

Vetoed Bills and Messages from the Governor of Maryland

A total of 74 bills were vetoed by the Governor following the 2021 Regular Session of the General Assembly. Of these vetoed bills, 15 originated in the Senate and 59 of them originated in the House of Delegates. Pursuant to the provisions of Article II, Section 17 of the Maryland Constitution, these bills will be returned to the General Assembly immediately after the Legislature has organized at the next Regular or Special Session to be reconsidered in order to determine whether the veto is sustained or overridden.

2021 Session

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Vetoed Senate Bills and Messages

May 28, 2021

The Honorable Bill Ferguson
President of the Maryland Senate
H-107 State House
Annapolis, MD 21401

The Honorable Adrienne A. Jones
Speaker of the Maryland House of Delegates
H-101 State House
Annapolis, MD 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 9 – *State Employees – Collective Bargaining – Applicability, Bargaining Processes, and Memorandums of Understanding*, Senate Bill 717/House Bill 904 – *State Personnel – Collective Bargaining – Exclusive Representative Access to New Employees*, and Senate Bill 746/House Bill 894 – *Education – Community Colleges – Collective Bargaining*. These pieces of legislation seek to address problems that do not exist and change labor practices that have worked for decades, while creating several burdensome fiscal and operational hardships.

Senate Bill 9 – *State Employees – Collective Bargaining – Applicability, Bargaining Processes, and Memorandums of Understanding*

This legislation revokes the legislative authority of the twelve institution presidents to designate a representative to negotiate on behalf of their institution and assigns this role to the University System of Maryland Chancellor. This new process will give labor unions the authority to veto the institution president's right to negotiate matters. The consolidated bargaining required under this legislation will likely disadvantage the University System of Maryland's smaller institutions that have fewer financial resources, including the System's Historically Black Colleges and Universities.

Additionally, other issues will arise because each institution has its own distinct mission, and they vary by size, budget, research category, geographic location, labor market, and proportion of employees represented in collective bargaining.

Senate Bill 717 and House Bill 904 – *State Personnel – Collective Bargaining – Exclusive Representative Access to New Employees*

This legislation would significantly expand a union's initial access to new employees by requiring University System of Maryland Institutions to transmit a new employee's name, unit, and all employee identification to the union president. In addition to being

unacceptably invasive to employees, this practice could result in an employee being at a higher risk for identity theft.

Senate Bill 746 and House Bill 894 – Education – Community Colleges – Collective Bargaining

This legislation establishes a uniform statewide collective bargaining process for Community College employees at a time when Community Colleges across the state are still facing challenges from the COVID-19 pandemic. The extra expenses associated with collective bargaining will put a severe strain on counties and the budgets of community colleges, most likely leading to increased tuition costs at a time when affordable training and education opportunities are needed the most.

The time is simply not right for the implementation of these pieces of legislation that will harm students, employees, and institutions of higher education in Maryland.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 9

AN ACT concerning

State Employees – Collective Bargaining – Applicability, Bargaining Processes, and Memorandums of Understanding

FOR the purpose of requiring the Chancellor of the University System of Maryland to act on behalf of the University System of Maryland and certain system institutions for the purpose of collective bargaining; ~~altering the application of certain collective bargaining requirements to certain employees by requiring the State Labor Relations Board and the State Higher Education Labor Relations Board to make certain determinations based on certain definitions used by a certain national board;~~ repealing a provision of law authorizing certain presidents of certain system institutions to cooperate for the purpose of collective bargaining; specifying that certain good faith negotiations between certain parties include facilitating the meaningful use of a certain fact finder under certain provisions of law; repealing a provision of law regarding the termination of a certain cooperating agreement; ~~providing for the negotiation of~~ requiring the Chancellor and the exclusive representative to negotiate the terms of a certain consolidated memorandum of understanding ~~between a certain exclusive representative and the Chancellor~~ under certain circumstances; requiring that a certain consolidated memorandum of understanding include terms relating to certain matters; authorizing the president of a system institution, or the president's designee, and the exclusive representative to negotiate and enter into a separate agreement regarding certain matters; prohibiting a certain consolidated memorandum of understanding from including certain terms;

requiring that certain matters, on mutual agreement and in writing, be negotiated by certain parties or as part of a certain consolidated memorandum of understanding under certain circumstances; specifying certain effective dates of a certain consolidated memorandum of understanding; specifying the application of certain standards and guidelines to certain employees by the University System of Maryland and the Board of Regents under certain circumstances; providing for the application of this Act; making conforming changes; defining a certain term; and generally relating to collective bargaining for State employees.

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions

Section 3–101, ~~3–102(b)(11) through (13)~~, 3–2A–09(a), 3–306(c), 3–403(d), 3–501(a), (b), (d), and (f), and 3–601

Annotated Code of Maryland

(2015 Replacement Volume and 2020 Supplement)

BY repealing

Article – State Personnel and Pensions

Section 3–602

Annotated Code of Maryland

(2015 Replacement Volume and 2020 Supplement)

BY adding to

Article – State Personnel and Pensions

Section 3–602

Annotated Code of Maryland

(2015 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – Education

Section 12–110

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

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

Article – State Personnel and Pensions

3–101.

(a) In this title the following words have the meanings indicated.

(b) “Board” means:

(1) with regard to any matter relating to employees of any of the units of State government described in § 3–102(a)(1)(i) through (iv) and (vi) through (x) of this

subtitle and employees described in § 3–102(a)(2) of this subtitle, the State Labor Relations Board; and

(2) with regard to any matter relating to employees of any State institution of higher education described in § 3–102(a)(1)(v) of this subtitle, the State Higher Education Labor Relations Board.

(C) “CHANCELLOR” HAS THE MEANING STATED IN § 12–101 OF THE EDUCATION ARTICLE.

[(c)] (D) “Collective bargaining” means:

(1) good faith negotiations by authorized representatives of employees and their employer with the intention of:

(i) 1. reaching an agreement about wages, hours, and other terms and conditions of employment; and

2. incorporating the terms of the agreement in a written memorandum of understanding or other written understanding; or

(ii) clarifying terms and conditions of employment;

(2) administration of terms and conditions of employment; or

(3) the voluntary adjustment of a dispute or disagreement between authorized representatives of employees and their employer that arises under a memorandum of understanding or other written understanding.

[(d)] (E) “Employee organization” means a labor or other organization in which State employees participate and that has as one of its primary purposes representing employees.

[(e)] (F) “Exclusive representative” means an employee organization that has been certified by the Board as an exclusive representative under Subtitle 4 of this title.

[(f)] (G) “President” means:

(1) with regard to a constituent institution, as defined in § 12–101 of the Education Article, the president of the constituent institution;

(2) with regard to a center or institute, as those terms are defined in § 12–101 of the Education Article, the president of the center or institute;

(3) with regard to the University System of Maryland Office, the Chancellor of the University System of Maryland; and

(4) with regard to Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College, the president of the institution.

[(g)] (H) "System institution" means:

(1) a constituent institution, as defined in § 12-101 of the Education Article;

(2) a center or institute, as those terms are defined in § 12-101 of the Education Article; and

(3) the University System of Maryland Office.

~~3-102.~~

~~(b) This title does not apply to:~~

~~(11) any supervisory, managerial, or confidential employee of a unit of State government listed in subsection (a)(1)(i) through (iv) and (vi) through (x) of this section, as defined in regulations adopted by the [Secretary] BOARD CONSISTENT WITH SIMILAR DEFINITIONS ADOPTED BY THE NATIONAL LABOR RELATIONS BOARD;~~

~~(12) any supervisory, managerial, or confidential employee of a State institution of higher education listed in subsection (a)(1)(v) of this section, as defined in regulations adopted by the [governing board of the institution] BOARD CONSISTENT WITH SIMILAR DEFINITIONS ADOPTED BY THE NATIONAL LABOR RELATIONS BOARD; or~~

~~(13) any employee described in subsection (a)(2) of this section who is a supervisory, managerial, or confidential employee, as defined in regulations adopted by the [Secretary] BOARD AND SUBSTANTIALLY CONSISTENT WITH SIMILAR DEFINITIONS ADOPTED BY THE NATIONAL LABOR RELATIONS BOARD.~~

3-2A-09.

(a) If **THE CHANCELLOR**, a president, a system institution, an exclusive representative, or a person fails to comply with an order issued by the Board, a member of the Board may petition the circuit court to order **THE CHANCELLOR**, the president, **THE** system institution, an exclusive representative, or **A** person to comply with the Board's order.

3-306.

(c) (1) This subsection applies to [a system institution] **THE CHANCELLOR**, an employee organization for employees of a system institution, and its officers, employees, agents, or representatives.

(2) In addition to the unfair labor practices in subsections (a) and (b) of this section, [a system institution] **THE CHANCELLOR** and an employee organization are prohibited from failing to meet an established negotiation deadline, unless a written agreement between the [system institution] **CHANCELLOR**, or [its] **THE CHANCELLOR'S** officers, employees, agents, or representatives, and the exclusive representative provides otherwise.

3–403.

(d) (1) Each system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College shall have separate bargaining units.

(2) [The presidents of the system institutions may agree to cooperate for the purpose of collective bargaining:

(i) before the election of exclusive representatives; or

(ii) after the certification of exclusive representatives under § 3–406(a) of this subtitle.

(3) Appropriate bargaining units shall consist of:

(i) all eligible nonexempt employees, as described in the federal Fair Labor Standards Act, except eligible sworn police officers;

(ii) all eligible exempt employees, as described in the federal Fair Labor Standards Act; and

(iii) all eligible sworn police officers.

3–501.

(a) (1) The following individuals or entities shall designate one or more representatives to participate as a party in collective bargaining on behalf of the State or the following institutions:

(i) on behalf of the State, the Governor;

(ii) on behalf of [a system institution, the president of the system institution] **THE UNIVERSITY SYSTEM OF MARYLAND, THE CHANCELLOR**; and

(iii) on behalf of Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College, the governing board of the institution.

(2) The exclusive representative shall designate one or more representatives to participate as a party in collective bargaining on behalf of the exclusive representative.

(b) The parties shall meet at reasonable times and engage in collective bargaining in good faith, **INCLUDING FACILITATING THE MEANINGFUL USE OF A FACT FINDER UNDER SUBSECTION (C)(3) OF THIS SECTION, AND** to conclude a written memorandum of understanding or other written understanding as defined under **[§ 3-101(c)(1)(ii)] § 3-101(D)(1)(II)** of this title.

(d) (1) A memorandum of understanding that incorporates all matters of agreement reached by the parties shall be executed by the exclusive representative and:

(i) for a memorandum of understanding relating to the State, the Governor or the Governor's designee;

(ii) for a memorandum of understanding relating to a system institution, **[the president of the system institution or the president's] THE CHANCELLOR OR THE CHANCELLOR'S** designee; and

(iii) for a memorandum of understanding relating to Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College, the governing board of the institution or the governing board's designee.

(2) To the extent these matters require legislative approval or the appropriation of funds, the matters shall be recommended to the General Assembly for approval or for the appropriation of funds.

(3) To the extent matters involving a State institution of higher education require legislative approval, the legislation shall be recommended to the Governor for submission to the General Assembly.

(f) (1) The terms of a memorandum of understanding executed by the Governor or the Governor's designee and an exclusive representative of a bargaining unit for skilled service or professional service employees in the State Personnel Management System are not applicable to employees of a State institution of higher education.

(2) The terms of a memorandum of understanding executed by **[a president of a system institution] THE CHANCELLOR** or the governing board of Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College, or their respective designees, and the exclusive representative of a bargaining unit for employees of a State institution of higher education are not applicable to skilled service or professional service employees in the State Personnel Management System.

3–601.

(a) (1) A memorandum of understanding shall contain all matters of agreement reached in the collective bargaining process.

(2) The memorandum shall be in writing and signed by the exclusive representative involved in the collective bargaining negotiations and:

(i) for a memorandum of understanding relating to the State, the Governor or the Governor’s designee;

(ii) for a memorandum of understanding relating to a system institution **OR THE UNIVERSITY SYSTEM OF MARYLAND**, [the president of the system institution or the president’s designee] **THE CHANCELLOR OR THE CHANCELLOR’S DESIGNEE**; and

(iii) for a memorandum of understanding relating to Morgan State University, St. Mary’s College of Maryland, or Baltimore City Community College, the governing board of the institution or the governing board’s designee.

(b) No memorandum of understanding is valid if it extends for less than 1 year or for more than 3 years.

(c) (1) Except as provided in paragraph (2) of this subsection, a memorandum of understanding is not effective until it is ratified by the Governor and a majority of the votes cast by the employees in the bargaining unit.

(2) In the case of a State institution of higher education **OR THE UNIVERSITY SYSTEM OF MARYLAND**, a memorandum of understanding is not effective until it is ratified by the institution’s governing board **OR THE UNIVERSITY SYSTEM OF MARYLAND BOARD OF REGENTS** and a majority of the votes cast by the employees in the bargaining unit.

[3–602.

The president of a system institution may elect to terminate a cooperation agreement with another system institution, entered into for the purpose of collective bargaining with exclusive representatives, effective on the termination date of the memorandum of understanding between the exclusive representatives and the system institutions that are parties to the cooperation agreement.]

3–602.

(A) ~~WITH~~ SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, WITH REGARD TO THE UNIVERSITY SYSTEM OF MARYLAND, IF AN EXCLUSIVE

REPRESENTATIVE REPRESENTS MORE THAN ONE BARGAINING UNIT OF EMPLOYEES AND REQUESTS TO BARGAIN A CONSOLIDATED MEMORANDUM OF UNDERSTANDING;

~~(1)~~ THE CHANCELLOR AND THE EXCLUSIVE REPRESENTATIVE SHALL NEGOTIATE THE TERMS OF ONE CONSOLIDATED MEMORANDUM OF UNDERSTANDING TO APPLY TO ALL BARGAINING UNITS FOR EMPLOYEES OF ALL SYSTEM INSTITUTIONS REPRESENTED BY THE EXCLUSIVE REPRESENTATIVE; ~~AND~~.

~~(2) ON MUTUAL AGREEMENT AND IN WRITING, THE PARTIES MAY DESIGNATE~~

(B) (1) A CONSOLIDATED MEMORANDUM OF UNDERSTANDING SHALL INCLUDE TERMS RELATING TO:

(I) CONTRACTING OUT OR SUPPLEMENTING BARGAINING UNIT WORK;

(II) DURATION OF THE CONSOLIDATED MEMORANDUM OF UNDERSTANDING;

(III) EMPLOYEE RIGHTS;

(IV) GRIEVANCE AND APPEALS OF DISCIPLINE;

(V) HEALTH, SAFETY, AND WELFARE, INCLUDING PERSONAL PROTECTIVE EQUIPMENT;

(VI) INSURANCE RELATED TO HEALTH AND OTHER BENEFITS;

(VII) UNION STEWARDS;

(VIII) LABOR MANAGEMENT COMMITTEES;

(IX) LAYOFFS AND RECALL;

(X) LEAVE;

(XI) MAINTENANCE OF MEMBERSHIP;

(XII) MANAGEMENT RIGHTS;

(XIII) NONDISCRIMINATION;

(XIV) PERFORMANCE EVALUATIONS;

(XV) PERSONNEL FILES;

(XVI) PROBATIONARY PERIODS;

(XVII) RECOGNITION AND SCOPE;

(XVIII) RETIREMENT BENEFITS;

(XIX) TUITION REMISSION;

(XX) RIGHTS AND RESPONSIBILITIES OF ESSENTIAL WORKERS;

(XXI) UNION RIGHTS; AND

(XXII) WAGES AND SALARIES.

(2) (I) A PRESIDENT OF A SYSTEM INSTITUTION, OR THE PRESIDENT'S DESIGNEE, AND THE EXCLUSIVE REPRESENTATIVE SHALL NEGOTIATE AND ENTER INTO A SEPARATE AGREEMENT REGARDING THE FOLLOWING MATTERS:

1. DESIGNATION OF ESSENTIAL EMPLOYEES;

2. STUDENT BREAKS AND HOLIDAYS;

3. HOURS OF WORK;

4. OTHER COMPENSATION THAT DOES NOT DIRECTLY IMPACT WAGES OR SALARY;

5. SHIFT DIFFERENTIALS;

6. TELEWORKING; AND

7. UNIFORMS AND EQUIPMENT.

(II) A CONSOLIDATED MEMORANDUM OF UNDERSTANDING MAY NOT INCLUDE TERMS RELATING TO THE MATTERS LISTED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(3) FOR A MATTER PARTICULAR TO A SYSTEM INSTITUTION ~~TO BE NEGOTIATED~~ THAT IS NOT LISTED IN PARAGRAPH (1) OR (2) OF THIS SUBSECTION, THE MATTER SHALL BE NEGOTIATED:

(I) ON MUTUAL AGREEMENT AND IN WRITING, BY THE EXCLUSIVE REPRESENTATIVE AND THE PRESIDENT OF THE SYSTEM INSTITUTION OR THE PRESIDENT'S DESIGNEE; OR

(II) IF THE PARTIES IN ITEM (I) OF THIS PARAGRAPH CANNOT MUTUALLY AGREE, AS PART OF THE CONSOLIDATED MEMORANDUM OF UNDERSTANDING.

~~(B) (C)~~ ON CONCLUSION OF NEGOTIATIONS UNDER ~~SUBSECTION (A) OF THIS SECTION, ALL MATTERS OF AGREEMENT, INCLUDING THOSE AGREEMENTS REACHED UNDER SUBSECTION~~ REGARDING MATTERS LISTED IN SUBSECTION (A)(2) (B)(1) AND (B)(3) OF THIS SECTION, SHALL BE INCLUDED IN THE CONSOLIDATED MEMORANDUM OF UNDERSTANDING.

~~(C) (D)~~ SUBJECT TO § 3-603 OF THIS SUBTITLE, THE EFFECTIVE DATE OF A CONSOLIDATED MEMORANDUM OF UNDERSTANDING UNDER THIS SECTION SHALL BE JULY 1 TO ALIGN WITH THE FISCAL YEAR OF THE UNIVERSITY SYSTEM OF MARYLAND AND SHALL CONTINUE IN EFFECT UNTIL A SUBSEQUENT JUNE 30.

Article – Education

12-110.

(a) (1) Upon the recommendation of the Chancellor who shall consult with the presidents, and in accordance with the requirements of Title 3 of the State Personnel and Pensions Article, the Board of Regents shall establish general standards and guidelines governing the appointment, compensation, advancement, tenure, and termination of all faculty and [administrative personnel] **UNREPRESENTED EMPLOYEES** in the University System of Maryland **AND SHALL APPLY THE STANDARDS AND GUIDELINES IN A NEGOTIATED MEMORANDUM OF UNDERSTANDING TO ALL REPRESENTED EMPLOYEES COVERED BY THE MEMORANDUM OF UNDERSTANDING.**

(2) These standards and guidelines shall recognize the diverse missions of the constituent institutions.

(b) The Board of Regents may establish **FOR UNREPRESENTED EMPLOYEES, AND THE CHANCELLOR MAY NEGOTIATE FOR REPRESENTED EMPLOYEES,** different standards of compensation based on the size and missions of the constituent institutions.

(c) Subject to such standards and guidelines, and in accordance with the requirements of Title 3 of the State Personnel and Pensions Article, a president may:

(1) Prescribe additional personnel policies; and

(2) Approve individual personnel actions affecting the terms and conditions of academic and administrative appointments.

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law or any stated or negotiated expiration date, all terms of a presently existing memorandum of understanding under Title 3, Subtitle 6 of the State Personnel and Pensions Article may not be impaired in any way by this Act and shall remain in full force and effect until a successor memorandum of understanding is agreed to and ratified.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2021.

May 28, 2021

The Honorable Adrienne A. Jones
Speaker of the House of Delegates
H-101 State House
Annapolis, MD 21401

The Honorable Bill Ferguson
President of the Senate
H-107 State House
Annapolis, MD 21401

Dear Speaker Jones and President Ferguson:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 133 and Senate Bill 30 – *State Finance and Procurement – Appropriation Reductions (Board of Public Works Budget Reduction Clarification Act)*.

While the legislative branch dominated Maryland's budget process more than a century ago, it is important to remember that the resulting chaos, out of control spending, and massive revenue shortfall led to a Constitutional Amendment that created an executive centered budget model. Although that model remains among the most unique in the nation, our budgets of today are largely dictated by the many – and often unfunded – spending mandates passed by the General Assembly. By targeting the Governor's authority to make midyear budget reductions, House Bill 133 and Senate Bill 30 are yet another power grab by the legislative branch that serves only to inhibit the executive branch's ability – and Constitutional responsibility to best manage the State's fiscal health in times of unforeseen crisis and fiscal uncertainty.

The Constitution of Maryland requires the State budget to be balanced; throughout the entire process of submission, amendment, and enactment of the Budget Bill, estimated

revenues must be equal to or greater than total appropriations. As a cost containment tool, midyear budget reductions allow the Governor, with approval of the Board of Public Works, to efficiently navigate and decisively avoid or mitigate the perils of a quickly deteriorating economy. My Administration understands the magnitude of this responsibility and the decision to bring budget reductions before the Board is never easy; during my six years in office, we have taken midyear budget reductions to the Board only five times. This flexibility to address budget shortfalls is recognized as a strength and Maryland has steadily maintained its AAA bond rating; currently, we are one of only 13 states to receive this top rating from all three major credit rating agencies. Unfortunately, House Bill 133 and Senate Bill 30 subvert this process by restricting the reduction limit and creating unnecessary layers of red tape.

The current budget reduction process provides a balanced approach that allows the Governor to act swiftly with Board oversight and full transparency. House Bill 133 and Senate Bill 30 undermine this process and continue to chip away at Maryland's effective and successful budget model. By further tying the hands of its Chief Executive, this legislation places politics above the fiscal health of our State.

For these reasons, I have vetoed House Bill 133 and Senate Bill 30.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 30

AN ACT concerning

State Finance and Procurement – Appropriation Reductions (Board of Public Works Budget Reduction Clarification Act)

FOR the purpose of limiting the authorization for the Governor, with the approval of the Board of Public Works, to reduce certain appropriations to not more than a certain percent of the total appropriation for any ~~line item~~ eight-digit program in the State operating budget in any fiscal year; altering the number of ~~business~~ days the Board must wait before approving a proposed reduction of an appropriation after the Secretary of Budget and Management publishes and provides certain notice of the proposed reduction; and generally relating to the State budget and the Department of Budget and Management.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 7–213
Annotated Code of Maryland
(2015 Replacement Volume and 2020 Supplement)

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

Article – State Finance and Procurement

7–213.

(a) (1) Subject to paragraph (2) of this subsection and except as provided in subsection (b) of this section, with the approval of the Board of Public Works, the Governor may reduce, by not more than 25% **OF THE ~~TOTAL APPROPRIATION~~ LEGISLATIVE APPROPRIATION AS APPROVED BY THE GENERAL ASSEMBLY FOR ANY ~~LINE ITEM~~ EIGHT-DIGIT PROGRAM IN THE STATE OPERATING BUDGET IN ANY FISCAL YEAR**, any appropriation:

(i) that the Governor considers unnecessary; or

(ii) that is subject to budgetary reductions required under the budget bill as approved by the General Assembly.

(2) At least **[3] ~~10-business~~ 7 CALENDAR** days before the Board of Public Works may approve a proposed reduction of an appropriation under this subsection, the Secretary of Budget and Management shall:

(i) publish on the Department of Budget and Management’s Web site, in a machine-readable format, notice of the proposed reduction, including:

1. the name of the State agency or program for which the appropriation is intended and a brief narrative summary of the impact of the proposed reduction on the State agency or program;

2. the amount of the proposed reduction in both dollar and percentage values;

3. the fund source of the appropriation subject to the proposed reduction; and

4. any projected reductions in workforce as a result of the proposed reduction;

(ii) provide the notice required under subparagraph (i) of this paragraph to the Board of Public Works for publication, in a machine-readable format, on the Board’s Web site; and

(iii) provide written notice of the proposed reduction, including the items specified under subparagraph (i) of this paragraph, to:

1. the Legislative Policy Committee;

2. the Senate Budget and Taxation Committee; and
3. the House Appropriations Committee.

(b) (1) The Governor may not reduce an appropriation to the Legislative Branch or the Judicial Branch of the State government.

(2) The Governor may not reduce an appropriation for:

- (i) payment of the principal of or interest on the State debt;
- (ii) public schools, including the Maryland School for the Deaf;
- (iii) the Maryland School for the Blind; or
- (iv) the salary of a public officer, during the term of office.

(3) Except as provided in § 8–109 of the State Personnel and Pensions Article, the Governor may not reduce an appropriation for the salary of any nontemporary employee in the State Personnel Management System.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021.

April 8, 2021

The Honorable Adrienne A. Jones
Speaker of the House of Delegates
H–101 State House
Annapolis, MD 21401

The Honorable Bill Ferguson
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Speaker Jones and President Ferguson:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 37 and Senate Bill 35 – *Procurement – Prevailing Wage – Applicability*.

One of the top priorities of my Administration has been to make Maryland a better place for job creators. After inheriting an abysmal business climate reputation six years ago, much work has been done in our State to achieve one of the greatest economic turnarounds in the nation. Unfortunately, this legislation reverses course on some of the important progress we have made – and does so at a time when many still are struggling from the pandemic. In raising the cost of doing business with the State, House Bill 37 and Senate Bill 35 do nothing more than hurt Maryland’s small businesses and taxpayers.

By applying the State’s prevailing wage law to a greater number of public work projects, this legislation will generate unintended and negative consequences for employers and workers. With labor costs at nearly one third of all construction costs, public work projects will become more expensive and jobs may be lost due to fewer projects being funded. Our small business job creators, the backbone of our economy, stand to lose the most – while large contractors are in a better position to withstand the added cost, small and minority-owned businesses will be hurt disproportionately and many will be unable or unwilling to bid on certain projects. Compounding the cost barrier, burdensome paperwork is yet another hurdle for smaller businesses, many of whom lack the staff or resources necessary for keeping up with the additional red tape. Legislation such as this, that arbitrarily inflates cost, impedes participation, and stifles competition — all at a higher price for taxpayers — absolutely is not in the best interest of our State.

Now more than ever, when infrastructure projects will play an integral role in our recovery from the COVID–19 pandemic, we should be even more mindful of Maryland’s economic climate and strive toward making it easier to do business in *and with* our State.

For these reasons, I have vetoed House Bill 37 and Senate Bill 35.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 35

AN ACT concerning

Procurement – Prevailing Wage – Applicability

FOR the purpose of ~~repealing~~ altering a certain limitation on the applicability of the Prevailing Wage Law to the construction of a public work by revising a certain definition; altering the application of the Prevailing Wage Law to certain public work contracts by reducing a certain contract threshold to a certain amount; providing for the application of this Act; making conforming changes; and generally relating to the applicability of the Prevailing Wage Law.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement

Section 17–201 and 17–202
Annotated Code of Maryland
(2015 Replacement Volume and 2020 Supplement)

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

Article – State Finance and Procurement

17–201.

(a) In this subtitle, unless the context indicates otherwise, the following words have the meanings indicated.

(b) “Apprentice” means an individual who:

(1) is at least 16 years old;

(2) has signed with an employer or employer’s agent, an association of employers, an organization of employees, or a joint committee from both, an agreement including a statement of:

(i) the trade, craft, or occupation that the individual is learning; and

(ii) the beginning and ending dates of the apprenticeship; and

(3) is registered in a program of the Council or the Office of Apprenticeship of the United States Department of Labor.

(c) “Commissioner” means:

(1) the Commissioner of Labor and Industry;

(2) the Deputy Commissioner of Labor and Industry; or

(3) an authorized representative of the Commissioner.

(d) “Construction” includes all:

(1) building;

(2) reconstructing;

(3) improving;

(4) enlarging;

(5) painting and decorating;

(6) altering;

(7) maintaining; and

(8) repairing.

(e) “Council” means the Apprenticeship and Training Council.

(f) (1) “Employee” means an apprentice or worker employed by a contractor or subcontractor under a public work contract.

(2) “Employee” does not include an individual employed by a public body.

(g) (1) “Locality” means the county in which the work is to be performed.

(2) If the public work is located within 2 or more counties, the locality includes all counties in which the public work is located.

(h) “Prevailing wage rate” means the hourly rate of wages paid in the locality as determined by the Commissioner under § 17–208 of this subtitle.

(i) (1) “Public body” means:

(i) the State;

(ii) except as provided in paragraph (2)(i) of this subsection, a unit of the State government or instrumentality of the State;

(iii) any political subdivision, agency, person, or entity~~;~~

~~1. with respect to the construction of an elementary or a secondary school for which 25% or more of the money used for construction is State money;~~
~~or~~

~~2. with respect to the construction of any other public work [for which 50% 25% or more of the money used for construction is] FUNDED IN WHOLE OR IN PART WITH State money;~~

(iv) notwithstanding paragraph (2)(ii) of this subsection, a political subdivision if its governing body:

1. provides by ordinance or resolution that the political subdivision is covered by this subtitle; and

Commissioner; and

2. gives written notice of that ordinance or resolution to the

(v) the Washington Suburban Sanitary Commission.

(2) "Public body" does not include:

(i) except as provided in paragraph (1)(v) of this subsection, a unit of the State government or instrumentality of the State funded wholly from a source other than the State; or

(ii) any political subdivision, agency, person, or entity~~;~~

~~1. with respect to the construction of an elementary or a secondary school for which less than 25% of the money used for construction is State money;~~ or

~~2.~~ with respect to the construction of any ~~other~~ public work for which less than ~~50%~~ 25% of the money used for construction is State money~~;~~.

(j) (1) Subject to paragraph (2) of this subsection, "public work" means a structure or work, including a bridge, building, ditch, road, alley, waterwork, or sewage disposal plant, that:

(i) is constructed for public use or benefit; or

(ii) is paid for wholly or partly by public money.

(2) "Public work" does not ~~include~~:

~~(i)~~ **INCLUDE, INCLUDE:**

(I) unless let to contract, a structure or work whose construction is performed by a public service company under order of the Public Service Commission or other public authority regardless of:

~~1. (I) 1.~~ public supervision or direction; or

~~2. (II) 2.~~ payment wholly or partly from public money; **OR**

(II) A CAPITAL PROJECT THAT RECEIVES MORE THAN 25% IN STATE FUNDS AND IS FUNDED IN THE ANNUAL STATE CAPITAL BUDGET AS:

~~1. A MISCELLANEOUS GRANT PROGRAM;~~

~~2.~~ **A LOCAL HOUSE OF DELEGATES INITIATIVE; OR**

~~3. 2. A LOCAL SENATE INITIATIVE; or~~~~(ii) an elementary or a secondary school if:~~~~1. the school is not in a political subdivision covered under subsection (i)(1)(iv) of this section; and~~~~2. the State provides less than 25% of the money for construction.~~

(k) “Public work contract” means a contract for construction of a public work.

(l) “Worker” means a laborer or mechanic.

17–202.

(a) This subtitle does not limit:

(1) the hours of work an employee may work in a particular period of time;

or

(2) the right of a contractor to pay an employee under a public work contract more than the prevailing wage rate.

(b) This subtitle does not apply to:

(1) a public work contract of less than ~~[\$500,000]~~ **\$250,000**; or

(2) the part of a public work contract for which the federal government provides money if, as to that part, the contractor is required to pay the prevailing wage rate as determined by the United States Secretary of Labor.

(c) If this subtitle and the federal Davis–Bacon Act apply and the federal act is suspended, the Governor may declare this subtitle suspended for the same period for:

(1) the part of that public work contract for which the United States Secretary of Labor would have been required to make a determination of a prevailing wage rate; or

(2) that entire public work contract.

(d) (1) Subject to paragraph (2) of this subsection, this subtitle applies to the construction of a structure or work, including a bridge, a building, a ditch, a road, an alley, a waterwork, or a sewage disposal plant, funded with bond proceeds from bonds issued in accordance with Title 12, Subtitle 2 of the Economic Development Article that is located in

a designated tax increment financing development district created on or after July 1, 2018, established under State or local law.

(2) This subsection applies to the construction of a structure or work only if a political subdivision of the State, Baltimore City, or the Revenue Authority of Prince George's County authorizes that the construction of the structure or work is subject to this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only to a public work contract executed on or after October 1, 2021.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

April 9, 2021

The Honorable Adrienne A. Jones
Speaker of the House of Delegates
H-101 State House
Annapolis, MD 21401

The Honorable Bill Ferguson
President of the Senate
H-107 State House
Annapolis, MD 21401

Dear Speaker Jones and President Ferguson:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 71 – *Maryland Police Accountability Act of 2021 – Body-Worn Cameras, Employee Programs, and Use of Force*; Senate Bill 178 – *Maryland Police Accountability Act of 2021 – Search Warrants and Inspection of Records Relating to Police Misconduct*; and House Bill 670 – *Maryland Police Accountability Act of 2021 – Police Discipline and Law Enforcement Programs and Procedures*.

I was hopeful that the hard work done over the past year by the House Workgroup to Address Police Reform and Accountability and the Judicial Proceedings Committee would yield bipartisan legislation to achieve necessary reforms in our police departments to protect civil rights and increase public trust in law enforcement. I would like to acknowledge the efforts of the General Assembly in working with members of the work group, law enforcement, the state's attorneys, and advocates to develop a number of independent bills that could have resulted in impactful improvements in policing. Unfortunately, the original intent of these bills appears to have been overtaken by political

agendas that do not serve the public safety interests of the citizens of Maryland. These bills would undermine the goal that I believe we share of building transparent, accountable, and effective law enforcement institutions and instead further erode police morale, community relationships, and public confidence. They will result in great damage to police recruitment and retention, posing significant risks to public safety throughout our state. Under these circumstances, I have no choice but to uphold my primary responsibility to keep Marylanders safe, especially those that live in vulnerable communities most impacted by violent crime, and veto these bills.

SB 71 – Maryland Police Accountability Act of 2021 – Body-Worn Cameras, Employee Programs, and Use of Force

I have continually supported the use of body cameras by our frontline law enforcement officers, and our administration has provided funding to facilitate purchasing these cameras. Several districts have already moved forward in expanding this initiative, and I want to make it abundantly clear that I have no problems with the body camera provisions in this bill. Unfortunately, as amended, this bill also creates a wholly new and uncharted use of force standard. Current law, based on the Supreme Court decision in *Graham v. O'Connor*, establishes an objective standard that police officers' use of force must be "objectively reasonable in light of the facts and circumstances confronting them." This bill jettison's this long established objective test for a vague and undefined test of judging whether the force was "proportional." Such a standard would expose every officer's actions to the sort of speculation that the U.S. Supreme Court rejected in fashioning the current standard of excessive force in the *Graham* case. I cannot support a hindsight review of an officer's actions when the officer must react in a split-second to a deadly situation that could pose a threat to their own life and the lives of citizen bystanders. This new standard will leave the courts with no guidance, causing confusion for officers and courts alike. Excessive use of force is already prohibited under Maryland criminal law (e.g., assault, reckless endangerment, murder) and a new prohibition aimed solely at police officers is unnecessary and harmful. As a whole, this bill as amended is misguided and threatens the lives and safety of our citizens and first responders.

SB 178 – Maryland Police Accountability Act of 2021 – Search Warrants and Inspection of Records Relating to Police Misconduct

When 19-year old Anton Black was tragically killed in 2019, I was among the first to call for full transparency and answers for his family from law enforcement and the medical examiner's office. I support updating procedures for executing search warrants and the disclosure of investigatory and personnel records. Unfortunately, the processes outlined in this bill places the lives of the officers as well as the occupants of the dwelling at unnecessary risk. Limitations such as the requirement to serve no-knock warrants between the hours of 8:00 a.m. and 7:00 p.m., voiding the warrant after ten days, and requiring a 20 second delay before entering a residence while serving a regular warrant needlessly endangers police officers, occupants, and bystanders. The provisions of this bill that impact the release of Investigatory and Personnel Records are equally disturbing. Officers who are exonerated will still be subject to having their records exposed. As amended, these provisions place the officers' safety at risk, erode officers' relationships with

the residents of our most vulnerable communities, and deter witness participation in the prosecution of violent crimes.

HB 670 – Maryland Police Accountability Act of 2021 – Police Discipline and Law Enforcement Programs and Procedures

The proponents of this bill's stated intent is a complete repeal of the Law Enforcement Officers' Bill of Rights and a replacement with another process. Unfortunately, this was done in a haphazard fashion with little collaboration from all interested stakeholders. The result is a bill that does very little to increase accountability that law enforcement officers deserve and the public should expect. Instead of a uniform, statewide process of police discipline, this bill would create a patchwork of hundreds of locally devised processes. The disciplinary authority of chiefs and sheriffs has been substantially undermined, thereby lessening their ability to discipline and remove problem officers. The basic due process protections to which police are entitled, have been removed. This leaves police disciplinary hearings subject to arbitrary and capricious disciplinary procedures. The convoluted investigatory and disciplinary processes created in this bill will force unnecessary delays and confusion. The lack of consistency in establishing the membership of the entities created by this bill will inevitably lead to disparities in enforcement of police discipline between districts. Our police and our citizens deserve far better. The extreme flaws in this bill leave me no alternative but to veto this bill.

For these reasons, I have vetoed Senate Bill 71 – *Maryland Police Accountability Act of 2021 – Body-Worn Cameras, Employee Programs, and Use of Force*; Senate Bill 178 – *Maryland Police Accountability Act of 2021 – Search Warrants and Inspection of Records Relating to Police Misconduct (Anton's Law)*; and House Bill 670 – *Maryland Police Accountability Act of 2021 – Police Discipline and Law Enforcement Programs and Procedures*.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 71

AN ACT concerning

~~**Police Officers – Testimony – Presumption of Inadmissibility
(Maryland Police Accountability Act of 2021)**~~

Maryland Police Accountability Act of 2021 – Body-Worn Cameras, Employee Programs, and Use of Force

FOR the purpose of ~~providing that a knowing and willful failure of a certain police officer to activate a body worn camera creates a rebuttable presumption that certain testimony is inadmissible in a certain proceeding; providing that a certain presumption may be rebutted by a certain showing;~~ requiring certain law

~~enforcement agencies to require the use of body-worn cameras by certain law enforcement officers on or before a certain date; requiring all law enforcement agencies of a county in the State to require the use of body-worn cameras by certain law enforcement officers on or before a certain date; requiring certain law enforcement agencies to develop and maintain certain policies; establishing the Task Force on Statewide Body Camera Implementation; providing for the composition, chair, and staffing of the Task Force; prohibiting a member of the Task Force from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Task Force to study and make recommendations regarding certain matters; requiring the Task Force to report its findings and recommendations to the Governor and the General Assembly on or before a certain date; requiring a certain body-worn camera to automatically record and save a certain amount of video footage at a certain time; prohibiting a law enforcement agency from negating or altering certain requirements or policies through collective bargaining; altering a certain provision of law requiring each law enforcement agency to establish a certain early intervention policy to instead require a system to identify police officers who are at risk of engaging in certain behavior; requiring each law enforcement agency to provide access to a certain employee assistance program for certain police officers; establishing certain requirements for a certain program; requiring each law enforcement agency to develop a policy to provide access to certain services at no cost to a police officer; requiring each police officer to sign a certain pledge; establishing certain use of force standards; requiring a police officer to take certain steps to gain compliance and de-escalate conflict under certain circumstances; requiring a police officer to intervene to prevent or terminate the use of certain force by a certain police officer; requiring a police officer to render certain first aid to a certain subject and request certain assistance at a certain time; requiring a police supervisor to respond to the scene of a certain incident and gather and review certain recordings; requiring a law enforcement agency to adopt a certain policy; requiring a police officer to undergo certain training; requiring a police officer to sign a certain training completion document; prohibiting a police officer from intentionally violating a certain provision of law, resulting in serious physical injury or death to a person; establishing certain penalties; providing that a certain sentence may be separate from and consecutive to or concurrent with a certain other sentence; altering the termination date for the Law Enforcement Body Camera Task Force; altering the duties of the Task Force; requiring the Task Force to submit an additional report of its findings and recommendations on or before a certain date; providing for a delayed effective date for certain provisions of this Act; providing for the application of this Act; defining certain terms; providing for the termination of a certain provision of this Act; and generally relating to testimony of police officers body-worn cameras, employee programs, and use of force.~~

~~BY adding to~~

~~Article — Criminal Procedure~~

~~Section 2-109~~

~~Annotated Code of Maryland~~

~~(2018 Replacement Volume and 2020 Supplement)~~

BY repealing and reenacting, with amendments,

Article – Public Safety

Section 3–511 and 3–516

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

BY adding to

Article – Public Safety

Section 3–523 and 3–524

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Chapter 309 of the Acts of the General Assembly of 2020

Section 1(f) and (g) and 2

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

~~Article – Criminal Procedure~~

~~2–109.~~

~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:~~

~~(2) “LAW ENFORCEMENT AGENCY” HAS THE MEANING STATED IN § 3–201 OF THE PUBLIC SAFETY ARTICLE.~~

~~(3) “POLICE OFFICER” HAS THE MEANING STATED IN § 3–201 OF THE PUBLIC SAFETY ARTICLE.~~

~~(B) THIS SECTION APPLIES TO A POLICE OFFICER WHO IS REQUIRED TO USE A BODY WORN CAMERA WHILE ON DUTY BY THE LAW ENFORCEMENT AGENCY THAT EMPLOYS THE POLICE OFFICER.~~

~~(C) (1) THE KNOWING AND WILLFUL SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE INTENTIONAL FAILURE OF A POLICE OFFICER TO ACTIVATE A BODY WORN CAMERA, IN VIOLATION OF THE POLICY OF THE LAW ENFORCEMENT AGENCY THAT EMPLOYS THE POLICE OFFICER, CREATES A REBUTTABLE PRESUMPTION THAT ANY TESTIMONY OF THE POLICE OFFICER SOUGHT TO BE INTRODUCED IN A CRIMINAL PROSECUTION RELATING TO THE INCIDENT THAT WAS NOT RECORDED IS INADMISSIBLE.~~

~~(D) (2) THE PRESUMPTION IN SUBSECTION (C) OF THIS SECTION MAY BE REBUTTED BY A SHOWING THAT:~~

~~(1) (i) THE BODY-WORN CAMERA WAS NOT ACTIVATED DUE TO A MALFUNCTION OF THE CAMERA;~~

~~(ii) THE POLICE OFFICER WAS:~~

~~1. NOT AWARE OF THE MALFUNCTION; OR~~

~~2. NOT ABLE TO FIX THE MALFUNCTION BEFORE THE INCIDENT; AND~~

~~(iii) THE LAW ENFORCEMENT AGENCY'S DOCUMENTATION SHOWS THAT THE POLICE OFFICER CHECKED THE FUNCTIONALITY OF THE BODY-WORN CAMERA AT THE BEGINNING OF THE POLICE OFFICER'S SHIFT; OR~~

~~(2) IT WAS UNSAFE, IMPRACTICAL, OR IMPOSSIBLE FOR THE LAW ENFORCEMENT OFFICER TO ACTIVATE THE BODY-WORN CAMERA.~~

Article – Public Safety

3-511.

(A) IN THIS SECTION, "LAW ENFORCEMENT AGENCY" HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.

(B) On or before January 1, 2016, the Maryland Police Training and Standards Commission shall develop and publish online a policy for the issuance and use of a body-worn camera by a law enforcement officer that addresses:

(1) the testing of body-worn cameras to ensure adequate functioning;

(2) the procedure for the law enforcement officer to follow if the camera fails to properly operate at the beginning of or during the law enforcement officer's shift;

(3) when recording is mandatory;

(4) when recording is prohibited;

(5) when recording is discretionary;

(6) when recording may require consent of a subject being recorded;

(7) when a recording may be ended;

- (8) providing notice of recording;
- (9) access to and confidentiality of recordings;
- (10) the secure storage of data from a body-worn camera;
- (11) review and use of recordings;
- (12) retention of recordings;
- (13) dissemination and release of recordings;
- (14) consequences for violations of the agency's body-worn camera policy;
- (15) notification requirements when another individual becomes a party to the communication following the initial notification;
- (16) specific protections for individuals when there is an expectation of privacy in private or public places; and
- (17) any additional issues determined to be relevant in the implementation and use of body-worn cameras by law enforcement officers.

(C) (1) (I) THIS PARAGRAPH APPLIES TO:

- 1. THE DEPARTMENT OF STATE POLICE;**
- 2. THE ANNE ARUNDEL COUNTY POLICE DEPARTMENT;**
- 3. THE HOWARD COUNTY POLICE DEPARTMENT; AND**
- 4. THE HARFORD COUNTY SHERIFF'S OFFICE.**

(II) ON OR BEFORE JULY 1, 2023, A LAW ENFORCEMENT AGENCY TO WHICH THIS PARAGRAPH APPLIES SHALL REQUIRE THE USE OF BODY-WORN CAMERAS, SUBJECT TO THE POLICY ON THE USE OF BODY-WORN CAMERAS DEVELOPED BY THE LAW ENFORCEMENT AGENCY, BY EACH LAW ENFORCEMENT OFFICER EMPLOYED BY THE LAW ENFORCEMENT AGENCY WHO REGULARLY INTERACTS WITH MEMBERS OF THE PUBLIC AS PART OF THE LAW ENFORCEMENT OFFICER'S OFFICIAL DUTIES.

(2) ON OR BEFORE JULY 1, 2025, A LAW ENFORCEMENT AGENCY OF A COUNTY, OTHER THAN A LAW ENFORCEMENT AGENCY DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, SHALL REQUIRE THE USE OF BODY-WORN CAMERAS, SUBJECT TO THE POLICY ON THE USE OF BODY-WORN CAMERAS DEVELOPED BY THE

LAW ENFORCEMENT AGENCY, BY EACH LAW ENFORCEMENT OFFICER EMPLOYED BY THE LAW ENFORCEMENT AGENCY WHO REGULARLY INTERACTS WITH MEMBERS OF THE PUBLIC AS PART OF THE LAW ENFORCEMENT OFFICER'S OFFICIAL DUTIES.

(D) (1) A LAW ENFORCEMENT AGENCY DESCRIBED IN SUBSECTION (C) OF THIS SECTION SHALL DEVELOP AND MAINTAIN A WRITTEN POLICY CONSISTENT WITH THE POLICY PUBLISHED BY THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION UNDER SUBSECTION (B) OF THIS SECTION FOR THE USE OF BODY-WORN CAMERAS.

(2) A POLICY DEVELOPED AND MAINTAINED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL SPECIFY WHICH LAW ENFORCEMENT OFFICERS EMPLOYED BY THE LAW ENFORCEMENT AGENCY ARE REQUIRED TO USE BODY-WORN CAMERAS.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) There is a Task Force on Statewide Body Camera Implementation.

(b) The Task Force consists of the following members:

(1) one member of the Senate of Maryland, appointed by the President of the Senate;

(2) one member of the House of Delegates, appointed by the Speaker of the House;

(3) the Secretary of Information Technology, or the Secretary's designee;

(4) the Secretary of Budget and Management, or the Secretary's designee;

(5) the Secretary of General Services, or the Secretary's designee; and

(6) the following members, appointed by the Governor:

(i) one representative of the Maryland Municipal League;

(ii) one representative of the Maryland Association of Counties;

(iii) one representative of the Maryland Chiefs of Police Association;

(iv) one representative of the Maryland Sheriffs' Association;

(v) one representative of the Governor's Office of Homeland Security; and

~~(vi) one representative of the Governor's Office of Crime Prevention, Youth, and Victim Services.~~

~~(e) The Governor shall designate the chair of the Task Force.~~

~~(d) The Governor's Office of Crime Prevention, Youth, and Victim Services shall provide staff for the Task Force.~~

~~(e) A member of the Task Force:~~

~~(1) may not receive compensation as a member of the Task Force; but~~

~~(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.~~

~~(f) The Task Force shall:~~

~~(1) study and make findings on the implementation and feasibility of requiring the use of body worn cameras by law enforcement officers in counties and municipalities throughout the State, consistent with the requirements of Section 1 of this Act; and~~

~~(2) make recommendations regarding requiring the use of body worn cameras by counties and municipalities based on its findings.~~

~~(g) On or before July 1, 2022, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly.~~

~~SECTION 2. 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October June 1, 2021. Section 2 of this Act shall remain effective for a period of 1 year and 6 months and, at the end of December 31, 2022, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.~~

(E) A BODY-WORN CAMERA THAT POSSESSES THE REQUISITE TECHNOLOGICAL CAPABILITY SHALL AUTOMATICALLY RECORD AND SAVE AT LEAST 60 SECONDS OF VIDEO FOOTAGE IMMEDIATELY PRIOR TO THE OFFICER ACTIVATING THE RECORD BUTTON ON THE DEVICE.

(F) A LAW ENFORCEMENT AGENCY MAY NOT NEGATE OR ALTER ANY OF THE REQUIREMENTS OR POLICIES ESTABLISHED IN ACCORDANCE WITH THIS SECTION THROUGH COLLECTIVE BARGAINING.

*(a) Each law enforcement agency shall establish a confidential and nonpunitive early intervention [policy for counseling officers who receive three or more citizen complaints within a 12-month period] **SYSTEM TO IDENTIFY POLICE OFFICERS WHO ARE AT RISK OF ENGAGING IN THE USE OF EXCESSIVE FORCE AND TO PROVIDE THE OFFICERS WITH TRAINING, BEHAVIORAL INTERVENTIONS, REASSIGNMENTS, OR OTHER APPROPRIATE RESPONSES TO REDUCE THE RISK OF THE USE OF EXCESSIVE FORCE.***

*(b) A [policy] **SYSTEM** described in this section may not prevent the investigation of or imposition of discipline for any particular complaint.*

3-523.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “EMPLOYEE ASSISTANCE PROGRAM” MEANS A WORK-BASED PROGRAM OFFERED TO ALL POLICE OFFICERS THAT PROVIDES ACCESS TO VOLUNTARY AND CONFIDENTIAL SERVICES TO ADDRESS THE MENTAL HEALTH ISSUES OF A POLICE OFFICER STEMMING FROM PERSONAL AND WORK-RELATED CONCERNS, INCLUDING STRESS, FINANCIAL ISSUES, LEGAL ISSUES, FAMILY PROBLEMS, OFFICE CONFLICTS, AND ALCOHOL AND SUBSTANCE ABUSE DISORDERS.

(3) “LAW ENFORCEMENT AGENCY” HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.

(4) “POLICE OFFICER” HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.

(B) EACH LAW ENFORCEMENT AGENCY SHALL PROVIDE ACCESS TO AN EMPLOYEE ASSISTANCE PROGRAM FOR ALL POLICE OFFICERS WHOM THE LAW ENFORCEMENT AGENCY EMPLOYS.

(C) THE EMPLOYEE ASSISTANCE PROGRAM REQUIRED BY THIS SECTION SHALL PROVIDE POLICE OFFICERS ACCESS TO CONFIDENTIAL MENTAL HEALTH SERVICES, INCLUDING:

(1) COUNSELING SERVICES;

(2) CRISIS COUNSELING;

(3) STRESS MANAGEMENT COUNSELING;

(4) RESILIENCY SESSIONS; AND

(5) PEER SUPPORT SERVICES FOR POLICE OFFICERS.

(D) (1) IN ADDITION TO THE REQUIREMENTS OF § 3-516 OF THIS SUBTITLE AND SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AS PART OF THE EMPLOYEE ASSISTANCE PROGRAM REQUIRED BY THIS SECTION, BEFORE A POLICE OFFICER RETURNS TO FULL DUTY, A LAW ENFORCEMENT AGENCY SHALL PROVIDE:

(I) A VOLUNTARY MENTAL HEALTH CONSULTATION AND VOLUNTARY COUNSELING SERVICES TO THE POLICE OFFICER IF THE POLICE OFFICER IS INVOLVED IN AN INCIDENT INVOLVING AN ACCIDENT RESULTING IN A FATALITY; AND

(II) A MANDATORY MENTAL HEALTH CONSULTATION AND VOLUNTARY COUNSELING SERVICES TO THE POLICE OFFICER IF THE POLICE OFFICER IS INVOLVED IN AN INCIDENT INVOLVING:

1. A SERIOUS INJURY TO THE POLICE OFFICER;

2. AN OFFICER-INVOLVED SHOOTING; OR

3. ANY USE OF FORCE RESULTING IN A FATALITY OR SERIOUS INJURY.

(2) A MENTAL HEALTH CONSULTATION AND COUNSELING SERVICE PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE CONFIDENTIAL.

(E) THE EMPLOYEE ASSISTANCE PROGRAM REQUIRED BY THIS SECTION SHALL INCLUDE A COMPONENT DESIGNED TO PROTECT THE MENTAL HEALTH OF POLICE OFFICERS DURING PERIODS OF PUBLIC DEMONSTRATIONS AND UNREST.

(F) EACH LAW ENFORCEMENT AGENCY SHALL DEVELOP A POLICY TO PROVIDE ACCESS TO THE SERVICES REQUIRED BY THIS SECTION AT NO COST TO A POLICE OFFICER.

3-524.

(A) THIS SECTION SHALL BE KNOWN AS THE MARYLAND USE OF FORCE STATUTE.

(B) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "LAW ENFORCEMENT AGENCY" HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.

(3) “POLICE OFFICER” MEANS:

(I) A POLICE OFFICER AS DEFINED IN § 3-201 OF THIS TITLE;

OR

(II) A SPECIAL POLICE OFFICER AS DEFINED IN § 3-301 OF THIS TITLE.

(4) “SERIOUS PHYSICAL INJURY” HAS THE MEANING STATED IN § 3-201 OF THE CRIMINAL LAW ARTICLE.

(C) EACH POLICE OFFICER SHALL SIGN AN AFFIRMATIVE WRITTEN SANCTITY OF LIFE PLEDGE TO RESPECT EVERY HUMAN LIFE AND ACT WITH COMPASSION TOWARD OTHERS.

(D) (1) A POLICE OFFICER MAY NOT USE FORCE AGAINST A PERSON UNLESS ~~A POLICE OFFICER UNDER SIMILAR CIRCUMSTANCES WOULD BELIEVE THAT,~~ UNDER THE TOTALITY OF THE CIRCUMSTANCES, THE FORCE IS NECESSARY AND PROPORTIONAL TO:

(I) PREVENT AN IMMINENT THREAT OF PHYSICAL INJURY TO A PERSON; OR

(II) EFFECTUATE A LEGITIMATE LAW ENFORCEMENT OBJECTIVE.

(2) A POLICE OFFICER SHALL CEASE THE USE OF FORCE AS SOON AS:

(I) THE PERSON ON WHOM THE FORCE IS USED:

1. IS UNDER THE POLICE OFFICER’S CONTROL; OR

2. NO LONGER POSES AN IMMINENT THREAT OF PHYSICAL INJURY OR DEATH TO THE POLICE OFFICER OR TO ANOTHER PERSON; OR

(II) THE POLICE OFFICER DETERMINES THAT FORCE WILL NO LONGER ACCOMPLISH A LEGITIMATE LAW ENFORCEMENT OBJECTIVE.

(E) A POLICE OFFICER SHALL:

(1) WHEN TIME, CIRCUMSTANCES, AND SAFETY ALLOW, TAKE STEPS TO GAIN COMPLIANCE AND DE-ESCALATE CONFLICT WITHOUT USING PHYSICAL FORCE;

(2) INTERVENE TO PREVENT OR TERMINATE THE USE OF FORCE BY ANOTHER POLICE OFFICER BEYOND WHAT IS AUTHORIZED UNDER SUBSECTION (D) OF THIS SECTION;

(3) RENDER BASIC FIRST AID TO A PERSON INJURED AS A RESULT OF POLICE ACTION AND PROMPTLY REQUEST APPROPRIATE MEDICAL ASSISTANCE; AND

(4) FULLY DOCUMENT ALL USE OF FORCE INCIDENTS THAT THE OFFICER OBSERVED OR WAS INVOLVED IN.

(F) A POLICE SUPERVISOR SHALL:

(1) RESPOND TO THE SCENE OF ANY INCIDENT DURING WHICH A POLICE OFFICER USED PHYSICAL FORCE AND CAUSED SERIOUS PHYSICAL INJURY; AND

(2) GATHER AND REVIEW ALL KNOWN VIDEO RECORDINGS OF A USE OF FORCE INCIDENT.

(G) A LAW ENFORCEMENT AGENCY SHALL:

(1) HAVE A WRITTEN DE-ESCALATION OF FORCE POLICY; AND

(2) ADOPT A WRITTEN POLICY REQUIRING SUPERVISORY AND COMMAND-LEVEL REVIEW OF ALL USE OF FORCE INCIDENTS.

(H) A POLICE OFFICER SHALL:

(1) UNDERGO TRAINING ON WHEN A POLICE OFFICER MAY OR MAY NOT DRAW A FIREARM OR POINT A FIREARM AT A PERSON AND ENFORCEMENT OPTIONS THAT ARE LESS LIKELY TO CAUSE DEATH OR SERIOUS PHYSICAL INJURY, INCLUDING SCENARIO-BASED TRAINING, DE-ESCALATION TACTICS AND TECHNIQUES, AND REASONABLE ALTERNATIVES TO DECREASE PHYSICAL INJURY; AND

(2) SIGN A TRAINING COMPLETION DOCUMENT STATING THAT THE OFFICER UNDERSTANDS AND SHALL COMPLY WITH THE MARYLAND USE OF FORCE STATUTE.

(I) (1) A POLICE OFFICER MAY NOT INTENTIONALLY VIOLATE SUBSECTION (D) OF THIS SECTION, RESULTING IN SERIOUS PHYSICAL INJURY OR DEATH TO A PERSON.

(2) A POLICE OFFICER WHO VIOLATES PARAGRAPH (1) OF THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS.

(3) A SENTENCE IMPOSED UNDER THIS SUBSECTION MAY BE SEPARATE FROM AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY CRIME BASED ON THE ACT ESTABLISHING A VIOLATION OF THIS SUBSECTION.

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

Chapter 309 of the Acts of 2020

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(f) The Task Force shall:

(1) study options for the economical storage of audio and video recordings made by law enforcement body-worn cameras; [and]

(2) make recommendations for storage considering the budgets of State, county, local, and campus law enforcement jurisdictions;

(3) STUDY AND MAKE FINDINGS ON THE IMPLEMENTATION AND FEASIBILITY OF REQUIRING THE USE OF BODY-WORN CAMERAS BY POLICE OFFICERS IN COUNTIES AND MUNICIPALITIES THROUGHOUT THE STATE; AND

(4) MAKE RECOMMENDATIONS REGARDING REQUIRING THE USE OF BODY-WORN CAMERAS BY COUNTIES AND MUNICIPALITIES BASED ON ITS FINDINGS.

(g) On or before December 1, 2020, AND DECEMBER 1, 2022, the Task Force shall report its findings and recommendations to the General Assembly, in accordance with § 2-1257 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2020. It shall remain effective for a period of [1 year] 3 YEARS and, at the end of June 30, [2021] 2023, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect July 1, 2022.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect June 1, 2021.

May 28, 2021

The Honorable Bill Ferguson
President of the Senate
H-107 State House
Annapolis, Maryland 21401

The Honorable Adrienne A. Jones
Speaker of the House
H-101 State House
Annapolis, Maryland 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 95 and House Bill 174 – *Public Utilities – Investor-Owned Utilities – Prevailing Wage*.

This legislation threatens to put additional undue financial stress on Maryland ratepayers at a critical period where they continue to face the detrimental fiscal and social impacts of the COVID-19 pandemic. If implemented, HB 174/SB 95 has the potential for a meaningful increase in utility rates for Marylanders. In addition, HB 174/SB 95 also puts unwanted financial burdens on Maryland utility contractors by requiring they shoulder the additional labor costs of establishing a prevailing wage for utility projects. During this fragile rebuilding period for our state, I cannot risk putting additional strain on our ratepayers and small business contractors who are working faithfully to maintain our energy infrastructure.

Lastly, this poorly crafted legislation does not reconcile the existing law with the proposed new public utility requirements. The state's current Prevailing Wage laws provide a detailed process to establish wage rates for government-funded public work projects. In requiring private contractors working on utility projects to pay a prevailing wage, HB 174/SB 95 failed to update the underlying laws to facilitate compliance and provide clarity to Maryland businesses working on critical gas and electric practices.

For these reasons, I have vetoed House Bill 174 and Senate Bill 95.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 95

AN ACT concerning

Public Utilities – Investor–Owned Utilities – Prevailing Wage

FOR the purpose of requiring certain investor–owned gas, electric, or combination gas and electric companies to require certain contractors and subcontractors to pay their employees not less than the prevailing wage rate for certain projects; and generally relating to investor–owned utilities and the prevailing wage.

BY adding to

Article – Public Utilities

Section 5–305

Annotated Code of Maryland

(2020 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, without amendments,

Article – State Finance and Procurement

Section 17–201(h)

Annotated Code of Maryland

(2015 Replacement Volume and 2020 Supplement)

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

Article – Public Utilities

5–305.

(A) THIS SECTION APPLIES TO A PROJECT BY AN INVESTOR–OWNED GAS COMPANY, ELECTRIC COMPANY, OR COMBINATION GAS AND ELECTRIC COMPANY INVOLVING THE CONSTRUCTION, RECONSTRUCTION, INSTALLATION, DEMOLITION, RESTORATION, OR ALTERATION OF ANY UNDERGROUND GAS OR ELECTRIC INFRASTRUCTURE OF THE COMPANY, AND ANY RELATED TRAFFIC CONTROL ACTIVITIES.

(B) AN INVESTOR–OWNED GAS COMPANY, ELECTRIC COMPANY, OR COMBINATION GAS AND ELECTRIC COMPANY SHALL REQUIRE A CONTRACTOR OR SUBCONTRACTOR ON A PROJECT DESCRIBED IN SUBSECTION (A) OF THIS SECTION TO PAY ITS EMPLOYEES NOT LESS THAN THE PREVAILING WAGE RATE DETERMINED BY THE COMMISSIONER OF LABOR AND INDUSTRY UNDER TITLE 17, SUBTITLE 2 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

Article – State Finance and Procurement

17–201.

(h) “Prevailing wage rate” means the hourly rate of wages paid in the locality as determined by the Commissioner under § 17–208 of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

May 28, 2021

The Honorable Bill Ferguson
President of the Senate
H–107 State House
Annapolis, Maryland 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 97 – *Purple Line Marketing Act*.

This bill is premature in its timeline, reduces budget flexibility, and legislatively unnecessary. Over the past 13 months, nearly every revenue source of the Transportation Trust Fund (TTF) has been significantly impacted due to the COVID–19 pandemic, and the Maryland Department of Transportation (MDOT) continues to piece together the resources needed to ensure there are no detrimental impacts to Maryland’s transportation system. As the revenue declines associated with COVID–19 have underscored, it is imperative that MDOT retain the flexibility to respond to changing economic conditions.

MDOT has in–depth experience with developing marketing plans for major transportation projects and I am confident that their team is developing a superior plan for the Purple Line on a timeline and with a budget that they believe is appropriate. The process for selecting a new design–build contractor to complete the Purple Line project is currently ongoing. Until a firm is selected, a construction schedule is confirmed, and a new and revised in–service date for the Purple Line is established, it is premature to mandate funds for a marketing plan. Once there is a more definitive timeline, MDOT will work with the surrounding community and partners to implement an effective marketing plan, and our Administration will ensure they have the necessary resources to do so.

As Maryland continues to recover from the COVID–19 pandemic, it is necessary that we allocate funds and resources for the most immediate and necessary projects. Any mandated spending at this point is detrimental, and we need to be focused on rebuilding our State’s economy in a responsible way.

For these reasons, I have vetoed Senate Bill 97.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 97

AN ACT concerning

Purple Line Marketing Act

FOR the purpose of requiring the Maryland Transit Administration, in cooperation with certain stakeholders, to develop and implement a Purple Line marketing plan; specifying the requirements of the marketing plan; requiring the Governor to include in the annual budget bill a certain amount from the Transportation Trust Fund for the Purple Line marketing plan in a certain fiscal ~~years~~ year; requiring the Administration, on or before a certain date, to submit a report to certain standing committees of the General Assembly on certain elements of the Purple Line marketing plan; defining a certain term; ~~providing for the termination of this Act;~~ and generally relating to a marketing program for the Purple Line.

BY adding to

Article – Transportation
Section 7–713
Annotated Code of Maryland
(2020 Replacement Volume)

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

Article – Transportation

7–713.

(A) IN THIS SECTION, “PURPLE LINE” MEANS THE 16–MILE LIGHT RAIL TRANSIT LINE BETWEEN BETHESDA IN MONTGOMERY COUNTY AND NEW CARROLLTON IN PRINCE GEORGE’S COUNTY.

(B) THE ADMINISTRATION SHALL, IN COOPERATION WITH PURPLE LINE TRANSIT PARTNERS, AMTRAK, THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY, LOCAL GOVERNMENTS, DEVELOPMENT AGENCIES, MONTGOMERY COUNTY AND PRINCE GEORGE’S COUNTY PUBLIC AND PRIVATE SCHOOLS, AND OTHER STAKEHOLDERS, DEVELOP AND IMPLEMENT A MARKETING PLAN TO:

(1) GENERATE INTEREST IN THE PURPLE LINE BEFORE THE START OF OPERATIONS; AND

(2) PROMOTE THE USE OF THE PURPLE LINE AFTER THE START OF OPERATIONS WITH THE GOAL OF MAXIMIZING RIDERSHIP.

(C) THE MARKETING PLAN SHALL, AT A MINIMUM:

(1) MAKE USE OF A VARIETY OF MARKETING MEDIA, INCLUDING BROADCAST MEDIA, SOCIAL MEDIA, AND RADIO, AS WELL AS PARTNERSHIPS;

(2) IDENTIFY INTERCONNECTIONS WITH OTHER LOCAL AND INTERSTATE TRANSIT SYSTEMS, INCLUDING AMTRAK, AGENCIES THAT PROVIDE LOCAL BUS SERVICES, MARYLAND AREA REGIONAL COMMUTER TRAIN SERVICE, METROBUS, AND METRORAIL SERVICES;

(3) IDENTIFY PEDESTRIAN AND BICYCLE ACCESS TO PURPLE LINE STATIONS;

(4) INCLUDE A PUBLIC SAFETY EDUCATION PROGRAM TO PREVENT COLLISIONS, INJURIES, AND FATALITIES ON OR AROUND RAILROAD TRACKS, RAILROAD GRADE CROSSINGS, AND LIGHT RAIL TRACKS; AND

(5) PROVIDE INTEGRATED INFORMATION TO THE PUBLIC ON THE PURPLE LINE, INTERCONNECTED LOCAL AND INTERSTATE TRANSIT SYSTEMS, AND PEDESTRIAN ACCESS TO PURPLE LINE STATIONS.

(D) FOR THE FISCAL YEARS ~~2022~~ AND ~~2023~~ YEAR PRECEDING THE CALENDAR YEAR IN WHICH THE PURPLE LINE IS SCHEDULED TO OPEN, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION OF \$500,000 FROM THE TRANSPORTATION TRUST FUND FOR THE DEVELOPMENT OF THE MARKETING PLAN REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.

(E) (1) ON OR BEFORE OCTOBER 1, ~~2021~~ 2023, OR 12 MONTHS PRECEDING THE OPENING OF THE PURPLE LINE, WHICHEVER IS LATER, THE ADMINISTRATION SHALL SUBMIT A REPORT IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE TO THE SENATE BUDGET AND TAXATION COMMITTEE AND THE HOUSE APPROPRIATIONS COMMITTEE ON THE ACTIVITIES TO BE CONDUCTED BY THE ADMINISTRATION UNDER THE MARKETING PLAN REQUIRED UNDER SUBSECTION (B) OF THIS SECTION IN THE UPCOMING FISCAL YEAR.

(2) THE REPORT SHALL:

(I) PROVIDE A DETAILED ANALYSIS OF HOW THE ACTIVITIES PROPOSED BY THE ADMINISTRATION PROMOTE THE GOALS IDENTIFIED IN SUBSECTION (B) OF THIS SECTION; AND

(II) PROVIDE ESTIMATES FOR THE COST OF EACH ACTIVITY PROPOSED BY THE ADMINISTRATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021. ~~It shall remain effective for a period of 2 years and, at the end of June 30, 2023, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.~~

May 28, 2021

The Honorable Bill Ferguson
President of the Maryland Senate
H-107 State House
Annapolis, MD 21401

The Honorable Adrienne A. Jones
Speaker of the Maryland House of Delegates
H-101 State House
Annapolis, MD 21401

Dear Mr. President and Madam Speaker:

The COVID-19 pandemic has placed unprecedented and enormous fiscal strains on Maryland families and businesses. As we begin our road to recovery, it would be unconscionable to raise taxes on our citizens and job creators at this critical time. To do so would further add to the very heavy burden that our citizens are already facing and short-circuit Maryland's economic recovery. For these reasons, and in accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 133/House Bill 319 – *Local Tax Relief for Working Families Act of 2021*, House Bill 933 – *Anne Arundel County – Transfer Tax – Housing Trust Special Revenue Fund*, and House Bill 1209 – *Sales and Use Tax – Peer-to-Peer Car Sharing – Alterations*.

We came together this session to pass the RELIEF Act, providing over \$1.45 billion to struggling Marylanders and businesses with immediate and targeted tax cuts and financial relief, representing the largest tax cut in Maryland history. Unfortunately, the General Assembly dismissed additional opportunities to provide much-needed tax relief, particularly for Maryland's retirees. Instead, legislators pursued these misguided tax increases.

The most troubling aspect of Senate Bill 133 and House Bill 319 – *Local Tax Relief for Working Families Act of 2021* is that it masquerades as tax relief, when in reality there is no requirement for counties that implement a bracketed tax system to actually cut taxes. Instead, certain counties could keep their current rate as the new lowest rate and establish higher rates for higher-income residents, resulting in tax increases on one group of filers without providing any actual tax relief for the majority of taxpayers. In addition, this legislation raises the minimum floor that jurisdictions can set their local income taxes from 1% to 2.25%.

House Bill 933 – *Anne Arundel County – Transfer Tax – Housing Trust Special Revenue Fund* represents another tax that will be placed on the citizens of Anne Arundel County by granting the County the authority to increase the transfer tax on residential and commercial properties sold in Anne Arundel County. The most destructive aspect of this legislation is that it set no cap on how high the transfer tax could be set, which means if the imposed tax is high enough it could potentially destroy the affordable housing market by making it impossible to price new units low enough.

Lastly, House Bill 1209 – *Sales and Use Tax – Peer-to-Peer Car Sharing – Alterations* represents another tax that will be placed on the citizens of Maryland by repealing the 2021 termination date for the 8% sales and use tax imposed on peer-to-peer car sharing. In addition, this bill establishes a new sales and use tax rate 11.5% of the taxable price if the vehicle is a passenger vehicle or motorcycle that is part of a fleet of vehicles. This tax puts additional strain on the small businesses that operate under the peer-to-peer car sharing model.

Now more than ever, we cannot raise taxes and fees on struggling Marylanders. Instead, we should be making sure Marylanders can keep more of their hard-earned money in their pockets.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 133

AN ACT concerning

Local Tax Relief for Working Families Act of 2021

FOR the purpose of altering the calculation of a certain grant to certain counties under certain circumstances; altering the minimum tax rate that a county is required to impose on an individual's Maryland taxable income; ~~altering the maximum tax rate a county may impose on an individual's Maryland taxable income~~; authorizing a county to impose the county income tax on an income bracket basis under certain circumstances; requiring a county that imposes the county income tax on an income

bracket basis to set, by ordinance or resolution, certain income brackets; providing that the income brackets may differ from the income brackets to which the State income tax applies; prohibiting a county that imposes the county income tax on an income tax bracket basis from setting a minimum income tax rate less than a certain amount; prohibiting a county from applying an income tax rate to a certain income bracket that is less than a certain rate ~~or from imposing an income tax rate that is greater than a certain rate except under certain circumstances~~; authorizing a county to request certain information from the Comptroller for a certain purpose; making a conforming change; repealing certain obsolete language; providing for the application of this Act; and generally relating to the county income tax.

BY repealing and reenacting, with amendments,

Article – Local Government

Section 16–501

Annotated Code of Maryland

(2013 Volume and 2020 Supplement)

(As enacted by Chapter 26 of the Acts of the General Assembly of 2021)

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 10–106

Annotated Code of Maryland

(2016 Replacement Volume and 2020 Supplement)

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

Article – Local Government

16–501.

(a) Subject to subsection (e) of this section, for each fiscal year, the Comptroller shall pay to an eligible county a grant in the amount determined under subsection (c)(3) of this section.

(b) A county may not receive a grant under subsection (a) of this section if ANY OF the county’s income tax [rate was] RATES WERE less than 2.6%:

(1) for the taxable year that ended in the second prior fiscal year; or

(2) for any subsequent taxable year through the taxable year that ends in the current fiscal year.

(c) (1) For each fiscal year, the Comptroller shall determine for each county:

(i) the county income tax collected from individuals for the taxable year that ended in the second prior fiscal year, based on tax returns filed through November 1 of the year following the applicable taxable year; and

(ii) the amount of county income tax that the county would have received if the county income tax rate was 2.54%.

(2) For each fiscal year, the Comptroller shall determine as rounded to the nearest cent:

(i) the per capita yield of the county income tax for each county, based on:

1. the population of the county as last projected by the Maryland Department of Health for July 1 of the applicable taxable year or the latest decennial census for the applicable taxable year; and

2. the amount specified in paragraph (1)(ii) of this subsection; and

(ii) the per capita statewide yield of the county income tax, based on:

1. the State population as last projected by the Maryland Department of Health for July 1 of the applicable taxable year or the latest decennial census for the applicable taxable year; and

2. the amount of county income tax specified in paragraph (1)(ii) of this subsection for all counties.

(3) If the per capita yield of the county income tax for a county determined under paragraph (2)(i) of this subsection is less than 75% of the per capita statewide yield of the county income tax determined under paragraph (2)(ii) of this subsection, the Comptroller shall determine the amount that would increase the county per capita yield to equal 75% of the statewide per capita yield, as rounded to the nearest dollar.

(d) The Comptroller shall pay to an eligible county the amount determined under subsection (c)(3) of this section in quarterly payments during each fiscal year.

(e) (1) Except as provided in [paragraph (2)] PARAGRAPHS (2) AND (3) of this subsection, for fiscal year 2011 and each subsequent fiscal year, the distribution provided to any county or Baltimore City under this section may not exceed the amount distributed to the county or Baltimore City for fiscal year 2010.

(2) (i) THIS PARAGRAPH APPLIES TO A COUNTY OR BALTIMORE CITY IF THE COUNTY OR BALTIMORE CITY HAS A SINGLE COUNTY INCOME TAX RATE.

(II) If a county or Baltimore City has a county income tax rate of at least 2.8% but less than 3%, the county or Baltimore City may receive a minimum of 20% of the amount determined under subsection (c)(3) of this section.

[(ii)] (III) If a county or Baltimore City has a county income tax rate of at least 3% but less than 3.2%, the county or Baltimore City may receive a minimum of 40% of the amount determined under subsection (c)(3) of this section.

[(iii)] (IV) If a county or Baltimore City has a county income tax rate of at least 3.2%:

1. on or before June 30, 2017, the county or Baltimore City may receive a minimum of 60% of the amount determined under subsection (c)(3) of this section;

2. in fiscal year 2018, the county or Baltimore City may receive a minimum of 63.75% of the amount determined under subsection (c)(3) of this section;

3. in fiscal years 2019, 2020, and 2021, the county or Baltimore City may receive a minimum of 67.5% of the amount determined under subsection (c)(3) of this section; and

4. in fiscal year 2022, and each fiscal year thereafter, the county or Baltimore City may receive a minimum of 75% of the amount determined under subsection (c)(3) of this section.

(3) (I) THIS PARAGRAPH APPLIES TO A COUNTY OR BALTIMORE CITY IF THE COUNTY OR BALTIMORE CITY HAS MORE THAN ONE COUNTY INCOME TAX RATE.

(II) IF EACH COUNTY INCOME TAX RATE IMPOSED BY A COUNTY OR BALTIMORE CITY IS AT LEAST 2.8% BUT LESS THAN 3.0%, THE COUNTY OR BALTIMORE CITY MAY RECEIVE A MINIMUM OF 20% OF THE AMOUNT DETERMINED UNDER SUBSECTION (C)(3) OF THIS SECTION.

(III) IF THE LOWEST COUNTY INCOME TAX RATE IMPOSED BY A COUNTY OR BALTIMORE CITY IS AT LEAST 2.9% AND EACH COUNTY INCOME TAX RATE IMPOSED ON MARYLAND TAXABLE INCOME GREATER THAN \$100,000 IS AT LEAST 3.0%, THE COUNTY OR BALTIMORE CITY MAY RECEIVE A MINIMUM OF 40% OF THE AMOUNT DETERMINED UNDER SUBSECTION (C)(3) OF THIS SECTION.

(IV) IF THE LOWEST COUNTY INCOME TAX RATE IMPOSED BY A COUNTY OR BALTIMORE CITY IS AT LEAST 3.1% AND EACH COUNTY INCOME TAX RATE IMPOSED ON MARYLAND TAXABLE INCOME GREATER THAN \$100,000 IS AT

LEAST 3.2%, THE COUNTY OR BALTIMORE CITY MAY RECEIVE A MINIMUM OF 75% OF THE AMOUNT DETERMINED UNDER SUBSECTION (C)(3) OF THIS SECTION.

Article – Tax – General

10–106.

(a) (1) Each county shall set, by ordinance or resolution, a county income tax equal to at least [1%] **2.25%** but not more than ~~the percentage of an individual's Maryland taxable income as follows:~~

(i) ~~[3.05% for a taxable year beginning after December 31, 1998 but before January 1, 2001;~~

(ii) ~~3.10% for a taxable year beginning after December 31, 2000 but before January 1, 2002; and~~

~~(iii)]~~ **3.20% OF AN INDIVIDUAL'S MARYLAND TAXABLE INCOME** for a taxable year beginning after December 31, 2001, ~~BUT BEFORE JANUARY 1, 2022; AND~~

~~(H) 3.5% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2021.~~

(2) A county income tax rate continues until the county changes the rate by ordinance or resolution.

(3) (i) A county may not increase its county income tax rate above 2.6% until after the county has held a public hearing on the proposed act, ordinance, or resolution to increase the rate.

(ii) The county shall publish at least once each week for 2 successive weeks in a newspaper of general circulation in the county:

1. notice of the public hearing; and

2. a fair summary of the proposed act, ordinance, or resolution to increase the county income tax rate above 2.6%.

(4) Notwithstanding paragraph (1) or (2) of this subsection, in Howard County, the county income tax rate may be changed only by ordinance and not by resolution.

(b) If a county changes its county income tax rate, the county shall:

(1) increase or decrease the rate in increments of one one-hundredth of a percentage point, effective on January 1 of the year that the county designates; and

(2) give the Comptroller notice of the rate **OR INCOME BRACKET** change and the effective date of the rate **OR INCOME BRACKET** change on or before July 1 prior to its effective date.

(C) (1) FOR ANY COUNTY INCOME TAX RATE THAT IS EFFECTIVE ON OR AFTER JANUARY 1, 2022, THE COUNTY MAY APPLY THE COUNTY INCOME TAX ON A BRACKET BASIS.

(2) A COUNTY THAT IMPOSES THE COUNTY INCOME TAX ON A BRACKET BASIS:

(I) SHALL SET, BY ORDINANCE OR RESOLUTION, THE INCOME BRACKETS THAT APPLY TO EACH INCOME TAX RATE;

(II) MAY SET INCOME BRACKETS THAT DIFFER FROM THE INCOME BRACKETS TO WHICH THE STATE INCOME TAX APPLIES;

(III) MAY NOT SET A MINIMUM INCOME TAX RATE LESS THAN 2.25% OF AN INDIVIDUAL'S MARYLAND TAXABLE INCOME; AND

(IV) MAY NOT APPLY AN INCOME TAX RATE TO A HIGHER INCOME BRACKET THAT IS LESS THAN THE INCOME TAX RATE APPLIED TO A LOWER INCOME BRACKET.

(3) A COUNTY MAY REQUEST INFORMATION FROM THE COMPTROLLER TO ASSIST THE COUNTY IN DETERMINING INCOME BRACKETS AND APPLICABLE INCOME TAX RATES THAT ARE REVENUE-NEUTRAL FOR THE COUNTY.

~~**(D) A COUNTY MAY SET AN INCOME TAX RATE THAT IS GREATER THAN 3.2% ONLY ON MARYLAND TAXABLE INCOME THAT IS IN EXCESS OF TWO TIMES THE MAXIMUM INCOME TAX BRACKET THRESHOLD ESTABLISHED UNDER:**~~

~~**(1) § 10-105(A)(1) OF THIS SUBTITLE FOR INDIVIDUALS OTHER THAN AN INDIVIDUAL DESCRIBED IN ITEM (2) OF THIS SUBSECTION; AND**~~

~~**(2) § 10-105(A)(2) OF THIS SUBTITLE FOR SPOUSES FILING A JOINT RETURN OR FOR A SURVIVING SPOUSE OR HEAD OF HOUSEHOLD AS DEFINED IN § 2 OF THE INTERNAL REVENUE CODE.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2021, and shall be applicable to all taxable years beginning after December 31, 2021.

April 9, 2021

The Honorable Adrienne A. Jones
Speaker of the House of Delegates
H-101 State House
Annapolis, MD 21401

The Honorable Bill Ferguson
President of the Senate
H-107 State House
Annapolis, MD 21401

Dear Speaker Jones and President Ferguson:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 71 – *Maryland Police Accountability Act of 2021 – Body-Worn Cameras, Employee Programs, and Use of Force*; Senate Bill 178 – *Maryland Police Accountability Act of 2021 – Search Warrants and Inspection of Records Relating to Police Misconduct*; and House Bill 670 – *Maryland Police Accountability Act of 2021 – Police Discipline and Law Enforcement Programs and Procedures*.

I was hopeful that the hard work done over the past year by the House Workgroup to Address Police Reform and Accountability and the Judicial Proceedings Committee would yield bipartisan legislation to achieve necessary reforms in our police departments to protect civil rights and increase public trust in law enforcement. I would like to acknowledge the efforts of the General Assembly in working with members of the work group, law enforcement, the state's attorneys, and advocates to develop a number of independent bills that could have resulted in impactful improvements in policing. Unfortunately, the original intent of these bills appears to have been overtaken by political agendas that do not serve the public safety interests of the citizens of Maryland. These bills would undermine the goal that I believe we share of building transparent, accountable, and effective law enforcement institutions and instead further erode police morale, community relationships, and public confidence. They will result in great damage to police recruitment and retention, posing significant risks to public safety throughout our state. Under these circumstances, I have no choice but to uphold my primary responsibility to keep Marylanders safe, especially those that live in vulnerable communities most impacted by violent crime, and veto these bills.

SB 71 – *Maryland Police Accountability Act of 2021 – Body-Worn Cameras, Employee Programs, and Use of Force*

I have continually supported the use of body cameras by our frontline law enforcement officers, and our administration has provided funding to facilitate purchasing these cameras. Several districts have already moved forward in expanding this initiative, and I want to make it abundantly clear that I have no problems with the body camera provisions

in this bill. Unfortunately, as amended, this bill also creates a wholly new and uncharted use of force standard. Current law, based on the Supreme Court decision in *Graham v. O'Connor*, establishes an objective standard that police officers' use of force must be "objectively reasonable in light of the facts and circumstances confronting them." This bill jettison's this long established objective test for a vague and undefined test of judging whether the force was "proportional." Such a standard would expose every officer's actions to the sort of speculation that the U.S. Supreme Court rejected in fashioning the current standard of excessive force in the *Graham* case. I cannot support a hindsight review of an officer's actions when the officer must react in a split-second to a deadly situation that could pose a threat to their own life and the lives of citizen bystanders. This new standard will leave the courts with no guidance, causing confusion for officers and courts alike. Excessive use of force is already prohibited under Maryland criminal law (e.g., assault, reckless endangerment, murder) and a new prohibition aimed solely at police officers is unnecessary and harmful. As a whole, this bill as amended is misguided and threatens the lives and safety of our citizens and first responders.

SB 178 – Maryland Police Accountability Act of 2021 – Search Warrants and Inspection of Records Relating to Police Misconduct

When 19-year old Anton Black was tragically killed in 2019, I was among the first to call for full transparency and answers for his family from law enforcement and the medical examiner's office. I support updating procedures for executing search warrants and the disclosure of investigatory and personnel records. Unfortunately, the processes outlined in this bill places the lives of the officers as well as the occupants of the dwelling at unnecessary risk. Limitations such as the requirement to serve no-knock warrants between the hours of 8:00 a.m. and 7:00 p.m., voiding the warrant after ten days, and requiring a 20 second delay before entering a residence while serving a regular warrant needlessly endangers police officers, occupants, and bystanders. The provisions of this bill that impact the release of Investigatory and Personnel Records are equally disturbing. Officers who are exonerated will still be subject to having their records exposed. As amended, these provisions place the officers' safety at risk, erode officers' relationships with the residents of our most vulnerable communities, and deter witness participation in the prosecution of violent crimes.

HB 670 – Maryland Police Accountability Act of 2021 – Police Discipline and Law Enforcement Programs and Procedures

The proponents of this bill's stated intent is a complete repeal of the Law Enforcement Officers' Bill of Rights and a replacement with another process. Unfortunately, this was done in a haphazard fashion with little collaboration from all interested stakeholders. The result is a bill that does very little to increase accountability that law enforcement officers deserve and the public should expect. Instead of a uniform, statewide process of police discipline, this bill would create a patchwork of hundreds of locally devised processes. The disciplinary authority of chiefs and sheriffs has been substantially undermined, thereby lessening their ability to discipline and remove problem officers. The basic due process protections to which police are entitled, have been removed. This leaves police disciplinary hearings subject to arbitrary and capricious disciplinary procedures. The convoluted

investigatory and disciplinary processes created in this bill will force unnecessary delays and confusion. The lack of consistency in establishing the membership of the entities created by this bill will inevitably lead to disparities in enforcement of police discipline between districts. Our police and our citizens deserve far better. The extreme flaws in this bill leave me no alternative but to veto this bill.

For these reasons, I have vetoed Senate Bill 71 – *Maryland Police Accountability Act of 2021 – Body-Worn Cameras, Employee Programs, and Use of Force*; Senate Bill 178 – *Maryland Police Accountability Act of 2021 – Search Warrants and Inspection of Records Relating to Police Misconduct (Anton’s Law)*; and House Bill 670 – *Maryland Police Accountability Act of 2021 – Police Discipline and Law Enforcement Programs and Procedures*.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 178

AN ACT concerning

~~Public Information Act – Personnel Records – Investigations of Law
Enforcement Officers
(Anton’s Law)~~

~~Maryland Police Accountability Act of 2021 – Personnel Records –
Investigations of Law Enforcement Officers
(Anton’s Law)~~

*Search Warrants and Inspection of Records Relating to Police Misconduct
(Anton’s Law)*

FOR the purpose of ~~establishing that a certain record relating to an administrative or criminal investigation of misconduct by a law enforcement officer is not a personnel record for purposes of certain provisions of the Public Information Act; authorizing a custodian to deny inspection of records relating to an administrative or criminal investigation of misconduct by a law enforcement officer; requiring that an application for a certain no-knock search warrant be approved in writing by a police supervisor and the State’s Attorney; repealing a certain ground for issuance of a certain no-knock search warrant; requiring that an application for a certain no-knock search warrant contain certain items; requiring that a certain no-knock search warrant be executed between certain times under certain circumstances; altering the number of days within which a certain search and seizure shall be made; imposing certain restrictions on a police officer when executing a search warrant; requiring a certain custodian to allow inspection of certain records by the United States Attorney, the Attorney General, the State Prosecutor, and a certain State’s Attorney; providing that a certain record is not a personnel record for a certain purpose, with a certain exception; authorizing a certain custodian to deny inspection~~

of certain records; requiring a certain custodian to ~~deny inspection of~~ redact a certain record in a certain manner under certain circumstances; authorizing a custodian to redact a certain record in a certain manner under certain circumstances; requiring a custodian to notify a certain person in interest when a certain record is inspected; prohibiting a certain custodian from disclosing the identity of a certain requestor to a certain person in interest; requiring a law enforcement agency that maintains a SWAT team to report certain information to the Governor's Office of Crime Prevention, Youth, and Victim Services using a certain format; requiring the Maryland Police Training and Standards Commission, in consultation with the Office, to develop a standardized format that certain law enforcement agencies shall use in reporting certain data relating to the activation and deployment of certain SWAT teams to the Office; requiring a law enforcement agency to compile certain information as a report in a certain format and to submit the report to the Office not later than a certain date following the period that is the subject of the report; requiring the Office to analyze and summarize certain reports of law enforcement agencies and to submit a report of the analyses and summaries to the Governor, the General Assembly, and each law enforcement agency before a certain date each year and publish the report on its website; providing that, if a law enforcement agency fails to comply with certain reporting requirements, the Office shall report the noncompliance to the Commission; providing that the Commission shall contact a certain law enforcement agency and request that the agency comply with certain reporting requirements under certain circumstances; providing that, if a certain law enforcement agency fails to comply with certain reporting requirements within a certain period after being contacted by the Commission, the Office and the Commission jointly shall make a certain report to the Governor and the Legislative Policy Committee of the General Assembly; defining certain terms; providing for the application of this Act; and generally relating to ~~personnel records and the Public Information Act~~ search warrants and inspection of records relating to police misconduct.

~~BY renumbering~~

~~Article — General Provisions~~

~~Section 4 — 101(c) through (j), respectively~~

~~to be Section 4 — 101(f) through (k), respectively~~

~~Annotated Code of Maryland~~

~~(2019 Replacement Volume and 2020 Supplement)~~

~~BY repealing and reenacting, without amendments,~~

~~Article — General Provisions~~

~~Section 4 — 101(a)~~

~~Annotated Code of Maryland~~

~~(2019 Replacement Volume and 2020 Supplement)~~

~~BY adding to~~

~~Article — General Provisions~~

~~Section 4 — 101(c) and (d)~~

~~Annotated Code of Maryland~~

~~(2019 Replacement Volume and 2020 Supplement)~~

~~BY repealing and reenacting, with amendments,
 Article – General Provisions
 Section 4-311 and 4-351
 Annotated Code of Maryland
 (2019 Replacement Volume and 2020 Supplement)~~

BY repealing and reenacting, with amendments,
 Article – Criminal Procedure
 Section 1-203(a)
 Annotated Code of Maryland
 (2018 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, without amendments,
 Article – General Provisions
 Section 4-101(a) and (c)
 Annotated Code of Maryland
 (2019 Replacement Volume and 2020 Supplement)

BY adding to
 Article – General Provisions
 Section 4-101(i) and (l)
 Annotated Code of Maryland
 (2019 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,
 Article – General Provisions
 Section 4-101(i) and (j), 4-311, and 4-351
 Annotated Code of Maryland
 (2019 Replacement Volume and 2020 Supplement)

BY adding to
 Article – Public Safety
 Section 3-523
 Annotated Code of Maryland
 (2018 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
~~That Section(s) 4-101(e) through (j), respectively, of Article – General Provisions of the
 Annotated Code of Maryland be renumbered to be Section(s) 4-101(f) through (k),
 respectively.~~

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

Article – Criminal Procedure

1-203.

(a) (1) IN THIS SUBSECTION, “NO-KNOCK SEARCH WARRANT” MEANS A SEARCH WARRANT THAT AUTHORIZES THE EXECUTING LAW ENFORCEMENT OFFICER TO ENTER A BUILDING, APARTMENT, PREMISES, PLACE, OR THING TO BE SEARCHED WITHOUT GIVING NOTICE OF THE OFFICER’S AUTHORITY OR PURPOSE.

(2) A circuit court judge or District Court judge may issue forthwith a search warrant whenever it is made to appear to the judge, by application as described in paragraph [(2)] (3) of this subsection, that there is probable cause to believe that:

(i) a misdemeanor or felony is being committed by a person or in a building, apartment, premises, place, or thing within the territorial jurisdiction of the judge; or

(ii) property subject to seizure under the criminal laws of the State is on the person or in or on the building, apartment, premises, place, or thing.

[(2)] (3) (i) An application for a search warrant shall be:

1. in writing;

2. signed, dated, and sworn to by the applicant; and

3. accompanied by an affidavit that:

A. sets forth the basis for probable cause as described in paragraph (1) of this subsection; and

B. contains facts within the personal knowledge of the affiant that there is probable cause.

(ii) An application for a search warrant may be submitted to a judge:

1. by in-person delivery of the application, the affidavit, and a proposed search warrant;

2. by secure fax, if a complete and printable image of the application, the affidavit, and a proposed search warrant are submitted; or

3. by secure electronic mail, if a complete and printable image of the application, the affidavit, and a proposed search warrant are submitted.

(iii) The applicant and the judge may converse about the search warrant application:

1. in person;
2. via telephone; or
3. via video.

(iv) The judge may issue the search warrant:

1. by signing the search warrant, indicating the date and time of issuance on the search warrant, and physically delivering the signed and dated search warrant, the application, and the affidavit to the applicant;

2. by signing the search warrant, writing the date and time of issuance on the search warrant, and sending complete and printable images of the signed and dated search warrant, the application, and the affidavit to the applicant by secure fax; or

3. by signing the search warrant, either electronically or in writing, indicating the date and time of issuance on the search warrant, and sending complete and printable images of the signed and dated search warrant, the application, and the affidavit to the applicant by secure electronic mail.

(v) The judge shall file a copy of the signed and dated search warrant, the application, and the affidavit with the court.

(vi) 1. [An] IF APPROVED IN WRITING BY A POLICE SUPERVISOR AND THE STATE'S ATTORNEY, AN application for a search warrant may contain a request that the search warrant [authorize the executing law enforcement officer to enter the building, apartment, premises, place, or thing to be searched without giving notice of the officer's authority or purpose] BE A NO-KNOCK SEARCH WARRANT, on the [grounds] GROUND that there is reasonable suspicion to believe that, without the authorization[:

1. the property subject to seizure may be destroyed, disposed of, or secreted; or

2.] the life or safety of the executing officer or another person may be endangered.

2. AN APPLICATION FOR A NO-KNOCK SEARCH WARRANT UNDER THIS SUBPARAGRAPH SHALL CONTAIN:

A. A DESCRIPTION OF THE EVIDENCE IN SUPPORT OF THE APPLICATION;

B. AN EXPLANATION OF THE INVESTIGATIVE ACTIVITIES THAT HAVE BEEN UNDERTAKEN AND THE INFORMATION THAT HAS BEEN GATHERED TO SUPPORT THE REQUEST FOR A NO-KNOCK SEARCH WARRANT;

C. AN EXPLANATION OF WHY THE AFFIANT IS UNABLE TO DETAIN THE SUSPECT OR SEARCH THE PREMISES USING OTHER, LESS INVASIVE METHODS;

D. ACKNOWLEDGMENT THAT ANY POLICE OFFICERS WHO WILL EXECUTE THE SEARCH WARRANT HAVE SUCCESSFULLY COMPLETED THE SAME TRAINING IN BREACH AND CALL-OUT ENTRY PROCEDURES AS SWAT TEAM MEMBERS;

E. A STATEMENT AS TO WHETHER THE SEARCH WARRANT CAN EFFECTIVELY BE EXECUTED DURING DAYLIGHT HOURS AND, IF NOT, WHAT FACTS OR CIRCUMSTANCES PRECLUDE EFFECTIVE EXECUTION IN DAYLIGHT HOURS; AND

F. A LIST OF ANY ADDITIONAL OCCUPANTS OF THE PREMISES BY AGE AND GENDER, AS WELL AS AN INDICATION AS TO WHETHER ANY INDIVIDUALS WITH COGNITIVE OR PHYSICAL DISABILITIES OR PETS RESIDE AT THE PREMISES, IF KNOWN.

3. A NO-KNOCK SEARCH WARRANT SHALL BE EXECUTED BETWEEN 8:00 A.M. AND 7:00 P.M., ABSENT EXIGENT CIRCUMSTANCES.

~~(3)~~ (4) The search warrant shall:

(i) be directed to a duly constituted police officer, the State Fire Marshal, or a full-time investigative and inspection assistant of the Office of the State Fire Marshal and authorize the police officer, the State Fire Marshal, or a full-time investigative and inspection assistant of the Office of the State Fire Marshal to search the suspected person, building, apartment, premises, place, or thing and to seize any property found subject to seizure under the criminal laws of the State;

(ii) name or describe, with reasonable particularity:

1. the person, building, apartment, premises, place, or thing to be searched;

2. the grounds for the search; and

3. the name of the applicant on whose application the search warrant was issued; and

(iii) if warranted by application as described in paragraph [(2)] (3) of this subsection, authorize the executing law enforcement officer to enter the building, apartment, premises, place, or thing to be searched without giving notice of the officer's authority or purpose.

[(4)] (5) (i) The search and seizure under the authority of a search warrant shall be made within [15] 10 calendar days after the day that the search warrant is issued.

(ii) After the expiration of the [15-day] 10-DAY period, the search warrant is void.

[(5)] (6) The executing law enforcement officer shall give a copy of the search warrant, the application, and the affidavit to an authorized occupant of the premises searched or leave a copy of the search warrant, the application, and the affidavit at the premises searched.

[(6)] (7) (i) The executing law enforcement officer shall prepare a detailed search warrant return which shall include the date and time of the execution of the search warrant.

(ii) The executing law enforcement officer shall:

1. give a copy of the search warrant return to an authorized occupant of the premises searched or leave a copy of the return at the premises searched; and

2. file a copy of the search warrant return with the court in person, by secure fax, or by secure electronic mail.

(8) (I) IN THIS PARAGRAPH, "EXIGENT CIRCUMSTANCES" RETAINS ITS JUDICIALLY DETERMINED MEANING.

(II) WHILE EXECUTING A SEARCH WARRANT, A POLICE OFFICER SHALL BE CLEARLY RECOGNIZABLE AND IDENTIFIABLE AS A POLICE OFFICER, WEARING A UNIFORM, BADGE, AND TAG BEARING THE NAME AND IDENTIFICATION NUMBER OF THE POLICE OFFICER.

(III) 1. THIS SUBPARAGRAPH APPLIES TO A POLICE OFFICER WHOSE LAW ENFORCEMENT AGENCY REQUIRES THE USE OF BODY-WORN CAMERAS.

2. A POLICE OFFICER EXECUTING A SEARCH WARRANT SHALL USE A BODY-WORN CAMERA DURING THE COURSE OF THE SEARCH IN ACCORDANCE WITH THE POLICIES ESTABLISHED BY THE POLICE OFFICER'S LAW ENFORCEMENT AGENCY.

(IV) UNLESS EXECUTING A NO-KNOCK SEARCH WARRANT, A POLICE OFFICER SHALL ALLOW A MINIMUM OF 20 SECONDS FOR THE OCCUPANTS OF A RESIDENCE TO RESPOND AND OPEN THE DOOR BEFORE THE POLICE OFFICER ATTEMPTS TO ENTER THE RESIDENCE, ABSENT EXIGENT CIRCUMSTANCES.

(V) A POLICE OFFICER MAY NOT USE FLASHBANG, STUN, DISTRACTION, OR OTHER SIMILAR MILITARY-STYLE DEVICES WHEN EXECUTING A SEARCH WARRANT, ABSENT EXIGENT CIRCUMSTANCES.

Article – General Provisions

~~4-101.~~

~~(a) In this title the following words have the meanings indicated.~~

~~(E) “LAW ENFORCEMENT OFFICER” HAS THE MEANING STATED IN § 3-101 OF THE PUBLIC SAFETY ARTICLE.~~

~~(L) “TECHNICAL INFRACTION” MEANS A MINOR RULE VIOLATION BY AN INDIVIDUAL SOLELY RELATED TO THE ENFORCEMENT OF ADMINISTRATIVE RULES THAT:~~

~~(1) DOES NOT INVOLVE AN INTERACTION BETWEEN A MEMBER OF THE PUBLIC AND THE INDIVIDUAL;~~

~~(2) DOES NOT RELATE TO THE INDIVIDUAL’S INVESTIGATIVE, ENFORCEMENT, TRAINING, SUPERVISION, OR REPORTING RESPONSIBILITIES; AND~~

~~(3) IS NOT OTHERWISE A MATTER OF PUBLIC CONCERN.~~

~~4-311.~~

~~(a) Subject to subsection (b) of this section, a custodian shall deny inspection of a personnel record of an individual, including an application, a performance rating, or scholastic achievement information.~~

~~(b) A custodian shall allow inspection by:~~

~~(1) the person in interest;~~

~~(2) an elected or appointed official who supervises the work of the individual; or~~

~~(3) an employee organization described in Title 6 of the Education Article of the portion of the personnel record that contains the individual’s~~

- ~~(i) home address;~~
- ~~(ii) home telephone number; and~~
- ~~(iii) personal cell phone number.~~

~~(c) (1) A EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A RECORD RELATING TO AN ADMINISTRATIVE OR CRIMINAL INVESTIGATION OF MISCONDUCT BY A LAW ENFORCEMENT OFFICER, INCLUDING AN INTERNAL AFFAIRS INVESTIGATORY RECORD, A HEARING RECORD, AND RECORDS RELATING TO A DISCIPLINARY DECISION, IS NOT A PERSONNEL RECORD FOR PURPOSES OF THIS SECTION.~~

~~(2) A RECORD OF A TECHNICAL INFRACTION IS A PERSONNEL RECORD FOR THE PURPOSES OF THIS SECTION.~~

~~4-351.~~

~~(a) Subject to subsection (b) of this section, a custodian may deny inspection of:~~

~~(1) records of investigations conducted by the Attorney General, a State's Attorney, a municipal or county attorney, a police department, or a sheriff;~~

~~(2) an investigatory file compiled for any other law enforcement, judicial, correctional, or prosecution purpose; [or]~~

~~(3) records that contain intelligence information or security procedures of the Attorney General, a State's Attorney, a municipal or county attorney, a police department, a State or local correctional facility, or a sheriff; OR~~

~~(4) RECORDS, OTHER THAN A RECORD OF A TECHNICAL INFRACTION, RELATING TO AN ADMINISTRATIVE OR CRIMINAL INVESTIGATION OF MISCONDUCT BY A LAW ENFORCEMENT OFFICER, INCLUDING AN INTERNAL AFFAIRS INVESTIGATORY RECORD, A HEARING RECORD, AND RECORDS RELATING TO A DISCIPLINARY DECISION.~~

~~(b) A custodian may deny inspection by a person in interest only to the extent that the inspection would:~~

~~(1) interfere with a valid and proper law enforcement proceeding;~~

~~(2) deprive another person of a right to a fair trial or an impartial adjudication;~~

~~(3) constitute an unwarranted invasion of personal privacy;~~

- ~~(4) disclose the identity of a confidential source;~~
- ~~(5) disclose an investigative technique or procedure;~~
- ~~(6) prejudice an investigation; or~~
- ~~(7) endanger the life or physical safety of an individual.~~

4-101.

(a) In this title the following words have the meanings indicated.

(c) “Board” means the State Public Information Act Compliance Board.

(I) “POLICE OFFICER” HAS THE MEANING STATED IN § 3-201 OF THE PUBLIC SAFETY ARTICLE.

[i] (J) “Political subdivision” means:

- (1) a county;*
- (2) a municipal corporation;*
- (3) an unincorporated town;*
- (4) a school district; or*
- (5) a special district.*

[(i)] (K) (1) “Public record” means the original or any copy of any documentary material that:

(i) is made by a unit or an instrumentality of the State or of a political subdivision or received by the unit or instrumentality in connection with the transaction of public business; and

(ii) is in any form, including:

- 1. a card;*
- 2. a computerized record;*
- 3. correspondence;*
- 4. a drawing;*

5. film or microfilm;
6. a form;
7. a map;
8. a photograph or photostat;
9. a recording; or
10. a tape.

(2) “Public record” includes a document that lists the salary of an employee of a unit or an instrumentality of the State or of a political subdivision.

(3) “Public record” does not include a digital photographic image or signature of an individual, or the actual stored data of the image or signature, recorded by the Motor Vehicle Administration.

(L) “TECHNICAL INFRACTION” MEANS A MINOR RULE VIOLATION BY AN INDIVIDUAL SOLELY RELATED TO THE ENFORCEMENT OF ADMINISTRATIVE RULES THAT:

(1) DOES NOT INVOLVE AN INTERACTION BETWEEN A MEMBER OF THE PUBLIC AND THE INDIVIDUAL;

(2) DOES NOT RELATE TO THE INDIVIDUAL’S INVESTIGATIVE, ENFORCEMENT, TRAINING, SUPERVISION, OR REPORTING RESPONSIBILITIES; AND

(3) IS NOT OTHERWISE A MATTER OF PUBLIC CONCERN.

4-311.

(a) Subject to subsection (b) of this section, a custodian shall deny inspection of a personnel record of an individual, including an application, a performance rating, or scholastic achievement information.

(b) A custodian shall allow inspection by:

(1) the person in interest;

(2) an elected or appointed official who supervises the work of the individual; or

(3) an employee organization described in Title 6 of the Education Article of the portion of the personnel record that contains the individual’s;

- (i) home address;
- (ii) home telephone number; and
- (iii) personal cell phone number.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A RECORD RELATING TO AN ADMINISTRATIVE OR CRIMINAL INVESTIGATION OF MISCONDUCT BY A POLICE OFFICER, INCLUDING AN INTERNAL AFFAIRS INVESTIGATORY RECORD, A HEARING RECORD, AND RECORDS RELATING TO A DISCIPLINARY DECISION, IS NOT A PERSONNEL RECORD FOR PURPOSES OF THIS SECTION.

(2) A RECORD OF A TECHNICAL INFRACTION IS A PERSONNEL RECORD FOR THE PURPOSES OF THIS SECTION.

4-351.

(a) Subject to [subsection (b)] SUBSECTIONS (B), (C), AND (D) of this section, a custodian may deny inspection of:

(1) records of investigations conducted by the Attorney General, a State's Attorney, a municipal or county attorney, a police department, or a sheriff;

(2) an investigatory file compiled for any other law enforcement, judicial, correctional, or prosecution purpose; [or]

(3) records that contain intelligence information or security procedures of the Attorney General, a State's Attorney, a municipal or county attorney, a police department, a State or local correctional facility, or a sheriff; OR

(4) RECORDS, OTHER THAN A RECORD OF A TECHNICAL INFRACTION, RELATING TO AN ADMINISTRATIVE OR CRIMINAL INVESTIGATION OF MISCONDUCT BY A POLICE OFFICER, INCLUDING AN INTERNAL AFFAIRS INVESTIGATORY RECORD, A HEARING RECORD, AND RECORDS RELATING TO A DISCIPLINARY DECISION.

(b) A custodian may deny inspection by a person in interest only to the extent that the inspection would:

(1) interfere with a valid and proper law enforcement proceeding;

(2) deprive another person of a right to a fair trial or an impartial adjudication;

(3) constitute an unwarranted invasion of personal privacy;

- (4) disclose the identity of a confidential source;
- (5) disclose an investigative technique or procedure;
- (6) prejudice an investigation; or
- (7) endanger the life or physical safety of an individual.

(C) A CUSTODIAN SHALL ALLOW INSPECTION OF A RECORD DESCRIBED IN SUBSECTION (A)(4) OF THIS SECTION BY:

- (1) THE UNITED STATES ATTORNEY;**
- (2) THE ATTORNEY GENERAL;**
- (3) THE STATE PROSECUTOR; OR**
- (4) THE STATE'S ATTORNEY FOR THE JURISDICTION RELEVANT TO THE RECORD.**

~~**(D) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A CUSTODIAN SHALL DENY INSPECTION OF A RECORD DESCRIBED IN SUBSECTION (A)(4) OF THIS SECTION:**~~

- ~~**(1) IF THE RECORD RELATES TO AN ACTIVE INVESTIGATION; OR**~~
- ~~**(2) TO THE EXTENT THAT THE RECORD REFLECTS:**~~
 - ~~**(I) MEDICAL INFORMATION;**~~
 - ~~**(II) PERSONAL CONTACT INFORMATION OF THE PERSON IN INTEREST;**~~
 - ~~**(III) INFORMATION RELATING TO THE FAMILY OF THE PERSON IN INTEREST; OR**~~
 - ~~**(IV) WITNESS INFORMATION.**~~

(D) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A CUSTODIAN:

- (1) SHALL REDACT THE PORTIONS OF A RECORD DESCRIBED IN SUBSECTION (A)(4) OF THIS SECTION TO THE EXTENT THAT THE RECORD REFLECTS:**

(I) MEDICAL INFORMATION OF THE PERSON IN INTEREST;

(II) PERSONAL CONTACT INFORMATION OF THE PERSON IN INTEREST OR A WITNESS; OR

(III) INFORMATION RELATING TO THE FAMILY OF THE PERSON IN INTEREST; AND

(2) MAY REDACT THE PORTION OF A RECORD DESCRIBED IN SUBSECTION (A)(4) OF THIS SECTION TO THE EXTENT THAT THE RECORD REFLECTS WITNESS INFORMATION OTHER THAN PERSONAL CONTACT INFORMATION.

(E) A CUSTODIAN SHALL NOTIFY THE PERSON IN INTEREST OF A RECORD DESCRIBED IN SUBSECTION (A)(4) OF THIS SECTION WHEN THE RECORD IS INSPECTED, BUT MAY NOT DISCLOSE THE IDENTITY OF THE REQUESTOR TO THE PERSON IN INTEREST.

Article – Public Safety

3-523.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “LAW ENFORCEMENT AGENCY” HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.

(3) “NO-KNOCK SEARCH WARRANT” MEANS A SEARCH WARRANT AUTHORIZING ENTRY INTO A BUILDING, AN APARTMENT, A PREMISES, A PLACE, OR A THING TO BE SEARCHED WITHOUT GIVING NOTICE OF THE OFFICER’S AUTHORITY OR PURPOSE.

(4) “POLICE OFFICER” HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.

(5) “SWAT TEAM” MEANS A SPECIAL UNIT COMPOSED OF TWO OR MORE POLICE OFFICERS WITHIN A LAW ENFORCEMENT AGENCY TRAINED TO DEAL WITH UNUSUALLY DANGEROUS OR VIOLENT SITUATIONS AND HAVING SPECIAL EQUIPMENT AND WEAPONS, INCLUDING RIFLES MORE POWERFUL THAN THOSE CARRIED BY REGULAR POLICE OFFICERS.

(B) A LAW ENFORCEMENT AGENCY SHALL REPORT THE FOLLOWING INFORMATION RELATING TO SEARCH WARRANTS EXECUTED BY THE LAW ENFORCEMENT AGENCY DURING THE PRIOR CALENDAR YEAR TO THE GOVERNOR’S

OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES USING THE FORMAT DEVELOPED UNDER SUBSECTION (C) OF THIS SECTION:

(1) THE NUMBER OF TIMES A NO-KNOCK SEARCH WARRANT WAS EXECUTED IN THE PREVIOUS YEAR;

(2) THE NAME OF THE COUNTY AND MUNICIPAL CORPORATION AND THE ZIP CODE OF THE LOCATION WHERE EACH NO-KNOCK SEARCH WARRANT WAS EXECUTED;

(3) FOR EACH SEARCH WARRANT EXECUTED, THE NUMBER OF DAYS FROM THE ISSUANCE UNTIL THE EXECUTION OF THE SEARCH WARRANT, DISAGGREGATED BY WHETHER THE SEARCH WARRANT WAS A NO-KNOCK SEARCH WARRANT;

(4) THE LEGAL BASIS FOR EACH NO-KNOCK SEARCH WARRANT ISSUED;

(5) THE NUMBER OF TIMES A SEARCH WARRANT WAS EXECUTED UNDER CIRCUMSTANCES IN WHICH A POLICE OFFICER MADE FORCIBLE ENTRY INTO THE BUILDING, APARTMENT, PREMISES, PLACE, OR THING TO BE SEARCHED SPECIFIED IN THE WARRANT;

(6) THE NUMBER OF TIMES A SWAT TEAM WAS DEPLOYED TO EXECUTE A SEARCH WARRANT;

(7) THE NUMBER OF ARRESTS MADE, IF ANY, DURING THE EXECUTION OF A SEARCH WARRANT;

(8) THE NUMBER OF TIMES PROPERTY WAS SEIZED DURING THE EXECUTION OF A SEARCH WARRANT;

(9) THE NUMBER OF TIMES A WEAPON WAS DISCHARGED BY A POLICE OFFICER DURING THE EXECUTION OF A SEARCH WARRANT; AND

(10) THE NUMBER OF TIMES A PERSON OR DOMESTIC ANIMAL WAS INJURED OR KILLED DURING THE EXECUTION OF A SEARCH WARRANT, DISAGGREGATED BY WHETHER THE PERSON OR ANIMAL WAS INJURED OR KILLED BY A POLICE OFFICER.

(C) THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION, IN CONSULTATION WITH THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES, SHALL DEVELOP A STANDARDIZED FORMAT FOR EACH LAW ENFORCEMENT AGENCY TO USE IN REPORTING DATA TO THE GOVERNOR'S OFFICE

OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES UNDER SUBSECTION (B) OF THIS SECTION.

(D) A LAW ENFORCEMENT AGENCY SHALL:

(1) COMPILE THE DATA DESCRIBED IN SUBSECTION (B) OF THIS SECTION FOR EACH 1-YEAR PERIOD AS A REPORT IN THE FORMAT REQUIRED UNDER SUBSECTION (C) OF THIS SECTION; AND

(2) NOT LATER THAN JANUARY 15 EACH YEAR, SUBMIT THE REPORT TO:

(I) THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES; AND

(II) 1. THE LOCAL GOVERNING BODY OF THE JURISDICTION SERVED BY THE LAW ENFORCEMENT AGENCY THAT IS THE SUBJECT OF THE REPORT; OR

2. IF THE JURISDICTION SERVED BY THE LAW ENFORCEMENT AGENCY IS A MUNICIPAL CORPORATION, THE CHIEF EXECUTIVE OFFICER OF THE JURISDICTION.

(E) (1) THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES SHALL ANALYZE AND SUMMARIZE THE REPORTS OF LAW ENFORCEMENT AGENCIES SUBMITTED UNDER SUBSECTION (D) OF THIS SECTION.

(2) BEFORE SEPTEMBER 1 EACH YEAR, THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES SHALL:

(I) SUBMIT A REPORT OF THE ANALYSES AND SUMMARIES OF THE REPORTS OF LAW ENFORCEMENT AGENCIES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION TO THE GOVERNOR, EACH LAW ENFORCEMENT AGENCY, AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY; AND

(II) PUBLISH THE REPORT ON ITS WEBSITE.

(F) (1) IF A LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH THE REPORTING PROVISIONS OF THIS SECTION, THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES SHALL REPORT THE NONCOMPLIANCE TO THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION.

(2) ON RECEIPT OF A REPORT OF NONCOMPLIANCE, THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION SHALL CONTACT THE LAW ENFORCEMENT AGENCY AND REQUEST THAT THE AGENCY COMPLY WITH THE REQUIRED REPORTING PROVISIONS.

(3) IF THE LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH THE REQUIRED REPORTING PROVISIONS OF THIS SECTION WITHIN 30 DAYS AFTER BEING CONTACTED BY THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION WITH A REQUEST TO COMPLY, THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES AND THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION JOINTLY SHALL REPORT THE NONCOMPLIANCE TO THE GOVERNOR AND THE LEGISLATIVE POLICY COMMITTEE OF THE GENERAL ASSEMBLY.

SECTION ~~2~~ 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply prospectively to any Public Information Act request made on or after the effective date of this Act regardless of when the record requested to be produced was created.

SECTION ~~4~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

May 28, 2021

The Honorable Bill Ferguson
President of the Senate
H-107 State House
Annapolis, MD 21401

Dear President Ferguson:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 183 – *Audiology and Speech–Language Pathology Interstate Compact*.

This bill enters Maryland into the Audiology and Speech–Language Pathology Interstate Licensure Compact for audiologists and speech–language pathologists. The bill establishes procedures and requirements for audiologists and speech–language pathologists to obtain and maintain a compact privilege to practice audiology and speech–language pathology in a member state; the composition, powers, and responsibilities of the Audiology and Speech–Language Pathology Compact Commission; and requirements related to the oversight, dispute resolution, and enforcement of the compact. The bill is contingent on similar legislation being enacted in nine other states.

House Bill 288, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 183.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 183

AN ACT concerning

Audiology and Speech–Language Pathology Interstate Compact

FOR the purpose of entering into the Audiology and Speech–Language Pathology Interstate Compact; stating the purpose of the Compact; requiring that a certain license issued by a home state be recognized by each member state as authorizing certain practice of audiology or speech–language pathology; requiring a state to meet certain requirements to participate in the Compact; prohibiting certain communication from including certain information; requiring a certain licensing board to take certain action on application for a privilege to practice; requiring each member state to require an applicant to obtain or retain a certain license and meet certain qualifications; requiring certain audiologists and speech–language pathologists to meet certain eligibility requirements to exercise a certain privilege; requiring an audiologist or a speech–language pathologist practicing in a member state to comply with certain laws; requiring that certain individuals be able to continue to apply for a certain license; authorizing member states to charge a certain fee; requiring member states to comply with certain bylaws, rules, and regulations; requiring certain audiologists and speech–language pathologists to apply for certain licensure; establishing the circumstances under which a license may not be issued or is required to be converted to a certain license; establishing the period during which a Compact privilege is valid; requiring certain licensees to function within certain laws and regulations; providing that certain licensees are subject to certain regulatory authority; requiring a licensee to lose the Compact privilege during a certain period under certain circumstances; requiring member states to recognize the right of an audiologist or a speech–language pathologist to practice via telehealth under certain circumstances; requiring certain active duty military personnel or their spouses to designate a certain state as a home state and ~~authorizing~~ requiring the change of a certain designation in a certain manner; establishing certain requirements and certain authority of remote states and home states with regard to adverse actions; establishing the Audiology and Speech–Language Pathology Compact Commission; establishing the membership, powers, and duties of the Commission; establishing an Executive Committee with authority to act on behalf of the Commission under certain circumstances; establishing the membership, powers, and duties of the Executive Committee; providing for certain financing, accounting, and auditing of the Commission; providing, under certain circumstances, for certain immunity, defense, and indemnity for certain individuals representing the Commission;

requiring the Commission to provide for the development, maintenance, and utilization of a certain database and reporting system; requiring a member state to submit certain data to a certain data system; establishing requirements for the availability, notification, and removal of certain information from a certain data system under certain circumstances; establishing the rulemaking powers and procedures of the Commission; establishing procedures for oversight, dispute resolution, and enforcement of the Compact by the Commission; providing for the application of the Compact; establishing that certain states that join the Compact are subject to certain rules; establishing certain procedures for a member state to withdraw from the Compact; authorizing member states to amend the Compact under certain circumstances; providing for the construction and severability of this Act; making this Act subject to a certain contingency; requiring the Maryland Department of Health to track certain legislation and notify the Department of Legislative Services of a certain occurrence within a certain period of time; defining certain terms; and generally relating to the Audiology and Speech–Language Pathology Interstate Compact.

BY adding to

Article – Health Occupations

Section 2–3A–01 to be under the new subtitle “Subtitle 3A. Audiology and Speech–Language Pathology Interstate Compact”

Annotated Code of Maryland

(2014 Replacement Volume and 2020 Supplement)

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

Article – Health Occupations

SUBTITLE 3A. AUDIOLOGY AND SPEECH–LANGUAGE PATHOLOGY INTERSTATE COMPACT.

2–3A–01.

THE AUDIOLOGY AND SPEECH–LANGUAGE PATHOLOGY INTERSTATE COMPACT IS ENACTED INTO LAW AND ENTERED INTO WITH ALL OTHER STATES LEGALLY JOINING IN IT IN THE FORM SUBSTANTIALLY AS IT APPEARS IN THIS SECTION AS FOLLOWS:

SECTION 1. PURPOSE

THE PURPOSE OF THIS COMPACT IS TO FACILITATE INTERSTATE PRACTICE OF AUDIOLOGY AND SPEECH–LANGUAGE PATHOLOGY WITH THE GOAL OF IMPROVING PUBLIC ACCESS TO AUDIOLOGY AND SPEECH–LANGUAGE PATHOLOGY SERVICES. THE PRACTICE OF AUDIOLOGY AND SPEECH–LANGUAGE PATHOLOGY OCCURS IN THE STATE WHERE THE PATIENT IS LOCATED AT THE TIME OF THE

PATIENT ENCOUNTER. THE COMPACT PRESERVES THE REGULATORY AUTHORITY OF STATES TO PROTECT PUBLIC HEALTH AND SAFETY THROUGH THE CURRENT SYSTEM OF STATE LICENSURE. THIS COMPACT IS DESIGNED TO ACHIEVE THE FOLLOWING OBJECTIVES:

(1) INCREASE PUBLIC ACCESS TO AUDIOLOGY AND SPEECH–LANGUAGE PATHOLOGY SERVICES BY PROVIDING FOR THE MUTUAL RECOGNITION OF OTHER MEMBER STATE LICENSES;

(2) ENHANCE THE ABILITY OF STATES TO PROTECT THE PUBLIC’S HEALTH AND SAFETY;

(3) ENCOURAGE THE COOPERATION OF MEMBER STATES IN REGULATING MULTISTATE AUDIOLOGY AND SPEECH–LANGUAGE PATHOLOGY PRACTICE;

(4) SUPPORT SPOUSES OF RELOCATING ACTIVE DUTY MILITARY PERSONNEL;

(5) ENHANCE THE EXCHANGE OF LICENSURE, INVESTIGATIVE, AND DISCIPLINARY INFORMATION AMONG MEMBER STATES;

(6) ALLOW A REMOTE STATE TO HOLD A PROVIDER OF SERVICES WITH A COMPACT PRIVILEGE IN THAT STATE ACCOUNTABLE TO THE PRACTICE STANDARDS OF THAT STATE; AND

(7) ALLOW FOR THE USE OF TELEHEALTH TECHNOLOGY TO FACILITATE INCREASED ACCESS TO AUDIOLOGY AND SPEECH–LANGUAGE PATHOLOGY SERVICES.

SECTION 2. DEFINITIONS

AS USED IN THIS COMPACT, AND EXCEPT AS OTHERWISE PROVIDED, THE FOLLOWING DEFINITIONS SHALL APPLY:

(A) “ACTIVE DUTY MILITARY” MEANS FULL–TIME DUTY STATUS IN THE ACTIVE UNIFORMED SERVICE OF THE UNITED STATES, INCLUDING MEMBERS OF THE NATIONAL GUARD AND RESERVE ON ACTIVE DUTY ORDERS IN ACCORDANCE WITH 10 U.S.C. §§ 1209 AND 1211.

(B) “ADVERSE ACTION” MEANS ANY ADMINISTRATIVE, CIVIL, EQUITABLE, OR CRIMINAL ACTION AUTHORIZED BY A STATE’S LAWS THAT IS IMPOSED BY A LICENSING BOARD OR OTHER AUTHORITY AGAINST AN AUDIOLOGIST OR A SPEECH–LANGUAGE PATHOLOGIST, INCLUDING ACTIONS AGAINST AN

INDIVIDUAL'S LICENSE OR PRIVILEGE TO PRACTICE SUCH AS REVOCATION, SUSPENSION, PROBATION, MONITORING OF THE LICENSEE, OR RESTRICTION ON THE LICENSEE'S PRACTICE.

(C) "ALTERNATIVE PROGRAM" MEANS A NONDISCIPLINARY MONITORING PROCESS APPROVED BY AN AUDIOLOGY OR SPEECH-LANGUAGE PATHOLOGY LICENSING BOARD TO ADDRESS IMPAIRED PRACTITIONERS.

(D) "AUDIOLOGIST" MEANS AN INDIVIDUAL WHO IS LICENSED BY A STATE TO PRACTICE AUDIOLOGY.

(E) "AUDIOLOGY" MEANS THE CARE AND SERVICES PROVIDED BY A LICENSED AUDIOLOGIST AS SET FORTH IN THE MEMBER STATE'S STATUTES AND RULES.

(F) "AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY COMPACT COMMISSION" OR "COMMISSION" MEANS THE NATIONAL ADMINISTRATIVE BODY ESTABLISHED UNDER SECTION 8 WHOSE MEMBERSHIP CONSISTS OF ALL STATES THAT HAVE ENACTED THE COMPACT.

(G) "AUDIOLOGY OR SPEECH-LANGUAGE PATHOLOGY LICENSING BOARD", "AUDIOLOGY LICENSING BOARD", "SPEECH-LANGUAGE PATHOLOGY LICENSING BOARD", OR "LICENSING BOARD" MEANS THE AGENCY OF A STATE THAT IS RESPONSIBLE FOR THE LICENSING AND REGULATION OF AUDIOLOGISTS OR SPEECH-LANGUAGE PATHOLOGISTS.

(H) "COMPACT PRIVILEGE" MEANS THE AUTHORIZATION GRANTED BY A REMOTE STATE TO ALLOW A LICENSEE FROM ANOTHER MEMBER STATE TO PRACTICE AS AN AUDIOLOGIST OR A SPEECH-LANGUAGE PATHOLOGIST IN THE REMOTE STATE UNDER ITS LAWS AND RULES. THE PRACTICE OF AUDIOLOGY OR SPEECH-LANGUAGE PATHOLOGY OCCURS IN THE MEMBER STATE WHERE THE PATIENT IS LOCATED AT THE TIME OF THE PATIENT ENCOUNTER.

(I) "CURRENT SIGNIFICANT INVESTIGATIVE INFORMATION" MEANS INVESTIGATIVE INFORMATION THAT A LICENSING BOARD, AFTER AN INQUIRY OR INVESTIGATION THAT INCLUDES NOTIFICATION AND AN OPPORTUNITY FOR THE AUDIOLOGIST OR SPEECH-LANGUAGE PATHOLOGIST TO RESPOND, IF REQUIRED BY STATE LAW, HAS REASON TO BELIEVE IS NOT GROUNDLESS AND, IF PROVED TRUE, WOULD INDICATE MORE THAN A MINOR INFRACTION.

(J) "DATA SYSTEM" MEANS A REPOSITORY OF INFORMATION ABOUT LICENSEES ESTABLISHED UNDER SECTION 9, INCLUDING, BUT NOT LIMITED TO, CONTINUING EDUCATION, EXAMINATION, LICENSURE, INVESTIGATIVE, COMPACT PRIVILEGE, AND ADVERSE ACTION.

(K) “ENCUMBERED LICENSE” MEANS A LICENSE IN WHICH AN ADVERSE ACTION RESTRICTS THE PRACTICE OF AUDIOLOGY OR SPEECH–LANGUAGE PATHOLOGY BY THE LICENSEE AND SAID ADVERSE ACTION HAS BEEN REPORTED TO THE NATIONAL PRACTITIONERS DATA BANK.

(L) “EXECUTIVE COMMITTEE” MEANS A GROUP OF DIRECTORS ELECTED OR APPOINTED TO ACT ON BEHALF OF, AND WITHIN THE POWERS GRANTED TO THEM BY, THE COMMISSION.

(M) “HOME STATE” MEANS THE MEMBER STATE THAT IS THE LICENSEE’S PRIMARY STATE OF RESIDENCE.

(N) “IMPAIRED PRACTITIONER” MEANS AN INDIVIDUAL WHOSE PROFESSIONAL PRACTICE IS ADVERSELY AFFECTED BY SUBSTANCE ABUSE, ADDICTION, OR OTHER HEALTH–RELATED CONDITIONS.

(O) “LICENSEE” MEANS AN INDIVIDUAL WHO CURRENTLY HOLDS AN AUTHORIZATION FROM A STATE LICENSING BOARD TO PRACTICE AS AN AUDIOLOGIST OR A SPEECH–LANGUAGE PATHOLOGIST.

(P) “MEMBER STATE” MEANS A STATE THAT HAS ENACTED THE COMPACT.

(Q) “PRIVILEGE TO PRACTICE” MEANS A LEGAL AUTHORIZATION AUTHORIZING THE PRACTICE OF AUDIOLOGY OR SPEECH–LANGUAGE PATHOLOGY IN A REMOTE STATE.

(R) “REMOTE STATE” MEANS A MEMBER STATE OTHER THAN THE HOME STATE WHERE A LICENSEE IS EXERCISING OR SEEKING TO EXERCISE THE COMPACT PRIVILEGE.

(S) “RULE” MEANS A REGULATION, PRINCIPLE, OR DIRECTIVE ADOPTED BY THE COMMISSION THAT HAS THE FORCE OF LAW.

(T) “SINGLE–STATE LICENSE” MEANS AN AUDIOLOGY OR SPEECH–LANGUAGE PATHOLOGY LICENSE ISSUED BY A MEMBER STATE THAT AUTHORIZES PRACTICE ONLY WITHIN THE ISSUING STATE AND DOES NOT INCLUDE A PRIVILEGE TO PRACTICE IN ANY OTHER MEMBER STATE.

(U) “SPEECH–LANGUAGE PATHOLOGIST” MEANS AN INDIVIDUAL WHO IS LICENSED BY A STATE TO PRACTICE SPEECH–LANGUAGE PATHOLOGY.

(V) "SPEECH-LANGUAGE PATHOLOGY" MEANS THE CARE AND SERVICES PROVIDED BY A LICENSED SPEECH-LANGUAGE PATHOLOGIST AS SET FORTH IN THE MEMBER STATE'S STATUTES AND RULES.

(W) "STATE" MEANS ANY STATE, COMMONWEALTH, DISTRICT, OR TERRITORY OF THE UNITED STATES OF AMERICA THAT REGULATES THE PRACTICE OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY.

(X) "STATE PRACTICE LAWS" MEANS THE LAWS, RULES, AND REGULATIONS OF A MEMBER STATE THAT GOVERN THE PRACTICE OF AUDIOLOGY OR SPEECH-LANGUAGE PATHOLOGY, DEFINE THE SCOPE OF AUDIOLOGY OR SPEECH-LANGUAGE PATHOLOGY PRACTICE, AND CREATE THE METHODS AND GROUNDS FOR IMPOSING DISCIPLINE.

(Y) "TELEHEALTH" MEANS THE APPLICATION OF ~~ELECTRONIC TELECOMMUNICATION, AUDIO-VISUAL, OR OTHER INFORMATION TECHNOLOGY~~ TECHNOLOGIES THAT MEETS THE APPLICABLE STANDARD OF CARE TO DELIVER AUDIOLOGY OR SPEECH-LANGUAGE PATHOLOGY SERVICES OR INFORMATION AT A DISTANCE FOR ASSESSMENT, INTERVENTION, OR CONSULTATION.

SECTION 3. STATE PARTICIPATION IN THE COMPACT

(A) A LICENSE ISSUED TO AN AUDIOLOGIST OR A SPEECH-LANGUAGE PATHOLOGIST BY A HOME STATE TO A RESIDENT IN THAT STATE SHALL BE RECOGNIZED BY EACH MEMBER STATE AS AUTHORIZING AN AUDIOLOGIST OR A SPEECH-LANGUAGE PATHOLOGIST TO PRACTICE AUDIOLOGY OR SPEECH-LANGUAGE PATHOLOGY, UNDER A PRIVILEGE TO PRACTICE, IN EACH MEMBER STATE WHERE THE LICENSEE OBTAINS SUCH A PRIVILEGE.

(B) (1) A STATE MUST IMPLEMENT OR USE PROCEDURES FOR CONSIDERING THE CRIMINAL HISTORY RECORDS OF APPLICANTS FOR INITIAL PRIVILEGE TO PRACTICE. THESE PROCEDURES SHALL INCLUDE THE SUBMISSION OF FINGERPRINTS OR OTHER BIOMETRIC-BASED INFORMATION BY APPLICANTS FOR THE PURPOSE OF OBTAINING AN APPLICANT'S CRIMINAL HISTORY RECORD INFORMATION FROM THE FEDERAL BUREAU OF INVESTIGATION AND THE AGENCY RESPONSIBLE FOR RETAINING THAT STATE'S CRIMINAL RECORDS.

(2) A MEMBER STATE MUST FULLY IMPLEMENT A CRIMINAL BACKGROUND CHECK REQUIREMENT, WITHIN A TIME FRAME ESTABLISHED BY RULE, BY RECEIVING THE RESULTS OF THE FEDERAL BUREAU OF INVESTIGATION RECORD SEARCH ON CRIMINAL BACKGROUND CHECKS AND USE THE RESULTS IN MAKING LICENSURE DECISIONS.

(3) COMMUNICATION BETWEEN A MEMBER STATE AND THE COMMISSION, AND AMONG MEMBER STATES REGARDING THE VERIFICATION OF ELIGIBILITY FOR LICENSURE THROUGH THE COMPACT MAY NOT INCLUDE ANY INFORMATION RECEIVED FROM THE FEDERAL BUREAU OF INVESTIGATION RELATING TO A FEDERAL CRIMINAL RECORDS CHECK PERFORMED BY A MEMBER STATE UNDER PUBLIC LAW 92-544.

(C) ON APPLICATION FOR A PRIVILEGE TO PRACTICE, THE LICENSING BOARD IN THE ISSUING REMOTE STATE SHALL ASCERTAIN, THROUGH THE DATA SYSTEM, WHETHER THE APPLICANT HAS EVER HELD, OR IS THE HOLDER OF, A LICENSE ISSUED BY ANY OTHER STATE, WHETHER THERE ARE ANY ENCUMBRANCES ON ANY LICENSE OR PRIVILEGE TO PRACTICE HELD BY THE APPLICANT, AND WHETHER ANY ADVERSE ACTION HAS BEEN TAKEN AGAINST ANY LICENSE OR PRIVILEGE TO PRACTICE HELD BY THE APPLICANT.

(D) EACH MEMBER STATE SHALL REQUIRE AN APPLICANT TO OBTAIN OR RETAIN A LICENSE IN THE HOME STATE AND MEET THE HOME STATE'S QUALIFICATIONS FOR LICENSURE OR RENEWAL OF LICENSURE, AS WELL AS ALL OTHER APPLICABLE STATE LAWS.

(E) AN AUDIOLOGIST MUST:

(1) MEET ONE OF THE FOLLOWING EDUCATIONAL REQUIREMENTS:

(I) ON OR BEFORE DECEMBER 31, 2007, HAVE GRADUATED WITH A MASTER'S DEGREE OR DOCTORATE IN AUDIOLOGY, OR EQUIVALENT DEGREE REGARDLESS OF DEGREE NAME, FROM A PROGRAM THAT IS ACCREDITED BY AN ACCREDITING AGENCY RECOGNIZED BY THE COUNCIL FOR HIGHER EDUCATION ACCREDITATION, OR ITS SUCCESSOR, OR BY THE UNITED STATES DEPARTMENT OF EDUCATION AND OPERATED BY A COLLEGE OR UNIVERSITY ACCREDITED BY A REGIONAL OR NATIONAL ACCREDITING ORGANIZATION RECOGNIZED BY A STATE LICENSING BOARD;

(II) ON OR AFTER JANUARY 1, 2008, HAVE GRADUATED WITH A DOCTORAL DEGREE IN AUDIOLOGY, OR EQUIVALENT DEGREE, REGARDLESS OF DEGREE NAME, FROM A PROGRAM THAT IS ACCREDITED BY AN ACCREDITING AGENCY RECOGNIZED BY THE COUNCIL FOR HIGHER EDUCATION ACCREDITATION, OR ITS SUCCESSOR, OR BY THE UNITED STATES DEPARTMENT OF EDUCATION AND OPERATED BY A COLLEGE OR UNIVERSITY ACCREDITED BY A REGIONAL OR NATIONAL ACCREDITING ORGANIZATION RECOGNIZED BY A STATE LICENSING BOARD; OR

(III) HAVE GRADUATED FROM AN AUDIOLOGY PROGRAM THAT IS HOUSED IN AN INSTITUTION OF HIGHER EDUCATION OUTSIDE THE UNITED STATES:

1. FOR WHICH THE PROGRAM AND INSTITUTION HAVE BEEN APPROVED BY THE AUTHORIZED ACCREDITING BODY IN THE APPLICABLE COUNTRY; AND

2. WHOSE DEGREE PROGRAM HAS BEEN VERIFIED BY AN INDEPENDENT CREDENTIALS REVIEW AGENCY TO BE COMPARABLE TO A STATE LICENSING BOARD-APPROVED PROGRAM;

(2) HAVE COMPLETED A SUPERVISED CLINICAL PRACTICUM EXPERIENCE FROM AN ACCREDITED EDUCATIONAL INSTITUTION OR ITS COOPERATING PROGRAMS AS REQUIRED BY ~~A LICENSING BOARD~~ THE COMMISSION;

(3) HAVE SUCCESSFULLY PASSED A NATIONAL EXAMINATION APPROVED BY THE COMMISSION;

(4) HOLD AN ACTIVE, UNENCUMBERED LICENSE;

(5) HAVE NOT BEEN CONVICTED OR FOUND GUILTY OF, AND HAVE NOT ENTERED INTO AN AGREED DISPOSITION REGARDING, A FELONY RELATED TO THE PRACTICE OF AUDIOLOGY, UNDER APPLICABLE STATE OR FEDERAL CRIMINAL LAW; AND

(6) HAVE A VALID UNITED STATES SOCIAL SECURITY OR NATIONAL PRACTITIONER IDENTIFICATION NUMBER.

(F) A SPEECH-LANGUAGE PATHOLOGIST MUST:

(1) MEET ONE OF THE FOLLOWING EDUCATIONAL REQUIREMENTS:

(I) HAVE GRADUATED WITH A MASTER'S DEGREE FROM A SPEECH-LANGUAGE PATHOLOGY PROGRAM THAT IS ACCREDITED BY AN ORGANIZATION RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION AND OPERATED BY A COLLEGE OR UNIVERSITY ACCREDITED BY A REGIONAL OR NATIONAL ACCREDITING ORGANIZATION RECOGNIZED BY A LICENSING BOARD; OR

(II) HAVE GRADUATED FROM A SPEECH-LANGUAGE PATHOLOGY PROGRAM THAT IS HOUSED IN AN INSTITUTION OF HIGHER EDUCATION OUTSIDE THE UNITED STATES:

1. FOR WHICH THE PROGRAM AND INSTITUTION HAVE BEEN APPROVED BY THE AUTHORIZED ACCREDITING BODY IN THE APPLICABLE COUNTRY; AND

2. WHOSE DEGREE PROGRAM HAS BEEN VERIFIED BY AN INDEPENDENT CREDENTIALS REVIEW AGENCY TO BE COMPARABLE TO A STATE LICENSING BOARD-APPROVED PROGRAM;

(2) HAVE COMPLETED A SUPERVISED CLINICAL PRACTICUM EXPERIENCE FROM AN EDUCATIONAL INSTITUTION OR ITS COOPERATING PROGRAMS AS REQUIRED BY THE COMMISSION;

(3) HAVE COMPLETED A SUPERVISED POSTGRADUATE PROFESSIONAL EXPERIENCE AS REQUIRED BY THE COMMISSION;

(4) HAVE SUCCESSFULLY PASSED A NATIONAL EXAMINATION APPROVED BY THE COMMISSION;

(5) HOLD AN ACTIVE, UNENCUMBERED LICENSE;

(6) HAVE NOT BEEN CONVICTED OR FOUND GUILTY OF, AND HAVE NOT ENTERED INTO AN AGREED DISPOSITION REGARDING, A FELONY RELATED TO THE PRACTICE OF SPEECH-LANGUAGE PATHOLOGY, UNDER APPLICABLE STATE OR FEDERAL CRIMINAL LAW; AND

(7) HAVE A VALID UNITED STATES SOCIAL SECURITY OR NATIONAL PRACTITIONER IDENTIFICATION NUMBER.

(G) THE PRIVILEGE TO PRACTICE IS DERIVED FROM THE HOME STATE LICENSE.

(H) AN AUDIOLOGIST OR A SPEECH-LANGUAGE PATHOLOGIST PRACTICING IN A MEMBER STATE MUST COMPLY WITH THE STATE PRACTICE LAWS OF THE STATE IN WHICH THE PATIENT IS LOCATED AT THE TIME SERVICE IS PROVIDED. THE PRACTICE OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY SHALL INCLUDE ALL AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY PRACTICE AS DEFINED BY THE STATE PRACTICE LAWS OF THE MEMBER STATE IN WHICH THE PATIENT IS LOCATED. THE PRACTICE OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY IN A MEMBER STATE UNDER A PRIVILEGE TO PRACTICE SHALL SUBJECT AN AUDIOLOGIST OR A SPEECH-LANGUAGE PATHOLOGIST TO THE JURISDICTION OF THE LICENSING BOARD, THE COURTS, AND THE LAWS OF THE MEMBER STATE IN WHICH THE PATIENT IS LOCATED AT THE TIME SERVICE IS PROVIDED.

(I) INDIVIDUALS NOT RESIDING IN A MEMBER STATE SHALL CONTINUE TO BE ABLE TO APPLY FOR A MEMBER STATE'S SINGLE-STATE LICENSE AS PROVIDED UNDER THE LAWS OF EACH MEMBER STATE. HOWEVER, THE SINGLE-STATE LICENSE GRANTED TO THESE INDIVIDUALS MAY NOT BE RECOGNIZED AS GRANTING THE PRIVILEGE TO PRACTICE AUDIOLOGY OR SPEECH-LANGUAGE PATHOLOGY IN ANY

OTHER MEMBER STATE. NOTHING IN THIS COMPACT SHALL AFFECT THE REQUIREMENTS ESTABLISHED BY A MEMBER STATE FOR THE ISSUANCE OF A SINGLE-STATE LICENSE.

(J) MEMBER STATES MAY CHARGE A FEE FOR GRANTING A COMPACT PRIVILEGE.

(K) MEMBER STATES MUST COMPLY WITH THE BYLAWS AND RULES AND REGULATIONS OF THE COMMISSION.

SECTION 4. COMPACT PRIVILEGE

(A) TO EXERCISE THE COMPACT PRIVILEGE UNDER THE TERMS AND PROVISIONS OF THE COMPACT, THE AUDIOLOGIST OR SPEECH-LANGUAGE PATHOLOGIST SHALL:

- (1) HOLD AN ACTIVE LICENSE IN THE HOME STATE;
- (2) HAVE NO ENCUMBRANCE ON ANY STATE LICENSE;
- (3) BE ELIGIBLE FOR A COMPACT PRIVILEGE IN ANY MEMBER STATE IN ACCORDANCE WITH SECTION 3;
- (4) HAVE NOT HAD ANY ADVERSE ACTION AGAINST ANY LICENSE OR COMPACT PRIVILEGE WITHIN THE PREVIOUS 2 YEARS FROM DATE OF APPLICATION;
- (5) NOTIFY THE COMMISSION THAT THE LICENSEE IS SEEKING THE COMPACT PRIVILEGE WITHIN A REMOTE STATE;
- (6) PAY ANY APPLICABLE FEES, INCLUDING ANY STATE FEE, FOR THE COMPACT PRIVILEGE; AND
- (7) REPORT TO THE COMMISSION ADVERSE ACTION TAKEN BY ANY NONMEMBER STATE WITHIN 30 DAYS FROM THE DATE THE ADVERSE ACTION IS TAKEN.

(B) FOR THE PURPOSES OF THE COMPACT PRIVILEGE, AN AUDIOLOGIST OR A SPEECH-LANGUAGE PATHOLOGIST MAY HOLD ONLY ONE HOME STATE LICENSE AT A TIME.

(C) EXCEPT AS PROVIDED IN SECTION 6, IF AN AUDIOLOGIST OR A SPEECH-LANGUAGE PATHOLOGIST CHANGES PRIMARY STATE OF RESIDENCE BY MOVING BETWEEN TWO MEMBER STATES, THE AUDIOLOGIST OR SPEECH-LANGUAGE PATHOLOGIST MUST APPLY FOR LICENSURE IN THE NEW HOME

STATE, AND THE LICENSE ISSUED BY THE PRIOR HOME STATE SHALL BE DEACTIVATED IN ACCORDANCE WITH APPLICABLE RULES ADOPTED BY THE COMMISSION.

(D) THE AUDIOLOGIST OR SPEECH–LANGUAGE PATHOLOGIST MAY APPLY FOR LICENSURE IN ADVANCE OF A CHANGE IN PRIMARY STATE OF RESIDENCE.

(E) A LICENSE MAY NOT BE ISSUED BY THE NEW HOME STATE UNTIL THE AUDIOLOGIST OR SPEECH–LANGUAGE PATHOLOGIST PROVIDES SATISFACTORY EVIDENCE OF A CHANGE IN PRIMARY STATE OF RESIDENCE TO THE NEW HOME STATE AND SATISFIES ALL APPLICABLE REQUIREMENTS TO OBTAIN A LICENSE FROM THE NEW HOME STATE.

(F) IF AN AUDIOLOGIST OR A SPEECH–LANGUAGE PATHOLOGIST CHANGES PRIMARY STATE OF RESIDENCE BY MOVING FROM A MEMBER STATE TO A NONMEMBER STATE, THE LICENSE ISSUED BY THE PRIOR HOME STATE SHALL CONVERT TO A SINGLE–STATE LICENSE, VALID ONLY IN THE FORMER HOME STATE, AND THE COMPACT PRIVILEGE IN ANY MEMBER STATE IS DEACTIVATED IN ACCORDANCE WITH RULES ADOPTED BY THE COMMISSION.

(G) THE COMPACT PRIVILEGE IS VALID UNTIL THE EXPIRATION DATE OF THE HOME STATE LICENSE. THE LICENSEE MUST COMPLY WITH THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION TO MAINTAIN THE COMPACT PRIVILEGE IN THE REMOTE STATE.

(H) A LICENSEE PROVIDING AUDIOLOGY OR SPEECH–LANGUAGE PATHOLOGY SERVICES IN A REMOTE STATE UNDER THE COMPACT PRIVILEGE SHALL FUNCTION WITHIN THE LAWS AND REGULATIONS OF THE REMOTE STATE.

(I) A LICENSEE PROVIDING AUDIOLOGY OR SPEECH–LANGUAGE PATHOLOGY SERVICES IN A REMOTE STATE IS SUBJECT TO THE REGULATORY AUTHORITY OF THAT STATE. A REMOTE STATE MAY, IN ACCORDANCE WITH DUE PROCESS AND THE LAWS OF THAT STATE, REMOVE A LICENSEE’S COMPACT PRIVILEGE IN THE REMOTE STATE FOR A SPECIFIC PERIOD OF TIME, IMPOSE FINES, OR TAKE ANY OTHER NECESSARY ACTIONS TO PROTECT THE HEALTH AND SAFETY OF ITS CITIZENS.

(J) IF A HOME STATE LICENSE IS ENCUMBERED, THE LICENSEE SHALL LOSE THE COMPACT PRIVILEGE IN ANY REMOTE STATE UNTIL THE FOLLOWING OCCUR:

- (1) THE HOME STATE LICENSE IS NO LONGER ENCUMBERED; AND
- (2) 2 YEARS HAVE ELAPSED FROM THE DATE OF THE ADVERSE ACTION.

(K) ONCE AN ENCUMBERED LICENSE IN THE HOME STATE IS RESTORED TO GOOD STANDING, THE LICENSEE MUST MEET THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION TO OBTAIN A COMPACT PRIVILEGE IN ANY REMOTE STATE.

(L) ONCE THE REQUIREMENTS OF SUBSECTION (J) OF THIS SECTION HAVE BEEN MET, THE LICENSEE MUST MEET THE REQUIREMENTS IN SUBSECTION (A) OF THIS SECTION TO OBTAIN A COMPACT PRIVILEGE IN A REMOTE STATE.

SECTION 5. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

(A) MEMBER STATES SHALL RECOGNIZE THE RIGHT OF AN AUDIOLOGIST OR A SPEECH–LANGUAGE PATHOLOGIST, LICENSED BY A HOME STATE IN ACCORDANCE WITH SECTION 3 AND UNDER RULES PROMULGATED BY THE COMMISSION, TO PRACTICE AUDIOLOGY OR SPEECH–LANGUAGE PATHOLOGY IN ANY MEMBER STATE VIA TELEHEALTH UNDER A PRIVILEGE TO PRACTICE AS PROVIDED IN THE COMPACT AND RULES PROMULGATED BY THE COMMISSION.

(B) A LICENSEE PROVIDING AUDIOLOGY OR SPEECH–LANGUAGE PATHOLOGY SERVICES IN A REMOTE STATE UNDER THE COMPACT PRIVILEGE SHALL FUNCTION WITHIN THE LAWS AND REGULATIONS OF THE REMOTE STATE.

SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

ACTIVE DUTY MILITARY PERSONNEL, OR THEIR SPOUSES, SHALL DESIGNATE A HOME STATE WHERE THE INDIVIDUAL HAS A CURRENT LICENSE IN GOOD STANDING. THE INDIVIDUAL MAY RETAIN THE HOME STATE DESIGNATION DURING THE PERIOD THE SERVICE MEMBER IS ON ACTIVE DUTY. SUBSEQUENT TO DESIGNATING A HOME STATE, THE INDIVIDUAL ~~MAY~~ SHALL CHANGE THE HOME STATE OF THE INDIVIDUAL ONLY THROUGH APPLICATION FOR LICENSURE IN THE NEW STATE.

SECTION 7. ADVERSE ACTIONS

(A) (1) IN ADDITION TO THE OTHER POWERS CONFERRED BY STATE LAW, A REMOTE STATE SHALL HAVE THE AUTHORITY, IN ACCORDANCE WITH EXISTING STATE DUE PROCESS LAW, TO:

(I) TAKE ADVERSE ACTION AGAINST AN AUDIOLOGIST’S OR A SPEECH–LANGUAGE PATHOLOGIST’S PRIVILEGE TO PRACTICE WITHIN THAT MEMBER STATE; AND

(II) ISSUE SUBPOENAS FOR BOTH HEARINGS AND INVESTIGATIONS THAT REQUIRE THE ATTENDANCE AND TESTIMONY OF WITNESSES AS WELL AS THE PRODUCTION OF EVIDENCE.

(2) SUBPOENAS ISSUED BY A LICENSING BOARD IN A MEMBER STATE FOR THE ATTENDANCE AND TESTIMONY OF WITNESSES OR THE PRODUCTION OF EVIDENCE FROM ANOTHER MEMBER STATE SHALL BE ENFORCED IN THE LATTER STATE BY ANY COURT OF COMPETENT JURISDICTION, ACCORDING TO THE PRACTICE AND PROCEDURE OF THAT COURT APPLICABLE TO SUBPOENAS ISSUED IN PROCEEDINGS PENDING BEFORE IT. THE ISSUING AUTHORITY SHALL PAY ANY WITNESS FEES, TRAVEL EXPENSES, MILEAGE, AND OTHER FEES REQUIRED BY THE SERVICE STATUTES OF THE STATE IN WHICH THE WITNESSES OR EVIDENCE ARE LOCATED.

(3) ONLY THE HOME STATE SHALL HAVE THE POWER TO TAKE ADVERSE ACTION AGAINST AN AUDIOLOGIST'S OR A SPEECH-LANGUAGE PATHOLOGIST'S LICENSE ISSUED BY THE HOME STATE.

(B) FOR PURPOSES OF TAKING ADVERSE ACTION, THE HOME STATE SHALL GIVE THE SAME PRIORITY AND EFFECT TO REPORTED CONDUCT RECEIVED FROM A MEMBER STATE AS IT WOULD IF THE CONDUCT HAD OCCURRED WITHIN THE HOME STATE. IN SO DOING, THE HOME STATE SHALL APPLY ITS OWN STATE LAWS TO DETERMINE APPROPRIATE ACTION.

(C) THE HOME STATE SHALL COMPLETE ANY PENDING INVESTIGATIONS OF AN AUDIOLOGIST OR A SPEECH-LANGUAGE PATHOLOGIST WHO CHANGES PRIMARY STATE OF RESIDENCE DURING THE COURSE OF THE INVESTIGATIONS. THE HOME STATE SHALL ALSO HAVE THE AUTHORITY TO TAKE APPROPRIATE ACTION AND SHALL PROMPTLY REPORT THE CONCLUSIONS OF THE INVESTIGATIONS TO THE ADMINISTRATOR OF THE DATA SYSTEM. THE ADMINISTRATOR OF THE DATA SYSTEM SHALL PROMPTLY NOTIFY THE NEW HOME STATE OF ANY ADVERSE ACTIONS.

(D) IF OTHERWISE AUTHORIZED BY STATE LAW, THE ~~HOME~~ MEMBER STATE MAY RECOVER FROM THE AFFECTED AUDIOLOGIST OR SPEECH-LANGUAGE PATHOLOGIST THE COSTS OF INVESTIGATIONS AND DISPOSITION OF CASES RESULTING FROM ANY ADVERSE ACTION TAKEN AGAINST THAT AUDIOLOGIST OR SPEECH-LANGUAGE PATHOLOGIST.

(E) THE ~~HOME~~ MEMBER STATE ~~SHALL~~ MAY TAKE ADVERSE ACTION BASED ON THE FACTUAL FINDINGS OF THE REMOTE STATE, PROVIDED THAT THE ~~HOME~~ MEMBER STATE FOLLOWS ITS OWN PROCEDURES FOR TAKING THE ADVERSE ACTION.

(F) (1) IN ADDITION TO THE AUTHORITY GRANTED TO A MEMBER STATE BY ITS RESPECTIVE AUDIOLOGY OR SPEECH–LANGUAGE PATHOLOGY PRACTICE ACT OR OTHER APPLICABLE STATE LAW, ANY MEMBER STATE MAY PARTICIPATE WITH OTHER MEMBER STATES IN JOINT INVESTIGATIONS OF LICENSEES.

(2) MEMBER STATES SHALL SHARE ANY INVESTIGATIVE, LITIGATION, OR COMPLIANCE MATERIALS IN FURTHERANCE OF ANY JOINT OR INDIVIDUAL INVESTIGATION INITIATED UNDER THE COMPACT.

(G) IF ADVERSE ACTION IS TAKEN BY THE HOME STATE AGAINST AN AUDIOLOGIST’S OR A SPEECH–LANGUAGE PATHOLOGIST’S LICENSE, THE AUDIOLOGIST’S OR SPEECH–LANGUAGE PATHOLOGIST’S PRIVILEGE TO PRACTICE IN ALL OTHER MEMBER STATES SHALL BE DEACTIVATED UNTIL ALL ENCUMBRANCES HAVE BEEN REMOVED FROM THE STATE LICENSE. ALL HOME STATE DISCIPLINARY ORDERS THAT IMPOSE ADVERSE ACTION AGAINST AN AUDIOLOGIST’S OR A SPEECH–LANGUAGE PATHOLOGIST’S LICENSE SHALL INCLUDE A STATEMENT THAT THE AUDIOLOGIST’S OR SPEECH–LANGUAGE PATHOLOGIST’S PRIVILEGE TO PRACTICE IS DEACTIVATED IN ALL MEMBER STATES DURING THE PENDENCY OF THE ORDER.

(H) IF A MEMBER STATE TAKES ADVERSE ACTION AGAINST A LICENSEE, IT SHALL PROMPTLY NOTIFY THE ADMINISTRATOR OF THE DATA SYSTEM. THE ADMINISTRATOR OF THE DATA SYSTEM SHALL PROMPTLY NOTIFY THE HOME STATE, AND ANY REMOTE STATE IN WHICH THE LICENSEE HAS A PRIVILEGE TO PRACTICE, OF ANY ADVERSE ACTIONS BY THE HOME STATE OR REMOTE STATES.

(I) NOTHING IN THIS COMPACT SHALL OVERRIDE A MEMBER STATE’S DECISION THAT PARTICIPATION IN AN ALTERNATIVE PROGRAM MAY BE USED IN LIEU OF ADVERSE ACTION.

SECTION 8. ESTABLISHMENT OF THE AUDIOLOGY AND SPEECH–LANGUAGE PATHOLOGY COMPACT COMMISSION

(A) (1) THE COMPACT MEMBER STATES HEREBY CREATE AND ESTABLISH A JOINT PUBLIC AGENCY KNOWN AS THE AUDIOLOGY AND SPEECH–LANGUAGE PATHOLOGY COMPACT COMMISSION.

(2) THE COMMISSION IS AN INSTRUMENTALITY OF THE COMPACT STATES.

(3) VENUE IS PROPER AND JUDICIAL PROCEEDINGS BY OR AGAINST THE COMMISSION SHALL BE BROUGHT SOLELY AND EXCLUSIVELY IN A COURT OF COMPETENT JURISDICTION WHERE THE PRINCIPAL OFFICE OF THE COMMISSION IS LOCATED. THE COMMISSION MAY WAIVE VENUE AND JURISDICTIONAL DEFENSES

TO THE EXTENT IT ADOPTS OR CONSENTS TO PARTICIPATE IN ALTERNATIVE DISPUTE RESOLUTION PROCEEDINGS.

(4) NOTHING IN THIS COMPACT SHALL BE CONSTRUED TO BE A WAIVER OF SOVEREIGN IMMUNITY.

(B) (1) EACH MEMBER STATE SHALL HAVE TWO DELEGATES SELECTED BY THE LICENSING BOARD OF THAT MEMBER STATE. THE DELEGATES SHALL BE CURRENT MEMBERS OF THE LICENSING BOARD. ONE SHALL BE AN AUDIOLOGIST AND ONE SHALL BE A SPEECH–LANGUAGE PATHOLOGIST.

(2) AN ADDITIONAL FIVE DELEGATES, WHO ARE EITHER PUBLIC MEMBERS OR BOARD ADMINISTRATORS FROM STATE LICENSING BOARDS, SHALL BE CHOSEN BY THE EXECUTIVE COMMITTEE FROM A POOL OF NOMINEES PROVIDED BY THE COMMISSION AT LARGE.

(3) ANY DELEGATE MAY BE REMOVED OR SUSPENDED FROM OFFICE AS PROVIDED BY THE LAW OF THE STATE FROM WHICH THE DELEGATE IS APPOINTED.

(4) THE MEMBER STATE BOARD SHALL FILL ANY VACANCY OCCURRING ON THE COMMISSION WITHIN 90 DAYS.

(5) EACH DELEGATE SHALL BE ENTITLED TO ONE VOTE WITH REGARD TO THE PROMULGATION OF RULES AND CREATION OF BYLAWS AND SHALL OTHERWISE HAVE AN OPPORTUNITY TO PARTICIPATE IN THE BUSINESS AND AFFAIRS OF THE COMMISSION.

(6) A DELEGATE SHALL VOTE IN PERSON OR BY OTHER MEANS AS PROVIDED IN THE BYLAWS. THE BYLAWS MAY PROVIDE FOR THE PARTICIPATION OF THE DELEGATES IN MEETINGS BY TELEPHONE OR OTHER MEANS OF COMMUNICATION.

(7) THE COMMISSION SHALL MEET AT LEAST ONCE DURING EACH CALENDAR YEAR. ADDITIONAL MEETINGS SHALL BE HELD AS SET FORTH IN THE BYLAWS.

(C) THE COMMISSION SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

(1) ESTABLISH THE FISCAL YEAR OF THE COMMISSION;

(2) ESTABLISH BYLAWS;

(3) ESTABLISH A CODE OF ETHICS;

- (4) MAINTAIN ITS FINANCIAL RECORDS IN ACCORDANCE WITH THE BYLAWS;
- (5) MEET AND TAKE ACTIONS AS ARE CONSISTENT WITH THE PROVISIONS OF THIS COMPACT AND THE BYLAWS;
- (6) PROMULGATE UNIFORM RULES TO FACILITATE AND COORDINATE IMPLEMENTATION AND ADMINISTRATION OF THIS COMPACT THAT SHALL HAVE THE FORCE AND EFFECT OF LAW AND SHALL BE BINDING IN ALL MEMBER STATES TO THE EXTENT AND MANNER PROVIDED FOR IN THIS COMPACT;
- (7) BRING AND PROSECUTE LEGAL PROCEEDINGS OR ACTIONS IN THE NAME OF THE COMMISSION, PROVIDED THAT THE STANDING OF ANY STATE AUDIOLOGY OR SPEECH-LANGUAGE PATHOLOGY LICENSING BOARD TO SUE OR BE SUED UNDER APPLICABLE LAW SHALL NOT BE AFFECTED;
- (8) PURCHASE AND MAINTAIN INSURANCE AND BONDS;
- (9) BORROW, ACCEPT, OR CONTRACT FOR SERVICES OF PERSONNEL, INCLUDING, BUT NOT LIMITED TO, EMPLOYEES OF A MEMBER STATE;
- (10) HIRE EMPLOYEES, ELECT OR APPOINT OFFICERS, FIX COMPENSATION, DEFINE DUTIES, GRANT INDIVIDUALS APPROPRIATE AUTHORITY TO CARRY OUT THE PURPOSES OF THE COMPACT, AND ESTABLISH THE COMMISSION'S PERSONNEL POLICIES AND PROGRAMS RELATING TO CONFLICTS OF INTEREST, QUALIFICATIONS OF PERSONNEL, AND OTHER RELATED PERSONNEL MATTERS;
- (11) ACCEPT ANY AND ALL APPROPRIATE DONATIONS AND GRANTS OF MONEY, EQUIPMENT, SUPPLIES, MATERIALS, AND SERVICES, AND RECEIVE, UTILIZE, AND DISPOSE OF THE SAME, PROVIDED THAT AT ALL TIMES THE COMMISSION SHALL AVOID ANY APPEARANCE OF IMPROPRIETY OR CONFLICT OF INTEREST;
- (12) LEASE, PURCHASE, ACCEPT APPROPRIATE GIFTS OR DONATIONS OF, OR OTHERWISE OWN, HOLD, IMPROVE, OR USE ANY PROPERTY, REAL, PERSONAL, OR MIXED, PROVIDED THAT AT ALL TIMES THE COMMISSION SHALL AVOID ANY APPEARANCE OF IMPROPRIETY;
- (13) SELL, CONVEY, MORTGAGE, PLEDGE, LEASE, EXCHANGE, ABANDON, OR OTHERWISE DISPOSE OF ANY PROPERTY, REAL, PERSONAL, OR MIXED;
- (14) ESTABLISH A BUDGET AND MAKE EXPENDITURES;

(15) BORROW MONEY;

(16) APPOINT COMMITTEES, INCLUDING STANDING COMMITTEES COMPOSED OF MEMBERS AND OTHER INTERESTED PERSONS AS MAY BE DESIGNATED IN THIS COMPACT AND THE BYLAWS;

(17) PROVIDE AND RECEIVE INFORMATION FROM, AND COOPERATE WITH, LAW ENFORCEMENT AGENCIES;

(18) ESTABLISH AND ELECT AN EXECUTIVE COMMITTEE; AND

(19) PERFORM OTHER FUNCTIONS AS MAY BE NECESSARY OR APPROPRIATE TO ACHIEVE THE PURPOSES OF THIS COMPACT CONSISTENT WITH STATE REGULATION OF AUDIOLOGY AND SPEECH–LANGUAGE PATHOLOGY LICENSURE AND PRACTICE.

(D) THE COMMISSION HAS NO AUTHORITY TO CHANGE OR MODIFY THE LAWS OF THE MEMBER STATES WHICH DEFINE THE PRACTICE OF AUDIOLOGY OR SPEECH–LANGUAGE PATHOLOGY IN THE RESPECTIVE STATES.

~~(D)~~ (E) (1) THE EXECUTIVE COMMITTEE SHALL HAVE THE POWER TO ACT ON BEHALF OF THE COMMISSION, WITHIN THE POWERS OF THE COMMISSION, ACCORDING TO THE TERMS OF THIS COMPACT.

(2) THE EXECUTIVE COMMITTEE SHALL BE COMPOSED OF THE FOLLOWING MEMBERS:

(I) SEVEN VOTING MEMBERS WHO ARE ELECTED BY THE COMMISSION FROM THE CURRENT MEMBERSHIP OF THE COMMISSION;

(II) TWO EX OFFICIO MEMBERS, CONSISTING OF ONE NONVOTING MEMBER FROM A RECOGNIZED NATIONAL AUDIOLOGY PROFESSIONAL ASSOCIATION AND ONE NONVOTING MEMBER FROM A RECOGNIZED NATIONAL SPEECH–LANGUAGE PATHOLOGY ASSOCIATION; AND

(III) ONE EX OFFICIO, NONVOTING MEMBER FROM THE RECOGNIZED MEMBERSHIP ORGANIZATION OF THE AUDIOLOGY OR SPEECH–LANGUAGE PATHOLOGY LICENSING BOARDS.

(3) THE EX OFFICIO MEMBERS SHALL BE SELECTED BY THEIR RESPECTIVE ORGANIZATIONS.

~~(E)~~ (F) (1) THE COMMISSION MAY REMOVE ANY MEMBER OF THE EXECUTIVE COMMITTEE AS PROVIDED IN THE BYLAWS.

(2) THE EXECUTIVE COMMITTEE SHALL MEET AT LEAST ANNUALLY.

(3) THE EXECUTIVE COMMITTEE SHALL HAVE THE FOLLOWING DUTIES AND RESPONSIBILITIES:

(I) RECOMMEND TO THE ENTIRE COMMISSION CHANGES TO THE RULES OR BYLAWS, CHANGES TO THIS COMPACT LEGISLATION, FEES PAID BY COMPACT MEMBER STATES, SUCH AS ANNUAL DUES, AND ANY COMMISSION COMPACT FEE CHARGED TO LICENSEES FOR THE COMPACT PRIVILEGE;

(II) ENSURE COMPACT ADMINISTRATION SERVICES ARE APPROPRIATELY PROVIDED, CONTRACTUAL OR OTHERWISE;

(III) PREPARE AND RECOMMEND THE BUDGET;

(IV) MAINTAIN FINANCIAL RECORDS ON BEHALF OF THE COMMISSION;

(V) MONITOR COMPACT COMPLIANCE OF MEMBER STATES AND PROVIDE COMPLIANCE REPORTS TO THE COMMISSION;

(VI) ESTABLISH ADDITIONAL COMMITTEES AS NECESSARY; AND

(VII) OTHER DUTIES AS PROVIDED IN RULES OR BYLAWS.

(4) ALL MEETINGS SHALL BE OPEN TO THE PUBLIC, AND PUBLIC NOTICE OF MEETINGS SHALL BE GIVEN IN THE SAME MANNER AS REQUIRED UNDER THE RULEMAKING PROVISIONS IN SECTION 10.

(5) THE COMMISSION, THE EXECUTIVE COMMITTEE, OR OTHER COMMITTEES OF THE COMMISSION MAY CONVENE IN A CLOSED, NONPUBLIC MEETING IF THE COMMISSION OR EXECUTIVE COMMITTEE OR OTHER COMMITTEES OF THE COMMISSION MUST DISCUSS:

(I) NONCOMPLIANCE OF A MEMBER STATE WITH ITS OBLIGATIONS UNDER THE COMPACT;

(II) THE EMPLOYMENT, COMPENSATION, DISCIPLINE OR OTHER MATTERS, PRACTICES OR PROCEDURES RELATED TO SPECIFIC EMPLOYEES, OR OTHER MATTERS RELATED TO THE COMMISSION'S INTERNAL PERSONNEL PRACTICES AND PROCEDURES;

(III) CURRENT, THREATENED, OR REASONABLY ANTICIPATED LITIGATION;

(IV) NEGOTIATION OF CONTRACTS FOR THE PURCHASE, LEASE, OR SALE OF GOODS, SERVICES, OR REAL ESTATE;

(V) ACCUSING ANY PERSON OF A CRIME OR FORMALLY CENSURING ANY PERSON;

(VI) DISCLOSURE OF TRADE SECRETS OR COMMERCIAL OR FINANCIAL INFORMATION THAT IS PRIVILEGED OR CONFIDENTIAL;

(VII) DISCLOSURE OF INFORMATION OF A PERSONAL NATURE WHERE DISCLOSURE WOULD CONSTITUTE A CLEARLY UNWARRANTED INVASION OF PERSONAL PRIVACY;

(VIII) DISCLOSURE OF INVESTIGATIVE RECORDS COMPILED FOR LAW ENFORCEMENT PURPOSES;

(IX) DISCLOSURE OF INFORMATION RELATED TO ANY INVESTIGATIVE REPORTS PREPARED BY OR ON BEHALF OF OR FOR USE OF THE COMMISSION OR OTHER COMMITTEE CHARGED WITH RESPONSIBILITY OF INVESTIGATION OR DETERMINATION OF COMPLIANCE ISSUES PURSUANT TO THE COMPACT; OR

(X) MATTERS SPECIFICALLY EXEMPTED FROM DISCLOSURE BY FEDERAL OR MEMBER STATE STATUTE.

(6) IF A MEETING, OR PORTION OF A MEETING, IS CLOSED IN ACCORDANCE WITH THIS PROVISION, THE COMMISSION'S LEGAL COUNSEL OR DESIGNEE SHALL CERTIFY THAT THE MEETING MAY BE CLOSED AND SHALL REFERENCE EACH RELEVANT EXEMPTING PROVISION.

(7) THE COMMISSION SHALL KEEP MINUTES THAT FULLY AND CLEARLY DESCRIBE ALL MATTERS DISCUSSED IN A MEETING AND SHALL PROVIDE A FULL AND ACCURATE SUMMARY OF ACTIONS TAKEN, AND THE REASONS THEREFORE, INCLUDING A DESCRIPTION OF THE VIEWS EXPRESSED. ALL DOCUMENTS CONSIDERED IN CONNECTION WITH AN ACTION SHALL BE IDENTIFIED IN MINUTES. ALL MINUTES AND DOCUMENTS OF A CLOSED MEETING SHALL REMAIN UNDER SEAL, SUBJECT TO RELEASE BY A MAJORITY VOTE OF THE COMMISSION OR ORDER OF A COURT OF COMPETENT JURISDICTION. ALL MINUTES AND DOCUMENTS OF MEETINGS OTHER THAN A CLOSED MEETING SHALL BE MADE AVAILABLE TO MEMBERS OF THE PUBLIC UPON REQUEST AT THE REQUESTING PERSON'S EXPENSE.

(8) (I) THE COMMISSION SHALL PAY, OR PROVIDE FOR THE PAYMENT OF, THE REASONABLE EXPENSES OF ITS ESTABLISHMENT, ORGANIZATION, AND ONGOING ACTIVITIES.

(II) THE COMMISSION MAY ACCEPT ANY AND ALL APPROPRIATE REVENUE SOURCES, DONATIONS, AND GRANTS OF MONEY, EQUIPMENT, SUPPLIES, MATERIALS, AND SERVICES.

(III) THE COMMISSION MAY LEVY ON AND COLLECT AN ANNUAL ASSESSMENT FROM EACH MEMBER STATE OR IMPOSE FEES ON OTHER PARTIES TO COVER THE COST OF THE OPERATIONS AND ACTIVITIES OF THE COMMISSION AND ITS STAFF, WHICH MUST BE IN A TOTAL AMOUNT SUFFICIENT TO COVER ITS ANNUAL BUDGET AS APPROVED EACH YEAR FOR WHICH REVENUE IS NOT PROVIDED BY OTHER SOURCES. THE AGGREGATE ANNUAL ASSESSMENT AMOUNT SHALL BE ALLOCATED BASED ON A FORMULA TO BE DETERMINED BY THE COMMISSION, WHICH SHALL PROMULGATE A RULE BINDING ON ALL MEMBER STATES.

(9) THE COMMISSION MAY NOT INCUR OBLIGATIONS OF ANY KIND PRIOR TO SECURING THE FUNDS ADEQUATE TO MEET THE SAME, NOR SHALL THE COMMISSION PLEDGE THE CREDIT OF ANY OF THE MEMBER STATES, EXCEPT BY AND WITH THE AUTHORITY OF THE MEMBER STATE.

(10) THE COMMISSION SHALL KEEP ACCURATE ACCOUNTS OF ALL RECEIPTS AND DISBURSEMENTS. THE RECEIPTS AND DISBURSEMENTS OF THE COMMISSION SHALL BE SUBJECT TO THE AUDIT AND ACCOUNTING PROCEDURES ESTABLISHED UNDER ITS BYLAWS. HOWEVER, ALL RECEIPTS AND DISBURSEMENTS OF FUNDS HANDLED BY THE COMMISSION SHALL BE AUDITED YEARLY BY A CERTIFIED OR LICENSED PUBLIC ACCOUNTANT, AND THE REPORT OF THE AUDIT SHALL BE INCLUDED IN AND BECOME PART OF THE ANNUAL REPORT OF THE COMMISSION.

~~(F)~~ (G) (1) THE MEMBERS, OFFICERS, EXECUTIVE DIRECTOR, EMPLOYEES, AND REPRESENTATIVES OF THE COMMISSION SHALL BE IMMUNE FROM SUIT AND LIABILITY, EITHER PERSONALLY OR IN THEIR OFFICIAL CAPACITY, FOR ANY CLAIM FOR DAMAGE TO OR LOSS OF PROPERTY OR PERSONAL INJURY OR OTHER CIVIL LIABILITY CAUSED BY OR ARISING OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED, OR THAT THE PERSON AGAINST WHOM THE CLAIM IS MADE HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, PROVIDED THAT NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO PROTECT ANY PERSON FROM SUIT OR LIABILITY FOR ANY DAMAGE, LOSS, INJURY, OR LIABILITY CAUSED BY THE INTENTIONAL OR WILLFUL OR WANTON MISCONDUCT OF THAT PERSON.

(2) THE COMMISSION SHALL DEFEND ANY MEMBER, OFFICER, EXECUTIVE DIRECTOR, EMPLOYEE, OR REPRESENTATIVE OF THE COMMISSION IN ANY CIVIL ACTION SEEKING TO IMPOSE LIABILITY ARISING OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, OR THAT THE PERSON AGAINST WHOM THE CLAIM IS MADE HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, PROVIDED THAT NOTHING HEREIN SHALL BE CONSTRUED TO PROHIBIT THAT PERSON FROM RETAINING HIS OR HER OWN COUNSEL, AND PROVIDED FURTHER, THAT THE ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION DID NOT RESULT FROM THAT PERSON'S INTENTIONAL OR WILLFUL OR WANTON MISCONDUCT.

(3) THE COMMISSION SHALL INDEMNIFY AND HOLD HARMLESS ANY MEMBER, OFFICER, EXECUTIVE DIRECTOR, EMPLOYEE, OR REPRESENTATIVE OF THE COMMISSION FOR THE AMOUNT OF ANY SETTLEMENT OR JUDGMENT OBTAINED AGAINST THAT PERSON ARISING OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, OR THAT PERSON HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, PROVIDED THAT THE ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION DID NOT RESULT FROM THE INTENTIONAL OR WILLFUL OR WANTON MISCONDUCT OF THAT PERSON.

SECTION 9. DATA SYSTEM

(A) THE COMMISSION SHALL PROVIDE FOR THE DEVELOPMENT, MAINTENANCE, AND UTILIZATION OF A COORDINATED DATABASE AND REPORTING SYSTEM CONTAINING LICENSURE, ADVERSE ACTION, AND INVESTIGATIVE INFORMATION ON ALL LICENSED INDIVIDUALS IN MEMBER STATES.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF STATE LAW TO THE CONTRARY, A MEMBER STATE SHALL SUBMIT A UNIFORM DATA SET TO THE DATA SYSTEM ON ALL INDIVIDUALS TO WHOM THIS COMPACT IS APPLICABLE AS REQUIRED BY THE RULES OF THE COMMISSION, INCLUDING:

- (1) IDENTIFYING INFORMATION;
- (2) LICENSURE DATA;
- (3) ADVERSE ACTIONS AGAINST A LICENSE OR COMPACT PRIVILEGE;
- (4) NONCONFIDENTIAL INFORMATION RELATED TO ALTERNATIVE PROGRAM PARTICIPATION;

(5) ANY DENIAL OF APPLICATION FOR LICENSURE, AND THE REASON FOR THE DENIAL; AND

(6) OTHER INFORMATION THAT MAY FACILITATE THE ADMINISTRATION OF THIS COMPACT, AS DETERMINED BY THE RULES OF THE COMMISSION.

(C) INVESTIGATIVE INFORMATION PERTAINING TO A LICENSEE IN ANY MEMBER STATE MAY BE AVAILABLE ONLY TO OTHER MEMBER STATES.

(D) THE COMMISSION SHALL PROMPTLY NOTIFY ALL MEMBER STATES OF ANY ADVERSE ACTION TAKEN AGAINST A LICENSEE OR AN INDIVIDUAL APPLYING FOR A LICENSE. ADVERSE ACTION INFORMATION PERTAINING TO A LICENSEE IN ANY MEMBER STATE SHALL BE AVAILABLE TO ANY OTHER MEMBER STATE.

(E) MEMBER STATES CONTRIBUTING INFORMATION TO THE DATA SYSTEM MAY DESIGNATE INFORMATION THAT MAY NOT BE SHARED WITH THE PUBLIC WITHOUT THE EXPRESS PERMISSION OF THE CONTRIBUTING STATE.

(F) ANY INFORMATION SUBMITTED TO THE DATA SYSTEM THAT IS SUBSEQUENTLY REQUIRED TO BE EXPUNGED BY THE LAWS OF THE MEMBER STATE CONTRIBUTING THE INFORMATION SHALL BE REMOVED FROM THE DATA SYSTEM.

SECTION 10. RULEMAKING

(A) THE COMMISSION SHALL EXERCISE ITS RULEMAKING POWERS IN ACCORDANCE WITH THE CRITERIA SET FORTH IN THIS SECTION AND THE RULES ADOPTED THEREUNDER. RULES AND AMENDMENTS SHALL BECOME BINDING AS OF THE DATE SPECIFIED IN EACH RULE OR AMENDMENT.

(B) IF A MAJORITY OF THE LEGISLATURES OF THE MEMBER STATES REJECTS A RULE, BY ENACTMENT OF A STATUTE OR RESOLUTION IN THE SAME MANNER USED TO ADOPT THE COMPACT WITHIN 4 YEARS AFTER THE DATE OF ADOPTION OF THE RULE, THE RULE SHALL HAVE NO FURTHER FORCE AND EFFECT IN ANY MEMBER STATE.

(C) RULES OR AMENDMENTS TO THE RULES SHALL BE ADOPTED AT A REGULAR OR SPECIAL MEETING OF THE COMMISSION.

(D) PRIOR TO PROMULGATION AND ADOPTION OF A FINAL RULE OR RULES BY THE COMMISSION, AND AT LEAST 30 DAYS IN ADVANCE OF THE MEETING AT WHICH THE RULE SHALL BE CONSIDERED AND VOTED ON, THE COMMISSION SHALL FILE A NOTICE OF PROPOSED RULEMAKING:

(1) ON THE WEBSITE OF THE COMMISSION OR OTHER PUBLICLY ACCESSIBLE PLATFORM; AND

(2) ON THE WEBSITE OF EACH MEMBER STATE AUDIOLOGY OR SPEECH–LANGUAGE PATHOLOGY LICENSING BOARD OR OTHER PUBLICLY ACCESSIBLE PLATFORM OR THE PUBLICATION IN WHICH EACH STATE WOULD OTHERWISE PUBLISH PROPOSED RULES.

(E) THE NOTICE OF PROPOSED RULEMAKING SHALL INCLUDE:

(1) THE PROPOSED TIME, DATE, AND LOCATION OF THE MEETING DURING WHICH THE RULE SHALL BE CONSIDERED AND VOTED ON;

(2) THE TEXT OF THE PROPOSED RULE OR AMENDMENT AND THE REASON FOR THE PROPOSED RULE;

(3) A REQUEST FOR COMMENTS ON THE PROPOSED RULE FROM ANY INTERESTED PERSON; AND

(4) THE MANNER IN WHICH INTERESTED PERSONS MAY SUBMIT NOTICE TO THE COMMISSION OF THEIR INTENTION TO ATTEND THE PUBLIC HEARING AND ANY WRITTEN COMMENTS.

(F) PRIOR TO THE ADOPTION OF A PROPOSED RULE, THE COMMISSION SHALL ALLOW PERSONS TO SUBMIT WRITTEN DATA, FACTS, OPINIONS, AND ARGUMENTS, WHICH SHALL BE MADE AVAILABLE TO THE PUBLIC.

(G) THE COMMISSION SHALL GRANT AN OPPORTUNITY FOR A PUBLIC HEARING BEFORE IT ADOPTS A RULE OR AMENDMENT IF A HEARING IS REQUESTED BY:

(1) AT LEAST 25 PERSONS;

(2) A STATE OR FEDERAL GOVERNMENTAL SUBDIVISION OR AGENCY;
OR

(3) AN ASSOCIATION HAVING AT LEAST 25 MEMBERS.

(H) (1) IF A HEARING IS HELD ON THE PROPOSED RULE OR AMENDMENT, THE COMMISSION SHALL PUBLISH THE PLACE, TIME, AND DATE OF THE SCHEDULED PUBLIC HEARING. IF THE HEARING IS HELD VIA ELECTRONIC MEANS, THE COMMISSION SHALL PUBLISH THE MECHANISM FOR ACCESSING THE ELECTRONIC HEARING.

(2) ALL PERSONS WISHING TO BE HEARD AT THE HEARING SHALL NOTIFY THE EXECUTIVE DIRECTOR OF THE COMMISSION OR OTHER DESIGNATED MEMBER IN WRITING OF THEIR DESIRE TO APPEAR AND TESTIFY AT THE HEARING NOT LESS THAN 5 BUSINESS DAYS BEFORE THE SCHEDULED DATE OF THE HEARING.

(3) HEARINGS SHALL BE CONDUCTED IN A MANNER PROVIDING EACH PERSON WHO WISHES TO COMMENT A FAIR AND REASONABLE OPPORTUNITY TO COMMENT ORALLY OR IN WRITING.

(4) ALL HEARINGS SHALL BE RECORDED. A COPY OF THE RECORDING SHALL BE MADE AVAILABLE TO ANY PERSON ON REQUEST AND AT THE REQUESTING PERSON'S EXPENSE.

(5) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED AS REQUIRING A SEPARATE HEARING ON EACH RULE. RULES MAY BE GROUPED FOR THE CONVENIENCE OF THE COMMISSION AT HEARINGS REQUIRED BY THIS SUBSECTION.

(I) FOLLOWING THE SCHEDULED HEARING DATE, OR BY THE CLOSE OF BUSINESS ON THE SCHEDULED HEARING DATE IF THE HEARING WAS NOT HELD, THE COMMISSION SHALL CONSIDER ALL WRITTEN AND ORAL COMMENTS RECEIVED.

(J) IF NO WRITTEN NOTICE OF INTENT TO ATTEND THE PUBLIC HEARING BY INTERESTED PARTIES IS RECEIVED, THE COMMISSION MAY PROCEED WITH PROMULGATION OF THE PROPOSED RULE WITHOUT A PUBLIC HEARING.

(K) THE COMMISSION SHALL, BY MAJORITY VOTE OF ALL MEMBERS, TAKE FINAL ACTION ON THE PROPOSED RULE AND SHALL DETERMINE THE EFFECTIVE DATE OF THE RULE, IF ANY, BASED ON THE RULEMAKING RECORD AND THE FULL TEXT OF THE RULE.

(L) ON DETERMINATION THAT AN EMERGENCY EXISTS, THE COMMISSION MAY CONSIDER AND ADOPT AN EMERGENCY RULE WITHOUT PRIOR NOTICE, OPPORTUNITY FOR COMMENT, OR HEARING, PROVIDED THAT THE USUAL RULEMAKING PROCEDURES PROVIDED IN THE COMPACT AND IN THIS SECTION SHALL BE RETROACTIVELY APPLIED TO THE RULE AS SOON AS REASONABLY POSSIBLE, IN NO EVENT LATER THAN 90 DAYS AFTER THE EFFECTIVE DATE OF THE RULE. FOR THE PURPOSES OF THIS PROVISION, AN EMERGENCY RULE IS ONE THAT MUST BE ADOPTED IMMEDIATELY IN ORDER TO:

(1) MEET AN IMMINENT THREAT TO PUBLIC HEALTH, SAFETY, OR WELFARE;

(2) PREVENT A LOSS OF COMMISSION OR MEMBER STATE FUNDS; OR

(3) MEET A DEADLINE FOR THE PROMULGATION OF AN ADMINISTRATIVE RULE THAT IS ESTABLISHED BY FEDERAL LAW OR RULE.

(M) THE COMMISSION OR AN AUTHORIZED COMMITTEE OF THE COMMISSION MAY DIRECT REVISIONS TO A PREVIOUSLY ADOPTED RULE OR AMENDMENT FOR PURPOSES OF CORRECTING TYPOGRAPHICAL ERRORS, ERRORS IN FORMAT, ERRORS IN CONSISTENCY, OR GRAMMATICAL ERRORS. PUBLIC NOTICE OF ANY REVISIONS SHALL BE POSTED ON THE WEBSITE OF THE COMMISSION. THE REVISION SHALL BE SUBJECT TO CHALLENGE BY ANY PERSON FOR A PERIOD OF 30 DAYS AFTER POSTING. THE REVISION MAY BE CHALLENGED ONLY ON GROUNDS THAT THE REVISION RESULTS IN A MATERIAL CHANGE TO A RULE. A CHALLENGE SHALL BE MADE IN WRITING AND DELIVERED TO THE CHAIR OF THE COMMISSION PRIOR TO THE END OF THE NOTICE PERIOD. IF NO CHALLENGE IS MADE, THE REVISION SHALL TAKE EFFECT WITHOUT FURTHER ACTION. IF THE REVISION IS CHALLENGED, THE REVISION MAY NOT TAKE EFFECT WITHOUT THE APPROVAL OF THE COMMISSION.

SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

(A) (1) ON REQUEST BY A MEMBER STATE, THE COMMISSION SHALL ATTEMPT TO RESOLVE DISPUTES RELATED TO THE COMPACT THAT ARISE AMONG MEMBER STATES AND BETWEEN MEMBER AND NONMEMBER STATES.

(2) THE COMMISSION SHALL PROMULGATE A RULE PROVIDING FOR BOTH MEDIATION AND BINDING DISPUTE RESOLUTION FOR DISPUTES AS APPROPRIATE.

(B) (1) THE COMMISSION, IN THE REASONABLE EXERCISE OF ITS DISCRETION, SHALL ENFORCE THE PROVISIONS AND RULES OF THIS COMPACT.

(2) BY MAJORITY VOTE, THE COMMISSION MAY INITIATE LEGAL ACTION IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA OR THE FEDERAL DISTRICT WHERE THE COMMISSION HAS ITS PRINCIPAL OFFICES AGAINST A MEMBER STATE IN DEFAULT TO ENFORCE COMPLIANCE WITH THE PROVISIONS OF THE COMPACT AND ITS PROMULGATED RULES AND BYLAWS. THE RELIEF SOUGHT MAY INCLUDE BOTH INJUNCTIVE RELIEF AND DAMAGES. IN THE EVENT JUDICIAL ENFORCEMENT IS NECESSARY, THE PREVAILING MEMBER SHALL BE AWARDED ALL COSTS OF LITIGATION, INCLUDING REASONABLE ATTORNEY'S FEES.

(3) THE REMEDIES HEREIN SHALL NOT BE THE EXCLUSIVE REMEDIES OF THE COMMISSION. THE COMMISSION MAY PURSUE ANY OTHER REMEDIES AVAILABLE UNDER FEDERAL OR STATE LAW.

SECTION 12. DATE OF IMPLEMENTATION OF THE AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY INTERSTATE COMPACT AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

(A) THE COMPACT SHALL COME INTO EFFECT ON THE DATE ON WHICH THE COMPACT STATUTE IS ENACTED INTO LAW IN THE 10TH MEMBER STATE. THE PROVISIONS, WHICH BECOME EFFECTIVE AT THAT TIME, SHALL BE LIMITED TO THE POWERS GRANTED TO THE COMMISSION RELATING TO ASSEMBLY AND THE PROMULGATION OF RULES. THEREAFTER, THE COMMISSION SHALL MEET AND EXERCISE RULEMAKING POWERS NECESSARY TO THE IMPLEMENTATION AND ADMINISTRATION OF THE COMPACT.

(B) ANY STATE THAT JOINS THE COMPACT SUBSEQUENT TO THE INITIAL ADOPTION OF THE RULES BY THE COMMISSION SHALL BE SUBJECT TO THE RULES AS THEY EXIST ON THE DATE ON WHICH THE COMPACT BECOMES LAW IN THAT STATE. ANY RULE THAT HAS BEEN PREVIOUSLY ADOPTED BY THE COMMISSION SHALL HAVE THE FULL FORCE AND EFFECT OF LAW ON THE DAY THE COMPACT BECOMES LAW IN THAT STATE.

(C) (1) ANY MEMBER STATE MAY WITHDRAW FROM THIS COMPACT BY ENACTING A STATUTE REPEALING THE SAME.

(2) A MEMBER STATE'S WITHDRAWAL SHALL NOT TAKE EFFECT UNTIL 6 MONTHS AFTER ENACTMENT OF THE REPEALING STATUTE.

(3) WITHDRAWAL SHALL NOT AFFECT THE CONTINUING REQUIREMENT OF THE WITHDRAWING STATE'S AUDIOLOGY OR SPEECH-LANGUAGE PATHOLOGY LICENSING BOARD TO COMPLY WITH THE INVESTIGATIVE AND ADVERSE ACTION REPORTING REQUIREMENTS OF THIS ACT PRIOR TO THE EFFECTIVE DATE OF WITHDRAWAL.

(D) NOTHING CONTAINED IN THIS COMPACT SHALL BE CONSTRUED TO INVALIDATE OR PREVENT ANY AUDIOLOGY OR SPEECH-LANGUAGE PATHOLOGY LICENSURE AGREEMENT OR OTHER COOPERATIVE ARRANGEMENT BETWEEN A MEMBER STATE AND A NONMEMBER STATE THAT DOES NOT CONFLICT WITH THE PROVISIONS OF THIS COMPACT.

(E) THIS COMPACT MAY BE AMENDED BY THE MEMBER STATES. NO AMENDMENT TO THIS COMPACT SHALL BECOME EFFECTIVE AND BINDING ON ANY MEMBER STATE UNTIL IT IS ENACTED INTO THE LAWS OF ALL MEMBER STATES.

SECTION 13. CONSTRUCTION AND SEVERABILITY

THIS COMPACT SHALL BE LIBERALLY CONSTRUED SO AS TO EFFECTUATE THE PURPOSES THEREOF. THE PROVISIONS OF THIS COMPACT SHALL BE SEVERABLE AND IF ANY PHRASE, CLAUSE, SENTENCE, OR PROVISION OF THIS COMPACT IS DECLARED TO BE CONTRARY TO THE CONSTITUTION OF ANY MEMBER STATE OR OF THE UNITED STATES OR THE APPLICABILITY THEREOF TO ANY GOVERNMENT, AGENCY, PERSON, OR CIRCUMSTANCE IS HELD INVALID, THE VALIDITY OF THE REMAINDER OF THIS COMPACT AND THE APPLICABILITY THEREOF TO ANY GOVERNMENT, AGENCY, PERSON, OR CIRCUMSTANCE SHALL NOT BE AFFECTED THEREBY. IF THIS COMPACT SHALL BE HELD CONTRARY TO THE CONSTITUTION OF ANY MEMBER STATE, THE COMPACT SHALL REMAIN IN FULL FORCE AND EFFECT AS TO THE REMAINING MEMBER STATES AND IN FULL FORCE AND EFFECT AS TO THE MEMBER STATE AFFECTED AS TO ALL SEVERABLE MATTERS.

SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

(A) NOTHING HEREIN PREVENTS THE ENFORCEMENT OF ANY OTHER LAW OF A MEMBER STATE THAT IS NOT INCONSISTENT WITH THE COMPACT.

(B) ALL LAWS IN A MEMBER STATE IN CONFLICT WITH THE COMPACT ARE SUPERSEDED TO THE EXTENT OF THE CONFLICT.

(C) ALL LAWFUL ACTIONS OF THE COMMISSION, INCLUDING ALL RULES AND BYLAWS PROMULGATED BY THE COMMISSION, ARE BINDING ON THE MEMBER STATES.

(D) ALL AGREEMENTS BETWEEN THE COMMISSION AND THE MEMBER STATES ARE BINDING IN ACCORDANCE WITH THEIR TERMS.

(E) IN THE EVENT ANY PROVISION OF THE COMPACT EXCEEDS THE CONSTITUTIONAL LIMITS IMPOSED ON THE LEGISLATURE OF ANY MEMBER STATE, THE PROVISION SHALL BE INEFFECTIVE TO THE EXTENT OF THE CONFLICT WITH THE CONSTITUTIONAL PROVISION IN QUESTION IN THAT MEMBER STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is contingent on the enacting of substantially similar legislation in nine other states. The Maryland Department of Health shall notify the Department of Legislative Services within 10 days after nine states have enacted legislation that is substantially similar to this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of this Act, this Act shall take effect October 1, 2021.

May 28, 2021

The Honorable Bill Ferguson
President of the Senate
H-107 State House
Annapolis, Maryland 21401

The Honorable Adrienne A. Jones
Speaker of the House
H-101 State House
Annapolis, Maryland 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 114 and Senate Bill 199 – *Transportation – Maryland Transit Administration Funding and MARC Rail Extension Study (Transit Safety and Investment Act)*.

Nearly every revenue source for Maryland’s Transportation Trust Fund (TTF) has been adversely impacted by the COVID–19 pandemic. These revenue declines have underscored the imperative that MDOT retain the flexibility to respond to changing economic conditions. Since its inception in 1971, one of the greatest strengths of the TTF is that it provides one consolidated fund for all transportation revenues and expenses. As such, the TTF provides the MDOT Maryland Transit Administration (MDOT MTA), as well as all business units of MDOT, a diverse set of revenue sources to better weather economic downturns. It is due to this flexibility that MDOT was equipped to avoid some of the drastic impacts, such as layoffs of State employees and additional project delays, felt by transportation departments and transit agencies across the country during the pandemic. Had this legislation been in place as the pandemic hit, MDOT would not have had the flexibility to shift funds and would have been forced to lay off valuable employees and/or further delay and even cancel critical projects across the State.

MDOT has, and continues to, prioritize statewide transit access, recognizing the state of good repair needs of the MDOT MTA. MDOT is planning to continue developing a robust transit system, as evidenced by the recently released Central Maryland Regional Transit Plan and Capital Needs Inventory, and MDOT is even now developing a Statewide Transit Plan and State Rail Plan. The 2021–2026 Consolidated Transportation Program (CTP) has outlined \$3.1 billion in funding for the MDOT MTA and, despite the COVID–19 impacts, more dollars have been put towards transit in future years than in any previous year. To recognize and support the needs of MDOT MTA, MDOT has already appropriated the funding in the CTP for FY 23 and FY 24 as identified in House Bill 114 and Senate Bill 199. As this legislation spans beyond the current CTP, mandating appropriations from FY 23 – FY 29, this legislation has an even larger impact as MDOT, and the State, works to recover from unprecedented revenue impacts of the pandemic. Transitions such as this one,

which would occur over one CTP development cycle, would have a detrimental impact on the progress MDOT has made towards significantly recovering the budget.

Furthermore, House Bill 114 and Senate Bill 199 prescribe detailed actions to complete a study of a Western Maryland Rail Extension, a requirement that is duplicative of on-going efforts, as well as requires more onerous and costly tasks for unknown purposes, wasting taxpayer dollars in the process. As noted in the Department of Legislative Service's fiscal note for House Bill 114 and Senate Bill 199, the estimated cost of a Rail Extension Study is as much as \$1 million in both FY 2022 and FY 2023, and there is no clear path to accomplish the stated goals of House Bill 114 and Senate Bill 199 without expending significant resources in the future. This \$1 million is not currently budgeted in MDOT MTA's capital program for either FY 2022 or FY 2023.

No governor in the history of the state has invested more in transit. While our approach has been successful, it has never been clearer that funding mandates lead to bureaucratic paralysis and jeopardizes the ability of an agency to effectively protect and serve the public. Given the current state of the TTF and the loss of revenues due to the pandemic, MDOT must focus on maintaining the integrity of the State's transit system, roads, bridges, port, airports, and motor vehicles services. Considering these expenses, the current circumstances surrounding the State and MDOT budgets, and the loss of critical revenues, implementation of House Bill 114 and Senate Bill 199 is not feasible at this time.

For these reasons, I have vetoed House Bill 114 and Senate Bill 199.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 199

AN ACT concerning

**Transportation – Maryland Transit Administration – ~~Funding~~ Funding and
MARC Rail Extension Study
(Transit Safety and Investment Act)**

FOR the purpose of establishing the Purple Line Construction Zone Grant Program; establishing the purpose of the Grant Program; requiring the Department of Commerce to implement and administer the Grant Program; requiring the Department of Commerce, in consultation with the Department of Transportation, to adopt certain regulations; requiring the Department of Commerce and the Maryland Transit Administration to consult qualified small businesses for a certain purpose; requiring the Department of Commerce to make a certain application available as soon as practicable; establishing a maximum amount for a certain grant awarded; authorizing the Department of Commerce to award grants until a certain time; prohibiting the Department of Commerce from awarding more than one grant

to the same business in a certain period of time; requiring that certain funds revert to the Maryland Economic Development Assistance Fund; requiring the Administration to report certain information in the Consolidated Transportation Program; requiring the Governor to include certain appropriations in the State budget from the Transportation Trust Fund to the Maryland Transit Administration for certain operating and capital needs of the Administration in certain fiscal years; authorizing the reduction of certain appropriations under certain circumstances; requiring that certain capital appropriations to the Administration be in addition to any funds appropriated for the capital needs of a certain transit project; providing that a certain provision of law may not be construed to limit the authority of the Administrator to use certain funds to increase the State investment in certain transit systems for a certain purpose; requiring the Administration to submit a report each year on the planning and use of capital funds for certain capital projects in the prior fiscal year; altering the termination date for certain provisions of law concerning funding for the Administration; declaring the intent of the General Assembly; requiring the Department of Transportation to conduct a study on extending Maryland Area Regional Commuter (MARC) rail service to western Maryland; requiring the Department of Transportation to study and make recommendations regarding certain matters; requiring the Administration to incorporate certain recommendations into the Statewide Transit Plan; requiring the Department of Transportation to complete the study notwithstanding any alteration or postponement of the Statewide Transit Plan; requiring the Department of Transportation to report its findings and recommendations to the Governor and the General Assembly on or before a certain date; making conforming changes; defining a certain term; and generally relating to funding for the Maryland Transit Administration, the Statewide Transit Plan, and a study on extending MARC rail service to western Maryland.

BY adding to

Article – Economic Development

Section 16–101 to be under the new title “Title 16. Purple Line Construction Zone Grant Program”

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – Transportation

Section 2–103.1(c)(4)(vi) and (vii), 7–205, and 7–309

Annotated Code of Maryland

(2020 Replacement Volume)

BY adding to

Article – Transportation

Section 2–103.1(c)(4)(vii)

Annotated Code of Maryland

(2020 Replacement Volume)

BY repealing and reenacting, with amendments,
Chapter 351 of the Acts of the General Assembly of 2018
Section 9

BY repealing and reenacting, with amendments,
Chapter 352 of the Acts of the General Assembly of 2018
Section 9

Preamble

WHEREAS, Section 7–309 of the Transportation Article of the Annotated Code of Maryland requires the Maryland Transit Administration (Administration) to assess its ongoing, unconstrained capital needs; and

WHEREAS, The Administration released the Capital Needs Inventory in July 2019, which captured and quantified the capital investment needs over a 10–year period for the assets of the following modes: (1) Local Bus, including CityLink, LocalLink, and Express BusLink; (2) Commuter Bus; (3) Maryland Area Regional Commuter trains; (4) Baltimore Metro SubwayLink; (5) Light RailLink; and (6) MobilityLink; and

WHEREAS, These services provide nearly 320,000 rides a day for residents in Baltimore City and Anne Arundel, Baltimore, Calvert, Charles, Frederick, Harford, Howard, Montgomery, Prince George’s, Queen Anne’s, and St. Mary’s counties; and

WHEREAS, The Capital Needs Inventory identified that in order to provide safe, reliable transit services the Administration would need, on average, \$462 million per year in capital funding for state of good repair needs during the 10–year period identified in the report; and

WHEREAS, In addition to its state of good repair needs, the Capital Needs Inventory identified a need of more than \$100 million per year over the same period for capital enhancement needs; and

WHEREAS, Section 7–301.1 of the Transportation Article requires the Administration to prepare the Central Maryland Regional Transit Plan, a long–range transit plan for Maryland transit service growth in Baltimore City and Anne Arundel, Baltimore, Harford, and Howard counties; and

WHEREAS, The Central Maryland Regional Transit Plan suggests that the existing public transportation system does not provide adequate service to meet existing demand; and

WHEREAS, The Maryland Department of Transportation’s draft FY 2020–2025 Consolidated Transportation Program (CTP) provides the Administration only \$326 million on average per year for the Capital Needs Inventory during this period; and

WHEREAS, The funding levels identified in the CTP for the Administration will increase the agency's Capital Needs Inventory and delay the implementation of the Central Maryland Regional Transit Plan, including the growth of the transit system; and

WHEREAS, Infrastructure becomes more expensive to operate and maintain if maintenance is deferred; and

WHEREAS, Emergency shutdowns, such as the 2018 shutdown of the Baltimore subway system, and equipment failures impact the reliability of Administration services; and

WHEREAS, Riders and the public at large expect the State to maintain its public transit infrastructure at a level of reasonable reliability and the utmost safety; now, therefore,

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

Article – Economic Development

TITLE 16. PURPLE LINE CONSTRUCTION ZONE GRANT PROGRAM.

16-101.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “GRANT PROGRAM” MEANS THE PURPLE LINE CONSTRUCTION ZONE GRANT PROGRAM.

(3) “QUALIFIED SMALL BUSINESS” MEANS A SOLE PROPRIETORSHIP, A PARTNERSHIP, A LIMITED PARTNERSHIP, A LIMITED LIABILITY PARTNERSHIP, A LIMITED LIABILITY COMPANY, OR A CORPORATION THAT:

(I) EMPLOYS 20 OR FEWER EMPLOYEES;

(II) IS INDEPENDENTLY OWNED AND OPERATED;

(III) IS NOT A SUBSIDIARY OF ANOTHER BUSINESS;

(IV) IS NOT DOMINANT IN ITS FIELD OF OPERATION; AND

(V) IS IMPACTED BY THE CONSTRUCTION OF THE PURPLE LINE LIGHT RAIL PROJECT IN MONTGOMERY COUNTY AND PRINCE GEORGE’S COUNTY.

(B) (1) THERE IS A PURPLE LINE CONSTRUCTION ZONE GRANT PROGRAM.

(2) THE PURPOSE OF THE GRANT PROGRAM IS TO PROVIDE FUNDS TO QUALIFIED SMALL BUSINESSES TO ASSIST IN OFFSETTING BUSINESS REVENUE LOST AS A RESULT OF THE CONSTRUCTION OF THE PURPLE LINE LIGHT RAIL PROJECT IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

(3) IN EACH OF FISCAL YEARS 2023 AND 2024, THE DEPARTMENT OF COMMERCE SHALL PROVIDE \$1,000,000 IN GENERAL FUNDS TO THE GRANT PROGRAM TO ASSIST QUALIFIED SMALL BUSINESSES.

(C) THE DEPARTMENT OF COMMERCE SHALL IMPLEMENT AND ADMINISTER THE GRANT PROGRAM.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE DEPARTMENT OF COMMERCE, IN CONSULTATION WITH THE DEPARTMENT OF TRANSPORTATION, SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION, INCLUDING REGULATIONS TO ESTABLISH:

(I) ELIGIBILITY AND GRANT APPLICATION REQUIREMENTS;
AND

(II) A PROCESS FOR REVIEWING GRANT APPLICATIONS AND AWARDING GRANTS TO ELIGIBLE QUALIFIED SMALL BUSINESSES.

(2) IN DEVELOPING THE REGULATIONS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT OF COMMERCE AND THE MARYLAND TRANSIT ADMINISTRATION SHALL CONSULT QUALIFIED SMALL BUSINESSES TO ENSURE THAT THE ELIGIBILITY AND APPLICATION REQUIREMENTS FOR THE GRANT PROGRAM ARE NOT OVERLY BURDENSOME TO QUALIFIED SMALL BUSINESSES.

(3) THE DEPARTMENT OF COMMERCE SHALL MAKE THE APPLICATION DEVELOPED FOR PURPOSES OF THE GRANT PROGRAM AVAILABLE TO QUALIFIED SMALL BUSINESSES AS SOON AS PRACTICABLE.

(E) (1) (I) SUBJECT TO THE LIMITATIONS OF THIS PARAGRAPH, THE DEPARTMENT OF COMMERCE SHALL ESTABLISH, BY REGULATION, GUIDELINES TO CALCULATE THE AMOUNT OF A GRANT AWARDED UNDER THIS SECTION.

(II) IN ESTABLISHING GUIDELINES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DEPARTMENT OF COMMERCE MAY USE A 12-MONTH PROJECTION OF THE DIFFERENCE BETWEEN THE BUSINESS REVENUE OF A

QUALIFIED SMALL BUSINESS DURING THE 3-MONTH PERIOD IMMEDIATELY PRECEDING THE START OF THE PURPLE LINE CONSTRUCTION COMPARED TO THE 3-MONTH PERIOD IMMEDIATELY FOLLOWING THE START OF THE PURPLE LINE CONSTRUCTION.

(III) A GRANT AWARDED UNDER THE GRANT PROGRAM MAY NOT EXCEED \$50,000.

(2) SUBJECT TO THE ELIGIBILITY REQUIREMENTS ESTABLISHED UNDER SUBSECTION (D) OF THIS SECTION, IF A QUALIFIED SMALL BUSINESS IS REQUIRED TO BE REGISTERED WITH THE STATE AND IS REGISTERED, THE QUALIFIED SMALL BUSINESS MAY APPLY FOR A GRANT UNDER THE GRANT PROGRAM REGARDLESS OF OWNERSHIP OR LOCATION.

(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE DEPARTMENT OF COMMERCE MAY AWARD GRANTS UNTIL ALL THE MONEY ALLOTTED FOR THE GRANT PROGRAM HAS BEEN AWARDED OR UNTIL DECEMBER 31, 2024, WHICHEVER OCCURS FIRST.

(II) THE DEPARTMENT OF COMMERCE MAY NOT AWARD MORE THAN ONE GRANT TO THE SAME QUALIFIED SMALL BUSINESS IN A 12-MONTH PERIOD.

(4) ANY MONEY THAT HAS NOT BEEN AWARDED ON OR BEFORE DECEMBER 31, 2024, SHALL REVERT TO THE MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE FUND.

Article – Transportation

2-103.1.

(c) (4) Annually, the Consolidated Transportation Program shall include a report that:

(vi) Provides a purpose and need summary statement that includes:

1. A general description and summary that describes why the project is necessary and satisfies State transportation goals, including Climate Action Plan goals required by the Greenhouse Gas Emissions Reduction Act of 2009 under § 2-1205(b) of the Environment Article;

2. The location of the project, including a map of the project limits, project area, or transportation corridor; and

3. A summary of how the project meets the selection criteria for inclusion in the capital program; [and]

(VII) PROVIDES THE MARYLAND TRANSIT ADMINISTRATION STATE OF GOOD REPAIR BUDGET FOR THE CURRENT FISCAL YEAR AND PROJECTIONS FOR THE SUBSEQUENT FISCAL YEAR; AND

[(vii)] (VIII) Includes any other information that the Secretary believes would be useful to the members of the General Assembly, the general public, or other recipients of the Consolidated Transportation Program.

7-205.

(a) IN THIS SECTION, “STATE OF GOOD REPAIR NEEDS” INCLUDES THE CAPITAL NEEDS IDENTIFIED BY THE ADMINISTRATION IN THE ASSESSMENT REQUIRED UNDER § 7-309 OF THIS ARTICLE.

(B) For fiscal year 2020, the Governor shall include in the State budget an appropriation from the Transportation Trust Fund for the operation of the Administration that is equal to the appropriation for the operation of the Administration in the fiscal year 2019 State budget as introduced, increased by at least 4.4%.

[(b)] (C) For each of fiscal years 2021 and 2022, the Governor shall include in the State budget an appropriation from the Transportation Trust Fund for the operation of the Administration that is equal to the appropriation for the operation of the Administration in the State budget for the immediately preceding fiscal year, increased by at least 4.4%.

(D) FOR EACH OF FISCAL YEARS 2023 THROUGH ~~2028~~ 2029, THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET AN APPROPRIATION FROM THE TRANSPORTATION TRUST FUND FOR THE OPERATION OF THE ADMINISTRATION THAT MAY NOT BE LESS THAN THE FISCAL YEAR 2022 APPROPRIATION FOR THE OPERATION OF THE ADMINISTRATION.

[(c)] (E) (1) For each of fiscal years 2020 through 2022, the Governor shall include in the State budget an appropriation for the capital needs of the Administration of at least \$29,100,000 from the revenues available for the State capital program in the Transportation Trust Fund.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET AN APPROPRIATION FOR THE STATE OF GOOD REPAIR NEEDS OF THE ADMINISTRATION IN THE FOLLOWING AMOUNTS FROM THE REVENUES AVAILABLE FOR THE STATE CAPITAL PROGRAM IN THE TRANSPORTATION TRUST FUND:

(I) FOR FISCAL YEAR 2023, AT LEAST ~~\$361,880,000~~
\$402,037,183;

(II) FOR FISCAL YEAR 2024, AT LEAST ~~\$414,893,000~~
\$502,081,501;

(III) FOR FISCAL YEAR 2025, AT LEAST ~~\$453,839,000~~
\$450,000,000;

(IV) FOR FISCAL YEAR 2026, AT LEAST ~~\$566,573,000~~
\$450,000,000;

(V) FOR FISCAL YEAR 2027, AT LEAST ~~\$566,573,000~~
\$450,000,000; AND

(VI) FOR FISCAL YEAR 2028, AT LEAST ~~\$531,573,000~~
\$450,000,000; AND

(VII) FOR FISCAL YEAR 2029, AT LEAST \$318,558,000.

(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN APPROPRIATION REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY BE REDUCED IF THE TOTAL APPROPRIATION FOR STATE OF GOOD REPAIR NEEDS IN A PRIOR FISCAL YEAR EXCEEDED THE AMOUNT SPECIFIED UNDER PARAGRAPH (2) OF THIS SUBSECTION FOR THAT FISCAL YEAR.

(II) A REDUCTION AUTHORIZED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH:

1. MAY BE APPLIED ONLY TO ONE FISCAL YEAR; AND

2. MAY NOT EXCEED THE DIFFERENCE BETWEEN THE TOTAL APPROPRIATION FOR STATE OF GOOD REPAIR NEEDS FOR THE PRIOR FISCAL YEAR AND THE AMOUNT SPECIFIED UNDER PARAGRAPH (2) OF THIS SUBSECTION FOR THAT FISCAL YEAR.

[(2)] (4) (I) The appropriation required under paragraph (1) of this subsection may not supplant any other capital funding otherwise available for the Administration.

(II) THE APPROPRIATIONS REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE IN ADDITION TO ANY FUNDS APPROPRIATED FOR THE CAPITAL PLANNING, ENGINEERING, RIGHT-OF-WAY ACQUISITION, OR

CONSTRUCTION OF THE PURPLE LINE IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

(F) THIS ACT MAY NOT BE CONSTRUED TO LIMIT THE AUTHORITY OF THE ADMINISTRATOR TO USE AVAILABLE FUNDS APPROPRIATED TO THE ADMINISTRATION TO INCREASE THE STATE INVESTMENT IN LOCALLY OPERATED TRANSIT AGENCIES ~~SERVING URBANIZED AREAS IN ORDER TO FACILITATE BUS REPLACEMENT IN A MANNER CONSISTENT WITH THE FIXED ROUTE SERVICE BUS FLEET REPLACEMENT SCHEDULE FOR THE ADMINISTRATION.~~

7-309.

(a) The Administration shall, at least every 3 years, assess the ongoing, unconstrained capital needs of the Administration.

(b) In undertaking the assessment required under subsection (a) of this section, the Administration shall:

(1) Compile and prioritize capital needs without regard to cost;

(2) Identify the backlog of repairs and replacements needed to achieve a state of good repair for all Administration assets, including a separate analysis of these needs over the following 10 years; and

(3) Identify the needs to be met in order to enhance service and achieve system performance goals.

(c) On or before July 1, 2019, and on or before July 1 every 3 years thereafter, the Administration shall, in accordance with § 2-1257 of the State Government Article, submit the assessment required under subsection (a) of this section to the Senate Budget and Taxation Committee, the House Appropriations Committee, and the House Environment and Transportation Committee.

(D) ON OR BEFORE JANUARY 20, 2022, AND ON OR BEFORE JANUARY 20 EACH YEAR THEREAFTER, THE ADMINISTRATION SHALL, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, SUBMIT AN ACCOUNTING OF THE CAPITAL FUNDS PROGRAMMED, APPROPRIATED, AND EXPENDED ON EACH OF THE PROJECTS IDENTIFIED IN THE ASSESSMENT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION FOR THE PRIOR FISCAL YEAR TO THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE HOUSE ENVIRONMENT AND TRANSPORTATION COMMITTEE.

Chapter 351 of the Acts of 2018

SECTION 9. AND BE IT FURTHER ENACTED, That, subject to Section 4 of this Act, this Act shall take effect June 1, 2018. Section 2 of this Act shall remain effective for a

period of [4] 11 years and 1 month and, at the end of June 30, [2022] 2029, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Chapter 352 of the Acts of 2018

SECTION 9. AND BE IT FURTHER ENACTED, That, subject to Section 4 of this Act, this Act shall take effect June 1, 2018. Section 2 of this Act shall remain effective for a period of [4] 11 years and 1 month and, at the end of June 30, [2022] 2029, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Maryland Department of Transportation:

(1) maximize its use of Consolidated Transportation Bonds to support the Department's capital program by forecasting Transportation Trust Fund estimates to include assumed bond issuances that would result in net income debt service coverage ratios of two-and-a-half times maximum future debt service in each year of the forecast; and

(2) explore all other options to maximize ancillary revenues through the operations of its units, including the leasing of unused real estate, the sale of air rights, the sale of advertising, such as naming rights, and other marketing efforts.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) (1) In this section the following words have the meanings indicated.

(2) "Department" means the Department of Transportation.

(3) "Statewide Transit Plan" means a framework developed by the Maryland Transit Administration that provides a 50-year vision of coordinated local, regional, and intercity transit across the State, including defined public transportation goals and strategies for rural, suburban, and urban regions.

(b) The Department shall conduct a study on the feasibility, including the cost, of extending MARC rail service to western Maryland.

(c) In conducting the study, the Department shall:

(1) Examine existing commuter rail facilities in the State and current transportation options in western Maryland;

(2) Explore up to three potential routes for expanding rail service to western Maryland;

(3) Identify the possibilities and challenges related to establishing and operating MARC rail service in western Maryland;

(4) Study the public transportation needs of Allegany County and Washington County in the vicinity of interstates 70 and 81;

(5) Confer with the following stakeholders:

(i) The Washington County Board of County Commissioners;

(ii) The City of Hagerstown;

(iii) Washington County residents;

(iv) Public transit advocates;

(v) Representatives of the local business community;

(vi) The Allegany County Board of County Commissioners;

(vii) The City of Cumberland;

(viii) Allegany County residents; and

(ix) The Town of Hancock;

(6) Identify infrastructure needs;

(7) Perform a cost analysis of the capital and operating costs of extending MARC rail service to western Maryland;

(8) Identify all potential stops and estimate the potential ridership for each stop;

(9) Study and compare the potential ridership for rush-hour-only service and all-day service;

(10) Develop recommendations on the potential start and end points of a MARC extension; and

(11) Explore the potential effect that extending MARC rail service to western Maryland would have on CSX.

(d) The Department shall develop recommendations on the feasibility of planning, financing, constructing, and operating a MARC line that extends commuter rail service to western Maryland.

(e) On or before July 1, 2023, the Department shall submit a report of its findings and recommendations to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly.

(f) (1) The Maryland Transit Administration shall incorporate the recommendations of the study into the Statewide Transit Plan.

(2) Notwithstanding any alteration or postponement of the Statewide Transit Plan, the Department shall conduct the study in accordance with this section.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2021.

May 26, 2021

The Honorable Bill Ferguson
President of the Maryland Senate
H-107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 202 – *Correctional Services – Parole – Life Imprisonment*.

As governor, I have taken decisions regarding parole for individuals serving life sentences with the utmost seriousness. I recognize the gravity of these decisions, including the impact on the individual serving the sentence, as well as the victims. I was the first governor in over 20 years to grant parole to an individual serving a life sentence, as well as the first governor in 24 years to grant parole to a juvenile sentenced to life imprisonment, and have granted more paroles, medical paroles, and commutations than the previous three governors combined. Since taking office, I have granted 34 paroles, 11 medical paroles, and commuted 23 life sentences. My predecessors believed that “life means life,” but I have ended that close-minded policy, and have proven that I believe in providing second chances for those who have shown that they have engaged in meaningful rehabilitation, are remorseful for the pain they have caused others, and are ready to re-enter our communities as productive citizens. This bill, which removes the governor from the parole process, is nothing more than an unfounded and unnecessary power grab and another instance of the legislative branch seeking to diminish the authority of the governor.

As a firm believer in rehabilitative justice, I agree that all individuals serving life sentences with the possibility of parole deserve to be meaningfully considered for parole. I also recognize that each of the crimes that these individuals committed includes a victim and a

family that had their lives forever altered by the actions of another. I have an obligation to ensure the safety of all Marylanders, and including the governor in the parole process provides an important check on the Maryland Parole Commission, especially since the individuals who are sent to me for consideration have committed truly horrendous crimes, including first degree murder, rape, and sexual assault.

Under this flawed bill, individuals receiving a life sentence after October 1, 2021, would be eligible for their first parole hearing after 20 years less diminution credits, which could be equivalent to 17.5 years. This increase in time served is a step in the right direction; however, when provided the opportunity to require individuals to serve 20 straight years, the legislature balked. It is clear that the legislature would prefer to be generous to the criminal rather than provide truth-in-sentencing for crimes eligible for life imprisonment. The Maryland Parole Commission will continue to change under future administrations, and I cannot in good faith allow a bill to become law knowing that someone currently serving a life sentence could potentially be released in as little as 17.5 years without the approval of the governor.

Supporters of this misguided legislation claim that Maryland is one of several states that still include the governor in the parole process, but what is missing from this argument is that numerous states do not even offer parole for crimes that carry a life sentence. For example, in Michigan, Minnesota, and New York an individual given a life sentence for first degree murder is not eligible for parole. Further, a number of states require individuals to serve more than the 20 years prescribed in Senate Bill 202. In Oregon, for example, an individual is required to serve at least 30 years prior to becoming parole eligible.

My administration, including the Department of Public Safety and Correctional Services and the Maryland Parole Commission, has implemented a number of reforms to provide suitable parole candidates with opportunities for release. Executive Order 01.01.2018.06 provides that the Governor will consider all applicable statutory and regulatory factors in making parole decisions. The Parole Commission has streamlined the process for psychiatric evaluations and makes the assessments more convenient and timely scheduled for individuals recommended for parole. Lastly, the Division of Corrections is creating better opportunities for inmates with life sentences to achieve lower security classifications, which will provide them with more and better opportunities to demonstrate rehabilitation, making parole more likely.

For these reasons, I have vetoed Senate Bill 202.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 202

AN ACT concerning

Correctional Services – Parole – Life Imprisonment

FOR the purpose of altering the time period that certain inmates sentenced to life imprisonment must serve before becoming eligible for parole consideration; repealing certain provisions that provide that inmates serving a term of life imprisonment may be paroled only with the Governor’s approval, subject to certain provisions; repealing certain provisions that require certain parole decisions to be transmitted to the Governor under certain circumstances; repealing certain provisions that authorize the Governor to disapprove certain parole decisions in a certain manner; repealing certain provisions that provide that if the Governor does not disapprove a certain parole decision in a certain manner within a certain time period, the decision becomes effective; requiring certain decisions to be determined by a certain vote of the Maryland Parole Commission; and generally relating to parole.

BY repealing and reenacting, with amendments,
 Article – Correctional Services
 Section 4–305(b) ~~and~~, 7–301(d), and 7–307
 Annotated Code of Maryland
 (2017 Replacement Volume and 2020 Supplement)

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

Article – Correctional Services

4–305.

(b) (1) Except as provided in paragraph (2) of this subsection[,]:

(I) an inmate sentenced to life imprisonment **AFTER BEING CONVICTED OF A CRIME COMMITTED BEFORE OCTOBER 1, 2021**, is not eligible for parole consideration until the inmate has served 15 years or the equivalent of 15 years when considering allowances for diminution of the inmate’s period of confinement as provided under Title 3, Subtitle 7 of this article and § 6–218 of the Criminal Procedure Article; **AND**

(II) **AN INMATE WHO HAS BEEN SENTENCED TO LIFE IMPRISONMENT AFTER BEING CONVICTED OF A CRIME COMMITTED ON OR AFTER OCTOBER 1, 2021, IS NOT ELIGIBLE FOR PAROLE CONSIDERATION UNTIL THE INMATE HAS SERVED 20 YEARS OR THE EQUIVALENT OF 20 YEARS WHEN CONSIDERING ALLOWANCES FOR DIMINUTION OF THE INMATE’S PERIOD OF CONFINEMENT AS PROVIDED UNDER TITLE 3, SUBTITLE 7 OF THIS ARTICLE AND § 6–218 OF THE CRIMINAL PROCEDURE ARTICLE ~~OR THE EQUIVALENT OF 20 YEARS WHEN CONSIDERING ALLOWANCES FOR DIMINUTION OF THE INMATE’S PERIOD OF~~**

~~CONFINEMENT AS PROVIDED UNDER TITLE 3, SUBTITLE 7 OF THIS ARTICLE AND § 6-218 OF THE CRIMINAL PROCEDURE ARTICLE.~~

(2) An inmate sentenced to life imprisonment as a result of a proceeding under former § 2-303 or § 2-304 of the Criminal Law Article is not eligible for parole consideration until the inmate has served 25 years or the equivalent of 25 years when considering allowances for diminution of the inmate's period of confinement as provided under Title 3, Subtitle 7 of this article and § 6-218 of the Criminal Procedure Article.

[(3) Subject to paragraph (4) of this subsection, an eligible person who is serving a term of life imprisonment may be paroled only with the Governor's approval.

(4) (i) If the Board of Review decides to grant parole to an eligible person sentenced to life imprisonment who has served 25 years without application of diminution of confinement credits, and the Secretary approves the decision, the decision shall be transmitted to the Governor.

(ii) The Governor may disapprove the decision by written transmittal to the Board of Review.

(iii) If the Governor does not disapprove the decision within 180 days after receipt, the decision becomes effective.]

7-301.

(d) (1) Except as provided in paragraphs (2) and (3) of this subsection[,]:

(I) an inmate who has been sentenced to life imprisonment **AFTER BEING CONVICTED OF A CRIME COMMITTED BEFORE OCTOBER 1, 2021**, is not eligible for parole consideration until the inmate has served 15 years or the equivalent of 15 years considering the allowances for diminution of the inmate's term of confinement under § 6-218 of the Criminal Procedure Article and Title 3, Subtitle 7 of this article; **AND**

(II) **AN INMATE WHO HAS BEEN SENTENCED TO LIFE IMPRISONMENT AFTER BEING CONVICTED OF A CRIME COMMITTED ON OR AFTER OCTOBER 1, 2021, IS NOT ELIGIBLE FOR PAROLE CONSIDERATION UNTIL THE INMATE HAS SERVED 20 YEARS OR THE EQUIVALENT OF 20 YEARS CONSIDERING THE ALLOWANCES FOR DIMINUTION OF THE INMATE'S TERM OF CONFINEMENT UNDER § 6-218 OF THE CRIMINAL PROCEDURE ARTICLE AND TITLE 3, SUBTITLE 7 OF THIS ARTICLE OR THE EQUIVALENT OF 20 YEARS CONSIDERING THE ALLOWANCES FOR DIMINUTION OF THE INMATE'S TERM OF CONFINEMENT UNDER § 6-218 OF THE CRIMINAL PROCEDURE ARTICLE AND TITLE 3, SUBTITLE 7 OF THIS ARTICLE.**

(2) An inmate who has been sentenced to life imprisonment as a result of a proceeding under former § 2-303 or § 2-304 of the Criminal Law Article is not eligible for

parole consideration until the inmate has served 25 years or the equivalent of 25 years considering the allowances for diminution of the inmate's term of confinement under § 6–218 of the Criminal Procedure Article and Title 3, Subtitle 7 of this article.

(3) (i) If an inmate has been sentenced to imprisonment for life without the possibility of parole under § 2–203 or § 2–304 of the Criminal Law Article, the inmate is not eligible for parole consideration and may not be granted parole at any time during the inmate's sentence.

(ii) This paragraph does not restrict the authority of the Governor to pardon or remit any part of a sentence under § 7–601 of this title.

[(4) Subject to paragraph (5) of this subsection, if eligible for parole under this subsection, an inmate serving a term of life imprisonment may only be paroled with the approval of the Governor.

(5) (i) If the Commission decides to grant parole to an inmate sentenced to life imprisonment who has served 25 years without application of diminution of confinement credits, the decision shall be transmitted to the Governor.

(ii) The Governor may disapprove the decision by written transmittal to the Commission.

(iii) If the Governor does not disapprove the decision within 180 days after receipt, the decision becomes effective.]

7–307.

(a) (1) [The] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE chairperson of the Commission shall assign at least two commissioners to hear cases for parole release as a panel.

(2) Each proceeding before a Commission panel shall be conducted in accordance with this section.

(b) (1) (i) A Commission panel that consists of two commissioners shall determine, by unanimous vote, whether the inmate is suitable for parole in accordance with the factors and other information specified in § 7–305 of this subtitle.

(ii) If the two-commissioner panel is unable to reach a unanimous decision, the chairperson of the Commission shall convene a three-commissioner panel as soon as practicable to rehear the case.

(2) A Commission panel that consists of three commissioners shall determine, by majority vote, whether the inmate is suitable for parole in accordance with the factors and other information specified in § 7–305 of this subtitle.

(C) ~~(1)~~ FOR AN INMATE WHO HAS BEEN SENTENCED TO LIFE IMPRISONMENT AFTER BEING CONVICTED OF A CRIME COMMITTED ON OR AFTER OCTOBER 1, 2021, THE PANEL SHALL CONSIST OF AT LEAST SIX COMMISSIONERS.

~~(2) A COMMISSION PANEL UNDER THIS SUBSECTION SHALL DETERMINE, BY A VOTE OF SIX OF THE MEMBERS OF THE PANEL, WHETHER THE INMATE IS SUITABLE FOR PAROLE IN ACCORDANCE WITH THE FACTORS AND OTHER INFORMATION AT LEAST SIX AFFIRMATIVE VOTES ARE REQUIRED TO APPROVE THE INMATE FOR PAROLE, BASED ON CONSIDERATION OF THE FACTORS SPECIFIED IN § 7-305 OF THIS SUBTITLE.~~

[(c)] (D) (1) The Commission panel shall inform the inmate and the appropriate correctional authority of the Commission's decision as soon as possible.

(2) If parole is denied, the Commission shall give the inmate a written report of its findings within 30 days after the hearing.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

May 28, 2021

The Honorable Bill Ferguson
President of the Senate
H-107 State House
Annapolis, Maryland 21401

The Honorable Adrienne A. Jones
Speaker of the House
H-101 State House
Annapolis, Maryland 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 777 and Senate Bill 417 – *Power Plant Research Program – Review of Application for Certificate of Public Convenience and Necessity – Alterations*.

In general, I support the intent of HB 777 / SB 417 to have the Power Plant Research Program (PPRP) complete its review of applications for Certificate of Public Convenience and Necessity (CPCN) within six months for the construction or modification of solar generating stations. Unfortunately, the legislation also mandates a timeline of six months

for PPRP to provide environmental review and mitigation recommendations for *all other* CPCN applications. This is unreasonable, needlessly puts state agencies in jeopardy of noncompliance, and leaves Maryland's natural resources at risk.

HB 777/SB 417 imposes a six-month deadline for review of all CPCN cases including hydroelectric, natural gas, nuclear, wind energy, and transmission cases. The environmental complexity of the vast majority of these cases requires a longer review period than six months in order for PPRP to adequately meet its mission. The "Good Cause" waiver provision does not solve this problem because it does not allow for routine exemptions of far more complex projects — such as transmission line cases — which take longer than six months to review.

It is not the Public Service Commission's (PSC) practice to grant any waiver requests on a routine basis for reviews that require greater scrutiny. Rather, the PSC considers project-specific circumstances. Considerations that may apply in one project application setting, based on a specific set of facts, might not apply to a different project. If a waiver is requested under HB 777 / SB 417, the burden is on the requesting party to establish the specific basis for seeking the waiver and demonstrate "good cause" to modify or suspend the procedural schedule. Given that a waiver is never guaranteed, a six-month time frame is unreasonable and irresponsible for all non-solar CPCN cases. Additionally, it would be difficult for the PSC to proceed with consideration of a CPCN case without the completion of PPRP's important environmental mitigation work and recommendations.

The importance of making the right decision on this public utility policy is that PPRP coordinates the statewide review of CPCNs to mitigate projects' environmental impacts to rare, threatened, or endangered species; streams; wetlands; forests; birds; water quality; and many others. Other considerations for mitigation include sea level rise and climate change. PPRP is the State's only intervenor in CPCN cases that analyzes environmental impacts and that has standing to move recommended mitigation conditions to the PSC. Further, as Maryland looks to the future of clean and renewable energy, emerging technologies seeking a CPCN — with new and unique impacts — will have no guarantee that the six-month deadline would be waived.

Before the General Assembly began work on HB 777/SB 417, the PSC took swift action to streamline the CPCN process. Participating stakeholders included state agencies, solar developers, Maryland Association of Counties, and Maryland Municipal League. Their work culminated with the conducting of Rulemaking 72 in March 2021. The PSC has now approved revised regulations, which include significant procedural improvements to the CPCN application process for generating stations and make the wide reach of HB 777 / SB 417 premature and unnecessary.

Finally, while HB 777/SB 417 was assigned to the House Economic Matters Committee — the committee that deals exclusively with CPCN issues — the parallel Senate Finance Committee was given no opportunity to consider the impact or reasonableness of establishing this timeline across the board. The legislation was instead considered exclusively in a committee that does not have public utility policy in its purview.

For these reasons, I have vetoed House Bill 777 and Senate Bill 417.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 417

AN ACT concerning

Power Plant Research Program – Review of Application for Certificate of Public Convenience and Necessity – Alterations

FOR the purpose of altering the circumstances under which the Public Service Commission must notify the Department of Natural Resources and the Department of the Environment about an application for a certificate of public convenience and necessity associated with power plant construction; altering the timeframe under which the Department of Natural Resources and the Department of the Environment must conduct a certain study and investigation; requiring the Department of Natural Resources to complete a certain report within a certain amount of time after the Commission deems an application complete; altering the timeframe under which the Secretary of Natural Resources and the Secretary of the Environment must submit certain information to the Commission; requiring that certain licensing conditions must be consistent with certain requirements but may not exceed the authority of the Department of the Environment; authorizing the Commission to waive certain deadlines under certain circumstances; repealing the requirement that the Secretary of Natural Resources and the Secretary of the Environment present certain recommendations to the Commission within a certain number of days after a certain hearing; making stylistic and conforming changes; and generally relating to the Power Plant Research Program and the review of applications for a certificate of public convenience and necessity.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 3–306
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

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

Article – Natural Resources

3–306.

(a) (1) Notwithstanding anything to the contrary in this article or the Public Utilities Article, on application to the Public Service Commission for a certificate of public convenience and necessity associated with power plant construction [involving, but not limited to, use or diversion of the waters of the State, or private wetlands], the Commission shall notify immediately the Department of Natural Resources and the Department of the Environment of the application.

(2) The Commission shall supply the Department of Natural Resources and the Department of the Environment with any pertinent information available regarding the application.

(3) The Department of the Environment shall treat the application for a certificate of public convenience and necessity as an application for [appropriation]:

(I) **APPROPRIATION** or use of waters of the State under Title 5 of the Environment Article; and [as an application for a]

(II) A license for dredging and filling under Title 16 of the Environment Article.

(b) (1) [Within 60 days after the application for a certificate of public convenience and necessity has been filed with the Commission, the] **SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, WITHIN 6 MONTHS AFTER THE COMMISSION DEEMS AN APPLICATION COMPLETE:**

(I) **THE** Secretary shall require the Department of Natural Resources to complete **AN INDEPENDENT ENVIRONMENTAL AND SOCIOECONOMIC PROJECT ASSESSMENT REPORT AND** any additional **REQUIRED** study and investigation concerning the application[.]; and [the]

(II) **THE** Secretary of the Environment shall require the Department of the Environment to study and investigate the necessity for dredging and filling at the proposed plant site and water appropriation or use. [The Secretary and the Secretary of the Environment jointly shall forward the results of the study and investigation, together with a recommendation that the certificate be granted, denied, or granted with any condition deemed necessary, to the chairman of the Commission.]

(2) (I) **IN ACCORDANCE WITH THE COMMISSION'S PROCEDURAL SCHEDULE FOR AN APPLICATION AND SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, WITHIN 6 MONTHS AFTER THE COMMISSION DEEMS AN APPLICATION COMPLETE, THE SECRETARY AND THE SECRETARY OF THE ENVIRONMENT JOINTLY SHALL SUBMIT TO THE COMMISSION:**

1. **THE RESULTS OF THE STUDIES, INVESTIGATIONS, AND REPORTS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION;**

2. A RECOMMENDATION THAT THE CERTIFICATE SHOULD BE GRANTED OR DENIED AND THE FACTUAL BASIS FOR THE RECOMMENDATION; AND

3. SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, RECOMMENDED LICENSING CONDITIONS FOR THE CONSTRUCTION, OPERATION, OR DECOMMISSIONING OF THE PROPOSED FACILITY.

(II) 1. A LICENSING CONDITION SUBMITTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT RELATES TO WETLANDS, STORMWATER MANAGEMENT, OR EROSION AND SEDIMENT CONTROL MUST BE CONSISTENT WITH THE WETLAND, STORMWATER MANAGEMENT, AND EROSION AND SEDIMENT CONTROL REQUIREMENTS IN THE ENVIRONMENT ARTICLE.

2. A LICENSING CONDITION SUBMITTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT RELATES TO WETLANDS, STORMWATER MANAGEMENT, OR EROSION AND SEDIMENT CONTROL MAY NOT EXCEED THE AUTHORITY OF THE DEPARTMENT OF THE ENVIRONMENT.

(3) THE COMMISSION MAY WAIVE A DEADLINE UNDER THIS SECTION:

(I) FOR ~~UNDUE HARDSHIP~~ GOOD CAUSE; OR

(II) ON AGREEMENT OF THE PARTIES TO THE PROCEEDING.

(c) The [results and recommendations] SUBMISSIONS MADE TO THE COMMISSION UNDER SUBSECTION (B)(2) OF THIS SECTION shall be [open]:

(1) OPEN for public inspection; and [shall be presented]

(2) PRESENTED JOINTLY by the [Secretaries] SECRETARY AND THE SECRETARY OF THE ENVIRONMENT, or their designees, at the hearing HELD BY the Commission [holds as required by] IN ACCORDANCE WITH Title 7, Subtitle 2 of the Public Utilities Article. [Within 15 days from the conclusion of the hearing, and based on the evidence there presented, the Secretaries jointly shall present their final recommendation to the chairman of the Commission including, but not limited to, any specific conclusions as to any private wetlands involved and any specific conclusions as to any water use or restriction of water use involved.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

May 26, 2021

The Honorable Bill Ferguson
President of the Maryland Senate
H-107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 420 – *Criminal Law – Drug Paraphernalia for Administration – Decriminalization*.

Our administration has taken historic action to combat the opioid epidemic that has devastated communities across Maryland. In 2016, and as a result of a recommendation from the Heroin and Opioid Emergency Task Force, I was proud to sign legislation that authorized any county in Maryland to establish an opioid-associated disease prevention and outreach program. In 2017, I was the first governor in the nation to declare a State of Emergency in response to the heroin, opioid, and fentanyl crisis that ravages our state. I also created the Opioid Operational Command Center, which promotes and coordinates a comprehensive response to the crisis in Maryland at the state and local level.

Our state experienced an increase in opioid-related deaths in 2020, after beginning to stabilize in 2018 and decrease in 2019 for the first time in over a decade. The COVID-19 pandemic complicated every aspect of our lives and unfortunately it likely exacerbated the rate of fatal overdoses around the country. Although we have made tremendous progress, the COVID-19 pandemic has proven that much more work needs to be done to effectively turn the tide of substance use disorder.

SB 420 is a dangerous bill that completely erases the illegality of certain controlled dangerous substance paraphernalia by legalizing the delivery, sale, manufacturing, and possession of these dangerous and damaging items. This is an ill-advised policy change that does nothing to remove drug dealers from our streets or reduce opioid-related fatalities, and instead encourages the use and possession of paraphernalia associated with drug use. If enacted, this bill would permit drug dealers to stockpile large quantities of paraphernalia, such as needles and syringes, and sell it to vulnerable individuals suffering from addiction. Additionally, by legalizing drug paraphernalia, law enforcement would no longer be able to cite or fine an individual for housing large amounts of syringes or other items that would enable someone to inject controlled dangerous substances.

There is a valid argument for decriminalizing the possession of certain paraphernalia for medical professionals and individuals who are participating in safe syringe service programs and authorized to distribute certain items, but that is not this bill. Current law could have easily been clarified without fully legalizing these items.

At a time where opioid use and fatalities are at an all-time high, we must focus on effective outreach and prevention, expanding access to treatment resources, and prosecuting drug dealers who are terrorizing our communities. This bill does nothing to achieve these goals or help individuals seek or receive substance abuse treatment.

Our administration will never waver in our commitment to respond to this crisis and save lives. We will continue to use an all-hands-on deck approach and pursue solutions that reduce opioid addiction and deaths without needlessly endangering the lives of Marylanders.

For these reasons, I have vetoed Senate Bill 420.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 420

AN ACT concerning

Criminal Law – Drug Paraphernalia for Administration – Decriminalization

FOR the purpose of repealing the prohibition against a person using or possessing with intent to use drug paraphernalia to inject, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance; repealing the prohibition against a person delivering or selling, or manufacturing or possessing with intent to deliver or sell drug paraphernalia under certain circumstances; ~~repealing the prohibition against a person delivering or selling, or manufacturing or possessing with intent to deliver or sell drug paraphernalia under certain circumstances~~; altering a prohibition against a person possessing or distributing controlled paraphernalia under circumstances which reasonably indicate an intention to use the controlled paraphernalia for certain purposes; altering a list of certain items that indicate intent to use certain controlled paraphernalia for certain purposes; altering penalties for a violation of certain provisions relating to drug paraphernalia; altering a certain definition; and generally relating to drug paraphernalia.

BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 5–101(h), 5–619(c) and (d), and 5–620(a), (b), and (d)

Annotated Code of Maryland

(2012 Replacement Volume and 2020 Supplement)

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

Article – Criminal Law

5–101.

(h) “Controlled paraphernalia” means:

(1) [a hypodermic syringe, needle, or any other object or combination of objects adapted to administer a controlled dangerous substance by hypodermic injection;

(2)] a gelatin capsule, glassine envelope, or other container suitable for packaging individual quantities of a controlled dangerous substance; or

[(3)] (2) lactose, quinine, mannite, mannitol, dextrose, sucrose, procaine hydrochloride, or any other substance suitable as a diluent or adulterant.

5–619.

(c) (1) This subsection does not apply to the use or possession of drug paraphernalia involving the use or possession of marijuana.

(2) Unless authorized under this title, a person may not use or possess with intent to use drug paraphernalia to[:

(i)] plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, pack, repack, store, contain, or conceal a controlled dangerous substance[; or

(ii) inject, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance].

(3) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to:

(i) for a first violation, a fine not exceeding \$500; and

(ii) for each subsequent violation, imprisonment not exceeding [2 years] **1 YEAR** or a fine not exceeding [\$2,000] **\$1,000** or both.

(4) A person who is convicted of violating this subsection for the first time and who previously has been convicted of violating subsection (d)(4) of this section is subject to the penalty specified under paragraph (3)(ii) of this subsection.

(d) (1) Unless authorized under this title, a person may not deliver or sell, or manufacture or possess with intent to deliver or sell, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that the drug paraphernalia will be used to ~~use~~:

(i) ~~1~~ plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, pack, repack, store, contain, or conceal a controlled dangerous substance ~~1~~; or

(ii) inject, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance ~~1~~.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to:

(i) for a first violation, a fine not exceeding \$500; and

(ii) for each subsequent violation, imprisonment not exceeding [2 years] **1 YEAR** or a fine not exceeding [\$2,000] **\$1,000** or both.

(3) A person who is convicted of violating this subsection for the first time and who previously has been convicted of violating paragraph (4) of this subsection is subject to imprisonment not exceeding 2 years or a fine not exceeding \$2,000 or both.

(4) If a person who is at least 18 years old violates paragraph (1) of this subsection by delivering drug paraphernalia to a minor who is at least 3 years younger than the person, the person is guilty of a separate misdemeanor and on conviction is subject to imprisonment not exceeding 8 years or a fine not exceeding \$15,000 or both.

5–620.

(a) Unless authorized under this title, a person may not:

(1) obtain or attempt to obtain controlled paraphernalia by:

(i) fraud, deceit, misrepresentation, or subterfuge;

(ii) counterfeiting a prescription or a written order;

(iii) concealing a material fact or the use of a false name or address;

(iv) falsely assuming the title of or representing to be a manufacturer, distributor, or authorized provider; or

(v) making or issuing a false or counterfeit prescription or written order; or

(2) possess or distribute controlled paraphernalia under circumstances which reasonably indicate an intention to use the controlled paraphernalia for purposes of

illegally [administering] **MANUFACTURING, DISTRIBUTING, OR DISPENSING** a controlled dangerous substance.

(b) Evidence of circumstances that reasonably indicate an intent to use controlled paraphernalia to manufacture, [administer,] distribute, or dispense a controlled dangerous substance unlawfully include the close proximity of the controlled paraphernalia to an adulterant, diluent, or equipment commonly used to illegally manufacture, [administer,] distribute, or dispense controlled dangerous substances, including:

- (1) a scale;
- (2) a sieve;
- (3) a strainer;
- (4) [a measuring spoon;
- (5)] staples;
- [(6)] (5) a stapler;
- [(7)] (6) a glassine envelope;
- [(8)] (7) a gelatin capsule;
- [(9)] (8) procaine hydrochloride;
- [(10)] (9) mannitol;
- [(11)] (10) lactose;
- [(12)] (11) quinine; and
- [(13)] (12) a controlled dangerous substance.

(d) [(1) Except as provided in paragraph (2) of this subsection, a] **A** person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding [4 years] **1 YEAR** or a fine not exceeding [\$25,000] **\$1,000** or both.

[(2) A person who violates this section involving the use or possession of marijuana is subject to imprisonment not exceeding 1 year or a fine not exceeding \$1,000 or both.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

May 28, 2021

The Honorable Bill Ferguson
President of the Senate
H-107 State House
Annapolis, Maryland 21401

The Honorable Adrienne A. Jones
Speaker of the House
H-101 State House
Annapolis, Maryland 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 460 and House Bill 419 – *Economic Development – Advanced Clean Energy and Clean Energy Innovation Investments and Initiatives*.

While I support the sponsors' intent to spur innovation in clean energy, this bill is not a prudent and responsible application of precious targeted funding. I have always supported thoughtful investments in clean energy, energy efficiency, and the clean energy industry and infrastructure. This bill, however, would divert funds from existing programs with a great deal of accountability and strong records of success. Instead, those funds currently yielding positive financial and environmental results for Marylanders would be siphoned off for speculative investments in a quasi-governmental organization with little transparency to date. I believe this is a counter productive use of these funds.

Additionally, at least 60% of the funding being diverted by this bill specifically targets energy programs for many of our most vulnerable Marylanders. Studies show that investing in this population yields a high rate of return not only in a monetary form but also addresses other negative factors impacting vulnerable populations such as indoor air quality, high energy costs, and other barriers to success.

This past fall, I established the State Transparency and Accountability Reform Commission to review quasi-governmental agencies, to ensure that they operate with the highest levels of integrity and maintain the public trust. I plan on allowing the STAR Commission to complete its work to establish oversight of these entities before diverting resources that demonstrably benefit Marylanders.

For these reasons I have vetoed Senate Bill 460 & House Bill 419 – *Economic Development – Advanced Clean Energy and Clean Energy Innovation Investments and Initiatives*.

Sincerely,

Lawrence J. Hogan, Jr.

Governor

Senate Bill 460

AN ACT concerning

Economic Development – Advanced Clean Energy and Clean Energy Innovation Investments and Initiatives

FOR the purpose of altering references to the term “clean energy” to be “advanced clean energy” for purposes of certain provisions of law concerning the Maryland Clean Energy Center and the Maryland Energy Innovation Institute; altering certain findings of the General Assembly, the purposes of certain provisions of law concerning the development of clean energy industries in the State, and the purposes, powers, and duties of the Center and the Institute to include certain actions supporting clean energy innovation; designating the Center as the State green bank; altering the membership of the Board of Directors of the Center; authorizing the Center to enter into certain financing transactions with, on behalf of, or for the benefit of certain State agencies for certain purposes; requiring the Department of General Services and the Department of Budget and Management to work with the Center for certain purposes; requiring the Maryland Technology Development Corporation and the Institute to coordinate with each other in supporting certain technology companies; requiring the Institute and the Center to implement a certain accelerator program in a certain manner and to consult with certain State agencies; altering a certain reporting requirement to include certain information regarding clean energy innovation in the State; altering the purposes of the Maryland Strategic Energy Investment Fund to include providing a certain amount of funding each fiscal year to the Maryland Energy Innovation Fund; clarifying the amount of certain funding provided in a certain fiscal year; specifying the manner in which the funds may be used; providing for the elimination of the position of a certain member of the Board; making conforming changes; defining certain terms and altering certain definitions; and generally relating to the Maryland Clean Energy Center, the Maryland Energy Innovation Institute, and clean energy.

BY renumbering

Article – Economic Development

Section 10–801(g) through (p), respectively

to be Section 10–801(h) through (p) and (r), respectively

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, without amendments,

Article – Economic Development

Section 9–101(a) and (c), 10–401(a) and (c), 10–402(a), 10–801(a) and (b), 10–806(a)

and (e), 10–807(a), 10–828(a), (c), and (d), 10–829(a), and 10–830(a)

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

BY adding to

Article – Economic Development

Section 10–402(d), 10–801(c), (g), and (q), and 10–821.1

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – Economic Development

Section 10–801(c) through (e), 10–802, 10–806(d), 10–807(b), 10–820, 10–823,
10–826, 10–829(d), 10–830(b), 10–834, 10–835, and 10–839

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

BY repealing

Article – Economic Development

Section 10–801(f)

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, without amendments,

Article – State Government

Section 9–20B–05(a)

Annotated Code of Maryland

(2014 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government

Section 9–20B–05(f)(10) and (11)

Annotated Code of Maryland

(2014 Replacement Volume and 2020 Supplement)

BY adding to

Article – State Government

Section 9–20B–05(f)(11) and (f–4)

Annotated Code of Maryland

(2014 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 10–801(g) through (p), respectively, of Article – Economic Development of the Annotated Code of Maryland be renumbered to be Section(s) 10–801(h) through (p) and (r), respectively.

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

Article – Economic Development

9–101.

- (a) In this division the following words have the meanings indicated.
- (c) “Department” means the Department of Commerce.

10–401.

- (a) In this subtitle the following words have the meanings indicated.
- (c) “Corporation” means the Maryland Technology Development Corporation.

10–402.

- (a) There is a Maryland Technology Development Corporation.

(D) IN ACCORDANCE WITH § 10–834 OF THIS TITLE, THE CORPORATION AND THE MARYLAND CLEAN ENERGY CENTER SHALL COORDINATE WITH THE MARYLAND ENERGY INNOVATION INSTITUTE IN SUPPORTING MARYLAND–BASED TECHNOLOGY COMPANIES ENGAGED IN CLEAN ENERGY INNOVATION.

10–801.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Administration” means the Maryland Energy Administration.
- (c) **“ADVANCED CLEAN ENERGY” INCLUDES:**

- (1) SOLAR PHOTOVOLTAIC TECHNOLOGY;**
- (2) SOLAR HEATING;**
- (3) GEOTHERMAL;**
- (4) WIND;**
- (5) BIOFUELS;**
- (6) ETHANOL;**
- (7) RENEWABLE CHEMICAL PRODUCTION;**

~~(7)~~ (8) OTHER QUALIFYING BIOMASS AS DEFINED IN § 7-701 OF THE PUBLIC UTILITIES ARTICLE;

~~(8)~~ (9) OCEAN, INCLUDING ENERGY FROM WAVES, TIDES, CURRENTS, AND THERMAL DIFFERENCES;

~~(9)~~ (10) A FUEL CELL THAT PRODUCES ENERGY WITH REDUCED GREENHOUSE GAS EMISSIONS AS COMPARED TO CONVENTIONAL TECHNOLOGY;

~~(10)~~ (11) ENERGY EFFICIENCY AND CONSERVATION;

~~(11)~~ (12) COMBINED HEAT AND POWER;

~~(12)~~ (13) ENERGY STORAGE AND BATTERY TECHNOLOGIES;

~~(13)~~ (14) GRID MODERNIZATION, INCLUDING THE USE OF ARTIFICIAL TECHNOLOGY AND INTEGRATED SYSTEMS FOR ENERGY DEMAND RESPONSE, DEMAND MANAGEMENT TECHNOLOGY, AND IMPROVED ENERGY DISTRIBUTION;

~~(14)~~ (15) BIOTECHNOLOGY IN CLEAN ENERGY AND FOR THE REDUCTION OF DIRECT AND INDIRECT AGRICULTURAL EMISSIONS;

~~(15)~~ (16) CARBON DIOXIDE REMOVAL AND MANAGEMENT OR REUSE;

~~(16)~~ (17) CLEAN FUELS AND DISPLACEMENT OF ENERGY-INTENSIVE PRODUCTS;

~~(17)~~ (18) TRANSPORTATION ELECTRIFICATION AND MOBILITY TECHNOLOGIES;

~~(18)~~ (19) NEW CONCEPTS TO IMPROVE SAFETY AND REDUCE THE COST OF NUCLEAR POWER;

~~(19)~~ (20) CARBON-FREE GENERATION TECHNOLOGIES;

~~(20)~~ (21) ANY OTHER TECHNOLOGY OR SERVICE THAT THE CENTER DETERMINES WILL CONTRIBUTE DIRECTLY OR INDIRECTLY TO THE PRODUCTION OF ENERGY FROM RENEWABLE OR SUSTAINABLE SOURCES, OR TO THE IMPROVEMENT OF EFFICIENCY IN THE USE OF ENERGY; AND

~~(21)~~ (22) DEPLOYMENT OF ANY OF THE TECHNOLOGIES OR SERVICES LISTED IN ITEMS (1) THROUGH ~~(20)~~ (21) OF THIS SUBSECTION.

[(c)] (D) “Board” means the Board of Directors of the Center.

[(d)] (E) (1) “Bond” means a bond issued by the Center under this subtitle.

(2) “Bond” includes a revenue bond, a revenue refunding bond, a note, and any other obligation, whether a general or limited obligation of the Center.

[(e)] (F) “Center” means the Maryland Clean Energy Center.

[(f)] “Clean energy” includes:

(1) solar photovoltaic technology;

(2) solar heating;

(3) geothermal;

(4) wind;

(5) biofuels;

(6) ethanol;

(7) other qualifying biomass as defined in § 7–701 of the Public Utilities Article;

(8) ocean, including energy from waves, tides, currents, and thermal differences;

(9) a fuel cell that produces energy from biofuels, ethanol, or other qualifying biomass;

(10) energy efficiency and conservation;

(11) any other technology or service that the Center determines will contribute directly or indirectly to the production of energy from renewable or sustainable sources, or to the improvement of efficiency in the use of energy; and

(12) deployment of any of the technologies or services listed in items (1) through (11) of this subsection.]

(G) “CLEAN ENERGY INNOVATION” MEANS IN-STATE DEVELOPMENT AND DEPLOYMENT OF ADVANCED CLEAN ENERGY TECHNOLOGIES THAT ADDRESS THE GOALS OF:

(1) ENERGY EFFICIENCY IN ALL ECONOMIC SECTORS;

(2) **CARBON-FREE GENERATION OF ELECTRICAL POWER; AND**

(3) **THE REDUCTION OF DIRECT AND INDIRECT GREENHOUSE GAS EMISSIONS IN ALL ECONOMIC SECTORS.**

(Q) **“STATE AGENCY” MEANS ANY PERMANENT OR TEMPORARY STATE OFFICE, DEPARTMENT, DIVISION OR UNIT, BUREAU, BOARD, COMMISSION, TASK FORCE, AUTHORITY, INSTITUTION, STATE COLLEGE OR UNIVERSITY, AND ANY OTHER UNIT OF STATE GOVERNMENT, WHETHER EXECUTIVE, LEGISLATIVE, OR JUDICIAL, AND ANY SUBUNITS OF STATE GOVERNMENT.**

10-802.

(a) The General Assembly finds that:

(1) the United States as a whole, and the State in particular, are facing increased energy costs based on many factors, including rising fuel costs, limited investment in generation and transmission facilities, and a complex combination of market-based and other regulatory mechanisms that balance environmental, economic, health, and welfare interests;

(2) continued exclusive reliance on traditional forms of electricity supply entrenches the State’s dependence on fossil fuels, working against the State’s policy of decreasing greenhouse gas production, as evidenced by the State’s accession to the Regional Greenhouse Gas Initiative;

(3) [“clean] **“ADVANCED CLEAN energy”**, a broad term that includes a wide and varied mixture of strategies and techniques to produce useful energy from renewable and sustainable sources in a manner that minimizes fossil fuel use and harmful emissions, and to increase the efficient use of energy derived from all sources, offers many different opportunities for residents of the State to succeed in entrepreneurial and other commercial activity, to the overall economic and environmental benefit of the entire State, as measured in improved air and water quality, moderated energy expenditures, and increased State and local tax receipts;

(4) many individuals and businesses in the State possess talents and interest in the clean energy technology sector, which may form the basis for encouraging development and deployment of sustainable and renewable energy technologies in the State, the nation, and the world;

(5) the State will benefit from a targeted effort to establish and incubate **ADVANCED** clean energy industries **AND CLEAN ENERGY INNOVATION INDUSTRIES** in the State, including financial assistance, information sharing, and technical support for entrepreneurs in the manufacture and installation of **ADVANCED** clean energy technology **AND CLEAN ENERGY INNOVATIONS**; and

(6) it is in the public interest to establish a public corporation to undertake the tasks of promoting **ADVANCED** clean energy industries **AND CLEAN ENERGY INNOVATION INDUSTRIES** in the State, developing incubators for those industries, providing financial assistance, and also providing information sharing and technical assistance.

(b) The purposes of this subtitle are to:

(1) encourage the development of **ADVANCED** clean energy industries **AND CLEAN ENERGY INNOVATION INDUSTRIES** in the State;

(2) encourage the deployment of **ADVANCED** clean energy technologies **AND CLEAN ENERGY INNOVATIONS** in the State;

(3) help retain and attract business activity and commerce in the **ADVANCED** clean energy technology industry [sector] **AND CLEAN ENERGY INNOVATION INDUSTRY SECTORS** in the State;

(4) promote economic development; [and]

(5) DESIGNATE THE MARYLAND CLEAN ENERGY CENTER AS A GREEN BANK FOR THE STATE ~~GREEN BANK; AND~~

[(5)] (6) ENCOURAGE THE CENTER TO WORK IN CONJUNCTION WITH OTHER LOCAL AND PRIVATE GREEN BANKS; AND

(7) promote the health, safety, and welfare of residents of the State.

(c) The General Assembly intends that:

(1) the Center operate and exercise its corporate powers in all areas of the State;

(2) without limiting its authority to otherwise exercise its corporate powers, the Center exercise its corporate powers to assist governmental units and State and local economic development agencies to contribute to the expansion, modernization, and retention of existing enterprises in the State as well as the attraction of new business to the State;

(3) the Center cooperate with private industries and local governments in maximizing new economic opportunities for residents of the State; and

(4) the Center accomplish at least one of the purposes listed in subsection (b) of this section and complement existing State marketing and financial assistance programs by:

- (i) owning projects;
- (ii) leasing projects to other persons; or
- (iii) lending the proceeds of bonds to other persons to finance the costs of acquiring or improving projects that the persons own or will own.

10–806.

- (a) There is a Maryland Clean Energy Center.
- (d) The purposes of the Center are to:
 - (1) promote economic development and jobs in the **ADVANCED** clean energy industry [sector] **AND CLEAN ENERGY INNOVATION INDUSTRY SECTORS** in the State;
 - (2) promote the deployment of **ADVANCED** clean energy technology **AND CLEAN ENERGY INNOVATIONS** in the State;
 - (3) serve as an incubator for the development of **THE ADVANCED** clean energy industry **AND CLEAN ENERGY INNOVATION INDUSTRY** in the State;
 - (4) in collaboration with the Administration, collect, analyze, and disseminate industry data; [and]
 - (5) provide outreach and technical support to further the **ADVANCED** clean energy industry **AND CLEAN ENERGY INNOVATION INDUSTRY** in the State; **AND**
 - ~~(6) SERVE AS THE STATE GREEN BANK.~~
 - (6) WORK AS A GREEN BANK AND IN CONJUNCTION WITH LOCAL AND PRIVATE GREEN BANKS.**
- (e) It is the intent of the General Assembly that, as the Center develops programs and activities under this subtitle, the Center and the Administration shall work collaboratively together, as appropriate, in order to coordinate shared-interest functions and avoid duplication of efforts.

10–807.

- (a) A Board of Directors shall manage the Center and exercise its corporate powers.
- (b) The Board consists of the following nine members:

(1) the Director, or the Director's designee; [and]

(2) THE DIRECTOR OF THE MARYLAND ENERGY INNOVATION INSTITUTE, OR THE DIRECTOR OF THE MARYLAND ENERGY INNOVATION INSTITUTE'S DESIGNEE; AND

[(2)] (3) [eight] SEVEN members appointed by the Governor with the advice and consent of the Senate:

(i) [two] ONE representing the nonprofit ADVANCED clean energy research sector of the State;

(ii) two with expertise in [venture] capital financing;

(iii) two representing ADVANCED clean energy industries in the State;

(iv) one consumer member; and

(v) one member of the general public.

10-820.

The Center may make grants to or provide equity investment financing for ADVANCED clean energy technology-based businesses AND CLEAN ENERGY INNOVATION BUSINESSES.

10-821.1.

(A) THE CENTER MAY ENTER INTO FINANCING TRANSACTIONS WITH, ON BEHALF OF, OR FOR THE BENEFIT OF ANY STATE AGENCY FOR THE PURPOSES OF A PROJECT ON STATE-OWNED OR STATE-LEASED PROPERTY.

(B) FINANCING UNDER THIS SECTION:

(1) MAY BE IN ANY FORM, INCLUDING BONDS, LOANS, GRANTS, ENERGY PERFORMANCE CONTRACTS, SHARED ENERGY SAVINGS CONTRACTS, PARTICIPATION AGREEMENTS, LEASE AGREEMENTS, AND REIMBURSEMENT AGREEMENTS; BUT

(2) MAY NOT PLEDGE THE FAITH AND CREDIT OF THE STATE.

(C) THE DEPARTMENT OF GENERAL SERVICES AND THE DEPARTMENT OF BUDGET AND MANAGEMENT SHALL WORK WITH THE CENTER TO ENSURE THAT

FINANCING TRANSACTIONS UNDER THIS SECTION ARE EFFICIENT AND COST-EFFECTIVE FOR THE STATE.

10–823.

(a) The Center may disseminate information and materials pertinent to **ADVANCED** clean energy technology, **CLEAN ENERGY INNOVATION**, financing, and development in the State, for persons engaged in the **ADVANCED** clean energy [industry] **AND CLEAN ENERGY INNOVATION INDUSTRIES** as developers, manufacturers, and installers, as well as for consumers and financial institutions, including information on available federal, State, and private financial assistance and technical assistance.

(b) The Center may:

(1) cooperate with and provide assistance to local governments, instrumentalities, and research entities in the State; and

(2) coordinate **ADVANCED** clean energy technology **AND CLEAN ENERGY INNOVATION** development, education, and deployment activities with programs of the federal government and of governmental units and public and private entities in and outside the State.

(c) The Center may conduct the activities under this section in consultation with the Administration.

(d) The Maryland Environmental Service, the Maryland Economic Development Corporation, and other State economic development units shall cooperate with the Center and may make available to the Center resources and expertise for the evaluation of project financing and coordination of financing between the Center and other economic development units.

10–826.

(a) On or before October 1 of each year, the Center shall report to the Governor, the Administration, and, in accordance with § 2–1257 of the State Government Article, the General Assembly.

(b) The report shall include:

(1) a complete operating and financial statement covering the Center's operations [and];

(2) a summary of the Center's activities during the preceding the fiscal year; **AND**

(3) A SUMMARY OF THE CENTER'S ACTIVITIES SPECIFIC TO CLEAN ENERGY INNOVATION.

10-828.

- (a) In this part the following words have the meanings indicated.
- (c) "Fund" means the Maryland Energy Innovation Fund.
- (d) "Institute" means the Maryland Energy Innovation Institute.

10-829.

- (a) There is a Maryland Energy Innovation Institute.
- (d) The purposes of the Institute are to:

(1) collaborate with academic institutions in the State to participate in **ADVANCED** clean energy **AND CLEAN ENERGY INNOVATION** programs; and

(2) develop and attract private investment in clean energy innovation and commercialization in the State.

10-830.

- (a) (1) There is an Advisory Board of the Institute.

(2) The Institute Board advises the University of Maryland on the management of the Institute.

- (b) The Institute Board consists of the following nine members:

(1) the chair of the Board of Directors of the Maryland Clean Energy Center;

(2) the Director; and

(3) seven members selected by the University of Maryland based on expertise in energy technology commercialization, the **ADVANCED** clean energy industry, **THE CLEAN ENERGY INNOVATION INDUSTRY**, venture capital financing, and energy research.

10-834.

- (A) The Institute may:

- (1) maintain offices at the University of Maryland, College Park **CAMPUS**;
- (2) coordinate and promote energy research and education at the University of Maryland, College Park **CAMPUS**, including its relevant energy centers, as well as at other academic institutions;
- (3) provide energy policy innovation advice to State and federal units;
- (4) collaborate with other academic institutions, governmental units, foundations, and industrial companies for **ADVANCED** clean energy research and innovation;
- (5) pursue grants, other funds, and in-kind contributions for **ADVANCED** clean energy research and innovation;
- (6) provide seed grant funding to academic institution-based entrepreneurs or entities, in order to promote the commercialization of **ADVANCED** clean energy technologies developed wholly or partly by an academic institution, but not duplicate existing seed grants made through the Maryland Technology Development Corporation;
- (7) work with the Maryland Technology Enterprise Institute to jointly manage, operate, and maintain facilities for [a] **AN ADVANCED** clean energy **AND CLEAN ENERGY INNOVATION** incubator at the University of Maryland, College Park **CAMPUS**;
- (8) work with the Maryland Technology Enterprise Institute to expand Maryland Industrial Partnership Awards to promote the commercialization of **ADVANCED** clean energy **AND CLEAN ENERGY INNOVATION** technologies developed wholly or partly by an academic institution;
- (9) work with the Maryland Technology Enterprise Institute and the University of Maryland Office of Technology Commercialization to:
 - (i) identify **ADVANCED CLEAN** energy **AND CLEAN ENERGY INNOVATION** technologies at academic institutions that may be viable for commercialization; and
 - (ii) provide grant funding and investment financing to cover patent, facilities, and other costs not allowed under federal or state research grants to an academic institution-based entrepreneur or entity, in order to promote the commercialization of **ADVANCED** clean energy **AND CLEAN ENERGY INNOVATION** technologies developed wholly or partly by an academic institution;
- (10) coordinate incubation and potential financing of academic institution-based entrepreneurs or entities with resources provided by the Center;

(11) work closely with State units, industrial partners, nongovernmental organizations, and federal agencies and laboratories to ensure effective implementation and execution of the State's energy mission and vision, in collaboration with the Administration;

(12) undergo periodic reviews every 5 years consistent with University System of Maryland policies; and

(13) do all things necessary or convenient to carry out the powers granted by this part.

(B) THE INSTITUTE SHALL COORDINATE WITH THE MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION IN SUPPORTING MARYLAND-BASED TECHNOLOGY COMPANIES ENGAGED IN CLEAN ENERGY INNOVATION.

(C) (1) THE INSTITUTE AND THE CENTER SHALL IMPLEMENT AN ACCELERATOR PROGRAM FOR MARYLAND-BASED TECHNOLOGY COMPANIES ENGAGED IN CLEAN ENERGY INNOVATION THAT FEATURES SEED FUNDING, TRAINING, ~~AND~~ DEVELOPMENTAL SUPPORT FOR THE COMPANIES, AND PILOT PROJECTS FOCUSED ON ON-SITE CLEAN ENERGY GENERATION FOR BUILDINGS.

(2) IN CARRYING OUT THEIR RESPONSIBILITIES UNDER THIS SUBSECTION, THE INSTITUTE AND THE CENTER SHALL CONSULT WITH THE DEPARTMENT, THE MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION, THE ADMINISTRATION, THE DEPARTMENT OF THE ENVIRONMENT, AND THE MARYLAND INDUSTRIAL PARTNERSHIP AWARDS PROGRAM.

10-835.

(a) (1) There is a Maryland Energy Innovation Fund in the University System of Maryland.

(2) The Fund shall be used by the Institute and the Center.

(b) (1) The Institute:

(i) may use the Fund to:

1. carry out the purposes of this subtitle, including the purposes listed in § 10-834 of this subtitle;

2. purchase advisory services and technical assistance to better support economic development; and

3. pay the administrative, legal, and actuarial expenses of the Institute; and

(ii) shall use the Fund for the administrative and operating costs of the Center.

(2) The Center may use the Fund to:

(i) make a grant or a loan under this subtitle, at the rate of interest the Center sets;

(ii) provide equity investment financing for a business enterprise under this subtitle; and

(iii) guarantee a loan, an equity, an investment, or any other private financing to expand the capital resources of a business enterprise under this subtitle.

(c) The Institute shall manage and supervise the Fund.

(d) (1) The Fund is a special, nonlapsing revolving fund that is not subject to reversion under § 7–302 of the State Finance and Procurement Article.

(2) The State Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.

(e) The Fund consists of:

(1) money appropriated by the State to the Fund;

(2) money contributed to the Fund through federal programs or private entities;

(3) repayment of principal of a loan made from the Fund;

(4) payment of interest on a loan made from the Fund;

(5) proceeds from the sale, disposition, lease, or rental by the Center of collateral related to financing that the Center provides from the Fund;

(6) premiums, fees, royalties, interest, repayments of principal, and returns on investments paid to the Center by or on behalf of:

(i) a business enterprise in which the Center has made an investment from the Fund; or

(ii) an investor providing an investment guaranteed by the Center from the Fund;

(7) recovery of an investment made by the Center in a business enterprise from the Fund, including an arrangement under which the Center's investment in the business enterprise is recovered through:

(i) a requirement that the Fund receive a proportion of cash flow, commission, royalty, or payment on a patent; or

(ii) the repurchase from the Center of any evidence of indebtedness or other financial participation made from the Fund, including a note, stock, bond, or debenture;

(8) repayment of a conditional grant extended by the Center from the Fund; [and]

(9) MONEY TRANSFERRED TO THE FUND IN ACCORDANCE WITH § 9-20B-05 OF THE STATE GOVERNMENT ARTICLE; AND

[(9)] (10) any other money made available to the Institute for the Fund.

(f) (1) The State Treasurer shall invest the money in the same manner as other State money may be invested.

(2) Any interest earnings of the Fund shall be credited to the Fund.

(g) Money expended from the Fund under this subtitle is supplemental to and is not intended to take the place of funding that otherwise would be appropriated for the Center, the Institute, or any part of the University System of Maryland.

10-839.

(a) On or before October 1 each year, the Institute shall report to the Governor, the Administration, and, in accordance with § 2-1257 of the State Government Article, the General Assembly.

(b) The report shall include:

(1) a complete operating and financial statement covering the Institute's operations [and];

(2) a summary of the Institute's activities during the preceding fiscal year;

AND

(3) A SUMMARY OF:

(I) THE ANNUAL INCREASE IN THE NUMBER OF CLEAN ENERGY INNOVATION BUSINESSES IN THE STATE;

(II) FEDERAL FUNDING AWARDED FOR CLEAN ENERGY INNOVATION AND COMMERCIALIZATION IN THE STATE; AND

(III) PRIVATE SECTOR INVESTMENT IN CLEAN ENERGY INNOVATION AND COMMERCIALIZATION IN THE STATE.

Article – State Government

9–20B–05.

(a) There is a Maryland Strategic Energy Investment Fund.

(f) The Administration shall use the Fund:

(10) subject to subsections (f–2) and (f–3) of this section, to invest in pre–apprenticeship, youth apprenticeship, and registered apprenticeship programs to establish career paths in the clean energy industry under § 11–708.1 of the Labor and Employment Article, as follows:

(i) \$1,250,000 for grants to pre–apprenticeship jobs training programs under § 11–708.1(c)(3) of the Labor and Employment Article starting in fiscal year 2021 until all amounts are spent; and

(ii) \$6,000,000 for grants to youth apprenticeship jobs training programs and registered apprenticeship jobs training programs under § 11–708.1(c)(5) of the Labor and Employment Article starting in fiscal year 2021 until all amounts are spent;

(iii) \$750,000 for the recruitment of individuals, including veterans and formerly incarcerated individuals, to the pre–apprenticeship jobs training programs and the registered apprenticeship jobs training programs under § 11–708.1 of the Labor and Employment Article starting in fiscal year 2021 until all amounts are spent; [and]

(11) SUBJECT TO SUBSECTION (F–4) OF THIS SECTION, TO PROVIDE AT LEAST \$2,100,000 IN FUNDING EACH FISCAL YEAR TO THE MARYLAND ENERGY INNOVATION FUND ESTABLISHED UNDER § 10–835 OF THE ECONOMIC DEVELOPMENT ARTICLE; AND

[(11)] (12) to pay the expenses of the Program.

(F–4) OF THE FUNDS TRANSFERRED TO THE MARYLAND ENERGY INNOVATION FUND UNDER SUBSECTION (F)(11) OF THIS SECTION:

(1) AT LEAST \$1,200,000 MAY BE USED TO FUND THE MARYLAND CLEAN ENERGY CENTER ESTABLISHED UNDER § 10–806 OF THE ECONOMIC DEVELOPMENT ARTICLE; AND

(2) AT LEAST \$900,000 MAY BE USED TO FUND THE MARYLAND ENERGY INNOVATION INSTITUTE ESTABLISHED UNDER § 10-829 OF THE ECONOMIC DEVELOPMENT ARTICLE.

SECTION 3. AND BE IT FURTHER ENACTED, That, to implement the reduction in the number of representatives of the nonprofit clean energy research sector serving as members of the Board of Directors of the Maryland Clean Energy Center from two to one as provided in § 10-807(b) of the Economic Development Article, as enacted by Section 2 of this Act, the position of the member representing the nonprofit clean energy research sector whose term expires in June 2022 shall be eliminated on the effective date of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That, for fiscal year 2022 only, the funding provided to the Maryland Energy Innovation Fund from the Maryland Strategic Energy Investment Fund under § 9-20B-05(f)(11) and (f-4) of the State Government Article, as enacted by this Act, shall be reduced proportionally by the amount of any actual transfers made to the Maryland Energy Innovation Fund from the Maryland Strategic Energy Investment Fund under Chapters 364 and 365 of the Acts of the General Assembly of 2017 for fiscal year 2022.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021.

April 8, 2021

The Honorable Bill Ferguson
President of the Maryland Senate
H-107 State House
Annapolis, MD 21401

Dear Mr. President:

Our administration has consistently demonstrated a historic commitment to criminal justice reform. In 2016, we passed and enacted the Justice Reinvestment Act, which represents the most comprehensive criminal justice reform in a generation. This legislation, which was the result of six months of bipartisan discussion, struck an important balance—it holds offenders accountable for their crimes, holds government agencies responsible for administering justice and getting results, and elevates the voice of victims.

I am also a firm believer in second chances and understand that individuals who commit serious crimes, especially as juveniles, are capable of rehabilitation. I was the first governor in 24 years to parole a juvenile serving a life sentence. Since taking office, I have granted 7 paroles, 2 medical paroles, and 4 commutations for juveniles sentenced to life. Additionally,

I issued Executive Order 01.01.2018.06, which expressly states that the governor must consider a juvenile offender's age at the time of the crime, demonstrated maturity, and subsequent rehabilitation to ensure they have some meaningful opportunity to obtain release.

Senate Bill 494, however, pertains to juveniles who have committed crimes so heinous that they are automatically charged as adults, including first degree murder, first degree rape, first degree sex offense, manslaughter, and certain offenses with firearms. These are serious crimes that require the most serious of consequences, which is why a judge or jury sentences the individual to a lengthy determinate sentence, life imprisonment, or life imprisonment without parole.

Additionally, portions of this bill are unnecessary and duplicative. In many cases, the state already has procedures to carefully consider the release of incarcerated individuals—the Maryland Parole Commission and the executive commutation process. Senate Bill 494 would upend the current system by allowing the defendant to bypass the parole process and petition the court for resentencing. Rather than create a new, complex system for release, any necessary changes should be contemplated within the current parole framework.

The claim made by this legislation's supporters that 24 other states have adopted similar measures is misleading at best. These jurisdictions have simply eliminated the imposition of life without parole for juveniles. Further, the Court of Appeals Standing Committee on Rules of Practice and Procedure recently considered a proposed rule change that would expand defendants' ability to seek a sentence modification.

Finally, this measure would further contribute to the retraumatization of the victims of these heinous crimes. Defendants have multiple avenues for relief as it pertains to challenging their conviction and sentence, but victims and their families have none. Nothing will bring back the loved one lost, or erase the memories of a brutal rape or violent assault. This legislation would force victims to come to court potentially several more times and subject themselves to living through the nightmare once again, in addition to any future parole hearings. In the case of the murder of Baltimore County Police Officer Amy Caprio, for example, her family would have to endure 13 hearings over 11 years.

For these reasons, and in accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 494 – *Juveniles Convicted as Adults – Sentencing – Limitations and Reduction (Juvenile Restoration Act)*. In addition, I am attaching for your consideration letters of opposition from several state's attorneys.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

AN ACT concerning

**Juveniles Convicted as Adults – Sentencing – Limitations and Reduction
(Juvenile Restoration Act)**

FOR the purpose of authorizing a court, when sentencing a minor convicted as an adult, to impose a sentence less than the minimum term required by law; prohibiting a court from imposing a sentence of life without the possibility of parole or release for a minor; authorizing a certain individual to file a motion to reduce the duration of the individual's sentence; requiring the court to conduct a hearing on a motion to reduce the duration of a sentence; requiring that an individual be present at a hearing on a motion to reduce the duration of a sentence unless the individual waives the right to be present; specifying that the requirement that an individual be present at a certain hearing is satisfied if the hearing is conducted by video conference; ~~requiring a State's Attorney to provide certain notice to a victim and a victim's representative of a hearing; providing that a victim and a victim's representative have a certain right to attend a hearing;~~ *authorizing a certain individual to introduce evidence in support of a certain motion at a certain hearing; authorizing the State to introduce evidence in support of or in opposition to a certain motion at a certain hearing; requiring that notice of a certain hearing be given to a certain victim or victim's representative in a certain manner;* authorizing a court to reduce the duration of a sentence for a certain individual under certain circumstances; requiring a court to consider certain factors when determining whether to reduce the duration of a sentence for a certain individual; requiring a court to issue a decision to grant or deny a motion to reduce the duration of a sentence in writing; requiring a certain decision to address certain factors; providing that a subsequent motion to reduce the duration of a sentence may be filed only after a certain period of time; ~~authorizing a court to impose certain preconditions to granting a motion to reduce the duration of a sentence for a certain individual;~~ limiting the number of times that an individual may file a motion to reduce the duration of a sentence; *providing for the application of a certain provision of this Act;* and generally relating to the sentencing of minors *and the reduction of the duration of certain sentences.*

BY adding to

Article – Criminal Procedure
Section 6–235 and 8–110
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

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

Article – Criminal Procedure

6–235.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHEN SENTENCING A MINOR CONVICTED AS AN ADULT, A COURT:

(1) MAY IMPOSE A SENTENCE LESS THAN THE MINIMUM TERM REQUIRED UNDER LAW; AND

(2) MAY NOT IMPOSE A SENTENCE OF LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE OR RELEASE.

8-110.

(A) THIS SECTION APPLIES ONLY TO AN INDIVIDUAL WHO:

(1) WAS CONVICTED AS AN ADULT FOR AN OFFENSE COMMITTED WHEN THE INDIVIDUAL WAS A MINOR;

(2) WAS SENTENCED FOR THE OFFENSE BEFORE OCTOBER 1, 2021;
AND

(3) HAS BEEN IMPRISONED FOR AT LEAST 20 YEARS FOR THE OFFENSE.

~~(A)~~ (B) (1) AN INDIVIDUAL ~~CONVICTED AS AN ADULT FOR AN OFFENSE COMMITTED WHEN THE INDIVIDUAL WAS A MINOR~~ DESCRIBED IN SUBSECTION (A) OF THIS SECTION MAY FILE A MOTION WITH THE COURT TO REDUCE THE DURATION OF THE SENTENCE.

(2) A COURT SHALL CONDUCT A HEARING ON A MOTION TO REDUCE THE DURATION OF A SENTENCE.

(3) (I) THE INDIVIDUAL SHALL BE PRESENT AT THE HEARING, UNLESS THE INDIVIDUAL WAIVES THE RIGHT TO BE PRESENT.

(II) THE REQUIREMENT THAT THE INDIVIDUAL BE PRESENT AT THE HEARING IS SATISFIED IF THE HEARING IS CONDUCTED BY VIDEO CONFERENCE.

(4) (I) THE INDIVIDUAL MAY INTRODUCE EVIDENCE IN SUPPORT OF THE MOTION AT THE HEARING.

(II) THE STATE MAY INTRODUCE EVIDENCE IN SUPPORT OF OR IN OPPOSITION TO THE MOTION AT THE HEARING.

~~(5) THE STATE'S ATTORNEY SHALL GIVE NOTICE TO EACH VICTIM AND VICTIM'S REPRESENTATIVE WHO HAS FILED A CRIME VICTIM NOTIFICATION~~

~~REQUEST FORM UNDER § 11-104 OF THIS ARTICLE OR WHO HAS SUBMITTED A WRITTEN REQUEST TO THE STATE'S ATTORNEY TO BE NOTIFIED OF SUBSEQUENT PROCEEDINGS UNDER § 11-503 OF THIS ARTICLE THAT A MOTION TO REDUCE THE DURATION OF A SENTENCE HAS BEEN FILED UNDER THIS SECTION.~~

~~(6) A VICTIM OR A VICTIM'S REPRESENTATIVE IS ENTITLED TO AN OPPORTUNITY TO ATTEND AND TESTIFY IN THE MANNER PROVIDED BY MARYLAND RULE 4-345 NOTICE OF THE HEARING UNDER THIS SUBSECTION SHALL BE GIVEN TO THE VICTIM OR THE VICTIM'S REPRESENTATIVE AS PROVIDED IN §§ 11-104 AND 11-503 OF THIS ARTICLE.~~

~~(B)~~ (C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AFTER A HEARING UNDER SUBSECTION ~~(A)~~ (B) OF THIS SECTION, THE COURT MAY REDUCE THE DURATION OF A SENTENCE IMPOSED ON AN INDIVIDUAL FOR AN OFFENSE COMMITTED WHEN THE INDIVIDUAL WAS A MINOR IF:

~~(1) THE INDIVIDUAL HAS BEEN IMPRISONED FOR AT LEAST 20 YEARS;~~
AND

~~(2)~~ THE COURT DETERMINES THAT:

~~(i)~~ (1) THE INDIVIDUAL IS NOT A DANGER TO THE PUBLIC;
AND AND

~~(ii)~~ (2) THE INTERESTS OF JUSTICE WILL BE BETTER SERVED BY A REDUCED SENTENCE; AND

~~(iii) THE STATE'S ATTORNEY HAS SATISFIED THE REQUIREMENTS FOR PROVIDING NOTICE TO VICTIMS OR VICTIMS' REPRESENTATIVES UNDER SUBSECTION (A) OF THIS SECTION.~~

~~(c)~~ (D) A COURT SHALL CONSIDER THE FOLLOWING FACTORS WHEN DETERMINING WHETHER TO REDUCE THE DURATION OF A SENTENCE UNDER THIS SECTION:

(1) THE INDIVIDUAL'S AGE AT THE TIME OF THE OFFENSE;

(2) THE NATURE OF THE OFFENSE AND THE HISTORY AND CHARACTERISTICS OF THE INDIVIDUAL;

(3) WHETHER THE INDIVIDUAL HAS SUBSTANTIALLY COMPLIED WITH THE RULES OF THE INSTITUTION IN WHICH THE INDIVIDUAL HAS BEEN CONFINED;

(4) WHETHER THE INDIVIDUAL HAS COMPLETED AN EDUCATIONAL, VOCATIONAL, OR OTHER PROGRAM;

(5) WHETHER THE INDIVIDUAL HAS DEMONSTRATED MATURITY, REHABILITATION, AND FITNESS TO REENTER SOCIETY SUFFICIENT TO JUSTIFY A SENTENCE REDUCTION;

(6) ANY STATEMENT OFFERED BY A VICTIM OR A VICTIM'S REPRESENTATIVE;

(7) ANY REPORT OF A PHYSICAL, MENTAL, OR BEHAVIORAL EXAMINATION OF THE INDIVIDUAL CONDUCTED BY A HEALTH PROFESSIONAL;

(8) THE INDIVIDUAL'S FAMILY AND COMMUNITY CIRCUMSTANCES AT THE TIME OF THE OFFENSE, INCLUDING ~~ANY THE INDIVIDUAL'S~~ ANY HISTORY OF TRAUMA, ABUSE, OR INVOLVEMENT IN THE CHILD WELFARE SYSTEM;

(9) THE EXTENT OF THE INDIVIDUAL'S ROLE IN THE OFFENSE AND WHETHER AND TO WHAT EXTENT AN ADULT WAS INVOLVED IN THE OFFENSE;

(10) THE DIMINISHED CULPABILITY OF A JUVENILE AS COMPARED TO AN ADULT, INCLUDING AN INABILITY TO FULLY APPRECIATE RISKS AND CONSEQUENCES; AND

(11) ANY OTHER FACTOR THE COURT DEEMS RELEVANT.

~~(D)~~ (E) (1) THE COURT SHALL ISSUE ITS DECISION TO GRANT OR DENY A MOTION TO REDUCE THE DURATION OF A SENTENCE IN WRITING.

(2) THE DECISION SHALL ADDRESS THE FACTORS LISTED IN SUBSECTION ~~(E)~~ (D) OF THIS SECTION.

~~(E)~~ (F) (1) IF THE COURT DENIES OR GRANTS, IN PART, A MOTION TO REDUCE THE DURATION OF A SENTENCE UNDER THIS SECTION, THE INDIVIDUAL MAY NOT FILE A SECOND MOTION TO REDUCE THE DURATION OF THAT SENTENCE FOR AT LEAST 3 YEARS.

(2) IF THE COURT DENIES OR GRANTS, IN PART, A SECOND MOTION TO REDUCE THE DURATION OF A SENTENCE, THE INDIVIDUAL MAY NOT FILE A THIRD MOTION TO REDUCE THE DURATION OF THAT SENTENCE FOR AT LEAST 3 YEARS.

(3) WITH REGARD TO ANY SPECIFIC SENTENCE, AN INDIVIDUAL MAY NOT FILE A FOURTH MOTION TO REDUCE THE DURATION OF THE SENTENCE.

~~(F) AS A PRECONDITION TO GRANTING A MOTION TO REDUCE THE DURATION OF A SENTENCE UNDER THIS SECTION, A COURT MAY REQUIRE THAT AN INDIVIDUAL COMPLETE ANY OF THE FOLLOWING:~~

- ~~(1) PRE RELEASE PROGRAMMING;~~
- ~~(2) ALCOHOL AND SUBSTANCE ABUSE TREATMENT;~~
- ~~(3) A GED PROGRAM OR OTHER EDUCATIONAL OR JOB SKILLS TRAINING PROGRAM; OR~~
- ~~(4) A REENTRY PROGRAM.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

May 28, 2021

The Honorable Bill Ferguson
President of the Senate
H-107 State House
Annapolis, MD 21401

Dear President Ferguson:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 500 – *Psychology Interjurisdictional Compact*.

This bill enters Maryland into the Psychology Interjurisdictional Compact for psychologists. The bill establishes procedures and requirements for psychologists to exercise a compact privilege in a “receiving state” or “distant state”; the composition, powers, and responsibilities of the Psychology Interjurisdictional Compact Commission; and requirements related to the oversight, dispute resolution, and enforcement of the compact.

House Bill 970, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 500.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 500

AN ACT concerning

Psychology Interjurisdictional Compact

FOR the purpose of entering into the Psychology Interjurisdictional Compact; stating the purpose of the Compact; establishing certain criteria and duties for compact states; requiring certain psychologists to hold a certain license from a home state and meet certain eligibility requirements to exercise certain authority to practice interjurisdictional telepsychology; requiring certain psychologists to hold a certain license from a home state and meet certain eligibility requirements to exercise certain temporary authority to practice in-person, face-to-face psychology in certain compact states; establishing certain requirements for certain psychologists practicing into certain receiving states under the authority to practice interjurisdictional telepsychology; establishing certain requirements for certain psychologists practicing into certain distant states under certain temporary authorization to practice; authorizing a psychologist to practice telepsychology in certain receiving states in the performance of certain scope of practice and under certain circumstances; establishing certain authority of home states and distant states with regard to certain adverse action; establishing certain authority for certain compact states' psychology regulatory authority to investigate and take certain action with respect to certain conduct and to issue certain subpoenas and orders under certain circumstances; providing for the development and maintenance of a coordinated licensure information system; requiring that certain data be sent to the coordinated licensure information system; establishing the Psychology Interjurisdictional Compact Commission and its duties and powers; providing for the membership, meetings, and voting of the Commission; providing for the membership and duties of the Executive Board of the Commission; providing for the financing of the Commission; providing qualified immunity, legal defense, and indemnification to certain individuals affiliated with the Commission under certain circumstances; authorizing the Commission to adopt certain rules and amendments in a certain manner; providing for certain oversight, dispute resolution, and enforcement of the Compact; providing for the implementation of the Compact; establishing certain requirements for withdrawal by compact states from the Compact; establishing a certain procedure for amending the Compact; making the Compact severable; defining certain terms; *making this Act an emergency measure*; and generally relating to the Psychology Interjurisdictional Compact.

BY adding to

Article – Health Occupations

Section 18–3A–01 to be under the new subtitle “Subtitle 3A. Psychology Interjurisdictional Compact”

Annotated Code of Maryland

(2014 Replacement Volume and 2020 Supplement)

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

Article – Health Occupations

SUBTITLE 3A. PSYCHOLOGY INTERJURISDICTIONAL COMPACT.

18-3A-01.

THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT IS ENACTED INTO LAW AND ENTERED INTO WITH ALL OTHER STATES LEGALLY JOINING IN IT IN THE FORM SUBSTANTIALLY AS IT APPEARS IN THIS SECTION AS FOLLOWS:

ARTICLE I.

PURPOSE.

(A) THIS COMPACT IS BASED ON THE FOLLOWING PRINCIPLES:

(1) STATES LICENSE PSYCHOLOGISTS IN ORDER TO PROTECT THE PUBLIC THROUGH VERIFICATION OF EDUCATION, TRAINING, AND EXPERIENCE AND ENSURE ACCOUNTABILITY FOR PROFESSIONAL PRACTICE; AND

(2) STATES HAVE A VESTED INTEREST IN PROTECTING THE PUBLIC'S HEALTH AND SAFETY THROUGH THEIR LICENSING AND REGULATION OF PSYCHOLOGISTS AND THAT SUCH STATE REGULATION WILL BEST PROTECT PUBLIC HEALTH AND SAFETY.

(B) THIS COMPACT IS INTENDED TO:

(1) REGULATE THE DAY-TO-DAY PRACTICE OF TELEPSYCHOLOGY (I.E., THE PROVISION OF PSYCHOLOGICAL SERVICES USING TELECOMMUNICATION TECHNOLOGIES) BY PSYCHOLOGISTS ACROSS STATE BOUNDARIES IN THE PERFORMANCE OF THEIR PSYCHOLOGICAL PRACTICE AS ASSIGNED BY AN APPROPRIATE AUTHORITY;

(2) REGULATE THE TEMPORARY IN-PERSON, FACE-TO-FACE PRACTICE OF PSYCHOLOGY BY PSYCHOLOGISTS ACROSS STATE BOUNDARIES FOR 30 DAYS WITHIN A CALENDAR YEAR IN THE PERFORMANCE OF THEIR PSYCHOLOGICAL PRACTICE AS ASSIGNED BY AN APPROPRIATE AUTHORITY; AND

(3) AUTHORIZE STATE PSYCHOLOGICAL REGULATORY AUTHORITIES TO AFFORD LEGAL RECOGNITION, IN A MANNER CONSISTENT WITH THE TERMS OF THE COMPACT, TO PSYCHOLOGISTS LICENSED IN ANOTHER STATE.

(C) (1) THIS COMPACT DOES NOT APPLY WHEN A PSYCHOLOGIST IS LICENSED IN BOTH THE HOME AND RECEIVING STATES.

(2) THIS COMPACT DOES NOT APPLY TO PERMANENT, IN-PERSON, FACE-TO-FACE PRACTICE BUT DOES ALLOW FOR TEMPORARY AUTHORIZATION TO PRACTICE.

(D) THIS COMPACT IS DESIGNED TO ACHIEVE THE FOLLOWING PURPOSES AND OBJECTIVES:

(1) INCREASE PUBLIC ACCESS TO PROFESSIONAL PSYCHOLOGICAL SERVICES BY ALLOWING FOR TELEPSYCHOLOGICAL PRACTICE ACROSS STATE LINES AS WELL AS TEMPORARY, IN-PERSON, FACE-TO-FACE SERVICES INTO A STATE IN WHICH THE PSYCHOLOGIST IS NOT LICENSED TO PRACTICE PSYCHOLOGY;

(2) ENHANCE STATES' ABILITY TO PROTECT THE PUBLIC'S HEALTH AND SAFETY, ESPECIALLY CLIENT/PATIENT SAFETY;

(3) ENCOURAGE THE COOPERATION OF COMPACT STATES IN THE AREAS OF PSYCHOLOGY LICENSURE AND REGULATION;

(4) FACILITATE THE EXCHANGE OF INFORMATION BETWEEN COMPACT STATES REGARDING PSYCHOLOGIST LICENSURE, ADVERSE ACTIONS, AND DISCIPLINARY HISTORY;

(5) PROMOTE COMPLIANCE WITH THE LAWS GOVERNING PSYCHOLOGICAL PRACTICE IN EACH COMPACT STATE; AND

(6) INVEST ALL COMPACT STATES WITH THE AUTHORITY TO HOLD LICENSED PSYCHOLOGISTS ACCOUNTABLE THROUGH THE MUTUAL RECOGNITION OF COMPACT STATE LICENSES.

ARTICLE II.

DEFINITIONS.

(A) "ADVERSE ACTION" MEANS ANY ACTION TAKEN BY A STATE PSYCHOLOGY REGULATORY AUTHORITY THAT FINDS A VIOLATION OF A STATUTE OR REGULATION THAT IS IDENTIFIED BY THE STATE PSYCHOLOGY REGULATORY AUTHORITY AS DISCIPLINE AND IS A MATTER OF PUBLIC RECORD.

(B) "ASSOCIATION OF STATE AND PROVINCIAL PSYCHOLOGY BOARDS" OR "ASPPB" MEANS THE RECOGNIZED MEMBERSHIP ORGANIZATION COMPOSED OF STATE AND PROVINCIAL PSYCHOLOGY REGULATORY AUTHORITIES RESPONSIBLE

FOR THE LICENSURE AND REGISTRATION OF PSYCHOLOGISTS THROUGHOUT THE UNITED STATES AND CANADA.

(C) “AUTHORITY TO PRACTICE INTERJURISDICTIONAL TELEPSYCHOLOGY” MEANS A LICENSED PSYCHOLOGIST’S AUTHORITY TO PRACTICE TELEPSYCHOLOGY, WITHIN THE LIMITS AUTHORIZED UNDER THIS COMPACT, IN ANOTHER COMPACT STATE.

(D) “BYLAWS” MEANS THE BYLAWS ESTABLISHED BY THE COMMISSION PURSUANT TO ARTICLE X OF THIS COMPACT FOR ITS GOVERNANCE, OR FOR DIRECTING AND CONTROLLING ITS ACTIONS AND CONDUCT.

(E) “CLIENT/PATIENT” MEANS THE RECIPIENT OF PSYCHOLOGICAL SERVICES, WHETHER PSYCHOLOGICAL SERVICES ARE DELIVERED IN THE CONTEXT OF HEALTH CARE, CORPORATE, SUPERVISION, AND/OR CONSULTING SERVICES.

(F) “COMMISSIONER” MEANS THE VOTING REPRESENTATIVE APPOINTED BY EACH STATE PSYCHOLOGY REGULATORY AUTHORITY PURSUANT TO ARTICLE X OF THIS COMPACT.

(G) “COMPACT STATE” MEANS A STATE, THE DISTRICT OF COLUMBIA, OR A TERRITORY OF THE UNITED STATES THAT HAS ENACTED THIS COMPACT AND HAS NOT WITHDRAWN PURSUANT TO ARTICLE XIII(C) OF THIS COMPACT OR BEEN TERMINATED PURSUANT TO ARTICLE XII(B) OF THIS COMPACT.

(H) “COORDINATED LICENSURE INFORMATION SYSTEM” OR “COORDINATED DATABASE” MEANS AN INTEGRATED PROCESS FOR COLLECTING, STORING, AND SHARING INFORMATION ON PSYCHOLOGISTS’ LICENSURE AND ENFORCEMENT ACTIVITIES RELATED TO PSYCHOLOGY LICENSURE LAWS THAT IS ADMINISTERED BY THE RECOGNIZED MEMBERSHIP ORGANIZATION COMPOSED OF STATE AND PROVINCIAL PSYCHOLOGY REGULATORY AUTHORITIES.

(I) “CONFIDENTIALITY” MEANS THE PRINCIPLE THAT DATA OR INFORMATION IS NOT MADE AVAILABLE OR DISCLOSED TO UNAUTHORIZED PERSONS AND/OR PROCESSES.

(J) “DAY” MEANS ANY PART OF A DAY IN WHICH PSYCHOLOGICAL WORK IS PERFORMED.

(K) “DISTANT STATE” MEANS THE COMPACT STATE WHERE A PSYCHOLOGIST IS PHYSICALLY PRESENT (NOT THROUGH THE USE OF TELECOMMUNICATIONS TECHNOLOGIES), TO PROVIDE TEMPORARY IN-PERSON, FACE-TO-FACE PSYCHOLOGICAL SERVICES.

(L) **“E.PASSPORT”** MEANS A CERTIFICATE ISSUED BY ASPPB THAT PROMOTES THE STANDARDIZATION IN THE CRITERIA OF INTERJURISDICTIONAL TELEPSYCHOLOGY PRACTICE AND FACILITATES THE PROCESS FOR LICENSED PSYCHOLOGISTS TO PROVIDE TELEPSYCHOLOGICAL SERVICES ACROSS STATE LINES.

(M) **“EXECUTIVE BOARD”** MEANS A GROUP OF DIRECTORS ELECTED OR APPOINTED TO ACT ON BEHALF OF, AND WITHIN THE POWERS GRANTED TO THEM BY, THE COMMISSION.

(N) **“HOME STATE”** MEANS A COMPACT STATE WHERE A PSYCHOLOGIST IS LICENSED TO PRACTICE PSYCHOLOGY. IF THE PSYCHOLOGIST IS LICENSED IN MORE THAN ONE COMPACT STATE AND IS PRACTICING UNDER THE AUTHORIZATION TO PRACTICE INTERJURISDICTIONAL TELEPSYCHOLOGY, THE HOME STATE IS THE COMPACT STATE WHERE THE PSYCHOLOGIST IS PHYSICALLY PRESENT WHEN THE TELEPSYCHOLOGICAL SERVICES ARE DELIVERED. IF THE PSYCHOLOGIST IS LICENSED IN MORE THAN ONE COMPACT STATE AND IS PRACTICING UNDER THE TEMPORARY AUTHORIZATION TO PRACTICE, THE HOME STATE IS ANY COMPACT STATE WHERE THE PSYCHOLOGIST IS LICENSED.

(O) **“IDENTITY HISTORY SUMMARY”** MEANS A SUMMARY OF INFORMATION RETAINED BY THE FEDERAL BUREAU OF INVESTIGATION, OR OTHER DESIGNEE WITH SIMILAR AUTHORITY, IN CONNECTION WITH ARRESTS AND, IN SOME INSTANCES, FEDERAL EMPLOYMENT, NATURALIZATION, OR MILITARY SERVICE.

(P) **“IN-PERSON, FACE-TO-FACE”** MEANS INTERACTIONS IN WHICH THE PSYCHOLOGIST AND THE CLIENT/PATIENT ARE IN THE SAME PHYSICAL SPACE AND THAT DO NOT INCLUDE INTERACTIONS THAT MAY OCCUR THROUGH THE USE OF TELECOMMUNICATION TECHNOLOGIES.

(Q) **“INTERJURISDICTIONAL PRACTICE CERTIFICATE”** OR **“IPC”** MEANS A CERTIFICATE ISSUED BY ASPPB THAT GRANTS TEMPORARY AUTHORITY TO PRACTICE BASED ON NOTIFICATION TO THE STATE PSYCHOLOGY REGULATORY AUTHORITY OF INTENTION TO PRACTICE TEMPORARILY AND VERIFICATION OF ONE’S QUALIFICATIONS FOR SUCH PRACTICE.

(R) **“LICENSE”** MEANS AUTHORIZATION BY A STATE PSYCHOLOGY REGULATORY AUTHORITY TO ENGAGE IN THE INDEPENDENT PRACTICE OF PSYCHOLOGY, WHICH WOULD BE UNLAWFUL WITHOUT THE AUTHORIZATION.

(S) **“NON-COMPACT STATE”** MEANS ANY STATE WHICH IS NOT AT THE TIME A COMPACT STATE.

(T) “PSYCHOLOGIST” MEANS AN INDIVIDUAL LICENSED FOR THE INDEPENDENT PRACTICE OF PSYCHOLOGY.

(U) “PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION” OR “COMMISSION” MEANS THE NATIONAL ADMINISTRATION OF WHICH ALL COMPACT STATES ARE MEMBERS.

(V) “RECEIVING STATE” MEANS A COMPACT STATE WHERE THE CLIENT/PATIENT IS PHYSICALLY LOCATED WHEN THE TELEPSYCHOLOGICAL SERVICES ARE DELIVERED.

(W) “RULE” MEANS A WRITTEN STATEMENT BY THE COMMISSION PROMULGATED PURSUANT TO ARTICLE XI OF THIS COMPACT THAT IS OF GENERAL APPLICABILITY, IMPLEMENTS, INTERPRETS, OR PRESCRIBES A POLICY OR PROVISION OF THE COMPACT, OR AN ORGANIZATIONAL, PROCEDURAL, OR PRACTICE REQUIREMENT OF THE COMMISSION AND HAS THE FORCE AND EFFECT OF STATUTORY LAW IN A COMPACT STATE, AND INCLUDES THE AMENDMENT, REPEAL, OR SUSPENSION OF AN EXISTING RULE.

(X) “SIGNIFICANT INVESTIGATORY INFORMATION” MEANS:

(1) INVESTIGATIVE INFORMATION THAT A STATE PSYCHOLOGY REGULATORY AUTHORITY, AFTER A PRELIMINARY INQUIRY THAT INCLUDES NOTIFICATION AND AN OPPORTUNITY TO RESPOND IF REQUIRED BY STATE LAW, HAS REASON TO BELIEVE, IF PROVEN TRUE, WOULD INDICATE MORE THAN A VIOLATION OF STATE STATUTE OR ETHICS CODE THAT WOULD BE CONSIDERED MORE SUBSTANTIAL THAN MINOR INFRACTION; OR

(2) INVESTIGATIVE INFORMATION THAT INDICATES THAT THE PSYCHOLOGIST REPRESENTS AN IMMEDIATE THREAT TO PUBLIC HEALTH AND SAFETY REGARDLESS OF WHETHER THE PSYCHOLOGIST HAS BEEN NOTIFIED AND/OR HAD AN OPPORTUNITY TO RESPOND.

(Y) “STATE” MEANS A STATE, COMMONWEALTH, TERRITORY, OR POSSESSION OF THE UNITED STATES OR THE DISTRICT OF COLUMBIA.

(Z) “STATE PSYCHOLOGY REGULATORY AUTHORITY” MEANS THE BOARD, OFFICE, OR OTHER AGENCY WITH THE LEGISLATIVE MANDATE TO LICENSE AND REGULATE THE PRACTICE OF PSYCHOLOGY.

(AA) “TELEPSYCHOLOGY” MEANS THE PROVISION OF PSYCHOLOGICAL SERVICES USING TELECOMMUNICATION TECHNOLOGIES.

(BB) “TEMPORARY AUTHORIZATION TO PRACTICE” MEANS A LICENSED PSYCHOLOGIST’S AUTHORITY TO CONDUCT TEMPORARY IN-PERSON, FACE-TO-FACE PRACTICE, WITHIN THE LIMITS AUTHORIZED UNDER THIS COMPACT, IN ANOTHER COMPACT STATE.

(CC) “TEMPORARY IN-PERSON, FACE-TO-FACE PRACTICE” MEANS WHERE A PSYCHOLOGIST IS PHYSICALLY PRESENT (NOT THROUGH THE USE OF TELECOMMUNICATIONS TECHNOLOGIES), IN THE DISTANT STATE TO PROVIDE FOR THE PRACTICE OF PSYCHOLOGY FOR 30 DAYS WITHIN A CALENDAR YEAR AND BASED ON NOTIFICATION IN THE DISTANT STATE.

ARTICLE III.

HOME STATE LICENSURE.

(A) THE HOME STATE SHALL BE A COMPACT STATE WHERE A PSYCHOLOGIST IS LICENSED TO PRACTICE PSYCHOLOGY.

(B) A PSYCHOLOGIST MAY HOLD ONE OR MORE COMPACT STATE LICENSES AT A TIME. IF THE PSYCHOLOGIST IS LICENSED IN MORE THAN ONE COMPACT STATE, THE HOME STATE IS THE COMPACT STATE WHERE THE PSYCHOLOGIST IS PHYSICALLY PRESENT WHEN THE SERVICES ARE DELIVERED AS AUTHORIZED BY THE AUTHORITY TO PRACTICE INTERJURISDICTIONAL TELEPSYCHOLOGY UNDER THE TERMS OF THIS COMPACT.

(C) ANY COMPACT STATE MAY REQUIRE A PSYCHOLOGIST NOT PREVIOUSLY LICENSED IN A COMPACT STATE TO OBTAIN AND RETAIN A LICENSE TO BE AUTHORIZED TO PRACTICE IN THE COMPACT STATE UNDER CIRCUMSTANCES NOT AUTHORIZED BY THE AUTHORITY TO PRACTICE INTERJURISDICTIONAL TELEPSYCHOLOGY UNDER THE TERMS OF THIS COMPACT.

(D) ANY COMPACT STATE MAY REQUIRE A PSYCHOLOGIST TO OBTAIN AND RETAIN A LICENSE TO BE AUTHORIZED TO PRACTICE IN A COMPACT STATE UNDER CIRCUMSTANCES NOT AUTHORIZED BY TEMPORARY AUTHORIZATION TO PRACTICE UNDER THE TERMS OF THIS COMPACT.

(E) A HOME STATE’S LICENSE AUTHORIZES A PSYCHOLOGIST TO PRACTICE IN A RECEIVING STATE UNDER THE AUTHORITY TO PRACTICE INTERJURISDICTIONAL TELEPSYCHOLOGY ONLY IF THE COMPACT STATE:

(1) CURRENTLY REQUIRES THE PSYCHOLOGIST TO HOLD AN ACTIVE E.PASSPORT;

(2) HAS A MECHANISM IN PLACE FOR RECEIVING AND INVESTIGATING COMPLAINTS ABOUT LICENSED INDIVIDUALS;

(3) NOTIFIES THE COMMISSION, IN COMPLIANCE WITH THE TERMS HEREIN, OF ANY ADVERSE ACTION OR SIGNIFICANT INVESTIGATORY INFORMATION REGARDING A LICENSED INDIVIDUAL;

(4) REQUIRES AN IDENTITY HISTORY SUMMARY OF ALL APPLICANTS AT INITIAL LICENSURE, INCLUDING THE USE OF THE RESULTS OF FINGERPRINTS OR OTHER BIOMETRIC DATA CHECKS COMPLIANT WITH THE REQUIREMENTS OF THE FEDERAL BUREAU OF INVESTIGATION, OR OTHER DESIGNEE WITH SIMILAR AUTHORITY, NO LATER THAN 10 YEARS AFTER ACTIVATION OF THIS COMPACT; AND

(5) COMPLIES WITH THE BYLAWS AND RULES OF THE COMMISSION.

(F) A HOME STATE'S LICENSE GRANTS TEMPORARY AUTHORIZATION TO PRACTICE TO A PSYCHOLOGIST IN A DISTANT STATE ONLY IF THE COMPACT STATE:

(1) CURRENTLY REQUIRES THE PSYCHOLOGIST TO HOLD AN ACTIVE IPC;

(2) HAS A MECHANISM IN PLACE FOR RECEIVING AND INVESTIGATING COMPLAINTS ABOUT LICENSED INDIVIDUALS;

(3) NOTIFIES THE COMMISSION, IN COMPLIANCE WITH THE TERMS HEREIN, OF ANY ADVERSE ACTION OR SIGNIFICANT INVESTIGATORY INFORMATION REGARDING A LICENSED INDIVIDUAL;

(4) REQUIRES AN IDENTITY HISTORY SUMMARY OF ALL APPLICANTS AT INITIAL LICENSURE, INCLUDING THE USE OF THE RESULTS OF FINGERPRINTS OR OTHER BIOMETRIC DATA CHECKS COMPLIANT WITH THE REQUIREMENTS OF THE FEDERAL BUREAU OF INVESTIGATION, OR OTHER DESIGNEE WITH SIMILAR AUTHORITY, NO LATER THAN 10 YEARS AFTER ACTIVATION OF THIS COMPACT; AND

(5) COMPLIES WITH THE BYLAWS AND RULES OF THE COMMISSION.

ARTICLE IV.

COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY.

(A) COMPACT STATES SHALL RECOGNIZE THE RIGHT OF A PSYCHOLOGIST, LICENSED IN A COMPACT STATE IN CONFORMANCE WITH ARTICLE III OF THIS COMPACT, TO PRACTICE TELEPSYCHOLOGY IN OTHER COMPACT STATES (RECEIVING STATES) IN WHICH THE PSYCHOLOGIST IS NOT LICENSED, UNDER THE

AUTHORITY TO PRACTICE INTERJURISDICTIONAL TELEPSYCHOLOGY AS PROVIDED IN THIS COMPACT.

(B) TO EXERCISE THE AUTHORITY TO PRACTICE INTERJURISDICTIONAL TELEPSYCHOLOGY UNDER THE TERMS AND PROVISIONS OF THIS COMPACT, A PSYCHOLOGIST LICENSED TO PRACTICE IN A COMPACT STATE MUST:

(1) HOLD A GRADUATE DEGREE IN PSYCHOLOGY FROM AN INSTITUTE OF HIGHER EDUCATION THAT WAS, AT THE TIME THE DEGREE WAS AWARDED:

(I) REGIONALLY ACCREDITED BY AN ACCREDITING BODY RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION TO GRANT GRADUATE DEGREES, OR AUTHORIZED BY PROVINCIAL STATUTE OR ROYAL CHARTER TO GRANT DOCTORAL DEGREES; OR

(II) A FOREIGN COLLEGE OR UNIVERSITY DEEMED TO BE EQUIVALENT TO ITEM (1)(I) OF THIS PARAGRAPH BY A FOREIGN CREDENTIAL EVALUATION SERVICE THAT IS A MEMBER OF THE NATIONAL ASSOCIATION OF CREDENTIAL EVALUATION SERVICES (NACES) OR BY A RECOGNIZED FOREIGN CREDENTIAL EVALUATION SERVICE;

(2) HOLD A GRADUATE DEGREE IN PSYCHOLOGY FROM A PROGRAM THAT MEETS THE FOLLOWING CRITERIA:

(I) THE PROGRAM, WHEREVER IT MAY BE ADMINISTRATIVELY HOUSED, MUST BE CLEARLY IDENTIFIED AND LABELED AS A PSYCHOLOGY PROGRAM. SUCH A PROGRAM MUST SPECIFY IN PERTINENT INSTITUTIONAL CATALOGUES AND BROCHURES ITS INTENT TO EDUCATE AND TRAIN PROFESSIONAL PSYCHOLOGISTS;

(II) THE PSYCHOLOGY PROGRAM MUST STAND AS A RECOGNIZABLE, COHERENT, ORGANIZATIONAL ENTITY WITHIN THE INSTITUTION;

(III) THERE MUST BE A CLEAR AUTHORITY AND PRIMARY RESPONSIBILITY FOR THE CORE AND SPECIALTY AREAS WHETHER OR NOT THE PROGRAM CUTS ACROSS ADMINISTRATIVE LINES;

(IV) THE PROGRAM MUST CONSIST OF AN INTEGRATED, ORGANIZED SEQUENCE OF STUDY;

(V) THERE MUST BE AN IDENTIFIABLE PSYCHOLOGY FACULTY SUFFICIENT IN SIZE AND BREADTH TO CARRY OUT ITS RESPONSIBILITIES;

(VI) THE DESIGNATED DIRECTOR OF THE PROGRAM MUST BE A PSYCHOLOGIST AND A MEMBER OF THE CORE FACULTY;

(VII) THE PROGRAM MUST HAVE AN IDENTIFIABLE BODY OF STUDENTS WHO ARE MATRICULATED IN THAT PROGRAM FOR A DEGREE;

(VIII) THE PROGRAM MUST INCLUDE SUPERVISED PRACTICUM, INTERNSHIP, OR FIELD TRAINING APPROPRIATE TO THE PRACTICE OF PSYCHOLOGY;

(IX) THE CURRICULUM SHALL ENCOMPASS A MINIMUM OF THREE ACADEMIC YEARS OF FULL-TIME GRADUATE STUDY FOR DOCTORAL DEGREE AND A MINIMUM OF ONE ACADEMIC YEAR OF FULL-TIME GRADUATE STUDY FOR MASTER'S DEGREE; AND

(X) THE PROGRAM INCLUDES AN ACCEPTABLE RESIDENCY AS DEFINED BY THE RULES OF THE COMMISSION;

(3) POSSESS A CURRENT, FULL, AND UNRESTRICTED LICENSE TO PRACTICE PSYCHOLOGY IN A HOME STATE WHICH IS A COMPACT STATE;

(4) HAVE NO HISTORY OF ADVERSE ACTION THAT VIOLATES THE RULES OF THE COMMISSION;

(5) HAVE NO CRIMINAL RECORD HISTORY REPORTED ON AN IDENTITY HISTORY SUMMARY THAT VIOLATES THE RULES OF THE COMMISSION;

(6) POSSESS A CURRENT, ACTIVE E.PASSPORT;

(7) PROVIDE ATTESTATIONS IN REGARD TO AREAS OF INTENDED PRACTICE, CONFORMITY WITH STANDARDS OF PRACTICE, COMPETENCE IN TELEPSYCHOLOGY TECHNOLOGY, CRIMINAL BACKGROUND, AND KNOWLEDGE AND ADHERENCE TO LEGAL REQUIREMENTS IN THE HOME AND RECEIVING STATES, AND PROVIDE A RELEASE OF INFORMATION TO ALLOW FOR PRIMARY SOURCE VERIFICATION IN A MANNER SPECIFIED BY THE COMMISSION; AND

(8) MEET OTHER CRITERIA AS DEFINED BY THE RULES OF THE COMMISSION.

(C) THE HOME STATE MAINTAINS AUTHORITY OVER THE LICENSE OF ANY PSYCHOLOGIST PRACTICING INTO A RECEIVING STATE UNDER THE AUTHORITY TO PRACTICE INTERJURISDICTIONAL TELEPSYCHOLOGY.

(D) A PSYCHOLOGIST PRACTICING INTO A RECEIVING STATE UNDER THE AUTHORITY TO PRACTICE INTERJURISDICTIONAL TELEPSYCHOLOGY WILL BE SUBJECT TO THE RECEIVING STATE'S SCOPE OF PRACTICE. A RECEIVING STATE MAY, IN ACCORDANCE WITH THAT STATE'S DUE PROCESS LAW, LIMIT OR REVOKE A PSYCHOLOGIST'S AUTHORITY TO PRACTICE INTERJURISDICTIONAL TELEPSYCHOLOGY IN THE RECEIVING STATE AND MAY TAKE ANY OTHER NECESSARY ACTIONS UNDER THE RECEIVING STATE'S APPLICABLE LAW TO PROTECT THE HEALTH AND SAFETY OF THE RECEIVING STATE'S CITIZENS. IF A RECEIVING STATE TAKES ACTION, THE STATE SHALL PROMPTLY NOTIFY THE HOME STATE AND COMMISSION.

(E) IF A PSYCHOLOGIST'S LICENSE IN ANY HOME STATE OR ANOTHER COMPACT STATE, OR ANY AUTHORITY TO PRACTICE INTERJURISDICTIONAL TELEPSYCHOLOGY IN ANY RECEIVING STATE, IS RESTRICTED, SUSPENDED, OR OTHERWISE LIMITED, THE E.PASSPORT SHALL BE REVOKED AND THEREFORE THE PSYCHOLOGIST SHALL NOT BE ELIGIBLE TO PRACTICE TELEPSYCHOLOGY IN A COMPACT STATE UNDER THE AUTHORITY TO PRACTICE INTERJURISDICTIONAL TELEPSYCHOLOGY.

ARTICLE V.

COMPACT TEMPORARY AUTHORIZATION TO PRACTICE.

(A) COMPACT STATES SHALL ALSO RECOGNIZE THE RIGHT OF A PSYCHOLOGIST, LICENSED IN A COMPACT STATE IN CONFORMANCE WITH ARTICLE III OF THIS COMPACT, TO PRACTICE TEMPORARILY IN OTHER COMPACT STATES (DISTANT STATES) IN WHICH THE PSYCHOLOGIST IS NOT LICENSED, AS PROVIDED IN THIS COMPACT.

(B) TO EXERCISE THE TEMPORARY AUTHORIZATION TO PRACTICE UNDER THE TERMS AND PROVISIONS OF THIS COMPACT, A PSYCHOLOGIST LICENSED TO PRACTICE IN A COMPACT STATE MUST:

(1) HOLD A GRADUATE DEGREE IN PSYCHOLOGY FROM AN INSTITUTE OF HIGHER EDUCATION THAT WAS, AT THE TIME THE DEGREE WAS AWARDED:

(I) REGIONALLY ACCREDITED BY AN ACCREDITING BODY RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION TO GRANT GRADUATE DEGREES, OR AUTHORIZED BY PROVINCIAL STATUTE OR ROYAL CHARTER TO GRANT DOCTORAL DEGREES; OR

(II) A FOREIGN COLLEGE OR UNIVERSITY DEEMED TO BE EQUIVALENT TO ITEM (1)(I) OF THIS PARAGRAPH BY A FOREIGN CREDENTIAL EVALUATION SERVICE THAT IS A MEMBER OF THE NATIONAL ASSOCIATION OF

CREDENTIAL EVALUATION SERVICES (NACES) OR BY A RECOGNIZED FOREIGN CREDENTIAL EVALUATION SERVICE;

(2) HOLD A GRADUATE DEGREE IN PSYCHOLOGY FROM A PROGRAM THAT MEETS THE FOLLOWING CRITERIA:

(I) THE PROGRAM, WHEREVER IT MAY BE ADMINISTRATIVELY HOUSED, MUST BE CLEARLY IDENTIFIED AND LABELED AS A PSYCHOLOGY PROGRAM. SUCH A PROGRAM MUST SPECIFY IN PERTINENT INSTITUTIONAL CATALOGUES AND BROCHURES ITS INTENT TO EDUCATE AND TRAIN PROFESSIONAL PSYCHOLOGISTS;

(II) THE PSYCHOLOGY PROGRAM MUST STAND AS A RECOGNIZABLE, COHERENT, ORGANIZATIONAL ENTITY WITHIN THE INSTITUTION;

(III) THERE MUST BE A CLEAR AUTHORITY AND PRIMARY RESPONSIBILITY FOR THE CORE AND SPECIALTY AREAS WHETHER OR NOT THE PROGRAM CUTS ACROSS ADMINISTRATIVE LINES;

(IV) THE PROGRAM MUST CONSIST OF AN INTEGRATED, ORGANIZED SEQUENCE OF STUDY;

(V) THERE MUST BE AN IDENTIFIABLE PSYCHOLOGY FACULTY SUFFICIENT IN SIZE AND BREADTH TO CARRY OUT ITS RESPONSIBILITIES;

(VI) THE DESIGNATED DIRECTOR OF THE PROGRAM MUST BE A PSYCHOLOGIST AND A MEMBER OF THE CORE FACULTY;

(VII) THE PROGRAM MUST HAVE AN IDENTIFIABLE BODY OF STUDENTS WHO ARE MATRICULATED IN THAT PROGRAM FOR A DEGREE;

(VIII) THE PROGRAM MUST INCLUDE SUPERVISED PRACTICUM, INTERNSHIP, OR FIELD TRAINING APPROPRIATE TO THE PRACTICE OF PSYCHOLOGY;

(IX) THE CURRICULUM SHALL ENCOMPASS A MINIMUM OF THREE ACADEMIC YEARS OF FULL-TIME GRADUATE STUDY FOR DOCTORAL DEGREES AND A MINIMUM OF ONE ACADEMIC YEAR OF FULL-TIME GRADUATE STUDY FOR A MASTER'S DEGREE; AND

(X) THE PROGRAM INCLUDES AN ACCEPTABLE RESIDENCY AS DEFINED BY THE RULES OF THE COMMISSION;

(3) POSSESS A CURRENT, FULL, AND UNRESTRICTED LICENSE TO PRACTICE PSYCHOLOGY IN A HOME STATE WHICH IS A COMPACT STATE;

(4) HAVE NO HISTORY OF ADVERSE ACTION THAT VIOLATES THE RULES OF THE COMMISSION;

(5) HAVE NO CRIMINAL RECORD HISTORY THAT VIOLATES THE RULES OF THE COMMISSION;

(6) POSSESS A CURRENT, ACTIVE IPC;

(7) PROVIDE ATTESTATIONS IN REGARD TO AREAS OF INTENDED PRACTICE AND WORK EXPERIENCE AND PROVIDE A RELEASE OF INFORMATION TO ALLOW FOR PRIMARY SOURCE VERIFICATION IN A MANNER SPECIFIED BY THE COMMISSION; AND

(8) MEET OTHER CRITERIA AS DEFINED BY THE RULES OF THE COMMISSION.

(C) A PSYCHOLOGIST PRACTICING INTO A DISTANT STATE UNDER THE TEMPORARY AUTHORIZATION TO PRACTICE SHALL PRACTICE WITHIN THE SCOPE OF PRACTICE AUTHORIZED BY THE DISTANT STATE.

(D) A PSYCHOLOGIST PRACTICING INTO A DISTANT STATE UNDER THE TEMPORARY AUTHORIZATION TO PRACTICE WILL BE SUBJECT TO THE DISTANT STATE'S AUTHORITY AND LAW. A DISTANT STATE MAY, IN ACCORDANCE WITH THAT STATE'S DUE PROCESS LAW, LIMIT OR REVOKE A PSYCHOLOGIST'S TEMPORARY AUTHORIZATION TO PRACTICE IN THE DISTANT STATE AND MAY TAKE ANY OTHER NECESSARY ACTIONS UNDER THE DISTANT STATE'S APPLICABLE LAW TO PROTECT THE HEALTH AND SAFETY OF THE DISTANT STATE'S CITIZENS. IF A DISTANT STATE TAKES ACTION, THE STATE SHALL PROMPTLY NOTIFY THE HOME STATE AND THE COMMISSION.

(E) IF A PSYCHOLOGIST'S LICENSE IN ANY HOME STATE OR ANOTHER COMPACT STATE, OR ANY TEMPORARY AUTHORIZATION TO PRACTICE IN ANY DISTANT STATE, IS RESTRICTED, SUSPENDED, OR OTHERWISE LIMITED, THE IPC SHALL BE REVOKED AND THEREFORE THE PSYCHOLOGIST SHALL NOT BE ELIGIBLE TO PRACTICE IN A COMPACT STATE UNDER THE TEMPORARY AUTHORIZATION TO PRACTICE.

ARTICLE VI.

CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE.

A PSYCHOLOGIST MAY PRACTICE IN A RECEIVING STATE UNDER THE AUTHORITY TO PRACTICE INTERJURISDICTIONAL TELEPSYCHOLOGY ONLY IN THE PERFORMANCE OF THE SCOPE OF PRACTICE FOR PSYCHOLOGY AS ASSIGNED BY AN APPROPRIATE STATE PSYCHOLOGY REGULATORY AUTHORITY, AS DEFINED IN THE RULES OF THE COMMISSION, AND UNDER THE FOLLOWING CIRCUMSTANCES:

(1) THE PSYCHOLOGIST INITIATES A CLIENT/PATIENT CONTACT IN A HOME STATE VIA A TELECOMMUNICATIONS TECHNOLOGY WITH A CLIENT/PATIENT IN A RECEIVING STATE; AND

(2) OTHER CONDITIONS REGARDING TELEPSYCHOLOGY AS DETERMINED BY RULES PROMULGATED BY THE COMMISSION.

ARTICLE VII.

ADVERSE ACTIONS.

(A) A HOME STATE SHALL HAVE THE POWER TO IMPOSE ADVERSE ACTION AGAINST A PSYCHOLOGIST'S LICENSE ISSUED BY THE HOME STATE. A DISTANT STATE SHALL HAVE THE POWER TO TAKE ADVERSE ACTION ON A PSYCHOLOGIST'S TEMPORARY AUTHORIZATION TO PRACTICE WITHIN THAT DISTANT STATE.

(B) A RECEIVING STATE MAY TAKE ADVERSE ACTION ON A PSYCHOLOGIST'S AUTHORITY TO PRACTICE INTERJURISDICTIONAL TELEPSYCHOLOGY WITHIN THAT RECEIVING STATE. A HOME STATE MAY TAKE ADVERSE ACTION AGAINST A PSYCHOLOGIST BASED ON AN ADVERSE ACTION TAKEN BY A DISTANT STATE REGARDING TEMPORARY IN-PERSON, FACE-TO-FACE PRACTICE.

(C) (1) IF A HOME STATE TAKES ADVERSE ACTION AGAINST A PSYCHOLOGIST'S LICENSE, THAT PSYCHOLOGIST'S AUTHORITY TO PRACTICE INTERJURISDICTIONAL TELEPSYCHOLOGY IS TERMINATED AND THE E.PASSPORT IS REVOKED. FURTHERMORE, THAT PSYCHOLOGIST'S TEMPORARY AUTHORIZATION TO PRACTICE IS TERMINATED AND THE IPC IS REVOKED.

(2) ALL HOME STATE DISCIPLINARY ORDERS THAT IMPOSE ADVERSE ACTION SHALL BE REPORTED TO THE COMMISSION IN ACCORDANCE WITH THE RULES PROMULGATED BY THE COMMISSION. A COMPACT STATE SHALL REPORT ADVERSE ACTIONS IN ACCORDANCE WITH THE RULES OF THE COMMISSION.

(3) IN THE EVENT DISCIPLINE IS REPORTED ON A PSYCHOLOGIST, THE PSYCHOLOGIST WILL NOT BE ELIGIBLE FOR TELEPSYCHOLOGY OR TEMPORARY IN-PERSON, FACE-TO-FACE PRACTICE IN ACCORDANCE WITH THE RULES OF THE COMMISSION.

(4) OTHER ACTIONS MAY BE IMPOSED AS DETERMINED BY THE RULES PROMULGATED BY THE COMMISSION.

(D) A HOME STATE'S PSYCHOLOGY REGULATORY AUTHORITY SHALL INVESTIGATE AND TAKE APPROPRIATE ACTION WITH RESPECT TO REPORTED INAPPROPRIATE CONDUCT ENGAGED IN BY A LICENSEE THAT OCCURRED IN A RECEIVING STATE AS IT WOULD IF SUCH CONDUCT HAD OCCURRED BY A LICENSEE WITHIN THE HOME STATE. IN SUCH CASES, THE HOME STATE'S LAW SHALL CONTROL IN DETERMINING ANY ADVERSE ACTION AGAINST A PSYCHOLOGIST'S LICENSE.

(E) A DISTANT STATE'S PSYCHOLOGY REGULATORY AUTHORITY SHALL INVESTIGATE AND TAKE APPROPRIATE ACTION WITH RESPECT TO REPORTED INAPPROPRIATE CONDUCT ENGAGED IN BY A PSYCHOLOGIST PRACTICING UNDER TEMPORARY AUTHORIZATION TO PRACTICE THAT OCCURRED IN THAT DISTANT STATE AS IT WOULD IF SUCH CONDUCT HAD OCCURRED BY A LICENSEE WITHIN THE HOME STATE. IN SUCH CASES, THE DISTANT STATE'S LAW SHALL CONTROL IN DETERMINING ANY ADVERSE ACTION AGAINST A PSYCHOLOGIST'S TEMPORARY AUTHORIZATION TO PRACTICE.

(F) NOTHING IN THIS COMPACT SHALL OVERRIDE A COMPACT STATE'S DECISION THAT A PSYCHOLOGIST'S PARTICIPATION IN AN ALTERNATIVE PROGRAM MAY BE USED IN LIEU OF ADVERSE ACTION AND THAT SUCH PARTICIPATION SHALL REMAIN NON-PUBLIC IF REQUIRED BY THE COMPACT STATE'S LAW. COMPACT STATES MUST REQUIRE PSYCHOLOGISTS WHO ENTER ANY ALTERNATIVE PROGRAMS TO NOT PROVIDE TELEPSYCHOLOGY SERVICES UNDER THE AUTHORITY TO PRACTICE INTERJURISDICTIONAL TELEPSYCHOLOGY OR PROVIDE TEMPORARY PSYCHOLOGICAL SERVICES UNDER THE TEMPORARY AUTHORIZATION TO PRACTICE IN ANY OTHER COMPACT STATE DURING THE TERM OF THE ALTERNATIVE PROGRAM.

(G) NO OTHER JUDICIAL OR ADMINISTRATIVE REMEDIES SHALL BE AVAILABLE TO A PSYCHOLOGIST IN THE EVENT A COMPACT STATE IMPOSES AN ADVERSE ACTION PURSUANT TO SUBSECTION (C) OF THIS ARTICLE.

ARTICLE VIII.

ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S PSYCHOLOGY REGULATORY AUTHORITY.

(A) IN ADDITION TO ANY OTHER POWERS GRANTED UNDER STATE LAW, A COMPACT STATE'S PSYCHOLOGY REGULATORY AUTHORITY SHALL HAVE THE AUTHORITY UNDER THIS COMPACT TO:

(1) ISSUE SUBPOENAS, FOR BOTH HEARINGS AND INVESTIGATIONS, WHICH REQUIRE THE ATTENDANCE AND TESTIMONY OF WITNESSES AND THE

PRODUCTION OF EVIDENCE. SUBPOENAS ISSUED BY A COMPACT STATE'S PSYCHOLOGY REGULATORY AUTHORITY FOR THE ATTENDANCE AND TESTIMONY OF WITNESSES, AND/OR THE PRODUCTION OF EVIDENCE FROM ANOTHER COMPACT STATE SHALL BE ENFORCED IN THE LATTER STATE BY ANY COURT OF COMPETENT JURISDICTION, ACCORDING TO THAT COURT'S PRACTICE AND PROCEDURE IN CONSIDERING SUBPOENAS ISSUED IN ITS OWN PROCEEDINGS. THE ISSUING STATE PSYCHOLOGY REGULATORY AUTHORITY SHALL PAY ANY WITNESS FEES, TRAVEL EXPENSES, MILEAGE, AND OTHER FEES REQUIRED BY THE SERVICE STATUTES OF THE STATE WHERE THE WITNESSES AND/OR EVIDENCE ARE LOCATED; AND

(2) ISSUE CEASE AND DESIST AND/OR INJUNCTIVE RELIEF ORDERS TO REVOKE A PSYCHOLOGIST'S AUTHORITY TO PRACTICE INTERJURISDICTIONAL TELEPSYCHOLOGY AND/OR TEMPORARY AUTHORIZATION TO PRACTICE.

(B) DURING THE COURSE OF ANY INVESTIGATION, A PSYCHOLOGIST MAY NOT CHANGE HIS/HER HOME STATE LICENSURE. A HOME STATE PSYCHOLOGY REGULATORY AUTHORITY IS AUTHORIZED TO COMPLETE ANY PENDING INVESTIGATIONS OF A PSYCHOLOGIST AND TO TAKE ANY ACTIONS APPROPRIATE UNDER ITS LAW. THE HOME STATE PSYCHOLOGY REGULATORY AUTHORITY SHALL PROMPTLY REPORT THE CONCLUSIONS OF SUCH INVESTIGATIONS TO THE COMMISSION. ONCE AN INVESTIGATION HAS BEEN COMPLETED, AND PENDING THE OUTCOME OF SAID INVESTIGATION, THE PSYCHOLOGIST MAY CHANGE HIS/HER HOME STATE LICENSURE. THE COMMISSION SHALL PROMPTLY NOTIFY THE NEW HOME STATE OF ANY SUCH DECISIONS AS PROVIDED IN THE RULES OF THE COMMISSION. ALL INFORMATION PROVIDED TO THE COMMISSION OR DISTRIBUTED BY COMPACT STATES PURSUANT TO THE PSYCHOLOGIST SHALL BE CONFIDENTIAL, FILED UNDER SEAL AND USED FOR INVESTIGATORY OR DISCIPLINARY MATTERS. THE COMMISSION MAY CREATE ADDITIONAL RULES FOR MANDATED OR DISCRETIONARY SHARING OF INFORMATION BY COMPACT STATES.

ARTICLE IX.

COORDINATED LICENSURE INFORMATION SYSTEM.

(A) THE COMMISSION SHALL PROVIDE FOR THE DEVELOPMENT AND MAINTENANCE OF A COORDINATED LICENSURE INFORMATION SYSTEM AND REPORTING SYSTEM CONTAINING LICENSURE AND DISCIPLINARY ACTION INFORMATION ON ALL LICENSEES TO WHOM THIS COMPACT IS APPLICABLE IN ALL COMPACT STATES AS DEFINED BY THE RULES OF THE COMMISSION.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF STATE LAW TO THE CONTRARY, A COMPACT STATE SHALL SUBMIT A UNIFORM DATA SET TO THE COORDINATED DATABASE ON ALL LICENSEES AS REQUIRED BY THE RULES OF THE COMMISSION, INCLUDING:

- (1) IDENTIFYING INFORMATION;
 - (2) LICENSURE DATA;
 - (3) SIGNIFICANT INVESTIGATORY INFORMATION;
 - (4) ADVERSE ACTIONS AGAINST A PSYCHOLOGIST'S LICENSE;
 - (5) AN INDICATOR THAT A PSYCHOLOGIST'S AUTHORITY TO PRACTICE INTERJURISDICTIONAL TELEPSYCHOLOGY AND/OR TEMPORARY AUTHORIZATION TO PRACTICE IS REVOKED;
 - (6) NON-CONFIDENTIAL INFORMATION RELATED TO ALTERNATIVE PROGRAM PARTICIPATION INFORMATION;
 - (7) ANY DENIAL OF APPLICATION FOR LICENSURE, AND THE REASONS FOR SUCH DENIAL; AND
 - (8) OTHER INFORMATION WHICH MAY FACILITATE THE ADMINISTRATION OF THIS COMPACT, AS DETERMINED BY THE RULES OF THE COMMISSION.
- (C) THE COORDINATED DATABASE ADMINISTRATOR SHALL PROMPTLY NOTIFY ALL COMPACT STATES OF ANY ADVERSE ACTION TAKEN AGAINST, OR SIGNIFICANT INVESTIGATIVE INFORMATION ON, ANY LICENSEE IN A COMPACT STATE.
- (D) COMPACT STATES REPORTING INFORMATION TO THE COORDINATED DATABASE MAY DESIGNATE INFORMATION THAT MAY NOT BE SHARED WITH THE PUBLIC WITHOUT THE EXPRESS PERMISSION OF THE COMPACT STATE REPORTING THE INFORMATION.
- (E) ANY INFORMATION SUBMITTED TO THE COORDINATED DATABASE THAT IS SUBSEQUENTLY REQUIRED TO BE EXPUNGED BY THE LAW OF THE COMPACT STATE REPORTING THE INFORMATION SHALL BE REMOVED FROM THE COORDINATED DATABASE.

ARTICLE X.

ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION.

(A) (1) THE COMPACT STATES HEREBY CREATE AND ESTABLISH A JOINT PUBLIC AGENCY KNOWN AS THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION.

(2) THE COMMISSION IS A BODY POLITIC AND AN INSTRUMENTALITY OF THE COMPACT STATES.

(3) VENUE IS PROPER AND JUDICIAL PROCEEDINGS BY OR AGAINST THE COMMISSION SHALL BE BROUGHT SOLELY AND EXCLUSIVELY IN A COURT OF COMPETENT JURISDICTION WHERE THE PRINCIPAL OFFICE OF THE COMMISSION IS LOCATED. THE COMMISSION MAY WAIVE VENUE AND JURISDICTIONAL DEFENSES TO THE EXTENT IT ADOPTS OR CONSENTS TO PARTICIPATE IN ALTERNATIVE DISPUTE RESOLUTION PROCEEDINGS.

(4) NOTHING IN THIS COMPACT SHALL BE CONSTRUED TO BE A WAIVER OF SOVEREIGN IMMUNITY.

(B) (1) THE COMMISSION SHALL CONSIST OF ONE VOTING REPRESENTATIVE APPOINTED BY EACH COMPACT STATE WHO SHALL SERVE AS THAT STATE'S COMMISSIONER. THE STATE PSYCHOLOGY REGULATORY AUTHORITY SHALL APPOINT ITS DELEGATE. THIS DELEGATE SHALL BE EMPOWERED TO ACT ON BEHALF OF THE COMPACT STATE. THIS DELEGATE SHALL BE LIMITED TO:

(I) AN EXECUTIVE DIRECTOR, AN EXECUTIVE SECRETARY, OR A SIMILAR EXECUTIVE;

(II) A CURRENT MEMBER OF THE STATE PSYCHOLOGY REGULATORY AUTHORITY OF A COMPACT STATE; OR

(III) A DESIGNEE EMPOWERED WITH THE APPROPRIATE DELEGATE AUTHORITY TO ACT ON BEHALF OF THE COMPACT STATE.

(2) ANY COMMISSIONER MAY BE REMOVED OR SUSPENDED FROM OFFICE AS PROVIDED BY THE LAW OF THE STATE FROM WHICH THE COMMISSIONER IS APPOINTED. ANY VACANCY OCCURRING IN THE COMMISSION SHALL BE FILLED IN ACCORDANCE WITH THE LAWS OF THE COMPACT STATE IN WHICH THE VACANCY EXISTS.

(3) EACH COMMISSIONER SHALL BE ENTITLED TO ONE VOTE WITH REGARD TO THE PROMULGATION OF RULES AND CREATION OF BYLAWS AND SHALL OTHERWISE HAVE AN OPPORTUNITY TO PARTICIPATE IN THE BUSINESS AND AFFAIRS OF THE COMMISSION. A COMMISSIONER SHALL VOTE IN PERSON OR BY SUCH OTHER MEANS AS PROVIDED IN THE BYLAWS. THE BYLAWS MAY PROVIDE FOR

COMMISSIONERS' PARTICIPATION IN MEETINGS BY TELEPHONE OR OTHER MEANS OF COMMUNICATION.

(4) THE COMMISSION SHALL MEET AT LEAST ONCE DURING EACH CALENDAR YEAR. ADDITIONAL MEETINGS SHALL BE HELD AS SET FORTH IN THE BYLAWS.

(5) ALL MEETINGS SHALL BE OPEN TO THE PUBLIC, AND PUBLIC NOTICE OF MEETINGS SHALL BE GIVEN IN THE SAME MANNER AS REQUIRED UNDER THE RULEMAKING PROVISIONS IN ARTICLE XI OF THIS COMPACT.

(6) THE COMMISSION MAY CONVENE IN A CLOSED, NON-PUBLIC MEETING IF THE COMMISSION MUST DISCUSS:

(I) NON-COMPLIANCE OF A COMPACT STATE WITH ITS OBLIGATIONS UNDER THIS COMPACT;

(II) THE EMPLOYMENT, COMPENSATION, DISCIPLINE OR OTHER PERSONNEL MATTERS, PRACTICES, OR PROCEDURES RELATED TO SPECIFIC EMPLOYEES, OR OTHER MATTERS RELATED TO THE COMMISSION'S INTERNAL PERSONNEL PRACTICE AND PROCEDURES;

(III) CURRENT, THREATENED, OR REASONABLY ANTICIPATED LITIGATION AGAINST THE COMMISSION;

(IV) NEGOTIATION OF CONTRACTS FOR THE PURCHASE OR SALE OF GOODS, SERVICES, OR REAL ESTATE;

(V) ACCUSATION AGAINST ANY PERSON OF A CRIME OR FORMALLY CENSURING ANY PERSON;

(VI) DISCLOSURE OF TRADE SECRETS OR COMMERCIAL OR FINANCIAL INFORMATION WHICH IS PRIVILEGED OR CONFIDENTIAL;

(VII) DISCLOSURE OF INFORMATION OF A PERSONAL NATURE WHERE DISCLOSURE WOULD CONSTITUTE A CLEARLY UNWARRANTED INVASION OF PERSONAL PRIVACY;

(VIII) DISCLOSURE OF INVESTIGATORY RECORDS COMPILED FOR LAW ENFORCEMENT PURPOSES;

(IX) DISCLOSURE OF INFORMATION RELATED TO ANY INVESTIGATORY REPORTS PREPARED BY OR ON BEHALF OF OR FOR USE OF THE COMMISSION OR OTHER COMMITTEE CHARGED WITH RESPONSIBILITY FOR

INVESTIGATION OR DETERMINATION OF COMPLIANCE ISSUES PURSUANT TO THIS COMPACT; OR

(X) MATTERS SPECIFICALLY EXEMPTED FROM DISCLOSURE BY FEDERAL AND STATE STATUTE.

(7) IF A MEETING, OR PORTION OF A MEETING, IS CLOSED PURSUANT TO THIS PROVISION, THE COMMISSION'S LEGAL COUNSEL OR DESIGNEE SHALL CERTIFY THAT THE MEETING MAY BE CLOSED AND SHALL REFERENCE EACH RELEVANT EXEMPTING PROVISION. THE COMMISSION SHALL KEEP MINUTES WHICH FULLY AND CLEARLY DESCRIBE ALL MATTERS DISCUSSED IN A MEETING AND SHALL PROVIDE A FULL AND ACCURATE SUMMARY OF ACTIONS TAKEN, OF ANY PERSON PARTICIPATING IN THE MEETING, AND THE REASONS THEREFORE, INCLUDING A DESCRIPTION OF THE VIEWS EXPRESSED. ALL DOCUMENTS CONSIDERED IN CONNECTION WITH AN ACTION SHALL BE IDENTIFIED IN SUCH MINUTES. ALL MINUTES AND DOCUMENTS OF A CLOSED MEETING SHALL REMAIN UNDER SEAL, SUBJECT TO RELEASE ONLY BY A MAJORITY VOTE OF THE COMMISSION OR ORDER OF A COURT OF COMPETENT JURISDICTION.

(C) THE COMMISSION SHALL, BY A MAJORITY VOTE OF THE COMMISSIONERS, PRESCRIBE BYLAWS AND/OR RULES TO GOVERN ITS CONDUCT AS MAY BE NECESSARY OR APPROPRIATE TO CARRY OUT THE PURPOSES AND EXERCISE THE POWERS OF THIS COMPACT, INCLUDING BUT NOT LIMITED TO:

(1) ESTABLISHING THE FISCAL YEAR OF THE COMMISSION;

(2) PROVIDING REASONABLE STANDARDS AND PROCEDURES:

(I) FOR THE ESTABLISHMENT AND MEETINGS OF OTHER COMMITTEES; AND

(II) GOVERNING ANY GENERAL OR SPECIFIC DELEGATION OF ANY AUTHORITY OR FUNCTION OF THE COMMISSION;

(3) PROVIDING REASONABLE PROCEDURES FOR CALLING AND CONDUCTING MEETINGS OF THE COMMISSION, ENSURING REASONABLE ADVANCE NOTICE OF ALL MEETINGS AND PROVIDING AN OPPORTUNITY FOR ATTENDANCE OF SUCH MEETINGS BY INTERESTED PARTIES, WITH ENUMERATED EXCEPTIONS DESIGNED TO PROTECT THE PUBLIC'S INTEREST, THE PRIVACY OF INDIVIDUALS PARTICIPATING IN SUCH PROCEEDINGS, AND PROPRIETARY INFORMATION, INCLUDING TRADE SECRETS. THE COMMISSION MAY MEET IN CLOSED SESSION ONLY AFTER A MAJORITY OF THE COMMISSIONERS VOTE TO CLOSE A MEETING TO THE PUBLIC IN WHOLE OR IN PART. AS SOON AS PRACTICABLE, THE COMMISSION

MUST MAKE PUBLIC A COPY OF THE VOTE TO CLOSE THE MEETING REVEALING THE VOTE OF EACH COMMISSIONER WITH NO PROXY VOTES ALLOWED;

(4) ESTABLISHING THE TITLES, DUTIES, AND AUTHORITY AND REASONABLE PROCEDURES FOR THE ELECTION OF THE OFFICERS OF THE COMMISSION;

(5) PROVIDING REASONABLE STANDARDS AND PROCEDURES FOR THE ESTABLISHMENT OF THE PERSONNEL POLICIES AND PROGRAMS OF THE COMMISSION. NOTWITHSTANDING ANY CIVIL SERVICE OR OTHER SIMILAR LAW OF ANY COMPACT STATE, THE BYLAWS SHALL EXCLUSIVELY GOVERN THE PERSONNEL POLICIES AND PROGRAMS OF THE COMMISSION;

(6) PROMULGATING A CODE OF ETHICS TO ADDRESS PERMISSIBLE AND PROHIBITED ACTIVITIES OF COMMISSION MEMBERS AND EMPLOYEES;

(7) PROVIDING A MECHANISM FOR CONCLUDING THE OPERATIONS OF THE COMMISSION AND THE EQUITABLE DISPOSITION OF ANY SURPLUS FUNDS THAT MAY EXIST AFTER THE TERMINATION OF THIS COMPACT AFTER THE PAYMENT AND/OR RESERVING OF ALL OF ITS DEBTS AND OBLIGATIONS;

(8) PUBLISHING ITS BYLAWS IN A CONVENIENT FORM AND FILING A COPY THEREOF AND A COPY OF ANY AMENDMENT THERETO, WITH THE APPROPRIATE AGENCY OR OFFICER IN EACH OF THE COMPACT STATES;

(9) MAINTAINING ITS FINANCIAL RECORDS IN ACCORDANCE WITH THE BYLAWS; AND

(10) MEETING AND TAKING SUCH ACTIONS AS ARE CONSISTENT WITH THE PROVISIONS OF THIS COMPACT AND THE BYLAWS.

(D) THE COMMISSION SHALL HAVE THE FOLLOWING POWERS:

(1) TO PROMULGATE UNIFORM RULES TO FACILITATE AND COORDINATE IMPLEMENTATION AND ADMINISTRATION OF THIS COMPACT. THE RULES SHALL HAVE THE FORCE AND EFFECT OF LAW AND SHALL BE BINDING IN ALL COMPACT STATES;

(2) TO BRING AND PROSECUTE LEGAL PROCEEDINGS OR ACTIONS IN THE NAME OF THE COMMISSION, PROVIDED THAT THE STANDING OF ANY STATE PSYCHOLOGY REGULATORY AUTHORITY OR OTHER REGULATORY BODY RESPONSIBLE FOR PSYCHOLOGY LICENSURE TO SUE OR BE SUED UNDER APPLICABLE LAW SHALL NOT BE AFFECTED;

- (3) TO PURCHASE AND MAINTAIN INSURANCE AND BONDS;
- (4) TO BORROW, ACCEPT, OR CONTRACT FOR SERVICES OF PERSONNEL, INCLUDING, BUT NOT LIMITED TO, EMPLOYEES OF A COMPACT STATE;
- (5) TO HIRE EMPLOYEES, ELECT OR APPOINT OFFICERS, FIX COMPENSATION, DEFINE DUTIES, GRANT SUCH INDIVIDUALS APPROPRIATE AUTHORITY TO CARRY OUT THE PURPOSES OF THIS COMPACT, AND ESTABLISH THE COMMISSION'S PERSONNEL POLICIES AND PROGRAMS RELATING TO CONFLICTS OF INTEREST, QUALIFICATIONS OF PERSONNEL, AND OTHER RELATED PERSONNEL MATTERS;
- (6) TO ACCEPT ANY AND ALL APPROPRIATE DONATIONS AND GRANTS OF MONEY, EQUIPMENT, SUPPLIES, MATERIALS, AND SERVICES, AND TO RECEIVE, UTILIZE, AND DISPOSE OF THE SAME; PROVIDED THAT AT ALL TIMES THE COMMISSION SHALL STRIVE TO AVOID ANY APPEARANCE OF IMPROPRIETY AND/OR CONFLICT OF INTEREST;
- (7) TO LEASE, PURCHASE, ACCEPT APPROPRIATE GIFTS OR DONATIONS OF, OR OTHERWISE TO OWN, HOLD, IMPROVE, OR USE ANY PROPERTY, REAL, PERSONAL, OR MIXED; PROVIDED THAT AT ALL TIMES THE COMMISSION SHALL STRIVE TO AVOID ANY APPEARANCE OF IMPROPRIETY;
- (8) TO SELL, CONVEY, MORTGAGE, PLEDGE, LEASE, EXCHANGE, ABANDON, OR OTHERWISE DISPOSE OF ANY PROPERTY REAL, PERSONAL, OR MIXED;
- (9) TO ESTABLISH A BUDGET AND MAKE EXPENDITURES;
- (10) TO BORROW MONEY;
- (11) TO APPOINT COMMITTEES, INCLUDING ADVISORY COMMITTEES COMPOSED OF MEMBERS, STATE REGULATORS, STATE LEGISLATORS OR THEIR REPRESENTATIVES, AND CONSUMER REPRESENTATIVES, AND SUCH OTHER INTERESTED PERSONS AS MAY BE DESIGNATED IN THIS COMPACT AND THE BYLAWS;
- (12) TO PROVIDE AND RECEIVE INFORMATION FROM, AND TO COOPERATE WITH, LAW ENFORCEMENT AGENCIES;
- (13) TO ADOPT AND USE AN OFFICIAL SEAL; AND
- (14) TO PERFORM SUCH OTHER FUNCTIONS AS MAY BE NECESSARY OR APPROPRIATE TO ACHIEVE THE PURPOSES OF THIS COMPACT CONSISTENT WITH THE STATE REGULATION OF PSYCHOLOGY LICENSURE, TEMPORARY IN-PERSON, FACE-TO-FACE PRACTICE, AND TELEPSYCHOLOGY PRACTICE.

(E) (1) THE ELECTED OFFICERS SHALL SERVE AS THE EXECUTIVE BOARD, WHICH SHALL HAVE THE POWER TO ACT ON BEHALF OF THE COMMISSION ACCORDING TO THE TERMS OF THIS COMPACT.

(2) THE EXECUTIVE BOARD SHALL BE COMPOSED OF SIX MEMBERS:

(I) FIVE VOTING MEMBERS WHO ARE ELECTED FROM THE CURRENT MEMBERSHIP OF THE COMMISSION BY THE COMMISSION; AND

(II) ONE EX-OFFICIO, NONVOTING MEMBER FROM THE RECOGNIZED MEMBERSHIP ORGANIZATION COMPOSED OF ASPPB.

(3) THE EX-OFFICIO MEMBER MUST HAVE SERVED AS STAFF OR MEMBER ON A STATE PSYCHOLOGY REGULATORY AUTHORITY AND WILL BE SELECTED BY ASPPB.

(4) THE COMMISSION MAY REMOVE ANY MEMBER OF THE EXECUTIVE BOARD AS PROVIDED IN THE BYLAWS.

(5) THE EXECUTIVE BOARD SHALL MEET AT LEAST ANNUALLY.

(6) THE EXECUTIVE BOARD SHALL HAVE THE FOLLOWING DUTIES AND RESPONSIBILITIES:

(I) RECOMMEND TO THE ENTIRE COMMISSION CHANGES TO THE RULES OR BYLAWS, CHANGES TO THIS COMPACT LEGISLATION, FEES PAID BY COMPACT STATES SUCH AS ANNUAL DUES, AND ANY OTHER APPLICABLE FEES;

(II) ENSURE ADMINISTRATION SERVICES FOR THIS COMPACT ARE APPROPRIATELY PROVIDED, CONTRACTUAL OR OTHERWISE;

(III) PREPARE AND RECOMMEND THE BUDGET;

(IV) MAINTAIN FINANCIAL RECORDS ON BEHALF OF THE COMMISSION;

(V) MONITOR MEMBER STATES' COMPLIANCE WITH THIS COMPACT AND PROVIDE COMPLIANCE REPORTS TO THE COMMISSION;

(VI) ESTABLISH ADDITIONAL COMMITTEES AS NECESSARY; AND

(VII) OTHER DUTIES AS PROVIDED IN RULES OR BYLAWS.

(F) (1) THE COMMISSION SHALL PAY, OR PROVIDE FOR THE PAYMENT OF, THE REASONABLE EXPENSES OF ITS ESTABLISHMENT, ORGANIZATION, AND ONGOING ACTIVITIES.

(2) THE COMMISSION MAY ACCEPT ANY AND ALL APPROPRIATE REVENUE SOURCES, DONATIONS, AND GRANTS OF MONEY, EQUIPMENT, SUPPLIES, MATERIALS, AND SERVICES.

(3) THE COMMISSION MAY LEVY ON AND COLLECT AN ANNUAL ASSESSMENT FROM EACH COMPACT STATE OR IMPOSE FEES ON OTHER PARTIES TO COVER THE COST OF THE OPERATIONS AND ACTIVITIES OF THE COMMISSION AND ITS STAFF WHICH MUST BE IN A TOTAL AMOUNT SUFFICIENT TO COVER ITS ANNUAL BUDGET AS APPROVED EACH YEAR FOR WHICH REVENUE IS NOT PROVIDED BY OTHER SOURCES. THE AGGREGATE ANNUAL ASSESSMENT AMOUNT SHALL BE ALLOCATED BASED UPON A FORMULA TO BE DETERMINED BY THE COMMISSION WHICH SHALL PROMULGATE A RULE BINDING UPON ALL COMPACT STATES.

(4) THE COMMISSION SHALL NOT INCUR OBLIGATIONS OF ANY KIND PRIOR TO SECURING THE FUNDS ADEQUATE TO MEET THE SAME; NOR SHALL THE COMMISSION PLEDGE THE CREDIT OF ANY OF THE COMPACT STATES, EXCEPT BY AND WITH THE AUTHORITY OF THE COMPACT STATE.

(5) THE COMMISSION SHALL KEEP ACCURATE ACCOUNTS OF ALL RECEIPTS AND DISBURSEMENTS. THE RECEIPTS AND DISBURSEMENTS OF THE COMMISSION SHALL BE SUBJECT TO THE AUDIT AND ACCOUNTING PROCEDURES ESTABLISHED UNDER ITS BYLAWS. HOWEVER, ALL RECEIPTS AND DISBURSEMENTS OF FUNDS HANDLED BY THE COMMISSION SHALL BE AUDITED YEARLY BY A CERTIFIED OR LICENSED PUBLIC ACCOUNTANT AND THE REPORT OF THE AUDIT SHALL BE INCLUDED IN AND BECOME PART OF THE ANNUAL REPORT OF THE COMMISSION.

(G) (1) THE MEMBERS, OFFICERS, EXECUTIVE DIRECTOR, EMPLOYEES, AND REPRESENTATIVES OF THE COMMISSION SHALL BE IMMUNE FROM SUIT AND LIABILITY, EITHER PERSONALLY OR IN THEIR OFFICIAL CAPACITY, FOR ANY CLAIM FOR DAMAGE TO OR LOSS OF PROPERTY OR PERSONAL INJURY OR OTHER CIVIL LIABILITY CAUSED BY OR ARISING OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED, OR THAT THE PERSON AGAINST WHOM THE CLAIM IS MADE HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES; PROVIDED THAT NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO PROTECT ANY SUCH PERSON FROM SUIT AND/OR LIABILITY FOR ANY DAMAGE, LOSS, INJURY, OR LIABILITY CAUSED BY THE INTENTIONAL, WILLFUL, OR WANTON MISCONDUCT OF THAT PERSON.

(2) THE COMMISSION SHALL DEFEND ANY MEMBER, OFFICER, EXECUTIVE DIRECTOR, EMPLOYEE, OR REPRESENTATIVE OF THE COMMISSION IN ANY CIVIL ACTION SEEKING TO IMPOSE LIABILITY ARISING OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, OR THAT THE PERSON AGAINST WHOM THE CLAIM IS MADE HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES; PROVIDED THAT NOTHING HEREIN SHALL BE CONSTRUED TO PROHIBIT THAT PERSON FROM RETAINING HIS OR HER OWN COUNSEL; AND PROVIDED FURTHER, THAT THE ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION DID NOT RESULT FROM THAT PERSON'S INTENTIONAL, WILLFUL, OR WANTON MISCONDUCT.

(3) THE COMMISSION SHALL INDEMNIFY AND HOLD HARMLESS ANY MEMBER, OFFICER, EXECUTIVE DIRECTOR, EMPLOYEE, OR REPRESENTATIVE OF THE COMMISSION FOR THE AMOUNT OF ANY SETTLEMENT OR JUDGMENT OBTAINED AGAINST THAT PERSON ARISING OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, OR THAT SUCH PERSON HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES; PROVIDED THAT THE ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION DID NOT RESULT FROM THE INTENTIONAL, WILLFUL, OR WANTON MISCONDUCT OF THAT PERSON.

ARTICLE XI.

RULEMAKING.

(A) THE COMMISSION SHALL EXERCISE ITS RULEMAKING POWERS PURSUANT TO THE CRITERIA SET FORTH IN THIS ARTICLE AND THE RULES ADOPTED THEREUNDER. RULES AND AMENDMENTS SHALL BECOME BINDING AS OF THE DATE SPECIFIED IN EACH RULE OR AMENDMENT.

(B) IF A MAJORITY OF THE LEGISLATURES OF THE COMPACT STATES REJECTS A RULE, BY ENACTMENT OF A STATUTE OR RESOLUTION IN THE SAME MANNER USED TO ADOPT THIS COMPACT, THEN SUCH RULE SHALL HAVE NO FURTHER FORCE AND EFFECT IN ANY COMPACT STATE.

(C) RULES OR AMENDMENTS TO THE RULES SHALL BE ADOPTED AT A REGULAR OR SPECIAL MEETING OF THE COMMISSION.

(D) PRIOR TO PROMULGATION AND ADOPTION OF A FINAL RULE OR RULES BY THE COMMISSION, AND AT LEAST 60 DAYS IN ADVANCE OF THE MEETING AT

WHICH THE RULE WILL BE CONSIDERED AND VOTED UPON, THE COMMISSION SHALL FILE A NOTICE OF PROPOSED RULEMAKING:

(1) ON THE WEBSITE OF THE COMMISSION; AND

(2) ON THE WEBSITE OF EACH COMPACT STATE'S PSYCHOLOGY REGULATORY AUTHORITY OR THE PUBLICATION IN WHICH EACH STATE WOULD OTHERWISE PUBLISH PROPOSED RULES.

(E) THE NOTICE OF PROPOSED RULEMAKING SHALL INCLUDE:

(1) THE PROPOSED TIME, DATE, AND LOCATION OF THE MEETING IN WHICH THE RULE WILL BE CONSIDERED AND VOTED UPON;

(2) THE TEXT OF THE PROPOSED RULE OR AMENDMENT AND THE REASON FOR THE PROPOSED RULE;

(3) A REQUEST FOR COMMENTS ON THE PROPOSED RULE FROM ANY INTERESTED PERSON; AND

(4) THE MANNER IN WHICH INTERESTED PERSONS MAY SUBMIT NOTICE TO THE COMMISSION OF THEIR INTENTION TO ATTEND THE PUBLIC HEARING AND ANY WRITTEN COMMENTS.

(F) PRIOR TO ADOPTION OF A PROPOSED RULE, THE COMMISSION SHALL ALLOW PERSONS TO SUBMIT WRITTEN DATA, FACTS, OPINIONS, AND ARGUMENTS, WHICH SHALL BE MADE AVAILABLE TO THE PUBLIC.

(G) THE COMMISSION SHALL GRANT AN OPPORTUNITY FOR A PUBLIC HEARING BEFORE IT ADOPTS A RULE OR AMENDMENT IF A HEARING IS REQUESTED BY:

(1) AT LEAST 25 PERSONS WHO SUBMIT COMMENTS INDEPENDENTLY OF EACH OTHER;

(2) A GOVERNMENTAL SUBDIVISION OR AGENCY; OR

(3) A DULY APPOINTED PERSON IN AN ASSOCIATION THAT HAS AT LEAST 25 MEMBERS.

(H) (1) IF A HEARING IS HELD ON THE PROPOSED RULE OR AMENDMENT, THE COMMISSION SHALL PUBLISH THE PLACE, TIME, AND DATE OF THE SCHEDULED PUBLIC HEARING.

(2) ALL PERSONS WISHING TO BE HEARD AT THE HEARING SHALL NOTIFY THE EXECUTIVE DIRECTOR OF THE COMMISSION OR OTHER DESIGNATED MEMBER IN WRITING OF THEIR DESIRE TO APPEAR AND TESTIFY AT THE HEARING NOT LESS THAN FIVE BUSINESS DAYS BEFORE THE SCHEDULED DATE OF THE HEARING.

(3) HEARINGS SHALL BE CONDUCTED IN A MANNER PROVIDING EACH PERSON WHO WISHES TO COMMENT A FAIR AND REASONABLE OPPORTUNITY TO COMMENT ORALLY OR IN WRITING.

(4) NO TRANSCRIPT OF THE HEARING IS REQUIRED, UNLESS A WRITTEN REQUEST FOR A TRANSCRIPT IS MADE, IN WHICH CASE THE PERSON REQUESTING THE TRANSCRIPT SHALL BEAR THE COST OF PRODUCING THE TRANSCRIPT. A RECORDING MAY BE MADE IN LIEU OF A TRANSCRIPT UNDER THE SAME TERMS AND CONDITIONS AS A TRANSCRIPT. THIS SUBSECTION SHALL NOT PRECLUDE THE COMMISSION FROM MAKING A TRANSCRIPT OR RECORDING OF THE HEARING IF IT SO CHOOSES.

(5) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS REQUIRING A SEPARATE HEARING ON EACH RULE. RULES MAY BE GROUPED FOR THE CONVENIENCE OF THE COMMISSION AT HEARINGS REQUIRED BY THIS SECTION.

(I) FOLLOWING THE SCHEDULED HEARING DATE, OR BY THE CLOSE OF BUSINESS ON THE SCHEDULED HEARING DATE IF THE HEARING WAS NOT HELD, THE COMMISSION SHALL CONSIDER ALL WRITTEN AND ORAL COMMENTS RECEIVED.

(J) THE COMMISSION SHALL, BY MAJORITY VOTE OF ALL MEMBERS, TAKE FINAL ACTION ON THE PROPOSED RULE AND SHALL DETERMINE THE EFFECTIVE DATE OF THE RULE, IF ANY, BASED ON THE RULEMAKING RECORD AND THE FULL TEXT OF THE RULE.

(K) IF NO WRITTEN NOTICE OF INTENT TO ATTEND THE PUBLIC HEARING BY INTERESTED PARTIES IS RECEIVED, THE COMMISSION MAY PROCEED WITH PROMULGATION OF THE PROPOSED RULE WITHOUT A PUBLIC HEARING.

(L) UPON DETERMINATION THAT AN EMERGENCY EXISTS, THE COMMISSION MAY CONSIDER AND ADOPT AN EMERGENCY RULE WITHOUT PRIOR NOTICE, OPPORTUNITY FOR COMMENT, OR HEARING, PROVIDED THAT THE USUAL RULEMAKING PROCEDURES PROVIDED IN THIS COMPACT AND IN THIS SECTION SHALL BE RETROACTIVELY APPLIED TO THE RULE AS SOON AS REASONABLY POSSIBLE, IN NO EVENT LATER THAN 90 DAYS AFTER THE EFFECTIVE DATE OF THE RULE. FOR THE PURPOSES OF THIS PROVISION, AN EMERGENCY RULE IS ONE THAT MUST BE ADOPTED IMMEDIATELY IN ORDER TO:

- (1) MEET AN IMMINENT THREAT TO PUBLIC HEALTH, SAFETY, OR WELFARE;
- (2) PREVENT A LOSS OF COMMISSION OR COMPACT STATE FUNDS;
- (3) MEET A DEADLINE FOR THE PROMULGATION OF AN ADMINISTRATIVE RULE THAT IS ESTABLISHED BY FEDERAL LAW OR RULE; OR
- (4) PROTECT PUBLIC HEALTH AND SAFETY.

(M) THE COMMISSION OR AN AUTHORIZED COMMITTEE OF THE COMMISSION MAY DIRECT REVISIONS TO A PREVIOUSLY ADOPTED RULE OR AMENDMENT FOR PURPOSES OF CORRECTING TYPOGRAPHICAL ERRORS, ERRORS IN FORMAT, ERRORS IN CONSISTENCY, OR GRAMMATICAL ERRORS. PUBLIC NOTICE OF ANY REVISIONS SHALL BE POSTED ON THE WEBSITE OF THE COMMISSION. THE REVISION SHALL BE SUBJECT TO CHALLENGE BY ANY PERSON FOR A PERIOD OF 30 DAYS AFTER POSTING. THE REVISION MAY BE CHALLENGED ONLY ON GROUNDS THAT THE REVISION RESULTS IN A MATERIAL CHANGE TO A RULE. A CHALLENGE SHALL BE MADE IN WRITING, AND DELIVERED TO THE CHAIR OF THE COMMISSION PRIOR TO THE END OF THE NOTICE PERIOD. IF NO CHALLENGE IS MADE, THE REVISION WILL TAKE EFFECT WITHOUT FURTHER ACTION. IF THE REVISION IS CHALLENGED, THE REVISION MAY NOT TAKE EFFECT WITHOUT THE APPROVAL OF THE COMMISSION.

ARTICLE XII.

OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT.

(A) (1) THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL BRANCHES OF STATE GOVERNMENT IN EACH COMPACT STATE SHALL ENFORCE THIS COMPACT AND TAKE ALL ACTIONS NECESSARY AND APPROPRIATE TO EFFECTUATE THIS COMPACT'S PURPOSES AND INTENT.

(2) ALL COURTS SHALL TAKE JUDICIAL NOTICE OF THIS COMPACT AND THE RULES IN ANY JUDICIAL OR ADMINISTRATIVE PROCEEDING IN A COMPACT STATE PERTAINING TO THE SUBJECT MATTER OF THIS COMPACT WHICH MAY AFFECT THE POWERS, RESPONSIBILITIES, OR ACTIONS OF THE COMMISSION.

(3) THE COMMISSION SHALL BE ENTITLED TO RECEIVE SERVICE OF PROCESS IN ANY SUCH PROCEEDING, AND SHALL HAVE STANDING TO INTERVENE IN SUCH A PROCEEDING FOR ALL PURPOSES. FAILURE TO PROVIDE SERVICE OF PROCESS TO THE COMMISSION SHALL RENDER A JUDGMENT OR ORDER VOID AS TO THE COMMISSION, THIS COMPACT, OR PROMULGATED RULES.

(B) (1) IF THE COMMISSION DETERMINES THAT A COMPACT STATE HAS DEFAULTED IN THE PERFORMANCE OF ITS OBLIGATIONS OR RESPONSIBILITIES UNDER THIS COMPACT OR THE PROMULGATED RULES, THE COMMISSION SHALL:

(I) PROVIDE WRITTEN NOTICE TO THE DEFAULTING STATE AND OTHER COMPACT STATES OF THE NATURE OF THE DEFAULT, THE PROPOSED MEANS OF REMEDYING THE DEFAULTS, AND/OR ANY OTHER ACTION TO BE TAKEN BY THE COMMISSION; AND

(II) PROVIDE REMEDIAL TRAINING AND SPECIFIC TECHNICAL ASSISTANCE REGARDING THE DEFAULT.

(2) IF A STATE IN DEFAULT FAILS TO REMEDY THE DEFAULT, THE DEFAULTING STATE MAY BE TERMINATED FROM THIS COMPACT UPON AN AFFIRMATIVE VOTE OF A MAJORITY OF THE COMPACT STATES, AND ALL RIGHTS, PRIVILEGES, AND BENEFITS CONFERRED BY THIS COMPACT SHALL BE TERMINATED ON THE EFFECTIVE DATE OF TERMINATION. A REMEDY OF THE DEFAULT DOES NOT RELIEVE THE OFFENDING STATE OF OBLIGATIONS OR LIABILITIES INCURRED DURING THE PERIOD OF DEFAULT.

(3) TERMINATION OF MEMBERSHIP IN THIS COMPACT SHALL BE IMPOSED ONLY AFTER ALL OTHER MEANS OF SECURING COMPLIANCE HAVE BEEN EXHAUSTED. NOTICE OF INTENT TO SUSPEND OR TERMINATE SHALL BE SUBMITTED BY THE COMMISSION TO THE GOVERNOR, THE MAJORITY AND MINORITY LEADERS OF THE DEFAULTING STATE'S LEGISLATURE, AND EACH OF THE COMPACT STATES.

(4) A COMPACT STATE WHICH HAS BEEN TERMINATED IS RESPONSIBLE FOR ALL ASSESSMENTS, OBLIGATIONS, AND LIABILITIES INCURRED THROUGH THE EFFECTIVE DATE OF TERMINATION, INCLUDING OBLIGATIONS WHICH EXTEND BEYOND THE EFFECTIVE DATE OF TERMINATION.

(5) THE COMMISSION SHALL NOT BEAR ANY COSTS INCURRED BY THE STATE WHICH IS FOUND TO BE IN DEFAULT OR WHICH HAS BEEN TERMINATED FROM THIS COMPACT, UNLESS AGREED UPON IN WRITING BETWEEN THE COMMISSION AND THE DEFAULTING STATE.

(6) THE DEFAULTING STATE MAY APPEAL THE ACTION OF THE COMMISSION BY PETITIONING THE UNITED STATES DISTRICT COURT FOR THE STATE OF GEORGIA OR THE FEDERAL DISTRICT WHERE THE COMPACT HAS ITS PRINCIPAL OFFICES. THE PREVAILING MEMBER SHALL BE AWARDED ALL COSTS OF SUCH LITIGATION, INCLUDING REASONABLE ATTORNEY'S FEES.

(C) (1) UPON REQUEST BY A COMPACT STATE, THE COMMISSION SHALL ATTEMPT TO RESOLVE DISPUTES RELATED TO THIS COMPACT WHICH ARISE AMONG COMPACT STATES AND BETWEEN COMPACT AND NON-COMPACT STATES.

(2) THE COMMISSION SHALL PROMULGATE A RULE PROVIDING FOR BOTH MEDIATION AND BINDING DISPUTE RESOLUTION FOR DISPUTES THAT ARISE BEFORE THE COMMISSION.

(D) (1) THE COMMISSION, IN THE REASONABLE EXERCISE OF ITS DISCRETION, SHALL ENFORCE THE PROVISIONS AND RULES OF THIS COMPACT.

(2) BY MAJORITY VOTE, THE COMMISSION MAY INITIATE LEGAL ACTION IN THE UNITED STATES DISTRICT COURT FOR THE STATE OF GEORGIA OR THE FEDERAL DISTRICT WHERE THIS COMPACT HAS ITS PRINCIPAL OFFICE AGAINST A COMPACT STATE IN DEFAULT TO ENFORCE COMPLIANCE WITH THE PROVISIONS OF THIS COMPACT AND ITS PROMULGATED RULES AND BYLAWS. THE RELIEF SOUGHT MAY INCLUDE BOTH INJUNCTIVE RELIEF AND DAMAGES. IN THE EVENT JUDICIAL ENFORCEMENT IS NECESSARY, THE PREVAILING MEMBER SHALL BE AWARDED ALL COSTS OF SUCH LITIGATION, INCLUDING REASONABLE ATTORNEY'S FEES.

(3) THE REMEDIES HEREIN SHALL NOT BE THE EXCLUSIVE REMEDIES OF THE COMMISSION. THE COMMISSION MAY PURSUE ANY OTHER REMEDIES AVAILABLE UNDER FEDERAL OR STATE LAW.

ARTICLE XIII.

DATE OF IMPLEMENTATION OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENTS.

(A) THIS COMPACT SHALL COME INTO EFFECT ON THE DATE ON WHICH THIS COMPACT IS ENACTED INTO LAW IN THE SEVENTH COMPACT STATE. THE PROVISIONS WHICH BECOME EFFECTIVE AT THAT TIME SHALL BE LIMITED TO THE POWERS GRANTED TO THE COMMISSION RELATING TO ASSEMBLY AND THE PROMULGATION OF RULES. THEREAFTER, THE COMMISSION SHALL MEET AND EXERCISE RULEMAKING POWERS NECESSARY TO THE IMPLEMENTATION AND ADMINISTRATION OF THIS COMPACT.

(B) ANY STATE WHICH JOINS THIS COMPACT SUBSEQUENT TO THE COMMISSION'S INITIAL ADOPTION OF THE RULES SHALL BE SUBJECT TO THE RULES AS THEY EXIST ON THE DATE ON WHICH THIS COMPACT BECOMES LAW IN THAT STATE. ANY RULE WHICH HAS BEEN PREVIOUSLY ADOPTED BY THE COMMISSION

SHALL HAVE THE FULL FORCE AND EFFECT OF LAW ON THE DAY THIS COMPACT BECOMES LAW IN THAT STATE.

(C) (1) ANY COMPACT STATE MAY WITHDRAW FROM THIS COMPACT BY ENACTING A STATUTE REPEALING THE SAME.

(2) A COMPACT STATE'S WITHDRAWAL SHALL NOT TAKE EFFECT UNTIL SIX MONTHS AFTER ENACTMENT OF THE REPEALING STATUTE.

(3) WITHDRAWAL SHALL NOT AFFECT THE CONTINUING REQUIREMENT OF THE WITHDRAWING STATE'S PSYCHOLOGY REGULATORY AUTHORITY TO COMPLY WITH THE INVESTIGATIVE AND ADVERSE ACTION REPORTING REQUIREMENT OF THIS ACT PRIOR TO THE EFFECTIVE DATE OF WITHDRAWAL.

(D) NOTHING CONTAINED IN THIS COMPACT SHALL BE CONSTRUED TO INVALIDATE OR PREVENT ANY PSYCHOLOGY LICENSURE AGREEMENT OR OTHER COOPERATIVE ARRANGEMENT BETWEEN A COMPACT STATE AND A NON-COMPACT STATE WHICH DOES NOT CONFLICT WITH THE PROVISIONS OF THIS COMPACT.

(E) THIS COMPACT MAY BE AMENDED BY THE COMPACT STATES. NO AMENDMENT TO THIS COMPACT SHALL BECOME EFFECTIVE AND BINDING UPON ANY COMPACT STATE UNTIL IT IS ENACTED INTO THE LAW OF ALL COMPACT STATES.

ARTICLE XIV.

CONSTRUCTION AND SEVERABILITY.

THIS COMPACT SHALL BE LIBERALLY CONSTRUED SO AS TO EFFECTUATE THE PURPOSES THEREOF. IF THIS COMPACT SHALL BE HELD CONTRARY TO THE CONSTITUTION OF ANY STATE MEMBER THERETO, THIS COMPACT SHALL REMAIN IN FULL FORCE AND EFFECT AS TO THE REMAINING COMPACT STATES.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

May 28, 2021

The Honorable Bill Ferguson
President of the Senate
H-107 State House
Annapolis, MD 21401

Dear President Ferguson:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 526 – *Legal Education Success Collaborative – Established*.

This bill establishes the Legal Education Success Collaborative between the University of Baltimore (UB) School of Law, the University of Maryland (UM) School of Law, and the Maryland historically black colleges and universities (HBCUs) to increase diversity in the legal field. Beginning in fiscal 2023, the Governor must appropriate \$125,000 to each scholars program at the UB School of Law and the UM School of Law. The UB School of Law and the UM School of Law must each match up to \$125,000 of the State appropriation.

House Bill 1268, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 526.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 526

AN ACT concerning

Legal Education Success Collaborative – Established

FOR the purpose of establishing a Legal Education Success Collaborative; establishing the purpose of the Collaborative; requiring certain institutions to develop and administer certain programs and cooperatives; requiring certain appropriations to be made to certain institutions and programs in certain fiscal years for certain purposes; requiring certain institutions to provide certain matching funds; requiring a certain appropriation to be used to supplement certain existing funding; defining certain terms; and generally relating to success in legal education.

BY adding to

Article – Education
Section 15–126
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

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

Article – Education

15-126.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “COLLABORATIVE” MEANS THE LEGAL EDUCATION SUCCESS COLLABORATIVE.

(3) “MARYLAND HBCU” MEANS THE FOLLOWING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES:

(I) BOWIE STATE UNIVERSITY;

(II) COPPIN STATE UNIVERSITY;

(III) MORGAN STATE UNIVERSITY; AND

(IV) UNIVERSITY OF MARYLAND EASTERN SHORE.

(4) “SCHOLARS PROGRAM” MEANS:

(I) THE UNIVERSITY OF BALTIMORE SCHOOL OF LAW AND HISTORICALLY BLACK COLLEGES AND UNIVERSITIES STUDENT PIPELINE COOPERATIVE SCHOLARS; AND

(II) THE UNIVERSITY OF MARYLAND SCHOOL OF LAW DIVERSITY AND INCLUSION SCHOLARS.

(5) “UB LAW AND HBCU COOPERATIVE” MEANS THE UNIVERSITY OF BALTIMORE SCHOOL OF LAW AND HISTORICALLY BLACK COLLEGES AND UNIVERSITIES STUDENT PIPELINE COOPERATIVE.

(B) THERE IS A LEGAL EDUCATION SUCCESS COLLABORATIVE BETWEEN THE UNIVERSITY OF BALTIMORE SCHOOL OF LAW, THE UNIVERSITY OF MARYLAND SCHOOL OF LAW, AND THE MARYLAND HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.

(C) THE PURPOSE OF THE COLLABORATIVE IS TO INCREASE DIVERSITY IN THE LEGAL FIELD THROUGH:

(1) FINANCIAL SUPPORT, ACADEMIC SUCCESS, PROFESSIONAL DEVELOPMENT, AND MENTORING OPPORTUNITIES FOR STUDENTS PARTICIPATING IN THE SCHOLARS PROGRAM;

(2) THE UB LAW AND HBCU COOPERATIVE THAT PREPARES MARYLAND HBCU STUDENTS FOR LAW SCHOOL AND PROVIDES ACADEMIC SUPPORT AND ASSISTANCE TO STUDENTS IN LAW SCHOOL AND THROUGHOUT THEIR LEGAL CAREERS; AND

(3) THE UNIVERSITY OF MARYLAND SCHOOL OF LAW DIVERSITY AND INCLUSION SCHOLARS PROGRAM.

(D) (1) THE UB LAW AND HBCU COOPERATIVE SHALL BE DEVELOPED AND ADMINISTERED BY THE UNIVERSITY OF BALTIMORE SCHOOL OF LAW ~~AND COORDINATED WITH MARYLAND HBCUS.~~

(2) THE UNIVERSITY OF MARYLAND SCHOOL OF LAW DIVERSITY AND INCLUSION SCHOLARS PROGRAM SHALL BE DEVELOPED AND ADMINISTERED BY THE UNIVERSITY OF MARYLAND SCHOOL OF LAW.

(E) FOR FISCAL YEAR 2023 AND EACH FISCAL YEAR THEREAFTER, ~~THE GOVERNOR SHALL APPROPRIATE:~~

(1) ~~\$200,000~~ THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION OF \$125,000 TO EACH SCHOLARS PROGRAM AT THE UNIVERSITY OF BALTIMORE SCHOOL OF LAW AND THE UNIVERSITY OF MARYLAND SCHOOL OF LAW; AND

(2) ~~\$50,000 TO ONE MARYLAND HBCU SELECTED BY THE MARYLAND HIGHER EDUCATION COMMISSION FOR SUPPORTING A COORDINATOR POSITION TO PROMOTE THE SCHOLARS PROGRAM TO STUDENTS AT ALL MARYLAND HBCUS~~ THE UNIVERSITY OF BALTIMORE SCHOOL OF LAW AND THE UNIVERSITY OF MARYLAND SCHOOL OF LAW EACH SHALL PROVIDE FUNDING FOR THE SCHOLARS PROGRAM TO MATCH THE AMOUNT PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION, UP TO \$125,000.

(F) THE MONEY APPROPRIATED UNDER SUBSECTION (E) OF THIS SECTION IS SUPPLEMENTAL TO AND MAY NOT SUPPLANT FUNDING THAT WOULD OTHERWISE BE APPROPRIATED FOR THE SCHOLARS PROGRAM, MARYLAND HBCUS, THE UNIVERSITY OF BALTIMORE, OR THE UNIVERSITY OF MARYLAND, BALTIMORE CAMPUS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021.

May 28, 2021

The Honorable Bill Ferguson
President of the Maryland Senate
H-107 State House
Annapolis, MD 21401

The Honorable Adrienne A. Jones
Speaker of the Maryland House of Delegates
H-101 State House
Annapolis, MD 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 9 – *State Employees – Collective Bargaining – Applicability, Bargaining Processes, and Memorandums of Understanding*, Senate Bill 717/House Bill 904 – *State Personnel – Collective Bargaining – Exclusive Representative Access to New Employees*, and Senate Bill 746/House Bill 894 – *Education – Community Colleges – Collective Bargaining*. These pieces of legislation seek to address problems that do not exist and change labor practices that have worked for decades, while creating several burdensome fiscal and operational hardships.

Senate Bill 9 – *State Employees – Collective Bargaining – Applicability, Bargaining Processes, and Memorandums of Understanding*

This legislation revokes the legislative authority of the twelve institution presidents to designate a representative to negotiate on behalf of their institution and assigns this role to the University System of Maryland Chancellor. This new process will give labor unions the authority to veto the institution president's right to negotiate matters. The consolidated bargaining required under this legislation will likely disadvantage the University System of Maryland's smaller institutions that have fewer financial resources, including the System's Historically Black Colleges and Universities.

Additionally, other issues will arise because each institution has its own distinct mission, and they vary by size, budget, research category, geographic location, labor market, and proportion of employees represented in collective bargaining.

Senate Bill 717 and House Bill 904 – *State Personnel – Collective Bargaining – Exclusive Representative Access to New Employees*

This legislation would significantly expand a union's initial access to new employees by requiring University System of Maryland Institutions to transmit a new employee's name, unit, and all employee identification to the union president. In addition to being unacceptably invasive to employees, this practice could result in an employee being at a higher risk for identity theft.

Senate Bill 746 and House Bill 894 – Education – Community Colleges – Collective Bargaining

This legislation establishes a uniform statewide collective bargaining process for Community College employees at a time when Community Colleges across the state are still facing challenges from the COVID-19 pandemic. The extra expenses associated with collective bargaining will put a severe strain on counties and the budgets of community colleges, most likely leading to increased tuition costs at a time when affordable training and education opportunities are needed the most.

The time is simply not right for the implementation of these pieces of legislation that will harm students, employees, and institutions of higher education in Maryland.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 717

AN ACT concerning

State Personnel – Collective Bargaining – Exclusive Representative Access to New Employees

FOR the purpose of altering the type of access and the circumstances under which certain access to new employees by exclusive representatives is required to be permitted by the State, a system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College; altering the period of time for which an exclusive representative is required to be permitted to address certain new employees under certain circumstances; requiring that an exclusive representative be permitted at least a certain amount of time to meet with a new employee; requiring that a certain meeting between a new employee and an exclusive representative be in person; authorizing a certain exclusive representative to meet with a new employee through certain video technology under certain circumstances; requiring that the State, a system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College encourage but not require certain new employees to meet with certain exclusive representatives; requiring that a certain notice be provided on the start date of a new employee; requiring that a certain notice be provided to certain individuals in a certain manner

within a certain time period and include and exclude certain information; requiring that a certain notice be considered confidential by an exclusive representative; prohibiting an exclusive representative from disclosing certain information, subject to a certain exception; authorizing an exclusive representative to authorize a third-party contractor to use certain information in a certain manner and for a certain purpose; making conforming changes; and generally relating to collective bargaining for State employees and access by an exclusive representative to new employees.

BY repealing and reenacting, with amendments,
 Article – State Personnel and Pensions
 Section 3–307
 Annotated Code of Maryland
 (2015 Replacement Volume and 2020 Supplement)

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

Article – State Personnel and Pensions

3–307.

(a) Each exclusive representative has the right to communicate with the employees that it represents.

(b) (1) The State, a system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College shall permit an exclusive representative to:

(I) MEET WITH A NEW EMPLOYEE IN A BARGAINING UNIT REPRESENTED BY THE EXCLUSIVE REPRESENTATIVE WITHIN THE FIRST FULL PAY PERIOD OF THE NEW EMPLOYEE'S START DATE; OR

(II) attend and participate in a new employee program that includes one or more employees who are in a bargaining unit represented by the exclusive representative, IF THE NEW EMPLOYEE PROGRAM OCCURS WITHIN 14 DAYS OF THE NEW EMPLOYEE'S START DATE.

(2) The new employee program in paragraph [(1)] **(1)(II)** of this subsection may be a new employee orientation, training, or other program that the State, a system institution, Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College and an exclusive representative negotiate in accordance with § 3–501 of this title.

(3) Except as provided in paragraph [(4)] **(5)** of this subsection, the exclusive representative shall be permitted **AT LEAST [20] 30** minutes to **MEET WITH THE**

NEW EMPLOYEE OR TO collectively address all new employees in attendance during a new employee program.

(4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A MEETING BETWEEN THE NEW EMPLOYEE AND THE EXCLUSIVE REPRESENTATIVE SHALL BE IN PERSON.

(II) AN EXCLUSIVE REPRESENTATIVE MAY CHOOSE TO MEET WITH A NEW EMPLOYEE BY VIDEO OR SIMILAR TECHNOLOGY IF PUBLIC HEALTH CONCERNS NECESSITATE THAT A MEETING BE CONDUCTED REMOTELY.

[(4)] (5) The State, a system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College and an exclusive representative may negotiate a period of time that is more than **[20] 30** minutes in accordance with § 3-501 of this title.

[(5)] (6) The State, a system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College:

(i) shall encourage an employee to **MEET WITH THE EXCLUSIVE REPRESENTATIVE OR** attend the portion of a new employee program designated for an exclusive representative to address new employees; and

(ii) may not require an employee to **MEET WITH AN EXCLUSIVE REPRESENTATIVE OR** attend the portion of a new employee program designated for an exclusive representative to address new employees if the employee objects to attending.

(c) (1) Except as provided in paragraph (2) of this subsection **AND SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION**, the State, a system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College shall provide the exclusive representative at least 10 days' notice **[in advance of a new employee program] OF THE START DATE OF A NEW EMPLOYEE IN A BARGAINING UNIT REPRESENTED BY THE EXCLUSIVE REPRESENTATIVE.**

(2) The State, a system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College may provide the exclusive representative with less than 10 days' notice if there is an urgent need critical to the **[employer's new employee program] EMPLOYER** that was not reasonably foreseeable.

(3) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(I) BE PROVIDED ELECTRONICALLY TO THE LOCAL PRESIDENT OR UNION DESIGNEE WITHIN ~~24 HOURS~~ 5 DAYS OF THE EMPLOYEE'S FIRST CHECK-IN; AND

(II) EXCEPT AS PROVIDED IN ITEM (III) OF THIS PARAGRAPH, INCLUDE THE NEW EMPLOYEE’S NAME, UNIT, AND ALL EMPLOYEE IDENTIFICATION NUMBERS, INCLUDING WORKDAY NUMBERS;

(III) EXCLUDE THE NEW EMPLOYEE’S SOCIAL SECURITY NUMBER; AND

(IV) BE CONSIDERED CONFIDENTIAL BY AN EXCLUSIVE REPRESENTATIVE.

(4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN EXCLUSIVE REPRESENTATIVE MAY NOT DISCLOSE THE INFORMATION IN A NOTICE.

(II) THE EXCLUSIVE REPRESENTATIVE MAY AUTHORIZE A THIRD-PARTY CONTRACTOR TO USE THE INFORMATION IN A NOTICE, AS DIRECTED BY THE EXCLUSIVE REPRESENTATIVE, TO FULFILL THE EXCLUSIVE REPRESENTATIVE’S STATUTORY DUTIES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021.

May 28, 2021

The Honorable Bill Ferguson
President of the Senate
H-107 State House
Annapolis, Maryland 21401

The Honorable Adrienne A. Jones
Speaker of the House
H-101 State House
Annapolis, Maryland 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 741 and House Bill 836 – *COVID-19 Testing, Contact Tracing, and Vaccination Act of 2021*. Since I declared a State of Emergency on March 5, 2020, my Administration has taken unprecedented actions to keep Marylanders safe, including administering over six million COVID-19 vaccines, conducting over 10 million COVID-19 tests, and organizing

contact tracing operations in all 24 of Maryland's local jurisdictions. To date, Maryland has invested more than \$1.9 billion in our public health response to the COVID-19 pandemic, and the State has allocated nearly \$800 million directly to local jurisdictions for these efforts.

These misguided bills would revert the State back to the early planning phases of Maryland's COVID-19 pandemic response efforts by requiring the Maryland Department of Health (MDH) to re-develop its testing, contact tracing, and vaccination plans that have already been serving Marylanders effectively and saving lives for over a year. Additionally, this legislation's attempt to mandate funds for fiscal years 2021 and 2022 is in direct conflict with the Maryland Constitution, which precludes the General Assembly from mandating spending prior to fiscal year 2023.

Through our comprehensive vaccination program, over 88% of Marylanders over 65 have been vaccinated, and nearly 70% of all adults have received at least one dose – one of the highest rates of vaccination in the country. Maryland will continue to prioritize equity and access until we accomplish our goal of “no arm left behind.” The *New England Journal of Medicine*, one of the most prestigious peer-reviewed medical journals in the world, recently recognized Maryland's success and the efforts of the Maryland Vaccine Equity Task Force, stating that the task force “has worked diligently to reach the state's vulnerable communities by partnering with trusted community, faith-based, and nonprofit organizations.” According to data published by *Bloomberg*, Maryland is one of only five states to vaccinate at least 40% of its Black and Hispanic populations. These successes were the result of careful planning, diligent execution, and valuable partnerships with both public and private entities, including support from many members of the Maryland General Assembly.

Our Administration took unprecedented actions, including sourcing laboratory materials from across the world, to dramatically increase our State's COVID-19 testing capacity. We have gone from 50 tests per day in early March 2020 to over 50,000 tests in one day. When the number of COVID-19 cases surged this past winter, Maryland was ready to meet the increased testing demand by performing an average of more than 286,000 tests per week. We currently average more than 174,000 tests per week. Since the beginning of the pandemic, more than 10 million total COVID-19 tests have been conducted in Maryland. We will continue these important efforts to ensure that COVID-19 testing resources remain accessible to all Marylanders.

Maryland's contact tracing program is a collaborative effort led by MDH, in coordination with the State's 24 local health departments (LHDs). The State Contact Tracing Unit closely monitors performance metrics, such as the proportion of cases with outreach initiated within 24 hours and the proportion of cases who were successfully reached within 24 hours to detect and mitigate local hotspots. By closely coordinating with local jurisdictions, MDH and LHDs can tailor programs to meet the unique needs of each jurisdiction including, directly hiring staff dedicated to contact tracing, redirecting school health nurses and LHD staff to contact tracing, and contracting with outside entities to provide contact tracing services. As the COVID-19 pandemic has evolved, the State Contact

Tracing program will continue to adapt to meet each jurisdiction's specific contact tracing needs.

Our long, hard-fought battle against the deadliest global pandemic in more than a century is finally nearing an end. As we reflect on the hard work and the many sacrifices taken by Marylanders to achieve one of the most effective pandemic responses in the nation and by extension the world, legislation that would require Maryland to turn back the clock to the early planning phases of the pandemic response is counterproductive to our continued progress.

For these reasons, I have vetoed Senate Bill 741 and House Bill 836 – *COVID-19 Testing, Contact Tracing, and Vaccination Act of 2021*.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 741

AN ACT concerning

COVID-19 Testing, Contact Tracing, and Vaccination Act of 2021

FOR the purpose of requiring, on or before a certain date, the Maryland Department of Health, in collaboration with local health departments in the State, to adopt and implement a certain plan to respond to the outbreak of COVID-19; establishing certain requirements for the plan; requiring the Department, in collaboration with local health departments and other persons, to include in the plan the establishment of a Maryland Public Health Jobs Corps; establishing certain requirements for the Corps; requiring the Department to submit the plan to the General Assembly on or before a certain date; requiring the Department to provide in certain fiscal years certain funding in grants to local jurisdictions for certain purposes; authorizing a local jurisdiction to use certain grant funding for a certain purpose; establishing certain formulas for the allocation of certain funding to local jurisdictions; ~~requiring~~ authorizing the Department to ~~first~~ use only certain federal funding to provide certain funding to local jurisdictions; ~~requiring the Department to use general funds to provide certain funding to local jurisdictions under certain circumstances;~~ requiring the Department, on or before a certain date and with input from certain persons, to develop and submit to the General Assembly a certain plan for vaccinating residents of the State against COVID-19; requiring that the plan include certain information and elements; requiring the Department to provide to the General Assembly, for the duration of a certain calendar year, certain weekly progress reports on implementation of the plan; requiring the reports to be submitted to the General Assembly in a certain manner; requiring the Department to convene a Maryland Public Health Infrastructure Modernization Workgroup; providing for the composition of the Workgroup; requiring the Workgroup to conduct a certain

assessment and make certain recommendations; requiring the Workgroup to submit a certain report to the General Assembly on or before a certain date; altering the effective date of certain provisions of law governing the disclosure of outpatient facility fees; requiring, for a certain calendar year, certain institutions of higher education in the State to ~~adopt and implement~~ establish a certain COVID-19 ~~testing~~ security plan; requiring that the COVID-19 ~~testing~~ security plan ~~adopted and implemented~~ established by certain institutions of higher education ~~include a certain requirement~~ be posted on a certain website and made available to the public; requiring home health agencies to ~~adopt and implement~~ a certain COVID-19 infection control and prevention plan and provide the plan to certain individuals; requiring ~~home health agencies,~~ nursing homes, and assisted living programs to adopt and implement COVID-19 testing plans; establishing certain requirements for the COVID-19 testing plans; requiring the Department to adopt certain regulations; requiring the Department, to the extent practicable, to provide certain grant funding to home health agencies and assisted living facilities in certain years to cover the cost of certain COVID-19 testing; requiring certain insurers, nonprofit health service plans, and health maintenance organizations to provide coverage for certain COVID-19 tests and ~~associated costs~~ related items and services for the administration of the tests; ~~prohibiting certain insurers, nonprofit health service plans, and health maintenance organizations from requiring a member to obtain a certain determination as a condition for the coverage~~; prohibiting certain insurers, nonprofit health service plans, and health maintenance organizations from applying a copayment, coinsurance requirement, or deductible to the coverage; stating the intent of the General Assembly; providing that any funding appropriate for the implementation of this Act may consist only of certain federal funds; defining certain terms; providing for the application of certain provisions of this Act; making this Act an emergency measure; providing for the termination of certain provisions of this Act; and generally relating to public health and testing, contact tracing, and vaccination for COVID-19.

BY adding to

Article – Health – General

Section 16-201.5; 18-9A-01 through 18-9A-04 to be under the new subtitle “Subtitle 9A. COVID-19 Testing, Contact Tracing, and Vaccination Act”; 19-411; 19-14C-01 and 19-14C-02 to be under the new subtitle “Subtitle 14C. COVID-19 Testing Plan”; and 19-1814

Annotated Code of Maryland

(2019 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Chapter 365 of the Acts of the General Assembly of 2020

Section 2

BY adding to

Article – Education

Section 11-1701 and 11-1702 to be under the new subtitle “Subtitle 17. COVID-19 Testing Plan”

Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

BY adding to

Article – Insurance

Section 15–856

Annotated Code of Maryland

(2017 Replacement Volume and 2020 Supplement)

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

Article – Health – General

SUBTITLE 9A. COVID–19 TESTING, CONTACT TRACING, AND VACCINATION ACT.

18–9A–01.

(A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “COVID–19” MEANS, INTERCHANGEABLY AND COLLECTIVELY, THE CORONAVIRUS KNOWN AS COVID–19 OR 2019–nCoV AND THE SARS–CoV–2 VIRUS.

(C) “COVID–19 TEST” MEANS ~~A FEDERAL FOOD AND DRUG ADMINISTRATION APPROVED MOLECULAR POLYMERASE CHAIN REACTION (PCR) TEST OR AN ANTIGEN TEST FOR THE DETECTION OR DIAGNOSIS OF COVID–19~~ AN IN VITRO DIAGNOSTIC TEST FOR THE DETECTION OF SARS–CoV–2 OR THE DIAGNOSIS OF THE VIRUS THAT CAUSES COVID–19, AS DESCRIBED IN § 3201 OF THE FEDERAL CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT.

18–9A–02.

(A) ON OR BEFORE ~~APRIL 1, 2021~~ JUNE 1, 2021, THE DEPARTMENT, IN COLLABORATION WITH LOCAL HEALTH DEPARTMENTS IN THE STATE AND THE MARYLAND STATE DEPARTMENT OF EDUCATION, SHALL ADOPT AND IMPLEMENT A 2–YEAR PLAN TO RESPOND TO THE OUTBREAK OF COVID–19.

(B) THE PLAN REQUIRED UNDER THIS SECTION SHALL:

(1) INCLUDE MEASURES TO ENHANCE PUBLIC HEALTH EFFORTS AT THE STATE AND LOCAL LEVEL TO MONITOR, PREVENT, AND MITIGATE THE SPREAD OF COVID–19;

(2) (I) ASSESS THE COVID-19 PUBLIC AND PRIVATE TESTING INFRASTRUCTURE IN PLACE BOTH STATEWIDE AND IN EACH LOCAL JURISDICTION;

(II) IDENTIFY AND ADDRESS THE UNMET NEEDS FOR COVID-19 TESTING STATEWIDE AND IN EACH LOCAL JURISDICTION, INCLUDING THE NUMBER AND LOCATION OF PUBLIC AND PRIVATE TESTING PROVIDERS REQUIRED TO ENSURE ACCESS TO TESTING ON DEMAND FOR ALL RESIDENTS OF THE STATE;

(III) ESTABLISH SPECIFIC MONTHLY GOALS FOR COVID-19 TESTING STATEWIDE AND IN EACH LOCAL JURISDICTION TO ENSURE ACCESS TO TESTING FOR ALL RESIDENTS OF THE STATE, INCLUDING:

1. ~~A GOAL TO ACHIEVE THE CAPACITY TO PERFORM UP TO 100,000 COVID-19 TESTS PER DAY IN THE STATE~~ THE SURVEILLANCE TESTING REQUIRED TO SAFELY REOPEN AND KEEP OPEN SCHOOLS, INSTITUTIONS OF HIGHER EDUCATION, WORKPLACES, AND OTHER COMMUNITY FACILITIES IN THE STATE WHILE MINIMIZING THE COMMUNITY SPREAD OF COVID-19 IN CALENDAR YEARS 2021 AND 2022 THROUGH A NETWORK OF PUBLIC AND PRIVATE TESTING PROVIDERS; AND

2. ~~FOR EACH LOCAL JURISDICTION, A GOAL TO ESTABLISH IN CALENDAR YEARS 2021 AND 2022 AT LEAST SIX THE REQUIRED NUMBER OF PUBLIC OR PRIVATE COVID-19 TESTING LOCATIONS PER 100,000 RESIDENTS TO ACHIEVE THE SURVEILLANCE TESTING GOAL DESCRIBED IN ITEM 1 OF THIS ITEM; AND~~

(IV) ~~INCLUDE A REQUIREMENT THAT STATE AND LOCAL JURISDICTION GOVERNMENTAL PROVIDERS OF COVID-19 TESTING BILL HEALTH INSURANCE CARRIERS TO COVER THE COST OF TESTING WHEN:~~

~~1. COVERAGE FOR COVID-19 TESTING IS PROVIDED UNDER A HEALTH BENEFIT PLAN OF AN INDIVIDUAL TESTED; AND~~

~~2. BILLING MAY BE CARRIED OUT IN A MANNER THAT WILL NOT CREATE A BARRIER TO ACCESSING TESTING FOR INDIVIDUALS WHO:~~

~~A. ARE UNINSURED; OR~~

~~B. MAY BE RELUCTANT TO RECEIVE A TEST IF THE INDIVIDUAL IS ASKED TO PROVIDE INFORMATION RELATING TO INSURANCE COVERAGE~~ ESTIMATE THE FUNDING REQUIRED TO IMPLEMENT THE SURVEILLANCE TESTING GOAL DESCRIBED IN ITEM (III)1 OF THIS ITEM AND THE EXTENT TO WHICH

FEDERAL FUNDING ALREADY RECEIVED BY THE STATE IN FISCAL YEAR 2021 AND FEDERAL FUNDING THAT IS PROVIDED TO THE STATE AND RECEIVED AFTER MARCH 1, 2021, CAN BE USED TO COVER THE COST REQUIRED TO ACHIEVE THAT GOAL;

(3) (I) ASSESS THE CONTACT TRACING INFRASTRUCTURE IN PLACE FOR COVID-19 BOTH STATEWIDE AND IN EACH LOCAL JURISDICTION;

(II) DETERMINE THE OPTIMAL NUMBER OF CONTACT TRACING, CASE MANAGEMENT, CARE RESOURCE COORDINATION, AND OTHER PERSONNEL PER 100,000 RESIDENTS NEEDED IN EACH JURISDICTION TO EFFECTIVELY MONITOR, PREVENT, AND MITIGATE THE SPREAD OF COVID-19;

(III) IDENTIFY AND ADDRESS THE UNMET NEEDS FOR COVID-19 CONTACT TRACING AND RELATED OUTBREAK PREVENTION AND MITIGATION EFFORTS BOTH STATEWIDE AND IN EACH LOCAL JURISDICTION; AND

(IV) 1. ESTABLISH GOALS FOR IDENTIFYING, LOCATING, AND TESTING INDIVIDUALS WHO HAVE BEEN IN CLOSE CONTACT WITH INDIVIDUALS WHO TEST POSITIVE FOR COVID-19 THAT ARE IN ALIGNMENT WITH CENTERS FOR DISEASE CONTROL AND PREVENTION GUIDANCE FOR EFFECTIVE CONTACT TRACING PROGRAMS; AND

2. INCLUDE A MECHANISM FOR MONITORING PERFORMANCE OF CONTACT TRACING AND TESTING OF CONTACTS BOTH STATEWIDE AND FOR EACH LOCAL JURISDICTION;

(4) REQUIRE THE DEPARTMENT TO ASSIST LOCAL JURISDICTIONS THAT ADOPT STRATEGIES TO:

(I) ACCELERATE ACCESS TO AND THE USE OF AT-HOME COLLECTION AND POINT-OF-CARE TESTS FOR COVID-19; AND

(II) INCENTIVIZE AND ENCOURAGE PHARMACIES AND HEALTH CARE PROVIDERS, INCLUDING PRIMARY CARE PROVIDERS, TO PROVIDE COVID-19 TESTING; AND

(5) ALLOW EACH LOCAL JURISDICTION TO ESTABLISH AND IMPLEMENT A PROGRAM FOR COVID-19 CONTACT TRACING THAT IS INDEPENDENT FROM THE CONTACT TRACING PROGRAM PERFORMED BY THE STATE OR THE ENTITY WITH WHOM THE STATE HAS CONTRACTED TO PERFORM CONTACT TRACING FOR THE STATE.

~~(C) (1) THE DEPARTMENT, IN COLLABORATION WITH LOCAL HEALTH DEPARTMENTS, HEALTH CARE PROVIDERS, REPRESENTATIVES OF AREA HEALTH~~

~~EDUCATION CENTERS, AND OTHER RELEVANT STAKEHOLDERS, SHALL INCLUDE IN THE PLAN REQUIRED UNDER THIS SECTION THE ESTABLISHMENT OF A MARYLAND PUBLIC HEALTH JOBS CORPS.~~

~~(2) THE MARYLAND PUBLIC HEALTH JOBS CORPS SHALL BE COMPOSED OF COMMUNITY HEALTH WORKERS AND OTHER HEALTH CARE PERSONNEL RECRUITED, TRAINED, AND DEPLOYED FOR EMPLOYMENT BY LOCAL HEALTH DEPARTMENTS, NONPROFIT ORGANIZATIONS, AND OTHER ENTITIES TO RESPOND TO THE OUTBREAK OF COVID-19 BY PROVIDING, TO THE EXTENT AUTHORIZED UNDER FEDERAL OR STATE LAW, OR FACILITATING:~~

~~(I) TESTING;~~

~~(II) CONTACT TRACING;~~

~~(III) VACCINE ADMINISTRATION, INCLUDING VACCINE OUTREACH AND NAVIGATION SUPPORTS; AND~~

~~(IV) OTHER CASE MANAGEMENT AND RESOURCE SUPPORT SERVICES FOR INDIVIDUALS WHO HAVE BEEN EXPOSED TO OR TEST POSITIVE FOR COVID-19.~~

~~(3) THE MARYLAND PUBLIC HEALTH JOBS CORPS SHALL HAVE A DESIGN THAT:~~

~~(I) PRIORITIZES THE RECRUITMENT, TRAINING, AND DEPLOYMENT OF INDIVIDUALS FOR THE WORKFORCE WHO HAVE BEEN DISPLACED FROM OTHER WORKFORCE SECTORS THAT HAVE BEEN IMPACTED NEGATIVELY AS A RESULT OF THE OUTBREAK OF COVID-19; AND~~

~~(II) INCLUDES A PATHWAY DESIGNED TO ENABLE MEMBERS OF THE PUBLIC HEALTH RESPONSE WORKFORCE TO TRANSITION TO POSITIONS WITH A RESPONSIBILITY TO MEET ONGOING POSTPANDEMIC POPULATION HEALTH NEEDS OF UNDERSERVED COMMUNITIES AND VULNERABLE POPULATIONS.~~

~~(D)~~ (C) THE PLAN REQUIRED UNDER THIS SECTION SHALL HAVE A DESIGN THAT ADDRESSES THE DISPROPORTIONATE IMPACT OF THE COVID-19 PANDEMIC ON UNDERSERVED AND MINORITY COMMUNITIES IN THE STATE.

~~(D)~~ ~~(E)~~ (D) ON OR BEFORE APRIL 1, 2021 JUNE 1, 2021, THE DEPARTMENT SHALL SUBMIT THE PLAN REQUIRED UNDER THIS SECTION TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE.

~~(E)~~ ~~(F)~~ (E) (1) (I) FOR FISCAL YEARS 2021 AND 2022, THE DEPARTMENT SHALL PROVIDE \$25,000,000 EACH YEAR IN GRANTS TO LOCAL JURISDICTIONS TO EXPAND CAPACITY FOR COVID-19 TESTING AND CONTACT TRACING, OR FOR ANY OTHER PUBLIC HEALTH PURPOSE RELATED TO COVID-19 RESPONSE FOR WHICH FEDERAL FUNDING IS AUTHORIZED.

(II) GRANT FUNDING PROVIDED FOR COVID-19 ~~TESTING AND CONTACT TRACING~~ RESPONSE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE DIVIDED BETWEEN LOCAL JURISDICTIONS IN PROPORTION TO THEIR RESPECTIVE POPULATIONS.

(III) THE DEPARTMENT SHALL PROVIDE ADDITIONAL GRANT FUNDING TO A LOCAL JURISDICTION TO SUPPLEMENT THE GRANT FUNDING ALLOCATED TO THE LOCAL JURISDICTION UNDER SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH IF THE DEPARTMENT DETERMINES THAT THE INITIAL ALLOCATION OF GRANT FUNDING IS NOT SUFFICIENT TO MEET THE COVID-19 TESTING AND CONTACT TRACING NEEDS OF THE LOCAL JURISDICTION.

(IV) A LOCAL JURISDICTION MAY USE GRANT FUNDING PROVIDED UNDER THIS SUBSECTION TO EXPAND COVID-19 TESTING CAPACITY THROUGH DIRECT TESTING EFFORTS BY THE HEALTH DEPARTMENT OF THE LOCAL JURISDICTION OR BY CONTRACTING WITH OTHER ENTITIES TO PROVIDE TESTING.

(2) (I) FOR FISCAL YEARS 2021 AND 2022 AND IN ADDITION TO ANY FUNDING PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL PROVIDE FUNDING TO LOCAL JURISDICTIONS THAT ELECT TO ESTABLISH AND IMPLEMENT A PROGRAM FOR COVID-19 CONTACT TRACING THAT IS INDEPENDENT FROM THE CONTACT TRACING PROGRAM PERFORMED BY THE STATE OR THE ENTITY WITH WHOM THE STATE HAS CONTRACTED TO PERFORM CONTACT TRACING FOR THE STATE.

(II) THE AMOUNT OF FUNDING PROVIDED TO A LOCAL JURISDICTION FOR COVID-19 CONTACT TRACING UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE EQUIVALENT TO THE COST PER CASE AMOUNT PROVIDED TO THE ENTITY WITH WHOM THE STATE HAS CONTRACTED TO PERFORM CONTACT TRACING FOR THE STATE.

(3) (I) FOR FISCAL YEARS 2021 AND 2022, THE DEPARTMENT SHALL PROVIDE \$15,000,000 EACH YEAR IN GRANTS TO LOCAL JURISDICTIONS TO VACCINATE RESIDENTS OF THE LOCAL JURISDICTION AGAINST COVID-19.

(II) GRANT FUNDING PROVIDED FOR COVID-19 VACCINATION UNDER THIS SUBSECTION SHALL BE DIVIDED BETWEEN LOCAL JURISDICTIONS IN PROPORTION TO THEIR RESPECTIVE POPULATIONS.

(III) THE DEPARTMENT SHALL PROVIDE ADDITIONAL GRANT FUNDING TO A LOCAL JURISDICTION TO SUPPLEMENT THE GRANT FUNDING ALLOCATED TO THE LOCAL JURISDICTION UNDER SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH IF THE DEPARTMENT DETERMINES THAT THE INITIAL ALLOCATION OF GRANT FUNDING IS NOT SUFFICIENT TO MEET THE COVID-19 VACCINATION NEEDS OF THE LOCAL JURISDICTION.

(4) ~~(I)~~ THE DEPARTMENT ~~SHALL FIRST~~ MAY USE ONLY FEDERAL FUNDING ALLOCATED TO THE STATE UNDER THE CORONAVIRUS RESPONSE AND RELIEF SUPPLEMENTAL APPROPRIATIONS ACT AND ANY OTHER FEDERAL LEGISLATION ENACTED IN CALENDAR YEARS 2020 THROUGH 2022 TO PROVIDE FUNDING REQUIRED UNDER THIS SECTION.

~~(II) IF THE FEDERAL FUNDING SPECIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT SUFFICIENTLY PROVIDE THE FUNDS REQUIRED UNDER THIS SECTION, GENERAL FUNDS SHALL BE USED TO SUPPLEMENT THE FEDERAL FUNDING.~~

~~(F)~~ ~~(G)~~ (F) (1) TO THE EXTENT PRACTICABLE, THE DEPARTMENT SHALL PROVIDE UP TO \$9,000,000 IN FISCAL YEAR 2021 AND \$36,000,000 IN FISCAL YEAR 2022 IN GRANT FUNDING TO ASSISTED LIVING PROGRAMS AND HOME HEALTH AGENCIES IN CALENDAR YEAR 2021 TO COVER THE COST OF COVID-19 TESTING FOR RESIDENTS, PATIENTS, AND STAFF.

(2) ~~IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE DEPARTMENT:~~

~~(I) FIRST THE DEPARTMENT MAY USE ONLY FEDERAL FUNDING ALLOCATED TO THE STATE UNDER THE CORONAVIRUS RESPONSE AND RELIEF SUPPLEMENTAL APPROPRIATIONS ACT AND ANY OTHER FEDERAL LEGISLATION ENACTED IN CALENDAR YEARS 2020 THROUGH 2022 TO PROVIDE FUNDING REQUIRED UNDER THE SUBSECTION; AND.~~

~~(II) IF THE FEDERAL FUNDING SPECIFIED UNDER ITEM (I) OF THIS PARAGRAPH DOES NOT SUFFICIENTLY PROVIDE THE FUNDS NEEDED UNDER THIS SUBSECTION, USE GENERAL FUNDS TO SUPPLEMENT THE FEDERAL FUNDING.~~

18-9A-03.

(A) (1) ON OR BEFORE ~~APRIL 1, 2021~~ JUNE 1, 2021, THE DEPARTMENT, WITH INPUT FROM SUBJECT MATTER EXPERTS AND OTHER RELEVANT STAKEHOLDERS, SHALL DEVELOP AND SUBMIT TO THE GENERAL ASSEMBLY A

COMPREHENSIVE PLAN FOR VACCINATING RESIDENTS OF THE STATE AGAINST COVID-19.

(2) THE PLAN REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

(I) DETAILED INFORMATION ON:

1. THE CATEGORIES OF RESIDENTS OF THE STATE WHO WILL RECEIVE PRIORITY ACCESS TO VACCINES FOR COVID-19;

2. THE TIMELINE FOR PROVIDING VACCINES FOR COVID-19 TO RESIDENTS IN EACH OF THE PRIORITY CATEGORIES AND TO MEMBERS OF THE GENERAL PUBLIC WHO ARE NOT INCLUDED IN PRIORITY CATEGORIES; AND

3. TARGET METRICS FOR VACCINATING RESIDENTS IN EACH OF THE PRIORITY CATEGORIES AND FOR MEMBERS OF THE GENERAL PUBLIC WHO ARE NOT INCLUDED IN PRIORITY CATEGORIES; ~~AND~~

(II) A DEDICATION OF TIME AND RESOURCES TO TARGET VACCINE DISTRIBUTION AND VACCINE SAFETY OUTREACH EFFORTS TO COMMUNITIES THAT HAVE BEEN DISPROPORTIONATELY IMPACTED BY COVID-19 INFECTION, MORBIDITY, AND MORTALITY;

(III) A VACCINE DISTRIBUTION STRATEGY THAT ALLOCATES RESOURCES AND VACCINES ACROSS ALL PARTNERS AND VACCINATION SITES IN AN EQUITABLE MANNER THAT ENSURES THAT THE VACCINE ALLOCATION BY JURISDICTION ACCOUNTS FOR THE DISPROPORTIONATE IMPACT OF THE COVID-19 PANDEMIC ON UNDERSERVED AND MINORITY COMMUNITIES; AND

~~(IV) 1. IF PRACTICABLE, THE DEVELOPMENT OF A SINGLE PORTAL FOR RESIDENTS OF THE STATE TO SIGN UP TO RECEIVE A VACCINE; AND~~

~~2. IF NOT PRACTICABLE, AN EXPLANATION OF WHY THE SINGLE PORTAL DESCRIBED UNDER ITEM 1 OF THIS ITEM IS NOT POSSIBLE.~~

(IV) A STRATEGY FOR OUTREACH AND DISTRIBUTION OF VACCINES TO INDIVIDUALS WHO ARE NOT RECEIVING THE VACCINE, DUE TO EITHER LACK OF ACCESS OR VACCINE HESITANCY.

(B) AFTER SUBMITTING THE COVID-19 VACCINE PLAN TO THE GENERAL ASSEMBLY AS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT SHALL PROVIDE WEEKLY PROGRESS REPORTS ON IMPLEMENTATION

OF THE COVID-19 VACCINE PLAN TO THE GENERAL ASSEMBLY FOR THE DURATION OF CALENDAR YEAR 2021.

(C) THE COVID-19 VACCINE PLAN AND PROGRESS REPORTS REQUIRED UNDER THIS SECTION SHALL BE SUBMITTED TO THE GENERAL ASSEMBLY IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE.

18-9A-04.

(A) THE DEPARTMENT SHALL CONVENE A MARYLAND PUBLIC HEALTH ~~INFRASTRUCTURE~~ MODERNIZATION WORKGROUP.

(B) THE WORKGROUP SHALL INCLUDE: REPRESENTATIVES OF THE DEPARTMENT, LOCAL HEALTH DEPARTMENTS, SUBJECT MATTER EXPERTS, AND ANY OTHER RELEVANT STAKEHOLDERS.

~~(1) TWO MEMBERS OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;~~

~~(2) TWO MEMBERS OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE; AND~~

~~(3) A REPRESENTATIVE FROM THE DEPARTMENT OF BUDGET AND MANAGEMENT; AND~~

~~(3) (4) REPRESENTATIVES OF THE DEPARTMENT, LOCAL HEALTH DEPARTMENTS, SUBJECT MATTER EXPERTS, AND ANY OTHER RELEVANT STAKEHOLDERS.~~

(C) THE WORKGROUP SHALL:

(1) ASSESS THE CURRENT PUBLIC HEALTH INFRASTRUCTURE AND RESOURCES IN THE STATE; ~~AND~~

(2) MAKE RECOMMENDATIONS FOR HOW TO ESTABLISH A MODERN AND EFFECTIVE PUBLIC HEALTH SYSTEM WITH A CAPACITY TO ~~MONITOR~~;

(I) MONITOR, PREVENT, CONTROL, AND MITIGATE THE SPREAD OF INFECTIOUS DISEASE; AND

(II) ACHIEVE STATE HEALTH IMPROVEMENT PROCESS GOALS;

(3) MAKE RECOMMENDATIONS REGARDING THE ESTABLISHMENT OF A MARYLAND PUBLIC HEALTH JOBS CORPS TO RESPOND TO THE OUTBREAK OF COVID-19 OR SIMILAR OUTBREAKS; AND

(4) CONSIDER, WHERE APPROPRIATE, THE USE OF FEDERAL FUNDS TO IMPLEMENT ANY RECOMMENDATIONS MADE UNDER THIS SUBSECTION.

(D) ON OR BEFORE DECEMBER 1, 2021, THE DEPARTMENT SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THAT INCLUDES THE FINDINGS AND RECOMMENDATIONS OF THE WORKGROUP ESTABLISHED UNDER THIS SECTION.

Chapter 365 of the Acts of 2020

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect [July 1, 2021] JANUARY 1, 2022.

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

Article – Education

SUBTITLE 17. COVID-19 TESTING PLAN.

11-1701.

(A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “COVID-19” MEANS, INTERCHANGEABLY AND COLLECTIVELY, THE CORONAVIRUS KNOWN AS COVID-19 OR 2019-nCoV AND THE SARS-CoV-2 VIRUS.

(C) “COVID-19 TEST” MEANS ~~A FEDERAL FOOD AND DRUG ADMINISTRATION APPROVED MOLECULAR POLYMERASE CHAIN REACTION (PCR) TEST OR AN ANTIGEN TEST FOR THE DETECTION OR DIAGNOSIS OF COVID-19~~ AN IN VITRO DIAGNOSTIC TEST FOR THE DETECTION OF SARS-CoV-2 OR THE DIAGNOSIS OF THE VIRUS THAT CAUSES COVID-19, AS DESCRIBED IN § 3201 OF THE FEDERAL CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT.

11-1702.

(A) ~~FOR CALENDAR YEAR 2021, AN INSTITUTION OF HIGHER EDUCATION THAT HAS RESIDENCE HALLS FOR STUDENTS SHALL ADOPT AND IMPLEMENT A COVID-19 TESTING PLAN TO MONITOR, PREVENT, AND MITIGATE THE SPREAD OF COVID-19 AMONG STUDENTS AND STAFF AT THE INSTITUTION OF HIGHER EDUCATION~~ ESTABLISH A COVID-19 SECURITY PLAN THAT INCLUDES BOTH SCREENING AND TESTING PROCEDURES THAT WILL KEEP STUDENTS, FACULTY, AND STAFF SAFE WHILE ON CAMPUS FOR FACE-TO-FACE INSTRUCTION DURING THE PANDEMIC.

(B) ~~THE COVID-19 TESTING PLAN REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE A REQUIREMENT THAT ANY STUDENT OF THE INSTITUTION OF HIGHER EDUCATION BE TESTED FOR COVID-19 AND PROVIDE TO THE INSTITUTION OF HIGHER EDUCATION CONFIRMATION OF A NEGATIVE COVID-19 TEST RESULT BEFORE:~~

~~(1) COMMENCING IN PERSON CLASS ATTENDANCE AT THE INSTITUTION OF HIGHER EDUCATION; OR~~

~~(2) RETURNING TO THE CAMPUS OF THE INSTITUTION OF HIGHER EDUCATION TO RESIDE IN HOUSING OWNED BY THE INSTITUTION OF HIGHER EDUCATION~~ BE POSTED ON THE WEBSITE OF THE INSTITUTION OF HIGHER EDUCATION AND MADE AVAILABLE TO THE PUBLIC.

Article – Health – General

16-201.5.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “PROVIDER” MEANS A PROVIDER OF NURSING HOME SERVICES.

(3) “RATE” MEANS THE REIMBURSEMENT RATE PAID BY THE DEPARTMENT TO PROVIDERS OF NURSING HOME SERVICES FROM THE GENERAL FUND OF THE STATE, MARYLAND MEDICAL ASSISTANCE PROGRAM FUNDS, OTHER STATE OR FEDERAL FUNDS, OR A COMBINATION OF THESE FUNDS.

(B) (1) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT:

~~(1) THE~~ THE GOVERNOR INCLUDE ADDITIONAL FUNDING IN THE BUDGET OF UP TO \$5,500,000 IN FISCAL YEAR 2021 AND \$22,000,000 IN FISCAL YEAR 2022 TO COVER THE COST OF COVID-19 TESTING OF NURSING HOME STAFF AND RESIDENTS DURING CALENDAR YEAR 2021;~~AND.~~

(2) ~~THE ADDITIONAL FUNDING PROVIDED UNDER ITEM PARAGRAPH~~ (1) OF THIS SUBSECTION SHALL BE IN ADDITION TO ANY OTHER PROVIDER RATE INCREASES INCLUDED IN THE BUDGET FOR FISCAL YEARS 2021 AND 2022.

(3) ANY FUNDING PROVIDED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION SHALL CONSIST ONLY OF FEDERAL FUNDING ALLOCATED TO THE STATE UNDER THE CORONAVIRUS RESPONSE AND RELIEF SUPPLEMENTAL APPROPRIATIONS ACT AND ANY OTHER FEDERAL LEGISLATION ENACTED IN CALENDAR YEARS 2020 THROUGH 2022 TO PROVIDE FUNDING REQUIRED UNDER THIS SUBSECTION.

19-411.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “COVID-19” MEANS, INTERCHANGEABLY AND COLLECTIVELY, THE CORONAVIRUS KNOWN AS COVID-19 OR 2019-nCoV AND THE SARS-CoV-2 VIRUS.

(3) “COVID-19 TEST” MEANS ~~A FEDERAL FOOD AND DRUG ADMINISTRATION APPROVED MOLECULAR POLYMERASE CHAIN REACTION (PCR) TEST OR AN ANTIGEN TEST FOR THE DETECTION OR DIAGNOSIS OF COVID-19~~ AN IN VITRO DIAGNOSTIC TEST FOR THE DETECTION OF SARS-CoV-2 OR THE DIAGNOSIS OF THE VIRUS THAT CAUSES COVID-19, AS DESCRIBED IN § 3201 OF THE FEDERAL CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT.

(B) FOR CALENDAR YEARS 2021 AND 2022, A HOME HEALTH AGENCY SHALL ADOPT AND IMPLEMENT A COVID-19 TESTING INFECTION CONTROL AND PREVENTION PLAN FOR PATIENTS AND STAFF WHO PROVIDE HOME HEALTH CARE SERVICES TO PATIENTS OF THE HOME HEALTH AGENCY.

(C) (1) ~~THE COVID-19 TESTING PLAN SHALL ENSURE~~ PLAN REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SHALL:

(I) BE ADOPTED AND IMPLEMENTED IN ACCORDANCE WITH ANY APPLICABLE FEDERAL ORDERS AND GUIDANCE; AND

(II) ENSURE THAT PATIENTS AND STAFF WHO PROVIDE HOME HEALTH CARE SERVICES TO PATIENTS OF THE HOME HEALTH AGENCY ARE TESTED SCREENED FOR COVID-19 ON A REGULAR BASIS AND AT A FREQUENCY THAT IS

~~SUFFICIENT TO TESTED OR REFERRED FOR TESTING FOR COVID-19, IF REQUIRED OR RECOMMENDED UNDER APPLICABLE FEDERAL ORDERS OR GUIDANCE, TO CONTROL AND PREVENT THE SPREAD OF COVID-19 AMONG STAFF AND PATIENTS OF THE HOME HEALTH AGENCY.~~

(2) THE SCREENING REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE REPORTING TO THE HOME HEALTH AGENCY OF ANY:

(I) SYMPTOMS RELATED TO COVID-19 EXPERIENCED BY PATIENTS AND STAFF; AND

(II) KNOWN EXPOSURES OF PATIENTS AND STAFF TO INDIVIDUALS WHO HAVE BEEN DIAGNOSED WITH COVID-19.

~~(D) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT SET STANDARDS FOR A COVID-19 TESTING PLAN REQUIRED UNDER THIS SECTION.~~

~~(2) THE STANDARDS SET BY THE DEPARTMENT UNDER THIS SUBSECTION SHALL:~~

~~(I) BE GUIDED BY APPLICABLE FEDERAL ORDERS AND POLICIES; AND~~

~~(II) INCLUDE REQUIREMENTS FOR TESTING FREQUENCY THAT ARE REASONABLY RELATED TO THE COVID-19 TESTING POSITIVITY RATE IN THE LOCAL JURISDICTION IN WHICH THE HOME HEALTH CARE SERVICES ARE PROVIDED TO PATIENTS.~~

(D) A HOME HEALTH AGENCY SHALL PROVIDE THE PLAN REQUIRED UNDER SUBSECTION (B) OF THIS SECTION TO:

(1) PATIENTS AND STAFF; AND

(2) MEMBERS OF THE PUBLIC ON REQUEST.

SUBTITLE 14C. COVID-19 TESTING PLAN.

19-14C-01.

(A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “COVID-19” MEANS, INTERCHANGEABLY AND COLLECTIVELY, THE CORONAVIRUS KNOWN AS COVID-19 OR 2019-nCoV AND THE SARS-CoV-2 VIRUS.

(C) “COVID-19 TEST” MEANS ~~A FEDERAL FOOD AND DRUG ADMINISTRATION APPROVED MOLECULAR POLYMERASE CHAIN REACTION (PCR) TEST OR AN ANTIGEN TEST FOR THE DETECTION OR DIAGNOSIS OF COVID-19~~ AN IN VITRO DIAGNOSTIC TEST FOR THE DETECTION OF SARS-CoV-2 OR THE DIAGNOSIS OF THE VIRUS THAT CAUSES COVID-19, AS DESCRIBED IN § 3201 OF THE FEDERAL CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT.

19-14C-02.

(A) FOR CALENDAR YEARS 2021 AND 2022, A NURSING HOME SHALL ADOPT AND IMPLEMENT A COVID-19 TESTING PLAN FOR RESIDENTS OF THE NURSING HOME AND STAFF WHO PROVIDE SERVICES TO RESIDENTS OF THE NURSING HOME.

(B) THE COVID-19 TESTING PLAN SHALL ENSURE THAT RESIDENTS AND STAFF ARE TESTED FOR COVID-19 ON A REGULAR BASIS AND AT A FREQUENCY THAT IS SUFFICIENT TO PREVENT THE SPREAD OF COVID-19 AMONG RESIDENTS AND STAFF OF THE NURSING HOME.

(C) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT SET STANDARDS FOR A COVID-19 TESTING PLAN REQUIRED UNDER THIS SECTION.

(2) THE STANDARDS SET BY THE DEPARTMENT UNDER THIS SUBSECTION SHALL:

(I) BE GUIDED BY APPLICABLE FEDERAL ORDERS AND POLICIES; AND

(II) INCLUDE REQUIREMENTS FOR TESTING FREQUENCY THAT ARE REASONABLY RELATED TO THE COVID-19 TESTING POSITIVITY RATE IN THE LOCAL JURISDICTION IN WHICH A NURSING HOME IS LOCATED.

19-1814.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “COVID-19” MEANS, INTERCHANGEABLY AND COLLECTIVELY, THE CORONAVIRUS KNOWN AS COVID-19 OR 2019-nCoV AND THE SARS-CoV-2 VIRUS.

(3) “COVID-19 TEST” MEANS ~~A FEDERAL FOOD AND DRUG ADMINISTRATION APPROVED MOLECULAR POLYMERASE CHAIN REACTION (PCR) TEST OR AN ANTIGEN TEST FOR THE DETECTION OR DIAGNOSIS OF COVID-19~~ AN IN VITRO DIAGNOSTIC TEST FOR THE DETECTION OF SARS-CoV-2 OR THE DIAGNOSIS OF THE VIRUS THAT CAUSES COVID-19, AS DESCRIBED IN § 3201 OF THE FEDERAL CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT.

(B) FOR CALENDAR YEARS 2021 AND 2022, AN ASSISTED LIVING PROGRAM SHALL ADOPT AND IMPLEMENT A COVID-19 TESTING PLAN FOR RESIDENTS OF THE ASSISTED LIVING PROGRAM AND STAFF WHO PROVIDE SERVICES TO RESIDENTS OF THE ASSISTED LIVING PROGRAM.

(C) THE COVID-19 TESTING PLAN SHALL ENSURE THAT RESIDENTS AND STAFF ARE TESTED FOR COVID-19 ON A REGULAR BASIS AND AT A FREQUENCY THAT IS SUFFICIENT TO PREVENT THE SPREAD OF COVID-19 AMONG RESIDENTS AND STAFF OF THE ASSISTED LIVING PROGRAM.

(D) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT SET STANDARDS FOR A COVID-19 TESTING PLAN REQUIRED UNDER THIS SECTION.

(2) THE STANDARDS SET BY THE DEPARTMENT UNDER THIS SUBSECTION SHALL:

(I) BE GUIDED BY APPLICABLE FEDERAL ORDERS AND POLICIES; AND

(II) INCLUDE REQUIREMENTS FOR TESTING FREQUENCY THAT ARE REASONABLY RELATED TO THE COVID-19 TESTING POSITIVITY RATE IN THE LOCAL JURISDICTION IN WHICH AN ASSISTED LIVING PROGRAM IS LOCATED.

Article – Insurance

15-856.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “COVID-19” MEANS, INTERCHANGEABLY AND COLLECTIVELY, THE CORONAVIRUS KNOWN AS COVID-19 OR 2019-nCoV AND THE SARS-CoV-2 VIRUS.

(3) (I) ~~“COVID-19 TEST” MEANS A FEDERAL FOOD AND DRUG ADMINISTRATION APPROVED MOLECULAR POLYMERASE CHAIN REACTION (PCR) TEST OR AN ANTIGEN TEST FOR THE DETECTION OR DIAGNOSIS OF COVID-19 AN~~ IN VITRO DIAGNOSTIC TEST FOR THE DETECTION OF SARS-CoV-2 OR THE DIAGNOSIS OF THE VIRUS THAT CAUSES COVID-19, AS DESCRIBED IN § 3201 OF THE FEDERAL CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT.

(II) “COVID-19 TEST” INCLUDES A FEDERAL FOOD AND DRUG ADMINISTRATION-APPROVED, CLEARED, OR AUTHORIZED RAPID POINT-OF-CARE TEST AND AN AT-HOME COLLECTION TEST FOR THE DETECTION OR DIAGNOSIS OF COVID-19.

(4) “HEALTH BENEFIT PLAN”:

(I) FOR A SMALL EMPLOYER PLAN, HAS THE MEANING STATED IN § 15-1201 OF THIS TITLE; AND

(II) FOR AN INDIVIDUAL PLAN, HAS THE MEANING STATED IN § 15-1301 OF THIS TITLE.

~~(4)~~ (5) (I) “MEMBER” MEANS AN INDIVIDUAL ENTITLED TO HEALTH CARE BENEFITS UNDER A POLICY ISSUED OR DELIVERED IN THE STATE BY AN ENTITY SUBJECT TO THIS SECTION.

(II) “MEMBER” INCLUDES A SUBSCRIBER.

(B) (1) THIS SECTION APPLIES TO:

~~(1)~~ (I) INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT PROVIDE HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS ON AN EXPENSE-INCURRED BASIS UNDER HEALTH INSURANCE POLICIES OR CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE; AND

~~(2)~~ (II) HEALTH MAINTENANCE ORGANIZATIONS THAT PROVIDE HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS UNDER CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE.

(2) THIS SECTION APPLIES TO EACH INDIVIDUAL AND SMALL EMPLOYER HEALTH BENEFIT PLAN THAT IS ISSUED OR DELIVERED IN THE STATE BY AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION, IRRESPECTIVE OF §§ 15-1207(D) AND 31-116 OF THIS ARTICLE.

(C) ~~(1)~~ AN ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE COVERAGE FOR COVID-19 TESTS AND ~~ASSOCIATED COSTS~~ RELATED ITEMS AND SERVICES FOR THE ADMINISTRATION OF COVID-19 TESTS, INCLUDING FACILITY FEES, HEALTH CARE PRACTITIONER FEES, AND EVALUATION OF THE MEMBER FOR PURPOSES OF DETERMINING THE NEED FOR THE COVID-19 TEST, AS REQUIRED BY THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT, THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT, AND ANY APPLICABLE FEDERAL REGULATIONS OR GUIDANCE.

~~(2) THE COVERAGE REQUIRED UNDER THIS SECTION SHALL BE PROVIDED FOR A COVID-19 TEST:~~

~~(1) 1. PRIMARILY INTENDED FOR INDIVIDUALIZED DIAGNOSIS OR TREATMENT OF COVID-19 FOR THE MEMBER; OR~~

~~2. TO KEEP THE MEMBER OR OTHERS WITH WHOM THE MEMBER IS OR MAY BE IN FUTURE CONTACT FROM POTENTIAL EXPOSURE TO COVID-19; AND~~

~~(H) REGARDLESS OF WHETHER THE MEMBER HAS SIGNS OR SYMPTOMS COMPATIBLE WITH COVID-19 OR A SUSPECTED RECENT EXPOSURE TO COVID-19 IF THE TESTING IS PERFORMED FOR A PURPOSE SPECIFIED UNDER ITEM (1) OF THIS PARAGRAPH.~~

~~(3) AN ENTITY SUBJECT TO THIS SECTION MAY NOT REQUIRE A MEMBER TO OBTAIN A DETERMINATION FROM A HEALTH CARE PROVIDER THAT A COVID-19 TEST IS MEDICALLY APPROPRIATE FOR THE MEMBER AS A CONDITION FOR THE COVERAGE REQUIRED UNDER THIS SECTION.~~

~~(4) (D)~~ AN ENTITY SUBJECT TO THIS SECTION MAY NOT APPLY A COPAYMENT, COINSURANCE REQUIREMENT, OR DEDUCTIBLE TO ~~THE COVERAGE REQUIRED UNDER THIS SECTION~~ COVERAGE FOR COVID-19 TESTS AND RELATED ITEMS AND SERVICES FOR THE ADMINISTRATION OF COVID-19 TESTS.

SECTION 3. AND BE IT FURTHER ENACTED, That any funding appropriated for the implementation of this Act may consist only of federal funding allocated to the State under the federal Coronavirus Response and Relief Supplemental Appropriations Act and any other federal legislation enacted in calendar years 2020 through 2022. Any federal funding appropriated under this Act for vaccine distribution, testing, or contact tracing shall

be limited to funding specifically allocated for those purposes under the Coronavirus Aid, Relief, and Economic Security Act, the Consolidated Appropriations Act, or the American Rescue Plan Act of 2021 except to the extent other funding is provided for these purposes by the Governor.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after the effective date of this Act.

SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. Section 2 of this Act shall remain effective through December 31, 2022, and, at the end of December 31, 2022, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

May 28, 2021

The Honorable Bill Ferguson
President of the Maryland Senate
H-107 State House
Annapolis, MD 21401

The Honorable Adrienne A. Jones
Speaker of the Maryland House of Delegates
H-101 State House
Annapolis, MD 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 9 – *State Employees – Collective Bargaining – Applicability, Bargaining Processes, and Memorandums of Understanding*, Senate Bill 717/House Bill 904 – *State Personnel – Collective Bargaining – Exclusive Representative Access to New Employees*, and Senate Bill 746/House Bill 894 – *Education – Community Colleges – Collective Bargaining*. These pieces of legislation seek to address problems that do not exist and change labor practices that have worked for decades, while creating several burdensome fiscal and operational hardships.

Senate Bill 9 – State Employees – Collective Bargaining – Applicability, Bargaining Processes, and Memorandums of Understanding

This legislation revokes the legislative authority of the twelve institution presidents to designate a representative to negotiate on behalf of their institution and assigns this role to the University System of Maryland Chancellor. This new process will give labor unions the authority to veto the institution president's right to negotiate matters. The consolidated bargaining required under this legislation will likely disadvantage the University System of Maryland's smaller institutions that have fewer financial resources, including the System's Historically Black Colleges and Universities.

Additionally, other issues will arise because each institution has its own distinct mission, and they vary by size, budget, research category, geographic location, labor market, and proportion of employees represented in collective bargaining.

Senate Bill 717 and House Bill 904 – State Personnel – Collective Bargaining – Exclusive Representative Access to New Employees

This legislation would significantly expand a union's initial access to new employees by requiring University System of Maryland Institutions to transmit a new employee's name, unit, and all employee identification to the union president. In addition to being unacceptably invasive to employees, this practice could result in an employee being at a higher risk for identity theft.

Senate Bill 746 and House Bill 894 – Education – Community Colleges – Collective Bargaining

This legislation establishes a uniform statewide collective bargaining process for Community College employees at a time when Community Colleges across the state are still facing challenges from the COVID-19 pandemic. The extra expenses associated with collective bargaining will put a severe strain on counties and the budgets of community colleges, most likely leading to increased tuition costs at a time when affordable training and education opportunities are needed the most.

The time is simply not right for the implementation of these pieces of legislation that will harm students, employees, and institutions of higher education in Maryland.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 746

AN ACT concerning

Education – Community Colleges – Collective Bargaining

FOR the purpose of establishing collective bargaining rights for certain community college employees; establishing procedures for the election and certification of an exclusive

representative of a bargaining unit; specifying a certain time frame to submit a certain petition and conduct a certain election under certain circumstances; providing procedures by which the State Higher Education Labor Relations Board may designate a bargaining unit; establishing a cap on the number of bargaining units that may be at each community college; specifying the composition of certain bargaining units that may be at each community college; prohibiting the Board from requiring that certain bargaining units conform to certain requirements under certain circumstances; requiring that certain petitions include certain showing of interest forms; providing that certain showing of interest forms are valid under certain circumstances; requiring a public employer to provide to the Board and an employee organization a certain list within a certain time period; requiring a community college to allow certain employees and employee organizations to access certain property and facilities for a certain purpose; prohibiting a community college from limiting the amount of time a public employee has access to certain property or altering or revising certain rules or regulations for a certain purpose; requiring certain collective bargaining agreements to include certain provisions; establishing procedures for providing an exclusive representative with certain new employee information and processing; establishing the matters subject to collective bargaining negotiations; establishing procedures for authorization and certification of the deduction of dues; establishing the matters subject to collective bargaining negotiations; providing for certain rights and responsibilities in connection with the collective bargaining process; requiring the Governor to include certain amounts in the annual budget bill for a certain purpose; authorizing certain parties to engage in mediation and fact-finding under certain circumstances and providing for fact-finding procedures; providing for the settlement of certain grievances; prohibiting certain public employees and exclusive bargaining representatives from engaging in a strike and providing sanctions for engaging in a strike; requiring the parties to collective bargaining negotiations to make certain efforts to conclude negotiations by a certain time; authorizing a collective bargaining agreement to include a provision for the arbitration of certain grievances; requiring that the terms of a collective bargaining agreement supersede certain regulations and policies; providing that a collective bargaining agreement may be reopened under certain circumstances; repealing certain provisions of law relating to collective bargaining rights that apply to individual community colleges; altering the scope of duty of the Board to include administering and enforcing provisions of this Act; providing for the disclosure of certain employee information; requiring that certain community colleges continue to operate under certain agreements and contracts under certain circumstances for a certain period of time; providing that the exclusive representative of a certain bargaining unit maintains certification under certain circumstances; requiring that certain community colleges be subject to certain rules and regulations under certain circumstances; requiring certain impasses to be resolved under certain procedures; stating the intent of the General Assembly that the State promote certain relationships with certain employees of the community college system in a certain manner; authorizing the Board to adopt certain regulations and to make a certain delegation and assignment of responsibilities and obligations; requiring the Board to adopt certain regulations; prohibiting the Board from adopting certain rules; defining certain terms; providing for the application of

this Act; providing for the construction of this Act; providing for a delayed effective date; and generally relating to collective bargaining rights for community college employees.

BY repealing

Article – Education

Section 16–403, 16–412, and 16–414.1

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

BY adding to

Article – Education

Section 16–701 through 16–715 to be under the new subtitle “Subtitle 7. Collective Bargaining”

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, without amendments,

Article – State Personnel and Pensions

Section 3–2A–01

Annotated Code of Maryland

(2015 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions

Section 3–2A–05, 3–2A–07, and 3–2A–08(a)

Annotated Code of Maryland

(2015 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 16–403, 16–412, and 16–414.1 of Article – Education of the Annotated Code of Maryland be repealed.

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

Article – Education

SUBTITLE 7. COLLECTIVE BARGAINING.

16–701.

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

(B) “AGREEMENT” MEANS A WRITTEN CONTRACT BETWEEN A PUBLIC EMPLOYER AND AN EMPLOYEE ORGANIZATION.

(C) “ARBITRATION” MEANS A PROCEDURE BY WHICH PARTIES INVOLVED IN A GRIEVANCE SUBMIT THEIR DIFFERENCES TO AN IMPARTIAL THIRD PARTY FOR A FINAL AND BINDING DECISION.

(D) “BOARD” MEANS THE STATE HIGHER EDUCATION LABOR RELATIONS BOARD.

(E) “COLLECTIVE BARGAINING” HAS THE MEANING STATED IN § 3-101(C) OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(F) “CONFIDENTIAL EMPLOYEE” MEANS A PUBLIC EMPLOYEE WHOSE UNRESTRICTED ACCESS TO PERSONNEL, BUDGETARY, OR FISCAL DATA SUBJECT TO USE BY THE PUBLIC EMPLOYER IN COLLECTIVE BARGAINING, OR WHOSE CLOSE, CONTINUING WORKING RELATIONSHIP WITH THOSE RESPONSIBLE FOR NEGOTIATING ON BEHALF OF THE PUBLIC EMPLOYER, WOULD MAKE THE EMPLOYEE’S MEMBERSHIP IN AN EMPLOYEE ORGANIZATION AS A RANK AND FILE EMPLOYEE INCOMPATIBLE WITH THE EMPLOYEE’S DUTIES.

(G) “EMPLOYEE ORGANIZATION” MEANS A LABOR ORGANIZATION OF PUBLIC EMPLOYEES THAT HAS AS ONE OF ITS PRIMARY PURPOSES REPRESENTING THOSE EMPLOYEES IN COLLECTIVE BARGAINING.

(H) “EXCLUSIVE REPRESENTATIVE” MEANS AN EMPLOYEE ORGANIZATION THAT HAS BEEN CERTIFIED BY THE BOARD AS REPRESENTING THE EMPLOYEES OF A BARGAINING UNIT.

(I) “FACT-FINDING” MEANS A PROCESS CONDUCTED BY THE BOARD THAT INCLUDES:

(1) THE IDENTIFICATION OF THE MAJOR ISSUES IN AN IMPASSE;

(2) THE REVIEW OF THE POSITIONS OF THE PARTIES; AND

(3) A RESOLUTION OF FACTUAL DIFFERENCES BY AN IMPARTIAL INDIVIDUAL OR PANEL.

(J) (1) “FACULTY” MEANS EMPLOYEES WHOSE ASSIGNMENTS INVOLVE ACADEMIC RESPONSIBILITIES, INCLUDING TEACHERS AND DEPARTMENT HEADS.

(2) “FACULTY” DOES NOT INCLUDE OFFICERS, SUPERVISORY EMPLOYEES, CONFIDENTIAL EMPLOYEES, PART-TIME FACULTY, OR STUDENT ASSISTANTS.

(K) “GRIEVANCE” MEANS A DISPUTE CONCERNING THE APPLICATION OR INTERPRETATION OF THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT.

(L) “IMPASSE” MEANS A FAILURE BY A PUBLIC EMPLOYER AND AN EXCLUSIVE REPRESENTATIVE TO ACHIEVE AGREEMENT IN THE COURSE OF NEGOTIATIONS.

(M) “OFFICER” MEANS THE PRESIDENT, A VICE PRESIDENT, A DEAN, OR ANY OTHER SIMILAR OFFICIAL OF THE COMMUNITY COLLEGE AS APPOINTED BY THE BOARD OF COMMUNITY COLLEGE TRUSTEES.

(N) “PART-TIME FACULTY” MEANS EMPLOYEES WHOSE ASSIGNMENTS INVOLVE ACADEMIC RESPONSIBILITIES, INCLUDING TEACHERS, COUNSELORS, AND DEPARTMENT HEADS, WHO ARE DESIGNATED WITH PART-TIME FACULTY STATUS BY THE PRESIDENT OF THE COMMUNITY COLLEGE.

(O) (1) “PUBLIC EMPLOYEE” MEANS AN EMPLOYEE EMPLOYED BY A PUBLIC EMPLOYER.

(2) “PUBLIC EMPLOYEE” INCLUDES FACULTY AND PART-TIME FACULTY AT THE BALTIMORE CITY COMMUNITY COLLEGE.

(3) “PUBLIC EMPLOYEE” DOES NOT INCLUDE:

(I) OFFICERS;

(II) SUPERVISORY OR CONFIDENTIAL EMPLOYEES; OR

(III) STUDENT ASSISTANTS.

(P) (1) “PUBLIC EMPLOYER” MEANS THE BOARD OF COMMUNITY COLLEGE TRUSTEES FOR A COMMUNITY COLLEGE.

(2) “PUBLIC EMPLOYER” INCLUDES THE BOARD OF TRUSTEES OF BALTIMORE CITY COMMUNITY COLLEGE FOR THE PURPOSES OF COLLECTIVE BARGAINING WITH FACULTY AND PART-TIME FACULTY.

(Q) (1) “SHOWING OF INTEREST FORM” MEANS A WRITTEN STATEMENT FROM A PUBLIC EMPLOYEE WHO WISHES TO BE REPRESENTED BY A PETITIONING EMPLOYEE ORGANIZATION FOR THE PURPOSE OF COLLECTIVE BARGAINING.

(2) “SHOWING OF INTEREST FORM” INCLUDES A:

(I) A UNION AUTHORIZATION CARD; AND

(II) A UNION MEMBERSHIP CARD.

(R) “STRIKE” MEANS, IN CONCERTED ACTION WITH OTHERS FOR THE PURPOSE OF INDUCING, INFLUENCING, OR COERCING A CHANGE IN THE WAGES, HOURS, OR OTHER TERMS AND CONDITIONS OF EMPLOYMENT, A PUBLIC EMPLOYEE’S:

(1) REFUSAL TO REPORT FOR DUTY;

(2) WILLFUL ABSENCE FROM THE POSITION;

(3) STOPPAGE OF WORK; OR

(4) ABSTINENCE IN WHOLE OR IN PART FROM THE PROPER PERFORMANCE OF THE DUTIES OF EMPLOYMENT.

(S) “SUPERVISORY EMPLOYEE” MEANS A PUBLIC EMPLOYEE WHO HAS FULL-TIME AND EXCLUSIVE AUTHORITY TO ACT ON BEHALF OF A PUBLIC EMPLOYER TO:

(1) HIRE, TRANSFER, SUSPEND, LAY OFF, RECALL, PROMOTE, DISCHARGE, ASSIGN, REWARD, OR DISCIPLINE OTHER EMPLOYEES; OR

(2) ADJUST EMPLOYEE GRIEVANCES.

16-702.

(A) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT ~~THE~~:

(1) THE STATE PROMOTE HARMONIOUS AND COOPERATIVE RELATIONSHIPS WITH THE PUBLIC EMPLOYEES OF THE COMMUNITY COLLEGE SYSTEM BY ENCOURAGING COLLECTIVE BARGAINING PRACTICES, PROTECTING THE RIGHTS OF PUBLIC EMPLOYEES TO ASSOCIATE, ORGANIZE, AND VOTE FOR THEIR OWN EXCLUSIVE REPRESENTATIVES, AND RECOGNIZING THE DIGNITY OF LABOR FOR ALL EMPLOYEES OF THE COMMUNITY COLLEGE SYSTEM; AND

(2) A DELAY IN IMPLEMENTATION OF THIS SUBTITLE SHALL BE TO ENSURE THAT COMMUNITY COLLEGES ARE GRANTED SUFFICIENT TIME TO PLAN FOR POTENTIAL NEGOTIATIONS AND MAY NOT BE USED TO PLAN FOR, OR ENGAGE

IN, ACTIVITIES THAT WOULD DISCOURAGE OR OTHERWISE COERCE EMPLOYEES
SEEKING TO HOLD AN ELECTION.

(B) THIS SUBTITLE SHALL APPLY:

(1) BEGINNING ON SEPTEMBER 1, 2022, TO:

(I) ANNE ARUNDEL COMMUNITY COLLEGE;

(II) COMMUNITY COLLEGE OF BALTIMORE COUNTY;

(III) FREDERICK COMMUNITY COLLEGE;

(IV) HARFORD COMMUNITY COLLEGE;

(V) HOWARD COMMUNITY COLLEGE;

(VI) MONTGOMERY COLLEGE;

(VII) PRINCE GEORGE'S COMMUNITY COLLEGE; AND

(VIII) COLLEGE OF SOUTHERN MARYLAND;

(2) BEGINNING ON SEPTEMBER 1, 2023, TO:

(I) ALLEGANY COLLEGE OF MARYLAND;

(II) CARROLL COMMUNITY COLLEGE;

(III) CECIL COLLEGE;

(IV) CHESAPEAKE COLLEGE;

(V) GARRETT COLLEGE;

(VI) HAGERSTOWN COMMUNITY COLLEGE; AND

(VII) WOR-WIC COMMUNITY COLLEGE; AND

(3) BEGINNING OCTOBER 1, 2024, TO BALTIMORE CITY COMMUNITY
COLLEGE.

(A) THE BOARD SHALL CONDUCT AN ELECTION FOR AN EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT IF:

(1) A VALID PETITION IS SUBMITTED IN ACCORDANCE WITH § 16-704 OF THIS SUBTITLE; AND

(2) THE BARGAINING UNIT INVOLVED IN THE PETITION IS DETERMINED TO BE AN APPROPRIATE BARGAINING UNIT UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION.

(B) (1) EXCEPT AS PROVIDED IN THIS SUBTITLE, THE BOARD SHALL DETERMINE THE APPROPRIATENESS OF EACH BARGAINING UNIT.

(2) IF THERE IS NOT A DISPUTE ABOUT THE APPROPRIATENESS OF THE BARGAINING UNIT, THE BOARD SHALL ISSUE AN ORDER DEFINING AN APPROPRIATE BARGAINING UNIT.

(3) IF THERE IS A DISPUTE ABOUT THE APPROPRIATENESS OF THE BARGAINING UNIT, THE BOARD SHALL:

(I) CONDUCT A PUBLIC HEARING, RECEIVING WRITTEN AND ORAL TESTIMONY; AND

(II) ISSUE AN ORDER DEFINING THE APPROPRIATE BARGAINING UNIT.

(C) THERE MAY BE NO MORE THAN ~~SIX~~ FOUR BARGAINING UNITS AT EACH COMMUNITY COLLEGE INCLUDING:

(1) ONE UNIT RESERVED FOR FULL-TIME FACULTY;

(2) ONE UNIT RESERVED FOR PART-TIME FACULTY; AND

~~(3) ONE UNIT RESERVED FOR THE REMAINING ELIGIBLE EXEMPT EMPLOYEES, AS DEFINED IN THE FEDERAL FAIR LABOR STANDARDS ACT;~~

~~(4) TWO UNITS RESERVED FOR ELIGIBLE NONEXEMPT EMPLOYEES, AS DEFINED IN THE FEDERAL FAIR LABOR STANDARDS ACT; AND~~

~~(5) ONE UNIT RESERVED FOR SWORN POLICE OFFICERS.~~

(D) THE BOARD MAY NOT REQUIRE THE BARGAINING UNITS AT A COMMUNITY COLLEGE TO CONFORM TO THE REQUIREMENTS OF THIS SECTION IF

THE BARGAINING UNITS WERE IN EXISTENCE BEFORE ~~OCTOBER 1, 2021~~
SEPTEMBER 1, 2022.

16-704.

(A) AFTER RECEIVING A PETITION FOR AN ELECTION FOR AN EXCLUSIVE REPRESENTATIVE, THE BOARD SHALL INVESTIGATE THE PETITION FOR PURPOSES OF VERIFICATION AND VALIDATION.

(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A PETITION FOR AN ELECTION MAY BE SUBMITTED BY:

(1) AN EMPLOYEE ORGANIZATION THAT DEMONSTRATES THAT AT LEAST 30% OF THE EMPLOYEES IN A BARGAINING UNIT WISH TO BE REPRESENTED FOR COLLECTIVE BARGAINING BY AN EXCLUSIVE REPRESENTATIVE; OR

(2) A PUBLIC EMPLOYEE, A GROUP OF PUBLIC EMPLOYEES, OR AN EMPLOYEE ORGANIZATION THAT DEMONSTRATES THAT AT LEAST 30% OF THE EMPLOYEES ASSERT THAT THE EXISTING DESIGNATED EXCLUSIVE REPRESENTATIVE IS NO LONGER THE REPRESENTATIVE OF THE MAJORITY OF EMPLOYEES IN THE BARGAINING UNIT.

(C) (1) A PETITION SUBMITTED UNDER SUBSECTION (B) OF THIS SECTION SHALL INCLUDE SHOWING OF INTEREST FORMS PROVIDED TO THE BOARD FROM AN EMPLOYEE ORGANIZATION.

(2) A SHOWING OF INTEREST FORM SHALL BE ACCEPTED BY THE BOARD IF THE FORM INCLUDES ELECTRONIC OR HANDWRITTEN SIGNATURES.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A SHOWING OF INTEREST FORM IS VALID IF THE SIGNATURES WERE COLLECTED WITHIN THE 18-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH A PETITION FOR AN ELECTION IS FILED.

(II) FOR AN ELECTION THAT IS CONDUCTED TO DETERMINE THAT AN EXCLUSIVE REPRESENTATIVE NO LONGER REPRESENTS A UNIT, A SHOWING OF INTEREST FORM IS VALID IF THE SIGNATURES WERE COLLECTED WITHIN THE 90-DAY PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH A PETITION FOR ELECTION IS FILED.

(4) A SHOWING OF INTEREST FORM MAY BE USED BY A PUBLIC EMPLOYEE FOR MORE THAN ONE PUBLIC EMPLOYER AS LONG AS THE PUBLIC EMPLOYEE WORKS FOR THE PUBLIC EMPLOYER.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PUBLIC EMPLOYER SHALL PROVIDE TO THE BOARD AND AN EMPLOYEE ORGANIZATION AN ALPHABETICAL LIST OF PUBLIC EMPLOYEES IN EACH BARGAINING UNIT WITHIN 2 DAYS AFTER A PETITION FOR AN ELECTION IS FILED.

(2) THE LIST REQUIRED TO BE PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(I) INCLUDE FOR EACH PUBLIC EMPLOYEE ON THE PAYROLL FOR THE LAST PAY PERIOD BEFORE A PETITION FOR ELECTION IS FILED, THE PUBLIC EMPLOYEE’S:

A. NAME;

B. POSITION CLASSIFICATION;

C. HOME AND WORK SITE ADDRESSES WHERE THE EMPLOYEE RECEIVES INTEROFFICE OR UNITED STATES MAIL;

D. HOME AND WORK SITE TELEPHONE NUMBERS;

E. PERSONAL CELL PHONE NUMBER; AND

F. WORK E-MAIL ADDRESS; AND

(II) IDENTIFY EACH PUBLIC EMPLOYEE THAT SHOULD BE EXCLUDED AS AN ELIGIBLE VOTER WITH A STATEMENT EXPLAINING THE REASON FOR THE EXCLUSION.

(3) A PUBLIC EMPLOYER MAY NOT CHALLENGE THE ELIGIBILITY OF A PUBLIC EMPLOYEE’S VOTE IN AN ELECTION IF THE EMPLOYER FAILS TO EXPLAIN THE REASON FOR EXCLUDING A PUBLIC EMPLOYEE UNDER THIS SUBSECTION.

(4) NAMES OR LISTS OF EMPLOYEES PROVIDED TO THE BOARD IN CONNECTION WITH AN ELECTION UNDER THIS SECTION ARE NOT SUBJECT TO DISCLOSURE IN ACCORDANCE WITH THE PUBLIC INFORMATION ACT.

(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE BOARD SHALL:

(I) PROMPTLY DETERMINE THE ADEQUACY OF THE SHOWING OF INTEREST BY COMPARING SHOWING OF INTEREST FORMS TO THE ELIGIBILITY LIST PROVIDED BY A PUBLIC EMPLOYER UNDER SUBSECTION (D) OF THIS SECTION; AND

(II) PROVIDE NOTICE TO AN EMPLOYEE ORGANIZATION OF THE DETERMINATION.

(2) IF THE BOARD DETERMINES UNDER PARAGRAPH (1) OF THIS SUBSECTION THAT A REQUIRED SHOWING OF INTEREST IS NOT ADEQUATE, THE BOARD:

(I) SHALL ALLOW AN EMPLOYEE ORGANIZATION TO SUBMIT ADDITIONAL SHOWING OF INTEREST FORMS WITHIN 30 DAYS AFTER THE EMPLOYEE ORGANIZATION IS NOTIFIED OF THE DETERMINATION; AND

(II) MAY PROVIDE ADDITIONAL TIME TO AN EMPLOYEE ORGANIZATION TO PROVIDE ADDITIONAL FORMS FOR GOOD CAUSE.

16-705.

(A) (1) AN EMPLOYEE ORGANIZATION MAY BE CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE ONLY AS PROVIDED UNDER THIS SECTION.

(2) EXCEPT AS PROVIDED IN SUBSECTION (J) OF THIS SECTION, ON OR AFTER ~~OCTOBER 1, 2021~~ SEPTEMBER 1, 2022, AN ELECTION OR A RECOGNITION OF AN EXCLUSIVE REPRESENTATIVE SHALL BE CONDUCTED BY THE BOARD FOR EACH BARGAINING UNIT AFTER THE REQUIREMENTS OF § 16-704 OF THIS SUBTITLE HAVE BEEN MET BY THAT BARGAINING UNIT.

(3) THE BOARD MAY USE A THIRD-PARTY CONTRACTOR TO RECEIVE AND COUNT BALLOTS FOR AN ELECTION UNDER THIS SECTION.

(B) FOR EACH ELECTION, THE BOARD SHALL PLACE ON THE BALLOT:

(1) THE NAME OR NAMES OF THE EMPLOYEE ORGANIZATION SUBMITTING THE VALID PETITION;

(2) THE NAME OF ANY OTHER EMPLOYEE ORGANIZATION DESIGNATED IN A VALID PETITION SIGNED BY MORE THAN 10% OF THE EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT; AND

(3) A PROVISION FOR “NO REPRESENTATION”.

(C) (1) IN ANY ELECTION IN WHICH NONE OF THE CHOICES ON THE BALLOT RECEIVES A MAJORITY OF THE VOTES CAST, A RUNOFF ELECTION SHALL BE CONDUCTED, WITH THE BALLOT PROVIDING FOR A SELECTION BETWEEN THE TWO CHOICES RECEIVING THE HIGHEST NUMBER OF BALLOTS CAST IN THE ELECTION.

(2) AN EMPLOYEE ORGANIZATION RECEIVING A MAJORITY OF VOTES CAST IN AN ELECTION SHALL BE CERTIFIED BY THE BOARD AS THE EXCLUSIVE REPRESENTATIVE FOR COLLECTIVE BARGAINING PURPOSES.

(D) (1) WITHIN 7 DAYS AFTER AN ELECTION IS ORDERED, A PUBLIC EMPLOYER SHALL SUBMIT TO THE BOARD AND AN EMPLOYEE ORGANIZATION AN UPDATED ALPHABETICAL LIST OF ELIGIBLE PUBLIC EMPLOYEES WHO MAY VOTE IN THE ELECTION.

(2) THE LIST REQUIRED TO BE SUBMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE THE SAME INFORMATION REQUIRED UNDER § 16-704 FOR EACH ELIGIBLE PUBLIC EMPLOYEE.

(E) A PUBLIC EMPLOYER, ITS OFFICERS, AND AN AGENT OF THE EMPLOYER MAY NOT SPEND PUBLIC MONEY, USE PUBLIC RESOURCES, OR PROVIDE ASSISTANCE TO AN INDIVIDUAL OR A GROUP FOR A NEGATIVE CAMPAIGN AGAINST AN EMPLOYEE ORGANIZATION.

(F) (1) WITHIN 7 DAYS AFTER A VALID ELECTION HAS BEEN DETERMINED UNDER SUBSECTION (A) OF THIS SECTION, A PUBLIC EMPLOYER SHALL ALLOW PUBLIC EMPLOYEES AND EMPLOYEE ORGANIZATIONS TO ACCESS THE EMPLOYER'S PROPERTY AND FACILITIES, INCLUDING GROUNDS, ROOMS, BULLETIN BOARDS, CAMPUS MAIL, AND OTHER COMMON AREAS FOR CAMPAIGN ACTIVITIES FOR THE ELECTION.

(2) THE PUBLIC EMPLOYER MAY NOT:

(I) LIMIT THE AMOUNT OF TIME A PUBLIC EMPLOYEE HAS ACCESS TO THE PUBLIC EMPLOYER'S PROPERTY AND FACILITIES DURING AN ELECTION UNDER THIS SECTION; OR

(II) ALTER OR REVISE EXISTING RULES OR REGULATIONS TO UNFAIRLY LIMIT OR PROHIBIT PUBLIC EMPLOYEES OR EMPLOYEE ORGANIZATIONS FROM COLLECTIVE BARGAINING.

(3) THIS SUBSECTION MAY NOT BE CONSTRUED TO ALLOW CAMPAIGN ACTIVITIES TO INTERFERE WITH A PUBLIC EMPLOYER'S OPERATIONS.

(G) (1) THE BOARD SHALL CONDUCT THE ELECTION:

(I) BY SECRET BALLOT; AND

(II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN WHOLE OR IN PART BY IN-PERSON VOTING, MAIL, OR AN ELECTRONIC VOTING SYSTEM.

(2) THE BOARD MAY DESIGNATE THE TIME PERIOD FOR IN-PERSON VOTING UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION ONLY AFTER CONSULTING WITH THE PUBLIC EMPLOYER AND EMPLOYEE ORGANIZATIONS ON THE BALLOT.

(3) (I) THE BOARD SHALL ALLOW AT LEAST 10 DAYS OF VOTING FOR AN ELECTION CONDUCTED UNDER PARAGRAPH (1) OF THIS SUBSECTION, UNLESS AN EMPLOYEE ORGANIZATION ON THE BALLOT REQUESTS AN EXTENSION.

(II) THE BOARD MAY EXTEND THE TIME PERIOD FOR VOTING DUE TO INOPERABLE VOTING SYSTEMS.

(H) (1) AN EMPLOYEE ORGANIZATION ON A BALLOT MAY REQUEST A PREFERRED METHOD OF VOTING AT THE TIME A PETITION FOR ELECTION IS FILED WITH THE BOARD.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE BOARD SHALL DESIGNATE THE METHOD OF VOTING BASED ON THE REQUESTS OF THE EMPLOYEE ORGANIZATIONS ON THE BALLOT.

(3) IF THERE IS A DISPUTE BETWEEN TWO OR MORE EMPLOYEE ORGANIZATIONS ON THE BALLOT OVER THE METHOD OF VOTING, THE BOARD MAY DESIGNATE THE METHOD OF VOTING.

(I) (1) THE BOARD SHALL PROVIDE NOTICE OF EACH ELECTION THAT DESCRIBES THE METHOD OF VOTING TO EMPLOYEE ORGANIZATIONS ON THE BALLOT AND TO THE PUBLIC EMPLOYER.

(2) THE PUBLIC EMPLOYER SHALL MAKE PUBLICLY AVAILABLE NOTICE OF EACH ELECTION TO ALL ELIGIBLE PUBLIC EMPLOYEES WITHIN ~~1-DAY~~ 2 DAYS AFTER THE PUBLIC EMPLOYER RECEIVES NOTICE OF THE ELECTION FROM THE BOARD.

(3) THE BOARD SHALL ASSIST AN ELIGIBLE PUBLIC EMPLOYEE IN USING AN ALTERNATIVE METHOD OF VOTING TO CAST A BALLOT IF THE PUBLIC EMPLOYEE PROMPTLY INFORMS THE BOARD OF THE INABILITY TO CAST A BALLOT USING THE DESIGNATED METHOD OF VOTING.

(J) THE BOARD SHALL DESIGNATE AN EMPLOYEE ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE ONLY IF:

(1) ONE EMPLOYEE ORGANIZATION SEEKS CERTIFICATION AS THE EXCLUSIVE REPRESENTATIVE;

(2) THERE IS NO INCUMBENT EXCLUSIVE REPRESENTATIVE;

(3) THE EMPLOYEE ORGANIZATION HAS NOT REQUESTED AN ELECTION; AND

(4) THE BOARD DETERMINES THAT MORE THAN 50% OF THE PUBLIC EMPLOYEES IN THE BARGAINING UNIT SUPPORT THE EMPLOYEE ORGANIZATION THROUGH COMPARING SHOWING OF INTEREST FORMS WITH A PUBLIC EMPLOYER'S PROVIDED LIST OF PUBLIC EMPLOYEES IN THE BARGAINING UNIT.

(K) THE ELECTION OF AN EXCLUSIVE REPRESENTATIVE MAY NOT BE CONDUCTED IN ANY BARGAINING UNIT IN WHICH:

(1) AN EXCLUSIVE REPRESENTATIVE HAS BEEN CERTIFIED WITHIN THE IMMEDIATELY PRECEDING 24 MONTHS; OR

(2) A VALID ELECTION HAS BEEN HELD WITHIN THE IMMEDIATELY PRECEDING 12 MONTHS IN WHICH AN EXCLUSIVE REPRESENTATIVE WAS CERTIFIED.

(L) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT THAT OPERATED UNDER A COLLECTIVE BARGAINING AGREEMENT OR CONTRACT BEFORE ~~OCTOBER 1, 2021~~ SEPTEMBER 1, 2022, MAINTAINS CERTIFICATION AFTER THE AGREEMENT OR CONTRACT EXPIRES.

(2) IF A COLLECTIVE BARGAINING AGREEMENT OR CONTRACT IS IN EFFECT, A VALID PETITION FOR AN ELECTION UNDER THIS SECTION MAY BE SUBMITTED AND AN ELECTION CONDUCTED UNDER THIS SECTION ONLY IF THE PETITION IS SUBMITTED AT LEAST 90 DAYS, BUT NOT MORE THAN 120 DAYS, BEFORE THE EXPIRATION OF THE COLLECTIVE BARGAINING AGREEMENT OR CONTRACT.

16-706.

(A) A PUBLIC EMPLOYER SHALL EXTEND TO AN EMPLOYEE ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE THE RIGHT TO REPRESENT THE PUBLIC EMPLOYEES OF THE BARGAINING UNIT INVOLVED IN COLLECTIVE BARGAINING AND IN THE SETTLEMENT OF GRIEVANCES.

(B) AN EMPLOYEE ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE FOR A BARGAINING UNIT SHALL:

(1) SERVE AS THE BARGAINING AGENT FOR ALL PUBLIC EMPLOYEES IN A BARGAINING UNIT; AND

(2) REPRESENT FAIRLY AND WITHOUT DISCRIMINATION EACH PUBLIC EMPLOYEE IN THE BARGAINING UNIT WITHOUT REGARD TO WHETHER THE EMPLOYEE IS A MEMBER OF THE EMPLOYEE ORGANIZATION.

16-707.

(A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, WITHIN 10 DAYS AFTER A NEW EMPLOYEE'S DATE OF HIRE, FOR EACH NEW PUBLIC EMPLOYEE IN THE BARGAINING UNIT REPRESENTED BY THE EXCLUSIVE REPRESENTATIVE, THE PUBLIC EMPLOYER SHALL PROVIDE THE EXCLUSIVE REPRESENTATIVE WITH THE INFORMATION REQUIRED UNDER § 16-704 OF THIS SUBTITLE.

(2) A PUBLIC EMPLOYER SHALL PROVIDE THE EXCLUSIVE REPRESENTATIVE WITH THE INFORMATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION IN A SEARCHABLE AND ANALYZABLE ELECTRONIC FORMAT.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, AN EXCLUSIVE REPRESENTATIVE SHALL CONSIDER THE INFORMATION THAT IT RECEIVES UNDER THIS SECTION AS CONFIDENTIAL AND MAY NOT DISCLOSE THE INFORMATION TO ANY PERSON.

(2) AN EXCLUSIVE REPRESENTATIVE MAY AUTHORIZE THIRD-PARTY CONTRACTORS TO USE THE INFORMATION THAT IT RECEIVES UNDER THIS SECTION, AS DIRECTED BY THE EXCLUSIVE REPRESENTATIVE, TO CARRY OUT THE EXCLUSIVE REPRESENTATIVE'S STATUTORY DUTIES UNDER THIS TITLE.

(3) AN EXCLUSIVE REPRESENTATIVE OR AN AUTHORIZED THIRD-PARTY CONTRACTOR MAY USE THE INFORMATION THAT IT RECEIVES UNDER THIS SECTION FOR THE PURPOSE OF MAINTAINING OR INCREASING EMPLOYEE MEMBERSHIP IN AN EMPLOYEE ORGANIZATION.

(4) ON WRITTEN REQUEST OF A PUBLIC EMPLOYEE, AN EXCLUSIVE REPRESENTATIVE SHALL WITHHOLD FURTHER COMMUNICATION WITH A PUBLIC EMPLOYEE UNLESS OTHERWISE REQUIRED BY LAW OR THE WRITTEN REQUEST IS REVOKED BY THE PUBLIC EMPLOYEE.

(C) (1) (I) A PUBLIC EMPLOYER SHALL PROVIDE THE EXCLUSIVE REPRESENTATIVE WITH THE INFORMATION DESCRIBED IN SUBSECTION (A) OF THIS SECTION FOR EACH PUBLIC EMPLOYEE IN THE BARGAINING UNIT REPRESENTED BY THE EXCLUSIVE REPRESENTATIVE ONCE EVERY 90 DAYS.

(II) SUBJECT TO § 16-709 OF THIS SUBTITLE, A PUBLIC EMPLOYER MAY NEGOTIATE WITH THE EXCLUSIVE REPRESENTATIVE TO PROVIDE THE INFORMATION REQUIRED UNDER THIS PARAGRAPH MORE FREQUENTLY THAN ONCE EVERY 90 DAYS.

(2) A PUBLIC EMPLOYER SHALL PROVIDE THE EXCLUSIVE REPRESENTATIVE WITH THE INFORMATION DESCRIBED IN SUBSECTION (A) OF THIS SECTION REGARDLESS OF WHETHER THE NEWLY HIRED PUBLIC EMPLOYEE WAS PREVIOUSLY EMPLOYED BY THE PUBLIC EMPLOYER.

16-708.

(A) IN THIS SECTION, “NEW EMPLOYEE PROCESSING” MEANS THE PROCESS FOR A NEWLY HIRED PUBLIC EMPLOYEE, WHETHER IN-PERSON, ONLINE, OR THROUGH OTHER MEANS, IN WHICH NEW PUBLIC EMPLOYEES ARE ADVISED OF THEIR EMPLOYMENT STATUS, RIGHTS, BENEFITS, DUTIES, RESPONSIBILITIES, AND OTHER EMPLOYMENT-RELATED MATTERS.

(B) (1) (I) A PUBLIC EMPLOYER SHALL PROVIDE THE EXCLUSIVE REPRESENTATIVE ACCESS TO NEW EMPLOYEE PROCESSING.

(II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, A PUBLIC EMPLOYER SHALL PROVIDE THE EXCLUSIVE REPRESENTATIVE AT LEAST 10 DAYS’ NOTICE IN ADVANCE OF A NEW EMPLOYEE PROCESSING.

(III) A PUBLIC EMPLOYER MAY PROVIDE THE EXCLUSIVE REPRESENTATIVE WITH LESS THAN 10 DAYS’ NOTICE IF THERE IS AN URGENT NEED CRITICAL TO THE PUBLIC EMPLOYER’S NEW EMPLOYEE PROCESSING THAT WAS NOT REASONABLY FORESEEABLE.

(2) (I) THE STRUCTURE, TIME, AND MANNER OF THE ACCESS REQUIRED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE DETERMINED THROUGH NEGOTIATIONS BETWEEN THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE IN ACCORDANCE WITH § 16-709 OF THIS SUBTITLE.

(II) WHEN NEGOTIATING ACCESS TO NEW EMPLOYEE PROCESSING UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, IF ANY DISPUTE HAS NOT BEEN RESOLVED WITHIN 45 DAYS AFTER THE FIRST MEETING OF THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE, OR WITHIN 60 DAYS AFTER AN INITIAL REQUEST TO NEGOTIATE, WHICHEVER OCCURS FIRST, EITHER PARTY MAY REQUEST THAT THE BOARD DECLARE AN IMPASSE UNDER § 16-711 OF THIS SUBTITLE.

(III) IN AN IMPASSE PROCEEDING UNDER § 16-711 OF THIS SUBTITLE, THE MEDIATOR OR BOARD SHALL CONSIDER:

1. THE ABILITY OF THE EXCLUSIVE REPRESENTATIVE TO COMMUNICATE WITH THE PUBLIC EMPLOYEES IT REPRESENTS;

2. THE LEGAL OBLIGATIONS OF THE EXCLUSIVE REPRESENTATIVE TO THE PUBLIC EMPLOYEES;

3. APPLICABLE STATE, FEDERAL, AND LOCAL LAWS;

4. ANY STIPULATIONS OF THE PARTIES;

5. THE INTERESTS AND WELFARE OF THE PUBLIC EMPLOYEES AND THE FINANCIAL CONDITION OF THE PUBLIC EMPLOYER;

6. THE STRUCTURE, TIME, AND MANNER OF ACCESS OF AN EXCLUSIVE REPRESENTATIVE TO NEW EMPLOYEE PROCESSING IN COMPARABLE PUBLIC EMPLOYERS, INCLUDING THE ACCESS PROVISIONS IN OTHER MEMORANDA OF UNDERSTANDING OR COLLECTIVE BARGAINING AGREEMENTS; AND

7. ANY OTHER FACTS ROUTINELY CONSIDERED IN ESTABLISHING THE STRUCTURE, TIME, AND MANNER OF ACCESS OF AN EXCLUSIVE REPRESENTATIVE TO NEW EMPLOYEE PROCESSING.

(3) (I) A REQUEST TO NEGOTIATE UNDER PARAGRAPH (2) OF THIS SUBSECTION MADE BETWEEN ~~OCTOBER 1, 2021~~ SEPTEMBER 1, 2022, AND THE EXPIRATION DATE OF AN EXISTING COLLECTIVE BARGAINING AGREEMENT BETWEEN THE PARTIES SHALL REOPEN THE EXISTING COLLECTIVE BARGAINING AGREEMENT ONLY FOR THE PURPOSE OF NEGOTIATING THE ACCESS OF THE EXCLUSIVE REPRESENTATIVE TO THE PUBLIC EMPLOYER'S NEW EMPLOYEE PROCESSING.

(II) EITHER PARTY MAY ELECT TO NEGOTIATE A SEPARATE AGREEMENT ON THE ACCESS OF THE EXCLUSIVE REPRESENTATIVE TO THE PUBLIC EMPLOYER'S NEW EMPLOYEE PROCESSING IN LIEU OF REOPENING THE EXISTING COLLECTIVE BARGAINING AGREEMENT.

(C) THIS SECTION DOES NOT PROHIBIT A PUBLIC EMPLOYER AND AN EXCLUSIVE REPRESENTATIVE FROM NEGOTIATING ACCESS TO NEW EMPLOYEE PROCESSING THAT VARIES FROM THE REQUIREMENTS OF THIS SECTION.

(A) COLLECTIVE BARGAINING SHALL INCLUDE ALL MATTERS RELATING TO:

(1) WAGES, HOURS, AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT; AND

(2) THE PROCEDURES FOR THE EMPLOYEE ORGANIZATION TO RECEIVE MEMBERSHIP DUES THROUGH PAYROLL DEDUCTION.

(B) IN THE COURSE OF COLLECTIVE BARGAINING, THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE SHALL:

(1) MEET AT REASONABLE TIMES; AND

(2) MAKE EVERY REASONABLE EFFORT TO CONCLUDE NEGOTIATIONS WITH A FINAL WRITTEN AGREEMENT IN A TIMELY MANNER BEFORE THE BUDGET SUBMISSION DATE OF THE PUBLIC EMPLOYER.

(C) AN AGREEMENT MAY INCLUDE A PROVISION FOR THE ARBITRATION OF GRIEVANCES ARISING UNDER THE AGREEMENT.

(D) (1) AN AGREEMENT MAY NOT INCLUDE MATTERS RELATING TO THE EMPLOYEES' OR TEACHERS' RETIREMENT OR PENSION SYSTEMS OTHERWISE COVERED BY THE ANNOTATED CODE OF MARYLAND.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT PROHIBIT A DISCUSSION OF THE TERMS OF THE RETIREMENT OR PENSION SYSTEMS IN THE COURSE OF COLLECTIVE BARGAINING.

(E) THE TERMS OF AN AGREEMENT SHALL SUPERSEDE ANY CONFLICTING REGULATIONS OR ADMINISTRATIVE POLICIES OF THE PUBLIC EMPLOYER.

(F) (1) (I) ~~A~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A REQUEST FOR FUNDS NECESSARY TO IMPLEMENT AN AGREEMENT SHALL BE SUBMITTED BY THE PUBLIC EMPLOYER IN A TIMELY FASHION FOR CONSIDERATION IN THE BUDGET PROCESS OF THE COUNTY.

~~(2)~~ (II) NOT LATER THAN 20 DAYS AFTER FINAL BUDGET ACTION BY THE GOVERNING BODY OF A COUNTY, IF A REQUEST FOR FUNDS NECESSARY TO IMPLEMENT AN AGREEMENT IS REDUCED, MODIFIED, OR REJECTED BY THE GOVERNING BODY, EITHER PARTY TO THE AGREEMENT MAY REOPEN THE AGREEMENT.

(2) FOR BALTIMORE CITY COMMUNITY COLLEGE, IN THE ANNUAL BUDGET BILL SUBMITTED TO THE GENERAL ASSEMBLY, THE GOVERNOR SHALL INCLUDE ANY AMOUNTS IN THE BUDGET OF BALTIMORE CITY COMMUNITY COLLEGE REQUIRED TO ACCOMMODATE ANY ADDITIONAL COST RESULTING FROM THE NEGOTIATIONS, INCLUDING THE ACTUARIAL IMPACT OF ANY LEGISLATIVE CHANGES TO ANY OF THE STATE PENSION OR RETIREMENT SYSTEMS THAT ARE REQUIRED, AS A RESULT OF THE NEGOTIATIONS, FOR THE FISCAL YEAR BEGINNING THE IMMEDIATELY FOLLOWING JULY 1 IF THE LEGISLATIVE CHANGES HAVE BEEN NEGOTIATED TO BECOME EFFECTIVE IN THAT FISCAL YEAR.

16-710.

(A) AN AGREEMENT SHALL INCLUDE A PROVISION FOR THE DEDUCTION FROM THE PAYCHECK OF EACH PUBLIC EMPLOYEE IN A BARGAINING UNIT OF ANY MEMBERSHIP DUES AUTHORIZED AND OWED BY THE PUBLIC EMPLOYEE TO THE EXCLUSIVE REPRESENTATIVE.

(B) (1) A PUBLIC EMPLOYEE MAY AUTHORIZE A DEDUCTION UNDER THIS SECTION BY NOTIFYING THE EXCLUSIVE REPRESENTATIVE.

(2) THE NOTICE MAY BE A HANDWRITTEN OR ELECTRONIC STATEMENT.

(3) A PUBLIC EMPLOYEE MAY MAKE A REQUEST TO THE EXCLUSIVE REPRESENTATIVE TO CANCEL OR CHANGE A DEDUCTION UNDER THIS SECTION.

(C) AN EXCLUSIVE REPRESENTATIVE SHALL:

(1) COLLECT AND MAINTAIN THE NOTICES UNDER SUBSECTION (B) OF THIS SECTION;

(2) CERTIFY TO A PUBLIC EMPLOYER THE PUBLIC EMPLOYEES WHO HAVE AUTHORIZED DEDUCTIONS UNDER THIS SECTION; AND

(3) INDEMNIFY A PUBLIC EMPLOYER FROM ANY CLAIMS MADE BY A PUBLIC EMPLOYEE MADE IN RELIANCE ON THE CERTIFICATION UNDER THIS SECTION.

(D) AN EXCLUSIVE REPRESENTATIVE MAY NOT BE REQUIRED TO PROVIDE COPIES OF AUTHORIZATION NOTICES UNLESS A DISPUTE ARISES IN CONNECTION WITH THE VALIDITY OF AN AUTHORIZATION.

(E) A PUBLIC EMPLOYER SHALL:

(1) RELY ON AN EXCLUSIVE REPRESENTATIVE'S CERTIFICATION OF PUBLIC EMPLOYEES WHO HAVE AUTHORIZED DEDUCTIONS;

(2) DIRECT PUBLIC EMPLOYEES TO THE EXCLUSIVE REPRESENTATIVE TO CANCEL OR CHANGE A DEDUCTION; AND

(3) SUBMIT A DISPUTE ARISING BETWEEN A PUBLIC EMPLOYEE AND AN EXCLUSIVE REPRESENTATIVE TO BE RESOLVED UNDER UNFAIR LABOR PRACTICE PROCEEDINGS IN ACCORDANCE WITH THE LAWS OF THE STATE.

16-711.

(A) IF IN THE COURSE OF COLLECTIVE BARGAINING A PARTY DETERMINES THAT AN IMPASSE EXISTS, THAT PARTY MAY REQUEST THE SERVICES OF THE BOARD IN MEDIATION OR ENGAGE ANOTHER MUTUALLY AGREEABLE MEDIATOR.

(B) (1) BY MUTUAL AGREEMENT, THE PARTIES MAY ENGAGE IN MEDIATION.

(2) (I) IF THERE IS NOT MUTUAL AGREEMENT, EITHER PARTY MAY PETITION THE BOARD TO INITIATE FACT-FINDING.

(II) 1. AFTER CONSIDERING THE STATUS OF BARGAINING AND THE BUDGET SCHEDULE OF THE PUBLIC EMPLOYER, THE BOARD MAY FIND THAT AN IMPASSE EXISTS AND MAY NOTIFY THE PARTIES THAT FACT-FINDING IS TO BE INITIATED.

2. A PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE MAY SELECT THEIR OWN FACT FINDER.

3. A. IF THE PARTIES HAVE NOT SELECTED THEIR OWN FACT FINDER WITHIN 5 DAYS AFTER THE REQUIRED NOTIFICATION, THE BOARD SHALL SUBMIT TO THE PARTIES THE NAMES OF FIVE QUALIFIED INDIVIDUALS.

B. EACH PARTY ALTERNATELY SHALL STRIKE TWO NAMES FROM THE LIST WITH THE REMAINING INDIVIDUAL BEING THE FACT FINDER.

4. THE FACT FINDER SELECTED BY THE PARTIES SHALL CONDUCT HEARINGS AND MAY ADMINISTER OATHS.

5. THE FACT FINDER SHALL MAKE WRITTEN FINDINGS OF FACT AND RECOMMENDATIONS FOR RESOLUTION OF THE IMPASSE.

6. NOT LATER THAN 30 DAYS AFTER THE DATE OF APPOINTMENT, THE FACT FINDER SHALL TRANSMIT THE FINDINGS TO THE PUBLIC EMPLOYER, THE EXCLUSIVE REPRESENTATIVE, AND THE BOARD.

7. IF THE IMPASSE CONTINUES 10 DAYS AFTER THE REPORT IS SUBMITTED TO THE PARTIES, ANY UNRESOLVED NONECONOMIC LANGUAGE ITEMS THAT ARE SUBJECT TO FACT-FINDING SHALL BE REFERRED TO THE BOARD.

(C) THE PARTIES SHALL BEAR EQUALLY THE COSTS OF FACT-FINDING.

(D) THE BOARD, ON RECEIPT OF THE REPORT AND CERTIFICATION OF UNRESOLVED NONECONOMIC LANGUAGE ITEMS, SHALL PROVIDE THE PARTIES WITH AN OPPORTUNITY TO SUBMIT ADDITIONAL POSITION STATEMENTS AND ISSUE A WRITTEN DECISION ADOPTING:

(1) THE FINAL PROPOSAL OF THE PUBLIC EMPLOYER;

(2) THE FINAL PROPOSAL OF THE EXCLUSIVE REPRESENTATIVE; OR

(3) THE FACT FINDER'S FINAL OFFER OR RESOLUTION.

(E) THE BOARD'S WRITTEN DECISION IS FINAL AND BINDING ON THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE.

16-712.

(A) A PUBLIC EMPLOYEE MAY NOT ENGAGE IN A STRIKE.

(B) A PUBLIC EMPLOYEE MAY NOT RECEIVE PAY OR COMPENSATION FROM THE PUBLIC EMPLOYER FOR ANY PERIOD DURING WHICH THE PUBLIC EMPLOYEE IS ENGAGED IN A STRIKE.

(C) IF A STRIKE OF PUBLIC EMPLOYEES OCCURS, A COURT OF COMPETENT JURISDICTION MAY ENJOIN THE STRIKE AT THE REQUEST OF THE PUBLIC EMPLOYER.

(D) (1) IF AN EMPLOYEE ORGANIZATION CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE ENGAGES IN A STRIKE, THE BOARD SHALL REVOKE THE ORGANIZATION'S CERTIFICATION AS THE EXCLUSIVE REPRESENTATIVE.

(2) AN EMPLOYEE ORGANIZATION THAT ENGAGES IN A STRIKE AND HAS ITS CERTIFICATION REVOKED SHALL BE INELIGIBLE TO BE CERTIFIED AS AN

EXCLUSIVE REPRESENTATIVE FOR A PERIOD OF 1 YEAR FOLLOWING THE END OF THE STRIKE.

16-713.

(A) A PUBLIC EMPLOYER HAS THE RIGHT TO:

(1) DETERMINE HOW THE STATUTORY MANDATE AND GOALS OF THE COMMUNITY COLLEGE, INCLUDING THE FUNCTIONS AND PROGRAMS OF THE COMMUNITY COLLEGE, ITS OVERALL BUDGET, AND ITS ORGANIZATIONAL STRUCTURE, ARE TO BE CARRIED OUT; AND

(2) DIRECT COLLEGE PERSONNEL.

(B) A PUBLIC EMPLOYEE HAS THE RIGHT TO:

(1) ORGANIZE;

(2) FORM, JOIN, OR ASSIST ANY EMPLOYEE ORGANIZATION;

(3) BARGAIN COLLECTIVELY THROUGH AN EXCLUSIVE REPRESENTATIVE;

(4) ENGAGE IN OTHER LAWFUL CONCERTED ACTIVITY FOR THE PURPOSE OF COLLECTIVE BARGAINING; AND

(5) REFRAIN FROM ENGAGING IN THE ACTIVITIES LISTED UNDER THIS SUBSECTION.

(C) A PUBLIC EMPLOYEE OR GROUP OF PUBLIC EMPLOYEES HAS THE RIGHT AT ANY TIME TO:

(1) PRESENT A GRIEVANCE ARISING UNDER THE TERMS OF THE AGREEMENT TO THE PUBLIC EMPLOYER; AND

(2) HAVE THE GRIEVANCE ADJUSTED WITHOUT THE INTERVENTION OF THE EXCLUSIVE REPRESENTATIVE.

(D) THE EXCLUSIVE REPRESENTATIVE HAS THE RIGHT TO BE PRESENT DURING ANY MEETING INVOLVING THE PRESENTATION OR ADJUSTMENT OF A GRIEVANCE.

(E) (1) A PUBLIC EMPLOYER SHALL HEAR A GRIEVANCE AND PARTICIPATE IN THE ADJUSTMENT OF THE GRIEVANCE.

(2) THE ADJUSTMENT OF A GRIEVANCE MAY NOT BE INCONSISTENT WITH THE TERMS OF THE COLLECTIVE BARGAINING AGREEMENT THEN IN EFFECT.

(3) A PUBLIC EMPLOYER SHALL GIVE PROMPT NOTICE OF ANY ADJUSTMENT OF A GRIEVANCE TO THE EXCLUSIVE REPRESENTATIVE.

(F) A PUBLIC EMPLOYER AND AN EMPLOYEE ORGANIZATION MAY NOT INTERFERE WITH, INTIMIDATE, RESTRAIN, COERCE, OR DISCRIMINATE AGAINST A PUBLIC EMPLOYEE BECAUSE THE EMPLOYEE EXERCISES RIGHTS GRANTED UNDER THIS SECTION.

16-714.

A PUBLIC EMPLOYER, ITS OFFICERS, AND AGENTS MAY NOT:

(1) INTERFERE WITH, INTIMIDATE, RESTRAIN, OR COERCE PUBLIC EMPLOYEES IN THE EXERCISE OF THEIR RIGHTS UNDER THIS SUBTITLE;

(2) ENCOURAGE OR DISCOURAGE PUBLIC EMPLOYEES IN THEIR SELECTION OF MEMBERSHIP IN ANY EMPLOYEE ORGANIZATION;

(3) DISCHARGE OR DISCRIMINATE AGAINST AN EMPLOYEE BECAUSE OF THE SIGNING OR FILING OF AN AFFIDAVIT, PETITION, OR COMPLAINT, OR GIVING INFORMATION OR TESTIMONY IN CONNECTION WITH MATTERS UNDER THIS SUBTITLE;

(4) REFUSE TO PARTICIPATE IN GOOD-FAITH BARGAINING OR THE DISPUTE RESOLUTION PROCESS IN THIS SUBTITLE; OR

(5) DISCLOSE ANY PORTION OF PERSONALLY IDENTIFIABLE INFORMATION OF PUBLIC EMPLOYEES TO AN UNAUTHORIZED THIRD PARTY.

16-715.

(A) THE BOARD MAY:

(1) ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE; AND

(2) DELEGATE AND ASSIGN ITS RESPONSIBILITIES AND OBLIGATIONS UNDER THIS SUBTITLE TO THE EXECUTIVE DIRECTOR OF THE BOARD.

(B) THE BOARD MAY NOT ADOPT ANY RULE THAT:

(1) UNNECESSARILY DELAYS THE RESOLUTION OF DISPUTES OVER ELECTIONS, UNFAIR LABOR PRACTICES, OR ANY OTHER MATTER UNDER THIS SUBTITLE; OR

(2) RESTRICTS OR WEAKENS THE PROTECTION PROVIDED TO PUBLIC EMPLOYEES AND EMPLOYEE ORGANIZATIONS UNDER THIS SUBTITLE OR EXISTING REGULATIONS.

(C) THE BOARD SHALL ADOPT REGULATIONS IN ACCORDANCE WITH TITLE 3, SUBTITLE 6 OF THE STATE PERSONNEL AND PENSIONS ARTICLE THAT ADDRESS RATIFICATION, DURATION, AND ENFORCEMENT OF AN AGREEMENT UNDER THIS SUBTITLE.

Article – State Personnel and Pensions

3–2A–01.

There is a State Higher Education Labor Relations Board established as an independent unit of State government.

3–2A–05.

(a) The Board is responsible for administering and enforcing provisions of:

(1) this title relating to employees described in § 3–102(a)(1)(v) of this title;

AND

(2) **TITLE 16, SUBTITLE 7 OF THE EDUCATION ARTICLE.**

(b) In addition to any other powers or duties provided for elsewhere in this title **OR TITLE 16, SUBTITLE 7 OF THE EDUCATION ARTICLE**, the Board may:

(1) establish procedures for, supervise the conduct of, and resolve disputes about elections for exclusive representatives; [and]

(2) investigate and take appropriate action in response to complaints of unfair labor practices and lockouts; AND

(3) **RESOLVE MATTERS AS PROVIDED IN § 16–711 OF THE EDUCATION ARTICLE.**

3–2A–07.

(a) The Board may investigate:

(1) a possible violation of this title or any regulation adopted under it; [and]

(2) A POSSIBLE VIOLATION OF TITLE 16, SUBTITLE 7 OF THE EDUCATION ARTICLE OR ANY REGULATION ADOPTED UNDER IT; AND

[(2)] (3) any other relevant matter.

(b) The Board may hold a hearing in accordance with Title 10, Subtitle 2 of the State Government Article whenever necessary for a fair determination of any issue or complaint arising under:

(1) this title or a regulation adopted under it; **OR**

(2) TITLE 16, SUBTITLE 7 OF THE EDUCATION ARTICLE OR ANY REGULATION ADOPTED UNDER IT.

3-2A-08.

(a) On written request of an exclusive representative, and within 30 days of a new employee's date of hire, for each employee in the bargaining unit represented by the exclusive representative, the University System of Maryland system institutions, Morgan State University, St. Mary's College of Maryland, and [Baltimore City Community College] **EACH COMMUNITY COLLEGE** shall provide the exclusive representative with the employee's:

(1) name;

(2) position classification;

(3) unit;

(4) home and work site addresses where the employee receives interoffice or United States mail;

(5) home and work site telephone numbers; and

(6) work e-mail address.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) This section does not apply to Baltimore City Community College.

(b) If a community college entered into any agreements or contracts with employees of the community college through exclusive representation in the course of collective bargaining before ~~October 1, 2021~~ September 1, 2022, the community college shall continue to operate under the agreements and contracts until the agreements and contracts

expire. If a bargaining unit in existence before ~~October 1, 2021~~ September 1, 2022, dissolves, the community college shall be subject to the rules and regulations of collective bargaining established under this Act.

~~(b)~~ (c) If a party to a collective bargaining agreement or contract under subsection ~~(a)~~ (b) of this section determines that an impasse exists with regard to the terms of the agreement or contract, the parties shall resolve the impasse in accordance with the procedures for impasse under § 16–711 of the Education Article, as enacted by Section 2 of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That ~~the~~:

(a) This section does not apply to Baltimore City Community College.

(b) The exclusive representative for any bargaining unit established before October 1, 2021 September 1, 2022:

(1) shall be recognized in writing by the board of trustees for the community college;

(2) may not be required to be recertified for any reason; and

(3) shall retain all rights to continue collective bargaining as provided by this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) This section does not apply to Baltimore City Community College.

(b) (1) Notwithstanding § 16–709 of the Education Article, as enacted by Section 2 of this Act, for fiscal year 2022, a public employer under § 16–702(b)(1) of the Education Article, as enacted by Section 2 of this Act, may ~~choose~~ not be required to bargain with the exclusive representative over wages of employees in the bargaining unit until July 1, 2023.

(2) This subsection does not apply to an exclusive bargaining unit established before ~~October 1, 2021~~ September 1, 2022.

~~(b) (c) Beginning in fiscal year 2023 and each year thereafter, a public employer shall bargain with the exclusive representative over all matters authorized under § 16–709 of the Education Article, as enacted by Section 2 of this Act. Notwithstanding § 16–709 of the Education Article, as enacted by Section 2 of this Act, a public employer under § 16–702(b)(2) of the Education Article, as enacted by Section 2 of this Act, may not be required to bargain with the exclusive representative over wages of employees in a bargaining unit until July 1, 2024.~~

SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2021~~ September 1, 2022.

May 28, 2021

The Honorable Adrienne A. Jones
Speaker of the House of Delegates
H-101 State House
Annapolis, MD 21401

The Honorable Bill Ferguson
President of the Senate
H-107 State House
Annapolis, MD 21401

Dear Speaker Jones and President Ferguson:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 1003 and Senate Bill 780 – *States of Emergency – Emergency Procurement and Budget Amendments – Notice and Authorization*.

As the State of Maryland's chief executive officer and commander in chief, the Governor is given broad legal authority during states of emergency for the very purpose of protecting the health, welfare, and safety of its citizens. When the first cases of COVID-19 were confirmed in Maryland more than one year ago, quick action and extraordinary measures were necessary to keep Marylanders safe from this deadly virus. My Administration has fought endlessly to save lives, as well as to help struggling Marylanders, *and we will continue to do so*. Having broad legal authority during a state of emergency empowers the Governor to lead our State most effectively during the hardest of times and allows him or her to respond effectively to the most challenging of circumstances. The very nature of an emergency commands full and focused attention, most especially when thousands of lives are at stake, and unnecessary red tape would be a direct threat to effective action at such a critical time.

The arbitrary notification and reporting requirements that this legislation requires does little for transparency yet creates administrative challenges when time is of the essence. It is unreasonable – and frankly, out of touch – for the legislature to expect the Governor or an agency head to check boxes on a form rather than focus on the emergency at hand. With robust reporting and oversight mechanisms already in place, these additional layers of bureaucracy do nothing more than create obstacles during the most urgent of times. For the General Assembly to play these types of political games during a state of emergency is simply unconscionable.

For these reasons, I have vetoed House Bill 1033 and Senate Bill 780.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 780

AN ACT concerning

States of Emergency – Emergency Procurement and Budget Amendments – Notice and Authorization

FOR the purpose of requiring the Governor or the head of a certain unit to provide certain notice to the Legislative Policy Committee within a certain time frame when authorizing a certain emergency procurement during a state of emergency under certain circumstances; ~~requiring the Office of Legislative Audits to perform a certain audit within a certain time frame under certain circumstances;~~ requiring the Governor or the head of a certain unit to provide a copy of a certain procurement contract to the Legislative Policy Committee under certain circumstances; authorizing the Legislative Policy Committee to request that the Office of Legislative Audits perform a certain audit under certain circumstances; requiring the Governor to provide certain notice to certain persons within a certain time frame after suspending the effect of a certain statute or rule or regulation under certain circumstances; ~~authorizing a certain appropriation to be increased by budget amendment if the Board of Public Works makes a certain declaration; prohibiting the Governor from suspending the effects of certain provisions under certain circumstances;~~ and generally relating to emergency procurements and the Governor's authority to suspend the effect of a statute, rule, or regulation during a state of emergency.

BY adding to

Article – Public Safety
Section 14-117
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

~~BY adding to~~

~~Article – State Finance and Procurement
Section 7-214
Annotated Code of Maryland
(2015 Replacement Volume and 2020 Supplement)~~

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

Article – Public Safety

14-117.

(A) (1) THIS SUBSECTION APPLIES ONLY WHEN THE GOVERNOR OR THE HEAD OF A UNIT AUTHORIZES AN EMERGENCY PROCUREMENT DURING A STATE OF EMERGENCY IN ORDER TO PREPARE FOR OR ADDRESS THE STATE OF EMERGENCY UNDER:

(I) § 14-106(B)(3) OF THIS SUBTITLE;

(II) § 13-108(A) OF THE STATE FINANCE AND PROCUREMENT ARTICLE; OR

(III) ANY OTHER LAW THAT GRANTS THE GOVERNOR AUTHORITY TO AUTHORIZE AN EMERGENCY PROCUREMENT.

(2) WHEN THE GOVERNOR OR THE HEAD OF A UNIT AUTHORIZES AN EMERGENCY PROCUREMENT, WITHIN 72 HOURS AFTER THE EARLIER OF THE EXECUTION OF THE CONTRACT OR THE EXPENDITURE OF FUNDS, THE GOVERNOR OR HEAD OF THE UNIT SHALL PROVIDE WRITTEN NOTICE TO THE LEGISLATIVE POLICY COMMITTEE, INCLUDING:

(I) ~~A COPY OF THE PROCUREMENT CONTRACT~~ THE NAME, BUSINESS ADDRESS, AND, IF APPLICABLE, WEBSITE ADDRESS OF THE VENDOR AND THE DOLLAR VALUE OF THE CONTRACT;

(II) A DESCRIPTION OF HOW THE FUNDS ARE TO BE USED; AND

(III) AN EXPLANATION OF THE REASONS THE PROCUREMENT IS NECESSARY TO PREPARE FOR OR ADDRESS THE EMERGENCY.

(3) ~~WITHIN 8 MONTHS AFTER~~ AFTER AN EMERGENCY PROCUREMENT CONTRACT IS EXECUTED UNDER THIS SUBSECTION, SUBSECTION:

(I) IF REQUESTED BY THE LEGISLATIVE POLICY COMMITTEE, THE GOVERNOR OR HEAD OF THE UNIT SHALL PROVIDE A COPY OF THE CONTRACT TO THE LEGISLATIVE POLICY COMMITTEE; AND

(II) THE LEGISLATIVE POLICY COMMITTEE MAY REQUEST THAT THE OFFICE OF LEGISLATIVE AUDITS ~~SHALL~~ CONDUCT AN AUDIT OF THE EMERGENCY PROCUREMENT.

(B) (1) THIS SUBSECTION APPLIES ONLY WHEN THE GOVERNOR SUSPENDS THE EFFECT OF A STATUTE OR RULE OR REGULATION OF AN AGENCY OF THE STATE OR A POLITICAL SUBDIVISION DURING A STATE OF EMERGENCY UNDER:

(I) § 14–107(D)(1)(I) OF THIS SUBTITLE;

(II) § 14–108(A)(2) OF THIS SUBTITLE; OR

(III) ANY OTHER PROVISION THAT GRANTS THE GOVERNOR AUTHORITY TO SUSPEND THE EFFECT OF ANY STATUTE OR RULE OR REGULATION OF AN AGENCY OF THE STATE OR A POLITICAL SUBDIVISION DURING A STATE OF EMERGENCY.

(2) WITHIN 72 HOURS AFTER SUSPENDING THE EFFECT OF A STATUTE OR RULE OR REGULATION, THE GOVERNOR SHALL PROVIDE WRITTEN NOTICE TO THE LEGISLATIVE POLICY COMMITTEE THAT:

(I) IDENTIFIES THE STATUTE OR RULE OR REGULATION BEING SUSPENDED; AND

(II) EXPLAINS THE REASONS THAT SUSPENDING THE STATUTE OR RULE OR REGULATION IS NECESSARY TO ADDRESS THE EMERGENCY.

(3) WHEN THE GOVERNOR SUSPENDS THE EFFECT OF A REGULATION, THE GOVERNOR SHALL ALSO PROVIDE THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION TO THE ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW COMMITTEE.

(C) THE GOVERNOR MAY NOT SUSPEND THE EFFECT OF THIS SECTION UNDER:

(1) § 14–107(D)(1)(I) OF THIS SUBTITLE;

(2) § 14–108(A)(2) OF THIS SUBTITLE; OR

(3) ANY OTHER LAW THAT GRANTS THE GOVERNOR AUTHORITY TO SUSPEND THE EFFECT OF ANY STATUTE DURING A STATE OF EMERGENCY.

~~Article State Finance and Procurement~~

~~7-214.~~

~~(A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY FEDERAL, SPECIAL, OR HIGHER EDUCATION FUND APPROPRIATION MAY BE INCREASED BY~~

~~BUDGET AMENDMENT IF THE BOARD OF PUBLIC WORKS DECLARES THAT THE BUDGET AMENDMENT IS ESSENTIAL TO MAINTAINING PUBLIC SAFETY, HEALTH, OR WELFARE, INCLUDING PROTECTING THE ENVIRONMENT OR THE ECONOMIC WELFARE OF THE STATE.~~

~~(B) THE GOVERNOR MAY NOT SUSPEND THE EFFECT OF THIS SECTION UNDER:~~

~~(1) § 14-107(D)(1)(i) OF THE PUBLIC SAFETY ARTICLE;~~

~~(2) § 14-108(A)(2) OF THE PUBLIC SAFETY ARTICLE; OR~~

~~(3) ANY OTHER LAW THAT GRANTS THE GOVERNOR AUTHORITY TO SUSPEND THE EFFECT OF ANY STATUTE DURING A STATE OF EMERGENCY.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2021.

May 28, 2021

The Honorable Adrienne A. Jones
Speaker of the House of Delegates
H-101 State House
Annapolis, MD 21401

The Honorable Bill Ferguson
President of the Senate
H-107 State House
Annapolis, MD 21401

Dear Speaker Jones and President Ferguson:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 1091 and Senate Bill 829 – *State Procurement – Emergency and Expedited Procurements – Revisions and Reporting*.

From the moment I declared a State of Emergency and the Existence of a Catastrophic Health Emergency on March 5, 2020, the absolute top priority of my Administration has been to save lives – and in our continued fight against the COVID-19 pandemic, our great State now has administered more than six million vaccinations, a significant milestone in defeating this deadly virus. This time last year, however, the landscape before us was very different; faced with many frightening unknowns and up against an unprecedented global

competition for scarce resources, protecting the health, welfare, and safety of Marylanders required immediate and decisive action. When hours and even seconds counted, delays in the emergency procurement process most certainly would have prevented our State from acquiring life-saving medical supplies and services.

When navigating the dangers of an emergency, time becomes a luxury at the possible expense of public health, safety, or welfare, and State law currently recognizes the importance of time saving measures that transcend normal procurement practices. Unfortunately, House Bill 1091 and Senate Bill 829 would add red tape to complicate and to decelerate the emergency procurement process, thus inhibiting the State's ability to avoid or mitigate serious damage. This legislation also mandates additional layers of approval, onerous paperwork, and expanded reporting requirements that will result in administrative burdens at times when the primary focus should be protecting the citizens of Maryland.

A strict standard for the use of emergency procurements currently exists; by combining it with the oversight and reporting requirements already in place, this balanced and common sense approach provides State agencies with the flexibility to act quickly while ensuring transparency and accountability. Whether the emergency is caused by a global pandemic, damaged highway infrastructure, equipment failure, or extreme weather conditions, all public threats must be managed without hesitation. If enacted, House Bill 1091 and Senate Bill 829 will delay emergency procurements – and when time is most critical, lengthening the emergency procurement process simply does not make sense.

For these reasons, I have vetoed House Bill 1091 and Senate Bill 829 – *State Procurement – Emergency and Expedited Procurements – Revisions and Reporting*.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 829

AN ACT concerning

State Procurement – Emergency and Expedited Procurements – ~~Reform~~ **Revisions and Reporting**

FOR the purpose of ~~altering the circumstances under which a procurement officer may make an emergency procurement; requiring a unit's procurement officer to obtain approval from the Chief Procurement Officer or the Chief Procurement Officer's designee before making an emergency procurement under certain circumstances; requiring the Chief Procurement Officer or designee to approve or disapprove a certain request within a certain time frame after receiving the request; providing that if the Chief Procurement Officer or designee does not approve or disapprove a certain request within a certain time frame the request shall be considered to be~~

~~approved; requiring a procurement officer to make reasonable efforts to solicit a certain minimum number of quotes for an emergency procurement; requiring a procurement officer to evaluate a certain contractor's ability to perform the requirements of an emergency procurement based on certain criteria under certain circumstances; requiring a procurement officer to obtain the approval of the Board of Public Works before awarding an emergency procurement contract with a certain value; altering certain reporting requirements related to emergency procurement contracts; adding certain reporting requirements for certain emergency procurement contracts; altering the time frame within which a procurement officer must submit a certain report; requiring an emergency procurement contract to include provisions addressing the contractor's ability to perform the requirements of the contract within a certain time frame; limiting the term of a certain single source procurement contract; authorizing the Board to hold a certain emergency meeting for a certain purpose; specifying when a unit is required to publish notice of a certain emergency procurement in eMaryland Marketplace; authorizing certain units of State government to make a procurement on an expedited basis under certain circumstances; reducing the number of days after the end of each fiscal year that a primary procurement unit has to submit a certain report concerning certain procurement contracts; requiring a primary procurement unit to submit the report to the Chief Procurement Officer for the State instead of the Governor and the General Assembly; clarifying the types of procurement contracts that must be included in the report; requiring the report to include certain information on certain types of procurements; requiring the Chief Procurement Officer, within a certain number of days after the end of each fiscal year, to submit to the Governor and certain committees of the General Assembly a consolidated report that includes each report submitted to the Chief Procurement Officer by the primary procurement units as required under this Act; requiring that a report submitted to a committee of the General Assembly under this Act be submitted subject to a certain provision of law; authorizing the Board to adopt certain regulations~~ requiring the Special Secretary for the Office of Small, Minority, and Women Business Affairs, in consultation with the Secretary of Transportation and the Attorney General, to establish certain guidelines; requiring a unit's procurement officer to obtain approval from the Chief Procurement Officer or the Chief Procurement Officer's designee before making an emergency procurement under certain circumstances; requiring the Chief Procurement Officer or designee to approve or disapprove a certain request within a certain time frame after receiving the request; providing that if the Chief Procurement Officer or designee does not approve or disapprove a certain request within a certain time frame, the request shall be considered to be approved; requiring a procurement officer to evaluate a certain contractor's ability to perform the requirements of an emergency procurement based on certain criteria under certain circumstances; requiring a procurement officer to execute a certain written contract for an emergency procurement under certain circumstances; prohibiting a unit from paying more than a certain amount in advance of or concurrent with the execution of a certain emergency procurement contract; prohibiting a unit from making certain additional payments under a certain emergency procurement contract for a certain period of time unless authorized by the Board of Public Works; requiring a unit to submit a copy of a certain emergency procurement contract to the Board within a

certain period of time; authorizing the Board to review a certain emergency procurement contract at a certain meeting and to direct a unit or the appropriate control agency to take certain actions; altering certain reporting requirements related to emergency procurement contracts; adding certain reporting requirements for certain emergency procurement contracts; requiring an emergency procurement contract to include provisions addressing the contractor's ability to perform the requirements of the contract within a certain time frame; altering the time frame within which a procurement officer must submit a certain report to the Board; specifying when a unit is required to publish notice of a certain emergency procurement in eMaryland Marketplace; requiring a unit that awards a certain contract or contract modification as an emergency procurement to submit a certain report to the Board and a certain appropriate control agency within a certain period of time; specifying the contents of a certain report; authorizing the Board to adopt certain regulations; authorizing certain units of State government to make a procurement on an expedited basis under certain circumstances; reducing the number of days after the end of each fiscal year that a primary procurement unit has to submit a certain report concerning certain procurement contracts; requiring a primary procurement unit to submit a certain report to the Chief Procurement Officer instead of the Governor and the General Assembly; clarifying the types of procurement contracts that must be included in a certain report; requiring a certain report to include certain information on certain types of procurements; requiring the Chief Procurement Officer, within a certain number of days after the end of each fiscal year, to submit to the Governor and certain committees of the General Assembly a consolidated report that includes each report submitted to the Chief Procurement Officer by the primary procurement units as required under this Act; requiring a certain report to be submitted by the Department of General Services instead of the Department of Budget and Management; requiring that a report submitted to a committee of the General Assembly under this Act be submitted subject to a certain provision of law; requiring the Special Secretary for the Office of Small, Minority, and Women Business Affairs to report to certain committees of the General Assembly on or before a certain date; providing for the application of certain provisions of this Act; providing for the effective dates of this Act; defining a certain term; and generally relating to State procurement.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 13–108 and 15–111
Annotated Code of Maryland
(2015 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 13–108
Annotated Code of Maryland
(2015 Replacement Volume and 2020 Supplement)
(As enacted by Section 1 of this Act)

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

Article – State Finance and Procurement

13–108.

(a) IN THIS SECTION, “EMERGENCY” MEANS AN OCCURRENCE OR A CONDITION THAT CREATES AN IMMEDIATE AND SERIOUS NEED FOR SERVICES, MATERIALS, OR SUPPLIES THAT:

(1) CANNOT BE MET THROUGH NORMAL PROCUREMENT METHODS;
AND

(2) ARE REQUIRED TO AVOID OR MITIGATE SERIOUS DAMAGE TO PUBLIC HEALTH, SAFETY, OR WELFARE.

(B) (1) Except as provided in § 11–205 (“Collusion”), § 10–204 (“Approval for designated contracts”), § 13–219 (“Required clauses – Nondiscrimination clause”), § 13–221 (“Disclosures to Secretary of State”), Title 16 (“Suspension and Debarment of Contractors”), or Title 17 (“Special Provisions – State and Local Subdivisions”) of this article, with the approval of the head of a unit, its procurement officer may make an emergency procurement by any method that the procurement officer considers most appropriate to avoid or mitigate serious damage to public health, safety, or welfare ~~DUE TO UNFORESEEN CAUSES.~~

(2) ~~(I) BEFORE MAKING AN EMERGENCY PROCUREMENT, THE PROCUREMENT OFFICER SHALL OBTAIN APPROVAL OF THE USE OF EMERGENCY PROCUREMENT PROCEDURES FROM THE CHIEF PROCUREMENT OFFICER, OR THE CHIEF PROCUREMENT OFFICER’S DESIGNEE.~~

~~(II) WITHIN 48 HOURS AFTER RECEIVING A REQUEST TO USE EMERGENCY PROCUREMENT PROCEDURES, THE CHIEF PROCUREMENT OFFICER OR DESIGNEE SHALL APPROVE OR DISAPPROVE THE REQUEST.~~

~~(III) IF THE CHIEF PROCUREMENT OFFICER OR DESIGNEE DOES NOT APPROVE OR DISAPPROVE THE REQUEST TO USE EMERGENCY PROCUREMENT PROCEDURES WITHIN 48 HOURS AFTER RECEIVING THE REQUEST, THE REQUEST SHALL BE CONSIDERED TO BE APPROVED.~~

~~(3)~~ The procurement officer shall:

(i) obtain as much competition as possible under the circumstances, ~~INCLUDING BY MAKING REASONABLE EFFORTS TO SOLICIT AT LEAST THREE ORAL QUOTES;~~

(ii) limit the emergency procurement to the procurement of only those items, both in type and quantity, necessary to avoid or to mitigate serious damage to public health, safety, or welfare; ~~{and}~~

~~(III) BEFORE AWARDING AN EMERGENCY PROCUREMENT CONTRACT TO A PROSPECTIVE CONTRACTOR, EVALUATE THE CONTRACTOR'S ABILITY TO PERFORM THE REQUIREMENTS OF THE CONTRACT BASED ON:~~

~~1. THE LENGTH OF TIME THE CONTRACTOR HAS BEEN IN BUSINESS;~~

~~2. THE CONTRACTOR'S LEVEL OF EXPERIENCE PROVIDING THE TYPES AND AMOUNTS OF SUPPLIES, SERVICES, MAINTENANCE, COMMODITIES, CONSTRUCTION, OR CONSTRUCTION RELATED SERVICES REQUIRED UNDER THE CONTRACT; AND~~

~~3. THE CONTRACTOR'S HISTORY OF SUCCESSFUL PROCUREMENT CONTRACTS WITH THE STATE AND OTHER JURISDICTIONS;~~

~~(IV) OBTAIN BOARD APPROVAL BEFORE AWARDING AN EMERGENCY PROCUREMENT CONTRACT WITH A VALUE OF \$1,000,000 OR MORE;~~

~~{(iii)}~~ ~~(V) NOT MORE THAN 15 DAYS~~ after awarding the procurement contract, submit ~~{to the Board}~~ a written report that gives the justification for use of the emergency procurement procedure ~~IN ACCORDANCE WITH PARAGRAPH (4) OF THIS SUBSECTION; AND~~

~~(VI) AS APPROPRIATE, SUBMIT WRITTEN REPORTS PROVIDING STATUS UPDATES ON THE DELIVERY AND USE OF SUPPLIES OR COMMODITIES PROCURED UNDER THE CONTRACT IN ACCORDANCE WITH PARAGRAPH (5) OF THIS SUBSECTION.~~

~~(4) WITHIN 15 DAYS AFTER AWARDING A CONTRACT OR A CONTRACT MODIFICATION, A UNIT SHALL SUBMIT TO THE BOARD, THE APPROPRIATE CONTROL AGENCY, AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE JOINT AUDIT AND EVALUATIONS COMMITTEE, A REPORT THAT INCLUDES:~~

~~(i) THE BASIS AND JUSTIFICATION FOR THE EMERGENCY PROCUREMENT, INCLUDING THE DATE THE EMERGENCY FIRST BECAME KNOWN;~~

~~(II) A LISTING OF SUPPLIES, SERVICES, MAINTENANCE, COMMODITIES, CONSTRUCTION, OR CONSTRUCTION RELATED SERVICES PROCURED;~~

~~(III) THE NAMES OF ALL PERSONS SOLICITED AND A JUSTIFICATION IF THE SOLICITATION WAS LIMITED TO ONE PERSON;~~

~~(IV) THE PRICES AND TIMES OF PERFORMANCE PROPOSED BY THE PERSONS RESPONDING TO THE SOLICITATION;~~

~~(V) THE NAME OF AND BASIS FOR THE SELECTION OF A PARTICULAR CONTRACTOR;~~

~~(VI) THE AMOUNT AND TYPE OF THE CONTRACT OR CONTRACT MODIFICATION;~~

~~(VII) A LISTING OF ANY PRIOR OR RELATED EMERGENCY CONTRACTS, INCLUDING ALL CONTRACT MODIFICATIONS, EXECUTED FOR THE PURPOSES OF AVOIDING OR MITIGATING THE PARTICULAR EMERGENCY, INCLUDING THE AGGREGATE COSTS; AND~~

~~(VIII) THE IDENTIFICATION NUMBER, IF ANY, OF THE CONTRACT FILE.~~

~~(5) IF SUPPLIES OR COMMODITIES PROCURED UNDER AN EMERGENCY PROCUREMENT CONTRACT ARE NOT DELIVERED AND USED WITHIN 1 MONTH AFTER THE DATE THE CONTRACT IS AWARDED, THE UNIT SHALL:~~

~~(I) PREPARE A REPORT DESCRIBING THE DELIVERY AND USE STATUS OF SUPPLIES AND COMMODITIES PROCURED UNDER THE CONTRACT AT LEAST ONCE PER MONTH UNTIL ALL SUPPLIES AND COMMODITIES HAVE BEEN DELIVERED AND USED; AND~~

~~(II) SUBMIT THE REPORTS PREPARED UNDER THIS PARAGRAPH TO THE BOARD, THE APPROPRIATE CONTROL AGENCY, AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE JOINT AUDIT AND EVALUATIONS COMMITTEE.~~

~~(6) A PROCUREMENT CONTRACT AWARDED UNDER THIS SUBSECTION SHALL INCLUDE PROVISIONS ADDRESSING THE CONTRACTOR'S ABILITY TO~~

~~PERFORM THE REQUIREMENTS OF THE CONTRACT WITHIN THE EMERGENCY TIME FRAME.~~

~~(7) THE TERM OF A SINGLE SOURCE PROCUREMENT CONTRACT AWARDED UNDER THIS SECTION MAY NOT EXCEED THE MINIMUM PERIOD OF TIME NECESSARY TO AMELIORATE THE CIRCUMSTANCES THAT CREATED THE MATERIAL AND SUBSTANTIAL REASONS FOR THE SINGLE SOURCE AWARD.~~

~~(8) THE BOARD MAY HOLD AN EMERGENCY MEETING FOR THE PURPOSE OF CONSIDERING A REQUEST TO APPROVE AN EMERGENCY PROCUREMENT CONTRACT WITH A VALUE OF \$1,000,000 OR MORE, AS REQUIRED UNDER PARAGRAPH (3)(IV) OF THIS SUBSECTION.~~

~~(9) NOTWITHSTANDING SUBSECTION (E) OF THIS SECTION, ON THE DAY OF THE EXECUTION AND APPROVAL OF A PROCUREMENT CONTRACT AWARDED UNDER THIS SUBSECTION, OR AS SOON AS PRACTICABLE THEREAFTER, A UNIT SHALL PUBLISH IN E-MARYLAND MARKETPLACE NOTICE OF THE AWARD.~~

~~[(b)] (C)~~ (1) Consistent with the requirements of subsection [(a)(1)] **(B)(1)** of this section, the State Highway Administration may enter into procurement contracts related to the pretreatment and removal of snow and ice as required or authorized under Title 8 of the Transportation Article.

(2) (i) Beginning on June 30, 2016, and no later than June 30 of each succeeding year, the State Highway Administration shall submit to the Board a written report on the operation and effectiveness of the procurement contracts entered into under this subsection during the previous year.

(ii) The report shall include:

1. the number of contracts awarded;
2. the total dollar value of the contracts awarded; and
3. the amount of contracting dollars expended with minority business enterprises, certified small businesses, and certified veteran-owned businesses, as defined under Title 14 of this article.

(3) The Board, in consultation with the State Highway Administration, may adopt regulations to carry out the requirements of this subsection.

~~[(c)] (D)~~ (1) Except as provided in § 11–205 (“Collusion”), § 10–204 (“Approval for designated contracts”), § 13–219 (“Required clauses – Nondiscrimination clause”), § 13–221 (“Disclosures to Secretary of State”), Title 16 (“Suspension and Debarment of Contractors”), or Title 17 (“Special Provisions – State and Local Subdivisions”) of this

article, with the approval of the head of the unit and the Board, ~~the Maryland Port Commission or the Maryland Aviation Administration~~ ~~A UNIT'S PROCUREMENT OFFICER~~ may make a procurement on an expedited basis if the head of the unit and the Board find that:

- (i) urgent circumstances require prompt action;
- (ii) an expedited procurement best serves the public interest; and
- (iii) the need for the expedited procurement outweighs the benefits of making the procurement on the basis of competitive sealed bids or competitive sealed proposals.

(2) The procurement officer shall attempt to obtain as much competition as reasonably possible.

~~[(d)] (E) [Not] EXCEPT AS PROVIDED IN SUBSECTION (B)(9) OF THIS SECTION, NOT~~ more than 30 days after the execution and approval of a procurement contract awarded under this section, a unit shall publish in eMaryland Marketplace notice of the award.

~~[(e)] (F)~~ For real property leases procured under this section, the term of the lease shall be for the minimum period of time practicable.

(G) THE BOARD MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

(H) THE SPECIAL SECRETARY FOR THE OFFICE OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS, IN CONSULTATION WITH THE SECRETARY OF TRANSPORTATION AND THE ATTORNEY GENERAL, SHALL ESTABLISH GUIDELINES FOR EACH UNIT TO CONSIDER WHEN DETERMINING THE APPROPRIATE MINORITY BUSINESS ENTERPRISE PARTICIPATION PERCENTAGE GOAL AND OUTREACH FOR AN EMERGENCY PROCUREMENT CONTRACT.

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

Article – State Finance and Procurement

13–108.

(a) In this section, “emergency” means an occurrence or condition that creates an immediate and serious need for services, materials, or supplies that:

- (1) cannot be met through normal procurement methods; and

(2) are required to avoid or mitigate serious damage to public health, safety, or welfare.

(b) (1) Except as provided in § 11–205 (“Collusion”), § 10–204 (“Approval for designated contracts”), § 13–219 (“Required clauses – Nondiscrimination clause”), § 13–221 (“Disclosures to Secretary of State”), Title 16 (“Suspension and Debarment of Contractors”), or Title 17 (“Special Provisions – State and Local Subdivisions”) of this article, with the approval of the head of a unit, its procurement officer may make an emergency procurement by any method that the procurement officer considers most appropriate to avoid or mitigate serious damage to public health, safety, or welfare.

(2) (I) EXCEPT WHEN DELAYING A PROCUREMENT BY UP TO 48 HOURS WOULD LIKELY RESULT IN IMMINENT HARM, AFTER OBTAINING THE APPROVAL OF THE HEAD OF THE UNIT AND BEFORE MAKING AN EMERGENCY PROCUREMENT, THE PROCUREMENT OFFICER SHALL OBTAIN APPROVAL OF THE USE OF EMERGENCY PROCUREMENT PROCEDURES FROM THE CHIEF PROCUREMENT OFFICER, OR THE CHIEF PROCUREMENT OFFICER’S DESIGNEE.

(II) WITHIN 48 HOURS AFTER RECEIVING A REQUEST TO USE EMERGENCY PROCUREMENT PROCEDURES, THE CHIEF PROCUREMENT OFFICER OR DESIGNEE SHALL APPROVE OR DISAPPROVE THE REQUEST.

(III) IF THE CHIEF PROCUREMENT OFFICER OR DESIGNEE DOES NOT APPROVE OR DISAPPROVE THE REQUEST TO USE EMERGENCY PROCUREMENT PROCEDURES WITHIN 48 HOURS AFTER RECEIVING THE REQUEST, THE REQUEST SHALL BE CONSIDERED TO BE APPROVED.

(3) The procurement officer shall:

(i) obtain as much competition as possible under the circumstances, INCLUDING BY MAKING REASONABLE EFFORTS TO SOLICIT AT LEAST THREE ORAL QUOTES;

(ii) limit the emergency procurement to the procurement of only those items, both in type and quantity, necessary to avoid or to mitigate serious damage to public health, safety, or welfare; [and]

(III) BEFORE AWARDING AN EMERGENCY PROCUREMENT CONTRACT TO A PROSPECTIVE CONTRACTOR, EVALUATE THE CONTRACTOR’S ABILITY TO PERFORM THE REQUIREMENTS OF THE CONTRACT BASED ON:

1. THE LENGTH OF TIME THE CONTRACTOR HAS BEEN IN BUSINESS;

2. THE CONTRACTOR'S LEVEL OF EXPERIENCE PROVIDING THE TYPES AND AMOUNTS OF SUPPLIES, SERVICES, MAINTENANCE, COMMODITIES, CONSTRUCTION, OR CONSTRUCTION-RELATED SERVICES REQUIRED UNDER THE CONTRACT; AND

3. THE CONTRACTOR'S HISTORY OF SUCCESSFUL PROCUREMENT CONTRACTS WITH THE STATE AND OTHER JURISDICTIONS;

(IV) EXECUTE A WRITTEN CONTRACT WITH THE SUCCESSFUL CONTRACTOR WHICH INCLUDES THE TERMS OF THE EMERGENCY PROCUREMENT; AND

[(iii)] (V) NOT MORE THAN 15 DAYS after awarding the procurement contract, submit to the Board a written report that gives the justification for use of the emergency procurement procedure.

(4) (I) THIS PARAGRAPH APPLIES ONLY TO AN EMERGENCY PROCUREMENT CONTRACT WITH A VALUE OF \$1,000,000 OR MORE.

(II) 1. IN ADVANCE OF OR CONCURRENT WITH THE EXECUTION OF AN EMERGENCY PROCUREMENT CONTRACT THAT IS SUBJECT TO THIS PARAGRAPH, A UNIT MAY NOT PAY AN AMOUNT THAT EXCEEDS \$2,000,000, PLUS 30% OF THE CONTRACT VALUE IN EXCESS OF \$2,000,000.

2. UNLESS AUTHORIZED BY THE BOARD, THE UNIT MAY NOT MAKE ANY ADDITIONAL PAYMENT UNDER THE CONTRACT UNTIL AT LEAST 30 DAYS AFTER THE EXECUTION OF THE CONTRACT.

(III) NOT LATER THAN 7 DAYS AFTER AWARDING AN EMERGENCY PROCUREMENT CONTRACT THAT IS SUBJECT TO THIS PARAGRAPH, A UNIT SHALL SUBMIT A COPY OF THE CONTRACT TO THE BOARD.

(IV) THE BOARD MAY:

1. REVIEW AN EMERGENCY PROCUREMENT CONTRACT SUBMITTED UNDER THIS PARAGRAPH AT A REGULARLY SCHEDULED MEETING OF THE BOARD OR AT AN EMERGENCY MEETING CALLED FOR THAT PURPOSE; AND

2. DIRECT THE UNIT OR THE APPROPRIATE CONTROL AGENCY TO TAKE ANY ACTION, INCLUDING CANCELING OR RESCINDING THE CONTRACT, THAT THE BOARD DEEMS APPROPRIATE.

(5) IF SUPPLIES OR COMMODITIES PROCURED UNDER AN EMERGENCY PROCUREMENT CONTRACT ARE NOT DELIVERED AND USED WITHIN 1 MONTH AFTER THE DATE THE CONTRACT IS AWARDED, THE UNIT SHALL:

(I) PREPARE A REPORT DESCRIBING THE DELIVERY AND USE STATUS OF SUPPLIES AND COMMODITIES PROCURED UNDER THE CONTRACT AT LEAST ONCE PER MONTH UNTIL ALL SUPPLIES AND COMMODITIES HAVE BEEN DELIVERED AND USED; AND

(II) SUBMIT THE REPORTS PREPARED UNDER THIS PARAGRAPH TO THE BOARD, THE APPROPRIATE CONTROL AGENCY, AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE JOINT AUDIT AND EVALUATION COMMITTEE.

(6) A PROCUREMENT CONTRACT AWARDED UNDER THIS SUBSECTION SHALL INCLUDE PROVISIONS ADDRESSING THE CONTRACTOR'S ABILITY TO PERFORM THE REQUIREMENTS OF THE CONTRACT WITHIN THE EMERGENCY TIME FRAME.

(7) NOTWITHSTANDING SUBSECTION (E) OF THIS SECTION, ON THE DAY OF THE EXECUTION AND APPROVAL OF A PROCUREMENT CONTRACT AWARDED UNDER THIS SUBSECTION, OR AS SOON AS PRACTICABLE THEREAFTER, A UNIT SHALL PUBLISH IN eMARYLAND MARKETPLACE NOTICE OF THE AWARD.

(8) (I) THIS PARAGRAPH APPLIES ONLY TO THE AWARD OF A CONTRACT OR A CONTRACT MODIFICATION MADE UNDER THIS SUBSECTION THAT, WITH PRIOR MODIFICATIONS, EXCEEDS \$50,000.

(II) WITHIN 15 DAYS AFTER AWARDED A CONTRACT OR A CONTRACT MODIFICATION, A UNIT SHALL SUBMIT TO THE BOARD AND THE APPROPRIATE CONTROL AGENCY A REPORT THAT INCLUDES:

1. THE BASIS AND JUSTIFICATION FOR THE EMERGENCY PROCUREMENT INCLUDING THE DATE THE EMERGENCY FIRST BECAME KNOWN;

2. A LISTING OF SUPPLIES, SERVICES, MAINTENANCE, COMMODITIES, CONSTRUCTION, OR CONSTRUCTION-RELATED SERVICES PROCURED;

3. THE NAMES OF ALL PERSONS SOLICITED AND A JUSTIFICATION IF THE SOLICITATION WAS LIMITED TO ONE PERSON;

4. THE PRICES AND TIMES OF PERFORMANCE PROPOSED BY THE PERSONS RESPONDING TO THE SOLICITATION;

5. THE NAME OF AND BASIS FOR THE SELECTION OF A PARTICULAR CONTRACTOR;

6. THE AMOUNT AND TYPE OF THE CONTRACT OR CONTRACT MODIFICATION;

7. A LISTING OF ANY PRIOR OR RELATED EMERGENCY CONTRACTS, INCLUDING ALL CONTRACT MODIFICATIONS, EXECUTED FOR THE PURPOSES OF AVOIDING OR MITIGATING THE PARTICULAR EMERGENCY, INCLUDING THE AGGREGATE COSTS; AND

8. THE IDENTIFICATION NUMBER, IF ANY, OF THE CONTRACT FILE.

(III) THE BOARD MAY ADOPT REGULATIONS TO CARRY OUT THIS PARAGRAPH.

(c) (1) Consistent with the requirements of subsection (b)(1) of this section, the State Highway Administration may enter into procurement contracts related to the pretreatment and removal of snow and ice as required or authorized under Title 8 of the Transportation Article.

(2) (i) Beginning on June 30, 2016, and no later than June 30 of each succeeding year, the State Highway Administration shall submit to the Board a written report on the operation and effectiveness of the procurement contracts entered into under this subsection during the previous year.

(ii) The report shall include:

1. the number of contracts awarded;
2. the total dollar value of the contracts awarded; and
3. the amount of contracting dollars expended with minority business enterprises, certified small businesses, and certified veteran-owned businesses, as defined under Title 14 of this article.

(3) The Board, in consultation with the State Highway Administration, may adopt regulations to carry out the requirements of this subsection.

(d) (1) Except as provided in § 11-205 (“Collusion”), § 10-204 (“Approval for designated contracts”), § 13-219 (“Required clauses – Nondiscrimination clause”), § 13-221

(“Disclosures to Secretary of State”), Title 16 (“Suspension and Debarment of Contractors”), or Title 17 (“Special Provisions – State and Local Subdivisions”) of this article, with the approval of the head of the unit and the Board, [the Maryland Port Commission or the Maryland Aviation Administration] A UNIT’S PROCUREMENT OFFICER may make a procurement on an expedited basis if the head of the unit and the Board find that:

(i) urgent circumstances require prompt action;

(ii) an expedited procurement best serves the public interest; and

(iii) the need for the expedited procurement outweighs the benefits of making the procurement on the basis of competitive sealed bids or competitive sealed proposals.

(2) The procurement officer shall attempt to obtain as much competition as reasonably possible.

(e) [Not] EXCEPT AS PROVIDED IN SUBSECTION (B)(7) OF THIS SECTION, NOT more than 30 days after the execution and approval of a procurement contract awarded under this section, a unit shall publish in eMaryland Marketplace notice of the award.

(f) For real property leases procured under this section, the term of the lease shall be for the minimum period of time practicable.

(g) The Board may adopt regulations to carry out this section.

(h) The Special Secretary for the Office of Small, Minority, and Women Business Affairs, in consultation with the Secretary of Transportation and the Attorney General, shall establish guidelines for each unit to consider when determining the appropriate minority business enterprise participation percentage goal and outreach for an emergency procurement contract.

15–111.

(a) Within [90] **60** days after the end of each fiscal year, each primary procurement unit shall submit to the [Governor and to the General Assembly] **CHIEF PROCUREMENT OFFICER** a report on each procurement contract that was awarded during the preceding fiscal year, **WHETHER THE PROCUREMENT WAS CONDUCTED BY THE PRIMARY PROCUREMENT UNIT OR SUBJECT TO REVIEW BY THE PRIMARY PROCUREMENT UNIT**, and:

(1) was exempt from the notice requirements of § 13–103(c) of this article because the procurement officer reasonably expected that the procurement contract would be performed entirely outside this State and the District of Columbia;

(2) cost more than \$100,000 and was awarded for the procurement of services, construction related services, architectural services, or engineering services; or

(3) was awarded on the basis of:

- (i) § 13–107 of this article (“Sole source procurement”);
- (ii) § 13–108(a) of this article (“Emergency procurement”); or
- (iii) § 13–108(c) of this article (“Expedited procurement”).

(b) (1) A report required under subsection (a)(2) or (3) of this section shall include:

- (i) the name of each contractor;
- (ii) the type and cost of the procurement contract; and
- (iii) a description of the procurement.

(2) A report required under subsection (a)(3) of this section [also] shall [describe] **INCLUDE:**

(I) A DESCRIPTION OF the basis for the award;

(II) THE IDENTITY OF THE DEPARTMENT OR AGENCY THAT AWARDED THE CONTRACT;

(III) THE IDENTITY OF ANY AGENCY OFFICIAL REQUIRED TO AUTHORIZE THE CONTRACT FOR AWARD;

(IV) THE AWARD DATE OF THE PROCUREMENT CONTRACT AND THE FINAL DATE OF THE CONTRACT TERM;

(V) THE DATE THE CONTRACT AWARD WAS POSTED TO EMARYLAND MARKETPLACE; AND

(VI) FOR PROCUREMENTS AWARDED UNDER § 13–108(B) OF THIS ARTICLE (“EMERGENCY PROCUREMENT”):

1. THE NUMBER OF DAYS BETWEEN THE AGENCY DECLARATION OF AN EMERGENCY PROCUREMENT AND THE CONTRACT AWARD DATE;

2. THE DATE OF THE EMERGENCY DECLARATION FOR EACH PROCUREMENT; AND

3. FOR AN AWARD THAT MUST BE REPORTED TO THE BOARD, THE DATE THE AWARD WAS REPORTED TO THE BOARD.

(C) WITHIN 90 DAYS AFTER THE END OF EACH FISCAL YEAR, THE CHIEF PROCUREMENT OFFICER SHALL SUBMIT TO THE GOVERNOR, THE LEGISLATIVE POLICY COMMITTEE, THE SENATE BUDGET AND TAXATION COMMITTEE, ~~AND THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE JOINT AUDIT AND EVALUATION COMMITTEE~~ A CONSOLIDATED REPORT THAT INCLUDES EACH REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.

[(c)] (D) Within 90 days after the end of each fiscal year, the Department of ~~Budget and Management~~ GENERAL SERVICES shall submit to the Board and the General Assembly a report on each class of procurement for which the procedure for noncompetitive negotiated procurement has been approved under § 13–106 of this article.

[(d)] (E) A report to the General Assembly ~~OR A COMMITTEE OF THE GENERAL ASSEMBLY~~ under this section is subject to § 2–1257 of the State Government Article.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.~~

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 31, 2021, the Special Secretary for the Office of Small, Minority, and Women Business Affairs shall report to the Legislative Policy Committee, the Senate Budget and Taxation Committee, the Senate Education, Health, and Environmental Affairs Committee, the House Appropriations Committee, the House Health and Government Operations Committee, and the Joint Audit and Evaluation Committee, in accordance with § 2–1257 of the State Government Article, on the status of establishing the guidelines for minority business enterprise participation goals required under Section 1 of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2021.

SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect July 1, 2021.

May 28, 2021

The Honorable Bill Ferguson
President of the Senate
H-107 State House
Annapolis, MD 21401

Dear President Ferguson:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 922 – *Office of Legislative Audits – Acceptance and Investigation of Allegations of Fraud, Waste, and Abuse*.

This bill requires the Office of Legislative Audits (OLA) to maintain a fraud hotline for the reporting of allegations of fraud, waste, and abuse of State resources. Each unit of State government must post and distribute specified information prepared by OLA relating to the reporting of fraud, waste, and abuse. In addition, OLA must, in consultation with the Office of the Attorney General and the Office of the State Prosecutor, evaluate and develop appropriate statutory or regulatory language to enhance the authority, duties, and powers of OLA related to investigations of acts or allegations of fraud, waste, or abuse; coordinate and cooperate with appropriate prosecutorial entities to maximize the effectiveness of investigations conducted by OLA; and require State agencies to report any instance of possible criminal or unethical behavior in the obligation, expenditure, receipt, or use of State resources at the agency to OLA unless otherwise prohibited by law.

House Bill 756, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 922.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 922

AN ACT concerning

Office of Legislative Audits – Acceptance and Investigation of Allegations of Fraud, Waste, and Abuse

FOR the purpose of ~~authorizing the Office of Legislative Audits to compel by subpoena or otherwise certain records and the appearance of a person for a certain purpose; authorizing the Office to coordinate an investigation with certain law enforcement units; requiring certain law enforcement units to cooperate and share information under certain circumstances;~~ providing that, except under certain circumstances, certain information obtained in relation to an act or allegation of fraud, waste, or abuse is confidential and may not be disclosed; authorizing the Legislative Auditor

to authorize the disclosure of certain information in relation to an act or allegation of fraud, waste, or abuse to certain persons under certain circumstances; requiring the Office of Legislative Audits to maintain a certain fraud hotline; authorizing the Office to investigate or refer to a certain agency certain allegations under certain circumstances; requiring each unit of State government to keep posted in conspicuous places on its premises a certain notice and on its website a certain link, and distribute certain information to certain persons under certain circumstances, report certain information to the Office, and provide timely cooperation on certain inquiries; requiring the Office, in coordination with the Office of the Attorney General and the Office of the State Prosecutor, to evaluate and develop certain statutory and regulatory language; requiring the Office to report its findings to a certain committee of the General Assembly on or before a certain date; and generally relating to the Office of Legislative Audits.

BY repealing and reenacting, without amendments,

Article – State Government

Section 2–1220(a)(4)

Annotated Code of Maryland

(2014 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government

Section ~~2–1223~~ and 2–1226

Annotated Code of Maryland

(2014 Replacement Volume and 2020 Supplement)

BY adding to

Article – State Government

Section 2–1228

Annotated Code of Maryland

(2014 Replacement Volume and 2020 Supplement)

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

Article – State Government

2–1220.

(a) (4) (i) In addition to the audits required under paragraph (2) of this subsection, the Office of Legislative Audits may conduct a review when the objectives of the work to be performed can be satisfactorily fulfilled without conducting an audit as prescribed in § 2–1221 of this subtitle.

(ii) 1. The Office of Legislative Audits has the authority to conduct a separate investigation of an act or allegation of fraud, waste, or abuse in the obligation, expenditure, receipt, or use of State resources.

2. The Legislative Auditor shall determine whether an investigation shall be conducted in conjunction with an audit undertaken in accordance with this subsection or separately.

~~2-1223.~~

~~(a) (1) Except as prohibited by the federal Internal Revenue Code, the employees or authorized representatives of the Office of Legislative Audits shall have access to and may inspect the records, including those that are confidential by law, of any unit of the State government or of a person or other body receiving State funds, with respect to any matter under the jurisdiction of the Office of Legislative Audits.~~

~~(2) In conjunction with an examination authorized under this subtitle, the access required by paragraph (1) of this subsection shall include the records of contractors and subcontractors that perform work under State contracts.~~

~~(3) The employees or authorized representatives of the Office of Legislative Audits shall have access to and may inspect the records, including those that are confidential by law, of:~~

~~(i) any local school system to perform the audits authorized under § 2-1220 of this subtitle or in accordance with a request for information as provided in § 5-114(d) of the Education Article;~~

~~(ii) the Board of Liquor License Commissioners for Baltimore City to perform the audits authorized under § 2-1220(f)(1) of this subtitle;~~

~~(iii) the board of license commissioners for a county or for the City of Annapolis to perform the audits authorized under § 2-1220(f)(2) of this subtitle;~~

~~(iv) the Board of License Commissioners for Prince George's County to perform the audits authorized under § 2-1220(g) of this subtitle; and~~

~~(v) the Baltimore Police Department and the Baltimore City government to perform the audits required under § 2-1220(h) of this subtitle.~~

~~(4) IN ADDITION TO THE AUTHORITY PROVIDED IN PARAGRAPHS (1) THROUGH (3) OF THIS SUBSECTION, THE OFFICE OF LEGISLATIVE AUDITS MAY, FOR THE PURPOSE OF FURTHERING AN INVESTIGATION UNDER § 2-1220(A)(4)(II) OF THIS SUBTITLE, COMPEL BY SUBPOENA OR OTHERWISE:~~

~~(i) THE PRODUCTION OF PUBLIC AND PRIVATE RECORDS, INCLUDING THOSE THAT ARE CONFIDENTIAL BY LAW, IN THE POSSESSION OF ANY PERSON, PRIVATE CORPORATION, INSTITUTION, BOARD, ORGANIZATION, OR OTHER BODY OR ENTITY; AND~~

~~(H) A PERSON TO APPEAR UNDER OATH AS A WITNESS.~~

~~(b) Each officer or employee of the unit or body that is subject to examination shall provide any information that the Legislative Auditor determines to be needed for the examination of that unit or body, or of any matter under the authority of the Office of Legislative Audits, including information that otherwise would be confidential under any provision of law.~~

~~(e) (1) The Legislative Auditor may issue process that requires an official who is subject to examination to produce a record that is needed for the examination.~~

~~(2) The process shall be sent to the sheriff for the county where the official is located.~~

~~(3) The sheriff promptly shall serve the process.~~

~~(4) The State shall pay the cost of process.~~

~~(5) If a person fails to comply with process issued under this subsection or fails to provide information that is requested during an examination, a circuit court may issue an order directing compliance with the process or compelling that the information requested be provided.~~

~~(D) (1) THE OFFICE OF LEGISLATIVE AUDITS MAY COORDINATE AN INVESTIGATION WITH:~~

~~(I) THE OFFICE OF THE ATTORNEY GENERAL;~~

~~(II) THE OFFICE OF THE STATE PROSECUTOR; AND~~

~~(III) OTHER STATE AND LOCAL LAW ENFORCEMENT UNITS AND PROSECUTORIAL AGENCIES, AS DETERMINED NECESSARY BY THE OFFICE OF LEGISLATIVE AUDITS.~~

~~(2) THE LAW ENFORCEMENT UNITS LISTED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL COOPERATE AND SHARE INFORMATION WITH THE EMPLOYEES OF THE OFFICE OF LEGISLATIVE AUDITS AS NEEDED TO FURTHER AN INVESTIGATION.~~

2-1226.

(a) Except as provided in § 2-1225 of this subtitle and subsection (b) of this section, information that an employee or authorized representative of the Office of Legislative Audits obtains during an examination **OR IN RELATION TO AN ACT OR ALLEGATION OF FRAUD, WASTE, OR ABUSE:**

(1) is confidential; and

(2) may not be disclosed except to another employee or authorized representative of the Office of Legislative Audits.

(b) The Legislative Auditor may authorize the disclosure of information obtained during an examination **OR IN RELATION TO AN ACT OR ALLEGATION OF FRAUD, WASTE, OR ABUSE** only to the following:

(1) another employee of the Department, with the approval of the Executive Director;

(2) federal, State, or local officials, or their auditors, who provide evidence to the Legislative Auditor that they are performing investigations, studies, or audits related to that same examination and who provide justification for the specific information requested; or

(3) the Joint Audit and Evaluation Committee, if necessary to assist the Committee in reviewing a report issued by the Legislative Auditor.

(c) Except as provided in § 2-1225 of this subtitle, if information that an employee or authorized representative obtains during an examination also is confidential under another law, the employee, authorized representative, or the Legislative Auditor may not include in a report or otherwise use the information in any manner that discloses the identity of any person who is the subject of the confidential information.

2-1228.

(A) (1) THE OFFICE OF LEGISLATIVE AUDITS SHALL MAINTAIN A FRAUD HOTLINE FOR THE REPORTING OF ALLEGATIONS OF FRAUD, WASTE, AND ABUSE IN THE OBLIGATION, EXPENDITURE, RECEIPT, OR USE OF STATE RESOURCES.

(2) THE OFFICE OF LEGISLATIVE AUDITS MAY INVESTIGATE AN ALLEGATION RECEIVED UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHIN THE SCOPE OF ITS AUTHORITY OR REFER THE ALLEGATION TO THE APPROPRIATE FEDERAL, STATE, OR LOCAL AGENCIES RESPONSIBLE FOR THE ENFORCEMENT OR ADMINISTRATION OF THE MATTER FOR INVESTIGATION.

(B) EACH UNIT OF STATE GOVERNMENT SHALL:

(1) KEEP POSTED IN CONSPICUOUS PLACES ON ITS PREMISES A NOTICE PREPARED BY THE OFFICE OF LEGISLATIVE AUDITS SETTING FORTH THE METHODS FOR REPORTING FRAUD, WASTE, AND ABUSE OF STATE RESOURCES;

(2) KEEP POSTED IN CONSPICUOUS PLACES ON ITS WEBSITE A DIRECT LINK TO THE WEBSITE OF THE OFFICE OF LEGISLATIVE AUDITS FOR REPORTING FRAUD, WASTE, AND ABUSE; AND

(3) ON REQUEST OF THE OFFICE OF LEGISLATIVE AUDITS, DISTRIBUTE INFORMATION RELATED TO THE PREVENTION, DETECTION, AND REPORTING OF FRAUD, WASTE, AND ABUSE OF STATE RESOURCES TO STATE EMPLOYEES AND OTHER PERSONS OR BODIES RECEIVING STATE FUNDS~~;~~

~~(4) REPORT TO THE OFFICE OF LEGISLATIVE AUDITS ANY INSTANCE OF POSSIBLE CRIMINAL OR UNETHICAL CONDUCT BY ANY EMPLOYEE, CONTRACTOR, OR RECIPIENT OF FUNDS FROM THE STATE IN ACCORDANCE WITH THE GUIDELINES AND FORMAT ESTABLISHED BY THE OFFICE OF LEGISLATIVE AUDITS; AND~~

~~(5) PROVIDE TIMELY COOPERATION ON ANY INQUIRIES BY THE OFFICE OF LEGISLATIVE AUDITS REGARDING ANY MATTER REPORTED UNDER ITEM (4) OF THIS SUBSECTION.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Office of Legislative Audits shall, in consultation with the Office of the Attorney General and the Office of the State Prosecutor, evaluate and develop appropriate statutory or regulatory language to:

(1) enhance the authority, duties, and powers of the Office of Legislative Audits related to investigations of acts or allegations of fraud, waste, or abuse conducted under its authority under § 2–1220 of the State Government Article;

(2) coordinate and cooperate with appropriate prosecutorial entities to maximize the effectiveness of investigations of acts or allegations of fraud, waste, or abuse conducted by the Office of Legislative Audits; and

(3) require State agencies to report any instance of possible criminal or unethical behavior in the obligation, expenditure, receipt, or use of State resources at the agency to the Office of Legislative Audits, unless otherwise prohibited by law.

(b) On or before December 1, 2021, the Office of Legislative Audits shall, in accordance with § 2–1257 of the State Government Article, report on the findings under subsection (a) of this section to the Joint Audit and Evaluation Committee.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

Vetoed House Bills and Messages

May 28, 2021

The Honorable Adrienne A. Jones
Speaker of the House of Delegates
H-101 State House
Annapolis, MD 21401

Dear Speaker Jones:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 2 – *Maryland Environmental Service Reform Act of 2021*.

This bill makes changes to the governance and administration of the Maryland Environmental Service (MES), including altering the composition, selection, and standards of conduct for the MES Board of Directors; adding new spending and contracting restrictions and requiring independent evaluations of MES finances and board actions; renaming the Director as the Executive Director and requiring the Executive Director to appoint a diversity officer; instituting new training and required policies; establishing new requirements and standards for holding board meetings; and clarifying and modifying the application of specified collective bargaining provisions and procedures for MES employees, including oversight by the State Labor Relations Board.

Senate Bill 2, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 2.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 2

AN ACT concerning

Maryland Environmental Service Reform Act of 2021

FOR the purpose of altering the type of membership position the Executive Director of the Maryland Environmental Service holds on the Board of Directors of the Maryland Environmental Service from being a voting member to being a nonvoting member; removing the ~~Director and Deputy Director of the Maryland Environmental Service from the Board of Directors of the Maryland Environmental Service;~~ requiring the Secretary and the Treasurer of the Service to be selected by the Board from among the Board's members; providing that the Secretary and the Treasurer serve at the pleasure of the Board; providing for the compensation of the Secretary and the

Treasurer; altering the size ~~and~~, membership, and qualifications of the Board; requiring a certain member of the Board to be selected from a certain list of recommendations; prohibiting the Executive Director and State Treasurer from serving as the Secretary, Treasurer, or Chair of the Board; requiring the Executive Director to present certain expense information at each regular meeting of the Board; prohibiting the Governor from appointing a certain employee to the Board; altering the number of members that constitutes a quorum for the transaction of business of the Board; ~~altering the number of votes necessary for certain actions of the Board~~; requiring the Board to select a Chair from among the Board's members; requiring the voting members of the Board to establish certain criteria and procedures for evaluating the Executive Director in a certain manner and to publish the criteria and procedures on the Service's website; authorizing the Secretary to delegate certain duties to a certain person under certain circumstances; requiring the approval of the Board before the Service may employ certain counsel; requiring the approval of the Board on certain expenditures that exceed a certain amount; requiring the Service to notify the Board of a certain expenditure; altering certain requirements for submitting a certain budget of the Service to the Department of Budget and Management; requiring the Board to establish a personnel system in accordance with certain provisions of law and that includes certain procedures for the redress of certain discipline or discharge; requiring the Service to take certain actions for certain open positions in the Service; authorizing employees of the Service to enter into certain collective bargaining agreements in accordance with certain provisions of law; requiring the Board to adopt, on or before a certain date, a certain conflict of interest policy for members of the Board and to send the conflict of interest policy to the President of the Senate and the Speaker of the House under certain circumstances; requiring Board members to observe a certain standard of care; prohibiting the Board from awarding a severance package to a certain executive under certain circumstances; requiring a certain former executive to reimburse the Service for the value of a certain severance package within a certain amount of time under certain circumstances; requiring the Executive Director to appoint a Diversity Officer for certain purposes; requiring the Board to adopt or readopt policies, consistent with certain provisions of this Act, governing certain matters on or before a certain date; requiring the Board to periodically review and revise certain policies; requiring the Board to submit a certain report to certain committees of the General Assembly in accordance with certain provisions of law on or before a certain date and within a certain number of days after a certain policy is revised; requiring Board members, the Executive Director, and the Deputy Director to receive annual training on certain topics; requiring the Board to make a certain annual report to the General Assembly in accordance with a certain provision of law on or before certain dates; requiring the Board to make publicly available on the Service's website certain agendas, meeting minutes, and videos within certain timeframes; requiring the Service to maintain on its website certain meeting minutes and video recordings for certain periods of time; providing for the citation to certain provisions of this Act; requiring the Board to obtain a certain assessment of the Board's operations on or before certain dates; requiring the Board to review a certain assessment and make certain changes or recommendations; requiring the Board to submit a certain assessment to the Governor and the General Assembly; requiring the Service to post

a copy of a certain assessment on the Service’s website in a certain manner; requiring the review and approval of the Board of Public Works on certain contracts, subject to certain exceptions; requiring the Service to obtain a certain audit to be reviewed by the Board in a certain manner; requiring the Service to provide a copy of a certain audit and certain information to the Department of Budget and Management; requiring the Board to post a certain audit on the Service’s website in a certain manner; applying certain provisions of the State Personnel and Pensions Article to employees of the Service; authorizing the State Labor Relations Board to designate a certain number of bargaining units for certain employees; requiring and authorizing the Service to take certain actions related to the provision of certain employee information under certain circumstances and certain new employee programs; requiring the Board to participate as a party in certain bargaining under certain circumstances; requiring a certain memorandum of understanding to be executed by the Board; requiring a certain employee to provide certain proof to the Board under certain circumstances; prohibiting a certain employee from being required to negotiate over a certain matter; authorizing a certain employee to negotiate and reach an agreement on a certain matter under certain circumstances; requiring a certain memorandum of understanding to be ratified by the Board and a certain majority; authorizing an exclusive representative to file a certain action against the Service; repealing the definition of “Director” and replacing it with the definition of “Executive Director”; altering a certain definition; providing for the terms of certain Board members; requiring the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, to correct any cross-references or terminology rendered incorrect by this Act and to describe any corrections made in an editor’s note following the section affected; ~~making this Act an emergency measure;~~ making technical, stylistic, and conforming changes; and generally relating to the Maryland Environmental Service.

BY repealing and reenacting, without amendments,

Article – Natural Resources
 Section 3–101(a), and (b), and (f)
 Annotated Code of Maryland
 (2018 Replacement Volume and 2020 Supplement)

BY repealing

Article – Natural Resources
Section 3–101(f)
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – Natural Resources
 Section 3–101(g) and (p), 3–103, 3–103.1(b) and (e)(8), and (c)(4) and (8), 3–106(a) and (b), 3–107, 3–109(c)(3), and 3–126(d)
 Annotated Code of Maryland
 (2018 Replacement Volume and 2020 Supplement)

BY adding to

Article – Natural Resources
 Section 3–101(g) and 3–103.3 through 3–103.5
 Annotated Code of Maryland
 (2018 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, without amendments,

Article – State Personnel and Pensions
Section 3–101(a) and 3–208(b)
Annotated Code of Maryland
(2015 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions
 Section 3–101(b), 3–102(a), 3–205(a) and (c), 3–208(a), (c), and (d), 3–307, 3–405(a),
3–501(a) and (d), 3–502(b) and (c), 3–601, and 3–603(c)
 Annotated Code of Maryland
 (2015 Replacement Volume and 2020 Supplement)

BY adding to

Article – State Personnel and Pensions
Section 3–205(d)
Annotated Code of Maryland
(2015 Replacement Volume and 2020 Supplement)

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

Article – Natural Resources

3–101.

- (a) In this subtitle the following words and terms have the meanings indicated.
- (b) “Board” means the Board of Directors of the Maryland Environmental Service.
- ~~(f) “Director” means Director of the Maryland Environmental Service.~~

[(g)] (F) “Energy project” means any service, facility, system, or property, real or personal, used, useful, or having present capacity for use in connection with:

- (1) Energy conservation; or
- (2) The production, generation, or distribution of energy from a renewable or other energy source.

(G) “EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF THE MARYLAND ENVIRONMENTAL SERVICE.

(p) “Service region” means a geographic area which the Maryland Environmental Service designates and within which the EXECUTIVE Director, after consultation with the municipalities affected, causes surveys, plans, studies, and estimates to be made for the purpose of determining the most dependable, effective, and efficient means of providing services through water supply projects, solid waste disposal projects, or wastewater purification projects. Service regions shall be based upon needs set forth in approved State–county master water and sewerage plans, or solid waste disposal plans, if any, adopted pursuant to the Environment Article, but they may also take account of other plans and studies.

3–103.

(a) **(1)** There is a body politic and corporate known as the “Maryland Environmental Service”.

(2) The Service is an instrumentality of the State and a public corporation by that name, style, and title, and the exercise by the Service of the powers conferred by this subtitle is the performance of an essential governmental function of the State.

(b) (1) There are four officers of the Service: [a]

(I) ~~A Director~~ **AN EXECUTIVE DIRECTOR**[, a];

(II) A Deputy Director[, a];

(III) A Secretary[.]; and [a]

(IV) A Treasurer.

(2) (I) The four officers of the Service shall be appointed [as follows:] **IN ACCORDANCE WITH THIS PARAGRAPH.**

[(i)] (II) 1. The **EXECUTIVE** Director shall be appointed by the Governor, with the advice and consent of the Senate solely with regard to the qualifications for the duties of the office.

2. The **EXECUTIVE** Director serves at the pleasure of the Board with the concurrence of the Governor and shall receive such compensation as may be determined by the Board[; and].

~~[(ii)] (III)~~ 1. The Deputy Director[, the Secretary and the Treasurer] shall be appointed by the EXECUTIVE Director with the approval of the Governor solely with regard to the qualifications for the duties of the office.

2. The Deputy Director[, the Secretary and the Treasurer serve] SERVES at the pleasure of the EXECUTIVE Director and shall receive such compensation as may be determined by the Board.

(IV) 1. THE SECRETARY AND THE TREASURER SHALL BE SELECTED BY THE BOARD FROM AMONG THE BOARD'S MEMBERS.

2. THE SECRETARY AND THE TREASURER SERVE AT THE PLEASURE OF THE BOARD AND SHALL RECEIVE SUCH COMPENSATION AS MAY BE REASONABLY DETERMINED BY THE BOARD.

~~[(2)] (3)~~ The Board of Directors of the Service shall consist of [nine] ~~SEVEN~~ THE FOLLOWING members ~~as follows:~~

(i) ~~{The~~ EXECUTIVE Director, ~~Deputy Director, Secretary, and Treasurer of the Service}~~ WHO SHALL SERVE AS A NONVOTING MEMBER;

(II) THE STATE TREASURER, OR THE STATE TREASURER'S DESIGNEE;

~~(ii)~~ (III) Three members from the public sector in the State in positions responsible for ENVIRONMENTAL, water, wastewater, or solid waste management; ~~and~~

~~(iii)~~ (IV) [Two] ~~THREE~~ members ONE MEMBER from the private sector in the State with technical, financial, development, or legal experience related to ENVIRONMENTAL, water, wastewater, or solid waste management;

(V) ONE MEMBER FROM THE PRIVATE SECTOR IN THE STATE WITH FINANCIAL EXPERIENCE RELATED TO ENVIRONMENTAL, WATER, WASTEWATER, OR SOLID WASTE MANAGEMENT; AND

(VI) ONE MEMBER FROM THE PRIVATE SECTOR IN THE STATE WITH EXPERIENCE OR EXPERTISE IN MATTERS RELATED TO BUSINESS ETHICS, PREFERABLY INVOLVING BOARD OF DIRECTOR ETHICS AND CONFLICTS OF INTEREST.

~~[(3)] (4)~~ (I) [The] SUBJECT TO SUBPARAGRAPHS (II) ~~AND (III)~~, (III), AND (IV) OF THIS PARAGRAPH, THE public sector and private sector members of

the Board, as set forth in paragraph [(2)(ii)] ~~(3)(ii) and (iii)~~ **(3)(III) THROUGH (VI)** of this subsection shall be appointed by the Governor with the advice and consent of the Senate.

(II) THE GOVERNOR SHALL SELECT AT LEAST ONE OF THE PUBLIC SECTOR MEMBERS OF THE BOARD FROM A LIST OF RECOMMENDATIONS JOINTLY COMPILED BY THE MARYLAND ASSOCIATION OF COUNTIES AND THE MARYLAND MUNICIPAL LEAGUE.

(III) THE GOVERNOR MAY NOT APPOINT AN EMPLOYEE OF THE SERVICE TO THE BOARD.

(IV) AT LEAST ONE OF THE PUBLIC SECTOR OR PRIVATE SECTOR MEMBERS SHALL BE A RESIDENT OF A RURAL COUNTY IN THE STATE.

[(4)] **(5) (I) [Six] FIVE** members constitute a quorum for the transaction of business of the Board.

(II) The affirmative vote of at least ~~five~~ **FOUR** members is necessary for any action taken by the Board.

[(5)] **(6)** Those members of the Board not already holding a public office shall receive from the Service:

- (i) Per diem compensation as established by the Board; and
- (ii) Reimbursement for expenses under Standard State Travel Regulations.

[(6)] **(7)** The term of a member [who is not an officer of the Service] **OTHER THAN THE STATE TREASURER** is 4 years.

[(7)] **(8)** The terms of members [who are not officers of the Service] **OTHER THAN THE STATE TREASURER** are staggered as required by the terms provided for those members of the Board on July 1, [1993] **2021**.

[(8)] **(9)** At the end of a term, a member continues to serve until a successor is appointed and qualifies.

[(9)] **(10)** A member who is appointed after a term has begun serves only the remainder of that term and until a successor is appointed and qualifies.

(11) THE A MEMBER OF THE BOARD WHO IS APPOINTED UNDER PARAGRAPH (3)(III) THROUGH (VI) OF THIS SUBSECTION MAY SERVE ONLY TWO CONSECUTIVE FULL 4-YEAR TERMS, PLUS ANY PARTIAL TERM SERVED BEFORE THE INITIAL 4-YEAR TERM.

(12) SUBJECT TO PARAGRAPHS (13) AND (14) OF THIS SUBSECTION, THE BOARD SHALL SELECT A CHAIR FROM AMONG THE BOARD'S MEMBERS.

~~(12)~~ (13) THE EXECUTIVE DIRECTOR MAY NOT SERVE AS THE SECRETARY, TREASURER, OR CHAIR OF THE BOARD.

(14) THE STATE TREASURER MAY NOT SERVE AS THE SECRETARY, TREASURER, OR CHAIR OF THE BOARD.

(c) (1) The **EXECUTIVE** Director [is both]:

(I) IS the administrative head of the Service [and the presiding officer of the Board. The Director is];

(II) IS directly responsible to the Board and shall advise the Board on all matters assigned to the Service[. The Director shall];

(III) SHALL carry out the Board's policies related to the Service[. He is];

(IV) SHALL, AT EACH REGULAR MEETING OF THE BOARD, PRESENT A DETAILED AND ITEMIZED ACCOUNTING AND EXPLANATION OF ALL EXPENSES INCURRED BY OR ON BEHALF OF THE EXECUTIVE DIRECTOR AND THE DEPUTY DIRECTOR THAT, IN THE AGGREGATE AND CALCULATED FROM THE DATE OF THE PREVIOUS REGULAR MEETING THROUGH THE DAY BEFORE THE DATE OF THE REGULAR MEETING AT WHICH THE EXPENSES WILL BE PRESENTED, EXCEED \$500; AND

~~(IV)~~ (V) IS responsible for the exercise of all powers and duties conferred upon the Service by the provisions of this subtitle except for those powers and duties specifically conferred by this subtitle on the Secretary, Treasurer, or Board.

(2) **THE VOTING MEMBERS OF THE BOARD SHALL:**

(I) ESTABLISH THE CRITERIA AND PROCEDURES FOR EVALUATING THE EXECUTIVE DIRECTOR;

(II) PUBLISH THE CRITERIA AND PROCEDURES ESTABLISHED UNDER ITEM (I) OF THIS PARAGRAPH ON THE SERVICE'S WEBSITE; AND

(III) ANNUALLY EVALUATE THE EXECUTIVE DIRECTOR IN ACCORDANCE WITH THE CRITERIA AND PROCEDURES ESTABLISHED UNDER ITEM (I) OF THIS PARAGRAPH.

(3) The Deputy Director shall have the duties provided by law or delegated by the **EXECUTIVE** Director.

(d) (1) The Secretary [shall]:

(I) **SHALL** keep a record of the proceedings of the Board and be custodian of all books, documents, and papers filed with the Service and of the minute book or journal of the Service and its official seal[. He may];

(II) **MAY** have copies made of all minutes, records, and documents of the Service and certify them to be true copies under the official seal of the Service[. Any person dealing with the Service may rely upon these certificates, and certified copies shall be received as evidence in any court or other tribunal in the State, in the same manner and with the same effect as if the original books, papers, entries, records, or proceedings could be produced.]; **AND**

[(2)] (III) [The Secretary] MAY, with the approval of the Board, [may] delegate to [the Deputy Director] ANOTHER MEMBER OF THE BOARD, during an absence of the Secretary, any duty enumerated in [paragraph (1) of this subsection] ITEMS (I) AND (II) OF THIS PARAGRAPH.

(2) ANY PERSON DEALING WITH THE SERVICE MAY RELY ON THE CERTIFICATES DESCRIBED IN PARAGRAPH (1)(II) OF THIS SUBSECTION, AND CERTIFIED COPIES SHALL BE RECEIVED AS EVIDENCE IN ANY COURT OR OTHER TRIBUNAL IN THE STATE, IN THE SAME MANNER AND WITH THE SAME EFFECT AS IF THE ORIGINAL BOOKS, PAPERS, ENTRIES, RECORDS, OR PROCEEDINGS COULD BE PRODUCED.

(e) (1) **(I)** The Treasurer shall [develop]:

1. DEVELOP and maintain a detailed and accurate accounting system for all financial transactions of the Service[.]; and [he shall perform]

2. PERFORM other duties relating to the financial affairs of the Service as required by law or by a directive of the Board.

(II) Unless any money of the Service is otherwise held by or payable to a trustee appointed pursuant to a resolution authorizing the issuance of bonds or notes or under a trust agreement securing the bonds or notes, the Treasurer shall [receive]:

1. RECEIVE money of the Service until otherwise prescribed by law; and [he shall deposit]

2. **DEPOSIT** the money as soon as it is received to the credit of the Service in any financial institution in which the State Treasurer is authorized to deposit State funds. [He]

(III) **THE TREASURER** shall disburse money for the purposes of the Service according to law, only upon [his] **THE TREASURER’S** warrant. [He]

(IV) **THE TREASURER** shall make arrangements for the payment of the interest on and principal of the Service debt.

(V) Upon entering the performance of [his] **OFFICIAL** duties, the Treasurer shall be covered by a surety bond in accordance with the provisions of law concerning the State Employees Surety Bond Committee.

(2) (I) With the approval of the Board, the Treasurer may authorize an employee of the Service to serve as [his deputy] **DEPUTY TREASURER** and to disburse money for the purposes of the Service as provided by law, and subject to restrictions and other conditions that the Treasurer establishes.

(II) The Deputy Treasurer shall be covered by a surety bond in accordance with the provisions of law concerning the State Employees Surety Bond Committee.

(f) (1) The Attorney General of Maryland shall [be]:

(I) **BE** the legal advisor for the Service and the Board[. He shall enforce]; **AND**

(II) **ENFORCE** compliance with the requirements of this subtitle through any appropriate legal remedy and prosecute violations in accordance with the provisions of this subtitle.

(2) (I) The Attorney General shall assign to the Service the number of assistant Attorneys General and other staff requested by the Service.

(II) One of the assistant Attorneys General shall be designated by the Attorney General as counsel to the Service.

(III) The counsel to the Service shall have no other duty than to render, subject to the discretion and control of the Attorney General, the legal aid, advice, and counsel required by the **EXECUTIVE** Director, the Board, and the other officials of the Service and, also subject to the discretion and control of the Attorney General, to supervise the other assistant Attorneys General assigned to the Service.

(IV) The counsel and every other assistant Attorney General assigned to the Service shall be practicing lawyers of this State in good standing and shall be entitled to a salary from the funds of the Service.

(V) After the Attorney General has designated an assistant Attorney General to serve as counsel to the Service, the Attorney General may not reassign the counsel without consulting with the EXECUTIVE Director and the Board.

(VI) With the approval of the Attorney General **AND THE BOARD**, the Service may employ additional counsel that it considers necessary to carry out the provisions of this subtitle.

(g) (1) The Service is exempt from the provisions of Subtitles 3, 4, 5, and 7 of Title 4 of the State Finance and Procurement Article.

(2) The Service is exempt from the provisions of Division II of the State Finance and Procurement Article, but is not exempt from Subtitle 3 of Title 14, Subtitle 4 of Title 12, Title 16, and Title 17 of the State Finance and Procurement Article.

(3) (i) Except as otherwise provided in this paragraph, all procurements by the Service for materials, equipment, services, or supplies performed or furnished in connection with the planning, development, design, equipping, construction, or operation of any project owned or controlled by the Service, shall be awarded in accordance with rules and regulations adopted pursuant to the Administrative Procedure Act.

(ii) The Service may procure materials, equipment, services, or supplies by utilizing:

1. Competitive sealed bids;
2. Competitive sealed proposals;
3. Sole source procurement;
4. Intergovernmental cooperative purchasing agreements;
5. A small procurement process, if the procurement is estimated by the Service to result in an expenditure of \$25,000 or less; or
6. An emergency procurement process, if the procurement is necessary to avoid or to mitigate serious damage to public health, safety, or welfare.

(4) **(I) THE APPROVAL OF THE BOARD SHALL BE REQUIRED ON ANY NONEMERGENCY EXPENDITURE THAT EXCEEDS ~~\$25,000~~ \$200,000.**

(II) THE SERVICE SHALL NOTIFY THE BOARD OF ANY NONEMERGENCY EXPENDITURE THAT EXCEEDS \$25,000.

(5) The Service may adopt rules and regulations to provide a process to resolve disputes between the Service and its contractors, that may include alternative dispute resolution by the parties to the dispute.

(h) (1) The Service:

(i) May create and establish 1 or more project reserve funds in such amounts as the Board considers appropriate, including the following project reserve funds:

1. An Eastern Correctional Institution Steam Turbine Contingency Fund;
2. A Department of Natural Resources Project Contingency Fund; and
3. A Reimbursable Project Contingency Fund; and

(ii) Subject to paragraph (2) of this subsection, may pay into such funds:

1. Any money appropriated and made available by the State for the purposes of such funds;
2. Any proceeds from the sale of bonds or notes, to the extent provided in the resolution authorizing the issuance of the bonds or notes;
3. Revenues derived from a project of the Service; and
4. Any other money that may be received by or otherwise made available to the Service from any other source or sources which the Service has designated for deposit into such funds.

(2) Money held in or credited to a project reserve fund established under this subsection shall be used solely to accomplish the purposes of this subtitle, as determined by the Board and, subject to paragraph (3) of this subsection, may be retained by the Service in the appropriate project reserve fund based on the project for which the money was received by the Service.

(3) (i) The Service may credit to a project reserve fund established under paragraph (1)(i)1 through 3 of this subsection only money that is reimbursable to the State.

(ii) The Service may not retain more than:

1. \$1,500,000 in the Eastern Correctional Institution Turbine Project Contingency Fund;
2. \$500,000 in the Department of Natural Resources Project Contingency Fund; or
3. \$1,000,000 in the Reimbursable Project Contingency Fund.

(iii) If at the end of a fiscal year the balance in a project reserve fund exceeds the limits stated in subparagraph (ii) of this paragraph, the Service shall revert the excess to the State fund from which the money in the project reserve fund was originally appropriated.

(4) Money appropriated or made available to the Service by the State shall be expended in accordance with the provisions of this subtitle.

(i) **(1) ~~The~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE** Service shall submit annually a **FULL AND DETAILED** budget reflecting the operating and capital program of the Service to the Department of Budget and Management for inclusion for informational purposes in the State budget book.

(2) THE BUDGET SUBMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(I) BE SUBMITTED IN A MANNER REQUIRED BY THE DEPARTMENT OF BUDGET AND MANAGEMENT; AND

(II) SPECIFY THE SOURCE OF THE SERVICE'S REVENUES IN A MANNER REQUIRED BY THE DEPARTMENT OF BUDGET AND MANAGEMENT.

3-103.1.

(b) (1) The Service shall adopt regulations to govern the employees of the Service.

(2) The Service shall, **IN ACCORDANCE WITH THE REQUIREMENTS OF TITLE 3 OF THE STATE PERSONNEL AND PENSIONS ARTICLE**, establish a personnel system that:

(i) Is based on merit and compensates employees based on performance;

(ii) Includes fair and equitable procedures for the redress of grievances and for the hiring, promotion, **DISCIPLINE OR DISCHARGE FOR JUST CAUSE**, and laying off of employees; and

(iii) Allows State employees who are employed by the Service prior to July 1, 1993 and members of the State retirement or pension systems to continue membership in the Employees' Retirement System of the State of Maryland or the Employees' Pension System of the State of Maryland.

(3) (i) The Service shall be liable for and shall pay to the State Retirement Agency the employer's share of employee retirement or pension costs for Service employees who participate in the State retirement or pension systems, as provided in Title 21, Subtitle 3 of the State Personnel and Pensions Article.

(ii) The Service shall be liable for and shall pay the employer's share of health insurance costs for Service employees.

(4) FOR EACH OPEN POSITION IN THE SERVICE THAT IS NOT ASSIGNED TO A PROJECT, THE SERVICE SHALL REASONABLY ADVERTISE, CONDUCT A SEARCH, AND CONDUCT A COMPETITIVE INTERVIEW PROCESS.

~~(4)~~ **(5)** In carrying out the requirements of this subsection, the Service may:

(i) Create or abolish any position other than one specifically provided for in this subtitle;

(ii) Determine employee qualifications, appointment and removal procedures, terms of employment including compensation, benefits, holiday schedules, and leave policies, and any other matter concerning employees; and

(iii) Subject to the provisions of subsection (c) of this section, take such actions that are necessary for the transition to a new personnel system.

(c) **(4) The EXECUTIVE Director and the Secretary of Personnel will use their combined resources to facilitate, prior to January 1, 1995, the placement, reassignment, or transfer of Service State employees who elect not to transfer to the new personnel system.**

~~(c)~~ **(8) [As State employees in general are authorized under Title 3 of the State Personnel and Pensions Article to] EMPLOYEES OF THE SERVICE MAY enter into binding collective bargaining agreements [with units of State government] establishing wages, hours, pension rights, or working conditions [for State employees, the Service shall, consistent] IN ACCORDANCE with the provisions of Title 3 of the State Personnel and Pensions Article[, recognize and deal with an employee organization once elected as an exclusive representative, collectively bargain, and enter into the same type of agreements for employees of the Service].**

(A) ON OR BEFORE OCTOBER 31, 2021, THE BOARD SHALL ADOPT A CONFLICT OF INTEREST POLICY FOR MEMBERS OF THE BOARD THAT INCLUDES:

(1) STANDARDS FOR THE DISCLOSURE OF FINANCIAL INTERESTS;

(2) STANDARDS FOR BOARD MEMBER PARTICIPATION IN CONTRACTS WITH THE SERVICE IN ACCORDANCE WITH THIS SUBTITLE, INCLUDING AN ATTESTATION THAT THE BOARD MEMBER HAS COMPLIED WITH THE CONFLICT OF INTEREST STANDARDS ADOPTED BY THE BOARD;

(3) STANDARDS FOR RECUSAL FROM VOTING;

(4) A REQUIREMENT THAT A BOARD MEMBER MAY NOT USE THE BOARD MEMBER'S POSITION ON THE BOARD FOR PERSONAL GAIN WHEN CONTRACTING WITH THE SERVICE; AND

(5) A REQUIREMENT THAT A BOARD MEMBER PROVIDE AN ATTESTATION OF ANY BUSINESS RELATIONSHIP WITH THE SERVICE.

(B) THE BOARD SHALL SEND A COPY OF THE CONFLICT OF INTEREST POLICY ADOPTED UNDER SUBSECTION (A) OF THIS SECTION TO THE GOVERNOR, THE PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE HOUSE:

(1) AFTER THE POLICY IS INITIALLY ADOPTED; AND

(2) EACH TIME A SUBSTANTIVE CHANGE IS MADE TO THE POLICY.

3-103.4.

(A) BOARD MEMBERS SHALL OBSERVE THE SAME STANDARD OF CARE REQUIRED OF CORPORATE DIRECTORS UNDER § 2-405.1 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.

(B) (1) THE BOARD MAY NOT AWARD A SEVERANCE PACKAGE TO AN EXECUTIVE OF THE SERVICE ~~WHO RESIGNS TO ACCEPT ANOTHER POSITION IN THE STATE GOVERNMENT~~ IF THE EXECUTIVE ACCEPTS ANOTHER POSITION IN THE STATE GOVERNMENT WITHIN 1 YEAR AFTER THE DATE ON WHICH THE EXECUTIVE'S EMPLOYMENT WITH THE SERVICE IS TERMINATED.

(2) ANY FORMER EXECUTIVE OF THE SERVICE AWARDED A SEVERANCE PACKAGE IN VIOLATION OF THIS SUBSECTION SHALL REIMBURSE THE SERVICE FOR THE VALUE OF THE SEVERANCE PACKAGE WITHIN 1 YEAR AFTER TERMINATING EMPLOYMENT WITH THE SERVICE.

(C) THE EXECUTIVE DIRECTOR SHALL APPOINT A DIVERSITY OFFICER TO:

(1) COORDINATE THE DEVELOPMENT AND IMPLEMENTATION OF A DIVERSITY POLICY FOR THE SERVICE; AND

(2) ASSIST EMPLOYEES WITH THE RESOLUTION OF GRIEVANCES RELATING TO ALLEGED VIOLATIONS OF:

(I) THE SERVICE'S DIVERSITY POLICY; OR

(II) STATE OR FEDERAL ANTIDISCRIMINATION LAWS.

(D) (1) ON OR BEFORE DECEMBER 1, 2021, THE BOARD SHALL ADOPT OR READOPT POLICIES, CONSISTENT WITH THIS SECTION, GOVERNING:

(I) SEVERANCE PACKAGES;

(II) BONUSES, INCLUDING A LIMIT ON BONUSES FOR EXECUTIVES CALCULATED AS A PERCENTAGE OF THE EXECUTIVE'S SALARY;

(III) TUITION REIMBURSEMENTS, INCLUDING LIMITS ON THE AMOUNTS THAT MAY BE REIMBURSED;

(IV) EXPENSE REIMBURSEMENTS, INCLUDING:

1. LIMITS ON THE AMOUNTS THAT MAY BE REIMBURSED;

2. LIMITS ON HOW LONG AN EXPENSE MAY BE REIMBURSED AFTER IT IS INCURRED; AND

3. REQUIREMENTS REGARDING THE NEXUS BETWEEN REIMBURSABLE EXPENSES AND SERVICE FUNCTIONS;

(V) WORKFORCE DIVERSITY;

(VI) WHISTLEBLOWER COMPLAINTS;

(VII) TRAVEL; AND

(VIII) THE USE OF CARS, LAPTOPS, CELL PHONES, AND OTHER VEHICLES AND DEVICES OWNED BY THE SERVICE, INCLUDING POLICIES ON WHETHER AND HOW THESE VEHICLES AND DEVICES MAY BE TRANSFERRED TO AN EMPLOYEE OR ANOTHER AGENCY.

(2) THE BOARD PERIODICALLY SHALL REVIEW THE POLICIES REQUIRED UNDER THIS SUBSECTION AND REVISE THE POLICIES AS NEEDED.

(3) IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE BOARD SHALL SUBMIT A REPORT CONTAINING COPIES OF THE POLICIES REQUIRED UNDER THIS SUBSECTION TO THE LEGISLATIVE POLICY COMMITTEE, THE SENATE BUDGET AND TAXATION COMMITTEE, AND THE HOUSE APPROPRIATIONS COMMITTEE:

(I) ON OR BEFORE DECEMBER 31, 2021; AND

(II) WITHIN 30 DAYS AFTER ANY POLICY IS REVISED.

(E) (1) BOARD MEMBERS, THE EXECUTIVE DIRECTOR, AND THE DEPUTY DIRECTOR SHALL RECEIVE ANNUAL TRAINING ON:

(I) ETHICS;

(II) HARASSMENT;

(III) DIVERSITY; AND

(IV) POLICIES ADOPTED UNDER SUBSECTION (D) OF THIS SECTION.

(2) IN ADDITION TO THE TRAINING SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION, BOARD MEMBERS SHALL RECEIVE ANNUAL TRAINING ON THE STANDARD OF CARE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.

(F) ON OR BEFORE DECEMBER 31, 2021, AND EACH DECEMBER 31 THEREAFTER, THE SERVICE SHALL, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, REPORT TO THE GENERAL ASSEMBLY ON THE SERVICE'S EFFORTS TO REDUCE GREENHOUSE GAS EMISSIONS IN FURTHERANCE OF THE GOALS AND REQUIREMENTS ESTABLISHED UNDER TITLE 2, SUBTITLE 12 OF THE ENVIRONMENT ARTICLE.

(G) (1) THE BOARD SHALL MAKE PUBLICLY AVAILABLE ON THE SERVICE'S WEBSITE:

(I) EACH OPEN MEETING AGENDA:

1. AT LEAST 48 HOURS IN ADVANCE OF EACH MEETING;

OR

2. IF THE MEETING IS BEING HELD DUE TO AN EMERGENCY, A NATURAL DISASTER, OR ANY OTHER UNANTICIPATED SITUATION, AS FAR IN ADVANCE OF THE MEETING AS PRACTICABLE;

(II) MEETING MINUTES FROM THE PORTIONS OF A MEETING THAT WERE HELD IN OPEN SESSION, NOT MORE THAN 2 BUSINESS DAYS AFTER THE MINUTES ARE APPROVED; AND

(III) LIVE VIDEO STREAMING OF EACH PORTION OF A MEETING THAT IS HELD IN OPEN SESSION.

(2) THE SERVICE SHALL MAINTAIN ON ITS WEBSITE:

(I) MEETING MINUTES MADE AVAILABLE UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR A MINIMUM OF 5 YEARS AFTER THE DATE OF THE MEETING; AND

(II) A COMPLETE AND UNEDITED ARCHIVED VIDEO RECORDING OF EACH OPEN MEETING FOR WHICH LIVE VIDEO STREAMING WAS MADE AVAILABLE UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR A MINIMUM OF 1 YEAR AFTER THE DATE OF THE MEETING.

(H) THIS SECTION MAY BE CITED AS THE MARYLAND ENVIRONMENTAL SERVICE REFORM ACT OF 2021.

3-103.5.

(A) ON OR BEFORE DECEMBER 31, 2021, AND EACH DECEMBER 31 EVERY 5 YEARS THEREAFTER, THE BOARD SHALL OBTAIN AN ASSESSMENT OF THE BOARD'S OPERATIONS BY AN INDEPENDENT CONSULTANT OR ACCOUNTANT.

(B) THE ASSESSMENT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE AN EVALUATION OF:

(1) THE STRUCTURE OF THE BOARD, INCLUDING THE BOARD'S:

(i) COMPOSITION;

(ii) CHARTER, BYLAWS, AND OTHER GOVERNING DOCUMENTS AND PROCEDURES;

(iii) DIVERSITY;

(iv) SUBCOMMITTEES OR WORKGROUPS; AND

(V) FREQUENCY OF MEETINGS;

(2) THE DYNAMICS AND FUNCTIONING OF THE BOARD, INCLUDING:

(I) THE BOARD'S ANNUAL CALENDAR;

(II) ACCESS TO INFORMATION;

(III) COMMUNICATION WITH SERVICE PERSONNEL;

(IV) PLANNING; AND

(V) COHESIVENESS AND CONDUCT OF BOARD MEETINGS;

(3) THE BOARD'S ROLE IN THE SERVICE'S SHORT-TERM AND LONG-TERM STRATEGY;

(4) THE FINANCIAL REPORTING PROCESS, INTERNAL AUDIT, AND INTERNAL CONTROLS;

(5) THE BOARD'S ROLE IN MONITORING THE SERVICE'S POLICIES, STRATEGIES, AND SYSTEMS;

(6) THE BOARD'S ROLE IN SUPPORTING AND ADVISING THE SERVICE;

(7) THE ROLE OF THE CHAIR OF THE BOARD; AND

(8) ANY OTHER ISSUE RELEVANT TO THE BOARD'S OPERATIONS.

(C) THE BOARD SHALL:

(1) REVIEW EACH ASSESSMENT REQUIRED UNDER THIS SECTION AT A MEETING OF THE BOARD; AND

(2) MAKE ANY CHANGES OR RECOMMENDATIONS THAT THE BOARD CONSIDERS APPROPRIATE BASED ON THE ASSESSMENT.

(D) (1) THE BOARD SHALL SUBMIT EACH ASSESSMENT REQUIRED UNDER THIS SECTION TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(2) THE SERVICE SHALL POST A COPY OF EACH ASSESSMENT ON THE SERVICE'S WEBSITE, INCLUDING A LINK TO A COPY OF THE MOST RECENT ASSESSMENT ON THE HOMEPAGE OF THE WEBSITE.

3–106.

(a) The EXECUTIVE Director, after consultation with the Secretary of Natural Resources, the Secretary of the Environment, the Director of Planning, and the municipalities affected, shall determine appropriate boundaries for water supply service regions, wastewater purification service regions, and solid waste disposal service regions. Service regions shall be based upon needs set forth in, and provide integration of, approved State–county master plans for water and sewerage or solid waste disposal, adopted pursuant to the Environment Article, but also may take account of other plans and studies.

(b) As soon as possible after the determination of appropriate boundaries, the EXECUTIVE Director, after consultation with the municipalities affected, shall establish priorities for designating water supply service regions, wastewater purification service regions, and solid waste disposal service regions and formally designate the regions.

3–107.

(a) (1) Any municipality or person may request the Service to provide the water supply, wastewater purification, solid waste disposal, or energy projects, or any other services, authorized by this subtitle.

(2) The request shall set forth the type of proposed project or services to be furnished and the proposed boundaries of the area within which a project or services are requested.

(b) (1) Notwithstanding any limitations or other provisions to the contrary of Division II, Title 9, Subtitle 2 or Subtitle 3, Title 10, or Title 11 of the Local Government Article, or of any charter or local law regulating the procurement or awarding of public contracts, a municipality may enter into contracts with the Service for the purpose of the Service providing any of the projects or services requested by the municipality.

(2) As soon as possible after receipt of a duly authorized request from a municipality or person, the Service shall draft a proposed contract with the municipality or person in accordance with the provisions of this subtitle specifying the type of project or services to be provided, whether or not a service district will be established, the boundaries and effective date of any service district, and the terms, conditions, and costs under which the project or services will be provided.

(3) Upon execution of the contract, the Service as soon as possible shall establish any service district provided for in the contract and provide, maintain, and operate the necessary project.

(4) For the purposes of this subsection, the express powers contained and enumerated in Division II and Title 10 of the Local Government Article and in the Charter

of the City of Baltimore are deemed to incorporate and include the power and authority contained in this subsection.

(c) The charges levied against a service district shall be reduced by the full amount of federal and State grants which the Service receives and is entitled to retain to defray the cost of any project within the service district.

(d) **(1)** Existing facilities providing service of the type requested, including all rights, easements, laboratory facilities, vehicles, records, and all other property, equipment, and furnishings necessary and normally associated with the operation of the facility, shall be transferred to the sole ownership of the Service on the date a service district comes into existence unless the Service determines that it not be so transferred.

(2) Compensation for existing projects may be based on the original cost of the project minus an allowance for depreciation, or on other terms and conditions satisfactory to the municipality or person transferring the project.

(3) All costs and obligations assumed by the Service incidental to the transfer of ownership shall be included in the charge levied against the service district.

(e) At the request of any person or municipality having the responsibility for the collection of liquid waste or solid waste, the Service may enter into a contract to provide management and operation of waste collection services in any service district as an adjunct to the mandatory provision of projects as set forth in subsections (a) through (d) of this section, if:

(1) ~~[as]~~ **AS** a condition to the provision of management and operation of waste collection services, the municipality or person enters into a contract upon terms the Service determines reasonable; and

(2) ~~[the]~~ **THE** Service and the municipality or person requesting collection services determines by agreement from time to time the charges including the amount and frequency of payments to the Service.

(F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE REVIEW AND APPROVAL OF THE BOARD OF PUBLIC WORKS SHALL BE REQUIRED ON ANY CONTRACT FOR THE PROVISION OF REQUESTED SERVICES WITH A VALUE OF \$250,000 OR MORE.

(2) THE REVIEW AND APPROVAL OF THE BOARD OF PUBLIC WORKS IS NOT REQUIRED ON A CONTRACT FOR THE PROVISION OF ~~REQUESTED~~:

(I) REQUESTED SERVICES TO A UNIT OF STATE OR LOCAL GOVERNMENT; OR

(II) SERVICES TO THE FEDERAL GOVERNMENT.

3–109.

(c) (3) (I) Funds to pay the Service for services rendered under this subsection shall be raised in the case of a municipality under Title 9 of the Environment Article.

(II) If the order is issued against a person, the Service shall bill the person for the full cost of services rendered.

(III) If payment is not made within 60 days, the costs become a lien against the sewerage system or refuse disposal works if it is recorded and indexed as provided in this subtitle, and the EXECUTIVE Director shall refer the matter to the Attorney General for collection.

3–126.

(d) (1) (I) 1. As soon as practical after the closing of the fiscal year, an audit shall be made of the financial books, records, and accounts of the Service.

2. The audit shall be made by independent certified public accountants, selected by the Service and licensed to practice in the State.

3. The accountants [may]:

A. MAY not have a personal interest either directly or indirectly in the fiscal affairs of the Service[. They shall]; AND

B. SHALL be experienced and qualified in the accounting and auditing of public bodies.

4. The report of audit shall be prepared in accordance with generally accepted auditing principles and point out any irregularities found to exist.

5. A. The accountants shall report the results of their examination, including their unqualified opinion on the presentation of the financial position of the various funds and the results of the Service's financial operations.

B. If [they] THE ACCOUNTANTS are unable to express an unqualified opinion they shall state and explain in detail the reasons for their qualifications, disclaimer, or opinion including recommendations necessary to make possible future unqualified opinions.

(II) SUBJECT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH AND EITHER AS A SEPARATE PART OF THE AUDIT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH OR AS AN INDIVIDUAL AUDIT, THE SERVICE SHALL OBTAIN AN

AUDIT THAT FOCUSES ON UNAUTHORIZED SPENDING, MISALLOCATED EXPENSES, LACK OF CONFORMITY WITH STATE LAW OR BOARD POLICIES, AND OTHER ACCOUNTING ERRORS.

(2) THE BOARD SHALL REVIEW AN AUDIT PREPARED UNDER PARAGRAPH (1) OF THIS SUBSECTION AT A MEETING OF THE BOARD AND MAKE ANY CHANGES OR RECOMMENDATIONS THAT THE BOARD CONSIDERS APPROPRIATE BASED ON THE AUDIT.

(3) THE SERVICE SHALL:

(I) PROVIDE TO THE DEPARTMENT OF BUDGET AND MANAGEMENT:

1. A COPY OF AN AUDIT PREPARED UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND

2. ANY CHANGES OR RECOMMENDATIONS OF THE BOARD BASED ON THE AUDIT; AND

(II) POST A COPY OF AN AUDIT PREPARED UNDER PARAGRAPH (1) OF THIS SUBSECTION ON THE SERVICE'S WEBSITE, INCLUDING A LINK ON THE HOMEPAGE OF THE WEBSITE TO A COPY OF THE MOST RECENT AUDIT.

Article – State Personnel and Pensions

3–101.

(a) In this title the following words have the meanings indicated.

(b) “Board” means:

(1) with regard to any matter relating to employees of any of the units of State government described in § 3–102(a)(1)(i) through (iv) and (vi) through (x) of this subtitle and employees described in § 3–102(a)(2) AND (3) of this subtitle, the State Labor Relations Board; and

(2) with regard to any matter relating to employees of any State institution of higher education described in § 3–102(a)(1)(v) of this subtitle, the State Higher Education Labor Relations Board.

3–102.

(a) Except as provided in this title or as otherwise provided by law, this title applies to:

- (1) all employees of:
- (i) the principal departments within the Executive Branch of State government;
 - (ii) the Maryland Insurance Administration;
 - (iii) the State Department of Assessments and Taxation;
 - (iv) the State Lottery and Gaming Control Agency;
 - (v) the University System of Maryland, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College;
 - (vi) the Comptroller;
 - (vii) the Maryland Transportation Authority who are not police officers;
 - (viii) the State Retirement Agency;
 - (ix) the State Department of Education; and
 - (x) **THE MARYLAND ENVIRONMENTAL SERVICE;**
- (2) firefighters for the Martin State Airport at the rank of captain or below who are employed by the Military Department; and

~~[(2)]~~ (3) all full-time Maryland Transportation Authority police officers at the rank of first sergeant and below.

3-205.

(a) The Board is responsible for administering and enforcing provisions of this title relating to employees described in § 3-102(a)(1)(i) through (iv) and (vi) through (x) [and], (2), AND (3) of this title.

(c) (1) The Board may not designate a unique bargaining unit for each of the units of government identified in § 3-102(a)(1)(vi) through [(x)] (IX) AND (2) of this title.

(2) At the request of the exclusive representative, the Board shall:

(i) determine the appropriate existing bargaining unit into which to assign each employee in the units of government identified in § 3-102(a)(1)(vi) through [(x)] (IX) AND (2) of this title; and

(ii) accrete all positions to appropriate existing bargaining units.

(3) (i) Notwithstanding Subtitle 4 of this title, at the request of the exclusive representative, the Board shall conduct a self-determination election for each bargaining unit representative for the accreted employees in units of government identified in § 3-102(a)(1)(vi) through [(x)] (IX) AND (2) of this title.

(ii) All elections shall be conducted by secret ballot.

(iii) For each election, the Board shall place the following choices on the ballot:

1. the name of the incumbent exclusive representative; and
2. a provision for “no exclusive representative”.

(D) THE BOARD MAY DESIGNATE ONE OR MORE BARGAINING UNITS FOR EMPLOYEES OF THE MARYLAND ENVIRONMENTAL SERVICE.

3-208.

(a) On written request of an exclusive representative, and within 30 days of a new employee’s date of hire, for each employee in the bargaining unit represented by the exclusive representative, the Department OR THE MARYLAND ENVIRONMENTAL SERVICE, AS APPROPRIATE, shall provide the exclusive representative with the employee’s:

- (1) name;
- (2) position classification;
- (3) unit;
- (4) home and work site addresses where the employee receives interoffice or United States mail;
- (5) home and work site telephone numbers;
- (6) work e-mail address; and
- (7) position identification number.

(b) Except as provided in subsection (d) of this section, an exclusive representative may present a request for employee information, as provided under subsection (a) of this section, once every 120 days.

(c) The Department OR THE MARYLAND ENVIRONMENTAL SERVICE, AS APPROPRIATE, shall provide the exclusive representative with the requested information in a searchable and analyzable electronic format.

(d) The Department OR THE MARYLAND ENVIRONMENTAL SERVICE, AS APPROPRIATE, may negotiate with the exclusive representative to provide:

(1) the information described in subsection (a) of this section more frequently than once every 120 days; and

(2) more detailed information than provided in subsection (a) of this section.

3-307.

(a) Each exclusive representative has the right to communicate with the employees that it represents.

(b) (1) The State, THE MARYLAND ENVIRONMENTAL SERVICE, a system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College shall permit an exclusive representative to attend and participate in a new employee program that includes one or more employees who are in a bargaining unit represented by the exclusive representative.

(2) The new employee program in paragraph (1) of this subsection may be a new employee orientation, training, or other program that the State, THE MARYLAND ENVIRONMENTAL SERVICE, a system institution, Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College and an exclusive representative negotiate in accordance with § 3-501 of this title.

(3) Except as provided in paragraph (4) of this subsection, the exclusive representative shall be permitted 20 minutes to collectively address all new employees in attendance during a new employee program.

(4) The State, THE MARYLAND ENVIRONMENTAL SERVICE, a system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College and an exclusive representative may negotiate a period of time that is more than 20 minutes in accordance with § 3-501 of this title.

(5) The State, THE MARYLAND ENVIRONMENTAL SERVICE, a system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College:

(i) shall encourage an employee to attend the portion of a new employee program designated for an exclusive representative to address new employees; and

(ii) may not require an employee to attend the portion of a new employee program designated for an exclusive representative to address new employees if the employee objects to attending.

(c) (1) Except as provided in paragraph (2) of this subsection, the State, **THE MARYLAND ENVIRONMENTAL SERVICE**, a system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College shall provide the exclusive representative at least 10 days' notice in advance of a new employee program.

(2) The State, **THE MARYLAND ENVIRONMENTAL SERVICE**, a system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College may provide the exclusive representative with less than 10 days' notice if there is an urgent need critical to the employer's new employee program that was not reasonably foreseeable.

3-405.

(a) (1) Within 5 days of determination that a valid petition has been submitted, the Board shall notify interested employee organizations of the pending election petition.

(2) Within 10 days of determination that a valid petition has been submitted under § 3-402 of this subtitle or subsection (c)(2)(iii) of this section, the Department **OR THE MARYLAND ENVIRONMENTAL SERVICE, AS APPROPRIATE**, shall make available to all interested employee organizations reasonable and equivalent means to communicate by mail and in person with each employee in the appropriate bargaining unit for the purpose of soliciting the employee's vote in an election held under this section.

3-501.

(a) (1) The following individuals or entities shall designate one or more representatives to participate as a party in collective bargaining on behalf of the State or the following institutions:

(i) on behalf of the State, the Governor;

(II) **ON BEHALF OF THE MARYLAND ENVIRONMENTAL SERVICE, THE BOARD OF DIRECTORS OF THE SERVICE;**

[(ii)] (III) on behalf of a system institution, the president of the system institution; and

[(iii)] (IV) on behalf of Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College, the governing board of the institution.

(2) The exclusive representative shall designate one or more representatives to participate as a party in collective bargaining on behalf of the exclusive representative.

(d) (1) A memorandum of understanding that incorporates all matters of agreement reached by the parties shall be executed by the exclusive representative and:

(i) for a memorandum of understanding relating to the State, the Governor or the Governor's designee;

(II) FOR A MEMORANDUM OF UNDERSTANDING RELATING TO THE MARYLAND ENVIRONMENTAL SERVICE, THE BOARD OF DIRECTORS OF THE SERVICE;

[(ii)] (III) for a memorandum of understanding relating to a system institution, the president of the system institution or the president's designee; and

[(iii)] (IV) for a memorandum of understanding relating to Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College, the governing board of the institution or the governing board's designee.

(2) To the extent these matters require legislative approval or the appropriation of funds, the matters shall be recommended to the General Assembly for approval or for the appropriation of funds.

(3) To the extent matters involving a State institution of higher education require legislative approval, the legislation shall be recommended to the Governor for submission to the General Assembly.

3-502.

(b) (1) Collective bargaining may include negotiations relating to the right of an employee organization to receive service fees from nonmembers.

(2) An employee whose religious beliefs are opposed to joining or financially supporting any collective bargaining organization is:

(i) not required to pay a service fee; and

(ii) required to pay an amount of money as determined in collective bargaining negotiations, not to exceed any service fee negotiated under paragraph (1) of this subsection, to any charitable organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code and to furnish written proof of the payment to:

1. A. the Department; [or]

B. IN THE CASE OF AN EMPLOYEE OF THE MARYLAND ENVIRONMENTAL SERVICE, THE BOARD OF DIRECTORS OF THE SERVICE; OR

[B.] C. in the case of an employee of an institution of higher education specified in § 3-102(a)(1)(v) of this title, the President of the institution or the President's designee; and

2. the exclusive representative.

(c) Notwithstanding subsection (a) of this section, the representatives of the State, THE MARYLAND ENVIRONMENTAL SERVICE, a system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College:

(1) shall not be required to negotiate over any matter that is inconsistent with applicable law; and

(2) may negotiate and reach agreement with regard to any such matter only if it is understood that the agreement with respect to such matter cannot become effective unless the applicable law is amended by the General Assembly.

3-601.

(a) (1) A memorandum of understanding shall contain all matters of agreement reached in the collective bargaining process.

(2) The memorandum shall be in writing and signed by the exclusive representative involved in the collective bargaining negotiations and:

(i) for a memorandum of understanding relating to the State, the Governor or the Governor's designee;

(II) FOR A MEMORANDUM OF UNDERSTANDING RELATING TO THE MARYLAND ENVIRONMENTAL SERVICE, THE BOARD OF DIRECTORS OF THE SERVICE;

[(ii)] (III) for a memorandum of understanding relating to a system institution, the president of the system institution or the president's designee; and

[(iii)] (IV) for a memorandum of understanding relating to Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College, the governing board of the institution or the governing board's designee.

(b) No memorandum of understanding is valid if it extends for less than 1 year or for more than 3 years.

(c) (1) Except as provided in [paragraph] PARAGRAPHS (2) AND (3) of this subsection, a memorandum of understanding is not effective until it is ratified by the Governor and a majority of the votes cast by the employees in the bargaining unit.

(2) In the case of a State institution of higher education, a memorandum of understanding is not effective until it is ratified by the institution's governing board and a majority of the votes cast by the employees in the bargaining unit.

(3) IN THE CASE OF THE MARYLAND ENVIRONMENTAL SERVICE, A MEMORANDUM OF UNDERSTANDING IS NOT EFFECTIVE UNTIL IT IS RATIFIED BY THE BOARD OF DIRECTORS OF THE SERVICE AND A MAJORITY OF THE VOTES CAST BY THE EMPLOYEES IN THE BARGAINING UNIT.

3–603.

(c) (1) Based on a verified complaint by an exclusive representative, the exclusive representative may file an action in a circuit court against the State, THE MARYLAND ENVIRONMENTAL SERVICE, a system institution, Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College to enforce the terms of this section.

(2) On receipt of an action submitted by the exclusive representative, the court shall issue a status quo order without a finding of irreparable harm to maintain a memorandum of understanding and the terms in effect pending a final order in the action.

SECTION 2. AND BE IT FURTHER ENACTED, That the Governor shall appoint three public sector members and three private sector members to the Board of Directors of the Maryland Environmental Service in accordance with § 3–103 of the Natural Resources Article, as enacted by Section 1 of this Act. The terms of the members are as follows:

(1) one public sector member and two private sector members shall serve for a term of 2 years, which shall begin on July 1, 2021, and shall terminate at the end of June 30, 2023, and the members shall serve until a successor is appointed and qualifies; and

(2) two public sector members and one private sector member shall serve for a term of 4 years, which shall begin on July 1, 2021, and shall terminate at the end of June 30, 2025, and the members shall serve until a successor is appointed and qualifies.

SECTION 3. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross-references and terminology rendered incorrect by this Act or by

any other Act of the General Assembly of 2021 that affects provisions enacted by this Act. The publisher shall adequately describe any correction that is made in an editor's note following the section affected.

~~SECTION 3. 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021 is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted shall take effect July 1, 2021.~~

May 26, 2021

The Honorable Adrienne A. Jones
Speaker of the House of Delegates
H-101 State House
Annapolis, MD 21401

Dear Speaker Jones:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 16 – *Correctional Services – Immigration Detention – Prohibition (Dignity Not Detention Act)* and House Bill 23 – *Personal Information – State and Local Agencies – Restrictions on Access (Maryland Driver Privacy Act)*.

As I have stated throughout my time in office, I remain steadfast in my opposition to any legislative or regulatory efforts that would hinder cooperation with federal law enforcement and make Maryland a sanctuary state. It is neither the state's, nor the legislature's, place to decide whether to comply with federal law and regulations. Local law enforcement should fully cooperate with federal law enforcement—a principle I have consistently upheld throughout three federal administrations led by presidents from both political parties. Flawed legislation such as this sets a dangerous precedent regarding the state's commitment to upholding the law and ensuring the safety of our citizens.

House Bill 16 reflects the hasty nature under which it passed without proper debate and discussion, and is nothing more than a solution in search of a problem. Maryland has zero private prison facilities in the state, and the state has absolutely no intention of initiating any plans to allow these facilities. However, this bill explicitly invites private prisons by enabling a private prison facility to build or acquire a new facility for the purposes of immigration detention, so long as appropriate community input is received. The legislation also requires the termination of all immigration detention agreements with local jurisdictions. Once again, the state's correctional and detention facilities do not engage in these agreements. Currently, only three out of Maryland's 24 jurisdictions utilize these agreements, and one is already set to expire. Our local and regional correctional facilities

should retain local control and have the discretion to determine if and how to engage in local agreements with federal immigration agencies. By banning these local agreements, it creates an unfortunate and likely scenario where immigrants who are detained will be sent to other facilities, presumably out of state, separating them from their families and making it harder to stay connected to their community.

Most troubling is the portion of the bill that would limit which questions law enforcement officials are allowed to ask during routine encounters. While law enforcement officials do not inquire about immigration status, citizenship status, or place of birth during a stop or search, they may have reason to do so during an arrest. We need to ensure that our law enforcement officers have every tool at their disposal in order to keep our citizens safe and protect them from felons, terrorists, repeat violent offenders, domestic abusers, and sexual predators, regardless of immigration status.

House Bill 23 would impede important criminal law enforcement investigations by requiring the denial of inspection of certain parts of public records by a federal agency unless they have a valid state or federal warrant. Limiting access to any database operated by state, local, and private vendors to law enforcement agencies removes the ability of our state's criminal justice professionals from being able to perform essential job functions that keep our communities safe.

As governor, I believe in creating an inclusive and diverse Maryland, which is why our administration has consistently welcomed refugees who the federal government has determined are properly and legally seeking refugee status and have been adequately vetted. By promoting diversity and inclusion for all while upholding our commitment to public safety, Maryland's approach is consistent with both our laws and our values.

For these reasons, I have vetoed House Bill 16 and House Bill 23.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 16

AN ACT concerning

Correctional Services – Immigration Detention – Prohibition (Dignity Not Detention Act)

FOR the purpose of ~~stating certain findings of the General Assembly,~~ prohibiting certain governmental entities from entering into agreements facilitating immigration-related detention by private entities; prohibiting governmental entities from entering into certain agreements to house immigration-related detainees; requiring governmental entities to terminate certain existing contracts for the detention of immigration-related detainees; prohibiting a law enforcement agent

from performing certain acts, subject to certain exceptions; providing for the construction of this Act; defining certain terms; making the provisions of this Act severable; and generally relating to the detention of immigration–related detainees in Maryland.

BY repealing and reenacting, with amendments,
 Article – Correctional Services
 Section 1–101
 Annotated Code of Maryland
 (2017 Replacement Volume and 2020 Supplement)

BY adding to
 Article – Correctional Services
 Section 1–102 ~~and 1–103~~
 Annotated Code of Maryland
 (2017 Replacement Volume and 2020 Supplement)

BY adding to
Article – Criminal Procedure
Section 5–104
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

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

Article – Correctional Services

1–101.

- (a) In this article the following words have the meanings indicated.
- (b) “Commissioner of Correction” means the Commissioner of the Division of Correction.
- (c) “Comptroller” means the Comptroller of the State.
- (d) “Correctional facility” means a facility that is operated for the purpose of detaining or confining adults who are charged with or found guilty of a crime.
- (e) “County” means a county of the State and Baltimore City.
- (f) “Department” means the Department of Public Safety and Correctional Services.
- (g) “Division of Correction” means the Division of Correction in the Department of Public Safety and Correctional Services.

(h) “Division of Parole and Probation” means the Division of Parole and Probation in the Department of Public Safety and Correctional Services.

(I) “IMMIGRATION DETENTION AGREEMENT” MEANS ANY CONTRACT, AGREEMENT, INTERGOVERNMENTAL SERVICE AGREEMENT, OR MEMORANDUM OF UNDERSTANDING THAT AUTHORIZES A STATE OR LOCAL GOVERNMENT AGENCY TO HOUSE OR DETAIN INDIVIDUALS FOR FEDERAL CIVIL IMMIGRATION VIOLATIONS.

(J) “IMMIGRATION DETENTION FACILITY” MEANS ANY BUILDING, FACILITY, OR STRUCTURE USED, IN WHOLE OR IN PART, TO HOUSE OR DETAIN INDIVIDUALS FOR FEDERAL CIVIL IMMIGRATION VIOLATIONS.

[(i)] (K) “Inmate” means an individual who is actually or constructively detained or confined in a correctional facility.

[(j)] (L) “Local correctional facility” means a correctional facility that is operated:

- (1) by one or more counties; or
- (2) by a municipal corporation.

[(k)] (M) “Managing official” means the administrator, director, warden, superintendent, sheriff, or other individual responsible for the management of a correctional facility.

[(l)] (N) “Person” means an individual, receiver, trustee, guardian, personal representative, fiduciary, representative of any kind, partnership, firm, association, corporation, or other entity.

[(m)] (O) “Secretary” means the Secretary of Public Safety and Correctional Services.

[(n)] (P) “State” means:

- (1) a state, possession, territory, or commonwealth of the United States; or
- (2) the District of Columbia.

[(o)] (Q) (1) “State correctional facility” means a correctional facility that is operated by the State.

- (2) “State correctional facility” includes:
 - (i) the Patuxent Institution;

(ii) the Baltimore City Detention Center; and

(iii) the centralized booking facility in Baltimore City that is operated by the Division of Pretrial Detention and Services in the Department of Public Safety and Correctional Services.

[(p)] (R) “Treasurer” means the Treasurer of the State.

~~1-102.~~

~~IT IS THE FINDING OF THE GENERAL ASSEMBLY THAT:~~

~~(1) THE ENFORCEMENT OF CIVIL IMMIGRATION LAWS IS THE EXCLUSIVE RESPONSIBILITY OF THE FEDERAL GOVERNMENT;~~

~~(2) THE MANAGEMENT AND OPERATION OF DETENTION FACILITIES FOR IMMIGRANTS INVOLVE FUNCTIONS THAT ARE INHERENTLY GOVERNMENTAL AND REQUIRE UNIQUE TRAINING DUE TO THE CIVIL NATURE OF THE DETENTION, THE DIVERSE LANGUAGES AND BACKGROUNDS OF DETAINEES, AND THE SIGNIFICANT VULNERABILITIES OF ASYLUM SEEKERS AND OTHER PERSONS FLEEING PERSECUTION;~~

~~(3) DETENTION REQUIRES THE EXERCISE OF COERCIVE POLICE POWERS OVER INDIVIDUALS THAT SHOULD NOT BE DELEGATED TO THE PRIVATE SECTOR AND IS DISTINGUISHABLE FROM OTHER GOVERNMENTAL FUNCTIONS THAT MAY BE PRIVATIZED;~~

~~(4) GIVEN THE IMPLICATIONS FOR FOREIGN RELATIONS, IMMIGRATION ENFORCEMENT AND DETENTION ARE INAPPROPRIATE EXERCISES OF A STATE’S POLICE POWERS; AND~~

~~(5) ISSUES OF LIABILITY, ACCOUNTABILITY, AND COST WARRANT A PROHIBITION ON THE OWNERSHIP, OPERATION, OR MANAGEMENT OF DETENTION FACILITIES BY PRIVATE CONTRACTORS, AS WELL AS A PHASING OUT OF THE INVOLVEMENT OF STATE AND LOCAL OFFICIALS IN CIVIL IMMIGRATION DETENTION TO THE FULLEST EXTENT PERMITTED UNDER STATE LAW.~~

~~1-103.~~ 1-102.

(A) THE STATE, A UNIT OF LOCAL GOVERNMENT, A COUNTY SHERIFF, OR AN AGENCY, OFFICER, EMPLOYEE, OR AGENT OF THE STATE OR A UNIT OF LOCAL GOVERNMENT MAY NOT:

(1) ENTER INTO AN AGREEMENT OF ANY KIND FOR THE DETENTION OF INDIVIDUALS IN AN IMMIGRATION DETENTION FACILITY OWNED, MANAGED, OR OPERATED, IN WHOLE OR IN PART, BY A PRIVATE ENTITY;

(2) PAY, REIMBURSE, SUBSIDIZE, OR DEFRAY IN ANY WAY ANY COSTS RELATED TO THE SALE, PURCHASE, CONSTRUCTION, DEVELOPMENT, OWNERSHIP, MANAGEMENT, OR OPERATION OF AN IMMIGRATION DETENTION FACILITY THAT IS OR WILL BE OWNED, MANAGED, OR OPERATED, IN WHOLE OR IN PART, BY A PRIVATE ENTITY;

(3) RECEIVE ANY PAYMENT RELATED TO THE DETENTION OF INDIVIDUALS IN AN IMMIGRATION DETENTION FACILITY OWNED, MANAGED, OR OPERATED, IN WHOLE OR IN PART, BY A PRIVATE ENTITY; OR

(4) OTHERWISE GIVE ANY FINANCIAL INCENTIVE OR BENEFIT TO ANY PRIVATE ENTITY OR PERSON IN CONNECTION WITH THE SALE, PURCHASE, CONSTRUCTION, DEVELOPMENT, OWNERSHIP, MANAGEMENT, OR OPERATION OF AN IMMIGRATION DETENTION FACILITY THAT IS OR WILL BE OWNED, MANAGED, OR OPERATED, IN WHOLE OR IN PART, BY A PRIVATE ENTITY.

(B) THE STATE, A UNIT OF LOCAL GOVERNMENT, A COUNTY SHERIFF, OR AN AGENCY, OFFICER, EMPLOYEE, OR AGENT OF THE STATE OR A UNIT OF LOCAL GOVERNMENT MAY NOT APPROVE A ZONING VARIANCE OR ISSUE A PERMIT FOR THE CONSTRUCTION OF A BUILDING OR THE REUSE OF EXISTING BUILDINGS OR STRUCTURES BY ANY PRIVATE ENTITY FOR USE AS AN IMMIGRATION DETENTION FACILITY UNLESS THE GOVERNMENTAL ENTITY:

(1) PROVIDES NOTICE TO THE PUBLIC OF THE PROPOSED ZONING VARIANCE OR PERMIT ACTION AT LEAST 180 DAYS BEFORE AUTHORIZING THE VARIANCE OR ISSUING THE PERMIT; AND

(2) SOLICITS AND HEARS PUBLIC COMMENTS ON THE PROPOSED ZONING VARIANCE OR PERMIT ACTION IN AT LEAST TWO SEPARATE MEETINGS OPEN TO THE PUBLIC.

(C) (1) THE STATE, A UNIT OF LOCAL GOVERNMENT, A COUNTY SHERIFF, OR AN AGENCY, OFFICER, EMPLOYEE, OR AGENT OF THE STATE OR A UNIT OF LOCAL GOVERNMENT MAY NOT ENTER INTO OR RENEW AN IMMIGRATION DETENTION AGREEMENT.

(2) THE STATE, A UNIT OF LOCAL GOVERNMENT, A COUNTY SHERIFF, OR AN AGENCY, OFFICER, EMPLOYEE, OR AGENT OF THE STATE OR A UNIT OF LOCAL GOVERNMENT WITH AN EXISTING IMMIGRATION DETENTION AGREEMENT SHALL

EXERCISE THE TERMINATION PROVISION CONTAINED IN THE IMMIGRATION DETENTION AGREEMENT NOT LATER THAN OCTOBER 1, 2022.

(D) IN ANY DISPUTE OVER AN IMMIGRATION DETENTION AGREEMENT WITH THE STATE, THE PROVISIONS OF THIS SECTION GOVERN.

(E) NOTHING IN THIS SECTION MAY BE CONSTRUED TO AUTHORIZE OR PROHIBIT THE STATE, A UNIT OF LOCAL GOVERNMENT, A COUNTY SHERIFF, OR AN AGENCY, OFFICER, EMPLOYEE, OR AGENT OF THE STATE OR A UNIT OF LOCAL GOVERNMENT FROM ENTERING INTO AN AGREEMENT UNDER 8 U.S.C. § 1357(G).

Article – Criminal Procedure

5-104.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “CIVIL IMMIGRATION VIOLATION” MEANS A VIOLATION OF FEDERAL CIVIL IMMIGRATION LAW.

(3) “FAMILY MEMBER” MEANS A RELATIVE BY BLOOD, ADOPTION, OR MARRIAGE.

(4) “HOUSEHOLD MEMBER” MEANS A PERSON WHO LIVES WITH ANOTHER OR IS A REGULAR PRESENCE IN THE HOME OF ANOTHER.

(5) (I) “LAW ENFORCEMENT AGENT” MEANS AN INDIVIDUAL WHO IS CERTIFIED BY THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION UNDER § 3-209 OF THE PUBLIC SAFETY ARTICLE.

(II) “LAW ENFORCEMENT AGENT” DOES NOT INCLUDE AN AGENT OR EMPLOYEE OF A STATE CORRECTIONAL FACILITY OR A LOCAL CORRECTIONAL FACILITY.

(6) “LOCAL CORRECTIONAL FACILITY” HAS THE MEANING STATED IN § 1-101 OF THE CORRECTIONAL SERVICES ARTICLE.

(7) “STATE CORRECTIONAL FACILITY” HAS THE MEANING STATED IN § 1-101 OF THE CORRECTIONAL SERVICES ARTICLE.

(B) (1) IN THIS SUBSECTION, “ARREST” DOES NOT INCLUDE A ROUTINE BOOKING PROCEDURE.

(2) EXCEPT AS PROVIDED IN PARAGRAPHS (3) AND (4) OF THIS SUBSECTION, A LAW ENFORCEMENT AGENT MAY NOT, DURING THE PERFORMANCE OF REGULAR POLICE FUNCTIONS:

(I) INQUIRE ABOUT AN INDIVIDUAL'S CITIZENSHIP, IMMIGRATION STATUS, OR PLACE OF BIRTH DURING A STOP, A SEARCH, OR AN ARREST;

(II) DETAIN, OR PROLONG THE DETENTION OF, AN INDIVIDUAL:

1. FOR THE PURPOSE OF INVESTIGATING THE INDIVIDUAL'S CITIZENSHIP OR IMMIGRATION STATUS; OR

2. BASED ON THE SUSPICION THAT THE INDIVIDUAL HAS COMMITTED A CIVIL IMMIGRATION VIOLATION;

(III) TRANSFER AN INDIVIDUAL TO FEDERAL IMMIGRATION AUTHORITIES UNLESS REQUIRED BY FEDERAL LAW; OR

(IV) COERCE, INTIMIDATE, OR THREATEN ANY INDIVIDUAL BASED ON THE ACTUAL OR PERCEIVED CITIZENSHIP OR IMMIGRATION STATUS OF THE INDIVIDUAL OR:

1. THE INDIVIDUAL'S FAMILY MEMBER;

2. THE INDIVIDUAL'S HOUSEHOLD MEMBER;

3. THE INDIVIDUAL'S LEGAL GUARDIAN; OR

4. ANOTHER INDIVIDUAL FOR WHOM THE INDIVIDUAL IS A LEGAL GUARDIAN.

(3) NOTHING IN THIS SUBSECTION SHALL PREVENT A LAW ENFORCEMENT AGENT FROM INQUIRING ABOUT ANY INFORMATION THAT IS MATERIAL TO A CRIMINAL INVESTIGATION.

(4) IF THE CITIZENSHIP OR IMMIGRATION STATUS OF AN INDIVIDUAL IS RELEVANT TO A PROTECTION ACCORDED TO THE INDIVIDUAL UNDER STATE OR FEDERAL LAW, OR SUBJECT TO A REQUIREMENT IMPOSED BY INTERNATIONAL TREATY, A LAW ENFORCEMENT AGENT MAY:

(I) NOTIFY THE INDIVIDUAL OF THE PROTECTION OR REQUIREMENT; AND

(II) PROVIDE THE INDIVIDUAL AN OPPORTUNITY TO VOLUNTARILY DISCLOSE THE INDIVIDUAL'S CITIZENSHIP OR IMMIGRATION STATUS FOR THE PURPOSE OF RECEIVING THE PROTECTION OR COMPLYING WITH THE REQUIREMENT.

SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021.

May 26, 2021

The Honorable Adrienne A. Jones
Speaker of the House of Delegates
H-101 State House
Annapolis, MD 21401

Dear Speaker Jones:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 16 – *Correctional Services – Immigration Detention – Prohibition (Dignity Not Detention Act)* and House Bill 23 – *Personal Information – State and Local Agencies – Restrictions on Access (Maryland Driver Privacy Act)*.

As I have stated throughout my time in office, I remain steadfast in my opposition to any legislative or regulatory efforts that would hinder cooperation with federal law enforcement and make Maryland a sanctuary state. It is neither the state's, nor the legislature's, place to decide whether to comply with federal law and regulations. Local law enforcement should fully cooperate with federal law enforcement—a principle I have consistently upheld throughout three federal administrations led by presidents from both political parties. Flawed legislation such as this sets a dangerous precedent regarding the state's commitment to upholding the law and ensuring the safety of our citizens.

House Bill 16 reflects the hasty nature under which it passed without proper debate and discussion, and is nothing more than a solution in search of a problem. Maryland has zero private prison facilities in the state, and the state has absolutely no intention of initiating any plans to allow these facilities. However, this bill explicitly invites private prisons by enabling a private prison facility to build or acquire a new facility for the purposes of immigration detention, so long as appropriate community input is received. The legislation

also requires the termination of all immigration detention agreements with local jurisdictions. Once again, the state's correctional and detention facilities do not engage in these agreements. Currently, only three out of Maryland's 24 jurisdictions utilize these agreements, and one is already set to expire. Our local and regional correctional facilities should retain local control and have the discretion to determine if and how to engage in local agreements with federal immigration agencies. By banning these local agreements, it creates an unfortunate and likely scenario where immigrants who are detained will be sent to other facilities, presumably out of state, separating them from their families and making it harder to stay connected to their community.

Most troubling is the portion of the bill that would limit which questions law enforcement officials are allowed to ask during routine encounters. While law enforcement officials do not inquire about immigration status, citizenship status, or place of birth during a stop or search, they may have reason to do so during an arrest. We need to ensure that our law enforcement officers have every tool at their disposal in order to keep our citizens safe and protect them from felons, terrorists, repeat violent offenders, domestic abusers, and sexual predators, regardless of immigration status.

House Bill 23 would impede important criminal law enforcement investigations by requiring the denial of inspection of certain parts of public records by a federal agency unless they have a valid state or federal warrant. Limiting access to any database operated by state, local, and private vendors to law enforcement agencies removes the ability of our state's criminal justice professionals from being able to perform essential job functions that keep our communities safe.

As governor, I believe in creating an inclusive and diverse Maryland, which is why our administration has consistently welcomed refugees who the federal government has determined are properly and legally seeking refugee status and have been adequately vetted. By promoting diversity and inclusion for all while upholding our commitment to public safety, Maryland's approach is consistent with both our laws and our values.

For these reasons, I have vetoed House Bill 16 and House Bill 23.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 23

AN ACT concerning

Personal Information – State and Local Agencies – Restrictions on Access (Maryland Driver Privacy Act)

FOR the purpose of requiring an officer, an employee, an agent, or a contractor of the State or a political subdivision to deny inspection by a federal agency seeking access for

certain immigration enforcement matters of the part of a public record that contains personal information or a certain photograph under certain circumstances; requiring an officer, an employee, an agent, or a contractor of the State or a political subdivision to deny inspection using certain facial recognition searches by a federal agency seeking access for certain immigration enforcement matters under certain circumstances; prohibiting certain persons from disclosing certain information to a federal agent or a federal agency under certain circumstances; requiring certain State or local agencies to annually report certain information to the General Assembly on a certain date; requiring law enforcement agencies operating certain databases to require certain individuals accessing the databases to provide certain information; requiring certain agencies to deny access to certain databases by an individual seeking to enforce federal immigration law under certain circumstances; defining certain terms; making a conforming change; and generally relating to access to personal information held by State and local agencies.

BY repealing and reenacting, with amendments,
Article – General Provisions
Section 4–320
Annotated Code of Maryland
(2019 Replacement Volume and 2020 Supplement)

BY adding to
Article – General Provisions
Section 4–320.1
Annotated Code of Maryland
(2019 Replacement Volume and 2020 Supplement)

BY adding to
Article – Public Safety
Section 3–523
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

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

Article – General Provisions

4–320.

(a) (1) In this section, “telephone solicitation” means the initiation of a telephone call to an individual or to the residence or business of an individual to encourage the purchase or rental of or investment in property, goods, or services.

(2) “Telephone solicitation” does not include a telephone call or message:

(i) to an individual who has given express permission to the person making the telephone call;

(ii) to an individual with whom the person has an established business relationship; or

(iii) by a tax-exempt, nonprofit organization.

(b) Except as provided in subsections (c) through (f) of this section, a custodian may not knowingly disclose a public record of the Motor Vehicle Administration containing personal information.

(c) A custodian shall disclose personal information when required by federal law.

(d) (1) This subsection applies only to the disclosure of personal information for any use in response to a request for an individual motor vehicle record.

(2) The custodian may not disclose personal information without written consent from the person in interest.

(3) (i) At any time the person in interest may withdraw consent to disclose personal information by notifying the custodian.

(ii) The withdrawal by the person in interest of consent to disclose personal information shall take effect as soon as practicable after it is received by the custodian.

(e) (1) This subsection applies only to the disclosure of personal information for inclusion in lists of information to be used for surveys, marketing, and solicitations.

(2) The custodian may not disclose personal information for surveys, marketing, and solicitations without written consent from the person in interest.

(3) (i) At any time the person in interest may withdraw consent to disclose personal information by notifying the custodian.

(ii) The withdrawal by the person in interest of consent to disclose personal information shall take effect as soon as practicable after it is received by the custodian.

(4) The custodian may not disclose personal information under this subsection for use in telephone solicitations.

(5) Personal information disclosed under this subsection may be used only for surveys, marketing, or solicitations and only for a purpose approved by the Motor Vehicle Administration.

(f) Notwithstanding subsections (d) and (e) of this section, **AND SUBJECT TO § 4-320.1 OF THIS SUBTITLE**, a custodian shall disclose personal information:

(1) for use by a federal, state, or local government, including a law enforcement agency, or a court in carrying out its functions;

(2) for use in connection with matters of:

(i) motor vehicle or driver safety;

(ii) motor vehicle theft;

(iii) motor vehicle emissions;

(iv) motor vehicle product alterations, recalls, or advisories;

(v) performance monitoring of motor vehicle parts and dealers; and

(vi) removal of nonowner records from the original records of motor vehicle manufacturers;

(3) for use by a private detective agency licensed by the Secretary of State Police under Title 13 of the Business Occupations and Professions Article or a security guard service licensed by the Secretary of State Police under Title 19 of the Business Occupations and Professions Article for a purpose allowed under this subsection;

(4) for use in connection with a civil, an administrative, an arbitral, or a criminal proceeding in a federal, state, or local court or regulatory agency for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments or orders;

(5) for purposes of research or statistical reporting as approved by the Motor Vehicle Administration provided that the personal information is not published, redisclosed, or used to contact the individual;

(6) for use by an insurer, an insurance support organization, or a self-insured entity, or its employees, agents, or contractors, in connection with rating, underwriting, claims investigating, and antifraud activities;

(7) for use in the normal course of business activity by a legitimate business entity or its agents, employees, or contractors, but only:

(i) to verify the accuracy of personal information submitted by the individual to that entity; and

(ii) if the information submitted is not accurate, to obtain correct information only for the purpose of:

1. preventing fraud by the individual;
2. pursuing legal remedies against the individual; or
3. recovering on a debt or security interest against the individual;

(8) for use by an employer or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. § 31101 et seq.);

(9) for use in connection with the operation of a private toll transportation facility;

(10) for use in providing notice to the owner of a towed or impounded motor vehicle;

(11) for use by an applicant who provides written consent from the individual to whom the information pertains if the consent is obtained within the 6-month period before the date of the request for personal information;

(12) for use in any matter relating to:

(i) the operation of a Class B (for hire), Class C (funeral and ambulance), or Class Q (limousine) vehicle; and

(ii) public safety or the treatment by the operator of a member of the public;

(13) for a use specifically authorized by State law, if the use is related to the operation of a motor vehicle or public safety;

(14) for use by a hospital to obtain, for hospital security, information relating to ownership of vehicles parked on hospital property;

(15) for use by a procurement organization requesting information under § 4-516 of the Estates and Trusts Article for the purposes of organ, tissue, and eye donation;

(16) for use by an electric company, as defined in § 1-101 of the Public Utilities Article, but only:

(i) information describing a plug-in electric drive vehicle, as defined in § 11-145.1 of the Transportation Article, and identifying the address of the registered owner of the plug-in vehicle;

(ii) for use in planning for the availability and reliability of the electric power supply; and

(iii) if the information is not:

1. published or redisclosed, including redisclosed to an affiliate as defined in § 7-501 of the Public Utilities Article; or

2. used for marketing or solicitation; and

(17) for use by an attorney, a title insurance producer, or any other individual authorized to conduct a title search of a manufactured home under Title 8B of the Real Property Article.

(g) (1) A person receiving personal information under subsection (e) or (f) of this section may not use or redisclose the personal information for a purpose other than the purpose for which the custodian disclosed the personal information.

(2) A PERSON RECEIVING PERSONAL INFORMATION UNDER SUBSECTION (D), (E), OR (F) OF THIS SECTION MAY NOT DISCLOSE THE PERSONAL INFORMATION TO A FEDERAL AGENT OR FEDERAL AGENCY FOR THE PURPOSE OF FEDERAL IMMIGRATION ENFORCEMENT UNLESS THE PERSON IS PRESENTED WITH A VALID WARRANT ISSUED BY A FEDERAL COURT OR A COURT OF THIS STATE.

(3) A person receiving personal information under subsection (e) or (f) of this section who rediscloses the personal information shall:

(i) keep a record for 5 years of the person to whom the information is redisclosed and the purpose for which the information is to be used; and

(ii) make the record available to the custodian on request.

(h) (1) The custodian shall adopt regulations to implement and enforce this section.

(2) (i) The custodian shall adopt regulations and procedures for securing from a person in interest a waiver of privacy rights under this section when an applicant requests personal information about the person in interest that the custodian is not authorized to disclose under subsections (c) through (f) of this section.

(ii) The regulations and procedures adopted under this paragraph shall:

1. state the circumstances under which the custodian may request a waiver; and

2. conform with the waiver requirements in the federal Driver's Privacy Protection Act of 1994 and other federal law.

(i) The custodian may develop and implement methods for monitoring compliance with this section and ensuring that personal information is used only for the purposes for which it is disclosed.

4-320.1.

(A) IN THIS SECTION, "FACIAL RECOGNITION" MEANS A BIOMETRIC SOFTWARE APPLICATION THAT IDENTIFIES OR VERIFIES A PERSON BY COMPARING AND ANALYZING PATTERNS BASED ON A PERSON'S FACIAL CONTOURS.

(B) (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, AN OFFICER, AN EMPLOYEE, AN AGENT, OR A CONTRACTOR OF THE STATE OR A POLITICAL SUBDIVISION SHALL DENY INSPECTION OF THE PART OF A PUBLIC RECORD THAT CONTAINS PERSONAL INFORMATION OR INSPECTION OF A PHOTOGRAPH OF AN INDIVIDUAL BY ANY FEDERAL AGENCY SEEKING ACCESS FOR THE PURPOSE OF:

~~(I) CIVIL IMMIGRATION ENFORCEMENT; OR~~

~~(II) CRIMINAL IMMIGRATION ENFORCEMENT ENFORCING FEDERAL IMMIGRATION LAW, UNLESS THE OFFICER, EMPLOYEE, AGENT, OR CONTRACTOR IS PROVIDED WITH A VALID WARRANT ISSUED BY A FEDERAL COURT OR A COURT OF THIS STATE.~~

(2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, AN OFFICER, AN EMPLOYEE, AN AGENT, OR A CONTRACTOR OF THE STATE OR A POLITICAL SUBDIVISION SHALL DENY INSPECTION USING A FACIAL RECOGNITION SEARCH OF A DIGITAL PHOTOGRAPHIC IMAGE OR ACTUAL STORED DATA OF A DIGITAL PHOTOGRAPHIC IMAGE BY ANY FEDERAL AGENCY SEEKING ACCESS FOR THE PURPOSE OF:

~~(I) CIVIL IMMIGRATION ENFORCEMENT; OR~~

~~(II) CRIMINAL IMMIGRATION ENFORCEMENT ENFORCING FEDERAL IMMIGRATION LAW, UNLESS THE OFFICER, EMPLOYEE, AGENT, OR CONTRACTOR IS PROVIDED WITH A VALID WARRANT ISSUED BY A FEDERAL COURT OR A COURT OF THIS STATE.~~

(3) ON OR BEFORE JUNE 1, 2023, AND EACH JUNE 1 THEREAFTER, ~~ANY STATE OR LOCAL AGENCY THAT RECEIVES A REQUEST FROM A FEDERAL AGENCY~~ THE MOTOR VEHICLE ADMINISTRATION, THE DEPARTMENT OF STATE

POLICE, AND THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES SHALL, WITH RESPECT TO REQUESTS FROM FEDERAL AGENCIES SEEKING ACCESS FOR THE PURPOSE OF ~~CIVIL OR CRIMINAL~~ FEDERAL IMMIGRATION ENFORCEMENT FOR PERSONAL INFORMATION, A PHOTOGRAPH OF AN INDIVIDUAL, OR A FACIAL RECOGNITION SEARCH ~~SHALL~~, WHETHER OR NOT THE REQUEST WAS INITIATED THROUGH A STATE OR LOCAL LAW ENFORCEMENT AGENCY, REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE FOLLOWING INFORMATION FOR THE IMMEDIATELY PRECEDING CALENDAR YEAR:

(I) THE NUMBER OF REQUESTS RECEIVED FROM ANY FEDERAL AGENCY FOR PERSONAL INFORMATION, A PHOTOGRAPH OF AN INDIVIDUAL, OR A FACIAL RECOGNITION SEARCH;

(II) THE NUMBER OF REQUESTS RECEIVED FROM ANY FEDERAL AGENCY FOR PERSONAL INFORMATION, A PHOTOGRAPH OF AN INDIVIDUAL, OR A FACIAL RECOGNITION SEARCH FOR WHICH A VALID WARRANT ISSUED BY A FEDERAL COURT OR A COURT OF THIS STATE WAS PROVIDED;

(III) THE NUMBER AND PURPOSE OF FACIAL RECOGNITION SEARCHES COMPLETED ~~BY THE STATE OR LOCAL AGENCY~~ FOR ANY FEDERAL AGENCY BASED ON PERSONAL INFORMATION OR A PHOTOGRAPH OF AN INDIVIDUAL PROVIDED TO THE FEDERAL AGENCY BY ~~A STATE OR LOCAL AGENCY~~ THE MOTOR VEHICLE ADMINISTRATION, THE DEPARTMENT OF STATE POLICE, OR THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES; AND

(IV) THE NUMBER OF INDIVIDUALS WHOSE PERSONAL INFORMATION OR PHOTOGRAPH WAS PROVIDED TO ANY FEDERAL AGENCY BY ~~THE STATE OR LOCAL AGENCY~~, RESPECTIVELY, THE MOTOR VEHICLE ADMINISTRATION, THE DEPARTMENT OF STATE POLICE, AND THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

Article – Public Safety

3-523.

(A) (1) IN THIS SECTION, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) ~~“DATABASE~~ “DATABASE” MEANS ANY DATABASE OPERATED BY STATE AND LOCAL LAW ENFORCEMENT AGENCIES, INCLUDING DATABASES MAINTAINED FOR A LAW ENFORCEMENT AGENCY BY A PRIVATE VENDOR.

(II) “DATABASE” DOES NOT INCLUDE A REGISTRY OPERATED UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE.

(3) (I) “LAW ENFORCEMENT AGENCY” MEANS A FEDERAL, STATE, OR LOCAL AGENCY AUTHORIZED TO ENFORCE CRIMINAL LAWS.

(II) “LAW ENFORCEMENT AGENCY” INCLUDES THE MARYLAND DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

~~(III) “LAW ENFORCEMENT AGENCY” DOES NOT INCLUDE THE U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY.~~

(B) AN ENTITY OPERATING A DATABASE SHALL:

~~(1) LIMIT ACCESS TO THE DATABASE TO INDIVIDUALS ACTING ON BEHALF OF A LAW ENFORCEMENT AGENCY OR THE MARYLAND JUDICIARY; AND~~

~~(2) REQUIRE AN INDIVIDUAL ACCESSING THE DATABASE TO PROVIDE TO THE ENTITY:~~

~~(I) THE INDIVIDUAL’S NAME;~~

~~(II) THE INDIVIDUAL’S CONTACT INFORMATION, INCLUDING A TELEPHONE NUMBER, AN E-MAIL ADDRESS, AND A PHYSICAL ADDRESS;~~

~~(III) A STATEMENT ON WHETHER THE INDIVIDUAL IS ACTING ON BEHALF OF THE MARYLAND JUDICIARY OR A LAW ENFORCEMENT AGENCY AND, IF ACTING ON BEHALF OF A LAW ENFORCEMENT AGENCY, WHICH LAW ENFORCEMENT AGENCY THE INDIVIDUAL IS ACTING ON BEHALF OF; AND~~

~~(IV) A STATEMENT BY THE INDIVIDUAL, UNDER PENALTY OF PERJURY, THAT THE INDIVIDUAL IS ACCESSING THE DATABASE FOR A LEGITIMATE LAW ENFORCEMENT PURPOSE.~~

~~(C) IF AN INDIVIDUAL IS ACCESSING A DATABASE FOR THE PURPOSE OF ENFORCING FEDERAL IMMIGRATION LAW, THE ENTITY OPERATING THE DATABASE SHALL DENY THE INDIVIDUAL ACCESS TO THE DATABASE UNLESS THE ENTITY IS PROVIDED WITH A VALID WARRANT ISSUED BY A FEDERAL COURT OR A COURT OF THIS STATE.~~

(1) DENY ACCESS TO THE DATABASE TO ANY INDIVIDUAL WHO IS SEEKING ACCESS FOR THE PURPOSE OF ENFORCING FEDERAL IMMIGRATION LAW, UNLESS THE INDIVIDUAL PRESENTS A VALID WARRANT ISSUED BY A FEDERAL COURT OR A COURT OF THIS STATE; AND

(2) REQUIRE AN INDIVIDUAL ACCESSING THE DATABASE TO PROVIDE TO THE ENTITY:

(I) THE INDIVIDUAL'S NAME;

(II) THE INDIVIDUAL'S CONTACT INFORMATION, INCLUDING A TELEPHONE NUMBER, AN E-MAIL ADDRESS, AND A PHYSICAL ADDRESS; AND

(III) UNLESS THE INDIVIDUAL PRESENTS A VALID WARRANT ISSUED BY A FEDERAL COURT OR A COURT OF THIS STATE, A STATEMENT BY THE INDIVIDUAL, UNDER PENALTY OF PERJURY, THAT THE INDIVIDUAL IS NOT ACCESSING THE DATABASE FOR THE PURPOSE OF ENFORCING FEDERAL IMMIGRATION LAW.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

April 8, 2021

The Honorable Adrienne A. Jones
Speaker of the House of Delegates
H-101 State House
Annapolis, MD 21401

The Honorable Bill Ferguson
President of the Senate
H-107 State House
Annapolis, MD 21401

Dear Speaker Jones and President Ferguson:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 37 and Senate Bill 35 – *Procurement – Prevailing Wage – Applicability*.

One of the top priorities of my Administration has been to make Maryland a better place for job creators. After inheriting an abysmal business climate reputation six years ago, much work has been done in our State to achieve one of the greatest economic turnarounds in the nation. Unfortunately, this legislation reverses course on some of the important progress we have made – and does so at a time when many still are struggling from the pandemic. In raising the cost of doing business with the State, House Bill 37 and Senate Bill 35 do nothing more than hurt Maryland's small businesses and taxpayers.

By applying the State’s prevailing wage law to a greater number of public work projects, this legislation will generate unintended and negative consequences for employers and workers. With labor costs at nearly one third of all construction costs, public work projects will become more expensive and jobs may be lost due to fewer projects being funded. Our small business job creators, the backbone of our economy, stand to lose the most – while large contractors are in a better position to withstand the added cost, small and minority-owned businesses will be hurt disproportionately and many will be unable or unwilling to bid on certain projects. Compounding the cost barrier, burdensome paperwork is yet another hurdle for smaller businesses, many of whom lack the staff or resources necessary for keeping up with the additional red tape. Legislation such as this, that arbitrarily inflates cost, impedes participation, and stifles competition — all at a higher price for taxpayers — absolutely is not in the best interest of our State.

Now more than ever, when infrastructure projects will play an integral role in our recovery from the COVID–19 pandemic, we should be even more mindful of Maryland’s economic climate and strive toward making it easier to do business in *and with* our State.

For these reasons, I have vetoed House Bill 37 and Senate Bill 35.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 37

AN ACT concerning

Procurement – Prevailing Wage – Applicability

FOR the purpose of ~~repealing~~ altering a certain limitation on the applicability of the Prevailing Wage Law to the construction of a public work by revising a certain definition; altering the application of the Prevailing Wage Law to certain public work contracts by reducing a certain contract threshold to a certain amount; making conforming changes; providing for the application of this Act; and generally relating to the applicability of the Prevailing Wage Law.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 17–201 and 17–202
Annotated Code of Maryland
(2015 Replacement Volume and 2020 Supplement)

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

Article – State Finance and Procurement

17–201.

(a) In this subtitle, unless the context indicates otherwise, the following words have the meanings indicated.

(b) “Apprentice” means an individual who:

(1) is at least 16 years old;

(2) has signed with an employer or employer’s agent, an association of employers, an organization of employees, or a joint committee from both, an agreement including a statement of:

(i) the trade, craft, or occupation that the individual is learning; and

(ii) the beginning and ending dates of the apprenticeship; and

(3) is registered in a program of the Council or the Office of Apprenticeship of the United States Department of Labor.

(c) “Commissioner” means:

(1) the Commissioner of Labor and Industry;

(2) the Deputy Commissioner of Labor and Industry; or

(3) an authorized representative of the Commissioner.

(d) “Construction” includes all:

(1) building;

(2) reconstructing;

(3) improving;

(4) enlarging;

(5) painting and decorating;

(6) altering;

(7) maintaining; and

(8) repairing.

(e) “Council” means the Apprenticeship and Training Council.

(f) (1) “Employee” means an apprentice or worker employed by a contractor or subcontractor under a public work contract.

(2) “Employee” does not include an individual employed by a public body.

(g) (1) “Locality” means the county in which the work is to be performed.

(2) If the public work is located within 2 or more counties, the locality includes all counties in which the public work is located.

(h) “Prevailing wage rate” means the hourly rate of wages paid in the locality as determined by the Commissioner under § 17–208 of this subtitle.

(i) (1) “Public body” means:

(i) the State;

(ii) except as provided in paragraph (2)(i) of this subsection, a unit of the State government or instrumentality of the State;

(iii) any political subdivision, agency, person, or entity;

~~1. with respect to the construction of an elementary or a secondary school for which 25% or more of the money used for construction is State money;~~

~~2. with respect to the construction of any other public work for which 50% 25% or more of the money used for construction is~~ **FUNDED IN WHOLE OR IN PART WITH** State money;

(iv) notwithstanding paragraph (2)(ii) of this subsection, a political subdivision if its governing body:

1. provides by ordinance or resolution that the political subdivision is covered by this subtitle; and

2. gives written notice of that ordinance or resolution to the Commissioner; and

(v) the Washington Suburban Sanitary Commission.

(2) “Public body” does not include:

(i) except as provided in paragraph (1)(v) of this subsection, a unit of the State government or instrumentality of the State funded wholly from a source other than the State; or

(ii) any political subdivision, agency, person, or entity~~;~~

~~1.1~~ with respect to the construction of an elementary or a secondary school for which less than 25% of the money used for construction is State money~~;~~ or

~~2.~~ with respect to the construction of any ~~other~~ public work for which less than ~~50%~~ 25% of the money used for construction is State money~~;~~

(j) (1) Subject to paragraph (2) of this subsection, “public work” means a structure or work, including a bridge, building, ditch, road, alley, waterwork, or sewage disposal plant, that:

(i) is constructed for public use or benefit; or

(ii) is paid for wholly or partly by public money.

(2) “Public work” does not ~~include:~~

~~(i)~~ **INCLUDE, INCLUDE:**

(I) unless let to contract, a structure or work whose construction is performed by a public service company under order of the Public Service Commission or other public authority regardless of:

~~1. (H) 1.~~ public supervision or direction; or

~~2. (H) 2.~~ payment wholly or partly from public money; **OR**

(II) A CAPITAL PROJECT THAT RECEIVES STATE FUNDS IN THE ANNUAL STATE CAPITAL BUDGET AS:

1. A LOCAL HOUSE OF DELEGATES INITIATIVE; OR

2. A LOCAL SENATE INITIATIVE; ~~OR~~

~~(ii) an elementary or a secondary school if:~~

~~1. the school is not in a political subdivision covered under subsection (i)(1)(iv) of this section; and~~

~~2. the State provides less than 25% of the money for construction.~~

(k) “Public work contract” means a contract for construction of a public work.

(l) “Worker” means a laborer or mechanic.

17–202.

(a) This subtitle does not limit:

(1) the hours of work an employee may work in a particular period of time;
or

(2) the right of a contractor to pay an employee under a public work contract more than the prevailing wage rate.

(b) This subtitle does not apply to:

(1) a public work contract of less than ~~[\$500,000]~~ **\$250,000**; or

(2) the part of a public work contract for which the federal government provides money if, as to that part, the contractor is required to pay the prevailing wage rate as determined by the United States Secretary of Labor.

(c) If this subtitle and the federal Davis–Bacon Act apply and the federal act is suspended, the Governor may declare this subtitle suspended for the same period for:

(1) the part of that public work contract for which the United States Secretary of Labor would have been required to make a determination of a prevailing wage rate; or

(2) that entire public work contract.

(d) (1) Subject to paragraph (2) of this subsection, this subtitle applies to the construction of a structure or work, including a bridge, a building, a ditch, a road, an alley, a waterwork, or a sewage disposal plant, funded with bond proceeds from bonds issued in accordance with Title 12, Subtitle 2 of the Economic Development Article that is located in a designated tax increment financing development district created on or after July 1, 2018, established under State or local law.

(2) This subsection applies to the construction of a structure or work only if a political subdivision of the State, Baltimore City, or the Revenue Authority of Prince George’s County authorizes that the construction of the structure or work is subject to this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only to a public work contract executed on or after October 1, 2021.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

May 28, 2021

The Honorable Adrienne A. Jones
Speaker of the House of Delegates
H-101 State House
Annapolis, MD 21401

Dear Speaker Jones:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 97 – *Department of Housing and Community Development – Office of Statewide Broadband – Established (Digital Connectivity Act of 2021)*.

This bill establishes the Office of Statewide Broadband (OSB) within the Department of Housing and Community Development (DHCD) as the successor to the Office of Rural Broadband, with expanded responsibilities. The Governor is required to include sufficient funding in the annual operating budget to employ two additional staff members. The bill establishes the Digital Inclusion Fund and the Digital Connectivity Fund within DHCD to provide grants to local governments and nonprofits to increase access to high-speed Internet and to assist in the development of affordable broadband Internet infrastructure. The bill also transfers the Rural Broadband Coordination Board (RBCB) and the Rural Broadband Assistance Fund (RBAF) from the Department of Commerce to OSB.

Senate Bill 66, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 97.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 97

AN ACT concerning

**Department of Housing and Community Development – Office of ~~Digital~~
Inclusion Statewide Broadband – Established**

(Digital Connectivity Act of 2021)

FOR the purpose of establishing the Office of ~~Digital Inclusion~~ Statewide Broadband in the Department of Housing and Community Development; establishing the purpose of the Office; requiring the Governor to appoint the Director of the Office; providing that the Director serves at the pleasure of the Governor and reports to certain individuals; requiring the Director to work closely with certain officials for certain purposes; establishing the duties of the Office; requiring the Office to offer funding and technical assistance through certain partnerships to help local governments and certain entities qualify for federal funding opportunities; requiring the Office to work with a certain unit to initiate a broadband funding structure under a certain provision of law; requiring the Office to prepare and submit a certain plan to the Governor and the General Assembly, on or before a certain date; requiring the Office to solicit input from certain stakeholders in preparing the plan; requiring the Office to collaborate with certain units of State and local government in carrying out certain provisions of this Act; requiring the Office to make a certain annual report on or before a certain date; ~~repealing provisions of law concerning the Rural Broadband Assistance Fund and the Rural Broadband Coordination Board;~~ establishing the Digital Inclusion Fund and the Digital Connectivity Fund as special, nonlapsing funds; establishing the purposes of the funds; requiring the Office to administer the funds; requiring the State Treasurer to hold the funds and the Comptroller to account for the funds; specifying the contents of the funds; specifying the purposes for which the funds may be used; providing for the investment of money in and expenditures from the funds; requiring interest earnings of the Rural Broadband Assistance Fund, the Digital Inclusion Fund, and the Digital Connectivity Fund to be credited to the funds; exempting the Digital Inclusion Fund, the Digital Connectivity Fund, and the Rural Broadband Assistance Fund from a certain provision of law requiring interest earnings on State money to accrue to the General Fund of the State; transferring the Rural Broadband Assistance Fund to the Department; requiring the Rural Broadband Assistance Fund to be administered by the Office; establishing the intent of the General Assembly that a certain individual serve as the first Director of the Office; establishing that the Office of ~~Digital Inclusion~~ Statewide Broadband is the successor of the Office of Rural Broadband within the Department; providing for the meaning of the names and titles of certain agencies and officials in certain laws, executives orders, rules, regulations, policies, and documents; providing that nothing in this Act affects the terms of office of certain members of certain units; providing that a certain individual shall remain for the balance of a certain term except under certain circumstances; providing for the validity, termination, completion, consummation, and enforcement of certain transactions, employment statuses, rights, duties, and interests; requiring that a certain successor unit be considered in all respects as having the powers and obligations granted the former unit, under certain circumstances; requiring the continuity of certain units to be retained; requiring certain properties, appropriations, credits, assets, liabilities, and obligations to be continued in a certain manner; for certain fiscal years, requiring the Governor to include a certain appropriation in the annual budget bill for a certain purpose; defining certain terms; making conforming changes; providing for the construction of this Act; making this

Act an emergency measure; and generally relating to broadband Internet service and the creation of the Office of ~~Digital Inclusion~~ Statewide Broadband.

~~BY repealing~~

~~Article – Economic Development~~

~~Section 5-1101 and 5-1102 and the subtitle “Subtitle 11. Rural Broadband Assistance Fund”; and Section 13-501 through 13-506 and the subtitle “Subtitle 5. Rural Broadband Coordination Board”~~

~~Annotated Code of Maryland~~

~~(2018 Replacement Volume and 2020 Supplement)~~

BY repealing and reenacting, with amendments, and transferring

Article – Economic Development

Section 5-1102

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

to be

Article – Housing and Community Development

Section 6.5-107

Annotated Code of Maryland

(2019 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – Economic Development

Section 13-504

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

BY adding to

Article – Housing and Community Development

Section 6.5-101 through ~~6.5-104~~ 6.5-107 to be under the new title “Title 6.5. Office of ~~Digital Inclusion~~ Statewide Broadband”

Annotated Code of Maryland

(2019 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, without amendments,

Article – State Finance and Procurement

Section 6-226(a)(2)(i)

Annotated Code of Maryland

(2015 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement

Section 6-226(a)(2)(ii) 128. and 129.

Annotated Code of Maryland

(2015 Replacement Volume and 2020 Supplement)

(As enacted by Chapter 20 of the Acts of the General Assembly of 2020 and Chapters 4, 8, 25, 28, 33, and 36 of the Acts of the General Assembly of 2021)

BY adding to

Article – State Finance and Procurement

Section 6–226(a)(2)(ii) 130., 131., and 132.

Annotated Code of Maryland

(2015 Replacement Volume and 2020 Supplement)

Preamble

WHEREAS, The General Assembly recognizes the importance of the Internet as the most transformative technology of modern life, a key stimulus for socioeconomic opportunity and development, and a prerequisite for social and economic inclusion; and

WHEREAS, High-quality broadband Internet service creates new jobs, attracts new industries, expands markets for new and existing businesses, enables Marylanders to better access educational opportunities and resources, facilitates delivery of health care services, and protects public safety; and

WHEREAS, Increased deployment of broadband Internet services and infrastructure will improve long-term quality of life for all Marylanders and will ensure that the State remains economically competitive both locally and globally; and

WHEREAS, Maryland is committed to enabling the development of a statewide digital communications infrastructure by encouraging continued private investment and where necessary, through public investment, public-private partnerships, and cooperatives to meet the growing demand for reliable, high-speed, universal, and affordable broadband access in the key sectors of public safety, education, health care, and transportation for all Marylanders; and

WHEREAS, By advancing digital literacy and universal access among Marylanders, the State will help eradicate the inequalities in adoption, knowledge, and skills needed to effectively use and communicate through various digital platforms and tools, ultimately enabling the acquisition of skills and knowledge necessary for digitally inclusive communities; and

WHEREAS, A ~~growing~~ digital divide between Marylanders who have the ability and means to use broadband Internet services and those who do not exacerbates preexisting inequality in the State; and

WHEREAS, The Governor established the Office of Rural Broadband in 2017 through Executive Order, and the Office is doing important work to provide Internet access and connectivity to certain residents in more rural parts of the State; and

WHEREAS, There are Marylanders in every county of the State who are unable to adequately use broadband Internet today, or who are unaware of the utility and benefits of broadband Internet; and

WHEREAS, It is necessary to establish an office that will work not only with rural jurisdictions but with every county in the State; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, ~~That Section(s) 5-1101 and 5-1102 and the subtitle "Subtitle 11. Rural Broadband Assistance Fund"; and Section(s) 13-501 through 13-506 and the subtitle "Subtitle 5. Rural Broadband Coordination Board" of Article Economic Development of the Annotated Code of Maryland be repealed.~~

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

Article – Economic Development

13-504.

The Board shall:

(1) assist in the deployment of broadband communication infrastructure in rural and underserved areas of the State;

(2) cooperate with public, private, and nonprofit entities to obtain, coordinate, and disseminate resources for the establishment of broadband communication services in rural and underserved areas of the State;

(3) review and approve the disbursement of funds under the Rural Broadband Assistance Fund under [§ 5-1102 of this article] **§ 6.5-107 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE** and any other federal, State, and private financial resources that may be provided to assist the establishment of broadband communication services in rural and underserved areas of the State; and

(4) perform other functions that are consistent with the intent of this subtitle.

Article – Housing and Community Development

TITLE 6.5. OFFICE OF ~~DIGITAL INCLUSION~~ STATEWIDE BROADBAND.

6.5-101.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “DIRECTOR” MEANS THE DIRECTOR OF THE OFFICE OF ~~DIGITAL INCLUSION~~ STATEWIDE BROADBAND.

(C) “OFFICE” MEANS THE OFFICE OF ~~DIGITAL INCLUSION~~ STATEWIDE BROADBAND.

6.5–102.

(A) THERE IS AN OFFICE OF ~~DIGITAL INCLUSION~~ STATEWIDE BROADBAND IN THE DEPARTMENT.

(B) THE PURPOSE OF THE OFFICE IS TO ENSURE THAT EVERY RESIDENT OF THE STATE:

(1) IS SUPPORTED IN THE ADOPTION OF RELIABLE, UNIVERSAL, HIGH-QUALITY BROADBAND INTERNET SERVICE AT AN AFFORDABLE PRICE; AND

(2) HAS THE TOOLS NECESSARY TO USE THE INTERNET AND TAKE ADVANTAGE OF INTERNET RESOURCES.

6.5–103.

(A) THE GOVERNOR SHALL APPOINT THE DIRECTOR OF THE OFFICE.

(B) THE DIRECTOR:

(1) SERVES AT THE PLEASURE OF THE GOVERNOR; AND

(2) REPORTS TO BOTH THE SECRETARY AND THE GOVERNOR.

(C) THE DIRECTOR SHALL WORK CLOSELY WITH THE SECRETARY OF COMMERCE AND THE STATE SUPERINTENDENT OF SCHOOLS TO HARMONIZE THE EFFORTS OF THE OFFICE WITH THE ECONOMIC DEVELOPMENT ASPECTS OF DIGITAL INFRASTRUCTURE AND WITH THE NEEDS OF LOCAL EDUCATION AGENCIES.

6.5–104.

(A) THE OFFICE SHALL:

(1) DEVELOP DEFINITIONS AND STANDARDS FOR BROADBAND INTERNET THAT:

(I) ADDRESS CURRENT AND FUTURE REQUIREMENTS AND USES BY COMMUNITIES, BUSINESSES, SCHOOLS, HEALTH CARE PROVIDERS, AND OTHER STAKEHOLDERS; ~~AND~~

(II) REFLECT THE NEED FOR A FORWARD-LOOKING, STATEWIDE DIGITAL COMMUNICATIONS INFRASTRUCTURE; AND

(III) ARE NOT AT ODDS WITH DEFINITIONS AND STANDARDS ADOPTED BY THE FEDERAL COMMUNICATIONS COMMISSION;

(2) (I) COLLECT PROMOTIONAL AND NONPROMOTIONAL PRICING DATA DIRECTLY FROM BROADBAND INTERNET PROVIDERS; AND

(II) ASSESS THE ACTUAL UPLOAD AND DOWNLOAD SPEEDS EXPERIENCED BY CONSUMERS;

(3) CREATE A STATEWIDE AUDIT OF THE AVAILABILITY, RELIABILITY, AND AFFORDABILITY OF BROADBAND INTERNET SERVICES IN EVERY COUNTY, WHICH SHALL INCLUDE:

(I) NETWORK PERFORMANCE METRICS, INCLUDING INFORMATION ON DATA TRANSFER SPEEDS, NETWORK THROUGHPUT, AND NETWORK LATENCY;

(II) A DATA-BASED EVALUATION, USING A VARIETY OF DATA COLLECTION METHODS INCLUDING COMMUNITY SURVEYS AND TARGETED OUTREACH TO TRADITIONALLY UNDERREPRESENTED COMMUNITIES, OF THE REASONS THAT CERTAIN RESIDENTS AND BUSINESSES DO NOT HAVE ACCESS TO BROADBAND INTERNET SERVICES; AND

(III) DEMOGRAPHIC INFORMATION REGARDING COMMUNITIES WHERE BROADBAND INTERNET SERVICES ARE UNAVAILABLE OR UNAFFORDABLE;

(4) CREATE A ~~PUBLIC MAP THAT SHOWS, WITH GRANULARITY~~ WEBSITE THAT HOUSES A PUBLICLY ACCESSIBLE MAP THAT ALLOWS USERS TO OVERLAY GIS HEAT MAPPING COMMENTS, BASED ON AND INCORPORATING DATA AND INFORMATION FROM THE FEDERAL COMMUNICATIONS COMMISSION, THAT SHOWS, IN ADDITION TO ANY INFORMATION PROVIDED BY THE FEDERAL COMMUNICATIONS COMMISSION;

(I) WHICH ~~RESIDENTS~~ RESIDENCES DO AND DO NOT HAVE ACCESS TO BROADBAND INTERNET; ~~AND~~

(II) BROADBAND INTERNET SERVICE PRICES AND PLANS AVAILABLE IN DIFFERENT AREAS; AND

(III) OTHER AVAILABLE STATE GEOGRAPHIC AND DEMOGRAPHIC DATA;

(5) COLLECT, ANALYZE, AND PUBLICLY SHARE:

(I) GEOGRAPHIC AND DEMOGRAPHIC DATA REGARDING HOUSEHOLDS THAT RELY ON MOBILE BROADBAND FOR INTERNET SERVICE, BASED ON THE UNDERSTANDING THAT MOBILE BROADBAND IS NOT A SUBSTITUTE FOR IN-HOME FIXED INTERNET SERVICES; ~~AND~~

(II) DATA REGARDING THE ADOPTION AND AFFORDABILITY OF RELIABLE BROADBAND INTERNET IN THE STATE, INCLUDING THE AVERAGE COST PER AVERAGE SPEED BY COUNTY; AND

(III) DATA REGARDING INVESTMENTS IN EXPANDING INTERNET INFRASTRUCTURE, ADOPTION, AND SPEED INCREASES;

(6) ASSIST AND SUPPORT LOCAL JURISDICTIONS IN THEIR EFFORTS TO IMPROVE ACCESS TO BROADBAND INTERNET, INCLUDING THROUGH THE DEVELOPMENT AND DEPLOYMENT OF TRAINING PROGRAMS TO INCREASE RESIDENTS' DIGITAL LITERACY;

(7) WORK WITH LOCAL JURISDICTIONS AND ECONOMIC DEVELOPMENT ORGANIZATIONS TO IDENTIFY AREAS WITH A DEMAND FOR BETTER INTERNET SERVICE;

(8) ESTIMATE AND IDENTIFY THE AMOUNT AND TYPE OF FUNDING NEEDED TO CONNECT RESIDENTS TO AFFORDABLE HIGH-SPEED INTERNET;

~~(8)~~ (9) IDENTIFY AND COORDINATE THE DELIVERY OF RESOURCES TO LOCAL JURISDICTIONS FOR THE IMPROVEMENT OF ACCESS TO BROADBAND INTERNET, INCLUDING BY:

(I) IDENTIFYING SOURCES OF FUNDS THAT CAN BE USED TO EXPAND ACCESS TO BROADBAND INTERNET; ~~AND~~

(II) ASSISTING LOCAL JURISDICTIONS TO APPLY FOR AND RECEIVE FUNDS FOR EXPANDING ACCESS TO BROADBAND INTERNET; AND

(III) IDENTIFYING AND SHARING DATA REGARDING LOCAL, STATE, AND FEDERAL FUNDS ALLOCATED OR RECEIVED THROUGH GRANTS AND

PRIVATE SECTOR INVESTMENT FOR INVESTMENT IN EXPANDING INTERNET INFRASTRUCTURE, ADOPTION, AND SPEED INCREASES;

(10) REQUEST INFORMATION REGARDING TOTAL DOLLAR INVESTMENTS IN HIGH-SPEED INTERNET FROM LOCAL JURISDICTIONS, PRIVATE COMPANIES, AND ORGANIZATIONS;

~~(9)~~ (11) INVESTIGATE AND, IDENTIFY, AND EVALUATE NEW TECHNOLOGIES THAT WOULD INCREASE THE AVAILABILITY OF BROADBAND INTERNET SERVICE IN THE STATE;

~~(10)~~ (12) IDENTIFY OPPORTUNITIES FOR PRODUCTIVE PARTNERSHIPS THAT WOULD ENABLE THE SHARING OF RESOURCES AND FURTHER THE GOAL OF EXPANDING ACCESS AND CONNECTION TO BROADBAND INTERNET SERVICE;

~~(11)~~ (13) DEVELOP RECOMMENDATIONS REGARDING POLICIES, REGULATIONS, OR LEGISLATION TO IMPROVE THE AVAILABILITY OF AND ACCESS TO BROADBAND INTERNET SERVICES IN THE STATE;

~~(12)~~ (14) REVIEW EXISTING LAWS, POLICIES, AND REGULATIONS REGARDING ACCESS TO THE RIGHTS-OF-WAY AND EASEMENTS OF PUBLIC UTILITIES AND RECOMMEND ANY CHANGES THE OFFICE ~~DEEMS~~ CONSIDERS NECESSARY TO ENCOURAGE THE DEPLOYMENT OF BROADBAND INTERNET;

~~(13)~~ (15) SUPPORT EFFORTS TO INCREASE THE DIGITAL LITERACY OF RESIDENTS, NONPROFIT ORGANIZATIONS, AND BUSINESS OWNERS; AND

~~(14)~~ (16) COLLABORATE WITH LOCAL EDUCATION AGENCIES AND COMMUNITY COLLEGES TO ENSURE THAT STUDENTS HAVE THE ABILITY TO CONNECT TO BROADBAND INTERNET THAT ALLOWS FOR FULL ENGAGEMENT IN REMOTE LEARNING WITHOUT DISRUPTIVE LAGGING AND PERIODIC DISCONNECTION.

(B) (1) THROUGH PARTNERSHIPS WITH LOCAL JURISDICTIONS, LIBRARY SYSTEMS, ANCHOR INSTITUTIONS, AND THE PRIVATE SECTOR, THE OFFICE SHALL OFFER FUNDING AND TECHNICAL ASSISTANCE TO HELP LOCAL GOVERNMENTS AND PRIVATE ENTITIES:

(I) QUALIFY FOR FEDERAL FUNDING OPPORTUNITIES; AND

(II) PLAN, DESIGN, AND CONSTRUCT BROADBAND INFRASTRUCTURE.

(2) TO COMPLEMENT OTHER SOURCES OF FUNDING, THE OFFICE SHALL WORK WITH THE COMMUNITY DEVELOPMENT ADMINISTRATION TO INITIATE A BROADBAND FUNDING STRUCTURE UNDER § 4-229 OF THIS ARTICLE.

(C) (1) ON OR BEFORE JULY 1, 2022, THE OFFICE SHALL:

(I) PREPARE A STATEWIDE PLAN TO:

1. ENSURE 98% CONNECTIVITY TO UNIVERSAL, AFFORDABLE, RELIABLE BROADBAND INTERNET BY A DATE NOT LATER THAN DECEMBER 31, 2025;

2. ENSURE THAT EVERY RESIDENT OF THE STATE HAS THE ABILITY TO CONNECT TO UNIVERSAL, AFFORDABLE, RELIABLE BROADBAND INTERNET THAT EXCEEDS THE FEDERAL COMMUNICATIONS COMMISSION STANDARD FOR UPLOAD AND DOWNLOAD SPEEDS BY A DATE NOT LATER THAN DECEMBER 31, 2029, AS DETERMINED BY THE OFFICE 2026; AND

3. ESTABLISH KEY PERFORMANCE INDICATORS RELATING TO INFRASTRUCTURE, ADOPTION, AND SPEED; AND

(II) SUBMIT THE PLAN TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(2) ~~THE~~ IN PREPARING THE PLAN REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE OFFICE SHALL:

(I) SOLICIT INPUT FROM A DIVERSE RANGE OF STAKEHOLDERS, INCLUDING LIBRARIES AND WORKFORCE DEVELOPMENT BOARDS IN PREPARING THE PLAN REQUIRED UNDER THIS SUBSECTION;

(II) CONSULT WITH LOCAL GOVERNMENTS, FEDERAL REGULATORS, INTERNET SERVICE PROVIDERS, AND NONGOVERNMENTAL ORGANIZATIONS INVOLVED IN AND WORKING IN THE FIELD OF CONNECTING COMMUNITIES TO HIGH-SPEED INTERNET AND DIGITAL LITERACY;

(III) HOLD AT LEAST TWO ONLINE LISTENING SESSIONS; AND

(IV) RECEIVE WRITTEN STATEMENTS FROM STAKEHOLDERS AT A TIME THE OFFICE DETERMINES.

(D) IN CARRYING OUT ~~THE PROVISIONS OF~~ THIS SECTION, THE OFFICE SHALL MEET QUARTERLY TO COLLABORATE WITH THE APPROPRIATE UNITS OF

STATE GOVERNMENT, INCLUDING THE DEPARTMENT OF INFORMATION TECHNOLOGY, THE STATE DEPARTMENT OF EDUCATION, THE STATE DEPARTMENT OF TRANSPORTATION, THE MARYLAND STATE LIBRARY, THE DEPARTMENT OF COMMERCE, THE DEPARTMENT OF AGRICULTURE, THE MARYLAND DEPARTMENT OF HEALTH, AND THE DEPARTMENT OF PLANNING, AND THE APPROPRIATE UNITS OF LOCAL GOVERNMENT, INCLUDING THE MARYLAND ASSOCIATION OF COUNTIES AND THE MARYLAND MUNICIPAL LEAGUE, TO ENSURE THAT EFFORTS TO EXPAND AND ENHANCE BROADBAND INTERNET SERVICES ARE COORDINATED STATEWIDE.

(E) (1) ON OR BEFORE DECEMBER 1, 2021, AND EACH YEAR THEREAFTER, THE OFFICE SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

(I) THE PROGRESS OF THE STATE'S EFFORTS TO:

~~(1)~~ 1. DEVELOP AND IMPLEMENT THE PLAN REQUIRED UNDER SUBSECTION (C) OF THIS SECTION;

~~(2)~~ 2. INCREASE ACCESS AND CONNECTION TO BROADBAND INTERNET SERVICES THROUGHOUT THE STATE WITH SPECIFIC REPORTING ON IMPROVEMENTS TO INFRASTRUCTURE, ADOPTION, AND SPEEDS; ~~AND~~

~~(3)~~ 3. IMPROVE DIGITAL LITERACY AMONG RESIDENTS OF THE STATE; AND

4. INCREASE SPEEDS TO MEET OR EXCEED THE FEDERAL COMMUNICATIONS COMMISSION STANDARD FOR UPLOAD AND DOWNLOAD SPEEDS;

(II) THE EXISTING GAPS IN CONNECTIVITY AND THE STATE'S PROGRESS TOWARD CLOSING THOSE GAPS;

(III) THE IMPACT THAT GAPS IN INTERNET SERVICE HAVE ON THE WORKFORCE AND STATE AND LOCAL ECONOMIES;

(IV) INFORMATION FROM LOCAL EDUCATION AGENCIES ON THE IMPACT OF INTERNET SERVICE QUALITY ON STUDENT ACHIEVEMENT AND ACCESS TO 21ST CENTURY OPPORTUNITIES;

(V) DEMOGRAPHIC DATA ON LOCATIONS WITH GAPS IN SERVICES; AND

(VI) THE ALLOCATION OF MONEY FROM, AND PROGRAMS SUPPORTED BY, THE DIGITAL INCLUSION FUND, THE DIGITAL CONNECTIVITY FUND, AND THE RURAL BROADBAND ASSISTANCE FUND IN THE PRECEDING FISCAL YEAR.

(2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE PUBLISHED ON THE WEBSITE ESTABLISHED UNDER SUBSECTION (A)(4) OF THIS SECTION.

6.5–105.

(A) IN THIS SECTION, “FUND” MEANS THE DIGITAL INCLUSION FUND.

(B) THERE IS A DIGITAL INCLUSION FUND.

(C) THE PURPOSE OF THE FUND IS TO PROVIDE A COMPETITIVE GRANT PROGRAM TO SUPPORT CAPACITY BUILDING FOR LOCAL GOVERNMENTS AND NONPROFIT ORGANIZATIONS SEEKING TO CLOSE THE DIGITAL DIVIDE IN MARYLAND BY FURTHERING ACCESS TO HIGH-SPEED INTERNET AND TO IMPLEMENT PROGRAMS TO EXPAND DIGITAL LITERACY.

(D) (1) THE OFFICE SHALL ADMINISTER THE FUND.

(2) THE OFFICE SHALL WORK WITH OTHER OFFICES WITHIN THE DEPARTMENT AND THE DEPARTMENT OF COMMERCE TO ADOPT REGULATIONS SPECIFYING:

(I) PROCEDURES FOR APPLYING FOR FINANCIAL ASSISTANCE;

AND

(II) PRIORITIES FOR ALLOCATING, SELECTING, AND DISTRIBUTING FINANCIAL ASSISTANCE FROM THE FUND.

(E) (1) THE FUND IS A CONTINUING, NONLAPSING SPECIAL FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(F) THE FUND CONSISTS OF:

(1) MONEY APPROPRIATED BY THE STATE TO THE FUND;

(2) FINANCIAL ASSISTANCE PROVIDED TO THE STATE BY THE FEDERAL GOVERNMENT FOR THE FUND;

(3) INTEREST EARNINGS; AND

(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(G) (1) THE FUND MAY BE USED ONLY TO DISTRIBUTE GRANTS NOT TO EXCEED \$500,000 TO LOCAL GOVERNMENTS AND NONPROFIT CORPORATIONS THAT ARE WORKING TO FURTHER THE GOALS OF THE OFFICE, INCLUDING:

(I) PROVIDING TRAINING TO RESIDENTS IN THE USE OF DIGITAL TOOLS;

(II) ENHANCING THE CAPACITY OF COMMUNITIES TO ACCESS GOVERNMENT SERVICES, PARTICIPATE IN CIVIC MATTERS, AND PURSUE EDUCATIONAL OPPORTUNITIES;

(III) RESEARCHING POPULATIONS WITH LOW ADOPTION RATES FOR HOME INTERNET AND COMPUTERS; AND

(IV) OTHER DIGITAL INCLUSION OR EQUITY GOALS IDENTIFIED IN THE STATEWIDE PLAN.

(2) MONEY IN THE FUND MAY NOT BE USED FOR INCREASING BROADBAND INTERNET INFRASTRUCTURE.

(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND.

(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.

6.5-106.

(A) IN THIS SECTION, "FUND" MEANS THE DIGITAL CONNECTIVITY FUND.

(B) THERE IS A DIGITAL CONNECTIVITY FUND.

(C) THE PURPOSE OF THE FUND IS TO ASSIST IN THE ESTABLISHMENT AND EXPANSION OF AFFORDABLE BROADBAND COMMUNICATION SERVICES IN DISCONNECTED AREAS AND COMMUNITIES IN THE STATE.

(D) (1) THE OFFICE SHALL ADMINISTER THE FUND.

(2) THE OFFICE SHALL ADOPT APPLICATION PROCEDURES FOR GRANTS DISTRIBUTED FROM THE FUND.

(3) THE OFFICE SHALL WORK WITH OTHER OFFICES WITHIN THE DEPARTMENT AND THE DEPARTMENT OF COMMERCE TO ADOPT REGULATIONS SPECIFYING:

(I) PROCEDURES FOR APPLYING FOR FINANCIAL ASSISTANCE;

AND

(II) PRIORITIES FOR ALLOCATING, SELECTING, AND DISTRIBUTING FINANCIAL ASSISTANCE FROM THE FUND.

(E) (1) THE FUND IS A CONTINUING, NONLAPSING SPECIAL FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(F) THE FUND CONSISTS OF:

(1) MONEY APPROPRIATED BY THE STATE TO THE FUND;

(2) FINANCIAL ASSISTANCE PROVIDED TO THE STATE BY THE FEDERAL GOVERNMENT FOR THE FUND;

(3) INTEREST EARNINGS; AND

(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(G) THE FUND MAY BE USED ONLY TO DISTRIBUTE COMPETITIVE GRANTS:

(1) FOR PLANNING, CONSTRUCTION, AND MAINTENANCE OF BROADBAND COMMUNICATION SERVICES, EQUIPMENT, AND ACTIVITIES; AND

(2) TO PROVIDE FINANCIAL ASSISTANCE TO LOCAL GOVERNMENTS TO EXPAND HIGH-SPEED INTERNET ACCESS IN DISCONNECTED COMMUNITIES IN THE STATE.

(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND.

(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.

[5-1102.] 6.5-107.

(a) There is a Rural Broadband Assistance Fund in the Department.

(b) The purpose of the Fund is to assist in the establishment of broadband communication services in rural and underserved areas of the State.

(c) The [Department] OFFICE shall administer the Fund.

(d) (1) The Fund is a special, nonlapsing fund that is not subject to [reversion under] § 7-302 of the State Finance and Procurement Article.

(2) The Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.

(e) The Fund consists of:

(1) money appropriated in the State budget to the Fund;

(2) money appropriated in the State budget to the Maryland Economic Development Assistance Fund under [Subtitle 3 of this title] TITLE 5, SUBTITLE 3 OF THE ECONOMIC DEVELOPMENT ARTICLE for the purpose of assisting in the establishment of broadband communication services in rural and underserved areas of the State;

(3) federal money allocated or granted to the Fund;

(4) INTEREST EARNINGS; and

[(4)] (5) any other money from any source accepted for the benefit of the Fund.

(f) The Fund may be used only for planning, construction, and maintenance of broadband communication services and equipment in rural and underserved areas and related activities.

(g) (1) The Treasurer shall invest the money in the Fund in the same manner as other State money may be invested.

(2) Any [investment] INTEREST earnings of the Fund shall be credited to the [General] Fund [of the State].

(h) The [Department] OFFICE shall make payments from the Fund within 30 days after notice of a decision of the MARYLAND RURAL BROADBAND COORDINATION Board under § 13–504(3) of [this article] THE ECONOMIC DEVELOPMENT ARTICLE.

Article – State Finance and Procurement

6–226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

128. the Michael Erin Busch Sports Fund; [and]

129. the Coordinated Community Supports Partnership Fund;

130. THE RURAL BROADBAND ASSISTANCE FUND;

131. THE DIGITAL INCLUSION FUND; AND

132. THE DIGITAL CONNECTIVITY FUND.

SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act shall be construed to preclude the Governor from developing a commission to coordinate efforts to establish high-speed Internet for all Marylanders.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) It is the intent of the General Assembly that the individual serving as Director of the Office of Rural Broadband on the effective date of this Act shall become the first Director of the Office of ~~Digital Inclusion~~ Statewide Broadband.

(b) The Office of ~~Digital Inclusion~~ Statewide Broadband is the successor of the Office of Rural Broadband within the Department of Housing and Community Development.

(c) In every law, executive order, rule, regulation, policy, or document created by an official, an employee, or a unit of this State, the names and titles of those agencies and officials mean the names and titles of the successor agency or official.

SECTION 4. AND BE IT FURTHER ENACTED, That nothing in this Act affects the term of office of an appointed or elected member of any commission, office, department, agency, or other unit. An individual who is a member of a unit on the effective date of this Act shall remain for the balance of the term to which appointed or elected, unless the member sooner dies, resigns, or is removed under provisions of law.

SECTION 5. AND BE IT FURTHER ENACTED, That nothing in this Act shall be construed to reduce the annual allocation of funds for rural broadband infrastructure expansion under the Office of Statewide Broadband.

SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That any transaction or employment status affected by or flowing from any change of nomenclature or any statute amended by this Act and validly entered into or existing before the effective date of this Act and every right, duty, or interest flowing from a statute amended by this Act remains valid after the effective date of this Act and may be terminated, completed, consummated, or enforced as required or allowed by any statute amended by this Act as though the amendment had not occurred. If a change in nomenclature involves a change in name or designation of any State unit, the successor unit shall be considered in all respects as having the powers and obligations granted the former unit.

SECTION ~~6~~ 7. AND BE IT FURTHER ENACTED, That:

(1) the continuity of every commission, office, department, agency, or other unit is retained; and

(2) the personnel, records, files, furniture, fixtures, and other properties and all appropriations, credits, assets, liabilities, and obligations of each retained unit are continued as the personnel, records, files, furniture, fixtures, properties, appropriations, credits, assets, liabilities, and obligations of the unit under the laws enacted by this Act.

SECTION ~~7~~ 8. AND BE IT FURTHER ENACTED, That letterhead, business cards, and other documents reflecting the renaming of the Office of Rural Broadband to be the Office of ~~Digital Inclusion~~ Statewide Broadband may not be used until all letterhead, business cards, and other documents already in print and reflecting the name of the Office before the effective date of this Act have been used.

SECTION ~~8~~ 9. AND BE IT FURTHER ENACTED, That for fiscal year 2022, and for each fiscal year thereafter, the Governor shall include in the annual budget bill an appropriation in an amount sufficient to employ two employees in the Office of ~~Digital Inclusion~~ Statewide Broadband in addition to any employees assigned to the Office of Rural Broadband on the effective date of this Act.

SECTION ~~9~~ 10. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect July 1, 2021~~ is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. It shall remain effective through June 30, 2030, and, at the end of June 30, 2030, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

May 28, 2021

The Honorable Bill Ferguson
President of the Senate
H-107 State House
Annapolis, Maryland 21401

The Honorable Adrienne A. Jones
Speaker of the House
H-101 State House
Annapolis, Maryland 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 114 and Senate Bill 199 – *Transportation – Maryland Transit Administration Funding and MARC Rail Extension Study (Transit Safety and Investment Act)*.

Nearly every revenue source for Maryland’s Transportation Trust Fund (TTF) has been adversely impacted by the COVID–19 pandemic. These revenue declines have underscored the imperative that MDOT retain the flexibility to respond to changing economic conditions. Since its inception in 1971, one of the greatest strengths of the TTF is that it provides one consolidated fund for all transportation revenues and expenses. As such, the TTF provides the MDOT Maryland Transit Administration (MDOT MTA), as well as all business units of MDOT, a diverse set of revenue sources to better weather economic downturns. It is due to this flexibility that MDOT was equipped to avoid some of the drastic impacts, such as layoffs of State employees and additional project delays, felt by transportation departments and transit agencies across the country during the pandemic.

Had this legislation been in place as the pandemic hit, MDOT would not have had the flexibility to shift funds and would have been forced to lay off valuable employees and/or further delay and even cancel critical projects across the State.

MDOT has, and continues to, prioritize statewide transit access, recognizing the state of good repair needs of the MDOT MTA. MDOT is planning to continue developing a robust transit system, as evidenced by the recently released Central Maryland Regional Transit Plan and Capital Needs Inventory, and MDOT is even now developing a Statewide Transit Plan and State Rail Plan. The 2021–2026 Consolidated Transportation Program (CTP) has outlined \$3.1 billion in funding for the MDOT MTA and, despite the COVID–19 impacts, more dollars have been put towards transit in future years than in any previous year. To recognize and support the needs of MDOT MTA, MDOT has already appropriated the funding in the CTP for FY 23 and FY 24 as identified in House Bill 114 and Senate Bill 199. As this legislation spans beyond the current CTP, mandating appropriations from FY 23 – FY 29, this legislation has an even larger impact as MDOT, and the State, works to recover from unprecedented revenue impacts of the pandemic. Transitions such as this one, which would occur over one CTP development cycle, would have a detrimental impact on the progress MDOT has made towards significantly recovering the budget.

Furthermore, House Bill 114 and Senate Bill 199 prescribe detailed actions to complete a study of a Western Maryland Rail Extension, a requirement that is duplicative of on–going efforts, as well as requires more onerous and costly tasks for unknown purposes, wasting taxpayer dollars in the process. As noted in the Department of Legislative Service’s fiscal note for House Bill 114 and Senate Bill 199, the estimated cost of a Rail Extension Study is as much as \$1 million in both FY 2022 and FY 2023, and there is no clear path to accomplish the stated goals of House Bill 114 and Senate Bill 199 without expending significant resources in the future. This \$1 million is not currently budgeted in MDOT MTA’s capital program for either FY 2022 or FY 2023.

No governor in the history of the state has invested more in transit. While our approach has been successful, it has never been clearer that funding mandates lead to bureaucratic paralysis and jeopardizes the ability of an agency to effectively protect and serve the public. Given the current state of the TTF and the loss of revenues due to the pandemic, MDOT must focus on maintaining the integrity of the State’s transit system, roads, bridges, port, airports, and motor vehicles services. Considering these expenses, the current circumstances surrounding the State and MDOT budgets, and the loss of critical revenues, implementation of House Bill 114 and Senate Bill 199 is not feasible at this time.

For these reasons, I have vetoed House Bill 114 and Senate Bill 199.

Sincerely,

Lawrence J. Hogan Jr.
Governor

AN ACT concerning

**Transportation – Maryland Transit Administration – ~~Funding~~ Funding and
MARC Rail Extension Study
(Transit Safety and Investment Act)**

FOR the purpose of establishing the Purple Line Construction Zone Grant Program; establishing the purpose of the Grant Program; requiring the Department of Commerce to implement and administer the Grant Program; requiring the Department of Commerce, in consultation with the Department of Transportation, to adopt certain regulations; requiring the Department of Commerce and the Maryland Transit Administration to consult qualified small businesses for a certain purpose; requiring the Department of Commerce to make a certain application available as soon as practicable; establishing a maximum amount for a certain grant awarded; authorizing the Department of Commerce to award grants until a certain time; prohibiting the Department of Commerce from awarding more than one grant to the same business in a certain period of time; requiring that certain funds revert to the Maryland Economic Development Assistance Fund; requiring the Administration to report certain information in the Consolidated Transportation Program; requiring the Governor to include certain appropriations in the State budget from the Transportation Trust Fund to the Maryland Transit Administration for certain operating and capital needs of the Administration in certain fiscal years; authorizing the reduction of certain appropriations under certain circumstances; requiring that certain capital appropriations to the Administration be in addition to any funds appropriated for the capital needs of a certain transit project; providing that a certain provision of law may not be construed to limit the authority of the Administrator to use certain funds to increase the State investment in certain transit agencies; requiring the Administration to submit a report each year on the planning and use of capital funds for certain capital projects in the prior fiscal year; altering the termination date for certain provisions of law concerning funding for the Administration; declaring the intent of the General Assembly; requiring the Department of Transportation to conduct a study on extending Maryland Area Regional Commuter (MARC) rail service to western Maryland; requiring the Department of Transportation to study and make recommendations regarding certain matters; requiring the Administration to incorporate certain recommendations into the Statewide Transit Plan; requiring the Department of Transportation to complete the study notwithstanding any alteration or postponement of the Statewide Transit Plan; requiring the Department of Transportation to report its findings and recommendations to the Governor and the General Assembly on or before a certain date; making conforming changes; defining a certain ~~term~~ terms; and generally relating to funding for the Maryland Transit Administration, the Statewide Transit Plan, and a study on extending MARC rail service to western Maryland.

BY adding to

Article – Economic Development

Section 16–101 to be under the new title “Title 16. Purple Line Construction Zone Grant Program”

Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 2–103.1(c)(4)(vi) and (vii), 7–205, and 7–309
Annotated Code of Maryland
(2020 Replacement Volume)

BY adding to
Article – Transportation
Section 2–103.1(c)(4)(vii)
Annotated Code of Maryland
(2020 Replacement Volume)

BY repealing and reenacting, with amendments,
Chapter 351 of the Acts of the General Assembly of 2018
Section 9

BY repealing and reenacting, with amendments,
Chapter 352 of the Acts of the General Assembly of 2018
Section 9

Preamble

WHEREAS, Section 7–309 of the Transportation Article of the Annotated Code of Maryland requires the Maryland Transit Administration (Administration) to assess its ongoing, unconstrained capital needs; and

WHEREAS, The Administration released the Capital Needs Inventory in July 2019, which captured and quantified the capital investment needs over a 10–year period for the assets of the following modes: (1) Local Bus, including CityLink, LocalLink, and Express BusLink; (2) Commuter Bus; (3) Maryland Area Regional Commuter trains; (4) Baltimore Metro SubwayLink; (5) Light RailLink; and (6) MobilityLink; and

WHEREAS, These services provide nearly 320,000 rides a day for residents in Baltimore City and Anne Arundel, Baltimore, Calvert, Charles, Frederick, Harford, Howard, Montgomery, Prince George’s, Queen Anne’s, and St. Mary’s counties; and

WHEREAS, The Capital Needs Inventory identified that in order to provide safe, reliable transit services the Administration would need, on average, \$462 million per year in capital funding for state of good repair needs during the 10–year period identified in the report; and

WHEREAS, In addition to its state of good repair needs, the Capital Needs Inventory identified a need of more than \$100 million per year over the same period for capital enhancement needs; and

WHEREAS, Section 7–301.1 of the Transportation Article requires the Administration to prepare the Central Maryland Regional Transit Plan, a long–range transit plan for Maryland transit service growth in Baltimore City and Anne Arundel, Baltimore, Harford, and Howard counties; and

WHEREAS, The Central Maryland Regional Transit Plan suggests that the existing public transportation system does not provide adequate service to meet existing demand; and

WHEREAS, The Maryland Department of Transportation’s draft FY 2020–2025 Consolidated Transportation Program (CTP) provides the Administration only \$326 million on average per year for the Capital Needs Inventory during this period; and

WHEREAS, The funding levels identified in the CTP for the Administration will increase the agency’s Capital Needs Inventory and delay the implementation of the Central Maryland Regional Transit Plan, including the growth of the transit system; and

WHEREAS, Infrastructure becomes more expensive to operate and maintain if maintenance is deferred; and

WHEREAS, Emergency shutdowns, such as the 2018 shutdown of the Baltimore subway system, and equipment failures impact the reliability of Administration services; and

WHEREAS, Riders and the public at large expect the State to maintain its public transit infrastructure at a level of reasonable reliability and the utmost safety; now, therefore,

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

Article – Economic Development

TITLE 16. PURPLE LINE CONSTRUCTION ZONE GRANT PROGRAM.

16–101.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “GRANT PROGRAM” MEANS THE PURPLE LINE CONSTRUCTION ZONE GRANT PROGRAM.

(3) “QUALIFIED SMALL BUSINESS” MEANS A SOLE PROPRIETORSHIP, A PARTNERSHIP, A LIMITED PARTNERSHIP, A LIMITED LIABILITY PARTNERSHIP, A LIMITED LIABILITY COMPANY, OR A CORPORATION THAT:

(I) EMPLOYS 20 OR FEWER EMPLOYEES;

(II) IS INDEPENDENTLY OWNED AND OPERATED;

(III) IS NOT A SUBSIDIARY OF ANOTHER BUSINESS;

(IV) IS NOT DOMINANT IN ITS FIELD OF OPERATION; AND

(V) IS IMPACTED BY THE CONSTRUCTION OF THE PURPLE LINE LIGHT RAIL PROJECT IN MONTGOMERY COUNTY AND PRINCE GEORGE’S COUNTY.

(B) (1) THERE IS A PURPLE LINE CONSTRUCTION ZONE GRANT PROGRAM.

(2) THE PURPOSE OF THE GRANT PROGRAM IS TO PROVIDE FUNDS TO QUALIFIED SMALL BUSINESSES TO ASSIST IN OFFSETTING BUSINESS REVENUE LOST AS A RESULT OF THE CONSTRUCTION OF THE PURPLE LINE LIGHT RAIL PROJECT IN MONTGOMERY COUNTY AND PRINCE GEORGE’S COUNTY.

(3) IN EACH OF FISCAL YEARS 2023 AND 2024, THE ~~MARYLAND TRANSIT ADMINISTRATION~~ DEPARTMENT OF COMMERCE SHALL PROVIDE \$1,000,000 IN GENERAL FUNDS TO THE GRANT PROGRAM TO ASSIST QUALIFIED SMALL BUSINESSES.

(C) THE DEPARTMENT OF COMMERCE SHALL IMPLEMENT AND ADMINISTER THE GRANT PROGRAM.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE DEPARTMENT OF COMMERCE, IN CONSULTATION WITH THE DEPARTMENT OF TRANSPORTATION, SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION, INCLUDING REGULATIONS TO ESTABLISH:

(I) ELIGIBILITY AND GRANT APPLICATION REQUIREMENTS;
AND

(II) A PROCESS FOR REVIEWING GRANT APPLICATIONS AND AWARDING GRANTS TO ELIGIBLE QUALIFIED SMALL BUSINESSES.

(2) IN DEVELOPING THE REGULATIONS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT OF COMMERCE AND THE

MARYLAND TRANSIT ADMINISTRATION SHALL CONSULT QUALIFIED SMALL BUSINESSES TO ENSURE THAT THE ELIGIBILITY AND APPLICATION REQUIREMENTS FOR THE GRANT PROGRAM ARE NOT OVERLY BURDENSOME TO QUALIFIED SMALL BUSINESSES.

(3) THE DEPARTMENT OF COMMERCE SHALL MAKE THE APPLICATION DEVELOPED FOR PURPOSES OF THE GRANT PROGRAM AVAILABLE TO QUALIFIED SMALL BUSINESSES AS SOON AS PRACTICABLE.

(E) (1) (I) SUBJECT TO THE LIMITATIONS OF THIS PARAGRAPH, THE DEPARTMENT OF COMMERCE SHALL ESTABLISH, BY REGULATION, GUIDELINES TO CALCULATE THE AMOUNT OF A GRANT AWARDED UNDER THIS SECTION.

(II) IN ESTABLISHING GUIDELINES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DEPARTMENT OF COMMERCE MAY USE A 12-MONTH PROJECTION OF THE DIFFERENCE BETWEEN THE BUSINESS REVENUE OF A QUALIFIED SMALL BUSINESS DURING THE 3-MONTH PERIOD IMMEDIATELY PRECEDING THE START OF THE PURPLE LINE CONSTRUCTION COMPARED TO THE 3-MONTH PERIOD IMMEDIATELY FOLLOWING THE START OF THE PURPLE LINE CONSTRUCTION.

(III) A GRANT AWARDED UNDER THE GRANT PROGRAM MAY NOT EXCEED \$50,000.

(2) SUBJECT TO THE ELIGIBILITY REQUIREMENTS ESTABLISHED UNDER SUBSECTION (D) OF THIS SECTION, IF A QUALIFIED SMALL BUSINESS IS REQUIRED TO BE REGISTERED WITH THE STATE AND IS REGISTERED, THE QUALIFIED SMALL BUSINESS MAY APPLY FOR A GRANT UNDER THE GRANT PROGRAM REGARDLESS OF OWNERSHIP OR LOCATION.

(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE DEPARTMENT OF COMMERCE MAY AWARD GRANTS UNTIL ALL THE MONEY ALLOTTED FOR THE GRANT PROGRAM HAS BEEN AWARDED OR UNTIL DECEMBER 31, 2024, WHICHEVER OCCURS FIRST.

(II) THE DEPARTMENT OF COMMERCE MAY NOT AWARD MORE THAN ONE GRANT TO THE SAME QUALIFIED SMALL BUSINESS IN A 12-MONTH PERIOD.

(4) ANY MONEY THAT HAS NOT BEEN AWARDED ON OR BEFORE DECEMBER 31, 2024, SHALL REVERT TO THE MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE FUND.

2-103.1.

(c) (4) Annually, the Consolidated Transportation Program shall include a report that:

(vi) Provides a purpose and need summary statement that includes:

1. A general description and summary that describes why the project is necessary and satisfies State transportation goals, including Climate Action Plan goals required by the Greenhouse Gas Emissions Reduction Act of 2009 under § 2-1205(b) of the Environment Article;

2. The location of the project, including a map of the project limits, project area, or transportation corridor; and

3. A summary of how the project meets the selection criteria for inclusion in the capital program; [and]

(VII) PROVIDES THE MARYLAND TRANSIT ADMINISTRATION STATE OF GOOD REPAIR BUDGET FOR THE CURRENT FISCAL YEAR AND PROJECTIONS FOR THE SUBSEQUENT FISCAL YEAR; AND

[(vii)] (VIII) Includes any other information that the Secretary believes would be useful to the members of the General Assembly, the general public, or other recipients of the Consolidated Transportation Program.

7-205.

(a) **IN THIS SECTION, “STATE OF GOOD REPAIR NEEDS” INCLUDES THE CAPITAL NEEDS IDENTIFIED BY THE ADMINISTRATION IN THE ASSESSMENT REQUIRED UNDER § 7-309 OF THIS ARTICLE.**

(B) For fiscal year 2020, the Governor shall include in the State budget an appropriation from the Transportation Trust Fund for the operation of the Administration that is equal to the appropriation for the operation of the Administration in the fiscal year 2019 State budget as introduced, increased by at least 4.4%.

[(b)] (C) For each of fiscal years 2021 and 2022, the Governor shall include in the State budget an appropriation from the Transportation Trust Fund for the operation of the Administration that is equal to the appropriation for the operation of the Administration in the State budget for the immediately preceding fiscal year, increased by at least 4.4%.

(D) FOR EACH OF FISCAL YEARS 2023 THROUGH ~~2028~~ 2029, THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET AN APPROPRIATION FROM THE

TRANSPORTATION TRUST FUND FOR THE OPERATION OF THE ADMINISTRATION THAT MAY NOT BE LESS THAN THE FISCAL YEAR 2022 APPROPRIATION FOR THE OPERATION OF THE ADMINISTRATION.

[(c)] (E) (1) For each of fiscal years 2020 through 2022, the Governor shall include in the State budget an appropriation for the capital needs of the Administration of at least \$29,100,000 from the revenues available for the State capital program in the Transportation Trust Fund.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET AN APPROPRIATION FOR THE STATE OF GOOD REPAIR NEEDS OF THE ADMINISTRATION IN THE FOLLOWING AMOUNTS FROM THE REVENUES AVAILABLE FOR THE STATE CAPITAL PROGRAM IN THE TRANSPORTATION TRUST FUND:

**(I) FOR FISCAL YEAR 2023, AT LEAST ~~\$361,880,000~~
\$402,037,183;**

**(II) FOR FISCAL YEAR 2024, AT LEAST ~~\$414,893,000~~
\$502,081,501;**

**(III) FOR FISCAL YEAR 2025, AT LEAST ~~\$453,839,000~~
\$450,000,000;**

**(IV) FOR FISCAL YEAR 2026, AT LEAST ~~\$566,573,000~~
\$450,000,000;**

**(V) FOR FISCAL YEAR 2027, AT LEAST ~~\$566,573,000~~
\$450,000,000; AND**

**(VI) FOR FISCAL YEAR 2028, AT LEAST ~~\$531,573,000~~
\$450,000,000; AND**

(VII) FOR FISCAL YEAR 2029, AT LEAST \$318,558,000.

(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN APPROPRIATION REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY BE REDUCED IF THE TOTAL APPROPRIATION FOR STATE OF GOOD REPAIR NEEDS IN A PRIOR FISCAL YEAR EXCEEDED THE AMOUNT SPECIFIED UNDER PARAGRAPH (2) OF THIS SUBSECTION FOR THAT FISCAL YEAR.

(II) A REDUCTION AUTHORIZED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH:

1. **MAY BE APPLIED ONLY TO ONE FISCAL YEAR; AND**

2. **MAY NOT EXCEED THE DIFFERENCE BETWEEN THE TOTAL APPROPRIATION FOR STATE OF GOOD REPAIR NEEDS FOR THE PRIOR FISCAL YEAR AND THE AMOUNT SPECIFIED UNDER PARAGRAPH (2) OF THIS SUBSECTION FOR THAT FISCAL YEAR.**

[(2)] (4) (I) The appropriation required under paragraph (1) of this subsection may not supplant any other capital funding otherwise available for the Administration.

(II) THE APPROPRIATIONS REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE IN ADDITION TO ANY FUNDS APPROPRIATED FOR THE CAPITAL PLANNING, ENGINEERING, RIGHT-OF-WAY ACQUISITION, OR CONSTRUCTION OF THE PURPLE LINE IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

(F) THIS ACT MAY NOT BE CONSTRUED TO LIMIT THE AUTHORITY OF THE ADMINISTRATOR TO USE AVAILABLE FUNDS APPROPRIATED TO THE ADMINISTRATION TO INCREASE THE STATE INVESTMENT IN LOCALLY OPERATED TRANSIT AGENCIES.

7-309.

(a) The Administration shall, at least every 3 years, assess the ongoing, unconstrained capital needs of the Administration.

(b) In undertaking the assessment required under subsection (a) of this section, the Administration shall:

(1) Compile and prioritize capital needs without regard to cost;

(2) Identify the backlog of repairs and replacements needed to achieve a state of good repair for all Administration assets, including a separate analysis of these needs over the following 10 years; and

(3) Identify the needs to be met in order to enhance service and achieve system performance goals.

(c) On or before July 1, 2019, and on or before July 1 every 3 years thereafter, the Administration shall, in accordance with § 2-1257 of the State Government Article, submit the assessment required under subsection (a) of this section to the Senate Budget and Taxation Committee, the House Appropriations Committee, and the House Environment and Transportation Committee.

(D) ON OR BEFORE JANUARY 20, 2022, AND ON OR BEFORE JANUARY 20 EACH YEAR THEREAFTER, THE ADMINISTRATION SHALL, IN ACCORDANCE WITH § 2–1257 OF THE STATE GOVERNMENT ARTICLE, SUBMIT AN ACCOUNTING OF THE CAPITAL FUNDS PROGRAMMED, APPROPRIATED, AND EXPENDED ON EACH OF THE PROJECTS IDENTIFIED IN THE ASSESSMENT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION FOR THE PRIOR FISCAL YEAR TO THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE HOUSE ENVIRONMENT AND TRANSPORTATION COMMITTEE.

Chapter 351 of the Acts of 2018

SECTION 9. AND BE IT FURTHER ENACTED, That, subject to Section 4 of this Act, this Act shall take effect June 1, 2018. Section 2 of this Act shall remain effective for a period of [4] 11 years and 1 month and, at the end of June 30, [2022] 2029, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Chapter 352 of the Acts of 2018

SECTION 9. AND BE IT FURTHER ENACTED, That, subject to Section 4 of this Act, this Act shall take effect June 1, 2018. Section 2 of this Act shall remain effective for a period of [4] 11 years and 1 month and, at the end of June 30, [2022] 2029, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Maryland Department of Transportation:

(1) maximize its use of Consolidated Transportation Bonds to support the Department’s capital program by forecasting Transportation Trust Fund estimates to include assumed bond issuances that would result in net income debt service coverage ratios of two–and–a–half times maximum future debt service in each year of the forecast; and

(2) explore all other options to maximize ancillary revenues through the operations of its units, including the leasing of unused real estate, the sale of air rights, the sale of advertising, such as naming rights, and other marketing efforts.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) (1) In this section the following words have the meanings indicated.

(2) “Department” means the Department of Transportation.

(3) “Statewide Transit Plan” means a framework developed by the Maryland Transit Administration that provides a 50–year vision of coordinated local,

regional, and intercity transit across the State, including defined public transportation goals and strategies for rural, suburban, and urban regions.

(b) The Department shall conduct a study on the feasibility, including the cost, of extending MARC rail service to western Maryland.

(c) In conducting the study, the Department shall:

(1) Examine existing commuter rail facilities in the State and current transportation options in western Maryland;

(2) Explore up to three potential routes for expanding rail service to western Maryland;

(3) Identify the possibilities and challenges related to establishing and operating MARC rail service in western Maryland;

(4) Study the public transportation needs of Allegany County and Washington County in the vicinity of interstates 70 and 81;

(5) Confer with the following stakeholders:

(i) The Washington County Board of County Commissioners;

(ii) The City of Hagerstown;

(iii) Washington County residents;

(iv) Public transit advocates;

(v) Representatives of the local business community;

(vi) The Allegany County Board of County Commissioners;

(vii) The City of Cumberland;

(viii) Allegany County residents; and

(ix) The Town of Hancock;

(6) Identify infrastructure needs;

(7) Perform a cost analysis of the capital and operating costs of extending MARC rail service to western Maryland;

(8) Identify all potential stops and estimate the potential ridership for each stop;

(9) Study and compare the potential ridership for rush-hour-only service and all-day service;

(10) Develop recommendations on the potential start and end points of a MARC extension; and

(11) Explore the potential effect that extending MARC rail service to western Maryland would have on CSX.

(d) The Department shall develop recommendations on the feasibility of planning, financing, constructing, and operating a MARC line that extends commuter rail service to western Maryland.

(e) On or before July 1, 2023, the Department shall submit a report of its findings and recommendations to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly.

(f) (1) The Maryland Transit Administration shall incorporate the recommendations of the study into the Statewide Transit Plan.

(2) Notwithstanding any alteration or postponement of the Statewide Transit Plan, the Department shall conduct the study in accordance with this section.

SECTION ~~3~~ 4 AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2021.

May 28, 2021

The Honorable Adrienne A. Jones
Speaker of the House of Delegates
H-101 State House
Annapolis, MD 21401

Dear Speaker Jones:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 125 – *Public Institutions of Higher Education – Student Athletes (Jordan McNair Safe and Fair Play Act)*.

This bill establishes requirements regarding college student athletes at public institutions of higher education. An athletic program must adopt and implement guidelines related to the health and safety of student athletes. By October 1, 2021, and each October 1 thereafter,

the University System of Maryland (USM) Intercollegiate Athletics Workgroup, Morgan State University (MSU), and St. Mary's College of Maryland, must report on student athletes at each institution, including any student athlete policy changes related to the health and safety of student athletes. Beginning July 1, 2023, USM institutions, MSU, and athletic associations, including the National Collegiate Athletic Association, must follow certain rules regarding student athlete compensation for the use of the student's name, image, or likeness.

Senate Bill 439, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 125.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 125

AN ACT concerning

Public Institutions of Higher Education – Student Athletes (Jordan McNair Safe and Fair Play Act)

FOR the purpose of ~~requiring certain public institutions of higher education to provide certain scholarships to student athletes until certain conditions are met; authorizing a public institution of higher education to expand certain scholarships under certain circumstances; requiring an athletic program to renew an athletic scholarship under certain circumstances; providing for the duration of a scholarship if a student athlete takes a leave of absence; requiring an athletic program to provide an equivalent scholarship to a student athlete who has exhausted athletic eligibility under certain circumstances; prohibiting a certain student athlete from receiving certain benefits; providing for a certain student athlete's right to appeal a certain decision in certain circumstances; requiring each athletic program to conduct a financial and life skills workshop for certain student athletes; specifying required and prohibited content for the workshop; requiring a public institution of higher education to grant student athletes the same rights as other students in certain circumstances; specifying required and prohibited actions for an athletic program when a student athlete is in the process of transferring to another institution; requiring an athletic program to pay certain premiums and insurance deductibles for certain student athletes under certain circumstances; requiring an athletic program to make certain payments on a certain student athlete's behalf in certain circumstances; requiring an athletic program to adopt and implement certain guidelines; requiring athletic programs to monitor certain compliance with federal law and periodically report certain evaluations; requiring a public institution of higher education to designate a certain employee for a certain purpose; providing for the suspension protocols of an athletic director who remains in violation of a certain federal law for a certain period of time; providing for the content of a certain required notice regarding the rights of student~~

~~athletes; requiring the notice to be conspicuously posted; requiring a public institution of higher education to provide certain health information to student athletes; providing that certain provisions may not be construed to limit the authority of a public institution of higher education under certain circumstances; prohibiting a public institution of higher education from taking certain actions related to student athletes; declaring certain findings of the General Assembly; requiring certain athletic programs to adopt certain guidelines and protocols; requiring the University System of Maryland Intercollegiate Athletics Workgroup, Morgan State University, and St. Mary's College of Maryland each to submit a report on certain policy changes to the General Assembly on or before a certain date each year; prohibiting a public institution of higher education from taking certain actions related to student athletes; prohibiting certain groups or organizations with authority over intercollegiate athletics from preventing a certain student athlete from participating in intercollegiate athletics under certain circumstances; prohibiting a public institution of higher education and certain groups or organizations with authority over intercollegiate athletics from providing compensation to a student athlete under certain circumstances or preventing a student athlete from obtaining professional representation; requiring professional representation obtained for student athletes to be licensed under certain provisions of State law; requiring certain agents who represent student athletes to comply with certain provisions of federal law while representing student athletes; prohibiting a team prohibiting an athletic program contract at a public institution of higher education from preventing a student athlete from taking certain actions; authorizing an athletic program contract to prohibit a student athlete from engaging in certain advertising; prohibiting a student athlete from entering into certain contracts; requiring a certain student athlete to disclose certain information to a public institution of higher education; requiring a certain public institution of higher education to disclose certain information to certain student athletes or certain legal representation; prohibiting a student athlete from making commercial use of certain property owned or controlled by a public institution of higher education; providing for a delayed effective date for certain provisions of this Act; defining certain terms; and generally relating to student athletes at public institutions of higher education.~~

BY adding to

Article – Education

Section ~~15-126 and 15-127~~ 15-128 and 15-129

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

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

Article – Education

~~15-126.~~

~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) "ATHLETIC ASSOCIATION" MEANS ANY ORGANIZATION THAT IS RESPONSIBLE FOR GOVERNING INTERCOLLEGIATE ATHLETIC PROGRAMS.~~

~~(3) "ATHLETIC PROGRAM" MEANS ANY INTERCOLLEGIATE ATHLETIC PROGRAM AT AN INSTITUTION OF HIGHER EDUCATION IN THE STATE.~~

~~(4) "GRADUATION SUCCESS RATE" MEANS THE PERCENTAGE OF STUDENT ATHLETES WHO GRADUATE FROM AN INSTITUTION OF HIGHER EDUCATION WITHIN 6 YEARS OF INITIAL ENROLLMENT AT THAT INSTITUTION, INCLUDING INCOMING TRANSFERS, BUT EXCLUDING OUTGOING TRANSFERS IN GOOD ACADEMIC STANDING WITH ATHLETIC ELIGIBILITY REMAINING.~~

~~(5) "INSTITUTION OF HIGHER EDUCATION" INCLUDES ONLY PUBLIC 4 YEAR INSTITUTIONS OF HIGHER EDUCATION IN THE STATE THAT MAINTAIN AN ATHLETIC PROGRAM.~~

~~(6) "MEDIA RIGHTS" MEANS THE RIGHTS TO MEDIA COVERAGE OF INTERCOLLEGIATE ATHLETICS INCLUDED IN CONTRACTS THAT:~~

~~(I) ARE ENTERED INTO BY INTERCOLLEGIATE ATHLETIC CONFERENCES AND TELEVISION NETWORKS; AND~~

~~(II) GENERATE MONETARY PAYMENTS TO INDIVIDUAL INSTITUTIONS OF HIGHER EDUCATION.~~

~~(7) "OFFICE FOR CIVIL RIGHTS" MEANS THE OFFICE FOR CIVIL RIGHTS WITHIN THE UNITED STATES DEPARTMENT OF EDUCATION.~~

~~(8) "STUDENT ATHLETE" MEANS ANY COLLEGE STUDENT WHO PARTICIPATES IN AN ATHLETIC PROGRAM.~~

~~(B) (1) (I) AN INSTITUTION OF HIGHER EDUCATION AND AN ATHLETIC PROGRAM SHALL PROVIDE A STUDENT ATHLETE WITH SCHOLARSHIPS FOR ACADEMICS, ATHLETICS, OR BOTH, FOR 5 YEARS OR UNTIL THE STUDENT ATHLETE COMPLETES AN UNDERGRADUATE DEGREE, WHICHEVER OCCURS FIRST.~~

~~(II) AN INSTITUTION OF HIGHER EDUCATION AND AN ATHLETIC PROGRAM MAY CHOOSE TO:~~

~~1. PROVIDE A STUDENT ATHLETE WITH SCHOLARSHIPS FOR A PERIOD LONGER THAN 5 YEARS; OR~~

~~2. CONTINUE TO PROVIDE SCHOLARSHIPS TO A STUDENT ATHLETE AFTER COMPLETION OF AN UNDERGRADUATE DEGREE.~~

~~(2) AN ATHLETIC PROGRAM SHALL RENEW THE ATHLETIC SCHOLARSHIP OF A STUDENT ATHLETE WHO SUFFERS AN INCAPACITATING INJURY OR ILLNESS IF:~~

~~(i) THE INJURY OR ILLNESS RESULTED FROM THE STUDENT ATHLETE'S PARTICIPATION IN THE ATHLETIC PROGRAM; AND~~

~~(ii) MEDICAL STAFF AT THE INSTITUTION OF HIGHER EDUCATION DETERMINE THAT THE STUDENT ATHLETE IS MEDICALLY INELIGIBLE FOR FURTHER PARTICIPATION IN AN ATHLETIC PROGRAM.~~

~~(3) IF A STUDENT ATHLETE TAKES A TEMPORARY LEAVE OF ABSENCE FROM AN INSTITUTION OF HIGHER EDUCATION, THE DURATION OF THAT LEAVE OF ABSENCE MAY NOT COUNT AGAINST THE 5-YEAR LIMIT ON ELIGIBILITY FOR SCHOLARSHIPS UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(4) (i) EXCEPT AS PROVIDED IN SUBPARAGRAPH (ii) OF THIS PARAGRAPH, AN ATHLETIC PROGRAM SHALL PROVIDE AN EQUIVALENT SCHOLARSHIP TO A STUDENT ATHLETE WHO HAS AN ATHLETIC SCHOLARSHIP AND IS IN GOOD STANDING, BUT HAS EXHAUSTED ATHLETIC ELIGIBILITY, FOR UP TO 1 YEAR OR UNTIL THE STUDENT ATHLETE COMPLETES AN UNDERGRADUATE DEGREE, WHICHEVER OCCURS FIRST.~~

~~(ii) THE REQUIREMENTS OF SUBPARAGRAPH (i) OF THIS PARAGRAPH DO NOT APPLY TO AN ATHLETIC PROGRAM THAT HAS A GRADUATION SUCCESS RATE GREATER THAN 60%, DISAGGREGATED BY TEAM.~~

~~(5) IF AN ATHLETIC PROGRAM DOES NOT RENEW A STUDENT ATHLETE'S ATHLETIC SCHOLARSHIP FOR CAUSE, THE STUDENT ATHLETE:~~

~~(i) MAY NOT RECEIVE BENEFITS UNDER THIS SECTION; BUT~~

~~(ii) MAY APPEAL THE DECISION TO THE INSTITUTION OF HIGHER EDUCATION THE STUDENT ATTENDS OR TO THE ATHLETIC ASSOCIATION IN WHICH THE INSTITUTION OF HIGHER EDUCATION IS A MEMBER.~~

~~(c) (1) EACH ATHLETIC PROGRAM SHALL CONDUCT A FINANCIAL AND LIFE SKILLS WORKSHOP FOR ALL FIRST AND THIRD YEAR STUDENT ATHLETES AT THE BEGINNING OF AN ACADEMIC YEAR.~~

~~(2) THE WORKSHOP SHALL INCLUDE INFORMATION ON:~~

~~(I) FINANCIAL AID;~~

~~(II) DEBT MANAGEMENT;~~

~~(III) A RECOMMENDED BUDGET FOR STUDENT ATHLETES BASED ON THE COST OF ATTENDANCE AT THE INSTITUTION OF HIGHER EDUCATION;~~

~~(IV) TIME MANAGEMENT SKILLS NECESSARY FOR A STUDENT ATHLETE; AND~~

~~(V) ACADEMIC RESOURCES AVAILABLE ON CAMPUS.~~

~~(3) THE WORKSHOP MAY NOT INCLUDE ANY MARKETING, ADVERTISING, REFERRAL, OR SOLICITATION BY PROVIDERS OF COMMERCIAL PRODUCTS OR SERVICES.~~

~~(D) AN INSTITUTION OF HIGHER EDUCATION SHALL GRANT STUDENT ATHLETES THE SAME RIGHTS AS OTHER STUDENTS WITH REGARD TO ANY MATTERS RELATED TO ADVERSE OR DISCIPLINARY ACTIONS, INCLUDING ACTIONS RELATED TO FINANCIAL AID.~~

~~(E) AN ATHLETIC PROGRAM:~~

~~(1) MAY NOT RESTRICT, LIMIT, OR OTHERWISE INTERFERE WITH A STUDENT ATHLETE'S ABILITY TO TRANSFER TO ANOTHER INSTITUTION;~~

~~(2) SHALL RESPOND TO A STUDENT ATHLETE'S WRITTEN REQUEST TO TRANSFER WITHIN 7 BUSINESS DAYS; AND~~

~~(3) SHALL RELEASE A STUDENT ATHLETE'S ACADEMIC TRANSCRIPTS, MEDICAL REPORTS, AND OTHER NECESSARY DOCUMENTS ON THE STUDENT ATHLETE'S WRITTEN REQUEST.~~

~~(F) (1) UNLESS A STUDENT ATHLETE DECLINES THE PAYMENT OF PREMIUMS, AN ATHLETIC PROGRAM SHALL PAY THE PREMIUMS FOR PARTICIPATING STUDENT ATHLETES WHO QUALIFY FOR THE FEDERAL PELL GRANT.~~

~~(2) AN ATHLETIC PROGRAM SHALL PAY THE INSURANCE DEDUCTIBLE, COPAY, AND COINSURANCE AMOUNTS APPLICABLE TO A CLAIM OF ANY STUDENT ATHLETE WHO SUFFERS AN INJURY OR A CONDITION RESULTING FROM PARTICIPATION IN THE ATHLETIC PROGRAM.~~

~~(3) IF A STUDENT ATHLETE SUFFERS AN INJURY RESULTING FROM PARTICIPATION IN AN ATHLETIC PROGRAM THAT REQUIRES ONGOING MEDICAL TREATMENT, THE ATHLETIC PROGRAM SHALL PROVIDE, FOR A MINIMUM OF 2 YEARS FOLLOWING THE STUDENT ATHLETE'S GRADUATION OR SEPARATION FROM THE INSTITUTION OF HIGHER EDUCATION:~~

~~(I) NECESSARY MEDICAL TREATMENT; OR~~

~~(II) HEALTH INSURANCE THAT COVERS THE INJURY AND THE RESULTING DEDUCTIBLE, COPAY, AND COINSURANCE AMOUNTS.~~

~~(C) AN ATHLETIC PROGRAM SHALL ADOPT AND IMPLEMENT:~~

~~(1) GUIDELINES TO PREVENT, ASSESS, AND TREAT SERIOUS SPORTS RELATED CONDITIONS, INCLUDING:~~

~~(I) BRAIN INJURY;~~

~~(II) HEAT ILLNESS; AND~~

~~(III) RHABDOMYOLYSIS;~~

~~(2) EXERCISE AND SUPERVISION GUIDELINES FOR ANY STUDENT ATHLETE WHO PARTICIPATES IN AN ATHLETIC PROGRAM AND IS IDENTIFIED WITH POTENTIALLY LIFE THREATENING HEALTH CONDITIONS, INCLUDING:~~

~~(I) SICKLE CELL TRAIT; AND~~

~~(II) ASTHMA;~~

~~(3) RETURN TO PLAY PROTOCOLS FOR ATHLETES WHO EXPERIENCE INJURY DURING PRACTICE AND PLAY; AND~~

~~(4) GUIDELINES TO PREVENT SEXUAL MISCONDUCT AGAINST STUDENT ATHLETES, INCLUDING:~~

~~(I) MANDATORY REPORTING BY ATHLETIC STAFF REGARDING SUSPECTED VIOLATIONS;~~

~~(II) A PROHIBITION OF RETALIATION AGAINST ATHLETIC STAFF MAKING REPORTS; AND~~

~~(III) REMOVAL OF A STAFF MEMBER FROM AN ATHLETIC PROGRAM FOR INTERFERING WITH AN INVESTIGATION, WITHHOLDING INFORMATION, OR PROVIDING FALSE INFORMATION RELATED TO A REPORT OF A VIOLATION.~~

~~(H) (1) EACH INSTITUTION OF HIGHER EDUCATION SUBJECT TO TITLE IX OF THE FEDERAL EDUCATION AMENDMENTS OF 1972 SHALL:~~

~~(I) DESIGNATE AN EMPLOYEE AS TITLE IX COORDINATOR;~~

~~(II) PROVIDE THE DESIGNEE WITH APPROPRIATE TRAINING;~~

~~AND~~

~~(III) MAKE THE DESIGNEE'S NAME AND CONTACT INFORMATION PUBLICLY AVAILABLE AND KNOWN TO STUDENT ATHLETES AT THE INSTITUTION.~~

~~(2) ON OR BEFORE AUGUST 1 EACH YEAR, ATHLETIC PROGRAMS SHALL PROVIDE PUBLICLY AVAILABLE EVALUATIONS OF COMPLIANCE WITH TITLE IX OF THE FEDERAL EDUCATION AMENDMENTS OF 1972.~~

~~(3) AN ATHLETIC DIRECTOR WHO IS IN VIOLATION OF TITLE IX OF THE FEDERAL EDUCATION AMENDMENTS OF 1972 FOR 3 YEARS OR LONGER SHALL BE SUSPENDED FROM INTERCOLLEGIATE ATHLETICS IN THE STATE FOR A PERIOD OF 3 YEARS.~~

~~(I) (1) AN INSTITUTION OF HIGHER EDUCATION SHALL PREPARE A NOTICE DETAILING THE FOLLOWING RIGHTS OF STUDENT ATHLETES:~~

~~(I) RIGHTS UNDER TITLE IX OF THE FEDERAL EDUCATION AMENDMENTS OF 1972; AND~~

~~(II) RIGHTS TO REPORT IN ACCORDANCE WITH THE FEDERAL JEANNE CLERY DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS ACT.~~

~~(2) THE NOTICE PREPARED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL IDENTIFY THE CONTACT INFORMATION THROUGH WHICH A STUDENT ATHLETE MAY FILE A COMPLAINT FOR A VIOLATION OF ANY OF THE RIGHTS IDENTIFIED IN THE NOTICE, INCLUDING:~~

~~(I) THE OFFICE FOR CIVIL RIGHTS;~~

~~(II) THE APPROPRIATE OFFICE FOR CIVIL RIGHTS REGIONAL ENFORCEMENT OFFICE;~~

~~(III) THE OFFICE FOR CIVIL RIGHTS TITLE IX ENFORCEMENT OFFICE; AND~~

~~(IV) THE ENFORCEMENT OFFICE OF THE UNITED STATES DEPARTMENT OF EDUCATION FOR REPORTING VIOLATIONS OF THE FEDERAL JEANNE CLERY DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS ACT.~~

~~(3) EACH INSTITUTION OF HIGHER EDUCATION SHALL POST IN A CONSPICUOUS LOCATION IN AN ATHLETIC DEPARTMENT THE NOTICE PREPARED UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(4) AT THE BEGINNING OF EACH ACADEMIC YEAR, AN INSTITUTION OF HIGHER EDUCATION SHALL PROVIDE TO EACH STUDENT ATHLETE:~~

~~(I) A COPY OF THE NOTICE PREPARED UNDER THIS SUBSECTION;~~

~~(II) A CURRENT COPY OF THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION CONCUSSION DIAGNOSIS AND MANAGEMENT OF SPORTS RELATED CONCUSSION BEST PRACTICES; AND~~

~~(III) A CURRENT COPY OF ANY WRITTEN POLICIES RELATED TO CONCUSSIONS OR OTHER SPORTS MEDICINE PRACTICES SPECIFIC TO THE INSTITUTION OF HIGHER EDUCATION.~~

~~(J) (1) IN THIS SUBSECTION, “RETALIATE” INCLUDES A REDUCTION IN OR LOSS OF ANY:~~

~~(I) EDUCATION BENEFITS, INCLUDING SCHOLARSHIPS AND STIPENDS;~~

~~(II) MEAL BENEFITS PROVIDED TO A STUDENT ATHLETE; OR~~

~~(III) HOUSING BENEFITS PROVIDED TO A STUDENT ATHLETE, INCLUDING A RELOCATION OF A STUDENT ATHLETE TO DIFFERENT HOUSING OWNED BY THE INSTITUTION OF HIGHER EDUCATION.~~

~~(2) IN THIS SUBSECTION, “RETALIATE” DOES NOT INCLUDE A GOOD FAITH ACTION TAKEN BY AN INSTITUTION OF HIGHER EDUCATION ON THE BASIS OF CONDUCT OTHER THAN THE CONDUCT DESCRIBED IN PARAGRAPH (3) OF THIS SUBSECTION.~~

~~(3) AN INSTITUTION OF HIGHER EDUCATION MAY NOT INTENTIONALLY RETALIATE AGAINST A STUDENT ATHLETE FOR:~~

~~(i) MAKING OR FILING A GOOD FAITH COMPLAINT ABOUT A VIOLATION OF THE RIGHTS GRANTED TO STUDENT ATHLETES UNDER ANY APPLICABLE STATUTE, REGULATION, OR POLICY;~~

~~(ii) TESTIFYING OR OTHERWISE ASSISTING IN ANY INVESTIGATION INTO VIOLATIONS OF THE RIGHTS GRANTED TO STUDENT ATHLETES UNDER ANY APPLICABLE STATUTE, REGULATION, OR POLICY; OR~~

~~(iii) OPPOSING ANY PRACTICES THAT A STUDENT ATHLETE BELIEVES ARE A VIOLATION OF THE RIGHTS GRANTED TO STUDENT ATHLETES UNDER ANY APPLICABLE STATUTE, REGULATION, OR POLICY.~~

~~(4) THIS SUBSECTION MAY NOT BE CONSTRUED TO RESTRICT THE AUTHORITY OF AN INSTITUTION OF HIGHER EDUCATION TO IMPOSE INTERIM MEASURES OR, AFTER A FINDING OF RESPONSIBILITY, PERMANENT CONSEQUENCES ON A STUDENT ATHLETE WHO HAS BEEN ACCUSED OF SEXUAL HARASSMENT OR VIOLENCE.~~

~~15-127.~~

15-128.

(A) IN THIS SECTION, "ATHLETIC PROGRAM" MEANS ANY INTERCOLLEGIATE ATHLETIC PROGRAM AT A PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE.

(B) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(1) MEETING THE EDUCATIONAL NEEDS OF STUDENT ATHLETES SHOULD BE THE PRIORITY FOR INTERCOLLEGIATE ATHLETIC PROGRAMS IN THE STATE; AND

(2) PROVIDING ADEQUATE HEALTH AND SAFETY PROTECTIONS FOR STUDENT ATHLETES CAN HELP PREVENT SERIOUS INJURY AND DEATH.

(C) AN ATHLETIC PROGRAM SHALL ADOPT AND IMPLEMENT:

(1) GUIDELINES TO PREVENT, ASSESS, AND TREAT SERIOUS SPORTS-RELATED CONDITIONS, INCLUDING:

(i) BRAIN INJURY;

(II) HEAT ILLNESS; AND

(III) RHABDOMYOLYSIS;

(2) EXERCISE AND SUPERVISION GUIDELINES FOR ANY STUDENT ATHLETE WHO PARTICIPATES IN AN ATHLETIC PROGRAM AND IS IDENTIFIED WITH POTENTIAL LIFE-THREATENING HEALTH CONDITIONS, INCLUDING:

(I) SICKLE CELL TRAIT; AND

(II) ASTHMA; AND

(3) RETURN-TO-PLAY PROTOCOLS FOR ATHLETES WHO EXPERIENCE INJURY OR ILLNESS DURING PRACTICE OR PLAY.

(D) (1) ON OR BEFORE OCTOBER 1, 2021, AND EACH OCTOBER 1 THEREAFTER, THE UNIVERSITY SYSTEM OF MARYLAND INTERCOLLEGIATE ATHLETICS WORKGROUP SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, ON STUDENT ATHLETES IN THE UNIVERSITY SYSTEM OF MARYLAND, INCLUDING ANY STUDENT ATHLETE POLICY CHANGES AT EACH INSTITUTION RELATED TO THE HEALTH AND SAFETY OF STUDENT ATHLETES.

(2) ON OR BEFORE OCTOBER 1, 2021, AND EACH OCTOBER 1 THEREAFTER, MORGAN STATE UNIVERSITY AND ST. MARY'S COLLEGE OF MARYLAND SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, ON STUDENT ATHLETES AT EACH INSTITUTION, INCLUDING ANY STUDENT ATHLETE POLICY CHANGES AT EACH INSTITUTION RELATED TO THE HEALTH AND SAFETY OF STUDENT ATHLETES.

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

Article – Education

15-129.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “PUBLIC INSTITUTION OF HIGHER EDUCATION” MEANS:

(I) THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY SYSTEM OF MARYLAND; AND

(II) MORGAN STATE UNIVERSITY.

(3) (I) “STUDENT ATHLETE” MEANS A COLLEGE STUDENT WHO PARTICIPATES IN AN INTERCOLLEGIATE ATHLETIC PROGRAM AT A PUBLIC INSTITUTION OF HIGHER EDUCATION.

(II) “STUDENT ATHLETE” DOES NOT INCLUDE A STUDENT WHO PARTICIPATES SOLELY IN INTRAMURAL OR CLUB ATHLETICS.

(B) (1) A PUBLIC INSTITUTION OF HIGHER EDUCATION MAY NOT:

(I) UPHOLD ANY RULE, REQUIREMENT, STANDARD, OR OTHER LIMITATION THAT PREVENTS A STUDENT ATHLETE FROM EARNING COMPENSATION FROM THE USE OF THE STUDENT ATHLETE’S NAME, IMAGE, OR LIKENESS; OR

(II) REDUCE, RESCIND, OR OTHERWISE AFFECT A STUDENT ATHLETE’S SCHOLARSHIP BECAUSE THE STUDENT ATHLETE EARNS COMPENSATION FROM THE USE OF THE STUDENT ATHLETE’S NAME, IMAGE, OR LIKENESS.

(2) AN ATHLETIC ASSOCIATION, A CONFERENCE, OR ANY OTHER GROUP OR ORGANIZATION WITH AUTHORITY OVER INTERCOLLEGIATE ATHLETICS, INCLUDING THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, MAY NOT PREVENT A STUDENT ATHLETE FROM EARNING COMPENSATION AS A RESULT OF THE USE OF THE STUDENT ATHLETE’S NAME, IMAGE, OR LIKENESS.

(3) AN ATHLETIC ASSOCIATION, A CONFERENCE, OR ANY OTHER GROUP OR ORGANIZATION WITH AUTHORITY OVER INTERCOLLEGIATE ATHLETICS, INCLUDING THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, MAY NOT PREVENT A PUBLIC INSTITUTION OF HIGHER EDUCATION FROM PARTICIPATING IN INTERCOLLEGIATE ATHLETICS AS A RESULT OF THE COMPENSATION OF A STUDENT ATHLETE FOR THE USE OF THE STUDENT ATHLETE’S NAME, IMAGE, OR LIKENESS.

(C) A PUBLIC INSTITUTION OF HIGHER EDUCATION, AN ATHLETIC ASSOCIATION, A CONFERENCE, OR ANY OTHER GROUP OR ORGANIZATION WITH AUTHORITY OVER INTERCOLLEGIATE ATHLETICS MAY NOT:

(1) PROVIDE A PROSPECTIVE STUDENT ATHLETE WITH COMPENSATION IN RELATION TO THE STUDENT ATHLETE’S NAME, IMAGE, OR LIKENESS; OR

(2) PREVENT A STUDENT ATHLETE FROM OBTAINING ~~PROFESSIONAL REPRESENTATION IN RELATION TO CONTRACTS OR LEGAL MATTERS, INCLUDING REPRESENTATION PROVIDED BY ATHLETE AGENTS OR LEGAL REPRESENTATION PROVIDED BY ATTORNEYS~~ MATTERS.

~~(D) (1) PROFESSIONAL REPRESENTATION OBTAINED BY A STUDENT ATHLETE SHALL BE FROM AN INDIVIDUAL LICENSED BY THE STATE UNDER:~~

~~(I) TITLE 4, SUBTITLE 4 OF THE BUSINESS REGULATION ARTICLE; OR~~

~~(II) TITLE 10 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.~~

~~(2) AN AGENT WHO REPRESENTS STUDENT ATHLETES SHALL COMPLY WITH THE FEDERAL SPORTS AGENT RESPONSIBILITY AND TRUST ACT, ESTABLISHED IN CHAPTER 104 OF TITLE 15 OF THE UNITED STATES CODE, WHILE REPRESENTING THE STUDENT ATHLETES.~~

~~(E) (D) (1) A TEAM CONTRACT OF AN ATHLETIC PROGRAM~~ AN ATHLETIC PROGRAM CONTRACT OF A PUBLIC INSTITUTION OF HIGHER EDUCATION MAY NOT PREVENT A STUDENT ATHLETE FROM USING THE STUDENT ATHLETE'S NAME, IMAGE, OR LIKENESS FOR A COMMERCIAL PURPOSE WHEN THE STUDENT ATHLETE IS NOT ENGAGED IN OFFICIAL TEAM ACTIVITIES.

(2) AN ATHLETIC PROGRAM CONTRACT MAY PROHIBIT A STUDENT ATHLETE FROM ENGAGING IN IN-PERSON ADVERTISING FOR A THIRD-PARTY SPONSOR DURING OFFICIAL AND MANDATORY TEAM ACTIVITIES WITHOUT PRIOR APPROVAL FROM THE INSTITUTION'S ATHLETIC DEPARTMENT.

~~(F) (E) (1) A STUDENT ATHLETE MAY NOT ENTER INTO A CONTRACT PROVIDING COMPENSATION TO THE STUDENT ATHLETE FOR USE OF THE STUDENT ATHLETE'S NAME, IMAGE, OR LIKENESS IF A PROVISION OF THE CONTRACT IS IN CONFLICT WITH A PROVISION OF THE STUDENT ATHLETE'S ~~TEAM~~ ATHLETIC PROGRAM CONTRACT.~~

(2) A STUDENT ATHLETE WHO ENTERS INTO A CONTRACT PROVIDING COMPENSATION TO THE STUDENT ATHLETE FOR USE OF THE STUDENT ATHLETE'S NAME, IMAGE, OR LIKENESS SHALL DISCLOSE THE CONTRACT TO AN OFFICIAL OF THE PUBLIC INSTITUTION OF HIGHER EDUCATION, DESIGNATED BY THE PUBLIC INSTITUTION OF HIGHER EDUCATION.

~~(3) A PUBLIC INSTITUTION OF HIGHER EDUCATION ASSERTING A CONFLICT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL DISCLOSE TO~~

~~THE STUDENT ATHLETE OR THE STUDENT ATHLETE'S LEGAL REPRESENTATION THE RELEVANT CONTRACTUAL PROVISIONS THAT ARE IN CONFLICT.~~

(F) NOTHING IN THIS SECTION MAY BE CONSTRUED TO GRANT A STUDENT ATHLETE A RIGHT TO MAKE COMMERCIAL USE OF NAMES, TRADEMARKS, LOGOS, OR OTHER INTELLECTUAL PROPERTY OWNED OR CONTROLLED BY A PUBLIC INSTITUTION OF HIGHER EDUCATION.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, ~~2021~~ 2023.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect July 1, 2021.

May 28, 2021

The Honorable Adrienne A. Jones
Speaker of the House of Delegates
H-101 State House
Annapolis, MD 21401

The Honorable Bill Ferguson
President of the Senate
H-107 State House
Annapolis, MD 21401

Dear Speaker Jones and President Ferguson:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 133 and Senate Bill 30 – *State Finance and Procurement – Appropriation Reductions (Board of Public Works Budget Reduction Clarification Act)*.

While the legislative branch dominated Maryland's budget process more than a century ago, it is important to remember that the resulting chaos, out of control spending, and massive revenue shortfall led to a Constitutional Amendment that created an executive centered budget model. Although that model remains among the most unique in the nation, our budgets of today are largely dictated by the many – and often unfunded – spending mandates passed by the General Assembly. By targeting the Governor's authority to make midyear budget reductions, House Bill 133 and Senate Bill 30 are yet another power grab by the legislative branch that serves only to inhibit the executive branch's ability – and Constitutional responsibility to best manage the State's fiscal health in times of unforeseen crisis and fiscal uncertainty.

The Constitution of Maryland requires the State budget to be balanced; throughout the entire process of submission, amendment, and enactment of the Budget Bill, estimated revenues must be equal to or greater than total appropriations. As a cost containment tool, midyear budget reductions allow the Governor, with approval of the Board of Public Works, to efficiently navigate and decisively avoid or mitigate the perils of a quickly deteriorating economy. My Administration understands the magnitude of this responsibility and the decision to bring budget reductions before the Board is never easy; during my six years in office, we have taken midyear budget reductions to the Board only five times. This flexibility to address budget shortfalls is recognized as a strength and Maryland has steadily maintained its AAA bond rating; currently, we are one of only 13 states to receive this top rating from all three major credit rating agencies. Unfortunately, House Bill 133 and Senate Bill 30 subvert this process by restricting the reduction limit and creating unnecessary layers of red tape.

The current budget reduction process provides a balanced approach that allows the Governor to act swiftly with Board oversight and full transparency. House Bill 133 and Senate Bill 30 undermine this process and continue to chip away at Maryland's effective and successful budget model. By further tying the hands of its Chief Executive, this legislation places politics above the fiscal health of our State.

For these reasons, I have vetoed House Bill 133 and Senate Bill 30.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 133

AN ACT concerning

State Finance and Procurement – Appropriation Reductions (Board of Public Works Budget Reduction Clarification Act)

FOR the purpose of limiting the authorization for the Governor, with the approval of the Board of Public Works, to reduce certain appropriations to not more than a certain percent of the total appropriation for any ~~line item~~ eight-digit program in the State operating budget in any fiscal year; altering the number of ~~business~~ days the Board must wait before approving a proposed reduction of an appropriation after the Secretary of Budget and Management publishes and provides certain notice of the proposed reduction; and generally relating to the State budget and the Department of Budget and Management.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 7–213

Annotated Code of Maryland
(2015 Replacement Volume and 2020 Supplement)

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

Article – State Finance and Procurement

7–213.

(a) (1) Subject to paragraph (2) of this subsection and except as provided in subsection (b) of this section, with the approval of the Board of Public Works, the Governor may reduce, by not more than 25% ~~OF THE TOTAL APPROPRIATION~~ LEGISLATIVE APPROPRIATION AS APPROVED BY THE GENERAL ASSEMBLY FOR ANY LINE-ITEM EIGHT-DIGIT PROGRAM IN THE STATE OPERATING BUDGET IN ANY FISCAL YEAR, any appropriation:

(i) that the Governor considers unnecessary; or

(ii) that is subject to budgetary reductions required under the budget bill as approved by the General Assembly.

(2) At least [3] ~~10 7 business~~ CALENDAR days before the Board of Public Works may approve a proposed reduction of an appropriation under this subsection, the Secretary of Budget and Management shall:

(i) publish on the Department of Budget and Management's Web site, in a machine-readable format, notice of the proposed reduction, including:

1. the name of the State agency or program for which the appropriation is intended and a brief narrative summary of the impact of the proposed reduction on the State agency or program;

2. the amount of the proposed reduction in both dollar and percentage values;

3. the fund source of the appropriation subject to the proposed reduction; and

4. any projected reductions in workforce as a result of the proposed reduction;

(ii) provide the notice required under subparagraph (i) of this paragraph to the Board of Public Works for publication, in a machine-readable format, on the Board's Web site; and

(iii) provide written notice of the proposed reduction, including the items specified under subparagraph (i) of this paragraph, to:

1. the Legislative Policy Committee;
2. the Senate Budget and Taxation Committee; and
3. the House Appropriations Committee.

(b) (1) The Governor may not reduce an appropriation to the Legislative Branch or the Judicial Branch of the State government.

(2) The Governor may not reduce an appropriation for:

- (i) payment of the principal of or interest on the State debt;
- (ii) public schools, including the Maryland School for the Deaf;
- (iii) the Maryland School for the Blind; or
- (iv) the salary of a public officer, during the term of office.

(3) Except as provided in § 8–109 of the State Personnel and Pensions Article, the Governor may not reduce an appropriation for the salary of any nontemporary employee in the State Personnel Management System.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021.

May 28, 2021

The Honorable Bill Ferguson
President of the Senate
H–107 State House
Annapolis, Maryland 21401

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, Maryland 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 95 and House Bill 174 – *Public Utilities – Investor–Owned Utilities – Prevailing Wage*.

This legislation threatens to put additional undue financial stress on Maryland ratepayers at a critical period where they continue to face the detrimental fiscal and social impacts of the COVID–19 pandemic. If implemented, HB 174/SB 95 has the potential for a meaningful increase in utility rates for Marylanders. In addition, HB 174/SB 95 also puts unwanted financial burdens on Maryland utility contractors by requiring they shoulder the additional labor costs of establishing a prevailing wage for utility projects. During this fragile rebuilding period for our state, I cannot risk putting additional strain on our ratepayers and small business contractors who are working faithfully to maintain our energy infrastructure.

Lastly, this poorly crafted legislation does not reconcile the existing law with the proposed new public utility requirements. The state’s current Prevailing Wage laws provide a detailed process to establish wage rates for government–funded public work projects. In requiring private contractors working on utility projects to pay a prevailing wage, HB 174/SB 95 failed to update the underlying laws to facilitate compliance and provide clarity to Maryland businesses working on critical gas and electric practices.

For these reasons, I have vetoed House Bill 174 and Senate Bill 95.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 174

AN ACT concerning

Public Utilities – Investor–Owned Utilities – Prevailing Wage

FOR the purpose of requiring certain investor–owned gas, electric, or combination gas and electric companies to require certain contractors and subcontractors to pay their employees not less than the prevailing wage rate for certain projects; and generally relating to investor–owned utilities and the prevailing wage.

BY adding to

Article – Public Utilities
Section 5–305
Annotated Code of Maryland
(2020 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, without amendments,

Article – State Finance and Procurement
Section 17–201(h)

Annotated Code of Maryland
(2015 Replacement Volume and 2020 Supplement)

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

Article – Public Utilities

5–305.

(A) THIS SECTION APPLIES TO A PROJECT BY AN INVESTOR–OWNED GAS COMPANY, ELECTRIC COMPANY, OR COMBINATION GAS AND ELECTRIC COMPANY INVOLVING THE CONSTRUCTION, RECONSTRUCTION, INSTALLATION, DEMOLITION, RESTORATION, OR ALTERATION OF ANY UNDERGROUND GAS OR ELECTRIC INFRASTRUCTURE OF THE COMPANY, AND ANY RELATED TRAFFIC CONTROL ACTIVITIES.

(B) AN INVESTOR–OWNED GAS COMPANY, ELECTRIC COMPANY, OR COMBINATION GAS AND ELECTRIC COMPANY SHALL REQUIRE A CONTRACTOR OR SUBCONTRACTOR ON A PROJECT DESCRIBED IN SUBSECTION (A) OF THIS SECTION TO PAY ITS EMPLOYEES NOT LESS THAN THE PREVAILING WAGE RATE DETERMINED BY THE COMMISSIONER OF LABOR AND INDUSTRY UNDER TITLE 17, SUBTITLE 2 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

Article – State Finance and Procurement

17–201.

(h) “Prevailing wage rate” means the hourly rate of wages paid in the locality as determined by the Commissioner under § 17–208 of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

May 28, 2021

The Honorable Adrienne A. Jones
Speaker of the Maryland House of Delegates
H–101 State House
Annapolis, MD 21401

The Honorable Bill Ferguson
President of the Maryland Senate
H-107 State House
Annapolis, MD 21401

Dear Madam Speaker and Mr. President:

With Maryland businesses emerging from a global pandemic and beginning on their road to recovery, it would be unconscionable to put our job creators at a competitive disadvantage by imposing tighter restrictions on eligibility for the Job Creation Tax Credit. For these reasons, and in accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 278 – *Economic Development – Job Creation Tax Credit – Qualified Position and Revitalization Area*.

The Maryland Job Creation Tax Credit has been an important incentive in Maryland's economic development efforts since 1996. Since many other states have a similar credit, including all of our neighboring states, Maryland needs to keep this credit as a meaningful incentive when competing against these states for job-creating projects. Business costs in Maryland are comparatively high, and this credit helps keep Maryland cost competitive.

All four neighboring states of Virginia, West Virginia, Pennsylvania, and Delaware have a similar tax credit for new job creation, but none have the extensive requirements outlined in House Bill 278. Depending on the type of business, higher costs could be attributed to real estate, wages, energy, taxes, or some combination thereof. The Job Creation Tax Credit helps mitigate some of Maryland's cost disadvantages versus the other states, which encourages businesses to look at the opportunity to invest in Maryland more positively and provide a greater chance for a favorable decision.

The lower job creation threshold in the rural counties and Baltimore City currently gives small businesses in these jurisdictions an advantage to qualify for the Job Creation Tax Credit – they can get the credit even though they create fewer jobs. However, the changes in House Bill 278 could cause that advantage to disappear for many small businesses in these jurisdictions if they are not able to afford the additional requirements such as offering retirement benefits, or career advancement training.

The most concerning provision in House Bill 278 is that projects in certain industries may be priced out of the credit because of the increased wage requirement, even when they pay a competitive wage for their industry. The higher wage requirement of 150% of state minimum will disqualify certain employers that pay more modest wage rates. Some warehouse and distribution projects, for example, will not offer a wage of \$20 an hour, which roughly equates to 150% of the minimum wage in 2023. The phased-in increase in the state minimum wage through 2025 combined with the requirement increasing the wage from 120% to 150% of the State minimum will render numerous valuable projects ineligible for Job Creation Tax Credit.

Additionally, many of the new benefits an employer must provide the employee for the position to meet the new definition are vague and create additional cost and administrative

burden. House Bill 278 makes it extremely difficult to create “qualified positions” which are counted for the purposes of tax credit eligibility, therefore making it more difficult to qualify for Maryland’s incentive programs.

House Bill 278 will cause Maryland’s Job Creation Tax Credit to become underutilized, defeating its purpose. We need to support Maryland’s job creators, not impose burdensome restrictions on successful incentive programs that bring economic growth to our state.

For these reasons, I have vetoed House Bill 278.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 278

AN ACT concerning

Economic Development – Job Creation Tax Credit – Qualified Position and Revitalization Area

FOR the purpose of altering the definition of “qualified position” for purposes of eligibility under the job creation tax credit program; altering the definition of “revitalization area” to include a certain Tier I county for purposes of the program; providing for the application of this Act; and generally relating to the job creation tax credit program.

BY repealing and reenacting, without amendments,

Article – Economic Development

Section ~~6–301(a) and 6–303(b)(1)~~, 6–303(b)(1), and 6–304(b)

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – Economic Development

Section ~~6–301(d)(1)~~ and (e)

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

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

Article – Economic Development

6–301.

(a) In this subtitle the following words have the meanings indicated.

(d) (1) “Qualified position” means:

(I) IF THE POSITION IS FILLED BEFORE OCTOBER 1, 2021, a position that:

[(i)] 1. is full-time and of indefinite duration;

[(ii)] 2. pays at least 120% of the State minimum wage;

[(iii)] 3. is located in the State;

[(iv)] 4. is newly created as a result of the establishment or expansion of a business facility in a single location in the State; and

[(v)] 5. is filled; AND

~~**[(i)] is full-time and of indefinite duration;**~~

~~**[(ii)] pays at least [120%];**~~

(II) IF THE POSITION IS FILLED ON OR AFTER OCTOBER 1, 2021,
A POSITION THAT:

1. IS FULL-TIME AND OF INDEFINITE DURATION;

2. PAYS AT LEAST:

~~**1. A. FOR AN EMPLOYEE CLASSIFICATION FOR WHICH THERE IS A PREVAILING WAGE RATE, AS DEFINED UNDER § 17-201 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, THE PREVAILING WAGE; OR**~~

~~**2. B. FOR ANY OTHER EMPLOYEE CLASSIFICATION, 150% OF THE STATE MINIMUM WAGE; of the State minimum wage;**~~

~~**[(iii)] is located in the State;**~~

3. IS LOCATED IN THE STATE;

~~**[(iv)] 4. PROVIDES CAREER ADVANCEMENT TRAINING;**~~

~~**[(v)] 5. AFFORDS THE EMPLOYEE THE RIGHT TO COLLECTIVELY BARGAIN FOR WAGES AND BENEFITS;**~~

~~**[(vi)] 6. PROVIDES FAIR SCHEDULING AND PAID LEAVE;**~~

~~(vii)~~ **7.** IS CONSIDERED COVERED EMPLOYMENT FOR PURPOSES OF UNEMPLOYMENT INSURANCE BENEFITS IN ACCORDANCE WITH TITLE 8 OF THE LABOR AND EMPLOYMENT ARTICLE;

~~(viii)~~ **8.** ENTITLES THE EMPLOYEE TO WORKERS' COMPENSATION BENEFITS IN ACCORDANCE WITH TITLE 9 OF THE LABOR AND EMPLOYMENT ARTICLE;

~~(ix)~~ **9.** OFFERS EMPLOYER-PROVIDED HEALTH INSURANCE BENEFITS WITH ~~AFFORDABLE DEDUCTIBLES AND COPAYMENTS~~ MONTHLY PREMIUMS THAT DO NOT EXCEED 8.5% OF THE EMPLOYEE'S NET MONTHLY EARNINGS;

~~(x)~~ **10.** OFFERS RETIREMENT BENEFITS;

~~[(iv)] (xi)~~ ~~is newly created as a result of the establishment or expansion of a business facility in a single location in the State; and~~

~~[(v)] (xii)~~ ~~is filled.~~

11. IS NEWLY CREATED AS A RESULT OF THE ESTABLISHMENT OR EXPANSION OF A BUSINESS FACILITY IN A SINGLE LOCATION IN THE STATE; AND

12. IS FILLED.

(e) "Revitalization area" means:

(1) an enterprise zone designated by the Secretary under § 5-704 of this article;

(2) an enterprise zone designated by the United States government under 42 U.S.C. §§ 11501 through 11505;

(3) an empowerment zone or enterprise community designated by the United States government under 26 U.S.C. §§ 1391 through 1397F; [or]

(4) a sustainable community, as defined in § 6-301 of the Housing and Community Development Article; OR

(5) A TIER I COUNTY.

(b) To be eligible for a tax credit under this subtitle, a person shall establish or expand a business facility in the State that:

(1) during any 24-month period creates at least:

(i) 60 qualified positions;

(ii) 25 qualified positions if the business facility established or expanded is located in a State priority funding area; or

(iii) 10 qualified positions in a county with:

1. an annual average employment that is less than 75,000;

or

2. a median household income that is less than two-thirds of the statewide median household income; and

6-304.

(b) (1) Except as provided in this section, the credit earned under this section:

(i) for qualified employees working in a facility not located in a revitalization area, is \$3,000 multiplied by the number of qualified employees employed by the qualified business entity during the credit year; and

(ii) for qualified employees working in a facility located in a revitalization area, is \$5,000 multiplied by the number of qualified employees employed by the qualified business entity during the credit year.

(2) The credit earned by a qualified business entity under this subtitle may not exceed \$1,000,000 for any credit year.

(3) The total amount of credits certified by the Department for qualified business entities in a taxable year may not exceed \$4,000,000.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021, and shall be applicable to job creation tax credits certified after December 31, 2020.

May 28, 2021

The Honorable Bill Ferguson
President of the Maryland Senate

H-107 State House
Annapolis, MD 21401

The Honorable Adrienne A. Jones
Speaker of the Maryland House of Delegates
H-101 State House
Annapolis, MD 21401

Dear Mr. President and Madam Speaker:

The COVID-19 pandemic has placed unprecedented and enormous fiscal strains on Maryland families and businesses. As we begin our road to recovery, it would be unconscionable to raise taxes on our citizens and job creators at this critical time. To do so would further add to the very heavy burden that our citizens are already facing and short-circuit Maryland's economic recovery. For these reasons, and in accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 133/House Bill 319 – *Local Tax Relief for Working Families Act of 2021*, House Bill 933 – *Anne Arundel County – Transfer Tax – Housing Trust Special Revenue Fund*, and House Bill 1209 – *Sales and Use Tax – Peer-to-Peer Car Sharing – Alterations*.

We came together this session to pass the RELIEF Act, providing over \$1.45 billion to struggling Marylanders and businesses with immediate and targeted tax cuts and financial relief, representing the largest tax cut in Maryland history. Unfortunately, the General Assembly dismissed additional opportunities to provide much-needed tax relief, particularly for Maryland's retirees. Instead, legislators pursued these misguided tax increases.

The most troubling aspect of Senate Bill 133 and House Bill 319 – *Local Tax Relief for Working Families Act of 2021* is that it masquerades as tax relief, when in reality there is no requirement for counties that implement a bracketed tax system to actually cut taxes. Instead, certain counties could keep their current rate as the new lowest rate and establish higher rates for higher-income residents, resulting in tax increases on one group of filers without providing any actual tax relief for the majority of taxpayers. In addition, this legislation raises the minimum floor that jurisdictions can set their local income taxes from 1% to 2.25%.

House Bill 933 – *Anne Arundel County – Transfer Tax – Housing Trust Special Revenue Fund* represents another tax that will be placed on the citizens of Anne Arundel County by granting the County the authority to increase the transfer tax on residential and commercial properties sold in Anne Arundel County. The most destructive aspect of this legislation is that it set no cap on how high the transfer tax could be set, which means if the imposed tax is high enough it could potentially destroy the affordable housing market by making it impossible to price new units low enough.

Lastly, House Bill 1209 – *Sales and Use Tax – Peer-to-Peer Car Sharing – Alterations* represents another tax that will be placed on the citizens of Maryland by repealing the 2021 termination date for the 8% sales and use tax imposed on peer-to-peer car sharing. In

addition, this bill establishes a new sales and use tax rate 11.5% of the taxable price if the vehicle is a passenger vehicle or motorcycle that is part of a fleet of vehicles. This tax puts additional strain on the small businesses that operate under the peer-to-peer car sharing model.

Now more than ever, we cannot raise taxes and fees on struggling Marylanders. Instead, we should be making sure Marylanders can keep more of their hard-earned money in their pockets.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 319

AN ACT concerning

Local Tax Relief for Working Families Act of 2021

FOR the purpose of altering the calculation of a certain grant to certain counties under certain circumstances; altering the minimum tax rate that a county is required to impose on an individual's Maryland taxable income; ~~altering the maximum tax rate a county may impose on an individual's Maryland taxable income~~; authorizing a county to impose the county income tax on an income bracket basis under certain circumstances; requiring a county that imposes the county income tax on an income bracket basis to set, by ordinance or resolution, certain income brackets; providing that the income brackets may differ from the income brackets to which the State income tax applies; prohibiting a county that imposes the county income tax on an income tax bracket basis from setting a minimum income tax rate less than a certain amount; prohibiting a county from applying an income tax rate to a certain income bracket that is less than a certain rate ~~or from imposing an income tax rate that is greater than a certain rate except under certain circumstances~~; authorizing a county to request certain information from the Comptroller for a certain purpose; making a conforming change; repealing certain obsolete language; providing for the application of this Act; and generally relating to the county income tax.

BY repealing and reenacting, with amendments,

Article – Local Government

Section 16-501

Annotated Code of Maryland

(2013 Volume and 2020 Supplement)

(As enacted by Chapter 26 of the Acts of the General Assembly of 2021)

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 10-106

Annotated Code of Maryland
(2016 Replacement Volume and 2020 Supplement)

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

Article – Local Government

16–501.

(a) Subject to subsection (e) of this section, for each fiscal year, the Comptroller shall pay to an eligible county a grant in the amount determined under subsection (c)(3) of this section.

(b) A county may not receive a grant under subsection (a) of this section if ANY OF the county's income tax [rate was] RATES WERE less than 2.6%:

(1) for the taxable year that ended in the second prior fiscal year; or

(2) for any subsequent taxable year through the taxable year that ends in the current fiscal year.

(c) (1) For each fiscal year, the Comptroller shall determine for each county:

(i) the county income tax collected from individuals for the taxable year that ended in the second prior fiscal year, based on tax returns filed through November 1 of the year following the applicable taxable year; and

(ii) the amount of county income tax that the county would have received if the county income tax rate was 2.54%.

(2) For each fiscal year, the Comptroller shall determine as rounded to the nearest cent:

(i) the per capita yield of the county income tax for each county, based on:

1. the population of the county as last projected by the Maryland Department of Health for July 1 of the applicable taxable year or the latest decennial census for the applicable taxable year; and

2. the amount specified in paragraph (1)(ii) of this subsection;
and

(ii) the per capita statewide yield of the county income tax, based on:

1. the State population as last projected by the Maryland Department of Health for July 1 of the applicable taxable year or the latest decennial census for the applicable taxable year; and

2. the amount of county income tax specified in paragraph (1)(ii) of this subsection for all counties.

(3) If the per capita yield of the county income tax for a county determined under paragraph (2)(i) of this subsection is less than 75% of the per capita statewide yield of the county income tax determined under paragraph (2)(ii) of this subsection, the Comptroller shall determine the amount that would increase the county per capita yield to equal 75% of the statewide per capita yield, as rounded to the nearest dollar.

(d) The Comptroller shall pay to an eligible county the amount determined under subsection (c)(3) of this section in quarterly payments during each fiscal year.

(e) (1) Except as provided in [paragraph (2)] **PARAGRAPHS (2) AND (3)** of this subsection, for fiscal year 2011 and each subsequent fiscal year, the distribution provided to any county or Baltimore City under this section may not exceed the amount distributed to the county or Baltimore City for fiscal year 2010.

(2) (i) **THIS PARAGRAPH APPLIES TO A COUNTY OR BALTIMORE CITY IF THE COUNTY OR BALTIMORE CITY HAS A SINGLE COUNTY INCOME TAX RATE.**

(ii) If a county or Baltimore City has a county income tax rate of at least 2.8% but less than 3%, the county or Baltimore City may receive a minimum of 20% of the amount determined under subsection (c)(3) of this section.

[(ii)] (iii) If a county or Baltimore City has a county income tax rate of at least 3% but less than 3.2%, the county or Baltimore City may receive a minimum of 40% of the amount determined under subsection (c)(3) of this section.

[(iii)] (iv) If a county or Baltimore City has a county income tax rate of at least 3.2%:

1. on or before June 30, 2017, the county or Baltimore City may receive a minimum of 60% of the amount determined under subsection (c)(3) of this section;

2. in fiscal year 2018, the county or Baltimore City may receive a minimum of 63.75% of the amount determined under subsection (c)(3) of this section;

3. in fiscal years 2019, 2020, and 2021, the county or Baltimore City may receive a minimum of 67.5% of the amount determined under subsection (c)(3) of this section; and

4. in fiscal year 2022, and each fiscal year thereafter, the county or Baltimore City may receive a minimum of 75% of the amount determined under subsection (c)(3) of this section.

(3) (I) THIS PARAGRAPH APPLIES TO A COUNTY OR BALTIMORE CITY IF THE COUNTY OR BALTIMORE CITY HAS MORE THAN ONE COUNTY INCOME TAX RATE.

(II) IF EACH COUNTY INCOME TAX RATE IMPOSED BY A COUNTY OR BALTIMORE CITY IS AT LEAST 2.8% BUT LESS THAN 3.0%, THE COUNTY OR BALTIMORE CITY MAY RECEIVE A MINIMUM OF 20% OF THE AMOUNT DETERMINED UNDER SUBSECTION (C)(3) OF THIS SECTION.

(III) IF THE LOWEST COUNTY INCOME TAX RATE IMPOSED BY A COUNTY OR BALTIMORE CITY IS AT LEAST 2.9% AND EACH COUNTY INCOME TAX RATE IMPOSED ON MARYLAND TAXABLE INCOME GREATER THAN \$100,000 IS AT LEAST 3.0%, THE COUNTY OR BALTIMORE CITY MAY RECEIVE A MINIMUM OF 40% OF THE AMOUNT DETERMINED UNDER SUBSECTION (C)(3) OF THIS SECTION.

(IV) IF THE LOWEST COUNTY INCOME TAX RATE IMPOSED BY A COUNTY OR BALTIMORE CITY IS AT LEAST 3.1% AND EACH COUNTY INCOME TAX RATE IMPOSED ON MARYLAND TAXABLE INCOME GREATER THAN \$100,000 IS AT LEAST 3.2%, THE COUNTY OR BALTIMORE CITY MAY RECEIVE A MINIMUM OF 75% OF THE AMOUNT DETERMINED UNDER SUBSECTION (C)(3) OF THIS SECTION.

Article – Tax – General

10–106.

(a) (1) Each county shall set, by ordinance or resolution, a county income tax equal to at least [1%] **2.25%** but not more than the percentage of an individual's Maryland taxable income as follows:

~~(i) 3.05% for a taxable year beginning after December 31, 1998 but before January 1, 2001;~~

~~(ii) 3.10% for a taxable year beginning after December 31, 2000 but before January 1, 2002; and~~

~~(iii) 3.20% OF AN INDIVIDUAL'S MARYLAND TAXABLE INCOME for a taxable year beginning after December 31, 2001, BUT BEFORE JANUARY 1, 2022; AND~~

~~(H) 3.5% FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2021.~~

(2) A county income tax rate continues until the county changes the rate by ordinance or resolution.

(3) (i) A county may not increase its county income tax rate above 2.6% until after the county has held a public hearing on the proposed act, ordinance, or resolution to increase the rate.

(ii) The county shall publish at least once each week for 2 successive weeks in a newspaper of general circulation in the county:

1. notice of the public hearing; and

2. a fair summary of the proposed act, ordinance, or resolution to increase the county income tax rate above 2.6%.

(4) Notwithstanding paragraph (1) or (2) of this subsection, in Howard County, the county income tax rate may be changed only by ordinance and not by resolution.

(b) If a county changes its county income tax rate, the county shall:

(1) increase or decrease the rate in increments of one one-hundredth of a percentage point, effective on January 1 of the year that the county designates; and

(2) give the Comptroller notice of the rate **OR INCOME BRACKET** change and the effective date of the rate **OR INCOME BRACKET** change on or before July 1 prior to its effective date.

(C) (1) FOR ANY COUNTY INCOME TAX RATE THAT IS EFFECTIVE ON OR AFTER JANUARY 1, 2022, THE COUNTY MAY APPLY THE COUNTY INCOME TAX ON A BRACKET BASIS.

(2) A COUNTY THAT IMPOSES THE COUNTY INCOME TAX ON A BRACKET BASIS:

(I) SHALL SET, BY ORDINANCE OR RESOLUTION, THE INCOME BRACKETS THAT APPLY TO EACH INCOME TAX RATE;

(II) MAY SET INCOME BRACKETS THAT DIFFER FROM THE INCOME BRACKETS TO WHICH THE STATE INCOME TAX APPLIES;

(III) MAY NOT SET A MINIMUM INCOME TAX RATE LESS THAN 2.25% OF AN INDIVIDUAL'S MARYLAND TAXABLE INCOME; AND

(IV) MAY NOT APPLY AN INCOME TAX RATE TO A HIGHER INCOME BRACKET THAT IS LESS THAN THE INCOME TAX RATE APPLIED TO A LOWER INCOME BRACKET.

(3) A COUNTY MAY REQUEST INFORMATION FROM THE COMPTROLLER TO ASSIST THE COUNTY IN DETERMINING INCOME BRACKETS AND APPLICABLE INCOME TAX RATES THAT ARE REVENUE-NEUTRAL FOR THE COUNTY.

~~(D) A COUNTY MAY SET AN INCOME TAX RATE THAT IS GREATER THAN 3.2% ONLY ON MARYLAND TAXABLE INCOME THAT IS IN EXCESS OF TWO TIMES THE MAXIMUM INCOME TAX BRACKET THRESHOLD ESTABLISHED UNDER:~~

~~(1) § 10-105(A)(1) OF THIS SUBTITLE FOR INDIVIDUALS OTHER THAN AN INDIVIDUAL DESCRIBED IN ITEM (2) OF THIS SUBSECTION; AND~~

~~(2) § 10-105(A)(2) OF THIS SUBTITLE FOR SPOUSES FILING A JOINT RETURN OR FOR A SURVIVING SPOUSE OR HEAD OF HOUSEHOLD AS DEFINED IN § 2 OF THE INTERNAL REVENUE CODE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2021, and shall be applicable to all taxable years beginning after December 31, 2021.

May 28, 2021

The Honorable Bill Ferguson
President of the Senate
H-107 State House
Annapolis, Maryland 21401

The Honorable Adrienne A. Jones
Speaker of the House
H-101 State House
Annapolis, Maryland 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 460 and House Bill 419 – *Economic Development – Advanced Clean Energy and Clean Energy Innovation Investments and Initiatives*.

While I support the sponsors' intent to spur innovation in clean energy, this bill is not a prudent and responsible application of precious targeted funding. I have always supported

thoughtful investments in clean energy, energy efficiency, and the clean energy industry and infrastructure. This bill, however, would divert funds from existing programs with a great deal of accountability and strong records of success. Instead, those funds currently yielding positive financial and environmental results for Marylanders would be siphoned off for speculative investments in a quasi-governmental organization with little transparency to date. I believe this is a counter productive use of these funds.

Additionally, at least 60% of the funding being diverted by this bill specifically targets energy programs for many of our most vulnerable Marylanders. Studies show that investing in this population yields a high rate of return not only in a monetary form but also addresses other negative factors impacting vulnerable populations such as indoor air quality, high energy costs, and other barriers to success.

This past fall, I established the State Transparency and Accountability Reform Commission to review quasi-governmental agencies, to ensure that they operate with the highest levels of integrity and maintain the public trust. I plan on allowing the STAR Commission to complete its work to establish oversight of these entities before diverting resources that demonstrably benefit Marylanders.

For these reasons I have vetoed Senate Bill 460 and House Bill 419 – *Economic Development – Advanced Clean Energy and Clean Energy Innovation Investments and Initiatives*.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 419

AN ACT concerning

Economic Development – Advanced Clean Energy and Clean Energy Innovation Investments and Initiatives

FOR the purpose of altering references to the term “clean energy” to be “advanced clean energy” for purposes of certain provisions of law concerning the Maryland Clean Energy Center and the Maryland Energy Innovation Institute; altering certain findings of the General Assembly, the purposes of certain provisions of law concerning the development of clean energy industries in the State, and the purposes, powers, and duties of the Center and the Institute to include certain actions supporting clean energy innovation; designating the Center as the State green bank; altering the membership of the Board of Directors of the Center; authorizing the Center to enter into certain financing transactions with, on behalf of, or for the benefit of certain State agencies for certain purposes; requiring the Department of General Services and the Department of Budget and Management to work with the Center for certain purposes; requiring the Maryland Technology

Development Corporation and the Institute to coordinate with each other in supporting certain technology companies; requiring the Institute and the Center to implement a certain accelerator program in a certain manner and to consult with certain State agencies; altering a certain reporting requirement to include certain information regarding clean energy innovation in the State; altering the purposes of the Maryland Strategic Energy Investment Fund to include providing a certain amount of funding each fiscal year to the Maryland Energy Innovation Fund; clarifying the amount of certain funding provided in a certain fiscal year; specifying the manner in which the funds may be used; providing for the elimination of the position of a certain member of the Board; making conforming changes; defining certain terms and altering certain definitions; and generally relating to the Maryland Clean Energy Center, the Maryland Energy Innovation Institute, and clean energy.

BY renumbering

Article – Economic Development
Section 10–801(g) through (p), respectively
to be Section 10–801(h) through (p) and (r), respectively
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, without amendments,

Article – Economic Development
Section 9–101(a) and (c), 10–401(a) and (c), 10–402(a), 10–801(a) and (b), 10–806(a)
and (e), 10–807(a), 10–828(a), (c), and (d), 10–829(a), and 10–830(a)
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

BY adding to

Article – Economic Development
Section 10–402(d), 10–801(c), (g), and (q), and 10–821.1
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – Economic Development
Section 10–801(c) through (e), 10–802, 10–806(d), 10–807(b), 10–820, 10–823,
10–826, 10–829(d), 10–830(b), 10–834, 10–835, and 10–839
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

BY repealing

Article – Economic Development
Section 10–801(f)
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, without amendments,
 Article – State Government
 Section 9–20B–05(a)
 Annotated Code of Maryland
 (2014 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,
 Article – State Government
 Section 9–20B–05(f)(10) and (11)
 Annotated Code of Maryland
 (2014 Replacement Volume and 2020 Supplement)

BY adding to
 Article – State Government
 Section 9–20B–05(f)(11) and (f–4)
 Annotated Code of Maryland
 (2014 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 10–801(g) through (p), respectively, of Article – Economic Development of the Annotated Code of Maryland be renumbered to be Section(s) 10–801(h) through (p) and (r), respectively.

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

Article – Economic Development

9–101.

- (a) In this division the following words have the meanings indicated.
- (c) “Department” means the Department of Commerce.

10–401.

- (a) In this subtitle the following words have the meanings indicated.
- (c) “Corporation” means the Maryland Technology Development Corporation.

10–402.

- (a) There is a Maryland Technology Development Corporation.

(D) IN ACCORDANCE WITH § 10–834 OF THIS TITLE, THE CORPORATION AND THE MARYLAND CLEAN ENERGY CENTER SHALL COORDINATE WITH THE

MARYLAND ENERGY INNOVATION INSTITUTE IN SUPPORTING MARYLAND–BASED TECHNOLOGY COMPANIES ENGAGED IN CLEAN ENERGY INNOVATION.

10–801.

(a) In this subtitle the following words have the meanings indicated.

(b) “Administration” means the Maryland Energy Administration.

(c) “ADVANCED CLEAN ENERGY” INCLUDES:

(1) SOLAR PHOTOVOLTAIC TECHNOLOGY;

(2) SOLAR HEATING;

(3) GEOTHERMAL;

(4) WIND;

(5) BIOFUELS;

(6) ETHANOL;

(7) *RENEWABLE CHEMICAL PRODUCTION;*

~~(7)~~ (8) OTHER QUALIFYING BIOMASS AS DEFINED IN § 7–701 OF THE PUBLIC UTILITIES ARTICLE;

~~(8)~~ (9) OCEAN, INCLUDING ENERGY FROM WAVES, TIDES, CURRENTS, AND THERMAL DIFFERENCES;

~~(9)~~ (10) A FUEL CELL THAT PRODUCES ENERGY WITH REDUCED GREENHOUSE GAS EMISSIONS AS COMPARED TO CONVENTIONAL TECHNOLOGY;

~~(10)~~ (11) ENERGY EFFICIENCY AND CONSERVATION;

~~(11)~~ (12) COMBINED HEAT AND POWER;

~~(12)~~ (13) ENERGY STORAGE AND BATTERY TECHNOLOGIES;

~~(13)~~ (14) GRID MODERNIZATION, INCLUDING THE USE OF ARTIFICIAL TECHNOLOGY AND INTEGRATED SYSTEMS FOR ENERGY DEMAND RESPONSE, DEMAND MANAGEMENT TECHNOLOGY, AND IMPROVED ENERGY DISTRIBUTION;

~~(14)~~ (15) BIOTECHNOLOGY IN CLEAN ENERGY AND FOR THE REDUCTION OF DIRECT AND INDIRECT AGRICULTURAL EMISSIONS;

~~(15)~~ (16) CARBON DIOXIDE REMOVAL AND MANAGEMENT OR REUSE;

~~(16)~~ (17) CLEAN FUELS AND DISPLACEMENT OF ENERGY-INTENSIVE PRODUCTS;

~~(17)~~ (18) TRANSPORTATION ELECTRIFICATION AND MOBILITY TECHNOLOGIES;

~~(18)~~ (19) NEW CONCEPTS TO IMPROVE SAFETY AND REDUCE THE COST OF NUCLEAR POWER;

~~(19)~~ (20) CARBON-FREE GENERATION TECHNOLOGIES;

~~(20)~~ (21) ANY OTHER TECHNOLOGY OR SERVICE THAT THE CENTER DETERMINES WILL CONTRIBUTE DIRECTLY OR INDIRECTLY TO THE PRODUCTION OF ENERGY FROM RENEWABLE OR SUSTAINABLE SOURCES, OR TO THE IMPROVEMENT OF EFFICIENCY IN THE USE OF ENERGY; AND

~~(21)~~ (22) DEPLOYMENT OF ANY OF THE TECHNOLOGIES OR SERVICES LISTED IN ITEMS (1) THROUGH ~~(20)~~ (21) OF THIS SUBSECTION.

[(c)] (D) “Board” means the Board of Directors of the Center.

[(d)] (E) (1) “Bond” means a bond issued by the Center under this subtitle.

(2) “Bond” includes a revenue bond, a revenue refunding bond, a note, and any other obligation, whether a general or limited obligation of the Center.

[(e)] (F) “Center” means the Maryland Clean Energy Center.

[(f)] “Clean energy” includes:

(1) solar photovoltaic technology;

(2) solar heating;

(3) geothermal;

(4) wind;

(5) biofuels;

- (6) ethanol;
- (7) other qualifying biomass as defined in § 7–701 of the Public Utilities Article;
- (8) ocean, including energy from waves, tides, currents, and thermal differences;
- (9) a fuel cell that produces energy from biofuels, ethanol, or other qualifying biomass;
- (10) energy efficiency and conservation;
- (11) any other technology or service that the Center determines will contribute directly or indirectly to the production of energy from renewable or sustainable sources, or to the improvement of efficiency in the use of energy; and
- (12) deployment of any of the technologies or services listed in items (1) through (11) of this subsection.]

(G) “CLEAN ENERGY INNOVATION” MEANS IN–STATE DEVELOPMENT AND DEPLOYMENT OF ADVANCED CLEAN ENERGY TECHNOLOGIES THAT ADDRESS THE GOALS OF:

- (1) ENERGY EFFICIENCY IN ALL ECONOMIC SECTORS;**
- (2) CARBON–FREE GENERATION OF ELECTRICAL POWER; AND**
- (3) THE REDUCTION OF DIRECT AND INDIRECT GREENHOUSE GAS EMISSIONS IN ALL ECONOMIC SECTORS.**

(Q) “STATE AGENCY” MEANS ANY PERMANENT OR TEMPORARY STATE OFFICE, DEPARTMENT, DIVISION OR UNIT, BUREAU, BOARD, COMMISSION, TASK FORCE, AUTHORITY, INSTITUTION, STATE COLLEGE OR UNIVERSITY, AND ANY OTHER UNIT OF STATE GOVERNMENT, WHETHER EXECUTIVE, LEGISLATIVE, OR JUDICIAL, AND ANY SUBUNITS OF STATE GOVERNMENT.

10–802.

(a) The General Assembly finds that:

- (1) the United States as a whole, and the State in particular, are facing increased energy costs based on many factors, including rising fuel costs, limited investment in generation and transmission facilities, and a complex combination of market–based and other regulatory mechanisms that balance environmental, economic, health, and welfare interests;

(2) continued exclusive reliance on traditional forms of electricity supply entrenches the State's dependence on fossil fuels, working against the State's policy of decreasing greenhouse gas production, as evidenced by the State's accession to the Regional Greenhouse Gas Initiative;

(3) ["clean] "**ADVANCED CLEAN** energy", a broad term that includes a wide and varied mixture of strategies and techniques to produce useful energy from renewable and sustainable sources in a manner that minimizes fossil fuel use and harmful emissions, and to increase the efficient use of energy derived from all sources, offers many different opportunities for residents of the State to succeed in entrepreneurial and other commercial activity, to the overall economic and environmental benefit of the entire State, as measured in improved air and water quality, moderated energy expenditures, and increased State and local tax receipts;

(4) many individuals and businesses in the State possess talents and interest in the clean energy technology sector, which may form the basis for encouraging development and deployment of sustainable and renewable energy technologies in the State, the nation, and the world;

(5) the State will benefit from a targeted effort to establish and incubate **ADVANCED** clean energy industries **AND CLEAN ENERGY INNOVATION INDUSTRIES** in the State, including financial assistance, information sharing, and technical support for entrepreneurs in the manufacture and installation of **ADVANCED** clean energy technology **AND CLEAN ENERGY INNOVATIONS**; and

(6) it is in the public interest to establish a public corporation to undertake the tasks of promoting **ADVANCED** clean energy industries **AND CLEAN ENERGY INNOVATION INDUSTRIES** in the State, developing incubators for those industries, providing financial assistance, and also providing information sharing and technical assistance.

(b) The purposes of this subtitle are to:

(1) encourage the development of **ADVANCED** clean energy industries **AND CLEAN ENERGY INNOVATION INDUSTRIES** in the State;

(2) encourage the deployment of **ADVANCED** clean energy technologies **AND CLEAN ENERGY INNOVATIONS** in the State;

(3) help retain and attract business activity and commerce in the **ADVANCED** clean energy technology industry [sector] **AND CLEAN ENERGY INNOVATION INDUSTRY SECTORS** in the State;

(4) promote economic development; [and]

(5) DESIGNATE THE MARYLAND CLEAN ENERGY CENTER AS A GREEN BANK FOR THE STATE ~~GREEN BANK; AND~~

[(5)] (6) ENCOURAGE THE CENTER TO WORK IN CONJUNCTION WITH OTHER LOCAL AND PRIVATE GREEN BANKS; AND

(7) promote the health, safety, and welfare of residents of the State.

(c) The General Assembly intends that:

(1) the Center operate and exercise its corporate powers in all areas of the State;

(2) without limiting its authority to otherwise exercise its corporate powers, the Center exercise its corporate powers to assist governmental units and State and local economic development agencies to contribute to the expansion, modernization, and retention of existing enterprises in the State as well as the attraction of new business to the State;

(3) the Center cooperate with private industries and local governments in maximizing new economic opportunities for residents of the State; and

(4) the Center accomplish at least one of the purposes listed in subsection (b) of this section and complement existing State marketing and financial assistance programs by:

(i) owning projects;

(ii) leasing projects to other persons; or

(iii) lending the proceeds of bonds to other persons to finance the costs of acquiring or improving projects that the persons own or will own.

10–806.

(a) There is a Maryland Clean Energy Center.

(d) The purposes of the Center are to:

(1) promote economic development and jobs in the **ADVANCED** clean energy industry [sector] **AND CLEAN ENERGY INNOVATION INDUSTRY SECTORS** in the State;

(2) promote the deployment of **ADVANCED** clean energy technology **AND CLEAN ENERGY INNOVATIONS** in the State;

(3) serve as an incubator for the development of **THE ADVANCED** clean energy industry **AND CLEAN ENERGY INNOVATION INDUSTRY** in the State;

(4) in collaboration with the Administration, collect, analyze, and disseminate industry data; [and]

(5) provide outreach and technical support to further the **ADVANCED** clean energy industry **AND CLEAN ENERGY INNOVATION INDUSTRY** in the State; **AND**

~~(6) SERVE AS THE STATE GREEN BANK.~~

(6) WORK AS A GREEN BANK AND IN CONJUNCTION WITH LOCAL AND PRIVATE GREEN BANKS.

(e) It is the intent of the General Assembly that, as the Center develops programs and activities under this subtitle, the Center and the Administration shall work collaboratively together, as appropriate, in order to coordinate shared-interest functions and avoid duplication of efforts.

10-807.

(a) A Board of Directors shall manage the Center and exercise its corporate powers.

(b) The Board consists of the following nine members:

(1) the Director, or the Director's designee; [and]

(2) THE DIRECTOR OF THE MARYLAND ENERGY INNOVATION INSTITUTE, OR THE DIRECTOR OF THE MARYLAND ENERGY INNOVATION INSTITUTE'S DESIGNEE; AND

~~[(2)]~~ **(3)** [eight] **SEVEN** members appointed by the Governor with the advice and consent of the Senate:

(i) [two] **ONE** representing the nonprofit **ADVANCED** clean energy research sector of the State;

(ii) two with expertise in [venture] capital financing;

(iii) two representing **ADVANCED** clean energy industries in the State;

(iv) one consumer member; and

(v) one member of the general public.

10–820.

The Center may make grants to or provide equity investment financing for **ADVANCED** clean energy technology–based businesses **AND CLEAN ENERGY INNOVATION BUSINESSES**.

10–821.1.

(A) THE CENTER MAY ENTER INTO FINANCING TRANSACTIONS WITH, ON BEHALF OF, OR FOR THE BENEFIT OF ANY STATE AGENCY FOR THE PURPOSES OF A PROJECT ON STATE–OWNED OR STATE–LEASED PROPERTY.

(B) FINANCING UNDER THIS SECTION:

(1) MAY BE IN ANY FORM, INCLUDING BONDS, LOANS, GRANTS, ENERGY PERFORMANCE CONTRACTS, SHARED ENERGY SAVINGS CONTRACTS, PARTICIPATION AGREEMENTS, LEASE AGREEMENTS, AND REIMBURSEMENT AGREEMENTS; BUT

(2) MAY NOT PLEDGE THE FAITH AND CREDIT OF THE STATE.

(C) THE DEPARTMENT OF GENERAL SERVICES AND THE DEPARTMENT OF BUDGET AND MANAGEMENT SHALL WORK WITH THE CENTER TO ENSURE THAT FINANCING TRANSACTIONS UNDER THIS SECTION ARE EFFICIENT AND COST–EFFECTIVE FOR THE STATE.

10–823.

(a) The Center may disseminate information and materials pertinent to **ADVANCED** clean energy technology, **CLEAN ENERGY INNOVATION**, financing, and development in the State, for persons engaged in the **ADVANCED** clean energy [industry] **AND CLEAN ENERGY INNOVATION INDUSTRIES** as developers, manufacturers, and installers, as well as for consumers and financial institutions, including information on available federal, State, and private financial assistance and technical assistance.

(b) The Center may:

(1) cooperate with and provide assistance to local governments, instrumentalities, and research entities in the State; and

(2) coordinate **ADVANCED** clean energy technology **AND CLEAN ENERGY INNOVATION** development, education, and deployment activities with programs of the federal government and of governmental units and public and private entities in and outside the State.

(c) The Center may conduct the activities under this section in consultation with the Administration.

(d) The Maryland Environmental Service, the Maryland Economic Development Corporation, and other State economic development units shall cooperate with the Center and may make available to the Center resources and expertise for the evaluation of project financing and coordination of financing between the Center and other economic development units.

10-826.

(a) On or before October 1 of each year, the Center shall report to the Governor, the Administration, and, in accordance with § 2-1257 of the State Government Article, the General Assembly.

(b) The report shall include:

(1) a complete operating and financial statement covering the Center's operations [and];

(2) a summary of the Center's activities during the preceding the fiscal year; AND

(3) **A SUMMARY OF THE CENTER'S ACTIVITIES SPECIFIC TO CLEAN ENERGY INNOVATION.**

10-828.

(a) In this part the following words have the meanings indicated.

(c) "Fund" means the Maryland Energy Innovation Fund.

(d) "Institute" means the Maryland Energy Innovation Institute.

10-829.

(a) There is a Maryland Energy Innovation Institute.

(d) The purposes of the Institute are to:

(1) collaborate with academic institutions in the State to participate in **ADVANCED** clean energy **AND CLEAN ENERGY INNOVATION** programs; and

(2) develop and attract private investment in clean energy innovation and commercialization in the State.

10–830.

(a) (1) There is an Advisory Board of the Institute.

(2) The Institute Board advises the University of Maryland on the management of the Institute.

(b) The Institute Board consists of the following nine members:

(1) the chair of the Board of Directors of the Maryland Clean Energy Center;

(2) the Director; and

(3) seven members selected by the University of Maryland based on expertise in energy technology commercialization, the **ADVANCED** clean energy industry, **THE CLEAN ENERGY INNOVATION INDUSTRY**, venture capital financing, and energy research.

10–834.

(A) The Institute may:

(1) maintain offices at the University of Maryland, College Park **CAMPUS**;

(2) coordinate and promote energy research and education at the University of Maryland, College Park **CAMPUS**, including its relevant energy centers, as well as at other academic institutions;

(3) provide energy policy innovation advice to State and federal units;

(4) collaborate with other academic institutions, governmental units, foundations, and industrial companies for **ADVANCED** clean energy research and innovation;

(5) pursue grants, other funds, and in-kind contributions for **ADVANCED** clean energy research and innovation;

(6) provide seed grant funding to academic institution-based entrepreneurs or entities, in order to promote the commercialization of **ADVANCED** clean energy technologies developed wholly or partly by an academic institution, but not duplicate existing seed grants made through the Maryland Technology Development Corporation;

(7) work with the Maryland Technology Enterprise Institute to jointly manage, operate, and maintain facilities for [a] **AN ADVANCED clean energy AND CLEAN ENERGY INNOVATION** incubator at the University of Maryland, College Park **CAMPUS**;

(8) work with the Maryland Technology Enterprise Institute to expand Maryland Industrial Partnership Awards to promote the commercialization of **ADVANCED clean energy AND CLEAN ENERGY INNOVATION** technologies developed wholly or partly by an academic institution;

(9) work with the Maryland Technology Enterprise Institute and the University of Maryland Office of Technology Commercialization to:

(i) identify **ADVANCED CLEAN energy AND CLEAN ENERGY INNOVATION** technologies at academic institutions that may be viable for commercialization; and

(ii) provide grant funding and investment financing to cover patent, facilities, and other costs not allowed under federal or state research grants to an academic institution–based entrepreneur or entity, in order to promote the commercialization of **ADVANCED clean energy AND CLEAN ENERGY INNOVATION** technologies developed wholly or partly by an academic institution;

(10) coordinate incubation and potential financing of academic institution–based entrepreneurs or entities with resources provided by the Center;

(11) work closely with State units, industrial partners, nongovernmental organizations, and federal agencies and laboratories to ensure effective implementation and execution of the State’s energy mission and vision, in collaboration with the Administration;

(12) undergo periodic reviews every 5 years consistent with University System of Maryland policies; and

(13) do all things necessary or convenient to carry out the powers granted by this part.

(B) THE INSTITUTE SHALL COORDINATE WITH THE MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION IN SUPPORTING MARYLAND–BASED TECHNOLOGY COMPANIES ENGAGED IN CLEAN ENERGY INNOVATION.

(C) (1) THE INSTITUTE AND THE CENTER SHALL IMPLEMENT AN ACCELERATOR PROGRAM FOR MARYLAND–BASED TECHNOLOGY COMPANIES ENGAGED IN CLEAN ENERGY INNOVATION THAT FEATURES SEED FUNDING, TRAINING, ~~AND~~ DEVELOPMENTAL SUPPORT FOR THE COMPANIES, AND PILOT PROJECTS FOCUSED ON ON–SITE CLEAN ENERGY GENERATION FOR BUILDINGS.

(2) IN CARRYING OUT THEIR RESPONSIBILITIES UNDER THIS SUBSECTION, THE INSTITUTE AND THE CENTER SHALL CONSULT WITH THE DEPARTMENT, THE MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION, THE ADMINISTRATION, THE DEPARTMENT OF THE ENVIRONMENT, AND THE MARYLAND INDUSTRIAL PARTNERSHIP AWARDS PROGRAM.

10–835.

(a) (1) There is a Maryland Energy Innovation Fund in the University System of Maryland.

(2) The Fund shall be used by the Institute and the Center.

(b) (1) The Institute:

(i) may use the Fund to:

1. carry out the purposes of this subtitle, including the purposes listed in § 10–834 of this subtitle;

2. purchase advisory services and technical assistance to better support economic development; and

3. pay the administrative, legal, and actuarial expenses of the Institute; and

(ii) shall use the Fund for the administrative and operating costs of the Center.

(2) The Center may use the Fund to:

(i) make a grant or a loan under this subtitle, at the rate of interest the Center sets;

(ii) provide equity investment financing for a business enterprise under this subtitle; and

(iii) guarantee a loan, an equity, an investment, or any other private financing to expand the capital resources of a business enterprise under this subtitle.

(c) The Institute shall manage and supervise the Fund.

(d) (1) The Fund is a special, nonlapsing revolving fund that is not subject to reversion under § 7–302 of the State Finance and Procurement Article.

(2) The State Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.

(e) The Fund consists of:

- (1) money appropriated by the State to the Fund;
- (2) money contributed to the Fund through federal programs or private entities;
- (3) repayment of principal of a loan made from the Fund;
- (4) payment of interest on a loan made from the Fund;
- (5) proceeds from the sale, disposition, lease, or rental by the Center of collateral related to financing that the Center provides from the Fund;
- (6) premiums, fees, royalties, interest, repayments of principal, and returns on investments paid to the Center by or on behalf of:
 - (i) a business enterprise in which the Center has made an investment from the Fund; or
 - (ii) an investor providing an investment guaranteed by the Center from the Fund;
- (7) recovery of an investment made by the Center in a business enterprise from the Fund, including an arrangement under which the Center's investment in the business enterprise is recovered through:
 - (i) a requirement that the Fund receive a proportion of cash flow, commission, royalty, or payment on a patent; or
 - (ii) the repurchase from the Center of any evidence of indebtedness or other financial participation made from the Fund, including a note, stock, bond, or debenture;
- (8) repayment of a conditional grant extended by the Center from the Fund; [and]

(9) MONEY TRANSFERRED TO THE FUND IN ACCORDANCE WITH § 9-20B-05 OF THE STATE GOVERNMENT ARTICLE; AND

[(9)] (10) any other money made available to the Institute for the Fund.

(f) (1) The State Treasurer shall invest the money in the same manner as other State money may be invested.

(2) Any interest earnings of the Fund shall be credited to the Fund.

(g) Money expended from the Fund under this subtitle is supplemental to and is not intended to take the place of funding that otherwise would be appropriated for the Center, the Institute, or any part of the University System of Maryland.

10–839.

(a) On or before October 1 each year, the Institute shall report to the Governor, the Administration, and, in accordance with § 2–1257 of the State Government Article, the General Assembly.

(b) The report shall include:

(1) a complete operating and financial statement covering the Institute’s operations [and];

(2) a summary of the Institute’s activities during the preceding fiscal year;
AND

(3) A SUMMARY OF:

(I) THE ANNUAL INCREASE IN THE NUMBER OF CLEAN ENERGY INNOVATION BUSINESSES IN THE STATE;

(II) FEDERAL FUNDING AWARDED FOR CLEAN ENERGY INNOVATION AND COMMERCIALIZATION IN THE STATE; AND

(III) PRIVATE SECTOR INVESTMENT IN CLEAN ENERGY INNOVATION AND COMMERCIALIZATION IN THE STATE.

Article – State Government

9–20B–05.

(a) There is a Maryland Strategic Energy Investment Fund.

(f) The Administration shall use the Fund:

(10) subject to subsections (f–2) and (f–3) of this section, to invest in pre–apprenticeship, youth apprenticeship, and registered apprenticeship programs to establish career paths in the clean energy industry under § 11–708.1 of the Labor and Employment Article, as follows:

(i) \$1,250,000 for grants to pre-apprenticeship jobs training programs under § 11-708.1(c)(3) of the Labor and Employment Article starting in fiscal year 2021 until all amounts are spent; and

(ii) \$6,000,000 for grants to youth apprenticeship jobs training programs and registered apprenticeship jobs training programs under § 11-708.1(c)(5) of the Labor and Employment Article starting in fiscal year 2021 until all amounts are spent;

(iii) \$750,000 for the recruitment of individuals, including veterans and formerly incarcerated individuals, to the pre-apprenticeship jobs training programs and the registered apprenticeship jobs training programs under § 11-708.1 of the Labor and Employment Article starting in fiscal year 2021 until all amounts are spent; [and]

(11) SUBJECT TO SUBSECTION (F-4) OF THIS SECTION, TO PROVIDE AT LEAST \$2,100,000 IN FUNDING EACH FISCAL YEAR TO THE MARYLAND ENERGY INNOVATION FUND ESTABLISHED UNDER § 10-835 OF THE ECONOMIC DEVELOPMENT ARTICLE; AND

[(11)] (12) to pay the expenses of the Program.

(F-4) OF THE FUNDS TRANSFERRED TO THE MARYLAND ENERGY INNOVATION FUND UNDER SUBSECTION (F)(11) OF THIS SECTION:

(1) AT LEAST \$1,200,000 MAY BE USED TO FUND THE MARYLAND CLEAN ENERGY CENTER ESTABLISHED UNDER § 10-806 OF THE ECONOMIC DEVELOPMENT ARTICLE; AND

(2) AT LEAST \$900,000 MAY BE USED TO FUND THE MARYLAND ENERGY INNOVATION INSTITUTE ESTABLISHED UNDER § 10-829 OF THE ECONOMIC DEVELOPMENT ARTICLE.

SECTION 3. AND BE IT FURTHER ENACTED, That, to implement the reduction in the number of representatives of the nonprofit clean energy research sector serving as members of the Board of Directors of the Maryland Clean Energy Center from two to one as provided in § 10-807(b) of the Economic Development Article, as enacted by Section 2 of this Act, the position of the member representing the nonprofit clean energy research sector whose term expires in June 2022 shall be eliminated on the effective date of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That, for fiscal year 2022 only, the funding provided to the Maryland Energy Innovation Fund from the Maryland Strategic Energy Investment Fund under § 9-20B-05(f)(11) and (f-4) of the State Government Article, as enacted by this Act, shall be reduced proportionally by the amount of any actual transfers made to the Maryland Energy Innovation Fund from the Maryland Strategic Energy Investment Fund under Chapters 364 and 365 of the Acts of the General Assembly of 2017 for fiscal year 2022.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021.

May 28, 2021

The Honorable Bill Ferguson
President of the Senate
H-107 State House
Annapolis, Maryland 21401

The Honorable Adrienne A. Jones
Speaker of the House
H-101 State House
Annapolis, Maryland 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 464 – *Maryland–National Capital Park and Planning Commission – Mandatory Referral Review MC/PG 101–21*.

Throughout my tenure as Governor, I have strived to collaborate with local, state, and federal governments, stakeholders, and all interested parties to ensure the support and success of every project statewide. It is imperative for each major public works project to have completed the National Environmental Policy Act (NEPA) process or Maryland Environmental Policy Act (MEPA), which includes full and timely review and input of all regulatory and cooperating agencies before being able to move forward with any construction. The government agencies involved in this process provide critical input, guidance, and oversight to the project leads that is crucial for the success of the process. It is also critical that the NEPA process be clearly defined, predictable, consistent, and transparent.

House Bill 464 jeopardizes economic development in Montgomery and Prince George’s counties by delaying critical projects through a unique and subjective set of processes and approvals not followed in other parts of the State or region. Based on the requirements under this law, a “complete submission” of engineering or architectural drawings that “depict the extent of the activity” subject to the Mandatory Referral is required for a Mandatory Referral to occur. Much of this work is not available at 30 percent design, which is when projects are currently reviewed under Mandatory Referral and will not be available until after substantial and costly work of the project definition has been completed. Waiting for substantive input from the Mandatory Referral after all this substantial work has been completed will likely result in significant and costly re-work and schedule delays to any project being developed and delivered in Montgomery and Prince George’s counties.

Impacted projects could include key developments around Washington Metropolitan Area Transit Authority (WMATA) stations and other transit-oriented developments, new and proposed federal office buildings, highway and transit projects, and projects that include public safety or park development. At this time, we should be seeking to improve Maryland's economic competitiveness rather than introduce additional circuitous regulatory obstacles. As the State of Maryland continues to navigate the fiscal impacts of the COVID-19 pandemic, it is imperative that government agencies can appropriately calculate and allocate funding for the design and completion of key projects.

Additionally, alternative delivery methods such as Design-Build will become basically impossible to utilize in Montgomery and Prince George's counties. Under these project delivery methods, the engineering and architectural drawings are developed by the Design-Builder based on the performance requirements of the contract. Introducing a Mandatory Referral with significant unknowns in what is required to be submitted, in the timing, and in the extent of prescriptive and preferential comments that may be provided would have exponentially more risk resulting in more cost due to contract changes and delays – making the utilization of these proven alternative delivery methods too great in Montgomery and Prince George's counties. Removing or significantly impeding the use of these tools will harm the ability to deliver needed and timely projects. The Mandatory Referral process needs to ensure consistency, predictability, and cost and schedule efficiency in meeting the requirements of the law for all types of projects and project delivery methods, not leaving the requirements up to individual judgment, which be significantly influenced by personal and political preferences.

To ensure successful development for the region, we need to continue to guarantee that efficiency and sound fiscal management are Maryland's top priority. The M-NCPPC is a valued stakeholder in the reviewing and approving of projects within Montgomery and Prince George's counties. As the Planning Commission for the two most largely populated counties in the State, it is crucial that M-NCPPC provide its input early in the project development process for all projects impacting the district.

I look forward to continuing to work with M-NCPPC, as well as other stakeholders across Montgomery County, Prince George's County, and the State, to deliver improvements that bolster Maryland's economic competitiveness in the National Capital Region. However, during this unprecedented time, it is not prudent to add further fiscal impacts, delay, and unnecessary risks to all public projects in these counties.

For these reasons, I have vetoed House Bill 464.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 464

AN ACT concerning

**Maryland–National Capital Park and Planning Commission – Mandatory
Referral Review**

MC/PG 101–21

FOR the purpose of establishing that a certain referral to the Maryland–National Capital Park and Planning Commission is deemed approved under certain circumstances only if there is a complete submission that can be adequately reviewed by the Commission; requiring the Commission to notify a certain submitting entity within a certain period of time regarding whether a certain submission or amendment to a submission is complete and accepted or rejected as incomplete; requiring the Commission to provide certain information to a submitting entity under certain circumstances; requiring the Commission to act on a certain amended submission within a certain period of time; authorizing a submitting entity to give certain notice to the Commission that the entity is unable to provide certain additional information on a certain submission through reasonable means under certain circumstances; requiring the Commission to consider a certain submission as complete and take certain action within a certain period of time; defining a certain term; and generally relating to the Maryland–National Capital Park and Planning Commission and mandatory referral review.

BY repealing and reenacting, without amendments,
Article – Land Use
Section 20–301
Annotated Code of Maryland
(2012 Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,
Article – Land Use
Section 20–304
Annotated Code of Maryland
(2012 Volume and 2020 Supplement)

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

Article – Land Use

20–301.

Subject to §§ 20–303 and 20–304 of this subtitle, a public board, public body, or public official may not conduct any of the following activities in the regional district unless the proposed location, character, grade, and extent of the activity is referred to and approved by the Commission:

- (1) acquiring or selling land;

- (2) locating, constructing, or authorizing:
- (i) a road;
 - (ii) a park;
 - (iii) any other public way or ground;
 - (iv) a public building or structure, including a federal building or structure; or
 - (v) a publicly owned or privately owned public utility; or
- (3) changing the use of or widening, narrowing, extending, relocating, vacating, or abandoning any facility listed in item (2) of this section.

20-304.

(A) IN THIS SECTION, "COMPLETE SUBMISSION" MEANS AN EXPLANATORY NARRATIVE ACCOMPANIED BY ENGINEERING OR ARCHITECTURAL DRAWINGS THAT DEPICT THE PROPOSED LOCATION, CHARACTER, GRADE, AND EXTENT OF THE ACTIVITY SUBJECT TO A MANDATORY REFERRAL.

(B) Unless a longer period is granted by the submitting entity, an official referral to the Commission under this part is deemed approved if the Commission fails to act within 60 days after the date of A COMPLETE submission ACCEPTED BY THE COMMISSION TO ADEQUATELY REVIEW THE PROPOSED LOCATION, CHARACTER, GRADE, AND EXTENT OF THE ACTIVITY.

(C) (1) WITHIN 3 BUSINESS DAYS AFTER RECEIVING A SUBMISSION OR AN AMENDMENT TO A SUBMISSION, THE COMMISSION SHALL NOTIFY THE SUBMITTING ENTITY THAT THE SUBMISSION IS:

- (I) COMPLETE AND ACCEPTED BY THE COMMISSION; OR**
- (II) REJECTED AS INCOMPLETE BY THE COMMISSION.**

(2) AT THE SAME TIME THAT THE COMMISSION PROVIDES NOTICE THAT A SUBMISSION HAS BEEN REJECTED AS INCOMPLETE UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION, THE COMMISSION SHALL PROVIDE TO THE SUBMITTING ENTITY AN ITEMIZED LIST OF THE INFORMATION REQUIRED FOR THE SUBMISSION TO BE CONSIDERED COMPLETE.

(D) IF A SUBMITTING ENTITY SUBMITS AN AMENDMENT TO A SUBMISSION

THAT WAS REJECTED AS INCOMPLETE, THE COMMISSION:

(1) SHALL ACT ON THE AMENDED SUBMISSION WITHIN 60 DAYS AFTER RECEIPT OF THE AMENDMENT; AND

(2) WITHIN 3 BUSINESS DAYS AFTER RECEIPT OF THE AMENDMENT, SHALL NOTIFY THE SUBMITTING ENTITY OF THE COMPLETENESS OF THE SUBMISSION IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION.

(E) (1) IF A SUBMISSION IS REJECTED AS INCOMPLETE AFTER THE SUBMITTING ENTITY HAS SUBMITTED AMENDMENTS AT LEAST THREE TIMES, THE ENTITY MAY NOTIFY THE COMMISSION THAT IT IS UNABLE TO PROVIDE ADDITIONAL INFORMATION ON THE SUBMISSION THROUGH REASONABLE MEANS.

(2) ON RECEIPT OF THE NOTICE FROM A SUBMITTING ENTITY PROVIDED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION SHALL:

(I) ACCEPT THE SUBMISSION AS COMPLETE; AND

(II) ACT ON THE SUBMISSION WITHIN 60 DAYS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

May 28, 2021

The Honorable Adrienne A. Jones
Speaker of the House of Delegates
H-101 State House
Annapolis, MD 21401

Dear Speaker Jones:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 466 – *Higher Education – Student Identification Cards – Required Information*.

This bill requires institutions of higher education to provide the telephone number for Maryland's Helpline, or an on-campus crisis center that operates 24 hours a day and 365 days a year, directly on student identification cards (or a sticker affixed to the card), if the institution provides such a card. The bill permits institutions to provide numbers for the

National Suicide Prevention Lifeline, Crisis Text Line, National Domestic Violence Hotline, or any on-campus crisis center on student identification cards.

Senate Bill 405, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 466.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 466

AN ACT concerning

Higher Education – Student Identification Cards – Required Information

FOR the purpose of requiring each institution of higher education to provide the telephone number for a certain mental health crisis hotline or crisis center on student identification cards, subject to a certain condition; authorizing an institution of higher education to provide the telephone numbers for certain mental health crisis hotlines on student identification cards, subject to a certain condition; providing that an institution of higher education is not required to reprint or reissue student identification cards in use on the effective date of this Act in order to comply with this Act; providing that student identification cards that are printed before the effective date of this Act will be in compliance with this Act if the cards are issued to students within a certain time period; and generally relating to required information on student identification cards.

BY adding to

Article – Education

Section 15–126

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

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

Article – Education

15–126.

IF AN INSTITUTION OF HIGHER EDUCATION PROVIDES AN IDENTIFICATION
CARD TO STUDENTS, THE INSTITUTION:

(1) SHALL PROVIDE THE TELEPHONE NUMBER FOR MARYLAND’S

HELPLINE, OR AN ON-CAMPUS CRISIS CENTER THAT OPERATES 24 HOURS A DAY AND 365 DAYS A YEAR, ON THE CARD OR ON A STICKER AFFIXED TO THE CARD; AND

(2) MAY ALSO PROVIDE THE TELEPHONE NUMBERS FOR THE NATIONAL SUICIDE PREVENTION LIFELINE, THE CRISIS TEXT LINE, THE NATIONAL DOMESTIC VIOLENCE HOTLINE, OR AN ON-CAMPUS CRISIS CENTER ON THE CARD, ANY ON-CAMPUS CRISIS CENTER ON THE CARD OR ON A STICKER AFFIXED TO THE CARD.

SECTION 2. AND BE IT FURTHER ENACTED, That an institution of higher education is not required to reprint or reissue student identification cards in use on the effective date of this Act in order to comply with this Act. Any student identification cards that were printed, but not issued, before the effective date of this Act will be in compliance with this Act if the cards are issued to students not later than 18 months after the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021.

April 9, 2021

The Honorable Adrienne A. Jones
Speaker of the House of Delegates
H-101 State House
Annapolis, MD 21401

The Honorable Bill Ferguson
President of the Senate
H-107 State House
Annapolis, MD 21401

Dear Speaker Jones and President Ferguson:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 71 – *Maryland Police Accountability Act of 2021 – Body-Worn Cameras, Employee Programs, and Use of Force*; Senate Bill 178 – *Maryland Police Accountability Act of 2021 – Search Warrants and Inspection of Records Relating to Police Misconduct*; and House Bill 670 – *Maryland Police Accountability Act of 2021 – Police Discipline and Law Enforcement Programs and Procedures*.

I was hopeful that the hard work done over the past year by the House Workgroup to Address Police Reform and Accountability and the Judicial Proceedings Committee would

yield bipartisan legislation to achieve necessary reforms in our police departments to protect civil rights and increase public trust in law enforcement. I would like to acknowledge the efforts of the General Assembly in working with members of the work group, law enforcement, the state's attorneys, and advocates to develop a number of independent bills that could have resulted in impactful improvements in policing. Unfortunately, the original intent of these bills appears to have been overtaken by political agendas that do not serve the public safety interests of the citizens of Maryland. These bills would undermine the goal that I believe we share of building transparent, accountable, and effective law enforcement institutions and instead further erode police morale, community relationships, and public confidence. They will result in great damage to police recruitment and retention, posing significant risks to public safety throughout our state. Under these circumstances, I have no choice but to uphold my primary responsibility to keep Marylanders safe, especially those that live in vulnerable communities most impacted by violent crime, and veto these bills.

SB 71 – Maryland Police Accountability Act of 2021 – Body-Worn Cameras, Employee Programs, and Use of Force

I have continually supported the use of body cameras by our frontline law enforcement officers, and our administration has provided funding to facilitate purchasing these cameras. Several districts have already moved forward in expanding this initiative, and I want to make it abundantly clear that I have no problems with the body camera provisions in this bill. Unfortunately, as amended, this bill also creates a wholly new and uncharted use of force standard. Current law, based on the Supreme Court decision in *Graham v. O'Connor*, establishes an objective standard that police officers' use of force must be "objectively reasonable in light of the facts and circumstances confronting them." This bill jettison's this long established objective test for a vague and undefined test of judging whether the force was "proportional." Such a standard would expose every officer's actions to the sort of speculation that the U.S. Supreme Court rejected in fashioning the current standard of excessive force in the *Graham* case. I cannot support a hindsight review of an officer's actions when the officer must react in a split-second to a deadly situation that could pose a threat to their own life and the lives of citizen bystanders. This new standard will leave the courts with no guidance, causing confusion for officers and courts alike. Excessive use of force is already prohibited under Maryland criminal law (e.g., assault, reckless endangerment, murder) and a new prohibition aimed solely at police officers is unnecessary and harmful. As a whole, this bill as amended is misguided and threatens the lives and safety of our citizens and first responders.

SB 178 – Maryland Police Accountability Act of 2021 – Search Warrants and Inspection of Records Relating to Police Misconduct

When 19-year old Anton Black was tragically killed in 2019, I was among the first to call for full transparency and answers for his family from law enforcement and the medical examiner's office. I support updating procedures for executing search warrants and the disclosure of investigatory and personnel records. Unfortunately, the processes outlined in this bill places the lives of the officers as well as the occupants of the dwelling at unnecessary risk. Limitations such as the requirement to serve no-knock warrants

between the hours of 8:00 a.m. and 7:00 p.m., voiding the warrant after ten days, and requiring a 20 second delay before entering a residence while serving a regular warrant needlessly endangers police officers, occupants, and bystanders. The provisions of this bill that impact the release of Investigatory and Personnel Records are equally disturbing. Officers who are exonerated will still be subject to having their records exposed. As amended, these provisions place the officers' safety at risk, erode officers' relationships with the residents of our most vulnerable communities, and deter witness participation in the prosecution of violent crimes.

HB 670 – Maryland Police Accountability Act of 2021 – Police Discipline and Law Enforcement Programs and Procedures

The proponents of this bill's stated intent is a complete repeal of the Law Enforcement Officers' Bill of Rights and a replacement with another process. Unfortunately, this was done in a haphazard fashion with little collaboration from all interested stakeholders. The result is a bill that does very little to increase accountability that law enforcement officers deserve and the public should expect. Instead of a uniform, statewide process of police discipline, this bill would create a patchwork of hundreds of locally devised processes. The disciplinary authority of chiefs and sheriffs has been substantially undermined, thereby lessening their ability to discipline and remove problem officers. The basic due process protections to which police are entitled, have been removed. This leaves police disciplinary hearings subject to arbitrary and capricious disciplinary procedures. The convoluted investigatory and disciplinary processes created in this bill will force unnecessary delays and confusion. The lack of consistency in establishing the membership of the entities created by this bill will inevitably lead to disparities in enforcement of police discipline between districts. Our police and our citizens deserve far better. The extreme flaws in this bill leave me no alternative but to veto this bill.

For these reasons, I have vetoed Senate Bill 71 – *Maryland Police Accountability Act of 2021 – Body-Worn Cameras, Employee Programs, and Use of Force*; Senate Bill 178 – *Maryland Police Accountability Act of 2021 – Search Warrants and Inspection of Records Relating to Police Misconduct (Anton's Law)*; and House Bill 670 – *Maryland Police Accountability Act of 2021 – Police Discipline and Law Enforcement Programs and Procedures*.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 670

AN ACT concerning

~~Police Reform and Accountability Act of 2021~~ Maryland Police Accountability Act of 2021 – Police Discipline and Law Enforcement Programs and Procedures

FOR the purpose of repealing the Law Enforcement Officers' Bill of Rights; ~~providing that the Police Department of Baltimore City is an agency and instrumentality of the City of Baltimore, instead of the State; providing that certain police officers have the authority conferred under a certain provision of law; requiring that an application for a certain search warrant be approved in writing by a police supervisor and the State's Attorney; altering a certain ground for issuance of a certain search warrant; repealing a certain ground for issuance of a certain search warrant; authorizing a judge to issue a certain "no-knock" search warrant only under certain circumstances; requiring that an application for a certain search warrant contain certain items; altering the number of days within which a certain search and seizure shall be made; providing that a warrant to search a residence shall be executed between certain times, absent certain circumstances; imposing certain restrictions on a police officer when executing a search warrant; requiring a police officer to take a certain action and provide certain information to certain individuals at the commencement of a certain stop, with a certain exception; providing that a police officer's failure to comply with a certain requirement may be grounds for a certain disciplinary action against the officer and may not serve as the basis for the exclusion of certain evidence under a certain rule; prohibiting a police officer from prohibiting or preventing a citizen from recording the police officer's actions if the citizen is otherwise acting lawfully and safely; providing that an individual attending a certain institution of higher education is exempt from paying tuition under certain circumstances; requiring an individual who has received a certain exemption from tuition payment to pay a certain value to a certain institution under certain circumstances; establishing the Maryland Loan Assistance Repayment Program for Police Officers; requiring the Office of Student Financial Assistance in the Maryland Higher Education Commission to assist in the repayment of certain loans owed by certain eligible individuals; requiring the Office to adopt certain regulations; specifying that funds for the Program shall be provided in the State budget; requiring the Office to submit a certain report to the General Assembly on or before a certain date; establishing the Maryland Police Officers Scholarship Program; providing for the purpose of the Maryland Police Officers Scholarship; requiring the Office to publicize the availability of the Maryland Police Officers Scholarship; establishing the eligibility of the Maryland Police Officers Scholarship; requiring a certain recipient to repay the Commission under certain circumstances; establishing the amount of the annual scholarship award; requiring the Governor to include a certain appropriation in the State budget for the Maryland Police Officers Scholarship; requiring the Commission to use a certain appropriation for a certain purpose; requiring the Office to publicize the availability of the Maryland Police Officers Scholarship; requiring the Commission to submit a certain report on or before a certain date; altering the limits on liability of a local government and the State and its units for claims arising from tortious acts or omissions or violations of constitutional rights committed by a law enforcement officer; requiring the State Public Information Act Compliance Board to receive, review, and resolve certain complaints filed from a certain custodian, issue a certain decision, and issue a certain order under certain circumstances; requiring a certain custodian to allow inspection of certain records by the United States Attorney, the Attorney General, the State Prosecutor, and a State's Attorney; providing that a certain record is not a personnel~~

~~record for a certain purpose, with a certain exception; authorizing a certain custodian to deny inspection of certain records; requiring a certain custodian to deny inspection of a certain record under certain circumstances; requiring a custodian to notify a certain person in interest when a certain record is inspected; prohibiting a certain custodian from disclosing the identity of a certain requestor to a certain person in interest;~~ altering the membership of the Maryland Police Training and Standards Commission; requiring the Commission to develop and administer *certain tests and training programs* ~~on certain matters for citizens individuals who intend to qualify to participate as a member of a certain administrative charging committee and citizens who are appointed to serve as members of the Commission;~~ requiring the Commission to take certain actions in response to certain violations of a certain Use of Force Statute; ~~requiring the Commission to develop a test and training for implicit bias, require certain law enforcement agencies to use the implicit bias test at a certain time, and require certain police officers to complete implicit bias testing and training at certain times;~~ *requiring the Commission to revoke the certification of a police officer under certain circumstances; requiring the Commission to create a certain database;* altering a certain requirement for police officer certification that an individual submit to a psychological evaluation to require that an individual submit to a mental health screening by a certain professional; adding as a requirement for police officer certification that an individual submit to a certain physical agility assessment; requiring a police officer, as a condition of certification, to submit to a mental health assessment and a physical agility assessment at a certain time for a certain purpose; establishing that prior marijuana use is not a disqualifier for certification as a police officer and may not be the basis for disqualifying an applicant for a position as police officer; *establishing certain requirements for an individual who applies for a position as a police officer;* requiring, at certain intervals beginning on a certain date, a law enforcement agency that maintains a SWAT team to report certain information to the Governor's Office of Crime Prevention, Youth, and Victim Services using a certain format; requiring the Commission, in consultation with the Office, to develop a standardized format that certain law enforcement agencies shall use in reporting certain data relating to the activation and deployment of certain SWAT teams to the Office and to certain local officials; requiring a law enforcement agency to compile certain information as a report in a certain format and to submit the report to the Office no later than a certain date following the period that is the subject of the report; requiring the Office to analyze and summarize certain reports of law enforcement agencies and to submit a report of the analyses and summaries to the Governor, the General Assembly, and each law enforcement agency before a certain date each year; providing that, if a law enforcement agency fails to comply with certain reporting requirements, the Office shall report the noncompliance to the Commission; providing that the Commission shall contact a certain law enforcement agency and request that the agency comply with certain reporting requirements under certain circumstances; providing that, if a certain law enforcement agency fails to comply with certain reporting requirements within a certain period after being contacted by the Commission, the Office and the Commission jointly shall make a certain report to the Governor and the Legislative Policy Committee of the General Assembly and publish the report on its website; ~~requiring each law enforcement agency to require the use of body worn cameras on~~

~~or before a certain date; requiring that a certain body worn camera automatically record and save certain video footage; requiring law enforcement agencies to submit certain reports to the Commission; requiring the Commission to post certain information on its website; prohibiting the Governor's Office of Crime Prevention, Youth, and Victim Services from making certain funds available under certain circumstances; requiring each law enforcement agency to post in a certain location an explanation of certain procedures; altering a certain provision of law requiring each law enforcement agency to establish a certain early intervention policy to require a system instead of a policy, repeal the requirement that the system be confidential and nonpunitive, and alter the purpose and function of the system; requiring the Commission to develop guidelines for a certain early intervention system; establishing the Independent Investigative Agency as an independent unit of State government for a certain purpose; authorizing the Independent Investigative Agency to employ certain police officers and civilians for a certain purpose; requiring that a certain shooting or other incident be investigated by a certain investigative agency; requiring a law enforcement agency to notify a certain investigative agency of a certain shooting or other incident at a certain time and cooperate with the investigative agency in a certain investigation; requiring a certain investigative agency to submit a certain report to a certain State's Attorney and publicize the report at a certain time; requiring the Governor to annually include certain funding in the State budget; requiring each police officer to sign a certain pledge; providing that a police officer may only use certain force establishing certain use of force standards; requiring a police officer to take certain steps to gain compliance and de-escalate conflict under certain circumstances; requiring a police officer to intervene to prevent or terminate the use of certain force by a certain police officer; requiring a police officer to render certain first aid to a certain subject and request certain assistance at a certain time; requiring a police supervisor to respond to the scene of a certain incident and gather and review certain recordings; requiring a police officer to document certain incidents in a certain manner; requiring a law enforcement agency to adopt a certain policy; requiring a police officer to undergo certain training; requiring a police officer to sign a certain training completion document; providing that a police officer may only use deadly force for a certain purpose; requiring all police officers to undergo less lethal force training and be trained and equipped with certain less lethal weapons; prohibiting a police officer from shooting at a certain vehicle except under certain circumstances; prohibiting a police officer from using a chokehold, neck restraint, or a certain other type of restraint; prohibiting a law enforcement agency from acquiring a certain armored or weaponized vehicle receiving certain equipment from a surplus program; requiring a law enforcement agency to have a written de-escalation of force policy; prohibiting a police officer from knowingly and willfully violating certain provisions of this Act; prohibiting a police officer from recklessly violating certain provisions of this Act; authorizing a person to file a certain civil action for a certain use of force; requiring each law enforcement agency to develop and implement a certain program to protect the mental health of police officers; establishing certain requirements for a certain program; requiring each law enforcement agency to develop a policy to minimize certain costs to police officers; establishing certain penalties for a violation of certain provisions of this Act; requiring the Governor's Office of Crime Prevention, Youth,~~

~~and Victim Services to withhold grant funding from a certain law enforcement agency; establishing that a certain provision of law shall be known as the Maryland Use of Force Statute; requiring the Maryland Police Training and Standards Commission to submit a certain annual report to the Governor and General Assembly; requiring each law enforcement agency to establish and implement a certain police discipline process with certain requirements; requiring each law enforcement agency to post the police discipline process on the agency's public website; requiring certain members of trial boards and administrative charging committees to receive certain training; prohibiting a law enforcement agency from negating or altering certain requirements of a ~~and policies~~ established in accordance with certain ~~provision~~ provisions of law through collective bargaining; providing for the establishment, composition, and duties of an administrative charging committee; requiring, that on completion of a certain investigation, a law enforcement agency forward the investigatory files for certain matters to an administrative charging committee; requiring that a certain allegation proceed in accordance with the policies and procedures of a certain law enforcement agency; providing that the meetings of an administrative charging committee are not subject to the requirements of the Open Meetings Act; requiring each county to have a police accountability board to take certain actions; providing for the membership, *staffing, budget, and procedures* of a police accountability board; ~~establishing requirements for a certain complaint filed with a police accountability board~~ *requiring a police accountability board to make a certain report and recommendations annually*; authorizing an individual to file a certain complaint with a certain law enforcement agency; establishing requirements for a certain complaint; requiring each county to have a certain administrative charging committee; providing for the membership of certain administrative charging committees; requiring that there be at least one statewide administrative charging committee applicable to certain law enforcement agencies; requiring an individual to receive certain training prior to serving as a member of an administrative charging committee; requiring a certain law enforcement agency to forward certain investigatory files to a certain administrative charging committee at a certain time; requiring and authorizing an administrative charging committee to take certain actions at certain times; requiring an administrative charging committee to meet at certain times; requiring a member of an administrative charging committee to maintain confidentiality relating to a certain matter at a certain time; requiring the Maryland Police Training and Standards Commission to develop and adopt, by regulation, a certain disciplinary matrix for a certain purpose; requiring each law enforcement agency to adopt a certain disciplinary matrix; requiring a certain chief to offer certain discipline to a certain police officer at a certain time; ~~requiring~~ *authorizing* certain discipline to be imposed under certain circumstances; requiring a certain matter to be referred to a trial board under certain circumstances; *requiring a police officer to be provided certain items and notified of certain information before a trial board proceeding begins*; requiring each law enforcement agency to establish a certain trial board process; authorizing a small law enforcement agency to use the trial board process of another law enforcement agency under certain circumstances; providing for the membership of a trial board; requiring an individual to receive certain training prior to serving as a member of a trial board; requiring that proceedings of a trial board be open to the public, with~~

~~certain exceptions; authorizing a trial board to administer oaths and issue subpoenas under certain circumstances; providing that a complainant has the right to be notified of and attend a certain hearing, with certain exceptions; *providing that a law enforcement agency has the burden of proof by a preponderance of the evidence in certain proceedings; providing that a police officer may be disciplined only for cause; providing for the appeal of a trial board decision; providing that a trial board decision that is not appealed is final; authorizing and requiring a certain chief to impose a certain emergency suspension under certain circumstances; requiring and authorizing a certain chief to terminate the employment of a certain police officer; providing that a certain police officer is entitled to receive back pay under certain circumstances; providing that a police officer may be required to submit to certain tests, examinations, or interrogations under certain circumstances; authorizing a certain law enforcement agency to commence an action that may lead to a certain punitive measure under certain circumstances; providing that the results of a certain test, examination, or interrogation are not admissible or discoverable in a certain proceeding under certain circumstances; providing that forfeiture of a law enforcement officer's pension may be imposed as a disciplinary action under certain circumstances; requiring a law enforcement agency to designate a certain victims' rights advocate for a certain purpose; providing for the duties of a victims' rights advocate; requiring each law enforcement agency to create a certain database; requiring a certain investigating unit to review a certain complaint at a certain time; requiring an administrative charging committee to take certain actions within a certain time period; requiring a certain process of review to be completed within a certain time period; requiring the Maryland Police Training and Standards Commission to adopt certain regulations; providing that a certain police officer and a complainant have the right to representation may have the assistance of a representative in connection with certain proceedings; prohibiting the taking of certain adverse employment actions against a police officer because the police officer took certain actions; prohibiting the denial of a police officer's right to bring suit arising out of certain duties; providing that a police officer has certain rights to engage in political activity; prohibiting a law enforcement agency from prohibiting secondary employment by police officers; prohibiting certain records from being expunged or destroyed; authorizing a law enforcement agency to adopt certain regulations; authorizing a court to order the forfeiture of pension benefits, in whole or in part, for a law enforcement officer who is convicted of a qualifying crime; requiring the Attorney General or the State's Attorney to file a certain complaint in circuit court; establishing certain findings that shall be made when entering an order requiring the forfeiture of benefits; requiring the forfeiture order to indicate the amount of benefits forfeited; requiring a court to consider certain factors when determining the amount of benefits subject to forfeiture; authorizing a court to order a law enforcement officer subject to a forfeiture order to request a return of accumulated contributions to be used for restitution relating to a qualifying crime; providing that certain forfeiture provisions do not apply to certain contributions made, service earned, or crimes committed before a certain date; requiring the Emergency Number Systems Board to conduct a certain study and submit a certain report; providing for the application of a certain provision of this Act; requiring a certain publisher, in consultation with and subject to the approval of the Department*~~

of Legislative Services, to correct certain cross-references and terminology and describe a certain correction in a certain manner; providing for the intent of the General Assembly that the Maryland Higher Education Commission adopt certain regulations; providing for a delayed effective date for certain provisions of this Act; providing for the application of certain provisions of this Act; making certain provisions of this Act contingent on the taking effect of another Act; making conforming changes; defining certain terms; and generally relating to police reform.

BY renumbering

Article – Public Safety

Section 1–101(c) and (d) and 3–101(e), respectively
to be Section 1–101(d) and (e) and (c), respectively

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

BY repealing

Article – Public Safety

Section 3–101 through 3–113 and the subtitle “Subtitle 1. Law Enforcement Officers’
Bill of Rights”

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

~~BY repealing and reenacting, with amendments,~~

~~The Public Local Laws of Baltimore City~~

~~Section 16–2(a) and 16–3~~

~~Article 4 – Public Local Laws of Maryland~~

~~(1979 Edition and 1997 Supplement and 2000 Supplement, as amended)~~

~~BY repealing and reenacting, with amendments,~~

~~Article – Criminal Procedure~~

~~Section 1–203(a)(2)(vi) 1–203(a)~~

~~Annotated Code of Maryland~~

~~(2018 Replacement Volume and 2020 Supplement)~~

~~BY adding to~~

~~Article – Criminal Procedure~~

~~Section 1–203(a)(7)~~

~~Annotated Code of Maryland~~

~~(2018 Replacement Volume and 2020 Supplement)~~

BY adding to

Article – Criminal Procedure

Section 2–109

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, without amendments,

Article – Education
Section 18–101
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

BY adding to

Article – Education
Section ~~15–106.11~~ 18–3701 through 18–3705 to be under the new subtitle “Subtitle 37. Maryland Loan Assistance Repayment Program for Police Officers”; and 18–3801 through 18–3807 to be under the new subtitle “Subtitle 38. Maryland Police Officers Scholarship Program”
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

~~BY repealing and reenacting, with amendments,~~

~~Article – Public Safety
Section ~~3–203, 3–207(g), 3–209, 3–215, 3–511, and 3–516~~
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)~~

~~BY adding to~~

~~Article – Public Safety
Section ~~3–207(j) and (k), 3–508, and 3–523 through 3–526~~
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)~~

BY repealing and reenacting, with amendments,

Article – Courts and Judicial Proceedings
Section 5–303(a)
Annotated Code of Maryland
(2020 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – State Government
Section 12–104(a)
Annotated Code of Maryland
(2014 Replacement Volume and 2020 Supplement)

~~BY repealing and reenacting, without amendments,~~

~~Article – General Provisions
Section ~~4–101(a) and (c)~~
Annotated Code of Maryland
(2019 Replacement Volume and 2020 Supplement)~~

BY adding to

~~Article – General Provisions
Section ~~4–101(i) and (l)~~~~

~~Annotated Code of Maryland
(2019 Replacement Volume and 2020 Supplement)~~

~~BY repealing and reenacting, with amendments,
Article – General Provisions
Section 4-101(i) and (j), 4-1A-04, 4-311, and 4-351
Annotated Code of Maryland
(2019 Replacement Volume and 2020 Supplement)~~

BY adding to
Article – Public Safety
Section 3-101 through ~~3-113~~ 3-114 to be under the new subtitle “Subtitle 1. Police
Accountability and Discipline”; 3-207(j) and (k), ~~3-508, 3-523, and 3-524~~ and
3-508
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 3-203, 3-207(a)(16) and (g), 3-209, 3-212, 3-215, ~~3-511, 3-514, 3-515, and~~
~~3-516~~ 3-514, and 3-515
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

BY adding to
Article – State Personnel and Pensions
Section ~~20-210~~
Annotated Code of Maryland
(2015 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 1-101(c) and (d) and 3-101(e), respectively, of Article – Public Safety of the Annotated Code of Maryland be renumbered to be Section(s) 1-101(d) and (e) and (c), respectively.

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 3-101 through 3-113 and the subtitle “Subtitle 1. Law Enforcement Officers’ Bill of Rights” of Article – Public Safety of the Annotated Code of Maryland be repealed.

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

~~Article 4 – Baltimore City~~

~~(a) The Police Department of Baltimore City is hereby constituted and established as an agency and instrumentality of the [State of Maryland] CITY OF BALTIMORE. The purpose generally of the department shall be to safeguard the lives and safety of all persons within the City of Baltimore, to protect property therein, and to assist in securing to all persons the equal protection of the laws. The department shall have, within the boundaries of said city, the specific duty and responsibility to preserve the public peace; to detect and prevent the commission of crime; to enforce the laws of this State, and of the Mayor and City Council of Baltimore not inconsistent with the provisions of this subtitle; to apprehend and arrest criminals and persons who violate or are lawfully accused of violating such laws and ordinances; to preserve order at public places; to maintain the orderly flow of traffic on public streets and highways; to assist law enforcement agencies of this State, any municipality of the United States in carrying out their respective duties; and to discharge its duties and responsibilities with the dignity and manner which will inspire public confidence and respect.~~

~~16-3.~~

~~(a) All police officers of the department, including such other members thereof who may be designated by the Commissioner from time to time to exercise the powers and duties of police officers, shall [be peace officers and shall have the same powers, with respect to criminal matters, and the enforcement of the laws related thereto, as sheriffs, constables, police and peace officers possessed at common law and have in their respective jurisdictions. Any person charged with commission of crime in the City of Baltimore, or in those areas outside the corporate limits of Baltimore City owned, controlled, operated or leased by the Mayor and City Council of Baltimore, and against whom criminal process shall have issued, may be arrested upon the same in any part of the State by police officers of the department, as constituted and established by this subtitle] HAVE THE AUTHORITY CONFERRED UNDER TITLE 2 OF THE CRIMINAL PROCEDURE ARTICLE OF THE ANNOTATED CODE OF MARYLAND.~~

~~(b) All police officers of the department shall have and enjoy all the immunities and matters of defense now available, or such as hereafter may be made available, to sheriffs, constables, police and peace officers in any suit, civil or criminal, brought against them in consequence of acts done in the course of their official duties.~~

~~Article Criminal Procedure~~

~~1-203.~~

~~(a) (2) (vi) (1) IN THIS SUBSECTION, “NO KNOCK SEARCH WARRANT” MEANS A SEARCH WARRANT THAT AUTHORIZES THE EXECUTING LAW ENFORCEMENT OFFICER TO ENTER A BUILDING, APARTMENT, PREMISES, PLACE, OR THING TO BE SEARCHED WITHOUT GIVING NOTICE OF THE OFFICER’S AUTHORITY OR PURPOSE.~~

~~(2) A circuit court judge or District Court judge may issue forthwith a search warrant whenever it is made to appear to the judge, by application as described in paragraph [(2)] (3) of this subsection, that there is probable cause to believe that:~~

~~(i) a misdemeanor or felony is being committed by a person or in a building, apartment, premises, place, or thing within the territorial jurisdiction of the judge; or~~

~~(ii) property subject to seizure under the criminal laws of the State is on the person or in or on the building, apartment, premises, place, or thing.~~

~~[(2)] (3) (i) An application for a search warrant shall be:~~

~~1. in writing;~~

~~2. signed, dated, and sworn to by the applicant; and~~

~~3. accompanied by an affidavit that:~~

~~A. sets forth the basis for probable cause as described in paragraph (1) of this subsection; and~~

~~B. contains facts within the personal knowledge of the affiant that there is probable cause.~~

~~(ii) An application for a search warrant may be submitted to a judge:~~

~~1. by in-person delivery of the application, the affidavit, and a proposed search warrant;~~

~~2. by secure fax, if a complete and printable image of the application, the affidavit, and a proposed search warrant are submitted; or~~

~~3. by secure electronic mail, if a complete and printable image of the application, the affidavit, and a proposed search warrant are submitted.~~

~~(iii) The applicant and the judge may converse about the search warrant application:~~

~~1. in person;~~

~~2. via telephone; or~~

~~3. via video.~~

~~(iv) The judge may issue the search warrant:~~

~~1. by signing the search warrant, indicating the date and time of issuance on the search warrant, and physically delivering the signed and dated search warrant, the application, and the affidavit to the applicant;~~

~~2. by signing the search warrant, writing the date and time of issuance on the search warrant, and sending complete and printable images of the signed and dated search warrant, the application, and the affidavit to the applicant by secure fax; or~~

~~3. by signing the search warrant, either electronically or in writing, indicating the date and time of issuance on the search warrant, and sending complete and printable images of the signed and dated search warrant, the application, and the affidavit to the applicant by secure electronic mail.~~

~~(v) The judge shall file a copy of the signed and dated search warrant, the application, and the affidavit with the court.~~

~~(vi) 1. An **IF APPROVED IN WRITING BY A POLICE SUPERVISOR AND THE STATE'S ATTORNEY**, an application for a search warrant may contain a request that the search warrant authorize the executing law enforcement officer to enter the building, apartment, premises, place, or thing to be searched without giving notice of the officer's authority or purpose **BE A NO-KNOCK SEARCH WARRANT**, on the ~~[grounds]~~ **GROUND** that there is ~~[reasonable suspicion to believe]~~ **CLEAR AND CONVINCING EVIDENCE** that, without the authorization~~]:~~~~

~~1. the property subject to seizure may be destroyed, disposed of, or secreted; or~~

~~2.] the life or safety of the executing officer or another person may be endangered.~~

~~2. **AN APPLICATION FOR A NO-KNOCK SEARCH WARRANT UNDER THIS SUBPARAGRAPH SHALL CONTAIN:**~~

~~**A. A DESCRIPTION OF THE CLEAR AND CONVINCING EVIDENCE IN SUPPORT OF THE APPLICATION;**~~

~~**B. AN EXPLANATION OF THE INVESTIGATIVE ACTIVITIES THAT HAVE BEEN UNDERTAKEN AND THE INFORMATION THAT HAS BEEN GATHERED TO SUPPORT THE REQUEST FOR A NO-KNOCK SEARCH WARRANT;**~~

~~**C. AN EXPLANATION OF WHY THE AFFIANT IS UNABLE TO DETAIN THE SUSPECT OR SEARCH THE PREMISES USING OTHER, LESS INVASIVE METHODS;**~~

~~D. ACKNOWLEDGMENT THAT ANY POLICE OFFICERS WHO WILL EXECUTE THE SEARCH WARRANT HAVE SUCCESSFULLY COMPLETED THE SAME TRAINING IN BREACH AND CALL OUT ENTRY PROCEDURES AS SWAT TEAM MEMBERS;~~

~~E. A STATEMENT AS TO WHETHER THE SEARCH WARRANT CAN EFFECTIVELY BE EXECUTED DURING DAYLIGHT HOURS AND, IF NOT, WHAT FACTS OR CIRCUMSTANCES PRECLUDE EFFECTIVE EXECUTION IN DAYLIGHT HOURS; AND~~

~~F. A LIST OF ANY ADDITIONAL OCCUPANTS OF THE PREMISES BY AGE AND GENDER, AS WELL AS AN INDICATION AS TO WHETHER ANY INDIVIDUALS WITH COGNITIVE OR PHYSICAL DISABILITIES OR PETS RESIDE AT THE PREMISES, IF KNOWN.~~

~~(3) (4) The search warrant shall:~~

~~(i) be directed to a duly constituted police officer, the State Fire Marshal, or a full-time investigative and inspection assistant of the Office of the State Fire Marshal and authorize the police officer, the State Fire Marshal, or a full-time investigative and inspection assistant of the Office of the State Fire Marshal to search the suspected person, building, apartment, premises, place, or thing and to seize any property found subject to seizure under the criminal laws of the State;~~

~~(ii) name or describe, with reasonable particularity:~~

~~1. the person, building, apartment, premises, place, or thing to be searched;~~

~~2. the grounds for the search; and~~

~~3. the name of the applicant on whose application the search warrant was issued; and~~

~~(iii) if warranted by application as described in paragraph (2) (3) of this subsection, authorize the executing law enforcement officer to enter the building, apartment, premises, place, or thing to be searched without giving notice of the officer's authority or purpose.~~

~~(4) (5) (i) The search and seizure under the authority of a search warrant shall be made within [15] 7 calendar days after the day that the search warrant is issued.~~

~~(ii) After the expiration of the [15-day] 7-DAY period, the search warrant is void.~~

~~[(5)](6) The executing law enforcement officer shall give a copy of the search warrant, the application, and the affidavit to an authorized occupant of the premises searched or leave a copy of the search warrant, the application, and the affidavit at the premises searched.~~

~~[(6)](7) (i) The executing law enforcement officer shall prepare a detailed search warrant return which shall include the date and time of the execution of the search warrant.~~

~~(ii) The executing law enforcement officer shall:~~

~~1. give a copy of the search warrant return to an authorized occupant of the premises searched or leave a copy of the return at the premises searched; and~~

~~2. file a copy of the search warrant return with the court in person, by secure fax, or by secure electronic mail.~~

~~(7)(8) (I) IN THIS PARAGRAPH, “EXIGENT CIRCUMSTANCES” RETAINS ITS JUDICIALLY DETERMINED MEANING.~~

~~(II) A WARRANT TO SEARCH A RESIDENCE SHALL BE EXECUTED BETWEEN 8:00 A.M. AND 7:00 P.M., ABSENT EXIGENT CIRCUMSTANCES.~~

~~(III) WHILE EXECUTING A SEARCH WARRANT, A POLICE OFFICER SHALL BE CLEARLY RECOGNIZABLE AND IDENTIFIABLE AS A POLICE OFFICER, WEARING A UNIFORM, BADGE, AND TAG BEARING THE NAME AND IDENTIFICATION NUMBER OF THE POLICE OFFICER.~~

~~(IV) A POLICE OFFICER EXECUTING A SEARCH WARRANT SHALL USE A BODY CAMERA DURING THE COURSE OF THE SEARCH IN ACCORDANCE WITH THE POLICIES ESTABLISHED BY THE POLICE OFFICER’S LAW ENFORCEMENT AGENCY.~~

~~(V) UNLESS EXECUTING A NO-KNOCK SEARCH WARRANT, A POLICE OFFICER SHALL ALLOW A MINIMUM OF 30 SECONDS FOR THE OCCUPANTS OF A RESIDENCE TO RESPOND AND OPEN THE DOOR BEFORE THE POLICE OFFICER ATTEMPTS TO ENTER THE RESIDENCE, ABSENT EXIGENT CIRCUMSTANCES.~~

~~(VI) A POLICE OFFICER MAY NOT USE FLASH BANG, STUN, DISTRACTION, OR OTHER SIMILAR MILITARY STYLE DEVICES WHEN EXECUTING A SEARCH WARRANT, ABSENT EXIGENT CIRCUMSTANCES.~~

2-109.

(A) AT THE COMMENCEMENT OF A TRAFFIC STOP OR OTHER STOP, ABSENT EXIGENT CIRCUMSTANCES, A POLICE OFFICER SHALL:

(1) DISPLAY PROPER IDENTIFICATION TO THE STOPPED INDIVIDUAL;
AND

(2) PROVIDE THE FOLLOWING INFORMATION TO THE STOPPED INDIVIDUAL:

(I) THE OFFICER'S NAME;

(II) THE OFFICER'S ~~BADGE NUMBER~~ IDENTIFICATION NUMBER ISSUED BY THE LAW ENFORCEMENT AGENCY THE OFFICER IS REPRESENTING;

(III) THE NAME OF THE LAW ENFORCEMENT AGENCY THE POLICE OFFICER IS REPRESENTING; AND

(IV) THE REASON FOR THE TRAFFIC STOP OR OTHER STOP.

(B) A POLICE OFFICER'S FAILURE TO COMPLY WITH SUBSECTION (A) OF THIS SECTION:

(1) MAY BE GROUNDS FOR ADMINISTRATIVE DISCIPLINARY ACTION AGAINST THE OFFICER; AND

(2) MAY NOT SERVE AS THE BASIS FOR THE EXCLUSION OF EVIDENCE UNDER THE EXCLUSIONARY RULE.

(C) A POLICE OFFICER MAY NOT PROHIBIT OR PREVENT A CITIZEN FROM RECORDING THE POLICE OFFICER'S ACTIONS IF THE CITIZEN IS OTHERWISE ACTING LAWFULLY AND SAFELY.

Article – Education

~~15-106.11.~~

~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:~~

~~(2) "POLICE OFFICER" HAS THE MEANING STATED IN § 3-201 OF THE PUBLIC SAFETY ARTICLE.~~

~~(3) "TUITION" MEANS THE CHARGES IMPOSED BY AN INSTITUTION OF HIGHER EDUCATION FOR ALL CREDIT BEARING COURSES REQUIRED AS A CONDITION OF ENROLLMENT AT THE INSTITUTION.~~

~~(B) AN INDIVIDUAL ATTENDING A PUBLIC INSTITUTION OF HIGHER EDUCATION IS EXEMPT FROM PAYING TUITION IF THE INDIVIDUAL:~~

~~(1) IS ENROLLED IN A 4-YEAR DEGREE PROGRAM IN CRIMINAL LAW, CRIMINOLOGY, OR CRIMINAL JUSTICE;~~

~~(2) IS ELIGIBLE FOR IN-STATE TUITION; AND~~

~~(3) INTENDS TO BECOME A POLICE OFFICER AFTER GRADUATION.~~

~~(C) AN INDIVIDUAL WHO HAS RECEIVED AN EXEMPTION FROM TUITION PAYMENT UNDER SUBSECTION (B) OF THIS SECTION SHALL PAY TO THE INSTITUTION THE TOTAL VALUE OF THE TUITION EXEMPTION RECEIVED IF THE INDIVIDUAL FAILS TO:~~

~~(1) EARN A 4-YEAR DEGREE IN CRIMINAL LAW, CRIMINOLOGY, OR CRIMINAL JUSTICE WITHIN 7 YEARS AFTER STARTING THE PROGRAM; AND~~

~~(2) WORK AS A POLICE OFFICER FOR AT LEAST 5 YEARS DURING THE 8-YEAR PERIOD AFTER GRADUATION.~~

~~(D) THE MARYLAND HIGHER EDUCATION COMMISSION SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.~~

18-101.

- (a) In this title the following words have the meanings indicated.
- (b) "Commission" means the Maryland Higher Education Commission.
- (c) "Office" means the Office of Student Financial Assistance.
- (d) "Secretary" means the Secretary of Higher Education.

SUBTITLE 37. MARYLAND LOAN ASSISTANCE REPAYMENT PROGRAM FOR POLICE OFFICERS.

18-3701.

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

(B) “ELIGIBLE EMPLOYMENT” MEANS TO WORK AS A POLICE OFFICER IN THE STATE FOR AT LEAST 2 YEARS.

(C) “HIGHER EDUCATION LOAN” MEANS A LOAN THAT IS OBTAINED FOR TUITION FOR UNDERGRADUATE STUDY LEADING TO A DEGREE IN CRIMINAL LAW, CRIMINOLOGY, OR CRIMINAL JUSTICE.

(D) “POLICE OFFICER” HAS THE MEANING STATED IN § 3-201 OF THE PUBLIC SAFETY ARTICLE.

(E) “PROGRAM” MEANS THE MARYLAND LOAN ASSISTANCE REPAYMENT PROGRAM FOR POLICE OFFICERS.

18-3702.

(A) THERE IS A MARYLAND LOAN ASSISTANCE REPAYMENT PROGRAM FOR POLICE OFFICERS IN THE STATE.

(B) THE OFFICE SHALL DISTRIBUTE FUNDS FROM THE PROGRAM TO ASSIST IN THE REPAYMENT OF A HIGHER EDUCATION LOAN OWED BY A POLICE OFFICER WHO:

(1) RECEIVES A GRADUATE, PROFESSIONAL, OR UNDERGRADUATE DEGREE FROM A PUBLIC COLLEGE OR UNIVERSITY IN THE STATE;

(2) OBTAINS ELIGIBLE EMPLOYMENT; AND

(3) SATISFIES ANY OTHER CRITERIA ESTABLISHED BY THE OFFICE.

18-3703.

(A) THE OFFICE SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

(B) THE REGULATIONS SHALL INCLUDE A LIMIT ON THE TOTAL AMOUNT OF ASSISTANCE PROVIDED BY THE OFFICE IN REPAYING THE LOAN OF AN ELIGIBLE INDIVIDUAL, BASED ON THE INDIVIDUAL’S TOTAL INCOME AND OUTSTANDING HIGHER EDUCATION LOAN BALANCE.

18-3704.

THE GOVERNOR SHALL INCLUDE AN ANNUAL APPROPRIATION OF AT LEAST \$1,500,000 IN THE STATE BUDGET FOR THE PROGRAM.

18-3705.

SUBJECT TO § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE OFFICE SHALL REPORT TO THE GENERAL ASSEMBLY BY JANUARY 1 EACH YEAR ON THE IMPLEMENTATION OF THE PROGRAM.

SUBTITLE 38. MARYLAND POLICE OFFICERS SCHOLARSHIP PROGRAM.18-3801.

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

(B) "ELIGIBLE INSTITUTION" MEANS A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION IN THE STATE.

(C) "POLICE OFFICER" HAS THE MEANING STATED IN § 3-201 OF THE PUBLIC SAFETY ARTICLE.

(D) "SERVICE OBLIGATION" MEANS TO WORK AS A POLICE OFFICER IN THE STATE NOT LESS THAN 5 YEARS DURING THE 8-YEAR PERIOD AFTER GRADUATION.

18-3802.

(A) THERE IS A MARYLAND POLICE OFFICERS SCHOLARSHIP PROGRAM.

(B) THE PURPOSE OF THE PROGRAM IS TO PROVIDE TUITION ASSISTANCE FOR STUDENTS:

(1) ATTENDING A ~~4-YEAR~~ DEGREE PROGRAM ~~IN CRIMINAL LAW, CRIMINOLOGY, OR CRIMINAL JUSTICE~~ THAT WOULD FURTHER THE STUDENT'S CAREER IN LAW ENFORCEMENT AT AN ELIGIBLE INSTITUTION WITH THE INTENT TO BE A POLICE OFFICER AFTER GRADUATION; OR

(2) WHO ARE CURRENTLY POLICE OFFICERS ATTENDING A ~~4-YEAR~~ DEGREE PROGRAM ~~IN CRIMINAL LAW, CRIMINOLOGY, OR CRIMINAL JUSTICE~~ THAT WOULD FURTHER THE POLICE OFFICER'S CAREER IN LAW ENFORCEMENT AT AN ELIGIBLE INSTITUTION.

(C) THE OFFICE SHALL PUBLICIZE THE AVAILABILITY OF THE MARYLAND POLICE OFFICERS SCHOLARSHIP.

18-3803.

(A) THE OFFICE SHALL ANNUALLY SELECT ELIGIBLE STUDENTS AND OFFER A SCHOLARSHIP TO EACH STUDENT SELECTED TO BE USED AT AN ELIGIBLE INSTITUTION OF THE STUDENT'S CHOICE.

(B) A RECIPIENT OF THE MARYLAND POLICE OFFICERS SCHOLARSHIP SHALL:

(1) BE A MARYLAND RESIDENT OR HAVE GRADUATED FROM A MARYLAND HIGH SCHOOL;

(2) BE ACCEPTED FOR ADMISSION OR CURRENTLY ENROLLED AT AN ELIGIBLE INSTITUTION AS A FULL-TIME OR PART-TIME UNDERGRADUATE OR GRADUATE STUDENT PURSUING A COURSE OF STUDY OR PROGRAM ~~IN CRIMINAL LAW, CRIMINOLOGY, OR CRIMINAL JUSTICE~~ THAT WOULD FURTHER THE RECIPIENT'S CAREER IN LAW ENFORCEMENT;

(3) SIGN A LETTER OF INTENT TO PERFORM THE SERVICE OBLIGATION ON COMPLETION OF THE RECIPIENT'S REQUIRED STUDIES; AND

(4) SATISFY ANY ADDITIONAL CRITERIA THE COMMISSION MAY ESTABLISH.

(C) A CURRENT POLICE OFFICER SHALL BE ELIGIBLE FOR A MARYLAND POLICE OFFICERS SCHOLARSHIP IF THEY MEET THE ELIGIBILITY CRITERIA UNDER SUBSECTION (B) OF THIS SECTION.

18-3804.

THE RECIPIENT OF A MARYLAND POLICE OFFICERS SCHOLARSHIP SHALL REPAY THE COMMISSION THE FUNDS RECEIVED AS SET FORTH IN § 18-112 OF THIS TITLE IF THE RECIPIENT DOES NOT:

(1) SATISFY THE DEGREE REQUIREMENTS OF THE ELIGIBLE COURSE OF STUDY OR PROGRAM OR FULFILL OTHER REQUIREMENTS AS PROVIDED IN THIS SUBTITLE; OR

(2) PERFORM THE SERVICE OBLIGATION TO WORK AS A POLICE OFFICER FOR AT LEAST 5 YEARS DURING THE 8-YEAR PERIOD AFTER GRADUATION.

18-3805.

THE ANNUAL SCHOLARSHIP AWARD SHALL BE 50% OF THE EQUIVALENT ANNUAL TUITION AND MANDATORY FEES OF A RESIDENT UNDERGRADUATE STUDENT AT THE ELIGIBLE INSTITUTION.

18-3806.

THE GOVERNOR SHALL ANNUALLY INCLUDE IN THE BUDGET BILL AN APPROPRIATION OF AT LEAST \$8,500,000 TO THE COMMISSION TO AWARD SCHOLARSHIPS UNDER THIS SUBTITLE, AND THE COMMISSION SHALL USE:

(1) \$6,000,000 FOR SCHOLARSHIPS TO STUDENTS INTENDING TO BECOME POLICE OFFICERS AFTER GRADUATION; AND

(2) \$2,500,000 FOR SCHOLARSHIPS FOR EXISTING POLICE OFFICERS TO ATTEND AN ELIGIBLE INSTITUTION AND REMAIN A POLICE OFFICER AFTER GRADUATION.

18-3807.

THE OFFICE SHALL:

(1) PUBLICIZE THE AVAILABILITY OF MARYLAND POLICE OFFICERS SCHOLARSHIPS; AND

(2) TO THE EXTENT PRACTICABLE, AWARD SCHOLARSHIPS UNDER THIS SUBTITLE IN A MANNER THAT REFLECTS ETHNIC, GENDER, RACIAL, AND GEOGRAPHIC DIVERSITY.

Article – Public Safety

~~3-523.~~

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “EMPLOYEE ASSISTANCE PROGRAM” MEANS A WORK-BASED PROGRAM OFFERED TO ALL POLICE OFFICERS THAT PROVIDES ACCESS TO VOLUNTARY AND CONFIDENTIAL SERVICES TO ADDRESS THE MENTAL HEALTH ISSUES OF A POLICE OFFICER STEMMING FROM PERSONAL AND WORK-RELATED CONCERNS, INCLUDING STRESS, FINANCIAL ISSUES, LEGAL ISSUES, FAMILY PROBLEMS, OFFICE CONFLICTS, AND ALCOHOL AND SUBSTANCE ABUSE DISORDERS.

(3) “LAW ENFORCEMENT AGENCY” HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.

~~(4) “POLICE OFFICER” HAS THE MEANING STATED IN § 3-201 OF THIS TITLE;~~

~~(B) EACH LAW ENFORCEMENT AGENCY SHALL PROVIDE ACCESS TO AN EMPLOYEE ASSISTANCE PROGRAM OR A MENTAL HEALTH PROGRAM FOR ALL POLICE OFFICERS THAT THE LAW ENFORCEMENT AGENCY EMPLOYS;~~

~~(C) THE EMPLOYEE ASSISTANCE PROGRAM REQUIRED BY THIS SECTION SHALL PROVIDE POLICE OFFICERS ACCESS TO CONFIDENTIAL MENTAL HEALTH SERVICES, INCLUDING:~~

- ~~(1) COUNSELING SERVICES;~~
- ~~(2) CRISIS COUNSELING;~~
- ~~(3) STRESS MANAGEMENT COUNSELING;~~
- ~~(4) RESILIENCY SESSIONS; AND~~
- ~~(5) PEER SUPPORT SERVICES FOR POLICE OFFICERS;~~

~~(D) IN ADDITION TO THE REQUIREMENTS OF § 3-516 OF THIS SUBTITLE, AS PART OF THE EMPLOYEE ASSISTANCE PROGRAM REQUIRED BY THIS SECTION, EACH LAW ENFORCEMENT AGENCY SHALL PROVIDE TO ALL POLICE OFFICERS THE AGENCY EMPLOYS A VOLUNTARY MENTAL HEALTH CONSULTATION OR COUNSELING SERVICES BEFORE THE POLICE OFFICER RETURNS TO FULL DUTY FOLLOWING ANY INCIDENT INVOLVING:~~

- ~~(1) A SERIOUS INJURY TO THE POLICE OFFICER;~~
- ~~(2) AN OFFICER INVOLVED SHOOTING;~~
- ~~(3) AN ACCIDENT RESULTING IN A FATALITY; OR~~
- ~~(4) ANY USE OF FORCE RESULTING IN A FATALITY OR SERIOUS INJURY;~~

~~(E) THE EMPLOYEE ASSISTANCE PROGRAM REQUIRED BY THIS SECTION SHALL INCLUDE A COMPONENT DESIGNED TO PROTECT THE MENTAL HEALTH OF POLICE OFFICERS DURING PERIODS OF PUBLIC DEMONSTRATIONS AND UNREST;~~

~~(F) EACH LAW ENFORCEMENT AGENCY SHALL DEVELOP A POLICY TO PROVIDE ACCESS TO THE SERVICES REQUIRED BY THIS SECTION AT MINIMAL COST TO A POLICE OFFICER.~~

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

Article – Courts and Judicial Proceedings

5-303.

(a) (1) [Subject to paragraph (2)] EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) of this subsection, the liability of a local government may not exceed \$400,000 per an individual claim, and \$800,000 per total claims that arise from the same occurrence for damages resulting from tortious acts or omissions, or liability arising under subsection (b) of this section and indemnification under subsection (c) of this section.

(2) The limits on liability provided under paragraph (1) of this subsection do not include interest accrued on a judgment.

(3) IF THE LIABILITY OF A LOCAL GOVERNMENT ARISES FROM INTENTIONAL TORTIOUS ACTS OR OMISSIONS OR A VIOLATION OF A CONSTITUTIONAL RIGHT COMMITTED BY A LAW ENFORCEMENT OFFICER, THE FOLLOWING LIMITS ON LIABILITY APPLY:

(I) 1. SUBJECT TO ~~ITEM 2 OF THIS ITEM AND~~ ITEM (II) OF THIS PARAGRAPH, THE COMBINED AWARD FOR BOTH ECONOMIC AND NONECONOMIC DAMAGES MAY NOT EXCEED A TOTAL OF \$890,000 FOR ALL CLAIMS ARISING OUT OF THE SAME INCIDENT OR OCCURRENCE, REGARDLESS OF THE NUMBER OF CLAIMANTS OR BENEFICIARIES WHO SHARE IN THE AWARD; AND

2. A. THE LIMITATION ON NONECONOMIC DAMAGES PROVIDED UNDER ITEM 1 OF THIS ITEM SHALL INCREASE BY \$15,000 ON OCTOBER 1 EACH YEAR BEGINNING OCTOBER 1, 2022; AND

B. THE INCREASED AMOUNT SHALL APPLY TO CAUSES OF ACTION ARISING BETWEEN OCTOBER 1 OF THAT YEAR AND SEPTEMBER 30 OF THE FOLLOWING YEAR, INCLUSIVE; AND

(H) 1. THE LIMITATION ESTABLISHED UNDER ITEM (I) OF THIS PARAGRAPH SHALL APPLY IN A PERSONAL INJURY ACTION TO EACH DIRECT VICTIM OF TORTIOUS CONDUCT AND ALL PERSONS WHO CLAIM INJURY BY OR THROUGH THAT VICTIM; AND

(II) ~~2.~~ IN A WRONGFUL DEATH ACTION IN WHICH THERE ARE TWO OR MORE CLAIMANTS OR BENEFICIARIES, AN AWARD FOR NONECONOMIC DAMAGES MAY NOT EXCEED 150% OF THE LIMITATION ESTABLISHED UNDER ITEM (I) OF THIS PARAGRAPH, REGARDLESS OF THE NUMBER OF CLAIMANTS OR BENEFICIARIES WHO SHARE IN THE AWARD.

Article – State Government

12–104.

(a) (1) Subject to the exclusions and limitations in this subtitle and notwithstanding any other provision of law, the immunity of the State and of its units is waived as to a tort action, in a court of the State, to the extent provided under paragraph (2) of this subsection.

(2) (I) [The] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE liability of the State and its units may not exceed \$400,000 to a single claimant for injuries arising from a single incident or occurrence.

(II) IF LIABILITY OF THE STATE OR ITS UNITS ARISES FROM INTENTIONAL TORTIOUS ACTS OR OMISSIONS OR A VIOLATION OF A CONSTITUTIONAL RIGHT COMMITTED BY A LAW ENFORCEMENT OFFICER, THE FOLLOWING LIMITS ON LIABILITY SHALL APPLY:

1. ~~A.~~ SUBJECT TO ~~ITEM B OF THIS ITEM AND~~ ITEM 2 OF THIS SUBPARAGRAPH, THE COMBINED AWARD FOR BOTH ECONOMIC AND NONECONOMIC DAMAGES ~~SHALL~~ MAY NOT EXCEED A TOTAL OF \$890,000 FOR ALL CLAIMS ARISING OUT OF THE SAME INCIDENT OR OCCURRENCE, REGARDLESS OF THE NUMBER OF CLAIMANTS OR BENEFICIARIES WHO SHARE IN THE AWARD; AND

~~B.~~ THE LIMITATION ON NONECONOMIC DAMAGES PROVIDED UNDER ITEM A OF THIS ITEM SHALL INCREASE BY \$15,000 ON OCTOBER 1 EACH YEAR BEGINNING OCTOBER 1, 2022; AND

~~C.~~ THE INCREASED AMOUNT SHALL APPLY TO CAUSES OF ACTION ARISING BETWEEN OCTOBER 1 OF THAT YEAR AND SEPTEMBER 30 OF THE FOLLOWING YEAR, INCLUSIVE; AND

~~2. A.~~ THE LIMITATION ESTABLISHED UNDER ITEM 1 OF THIS SUBPARAGRAPH SHALL APPLY IN A PERSONAL INJURY ACTION TO EACH DIRECT VICTIM OF TORTIOUS CONDUCT AND ALL PERSONS WHO CLAIM INJURY BY OR THROUGH THAT VICTIM; AND

~~B.~~ 2. IN A WRONGFUL DEATH ACTION IN WHICH THERE ARE TWO OR MORE CLAIMANTS OR BENEFICIARIES, AN AWARD FOR NONECONOMIC

DAMAGES MAY NOT EXCEED 150% OF THE LIMITATION ESTABLISHED UNDER ITEM 1 OF THIS ITEM, REGARDLESS OF THE NUMBER OF CLAIMANTS OR BENEFICIARIES WHO SHARE IN THE AWARD.

SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article — General Provisions

4-101.

(a) In this title the following words have the meanings indicated:

(e) "Board" means the State Public Information Act Compliance Board.

(f) "POLICE OFFICER" HAS THE MEANING STATED IN § 3-201 OF THE PUBLIC SAFETY ARTICLE.

(i) (j) "Political subdivision" means:

- (1) a county;
- (2) a municipal corporation;
- (3) an unincorporated town;
- (4) a school district; or
- (5) a special district.

(i) (k) (1) "Public record" means the original or any copy of any documentary material that:

(i) is made by a unit or an instrumentality of the State or of a political subdivision or received by the unit or instrumentality in connection with the transaction of public business; and

(ii) is in any form, including:

- 1. a card;
- 2. a computerized record;
- 3. correspondence;
- 4. a drawing;

- ~~5. film or microfilm;~~
- ~~6. a form;~~
- ~~7. a map;~~
- ~~8. a photograph or photostat;~~
- ~~9. a recording; or~~
- ~~10. a tape.~~

~~(2) "Public record" includes a document that lists the salary of an employee of a unit or an instrumentality of the State or of a political subdivision.~~

~~(3) "Public record" does not include a digital photographic image or signature of an individual, or the actual stored data of the image or signature, recorded by the Motor Vehicle Administration.~~

~~(L) "TECHNICAL INFRACTION" MEANS A MINOR RULE VIOLATION BY AN INDIVIDUAL SOLELY RELATED TO THE ENFORCEMENT OF ADMINISTRATIVE RULES THAT:~~

~~(1) DOES NOT INVOLVE AN INTERACTION BETWEEN A MEMBER OF THE PUBLIC AND THE INDIVIDUAL;~~

~~(2) DOES NOT RELATE TO THE INDIVIDUAL'S INVESTIGATIVE, ENFORCEMENT, TRAINING, SUPERVISION, OR REPORTING RESPONSIBILITIES; AND~~

~~(3) IS NOT OTHERWISE A MATTER OF PUBLIC CONCERN.~~

~~4-1A-04.~~

~~(a) The Board shall:~~

~~(1) receive, review, and, subject to § 4-1A-07 of this subtitle, resolve complaints filed under § 4-1A-05 of this subtitle from any applicant or the applicant's designated representative alleging that a custodian charged an unreasonable fee under § 4-206 of this title;~~

~~(2) issue a written opinion as to whether a violation has occurred; and~~

~~(3) if the Board finds that the custodian charged an unreasonable fee under § 4-206 of this title, order the custodian to reduce the fee to an amount determined by the Board to be reasonable and refund the difference.~~

~~(B) THE BOARD SHALL:~~

~~(1) RECEIVE, REVIEW, AND RESOLVE COMPLAINTS FILED FROM ANY CUSTODIAN ALLEGING THAT AN APPLICANT'S REQUEST OR PATTERN OF REQUESTS IS FRIVOLOUS, VEXATIOUS, OR IN BAD FAITH;~~

~~(2) ISSUE A WRITTEN DECISION AS TO WHETHER THE APPLICANT'S REQUEST OR PATTERN OF REQUESTS IS FRIVOLOUS, VEXATIOUS, OR IN BAD FAITH; AND~~

~~(3) IF THE BOARD FINDS THAT THE APPLICANT'S REQUEST OR PATTERN OF REQUESTS IS FRIVOLOUS, VEXATIOUS, OR IN BAD FAITH, BASED ON THE TOTALITY OF THE CIRCUMSTANCES INCLUDING THE NUMBER AND SCOPE OF THE APPLICANT'S PAST REQUESTS AND THE CUSTODIAN'S RESPONSES TO PAST REQUESTS AND EFFORTS TO COOPERATE WITH THE APPLICANT, ISSUE AN ORDER AUTHORIZING THE CUSTODIAN TO:~~

~~(i) IGNORE THE REQUEST THAT IS THE SUBJECT OF THE CUSTODIAN'S COMPLAINT; OR~~

~~(ii) RESPOND TO A LESS BURDENSOME VERSION OF THE REQUEST WITHIN A REASONABLE TIME FRAME, AS DETERMINED BY THE BOARD.~~

~~(b)(C) The Board shall:~~

~~(1) study ongoing compliance with this title by custodians; and~~

~~(2) make recommendations to the General Assembly for improvements to this title.~~

~~(c)(D) (1) On or before October 1 of each year, the Board shall submit a report to the Governor and, subject to § 2-1257 of the State Government Article, the General Assembly.~~

~~(2) The report shall:~~

~~(i) describe the activities of the Board;~~

~~(ii) describe the opinions of the Board;~~

~~(iii) state the number and nature of complaints filed with the Board;~~

~~and~~

~~(iv) recommend any improvements to this title.~~

~~4-311.~~

~~(a) Subject to subsection (b) of this section, a custodian shall deny inspection of a personnel record of an individual, including an application, a performance rating, or scholastic achievement information.~~

~~(b) A custodian shall allow inspection by:~~

~~(1) the person in interest;~~

~~(2) an elected or appointed official who supervises the work of the individual; [or]~~

~~(3) an employee organization described in Title 6 of the Education Article of the portion of the personnel record that contains the individual's:~~

~~(i) home address;~~

~~(ii) home telephone number; and~~

~~(iii) personal cell phone number;~~

~~(4) THE UNITED STATES ATTORNEY;~~

~~(5) THE ATTORNEY GENERAL;~~

~~(6) THE STATE PROSECUTOR; OR~~

~~(7) A STATE'S ATTORNEY.~~

~~(c) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A RECORD RELATING TO AN ADMINISTRATIVE OR CRIMINAL INVESTIGATION OF MISCONDUCT BY A POLICE OFFICER, INCLUDING AN INTERNAL AFFAIRS INVESTIGATORY RECORD, A HEARING RECORD, AND RECORDS RELATING TO A DISCIPLINARY DECISION, IS NOT A PERSONNEL RECORD FOR PURPOSES OF THIS SECTION.~~

~~(2) A RECORD OF A TECHNICAL INFRACTION IS A PERSONNEL RECORD FOR THE PURPOSES OF THIS SECTION.~~

~~4-351.~~

~~(a) Subject to [subsection (b)] SUBSECTIONS (B), (C), AND (D) of this section, a custodian may deny inspection of:~~

~~(1) records of investigations conducted by the Attorney General, a State's Attorney, a municipal or county attorney, a police department, or a sheriff;~~

~~(2) an investigatory file compiled for any other law enforcement, judicial, correctional, or prosecution purpose; [or]~~

~~(3) records that contain intelligence information or security procedures of the Attorney General, a State's Attorney, a municipal or county attorney, a police department, a State or local correctional facility, or a sheriff; OR~~

~~(4) RECORDS, OTHER THAN A RECORD OF A TECHNICAL INFRACTION, RELATING TO AN ADMINISTRATIVE OR CRIMINAL INVESTIGATION OF MISCONDUCT BY A POLICE OFFICER, INCLUDING AN INTERNAL AFFAIRS INVESTIGATORY RECORD, A HEARING RECORD, AND RECORDS RELATING TO A DISCIPLINARY DECISION.~~

~~(b) A custodian may deny inspection by a person in interest only to the extent that the inspection would:~~

~~(1) interfere with a valid and proper law enforcement proceeding;~~

~~(2) deprive another person of a right to a fair trial or an impartial adjudication;~~

~~(3) constitute an unwarranted invasion of personal privacy;~~

~~(4) disclose the identity of a confidential source;~~

~~(5) disclose an investigative technique or procedure;~~

~~(6) prejudice an investigation; or~~

~~(7) endanger the life or physical safety of an individual.~~

~~(c) A CUSTODIAN SHALL ALLOW INSPECTION OF A RECORD DESCRIBED IN SUBSECTION (A)(4) OF THIS SECTION BY:~~

~~(1) THE UNITED STATES ATTORNEY;~~

~~(2) THE ATTORNEY GENERAL;~~

~~(3) THE STATE PROSECUTOR; OR~~

~~(4) A STATE'S ATTORNEY.~~

~~(D) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A CUSTODIAN SHALL DENY INSPECTION OF A RECORD DESCRIBED IN SUBSECTION (A)(4) OF THIS SECTION:~~

~~(1) IF THE RECORD RELATES TO AN ACTIVE INVESTIGATION; OR~~

~~(2) TO THE EXTENT THAT THE RECORD REFLECTS:~~

~~(I) MEDICAL INFORMATION;~~

~~(II) PERSONAL CONTACT INFORMATION OF THE PERSON IN INTEREST;~~

~~(III) INFORMATION RELATING TO THE FAMILY OF THE PERSON IN INTEREST; OR~~

~~(IV) WITNESS INFORMATION.~~

~~(E) A CUSTODIAN SHALL NOTIFY THE PERSON IN INTEREST OF A RECORD DESCRIBED IN SUBSECTION (A)(4) OF THIS SECTION WHEN THE RECORD IS INSPECTED, BUT MAY NOT DISCLOSE THE IDENTITY OF THE REQUESTOR TO THE PERSON IN INTEREST.~~

~~SECTION 6. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

Article – Public Safety

SUBTITLE 1. POLICE ACCOUNTABILITY AND DISCIPLINE.

3-101.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “ADMINISTRATIVELY CHARGED” MEANS THAT A POLICE OFFICER HAS BEEN FORMALLY ACCUSED OF MISCONDUCT IN AN ADMINISTRATIVE PROCEEDING.

(C) “DISCIPLINARY MATRIX” MEANS A WRITTEN, CONSISTENT, PROGRESSIVE, AND TRANSPARENT TOOL OR RUBRIC THAT PROVIDES RANGES OF DISCIPLINARY ACTIONS FOR DIFFERENT TYPES OF MISCONDUCT.

(D) “EXONERATED” MEANS THAT A POLICE OFFICER ACTED IN ACCORDANCE WITH THE LAW AND AGENCY POLICY.

~~(E)~~ “INDEPENDENT INVESTIGATIVE AGENCY” MEANS THE AGENCY ESTABLISHED UNDER § 3-102 OF THIS SUBTITLE.

~~(F)~~ (E) “LAW ENFORCEMENT AGENCY” HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.

~~(G)~~ (F) “NOT ADMINISTRATIVELY CHARGED” MEANS THAT A DETERMINATION HAS BEEN MADE NOT TO ADMINISTRATIVELY CHARGE A POLICE OFFICER IN CONNECTION WITH ALLEGED MISCONDUCT.

~~(H)~~ (G) “POLICE MISCONDUCT” MEANS A PATTERN, A PRACTICE, OR CONDUCT BY A POLICE OFFICER OR LAW ENFORCEMENT AGENCY THAT INCLUDES:

(1) DEPRIVING PERSONS OF RIGHTS PROTECTED BY THE CONSTITUTION OR LAWS OF THE STATE OR THE UNITED STATES;

(2) A VIOLATION OF A CRIMINAL STATUTE; AND

(3) A VIOLATION OF LAW ENFORCEMENT AGENCY STANDARDS AND POLICIES.

~~(I)~~ (H) “POLICE OFFICER” HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.

~~(J)~~ (I) “SERIOUS PHYSICAL INJURY” HAS THE MEANING STATED IN § 3-201 OF THE CRIMINAL LAW ARTICLE.

~~(K)~~ (J) “SUPERIOR GOVERNMENTAL AUTHORITY” MEANS THE GOVERNING BODY THAT OVERSEES A LAW ENFORCEMENT AGENCY.

~~(L)~~ (K) “UNFOUNDED” MEANS THAT THE ALLEGATIONS AGAINST A POLICE OFFICER ARE NOT SUPPORTED BY FACT.

3-102.

~~(A) THE INDEPENDENT INVESTIGATIVE AGENCY IS ESTABLISHED AS AN INDEPENDENT UNIT OF STATE GOVERNMENT FOR THE PURPOSE OF INVESTIGATING USE OF FORCE INCIDENTS INVOLVING POLICE OFFICERS.~~

~~(B) THE INDEPENDENT INVESTIGATIVE AGENCY MAY EMPLOY SWORN POLICE OFFICERS AND CIVILIANS TO CONDUCT ITS WORK.~~

~~(C) A SHOOTING INVOLVING A POLICE OFFICER OR ANOTHER INCIDENT INVOLVING THE USE OF PHYSICAL FORCE BY A POLICE OFFICER CAUSING DEATH OR~~

~~SERIOUS PHYSICAL INJURY SHALL BE INVESTIGATED BY THE INDEPENDENT INVESTIGATIVE AGENCY.~~

~~(D) A LAW ENFORCEMENT AGENCY SHALL:~~

~~(1) NOTIFY THE INDEPENDENT INVESTIGATIVE AGENCY OF ANY ALLEGED OR POTENTIAL SHOOTING INVOLVING A POLICE OFFICER OR ANOTHER INCIDENT INVOLVING THE USE OF PHYSICAL FORCE BY A POLICE OFFICER CAUSING DEATH OR SERIOUS PHYSICAL INJURY AS SOON AS THE LAW ENFORCEMENT AGENCY BECOMES AWARE OF THE INCIDENT; AND~~

~~(2) COOPERATE WITH THE INDEPENDENT INVESTIGATIVE AGENCY IN THE INVESTIGATION OF THE INCIDENT.~~

~~(E) (1) ON COMPLETION OF AN INVESTIGATION UNDER THIS SECTION, THE INDEPENDENT INVESTIGATIVE AGENCY SHALL SUBMIT A REPORT CONTAINING THE FINDINGS OF THE INVESTIGATION TO THE STATE'S ATTORNEY WITH JURISDICTION OVER THE MATTER.~~

~~(2) AFTER THE STATE'S ATTORNEY MAKES A DECISION WHETHER OR NOT TO PROSECUTE, THE INDEPENDENT INVESTIGATIVE AGENCY SHALL PUBLICIZE THE REPORT.~~

~~(F) THE GOVERNOR ANNUALLY SHALL INCLUDE FUNDING IN THE STATE BUDGET SUFFICIENT TO PROVIDE FOR THE FULL AND PROPER OPERATION OF THE INDEPENDENT INVESTIGATIVE AGENCY.~~

~~3-103.~~

~~(A) EACH COUNTY SHALL HAVE A POLICE ACCOUNTABILITY BOARD TO:~~

~~(1) HOLD QUARTERLY MEETINGS WITH HEADS OF LAW ENFORCEMENT AGENCIES AND OTHERWISE WORK WITH LAW ENFORCEMENT AGENCIES AND THE COUNTY GOVERNMENT TO IMPROVE MATTERS OF POLICING;~~

~~(2) APPOINT CIVILIAN MEMBERS TO CHARGING COMMITTEES AND TRIAL BOARDS;~~

~~(3) RECEIVE COMPLAINTS OF POLICE MISCONDUCT FILED BY MEMBERS OF THE PUBLIC; AND~~

~~(4) (I) ON A QUARTERLY BASIS, REVIEW OUTCOMES OF DISCIPLINARY MATTERS CONSIDERED BY CHARGING COMMITTEES; AND~~

(II) ON OR BEFORE DECEMBER 31 EACH YEAR, SUBMIT A REPORT TO THE GOVERNING BODY OF THE COUNTY THAT:

1. IDENTIFIES ANY TRENDS IN THE DISCIPLINARY PROCESS OF POLICE OFFICERS IN THE COUNTY; AND

2. MAKES RECOMMENDATIONS ON CHANGES TO POLICY THAT WOULD IMPROVE POLICE ACCOUNTABILITY IN THE COUNTY.

(B) (1) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, ~~THE MEMBERSHIP OF A POLICE ACCOUNTABILITY BOARD SHALL BE DETERMINED BY THE LOCAL LEGISLATIVE BODY~~ GOVERNING BODY SHALL:

1. ESTABLISH THE MEMBERSHIP OF A POLICE ACCOUNTABILITY BOARD;

2. ESTABLISH THE BUDGET AND STAFF FOR A POLICE ACCOUNTABILITY BOARD;

3. APPOINT A CHAIR OF THE POLICE ACCOUNTABILITY BOARD WHO HAS RELEVANT EXPERIENCE TO THE POSITION; AND

4. ESTABLISH THE PROCEDURES FOR RECORD KEEPING BY A POLICE ACCOUNTABILITY BOARD.

(II) AN ACTIVE POLICE OFFICER MAY NOT BE A MEMBER OF A POLICE ACCOUNTABILITY BOARD.

(2) TO THE EXTENT PRACTICABLE, THE MEMBERSHIP OF A POLICE ACCOUNTABILITY BOARD SHALL REFLECT THE RACIAL, GENDER, AND CULTURAL DIVERSITY OF THE COUNTY.

(C) (1) A COMPLAINT OF POLICE MISCONDUCT FILED WITH A POLICE ACCOUNTABILITY BOARD SHALL INCLUDE:

(I) THE NAME OF THE POLICE OFFICER ACCUSED OF MISCONDUCT;

(II) A DESCRIPTION OF THE FACTS ON WHICH THE COMPLAINT IS BASED; AND

(III) CONTACT INFORMATION OF THE COMPLAINANT OR A PERSON FILING ON BEHALF OF THE COMPLAINANT FOR INVESTIGATIVE FOLLOW-UP.

(2) A COMPLAINT NEED NOT:

~~**(I) INCLUDE IDENTIFYING INFORMATION OF THE COMPLAINANT IF THE COMPLAINANT WISHES TO REMAIN ANONYMOUS; OR**~~

~~**(II) BE NOTARIZED OR SWORN TO UNDER THE PENALTY OF PERJURY.**~~

(D) A COMPLAINT OF POLICE MISCONDUCT FILED WITH A POLICE ACCOUNTABILITY BOARD SHALL BE FORWARDED TO THE APPROPRIATE LAW ENFORCEMENT AGENCY WITHIN 3 DAYS AFTER RECEIPT BY THE BOARD.

~~**3-104. 3-103.**~~

(A) AN INDIVIDUAL MAY FILE A COMPLAINT OF POLICE MISCONDUCT WITH THE LAW ENFORCEMENT AGENCY THAT EMPLOYS THE POLICE OFFICER WHO IS THE SUBJECT OF THE COMPLAINT.

(B) (1) A COMPLAINT OF POLICE MISCONDUCT FILED WITH A LAW ENFORCEMENT AGENCY SHALL INCLUDE:

(I) THE NAME OF THE POLICE OFFICER ACCUSED OF MISCONDUCT;

(II) A DESCRIPTION OF THE FACTS ON WHICH THE COMPLAINT IS BASED; AND

(III) CONTACT INFORMATION OF THE COMPLAINANT OR A PERSON FILING ON BEHALF OF THE COMPLAINANT FOR INVESTIGATIVE FOLLOW-UP.

(2) A COMPLAINT NEED NOT:

~~**(I) INCLUDE IDENTIFYING INFORMATION OF THE COMPLAINANT IF THE COMPLAINANT WISHES TO REMAIN ANONYMOUS; OR**~~

~~**(II) BE NOTARIZED OR SWORN TO UNDER THE PENALTY OF PERJURY.**~~

~~**3-105. 3-104.**~~

(A) (1) EACH COUNTY SHALL HAVE ONE ADMINISTRATIVE CHARGING COMMITTEE TO SERVE COUNTYWIDE LAW ENFORCEMENT AGENCIES AND LOCAL LAW ENFORCEMENT AGENCIES WITHIN THE COUNTY.

(2) A COUNTY ADMINISTRATIVE CHARGING COMMITTEE SHALL BE COMPOSED OF:

(I) THE CHAIR OF THE COUNTY'S POLICE ACCOUNTABILITY BOARD, OR ANOTHER MEMBER OF THE ACCOUNTABILITY BOARD DESIGNATED BY THE CHAIR OF THE ACCOUNTABILITY BOARD;

~~(II) A DESIGNEE OF THE DISTRICT PUBLIC DEFENDER WHO IS:~~

~~1. A RESIDENT OF THE COUNTY;~~

~~2. NOT EMPLOYED BY THE OFFICE OF THE PUBLIC DEFENDER; AND~~

~~3. NOT CURRENTLY REPRESENTING A PARTY AS AN ATTORNEY IN A CRIMINAL MATTER PENDING IN A COURT IN THE COUNTY;~~

~~(III) A DESIGNEE OF THE STATE'S ATTORNEY FOR THE JURISDICTION WHERE THE ALLEGED MISCONDUCT OCCURRED WHO IS:~~

~~1. A RESIDENT OF THE COUNTY;~~

~~2. NOT EMPLOYED BY THE OFFICE OF THE STATE'S ATTORNEY; AND~~

~~3. NOT CURRENTLY REPRESENTING A PARTY AS AN ATTORNEY IN A CRIMINAL MATTER PENDING IN A COURT IN THE COUNTY;~~

~~(IV) (II) ONE CIVILIAN TWO CIVILIAN MEMBERS SELECTED BY THE COUNTY'S POLICE ACCOUNTABILITY BOARD; AND~~

~~(V) (III) THE LEAD ATTORNEY FOR THE SUPERIOR GOVERNMENTAL AUTHORITY OF THE COUNTY TWO CIVILIAN MEMBERS SELECTED BY THE CHIEF EXECUTIVE OFFICER OF THE COUNTY.~~

(B) (1) THERE SHALL BE AT LEAST ONE STATEWIDE ADMINISTRATIVE CHARGING COMMITTEE TO SERVE STATEWIDE AND BI-COUNTY LAW ENFORCEMENT AGENCIES.

(2) A STATEWIDE ADMINISTRATIVE CHARGING COMMITTEE SHALL BE COMPOSED OF:

~~(I) A DESIGNEE OF THE ATTORNEY GENERAL WHO IS NOT EMPLOYED BY THE OFFICE OF THE ATTORNEY GENERAL, THE OFFICE OF THE STATE PROSECUTOR, OR THE OFFICE OF THE UNITED STATES ATTORNEY;~~

~~(II) A DESIGNEE OF THE PUBLIC DEFENDER OF MARYLAND WHO IS NOT EMPLOYED BY THE OFFICE OF THE PUBLIC DEFENDER;~~

(I) THREE CIVILIAN MEMBERS APPOINTED BY THE GOVERNOR;

(II) ONE CIVILIAN MEMBER APPOINTED BY THE PRESIDENT OF THE SENATE; AND

(III) ONE CIVILIAN MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE.

~~(III) A DESIGNEE OF THE GOVERNOR'S LEGAL COUNSEL;~~

~~(IV) ONE CIVILIAN APPOINTED BY THE GOVERNOR; AND~~

~~(V) ONE CIVILIAN JOINTLY APPOINTED BY THE SPEAKER OF THE HOUSE AND THE PRESIDENT OF THE SENATE.~~

(C) BEFORE SERVING AS A MEMBER OF AN ADMINISTRATIVE CHARGING COMMITTEE, AN INDIVIDUAL SHALL RECEIVE TRAINING ON MATTERS RELATING TO POLICE PROCEDURES FROM THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION.

(D) ON COMPLETION OF AN INVESTIGATION OF A COMPLAINT MADE BY A MEMBER OF THE PUBLIC AGAINST A POLICE OFFICER, THE LAW ENFORCEMENT AGENCY SHALL FORWARD TO THE APPROPRIATE ADMINISTRATIVE CHARGING COMMITTEE THE INVESTIGATORY FILES FOR THE MATTER.

(E) AN ADMINISTRATIVE CHARGING COMMITTEE SHALL:

(1) REVIEW THE FINDINGS OF A LAW ENFORCEMENT AGENCY'S INVESTIGATION CONDUCTED AND FORWARDED IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION;

(2) MAKE A DETERMINATION THAT THE POLICE OFFICER WHO IS SUBJECT TO INVESTIGATION SHALL BE:

(I) ADMINISTRATIVELY CHARGED; OR

(II) NOT ADMINISTRATIVELY CHARGED;

(3) IF THE POLICE OFFICER IS CHARGED, RECOMMEND DISCIPLINE IN ACCORDANCE WITH THE LAW ENFORCEMENT AGENCY'S DISCIPLINARY MATRIX ESTABLISHED IN ACCORDANCE WITH ~~§ 3-106~~ 3-105 OF THIS SUBTITLE;

(4) REVIEW ANY BODY CAMERA FOOTAGE THAT MAY BE RELEVANT TO THE MATTERS COVERED IN THE COMPLAINT OF MISCONDUCT;

(5) AUTHORIZE A POLICE OFFICER CALLED TO APPEAR BEFORE AN ADMINISTRATIVE CHARGING COMMITTEE TO BE ACCOMPANIED BY A REPRESENTATIVE;

~~(4)~~ (6) ISSUE A WRITTEN OPINION THAT DESCRIBES IN DETAIL ITS FINDINGS, DETERMINATIONS, AND RECOMMENDATIONS; AND

~~(5)~~ (7) FORWARD THE WRITTEN OPINION TO THE CHIEF OF THE LAW ENFORCEMENT AGENCY, THE POLICE OFFICER, AND THE COMPLAINANT.

(F) IN EXECUTING ITS DUTIES IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION, AN ADMINISTRATIVE CHARGING COMMITTEE MAY:

(1) REQUEST INFORMATION OR ACTION FROM THE LAW ENFORCEMENT AGENCY THAT CONDUCTED THE INVESTIGATION, INCLUDING REQUIRING ADDITIONAL INVESTIGATION AND THE ISSUANCE OF SUBPOENAS;

(2) IF THE POLICE OFFICER IS NOT ADMINISTRATIVELY CHARGED, MAKE A DETERMINATION THAT:

(I) THE ALLEGATIONS AGAINST THE POLICE OFFICER ARE UNFOUNDED; OR

(II) THE POLICE OFFICER IS EXONERATED; AND

(3) RECORD, IN WRITING, A ANY FAILURE OF SUPERVISION THAT CAUSED OR CONTRIBUTED TO A POLICE OFFICER'S MISCONDUCT.

(G) AN ADMINISTRATIVE CHARGING COMMITTEE SHALL MEET ONCE PER MONTH ~~AND ADDITIONALLY~~ OR AS NEEDED.

(H) A MEMBER OF AN ADMINISTRATIVE CHARGING COMMITTEE SHALL MAINTAIN CONFIDENTIALITY RELATING TO A MATTER BEING CONSIDERED BY THE

ADMINISTRATIVE CHARGING COMMITTEE UNTIL FINAL DISPOSITION OF THE MATTER.

~~3-106.~~ 3-105.

(A) THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION SHALL DEVELOP AND ADOPT, BY REGULATION, A MODEL UNIFORM DISCIPLINARY MATRIX FOR USE BY EACH LAW ENFORCEMENT AGENCY IN THE STATE.

(B) EACH LAW ENFORCEMENT AGENCY SHALL ADOPT THE UNIFORM STATE DISCIPLINARY MATRIX.

(C) (1) WITHIN 15 DAYS AFTER AN ADMINISTRATIVE CHARGING COMMITTEE ISSUES AN ADMINISTRATIVE CHARGE AGAINST A POLICE OFFICER, THE CHIEF OF THE LAW ENFORCEMENT AGENCY SHALL OFFER DISCIPLINE TO THE POLICE OFFICER WHO HAS BEEN ADMINISTRATIVELY CHARGED IN ACCORDANCE WITH THE DISCIPLINARY MATRIX.

(2) THE CHIEF MAY OFFER THE SAME DISCIPLINE THAT WAS RECOMMENDED BY THE ADMINISTRATIVE CHARGING COMMITTEE OR A HIGHER DEGREE OF DISCIPLINE WITHIN THE APPLICABLE RANGE OF THE DISCIPLINARY MATRIX, BUT MAY NOT DEVIATE BELOW THE DISCIPLINE RECOMMENDED BY THE ADMINISTRATIVE CHARGING COMMITTEE.

(3) IF THE POLICE OFFICER ACCEPTS THE CHIEF'S OFFER OF DISCIPLINE, THEN THE OFFERED DISCIPLINE SHALL BE IMPOSED.

(4) IF THE POLICE OFFICER DOES NOT ACCEPT THE CHIEF'S OFFER OF DISCIPLINE, THEN THE MATTER SHALL BE REFERRED TO A TRIAL BOARD.

(5) AT LEAST 30 DAYS BEFORE A TRIAL BOARD PROCEEDING BEGINS, THE POLICE OFFICER SHALL BE:

(I) PROVIDED A COPY OF THE INVESTIGATORY RECORD;

(II) NOTIFIED OF THE CHARGES AGAINST THE POLICE OFFICER;

AND

(III) NOTIFIED OF THE DISCIPLINARY ACTION BEING RECOMMENDED.

~~3-107.~~ 3-106.

(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EACH LAW ENFORCEMENT AGENCY SHALL ESTABLISH A TRIAL BOARD PROCESS IN ACCORDANCE WITH THIS SECTION TO ADJUDICATE MATTERS FOR WHICH A POLICE OFFICER IS SUBJECT TO DISCIPLINE.

(2) A SMALL LAW ENFORCEMENT AGENCY MAY USE THE TRIAL BOARD PROCESS OF ANOTHER LAW ENFORCEMENT AGENCY BY MUTUAL AGREEMENT.

(B) A TRIAL BOARD SHALL BE COMPOSED OF:

(1) AN ACTIVELY SERVING OR RETIRED ADMINISTRATIVE LAW JUDGE OR A RETIRED JUDGE OF THE DISTRICT COURT OR A CIRCUIT COURT, APPOINTED BY THE CHIEF EXECUTIVE OFFICER OF THE COUNTY;

(2) A CIVILIAN WHO IS NOT A MEMBER OF AN ADMINISTRATIVE CHARGING COMMITTEE, APPOINTED BY THE COUNTY'S POLICE ACCOUNTABILITY BOARD; AND

(3) A POLICE OFFICER OF EQUAL RANK TO THE POLICE OFFICER WHO IS ACCUSED OF MISCONDUCT APPOINTED BY THE HEAD OF THE LAW ENFORCEMENT AGENCY.

(C) BEFORE SERVING AS A MEMBER OF A TRIAL BOARD, AN INDIVIDUAL SHALL RECEIVE TRAINING ON MATTERS RELATING TO POLICE PROCEDURES FROM THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION.

(D) PROCEEDINGS OF A TRIAL BOARD SHALL BE OPEN TO THE PUBLIC, EXCEPT TO PROTECT:

(1) A VICTIM'S IDENTITY;

(2) THE PERSONAL PRIVACY OF AN INDIVIDUAL;

(3) A CHILD WITNESS;

(4) MEDICAL RECORDS;

(5) THE IDENTITY OF A CONFIDENTIAL SOURCE;

(6) AN INVESTIGATIVE TECHNIQUE OR PROCEDURE; OR

(7) THE LIFE OR PHYSICAL SAFETY OF AN INDIVIDUAL.

(E) A TRIAL BOARD MAY ADMINISTER OATHS AND ISSUE SUBPOENAS AS NECESSARY TO COMPLETE ITS WORK.

~~(F) A POLICE OFFICER WHO IS THE SUBJECT OF A TRIAL BOARD MAY BE COMPELLED TO:~~

~~(1) TESTIFY;~~

~~(2) PRODUCE FINANCIAL RECORDS RELATING TO INCOME AND ASSETS; AND~~

~~(3) SUBMIT TO A POLYGRAPH EXAMINATION.~~

~~(G) A COMPLAINANT HAS THE RIGHT TO BE NOTIFIED OF A TRIAL BOARD HEARING AND, EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE RIGHT TO ATTEND A TRIAL BOARD HEARING.~~

(G) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A LAW ENFORCEMENT AGENCY HAS THE BURDEN OF PROOF BY A PREPONDERANCE OF THE EVIDENCE IN ANY PROCEEDING UNDER THIS SUBTITLE.

(H) A POLICE OFFICER MAY BE DISCIPLINED ONLY FOR CAUSE.

~~(H) (G) (I) (1) WITHIN 30 DAYS AFTER THE DATE OF ISSUANCE OF A DECISION OF A TRIAL BOARD, THE DECISION MAY BE APPEALED BY THE EMPLOYEE:~~

(I) IF THE TRIAL BOARD IS FROM A LOCAL LAW ENFORCEMENT AGENCY, TO THE CIRCUIT COURT OF THE COUNTY IN WHICH THE LAW ENFORCEMENT AGENCY IS LOCATED; AND

(II) IF THE TRIAL BOARD IS FROM A STATEWIDE OR BI-COUNTY LAW ENFORCEMENT AGENCY, TO THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY.

(2) AN APPEAL TAKEN UNDER THIS SUBSECTION SHALL BE ON THE RECORD.

~~(H) (H) (J) A TRIAL BOARD DECISION THAT IS NOT APPEALED IS FINAL.~~

~~3-108. 3-107.~~

(A) (1) PENDING AN INVESTIGATORY, ADMINISTRATIVE CHARGING COMMITTEE, AND TRIAL BOARD PROCESS, THE CHIEF MAY IMPOSE AN EMERGENCY

SUSPENSION WITH OR WITHOUT PAY IF THE CHIEF DETERMINES THAT SUCH A SUSPENSION IS IN THE BEST INTEREST OF THE PUBLIC.

(2) AN EMERGENCY SUSPENSION WITHOUT PAY UNDER THIS SUBSECTION MAY NOT EXCEED 30 DAYS.

(3) A POLICE OFFICER WHO IS SUSPENDED WITHOUT PAY UNDER THIS SUBSECTION IS ENTITLED TO RECEIVE BACK PAY IF AN ADMINISTRATIVE CHARGING COMMITTEE DETERMINES NOT TO ADMINISTRATIVELY CHARGE THE POLICE OFFICER IN CONNECTION WITH THE MATTER ON WHICH THE SUSPENSION IS BASED.

~~(B) (1) PENDING AN INVESTIGATORY, ADMINISTRATIVE CHARGING COMMITTEE, TRIAL BOARD, AND CRIMINAL PROSECUTION PROCESS, THE CHIEF SHALL IMPOSE AN EMERGENCY SUSPENSION WITHOUT PAY IF THE POLICE OFFICER IN QUESTION IS CRIMINALLY CHARGED WITH:~~

~~(I) A FELONY;~~

~~(II) A MISDEMEANOR COMMITTED IN THE PERFORMANCE OF DUTIES AS A POLICE OFFICER;~~

~~(III) A MISDEMEANOR RELATED TO DOMESTIC VIOLENCE; OR~~

~~(IV) A MISDEMEANOR INVOLVING DISHONESTY, FRAUD, THEFT, OR MISREPRESENTATION.~~

(B) (1) A CHIEF OR A CHIEF'S DESIGNEE MAY SUSPEND A POLICE OFFICER WITHOUT PAY AND SUSPEND THE POLICE OFFICER'S POLICE POWERS ON AN EMERGENCY BASIS IF THE POLICE OFFICER IS CHARGED WITH:

(I) A DISQUALIFYING CRIME, AS DEFINED IN § 5-101 OF THIS ARTICLE;

(II) A MISDEMEANOR COMMITTED IN THE PERFORMANCE OF DUTIES AS A POLICE OFFICER; OR

(III) A MISDEMEANOR INVOLVING DISHONESTY, FRAUD, THEFT, OR MISREPRESENTATION.

(2) A POLICE OFFICER WHO WAS SUSPENDED WITHOUT PAY UNDER THIS SUBSECTION IS ENTITLED TO RECEIVE BACK PAY IF THE POLICE OFFICER IS FOUND NOT GUILTY OF THE CRIMINAL CHARGE OR CHARGES ON WHICH THE

~~SUSPENSION WAS BASED~~ CRIMINAL CHARGE OR CHARGES AGAINST THE POLICE OFFICER RESULT IN:

(I) A FINDING OF NOT GUILTY;

(II) AN ACQUITTAL;

(III) A DISMISSAL; OR

(IV) A NOLLE PROSEQUI.

(C) (1) THE CHIEF SHALL TERMINATE THE EMPLOYMENT OF A POLICE OFFICER WHO IS CONVICTED OF ~~OR~~ A FELONY.

(2) THE CHIEF MAY TERMINATE THE EMPLOYMENT OF A POLICE OFFICER WHO:

(I) RECEIVES A PROBATION BEFORE JUDGMENT ~~FOR;~~ FOR

~~(1)~~ A FELONY; OR

~~(2)~~ (II) ~~A~~ IS CONVICTED OF:

1. A MISDEMEANOR COMMITTED IN THE PERFORMANCE OF DUTIES AS A POLICE OFFICER;

~~(3) A MISDEMEANOR RELATED TO DOMESTIC VIOLENCE; OR~~

2. MISDEMEANOR SECOND DEGREE ASSAULT; OR

~~(4)~~ 3. A MISDEMEANOR INVOLVING DISHONESTY, FRAUD, THEFT, OR MISREPRESENTATION.

(D) (1) IN CONNECTION WITH A DISCIPLINARY MATTER UNDER THIS SUBTITLE, A POLICE OFFICER MAY BE REQUIRED TO SUBMIT TO BLOOD ALCOHOL TESTS, BLOOD, BREATH, OR URINE TESTS FOR CONTROLLED DANGEROUS SUBSTANCES, POLYGRAPH EXAMINATIONS, OR INTERROGATIONS THAT SPECIFICALLY RELATE TO THE SUBJECT MATTER OF THE INVESTIGATION.

(2) IF A POLICE OFFICER IS REQUIRED TO SUBMIT TO A TEST, EXAMINATION, OR INTERROGATION ~~DESCRIBED IN~~ UNDER PARAGRAPH (1) OF THIS SUBSECTION AND THE POLICE OFFICER REFUSES TO DO SO, THE LAW ENFORCEMENT AGENCY MAY COMMENCE AN ACTION THAT MAY LEAD TO A PUNITIVE MEASURE AS A RESULT OF THE REFUSAL.

(3) (I) IF A POLICE OFFICER IS REQUIRED TO SUBMIT TO A TEST, EXAMINATION, OR INTERROGATION DESCRIBED IN UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE RESULTS OF THE TEST, EXAMINATION, OR INTERROGATION ARE NOT ADMISSIBLE OR DISCOVERABLE IN A CRIMINAL PROCEEDING AGAINST THE POLICE OFFICER.

(II) IF A POLICE OFFICER IS REQUIRED TO SUBMIT TO A POLYGRAPH EXAMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE RESULTS OF THE POLYGRAPH EXAMINATION ARE NOT ADMISSIBLE OR DISCOVERABLE IN A CRIMINAL OR CIVIL PROCEEDING AGAINST THE POLICE OFFICER.

~~(E) IN CONNECTION WITH A DISCIPLINARY MATTER UNDER THIS SUBTITLE, FORFEITURE OF A POLICE OFFICER'S PENSION MAY BE IMPOSED AS A DISCIPLINARY ACTION IN ACCORDANCE WITH § 20-210 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.~~

~~3-109. 3-108.~~

(A) (1) A LAW ENFORCEMENT AGENCY SHALL DESIGNATE AN EMPLOYEE AS A VICTIMS' RIGHTS ADVOCATE TO ACT AS THE CONTACT FOR THE PUBLIC WITHIN THE AGENCY ON MATTERS RELATED TO POLICE MISCONDUCT.

(2) A VICTIMS' RIGHTS ADVOCATE SHALL:

(I) EXPLAIN TO A COMPLAINANT:

1. THE COMPLAINT, INVESTIGATION, ADMINISTRATIVE CHARGING COMMITTEE, AND TRIAL BOARD PROCESS;

2. ANY DECISION TO TERMINATE AN INVESTIGATION;

3. AN ADMINISTRATIVE CHARGING COMMITTEE'S DECISION OF ADMINISTRATIVELY CHARGED, NOT ADMINISTRATIVELY CHARGED, UNFOUNDED, OR EXONERATED; AND

4. A TRIAL BOARD'S DECISION;

(II) PROVIDE A COMPLAINANT WITH AN OPPORTUNITY TO REVIEW A POLICE OFFICER'S STATEMENT, IF ANY, BEFORE COMPLETION OF AN INVESTIGATION BY A LAW ENFORCEMENT AGENCY'S INVESTIGATIVE UNIT;

(III) NOTIFY A COMPLAINANT OF THE STATUS OF THE CASE AT EVERY STAGE OF THE PROCESS; AND

(IV) PROVIDE A CASE SUMMARY TO A COMPLAINANT WITHIN 30 DAYS AFTER FINAL DISPOSITION OF THE CASE.

(B) EACH LAW ENFORCEMENT AGENCY SHALL CREATE A DATABASE THAT ENABLES A COMPLAINANT TO ENTER THE COMPLAINANT'S CASE NUMBER TO FOLLOW THE STATUS OF THE CASE AS IT PROCEEDS THROUGH:

- (1) INVESTIGATION;
- (2) CHARGING;
- (3) OFFER OF DISCIPLINE;
- (4) TRIAL BOARD;
- (5) ULTIMATE DISCIPLINE; AND
- (6) APPEAL.

~~(C) (1) THE INVESTIGATING UNIT OF A LAW ENFORCEMENT AGENCY SHALL IMMEDIATELY REVIEW A COMPLAINT BY A MEMBER OF THE PUBLIC ALLEGING POLICE OFFICER MISCONDUCT.~~

~~(2) AN ADMINISTRATIVE CHARGING COMMITTEE SHALL REVIEW AND MAKE A DETERMINATION OR ASK FOR FURTHER REVIEW WITHIN 30 DAYS OF COMPLETION OF THE INVESTIGATING UNIT'S REVIEW.~~

~~(3) THE PROCESS OF REVIEW BY THE INVESTIGATING UNIT THROUGH DISPOSITION BY THE ADMINISTRATIVE CHARGING COMMITTEE SHALL BE COMPLETED WITHIN 1 YEAR AND 1 DAY AFTER THE FILING OF A COMPLAINT BY A CITIZEN.~~

~~3-110. 3-109.~~

A POLICE OFFICER WHO IS THE SUBJECT OF A COMPLAINT OF POLICE MISCONDUCT AND A COMPLAINANT ~~HAVE THE RIGHT TO REPRESENTATION~~ MAY HAVE THE ASSISTANCE OF A REPRESENTATIVE IN CONNECTION WITH PROCEEDINGS UNDER THIS SUBTITLE.

~~3-111. 3-110.~~

(A) A POLICE OFFICER MAY NOT BE DISCHARGED, DISCIPLINED, DEMOTED, OR DENIED PROMOTION, TRANSFER, OR REASSIGNMENT, OR OTHERWISE DISCRIMINATED AGAINST OR THREATENED IN REGARD TO THE POLICE OFFICER'S EMPLOYMENT BECAUSE THE POLICE OFFICER:

(1) DISCLOSED INFORMATION THAT EVIDENCES:

(I) MISMANAGEMENT;

(II) A WASTE OF GOVERNMENT RESOURCES;

(III) A DANGER TO PUBLIC HEALTH OR SAFETY; OR

(IV) A VIOLATION OF LAW OR POLICY COMMITTED BY ANOTHER POLICE OFFICER; OR

(2) LAWFULLY EXERCISED CONSTITUTIONAL RIGHTS.

(B) A POLICE OFFICER MAY NOT BE DENIED THE RIGHT TO BRING SUIT ARISING OUT OF THE POLICE OFFICER'S OFFICIAL DUTIES.

(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A POLICE OFFICER HAS THE SAME RIGHTS TO ENGAGE IN POLITICAL ACTIVITY AS A STATE EMPLOYEE.

(2) THIS RIGHT TO ENGAGE IN POLITICAL ACTIVITY DOES NOT APPLY WHEN THE POLICE OFFICER IS ON DUTY OR ACTING IN AN OFFICIAL CAPACITY.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A LAW ENFORCEMENT AGENCY MAY NOT PROHIBIT SECONDARY EMPLOYMENT BY POLICE OFFICERS.

(2) A LAW ENFORCEMENT AGENCY MAY ADOPT REASONABLE REGULATIONS THAT RELATE TO SECONDARY EMPLOYMENT BY POLICE OFFICERS.

~~3-112.~~ 3-111.

A LAW ENFORCEMENT AGENCY MAY NOT NEGATE OR ALTER ANY OF THE REQUIREMENTS OF THIS SUBTITLE THROUGH COLLECTIVE BARGAINING.

~~3-113.~~ 3-112.

~~A RECORD RELATING TO AN ADMINISTRATIVE OR CRIMINAL INVESTIGATION OF MISCONDUCT BY A POLICE OFFICER, INCLUDING AN INTERNAL AFFAIRS~~

~~INVESTIGATORY RECORD, A HEARING RECORD, AND RECORDS RELATING TO A DISCIPLINARY DECISION, MAY NOT BE:~~

~~(1) EXPUNGED; OR~~

~~(2) DESTROYED BY A LAW ENFORCEMENT AGENCY.~~

A RECORD RELATING TO AN ADMINISTRATIVE OR CRIMINAL INVESTIGATION OF MISCONDUCT BY A POLICE OFFICER, INCLUDING AN INTERNAL AFFAIRS INVESTIGATORY RECORD, A HEARING RECORD, AND RECORDS RELATING TO A DISCIPLINARY DECISION, MAY NOT BE:

(1) EXPUNGED; OR

(2) DESTROYED BY A LAW ENFORCEMENT AGENCY.

3-113.

(A) THE INVESTIGATING UNIT OF A LAW ENFORCEMENT AGENCY SHALL IMMEDIATELY REVIEW A COMPLAINT BY A MEMBER OF THE PUBLIC ALLEGING POLICE OFFICER MISCONDUCT.

(B) AN ADMINISTRATIVE CHARGING COMMITTEE SHALL REVIEW AND MAKE A DETERMINATION OR ASK FOR FURTHER REVIEW WITHIN 30 DAYS AFTER COMPLETION OF THE INVESTIGATING UNIT'S REVIEW.

(C) THE PROCESS OF REVIEW BY THE INVESTIGATING UNIT THROUGH DISPOSITION BY THE ADMINISTRATIVE CHARGING COMMITTEE SHALL BE COMPLETED WITHIN 1 YEAR AND 1 DAY AFTER THE FILING OF A COMPLAINT BY A CITIZEN.

3-114.

THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.

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

Article – Public Safety

3-203.

(a) The Commission consists of the following members:

- (1) the President of the Maryland Chiefs of Police Association;
- (2) the President of the Maryland Sheriffs Association;
- (3) the Attorney General of the State;
- (4) the Secretary of State Police;
- (5) the agent in charge of the Baltimore office of the Federal Bureau of Investigation;
- (6) one member representing the Maryland State Lodge of Fraternal Order of Police;
- (7) one member representing the Maryland State's Attorneys' Association;
- (8) ~~the~~ Chair of the Maryland Municipal League Police Executive Association;
- ~~(9) the President of Maryland Law Enforcement Officers, Inc.;~~
- ~~(10)~~ **(9)** the Police Commissioner of Baltimore City;
- ~~(11)~~ **(10)** the President of the Police Chiefs' Association of Prince George's County;
- ~~(12)~~ **(11)** a CIVILIAN representative from the Wor-Wic Program Advisory Committee – Criminal Justice; AND
- ~~(13) two members of the Senate of Maryland, appointed by the President of the Senate;~~
- ~~(14) two members of the House of Delegates, appointed by the Speaker of the House;] and~~
- [(15)] ~~(9)~~ (12)** the following individuals, appointed by the Governor with the advice and consent of the Senate:
- (i) ~~three~~ three police officers, representing different geographic areas of the State;
- (ii) ~~one individual~~ one CIVILIAN with expertise in community policing WHO DOES NOT HAVE RELATIONSHIPS TO LAW ENFORCEMENT;
- ~~(iii)~~ **(ii)** one ~~individual~~ CIVILIAN with expertise in policing standards WHO DOES NOT HAVE RELATIONSHIPS TO LAW ENFORCEMENT;

~~{(iv)}~~ ~~(III)~~ one ~~individual~~ **CIVILIAN** with expertise in mental health ~~WITHOUT WHO DOES NOT HAVE~~ **RELATIONSHIPS TO LAW ENFORCEMENT**; and

~~{(v)}~~ ~~(IV)~~ [two] ~~NINE~~ **THREE** citizens of the State ~~without~~ **WHO REPRESENT DIFFERENT GEOGRAPHIC AREAS OF THE STATE AND DO NOT HAVE** relationships to law enforcement.

(b) (1) The term of an appointed member is 3 years.

(2) The terms of the appointed members are staggered as required by the terms provided for members of the Commission on October 1, 2016.

(3) At the end of a term, an appointed member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the remainder of the term and until a successor is appointed and qualifies.

(c) Except for the appointed members, a member of the Commission may serve personally at a Commission meeting or may designate a representative from the member's unit, agency, or association who may act at any meeting to the same effect as if the member were personally present.

[(d) The members of the Commission appointed from the Senate of Maryland and the House of Delegates shall serve in an advisory capacity only.]

3–207.

(a) The Commission has the following powers and duties:

(16) to require, for entrance–level police training and, as determined by the Commission, for in–service level training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include, consistent with established law enforcement standards and federal and State constitutional provisions:

(i) training in lifesaving techniques, including Cardiopulmonary Resuscitation (CPR);

(ii) training in the proper level and use of force AS SET FORTH IN THE MARYLAND USE OF FORCE STATUTE UNDER § 3–524 OF THIS TITLE;

(iii) training regarding sensitivity to cultural and gender diversity;

and

(iv) training regarding individuals with physical, intellectual, developmental, and psychiatric disabilities;

(g) The Commission shall develop and administer:

(1) a training program on [the Law Enforcement Officers' Bill of Rights and] matters relating to police procedures for ~~citizens~~ INDIVIDUALS who intend to qualify to participate as a member of a [hearing board under § 3-107 of this title] TRIAL BOARD OR ADMINISTRATIVE CHARGING COMMITTEE UNDER § 3-525 SUBTITLE 1 OF THIS TITLE; AND

(2) A TRAINING PROGRAM ON MATTERS RELATING TO POLICE TRAINING AND STANDARDS FOR CITIZENS WHO ARE APPOINTED TO SERVE AS MEMBERS OF THE COMMISSION.

(J) THE COMMISSION SHALL:

(1) ~~(H)~~ HOLD LAW ENFORCEMENT AGENCIES ACCOUNTABLE FOR VIOLATIONS OF THE USE OF FORCE STATUTE UNDER § 3-524 OF THIS TITLE; AND

~~(H)~~ (2) WORK WITH THE COMPTROLLER AND THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES TO ENSURE THAT STATE GRANT FUNDING IS WITHHELD FROM A LAW ENFORCEMENT AGENCY THAT VIOLATES THE USE OF FORCE STATUTE UNDER § 3-524 OF THIS TITLE;

~~(2) REVOKE THE CERTIFICATION OF A POLICE OFFICER WHO HAS BEEN:~~

~~(I) FOUND TO HAVE VIOLATED THE USE OF FORCE STATUTE UNDER § 3-524 OF THIS TITLE;~~

~~(II) CONVICTED OF A FELONY;~~

~~(III) CONVICTED OF PERJURY OR ANOTHER MISDEMEANOR RELATING TO TRUTHFULNESS AND VERACITY; OR~~

~~(IV) PREVIOUSLY FIRED OR RESIGNED WHILE BEING INVESTIGATED FOR SERIOUS MISCONDUCT OR USE OF EXCESSIVE FORCE; AND~~

~~(3) CREATE A STATEWIDE DATABASE TO TRACK POLICE OFFICER DE CERTIFICATIONS DUE TO IMPROPER USE OF FORCE.~~

(K) THE COMMISSION SHALL:

(1) DEVELOP A TEST AND TRAINING FOR IMPLICIT BIAS, SUBJECT TO THE AVAILABILITY OF IMPLICIT BIAS TESTING STANDARDS THAT ARE GENERALLY ACCEPTED BY EXPERTS IN THE FIELD OF POLICE PSYCHOLOGY;

(2) REQUIRE ALL LAW ENFORCEMENT AGENCIES TO USE THE IMPLICIT BIAS TEST IN THE HIRING PROCESS;

(3) REQUIRE ALL NEW POLICE OFFICERS TO COMPLETE IMPLICIT BIAS TESTING AND TRAINING; AND

(4) REQUIRE ALL INCUMBENT POLICE OFFICERS TO UNDERGO IMPLICIT BIAS TESTING AND TRAINING ON AN ANNUAL BASIS.

3–209.

(a) The Commission shall certify as a police officer each individual who:

(1) (i) satisfactorily meets the standards of the Commission; or

(ii) provides the Commission with sufficient evidence that the individual has satisfactorily completed a training program in another state of equal quality and content as required by the Commission;

(2) submits to a [psychological evaluation] **MENTAL HEALTH SCREENING BY A LICENSED MENTAL HEALTH PROFESSIONAL;**

(3) SUBMITS TO A PHYSICAL AGILITY ASSESSMENT AS DETERMINED BY THE COMMISSION;

[(3)] (4) submits to a criminal history records check in accordance with § 3–209.1 of this subtitle; and

[(4)] (5) (i) is a United States citizen; or

(ii) subject to subsection (b) of this section, is a permanent legal resident of the United States and an honorably discharged veteran of the United States armed forces, provided that the individual has applied to obtain United States citizenship and the application is still pending approval.

(b) The certification of a police officer who fails to obtain United States citizenship as required by subsection (a)(4)(ii) of this section shall be terminated by the Commission.

(c) The Commission may certify as a police officer an individual who is not considered a police officer under § 3–201(f)(3) of this subtitle if the individual meets the selection and training standards of the Commission.

(d) Each certificate issued to a police officer under this subtitle remains the property of the Commission.

(E) AS A CONDITION OF CERTIFICATION, A POLICE OFFICER SHALL ~~ANNUALLY~~ SUBMIT TO A MENTAL HEALTH ASSESSMENT EVERY 2 YEARS AND ~~A AN~~ ANNUAL PHYSICAL AGILITY ASSESSMENT TO ESTABLISH CONTINUING FITNESS TO CARRY OUT ~~THE DUTIES OF~~ THE OFFICER'S ASSIGNED DUTIES AS A POLICE OFFICER.

(F) PRIOR MARIJUANA USE IS NOT A DISQUALIFIER FOR CERTIFICATION AS A POLICE OFFICER.

3-212.

(a) **(1)** Subject to the hearing provisions of subsection (b) of this section, the Commission may suspend or revoke the certification of a police officer if the police officer:

[(1)] (I) violates or fails to meet the Commission's standards;

(II) VIOLATES THE MARYLAND USE OF FORCE STATUTE UNDER § 3-524 OF THIS TITLE; OR

[(2)] (III) knowingly fails to report suspected child abuse in violation of § 5-704 of the Family Law Article.

(2) THE COMMISSION SHALL REVOKE THE CERTIFICATION OF A POLICE OFFICER WHO WAS:

(I) CONVICTED OF A FELONY;

(II) CONVICTED OF PERJURY OR ANOTHER MISDEMEANOR RELATING TO TRUTHFULNESS AND VERACITY; OR

(III) PREVIOUSLY FIRED OR RESIGNED WHILE BEING INVESTIGATED FOR SERIOUS MISCONDUCT OR USE OF EXCESSIVE FORCE.

(b) (1) Except as otherwise provided in Title 10, Subtitle 2 of the State Government Article, before the Commission takes any final action under subsection [(a)] (A)(1) of this section, the Commission shall give the individual against whom the action is contemplated an opportunity for a hearing before the Commission.

(2) The Commission shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) A police officer aggrieved by the findings and order of the Commission may take an appeal as allowed in §§ 10–222 and 10–223 of the State Government Article.

(D) THE COMMISSION SHALL CREATE A STATEWIDE DATABASE TO TRACK POLICE OFFICER DECERTIFICATIONS DUE TO IMPROPER USE OF FORCE.

SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Public Safety

3–215.

(a) (1) In this section the following words have the meanings indicated.

(2) “Permanent appointment” means the appointment of an individual who has satisfactorily met the minimum standards of the Commission and is certified as a police officer.

(3) “Police administrator” means a police officer who has been promoted to first–line administrative duties up to but not exceeding the rank of captain.

(4) “Police supervisor” means a police officer who has been promoted to first–line supervisory duties.

(b) An individual may not be given or accept a probationary appointment or permanent appointment as a police officer, police supervisor, or police administrator unless the individual satisfactorily meets the qualifications established by the Commission.

(C) (1) AN INDIVIDUAL WHO APPLIES FOR A POSITION AS POLICE OFFICER SHALL:

(I) UNDER PENALTY OF PERJURY, DISCLOSE TO THE HIRING LAW ENFORCEMENT AGENCY ALL PRIOR INSTANCES OF EMPLOYMENT AS A POLICE OFFICER AT OTHER LAW ENFORCEMENT AGENCIES; AND

(II) AUTHORIZE THE HIRING LAW ENFORCEMENT AGENCY TO OBTAIN THE POLICE OFFICER’S FULL PERSONNEL AND DISCIPLINARY RECORD FROM EACH LAW ENFORCEMENT AGENCY THAT PREVIOUSLY EMPLOYED THE POLICE OFFICER.

(2) THE HIRING LAW ENFORCEMENT AGENCY SHALL CERTIFY TO THE COMMISSION THAT THE LAW ENFORCEMENT AGENCY HAS REVIEWED THE APPLICANT’S DISCIPLINARY RECORD.

~~(D)~~ **(D)** A probationary appointment as a police officer, police supervisor, or police administrator may be made for a period not exceeding 1 year to enable the individual seeking permanent appointment to take a training course required by this subtitle.

~~(E)~~ **(E)** A probationary appointee is entitled to a leave of absence with pay during the period of the training program.

~~(F)~~ **(F)** **PRIOR MARIJUANA USE MAY NOT BE THE BASIS FOR DISQUALIFYING AN APPLICANT FOR A POSITION AS A POLICE OFFICER.**

3-508.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "COMMISSION" MEANS THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION.

(3) "LAW ENFORCEMENT AGENCY" HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.

(4) "OFFICE" MEANS THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES.

(5) "POLICE OFFICER" HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.

(6) "SWAT TEAM" MEANS A SPECIAL UNIT COMPOSED OF TWO OR MORE POLICE OFFICERS WITHIN A LAW ENFORCEMENT AGENCY TRAINED TO DEAL WITH UNUSUALLY DANGEROUS OR VIOLENT SITUATIONS AND HAVING SPECIAL EQUIPMENT AND WEAPONS, INCLUDING RIFLES MORE POWERFUL THAN THOSE CARRIED BY REGULAR POLICE OFFICERS.

(B) EVERY 6 MONTHS, BEGINNING JULY 1, 2022, A LAW ENFORCEMENT AGENCY THAT MAINTAINS A SWAT TEAM SHALL REPORT THE FOLLOWING INFORMATION TO THE OFFICE USING THE FORMAT DEVELOPED UNDER SUBSECTION (C) OF THIS SECTION:

(1) THE NUMBER OF TIMES THE SWAT TEAM WAS ACTIVATED AND DEPLOYED BY THE LAW ENFORCEMENT AGENCY IN THE PREVIOUS 6 MONTHS;

(2) THE NAME OF THE COUNTY OR COUNTY AND MUNICIPAL CORPORATION AND THE ZIP CODE OF THE LOCATION WHERE THE SWAT TEAM WAS DEPLOYED FOR EACH ACTIVATION;

(3) THE REASON FOR EACH ACTIVATION AND DEPLOYMENT OF THE SWAT TEAM;

(4) THE LEGAL AUTHORITY, INCLUDING TYPE OF WARRANT, IF ANY, FOR EACH ACTIVATION AND DEPLOYMENT OF THE SWAT TEAM; AND

(5) THE RESULT OF EACH ACTIVATION AND DEPLOYMENT OF THE SWAT TEAM, INCLUDING:

(I) THE NUMBER OF ARRESTS MADE, IF ANY;

(II) WHETHER PROPERTY WAS SEIZED;

(III) WHETHER A FORCIBLE ENTRY WAS MADE;

(IV) WHETHER A WEAPON WAS DISCHARGED BY A SWAT TEAM MEMBER; AND

(V) WHETHER A PERSON OR DOMESTIC ANIMAL WAS INJURED OR KILLED BY A SWAT TEAM MEMBER.

(C) THE COMMISSION, IN CONSULTATION WITH THE OFFICE, SHALL DEVELOP A STANDARDIZED FORMAT THAT EACH LAW ENFORCEMENT AGENCY SHALL USE IN REPORTING DATA TO THE OFFICE UNDER SUBSECTION (B) OF THIS SECTION.

(D) A LAW ENFORCEMENT AGENCY SHALL:

(1) COMPILE THE DATA DESCRIBED IN SUBSECTION (B) OF THIS SECTION FOR EACH 6-MONTH PERIOD AS A REPORT IN THE FORMAT REQUIRED UNDER SUBSECTION (C) OF THIS SECTION; AND

(2) NOT LATER THAN THE 15TH DAY OF THE MONTH FOLLOWING THE 6-MONTH PERIOD THAT IS THE SUBJECT OF THE REPORT, SUBMIT THE REPORT TO:

(I) THE OFFICE; AND

(II) 1. THE LOCAL GOVERNING BODY OF THE JURISDICTION SERVED BY THE LAW ENFORCEMENT AGENCY THAT EMPLOYS THE SWAT TEAM THAT IS THE SUBJECT OF THE REPORT; OR

2. IF THE JURISDICTION SERVED BY THE LAW ENFORCEMENT AGENCY THAT EMPLOYS THE SWAT TEAM THAT IS THE SUBJECT OF

THE REPORT IS A MUNICIPAL CORPORATION, THE CHIEF EXECUTIVE OFFICER OF THE JURISDICTION.

(E) (1) THE OFFICE SHALL ANALYZE AND SUMMARIZE THE REPORTS OF LAW ENFORCEMENT AGENCIES SUBMITTED UNDER SUBSECTION (D) OF THIS SECTION.

(2) BEFORE SEPTEMBER 1 EACH YEAR, THE OFFICE SHALL:

(I) SUBMIT A REPORT OF THE ANALYSES AND SUMMARIES OF THE REPORTS OF LAW ENFORCEMENT AGENCIES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION TO THE GOVERNOR, THE GENERAL ASSEMBLY AS PROVIDED IN § 2-1257 OF THE STATE GOVERNMENT ARTICLE, AND EACH LAW ENFORCEMENT AGENCY; AND

(II) PUBLISH THE REPORT ON ITS WEBSITE.

(F) (1) IF A LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH THE REPORTING PROVISIONS OF THIS SECTION, THE OFFICE SHALL REPORT THE NONCOMPLIANCE TO THE COMMISSION.

(2) ON RECEIPT OF A REPORT OF NONCOMPLIANCE, THE COMMISSION SHALL CONTACT THE LAW ENFORCEMENT AGENCY AND REQUEST THAT THE AGENCY COMPLY WITH THE REQUIRED REPORTING PROVISIONS.

(3) IF THE LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH THE REQUIRED REPORTING PROVISIONS OF THIS SECTION WITHIN 30 DAYS AFTER BEING CONTACTED BY THE COMMISSION WITH A REQUEST TO COMPLY, THE OFFICE AND THE COMMISSION JOINTLY SHALL REPORT THE NONCOMPLIANCE TO THE GOVERNOR AND THE LEGISLATIVE POLICY COMMITTEE OF THE GENERAL ASSEMBLY.

~~§ 511.~~

~~(A) On or before January 1, 2016, the Maryland Police Training and Standards Commission shall develop and publish online a policy for the issuance and use of a body worn camera by a law enforcement officer that addresses:~~

~~(1) the testing of body worn cameras to ensure adequate functioning;~~

~~(2) the procedure for the law enforcement officer to follow if the camera fails to properly operate at the beginning of or during the law enforcement officer's shift;~~

~~(3) when recording is mandatory;~~

- ~~(4) when recording is prohibited;~~
- ~~(5) when recording is discretionary;~~
- ~~(6) when recording may require consent of a subject being recorded;~~
- ~~(7) when a recording may be ended;~~
- ~~(8) providing notice of recording;~~
- ~~(9) access to and confidentiality of recordings;~~
- ~~(10) the secure storage of data from a body worn camera;~~
- ~~(11) review and use of recordings;~~
- ~~(12) retention of recordings;~~
- ~~(13) dissemination and release of recordings;~~
- ~~(14) consequences for violations of the agency's body worn camera policy;~~
- ~~(15) notification requirements when another individual becomes a party to the communication following the initial notification;~~
- ~~(16) specific protections for individuals when there is an expectation of privacy in private or public places; and~~
- ~~(17) any additional issues determined to be relevant in the implementation and use of body worn cameras by law enforcement officers.~~

~~(B) ON OR BEFORE JANUARY 1, 2025, EACH LAW ENFORCEMENT AGENCY SHALL REQUIRE THE USE OF BODY WORN CAMERAS.~~

~~(C) A BODY WORN CAMERA THAT POSSESSES THE TECHNOLOGICAL CAPABILITY SHALL AUTOMATICALLY RECORD AND SAVE AT LEAST 60 SECONDS OF VIDEO FOOTAGE IMMEDIATELY PRIOR TO THE OFFICER ACTIVATING THE RECORD BUTTON ON THE DEVICE.~~

~~(D) A LAW ENFORCEMENT AGENCY MAY NOT NEGATE OR ALTER ANY OF THE REQUIREMENTS OR POLICIES ESTABLISHED IN ACCORDANCE WITH THIS SECTION THROUGH COLLECTIVE BARGAINING.~~

(A) Each law enforcement agency shall require a [law enforcement] POLICE officer who was involved in a use of force incident in the line of duty to file an incident report regarding the use of force by the end of the officer's shift unless the officer is disabled.

(B) (1) ON OR BEFORE MARCH 1 EACH YEAR, EACH LAW ENFORCEMENT AGENCY SHALL SUBMIT TO THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION THE NUMBER OF USE OF FORCE COMPLAINTS MADE AGAINST ITS POLICE OFFICERS DURING THE PREVIOUS CALENDAR YEAR, AGGREGATED BY NUMBERS OF COMPLAINTS ADMINISTRATIVELY CHARGED, NOT CHARGED, UNFOUNDED, AND EXONERATED.

(2) ON OR BEFORE JULY 15 EACH YEAR, THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION SHALL POST ON ITS WEBSITE AND SUBMIT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, A COMPENDIUM OF THE INFORMATION SUBMITTED BY LAW ENFORCEMENT AGENCIES UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(3) IF A LAW ENFORCEMENT AGENCY HAS NOT SUBMITTED THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION BY JULY 1 FOR THE PREVIOUS CALENDAR YEAR, THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES MAY NOT MAKE ANY GRANT FUNDS AVAILABLE TO THAT LAW ENFORCEMENT AGENCY.

3-515.

(a) (1) Except as provided in [subsection (b) of this section] PARAGRAPH (2) OF THIS SUBSECTION, each law enforcement agency shall post all of the official policies of the law enforcement agency, including public complaint procedures and collective bargaining agreements:

[(1)] (I) on the website of the Maryland Police Training and Standards Commission; and

[(2)] (II) on the agency's own website, if the agency maintains a website.

[(b)] (2) A chief may prohibit the posting under this [section] SUBSECTION of administrative or operational policies that if disclosed would jeopardize operations or create a risk to public or officer safety, including policies related to high-risk prisoner transport security measures, operational response to active shooters, or the use of confidential informants.

(B) EACH LAW ENFORCEMENT AGENCY SHALL POST IN A PROMINENT PUBLIC LOCATION AN EXPLANATION OF THE PROCEDURES FOR FILING:

(1) A COMPLAINT OF POLICE OFFICER MISCONDUCT; AND

(2) A REQUEST TO OBTAIN RECORDS RELATING TO AN ADMINISTRATIVE OR CRIMINAL INVESTIGATION OF MISCONDUCT BY A POLICE OFFICER UNDER THE PUBLIC INFORMATION ACT.

~~§ 516.~~

~~(a) Each law enforcement agency shall establish a [confidential and nonpunitive] DATA-BASED early intervention [policy for counseling officers who receive three or more citizen complaints within a 12-month period] SYSTEM, BASED ON GUIDELINES DEVELOPED BY THE COMMISSION, TO IDENTIFY POLICE OFFICERS WHO ARE AT RISK FOR ENGAGING IN THE USE OF EXCESSIVE FORCE AND TO PROVIDE ALL OFFICERS WHO ARE IDENTIFIED WITH RETRAINING AND BEHAVIORAL INTERVENTIONS, REASSIGNMENTS, OR OTHER APPROPRIATE RESPONSES TO REDUCE THE RISK OF THE USE OF EXCESSIVE FORCE.~~

~~(b) THE COMMISSION SHALL DEVELOP GUIDELINES FOR AN EARLY INTERVENTION SYSTEM REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.~~

~~(c) A policy described in this section may not prevent the investigation of or imposition of discipline for any particular complaint.~~

~~§ 523.~~

~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) “INDEPENDENT INVESTIGATIVE AGENCY” MEANS AN INDEPENDENT UNIT OF STATE GOVERNMENT THAT MAY EMPLOY SWORN POLICE OFFICERS AND CIVILIANS FOR THE PURPOSE OF INVESTIGATING USE OF FORCE INCIDENTS INVOLVING POLICE OFFICERS.~~

~~(3) “LAW ENFORCEMENT AGENCY” HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.~~

~~(4) “POLICE OFFICER” HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.~~

~~(5) “SERIOUS INJURY” HAS THE MEANING STATED IN § 3-201 OF THE CRIMINAL LAW ARTICLE.~~

~~(B) A SHOOTING INVOLVING A POLICE OFFICER OR OTHER INCIDENT INVOLVING THE USE OF PHYSICAL FORCE BY A POLICE OFFICER CAUSING DEATH OR~~

~~SERIOUS INJURY SHALL BE INVESTIGATED BY THE INDEPENDENT INVESTIGATIVE AGENCY.~~

~~(C) A LAW ENFORCEMENT AGENCY SHALL:~~

~~(1) NOTIFY THE INDEPENDENT INVESTIGATIVE AGENCY OF ANY ALLEGED OR POTENTIAL SHOOTING INVOLVING A POLICE OFFICER OR OTHER INCIDENT INVOLVING THE USE OF PHYSICAL FORCE BY A POLICE OFFICER CAUSING DEATH OR SERIOUS INJURY AS SOON AS THE LAW ENFORCEMENT AGENCY BECOMES AWARE OF THE INCIDENT; AND~~

~~(2) COOPERATE WITH THE INDEPENDENT INVESTIGATIVE AGENCY IN THE INVESTIGATION OF THE INCIDENT.~~

~~(D) (1) ON COMPLETION OF AN INVESTIGATION UNDER THIS SECTION, THE INDEPENDENT INVESTIGATIVE AGENCY SHALL SUBMIT A REPORT CONTAINING THE FINDINGS OF THE INVESTIGATION TO THE STATE'S ATTORNEY WITH JURISDICTION OVER THE MATTER.~~

~~(2) AFTER THE STATE'S ATTORNEY MAKES A DECISION WHETHER OR NOT TO PROSECUTE, THE INDEPENDENT INVESTIGATIVE AGENCY SHALL PUBLICIZE THE REPORT.~~

~~(E) THE GOVERNOR ANNUALLY SHALL INCLUDE FUNDING IN THE STATE BUDGET SUFFICIENT TO PROVIDE FOR THE FULL AND PROPER OPERATION OF THE INDEPENDENT INVESTIGATIVE AGENCY.~~

~~3-524.~~

~~(A) THIS SECTION SHALL BE KNOWN AS THE MARYLAND USE OF FORCE STATUTE.~~

~~(B) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:~~

~~(2) "DEADLY FORCE" MEANS ANY FORCE THAT IS LIKELY TO CAUSE DEATH OR SERIOUS INJURY.~~

~~(2) "DESTRUCTIVE DEVICE" HAS THE MEANING STATED IN § 4-501 OF THE CRIMINAL LAW ARTICLE.~~

~~(3) "FIREARM SILENCER" HAS THE MEANING STATED IN § 5-621 OF THE CRIMINAL LAW ARTICLE.~~

~~(3) (4) “LAW ENFORCEMENT AGENCY” HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.~~

~~(4) (5) “LESS LETHAL WEAPON” MEANS A WEAPON THAT IS EXPECTED TO CREATE LESS RISK OF CAUSING SERIOUS INJURY OR DEATH.~~

~~(5) “POLICE OFFICER” HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.~~

~~(6) “SERIOUS INJURY” MEANS PERMANENT IMPAIRMENT OR DISFIGUREMENT.~~

~~(6) (1) “LETHAL FORCE” MEANS ANY FORCE THAT CREATES A SUBSTANTIAL RISK OF DEATH OR SERIOUS PHYSICAL INJURY, WHETHER OR NOT INTENDED TO CAUSE DEATH OR SERIOUS PHYSICAL INJURY.~~

~~(H) “LETHAL FORCE” INCLUDES:~~

- ~~1. THE DISCHARGE OF A FIREARM AT A PERSON;~~
- ~~2. A STRIKE TO A PERSON’S HEAD, NECK, STERNUM, SPINE, GROIN, OR KIDNEYS USING ANY HARD OBJECT;~~
- ~~3. A STRIKE TO A PERSON’S HEAD AGAINST A HARD, FIXED OBJECT;~~
- ~~4. A KICK OR STRIKE TO A PERSON’S HEAD USING A KNEE OR FOOT;~~
- ~~5. A STRIKE TO A PERSON’S THROAT;~~
- ~~6. A KNEE DROP ON THE HEAD, NECK, OR TORSO OF A PERSON IN A PRONE OR SUPINE POSITION;~~
- ~~7. A MANEUVER THAT RESTRICTS BLOOD OR OXYGEN FLOW TO THE BRAIN, INCLUDING CHOKEHOLDS, STRANGLEHOLDS, NECK RESTRAINTS, NECK HOLDS, AND CAROTID ARTERY RESTRAINTS;~~
- ~~8. ANY CONTACT WITH THE NECK THAT MAY INHIBIT BREATHING OR BLOOD FLOW, OR THAT APPLIES PRESSURE TO THE FRONT, SIDE, OR BACK OF THE NECK;~~
- ~~9. THE DISCHARGE OF A LESS LETHAL KINETIC IMPACT PROJECTILE LAUNCHER AT A PERSON’S HEAD, NECK, CHEST, OR BACK; AND~~

~~10. MORE THAN ONE DISCHARGE OF AN ELECTRONIC CONTROL DEVICE ON A PERSON.~~

~~(7) "POLICE OFFICER" MEANS:~~

~~(i) A POLICE OFFICER AS DEFINED IN § 3-201 OF THIS TITLE;~~

~~OR~~

~~(ii) A SPECIAL POLICE OFFICER AS DEFINED IN § 3-301 OF THIS TITLE.~~

~~(8) "PROPORTIONAL" MEANS NOT EXCESSIVE IN RELATION TO A DIRECT AND LEGITIMATE LAW ENFORCEMENT OBJECTIVE.~~

~~(9) "SERIOUS PHYSICAL INJURY" HAS THE MEANING STATED IN § 3-201 OF THE CRIMINAL LAW ARTICLE.~~

~~(10) "TOTALITY OF THE CIRCUMSTANCES" MEANS ALL CREDIBLE FACTS KNOWN TO A POLICE OFFICER, OR THAT COULD HAVE BEEN ASCERTAINED BY THE POLICE OFFICER THROUGH VISUAL OBSERVATION, TOUCH, OR AUDIBLE MECHANISMS UNDER THE CIRCUMSTANCES CONFRONTING THE POLICE OFFICER LEADING UP TO AND AT THE TIME OF THE USE OF FORCE, INCLUDING:~~

~~(i) ACTIONS OF A PERSON AGAINST WHOM THE POLICE OFFICER USES FORCE; AND~~

~~(ii) ACTIONS OF THE POLICE OFFICER.~~

~~(c) (1) EACH POLICE OFFICER SHALL SIGN AN AFFIRMATIVE WRITTEN SANCTITY OF LIFE PLEDGE TO RESPECT EVERY HUMAN LIFE AND ACT WITH COMPASSION TOWARD OTHERS.~~

~~(2) A POLICE OFFICER MAY ONLY USE THE FORCE THAT IS OBJECTIVELY REASONABLE AND APPEARS TO BE NECESSARY UNDER THE CIRCUMSTANCES IN RESPONSE TO THE THREAT OR RESISTANCE BY ANOTHER PERSON.~~

~~(2) (i) A POLICE OFFICER MAY NOT USE FORCE AGAINST A PERSON UNLESS THE FORCE IS NECESSARY FORCE AND PROPORTIONAL TO:~~

~~1. PREVENT AN IMMINENT THREAT OF PHYSICAL INJURY TO A PERSON; OR~~

~~2. EFFECTUATE AN ARREST OF A PERSON WHO THE OFFICER HAS PROBABLE CAUSE TO BELIEVE HAS COMMITTED A CRIME, TAKING INTO CONSIDERATION THE SERIOUSNESS OF THE ALLEGED CRIME.~~

~~(H) A POLICE OFFICER MAY USE FORCE ONLY AFTER EXHAUSTING REASONABLE ALTERNATIVES TO THE USE OF FORCE, AND ONLY UNTIL THE USE OF FORCE ACCOMPLISHES A LEGITIMATE LAW ENFORCEMENT OBJECTIVE.~~

~~(HH) A POLICE OFFICER SHALL CEASE THE USE OF FORCE AS SOON AS:~~

~~1. THE PERSON ON WHOM FORCE IS USED;~~

~~A. IS UNDER THE POLICE OFFICER'S CONTROL; OR~~

~~B. NO LONGER POSES AN IMMINENT THREAT OF PHYSICAL INJURY OR DEATH TO THE POLICE OFFICER OR TO ANOTHER PERSON; OR~~

~~2. THE POLICE OFFICER DETERMINES THAT FORCE WILL NO LONGER ACCOMPLISH, OR IS NO LONGER REASONABLE AND PROPORTIONAL TO ACCOMPLISH, A LEGITIMATE LAW ENFORCEMENT OBJECTIVE.~~

~~(3) A POLICE OFFICER MAY NOT USE LETHAL FORCE AGAINST A PERSON UNLESS:~~

~~(I) LETHAL NECESSARY FORCE IS USED AS A LAST RESORT TO PREVENT IMMINENT THREAT OF DEATH OR SERIOUS PHYSICAL INJURY TO THE POLICE OFFICER OR ANOTHER PERSON;~~

~~(II) THE USE OF LETHAL FORCE PRESENTS NO SUBSTANTIAL RISK OF INJURY TO A THIRD PERSON; AND~~

~~(III) ALL REASONABLE ALTERNATIVES TO THE USE OF DEADLY FORCE HAVE BEEN EXHAUSTED.~~

~~(3) (1) A POLICE OFFICER SHALL:~~

~~(I) WHEN TIME, CIRCUMSTANCES, AND SAFETY ALLOW, TAKE STEPS TO GAIN COMPLIANCE AND DE-ESCALATE CONFLICT WITHOUT USING PHYSICAL FORCE;~~

~~(II) INTERVENE TO PREVENT OR TERMINATE THE USE OF FORCE BY ANOTHER POLICE OFFICER BEYOND WHAT IS OBJECTIVELY REASONABLE UNDER~~

~~THE CIRCUMSTANCES AUTHORIZED UNDER PARAGRAPHS (2) AND (3) OF THIS SUBSECTION;~~

~~(III) RENDER BASIC FIRST AID TO A PERSON INJURED AS A RESULT OF POLICE ACTION AND PROMPTLY REQUEST MEDICAL ASSISTANCE; AND~~

~~(IV) FULLY DOCUMENT ALL USE OF FORCE INCIDENTS THAT THE OFFICER OBSERVED OR WAS INVOLVED IN.~~

~~(4) (5) A POLICE SUPERVISOR SHALL:~~

~~(I) RESPOND TO THE SCENE OF ANY INCIDENT DURING WHICH A POLICE OFFICER USED PHYSICAL FORCE AND CAUSED PHYSICAL INJURY; AND~~

~~(II) GATHER AND REVIEW ALL KNOWN VIDEO RECORDINGS OF A USE OF FORCE INCIDENT.~~

~~(5) (6) A LAW ENFORCEMENT AGENCY SHALL:~~

~~(I) HAVE A WRITTEN DE-ESCALATION OF FORCE POLICY; AND~~

~~(II) ADOPT A WRITTEN POLICY REQUIRING SUPERVISORY AND COMMAND LEVEL REVIEW OF ALL USE OF FORCE INCIDENTS.~~

~~(6) (7) A POLICE OFFICER SHALL:~~

~~(I) UNDERGO TRAINING ON WHEN A POLICE OFFICER MAY OR MAY NOT DRAW A FIREARM OR POINT A FIREARM AT A PERSON AND ENFORCEMENT OPTIONS THAT ARE LESS LIKELY TO CAUSE DEATH OR SERIOUS INJURY, INCLUDING SCENARIO-BASED TRAINING, DE-ESCALATION TACTICS AND TECHNIQUES, AND REASONABLE ALTERNATIVES TO DECREASE PHYSICAL INJURY; AND~~

~~(II) SIGN A TRAINING COMPLETION DOCUMENT STATING THAT THE OFFICER UNDERSTANDS AND SHALL COMPLY WITH THE MARYLAND USE OF FORCE STATUTE.~~

~~(7) A POLICE OFFICER MAY ONLY USE DEADLY FORCE TO STOP AN IMMINENT THREAT OF DEATH OR SERIOUS INJURY TO THE OFFICER OR ANOTHER PERSON.~~

~~(8) ALL POLICE OFFICERS SHALL:~~

~~(I) UNDERGO LESS LETHAL FORCE TRAINING; AND~~

~~(H) BE TRAINED AND EQUIPPED WITH LESS LETHAL WEAPONS THAT MAY ASSIST THE OFFICER IN CONTROLLING RESISTANT OR ASSAULTIVE BEHAVIOR.~~

~~(9) A POLICE OFFICER MAY NOT:~~

~~(I) DISCHARGE A FIREARM AT A MOVING VEHICLE UNLESS:~~

~~1. THE VEHICLE IS BEING USED AS A DEADLY WEAPON TOWARD THE OFFICER OR ANOTHER PERSON; AND~~

~~2. DEADLY FORCE IS THE ONLY REASONABLE MEANS AVAILABLE TO STOP THE THREAT; OR~~

~~(H) USE A CHOKEHOLD, NECK RESTRAINT, OR ANY OTHER TYPE OF RESTRAINT THAT RESTRICTS BLOOD FLOW OR BREATH ON ANOTHER PERSON.~~

~~(10) (9) A LAW ENFORCEMENT AGENCY MAY NOT ACQUIRE A SURPLUS ARMORED OR WEAPONIZED VEHICLE RECEIVE THE FOLLOWING, WHETHER ASSEMBLED OR IN PARTS, FROM A SURPLUS PROGRAM:~~

~~(I) AN ARMORED OR WEAPONIZED:~~

~~1. AIRCRAFT;~~

~~2. DRONE; OR~~

~~3. VEHICLE;~~

~~(H) A DESTRUCTIVE DEVICE;~~

~~(HH) A FIREARM SILENCER; OR~~

~~(IV) A GRENADE LAUNCHER.~~

~~(D) (1) A POLICE OFFICER MAY NOT KNOWINGLY AND WILLFULLY VIOLATE SUBSECTION (C) OF THIS SECTION.~~

~~(2) A POLICE OFFICER WHO KNOWINGLY AND WILLFULLY VIOLATES SUBSECTION (C) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS.~~

~~(E) (1) A POLICE OFFICER MAY NOT RECKLESSLY VIOLATE SUBSECTION (C) OF THIS SECTION.~~

~~(2) A POLICE OFFICER WHO RECKLESSLY VIOLATES SUBSECTION (C) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS.~~

~~(D) (1) A POLICE OFFICER WHO USES LETHAL FORCE AGAINST A PERSON IN A MANNER INCONSISTENT WITH SUBSECTION (C)(2) OR (3) OF THIS SECTION THAT RESULTS IN DEATH MAY BE CHARGED WITH MANSLAUGHTER OR MURDER UNDER TITLE 2, SUBTITLE 2 OF THE CRIMINAL LAW ARTICLE.~~

~~(2) A POLICE OFFICER WHO USES LETHAL FORCE AGAINST A PERSON IN A MANNER INCONSISTENT WITH SUBSECTION (C)(2) OR (3) OF THIS SECTION THAT DOES NOT RESULT IN DEATH MAY BE CHARGED WITH RECKLESS ENDANGERMENT OR ASSAULT UNDER TITLE 3, SUBTITLE 2 OF THE CRIMINAL LAW ARTICLE.~~

~~(E) (1) A PERSON MAY SEEK RELIEF BY FILING WITH ANY COURT OF COMPETENT JURISDICTION A CIVIL ACTION FOR DAMAGES ARISING OUT OF THE USE OF FORCE BY A POLICE OFFICER IN A MANNER INCONSISTENT WITH SUBSECTION (C)(2) OR (3) OF THIS SECTION.~~

~~(2) A PERSON IS NOT LIMITED TO OR PRECLUDED FROM PURSUING ANY OTHER LEGAL REMEDY BY PROCEEDING UNDER THIS SUBTITLE.~~

~~(F) THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES SHALL WITHHOLD GRANT FUNDING FROM A LAW ENFORCEMENT AGENCY THAT VIOLATES SUBSECTION (C) OF THIS SECTION.~~

~~(G) ON OR BEFORE DECEMBER 1 EACH YEAR, THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION SHALL SUBMIT A REPORT TO THE GOVERNOR AND GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THAT:~~

~~(1) LISTS THE LAW ENFORCEMENT AGENCIES THAT VIOLATED SUBSECTION (C) OF THIS SECTION DURING THE PRECEDING 1 YEAR PERIOD; AND~~

~~(2) DESCRIBES THE NATURE OF EACH VIOLATION.~~

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

~~Article — Public Safety~~

~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) "LAW ENFORCEMENT AGENCY" HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.~~

~~(3) "POLICE OFFICER" HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.~~

~~(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EACH LAW ENFORCEMENT AGENCY SHALL ESTABLISH AND IMPLEMENT A DISCIPLINE PROCESS THAT:~~

~~(1) IS OPEN AND TRANSPARENT;~~

~~(2) INCLUDES AN ADMINISTRATIVE CHARGING COMMITTEE AS SPECIFIED IN § 3-201 OF THIS TITLE;~~

~~(3) INCLUDES THE USE OF A TRIAL BOARD THAT INCLUDES AT LEAST ONE-THIRD MEMBERSHIP BY CIVILIANS WITH VOTING POWER;~~

~~(4) BEFORE DISCIPLINARY ACTION IS TAKEN AGAINST A POLICE OFFICER, PROVIDES THE RIGHT TO A TRIAL BOARD FOR THE POLICE OFFICER;~~

~~(5) PROHIBITS THE USE OF A TRIAL BOARD FOR THE DISCIPLINE OF A POLICE OFFICER WHO HAS RECEIVED A CONVICTION OR PROBATION BEFORE JUDGMENT FOR A CRIME; AND~~

~~(6) REQUIRES THE CHIEF OF THE AGENCY TO DETERMINE DISCIPLINE FOR A POLICE OFFICER WHO HAS RECEIVED A CONVICTION OR PROBATION BEFORE JUDGMENT FOR A CRIME.~~

~~(C) EACH LAW ENFORCEMENT AGENCY SHALL POST THE POLICE DISCIPLINE PROCESS ESTABLISHED IN ACCORDANCE WITH THIS SECTION ON THE AGENCY'S PUBLIC WEBSITE.~~

~~(D) CIVILIAN MEMBERS OF EACH TRIAL BOARD AND ADMINISTRATIVE CHARGING COMMITTEE SHALL RECEIVE TRAINING ADMINISTERED BY THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION ON MATTERS RELATING TO POLICE PROCEDURES.~~

~~(E) EACH COUNTY SHALL HAVE AN INDEPENDENT AGENCY THAT INVESTIGATES AND REVIEWS COMPLAINTS OF POLICE MISCONDUCT FILED BY MEMBERS OF THE PUBLIC.~~

~~(F) A LAW ENFORCEMENT AGENCY MAY NOT NEGATE OR ALTER ANY OF THE REQUIREMENTS OF THIS SECTION THROUGH COLLECTIVE BARGAINING.~~

~~3-526.~~

~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) "ADMINISTRATIVELY CHARGED" MEANS THAT A POLICE OFFICER HAS BEEN FORMALLY ACCUSED OF MISCONDUCT IN AN ADMINISTRATIVE PROCEEDING.~~

~~(3) "EXONERATED" MEANS THAT A POLICE OFFICER ACTED IN ACCORDANCE WITH THE LAW AND AGENCY POLICY.~~

~~(4) "LAW ENFORCEMENT AGENCY" HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.~~

~~(5) "NOT ADMINISTRATIVELY CHARGED" MEANS THAT A DETERMINATION HAS BEEN MADE NOT TO ADMINISTRATIVELY CHARGE A POLICE OFFICER IN CONNECTION WITH ALLEGED MISCONDUCT.~~

~~(6) "POLICE OFFICER" HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.~~

~~(7) "SUPERIOR GOVERNMENTAL AUTHORITY" MEANS THE GOVERNING BODY THAT OVERSEES A LAW ENFORCEMENT AGENCY.~~

~~(8) "UNFOUNDED" MEANS THAT THE ALLEGATIONS AGAINST A POLICE OFFICER ARE NOT SUPPORTED BY FACT.~~

~~(B) (1) AN ADMINISTRATIVE CHARGING COMMITTEE CONSISTS OF:~~

~~(I) THE DIRECTOR OF INTERNAL AFFAIRS OF THE LAW ENFORCEMENT AGENCY THAT EMPLOYS THE OFFICER WHO IS SUBJECT TO INVESTIGATION, OR THE DIRECTOR'S DESIGNEE;~~

~~(II) THE HEAD ATTORNEY FOR THE SUPERIOR GOVERNMENTAL AUTHORITY OF THE LAW ENFORCEMENT AGENCY THAT EMPLOYS THE OFFICER OR THE HEAD ATTORNEY'S DESIGNEE, IF THE DESIGNEE IS A MEMBER OF THE MARYLAND BAR;~~

~~(III) A DESIGNEE OF THE DISTRICT PUBLIC DEFENDER WHO IS A MEMBER OF THE MARYLAND BAR;~~

~~(IV) A DESIGNEE OF THE STATE'S ATTORNEY FOR THE JURISDICTION WHERE THE ALLEGED MISCONDUCT OCCURRED WHO IS A MEMBER OF THE MARYLAND BAR; AND~~

~~(V) ONE CIVILIAN REPRESENTATIVE SELECTED BY THE POLICE ACCOUNTABILITY BOARD FOR THE JURISDICTION WHERE THE ALLEGED MISCONDUCT OCCURRED.~~

~~(2) THE HEAD ATTORNEY FOR THE SUPERIOR GOVERNMENTAL AUTHORITY OR THE HEAD ATTORNEY'S DESIGNEE SHALL SERVE AS THE CHAIR OF AN ADMINISTRATIVE CHARGING COMMITTEE.~~

~~(c) (1) ON COMPLETION OF AN INVESTIGATION OF A COMPLAINT AGAINST A POLICE OFFICER, THE LAW ENFORCEMENT AGENCY SHALL FORWARD TO AN ADMINISTRATIVE CHARGING COMMITTEE THE INVESTIGATORY FILES FOR ALL MATTERS INVOLVING:~~

~~(I) ALLEGATIONS OF MISCONDUCT MADE BY A MEMBER OF THE PUBLIC; AND~~

~~(II) ANY ALLEGATION RELATING TO DISHONESTY, THE VIOLATION OF A CRIMINAL STATUTE, SEXUAL HARASSMENT, OR RACIAL HARASSMENT.~~

~~(2) AN ALLEGATION NOT SPECIFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL PROCEED IN ACCORDANCE WITH THE POLICIES AND PROCEDURES OF THE LAW ENFORCEMENT AGENCY.~~

~~(D) AN ADMINISTRATIVE CHARGING COMMITTEE SHALL:~~

~~(1) REVIEW THE FINDINGS OF A LAW ENFORCEMENT AGENCY'S INVESTIGATION CONDUCTED AND FORWARDED IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION;~~

~~(2) MAKE A DETERMINATION THAT THE POLICE OFFICER WHO IS SUBJECT TO INVESTIGATION SHALL BE:~~

~~(I) ADMINISTRATIVELY CHARGED; OR~~

~~(II) NOT ADMINISTRATIVELY CHARGED;~~

~~(3) IF THE POLICE OFFICER IS CHARGED, RECOMMEND DISCIPLINE IN ACCORDANCE WITH THE LAW ENFORCEMENT AGENCY'S DISCIPLINARY MATRIX;~~

~~(4) ISSUE A WRITTEN OPINION THAT DESCRIBES IN DETAIL ITS FINDINGS, DETERMINATIONS, AND RECOMMENDATIONS; AND~~

~~(5) FORWARD THE WRITTEN OPINION TO THE CHIEF OF THE LAW ENFORCEMENT AGENCY.~~

~~(E) IN EXECUTING ITS DUTIES IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION, AN ADMINISTRATIVE CHARGING COMMITTEE MAY:~~

~~(1) REQUEST INFORMATION OR ACTION FROM THE LAW ENFORCEMENT AGENCY THAT CONDUCTED THE INVESTIGATION, INCLUDING REQUIRING ADDITIONAL INVESTIGATION AND THE ISSUANCE OF SUBPOENAS; AND~~

~~(2) IF THE POLICE OFFICER IS NOT CHARGED, MAKE A DETERMINATION THAT:~~

~~(I) THE ALLEGATIONS AGAINST THE POLICE OFFICER ARE UNFOUNDED; OR~~

~~(II) THE POLICE OFFICER IS EXONERATED.~~

~~(F) NOTWITHSTANDING TITLE 3 OF THE GENERAL PROVISIONS ARTICLE, THE MEETINGS OF AN ADMINISTRATIVE CHARGING COMMITTEE ARE NOT SUBJECT TO THE REQUIREMENTS OF THE OPEN MEETINGS ACT.~~

~~Article State Personnel and Pensions~~

~~20-210.~~

~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) "ACCUMULATED CONTRIBUTIONS" MEANS THE AMOUNTS CREDITED, INCLUDING INTEREST, TO A LAW ENFORCEMENT OFFICER'S INDIVIDUAL ACCOUNT IN THE STATE POLICE RETIREMENT SYSTEM, THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM, OR A LOCAL PENSION SYSTEM.~~

~~(3) "FINAL ADJUDICATION" MEANS FINAL DISPOSITION OF ALL CHARGES THAT CONSTITUTE A QUALIFYING CRIME FROM WHICH NO FURTHER RIGHT TO APPEAL OR REVIEW EXISTS.~~

~~(4) “LAW ENFORCEMENT OFFICER” MEANS AN INDIVIDUAL WHO IS A MEMBER, FORMER MEMBER, OR RETIREE OF:~~

~~(I) THE STATE POLICE RETIREMENT SYSTEM;~~

~~(II) THE LAW ENFORCEMENT OFFICERS’ PENSION SYSTEM; OR~~

~~(III) A LOCAL PENSION SYSTEM FOR EMPLOYMENT AS A SWORN LAW ENFORCEMENT OFFICER.~~

~~(5) “QUALIFYING CRIME” MEANS ANY OF THE FOLLOWING CRIMINAL OFFENSES THAT WERE COMMITTED IN THE COURSE OF THE PERFORMANCE OF A LAW ENFORCEMENT OFFICER’S DUTIES:~~

~~(I) A FELONY; OR~~

~~(II) PERJURY OR ANOTHER MISDEMEANOR RELATING TO TRUTHFULNESS AND VERACITY.~~

~~(B) THIS SECTION DOES NOT APPLY TO:~~

~~(1) ACCUMULATED CONTRIBUTIONS MADE BEFORE JULY 1, 2022;~~

~~(2) ANY SERVICE EARNED BEFORE JULY 1, 2022; OR~~

~~(3) A QUALIFYING CRIME COMMITTED BEFORE JULY 1, 2022.~~

~~(C) BENEFITS UNDER THIS DIVISION II OF THIS ARTICLE OR A LOCAL PENSION SYSTEM PAYABLE TO A LAW ENFORCEMENT OFFICER ARE SUBJECT TO FORFEITURE IN WHOLE OR IN PART IN ACCORDANCE WITH THIS SECTION IF THE LAW ENFORCEMENT OFFICER IS FOUND GUILTY OF, PLEADS GUILTY TO, OR ENTERS A PLEA OF NOLO CONTENDERE TO A QUALIFYING CRIME.~~

~~(D) (1) IF THE FINAL ADJUDICATION OF CHARGES RESULTS IN CONVICTION OF A LAW ENFORCEMENT OFFICER, THE LAW ENFORCEMENT OFFICER’S RETIREMENT ALLOWANCE MAY BE FORFEITED IN WHOLE OR IN PART IN ACCORDANCE WITH THIS SECTION.~~

~~(2) ON CONVICTION OF A LAW ENFORCEMENT OFFICER, THE ATTORNEY GENERAL OR THE STATE’S ATTORNEY SHALL FILE A COMPLAINT IN CIRCUIT COURT TO FORFEIT THE LAW ENFORCEMENT OFFICER’S BENEFITS IN WHOLE OR IN PART.~~

~~(E) THE COURT MAY ENTER AN ORDER REQUIRING THE FORFEITURE, IN WHOLE OR IN PART, OF THE LAW ENFORCEMENT OFFICER'S BENEFITS IF THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:~~

~~(1) THE LAW ENFORCEMENT OFFICER WAS CONVICTED OF A QUALIFYING CRIME;~~

~~(2) THE LAW ENFORCEMENT OFFICER WAS A MEMBER OF THE STATE POLICE RETIREMENT SYSTEM, THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM, OR A LOCAL PENSION SYSTEM; AND~~

~~(3) THE QUALIFYING CRIME FOR WHICH THE LAW ENFORCEMENT OFFICER WAS CONVICTED WAS COMMITTED WHILE THE LAW ENFORCEMENT OFFICER WAS AN ACTIVE MEMBER OF THE STATE POLICE RETIREMENT SYSTEM, THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM, OR A LOCAL PENSION SYSTEM.~~

~~(F) (1) AN ORDER REQUIRING FORFEITURE OF BENEFITS SHALL INDICATE THE AMOUNT OF BENEFITS TO BE FORFEITED.~~

~~(2) WHEN DETERMINING THE AMOUNT OF BENEFITS TO BE FORFEITED, THE COURT SHALL CONSIDER:~~

~~(I) THE SEVERITY OF THE CRIME;~~

~~(II) THE AMOUNT OF MONETARY LOSS SUFFERED BY THE STATE, A COUNTY, A POLITICAL SUBDIVISION, OR A PERSON AS A RESULT OF THE CRIME;~~

~~(III) THE DEGREE OF PUBLIC TRUST PLACED IN THE LAW ENFORCEMENT OFFICER; AND~~

~~(IV) ANY OTHER FACTORS THE COURT DETERMINES RELEVANT.~~

~~(G) A COURT MAY ORDER A LAW ENFORCEMENT OFFICER SUBJECT TO A FORFEITURE ORDER ISSUED UNDER THIS SECTION TO REQUEST A RETURN OF THE LAW ENFORCEMENT OFFICER'S ACCUMULATED CONTRIBUTIONS, IN WHOLE OR IN PART, TO BE USED FOR RESTITUTION RELATING TO A QUALIFYING CRIME.~~

SECTION ~~5~~ 7 ~~6~~. AND BE IT FURTHER ENACTED, That on or before December 31, ~~2021~~ 2022, the Emergency Number Systems Board shall study and report to the House Judiciary Committee and the Senate Judicial Proceedings Committee, in accordance with § 2-1257 of the State Government Article, regarding whether certain types of calls for 9-1-1 service should be diverted to a person or entity other than law enforcement agencies.

~~SECTION 8. 7. AND BE IT FURTHER ENACTED, That Section 4 of this Act § 5-303 of the Courts and Judicial Proceedings Article, as enacted by Section 3 of this Act, and § 12-103 of the State Government Article, as enacted by Section 3 of this Act, shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any claim arising from a tortious act or omission or violation of a constitutional right committed by a law enforcement officer on or before September 30, 2021 June 30, 2022.~~

~~SECTION 9. AND BE IT FURTHER ENACTED, That Section 5 of this Act shall be construed to apply prospectively to any Public Information Act request made on or after the effective date of this Act regardless of when the record requested to be produced was created.~~

~~SECTION 6. 10. 8. AND BE IT FURTHER ENACTED, That Section 4 6 of this Act shall Title 3, Subtitle 1 of the Public Safety Article, as enacted by Section 3 of this Act, shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to:~~

(1) any bona fide collective bargaining agreement entered into on or before ~~September 30, 2021~~ June 30, 2022, for the duration of the contract term, excluding any extensions, options to extend, or renewals of the term of the original contract; or

(2) a disciplinary matter against a law enforcement officer based on alleged misconduct occurring before ~~the effective date of this Act~~ July 1, 2022.

~~SECTION 7. 11. 9. AND BE IT FURTHER ENACTED, That the publishers of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross-references and terminology rendered incorrect by this Act. Cross-references to the term “law enforcement officer” as formerly stated under § 3-101(e) of the Public Safety Article of the Annotated Code of Maryland shall be redesignated as cross-references to the term “law enforcement officer” as stated under § 1-101(c) of the Public Safety Article. The publishers shall adequately describe any such correction in an editor’s note following the section affected.~~

~~SECTION 12. 10. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Maryland Higher Education Commission adopt similar regulations for determining award calculations for the Maryland Police Officers Repayment Program under Title 18, Subtitle 38 of the Education Article as the award calculation regulations in COMAR 13B.08.02.06 for the Janet L. Hoffman Loan Assistance Repayment Program under Title 18, Subtitle 15 of the Education Article.~~

~~SECTION 8. 13. AND BE IT FURTHER ENACTED, That Sections 1, 2, and 6 of this Act shall take effect October 1, 2021. July 1, 2022.~~

~~SECTION 14. AND BE IT FURTHER ENACTED, That, except as provided in Section 13 of this Act, this Act shall take effect October 1, 2021.~~

SECTION 11. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall take effect July 1, 2022, contingent on the taking effect of Chapter _____ (S.B. 71) of the Acts of the General Assembly of 2021, and if Chapter _____ (S.B. 71) does not take effect, Section 4 of this Act, with no further action required by the General Assembly, shall be null and void.

SECTION 12. AND BE IT FURTHER ENACTED, That, except as provided in Section 11 of this Act, this Act shall take effect July 1, 2022.

May 28, 2021

The Honorable Bill Ferguson
President of the Maryland Senate
H-107 State House
Annapolis, MD 21401

The Honorable Adrienne A. Jones
Speaker of the Maryland House of Delegates
H-101 State House
Annapolis, MD 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 719 – *Commercial Tenants – Personal Liability Clauses – Enforceability*. House Bill 719 contains well-intentioned goals to assist struggling businesses that temporarily closed due to the COVID-19 pandemic. However, this legislation will have a negative impact on other Maryland small businesses by altering private contracts between commercial landlords and tenants and causing personal liability clauses to be unenforceable.

From the very start of the COVID-19 pandemic my Administration has remained committed to providing relief for struggling Maryland businesses. We have provided over \$750 million in Coronavirus relief funding, with business assistance that included \$220 million in emergency grant and loan assistance and over \$80 million in restaurant relief. In addition we passed the bipartisan RELIEF Act, which established \$1.45 billion in additional funding, including another \$20 million in funding for small businesses, \$22 million for restaurants, \$10 million for hotels, and nearly \$190 million for a sales and use vendor tax credit.

House Bill 719 fails to recognize that many of Maryland's commercial landlords are small businesses themselves. They often need personal liability clauses from their tenants to obtain their own financing for the property from lenders. This legislation could result in a

commercial landlord being in technical default on their loan for the building, only leading to more difficulty in the future for businesses to obtain commercial financing, leading to greater small business and job losses.

Moreover, House Bill 719 does not account for circumstances where the commercial tenant is a larger entity and has more capital than their landlord. This bill could provide the larger tenant relief while providing less to the smaller landlord.

There is no question that the implementation of public safety measures to combat the COVID–19 pandemic deeply impacted many businesses in Maryland. However, this legislation waives an impacted commercial tenants contractual obligations, regardless of whether they received assistance from their landlords, governmental aid or other support and without any assessment of financial hardship and instead shifts the burden on fellow small businesses.

For these reasons, I have vetoed House Bill 719.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 719

AN ACT concerning

Commercial Tenants – Personal Liability Clauses – Enforceability

FOR the purpose of providing that a certain personal liability clause in a commercial lease or associated document ~~is~~ may be ~~is~~ unenforceable under certain circumstances; prohibiting a commercial landlord from attempting to enforce a personal liability clause that the commercial landlord knows or reasonably should know is unenforceable under this Act; authorizing a court to enter a certain judgment; providing that certain lawful action by a commercial landlord may not be construed as a violation of certain provisions of this Act; providing that the period of the declared state of emergency and catastrophic health emergency may not be used for the purposes of calculating the time limitation on filing a certain action; defining certain terms; making this Act an emergency measure; providing for the termination of this Act; and generally relating to the enforcement of certain provisions in commercial leases and associated documents.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That:

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Commercial landlord” means a landlord under a commercial lease.

(3) “Commercial lease” means a lease for building floor space, including any addenda or modifications to the lease, intended to be used by the tenant for a nonresidential use whether or not the lease expressly sets forth a use.

(4) “Commercial tenant” means a tenant under a commercial lease.

(5) “COVID-19” means, interchangeably and collectively, the coronavirus known as COVID-19 or 2019-nCoV and the SARS-CoV-2 virus.

(6) “Personal liability clause” means a clause or provision in a commercial lease or an associated agreement that requires an individual who is not a commercial tenant under the commercial lease to become personally liable to the commercial landlord, in whole or in part, for fees or charges, including rent, taxes, utility fees, or fees for routine building maintenance, owed by the commercial tenant in the event of a default.

(b) A personal liability clause ~~shall~~ ~~may~~ *shall* be unenforceable during the period of the state of emergency and catastrophic health emergency beginning March 5, 2020, with the Governor’s “Declaration of State of Emergency and Existence of Catastrophic Health Emergency – COVID-19” and ending 180 days after the expiration or rescission of the Governor’s proclamation if:

(1) as a result of the issuance by the Governor on March 5, 2020, of the proclamation declaring a state of emergency and the existence of a catastrophic health emergency or any other proclamation issued under Title 14 of the Public Safety Article relating to the outbreak of COVID-19, the commercial tenant was required to:

(i) cease serving patrons food or beverage for on-premises consumption; or

(ii) close to the public due to its status as a nonessential business or a specific provision contained in an executive order or proclamation issued by the Governor; and ~~and~~

(2) the default causing the individual to become wholly or partially personally liable for such obligation occurred between March 23, 2020, and September 30, 2020, inclusive; and.

~~(3) the court finds, based on the totality of the circumstances, that enforcement of the personal liability clause would be unjust.~~

(c) (1) (i) A commercial landlord may not attempt to enforce a personal liability clause that the commercial landlord knows or reasonably should know is unenforceable under this section.

(ii) A court may enter a judgment against a commercial landlord for reasonable attorney's fees and court costs for a violation of subparagraph (i) of this paragraph.

(2) A commercial landlord's lawful action for nonpayment of rent, lawful termination of a tenancy established by a commercial lease, lawful refusal to renew or extend a commercial lease or associated agreement, or lawful reentry and repossession of the covered property may not be construed as a violation of this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That the period of the state of emergency and catastrophic health emergency beginning March 5, 2020, with the Governor's "Declaration of State of Emergency and Existence of Catastrophic Health Emergency – COVID-19" and ending on the expiration or rescission of the Governor's proclamation may not be considered for the purposes of calculating time limitations restricting the filing of an action alleging liability that accrued during the state of emergency and catastrophic health emergency under a personal liability clause of a commercial lease.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. It shall remain effective ~~through September 30, 2023, and, at the end of September 30, 2023~~ until 180 days after the expiration or rescission of the Governor's proclamation of March 5, 2020, "Declaration of State of Emergency and Existence of Catastrophic Health Emergency – COVID-19", and 180 days after the expiration or rescission of the Governor's proclamation, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

May 28, 2021

The Honorable Bill Ferguson
President of the Senate
H-107 State House
Annapolis, Maryland 21401

The Honorable Adrienne A. Jones
Speaker of the House
H-101 State House
Annapolis, Maryland 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 777 and Senate Bill 417 – *Power Plant Research Program – Review of Application for Certificate of Public Convenience and Necessity – Alterations*.

In general, I support the intent of HB 777 / SB 417 to have the Power Plant Research Program (PPRP) complete its review of applications for Certificate of Public Convenience and Necessity (CPCN) within six months for the construction or modification of solar generating stations. Unfortunately, the legislation also mandates a timeline of six months for PPRP to provide environmental review and mitigation recommendations for *all other* CPCN applications. This is unreasonable, needlessly puts state agencies in jeopardy of noncompliance, and leaves Maryland’s natural resources at risk.

HB 777/SB 417 imposes a six-month deadline for review of all CPCN cases including hydroelectric, natural gas, nuclear, wind energy, and transmission cases. The environmental complexity of the vast majority of these cases requires a longer review period than six months in order for PPRP to adequately meet its mission. The “Good Cause” waiver provision does not solve this problem because it does not allow for routine exemptions of far more complex projects — such as transmission line cases — which take longer than six months to review.

It is not the Public Service Commission’s (PSC) practice to grant any waiver requests on a routine basis for reviews that require greater scrutiny. Rather, the PSC considers project-specific circumstances. Considerations that may apply in one project application setting, based on a specific set of facts, might not apply to a different project. If a waiver is requested under HB 777 / SB 417, the burden is on the requesting party to establish the specific basis for seeking the waiver and demonstrate “good cause” to modify or suspend the procedural schedule. Given that a waiver is never guaranteed, a six-month time frame is unreasonable and irresponsible for all non-solar CPCN cases. Additionally, it would be difficult for the PSC to proceed with consideration of a CPCN case without the completion of PPRP’s important environmental mitigation work and recommendations.

The importance of making the right decision on this public utility policy is that PPRP coordinates the statewide review of CPCNs to mitigate projects’ environmental impacts to rare, threatened, or endangered species; streams; wetlands; forests; birds; water quality; and many others. Other considerations for mitigation include sea level rise and climate change. PPRP is the State’s only intervenor in CPCN cases that analyzes environmental impacts and that has standing to move recommended mitigation conditions to the PSC. Further, as Maryland looks to the future of clean and renewable energy, emerging technologies seeking a CPCN — with new and unique impacts — will have no guarantee that the six-month deadline would be waived.

Before the General Assembly began work on HB 777/SB 417, the PSC took swift action to streamline the CPCN process. Participating stakeholders included state agencies, solar developers, Maryland Association of Counties, and Maryland Municipal League. Their work culminated with the conducting of Rulemaking 72 in March 2021. The PSC has now approved revised regulations, which include significant procedural improvements to the

CPCN application process for generating stations and make the wide reach of HB 777 / SB 417 premature and unnecessary.

Finally, while HB 777/SB 417 was assigned to the House Economic Matters Committee — the committee that deals exclusively with CPCN issues — the parallel Senate Finance Committee was given no opportunity to consider the impact or reasonableness of establishing this timeline across the board. The legislation was instead considered exclusively in a committee that does not have public utility policy in its purview.

For these reasons, I have vetoed House Bill 777 and Senate Bill 417.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 777

AN ACT concerning

Power Plant Research Program – Review of Application for Certificate of Public Convenience and Necessity – Alterations

FOR the purpose of altering the circumstances under which the Public Service Commission must notify the Department of Natural Resources and the Department of the Environment about an application for a certificate of public convenience and necessity associated with power plant construction; altering the timeframe under which the Department of Natural Resources and the Department of the Environment must conduct a certain study and investigation; requiring the Department of Natural Resources to complete a certain report within a certain amount of time after the Commission deems an application complete; altering the timeframe under which the Secretary of Natural Resources and the Secretary of the Environment must submit certain information to the Commission; requiring that certain licensing conditions must be consistent with certain requirements but may not exceed the authority of the Department of the Environment; authorizing the Commission to waive certain deadlines under certain circumstances; repealing the requirement that the Secretary of Natural Resources and the Secretary of the Environment present certain recommendations to the Commission within a certain number of days after a certain hearing; making stylistic and conforming changes; and generally relating to the Power Plant Research Program and the review of applications for a certificate of public convenience and necessity.

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section 3–306

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

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

Article – Natural Resources

3–306.

(a) **(1)** Notwithstanding anything to the contrary in this article or the Public Utilities Article, on application to the Public Service Commission for a certificate of public convenience and necessity associated with power plant construction [involving, but not limited to, use or diversion of the waters of the State, or private wetlands], the Commission shall notify immediately the Department of Natural Resources and the Department of the Environment of the application.

(2) The Commission shall supply the Department of Natural Resources and the Department of the Environment with any pertinent information available regarding the application.

(3) The Department of the Environment shall treat the application for a certificate of public convenience and necessity as an application for [appropriation]:

(I) **APPROPRIATION** or use of waters of the State under Title 5 of the Environment Article; and [as an application for a]

(II) A license for dredging and filling under Title 16 of the Environment Article.

(b) **(1)** [Within 60 days after the application for a certificate of public convenience and necessity has been filed with the Commission, the] **SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, WITHIN 6 MONTHS AFTER THE COMMISSION DEEMS AN APPLICATION COMPLETE:**

(I) **THE** Secretary shall require the Department of Natural Resources to complete **AN INDEPENDENT ENVIRONMENTAL AND SOCIOECONOMIC PROJECT ASSESSMENT REPORT AND** any additional **REQUIRED** study and investigation concerning the application[.]; and [the]

(II) **THE** Secretary of the Environment shall require the Department of the Environment to study and investigate the necessity for dredging and filling at the proposed plant site and water appropriation or use. [The Secretary and the Secretary of the Environment jointly shall forward the results of the study and investigation, together with a recommendation that the certificate be granted, denied, or granted with any condition deemed necessary, to the chairman of the Commission.]

(2) (I) IN ACCORDANCE WITH THE COMMISSION'S PROCEDURAL SCHEDULE FOR AN APPLICATION AND SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, WITHIN 6 MONTHS AFTER THE COMMISSION DEEMS AN APPLICATION COMPLETE, THE SECRETARY AND THE SECRETARY OF THE ENVIRONMENT JOINTLY SHALL SUBMIT TO THE COMMISSION:

1. THE RESULTS OF THE STUDIES, INVESTIGATIONS, AND REPORTS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION;

2. A RECOMMENDATION THAT THE CERTIFICATE SHOULD BE GRANTED OR DENIED AND THE FACTUAL BASIS FOR THE RECOMMENDATION; AND

3. SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, RECOMMENDED LICENSING CONDITIONS FOR THE CONSTRUCTION, OPERATION, OR DECOMMISSIONING OF THE PROPOSED FACILITY.

(II) 1. A LICENSING CONDITION SUBMITTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT RELATES TO WETLANDS, STORMWATER MANAGEMENT, OR EROSION AND SEDIMENT CONTROL MUST BE CONSISTENT WITH THE WETLAND, STORMWATER MANAGEMENT, AND EROSION AND SEDIMENT CONTROL REQUIREMENTS IN THE ENVIRONMENT ARTICLE.

2. A LICENSING CONDITION SUBMITTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT RELATES TO WETLANDS, STORMWATER MANAGEMENT, OR EROSION AND SEDIMENT CONTROL MAY NOT EXCEED THE AUTHORITY OF THE DEPARTMENT OF THE ENVIRONMENT.

(3) THE COMMISSION MAY WAIVE A DEADLINE UNDER THIS SECTION:

(I) FOR ~~UNDUE HARDSHIP~~ GOOD CAUSE; OR

(II) ON AGREEMENT OF THE PARTIES TO THE PROCEEDING.

(c) The [results and recommendations] SUBMISSIONS MADE TO THE COMMISSION UNDER SUBSECTION (B)(2) OF THIS SECTION shall be [open]:

(1) OPEN for public inspection; and [shall be presented]

(2) PRESENTED JOINTLY by the [Secretaries] SECRETARY AND THE SECRETARY OF THE ENVIRONMENT, or their designees, at the hearing HELD BY the Commission [holds as required by] IN ACCORDANCE WITH Title 7, Subtitle 2 of the Public Utilities Article. [Within 15 days from the conclusion of the hearing, and based on the evidence there presented, the Secretaries jointly shall present their final recommendation

to the chairman of the Commission including, but not limited to, any specific conclusions as to any private wetlands involved and any specific conclusions as to any water use or restriction of water use involved.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

May 28, 2021

The Honorable Adrienne A. Jones
Speaker of the House of Delegates
H-101 State House
Annapolis, MD 21401

Dear Speaker Jones:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 813 – *St. Mary's County – Public Facilities Bond*.

This bill authorizes the St. Mary's County Commissioners to issue up to \$30.0 million in general obligation bonds for the acquisition, construction, improvement, or renovation of public buildings, facilities, and public works projects. The date of maturity of the bonds may not exceed 30 years.

Senate Bill 861, which was passed by the General Assembly and became law without my signature, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 813.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 813

AN ACT concerning

St. Mary's County – Public Facilities Bond

FOR the purpose of authorizing and empowering the County Commissioners of St. Mary's County, from time to time, to borrow not more than \$30,000,000 in order to finance the construction, improvement, or development of certain public facilities in St. Mary's County, as herein defined, and to effect such borrowing by the issuance and

sale at public or private sale of its general obligation bonds in like par amount; empowering the County to fix and determine, by resolution, the form, tenor, interest rate or rates or method of determining the same, terms, conditions, maturities, and all other details incident to the issuance and sale of the bonds; empowering the County to issue refunding bonds for the purchase or redemption of bonds in advance of maturity; empowering and directing the County to levy, impose, and collect, annually, ad valorem taxes in rate and amount sufficient to provide funds for the payment of the maturing principal of and interest on the bonds; exempting the bonds and refunding bonds and the interest thereon and any income derived therefrom from all State, county, municipal, and other taxation in the State of Maryland; providing that nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes; and generally relating to the issuance and sale of such bonds.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, as used herein, the term “County” means the body politic and corporate of the State of Maryland known as the County Commissioners of St. Mary’s County, and the term “construction, improvement, or development of public facilities” means the acquisition, alteration, construction, reconstruction, enlargement, equipping, expansion, extension, improvement, rehabilitation, renovation, upgrading, and repair of public buildings and facilities and public works projects, including, but not limited to, public works projects such as highways, roads, bridges and storm drains, public school buildings and facilities, boating facilities, shore erosion and other marine property, landfills, and recycling facilities, public operational buildings and facilities such as buildings and facilities for County administrative use, capital improvements to the Wicomico Shores Taxing District, County athletic facilities, the community college, community swimming pools, public safety, health, and social services, libraries, commuter air service facilities, refuse disposal buildings and facilities, and parks and recreation buildings and facilities, together with the costs of acquiring land or interests in land as well as any related architectural, financial, legal, planning, or engineering services.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to finance any part or all of the costs of the public facilities described in Section 1 of this Act, and to borrow money and incur indebtedness for that purpose, at one time or from time to time, in an amount not exceeding, in the aggregate, \$30,000,000, and to evidence such borrowing by the issuance and sale upon its full faith and credit of general obligation bonds in like par amount, which may be issued at one time or from time to time, in one or more groups or series, as the County may determine.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued in accordance with a resolution of the County, which shall describe generally the construction, improvement, or development of public facilities for which the proceeds of the bond sale are intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms, and tenor of the bonds which, without limitation, may be

issued in registered form within the meaning of § 19–204 of the Local Government Article of the Annotated Code of Maryland, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in consecutive annual installments, provided only that no bond of any issue shall mature later than 30 years from the date of its issue; the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined to be in the best interests of St. Mary's County; the manner of executing and sealing the bonds, which may be by facsimile; the terms and conditions, if any, under which bonds may be tendered for payment or purchase prior to their stated maturity; the terms or conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; covenants relating to compliance with applicable requirements of federal income tax law, including (without limitation) covenants regarding the payment of rebate or penalties in lieu of rebate; covenants relating to compliance with applicable requirements of federal or state securities laws; and generally all matters incident to the terms, conditions, issuance, sale, and delivery thereof.

The bonds may be made redeemable before maturity, at the option of the County, at such price or prices and under such terms and conditions as may be fixed by the County prior to the issuance of the bonds, either in the resolution or in a bond order pursuant to the bond resolution. The bonds may be issued in registered form and provision may be made for the registration of the principal only. In case any officer whose signature appears on any bond ceases to be such officer before the delivery thereof, such signature shall nevertheless be valid and sufficient for all purposes as if he had remained in office until such delivery. The bonds and the issuance and sale thereof shall be exempt from the provisions of §§ 19–205 and 19–206 of the Local Government Article of the Annotated Code of Maryland, as amended.

The County may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of any security for the bonds and for the purpose of securing any tender option that may be granted to holders of the bonds, all as may be determined and presented in the aforesaid resolution, which may (but need not) state as security for the performance by the County of any monetary obligations under such agreements the same security given by the County to bondholders for the performance by the County of its monetary obligations under the bonds.

If the County determines in the resolution to offer any of the bonds by solicitation of competitive bids at public sale, the resolution shall fix the terms and conditions of the public sale and shall adopt a form of notice of sale, which shall outline the terms and conditions, and a form of advertisement, which shall be published in one or more daily or weekly newspapers having a general circulation in the County and which may also be published in one or more journals having a circulation primarily among banks and investment bankers. At least one publication of the advertisement shall be made not less than 10 days before the sale of the bonds.

Upon delivery of any bonds to the purchaser or purchasers, payment therefor shall be made to the Treasurer of St. Mary's County or such other official of St. Mary's County as may be designated to receive such payment in a resolution passed by the County before such delivery.

SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the sale of bonds shall be used and applied exclusively and solely for the acquisition, construction, improvement, or development of public facilities for which the bonds are sold. If the amounts borrowed shall prove inadequate to finance the projects described in the resolution, the County may issue additional bonds with the limitations hereof for the purpose of evidencing the borrowing of additional funds for such financing, provided the resolution authorizing the sale of additional bonds shall so recite, but if the net proceeds of the sale of any issue of bonds exceed the amount needed to finance the projects described in the resolution, the excess funds so borrowed and not expended shall be applied to the payment of the next principal maturity of the bonds or to the redemption of any part of the bonds which have been made redeemable or to the purchase and cancellation of bonds, unless the County shall adopt a resolution allocating the excess funds to the acquisition, construction, improvement, or development of other public facilities, as defined and within the limits set forth in this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest on the bonds as and when they become payable. In each and every fiscal year that any of the bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the County in rate and amount sufficient to provide for or assure the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The County may apply to the payment of the principal of and interest on any bonds issued hereunder any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality thereof, or from any other source, if such funds are granted for the purpose of assisting the County in financing the acquisition, construction, improvement, or development of the public facilities defined in this Act and, to the extent of any such funds received or receivable in any fiscal year, the taxes that are required to be levied under this Act may be reduced accordingly.

SECTION 6. AND BE IT FURTHER ENACTED, That the County is further authorized and empowered, at any time and from time to time, to issue its bonds in the manner hereinabove described for the purpose of refunding, by payment at maturity or upon purchase or redemption, any bonds issued hereunder. The validity of any such refunding bonds shall in no way be dependent upon or related to the validity or invalidity of the obligations so refunded. The powers herein granted with respect to the issuance of bonds shall be applicable to the issuance of refunding bonds. Such refunding bonds may be issued by the County in such an amount as shall be necessary for the purpose of providing it with funds to pay any of its outstanding bonds issued hereunder at maturity, for the

purpose of providing it with funds to purchase in the open market any of its outstanding bonds issued hereunder, prior to the maturity thereof, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds issued hereunder which are, by their terms, redeemable, for the purpose of providing it with funds to pay interest on any outstanding bonds issued hereunder prior to their payment at maturity of purchase or redemption in advance of maturity, or for the purpose of providing it with funds to pay any redemption or purchase premium in connection with the refunding of any of its outstanding bonds issued hereunder. The proceeds of the sale of any such refunding bonds shall be segregated and set apart by the County as a separate trust fund to be used solely for the purpose of paying the purchase or redemption prices of the bonds to be refunded.

SECTION 7. AND BE IT FURTHER ENACTED, That the County may, prior to the preparation of definitive bonds, issue interim certificates or temporary bonds, exchangeable for definitive bonds when such bonds have been executed and are available for such delivery, provided, however, that any such interim certificates or temporary bonds shall be issued in all respects subject to the restrictions and requirements set forth in this Act. The County may, by appropriate resolution, provide for the replacement of any bonds issued hereunder which shall have become mutilated or lost or destroyed upon such conditions and after receiving such indemnity as the County may require.

SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations issued pursuant to the authority of this Act, their transfer, the interest payable thereon, and any income derived therefrom in the hands of the holders thereof from time to time (including any profit made in the sale thereof) shall be and are hereby declared to be at all times exempt from State, county, municipal, or other taxation of every kind and nature whatsoever within the State of Maryland. Nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes.

SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow money and issue bonds conferred on the County by this Act shall be deemed to provide an additional and alternative authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and shall not be regarded as in derogation of any power now existing; and all Acts of the General Assembly of Maryland heretofore passed authorizing the County to borrow money are hereby continued to the extent that the powers contained in such Acts have not been exercised, and nothing contained in this Act may be construed to impair, in any way, the validity of any bonds that may have been issued by the County under the authority of any said Acts, and the validity of the bonds is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of St. Mary's County, shall be liberally construed to effect the purposes hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

SECTION 10. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2021.

May 28, 2021

The Honorable Bill Ferguson
President of the Senate
H-107 State House
Annapolis, Maryland 21401

The Honorable Adrienne A. Jones
Speaker of the House
H-101 State House
Annapolis, Maryland 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 741 and House Bill 836 – *COVID-19 Testing, Contact Tracing, and Vaccination Act of 2021*. Since I declared a State of Emergency on March 5, 2020, my Administration has taken unprecedented actions to keep Marylanders safe, including administering over six million COVID-19 vaccines, conducting over 10 million COVID-19 tests, and organizing contact tracing operations in all 24 of Maryland’s local jurisdictions. To date, Maryland has invested more than \$1.9 billion in our public health response to the COVID-19 pandemic, and the State has allocated nearly \$800 million directly to local jurisdictions for these efforts.

These misguided bills would revert the State back to the early planning phases of Maryland’s COVID-19 pandemic response efforts by requiring the Maryland Department of Health (MDH) to re-develop its testing, contact tracing, and vaccination plans that have already been serving Marylanders effectively and saving lives for over a year. Additionally, this legislation’s attempt to mandate funds for fiscal years 2021 and 2022 is in direct conflict with the Maryland Constitution, which precludes the General Assembly from mandating spending prior to fiscal year 2023.

Through our comprehensive vaccination program, over 88% of Marylanders over 65 have been vaccinated, and nearly 70% of all adults have received at least one dose – one of the highest rates of vaccination in the country. Maryland will continue to prioritize equity and access until we accomplish our goal of “no arm left behind.” The *New England Journal of Medicine*, one of the most prestigious peer-reviewed medical journals in the world, recently recognized Maryland’s success and the efforts of the Maryland Vaccine Equity Task Force, stating that the task force “has worked diligently to reach the state’s vulnerable communities by partnering with trusted community, faith-based, and nonprofit organizations.” According to data published by *Bloomberg*, Maryland is one of only five states to vaccinate at least 40% of its Black and Hispanic populations. These successes were the result of careful planning, diligent execution, and valuable partnerships with both

public and private entities, including support from many members of the Maryland General Assembly.

Our Administration took unprecedented actions, including sourcing laboratory materials from across the world, to dramatically increase our State's COVID-19 testing capacity. We have gone from 50 tests per day in early March 2020 to over 50,000 tests in one day. When the number of COVID-19 cases surged this past winter, Maryland was ready to meet the increased testing demand by performing an average of more than 286,000 tests per week. We currently average more than 174,000 tests per week. Since the beginning of the pandemic, more than 10 million total COVID-19 tests have been conducted in Maryland. We will continue these important efforts to ensure that COVID-19 testing resources remain accessible to all Marylanders.

Maryland's contact tracing program is a collaborative effort led by MDH, in coordination with the State's 24 local health departments (LHDs). The State Contact Tracing Unit closely monitors performance metrics, such as the proportion of cases with outreach initiated within 24 hours and the proportion of cases who were successfully reached within 24 hours to detect and mitigate local hotspots. By closely coordinating with local jurisdictions, MDH and LHDs can tailor programs to meet the unique needs of each jurisdiction including, directly hiring staff dedicated to contact tracing, redirecting school health nurses and LHD staff to contact tracing, and contracting with outside entities to provide contact tracing services. As the COVID-19 pandemic has evolved, the State Contact Tracing program will continue to adapt to meet each jurisdiction's specific contact tracing needs.

Our long, hard-fought battle against the deadliest global pandemic in more than a century is finally nearing an end. As we reflect on the hard work and the many sacrifices taken by Marylanders to achieve one of the most effective pandemic responses in the nation and by extension the world, legislation that would require Maryland to turn back the clock to the early planning phases of the pandemic response is counterproductive to our continued progress.

For these reasons, I have vetoed Senate Bill 741 and House Bill 836 – *COVID-19 Testing, Contact Tracing, and Vaccination Act of 2021*.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 836

AN ACT concerning

COVID-19 Testing, Contact Tracing, and Vaccination Act of 2021

FOR the purpose of requiring, on or before a certain date, the Maryland Department of Health, in collaboration with local health departments in the State, to adopt and implement a certain plan to respond to the outbreak of COVID–19; establishing certain requirements for the plan; requiring the Department, in collaboration with local health departments and other persons, to include in the plan the establishment of a Maryland Public Health Jobs Corps; establishing certain requirements for the Corps; requiring the Department to submit the plan to the General Assembly on or before a certain date; requiring the Department to provide in certain fiscal years certain funding in grants to local jurisdictions for certain purposes; authorizing a local jurisdiction to use certain grant funding for a certain purpose; establishing certain formulas for the allocation of certain funding to local jurisdictions; ~~requiring~~ authorizing the Department to ~~first~~ only use certain federal funding to provide certain funding to local jurisdictions; ~~requiring the Department to use general funds to provide certain funding to local jurisdictions under certain circumstances;~~ requiring the Department, on or before a certain date and with input from certain persons, to develop and submit to the General Assembly a certain plan for vaccinating residents of the State against COVID–19; requiring that the plan include certain information and elements; requiring the Department to provide to the General Assembly, for the duration of a certain calendar year, certain weekly progress reports on implementation of the plan; requiring the reports to be submitted to the General Assembly in a certain manner; requiring the Department to convene a Maryland Public Health Infrastructure Modernization Workgroup; providing for the composition of the Workgroup; requiring the Workgroup to conduct a certain assessment and make certain recommendations; requiring the Workgroup to submit a certain report to the General Assembly on or before a certain date; altering the effective date of certain provisions of law governing the disclosure of outpatient facility fees; requiring, for a certain calendar year, certain institutions of higher education in the State to ~~adopt and implement~~ establish a certain COVID–19 testing security plan; requiring that the COVID–19 testing security plan ~~adopted and implemented~~ established by certain institutions of higher education ~~include a certain requirement~~ be posted on a certain website and made available to the public; requiring home health agencies to adopt and implement a certain COVID–19 infection control and prevention plan and provide the plan to certain individuals; requiring ~~home health agencies,~~ nursing homes, and assisted living programs to adopt and implement COVID–19 testing plans; establishing certain requirements for the COVID–19 testing plans; requiring the Department to adopt certain regulations; requiring the Department, to the extent practicable, to provide certain grant funding to home health agencies and assisted living facilities in certain years to cover the cost of certain COVID–19 testing; requiring certain insurers, nonprofit health service plans, and health maintenance organizations to provide coverage for certain COVID–19 tests and ~~associated costs~~ related items and services for the administration of the tests; ~~prohibiting certain insurers, nonprofit health service plans, and health maintenance organizations from requiring a member to obtain a certain determination as a condition for the coverage;~~ prohibiting certain insurers, nonprofit health service plans, and health maintenance organizations from applying a copayment, coinsurance requirement, or deductible to the coverage; stating the intent of the General Assembly; providing that any funding appropriated for the

implementation of this Act may consist only of certain federal funds; defining certain terms; providing for the application of certain provisions of this Act; making this Act an emergency measure; providing for the termination of certain provisions of this Act; and generally relating to public health and testing, contact tracing, and vaccination for COVID-19.

BY adding to

Article – Health – General

Section 16-201.5; 18-9A-01 through 18-9A-04 to be under the new subtitle “Subtitle 9A. COVID-19 Testing, Contact Tracing, and Vaccination Act”; 19-411; 19-14C-01 and 19-14C-02 to be under the new subtitle “Subtitle 14C. COVID-19 Testing Plan”; and 19-1814

Annotated Code of Maryland

(2019 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Chapter 365 of the Acts of the General Assembly of 2020

Section 2

BY adding to

Article – Education

Section 11-1701 and 11-1702 to be under the new subtitle “Subtitle 17. COVID-19 Testing Plan”

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

BY adding to

Article – Insurance

Section 15-856

Annotated Code of Maryland

(2017 Replacement Volume and 2020 Supplement)

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

Article – Health – General

SUBTITLE 9A. COVID-19 TESTING, CONTACT TRACING, AND VACCINATION ACT.

18-9A-01.

(A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “COVID-19” MEANS, INTERCHANGEABLY AND COLLECTIVELY, THE CORONAVIRUS KNOWN AS COVID-19 OR 2019-nCoV AND THE SARS-CoV-2 VIRUS.

(C) “COVID-19 TEST” MEANS ~~A FEDERAL FOOD AND DRUG ADMINISTRATION APPROVED MOLECULAR POLYMERASE CHAIN REACTION (PCR) TEST OR AN ANTIGEN TEST FOR THE DETECTION OR DIAGNOSIS OF COVID-19~~ AN IN VITRO DIAGNOSTIC TEST FOR THE DETECTION OF SARS-CoV-2 OR THE DIAGNOSIS OF THE VIRUS THAT CAUSES COVID-19, AS DESCRIBED IN § 3201 OF THE FEDERAL CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT.

18-9A-02.

(A) ON OR BEFORE ~~APRIL 1, 2021~~ JUNE 1, 2021, THE DEPARTMENT, IN COLLABORATION WITH LOCAL HEALTH DEPARTMENTS IN THE STATE AND THE MARYLAND STATE DEPARTMENT OF EDUCATION, SHALL ADOPT AND IMPLEMENT A 2-YEAR PLAN TO RESPOND TO THE OUTBREAK OF COVID-19.

(B) THE PLAN REQUIRED UNDER THIS SECTION SHALL:

(1) INCLUDE MEASURES TO ENHANCE PUBLIC HEALTH EFFORTS AT THE STATE AND LOCAL LEVEL TO MONITOR, PREVENT, AND MITIGATE THE SPREAD OF COVID-19;

(2) (I) ASSESS THE COVID-19 PUBLIC AND PRIVATE TESTING INFRASTRUCTURE IN PLACE BOTH STATEWIDE AND IN EACH LOCAL JURISDICTION;

(II) IDENTIFY AND ADDRESS THE UNMET NEEDS FOR COVID-19 TESTING STATEWIDE AND IN EACH LOCAL JURISDICTION, INCLUDING THE NUMBER AND LOCATION OF PUBLIC AND PRIVATE TESTING PROVIDERS REQUIRED TO ENSURE ACCESS TO TESTING ON DEMAND FOR ALL RESIDENTS OF THE STATE;

(III) ESTABLISH SPECIFIC MONTHLY GOALS FOR COVID-19 TESTING STATEWIDE AND IN EACH LOCAL JURISDICTION TO ENSURE ACCESS TO TESTING FOR ALL RESIDENTS OF THE STATE, INCLUDING:

1. ~~A GOAL TO ACHIEVE THE CAPACITY TO PERFORM UP TO 100,000 COVID-19 TESTS PER DAY IN THE STATE~~ THE SURVEILLANCE TESTING REQUIRED TO SAFELY REOPEN AND KEEP OPEN SCHOOLS, INSTITUTIONS OF HIGHER EDUCATION, WORKPLACES, AND OTHER COMMUNITY FACILITIES IN THE STATE WHILE MINIMIZING THE COMMUNITY SPREAD OF COVID-19 IN CALENDAR YEARS

2021 AND 2022 THROUGH A NETWORK OF PUBLIC AND PRIVATE TESTING PROVIDERS; AND

2. FOR EACH LOCAL JURISDICTION, A GOAL TO ESTABLISH ~~IN CALENDAR YEARS 2021 AND 2022 AT LEAST SIX~~ THE REQUIRED NUMBER OF PUBLIC OR PRIVATE COVID-19 TESTING LOCATIONS PER 100,000 RESIDENTS TO ACHIEVE THE SURVEILLANCE TESTING GOAL DESCRIBED IN ITEM 1 OF THIS ITEM; AND

~~(IV) INCLUDE A REQUIREMENT THAT STATE AND LOCAL JURISDICTION GOVERNMENTAL PROVIDERS OF COVID-19 TESTING BILL HEALTH INSURANCE CARRIERS TO COVER THE COST OF TESTING WHEN:~~

~~1. COVERAGE FOR COVID-19 TESTING IS PROVIDED UNDER A HEALTH BENEFIT PLAN OF AN INDIVIDUAL TESTED; AND~~

~~2. BILLING MAY BE CARRIED OUT IN A MANNER THAT WILL NOT CREATE A BARRIER TO ACCESSING TESTING FOR INDIVIDUALS WHO:~~

~~A. ARE UNINSURED; OR~~

~~B. MAY BE RELUCTANT TO RECEIVE A TEST IF THE INDIVIDUAL IS ASKED TO PROVIDE INFORMATION RELATING TO INSURANCE COVERAGE~~ ESTIMATE THE FUNDING REQUIRED TO IMPLEMENT THE SURVEILLANCE TESTING GOAL DESCRIBED IN ITEM (III)1 OF THIS ITEM AND THE EXTENT TO WHICH FEDERAL FUNDING ALREADY RECEIVED BY THE STATE IN FISCAL YEAR 2021 AND FEDERAL FUNDING THAT IS PROVIDED TO THE STATE AND RECEIVED AFTER MARCH 1, 2021, CAN BE USED TO COVER THE COST REQUIRED TO ACHIEVE THAT GOAL;

(3) (I) ASSESS THE CONTACT TRACING INFRASTRUCTURE IN PLACE FOR COVID-19 BOTH STATEWIDE AND IN EACH LOCAL JURISDICTION;

(II) DETERMINE THE OPTIMAL NUMBER OF CONTACT TRACING, CASE MANAGEMENT, CARE RESOURCE COORDINATION, AND OTHER PERSONNEL PER 100,000 RESIDENTS NEEDED IN EACH JURISDICTION TO EFFECTIVELY MONITOR, PREVENT, AND MITIGATE THE SPREAD OF COVID-19;

(III) IDENTIFY AND ADDRESS THE UNMET NEEDS FOR COVID-19 CONTACT TRACING AND RELATED OUTBREAK PREVENTION AND MITIGATION EFFORTS BOTH STATEWIDE AND IN EACH LOCAL JURISDICTION; AND

(IV) 1. ESTABLISH GOALS FOR IDENTIFYING, LOCATING, AND TESTING INDIVIDUALS WHO HAVE BEEN IN CLOSE CONTACT WITH INDIVIDUALS WHO TEST POSITIVE FOR COVID-19 THAT ARE IN ALIGNMENT WITH CENTERS FOR

DISEASE CONTROL AND PREVENTION GUIDANCE FOR EFFECTIVE CONTACT TRACING PROGRAMS; AND

2. INCLUDE A MECHANISM FOR MONITORING PERFORMANCE OF CONTACT TRACING AND TESTING OF CONTACTS BOTH STATEWIDE AND FOR EACH LOCAL JURISDICTION;

(4) REQUIRE THE DEPARTMENT TO ASSIST LOCAL JURISDICTIONS THAT ADOPT STRATEGIES TO:

(I) ACCELERATE ACCESS TO AND THE USE OF AT-HOME COLLECTION AND POINT-OF-CARE TESTS FOR COVID-19; AND

(II) INCENTIVIZE AND ENCOURAGE PHARMACIES AND HEALTH CARE PROVIDERS, INCLUDING PRIMARY CARE PROVIDERS, TO PROVIDE COVID-19 TESTING; AND

(5) ALLOW EACH LOCAL JURISDICTION TO ESTABLISH AND IMPLEMENT A PROGRAM FOR COVID-19 CONTACT TRACING THAT IS INDEPENDENT FROM THE CONTACT TRACING PROGRAM PERFORMED BY THE STATE OR THE ENTITY WITH WHOM THE STATE HAS CONTRACTED TO PERFORM CONTACT TRACING FOR THE STATE.

~~**(C) (1) THE DEPARTMENT, IN COLLABORATION WITH LOCAL HEALTH DEPARTMENTS, HEALTH CARE PROVIDERS, REPRESENTATIVES OF AREA HEALTH EDUCATION CENTERS, AND OTHER RELEVANT STAKEHOLDERS, SHALL INCLUDE IN THE PLAN REQUIRED UNDER THIS SECTION THE ESTABLISHMENT OF A MARYLAND PUBLIC HEALTH JOBS CORPS.**~~

~~**(2) THE MARYLAND PUBLIC HEALTH JOBS CORPS SHALL BE COMPOSED OF COMMUNITY HEALTH WORKERS AND OTHER HEALTH CARE PERSONNEL RECRUITED, TRAINED, AND DEPLOYED FOR EMPLOYMENT BY LOCAL HEALTH DEPARTMENTS, NONPROFIT ORGANIZATIONS, AND OTHER ENTITIES TO RESPOND TO THE OUTBREAK OF COVID-19 BY PROVIDING OR FACILITATING:**~~

~~**(I) TESTING;**~~

~~**(II) CONTACT TRACING;**~~

~~**(III) VACCINE ADMINISTRATION, INCLUDING VACCINE OUTREACH AND NAVIGATION SUPPORTS; AND**~~

~~(IV) OTHER CASE MANAGEMENT AND RESOURCE SUPPORT SERVICES FOR INDIVIDUALS WHO HAVE BEEN EXPOSED TO OR TEST POSITIVE FOR COVID-19.~~

~~(3) THE MARYLAND PUBLIC HEALTH JOBS CORPS SHALL HAVE A DESIGN THAT:~~

~~(I) PRIORITIZES THE RECRUITMENT, TRAINING, AND DEPLOYMENT OF INDIVIDUALS FOR THE WORKFORCE WHO HAVE BEEN DISPLACED FROM OTHER WORKFORCE SECTORS THAT HAVE BEEN IMPACTED NEGATIVELY AS A RESULT OF THE OUTBREAK OF COVID-19; AND~~

~~(II) INCLUDES A PATHWAY DESIGNED TO ENABLE MEMBERS OF THE PUBLIC HEALTH RESPONSE WORKFORCE TO TRANSITION TO POSITIONS WITH A RESPONSIBILITY TO MEET ONGOING POSTPANDEMIC POPULATION HEALTH NEEDS OF UNDERSERVED COMMUNITIES AND VULNERABLE POPULATIONS.~~

(C) THE PLAN REQUIRED UNDER THIS SECTION SHALL HAVE A DESIGN THAT ADDRESSES THE DISPROPORTIONATE IMPACT OF THE COVID-19 PANDEMIC ON UNDERSERVED AND MINORITY COMMUNITIES IN THE STATE.

(D) ON OR BEFORE ~~APRIL 1, 2021~~ JUNE 1, 2021, THE DEPARTMENT SHALL SUBMIT THE PLAN REQUIRED UNDER THIS SECTION TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE.

(E) (1) (I) FOR FISCAL YEARS 2021 AND 2022, THE DEPARTMENT SHALL PROVIDE \$25,000,000 EACH YEAR IN GRANTS TO LOCAL JURISDICTIONS TO EXPAND CAPACITY FOR COVID-19 TESTING AND CONTACT TRACING, OR FOR ANY OTHER PUBLIC HEALTH PURPOSE RELATED TO COVID-19 RESPONSE FOR WHICH FEDERAL FUNDING IS AUTHORIZED.

(II) GRANT FUNDING PROVIDED FOR COVID-19 ~~TESTING AND CONTACT TRACING~~ RESPONSE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE DIVIDED BETWEEN LOCAL JURISDICTIONS IN PROPORTION TO THEIR RESPECTIVE POPULATIONS.

(III) THE DEPARTMENT SHALL PROVIDE ADDITIONAL GRANT FUNDING TO A LOCAL JURISDICTION TO SUPPLEMENT THE GRANT FUNDING ALLOCATED TO THE LOCAL JURISDICTION UNDER SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH IF THE DEPARTMENT DETERMINES THAT THE INITIAL ALLOCATION OF GRANT FUNDING IS NOT SUFFICIENT TO MEET THE COVID-19 TESTING AND CONTACT TRACING NEEDS OF THE LOCAL JURISDICTION.

(IV) A LOCAL JURISDICTION MAY USE GRANT FUNDING PROVIDED UNDER THIS SUBSECTION TO EXPAND COVID-19 TESTING CAPACITY THROUGH DIRECT TESTING EFFORTS BY THE HEALTH DEPARTMENT OF THE LOCAL JURISDICTION OR BY CONTRACTING WITH OTHER ENTITIES TO PROVIDE TESTING.

(2) (I) FOR FISCAL YEARS 2021 AND 2022 AND IN ADDITION TO ANY FUNDING PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL PROVIDE FUNDING TO LOCAL JURISDICTIONS THAT ELECT TO ESTABLISH AND IMPLEMENT A PROGRAM FOR COVID-19 CONTACT TRACING THAT IS INDEPENDENT FROM THE CONTACT TRACING PROGRAM PERFORMED BY THE STATE OR THE ENTITY WITH WHOM THE STATE HAS CONTRACTED TO PERFORM CONTACT TRACING FOR THE STATE.

(II) THE AMOUNT OF FUNDING PROVIDED TO A LOCAL JURISDICTION FOR COVID-19 CONTACT TRACING UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE EQUIVALENT TO THE COST PER CASE AMOUNT PROVIDED TO THE ENTITY WITH WHOM THE STATE HAS CONTRACTED TO PERFORM CONTACT TRACING FOR THE STATE.

(3) (I) FOR FISCAL YEARS 2021 AND 2022, THE DEPARTMENT SHALL PROVIDE \$15,000,000 EACH YEAR IN GRANTS TO LOCAL JURISDICTIONS TO VACCINATE RESIDENTS OF THE LOCAL JURISDICTION AGAINST COVID-19.

(II) GRANT FUNDING PROVIDED FOR COVID-19 VACCINATION UNDER THIS SUBSECTION SHALL BE DIVIDED BETWEEN LOCAL JURISDICTIONS IN PROPORTION TO THEIR RESPECTIVE POPULATIONS.

(III) THE DEPARTMENT SHALL PROVIDE ADDITIONAL GRANT FUNDING TO A LOCAL JURISDICTION TO SUPPLEMENT THE GRANT FUNDING ALLOCATED TO THE LOCAL JURISDICTION UNDER SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH IF THE DEPARTMENT DETERMINES THAT THE INITIAL ALLOCATION OF GRANT FUNDING IS NOT SUFFICIENT TO MEET THE COVID-19 VACCINATION NEEDS OF THE LOCAL JURISDICTION.

(4) ~~(I)~~ THE DEPARTMENT ~~SHALL FIRST~~ MAY USE ONLY FEDERAL FUNDING ALLOCATED TO THE STATE UNDER THE CORONAVIRUS RESPONSE AND RELIEF SUPPLEMENTAL APPROPRIATIONS ACT AND ANY OTHER FEDERAL LEGISLATION ENACTED IN CALENDAR YEARS 2020 THROUGH 2022 TO PROVIDE FUNDING REQUIRED UNDER THIS SECTION.

~~(II) IF THE FEDERAL FUNDING SPECIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT SUFFICIENTLY PROVIDE THE FUNDS REQUIRED UNDER THIS SECTION, GENERAL FUNDS SHALL BE USED TO SUPPLEMENT THE FEDERAL FUNDING.~~

(F) (1) TO THE EXTENT PRACTICABLE, THE DEPARTMENT SHALL PROVIDE UP TO \$9,000,000 IN FISCAL YEAR 2021 AND \$36,000,000 IN FISCAL YEAR 2022 IN GRANT FUNDING TO ASSISTED LIVING PROGRAMS AND HOME HEALTH AGENCIES IN CALENDAR YEAR 2021 TO COVER THE COST OF COVID-19 TESTING FOR RESIDENTS, PATIENTS, AND STAFF.

(2) ~~IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE DEPARTMENT:~~

~~(I) FIRST THE DEPARTMENT MAY USE ONLY FEDERAL FUNDING ALLOCATED TO THE STATE UNDER THE CORONAVIRUS RESPONSE AND RELIEF SUPPLEMENTAL APPROPRIATIONS ACT AND ANY OTHER FEDERAL LEGISLATION ENACTED IN CALENDAR YEARS 2020 THROUGH 2022 TO PROVIDE FUNDING REQUIRED UNDER THIS SUBSECTION; AND.~~

~~(II) IF THE FEDERAL FUNDING SPECIFIED UNDER ITEM (I) OF THIS PARAGRAPH DOES NOT SUFFICIENTLY PROVIDE THE FUNDS NEEDED UNDER THIS SUBSECTION, USE GENERAL FUNDS TO SUPPLEMENT THE FEDERAL FUNDING.~~

18-9A-03.

(A) (1) ON OR BEFORE ~~APRIL 1, 2021~~ JUNE 1, 2021, THE DEPARTMENT, WITH INPUT FROM SUBJECT MATTER EXPERTS AND OTHER RELEVANT STAKEHOLDERS, SHALL DEVELOP AND SUBMIT TO THE GENERAL ASSEMBLY A COMPREHENSIVE PLAN FOR VACCINATING RESIDENTS OF THE STATE AGAINST COVID-19.

(2) THE PLAN REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

(I) DETAILED INFORMATION ON:

1. THE CATEGORIES OF RESIDENTS OF THE STATE WHO WILL RECEIVE PRIORITY ACCESS TO VACCINES FOR COVID-19;

2. THE TIMELINE FOR PROVIDING VACCINES FOR COVID-19 TO RESIDENTS IN EACH OF THE PRIORITY CATEGORIES AND TO MEMBERS OF THE GENERAL PUBLIC WHO ARE NOT INCLUDED IN PRIORITY CATEGORIES; AND

3. TARGET METRICS FOR VACCINATING RESIDENTS IN EACH OF THE PRIORITY CATEGORIES AND FOR MEMBERS OF THE GENERAL PUBLIC WHO ARE NOT INCLUDED IN PRIORITY CATEGORIES; ~~AND~~

(II) A DEDICATION OF TIME AND RESOURCES TO TARGET VACCINE DISTRIBUTION AND VACCINE SAFETY OUTREACH EFFORTS TO COMMUNITIES THAT HAVE BEEN DISPROPORTIONATELY IMPACTED BY COVID-19 INFECTION, MORBIDITY, AND MORTALITY;

(III) A VACCINE DISTRIBUTION STRATEGY THAT ALLOCATES RESOURCES AND VACCINES ACROSS ALL PARTNERS AND VACCINATION SITES IN AN EQUITABLE MANNER THAT ENSURES THAT THE VACCINE ALLOCATION BY JURISDICTION ACCOUNTS FOR THE DISPROPORTIONATE IMPACT OF THE COVID-19 PANDEMIC ON UNDERSERVED AND MINORITY COMMUNITIES; AND

(IV) A STRATEGY FOR OUTREACH AND DISTRIBUTION OF VACCINES TO INDIVIDUALS WHO ARE NOT RECEIVING THE VACCINE, DUE TO EITHER LACK OF ACCESS OR VACCINE HESITANCY.

(B) AFTER SUBMITTING THE COVID-19 VACCINE PLAN TO THE GENERAL ASSEMBLY AS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT SHALL PROVIDE WEEKLY PROGRESS REPORTS ON IMPLEMENTATION OF THE COVID-19 VACCINE PLAN TO THE GENERAL ASSEMBLY FOR THE DURATION OF CALENDAR YEAR 2021.

(C) THE COVID-19 VACCINE PLAN AND PROGRESS REPORTS REQUIRED UNDER THIS SECTION SHALL BE SUBMITTED TO THE GENERAL ASSEMBLY IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE.

18-9A-04.

(A) THE DEPARTMENT SHALL CONVENE A MARYLAND PUBLIC HEALTH ~~INFRASTRUCTURE~~ MODERNIZATION WORKGROUP.

(B) THE WORKGROUP SHALL INCLUDE: REPRESENTATIVES OF THE DEPARTMENT, LOCAL HEALTH DEPARTMENTS, SUBJECT MATTER EXPERTS, AND ANY OTHER RELEVANT STAKEHOLDERS.

~~(1) TWO MEMBERS OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;~~

~~(2) TWO MEMBERS OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE; AND~~

~~(3) REPRESENTATIVES OF THE DEPARTMENT, LOCAL HEALTH DEPARTMENTS, SUBJECT MATTER EXPERTS, AND ANY OTHER RELEVANT STAKEHOLDERS.~~

(C) THE WORKGROUP SHALL:

(1) ASSESS THE CURRENT PUBLIC HEALTH INFRASTRUCTURE AND RESOURCES IN THE STATE; ~~AND~~

(2) MAKE RECOMMENDATIONS FOR HOW TO ESTABLISH A MODERN AND EFFECTIVE PUBLIC HEALTH SYSTEM WITH A CAPACITY TO ~~MONITOR~~;

(I) MONITOR, PREVENT, CONTROL, AND MITIGATE THE SPREAD OF INFECTIOUS DISEASE; AND

(II) ACHIEVE STATE HEALTH IMPROVEMENT PROCESS GOALS;

(3) MAKE RECOMMENDATIONS REGARDING THE ESTABLISHMENT OF A MARYLAND PUBLIC HEALTH JOB CORPS TO RESPOND TO THE OUTBREAK OF COVID-19 OR SIMILAR OUTBREAKS; AND

(4) CONSIDER, WHERE APPROPRIATE, THE USE OF FEDERAL FUNDS TO IMPLEMENT ANY RECOMMENDATIONS MADE UNDER THIS SUBSECTION.

(D) ON OR BEFORE DECEMBER 1, 2021, THE DEPARTMENT SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THAT INCLUDES THE FINDINGS AND RECOMMENDATIONS OF THE WORKGROUP ESTABLISHED UNDER THIS SECTION.

Chapter 365 of the Acts of 2020

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect [July 1, 2021] JANUARY 1, 2022.

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

Article – Education

SUBTITLE 17. COVID-19 TESTING PLAN.

11-1701.

(A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “COVID-19” MEANS, INTERCHANGEABLY AND COLLECTIVELY, THE CORONAVIRUS KNOWN AS COVID-19 OR 2019-nCoV AND THE SARS-CoV-2 VIRUS.

(C) “COVID-19 TEST” MEANS ~~A FEDERAL FOOD AND DRUG ADMINISTRATION APPROVED MOLECULAR POLYMERASE CHAIN REACTION (PCR) TEST OR AN ANTIGEN TEST FOR THE DETECTION OR DIAGNOSIS OF COVID-19~~ AN IN VITRO DIAGNOSTIC TEST FOR THE DETECTION OF SARS-CoV-2 OR THE DIAGNOSIS OF THE VIRUS THAT CAUSES COVID-19, AS DESCRIBED IN § 3201 OF THE FEDERAL CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT.

11-1702.

(A) ~~FOR CALENDAR YEAR 2021, AN INSTITUTION OF HIGHER EDUCATION THAT HAS RESIDENCE HALLS FOR STUDENTS SHALL ADOPT AND IMPLEMENT A COVID-19 TESTING PLAN TO MONITOR, PREVENT, AND MITIGATE THE SPREAD OF COVID-19 AMONG STUDENTS AND STAFF AT THE INSTITUTION OF HIGHER EDUCATION~~ ESTABLISH A COVID-19 SECURITY PLAN THAT INCLUDES BOTH SCREENING AND TESTING PROCEDURES THAT WILL KEEP STUDENTS, FACULTY, AND STAFF SAFE WHILE ON CAMPUS FOR FACE-TO-FACE INSTRUCTION DURING THE PANDEMIC.

(B) ~~THE COVID-19 TESTING PLAN REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE A REQUIREMENT THAT ANY STUDENT OF THE INSTITUTION OF HIGHER EDUCATION BE TESTED FOR COVID-19 AND PROVIDE TO THE INSTITUTION OF HIGHER EDUCATION CONFIRMATION OF A NEGATIVE COVID-19 TEST RESULT BEFORE:~~

~~(1) COMMENCING IN PERSON CLASS ATTENDANCE AT THE INSTITUTION OF HIGHER EDUCATION; OR~~

~~(2) RETURNING TO THE CAMPUS OF THE INSTITUTION OF HIGHER EDUCATION TO RESIDE IN HOUSING OWNED BY THE INSTITUTION OF HIGHER EDUCATION~~ BE POSTED ON THE WEBSITE OF THE INSTITUTION OF HIGHER EDUCATION AND MADE AVAILABLE TO THE PUBLIC.

Article – Health – General

16-201.5.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “PROVIDER” MEANS A PROVIDER OF NURSING HOME SERVICES.

(3) “RATE” MEANS THE REIMBURSEMENT RATE PAID BY THE DEPARTMENT TO PROVIDERS OF NURSING HOME SERVICES FROM THE GENERAL FUND OF THE STATE, MARYLAND MEDICAL ASSISTANCE PROGRAM FUNDS, OTHER STATE OR FEDERAL FUNDS, OR A COMBINATION OF THESE FUNDS.

(B) (1) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT:

~~(1) THE~~ THE GOVERNOR INCLUDE ADDITIONAL FUNDING IN THE BUDGET OF UP TO \$5,500,000 IN FISCAL YEAR 2021 AND \$22,000,000 IN FISCAL YEAR 2022 IN THE BUDGET TO COVER THE COST OF COVID-19 TESTING OF NURSING HOME STAFF AND RESIDENTS DURING CALENDAR YEAR 2021~~;~~ AND.

(2) THE ADDITIONAL FUNDING PROVIDED UNDER ~~ITEM~~ PARAGRAPH (1) OF THIS SUBSECTION SHALL BE IN ADDITION TO ANY OTHER PROVIDER RATE INCREASES INCLUDED IN THE BUDGET FOR FISCAL YEARS 2021 AND 2022.

(3) ANY FUNDING PROVIDED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION SHALL CONSIST ONLY OF FEDERAL FUNDING ALLOCATED TO THE STATE UNDER THE CORONAVIRUS RESPONSE AND RELIEF SUPPLEMENTAL APPROPRIATIONS ACT AND ANY OTHER FEDERAL LEGISLATION ENACTED IN CALENDAR YEARS 2020 THROUGH 2022 TO PROVIDE FUNDING REQUIRED UNDER THIS SUBSECTION.

19-411.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “COVID-19” MEANS, INTERCHANGEABLY AND COLLECTIVELY, THE CORONAVIRUS KNOWN AS COVID-19 OR 2019-nCoV AND THE SARS-CoV-2 VIRUS.

(3) “COVID-19 TEST” MEANS ~~A FEDERAL FOOD AND DRUG ADMINISTRATION APPROVED MOLECULAR POLYMERASE CHAIN REACTION (PCR) TEST OR AN ANTIGEN TEST FOR THE DETECTION OR DIAGNOSIS OF COVID-19~~ AN IN VITRO DIAGNOSTIC TEST FOR THE DETECTION OF SARS-CoV-2 OR THE DIAGNOSIS OF THE VIRUS THAT CAUSES COVID-19, AS DESCRIBED IN § 3201 OF THE FEDERAL CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT.

(B) FOR CALENDAR YEARS 2021 AND 2022, A HOME HEALTH AGENCY SHALL ADOPT AND IMPLEMENT A COVID-19 ~~TESTING~~ INFECTION CONTROL AND

PREVENTION PLAN FOR PATIENTS AND STAFF WHO PROVIDE HOME HEALTH CARE SERVICES TO PATIENTS OF THE HOME HEALTH AGENCY.

(C) (1) ~~THE COVID-19 TESTING PLAN SHALL ENSURE~~ PLAN REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SHALL:

(I) BE ADOPTED AND IMPLEMENTED IN ACCORDANCE WITH ANY APPLICABLE FEDERAL ORDERS AND GUIDANCE; AND

(II) ENSURE THAT PATIENTS AND STAFF WHO PROVIDE HOME HEALTH CARE SERVICES TO PATIENTS OF THE HOME HEALTH AGENCY ARE ~~TESTED~~ SCREENED FOR COVID-19 ON A REGULAR BASIS AND ~~AT A FREQUENCY THAT IS SUFFICIENT TO~~ TESTED OR REFERRED FOR TESTING FOR COVID-19, IF REQUIRED OR RECOMMENDED UNDER APPLICABLE FEDERAL ORDERS OR GUIDANCE, TO CONTROL AND PREVENT THE SPREAD OF COVID-19 AMONG STAFF AND PATIENTS OF THE HOME HEALTH AGENCY.

(2) THE SCREENING REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE REPORTING TO THE HOME HEALTH AGENCY OF ANY:

(I) SYMPTOMS RELATED TO COVID-19 EXPERIENCED BY PATIENTS AND STAFF; AND

(II) KNOWN EXPOSURES OF PATIENTS AND STAFF TO INDIVIDUALS WHO HAVE BEEN DIAGNOSED WITH COVID-19.

~~(D) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT SET STANDARDS FOR A COVID-19 TESTING PLAN REQUIRED UNDER THIS SECTION.~~

~~(2) THE STANDARDS SET BY THE DEPARTMENT UNDER THIS SUBSECTION SHALL:~~

~~(I) BE GUIDED BY APPLICABLE FEDERAL ORDERS AND POLICIES; AND~~

~~(II) INCLUDE REQUIREMENTS FOR TESTING FREQUENCY THAT ARE REASONABLY RELATED TO THE COVID-19 TESTING POSITIVITY RATE IN THE LOCAL JURISDICTION IN WHICH THE HOME HEALTH CARE SERVICES ARE PROVIDED TO PATIENTS.~~

(D) A HOME HEALTH AGENCY SHALL PROVIDE THE PLAN REQUIRED UNDER SUBSECTION (B) OF THIS SECTION TO:

(1) PATIENTS AND STAFF; AND

(2) MEMBERS OF THE PUBLIC ON REQUEST.**SUBTITLE 14C. COVID-19 TESTING PLAN.****19-14C-01.**

(A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "COVID-19" MEANS, INTERCHANGEABLY AND COLLECTIVELY, THE CORONAVIRUS KNOWN AS COVID-19 OR 2019-nCoV AND THE SARS-CoV-2 VIRUS.

(C) "COVID-19 TEST" MEANS ~~A FEDERAL FOOD AND DRUG ADMINISTRATION APPROVED MOLECULAR POLYMERASE CHAIN REACTION (PCR) TEST OR AN ANTIGEN TEST FOR THE DETECTION OR DIAGNOSIS OF COVID-19~~ AN IN VITRO DIAGNOSTIC TEST FOR THE DETECTION OF SARS-CoV-2 OR THE DIAGNOSIS OF THE VIRUS THAT CAUSES COVID-19, AS DESCRIBED IN § 3201 OF THE FEDERAL CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT.

19-14C-02.

(A) FOR CALENDAR YEARS 2021 AND 2022, A NURSING HOME SHALL ADOPT AND IMPLEMENT A COVID-19 TESTING PLAN FOR RESIDENTS OF THE NURSING HOME AND STAFF WHO PROVIDE SERVICES TO RESIDENTS OF THE NURSING HOME.

(B) THE COVID-19 TESTING PLAN SHALL ENSURE THAT RESIDENTS AND STAFF ARE TESTED FOR COVID-19 ON A REGULAR BASIS AND AT A FREQUENCY THAT IS SUFFICIENT TO PREVENT THE SPREAD OF COVID-19 AMONG RESIDENTS AND STAFF OF THE NURSING HOME.

(C) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT SET STANDARDS FOR A COVID-19 TESTING PLAN REQUIRED UNDER THIS SECTION.

(2) THE STANDARDS SET BY THE DEPARTMENT UNDER THIS SUBSECTION SHALL:

(I) BE GUIDED BY APPLICABLE FEDERAL ORDERS AND POLICIES; AND

(II) INCLUDE REQUIREMENTS FOR TESTING FREQUENCY THAT ARE REASONABLY RELATED TO THE COVID-19 TESTING POSITIVITY RATE IN THE LOCAL JURISDICTION IN WHICH A NURSING HOME IS LOCATED.

19-1814.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “COVID-19” MEANS, INTERCHANGEABLY AND COLLECTIVELY, THE CORONAVIRUS KNOWN AS COVID-19 OR 2019-nCoV AND THE SARS-CoV-2 VIRUS.

(3) “COVID-19 TEST” MEANS ~~A FEDERAL FOOD AND DRUG ADMINISTRATION APPROVED MOLECULAR POLYMERASE CHAIN REACTION (PCR) TEST OR AN ANTIGEN TEST FOR THE DETECTION OR DIAGNOSIS OF COVID-19~~ AN IN VITRO DIAGNOSTIC TEST FOR THE DETECTION OF SARS-CoV-2 OR THE DIAGNOSIS OF THE VIRUS THAT CAUSES COVID-19, AS DESCRIBED IN § 3201 OF THE FEDERAL CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT.

(B) FOR CALENDAR YEARS 2021 AND 2022, AN ASSISTED LIVING PROGRAM SHALL ADOPT AND IMPLEMENT A COVID-19 TESTING PLAN FOR RESIDENTS OF THE ASSISTED LIVING PROGRAM AND STAFF WHO PROVIDE SERVICES TO RESIDENTS OF THE ASSISTED LIVING PROGRAM.

(C) THE COVID-19 TESTING PLAN SHALL ENSURE THAT RESIDENTS AND STAFF ARE TESTED FOR COVID-19 ON A REGULAR BASIS AND AT A FREQUENCY THAT IS SUFFICIENT TO PREVENT THE SPREAD OF COVID-19 AMONG RESIDENTS AND STAFF OF THE ASSISTED LIVING PROGRAM.

(D) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT SET STANDARDS FOR A COVID-19 TESTING PLAN REQUIRED UNDER THIS SECTION.

(2) THE STANDARDS SET BY THE DEPARTMENT UNDER THIS SUBSECTION SHALL:

(I) BE GUIDED BY APPLICABLE FEDERAL ORDERS AND POLICIES; AND

(II) INCLUDE REQUIREMENTS FOR TESTING FREQUENCY THAT ARE REASONABLY RELATED TO THE COVID-19 TESTING POSITIVITY RATE IN THE LOCAL JURISDICTION IN WHICH AN ASSISTED LIVING PROGRAM IS LOCATED.

Article – Insurance

15-856.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “COVID-19” MEANS, INTERCHANGEABLY AND COLLECTIVELY, THE CORONAVIRUS KNOWN AS COVID-19 OR 2019-nCoV AND THE SARS-CoV-2 VIRUS.

(3) (I) ~~“COVID-19 TEST” MEANS A FEDERAL FOOD AND DRUG ADMINISTRATION APPROVED MOLECULAR POLYMERASE CHAIN REACTION (PCR) TEST OR AN ANTIGEN TEST FOR THE DETECTION OR DIAGNOSIS OF COVID-19~~ AN IN VITRO DIAGNOSTIC TEST FOR THE DETECTION OF SARS-CoV-2 OR THE DIAGNOSIS OF THE VIRUS THAT CAUSES COVID-19, AS DESCRIBED IN § 3201 OF THE FEDERAL CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT.

(II) ~~“COVID-19 TEST” INCLUDES A FEDERAL FOOD AND DRUG ADMINISTRATION-APPROVED, CLEARED, OR AUTHORIZED RAPID POINT-OF-CARE TEST AND AN AT-HOME COLLECTION TEST FOR THE DETECTION OR DIAGNOSIS OF COVID-19.~~

(4) “HEALTH BENEFIT PLAN”:

(I) FOR A SMALL EMPLOYER PLAN, HAS THE MEANING STATED IN § 15-1201 OF THIS TITLE; AND

(II) FOR AN INDIVIDUAL PLAN, HAS THE MEANING STATED IN § 15-1301 OF THIS TITLE.

~~(4)~~ (5) (I) “MEMBER” MEANS AN INDIVIDUAL ENTITLED TO HEALTH CARE BENEFITS UNDER A POLICY ISSUED OR DELIVERED IN THE STATE BY AN ENTITY SUBJECT TO THIS SECTION.

(II) “MEMBER” INCLUDES A SUBSCRIBER.

(B) (1) THIS SECTION APPLIES TO:

~~(4)~~ (I) INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT PROVIDE HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS ON AN EXPENSE-INCURRED BASIS UNDER HEALTH INSURANCE POLICIES OR CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE; AND

~~(2)~~ (II) HEALTH MAINTENANCE ORGANIZATIONS THAT PROVIDE HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS UNDER CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE.

(2) THIS SECTION APPLIES TO EACH INDIVIDUAL AND SMALL EMPLOYER HEALTH BENEFIT PLAN THAT IS ISSUED OR DELIVERED IN THE STATE BY AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION, IRRESPECTIVE OF §§ 15-1207(D) AND 31-116 OF THIS ARTICLE.

(C) ~~(1)~~ AN ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE COVERAGE FOR COVID-19 TESTS AND ~~ASSOCIATED COSTS~~ RELATED ITEMS AND SERVICES FOR THE ADMINISTRATION OF COVID-19 TESTS, INCLUDING FACILITY FEES, HEALTH CARE PRACTITIONER FEES, AND EVALUATION OF THE MEMBER FOR PURPOSES OF DETERMINING THE NEED FOR THE COVID-19 TEST, AS REQUIRED BY THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT, THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT, AND ANY APPLICABLE FEDERAL REGULATIONS OR GUIDANCE.

~~(2) THE COVERAGE REQUIRED UNDER THIS SECTION SHALL BE PROVIDED FOR A COVID-19 TEST:~~

~~(i) 1. PRIMARILY INTENDED FOR INDIVIDUALIZED DIAGNOSIS OR TREATMENT OF COVID-19 FOR THE MEMBER; OR~~

~~2. TO KEEP THE MEMBER OR OTHERS WITH WHOM THE MEMBER IS OR MAY BE IN FUTURE CONTACT FROM POTENTIAL EXPOSURE TO COVID-19; AND~~

~~(ii) REGARDLESS OF WHETHER THE MEMBER HAS SIGNS OR SYMPTOMS COMPATIBLE WITH COVID-19 OR A SUSPECTED RECENT EXPOSURE TO COVID-19 IF THE TESTING IS PERFORMED FOR A PURPOSE SPECIFIED UNDER ITEM (i) OF THIS PARAGRAPH.~~

~~(3) AN ENTITY SUBJECT TO THIS SECTION MAY NOT REQUIRE A MEMBER TO OBTAIN A DETERMINATION FROM A HEALTH CARE PROVIDER THAT A COVID-19 TEST IS MEDICALLY APPROPRIATE FOR THE MEMBER AS A CONDITION FOR THE COVERAGE REQUIRED UNDER THIS SECTION.~~

~~(4) (D)~~ AN ENTITY SUBJECT TO THIS SECTION MAY NOT APPLY A COPAYMENT, COINSURANCE REQUIREMENT, OR DEDUCTIBLE TO ~~THE COVERAGE REQUIRED UNDER THIS SECTION~~ COVERAGE FOR COVID-19 TESTS AND RELATED ITEMS AND SERVICES FOR THE ADMINISTRATION OF COVID-19 TESTS.

SECTION 3. AND BE IT FURTHER ENACTED, That any funding appropriated for the implementation of this Act may consist only of federal funding allocated to the State under the federal Coronavirus Response and Relief Supplemental Appropriations Act and any other federal legislation enacted in calendar years 2020 through 2022. Any federal funding appropriated under this Act for vaccine distribution, testing, or contact tracing shall be limited to funding specifically allocated for those purposes under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, the Consolidated Appropriation Act, or the American Rescue Plan Act of 2021 except to the extent other funding is provided for these purposes by the Governor.

~~SECTION 4.~~ SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after the effective date of this Act.

~~SECTION 5.~~ SECTION 5. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. Section 2 of this Act shall remain effective through December 31, 2022, and, at the end of December 31, 2022, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

May 28, 2021

The Honorable Bill Ferguson
President of the Maryland Senate
H-107 State House
Annapolis, MD 21401

The Honorable Adrienne A. Jones
Speaker of the Maryland House of Delegates
H-101 State House
Annapolis, MD 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 9 – *State Employees – Collective Bargaining – Applicability, Bargaining Processes, and Memorandums of Understanding*, Senate Bill 717/House Bill 904 – *State Personnel – Collective Bargaining – Exclusive Representative Access to New Employees*, and Senate Bill 746/House Bill 894 – *Education – Community Colleges – Collective Bargaining*. These pieces of legislation seek to address problems that do not exist and change labor practices that

have worked for decades, while creating several burdensome fiscal and operational hardships.

Senate Bill 9 – State Employees – Collective Bargaining – Applicability, Bargaining Processes, and Memorandums of Understanding

This legislation revokes the legislative authority of the twelve institution presidents to designate a representative to negotiate on behalf of their institution and assigns this role to the University System of Maryland Chancellor. This new process will give labor unions the authority to veto the institution president's right to negotiate matters. The consolidated bargaining required under this legislation will likely disadvantage the University System of Maryland's smaller institutions that have fewer financial resources, including the System's Historically Black Colleges and Universities.

Additionally, other issues will arise because each institution has its own distinct mission, and they vary by size, budget, research category, geographic location, labor market, and proportion of employees represented in collective bargaining.

Senate Bill 717 and House Bill 904 – State Personnel – Collective Bargaining – Exclusive Representative Access to New Employees

This legislation would significantly expand a union's initial access to new employees by requiring University System of Maryland Institutions to transmit a new employee's name, unit, and all employee identification to the union president. In addition to being unacceptably invasive to employees, this practice could result in an employee being at a higher risk for identity theft.

Senate Bill 746 and House Bill 894 – Education – Community Colleges – Collective Bargaining

This legislation establishes a uniform statewide collective bargaining process for Community College employees at a time when Community Colleges across the state are still facing challenges from the COVID-19 pandemic. The extra expenses associated with collective bargaining will put a severe strain on counties and the budgets of community colleges, most likely leading to increased tuition costs at a time when affordable training and education opportunities are needed the most.

The time is simply not right for the implementation of these pieces of legislation that will harm students, employees, and institutions of higher education in Maryland.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

AN ACT concerning

Education – Community Colleges – Collective Bargaining

FOR the purpose of establishing collective bargaining rights for certain community college employees; establishing procedures for the election and certification of an exclusive representative of a bargaining unit; specifying a certain time frame to submit a certain petition and conduct a certain election under certain circumstances; providing procedures by which the State Higher Education Labor Relations Board may designate a bargaining unit; establishing a cap on the number of bargaining units that may be at each community college; specifying the composition of certain bargaining units that may be at each community college; prohibiting the Board from requiring that certain bargaining units conform to certain requirements under certain circumstances; requiring that certain petitions include certain showing of interest forms; providing that certain showing of interest forms are valid under certain circumstances; requiring a public employer to provide to the Board and an employee organization a certain list within a certain time period; requiring a community college to allow certain employees and employee organizations to access certain property and facilities for a certain purpose; prohibiting a community college from limiting the amount of time a public employee has access to certain property or altering or revising certain rules or regulations for a certain purpose; requiring certain collective bargaining agreements to include certain provisions; establishing procedures for providing an exclusive representative with certain new employee information and processing; establishing the matters subject to collective bargaining negotiations; establishing procedures for authorization and certification of the deduction of dues; establishing the matters subject to collective bargaining negotiations; providing for certain rights and responsibilities in connection with the collective bargaining process; requiring the Governor to include certain amounts in the annual budget bill for a certain purpose; authorizing certain parties to engage in mediation and fact-finding under certain circumstances and providing for fact-finding procedures; providing for the settlement of certain grievances; prohibiting certain public employees and exclusive bargaining representatives from engaging in a strike and providing sanctions for engaging in a strike; requiring the parties to collective bargaining negotiations to make certain efforts to conclude negotiations by a certain time; authorizing a collective bargaining agreement to include a provision for the arbitration of certain grievances; requiring that the terms of a collective bargaining agreement supersede certain regulations and policies; providing that a collective bargaining agreement may be reopened under certain circumstances; repealing certain provisions of law relating to collective bargaining rights that apply to individual community colleges; altering the scope of duty of the Board to include administering and enforcing provisions of this Act; providing for the disclosure of certain employee information; requiring that certain community colleges continue to operate under certain agreements and contracts under certain circumstances for a certain period of time; providing that the exclusive representative of a certain bargaining unit maintains certification under certain circumstances; requiring that certain community colleges be subject to certain rules and regulations under certain circumstances; requiring certain impasses to be

resolved under certain procedures; stating the intent of the General Assembly that the State promote certain relationships with certain employees of the community college system in a certain manner; authorizing the Board to adopt certain regulations and to make a certain delegation and assignment of responsibilities and obligations; requiring the Board to adopt certain regulations; prohibiting the Board from adopting certain rules; defining certain terms; providing for the application of this Act; providing for the construction of this Act; providing for a delayed effective date; and generally relating to collective bargaining rights for community college employees.

BY repealing

Article – Education

Section 16–403, 16–412, and 16–414.1

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

BY adding to

Article – Education

Section 16–701 through 16–715 to be under the new subtitle “Subtitle 7. Collective Bargaining”

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, without amendments,

Article – State Personnel and Pensions

Section 3–2A–01

Annotated Code of Maryland

(2015 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions

Section 3–2A–05, 3–2A–07, and 3–2A–08(a)

Annotated Code of Maryland

(2015 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 16–403, 16–412, and 16–414.1 of Article – Education of the Annotated Code of Maryland be repealed.

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

Article – Education

SUBTITLE 7. COLLECTIVE BARGAINING.

16–701.

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

(B) “AGREEMENT” MEANS A WRITTEN CONTRACT BETWEEN A PUBLIC EMPLOYER AND AN EMPLOYEE ORGANIZATION.

(C) “ARBITRATION” MEANS A PROCEDURE BY WHICH PARTIES INVOLVED IN A GRIEVANCE SUBMIT THEIR DIFFERENCES TO AN IMPARTIAL THIRD PARTY FOR A FINAL AND BINDING DECISION.

(D) “BOARD” MEANS THE STATE HIGHER EDUCATION LABOR RELATIONS BOARD.

(E) “COLLECTIVE BARGAINING” HAS THE MEANING STATED IN § 3-101(C) OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(F) “CONFIDENTIAL EMPLOYEE” MEANS A PUBLIC EMPLOYEE WHOSE UNRESTRICTED ACCESS TO PERSONNEL, BUDGETARY, OR FISCAL DATA SUBJECT TO USE BY THE PUBLIC EMPLOYER IN COLLECTIVE BARGAINING, OR WHOSE CLOSE, CONTINUING WORKING RELATIONSHIP WITH THOSE RESPONSIBLE FOR NEGOTIATING ON BEHALF OF THE PUBLIC EMPLOYER, WOULD MAKE THE EMPLOYEE’S MEMBERSHIP IN AN EMPLOYEE ORGANIZATION AS A RANK AND FILE EMPLOYEE INCOMPATIBLE WITH THE EMPLOYEE’S DUTIES.

(G) “EMPLOYEE ORGANIZATION” MEANS A LABOR ORGANIZATION OF PUBLIC EMPLOYEES THAT HAS AS ONE OF ITS PRIMARY PURPOSES REPRESENTING THOSE EMPLOYEES IN COLLECTIVE BARGAINING.

(H) “EXCLUSIVE REPRESENTATIVE” MEANS AN EMPLOYEE ORGANIZATION THAT HAS BEEN CERTIFIED BY THE BOARD AS REPRESENTING THE EMPLOYEES OF A BARGAINING UNIT.

(I) “FACT-FINDING” MEANS A PROCESS CONDUCTED BY THE BOARD THAT INCLUDES:

(1) THE IDENTIFICATION OF THE MAJOR ISSUES IN AN IMPASSE;

(2) THE REVIEW OF THE POSITIONS OF THE PARTIES; AND

(3) A RESOLUTION OF FACTUAL DIFFERENCES BY AN IMPARTIAL INDIVIDUAL OR PANEL.

(J) (1) “FACULTY” MEANS EMPLOYEES WHOSE ASSIGNMENTS INVOLVE ACADEMIC RESPONSIBILITIES, INCLUDING TEACHERS AND DEPARTMENT HEADS.

(2) “FACULTY” DOES NOT INCLUDE OFFICERS, SUPERVISORY EMPLOYEES, CONFIDENTIAL EMPLOYEES, PART-TIME FACULTY, OR STUDENT ASSISTANTS.

(K) “GRIEVANCE” MEANS A DISPUTE CONCERNING THE APPLICATION OR INTERPRETATION OF THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT.

(L) “IMPASSE” MEANS A FAILURE BY A PUBLIC EMPLOYER AND AN EXCLUSIVE REPRESENTATIVE TO ACHIEVE AGREEMENT IN THE COURSE OF NEGOTIATIONS.

(M) “OFFICER” MEANS THE PRESIDENT, A VICE PRESIDENT, A DEAN, OR ANY OTHER SIMILAR OFFICIAL OF THE COMMUNITY COLLEGE AS APPOINTED BY THE BOARD OF COMMUNITY COLLEGE TRUSTEES.

(N) “PART-TIME FACULTY” MEANS EMPLOYEES WHOSE ASSIGNMENTS INVOLVE ACADEMIC RESPONSIBILITIES, INCLUDING TEACHERS, COUNSELORS, AND DEPARTMENT HEADS, WHO ARE DESIGNATED WITH PART-TIME FACULTY STATUS BY THE PRESIDENT OF THE COMMUNITY COLLEGE.

(O) (1) “PUBLIC EMPLOYEE” MEANS AN EMPLOYEE EMPLOYED BY A PUBLIC EMPLOYER.

(2) “PUBLIC EMPLOYEE” INCLUDES FACULTY AND PART-TIME FACULTY AT THE BALTIMORE CITY COMMUNITY COLLEGE.

(3) “PUBLIC EMPLOYEE” DOES NOT INCLUDE:

(I) OFFICERS;

(II) SUPERVISORY OR CONFIDENTIAL EMPLOYEES; OR

(III) STUDENT ASSISTANTS.

(P) (1) “PUBLIC EMPLOYER” MEANS THE BOARD OF COMMUNITY COLLEGE TRUSTEES FOR A COMMUNITY COLLEGE.

(2) “PUBLIC EMPLOYER” INCLUDES THE BOARD OF TRUSTEES OF BALTIMORE CITY COMMUNITY COLLEGE FOR THE PURPOSES OF COLLECTIVE BARGAINING WITH FACULTY AND PART-TIME FACULTY.

(Q) (1) “SHOWING OF INTEREST FORM” MEANS A WRITTEN STATEMENT FROM A PUBLIC EMPLOYEE WHO WISHES TO BE REPRESENTED BY A PETITIONING EMPLOYEE ORGANIZATION FOR THE PURPOSE OF COLLECTIVE BARGAINING.

(2) “SHOWING OF INTEREST FORM” INCLUDES:

- (I) A UNION AUTHORIZATION CARD; AND
- (II) A UNION MEMBERSHIP CARD.

(R) “STRIKE” MEANS, IN CONCERTED ACTION WITH OTHERS FOR THE PURPOSE OF INDUCING, INFLUENCING, OR COERCING A CHANGE IN THE WAGES, HOURS, OR OTHER TERMS AND CONDITIONS OF EMPLOYMENT, A PUBLIC EMPLOYEE’S:

(1) REFUSAL TO REPORT FOR DUTY;

(2) WILLFUL ABSENCE FROM THE POSITION;

(3) STOPPAGE OF WORK; OR

(4) ABSTINENCE IN WHOLE OR IN PART FROM THE PROPER PERFORMANCE OF THE DUTIES OF EMPLOYMENT.

(S) “SUPERVISORY EMPLOYEE” MEANS A PUBLIC EMPLOYEE WHO HAS FULL-TIME AND EXCLUSIVE AUTHORITY TO ACT ON BEHALF OF A PUBLIC EMPLOYER TO:

(1) HIRE, TRANSFER, SUSPEND, LAY OFF, RECALL, PROMOTE, DISCHARGE, ASSIGN, REWARD, OR DISCIPLINE OTHER EMPLOYEES; OR

(2) ADJUST EMPLOYEE GRIEVANCES.

16-702.

(A) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT ~~THE~~:

(1) THE STATE PROMOTE HARMONIOUS AND COOPERATIVE RELATIONSHIPS WITH THE PUBLIC EMPLOYEES OF THE COMMUNITY COLLEGE SYSTEM BY ENCOURAGING COLLECTIVE BARGAINING PRACTICES, PROTECTING THE RIGHTS OF PUBLIC EMPLOYEES TO ASSOCIATE, ORGANIZE, AND VOTE FOR THEIR OWN EXCLUSIVE REPRESENTATIVES, AND RECOGNIZING THE DIGNITY OF LABOR FOR ALL EMPLOYEES OF THE COMMUNITY COLLEGE SYSTEM; AND

(2) A DELAY IN IMPLEMENTATION OF THIS SUBTITLE SHALL BE TO ENSURE THAT COMMUNITY COLLEGES ARE GRANTED SUFFICIENT TIME TO PLAN FOR POTENTIAL NEGOTIATIONS AND MAY NOT BE USED TO PLAN FOR, OR ENGAGE IN, ACTIVITIES THAT WOULD DISCOURAGE OR OTHERWISE COERCE EMPLOYEES SEEKING TO HOLD AN ELECTION.

(B) THIS SUBTITLE SHALL APPLY:

(1) BEGINNING ON SEPTEMBER 1, 2022, TO:

(I) ANNE ARUNDEL COMMUNITY COLLEGE;

(II) COMMUNITY COLLEGE OF BALTIMORE COUNTY;

(III) FREDERICK COMMUNITY COLLEGE;

(IV) HARFORD COMMUNITY COLLEGE;

(V) HOWARD COMMUNITY COLLEGE;

(VI) MONTGOMERY COLLEGE;

(VII) PRINCE GEORGE’S COMMUNITY COLLEGE; AND

(VIII) COLLEGE OF SOUTHERN MARYLAND;

(2) BEGINNING ON SEPTEMBER 1, 2023, TO:

(I) ALLEGANY COLLEGE OF MARYLAND;

(II) CARROLL COMMUNITY COLLEGE;

(III) CECIL COLLEGE;

(IV) CHESAPEAKE COLLEGE;

(V) GARRETT COLLEGE;

(VI) HAGERSTOWN COMMUNITY COLLEGE; AND

(VII) WOR-WIC COMMUNITY COLLEGE; AND

(3) BEGINNING OCTOBER 1, 2024, BALTIMORE CITY COMMUNITY COLLEGE.

16-703.

(A) THE BOARD SHALL CONDUCT AN ELECTION FOR AN EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT IF:

(1) A VALID PETITION IS SUBMITTED IN ACCORDANCE WITH § 16-704 OF THIS SUBTITLE; AND

(2) THE BARGAINING UNIT INVOLVED IN THE PETITION IS DETERMINED TO BE AN APPROPRIATE BARGAINING UNIT UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION.

(B) (1) EXCEPT AS PROVIDED IN THIS SUBTITLE, THE BOARD SHALL DETERMINE THE APPROPRIATENESS OF EACH BARGAINING UNIT.

(2) IF THERE IS NOT A DISPUTE ABOUT THE APPROPRIATENESS OF THE BARGAINING UNIT, THE BOARD SHALL ISSUE AN ORDER DEFINING AN APPROPRIATE BARGAINING UNIT.

(3) IF THERE IS A DISPUTE ABOUT THE APPROPRIATENESS OF THE BARGAINING UNIT, THE BOARD SHALL:

(I) CONDUCT A PUBLIC HEARING, RECEIVING WRITTEN AND ORAL TESTIMONY; AND

(II) ISSUE AN ORDER DEFINING THE APPROPRIATE BARGAINING UNIT.

(C) THERE MAY BE NO MORE THAN ~~SIX~~ FOUR BARGAINING UNITS AT EACH COMMUNITY COLLEGE INCLUDING:

(1) ONE UNIT RESERVED FOR FULL-TIME FACULTY;

(2) ONE UNIT RESERVED FOR PART-TIME FACULTY; AND

~~(3) ONE UNIT RESERVED FOR THE REMAINING ELIGIBLE EXEMPT EMPLOYEES, AS DEFINED IN THE FEDERAL FAIR LABOR STANDARDS ACT;~~

~~(4) TWO UNITS RESERVED FOR ELIGIBLE NONEXEMPT EMPLOYEES, AS DEFINED IN THE FEDERAL FAIR LABOR STANDARDS ACT; AND~~

~~(5) ONE UNIT RESERVED FOR SWORN POLICE OFFICERS.~~

(D) THE BOARD MAY NOT REQUIRE THE BARGAINING UNITS AT A COMMUNITY COLLEGE TO CONFORM TO THE REQUIREMENTS OF THIS SECTION IF THE BARGAINING UNITS WERE IN EXISTENCE BEFORE ~~OCTOBER 1, 2021~~ SEPTEMBER 1, 2022.

16-704.

(A) AFTER RECEIVING A PETITION FOR AN ELECTION FOR AN EXCLUSIVE REPRESENTATIVE, THE BOARD SHALL INVESTIGATE THE PETITION FOR PURPOSES OF VERIFICATION AND VALIDATION.

(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A PETITION FOR AN ELECTION MAY BE SUBMITTED BY:

(1) AN EMPLOYEE ORGANIZATION THAT DEMONSTRATES THAT AT LEAST 30% OF THE EMPLOYEES IN A BARGAINING UNIT WISH TO BE REPRESENTED FOR COLLECTIVE BARGAINING BY AN EXCLUSIVE REPRESENTATIVE; OR

(2) A PUBLIC EMPLOYEE, A GROUP OF PUBLIC EMPLOYEES, OR AN EMPLOYEE ORGANIZATION THAT DEMONSTRATES THAT AT LEAST 30% OF THE EMPLOYEES ASSERT THAT THE EXISTING DESIGNATED EXCLUSIVE REPRESENTATIVE IS NO LONGER THE REPRESENTATIVE OF THE MAJORITY OF EMPLOYEES IN THE BARGAINING UNIT.

(C) (1) A PETITION SUBMITTED UNDER SUBSECTION (B) OF THIS SECTION SHALL INCLUDE SHOWING OF INTEREST FORMS PROVIDED TO THE BOARD FROM AN EMPLOYEE ORGANIZATION.

(2) A SHOWING OF INTEREST FORM SHALL BE ACCEPTED BY THE BOARD IF THE FORM INCLUDES ELECTRONIC OR HANDWRITTEN SIGNATURES.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A SHOWING OF INTEREST FORM IS VALID IF THE SIGNATURES WERE COLLECTED WITHIN THE 18-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH A PETITION FOR AN ELECTION IS FILED.

(II) FOR AN ELECTION THAT IS CONDUCTED TO DETERMINE THAT AN EXCLUSIVE REPRESENTATIVE NO LONGER REPRESENTS A UNIT, A SHOWING OF INTEREST FORM IS VALID IF THE SIGNATURES WERE COLLECTED WITHIN THE 90-DAY PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH A PETITION FOR ELECTION IS FILED.

(4) A SHOWING OF INTEREST FORM MAY BE USED BY A PUBLIC EMPLOYEE FOR MORE THAN ONE PUBLIC EMPLOYER AS LONG AS THE PUBLIC EMPLOYEE WORKS FOR THE PUBLIC EMPLOYER.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PUBLIC EMPLOYER SHALL PROVIDE TO THE BOARD AND AN EMPLOYEE ORGANIZATION AN ALPHABETICAL LIST OF PUBLIC EMPLOYEES IN EACH BARGAINING UNIT WITHIN 2 DAYS AFTER A PETITION FOR AN ELECTION IS FILED.

(2) THE LIST REQUIRED TO BE PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(I) INCLUDE FOR EACH PUBLIC EMPLOYEE ON THE PAYROLL FOR THE LAST PAY PERIOD BEFORE A PETITION FOR ELECTION IS FILED, THE PUBLIC EMPLOYEE'S:

A. NAME;

B. POSITION CLASSIFICATION;

C. HOME AND WORK SITE ADDRESSES WHERE THE EMPLOYEE RECEIVES INTEROFFICE OR UNITED STATES MAIL;

D. HOME AND WORK SITE TELEPHONE NUMBERS;

E. PERSONAL CELL PHONE NUMBER; AND

F. WORK E-MAIL ADDRESS; AND

(II) IDENTIFY EACH PUBLIC EMPLOYEE THAT SHOULD BE EXCLUDED AS AN ELIGIBLE VOTER WITH A STATEMENT EXPLAINING THE REASON FOR THE EXCLUSION.

(3) A PUBLIC EMPLOYER MAY NOT CHALLENGE THE ELIGIBILITY OF A PUBLIC EMPLOYEE'S VOTE IN AN ELECTION IF THE EMPLOYER FAILS TO EXPLAIN THE REASON FOR EXCLUDING A PUBLIC EMPLOYEE UNDER THIS SUBSECTION.

(4) NAMES OR LISTS OF EMPLOYEES PROVIDED TO THE BOARD IN CONNECTION WITH AN ELECTION UNDER THIS SECTION ARE NOT SUBJECT TO DISCLOSURE IN ACCORDANCE WITH THE PUBLIC INFORMATION ACT.

(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE BOARD SHALL:

(I) PROMPTLY DETERMINE THE ADEQUACY OF THE SHOWING OF INTEREST BY COMPARING SHOWING OF INTEREST FORMS TO THE ELIGIBILITY LIST PROVIDED BY A PUBLIC EMPLOYER UNDER SUBSECTION (D) OF THIS SECTION; AND

(II) PROVIDE NOTICE TO AN EMPLOYEE ORGANIZATION OF THE DETERMINATION.

(2) IF THE BOARD DETERMINES UNDER PARAGRAPH (1) OF THIS SUBSECTION THAT A REQUIRED SHOWING OF INTEREST IS NOT ADEQUATE, THE BOARD:

(I) SHALL ALLOW AN EMPLOYEE ORGANIZATION TO SUBMIT ADDITIONAL SHOWING OF INTEREST FORMS WITHIN 30 DAYS AFTER THE EMPLOYEE ORGANIZATION IS NOTIFIED OF THE DETERMINATION; AND

(II) MAY PROVIDE ADDITIONAL TIME TO AN EMPLOYEE ORGANIZATION TO PROVIDE ADDITIONAL FORMS FOR GOOD CAUSE.

16-705.

(A) (1) AN EMPLOYEE ORGANIZATION MAY BE CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE ONLY AS PROVIDED UNDER THIS SECTION.

(2) EXCEPT AS PROVIDED IN SUBSECTION (J) OF THIS SECTION, ON OR AFTER ~~OCTOBER 1, 2021~~ SEPTEMBER 1, 2022, AN ELECTION OR A RECOGNITION OF AN EXCLUSIVE REPRESENTATIVE SHALL BE CONDUCTED BY THE BOARD FOR EACH BARGAINING UNIT AFTER THE REQUIREMENTS OF § 16-704 OF THIS SUBTITLE HAVE BEEN MET BY THAT BARGAINING UNIT.

(3) THE BOARD MAY USE A THIRD-PARTY CONTRACTOR TO RECEIVE AND COUNT BALLOTS FOR AN ELECTION UNDER THIS SECTION.

(B) FOR EACH ELECTION, THE BOARD SHALL PLACE ON THE BALLOT:

(1) THE NAME OR NAMES OF THE EMPLOYEE ORGANIZATION SUBMITTING THE VALID PETITION;

(2) THE NAME OF ANY OTHER EMPLOYEE ORGANIZATION DESIGNATED IN A VALID PETITION SIGNED BY MORE THAN 10% OF THE EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT; AND

(3) A PROVISION FOR “NO REPRESENTATION”.

(C) (1) IN ANY ELECTION IN WHICH NONE OF THE CHOICES ON THE BALLOT RECEIVES A MAJORITY OF THE VOTES CAST, A RUNOFF ELECTION SHALL BE CONDUCTED, WITH THE BALLOT PROVIDING FOR A SELECTION BETWEEN THE TWO CHOICES RECEIVING THE HIGHEST NUMBER OF BALLOTS CAST IN THE ELECTION.

(2) AN EMPLOYEE ORGANIZATION RECEIVING A MAJORITY OF VOTES CAST IN AN ELECTION SHALL BE CERTIFIED BY THE BOARD AS THE EXCLUSIVE REPRESENTATIVE FOR COLLECTIVE BARGAINING PURPOSES.

(D) (1) WITHIN 7 DAYS AFTER AN ELECTION IS ORDERED, A PUBLIC EMPLOYER SHALL SUBMIT TO THE BOARD AND AN EMPLOYEE ORGANIZATION AN UPDATED ALPHABETICAL LIST OF ELIGIBLE PUBLIC EMPLOYEES WHO MAY VOTE IN THE ELECTION.

(2) THE LIST REQUIRED TO BE SUBMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE THE SAME INFORMATION REQUIRED UNDER § 16-704 FOR EACH ELIGIBLE PUBLIC EMPLOYEE.

(E) A PUBLIC EMPLOYER, ITS OFFICERS, AND AN AGENT OF THE EMPLOYER MAY NOT SPEND PUBLIC MONEY, USE PUBLIC RESOURCES, OR PROVIDE ASSISTANCE TO AN INDIVIDUAL OR A GROUP FOR A NEGATIVE CAMPAIGN AGAINST AN EMPLOYEE ORGANIZATION.

(F) (1) WITHIN 7 DAYS AFTER A VALID ELECTION HAS BEEN DETERMINED UNDER SUBSECTION (A) OF THIS SECTION, A PUBLIC EMPLOYER SHALL ALLOW PUBLIC EMPLOYEES AND EMPLOYEE ORGANIZATIONS TO ACCESS THE EMPLOYER'S PROPERTY AND FACILITIES, INCLUDING GROUNDS, ROOMS, BULLETIN BOARDS, CAMPUS MAIL, AND OTHER COMMON AREAS FOR CAMPAIGN ACTIVITIES FOR THE ELECTION.

(2) THE PUBLIC EMPLOYER MAY NOT:

(I) LIMIT THE AMOUNT OF TIME A PUBLIC EMPLOYEE HAS ACCESS TO THE PUBLIC EMPLOYER'S PROPERTY AND FACILITIES DURING AN ELECTION UNDER THIS SECTION; OR

(II) ALTER OR REVISE EXISTING RULES OR REGULATIONS TO UNFAIRLY LIMIT OR PROHIBIT PUBLIC EMPLOYEES OR EMPLOYEE ORGANIZATIONS FROM COLLECTIVE BARGAINING.

(3) THIS SUBSECTION MAY NOT BE CONSTRUED TO ALLOW CAMPAIGN ACTIVITIES TO INTERFERE WITH A PUBLIC EMPLOYER'S OPERATIONS.

(G) (1) THE BOARD SHALL CONDUCT THE ELECTION:

(I) BY SECRET BALLOT; AND

(II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN WHOLE OR IN PART BY IN-PERSON VOTING, MAIL, OR AN ELECTRONIC VOTING SYSTEM.

(2) THE BOARD MAY DESIGNATE THE TIME PERIOD FOR IN-PERSON VOTING UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION ONLY AFTER CONSULTING WITH THE PUBLIC EMPLOYER AND EMPLOYEE ORGANIZATIONS ON THE BALLOT.

(3) (I) THE BOARD SHALL ALLOW AT LEAST 10 DAYS OF VOTING FOR AN ELECTION CONDUCTED UNDER PARAGRAPH (1) OF THIS SUBSECTION, UNLESS AN EMPLOYEE ORGANIZATION ON THE BALLOT REQUESTS AN EXTENSION.

(II) THE BOARD MAY EXTEND THE TIME PERIOD FOR VOTING DUE TO INOPERABLE VOTING SYSTEMS.

(H) (1) AN EMPLOYEE ORGANIZATION ON A BALLOT MAY REQUEST A PREFERRED METHOD OF VOTING AT THE TIME A PETITION FOR ELECTION IS FILED WITH THE BOARD.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE BOARD SHALL DESIGNATE THE METHOD OF VOTING BASED ON THE REQUESTS OF THE EMPLOYEE ORGANIZATIONS ON THE BALLOT.

(3) IF THERE IS A DISPUTE BETWEEN TWO OR MORE EMPLOYEE ORGANIZATIONS ON THE BALLOT OVER THE METHOD OF VOTING, THE BOARD MAY DESIGNATE THE METHOD OF VOTING.

(I) (1) THE BOARD SHALL PROVIDE NOTICE OF EACH ELECTION THAT DESCRIBES THE METHOD OF VOTING TO EMPLOYEE ORGANIZATIONS ON THE BALLOT AND TO THE PUBLIC EMPLOYER.

(2) THE PUBLIC EMPLOYER SHALL MAKE PUBLICLY AVAILABLE NOTICE OF EACH ELECTION TO ALL ELIGIBLE PUBLIC EMPLOYEES WITHIN ~~1 DAY~~ 2 DAYS AFTER THE PUBLIC EMPLOYER RECEIVES NOTICE OF THE ELECTION FROM THE BOARD.

(3) THE BOARD SHALL ASSIST AN ELIGIBLE PUBLIC EMPLOYEE IN USING AN ALTERNATIVE METHOD OF VOTING TO CAST A BALLOT IF THE PUBLIC EMPLOYEE PROMPTLY INFORMS THE BOARD OF THE INABILITY TO CAST A BALLOT USING THE DESIGNATED METHOD OF VOTING.

(J) THE BOARD SHALL DESIGNATE AN EMPLOYEE ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE ONLY IF:

(1) ONE EMPLOYEE ORGANIZATION SEEKS CERTIFICATION AS THE EXCLUSIVE REPRESENTATIVE;

(2) THERE IS NO INCUMBENT EXCLUSIVE REPRESENTATIVE;

(3) THE EMPLOYEE ORGANIZATION HAS NOT REQUESTED AN ELECTION; AND

(4) THE BOARD DETERMINES THAT MORE THAN 50% OF THE PUBLIC EMPLOYEES IN THE BARGAINING UNIT SUPPORT THE EMPLOYEE ORGANIZATION THROUGH COMPARING SHOWING OF INTEREST FORMS WITH A PUBLIC EMPLOYER'S PROVIDED LIST OF PUBLIC EMPLOYEES IN THE BARGAINING UNIT.

(K) THE ELECTION OF AN EXCLUSIVE REPRESENTATIVE MAY NOT BE CONDUCTED IN ANY BARGAINING UNIT IN WHICH:

(1) AN EXCLUSIVE REPRESENTATIVE HAS BEEN CERTIFIED WITHIN THE IMMEDIATELY PRECEDING 24 MONTHS; OR

(2) A VALID ELECTION HAS BEEN HELD WITHIN THE IMMEDIATELY PRECEDING 12 MONTHS IN WHICH AN EXCLUSIVE REPRESENTATIVE WAS CERTIFIED.

(L) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT THAT OPERATED UNDER A COLLECTIVE BARGAINING AGREEMENT OR CONTRACT BEFORE ~~OCTOBER 1, 2021~~ SEPTEMBER 1, 2022, MAINTAINS CERTIFICATION AFTER THE AGREEMENT OR CONTRACT EXPIRES.

(2) IF A COLLECTIVE BARGAINING AGREEMENT OR CONTRACT IS IN EFFECT, A VALID PETITION FOR AN ELECTION UNDER THIS SECTION MAY BE SUBMITTED AND AN ELECTION CONDUCTED UNDER THIS SECTION ONLY IF THE PETITION IS SUBMITTED AT LEAST 90 DAYS, BUT NOT MORE THAN 120 DAYS, BEFORE THE EXPIRATION OF THE COLLECTIVE BARGAINING AGREEMENT OR CONTRACT.

16-706.

(A) A PUBLIC EMPLOYER SHALL EXTEND TO AN EMPLOYEE ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE THE RIGHT TO REPRESENT THE PUBLIC EMPLOYEES OF THE BARGAINING UNIT INVOLVED IN COLLECTIVE BARGAINING AND IN THE SETTLEMENT OF GRIEVANCES.

(B) AN EMPLOYEE ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE FOR A BARGAINING UNIT SHALL:

(1) SERVE AS THE BARGAINING AGENT FOR ALL PUBLIC EMPLOYEES IN A BARGAINING UNIT; AND

(2) REPRESENT FAIRLY AND WITHOUT DISCRIMINATION EACH PUBLIC EMPLOYEE IN THE BARGAINING UNIT WITHOUT REGARD TO WHETHER THE EMPLOYEE IS A MEMBER OF THE EMPLOYEE ORGANIZATION.

16-707.

(A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, WITHIN 10 DAYS AFTER A NEW EMPLOYEE'S DATE OF HIRE, FOR EACH NEW PUBLIC EMPLOYEE IN THE BARGAINING UNIT REPRESENTED BY THE EXCLUSIVE REPRESENTATIVE, THE PUBLIC EMPLOYER SHALL PROVIDE THE EXCLUSIVE REPRESENTATIVE WITH THE INFORMATION REQUIRED UNDER § 16-704 OF THIS SUBTITLE.

(2) A PUBLIC EMPLOYER SHALL PROVIDE THE EXCLUSIVE REPRESENTATIVE WITH THE INFORMATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION IN A SEARCHABLE AND ANALYZABLE ELECTRONIC FORMAT.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, AN EXCLUSIVE REPRESENTATIVE SHALL CONSIDER THE INFORMATION THAT IT RECEIVES UNDER THIS SECTION AS CONFIDENTIAL AND MAY NOT DISCLOSE THE INFORMATION TO ANY PERSON.

(2) AN EXCLUSIVE REPRESENTATIVE MAY AUTHORIZE THIRD-PARTY CONTRACTORS TO USE THE INFORMATION THAT IT RECEIVES UNDER THIS SECTION, AS DIRECTED BY THE EXCLUSIVE REPRESENTATIVE, TO CARRY OUT THE EXCLUSIVE REPRESENTATIVE'S STATUTORY DUTIES UNDER THIS TITLE.

(3) AN EXCLUSIVE REPRESENTATIVE OR AN AUTHORIZED THIRD-PARTY CONTRACTOR MAY USE THE INFORMATION THAT IT RECEIVES UNDER THIS SECTION FOR THE PURPOSE OF MAINTAINING OR INCREASING EMPLOYEE MEMBERSHIP IN AN EMPLOYEE ORGANIZATION.

(4) ON WRITTEN REQUEST OF A PUBLIC EMPLOYEE, AN EXCLUSIVE REPRESENTATIVE SHALL WITHHOLD FURTHER COMMUNICATION WITH A PUBLIC EMPLOYEE UNLESS OTHERWISE REQUIRED BY LAW OR THE WRITTEN REQUEST IS REVOKED BY THE PUBLIC EMPLOYEE.

(C) (1) (I) A PUBLIC EMPLOYER SHALL PROVIDE THE EXCLUSIVE REPRESENTATIVE WITH THE INFORMATION DESCRIBED IN SUBSECTION (A) OF THIS SECTION FOR EACH PUBLIC EMPLOYEE IN THE BARGAINING UNIT REPRESENTED BY THE EXCLUSIVE REPRESENTATIVE ONCE EVERY 90 DAYS.

(II) SUBJECT TO § 16-709 OF THIS SUBTITLE, A PUBLIC EMPLOYER MAY NEGOTIATE WITH THE EXCLUSIVE REPRESENTATIVE TO PROVIDE THE INFORMATION REQUIRED UNDER THIS PARAGRAPH MORE FREQUENTLY THAN ONCE EVERY 90 DAYS.

(2) A PUBLIC EMPLOYER SHALL PROVIDE THE EXCLUSIVE REPRESENTATIVE WITH THE INFORMATION DESCRIBED IN SUBSECTION (A) OF THIS SECTION REGARDLESS OF WHETHER THE NEWLY HIRED PUBLIC EMPLOYEE WAS PREVIOUSLY EMPLOYED BY THE PUBLIC EMPLOYER.

16-708.

(A) IN THIS SECTION, “NEW EMPLOYEE PROCESSING” MEANS THE PROCESS FOR A NEWLY HIRED PUBLIC EMPLOYEE, WHETHER IN-PERSON, ONLINE, OR THROUGH OTHER MEANS, IN WHICH NEW PUBLIC EMPLOYEES ARE ADVISED OF THEIR EMPLOYMENT STATUS, RIGHTS, BENEFITS, DUTIES, RESPONSIBILITIES, AND OTHER EMPLOYMENT-RELATED MATTERS.

(B) (1) (I) A PUBLIC EMPLOYER SHALL PROVIDE THE EXCLUSIVE REPRESENTATIVE ACCESS TO NEW EMPLOYEE PROCESSING.

(II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, A PUBLIC EMPLOYER SHALL PROVIDE THE EXCLUSIVE REPRESENTATIVE AT LEAST 10 DAYS’ NOTICE IN ADVANCE OF A NEW EMPLOYEE PROCESSING.

(III) A PUBLIC EMPLOYER MAY PROVIDE THE EXCLUSIVE REPRESENTATIVE WITH LESS THAN 10 DAYS’ NOTICE IF THERE IS AN URGENT NEED CRITICAL TO THE PUBLIC EMPLOYER’S NEW EMPLOYEE PROCESSING THAT WAS NOT REASONABLY FORESEEABLE.

(2) (I) THE STRUCTURE, TIME, AND MANNER OF THE ACCESS REQUIRED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE DETERMINED THROUGH NEGOTIATIONS BETWEEN THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE IN ACCORDANCE WITH § 16-709 OF THIS SUBTITLE.

(II) WHEN NEGOTIATING ACCESS TO NEW EMPLOYEE PROCESSING UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, IF ANY DISPUTE HAS NOT BEEN RESOLVED WITHIN 45 DAYS AFTER THE FIRST MEETING OF THE PUBLIC

EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE, OR WITHIN 60 DAYS AFTER AN INITIAL REQUEST TO NEGOTIATE, WHICHEVER OCCURS FIRST, EITHER PARTY MAY REQUEST THAT THE BOARD DECLARE AN IMPASSE UNDER § 16-711 OF THIS SUBTITLE.

(III) IN AN IMPASSE PROCEEDING UNDER § 16-711 OF THIS SUBTITLE, THE MEDIATOR OR BOARD SHALL CONSIDER:

1. THE ABILITY OF THE EXCLUSIVE REPRESENTATIVE TO COMMUNICATE WITH THE PUBLIC EMPLOYEES IT REPRESENTS;

2. THE LEGAL OBLIGATIONS OF THE EXCLUSIVE REPRESENTATIVE TO THE PUBLIC EMPLOYEES;

3. APPLICABLE STATE, FEDERAL, AND LOCAL LAWS;

4. ANY STIPULATIONS OF THE PARTIES;

5. THE INTERESTS AND WELFARE OF THE PUBLIC EMPLOYEES AND THE FINANCIAL CONDITION OF THE PUBLIC EMPLOYER;

6. THE STRUCTURE, TIME, AND MANNER OF ACCESS OF AN EXCLUSIVE REPRESENTATIVE TO NEW EMPLOYEE PROCESSING IN COMPARABLE PUBLIC EMPLOYERS, INCLUDING THE ACCESS PROVISIONS IN OTHER MEMORANDA OF UNDERSTANDING OR COLLECTIVE BARGAINING AGREEMENTS; AND

7. ANY OTHER FACTS ROUTINELY CONSIDERED IN ESTABLISHING THE STRUCTURE, TIME, AND MANNER OF ACCESS OF AN EXCLUSIVE REPRESENTATIVE TO NEW EMPLOYEE PROCESSING.

(3) (I) A REQUEST TO NEGOTIATE UNDER PARAGRAPH (2) OF THIS SUBSECTION MADE BETWEEN ~~OCTOBER 1, 2021~~ SEPTEMBER 1, 2022, AND THE EXPIRATION DATE OF AN EXISTING COLLECTIVE BARGAINING AGREEMENT BETWEEN THE PARTIES SHALL REOPEN THE EXISTING COLLECTIVE BARGAINING AGREEMENT ONLY FOR THE PURPOSE OF NEGOTIATING THE ACCESS OF THE EXCLUSIVE REPRESENTATIVE TO THE PUBLIC EMPLOYER'S NEW EMPLOYEE PROCESSING.

(II) EITHER PARTY MAY ELECT TO NEGOTIATE A SEPARATE AGREEMENT ON THE ACCESS OF THE EXCLUSIVE REPRESENTATIVE TO THE PUBLIC EMPLOYER'S NEW EMPLOYEE PROCESSING IN LIEU OF REOPENING THE EXISTING COLLECTIVE BARGAINING AGREEMENT.

(C) THIS SECTION DOES NOT PROHIBIT A PUBLIC EMPLOYER AND AN EXCLUSIVE REPRESENTATIVE FROM NEGOTIATING ACCESS TO NEW EMPLOYEE PROCESSING THAT VARIES FROM THE REQUIREMENTS OF THIS SECTION.

16-709.

(A) COLLECTIVE BARGAINING SHALL INCLUDE ALL MATTERS RELATING TO:

(1) WAGES, HOURS, AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT; AND

(2) THE PROCEDURES FOR THE EMPLOYEE ORGANIZATION TO RECEIVE MEMBERSHIP DUES THROUGH PAYROLL DEDUCTION.

(B) IN THE COURSE OF COLLECTIVE BARGAINING, THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE SHALL:

(1) MEET AT REASONABLE TIMES; AND

(2) MAKE EVERY REASONABLE EFFORT TO CONCLUDE NEGOTIATIONS WITH A FINAL WRITTEN AGREEMENT IN A TIMELY MANNER BEFORE THE BUDGET SUBMISSION DATE OF THE PUBLIC EMPLOYER.

(C) AN AGREEMENT MAY INCLUDE A PROVISION FOR THE ARBITRATION OF GRIEVANCES ARISING UNDER THE AGREEMENT.

(D) (1) AN AGREEMENT MAY NOT INCLUDE MATTERS RELATING TO THE EMPLOYEES' OR TEACHERS' RETIREMENT OR PENSION SYSTEMS OTHERWISE COVERED BY THE ANNOTATED CODE OF MARYLAND.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT PROHIBIT A DISCUSSION OF THE TERMS OF THE RETIREMENT OR PENSION SYSTEMS IN THE COURSE OF COLLECTIVE BARGAINING.

(E) THE TERMS OF AN AGREEMENT SHALL SUPERSEDE ANY CONFLICTING REGULATIONS OR ADMINISTRATIVE POLICIES OF THE PUBLIC EMPLOYER.

(F) (1) ~~(I)~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A REQUEST FOR FUNDS NECESSARY TO IMPLEMENT AN AGREEMENT SHALL BE SUBMITTED BY THE PUBLIC EMPLOYER IN A TIMELY FASHION FOR CONSIDERATION IN THE BUDGET PROCESS OF THE COUNTY.

~~(2)~~ (II) NOT LATER THAN 20 DAYS AFTER FINAL BUDGET ACTION BY THE GOVERNING BODY OF A COUNTY, IF A REQUEST FOR FUNDS NECESSARY TO

IMPLEMENT AN AGREEMENT IS REDUCED, MODIFIED, OR REJECTED BY THE GOVERNING BODY, EITHER PARTY TO THE AGREEMENT MAY REOPEN THE AGREEMENT.

(2) FOR BALTIMORE CITY COMMUNITY COLLEGE, IN THE ANNUAL BUDGET BILL SUBMITTED TO THE GENERAL ASSEMBLY, THE GOVERNOR SHALL INCLUDE ANY AMOUNTS IN THE BUDGET OF BALTIMORE CITY COMMUNITY COLLEGE REQUIRED TO ACCOMMODATE ANY ADDITIONAL COST RESULTING FROM THE NEGOTIATIONS, INCLUDING THE ACTUARIAL IMPACT OF ANY LEGISLATIVE CHANGES TO ANY OF THE STATE PENSION OR RETIREMENT SYSTEMS THAT ARE REQUIRED, AS A RESULT OF THE NEGOTIATIONS, FOR THE FISCAL YEAR BEGINNING THE IMMEDIATELY FOLLOWING JULY 1 IF THE LEGISLATIVE CHANGES HAVE BEEN NEGOTIATED TO BECOME EFFECTIVE IN THAT FISCAL YEAR.

16-710.

(A) AN AGREEMENT SHALL INCLUDE A PROVISION FOR THE DEDUCTION FROM THE PAYCHECK OF EACH PUBLIC EMPLOYEE IN A BARGAINING UNIT OF ANY MEMBERSHIP DUES AUTHORIZED AND OWED BY THE PUBLIC EMPLOYEE TO THE EXCLUSIVE REPRESENTATIVE.

(B) (1) A PUBLIC EMPLOYEE MAY AUTHORIZE A DEDUCTION UNDER THIS SECTION BY NOTIFYING THE EXCLUSIVE REPRESENTATIVE.

(2) THE NOTICE MAY BE A HANDWRITTEN OR ELECTRONIC STATEMENT.

(3) A PUBLIC EMPLOYEE MAY MAKE A REQUEST TO THE EXCLUSIVE REPRESENTATIVE TO CANCEL OR CHANGE A DEDUCTION UNDER THIS SECTION.

(C) AN EXCLUSIVE REPRESENTATIVE SHALL:

(1) COLLECT AND MAINTAIN THE NOTICES UNDER SUBSECTION (B) OF THIS SECTION;

(2) CERTIFY TO A PUBLIC EMPLOYER THE PUBLIC EMPLOYEES WHO HAVE AUTHORIZED DEDUCTIONS UNDER THIS SECTION; AND

(3) INDEMNIFY A PUBLIC EMPLOYER FROM ANY CLAIMS MADE BY A PUBLIC EMPLOYEE MADE IN RELIANCE ON THE CERTIFICATION UNDER THIS SECTION.

(D) AN EXCLUSIVE REPRESENTATIVE MAY NOT BE REQUIRED TO PROVIDE COPIES OF AUTHORIZATION NOTICES UNLESS A DISPUTE ARISES IN CONNECTION WITH THE VALIDITY OF AN AUTHORIZATION.

(E) A PUBLIC EMPLOYER SHALL:

(1) RELY ON AN EXCLUSIVE REPRESENTATIVE'S CERTIFICATION OF PUBLIC EMPLOYEES WHO HAVE AUTHORIZED DEDUCTIONS;

(2) DIRECT PUBLIC EMPLOYEES TO THE EXCLUSIVE REPRESENTATIVE TO CANCEL OR CHANGE A DEDUCTION; AND

(3) SUBMIT A DISPUTE ARISING BETWEEN A PUBLIC EMPLOYEE AND AN EXCLUSIVE REPRESENTATIVE TO BE RESOLVED UNDER UNFAIR LABOR PRACTICE PROCEEDINGS IN ACCORDANCE WITH THE LAWS OF THE STATE.

16-711.

(A) IF IN THE COURSE OF COLLECTIVE BARGAINING A PARTY DETERMINES THAT AN IMPASSE EXISTS, THAT PARTY MAY REQUEST THE SERVICES OF THE BOARD IN MEDIATION OR ENGAGE ANOTHER MUTUALLY AGREEABLE MEDIATOR.

(B) (1) BY MUTUAL AGREEMENT, THE PARTIES MAY ENGAGE IN MEDIATION.

(2) (I) IF THERE IS NOT MUTUAL AGREEMENT, EITHER PARTY MAY PETITION THE BOARD TO INITIATE FACT-FINDING.

(II) 1. AFTER CONSIDERING THE STATUS OF BARGAINING AND THE BUDGET SCHEDULE OF THE PUBLIC EMPLOYER, THE BOARD MAY FIND THAT AN IMPASSE EXISTS AND MAY NOTIFY THE PARTIES THAT FACT-FINDING IS TO BE INITIATED.

2. A PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE MAY SELECT THEIR OWN FACT FINDER.

3. A. IF THE PARTIES HAVE NOT SELECTED THEIR OWN FACT FINDER WITHIN 5 DAYS AFTER THE REQUIRED NOTIFICATION, THE BOARD SHALL SUBMIT TO THE PARTIES THE NAMES OF FIVE QUALIFIED INDIVIDUALS.

B. EACH PARTY ALTERNATELY SHALL STRIKE TWO NAMES FROM THE LIST WITH THE REMAINING INDIVIDUAL BEING THE FACT FINDER.

4. THE FACT FINDER SELECTED BY THE PARTIES SHALL CONDUCT HEARINGS AND MAY ADMINISTER OATHS.

5. THE FACT FINDER SHALL MAKE WRITTEN FINDINGS OF FACT AND RECOMMENDATIONS FOR RESOLUTION OF THE IMPASSE.

6. NOT LATER THAN 30 DAYS AFTER THE DATE OF APPOINTMENT, THE FACT FINDER SHALL TRANSMIT THE FINDINGS TO THE PUBLIC EMPLOYER, THE EXCLUSIVE REPRESENTATIVE, AND THE BOARD.

7. IF THE IMPASSE CONTINUES 10 DAYS AFTER THE REPORT IS SUBMITTED TO THE PARTIES, ANY UNRESOLVED NONECONOMIC LANGUAGE ITEMS THAT ARE SUBJECT TO FACT-FINDING SHALL BE REFERRED TO THE BOARD.

(C) THE PARTIES SHALL BEAR EQUALLY THE COSTS OF FACT-FINDING.

(D) THE BOARD, ON RECEIPT OF THE REPORT AND CERTIFICATION OF UNRESOLVED NONECONOMIC LANGUAGE ITEMS, SHALL PROVIDE THE PARTIES WITH AN OPPORTUNITY TO SUBMIT ADDITIONAL POSITION STATEMENTS AND ISSUE A WRITTEN DECISION ADOPTING:

(1) THE FINAL PROPOSAL OF THE PUBLIC EMPLOYER;

(2) THE FINAL PROPOSAL OF THE EXCLUSIVE REPRESENTATIVE; OR

(3) THE FACT FINDER'S FINAL OFFER OR RESOLUTION.

(E) THE BOARD'S WRITTEN DECISION IS FINAL AND BINDING ON THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE.

16-712.

(A) A PUBLIC EMPLOYEE MAY NOT ENGAGE IN A STRIKE.

(B) A PUBLIC EMPLOYEE MAY NOT RECEIVE PAY OR COMPENSATION FROM THE PUBLIC EMPLOYER FOR ANY PERIOD DURING WHICH THE PUBLIC EMPLOYEE IS ENGAGED IN A STRIKE.

(C) IF A STRIKE OF PUBLIC EMPLOYEES OCCURS, A COURT OF COMPETENT JURISDICTION MAY ENJOIN THE STRIKE AT THE REQUEST OF THE PUBLIC EMPLOYER.

(D) (1) IF AN EMPLOYEE ORGANIZATION CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE ENGAGES IN A STRIKE, THE BOARD SHALL REVOKE THE ORGANIZATION'S CERTIFICATION AS THE EXCLUSIVE REPRESENTATIVE.

(2) AN EMPLOYEE ORGANIZATION THAT ENGAGES IN A STRIKE AND HAS ITS CERTIFICATION REVOKED SHALL BE INELIGIBLE TO BE CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE FOR A PERIOD OF 1 YEAR FOLLOWING THE END OF THE STRIKE.

16-713.

(A) A PUBLIC EMPLOYER HAS THE RIGHT TO:

(1) DETERMINE HOW THE STATUTORY MANDATE AND GOALS OF THE COMMUNITY COLLEGE, INCLUDING THE FUNCTIONS AND PROGRAMS OF THE COMMUNITY COLLEGE, ITS OVERALL BUDGET, AND ITS ORGANIZATIONAL STRUCTURE, ARE TO BE CARRIED OUT; AND

(2) DIRECT COLLEGE PERSONNEL.

(B) A PUBLIC EMPLOYEE HAS THE RIGHT TO:

(1) ORGANIZE;

(2) FORM, JOIN, OR ASSIST ANY EMPLOYEE ORGANIZATION;

(3) BARGAIN COLLECTIVELY THROUGH AN EXCLUSIVE REPRESENTATIVE;

(4) ENGAGE IN OTHER LAWFUL CONCERTED ACTIVITY FOR THE PURPOSE OF COLLECTIVE BARGAINING; AND

(5) REFRAIN FROM ENGAGING IN THE ACTIVITIES LISTED UNDER THIS SUBSECTION.

(C) A PUBLIC EMPLOYEE OR GROUP OF PUBLIC EMPLOYEES HAS THE RIGHT AT ANY TIME TO:

(1) PRESENT A GRIEVANCE ARISING UNDER THE TERMS OF THE AGREEMENT TO THE PUBLIC EMPLOYER; AND

(2) HAVE THE GRIEVANCE ADJUSTED WITHOUT THE INTERVENTION OF THE EXCLUSIVE REPRESENTATIVE.

(D) THE EXCLUSIVE REPRESENTATIVE HAS THE RIGHT TO BE PRESENT DURING ANY MEETING INVOLVING THE PRESENTATION OR ADJUSTMENT OF A GRIEVANCE.

(E) (1) A PUBLIC EMPLOYER SHALL HEAR A GRIEVANCE AND PARTICIPATE IN THE ADJUSTMENT OF THE GRIEVANCE.

(2) THE ADJUSTMENT OF A GRIEVANCE MAY NOT BE INCONSISTENT WITH THE TERMS OF THE COLLECTIVE BARGAINING AGREEMENT THEN IN EFFECT.

(3) A PUBLIC EMPLOYER SHALL GIVE PROMPT NOTICE OF ANY ADJUSTMENT OF A GRIEVANCE TO THE EXCLUSIVE REPRESENTATIVE.

(F) A PUBLIC EMPLOYER AND AN EMPLOYEE ORGANIZATION MAY NOT INTERFERE WITH, INTIMIDATE, RESTRAIN, COERCE, OR DISCRIMINATE AGAINST A PUBLIC EMPLOYEE BECAUSE THE EMPLOYEE EXERCISES RIGHTS GRANTED UNDER THIS SECTION.

16-714.

A PUBLIC EMPLOYER, ITS OFFICERS, AND AGENTS MAY NOT:

(1) INTERFERE WITH, INTIMIDATE, RESTRAIN, OR COERCE PUBLIC EMPLOYEES IN THE EXERCISE OF THEIR RIGHTS UNDER THIS SUBTITLE;

(2) ENCOURAGE OR DISCOURAGE PUBLIC EMPLOYEES IN THEIR SELECTION OF MEMBERSHIP IN ANY EMPLOYEE ORGANIZATION;

(3) DISCHARGE OR DISCRIMINATE AGAINST AN EMPLOYEE BECAUSE OF THE SIGNING OR FILING OF AN AFFIDAVIT, PETITION, OR COMPLAINT, OR GIVING INFORMATION OR TESTIMONY IN CONNECTION WITH MATTERS UNDER THIS SUBTITLE;

(4) REFUSE TO PARTICIPATE IN GOOD-FAITH BARGAINING OR THE DISPUTE RESOLUTION PROCESS IN THIS SUBTITLE; OR

(5) DISCLOSE ANY PORTION OF PERSONALLY IDENTIFIABLE INFORMATION OF PUBLIC EMPLOYEES TO AN UNAUTHORIZED THIRD PARTY.

16-715.

(A) THE BOARD MAY:

(1) ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE; AND

(2) DELEGATE AND ASSIGN ITS RESPONSIBILITIES AND OBLIGATIONS UNDER THIS SUBTITLE TO THE EXECUTIVE DIRECTOR OF THE BOARD.

(B) THE BOARD MAY NOT ADOPT ANY RULE THAT:

(1) UNNECESSARILY DELAYS THE RESOLUTION OF DISPUTES OVER ELECTIONS, UNFAIR LABOR PRACTICES, OR ANY OTHER MATTER UNDER THIS SUBTITLE; OR

(2) RESTRICTS OR WEAKENS THE PROTECTION PROVIDED TO PUBLIC EMPLOYEES AND EMPLOYEE ORGANIZATIONS UNDER THIS SUBTITLE OR EXISTING REGULATIONS.

(C) THE BOARD SHALL ADOPT REGULATIONS IN ACCORDANCE WITH TITLE 3, SUBTITLE 6 OF THE STATE PERSONNEL AND PENSIONS ARTICLE THAT ADDRESS RATIFICATION, DURATION, AND ENFORCEMENT OF AN AGREEMENT UNDER THIS SUBTITLE.

Article – State Personnel and Pensions

3–2A–01.

There is a State Higher Education Labor Relations Board established as an independent unit of State government.

3–2A–05.

(a) The Board is responsible for administering and enforcing provisions of:

(1) this title relating to employees described in § 3–102(a)(1)(v) of this title;

AND

(2) TITLE 16, SUBTITLE 7 OF THE EDUCATION ARTICLE.

(b) In addition to any other powers or duties provided for elsewhere in this title **OR TITLE 16, SUBTITLE 7 OF THE EDUCATION ARTICLE**, the Board may:

(1) establish procedures for, supervise the conduct of, and resolve disputes about elections for exclusive representatives; [and]

(2) investigate and take appropriate action in response to complaints of unfair labor practices and lockouts; **AND**

(3) RESOLVE MATTERS AS PROVIDED IN § 16–711 OF THE EDUCATION ARTICLE.

3–2A–07.

(a) The Board may investigate:

(1) a possible violation of this title or any regulation adopted under it; [and]

(2) A POSSIBLE VIOLATION OF TITLE 16, SUBTITLE 7 OF THE EDUCATION ARTICLE OR ANY REGULATION ADOPTED UNDER IT; AND

~~[(2)]~~ **(3)** any other relevant matter.

(b) The Board may hold a hearing in accordance with Title 10, Subtitle 2 of the State Government Article whenever necessary for a fair determination of any issue or complaint arising under:

(1) this title or a regulation adopted under it; OR

(2) TITLE 16, SUBTITLE 7 OF THE EDUCATION ARTICLE OR ANY REGULATION ADOPTED UNDER IT.

3–2A–08.

(a) On written request of an exclusive representative, and within 30 days of a new employee's date of hire, for each employee in the bargaining unit represented by the exclusive representative, the University System of Maryland system institutions, Morgan State University, St. Mary's College of Maryland, and [Baltimore City Community College] **EACH COMMUNITY COLLEGE** shall provide the exclusive representative with the employee's:

(1) name;

(2) position classification;

(3) unit;

(4) home and work site addresses where the employee receives interoffice or United States mail;

(5) home and work site telephone numbers; and

(6) work e-mail address.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) This section does not apply to Baltimore City Community College.

(b) If a community college entered into any agreements or contracts with employees of the community college through exclusive representation in the course of collective bargaining before ~~October 1, 2021~~ September 1, 2022, the community college shall continue to operate under the agreements and contracts until the agreements and contracts expire. If a bargaining unit in existence before ~~October 1, 2021~~ September 1, 2022, dissolves, the community college shall be subject to the rules and regulations of collective bargaining established under this Act.

~~(a)~~ (c) If a party to a collective bargaining agreement or contract under subsection ~~(a)~~ (b) of this section determines that an impasse exists with regard to the terms of the agreement or contract, the parties shall resolve the impasse in accordance with the procedures for impasse under § 16–711 of the Education Article, as enacted by Section 2 of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That ~~the~~:

(a) This section does not apply to Baltimore City Community College.

(b) The exclusive representative for any bargaining unit established before ~~October 1, 2021~~ September 1, 2022:

(1) shall be recognized in writing by the board of trustees for the community college;

(2) may not be required to be recertified for any reason; and

(3) shall retain all rights to continue collective bargaining as provided by this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) This section does not apply to Baltimore City Community College.

(b) (1) Notwithstanding § 16–709 of the Education Article, as enacted by Section 2 of this Act, ~~for fiscal year 2022~~, a public employer under § 16–702(b)(1) of the Education Article, as enacted by Section 2 of this Act, may ~~choose~~ not be required to bargain with the exclusive representative over wages of employees in the bargaining unit until July 1, 2023.

(2) This subsection does not apply to an exclusive bargaining unit established before ~~October 1, 2021~~ September 1, 2022.

~~(b) (c) Beginning in fiscal year 2023 and each year thereafter, a public employer shall bargain with the exclusive representative over all matters authorized under § 16–709 of~~

~~the Education Article, as enacted by Section 2 of this Act~~ Notwithstanding § 16–709 of the Education Article, as enacted by Section 2 of this Act, a public employer under § 16–702(b)(2) of the Education Article, as enacted by Section 2 of this Act, may not be required to bargain with the exclusive representative over wages of employees in a bargaining unit until July 1, 2024.

SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2021~~ September 1, 2022.

May 28, 2021

The Honorable Bill Ferguson
President of the Maryland Senate
H–107 State House
Annapolis, MD 21401

The Honorable Adrienne A. Jones
Speaker of the Maryland House of Delegates
H–101 State House
Annapolis, MD 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 9 – *State Employees – Collective Bargaining – Applicability, Bargaining Processes, and Memorandums of Understanding*, Senate Bill 717/House Bill 904 – *State Personnel – Collective Bargaining – Exclusive Representative Access to New Employees*, and Senate Bill 746/House Bill 894 – *Education – Community Colleges – Collective Bargaining*. These pieces of legislation seek to address problems that do not exist and change labor practices that have worked for decades, while creating several burdensome fiscal and operational hardships.

Senate Bill 9 – State Employees – Collective Bargaining – Applicability, Bargaining Processes, and Memorandums of Understanding

This legislation revokes the legislative authority of the twelve institution presidents to designate a representative to negotiate on behalf of their institution and assigns this role to the University System of Maryland Chancellor. This new process will give labor unions the authority to veto the institution president’s right to negotiate matters. The consolidated bargaining required under this legislation will likely disadvantage the University System of Maryland’s smaller institutions that have fewer financial resources, including the System’s Historically Black Colleges and Universities.

Additionally, other issues will arise because each institution has its own distinct mission, and they vary by size, budget, research category, geographic location, labor market, and proportion of employees represented in collective bargaining.

Senate Bill 717 and House Bill 904 – State Personnel – Collective Bargaining – Exclusive Representative Access to New Employees

This legislation would significantly expand a union’s initial access to new employees by requiring University System of Maryland Institutions to transmit a new employee’s name, unit, and all employee identification to the union president. In addition to being unacceptably invasive to employees, this practice could result in an employee being at a higher risk for identity theft.

Senate Bill 746 and House Bill 894 – Education – Community Colleges – Collective Bargaining

This legislation establishes a uniform statewide collective bargaining process for Community College employees at a time when Community Colleges across the state are still facing challenges from the COVID–19 pandemic. The extra expenses associated with collective bargaining will put a severe strain on counties and the budgets of community colleges, most likely leading to increased tuition costs at a time when affordable training and education opportunities are needed the most.

The time is simply not right for the implementation of these pieces of legislation that will harm students, employees, and institutions of higher education in Maryland.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 904

AN ACT concerning

State Personnel – Collective Bargaining – Exclusive Representative Access to New Employees

FOR the purpose of altering the type of access and the circumstances under which certain access to new employees by exclusive representatives is required to be permitted by the State, a system institution, Morgan State University, St. Mary’s College of Maryland, and Baltimore City Community College; altering the period of time for which an exclusive representative is required to be permitted to address certain new employees under certain circumstances; requiring that an exclusive representative be permitted at least a certain amount of time to meet with a new employee; requiring that a certain meeting between a new employee and an exclusive representative be in person; authorizing a certain exclusive representative ~~and a new~~

~~employee~~ to meet *with a new employee* ~~with a new employee~~ through certain video technology under certain circumstances; requiring that the State, a system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College encourage but not require certain new employees to meet with certain exclusive representatives; requiring that a certain notice be provided on the start date of a new employee; requiring that a certain notice be provided to certain individuals in a certain manner within a certain time period and include *and exclude* certain information; *requiring that a certain notice be considered confidential by an exclusive representative; prohibiting an exclusive representative from disclosing certain information, subject to a certain exception; authorizing an exclusive representative to authorize a third-party contractor to use certain information in a certain manner and for a certain purpose*; making conforming changes; and generally relating to collective bargaining for State employees and access by an exclusive representative to new employees.

BY repealing and reenacting, with amendments,
 Article – State Personnel and Pensions
 Section 3–307
 Annotated Code of Maryland
 (2015 Replacement Volume and 2020 Supplement)

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

Article – State Personnel and Pensions

3–307.

(a) Each exclusive representative has the right to communicate with the employees that it represents.

(b) (1) The State, a system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College shall permit an exclusive representative to:

(I) MEET WITH A NEW EMPLOYEE IN A BARGAINING UNIT REPRESENTED BY THE EXCLUSIVE REPRESENTATIVE WITHIN THE FIRST FULL PAY PERIOD OF THE NEW EMPLOYEE'S START DATE; OR

(II) attend and participate in a new employee program that includes one or more employees who are in a bargaining unit represented by the exclusive representative, IF THE NEW EMPLOYEE PROGRAM OCCURS WITHIN 14 DAYS OF THE NEW EMPLOYEE'S START DATE.

(2) The new employee program in paragraph [(1)] **(1)(II)** of this subsection may be a new employee orientation, training, or other program that the State, a system

institution, Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College and an exclusive representative negotiate in accordance with § 3-501 of this title.

(3) Except as provided in paragraph [(4)] (5) of this subsection, the exclusive representative shall be permitted **AT LEAST [20] 30** minutes to **MEET WITH THE NEW EMPLOYEE OR TO** collectively address all new employees in attendance during a new employee program.

(4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A MEETING BETWEEN THE NEW EMPLOYEE AND THE EXCLUSIVE REPRESENTATIVE SHALL BE IN PERSON.

(II) AN EXCLUSIVE REPRESENTATIVE ~~AND A NEW EMPLOYEE~~ MAY CHOOSE TO MEET WITH A NEW EMPLOYEE ~~WITH A NEW EMPLOYEE~~ BY VIDEO OR SIMILAR TECHNOLOGY IF PUBLIC HEALTH CONCERNS NECESSITATE THAT A MEETING BE CONDUCTED REMOTELY.

[(4)] (5) The State, a system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College and an exclusive representative may negotiate a period of time that is more than [20] 30 minutes in accordance with § 3-501 of this title.

[(5)] (6) The State, a system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College:

(i) shall encourage an employee to **MEET WITH THE EXCLUSIVE REPRESENTATIVE OR** attend the portion of a new employee program designated for an exclusive representative to address new employees; and

(ii) may not require an employee to **MEET WITH AN EXCLUSIVE REPRESENTATIVE OR** attend the portion of a new employee program designated for an exclusive representative to address new employees if the employee objects to attending.

(c) (1) Except as provided in paragraph (2) of this subsection **AND SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION**, the State, a system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College shall provide the exclusive representative at least 10 days' notice ~~in~~ in advance of ~~a new employee program~~ **OF ~~OF~~ THE START DATE OF A NEW EMPLOYEE IN A BARGAINING UNIT REPRESENTED BY THE EXCLUSIVE REPRESENTATIVE**.

(2) The State, a system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College may provide the exclusive representative with less than 10 days' notice if there is an urgent need critical to the [employer's new employee program] **EMPLOYER** that was not reasonably foreseeable.

(3) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(I) BE PROVIDED ELECTRONICALLY TO THE LOCAL PRESIDENT OR UNION DESIGNEE WITHIN ~~24 HOURS~~ 5 DAYS OF THE EMPLOYEE'S FIRST CHECK-IN; ~~AND~~

(II) EXCEPT AS PROVIDED IN ITEM (III) OF THIS PARAGRAPH, INCLUDE THE NEW EMPLOYEE'S NAME, ~~AND~~, UNIT, AND ALL EMPLOYEE IDENTIFICATION NUMBERS, INCLUDING WORKDAY NUMBERS; ~~AND ALL EMPLOYEE IDENTIFICATION NUMBERS, INCLUDING WORKDAY NUMBERS.~~

(III) EXCLUDE THE NEW EMPLOYEE'S SOCIAL SECURITY NUMBER; AND

(IV) BE CONSIDERED CONFIDENTIAL BY AN EXCLUSIVE REPRESENTATIVE.

(4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN EXCLUSIVE REPRESENTATIVE MAY NOT DISCLOSE THE INFORMATION IN A NOTICE.

(II) THE EXECUTIVE REPRESENTATIVE MAY AUTHORIZE A THIRD-PARTY CONTRACTOR TO USE THE INFORMATION IN A NOTICE, AS DIRECTED BY THE EXCLUSIVE REPRESENTATIVE, TO FULFILL THE EXCLUSIVE REPRESENTATIVE'S STATUTORY DUTIES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021.

May 28, 2021

The Honorable Bill Ferguson
President of the Maryland Senate
H-107 State House
Annapolis, MD 21401

The Honorable Adrienne A. Jones
Speaker of the Maryland House of Delegates
H-101 State House

Annapolis, MD 21401

Dear Mr. President and Madam Speaker:

The COVID-19 pandemic has placed unprecedented and enormous fiscal strains on Maryland families and businesses. As we begin our road to recovery, it would be unconscionable to raise taxes on our citizens and job creators at this critical time. To do so would further add to the very heavy burden that our citizens are already facing and short-circuit Maryland's economic recovery. For these reasons, and in accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 133/House Bill 319 – *Local Tax Relief for Working Families Act of 2021*, House Bill 933 – *Anne Arundel County – Transfer Tax – Housing Trust Special Revenue Fund*, and House Bill 1209 – *Sales and Use Tax – Peer-to-Peer Car Sharing – Alterations*.

We came together this session to pass the RELIEF Act, providing over \$1.45 billion to struggling Marylanders and businesses with immediate and targeted tax cuts and financial relief, representing the largest tax cut in Maryland history. Unfortunately, the General Assembly dismissed additional opportunities to provide much-needed tax relief, particularly for Maryland's retirees. Instead, legislators pursued these misguided tax increases.

The most troubling aspect of Senate Bill 133 and House Bill 319 – *Local Tax Relief for Working Families Act of 2021* is that it masquerades as tax relief, when in reality there is no requirement for counties that implement a bracketed tax system to actually cut taxes. Instead, certain counties could keep their current rate as the new lowest rate and establish higher rates for higher-income residents, resulting in tax increases on one group of filers without providing any actual tax relief for the majority of taxpayers. In addition, this legislation raises the minimum floor that jurisdictions can set their local income taxes from 1% to 2.25%.

House Bill 933 – *Anne Arundel County – Transfer Tax – Housing Trust Special Revenue Fund* represents another tax that will be placed on the citizens of Anne Arundel County by granting the County the authority to increase the transfer tax on residential and commercial properties sold in Anne Arundel County. The most destructive aspect of this legislation is that it set no cap on how high the transfer tax could be set, which means if the imposed tax is high enough it could potentially destroy the affordable housing market by making it impossible to price new units low enough.

Lastly, House Bill 1209 – *Sales and Use Tax – Peer-to-Peer Car Sharing – Alterations* represents another tax that will be placed on the citizens of Maryland by repealing the 2021 termination date for the 8% sales and use tax imposed on peer-to-peer car sharing. In addition, this bill establishes a new sales and use tax rate 11.5% of the taxable price if the vehicle is a passenger vehicle or motorcycle that is part of a fleet of vehicles. This tax puts additional strain on the small businesses that operate under the peer-to-peer car sharing model.

Now more than ever, we cannot raise taxes and fees on struggling Marylanders. Instead, we should be making sure Marylanders can keep more of their hard-earned money in their pockets.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 933

AN ACT concerning

Anne Arundel County – Transfer Tax – Housing Trust Special Revenue Fund

FOR the purpose of authorizing the governing body of Anne Arundel County to increase the rate of the transfer tax imposed on certain written instruments conveying title to property or a leasehold interest in real property, subject to a certain exception; requiring any revenue derived from a higher transfer tax rate to be distributed to a certain special fund; establishing a Housing Trust Special Revenue Fund and requiring that certain revenue attributable to certain transfer and recordation tax rates be paid into the fund; providing that the fund is a special, nonlapsing fund; requiring that revenue paid into the fund be dedicated and appropriated to provide housing for certain individuals; repealing certain obsolete language; making stylistic and conforming changes; and generally relating to the transfer tax and the creation of a special fund for certain types of housing in Anne Arundel County.

BY repealing and reenacting, with amendments,
The Public Local Laws of Anne Arundel County
Section 4–3A–102 and 4–11–111
Article 2 – Public Local Laws of Maryland
(2005 Edition and June 2020 Supplement, as amended)

BY adding to
The Public Local Laws of Anne Arundel County
Section 4–11–122
Article 2 – Public Local Laws of Maryland
(2005 Edition and June 2020 Supplement, as amended)

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

Article 2 – Anne Arundel County

4–3A–102.

(A) The County Council of Anne Arundel County may impose a tax on every written instrument conveying title to real property or a leasehold interest in real property, offered for record and recorded among the land records in Anne Arundel County subject to the same conditions and procedures as the State Transfer Tax imposed under the Tax-Property Article, Title 13, Subtitle 2, of the State Code[, provided that].

(B) (1) **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,** the maximum rate of **THE** tax imposed under [the provisions of] this section shall not exceed 1% of the actual consideration paid or to be paid for the conveyance of title[, and provided that revenues].

(2) (I) **THE EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE GOVERNING BODY OF ANNE ARUNDEL COUNTY MAY, BY RESOLUTION, INCREASE THE RATE OF THE TAX IMPOSED UNDER THIS SECTION ON A WRITTEN INSTRUMENT CONVEYING TITLE TO REAL PROPERTY OR A LEASEHOLD INTEREST IN REAL PROPERTY IF THE ACTUAL CONSIDERATION PAID OR TO BE PAID FOR THE CONVEYANCE OF TITLE IS \$1,000,000 OR MORE.**

(II) A WRITTEN INSTRUMENT CONVEYING TITLE TO REAL PROPERTY OR A LEASEHOLD INTEREST IN REAL PROPERTY THAT PROVIDES AFFORDABLE HOUSING FOR MODERATE- OR LOW-INCOME INDIVIDUALS IN THE COUNTY, INCLUDING THE CITY OF ANNAPOLIS, IS NOT SUBJECT TO ANY INCREASE IN THE TAX RATE IMPOSED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(C) (1) **REVENUE** derived from [this County] **THE** tax **RATE IMPOSED UNDER SUBSECTION (B)(1) OF THIS SECTION** shall be expended as provided by the County budget.

(2) **REVENUE DERIVED FROM THE TAX RATE IN EXCESS OF 1% OF THE ACTUAL CONSIDERATION PAID OR TO BE PAID FOR THE CONVEYANCE OF TITLE IMPOSED UNDER SUBSECTION (B)(2) OF THIS SECTION SHALL BE DISTRIBUTED TO THE SPECIAL FUND ESTABLISHED UNDER § 4-11-122 OF THIS CODE.**

(D) The condition in the Tax-Property Article, § 13-209, of the State Code, relating to the use of transfer tax funds [to pay principal and interest on certificates of indebtedness issued pursuant to the “Outdoor Recreation Land Loan of 1969” or] for funding of projects under “Program Open Space” do not apply to revenues derived from the County tax.

(E) The tax shall be collected by the Controller.

4-11-111.

Anne Arundel County may dedicate and, as provided in the annual County budget, expend:

(1) up to 50% of the revenues received from the transfer tax **RATE IMPOSED UNDER § 4-3A-102(B)(1) OF THIS CODE** in each fiscal year for the payment of debts and costs incurred for the construction of water and wastewater facilities; and

(2) if the County has an Agricultural Land Preservation Program certified under the State Finance and Procurement Article, § 5-408, of the State Code, up to 20% of the revenues received from the transfer tax **RATE IMPOSED UNDER § 4-3A-102(B)(1) OF THIS CODE** in each fiscal year for the purchase of agricultural easements under the County Agricultural Land Preservation Program.

4-11-122.

(A) THERE IS A HOUSING TRUST SPECIAL REVENUE FUND INTO WHICH SHALL BE PAID THE REVENUE ATTRIBUTABLE TO:

(1) ANY TRANSFER TAX RATE IMPOSED UNDER § 4-3A-102(B)(2) OF THIS CODE; AND

(2) ANY SPECIAL RECORDATION TAX RATE IN EXCESS OF THE GENERALLY APPLICABLE RATE THAT IS IMPOSED ON AN INSTRUMENT OF WRITING FOR WHICH THE CONSIDERATION PAYABLE OR THE PRINCIPAL AMOUNT OF DEBT SECURED IS \$1,000,000 OR MORE.

(B) THE HOUSING TRUST SPECIAL REVENUE FUND IS A SPECIAL, NONLAPSING FUND.

(C) THE REVENUE PAID INTO THE HOUSING TRUST SPECIAL REVENUE FUND SHALL BE DEDICATED AND APPROPRIATED TO PROVIDE AFFORDABLE HOUSING FOR MODERATE- AND LOW-INCOME INDIVIDUALS IN THE COUNTY INCLUDING THE CITY OF ANNAPOLIS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021.

May 28, 2021

The Honorable Adrienne A. Jones
Speaker of the House of Delegates
H-101 State House
Annapolis, MD 21401

The Honorable Bill Ferguson
President of the Senate
H-107 State House
Annapolis, MD 21401

Dear Speaker Jones and President Ferguson:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 1003 and Senate Bill 780 – *States of Emergency – Emergency Procurement and Budget Amendments – Notice and Authorization*.

As the State of Maryland’s chief executive officer and commander in chief, the Governor is given broad legal authority during states of emergency for the very purpose of protecting the health, welfare, and safety of its citizens. When the first cases of COVID-19 were confirmed in Maryland more than one year ago, quick action and extraordinary measures were necessary to keep Marylanders safe from this deadly virus. My Administration has fought endlessly to save lives, as well as to help struggling Marylanders, *and we will continue to do so*. Having broad legal authority during a state of emergency empowers the Governor to lead our State most effectively during the hardest of times and allows him or her to respond effectively to the most challenging of circumstances. The very nature of an emergency commands full and focused attention, most especially when thousands of lives are at stake, and unnecessary red tape would be a direct threat to effective action at such a critical time.

The arbitrary notification and reporting requirements that this legislation requires does little for transparency yet creates administrative challenges when time is of the essence. It is unreasonable – and frankly, out of touch – for the legislature to expect the Governor or an agency head to check boxes on a form rather than focus on the emergency at hand. With robust reporting and oversight mechanisms already in place, these additional layers of bureaucracy do nothing more than create obstacles during the most urgent of times. For the General Assembly to play these types of political games during a state of emergency is simply unconscionable.

For these reasons, I have vetoed House Bill 1033 and Senate Bill 780.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 1003

AN ACT concerning

**States of Emergency – Emergency Procurement and Budget Amendments –
Notice and Authorization**

FOR the purpose of requiring the Governor or the head of a certain unit to provide certain notice to the Legislative Policy Committee within a certain time frame when authorizing a certain emergency procurement during a state of emergency under certain circumstances; ~~requiring the Office of Legislative Audits to perform a certain audit within a certain time frame under certain circumstances;~~ requiring the Governor or the head of a certain unit to provide a copy of a certain procurement contract to the Legislative Policy Committee under certain circumstances; authorizing the Legislative Policy Committee to request that the Office of Legislative Audits perform a certain audit under certain circumstances; requiring the Governor to provide certain notice to certain persons within a certain time frame after suspending the effect of a certain statute or rule or regulation under certain circumstances; ~~authorizing a certain appropriation to be increased by budget amendment if the Board of Public Works makes a certain declaration; prohibiting the Governor from suspending the effects of certain provisions under certain circumstances;~~ and generally relating to emergency procurements and the Governor's authority to suspend the effect of a statute, rule, or regulation during a state of emergency.

BY adding to

Article – Public Safety

Section 14–117

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

~~BY adding to~~

~~Article – State Finance and Procurement~~

~~Section 7–214~~

~~Annotated Code of Maryland~~

~~(2015 Replacement Volume and 2020 Supplement)~~

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

Article – Public Safety

14–117.

(A) (1) THIS SUBSECTION APPLIES ONLY WHEN THE GOVERNOR OR THE HEAD OF A UNIT AUTHORIZES AN EMERGENCY PROCUREMENT DURING A STATE OF EMERGENCY IN ORDER TO PREPARE FOR OR ADDRESS THE STATE OF EMERGENCY UNDER:

(I) § 14–106(B)(3) OF THIS SUBTITLE;

(II) § 13-108(A) OF THE STATE FINANCE AND PROCUREMENT ARTICLE; OR

(III) ANY OTHER LAW THAT GRANTS THE GOVERNOR AUTHORITY TO AUTHORIZE AN EMERGENCY PROCUREMENT.

(2) WHEN THE GOVERNOR OR THE HEAD OF A UNIT AUTHORIZES AN EMERGENCY PROCUREMENT, WITHIN 72 HOURS AFTER THE EARLIER OF THE EXECUTION OF THE CONTRACT OR THE EXPENDITURE OF FUNDS, THE GOVERNOR OR HEAD OF THE UNIT SHALL PROVIDE WRITTEN NOTICE TO THE LEGISLATIVE POLICY COMMITTEE, INCLUDING:

(I) ~~A COPY OF THE PROCUREMENT CONTRACT~~ THE NAME, BUSINESS ADDRESS, AND, IF APPLICABLE, WEBSITE ADDRESS OF THE VENDOR AND THE DOLLAR VALUE OF THE CONTRACT;

(II) A DESCRIPTION OF HOW THE FUNDS ARE TO BE USED; AND

(III) AN EXPLANATION OF THE REASONS THE PROCUREMENT IS NECESSARY TO PREPARE FOR OR ADDRESS THE EMERGENCY.

(3) ~~WITHIN 1 YEAR AFTER~~ AFTER AN EMERGENCY PROCUREMENT CONTRACT IS EXECUTED UNDER THIS ~~SUBSECTION,~~ SUBSECTION;

(I) IF REQUESTED BY THE LEGISLATIVE POLICY COMMITTEE, THE GOVERNOR OR HEAD OF THE UNIT SHALL PROVIDE A COPY OF THE CONTRACT TO THE LEGISLATIVE POLICY COMMITTEE; AND

(II) THE LEGISLATIVE POLICY COMMITTEE MAY REQUEST THAT THE OFFICE OF LEGISLATIVE AUDITS ~~SHALL~~ CONDUCT AN AUDIT OF THE EMERGENCY PROCUREMENT.

(B) (1) THIS SUBSECTION APPLIES ONLY WHEN THE GOVERNOR SUSPENDS THE EFFECT OF A STATUTE OR RULE OR REGULATION OF AN AGENCY OF THE STATE OR A POLITICAL SUBDIVISION DURING A STATE OF EMERGENCY UNDER:

(I) § 14-107(D)(1)(I) OF THIS SUBTITLE;

(II) § 14-108(A)(2) OF THIS SUBTITLE; OR

(III) ANY OTHER PROVISION THAT GRANTS THE GOVERNOR AUTHORITY TO SUSPEND THE EFFECT OF ANY STATUTE OR RULE OR REGULATION OF AN AGENCY OF THE STATE OR A POLITICAL SUBDIVISION DURING A STATE OF EMERGENCY.

(2) WITHIN 72 HOURS AFTER SUSPENDING THE EFFECT OF A STATUTE OR RULE OR REGULATION, THE GOVERNOR SHALL PROVIDE WRITTEN NOTICE TO THE LEGISLATIVE POLICY COMMITTEE THAT:

(I) IDENTIFIES THE STATUTE OR RULE OR REGULATION BEING SUSPENDED; AND

(II) EXPLAINS THE REASONS THAT SUSPENDING THE STATUTE OR RULE OR REGULATION IS NECESSARY TO ADDRESS THE EMERGENCY.

(3) WHEN THE GOVERNOR SUSPENDS THE EFFECT OF A REGULATION, THE GOVERNOR SHALL ALSO PROVIDE THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION TO THE ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW COMMITTEE.

(C) THE GOVERNOR MAY NOT SUSPEND THE EFFECT OF THIS SECTION UNDER:

(1) § 14-107(D)(1)(I) OF THIS SUBTITLE;

(2) § 14-108(A)(2) OF THIS SUBTITLE; OR

(3) ANY OTHER LAW THAT GRANTS THE GOVERNOR AUTHORITY TO SUSPEND THE EFFECT OF ANY STATUTE DURING A STATE OF EMERGENCY.

~~Article State Finance and Procurement~~

~~7-214.~~

~~(A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY FEDERAL, SPECIAL, OR HIGHER EDUCATION FUND APPROPRIATION MAY BE INCREASED BY BUDGET AMENDMENT IF THE BOARD OF PUBLIC WORKS DECLARES THAT THE BUDGET AMENDMENT IS ESSENTIAL TO MAINTAINING PUBLIC SAFETY, HEALTH, OR WELFARE, INCLUDING PROTECTING THE ENVIRONMENT OR THE ECONOMIC WELFARE OF THE STATE.~~

~~(B) THE GOVERNOR MAY NOT SUSPEND THE EFFECT OF THIS SECTION UNDER:~~

~~(1) § 14-107(D)(1)(I) OF THE PUBLIC SAFETY ARTICLE;~~

~~(2) § 14-108(A)(2) OF THE PUBLIC SAFETY ARTICLE; OR~~

~~(3) ANY OTHER LAW THAT GRANTS THE GOVERNOR AUTHORITY TO SUSPEND THE EFFECT OF ANY STATUTE DURING A STATE OF EMERGENCY.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021.

May 28, 2021

The Honorable Adrienne A. Jones
Speaker of the House of Delegates
H-101 State House
Annapolis, MD 21401

The Honorable Bill Ferguson
President of the Senate
H-107 State House
Annapolis, MD 21401

Dear Speaker Jones and President Ferguson:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 1091 and Senate Bill 829 – *State Procurement – Emergency and Expedited Procurements – Revisions and Reporting*.

From the moment I declared a State of Emergency and the Existence of a Catastrophic Health Emergency on March 5, 2020, the absolute top priority of my Administration has been to save lives – and in our continued fight against the COVID-19 pandemic, our great State now has administered more than six million vaccinations, a significant milestone in defeating this deadly virus. This time last year, however, the landscape before us was very different; faced with many frightening unknowns and up against an unprecedented global competition for scarce resources, protecting the health, welfare, and safety of Marylanders required immediate and decisive action. When hours and even seconds counted, delays in the emergency procurement process most certainly would have prevented our State from acquiring life-saving medical supplies and services.

When navigating the dangers of an emergency, time becomes a luxury at the possible expense of public health, safety, or welfare, and State law currently recognizes the importance of time saving measures that transcend normal procurement practices. Unfortunately, House Bill 1091 and Senate Bill 829 would add red tape to complicate and to decelerate the emergency procurement process, thus inhibiting the State's ability to avoid or mitigate serious damage. This legislation also mandates additional layers of approval, onerous paperwork, and expanded reporting requirements that will result in

administrative burdens at times when the primary focus should be protecting the citizens of Maryland.

A strict standard for the use of emergency procurements currently exists; by combining it with the oversight and reporting requirements already in place, this balanced and common sense approach provides State agencies with the flexibility to act quickly while ensuring transparency and accountability. Whether the emergency is caused by a global pandemic, damaged highway infrastructure, equipment failure, or extreme weather conditions, all public threats must be managed without hesitation. If enacted, House Bill 1091 and Senate Bill 829 will delay emergency procurements – and when time is most critical, lengthening the emergency procurement process simply does not make sense.

For these reasons, I have vetoed House Bill 1091 and Senate Bill 829 – *State Procurement – Emergency and Expedited Procurements – Revisions and Reporting*.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 1091

AN ACT concerning

State Procurement – Emergency and Expedited Procurements – Reform Revisions and Reporting

FOR the purpose of ~~altering the circumstances under which a procurement officer may make an emergency procurement; requiring a unit's procurement officer to obtain approval from the Chief Procurement Officer or the Chief Procurement Officer's designee before making an emergency procurement under certain circumstances; requiring the Chief Procurement Officer or designee to approve or disapprove a certain request within a certain time frame after receiving the request; providing that if the Chief Procurement Officer or designee does not approve or disapprove a certain request within a certain time frame the request shall be considered to be approved; requiring a procurement officer to make reasonable efforts to solicit a certain minimum number of quotes for an emergency procurement; requiring a procurement officer to evaluate a certain contractor's ability to perform the requirements of an emergency procurement based on certain criteria under certain circumstances; requiring a procurement officer to obtain the approval of the Board of Public Works before awarding an emergency procurement contract with a certain value; altering certain reporting requirements related to emergency procurement contracts; adding certain reporting requirements for certain emergency procurement contracts; altering the time frame within which a procurement officer must submit a certain report; requiring an emergency procurement contract to include provisions addressing the contractor's ability to perform the requirements of the contract within a certain time frame; limiting the term of a certain single source procurement~~

~~contract; authorizing the Board to hold a certain emergency meeting for a certain purpose; specifying when a unit is required to publish notice of a certain emergency procurement in eMaryland Marketplace; authorizing certain units of State government to make a procurement on an expedited basis under certain circumstances; reducing the number of days after the end of each fiscal year that a primary procurement unit has to submit a certain report concerning certain procurement contracts; requiring a primary procurement unit to submit the report to the Chief Procurement Officer for the State instead of the Governor and the General Assembly; clarifying the types of procurement contracts that must be included in the report; requiring the report to include certain information on certain types of procurements; requiring the Chief Procurement Officer, within a certain number of days after the end of each fiscal year, to submit to the Governor and certain committees of the General Assembly a consolidated report that includes each report submitted to the Chief Procurement Officer by the primary procurement units as required under this Act; requiring that a report submitted to a committee of the General Assembly under this Act be submitted subject to a certain provision of law; authorizing the Board to adopt certain regulations requiring the Special Secretary for the Governor's Office of Small, Minority, and Women Business Affairs, in consultation with the Secretary of Transportation and the Attorney General, to establish certain guidelines; requiring a unit's procurement officer to obtain approval from the Chief Procurement Officer or the Chief Procurement Officer's designee before making an emergency procurement under certain circumstances; requiring the Chief Procurement Officer or designee to approve or disapprove a certain request within a certain time frame after receiving the request; providing that if the Chief Procurement Officer or designee does not approve or disapprove a certain request within a certain time frame, the request shall be considered to be approved; *requiring a procurement officer to evaluate a certain contractor's ability to perform the requirements of an emergency procurement based on certain criteria under certain circumstances; requiring a procurement officer to execute a certain written contract for an emergency procurement under certain circumstances; prohibiting a unit from paying more than a certain amount in advance of or concurrent with the execution of a certain emergency procurement contract; prohibiting a unit from making certain additional payments under a certain emergency procurement contract for a certain period of time unless authorized by the Board of Public Works; requiring a unit to submit a copy of a certain emergency procurement contract to the Board within a certain period of time; authorizing the Board to review a certain emergency procurement contract at a certain meeting and to direct a unit or the appropriate control agency to take certain actions; altering certain reporting requirements related to emergency procurement contracts; adding certain reporting requirements for certain emergency procurement contracts; requiring an emergency procurement contract to include provisions addressing the contractor's ability to perform the requirements of the contract within a certain time frame; altering the time frame within which a procurement officer must submit a certain report to the Board of Public Works; specifying when a unit is required to publish notice of a certain emergency procurement in eMaryland Marketplace; requiring a unit that awards a certain contract or contract modification as an emergency procurement to submit a certain report to the Board and a certain appropriate control agency within a certain*~~

period of time; specifying the contents of a certain report; authorizing the Board to adopt certain regulations; authorizing certain units of State government to make a procurement on an expedited basis under certain circumstances; *reducing the number of days after the end of each fiscal year that a primary procurement unit has to submit a certain report concerning certain procurement contracts*; requiring a primary procurement unit to submit a certain report to the Chief Procurement Officer instead of the Governor and the General Assembly; clarifying the types of procurement contracts that must be included in a certain report; requiring a certain report to include certain information on certain types of procurements; requiring the Chief Procurement Officer, within a certain number of days after the end of each fiscal year, to submit to the Governor and certain committees of the General Assembly a consolidated report that includes each report submitted to the Chief Procurement Officer by the primary procurement units as required under this Act; *requiring a certain report to be submitted by the Department of General Services instead of the Department of Budget and Management*; requiring that a report submitted to a committee of the General Assembly under this Act be submitted subject to a certain provision of law; requiring the Special Secretary for the ~~Governor's~~ Office of Small, Minority, and Women Business Affairs to report to certain committees of the General Assembly on or before a certain date; providing for the application of certain provisions of this Act; providing for the effective dates of this Act; defining a certain term; and generally relating to State procurement.

BY repealing and reenacting, with amendments,
 Article – State Finance and Procurement
 Section 13–108 and 15–111
 Annotated Code of Maryland
 (2015 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,
 Article – State Finance and Procurement
 Section 13–108
 Annotated Code of Maryland
 (2015 Replacement Volume and 2020 Supplement)
 (As enacted by Section 1 of this Act)

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

Article – State Finance and Procurement

13–108.

(a) IN THIS SECTION, “EMERGENCY” MEANS AN OCCURRENCE OR A CONDITION THAT CREATES AN IMMEDIATE AND SERIOUS NEED FOR SERVICES, MATERIALS, OR SUPPLIES THAT:

(1) CANNOT BE MET THROUGH NORMAL PROCUREMENT METHODS;
AND

(2) ARE REQUIRED TO AVOID OR MITIGATE SERIOUS DAMAGE TO PUBLIC HEALTH, SAFETY, OR WELFARE.

(B) (1) Except as provided in § 11-205 (“Collusion”), § 10-204 (“Approval for designated contracts”), § 13-219 (“Required clauses – Nondiscrimination clause”), § 13-221 (“Disclosures to Secretary of State”), Title 16 (“Suspension and Debarment of Contractors”), or Title 17 (“Special Provisions – State and Local Subdivisions”) of this article, with the approval of the head of a unit, its procurement officer may make an emergency procurement by any method that the procurement officer considers most appropriate to avoid or mitigate serious damage to public health, safety, or welfare ~~DUE TO UNFORESEEN CAUSES.~~

~~(2) (I) BEFORE MAKING AN EMERGENCY PROCUREMENT, THE PROCUREMENT OFFICER SHALL OBTAIN APPROVAL OF THE USE OF EMERGENCY PROCUREMENT PROCEDURES FROM THE CHIEF PROCUREMENT OFFICER, OR THE CHIEF PROCUREMENT OFFICER’S DESIGNEE.~~

~~(II) WITHIN 48 HOURS AFTER RECEIVING A REQUEST TO USE EMERGENCY PROCUREMENT PROCEDURES, THE CHIEF PROCUREMENT OFFICER OR DESIGNEE SHALL APPROVE OR DISAPPROVE THE REQUEST.~~

~~(III) IF THE CHIEF PROCUREMENT OFFICER OR DESIGNEE DOES NOT APPROVE OR DISAPPROVE THE REQUEST TO USE EMERGENCY PROCUREMENT PROCEDURES WITHIN 48 HOURS AFTER RECEIVING THE REQUEST, THE REQUEST SHALL BE CONSIDERED TO BE APPROVED.~~

~~(3)~~ The procurement officer shall:

(i) obtain as much competition as possible under the circumstances, ~~INCLUDING BY MAKING REASONABLE EFFORTS TO SOLICIT AT LEAST THREE ORAL QUOTES;~~

(ii) limit the emergency procurement to the procurement of only those items, both in type and quantity, necessary to avoid or to mitigate serious damage to public health, safety, or welfare; ~~and~~

~~(III) BEFORE AWARDING AN EMERGENCY PROCUREMENT CONTRACT TO A PROSPECTIVE CONTRACTOR, EVALUATE THE CONTRACTOR’S ABILITY TO PERFORM THE REQUIREMENTS OF THE CONTRACT BASED ON:~~

~~1. THE LENGTH OF TIME THE CONTRACTOR HAS BEEN IN BUSINESS;~~

~~2. THE CONTRACTOR'S LEVEL OF EXPERIENCE PROVIDING THE TYPES AND AMOUNTS OF SUPPLIES, SERVICES, MAINTENANCE, COMMODITIES, CONSTRUCTION, OR CONSTRUCTION RELATED SERVICES REQUIRED UNDER THE CONTRACT; AND~~

~~3. THE CONTRACTOR'S HISTORY OF SUCCESSFUL PROCUREMENT CONTRACTS WITH THE STATE AND OTHER JURISDICTIONS;~~

~~(IV) OBTAIN BOARD APPROVAL BEFORE AWARDING AN EMERGENCY PROCUREMENT CONTRACT WITH A VALUE OF \$1,000,000 OR MORE;~~

~~{(iii)} (V) NOT MORE THAN 15 DAYS~~ after awarding the procurement contract, submit ~~{to the Board}~~ a written report that gives the justification for use of the emergency procurement procedure ~~IN ACCORDANCE WITH PARAGRAPH (4) OF THIS SUBSECTION; AND~~

~~(VI) AS APPROPRIATE, SUBMIT WRITTEN REPORTS PROVIDING STATUS UPDATES ON THE DELIVERY AND USE OF SUPPLIES OR COMMODITIES PROCURED UNDER THE CONTRACT IN ACCORDANCE WITH PARAGRAPH (5) OF THIS SUBSECTION.~~

~~(4) WITHIN 15 DAYS AFTER AWARDING A CONTRACT OR A CONTRACT MODIFICATION, A UNIT SHALL SUBMIT TO THE BOARD, THE APPROPRIATE CONTROL AGENCY, AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE JOINT AUDIT AND EVALUATIONS COMMITTEE, A REPORT THAT INCLUDES:~~

~~(I) THE BASIS AND JUSTIFICATION FOR THE EMERGENCY PROCUREMENT, INCLUDING THE DATE THE EMERGENCY FIRST BECAME KNOWN;~~

~~(II) A LISTING OF SUPPLIES, SERVICES, MAINTENANCE, COMMODITIES, CONSTRUCTION, OR CONSTRUCTION RELATED SERVICES PROCURED;~~

~~(III) THE NAMES OF ALL PERSONS SOLICITED AND A JUSTIFICATION IF THE SOLICITATION WAS LIMITED TO ONE PERSON;~~

~~(IV) THE PRICES AND TIMES OF PERFORMANCE PROPOSED BY THE PERSONS RESPONDING TO THE SOLICITATION;~~

~~(V) THE NAME OF AND BASIS FOR THE SELECTION OF A PARTICULAR CONTRACTOR;~~

~~(VI) THE AMOUNT AND TYPE OF THE CONTRACT OR CONTRACT MODIFICATION;~~

~~(VII) A LISTING OF ANY PRIOR OR RELATED EMERGENCY CONTRACTS, INCLUDING ALL CONTRACT MODIFICATIONS, EXECUTED FOR THE PURPOSES OF AVOIDING OR MITIGATING THE PARTICULAR EMERGENCY, INCLUDING THE AGGREGATE COSTS; AND~~

~~(VIII) THE IDENTIFICATION NUMBER, IF ANY, OF THE CONTRACT FILE.~~

~~(5) IF SUPPLIES OR COMMODITIES PROCURED UNDER AN EMERGENCY PROCUREMENT CONTRACT ARE NOT DELIVERED AND USED WITHIN 1 MONTH AFTER THE DATE THE CONTRACT IS AWARDED, THE UNIT SHALL:~~

~~(I) PREPARE A REPORT DESCRIBING THE DELIVERY AND USE STATUS OF SUPPLIES AND COMMODITIES PROCURED UNDER THE CONTRACT AT LEAST ONCE PER MONTH UNTIL ALL SUPPLIES AND COMMODITIES HAVE BEEN DELIVERED AND USED; AND~~

~~(II) SUBMIT THE REPORTS PREPARED UNDER THIS PARAGRAPH TO THE BOARD, THE APPROPRIATE CONTROL AGENCY, AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE JOINT AUDIT AND EVALUATIONS COMMITTEE.~~

~~(6) A PROCUREMENT CONTRACT AWARDED UNDER THIS SUBSECTION SHALL INCLUDE PROVISIONS ADDRESSING THE CONTRACTOR'S ABILITY TO PERFORM THE REQUIREMENTS OF THE CONTRACT WITHIN THE EMERGENCY TIME FRAME.~~

~~(7) THE TERM OF A SINGLE SOURCE PROCUREMENT CONTRACT AWARDED UNDER THIS SECTION MAY NOT EXCEED THE MINIMUM PERIOD OF TIME NECESSARY TO AMELIORATE THE CIRCUMSTANCES THAT CREATED THE MATERIAL AND SUBSTANTIAL REASONS FOR THE SINGLE SOURCE AWARD.~~

~~(8) THE BOARD MAY HOLD AN EMERGENCY MEETING FOR THE PURPOSE OF CONSIDERING A REQUEST TO APPROVE AN EMERGENCY~~

~~PROCUREMENT CONTRACT WITH A VALUE OF \$1,000,000 OR MORE, AS REQUIRED UNDER PARAGRAPH (3)(IV) OF THIS SUBSECTION.~~

~~(9) NOTWITHSTANDING SUBSECTION (E) OF THIS SECTION, ON THE DAY OF THE EXECUTION AND APPROVAL OF A PROCUREMENT CONTRACT AWARDED UNDER THIS SUBSECTION, OR AS SOON AS PRACTICABLE THEREAFTER, A UNIT SHALL PUBLISH IN E-MARYLAND MARKETPLACE NOTICE OF THE AWARD.~~

~~[(b)] (C)~~ (1) Consistent with the requirements of subsection [(a)(1)] **(B)(1)** of this section, the State Highway Administration may enter into procurement contracts related to the pretreatment and removal of snow and ice as required or authorized under Title 8 of the Transportation Article.

(2) (i) Beginning on June 30, 2016, and no later than June 30 of each succeeding year, the State Highway Administration shall submit to the Board a written report on the operation and effectiveness of the procurement contracts entered into under this subsection during the previous year.

(ii) The report shall include:

1. the number of contracts awarded;
2. the total dollar value of the contracts awarded; and
3. the amount of contracting dollars expended with minority business enterprises, certified small businesses, and certified veteran-owned businesses, as defined under Title 14 of this article.

(3) The Board, in consultation with the State Highway Administration, may adopt regulations to carry out the requirements of this subsection.

~~[(c)] (D)~~ (1) Except as provided in § 11–205 (“Collusion”), § 10–204 (“Approval for designated contracts”), § 13–219 (“Required clauses – Nondiscrimination clause”), § 13–221 (“Disclosures to Secretary of State”), Title 16 (“Suspension and Debarment of Contractors”), or Title 17 (“Special Provisions – State and Local Subdivisions”) of this article, with the approval of the head of the unit and the Board, ~~the Maryland Port Commission or the Maryland Aviation Administration~~ **A UNIT’S PROCUREMENT OFFICER** may make a procurement on an expedited basis if the head of the unit and the Board find that:

- (i) urgent circumstances require prompt action;
- (ii) an expedited procurement best serves the public interest; and

(iii) the need for the expedited procurement outweighs the benefits of making the procurement on the basis of competitive sealed bids or competitive sealed proposals.

(2) The procurement officer shall attempt to obtain as much competition as reasonably possible.

~~[(d)] (E) [Not] EXCEPT AS PROVIDED IN SUBSECTION (B)(9) OF THIS SECTION, NOT~~ more than 30 days after the execution and approval of a procurement contract awarded under this section, a unit shall publish in eMaryland Marketplace notice of the award.

[(e)] (F) For real property leases procured under this section, the term of the lease shall be for the minimum period of time practicable.

(G) **THE BOARD MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.**

(H) THE SPECIAL SECRETARY FOR THE GOVERNOR'S OFFICE OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS, IN CONSULTATION WITH THE SECRETARY OF TRANSPORTATION AND THE ATTORNEY GENERAL, SHALL ESTABLISH GUIDELINES FOR EACH UNIT TO CONSIDER WHEN DETERMINING THE APPROPRIATE MINORITY BUSINESS ENTERPRISE PARTICIPATION PERCENTAGE GOAL AND OUTREACH FOR AN EMERGENCY PROCUREMENT CONTRACT.

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

Article – State Finance and Procurement

13–108.

(a) In this section, “emergency” means an occurrence or condition that creates an immediate and serious need for services, materials, or supplies that:

- (1) cannot be met through normal procurement methods; and
- (2) are required to avoid or mitigate serious damage to public health, safety, or welfare.

(b) (1) Except as provided in § 11–205 (“Collusion”), § 10–204 (“Approval for designated contracts”), § 13–219 (“Required clauses – Nondiscrimination clause”), § 13–221 (“Disclosures to Secretary of State”), Title 16 (“Suspension and Debarment of Contractors”), or Title 17 (“Special Provisions – State and Local Subdivisions”) of this article, with the approval of the head of a unit, its procurement officer may make an emergency procurement by any method that the procurement officer considers most appropriate to avoid or mitigate serious damage to public health, safety, or welfare.

(2) (I) EXCEPT WHEN DELAYING A PROCUREMENT BY UP TO 48 HOURS WOULD LIKELY RESULT IN IMMINENT HARM, AFTER OBTAINING THE APPROVAL OF THE HEAD OF THE UNIT AND BEFORE MAKING AN EMERGENCY PROCUREMENT, THE PROCUREMENT OFFICER SHALL OBTAIN APPROVAL OF THE USE OF EMERGENCY PROCUREMENT PROCEDURES FROM THE CHIEF PROCUREMENT OFFICER, OR THE CHIEF PROCUREMENT OFFICER'S DESIGNEE.

(II) WITHIN 48 HOURS AFTER RECEIVING A REQUEST TO USE EMERGENCY PROCUREMENT PROCEDURES, THE CHIEF PROCUREMENT OFFICER OR DESIGNEE SHALL APPROVE OR DISAPPROVE THE REQUEST.

(III) IF THE CHIEF PROCUREMENT OFFICER OR DESIGNEE DOES NOT APPROVE OR DISAPPROVE THE REQUEST TO USE EMERGENCY PROCUREMENT PROCEDURES WITHIN 48 HOURS AFTER RECEIVING THE REQUEST, THE REQUEST SHALL BE CONSIDERED TO BE APPROVED.

(3) The procurement officer shall:

(i) obtain as much competition as possible under the circumstances, INCLUDING BY MAKING REASONABLE EFFORTS TO SOLICIT AT LEAST THREE ORAL QUOTES;

(ii) limit the emergency procurement to the procurement of only those items, both in type and quantity, necessary to avoid or to mitigate serious damage to public health, safety, or welfare; ~~and~~

(III) BEFORE AWARDING AN EMERGENCY PROCUREMENT CONTRACT TO A PROSPECTIVE CONTRACTOR, EVALUATE THE CONTRACTOR'S ABILITY TO PERFORM THE REQUIREMENTS OF THE CONTRACT BASED ON:

1. THE LENGTH OF TIME THE CONTRACTOR HAS BEEN IN BUSINESS;

2. THE CONTRACTOR'S LEVEL OF EXPERIENCE PROVIDING THE TYPES AND AMOUNTS OF SUPPLIES, SERVICES, MAINTENANCE, COMMODITIES, CONSTRUCTION, OR CONSTRUCTION-RELATED SERVICES REQUIRED UNDER THE CONTRACT; AND

3. THE CONTRACTOR'S HISTORY OF SUCCESSFUL PROCUREMENT CONTRACTS WITH THE STATE AND OTHER JURISDICTIONS;

(IV) EXECUTE A WRITTEN CONTRACT WITH THE SUCCESSFUL CONTRACTOR WHICH INCLUDES THE TERMS OF THE EMERGENCY PROCUREMENT; AND

~~(iii)~~ (V) NOT MORE THAN 15 DAYS after awarding the procurement contract, submit to the Board a written report that gives the justification for use of the emergency procurement procedure.

(4) (I) THIS PARAGRAPH APPLIES ONLY TO AN EMERGENCY PROCUREMENT CONTRACT WITH A VALUE OF \$1,000,000 OR MORE.

(II) 1. IN ADVANCE OF OR CONCURRENT WITH THE EXECUTION OF AN EMERGENCY PROCUREMENT CONTRACT THAT IS SUBJECT TO THIS PARAGRAPH, A UNIT MAY NOT PAY AN AMOUNT THAT EXCEEDS \$2,000,000, PLUS 30% OF THE CONTRACT VALUE IN EXCESS OF \$2,000,000.

2. UNLESS AUTHORIZED BY THE BOARD, THE UNIT MAY NOT MAKE ANY ADDITIONAL PAYMENT UNDER THE CONTRACT UNTIL AT LEAST 30 DAYS AFTER THE EXECUTION OF THE CONTRACT.

(III) NOT LATER THAN 7 DAYS AFTER AWARDING AN EMERGENCY PROCUREMENT CONTRACT THAT IS SUBJECT TO THIS PARAGRAPH, A UNIT SHALL SUBMIT A COPY OF THE CONTRACT TO THE BOARD.

(IV) THE BOARD MAY:

1. REVIEW AN EMERGENCY PROCUREMENT CONTRACT SUBMITTED UNDER THIS PARAGRAPH AT A REGULARLY SCHEDULED MEETING OF THE BOARD OR AT AN EMERGENCY MEETING CALLED FOR THAT PURPOSE; AND

2. DIRECT THE UNIT OR THE APPROPRIATE CONTROL AGENCY TO TAKE ANY ACTION, INCLUDING CANCELING OR RESCINDING THE CONTRACT, THAT THE BOARD DEEMS APPROPRIATE.

(5) IF SUPPLIES OR COMMODITIES PROCURED UNDER AN EMERGENCY PROCUREMENT CONTRACT ARE NOT DELIVERED AND USED WITHIN 1 MONTH AFTER THE DATE THE CONTRACT IS AWARDED, THE UNIT SHALL:

(I) PREPARE A REPORT DESCRIBING THE DELIVERY AND USE STATUS OF SUPPLIES AND COMMODITIES PROCURED UNDER THE CONTRACT AT LEAST ONCE PER MONTH UNTIL ALL SUPPLIES AND COMMODITIES HAVE BEEN DELIVERED AND USED; AND

(II) SUBMIT THE REPORTS PREPARED UNDER THIS PARAGRAPH TO THE BOARD, THE APPROPRIATE CONTROL AGENCY, AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE JOINT AUDIT AND EVALUATION COMMITTEE.

(6) A PROCUREMENT CONTRACT AWARDED UNDER THIS SUBSECTION SHALL INCLUDE PROVISIONS ADDRESSING THE CONTRACTOR'S ABILITY TO PERFORM THE REQUIREMENTS OF THE CONTRACT WITHIN THE EMERGENCY TIME FRAME.

(7) NOTWITHSTANDING SUBSECTION (E) OF THIS SECTION, ON THE DAY OF THE EXECUTION AND APPROVAL OF A PROCUREMENT CONTRACT AWARDED UNDER THIS SUBSECTION, OR AS SOON AS PRACTICABLE THEREAFTER, A UNIT SHALL PUBLISH IN eMARYLAND MARKETPLACE NOTICE OF THE AWARD.

~~(5)~~ (8) (I) THIS PARAGRAPH APPLIES ONLY TO THE AWARD OF A CONTRACT OR A CONTRACT MODIFICATION MADE UNDER THIS SUBSECTION THAT, WITH PRIOR MODIFICATIONS, EXCEEDS \$50,000.

(II) WITHIN 15 DAYS AFTER AWARDING A CONTRACT OR A CONTRACT MODIFICATION, A UNIT SHALL SUBMIT TO THE BOARD AND THE APPROPRIATE CONTROL AGENCY A REPORT THAT INCLUDES:

1. THE BASIS AND JUSTIFICATION FOR THE EMERGENCY PROCUREMENT INCLUDING THE DATE THE EMERGENCY FIRST BECAME KNOWN;

2. A LISTING OF SUPPLIES, SERVICES, MAINTENANCE, COMMODITIES, CONSTRUCTION, OR CONSTRUCTION-RELATED SERVICES PROCURED;

3. THE NAMES OF ALL PERSONS SOLICITED AND A JUSTIFICATION IF THE SOLICITATION WAS LIMITED TO ONE PERSON;

4. THE PRICES AND TIMES OF PERFORMANCE PROPOSED BY THE PERSONS RESPONDING TO THE SOLICITATION;

5. THE NAME OF AND BASIS FOR THE SELECTION OF A PARTICULAR CONTRACTOR;

6. THE AMOUNT AND TYPE OF THE CONTRACT OR CONTRACT MODIFICATION;

7. A LISTING OF ANY PRIOR OR RELATED EMERGENCY CONTRACTS, INCLUDING ALL CONTRACT MODIFICATIONS, EXECUTED FOR THE PURPOSES OF AVOIDING OR MITIGATING THE PARTICULAR EMERGENCY, INCLUDING THE AGGREGATE COSTS; AND

8. THE IDENTIFICATION NUMBER, IF ANY, OF THE CONTRACT FILE.

(III) THE BOARD MAY ADOPT REGULATIONS TO CARRY OUT THIS PARAGRAPH.

(c) (1) Consistent with the requirements of subsection (b)(1) of this section, the State Highway Administration may enter into procurement contracts related to the pretreatment and removal of snow and ice as required or authorized under Title 8 of the Transportation Article.

(2) (i) Beginning on June 30, 2016, and no later than June 30 of each succeeding year, the State Highway Administration shall submit to the Board a written report on the operation and effectiveness of the procurement contracts entered into under this subsection during the previous year.

(ii) The report shall include:

1. the number of contracts awarded;
2. the total dollar value of the contracts awarded; and
3. the amount of contracting dollars expended with minority business enterprises, certified small businesses, and certified veteran-owned businesses, as defined under Title 14 of this article.

(3) The Board, in consultation with the State Highway Administration, may adopt regulations to carry out the requirements of this subsection.

(d) (1) Except as provided in § 11–205 (“Collusion”), § 10–204 (“Approval for designated contracts”), § 13–219 (“Required clauses – Nondiscrimination clause”), § 13–221 (“Disclosures to Secretary of State”), Title 16 (“Suspension and Debarment of Contractors”), or Title 17 (“Special Provisions – State and Local Subdivisions”) of this article, with the approval of the head of the unit and the Board, [the Maryland Port Commission or the Maryland Aviation Administration] A UNIT’S PROCUREMENT OFFICER may make a procurement on an expedited basis if the head of the unit and the Board find that:

(i) urgent circumstances require prompt action;

(ii) an expedited procurement best serves the public interest; and

(iii) the need for the expedited procurement outweighs the benefits of making the procurement on the basis of competitive sealed bids or competitive sealed proposals.

(2) The procurement officer shall attempt to obtain as much competition as reasonably possible.

(e) [Not] EXCEPT AS PROVIDED IN SUBSECTION ~~(B)(4)~~ (B)(7) OF THIS SECTION, NOT more than 30 days after the execution and approval of a procurement contract awarded under this section, a unit shall publish in eMaryland Marketplace notice of the award.

(f) For real property leases procured under this section, the term of the lease shall be for the minimum period of time practicable.

(g) The Board may adopt regulations to carry out this section.

(h) The Special Secretary for the ~~Governor's~~ Office of Small, Minority, and Women Business Affairs, in consultation with the Secretary of Transportation and the Attorney General, shall establish guidelines for each unit to consider when determining the appropriate minority business enterprise participation percentage goal and outreach for an emergency procurement contract.

15–111.

(a) Within **60** ~~100~~ ~~60~~ days after the end of each fiscal year, each primary procurement unit shall submit to the [Governor and to the General Assembly] **CHIEF PROCUREMENT OFFICER** a report on each procurement contract that was awarded during the preceding fiscal year, **WHETHER THE PROCUREMENT WAS CONDUCTED BY THE PRIMARY PROCUREMENT UNIT OR SUBJECT TO REVIEW BY THE PRIMARY PROCUREMENT UNIT**, and:

(1) was exempt from the notice requirements of § 13–103(c) of this article because the procurement officer reasonably expected that the procurement contract would be performed entirely outside this State and the District of Columbia;

(2) cost more than \$100,000 and was awarded for the procurement of services, construction related services, architectural services, or engineering services; or

(3) was awarded on the basis of:

(i) § 13–107 of this article (“Sole source procurement”);

(ii) § 13–108(a) of this article (“Emergency procurement”); or

(iii) § 13–108(c) of this article (“Expedited procurement”).

(b) (1) A report required under subsection (a)(2) or (3) of this section shall include:

- (i) the name of each contractor;
- (ii) the type and cost of the procurement contract; and
- (iii) a description of the procurement.

(2) A report required under subsection (a)(3) of this section [also] shall [describe] **INCLUDE:**

(I) A DESCRIPTION OF the basis for the award;

(II) THE IDENTITY OF THE DEPARTMENT OR AGENCY THAT AWARDED THE CONTRACT;

(III) THE IDENTITY OF ANY AGENCY OFFICIAL REQUIRED TO AUTHORIZE THE CONTRACT FOR AWARD;

(IV) THE AWARD DATE OF THE PROCUREMENT CONTRACT AND THE FINAL DATE OF THE CONTRACT TERM;

(V) THE DATE THE CONTRACT AWARD WAS POSTED TO MARYLAND MARKETPLACE; AND

(VI) FOR PROCUREMENTS AWARDED UNDER § 13–108(B) OF THIS ARTICLE (“EMERGENCY PROCUREMENT”):

1. THE NUMBER OF DAYS BETWEEN THE AGENCY DECLARATION OF AN EMERGENCY PROCUREMENT AND THE CONTRACT AWARD DATE;

2. THE DATE OF THE EMERGENCY DECLARATION FOR EACH PROCUREMENT; AND

3. FOR AN AWARD THAT MUST BE REPORTED TO THE BOARD, THE DATE THE AWARD WAS REPORTED TO THE BOARD.

(C) WITHIN 90 DAYS AFTER THE END OF EACH FISCAL YEAR, THE CHIEF PROCUREMENT OFFICER SHALL SUBMIT TO THE GOVERNOR, THE LEGISLATIVE POLICY COMMITTEE, THE SENATE BUDGET AND TAXATION COMMITTEE, ~~AND THE~~ SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE

HOUSE APPROPRIATIONS COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE JOINT AUDIT AND EVALUATION COMMITTEE A CONSOLIDATED REPORT THAT INCLUDES EACH REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.

~~[(c)] (D)~~ Within 90 days after the end of each fiscal year, the Department of ~~Budget and Management~~ **GENERAL SERVICES** shall submit to the Board and the General Assembly a report on each class of procurement for which the procedure for noncompetitive negotiated procurement has been approved under § 13–106 of this article.

~~[(d)] (E)~~ A report to the General Assembly **OR A COMMITTEE OF THE GENERAL ASSEMBLY** under this section is subject to § 2–1257 of the State Government Article.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.~~

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 31, 2021, the Special Secretary for the Governor's Office of Small, Minority, and Women Business Affairs shall report to the Legislative Policy Committee, the Senate Budget and Taxation Committee, and the Senate Education, Health, and Environmental Affairs Committee, the House Appropriations Committee, the House Health and Government Operations Committee, and the Joint Audit and Evaluation Committee, in accordance with § 2–1257 of the State Government Article, on the status of establishing the guidelines for minority business enterprise participation goals required under Section 1 of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2021.

SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect July 1, 2021.

May 28, 2021

The Honorable Adrienne A. Jones
Speaker of the House of Delegates
H-101 State House
Annapolis, MD 21401

Dear Speaker Jones:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 1131 – *Carroll County – Public Facilities Bond*.

This bill authorizes the Carroll County Commissioners to issue up to \$48.45 million in general obligation bonds for the acquisition, construction, improvement, or renovation of public buildings, facilities, and public works projects. The date of maturity of the bonds may not exceed 30 years.

Senate Bill 612, which was passed by the General Assembly and became law without my signature, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 1131.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 1131

AN ACT concerning

Carroll County – Public Facilities Bond

FOR the purpose of authorizing and empowering the County Commissioners of Carroll County, from time to time, to borrow not more than \$48,450,000 in order to finance the construction, improvement, or development of certain public facilities in Carroll County, including water and sewer projects, to finance loans for fire or emergency-related equipment, buildings, and other facilities of volunteer fire departments in the County, and to effect such borrowing by the issuance and sale at public or private sale of its general obligation bonds in like ~~paramount~~ par amount; empowering the County to fix and determine, by resolution, the form, tenor, interest rate or rates or method of determining the same, terms, conditions, maturities, and all other details incident to the issuance and sale of the bonds; empowering the County to issue refunding bonds for the purchase or redemption of bonds in advance of maturity; providing that such borrowing may be undertaken by the County in the form of installment purchase obligations executed and delivered by the County for the purpose of acquiring agricultural land and woodland preservation easements; empowering and directing the County to levy, impose, and collect, annually, ad valorem taxes in rate and amount sufficient to provide funds for the payment of the maturing principal of and interest on the bonds; exempting the bonds and refunding bonds and the interest thereon and any income derived therefrom from all State, County, municipal, and other taxation in the State of Maryland; providing that nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes; and generally relating to the issuance and sale of such bonds.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, as used herein, the term “County” means the body politic and corporate of the State of Maryland known as the County Commissioners of Carroll County, and the term “construction, improvement, or development of public facilities” means the acquisition, alteration, construction, reconstruction, enlargement, equipping, expansion, extension, improvement, rehabilitation, renovation, upgrading, and repair of public buildings and facilities and public works projects, including, but not limited to, public works projects such as roads, bridges and storm drains, public school buildings and facilities, landfills, Carroll Community College buildings and facilities, public operational buildings and facilities such as buildings and facilities for County administrative use, public safety, health and social services, libraries, refuse disposal buildings and facilities, water and sewer infrastructure facilities, easements or similar or related rights in land that restrict the use of agricultural land or woodland to maintain the character of the land as agricultural land or woodland, and parks and recreation buildings and facilities, together with the costs of acquiring land or interests in land as well as any related architectural, financial, legal, planning, or engineering services.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to finance any part or all of the costs of the construction, improvements or development of public facilities described in Section 1 of this Act, to make loans to each and every volunteer fire department in the County upon such terms and conditions as may be determined by the County for the purpose of financing certain fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments, and to borrow money and incur indebtedness for those purposes, at one time or from time to time, in an amount not exceeding, in the aggregate, \$48,450,000 and to evidence such borrowing by the issuance and sale upon its full faith and credit of general obligation bonds in like ~~paramount~~ *par amount*, which may be issued at one time or from time to time, in one or more groups or series, as the County may determine.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued in accordance with a resolution of the County, which shall describe generally the construction, improvement, or development of public facilities, including water and sewer projects, the fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments in the County for which the proceeds of the bond sale are intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms, and tenor of the bonds which, without limitation, may be issued in registered form within the meaning of § 19–204 of the Local Government Article, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in consecutive annual installments, provided only that no bond of any issue shall mature later than 30 years from the date of its issue; the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined to be for the best interests of Carroll County; the manner of executing and sealing the bonds, which may be by facsimile; the terms and conditions of any loans made to volunteer fire departments; the terms and conditions, if any, under which bonds

may be tendered for payment or purchase prior to their stated maturity; the terms or conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; covenants relating to compliance with applicable requirements of federal income tax law, including (without limitation) covenants regarding the payment of rebate or penalties in lieu of rebate; covenants relating to compliance with applicable requirements of federal or State securities laws; and generally all matters incident to the terms, conditions, issuance, sale, and delivery thereof.

The bonds may be made redeemable before maturity, at the option of the County, at such price or prices and under such terms and conditions as may be fixed by the County prior to the issuance of the bonds, either in the resolution or in subsequent resolutions. The bonds may be issued in registered form, and provision may be made for the registration of the principal only. In case any officer whose signature appears on any bond ceases to be such officer before the delivery thereof, such signature shall nevertheless be valid and sufficient for all purposes as if the officer had remained in office until such delivery. The bonds and the issuance and sale thereof shall be exempt from the provisions of §§ 19–205 and 19–206 of the Local Government Article, as amended.

The borrowing authorized by this Act may also be undertaken by the County in the form of installment purchase obligations executed and delivered by the County for the purpose of acquiring easements or similar or related rights in land that restrict the use of agricultural land or woodland to maintain the character of the land as agricultural or woodland. The form of installment purchase obligations, the manner of accomplishing the acquisition of easements, which may be the direct exchange of installment purchase obligations for easement, and all matters incident to the execution and delivery of the installment purchase obligations and acquisition of the easements by the County shall be determined in the resolution. Except where the provisions of this Act would be inapplicable to installment purchase obligations, the term “bonds” used in this Act shall include installment purchase obligations and matters pertaining to the bonds under this Act, such as the security for the payment of the bonds, the exemption of the bonds from State, County, municipal, or other taxation, and authorization to issue refunding bonds and the limitation on the aggregate principal amount of bonds authorized for issuance, shall be applicable to installment purchase obligations.

The County may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of any security for the bonds and for the purpose of securing any tender option that may be granted to holders of the bonds, all as may be determined and presented in the aforesaid resolution, which may (but need not) state as security for the performance by the County of any monetary obligations under such agreements the same security given by the County to bondholders for the performance by the County of its monetary obligations under the bonds.

If the County determines in the resolution to offer any of the bonds by solicitation of competitive bids at public sale, the resolution shall fix the terms and conditions of the public sale and shall adopt a form of notice of sale, which shall outline the terms and conditions,

and a form of advertisement, which shall be published in one or more daily or weekly newspapers having a general circulation in the County and which may also be published in one or more journals having a circulation primarily among banks and investment bankers. At least one publication of the advertisement shall be made not less than 10 days before the sale of the bonds.

Upon delivery of any bonds to the purchaser or purchasers, payment therefor shall be made to the Comptroller of Carroll County or such other official of Carroll County as may be designated to receive such payment in a resolution passed by the County before such delivery.

SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the sale of bonds shall be used and applied exclusively and solely for the acquisition, construction, improvement, or development of public facilities, including water and sewer projects, to make loans to volunteer fire departments for the financing of fire or emergency-related equipment, buildings, or other facilities of volunteer fire departments in the County for which the bonds are sold. If the amounts borrowed shall prove inadequate to finance the projects described in the resolution, the County may issue additional bonds with the limitations hereof for the purpose of evidencing the borrowing of additional funds for such financing, provided the resolution authorizing the sale of additional bonds shall so recite, but if the net proceeds of the sale of any issue of bonds exceed the amount needed to finance the projects described in the resolution, the excess funds so borrowed and not expended shall be applied to the payment of the next principal maturity of the bonds or to the redemption of any part of the bonds which have been made redeemable or to the purchase and cancellation of bonds, unless the County shall adopt a resolution allocating the excess funds to the acquisition, construction, improvement, or development of other public facilities, including water and sewer projects, or to the making of loans for fire or emergency-related equipment, buildings, or other facilities of volunteer fire departments in the County, as defined and within the limits set forth in this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest on the bonds as and when they become payable. In each and every fiscal year that any of the bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the County in rate and amount sufficient to provide for or assure the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The County may apply to the payment of the principal of and interest on any bonds issued hereunder any funds received by it as loan repayments from volunteer fire departments and any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality thereof, or from any other source, if such funds are granted for the purpose of assisting the County in financing the acquisition, construction, improvement, or development of the public facilities defined in this Act, including the water and sewer projects or the making of loans for the aforementioned fire or emergency-related

equipment, buildings, or other facilities for volunteer fire departments in the County and, to the extent of any such funds received or receivable in any fiscal year, the taxes that are required to be levied may be reduced accordingly.

SECTION 6. AND BE IT FURTHER ENACTED, That the County is further authorized and empowered, at any time and from time to time, to issue its bonds in the manner herein above described for the purpose of refunding, by payment at maturity or upon purchase or redemption, any bonds issued hereunder. The validity of any such refunding bonds shall in no way be dependent upon or related to the validity or invalidity of the obligations so refunded. The powers herein granted with respect to the issuance of bonds shall be applicable to the issuance of refunding bonds. Such refunding bonds may be issued by the County for the purpose of providing it with funds to pay any of its outstanding bonds issued hereunder at maturity, for the purpose of providing it with funds to purchase in the open market any of its outstanding bonds issued hereunder, prior to the maturity thereof, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds issued hereunder which are, by their terms, redeemable, for the purpose of providing it with funds to pay interest on any outstanding bonds issued hereunder prior to their payment at maturity of purchase or redemption in advance of maturity, or for the purpose of providing it with funds to pay any redemption or purchase premium in connection with the refunding of any of its outstanding bonds issued hereunder. The proceeds of the sale of any such refunding bonds shall be segregated and set apart by the County as a separate trust fund to be used solely for the purpose of paying the purchase or redemption prices of the bonds to be refunded.

SECTION 7. AND BE IT FURTHER ENACTED, That the County may, prior to the preparation of definitive bonds, issue interim certificates or temporary bonds, exchangeable for definitive bonds when such bonds have been executed and are available for such delivery, provided, however, that any such interim certificates or temporary bonds shall be issued in all respects subject to the restrictions and requirements set forth in this Act. The County may, by appropriate resolution, provide for the replacement of any bonds issued hereunder which shall have become mutilated or lost or destroyed upon such conditions and after receiving such indemnity as the County may require.

SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations issued pursuant to the authority of this Act, their transfer, the interest payable thereon, and any income derived therefrom in the hands of the holders thereof from time to time (including any profit made in the sale thereof) shall be and are hereby declared to be at all times exempt from State, County, municipal, or other taxation of every kind and nature whatsoever within the State of Maryland. Nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes.

SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow money and issue bonds conferred on the County by this Act shall be deemed to provide an additional and alternative authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and shall not be regarded as in derogation of any power now existing; and all Acts of the General

Assembly of Maryland heretofore passed authorizing the County to borrow money are hereby continued to the extent that the powers contained in such Acts have not been exercised, and nothing contained in this Act may be construed to impair, in any way, the validity of any bonds that may have been issued by the County under the authority of any said Acts, and the validity of the bonds is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of Carroll County, shall be liberally construed to effect the purposes hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

SECTION 10. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2021.

May 28, 2021

The Honorable Bill Ferguson
President of the Maryland Senate
H-107 State House
Annapolis, MD 21401

The Honorable Adrienne A. Jones
Speaker of the Maryland House of Delegates
H-101 State House
Annapolis, MD 21401

Dear Mr. President and Madam Speaker:

The COVID-19 pandemic has placed unprecedented and enormous fiscal strains on Maryland families and businesses. As we begin our road to recovery, it would be unconscionable to raise taxes on our citizens and job creators at this critical time. To do so would further add to the very heavy burden that our citizens are already facing and short-circuit Maryland's economic recovery. For these reasons, and in accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 133/House Bill 319 – *Local Tax Relief for Working Families Act of 2021*, House Bill 933 – *Anne Arundel County – Transfer Tax – Housing Trust Special Revenue Fund*, and House Bill 1209 – *Sales and Use Tax – Peer-to-Peer Car Sharing – Alterations*.

We came together this session to pass the RELIEF Act, providing over \$1.45 billion to struggling Marylanders and businesses with immediate and targeted tax cuts and financial relief, representing the largest tax cut in Maryland history. Unfortunately, the General Assembly dismissed additional opportunities to provide much-needed tax relief, particularly for Maryland's retirees. Instead, legislators pursued these misguided tax increases.

The most troubling aspect of Senate Bill 133 and House Bill 319 – *Local Tax Relief for Working Families Act of 2021* is that it masquerades as tax relief, when in reality there is no requirement for counties that implement a bracketed tax system to actually cut taxes. Instead, certain counties could keep their current rate as the new lowest rate and establish higher rates for higher-income residents, resulting in tax increases on one group of filers without providing any actual tax relief for the majority of taxpayers. In addition, this legislation raises the minimum floor that jurisdictions can set their local income taxes from 1% to 2.25%.

House Bill 933 – *Anne Arundel County – Transfer Tax – Housing Trust Special Revenue Fund* represents another tax that will be placed on the citizens of Anne Arundel County by granting the County the authority to increase the transfer tax on residential and commercial properties sold in Anne Arundel County. The most destructive aspect of this legislation is that it set no cap on how high the transfer tax could be set, which means if the imposed tax is high enough it could potentially destroy the affordable housing market by making it impossible to price new units low enough.

Lastly, House Bill 1209 – *Sales and Use Tax – Peer-to-Peer Car Sharing – Alterations* represents another tax that will be placed on the citizens of Maryland by repealing the 2021 termination date for the 8% sales and use tax imposed on peer-to-peer car sharing. In addition, this bill establishes a new sales and use tax rate 11.5% of the taxable price if the vehicle is a passenger vehicle or motorcycle that is part of a fleet of vehicles. This tax puts additional strain on the small businesses that operate under the peer-to-peer car sharing model.

Now more than ever, we cannot raise taxes and fees on struggling Marylanders. Instead, we should be making sure Marylanders can keep more of their hard-earned money in their pockets.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 1209

AN ACT concerning

Sales and Use Tax – Peer-to-Peer Car Sharing – Alterations

FOR the purpose of repealing the termination of certain provisions of law making sales and charges related to peer-to-peer car sharing subject to a certain sales and use tax rate; providing for the distribution of sales and use tax collected on peer-to-peer car sharing; altering the definition of “marketplace facilitator” to include certain peer-to-peer car sharing programs for purposes of a requirement to collect sales and use taxes; altering, under certain circumstances, the sales and use tax rate imposed on shared motor vehicles used for peer-to-peer car sharing; repealing a certain

obsolete provision; providing for the effective dates of this Act; and generally relating to the sales and use tax on peer-to-peer car sharing.

BY repealing and reenacting, with amendments,
Chapter 852 of the Acts of the General Assembly of 2018, as amended by Chapter
567 of the Acts of the General Assembly of 2020
Section 7

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 2–1302.1, 11–101(c–2), and 11–104(c–1)
Annotated Code of Maryland
(2016 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 11–101(l)(4)
Annotated Code of Maryland
(2016 Replacement Volume and 2020 Supplement)

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

Chapter 852 of the Acts of 2018, as amended by Chapter 567 of the Acts of 2020

SECTION 7. AND BE IT FURTHER ENACTED, That, except as provided in Section 6 of this Act, this Act shall take effect July 1, 2018. [Section 3 of this Act shall remain effective for a period of 3 years and, at the end of June 30, 2021, Section 3 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.]

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

Article – Tax – General

2–1302.1.

[(a)] Except as otherwise provided in this section, after making the distributions required under §§ 2–1301 and 2–1302 of this subtitle, of the sales and use tax collected [on short-term vehicle rentals] under § 11–104(c) AND (C–1) of this article **ON SHORT-TERM VEHICLE RENTALS AND PEER-TO-PEER CAR SHARING**, the Comptroller shall distribute:

(1) 45% to the Transportation Trust Fund established under § 3–216 of the Transportation Article; and

(2) the remainder to the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund.

[(b) For each fiscal year beginning on or before July 1, 2015, after the distribution required under subsection (a)(1) of this section, the Comptroller shall distribute the remainder of the sales and use tax collected on short-term vehicle rentals under § 11-104(c) of this article as follows:

(1) to the General Fund of the State:

(i) \$9,249,199 for the fiscal year beginning July 1, 2014; and

(ii) \$8,639,632 for the fiscal year beginning July 1, 2015; and

(2) the remainder to the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund.]

11-101.

(c-2) (1) “Marketplace facilitator” means a person that:

(i) facilitates a retail sale by a marketplace seller by listing or advertising for sale in a marketplace tangible personal property; and

(ii) regardless of whether the person receives compensation or other consideration in exchange for the person’s services, directly or indirectly through agreements with third parties, collects payment from a buyer and transmits the payment to the marketplace seller.

(2) “Marketplace facilitator” does not include:

(i) a platform or forum that exclusively provides Internet advertising services, including listing products for sale, if the platform or forum does not also engage, directly or indirectly, in collecting payment from a buyer and transmitting that payment to the vendor;

(ii) a payment processor business appointed by a vendor to handle payment transactions from clients, including credit cards and debit cards, whose only activity with respect to marketplace sales is to handle transactions between two parties;

OR

[(iii) a peer-to-peer car sharing program, as defined in § 19-520 of the Insurance Article; or]

[(iv)] **(III)** a delivery service company that delivers tangible personal

property on behalf of a marketplace seller that is engaged in the business of a retail vendor and holds a license issued under Subtitle 7 of this title.

(l) (4) “Taxable price” includes all sales and charges, including insurance, freight handling, equipment and supplies, delivery and pickup, cellular telephone, and other accessories, but not including sales of motor fuel subject to the motor fuel tax, made in connection with:

(i) a short-term vehicle rental, as defined in § 11-104(c) of this subtitle; or

(ii) a shared motor vehicle used for peer-to-peer car sharing and made available on a peer-to-peer car sharing program, as defined in § 19-520 of the Insurance Article.

11-104.

(c-1) The sales and use tax rate for sales and charges made in connection with a shared motor vehicle used for peer-to-peer car sharing and made available on a peer-to-peer car sharing program, as defined in § 19-520 of the Insurance Article, is [8%]:

~~(1) IF THE VEHICLE IS A PASSENGER CAR, A MULTIPURPOSE PASSENGER VEHICLE, OR A MOTORCYCLE:~~

~~(i) EXCEPT AS PROVIDED IN ITEM (ii) OF THIS ITEM:~~

~~1. FOR A SALE OR CHARGE MADE AFTER JUNE 30, 2021, BUT BEFORE JULY 1, 2022, 8.5% OF THE TAXABLE PRICE;~~

~~2. FOR A SALE OR CHARGE MADE AFTER JUNE 30, 2022, BUT BEFORE JULY 1, 2023, 9% OF THE TAXABLE PRICE; AND~~

~~3. FOR A SALE OR CHARGE MADE ON OR AFTER JULY 1, 2023, 9.75% OF THE TAXABLE PRICE; AND~~

(1) EXCEPT AS PROVIDED IN ITEM (2) OF THIS SUBSECTION, 8% OF THE TAXABLE PRICE; AND

~~(ii) (2) 11.5% OF THE TAXABLE PRICE, IF THE VEHICLE IS A PASSENGER CAR, A MULTIPURPOSE PASSENGER VEHICLE, OR A MOTORCYCLE THAT IS PART OF A FLEET OF VEHICLES THAT INCLUDES AT LEAST FIVE MORE THAN 10 VEHICLES OWNED BY THE SAME PERSON USED FOR PEER-TO-PEER CAR SHARING AND MADE AVAILABLE ON A PEER-TO-PEER CAR SHARING PROGRAM; OR~~

~~(2) 8% OF THE TAXABLE PRICE, IF THE VEHICLE IS A VEHICLE THAT~~

~~MAY BE REGISTERED AS A CLASS E, F, OR G VEHICLE UNDER TITLE 13, SUBTITLE 9 OF THE TRANSPORTATION ARTICLE.~~

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 2021.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect June 1, 2021.

May 28, 2021

The Honorable Adrienne A. Jones
Speaker of the House of Delegates
H-101 State House
Annapolis, MD 21401

Dear Speaker Jones:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 1315 – *Motor Vehicles – Inspection Certificates – Exception*.

This bill exempts the transfer of a used vehicle from a business entity to the majority owner of the business entity from the requirement to obtain a motor vehicle safety inspection certificate, but only if two conditions are met. To qualify for the exemption, the vehicle must be primarily driven by the majority owner, and the business entity must have been dissolved or be in the process of dissolution.

Senate Bill 681, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 1315.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 1315

AN ACT concerning

Motor Vehicles – Inspection Certificates – Exception

FOR the purpose of exempting the transfer of a used vehicle from a business entity to ~~an individual who wholly or partly owns the business entity~~ a majority owner of the business entity from the requirement to obtain a motor vehicle safety inspection certificate under certain circumstances; and generally relating to the inspection and transfer of used vehicles.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 23–106(a)(8) and (9)
Annotated Code of Maryland
(2020 Replacement Volume)

BY adding to
Article – Transportation
Section 23–106(a)(10)
Annotated Code of Maryland
(2020 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 23–106(b) and 23–107(a)(1)
Annotated Code of Maryland
(2020 Replacement Volume)

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

Article – Transportation

23–106.

(a) This section does not apply to:

(8) Any transfer of an off–highway recreational vehicle; [or]

(9) Any transfer of a leased vehicle to the lessee at the end of the lease term; **OR**

(10) ANY TRANSFER OF A USED VEHICLE FROM A BUSINESS ENTITY TO ~~AN INDIVIDUAL WHO WHOLLY OR PARTLY OWNS THE BUSINESS ENTITY~~ THE MAJORITY OWNER OF THE BUSINESS ENTITY IF:

(I) THE VEHICLE IS PRIMARILY DRIVEN BY THE MAJORITY OWNER OF THE BUSINESS ENTITY; AND

(II) THE BUSINESS ENTITY HAS BEEN DISSOLVED OR IS IN THE PROCESS OF DISSOLUTION.

(b) (1) Except as provided in paragraphs (4) and (5) of this subsection, if any licensed dealer that also is an inspection station transfers any used vehicle, it shall:

(i) Prepare an inspection certificate; or

(ii) Have an inspection certificate prepared by another inspection station.

(2) Except as provided in paragraphs (4) and (5) of this subsection, if any other person transfers a used vehicle, the person shall obtain an inspection certificate from an inspection station.

(3) If a used vehicle is transferred other than by voluntary transfer or is transferred by a political subdivision of the State after that subdivision obtains the vehicle by proceedings pursuant to Title 12 of the Criminal Procedure Article, the transferee shall obtain the inspection certificate from an authorized inspection station.

(4) In the case of a transfer of any used vehicle registered, or to be registered, as a Class E (truck) exceeding three-fourths ton manufacturer's rated capacity, Class F (tractor), Class G (freight trailer or semitrailer), or Class G (dump service semitrailer) vehicle, the transferor or the transferee of the vehicle may obtain the required inspection certificate.

(5) In the case of a transfer of any used vehicle registered or to be registered, that is sold for dismantling or rebuilding purposes, the transferor or the transferee of the vehicle may obtain the required inspection certificate.

23-107.

(a) (1) Before the Administration titles and registers any used vehicle, except a Class L (historic) vehicle, it shall require a valid inspection certificate for the vehicle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

May 28, 2021

The Honorable Adrienne A. Jones
Speaker of the Maryland House of Delegates
H-101 State House

Annapolis, MD 21401

The Honorable Bill Ferguson
President of the Maryland Senate
H-107 State House
Annapolis, MD 21401

Dear Madam Speaker and Mr. President:

The COVID-19 pandemic has presented unprecedented challenges for all Marylanders, but it has been perhaps most difficult and disruptive for children across our state. We have seen the negative impact of prolonged school closures on the education, mental health, and the emotional well-being of our students. We have already experienced tangible consequences—failing grades for students throughout Maryland were far higher in the first term of this school year than in the previous year.

There is broad consensus that getting all students safely back into the classroom must continue to remain our top priority. Throughout the pandemic our Administration took immediate actions to provide safe opportunities for in-person instruction to all students and staff. Based on the recommendations of America's leading medical experts, Maryland prioritized teachers and education staff to receive COVID-19 vaccinations. The state also provided local school systems with masks, face shields, hand sanitizer, gloves, gowns, and testing resources.

State health officials worked with local school systems to provide detailed school reopening guidance and educational design options based on scientific evidence. This also included epidemiologists from the Maryland Department of Health providing a dashboard that tracks outbreak-associated cases in schools. In addition to safety procedures, the Fiscal Year 2022 recovery budget provided a record \$7.5 billion for K-12 funding, holding schools harmless from the impact of declining enrollment figures, and ensuring that every jurisdiction receives more funding than in the previous year.

With the progress we have made over the past year and the backing of state and national medical experts, all roadblocks to resuming in-person instruction must cease. Therefore, in accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 1322 – *Primary and Secondary Education – School Personnel Not Returning to In-Person Instruction and Work – Accommodations and Discipline*. This legislation seeks to cause unnecessary confusion in the final weeks of the 2020-2021 school year and usurps authority from local school systems.

House Bill 1322 was opposed by many local boards of education, the Maryland Association of Boards of Education, and the Public School Superintendents' Association of Maryland. Many school systems in the state currently have processes in place for employee work accommodations, approving leaves of absence, and telework opportunities for employees who qualify based on certain medical criteria or are providing care for a family member meeting certain medical criteria. These processes in place align with guidelines from the Centers for Disease Control and Prevention, as well as State and County governments.

Further, this legislation reduces local control and attempts to seize the authority of a local superintendent to carry out the superintendent's duties on employee matters. In their letter of opposition the Maryland Association of Boards of Education stated, "The Maryland Association of Boards of Education opposes House Bill 1322 because, contrary to the elaborate provisions of the bill, local boards do not believe that any changes in the laws governing school personnel employment rights or responsibilities are needed or necessitated by the COVID-19 pandemic." They went on to further state, "...employee rights for Maryland's school employees are already among the most extensive in the nation, and the additional protections contained in this bill would serve to hamper the smooth operation of reopening schools for in-person instruction before the close of the 2020-2021 school year."

As we move forward in our recovery, we must do everything in our power to keep Maryland students healthy, safe, and learning. We cannot create additional barriers, which would only lead to further confusion with limited time left in the school year. Our students deserve better.

For these reasons, I have vetoed House Bill 1322.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 1322

AN ACT concerning

Primary and Secondary Education – School Personnel – ~~Prohibition on Retaliation for~~ Not Returning to In-Person Instruction and Work – Accommodations and Discipline

FOR the purpose of ~~prohibiting the Governor, the State Superintendent of Schools, the State Board of Education, a county superintendent, and a county board of education, during a certain school year, from disciplining, suspending, terminating, or otherwise retaliating against certain school personnel under certain circumstances; prohibiting the Governor, the State Superintendent, and the State Board, during a certain school year, from revoking a certain certification under certain circumstances;~~ requiring the State Board *of Education* and county boards *of education* to allow certain school personnel to instruct and work in a certain manner under certain circumstances *during a certain school year*; requiring a county board to make certain accommodations for certain school personnel under certain circumstances *during a certain school year; requiring a county board to send a response to a certain individual who submits a certain application for an accommodation within a certain period of time; prohibiting the Governor, the State Superintendent of Schools, the State Board of Education, a county superintendent of*

schools, and a county board of education, during a certain school year, from taking certain actions against certain school personnel under certain circumstances; providing for the construction of this Act; making this Act an emergency measure; and generally relating to the prohibition on retaliation accommodations for and discipline against school personnel for not returning to a school building for in-person instruction and work.

Preamble

~~WHEREAS, The COVID-19 pandemic has had a profound impact on education and the operation of Maryland schools; and~~

~~WHEREAS, Educational and governmental leaders have a responsibility to work cooperatively with educators, parents, students, county boards of education, and community members in developing plans to safely return students to schools; and~~

~~WHEREAS, On January 21, 2021, the Governor and the State Superintendent of Schools abruptly and without adequately consulting with stakeholders announced significant revisions to the State Department of Education’s Maryland School Reopening Guidance; and~~

~~WHEREAS, The Governor referenced retaliatory action in other states against educators and indicated that the Office of the Governor and the State Department of Education would use “every legal avenue” to force a return to in-person instruction regardless of local conditions and the preferences of local communities; and~~

~~WHEREAS, The State Department of Education has consistently failed to work collaboratively with stakeholders in school communities to develop plans for the safe reopening of schools, and for much of the course of the COVID-19 pandemic, has refused to meet with the democratically elected leadership of the teaching profession; and~~

~~WHEREAS, Educators and other school personnel, particularly those with a high risk of serious complications from COVID-19, should have the opportunity to be fully vaccinated before returning to in-person instruction and work; now, therefore,~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, notwithstanding any other provision of law:

(a) ~~During the 2020-2021 school year, the Governor, the State Superintendent of Schools, the State Board of Education, a county superintendent, and a county board of education may not discipline, suspend, terminate, or otherwise retaliate against a teacher, an educational support professional, or any other professional school personnel if the individual:~~

(1) (i) ~~is at least 65 years old;~~

~~(ii) has an underlying medical condition that the Centers for Disease Control and Prevention has identified as putting the individual at increased risk from COVID-19; or~~

~~(iii) lives in a household with or is the caretaker of an individual who is at least 65 years old or who has an underlying medical condition that the Centers for Disease Control and Prevention has identified as putting the individual at increased risk from COVID-19; or~~

~~(iv) is a teacher, educational support professional, or other professional school personnel who is allowed to instruct or work remotely under subsection (e) of this section;~~

~~(2) has not received the full course of an FDA approved vaccine for COVID-19; and~~

~~(3) chooses not to return to the school building for in-person instruction.~~

~~(b) The Governor, the State Superintendent of Schools, and the State Board of Education may not suspend or revoke State certification of a teacher or other professional personnel as a consequence of the individual's choosing to not return to the school building for in-person instruction during the 2020-2021 school year.~~

~~(e) (a) (1) Consistent During the 2020-2021 school year, consistent with applicable laws, Centers for Disease Control and Prevention guidelines, and labor agreements, during a state of emergency related to the COVID-19 pandemic, the State Board of Education and county boards of education shall, to the extent practicable, allow teachers, educational support professionals, and other professional school personnel ~~who have not received the full course of an FDA approved~~ to instruct or work remotely if:~~

~~(i) the individual has not received a federally authorized vaccine for COVID-19 to instruct or work remotely to the extent practicable; or~~

~~(ii) 2 weeks have not passed following the second dose in a two-dose series of a federally authorized vaccine for COVID-19 or the administration of a single dose of a federally authorized vaccine for COVID-19, in accordance with Centers for Disease Control and Prevention guidelines regarding full vaccination.~~

(2) If a teacher, an educational support professional, or any other professional school personnel chooses to instruct or work remotely in accordance with this subsection, the county board of education shall make accommodations for the teacher, educational support professional, or other professional school personnel to facilitate the choice.

(b) During the 2020-2021 school year, a teacher, an educational support professional, or any other professional school personnel may submit to the county board of

education an application for an accommodation to instruct or work remotely if the individual:

(1) (i) is at least 65 years old;

(ii) has documentation of an underlying medical condition that the Centers for Disease Control and Prevention or the individual's physician has identified as putting the individual at increased risk from COVID-19;

(iii) lives in a household with or is the caretaker of an individual who is at least 65 years old or who has documentation of an underlying medical condition that the Centers for Disease Control and Prevention or the individual's physician has identified as putting the individual at increased risk from COVID-19; or

(iv) is a teacher, educational support professional, or other professional school personnel who has been temporarily assigned to instruct or work remotely;

(2) has not received a federally authorized vaccine for COVID-19 due to having an underlying medical condition that the Centers for Disease Control and Prevention or the individual's physician has identified as putting the individual at increased risk from complications from the vaccine; and

(3) chooses not to return to the school building for in-person instruction.

(c) Within 5 days of the date of receipt of an application for an accommodation to instruct or work remotely submitted by an individual in accordance with subsection (b) of this section, the county board of education shall send a response to the individual who submitted the application.

(d) The Governor, the State Superintendent of Schools, the State Board of Education, a county superintendent of schools, or a county board of education may not take any of the following actions against a teacher, an education support professional, or other professional school personnel as a consequence of the individual's choosing to not return to the school building for in-person instruction during the 2020-2021 school year:

(1) suspend or revoke State certification of a teacher or other professional personnel; or

(2) discipline, suspend, terminate, or otherwise retaliate against the individual.

(e) Nothing in this Act may be construed to supersede collective bargaining laws or agreements.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has

been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.
