, also known as the Suminoe or Asian oyster. There is significant concern regarding the unknown impact of this

nonnative species on the bay ecosystem. The National Academy of Sciences (NAS), in its February 2004 report regarding ongoing research on the Suminoe oyster, cautioned that as much as five years of additional research is needed to thoroughly evaluate the risks and benefits associated with various management options. Chapter 508 of 2002 requires DNR to authorize the study of the Suminoe oyster and other nonnative species, with the study proceeding in accordance with the findings of the NAS review of the Suminoe oyster. ***Senate Bill 675 (passed)*** repeals the requirement that the study must proceed "in accordance" with the findings of the NAS review of the Suminoe oyster. Instead, the study must "be consistent" with the findings of the NAS review, thus giving researchers flexibility as scientific knowledge advances.

House Bill 308 (passed) temporarily repeals a prohibition on possessing or using a "devil catcher," "devil diver," or similar device on any oyster dredge boat. This repeal terminates in three years, on September 30, 2007. DNR is also required to report to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee by the termination date on the environmental impact of these devices.

House Bill 90 (passed) authorizes DNR to adopt regulations that designate an area as a "harvest reserve area" for oysters. By publishing public notice, DNR may establish the opening or closing of a harvest reserve area; the harvest limit; the seasons, days, and times when oysters may be harvested; a minimum size limit of not less than three inches; and a maximum size limit. The bill establishes criteria DNR must follow when opening and closing an area as well as public notice requirements. The bill also modifies existing public notice requirements relating to natural oyster bars.

Licenses

DNR has authority to suspend or revoke certain fishing licenses or authorizations; ***Senate Bill 50 (passed)*** modifies this authority. Specifically, the bill repeals the minimum and maximum time periods for suspension of a commercial tidal fish license (TFL); modifies the criteria for suspension and revocation of a TFL or authorization; requires DNR to adopt regulations providing for suspension or revocation of a TFL or authorization for conviction of an offense under the Fish and Fisheries Title of the Natural Resources Article; and establishes provisions authorizing DNR to suspend recreational fishing licenses. DNR must adopt regulations relating to the suspension and revocation of licenses and the assignment of points for specific fishery offenses in accordance with specified recommendations made by the workgroup created by the Tidal Fish Advisory Commission and the Sport Fish Advisory Commission.

Environment

Chesapeake Bay Restoration

According to the Chesapeake Bay Program, nitrogen pollution is the most serious problem facing the Chesapeake Bay today. Each year, roughly 300 million pounds of nitrogen reach the bay. This pollution results in excessive algae growth that clouds water, depletes oxygen, and ultimately kills bay grasses, fish, and crabs. As part of the Chesapeake 2000

Agreement, Maryland, Virginia, Pennsylvania, and the District of Columbia committed to reduce nitrogen to levels that will remove the bay from the federal impaired waters list.

Discharges from wastewater treatment plants (WWTPs) account for an estimated 20 percent of the nutrient pollution reaching the bay. Although there are 272 WWTPs with National Pollutant Discharge Elimination System permits in the State, the Maryland Department of the Environment (MDE) advises that the 66 largest facilities account for over 95 percent of the wastewater discharge to the bay. Nutrient removal upgrades to those facilities would reduce nitrogen loading to the bay and its tributaries by an estimated 7.5 million pounds annually, approximately one-third of the additional reduction needed for Maryland to meet its commitments under the 2000 agreement.

In March 2001, Governor Glendening appointed a task force to analyze the issues and costs associated with separating and upgrading combined sewerage systems in the State and installing additional nutrient removal technology at WWTPs. In its December 2001 report to the Governor and the General Assembly, the task force identified a total estimated capital need of $847 million for nutrient reduction and removal.

Because of the significant capital outlay necessary to complete the upgrades, the Administration introduced legislation in the 2004 session to establish a funding source for the upgrades. As introduced, ***Senate Bill 320 (passed)*** would have established a bay restoration fee to be paid by users of WWTPs. The General Assembly amended the bill to extend the fee to users of onsite sewage disposal systems (septic tanks) and sewage holding tanks. The money generated from the bay restoration fee is to be deposited in the Bay Restoration Fund established by the bill.

The bill sets the fee at $2.50 per month ($30 annually), for each residential dwelling that receives an individual sewer bill and for each user of a septic system or sewage holding tank that receives a water bill. For a building or group of buildings under single ownership or management that contain multiple residential dwellings that do not receive an individual sewer bill, or for a nonresidential user, the bill establishes a sliding fee scale based on the volume of wastewater generated; the fee is $2.50 per month ($30 annually) for each "equivalent dwelling unit" (EDU), generally 250 gallons of wastewater effluent generated daily, up to 3,000 EDUs, and $1.25 per month ($15 annually) for each EDU exceeding that threshold and up to 5,000 EDUs. Based on that "cap," the maximum fee is $120,000 annually. The bill also provides that the maximum fee for a single site is $120,000. The fees described above, which will be collected through water and sewer bills, take effect January 1, 2005. The bill exempts certain users, including local governments, from the fee.

The fee for each user of a septic system or a sewage holding tank that does not receive a water bill is $30 per year. These fees, which take effect October 1, 2005, will be collected by local governments, in a method and frequency as determined by individual counties. An advisory committee established by the bill will identify users of septic systems and sewage holding tanks and make recommendations to counties on the best method of collection.

Once the bill's fee provisions are fully implemented, gross fee collections will total approximately $74 million annually ($62 million from WWTP users and $12 million from users of septic systems and sewage holding tanks). After a deduction by billing authorities for administrative costs, fee revenue from WWTP users will support the issuance of bonds to provide the additional revenue needed to provide grants to WWTP owners for upgrades to achieve "enhanced nutrient removal" (ENR). The most recent estimate of the amount of funding needed to upgrade the major WWTPs to achieve ENR is $750 million to $1 billion. Other allowable uses of the revenue collected from WWTP users include grants for sewer infrastructure projects, grants to offset a portion of operation and maintenance costs associated with ENR technology, and administrative expenses.

Of the fee revenue collected from users of septic systems and sewage holding tanks, after a deduction by billing authorities for administrative costs, 60 percent will be deposited into a separate account within the Bay Restoration Fund; MDE is directed to use these funds to provide grants and loans to septic system owners for upgrading their systems with nitrogen removal technology. MDE is allowed to use a portion of these funds for administrative expenses, including the costs to implement an education, outreach, and upgrade program to advise owners of septic systems and sewage holding tanks on proper maintenance of their systems and the availability of grants and loans for upgrades. The remaining 40 percent of fee revenue collected from users of septic systems and sewage holding tanks will be transferred to the Maryland Agricultural Water Quality Cost Share (MACS) Program within the Maryland Department of Agriculture (MDA) to fund cover crop activities. Under MACS, MDA provides grants to farmers to cover up to 87.5 percent of the cost to install best management practices (BMPs). Cover crops planted after the fall harvest to soak up unused fertilizers is one of the BMPs currently eligible for cost-share assistance.

Senate Bill 320 also incorporates the Administration's proposal to amend the Water Quality Improvement Act (WQIA) of 1998 in an effort to encourage farmers to develop and implement nutrient management plans. For a more detailed discussion of the Administration's WQIA proposal, which was also passed as stand-alone legislation as ***Senate Bill 182 (passed)***, see the subpart "Agriculture" of this Part K.

For a discussion of additional bills relating to the Chesapeake Bay, see the subpart "Natural Resources" of this Part K.

Brownfields Redevelopment

Brownfields are abandoned or underutilized industrial or commercial sites, located primarily in urban areas, which are either contaminated or perceived to be contaminated by hazardous substances. Chapters 1 and 2 of 1997 established the Voluntary Cleanup Program (VCP) within MDE to encourage the investigation, cleanup, and redevelopment of eligible brownfields properties in a manner that protects public health and the environment. VCP also works in conjunction with the Brownfields Revitalization Incentive Program (BRIP), a program administered by the Department of Business and Economic Development (DBED) that provides

economic incentives such as loans, grants, and property tax credits to clean up and develop certain properties.

As of January 2004, MDE had received applications for a total of 174 properties, 114 of which had been accepted into VCP. Of the 114 properties that had been accepted into the program, 91 had been completed; cleanups were pending on an additional 23 properties. As of the same date, BRIP had approved 31 projects to receive State funds, totaling about $4.8 million.

Several meetings were held by stakeholders during the 2003 interim to address methods of altering VCP to further encourage the safe redevelopment of brownfields. The Administration introduced ***Senate Bill 186***/***House Bill 294*** ***(both passed)*** in an effort to encourage participation in the existing programs by expanding eligibility to participate, providing a more predictable process for prospective owners of eligible properties, reducing the costs of redevelopment, and decreasing departmental turnaround times. The bills also provide new enforcement authority to MDE under the Controlled Hazardous Substances Subtitle and broaden eligibility for grants and loans through BRIP. These changes are estimated to result in a 35 percent increase in the number of applications submitted to MDE to enter the VCP.

Air Pollution

Energy-efficient Products

Traditional methods of energy generation produce air emissions that can have a significant impact on the environment. Pollutants from power plants (such as nitrogen oxides, sulfur dioxides, carbon dioxide, mercury, and particulate matter) contribute to a whole host of environmental problems including smog, acid rain, global warming, and water pollution. Concern regarding these negative environmental effects, combined with fluctuating energy prices and supplies nationwide, has sparked debate over policies that can be implemented to conserve energy. According to the American Council for an Energy Efficient Economy, policies to improve energy efficiency can reduce air pollution, reduce oil imports, improve the reliability of the U.S. electric grid, and result in energy savings for consumers.

The General Assembly passed legislation during the 2003 session (Senate Bill 394/House Bill 747) to establish energy efficiency standards for certain industrial and consumer products; that legislation, however, was vetoed by Governor Ehrlich. During the 2004 session, the General Assembly voted to override the Governor's veto; the bills became **Chapters 2 and 5 of 2004**.

The Acts establish minimum energy efficiency standards for specified new products to be sold in Maryland after March 1, 2005, or installed in Maryland after January 1, 2006. Specifically, the Acts require the Maryland Energy Administration (MEA) to adopt regulations establishing minimum energy efficiency standards for nine household and commercial products: (1) torchiere lighting fixtures; (2) unit heaters; (3) certain types of low-voltage dry-type distribution transformers; (4) ceiling fans and ceiling fan light kits; (5) traffic signal modules; (6) illuminated exit signs; (7) commercial refrigeration cabinets (excluding walk-in refrigerators or freezers); (8) large packaged air-conditioning equipment; and (9) commercial clothes washers. The Acts specify minimum efficiency standards for those products and prohibit, with the

exception of commercial clothes washers and ceiling fan light kits, the sale of nonconforming new products on or after March 1, 2005, and the installation of such products after January 1, 2006. Efficiency standards for commercial clothes washers and ceiling fan light kits become effective March 1, 2007; washers and kits that do not meet the standards may not be sold beginning on that date and may not be installed beginning January 1, 2008.

The Acts do not apply to:

- new products manufactured in the State and sold outside the State;
- new products manufactured outside the State and sold at wholesale inside the State for final retail sale and installation outside the State;
- products installed in mobile manufactured homes at the time of construction; or
- products designed expressly for installation and use in recreational vehicles.

The Acts provide for the certification, testing, and inspection of the affected products and establish a civil penalty for repeat violations by manufacturers, distributors, and retailers.

Renewable Energy

***Senate Bill 485*/*House Bill 714* (both passed)** establish a solar energy grant program to be administered by MEA. The grant program will receive an unspecified annual budget appropriation; the expressed intent of the General Assembly is that at least $500,000 be appropriated annually. The purchases of property eligible for the program are identical to those that are currently eligible for tax credits under the solar energy tax credit, which terminates on July 1, 2004. The amount of the grant is equal to the lesser of (1) $3,000 or 20 percent of the total installed cost of photovoltaic property (maximum limit is increased to $5,000 if installed on nonresidential property) and (2) $2,000 or 20 percent of the total installed cost of solar water heating property. Grants can be made to individuals, businesses, and local governments.

Approximately 95 percent of the electricity generated in Maryland comes from conventional energy sources such as coal or oil. The remaining 5 percent comes from renewable sources such as solar, biomass, or municipal waste. In an effort to foster the development and use of renewable energy sources, ***Senate Bill 869*/*House Bill 1308* (both passed)** require the Public Service Commission to establish a renewable energy portfolio standard that applies to retail electric sales in the State beginning in 2006. For a more detailed discussion of these bills and other energy-related legislation, see Part H – Business and Economic Issues of this *90 Day Report*.

Ozone Nonattainment

Under the Clean Air Act (CAA), the Washington, DC metropolitan area was required to comply with the one-hour ozone standard by November 15, 1999. In part due to transported air

pollution, the area failed to meet that standard. Subsequently, EPA reclassified the Washington, DC area's nonattainment status as "severe." Maryland, Virginia, and Washington, DC were required to resubmit clean air plans by March 1, 2004; these plans were required to include all measures mandated under CAA for "severe" nonattainment areas, including imposition of fees under Section 185 of CAA. Section 185 requires major sources of volatile organic compounds (VOCs) and nitrogen oxides (NO_x) located in "severe" ozone nonattainment areas to pay an emission fee if the ambient air quality standard for ozone is not met by 2005. Maryland has resubmitted its plan, but because it lacks statutory authority to impose Section 185 fees, the plan is incomplete.

To address this issue, MDE proposed ***House Bill 1441 (failed)***. The bill would have established an annual fee to be paid by major stationary sources of VOCs or NO_x located in Maryland within the Washington, DC nonattainment area. The bill would have required MDE to hold the fees collected from each person in a separate account within the Ozone Standard Attainment Fund, a special fund established by the bill, to be used for reimbursements for costs incurred for the installation of air pollution control devices or other pollution prevention or reduction measures. The bill would have terminated if Section 185 fees were no longer required under CAA.

Waste Management

Electronic Waste Collection

According to MDE, in 1998, more than 20 million personal computers became obsolete nationally, only 14 percent of which were reused or recycled. Since 2001 MDE has participated in a regional pilot project called "e-Cycling." The goal of this project was to develop information and data necessary to establish a program and infrastructure for the proper management, recycling, and removal of cathode ray tubes and other electronic components and their associated hazardous materials from the waste stream. In February 2004, the Electronics Industries Alliance announced an agreement with state governments and environmental groups to draft legislation to create a national electronics recycling program. In an effort to address this issue at the State level, ***House Bill 109 (passed)*** requires MDE to study the establishment and implementation, by January 2006, of an electronic waste collection system in the State. MDE must report its recommendations for funding such a system to the Governor and the General Assembly by December 31, 2004. MDE must report its findings and recommendations for the establishment and implementation of a system by July 1, 2005.

Mercury-added Products

Mercury is a naturally occurring element that is found in air, water, and soil. In small quantities, it can conduct electricity, measure temperature and pressure, and act as a catalyst in industrial processes. However, it does not degrade and is not destroyed by combustion; rather, it is a persistent and toxic pollutant that accumulates in the environment and presents a number of health risks. Federal and state agencies across the nation are exploring efforts to curtail the use of mercury. Efforts are also being made to encourage recycling of mercury-containing products.

A number of states, including Connecticut, Florida, Maine, and Vermont, have labeling and/or disposal requirements for such products.

House Bill 136 (passed) establishes prohibitions and requirements relating to the sale and post-use management of "mercury-added products." Beginning January 1, 2006, the manufacturer of certain mercury-added products is responsible for affixing an informational label on the products. Beginning April 1, 2006, unless a mercury-added product is labeled in accordance with the bill and regulations, a manufacturer or wholesaler may not sell the product at retail in the State or to a retailer in the State. Beginning October 1, 2006, a person who discards more than a minimum weight or number of mercury-added fluorescent lamps in a calendar year must arrange for the final reclamation or destination of the lamps at a reclamation facility (recycler) or a destination facility (hazardous waste facility). MDE will establish in regulation the minimum weight or number of mercury-added lamps that subjects a person to this requirement.

Wetlands and Waterways/Water Pollution Control

Penalties

Tidal wetlands play a vital role in maintaining the health and function of the Chesapeake and Coastal Bays. Current law provides for civil and criminal penalties for violations of tidal wetlands provisions. ***House Bill 494 (passed)*** eliminates a statutory inconsistency pertaining to criminal penalties for violations of State and private wetlands laws. The bill also renames the Wetlands Compensation Fund as the Tidal Wetlands Compensation Fund and provides that any penalty imposed by a court under the law pertaining to wetlands and riparian rights must be paid into the fund. Before taking any civil action to recover a penalty, MDE must provide the alleged violator with written notice of the proposed penalty and an opportunity for an informal meeting concerning settlement of the proposed civil action.

The penalties associated with the underlying violations of the Water Pollution Control subtitle are more severe than those associated with falsifying and tampering with compliance information or required monitoring devices. In an effort to address this inconsistency, ***Senate Bill 65 (Ch. 21)*** increases the maximum criminal penalties for knowingly making any false statement in any required document or tampering with any monitoring device or method under specified water pollution control laws. Specifically, the Act increases the misdemeanor penalties from a fine of up to $10,000, or imprisonment for up to six months, or both, to a fine of up to $50,000, or imprisonment for up to two years, or both.

Fees

In an effort to reduce its reliance on general funds for its Wetlands and Waterways Program and enhance the program, MDE proposed ***House Bill 495 (failed)***. The bill would have established a Wetlands and Waterways Program Fund within MDE and would have authorized MDE to establish reasonable application and processing fees for specified wetlands and waterways permits and licenses. The bill also would have directed the Board of Public Works to require the owner of any public or private commercial marina constructed over State wetlands to

pay an annual fee of $50 per slip to MDE. As introduced, the bill's fee provisions would have generated approximately $7 million annually.

Hazardous Material Security

According to MDE, a 2003 report on homeland security by the U.S. General Accounting Office (GAO) found that chemical facilities may be attractive targets for terrorists. While GAO believes that the chemical industry has undertaken a number of voluntary initiatives to address security at facilities, to date, no one has comprehensively assessed the chemical industry's vulnerabilities. ***House Bill 493* (passed)** requires facilities that store, dispense, use, or handle threshold amounts of hazardous materials to conduct a self-audit of the security of the facility and submit this analysis, along with a $2,500 fee, to MDE by October 1, 2005, and at least every five years thereafter. By January 1, 2005, MDE must adopt hazardous material security standards and regulations necessary to implement the bill. Fees will be deposited into a new account within the existing Community Right-to-Know Fund. Counties and municipal corporations are exempt from the fees. MDE, in consultation with the Department of State Police (DSP), must audit facilities for compliance with the standards, and MDE must refer violations to DSP for enforcement. DSP, in consultation with MDE, must adopt regulations to enforce compliance. Finally, the bill prohibits a person from knowingly submitting false information and establishes a civil penalty for violations of the bill.

Other Environmental Issues

Lead Poisoning Prevention Program

Chapter 114 of 1994 established the Lead Poisoning Prevention Program in MDE. The program provides limited liability relief for owners of affected property (generally, rental property built before 1950) and others in exchange for the reduction of lead hazards in these older rental properties and limited compensation for children poisoned by lead. Although the number of cases of childhood lead poisoning in Maryland has decreased significantly over the past few years (from 1,830 cases in 1996 to 260 cases in 2002), lead paint remains a significant health issue. Several bills relating to the Lead Poisoning Prevention Program were introduced; successful measures are discussed below.

Fees: Owners of affected properties must register those properties with MDE. The annual registration fee is $10 per unit. An owner of a rental unit who submits a report to MDE that the rental unit is lead-free is subject to a one-time $5 processing fee. Fees are paid into the Lead Poisoning Prevention Fund in MDE. In order to reduce the program's reliance on general funds, ***Senate Bill 508* (passed**), the Budget Reconciliation and Financing Act of 2004, increases both of these fees by $5 each. The increased fees will generate approximately $350,000 annually.

Program Requirements: ***House Bill 1245* (passed)** makes several changes to the laws governing lead-paint affected properties and risk reduction. For a more detailed discussion of this bill, see Part F – Courts and Civil Proceedings of this *90 Day Report*.

Controlled Hazardous Substance Facilities

***Senate Bill 791*/*House Bill 1132* (both passed)** extend the maximum term, from 5 to 10 years, of a controlled hazardous substance facility permit issued by MDE. The extended term would not apply to low-level nuclear waste facility permits. In February 1999 and in July 2003, the Controlled Hazardous Substances Advisory Council (a council that advises and assists MDE in developing rules and regulations for the management and disposal of controlled hazardous substances and low-level nuclear wastes) recommended the change in the maximum term.

Dredged Material Recycling

Sites suitable for the disposal of dredged material are becoming extremely limited. ***House Bill 1471* (passed)** establishes a Dredged Material Disposal Alternatives Program in DBED to provide financial assistance for the production and marketing of dredged material reuse technologies. For a more detailed discussion of this bill, see Part H – Business and Economic Issues of this *90 Day Report*.

Well Permit Fees

MDE has delegated the authority to issue well-drilling permits to local health departments. A county board of health may establish a permit fee to defray the cost of inspecting and testing wells. In an effort to offset costs incurred by local health departments in inspecting wells, collecting water samples, and issuing certificates of potability, ***House Bill 1541* (passed)** increases the maximum fee, from $80 to $160, a local health department may charge for well permits. The bill also provides that a permit must be issued within a reasonable period of time after receipt of the application. In addition, the bill provides that, for an interim certificate of potability, a local health department must accept initial test results prepared by a private State certified laboratory. Senate Bill 508, the Budget Reconciliation and Financing Act of 2004, also increases the maximum fee from $80 to $160.

Agriculture

Agricultural Land Preservation

The Maryland Agricultural Land Preservation Foundation (MALPF) was created in 1977 to preserve productive agricultural land in the State. Agricultural preservation districts are formed when qualifying landowners sign voluntary agreements to keep their land in agricultural or woodland use for a minimum of five years. Subject to some limitations, once an easement has been sold, the property is protected from further development.

Installment Purchase Agreements

An Installment Purchase Agreement (IPA) is a contract between a purchaser and a seller to pay the unpaid principal at settlement as a balloon payment at the end of the term of the agreement and to pay the seller tax-exempt interest on the unpaid principal during the period of

the agreement. Such contracts typically carry a term of 20 to 30 years. An IPA can be attractive to a seller because of the tax-advantaged nature of the transaction. IPAs also provide benefits to the buyer, as it allows for the leveraging of limited resources, ultimately allowing more properties to be purchased than would be possible under more traditional sale agreements.

***House Bill 606* (passed)** authorizes MALPF to purchase an easement using an IPA with a maximum term of 15 years. Easements purchased using an IPA are not subject to termination at the request of the landowner. The bill also requires MALPF, in consultation with the State Treasurer, to prepare a plan to purchase easements using IPAs with a term of 25 years. The plan, which must be presented to the Governor and the General Assembly by November 1, 2004, must identify a revenue source to be dedicated to the purchase of easements using IPAs. To further foster the use of IPAs for purchasing easements, ***House Bill 625* (passed**) authorizes MALPF to provide grants to counties with approved IPA programs for the purchase of easements using such agreements. The bill establishes conditions for MALPF approval of a program and provides that easements purchased using a grant are perpetual and held jointly by the county and MALPF.

Easement Restrictions

On written application, MALPF must release, free from easement restrictions and only for the landowner who originally sold an easement, one acre or less for the purpose of constructing a dwelling house for the use of that landowner or the landowner's child. Though the two-stage lot release process makes it difficult for the lot to be transferred to an ineligible third party before a house is constructed, MALPF reports that a substantial incentive still exists to build a house as a speculative investment to be sold to a third party once the house is ready for occupancy. Under current law, MALPF has no way to verify that lots are developed for legitimate purposes. ***House Bill 164* (passed)** allows MALPF some level of review by providing that a release must include a statement that the lot of the owner or owner's child may not be transferred for five years from the date of the final release, unless approved by MALPF or unless a lender notifies MALPF of a transfer pursuant to a bona fide foreclosure of a mortgage, deed of trust, or a deed in lieu of foreclosure.

Under current law, a landowner whose land is subject to an easement may construct housing for tenants fully engaged in the farm operation at a rate of up to one tenant house per 100 acres. The land on which a tenant house is constructed may not be subdivided or conveyed, and the tenant house may not be conveyed separately from the original parcel. Historically, MALPF interpreted the statute governing tenant houses to mean that any easement property could qualify for at least one tenant house. Recently, however, MALPF determined that the standards and the process by which tenant houses are approved need to be clarified and that some review process for tenant house requests should be established. ***Senate Bill 367*/*House Bill 770* (both passed)** provide that any construction of tenant houses on land subject to an easement is subject to MALPF approval. In addition, the bills authorize MALPF to grant an exception, based on a showing of compelling need, to the number of tenant houses allowed to be constructed under current law (one house per 100 acres). MALPF must adopt regulations for the size and location of tenant houses.

Easement Termination

At any time after 25 years from the date of purchase of an easement, the landowner may request that the easement be reviewed for possible termination. On request for a review, MALPF must conduct an inquiry to determine the feasibility of profitable farming on the land. The first easement was purchased by MALPF in October 1980. Accordingly, the first repurchase request could occur in October 2005. In response to that impending date as well as outstanding questions regarding the process of easement termination requests, ***Senate Bill 327*/*House Bill 777* (both passed)** require MALPF to provide landowners with the opportunity for a hearing prior to making a termination decision; the bills also establish an appeals process for landowners applying for easement termination. The easement is perpetual if the Board of Public Works approves the purchase by MALPF on or after October 1, 2004.

Nutrient Management

The Water Quality Improvement Act (WQIA) of 1998, as amended by Chapter 485 of 2000, provides for a variety of measures aimed at improving water quality throughout the State, including mandatory development and implementation of nutrient management plans by farmers. For a variety of reasons, including a dearth of certified consultants and problems with public awareness, many operations did not meet the deadlines for plan preparation and implementation. A number of bills were introduced during the 2002 and 2003 sessions to address WQIA implementation problems, all of which failed.

In July and August 2003, the Maryland Department of Agriculture (MDA) hosted two broad efforts to garner information for improving the State's implementation of WQIA. In July, MDA hosted a briefing on recent nutrient management research findings. In August, MDA's nutrient summit involved more than 300 stakeholders who brainstormed ways to make WQIA easier to implement and more effective at protecting the environment. Common themes that emerged from the summit included recommendations to address the current statutory language regarding right-of-entry to farms, simplify the program's paperwork and reporting requirements, use more incentives for plan implementation, and streamline MDA's administrative requirements as to private consultants who prepare nutrient management plans.

As a result of these suggestions, ***Senate Bill 182* (passed)** repeals MDA's current right-of-entry authority and authorizes MDA to review the plans and records relating to the plan at a location agreed to by MDA and the farm operator. The bill establishes requirements and conditions regarding site visits and provides for the application of existing penalties if a farm operator fails to cooperate. Second, the bill requires farmers to submit summaries, rather than entire plans, to MDA. Third, the bill reduces the administrative burden on MDA relating to certifying and licensing nutrient management consultants by changing the renewal term from one year to three years; it increases the renewal fee accordingly (from $50 to $150). The bill establishes a certification program specific to farmers; farmers who are certified to write their own plans will pay a one-time fee of $20. Finally, the bill increases flexibility for MDA regarding plan development standards and the use of private nutrient management consultants.

The text of this bill was also amended into ***Senate Bill 320 (passed)***. For a more detailed discussion of that bill, see the subpart "Environment" of this Part K.

Agricultural Development

Because of the advancing median age of Maryland farmers and the small number of younger individuals who choose agriculture as a career, ***Senate Bill 392***/***House Bill 755 (both passed)*** establish a 12-member Young Farmers Advisory Board within MDA. Among other purposes, this advisory board is to communicate the importance of young and beginning farmers to agriculture in the State; identify and address issues relating to young and beginning farmers and make recommendations to the Maryland Agricultural Commission; and establish committees, as necessary, to develop projects relating to the aspects of life for young and beginning farmers.

Senate Bill 589 (passed) and ***House Bill 1179 (passed)*** create the Maryland Agricultural and Resource-Based Industry Development Corporation as a public corporation to provide financing to agricultural and resource-based businesses. For a more detailed discussion of this bill, see Part H – Business and Economic Issues of this *90 Day Report*.

Departmental Fees and Penalties

Senate Bill 51 (passed) establishes the State Board of Veterinary Medical Examiners Fund as a continuing, nonlapsing fund to cover the actual direct and indirect costs of the board. The board is to set its fees by adopting regulations, and those fees must approximate the cost of maintaining the board. Fee revenue will be paid into the fund. Currently, the board's fee revenue is paid into the general fund, and the board receives a general fund appropriation to cover its costs.

Senate Bill 508 (passed), the Budget Reconciliation and Financing Act of 2004, increases the fees for a number of certificates, licenses, and permits issued by MDA. In total, the fee increases amount to an estimated $125,500 in new special fund revenue, allowing for a decrease in general funds appropriated to the department.

In lieu of pursuing criminal penalties, ***House Bill 95 (passed)*** authorizes the Maryland Horse Industry Board to impose an administrative penalty of up to $2,000 on any person who violates any provision of the laws relating to the board. All penalties must be paid into the general fund.

Part L
Education

Education – Primary and Secondary

Bridge to Excellence in Public Schools Act Passes Critical Milestone

The State education aid formulas enacted through the Bridge to Excellence in Public Schools Act of 2002 enter the second year of their five-year phase-in schedule in fiscal 2005. The budget adopted by the General Assembly increased funding for public primary and secondary education by $314.3 million over the fiscal 2004 appropriation in accordance with the Act and preserved the integrity of the Bridge to Excellence phase-in structure for a second consecutive year. The 9.5 percent increase in State education aid was achieved despite the State's ongoing budget problems. In total, the State will provide more than $3.6 billion for public education in fiscal 2005.

The 2004 legislative session was a pivotal point in the implementation of the Bridge to Excellence Act. For the State to proceed with full funding of the legislation, the Act required the General Assembly to revisit the State's fiscal situation and pass a joint resolution affirming that the State has sufficient fiscal resources to fund the State aid increases required for fiscal 2005. The Act provided that annual State aid increases for fiscal 2005 to 2008 would be limited to 5 percent if the joint resolution was not passed.

To add to the difficulty of the decision facing the General Assembly, the Office of the Attorney General issued advice on July 2, 2003, that suggested that the requirement for a joint resolution represented an unconstitutional legislative veto. According to the Attorney General, keeping the provision in law would have placed the State at risk of a lawsuit on constitutional grounds. Although the issue has never been litigated in the State, the Attorney General advised that both passing and not passing the resolution could result in lawsuits challenging the validity of the provision. The Attorney General further advised that, in either case, the status of education funding under the Bridge to Excellence Act would remain in question. In response to these concerns, the General Assembly passed emergency legislation, ***House Bill 345 (Ch. 6)***, repealing the requirement for a joint resolution and maintaining the full funding of the Bridge to Excellence Act. The bill was enacted without the Governor's signature on March 8, 2004.

The $314.3 million increase in State education aid included in the fiscal 2005 State budget reflects a $305.1 million increase in the Bridge to Excellence aid formulas and a $19.6 million increase in teachers' retirement payments. Funding for all other education aid programs is reduced by a combined total of $10.5 million from fiscal 2004 to 2005. **Exhibit L-1** shows changes in the appropriations for State aid programs from fiscal 2004 to 2005. Increases in education aid for individual counties can be found in Part A – Budget and State Aid of this *90 Day Report*.

Exhibit L-1
State Education Aid
Fiscal 2004 and 2005

	FY 2004	FY 2005	Dollar Increase	Percent Increase
Bridge to Excellence Programs				
Foundation Program	$2,013.4	$2,114.6	$101.1	5.0%
Compensatory Education	350.8	488.1	137.3	39.1%
Special Education Formula	116.3	157.6	41.4	35.6%
Limited English Proficiency	38.9	51.3	12.4	32.0%
Guaranteed Tax Base	0.0	19.1	19.1	--
Student Transportation	167.0	175.5	8.5	5.1%
Baltimore City Partnership	28.2	21.1	(7.0)	-25.0%
Teacher Salary Challenge	5.3	0.0	(5.3)	-100.0%
Extended Elementary Ed (EEEP)	19.3	16.9	(2.4)	-12.5%
Subtotal	**$2,739.1**	**$3,044.3**	**305.1**	**11.1%**
Other Education Aid Programs				
Teachers' Retirement	$383.6	$403.2	$19.6	5.1%
Non-public Special Education	111.0	108.8	(2.2)	-2.0%
Other Programs	86.7	78.5	(8.3)	-9.5%
Subtotal	**$581.3**	**$590.4**	**$9.2**	**1.6%**
Grand Total	**$3,320.4**	**$3,634.7**	**$314.3**	**9.5%**

Source: Department of Legislative Services

Funding for Regional Differences in the Cost of Education

One component of the Bridge to Excellence Act that is not included in the fiscal 2005 State budget is funding to recognize regional differences in the cost of education that are due to factors outside of the control of the local jurisdictions. The Bridge to Excellence legislation included language that required the Maryland State Department of Education (MSDE) to contract with a private entity to develop a Maryland-specific geographic cost of education index (GCEI) that would be used to make adjustments to State aid beginning in fiscal 2005. The consultants hired by MSDE submitted a final report entitled *Adjusting for Regional Differences in the Cost of Educational Provision in Maryland* on December 31, 2003. The report includes a GCEI with index values that range from 0.948 in Garrett County to 1.048 in Prince George's County. **Exhibit L-2** shows the final index that appears in the report. Values that exceed 1.0 indicate jurisdictions with higher costs, and values below 1.0 reflect counties with lower costs.

Exhibit L-2
Maryland-specific Geographic Cost of Education Index

County	Index Value	County	Index Value
Allegany	0.959	Harford	0.992
Anne Arundel	1.018	Howard	1.015
Baltimore City	1.042	Kent	1.010
Baltimore	1.008	Montgomery	1.034
Calvert	1.021	Prince George's	1.048
Caroline	1.000	Queen Anne's	1.011
Carroll	1.014	St. Mary's	1.002
Cecil	0.989	Somerset	0.973
Charles	1.020	Talbot	0.991
Dorchester	0.978	Washington	0.974
Frederick	1.024	Wicomico	0.971
Garrett	0.948	Worcester	0.959

Source: *Adjusting for Regional Differences in the Code of Educational Provision in Maryland*

Before the final report was released, the Office of the Attorney General reviewed the Bridge to Excellence legislation and suggested that the wording in the Act was too unclear to establish a funding mandate. Although MSDE included $47.3 million for the adjustments in its budget request, State aid to reflect regional differences in the cost of education was not included in the proposed fiscal 2005 State budget or the budget adopted by the General Assembly.

To ensure that a formula to account for regional differences is established in law for future fiscal years, ***Senate Bill 508 (passed)***, the Budget Reconciliation and Financing Act of 2004, includes a provision that phases in a program of regional cost adjustments from fiscal 2006 to 2010. Adjustments will be made to the foundation program, and only counties with index values above 1.0 will be affected by the adjustments. The adjustments established in the legislation will cost an estimated $53 million in fiscal 2006, although the legislation does not mandate that the full amount be provided in the budget. If less than the full formula amount is provided in a fiscal year, the amount that is included in the budget will be distributed in the same proportion that the full amount would be provided.

Fiscal Accountability for Local Boards of Education

With the ongoing phase-in of significant State aid increases under the Bridge to Excellence Act and the disclosure of sizeable deficits in the Baltimore City and Prince George's County public school systems, the General Assembly turned its attention towards greater fiscal accountability for local school systems. ***Senate Bill 894 (passed)*** prohibits local school systems from carrying budget deficits, requires more reporting on local school system finances, requires each local school system to undergo a legislative audit, and provides for changes to the annual comprehensive master plan updates that local school systems are required to submit.

Financial Reports Requirements

Senate Bill 894 requires each local superintendent of schools or chief executive officer to file a biannual report on the financial status of the local school system with the State Superintendent of Schools and county governing body and attest to the accuracy of each report when it is submitted. The State Superintendent and MSDE must monitor the financial status of each local school system and report their findings on a biannual basis to the Governor and the General Assembly.

If it is determined from an annual audit report that a local school system has a deficit, defined as a negative fund balance of 1 percent or more of general fund revenue at the end of a fiscal year the State Superintendent must immediately notify the Governor, the General Assembly, the Department of Legislative Services, and the county governing body. The local school system must (1) develop and submit for approval a corrective action cost containment plan within 15 days; (2) file monthly status reports with the State Superintendent and county governing body demonstrating actions taken to close the deficit and the effect of the actions taken on the deficit; and (3) include information on the corrective action cost containment plan, actions taken to close the deficit, and status of the deficit in the biannual financial status reports filed with the State Superintendent and county governing body. The State Superintendent must include this information in a quarterly report submitted to the Governor and the General Assembly. The bill specifically requires the Baltimore City Board of School Commissioners to eliminate its general fund deficit by the end of fiscal 2006.

If a local school system fails to comply with the reporting requirements, the State Superintendent must notify the State Comptroller, who must withhold 10 percent of the State aid

due to the system. The withholding of State aid continues until the State Superintendent notifies the Comptroller that the local school system is in full compliance with the specified requirements.

Legislative Audits

With the approval of the Executive Director of the Department of Legislative Services, the Legislative Auditor must appoint professional staff to conduct an audit of each local school system to evaluate the effectiveness and efficiency of the system's financial management practices. The audits must be conducted between July 1, 2004, and June 30, 2010.

A local school system with a negative fund balance in the general fund of 1 percent or more in either of the prior two fiscal years must be included in the first group of audits. Two school systems Baltimore City and Prince George's County, meet this criterion. Thereafter, the Office of Legislative Audits (OLA) must give priority to local school systems that have failed to comply with other provisions of Senate Bill 894.

In addition to the financial management practices audits, OLA must conduct a centralized audit of the master plans to determine overall compliance with State requirements by December 1, 2004. The audit results must be submitted to the Joint Audit Committee.

Comprehensive Master Plan Updates

Senate Bill 894 extends the deadline for the submission of the annual comprehensive master plan updates from July 1 to August 15. In addition, the updates are broadened to include more budget and expenditure information. The State Superintendent must review the alignment of a local board's budget and master plan and report to the Governor, county governing body, and the General Assembly on the results of the review.

Task Force to Study Public School Facilities

The Bridge to Excellence Act also established a Task Force to Study Public School Facilities. The Act directed the task force to evaluate whether the State's public school facilities are adequate to sustain programs supported by the funding levels implemented in the Bridge to Excellence legislation. The task force was also charged with examining the equity of the State's school construction program, particularly the equity of the State and local cost shares for school construction projects, and considering whether to continue the Aging Schools Program as a permanent program.

In completing its charge, the task force undertook an assessment of the current conditions of the State's existing public schools. A survey was conducted by MSDE based on 31 minimum facility standards developed by a workgroup chaired by the State Superintendent of Schools and approved by the task force in March 2003. The survey was based on local, State, and federal standards for facilities and included items measuring the ability of each school facility to support educational programs and projected student enrollments. The results were released on November 6, 2003.

The survey indicated that $3.85 billion is needed to bring existing public schools up to standards. More than one-third of public schools across the State did not meet the standard in at least one of eight facility areas. However, many of the inadequacies uncovered by the survey are based on standards that were adopted in the last 10 to 15 years. All schools are required to meet standards when they are renovated or initially constructed, but only 26 percent of Maryland's school space has been constructed or undergone major renovation since 1990.

One of the major concerns addressed by the task force and by the school facilities survey was space for full-day kindergarten. The Bridge to Excellence Act requires all school systems to provide full-day programs for kindergarten students by the 2007-08 school year. Of the $3.85 billion needed to bring school facilities up to standards, $1.5 billion is needed to ensure that sufficient capacity exists to house the estimated 2007-08 student population. Of the $1.5 billion, approximately $180 million is needed to provide the proper space for full-day kindergarten programs.

Task Force Legislation

The task force's final report was released in February 2004, and legislation to implement many of the task force recommendations was introduced as ***Senate Bill 787*/*House Bill 1230* (both passed)**. The bills address the adequacy of public school construction funding and the equity of the existing Public School Construction Program. In addition, the current practices of the Interagency Committee on School Construction (IAC) and the Board of Public Works (BPW) are codified and formalized in the bills in order to provide for a more formal process for adopting changes to the Public School Construction Program.

Adequacy of Existing Facilities and Funding: Senate Bill 787/House Bill 1230 state that it is the intent of the Governor and the General Assembly that a minimum of $3.85 billion be provided to fund school facility needs by fiscal 2013. Of this amount, the State share is $2 billion and the local share is $1.85 billion. The language serves as recognition of the large public school funding needs identified by the task force. The bills also require the Capital Debt Affordability Committee to review the school facility needs identified by the task force and make a specific multi year funding recommendation for public school construction each year when recommending the State's annul debt limit.

To assist local jurisdictions in meeting their school facility needs, the task force bills authorize local jurisdictions to use a number of alternative financing and contracting methods except where methods are prohibited by local law. The bills specifically require that State procurement laws that are otherwise applicable for school construction projects, including Title 17 Subtitle 2 (Prevailing Wages) and Title 14 (Minority Business Enterprise) of the State Finance and Procurement Article, also apply to alternatively financed projects. In addition, counties are authorized to issue bonds to finance the costs of construction or improvement of public school facilities. Counties using this authority must impose a tax on all assessable property within the county for the purpose of covering the debt service on the outstanding bonds. Local boards of education are also encouraged to reuse recently used school designs when they are educationally appropriate and cost effective.

In recognition of the concerns that many jurisdictions have expressed about providing sufficient space to meet the full-day kindergarten mandate in the Bridge to Excellence Act, Senate Bill 787/House Bill 1230 designate the costs of relocatable classrooms as eligible for State participation from fiscal 2006 through 2008. Although all school systems in Maryland except Garrett and Kent counties are using relocatable classrooms in the 2003-04 school year, temporary classrooms have never been eligible for State funding under Public School Construction Program policies. The bills require the Governor to include in the fiscal 2006, 2007, and 2008 capital budgets $1 million to fund the State share of the cost of purchasing relocatable classrooms.

The bills also state that it is the intent of the General Assembly that BPW and IAC establish an emergency repair fund to finance renovations and improvements to public schools necessary to address an immediate hazard to the health or safety of the students or staff of the schools. Furthermore, it is the intent of the General Assembly that the fund contain $2 million in fiscal 2005.

Finally, Senate Bill 787/House Bill 1230 require IAC to survey the conditions of school buildings identified by MSDE and to report to the Governor and the General Assembly by October 1 of each year on the results of the surveys. The Department of General Services must conduct the inspections of school buildings. MSDE must also adopt regulations that provide for periodic surveys of the condition of public school facilities in Maryland at least every four years.

Equity of State School Construction Funding: Senate Bill 787/House Bill 1230 require BPW to establish a new State and local cost-share formula to be used beginning in fiscal 2006. As recommended by the task force, multiple factors, including student populations, enrollment growth, the age of school facilities, and local effort for public school construction, must be used to calculate a State share for each county. The new formula established by BPW must include a hold harmless provision for fiscal 2006 to 2008 to ensure that no county receives a lower State share under the new formula than it will receive under the existing formula in fiscal 2005.

The bills also alter the allocation of the Aging Schools Program beginning in fiscal 2006 by basing funding on the percentage of pre-1970 square footage present in each school system. Minimum allocations of $65,000 and $85,000 are also provided. The new and old allocations for the program are shown in **Exhibit L-3**. ***Senate Bill 191 (passed)***, the Maryland Consolidated Capital Bond Loan of 2004 (capital budget) includes intent language that a partial hold harmless grant be provided in fiscal 2006 through 2008 for counties receiving 75 percent or less under the new allocation in fiscal 2006 than in fiscal 2005. In the first year the hold harmless grant makes up 75 percent of the difference between the hold and new allocations, phasing out over the next three years to zero in fiscal 2009.

Exhibit L-3
Aging Schools Program Allocations

County	Old Allocation	New Allocation	Difference
Allegany	$355,000	$166,000	-$189,000
Anne Arundel	570,000	859,000	289,000
Baltimore City	1,635,000	2,356,000	721,000
Baltimore	2,940,000	1,484,000	-1,456,000
Calvert	65,000	65,000	0
Caroline	85,000	85,000	0
Carroll	385,000	233,000	-152,000
Cecil	355,000	163,000	-192,000
Charles	65,000	85,000	20,000
Dorchester	65,000	65,000	0
Frederick	85,000	310,000	225,000
Garrett	85,000	65,000	-20,000
Harford	400,000	369,000	-31,000
Howard	65,000	149,000	84,000
Kent	65,000	65,000	0
Montgomery	1,170,000	1,023,000	-147,000
Prince George's	970,000	2,053,000	1,083,000
Queen Anne's	85,000	85,000	0
St. Mary's	85,000	85,000	0
Somerset	65,000	65,000	0
Talbot	155,000	65,000	-90,000
Washington	200,000	229,000	29,000
Wicomico	355,000	181,000	-174,000
Worcester	65,000	65,000	0
Total	**$10,370,000**	**$10,370,000**	**$0**

Source: Department of Legislative Services

Other School Construction Bills

In addition to the bills introduced on behalf of the Task Force to Study Public School Facilities, three additional school construction bills were passed this year.

Modular Construction for School Facilities

House Bill 199 (passed) requires BPW to include modular construction as an approved public school construction or capital improvement cost. Modular construction implies that a large proportion of building components are premanufactured off-site and then transported to the building site where they are assembled on permanent foundations. Although modular construction has been eligible for State school construction funding when the specifications met the approval of IAC staff, specific criteria for approvable projects have not been formalized. House Bill 199 requires BPW, at the recommendation of IAC, to adopt regulations to define modular construction and establish minimum specifications required for approval of modular construction.

Local Funding for Prince George's County School Facility Needs

Legislation enacted in 2002 required Prince George's County to enact a local telecommunications tax; however, the use of tax revenues was limited to operating expenses of the public school system. The school facilities survey conducted at the direction of the Task Force to Study Public School Facilities found that Prince George's County needs $778 million to achieve existing standards in all of its public schools, the highest figure in the State. In response, ***House Bill 589 (passed)*** allows the Prince George's County public school system to use up to 10 percent of its telecommunications tax revenues for school renovation projects that have been approved by the board of education and the county.

The Prince George's County Board of Education must consider using the funding, which could amount to approximately $3.2 million per year, to address school facility needs related to the deferral of maintenance or other deterioration of school buildings.

Extension of Baltimore City Enhanced State Share

As a part of the consent decree that led to the establishment of the Baltimore City-State Partnership in 1997, BPW adopted a rule in May 1997 that changed the shared cost formula for Baltimore City from fiscal 1998 through 2002. Under the new rule, the State was responsible for 90 percent of eligible school construction costs for the first $10 million in funding allocated by the State to Baltimore City and 75 percent of the funding in excess of $10 million. Chapter 280 of 2001 established the BPW rule in State law and increased the amount subject to a 90 percent State share to $20 million beginning in fiscal 2002. The termination date on the enhanced State share has been extended each year since then.

Senate Bill 413 (passed) extends for two additional years, through fiscal 2007, the termination date on the enhanced State share of eligible public school construction costs for Baltimore City. However, if the new State and local cost-share formula recommended by the Task Force to Study Public School Facilities is adopted by BPW as required by Senate Bill 787/House Bill 1230, Baltimore City will have a State share that exceeds 90 percent for all funding provided by the State.

Educational Programs at the Charles H. Hickey, Jr. School

The Charles H. Hickey, Jr. School (Hickey) is the largest secure juvenile confinement facility operated by the Department of Juvenile Services (DJS). In response to adverse audit findings at the school, Chapter 53 of 2003 required MSDE to take over the education programs at Hickey from DJS on July 1, 2004. This takeover was contingent upon the inclusion in the budget of funds for the program. The Governor's budget as submitted included approximately $10.1 million for the program proposed by MSDE, including $7.6 million in the correctional education budget and $2.5 million in nonpublic placement funds. Supplemental budget #1 also included a $300,000 fiscal 2004 deficiency appropriation to begin installation of relocatable classrooms at Hickey and to hire an advance team of key administrators prior to the takeover date at the beginning of fiscal 2005.

The General Assembly reduced the appropriations submitted in the Governor's budget to $5.2 million for fiscal 2005 and $212,500 for fiscal 2004. The General Assembly also prohibited the expenditure of nonpublic placement funds at Hickey due to the likelihood of a deficit in nonpublic placements. The level of funds approved by the General Assembly provides for (1) per pupil spending for special education students consistent with the average cost of a nonpublic day placement; (2) per pupil spending for nonspecial education students consistent with the DJS average; and (3) additional funds for equipment, supplies, and relocatable classrooms. MSDE must develop an educational plan for Hickey that will fall within these available resources.

Student Behavior

One other focus of the General Assembly during the 2004 session was student behavior. ***House Bill 740 (passed)*** requires local boards of education to report alleged incidents of harassment or intimidation against public school students that occur on public school property, at a school activity or event, or on a school bus. MSDE must submit annual reports on the incidents that have been reported by local school systems. ***House Bill 1288 (passed)*** requires elementary schools with high suspension rates to implement Positive Behavioral Interventions and Supports or an alternative behavioral modification program to reduce suspensions. Finally, ***House Bill 130 (passed)*** allows local boards of education to authorize teachers to make reasonable searches of students on school-sponsored trips. The searches may only be made under specific circumstances and must be made in the presence of a third party. ***House Bill 358 (passed)*** requires MSDE to establish procedures for the administration of the Centers for Disease Control and Prevention Youth Risk Behavior Surveillance System Survey. The survey was developed in 1990 to measure the prevalence of risk behaviors among adolescents including tobacco use, dietary behaviors, physical activity, alcohol and drug use, sexual behavior that contributes to unintended pregnancy and sexually transmitted diseases and behaviors that contribute to injuries and violence.

State and Local Aid Program for Certification by the National Board for Professional Teaching Standards Extended

***Senate Bill 1* (passed)** extends through May 31, 2008, the State and Local Aid Program for Certification by the National Board for Professional Teaching Standards. The program, which pays the National Board for Professional Teaching Standards certification fee for teachers selected to participate in the program, was due to terminate May 31, 2004. The State pays two-thirds of the certification fee, and the local school system that employs the teacher pays one-third of the fee. The program was established as a pilot program by Chapter 179 of 1997 and was later extended by legislation through May 2004. As of July 1, 2003, 203 teachers in Maryland had been certified by the national board through their participation in this program.

Higher Education

Higher Education Affordability Act

The House Special Committee on Higher Education Affordability and Access, appointed by the Speaker of the House, was charged with examining the impact of reductions in the State support for higher education and subsequent increases in tuition rates. Tuition for the fall of 2003 increased 15 to 19 percent for in-state students at University System of Maryland (USM) institutions. The special committee held meetings on several college campuses in late fall 2003 and early 2004, issuing its final report in February 2004.

***House Bill 1188* (passed)** implements the recommendations of the House Special Committee on Higher Education Affordability and Access by providing additional State support for USM and Morgan State University in exchange for limiting tuition increases to 5 percent annually for three years. The legislation makes a supplementary appropriation in fiscal 2005 of $25.4 million to USM and $1.6 million to Morgan State. Additionally, the bill requires for fiscal 2006 and 2007 that the Governor include an appropriation in the annual State budget of at least 5 percent over the previous fiscal year.

To pay for the increased State support provided under the bill, the corporate income tax rate is increased by 10 percent – from 7 to 7.7 percent – for tax years 2004 through 2006 and the additional revenues are deposited in the Higher Education Investment Fund (HEIF) to be allocated to USM institutions and Morgan State University. However, the Governor may not include more than 60 percent of the required minimum 5 percent annual State increase from the HEIF. Any balance remaining in the HEIF is transferred to the general fund at the end of fiscal 2007 to be used to support higher education.

Additionally, House Bill 1188 provides that funding under the Joseph A. Sellinger formula for private colleges and universities, the Senator John A. Cade formula for community colleges, and the Baltimore City Community College formula be based on the combined general fund and HEIF support for the public four-year institutions of higher education. The bill further creates a commission to study the coordination, funding, educational delivery, and State

commitment to higher education in the State and requires that the commission report its findings and recommendations by December 1, 2005.

Governance

The General Assembly passed several bills that affect the governance structure and policies of State institutions of higher education.

***Senate Bill 738* (passed)** clarifies that laws must specifically reference USM in order to be applicable. The bill also repeals the provision of law that requires USM presidents to comply with position limits that are set in the State budget.

***Senate Bill 430* (passed)** provides additional corporate powers to Morgan State University including the authority to acquire, hold, lease, and use property; borrow money; sue and be sued; and carry liability insurance. The university also is exempted from specified provisions of the State procurement law. Additionally, the bill repeals a position cap requirement and clarifies that laws must specifically reference the university in order to be applicable. For a further discussion of Senate Bill 430, see the subpart "Procurement" within Part C – State Government of this *90 Day Report.*

To allow for wider geographic representation of individuals on the Board of Regents of Morgan State University, ***Senate Bill 85* (passed)** reduces from 11 to 10 the number of members on the board who must be Maryland residents. The bill also clarifies that the student member may be either an in-state or an out-of-state student.

***Senate Bill 812* (passed)** removes the termination date for the new program approval process for USM and extends the procedures used by USM constituent institutions for the establishment of academic programs to community colleges and regionally accredited nonpublic institutions of higher education that receive State funding. The president of an institution may propose to establish a new program if it can be established with existing resources and is consistent with the institution's mission statement. The proposal must be reported to the Maryland Higher Education Commission (MHEC), which must notify all other institutions of higher education in the State. MHEC or an institution may object to the establishment of the new program. If the objection cannot be resolved, a final recommendation on implementation of the proposed program must be made by MHEC.

Coppin State University – Renaming

In order to better reflect the diverse educational programs that it offers, and to better position the institution to enhance its private support and partnerships with the private sector, ***House Bill 893* (Ch. 63)** changes the name of Coppin State College, one of the State's historically black colleges, to Coppin State University.

Scholarships

Increased Funding for Need-based Scholarships

The fiscal 2005 budget includes $83.3 million in general funds for MHEC scholarship programs. The total scholarship appropriation is $87.4 million. This is an increase of $7.4 million over the fiscal 2004 working appropriation. Educational Excellence awards increase $10.4 million, offsetting a $4 million reduction to HOPE Scholarships. Fiscal 2005 marks the first increase in need-based financial aid since fiscal 2001 and will help alleviate a current waiting list for need-based aid of over 5,000 students. With this increase, MHEC will award approximately 4,138 additional students over fiscal 2004 and will help offset the increased tuition and fee rates for current and new recipients. The current average award amount is $2,175 and reflects the most recent tuition and fee increases.

William Donald Schaefer Scholarship Program

To encourage young people who demonstrate outstanding potential for and pledge to pursue a career in public service, ***House Bill 1307*** ***(passed)*** creates the William Donald Schaefer Scholarship Program. Scholarship applicants must (1) be a Maryland resident; (2) demonstrate a definite financial need; (3) be accepted for admission or currently enrolled as a full-time undergraduate or graduate student at an institution of higher education in Maryland; and (4) sign a letter of intent to work full time in the State in a public service career or occupation for one year for each year that the scholarship is received. Scholarship recipients are selected by MHEC, in collaboration with a Schaefer Scholarship Advisory Council. The Schaefer Scholarship award may equal the cost of tuition and mandatory fees at most public institutions of higher education.

Service Obligation Requirements

Economic Development Student Assistance Grants include the Sharon Christa McAuliffe Memorial Teacher Education Awards, Physical and Occupational Therapists and Physical and Occupational Therapy Assistants Grants, Child Care Provider Grants, and State Nursing Scholarships. ***Senate Bill 30*** ***(passed)*** eliminates the requirement that recipients of Economic Development Assistance Grants and nonresident nursing students who pay resident tuition rates furnish promissory notes that include cosigners. Only the students will be required to sign the promissory notes, which state the students' intent to fulfill the service obligations associated with the grants and reduced tuition rates or repay the State in an amount equal to the benefit received if the service obligation is not undertaken or fulfilled. Other State grants and scholarships that involve service obligations require only promissory notes from recipients.

Graduate and Professional Scholarship Program

Under ***Senate Bill 31*** ***(Ch. 11)***, a Maryland resident attending any institution of higher education in the State that offers a master's degree in social work will be eligible for an award under the Graduate and Professional Scholarship Program. Currently, these graduate and professional scholarships are available to Maryland residents who demonstrate financial need and attend (1) the University of Maryland schools of medicine, dentistry, law, pharmacy, or

social work; (2) the University of Baltimore School of Law; (3) the Johns Hopkins University School of Medicine; (4) the Virginia-Maryland Regional College of Veterinary Medicine; or (5) any Maryland institution of higher education offering a master's degree in nursing. Awards range from $1,000 to $5,000 per year, and recipients may not receive awards through the program for more than eight semesters. State funding for the program is allocated to eligible institutions of higher education, which then award scholarships to eligible students.

Community Colleges

The Governor's fiscal 2005 State budget includes a total of $214.5 million for Maryland's community colleges, an increase of 3.4 percent over fiscal 2004. This amount includes $158.8 million for the 15 locally operated community colleges; $30.4 million for Baltimore City Community College, which is operated by the State; and $25.3 million for community college faculty retirement costs.

Authority to Incur Debt

House Bill 8 (Ch. 35) provides additional financial flexibility to Hagerstown Community College and Wor-Wic Community College by authorizing the boards of community college trustees for each of those institutions to borrow money to acquire an interest in personal property for college operations. The only community college now lacking this borrowing authority is Harford Community College.

Unrestricted Grants

In 2002, legislation was enacted that provided additional small college grants for Allegany College of Maryland and Garrett College. At that time, funding for the two colleges under the Senator John A. Cade funding formula had increased 23 percent and 16 percent, respectively, from fiscal 1998 to 2002. Aid for other community colleges had increased over the same period of time by an average of 61 percent. The additional grants established in 2002 were an attempt to keep increases at two of Maryland's smallest community colleges aligned with the increases realized at the other colleges. From fiscal 2003 to 2005, unrestricted additional small college grants for Allegany College of Maryland and Garrett College of $360,000 and $240,000, respectively, are mandated. ***House Bill 641 (passed)*** repeals the June 30, 2005, termination provision on the additional small college grants for Allegany College of Maryland and Garrett College.

Tuition Waiver for Certain Students with Disabilities

A resident of the State who is retired from the workforce due to total and permanent disability and enrolls at a community college in a class that has at least 10 students is exempt from paying tuition. In order to receive the exemption, the individual must obtain certification that the individual receives the appropriate disability and retirement benefits. ***House Bill 322 (Ch. 45)*** clarifies that an individual with disabilities who receives a tuition exemption at a community college need only obtain certification that the individual receives either disability

benefits or retirement benefits to qualify for the exemption. The individual need not obtain certification that both disability and retirement benefits are received.

Tuition

Tuition Charges for Military Personnel and Family

For institutions within USM, the Board of Regents sets tuition policies, including the determination of which students are eligible for resident tuition. The basic policy requires students to be identified as permanent residents of Maryland to qualify for resident tuition, meaning they have lived continuously in the State for at least 12 months immediately prior to attendance at a USM institution. An individual who is residing in Maryland primarily for the purpose of attending an educational institution is not considered a permanent resident. However, the USM policy makes an exception for an active duty member of the U.S. armed forces who resides in Maryland or is stationed in Maryland. These individuals qualify for in-state tuition rates, as do their spouses and dependent children. Honorably discharged veterans are subject to the normal residency requirements. Morgan State University, St. Mary's College, and most community colleges adhere to a similar policy regarding military personnel and members of their family.

***House Bill 172* (passed)** codifies the tuition practices of the public institutions of higher education in Maryland regarding the treatment of military personnel by exempting military personnel and their family members from paying nonresident tuition at the institutions so long as the active duty member is stationed in Maryland, resides in Maryland, or is domiciled in Maryland. The bill extends this exemption to honorably discharged veterans of the U.S. armed forces who attended high school in Maryland. The bill is effective for students who register as an entering student in a public institution of higher education in the State beginning in the 2004 fall semester.

The bill also provides that a spouse or dependent child of an active duty member who enrolls in a public institution of higher education beginning in the 2004 fall semester, and who remains continuously enrolled, shall continue to be exempt from nonresident tuition charges, regardless of any changes in the active duty member's status.

Tuition Charges for Undocumented Immigrants

During the 2003 session, the General Assembly passed House Bill 253 which would have extended in-state tuition privileges to undocumented immigrants who attended and graduated from Maryland high schools. The bill was vetoed by the Governor. In his veto letter, the Governor gave several policy reasons for vetoing the bill. First, the Governor stated that granting in-state status to illegal immigrants violates the spirit of the federal Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and would reward illegal behavior. Secondly, the Governor raised concerns that the fiscal cost to the State was indeterminate and could be potentially large. He noted that additional community college students included in the enrollment counts would increase the State's obligations under the Senator John A. Cade funding

formula. Finally, the Governor raised concerns that the bill would allow undocumented immigrants to take in-state slots from legal Maryland residents.

In response to some of the Governor's concerns, ***House Bill 1171 (failed)*** would have exempted an undocumented immigrant from paying nonresident tuition at a Maryland public institution of higher education if the individual (1) attended a secondary school in the State for at least three years; (2) graduated from a high school in the State or received the equivalent of a high school diploma in the State; (3) makes application to attend the institution within five years of high school graduation; and (4) registers as an entering student for the fall 2004 semester or later. In addition, to qualify for the reduced resident tuition rate, an individual would have been required to provide documentation showing that the individual or the individual's parent or guardian paid Maryland income tax during the year prior to the individual's graduation. The individual also would have been required to provide an affidavit stating that the individual will file an application to become a permanent resident within 30 days after becoming eligible to do so.

Miscellaneous

National Guard Students

Over the past several years, the conflicts in Afghanistan and Iraq as well as Hurricane Isabel and other emergency situations have necessitated the activation of many National Guard units in Maryland and throughout the country. ***House Bill 1314 (passed)*** requires a public institution of higher education to allow a student who is in the National Guard and whose unit is activated and deployed to withdraw from classes without negative consequences for the student's academic standing. The institution must also try to assist the student to complete the course requirements by either (1) giving the student a grade of incomplete and working with the student and the student's instructor on a program of independent study or (2) transferring the student to an online course.

Maryland Digital Library

Senate Bill 615*/*House Bill 1167 (both passed) establish a Maryland Digital Library (MDL) within MHEC, as well as an MDL Advisory Council. MDL consists of the academic libraries in public and private nonprofit institutions of postsecondary education. After receiving recommendations from the MDL Advisory Council, MHEC may encourage each academic library to (1) increase shared access to critical information in Internet-accessible form; (2) optimize funding; (3) digitize unique collections; (4) train librarians and staff to improve services in the information technology environment; and (5) develop training programs for library users. MDL is also authorized to develop programs to support Maryland residents in collaboration with county libraries, the Enoch Pratt Free Library, the Maryland State Archives, and elementary and secondary school libraries. The MDL Advisory Council must submit an annual report regarding the financial status and operations of MDL.

Part M
Human Resources

Social Services – Generally

Eligibility for Temporary Cash Assistance and Food Stamps

Under the federal food stamp program, individuals convicted of a felony involving possession, use, or distribution of a controlled dangerous substance may not receive benefits unless the individual's state has opted out of this requirement. Maryland has opted out for custodial parents but not for adults without children. Custodial parents with felony drug convictions are subject to substance abuse testing for two years from the date of their application for benefits.

***Senate Bill 575*/*House Bill 1137* (both failed)** would have allowed Maryland residents with felony drug convictions to receive cash assistance or food stamps, subject to the same substance abuse testing requirements as custodial parents. The bills were intended to assist individuals with substance abuse problems to become more self-sufficient and reduce recidivism. House Bill 1137 would have limited eligibility for benefits to six months for noncustodial parents.

Miscellaneous

***Senate Bill 508* (passed)** repeals authorization for the Maryland Individual Development Accounts program. This demonstration program was designed to assist low-income people to save money for the purchase or repair of a home, educational expenses, and business capitalization. The program was scheduled to terminate on June 30, 2006.

Two bills relating to public assistance failed but will be further examined by the Joint Committee on Welfare Reform during the 2004 interim. ***House Bill 1302* (failed)** would have established a Marriage Promotion Program and fund in the Department of Human Resources to provide funding to eligible community-based organizations for implementing marriage and relationship skills programs. ***House Bill 1476* (failed)** would have codified the Transitional Emergency Medical and Housing Assistance Program and required the Governor to fund the program at a minimum level based on average prior caseloads.

The Elderly

Funding Distribution for Local Area Agencies on Aging

The Maryland Department of Aging (MDoA) developed a new method for distributing federal funds to the State's 19 area agencies on aging during the fall of 2003. The proposed funding methodology would go into effect once approved by the federal Department of Health and Human Services. This approval was anticipated to be received by July 1, 2004. The University of Maryland Baltimore County was contracted to develop the funding distribution. The formula proposed by MDoA was strictly based on the 2000 census population, with an adjustment to target elderly in the rural areas of the State.

***Senate Bill 508* (passed)**, the Budget Reconciliation and Financing Act of 2004, contains a provision that requires MDoA to allocate funds to local area agencies on aging under the Older Americans Act based on formulas in effect on January 1, 2004, with the exception of the Title IIIE formula for the Family Caregiver Program, which may be changed to reflect an increase in age criteria. Senate Bill 508 requires the Governor to submit legislation to the General Assembly for consideration in the 2005 legislative session that specifies a formula for distributing federal funds under the Older Americans Act to local jurisdictions beginning in fiscal 2007. In addition, Senate Bill 508 requires MDoA to use additional State funds to hold rural jurisdictions harmless from reductions that would occur under this allocation in fiscal 2005 and 2006.

***Senate Bill 819* (passed)** requires the Department of Health and Mental Hygiene to apply to the federal Centers for Medicare and Medicaid Services for a waiver to establish the Community Choice Program, a managed care system that provides long-term care services to eligible Medicaid enrollees. A more detailed discussion of this bill can be found under Part J – Health of this *90 Day Report*.

***House Bill 207* (passed)** prohibits the owner, operator, or employee of a health care facility or a spouse, parent, child, or sibling of any of these individuals from serving as a health care agent for a patient at that facility. The bill provides for an exception to this prohibition if one of these people would qualify as a "surrogate decision maker" or was appointed before the patient began receiving health care from the facility. A health care agent is a person designated by an individual as someone who is authorized to make health care decisions on his or her behalf.

***Senate Bill 785*/*House Bill 1001* (both passed)** require a continuing care facility to establish an internal grievance procedure to address subscriber grievances. The bills also require a continuing care facility to provide a description of its internal grievance procedure to applicants and subscribers.

***Senate Bill 343*/*House Bill 484* (both passed)** authorize the establishment and provide for the composition of a family council in a nursing home. The bills detail the role of nursing homes in relationship to the family council. A family council is a group of individuals who work

together to improve the quality of life of nursing home residents and to protect the rights of those residents.

The Disabled

Department of Disabilities

Senate Bill 188 (passed), an Administration initiative, establishes the Department of Disabilities, the Maryland Commission on Disabilities, and an Interagency Disabilities Board within the new department. The bill transfers the Governor's Office for Individuals with Disabilities' employees, property, funds, and all associated administrative responsibilities to the new department. The department will be the principal agency responsible for developing, maintaining, revising, and enforcing statewide disability policies and standards. The department will:

- serve as principal advisor to the Governor on the means and methods to (1) implement and fund support to individuals with disabilities according to the State disabilities plan; (2) modify or consolidate support to individuals with disabilities; and (3) collaborate with federal, regional, and local units of government to enhance the effectiveness of and funding for support to individuals with disabilities;

- adopt regulations to implement the State disabilities plan;

- annually recommend capital budget projects to the Department of Budget and Management to promote access to State-owned facilities for individuals with disabilities;

- assist units of State government to identify federal, State, local, and private funds available to the State for programs and services for individuals with disabilities; and

- provide technical assistance to local jurisdictions in planning and implementing collaborative strategies consistent with the State disabilities plan.

The State disabilities plan must include the coordination of support services that:

- assure compliance with the federal Americans with Disabilities Act and other relevant federal and State provisions to protect the civil rights of individuals with disabilities;

- are necessary for an individual with a disability to achieve maximum participation in the mainstream in the most integrated setting possible; and

- address, on a statewide basis, the improvement of (1) communities' capacity to support individuals with disabilities with personal attendant care and other self-directed long-term

care options; (2) the availability of accessible, integrated, and affordable housing; (3) reliable transportation options; (4) employment and training options; (5) somatic and mental health options; (6) accessible and universally designed technology; (7) support services for children, youth, and families to enable them to achieve successful learning; and (8) family support services.

By July 1 of each year, each unit of State government will develop a unit plan to implement the State disabilities plan that includes an implementation schedule and measurable strategic performance objectives. The Secretary of Disabilities may request amendments to a unit plan if it is not in agreement with the State disabilities plan. Each unit must provide an evaluation of the unit's performance in implementing its plan to the department by July 1 of each year.

Vulnerable Adults

***House Bill 1016* (passed)** creates a Task Force on Missing Vulnerable Adults. The task force will (1) identify, access, and compile data about missing adults; (2) make recommendations on establishing better communication between counties and the State when vulnerable adults are missing; (3) make recommendations to establish a system to locate and identify missing vulnerable adults and identify unclaimed deceased adults who may be missing vulnerable adults; (4) make recommendations for law enforcement protocols to work with the broadcast media to locate missing adults; (5) investigate integration with Amber Alert and the broadcast media in locating missing vulnerable adults; and (6) report its findings and recommendations to the Governor and the General Assembly by October 1, 2005. The bill terminates on October 31, 2005.

Children

Child Welfare

Staffing Ratios

Only nine of Maryland's local jurisdictions currently meet Child Welfare League of America (CWLA) staffing ratios for child welfare positions. More than 200 additional caseworkers and supervisors are needed to meet CWLA ratios in the remaining 15 jurisdictions. Attainment of CWLA staffing ratios has been hindered by insufficient appropriations, abolishment of over 260 positions by the Board of Public Works, and the current hiring freeze.

***Senate Bill 772*/*House Bill 1202* (both failed)** would have required the Department of Budget and Management and the Department of Human Resources (DHR) to develop appropriate caseload ratios for child welfare workers using the ratios recommended by CWLA, submit a plan for implementation of reduced caseload ratios, and hire additional child welfare caseworkers to maintain the new ratios.

Though Senate Bill 772/House Bill 1202 failed, the General Assembly adopted budget language restricting $1.5 million in general funds unless DHR achieves specified numbers of filled caseworker and supervisor positions by certain dates. Budget narrative was also adopted that states that it is the intent of the budget committees that DHR develop appropriate caseload to staff ratios for child welfare services based on CWLA standards and submit a plan for implementation of reduced caseload to staff ratios. The narrative strongly encourages the Governor to include sufficient funding in the fiscal 2006 budget to achieve and maintain the caseload ratios developed.

Out-of-home Placements

Senate Bill 711 ***(passed)*** alters the factors that a local department of social services must consider in determining a permanency plan for a child in an out-of-home placement to give priority to placing the child in the jurisdiction where the child's parent or guardian resides. Senate Bill 711 also requires the Special Secretary for the Office for Children, Youth, and Families, in consultation with the Department of Health and Mental Hygiene (DHMH) and the Department of Juvenile Services (DJS), to conduct a study of out-of-home placements and develop a plan to meet the goals of the bill.

Senate Bill 99/***House Bill 367*** ***(both passed)*** create a State Board for Certification of Residential Child Care Program Administrators within DHMH and require residential child care program administrators to receive State certification by October 2007. These bills codify a recommendation of the Governor's Task Force to Study the Licensing and Monitoring of Community-Based Homes for Children.

Juvenile Services

Senate Bill 768/***House Bill 1083*** ***(both failed)*** as amended, would have substantially reorganized the manner in which DJS provides services to the children in its custody. Senate Bill 768/House Bill 1083 would have required DJS to designate at least five operational regions within the State and to operate detention and commitment facilities no larger than 48 beds each. The Secretary of Juvenile Services would have been required to appoint a regional director for each region, and each region would have been required to include at least one detention facility and a sufficient number of committed facilities to serve children in the region. Senate Bill 768/House Bill 1083 also would have required DJS to develop a Facilities Master Plan, implement a program of volunteer mentoring, operate a pilot program for year-round educational programming outside the public school system for children in two group homes, and assume control of operations at the Charles H. Hickey, Jr. School. A Facilities Master Plan consistent with a five-region approach is required under a conference committee amendment to the capital budget, ***Senate Bill 191*** ***(passed)***. The plan must be submitted to designated committees of the General Assembly by January 15, 2006.

Senate Bill 767 ***(passed)*** requires DJS to establish a program of step-down aftercare for all children discharged from committed DJS residential placements. In addition, by December 31, 2004, DJS must report on the population of children who are in need of intensive and high-need aftercare supervision, the staffing ratios for these populations, the staffing levels that would

be needed to adequately serve these populations, and a timetable for adequately serving the populations.

Children in Need of Assistance

Senate Bill 693 ***(failed)*** would have provided express authority for a court to grant custody and guardianship of a child in need of assistance to a relative or nonrelative upon consideration of a report by a local department of social services or child placement agency on the suitability of the prospective guardian. The bill was intended to close a loophole in current law that allows a court to appoint a guardian without the protections that currently apply to foster care or adoption, such as home studies and background checks. Funding to implement the provisions of Senate Bill 693 was included in Supplemental Budget #2, contingent on the bill's enactment.

Medically Fragile Children

A medically fragile child is a child who (1) depends on mechanical ventilation for at least part of each day; (2) requires prolonged intravenous administration of nutritional substances or drugs; (3) depends on other device-based respiratory or nutritional support; or (4) depends on other medical devices that compensate for bodily functions and requires daily or near daily nursing care. ***Senate Bill 477*** ***(passed)*** requires the Governor's Office for Individuals with Disabilities (now the Department of Disabilities due to passage of ***Senate Bill 188***), with the assistance of DHR and DHMH, to study the placement of medically fragile children in Maryland and report its findings and recommendations to the Senate Finance Committee and the House Judiciary Committee by December 1, 2004.

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