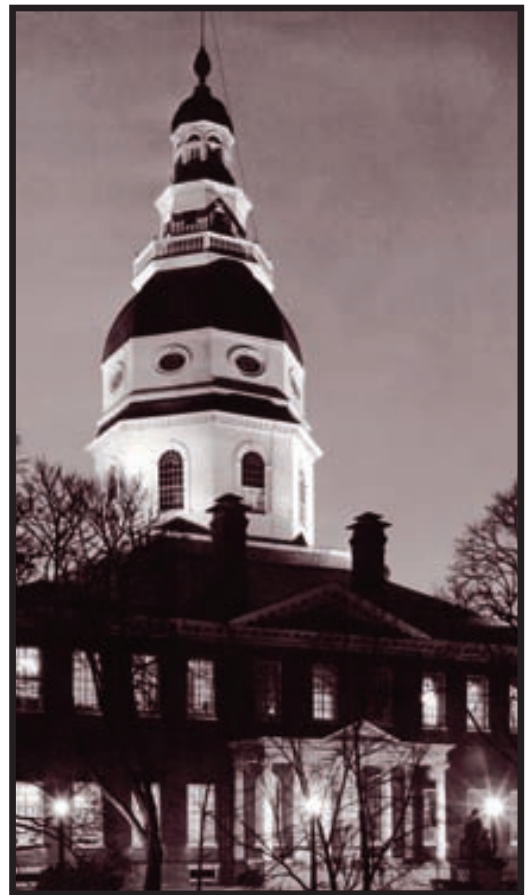


# THE 90 DAY REPORT

*A Review of the 2011  
Legislative Session*



Department *of* Legislative Services  
MARYLAND GENERAL ASSEMBLY

*Cover Photograph by Marion E. Warren*

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April 15, 2011

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

Ladies and Gentlemen:

I am pleased to present you with *The 90 Day Report – A Review of the 2011 Legislative Session*.

Once again *The 90 Day Report* consists of a single volume. The report is divided into 12 parts, each dealing with a major policy area. Each part contains a discussion of the majority of bills passed in that policy area, including comparisons with previous sessions and current law, background information, as well as a discussion of significant bills that did not pass. Information relating to the operating budget, capital budget, and aid to local governments is found in Part A.

I hope that you will find *The 90 Day Report* as helpful this year as you have in the past. *The Effect of the 2011 Legislative Program on the Financial Condition of the State* will be issued after the Governor has taken final action on all bills.

Sincerely,

Karl S. Aro  
Executive Director

KSA/ncs



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## Part A

### Budget and State Aid

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#### Operating Budget

##### Overview

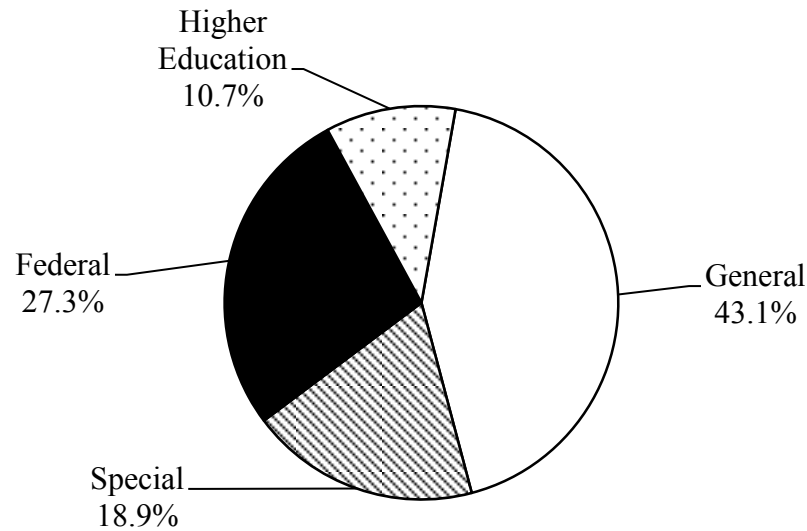
An ongoing structural shortfall between ongoing general fund revenues and spending has dominated the budget since the onset of the Great Recession that began in December 2007. Although the recession ended in June 2009, its effects continue to be felt on State revenues. In December 2010 the Department of Legislative Services (DLS) estimated the structural deficit at just under \$2 billion dollars. After several years of downward revisions in general fund revenues, the Board of Revenue Estimates (BRE) recognized nominal improvement in its revenue forecasts in September and December of 2010. The Spending Affordability Committee (SAC) modified its normal methodology for setting an annual growth limit for the next year's budget, and instead recommended that the general fund structural imbalance be reduced by 33.33% through spending reductions. Progress toward a budgetary sustainability was further challenged by the end of federal stimulus funds which had been received since fiscal 2009.

##### Budget in Brief

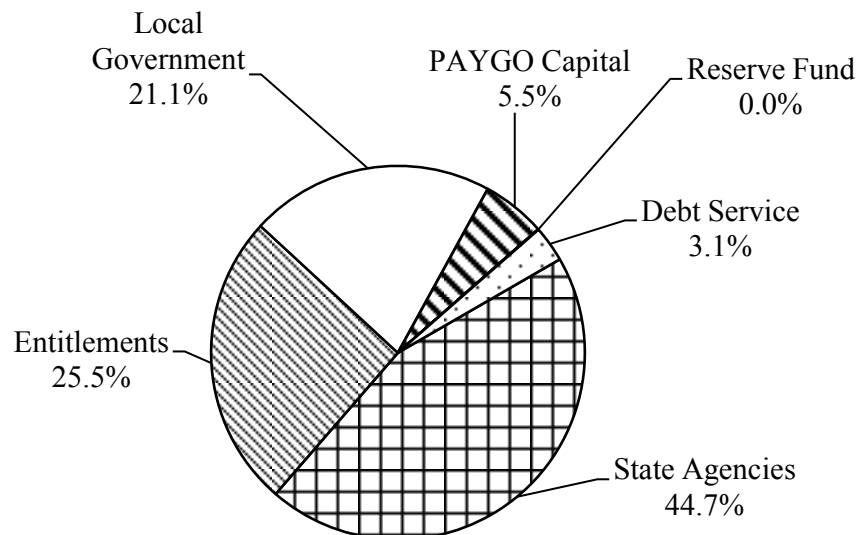
The Fiscal Year 2012 Budget Bill, *House Bill 70 (enacted)*, provides \$34.2 billion in appropriations for fiscal 2012 – an increase of \$940.4 million (2.8%) above fiscal 2011. Federal stimulus funding from the American Recovery and Reinvestment Act of 2009 (ARRA) decreases by \$1.2 billion. These monies are replaced by general funds, though to an extent the growth in general fund spending was tempered by \$367 million in reductions contingent upon budget reconciliation legislation.

Per the new methodology recommended by SAC, the enacted budget reduced the projected fiscal 2012 general fund structural deficit by \$721 million, or 36.9%. However when the effects of ongoing revenue changes are considered, the structural deficit was reduced by a total of 44.1%. The general fund cash balance is estimated at \$42.9 million at the end of fiscal 2012, in addition to 5.0% reserves totaling \$681.5 million in the Rainy Day Fund. **Exhibit A-1.1** illustrates funding by type of revenue.

**Exhibit A-1.1**  
**Maryland's \$34.2 Billion Budget**  
**Where It Comes From: Budget by Fund Source**



**Where It Goes: Budget by Purpose**



PAYGO: pay-as-you-go capital

General funds increase to 43% of the total budget, while the share of the budget supported by federal dollars decreases to roughly 27% of spending. This shift was due mostly to the expiration of federal stimulus funds which are replaced by general funds in fiscal 2012. Special funds remain at about 19% of the budget, and higher education revenue provides the remaining 11%. State agency operations constitute the largest area of spending, representing 45% of the total budget. Aid to local governments accounts for 21% of the budget, and 26% supports entitlement programs. Remaining appropriations fund pay-as-you-go (PAYGO) capital spending, debt service on State general obligation bonds, and transfers to the State Reserve Fund.

General fund appropriations increase by \$1.5 billion, or 11.2%, above fiscal 2011. Nearly all of this growth is due to the replacement of expiring federal stimulus funds for Medicaid, public safety, and local education aid. One-time special funds of \$350.0 million from the Local Income Tax Reserve supported education spending in fiscal 2011 and required general fund replacement. The Medicaid budget also grows due to higher enrollment and provider rate increases. Two supplementary appropriations increase general fund spending by \$62.5 million, applied to public school construction and programs that fund services for the developmentally disabled.

Special funds grow by \$426.8 million, or 7.1%, compared to the fiscal 2011 working appropriation. The majority of the growth is due to appropriations for Medicaid that will be supported by new hospital assessments authorized in *House Bill 72 (passed)*, the Budget Reconciliation and Financing Act (BRFA) of 2011. Spending in the Maryland Department of Transportation grows due to higher debt service, transit operating expenses, and its PAYGO capital program. A nearly \$100.0 million increase is found in the Lottery agency budget due to the purchase of video lottery terminal machines and additional payments to facility operators. Offsetting the increases is a decline of \$350.0 million in the Maryland State Department of Education (MSDE) budget, which represented the use of one-time Local Income Tax Reserve fund balance in fiscal 2011. Approximately \$100.9 million in general fund reductions will be restored from special fund sources.

Federal fund spending decreases by \$1.0 billion, or 10.0%, mostly due to the expiration of \$1.2 billion in federal stimulus funds received in fiscal 2011 which had been applied to spending in the budgets supporting education, public safety, and Medicaid. Additional federal aid decreases were due to the one-time \$178.9 million in Education Jobs Fund monies through MSDE and \$41.6 million in one-time snow emergency disaster assistance in the Military Department received in fiscal 2011. Higher caseloads for the federally funded Supplemental Nutrition Assistance Program (SNAP) provided an offsetting increase of \$502.7 million.

The budgets for public higher education institutions (excluding State support) increase by \$66.7 million in total funds, or 1.9%, in fiscal 2012. This growth is in non-State funds derived from tuition and fees, grants and contracts, and auxiliary sources which support operations of higher education institutions, including the University System of Maryland, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College (BCCC). Aid to community colleges is level funded in fiscal 2012 at \$194.4 million. Aid to nonpublic colleges and universities is also level funded at \$38.4 million.

With respect to personnel, the budget assumes no furlough or temporary salary reduction plan for the first time in three fiscal years. Also, a one-time \$750 employee bonus payment will be made to all employees not in bargaining units that received alternative salary adjustments. There are no funds for salary increments, cost-of-living increases, or deferred compensation matching funds in the budget. The general prohibition on merit increments was statutorily extended through April 1, 2014, with an exemption provided for staff deemed “operationally critical.” In fiscal 2012, the size of the regular State workforce decreases by 1.37%, or 1,085.9 positions. The Voluntary Separation Program, realized in January 2011, is the largest source of the decrease, as it yielded 653.0 position abolitions. For a more detailed discussion of personnel issues, see the subpart “Personnel” within Part A of this *90 Day Report*.

## **Framing the Session: 2010 Interim Activity**

### **BRE Revenue Revisions**

As a result of greater than expected withholding, as well as stronger corporate profits, the estimate for personal and corporate income tax growth was increased in September. The fiscal 2011 estimate was increased to \$13.2 billion, or 1.7%, growth. In December 2010, BRE noted early signs of economic recovery. The fiscal 2011 estimate was increased to 2.1% growth over fiscal 2010 based on revisions to the corporate income and sales taxes, offset by tempered estimates for the lottery and miscellaneous revenues.

### **SAC Recommendations**

SAC prepared its final report to the Governor in December 2010, which included the adoption of a new methodology. Since its creation in 1982, the committee had always recommended an annual growth limit in State-sourced spending over the amount adopted at the prior legislative session. The most recent recession created a structural shortfall estimated at nearly \$2 billion between ongoing spending and ongoing revenue. Thus, the committee directed that measurable progress must be made in reducing the structural deficit in fiscal 2012 and in each year of this term. The Department of Budget and Management (DBM) and DLS were charged with jointly establishing the parameters for evaluating the structural reductions adopted in each year.

***Spending Limit and Sustainability:*** The committee recommended that the budget submitted by the Governor and approved by the General Assembly for fiscal 2012 reduce the general fund structural deficit by 33.33%. It was further recommended that the Governor reduce the unfunded liability associated with post employment benefits.

***Personnel:*** The committee recommended that the current complement of 79,500 regular positions was appropriate for the delivery of State services given the fiscal condition of the State. It was recommended that any new positions be accommodated within the current overall level.

**State Reserve Fund:** SAC continued to recommend prudent use of the Rainy Day Fund. Use of the balance below 5% was recommended only as part of a plan to achieve a sustainably balanced budget.

### Governor's Spending Plan as Introduced

For the current fiscal year, the Governor proposed \$637.7 million of fiscal 2011 deficiencies. These included additional funding mostly for the federal SNAP (\$502.0 million), education Race to the Top federal funds (\$100.0 million), and Medicaid (\$25.6 million). The fiscal plan submitted by the Administration provided for \$34.1 billion in total spending for fiscal 2012. Relative to the 33.33% recommendation made by SAC, the budget reduced 34.8%, or \$680.0 million, from the projected fiscal 2012 structural deficit. The Governor's proposed spending plan estimated a closing fiscal 2012 general fund balance of \$120.3 million, without relying upon any transfers from the State Reserve Fund. **Exhibit A-1.2**, details the Governor's original general fund spending plan for fiscal 2011 and 2012. As shown, general fund spending (net of reversions) increases by \$1.9 billion in the fiscal 2012 allowance.

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#### Exhibit A-1.2 Governor's Original Budget Plan Fiscal 2011-2012 (\$ in Millions)

	<u>2011</u>	<u>2012</u>
Opening Balance	\$344.0	\$679.3
BRE Revenues	\$13,162.7	\$13,597.8
Additional Revenues	76.1	275.0
Transfers	325.1	204.2
<b>Subtotal</b>	<b>\$13,563.9</b>	<b>\$14,077.1</b>
Appropriations and Deficiencies	\$13,266.5	\$15,165.0
Across-the-board Reductions	0.0	-52.2
Contingent Reductions	0.0	-441.1
Reversions	-37.9	-35.7
<b>Subtotal</b>	<b>\$13,228.6</b>	<b>\$14,636.0</b>
<b>Closing Balance</b>	<b>\$679.3</b>	<b>\$120.3</b>

BRE: Board of Revenue Estimates

Source: Maryland Budget Highlights, Fiscal 2012

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Over \$1.5 billion of that increase was due to the replacement of one-time special funds and expiring federal stimulus funds received by the State through the ARRA in fiscal 2011, as seen in **Exhibit A-1.3**. An additional \$18.4 million from the federal Education Jobs Fund of 2010 was used to cover what would have been a fiscal 2011 general fund shortfall in education spending due to lower than expected revenue from video lottery terminals.

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**Exhibit A-1.3**  
**Replacement of Federal and Special Funds**  
**Amounts Funded in Fiscal 2011**  
**(\$ in Millions)**

<b>Federal ARRA Funds</b>	
Medicaid	\$670.2
Juvenile Services	4.5
Education	422.3
Public Safety	53.2
State Police	19.8
<b>Subtotal</b>	<b>\$1,170.1</b>
<b>Local Income Tax Reserve Special Funds</b>	
Education	\$350.0
<b>Subtotal</b>	<b>\$350.0</b>
<b>Federal Education Jobs Fund</b>	
Education	\$18.4
<b>Subtotal</b>	<b>\$18.4</b>
<b>Grand Total</b>	<b>\$1,538.5</b>

BRE: Board of Revenue Estimates

Source: Department of Legislative Services

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About one-half of the increase in spending was covered by additional revenues estimated by BRE as well as the use of fund balance. The remainder was addressed through additional revenue assumptions, proposed fund transfers, and spending cuts contingent upon legislative action through budget reconciliation and other legislation.

**Revenue Assumptions:** Over \$314 million in additional revenue was assumed by the Governor. Recently enacted federal tax law changes were assumed to yield nearly \$100 million in additional sales and income taxes over both fiscal years. A number of other revenues required legislative concurrence through budget reconciliation legislation. Some of the larger items were a \$60 million transfer from the Transportation Trust Fund (TTF), \$20 million from vehicle



license and registration tax clearances, almost \$18 million if the sales tax vendor credit was capped permanently at \$500 per month, a diversion of \$19 million in revenue from the Chesapeake and Atlantic Coastal Bays 2010 Fund, a permanent diversion of \$11 million in special fund account interest, and \$47 million from the application of Medicare Part D recoveries to the general fund.

**Fund Transfers:** Fiscal 2011 was balanced in part by \$317.4 million in transfers approved at the 2010 session, largely from the Local Income Tax Reserve (\$200.0 million) and PAYGO capital programs (\$75.6 million). For fiscal 2012, the Governor proposed another \$191.0 million from transfer tax, bay restoration, and other PAYGO programs. Much of the PAYGO transfers are proposed to be replaced by general obligation debt.

**Across-the-board Reductions:** Across-the-board reductions of \$63.4 million assumed savings of \$40.0 million in general funds due to an expected 1,000 position abolitions related to a Voluntary Separation Program. Higher prescription drug co-pays for active employees and savings due to favorable health trends were expected to save a combined \$13.4 million (including assumed legislative and judicial reversions).

**Contingent Reductions:** The Governor also proposed \$441.1 million in general fund contingent reductions, with most tied to the BRFA. Larger provisions would recognize prefunding of local education aid (\$124.4 million) and level funding the amount of education aid to local jurisdictions (\$93.7 million), pension reform (\$104.0 million), and reforming retiree prescription drug benefits (\$22.1 million). Reform of pension and retiree health care funding were also proposed to reduce the State's unfunded liabilities.

Other contingent reductions that were part of the Governor's spending plan relied on separate legislation. This included plans to consolidate police functions in the Departments of Health and Mental Hygiene (DHMH) and Labor, Licensing, and Regulation with the Department of General Services (DGS); consolidation of aquaculture and land preservation functions in the Department of Natural Resources (DNR); and a proposed merger of the Maryland Higher Education Commission (MHEC) with MSDE.

## **Legislative Consideration of the Budget**

### **Revenue and Spending Changes**

**Supplemental Budget No. 1:** The Governor introduced one supplemental budget that increased spending by a total of \$225.7 million. Additional funding of \$42.2 million was provided for Highway User Revenue (HUR) grants to local jurisdictions, including \$20.6 million of special funds that should have been appropriated in fiscal 2010 to implement statutory changes adopted at the 2010 session and \$21.6 million from unexpended prior year ARRA funds. In the education area, the two largest items were deficiencies of \$14.8 million in general funds for the Child Care Subsidy Program to offset lower than expected federal dollars, and \$12.8 million in general funds for the Foundation Program to offset lower attainment of revenues from Video Lottery Terminals. In DHMH, a combined \$35.0 million funds prior year Medicaid

service claims (\$10.0 million general funds/\$15.0 million federal funds) and restores rates for Mental Health Community Providers (\$5.0 million each of general and federal funds). Higher education spending increased by \$35.0 million to appropriate restricted and unrestricted revenues for Pell grants to recognize private contributions toward construction of the new Law School at the University of Baltimore and other operating expenses.

**Reductions:** The legislature reduced the fiscal 2011 budget by \$0.2 million in the Department of Juvenile Services (DJS) for nonresidential per diem payments due to the availability of other funding. Changes adopted in the fiscal 2012 budget eliminated 473 regular positions and reduced \$631.7 million in all funds. Of this amount, \$100.0 million in general fund cuts are intended to be replaced by special funds.

Notable reductions included:

- \$124.4 million for education aid based on available federal Education Jobs Fund monies that supplanted general funds in fiscal 2011. The general fund aid appropriated in fiscal 2011 will be retained by the local jurisdictions for use in fiscal 2012;
- \$104.0 million related to pension reform;
- \$94.5 million in transfer tax sourced spending in DNR and Agriculture (MDA). With the revenue transferred to the general fund, nearly all of the programs supported by these funds will be replaced over several years by general obligation bonds;
- \$61.2 million due to overbudgeted estimates of federal aid in MSDE;
- \$42.1 million for reductions for Medicaid-related purposes that will be replaced by special funds. This includes an increase of a nursing facilities assessment, additional hospital assessment revenues beyond those proposed by the Governor, and use of the premium tax to cover Kidney Disease program expenses;
- \$34.8 million representing 90% of the cost of operating the State Department of Assessments and Taxation (SDAT) that will be supported by local jurisdictions;
- \$33.0 million from DNR and MDA in reductions to activities funded by the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund. Approximately \$13.0 million of this amount was double budgeted, and \$20.0 million of revenue is transferred to the general fund through budget reconciliation legislation;
- \$23.2 million related to reforms in prescription drug coverage;

- \$22.3 million for the InvestMaryland initiative was reduced pending the outcome of legislation authorizing the program; and
- \$17.3 million associated with the abolition of 450 regular positions by January 1, 2012.

**Supplementary Appropriations:** Legislation was passed to increase the sales tax on alcoholic beverages from 6 to 9% effective July 1, 2011. As outlined below, two bills included supplementary appropriations funded by the tax increase for fiscal 2012:

- **Senate Bill 994 (passed)** creates a supplementary appropriation of \$15.0 million to fund a Waiting List initiative in the Developmental Disabilities Administration (DDA) of DHMH; and
- **House Bill 1213 (passed)** creates a supplementary appropriation of \$47.5 million for public school construction projects to be allocated through the Board of Public Works.

**State Aid Formula Enhancements:** The Governor's budget plan proposed level funding education aid for a savings of \$94 million. The legislature modified this proposal and reduced formula funding by \$36 million; however, \$22 million of the savings was reserved to fund several State aid formula adjustments contingent on passage of **Senate Bill 994**. For a further discussion of these actions see the State Aid subpart within Part A and see Part L – Education of this *90 Day Report*.

The budget does not reflect special funds that are intended to replace general funded items, which were reduced at the 2011 session but which have yet to be appropriated. **Exhibit A-1.4** summarizes the items that will be restored with special funds. Larger items include \$42.1 million under Medicaid through increasing the hospital assessment (\$17.5 million), increasing the nursing home quality assessment (\$13.0 million), and use of the Senior Prescription Drug Program and CareFirst premium tax revenue for kidney disease programs (\$11.6 million). For fiscal 2012 and 2013, local jurisdictions will be assessed 90% of the cost of SDAT. This amount will decrease to 50% of the cost in fiscal 2014 and beyond. Local school boards and community colleges will also contribute toward the administrative costs of the State Retirement Agency, which represent most of the special funds under MSDE.

**Exhibit A-1.4**  
**General Fund Reductions to Be Replaced with Special Funds**  
**Fiscal 2012**  
**(\$ in Millions)**

	<b><u>General</u> <u>Funds</u></b>	<b><u>Special</u> <u>Funds</u></b>
Medicaid	-\$42.1	\$42.1
Department of Assessments & Taxation	-33.9	33.9
Education	-16.2	16.2
Juvenile Services	-2.2	2.2
Department of Information Technology	-1.9	1.9
Natural Resources	-1.7	1.7
Maryland Higher Education Commission	-1.4	1.4
Human Resources	-1.0	1.0
Planning	-0.5	0.5
Comptroller	-0.1	0.1
<b>Total</b>	<b>-\$100.9</b>	<b>\$100.9</b>

**Final Actions Related to SAC**

***Limiting Spending Growth:*** As shown in **Exhibit A-1.5**, final action by the legislature reduced general fund spending relative to the fiscal 2012 baseline by \$802 million. After adjusting for one-time items, structural reductions total \$721 million. When compared to the estimated structural gap of \$2.0 billion, this represents a reduction of 36.9% of the deficit which exceeds the 33.33% goal recommended by SAC by \$71 million.

***Personnel:*** After accounting for positions abolished through the Voluntary Separation Program in February 2011, the budget as introduced funded 78,931 positions. The legislature abolished another 23 positions, including 3.0 out of 20.5 positions created in Supplemental Budget No. 1, and required the Governor to abolish 450 positions by January 1, 2012. At 78,458 positions, the fiscal 2012 complement is below the 79,500 cap recommended by SAC for the 2011 session. Thus, the final action for State employment is consistent with the SAC recommendation.

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**Exhibit A-1.5**  
**Operating Budget Affordability Limit**  
(\$ in Millions)

**Structural Deficit Analysis**

Ongoing Baseline Spending Fiscal 2012	\$15,551
Legislative Appropriation	14,749
<b><i>Reductions from Baseline Spending</i></b>	<b><i>\$802</i></b>

**Exclusions**

Temporary Assistance for Needy Families	-\$46
Federal Education Jobs Monies	-124
One-time School Construction Supplementary Appropriation	48
One-time Guaranteed Tax Base	12
One-time Disparity Grant	9
One-time School Aid Below 6.5%	1
Employee Bonus	40
40% of Department of Assessments and Taxation	-15
Judiciary Operating Reduction	-5
<b><i>Subtotal</i></b>	<b><i>-81</i></b>

<b>Structural Reductions from Baseline Spending</b>	<b>\$721</b>
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<b>Estimated Structural Gap (December 2010)</b>	<b>-\$1,953</b>
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<b>Percent of Fiscal 2012 Structural Deficit</b>	<b>-36.92%</b>
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***State Reserve Fund Balance:*** No funds are transferred to support fiscal 2012 spending, maintaining a \$681 million balance in the Rainy Day Fund. This constitutes a 5% balance. Final action on the budget complied with the SAC recommendation to maintain at least a 5% balance and to use the fund only as a last resort.

**Summary of Fiscal 2010 Legislative Activity**

**Exhibit A-1.6** summarizes final legislative action on the general fund budget. In addressing the write down of revenues and additional spending in the one supplemental budget, the General Assembly adopted \$554.1 million in transfers. Of this, \$317.4 million was implemented through Chapter 484 of 2010. Approximately \$367.0 million of the \$430.4 million in general fund reductions are contingent upon the BRFA of 2011. Based upon these actions, the closing fiscal 2011 balance is estimated at \$647.1 million, and fiscal 2012 would end with a projected \$42.9 million balance.

**Exhibit A-1.6**  
**Final Legislative Budget Action**  
**Fiscal 2011-2012**  
**(\$ in Millions)**

	<u><b>FY 2011</b></u>	<u><b>FY 2012</b></u>
<b>Opening Balance</b>	<b>\$344.0</b>	<b>\$647.1</b>
BRE Revenues	\$13,162.7	\$13,597.8
Additional Revenues	76.1	243.0
Legislation	0.0	76.0
Transfers	326.3	227.7
<b><i>Subtotal</i></b>	<b><i>\$13,565.1</i></b>	<b><i>\$14,144.6</i></b>
Appropriations/Supplementals/Deficiencies	\$13,300.2	\$15,148.9
Supplementary Appropriations	0.0	62.5
Reductions	-0.2	-63.2
Contingent Reductions	0.0	-367.0
Reversions	-37.9	-32.4
<b><i>Subtotal</i></b>	<b><i>\$13,262.1</i></b>	<b><i>\$14,748.7</i></b>
<b>Closing Balance</b>	<b>\$647.1</b>	<b>\$42.9</b>

BRE: Board of Revenue Estimates

**Exhibit A-1.7** illustrates the actions of the Governor and the legislature relative to current services spending forecasted in the DLS fiscal 2012 baseline budget estimate. As shown, the Governor constrained the growth in fiscal 2012 spending by \$179 million in savings from additional or estimated federal aid for low income energy assistance and public assistance grants, personnel savings, constrained information technology and other spending, and greater use of special funds. Savings were offset by provision of a one-time \$750 bonus per employee, restoration of furloughs, and changes in formula calculations.

**Exhibit A-1.7**  
**Reductions from General Fund Baseline Spending Estimate**  
**Fiscal 2012**  
**(\$ in Millions)**

	<b><u>Governor's</u></b> <b><u>Proposal</u></b>	<b><u>Final</u></b>
General Fund Baseline Spending Estimate (December 2010)	\$15,551	\$15,551
<b>Changes from Baseline Incorporated in Governor's Allowance</b>		
Net Changes to Statutory Formula Calculations	\$26	\$26
Community College Affordability Grants	5	5
Medicaid Savings – Cost Containment/Provider Rates Lower	-27	-27
Public Assistance – Lower Costs and Optimistic Federal Estimate	-57	-57
Low Income Energy Assistance – More Federal Funds Available	-50	-50
Higher Education – More Special Funds Available	-12	-12
Corrections – Federal Utilization of MCAC/Other Savings	-13	-13
State Police – Speed Camera Revenues Available	-9	-9
Health and Human Resources	-20	-20
Personnel – One-time Bonus/No Furloughs	88	88
Personnel – Vacancy Rate/Voluntary Separations/Health Benefits	-63	-63
Funding for Information Technology Projects	-25	-25
Sustainable Communities Tax Credit – Level Fund	-5	-5
Economic Development Programs/Biotech Tax Credit	10	10
Other Net Changes	-27	-27
<b><i>Subtotal</i></b>	<b><i>-\$179</i></b>	<b><i>-\$179</i></b>
<b>Reductions Proposed by the Governor Requiring Legislative Approval</b>		
Education Aid Formulas	-\$94	-\$36
Pre-fund Education Formulas with Fiscal 2011 Monies	-124	-124
Bond Fund Aging Schools/Level Fund Library Aid	-10	-10
Charge Counties for Share of Property Valuation Costs	-35	-35
Medicaid – Additional Hospital Assessments	-254	-272
Medicaid – Pooling of Graduate Medical Education Costs	-18	0
Medicaid – Nursing Home Assessment/Kidney Disease Fund Swap	-25	-25

	<b><u>Governor's Proposal</u></b>	<b><u>Final</u></b>
Restructuring Retirement and Retiree Health Benefits	-126	-118
Other	-15	-10
<b><i>Subtotal</i></b>	<b><i>-\$700</i></b>	<b><i>-\$629</i></b>
<b>Changes Initiated by Legislature</b>		
Charge Local Boards for Retirement Agency Administrative Costs		-\$17
Aid Formula Increases Contingent on Alcohol Sales Tax (SB 994)		22
School Construction Supplementary Appropriation (HB 1213)		48
Medicaid – Scale Back MCO Rate Increase/Other		-16
Waiting List (DDA) Supplementary Appropriation (SB 994)		15
USM System Office/Morgan State University		-4
Judiciary Operating Expenditures		-10
Reduce State Positions by 450		-17
Other Reductions		-15
<b><i>Subtotal</i></b>		<b><i>\$5</i></b>
<b>Total General Fund Expenditures</b>	<b>\$14,672</b>	<b>\$14,749</b>
<b>Total Reductions from Baseline Estimates</b>	<b>\$879</b>	<b>\$802</b>

DDA: Developmental Disabilities Administration  
MCAC: Maryland Correctional Adjustment Center  
MCO: Managed Care Organizations  
USM: University System of Maryland

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The Governor also proposed \$700.0 million in reductions that required legislative concurrence. This included imposition of a Medicaid hospital assessment, restructuring health and pension benefits, level funding local education aid, and pre-funding education formulas due to the availability of federal aid in fiscal 2011. Final legislative action adopted nearly all of the Administration's proposals, with notable exceptions resulting in the restoration of \$58.0 million to level fund per pupil education aid, modifications to retiree health benefit proposals, and additional hospital assessment revenues instead of pooling Graduate Medical Education costs. The legislature also adopted a net \$5.0 million in additional general fund spending. Supplementary appropriations totaling \$62.5 million for school construction (\$47.5 million) and the Waiting List initiative (\$15.0 million) and \$22.0 million in aid formula increases contingent on [\*Senate Bill 994\*](#) were offset by other spending cuts.



## **Outlook for Future Budgets**

As shown in **Exhibit A-1.8**, there is a cash balance of \$43 million projected at the end of fiscal 2012, while ongoing spending exceeds ongoing revenues by \$1,091 million. The fiscal 2012 structural deficit is closed by the use of the fiscal 2011 fund balance (\$647 million), transfers (\$309 million), one-time revenues (\$55 million), and one-time reductions (\$165 million).

**Exhibit A-1.9** shows that the actions taken by the Governor and the General Assembly reduce the structural deficit to less than \$1.1 billion in fiscal 2012, compared to \$2.0 billion projected in December 2010. The out-year deficit remains near \$1.1 billion through fiscal 2016. This is also less than the deficits assumed by the Administration in the allowance, which was projected to hover around \$1.2 billion. The deficit is reduced by limiting spending and by increasing revenues. Most of the changes are attributable to ongoing actions taken in the BRFA of 2011, such as:

- increasing the hospital assessment, which is expected to reduce general funds for Medicaid by \$298 million in fiscal 2016;
- reducing State employee and teacher pension benefits, which is projected to reduce annual contributions by \$90 million by fiscal 2016 while steadily increasing the funded status of the plans;
- reduce the State's per pupil payment for K-12 education, which is expected to reduce State spending by \$43 million in fiscal 2016;
- slowing the growth in the State's share of community college costs, which is estimated to reduce State expenditures by \$37 million by fiscal 2016; and
- increasing the retirees' share of health care costs, which are projected to reduce State costs by \$18 million in fiscal 2016.

**Exhibit A-1.8**  
**General Fund Budget Outlook**  
**Fiscal 2010-2016**  
**(\$ in Millions)**

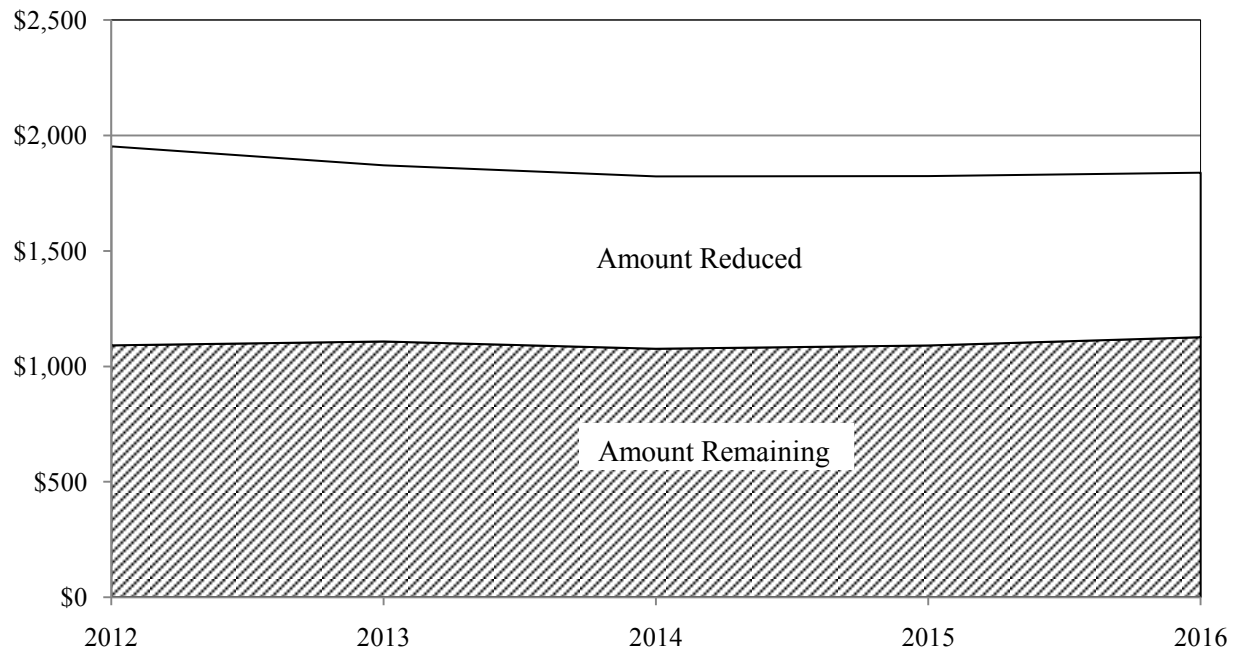
	2010	2011	2012	2013	2014	2015	2016	2012-16
	<u>Actual</u>	<u>Working</u>	<u>Leg. Approp.</u>	<u>Est.</u>	<u>Est.</u>	<u>Est.</u>	<u>Est.</u>	<u>Avg Annual Change</u>
<b>Revenues</b>								
Opening Fund Balance	\$87	\$344	\$647	\$43	\$0	\$0	\$0	
Transfers	243	319	309	58	37	38	45	
One-time Revenues and Legislation	593	42	55	-8	-8	0	0	
<b>Subtotal One-time Revenue</b>	<b>\$922</b>	<b>\$705</b>	<b>\$1,011</b>	<b>\$93</b>	<b>\$29</b>	<b>\$38</b>	<b>\$45</b>	<b>-53.9%</b>
Ongoing Revenues	\$12,864	\$13,204	\$13,696	\$14,413	\$15,122	\$15,814	\$16,511	
Revenue Adjustments and Legislation	0	0	84	85	76	68	69	
<b>Subtotal Ongoing Revenue</b>	<b>\$12,864</b>	<b>\$13,204</b>	<b>\$13,780</b>	<b>\$14,498</b>	<b>\$15,199</b>	<b>\$15,882</b>	<b>\$16,581</b>	<b>4.7%</b>
<b>Total Revenues and Fund Balance</b>	<b>\$13,786</b>	<b>\$13,909</b>	<b>\$14,791</b>	<b>\$14,591</b>	<b>\$15,228</b>	<b>\$15,920</b>	<b>\$16,626</b>	<b>3.0%</b>
<b>Ongoing Spending</b>								
Operating Spending	\$14,494	\$14,858	\$15,047	\$15,851	\$16,654	\$17,401	\$18,186	
VLT Revenues Supporting Education	-11	-83	-215	-287	-471	-512	-549	
Multi-year Commitments	5	25	25	25	75	65	50	
Ongoing Spending – Legislation	0	0	13	15	17	18	20	
<b>Subtotal Ongoing Spending</b>	<b>\$14,489</b>	<b>\$14,800</b>	<b>\$14,870</b>	<b>\$15,605</b>	<b>\$16,275</b>	<b>\$16,972</b>	<b>\$17,707</b>	<b>4.5%</b>
<b>One-time Spending</b>								
PAYGO Capital	\$0	\$1	\$0	\$1	\$1	\$1	\$1	
One-time Reductions	0	0	-165	-15	0	0	0	
One-time Fund Swaps	0	-350	0	0	0	0	0	
One-time Spending - Legislation	0	0	48	2	0	0	0	
Federal Stimulus Funds	-1,161	-1,189	-5	0	0	0	0	
Appropriation to Rainy Day Fund	115	0	0	50	50	50	50	
<b>Subtotal One-time Spending</b>	<b>-\$1,046</b>	<b>-\$1,538</b>	<b>-\$122</b>	<b>\$37</b>	<b>\$51</b>	<b>\$51</b>	<b>\$51</b>	<b>n/a</b>
<b>Total Spending</b>	<b>\$13,442</b>	<b>\$13,262</b>	<b>\$14,748</b>	<b>\$15,643</b>	<b>\$16,326</b>	<b>\$17,023</b>	<b>\$17,758</b>	<b>4.8%</b>
<b>Ending Balance</b>	<b>\$344</b>	<b>\$647</b>	<b>\$43</b>	<b>-\$1,052</b>	<b>-\$1,098</b>	<b>-\$1,103</b>	<b>-\$1,131</b>	
Rainy Day Fund Balance	\$612	\$623	\$682	\$722	\$757	\$792	\$826	
Balance Over 5% of GF Revenues	-16	-37	2	1	1	1	1	
As % of GF Revenues	4.87%	4.72%	5.01%	5.01%	5.01%	5.01%	5.00%	
<b>Structural Balance</b>	<b>-\$1,625</b>	<b>-\$1,596</b>	<b>-\$1,091</b>	<b>-\$1,107</b>	<b>-\$1,076</b>	<b>-\$1,090</b>	<b>-\$1,126</b>	

GF: general fund

PAYGO: pay-as-you-go

VLT: video lottery terminal

**Exhibit A-1.9**  
**Projected Structural Deficit Reduction Achieved and Work Left To Do**  
**Fiscal 2012-2016**  
**(\$ in Millions)**



Source: Department of Legislative Services

Other legislation also affecting out-year deficits includes:

- **Senate Bill 994** increases the sales tax on alcohol by 3%, providing approximately \$84.8 million beginning in fiscal 2012. These savings were offset by \$15.0 million in ongoing spending beginning in fiscal 2012, \$47.5 million in one-time funds for public school construction, and \$22.0 million reserved for several one-time State aid formula adjustments;
- **Senate Bill 672 (passed)** provides a \$7.5 million film tax credit from fiscal 2012 to 2014. These costs are offset by \$2.0 million in spending reductions relating to the existing film production rebate program terminated by the legislature; and
- **House Bill 778 (passed)** provides \$2.4 million annually to expand Medicaid's family planning services.

## Budget Reconciliation and Financing Legislation

**House Bill 72 (passed)**, the BRFA of 2011, implements \$1.0 billion in actions that were of immediate benefit (fiscal 2011 and 2012) to the general fund. These actions are summarized in **Exhibit A-1.10**.

Actions within the BRFA of 2011 can be categorized into five major types: changes in mandated grants and formulas; actions related to general and special fund revenues; fund balance transfers; actions affecting employees and retirees; and other miscellaneous provisions.

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### Exhibit A-1.10

#### Summary of Actions in the Budget Reconciliation and Financing Act of 2011

Fund Transfers	\$236.7 million
Contingent Reductions and Fund Swaps	621.1 million
Revenues	180.1 million
<b>Total Budgetary Action</b>	<b>\$1,037.9 million</b>

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#### Formulas and Mandated Spending

In the area of public education, the BRFA of 2011 establishes the per-pupil foundation amount at \$6,694 for fiscal 2012, the same level as fiscal 2011; current law which calls for a 1.0% inflationary cap for fiscal 2013 through 2015 is unchanged. Contingent on the enactment of **Senate Bill 994**, counties are provided an additional grant to ensure that their decrease in direct education aid from fiscal 2011 to 2012 is not more than 6.5%. This provision applies to Allegany and Garrett counties and provides \$1.4 million in additional funding. For fiscal 2012 only, a county that shifts costs of retiree health care to its school board in fiscal 2011 may subtract a reduction in those costs from its fiscal 2012 maintenance of effort requirement. To the extent that Baltimore City exercises this option, its grant under the Guaranteed Tax Base program would be increased. This provision is also contingent on the enactment of **Senate Bill 994**. The BRFA of 2011 pre-funds \$124.4 million of the fiscal 2012 foundation program using general funds freed-up in fiscal 2011 due to the availability of federal Education Jobs Fund money. Finally, the per-resident amounts used for county library aid, the regional library network, and the State Library Resource Center are held at the fiscal 2011 level through fiscal 2016. The rates then increase in fiscal 2017, 2018, and 2019.

The growth in mandated formulas in higher education is constrained by adjustments to the applicable percentage of selected public university per-student funding. The Cade formula for community college aid is held at 19.0% for fiscal 2013 and 2014; it increases thereafter to reach its prior mandated maximum of 29.0% in fiscal 2023. The formula for BCCC is dampened beginning in fiscal 2016, extending the time to achieve the prior mandated maximum by

one year, to fiscal 2023. The growth in the Sellinger formula for private colleges and universities is constrained beginning in fiscal 2013, and the maximum rate of 15.5% is reached in fiscal 2021. In addition, the bill establishes that students enrolled in a program offered as a venture with a for-profit educational service are not to be included in the full-time equivalent student count for purposes of the Sellinger grant formula.

The BRFA of 2011 begins the process of phasing out the Distinguished Scholar Program by prohibiting the award of new scholarships beginning with the upcoming year. The program is repealed in full effective July 1, 2015. The bill also modifies the State's responsibility under the Community College Statewide and Health Manpower Grants by limiting the amount reimbursed to community colleges to the amount provided in the annual budget. Additionally, community colleges can collect the out-of-county tuition rate from students in this program, provided that the student is reimbursed the amount that the community college receives from the State.

The BRFA of 2011 establishes the annual funding level for the Maryland Agricultural and Resource-Based Industry Development Corporation and suspends payments-in-lieu-of-taxes generated from park earnings for fiscal 2012 and 2013. For fiscal 2012 only, the disparity grant formula increases the per capita statewide income tax yield threshold from 75 to 77%, contingent on the enactment of *Senate Bill 994*. Finally, the General Assembly rejected a provision in the BRFA of 2011 as introduced that would have given the Governor broad discretion in the funding of mandated formulas through fiscal 2016.

### **Revenue Actions**

The BRFA of 2011 includes a number of provisions that result in general and special fund revenues either by increasing fees, directing some sources of revenue to the general fund or other specified purpose, and makes changes to tax administration and compliance measures. A schedule of fee changes affecting general and special fund revenues is shown in **Exhibit A-1.11**.

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**Exhibit A-1.11**  
**General Fund Revenues**  
**Fee and Tax Increases in the Budget Reconciliation and Financing Act of 2011**  
**(\$ in Millions)**

**Fees That Benefit the General Fund**

Wage Attachment Fee	\$2 Per Payroll Transaction (New)
Probation Supervision Fee	Increased From \$40 to \$50 Per Month
Maryland Higher Education Commission	To Cover Costs of Program Approval (\$250,000)
Birth Certificate Fee	Increased From \$12 to \$24 Each
Nursing Facility Quality Assessment	Increased from 4.0 to 5.5% of Revenue
IWIF Subject to Premium Tax	2.0% of Insurance Premiums
Sales Tax Vendor Discount	Continue Cap at \$500 Per Month
Hospital Assessment to Support Health Care Expansion	1.25% of Regulated Net Patient Revenue (New Method)
Hospital Assessment to Support Medicaid	\$389.8 Million through Assessments and Remittances

**Fees That Benefit the Special Fund**

Land Record Surcharge	Increased from \$20 to \$40 for Three Years
Certificate of Title Fee	Increased from \$50 to \$100 Each
Vanity Tag Fee	Increased from \$25 to \$50 Annually
Vehicle Dealer Processing Charge	Increased by \$100, to \$200 for 2 Years, then to \$300 Permanently in Fiscal 2014
Vehicle Dealer Vendor Credit	Reduced from Lesser \$24 or 1.2% to Lesser of \$12 or 0.6%

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**General Fund Revenue Actions**

The fiscal 2011 and 2012 estimated revenues from general fund revenue actions in the BRFA of 2011 are shown in **Exhibit A-1.12**.

**Exhibit A-1.12**  
**General Fund Revenues**  
**Budget Reconciliation and Financing Act of 2011**  
**Fiscal 2011-2012**  
**(\$ in Millions)**

	<u><b>2011</b></u>	<u><b>2012</b></u>
Highway User Revenues – From MDOT Share		\$60.0
Federal Retiree Drug Subsidy	\$23.0	24.0
Modify Revenue Distribution to Chesapeake Bay 2010 Fund		20.2
Continue Current Sales Tax Vendor Discount Cap		17.8
Tax Clearance on Driver's Licenses and Vehicle Registrations		15.0
Permanent Diversion of Special Fund Account Interest		7.0
Increase Fees for Birth Records		4.0
Admissions and Amusement Tax on Electronic Bingo and Tip Jars		3.7
Increase Parole and Probation Fees		3.3
Eliminate IWIF Exemption for 2% of Premium Tax		1.9
Specialty Hospital Assessment		0.3
<b>Total</b>	<b>\$23.0</b>	<b>\$157.2</b>

IWIF: Injured Workers' Insurance Fund

MDOT: Maryland Department of Transportation

The monthly fee for a person placed under the supervision of the Division of Parole and Probation by either the courts or the Maryland Parole Commission is increased to \$50. The cost of a birth certificate is increased to \$24; when a local health department conducts a birth certificate records search, \$20 is to be remitted to the State. The bill removes the exemption of the Injured Workers' Insurance Fund (IWIF) from having to pay the 2% premium tax, and the discount that vendors, who collect the State sales tax, may retain, is permanently capped at \$500 per month.

The BRFA of 2011 permanently directs the interest earnings on most special fund accounts to the general fund. Sixty-three funds, most notably the TTF, are exempted and retain their interest earnings. Payments from the federal government related to Medicare prescription drug rebates, are permanently directed to the general fund, as are recoveries from telecommunication rebates and litigation settlements. In fiscal 2012, \$3.7 million of the proceeds from the admissions and amusement tax, as applied to electronic bingo and electronic tip jars, is directed to the general fund. From fiscal 2012 through 2016, \$59.5 million in revenues from the sales tax on rental cars and the motor fuel tax that would otherwise go to the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund are directed to the general fund.

As is discussed in the Transportation subpart of this part, the BRFA of 2011 changes the distribution of certain revenues between the general fund and the TTF. One benefit of that transaction is the transfer of \$60 million to the general fund and \$40 million to the Rainy Day Fund in fiscal 2012; the TTF is made whole by fiscal 2016.

The Motor Vehicle Administration is prohibited from renewing a driver's license or vehicle registration for persons with undisputed but unpaid income or unemployment taxes. The General Assembly declined to implement provisions that would have levied fees on drivers with significant numbers of accumulated points against their drivers' license. A proposed repeal of the Maryland-mined coal tax credit was also rejected.

### **Special Fund Revenue Actions**

The BRFA of 2011 authorizes the use of a number of special funds, including some that are newly created, in lieu of general funds in the operating budget. A payroll garnishment fee of \$2 per pay transaction offsets \$50,000 from the Office of the Comptroller. MHEC will begin to charge a fee for program approval activities, and proceeds from the moving violation surcharge will be used in lieu of general funds for the Charles W. Riley Fire and Emergency Medical Services Tuition Reimbursement Program. Transfer tax revenues are authorized to be used for operating expenses within the Department of Planning, DGS, and DNR to support land acquisition and other programs. Up to \$1 million from the State's 9-1-1 revenues is authorized for the Computer Assisted Dispatch/Records Management System in the Department of State Police (DSP).

Several new costs are levied on the local government. The counties and Baltimore City will pay 90% of the costs of property valuation in fiscal 2012 and 2013 and then 50% of the costs thereafter. Local boards of education and community colleges will be assessed a fee for the administrative costs of the State Retirement Agency based on the number of their employee members. Local boards of education will also begin to pay toward the expenses incurred by the State for the education of children in State-supervised care, specifically children in residential placements whose behavioral issues necessitate nonpublic education services and children in committed placements operated by DJS.

In the health area, the quality assessment levied on nursing facilities increases from 4.0 to 5.5%, generating general fund savings in the Medicaid program. Similarly, an assessment on hospitals, to be allocated by the Health Services Cost Review Commission, is required to generate \$390 million in revenues and/or savings to the benefit of the Medicaid program. The methodology to support the 2007 expansion of Medicaid is simplified to an assessment of 1.25% of gross patient revenues, but the General Assembly rejected a change in the methodology for funding Graduate Medical Education. Funds paid by CareFirst in lieu of the premium tax are allocated to the Kidney Disease program and the Community Health Resources Commission; funds in the Senior Prescription Drug Assistance Program are designated for Medicaid and the Kidney Disease program.



Several revenue actions benefit the special funds directly. Increases to the Certificate of Title and vanity tag fees, a reduction in the vehicle dealers discount for collecting the vehicle excise tax, and an increase in the dealer processing charge will all benefit the TTF. The fee for recording a land record is increased for fiscal 2012 through 2014 to \$40, with the proceeds supporting the Real Property Records Improvement Fund.

### **Designation of Special Funds**

The BRFA of 2011 specifies the authorized uses of certain special fund revenue sources. Proceeds from the moving violation surcharge, after providing for the budget of the Riley Tuition Reimbursement program, are designated to the Volunteer Company Assistance Fund (\$8.2 million in fiscal 2012 and \$2.1 million in fiscal 2013) and then to the Maryland Emergency Medical System Operations Fund. Proceeds from the sale of the State's Medevac helicopters are directed to the annuity bond fund to support the debt service payments for the new fleet. A portion of the admission and amusement taxes collected on electronic bingo and electronic tip jars is designated for grants to the State Archives, Maryland Humanities Council, and jurisdictions where these machines are located. For fiscal 2013 through 2015, \$3.0 million in revenue from speed cameras is directed to DSP for the purchase of vehicles and related equipment. Finally, the allocation of funds in the Strategic Energy Investment Fund is modified to eliminate the residential rate relief component, increase funds available for renewable energy, and maintain a 50% share for low income energy assistance through fiscal 2014.

### **Fund Balance Transfers**

As shown in **Exhibit A-1.13**, \$236.7 million over fiscal 2011 and 2012 is transferred to the general fund. The transfers from IWIF and the Maryland Automobile Insurance Fund are contingent on the enactment of legislation modifying the status of the funds' employees as it relates to compensation as State employees – *House Bill 598 (Ch. 132)* and *Senate Bill 693 (passed)*, respectively. The BRFA of 2011 also requires that special fund savings from across-the-board reductions to positions and electricity spending shall be transferred to the general fund.

In addition to the transfers to the general fund shown here, \$40 million is transferred from the TTF to the Rainy Day Fund to ensure that the balance in that fund achieves 5% of general fund revenues.

**Exhibit A-1.13**  
**Fund Balance Transfers to the General Fund**  
**Budget Reconciliation and Financing Act of 2011**  
**Fiscal 2011-2012**  
**(\$ in Millions)**

	<u><b>2011</b></u>	<u><b>2012</b></u>
Program Open Space and Related Program	\$5.6	\$94.5
Chesapeake and Atlantic Coastal Bays 2010 Trust Fund	1.0	
Used Tire Cleanup and Recycling Fund	0.8	
Board of Veterinary Medical Examiners Fund	0.2	
Forest or Park Reserve Fund	0.3	
Maryland Health Care Commission Fund	1.0	
Maryland Not-For-Profit Development Center Program Fund	0.3	0.1
State Board of Pharmacy Fund		0.2
State Board of Examiners of Psychologists Fund		0.0
Spinal Cord Injury Research Trust Fund		0.5
Senior Prescription Drug Assistance Program		1.5
State Insurance Trust Fund		2.0
Baltimore City Community College		2.3
Special Fund Savings from Voluntary Separation Program		8.6
Special Fund Savings from Electricity Costs Reduction		3.0
Reimburse State for Administrative Expenses – IWIF		4.1
Reimburse State for Administrative Expenses – MAIF		4.0
Real Property Records Improvement Fund – Circuit Court		10.0
Bay Restoration Fund		90.0
Waterway Improvement Fund		1.1
Neighborhood Business Development Fund		2.1
Homeownership Programs Fund		1.5
Special Loan Programs Fund		2.2
<b>Total</b>	<b>\$9.0</b>	<b>\$227.7</b>

IWIF: Injured Workers' Insurance Fund

MAIF: Maryland Automobile Insurance Fund

**Actions Affecting Employees and Retirees**

As discussed in the Personnel subpart of Part A, the BRFA of 2011 includes provisions which significantly alter the Employees' and Teachers' Pension Systems and prescription drug benefits for retirees. In addition, the Secretary of DBM is authorized to provide retention bonuses to employees at the Brandenburg Center which is scheduled to be closed at the end of fiscal 2011. The BRFA of 2011 prohibits the payment of merit increases until April 1, 2014, with exceptions to retain faculty at higher education institutions; to meet the requirements of binding arbitration; and, for fiscal 2012 only, for operationally critical staff.

**Other Miscellaneous Provisions**

In the education area, the BRFA of 2011 clarifies the minimum local budgetary requirements for funding public schools as the local share of the foundation amount. The Aging Schools program is authorized to be supported with either general funds or general obligation bonds. The timeframe for the adequacy study required under the Bridge to Excellence Act is extended to accommodate the implementation of new curriculum standards. The BRFA of 2011 clarifies the calculation of the maintenance of effort penalty for fiscal 2012 to account for the large amount of federal funds used in State education aid formulas in fiscal 2011. MHEC is to establish a special fund accounting system for unencumbered scholarship funds. The General Assembly rejected the proposal to repeal the Tolbert Scholarship program for private career school students.

In health and human services programs, the General Assembly rejected provisions that would have altered the payment schedule for community providers in DDA and that would have required youth camps to undergo private accreditation in lieu of State inspection and licensing. DDA is directed to hold providers harmless in fiscal 2012 under the plan to eliminate payments for absence days in favor of a rate increase. Local boards of health are authorized to charge a fee to cover costs for licensing and inspection of food service facilities. Rates paid to providers under the nonpublic placement program and in foster care placements are frozen at the rate in effect on January 21, 2011.

The Maryland Environmental Service is authorized to establish certain project reserve funds with specified maximums on the amounts that may be retained. The Department of Information Technology is directed to establish a two-phase process for the planning and development of major projects. The BRFA of 2011 extends the deadline for repayment of funds for the InterCounty Connector until fiscal 2013 and requires the Maryland Transit Administration to collect fares and other revenues sufficient to meet the required 35% farebox recovery. A prohibition on the expenditure of funds for studying, developing, or constructing a Maglev system is repealed. The Maryland Economic Development Corporation will be repaid \$3.6 million, plus up to \$400,000 in administrative costs, from the Racetrack Facility Renewal Account of the video lottery terminals program for funds advanced to horse tracks during fiscal 2011. The General Assembly declined to repeal the requirement that abandoned property be advertised in local newspapers.

## Transportation

### General Fund/TTF Revenue Reconciliation

*House Bill 72* divorces the revenue relationship between the general fund and the TTF by ending ongoing revenue transfers between the two funds. The TTF, the general fund, and local jurisdictions are held harmless relative to the fiscal 2012 allowance. The following actions effectuated the revenue reconciliation:

- beginning in fiscal 2012, the TTF share of the sales tax is permanently credited to the general fund;
- the TTF share of the corporate income tax is lowered; and,
- the distribution of HUR to the general fund is reduced in fiscal 2012 and is entirely credited to the TTF starting in fiscal 2013. As a result, the TTF share of HUR will increase to 90.0% in fiscal 2013 and remain at 90.4% thereafter.

### Highway User Revenues

Counties and municipalities receive an additional \$13.3 million in fiscal 2012 only. Of this, municipalities receive an additional \$8.3 million, and the counties receive an additional \$5.0 million.

### Fiscal 2012 Transfers

The BRFA of 2011 transfers \$100 million from the TTF with \$60 million directed to the general fund and \$40 million to the Rainy Day Fund. Unlike the Administration's proposed plan, the BRFA of 2011 allows for the restoration of the \$100 million transfer. As part of the reconciliation of TTF revenues, \$60 million is repaid from fiscal 2014 to 2016. The new revenue from the certificate of title fee repays the \$40 million transfer to the Rainy Day Fund. In addition, the BRFA of 2011 includes a provision that any future transfers from the State share of TTF revenues would require a five-year repayment plan. For a more detailed discussion of transportation related actions, see Part G – Transportation and Motor Vehicles of this *90 Day Report*.

### State Reserve Fund

The Rainy Day Fund, Dedicated Purpose Account (DPA), and Catastrophic Event Account are projected to have a combined \$682.5 million fund balance at the end of fiscal 2012. Activity in fiscal 2011 and 2012 is shown in **Exhibit A-1.14**. The fiscal 2012 budget includes only one appropriation, \$15.0 million in the DPA for the Prince George's County Health System. The BRFA of 2011 transfers \$40.0 million from the TTF to the Rainy Day Fund.

**Exhibit A-1.14**  
**State Reserve Fund Activity**  
**Fiscal 2011-2012**  
**(\$ in Millions)**

	<u>Rainy Day Fund</u>	<u>Dedicated Purpose Acct.</u>	<u>Catastrophic Event Acct.</u>
<b>Estimated Balances 6/30/10</b>	<b>\$611.6</b>	<b>\$0.1</b>	<b>\$1.0</b>
Fiscal 2011 Appropriations		15.0	
Expenditures			
Prince George's County Health System		-15.0	
Transfers from Dedicated Purpose Account to the Rainy Day Fund	0.1	-0.1	
Estimated Interest	11.0		
<b>Estimated Balances 6/30/11</b>	<b>\$622.7</b>	<b>\$0.0</b>	<b>\$1.0</b>
Fiscal 2012 Appropriations <sup>1</sup>		15.0	
Transfer from Transportation Trust Fund	40.0		
Expenditures			
Prince George's County Health System		-15.0	
Estimated Interest	18.8		
<b>Estimated Balances 6/30/12</b>	<b>\$681.5</b>	<b>\$0.0</b>	<b>\$1.0</b>
<b>Balance in Excess of 5% General Fund Revenues</b>	<b>\$1.6</b>		

<sup>1</sup> Chapter 484 of 2010 (the Budget Reconciliation and Financing Act) does not require the Governor to appropriate funds into the Rainy Day Fund in fiscal 2012.

Source: Department of Budget and Management

The end-of-year Rainy Day Fund balance is projected to be 5.0% of general fund revenues in fiscal 2012. State law provides that a \$50.0 million appropriation is required if the Rainy Day Fund balance is less than 7.5% of general fund revenues and a \$100.0 million appropriation if the fund balance is less than 3.0% of general fund revenues. The out-year forecast assumes \$50.0 million appropriations from fiscal 2013 to 2016.

## **Personnel**

State expenditures for employee compensation, estimated to be \$6.9 billion in fiscal 2012, constitute a major component of the budget. Regular employee expenditures increase by \$187.0 million, or 2.78%, over fiscal 2011 levels, while contractual employee expenditures for fiscal 2012, total \$226.0 million.

### **Employee Compensation**

For the first time in three fiscal years, no furlough or temporary salary reduction plan was included in the budget. Consequently, State employee salaries will reflect an average restoration of 2.6%, nearly the entirety of the increased employee compensation spending in the budget. Also, a one-time \$750 employee bonus payment will be made to all employees not in bargaining units that received alternative salary adjustments. The bonus funds, which will only be made to employees in State service prior to July 1, 2011, will be spread across the 26 pay periods of fiscal 2012. However, benefits such as salary increments for employees performing at or above established standards, cost-of-living increases, and the State match of \$600 for employees participating in deferred compensation plans were not funded. In fact, the general prohibition on merit increments was statutorily extended through April 1, 2014, with an exemption provided in fiscal 2012 for staff deemed “operationally critical.”

### **Workforce Changes**

In fiscal 2012, the size of the regular State workforce decreases by 1.37%, or 1,085.9 positions. The Voluntary Separation Program, realized in January 2011, is the largest source of the decrease, as it yielded 653.0 position abolitions. To eliminate long-standing vacancies and produce savings through attrition, the General Assembly required the Governor to abolish 450.0 abolitions by January 1, 2012. In addition, as shown in **Exhibit A-15**, the General Assembly deleted 23.0 positions across several Executive Branch agencies.

### **Pension Benefit Restructuring**

The budgeted appropriation in fiscal 2012 for State employees and local teachers, librarians, and community college employees, whose employer contribution are paid for by the State totals \$1.38 billion. Pension benefit restructuring generated over \$300.0 million in fiscal 2012 savings through the reduction of liabilities. The BRFA of 2011 specified that \$120.0 million of the savings be used to reduce budgetary outlays in fiscal 2012. The balance of the savings will be reinvested to increase the funded status of the pension trust. Further detail on the reforms can be found in subpart "Pensions and Retirement" in Part C – State Government of this *90 Day Report*.

**Exhibit A-1.15**  
**Regular Full-time Equivalent Positions**  
**Fiscal 2011- 2012**

<b><u>Department/Service Area</u></b>	<b><u>2011 Work. Approp.</u></b>	<b><u>2012 Allowance</u></b>	<b><u>Legis. Reductions</u></b>	<b><u>2012 Legis. Approp.</u></b>
<b>Health and Human Services</b>				
Health and Mental Hygiene	6,511	6,416	-10	6,406
Human Resources	6,677	6,568	0	6,568
Juvenile Services	2,219	2,184	0	2,184
<b>Subtotal</b>	<b>15,407</b>	<b>15,168</b>	<b>-10</b>	<b>15,158</b>
<b>Public Safety</b>				
Public Safety and Correctional Services	11,223	11,165	0	11,165
Police and Fire Marshal	2,402	2,403	-8	2,395
<b>Subtotal</b>	<b>13,625</b>	<b>13,568</b>	<b>-8</b>	<b>13,560</b>
<b>Transportation</b>	8,963	8,806	0	8,806
<b>Other Executive</b>				
Legal (Excluding Judiciary)	1,467	1,438	0	1,438
Executive and Administrative Control	1,601	1,581	-1	1,580
Financial and Revenue Administration	1,964	1,978	0	1,978
Budget and Management	437	424	-1	423
Retirement	207	202	0	202
General Services	588	586	0	586
Natural Resources	1,272	1,254	0	1,254
Agriculture	405	399	0	399
Labor, Licensing, and Regulation	1,665	1,655	0	1,655
MSDE and Other Education	1,942	1,898	0	1,898
Housing and Community Development	308	305	0	305
Business and Economic Development	233	228	-3	225
Environment	959	937	0	937
<b>Subtotal</b>	<b>13,047</b>	<b>12,883</b>	<b>-5</b>	<b>12,878</b>
<b>Executive Branch Subtotal</b>	<b>51,042</b>	<b>50,425</b>	<b>-23</b>	<b>50,402</b>
<b>Higher Education</b>	24,173	24,177	0	24,177
<b>Judiciary</b>	3,581	3,581	0	3,581
<b>Legislature</b>	747	747	0	747
<i>Section 47 Executive Branch Reduction</i>			-450	-450
<b>Grand Total</b>	<b>79,544</b>	<b>78,931</b>	<b>-473</b>	<b>78,458</b>

MSDE: Maryland State Department of Education

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

### Employee and Retiree Health Insurance

State subsidies for employee and retiree health insurance total \$936.0 million in fiscal 2012. This amount is \$50.2 million more than the fiscal 2011 level across all fund types. The increase was limited by benefit reductions in the active and retiree prescription plans, which were statutorily separated to allow for distinct benefit offerings. Together the changes netted \$20.2 million in general fund savings. State expenditures were furthered tempered by favorable cost experience resulting from a shift in medical plan offerings from fully insured Health Maintenance Organizations to self-insured Exclusive Provider Organizations. Further detail on changes to the eligibility requirements for retiree health insurance coverage can be found in subpart "Pensions and Retirement" in Part C – State Government of this *90 Day Report*.

### By the Numbers

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

**Exhibit A-1.16** shows the impact of the legislative budget on the general fund balance for fiscal 2011 and 2012. The fiscal 2011 balance is estimated to be \$647.1 million. At the end of fiscal 2012, the closing balance is estimated to be \$42.9 million.

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#### Exhibit A-1.16 Final Budget Status Status as of April 11, 2011 Fiscal 2011-2012

	<u>2011</u>	<u>2012</u>
<b>Starting General Fund Balance</b>	<b>\$344,008,024</b>	<b>\$647,056,051</b>
<b>Revenues</b>		
BRE Revenues – March 2010	\$13,162,729,065	\$13,597,750,298
Supplemental Budget No. 1	0	34,152
Prior Budget Reconciliation Legislation	317,372,369	0
Budget Reconciliation Legislation – Revenues	23,000,000	157,101,818
Budget Reconciliation Legislation – Transfers	8,967,172	227,734,122
Other Legislation	0	76,049,900
Additional Revenues	53,060,284	85,913,663
<b>Subtotal Revenues</b>	<b>\$13,565,128,890</b>	<b>\$14,144,583,953</b>
<b>Subtotal Available Revenues</b>	<b>\$13,909,136,914</b>	<b>\$14,791,640,004</b>



	<u>2011</u>	<u>2012</u>
<b>Appropriations</b>		
General Fund Appropriations	\$13,172,689,488	\$15,133,720,752
Supplementary Appropriations (SB 994/HB 1213)	0	62,500,000
Deficiencies	93,759,375	0
Supplemental Budget No. 1	33,723,269	15,134,121
Legislative Reductions/Contingent Legislation	-223,269	-430,218,428
Estimated Agency Reversions	-37,868,000	-32,435,000
<b>Subtotal Appropriations</b>	<b>\$13,262,080,863</b>	<b>\$14,748,701,445</b>
<b>Closing General Fund Balance</b>	<b>\$647,056,051</b>	<b>\$42,938,559</b>

BRE: Board of Revenue Estimates

**Exhibit A-1.17**, the fiscal note on the budget bill, depicts the Governor's allowance, funding changes made through Supplemental Budget No. 1, legislative reductions, and final appropriations for fiscal 2011 and 2012 by fund source. The Governor's original request provided for \$34.7 billion (net of across-the-board reductions and projected general fund reversions) in fiscal 2012 expenditures and \$637.7 million in fiscal 2011 deficiencies.

The Governor added \$225.7 million in fiscal 2011 and 2012 spending in the supplemental budget. The legislature made \$0.2 million in reductions to fiscal 2011 appropriations, resulting in a net appropriation of \$33.3 billion for fiscal 2011. The fiscal 2012 budget was reduced by a net of \$530.8 million, consisting of \$631.7 million in total fund reductions offset by \$100.9 million in special funds that replace general fund cuts. This resulted in a final appropriation of \$34.2 billion.

**Exhibit A-1.18** illustrates budget changes by major expenditure category by fund. Total spending decreases by \$940.4 million, or 2.8%, after accounting for the special fund appropriations that replace general funds cuts during the session. Debt service grows by 6.6%; aid to local government decreases by 5.8% largely due to the end of one-time pass-through federal stimulus funding (*i.e.*, ARRA and the Education Jobs Fund of 2010) for K-12 education. Entitlement spending grows by 10.6% due mostly to the growth in Medicaid caseloads. State agency spending (net of reversions and across-the-board reductions) only increases by 1.8%. PAYGO capital expenditures increase by 12.5%. General fund spending was increased by \$47.5 million through a supplementary appropriation for additional public school construction. Additional transportation special funds are allocated to capital infrastructure rehabilitation for the Washington Metropolitan Area Transit Authority system and system preservation at the Maryland Port Administration. New federal PAYGO spending was received for two military readiness centers and construction of a statewide fiber optic network.

**Exhibit A-1.17**  
**Fiscal Note**  
**Summary of the Fiscal 2012 Budget Bill – House Bill 70**

	<u>General Funds</u>	<u>Special Funds</u>	<u>Federal Funds</u>	<u>Education Funds</u>	<u>Total Funds</u>
<b>Governors Allowance</b>					
Fiscal 2011 Budget	\$13,228,580,863	\$6,026,244,100	\$10,308,767,792	\$3,559,053,179	\$33,122,645,934 <sup>(1)</sup>
Fiscal 2012 Budget	15,101,285,752	6,503,489,687	9,403,159,299	3,664,538,214	34,672,472,952 <sup>(2)</sup>
<b>Supplemental Budget No. 1</b>					
Fiscal 2011 Deficiencies	\$33,723,269	\$11,402,853	\$71,953,947	\$35,200,000	\$152,280,069
Fiscal 2012 Budget	15,134,121	38,782,985	19,526,488	0	73,443,594
<b>Subtotal</b>	<b>\$48,857,390</b>	<b>\$50,185,838</b>	<b>\$91,480,435</b>	<b>\$35,200,000</b>	<b>\$225,723,663</b>
<b>Budget Reconciliation and Financing Act of 2011</b>					
Fiscal 2011 Deficiencies	\$0	\$0	\$0	\$0	\$0
Fiscal 2012 Contingent Reductions	-366,641,288	75,527,361 <sup>(3)</sup>	-2,293,207	-3,631,029	-297,038,163
<b>Subtotal</b>	<b>-\$366,641,288</b>	<b>\$75,527,361</b>	<b>-\$2,293,207</b>	<b>-\$3,631,029</b>	<b>-\$297,038,163</b>
<b>Legislative Reductions</b>					
Fiscal 2011 Deficiencies	-\$223,269	\$0	\$0	\$0	-\$223,269
Fiscal 2012 Budget	-1,077,140 <sup>(4)</sup>	-153,321,912	-79,341,231	0	-233,740,283
<b>Total Reductions</b>	<b>-\$1,300,409</b>	<b>-\$153,321,912</b>	<b>-\$79,341,231</b>	<b>-\$3,631,029</b>	<b>-\$233,963,552</b>
<b>Appropriations</b>					
Fiscal 2011 Budget	\$13,262,080,863	\$6,037,646,953	\$10,380,721,739	\$3,594,253,179	\$33,274,702,734
Fiscal 2012 Budget	14,748,701,445	6,464,478,121	9,341,051,349	3,660,907,185	34,215,138,100
<b>Change</b>	<b>\$1,486,620,582</b>	<b>\$426,831,168</b>	<b>-\$1,039,670,390</b>	<b>\$66,654,006</b>	<b>\$940,435,366</b>

<sup>(1)</sup> Reflects \$637.7 million in proposed deficiencies, including \$93.8 million in general funds, -\$19.5 million in special funds, \$563.4 million in federal funds. Reversion assumptions total \$37.9 million, including \$30.0 million in unspecified reversions and \$7.9 million in targeted reversions.

<sup>(2)</sup> Reflects estimated general fund reversions of \$30.0 million and \$2.4 million in targeted reversions.

<sup>(3)</sup> Includes \$100.9 million in special funds to be added back to the budget by amendment to replace general fund reductions, specifically including \$11.6 million in the Department of Health and Mental Hygiene (DHMH) Kidney Disease Treatment Services program; \$13.0 million for DHMH Nursing Facility Assessments; \$17.5 million from DHMH Medicaid Hospital Assessments; \$0.5 million from using the transfer tax for Maryland Department of Planning administration expenses; \$3.5 million in the Departments of Human Resources and Juvenile Services, and the Maryland State Department of Education (MSDE) for nonpublic placements; \$16.6 million in MSDE and the Maryland Higher Education Commission (MHEC) from local charges for retirement agency administrative costs; \$34.8 million in the State Department of Assessments and Taxation and Department of Information Technology from a 90% cost shift to the locals for property valuation; \$1.0 million transfer of 9-1-1 fee revenue to fund the Department of State Police CAD/RMS project; \$1.7 million in the Department of Natural Resources to use special funds for administrative costs; \$0.3 million in MHEC to use moving violation surcharge funds for the Riley Scholarship; \$0.3 million in MHEC from fees charged for conducting program reviews; and \$50,000 in the Comptroller from a processing fee for payroll garnishments.

<sup>(4)</sup> Reductions are offset by \$62.5 million in supplementary appropriations, with Senate Bill 994 providing \$15.0 million for the DHMH Developmental Disabilities Waiting List Initiative and House Bill 1213 providing \$47.5 million for public school construction.

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**Exhibit A-1.18**  
**State Expenditures – General Funds**  
**(\$ in Millions)**

<b>Category</b>	<b>Actual FY 2010</b>	<b>Adjusted Work. Approp. FY 2011</b>	<b>Legislative Approp. FY 2012</b>	<b>FY 2011 to FY 2012</b>	
				<b>\$ Change</b>	<b>% Change</b>
Debt Service	\$0.0	\$0.0	\$0.0	\$0.0	n/a
County/Municipal	189.6	185.9	186.6	0.7	0.4%
Community Colleges	256.2	258.1	262.3	4.2	1.6%
Education/Libraries	5,256.0	4,903.3	5,492.2	588.9	12.0%
Health	37.3	37.3	37.3	0.0	0.0%
<b><i>Aid to Local Governments</i></b>	<b><i>\$5,739.0</i></b>	<b><i>\$5,384.6</i></b>	<b><i>\$5,978.4</i></b>	<b><i>593.8</i></b>	<b><i>11.0%</i></b>
Foster Care Payments	240.4	241.9	238.8	-3.1	-1.3%
Assistance Payments	92.9	49.8	49.9	0.1	0.3%
Medical Assistance	1,569.9	1,816.0	2,554.0	738.0	40.6%
Property Tax Credits	73.2	75.9	79.4	3.5	4.6%
<b><i>Entitlements</i></b>	<b><i>\$1,976.4</i></b>	<b><i>\$2,183.6</i></b>	<b><i>\$2,922.1</i></b>	<b><i>738.5</i></b>	<b><i>33.8%</i></b>
Health	1,355.8	1,382.4	1,434.4	52.0	3.8%
Human Resources	273.9	263.3	275.1	11.8	4.5%
Systems Reform Initiative	24.3	20.5	18.8	-1.7	-8.1%
Juvenile Services	260.6	257.5	259.4	1.9	0.7%
Public Safety/Police	1,169.4	1,170.8	1,260.9	90.1	7.7%
Higher Education	1,149.5	1,145.6	1,126.5	-19.1	-1.7%
Other Education	315.2	370.4	347.5	-22.9	-6.2%
Agric./Nat'l. Res./Environment	105.7	102.5	101.0	-1.5	-1.4%
Other Executive Agencies	515.4	543.6	568.2	24.6	4.5%
Legislative	71.6	75.6	76.6	1.0	1.4%
Judiciary	365.4	370.3	373.3	3.0	0.8%
Across-the-board Reductions	0.0	0.0	-33.3	-33.3	n/a
<b><i>State Agencies</i></b>	<b><i>\$5,606.8</i></b>	<b><i>\$5,702.6</i></b>	<b><i>\$5,808.7</i></b>	<b><i>106.1</i></b>	<b><i>1.9%</i></b>
<b>Total Operating</b>	<b>\$13,322.3</b>	<b>\$13,270.8</b>	<b>\$14,709.2</b>	<b>\$1,438.4</b>	<b>10.8%</b>
Capital <sup>(1)</sup>	5.1	10.8	54.5	43.7	404.6%
Reserve Funds	114.9	15.0	15.0	0.0	0.0%
<b>Appropriations</b>	<b>\$13,442.3</b>	<b>\$13,296.6</b>	<b>\$14,778.7</b>	<b>\$1,482.1</b>	<b>11.1%</b>
Reversions	0.0	-34.5	-30.0	4.5	-13.0%
<b>Grand Total</b>	<b>\$13,442.3</b>	<b>\$13,262.1</b>	<b>\$14,748.7</b>	<b>\$1,486.6</b>	<b>11.2%</b>

<sup>(1)</sup> Includes the Sustainable Communities Tax Credit Reserve Fund.

Note: The fiscal 2011 working appropriation includes deficiencies, \$7.9 million in targeted reversions, and legislative reductions to the deficiencies. The fiscal 2012 legislative appropriation includes a \$15.0 million supplementary appropriation in Health from SB 994 and a \$47.5 million supplementary appropriation in Capital from HB 1213. SB 994 and HB 1213 raise the sales tax on alcohol beverages from 6 to 9%. Budget language restricts \$8.8 million of the Aid to Education budget for the disparity grant (County/Municipal), 50% of which must be provided to the county board of education.

**Exhibit A-1.18 (Continued)**  
**State Expenditures – Special and Higher Education Funds\***  
(\$ in Millions)

<b><u>Category</u></b>	<b><u>Actual FY 2010</u></b>	<b><u>Work. Approp. FY 2011</u></b>	<b><u>Legislative Approp. FY 2012</u></b>	<b><u>FY 2011 to FY 2012 \$ Change</u></b>	<b><u>% Change</u></b>
Debt Service	\$921.7	\$991.5	\$1,055.9	\$64.3	6.5%
County/Municipal	189.5	219.5	192.4	-27.0	-12.3%
Community Colleges	0.0	0.0	0.8	0.8	n/a
Education/Libraries	10.8	432.8	230.6	-202.2	-46.7%
Health	0.0	0.0	0.0	0.0	n/a
<b><i>Aid to Local Governments</i></b>	<b><i>\$200.3</i></b>	<b><i>\$652.3</i></b>	<b><i>\$423.8</i></b>	<b><i>-\$228.4</i></b>	<b><i>-35.0%</i></b>
Foster Care Payments	0.0	0.1	1.0	1.0	1481.2%
Assistance Payments	18.1	15.4	16.4	1.0	6.4%
Medical Assistance	575.3	511.8	876.8	365.0	71.3%
Property Tax Credits	0.0	0.0	0.0	0.0	n/a
<b><i>Entitlements</i></b>	<b><i>\$593.4</i></b>	<b><i>\$527.3</i></b>	<b><i>\$894.2</i></b>	<b><i>\$367.0</i></b>	<b><i>69.6%</i></b>
Health	283.0	310.6	306.9	-3.7	-1.2%
Human Resources	115.2	81.1	78.0	-3.2	-3.9%
Systems Reform Initiative	0.0	0.0	0.0	0.0	n/a
Juvenile Services	0.4	1.0	2.7	1.7	168.8%
Public Safety/Police	193.9	222.6	217.4	-5.3	-2.4%
Higher Education	3,426.3	3,643.5	3,730.2	86.7	2.4%
Other Education	53.3	51.4	50.8	-0.6	-1.2%
Transportation	1,483.2	1,419.1	1,459.2	40.1	2.8%
Agric./Nat'l. Res./Environment	168.1	206.5	204.6	-1.9	-0.9%
Other Executive Agencies	506.3	603.6	750.7	147.1	24.4%
Legislative	0.1	0.3	0.1	-0.2	-60.0%
Judiciary	38.3	55.1	52.6	-2.6	-4.6%
Across-the-board Reductions	0.0	0.0	-10.0	-10.0	n/a
<b><i>State Agencies</i></b>	<b><i>\$6,268.1</i></b>	<b><i>\$6,594.8</i></b>	<b><i>\$6,843.1</i></b>	<b><i>\$248.2</i></b>	<b><i>3.8%</i></b>
<b>Total Operating</b>	<b>\$7,983.5</b>	<b>\$8,765.9</b>	<b>\$9,217.0</b>	<b>\$451.1</b>	<b>5.1%</b>
Capital	782.3	866.0	908.4	42.4	4.9%
<b>Grand Total</b>	<b>\$8,765.8</b>	<b>\$9,631.9</b>	<b>\$10,125.4</b>	<b>\$493.5</b>	<b>5.1%</b>

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

Note: The fiscal 2011 working appropriation includes -\$8.1 million in deficiencies. The fiscal 2012 legislative appropriation includes \$100.9 million in additional special fund spending that will be added by budget amendment to replace general fund reductions.

**Exhibit A-1.18 (Continued)**  
**State Expenditures – Federal Funds**  
**(\$ in Millions)**

<b><u>Category</u></b>	<b><u>Actual FY 2010</u></b>	<b><u>Work. Approp. FY 2011</u></b>	<b><u>Legislative Approp. FY 2012</u></b>	<b><u>FY 2011 to FY 2012</u></b>	
				<b><u>\$ Change</u></b>	<b><u>% Change</u></b>
Debt Service	\$0.9	\$9.2	\$11.1	\$1.9	20.2%
County/Municipal	57.4	148.3	57.6	-90.7	-61.1%
Community Colleges	0.0	0.0	0.0	0.0	n/a
Education/Libraries	1,397.1	1,483.5	762.1	-721.4	-48.6%
Health	4.5	4.5	4.5	0.0	0.0%
<b><i>Aid to Local Governments</i></b>	<b><i>\$1,459.0</i></b>	<b><i>\$1,636.3</i></b>	<b><i>\$824.3</i></b>	<b><i>-\$812.1</i></b>	<b><i>-49.6%</i></b>
Foster Care Payments	89.5	91.7	86.3	-5.4	-5.9%
Assistance Payments	928.2	1,318.2	1,318.9	0.7	0.1%
Medical Assistance	3,748.1	3,767.4	3,504.3	-263.1	-7.0%
Property Tax Credits	0.0	0.0	0.0	0.0	n/a
<b><i>Entitlements</i></b>	<b><i>\$4,765.8</i></b>	<b><i>\$5,177.3</i></b>	<b><i>\$4,909.5</i></b>	<b><i>-\$267.7</i></b>	<b><i>-5.2%</i></b>
Health	922.7	1,011.7	1,060.8	49.0	4.8%
Human Resources	537.5	527.9	550.0	22.1	4.2%
Systems Reform Initiative	7.3	7.7	7.3	-0.4	-4.9%
Juvenile Services	10.9	16.8	10.5	-6.4	-37.7%
Public Safety/Police	99.8	109.5	30.0	-79.5	-72.6%
Higher Education	0.0	0.0	0.0	0.0	n/a
Other Education	272.0	286.6	264.6	-21.9	-7.6%
Transportation	90.8	90.2	87.6	-2.6	-2.9%
Agric./Nat'l. Res./Environment	66.9	76.4	73.8	-2.5	-3.3%
Other Executive Agencies	629.7	625.0	585.0	-39.9	-6.4%
Judiciary	4.0	4.0	3.6	-0.4	-10.1%
Across-the-board Reductions	0.0	0.0	-2.3	-2.3	n/a
<b><i>State Agencies</i></b>	<b><i>\$2,641.8</i></b>	<b><i>\$2,755.6</i></b>	<b><i>\$2,670.9</i></b>	<b><i>-\$84.8</i></b>	<b><i>-3.1%</i></b>
<b>Total Operating</b>	<b>\$8,867.4</b>	<b>\$9,578.4</b>	<b>\$8,415.7</b>	<b>-\$1,162.7</b>	<b>-12.1%</b>
Capital	957.6	802.3	925.3	123.0	15.3%
<b>Grand Total</b>	<b>\$9,825.0</b>	<b>\$10,380.7</b>	<b>\$9,341.1</b>	<b>-\$1,039.7</b>	<b>-10.0%</b>

Note: The fiscal 2011 working appropriation includes \$635.4 million in deficiencies.

**Exhibit A-1.18 (Continued)**  
**State Expenditures – State Funds**  
**(\$ in Millions)**

<b><u>Category</u></b>	<b><u>Actual FY 2010</u></b>	<b><u>Adjusted Work Approp. FY 2011</u></b>	<b><u>Legislative Approp. FY 2012</u></b>	<b><u>FY 2011 to FY 2012</u></b>	
				<b><u>\$ Change</u></b>	<b><u>% Change</u></b>
Debt Service	\$921.7	\$991.5	\$1,055.9	\$64.3	6.5%
County/Municipal	379.1	405.3	379.0	-26.3	-6.5%
Community Colleges	256.2	258.1	263.1	4.9	1.9%
Education/Libraries	5,266.8	5,336.1	5,722.9	386.8	7.2%
Health	37.3	37.3	37.3	0.0	0.0%
<b><i>Aid to Local Governments</i></b>	<b><i>\$5,939.3</i></b>	<b><i>\$6,036.8</i></b>	<b><i>\$6,402.2</i></b>	<b><i>\$365.4</i></b>	<b><i>6.1%</i></b>
Foster Care Payments	240.4	242.0	239.8	-2.2	-0.9%
Assistance Payments	111.0	65.2	66.3	1.1	1.7%
Medical Assistance	2,145.2	2,327.8	3,430.8	1,103.0	47.4%
Property Tax Credits	73.2	75.9	79.4	3.5	4.6%
<b><i>Entitlements</i></b>	<b><i>\$2,569.8</i></b>	<b><i>\$2,710.9</i></b>	<b><i>\$3,816.4</i></b>	<b><i>\$1,105.5</i></b>	<b><i>40.8%</i></b>
Health	1,638.7	1,693.0	1,741.3	48.3	2.9%
Human Resources	389.2	344.4	353.1	8.7	2.5%
Systems Reform Initiative	24.3	20.5	18.8	-1.7	-8.1%
Juvenile Services	261.1	258.5	262.1	3.6	1.4%
Public Safety/Police	1,363.3	1,393.4	1,478.3	84.9	6.1%
Higher Education	4,575.8	4,789.2	4,856.7	67.5	1.4%
Other Education	368.4	421.7	398.2	-23.5	-5.6%
Transportation	1,483.2	1,419.1	1,459.2	40.1	2.8%
Agric./Nat'l Res./Environment	273.8	309.0	305.6	-3.4	-1.1%
Other Executive Agencies	1,021.7	1,147.3	1,319.0	171.7	15.0%
Legislative	71.7	75.9	76.7	0.9	1.2%
Judiciary	403.7	425.5	425.9	0.4	0.1%
Across-the-board Reductions	0.0	0.0	-43.3	-43.3	n/a
<b><i>State Agencies</i></b>	<b><i>\$11,874.9</i></b>	<b><i>\$12,297.4</i></b>	<b><i>\$12,651.7</i></b>	<b><i>\$354.3</i></b>	<b><i>2.9%</i></b>
<b>Total Operating</b>	<b>\$21,305.8</b>	<b>\$22,036.7</b>	<b>\$23,926.2</b>	<b>\$1,889.5</b>	<b>8.6%</b>
Capital <sup>(1)</sup>	787.3	876.8	962.9	86.1	9.8%
Reserve Funds	114.9	15.0	15.0	0.0	0.0%
<b>Appropriations</b>	<b>\$22,208.1</b>	<b>\$22,928.5</b>	<b>\$24,904.1</b>	<b>\$1,975.6</b>	<b>8.6%</b>
Reversions	0.0	-34.5	-30.0	4.5	-13.0%
<b>Grand Total</b>	<b>\$22,208.1</b>	<b>\$22,894.0</b>	<b>\$24,874.1</b>	<b>\$1,980.1</b>	<b>8.6%</b>

<sup>(1)</sup> Includes the Sustainable Communities Tax Credit Reserve Fund.

Note: The fiscal 2011 working appropriation includes deficiencies, \$7.9 million in targeted reversions, and legislative reductions to the deficiencies. The fiscal 2012 legislative appropriation includes \$100.9 million in additional special fund spending that will be added by budget amendment to replace general fund reductions. It also includes a \$15.0 million supplementary appropriation in Health from SB 994 and a \$47.5 million supplementary appropriation in Capital from HB 1213. SB 994 and HB 1213 raise the sales tax on alcohol beverages from 6 to 9%. Budget language restricts \$8.8 million of the Aid to Education budget for the disparity grant (County/Municipal), 50% of which must be provided to the county board of education.

**Exhibit A-1.18 (Continued)**  
**State Expenditures – All Funds**  
**(\$ in Millions)**

<b>Category</b>	<b>Actual FY 2010</b>	<b>Adjusted Work. Appr. FY 2011</b>	<b>Legislative Approp. FY 2012</b>	<b>FY 2011 to FY 2012</b>	
				<b>\$ Change</b>	<b>% Change</b>
Debt Service	\$922.6	\$1,000.7	\$1,066.9	\$66.2	6.6%
County/Municipal	436.5	553.7	436.7	-117.0	-21.1%
Community Colleges	256.2	258.1	263.1	4.9	1.9%
Education/Libraries	6,663.9	6,819.6	6,485.0	-334.6	-4.9%
Health	41.8	41.8	41.8	0.0	0.0%
<b>Aid to Local Governments</b>	<b>\$7,398.3</b>	<b>\$7,673.2</b>	<b>\$7,226.5</b>	<b>-\$446.7</b>	<b>-5.8%</b>
Foster Care Payments	329.9	333.6	326.1	-7.5	-2.3%
Assistance Payments	1,039.2	1,383.4	1,385.2	1.8	0.1%
Medical Assistance	5,893.3	6,095.2	6,935.2	840.0	13.8%
Property Tax Credits	73.2	75.9	79.4	3.5	4.6%
<b>Entitlements</b>	<b>\$7,335.6</b>	<b>\$7,888.2</b>	<b>\$8,725.9</b>	<b>\$837.7</b>	<b>10.6%</b>
Health	2,561.4	2,704.7	2,802.0	97.3	3.6%
Human Resources	926.7	872.3	903.1	30.8	3.5%
Systems Reform Initiative	31.6	28.2	26.1	-2.0	-7.2%
Juvenile Services	272.0	275.4	272.5	-2.8	-1.0%
Public Safety/Police	1,463.2	1,502.9	1,508.2	5.3	0.4%
Higher Education	4,575.8	4,789.2	4,856.7	67.5	1.4%
Other Education	640.4	708.3	662.9	-45.4	-6.4%
Transportation	1,574.0	1,509.3	1,546.8	37.5	2.5%
Agric./Nat'l. Res./Environment	340.8	385.4	379.5	-5.9	-1.5%
Other Executive Agencies	1,651.4	1,772.2	1,904.0	131.8	7.4%
Legislative	71.7	75.9	76.7	0.9	1.2%
Judiciary	407.7	429.5	429.5	0.0	0.0%
Across-the-board Reductions	0.0	0.0	-45.5	-45.5	n/a
<b>State Agencies</b>	<b>\$14,516.7</b>	<b>\$15,053.1</b>	<b>\$15,322.6</b>	<b>\$269.5</b>	<b>1.8%</b>
<b>Total Operating</b>	<b>\$30,173.2</b>	<b>\$31,615.1</b>	<b>\$32,341.9</b>	<b>\$726.8</b>	<b>2.3%</b>
Capital <sup>(1)</sup>	1,744.9	1,679.1	1,888.2	209.1	12.5%
Reserve Funds	114.9	15.0	15.0	0.0	0.0%
<b>Appropriations</b>	<b>\$32,033.1</b>	<b>\$33,309.2</b>	<b>\$34,245.1</b>	<b>\$935.9</b>	<b>2.8%</b>
Reversions	0.0	-34.5	-30.0	4.5	-13.0%
<b>Grand Total</b>	<b>\$32,033.1</b>	<b>\$33,274.7</b>	<b>\$34,215.1</b>	<b>\$940.4</b>	<b>2.8%</b>

<sup>(1)</sup> Includes the Sustainable Communities Tax Credit Reserve Fund.

Note: The fiscal 2011 working appropriation includes deficiencies, \$7.9 million in targeted reversions, and legislative reductions to the deficiencies. The fiscal 2012 legislative appropriation includes \$100.9 million in additional special fund spending that will be added by budget amendment to replace general fund reductions. It also includes a \$15.0 million supplementary appropriation in Health from SB 994 and a \$47.5 million supplementary appropriation in Capital from HB 1213. SB 994 and HB 1213 raise the sales tax on alcohol beverages from 6 to 9%. Budget language restricts \$8.8 million of the Aid to Education budget for the disparity grant (County/Municipal), 50% of which must be provided to the county board of education.



## Capital Budget

The 2011 General Assembly passed a capital budget program totaling \$3.098 billion, including \$1.606 billion for the transportation program. Apart from transportation, the program totals \$1.492 billion: \$925.0 million is funded with general obligation (GO) bonds authorized in the Maryland Consolidated Capital Bond Loan (MCCBL) of 2011, the 2011 capital budget *House Bill 71 (passed)*; \$15.902 million is funded with Qualified Zone Academy Bonds (QZAB) authorized in *House Bill 86 (Ch. 96)*; \$296.6 million is funded on a pay-as-you-go (PAYGO) basis in the operating budget; \$47.5 million in additional general fund PAYGO is funded in *House Bill 1213 (passed)*; \$180.0 million is funded with revenue bonds to be issued by the Maryland Department of the Environment to support State and local efforts to upgrade wastewater treatment plants; and \$27.0 million is funded with academic revenue bonds for University System of Maryland facilities authorized in *House Bill 748 (passed)*.

**Exhibit A-2.1** presents an overview of the State's capital program for fiscal 2012, **Exhibit A-2.2** lists capital projects and programs by function and fund source, and **Exhibit A-2.3** provides the individual legislative initiative projects funded in the MCCBL of 2011. The MCCBL of 2011 includes funding for:

- State facilities, including colleges and universities, hospitals, Department of Disabilities accessibility modifications, correctional facilities, and the public safety communication system;
- grants to local governments for public school construction, community college facilities, and local detention centers;
- health and social services facilities, such as emergency medicine facilities, community health and addiction facilities, and low-income housing;
- environmental programs, such as the Chesapeake Bay Water Quality programs, Community Parks and Playgrounds, Agricultural Cost-Share Program Open Space, and Drinking and Stormwater programs; and
- local projects and legislative initiatives.

In addition to GO debt, the State's capital program is funded with general, special, and federal funds appropriated in the operating budget (PAYGO) which are used primarily to support housing and environmental programs. The use of PAYGO funds is generally restricted to capital grant and loan programs for which the use of tax-exempt debt is limited under federal tax guidelines, programs that are administered through the use of special non-lapsing funds for which revenue from principal and interest payments are used to support additional appropriations, and in instances where federal funds assist in the capitalization of State revolving grant and loan fund programs.

**Exhibit A-2.1**  
**Capital Program Summary for the 2011 Session**  
(\$ in Millions)

<b><u>Function</u></b>	<b>Bonds</b>		<b>Current Funds (PAYGO)</b>			<b><u>Total</u></b>
	<b><u>General Obligation</u></b>	<b><u>Revenue</u></b>	<b><u>General</u></b>	<b><u>Special</u></b>	<b><u>Federal</u></b>	
<b>State Facilities</b>						\$100.5
Facilities Renewal	\$7.1	\$0.0	\$0.0	\$0.0	\$0.0	
State Facilities Other	21.9	0.0	0.0	0.0	71.6	
<b>Health/Social</b>						39.2
Health Other	15.6	0.0	0.0	0.0	0.0	
Health State Facilities	7.1	0.0	0.0	0.0	0.0	
Private Hospitals	16.5	0.0	0.0	0.0	0.0	
<b>Environment</b>						608.1
Agriculture	10.4	0.0	0.0	5.4	0.0	
Energy	0.0	0.0	0.0	5.0	0.0	
Environment	197.1	180.0	0.0	97.5	53.7	
Natural Resources	52.7	0.0	0.0	2.9	3.5	
<b>Public Safety</b>						40.1
Local Jails	5.0	0.0	0.0	0.0	0.0	
State Corrections	11.7	0.0	0.0	0.0	0.0	
State Police	23.4	0.0	0.0	0.0	0.0	
<b>Education</b>						323.2
Education Other	10.8	0.0	0.0	0.0	0.0	
School Construction	264.9	0.0	47.5	0.0	0.0	
<b>Higher Education</b>						235.8
Community Colleges	60.3	0.0	0.0	0.0	0.0	
Higher Education Other	0.9	0.0	0.0	0.0	0.0	
Morgan State University	6.4	0.0	0.0	0.0	0.0	
Private Colleges/Universities	10.0	0.0	0.0	0.0	0.0	
University System	131.1	27.0	0.0	0.0	0.0	
<b>Housing/Community Development</b>						86.5
Housing	31.4	0.0	0.0	19.5	26.5	
Housing Other	2.0	0.0	7.0	0.1	0.0	
<b>Local Projects</b>						32.7
Administration	13.2	0.0	0.0	0.0	0.0	
Legislative	19.5	0.0	0.0	0.0	0.0	
<b>Transportation</b>						46.2
Highways	46.2	0.0	0.0	0.0	0.0	

	Bonds		Current Funds (PAYGO)			
<u>Function</u>	<u>General Obligation</u>	<u>Revenue</u>	<u>General</u>	<u>Special</u>	<u>Federal</u>	<u>Total</u>
<b>De-authorizations</b>						-24.1
De-authorizations	-10.4	0.0	0.0	0.0	0.0	
De-authorizations Other	-13.7	0.0	0.0	0.0	0.0	
<b>Total Fiscal 2012</b>	<b>\$940.9</b>	<b>\$207.0</b>	<b>\$54.5</b>	<b>\$130.5</b>	<b>\$155.2</b>	<b>\$1,488.1</b>
<b>Fiscal 2011 Deficiencies</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$3.9</b>	<b>\$3.9</b>
<b>Transportation</b>	<b>\$0.0</b>	<b>\$355.0</b>	<b>\$0.0</b>	<b>\$423.7</b>	<b>\$827.7</b>	<b>\$1,606.4</b>
<b>Grand Total Fiscal 2012</b>	<b>\$940.9</b>	<b>\$562.0</b>	<b>\$54.5</b>	<b>\$554.2</b>	<b>\$986.8</b>	<b>\$3,098.4</b>

PAYGO: pay-as-you-go

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**Exhibit A-2.2**  
**Capital Program Summary for the 2011 Session**

		Bonds		Current Funds (PAYGO)			
Budget Code	Project Title	General Obligation	Revenue	General	Special	Federal	Total Funds
State Facilities							
DA0201A	MDOD: Accessibility Modifications	\$1,444,000	\$0	\$0	\$0	\$0	\$1,444,000
DE0201A	BPW: Lowe House of Delegates Building Renovation	7,050,000	0	0	0	0	7,050,000
DE0201B	BPW: Old Senate Chamber	3,000,000	0	0	0	0	3,000,000 <sup>1</sup>
DE0201C	BPW: New Catonsville District Court	1,500,000	0	0	0	0	1,500,000
DE0201D	BPW: State House Exhibits	140,000	0	0	0	0	140,000
DH0104	MD: Military Department Armory Program	0	0	0	0	27,823,000	27,823,000
FB04A	DoIT: Public Safety Communication System	10,000,000	0	0	0	0	10,000,000
FB04B	DoIT: One Maryland Broadband Network	5,800,000	0	0	0	43,762,819	49,562,819
Subject Category Subtotal:		\$28,934,000	\$0	\$0	\$0	\$71,585,819	\$100,519,819
Health/Social							
DT01A	MIEMSS: Emergency Medical Systems Communication System	\$1,000,000	\$0	\$0	\$0	\$0	\$1,000,000
MA01A	DHMH: Community Health Facilities Grant Program	3,568,000	0	0	0	0	3,568,000
MA01B	DHMH: Federally Qualified Health Centers Grant Program	2,002,000	0	0	0	0	2,002,000
MI0401A	DHMH: Deer’s Head Hospital Center Kidney Dialysis Unit	6,124,000	0	0	0	0	6,124,000
RQ00A	UMMS: Trauma, Critical Care, and Emergency Medicine Services Expansion Project	10,000,000	0	0	0	0	10,000,000
ZA00E	MISC: Johns Hopkins Medicine – Cardiovascular and Critical Care Tower	5,500,000	0	0	0	0	5,500,000
ZA00F	MISC: Kennedy Krieger Institute – Comprehensive Autism Center	1,000,000	0	0	0	0	1,000,000

Budget Code	Project Title	Bonds		Current Funds (PAYGO)			
		General Obligation	Revenue	General	Special	Federal	Total Funds
ZA00N	MISC: Prince George’s Hospital System	4,000,000	0	0	0	0	4,000,000
ZA00O	MISC: Sinai Hospital – Neurological Rehabilitation Center	1,000,000	0	0	0	0	1,000,000
ZA01A	MISC: Anne Arundel Medical Center	300,000	0	0	0	0	300,000
ZA01B	MISC: Dorchester General Hospital	1,000,000	0	0	0	0	1,000,000
ZA01C	MISC: Maryland General Hospital	1,000,000	0	0	0	0	1,000,000
ZA01D	MISC: Mercy Medical Center	2,700,000	0	0	0	0	2,700,000
<b>Subject Category Subtotal:</b>		<b>\$39,194,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$39,194,000</b>
<b>Environment</b>							
DA1302	MEA: Jane E. Lawton Loan Program	\$0	\$0	\$0	\$2,500,000	\$0	\$2,500,000
DA1303	MEA: State Agency Loan Program	0	0	0	2,500,000	0	2,500,000
KA05A	DNR: Community Parks and Playgrounds	2,500,000	0	0	0	0	2,500,000
KA05B	DNR: Rural Legacy Program	4,515,000	0	0	0	0	4,515,000
KA05C	DNR: Natural Resources Development Fund	3,450,000	0	0	0	0	3,450,000
KA05D	DNR: Program Open Space	28,459,000	0	0	1,500,000	3,000,000	32,959,000
KA05E	DNR: Critical Maintenance Program	3,380,000	0	0	0	0	3,380,000
KA05F	DNR: Dam Rehabilitation Program	1,045,000	0	0	0	0	1,045,000
KA05G	DNR: Ocean City Beach Replenishment Fund	1,000,000	0	0	1,000,000	0	2,000,000
KA05H	DNR: Waterway Improvement Fund	7,347,000	0	0	410,000	500,000	8,257,000
KA17A	DNR: Oyster Habitat Restoration Projects	1,000,000	0	0	0	0	1,000,000
LA11A	MDA: Agricultural Land Preservation Program	4,367,000	0	0	4,200,000	0	8,567,000
LA12A	MDA: Tobacco Transition Program	0	0	0	1,238,000	0	1,238,000
LA15A	MDA: Maryland Agricultural Cost-Share Program	6,000,000	0	0	0	0	6,000,000
UA010312	MDE: Septic System Upgrade Program	0	0	0	8,500,000	0	8,500,000
UA01A	MDE: Enhanced Nutrient Removal	146,825,000	180,000,000	0	0	0	326,825,000
UA01B	MDE: Maryland Water Quality Revolving Loan Fund	9,856,000	0	0	83,836,000	47,308,000	141,000,000
UA01C	MDE: Maryland Drinking Water Revolving Loan Fund	1,970,000	0	0	5,182,000	6,348,000	13,500,000
UA04A1	MDE: Biological Nutrient Removal Program	30,900,000	0	0	0	0	30,900,000

Budget Code	Project Title	Bonds		Current Funds (PAYGO)			Total Funds
		General Obligation	Revenue	General	Special	Federal	
UA04A2	MDE: Supplemental Assistance Program	5,000,000	0	0	0	0	5,000,000
UA04B	MDE: Water Supply Financial Assistance Program	2,500,000	0	0	0	0	2,500,000
<b>Subject Category Subtotal:</b>		<b>\$260,114,000</b>	<b>\$180,000,000</b>	<b>\$0</b>	<b>\$110,866,000</b>	<b>\$57,156,000</b>	<b>\$608,136,000</b>
<b>Public Safety</b>							
QB02	DPSCS: Maryland House of Correction Deconstruction Project	\$500,000	\$0	\$0	\$0	\$0	\$500,000
QB0402A	DPSCS: Housing Unit Windows and Heating Systems	9,729,000	0	0	0	0	9,729,000
QP00A	DPSCS: Baltimore City Detention Center Dining Room Renovation	1,500,000	0	0	0	0	1,500,000
WA01A	DSP: Barrack P Land Acquisition	760,000	0	0	0	0	760,000
WA01B	DSP: Helicopter Replacement	22,650,000	0	0	0	0	22,650,000
ZB02A	DPSCS: Cecil County Detention Center	4,955,000	0	0	0	0	4,955,000
<b>Subject Category Subtotal:</b>		<b>\$40,094,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$40,094,000</b>
<b>Education</b>							
DE0202A	PSCP: Public School Construction Program	\$240,344,000	\$0	\$47,500,000	\$0	\$0	\$287,844,000
DE0202AQ	PSCP: Qualified Zone Academy Bond Program	15,902,000	0	0	0	0	15,902,000
DE0202B	PSCP: Aging School Program	8,609,000	0	0	0	0	8,609,000
RA01A	MSDE: Public Library Grant Program	4,000,000	0	0	0	0	4,000,000
RA01B	MSDE: Western Maryland Regional Library	2,500,000	0	0	0	0	2,500,000
RE01A	MSDE: New Fire Alarm and Emergency Notification System	332,000	0	0	0	0	332,000
ZA00Q	MISC: Maryland School for the Blind Life Education Building	4,000,000	0	0	0	0	4,000,000
<b>Subject Category Subtotal:</b>		<b>\$275,687,000</b>	<b>\$0</b>	<b>\$47,500,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$323,187,000</b>

Budget Code	Project Title	Bonds		Current Funds (PAYGO)			
		General Obligation	Revenue	General	Special	Federal	Total Funds
	<b>Higher Education</b>						
RB21A	UMB: Health Sciences Research Facility III	\$4,000,000	\$0	\$0	\$0	\$0	\$4,000,000
RB22A	UMCP: Physical Sciences Complex	30,100,000	0	0	0	0	30,100,000
RB22B	UMCP: Campuswide Building System and Infrastructure	5,000,000	0	0	0	0	5,000,000
RB23A	BSU: Campuswide Site Improvements	1,757,000	0	0	0	0	1,757,000
RB23C	BSU: Bulldog Football Stadium Field Lights	500,000	0	0	0	0	500,000
RB23D	BSU: Bulldog Football Stadium: Field House Renovation and Addition	700,000	0	0	0	0	700,000
RB24A	TU: Campuswide Safety and Circulation Improvements	1,200,000	0	0	0	0	1,200,000
RB25A	UMES: New Engineering and Aviation Sciences Building	3,600,000	0	0	0	0	3,600,000
RB26A	FSU: New Center for Communications and Information Technology	10,054,000	0	0	0	0	10,054,000
RB28A	UB: New Law School Building	41,493,000	0	0	0	0	41,493,000
RB29A	SU: Gymnasium Renovations and Repairs	1,500,000	0	0	0	0	1,500,000
RB31A	UMBC: New Performing Arts and Humanities Facility	31,200,000	10,000,000	0	0	0	41,200,000
RB36RB	USMO: Capital Facility Renewal	0	17,000,000	0	0	0	17,000,000
RC00A	BCCC: Main Building Renovation	2,250,000	0	0	0	0	2,250,000
RI00A	MHEC: Community College Facilities Grant Program	58,091,000	0	0	0	0	58,091,000
RM00A	MSU: New Center for the Built Environment	4,000,000	0	0	0	0	4,000,000
RM00B	MSU: New School of Business Complex	921,000	0	0	0	0	921,000
RM00C	MSU: Lillie Carroll Jackson Museum Renovation	50,000	0	0	0	0	50,000
RM00D	MSU: New Jenkins Behavioral and Social Sciences Center	1,400,000	0	0	0	0	1,400,000
ZA00H	MICUA: Johns Hopkins University	3,000,000	0	0	0	0	3,000,000
ZA00I	MICUA: Maryland Institute College of Art	3,000,000	0	0	0	0	3,000,000
ZA00J	MICUA: Mount St. Mary's University	1,500,000	0	0	0	0	1,500,000

Budget Code	Project Title	Bonds		Current Funds (PAYGO)			
		General Obligation	Revenue	General	Special	Federal	Total Funds
ZA00K	MICUA: Washington College	2,500,000	0	0	0	0	2,500,000
ZA08A	SMHEC: Southern Maryland Higher Education Center	935,000	0	0	0	0	935,000
<b>Subject Category Subtotal:</b>		<b>\$208,751,000</b>	<b>\$27,000,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$235,751,000</b>
<b>Housing/Community Development</b>							
D40W0111	MDOP: Maryland Historical Preservation Loan Program	\$0	\$0	\$0	\$100,000	\$0	\$100,000
D40W1112	MDOP: Sustainable Communities Tax Credit Program	0	0	7,000,000	0	0	7,000,000
DW0108A	MDOP: Riverside Interpretive Trail and Exhibit Stations	1,001,000	0	0	0	0	1,001,000
DW0110	MDOP: African American Heritage Preservation Program	1,000,000	0	0	0	0	1,000,000
S00A2502	DHCD: Community Development Block Grant Program	0	0	0	0	10,000,000	10,000,000
S00A2514	DHCD: MD-BRAC Preservation Loan Program	0	0	0	4,000,000	0	4,000,000
SA24A	DHCD: Community Legacy Program	4,250,000	0	0	0	0	4,250,000
SA24B	DHCD: Neighborhood Business Development Program	4,250,000	0	0	0	2,500,000	6,750,000
SA25A	DHCD: Partnership Rental Housing Program	6,000,000	0	0	0	0	6,000,000
SA25B	DHCD: Homeownership Program	7,500,000	0	0	0	3,000,000	10,500,000
SA25C	DHCD: Shelter and Transitional Housing Facilities Grant Program	2,000,000	0	0	0	0	2,000,000
SA25D	DHCD: Special Loan Programs	7,400,000	0	0	0	3,000,000	10,400,000
S00A2507	DHCD: Rental Housing Programs	0	0	0	15,500,000	8,000,000	23,500,000
<b>Subject Category Subtotal:</b>		<b>\$33,401,000</b>	<b>\$0</b>	<b>\$7,000,000</b>	<b>\$19,600,000</b>	<b>\$26,500,000</b>	<b>\$86,501,000</b>



Budget Code	Project Title	Bonds		Current Funds (PAYGO)			
		General Obligation	Revenue	General	Special	Federal	Total Funds
Local Projects							
ZA00A	MISC: Baltimore Museum of Art	\$2,500,000	\$0	\$0	\$0	\$0	\$2,500,000
ZA00B	MISC: East Baltimore Biotechnology Park	2,500,000	0	0	0	0	2,500,000
ZA00C	MISC: Charles E. Smith Life Communities	675,000	0	0	0	0	675,000
ZA00G	MISC: Maryland Hall for the Creative Arts	250,000	0	0	0	0	250,000
ZA00L	MISC: Maryland Zoo in Baltimore	2,500,000	0	0	0	0	2,500,000
ZA00M	MISC: National Children’s Museum	3,000,000	0	0	0	0	3,000,000
ZA00P	MISC: St. Ann’s Infant and Maternity Home	750,000	0	0	0	0	750,000
ZA00R	MISC: National Aquarium in Baltimore Infrastructure Improvements	1,000,000	0	0	0	0	1,000,000
ZA00S	MISC: Liberty Road Corridor Infrastructure Improvements	2,000,000	0	0	0	0	2,000,000
ZA00T	MISC: Reece Road Community Health Center	250,000	0	0	0	0	250,000
ZA00U	MISC: Elkridge Volunteer Fire Company	500,000	0	0	0	0	500,000
ZA00V	MISC: Bates Middle School	1,000,000	0	0	0	0	1,000,000
ZA00W	MISC: Annapolis High School	400,000	0	0	0	0	400,000
ZA00X	MISC: Wiley H. Bates Heritage Park	350,000	0	0	0	0	350,000
ZA02	Local Senate Initiatives	7,500,000	0	0	0	0	7,500,000
ZA03	Local House Initiatives	7,500,000	0	0	0	0	7,500,000
Subject Category Subtotal:		\$32,675,000	\$0	\$0	\$0	\$0	\$32,675,000
Transportation							
ZA00D	MISC: InterCounty Connector	\$46,154,501	\$0	\$0	\$0	\$0	\$46,154,501
Subject Category Subtotal:		\$46,154,501	\$0	\$0	\$0	\$0	\$46,154,501
De-authorizations							
ZF00	De-authorizations as Introduced	-\$10,405,000	0	0	0	0	-\$10,405,000
ZF00A	Additional De-authorizations	-13,697,501	0	0	0	0	-13,697,501
Subject Category Subtotal:		-\$24,102,501	0	0	0	0	-\$24,102,501

Budget Code	Project Title	Bonds		Current Funds (PAYGO)			
		General Obligation	Revenue	General	Special	Federal	Total Funds
D55P04	<b>Fiscal 2011 Deficiencies</b>						
		\$0	\$0	\$0	\$0	\$3,873,000	\$3,873,000
	<b>Subject Category Subtotal:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$3,873,000</b>	<b>\$3,873,000</b>
	<b>Non-transportation Total</b>	<b>\$940,902,000</b>	<b>\$207,000,000</b>	<b>\$54,500,000</b>	<b>\$130,466,000</b>	<b>\$159,114,819</b>	<b>\$1,491,982,819<sup>1</sup></b>
	<b>Transportation</b>	<b>\$0</b>	<b>\$355,000,000</b>	<b>\$0</b>	<b>\$423,685,000</b>	<b>\$827,751,000</b>	<b>\$1,606,436,000</b>
	<b>Grand Total</b>	<b>\$940,902,000</b>	<b>\$562,000,000</b>	<b>\$54,500,000</b>	<b>\$554,151,000</b>	<b>\$986,865,819</b>	<b>\$3,098,418,819</b>

BCCC: Baltimore County Community College  
 BPW: Board of Public Works  
 BSU: Bowie State University  
 DHCD: Dept. of Housing and Community Development  
 DHMH: Department of Health and Mental Hygiene  
 DoIT: Department of Information Technology  
 DNR: Department of Natural Resources  
 DPSCS: Dept. of Public Safety and Correctional Services  
 DSP: Department of State Police  
 FSU: Frostburg State University  
 MD: Military Department  
 MDA: Maryland Department of Agriculture

MD-BRAC: Maryland Base Realignment and Closure  
 MDE: Maryland Department of the Environment  
 MDOD: Maryland Department of Disabilities  
 MDOP: Maryland Department of Planning  
 MEA: Maryland Energy Administration  
 MHEC: Maryland Higher Education Commission  
 MICUA: Maryland Independent College and University Association  
 MIEMSS: Maryland Institute Emergency Medical Services System  
 MISC: miscellaneous  
 MSDE: Maryland State Department of Education  
 MSU: Morgan State University  
 PAYGO: pay-as-you-go

PSCP: Public School Construction Program  
 SMHEC: Southern Maryland Higher Education Commission  
 SU: Salisbury University  
 TU: Towson University  
 UB: University of Baltimore  
 UMB: University of Maryland, Baltimore  
 UMBC: University of Maryland Baltimore County  
 UMCP: University of Maryland, College Park  
 UMES: University of Maryland Eastern Shore  
 UMMS: University of Maryland Medical System  
 USMO: University System of Maryland Office

<sup>1</sup> Includes \$15,902,000 of Qualified Zone Academy Bonds.

**Exhibit A-2.3**  
**Legislative Projects/Initiatives – 2011 Session**

<b><u>Project Title</u></b>	<b><u>House Initiative</u></b>	<b><u>Senate Initiative</u></b>	<b><u>Other</u></b>	<b><u>Total Funding</u></b>	<b><u>Match/ Requirements</u></b>
<b>Allegany</b>					
Allegany Museum	\$100,000	\$50,000		\$150,000	Soft(all)
Cumberland City Market	50,000	50,000		100,000	Hard
<b>Subtotal:</b>				<b>\$250,000</b>	
<b>Anne Arundel</b>					
Andover Field Renovations	75,000	25,000		\$100,000	Hard
Annapolis and Anne Arundel County Conference and Visitors Bureau Center		50,000		50,000	Soft(all)
Annapolis Market House	250,000			250,000	Hard
Arundel Lodge Expansion	100,000	100,000		200,000	Hard
Carroll Field Puglise Stadium Field Lights		100,000		100,000	Soft(2)
Charles Carroll House		75,000		75,000	Soft(2,3)
Clay Street Development	100,000			100,000	Soft(1,2)
Reece Road Community Health Center			\$250,000	250,000	Soft (all)
South River High School Media Center		50,000		50,000	Soft(all)
<b>Subtotal:</b>				<b>\$1,175,000</b>	
<b>Baltimore City</b>					
American Visionary Art Museum	55,000			\$55,000	Soft(2)
Dayspring Square	50,000			50,000	Hard
Delta Lambda Foundation Head Start Facility	150,000			150,000	Soft(2)
Doctor Christina Phillips Community Center	100,000			100,000	Soft(3)

<u>Project Title</u>	<u>House Initiative</u>	<u>Senate Initiative</u>	<u>Other</u>	<u>Total Funding</u>	<u>Match/ Requirements</u>
Dr. Bob's Place – A Hospice for Children		50,000		50,000	Soft(all)
Garrett-Jacobs Mansion Ballroom		25,000		25,000	Soft(2,3)
Habitat for Humanity of the Chesapeake	250,000			250,000	Hard
Historic Diamond Press Building	50,000			50,000	Soft(all)
In Our House Homeless Youth Center	125,000	175,000		300,000	Soft(all)
Junior League of Baltimore Thrift Store	215,000	50,000		265,000	Soft(all)
Mary Harvin Transformation Center		125,000		125,000	Soft(all)
Maryland Center of Veterans Education and Training		90,000		90,000	Soft(2)
Mattie B. Uzzle Outreach Center	175,000	150,000		325,000	Soft(all)
Morgan Mill Facility		100,000		100,000	Hard
Mount Vernon Place Conservancy	100,000			100,000	Hard
Park Heights Women and Children Center		100,000		100,000	Hard
Parks and People Headquarters at Auchentoroly Terrace	50,000			50,000	Hard
St. Elizabeth School Roof Replacement	50,000	50,000		100,000	Soft(3)
St. Francis Xavier Head Start		125,000		125,000	Soft(all)
Star-Spangled Banner Flag House		150,000		150,000	Soft(all)
Town Theatre Renovation		60,000		60,000	Soft(1,3)
<b>Subtotal:</b>				<b>\$2,620,000</b>	
<b>Baltimore</b>					
Augsburg Lutheran Home of Maryland	150,000	150,000		\$300,000	Hard
Career Development Center	250,000			250,000	Hard
Comet Booster Club Concession Stand	65,000			65,000	Hard
Good Shepherd Student Courtyard Renovation		100,000		100,000	Soft(2)
Jewish Community Services Addition		175,000		175,000	Hard

<b><u>Project Title</u></b>	<b><u>House Initiative</u></b>	<b><u>Senate Initiative</u></b>	<b><u>Other</u></b>	<b><u>Total Funding</u></b>	<b><u>Match/ Requirements</u></b>
Todd's Inheritance		175,000		175,000	Soft(1)
United Cerebral Palsy Adult Daycare Facility	125,000			125,000	Grant
<b>Subtotal:</b>				<b>\$1,190,000</b>	
<b>Calvert</b>					
North Beach Public Works Building		200,000		\$200,000	Soft(1)
<b>Subtotal:</b>				<b>\$200,000</b>	
<b>Cecil</b>					
Girl Scouts Conowingo Water System	250,000			\$250,000	Soft(all)
Plumpton Park Zoological Garden	100,000			100,000	Soft(2)
<b>Subtotal:</b>				<b>\$350,000</b>	
<b>Charles</b>					
Bel Alton High School Community Development Center		100,000		\$100,000	Soft(1,2)
Greater Baden Medical Services Facility		200,000		200,000	Grant
Maryland Veterans Memorial Museum	100,000			100,000	Soft(2)
<b>Subtotal:</b>				<b>\$400,000</b>	
<b>Dorchester</b>					
Chesapeake Grove – Senior Housing and Intergenerational Center		45,000		\$45,000	Soft(1)
Dorchester Center for the Arts – Atrium Entrance		40,000		40,000	Soft(2)
Replica Choptank River Lighthouse	150,000	80,000		230,000	Soft(2,3)
<b>Subtotal:</b>				<b>\$315,000</b>	

<b><u>Project Title</u></b>	<b><u>House Initiative</u></b>	<b><u>Senate Initiative</u></b>	<b><u>Other</u></b>	<b><u>Total Funding</u></b>	<b><u>Match/ Requirements</u></b>
<b>Frederick</b>					
Cultural Arts Center	25,000	100,000		\$125,000	Soft(all)
Frederick Alliance For Youth – Youth and Community Center	200,000	175,000		375,000	Hard
Weinberg Center for the Arts	75,000	75,000		150,000	Hard
<b>Subtotal:</b>				<b>\$650,000</b>	
<b>Garrett</b>					
HART Animal Adoption Center		125,000		\$125,000	Hard
<b>Subtotal:</b>				<b>\$125,000</b>	
<b>Howard</b>					
Former Ellicott City Post Office		175,000		\$175,000	Soft(1,2)
Mount Pleasant Farm House	50,000	75,000		125,000	Hard
The Arc of Howard County – Grae Loch Home Renovation	145,000			145,000	Soft(2)
<b>Subtotal:</b>				<b>\$445,000</b>	
<b>Montgomery</b>					
American Film Institute Silver Theatre and Cultural Center	250,000	125,000		\$375,000	Soft(2)
Battleridge Place Stream Valley Restoration		20,000		20,000	Hard
Cardinal McCarrick Center	125,000			125,000	Hard
Discovery Sports Center	30,000			30,000	Hard
Glenbrooke Stormwater Management Pond Renovation		30,000		30,000	Hard
Homecrest House		119,000		119,000	Hard
Ivymount School Annex Building	100,000	100,000		200,000	Soft(all)
JCCGW Theatre Renovation	100,000	115,000		215,000	Hard
Jewish Social Service Agency	100,000	235,000		335,000	Hard
Lewisberry Corridor Lighting Improvement		30,000		30,000	Hard

<u>Project Title</u>	<u>House Initiative</u>	<u>Senate Initiative</u>	<u>Other</u>	<u>Total Funding</u>	<u>Match/ Requirements</u>
MacDonald Knolls Center	100,000	100,000		200,000	Soft(U,2)
Mental Health Association HVAC Replacement	40,000	35,000		75,000	Hard
Noyes Children’s Library Renovations		50,000		50,000	Hard
Olney Theatre Center		150,000		150,000	Soft(3)
Orthodox Congregation of Silver Spring Preschool Building Repair		48,000		48,000	Soft(2,3)
Poole’s Store Restoration		50,000		50,000	Soft(all)
Renovation of Falling Green at OBGC Park	150,000			150,000	Soft(all)
Rockville Swim and Fitness Center – Renovation of Locker Room Facility		20,000		20,000	Soft(all)
Seneca Park North		18,000		18,000	Hard
Warner Manor		100,000		100,000	Soft(all)
Water Park at Bohrer Park	125,000	80,000		205,000	Hard
<b>Subtotal:</b>				<b>\$2,545,000</b>	
<b>Prince George’s</b>					
African American Museum and Cultural Center	75,000			\$75,000	Soft(2)
Arthur & Mary E. Ridgley, Sr. Museum Phase I	150,000			150,000	Soft(1)
Battle of Bladensburg Visitor Center and Monument		125,000		125,000	Soft(1,3)
Berkshire Neighborhood Park Renovation		200,000		200,000	Soft(1,3)
Capital Heights Seat Pleasant Boys and Girls Club Initiative	75,000	25,000		100,000	Soft(all)
Civic Center Design Drawings	75,000			75,000	Soft(1)
Community Safety and Surveillance Systems		120,000		120,000	Grant
Crossland High School	30,000			30,000	Hard
Greenbelt Arts Center	25,000			25,000	Soft(all)
Joe’s Movement Emporium		50,000		50,000	Soft(2)
Laurel Armory Anderson Murphy Community Center		200,000		200,000	Soft(3)
Laurel Police Department Facility – Community Space	100,000			100,000	Soft(3)
M-NCPPC’s Field Lights	300,000			300,000	Hard

<b><u>Project Title</u></b>	<b><u>House Initiative</u></b>	<b><u>Senate Initiative</u></b>	<b><u>Other</u></b>	<b><u>Total Funding</u></b>	<b><u>Match/ Requirements</u></b>
My Sister's Keeper Group Homes	100,000	50,000		150,000	Soft(1)
New Horizons Disability Job Training and Recycling Center	150,000			150,000	Hard(U)
Riverdale Park Town Hall Expansion	100,000	175,000		275,000	Hard
Vesta Glenarden Facility		100,000		100,000	Hard
Whitemarsh Turf Field		80,000		80,000	Hard
<b>Subtotal:</b>				<b>\$2,305,000</b>	
<b>Queen Anne's</b>					
Chesterwye Center – Jessie's House		125,000		\$125,000	Soft(all)
<b>Subtotal:</b>				<b>\$125,000</b>	
<b>Somerset</b>					
Teackle Mansion and the Sarah Martin Done House		120,000		\$120,000	Soft(1,3)
<b>Subtotal:</b>				<b>\$120,000</b>	
<b>Talbot</b>					
Chesapeake Bay Maritime Museum Bulkhead Replacement		30,000		\$30,000	Soft(1)
Talbot Hospice Expansion		30,000		30,000	Hard
<b>Subtotal:</b>				<b>\$60,000</b>	
<b>Wicomico</b>					
Salisbury Zoological Park Animal Health Clinic Phase II and III	200,000			\$200,000	Soft(3)
Tri-County Multi-Purpose Center	270,000	30,000		300,000	Hard
<b>Subtotal:</b>				<b>\$500,000</b>	



<u>Project Title</u>	<u>House Initiative</u>	<u>Senate Initiative</u>	<u>Other</u>	<u>Total Funding</u>	<u>Match/ Requirements</u>
<b>Statewide</b>					
Broad Creek Maryland Boy Scouts of America Ecology Conservation Learning Center	250,000			\$250,000	Soft(2)
Camp Fairlee Manor	125,000			125,000	Soft(2)
Linwood Center	250,000	250,000		500,000	Hard
Little Sisters of the Poor – Boiler Room	125,000	125,000		250,000	Soft(all)
Maryland Food Bank	250,000	250,000		500,000	Soft(all)
Maryland Historical Society		250,000		250,000	Grant
National Aquarium in Baltimore			1,000,000	1,000,000	Hard
<b>Subtotal:</b>				<b>\$2,875,000</b>	
<b>Total Senate and House Initiatives</b>	<b>\$7,500,000</b>	<b>\$7,500,000</b>	<b>\$1,250,000</b>		

Match Key: 1 = Real Property; 2 = In Kind Contribution; 3 = Prior Expended Funds; U = Unequal Match

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## **Operating Budget Relief and Fund Transfers**

As shown in **Exhibit A-2.4**, the GO bond program was used to reduce operating budget appropriations and to replace funds transferred from various capital accounts to the general fund. The fiscal situation continues to limit the use of PAYGO funds to support the capital program and has resulted in the shift of funding for certain grant and loan programs to the bond program. In addition, GO bond funds have been used to fund the State's commitment to the InterCounty Connector in lieu of using general funds. Moreover, the use of fund transfers, including fund balance and estimated fiscal 2012 fund revenues, from various capital program special fund accounts is a major component of the fiscal 2012 budget plan, impacting both the operating and capital budgets. In total, the fiscal 2012 budget includes transfers amounting to \$192.8 million, comprised of \$58.6 million of fund balance and another \$134.2 million of fiscal 2012 revenues that would otherwise be appropriated as special funds in the fiscal 2012 budget. The planned replacement is to be spread out over three fiscal years with \$99.6 million replaced in fiscal 2012, \$51.1 million in fiscal 2013, \$46.3 million in fiscal 2014, and \$25.2 million in fiscal 2014. **Exhibit A-2.5** illustrates the proposed fund transfers and multi-year GO bond replacement plan for fiscal 2012, and **Exhibit A-2.6** illustrates the transfers and multi-year replacement associated with both fiscal 2011 and 2012 as they overlap.

### Exhibit A-2.4 Operating Budget Relief

**(\$ in Millions)**

- **InterCounty Connector Funding:** Budgeted at \$57.6 million in the capital budget as introduced, the amount was reduced to \$46.2 million in the capital budget as passed to reflect a more fiscally prudent cash flow projection and the anticipated fiscal 2012 expenditures for the project. The required statutory changes are included in the Budget Reconciliation and Financing Act of 2011 (BRFA) that would require budgeting the remaining \$21.8 million in fiscal 2013 to complete the State's \$264.9 million support of the project from either general funds or general obligation (GO) bonds.

\$46.2
  
- **Special Fund Revenue and Fund Balance Replacement:** The budgets and the BRFAs of 2010 and 2011 provide for the transfer of \$611.3 million of unexpended fund balance and estimated fiscal 2011 and 2012 revenue from multiple capital program accounts. A multi-year GO bond replacement plan included \$279.2 million in the fiscal 2011; \$207.6 million in fiscal 2012; and \$105.7 programmed for fiscal 2013 and 2014 as reflected in the 2011 *Capital Improvement Program*.

206.1
  
- **Medevac Helicopter Replacement:** Multi-year plan to use GO bond funds to fund the replacement of the Medevac helicopter fleet in place of using special funds from the Helicopter Replacement Fund.

22.7
  
- **Use of GO Bond Funds to Fund Capital Programs Traditionally Funded with General Funds:** This principally includes funding for grant and loan programs administered by the Department of Housing and Community Development and the Maryland Department of the Environment and the use of bonds to fund the Public Safety Communication System and Aging Schools Program.

39.0

<b>Total</b>	<b>\$314.0</b>
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Source: Fiscal 2012 Operating and Capital Budgets; Budget Reconciliation and Financing Act of 2010 and 2011

**Exhibit A-2.5**  
**Fiscal 2012 Fund Transfers and Multi-year General Obligation Bond Replacement Plan**  
(\$ in Millions)

<u>Program</u>	<u>Transfers</u>			<u>Fund Replacement</u>				
	<u>Prior Special Fund Balance</u>	<u>FY 2012 Special Funds</u>	<u>Total Transfers</u>	<u>Prior Funds – Replaced in FY 2012</u>	<u>FY 2012 Special Funds – Replaced in FY 2012</u>	<u>FY 2012 Special Funds – Replaced in FY 2013</u>	<u>FY 2012 Special Funds – Replaced in FY 2014</u>	<u>Total Amount of Fund Transfers to Be Replaced in the CIP</u>
Waterway Improvement Program	\$0.0	\$1.1	\$1.1	\$0.0	\$1.1	\$0.0	\$0.0	\$1.1
Transfer Tax Fiscal 2010 Overattainment	8.6	0.0	8.6	0.0	0.0	0.0	0.0	0.0
Program Open Space (POS) – Stateside	0.0	21.6	21.6	0.0	4.8	7.2	7.2	19.2
POS – Local	0.0	20.8	20.8	0.0	6.9	6.9	6.9	20.8
Rural Legacy	0.0	13.8	13.8	0.0	0.0	4.6	4.6	9.2
Ocean City Beach Replenishment – POS	0.0	1.0	1.0	0.0	1.0	0.0	0.0	1.0
Natural Resources Development Fund	0.0	4.6	4.6	0.0	0.3	2.8	0.0	3.1
Critical Maintenance Program	0.0	4.0	4.0	0.0	3.0	0.0	0.0	3.0
Dam Rehabilitation Program	0.0	0.5	0.5	0.0	0.5	0.0	0.0	0.5
Neighborhood Business Development	0.0	2.1	2.1	0.0	2.1	0.0	0.0	2.1
Homeownership Programs	0.0	1.5	1.5	0.0	1.5	0.0	0.0	0.0
Special Loan Programs	0.0	2.2	2.2	0.0	2.2	0.0	0.0	2.2
Tobacco Transition Program	0.0	1.5	1.5	0.0	0.0	0.0	0.0	0.0
Agricultural Land Preservation Program	0.0	19.6	19.6	0.0	4.4	6.5	6.5	17.4
Bay Restoration Fund	50.0	40.0	90.0	50.0	21.8	18.2	0.0	90.0
<b>Total</b>	<b>\$58.6</b>	<b>\$134.2</b>	<b>\$192.8</b>	<b>\$50.0</b>	<b>\$49.6</b>	<b>\$46.3</b>	<b>\$25.2</b>	<b>\$171.3</b>
Special Fund Transfer Sources:				<b>Total Special Funds Replaced in Fiscal 2012:</b>				<b>\$99.6</b>
Transfer Tax	\$94.5			Special Funds Not Replaced in FY 2012:				
Bay Restoration Fund	90.0			POS – Stateside*				\$2.4
Housing Programs	5.8			Agricultural Land Preservation*				2.2
Waterway Improvement Fund	1.1			Natural Resources Development**				1.5
<b>Total to Be Transferred to General Fund</b>	<b>\$191.3</b>			Critical Maintenance Program**				1.0
				Rural Legacy FY 2012 revenue				4.6
				Transfer Tax FY 2010***				8.6
				<b>Total Not Replaced in FY 2012:</b>				<b>\$20.3</b>

CIP: *Capital Improvement Program*

\*Indicates amount overfunded with general obligation (GO) bonds in fiscal 2011 resulting in adjusted fiscal 2012 GO bond replacement amount.

\*\*Indicates amount not to be replaced based on other budget priorities.

\*\*\*Indicates amount that will be considered for GO bond replacement in fiscal 2013, but no decision has been made or the amount reflected in the capital program for fiscal 2013.

Source: Department of Budget and Management

**Exhibit A-2.6**  
**Fiscal 2011 and 2012 Fund Transfers and**  
**Multi-year General Obligation Bond Replacement Plan**  
**(\$ in Millions)**

<u>Program</u>	<u>Transfers</u>				<u>Fund Replacement</u>					
	<u>Prior Special Fund Balance</u>	<u>Special Funds FY 2011</u>	<u>Special Funds FY 2012</u>	<u>Total Transfers</u>	<u>Amount Replaced in FY 2011</u>	<u>Amount to Be Replaced in FY 2012</u>	<u>Amount to Be Replaced in FY 2013</u>	<u>Amount to Be Replaced in FY 2014</u>	<u>Total Amount of Fund Transfers to Be Replaced in the CIP</u>	<u>Funds Not Replaced</u>
Waterway Improvement Program	\$12.5	\$3.9	\$1.1	\$17.5	\$10.2	\$7.3	\$0.0	\$0.0	\$17.5	\$0.0
Program Open Space (POS) – Stateside	4.6	4.1	21.6	30.3	11.0	4.8	7.2	7.2	30.3	0.0
POS – Local	103.1	0.0	20.8	124.0	54.1	23.6	39.2	6.9	124.0	0.0
Rural Legacy	10.6	10.8	13.8	35.2	17.0	4.5	4.6	4.6	30.6	4.6
Ocean City Beach Replenishment – POS	2.1	1.0	1.0	4.1	3.1	1.0	0.0	0.0	4.1	0.0
Ocean City Beach Replenishment – Local	3.4	0.0	0.0	3.4	3.4	0.0	0.0	0.0	3.4	0.0
Natural Resources Development Fund	17.7	0.0	4.6	22.3	10.1	3.5	4.7	0.0	18.3	4.0
Critical Maintenance Program	3.2	3.2	4.0	10.3	6.3	3.0	0.0	0.0	9.3	1.0
Dam Rehabilitation Program	0.7	0.0	0.5	1.2	0.2	1.0	0.0	0.0	1.2	0.0
House Assessment Program	0.9	0.0	0.0	0.9	0.3	0.4	0.1	0.0	0.7	0.2
Hurricane Isabel Funds	0.2	0.0	0.0	0.2	0.0	0.0	0.0	0.0	0.0	0.2
Neighborhood Business Development	3.6	3.2	2.1	8.8	6.7	2.1	0.0	0.0	8.7	0.1
Community Legacy Program	0.4	0.0	0.0	0.4	0.4	0.0	0.0	0.0	0.4	0.0
Homeownership Programs	0.0	3.0	1.5	4.5	3.0	1.5	0.0	0.0	4.5	0.0
Special Loan Programs	2.1	2.5	2.2	6.8	4.7	2.2	0.0	0.0	6.9	0.0
Tobacco Transition Program	0.0	2.0	1.5	3.5	2.0	0.0	0.0	0.0	0.0	1.5
Agricultural Land Preservation Program	10.0	9.7	19.6	39.2	21.8	4.4	6.5	6.5	39.2	0.0
Bay Restoration Fund	205.0	45.0	40.0	290.0	125.0	146.8	18.2	0.0	290.0	0.0
Transfer Tax Fiscal 2010 Overattainment	8.6	0.0	0.0	8.6	0.0	0.0	0.0	0.0	0.0	8.6
<b>Total</b>	<b>\$388.7</b>	<b>\$88.4</b>	<b>\$134.2</b>	<b>\$611.3</b>	<b>\$279.2</b>	<b>\$206.1</b>	<b>\$80.5</b>	<b>\$25.2</b>	<b>\$592.6</b>	<b>\$20.2</b>

CIP: *Capital Improvement Program*

Source: Department of Budget and Management

## Debt Affordability

As shown in **Exhibit A-2.7**, the long range plan adopted by the Capital Debt Affordability Committee (CDAC) in December 2010 provides for a total of over \$4.65 billion in debt authorizations from 2011 to 2015. The reduction to out-year authorizations is intended to keep State debt within the limits set by CDAC. The Board of Revenue Estimates' (BRE) December 2009 projected revenues made the level of debt proposed by CDAC in the committee's 2008 report unaffordable, resulting in the out-year authorization reductions which were first reflected in the 2009 session *Capital Improvement Program* (CIP). Although the most recent March 2011 BRE revenue estimate reflects moderate growth, the total tax-supported debt to service as a percentage of revenues is projected to remain close to the 8% affordability limit. To remain within the State's affordability limits, the CDAC out-year projections continue to reflect lower new GO bond authorizations as compared to what the committee recommended in its 2008 report.

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**Exhibit A-2.7**  
**Capital Debt Affordability Committee Recommended Levels of**  
**General Obligation Bond Authorizations**  
**2011-2015 Legislative Sessions**  
**(\$ in Millions)**

<u>Session</u>	<u>2008 Report Recommended Authorizations</u>	<u>2010 Report Recommended Authorizations</u>	<u>Authorization Change</u>
2011	\$1,020	\$925	-\$95
2012	1,050	925	-125
2013	1,080	925	-155
2014	1,110	935	-175
2015	1,140	935	-205
<b>Total</b>	<b>\$5,400</b>	<b>\$4,645</b>	<b>-\$755</b>

Source: *Report of the Capital Debt Affordability Committee on Recommended Debt Authorizations*, October 2009 and November 2010

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The MCCBL of 2011 passed by the General Assembly is consistent with the \$925.0 million level of new GO debt authorizations recommended by CDAC. An additional \$24.1 million in GO bonds from prior years is de-authorized in the capital budget of 2011, thereby increasing the amount of new GO debt included in the capital program to \$949.1 million. Included in the \$949.1 million of new debt is \$194.1 million authorized in the MCCBL of 2010 to complete the funding for various projects that were split-funded over fiscal 2011 and 2012 as a mechanism to allow the projects to be bid and construction to commence during fiscal 2011.

The State's capital program for fiscal 2012 also includes other actions that affect debt affordability, debt issuance, and future capital budgets.

- The Maryland Department of the Environment plans to issue \$180.0 million in revenue bonds to fund the upgrade of wastewater treatment plants. Chapter 428 of 2004 established the Bay Restoration Fund and authorized the Administration to issue bonds to provide grants to upgrade the 67 largest wastewater treatment plants in the State. Security for the bonds is the revenues from a fee imposed on users of wastewater facilities, septic systems, and sewage holding tanks. The bonds are considered State tax-supported debt and are, therefore, incorporated in the CDAC's annual debt affordability analysis.
- **House Bill 1213** increases the State sales and use tax imposed on alcoholic beverages from 6 to 9%. The bill requires a supplementary appropriation of \$47.5 million in fiscal 2012 for public school construction projects in local jurisdictions. The Board of Public Works (BPW) must approve the individual projects which may or may not be eligible for funding under the Public School Construction Program. In approving funding for projects, BPW must consider requests from the local jurisdictions and projects that (1) benefit older school buildings; (2) benefit schools with high proportions of children eligible for free and reduced price meals; (3) can be completed within one year; (4) eliminate or reduce the use of relocatable classrooms; (5) are designated as A or B by the Interagency Committee on Public School Construction and are not fully funded in the fiscal 2012 CIP approved by BPW; or (6) reduce energy consumption or incorporate high performance "green" building principles
- **House Bill 1310 (Ch. 163)** exempts capital leases used to finance energy performance contracts from the CDAC determination of tax-supported debt if the energy savings guaranteed by the contractor equal or exceed annual capital lease payments and are monitored in accordance with reporting requirements adopted by CDAC. It further specifies that the capital lease payments may not exceed the actual energy savings realized under the contract.
- **House Bill 71** also amends prior authorization bond bills by extending matching fund deadlines, extending deadlines for expending or encumbering funds, altering the purposes for which funds may be used, modifying certification requirements, renaming grant recipients, or altering project locations which are consolidated into an omnibus bill. Prior to the 2008 session, individual prior authorization bills were passed by the General Assembly. For the 2011 session, the prior authorizations bills approved by the General Assembly are included in the MCCBL of 2011 rather than through an omnibus prior-authorization bill.
- The MCCBL of 2011 includes \$315.9 million of GO bond authorizations that will not take effect until fiscal 2013; of this amount, \$133.5 million is needed to either continue the funding for existing construction contracts or allow projects expected to be contracted during fiscal 2012 to proceed without the full amount of the construction authorization provided in the fiscal 2012 budget, \$75.7 million provides pre-authorizations for various GO bond replacement funding for special fund transfers, and \$42.8 million is needed to provide an authorization for the contract for the replacement of the State's Medevac

helicopters. The MCCBL of 2011 also provides another \$132.1 million that will not take effect until fiscal 2014, and \$7.3 million that will not take effect until fiscal 2015. **Exhibit A-2.8** shows the pre-authorizations for the 2012 through 2014 sessions.

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**Exhibit A-2.8**  
**Pre-authorizations Included in the MCCBL of 2012**  
**For the 2012-2014 Sessions**

<b><u>Project Title</u></b>	<b><u>2012 Session</u></b>	<b><u>2013 Session</u></b>	<b><u>2014 Session</u></b>
BPW: Old Senate Chamber	\$3,000,000		
UMCP: Physical Sciences Complex – Phase I	24,550,000		
UMBC: New Performing Arts Complex	37,350,000	\$37,300,000	
FSU: Center for Communications and Info. Tech.	39,550,000	4,400,000	
BCCC: Main Building Renovation – Admin. Wing	7,800,000		
MHEC: Community College Grant Program	14,643,000		
DNR: Harriet Tubman Underground Railroad State Park	2,850,000		
DNR: Program Open Space – Local	39,230,000	6,947,000	
DNR: Program Open Space – Stateside	7,193,000	7,193,000	
DNR: Rural Legacy	4,589,000	4,589,000	
MDA: Agricultural Land Preservation Program	6,518,000	6,518,000	
MDE: Enhanced Nutrient Removal	18,175,000		
DPSCS: New Youth Detention Facility (BCDC)	41,100,000	21,700,000	
DSP: Helicopter Replacement	42,800,000	20,000,000	\$7,300,000
DJS: New Cheltenham Youth Detention Center	23,550,000	23,500,000	
MISC: Maryland School for the Blind	3,000,000		
<b>Total</b>	<b>\$315,898,000</b>	<b>\$132,147,000</b>	<b>\$7,300,000</b>

BCCC: Baltimore City Community College  
 BCDC: Baltimore City Detention Center  
 BPW: Board of Public Works  
 DJS: Department of Juvenile Services  
 DNR: Department of Natural Resources  
 DPSCS: Department of Public Safety and Correctional Services  
 DSP: Department of State Police  
 FSU: Frostburg State University

MCCBL: Maryland Consolidated Capital Bond Loan  
 MDA: Maryland Department of Agriculture  
 MDE: Maryland Department of Environment  
 MHEC: Maryland Higher Education Commission  
 MISC: miscellaneous  
 UMBC: University of Maryland Baltimore County  
 UMCP: University of Maryland, College Park

Note: The proposed pre-authorization for the Maryland Higher Education Commission Community College Grant Program would allow for the split funding of community college projects started last session by the legislature. This year's list includes \$6,207,000 for Montgomery College Rockville Science East Renovation; \$4,572,000 for the College of Southern Maryland La Plata Renovation and Expansion of the BU/CE buildings; \$1,164,000 for Harford Community College – Susquehanna Center; and \$2,700,000 for the Community College of Baltimore County for the Owings Mills Center.

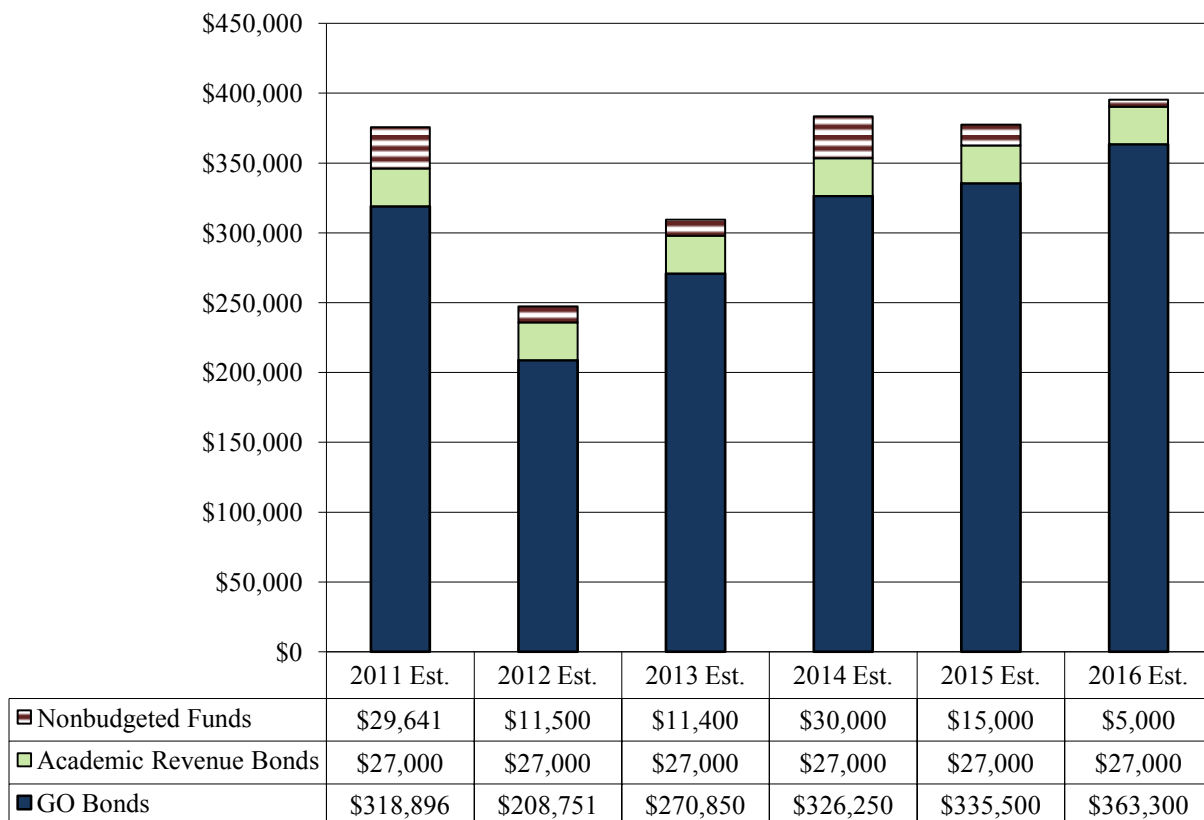
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## Higher Education

The fiscal 2012 capital program for all segments of higher education is \$235.7 million, including GO bonds and academic revenue bonds. Of the total funding, four-year public institutions receive \$165.4 million and independent colleges receive \$10.0 million. Community colleges, including Baltimore City Community College, receive \$60.3 million in fiscal 2012. The CIP, after legislative changes to the fiscal 2012 capital budget, shows \$1.640 billion in State capital spending for higher education projects from fiscal 2012 through 2016. **Exhibit A-2.9** shows the fiscal 2011 and 2012 legislative appropriation for higher education capital projects and the funds anticipated in the CIP for fiscal 2013 through 2016. **Exhibit A-2.10** shows the fiscal 2012 capital funding by institution.

**Exhibit A-2.9**  
**Higher Education Authorized and Planned Out-year Capital Funding**  
**Fiscal 2011-2016**  
**(\$ in Thousands)**



GO: general obligation

**Exhibit A-2.10**  
**Higher Education Capital Funding by Institution**  
**Fiscal 2012**  
**(\$ in Thousands)**

<b><u>Institution</u></b>	<b><u>Capital Funding</u></b>
University of Maryland, Baltimore	\$4,000
University of Maryland, College Park	35,600
Towson University	1,200
Southern Maryland Higher Education Center	935
University of Baltimore	41,493
Bowie State University	2,957
Salisbury University	1,500
University System of Maryland – Facility Renewal	17,000
University of Maryland Eastern Shore	3,600
Frostburg State University	10,054
University of Maryland Baltimore County	41,200
Morgan State University	6,071
Independent Colleges	10,000
Community Colleges	60,341
<b>Total</b>	<b>\$235,751<sup>1</sup></b>

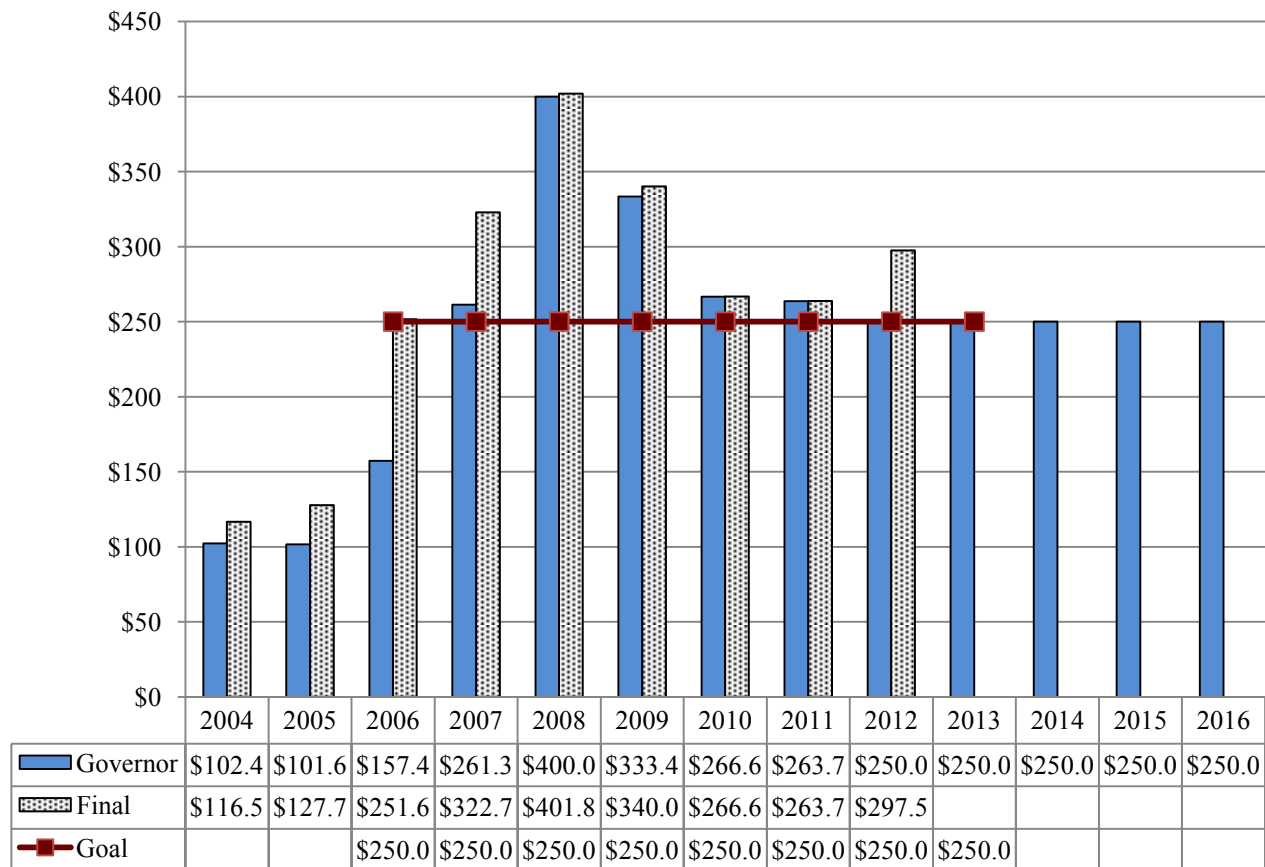
<sup>1</sup> This does not include \$10.0 million authorized for the University of Maryland Medical System. This also does not include \$11.5 million of nonbudgeted funds representing private donor contributions.

## **School Construction**

### **Capital Funding**

The fiscal 2012 capital budget includes \$240.3 million in GO bonds for public school construction. An additional \$9.7 million in unexpended funds from prior years is available from the Statewide Contingency Fund, of which \$6.2 million is reserved for specific local school systems. An additional \$47.5 million of general funds is appropriated through [\*House Bill 1213\*](#) for public school construction projects in local jurisdictions. The local school systems requested approximately \$612.3 million for fiscal 2012, of which \$500.2 million is eligible for State funding. The Public School Facilities Act of 2004 (Chs. 306 and 307) established a State goal to provide \$2.0 billion in State funding over eight years to address school construction needs, or \$250.0 million per year from fiscal 2006 to 2013. Fiscal 2012 will be the seventh consecutive year that the goal has been met or exceeded, with the State providing a total of \$2.15 billion for school construction since fiscal 2006, as illustrated in **Exhibit A-2.11**.

**Exhibit A.2.11**  
**Public School Construction Funding**  
 (\$ in Millions)



### **Aging Schools and Qualified Zone Academy Bond Programs**

The Aging Schools Program is funded with GO bond funds in fiscal 2012. The capital budget as passed by the General Assembly includes \$8.6 million in GO bonds allocated as grants to county boards of education as provided for under § 5-206 of the Education Article.

Public school construction funding is further supplemented with \$15.9 million of QZABs authorized by [House Bill 86](#). QZABS may be used in schools located in federal Enterprise or Empowerment Zones or in schools in which 35% of the student population qualifies for free or reduced price meals. QZAB funds are distributed to local school systems through competitive grants. However, [House Bill 86](#) makes the Breakthrough Center and public charter schools eligible for QZAB distributions.

## **Transfer Tax**

The property transfer tax is the primary funding source for State land conservation programs. In light of the fiscal condition of the State, a number of actions reduce the fiscal 2012 budget appropriations from the transfer tax and direct transfer tax revenues to the general fund. The transfer actions taken affect fiscal 2012 revenues. In each instance, the amount of diverted transfer tax to the general fund is partially replaced with GO bond funds authorized in the MCCBL of 2011 or through pre-authorization provisions included in the MCCBL of 2011 for fiscal 2013 and 2014. **Exhibit A-2.12** shows how transfer tax revenue will be replaced with GO bonds in fiscal 2012, and **Exhibit A-2.13** shows how the fiscal 2012 transfer tax and GO bond replacement is distributed across all operating and capital programs. While Supplemental Budget No. 1 brought in \$8.6 million in fiscal 2010 overattainment not reflected in the fiscal 2012 allowance, this funding was deleted since a corresponding Budget Reconciliation and Financing Act of 2011 provision already transfers the funding to the general fund.

**Exhibit A-2.12**  
**Programs Traditionally Funded with Transfer Tax Revenue**  
**Fiscal 2012**  
**(\$ in Millions)**

	<u>Transfer Tax Special Funds</u>	<u>Other Special Funds</u>	<u>Federal</u>	<u>GO Bonds</u>	<u>Total</u>
<b>Department of Natural Resources</b>					
Program Open Space					
State <sup>1</sup>	\$2.7	\$0.0	\$3.0	\$2.7	\$8.4
Local <sup>2</sup>	0.0	0.0	0.0	23.6	23.6
Capital Development <sup>3</sup>	0.0	0.0	0.0	8.9	8.9
Rural Legacy Program <sup>4</sup>	0.0	0.0	0.0	4.5	4.5
Heritage Conservation Fund	0.0	0.0	0.0	2.1	2.1
<b>Department of Agriculture</b>					
Agricultural Land Preservation <sup>5</sup>	0.0	4.2	0.0	4.4	8.6
<b>Total</b>	<b>\$2.7</b>	<b>\$4.2</b>	<b>\$3.0</b>	<b>\$46.2</b>	<b>\$56.1</b>

<sup>1</sup> The Program Open Space (POS) – State funding reflects \$2.7 million in special funds for the Baltimore City Direct Grant (\$1.5 million) and operating expenses per the Budget Reconciliation and Financing Act of 2011 (\$1.2 million). The \$3.0 million in federal funding reflects a return to a more conservative level of budgeting. In addition, \$2.7 million in general obligation (GO) bond authorization reflects an additional \$0.4 million for the Baltimore City Direct Grant and \$2.3 million for the first year of a planned three-year replacement of fiscal 2012 transfer tax funding directed to the general fund. There is an additional \$7.2 million in GO debt pre-authorized in each of fiscal 2013 and 2014.

<sup>2</sup> The POS – Local funding reflects \$23.6 million in GO bond authorization comprised of \$16.7 million to replace prior year funds transferred to the general fund and \$6.9 million as part of the first year of a planned three-year replacement of fiscal 2012 transfer tax funding directed to the general fund. There is an additional \$39.2 million in GO debt pre-authorized for fiscal 2013 and \$6.9 million for fiscal 2014. The \$39.2 million in fiscal 2013 replaces \$32.3 million of prior year transfer tax funding and provides the second installment of \$6.9 million of fiscal 2012 transfer tax funding directed to the general fund. The \$6.9 million in fiscal 2014 reflects the third and final year of fiscal 2012 replacement funding.

<sup>3</sup> The Capital Development funding of \$8.9 million in GO bond authorization reflects the following:

- Natural Resources Development Fund – \$3.5 million, which is comprised of \$3.2 million to replace prior year funding and \$0.3 million in fiscal 2012 replacement funding;
- Critical Maintenance Program – \$3.4 million, which is comprised of \$3.0 million in fiscal 2012 replacement funding and \$0.4 million in prior year replacement funding;
- Dam Rehabilitation Program – \$1.0 million, which is comprised of \$0.5 million in prior year replacement funding and \$0.5 million in fiscal 2012 replacement funding; and
- Ocean City Beach Replenishment Fund – \$1.0 million in fiscal 2012 replacement funding for the State share of Ocean City beach maintenance.

In addition, there is \$2.9 million of Natural Resources Development Fund GO bond pre-authorization for fiscal 2013 for the Harriet Tubman Underground Railroad State Park – Visitor Center and Site Improvements.

<sup>4</sup> The Rural Legacy Program funding of \$4.5 million in GO bond authorization reflects prior year replacement funding. There is an additional \$4.6 million in GO debt pre-authorized for each of fiscal 2013 and 2014 to replace fiscal 2012 transfer tax funding directed to the general fund.

<sup>5</sup> The Agricultural Land Preservation funding primarily reflects \$4.2 million in county funds. The GO bond authorization of \$4.4 million reflects the first year of a planned three-year replacement of fiscal 2012 transfer tax funding directed to the general fund. There is an additional \$6.5 million in GO debt pre-authorized for each of fiscal 2013 and 2014.

## Exhibit A-2.13

## Distribution of Transfer Tax Revenues to Programs and GO Bond Replacement

	<u>FY 2011 Original</u>	<u>FY 2011 Revised Funding</u>	<u>FY 2012 Formula</u>	<u>FY 2012 Funding</u>	<u>FY 2013 Bond Replacement</u>	<u>FY 2014 Bond Replacement</u>
<b>Revenues</b>						
Budgeted Revenue Estimate	\$149.89	\$113.81	\$118.92	\$118.92		
Less Administrative Expenses	-4.50	-4.50	-3.57	-3.57		
Attainment Adjustment	-52.64	-52.64	0.00	0.00		
Net Available for Allocation	<b>\$92.76</b>	<b>\$56.67</b>	<b>\$115.35</b>	<b>\$115.35</b>		
<b>Allocations</b>						
<b>Program Open Space (POS)</b>						
POS Bonds Debt Service	\$6.80	\$1.21	\$1.56	\$1.56		
POS Local	0.00	0.00	0.00	0.00		
Forest and Park Service	21.00	21.00	21.00	21.00		
Heritage Areas Authority	3.00	3.00	3.00	3.00		
POS State Land Acquisition	0.00	0.00	0.00	0.00		
POS State Rural Legacy	0.00	0.00	0.00	0.00		
POS State Capital Development	0.00	0.00	0.00	0.00		
POS State Park Operating	1.20	1.20	1.20	1.20		
<b>POS Subtotal</b>	<b>\$32.00</b>	<b>\$26.41</b>	<b>\$26.76</b>	<b>\$26.76</b>		
<b>Other Allocations</b>						
Additional State Land Acquisition	\$2.72	\$1.50	\$2.72	\$2.72		
Agricultural Land Preservation	4.00	0.00	0.00	0.00		
Rural Legacy Additional	0.00	0.00	0.00	0.00		
Heritage Conservation Fund	0.00	0.00	0.00	0.00		
<b>Other Subtotal</b>	<b>\$6.72</b>	<b>\$1.50</b>	<b>\$2.72</b>	<b>\$2.72</b>		
<b>Total Transfer Tax Allocations</b>	<b>\$38.72</b>	<b>\$27.91</b>	<b>\$29.48</b>	<b>\$29.48</b>		
<b>GO Bond Replacement</b>						
POS State	\$13.08	\$4.11	\$21.58	\$4.82	\$7.19	\$7.19
POS Local	12.35	0.00	20.84	6.95	6.95	6.95
POS State Rural Legacy	8.00	8.00	8.00	0.00	2.67	2.67
POS State Capital Development	4.15	4.15	10.13	4.77	2.84	
Agricultural Land Preservation	7.81	9.66	19.56	4.37	6.52	6.52
Rural Legacy Additional	4.64	2.83	5.77	0.00	1.92	1.92
<b>Total GO Bond Replacement</b>	<b>\$50.04</b>	<b>\$28.75</b>	<b>\$85.87</b>	<b>\$20.91</b>	<b>\$28.09</b>	<b>\$25.25</b>
<b>Total Funding</b>	<b>\$88.75</b>	<b>\$56.66</b>	<b>\$115.35</b>			

Note: Due to revised fiscal 2011 transfer tax revenues, the amount of general obligation (GO) bond replacement authorized in the Maryland Consolidated Capital Bond Loan (MCCBL) of 2010 should have been \$28.75 million rather than the \$54.04 million provided in GO bonds and special funds. Fiscal 2012 authorizations have been adjusted to reflect for the MCCBL of 2010 over-authorizations. Some of these adjustments are made to amounts that were pre-authorized for the 2011 session for Program Open Space (POS) – Local funding. However, adjustment to fiscal 2012 replacement also includes a \$2.37 million negative adjustment to POS – Stateside and \$2.15 million to Agricultural Land Preservation. In addition, the multi-year replacement plan of diverted fiscal 2011 revenues does not replace \$2.51 million for Natural Resources Development and Critical Maintenance projects.

## State Aid to Local Governments

### Overview

State aid to local governments will total \$6.5 billion in fiscal 2012, representing an \$85.6 million increase from the prior year. Local school systems, as in prior years, will receive most of the increase, while funding to county and municipal governments increase slightly after several years of substantial funding reductions. Over the last four years, State aid to local school systems has increased by \$608.4 million, while funding to county and municipal governments has decreased by \$507.1 million. State aid for public schools in fiscal 2012 includes use of \$124.4 million in fiscal 2011 State funds that become available due to the receipt of federal Education Jobs Funds in fiscal 2011. **Exhibit A-3.1** compares State aid by governmental entity in fiscal 2011 and 2012. **Exhibit A-3.2** shows the annual change in State aid over the last four years.

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**Exhibit A-3.1**  
**State Aid to Local Governments**  
**Fiscal 2011 and 2012**  
**(\$ in Millions)**

	<u>2011</u>	<u>2012</u>	<u>Difference</u>	<u>% Difference</u>
Public Schools	\$5,717.5	\$5,774.7	\$57.3	1.0%
Libraries	65.5	65.4	-0.2	-0.3%
Community Colleges	258.1	262.3	4.2	1.6%
Health	37.3	37.3	0.0	0.0%
County/Municipal	375.2	399.6	24.4	6.5%
<b>Total</b>	<b>\$6,453.6</b>	<b>\$6,539.3</b>	<b>\$85.6</b>	<b>1.3%</b>

Source: Department of Legislative Services

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**Exhibit A-3.2**  
**Annual Change in State Aid**  
**Fiscal 2009-2012**  
**(\$ in Millions)**

	<u><b>2009</b></u>	<u><b>2010</b></u>	<u><b>2011</b></u>	<u><b>2012</b></u>	<u><b>Total</b></u>
Public Schools	\$212.9	\$127.1	\$211.1	\$57.3	\$608.4
Libraries	-0.7	0.4	1.7	-0.2	1.2
Community Colleges	13.0	1.5	1.9	4.2	20.6
Health	-9.6	-20.1	0.0	0.0	-29.7
County/Municipal	-168.5	-341.1	-21.9	24.4	-507.1
<b>Total</b>	<b>\$47.1</b>	<b>-\$232.1</b>	<b>\$192.8</b>	<b>\$85.6</b>	<b>\$93.3</b>

Source: Department of Legislative Services

### **Legislative Actions**

The General Assembly approved several measures at the 2011 session that affect State funding for local governments. As shown in **Exhibit A-3.3**, State aid to local governments is reduced by \$154.3 million from statutorily mandated amounts. Retirement payments made on behalf of local governments account for a majority of the State aid reductions. Direct aid to public schools, libraries, and community colleges are also affected along with State funding for Program Open Space and Horse Racing Impact Aid. To partially offset these reductions, the General Assembly approved \$38.2 million in funding enhancements as shown in **Exhibit A-3.4**. In addition to State aid actions, the General Assembly approved measures proposed by the Administration that shift a portion of the costs for property valuations and nonpublic placements. Together, the State aid reductions and cost shifts result in a \$154.4 million net loss in State support for local governments, as shown in **Exhibit A-3.5**.



**Exhibit A-3.3**  
**Reductions in State Aid to Local Governments in Fiscal 2012**  
**From Statutorily Mandated Amounts**

County	Public Schools	Program Open Space	Libraries/ Community Colleges *	Horse Racing Impact Aid	Retirement		Total State Aid Reductions
					Benefit Changes	Administrative Expenses	
Allegany	-\$487,256	-\$155,000	-\$53,367	\$0	-\$993,414	-\$213,454	-\$1,902,491
Anne Arundel	-2,215,485	-1,673,000	-141,107	-345,000	-6,753,523	-1,398,268	-12,526,383
Baltimore City	-5,814,313	-724,000	-453,669	-554,400	-7,116,935	-1,496,569	-16,159,886
Baltimore	-3,997,206	-1,853,000	-370,845	-50,000	-9,293,048	-2,006,009	-17,570,108
Calvert	-617,863	-163,000	-27,516	0	-1,559,265	-309,792	-2,677,436
Caroline	-285,414	-80,000	-19,445	0	-464,364	-113,943	-963,166
Carroll	-1,038,212	-371,000	-72,258	0	-2,355,593	-525,561	-4,362,624
Cecil	-719,715	-198,000	-50,944	0	-1,405,967	-335,977	-2,710,603
Charles	-1,147,421	-335,000	-58,489	0	-2,308,410	-497,199	-4,346,519
Dorchester	-222,564	-79,000	-17,063	0	-397,011	-95,204	-810,842
Frederick	-1,659,258	-381,000	-87,543	0	-3,435,455	-756,855	-6,320,111
Garrett	-141,398	-91,000	-9,257	0	-413,049	-90,751	-745,455
Harford	-1,561,691	-572,000	-109,048	0	-3,302,966	-794,035	-6,339,740
Howard	-1,598,025	-965,000	-59,280	-86,250	-5,591,649	-1,162,104	-9,462,308
Kent	-52,700	-139,000	-6,534	0	-218,636	-51,670	-468,540
Montgomery	-4,186,379	-2,481,000	-194,320	0	-16,077,562	-2,934,899	-25,874,160
Prince George's	-6,408,019	-2,091,000	-401,297	-169,950	-11,660,178	-2,323,686	-23,054,130
Queen Anne's	-226,776	-103,000	-10,034	0	-635,978	-151,757	-1,127,545
St. Mary's	-663,477	-185,000	-42,133	0	-1,372,488	-299,377	-2,562,475
Somerset	-162,125	-49,000	-18,433	0	-274,918	-67,392	-571,868
Talbot	-76,486	-107,000	-7,252	0	-373,314	-83,568	-647,620
Washington	-1,084,463	-293,000	-81,960	0	-1,866,893	-415,018	-3,741,334
Wicomico	-779,566	-203,000	-59,607	0	-1,308,411	-332,299	-2,682,883
Worcester	-121,337	-203,000	-9,824	0	-730,177	-159,851	-1,224,189
Unallocated	0	0	-5,426,001	0	0	0	-5,426,001
<b>Total</b>	<b>-\$35,267,149</b>	<b>-\$13,494,000</b>	<b>-\$7,787,226</b>	<b>-\$1,205,600</b>	<b>-\$79,909,202</b>	<b>-\$16,615,238</b>	<b>-\$154,278,415</b>

\* Unallocated amount includes a \$1.7 million reduction in State Library Network aid and a \$3.7 million reduction in the community college Statewide and Health Manpower Grant Program.

**Exhibit A-3.4**  
**Net Effect on State Aid to Local Governments in Fiscal 2012**  
**From Statutorily Mandated Amounts**

County	State Aid Reductions	State Aid Enhancements			Net Effect on State Aid
		Alcohol Tax Increase *	Highway User Revenues	Aging Schools Program	
Allegany	-\$1,902,491	\$779,882	\$532,983	\$40,019	-\$549,607
Anne Arundel	-12,526,383	0	887,862	207,089	-11,431,432
Baltimore City	-16,159,886	12,223,682	0	567,989	-3,368,215
Baltimore	-17,570,108	0	753,985	357,765	-16,458,358
Calvert	-2,677,436	0	218,481	15,656	-2,443,299
Caroline	-963,166	0	227,507	20,492	-715,167
Carroll	-4,362,624	0	703,371	56,172	-3,603,081
Cecil	-2,710,603	0	344,986	39,296	-2,326,321
Charles	-4,346,519	0	309,438	20,492	-4,016,589
Dorchester	-810,842	0	262,517	15,670	-532,655
Frederick	-6,320,111	0	1,155,836	74,736	-5,089,539
Garrett	-745,455	640,579	236,520	15,670	147,314
Harford	-6,339,740	0	652,172	88,960	-5,598,608
Howard	-9,462,308	0	282,599	35,921	-9,143,788
Kent	-468,540	0	127,897	15,670	-324,973
Montgomery	-25,874,160	0	1,984,675	246,626	-23,642,859
Prince George's	-23,054,130	8,819,879	2,240,559	494,940	-11,498,752
Queen Anne's	-1,127,545	0	154,651	20,492	-952,402
St. Mary's	-2,562,475	0	166,963	20,492	-2,375,020
Somerset	-571,868	0	118,660	15,670	-437,538
Talbot	-647,620	0	282,711	15,670	-349,239
Washington	-3,741,334	0	717,598	55,207	-2,968,529
Wicomico	-2,682,883	0	508,552	43,635	-2,130,696
Worcester	-1,224,189	0	391,701	15,670	-816,818
Unallocated	-5,426,001	0	0		-5,426,001
<b>Total</b>	<b>-\$154,278,415</b>	<b>\$22,464,022</b>	<b>\$13,262,224</b>	<b>\$2,499,996</b>	<b>-\$116,052,173</b>

\* Includes education formula aid enhancements for Allegany and Garrett counties, increased Disparity Grant aid to Prince George's County, and increased Guaranteed Tax Base aid to Baltimore City. Half of the Disparity Grant increase must be provided to the county board of education.

**Exhibit A-3.5**  
**Total Fiscal Effect of Legislative Actions on Local Governments**  
**From Statutorily Mandated Amounts**

County	State Aid Reductions	State Aid Enhancements	Expenditure Transfers			Total Effect
			Property Valuations	Nonpublic Placements	Total Transfers	
Allegany	-\$1,902,491	\$1,352,884	-\$623,490	\$0	-\$623,490	-\$1,173,097
Anne Arundel	-12,526,383	1,094,951	-3,296,364	0	-3,296,364	-14,727,796
Baltimore City	-16,159,886	12,791,671	-3,551,473	0	-3,551,473	-6,919,688
Baltimore	-17,570,108	1,111,750	-4,561,470	0	-4,561,470	-21,019,828
Calvert	-2,677,436	234,137	-620,480	0	-620,480	-3,063,779
Caroline	-963,166	247,999	-245,176	0	-245,176	-960,343
Carroll	-4,362,624	759,543	-990,535	0	-990,535	-4,593,616
Cecil	-2,710,603	384,282	-695,681	0	-695,681	-3,022,002
Charles	-4,346,519	329,930	-1,010,804	0	-1,010,804	-5,027,393
Dorchester	-810,842	278,187	-334,393	0	-334,393	-867,048
Frederick	-6,320,111	1,230,572	-1,297,802	0	-1,297,802	-6,387,341
Garrett	-745,455	892,769	-410,986	0	-410,986	-263,672
Harford	-6,339,740	741,132	-1,467,335	0	-1,467,335	-7,065,943
Howard	-9,462,308	318,520	-1,624,103	0	-1,624,103	-10,767,891
Kent	-468,540	143,567	-187,555	0	-187,555	-512,528
Montgomery	-25,874,160	2,231,301	-5,204,337	0	-5,204,337	-28,847,196
Prince George's	-23,054,130	11,555,378	-4,459,386	0	-4,459,386	-15,958,138
Queen Anne's	-1,127,545	175,143	-360,421	0	-360,421	-1,312,823
St. Mary's	-2,562,475	187,455	-699,627	0	-699,627	-3,074,647
Somerset	-571,868	134,330	-248,563	0	-248,563	-686,101
Talbot	-647,620	298,381	-293,923	0	-293,923	-643,162
Washington	-3,741,334	772,805	-914,020	0	-914,020	-3,882,549
Wicomico	-2,682,883	552,187	-734,750	0	-734,750	-2,865,446
Worcester	-1,224,189	407,371	-978,315	0	-978,315	-1,795,133
Unallocated	-5,426,001	0	0	-3,534,620	-3,534,620	-8,960,621
<b>Total</b>	<b>-\$154,278,415</b>	<b>\$38,226,242</b>	<b>-\$34,810,989</b>	<b>-\$3,534,620</b>	<b>-\$38,345,609</b>	<b>-\$154,397,782</b>

### Reduced Education Aid

Under the Budget Reconciliation and Financing Act of 2011 (BRFA), *House Bill 72 (passed)* the per pupil foundation amount, a key component of State formula aid to public schools is reduced in fiscal 2012 from \$6,749 to the fiscal 2011 level of \$6,694. This eliminates a 0.8% increase over the fiscal 2011 per pupil funding level, for a reduction of approximately \$35.3 million in fiscal 2012. By rebasing the formula, similar reductions to foundation aid are realized in future years. Also, the decrease in per pupil funding will increase Guaranteed Tax Base (GTB) funding by \$709,000 in fiscal 2012 and reduce State retirement payments by approximately \$4.0 million annually beginning in fiscal 2014. The fiscal 2012 Budget Bill restricts \$22.5 million of the savings for three purposes contingent on passage of *Senate Bill 994 (passed)*, which increases the sales tax on alcoholic beverages. About \$1.4 million is for grants to ensure that in fiscal 2012 only, direct education aid to a county does not decrease by more than 6.5% as compared to fiscal 2011. This enhances fiscal 2012 education aid to Allegany County by \$780,000 and to Garrett County by \$641,000. Second, in conjunction with a provision in *House Bill 72 (passed)* \$12.2 million is reserved for the GTB program to increase Baltimore City's allocation, assuming certain action by Baltimore City takes place. Finally, \$8.8 million is set aside to increase funds received by Prince George's County under the Disparity Grant program contingent on changes to the program for fiscal 2012 implemented through *House Bill 72 (passed)*. The budget bill language requires half of the additional funding to be transferred to the county board of education. See Part L – Education of this *90 Day Report* for more detail.

### Retirement Aid Reductions

Several changes in the BRFA of 2011 impact State payments on behalf of local employees through the teachers' retirement program. State payments will be reduced by \$79.9 million in fiscal 2012 due to benefit changes. This includes a \$74.4 million reduction for local school employees, a \$1.2 million reduction for library employees, and a \$4.3 million reduction for community college employees. For a detailed discussion of retirement benefits restructuring, see the subpart "Pensions and Retirement" within Part C – State Government of this *90 Day Report*. Also, beginning in fiscal 2012, local school boards and community college boards will be charged an administrative fee for each employee receiving retirement payments from the State. Consequently, State payments for teachers' retirement in fiscal 2012 are further reduced by \$15.9 million for local school boards and by \$758,000 for community college boards. Local library boards are exempted from the new administrative fee.

### Other State Aid Changes

Local governments were scheduled to receive \$134.3 million in funding under the local highway user revenues (HUR) distribution in fiscal 2012; however, this amount was increased by \$13.2 million to \$147.5 million due to a provision in *House Bill 72 (passed)* that increased the percentage of HUR distributed to counties and municipalities. This reverses a trend of substantial reductions in HUR aid in recent years. Also, as discussed above, Disparity Grant funding is increased by \$8.8 million in fiscal 2012, due to a one-year change to the aid formula,

benefitting Prince George's County, which must distribute half of the additional aid to the county board of education. Per capita funding for local library grants is reduced from \$15 to \$14 in fiscal 2012, resulting in a \$2.4 million decrease from the previous statutory level and State Library Network aid is reduced by \$1.7 million. Local Program Open Space grants will be \$13.5 million less than scheduled; however, the State's five-year capital program anticipates replacing the reduction with bond funding in fiscal 2013 and 2014. Also, horse racing local impact aid is eliminated in fiscal 2012.

### **Changes by Program**

Eleven counties will receive increased State aid in fiscal 2012, while thirteen counties will receive decreased State aid. **Exhibit A-3.6** summarizes the distribution of direct aid by governmental unit and shows the estimated State retirement payments for local government employees. **Exhibit A-3.7** shows total State aid in fiscal 2011 and 2012 by program.

**Exhibit A-3.6**  
**State Assistance to Local Governments – Fiscal 2012 Legislative Appropriation**  
**(\$ in Thousands)**

County	County - Municipal	Community Colleges	<i>Direct State Aid</i>				Retirement	Total	Change Over FY 2011	Percent Change
			Public Schools	Libraries	Health	Subtotal				
Allegany	\$9,142	\$5,922	\$78,451	\$747	\$909	\$95,171	\$10,469	\$105,640	-\$4,904	-4.4%
Anne Arundel	16,917	28,911	302,831	1,965	3,142	353,765	73,979	427,743	15,560	3.8%
Baltimore City	220,983	0	879,288	6,346	6,675	1,113,292	79,645	1,192,938	1,900	0.2%
Baltimore	10,816	36,656	538,937	5,180	4,302	595,892	101,465	697,357	15,815	2.3%
Calvert	1,430	2,224	82,980	384	370	87,387	17,325	104,713	-4,035	-3.7%
Caroline	3,142	1,473	42,321	272	538	47,747	5,084	52,830	-182	-0.3%
Carroll	2,785	7,442	141,112	1,009	1,232	153,580	25,976	179,556	-243	-0.1%
Cecil	7,626	5,297	97,519	712	806	111,961	15,472	127,433	-894	-0.7%
Charles	2,145	7,048	155,843	817	995	166,846	25,371	192,217	5,064	2.7%
Dorchester	3,124	1,335	31,602	238	429	36,729	4,344	41,073	-39	-0.1%
Frederick	4,414	8,702	218,594	1,222	1,512	234,443	37,855	272,298	9,421	3.6%
Garrett	3,077	3,373	22,923	129	437	29,940	4,498	34,438	-1,457	-4.1%
Harford	3,816	10,287	208,869	1,523	1,737	226,232	36,077	262,310	-1,285	-0.5%
Howard	4,481	14,029	215,901	824	1,215	236,450	61,684	298,134	4,485	1.5%
Kent	740	590	9,608	91	336	11,365	2,402	13,767	-123	-0.9%
Montgomery	16,136	41,297	564,748	2,720	3,015	627,916	179,661	807,577	39,802	5.2%
Prince George's	42,888	22,993	869,719	5,606	5,007	946,213	128,761	1,074,974	-13,592	-1.2%
Queen Anne's	968	1,657	32,222	139	418	35,405	6,991	42,396	988	2.4%
St. Mary's	1,521	2,397	92,707	588	809	98,021	15,195	113,216	-2,032	-1.8%
Somerset	5,735	737	23,792	258	429	30,951	3,028	33,979	-111	-0.3%
Talbot	1,082	1,310	11,523	102	329	14,346	4,087	18,432	624	3.5%
Washington	2,770	7,889	153,234	1,146	1,381	166,420	20,382	186,802	10,010	5.7%
Wicomico	4,552	4,676	114,747	834	947	125,756	14,339	140,095	-309	-0.2%
Worcester	5,612	1,868	18,498	138	313	26,428	8,065	34,494	1,686	5.1%
Unallocated	23,732	11,565	33,756	15,803	0	84,857	0	84,857	9,480	12.6%
<b>Total</b>	<b>\$399,633</b>	<b>\$229,679</b>	<b>\$4,941,727</b>	<b>\$48,791</b>	<b>\$37,283</b>	<b>\$5,657,113</b>	<b>\$882,156</b>	<b>\$6,539,269</b>	<b>\$85,628</b>	<b>1.3%</b>

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

**Exhibit A-3.6 (Cont.)**  
**State Assistance to Local Governments**  
**Dollar Difference Between Fiscal 2012 Legislative Appropriation and Fiscal 2011 Working Appropriation**  
**(\$ in Thousands)**

<b>County</b>	<b>Direct State Aid</b>						<b>Retirement</b>	<b>Total</b>
	<b>County - Municipal</b>	<b>Community Colleges</b>	<b>Public Schools</b>	<b>Libraries</b>	<b>Health</b>	<b>Subtotal</b>		
Allegany	\$479	\$24	-\$5,260	-\$11	\$0	-\$4,769	-\$135	-\$4,904
Anne Arundel	8,151	216	9,699	52	0	18,117	-2,557	15,560
Baltimore City	-1,363	0	7,236	-115	0	5,757	-3,858	1,900
Baltimore	9	321	13,834	-69	0	14,094	1,721	15,815
Calvert	158	18	-3,835	-18	0	-3,678	-358	-4,035
Caroline	207	39	-262	-2	0	-17	-165	-182
Carroll	569	33	301	27	0	930	-1,173	-243
Cecil	2,002	45	-2,742	-5	0	-700	-194	-894
Charles	181	6	5,180	25	0	5,392	-327	5,064
Dorchester	251	42	-110	-5	0	177	-216	-39
Frederick	1,012	34	9,566	82	0	10,695	-1,274	9,421
Garrett	217	30	-1,519	-26	0	-1,297	-160	-1,457
Harford	458	47	-678	-25	0	-198	-1,087	-1,285
Howard	-151	129	5,837	54	0	5,869	-1,384	4,485
Kent	158	0	-231	-5	0	-77	-46	-123
Montgomery	1,028	476	40,038	59	0	41,601	-1,799	39,802
Prince George's	638	581	-10,040	-41	0	-8,863	-4,730	-13,592
Queen Anne's	122	-25	837	8	0	941	46	988
St. Mary's	97	87	-2,104	-36	0	-1,956	-76	-2,032
Somerset	106	-71	48	-5	0	77	-188	-111
Talbot	246	2	330	0	0	578	46	624
Washington	613	32	8,930	18	0	9,592	417	10,010
Wicomico	444	90	-523	-4	0	6	-315	-309
Worcester	1,602	19	502	0	0	2,122	-436	1,686
Unallocated	7,153	3,102	-920	145	0	9,480	0	9,480
<b>Total</b>	<b>\$24,386</b>	<b>\$5,276</b>	<b>\$74,111</b>	<b>\$101</b>	<b>\$0</b>	<b>\$103,874</b>	<b>-\$18,246</b>	<b>\$85,628</b>

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

**Exhibit A-3.6 (Cont.)**  
**State Assistance to Local Governments**  
**Percent Change: Fiscal 2012 Legislative Appropriation over Fiscal 2011 Working Appropriation**

<b>County</b>	<i>Direct State Aid</i>						<b>Retirement</b>	<b>Total</b>
	<b>County - Municipal</b>	<b>Community Colleges</b>	<b>Public Schools</b>	<b>Libraries</b>	<b>Health</b>	<b>Subtotal</b>		
Allegany	5.5%	0.4%	-6.3%	-1.5%	0.0%	-4.8%	-1.3%	-4.4%
Anne Arundel	93.0%	0.8%	3.3%	2.7%	0.0%	5.4%	-3.3%	3.8%
Baltimore City	-0.6%	n/a	0.8%	-1.8%	0.0%	0.5%	-4.6%	0.2%
Baltimore	0.1%	0.9%	2.6%	-1.3%	0.0%	2.4%	1.7%	2.3%
Calvert	12.4%	0.8%	-4.4%	-4.6%	0.0%	-4.0%	-2.0%	-3.7%
Caroline	7.1%	2.8%	-0.6%	-0.6%	0.0%	0.0%	-3.1%	-0.3%
Carroll	25.7%	0.4%	0.2%	2.7%	0.0%	0.6%	-4.3%	-0.1%
Cecil	35.6%	0.9%	-2.7%	-0.7%	0.0%	-0.6%	-1.2%	-0.7%
Charles	9.2%	0.1%	3.4%	3.2%	0.0%	3.3%	-1.3%	2.7%
Dorchester	8.7%	3.3%	-0.3%	-2.2%	0.0%	0.5%	-4.7%	-0.1%
Frederick	29.8%	0.4%	4.6%	7.2%	0.0%	4.8%	-3.3%	3.6%
Garrett	7.6%	0.9%	-6.2%	-16.5%	0.0%	-4.2%	-3.4%	-4.1%
Harford	13.6%	0.5%	-0.3%	-1.6%	0.0%	-0.1%	-2.9%	-0.5%
Howard	-3.3%	0.9%	2.8%	7.0%	0.0%	2.5%	-2.2%	1.5%
Kent	27.3%	0.1%	-2.4%	-4.9%	0.0%	-0.7%	-1.9%	-0.9%
Montgomery	6.8%	1.2%	7.6%	2.2%	0.0%	7.1%	-1.0%	5.2%
Prince George's	1.5%	2.6%	-1.1%	-0.7%	0.0%	-0.9%	-3.5%	-1.2%
Queen Anne's	14.4%	-1.5%	2.7%	5.7%	0.0%	2.7%	0.7%	2.4%
St. Mary's	6.8%	3.8%	-2.2%	-5.7%	0.0%	-2.0%	-0.5%	-1.8%
Somerset	1.9%	-8.8%	0.2%	-2.0%	0.0%	0.3%	-5.9%	-0.3%
Talbot	29.4%	0.1%	2.9%	0.1%	0.0%	4.2%	1.1%	3.5%
Washington	28.4%	0.4%	6.2%	1.6%	0.0%	6.1%	2.1%	5.7%
Wicomico	10.8%	2.0%	-0.5%	-0.5%	0.0%	0.0%	-2.2%	-0.2%
Worcester	40.0%	1.0%	2.8%	-0.3%	0.0%	8.7%	-5.1%	5.1%
Unallocated	43.1%	36.7%	-2.7%	0.9%	n/a	12.6%	n/a	12.6%
<b>TOTAL</b>	<b>6.5%</b>	<b>2.4%</b>	<b>1.5%</b>	<b>0.2%</b>	<b>0.0%</b>	<b>1.9%</b>	<b>-2.0%</b>	<b>1.3%</b>

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



**Exhibit A-3.7**  
**Total State Assistance to Local Governments**

<b><u>Program</u></b>	<b><u>FY 2011</u></b>	<b><u>FY 2012</u></b>	<b><u>Difference</u></b>
Foundation Aid	\$2,763,479,572	\$2,774,524,245	\$11,044,673
Supplemental Program	46,496,417	46,496,415	-2
Geographic Cost of Education Index	126,612,027	127,328,382	716,355
Compensatory Education	1,041,059,587	1,083,839,759	42,780,172
Student Transportation – Regular	220,692,402	224,354,197	3,661,795
Student Transportation – Special Education	23,726,000	23,890,000	164,000
Special Education – Formula	264,001,563	264,262,896	261,333
Special Education – Nonpublic Placements	112,770,182	112,770,182	0
Special Education – Infants and Toddlers	10,389,104	10,389,104	0
Limited English Proficiency Grants	151,196,206	162,699,327	11,503,121
Aging Schools	6,108,997	8,608,996	2,499,999
Teacher Quality Incentives	5,552,000	5,294,000	-258,000
Adult Education	6,933,622	6,933,622	0
Food Service	7,156,664	7,156,664	0
Out-of-county Foster Placements	6,120,001	5,842,000	-278,001
Head Start	1,800,001	1,800,001	0
Judy Hoyer Centers	10,575,000	10,575,000	0
Guaranteed Tax Base	47,391,600	50,069,686	2,678,086
Other Programs	15,554,844	14,892,682	-662,162
<b>Total Primary and Secondary Education</b>	<b>\$4,867,615,789</b>	<b>\$4,941,727,158</b>	<b>\$74,111,369</b>
Library Formula	\$33,032,330	\$32,987,938	-\$44,392
Library Network	15,657,837	15,803,108	145,271
<b>Total Libraries</b>	<b>\$48,690,167</b>	<b>\$48,791,046</b>	<b>\$100,879</b>
Community College Formula	\$194,407,432	\$194,407,430	-\$2
Grants for ESOL Programs	3,812,145	4,380,730	568,585
Optional Retirement	13,824,000	15,409,000	1,585,000
Small College Grant/Allegany and Garrett Grant	3,896,346	3,916,670	20,324
Other Community College Aid	8,462,776	11,564,711	3,101,935
<b>Total Community Colleges</b>	<b>\$224,402,699</b>	<b>\$229,678,541</b>	<b>\$5,275,842</b>
Highway User Revenue	\$136,743,580	\$147,542,240	\$10,798,660
Elderly and Disabled Transportation Aid	4,305,938	4,305,938	0
Paratransit	2,926,702	2,926,702	0
<b>Total Transportation</b>	<b>\$143,976,220</b>	<b>\$154,774,880</b>	<b>\$10,798,660</b>

<b><u>Program</u></b>	<b><u>FY 2011</u></b>	<b><u>FY 2012</u></b>	<b><u>Difference</u></b>
Police Aid	\$45,420,982	\$45,420,982	\$0
Fire and Rescue Aid	10,000,000	10,000,000	0
Vehicle Theft Prevention	1,860,000	1,610,000	-250,000
9-1-1 Grants	9,400,000	14,400,000	5,000,000
Community Policing	1,974,000	1,974,000	0
Foot Patrol/Drug Enforcement Grants	4,228,210	4,228,210	0
Law Enforcement Training Grants	50,000	50,000	0
Stop Gun Violence Grants	928,478	928,478	0
Violent Crime Grants	4,750,714	4,750,714	0
Baltimore City State's Attorney Grant	1,959,195	1,959,195	0
Domestic Violence Grants	196,354	196,354	0
War Room/Sex Offender Grant	1,445,313	1,445,313	0
Annapolis/Salisbury Crime Grant	623,109	623,109	0
School Vehicle Safety Grant	550,000	550,000	0
Body Armor	49,088	49,088	0
<b>Total Public Safety</b>	<b>\$83,435,443</b>	<b>\$88,185,443</b>	<b>\$4,750,000</b>
Program Open Space	\$15,252,000	\$8,847,000	-\$6,405,000
Critical Area Grants	316,930	263,900	-53,030
<b>Total Recreation/Environment</b>	<b>\$15,568,930</b>	<b>\$9,110,900</b>	<b>-\$6,458,030</b>
<b>Local Health Formula</b>	<b>\$37,283,484</b>	<b>\$37,283,484</b>	<b>\$0</b>
<b>Disparity Grant</b>	<b>\$121,436,013</b>	<b>\$119,747,039</b>	<b>-\$1,688,974</b>
Horse Racing Impact Aid	\$705,600	\$0	-\$705,600
Payments in Lieu of Taxes	815,392	1,053,843	238,451
Video Lottery Terminal Impact Aid	6,809,000	21,804,971	14,995,971
Senior Citizens Activities Center	500,000	500,000	0
Statewide Voting Systems	2,000,000	4,455,755	2,455,755
<b>Total Other Direct Aid</b>	<b>\$10,829,992</b>	<b>\$27,814,569</b>	<b>\$16,984,577</b>
<b>Total Direct Aid</b>	<b>\$5,553,238,737</b>	<b>\$5,657,113,060</b>	<b>\$103,874,323</b>
Retirement – Teachers	\$849,836,103	\$832,978,012	-\$16,858,091
Retirement – Libraries	16,853,392	16,559,768	-293,624
Retirement – Community Colleges	33,712,536	32,618,335	-1,094,201
<b>Total Payments-in-behalf</b>	<b>\$900,402,031</b>	<b>\$882,156,115</b>	<b>-\$18,245,916</b>
<b>Total State Assistance</b>	<b>\$6,453,640,768</b>	<b>\$6,539,269,175</b>	<b>\$85,628,407</b>

ESOL: English for Speakers of Other Languages

Source: Department of Legislative Services

### Primary and Secondary Education

**Foundation Program:** The foundation program is the basic State education funding mechanism for public schools which ensures a minimum per pupil funding level and requires county governments to provide a local match. The formula is calculated based on a per pupil foundation amount and student enrollment. Under *House Bill 72 (passed)* the per pupil foundation amount for fiscal 2012 is set at \$6,694 (the same level as fiscal 2011), and the increase in the foundation amount is capped at 1% for fiscal 2013 through fiscal 2015. The student enrollment count used for the program totals 821,109 students. Enrollment for the formula is based on the September 30, 2010, full-time equivalent student enrollment count. Less affluent local school systems, as measured by assessable base and net taxable income, receive relatively more aid per pupil than wealthier school systems. The State provides funding for roughly 50% of the program's cost.

State aid under the foundation program will total \$2.8 billion in fiscal 2012, an \$11.0 million, or 0.4%, increase from the prior year. In addition, \$46.5 million in supplemental grants will be provided to nine local school systems. The supplemental grants were established during the 2007 special session to guarantee increases of at least 1% in State education aid for all local school systems during the two years, fiscal 2009 and 2010, that inflationary increases for the per pupil foundation amount were eliminated. Supplemental grants continued at fiscal 2010 levels in fiscal 2011, less a \$4.7 million reduction that recaptured overpayments to eight local school systems due to a miscalculation in school system wealth bases in fiscal 2009. Fiscal 2012 supplemental grants remain at the fiscal 2011 level.

**Geographic Cost of Education Index:** This is a discretionary formula that provides additional State funds to local school systems where costs for educational resources are higher than the State average. Funding for the geographic cost of education index (GCEI) formula was provided in fiscal 2009 for the first time. Fiscal 2012 GCEI funding totals \$127.3 million. Thirteen local school systems receive funding from the geographic cost of education index formula.

**Compensatory Education:** The compensatory education program provides additional funding based on the number of economically disadvantaged students. The formula recognizes disparities in local wealth by adjusting the grants per eligible student by local wealth. The formula is calculated based on 97% of the annual per pupil amount used in the foundation program and the number of students eligible for free and reduced-price meals. The State provides funding for 50% of the program's cost. State aid under the compensatory education program will total \$1.1 billion in fiscal 2012, representing a \$42.8 million, or 4.1%, increase over the prior year due to a 4.6% increase in the student count and holding per pupil funding at the 2011 level. The per pupil State funding amount for fiscal 2012 is set at \$3,247, and the student enrollment count used for the program totals 320,812.

**Special Education:** State aid for special education recognizes the additional costs associated with providing programs for students with disabilities. Most special education

students receive services in the public schools; however, if an appropriate program is not available in the public schools, students may be placed in a private school offering more specialized services. The State and local school systems share the costs of these nonpublic placements.

The special education formula is calculated based on 74% of the annual per pupil foundation amount and the number of special education students from the prior fiscal year, with the State providing funding for 50% of the program's cost. The per pupil State funding amount for fiscal 2012 is set at \$2,477, and the student enrollment count used for the program totals 102,800. State funding for public special education programs will total \$264.3 million in fiscal 2012, representing a \$261,000, or a 0.1% increase over the prior year. Funding for nonpublic placements is estimated to remain unchanged in fiscal 2012 at \$112.8 million. Under current law, a local school system pays its respective local share of the basic cost of education for each nonpublic placement plus two times the total basic cost of education in the system, as well as 30% of any expense above that sum. The State pays 70% of the costs above the base local funding.

***Student Transportation:*** The State provides grants to assist local school systems with the cost of transporting students to and from school. The grants consist of three components: regular student ridership funds; special education student ridership funds; and additional enrollment funds. The regular student ridership funds are based on the local school system's grant in the previous year increased by inflation. The BRFA of 2010 set the inflation rate for student transportation grants at 1% for fiscal 2011 through fiscal 2015 and reduced the minimum annual inflation adjustment from 3 to 1%. Local school systems with enrollment increases receive additional funds. The special education student ridership funds are based on a \$1,000 per student grant for transporting disabled students. The fiscal 2012 State budget includes \$224.4 million for regular transportation services and \$23.9 million for special transportation services. This represents a \$3.8 million, or 1.6%, increase from the prior year.

***Limited English Proficiency:*** The State provides grants based on non- and limited-English proficient (LEP) students using a definition consistent with federal guidelines. The LEP formula is based on 99% of the annual per pupil foundation amount, with the State providing funding for 50% of the program's cost. The fiscal 2012 grant per LEP student is \$3,314. State funding for the program will total \$162.7 million in fiscal 2012, representing an \$11.5 million, or 7.6%, increase over the prior year. The number of LEP students in Maryland totals 47,901 for the 2010-2011 school year.

***Guaranteed Tax Base Program:*** The Bridge to Excellence in Public Schools Act included an add-on grant for jurisdictions with less than 80% of statewide per pupil wealth that contributed more than the minimum required local share under the foundation program in the prior year. The grant is based on local support for education relative to local wealth. The grant cannot exceed 20% of the per pupil foundation amount. Eight local school systems will qualify for grants totaling \$50.1 million in fiscal 2012. The \$50.1 million figure for the GTB program assumes that Baltimore City shifts school system retiree health care costs from the Baltimore

City budget to the school system's budget and, therefore, local retiree health payments in fiscal 2011 will be included in the calculation of the GTB program for fiscal 2012. This change increases by \$12.2 million the fiscal 2012 grant to Baltimore City. For more discussion see Part L – Education of this *90 Day Report*.

***Aging Schools Program:*** The Aging Schools Program provides State funding to local school systems for improvements, repairs, and deferred maintenance of public school buildings. These repairs are generally not covered by the capital school construction program and are necessary to maintain older public schools. State funding for the Aging Schools Program will total \$8.6 million in fiscal 2012, including \$2.5 million added to the State capital budget, [\*House Bill 71 \(passed\)\*](#). An additional \$1.5 million will go for school wiring in fiscal 2012. [\*House Bill 72 \(passed\)\*](#) authorizes general obligation (GO) bond funds to be used instead of general funds for the Aging Schools Program in fiscal 2012 and subsequent years.

***Judy Hoyer and Head Start Programs:*** These programs provide financial support for the establishment of centers that provide full-day, comprehensive, early education programs, and family support services that will assist in preparing children to enter school ready to learn. This program also provides funding to support childhood educators, and statewide implementation of an early childhood assessment system. The fiscal 2012 State budget includes \$7.6 million for Judy Center grants, \$3.0 million for school readiness and program accreditation, and \$1.8 million for Head Start programs.

***Teacher Quality Incentives:*** The State provides salary enhancements for teachers obtaining national certification and a stipend for teachers and other nonadministrative certificated school employees working in low-performing schools. The fiscal 2012 State budget includes \$4.2 million for teacher quality incentives; \$96,000 for the Governor's Teacher Excellence Award Program which distributes awards to teachers for outstanding performance; and \$1.1 million for teacher quality and national certification grants.

***Food and Nutrition Services:*** In addition to federal funds provided under the School Lunch Act of 1946, the State provides matching funds to support food and nutrition programs for low-income children. The programs provide free and reduced price breakfasts, lunches, and snacks to public or private nonprofit school students. All public schools in the State are required to provide subsidized or free nutrition programs for eligible students. The fiscal 2012 State budget includes \$7.2 million for food and nutrition services.

***Infants and Toddlers Program:*** This program involves a statewide community-based interagency system of comprehensive early intervention services for eligible children who are less than three years old. Eligible children include those who have developmental delays or disabilities. State funding for infants and toddlers programs will total \$10.4 million in fiscal 2012, the same amount that was provided in the prior year.

***Adult Education:*** The State provides funding for adult education services through four programs: adult general education; external diploma program; literacy works grant; and adult

education and literacy works. The State budget includes \$6.9 million for adult education programs in fiscal 2012, the same amount that was provided in the prior year.

***School-based Health Centers:*** The fiscal 2012 State budget includes \$2.6 million for school-based health centers, which provide primary medical care as well as social, mental health, and health education services for students and their families. This amount reflects a 5%, or \$137,000 decrease from the prior year. The funding for these centers was transferred from the Subcabinet Fund to the Maryland State Department of Education in fiscal 2007.

***Science and Math Education Initiative:*** This program includes summer sessions for teachers and an equipment incentive fund to strengthen science and math education. The State budget includes \$2.2 million for this initiative in fiscal 2012. While this funding amount reflects a \$900,000 increase over the amounts provided in fiscal 2010 and 2011, it is approximately \$100,000 below the amount provided in fiscal 2009.

***Teachers' Retirement Payments:*** The State pays 100.0% of the employer's share of retirement costs for local school system employees in the Teachers' Retirement and Pension Systems maintained by the State. Rather than distributing the aid to the local boards of education and billing them for the retirement contributions, the State appropriates a lump-sum payment to the retirement system "on behalf of" the local boards. Teachers' retirement payments will total \$833.0 million in fiscal 2012, representing a \$16.9 million, or 2.0%, decrease over the prior year.

## **Local Libraries**

***Minimum Per Capita Library Program:*** The State provides assistance to public libraries through a formula that determines the State and local shares of a minimum per capita library program. The minimum library program is specified in statute. Overall, the State provides 40.0% of the minimum program, and the counties provide 60.0%. The State/local share of the minimum program varies by county depending on local wealth. Chapter 481 of 2005 started a phase-in of enhancements for the library aid formula, increasing the per resident allocation by \$1 per year from \$12 per resident in fiscal 2006 to \$16 per resident by fiscal 2010. However, Chapter 2 of the 2007 special session deferred the \$1 formula increase for fiscal 2009, and the BRFA of 2009 froze the per resident amount used in the local library aid formula at \$14 for fiscal 2010 and 2011. The BRFA of 2010 froze the per resident amount at \$15 beginning in fiscal 2012. However, the BRFA of 2011 sets per capita funding for local library grants at \$14 through fiscal 2016 and phases the per capita grant up to \$15 in fiscal 2019. Due to these changes, State funding in fiscal 2012 will total \$33.0 million, which represents a \$44,000, or 0.1%, decrease over the prior year.

***State Library Network:*** The network consists of the Central Library of the Enoch Pratt Free Library System in Baltimore City, three regional resource centers, and metropolitan cooperative service programs. The Enoch Pratt Free Library operates as the designated State Library Resource Center. In addition to the State center, regional resource centers serve Western Maryland (Hagerstown), Southern Maryland (Charlotte Hall), and the Eastern Shore (Salisbury). Chapter 481 of 2005 started a phase-in of enhancements for the regional resource centers,

increasing the per resident allocation by \$1.00 per year to move from \$4.50 per resident in fiscal 2006 to \$8.50 per resident by fiscal 2010. However, Chapter 2 of the 2007 special session deferred the \$1.00 formula increase for fiscal 2009, and the BRFA of 2009 decreased the per resident allocations to the State Library Resource Center and the State's three regional resource centers. Funding for the State Library Resource Center was reduced from \$1.85 per State resident to \$1.67 per resident for fiscal 2010 and 2011. The BRFA of 2011 sets per capita funding at \$1.67 through fiscal 2016 and phases the per capita grant up to \$1.85 in fiscal 2019. Funding for regional resource centers decreased to \$6.75 per resident of the region in fiscal 2010 and 2011. The BRFA of 2011 sets per capita funding for regional resource centers at \$6.75 through fiscal 2016 and increases the rate to reach \$7.50 in fiscal 2019. Combined, changes to per capita funding result in \$1.7 million less funding than scheduled for fiscal 2012. State funding in fiscal 2012 will total \$9.5 million for the State Library Resource Center and \$6.3 million for the regional centers.

**Retirement Payments:** The State pays 100.0% of the employers' share of retirement costs for local library employees in the Teachers' Retirement and Pension Systems maintained by the State. State funding for library retirement payments will total \$16.6 million in fiscal 2012, a \$294,000, or 1.7%, decrease from the prior year.

### **Community Colleges**

**Senator John A. Cade Funding Formula:** The BRFA of 2010 reduced funding under the Cade formula to \$194.4 million in fiscal 2011 and 2012 and reset the phase-in of scheduled formula enhancements. The BRFA of 2011 does not impact fiscal 2012 funding but revises the phase-in of formula enhancements.

**Special Programs:** State funding in fiscal 2012 will total \$3.3 million for the small college grants and \$0.6 million for the Allegany/Garrett counties unrestricted grants. Funding for statewide and regional programs will total \$6.6 million. The English as a Second Language program will receive \$4.4 million. A new \$5.0 million Keeping Maryland Community Colleges Affordable grant program will provide grants in fiscal 2012 to colleges that hold tuition rate increases to 3.0% or less for the 2011-2012 academic year and will be distributed among participating colleges based on for-credit enrollment. The BRFA of 2011 repeals the requirement that the State fully reimburse the community colleges for the costs associated with waiving out-of-county tuition charges under the statewide and health manpower grant program. It is estimated that the \$6.0 million budgeted for the program in fiscal 2012 is \$3.7 million less than the total cost of the program.

**Retirement Payments:** The State pays 100.0% of the employer's share of retirement costs for community college faculty in the Teachers' Retirement and Pension Systems maintained by the State. State funding for community college retirement payments will total \$32.6 million in fiscal 2012, a \$1.1 million, or 3.2%, decrease. In addition, State funding for the optional retirement program will total \$15.4 million in fiscal 2012, representing a \$1.6 million, or 11.5%, increase.

## Local Health Departments

The State provides funds to support the delivery of public health services in each of Maryland's 24 jurisdictions. These services include child health, communicable disease prevention, maternal health, family planning, environmental health, and administration of the departments. Due to declining State revenues, the fiscal 2010 appropriation for grants to local health departments was reduced from \$57.4 million to \$37.3 million by the Board of Public Works (BPW) in August 2009. Under the statute, funding would have increased to \$41.0 million in fiscal 2011; however, the BRFA of 2010 reduced the base appropriation for the targeted local health formula for fiscal 2011 and 2012 to \$37.3 million and provided for inflationary increases to the program in fiscal 2013.

## County and Municipal Governments

**Highway User Revenues:** The State shares various transportation revenues, commonly referred to as highway user revenues (HUR), with the counties and municipalities. Due to declining State revenues, BPW reduced fiscal 2010 HUR by \$159.5 million in August 2009. This amount was in addition to the \$161.9 million reduction from the statutory funding level that resulted from the 2009 legislative session actions. These reductions coupled with downward revisions in transportation revenues would have resulted in highway user grants of \$140.5 million in fiscal 2010. The BRFA of 2010, however, partially restored the fiscal 2010 funding to reflect payments received by the counties and municipalities before BPW reduced the appropriation. Due to this action highway user grants in fiscal 2010 totaled \$163.5 million.

Prior to the fiscal 2010 reductions, Maryland local governments received 30.0% of HUR. For fiscal 2011 and 2012, the BRFA of 2010 lowered the local shares to 8.5 and 8.1%, respectively. This resulted in grants totaling \$136.7 million in fiscal 2011. However, the BRFA of 2011 increases the local share to 8.9% in fiscal 2012. This change increases HUR provided to the counties and municipalities in fiscal 2012 by \$5.0 million and \$8.3 million, respectively. Local highway user grants will total \$147.5 in fiscal 2012. Of this amount, Baltimore City will receive about \$124.3 million, the counties will receive about \$13.3 million, and municipalities will receive \$9.9 million. Beginning in fiscal 2013, the overall local share is 9.2% of HUR: 7.5% for Baltimore City; 1.4% for counties; and 0.3% for municipalities.

**Other Transportation Aid:** State funding for elderly/disabled transportation grants will total \$4.3 million in fiscal 2012, while State funding for paratransit grants will total \$2.9 million.

**Police Aid Formula:** Maryland's counties and municipalities receive grants for police protection through the police aid formula. The police aid formula allocates funds on a per capita basis, and jurisdictions with a higher population density receive greater per capita grants. Municipalities receive additional grants based on the number of sworn officers. The Maryland State Police recovers 30% of the State crime laboratories costs relating to evidence-testing services from each county's formula allocation. Due to declining State revenues, the fiscal 2010 appropriation for police aid was reduced from \$66.0 million to \$45.4 million by BPW in August 2009. Under the statute, the fiscal 2011 funding level would have totaled \$64.4 million;



however, the BRFA of 2010 limits the amount a local government may receive through the police aid formula in both fiscal 2011 and 2012 to the amount the jurisdiction receives in fiscal 2010. This limitation reduced police aid by \$19.0 million in fiscal 2011. Police aid remains at the \$45.4 million level in fiscal 2012.

***Public Safety Grants:*** State funding for targeted public safety grants will total \$14.2 million in fiscal 2012. These grants include violent crime grants for Baltimore City and Prince George's County, police foot patrol and community policing grants for Baltimore City, a drug enforcement grant for Prince George's County, S.T.O.P. gun violence grants, school bus traffic enforcement grants, domestic violence grants, law enforcement and correctional officers training grants, Baltimore City war room, sex offender and compliance enforcement, and the body armor grants. In addition, \$2.0 million will be provided to the Baltimore City State's Attorney Office to assist in the prosecution of gun offenses and repeat violent offenders, and \$623,000 will be provided to an ongoing initiative to fight crime in the City of Annapolis and the City of Salisbury.

***Vehicle Theft Prevention Program:*** This program provides grants to law enforcement agencies, prosecutors' offices, local governments, and community organizations for vehicle theft prevention, deterrence, and educational programs. Funds are used to enhance the prosecution and adjudication of vehicle theft crimes. Funding for the program is provided through the Vehicle Theft Prevention Fund, a nonlapsing dedicated fund that receives up to \$2.0 million a year from penalties collected for lapsed or terminated insurance coverage. Additional funds are received from inspection fees collected for salvaged vehicle verification. State funding for this program will total \$1.6 million in fiscal 2012.

***Fire, Rescue, and Ambulance Services:*** The State provides formula grants to the counties, Baltimore City, and qualifying municipalities for local and volunteer fire, rescue, and ambulance services. The grants are for equipment and renovation projects, not operating costs. The program is funded through the Maryland Emergency Medical System Operations Fund. The grant level is set at \$10.0 million in fiscal 2012.

***9-1-1 Emergency Systems Grant:*** The State imposes a 25-cent fee per month on telephone subscribers that is deposited into a trust fund that provides reimbursements to counties for improvements and enhancements to their 9-1-1 systems. Counties may only use the trust fund money to supplement their spending, not to supplant it. State funding to local 9-1-1 emergency systems will total \$14.4 million in fiscal 2012.

***Program Open Space Grants:*** Under Program Open Space (POS), the State provides grants to local governments for land acquisition and the development of parks and recreation facilities. Local POS grants will total \$7.3 million in fiscal 2012, which represents a \$5.0 million decrease from the prior year. In addition, Baltimore City will receive \$1.5 million in special POS grant funding, a \$1.4 million decrease.

***Horse Racing Impact Aid:*** To assist services and facilities for communities within two miles of the Pimlico racetrack and three miles of the Laurel racetrack, the State has provided

impact aid for live racing. Also, the City of Bowie has received aid for each day training facilities are open at the Bowie Training Center. In addition, for each day wagering is conducted at a track where live racing is not held, there has been impact aid provided for simulcast wagering. However, the fiscal 2011 budget transferred \$500,000 of the \$1.2 million allocated for local impact aid to the general fund and the fiscal 2012 budget includes no funding for horse racing impact aid.

**Disparity Grants:** Disparity grants address the differences in the abilities of counties to raise revenues from the local income tax, which is the third largest revenue source for counties after State aid and property taxes. Through fiscal 2011, counties with per capita local income tax revenues less than 75% of the State's average received grants. Aid received by a county equaled the dollar amount necessary to raise the county's per capita income tax revenues to 75% of the State average. The BRFA of 2009 included a provision, beginning in fiscal 2011, that capped each county's funding under the program at the fiscal 2010 level. Under the Budget Reconciliation and Financing Act of 2011, for fiscal 2012 only, the disparity grant is based on income tax revenues below 77% of the State average, instead of 75%. This change solely benefits Prince George's County, which receives a \$20.0 million disparity grant for fiscal 2012, or \$8.8 million above the grant that would have resulted under previous law. Half (or \$4.4 million) of this increase must be provided to the county board of education. Savings resulting from a decrease in education aid, also authorized under the BRFA of 2011, are earmarked to fund this increase in the disparity grant, contingent on the passage of *Senate Bill 994 (passed)* raising the sales tax on alcoholic beverages. Based on these actions, disparity grant funding totals \$119.7 million in fiscal 2012, a \$1.7 million or 1.4% decrease from the prior year.

## State Aid

### County Level Detail

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

#### Direct Aid and Retirement Payments

**Direct Aid:** The State distributes aid or shares revenue with the counties, municipalities, and Baltimore City through over 40 different programs. The fiscal 2012 State budget includes \$5.7 billion to fund these programs. Part A, section 1 of each county's statistical tables compares aid distributed to the county in fiscal 2011 and 2012.

**Retirement Payments:** County teachers, librarians, and community college faculty are members of either the teachers' retirement or pension systems maintained and operated by the State. The State pays the employer share of the retirement costs on behalf of the counties for these local employees. These payments total \$882.2 million in fiscal 2012. Although these

funds are not paid to the local governments, each county's allocation is estimated from salary information collected by the State retirement systems. These estimates are presented in Part A, section 2 of each county.

### **Estimated State Spending on Health and Social Services**

The State funds the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. Part B of each county shows fiscal 2012 allocation estimates of general and special fund appropriations for health services, social services, and senior citizen services.

**Health Services:** The Department of Health and Mental Hygiene, through its various administrations, funds in whole or part community health programs that are provided in the local subdivisions. These programs are described below. General fund spending totals \$985.5 million statewide for these programs in fiscal 2012. In addition, \$41.4 million from the Cigarette Restitution Fund will also be spent on these programs in fiscal 2012. This does not include spending at the State mental health hospitals, developmental disability facilities, or chronic disease centers.

- **Alcohol and Drug Abuse:** The Alcohol and Drug Abuse Administration funds community-based programs that include primary and emergency care, intermediate care facilities, halfway houses and long-term care programs, outpatient care, and prevention programs. The fiscal 2012 budget includes \$78.0 million in general funds and \$22.3 million in special funds for these programs. In addition, the budget includes \$33.2 million in federal funds for addiction treatment services.
- **Family Health and Primary Care Services:** The Family Health Administration funds community-based programs through the local health departments in each of the subdivisions. These programs include maternal health (family planning, pregnancy testing, prenatal and perinatal care, etc.) and infant and child health (disease prevention, child health clinics, specialty services, etc.). Primary care services are funded for those people who previously received State-only Medical Assistance. Fiscal 2012 funding for these family health programs totals \$15.6 million in general funds and \$41.9 million in federal funds.
- **Medical Care Services:** The Medical Care Programs Administration provides support for the local health departments and funding for community-based programs that serve senior citizens. The geriatric services include operating grants to adult day care centers and an evaluation program administered by the local health departments to assess the physical and mental health needs of elderly individuals. This category also includes grants to local health departments related to eligibility determination for the Medicaid and Children's Health programs, transportation services for Medicaid recipients in non-emergency situations, and coordination and outreach services for Medicaid and

special needs populations in the HealthChoice program. The fiscal 2012 funding for these programs totals \$29.6 million in general funds and \$31.1 million in federal funds.

- ***Mental Health:*** The Mental Hygiene Administration oversees a wide range of community mental health services that are developed and monitored at the local level by Core Service Agencies. The Core Service Agencies have the clinical, fiscal, and administrative responsibility to develop a coordinated network of services for all public mental health clients of any age within a given jurisdiction. These services include inpatient hospital and residential treatment facility stays, outpatient treatment, psychiatric rehabilitation services, counseling and targeted case management services. The fiscal 2012 budget includes \$419.4 million in general funds and \$354.5 million in federal funds for mental health services.
- ***Prevention and Disease Control:*** The Family Health Administration and the Infectious Disease and Environmental Health Administration are responsible for chronic and hereditary disease prevention (cancer, heart disease, diabetes, etc.) and the prevention and control of infectious diseases. They also provide for the promotion of safe and effective immunization practices, the investigation of disease outbreaks, and continuous disease surveillance and monitoring with the support of local health departments and the medical community. The former AIDS Administration is part of the Infectious Disease and Environmental Health Administration. General fund appropriations in fiscal 2012 total \$8.5 million along with \$41.9 million in federal funds. In addition, the budget includes \$18.9 million from the Cigarette Restitution Fund for tobacco use prevention and cessation and for cancer prevention and screening at the local level.
- ***Developmental Disabilities:*** The Developmental Disabilities Administration's community-based programs include residential services, day programs, transportation services, summer recreation for children, individual and family support services, including respite care, individual family care, behavioral support services, and community supported living arrangements. The fiscal 2012 budget includes \$434.4 million in general funds and \$337.6 million in federal funds for these programs.

***Social Services:*** The Department of Human Resources provides funding for various social and community services in the subdivisions. Part B of each county's statistical tables shows fiscal 2012 estimates of funding for those programs that are available by subdivision. Note that fiscal 2012 funding for both homeless and women's services is allocated among the subdivisions on the basis of each jurisdiction's share of fiscal 2011 funding and may change.

- ***Homeless Services:*** The State funds programs provide emergency and transitional housing, food, and transportation for homeless families and individuals. Funding is available by county for the housing counselor, service-linked housing and emergency and transitional housing programs. The fiscal 2012 budget includes \$3.8 million in general funds for these programs.

- **Women's Services:** The State provides funding for a variety of community-based programs for women. These include the battered spouse program, rape crisis centers, and crime victim's services. Total fiscal 2012 funding for these programs equals \$4.3 million in general funds. In addition, the fiscal 2012 budget includes \$2.1 million in federal funds for women's services.
- **Adult Services:** The State social services departments in each of the subdivisions provide a variety of services to disabled, elderly, neglected, and exploited adults. Services include information and referral, crisis intervention, case management, protective services, in-home aid, and respite care for families. The fiscal 2012 budget includes \$10.6 million in general funds and \$30.9 million in federal funds for adult services.
- **Child Welfare Services:** The State social services departments in each of the subdivisions offer programs to support the healthy development of families, assist families and children in need, and protect abused and neglected children. Services include adoptive services, foster care programs, family preservation programs, and child protective services. The fiscal 2012 budget includes \$91.1 million in general funds and \$118.6 million in federal funds.

**Senior Citizen Services:** The Department of Aging funds a variety of services for senior citizens mostly through local area agencies on aging. In Part B of each county, these programs have been combined into two broad categories: long-term care and community services. The total fiscal 2012 funding is \$13.0 million in general funds and \$27.2 million in federal funds. In this report the fiscal 2012 general funds are allocated among the subdivisions on the basis of each jurisdiction's share of fiscal 2011 funding and may change.

- **Long-Term Care:** This category includes the following programs: frail and vulnerable elderly, senior care, senior guardianship, the ombudsman program and the innovations in aging program. The total fiscal 2012 funding is \$9.6 million in general funds.
- **Community Services:** Included in this category are the senior information and assistance program and the senior nutrition program. Also included is a hold harmless grant for certain counties that received less federal funding under the Older Americans Act when 2000 census population figures were factored into the funding formula. Fiscal 2012 funding for these programs totals \$3.4 million in general funds.

### **Capital Grants and Capital Projects for State Facilities**

**Selected State Grants for Capital Projects:** The State provides capital grants for public schools, community colleges, local jails, community health facilities, water quality projects, waterway improvements, homeless shelters, and other cultural, historical, and economic development projects. Projects are funded from either bond sales or current revenues. Part C lists projects in the counties authorized by the fiscal 2012 State operating and capital budgets. Projects at regional community colleges are shown for each county that the college serves. The

projects listed for the various loan programs are those currently anticipated for fiscal 2012. The actual projects funded and/or the amount of funding for specific projects could change depending on which projects are ready to move forward and final costs.

The fiscal 2012 budget includes \$297.5 million in funding for local school construction: \$9.7 million from the program's contingency fund, \$240.3 million in general obligation bonds, and \$47.5 million in general funds. As of the publication of this report, \$187.5 million of the total fiscal 2012 funding has been allocated to specific projects. These projects are listed in Part C for each county.

***Capital Projects for State Facilities Located in the County:*** Part D for each county shows capital projects, authorized by the fiscal 2012 operating and capital budgets, at State facilities and public colleges and universities by the county in which the facility is located. If a facility is located in more than one county, such as a State park, the total amount of the capital project is shown for all relevant counties. For each capital project, the total authorized amount is given, regardless of funding source, although federally funded projects are generally shown separately. For the universities, projects funded from both academic and auxiliary revenue bonds are included. The projects funded with auxiliary revenue bonds are those anticipated for fiscal 2012 but the actual projects funded could be different. This report does not include transportation projects.

## Allegany County

### A. Direct Aid and Retirement Payments

#### 1. Direct Aid

	<u>FY 2011</u>	<u>FY 2012</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$42,911	\$41,440	-\$1,471	-3.4
Compensatory Education	21,775	20,561	-1,215	-5.6
Student Transportation	4,374	4,401	28	0.6
Special Education	6,772	6,266	-506	-7.5
Limited English Proficiency Grants	160	89	-71	-44.5
Guaranteed Tax Base	6,753	4,689	-2,064	-30.6
Adult Education	184	184	0	0.0
Aging Schools	98	138	40	40.9
Other Education Aid	684	684	0	0.0
<b>Primary &amp; Secondary Education</b>	<b>\$83,711</b>	<b>\$78,451</b>	<b>-\$5,260</b>	<b>-6.3</b>
Libraries	758	747	-11	-1.5
Community Colleges	5,898	5,922	24	0.4
Health Formula Grant	909	909	0	0.0
* Transportation	436	976	540	123.8
* Police and Public Safety	566	566	0	0.0
* Fire and Rescue Aid	225	225	0	0.0
Recreation and Natural Resources	138	77	-61	-44.2
Disparity Grant	7,299	7,299	0	0.0
<b>Total Direct Aid</b>	<b>\$99,940</b>	<b>\$95,173</b>	<b>-\$4,767</b>	<b>-4.8</b>
Aid Per Capita (\$)	1,372	1,311	-61	-4.5
Property Tax Equivalent (\$)	2.49	2.38	-0.11	-4.4

\* Municipal governments within the county receive a share of these funds.

## 2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2012 State payments for Allegany County for teachers, librarians, and community college faculty are estimated to be \$10,469,000.

## B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2012 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2011) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

### Health Services

Alcohol and Drug Abuse	\$4,104,000
Family Health and Primary Care	264,000
Medical Care Services	838,000
Mental Health	6,421,000
Prevention and Disease Control	430,000
Developmental Disabilities	5,528,000

### Social Services

Homeless Services	69,000
Women's Services	109,000
Adult Services	192,000
Child Welfare Services	1,910,000

### Senior Citizen Services

Long-term Care	277,000
Community Services	155,000



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

Fort Hill High School – renovations (roof)	\$200,000
Western Region Funding (Allegany, Carroll, Frederick, Garrett, and Washington)	750,000

**Community Parks and Playgrounds**

Baker Memorial Park	25,000
Meadow Park	30,000

**Chesapeake Bay Water Quality Projects**

Cumberland Combined Sewer – overflow improvements	1,500,000
Frostburg Combined Sewer – overflow improvements	600,000

**Other Projects**

Allegany Museum	150,000
Cumberland City Market	100,000

**D. Capital Projects for State Facilities in the County****University System of Maryland**

Frostburg State – Center for Communications and Information Technology	\$10,054,000
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## Anne Arundel County

### A. Direct Aid and Retirement Payments

#### 1. Direct Aid

	<u>FY 2011</u>	<u>FY 2012</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$183,003	\$186,771	\$3,768	2.1
Compensatory Education	48,050	52,264	4,213	8.8
Student Transportation	20,628	21,002	374	1.8
Special Education	23,957	24,178	222	0.9
Limited English Proficiency Grants	6,615	7,461	847	12.8
Geographic Cost of Education Index	8,786	8,875	89	1.0
Adult Education	261	261	0	0.0
Aging Schools	506	713	207	40.9
Other Education Aid	1,327	1,305	-21	-1.6
<b>Primary &amp; Secondary Education</b>	<b>\$293,132</b>	<b>\$302,831</b>	<b>\$9,699</b>	<b>3.3</b>
Libraries	1,913	1,965	52	2.7
Community Colleges	28,695	28,911	216	0.8
Health Formula Grant	3,142	3,142	0	0.0
* Transportation	1,585	2,501	916	57.8
* Police and Public Safety	4,619	4,619	0	0.0
* Fire and Rescue Aid	810	810	0	0.0
Recreation and Natural Resources	1,486	836	-650	-43.7
Video Lottery Terminal Impact Aid	0	8,075	8,075	n/a
* Other Direct Aid	266	75	-191	-71.8
<b>Total Direct Aid</b>	<b>\$335,647</b>	<b>\$353,765</b>	<b>\$18,117</b>	<b>5.4</b>
Aid Per Capita (\$)	646	674	28	4.3
Property Tax Equivalent (\$)	0.39	0.45	0.05	12.9

\* Municipal governments within the county receive a share of these funds.

## 2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2012 State payments for Anne Arundel County for teachers, librarians, and community college faculty are estimated to be \$73,979,000.

## B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2012 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2011) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

### Health Services

Alcohol and Drug Abuse	\$2,841,000
Family Health and Primary Care	642,000
Medical Care Services	1,395,000
Mental Health	24,753,000
Prevention and Disease Control	1,014,000
Developmental Disabilities	39,725,000

### Social Services

Homeless Services	158,000
Women's Services	224,000
Adult Services	179,000
Child Welfare Services	4,072,000

### Senior Citizen Services

Long-term Care	672,000
Community Services	150,000

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

Broadneck Elementary School – construction	\$1,197,000
Cape St. Claire Elementary School – kindergarten addition	1,259,000
Davidsonville Elementary School – kindergarten addition	999,000
Folger McKinsey Elementary School – construction	1,000,000
Four Seasons Elementary School – construction	1,267,000
Glen Burnie High School – renovations (HVAC)	1,406,000
Maryland City Elementary School – renovations (electrical)	66,000
Northeast High School – construction	5,850,000
Piney Orchard Elementary School – kindergarten addition	972,000
Point Pleasant Elementary School – construction	800,000
Severn Elementary School – construction	513,000
Severna Park Elementary School – renovations (electrical)	66,000
Solley Elementary School – kindergarten addition	940,000
Southern High School – renovations (roof/wastewater treatment plant)	2,009,000
Southern High School – science facilities	330,000
Unspecified Additional Funding	5,000,000

**Anne Arundel Community College**

Administration Building – renovation and expansion	226,000
Library – renovation and addition	5,058,000

**Federally Qualified Health Centers Grant Program**

People’s Community Health Center	1,600,000
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**Community Parks and Playgrounds**

Truxton Park	58,000
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**Waterway Improvement**

Duval Creek – main channel dredging	300,000
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**African American Heritage Preservation Grant Program**

Kunta Kinte-Alex Haley Memorial – improvements	36,000
Maynard-Burgess House – renovation	100,000

**Other Projects**

Andover Park – fields and field house renovations	100,000
Annapolis and Anne Arundel County Conference and Visitors Bureau Center	50,000
Annapolis High School – scoreboard and field house	400,000
Annapolis Market House	250,000
Anne Arundel Medical Center	300,000
Arundel Lodge – expansion	200,000
Bates Middle School – gymnasium and theater	1,000,000
Carroll Field Puglise Stadium – field lights	100,000
Charles Carroll House	75,000
Clay Street Development	100,000
Maryland Hall for the Creative Arts	250,000
Reece Road Community Health Center	250,000
South River High School – media center	50,000
Wiley H. Bates Heritage Park – turf field	350,000

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

Lowe House Office Building – renovations	\$7,050,000
State House – Old Senate Chamber	3,000,000
State House Exhibits	140,000

**Maryland State Police**

Barrack P – land acquisition	760,000
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**Department of Public Safety and Correctional Services**

Maryland House of Correction – deconstruction project

500,000

## Baltimore City

### A. Direct Aid and Retirement Payments

#### 1. Direct Aid

	<u>FY 2011</u>	<u>FY 2012</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$394,028	\$393,055	-\$973	-0.2
Compensatory Education	312,797	312,101	-696	-0.2
Student Transportation	18,251	19,107	856	4.7
Special Education	81,194	80,647	-547	-0.7
Limited English Proficiency Grants	11,007	12,811	1,803	16.4
Guaranteed Tax Base	27,659	33,684	6,024	21.8
Geographic Cost of Education Index	21,904	22,104	200	0.9
Adult Education	1,383	1,383	0	0.0
Aging Schools	1,388	1,956	568	40.9
Other Education Aid	2,443	2,443	0	0.0
<b>Primary &amp; Secondary Education</b>	<b>\$872,053</b>	<b>\$879,288</b>	<b>\$7,236</b>	<b>0.8</b>
Libraries	6,461	6,346	-115	-1.8
Health Formula Grant	6,675	6,675	0	0.0
Transportation	127,470	124,713	-2,758	-2.2
Police and Public Safety	9,921	9,921	0	0.0
Fire and Rescue Aid	931	931	0	0.0
Recreation and Natural Resources	3,885	2,462	-1,423	-36.6
Disparity Grant	79,052	79,052	0	0.0
Video Lottery Terminal Impact Aid	0	2,295	2,295	n/a
Other Direct Aid	1,086	979	-107	-9.9
<b>Total Direct Aid</b>	<b>\$1,107,535</b>	<b>\$1,113,292</b>	<b>\$5,757</b>	<b>0.5</b>
Aid Per Capita (\$)	1,741	1,754	13	0.7
Property Tax Equivalent (\$)	2.83	2.87	0.04	1.5

## **2. Retirement Payments**

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2012 State payments for Baltimore City for teachers, librarians, and community college faculty are estimated to be \$79,645,000.

## **B. Estimated State Spending on Selected Health and Social Services**

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2012 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2011) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

### **Health Services**

Alcohol and Drug Abuse	\$34,190,000
Family Health and Primary Care	4,722,000
Medical Care Services	7,690,000
Mental Health	142,688,000
Prevention and Disease Control	1,857,000
Developmental Disabilities	48,582,000

### **Social Services**

Homeless Services	1,606,000
Women's Services	787,000
Adult Services	2,287,000
Child Welfare Services	36,490,000

### **Senior Citizen Services**

Long-term Care	1,946,000
Community Services	940,000



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

Diggs-Johnson Building #162 – renovations (roof)	\$680,000
Dr. Martin Luther King Jr. Pre-K through 8 School #254 – renovations	424,000
Furman L. Templeton Elementary School #125 – renovations (unit ventilator)	443,000
Joseph C. Briscoe Building #451 – renovations (HVAC)	1,060,000
Leith Walk Elementary School #245 – construction	8,300,000
Roland Park Elementary/Middle School #233 – renovations (HVAC)	2,866,000
Samuel Coleridge Taylor Elementary School #122 – renovations (boiler)	434,000
Southeast Building #255 – renovations (HVAC)	747,000
Thomas G. Hayes Building #102 – renovations (fire safety)	258,000
Walbrook Uniform Academy #411 – renovations (fire safety)	1,026,000
Waverly Pre-K through 8 School #051 – construction	5,000,000
Unspecified Additional Funding	9,000,000

**Community Health Facilities Grant Program**

Community Housing Associates, Inc.	2,250,000
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**Federally Qualified Health Centers Grant Program**

Chase Brexton Health Services	500,000
Family Health Centers of Baltimore	1,600,000

**Shelter and Transitional Facilities**

Dayspring Square	1,000,000
Project PLASE Vets Transitional	500,000

**Partnership Rental Housing Program**

Thompson 22	1,079,187
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**Community Parks and Playgrounds**

Alexander Odum Park	185,000
Herring Run Park	185,000

**Chesapeake Bay Water Quality Projects**

Back River Wastewater Treatment Plant (WWTP) – nutrient removal	7,710,000
Patapsco WWTP – nutrient removal	20,690,000

**Chesapeake Bay Restoration Fund**

Patapsco WWTP – enhanced nutrient removal	114,000,000
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**Waterway Improvement**

City Fire Department – marine fire and rescue equipment	10,000
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**African American Heritage Preservation Grant Program**

Bauernschmidt Mansion – rehabilitation	53,000
Reginald F. Lewis Museum – new exhibit	13,000
The Sphinx Club – renovation	100,000

**Other Projects**

American Visionary Art Museum	55,000
Baltimore Museum of Art	2,500,000
Baltimore Zoo – infrastructure improvements	2,500,000
Dayspring Square	50,000
Delta Lambda Foundation – Head Start Facility	150,000
Doctor Christina Phillips Community Center	100,000
Dr. Bob’s Place – A Hospice for Children	50,000
East Baltimore Biotechnology Park	2,500,000
Garrett-Jacobs Mansion	25,000
Habitat for Humanity of the Chesapeake	250,000
Historic Diamond Press Building	50,000
In Our House Homeless Youth Center	300,000
Johns Hopkins Health System – Cardiovascular and Critical Care Tower	5,500,000
Johns Hopkins University – Brody Learning Commons	3,000,000
Junior League of Baltimore Thrift Store	265,000
Kennedy-Krieger Institute	1,000,000
Mary Harvin Transformation Center	125,000
Maryland Center of Veterans Education and Training	90,000
Maryland General Hospital	1,000,000
Maryland Historical Society	250,000

Maryland Institute College of Art – Studio Center	3,000,000
Maryland School for the Blind – Life Education Building	4,000,000
Mattie B. Uzzle Outreach Center	325,000
Mercy Medical Center	2,700,000
Morgan Mill Facility	100,000
Mount Vernon Place Conservancy	100,000
National Aquarium in Baltimore – infrastructure improvements	1,000,000
Park Heights Women and Children Center	100,000
Parks and People Headquarters at Auchentoroly Terrace	50,000
Sinai Hospital – Neurological Rehabilitation Center	1,000,000
St. Elizabeth School – roof replacement	100,000
St. Francis Xavier Head Start	125,000
Star-Spangled Banner Flag House	150,000
Town Theatre	60,000

**D. Capital Projects for State Facilities in the City****Baltimore City Community College**

Liberty Campus – renovate main building	\$2,250,000
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**Department of Public Safety and Correctional Services**

Baltimore City Detention Center – dining facility renovation	1,500,000
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**Morgan State University**

Center for the Built Environment and Infrastructure Studies	4,000,000
Jenkins Behavioral and Social Science Center	1,400,000
Lillie Carroll Jackson Museum – renovation	50,000
School of Business and Management – new complex	921,000

**University System of Maryland**

Baltimore – Health Sciences Research Facility	4,000,000
University of Baltimore – Law School	41,493,000

**Other**

Emergency Medical Communications Systems	1,000,000
University of Maryland Medical System – shock trauma center	10,000,000

## Baltimore County

### A. Direct Aid and Retirement Payments

#### 1. Direct Aid

	<u>FY 2011</u>	<u>FY 2012</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$328,787	\$330,765	\$1,978	0.6
Compensatory Education	102,676	112,834	10,158	9.9
Student Transportation	26,649	27,122	473	1.8
Special Education	44,336	44,874	539	1.2
Limited English Proficiency Grants	11,204	11,625	421	3.8
Geographic Cost of Education Index	5,329	5,373	44	0.8
Adult Education	484	484	0	0.0
Aging Schools	874	1,232	358	40.9
Other Education Aid	4,764	4,628	-135	-2.8
<b>Primary &amp; Secondary Education</b>	<b>\$525,104</b>	<b>\$538,937</b>	<b>\$13,834</b>	<b>2.6</b>
Libraries	5,249	5,180	-69	-1.3
Community Colleges	36,335	36,656	321	0.9
Health Formula Grant	4,302	4,302	0	0.0
Transportation	1,615	2,406	791	49.0
Police and Public Safety	6,317	6,317	0	0.0
Fire and Rescue Aid	1,166	1,166	0	0.0
Recreation and Natural Resources	1,680	926	-754	-44.9
Other Direct Aid	28	0	-28	-100.0
<b>Total Direct Aid</b>	<b>\$581,797</b>	<b>\$595,892</b>	<b>\$14,094</b>	<b>2.4</b>
Aid Per Capita (\$)	738	753	15	2.1
Property Tax Equivalent (\$)	0.65	0.70	0.05	8.0

## 2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2012 State payments for Baltimore County for teachers, librarians, and community college faculty are estimated to be \$101,465,000.

## B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2012 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2011) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

### Health Services

Alcohol and Drug Abuse	\$4,446,000
Family Health and Primary Care	338,000
Medical Care Services	2,711,000
Mental Health	59,578,000
Prevention and Disease Control	1,739,000
Developmental Disabilities	60,197,000

### Social Services

Homeless Services	181,000
Women's Services	443,000
Adult Services	718,000
Child Welfare Services	5,775,000

### Senior Citizen Services

Long-term Care	1,404,000
Community Services	232,000

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

Catonsville Center for Alternative Studies – renovations (roof)	\$362,000
Dundalk High/Sollers Point Technical High School – construction	5,450,000
Elmwood Elementary School – renovations (roof)	470,000
Franklin Middle School – renovations (roof)	862,000
Fullerton Elementary School – renovations (windows/doors)	194,000
General John Stricker Middle School – renovations (HVAC)	1,650,000
Hampton Elementary School – construction	950,000
Lutherville Elementary School – renovations (roof)	705,000
Middle River Middle School – renovations (roof)	1,716,000
Parkville High School – construction	6,100,000
Pine Grove Elementary School – renovations (windows/doors)	236,000
Rosedale Center for Alternative Studies – renovations (windows/doors)	280,000
Severn Oaks Elementary School – renovations (roof)	250,000
Warren Elementary School – renovations (roof)	703,000
Western School of Technology – renovations (chiller)	564,000
Westowne Elementary School – renovations (roof)	766,000
Unspecified Additional Funding	7,000,000

**Chesapeake Bay Water Quality Projects**

Back River WWTP – nutrient removal	7,710,000
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**Water Supply Financial Assistance Program**

Towson – reservoir replacement and expansion	1,500,000
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**Waterway Improvement**

Arbutus Volunteer Fire Department – purchase fire/rescue boat and equipment	5,000
County Fire Department – purchase rescue boat and equipment	2,900
Kingsville Volunteer Fire Department – purchase fire/rescue boat and equipment	10,000
North Point Road – engineer and design public boating facility	95,000
White Marsh Volunteer Fire Department – purchase rescue boat and equipment	10,000

**African American Heritage Preservation Grant Program**

Mt. Gilboa AME Church – renovation	35,000
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**Other Projects**

Augsburg Lutheran Home of Maryland	300,000
Career Development Center	250,000
Comet Booster Club – concession stand	65,000
Good Shepherd Center – Student Courtyard	100,000
Jewish Community Services	175,000
Liberty Road Corridor – infrastructure improvements	2,000,000
Little Sisters of the Poor	250,000
Todd's Inheritance	175,000
United Cerebral Palsy Adult Daycare Facility	125,000

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

Catonsville District Court	\$1,500,000
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**Department of Natural Resources**

Daniels Dam – repairs	500,000
Dundee Creek Marina – replace docks, bulkhead, and dredging	375,000

**University System of Maryland**

Baltimore County – parking improvements	700,000
Baltimore County – Performing Arts and Humanities Facility	41,200,000
Baltimore County – residence hall renovations	9,100,000
Towson – campuswide safety and circulation improvements	1,200,000
Towson University – residence tower renovation	2,300,000
Towson University – soccer field improvements	2,250,000



## Calvert County

### A. Direct Aid and Retirement Payments

#### 1. Direct Aid

	<u>FY 2011</u>	<u>FY 2012</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$62,705	\$58,671	-\$4,034	-6.4
Compensatory Education	9,188	10,029	841	9.1
Student Transportation	5,441	5,503	62	1.1
Special Education	5,637	5,097	-539	-9.6
Limited English Proficiency Grants	668	524	-144	-21.6
Geographic Cost of Education Index	2,337	2,302	-35	-1.5
Adult Education	188	188	0	0.0
Aging Schools	38	54	16	40.9
Other Education Aid	613	612	0	-0.1
<b>Primary &amp; Secondary Education</b>	<b>\$86,816</b>	<b>\$82,980</b>	<b>-\$3,835</b>	<b>-4.4</b>
Libraries	402	384	-18	-4.6
Community Colleges	2,206	2,224	18	0.8
Health Formula Grant	370	370	0	0.0
* Transportation	409	634	225	55.0
* Police and Public Safety	514	514	0	0.0
* Fire and Rescue Aid	200	200	0	0.0
Recreation and Natural Resources	149	82	-67	-45.0
<b>Total Direct Aid</b>	<b>\$91,065</b>	<b>\$87,387</b>	<b>-\$3,678</b>	<b>-4.0</b>
Aid Per Capita (\$)	1,021	971	- 50	-4.9
Property Tax Equivalent (\$)	0.64	0.63	-0.01	-1.9

\* Municipal governments within the county receive a share of these funds.

## **2. Retirement Payments**

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2012 State payments for Calvert County for teachers, librarians, and community college faculty are estimated to be \$17,325,000.

## **B. Estimated State Spending on Selected Health and Social Services**

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2012 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2011) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

### **Health Services**

Alcohol and Drug Abuse	\$573,000
Family Health and Primary Care	134,000
Medical Care Services	392,000
Mental Health	3,093,000
Prevention and Disease Control	307,000
Developmental Disabilities	6,799,000

### **Social Services**

Homeless Services	26,000
Women's Services	165,000
Adult Services	83,000
Child Welfare Services	768,000

### **Senior Citizen Services**

Long-term Care	128,000
Community Services	19,000

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

Calvert High School – construction	\$4,650,000
Mutual Elementary School – renovations (roof)	128,000
Plum Point Middle School – renovations (roof)	357,000
Southern Region Additional Funding (Calvert, Charles, and St. Mary’s)	1,250,000

**College of Southern Maryland**

La Plata – Continuing Education Building renovation and expansion	6,858,000
Prince Frederick – campus development	4,022,000

**Other Projects**

North Beach – public works building	200,000
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**D. Capital Projects for State Facilities in the County****Maryland Office of Planning**

Jefferson Patterson Park and Museum – Riverside Trails and Exhibit Stations	\$1,001,000
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## Caroline County

### A. Direct Aid and Retirement Payments

#### 1. Direct Aid

	<u>FY 2011</u>	<u>FY 2012</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$25,003	\$24,493	-\$510	-2.0
Compensatory Education	11,204	11,382	179	1.6
Student Transportation	2,441	2,469	28	1.1
Special Education	2,199	2,190	- 8	-0.4
Limited English Proficiency Grants	933	977	44	4.7
Guaranteed Tax Base	339	324	-14	-4.3
Aging Schools	50	71	20	40.9
Other Education Aid	415	415	0	0.0
<b>Primary &amp; Secondary Education</b>	<b>\$42,583</b>	<b>\$42,321</b>	<b>-\$262</b>	<b>-0.6</b>
Libraries	273	272	-2	-0.6
Community Colleges	1,434	1,473	39	2.8
Health Formula Grant	538	538	0	0.0
* Transportation	309	541	232	75.2
* Police and Public Safety	223	223	0	0.0
* Fire and Rescue Aid	207	207	0	0.0
Recreation and Natural Resources	65	40	-25	-38.5
Disparity Grant	2,132	2,132	0	0.0
<b>Total Direct Aid</b>	<b>\$47,764</b>	<b>\$47,747</b>	<b>-\$17</b>	<b>0.0</b>
Aid Per Capita (\$)	1,431	1,426	- 5	-0.4
Property Tax Equivalent (\$)	1.50	1.62	0.12	7.8

\* Municipal governments within the county receive a share of these funds.

## 2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2012 State payments for Caroline County for teachers, librarians, and community college faculty are estimated to be \$5,084,000.

## B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2012 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2011) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

### Health Services

Alcohol and Drug Abuse	\$396,000
Family Health and Primary Care	265,000
Medical Care Services	482,000
Mental Health	3,456,000
Prevention and Disease Control	278,000
Developmental Disabilities	2,543,000

### Social Services

Homeless Services	36,000
Women's Services	76,000
Adult Services	106,000
Child Welfare Services	736,000

### Senior Citizen Services

Long-term Care	509,000
Community Services	106,000

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

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

Denton Elementary School – relocatable classrooms	\$86,000
Eastern Shore Region Additional Funding (Caroline, Dorchester, Kent, Queen Anne’s, Somerset, Talbot, Wicomico, and Worcester)	1,250,000

**Chesapeake College**

Center for Allied Health and Athletics	2,148,000
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**Chesapeake Bay Water Quality Projects**

Federalsburg Combined Sewer – overflow improvements	1,137,000
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**Water Supply Financial Assistance Program**

Denton – new well	498,000
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## Carroll County

### A. Direct Aid and Retirement Payments

#### 1. Direct Aid

	<u>FY 2011</u>	<u>FY 2012</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$103,313	\$102,342	-\$971	-0.9
Compensatory Education	11,680	12,728	1,048	9.0
Student Transportation	9,370	9,426	56	0.6
Special Education	12,339	12,461	122	1.0
Limited English Proficiency Grants	645	670	25	3.9
Geographic Cost of Education Index	2,570	2,536	-33	-1.3
Adult Education	125	125	0	0.0
Aging Schools	137	193	56	40.9
Other Education Aid	633	631	-1	-0.2
<b>Primary &amp; Secondary Education</b>	<b>\$140,811</b>	<b>\$141,112</b>	<b>\$301</b>	<b>0.2</b>
Libraries	982	1,009	27	2.7
Community Colleges	7,409	7,442	33	0.4
Health Formula Grant	1,232	1,232	0	0.0
* Transportation	578	1,294	716	124.0
* Police and Public Safety	1,044	1,044	0	0.0
* Fire and Rescue Aid	261	261	0	0.0
Recreation and Natural Resources	333	186	-147	-44.1
<b>Total Direct Aid</b>	<b>\$152,650</b>	<b>\$153,580</b>	<b>\$930</b>	<b>0.6</b>
Aid Per Capita (\$)	899	902	3	0.3
Property Tax Equivalent (\$)	0.73	0.80	0.07	10.0

\* Municipal governments within the county receive a share of these funds.

## 2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2012 State payments for Carroll County for teachers, librarians, and community college faculty are estimated to be \$25,976,000.

## B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2012 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2011) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

### Health Services

Alcohol and Drug Abuse	\$2,298,000
Family Health and Primary Care	183,000
Medical Care Services	620,000
Mental Health	8,425,000
Prevention and Disease Control	547,000
Developmental Disabilities	12,964,000

### Social Services

Homeless Services	61,000
Women's Services	307,000
Adult Services	71,000
Child Welfare Services	1,396,000

### Senior Citizen Services

Long-term Care	316,000
Community Services	54,000



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

Charles Carroll Elementary School – renovations (HVAC)	\$450,000
Freedom Elementary School – renovations (roof)	869,000
Hampstead Elementary School – renovations (HVAC)	699,000
Mt. Airy Middle School – construction	2,031,448
Northwest Middle School – construction	412,552
Westminster High School – renovations (HVAC)	2,070,000
Western Region Funding (Allegany, Carroll, Frederick, Garrett, and Washington)	750,000

**Community Health Facilities Grant Program**

Prologue, Inc.	252,000
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**Community Parks and Playgrounds**

Christmas Tree Park	13,000
Hampstead Municipal Park	150,000
South Branch Park	256,000

**D. Capital Projects for State Facilities in the County****Military**

Westminster Readiness Center – addition and renovation (federal funds)	\$13,403,000
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## Cecil County

### A. Direct Aid and Retirement Payments

#### 1. Direct Aid

	<u>FY 2011</u>	<u>FY 2012</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$65,163	\$62,745	-\$2,418	-3.7
Compensatory Education	19,252	19,997	745	3.9
Student Transportation	4,822	4,867	45	0.9
Special Education	7,855	7,616	-239	-3.0
Limited English Proficiency Grants	563	646	83	14.8
Guaranteed Tax Base	1,744	747	-998	-57.2
Adult Education	78	78	0	0.0
Aging Schools	96	135	39	40.9
Other Education Aid	688	688	0	0.0
<b>Primary &amp; Secondary Education</b>	<b>\$100,262</b>	<b>\$97,519</b>	<b>-\$2,742</b>	<b>-2.7</b>
Libraries	717	712	-5	-0.7
Community Colleges	5,252	5,297	45	0.9
Health Formula Grant	806	806	0	0.0
* Transportation	370	722	352	95.2
* Police and Public Safety	635	635	0	0.0
* Fire and Rescue Aid	206	206	0	0.0
Recreation and Natural Resources	173	99	-74	-42.8
Video Lottery Terminal Impact Aid	4,241	5,964	1,724	40.7
<b>Total Direct Aid</b>	<b>\$112,661</b>	<b>\$111,961</b>	<b>-\$700</b>	<b>-0.6</b>
Aid Per Capita (\$)	1,120	1,109	-11	-1.0
Property Tax Equivalent (\$)	1.02	1.07	0.05	5.0

\* Municipal governments within the county receive a share of these funds.

## 2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2012 State payments for Cecil County for teachers, librarians, and community college faculty are estimated to be \$15,472,000.

## B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2012 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2011) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

### Health Services

Alcohol and Drug Abuse	\$1,036,000
Family Health and Primary Care	182,000
Medical Care Services	523,000
Mental Health	7,584,000
Prevention and Disease Control	485,000
Developmental Disabilities	7,682,000

### Social Services

Homeless Services	32,000
Women's Services	143,000
Adult Services	126,000
Child Welfare Services	1,547,000

### Senior Citizen Services

Long-term Care	142,000
Community Services	39,000

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

North East Middle School – renovations (elevator)	\$159,000
Perryville High School – renovations (ceiling/lighting)	479,000
Rising Sun High School – renovations (HVAC)	946,000
Northeast Region Additional Funding (Cecil and Harford)	1,250,000

**Cecil Community College**

Math and Engineering Building – science lab renovation	2,145,000
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**Local Jail Loan**

County Detention Center – expansion and renovation	4,955,000
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**Community Parks and Playgrounds**

Helen Titter Park	34,000
Port Deposit Playground	78,000

**Other Projects**

Girl Scouts Camp Conowingo – water system	250,000
Plumpton Park Zoological Garden	100,000

## Charles County

### A. Direct Aid and Retirement Payments

#### 1. Direct Aid

	<u>FY 2011</u>	<u>FY 2012</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$104,218	\$105,451	\$1,234	1.2
Compensatory Education	22,849	25,069	2,220	9.7
Student Transportation	9,814	9,964	150	1.5
Special Education	7,972	8,249	277	3.5
Limited English Proficiency Grants	731	870	139	19.0
Guaranteed Tax Base	228	1,362	1,134	497.7
Geographic Cost of Education Index	3,467	3,475	8	0.2
Adult Education	344	344	0	0.0
Aging Schools	50	71	20	40.9
Other Education Aid	990	987	-2	-0.2
<b>Primary &amp; Secondary Education</b>	<b>\$150,663</b>	<b>\$155,843</b>	<b>\$5,180</b>	<b>3.4</b>
Libraries	791	817	25	3.2
Community Colleges	7,042	7,048	6	0.1
Health Formula Grant	995	995	0	0.0
* Transportation	615	933	319	51.8
* Police and Public Safety	801	801	0	0.0
* Fire and Rescue Aid	243	243	0	0.0
Recreation and Natural Resources	305	167	-138	-45.2
<b>Total Direct Aid</b>	<b>\$161,454</b>	<b>\$166,846</b>	<b>\$5,392</b>	<b>3.3</b>
Aid Per Capita (\$)	1,137	1,159	21	1.9
Property Tax Equivalent (\$)	0.86	0.96	0.10	11.5

\* Municipal governments within the county receive a share of these funds.

## **2. Retirement Payments**

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2012 State payments for Charles County for teachers, librarians, and community college faculty are estimated to be \$25,371,000.

## **B. Estimated State Spending on Selected Health and Social Services**

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2012 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2011) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

### **Health Services**

Alcohol and Drug Abuse	\$1,868,000
Family Health and Primary Care	302,000
Medical Care Services	511,000
Mental Health	5,675,000
Prevention and Disease Control	464,000
Developmental Disabilities	10,840,000

### **Social Services**

Homeless Services	62,000
Women's Services	93,000
Adult Services	115,000
Child Welfare Services	2,014,000

### **Senior Citizen Services**

Long-term Care	195,000
Community Services	16,000

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

Arthur Middleton Elementary School – kindergarten addition	\$468,685
Daniel of St. Thomas Jenifer Elementary School – renovations (roof/HVAC)	1,000,000
St. Charles High School – construction	4,120,000
William B. Wade Elementary School – kindergarten/pre-k addition	420,000
Southern Region Additional Funding (Calvert, Charles, and St. Mary’s)	1,250,000

**College of Southern Maryland**

La Plata – Continuing Education Building renovation and expansion	6,858,000
Prince Frederick – campus development	4,022,000

**Community Parks and Playgrounds**

Tilghman Lake Park	100,000
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**Waterway Improvement**

Cobb Island Fire Department – purchase fire/rescue equipment	7,500
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**African American Heritage Preservation Grant Program**

Old Pomonkey High School – renovation	35,000
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**Other Projects**

Bel Alton High School Community Development Center	100,000
Greater Baden Medical Services	200,000
Maryland Veterans Memorial Museum	100,000

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

**Military**

La Plata Readiness Center (federal funds)

\$14,420,000



## Dorchester County

### A. Direct Aid and Retirement Payments

#### 1. Direct Aid

	<u>FY 2011</u>	<u>FY 2012</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$19,104	\$18,651	-\$453	-2.4
Compensatory Education	8,094	8,481	387	4.8
Student Transportation	2,263	2,300	37	1.6
Special Education	1,373	1,359	-14	-1.0
Limited English Proficiency Grants	335	280	-55	-16.5
Guaranteed Tax Base	28	0	-28	-100.0
Aging Schools	38	54	16	40.9
Other Education Aid	478	478	0	0.0
<b>Primary &amp; Secondary Education</b>	<b>\$31,712</b>	<b>\$31,602</b>	<b>-\$110</b>	<b>-0.3</b>
Libraries	244	238	-5	-2.2
Community Colleges	1,293	1,335	42	3.3
Health Formula Grant	429	429	0	0.0
* Transportation	338	606	268	79.1
* Police and Public Safety	249	249	0	0.0
* Fire and Rescue Aid	208	208	0	0.0
Recreation and Natural Resources	56	39	-17	-30.4
Disparity Grant	2,023	2,023	0	0.0
<b>Total Direct Aid</b>	<b>\$36,552</b>	<b>\$36,729</b>	<b>\$ 177</b>	<b>0.5</b>
Aid Per Capita (\$)	1,144	1,145	1	0.1
Property Tax Equivalent (\$)	1.03	1.13	0.10	10.0

\* Municipal governments within the county receive a share of these funds.

## 2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2012 State payments for Dorchester County for teachers, librarians, and community college faculty are estimated to be \$4,344,000.

## B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2012 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2011) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

### Health Services

Alcohol and Drug Abuse	\$1,609,000
Family Health and Primary Care	175,000
Medical Care Services	460,000
Mental Health	5,361,000
Prevention and Disease Control	354,000
Developmental Disabilities	2,442,000

### Social Services

Homeless Services	31,000
Women's Services	28,000
Adult Services	130,000
Child Welfare Services	805,000

### Senior Citizen Services

Long-term Care	571,000
Community Services	302,000

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

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

Dorchester Career and Technology Center – construction	\$2,900,000
Eastern Shore Region Additional Funding (Caroline, Dorchester, Kent, Queen Anne’s, Somerset, Talbot, Wicomico, and Worcester)	1,250,000

**Chesapeake College**

Center for Allied Health and Athletics	2,148,000
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**Community Parks and Playgrounds**

Church Creek Park	8,000
Secretary Veteran’s Memorial Park	99,000

**African American Heritage Preservation Grant Program**

Christ Rock Methodist Episcopal Church – renovation	100,000
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**Other Projects**

Chesapeake Grove – Senior Housing and Intergenerational Center	45,000
Choptank River Lighthouse – replica	230,000
Dorchester Center for the Arts – atrium entrance	40,000
Dorchester General Hospital	1,000,000

## Frederick County

### A. Direct Aid and Retirement Payments

#### 1. Direct Aid

	<u>FY 2011</u>	<u>FY 2012</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$146,856	\$151,059	\$4,203	2.9
Compensatory Education	23,999	27,649	3,650	15.2
Student Transportation	11,408	11,571	163	1.4
Special Education	14,168	14,615	447	3.2
Limited English Proficiency Grants	5,020	6,033	1,013	20.2
Geographic Cost of Education Index	6,276	6,292	16	0.3
Adult Education	401	401	0	0.0
Aging Schools	183	257	75	40.9
Other Education Aid	718	717	0	-0.1
<b>Primary &amp; Secondary Education</b>	<b>\$209,029</b>	<b>\$218,594</b>	<b>\$9,566</b>	<b>4.6</b>
Libraries	1,140	1,222	82	7.2
Community Colleges	8,667	8,702	34	0.4
Health Formula Grant	1,512	1,512	0	0.0
* Transportation	1,193	2,366	1,173	98.3
* Police and Public Safety	1,491	1,491	0	0.0
* Fire and Rescue Aid	365	365	0	0.0
Recreation and Natural Resources	352	191	-161	-45.7
<b>Total Direct Aid</b>	<b>\$223,749</b>	<b>\$234,443</b>	<b>\$10,695</b>	<b>4.8</b>
Aid Per Capita (\$)	984	1,018	34	3.5
Property Tax Equivalent (\$)	0.75	0.87	0.11	15.1

\* Municipal governments within the county receive a share of these funds.

## 2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2012 State payments for Frederick County for teachers, librarians, and community college faculty are estimated to be \$37,855,000.

## B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2012 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2011) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

### Health Services

Alcohol and Drug Abuse	\$1,680,000
Family Health and Primary Care	237,000
Medical Care Services	702,000
Mental Health	15,303,000
Prevention and Disease Control	586,000
Developmental Disabilities	17,376,000

### Social Services

Homeless Services	133,000
Women's Services	173,000
Adult Services	147,000
Child Welfare Services	2,040,000

### Senior Citizen Services

Long-term Care	233,000
Community Services	70,000

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

Carroll Manor Elementary School – construction	\$2,000,000
Frederick High School – renovations (fire safety)	243,000
Linganore High School – construction	10,185,000
Rock Creek Center – renovations (roof)	290,000
Sabillasville Elementary School – renovations (roof)	147,000
Western Region Funding (Allegany, Carroll, Frederick, Garrett, and Washington)	750,000

**Frederick Community College**

Science and Technology Hall – renovation and addition	4,646,000
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**Community Parks and Playgrounds**

Memorial Park	6,000
Wetherburne Park	35,000
Woodsboro Elementary School Playground	32,000

**Chesapeake Bay Water Quality Projects**

Emmitsburg WWTP – nutrient removal	2,441,000
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**African American Heritage Preservation Grant Program**

Laboring Sons Memorial – ground improvements	57,000
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**Other Projects**

Cultural Arts Center	125,000
Frederick Alliance For Youth – Youth and Community Center	375,000
Mount St. Mary's University – Bradley Hall	1,500,000
Weinberg Center for the Arts	150,000

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

**Other**

School for the Deaf – fire alarm and emergency notification system

\$332,000

## Garrett County

### A. Direct Aid and Retirement Payments

#### 1. Direct Aid

	<u>FY 2011</u>	<u>FY 2012</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$14,559	\$13,407	-\$1,152	-7.9
Compensatory Education	5,058	4,795	-262	-5.2
Student Transportation	2,803	2,826	23	0.8
Special Education	1,366	1,225	-141	-10.3
Limited English Proficiency Grants	10	12	2	22.0
Adult Education	66	66	0	0.0
Aging Schools	38	54	16	40.9
Other Education Aid	543	539	-4	-0.8
<b>Primary &amp; Secondary Education</b>	<b>\$24,442</b>	<b>\$22,923</b>	<b>-\$1,519</b>	<b>-6.2</b>
Libraries	155	129	-26	-16.5
Community Colleges	3,343	3,373	30	0.9
Health Formula Grant	437	437	0	0.0
* Transportation	304	546	242	79.6
* Police and Public Safety	155	155	0	0.0
* Fire and Rescue Aid	200	200	0	0.0
Recreation and Natural Resources	70	45	-25	-35.7
Disparity Grant	2,131	2,131	0	0.0
<b>Total Direct Aid</b>	<b>\$31,237</b>	<b>\$29,940</b>	<b>-\$1,297</b>	<b>-4.2</b>
Aid Per Capita (\$)	1,057	1,017	-39	-3.7
Property Tax Equivalent (\$)	0.63	0.60	-0.02	-3.8

\* Municipal governments within the county receive a share of these funds.



## 2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2012 State payments for Garrett County for teachers, librarians, and community college faculty are estimated to be \$4,498,000.

## B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2012 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2011) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

### Health Services

Alcohol and Drug Abuse	\$541,000
Family Health and Primary Care	144,000
Medical Care Services	651,000
Mental Health	2,783,000
Prevention and Disease Control	389,000
Developmental Disabilities	2,253,000

### Social Services

Homeless Services	45,000
Women's Services	129,000
Adult Services	35,000
Child Welfare Services	762,000

### Senior Citizen Services

Long-term Care	167,000
Community Services	66,000

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

Southern High School – renovations (windows)	\$100,000
Southern Middle School – renovations (chiller)	233,000
Western Region Funding (Allegany, Carroll, Frederick, Garrett, and Washington)	750,000

**Community Parks and Playgrounds**

Grantsville Community Park	40,000
Town of Accident Park	65,000

**Water Supply Financial Assistance Program**

Oakland – water system improvements	328,000
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**Waterway Improvement**

Broadford Lake – replace and repair docks	15,000
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**Other Projects**

HART Animal Adoption Center	125,000
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## Harford County

### A. Direct Aid and Retirement Payments

#### 1. Direct Aid

	<u>FY 2011</u>	<u>FY 2012</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$146,430	\$143,439	-\$2,991	-2.0
Compensatory Education	30,023	31,766	1,743	5.8
Student Transportation	11,734	11,859	125	1.1
Special Education	18,695	19,173	478	2.6
Limited English Proficiency Grants	1,788	1,675	-113	-6.3
Adult Education	91	91	0	0.0
Aging Schools	217	306	89	40.9
Other Education Aid	569	561	- 8	-1.4
<b>Primary &amp; Secondary Education</b>	<b>\$209,548</b>	<b>\$208,869</b>	<b>-\$678</b>	<b>-0.3</b>
Libraries	1,548	1,523	-25	-1.6
Community Colleges	10,240	10,287	47	0.5
Health Formula Grant	1,737	1,737	0	0.0
* Transportation	698	1,365	667	95.6
* Police and Public Safety	1,786	1,786	0	0.0
* Fire and Rescue Aid	379	379	0	0.0
Recreation and Natural Resources	495	286	-209	-42.2
<b>Total Direct Aid</b>	<b>\$226,430</b>	<b>\$226,232</b>	<b>-\$198</b>	<b>-0.1</b>
Aid Per Capita (\$)	937	931	-6	-0.7
Property Tax Equivalent (\$)	0.79	0.83	0.03	4.3

\* Municipal governments within the county receive a share of these funds.

## 2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2012 State payments for Harford County for teachers, librarians, and community college faculty are estimated to be \$36,077,000.

## B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2012 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2011) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

### Health Services

Alcohol and Drug Abuse	\$1,548,000
Family Health and Primary Care	237,000
Medical Care Services	860,000
Mental Health	12,626,000
Prevention and Disease Control	635,000
Developmental Disabilities	18,484,000

### Social Services

Homeless Services	78,000
Women's Services	237,000
Adult Services	149,000
Child Welfare Services	2,018,000

### Senior Citizen Services

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

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

Bel Air High School – construction	\$426,520
Deerfield Elementary School – construction	1,897,325
Edgewood High School – construction	10,545,000
Northeast Region Additional Funding (Cecil and Harford)	1,250,000

**Harford Community College**

Nursing and Allied Health Building – construction	715,000
Susquehanna Center – renovation and expansion	8,708,000

**Community Health Facilities Grant Program**

Key Point Health Services, Inc.	198,000
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**Community Parks and Playgrounds**

Aberdeen Swim Club	63,000
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**Waterway Improvement**

Havre de Grace Yacht Basin – utility improvements	14,000
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**African American Heritage Preservation Grant Program**

Hosanna School – renovation	28,000
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**Other Projects**

Boy Scouts of America – Broad Creek Ecology Conservation Learning Center	250,000
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## Howard County

### A. Direct Aid and Retirement Payments

#### 1. Direct Aid

	<u>FY 2011</u>	<u>FY 2012</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$150,701	\$153,556	\$2,854	1.9
Compensatory Education	18,570	20,617	2,047	11.0
Student Transportation	15,077	15,251	173	1.1
Special Education	12,635	13,240	605	4.8
Limited English Proficiency Grants	6,425	6,541	117	1.8
Geographic Cost of Education Index	4,984	5,015	31	0.6
Adult Education	229	229	0	0.0
Aging Schools	88	124	36	40.9
Other Education Aid	1,354	1,328	-26	-1.9
<b>Primary &amp; Secondary Education</b>	<b>\$210,063</b>	<b>\$215,901</b>	<b>\$5,837</b>	<b>2.8</b>
Libraries	770	824	54	7.0
Community Colleges	13,901	14,029	129	0.9
Health Formula Grant	1,215	1,215	0	0.0
Transportation	1,050	1,346	297	28.3
Police and Public Safety	2,256	2,256	0	0.0
Fire and Rescue Aid	397	397	0	0.0
Recreation and Natural Resources	880	482	-398	-45.2
Other Direct Aid	49	0	-49	-100.0
<b>Total Direct Aid</b>	<b>\$230,581</b>	<b>\$236,450</b>	<b>\$5,869</b>	<b>2.5</b>
Aid Per Capita (\$)	820	826	6	0.7
Property Tax Equivalent (\$)	0.48	0.53	0.05	10.0

## 2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2012 State payments for Howard County for teachers, librarians, and community college faculty are estimated to be \$61,684,000.

## B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2012 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2011) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

### Health Services

Alcohol and Drug Abuse	\$1,442,000
Family Health and Primary Care	160,000
Medical Care Services	562,000
Mental Health	9,164,000
Prevention and Disease Control	579,000
Developmental Disabilities	21,484,000

### Social Services

Homeless Services	82,000
Women's Services	154,000
Adult Services	47,000
Child Welfare Services	1,837,000

### Senior Citizen Services

Long-term Care	295,000
Community Services	19,000

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

Bollman Bridge Elementary School – construction	\$5,745,385
Centennial High School – construction	1,782,000
Clarksville Elementary School – renovations (HVAC/electrical)	3,314,000
Elkridge Elementary School – renovations (HVAC/roof)	300,000
Hammon High School – construction	387,000
Mt. Hebron High School – construction	805,851
Oakland Mills High School – renovations (roof)	743,000
Thunder Hill Elementary School – construction	3,500,000
Unspecified Additional Funding	4,000,000

**Howard Community College**

Health Sciences Building – construction	9,466,000
Science, Engineering, and Technology Building – construction	2,968,000

**Community Health Facilities Grant Program**

Humanim, Inc.	161,000
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**Other Projects**

Elkridge Volunteer Fire Company	500,000
Ellicott City Post Office	175,000
Linwood Center	500,000
Mount Pleasant Farm House	125,000
The Arc of Howard County – Grae Loch Home	145,000

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

Bloede Dam – removal	\$269,000
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## Kent County

### A. Direct Aid and Retirement Payments

#### 1. Direct Aid

	<u>FY 2011</u>	<u>FY 2012</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$4,378	\$4,030	-\$347	-7.9
Compensatory Education	2,382	2,543	161	6.8
Student Transportation	1,485	1,483	-2	-0.1
Special Education	832	764	-67	-8.1
Limited English Proficiency Grants	156	167	11	6.8
Geographic Cost of Education Index	138	136	-2	-1.4
Aging Schools	38	54	16	40.9
Other Education Aid	431	430	-1	-0.2
<b>Primary &amp; Secondary Education</b>	<b>\$9,840</b>	<b>\$9,608</b>	<b>-\$231</b>	<b>-2.4</b>
Libraries	96	91	-5	-4.9
Community Colleges	589	590	0	0.0
Health Formula Grant	336	336	0	0.0
* Transportation	205	335	130	63.7
* Police and Public Safety	131	131	0	0.0
* Fire and Rescue Aid	204	204	0	0.0
Recreation and Natural Resources	42	70	28	66.7
<b>Total Direct Aid</b>	<b>\$11,442</b>	<b>\$11,365</b>	<b>-\$77</b>	<b>-0.7</b>
Aid Per Capita (\$)	567	560	-7	-1.2
Property Tax Equivalent (\$)	0.35	0.36	0.01	4.0

\* Municipal governments within the county receive a share of these funds.

## 2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2012 State payments for Kent County for teachers, librarians, and community college faculty are estimated to be \$2,402,000.

## B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2012 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2011) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

### Health Services

Alcohol and Drug Abuse	\$1,708,000
Family Health and Primary Care	128,000
Medical Care Services	396,000
Mental Health	1,479,000
Prevention and Disease Control	425,000
Developmental Disabilities	1,543,000

### Social Services

Homeless Services	1,000
Women's Services	18,000
Adult Services	61,000
Child Welfare Services	397,000

### Senior Citizen Services

Long-term Care	509,000
Community Services	106,000

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

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

**Public Schools**

Eastern Shore Region Additional Funding (Caroline, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester)	\$1,250,000
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**Chesapeake College**

Center for Allied Health and Athletics	2,148,000
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**Community Parks and Playgrounds**

Remembrance Park	139,000
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**Other Projects**

Camp Fairlee Manor	125,000
Washington College – Miller Library	2,500,000

## Montgomery County

### A. Direct Aid and Retirement Payments

#### 1. Direct Aid

	<u>FY 2011</u>	<u>FY 2012</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$264,653	\$290,374	\$25,721	9.7
Compensatory Education	100,688	106,595	5,907	5.9
Student Transportation	34,336	35,211	875	2.5
Special Education	45,804	46,642	838	1.8
Limited English Proficiency Grants	43,827	49,787	5,960	13.6
Geographic Cost of Education Index	31,440	31,955	515	1.6
Adult Education	802	802	0	0.0
Aging Schools	603	849	247	40.9
Other Education Aid	2,558	2,533	-24	-1.0
<b>Primary &amp; Secondary Education</b>	<b>\$524,710</b>	<b>\$564,748</b>	<b>\$40,038</b>	<b>7.6</b>
Libraries	2,662	2,720	59	2.2
Community Colleges	40,821	41,297	476	1.2
Health Formula Grant	3,015	3,015	0	0.0
* Transportation	1,716	3,742	2,025	118.0
* Police and Public Safety	9,847	9,847	0	0.0
* Fire and Rescue Aid	1,306	1,306	0	0.0
Recreation and Natural Resources	2,238	1,241	-997	-44.5
<b>Total Direct Aid</b>	<b>\$586,315</b>	<b>\$627,916</b>	<b>\$41,601</b>	<b>7.1</b>
Aid Per Capita (\$)	604	635	31	5.2
Property Tax Equivalent (\$)	0.33	0.37	0.04	12.2

\* Municipal governments within the county receive a share of these funds.

## 2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2012 State payments for Montgomery County for teachers, librarians, and community college faculty are estimated to be \$179,661,000.

## B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2012 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2011) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

### Health Services

Alcohol and Drug Abuse	\$3,120,000
Family Health and Primary Care	559,000
Medical Care Services	2,947,000
Mental Health	36,974,000
Prevention and Disease Control	1,428,000
Developmental Disabilities	74,052,000

### Social Services

Homeless Services	278,000
Women's Services	248,000
Adult Services	706,000
Child Welfare Services	4,388,000

### Senior Citizen Services

Long-term Care	915,000
Community Services	200,000

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

Bradley Hills Elementary School – renovations (HVAC)	\$735,000
Broad Acres Elementary School – renovations (HVAC/roof)	989,000
Cabin John Middle School – construction	4,193,000
Carderock Springs Elementary School – construction	1,158,420
Colonel Zadok Magruder High School – renovations (chilled water system)	580,000
Damascus Elementary School – renovations (HVAC)	857,000
DuFief Elementary School – renovations (HVAC)	362,000
East Silver Spring Elementary School – construction	422,000
Fairland Elementary School – renovations (roof)	412,000
Fox Chapel Elementary School – construction	1,880,000
Germantown Elementary School – renovations (HVAC)	666,000
Greencastle Elementary School – renovations (HVAC)	159,000
Oak View Elementary School – renovations (roof)	213,000
Olney Elementary School – renovations (roof)	284,000
Poolesville High School – renovations (HVAC)	416,000
Poolesville High School – science facilities	3,081,000
Rachel Carson Elementary School – renovations (roof)	470,000
Sherwood Elementary School – construction	160,000
Sherwood High School – renovations (roof)	223,000
Sligo Middle School – renovations (roof)	652,000
South Lake Elementary School – renovations (HVAC)	686,000
Takoma Park Elementary School – construction	1,162,000
Walt Whitman High School – renovations (roof)	171,000
Watkins Mill Elementary School – renovations (HVAC)	416,000
Watkins Mill High School – renovations (HVAC)	1,176,000
Unspecified Additional Funding	9,000,000

**Montgomery College**

Rockville – Science Center	6,208,000
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**Community Health Facilities Grant Program**

Housing Unlimited, Inc.	1,200,000
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**Partnership Rental Housing Program**

Aspen Court	863,761
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**Community Parks and Playgrounds**

Calvin Park	156,000
Poolesville Tot Lot	70,000

**Chesapeake Bay Water Quality Projects**

Blue Plains WWTP – nutrient removal	1,500,000
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**Chesapeake Bay Restoration Fund**

Blue Plains WWTP – enhanced nutrient removal	181,000,000
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**African American Heritage Preservation Grant Program**

Loving and Charity Hall – renovation	50,000
Sandy Spring Odd Fellows Lodge – renovation	100,000
Sandy Spring Slave Museum and African Art Gallery – renovation	88,000

**Other Projects**

American Film Institute Silver Theatre and Cultural Center	375,000
Bohrer Park – water park renovation	205,000
Cardinal McCarrick Center	125,000
Charles E. Smith Life Communities	675,000
Discovery Sports Center	30,000
Homecrest House	119,000
Ivymount School – Annex Building	200,000
Jewish Community Center of Greater Washington Theatre	215,000
Jewish Social Service Agency	335,000
MacDonald Knolls Center	200,000
Mental Health Association – HVAC replacement	75,000
Montgomery Village – Battleridge Place stream valley restoration	20,000
Montgomery Village – Glenbrooke stormwater management pond renovation	30,000
Montgomery Village – Lewisberry Corridor lighting improvement	30,000
Noyes Children's Library	50,000
Olney Boys and Girls Club Community Park	150,000

**A-150*****The 90 Day Report***

Olney Theatre Center	150,000
Orthodox Congregation of Silver Spring Preschool	48,000
Poole's Store	50,000
Rockville Swim and Fitness Center	20,000
Seneca Park North	18,000
Warner Manor	100,000



## Prince George's County

### A. Direct Aid and Retirement Payments

#### 1. Direct Aid

	<u>FY 2011</u>	<u>FY 2012</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$488,759	\$475,463	-\$13,296	-2.7
Compensatory Education	196,457	199,369	2,911	1.5
Student Transportation	36,613	36,557	-56	-0.2
Special Education	59,856	58,872	-983	-1.6
Limited English Proficiency Grants	55,203	56,217	1,014	1.8
Geographic Cost of Education Index	38,612	38,495	-117	-0.3
Adult Education	616	616	0	0.0
Aging Schools	1,209	1,704	495	40.9
Other Education Aid	2,433	2,426	-7	-0.3
<b>Primary &amp; Secondary Education</b>	<b>\$879,759</b>	<b>\$869,719</b>	<b>-\$10,040</b>	<b>-1.1</b>
Libraries	5,648	5,606	-41	-0.7
Community Colleges	22,412	22,993	581	2.6
Health Formula Grant	5,007	5,007	0	0.0
* Transportation	1,960	4,236	2,277	116.2
* Police and Public Safety	15,456	15,456	0	0.0
* Fire and Rescue Aid	1,144	1,144	0	0.0
Recreation and Natural Resources	1,904	1,046	-858	-45.1
Disparity Grant	21,695	20,006	-1,689	-7.8
Video Lottery Terminal Impact Aid	0	1,000	1,000	n/a
* Other Direct Aid	92	0	- 92	-100.0
<b>Total Direct Aid</b>	<b>\$955,076</b>	<b>\$946,213</b>	<b>-\$8,863</b>	<b>-0.9</b>
Aid Per Capita (\$)	1,148	1,128	-20	-1.8
Property Tax Equivalent (\$)	0.96	1.09	0.13	13.0

\* Municipal governments within the county receive a share of these funds.

## 2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2012 State payments for Prince George's County for teachers, librarians, and community college faculty are estimated to be \$128,761,000.

## B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2012 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2011) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

### Health Services

Alcohol and Drug Abuse	\$8,708,000
Family Health and Primary Care	1,343,000
Medical Care Services	3,937,000
Mental Health	40,126,000
Prevention and Disease Control	1,232,000
Developmental Disabilities	63,607,000

### Social Services

Homeless Services	585,000
Women's Services	405,000
Adult Services	596,000
Child Welfare Services	6,445,000

### Senior Citizen Services

Long-term Care	829,000
Community Services	196,000

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

Allenwood Elementary School – construction	\$1,735,000
Avalon Elementary School – construction	5,200,000
Crossland High School – science facilities	1,061,000
Drew Freeman Middle School – renovations	421,000
Gwynn Park High School – renovations (chiller)	291,000
Henry G. Ferguson Elementary School – construction	4,600,000
Hyattsville Area New Elementary School – construction	3,300,000
James H. Harrison Elementary School – renovations (roof)	845,000
Oxon Hill High School – construction	1,000,000
Potomac High School – science facilities	291,000
Tayac Elementary School – renovations (roof)	600,000
University Park Elementary School – construction	1,897,000
Unspecified Additional Funding	9,000,000

**Prince George’s Community College**

Campus Fire Alarm System – upgrade	161,000
Campuswide – circulation and roadway modifications	2,549,000
Center for Health Studies	912,000
Facilities Management Building – renovation and addition	380,000

**Federally Qualified Health Centers Grant Program**

Greater Baden Medical Services – Walker Mill Health Center	482,000
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**Community Parks and Playgrounds**

7th Street Community Park	28,000
Brentwood Park	45,000
Cottage City Park and Playground	92,000
Cypress Street Field	150,000
Frenchman’s Creek Playground	79,000
Greenbelt Playground	56,000
Henry Rinck Park	50,000
Monroe Park	40,000

**Chesapeake Bay Water Quality Projects**

Blue Plains WWTP – nutrient removal	1,500,000
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**Chesapeake Bay Restoration Fund**

Blue Plains WWTP – enhanced nutrient removal	181,000,000
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**Waterway Improvement**

Laurel Volunteer Rescue Squad – purchase water rescue equipment	5,000
Prince George’s Volunteer Fire Rescue Marine Unit – purchase fire/rescue boat	25,000
Prince George’s Volunteer Fire Rescue Marine Unit – water rescue equipment	10,000

**African American Heritage Preservation Grant Program**

Wilmers Park Dance Hall – repairs	100,000
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**Other Projects**

African American Museum and Cultural Center	75,000
Arthur and Mary E. Ridgley, Sr. Museum	150,000
Battle of Bladensburg Visitor Center and Monument	125,000
Berkshire Neighborhood Park	200,000
Bowie – Whitemarsh Turf Field	80,000
Capital Heights and Seat Pleasant Boys and Girls Club	100,000
Community Safety and Surveillance Systems	120,000
Crossland High School – press box at football stadium	30,000
Greenbelt Arts Center	25,000
Joe’s Movement Emporium	50,000
Laurel Armory Anderson Murphy Community Center	200,000
Laurel Police Department – community space facility	100,000
Maryland-National Capital Park and Planning Commission – field lights	300,000
Mount Rainier Civic Center	75,000
My Sister’s Keeper Group Homes	150,000
National Children’s Museum	3,000,000
New Horizons Disability Job Training and Recycling Center	150,000
Prince George’s Hospital System	4,000,000
Riverdale Park – Town Hall expansion	275,000
St. Ann’s Infant and Maternity Home	750,000
Vesta Glenarden Facility	100,000

**D. Capital Projects for State Facilities in the County****University System of Maryland**

Bowie State – Bulldog Football Stadium field lights and field house renovation	\$1,200,000
Bowie State – campuswide site improvements	1,757,000
Bowie State – new student center	17,940,000
College Park – campuswide infrastructure improvements	5,000,000
College Park – Central Maryland Research and Education Center	1,700,000
College Park – Physical Sciences Complex	30,100,000
College Park – Residence Hall air conditioning	16,395,000
College Park – Residence Hall central utility expansion	4,000,000
College Park – Residence Hall renovations	6,060,000
College Park – Satellite Central Utility Building expansion	1,410,000

## Queen Anne's County

### A. Direct Aid and Retirement Payments

#### 1. Direct Aid

	<u>FY 2011</u>	<u>FY 2012</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$20,248	\$20,703	\$ 455	2.2
Compensatory Education	3,961	4,255	294	7.4
Student Transportation	3,134	3,175	41	1.3
Special Education	2,127	2,169	42	2.0
Limited English Proficiency Grants	360	345	-15	-4.1
Geographic Cost of Education Index	551	551	1	0.2
Adult Education	427	427	0	0.0
Aging Schools	50	71	20	40.9
Other Education Aid	527	526	0	-0.1
<b>Primary &amp; Secondary Education</b>	<b>\$31,385</b>	<b>\$32,222</b>	<b>\$ 837</b>	<b>2.7</b>
Libraries	132	139	8	5.7
Community Colleges	1,682	1,657	-25	-1.5
Health Formula Grant	418	418	0	0.0
* Transportation	290	450	160	55.1
* Police and Public Safety	266	266	0	0.0
* Fire and Rescue Aid	200	200	0	0.0
Recreation and Natural Resources	90	52	-38	-42.2
<b>Total Direct Aid</b>	<b>\$34,463</b>	<b>\$35,405</b>	<b>\$ 941</b>	<b>2.7</b>
Aid Per Capita (\$)	717	731	13	1.8
Property Tax Equivalent (\$)	0.39	0.43	0.03	8.0

\* Municipal governments within the county receive a share of these funds.

## 2. Retirement Payments

County teachers and librarians are members of either the teachers’ retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2012 State payments for Queen Anne’s County for teachers, librarians, and community college faculty are estimated to be \$6,991,000.

## B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2012 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county’s share of prior year funding (fiscal 2011) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

### Health Services

Alcohol and Drug Abuse	\$520,000
Family Health and Primary Care	181,000
Medical Care Services	442,000
Mental Health	1,794,000
Prevention and Disease Control	301,000
Developmental Disabilities	3,655,000

### Social Services

Homeless Services	11,000
Women’s Services	25,000
Adult Services	43,000
Child Welfare Services	528,000

### Senior Citizen Services

Long-term Care	113,000
Community Services	42,000

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

Kennard Elementary School – construction	\$1,274,000
Sudlersville Middle School – construction	1,800,000
Eastern Shore Region Additional Funding (Caroline, Dorchester, Kent, Queen Anne’s, Somerset, Talbot, Wicomico, and Worcester)	1,250,000

**Chesapeake College**

Center for Allied Health and Athletics	2,148,000
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**Community Parks and Playgrounds**

Sudlersville Elementary School Playground	78,000
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**Waterway Improvement**

Grasonville Volunteer Fire Department – purchase fire/rescue boat and equipment	10,000
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**African American Heritage Preservation Grant Program**

Kennard High School – renovation	80,000
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**Other Projects**

Chesterwye Center – Jessie’s House	125,000
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## St. Mary's County

### A. Direct Aid and Retirement Payments

#### 1. Direct Aid

	<u>FY 2011</u>	<u>FY 2012</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$67,156	\$64,841	-\$2,316	-3.4
Compensatory Education	13,521	14,175	654	4.8
Student Transportation	6,294	6,410	116	1.8
Special Education	5,948	5,400	-548	-9.2
Limited English Proficiency Grants	562	530	-33	-5.8
Geographic Cost of Education Index	219	220	1	0.4
Adult Education	202	202	0	0.0
Aging Schools	50	71	20	40.9
Other Education Aid	858	858	0	0.0
<b>Primary &amp; Secondary Education</b>	<b>\$94,811</b>	<b>\$92,707</b>	<b>-\$2,104</b>	<b>-2.2</b>
Libraries	624	588	-36	-5.7
Community Colleges	2,310	2,397	87	3.8
Health Formula Grant	809	809	0	0.0
* Transportation	496	670	174	35.1
* Police and Public Safety	559	559	0	0.0
* Fire and Rescue Aid	200	200	0	0.0
Recreation and Natural Resources	169	92	-77	-45.6
<b>Total Direct Aid</b>	<b>\$99,977</b>	<b>\$98,021</b>	<b>-\$1,956</b>	<b>-2.0</b>
Aid Per Capita (\$)	975	933	-41	-4.2
Property Tax Equivalent (\$)	0.76	0.75	-0.01	-0.5

\* Municipal governments within the county receive a share of these funds.

## 2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2012 State payments for St. Mary's County for teachers, librarians, and community college faculty are estimated to be \$15,195,000.

## B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2012 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2011) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

### Health Services

Alcohol and Drug Abuse	\$2,657,000
Family Health and Primary Care	132,000
Medical Care Services	582,000
Mental Health	4,790,000
Prevention and Disease Control	379,000
Developmental Disabilities	7,850,000

### Social Services

Homeless Services	54,000
Women's Services	147,000
Adult Services	91,000
Child Welfare Services	1,319,000

### Senior Citizen Services

Long-term Care	149,000
Community Services	58,000

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

Leonardtown Middle School – construction	\$1,230,814
Oakville Elementary School – renovations (HVAC)	800,000
Southern Region Additional Funding (Calvert, Charles, and St. Mary’s)	1,250,000

**College of Southern Maryland**

La Plata – Continuing Education Building renovation and expansion	6,858,000
Prince Frederick – campus development	4,022,000

**Partnership Rental Housing Program**

Greenview Apartments	1,703,052
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**Waterway Improvement**

Ridge Volunteer Fire Department – purchase marine fire/rescue equipment	4,000
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**Other Projects**

Southern Maryland Higher Education Center – classroom and laboratory building	935,000
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## Somerset County

### A. Direct Aid and Retirement Payments

#### 1. Direct Aid

	<u>FY 2011</u>	<u>FY 2012</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$12,171	\$12,042	-\$128	-1.1
Compensatory Education	7,093	7,236	143	2.0
Student Transportation	1,743	1,759	16	0.9
Special Education	1,371	1,469	98	7.1
Limited English Proficiency Grants	417	413	-4	-1.1
Guaranteed Tax Base	629	538	-91	-14.4
Adult Education	150	150	0	0.0
Aging Schools	38	54	16	40.9
Other Education Aid	130	130	0	-0.1
<b>Primary &amp; Secondary Education</b>	<b>\$23,743</b>	<b>\$23,792</b>	<b>\$48</b>	<b>0.2</b>
Libraries	263	258	-5	-2.0
Community Colleges	808	737	-71	-8.8
Health Formula Grant	429	429	0	0.0
* Transportation	312	433	122	39.0
* Police and Public Safety	162	162	0	0.0
* Fire and Rescue Aid	208	208	0	0.0
Recreation and Natural Resources	40	24	-16	-40.0
Disparity Grant	4,908	4,908	0	0.0
<b>Total Direct Aid</b>	<b>\$30,874</b>	<b>\$30,951</b>	<b>\$77</b>	<b>0.3</b>
Aid Per Capita (\$)	1,185	1,186	1	0.1
Property Tax Equivalent (\$)	1.75	1.84	0.09	5.2

\* Municipal governments within the county receive a share of these funds.

## 2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2012 State payments for Somerset County for teachers, librarians, and community college faculty are estimated to be \$3,028,000.

## B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2012 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2011) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

### Health Services

Alcohol and Drug Abuse	\$896,000
Family Health and Primary Care	318,000
Medical Care Services	461,000
Mental Health	3,512,000
Prevention and Disease Control	325,000
Developmental Disabilities	1,979,000

### Social Services

Homeless Services	6,000
Women's Services	33,000
Adult Services	70,000
Child Welfare Services	809,000

### Senior Citizen Services

Long-term Care	571,000
Community Services	279,000

Note: A portion of women's services funding supports services in Somerset, Wicomico, and Worcester counties. Senior citizen services funding supports services in Dorchester, Somerset, Wicomico, and Worcester counties.

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

Washington High School – construction	\$1,600,000
Eastern Shore Region Additional Funding (Caroline, Dorchester, Kent, Queen Anne’s, Somerset, Talbot, Wicomico, and Worcester)	1,250,000

**Chesapeake Bay Water Quality Projects**

Tylerton WWTP – plant upgrade	322,000
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**Waterway Improvement**

Crisfield – City Depot dock improvements	50,000
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**Other Projects**

Teackle Mansion and the Sarah Martin Done House	120,000
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**D. Capital Projects for State Facilities in the County****University System of Maryland**

Eastern Shore – Engineering and Aviation Science Building	\$3,600,000
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## Talbot County

### A. Direct Aid and Retirement Payments

#### 1. Direct Aid

	<u>FY 2011</u>	<u>FY 2012</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$4,291	\$4,275	-\$16	-0.4
Compensatory Education	3,673	3,868	195	5.3
Student Transportation	1,475	1,491	16	1.1
Special Education	808	846	38	4.7
Limited English Proficiency Grants	429	512	82	19.1
Aging Schools	38	54	16	40.9
Other Education Aid	478	478	0	-0.1
<b>Primary &amp; Secondary Education</b>	<b>\$11,193</b>	<b>\$11,523</b>	<b>\$330</b>	<b>2.9</b>
Libraries	101	102	0	0.1
Community Colleges	1,308	1,310	2	0.1
Health Formula Grant	329	329	0	0.0
* Transportation	261	548	287	110.0
* Police and Public Safety	264	264	0	0.0
* Fire and Rescue Aid	216	216	0	0.0
Recreation and Natural Resources	95	54	-41	-43.2
<b>Total Direct Aid</b>	<b>\$13,768</b>	<b>\$14,346</b>	<b>\$578</b>	<b>4.2</b>
Aid Per Capita (\$)	381	395	14	3.6
Property Tax Equivalent (\$)	0.14	0.15	0.01	8.4

\* Municipal governments within the county receive a share of these funds.

## 2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2012 State payments for Talbot County for teachers, librarians, and community college faculty are estimated to be \$4,087,000.

## B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2012 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2011) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

### Health Services

Alcohol and Drug Abuse	\$628,000
Family Health and Primary Care	142,000
Medical Care Services	302,000
Mental Health	3,015,000
Prevention and Disease Control	308,000
Developmental Disabilities	2,764,000

### Social Services

Homeless Services	28,000
Women's Services	49,000
Adult Services	44,000
Child Welfare Services	738,000

### Senior Citizen Services

Long-term Care	509,000
Community Services	108,000

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



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

Eastern Shore Region Additional Funding (Caroline, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester)	\$1,250,000
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**Chesapeake College**

Center for Allied Health and Athletics	2,148,000
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**Partnership Rental Housing Program**

Westport Commons	1,499,000
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**Community Parks and Playgrounds**

Trappe Veterans Memorial Park	20,000
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**Waterway Improvement**

St. Michaels – purchase marine fire/rescue equipment	10,000
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**Other Projects**

Chesapeake Bay Maritime Museum – bulkhead replacement	30,000
Talbot Hospice	30,000

## Washington County

### A. Direct Aid and Retirement Payments

#### 1. Direct Aid

	<u>FY 2011</u>	<u>FY 2012</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$90,285	\$93,122	\$2,837	3.1
Compensatory Education	32,520	36,803	4,283	13.2
Student Transportation	6,537	6,703	165	2.5
Special Education	8,661	8,767	106	1.2
Limited English Proficiency Grants	1,776	1,934	158	8.9
Guaranteed Tax Base	3,058	4,427	1,369	44.8
Adult Education	126	126	0	0.0
Aging Schools	135	190	55	40.9
Other Education Aid	1,205	1,162	-44	-3.6
<b>Primary &amp; Secondary Education</b>	<b>\$144,304</b>	<b>\$153,234</b>	<b>\$8,930</b>	<b>6.2</b>
Libraries	1,128	1,146	18	1.6
Community Colleges	7,857	7,889	32	0.4
Health Formula Grant	1,381	1,381	0	0.0
* Transportation	703	1,432	729	103.6
* Police and Public Safety	960	960	0	0.0
* Fire and Rescue Aid	232	232	0	0.0
Recreation and Natural Resources	262	146	-116	-44.3
<b>Total Direct Aid</b>	<b>\$156,827</b>	<b>\$166,420</b>	<b>\$9,592</b>	<b>6.1</b>
Aid Per Capita (\$)	1,077	1,139	62	5.7
Property Tax Equivalent (\$)	1.10	1.24	0.14	12.5

\* Municipal governments within the county receive a share of these funds.

## 2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2012 State payments for Washington County for teachers, librarians, and community college faculty are estimated to be \$20,382,000.

## B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2012 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2011) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

### Health Services

Alcohol and Drug Abuse	\$2,239,000
Family Health and Primary Care	196,000
Medical Care Services	660,000
Mental Health	8,975,000
Prevention and Disease Control	456,000
Developmental Disabilities	11,121,000

### Social Services

Homeless Services	165,000
Women's Services	122,000
Adult Services	286,000
Child Welfare Services	2,679,000

### Senior Citizen Services

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

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

Antietam Academy – construction	\$2,500,000
Barbara Ingram School for the Arts – construction	634,000
Boonesboro High School – renovations (boiler)	195,000
Ruth Ann Monroe Primary School – construction	2,300,000
Smithburg High School – renovations (windows)	363,000
Western Region Funding (Allegany, Carroll, Frederick, Garrett, and Washington)	750,000

**Hagerstown College**

Arts and Sciences Complex	4,744,000
Performing and Visual Arts Education Center	213,000

**Shelter and Transitional Facilities**

Way Station Homeless Vets	500,000
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**Community Parks and Playgrounds**

L. Beard Miller Swimming Pool	35,000
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**D. Capital Projects for State Facilities in the County****Department of Public Safety and Correctional Services**

Correctional Training Center – replace windows and heating systems	\$9,729,000
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**Department of Education**

Western Maryland Regional Library	2,500,000
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## Wicomico County

### A. Direct Aid and Retirement Payments

#### 1. Direct Aid

	<u>FY 2011</u>	<u>FY 2012</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$64,967	\$63,986	-\$982	-1.5
Compensatory Education	29,107	31,941	2,834	9.7
Student Transportation	4,904	4,940	36	0.7
Special Education	6,311	6,282	-29	-0.5
Limited English Proficiency Grants	1,986	2,215	229	11.5
Guaranteed Tax Base	6,954	4,299	-2,655	-38.2
Adult Education	275	275	0	0.0
Aging Schools	107	150	44	40.9
Other Education Aid	660	659	-1	-0.1
<b>Primary &amp; Secondary Education</b>	<b>\$115,270</b>	<b>\$114,747</b>	<b>-\$523</b>	<b>-0.5</b>
Libraries	838	834	-4	-0.5
Community Colleges	4,587	4,676	90	2.0
Health Formula Grant	947	947	0	0.0
* Transportation	513	1,030	517	100.8
* Police and Public Safety	993	993	0	0.0
* Fire and Rescue Aid	230	230	0	0.0
Recreation and Natural Resources	175	102	-73	-41.7
Disparity Grant	2,197	2,197	0	0.0
<b>Total Direct Aid</b>	<b>\$125,750</b>	<b>\$125,756</b>	<b>\$6</b>	<b>0.0</b>
Aid Per Capita (\$)	1,333	1,326	-6	-0.5
Property Tax Equivalent (\$)	1.63	1.76	0.13	7.7

\* Municipal governments within the county receive a share of these funds.

## 2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2012 State payments for Wicomico County for teachers, librarians, and community college faculty are estimated to be \$14,339,000.

## B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2012 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2011) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

### Health Services

Alcohol and Drug Abuse	\$1,417,000
Family Health and Primary Care	468,000
Medical Care Services	870,000
Mental Health	8,699,000
Prevention and Disease Control	440,000
Developmental Disabilities	7,181,000

### Social Services

Homeless Services	26,000
Women's Services	120,000
Adult Services	37,000
Child Welfare Services	1,461,000

### Senior Citizen Services

Long-term Care	571,000
Community Services	330,000

Note: A portion of women's services funding supports services in Somerset, Wicomico, and Worcester counties. Senior citizen services funding supports services in Dorchester, Somerset, Wicomico, and Worcester counties.

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

Bennett Middle School – construction	\$5,200,000
Fruitland Intermediate School – renovations (roof)	579,000
Eastern Shore Region Additional Funding (Caroline, Dorchester, Kent, Queen Anne’s, Somerset, Talbot, Wicomico, and Worcester)	1,250,000

**Partnership Rental Housing Program**

County Housing Authority	855,000
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**Water Supply Financial Assistance Program**

Fruitland – water tower rehabilitation	174,000
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**African American Heritage Preservation Grant Program**

San Domingo Rosenwald School – renovation	25,000
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**Other Projects**

Salisbury Zoological Park – Animal Health Clinic	200,000
Tri-County Multi-Purpose Center	300,000

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

Deer’s Head Hospital Center – new kidney dialysis unit	\$6,124,000
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**University System of Maryland**

Salisbury University – campuswide dormitory renovations	9,000,000
Salisbury University – gymnasium repairs and renovation	1,500,000

## Worcester County

### A. Direct Aid and Retirement Payments

#### 1. Direct Aid

	<u>FY 2011</u>	<u>FY 2012</u>	<u>\$ Diff.</u>	<u>% Diff.</u>
	(\$ in Thousands)			
Foundation Aid	\$6,290	\$6,343	\$53	0.8
Compensatory Education	6,442	6,782	340	5.3
Student Transportation	2,822	2,849	28	1.0
Special Education	1,446	1,520	73	5.1
Limited English Proficiency Grants	374	366	-8	-2.1
Adult Education	119	119	0	0.0
Aging Schools	38	54	16	40.9
Other Education Aid	466	466	0	0.0
<b>Primary &amp; Secondary Education</b>	<b>\$17,996</b>	<b>\$18,498</b>	<b>\$502</b>	<b>2.8</b>
Libraries	138	138	0	-0.3
Community Colleges	1,849	1,868	19	1.0
Health Formula Grant	313	313	0	0.0
* Transportation	552	950	398	72.2
* Police and Public Safety	458	458	0	0.0
* Fire and Rescue Aid	262	262	0	0.0
Recreation and Natural Resources	170	102	-68	-40.0
Video Lottery Terminal Impact Aid	2,569	3,840	1,272	49.5
<b>Total Direct Aid</b>	<b>\$24,306</b>	<b>\$26,428</b>	<b>\$2,122</b>	<b>8.7</b>
Aid Per Capita (\$)	496	541	44	8.9
Property Tax Equivalent (\$)	0.13	0.15	0.02	11.8

\* Municipal governments within the county receive a share of these funds.



## 2. Retirement Payments

County teachers and librarians are members of either the teachers' retirement or pension systems maintained and operated by the State. Community college faculty may also be members of these systems. The State pays the employer share on behalf of the subdivisions for these local employees. Fiscal 2012 State payments for Worcester County for teachers, librarians, and community college faculty are estimated to be \$8,065,000.

## B. Estimated State Spending on Selected Health and Social Services

The Departments of Aging, Human Resources, and Health and Mental Hygiene fund the provision of health and social services in the counties either through the local government, private providers, or State agencies in the counties. What follows are estimates of fiscal 2012 general and special fund allocations for various programs. Note that for many programs the amounts shown for a county are based on the county's share of prior year funding (fiscal 2011) and may change. See the discussion at the beginning of this section for more detail on the types of services funded by the State.

### Health Services

Alcohol and Drug Abuse	\$2,188,000
Family Health and Primary Care	290,000
Medical Care Services	559,000
Mental Health	3,116,000
Prevention and Disease Control	482,000
Developmental Disabilities	3,744,000

### Social Services

Homeless Services	26,000
Women's Services	65,000
Adult Services	50,000
Child Welfare Services	822,000

### Senior Citizen Services

Long-term Care	571,000
Community Services	284,000

Note: A portion of women's services funding supports services in Somerset, Wicomico, and Worcester counties. Senior citizen services funding supports services in Dorchester, Somerset, Wicomico, and Worcester counties.

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

Eastern Shore Region Additional Funding (Caroline, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester)	\$1,250,000
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**Community Health Facilities Grant Program**

Joan W. Jenkins Foundation, Inc.	288,000
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**Waterway Improvement**

South Point – relocate boat ramp	99,000
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**D. Capital Projects for State Facilities in the County****Department of Natural Resources**

Ocean City – beach replenishment	\$2,000,000
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## **Part B**

### **Taxes**

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#### **Property Tax**

##### **Property Tax Administration**

##### **Budget Reconciliation and Financing Act**

While, the State Department of Assessments and Taxation (SDAT) supervises the assessment of all property in the State, counties and municipalities are the primary beneficiaries of property taxes in Maryland. The Budget Reconciliation and Financing Act of 2011, *House Bill 72 (passed)*, requires the counties and Baltimore City to reimburse SDAT for (1) 90% of the costs of real property valuation; (2) 90% of the costs of business personal property valuation; and (3) 90% of costs incurred by SDAT with regards to information technology in fiscal 2012 and 2013. Beginning in fiscal 2014, the counties and Baltimore City are required to reimburse SDAT for 50% of these costs. *House Bill 72* specifies how those costs must be allocated among the counties and Baltimore City and how payments must be remitted. The Comptroller may withhold a portion of a local income tax distribution if timely payment is not made.

General fund expenditures will decrease by \$34.8 million in fiscal 2012 due to the shift in costs from the State to the local jurisdictions. General funds to support SDAT and related information technology projects are included in the proposed fiscal 2012 State budget, but reductions totaling \$34.8 million are contingent on the enactment of the legislation requiring the counties to pay these costs. Local expenditures will increase by a commensurate amount.

For a more detailed discussion of the Budget Reconciliation and Financing Act of 2011, see subpart “Operating Budget” within Part A – Budget and State Aid of this *90 Day Report*.

##### **Semi-annual Payment Schedule for Business Property**

Property taxes for owner-occupied residential property are due under a semi-annual schedule. The first installment is due on July 1 and may be paid without interest on or before September 30. The second installment is due on December 1 and may be paid without interest

on or before December 31. Local governments are authorized to impose a maximum service charge of 1.65% of the second payment to cover lost interest for the three-month delay in tax collection and associated administrative fees. However, homeowners may elect to pay the full year's property tax on or before September 30 to avoid the service charge. Chapter 680 of 2010 required county and municipal governments to establish a semiannual payment schedule for State, county, municipal, and special taxing district property taxes for small business property with a property tax bill of \$50,000 or less. Property taxes for property other than owner-occupied residential property and specified small business property are due on July 1 and may be paid without interest on or before September 30.

***House Bill 463 (passed)*** expands the current requirement that local governments allow certain businesses to elect to pay property taxes on a semiannual basis so that a business may make this election if total property taxes do not exceed \$100,000. The bill applies to all taxable years after June 30, 2012.

### **Property Tax Assessment Appeals Boards**

There are three levels in the appeals process that property owners may pursue when appealing a property tax assessment. The first appeal of an assessment goes to SDAT, which determines the original assessment. To the extent a property owner receives an unsatisfactory ruling, that ruling may be applied to the Property Tax Assessment Appeals Boards (PTAAB), which hear appeals in matters relating to the assessment of property throughout the State. There is one board located in each county and Baltimore City. Each board has four members (three members and one alternate) who are appointed by the Governor for five-year terms. Further appeals may be made to the Maryland Tax Court.

***Senate Bill 55 (Ch. 10)*** increases the number of alternate members of the PTAAB from one to three in the following jurisdictions: Baltimore City and Anne Arundel, Baltimore, Montgomery, and Prince George's counties. Increasing the number of alternate board members will likely allow a PTAAB to hear more cases in a timely and efficient manner as they will have a greater number of alternates should the regular members be unavailable. The bill does not alter PTAAB funding levels or member compensation amounts.

### **Tax Sales**

#### **Garrett and Dorchester Counties – Auctioneer's Fees and Advertising**

The auctioneer's fee for properties sold at a tax sale auction in Garrett County is set at a maximum of \$10 on a day when up to three properties are sold and \$3 per property on a day when four or more properties are sold. ***House Bill 258 (Ch. 115)*** alters the auctioneer fee for property sold at a tax sale in Garrett County by setting the fee at \$8 for each property sold.

The auctioneer's fee for properties sold at a tax sale auction in Dorchester County is set at \$10 per property sold, but in no event may the auctioneer's fee be less than \$50 a day or greater than \$200 a day. In addition, Dorchester County, along with most other local governments, must publish notice once a week for four successive weeks in one or more local newspapers of the

properties potentially going to a tax sale auction. *Senate Bill 279/House Bill 270 (both passed)* alter the auctioneer's fee for property sold at a tax sale in Dorchester County by setting the fee at \$7.50 for each property sold and also repeal the auctioneer fee limit. *Senate Bill 279/House Bill 270* also specify that in Dorchester County a tax sale notice must be published three times, once a week for three successive weeks.

### **Baltimore County – Notification Process**

In Baltimore County, a specified statement and notice must be posted at least 30 days before the property is advertised, in a conspicuous place on the property to be sold. The county is authorized to collect a fee of \$7.50 when a notice is posted at a property to be sold. In addition, most local governments are authorized to impose a fee not exceeding \$15 for each property to be sold at the tax sale to cover attorney costs relating to the tax sale proceedings. *Senate Bill 431 (passed)* eliminates (1) the requirement in Baltimore County that the county post a specified statement and notice on the property before the property is advertised for sale at a tax sale; and (2) the \$7.50 notification fee. *Senate Bill 431* also authorizes the Baltimore County Executive to establish an administrative fee to cover the legal, administrative, and mailing costs associated with the tax sale of each property.

### **Baltimore City – Water and Sewer Liens**

In Baltimore City, dunning notices (a notice to a debtor demanding payment on a delinquent account) regarding unpaid water and sewer bills are typically sent out to ratepayers when delinquencies reach \$250. *Senate Bill 645/House Bill 867 (both passed)* prohibit Baltimore City from selling a property solely to enforce a lien for unpaid charges for water and sewer service unless the lien is for at least \$350 and the unpaid charges are at least three quarters in arrears. The bill also provides that Baltimore City may enforce a lien on a property for unpaid water and sewer service that is less than \$350 if the property is being sold to enforce another lien.

### **Local Option Property Tax Credits**

#### **Habitat for Humanity**

Chapters 328 and 329 of 2010 authorized local governments to grant a property tax credit against the county or municipal property tax for real property owned by Habitat for Humanity with the intention of relinquishing ownership in the immediate future and used exclusively for the purpose of rehabilitation and transfer to a private owner. *House Bill 558 (Ch. 130)* expands this local option property tax credit for real property owned by Habitat for Humanity to include undeveloped land to be relinquished in the near future.

## Local Property Tax Credits

### Anne Arundel County

*House Bill 62 (Ch. 95)* authorizes Anne Arundel County or a municipality in the county to grant a property tax credit for property that is leased to a public charter school and used exclusively for primary or secondary educational purposes. The bill also requires the public charter school to be the beneficiary of the tax credit.

### Frederick County

*Senate Bill 330/House Bill 262 (both passed)* require Frederick County or a municipality in the county to grant a property tax credit for property leased to a nonprofit school and used exclusively for primary or secondary educational purposes. In addition, *Senate Bill 330/House Bill 262* require the lessor of real property eligible for the property tax credit to reduce the amount of taxes for which a tenant is contractually liable under the lease agreement by the amount of any property tax credit allowed.

Chapter 415 of 2010 required Frederick County, for fiscal 2011, to grant a property tax setoff to its municipalities in an amount at least equal to the tax setoffs granted for fiscal 2009. For fiscal 2012, the property tax setoffs must be at least equal to the amounts granted in the prior year, adjusted for the percentage by which the county property tax rate exceeds the constant yield tax rate. *Senate Bill 760 (passed)* requires Frederick County, for fiscal 2013, to grant a property tax setoff to its municipalities in an amount at least equal to the amounts granted in the prior year, adjusted for the percentage by which the county property tax rate exceeds the constant yield tax rate.

### Prince George's County

*Senate Bill 436 (passed)* authorizes a municipality in Prince George's County to establish revitalization districts for the purpose of encouraging redevelopment and authorizes a municipality to grant a property tax credit against the municipal property tax imposed on real property located within a revitalization district. To be eligible for the credit, the property must be constructed or substantially redeveloped in conformance with adopted eligibility criteria and reassessed as a result of the construction or redevelopment at a higher value than that assessed prior to the construction or redevelopment.

## Income Taxes

### New and Extended Income Tax Credits

#### New Tax Credits

*Film Production Tax Credit: Senate Bill 672 (passed)* converts the existing Film Production Rebate Program into a new Film Production Activity Tax Credit. Subject to the

issuance of tax credit certificates by the Secretary of Business and Economic Development, a qualified film production entity may claim a credit against the income tax in an amount equal to 25% of the qualified direct costs of a film production activity, or 27% of the direct qualified costs if the production activity is for a television series. The Secretary is authorized to award a maximum of \$7.5 million in tax credit certificates for each fiscal year. The bill also alters several provisions from the former rebate program related to eligibility and program reporting requirements. The tax credit terminates July 1, 2014, and the Secretary may not issue tax credit certificates for any fiscal year after 2014.

It is estimated that the tax credit will decrease State revenues by \$7.5 million annually in fiscal 2012 through 2014. Repealing the rebate program will decrease general fund expenditures by \$2.0 million for fiscal 2012 and by an estimated \$1.0 million annually beginning in fiscal 2013. For further discussion of this issue, see subpart “Economic Development” in Part H – Business and Economic Issues of this *90 Day Report*.

***Electric Vehicle Recharging Property:*** Chapter 490 of 2010 established a three-year motor vehicle excise tax credit of up to \$2,000 for the purchase of plug-in hybrid vehicles (PHEVs). ***House Bill 163 (passed)*** allows an income tax credit for 20% of the cost of qualifying PHEV recharging equipment, not to exceed the lesser of \$400 for each recharging system or the State income tax imposed in the tax year. Under the bill, the credit allowed is subject to a maximum of one recharging system for an individual and 30 recharging systems for a business entity and is subject to the issuance of tax credit certificates by the Maryland Energy Administration. The administration is authorized to award credits for tax years 2011 through 2013, totaling not more than \$400,000 for tax year 2011, \$500,000 for tax year 2012, and \$600,000 for tax year 2013.

### **Tax Credit Extensions**

***Senate Bill 830 (passed)*** extends through June 30, 2012, the Qualifying Employees with Disabilities Tax Credit, which is scheduled under current law to terminate on June 30, 2011.

***Senate Bill 959 (passed)*** extends through June 30, 2018, the bio-heating oil income tax credit, currently scheduled to expire on June 30, 2013. The bill also alters the definition of bio-heating oil for purposes of the credit to conform the definition to specified federal standards.

### **Additional Tax Credit and Subtraction Modification Legislation**

#### **Volunteer Police, Fire, Rescue, and Emergency Medical Services Personnel Subtraction Modification Program**

Eligible individuals who serve in a volunteer capacity and qualify for active duty service during the tax year qualify for a \$3,500 subtraction modification provided under the Honorable Louis L. Goldstein Volunteer Police, Fire, Rescue, and Emergency Medical Services Personnel Subtraction Modification Program. ***Senate Bill 346/House Bill 11 (both passed)*** expand eligibility for this subtraction modification to include members of the Maryland Defense Force.

### Other Tax Credit Legislation

**House Bill 587 (passed)** provides that, for purposes of the biotechnology investment tax credit, for fiscal 2012 and 2013 only, a biotechnology company that has been in active business for up to 15 years is eligible to receive investments for which the tax credits are awarded.

**Senate Bill 958 (passed)** expands the energy resources eligible for the Maryland clean energy incentive tax credit, by allowing any nonhazardous waste material that is segregated from other waste materials to qualify as a qualified energy resource.

**Senate Bill 494/House Bill 461 (both passed)** expand the existing quality teacher incentive tax credit to allow the credit for certified teachers at a State or local correctional facility or a juvenile facility operated by the Department of Juvenile Services.

Chapter 487 of 2010 reestablished the Heritage Structure Rehabilitation tax credit as the Sustainable Communities tax credit and extended the termination date of the credit through fiscal 2014. **House Bill 1196 (passed)** increases the amount of fees the Maryland Historical Trust is authorized to charge to pay for the administrative costs of the tax credit program and authorizes the use of funds in the Sustainable Communities tax credit reserve fund for the payment of administrative costs if the fees charged are inadequate to pay those costs. **House Bill 1196** also clarifies that special tax credit provisions in current law for high-performance buildings and qualified rehabilitated structures are applicable only to the rehabilitation of commercial buildings. **House Bill 601 (Ch. 133)** allows an applicant that has proceeded with a substantial portion of a commercial rehabilitation to apply for the Sustainable Communities tax credit if the rehabilitation work has been approved under the federal historic tax credit.

The designation of a county as a “qualified distressed county” impacts several State programs, including the One Maryland economic development tax credit. **Senate Bill 891 (passed)** alters the definition of qualified distressed county under State law, extending from 12 months to 24 months the period that a county will maintain the designation even if the county no longer meets either the unemployment or personal income criterion specified under current law. It is estimated that the altered definition of qualified distressed county under the bill will result in a reduction of State revenues of \$1.5 million annually beginning in fiscal 2012. For a further discussion of **Senate Bill 891**, see the subpart “Economic and Community Development” within Part H – Business and Economic Issues of this *90 Day Report*.

**House Bill 620 (failed)** would have established a legislative review and evaluation process for various tax credits, to be undertaken by the Department of Legislative Services, to determine whether the tax credits are necessary for the public interest.

### Tax Administration

Under current law, employers and other payors of payments subject to income tax withholding are required to submit annual withholding statements to the Comptroller on magnetic media or in other machine-readable form or electronic format that the Comptroller



requires by regulation if the total number of statements required to be submitted by the employer or payor for the calendar year exceeds 100. *House Bill 1233 (Ch. 161)* reduces the threshold number of statements per calendar year for purposes of the electronic filing requirement from 100 to 25.

*House Bill 632 (passed)* requires the Comptroller annually to calculate and publish the maximum income eligibility at which an individual may be eligible for the State earned income tax credit (EIC) and to mail this information to all employers in the State. Under the bill, employers are required annually to provide written or electronic notice to an employee who may be eligible for the State EIC a statement that the employee may be eligible for the federal and State earned income tax credits.

## Sales and Use Tax

### Sales Tax Rate on Alcoholic Beverages

Legislation has been introduced during the past several legislative sessions that would have increased the excise tax imposed on alcoholic beverages in order to fund a variety of mental health and addiction related services, as well as services for the developmentally disabled. In the 2011 session, *Senate Bill 168/House Bill 121 (both failed)* were introduced, proposing an increase in the excise tax on alcoholic beverages by approximately “a dime a drink” in order to support funding for several special funds, including the Developmental Disability Support Fund.

In addition to State and federal excise taxes that are imposed on alcoholic beverages at the wholesale level, Maryland’s 6% sales tax is imposed on the retail sale of alcoholic beverages. Except for Delaware, all of Maryland’s surrounding states and the District of Columbia also impose a sales tax on alcoholic beverages. In lieu of its general sales and use tax rate of 6%, the District of Columbia imposes a 9% sales tax rate for off-premises sales and a 10% sales tax rate for on-premises sales of alcoholic beverages.

*Senate Bill 994 (passed)* and *House Bill 1213 (passed)* increase the State sales and use tax rate imposed on the retail sale of alcoholic beverages from 6% to 9% beginning in fiscal 2012. Both bills provide for supplementary appropriations from the resulting revenue increase.

*Senate Bill 994* provides for a supplementary appropriation of \$15.0 million in fiscal 2012 to be used to fund a Waiting List initiative for the Developmental Disabilities Administration. Priority must be given to individuals in the Crisis Prevention and Crisis Resolution categories of the Waiting List. The bill further provides that the appropriation under *Senate Bill 994* has priority over any other appropriation for fiscal 2012 from the additional revenues resulting from the increase in the sales and use tax rate for the sale of an alcoholic beverage.

*House Bill 1213* provides for a supplementary appropriation of \$47.5 million in fiscal 2012 from the additional revenues resulting from the sales tax rate increase on sales of

alcoholic beverages for public school construction projects in local jurisdictions. The Board of Public Works must approve the individual projects for each local jurisdiction.

It is estimated that increasing the sales and use tax rate on alcoholic beverages as provided in *Senate Bill 994* and *House Bill 1213* will increase annual general fund revenues by \$84.8 million in fiscal 2012, growing to \$90.7 million by fiscal 2016. In addition to the supplementary appropriations provided for in *Senate Bill 994* and *House Bill 1213*, the Fiscal 2012 Budget Bill, *House Bill 70 (enacted)*, and *House Bill 72 (passed)*, the Budget Reconciliation and Financing Act, include provisions that are made contingent on the enactment of *Senate Bill 994* increasing the sales tax on alcohol.

For a further discussion of these issues, see the subpart “Operating Budget” within Part A – Budget and State Aid, the subpart “The Disabled” within Part J – Health and Human Services, and the subpart “Primary and Secondary Education” within Part L – Education of this *90 Day Report*.

### **Vendor Collection Credit**

For the expense of collecting and remitting to the Comptroller the State sales and use tax, current law allows vendors who file timely returns a credit against the gross tax remitted. Chapter 3 of the 2007 special session provided a limit on the amount of the vendor credit of \$500 per filing period (typically, monthly). Under current law, the \$500 per filing period cap on the vendor credit is scheduled to expire June 30, 2011. *House Bill 72* repeals the June 30, 2011, termination date applicable to this provision, making the \$500 credit limit per filing period permanent.

It is estimated that extending the \$500 per filing period cap on the credit will increase general fund revenues by approximately \$18.8 million beginning in fiscal 2012.

### **Sales Tax Revenue Distribution to the Transportation Trust Fund**

Chapter 6 of the 2007 special session altered the distribution of sales and use tax revenues by requiring a percentage of the revenues to be distributed to the Transportation Trust Fund (TTF). As part of a broader reconciliation of various revenue distributions between TTF and the general fund, *House Bill 72* eliminates the distribution of sales and use tax revenues to TTF so that all sales and use tax revenues (other than a portion of the sales and use tax revenues attributable to short-term rental vehicles) will be distributed to the general fund beginning in fiscal 2012.

For a further discussion of the reconciliation of various revenues distributed to TTF and the general fund under *House Bill 72*, see the subpart “Operating Budget” within Part A – Budget and State Aid of this *90 Day Report*.

## Sales and Use Tax Exemptions

### Solar and Wind Energy

Generally, the sale of electricity for residential use is exempt from the State sales and use tax. *Senate Bill 398/House Bill 502 (both passed)* exempt the sale of electricity generated by solar energy equipment or residential wind energy equipment for use in residential property owned by an eligible customer-generator from the State sales and use tax. *Senate Bill 398/House Bill 502* are intended to provide individuals who receive electricity generated by solar or wind energy equipment, whether the equipment is owned by them or by another person, the same sales tax exemption for the purchase of electricity as if it were provided to them under a rate schedule on file with the Public Service Commission.

### Youth Sporting Events and 4-H Events

*House Bill 823 (passed)* exempts from the State sales and use tax the sale of food, bottled water, soft drinks or carbonated beverages, or candy or confectionary by a nonprofit vendor at a youth sporting event or 4-H youth event for individuals under 18 years old if there are no facilities for food consumption on the premises, unless the sale is within an enclosure for which admission is charged.

## Miscellaneous Taxes

### Alcoholic Beverage Taxes

*Senate Bill 168/House Bill 121 (both failed)* would have increased the State tax rates for alcoholic beverages by an estimated “dime a drink” from \$1.50 to \$10.03 per gallon for distilled spirits, from 40 cents to \$2.96 per gallon for wine, and from 9 cents to \$1.16 per gallon for beer. These bills also would have distributed the resulting increase in revenues from the alcoholic beverage taxes to various special funds, to be used for various health care related purposes, including support of services provided to developmentally disabled individuals and for addiction treatment and prevention services.

While *Senate Bill 168/House Bill 121* failed, the General Assembly did pass bills to increase taxes on alcoholic beverages in the State. *Senate Bill 994* and *House Bill 1213 (both passed)* increase the State sales and use tax rate imposed on alcoholic beverages from 6% to 9%. For a further discussion of these bills, see the subpart “Sales and Use Taxes” within this Part – B Taxes of this *90 Day Report*.

### Insurance Premium Tax

*House Bill 173 (passed)* establishes the Invest Maryland Program, providing funding for a new State-supported venture capital program and additional funding for the existing Enterprise Fund and Maryland Small Business Development Financing Authority (MSBDFA) within the Department of Business and Economic Development (DBED) to make investments in qualified

businesses in the State. Under the bill, funding is provided for the program in fiscal 2012 through 2014 through a tax credit allowed against the insurance premium tax for insurance companies that make qualified contributions to the program. Subject to an auction process for the awarding for the tax credits, an insurance company may claim a credit for the amount it contributes to the program against the insurance premium tax, to be allowed over a five-year period beginning in calendar 2015. The maximum amount of premium tax credits that may be allocated for all years is \$100 million.

Under the provisions of the bill, it is expected that the tax credit program will make available at least a total of \$70 million in designated capital available for investment. If the December 2011 Board of Revenue Estimates' general fund forecast for fiscal 2012 exceeds the amount forecasted in March 2011 by at least \$70 million, after adjusting for legislation passed in the 2011 session, the bill requires the Governor to submit during the 2012 session a fiscal 2012 deficiency appropriation of up to \$70 million for the program. The maximum amount of insurance premium tax credits that may be awarded under the bill is required to be reduced based on the amount of any deficiency appropriation, so that the resulting amount of designated capital available for investment under the program is equal to the amount of designated capital that the auction would have otherwise been provided if \$100 million in credits were awarded. For a further discussion of this bill, see the subpart "Economic Development" within Part H – Business and Economic Issues of this *90 Day Report*.

## **Motor Fuel Tax**

*Senate Bill 145 (Ch. 31)* establishes personal liability for unpaid motor fuel tax, interest, and penalties for members of limited liability companies and partners of a limited liability partnership. Personal liability for the unpaid motor fuel taxes will extend to any person who exercises direct control over the fiscal management of the company or partnership.

## **Recordation and Transfer Taxes**

### **Exemptions for Grandparent or Step-grandparent**

Under current law, the recordation tax and the State transfer tax do not apply to the principal amount of debt assumed by the transferee if the property is transferred to specified relatives. *House Bill 1245 (passed)* adds grandparents and step-grandparents to the list of relatives eligible for this exemption under the recordation tax and State transfer tax.

### **Estates and Trusts – Transfers without Consideration**

Under current law, clerks of the court in some counties treat the assumed mortgage in a transfer of property without consideration from an estate as consideration and impose transfer and recordation taxes on the transaction. *Senate Bill 328 (passed)* exempts from recordation and transfer taxes the transfer of property without consideration from an estate to specified types of trusts, or from specified types of trusts to one or more beneficiaries under specified circumstances. For these purposes, "consideration" does not include the amount of any obligation under a mortgage or deed of trust encumbering the transferred property.

## **Admissions and Amusement Tax**

*House Bill 499 (Ch. 125)* addresses recent advice from the General Counsel's Office of the U.S. Department of Transportation that imposition of admissions and amusement taxes on hot air balloon ride operators carrying passengers in air commerce would be preempted by federal law. The bill prohibits a county or municipal corporation from imposing admissions and amusement taxes on gross receipts derived from a charge for admission to or use of a nontethered hot air balloon.

## **Estate Tax**

Chapter 554 of 2010 required the Comptroller to allow a payment deferral for up to three years for the Maryland estate tax imposed on qualified agricultural property that passes from a decedent to or for the use of a qualified recipient. The provision allowing an interest-free deferral of estate taxes of up to \$375,000 expires June 30, 2014.

*Senate Bill 513 (passed)* authorizes the Comptroller to grant an extension of the deferred estate tax payment period allowed for qualified agricultural property. To qualify for an extension, the recipient must have a pending application to place the land on which the deferred estate tax is due under a permanent land conservation easement with the Maryland Agricultural Land Preservation Foundation, the Rural Legacy Board, or a similar easement purchase program.

## **Miscellaneous Local Taxes**

### **Howard County**

*House Bill 700 (Ch. 139)* authorizes Howard County to increase its hotel rental tax rate from 5% to 7%. From the revenue attributable to the hotel rental tax rate greater than 5%, Howard County is required to distribute two-thirds to the Howard County Tourism Council and one-third to the Howard County Economic Development Authority.



## **Part C**

### **State Government**

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#### **State Agencies, Offices, and Officials**

##### **State Agencies**

##### **African American History and Culture**

The Commission on African American History and Culture was first established, under a different name, in 1969. Among its duties, the commission is required to initiate, direct, and coordinate projects that further the understanding of African American history and culture. *House Bill 1253 (Ch. 162)* changes the membership and duties of the commission. The membership of the commission is increased from 9 to 21 members. In addition, the bill repeals requirements that the commission survey historic sites and coordinate the State's annual official observance of the Martin Luther King, Jr. holiday. Finally, the bill authorizes the commission to receive State money and broadens the scope of activities for which the commission may receive money to include educational activities or projects that further the understanding of African American history and culture.

##### **Commission on Civil Rights**

The Maryland Commission on Human Rights is charged with the enforcement of laws prohibiting discrimination in employment, housing, public accommodations, and State contracting. The name of the commission is changed to the Maryland Commission on Civil Rights under *House Bill 211 (passed)*. The bill specifies that letterhead, business cards, and other documents reflecting the renaming of the commission may not be used until all the documents already in print and reflecting the previous name of the commission are used.

##### **Impact of Immigrants in Maryland**

The duties of the Commission to Study the Impact of Immigrants in Maryland are to study the demographic profile of the State's immigrant population and the impact of immigrants on the State, as well as the economic and fiscal impact of immigrants in the State. The

commission was required to submit a report of its findings and recommendations by January 1, 2011, and was to terminate on May 31, 2011. However, *Senate Bill 15/House Bill 34 (both passed)* extend the reporting deadline and the termination date by one year to January 1, 2012, and May 31, 2012, respectively.

### **Community Services Reimbursement Rate Commission**

The Community Services Reimbursement Rate Commission is an independent unit that functions within the Department of Health and Mental Hygiene. *House Bill 58 (Ch. 94)* extends the termination of the commission by five years to September 30, 2016. For a further discussion of this issue, see the subpart “Public Health” within Part J – Health and Human Services of this *90 Day Report*.

### **The Military and Veterans**

The Maryland Veterans Commission advises the Secretary of Veterans Affairs on all matters relating to veterans’ issues. *Senate Bill 291 (passed)* alters the membership of the commission by requiring that the membership include one woman veteran appointed from the State at large, rather than the member being a representative of a women veterans organization in the State.

Before 2009, gifts to the Maryland Department of Veterans Affairs could only be used for expenses related to the Charlotte Hall Veterans Home. In 2009, the Maryland Veterans Trust Fund was established to allow monies donated to the department to be used for other veteran-related purposes. According to the department, some potential donors prefer giving money directly to the Charlotte Hall Veterans Home, rather than giving to the trust fund. Under *Senate Bill 227/House Bill 332 (both passed)*, the Charlotte Hall Veterans Home is authorized to accept gifts and grants for the use of the home and, unless the gift or grant requires otherwise, use the principal and income of the gift or grant for use at the home. The Director of the Veterans Home Program is required to submit an annual report regarding the status and gifts accepted by the home.

*Senate Bill 682/House Bill 793 (Chs. 81 and 82)* reenact provisions of law that are abrogated as of May 31, 2011, to require the continuance, subject to the limitations of the Department of Health and Mental Hygiene’s budget, of the coordination and provision of behavioral health services to eligible veterans. For a more detailed discussion of this issue, see the subpart “Public Health” within Part J – Health and Human Services of this *90 Day Report*.

Several bills grant or modify benefits or assistance that the State provides to veterans and their spouses. Under *Senate Bill 188 (passed)*, the Department of Natural Resources has the authority to issue an annual fishing license exemption to a governmental entity or nonprofit organization to take individuals with disabilities, who are serving or have served in the armed forces, fishing in State waters. *Senate Bill 167 (passed)* extends the time period from one to four years after discharge in which an honorably discharged veteran must submit specified documentation to qualify for an exemption from paying out-of-state tuition at a community college or public four-year institution. Medal of Honor recipients are exempt under



*Senate Bill 2/House Bill 1017 (both passed)* from being charged a fee by the Motor Vehicle Administration for the renewals of a vehicle's registration or a Class A, B, C, D, E, or M driver's license. *Senate Bill 687/House Bill 998 (both passed)* require the Adjutant General of the Maryland Military Department, or the Adjutant General's designee, to assist the spouse of a member of the military who resides in the State or is transferred to the State in finding employment in the State if the assistance is requested.

## State Designations

Each year the POW/MIA flag is required to be flown on the State House grounds on certain days. Under *Senate Bill 124 (passed)*, a flag to honor and remember members of the armed forces who died in the line of duty is required to be flown as well. The flag is defined as a flag created by Honor and Remember, Inc. or the flag designated by the U.S. Congress as the official symbol to honor and remember members of the armed forces who died in the line of duty. If the U.S. Congress designates a flag, then that is the flag that is required to be flown. The bill also adds the third Saturday in May, for Armed Forces Day, and July 4, for Independence Day, to the list of days on which the flags are required to be flown.

## Elections

### Primary Election Dates

In 2009, Congress passed, and the President signed into law, the Military and Overseas Voter Empowerment Act (MOVE Act) which, among other things, requires states to send absentee ballots to military and overseas voters no later than 45 days before an election for federal office if a request is received prior to that time. Compliance with the requirement was problematic in 2010 for a number of states, including Maryland, that had primary elections scheduled relatively close to the November general election, which in turn did not allow enough time for general election ballots to be finalized and sent to voters 45 days prior to the election.

Maryland was able to comply with the 45-day requirement by sending separate ballots that included all federal contests to military and overseas voters (the MOVE Act requirement applies to elections for federal office) and then expediting delivery of full ballots, including federal, State, and local contests, to military and overseas voters eligible to vote in State and local contests, once the ballots had been certified. Other states for which compliance was problematic either moved their primary election dates or submitted requests for waivers from the 45-day requirement.

*House Bill 671 (passed)* moves Maryland's gubernatorial primary election date forward in the calendar year, from the second Tuesday after the first Monday in September to the last Tuesday in June, allowing the State to more easily comply with the MOVE Act. Moreover, the bill also moves Maryland's presidential primary date later in the calendar year, from the second Tuesday in February to the first Tuesday in April.

Prior to the 2008 presidential elections, many states, including Maryland, moved their presidential primary elections and caucuses forward in the calendar year in an effort to gain greater relevance in the nominating process for presidential candidates. Chapter 219 of 2007 moved Maryland's presidential primary date from the first Tuesday in March to the second Tuesday in February.

However, rule changes adopted by the Republican National Committee (RNC) and the Democratic National Committee (DNC) in 2010 and made applicable to the 2012 presidential elections, prohibit states from holding their presidential primary elections and caucuses prior to the first Tuesday in March, with exceptions made for Iowa, New Hampshire, Nevada, and South Carolina to hold their primaries/caucuses in February. RNC's new rules also require that Republican primary elections or caucuses held prior to April 1 (not including those held by the four states permitted to hold elections/caucuses in February) provide for allocation of delegates on a proportional basis. If followed by the states, the rule changes could result in a significant change from the 2008 nominating process when the majority of the elections/caucuses were held prior to March.

*House Bill 671* also makes procedural changes to the State election law, primarily to alter deadlines related to candidacy and the establishment of the content and arrangement of ballots.

### **Voter Registration Modernization**

The General Assembly passed legislation intended to utilize technology to make voter registration more accurate, efficient, and convenient. Over the past several years, the Pew Center on the States, a division of the Pew Charitable Trusts, has initiated a program to improve the accuracy of voter registration lists by facilitating the exchange of data among states concerning eligible voters. Pew has proposed an independent data center that would receive information from participating states from such sources as motor vehicle databases, U.S. Postal Service change of address records, and other sources. This data would then be run through a data matching engine to produce up-to-date profiles of registered voters and potential voters who are not yet registered. The center would provide this information to the states, which could use it to update registration records, purge ineligible voters, or conduct outreach to individuals who are eligible but not registered. The data center, known as the Electronic Registration Information Center (ERIC), would be operated, controlled, and funded by the states. It is expected that this program will simultaneously reduce the potential for fraud by eliminating invalid registrations and help prevent disenfranchisement by reducing administrative errors in processing registrations that prevent eligible individuals from voting. ERIC is expected to be launched in 2011 and fully utilized in the 2012 elections.

*Senate Bill 765/House Bill 561 (both passed)* authorize the State's participation in the Pew voter registration data matching project. The bills require State agencies to provide any data to the State Board of Elections (SBE) that the State Administrator of Elections deems necessary to maintain accurate voter registration lists. The bills also authorize SBE to enter into agreements to exchange data with other states for the purpose of maintaining accurate voter registration lists. Data that is not subject to public disclosure under the State's Public

Information Act may be exchanged with other persons as necessary for the sole purpose of maintaining accurate voter registration lists.

Additionally, *Senate Bill 765/House Bill 561* require SBE and the Motor Vehicle Administration (MVA) to report to the General Assembly by October 1, 2011, on plans to implement a fully automated voter registration system at MVA. A significant number of individuals who indicate that they wish to register to vote during a transaction at MVA are not ultimately registered because elections officials never receive the paper voter registration forms that are distributed at MVA offices. A fully automated voter registration system, modeled after a program in Delaware, would require individuals who wish to register at MVA to enter their voter registration information electronically, using a touch screen. That data would then be transmitted electronically directly to elections officials. MVA and SBE are committed to implementing this system, which is expected to significantly reduce the number of registration failures by eliminating reliance on paper forms that are not reliably returned to elections officials.

*Senate Bill 806/House Bill 740 (both passed)* implement another aspect of voter registration modernization by authorizing SBE to establish an online voter registration system. The system would allow an individual to electronically apply to become a registered voter or update the individual's existing voter registration record by accessing an Internet site. An individual registering to vote through the online system would complete the electronic application, submit a Maryland driver's license or identification card number, and consent to the use of the electronic copy of the individual's signature that is on file with MVA as the individual's signature for the application being submitted. If the individual is an absent uniformed services voter or overseas voter as defined in federal law, the individual could submit a Social Security number if the individual does not have a Maryland driver's license or identification card number. Individuals who wish to change their name, address, or party affiliation in an existing voter registration record through the online system would follow similar procedures, except that they could provide a Maryland voter identification number from their voter registration card to complete the transaction instead of a Maryland driver's license or identification card number or Social Security number. SBE is authorized to take additional measures to ensure the security of the online registration system and may adopt regulations to administer the system.

*Senate Bill 806/House Bill 740* also provide for funding to implement online voter registration. The bills require that a cumulative amount up to \$250,000 be transferred from the Fair Campaign Financing Fund (FCFF) to SBE in fiscal 2012 and 2013 for the purpose of implementing an online voter registration system. These funds must be used to pay costs that would otherwise be paid by local governments, which are responsible for the cost of the system. The maximum amount that could be transferred is expected to be sufficient to cover the initial cost of developing the system. The FCFF is a special fund created to provide public financing for qualifying gubernatorial candidates. The fund was financed by donations made by individuals on their Maryland income tax returns. Although the donation line on the tax form was eliminated by legislation in 2010, there was approximately \$5 million in the fund as of March 2011. The Attorney General previously advised that because the fund has rarely been

used for its intended purpose and is essentially non-functional, it may constitutionally be used for other purposes that “fulfill the general intent of the contributors to enhance the electoral process.” Other uses of the fund, including a voting system study, implementation of an online campaign finance reporting system, and procurement of an optical scan voting system, were authorized by legislation in 2009 and 2010.

## **Campaign Finance**

### **Independent Expenditures**

In *Citizens United v. Federal Election Commission*, 130 S. Ct. 876 (2010), the U.S. Supreme Court empowered corporations and unions to spend unlimited amounts from their general treasuries for independent expenditures expressly supporting or opposing federal candidates. Following this controversial decision, Congress and many state legislatures considered measures to enhance disclosure of independent expenditures in election campaigns.

**House Bill 93 (passed)** represents Maryland’s response to the *Citizens United* ruling. State law does not currently require any reporting of independent expenditures. The bill requires a person who makes aggregate independent expenditures of more than \$10,000 in an election cycle for campaign material that is a public communication to file an independent expenditure report with SBE. An “independent expenditure” is defined as an expenditure expressly advocating the success or defeat of a clearly identified candidate or ballot issue that is not made in coordination with a candidate or ballot issue committee. A “public communication” is defined as a broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing or telephone bank to the general public, or any other form of general public political advertising. A “person” required to file an independent expenditure report includes an individual, business entity, labor organization, or any other organization or group, but does not include a campaign finance entity.

If the campaign material distributed by a person relates to a candidate, the independent expenditure report is due on the next date a campaign finance entity of a candidate is required to file a campaign finance report. If the campaign material relates to a ballot issue, the independent expenditure report is due on the next date a ballot issue committee is required to file a campaign finance report. The report must cover the period from the beginning of the election cycle through the last day of the reporting period that precedes the report filing date. An additional report must be filed after a person makes aggregate independent expenditures of \$10,000 or more following the closing date of the person’s previous independent expenditure report.

Independent expenditure reports must include the identity of the person making the independent expenditures and any person exercising direction or control over the activities of that person, the business address of the person making the independent expenditures, the amount and date of each independent expenditure during the reporting period, and the candidate or ballot issue to which the independent expenditures relate. In addition, the identity of each person who made cumulative donations in excess of \$51 to the person making the independent expenditures during the reporting period must be disclosed. “Donation” is defined as the gift or transfer of

money or other thing of value to a person that is made for the purpose of furthering independent expenditures.

The treasurer or other person designated by an entity is required to file an independent expenditure report and is subject to the sanctions that apply to the responsible officers of a campaign finance entity for failure to properly file an independent expenditure report.

An entity required to file an independent expenditure report must provide notice of the expenditure through any regular, periodic reports it submits to its shareholders, members, or donors or by posting a hyperlink on its website to the Internet site where the entity's independent expenditure report information is publicly available. These requirements do not apply if the entity does not submit regular reports to its shareholders, members, or donors or does not have a website.

In addition to the requirements pertaining to persons making independent expenditures, the bill establishes identical reporting requirements for persons who make disbursements for electioneering communications. "Electioneering communications" are defined as (1) broadcast, cable, or satellite communications that refer to a clearly identified candidate or ballot issue; (2) are made within 60 days of an election day on which the candidate or ballot issue is on the ballot; (3) are capable of being received by 50,000 or more individuals in the constituency where the candidate or ballot issue is on the ballot; and (4) are not made in coordination with a candidate or ballot issue committee.

### **Electronic Media Electronic Contributions and Expenditures**

*Senate Bill 757 (passed)* is intended to update the campaign finance laws to reflect electronic methods of disseminating campaign material and transferring funds. The bill implements one of the recommendations of the Maryland Attorney General's Advisory Committee on Campaign Finance, which delivered its report on January 4, 2011. The bill repeals a requirement that a campaign finance entity make a disbursement only by check and instead authorizes SBE to adopt regulations approving electronic methods by which a campaign finance entity may make disbursements. An electronic method of making a disbursement approved by SBE must satisfy certain requirements, including that (1) the identity of the person making the disbursement may be verified; (2) the transaction is secure; and (3) there is an adequate record of the transaction. The bill also repeals a requirement that a contribution of money to a campaign finance entity in excess of \$100 be made only by check or credit card. SBE is authorized to adopt regulations approving additional electronic methods of making contributions. Electronic methods of contributing to a campaign finance entity approved by SBE must satisfy the same requirements as electronic disbursements, as described above.

*Senate Bill 757* also authorizes SBE to adopt regulations concerning the application of existing authority line and record retention requirements to campaign material disseminated through electronic media. Current law requires that campaign material include an "authority line" identifying the campaign finance entity or other person responsible for the material. The law also requires that a campaign finance entity retain a copy of each item of campaign material for one year after the general election following the date when the item was published or distributed. The increasing prevalence of electronic means of transmitting campaign material,

such as blogs, text messages, Facebook, Twitter, and YouTube, has raised questions about the application of these requirements to the new technologies. For example, it is not always possible or practical to include an authority line in each text message, or to retain an exact facsimile of every blog posting. *Senate Bill 757* authorizes SBE to adopt regulations addressing these issues. The regulations must require public disclosure of the identity of persons responsible for transmitting campaign material through electronic media and may modify the existing authority line and record retention requirements as they apply to electronic media to the extent necessary to accommodate a particular technology. The regulations would not apply to campaign material transmitted through television or radio.

### **Further Study of Campaign Finance Laws**

The Attorney General's Advisory Committee on Campaign Finance mentioned above was formed in the fall of 2010 to examine and develop recommendations regarding the State's campaign finance laws. In its January 4, 2011 report, the committee made various technical and administrative recommendations to improve the functioning of the campaign finance laws and also made recommendations on several important policy issues, including contribution limits and reporting of independent expenditures. *House Joint Resolution 7 (passed)* creates a Commission to Study Campaign Finance Law, which is charged to with examining a broad array of policy reforms. The joint resolution requires the commission to:

- examine the State election code as it relates to campaign financing;
- collect information about campaign financing practices and standards for other jurisdictions, including the federal government;
- consider specified issues related to campaign contributions;
- examine issues relating to the implementation of a voluntary system of public financing of campaigns for local, statewide, legislative, and judicial offices, including the costs and practical funding sources outside of the State's general fund;
- examine issues relating to the purpose and function of slates, including the process by which a candidate is added to and removed from a slate, the practice of creating statewide and regional slates among legislative candidates, and the role encompassed in the party committee model utilized in other jurisdictions for activities currently conducted in Maryland through slates;
- examine issues relating to the enforcement of election laws, including the roles and responsibilities of SBE, the Office of the State Prosecutor, and the Office of the Attorney General; and
- examine issues relating to opinions from the Office of the Attorney General, including the dissemination of letters of advice.



An interim report of the commission's findings and recommendations, including any proposed statutory changes to the Maryland campaign finance laws for consideration by the General Assembly in the 2012 session, must be provided to the Governor and General Assembly by December 31, 2011, with a similar final report, including any proposed statutory changes for consideration in the 2013 session, due by December 31, 2012. The commission terminates June 30, 2013.

### **Access to Voting Room and Voting Booth by Minors Not Eligible to Vote**

Aside from instances in which a voter requires assistance in marking or preparing a ballot because of a physical disability or an inability to read the English language (in which case a voter may choose any individual for assistance, with certain exceptions), State law allows for up to two individuals under a certain age to accompany a voter in the voting room at a polling place and into a voting booth, allowing a parent, for example, to have their child or children accompany them when they vote. Chapter 317 of 2004 increased the age limit for a minor individual that may accompany a voter other than for assistance, from 10 to 12. *House Bill 257 (passed)* further increases the age limit, allowing an individual up to the age of 17 to accompany a voter, provided the individual is not eligible to vote in the election.

### **Membership of Local Boards of Elections**

Most counties have a local board of elections made up of three regular members and two substitute members. Chapter 344 of 2010 altered the membership of the local boards of elections in Somerset, Wicomico, and Worcester counties to each consist of five regular members instead of three regular members and two substitute members. Three of the regular members must be of the majority party and two must be of the principal minority party. The changes take effect June 6, 2011, when the next term of the local boards of elections begins. During the 2011 session, the membership of the boards of elections in Baltimore City and Allegany, Caroline, Charles, Frederick, Harford, and Washington counties were altered in the same manner, also effective June 6, 2011, pursuant to *Senate Bill 163/House Bill 148 (both passed)*, *Senate Bill 192 (Ch. 35)*, *Senate Bill 534/House Bill 954 (both passed)*, *Senate Bill 913 (passed)*, and *House Bill 604 (passed)*.

## **Ethics**

### **Local Public Ethics Laws**

Counties and municipalities are required, under the Maryland Public Ethics Law, to enact provisions to govern the public ethics of local officials relating to conflicts of interest, financial disclosure, and lobbying. Certain municipalities may be exempted or subject to modified requirements under specified circumstances. The provisions generally must be similar to State public ethics laws but may be modified to make the provisions relevant to the jurisdiction.

## **Baltimore City**

**Senate Bill 214/House Bill 267 (both passed)** specify that city employees and officials of the Baltimore City Health Department, the Baltimore City Police Commissioner and the civilian employees and police officers of the Baltimore City Police Department, and each member of and the employees of the Civilian Review Board are local officials subject to Baltimore City public ethics laws and not State public ethics laws. The bills also repeal a provision that explicitly subjected Baltimore City health and housing inspectors who inspect for lead hazards to financial disclosure provisions enacted by the city.

## **Prince George's County**

In light of recent scandals involving alleged corruption by elected county officials in Prince George's County, members introduced a number of bills to tighten public ethics requirements for local elected officials.

**Conflict-of-interest: Senate Bill 509 (Ch. 72)** prohibits the Prince George's County government from issuing a credit card to an elected county official or a member of county board of education. The Act also prohibits an elected county official from directly or indirectly soliciting a person to enter into a business relationship to provide anything of monetary value to a person if the person being solicited is seeking the success or defeat of county legislation, a county contract, or any other county benefit. This prohibition will not be construed to affect the validity of any legally enacted requirement or condition, as a part of a development project application approval, which is proposed and adopted on the public record at a public hearing the purpose of which is to mitigate the impact of development on nearby property owners.

**Lobbying: Senate Bill 509** also includes a provision requiring the lobbying provisions of the Prince George's County Local Public Ethics Law to prohibit lobbyists from receiving compensation that is contingent on the outcome of an executive or legislative action before the county government.

**County Board of Ethics:** The Prince George's County Code of Public Local Law already provides for a County Board of Ethics. To strengthen compliance with county ethics provisions and to utilize the present structure, **Senate Bill 509** codifies in State law the existing arrangement of a five-member board to be appointed by the county executive subject to the advice and consent of the county council. However, the Act strengthens the duties of the County Board of Ethics by requiring the appointment of an executive director of the board who will meet individually with each elected official of the county at least one time each year to provide ethics advice, assist elected local officials in the preparation of ethics-related disclosures and other filings, conduct ethics-related briefings for the benefit of elected local officials, and provide ethics-related information to inquiring individuals. The board is required to meet at least two times each year.

**Campaign Contributions:** State law currently prohibits an applicant or agent of an applicant for a development project in Prince George's County from making a payment to a member of the county council or the county executive during the pendency of an application and



prohibits the council member from voting or participating on the application if a payment was received by certain entities related to the member. *Senate Bill 902 (Ch. 91)* expands these prohibitions to include payments made to a slate to which a county council member belongs during the 36-month period preceding the filing of the development project application.

### **St. Mary's County**

*House Bill 505 (Ch. 126)* specifies that each commissioner and employee of the St. Mary's County Metropolitan Commission, a quasi-governmental body that supplies water and sewer services to the county, is a local official subject to St. Mary's County public ethics laws.

## **Procurement**

### **Minority Business Enterprise Program**

The State's Minority Business Enterprise (MBE) program establishes a goal that at least 25% of the total dollar value of each agency's procurement contracts be awarded to certified MBEs, including 7% to African American-owned businesses and 10% to women-owned businesses. There are no penalties for agencies that fail to reach these targets. Instead, agencies are required to use race-neutral strategies to encourage greater MBE participation in State procurements.

*Senate Bill 120/House Bill 456 (both passed)* extend the MBE program for one year, until July 1, 2012, and repeal the program's subgoals for women- and African American-owned businesses. This marks the fifth time since the MBE program assumed its present form in 1990 that it has been extended. Instead of the customary five-year extension, the program was extended by just one year because the disparity study mandated in statute, due to be completed in September 2010, was not finished until February 2011. Therefore, the General Assembly did not have sufficient time to review the need for the program and the report's various recommendations regarding the program's future structure. However, the bills declare the General Assembly's intent to eliminate discrimination against minority- and women-owned businesses in a specified manner based on the evidence of discrimination in the disparity study.

In addition to repealing the subgoals, the bills codify in statute and clarify existing regulatory provisions related to the granting of waivers from MBE participation goals in individual procurements, and authorize procurement units to exempt sole source, expedited, or emergency procurements from MBE contract goals if the public interest cannot reasonably accommodate their use. The bills also require the regulations developed by the Board of Public Works to implement the program to (1) establish standards to require MBEs to perform commercially useful functions on State contracts; and (2) include a requirement that procurement units work with the Governor's Office of Minority Affairs to exclude certain contracts from the MBE goals.

***Senate Bill 558 (passed)*** requires a bidder or offeror on a State procurement contract to submit a written request for approval to amend the MBE participation schedule submitted with the bid or offer if an MBE listed on the schedule has become or will become unavailable, or is ineligible to perform the work required by the contract. The participation schedule may be amended only with the approval of the unit's procurement officer after consultation with the unit's MBE liaison. If a contract has already been executed, the MBE schedule may be amended only with the approval of the head of the procurement unit, and the contract must be amended.

The bill also extends the termination date for the Task Force on the Minority Business Enterprise Program and Equity Investment Capital by one year, until May 31, 2012, and requires the task force to report its recommendations and draft legislation to the Governor and General Assembly by December 1, 2011.

### **Promoting Energy Efficiency through Procurement Practices**

***Senate Bill 961 (passed)*** allows State vehicles and State-owned heavy equipment to use other biofuels besides 5% biodiesel (B5) that is currently required to be used in 50% of diesel vehicles and heavy equipment owned by the State (subject to exemptions). However, the alternative biofuel must be approved by the U.S. Environmental Protection Agency (EPA) as a fuel or fuel additive or approved by the EPA Renewable Fuels Standards 2 Program.

The bill also authorizes the Maryland Transportation Authority to require a gasoline service facility located on the John F. Kennedy Memorial Highway (JFK) to sell B5 or other biofuel that meets EPA renewable fuel standards. Finally, it repeals requirements that gasoline service facilities located on the JFK be leased to at least two different companies in accordance with State procurement law, and a restriction that one person may not (1) be awarded a lease, (2) have the use of, or (3) have the right to market fuel under its trade name at more than one-half of the total number of service stations on the entire highway.

***House Bill 643 (passed)*** prohibits State funds from being used to install or replace a permanent outdoor luminaire on the grounds of any building or facility owned or leased by the State unless the fixture meets specified criteria regarding energy efficiency and light emission. Subject to exemptions specified in the bill, the luminaires must:

- maximize energy conservation and minimize light pollution, glare, and light trespass;
- provide the minimum illumination necessary for the intended purpose of the lighting; and
- be a restricted uplight luminaire if it has an output of more than 1,800 lumens.

### **Procurement Processes**

***House Bill 12 (passed)*** prohibits public employers in the State from knowingly purchasing, furnishing, or requiring employees to purchase or acquire uniforms or safety equipment and protective accessories that are manufactured outside the United States. The prohibition does not apply if:

- either the item is not manufactured or available for purchase in the United States, or is not manufactured or available in reasonable quantities;
- the price of the item manufactured in the United States exceeds the price of a similar item manufactured overseas by an unreasonable amount; or
- the quality of the item manufactured in the United States is substantially less than the quality of a similar item not manufactured in the United States.

To allow for a more effective comparison of the historical costs for labor and supplies incurred by bidders or offerors on service contracts, **House Bill 466 (passed)** requires the Board of Public Works, in consultation with the Department of General Services, to adopt regulations requiring bidders or offerors on service contracts for janitorial services to delineate their costs by (1) labor; (2) cleaning supplies; and (3) projected man-hours to satisfactorily complete the service. Janitorial service contracts awarded to Maryland Correctional Enterprises, Blind Industries and Services of Maryland, the Employment Works Program, or a business owned by an individual with a disability are exempt from the requirement.

Somers Cove Marina was established in 1958 and was deeded to the Department of Natural Resources in 1980 by the City of Crisfield. Since 2008, the Somers Cove Marina Commission, established by statute, has overseen the marina's operation, including maintaining the Somers Cove Marina Improvement Fund. **House Bill 497 (passed)** authorizes the executive director of the Somers Cove Marina Commission to procure capital improvement, design, and maintenance projects. Goods, services, and capital improvement, design, and maintenance projects with an expected value of \$5,000 to \$200,000 are subject to the commission's existing procurement procedures, but those exceeding \$200,000 in value are subject to State procurement law and regulations. All procurements made by the marina that are funded by the proceeds of State bonds must be submitted to the Board of Public Works for approval.

**Senate Bill 479/House Bill 520 (both passed)** require firms that submit a bid or offer to provide Maryland Area Regional Commuter (MARC) train service to the State or a local government to disclose information about their direct involvement in the deportation of concentration camp victims during World War II. For a further discussion of these bills, see the subpart "Transportation" within Part G – Transportation and Motor Vehicles of this *90 Day Report*.

## Personnel

### State Employees

#### Impact of Budget Actions on State Employees

There are a number of budget actions that will affect State employees in fiscal 2012. For the first time in three fiscal years, no furlough or temporary salary reduction plan was included in the budget. In addition, a \$750 bonus is included for State employees who begin State service

prior to July 1, 2011, and are not in bargaining units that have received an alternative salary adjustment. The bonus will be spread across the 26 pay periods throughout the fiscal year.

Other budget-related personnel items, such as salary increments for employees performing at or above established standards, cost-of-living increases, and the State match of \$600 for employees participating in deferred compensation plans, however, were not funded. While the Budget Reconciliation and Financing Act of 2011 (BRFA), *House Bill 72 (passed)*, includes a provision that prohibits State employees from receiving merit increases prior to April 1, 2014, the bill also provides for a number of exceptions. Among these exceptions are increases necessary to retain faculty at the State's four-year public universities and salary increases for operationally critical staff (in fiscal 2012 only).

In fiscal 2012, the size of the regular State workforce will decrease by almost 1,100 positions. The Voluntary Separation Program is the largest source of the decrease; the program resulted in the elimination of 653 positions in January 2011. The General Assembly also eliminated 473 positions. In accordance with a provision designed to eliminate long-standing vacancies and produce savings through attrition, most of these legislative abolitions will be carried out by January 1, 2012.

### **State Employees in Independent Agencies**

The mandatory furlough/salary reduction plans of the past few years have made it more difficult for State agencies to reward, recruit, and retain employees. This problem has been particularly acute for independent agencies, such as the Maryland Automobile Insurance Fund (MAIF) and the Injured Workers' Insurance Fund (IWIF), because they compete with private-sector employers in the insurance industry.

#### **Maryland Automobile Insurance Fund**

MAIF is an independent, nonbudgeted State agency that provides automobile liability insurance for State residents who are unable to obtain it elsewhere in the private insurance market. The fund has approximately 378 full-time employees. Under current law, MAIF's Executive Director must appoint and remove MAIF staff in accordance with the provisions of the State Personnel and Pensions Article. MAIF employees are considered State employees and are members of the State Employees' Retirement and Pension Systems.

*Senate Bill 993 (passed)* specifies that MAIF employees are not subject to any State law governing State employee compensation, including furloughs, salary reductions, or any other general fund cost savings measure. The bill also repeals the requirement that the compensation of technical or professional employees be, whenever possible, in accordance with the State pay plan and reporting requirements regarding changes in MAIF's salary plans. Instead, under the bill, MAIF's Executive Director is charged with administering the compensation of personnel in specified technical or professional positions but only with the approval of the Board of Trustees of MAIF being necessary.

### **Injured Workers' Insurance Fund**

IWIF administers workers' compensation for the State and provides workers' compensation insurance to firms unable to procure insurance in the private market. IWIF is a nonbudgeted, independent entity that is funded solely from premium and investment income. IWIF employs about 380 individuals, and its employees are considered State employees and are members of the State Employees' Retirement and Pension Systems.

*Senate Bill 693 (passed)/House Bill 598 (Ch. 132)* specifies that IWIF employees are not subject to any State law, regulation, or executive order governing State employee compensation, including furloughs, salary reductions, or any other general fund cost savings measure. The Act also clarifies that IWIF's board is responsible for setting compensation rates for its employees and removes a provision of law requiring the board, to the extent practicable, to set compensation rates for IWIF employees in accordance with the State salary plan.

### **Collective Bargaining for Independent Home Care Providers**

Independent home care providers receive compensation for providing home care services to eligible adults. In 2007, Governor Martin O'Malley issued an executive order specifying that the State must recognize a provider organization designated by a majority of independent home care providers who participate in the Medicaid Waiver for Older Adults Program, the Medicaid Personal Care Program, the Living at Home Waiver Program, or the In-Home Aide Service Program for purposes of collective bargaining. In 2008, in accordance with the process established by the executive order, the American Federation of State, County, and Municipal Employees (AFSCME) Council 67 was certified as the exclusive representative of the individual home care providers bargaining unit.

In fiscal 2010, there were approximately 4,600 independent home care providers participating in the four programs covered under the bill. The total amount of reimbursement for these home care providers was \$159.7 million. Expenses attributed to the Medicaid Personal Care, Older Adults Waiver, and Living at Home Waiver programs are Medicaid costs, which are generally split evenly between State and federal funds. The In-Home Aide Service Program is funded solely with general funds. Independent home care providers are compensated as independent contractors.

*House Bill 171 (passed)* codifies collective bargaining rights for independent home care providers and authorizes the negotiation and implementation of service fees. Under the bill, the State must conclude that a collective bargaining agreement as a whole will not adversely impact providers who are not members of the main employee organization before a service fee for nonmember providers can be authorized through the collective bargaining agreement. A service fee provision is only allowable if nonmembers pay fees on a sliding scale in approximate proportion to the amount that each nonmember independent home care provider receives as reimbursement, and a service fee may not be charged for care given to an immediate family member. A provider who has religious objections to paying the service fee, should one be

successfully negotiated, will be allowed instead to pay an amount not to exceed the service fee to a charitable organization.

### **Collective Bargaining for Sworn State Law Enforcement Officers**

The Law Enforcement Officers' Bills of Rights was enacted in 1974 to guarantee police officers specified procedural safeguards in any investigation that could lead to disciplinary action. It extends to police officers of 23 specified State and local agencies. It does not grant collective bargaining rights. *Senate Bill 699 (failed)* would have established collective bargaining rights for sworn State law enforcement officers holding a noncommissioned rank who are represented by an exclusive employee representative over wages, hours, working conditions, and any other terms or conditions of employment. The bill would have allowed either party to declare an impasse and request a hearing before the State Labor Relations Board. The bill also would have required the use of arbitration in certain circumstances.

### **Collective Bargaining for Baltimore County Public School Employees**

*Senate Bill 430/House Bill 683 (both passed)* require the Baltimore County Board of Education to meet and confer by November 1, 2011, with the employee organization that is designated as the exclusive representative of a unit that consists of employees whose position requires an administrative and supervisory certificate and employees who are supervisory but noncertificated. Under the bill, the subject that is to be covered when the county and the employee organization, which the Council of Administrative and Supervisory Employees, meet and confer, is job titles to be included in the unit.

### **Maryland Department of Transportation Employee Grievance Procedures**

The Maryland Department of Transportation (MDOT) employs approximately 9,000 individuals who are responsible for statewide transportation planning and the development, operation, and maintenance of key elements of the transportation system. While most Executive Branch employees are members of the State Personnel Management System, MDOT employees are members of the independent Transportation Service Human Resources System. Under current law, MDOT employee grievance procedures include several levels of appeal, including an extra level of appeal to the Department of Budget and Management for disciplinary actions. MDOT employee grievance procedures must also provide the same levels of appeal provided to other State employees.

*House Bill 1184 (passed)* alters the appeals process for MDOT employees. When an unresolved dispute exists after an initial appeal, instead of requiring the referral of any unresolved matter to the Office of Administrative Hearings (OAH), the bill authorizes aggrieved employees to submit an appeal to OAH. The bill also deletes provisions authorizing appeals for disciplinary actions to the Secretary of Budget and Management or that Secretary's designee. Instead, the bill gives the Secretary of Transportation broad authority to establish appeal procedures for disciplinary actions through regulations and policy.



## Pensions and Retirement

### Comprehensive Pension Reform

The General Assembly passed comprehensive pension reform that affects pension benefits for almost all current and future State employees and public school teachers in the State. The reforms do not affect individuals who are already retired. The pension reform provisions were contained within *House Bill 72 (passed)*, the Budget Reconciliation and Financing Act of 2011 (BRFA), and were designed to address two distinct issues with regard to public employee pensions:

- the long-term sustainability of the State’s defined benefit pension plans; and
- the affordability of the State’s contributions to those plans.

The Governor initially proposed a series of pension reforms in the BRFA of 2011 that drew in part from the work and recommendations of the Public Employees’ and Retirees’ Benefit Sustainability Commission, which was created by Chapter 484 of 2010. The commission was charged with studying and making recommendations with respect to both State-funded health care benefits and pension benefits provided to State and public education employees and retirees. With respect to the State Retirement and Pension System (SRPS), the commission identified the following concerns that threatened its long-term sustainability and affordability:

- the gap between the system’s assets and liabilities had grown every year since fiscal 2000 so that, on an actuarial basis, the system had only 64% of the assets necessary to cover its liabilities;
- robust investment returns during the middle portion of the previous decade had done little to slow the expansion in the gap between assets and liabilities due to the overwhelming effects of recessions and financial market collapses in calendar 2001-2002 and 2008-2009; and
- the cost of pensions and other fringe benefits for State employees and teachers have been growing, and are projected to continue to grow, faster than general fund revenues. From fiscal 2002 to 2011, general fund revenues grew by 39%, but State employee fringe benefits (including pensions) grew by 59%, and the cost of pensions for local employees (including teachers, public librarians, and community college faculty) grew by 159%.

The commission concluded that the current pension benefit structure was not sustainable and recommended that the State adopt dual goals of achieving actuarial funding levels of 80% within 10 years and 100% within 30 years.

In the BRFA of 2011, the General Assembly adopted the following changes to the SRPS benefit structure, which are divided between those affecting individuals who are active members

before July 1, 2011, and those affecting only new members hired after June 30, 2011. The General Assembly also adopted changes to the system's funding model.

### **Current SRPS Members (Hired Before July 1, 2011)**

**Cost-of-living Adjustments (COLAs):** Under current law, all SRPS retirement benefits are adjusted automatically to account for annual inflation, but the size of the adjustments vary by plan. Retirees of the Employees' Pension System (EPS) and Teachers' Pension System (TPS), the State's two largest plans, as well as the Law Enforcement Officers' Pension System (LEOPS) receive automatic annual COLAs linked to inflation, subject to a 3% cap. The State Police Retirement System (SPRS) and the Correctional Officers' Retirement System (CORS) also receive COLAs linked to inflation, but they are not subject to a cap.

The reform provisions passed by the General Assembly do not affect COLAs for individuals retired as of July 1, 2011, but do affect COLAs that current active members in EPS, TPS, LEOPS, SPRS, and CORS will receive when they retire. For service credit earned after June 30, 2011, the COLA will be linked to the performance of the SRPS investment portfolio. If the portfolio earns its actuarial target rate (7.75% for fiscal 2011), the COLA is subject to a 2.5% cap. If the portfolio does not earn the target rate, the COLA is subject to a 1% cap. For service credit earned before July 1, 2011, the COLA provisions in effect during that time still apply for each plan.

The COLA provisions do not apply to current or future retirees of the Judges' Retirement System (JRS) or the Legislative Pension Plan (LPP) because their benefit increases are linked to the salaries of current judges and legislators, respectively, and not limited to inflation rates.

**Member Contributions:** Beginning July 1, 2011, member contributions for current active members of EPS and TPS increase from 5% of earnable compensation to 7% of earnable compensation. Member contributions for current active members of LEOPS increase by 4% to 6% in fiscal 2012 and from 6% to 7% beginning in fiscal 2013. Member contribution rates for other SRPS plans remain unchanged.

### **Future SRPS Members (Hired After June 30, 2011)**

**Changes Affecting All Plans (Except JRS and LPP):** For all new members of SRPS, except for JRS and LPP, vesting increases from 5 to 10 years. The calculation of average final compensation (AFC) used to calculate retirement allowances for members of the EPS, TPS, and LEOPS will be based on the five consecutive years that provide the highest average compensation, rather than three years. For members of the SPRS and CORS, the AFC used to calculate retirement allowances will be based only on the five years that provide the highest average compensation; the five years do not need to be consecutive. Also, when those members retire, their annual automatic COLAs will be subject to the same contingent caps described above, based on the system's investment performance.

**EPS and TPS:** New members of EPS/TPS will pay a member contribution of 7% and receive a retirement allowance equal to 1.5% of AFC for each year of creditable service



(compared with 1.8% for current members). They will qualify for a normal service retirement benefit either upon reaching age 65 with at least 10 years of service or when the sum of their age and years of service reaches 90 (compared with age 62 with 5 years of service or 30 years of service regardless of age for current members). They will also qualify for an early retirement benefit at age 60 with at least 15 years of service (compared with age 55 for current members).

**LEOPS and State Police:** Member contributions for new members of LEOPS are 6% in fiscal 2012 and 7% beginning in fiscal 2013. New members of SPRS qualify for a normal service retirement upon reaching age 50 or with 25 years of service regardless of age (up from 22 years of service for current members). Members of LEOPS and SPRS continue to be eligible for the Deferred Retirement Option Program (DROP), but members who enter DROP after June 30, 2011, receive a lower interest rate on their DROP accounts. DROP allows members of these plans to officially “retire” but to continue working for up to four or five years while earning a full salary. During their time in DROP, their retirement benefits are deposited in an interest-earning account that is payable in a lump sum when they leave DROP. The pension reform provisions reduce the interest earned on DROP accounts from 6% interest compounded monthly to 4% interest compounded annually.

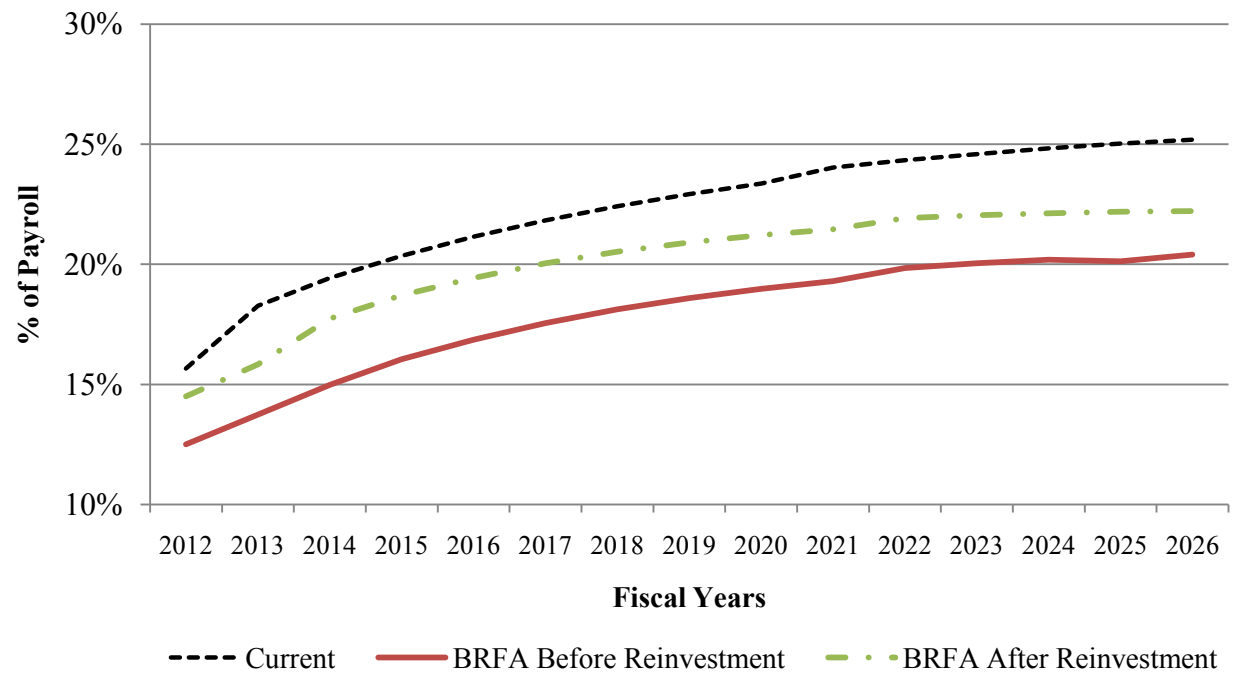
### **SRPS Funding**

Borrowing from the Benefit Sustainability Commission’s recommendations, the pension reform provisions of the BRFA of 2011 establish a goal of reaching 80% actuarial funding within 10 years by reinvesting a portion of the savings generated by the benefit restructuring into the pension system in the form of increased State contributions above the contribution required by statute. In fiscal 2012 and 2013, all but \$120 million of the savings generated by the benefit restructuring are reinvested, with the \$120 million dedicated to budget relief each year. Beginning in fiscal 2014, the amount reinvested in the pension fund is subject to a \$300 million cap, with any savings over that amount dedicated to budget relief.

The pension reform provisions also require local school boards and community colleges to pay their prorated share of the administrative costs of the State Retirement Agency (SRA), based on the number of their employees who are members of TPS or the Teachers’ Retirement System (TRS).

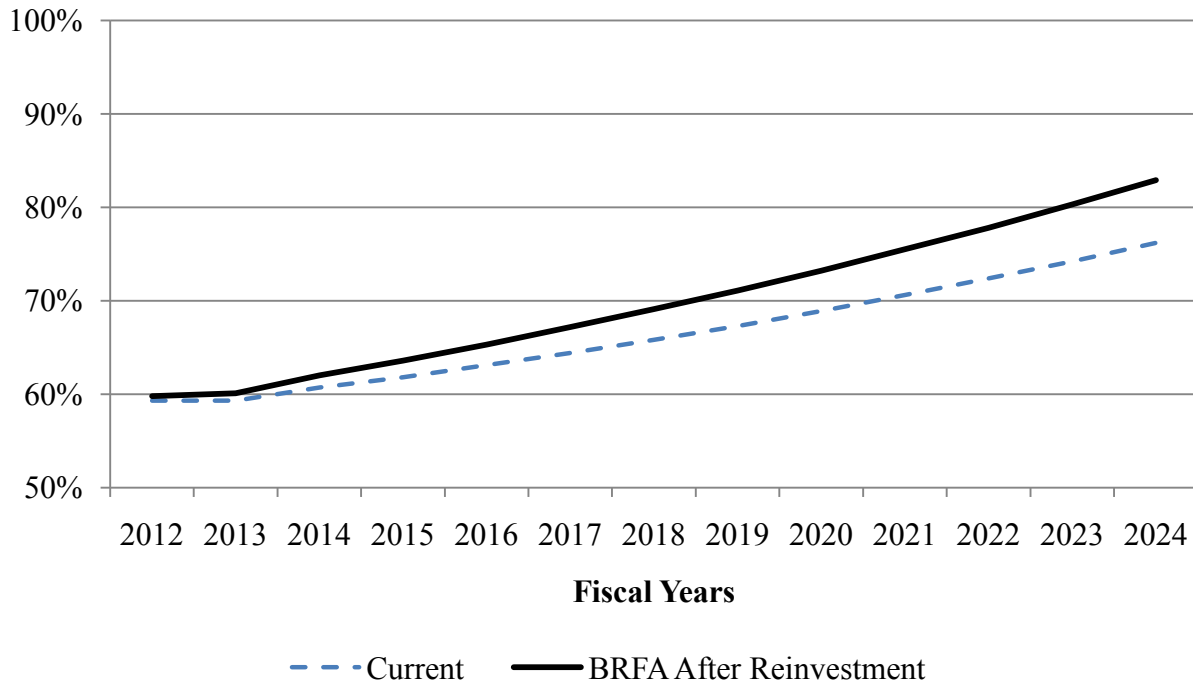
**Exhibits C-1 and C-2** show the effects of the BRFA’s pension reform provisions on the system’s projected cost (in terms of contribution rates) and funded status. Exhibit C-1 shows that the reforms reduce the maximum projected State contribution rates from more than 25% of payroll to about 22% of payroll, after accounting for the reinvestment of savings. This translates into a budgetary savings of more than \$300 million by fiscal 2022. Exhibit C-2 shows that the BRFA provisions achieve the statutory goal of 80% funding by fiscal 2023 due to the reinvestment of savings; in the absence of that reinvestment, the system’s projected funded status would be almost identical to current projections, with the system not reaching 80% funding until 2026.

**Exhibit C-1**  
**Projected SRPS Aggregate Contribution Rates**



Source: Mercer, Inc.

### Exhibit C-2 Projected SRPS Funded Status



Source: Mercer, Inc.

### Retiree Health Care

In addition to comprehensive reform of the State's pension system, the BRFA of 2011 implements reforms to the State Health and Welfare Benefits Program. The Public Employees' and Retirees' Benefit Sustainability Commission recognized the need to address the State's unfunded liability of \$15.9 billion for other post employment benefits. The commission recommended exploring options to reduce State expenditures for health benefits through a combination of plan design and employee share of premium costs. The commission also recommended increasing the minimum amount of service credit needed to be eligible for a retiree to participate in the State health program. Additionally, the commission recommended ending prescription drug coverage for Medicare-eligible retirees beginning in fiscal 2020.

**Prescription Drug Coverage:** Under the State health program, retirees and active employees are enrolled under the same prescription drug plan. The BRFA of 2011 authorizes the establishment of separate health insurance benefit options for retirees that differ from those for active State employees and requires the discontinuation of prescription drug coverage for Medicare-eligible retirees in fiscal 2020.

The bill requires the prescription drug benefit for retirees to have the same co-payments, coinsurance, and deductible that apply to the prescription drug benefit for active State employees. However, the share of the premium cost to retirees is increased to 25%, instead of 20%, while out-of-pocket limits are \$1,500 for a retiree and \$2,000 for a retiree and the retiree's family.

***Eligibility for Retiree Health Care:*** In addition to establishing a separate prescription drug plan for retirees, the General Assembly also altered the eligibility requirements for retiree health and prescription drug coverage for individuals hired on or after July 1, 2011. Those individuals become eligible for retiree health care coverage if the individual:

- ends State service with at least 25 years of creditable service;
- ends State service with at least 10 years of creditable service within 5 years before the age at which a vested retirement allowance normally would begin;
- retires directly from State service with a State retirement allowance and has 10 years of creditable service; or
- retires directly from State service with a State disability retirement allowance.

The State subsidy for retirees hired on or after July 1, 2011, is 1/25 for each year of the retiree's creditable service up to 25 years.

The existing eligibility requirements are maintained for individuals that began State service on or before June 30, 2011, and for retirees of JRS. These individuals still achieve eligibility for retiree health care coverage if the individual:

- ends State service with at least 10 years of creditable service and within 5 years before the age at which a vested retirement allowance normally would begin;
- ends State service with at least 16 years of creditable service;
- retires directly from State service with a State retirement allowance and has at least 5 years of creditable service; or
- retires directly from State service with a State disability retirement allowance.

The State subsidy for retirees that began State service on or before June 30, 2011, remains at 1/16 for each year of the retiree's creditable service up to 16 years.

## Pension Benefit Calculations

### Negative COLAs

As noted above, retirement allowances paid to SRPS retirees and beneficiaries are adjusted annually for inflation, but the amount and type of COLA varies by system. In general, the various statutory COLA provisions do not prohibit a negative adjustment when there is deflation. However, when the Consumer Price Index for all urban consumers declined in 2009 for the first time since 1954, legislation was passed during the 2010 legislative session to prevent the reduction retirement allowances in fiscal 2011. The legislation also required that COLAs in the succeeding year be adjusted to recover the difference between the negative COLA that would have been applied and the zero COLA. *Senate Bill 799/House Bill 727 (both passed)* permanently preclude annual COLAs from being less than zero. In years in which COLAs would be less than zero due to deflation, retirees and beneficiaries do not receive a COLA, but COLAs in succeeding years are adjusted until the difference between the negative COLA that would have applied and the zero COLA is fully recovered.

The bills also require SRA to review COLA provisions in State pension law for accuracy and clarity and to recommend changes to the Joint Committee on Pensions by November 1, 2011.

### Payment of Vested Allowances

SRPS members who reach normal retirement eligibility receive a benefit allowance only after they file for retirement. However, vested former members (*i.e.*, those who have separated from employment after having vested but before reaching retirement age) who request a vested benefit after their normal retirement age are entitled to a retroactive benefit payment to the date of retirement eligibility, plus applicable cost-of-living adjustments. *Senate Bill 947/House Bill 1312 (both passed)* prohibit members and former members of most retirement and pension plans within SRPS from receiving a retroactive vested benefit allowance if they file for vested benefits after their normal retirement age. These bills do not apply to any member or former member who on July 1, 2011: (1) has at least five years of eligibility service; (2) is separated from employment with a participating employer other than by death or retirement; and (3) has reached normal retirement age. In addition, these bills do not apply to JRS or LPP. The bills also clarify that members and former members who receive a refund of accumulated contributions are not entitled to further benefits.

### Military Service Credit

Any member or vested former member of SRPS who accrues 10 years of creditable service may receive one year of additional service credit for each year of active military duty performed prior to membership in SRPS, up to five years. The credit is granted at no cost to the member. *Senate Bill 356 (Ch. 59)* requires that the 10 years of service in SRPS that are necessary to claim and be granted military service credit for prior military service be earned through employment as a member of a State system.

## Reemployment of Retirees

In general, SRPS retirees may be reemployed, but they are subject to an earnings limitation if they are reemployed by the same employer for whom they worked at the time of retirement. For the purpose of calculating the earnings limitation, all units of State government are considered a single employer. If a retiree is reemployed by the employer for whom the retiree worked at the time of retirement, the retiree is subject to a dollar-for-dollar reduction to the retirement allowance by the amount by which the sum of the retiree's annual compensation and initial retirement allowance exceeds the retiree's average final compensation (AFC) at the time of retirement. Retirees of the Employees Retirement System (ERS), TRS, EPS, and TPS are not subject to the benefit reduction if they:

- have been retired for more than nine years;
- had an AFC less than \$10,000 and are reemployed on a temporary or contractual basis;
- serve as an elected official;
- are reemployed as a health care practitioner in specified medical institutions; or
- are reemployed as principals or teachers in underserved or underperforming schools, as specified in statute.

Several bills passed during the 2011 legislative session address the reemployment earnings limitation. **House Bill 176 (Ch. 106)** reduces from nine to five the number of years that a retiree of ERS, TRS, EPS, or TPS must wait in order to be exempt from the reemployment earnings limitation if the retiree is hired by the individual's last employer prior to retirement. **House Bill 634 (Ch. 136)** limits the amount by which the SRPS may offset a reemployed retiree's allowance to no more than an amount sufficient to pay the retiree's approved monthly medical insurance premiums, as established by the State or a participating employer from which the individual retired. **House Bill 1168 (passed)** allows a reemployed health care practitioner to maintain the exemption from the retirement allowance reduction for as long as the individual is reemployed on a contractual basis in an approved institution. Prior to fiscal 2010, these retirees had been subject to a four-year limitation on the exemption.

## General Assembly

### Joint Committees

### Transparency and Open Government

The public's ability to obtain prompt, complete, and accurate information regarding official actions has been a growing demand at the local, state, national, and international levels of government. For several decades Maryland has had statutory provisions for guaranteeing access

to public records and requiring open meetings, but recent advances in technology have created new avenues for assuring transparency in government.

During the 2010 and 2011 legislative sessions, the General Assembly upgraded its website to include committee voting records on each bill that is voted on, live and archived video streaming of House of Delegates committee hearings, and live and archived audio streaming of Senate committee hearings. In addition, the Board of Public Works began transmitting live and archived streaming of its meetings. The General Assembly website already carried live and archived audio streaming of floor sessions of both houses of the legislature. Also, the General Assembly began offering “up-to-the-minute” service free of charge to the public, providing real-time bill status updates. Previously, that service had only been available for an annual fee of \$800.

*Senate Bill 644/House Bill 766 (both passed)* establish a Joint Committee on Transparency and Open Government within the General Assembly, consisting of six senators and six delegates. The new joint committee will provide continuing legislative oversight regarding transparency and open government and will recommend initiatives that increase citizen access to government resources, publications, and actions. The joint committee is also charged with:

- identifying areas in which the State can improve its technology and Internet websites to increase transparency and citizen engagement;
- making recommendations regarding State transparency goals and policies;
- consulting with State entities that foster transparency, including the Governor’s StateStat office;
- reviewing State laws, programs, services, and policies and making recommendations to align them with State transparency policies and goals;
- determining whether there are interdepartmental gaps, inconsistencies, and inefficiencies in the implementation or attainment of State transparency policies and goals;
- identifying laws, programs, services, or budgetary priorities that need to be adopted to ensure and promote transparency and open government in the State;
- surveying transparency initiatives in other states that have proven effective at saving public funds and resources and assessing whether those policies should be modified and adopted for use in Maryland;
- serving as an informational resource and liaison for advocates and citizens with ideas and suggestions for tools and practical implementation of initiatives that will increase transparency;

- reviewing and making recommendations regarding actions suggested by advocates and citizens to increase citizen access to government resources, publications, and actions; and
- recommending methods of increasing public awareness of government resources, publications, and websites.

The bills also make changes to the State's Open Meetings Act to eliminate the requirement of written minutes by a public body when live and archived video or audio of open sessions are made available, or when individual votes on legislation by members of the public body are posted promptly on the Internet.

### **Workers' Compensation Oversight**

*Senate Bill 1 (Ch. 5)* increases the size of the General Assembly's Joint Committee on Workers' Compensation Benefit and Insurance Oversight from 15 to 16 members by adding a representative of a self-insured local government entity.

### **New Study Committees and Task Forces with Legislative Membership**

Each year, the General Assembly creates study committees and task forces that will conduct in-depth studies of important public policy issues. The following bills relate to study committees and task forces that include members of the General Assembly in their membership. They are discussed in greater detail in the appropriate subject-area parts of this *90 Day Report*.

### **Campaign Finance Law**

The General Assembly, in the preamble to *House Joint Resolution 7 (passed)* stated that, for several reasons, "the time now seems ripe for...a fresh comprehensive look at the issue of campaign finance regulation and assess whether additional modifications to the campaign finance law are in order." To undertake that review and the development of findings and recommendations by the end of 2012, the joint resolution establishes a Commission to Study Campaign Finance Law to include 3 members of the Senate of Maryland and 3 members of the House of Delegates among its 17 members.

### **Medical Marijuana**

A comprehensive proposal dealing with the legalization of medical marijuana in the State was amended significantly prior to its passage. One component of the final version of *Senate Bill 308 (passed)* calls for the creation of a work group to develop a model program to facilitate patient access to marijuana for medical purposes. The work group will include two members of the Senate of Maryland and two members of the House of Delegates.



### **Electric Vehicle Infrastructure**

With electric motor vehicles coming onto the market as viable means of transportation, the General Assembly has identified a need to create an infrastructure – in particular the installation of residential and commercial electric vehicle charging stations – throughout the State. *Senate Bill 176/House Bill 167 (both passed)* create a Maryland Electric Vehicle Infrastructure Council, which will include one senator and two delegates that is charged with developing an action plan to facilitate the successful integration of electric vehicles into the State's transportation network and to pursue other goals and objectives that promote the utilization of electric vehicles in Maryland.

### **Cybersecurity**

Maryland has become an epicenter for cybersecurity technology as the home of the National Security Agency, the Intelligence Advanced Research Projects Activity, the National Institute of Standards and Technology, and the Defense Information Systems Agency headquarters. In addition, Maryland will be the future home of the U.S. Cyber Command headquarters and will host the expansions of the intelligence and communications responsibilities at Fort Meade and at Aberdeen Proving Ground by the Department of Defense. This presents a significant opportunity for the State to attract private-sector cybersecurity enterprises. *Senate Bill 557/House Bill 665 (both passed)* establish a commission on Maryland Cybersecurity Innovation and Excellence to, among other duties, conduct a comprehensive review of the State's role in promoting cybersecurity innovation and excellence and to develop a comprehensive strategic plan to ensure a coordinated and adaptable response to and recovery from attacks on cybersecurity. The commission will have among its members a delegate and a senator.

### **Historically Black Institutions**

*Senate Bill 347 (passed)* establishes a Task Force to Study the Impact of Adjunct Faculty on Graduation Rates at Historically Black Institutions. The task force is charged with making findings and recommendations regarding the relationship between the ratio of adjunct to full-time faculty at historically black institutions of higher education in Maryland and current disparities in retention and graduation rates in the State's institutions of higher education. The membership of the task force includes two members of the Senate and two from the House of Delegates.

### **School Safety**

In response to the continuing interest in assuring the safety of students and staff in our schools, *Senate Bill 772/House Bill 79 (both passed)* establish a Task Force to Study the Creation of a Maryland Center for School Safety. Included in the duties of the task force is the development of a school safety training program, security criteria that local school systems may consider in the design of new school construction, and a model safety and security audit procedure for use by local school systems. Among the membership will be one member of the Senate and one member of the House of Delegates.

### **High School Dropouts in the Criminal Justice System**

To better understand the correlation between dropping out of high school and entering into criminal behavior, *Senate Bill 755 (passed)* creates a Task Force to Study High School Dropout Rates of Persons in the Criminal Justice System. The task force is charged with making recommendations on how individuals can be kept in high school until graduation and the availability of continuing education options for individuals who have not received a high school diploma while incarcerated. The task force will include two senators and two delegates.

### **Funding Spay/Neutering Programs for Pets**

*Senate Bill 639 (passed)* establishes a Task Force on the Establishment of a Statewide Spay/Neuter Fund to review ongoing successful spay and neuter programs in Maryland and other states and make recommendations regarding the establishment of a spay/neuter fund that best meets the needs of the State. The membership of the task force includes two senators and two delegates.

### **Green Technology**

*House Bill 758 (passed)* creates a Task Force on Funding a Green Technology, Life Science, and Health Information Technology Loan Assistance Repayment Program. The task force is to study and make recommendations on sources of funding for a green technology, life science, and health information technology loan assistance repayment program that assists graduates who earned a degree in one of those fields in the repayment of any federal or State higher education loan for which they are responsible. One senator and one delegate will serve as members.

### **Baltimore County School Board**

As a result of *Senate Bill 397/House Bill 398 (both passed)*, which create the Task Force on the Membership and Operation of the Baltimore County Board of Education, a study is to be undertaken for the purpose of making recommendations as to the ideal membership size of the Baltimore County Board of Education and the most appropriate way to select its members. The task force will include four members each from the county's House and Senate delegations, including the respective delegation chairs.

### **Baltimore County – Industrial Job Creation**

*Senate Bill 746 (passed)* establishes the Task Force on Industrial Job Creation in Baltimore County, which among its 10 members, is to include 1 member of the Senate and 1 member of the House. The task force is to review current State policies on job creation in industry, ship building and repair, and businesses that supply industry in Baltimore County and make recommendations on how the State can encourage new employers to locate in Baltimore County, retain employers located in the county, and encourage employees in the county to maintain or increase the number of their employees.

### **Solar Hot Water Systems in Prince George’s County**

**House Bill 306 (passed)** reestablishes the Task Force on Solar Hot Water Systems in Prince George’s County to develop by the end of 2011 a business plan to achieve substantial use of solar hot water systems in the county. One member of the Senate and one member of the House of Delegates will serve on the task force, and the membership, to the extent possible, is to include the same members of the task force that had been established on this issue in 2010.

### **Program Evaluation (“Sunset Review”)**

The Maryland Program Evaluation Act, enacted in 1978, is utilized by the General Assembly as a mechanism to monitor and evaluate approximately 70 regulatory boards, commissions, and other agencies of the Executive Branch of State government. The Department of Legislative Services (DLS) is required under this law to periodically undertake the evaluations according to a statutorily based schedule. These evaluations are more commonly known as “sunset review” because the agencies subject to review are usually also subject to termination (sunset) unless legislation is enacted to reauthorize them. The methodology for conducting the evaluations by DLS involves an extensive evaluation process by DLS staff. The goals of the process have evolved to reflect the General Assembly’s interest in identifying the strengths and weaknesses of the various regulatory entities that are subject to program evaluation and addressing through legislation appropriate issues relating to the structure, performance, and practices of the agencies.

This session, the evaluation of and termination dates for the following regulatory agencies were extended. Some of these bills also contain substantive changes in an agency’s powers and duties, and those changes are discussed in the appropriate subject area parts of this *90 Day Report*.

- **Senate Bill 84/House Bill 65 (both passed)** extend the Electrology Practice Committee of the State Board of Nursing for 10 years.
- **Senate Bill 89/House Bill 75 (both passed)** extend the State Board of Examiners of Psychologists for 10 years.
- **Senate Bill 90/House Bill 66 (both passed)** extend the State Board of Podiatric Examiners for 10 years.
- **Senate Bill 91/House Bill 67 (both passed)** extend the State Board of Architects for 10 years.
- **Senate Bill 92/House Bill 68 (both passed)** extend the State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors for 10 years.
- **Senate Bill 93 (Ch. 24)** extends the State Board of Examiners of Nursing Home Administrators for 4 years.

- *Senate Bill 94/House Bill 69 (both passed)* extend the State Board for Professional Engineers for 10 years.
- *Senate Bill 103/House Bill 358 (both passed)* extend the Office of the Commissioner of Financial Regulation and the State Collection Agency Licensing Board for 10 years.
- *Senate Bill 235/House Bill 361 (both passed)* extend the State Board of Master Electricians for 10 years.
- *Senate Bill 236/House Bill 362 (both passed)* extend the Maryland Home Improvement Commission for 10 years and also extend the Maryland Mold Remediation Services Act for 3 years.

### **Annual Corrective and Curative Bills**

Because the General Assembly delegates a limited degree of editorial control to the publishers of the Annotated Code with respect to making nonsubstantive and technical changes in the Code, DLS has long had the statutory authority to prepare legislation to make these sorts of changes both in the statutory text and bill titles of prior years' enactments.

These corrective measures are the Annual Corrective Bill, *Senate Bill 455 (Ch. 65)* and the Annual Curative Bill, *Senate Bill 454 (Ch. 64)*, respectively. Neither enactment contains any substantive change.

## **Part D**

### **Local Government**

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#### **Local Government – Generally**

##### **Counties**

##### **Kennel Licenses**

Dog owners in Maryland are required to obtain a license for each dog they own; however, there are no statewide license or fee requirements specifically for dog breeders. Provisions related to the licensing of dogs vary from county to county. In most counties, the owner of a dog over six months old must apply for a one-year license on or before July 1 of each year.

While many counties are authorized to set their own dog and kennel license fees and a few others are authorized to also set terms or forms for licenses, in general, the fees for dog licenses are \$1 for each male or spayed female dog, \$2 for each unspayed female dog, \$10 for a kennel license for owning or keeping up to 25 dogs, and \$20 for a kennel license for keeping more than 25 dogs.

***Senate Bill 839 (passed)*** requires a person to obtain a kennel license if the person owns or has custody of 15 or more unspayed female dogs over six months old that are kept for the purpose of breeding the dogs and selling their offspring and the person sells dogs from six or more litters in a year.

For each kennel license issued in a county, the bill requires the county to collect and maintain a record of the name and address of the licensee, the number of dogs maintained, and the number of puppies sold in the preceding year. By January 15 of each year, counties must report the information collected for the preceding year to the Department of Labor, Licensing, and Regulation. The bill also authorizes a county to establish additional kennel license fees to cover the cost of collecting and maintaining the information and submitting the reports. A county may establish more stringent kennel licensing requirements.

### **Authorization to Harvest Seafood and Engage in the Seafood Industry**

*House Bill 1240 (passed)* expands to all counties an authorization to adopt an ordinance, resolution, or regulation or take any other action considered necessary to authorize a person to engage in activities related to the seafood industry and to harvest seafood. Before adopting such an ordinance, resolution, or regulation, the governing body must hold a public hearing and obtain the written consent of the Secretary of Natural Resources.

### **Prince George's County Ethics Laws**

Counties and municipalities are required, under the Maryland Public Ethics Law, to enact provisions to govern the public ethics of local officials relating to conflicts of interest, financial disclosure, and lobbying. Certain municipalities may be exempted or subject to modified requirements under specified circumstances. The provisions generally must be similar to State public ethics laws but may be modified to make the provisions relevant to the jurisdiction.

Several bills were passed during the 2011 session relating to the county ethics laws in Prince George's County.

#### **Public Ethics Requirements**

*Senate Bill 509 (Ch. 72)* requires conflict-of-interest provisions enacted by the county, under the Maryland Public Ethics Law, to prohibit the county government from issuing a credit card to an elected county official or a school board member. The bill also requires conflict-of-interest provisions to prohibit an elected county official from directly or indirectly soliciting a person to enter into a business relationship with or provide anything of monetary value to a specific individual or entity, if the person being solicited is seeking the success or defeat of county legislation, a county contract, or any other county benefit. A conflict-of-interest provision enacted in accordance with this requirement, however, does not affect the validity of any legally enacted requirement or condition, proposed and adopted on the public record at a public hearing, for the purpose of mitigating the impact of a development on the property owners in the areas surrounding the development, including an adequate public facilities requirement, a minority business requirement, or a community benefit requirement.

Lobbying provisions enacted by Prince George's County, under the Maryland Public Ethics Law, must prohibit a person from being hired as a lobbyist for compensation that is dependent on the outcome of executive or legislative action before the county government.

Additionally, *Senate Bill 509* requires the county's ethics enactments to provide for a county board of ethics composed of five members appointed by the county executive, subject to the advice and consent of the county council, and an executive director of the board of ethics who must meet at least annually with each elected official of the county, assist the officials in preparing required affidavits or other documents, and conduct ethics-related briefings. The county's ethics enactments must also require the county board of ethics to meet at least two times each year.

### **Limitations to Contributions to Slates**

*Senate Bill 902 (Ch. 91)* expands existing prohibitions and disclosure requirements regarding political contributions to Prince George's County Council members or the county executive made by, or solicited by, persons or entities with an interest in planning and zoning-related applications to be considered by the Prince George's County District Council to also apply to contributions to a slate to which a county council member or the county executive belongs or belonged. *Senate Bill 902* also repeals a provision that exempts a council member from a requirement that the member not vote or participate in any way in a proceeding on an application if political contributions have been received by the member if interested persons or entities have not filed an affidavit disclosing such contributions. The bill applies only prospectively and does not prohibit a council member from participating in a Prince George's County District Council proceeding based on a contribution made before January 1, 2011.

For further discussion of the bills relating to county ethics laws in Prince George's County, see the subpart "Ethics" under Part C of this *90 Day Report*.

### **Counties and Municipalities**

#### **Direct Deposit of Wages**

*House Bill 233 (passed)* authorizes a county or municipality to pay the wages of an employee by direct deposit and allows a county or municipality to require an employee to receive wages in this manner as a condition of employment, except under specified circumstances.

A county or municipality may not require the payment of wages by direct deposit for an employee (1) who was hired before October 1, 2011, unless the county or municipality, before October 1, 2011, required by local law, regulation, or collective bargaining agreement, the payment of wages by direct deposit; (2) whose employment is not conditioned on the employee receiving the payment of wages by direct deposit; or (3) who does not have a personal bank account and informs the employer of his or her intent to opt out of the direct deposit program.

Counties or municipalities that pay employees by direct deposit must deposit the wages into a personal bank account designated by an employee. The employer must also provide each employee with a direct deposit statement that includes the total amount of the wage, any amount deducted from the wage, and the amount of the wage directly deposited into the employee's bank account.

*House Bill 233* also specifies that an employee who is required or elects to receive wages by direct deposit must complete an electronic fund transfer authorization form and use a personal bank account housed within a financial institution that participates in the automated clearing house electronic payment network.

## **Bi-county Agencies**

While the General Assembly considered numerous bills concerning the bi-county agencies during the 2011 session, only two measures, dealing with the Maryland-National Capital Park and Planning Commission (M-NCPPC), passed.

### **Maryland-National Capital Park and Planning Commission**

The M-NCPPC was established in 1927 and has jurisdiction over parks and land use planning in most of Montgomery and Prince George's counties. The commission is governed by Article 28 of the Annotated Code of Maryland. The commission has 10 members with 5 members each from Montgomery and Prince George's counties, each with four-year terms. The commission prepares and administers a general plan for the physical development of the Maryland-Washington Regional District, an area that encompasses almost all of Montgomery and Prince George's counties. In addition, the commission is charged with acquiring and maintaining a system of parks within the metropolitan district in the two counties. The commission also operates a recreation system for Prince George's County. The commission is funded primarily through various property taxes authorized under Article 28 of the Annotated Code of Maryland and imposed by Montgomery and Prince George's counties. In addition, enterprise fund operations are supported by various service fees and charges.

### **Site Plan Approval in Prince George's County**

Planning and zoning functions in Prince George's County are administered by multiple entities, including the Prince George's County Planning Board (made up of the 5 Prince George's County members of the 10-member M-NCPPC) and its Planning Department staff; the district council (the county council, when acting on planning and zoning matters); the Office of the Zoning Hearing Examiner; and the Board of Zoning Appeals.

*Senate Bill 901 (Ch. 90)* expands the authority of the Prince George's County Council, sitting as the district council, to review final decisions of the Planning Board on detailed site plan approvals for development projects, subject to a specified timeframe. The measure authorizes the Prince George's County Council, sitting as the district council, to review a final decision of the Prince George's County Planning Board on a detailed site plan, subject to the following timeframe: (1) within 30 days after the Planning Board's final decision, the district council must decide whether to review the final decision; (2) within 70 days after deciding to review a final decision, the district council must hold a review hearing, unless this time period is extended for up to 45 additional days at the decision of the district council or on request of the applicant; and (3) within 60 days after the review hearing, the district council must issue a final decision. In addition, a party of record may appeal to the district council a final decision of the Planning Board on a detailed site plan; and the district council may revoke a delegation of site plan approval authority to the Planning Board for the purpose of delegating site plan approval authority to a municipality in the regional district.



**Capital Improvements Program Submission in Prince George’s County**

M-NCPPC is required to prepare and submit a six-year capital improvements program to the Prince George’s County Council by November 1 of each calendar year and to the Montgomery County Council on or before November 1 of each odd-numbered calendar year. *House Bill 613 (passed)* alters the date, from November 1 to January 15, before which M-NCPPC is required to prepare and submit a six-year capital improvements program to the Prince George’s County Council.



## Part E

### Crimes, Corrections, and Public Safety

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#### Criminal Law

##### Crimes Involving Firearms

###### Restrictions against Use and Possession of Firearms

The use and possession of firearms and handguns are regulated by the State. A regulated firearm is any handgun or any of the 45 assault weapons identified in State law. Under current law, use of an antique firearm or a handgun in a crime of violence or felony is subject to a nonsuspendable, nonparolable mandatory minimum sentence of five years. Also under current law, a person may not possess a regulated firearm in the State if the person was previously convicted of a crime of violence or a violation of specified controlled dangerous substances offenses. The penalty for this offense is a nonsuspendable five-year sentence.

*Senate Bill 174/House Bill 241 (both passed)* expand the prohibition and restrictions against use and possession of firearms. The bills expand the scope of the crime of using an antique firearm or handgun in the commission of a crime of violence or any felony to include “firearm.” “Firearm” is defined to include a weapon, whether loaded or unloaded and a rifle or a shotgun. This change closes a loophole that has prevented courts from penalizing those who carry out crimes with rifles or shotguns as severely as those who use handguns. *Senate Bill 174/House Bill 241* also extend the maximum sentence to 15 years for a person previously convicted of a crime of violence or a specified controlled dangerous substance offense who later is apprehended in possession of a rifle or shotgun.

The bills bring State law closer to federal law which prohibits the possession of any firearm or ammunition by a person convicted in any court of a crime punishable by imprisonment for a term exceeding one year. For a more detailed discussion of this issue, see the subpart “Public Safety” within this Part E of this *90 Day Report*.

## **Drug Crimes**

### **Distribution of Salvia to Individuals under 21 – Increased Penalties**

Salvia is the common name used for *Salvia divinorum* or *Salvinorum A*, an herb plant native to Mexico. According to the U.S. Drug Enforcement Administration, its leaves may cause a variety of hallucinogenic effects when ingested or smoked. Salvia is sold on the Internet and in college-area paraphernalia shops. Chapters 200 and 201 of 2010 prohibited the distribution of Salvia to, or possession of Salvia by, an individual under the age of 21.

*House Bill 1327 (passed)* increases the maximum penalties for distribution of Salvia to an individual under the age of 21 from (1) \$300 to \$1,000 for a first violation; (2) \$1,000 to \$2,000 for a second violation within two years of the first violation; and (3) \$3,000 to \$6,000 for a third or subsequent violation occurring within two years of the preceding violation.

### **Medical Marijuana**

Under current law, an individual charged with possession or use of marijuana may introduce evidence related to medical necessity. If the person is convicted and the court finds there was medical necessity, the maximum punishment is limited to a fine of \$100.

*Senate Bill 308 (passed)* establishes medical necessity as an affirmative defense in a prosecution for the possession and use of marijuana and paraphernalia related to marijuana. For a more detailed discussion of this issue, see the subpart “Public Health” within Part J – Health and Human Services of this *90 Day Report*.

## **Crimes Involving Protected Speech and Harassment**

### **Picketing at a Military Funeral**

In 2006, Marine Lance Corporal Matthew Snyder of Westminster died in Iraq. Members of a Kansas church, the Westboro Baptist Church, picketed outside of his military funeral at St. John’s Catholic Church in Westminster. This group has mounted anti-gay protests at military funerals for several years based on their belief that military deaths in Iraq and Afghanistan are the result of the nation’s tolerance of homosexuality. The soldier’s father sued the church and its members for their actions and was awarded a multimillion dollar verdict by the trial court. A federal appeals court threw out the verdict, stating that the U.S. Constitution shielded the members of the church from tort liability. On March 2, 2011, the U.S. Supreme Court, by a vote of eight to one, upheld the appeals court decision stating that the words and actions of the protesters fall under the purview of constitutionally protected free speech. *Snyder v. Phelps*, 562 U.S. \_\_\_\_ (2011). In the majority opinion, Chief Justice Roberts noted that the picketing is protected free speech when the disputed words “address matters of public import on public property” and when the protest is conducted “in a peaceful manner, in full compliance with the guidance of local officials.” *Snyder* at 14 and 15 (slip opinion).

Chapter 357 of 2006, enacted after Lance Corporal Snyder's funeral, put in place several restrictions on protests and related activities at a funeral, memorial service, burial, or funeral procession. The law provides a person may not engage in picketing activity within 100 feet of a funeral, burial, memorial service, or funeral procession that is targeted at one or more persons attending the solemn event. A person may not (1) knowingly obstruct, hinder, impede, or block another person's entry to or exit from a funeral, burial, memorial service, or funeral procession; or (2) address speech to a person attending the solemn event that is likely to incite or produce an imminent breach of the peace. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for 90 days and/or a \$1,000 fine.

**Senate Bill 977 (passed)**, introduced in the Maryland Senate the week after the U.S. Supreme Court decision in *Snyder*, increases the distance within which a person is prohibited from engaging in picketing activities at a funeral, burial, memorial service or funeral procession from 100 feet to 500 feet.

### **Harassment**

A person may not follow another in or about a public place or maliciously engage in a course of conduct that alarms or seriously annoys the other (1) with the intent to harass, alarm, or annoy the other; (2) after receiving a reasonable warning or request to stop made by or on behalf of the other; and (3) without a legal purpose. The prohibition does not apply to a peaceable activity intended to express a political view or provide information to others. A violator is guilty of a misdemeanor and subject to maximum penalties of 90 days imprisonment and/or a \$500 fine.

**House Bill 510 (passed)** increases maximum penalties for a second or subsequent conviction to 180 days imprisonment and/or a \$1,000 fine. The bill maintains the current penalties for the first offense of harassment.

### **Crime of Child Neglect**

**Senate Bill 178/House Bill 162 (both passed)** create a new misdemeanor crime of child neglect. A parent, family member, household member, or other person who has permanent or temporary care, custody, or responsibility for the supervision of a minor may not neglect the minor. For a more detailed discussion of this issue, see the subpart "Family Law" within Part F – Courts and Civil Proceedings of this *90 Day Report*.

### **Crimes Involving Vehicles**

#### **Manslaughter by Vehicle or Vessel – Criminal Negligence**

**House Bill 363 (passed)** creates a new misdemeanor crime of criminally negligent manslaughter by vehicle or vessel. For a more detailed discussion of this issue, see the subpart "Motor Vehicles" within Part G – Transportation and Motor Vehicles of this *90 Day Report*.

## Crimes Involving Fraud

### Assuming the Identity of a Fictitious Person

In 2008, the Court of Appeals held that the prohibition on the assumption of the identity of another in the State's identity fraud law is ambiguous as to whether the phrase "identity of another" includes the assumption of a "fictitious identity." *Ishola v. State*, 404 Md. 155 (2008). The Court held that the defendant, Mr. Ishola, could not be convicted under the statute because an examination of the legislative history, case law, statutory purpose, title and relation to other laws showed that the legislature intended for "another" to be an actual person. *Senate Bill 500/ House Bill 408 (Chs. 70 and 71)* clarify the law by providing that a person may not knowingly and willfully assume the identity of another, including a fictitious person, to avoid prosecution for a crime, to avoid payment of a debt or other legal obligation, or with fraudulent intent to obtain a benefit.

### Counterfeiting – Venue

Under current law, the prosecution of a crime involving counterfeiting a private instrument or document may be commenced in any county in which (1) an element of the crime occurred; (2) the victim resides; or (3) the victim conducts business, if the victim is not an individual. *Senate Bill 511 (Ch. 73)* adds as an additional venue for such a prosecution the county in which an alleged counterfeit deed or other instrument is recorded in county land records, filed with the clerk of the circuit court, or filed with the register of wills.

## Sexual Crimes

### Statute of Limitations for Nonconsensual Sexual Contact with Minor

Under current law, the crime of fourth degree sexual offense prohibits a person from engaging in nonconsensual sexual contact with another person. The law also prohibits a person from engaging in a sexual act or vaginal intercourse with a victim who is 14 or 15 years old if the defendant is at least 4 years older than the victim. If convicted, the defendant is guilty of a misdemeanor and subject to maximum penalties of imprisonment for one year and/or a fine of \$1,000.

In general, a prosecution for a misdemeanor has a one year statute of limitations. *House Bill 724 (passed)* increases the statute of limitations applicable to the prohibition against nonconsensual sexual contact with another person to three years, if the victim was a minor at the time of the crime. This length of time is the same statute of limitations as for the crime of a "person in position of authority" engaging in a sexual act or vaginal intercourse with a minor who, at the time of the act, is a student enrolled at a school where the person is employed.

### Definitions

In general, crimes involving a "sexual act" carry more severe penalties than crimes involving "sexual contact." Under current law, the term "sexual contact" means an intentional

touching of the genital or another intimate area of a victim's body for sexual arousal or gratification, or for the abuse of either party. It includes penetration of the genital or intimate area of a victim by certain parts of an actor's body but not including by the actor's genitals, mouth, or tongue. *Senate Bill 204/House Bill 1128 (both passed)* change the definitions of both terms by adding "part of an individual's body" to the definition of "sexual act" and removing that phrase from the definition of "sexual contact." In this way, the bills expand the definition of "sexual act" to include certain acts currently defined as "sexual contact."

## **Criminal Procedure**

### **Sex Offenders**

*House Bill 1020 (passed)* alters provisions of law related to the registration of sex offenders, including juvenile sex offenders. For a discussion of this bill, see the subpart "Public Safety" within this Part E of the *90 Day Report*.

### **Death Penalty**

Persons charged with first degree murder, if found guilty, are subject to penalties of life imprisonment, life imprisonment without parole, or death. During the 2009 session, the General Assembly passed legislation altering the application of the death penalty in Maryland. Chapter 186 of 2009 restricted death penalty eligibility only to cases in which the State presents the court or jury with (1) biological or DNA evidence that links the defendant with the act of murder; (2) a videotaped, voluntary interrogation and confession of the defendant to the murder; or (3) a video recording that conclusively links the defendant to the murder. A defendant may not be sentenced to death if the State relies solely on evidence provided by eyewitnesses in the case.

*Senate Bill 837/House Bill 1075 (both failed)* would have repealed the death penalty and all provisions relating to it, including those relating to its administration and post death sentencing proceedings. The bills would have required a person found guilty of murder in the first degree to be sentenced to imprisonment for life or imprisonment for life without the possibility of parole. The bills also specified that if the State has already properly filed a notice of intent to seek a death sentence, that notice must be considered withdrawn. In such instance, the State must also be considered to have properly filed notice to seek a sentence of life imprisonment without the possibility of parole.

### **Pretrial and Trial Matters**

#### **Wiretapping**

Except as otherwise provided in statute, it is unlawful for a person to (1) willfully intercept, endeavor to intercept, or procure any other person to intercept a wire, oral, or electronic communication; (2) willfully disclose, or endeavor to disclose, to any other person the

contents of a wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through an illegal intercept; and (3) willfully use, or endeavor to use, the contents of a wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through an illegal intercept.

However, it is lawful for law enforcement officers and persons acting with the prior direction and under the supervision of law enforcement officials to intercept communications as part of a criminal investigation to provide evidence of the commission of several specified crimes. The exception applies so long as the interceptor is a party to the communication or one of the parties to the communication has given prior consent to the interception.

The Attorney General, State Prosecutor, or any State's Attorney may apply to a judge to grant an order authorizing interception of wire, oral, or electronic communications by investigative or law enforcement officers when the interception may provide or has provided evidence of the commission of specified crimes. However, no application or order is required if the interception is lawful under the general wiretap provisions.

*Senate Bill 299/House Bill 345 (Chs. 54 and 55)* add human trafficking to the list of crimes for which evidence may be gathered during a criminal investigation through the interception of oral, wire, or electronic communications. The Acts also add human trafficking to the list of crimes for which a judge may grant an order authorizing the interception of wire, oral, or electronic communications.

### **Bail Bonds**

Bail is intended to ensure the presence of the defendant in court, not as punishment. If there is a concern that the defendant will fail to appear in court, but otherwise does not appear to pose a significant threat to the public, the defendant may be required to post a bail bond rather than be released on recognizance. If a defendant fails to appear in court as required, the court will order the forfeiture of the bond and issue a warrant for the defendant's arrest. If the defendant or surety can show that there were reasonable grounds for the failure to appear, a judge may strike the forfeiture in whole or in part. Where a surety executed the bond with the defendant, the surety has 90 days to satisfy the bond by either producing the defendant or by paying the penalty amount of the bond. The court may extend this period to 180 days for good cause shown.

*House Bill 682 (passed)* specifies requirements for the return of a forfeited bond or collateral to a surety under certain circumstances. In effect, a bail bondsman must pay the penalty amount of the bond into the court within the 90 or 180 day period to be entitled to a 10-year period within which the forfeiture of bail or collateral may be stricken out upon apprehension of the defendant.



## **Post-conviction Matters**

### **Animal Cruelty – Probation**

Several states have statutes regarding future ownership of animals by individuals convicted of animal cruelty. The statutes range from outright bans on future ownership to authorization for a court to ban future ownership for a certain amount of time. *Senate Bill 115/House Bill 227 (Chs. 26 and 27)* authorize a court, as a condition of probation for animal abuse, neglect, or cruelty, to prohibit a defendant from owning, possessing, or residing with an animal.

### **Parole Approval for Inmates Sentenced to Life Imprisonment**

A person sentenced to life imprisonment is not eligible for parole consideration until that person has served 15 years considering allowances for diminution credits. A person sentenced to life imprisonment for first degree murder as a result of a proceeding for the death penalty or life without the possibility of parole is not eligible for parole consideration until that person has served 25 years considering allowances for diminution credits. An inmate sentenced to life imprisonment without the possibility of parole is not eligible for parole consideration and may not be granted parole at any time during the inmate's sentence. If eligible for parole, an inmate serving a life term may only be paroled with the approval of the Governor.

According to the Maryland Parole Commission, since 1995, although commutations of sentences have been made by the Governor, no inmate serving a term of life imprisonment has been paroled outright.

*House Bill 302 (passed)* specifies that, if the Maryland Parole Commission or the Patuxent Institution's Board of Review 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 must be transmitted to the Governor, who may disapprove the decision in writing within 180 days. However, if the Governor does not disapprove the decision within that timeframe, the decision to grant parole becomes effective. For individuals whose parole recommendation is pending approval by the Governor on October 1, 2011, and who have served 25 years without consideration for diminution credits, the Governor has 180 days after that date to disapprove the recommendation or the parole becomes effective.

### **Parole Violations**

*Senate Bill 801/House Bill 919 (both passed)* require the Department of Public Safety and Correctional Services (DPSCS) to develop, by October 1, 2012, a pilot program in two counties that creates a system of graduated administrative sanctions for violations of conditions of parole by releasees from the Division of Correction. Beginning in 2013, by October 1 of each year, DPSCS must report to the General Assembly on the status of the pilot program, the percentage of departmental programs that use evidence-based practices, and the number of individuals incarcerated for technical violations and new offenses while on parole. The bills take effect October 1, 2011, and terminate September 30, 2015.

## **Revocation of Parole**

Under current law, an order of parole is revoked, the inmate must serve the remainder of the sentence originally imposed unless the commissioner hearing the parole revocation, in the commissioner's discretion, grants credit for time between release on parole and revocation of parole. An inmate may not receive credit for time between release on parole and revocation of parole if (1) the inmate was serving a sentence for a violent crime when parole was revoked; and (2) the parole was revoked due to a finding that the inmate committed a violent crime while on parole.

*House Bill 1174 (passed)* repeals the general requirement that an inmate whose parole is revoked serve the remainder of his/her imposed sentence. Instead, the bill authorizes the parole commissioner who conducted the hearing on the revocation to require the inmate to serve any unserved portion of the sentence originally imposed on the inmate. The bill takes effect on October 1, 2011, and terminates on June 30, 2014. DPSCS must submit a report by October 1, 2013, on the number of inmates whose sentences of imprisonment following a revocation of parole were reduced as a result of the bill and the recidivism rate for inmates released following revocation of parole as a result of the bill.

## **Victims' Rights**

### **Human Trafficking**

The U.S. Department of State has estimated that approximately 600,000 to 800,000 victims are trafficked annually across international borders worldwide and approximately half of these victims are minors. According to the 2005 report, 80% of internationally trafficked victims are female and 70% are trafficked into the sex industry.

Chapters 340 and 341 of 2007 renamed the crime of pandering to human trafficking. Under the human trafficking law, a range of activities related to taking or causing a person to be taken to a place for prostitution or persuading another to be taken to a place for prostitution are prohibited.

*Senate Bill 327 (passed)* authorizes a person convicted of prostitution to file a motion to vacate the judgment if, when the person committed the act of prostitution, the person was acting under duress caused by an act of another committed in violation of the prohibition against human trafficking. Among other requirements, the motion to vacate the judgment must be signed and consented to by the State's Attorney and describe the evidence and provide copies of any documents showing that the defendant is entitled to relief. The court is required to hold a hearing on the motion unless the motion fails to assert grounds on which relief may be granted. In ruling on the motion, the court may vacate the conviction, modify the sentence, or grant a new trial.

## Enforcement

Article 47 of the Maryland Declaration of Rights grants victims of crime in cases originating in a circuit court “...the right to be informed of the rights established in this Article and, upon request and if practicable, to be notified of, to attend, and to be heard at a criminal justice proceeding...” However, Article 47 also notes that any rights afforded victims of crime under the Declaration of Rights do not authorize victims to take any action to stay a criminal proceeding.

**House Bill 801 (passed)** requires a court to ensure that a victim of crime is afforded all of the rights provided to these victims under the law. Under the measure, a victim who alleges that the victim’s right to restitution was not considered or was improperly denied may file a motion requesting relief within 30 days of the denial or alleged failure to consider. If the court finds that the victim’s right to restitution was not considered or was improperly denied, the court may enter a judgment of restitution.

## Office of the Public Defender

The Office of the Public Defender (OPD) determines eligibility for services by evaluating the financial ability of the applicant to pay for a competent private attorney and all other necessary expenses of representation. Financial ability is determined by a number of factors, including the individual’s assets, income, the nature of the offense, and the length and complexity of the proceedings. OPD is required to investigate the financial status of an applicant when the circumstances merit.

The District Court, a circuit court, or the Court of Special Appeals may appoint an attorney to represent an indigent individual if (1) there is a conflict in legal representation in a matter involving multiple defendants, and one of the defendants is represented by or through OPD; or (2) OPD declines to provide representation to an indigent individual entitled to representation.

In *Workman v. State*, 413 Md. 475 (2010), the Maryland Court of Appeals held that a trial court has the authority to appoint an OPD attorney to represent an indigent individual if (1) OPD erroneously declines to represent a criminal defendant due to a failure to properly consider the statutorily mandated criteria for determining indigency; and (2) a court finds, upon its subsequent mandatory independent review, that the individual qualifies for OPD representation. According to the Court, the only exception to this authority is when an actual and unwaived or unwaivable conflict of interest would result from the appointment.

**Senate Bill 515 (passed)** specifies that an individual whose assets and net annual income are less than 100% of the federal poverty guidelines may be determined eligible for services from OPD without an assessment. The bill also clarifies that when OPD declines representation, the court has the authority to appoint outside counsel, rather than OPD.

## **Criminal Justice System Central Repository**

The Criminal Justice Information System (CJIS) Central Repository at the Department of Public Safety and Correctional Services collects, manages, and disseminates Maryland criminal history record information for criminal justice and noncriminal justice purposes. Reporting information to the CJIS Central Repository is a routine procedure for State and local law enforcement agencies.

*Senate Bill 66 (Ch. 17)* eliminates a requirement that the release of a person after arrest without the filing of a charge must be reported to the CJIS Central Repository. Chapter 63 of 2007 rendered the reportable event that is the subject of this bill obsolete. That law provided that a person who is arrested or confined by a law enforcement unit on or after October 1, 2007, and then is released without being charged with the commission of a crime is entitled to the automatic expungement of all police records, including photographs and fingerprints, relating to the matter and is not required to pay any fee or costs in connection with the expungement.

## **Juvenile Law**

### **Juvenile Records**

In general, a court record or police record concerning a child is confidential and its contents may not be divulged, by subpoena or otherwise, except by court order.

### **Access by the Division of Pretrial Detention and Services**

Individuals arrested and processed in Baltimore City are in the custody of the Division of Pretrial Detention and Services (DPDS), which is a State-operated function for the city. DPDS includes the Pretrial Release Services Program in Baltimore City, which makes recommendations to the court concerning an individual's fitness for home detention or other types of pretrial release and supervises defendants who have been released to the community to await trial. Since DPDS does not currently have access to the juvenile records of these individuals, the information being presented to the court is limited.

*House Bill 133 (Ch. 102)* establishes an additional exception to existing statutory provisions maintaining the confidentiality of juvenile records by authorizing DPDS to access juvenile court records if (1) the individual who is the subject of the court record is charged as an adult with an offense; (2) the access to and use of the court record is strictly limited for the purpose of determining the defendant's eligibility for pretrial release; and (3) the court record concerns an adjudication of delinquency that occurred within three years of the date the individual is charged as an adult.

### **Disclosure between Departments of Education and Juvenile Services**

Chapter 535 of 2004 established a Juvenile Services Education Program within the Maryland State Department of Education (MSDE) and required that the program provide

educational services in all residential facilities of the Department of Juvenile Services (DJS) by July 1, 2012. The Budget Reconciliation and Financing Act of 2009 (Chapter 487) extended the time period to July 1, 2014. As of July 1, 2010, MSDE had assumed control of six educational programs. *Senate Bill 62 (Ch. 16)* authorizes MSDE and DJS, when necessary to ensure the appropriate delivery of services for juveniles in the Juvenile Services Education Program who receive MSDE educational services in a DJS facility, to share the juveniles' education records.

### **Pilot Programs**

Certain previously established pilot programs dealing with juveniles were extended or expanded by the General Assembly.

### **Truancy Reduction**

Truancy courts are problem-solving courts in which cases are heard on a special docket by the same judge each month. The courts hold regular hearings in each case to review a child's progress toward full attendance and to address the causes of the child's truancy. Chapter 551 of 2004 authorized a three-year Truancy Reduction Pilot Program (TRPP) in the juvenile courts in Dorchester, Somerset, Wicomico, and Worcester counties. Chapter 648 of 2007 extended the term of TRPP and authorized the establishment of TRPP in the juvenile courts of Harford and Prince George's counties. Chapter 718 of 2009 repealed the termination date of TRPP, establishing permanent truancy courts in Dorchester, Harford, Prince George's, Wicomico, and Worcester counties. *Senate Bill 278/House Bill 49 (Chs. 48 and 49)* authorize the establishment of a TRPP in the juvenile court in Talbot County.

*House Bill 1141 (passed)* repeals a requirement that a criminal compulsory school attendance violation charge be filed against a person with legal custody or care and control of a child and dismissed or stetted before a child younger than age 12 is eligible to participate in a TRPP.

### **Child in Need of Supervision**

Chapter 601 of 2005 required the Secretary of Juvenile Services to establish a Child in Need of Supervision (CINS) Pilot Program in Baltimore City and Baltimore County. A "child in need of supervision" is a child who requires guidance, treatment, or rehabilitation and (1) is required by law to attend school and is habitually truant; (2) is habitually disobedient, ungovernable, and beyond the control of the person having custody of him; (3) departs himself so as to injure or endanger himself or others; or (4) has committed an offense applicable only to children. Within 25 days of receiving a complaint alleging that a child is in need of supervision, a juvenile intake officer may (1) authorize the filing of a petition or a peace order request, or both; (2) propose an informal adjustment of the matter; or (3) refuse authorization to file a petition or peace order or both. An intake officer is not required to provide for an assessment and the delivery of services before authorizing action on a complaint.

*House Bill 1190 (passed)* expands the CINS Pilot Program to include Cecil, Montgomery, and Prince George's counties. The bill authorizes the Governor to include a

general fund appropriation of \$250,000 for DJS in fiscal 2013 to expand the pilot program to these counties. The provision expanding the pilot program takes effect on July 1, 2012.

## **Reports to General Assembly**

The General Assembly passed legislation requiring DJS to provide reports on two issues of concern.

### **Recidivism Rates**

*Senate Bill 200 (passed)* requires the Secretary of Juvenile Services to report to the General Assembly by January 1 of each year on the recidivism rates of children committed to DJS for placement in residential care. The report must include (1) recidivism rates for all children committed to DJS for placement in residential care; (2) recidivism rates by region for all children committed to DJS for placement in residential care; (3) recidivism rates for each residential care program; (4) data from the prior three fiscal years; and (5) recidivism rates calculated for one-year and three-year timeframes.

### **Services and Programs for Females**

According to its fiscal 2010 *Annual Statistical Report*, DJS handled 11,056 intake cases involving females in fiscal 2010, compared to 29,722 cases involving males. An evaluation of Gender Responsive Services conducted by DJS in 2007 yielded several recommendations, including (1) the creation of a Trauma Informed Care treatment model for female youth in State-operated residential care; (2) the creation of a gender responsive certification training program for all staff and vendors working with female youth in both residential and community settings; and (3) the establishment of gender responsive community based programming in every region. *Senate Bill 787/House Bill 511 (both passed)* require DJS to submit a report to the General Assembly by December 1, 2011, regarding the manner in which DJS will use existing resources to ensure that females receive services substantially equivalent to those offered to males in fiscal 2013 and subsequent years. The report must include statewide and regional information on the utilization of (1) prevention and diversion services; (2) alternatives to detention, including day and evening reporting and shelter care; (3) the continuum of services for those committed to DJS for probation or residential treatment, including evidence-based programs; and (4) educational and vocational training services.

## **Public Safety**

### **Firearms**

#### **Removal or Alteration of Identification Mark**

*House Bill 519 (passed)* specifies that it is a misdemeanor to knowingly violate the State's restrictions on the removal or alteration of an identification mark or number on a firearm. A violator is subject to maximum penalties of imprisonment for five years or a fine of \$10,000.

The bill also repeals the prohibition against the possession of ammunition solely designed for a regulated firearm by a person under 21 years of age. A regulated firearm is any handgun or any of the 45 assault weapons or copies identified in the Public Safety Article.

### **Use and Possession of Firearms in Crimes**

*Senate Bill 174/House Bill 241 (both passed)* expand prohibitions against the use and possession of handguns and concealable antique firearms in the commission of certain crimes of violence or felonies to include the use of any firearm, whether loaded or unloaded. These bills establish a statutory maximum penalty of 15 years for possession of a regulated firearm by a person previously convicted of certain crimes of violence or drug-related crimes.

However, if at the time of the commission of the offense, more than five years has elapsed since the person completed serving the sentence for the most recent conviction of certain offenses, including all imprisonment, mandatory supervision, probation, and parole, the imposition of the mandatory minimum sentence is within the discretion of the court. Additionally, the mandatory minimum may not be imposed unless the State's Attorney notifies the person in writing at least 30 days before trial of the State's intention to seek the mandatory minimum sentence.

The bills also remove certain provisions, including the offense of making a false prescription for a controlled dangerous substance, from the list of predicate offenses that make a defendant subject to the penalty provisions that the bills establish.

### **Sex Offenders**

#### **Statute of Limitations**

*Senate Bill 196/House Bill 724 (both passed)* increase the statute of limitations from one year to three years for the initiation of a prosecution for the fourth degree sex offense involving nonconsensual sexual contact, if the victim was a minor at the time of the offense. "Sexual contact" means an intentional touching of the victim's or actor's genital, anal, or other intimate area for sexual arousal or gratification, or for the abuse of either party. A fourth degree sexual offense is punishable by imprisonment not exceeding one year or a fine not exceeding \$1,000 or both. For more detailed discussion of this issue, see the subpart "Criminal Law" within this Part E of this *90 Day Report*.

#### **Sex Offender Registry**

*House Bill 1020 (passed)* clarifies that a person convicted of sexual solicitation of a minor, under circumstances where the solicitation was directed at a law enforcement officer posing as a minor, must register with the State's sex offender registry.

The bill makes the retroactive application of sex offender registration requirements apply to a person who is convicted of a felony, rather than any crime, on or after October 1, 2010, and who has a prior conviction for an offense for which sex offender registration is required as well



as a person convicted on or after October 1, 2010, of sexual solicitation of a minor, regardless of whether the victim was a minor.

The bill also increases, from 13 to 14 years of age, the age for inclusion on the registry of juvenile sex offenders, and limits the delinquent acts for which juvenile registration is required to acts, if committed by an adult would constitute:

- a second degree sexual offense if a person had engaged in a sexual act with another by force, or the threat of force without consent or if the victim is a mentally defective, mentally incapacitated, or physically helpless individual (rather than any second degree sexual offense); or
- a third degree sexual offense involving the nonconsensual sexual contact with another and (1) employing or displaying a dangerous weapon, or a physical object that the victim reasonably believes is a dangerous weapon; (2) suffocating, strangling, disfiguring, or inflicting serious physical injury on the victim or another in the course of committing the crime; (3) threatening, or placing the victim in fear, that the victim, or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping; (4) being aided and abetted by another; or (5) with a victim that is a mentally defective, mentally incapacitated, or physically helpless individual (rather than the third and fourth degree violations currently enumerated).

A juvenile registrant must appear in person at a location designated by the Department of Juvenile Services (DJS) every three months to (1) update and verify the information included in the registry; and (2) allow DJS to take a digital image of the juvenile registrant.

The bill may prevent the loss of \$540,000 in federal Byrne Justice Assistance Grant funds beginning in fiscal 2013.

## **Personnel Issues**

### **Law Enforcement Officers' Bill of Rights**

The protections afforded by the Law Enforcement Officers' Bill of Rights (LEOBR) is extended to members of the Internal Investigation Unit of the Department of Public Safety and Correctional Services under *Senate Bill 218 (passed)*.

LEOBR was enacted in 1974 to guarantee police officers specified procedural safeguards in any investigation that could lead to disciplinary action. The Internal Investigation Unit is the twenty-fourth police agency, including State and local, to which LEOBR is applicable.

### **Warrant Apprehension Unit**

*House Bill 899 (passed)* places the Warrant Apprehension Unit within the Department of Public Safety and Correctional Service's Division of Parole and Probation. It also grants



employees of the unit the powers of police and peace officers and classifies them as police officers and law enforcement officers, thus bringing them under the protection of LEOBR and making them subject to the certification standards of the Police Training Commission.

The Warrant Apprehension Unit executes warrants for the arrest of probationers for whom a warrant is issued for an alleged violation of probation; obtains and executes search warrants authorized by statute; and arrests offenders in the program as authorized by statute.

### **St. Mary’s County Correctional Officers**

Under *House Bill 522 (Ch. 128)*, St. Mary’s County correctional officers are afforded the same rights relating to the employment, investigation, and discipline that Cecil County correctional officers enjoy under the Cecil County Correctional Officers’ Bill of Rights.

### **Collective Bargaining Rights**

*Senate Bill 699 (failed)* would have granted collective bargaining rights, covering wages, hours, and working conditions, to State law enforcement noncommissioned officers who are represented by an exclusive employee representative.

## **Procedures and Reports**

### **Race-based Traffic Stops**

In 2001, law enforcement agencies in the State were required to collect certain data about traffic stops and to adopt a policy against traffic stops that were race-based. This requirement lapsed in 2010, but *Senate Bill 14/House Bill 130 (both passed)* revive the requirement. The bills require law enforcement agencies to adopt policies against such stops to be used as management tools to promote nondiscriminatory law enforcement. The policies must also be used in the training and counseling of officers.

The traffic stop information must include the driver’s race and ethnicity, to evaluate the manner in which the vehicle laws are being enforced. A “traffic stop” does not include (1) a checkpoint or roadblock stop; (2) a stop for public safety purposes arising from a traffic accident or emergency situation; (3) a stop based on the use of radar, laser, or VASCAR technology; or (4) a stop based on license plate reader technology.

The bills specify the information that must be reported about each traffic stop, including the alleged traffic violation that led to the stop, whether a search was conducted, whether property was seized in the course of the search, and whether a warning, repair order, or citation was issued as a result of the stop.

The Police Training Commission, in consultation with the Maryland Statistical Analysis Center (MSAC), must develop a model policy against race-based traffic stops that a law enforcement agency can use in developing its own policy. In addition, the commission is required to develop a model format for the efficient recording of the data for use by a law

enforcement agency and guidelines that each law enforcement agency may use in data evaluation.

By September 1 of each year, MSAC must issue a report to the Governor and the General Assembly as well as to each law enforcement agency. Reports of noncompliance by law enforcement agencies are required to be made by the training commission and MSAC to the Governor and the Legislative Policy Committee.

The provisions of the bills described above terminate on June 30, 2014. Beginning on July 1, 2014, a law enforcement agency simply will be required to adopt a policy against race-based traffic stops that is to be used as a management tool to promote nondiscriminatory law enforcement and in the training and counseling of its officers.

### **Use of Electronic Control Devices**

Stun guns and other portable electronic devices that can injure, immobilize, or inflict pain on an individual are sometimes used by police and correctional officers to temporarily incapacitate an individual. Various news accounts have questioned the relative safety of any electronic weapon in light of deaths occurring after use of an electronic control device. *Senate Bill 652/House Bill 507 (Chs. 78 and 79)* require a law enforcement agency that issues electronic control devices to its law enforcement officers to annually report on the use of the devices to the Governor and the local governing body of the jurisdiction served by the agency. The Governor's Office of Crime Control and Prevention must annually issue a report that analyzes and summarizes the reports of the law enforcement agencies. The bills requirements end after September 30, 2016.

### **Military Department**

*House Bill 1193 (Ch. 158)* requires the Maryland Military Department, rather than the Department of Budget and Management, to receive and review information about grants and loans made by the Maryland State Firemen's Association to volunteer fire, rescue, and ambulance companies for the purchase, replacement, or improvement of firefighting and rescue equipment or facilities.

### **Inmates and Parole/Probation Supervision Fee**

Legislation adopted in 1991 mandated the imposition of monthly supervision fees for offenders supervised by the Division of Parole and Probation. Until 2005, the monthly fees of \$40 for parolees and mandatory supervision releases and \$25 for probationers had remained unchanged since their inception. Chapter 444 of 2005 (Budget Reconciliation and Financing Act of 2005) increased the supervision fee charged to probationers to \$40 per month for five years, making the monthly fee consistent for all supervisees. The supervision fees collected are paid into the general fund. Probationers under supervision before 2005, continue to pay the \$25 monthly fee. *Senate Bill 362/House Bill 749 (both passed)* require the Department of Public Safety and Correctional Services and the appropriate local detention center to notify the individual both orally and in writing about how to apply for an exemption from the required

monthly supervision fee and the criteria used in determining whether to grant an exemption. **House Bill 72 (passed)** – Budget Reconciliation and Financing Act of 2011 – increases monthly supervision fees for probationers from \$25 to \$50.

### **Pre-parole Investigation**

**House Bill 794 (passed)** requires the Division of Parole and Probation to complete and deliver a pre-parole investigation of an inmate in a local correctional facility to the Maryland Parole Commission within 60 days after commitment to enable the Commission to determine the advisability of granting parole.

The division conducts pre-parole investigations for local detention center detainees on the request of the Maryland Parole Commission.

## **Building and Safety Practices**

### **Building Design**

**House Bill 630 (Ch. 135)** requires the Department of Housing and Community Development (DHCD) to encourage the construction of new residential structures that are high-performance homes. A high-performance home is a new residential structure that meets or exceeds the current Silver rating of the International Code Council's 700 national Green Building Standards or the Silver rating of the U.S. Green Building Council's LEED (Leadership in Energy and Environmental Design) for Homes Rating System.

Effective March 1, 2012, **House Bill 972 (passed)** authorizes DHCD to adopt by regulation the International Green Construction Code. The bill also authorizes local governments to adopt the code if the department does not do so. Local governments may adopt amendments to the code.

The International Green Construction Code is being developed by the International Code Council, in conjunction with the American Institute of Architects; ASTM International; the American Society of Heating, Refrigerating, and Air-Conditioning Engineers; the U.S. Green Building Council; and the Illuminating Engineering Society. The code, expected to be completed in 2012, will address green building design for new and existing commercial buildings.

### **Mobility Impaired Individuals in High-rise Buildings**

Many elderly residents who use an assistive walking device or service animal live on the upper floors of high-rise buildings. If a fire occurs, they would be dependent on descending many flights of steps or jumping from windows. **House Bill 621 (passed)** requires the owner of a residential high-rise with rental units to provide reasonable written notice to all residents of the residential high-rise building of the right of a resident who is mobility impaired to request a rental unit on the first five floors of the building if one should become available.

### **Smoke Detectors**

*House Bill 849 (Ch. 143)* clarifies that a person may sell or install smoke detectors, smoke alarms and specialized smoke alarms for the deaf and hard of hearing only in accordance with the State Fire Prevention Code. The bill also repeals a requirement that each manufacturer that commercially sells or offers for sale a smoke detection system obtain approval of each model of smoke detector from the State Fire Marshal. The current State Fire Prevention Code, which adopts the model codes and standards of the National Fire Protection Association, approves only those devices that are tested and listed to meet the appropriate national consensus standards. The State Fire Marshal requires that these devices be tested and listed by an approved testing laboratory.

### **Boiler and Pressure Vessels**

*House Bill 943 (passed)* requires the Commissioner of Labor and Industry to adopt regulations containing insurance requirements that an authorized boiler and pressure vessel inspection agency must satisfy before their employees are allowed to act as boiler and pressure vessel inspectors.

### **Sprinkler Systems**

*Senate Bill 948 (Ch. 93)* specifies that an automatic sprinkler system is not required in a one- or two-family dwelling constructed as an industrialized building in Harford County if the date of the application for a building permit, or date that the manufacturer affixed the required insignia, was before January 1, 2011.

### **Miscellaneous**

#### **Task Force to Study High School Dropout Rates in Criminal Justice System**

An average of more than 9,000 students per year dropped out of Maryland public high schools from the 1999-2000 school year to the 2009-2010 school year. *Senate Bill 755 (passed)* creates a Task Force to Study High School Dropout Rates of Persons in the Criminal Justice System to study both the high school dropout statistics of people who have been incarcerated, arrested, or otherwise processed through the criminal justice system, as well as the fiscal impact on the criminal justice system of people who have dropped out of high school.

The task force must also obtain statistical data and make recommendations regarding how individuals can be kept in high school until graduation, the availability of continuing education options for individuals who have not received a high school diploma while incarcerated, and how individuals can be informed of alternative high school education or work-related programs.

Staffing is provided by the Governor's Office of Crime Control and Prevention and the task force must report its findings and recommendations to the Governor and the General Assembly by December 31, 2012. The bill takes effect June 1, 2011, and terminates May 31, 2013.

### **Prohibiting Inmates Access to Personal Information**

A performance audit report by the Office of Legislative Audits on the Medical Care Programs Administration of the Department of Health and Mental Hygiene found that the Administration used inmates for data entry of sensitive claims information, including Social Security numbers, and did not ensure that employees of a data entry contractor had criminal background checks as required by the contract. *House Bill 752 (passed)* prohibits programs conducted by Maryland Correctional Enterprises, which is the prison industry component of the Division of Correction, from allowing an inmate to have access to personal information of another. “Personal information” is defined as an individual’s (1) Social Security number; or (2) credit card or financial information.

### **Emergency Medical Services Providers**

Unless the officer is dispatched as an EMS provider, *House Bill 215 (Ch. 113)* authorizes a law enforcement officer who has completed an approved course to provide emergency medical care without a license or certificate issued by the Maryland Institute for Emergency Medical Services Systems.

The bill also alters the nomenclature for licensure and certification levels to reflect national EMS standards: “first responder” is changed to “emergency medical responder”; “emergency medical technician – basic (EMT-basic)” is shortened to “EMT”; and “EMT-paramedic” is shortened to “paramedic.” Two other existing levels – “cardiac rescue technician” and “emergency medical dispatchers” – remain unchanged.



## **Part F**

### **Courts and Civil Proceedings**

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#### **Judges and Court Administration**

##### **Special Admission of an Out-of-state Attorney – Fee**

Although an attorney must generally be admitted to the Maryland Bar to practice law in the State, on a motion filed in accordance with the Maryland Rules, a court may grant special admission for an out-of-state attorney to practice law in a particular case. The individual must be admitted to the bar of another state and employed by a party in the case before a court or other unit of State government or a political subdivision of the State. The special admission may be granted only by the court hearing the case or, if the case is before a unit other than a court, by the circuit court in the county where the unit has its principal office or any circuit court to which the case may be appealed. The individual may practice law only in connection with the case for which the special admission is granted, and is subject to disciplinary proceedings as provided by the Maryland Rules. Currently, the circuit courts and appellate courts charge a \$25 fee for appearances by out-of-state attorneys; the District Court does not charge a fee.

*House Bill 523 (Ch. 129)* requires the State Court Administrator to assess a \$100 fee for the special admission of an out-of-state attorney and to pay \$75 of the fee to the Janet L. Hoffman Loan Assistance Repayment Program (LARP). The Janet L. Hoffman Loan Assistance Repayment Program provides loan repayment assistance in exchange for service commitments to Maryland residents who provide public service in Maryland State or local government or nonprofit agencies in Maryland to low-income or underserved residents. Eligible employment fields include lawyers, nurses, nurse faculty members, physical and occupational therapists, social workers, speech pathologists, physician assistants, and certain teachers. Under the Act, the increased funds will be allocated to assist eligible law school graduates whose applications for tuition repayment assistance were not approved by the Maryland Higher Education Commission because of insufficient funds in the program.

For a more detailed discussion of the LARP component of this Act, see the subpart “Higher Education” within Part L – Education of this *90 Day Report*.

## **Orphans' Court Judges in Prince George's County**

*Senate Bill 281 (passed)* proposes an amendment to the Maryland Constitution that prescribes additional qualifications for judges of the Orphans' Court for Prince George's County. If ratified by the voters at the November 2012 general election, an orphans' court judge in Prince George's County will be required to be a member in good standing of the Maryland Bar who is admitted to practice law in the State. The amendment continues the requirement that an orphans' court judge in Prince George's County be a citizen of the State and a resident of Prince George's County for the 12 months preceding the election.

The bill is identical to a constitutional amendment for Baltimore City that was ratified by the voters at the November 2010 general election.

## **Grand Jury Investigations in Baltimore City**

Grand juries consist of 23 members plus alternates. Unlike a petit jury, which listens to evidence in a courtroom and decides the facts in a particular case, a grand jury decides if there is probable cause to charge someone with a crime, not whether the defendant is guilty or innocent.

Each grand jury in Baltimore City must carry out an investigation as a judge of the circuit court directs. At the end of the period for which the grand jury sits, the grand jury must submit to the jury commissioner of the circuit court a report on each of its investigations and recommendations.

*Senate Bill 374 (passed)* alters the law relating to grand jury investigations in Baltimore City by requiring a grand jury to carry out an investigation only if directed to do so by a judge for the circuit court.

## **Talbot County Truancy Reduction Pilot Program**

*Senate Bill 278/House Bill 49 (Chs. 48 and 49)* authorize the establishment of a Truancy Reduction Pilot Program in the juvenile court in Talbot County. For a discussion of the Act, see the subpart "Juvenile Law" within Part E – Crimes, Corrections, and Public Safety of this *90 Day Report*.

## **Civil Actions and Procedures**

### **Exemptions**

#### **Bankruptcy – Homestead Exemption**

In any federal bankruptcy proceeding under Title 11 of the U.S. Code (the federal Bankruptcy Code), an individual debtor domiciled in the State may exempt owner-occupied residential real property up to the amount allowed under federal bankruptcy law (currently \$21,625). This homestead exemption (1) may be claimed if the individual debtor and specified



family members have not successfully claimed the exemption on the property within eight years prior to the filing of the bankruptcy proceeding in which the exemption is claimed; and (2) may not be claimed by both a husband and wife in the same bankruptcy proceeding.

While a condominium is considered real property, a cooperative (often referred to as a “co-op”) is typically treated as personal property. An individual who purchases a condominium buys an individual apartment or townhouse. An individual who purchases a cooperative apartment buys shares in the cooperative housing corporation that owns the building, not the actual apartment. *Senate Bill 169 (Ch. 32)* clarifies that under the homestead exemption (1) “owner-occupied residential real property” includes a condominium unit; and (2) a debtor may claim his/her aggregate interest in a cooperative housing corporation that owns property that the debtor occupies as a residence. The Act applies to cases filed on or after October 1, 2011.

### **Personal Injury Exemption – Exception for Child Support Arrearage**

A “money judgment” is a judgment that a specified amount of money is immediately payable to the judgment creditor. Upon the issuance of a writ of execution, a sheriff or constable may seize and sell the debtor’s legal or equitable interest in real or personal property to satisfy a judgment. The sheriff or constable must execute the writ, conduct the sale, and distribute the proceeds pursuant to the Maryland Rules. In general, several types of property are exempt from execution on a money judgment, including money payable in the event of the sickness, accident, injury, or death of any person, including compensation for loss of future earnings. The exemption includes money payable on account of judgments, arbitrations, compromises, insurance benefits, compensation, and relief; it does not include disability income benefits if the judgment is for necessities contracted for after the occurrence of the disability.

*House Bill 837 (passed)* establishes that 25% of the net recovery by a person on a claim for personal injury is subject to execution on a judgment for a child support arrearage. “Net recovery” is defined as the sum of money to be distributed to the debtor after deduction of attorney’s fees, expenses, medical bills, and satisfaction of any liens or subrogation claims arising out of the claims for personal injury, including those arising under (1) the Medicare Secondary Payer Act, 42 U.S.C. § 1395y; (2) a program of the Department of Health and Mental Hygiene for which a right of subrogation exists under specified provisions of the Health-General Article; (3) an employee benefit plan subject to the Federal Employee Retirement Income Security Act of 1974; or (4) a health insurance contract. For a further discussion of this bill, see the subpart “Family Law” under this Part F of this *90 Day Report*.

## **Practice and Procedure**

### **Prelitigation Disclosure of Insurance Coverage to Claimant**

The Maryland Rules authorize a party in a circuit court case to obtain discovery of the existence and contents of any insurance agreement under which a person carrying on an insurance business might be liable to satisfy part or all of a judgment or to indemnify or reimburse for payments made to satisfy the judgment. The party may obtain discovery by several methods, including written interrogatories, requests for production of documents, and

depositions. The Maryland Rules authorize a party in a District Court case to obtain discovery of such information by written interrogatories. However, the Maryland Rules have no application to a claim before an action is filed in a circuit court or the District Court.

*Senate Bill 599* and *House Bill 921 (Chs. 76 and 77)* require an insurer to provide a claimant, who files a written tort claim concerning a vehicle accident and provides specified documentation of damages or a death in the accident to the insurer, with documentation of the applicable limits of coverage in any insurance agreement under which the insurer may be liable to (1) satisfy all or part of the claim; or (2) indemnify or reimburse for payments made to satisfy the claim. The insurer must provide the claimant with this documentation within 30 days after receipt of the claimant's written request, regardless of whether the insurer contests the applicability of coverage to a claim.

An insurer, and the employees and agents of an insurer, may not be civilly or criminally liable for the disclosure of this documentation, and disclosure in accordance with the Acts does not constitute (1) an admission that a claim is subject to the applicable agreement between the insurer and the alleged tortfeasor; or (2) a waiver of any term or condition of the applicable agreement between the insurer and the alleged tortfeasor or any right of the insurer, including any potential defense concerning coverage or liability. Documentation of the applicable limits of coverage provided by an insurer in accordance with the Acts is not admissible as evidence at trial by reason of its mandatory disclosure under the Acts.

The Acts apply to claims filed with an insurer on or after October 1, 2011.

### **Disclosure of Defendant's Addresses by Insurer**

On written request of a party to a lawsuit, an insurer or a person that has a self-insurance plan must provide to the party the defendant's last known home and business address, if known. The information must be provided only if the plaintiff files a certification that (1) states that the defendant had applicable insurance coverage at the time the alleged liability was incurred; (2) sets forth the reasonable efforts made, in good faith, by the plaintiff to locate the defendant; and (3) states either that the defendant is evading service of process or the whereabouts of the defendant are unknown to the plaintiff. The plaintiff must file the certification with the court and serve it on the insurer or person that has a self-insurance plan.

*Senate Bill 142 (passed)* repeals the requirement that a plaintiff's certification must include detailed information on the plaintiff's efforts to locate the defendant before an insurer or self-insured person is required to disclose the information. The bill applies to cases filed on or after October 1, 2011.

### **Subpoenas**

The Maryland Rules specify required content for subpoenas and certain procedural requirements for the issuance and service of subpoenas. On the request of an attorney or other officer of a court entitled to the issuance of a subpoena, the clerk must issue a subpoena signed and sealed but otherwise in blank, to be filled in by the attorney before service.

**House Bill 22 (passed)** authorizes an attorney or other officer of a court entitled to the issuance of a subpoena by a clerk of a court to obtain from the clerk of the court a subpoena that is signed and sealed by the clerk of the court. The attorney or other officer of the court may photocopy or otherwise copy the subpoena and use the subpoena for service.

### **Bar Admission – Exception for Rent Escrow Proceedings**

**Senate Bill 457/House Bill 653 (Chs. 66 and 67)** authorize any individual to represent a landlord, or specified law students or employees of nonprofit organizations, to represent a tenant in a rent escrow proceeding in the District Court without having been admitted to the Maryland Bar as an attorney.

### **Contributory Negligence**

Contributory negligence is conduct on the part of an injured party that falls below the standard to which the injured party should conform for self-protection and is a legally contributing cause (along with the defendant's negligence) in bringing about the plaintiff's harm. Under Maryland law, contributory negligence on the part of a plaintiff bars recovery by the plaintiff. Maryland is one of five jurisdictions, along with Alabama, North Carolina, Virginia, and the District of Columbia, that retain the doctrine of contributory negligence. Forty-six states follow the doctrine of comparative negligence, under which a plaintiff's recovery can be reduced if the plaintiff was partially at fault.

In a memorandum dated November 8, 2010, the Chief Judge of the Court of Appeals asked the court's Standing Committee on Rules of Practice and Procedure to determine whether the court could replace the doctrine of contributory negligence with a form of comparative fault through the issuance of new rules or if the change would have to be made through a judicial decision. The request also called on the committee to study the judicial and economic consequences of such a change, as well as the impact of a change to comparative fault on related legal principles, such as joint and several liability.

A draft report by the committee prepared before the conclusion of the 2011 session, indicates that the doctrine of contributory negligence, comparative fault, and associated doctrines and legal principles are matters of substantive laws that may not be changed by court rule.

**House Bill 1129 (failed)** would have required that contributory negligence remain an affirmative defense that may be raised by a party being sued for damages for wrongful death, personal injury, or property damage. The bill defined "contributory negligence" as the common law doctrine of contributory negligence according to its judicially determined meaning on January 1, 2011. The bill would not have expanded, limited, or otherwise modified the affirmative defense of contributory negligence as it existed and was applicable on January 1, 2011.

## Class Action Waivers

A class action is a type of lawsuit in which a single person or a large group of people sue on behalf of the interests of a larger group of people or a group of defendants are sued on behalf of a larger group. Class action lawsuits typically occur when it is impractical or inconvenient for all of the members of a group of people with a common interest in the litigation to sue individually or appear personally. A representative is a person who sues on behalf of a group of plaintiffs in a class action.

Class action waivers are becoming a common feature in consumer contracts and are often accompanied by binding arbitration agreements. The U.S. Supreme Court is currently considering a case in which the issue is whether the reach of a federal law that favors arbitration is so extensive that it preempts a class action waiver contained in a binding arbitration agreement, regardless of how class action waivers outside of binding arbitration agreements have been treated under state contract law in the past.

**House Bill 729 (failed)** would have prohibited a written agreement made before a dispute arises from waiving or having the practical effect of waiving the rights of a party to the agreement to resolve the dispute by obtaining relief as a representative or member of a class in a class action lawsuit. The bill would have made any such class action waiver unenforceable and would have applied retroactively to any written agreement in existence on or after the bill's October 1, 2011 effective date.

## Civil Litigation Funding

The Maryland Consumer Loan Law (MCLL) consists of Title 11, Subtitle 2 of the Financial Institutions Article and Title 12, Subtitle 3 of the Commercial Law Article. Under MCLL, a "loan" is defined as any loan or advance of money or credit made under the credit provisions of MCLL. Under MCLL, the Commissioner of Financial Regulation is responsible for the licensing and regulation of consumer loans and advances in the State. A person may not make a loan, receive an application for a loan, or allow any note or contract for a loan to be signed without being licensed by the State. Applicants must meet specified requirements, including having minimum liquid assets. A separate license is required for each place of business where a person makes a loan or transacts any business under MCLL. The commissioner has the authority to issue cease and desist orders to any licensee or other person engaging in a course of conduct that results in an evasion or violation of MCLL or any rule or regulation adopted under MCLL. Under Maryland law, the maximum permissible annual interest rate ("usury cap") for small loans (under \$6,000) varies with the amount of the loan, up to 33%. In recent years, the Commissioner of Financial Regulation has issued cease and desist orders to civil litigation funding companies for engaging in the business of making loans or advances to Maryland consumers without the proper licenses under Maryland Law.

**House Bill 873 (failed)** would have established that the contingent right to receive a portion of the potential proceeds of a bona fide civil or statutory claim or cause of action ("legal claim") is assignable and an assignment of that right is valid for the purposes of obtaining

funding from a “civil litigation funding company.” The bill would have also specified that nonrecourse civil litigation funding is not a loan and is not subject to the restrictions or provisions governing loans. Instead of being subject to regulation by the Commissioner of Financial Regulation (as commercial lenders are), a civil litigation funding company would have been required to register with the Secretary of State.

The bill would have also (1) established content requirements for nonrecourse civil litigation funding contracts; (2) specified a fee schedule for nonrecourse civil litigation funding; (3) established registration and reporting requirements for civil litigation funding companies; (4) clarified that specified rules of professional conduct apply to an attorney representing a consumer who has obtained funding and is in a dispute with the funding company; (5) specified that funding may not be used to pay for attorney’s fees or costs; (6) specified that a funding company is only entitled to receive funds out of proceeds of a legal claim, may only be paid to the extent there are available proceeds from a legal claim, and may not be paid anything if there are no available proceeds from a legal claim; (7) required funding companies to adhere to specified standards of professional practice/behavior; and (8) required the Secretary of State to adopt certain regulations and submit an annual report.

## **Family Law**

### **Same-sex Marriage**

During the 2011 session, the issue that garnered the most attention in the area of family law was the issue of legalizing marriage for same-sex couples.

In 2004, Massachusetts became the first state to issue marriage licenses to same-sex couples. Same-sex marriage is legal in the District of Columbia (2010) and four other states: Connecticut (2008); Iowa (2009); Vermont (2009); and New Hampshire (2010). Thirty-nine states (including Maryland) have laws that either prohibit same-sex marriages or deny recognition of same-sex marriages solemnized in another jurisdiction. Thirty states have adopted constitutional amendments defining marriage as a union between a man and a woman.

Since 1973, Maryland law has provided that only a marriage between a man and a woman is valid in this State. In July 2004, nine same-sex couples filed suit, contending that the State law banning same-sex marriage is unconstitutional. The Court of Appeals upheld the State’s marriage statute as constitutional, but cautioned that the opinion “... should by no means be read to imply that the General Assembly may not grant and recognize for homosexual persons civil unions or the right to marry a person of the same sex.” *See Conaway, et. al v. Deane, et. al.* 401 Md. 219 (2007) at 325.

On February 23, 2010, the Attorney General issued a formal opinion on the question of State recognition of same-sex marriages legally entered into in other states. The Attorney General concluded that, although not free of all doubt, the Court of Appeals “... is likely to respect the law of other states and recognize a same-sex marriage contracted validly in another

jurisdiction.” (See 95 Op. Att’y Gen. 3 (2010) at 54.). The formal opinion advised that in light of evolving State public policies that favor, at least for some purposes, same-sex intimate relationships, the court would probably be reluctant to prohibit recognition of same-sex marriages sanctioned in other states or jurisdictions. A major consideration would be the uncertainty that could be created by enforcing such a prohibition against those same-sex spouses and their families who visit or pass through Maryland if some event occurs which causes them to extend their connection with Maryland. As a result of the opinion, State agencies began to alter policies and actions to recognize same-sex spouses married in other jurisdictions who enter, visit, or reside in Maryland.

*Senate Bill 116/House Bill 55/House Bill 175 (all failed)* would have legalized same-sex marriage by repealing the reference to a man and a woman in the current statute and specifying instead that a marriage between two individuals who are not otherwise prohibited from marrying is valid in Maryland. *House Bill 963 (failed)* would have proposed an amendment to the Maryland Constitution establishing that a marriage between a man and a woman is the only domestic legal union valid or recognized in the State.

## **Child Abuse and Neglect**

### **Child Neglect**

According to the National Center for Prosecution of Child Abuse of the National District Attorneys Association, the District of Columbia and at least 20 states have enacted statutes that criminalize child neglect. Those states are Arizona, Delaware, Florida, Illinois, Indiana, Michigan, Minnesota, Mississippi, Nevada, North Carolina, Oklahoma, Oregon, Rhode Island, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin.

Maryland law does not criminalize the act of child neglect. However, State law prohibits an adult from willfully contributing to, encouraging, causing, or tending to cause any act, omission, or condition that renders a child in need of assistance (CINA). A “child in need of assistance” is a child who requires court intervention because (1) the child has been abused, has been neglected, has a developmental disability, or has a mental disorder; and (2) the child’s parent, guardian, or custodian is unable or unwilling to give proper care and attention to the child and the child’s needs. Violators are guilty of a misdemeanor and subject to maximum penalties of three years imprisonment and/or a \$2,500 fine.

Additionally, under current law, a person may not recklessly engage in conduct that creates a substantial risk of death or serious physical injury to another. “Serious physical injury” means injury that (1) creates a substantial risk of death; or (2) causes permanent or protracted serious disfigurement, loss of the function of any bodily member or organ, or impairment of the function of any bodily member or organ. In *State v. Kanavy*, 416 Md. 1 (2010), the Court of Appeals held that the term “conduct” in this statute includes the willful failure to perform a legal duty. A violator is guilty of the misdemeanor of reckless endangerment and on conviction is subject to imprisonment not exceeding five years or a fine not exceeding \$5,000 or both.

Also, under current law, it is a crime for a person who is charged with the care of a child under the age of eight to allow the child to be locked or confined in a building or motor vehicle while the person charged is absent unless a reliable person at least 13 years old is with the child. A violator is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500 or imprisonment not exceeding 30 days or both.

Although child neglect is not a crime in Maryland, a person is required to report suspected child neglect and the State is required to intervene to protect the child. Specified professionals must adhere to specific oral and written reporting requirements. “Neglect” is defined as any parent or other person who has permanent or temporary care or custody or responsibility for supervising a child leaving a child unattended or otherwise failing to give proper care and attention to a child under circumstances that indicate (1) that the child’s health or welfare is harmed or placed at substantial risk of harm or (2) mental injury to the child or a substantial risk of mental injury.

Local departments of social services are required to investigate reports of child neglect according to statutory guidelines. If a local department finds that neglect has occurred, the State is required to provide services to the family to prevent continued neglect. If child neglect continues, the State may petition to have the child declared a child in need of assistance and to commit the child to the custody of the local department until the child can be safely reunited with the child’s family or placed in foster care. Continued instances of neglect by a parent could subject a parent to termination of parental rights.

***Senate Bill 178/House Bill 162 (both passed)*** establish the crime of child neglect. A parent, family member, household member, or other person who has permanent or temporary care or custody or responsibility for the supervision of a minor may not neglect a minor.

“Neglect” means the intentional failure to provide necessary assistance and resources for the physical needs or for the mental health of a minor that creates a substantial risk of harm to the minor’s physical health or a substantial risk of mental injury to the minor. “Mental injury” means the substantial impairment of a minor’s mental or psychological ability to function. “Neglect” does not include the failure to provide necessary assistance and resources for the physical needs or mental health of a minor when the failure is due solely to a lack of financial resources or homelessness. “Family member” is defined as a relative of a minor by blood, adoption, or marriage. “Household member” means a person who lives with or is a regular presence in a home of a minor at the time of the alleged neglect.

A violator is guilty of the misdemeanor of child neglect and on conviction is subject to maximum penalties of five years imprisonment and/or a \$5,000 fine. A sentence imposed for the crime of child neglect is in addition to any other sentence imposed for a conviction arising from the same facts and circumstances unless the evidence required to prove each crime is substantially identical. The bills conform the reporting and investigation requirements for child neglect to the reporting and investigation requirements for child abuse, with the exception of the requirement to notify the State’s Attorney.



### **Out of Court Statements of Child Victims**

A court is authorized to admit into evidence in a juvenile court proceeding or in a criminal proceeding an out of court statement to prove the truth of the matter asserted in the statement made by a child victim who (1) is younger the age of 12 years; and (2) is the alleged victim or the child alleged to need assistance in the case before the court concerning:

- child abuse or sexual abuse of a minor;
- first or second degree rape or a first, second, or third degree sexual offense;
- attempted rape or attempted sexual offense in the first degree or in the second degree; and
- abuse or neglect in a juvenile court proceeding.

An out of court statement made by a child victim may be admissible only if the statement was made to and is offered by one of the following individuals while the individual was acting lawfully in the course of the his/her profession: (1) a physician; (2) a psychologist; (3) a nurse; (4) a social worker; or (5) a principal, vice principal, teacher, or counselor at a school. An out of court statement by a child victim may come into evidence to prove the truth of the matter asserted in the statement regardless of whether the child victim testifies if the statement is not admissible under any other hearsay exception. If the child victim does not testify, the child victim's out of court statement will be admissible only if there is corroborative evidence that (1) the defendant had the opportunity to commit the alleged crime; or (2) the child respondent or the alleged offender had the opportunity to commit the alleged abuse or neglect.

The prosecuting attorney is required to serve the defendant, child respondent, or alleged offender and the attorney for the defendant, child respondent, or alleged offender with notice of the State's intention to introduce the statement and the content of the statement. The notice must be served within statutory time limits.

The out of court statement of a child victim is only admissible if it has particularized guarantees of trustworthiness. To determine the trustworthiness of the statement, the court must consider multiple factors specified in statute, including the child victim's personal knowledge of the event, the timing of the statement, the age appropriateness of the terminology used in the statement, and the nature and duration of the abuse or neglect.

This provision for out of court statements of child victims, sometimes referred to as the "tender years statute," is a statutory exception to the hearsay rule, which generally prohibits the admission into evidence of an out of court statement offered to prove the truth of the matter asserted in the statement. In *State v. Snowden*, 385 Md. 64 (2005), the Court of Appeals held that when a child abuse victim's out of court statement made to a health or social worker is testimonial, the statement may only be admitted through the health or social worker without violating the Confrontation Clause of the U.S. Constitution if the declarant is unavailable and



defendant had a prior opportunity to cross examine the declarant. The Confrontation Clause does not apply in CINA proceedings.

*Senate Bill 768/House Bill 859 (Chs. 87 and 88)* make several changes to the statute governing the admission of out of court statements made by a child victim in a juvenile court or criminal proceeding. The Acts authorize a court to admit an out of court statement made by a victim who is younger than the age of 13 years, rather than the current age limit of 12 years. The Acts also add counselors and therapists who are licensed or certified under Title 17 of the Health Occupations Article to the list of professionals, to whom a child victim's out of court statement was made, who may testify concerning the statement.

A child victim must testify as a prerequisite to the admissibility of the child victim's out of court statement in a criminal proceeding or in a juvenile court proceeding other than a CINA proceeding. The prosecuting attorney must serve notice of any audio or visual recording of the statement on the defendant, child respondent, or alleged offender and his/her attorney within statutory time limits. If an audio or visual recording of the statement is not available, the prosecuting attorney is required to serve notice of the statement's content. The Acts also eliminate the requirement that the court, when determining the admissibility of an out of court statement by a child victim, examine the child victim, if the court determines that an audio or visual recording of the child victim's statement makes an examination of the child unnecessary.

#### **Adoption Search, Contact, and Reunion Services – Siblings of Minors in Out-of-home Placement**

The Department of Human Resources (DHR) is required to provide adoption "search, contact, and reunion services." These are services to (1) locate adopted individuals, siblings, and biological parents of adopted individuals, and other relatives and members of the adoptive family as specified in statute; (2) assess the mutual desire for communication or disclosure of information between adopted individuals and siblings and/or adoptive parents and, as specified in statute, between adopted individuals and relatives and biological parents and members of the family; and (3) provide counseling for adopted individuals, siblings, and biological parents of adopted individuals and members of the adoptive family or to provide referral to counseling.

Biological parents of adopted individuals age 21 or older and the adopted individuals themselves who are age 21 or older can apply for these services through an approved confidential intermediary. An individual who applies for search, contact, and reunion services must execute a written agreement with a confidential intermediary concerning the services.

*House Bill 255 (passed)* expands the adoption "search, contact, and reunion services" program to include contacting the siblings of a minor in out-of-home placement, if the siblings were adopted through a local department of social services, to develop a placement resource or facilitate a family connection with the siblings of the minor. A director of a local department of social services who is acting on behalf of a minor in out-of-home placement is authorized to apply to the Director of the Social Services Administration within DHR to receive search, contact, and reunion services if an adopted individual is age 21 or older. The bill also exempts

the director from a provision that authorizes a confidential intermediary to charge an applicant a fee.

### **Written Findings in CINA Hearings**

*House Bill 1118 (Ch. 117)* makes technical corrections to current law by clarifying the circumstances under which the juvenile court must send its findings in specified CINA hearings to (1) the director of the local department of social services; (2) the Social Services Administration; (3) the State Citizens Review Board for Children; (4) the local citizens review panel, if applicable; and (5) any individual or agency identified by a local department or court as responsible for monitoring the care and services provided to children who are in the legal custody or guardianship of the local department on a systemic basis. The Act requires the court to promptly send its written findings in specified CINA hearings to the individuals and entities listed above if the court finds that reasonable efforts were made to prevent placement of the child into the custody of the local department of social services or finalize a permanency plan for the child and meet the child's needs, but that at least one of an enumerated list of other conditions exists which necessitates the written findings and their prompt transmission.

### **Domestic Violence**

#### **Protection for Pets**

According to the Animal Legal and Historical Center, 17 states (Arizona, California, Colorado, Connecticut, Hawaii, Illinois, Louisiana, Maine, Minnesota, Nevada, New York, North Carolina, Oklahoma, Tennessee, Vermont, Washington, and West Virginia) and the District of Columbia have enacted legislation that provides protection to pets that may be possessed by a victim of domestic violence or a child of the victim. According to the American Humane Association, up to 71% of battered women report that their pet was threatened, harmed, or killed by their partners and 25 to 40% of women delay leaving a dangerous domestic situation due to fear that their partners will harm or kill the family pet. Many domestic violence shelters, including some in Maryland, now offer "safe havens" for pets of domestic violence victims.

*Senate Bill 747/House Bill 407 (both passed)* authorize a District Court Commissioner, when issuing an interim protective order, or a court, when issuing a temporary or final protective order, to award temporary possession of any pet of a person eligible for relief or a respondent.

#### **Notification of Service of Protective Order**

Chapter 711 of 2009 provided for the notification by the Department of Public Safety and Correctional Services (DPSCS) to a petitioner in a domestic violence proceeding of the service of an interim or temporary protective order on the respondent. Specifically, a law enforcement officer is required to electronically notify DPSCS of the service of the order, and DPSCS is required to notify the petitioner within specified time limits. Chapter 711 of 2009 took effect January 1, 2010, and was contingent on the receipt, by January 1, 2010, of federal funds under the American Recovery and Reinvestment Act of 2009 by the Governor's Office of Crime Control and Prevention. The law further specified that if the funding contingency was met, the

law would remain in effect for two years and terminate on December 31, 2011. *House Bill 136 (Ch. 130)* extends the termination date for an additional two years (until December 31, 2013). The Act also requires that the system used for the electronic notification of the service of a temporary protective order be approved and provided by DPSCS.

### **Peace Orders**

An individual who does not meet specified relationship requirements under protective order statutes in the Family Law Article may file a petition for a peace order with the District Court or, if the clerk's office is closed, a District Court commissioner, that alleges the commission of specified acts against the petitioner by the respondent, if the act occurred within 30 days before the filing of the petition.

After a final peace order hearing, if a judge finds by clear and convincing evidence that the respondent has committed, and is likely to commit in the future, one of the specified acts against the petitioner, or if the respondent consents to the entry of a peace order, the court may issue a final peace order to protect the petitioner. A final peace order may order the respondent to refrain from committing specified acts, refrain from contacting the petitioner, or stay away from specific locations. The order must contain only the relief that is minimally necessary to protect the petitioner. Relief granted in a final peace order is effective for the period stated in the order, but may not exceed six months. An individual who fails to comply with specified provisions of an interim, temporary, or final peace order is guilty of a misdemeanor and subject to maximum penalties of a \$1,000 fine and/or 90 days imprisonment.

*Senate Bill 342/House Bill 667 (Chs. 57 and 58)* authorize a judge, for good cause shown, to extend the term of a final peace order for an additional six months after (1) giving notice to the petitioner and the respondent; and (2) a hearing.

*Senate Bill 480/House Bill 666 (Chs. 68 and 69)* increase the penalties for a second or subsequent offense for violating an interim, temporary, or final peace order. Under the Acts, a second or subsequent violation of a peace order is subject to maximum penalties of imprisonment for one year and/or a \$2,500 fine. The current statutory penalties for violation of a peace order apply to a first violation. These Acts make the expanded penalties for violations of peace orders consistent with the penalties for violations of protective orders.

### **Shielding of Records**

Although court records, including those relating to a domestic violence proceeding that are maintained by a court, are presumed to be open to the public for inspection, a respondent in a peace order or protective order proceeding is authorized to file a written request to "shield" all court-related records if a petition for a peace order or protective order was denied or dismissed at any stage of the proceedings. "Shield" is defined as removing information from public inspection. "Shielding" means:

- with respect to a record kept in a court house, removing to a separate secure area to which persons who do not have a legitimate reason for access are denied access; and

- with respect to electronic information about a proceeding on the website maintained by the Maryland Judiciary, removing the information from the public website.

A request for shielding must be filed in accordance with statutory timeframes. The court must schedule a hearing on the shielding request and provide notice of the hearing to the petitioner or the petitioner's attorney of record. After the hearing, the court must order the shielding of court records relating to peace order or domestic violence protective order proceedings if the court finds (1) that the petition was denied or dismissed at the interim, temporary, or final order stage of a protective order or peace order proceeding; (2) that a final protective order or peace order has not been previously issued in a proceeding between the petitioner and the respondent; (3) that there is not a pending interim or temporary protective order or peace order for a proceeding between the petitioner and the respondent; or (4) there is not a pending criminal charge against the respondent arising from alleged abuse against the petitioner.

However, the court may, for good cause, deny the shielding if the petitioner appears at the hearing and objects to the shielding. In determining whether there is good cause to grant the request to shield court records, the court must balance the privacy of the respondent and potential danger of adverse consequences to the respondent against the potential risk of future harm and danger to the petitioner and the community. Provisions regarding the access of shielded records by specified individuals or individuals who file a motion or subpoena the records are also set forth in statute. Information about the proceeding may not be removed from the domestic violence central repository (a secure database maintained by the Maryland Judiciary and available for use by courts and law enforcement that includes all protective and peace orders issued by District Court judges, circuit court judges and District Court commissioners).

**House Bill 349 (Ch. 119)** limits the circumstances under which a court is required to order shielding of records related to a peace order or domestic violence protective order proceeding by specifying that the requirement applies if (1) a final peace order or protective order has not been previously issued against the respondent in a proceeding between the petitioner and the respondent; and (2) an interim or temporary peace order or protective order against the respondent is not pending at the time of the hearing on the shielding request. The Act addresses a situation in which a respondent would be precluded from having records in the domestic violence central registry shielded, even if a prior protective order or peace order was issued on his or her behalf in an earlier proceeding between the parties.

## **Divorce**

A court may grant an absolute divorce on the following grounds (1) adultery; (2) desertion, if the desertion is deliberate and final, has continued for 12 months without interruption, and there is no reasonable expectation of reconciliation; (3) voluntary separation, if the parties have voluntarily lived separate and apart without cohabitation for 12 months without interruption and there is no reasonable expectation of reconciliation; (4) conviction of a felony or misdemeanor in any state or federal court, if the defendant has been sentenced to serve at least three years, or an indeterminate sentence, and has served 12 months of the sentence;

(5) two-year separation, when the parties have lived separate and apart without cohabitation for two years without interruption before the filing of the divorce application; (6) insanity, as specified; or (7) cruelty of treatment or excessively vicious conduct toward the complaining party or a minor child of the complaining party, if there is no reasonable expectation of reconciliation.

***Senate Bill 139/House Bill 402 (both passed)*** reduce, from two years to 12 months, the required period of time the parties must have lived separate and apart without cohabitation and without interruption before filing the application for absolute divorce on the ground of involuntary separation. The bills also repeal the ground of voluntary separation. The reduced period of separation that qualifies for an absolute divorce in the bills is more consistent with the period of separation required in the District of Columbia (6 months for voluntary separation, otherwise one year) and Virginia (6 months if parties have a separation agreement, otherwise one year).

## **Child Support**

A “money judgment” is a judgment that a specified amount of money is immediately payable to the judgment creditor. A money judgment constitutes a lien on the debtor’s interest in real or personal property located where the judgment was rendered and may be executed by a writ. Upon the issuance of a writ of execution, a sheriff or constable may seize and sell the debtor’s legal or equitable interest in the real or personal property. The sheriff or constable must execute the writ, conduct the sale, and distribute the proceeds pursuant to court-approved rules.

A writ of execution on a money judgment does not become a lien on the personal property of the debtor until an actual levy is made. The lien then extends only to the property included in the levy. Statutory provisions specify numerous items that are exempt from execution on a money judgment, including money payable in the event of the sickness, accident, injury, or death of any person, including compensation for loss of future earnings.

***House Bill 837 (passed)*** establishes that 25% of the net recovery by a person on a claim for personal injury is subject to execution on a judgment for a child support arrearage. “Net recovery” is defined as the sum of money to be distributed to the debtor after deduction of attorney’s fees, expenses, medical bills, and satisfaction of any liens or subrogation claims arising out of the claims for personal injury, including those arising under:

- the Medicare Secondary Payer Act;
- a program of the Department of Health and Mental Hygiene for which a right of subrogation exists under statutory provisions;
- an employee benefit plan subject to the Federal Employee Retirement Income Security Act of 1974; or
- a health insurance contract.

The bill authorizes the withholding of a portion of a personal injury award or settlement to pay a child support arrearage. It is in response to a Court of Appeals decision, *Curtis O. Rosemann v. Salsbury, Clements, Bekman, Marder & Atkins, LLC*, 412 Md. 308 (2010).

## **Child Care Homes**

Under current law, a child care provider is an adult who has primary responsibility for the operation of a family day care home. A child care provider may not care for more than 8 children at any given time, and no more than 4 of the children may be younger than the age of two. An adult-to-child ratio of at least one adult to every 2 children younger than the age of two is required at all times. Regulations define a “small center” as a child care center which is located in a private residence and is licensed for 12 or fewer children. (See COMAR 13A.16.01.02.) A “family day care home” is defined as a residence in which family day care is provided. Regulations also specify that “family child care” has the same meaning as “family day care” as defined in the Family Law Article. (See COMAR 13A.15.01.02.)

The Maryland State Department of Education (MSDE) advises that due to the label “center,” child care providers who care for between 9 and 12 children in their residence cannot receive national accreditation. Without accreditation, a child care program is not eligible for tiered reimbursement in the Child Care Subsidy Program, will not be eligible for the higher rating levels in the new Quality Rating and Improvement System, and loses automatic eligibility to participate in the Child and Adult Care Food Program.

***Senate Bill 925 (passed)*** amends current definitions to define a “large family child care home” as a residence in which family child care is provided for at least 9 but not more than 12 children and a “family child care home” as a residence in which child care is provided for up to 8 children. The bill also expands the definition of “child care provider” to include an adult who has primary responsibility for the operation of a large family child care home. A reference to “centers” serving between 7 and 12 children within residences is also repealed. The bill also changes multiple references from “family day care” to “family child care.” MSDE advises that changing references from “day care” to “child care” align statutory language with the terminology that is used.

The bill further specifies that in a “family child care home,” there may not be more than 8 children in care at any given time, and no more than 4 of the children may be younger than the age of two. An adult-to-child ratio of at least one adult to every 2 children younger than the age of two is required. In a large family child care home, there may not be more than 12 children in care at any given time and there must be an adult-to-child ratio that complies with regulations adopted by MSDE. The bill also applies, to large family child care homes, registration and regulatory requirements that apply to family child care homes. MSDE is also required to adopt regulations relating to the registration of large family child care homes on or before January 1, 2012. The bill also expands eligibility for Child Care Quality Incentive Grants (grants to help qualified child care providers purchase supplies, materials, and equipment) to include large family child care homes. Eligibility for Direct Grant Funds (grants awarded as



reimbursement for expenses incurred by child care providers to comply with State and local regulations) is also expanded to include large family child care homes. The provision requiring MSDE to adopt regulations takes effect July 1, 2011; the remaining provisions take effect January 1, 2012.

## Human Relations

### Discrimination in Places of Public Accommodation

Under State law, an owner or operator of a place of public accommodation may not refuse, withhold from, or deny to any person any of the accommodations, advantages, facilities, or privileges of the place of public accommodation because of the person's race, sex, age, color, creed, national origin, marital status, sexual orientation, or disability. A "place of public accommodation" includes (1) a hotel, motel, or other lodging establishment; (2) a facility serving food or alcoholic beverages, including facilities on the premises of a retail establishment or gasoline station; (3) entertainment, sports, or exhibition venues; and (4) a public or privately operated retail establishment offering goods, services, entertainment, recreation, or transportation. A person alleging discrimination by a place of public accommodation may file a complaint with the Maryland Commission on Human Relations (MCHR). Remedies are limited to granting nonmonetary relief to the complainant and assessing civil penalties against the respondent.

*Senate Bill 642/House Bill 285 (both failed)* would have expanded the remedies available for discrimination by a place of public accommodation to include (1) enjoining the respondent from engaging in the discriminatory act; (2) ordering appropriate affirmative relief, including the provision of a reasonable accommodation; (3) awarding compensatory damages for pecuniary and nonpecuniary losses; and (4) ordering any other appropriate equitable relief. A court also would have been authorized to award punitive damages if the respondent is not a governmental unit or political subdivision and the court finds that the respondent acted with actual malice. The bills would have repealed a provision prohibiting the issuance of an order – with regard to a respondent found to have engaged in a discriminatory act other than an unlawful employment practice – that substantially affects the cost, level, or type of transportation services. The bills also would have repealed the authority of MCHR to seek an order assessing a civil penalty for discrimination by a place of public accommodation.

In addition, the bills would have authorized a complainant, a respondent, or MCHR to elect to have the claims asserted in a complaint alleging discrimination by a place of public accommodation determined in a civil action brought by MCHR if (1) MCHR has found probable cause to believe the respondent has engaged or is engaging in discrimination by a place of accommodation; and (2) there is a failure to reach an agreement to remedy and eliminate the discrimination. The measures would have allowed a complainant to bring a civil action alleging discrimination by a place of public accommodation if (1) the complainant initially filed a timely administrative charge or complaint; (2) at least 180 days have elapsed since the filing of the

charge or complaint; and (3) the action is filed within two years after the alleged discrimination occurred.

## Gender Identity

Thirteen states and the District of Columbia have passed laws prohibiting discrimination based on gender identity. Since 2002, Baltimore City has had laws prohibiting discrimination based on gender identity and expression in employment, public accommodations, education, and housing. In 2007, Montgomery County added gender identity as a covered basis under county law prohibiting discrimination in employment, housing, cable television services, and taxicab services. Governor Martin O'Malley issued an executive order in August 2007 that included gender identity and expression as a proscribed basis for discrimination in State personnel actions.

*House Bill 235 (failed)* would have prohibited discrimination based on gender identity in employment and housing and by persons licensed or regulated by the Commissioner of Financial Regulation. The measure would also have prohibited discrimination based on gender identity and sexual orientation in State personnel actions. As amended in the Senate, "gender" identity would have been defined as a persistent, bona fide gender-related identity and the consistent, public manifestation of that identity in the gender-related appearance of an individual regardless of the individual's assigned sex at birth.

## Same-sex Marriage

A number of bills relating to same-sex marriage were considered by the General Assembly during the legislative session. *Senate Bill 116 (failed)* would have altered the definition of a valid marriage by specifying that a marriage between two individuals who are not otherwise prohibited from marrying is valid in Maryland. The measure would have further provided that it did not require an official of a religious institution or body authorized to solemnize marriages to solemnize any marriage in violation of the right to the free exercise of religion as guaranteed by the United States and Maryland Constitutions. For a more detailed discussion of this issue and of other bills offered on same-sex marriage, see the subpart "Family Law" within this Part F – Courts and Civil Proceedings of this *90 Day Report*.

## Commission Name Change

The Maryland Commission on Human Relations (MCHR) originated in 1927 as the Interracial Commission. In 1943, it became the Commission to Study Problems Affecting the Colored Population. It was renamed the Commission on Interracial Problems and Relations in 1951, and then reorganized as the Commission on Human Relations in 1969. *House Bill 211 (passed)* changes the name of the commission to the Maryland Commission on Civil Rights. The measure requires MCHR to use all the existing letterhead, business cards, and other documents already in print before the bill's effective date prior to using letterhead, business cards, and other documents reflecting the new name so the change will not result in any additional printing costs. The most recent name change was proposed to better reflect the work being done by MCHR.



## Discrimination Based on Source of Income

State law prohibits housing discrimination because of race, sex, color, religion, national origin, marital status, familial status, sexual orientation, or disability. *Senate Bill 643/House Bill 902 (both failed)* would have added discrimination based on a person's lawful source of income to this list. Under the bills, "source of income" was defined as any lawful source of money paid directly or indirectly to or on behalf of a renter or buyer of housing, including income from (1) any lawful profession, occupation, or job; (2) any government or private assistance, grant, loan, or rental assistance program, including low-income housing assistance certificates and vouchers; (3) any gift, inheritance, pension, annuity, alimony, child support, or other consideration or benefit; and (4) any sale or pledge of property or interest in property. A similar bill, *House Bill 928 (failed)*, also would have prohibited discriminatory practices in the sale or rental of a dwelling because of a person's source of income but did not include government or private assistance in the definition of "source of income." Making a written or oral inquiry to verify a person's level or source of income would not have been a discriminatory housing practice under the bill.

## Real Property

### Residential Foreclosures

#### Background

The State's multipronged approach to the foreclosure crisis over the last several years has involved legislative reforms of mortgage lending and foreclosure laws, extensive consumer outreach efforts, and enhanced mortgage industry regulation and enforcement. Legislation passed during the 2008, 2009, and 2010 sessions (1) created the Mortgage Fraud Protection Act, Maryland's first comprehensive mortgage fraud statute; (2) tightened mortgage lending standards and required a lender to give due regard to a borrower's ability to repay a loan; (3) prohibited foreclosure rescue transactions and granted the Commissioner of Financial Regulation additional enforcement powers; (4) reformed the foreclosure process to provide homeowners with greater time and additional notices before their properties are sold; (5) required additional notices to be given to residential tenants renting properties in foreclosure; (6) required a lender, under specified circumstances, to provide to a borrower a written notice regarding homebuyer education or housing counseling in connection with a mortgage loan; and (7) required the secured party to file a final loss mitigation affidavit and allowed the mortgagor or grantor to request foreclosure mediation. Consumer outreach efforts have included statewide public workshops to assist distressed homeowners, in coordination with the Maryland Foreclosure Prevention Pro Bono Project.

Due to a multitude of factors, including the State's new foreclosure mediation process, consumer outreach efforts, and legal issues surrounding many banks and mortgage companies' foreclosure practices, the number of foreclosure events decreased significantly in the fourth quarter of 2010 to approximately 6,000 from over 14,000 in the third quarter. In

December 2010, Maryland's foreclosure rate was 1,427 households per foreclosure, ranking the State thirty-eighth highest in the nation. The Department of Housing and Community Development (DHCD) estimates that 326,600 of the 1.3 million active residential mortgages in the State have outstanding loan balances that exceed the values of their respective homes. Maryland's housing market is expected to continue to exhibit instability due to foreclosures through at least 2012.

Accordingly, legislative efforts to address the foreclosure situation in the State continued during the 2011 session.

### **Foreclosure Procedures**

***Notice of Intent to Foreclose:*** In October 2010, the Maryland Court of Appeals approved an emergency rule allowing circuit courts to appoint independent attorneys to assess foreclosure documents for problems, including the authenticity of a signature or the veracity of an attestation. The rule was adopted following published revelations that two Maryland attorneys had not personally signed foreclosure affidavits that bore their names. To further ensure the accuracy of foreclosure documents, [\*Senate Bill 205/House Bill 366 \(Chs. 36 and 37\)\*](#) require that an affidavit accompanying an order to docket or a complaint to foreclose a mortgage or deed of trust on residential property state, if applicable, that the contents of the notice of intent (NOI) to foreclose were accurate at the time the NOI was sent.

***Required Documents and Timing of Mediation:*** Chapter 485 of 2010 significantly expanded the protections for owners of residential property in foreclosure, including requiring certain documents to be filed with the court and served on the mortgagor or grantor. [\*House Bill 728 \(passed\)\*](#) clarifies that law by reducing the number of documents that must accompany an order to docket or complaint to foreclose on residential property that is filed with a court and requiring that certain documents must accompany the copy of the order to docket or complaint to foreclose that is served on a mortgagor or grantor, including notice about the foreclosure action and, if appropriate, a loss mitigation application with supporting documents and a request for foreclosure mediation form with supporting documents. The Commissioner of Financial Regulation is required to prescribe by regulation the notice, forms, and supporting documents that must be served on the mortgagor or grantor. If the residential property is not owner-occupied, the measure also requires a notice of intent to foreclose to be accompanied by a written notice of the determination that the property is not owner-occupied and a telephone number to call to contest that determination. The bill also extends the amount of time (1) from 15 to 25 days, in which a mortgagor or grantor may file with the court a completed request for foreclosure mediation in a foreclosure action on owner-occupied residential property; and (2) from five to seven days, in which the Office of Administrative Hearings (OAH) must file a report on the outcome of a request for mediation. Additionally, the bill authorizes OAH to extend the time for completing foreclosure mediation for more than 30 days if all parties agree.

***Lost Note Affidavit:*** Often when an original debt instrument is lost, destroyed, or stolen and cannot be found, the attorney for the party filing a foreclosure action makes a motion for acceptance of a lost note affidavit. [\*Senate Bill 450/House Bill 412 \(both passed\)\*](#) require

specific information to be included in a lost note affidavit. The bills prohibit a court from accepting a lost note affidavit unless the affidavit (1) identifies the owner of the debt instrument and states from whom and the date on which the owner acquired ownership; (2) states why a copy of the debt instrument cannot be produced; and (3) describes the good faith efforts made to produce a copy of the debt instrument.

**Definition of “Secured Party”:** A significant concern frequently cited in the media regarding foreclosures is the role of electronic databases in the foreclosure process, such as MERS (Mortgage Electronic Registration Systems, Inc). *Senate Bill 206/House Bill 691 (both failed)* would have defined “secured party” for purposes of residential property foreclosure procedures as the person that (1) owns a debt instrument secured by a mortgage or deed of trust on residential property; and (2) is entitled to the net proceeds of a foreclosure sale of the residential property or of the payoff of the debt instrument.

### **Tenants in Foreclosure**

Chapters 614 and 615 of 2009 required notices of foreclosure to be sent to all occupants of a residential property (1) when a foreclosure action is filed; (2) no earlier than 30 days and no later than 10 days prior to the foreclosure sale; and (3) after the entry of a judgment awarding possession of the property and before any attempt to execute the writ of possession. Chapters 587 and 588 of 2010 altered these notice requirements by conforming to the federal Protecting Tenants at Foreclosure Act of 2009 and incorporating the federal definition of a “bona fide” tenant.

*Senate Bill 516/House Bill 842 (both passed)* add further protections for tenants in foreclosed property with regard to the collection of rent. Specifically, the bills prohibit a foreclosure sale purchaser from asserting a claim to rent payments from a bona fide tenant in possession of residential property, unless the purchaser has (1) conducted a reasonable inquiry into the property’s occupancy status and whether any individual in possession is a bona fide tenant; and (2) served on each bona fide tenant, by first-class mail with a certificate of mailing, a notice containing the contact information of the purchaser or the purchaser’s agent responsible for managing and maintaining the property and stating that the tenant must direct rent payments to this person. Until a foreclosure sale purchaser fulfills these requirements, the purchaser waives any claim to rent payments from a bona fide tenant, except for a claim for rent for the use of the property for the 15 days immediately prior to satisfying the notice requirements.

### **Enforcement Authority of Commissioner of Financial Regulation**

Chapters 5 and 6 of 2008 created the Protection of Homeowners in Foreclosure Act (PHIFA). PHIFA was enacted to address the growing problem of foreclosure “rescue” scams. It requires “foreclosure consultants” to enter into consulting contracts with homeowners that lay out the terms of their agreements, give disclosures, and afford basic consumer protections such as a three-day rescission period. Chapters 3 and 4 of 2008 created the Maryland Mortgage Fraud Protection Act (MMFPA). MMFPA prohibits specified actions made with the intent to defraud, including knowingly making, using, or facilitating the use of any deliberate misstatement,

misrepresentation, or omission during the mortgage lending process with the intent that it be relied upon by a mortgage lender, borrower, or any other party to the lending process.

**House Bill 509 (Ch. 127)**, an emergency bill, clarifies the authority of the Commissioner of Financial Regulation to enforce and investigate PHIFA and MMFPA. The bill authorizes the commissioner to enforce these Acts by exercising any of the commissioner's general enforcement powers, seeking an injunction, or requiring a violator to take affirmative action to correct a violation, including the restitution of money or property to any person aggrieved by the violation. Additionally, the commissioner is authorized to cooperate with any unit of law enforcement in the investigation and prosecution of a violation of the Acts, investigate violations, and aid any unit of the State government with regulatory jurisdiction over the business activities of the violator. The bill also clarifies that a homeowner may bring an action for damages as a result of a violation of PHIFA or MMFPA, without having to exhaust administrative remedies and regardless of the status of an administrative action or criminal prosecution, if any, under the applicable Act.

## **Residential Property Sales**

### **New Home Sales – Minimum Visitability Features**

“Visitability” according to the United Spinal Association, a group advocating for people with mobility impairment, is a public movement with the purpose of making homes more accessible to people with mobility impairments by changing some of the home's fundamental construction features. The Department of Disabilities cites a national study that estimates up to 60% of new homes will, at some point, have a resident with severe, long-term mobility impairment.

**House Bill 437 (passed)** requires a home builder that constructs 11 or more new homes in a subdivision that contains 11 or more new homes that receives preliminary plan approval on or after October 1, 2012, to offer minimum visitability features as an option for purchase. “Minimum visitability features” are defined as (1) a ground level entrance meeting specified height, width, and accessibility characteristics; and (2) a circulation route from the ground level entrance to an unattached garage, parking space, or public right-of-way that is free of specified impediments or vertical changes in levels greater than 1.5 inches. The builder must provide (1) a point of sale document describing the minimum visitability features; and (2) a drawing or photograph showing these features as well as the lots and new home types that are conducive to the construction of these features.

### **Deposits on New Homes – Escrow Accounts**

**Senate Bill 334/House Bill 379 (both passed)** respond to issues raised in *Coleman v. State* – 196 Md. App. 634, (2010), in which the Court of Special Appeals ruled that the current law is ambiguous as to when a builder or vendor of a new single-family home is required to maintain an escrow account. **Senate Bill 334/House Bill 379** provide that a builder or vendor must maintain money received from a purchaser at any time before completion of the home, including prior to the start of construction, in an escrow account, surety bond, or irrevocable

letter of credit. The money received by the builder or vendor must be held in trust for the benefit of the purchaser of the new home, and any payments for labor or materials in connection with the construction of the new home must be consistent with that trust obligation. In addition, the bills clarify that the escrow account must be maintained until the granting of a deed for a completed home. Further, the bills allow the builder or vendor to make withdrawals from the escrow account to finance construction in accordance with a draw schedule agreed to by the purchaser in writing.

### **Rescission of Sales Contracts – Return of Deposits**

*House Bill 1109 (Ch. 156)* clarifies that the procedures and standards for the maintenance and disposition of a trust account held by a licensed real estate broker for a purpose relating to a real estate transaction, as established in the Business Occupations and Professions Article, apply to deposits held by a licensed real estate broker under the Real Property Article on behalf of a purchaser of a residential dwelling, a cooperative interest in a cooperative housing corporation, a condominium unit, or a lot in a homeowners association.

### **Common Ownership Communities**

Common ownership communities (COCs) is the term used to describe collectively condominiums, homeowners associations (HOAs), and cooperative housing corporations. COCs were the focus of a number of bills introduced this session.

### **Condominiums and Homeowners Associations – Priority of Liens**

Similar to the persistence of mortgage foreclosures on residential property, condominiums and HOAs also continue to experience problems in collecting payments of required assessments from unit owners or lot owners. *House Bill 1246 (passed)* seeks to address these problems by establishing the priority of a condominium or HOA lien for a specified amount of unpaid assessments in the event of foreclosure on a condominium unit or lot in an HOA.

*House Bill 1246* provides that in a foreclosure of a mortgage or deed of trust on a condominium unit or a lot in an HOA that is recorded before a lien for unpaid assessments, the condominium or HOA lien will have priority in an amount of not more than four months, or the equivalent of four months, of unpaid regular assessments, up to a maximum of \$1,200. The priority lien may not include interest, attorney's fees, or other costs or sums due. Additionally, at the request of a holder of the first mortgage or deed of trust who provides the governing body of the condominium or HOA with written contact information, *House Bill 1246* requires the governing body to provide the holder with written notice of the portion of the lien that has priority. If a governing body fails to provide the written information within 30 days of filing the lien in the county land records where the condominium or HOA is located, that portion of the lien does not have priority as provided under the bill.

*House Bill 1246* also requires specific information about the amount of regular monthly assessments to be included in a statement of lien filed under the Maryland Contract Lien Act.

The bill does not limit or affect the priority of any lien, secured interest, or other encumbrance with priority that is held by the State or any county or municipal corporation in the State; or, with respect to HOAs, a lien for the annual charge provided first priority over a deed of trust or mortgage by a deed, agreement, and declaration of covenants, easements, charges, and liens dated December 13, 1966, and recorded in Howard County (the Columbia Association Declaration).

### **Homeowners Association Elections – Resolution of Procedural Issues**

While the Maryland Condominium Act provides direction for the enforcement of certain elements of condominium elections by the Division of Consumer Protection (division) in the Office of the Attorney General, the Maryland Homeowners Association Act does not contain similar guidance. *Senate Bill 532 (passed)* addresses that inconsistency. Specifically, if a lot owner believes the HOA's board of directors has failed to comply with election procedures specified in the HOA's governing documents, *Senate Bill 532* authorizes the lot owner to submit the dispute to the division if the provisions concern (1) notice about the date, time, and place for the election of the board of directors or other governing body; (2) the manner in which a call is made for nominations for the board of directors or other governing body; (3) the format of the election ballot; (4) the format, provision, and use of proxies during the election process; or (5) the manner in which a quorum is determined for election purposes.

### **Condominium Units – Insurance Coverage**

*House Bill 679 (Ch. 138)* authorizes a condominium's bylaws to require that all unit owners maintain condominium insurance on their units. A condominium's council of unit owners may amend its bylaws to require the insurance if at least 51%, rather than the current required threshold of 66 2/3%, of unit owners having votes in the council of unit owners agree. If the bylaws require all unit owners to maintain condominium insurance on their units, the bylaws must also require each unit owner to provide the council of unit owners with evidence of insurance coverage.

### **Regulation of Management Services Companies**

Many COCs hire professional management companies to provide administrative services such as payment collection, financial management, groundskeeping, and other maintenance. These companies are responsible for managing large sums of money due to and owned by the COCs but lack comprehensive regulation by the State. Several bills would have imposed differing forms of regulation on these companies. *House Bill 722 (failed)* would have required a management services provider to enter into a written contract with a COC before providing the services. *House Bill 537 (failed)* would have established a statewide registry of companies providing community association management services. A State board of common interest community managers would have been established by *House Bill 942 (failed)* and *House Bill 592 (failed)*. Finally, *Senate Bill 264 (failed)* would have repealed the requirement that a COC purchase fidelity insurance covering a management company and instead would have required that the management company contracting to provide services to the COC purchase fidelity insurance.



## **Landlord/Tenant and Mobile Home Parks**

### **Victims of Domestic Violence or Sexual Assault**

Chapters 318 and 319 of 2010 provided certain protections for a residential tenant or a legal occupant who is a victim of domestic violence or sexual assault, including the ability to terminate the lease or change the locks of the residence. *House Bill 1047 (Ch. 152)* clarifies that a victim tenant may terminate the tenant's future liability under a residential lease, and that the authority to terminate future liability under a residential lease does not extend to, or in any other way impact, the future liability of a tenant who is the respondent in an action that results in the issuance of a final protective order or final peace order for the benefit of the victim tenant or victim legal occupant.

### **Retaliatory Actions**

Under current law, a landlord generally may not evict a tenant or arbitrarily increase the rent or decrease services to which the tenant is entitled solely because (1) the tenant or the tenant's agent has filed a good faith written complaint with the landlord or with a public agency against the landlord; (2) the tenant or agent has filed a lawsuit or lawsuits against the landlord; or (3) the tenant is a member or organizer of any tenants' organization. There are similar protections against "retaliatory evictions" for residents of mobile home parks.

*Senate Bill 620/House Bill 670 (both passed)* expand these protections for tenants and mobile home park residents while also providing that certain actions by a landlord or park owner may not be deemed to be "retaliatory actions" if they occur more than six months after the protected action of a tenant or park resident.

In addition to the prohibitions in current law, the bills prohibit a landlord or park owner from threatening to bring an action for possession, or terminating a periodic tenancy or rental agreement, because of specified actions by the tenant or resident. The bills also delete the requirement that a tenant or park resident must prove that a retaliatory action was taken "solely" because of a protected action of the tenant or park resident. Further, the bills expand the protected actions of a tenant or park resident to include (1) the written or actual notice of a good faith complaint about an alleged violation of the lease, violation of law, or condition on the leased premises that is a substantial threat to the health or safety of occupants; (2) the filing of a lawsuit against the landlord or park owner, or the testifying or participation in a lawsuit involving the landlord or the park owner; or (3) participation in a tenant's organization. Lastly, a tenant or resident may raise the landlord's retaliatory action as a defense in an action for possession or as an affirmative claim for damages resulting from a retaliatory action of a landlord or park owner during a tenancy.

## Estates and Trusts

### Trusts

#### Special Needs Trusts and Pooled Asset Special Needs Trusts

Special (or supplemental) needs trusts are intended to hold funds for the benefit of a disabled individual for purposes other than those provided for by Medicaid or other public benefits, without affecting the individual's eligibility for the public benefits. A pooled asset special needs trust is a trust that collectively invests and manages funds of multiple individuals who are disabled, reducing the costs of trust administration. The assets of a disabled individual used to fund a special needs trust may come from a source such as a personal injury settlement or an inheritance of the individual.

*Senate Bill 888/House Bill 1277 (both passed)* establish that it is the policy of the State to encourage the use of a special needs trust or supplemental needs trust by an individual of any age with disabilities to preserve funds to provide for the needs of the individual not met by public benefits and to enhance quality of life. The bills require each State agency that provides public benefits through means-tested programs, including Medicaid, to individuals with disabilities of all ages to adopt regulations that are not more restrictive than existing federal law, regulations, or policies with regard to the treatment of a special needs trust or supplemental needs trust, including specified trusts defined under federal law governing State Medicaid programs.

The regulations must allow:

- an individual account in a pooled asset special needs trust to be funded without financial limit;
- a fund in a special needs trust, supplemental needs trust, or pooled asset special needs trust to be used for the sole benefit of the beneficiary including, at the discretion of the trustee, distributions for food, shelter, utilities, and transportation;
- an individual to establish or fund an individual account in a pooled asset special needs trust without an age limit or a transfer penalty;
- an individual to fund a special needs trust or supplemental needs trust for the individual's child with disabilities without a transfer penalty and regardless of the child's age; and
- all legally assignable income or resources to be assigned to a special needs trust, supplemental needs trust, or pooled asset special needs trust without limit.

A State agency may not impose additional requirements on a nonprofit organization for the purpose of qualification or disqualification of the organization from offering a pooled asset special needs trust.



### **Transfer of Tenancy by the Entirety Property to Trustees**

Chapter 202 of 2010 established that the property of a husband and wife that is held by them as tenants by the entirety and subsequently conveyed to a trustee, and the proceeds of that property, have the same immunity from the claims of the separate creditors of the husband and wife as would exist if the husband and wife had continued to hold the property or its proceeds as tenants by the entirety, subject to certain conditions. Chapter 202 also specified that after the death of the first spouse, the property continues to be immune from the claims of the decedent's separate creditors, but to the extent the surviving spouse remains a beneficiary of the trust, the property is subject to the claims of the surviving spouse's separate creditors.

According to the Estate and Trust Law Section of the Maryland State Bar Association, questions have arisen as to whether Chapter 202 of 2010 applies to transfers of tenancy by the entirety property to trusts with more than one trustee or trustees of multiple trusts. Concerns have also been raised that Chapter 202 may have unintended estate tax consequences in relation to certain trusts used for estate planning purposes to obtain the benefit of both spouses' estate tax exemptions. *Senate Bill 696/House Bill 799 (both passed)* make corrective and clarifying changes to the provisions enacted under Chapter 202 of 2010.

The bills specify that the immunity of property held in trust applies to property conveyed to *the trustee or trustees of one or more trusts* and also adds a condition to the immunity that the trust instrument, deed, or other instrument of conveyance provides that the provisions enacted under Chapter 202 apply to the property or its proceeds. The bills also specify that the provisions enacted under Chapter 202, and the alterations made by the bill, only apply to tenancy by the entirety property conveyed to a trustee or trustees on or after October 1, 2010.

The bills lastly expand the authority to waive the immunity established under Chapter 202. Chapter 202 allowed for the immunity to be waived as to any specific creditor or any specifically described trust property. The bills specify that this authority includes the authority to waive the immunity as to all separate creditors of a husband and wife or all former tenancy by the entirety property conveyed to the trustee or trustees.

### **Probate**

A 2005 Attorney General Opinion (90 Op. Att'y Gen. 145) indicated that orphans' court review is required whenever estate funds are used for payment of attorney's fees (aside from a limited statutory exception, where consent is obtained from creditors and interested persons and the payment does not exceed a specified amount), including where a decedent had entered into a contingent fee agreement with an attorney prior to death. The opinion was in response to a request that indicated orphans' courts around the State had adopted differing practices concerning whether and when to require fee petitions in such cases. *Senate Bill 673 (Ch. 80)* allows payment of attorney's fees to be made without court approval if (1) the fee is paid to an attorney representing the estate in litigation under a contingency fee agreement signed by the decedent or the current personal representative of the decedent's estate; (2) the fee does not exceed the terms of the agreement; (3) a copy of the agreement is on file with the register of

wills; and (4) the attorney files a statement with each account stating that the scope of the representation by the attorney does not extend to the administration of the estate.

### **Qualifications of Prince George's County Orphans Court Judges**

*Senate Bill 281 (passed)* proposes an amendment to the Constitution of Maryland that prescribes additional qualifications for judges of the Orphans' Court in Prince George's County. If the amendment is approved by the voters at the 2010 general election, an orphans' court judge in Prince George's County will be required to be a member in good standing of the Maryland Bar who is admitted to practice law in the State. The amendment continues the requirements that an orphans' court judge in Prince George's County be a citizen of the State and a resident of Prince George's County for the 12 months preceding the election.

### **Powers of Attorney**

The Maryland General and Limited Power of Attorney Act was enacted by Chapters 689 and 690 of 2010. Applicable to all powers of attorney, with certain listed exceptions, Chapters 689 and 690 included various new provisions derived in part from the Uniform Power of Attorney Act and also incorporated existing provisions governing powers of attorney, with minor alterations. The legislation established requirements for proper execution of a power of attorney, specified when a power of attorney becomes effective, and provided for the validity and enforceability of a power of attorney. Fiduciary duties for an agent appointed under a power of attorney were established. Finally, the 2010 legislation included two statutory form powers of attorney.

*Senate Bill 529/House Bill 247 (Chs. 74 and 75)* make corrective and clarifying changes to the Maryland General and Limited Power of Attorney Act. The Acts define the term "property," to include both real and personal property and any right or title in real or personal property, whether held individually or jointly and whether indivisible, beneficial, contingent, or of any other nature. The Acts also define "stocks and bonds" to mean evidence of ownership in or debt issued by a corporation, partnership, limited liability company, firm, association, or similar entity and specify various types of instruments that are included within the definition. The definition of "statutory form power of attorney" is amended to exclude a form power of attorney that incorporates by reference provisions of another writing.

*Chapters 74 and 75* also specify that a provision of the Maryland General and Limited Power of Attorney Act that establishes the presumption that powers of attorney are durable, and related provisions, are applicable to all powers of attorney without exception (a durable power of attorney is a power of attorney by which a principal designates another as an attorney in fact or agent and the authority is exercisable notwithstanding the principal's subsequent disability or incapacity). *Chapters 74 and 75* also modify the statutory form powers of attorney to specify certain authority of an agent with respect to banks and other financial institutions, including the authority of an agent to transact all business in connection with an account or other banking arrangement made by or on behalf of the principal or established by the agent and the authority

to deposit with or leave in the custody of a financial institution money or property of the principal.



## Part G

### Transportation and Motor Vehicles

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#### Transportation

##### Transportation Funding

##### Transportation Revenues

The Transportation Trust Fund (TTF) is a nonlapsing special fund that provides funding for transportation projects. It consists of tax and fee revenues, operating revenues, bond proceeds, and fund transfers. The Maryland Department of Transportation (MDOT) issues bonds backed by TTF revenues and invests the TTF fund balance to generate investment income. *House Bill 72 (passed)* the Budget Reconciliation and Financing Act of 2011 (BRFA), implements several modifications to statutory provisions relating to transportation revenues and policy. Transportation Trust Fund revenues are expected to increase by approximately \$63.9 million starting in fiscal 2012 due to the actions described below.

- The certificate of title fee for vehicles was increased from \$50 to \$100; however, rental car transactions are exempt from the increase for three years. Half of the revenue from the certificate of title fee is dedicated to the TTF and half will continue to be credited to the Motor Vehicle Administration (MVA) to assist in meeting its cost recovery requirement. The increase is estimated to generate approximately \$52.4 million in the first year for the TTF.
- The annual “vanity tag” fee was also increased from \$25 to \$50, which is estimated to increase TTF revenues by approximately \$2.5 million.
- The vehicle dealer processing charge was increased from \$100 to \$200 for three years and then rises to \$300 permanently, generating approximately \$5.3 million in TTF revenues beginning in fiscal 2012.

- The dealer vendor credit was lowered from the lesser of \$24 or 1.2% of the gross excise tax the dealer collects to the lesser of \$12 or 0.6%, increasing TTF revenues by approximately \$3.7 million in fiscal 2012.
- As introduced, the BRFA of 2011 would have permanently transferred the interest income from the TTF to the general fund; however, an exemption was provided for the TTF.

### Reconciliation of General Fund and Transportation Trust Fund Revenues

The BRFA of 2011 divorces the revenue relationship between the general fund and the TTF by ending ongoing revenue transfers between the two funds. The TTF, the general fund, and local jurisdictions are held harmless relative to the fiscal 2012 allowance. To allow for the revenue reconciliation, the BRFA of 2011 implements the actions described below.

- Beginning in fiscal 2012, the TTF share of the sales tax is permanently credited to the general fund.
- The TTF share of the corporate income tax is lowered.
- The ongoing distribution of Highway User Revenues (HUR) to the general fund is reduced in fiscal 2012 and is entirely credited to the TTF starting in fiscal 2013. As a result, the TTF share of HUR increases to 90% in fiscal 2013 and remains at 90.4% thereafter. **Exhibit G-1** provides a summary of the distribution from fiscal 2012 to 2014.

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### Exhibit G-1 Highway User Revenue Distribution Fiscal 2012-2014 (\$ in Millions)

	Fiscal 2012		Fiscal 2013		Fiscal 2014	
	<u>Percent</u>	<u>Dollars</u>	<u>Percent</u>	<u>Dollars</u>	<u>Percent</u>	<u>Dollars</u>
MDOT	79.8%	\$1,322.9	90.0%	\$1,473.3	90.4%	\$1,618.2
General Fund	11.3%	187.3				
Baltimore City	7.5%	124.3	8.1%	132.6	7.7%	137.8
Counties	0.8%	13.3	1.5%	24.6	1.5%	26.9
Municipalities	0.6%	9.9	0.4%	6.5	0.4%	7.2
<b>Total</b>	<b>100.0%</b>	<b>\$1,657.7</b>	<b>100.0%</b>	<b>\$1,637.0</b>	<b>100.0%</b>	<b>\$1,790.1</b>

MDOT: Maryland Department of Transportation

Source: Department of Legislative Services

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**Fiscal 2012 Funding Transfers**

The BRFA of 2011 transfers \$100 million from the TTF with \$60 million directed to the general fund and \$40 million to the Rainy Day Fund. Unlike the Administration's proposed plan, the BRFA of 2011 allows for the repayment of the \$100 million transfer. As part of the reconciliation of TTF revenues, \$60 million is repaid from fiscal 2014 to 2016. The new revenue from the certificate of title fee repays the \$40 million transfer to the Rainy Day Fund. In addition, the BRFA of 2011 includes a provision that prohibits, beginning July 1, 2012, the transfer of State TTF revenues to the general fund unless legislation provides for repayment of the funds within five years.

**Highway User Revenues**

Adjustments to the local distribution of HUR were made for fiscal 2012 only. Counties and municipalities receive an additional \$13.3 million. Of this, municipalities receive an additional \$8.3 million, and the counties receive an additional \$5.0 million.

**Transit-related Funding Actions**

In an effort to ensure that the Maryland Transit Administration (MTA) meets the statutory farebox recovery level of 35%, the BRFA of 2011 requires MTA to increase fares or other revenues to meet the farebox recovery goal. Based upon current estimates, fare prices would need to increase by approximately 25% to meet the requirement.

Chapter 203 of 2003 and Chapter 430 of 2004 prohibited the State from entering into any agreement for construction or operation of a rail system based on magnetic levitation technology (mag-lev) and prevented the State from spending any funds, from any source, for the purpose of studying, developing, or constructing a mag-lev rail system. The BRFA of 2011 repeals these prohibitions.

**Transportation Funding Restrictions**

In the past, revenues have been transferred from the TTF to the general fund, and the general fund has subsequently repaid the TTF. In recent years, however, a significant portion of the local share of highway user revenue has been diverted to the general fund to help balance the State's general fund budget. Partially in response to this trend, in February 2011, the Blue Ribbon Commission on Transportation Funding released an interim report that recommended (1) adopting an amendment to the Maryland Constitution prohibiting transfers from the TTF to nontransportation purposes, except in specified fiscal emergencies; (2) retaining the existing portion of sales and corporate tax revenue dedicated to the TTF; (3) restoring highway user revenue to local governments; (4) raising \$800 million in net new annual funding for transportation through a combination of net new revenues and bonding; (5) increasing leveraging and bonding; and (6) removing the cost-recovery cap for MVA fees.

In response to the recent diversion of TTF revenues to nontransportation purposes, several bills were introduced that would have amended the Maryland Constitution to include the

TTF and establish rules for its operation and funding. The bills placed various constitutional restrictions on transfers from the TTF and use of TTF monies. *Senate Bill 677 (failed)* would have, among other things, (1) required TTF funds to be used only to pay the principal of and interest on transportation bonds and for any lawful purpose related to transportation; and (2) prohibited any TTF funds from reverting or being credited to the general fund or a special fund, unless authorized by a law in effect on October 1, 2010. In addition to limiting the uses of TTF funds to specified transportation purposes and prohibiting TTF funds from reverting or being credited to the general fund or a special fund, *Senate Bill 714/House Bill 1001 (both failed)* would have increased (1) the motor fuel tax rate for all fuels, except aviation gasoline and turbine fuel, by 10 cents per gallon; and (2) vehicle registration fees by 50% for all classes of vehicles. *House Bill 518 (failed)* would have limited the use of TTF funds to specified transportation purposes and prohibited TTF funds from reverting or being credited to the general fund or special fund, except for defense or relief purposes and if specified actions occur. *House Bill 591 (failed)* also would have limited the use of TTF funds and prohibited the transfer of TTF funds, except if approval for the transfer was granted through a referendum in a general election by a majority of qualified voters.

### Signs Along Highways

Under the National Scenic Byways Program, the U.S. Secretary of Transportation recognizes certain roads as National Scenic Byways or All-American Roads based on their archaeological, cultural, historic, natural, recreational, and scenic qualities. The State Highway Administration (SHA) operates Maryland's Scenic Byway Program, which designates byways, provides byway grant funding, and establishes guidelines for byways. Maryland has designated 19 State scenic byways that encompass 2,487 miles of roads and illustrate the State's scenic beauty, history, and culture.

*House Bill 109 (passed)* prohibits SHA from issuing specified outdoor sign permits for signs along or near a scenic byway located on a federal-aid primary highway. The term "federal aid primary highway" is modified to include any State highway that is part of the national federal-aid primary system as of June 1, 1991, or any highway in the National Highway System.

Illegal signs along State highways have become a serious fiscal and safety concern. The State Highway Administration advises that sign removal is claiming a growing portion of limited highway maintenance resources. In fiscal 2010, SHA spent approximately \$383,895 on the removal of 36,000 illegal signs. Furthermore, illegal signs along State highways have been shown to distract motorists and create traffic hazards.

*Senate Bill 410/House Bill 289 (both passed)* prohibit the placement or maintenance of signs on State highway rights-of-way without authorization from SHA and establish a civil penalty of \$25 per commercial sign for violations. The State Highway Administration and local jurisdictions are authorized to retain the civil penalty payments they collect. The bills also authorize the State Highway Administration, a law enforcement officer, or a local government to remove and destroy any unauthorized signs without a court order, and allow the State Highway



Administration or a local government to seek an injunction against further commercial sign violations. Additionally, the bills repeal a provision limiting the duration of election-related signs along State highways.

## **Public Transit Services**

### **Flashing Lights on Transit Vehicles**

Flashing lights enhance motorist and pedestrian awareness of transit vehicles in their immediate vicinity and thereby reduce the likelihood of accidents and injuries. *House Bill 112 (Ch. 101)* authorizes State and local public transit service vehicles to be equipped with and display amber flashing lights or a white flashing light installed on a vehicle's roof.

### **Procurement Bids to Provide Maryland Area Regional Commuter Train Service**

The CSX Corporation has expressed its intent to discontinue providing Maryland Area Regional Commuter (MARC) commuter train service on the Camden line, which runs between Baltimore and Washington, DC, and the Brunswick line, which extends from Washington, DC, to Martinsburg, West Virginia. Reports indicated that Keolis Rail Services America submitted a bid to MTA to provide service on the Camden and Brunswick lines. Keolis Rail Services America's majority shareholder is the French National Railroad SNCF, which has received significant criticism concerning its relationship with the Nazi regime during World War II.

*Senate Bill 479/House Bill 520 (both passed)* require a specified entity that submits a formal MARC train service bid or offer to the State or a local government to disclose specified information relating to World War II deportations. The provisions apply to an entity that had direct involvement in the deportation of individuals to extermination camps or death camps between September 1, 1939, and September 2, 1945, and submits a bid or offer on a procurement contract to provide MARC service that is funded in whole or in part with public funds. Under the bills, such entities must comply with a variety of requirements in order to be considered a responsible bidder or offeror for a procurement contract to provide MARC service.

## **Transportation-related Advisory Committees and Councils**

### **Bicycles and Pedestrians**

The Bicycle and Pedestrian Advisory Committee provides guidance to State agencies concerning funding of bicycle- and pedestrian-related programs, public education and awareness of bicycle- and pedestrian-related activities and safety, and other issues. The committee is composed of up to 22 specified members and must meet at least quarterly, with at least one meeting held in Annapolis. *Senate Bill 226 (Ch. 40)* repeals the requirement for the committee to meet at least quarterly, with at least one meeting in Annapolis, and instead requires the committee to hold regular meetings as it deems appropriate.

## Electric Vehicles

Electric vehicles (EVs) have been around for more than a century and are experiencing a resurgence in popularity and sales. *Senate Bill 176/House Bill 167 (both passed)* establish a Maryland Electric Vehicle Infrastructure Council to promote the use of EVs in the State. The Maryland Department of Transportation must provide staff support to the council with the assistance of the Maryland Energy Administration and the Maryland Public Service Commission. An interim report of the council's work and recommendations is due to the Governor and the General Assembly by January 1, 2012, and a final report is due by December 1, 2012.

## Transportation Employee Grievance Procedures

*House Bill 1184 (passed)* alters the appeals process for MDOT employee grievance disputes. For a more detailed discussion of this issue, see the subpart "Personnel" within Part C – State Government of this *90 Day Report*.

## Authority to Regulate Roads in Calvert County

Concern in Calvert County about damage being done to county roads during, for example, the upgrading or repair of underground utilities has sparked interest in giving the county better notice of potential actions that may impact county roads and greater authority to hold entities accountable for the damage they cause to county roads and rights-of-way. *Senate Bill 393/House Bill 992 (both passed)* authorize the Calvert County Commissioners to enact ordinances that (1) regulate specified activities associated with county roads and rights-of-way; and (2) establish road-related fees, penalties, and minimum standards. An exemption is provided for privately owned roads constructed by September 30, 2011. Any violations of such ordinances must be enforced in the same manner and to the same extent as a municipal infraction. The Calvert County Commissioners also are authorized under the bills to seek other remedies provided by law.

## Motor Vehicles

### Drunk Driving

#### Expanded Use of Ignition Interlock Systems

Forty-eight states and the District of Columbia authorize or mandate the use of ignition interlock systems to deter alcohol-impaired driving. States that mandate the use of ignition interlock systems usually do so for repeat offenders, drivers with high blood alcohol concentration (BAC), as a condition of probation, or in exchange for limited restoration of driving privileges. According to the 2008 final report of the Maryland Task Force to Combat Driving Under the Influence of Drugs and Alcohol, the use of ignition interlock systems has been shown to lead to long-lasting changes in driver behavior and the reduction of recidivism. The

task force advised that a minimum of six months of failure-free use is needed to significantly reduce recidivism.

According to the Motor Vehicle Administration (MVA), about 8,000 drivers participate annually in the Maryland ignition interlock program. About 6,000 drivers are in the program at any one time and about 2,000 cycle out of the program on a recurring basis due either to successful completion or failure to complete the program. In fiscal 2010, 3,244 people successfully completed the program and 2,997 people withdrew due to failure to complete program requirements. Participants have generally been repeat offenders or offenders who refused a BAC test or had a BAC test result of 0.15 or more.

***Senate Bill 803 (passed)*** and ***House Bill 1276 (passed)*** expand participation in the Ignition Interlock System Program. According to projections from MVA, as many as 4,800 additional drivers will be required or eligible to participate in the program under these bills. The bills require, rather than authorize, the MVA to (1) establish an Ignition Interlock System Program; (2) expand participation to specified categories of participants; (3) impose a fee for the program that is sufficient to cover its costs; and (4) establish minimum standards for all ignition interlock service vendors, including a requirement that service vendors provide information to MVA at least every 30 days on program participants. MVA must waive the required program fee for an individual who is indigent.

The bills also require MVA to warn a driver in a notice of proposed suspension or revocation about the ignition interlock device required for a subsequent conviction and warn drivers younger than the age of 21 about the ignition interlock device required for any violation of a driver's license alcohol restriction (all licensed drivers younger than 21 have a restriction that prohibits the presence of any alcohol in their blood while driving) or a violation of an alcohol-related driving provision.

***Mandatory Participation:*** A driver must participate in the program as a condition of modification of a license suspension or revocation of a license or the issuance of a restrictive license if the driver:

- is required to participate by a court order;
- is convicted of driving while under the influence of alcohol or under the influence of alcohol *per se* and had a blood alcohol concentration (BAC) at the time of testing of 0.15 or greater;
- is convicted of driving while under the influence of alcohol, under the influence of alcohol *per se*, or while impaired by alcohol and within the preceding five years was convicted of any specified alcohol and/or drug-related driving offense; or
- was younger than age 21 and violated the alcohol restriction imposed on the driver's license or committed the specified alcohol-related driving offense.

A driver who is required to participate in the program under the bills must be in the program for six months the first time the requirement is imposed. For the second time, the driver must participate for one year. For the third or any subsequent time the requirement is imposed, the driver must participate for three years. A court and MVA may also impose a longer participation period in accordance with other Maryland Vehicle Law provisions. MVA must immediately issue a license to a driver who successfully completes the program and whose license is not otherwise suspended, revoked, refused, or canceled.

A driver who is required to participate in the program is generally subject to a mandatory license suspension for one year if the driver fails to participate in the program or does not complete it. However, if the driver is subject to mandatory participation as the result of a conviction for driving while under the influence of alcohol or under the influence of alcohol *per se* and due to a test result that shows a BAC of 0.15, the period of suspension is indefinite until the driver successfully completes the program. Periods of mandatory participation must run concurrently for a driver who is subject to participation in the program under any other provision of the law arising out of the same incident.

***Discretionary Participation:*** Discretionary participation in the program is expanded by authorizing MVA to include an individual who is currently prohibited from participation in the program under the “administrative *per se*” statute. This authority applies to a driver who takes a test of blood or breath with a BAC result of at least 0.08, but less than 0.15, and who is otherwise ineligible for modification of a license suspension or issuance of a restrictive license. Such an eligible driver must participate in the program for one year or MVA must suspend the driver’s license for the full suspension period otherwise required.

***Criminal Sanction Established:*** Under [Senate Bill 803](#) and [House Bill 1276](#), any driver who participates in the program, may not drive a motor vehicle without an ignition interlock device in violation of an ignition interlock system restriction on the participant’s driver’s license. A person who violates this provision is guilty of a misdemeanor and is subject to maximum penalties of one year imprisonment, a \$1,000 fine, or both for a first offense, and two years imprisonment, a \$1,000 fine, or both for a second or subsequent offense.

***Reconsideration of Refusal or Program Reentry:*** If a driver who is eligible or required to participate in the ignition interlock program does not initially become a participant, that driver may apply to MVA to become a participant at a later time. MVA may reconsider any suspension or revocation of the driver’s license arising out of the same circumstances and allow the driver to participate in the program. If MVA removes a driver from the program due to violation of the program requirements, MVA may allow the driver to reenter the program after a period of 30 days from the date of removal. If the driver reenters the program under these circumstances, that driver must participate in the program for the entire period that was initially assigned for successful completion of the program without any credit for participation that occurred before the driver was removed from the program.

### Insuring Drunk Drivers

An insurer or insurance producer may not cancel or refuse to underwrite or renew a particular insurance risk or class of risk except by the application of standards that are reasonably related to the insurer's economic and business purposes. Examples of economic and business purposes include conviction of the named insured or covered driver of an offense relating to driving or attempting to drive any vehicle while (1) under the influence of alcohol or under the influence of alcohol *per se*; (2) impaired by drugs, or a combination of drugs and alcohol; or (3) impaired by a controlled dangerous substance. ***Senate Bill 885 (Ch. 89)*** authorizes insurers to cancel or refuse to underwrite or renew a particular insurance risk or class of risk if the insured is convicted of a violation relating to driving or attempting to drive any vehicle while impaired by alcohol, in addition to the existing authorizations governing other alcohol- and drug-related driving offenses.

### Distracted Driving

***Text and Electronic Messaging:*** A “text messaging device” is a handheld device used to send a text message or an electronic message via a short message service, wireless telephone service, or electronic communication network. According to the Governors Highway Safety Association (GHSA), 30 states and the District of Columbia specifically prohibit texting while driving. In addition to Maryland, 25 other states and the District of Columbia authorize primary enforcement of their text-messaging bans.

In 2008, about 1.3 billion text messages were sent, an average of 110 million text messages per month. It is unknown how many of these messages were sent by individuals while operating motor vehicles, but driving while texting has been a growing trend for several years. A study by Nationwide Insurance estimated that 20% of all drivers send or receive text messages while driving. A Zogby poll of drivers between the ages of 18 and 24 revealed that 66% confessed to texting while driving. Meanwhile, the U.S. Department of Transportation has made the elimination of texting while driving a major priority and has held summits on the dangers of distracted driving in 2009 and 2010.

In Maryland, a driver is prohibited from using a text messaging device to write or send a text message while operating a motor vehicle in motion or in the travel portion of the roadway. A violator is guilty of a misdemeanor and subject to a maximum fine of \$500. The prohibition does not apply to the use of a global positioning system or the use of a text messaging device to contact a 9-1-1 system. ***Senate Bill 424/House Bill 196 (both passed)*** expand the prohibition on text messaging by prohibiting a driver from *reading* a text or electronic message while operating a motor vehicle in the travel portion of the roadway. The bills also apply the prohibition against writing or sending a text message to electronic messages; repeal the application of the prohibition to when the motor vehicle is in motion; and, instead, specify that the text messaging prohibition applies to motor vehicles in the travel portion of the roadway. A violator is guilty of a misdemeanor and subject to a maximum fine of \$500.

## Rules of the Road

### Criminally Negligent Manslaughter by Motor Vehicle

A person is prohibited from committing manslaughter by motor vehicle or vessel; that is, causing the death of another as a result of driving, operating, or controlling a motor vehicle or vessel in a grossly negligent manner. The standard of “gross negligence” is a common law concept. In the case *State v. Kramer*, 318 Md. 756 (1990), the Court of Appeals said that, to prove “gross negligence” as a matter of law, the evidence must be sufficient, beyond a reasonable doubt, to establish that the defendant had a wanton or reckless disregard for human life in the operation of the automobile. The conduct must be extraordinary or outrageous to meet this standard. This violation is a felony, subject to maximum penalties of imprisonment for 10 years or a fine of \$5,000 or both.

A person is guilty of negligent driving if a motor vehicle is driven in a careless or imprudent manner that endangers any property or the life or safety of any individual. A person is guilty of reckless driving if a motor vehicle is driven in wanton or willful disregard for the safety of persons or property, or in a manner that indicates this disregard.

Prosecutors and defense attorneys alike have acknowledged that proving that a person acted with “gross negligence,” while not impossible, is extremely difficult. Even when the driver of a motor vehicle kills a person under seemingly egregious circumstances, that driver is more likely to be charged with negligent driving (maximum fine of \$500) or reckless driving (maximum fine of \$1,000) than with the offense of manslaughter by motor vehicle.

During the 2011 session, the General Assembly acted to close the gap between the felony of manslaughter by operating a vehicle with “gross negligence” and the misdemeanors of negligently or recklessly driving a motor vehicle. **House Bill 363 (passed)** created the misdemeanor offense of criminally negligent manslaughter by vehicle or vessel. A “vehicle” includes a motor vehicle, train, or a streetcar. The bill prohibits a person from causing the death of another as the result of that person’s driving, operating, or controlling a vehicle or vessel in a criminally negligent manner. A person acts in a criminally negligent manner when the person should be aware, but fails to perceive, that the person’s conduct creates a substantial and unjustifiable risk that manslaughter will occur and the failure to perceive is a gross deviation from the standard of care that would be exercised by a reasonable person. A person who kills another person by motor vehicle or vessel in a criminally negligent manner is subject to maximum penalties of imprisonment for 3 years or a fine of \$5,000 or both.

The bill specifies the intent of the General Assembly that the term, “gross deviation from the standard of care,” be interpreted synonymously with the term “gross deviation from the standard of care” under the Model Penal Code of the American Law Institute. The bill also specifies the General Assembly’s intent that the term “gross deviation from the standard of care” is a separate and distinct standard from the gross negligence standard that is required in the offense of manslaughter by vehicle or vessel.



### **School Bus Monitoring Cameras**

A 2006 study in the *Journal of the American Academy of Pediatrics* estimated that, nationwide, between 2001 and 2003, there were about 4,000 injuries involving school children boarding, exiting, or approaching a school bus. According to the Maryland State Department of Education (MSDE), the transportation directors for school districts of all 24 counties have expressed interest in installing camera systems with outside recording capability on school buses when funds become available. MSDE also advises that it conducted a one-day survey of school bus drivers to determine the prevalence of overtaking violations. The results of that survey were released in February 2011, and show that there were 7,028 reported violations during the day of the survey. Survey respondents included 65% of school bus drivers in the State. Of these reported violations, 56.9% were the result of oncoming vehicles passing the bus from the opposite direction, 37.9% of violations were from vehicles passing on the driver side of the bus, and 5.2% were from vehicles passing on the side of the bus with the passenger door.

***Senate Bill 679 (passed)*** authorizes a local law enforcement agency, in consultation with a county board of education, to place school bus monitoring cameras on county school buses if authorized by the governing body of the local jurisdiction by local law enacted after reasonable notice and a public hearing. Local law enforcement agencies may issue warnings or citations to vehicle owners or drivers for failing to stop for a school vehicle that has stopped with its alternately flashing red lights operating in accordance with the Maryland Vehicle Law. A violation is a civil penalty and the maximum fine is \$250.

A “school bus monitoring camera” is a camera placed on a school bus that is designed to capture a recorded image of a driver of a motor vehicle committing a violation of the Maryland Vehicle Law governing traffic in the presence of a stopped school vehicle with alternately flashing red lights. Under the bill, unless a driver receives a citation from a police officer at the time of the violation, a person who receives a citation by mail may pay the specified civil penalty to the county with jurisdiction or may elect to stand trial in District Court. In addition to other required information, the mailed citation must include a copy of the recorded image of the vehicle and a signed statement by a technician employed by the issuing law enforcement agency. The citation must also be mailed within two weeks of the violation.

The bill provides that a violation is not a moving violation for the purpose of assessing points on the driving record and may not be considered in the provision of motor vehicle insurance coverage. However, the violation may be treated as a parking violation and if the fine is not paid and the violation is not contested, MVA may suspend or refuse to register or reregister the registration of the motor vehicle.

### **Street Racing**

Maryland recently has had two severe incidents of street racing that resulted in death and serious injury. On Interstate 70 in Baltimore County, during a June 2009 street racing incident, one pedestrian spectator was killed, and a driver seriously injured due to a crash at the start of the race. The driver of one of the vehicles is now in a vegetative state with no hope of recovery. In February 2008 on Route 210 in Prince George’s County, eight people were killed and another

eight injured at a street racing event. During this event, the people were killed by an unsuspecting driver who drove into a crowd that had gathered to watch the race and blocked the highway being used by the driver.

**House Bill 105 (Ch. 98)** increases the penalty for illegally driving in a vehicle race or speed contest that results in serious bodily injury to another person by authorizing a maximum penalty of one year imprisonment or a \$1,000 fine or both. The law authorizes the police to arrest without a warrant a person suspected of committing such a violation if the officer has probable cause.

## **Licensing, Registration, and Insurance**

### **Insurance and Required Security**

When a driver is involved in an accident that results in injury, death, or damage to property, the driver must provide the driver's name and address, the vehicle registration number, and, on request, the driver's license, to the driver or occupant of the other vehicle and other people who are injured or affected by the accident, as well as a police officer investigating the accident. The driver must also provide information regarding the insurance carrier or other provider of security and, if available, the policy or other identifying number. However, since, State regulations also permit coverage of a vehicle through self-insurance, **House Bill 125 (passed)** requires the driver of a vehicle that is self-insured to provide evidence of the self-insurance to the necessary persons following a vehicle accident in the same manner required for the exchange of other insurance information. MVA regulations must require that evidence of self insurance include appropriate contact information.

### **Commercial Vehicle Coverage**

Chapter 458 of 2010 required certain for-hire vehicles engaged in *interstate* commerce to maintain minimum financial responsibility consistent with federal regulations. However, similar for-hire vehicles operating only *intrastate* were not subject to these requirements. **House Bill 204 (Ch. 111)** extends federal minimum financial responsibility requirements to specified intrastate for-hire vehicles. The requirements only apply to intrastate vehicles that exceed a gross vehicle weight rating of 26,000 pounds and are designed to carry property.

### **Driver's License Cosigner**

A minor's driver's license application traditionally must have been cosigned by a parent, guardian, or, in some cases, an adult employer or other responsible adult. **House Bill 789 (Ch. 141)** authorizes the director of a local department of social services or a designee to cosign on a driver's license application for a minor committed to the custody or guardianship of the department.



## **Equipment and Inspections**

### **Exceptional Hauling Permits**

One of SHA's primary goals is to maintain a quality highway system as measured by the percentage of roadway mileage that does not have an acceptable ride quality. One way in which SHA can preserve the highway system is to ensure that vehicles observe weight limits. The maximum weight load for a vehicle or combination of vehicles is generally 80,000 pounds gross weight, if equipped with at least five axles. However, Chapter 409 of 2006 was enacted in response to concerns that trucks bearing forest products were allowed to carry loads of up to 88,000 pounds in West Virginia and Pennsylvania. Chapter 409 allowed heavier loads to be hauled in Allegany and Garrett counties, but only on vehicles with a sixth axle and for which an exceptional hauling permit had been issued. Similarly, Chapter 404 of 2007 authorized milk haulers to carry heavier loads in 10 counties under an exceptional milk hauling permit if the vehicle is equipped with a sixth axle.

*Senate Bill 19/House Bill 103 (both passed)* expand the SHA exceptional hauling permit program to include vehicles carrying any "farm product" under essentially the same rules and conditions that applied to the forestry and milk products exceptional hauling permits. The bills define "farm product" broadly to include any agricultural, horticultural, vegetable, or fruit product of the soil and dairy and forest products. Thus, SHA may issue an exceptional hauling permit for a combination of vehicles that (1) carry only farm products that are loaded in fields or other off-highway locations; and (2) meet the applicable axle configurations. An exceptional hauling permit is subject to confiscation and revocation if the terms of the permit are violated. The bills authorize issuance of annual permits for \$250 and 30-day permits for \$30.

## **Miscellaneous**

### **Towing, Storing, and Disposing of Vehicles**

The Task Force to Study Motor Vehicle Towing Practices was created by Chapter 514 of 2008 and extended by Chapter 704 of 2009. The task force was charged with studying a number of towing issues, including State and local laws governing towing practices and issues related to private nonconsensual towing; the creation of penalties (civil and criminal); consumer protection measures; and allowing towers a process to dispose of unclaimed vehicles. The task force met 12 times between October 14, 2008, and December 8, 2009, and expired on December 31, 2009. *Senate Bill 570/House Bill 356 (both failed)* would have generally implemented the recommendations of the task force relating to the regulation of nonconsensual towing of vehicles from private property and the disposition of towed vehicles.

Among other things, the bills would have made the private nonconsensual towing restrictions that apply in Baltimore County and Baltimore City applicable statewide. The bills also would have added requirements regarding towing signs; maximum towing distances; maximum towing and storage charges and fees; police and vehicle owner notification; towing service payment options; towed vehicle accessibility; creation of towing and storage liens;

unclaimed vehicle auction standards and requirements; salvage certificate issuance; insurance and surety bond requirements; and penalties.

The Department of State Police (DSP) maintains a list of tow companies by county for towing, assisting disabled vehicles, and storing seized vehicles. Internal DSP policy governs the inclusion of tow companies that are listed through this voluntary program, using an application process, inspection of company property, and checks on compliance with towing laws. However, aside from the inspection of tow trucks as part of the standard commercial vehicle inspection process, DSP advises that it has been unable to conduct a selection process that is appropriately thorough or complete. Additionally, DSP advises that it has not had a sufficient legal basis to prohibit contracts with tow companies not meeting DSP's internal selection policies. *House Bill 848 (passed)* requires DSP to establish and maintain a list of all qualifying tow companies in the State, by county, for use by DSP. DSP is authorized to adopt regulations to establish the standards for qualification.

### **Motorized Passenger Scooters in Ocean City**

Recent spikes in gas prices have contributed to the popularity of mopeds, motor scooters, and similar vehicles. Also, many people regard these vehicles as more efficient than automobiles for short trips. They can achieve about 70 miles per gallon of gas or more and are also considered more environmentally friendly than most automobiles. However, traffic safety advocates have expressed concerns about the increasing number of motor scooters on high-speed thoroughfares since the scooters cannot achieve the speeds of automobiles, making integration with automobile traffic difficult. *Senate Bill 306/House Bill 1167 (both passed)* authorize specified licensed drivers to operate a motorized passenger scooter within the municipal boundaries of Ocean City on a local highway and a bicycle way designated by the State Highway Administration (SHA). The bills define "motorized passenger scooter" as a nonpedal vehicle that has a third wheel and a cockpit for a driver and passenger, and that meets certain technical specifications relating to the motor and transmission. Under the bills, SHA may prohibit the operation of a motorized passenger scooter on a bicycle way in Ocean City under SHA's jurisdiction if it determines that an occupant of a motorized passenger scooter is placed at an unacceptable risk of injury on the bicycle way or if the operation of a motorized passenger scooter is a threat to the safety or mobility of others along the bicycle way.

## **Part H**

### **Business and Economic Issues**

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#### **Business Occupations**

##### **State Commission of Real Estate Appraisers and Home Inspectors**

The State Commission of Real Estate Appraisers and Home Inspectors licenses and issues certificates to real estate appraisers and home inspectors, and is otherwise responsible for regulating the real estate appraisal and home inspection industries. Chapter 594 of 1990 established the commission (formerly the State Commission of Real Estate Appraisers) to administer a real estate appraiser licensing and certification program that complies with the federal Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA). As of June 2010, there were roughly 3,600 licensed or certified real estate appraisers and about 850 home inspectors operating in Maryland.

##### **Special Funding and Regulation of Real Estate Appraisal Management Companies**

In July 2010, the federal Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) became law. The Dodd-Frank Act amended FIRREA and established specific requirements for the regulation of appraisal management companies (AMCs) by the states. The Dodd-Frank Act specifies that states must implement an AMC regulatory structure within 36 months of the issuance of final regulations implementing the Act's requirements related to AMCs. Final regulations have not been issued but may be promulgated in 2011. Once the deadline has passed, unregulated AMCs are prohibited from performing services involving federally related transactions.

*Senate Bill 658/House Bill 1181 (both passed)* establish the State Commission of Real Estate Appraisers and Home Inspectors as a special fund entity and grant the commission the authority to set appropriate fees to approximate the costs of regulating the real estate appraisal and home inspection industries. The bills also require AMCs to register with the commission in order to offer appraisal management services in the State. The bills establish extensive regulatory requirements pertaining to the provision of appraisal management services in the State.

Significant provisions of the bills include (1) altering the membership of the commission; (2) requiring the commission to publish the fee schedule set by the commission; (3) specifying information required for registration; (4) providing that a registration is valid for one year; (5) requiring an applicant to designate an individual to serve as a controlling person that will be the main contact for all communication between the commission and AMC; (6) specifying what constitutes unprofessional conduct; (7) requiring AMC to maintain detailed records of service requests and each appraiser that performs an appraisal for AMC; (8) requiring AMC to ensure real estate appraisal services are provided independently and free from inappropriate influence and coercion; (9) requiring AMC to inform the commission when AMC has a reasonable basis to believe that an appraiser has violated applicable laws or engaged in unethical or unprofessional conduct and the conduct is likely to affect the value assigned to consumer's principal dwellings; (10) requiring AMC to disclose AMC's registration number on any instrument utilized by AMC to procure appraisal services in the State; and (11) authorizing the commission to reprimand a registrant, suspend or revoke a registration, or impose a penalty for each violation of the bill's provisions.

### **Home Inspectors – Recordkeeping and Continuing Professional Competency Requirements**

**Recordkeeping Requirements:** *Senate Bill 143 (Ch. 30)* establishes recordkeeping requirements for home inspectors licensed by the commission. A licensed home inspector is required to retain, for five years, a copy of (1) every contract the licensee enters into; (2) each home inspection report the licensee prepares or signs; and (3) all supporting data that the licensee assembles or formulates to prepare a home inspection report. If, within the five-year recordkeeping period, a home inspection conducted by a licensee is involved in litigation, the pertinent documents must be retained for an additional five-year period beginning on the date of the litigation's final disposition. All required records must be made available to the commission upon request.

**Continuing Professional Competency Requirements:** Under current law, an applicant for licensure as a home inspector must complete 72 hours of approved training that, at a minimum, requires successful completion of the National Home Inspector Examination. *Senate Bill 147 (passed)* requires the commission to establish, by regulation, continuing professional competency standards for licensed home inspectors. The bill specifies that home inspectors must complete up to 30 educational hours during every two-year renewal cycle to demonstrate continuing professional competency. The requirements are phased in for expiring licenses until October 1, 2014, and do not apply to the first renewal of a license.

### **State Real Estate Commission**

The State Real Estate Commission protects the health, safety, and welfare of the public through its regulatory activities in regard to real estate transactions. The commission licenses all real estate brokers, associate brokers, and salespersons; processes complaints against licensees; and administers the Real Estate Guaranty Fund (which compensates consumers who suffer

financial loss as a result of licensee misconduct). Approximately 44,500 individuals are licensed by the commission.

### **Reinstatement of Licenses and Inactive Status**

***Senate Bill 285 (passed)*** reduces the timeframe from four to three years within which a licensee of the commission may apply for reinstatement of an inactive license or reactivation of an expired license without having to retake the commission's licensing examination. The bill specifies that a licensee may renew a license that is on inactive status only if the licensee complies with the commission's continuing education requirements. The bill applies only to licensees who place their licenses on inactive status on or after October 1, 2011.

### **Intracompany Agents**

Chapter 670 of 2010 established requirements for the provision of real estate services through teams of licensed real estate agents. Under Chapter 670, only a real estate broker may designate two members of a team as intracompany agents for the seller and the buyer in the same transaction if the buyer and seller have been advised in writing that the agents are part of the same team and may have a financial interest in the outcome of the transaction. ***House Bill 1049 (Ch. 153)*** specifies that a designee of a real estate broker, in addition to the real estate broker, may designate two members of a real estate sales team as intracompany agents for the seller and the buyer in the same transaction under certain circumstances. However, a designee of a real estate broker who designates intracompany agents may not be a member of that real estate sales team.

### **State Board of Architects**

The State Board of Architects regulates the practice of architecture in Maryland. The purpose of the board is to safeguard life, health, public safety, and property and to promote the public welfare by regulating persons who practice architecture in the State. As of June 2010, there were about 5,550 architects and 710 firms licensed and permitted, respectively, by the board.

### **Sunset Extension and Program Evaluation**

***Senate Bill 91/House Bill 67 (both passed)*** implement the recommendations of the 2010 preliminary sunset evaluation conducted by the Department of Legislative Services (DLS) and extend the termination date for the board by 10 years to July 1, 2023. These recommendations were adopted at the December 21, 2010 meeting of the Legislative Policy Committee (LPC). The bills require an evaluation of the board by July 1, 2022.

The bills also specify that the board, in conjunction with the other four design boards, must submit a report to specified committees of the General Assembly. (The five design boards include the State Board of Examiners of Landscape Architects, the State Board of Certified Interior Designers, the State Board for Professional Engineers, the State Board for Professional Land Surveyors, and the State Board of Architects.) The bills require the chairs of the design

boards to submit a report on the sufficiency of the balance in the State Occupational and Professional Licensing Design Boards' Fund. The report must specifically address the benefits of a fee increase in order to ensure that the collective revenue for the design boards covers total expenditures.

### **Retired License Status**

Chapter 397 of 2003 required board licensees to meet continuing education requirements prior to license renewal. The Department of Labor, Licensing, and Regulation (DLLR) advises that many experienced architects in the State have expressed interest in retiring their licenses. The concept of retired or emeritus status is common in a regulatory model that includes a continuing education or continuing professional competency requirement as a condition of licensure renewal. Thus, *Senate Bill 283 (Ch. 50)* specifies that the board may issue a retired status license to an experienced architect under certain circumstances, including having been a licensed architect for at least 25 years. Under the Act, the holder of a retired status license may use the designation of "Architect Emeritus" but may not engage in the practice of architecture.

### **State Board of Examiners of Landscape Architects: Applicants for Licensure – Educational and Experience Requirements**

The State Board of Examiners of Landscape Architects safeguards public welfare, health, and property by regulating persons who practice landscape architecture in the State. Landscape architects draw on a number of fields – such as engineering, architecture, art, planning, environmental science, and computerized design – to provide land beautification, environmental impact assessments, grading, and limited drainage system design. Although landscape architecture does not include the design of structures that are normally designed by licensed architects or engineers, landscape architectural services are often provided in coordination with these services on several types of projects. Landscape architects are involved in the planning of such sites as office plazas, public squares, parks, and thoroughfares.

To become a licensed landscape architect in Maryland, an applicant must meet the educational and experience requirements to the satisfaction of the board. An applicant must then pass the Landscape Architect Registration Examination (LARE), a nationally administered examination. *Senate Bill 293 (passed)* alters the educational and experience requirements that must be met by an individual seeking licensure with the board by establishing four distinct standards that an individual can meet in order to be eligible to take LARE and become licensed by the board.

### **State Board for Professional Engineers**

Engineering is the discipline, art, and profession of acquiring and applying technical, scientific, and mathematical knowledge to design and implement materials, structures, machines, devices, systems, and processes that safely realize a desired objective or invention. The State Board for Professional Engineers regulates the practice of engineering to safeguard life, health, and property. The major functions of the board include determining whether applicants qualify

for licenses and certificates, issuing licenses and certificates, administering examinations, investigating complaints about professional engineers, and enforcing the Maryland Professional Engineers Act.

### **Sunset Extension and Program Evaluation**

*Senate Bill 94/House Bill 69 (both passed)* implement the recommendations of the 2010 preliminary sunset evaluation conducted by DLS and extend the termination date for the board by 10 years to July 1, 2023. These recommendations were adopted at the December 21, 2010 LPC meeting. The bills require an evaluation of the board by July 1, 2022.

The bills also include a related reporting requirement that addresses, among other things, transitioning the board's examination administration to a private contractor; establishing and implementing continuing professional competency requirements; establishing firm permits or certificates of authorization with uniform requirements for all five design boards; implementing the new structural engineering exam; and instituting computer-based testing and establishing more rigorous educational requirements for licensure.

### **Increase in Membership and Practice Specialties**

*Senate Bill 728/House Bill 1135 (both passed)* increase the membership of the board by one member, from seven to eight. The bills specify that the additional member must be an engineer appointed without regard to specific professional practice who must represent other designations of professional engineering. The Maryland Society of Professional Engineers must submit a list of qualified individuals to fill the additional board member position.

### **Examinations**

*Senate Bill 290 (passed)* eliminates references to the method of delivery and duration of examinations that individuals must pass in order to be licensed by the board. The National Council of Examiners for Engineering and Surveying (NCEES) develops, administers, and scores examinations used for engineering and surveying licensure in all 50 states. According to DLLR, NCEES is likely to transition to a computer-based testing system. This change, when it occurs, will affect both the timeframe within which an applicant has to complete the examinations and the method of taking the examinations. The bill anticipates the upcoming computer-based delivery of examinations by striking references to "written" examinations and also to the length of the examinations ("8-hour"). Otherwise, the board lacks the proper statutory authority to administer a computer-based exam for professional engineers.

### **State Board of Public Accountancy**

The State Board of Public Accountancy regulates and licenses certified public accountants (CPAs) and issues permits to business entities that provide accountancy services. As of June 2010, there were about 19,900 licensed CPAs and about 730 firms with CPA permits in the State.



### **Educational Requirements for Examination and Licensure**

Most states require 150 semester hours of applicable course work in order to become a licensed CPA; however, many of these states – including Delaware, Massachusetts, New Jersey, New York, Pennsylvania, and Virginia – allow an applicant to take the CPA exam after completing only 120 semester hours. *Senate Bill 287 (passed)* specifies that a person may take the Uniform Certified Public Accountant Examination after completing 120 semester hours of college level course work and earning a baccalaureate degree. Even so, a person who passes the exam must still hold a baccalaureate degree in accounting, or an equivalent field, and must complete 150 semester hours of course work before being qualified for licensure with the board.

### **Preparation of a Compilation of Financial Statements**

*Senate Bill 370/House Bill 328 (both passed)* establish, clarify, and modify the definitions of services that constitute the practice of certified public accountancy. The bills also identify the conditions under which a nonlicensed individual may prepare a compilation and require the board to specify, by regulation, standard language for a disclosure statement regarding exemption from peer review requirements under specified circumstances. Compilation is defined as a presentation of information in the form of a financial statement that is performed in accordance with the Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants.

### **State Board of Master Electricians – Sunset Extension and Program Evaluation**

The State Board of Master Electricians shares licensing authority with county governments, all but two of which have a licensing program for master electricians. Counties with local licensing laws are required to establish licensing qualifications comparable to those required by the board. In the two jurisdictions that do not have local licensure, Garrett and Allegany counties, an electrician must have a State license to provide electrical services as a master electrician or be a representative of another person who engages in the business of providing electrical services. Otherwise, the State master electrician's license is a passport rather than a performance license as it does not grant a licensee the right to provide electrical services in most jurisdictions. Instead, it merely facilitates the process of obtaining a local license needed to conduct electrical work in a specific jurisdiction or in Delaware or Virginia, with which the State has reciprocity agreements.

In the full sunset evaluation of the board, DLS found that many jurisdictions do not report some or all formal disciplinary action to the board, which is required by Chapter 163 of 2002. Most jurisdictions also do not report annual complaint information to the board, as required, or to other jurisdictions. The evaluation also found that most other states, including Delaware and Virginia, require some type of continuing education for electricians, but Maryland does not. Even so, seven counties require some continuing education. *Senate Bill 235/House Bill 361 (both passed)* extend the termination date for the board by 10 years to July 1, 2023, and require evaluation of the board by July 1, 2022. The bills require individuals licensed with the board to



meet continuing education requirements as a condition of license renewal. The board must adopt the specific continuing education requirements for licensed electricians by regulation. The bills also require the board to submit a report to specified committees of the General Assembly that addresses whether or not local jurisdictions are meeting the reporting requirements established by Chapter 163 of 2002; the implementation of continuing education requirements for master electricians; DLLR's findings on the appropriate membership for the board, including whether it remains feasible to have three consumer member positions; and whether to limit the number of employees that may work under a qualified license.

### **State Board of Pilots – Limited Licenses to Provide Pilotage**

*Senate Bill 294 (passed)* changes references to the categories of limited licenses issued by the State Board of Pilots to make them consistent with other references to the license categories in State law. The categories of limited licenses issued by the board are based on vessel drafts; limited license categories of 32 feet, 36 feet, and 40 feet replace the references to categories of 28 feet, 34 feet, and 37 feet, respectively, to reflect changes due to legislation passed in the 2010 session. Chapter 125 of 2010 altered the categories of limited licenses issued by the State Board of Pilots by adjusting four sections of State law related to the limited license categories. However, two additional sections that should have been changed were overlooked; the bill brings those sections into conformity with the other four sections of law.

### **Other Issues Related to Business Occupations**

#### **Lawyers: Bar Admission Requirement – Exception for Rent Escrow Proceedings**

*Senate Bill 457/House Bill 653 (Chs. 66 and 67)* authorize any individual to represent a landlord, or specified law students or employees of nonprofit organizations to represent a tenant, in a rent escrow proceeding in the District Court of Maryland without having been admitted to the Maryland Bar.

#### **Employment for Military Spouses**

*Senate Bill 687/House Bill 998 (both passed)* require the Adjutant General of the Maryland Military Department or the Adjutant General's designee to assist the spouse of a member of the military who resides in the State or is transferred to the State in finding employment in Maryland upon request. The assistance provided by the Adjutant General or the Adjutant General's designee may include providing information relating to business occupations in the State that allow licensure by reciprocity; the informational form developed by the Maryland State Department of Education that lists and explains the various paths that can be taken in order to obtain tenure and certification as a teacher in the State; or information relating to health occupations in the State that permit licensure by reciprocity.

## Business Regulation

### Home Construction and Improvement

#### Maryland Home Improvement Commission

Home improvement contractors, subcontractors, and salespersons are required to be licensed by the Maryland Home Improvement Commission. Even so, within this industry, unlicensed practice is common. Also, although home improvement projects range from small repairs and handiwork to large-scale room additions and renovations, nothing in law limits the size of a project that a licensed contractor may undertake. Commission investigators respond to and attempt to resolve consumer complaints; staff also attempts to raise awareness of fraudulent practices and combats fraud and substandard industry practices by assisting in the prosecution of cases brought against unlicensed contractors. If informal attempts to resolve a complaint are unsuccessful and attempts to engage the parties in alternative dispute resolution fail, homeowners typically file a claim to obtain restitution from the Home Improvement Guaranty Fund, which was established to compensate homeowners for the “actual loss” due to a licensed home improvement contractor. The Guaranty Fund is maintained through assessments charged to licensed home improvement contractors at the time of their original licensure and when they renew their licenses. Losses due to actions of unlicensed individuals are not eligible for restitution from the Guaranty Fund.

*Senate Bill 236/House Bill 362 (both passed)* implement recommendations from the 2010 full sunset evaluation conducted by the Department of Legislative Services (DLS). The bills extend the termination date of the Maryland Home Improvement Commission by nearly 10 years – from October 1, 2012, to July 1, 2022 – and require evaluation of the commission by July 1, 2021.

The bills give the commission the authority to issue civil citations to individuals who fail to comply with State home improvement laws. The commission may establish, by regulation, a schedule of violations and associated fines. One-half of the fine revenue collected through the civil citation program is deposited into the general fund of the State, and the other half is deposited into a separate account within the Home Improvement Guaranty Fund and earmarked for expenses related to use of expert witnesses in disputed Guaranty Fund claims between a homeowner and licensed contractor.

In addition to the current statutory requirements for home improvement contracts, the bills require contractors to include a notice on all home improvement contracts specifying that consumer protections are available through the commission and advising the consumer of the right to purchase a performance bond for additional protection against actual loss caused by a home improvement contractor. In addition, the bills require all home improvement contracts to display the commission’s website address – in addition to the commission’s phone number. The bills also require the commission to publish, on its website, consumer education materials that describe the protections available through the commission, including the availability of compensation from the Guaranty Fund. The bills require the commission to develop a

searchable website that includes a listing of licensed contractors and information relating to any final disciplinary action taken by the commission against a licensee.

The bills also alter criminal penalties for unlicensed work because, for a first offense, criminal penalties for unlicensed practice have been less severe than the penalties for other violations of the Maryland Home Improvement Law. To make the penalties consistent, the bill increases the maximum time an individual may be imprisoned for acting without a license from 30 days to up to six months.

Because the commission's licensing fees have not been increased for 20 years, the bills minimally increase initial and renewal licensing fees (by \$25 each) for contractors, subcontractors, and salespersons. The bills also establish a \$20 processing fee for all initial applications.

*Senate Bill 236/House Bill 362* include extensive reporting requirements. The commission is required to submit a report in the event that the balance of the Guaranty Fund is projected to fall below \$250,000. The commission must report to the General Assembly within 30 days of any such projection and detail actions it is taking to restore the balance of the fund to a sustainable level. The bills also require, by October 1, 2012, that the commission report about several recommendations from the sunset evaluation, including a strategy for the implementation of multiple licensing levels for contractors; a summary of efforts taken to reduce the investigation and processing times for claims referred to the Office of Administrative Hearings; an analysis of the advisability of the institution of a performance bond requirement for all licensees and, if advisable, in what amounts and triggered by what contract price; a plan for facilitating better communication between licensees and consumers relating to contract performance completion dates; data regarding the number of Guaranty Fund claims settled through mediation; and any changes in the number of Guaranty Fund claims filed and any changes in the average time to resolve a claim.

Finally, the bills extend the date by which firms and companies that offer mold remediation services must be licensed by the commission. Chapter 537 of 2008 required licensure by June 1, 2010; however, funding to implement the requirement has not been provided. Thus, the licensing requirement is delayed to July 1, 2013, with corresponding changes to the mold remediation program's separate evaluation (July 1, 2018) and termination provisions (July 1, 2019).

### **Home Builders**

The Home Builder Registration Act requires a person to register and obtain a home builder's registration number in order to act as a home builder. In a November 2010 decision, the Maryland Court of Appeals held that a real estate developer who entered into a contract with a buyer to provide a new home was not required to be registered as a home builder because the contract specified that a third party – a registered home builder – was responsible for constructing the home. As a result, *Senate Bill 256/House Bill 1041 (Chs. 43 and 44)* specify that the definition of a "home builder" includes a person that enters into a contract with a consumer under which the person agrees to provide the consumer with a new home. The bills

further clarify that a home builder does not include a real estate developer who does not undertake home construction or enter into contracts with consumers to construct homes or a buyer's agent, as defined in statute, when representing a prospective buyer in the purchase of a new home.

### **State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors**

*Senate Bill 92/House Bill 68 (both passed)* implement the recommendations of the 2010 preliminary sunset evaluation conducted by DLS and extend the termination date for the State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration (HVACR) Contractors by 10 years to July 1, 2023. These recommendations were adopted at the December 21, 2010 meeting of the Legislative Policy Committee. The bills also require an evaluation of the board by July 1, 2022. The bills include a related reporting requirement that addresses the feasibility of requiring counties to enforce the State mechanical code; whether the board has adopted a regulation exempting individuals who install thermostats or switches under a public service company's demand response program from licensing requirements; issues arising from allowing unlicensed individuals to perform work related to a public service company's demand response program, if the board has adopted such an exemption; whether the board has identified additional ways of resolving consumer complaints after consulting with other State agencies; and the board's success at filling vacant positions and maintaining geographic representation among board members.

### **Retail Service Stations – Display of Gas Prices**

Retail service stations must advertise the lowest price of both regular and mid-grade gasoline sold at the station in accordance with specific signage requirements. If stations opt to post the price of diesel and other types of gasoline, they must purchase signs that include more than the required two lines to display prices for regular and mid-grade gasoline. However, *Senate Bill 101 (Ch. 25)* repeals the requirement for retail service stations to post the lowest price of mid-grade gasoline. The Act also clarifies that the signs retail service stations are required to maintain may state the lowest price for any whole measurement unit of diesel and other motor fuel products sold on the premises.

### **Business Oversight**

#### **Dealers and Processors**

*Junk Dealers and Scrap Metal Processors:* Chapters 198 and 199 of 2010 modified the definition of junk and scrap metal and altered recordkeeping requirements for junk dealers and scrap metal processors that operate in the State. Chapters 198 and 199 applied to all junk dealers and scrap metal processors, including those operating in jurisdictions that are generally exempted from statewide licensing and recordkeeping requirements, but did not require dealers in those jurisdictions to be licensed. Dealers and processors in generally exempted jurisdictions were also not subject to provisions that prohibited certain actions.

At the request of the Department of State Police, *House Bill 203 (Ch. 110)* subjects 11 jurisdictions (Baltimore City and Anne Arundel, Baltimore, Calvert, Caroline, Carroll, Dorchester, Kent, Somerset, Washington, and Worcester counties) to the same licensing requirements and regulatory provisions that apply to junk dealers and scrap metal processors in the other 13 counties of the State, thereby ensuring uniformity statewide. The Act also clarifies that licensed secondhand precious metal object dealers and pawnbrokers are not subject to provisions of law relating to junk dealers or scrap metal processors.

***Secondhand Precious Metal Object Dealers:*** Secondhand precious metal object industry trends in recent years have sparked both activity in the industry and enforcement by the Department of Labor, Licensing, and Regulation (DLLR). Between 2005 and January 2011, the price of gold increased from about \$500 per ounce to about \$1,350 per ounce. Over this same period, the number of licensed secondhand precious metal object dealers and pawnbrokers increased from about 260 to about 590. Therefore, at the request of DLLR, *House Bill 195 (passed)* increases the initial fee required for licensure as a secondhand precious metal object dealer or pawnbroker from \$75 to \$300. The bill also increases the biennial renewal fee from \$75 to \$265. Initial and renewal licensing fees have not been changed since they were set at \$75 in 1998, when the price of gold had dropped to about \$300 an ounce and the number of licensees correspondingly dropped to about 260, where it stayed for several years. The fee increases are expected to cover the costs associated with regulating a higher volume of licensees and the loss of federal grant funding that has been used for enforcement.

*House Bill 1143 (passed)* specifies that the Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act does not apply to the transactions of a retail jeweler with a fixed Maryland business address when the dealer accumulates precious metal objects in the course of performing repairs, remountings, fabrications, or custom orders. The bill requires dealers to ensure that any items that must be tagged with a transaction number must remain tagged for the entire period that the item is stored in the dealer's inventory. The bill also requires primary law enforcement units to adopt procedures that allow a dealer to amend required records that have been submitted to the law enforcement agency.

*Senate Bill 950/House Bill 1116 (both passed)* increase the length of the holding period for precious metal objects acquired by licensed secondhand precious metal object dealers in Prince George's County only from 18 to 30 days. The current 18-day holding period still applies, however, to a precious metal object that a dealer licensed in Prince George's County acquired in a pawn transaction. Further, the current holding period still applies to a precious metal object that an individual seeks to redeem by presenting the original ticket issued as part of the pawn transaction.

#### **Office of the Commissioner of Financial Regulation and the State Collection Agency Licensing Board**

The State Collection Agency Licensing Board regulates debt collection agencies; issues, suspends, and revokes licenses; reprimands licensees; receives and investigates written consumer complaints; and holds hearing on alleged violations of the Maryland Consumer Debt Collection

Act (MCDCA). For decades, Maryland residents have relied upon MCDCA for protection against creditors and collection entities that resort to abusive or harassing debt collection practices. Maryland statute defines a collection agency as a third party that collects or attempts to collect consumer debt or sells a system used to collect a consumer debt. Most entities that collect their own debt are not considered collection agencies and are, therefore, not regulated by the board. However, a third-party purchaser of a consumer debt must be licensed if the purchaser attempts to collect a consumer debt through civil litigation.

***Senate Bill 103/House Bill 358 (both passed)*** implement the recommendations of the 2010 full evaluation conducted by DLS by extending the termination dates for the Office of the Commissioner of Financial Regulation and the State Collection Agency Licensing Board by 10 years to July 1, 2022, requiring evaluation of both the commissioner's office and the board by July 1, 2021, and eliminating the Banking Board. The bills also require the commissioner's office to implement and report on a risk-based mortgage lender licensee examination schedule. The State Collection Agency Licensing Board and the Attorney General's Office are required to monitor whether the Maryland Judiciary has determined if the Maryland Rules should be amended to strengthen protections for defendants in consumer debt collection cases and report any of the Judiciary's findings and recommendations.

### **State Amusement Ride Safety Advisory Board**

The State Amusement Ride Safety Advisory Board consists of nine members appointed by the Governor with the advice and consent of the Senate. One member must be a mechanical engineer, one must represent owners of carnivals, one must represent the State fair and county fairs, two must represent owners of amusement parks, and four must be consumers. ***House Bill 108 (Ch. 99)*** requires that one member of the board represent amusement ride rental operators. To maintain the current level of board membership, the bill reduces the number of consumer members from four to three. The bill also requires that the composition of the board reflect the racial and gender composition of the State.

### **Local Regulations**

#### **Business License Fees in Baltimore County**

***Senate Bill 876/House Bill 1242 (both passed)*** alter licensing fees for certain types of businesses that operate in Baltimore County. For Baltimore County only, the bills eliminate the \$10 fee for a billiard table license; increase the fee for a resident construction license from \$15 to \$40; increase the nonresident construction license fee from \$50 to \$60; change the fee for a garage license from a variable fee based on square feet to a fixed \$6 per 100 square feet; increase the fee for a laundry and dry cleaner's license from between \$15 and \$100 depending on the number of employees to between \$40 and \$250; establish a \$40 fee for a plumber's license; increase the fee for a restaurant license from \$10 to \$50; increase the fee for a trader's license from between \$15 and \$800 depending on the value of stock-in-trade to between \$20 and \$1,600; and increase additional fees for a chain store license from between \$5 and \$150 depending on the number of stores to between \$12 and \$375.



### **Used Car Dealers in Baltimore City**

Under current law, in Howard, Montgomery, and Prince George's counties, a new or used automobile dealer may operate on a Sunday. In Anne Arundel County, a dealer may sell or show new or used trailers, mobile homes, or motorcycles but not other motor vehicles. Motorcycle sales are also allowed on Sundays in Worcester County. *Senate Bill 125/House Bill 624 (both passed)* allow used car dealers in Baltimore City to conduct business on Sunday, instead of Saturday, if the dealer notifies the Maryland Motor Vehicle Administration in advance.

### **Public Service Companies**

While electric generation and supply were among the most prominent issues brought to the General Assembly during the 2011 session, telephone and transportation bills also garnered attention from the legislature.

#### **Electricity**

##### **Service Quality and Reliability**

During the summer of 2010 and in the following winter season, several severe weather events resulted in extended electric service outages for customers in the Pepco service territory. Customers in the Baltimore Gas & Electric service territories also experienced extended winter storm outages. Although the Public Service Commission (PSC) initiated proceedings to investigate the storm outages and the utilities' responses (Case 9256 and RM43), State policymakers conducted their own hearings to examine what happened and what corrective measures were available or advisable. As a result, many bills were introduced during the 2011 legislative session seeking to improve service quality and reliability and induce utilities to improve performance.

*Senate Bill 692/House Bill 391 (both passed)* are administration-backed emergency bills that require PSC to adopt regulations by July 1, 2012, implementing service quality and reliability standards for the delivery of electricity to retail customers by electric companies. The bills establish a State goal that each electric company provide high levels of service quality and reliability in a cost-effective manner and that each electric company be held accountable if it fails to deliver reliable service. The bills specify requirements for the regulations and require PSC to convene a stakeholder workgroup to provide recommendations regarding the regulations. Electric companies must submit annual performance reports and PSC must evaluate compliance. The regulations must include service quality and reliability standards, including standards relating to (1) service interruptions; (2) downed wire response; (3) customer communications; (4) vegetation management; (5) periodic equipment inspections; and (6) annual reliability reporting.

On or before July 1, 2013, and July 1 of each year thereafter, PSC must determine whether each electric company has met the service quality and reliability standards. The

legislation requires PSC to take corrective action, including imposition of civil penalties, against electric companies, other than electric cooperatives, that fail to meet any or all of the applicable service quality and reliability standards. On or before February 1 of each year, each electric company is required to submit to PSC a performance report that summarizes the actual electric service reliability results for the preceding year.

The bills also increase the amount of a civil penalty that PSC may impose for a violation of a direction, ruling, order, or rule of PSC from \$10,000 to \$25,000 per day and increase the penalty for a safety violation from \$500 to \$25,000 per day. Electric companies may not recover the cost of civil penalties from ratepayers.

PSC is required to study and report on or before January 1, 2012, on issues relating to electrical surges, restoration plans, and suspension of decoupling during extended service disruptions.

### **Offshore Wind Generators**

*Senate Bill 861/House Bill 1054 (both failed)* were Administration bills that would have required PSC to order the State's four investor-owned electric companies to enter into a long-term power purchase agreement with one or more qualifying offshore wind generators. Under the bills, PSC would have issued a request for proposals and approve contracts awarded to an offshore wind generator for between 400 and 600 megawatts of nameplate capacity for a period of at least 20 years. The bills would have required PSC to establish a nonbypassable surcharge or other mechanism to ensure costs or savings associated with a power purchase agreement are shared equitably among all customers across all distribution territories, with some exceptions. Due to concerns about the increased cost of power-purchase agreements with offshore wind generators, the bills were held for further study in the legislative interim.

### **Renewable Energy Portfolio Standards**

Maryland's Renewable Energy Portfolio Standard (RPS) was established in 2004 in order to recognize the economic, environmental, fuel diversity, and security benefits of renewable energy resources; establish a market for electricity from those resources in Maryland; and lower consumers' cost for electricity generated from renewable sources. RPS is a policy that requires suppliers of electricity to meet a portion of their energy supply needs with eligible forms of renewable energy. An electricity supplier must meet RPS by accumulating "renewable energy credits" (RECs) created from various renewable energy sources classified as Tier 1 and Tier 2 renewable sources. An electricity supplier must pay an alternative compliance payment (ACP) for any shortfall in meeting RPS. For most renewable sources, the percentages of RPS gradually increase while ACP remains constant and eventually declines.

Owners of renewable generating facilities sell RECs associated with their facilities and the payment received for those RECs helps to offset a portion of the installation costs. RECs can be purchased and traded in an open exchange, allowing electricity suppliers to purchase RECs directly from generators or through a third-party reseller.



Chapter 120 of 2007 revised Maryland's RPS to include a solar carve-out, requiring that at least 0.005% of electricity in 2008 be from solar generation increasing to at least 2.0% in 2022. The Act also increased total Tier 1 requirements as a result of the added solar component. Chapters 125 and 126 of 2008 amended Maryland's RPS by increasing the percentage requirements of the Tier 1 RPS to equal 20% in 2022 and beyond. Chapters 135 and 136 of 2008 included poultry-to-energy as a source eligible to meet the Tier 1 RPS.

Chapter 494 of 2010 increased the solar RPS percentages and the ACP payment amounts for the solar RPS from 2011 through 2016, accelerating the ramp-up of the solar RPS obligation and increasing the incentive for the installation of solar capacity. To meet the 2% solar obligation in 2022 with SRECs, the installed solar capacity in the State will need to increase from roughly 27 MW or less at the end of 2010 to an estimated 1,300 MW in 2022.

### **Waste-to-energy**

*Senate Bill 690 (passed)* alters RPS to designate energy from waste-to-energy as a Tier 1 renewable source rather than Tier 2 renewable source. The bill also adds refuse-derived fuel as a Tier 1 renewable source. Refuse-derived fuel, not currently a Tier 2 renewable source, is created from municipal solid waste by finely shredding the material before combustion. A waste-to-energy or refuse-derived fuel facility must be connected with the electric distribution grid serving Maryland in order to be eligible for inclusion in meeting Tier 1 RPS. A waste-to-energy or refuse-derived fuel facility is eligible for inclusion in meeting Tier 1 RPS regardless of when the facility was placed in service. The bill provides a significant monetary incentive, in the form of Tier 1 RECs, to the owners of existing waste-to-energy facilities, future planned waste-to-energy and refuse-derived fuel facilities. These facilities, an alternative to land filling trash, must comply with clean air standards.

### **Solar Water Heating**

The U.S. Department of Energy (DOE) indicates that solar hot water is one of the most cost-effective ways to incorporate renewable technologies into a building and that a typical residential solar hot water system reduces the need for conventional water heating by about two-thirds.

*Senate Bill 717/House Bill 933 (both passed)* are Administration-supported bills that establish solar water heating systems as a Tier 1 renewable source eligible to meet the Tier 1 solar portion of RPS. An owner of a solar water heating system installed on or after June 1, 2011, may receive solar renewable energy credits (SRECs) equal to the amount of electricity saved by using a solar water heating system. The bills specify how SRECs from a solar water heating system are calculated, establish metering requirements for commercial customers, and establish a maximum limit on the number of SRECs that a residential solar water heating system may generate in any one year. Granting ownership of SRECs to an owner of a solar water heating system significantly reduces installation costs and provides a meaningful benefit to both households and small businesses that purchase these energy conservation systems.

**House Bill 306 (passed)** reestablishes the Task Force on Solar Hot Water Systems in Prince George's County. The task force must develop a business plan to achieve substantial use of solar hot water systems over a relatively short period of time in a way that saves money for Prince George's County residents and businesses and that reduces carbon emissions. In addition to developing a business plan, the task force must study and report to specified legislative committees and units of county government on several matters relating to the practical deployment of solar hot water systems, incentives, and market structures. The bill also specifies intent that, to the extent possible, the same individuals be appointed to the task force as those appointed to the Task Force on Solar Hot Water Systems in Prince George's County established under Chapter 649 of 2010, which terminated December 31, 2010.

### **Net Energy Metering**

Net energy metering is the measurement of the difference between the electricity that is supplied by an electric company and the electricity that is generated by an eligible customer-generator and fed back to the electric company over the eligible customer-generator's billing period. An "eligible customer-generator" is a customer that owns and operates, or leases and operates, a biomass, solar, fuel cell, wind, or micro combined heat and power (micro-CHP) electric generating facility located on the customer's premises or contiguous property; interconnected and operated in parallel with an electric company's transmission and distribution facilities; and intended primarily to offset all or part of the customer's own electricity requirements. The generating capacity of an eligible customer-generator for net metering may not exceed two megawatts.

Chapters 437 and 438 of 2010 altered the net energy metering program by changing the way an eligible customer-generator may accrue credits from excess generation from a kilowatt-hour (kWh) basis to a dollar basis and established the conditions under which an electric company must provide payment to an eligible customer-generator for excess generation. The Acts also required PSC to (1) establish a technical working group to address issues relating to the pricing mechanisms for different hours and seasons, meter aggregation, and the transfer of generation credits or aggregation of generation among separate accounts; and (2) adopt implementing regulations. PSC adopted regulations that would require generation credits to be valued based on PJM's locational marginal pricing mechanism, even though the acknowledged result would decrease the value of credits for most net-metered generation other than summer-peak solar generation.

**Senate Bill 380/House Bill 860 (both passed)** are Administration-supported member bills that alter the net energy metering program by changing the way most eligible customer-generators may accrue credits from excess generation from a dollar basis back to a kilowatt-hour basis. Eligible customer-generators may accrue net excess generation for a 12-month accrual period and electric companies must carry forward net excess generation until the customer's electricity consumption eliminates the net excess generation or the 12-month accrual period expires.

The bills repeal existing provisions that govern payment for excess generation and establish new rates and payment conditions for a customer's net excess generation at the end of the 12-month accrual period. The dollar value of net excess generation must be equal to the average generation or commodity rate that the eligible customer-generator would have been charged over the 12-month accrual period, multiplied by the number of kWh of net excess generation. For customers served by an electricity supplier, the dollar value is equal to the generation or commodity rate that the customer would have been charged, multiplied by the number of kWh of net excess generation. The legislation also repeals the authority of PSC to require the use of a dual meter for certain customer-generators and related provisions, alters a reporting deadline for PSC, and establishes a monthly payment option for customers of certain electric cooperatives.

**Senate Bill 271 (Ch. 47)** expands the sources of generation that are eligible for net energy metering to include a closed conduit hydroelectric generating facility. A closed conduit hydroelectric facility must generate electricity within existing piping or limited adjacent piping of a potable water supply system; be owned by a municipality or public water authority; and be designed to produce less energy than is consumed to operate the water supply system. An example of a closed conduit hydroelectric generating facility is the equipment the City of Frostburg plans to install. The city obtains its water supply from Piney Dam and pumps the water from the reservoir to the top of Big Savage Mountain. The water then flows downhill to the city through two water mains, into which the city plans on installing generators to recapture this energy.

## **Other Electricity Issues**

### **Customer Education and Customer Choice**

**Senate Bill 244/House Bill 597 (both passed)** require PSC to take certain actions to increase awareness about competitive electric supply options. PSC must host and regularly update a customer choice education page on its website and must work with local media outlets to develop and air public service announcements publicizing customer choice. PSC must recover associated costs through the annual assessment on public service companies. By July 1, 2011, PSC must convene a workgroup of interested parties to advise PSC on improvements to the PSC website information and on additional methods of consumer education that can effectively supplement the bills' requirements.

### **Certificate of Public Convenience and Necessity**

State law specifies that an *electric company* must be granted a certificate of public convenience and necessity (CPCN) from PSC before beginning construction of an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts or exercise a right of condemnation with the construction.

In January 2010, PSC received an application for a CPCN from a person seeking to construct a transmission line connecting an out-of-state wind generating facility to a Maryland substation. Through docketed Case No. 9222, PSC determined that an out-of-state generating

station could not obtain a CPCN to construct the Maryland portion of an overhead transmission line. Additionally, PSC determined that State law does not allow a nonelectric company to obtain a CPCN for a transmission line.

*Senate Bill 691/House Bill 590 (Chs. 83 and 84)* specify that a person must obtain a CPCN from PSC to construct a qualified generator lead line. A “qualified generator lead line” is an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts and would allow an out-of-state Tier 1 or Tier 2 renewable source to interconnect with a portion of the electric system in Maryland that is owned by an electric company. A person may not apply for a CPCN to construct a qualified generator lead line unless the person offered the electric company that owns the portion of the grid to which the qualified generator lead line would interconnect the right of first refusal to construct the qualified generator lead line.

### **Electric Vehicle Charging Program**

*Senate Bill 179/House Bill 164 (both passed)* are Administration bills that require PSC to establish by regulation or order, by June 30, 2013, a pilot program for electric customers to recharge electric vehicles during off-peak hours. PSC must make every effort to involve at least two electric companies in the pilot program, and an electric company may request to participate. The pilot program must include incentives for residential, commercial, and governmental customers to recharge electric vehicles. The incentives should increase the efficiency and reliability of the electric distribution system and lower electricity uses at times of high demand. The incentives may include time-of-day pricing; credits on distribution charges; rebates on the cost of charging systems; demand response programs; or other incentives approved by PSC. PSC must report to the Governor and the General Assembly on the experience of the pilot program and its findings by February 1, 2015.

### **Telephone Service**

The Code of Maryland Regulations (COMAR 20.45.04.11) requires telephone companies to publish an alphabetical directory once a year. The directory must include each customer, except public telephones and numbers unlisted at the customer’s request. The telephone company must provide each customer with a copy of the directory or directories covering the customer’s calling area. Additional copies must be made available on request and a copy must be filed with PSC.

*Senate Bill 718/House Bill 529 (both passed)* allow a telephone company to require its customers to opt in to receiving a copy of a telephone directory (other than advertisement-based business directions), as long as the telephone company provides notice as to how a customer may request a print telephone directory. The notice must (1) include a toll-free telephone number a customer may call to request a print telephone directory; (2) be included in each customer’s bill at least once each year and placed on the company’s website; and (3) be included in bold red print on the front cover and the table of contents page of any print advertisement-based business directory distributed on behalf of the telephone company through September 30, 2016. If a customer requests a print telephone directory, the telephone company must deliver the directory

to the customer at no cost to the customer. PSC must review complaints received from residential customers who have indicated that they have not received a print telephone directory and determine whether the legislation's notification requirement is adequate for various customer groups. PSC must report its findings to the standing committees with jurisdiction by October 1, 2013.

## **Transportation**

PSC regulates motor carriers and issues permits. With certain exceptions, a motor carrier permit issued by PSC is required for a passenger motor vehicle used in the transportation of persons for hire. Among others, permitting exceptions include:

- motor vehicles used exclusively for the transportation of pupils to and from public or private schools;
- public transportation systems for Allegany, Frederick, and Washington counties; and
- public transportation for hire authorized to operate on the boardwalk in Ocean City.

For motor carriers operating in Montgomery and Prince George's counties, authority to operate must be granted by the Washington Metropolitan Area Transit Commission (WMATC). A motor carrier operating solely in the area of WMATC authority need not obtain a motor carrier permit from PSC.

***Senate Bill 402 (passed)*** exempts a local public transportation system of a county or municipal corporation, or a motor vehicle used by a privately owned transportation company exclusively to provide transportation system services under a contract with the governing body of a county, municipal corporation, or with a unit of State government, from the requirement to obtain a motor carrier permit from PSC. A vehicle owned by a privately owned transportation company that is not used exclusively to provide transportation services under a contract with a county, municipal corporation, or unit of State government, must still obtain a motor carrier permit from PSC.

Chapters 346 and 347 of 2008 exempted the University of Maryland, College Park (UMCP) shuttle bus service from the requirement to have a motor carrier permit as long as the service is extended to residents of the City of College Park. The exemption expires on June 30, 2011. ***House Bill 1005 (passed)*** extends the termination date of the exemption to June 30, 2014. Further, the bill also authorizes UMCP to enter into an agreement to provide transportation services on the UMCP shuttle bus to residents of any municipality where the shuttle bus operates. The Department of Transportation in the University of Maryland, College Park is required to report on specified information to the standing committees with jurisdiction by January 1, 2013.

## Insurance (Other Than Health)

### Property and Casualty Insurance

#### Certificates of Insurance and Certificate of Insurance Forms

*Senate Bill 656/House Bill 982 (both passed)* prohibit a person from requiring an insurer or insurance producer to prepare or issue, or a policyholder to provide, a certificate of insurance that contains false or misleading information relating to the policy of insurance referenced in the certificate. A person is prohibited from preparing or issuing a certificate of insurance that the person knows contains false or misleading information or that purports to amend, alter, or extend the coverage provided by the policy of insurance referenced in the certificate. In addition, a person may not prepare, issue, or require, either in addition to or in lieu of a certificate of insurance, an opinion letter or other document that is inconsistent with the provisions of the bills.

The bills define a “certificate of insurance” as any document or instrument, however titled or described, that is prepared or issued by an insurer or insurance producer as evidence of property insurance or casualty insurance coverage. A certificate of insurance does not include a policy of insurance or an insurance binder. The bills do not apply to a statement, summary, or evidence of property insurance required by a lender that holds a loan secured by a mortgage, a lien, a deed of trust, or any other security interest in real or personal property as security for the loan. A certificate of insurance is not a policy of insurance and does not amend, alter, or extend the coverage provided by the policy referenced in the certificate or confer on the certificate holder any new or additional coverage not provided by the policy.

A certificate of insurance or any other document prepared, issued, or required in violation of *Senate Bill 656/House Bill 982* is void and unenforceable. The Maryland Insurance Commissioner may examine and investigate the activities of any person the Commissioner reasonably believes has been or is engaged in an act or practice prohibited by the bills. Finally, the bills require the Commissioner to study the impact of requiring a certificate of insurance to be in a form that must be filed with and approved by the Commissioner before use and to report the findings by December 1, 2011. The study must include a review of states with similar requirements.

#### Delivery of Notices by Electronic Means

*Senate Bill 571/House Bill 763 (both passed)* authorize an insurer to deliver by electronic means any notice to a party (an applicant, insured, or policyholder) related to cancellations, nonrenewals, premium increases, or reductions in coverage if (1) the party has affirmatively consented to that method of delivery and has not withdrawn the consent; (2) the process used to obtain consent meets the requirements of the Maryland Uniform Electronic Transactions Act; and (3) the party is provided, before giving consent, with a clear and conspicuous statement informing the party of specified rights and other information about the scope of the party’s consent. Delivery of a notice in accordance with the provisions of the bills must be considered equivalent to any delivery method, including first-class mail, certified mail,



certificate of mail, or certificate of mailing, required under Title 27, Subtitle 6 (Cancellations, Nonrenewals, Premium Increases, and Reductions in Coverage) of the Insurance Article.

The bills define “delivered by electronic means” to include (1) delivery to an electronic mail address at which a party has consented to receive notice; and (2) posting on an electronic network, together with separate notice to a party directed to the electronic mail address at which the party has consented to receive notice of the posting.

Withdrawal of a party’s consent is effective within a reasonable period of time after the insurer receives the withdrawal and does not affect the legal effectiveness, validity, or enforceability of an electronic notice provided to the party before the withdrawal of consent is effective. Furthermore, the legal effectiveness, validity, or enforceability of a contract or policy of insurance may not be denied solely because of the failure to obtain the party’s appropriate electronic consent or confirmation of consent.

The bills do not apply to an electronic notice delivered before October 1, 2011, to a party who has given consent to receive notice in an electronic form before October 1, 2011. If the party’s consent is on file with the insurer before October 1, 2011, the insurer must notify the party of the notices that may be electronically delivered under the bills and the party’s right to withdraw the consent to have notices delivered by electronic means.

The bills may not be construed to modify, limit, or supersede the provisions of the federal Electronic Signatures in Global and National Commerce Act relating to the use of an electronic record to provide or make available information that is required to be provided or made available in writing to a party.

### **Homeowner’s Insurance**

***Model Information – People’s Insurance Counsel:*** If an insurer uses a catastrophic risk planning model or other model in setting homeowner’s insurance rates or refusing to issue or renew homeowner’s insurance because of the geographic location of the risk, the insurer must (1) file with the Maryland Insurance Commissioner a description of the specific model used; and (2) make arrangements for the vendor of the model to explain to the Commissioner the data used in the model and the manner in which the output is obtained. The information contained in the filings is proprietary and confidential commercial information protected under the State Government Article.

***House Bill 1082 (Ch. 154),*** requires an insurer that uses a catastrophic risk planning model or other model to set homeowner’s insurance rates or refuse to issue or renew a homeowner’s policy because of the geographic location of the risk to make arrangements for the vendor of the model to explain to the People’s Insurance Counsel the data used in the model and the manner in which the output is obtained. The People’s Insurance Counsel must maintain the confidentiality of any proprietary and confidential commercial information it has obtained.

***Victims of Crimes of Violence – Discrimination Prohibited:*** Under Maryland law, an insurer or insurance producer may not (1) refuse to underwrite or require special conditions,

facts, or situations as a condition to its acceptance of a particular insurance risk or class of risk for a reason based on race, color, creed, sex, or blindness of an applicant or policyholder or for any arbitrary, capricious, or unfairly discriminatory reason; or (2) refuse to underwrite a particular insurance risk or class of risk except for reasons reasonably related to the insurer's economic and business purposes. Furthermore, an insurer offering policies of life insurance or health insurance is prohibited from discriminating against a person based on the person's status as a victim of domestic violence.

***Senate Bill 317/House Bill 647 (both passed)*** expands these protections against discrimination by prohibiting an insurer, based solely on information about an individual's status as a victim of a crime of violence, from (1) canceling, refusing to underwrite or renew, or refusing to issue a policy of homeowner's insurance; (2) refusing to pay a claim under a policy of homeowner's insurance; or (3) for a policy of homeowner's insurance, increasing a premium, adding a surcharge, applying a rating factor, retiering a policy, removing a discount, or taking any other adverse underwriting or rating action. Additionally, if a policy of homeowner's insurance excludes property coverage for intentional acts, an insurer may not deny payment for a loss to a victim who (1) is an innocent coinsured; (2) did not commit, cause to be committed, or direct the crime of violence leading to the loss; and (3) cooperates in any criminal investigation and, if undertaken, any prosecution of the perpetrator. In the event of a violation, the Maryland Insurance Commissioner may order the insurer to accept the risk or business.

Payment to an innocent coinsured may be limited to the amount of the loss up to the homeowner's insurance policy limits, less any applicable deductible and coinsurance and any payment to a secured party. An insurer has the right of subrogation against the perpetrator of the crime of violence that led to the loss and may exclude any property owned solely by the perpetrator from coverage under the homeowner's insurance policy.

For purposes of the bills, a "victim" is defined as a policyholder or claimant who suffers personal injury, death, or property loss as a result of a crime of violence; and a "crime of violence" is defined as any of the acts specified in § 14-101 of the Criminal Law Article.

### **Motor Vehicle Insurance**

Generally, an insurer or insurance producer may not cancel or refuse to underwrite or renew a particular insurance risk or class of risk except by the application of standards that are reasonably related to the insurer's economic and business purposes. Therefore, if an insured files a protest against an insurer's adverse decision to cancel or refuse to renew a policy based on a behavior of the injured, the insurer must introduce statistical proof that continuing to insure the insured will materially adversely affect the insurer's bottom line.

Maryland insurance law, however, establishes a number of standards that are reasonably related to an insurer's economic and business purposes and which do not require statistical validation. For private passenger motor vehicle insurance, these standards include conviction of the named insured or covered driver of an offense relating to driving or attempting to drive any vehicle while (1) under the influence of alcohol or under the influence of alcohol *per se*;



(2) impaired by drugs, or a combination of drugs and alcohol; or (3) impaired by a controlled dangerous substance.

*Senate Bill 885 (Ch. 89)* expands the listing of standards by authorizing insurers to cancel or refuse to underwrite or renew a particular insurance risk or class of risk if the insured is convicted of a violation relating to driving or attempting to drive any vehicle while impaired by alcohol.

### **Surplus Lines Insurance**

In 2010, the U.S. Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act, which includes the Nonadmitted and Reinsurance Reform Act of 2010 (NRRA). NRRA, which takes effect July 21, 2011, requires states to pass legislation before this date in order to avoid any conflicts with federal law.

According to the National Association of Professional Surplus Lines Offices, NRRA simplifies regulatory compliance obligations and premium tax payments for surplus lines brokers involved in multistate transactions by allowing only the insured's home state to collect premium taxes and license a surplus lines broker. NRRA allows states to enter into a compact to share the premium taxes. NRRA defines "home state," with respect to an insured, as the insured's principal place of business or principal residence or, if 100% of the insured risk is located out of the state with the principal place of business or principal residence, the state with the greatest percentage of the insured's taxable premium for that insurance contract.

NRRA also allows surplus lines brokers to place insurance on behalf of commercial purchasers meeting specified requirements without having to first perform a diligent search requirement, and creates national eligibility requirements to be used in every state.

*Senate Bill 694/House Bill 959 (both passed)* amend the Maryland Surplus Lines Insurance Law to comply with NRRA. In accordance with NRRA, for policies effective on or after July 21, 2011, the placement and regulation of nonadmitted insurance is subject to the statutory and regulatory requirements solely of the insured's home state. For policies effective on or after July 21, 2011, Maryland may only collect premium receipts tax payments and reports for nonadmitted insurance if Maryland is the home state of an insured. The bills clarify that, for policies effective before July 21, 2011, the premium tax receipts must be computed according to the portion of property, risk, or exposures located or to be performed in the State. Maryland collects approximately \$12 million annually in premium tax on surplus lines insurance.

If a surplus lines broker is used, the surplus lines broker must (1) provide the Maryland Insurance Commissioner with a report, on a form that the Commissioner prescribes, on the business subject to tax during the period since the last report; and (2) pay the total amount of tax as stated in the report. If a surplus lines broker is not used, for policies effective on or after July 21, 2011, an insured must (1) provide the Commissioner with a report, on a form that the Commissioner prescribes, on the business subject to tax during the period since the last report; and (2) pay the total amount of tax as stated in the report. For policies effective before

July 21, 2011, an insured must file the report within 60 days after the date that the insurance was procured.

The bills prohibit the Commissioner from approving a nonadmitted insurer as a surplus lines insurer unless the insurer is authorized in its domiciliary jurisdiction to write the type of insurance it seeks to write. A nonadmitted insurer must also have the necessary capital and surplus and file specified information with the Commissioner. A surplus lines broker may not place surplus lines insurance with a nonadmitted insurer that has not been approved by the Commissioner in accordance with these requirements. However, if a foreign nonadmitted insurer has capital and surplus of \$4.5 million or greater, the Commissioner may affirmatively find that the nonadmitted insurer is acceptable based on specified findings, including the insurer's reputation, quality of management, and underwriting profit and investment income trends.

The bills also conform the Maryland Surplus Lines Insurance Law's requirements for an exemption from the duty to perform a diligent search before procurement of a surplus lines insurance policy from a nonadmitted insurer to NRRA requirements.

Finally, the bills require the Commissioner to (1) participate in the National Insurance Producer Database maintained by the National Association of Insurance Commissioners; (2) cooperate with other states to adopt and implement uniform requirements for nonadmitted insurance in compliance with NRRA; and (3) study and report to specified legislative committees on what other states are doing to implement the federal law by January 1, 2012.

## **Life Insurance and Annuities**

### **Life Insurance – Definition and Permitted Riders and Provisions**

*Senate Bill 255/House Bill 496 (Chs. 41 and 42)* expand the definition of "life insurance" to include granting (1) additional benefits for a second opinion for specified health conditions; and (2) additional benefits that meet specified requirements and provide a lump-sum benefit for a specified disease. The Acts also authorize a life insurance policy to include a rider or supplemental policy provision that operates to safeguard the contract from lapse in the event of involuntary unemployment.

Finally, the Acts require the Maryland Insurance Administration, in consultation with the life insurance industry, to conduct an analysis of the appropriate scope of health insurance products that may be sold in conjunction with a life insurance policy in light of the expanded definition of life insurance, determine any necessary legislative changes, and report its findings by December 1, 2011.

### **Retained Asset Accounts – Beneficiaries' Bill of Rights**

Retained asset accounts offer beneficiaries flexibility by allowing them time to decide what to do with the proceeds of a life insurance policy while earning interest on the proceeds. However, beneficiaries may be able to earn a higher rate of interest by selecting an alternate

method of payout. Additionally, some insurers may charge administrative or maintenance fees for retained asset accounts and, if the account becomes inactive, it could escheat to a state unclaimed property fund.

*Senate Bill 217 (Ch. 38)*, based on the National Conference of Insurance Legislators' Beneficiaries' Bill of Rights model law for retained asset accounts, provides protections for beneficiaries of life insurance policies and annuity contracts who are offered a retained asset account as a settlement option. The Act defines a "retained asset account" as any mechanism whereby the settlement of proceeds payable under a life insurance policy or an annuity contract is accomplished by the insurer or an entity acting on behalf of the insurer depositing the proceeds into a checking or draft account, where those proceeds are retained by the insurer in accordance with a supplementary contract.

Under the Act, insurers offering retained asset accounts as the mode of settlement of proceeds payable under a life insurance policy or annuity contract offer at least one other mode of settlement of proceeds and make specified disclosures to the beneficiary, including (1) all the settlement options available under the policy or contract; (2) a recommendation to consult an advisor regarding tax liability and investment options; and (3) an explanation of the features of the retained asset account. An insurer is not required to provide the specified disclosures if (1) the insurer permits the beneficiary to file the claim over the telephone; (2) the insurer does not require the beneficiary to file a death certificate or other paperwork to file the claim for proceeds; and (3) the beneficiary selects payment of a lump-sum check, payable directly to the beneficiary, as the settlement option during the telephone call in which the beneficiary files the claim for proceeds.

A violation of the Act is an unfair trade practice under Title 27 of the Insurance Article. The Act applies to claims for death benefits under individual or group life insurance policies or annuity contracts issued, delivered, or renewed in the State on or after October 1, 2011.

## **Horse Racing and Gaming**

### **Horse Racing**

#### **Distribution of Video Lottery Revenues**

In February 2009, the Video Lottery Facility Location Commission (Location Commission) received two proposals for a video lottery terminal (VLT) facility in Anne Arundel County, one for a facility at Laurel Park and the other for a facility adjacent to Arundel Mills Mall. The Location Commission rejected the Laurel Park proposal for failure to pay the required initial license fee and eventually awarded the VLT operation license for the Arundel Mills location. After a local referendum on the Arundel Mills VLT facility passed in November 2010, thus allowing construction on that facility to go forward, Maryland Racing Inc., which encompasses Laurel Park, Pimlico Race Course, and other horse racing interests in the State, submitted a calendar 2011 racing schedule of 47 live thoroughbred racing days to the Maryland

Racing Commission for approval. This proposed number of live racing days was significantly less than the 146 live racing days conducted in calendar 2010.

The Racing Commission rejected Maryland Racing Inc.'s proposal for 47 live racing days in calendar 2011, and a subsequent proposal to run 77 live racing days was also not approved. In order to prevent the potential closure of Laurel Park and the Bowie Race Course Training Center, an agreement was eventually reached between the Administration, the racetrack owners, the Maryland Horse Breeders' Association, and the Maryland Thoroughbred Horsemen's Association to provide financial assistance that would allow for 146 live racing days in calendar 2011. As part of this agreement to subsidize racetrack operations for calendar 2011, the Maryland Economic Development Corporation (MEDCO) will provide \$3.6 million and the breeders/horsemen associations will contribute \$1.7 million for operating expenses. Revenues from the Racetrack Facility Renewal Account (RFRA) will be used to repay MEDCO for the financial assistance provided for racetrack operations in calendar 2011.

Under current law, 7% of VLT proceeds go to the Purse Dedication Account (PDA) to fund thoroughbred and standardbred purses and bred funds in the State, and 2.5% of VLT proceeds go to RFRA to fund racetrack capital construction and improvement projects. *House Bill 1039 (passed)* alters the distributions and uses of PDA and RFRA to provide operating assistance to thoroughbred and standardbred racing licensees in calendar 2012 and 2013. Specifically, Ocean Downs Race Course and Rosecroft Raceway may each receive up to \$1.2 million from PDA to support a minimum of 40 live racing days in calendar 2012 only. As a condition of receiving the specified operating assistance, Rosecroft Raceway must rehire workers employed at the racetrack prior to the end of live racing on June 27, 2008, and recognize collective bargaining agreements that were in place June 1, 2008.

Under *House Bill 1039*, Laurel Park and Pimlico Race Course may receive up to \$6.0 million per year in both calendar 2012 and 2013 from RFRA to support a minimum of 146 live racing days in each year. The amounts provided under current law to the Racecourse at Timonium from RFRA for capital construction and improvements are increased through fiscal 2014, and Timonium may use up to \$350,000 per year of the amounts provided as operating assistance to support a minimum of seven live racing days each year. In order to receive the specified operating assistance, each thoroughbred racing licensee must submit an application that includes a 12-month business plan and a five-year business plan that highlights the economic challenges facing the facilities along with strategies to address those challenges. Under the bill, a licensee may not be reimbursed for extraordinary expenses including litigation costs, lobbying fees, predevelopment costs, and certain prior-year adjustments and claims.

The bill makes the operating assistance conditional upon the recipients' good-faith effort to resolve a longstanding dispute with respect to simulcasting agreements. As a condition of eligibility for funding, *House Bill 1039* requires the respective parties to take affirmative steps to reach a simulcasting agreement that runs through at least December 31, 2013. To the extent an agreement is not reached by July 1, 2011, the parties may consent to mediation to ultimately reach an equitable simulcasting agreement. By October 1, 2011, if mediation proves unsuccessful, the parties must consent to binding arbitration.

In addition, **House Bill 1039** grants the State the first right of refusal to purchase the Bowie Race Course Training Center if the facility is no longer required to be operated as a thoroughbred training facility. The bill also gives the City of Bowie the second right of refusal to purchase the Bowie training facility should the State decline to purchase the facility.

**House Bill 1039** also creates a Thoroughbred Racing Sustainability Task Force comprised of various industry stakeholders. By December 1, 2011, the task force must develop a plan for the long-term viability of thoroughbred racing in the State based on a minimum of 146 live racing days per calendar year. The Comptroller may not pay out the aforementioned operating assistance for the thoroughbred racetracks for the 2013 racing season until the Governor approves the task force's plan.

## **Gaming – Video Lottery Terminals**

### **Implementation of Video Lottery Facilities**

In February 2009, the Location Commission rejected the single proposal submitted for the Allegany County video lottery operation license for failing to meet the minimum requirements of the VLT law and the request for proposals, including failure to pay the required initial license fee. In January 2010, the Location Commission made several recommendations to the General Assembly related to the Allegany County location with the hope that the location could be made more attractive to potential bidders. In response, the General Assembly enacted Chapter 624 of 2010, which altered several provisions regarding the Allegany County VLT facility location. Subsequent to the enactment of Chapter 624, the Location Commission issued a new RFP for the Allegany County location in July 2010, with proposals due in November 2010. Unfortunately, no proposals were received for the Allegany County location.

In an effort to provide further incentives for potential applicants for the Allegany County location, **Senate Bill 512 (passed)** is an emergency bill that makes several changes related to the Allegany County location. The bill increases the Allegany County video lottery operation licensee's share of the proceeds to 50% for the first 10 years of operations and reduces all other revenue distributions, except for the State Lottery Agency, for the same time period. The bill also prohibits the award of a video lottery operation license in Allegany County unless the applicant agrees to purchase the Rocky Gap Lodge and Resort (the lodge). However, the bill allows the purchase price for the lodge to be counted toward the applicant's direct investment requirement of \$25 million for each 500 VLTs proposed. The bill also repeals the requirement that VLTs be permanently located in a separate facility from the lodge. However, if VLTs are permanently located in the lodge and current meeting space is displaced, the licensee must provide for meeting space that is accessible from the lodge within three years.

**Senate Bill 512** also reduces the maximum number of VLTs for the Allegany County facility from 1,500 to 1,000, waives the initial license fee for up to 500 VLTs for the Allegany County operation license, and allows all VLT facilities to extend operating hours from 2:00 a.m. until 4:00 a.m. on the weekends. Further, the bill clarifies that all VLTs, associated equipment and software are exempt from personal property tax. Lastly, the bill allows an eligible fund

manager receiving funds from the Small, Minority, and Women-Owned Businesses Account to use a portion of those funds for administrative and related fees.

### **Video Lottery Operation Licensees – Noninterference**

*Senate Bill 373/House Bill 868 (both passed)* are emergency bills that prohibit a video lottery operation licensee from directly or indirectly interfering with the implementation or establishment of a video lottery facility by any other licensee or applicant. Under the bills, the State Lottery Commission is required to adopt regulations, to the fullest extent allowed by the First Amendment of the U.S. Constitution, to implement the legislation. The regulations must include provisions that expressly prohibit certain actions related to State or local governmental approvals for the establishment of a video lottery facility.

### **Minority Business Participation Requirements – Sunset Extension**

Under current law, for the construction and procurement related to the operation of video lottery terminals, an applicant for a video lottery operation license or a licensee must, at a minimum, meet the same requirements of a designated unit of State government for minority business participation. The State's Minority Business Enterprise (MBE) Program establishes a goal that at least 25% of the total dollar value of each agency's procurement contracts be awarded to MBEs. The minority business participation requirements with respect to video lottery operation licensees terminate as of July 1, 2011. *Senate Bill 638 (passed)* extends these requirements until July 1, 2018.

## **Local Gaming**

### **Slot Machines for Eligible Eastern Shore Nonprofit Organizations**

*House Bill 39 (passed)* adds Worcester County to the list of Eastern Shore counties in which eligible nonprofit fraternal, religious, and war veterans' organizations may own and operate up to five slot machines at its principal meeting hall. With respect to any eligible organization operating slot machines on the Eastern Shore, at least half of the gross proceeds must go to charity, and the remainder to further the organization's purposes. The bill also requires that the Comptroller's Office regulate slot machines operated by eligible organizations located in Eastern Shore counties. These regulations may require the auditing of the annual reports submitted to the Comptroller's Office. Under the bill, the Comptroller may not initiate any audit or specified reporting requirements until July 1, 2012. The Comptroller sets the annual fee for the licensure of slot machines so that the total proceeds equal administrative costs.



## Economic Development

### Job Creation

#### Invest Maryland Program

**House Bill 173 (passed)** creates a State-supported venture capital program and also increases funding for the Enterprise Fund and Maryland Small Business Development Financing Authority (MSBDFA) within the Department of Business and Economic Development (DBED). The bill establishes a Maryland Venture Fund Authority within DBED to raise capital through the issuance of tax credits in order to invest the capital within the State through venture firms.

**Raising Capital and Issuance of Tax Credits:** Insurance companies pay taxes based on policyholder premiums rather than corporate profits. The Maryland Venture Fund Authority established by the bill will solicit cash or designated capital from insurance companies through a competitive process overseen by an independent third party. In exchange for the cash received from the insurance companies, DBED will issue tax credit certificates. In order to make a qualified bid for tax credit certificates, an insurance company must request a minimum of \$1 million in tax credits and supply a bid of no less than 70% of the requested dollar amount of tax credits. The program will provide investment funds of approximately \$70 million. DBED is authorized to award a maximum of \$100 million in tax credits, which may be claimed over five years beginning in tax year 2014. Additionally, the bill allows for general funds to be used to replace tax credits if general fund revenue estimates increase for fiscal 2012.

**Allocation of Capital:** The cash or designated capital received from insurance companies is to be deposited into the Enterprise Fund within DBED in three annual equal installments beginning on June 1, 2012. The capital deposited in the Enterprise Fund must be allocated as follows: 67% to one or more venture firms to fund the making of qualified investments based on criteria set forth in the program and 33% to the Enterprise Fund. The capital allocated to the Enterprise Fund must be divided as follows: \$250,000 to the Rural Maryland Council for its operational expenses; 75% of the remaining capital to fund the making of investments in qualified businesses in accordance with the existing policies and procedures of the Enterprise Fund; and 25% of the remaining capital to the Financing Authority Equity Participation Investment Program to be invested in qualified businesses in accordance with the policies and procedures of the Financing Authority.

**Maryland Venture Fund Authority:** The bill establishes a nine-member Maryland Venture Fund Authority (MVFA) within DBED. Members serve staggered four-year terms, and the Governor shall appoint a chairperson. Seven members are appointed by the Governor with the advice and consent of the Senate, one member is appointed by the Senate President, and one member is appointed by the Speaker of the House. Members of the authority may not receive compensation but are entitled to reimbursement for expenses. The members cannot have a financial interest in businesses participating in the program and the members are required to file a public disclosure of financial interests in accordance with Maryland public ethics law.

The bill requires the members of the board to have specified experience. For example, at least four members of the board must have experience working with companies that have raised investment capital within the venture capital industry. Additionally, one of these four members must have experience in higher education research and development and technology transfer projects. The bill also requires at least one board member to have experience in owning a small business and in raising venture capital investments as a business executive. Additionally, the bill mandates that at least one member of the board be a resident of a rural county in the State.

***Selection of Venture Firms and Required Investments:*** MVFA's responsibilities include providing advice and consulting with DBED on program administration. Subject to the approval of DBED, MVFA (1) is required to contract with an independent party to conduct the tax credit bidding process and to evaluate venture firm applicants; and (2) may enter into written agreements in order to implement the program. The independent third party is required to evaluate the applications submitted by venture firms and recommend to MVFA which venture firms should receive designated capital.

On receiving this recommendation, MVFA will select which venture firms receive designated capital and ensure these firms make required investments. In selecting venture firms, MVFA is required to consider factors including the management structure and investment strategy of the venture firm, the reputation of the venture firm, the venture firm's commitment to making investments in the State, and the venture firm's history of creating jobs through investment. The venture firms must make investments in qualified businesses once approved.

At the time of the first investment, a business must (1) have its principal business operations in the State; (2) agree to use the investment primarily to establish or support business operations in the State; (3) have no more than 250 employees; and (4) not be primarily engaged in retail sales; real estate development; the business of insurance, banking, or lending; or professional services by accountants, attorneys, or physicians.

A business certified as an eligible business retains eligibility for additional investments under the program if it no longer meets eligibility requirements. These follow-on investments are qualified investments under the program unless the business no longer retains its principal business operations in the State and the investment was made by the Enterprise Fund or MSBDFA.

***Administration of the Program and Required Reports:*** DBED is required to administer the program and must allocate designated capital received under the program and issue tax credit certificates consistent with the bidding process developed by the independent party under contract with MVFA. DBED is also required to enter into a contract with each venture firm receiving designated capital providing for the transfer of the capital; secure the commitments of tax credit purchasers; submit specified information about designated capital and tax credits to the Maryland Insurance Administration; certify venture firms; and beginning in 2013, report annually to the Governor and the Senate Budget and Taxation Committee and the House Ways and Means Committee on the implementation of the program.



DBED may purchase insurance or make other financial arrangements to ensure the availability of designated capital committed by tax credit applicants and adopt regulations to implement the program. If DBED purchases insurance, DBED must disclose this in the annual report.

The bill details the application process, restricts insurance company involvement with venture firms, and sets up procedures and protections for the investments made as a result of the contribution of State tax credits. In the short-term, the program will provide State revenues due to insurance companies providing designated capital as specified in the bill. In the long-term, the program seeks to create jobs through the investment of the short-term revenue raised by qualified businesses.

For a more detailed discussion of the tax credit implications of this bill, see the subpart “Miscellaneous Taxes” within Part B – Taxes of this *90 Day Report*.

### **Task Force on Industrial Job Creation in Baltimore County**

***Senate Bill 746 (passed)*** establishes a Task Force on Industrial Job Creation in Baltimore County. The task force must (1) determine the causes of the loss of employment opportunities in industry, ship building and repair, and businesses that supply industry in Baltimore County; (2) identify current State policies on industrial job creation to determine if the policies are effective; and (3) make recommendations, including legislative and policy proposals, regarding ways the State can encourage new employers to locate in Baltimore County, retain existing Baltimore County employers, encourage employers that have left Baltimore County to return to the county, and encourage employers in Baltimore County to maintain or grow the number of employees they have in the county. The task force must submit a preliminary report by December 31, 2011, and must submit a final report with findings and recommendations by June 1, 2012.

## **Miscellaneous**

### **Film Production Tax Credit**

In response to incentives and cost advantages offered in other countries, a handful of states earlier this decade began offering incentives to attract local film production. In Maryland, Chapter 96 of 2005 established the Film Production Employer Wage Rebate Grant Program. ***Senate Bill 672 (passed)*** converts the Film Production Employer Wage Rebate Program into a tax credit program. The value of the subsidy to each qualifying film production entity is equal to 25% of the qualified direct costs of a film production activity and 27% of the qualified direct costs of a television series. DBED can award a maximum of \$7.5 million in credits in each fiscal year. If the amount of the tax credit exceeds the total tax liability in the tax year, the entity can claim a refund in the amount of the excess.

A film production entity must notify DBED of its intent to seek the tax credit before the production activity begins. A film production entity is also required to submit an application containing specified information, including the project’s estimated total budget and the

anticipated dates for carrying out the major elements of the film production activity. Film production activity is defined as the production of a film or video product that is intended for nationwide commercial distribution and includes products such as feature films, television projects, commercials, corporate films, and music videos.

In order for a film production entity to qualify for the tax credit, the estimated total direct costs incurred in the State must exceed \$500,000. Total direct costs are the total costs necessary to carry out the film production activity including employee wages and benefits and other expenses such as set construction and operation, wardrobe and makeup, photography and sound synchronization, lighting, rental of facilities, and food and lodging.

The bill also alters several provisions related to eligibility and program reporting requirements. The bill applies beginning in tax year 2011 and the program terminates July 1, 2014.

### **Tri-County Council for Western Maryland**

The Tri-County Council for Western Maryland is a regional economic development organization representing Allegany, Garrett, and Washington counties in Western Maryland. *Senate Bill 975/House Bill 1343 (both passed)* alter the membership and leadership of the Tri-County Council for Western Maryland and increase the number of members from 23 to 26. The bills also define member counties as counties in the region that pay annual dues set by the council.

### **Arts and Entertainment Districts – Artistic Work**

Under Chapter 608 of 2001 an artist who resides and operates a business in an arts and entertainment district is eligible for income and property tax credits. *Senate Bill 841/House Bill 1281 (both passed)* expand the eligibility criteria for the tax benefits available for qualifying residing artists in arts and entertainment districts. The eligibility criteria for an artistic work is expanded from the creation of an original clothing design to the creation of an original design in general.

### **Designation of a Qualified Distressed County**

To qualify as a distressed county, a county must exceed a certain percentage of the State's average unemployment rate or must not exceed a certain percentage of the State's per capita personal income. The designation of a qualified distressed county impacts several State programs including the Maryland Economic Development Assistance Authority and Fund, the Maryland Industrial Development Financing Authority, and the One Maryland Economic Development Tax Credit, as well as the calculation of the percentage of school construction funding provided by the State.

*Senate Bill 891 (passed)* extends, from 12 months to 24 months, the time period in which a county can maintain its designation as a qualified distressed county if it no longer meets either the unemployment or personal income criterion specified under the law.

During the current recession, six of seven currently distressed counties do not meet the unemployment criterion. This criterion requires the average rate of unemployment in a county for the more recent 12-month period to be greater than 150% of the average rate of unemployment for the entire State during the same period. The State's unemployment rate has increased to over 7%, thereby narrowing the spread to below 150%. Extending the time period allows the current distressed counties a longer period to retain the benefit of the designation.

## **Housing and Community Development**

### **Local Government Efforts**

#### **Unification of Housing Authorities**

Housing authorities undertake, construct, maintain, or operate housing projects so as to provide safe, sanitary, and decent housing for State residents. Under State law, every county and municipal corporation is authorized to establish a housing authority, although many jurisdictions have not exercised this authority. Generally, a housing authority may operate only within the borders of the jurisdiction that operates the authority. There are two housing authorities in Talbot County, the Housing Commission of Talbot County, and the St. Michaels Housing Authority which is a quasi-governmental agency under the Town of Easton government. *Senate Bill 542/House Bill 228 (both passed)* authorize the Housing Commission of Talbot County and the St. Michaels Housing Authority to unite by consolidation or merger to form one housing authority. The unification must be initiated by the passage of a substantially similar proposal of unification by the legislative bodies of the Town of Easton and the Town of St. Michaels. If created, the new housing authority may conduct its operations in the area prescribed in the authority's articles of organization. Following approval of the proposals, each municipal corporation must appoint in equal number, between three and five representatives to serve on a commission, which is required to complete a draft of the new authority's articles of organization within a period of six months. The legislative body of each municipal corporation must adopt or reject the articles as a whole and each legislative body must concur in any amendment or change. The commission's appointed custodian of records must file the adopted articles of organization with the Secretary of State. If the Secretary finds that the articles of organization conform to the relevant requirements, the Secretary must issue a certificate of approval, at which time the authority may begin to exercise its powers.

#### **Fee Waivers for Affordable Housing**

Chapters 386 and 387 of 2008 authorized local governments to waive or modify building permit or development impact fees and charges that are not mandated under State law for the construction or rehabilitation of lower-income housing units in proportion to the number of lower-income housing units of a development. To qualify, the lower-income housing units must be financed, in whole or in part, by public funding with mortgage or other covenants restricting the rental or sale of the housing units to lower-income residents in accordance with specific government program requirements; or developed by a nonprofit organization that has been

exempt from federal taxation for at least three years, and that requires the homebuyer to participate in the construction or rehabilitation of the housing unit. *Senate Bill 83 (Ch. 23)* repeals the September 30, 2011 termination date under the 2008 law for these local affordable housing program authorizations, based largely on the October 2010 report of the Department of Housing and Community Development (DHCD) that found that continuing local governments' authority to provide fee waivers for lower-income housing is critical to the ongoing need for affordable housing throughout the State.

### **Tax Credits**

*Senate Bill 436 (passed)* authorizes a municipality in Prince George's County to establish revitalization districts for the purpose of encouraging redevelopment. For a further discussion of this tax credit, see the subpart "Property Tax" within Part B – Taxes of this *90 Day Report*.

## **Residential Building Safety and Standards**

### **Fire Safety**

*House Bill 621 (passed)* requires, for fire safety purposes, the owner of a residential high-rise building with rental units to provide reasonable written notice annually to all residents of the building to inform residents who are mobility impaired of their right to request a rental unit on the first five floors of the building if one should become available. The measure defines being "mobility impaired" as unable to carry objects or to move or travel without the use of an assistive device or service animal.

### **"Green" Buildings**

While State law requires DHCD to adopt certain building standards, including standards for energy efficiency or "high-performance," for State buildings and schools, there are no comprehensive "green" building standards with respect to residential structures. *House Bill 630 (Ch. 135)* requires DHCD to encourage the construction of new "high-performance homes" which are defined as new residential structures that meet or exceed the current version of either the Silver rating of the International Code Council's 700 National Green Building Standards or the Silver rating of the U.S. Green Building Council's LEED (Leadership in Energy and Environmental Design) for Homes Rating System. In addition, *House Bill 972 (passed)* authorizes DHCD to adopt by regulation the International Green Construction Code (IGCC). The bill also authorizes local governments to adopt IGCC regardless of whether DHCD adopts IGCC and to adopt amendments to IGCC. IGCC is a new model code, scheduled to have the first edition published in 2012, that addresses green building design and performance and works as an overlay with, rather than an alternative to, existing building codes. For a more detailed discussion of building codes and green construction, see the subpart "Public Safety" under Part E – Crimes, Corrections, and Public Safety of this *90 Day Report*.

## Workers' Compensation

### Death Benefits for Dependents

Chapters 616 and 617 of 2009 required the Workers' Compensation Commission (WCC) to conduct a study of statutory provisions related to death benefit payments to individuals dependent on a covered employee. *Senate Bill 212/House Bill 417 (both passed)* resulted from recommendations of a WCC workgroup which met during the 2009 and 2010 interims to study the inequity of death benefits that was highlighted following the death of two workers in a western Maryland mining accident in 2008. One of the spouses had a part-time job at the time of the accident and, therefore, as partly dependent, her benefits were capped. The other spouse did not work, entitling her to lifetime benefits as wholly dependent. The bills change the calculation of benefits paid by employers or insurers to surviving spouses, children, and other dependents to replace income lost when a person dies due to a work-related accident or occupational disease. Under the bills, benefits are paid to surviving dependent spouses and children proportionally to reflect family income. The bills eliminate the current statutory distinction between wholly and partially dependent spouses and children.

The actual amount of benefits received by the dependents of a covered employee is based on several factors, including the average weekly wage of the deceased and the percentage of the total earnings the deceased person contributed to the family income. The amount of benefits that may be paid to the dependents of a deceased employee cannot exceed the State average weekly wage or two-thirds of the employee's actual average weekly wage. An employee's average weekly wage is based on the employee's salary at the date of (1) disablement (in the case of occupational diseases); or (2) the work-related accident that resulted in the employee's death. In general, surviving dependent spouses and children receive their calculated benefits for a minimum of 5 years and a maximum of up to 12 years (624 weeks).

There are several exceptions, including all dependent benefits terminate on the date the deceased would have reached 70 years of age, if five years of benefits have been paid. Other exceptions affect surviving spouses who remarry, dependents with disabilities, children of deceased recipients of benefits, and children enrolled in approved or accredited academic programs. The bills also provide a cap of \$65,000 on benefits provided to dependents who are not spouses or children of the deceased. Further, the bills increase the allowance for funeral benefits from \$5,000 to \$7,000.

The bills vest WCC with the authority to determine the dependent status of children of an employee, and the bills repeal the provision specifying that persons are not entitled to benefits if they became dependent on the employee after the employee's first compensable disability resulting from an occupational disease.

The bills also exempt certain public safety and emergency personnel employed with a county or municipal corporation. In the event that such an employee dies on the job, or as the result of an occupational disease, benefits paid to the dependents of these employees are based on the death benefit provisions currently set in statute. However, a county or municipal

corporation in the State may elect to subject these employees, and their dependents, to the bills' provisions. To do so a county or municipal corporation must adopt a resolution or ordinance reflecting that election and forward a copy of the ordinance or resolution to WCC. Once WCC has received the resolution or ordinance, all future claims for death benefits involving an employee of that municipal corporation or county are subject to the bills' provisions. A municipal corporation or county may not reverse its election to forgo its exemption to the bills' provisions.

### **Status of Employees of the Injured Workers' Insurance Fund**

*Senate Bill 693 (passed)/House Bill 598 (Ch. 132)* specifies that employees of the Injured Workers' Insurance Fund (IWIF) are not subject to any State law, regulation, or executive order governing State employee compensation, including furloughs, salary reductions, or any other general fund cost savings measure. The bill clarifies that IWIF's board is responsible for setting compensation rates for IWIF employees and remove a provision of law requiring IWIF's board, to the extent practicable, to set compensation rates for IWIF employees in accordance with the State salary plan. For further discussion, see subpart "Personnel" within Part C – State Government of this *90 Day Report*.

### **Workers' Compensation Claims – Appeals**

#### **Jurisdiction Pending Appeal**

*Senate Bill 269/House Bill 453 (Chs. 45 and 46)* allow the Workers' Compensation Commission (WCC) to retain jurisdiction pending an appeal to consider a proposed settlement of a claim. Under current law, an employer, covered employee, dependent of a covered employee, or any other interested person aggrieved by a decision of WCC may file an appeal in circuit court, provided the appeal is filed within 30 days of WCC's order. WCC retains jurisdiction pending appeal to consider requests for additional medical treatment and attention or requests for temporary total disability benefits, under certain circumstances. Currently, the circuit court must remand the case back to WCC for settlement approval, and if the settlement is not approved, a new appeal to the circuit court must be filed. These bills expand the jurisdiction of WCC to include approval of a settlement reached in a case that was appealed from WCC to the circuit court.

#### **Venue for Appeal**

*Senate Bill 568/House Bill 392 (both passed)* modify the venues in which a person may file an order of appeal with the circuit court on a decision by the Workers' Compensation Commission. An appeal is required to be filed with either (1) the circuit court of the county where the covered employee resides; (2) the circuit court of the county where the employer has its principal place of business; or (3) the circuit court of the county where the workplace-related injury occurred. The bills provide clarity, in part due to a recent court of special appeals case illustrating that the current law may not be clear. In the recent case, the court indicated that an



appeal could be filed where the claimant is employed, including where the covered employee regularly conducts business.

### **Joint Committee on Workers' Compensation**

*Senate Bill 1 (Ch. 5)* increases the membership of the Joint Committee on Workers' Compensation Benefit and Insurance Oversight from 15 to 16. The additional member is appointed jointly by the President of the Senate and Speaker of the House of Delegates and must be a representative of a self-insured local government entity. Local governments have unique workers' compensation issues, including those relating to public safety employees.

### **Anne Arundel County – Occupational Disease – Deputy Sheriffs**

*House Bill 244 (passed)* specifies that an Anne Arundel County deputy sheriff who suffers from heart disease or hypertension resulting in partial or total disability or death is presumed to have an occupational disease that is compensable under workers' compensation law, provided that the condition is more severe than the individual's condition existing prior to employment as a deputy sheriff.

To be eligible for the occupational disease presumption, an Anne Arundel County deputy sheriff employed on or before September 30, 2011, must submit a copy of a baseline medical report on or before December 31, 2011, as a condition of continued employment. An individual hired as a deputy sheriff on or after October 1, 2011, must submit to a medical examination as a condition of employment.

Under the bill, workers' compensation benefits due to an Anne Arundel County deputy sheriff are in addition to any benefits to which the deputy sheriff may be entitled under the county's retirement system. Total payments from both sources may not exceed the deputy sheriff's weekly salary.

### **Unemployment Insurance**

Unemployment Insurance (UI) provides temporary, partial wage replacement benefits to individuals who are unemployed through no fault of their own and who are able to work, available to work, and actively seeking work. An individual performing services for a business in return for compensation in the form of wages is likely covered for UI purposes. Unemployment benefits are funded through Maryland employers' State (UI) taxes. All private business employers and nonprofit employers employing one or more persons, at any time, are subject to the Maryland UI Law. An employer's tax rate is based on the employer's unemployment history and ranges within a certain percentage of the total taxable wages of the employer's employees. The taxes are deposited in the Unemployment Insurance Trust Fund (UITF) and may be used only to pay benefits to eligible unemployed individuals.

Both the federal and state governments have responsibilities for unemployment compensation. The U.S. Department of Labor oversees the UI system, while each state has its

own program that is administered pursuant to state law by state employees. Each state has laws that prescribe the tax structure, qualifying requirements, benefit levels, and disqualification provisions. These laws must, however, conform to broad federal guidelines.

### **Federally Funded Extended Benefits**

Maryland State unemployment benefits are funded through employers' contributions to UITF. Eligible claimants may receive up to 26 weeks of regular UI benefits, which are paid from the State UITF. In addition to State UI benefits, in 2008, federal law established emergency unemployment compensation (EUC) for UI claimants that have exhausted regular UI benefits. Through the American Recovery and Reinvestment Act of 2009 (ARRA) and subsequent actions, federal funding is provided for 47 weeks of UI benefits through EUC in Maryland, for a total of 73 weeks of regular and EUC. In states that have a relatively higher unemployment rate than Maryland, claimants may receive an additional six weeks of EUC. Once EUC is exhausted, in relatively high unemployment rate states, claimants may receive 13 to 20 weeks of benefits through the federally funded extended benefits (EB) program.

The federal Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 made significant changes to the EB program, allowing relatively lower unemployment rate states like Maryland to qualify. Prior to this Act, the costs of EB are typically shared 50/50 between each state UI trust fund and the federal government. Under the federal Act, the federal government will reimburse states for 100% of EB costs for weeks of unemployment up to January 4, 2012, in most cases. The federal Act permits states to add an additional trigger that would allow eligible workers in states that do not already qualify to receive federally funded EB. *Senate Bill 882/House Bill 1228 (both passed)* establish an additional "on" indicator based on the State average rate of total employment to determine if UI claimants are eligible to receive 100% federally funded EB. The State average rate of total employment must be at least 6.5% for eligible claimants to receive 13 weeks of EB, for a total of 86 weeks of regular, EUC, and EB.

EB to be provided under the bills apply to weeks of unemployment beginning after January 2, 2010, and ending four weeks prior to the last week for which 100% federal sharing funding available under ARRA. EB may not be payable based on a State "on" trigger established under the bills for any week of unemployment beginning before October 1, 2011. The bills also establish standards for a "high unemployment period," under which additional weeks of EB payments may be paid to claimants under specified conditions. The State average rate of total employment must be at least 8.0% for eligible claimants to receive an additional seven weeks of EB.

Since federal funding cannot be used to reimburse expenses incurred by the State and local governments (who generally reimburse UITF dollar-for-dollar for UI benefits paid to former employees), the bills also establish a special, nonlapsing Extended Benefits Fund to reimburse counties and municipalities for any "net costs" of EB. "Net costs" incurred by a local government means the EB payments that are reimbursed dollar-for-dollar by the local government to UITF, less the estimated income tax revenue payable to that local government in connection with payments to EB recipients. Based on the \$1.6 million appropriation, it is the



intent of the General Assembly that counties will be reimbursed at least 60% of their net costs and municipal corporation will be reimbursed at least 80% of their net costs. There is a net benefit to the State since the estimated cost of reimbursing the UITF for benefits paid to former employees is \$7 million, but the estimated income tax payable to the State based on an estimated \$283 million in benefits paid statewide is over \$13 million. The bills express legislative intent that the Governor make a \$1.6 million appropriation to that fund in fiscal 2013.

The bills terminate when the “on” trigger no longer applies or when 100% of federal funding for EB is no longer available.

## **UI Appeals**

*House Bill 197 (Ch. 108)*, establishes a 10-day period before a UI appeals decision made by a hearing examiner in the Lower Appeals Division or by the Board of Appeals, both within the Department of Labor, Licensing, and Regulation, becomes final. Under current law, these decisions are final when issued. For instances where an error is made in a decision, the Act allows the hearing examiner or the board to reconsider the decision during the 10-day period before it becomes a final decision.

*Senate Bill 58 (Ch. 12)* removes the requirement that the Board of Appeals pass an order upon a final decision in a judicial proceeding for an appeal. Under current law, an aggrieved party of an UI decision by a hearing examiner may appeal to the Lower Appeal Division. Further appeals may be made to the board, then to the circuit court, and then to the Court of Special Appeals. Upon a final decision in a judicial proceeding, the board is required to pass an order in accordance with the higher court’s decision. The removal of the requirement that the board pass an order upon a final decision in a judicial proceeding will eliminate duplication since currently the board simply issues the same order as the higher court.

## **Withholding Status**

*Senate Bill 60 (Ch. 14)* removes the restriction on the number of times per year a claimant receiving UI benefits may change a previously elected tax withholding status. Current law allows a claimant to change a previously elected tax withholding status once during each benefit year.

## **Exemption from Coverage – Messenger Service Drivers**

Under current regulations, work performed by a messenger service driver is not covered for purposes of UI coverage if that individual is delivering individually addressed mail, messages, documents in paper or magnetic format, supplies, records, parcels, or other objects to the public or commercial establishments on foot, by bicycle, or by motor vehicle. *Senate Bill 685 (passed)* codifies the regulations and expands qualifications needed to continue to be exempt from covered service. Additionally, the bill expands the items that a messenger service driver may deliver for a messenger services business to include emergency medical supplies, records, parcels, or similar items. However, for the driver to be exempt from covered

service in delivering the expanded items, the messenger service business must provide evidence to the Secretary of Labor, Licensing, and Regulation that the driver is excluded from coverage under the Federal Unemployment Tax Act.

## **Labor and Industry**

### **Employer Use of Credit Reports**

*Senate Bill 132/House Bill 87 (Chs. 28 and 29)* limit an employer's ability to use an individual's credit report or credit history to deny employment to a job applicant, discharge an employee, or determine a job applicant's or employee's compensation or terms of employment. An employer may request, or use the credit report or credit history of a job applicant or employee, if the individual has received an offer of employment and the employer has a bona fide, job-related reason, for requesting the information. In addition, only certain positions or types of employment fall under the bona fide purposes established by the Act for requesting or using credit reports or credit histories. Certain types of employment or businesses are exempt from the Act's requirements including financial institutions, and if federal law requires credit report or credit history checks as a condition of employment for a job.

If an employer violates the provisions of the Act, the aggrieved job applicant or employee may file a written complaint with the Commissioner of Labor and Industry. If the commissioner determines that the employer has committed a violation of the Act, the commissioner must try to resolve the matter informally. If the matter cannot be resolved informally, the commissioner may assess a fine against the employer not exceeding \$500 for a first offense, or up to \$2,500 for any subsequent offenses. Upon failure of the employer to comply with the administrative procedures if a complaint was filed, the bill authorizes the commissioner or the job applicant or employee to bring an action to the circuit court where the employer or job applicant or employee is located.

### **Health Care Personnel Training Fund**

Federal health care reform includes provisions that establish the Health Care Workforce and Planning Grant Program, which is designed to provide a "strong health care workforce" through grants to the states. In order to receive these federal grants, *House Bill 807 (passed)* establishes the Health Care Personnel Training Fund. The purpose of the fund is to provide grants to training consortiums that involve labor-management partnerships that train and upgrade the qualifications of health care personnel. The special, nonlapsing fund is administered by the Department of Labor, Licensing, and Regulation and consists only of money received from the federal government and investment earnings of the fund. Any grants from the fund must be made in consultation with the Governor's Workforce investment Board.

## **Wage and Hour Law – Prohibited Acts of Employers – Adverse Action**

The Maryland Wage and Hour Law is the State complement to the federal Fair Labor Standards Act of 1938. State law sets minimum wage and overtime standards that provide a maintenance level consistent with the needs of the population. Under State law, employers are generally required to pay each employee at least \$7.25 per hour, which is the federal minimum wage.

*Senate Bill 551/House Bill 1130 (both passed)* specify that an employer may not take adverse action against an employee who makes a complaint, brings an action, or testifies in an action against the employer for a violation of the State law. A complaint may be made to the employer, whether through the employer's internal grievance process or otherwise, or to the Commissioner of Labor and Industry. Prohibited adverse actions include discharging the employee; demoting the employee; threatening an employee with discharge or demotion; or any other retaliatory action that changes the terms or conditions of employment that would dissuade a reasonable employee from taking any action allowed under State law. Before an employer may be convicted, however, the evidence must demonstrate that the employer had knowledge of the matter for which the prosecution for retaliation is sought.

## **Wage Payment and Collection – Void Agreements**

The Maryland Wage Payment and Collection Law regulates the payment of wages by employers in the State. Under the law employers are required to pay workers the wage promised. In addition, employers must pay wages when due at least once every two weeks or twice a month and pay employees all wages due on termination of employment. In response to an unpublished federal court decision, regarding the payment of overtime by an out-of-state employer to a State resident, *House Bill 298 (Ch. 118)* amends the law by specifying that an agreement between an employer and an employee to work for a pay rate that is less than the wage required by law is void and, therefore, nonbinding. Similar language already exists under the Maryland Wage and Hour Law.

## **Alcoholic Beverages**

### **Statewide Bills**

#### **Direct Wine Shipment**

The three-tier system for the manufacturer, distribution, and retail sale of all alcoholic beverages, including wine, that Maryland adopted when Prohibition ended in 1933 has prevented an out-of-state winery to bypass the wholesaler tier and ship its product directly to a Maryland consumer. In 2002, Maryland enacted legislation creating a direct wine seller's permit that allows out-of-state wineries to ship to consumers in Maryland, but that legislation sets out a cumbersome multi-step process and has rarely been used.

In December 2010, responding to legislation that passed in 2009, the State Comptroller submitted a report to the General Assembly on issue of the direct shipment of wine to consumers in Maryland. Following that report, legislation was introduced in the 2011 session to address direct wine shipment. *Senate Bill 248/House Bill 1175 (both passed)* repeal the old direct wine seller's permit and replace it with a direct wine shipper's permit.

The bills require that a person obtain a direct wine shipper's permit from the Comptroller's Office before the person may engage in shipping wine directly to a personal consumer in the State.

To qualify for a direct wine shipper's permit the applicant must be (1) a person licensed outside of the State to engage in the manufacture of wine; or (2) a holder of a State-issued Class 3 manufacturer's (winery) license. The bills do not allow retailers, such as stand-alone wine-of-the-month clubs, to obtain a direct wine shipper's permit. Also, the permit allows the direct shipment only of wine – not any other alcoholic beverage.

The direct wine shipper must ensure that all containers of wine shipped directly to a consumer in the State are conspicuously labeled with (1) the name of the direct wine shipper; (2) the name and address of the consumer who is the intended recipient; and (3) the words "Contains Alcohol; Signature of Person at Least 21 Years of Age Required for Delivery." A direct wine shipper must also meet several financial reporting requirements.

A direct wine shipper is prohibited from shipping more than 18 9-liter cases of wine annually to a single delivery address or delivering wine on Sunday to an address in the State.

A shipment from outside the State may not be delivered by the direct wine shipper but instead must be delivered in the State by a holder of a common carrier permit issued by the Comptroller. Also, the shipment must be accompanied by a shipping label that clearly indicates the name of the direct shipper and the name and address of the recipient. To complete delivery of a shipment, the common carrier must require the signature of the consumer or another individual at the address and photo identification demonstrating that the individual is at least 21 years old.

To receive a direct shipment of wine, a personal consumer in the State must be at least 21 years old. In addition, the bill stipulates that a wine shipment may be ordered or purchased through a computer network. A person who receives a wine shipment can only use the wine for personal consumption and not resell it.

The bills specify that a holder of a direct wine shipper's permit may ship wine directly to a consumer in Montgomery County.

Under specified circumstances the holder of a direct wine shipper's permit must post security for the alcoholic beverage tax in an amount of at least \$1,000.

The initial issuance fee for the direct wine shipper's permit is \$200 and the permit may be renewed each year for a fee of \$200. The fee for the common carrier permit is \$100.

Finally, the bills require Comptroller to study the effects of the implementation of the bills, including (1) the numbers of holders of direct wine shipper's permits and common carrier permits issued; (2) the volume of wine shipped to Maryland consumers; (3) the revenues and costs to the State associated with direct wine shipment; and (4) the availability of certain imported varieties of wine to Maryland consumers. The Comptroller is required to submit a report of its findings to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee by December 31, 2012.

### **Brewery Licenses**

*Senate Bill 496/House Bill 1202 (both passed)* increase from one to six the number of beer samples that the holder of a Class 5 manufacturer's brewery license may provide to a person of legal drinking age who participates in a guided tour and extends this privilege to include a scheduled promotional event or other organized activity at the licensed premises. The bills repeal the annual 144 ounce limit on the amount of beer that may be purchased for off-premises consumption, replacing it with a per tour 288 ounce limit. The bills also repeal a reporting requirement regarding purchases for off-premises consumption. Further, the bills increase from 4 to 12 the yearly number of special brewery promotional event permits that a license holder may be issued, and increase from two ounces to three ounces the limit on the size of samples that may be offered at the event.

### **Alcoholic Beverages Sales and Use Tax**

*Senate Bill 994 (passed)* and *House Bill 1213 (passed)* both increase the sales and use tax on alcoholic beverages from 6% to 9%. For a further discussion of this issue, see the subpart "Sales Tax" within Part B – Taxes of this *90 Day Report*.

### **Lottery Operation Licensees**

*House Bill 1010 (failed)* would have authorized the State Lottery Agency to award video lottery operation licenses throughout the State to holders of Class B, Class C, or Class D alcoholic beverages licenses. The amendment would have limited the number of newly authorized video lottery terminals (VLTs) to five per licensed location but would not have limited the total number of VLTs that the State Lottery Agency could award. VLT revenue generated from these new licensees was to be distributed in the same manner as the proceeds from State lottery tickets.

### **Local Laws**

#### **Corkage Fee Bills**

*Senate Bill 614/House Bill 114, Senate Bill 276, Senate Bill 166/House Bill 150, and House Bill 1098 (all failed)* would have allowed an individual in Baltimore City and Baltimore, Frederick, and Prince George's counties, respectively, in certain licensed restaurants or clubs to consume wine not purchased from or provided by the restaurant or facility if the wine was consumed with a meal and the individual received the approval of the license holder. Under the

bills, the license holder would have been allowed to charge a fee for the privilege up to \$25, on which a sales tax was required to be imposed.

### **Allegany County**

**Buffet Theatre Licenses:** *House Bill 376 (Ch. 121)* expands eligibility for a Class B-BT (Buffet Theatre) on-sale beer, light wine, and liquor (BWL) license to include a nonprofit professional theatre that hosts live acoustic-style music or feature films. The Act also removes the requirement that the performance be live.

**1-Day Special License:** *Senate Bill 580/House Bill 953 (both passed)*, emergency bills, authorize the Board of License Commissioners to issue a 1-day special retail alcoholic beverages license to be used at a bona fide entertainment event in the county. This license may be granted for up to five consecutive days. The county commissioners, on recommendation by the board of license commissioners, must set the license fee amount. The county commissioners must distribute \$100 of the license fee to the board of license commissioners and donate the balance to a charitable organization. The license holder, with the approval of the county commissioners, designates the charitable organization to receive the remaining fee revenue. The privileges granted under the license may only be granted on county-owned property and a person must submit an application for a license at least 30 days before the day the license takes effect.

**Board of License Commissioners:** Appointments to the Board of License Commissioners are made by the Governor for terms of six years. Two members must be of the political party that received the greatest number of votes for the several offices of the county commissioner and the other member must be of the political party with the second highest number of votes. The board currently has only two members. The former board chairman resigned in July 2010, and the vacancy has not yet been filled. Affecting only future appointees, *Senate Bill 270 (passed)* requires the Governor to appoint each member of the board with the advice and consent of the central committee of the respective political party of each appointee.

### **Anne Arundel County**

**House Bill 1292 (passed)** increases by 20% various license fees for the sale of alcoholic beverages and establishes new classes of licenses. County revenues from license fees are expected to increase by a minimum of \$136,400 annually beginning in fiscal 2012, and may further increase due to the new licenses established under the bill.

- **Festival Licenses:** The bill expands the definition of “festival” to include the Benson-Hammond House Strawberry Festival.
- **Wine Tasting Licenses:** The bill establishes a Class WT wine tasting (on-premises) license that authorizes a holder to permit the on-premises consumption of light wine for tasting or sampling purposes only. Quantities may not exceed one ounce from each brand to any one person. The annual license fee is \$150 for a holder of a Class BWL



(beer, wine, and liquor) license and \$50 for a holder of a Class BW (beer and wine) license.

- *Special Entertainment Licenses:* The bill establishes a special entertainment license that authorizes the holder to allow the playing of more than one television, live music with not more than four musicians, karaoke, and a disc jockey. However, under the bill, the holder of the license may not allow dancing, floor shows, or similar live entertainment.
- *Administrative Fees:* This bill clarifies that any administrative action that requires a hearing, including new licenses, transfers of licenses to third parties, or changing the ownership of a majority interest in a license must be accompanied by an administrative fee of \$200.
- *Duplicate Licenses:* Unless otherwise specified, whenever a license issued under the Alcoholic Beverages Article is lost or destroyed, a fee of \$1 may be charged for the issuance of a duplicate license. Other jurisdictions (Garrett and Prince George's counties and Baltimore City) charge higher fees which are specified in statute. The bill requires the board of license commissioners to determine the fee for a duplicate license in Anne Arundel County.

*Alcoholic Beverage Licenses for the Video Lottery Terminal Facility:* Power Plant Entertainment (PPE) Casino Resorts, LLC was awarded a license in December 2009 to operate a 4,750 video lottery terminal (VLT) facility adjacent to Arundel Mills Mall in Anne Arundel County, contingent upon local zoning approval. County officials subsequently approved zoning legislation, but the legislation was petitioned to a local voter referendum at the November 2010 election. Anne Arundel County voters approved the zoning legislation, allowing the VLT facility to go forward. PPE plans to open a 2,000 VLT temporary facility by the end of 2011, with a permanent facility scheduled to open by the end of 2012.

*Senate Bill 367 (passed)* authorizes the Board of License Commissioners to issue an entertainment facility (EF) license and an entertainment concessionaire (EC) license for the consumption of beer, wine, and liquor in the VLT facility.

### **Baltimore City**

*Board of Liquor License Commissioners:* *Senate Bill 613 (passed)* requires the Office of Legislative Audits (OLA) of the Maryland Department of Legislation Services to conduct a performance audit every three years of the Board of Liquor License Commissioners, prohibits a board commissioner or a board employee from having certain interests in businesses relating to the distribution of alcoholic beverages, and increases the salary of the board's appellate counsel.

The performance audit by OLA must evaluate the effectiveness and efficiency of the management practices of the board and of the economy with which the board uses resources. The performance audit must focus on operations relating to liquor inspections, licensing,

disciplinary procedures, and management oversight. OLA is required to initiate the first such audit by November 1, 2011.

The bill also prohibits a board commissioner or an employee from having any interests in businesses or premises relating to the distribution of alcoholic beverages. A commissioner may not receive any salary or other compensation or any other thing of value from a business engaged in the manufacture, distribution, or sale of alcoholic beverages. The bill specifies that an action of a commissioner or employee of the board is subject to State requirements for open or public meetings.

Finally, *Senate Bill 613* requires the board to set for the appellate counsel the same compensation and benefits that are set for the assistant chief inspector (grade 097) or the chief inspector (grade 099), rather than the compensation and benefits set for full-time inspectors.

**45<sup>th</sup> Alcoholic Beverages District:** *Senate Bill 836 (passed)* authorizes the Board of Liquor License Commissioners to issue a Class C (clubs and organizations) beer, wine, and liquor license in the 45<sup>th</sup> alcoholic beverages district. The bill also authorizes the holder of a Class A (liquor stores) license to exercise off-sale privileges on two additional Sundays during the calendar year, upon payment of a \$75 license fee. Also, the number of times that the board may issue a supplemental Sunday license during any calendar year to a holder of a Class D (taverns) beer, wine, and liquor license is increased from two to four.

### **Baltimore County**

**License Fees:** *Senate Bill 875/House Bill 1243 (both passed)* increase various license fees for the sale of alcoholic beverages in Baltimore County. County revenues from license fees are expected to increase by approximately \$350,600 annually beginning in fiscal 2012.

**Farmers' Markets:** *House Bill 326 (passed)* authorizes the Comptroller's Office to issue up to 12 additional winery special event permits in a calendar year to a licensed Class 4 Maryland limited winery for use at farmers' markets in the County listed on the Maryland Department of Agriculture Farmers' Market Directory. A Class 4 Maryland limited winery may not use more than six winery special permits at the same farmers' market in the County in a year. The holder of a winery special event permit is prohibited from selling wine by the glass. A farmers' market administrator or its designee is required to be present during hours when wine is being sold and to be certified by an approved alcohol awareness program.

**Expiration of Licenses:** *Senate Bill 997 (passed)*, an emergency bill, authorizes the Board of License Commissioners to extend an alcoholic beverages license for a licensed premise for up to two years without circuit court approval if the business is forced to close because of a casualty loss. According to the U.S. Internal Revenue Service, a casualty loss can result from the damage, destruction, or loss of property from any sudden, unexpected, or unusual event, such as a flood, hurricane, tornado, fire, earthquake, or even volcanic eruption. A casualty does not include normal wear and tear or progressive deterioration.



### Caroline County

**Alcoholic Beverages Act of 2011:** *Senate Bill 102/House Bill 947 (both passed)* alter the hours of sale for alcoholic beverages by establishing uniform operating hours of 6 a.m. to 2 a.m., Monday through Sunday, for the following classes of alcoholic beverages licenses: all Class A (liquor stores), Class C (clubs and organizations), and Class D (taverns) licenses; Class B (restaurants) beer; Class B 7-day beer, wine, and liquor; Class GC 7-day (golf course) beer, wine, and liquor; and Class H (restaurants) beer and light wine.

The number of times in a calendar year that a Class BWTS beer and wine (on-premises) tasting or sampling license may be granted to an individual is increased from 12 to 26. The bills also add the requirement that a licensee in the county must have an employee certified by an approved alcohol awareness program to be present during hours in which alcohol may be sold. The training must be repeated every four years. The bills take effect July 1, 2011.

### Carroll County

**Liquor Tastings:** *Senate Bill 467/House Bill 279 (both passed)* authorize the Board of License Commissioners to issue a liquor tasting license to a holder of a Class A (liquor stores) beer, wine, and liquor licensee. A liquor tasting license allows the licensee to provide liquor to customers up to a one-half ounce from a single sample and up to five samples in a day at no charge. The annual license fee is \$100 and is valid for not more than 52 days a year.

**Farmers' Markets:** *Senate Bill 466/House Bill 476 (both passed)* authorize the Comptroller's Office to issue up to 12 additional winery special event permits in a calendar year to a licensed Class 4 Maryland limited winery for use at farmers' markets in the county listed on the Maryland Department of Agriculture Farmers' Market Directory. The holder of a winery special event permit is prohibited from selling wine by the glass. A farmers' market administrator or its designee is required to be present during hours when wine is being sold and to be certified by an approved alcohol awareness program.

### Cecil County

**Sunday Sales:** *House Bill 1030 (Ch. 151)* extends the hours during which certain licensees in Cecil County may sell certain alcoholic beverages on Sunday. Class A (liquor stores), Class B (restaurants), Class BLX (deluxe restaurants), and Class C (clubs and organizations) licensees are authorized to sell alcoholic beverages on Sunday between the hours of 8:00 a.m. and 2:00 a.m. the following day. Class D (taverns) licensees may sell alcoholic beverages on Sunday from 1:00 p.m. until 2:00 a.m. the following day. Class EF (entertainment facilities) and Class C licensees are exempt from paying the additional \$500 licensing fee to allow Sunday sales.

### Charles County

*House Bill 1274 (passed)* converts the Charles County Class B-Stadium (Baseball Stadium) on-sale beer and light wine licensing into an on-sale beer, wine, and liquor license. A

patron may consume and carry beer and wine anywhere on the stadium premises; however, a patron may consume liquor only in the enclosed stadium dining area or bar and may not carry liquor out of these areas.

### **Dorchester County**

***Dorchester County Liquor Act of 2011: Senate Bill 541/House Bill 973 (both passed)*** remove an obsolete residency requirement for voters who sign a petition to support an application for an alcoholic beverages license in Dorchester County. The bills also repeal language restricting Class B (restaurants) or Class C (clubs and organizations) licensees in Dorchester County from selling alcoholic beverages from a bar or a counter on Sundays.

### **Frederick County**

***Farmers' Markets: Senate Bill 821/House Bill 479 (both passed)*** authorize the Comptroller's Office to issue up to 12 additional winery special event permits in a calendar year to a licensed Class 4 Maryland limited winery for use at farmers' markets in the county listed on the Maryland Department of Agriculture Farmers' Market Directory. The holder of a winery special event permit is prohibited from selling wine by the glass. A farmers' market administrator or its designee is required to be present during hours when wine is being sold and to be certified by an approved alcohol awareness program.

***Beer, Wine, and Liquor Tasting: House Bill 1218 (passed)*** authorizes the Board of License Commissioners to issue a beer, wine, and liquor tasting (BWLT) license to the holder of a Class A (liquor stores) beer, wine, and liquor license. A BWLT license allows the licensee to provide samples of up to one-half ounce of liquor from a given brand and up to 1.5 ounces from all brands by any one person in a single day for tasting. The limitations on the consumption of beer and wine allowed under beer and wine tasting licenses apply. The board may set the annual fee for the BWLT license.

### **Harford County**

***Senate Bill 926 (Ch. 92)*** establishes a Class CCFA (continuing care facility for the aged) beer, wine, and liquor license. The CCFA license may be issued to a not-for-profit continuing care for the aged facility that provides continuing care as defined by the Human Services Article; is licensed as a "related institution" under the Health General Article; and is certified by the Maryland Department of Aging. The CCFA license authorizes the holder to sell beer, wine, and liquor on the premises, for consumption only on the licensed premises, and during the hours and days specified in current law for the county. The licensee is exempt from restrictions that prohibit sale of alcoholic beverages from a location within 300 feet of any church or other place of worship or within 1,000 feet of any public school building.

***Senate Bill 9 (Ch. 6)***, an emergency bill, creates a special Class C-3 (on-sale) beer, wine, and liquor license to be issued to miscellaneous organizations or clubs that hold a Class C-3 organization or club license. The special Class C-3 license authorizes the holder to sell or provide beer, wine, and liquor for on-premises consumption by nonmembers of the organization

or club who have leased an area of the licensed premises and attend the event. The annual license fee is based on the number of events each year and ranges from \$250 for 10 events to \$850 for 60 events per year. Under the bill, the county liquor control board may not issue more than one license to an organization or club in any license year and the total number of days authorized for events held under a single license may not exceed 60 in any license year.

### **Howard County**

**Beer, Wine, and Tasting:** *House Bill 245 (passed)* creates a beer, wine, and liquor tasting license (BWLTL). A BWLTL license may only be issued to a holder of a Class A beer, wine, and liquor license (BWL). The annual license fee is \$100. The bill also increases, from 14% to 15.5%, the maximum alcohol content of wine that may be served under a beer and wine tasting (BWT) license.

### **Montgomery County**

**Town of Kensington:** *House Bill 535 (passed)* authorizes the Board of License Commissioners to issue a maximum of three Class A (liquor stores) (off-sale) beer and light wine licenses for use in specified commercial areas within the Town of Kensington. The annual license fee is \$250.

Under this bill, a Class A beer and light wine license authorizes the holder to sell beer or light wine for off-premises consumption seven days a week, from 10 a.m. to 8 p.m. daily. A holder of a Class A beer and light wine license may not (1) sell single bottles or cans of beer; (2) sell refrigerated products; or (3) on a side, door, or window of the building of the licensed premises, place a sign or other display that advertises alcoholic beverages in a publicly visible location.

**Beer and Wine Sampling and Tasting:** *House Bill 542 (passed)* creates a beer and wine sampling or tasting (BWST) license that may be issued to a holder of a Class A (liquor stores) license. The BWST license authorizes the sampling or tasting of alcoholic beverages only on the licensed premises of the Class A license holder. The annual license fee is \$200.

Under the bill, a holder of a BWST license may allow a single individual to sample or taste not more than:

- 1 ounce from a single brand of wine;
- 4 ounces from all brands of wine in a single day;
- 3 ounces from a single brand of beer; and
- 12 ounces from all brands of beer in a single day.

**House Bill 542** also expands the list of alcoholic beverages licenses that may be issued in the City of Takoma Park to include a BWST license. The bill also specifies that existing prohibitions relating to the consumption of alcoholic beverages not purchased on the licensed premises and the issuance of more than one license for the same premises do not restrict use of the BWST license.

**Special Culinary School License: House Bill 543 (passed)** establishes a special culinary school license for use on the premises of a private culinary educational institution that (1) is accredited by a nationally recognized accrediting association; (2) is approved by the Maryland Higher Education Commission; and (3) holds a private educational institution license issued by Montgomery County. The annual license fee is \$400.

The license authorizes the holder to:

- in connection with a wine tasting course offered by the license holder, allow the consumption of wine by individuals who are at least 21 years old and are registered in the wine tasting course; and
- in connection with a culinary or confectionary course offered by the license holder, allow the consumption of beer and wine by individuals who are registered in the course.

**Burtonsville Town Square and Hillandale Shopping Center: House Bill 545 (passed)** authorizes the Board of License Commissioners to approve applications for alcoholic beverages licenses for restaurant establishments in the Burtonsville Town Square Shopping Center and the Hillandale Shopping Center if certain conditions are met. The licenses will authorize the holder to keep for sale and sell alcoholic beverages for on-premises consumption only.

Under this bill, the board must vote unanimously to approve license applications. Also, the issuance of the license must not adversely affect nearby schools, churches, youth centers, or the nearest residential community. Although the bill exempts restaurants in these shopping centers from the proximity limitations to schools, places of worship, and youth centers as specified in statute, the restaurants must otherwise meet any statutory requirements for the license requested.

### **Prince George's County**

**Development District Licenses: House Bill 1095 (passed)** authorizes the Prince George's County Board of License Commissioners to issue up to six Class B-DD (Development District) licenses to restaurants located within the area of Ritchie Station Marketplace. The bill increases, from four to six, the number of Class B-DD licenses that may be issued to a qualified restaurant located within the Capital Plaza commercial area or within the area of Greenbelt Station and Ritchie Station Marketplace. In addition, for each Class B-DD license issued anywhere in the county, the bill authorizes a Class B-DD license holder to obtain one other Class B license, if all other requirements for a Class B license are met. The second license is subject, however, to keeping the development district restaurant open. A

license holder has six months from the closure of the development district restaurant to reopen that restaurant before the second license terminates.

**Entertainment Permits:** Chapter 684 of 2010 authorized the Prince George’s County Board of License Commissioners to issue a special entertainment permit to the holder of any Class B (restaurants and hotels) (on-sale) license. Under that law, to obtain the permit, the holder must first submit to the board evidence of a security plan for the licensed establishment to prevent the premises from posing a threat to the peace and safety of the surrounding area. *House Bill 1119 (passed)* provides that an alcoholic beverages license holder in Prince George’s County does not need an entertainment permit if the board determines that the licensee’s principal business is to provide family entertainment or if the licensee holds one of several licenses that, under the bill, are specifically exempt from the requirement, such as a country inn, an educational conference facility, and a theme park. The bill takes effect July 1, 2011.

### **St. Mary’s County**

**Beer Festival License:** *House Bill 996 (passed)* authorizes the Alcoholic Beverage Board to issue a special beer festival (BF) license. The board must approve one weekend annually for the beer festival that does not conflict with the dates for the Sotterley Wine Festival; approve a festival location in Historic St. Mary’s City; and ensure that the festival’s primary focuses are promotion of Maryland beer and tourism in Historic St. Mary’s City. The license fee is \$15.

### **Washington County**

**Micro-breweries:** *Senate Bill 296/House Bill 404 (both passed)* add the county to the list of jurisdictions authorizing a Class 7 micro-brewery license. The micro-brewery license in the county may be issued to a holder of a Class B (restaurants) beer, wine, and liquor (on-sale) license for use on the premises of a restaurant or to a holder of a Class D (taverns) alcoholic beverages license so long as it is used on the same premises of the existing Class D license in the county. For a micro-brewery with a Class D license, the hours and days for consumer sales are established by the Class D license.

**Criminal History Records:** *Senate Bill 297/House Bill 405 (both passed)* require the Board of License Commissioners to apply to the Criminal Justice Information System Central Repository for a State and national criminal history records check for each applicant for a new alcoholic beverages license or a person who applies to transfer an existing license.

**Wine Festival License:** *Senate Bill 391 (Ch. 62)* authorizes the Board of License Commissioners to issue a special wine festival (WF) license. The license authorizes a licensee to display and sell wine at the Washington County Wine Festival for consumption on or off the premises for the days and hours designated for the festival. The license fee is \$20.

### **Wicomico County**

***Pub-breweries and Micro-breweries:*** *Senate Bill 917 (passed)* increases, from three to five, the number of Class B (restaurants) beer, wine, and liquor licenses in the county that a person may hold and still remain eligible for a Class 6 pub-brewery license or a Class 7 micro-brewery license. The bill also allows a holder of a Class A (liquor store) alcoholic beverages license to hold a Class 7 micro-brewery license and up to five Class B beer, wine, and liquor licenses in the county despite the general prohibition against business entities having a financial interest in the premises upon or in which any alcoholic beverage is sold at retail or in any business conducted by any licensee.

### **Worcester County**

***Department of Liquor Control:*** Following an investigation by the comptroller that found the Liquor Control Board for Worcester County had engaged in price discrimination and below cost sales, *Senate Bill 906 (passed)* abolishes the Liquor Control Board, which is not an official part of county government but rather is a nonprofit organization that is the exclusive wholesaler of hard liquor in the county. The liquor control board also operates six liquor marts that sell wine and hard liquor in the county. *Senate Bill 906* replaces the liquor control board with the Worcester County Department of Liquor Control. The Department of Liquor Control is designated as a unit of the county government with the powers of a liquor control board. The bill authorizes an alcoholic beverages licensee in the county, beginning on May 1, 2016, to elect to purchase wine and liquor from a licensed wholesaler in addition to or instead of from the department of liquor control by providing written notice to the department. The bill repeals the minimum price for specified merchandise that the department must charge to licensees.

***Micro-brewery Licenses in the Town of Berlin:*** There are currently 13 Class 7 micro-brewery licenses issued in the State; however, none are currently located in Worcester County. *Senate Bill 905/House Bill 1334 (both passed)* authorize the holder of a Class D (taverns) beer (off-sale) alcoholic beverages license to be granted a Class 7 micro-brewery alcoholic beverages license, so long as the Class 7 micro-brewery license is used on the premises of an existing Class D beer (off-sale) license located in the Town of Berlin in Worcester County. The bills also specify that off-sale privileges granted to a Class 7 micro-brewery license issued in the Town of Berlin are the same as a Class D beer license issued in Worcester County.

# **Part I**

## **Financial Institutions, Commercial Law, and Corporations**

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### **Financial Institutions**

#### **Commissioner of Financial Regulation**

##### **Information Sharing**

The Commissioner of Financial Regulation is authorized to enter into cooperative and information-sharing agreements with (1) any federal or state regulatory agency with authority over financial institutions, provided the agreements prohibit the agency from disclosing shared information without the commissioner's prior written consent; (2) federal or state law enforcement agencies in specified situations; and (3) any other bank supervisory agency.

*House Bill 198 (Ch. 109)*, a departmental measure, increases the number of authorized agencies with which the commissioner may enter into cooperative and information-sharing agreements to include any federal or state law enforcement agency and the Office of Foreign Assets Control. In addition, if an agency providing information under such an agreement retains ownership of the record, the Act prohibits the commissioner from disclosing the record pursuant to a Maryland Public Information Act request and requires the commissioner to forward the request to the agency that owns the record for processing by that agency.

##### **Continuance of Office**

The Office of the Commissioner of Financial Regulation is responsible for regulating and supervising 48 Maryland State-chartered banks, 9 State-chartered credit unions, and 6 State-chartered trust companies. The office also is responsible for licensing, regulating, examining, and investigating mortgage lenders, consumer loan companies, sales finance companies, installment loan lenders, credit reporting agencies, and debt collection agencies. The office licenses and regulates over 9,300 nondepository licensees, including mortgage lenders, brokers, services, and originators.



***Senate Bill 103/House Bill 358 (both passed)*** extend the termination dates for the Office of the Commissioner of Financial Regulation and the State Collection Agency Licensing Board by 10 years to July 1, 2022, and requires evaluation of both the commissioner's office and the board by July 1, 2021. The bills also require the commissioner's office to implement, by January 1, 2012, a risk-based mortgage lender licensee examination schedule to supplement the existing calendar-based examination, and to report on the implementation by October 1, 2012.

Finally, the bills repeal the Banking Board which is charged with advising the commissioner on matters relating to Maryland's banking industry and the regulation of State-chartered banks. The board has not convened in nearly four years, and four of its nine seats currently are vacant.

### **Automated Teller Machines – Video Cameras**

An operator of an automated teller machine (ATM) is required to notify customers of safety precautions customers should employ when using an ATM and provide minimum outdoor lighting levels. Before installing an ATM, an operator also must consider a variety of factors, including lighting, potential obstructions such as vegetation, the access area, and the availability of parking.

***House Bill 1028 (passed)*** adds to the duties of an operator of an ATM by requiring the operator to (1) install and maintain in specified ATMs a video camera that views and records an image of a user as the user performs a transaction at the ATM; and (2) preserve the recordings for at least 45 calendar days. An operator of an ATM is not liable for a video camera malfunction that occurs due to a reason beyond the operator's control. The bill applies prospectively to an ATM first installed on or after October 1, 2011.

### **Credit Unions – Elections of Boards of Directors**

A federally chartered credit union may conduct electronic elections for its board of directors if appropriate notice is given to members. However, under State law, the board of directors of a credit union is elected exclusively by mail ballot. ***Senate Bill 980 (passed)*** authorizes a State-chartered credit union to conduct an election of its board of directors electronically. Under the bill, the Commissioner of Financial Regulation is required to establish electronic election procedures, including procedures for (1) providing notice of the election to each member in good standing; (2) providing a specified information and identification form; (3) providing instructions on how to access and use the electronic election system; and (4) allowing a member to opt out of using the electronic election system and vote by mail ballot.

### **Mortgage Loan Originators and Mortgage Lenders**

#### **Prohibited Actions**

In October 2010, the Federal Reserve Board announced an interim rule designed to protect the integrity of the appraisal process relating to secured mortgages. The final interim rule



(1) prohibits coercion intended to intimidate appraisers in order to alter the appraised value of a property; (2) prohibits appraisers hired by lenders from having an interest in the properties or the credit transactions; (3) requires creditors to determine the reasonableness of an appraised property value before the extension of credit if the creditors have knowledge of appraiser coercion or conflict of interest; (4) requires that creditors and settlement service providers with knowledge of appraiser misconduct file a report with the appropriate state licensing authorities; and (5) requires that creditors reasonably compensate appraisers who are not employees of the creditor or the appraisal management company hired by the creditor. Compliance with the rule is mandatory as of April 1, 2011.

**House Bill 102 (Ch. 97)** establishes State law protections for real estate appraisers and other individuals from undue influence or coercion in connection with a mortgage loan or loan application. The Act prohibits a mortgage loan originator from taking specified actions, including (1) withholding or threatening to withhold payment for a real estate appraisal with the intent to coerce the appraiser to agree to a value, range of values, or minimum value for the residential real estate; (2) conditioning the payment of an appraisal fee on the opinion, conclusion, or valuation to be reached by the appraiser; or (3) requesting the appraiser to report a predetermined opinion, conclusion, or valuation. Forty-four states and the District of Columbia have enacted similar real estate appraiser independence laws for the purpose of shielding appraisers and other persons from undue influence or coercion in connection with a real estate appraisal or residential mortgage loan.

### **Licensing Requirements**

Chapter 4 of 2009 overhauled the State's mortgage lender and mortgage loan originator laws to conform to the requirements of the federal Secure and Fair Enforcement Mortgage Licensing Act of 2008. Chapter 4 altered the licensing requirements, initial license terms, and renewal terms for mortgage lenders and loan originators, and required applicants and licensees to submit certain information and fees to the Nationwide Mortgage Licensing System and Registry (NMLSR).

NMLSR is a web-based system that allows state-licensed mortgage lenders, mortgage brokers, and mortgage loan originators to apply for, amend, update, or renew a license online using a set of uniform applications. The online system was established in 2004 by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators in response to the increased volume and variety of residential mortgage originators.

**House Bill 944 (Ch. 148)**, a departmental measure, requires specified persons that are exempt from licensing as mortgage lenders and that employ a licensed mortgage loan originator to register with NMLSR. The Act also authorizes the commissioner to request from specified databases information relating to a licensee's or applicant's criminal records, and authorizes a mortgage loan originator licensee with nonactive status to renew a license while remaining in nonactive status if specified requirements are met.

Finally, the Act repeals provisions of law relating to (1) an alternative method of licensing for sole proprietor mortgage lenders who do not meet a specified experience

requirement; (2) the requirement that a mortgage lender with whom a mortgage loan originator is affiliated must maintain an office in the State under specified circumstances; (3) interim mortgage loan originator licenses; and (4) provisional licenses for mortgage loan originators.

## **Commercial Law – Generally**

### **Debt Settlement Services**

Effective July 2010, the Federal Trade Commission (FTC) amended its Telemarketing Sales Rule to cover companies that provide debt relief services. Among other things, the FTC's amended rule (1) prohibits debt relief service providers from collecting fees until after services have been provided; (2) requires debt relief service providers to make certain disclosures of material information about offered debt relief services; and (3) prohibits debt relief service providers from making specific misrepresentations about material aspects of debt relief services. Although the FTC's amended rule covers debt settlement service providers, there are limitations to the rule due to the FTC's limited authority over intra-state transactions.

*Senate Bill 741/House Bill 1022 (both passed)* address these limitations by establishing the Maryland Debt Settlement Services Act. The bills require debt settlement service providers to register with the Commissioner of Financial Regulation before providing debt settlement services in the State. The bills also incorporate into State law many of the provisions of the FTC rule and close some of the regulatory gaps in the federal rule. Finally, the bills require the commissioner to collect data on the debt settlement industry and report to the General Assembly on recommended changes to the Maryland Debt Settlement Services Act on or before December 1, 2014. Among other things, the report must include a recommendation on whether to impose a cap on fees charged by debt settlement service providers. Absent further action by the General Assembly, the Maryland Debt Settlement Services Act will expire on June 30, 2015.

### **Registration and Reporting Requirements**

*Senate Bill 741/House Bill 1022* require providers of debt settlement services in the State to register with the commissioner. Debt settlement services are defined as any service or program represented, directly or by implication, to renegotiate, settle, reduce, or in any way alter the terms of payment or other terms of a debt between a consumer and one or more unsecured creditors or debt collectors, including a reduction in the balance, interest rate, or fees. To register, a person must (1) submit an application form including specified information and (2) pay an initial \$1,000 registration fee and \$1,000 for each subsequent registration renewal. On or before March 15 of each year through March 15, 2014, a registrant must submit a report to the commissioner on the debt settlement services business of the registrant conducted during the preceding calendar year.

### **Fees Charged to Customers**

Under *Senate Bill 741/House Bill 1022*, a debt settlement service provider may not charge a consumer a fee for consultation or for obtaining a consumer's credit report or require a

voluntary contribution from a consumer for any of the provider's services. Additionally, a debt settlement service provider may not charge a debt settlement services fee until after (1) a debt settlement services agreement has been executed between the provider and the consumer; (2) the provider has renegotiated, settled, reduced, or otherwise altered the terms of at least one individual debt specified in the debt settlement services agreement; and (3) the consumer has made at least one payment in accordance with the debt settlement services agreement.

A debt settlement service provider may, however, request or require a consumer to deposit funds in an account to be used for debt settlement services fees and for payments to creditors or debt collectors in connection with a debt settlement services agreement if specified conditions are met. If a provider establishes such an account, the provider must file a \$50,000 surety bond.

For each individual debt, a debt settlement services fee must (1) bear the same proportional relationship to the debt settlement services fee for settling the total debt as the individual debt amount bears to the total debt; or (2) be calculated as a percentage of the amount by which the principal amount of the debt exceeds the amount paid to the creditor or debt collector to settle the debt.

### **Debt Settlement Services Agreements and Consumer Rights**

The bills establish requirements for an agreement between a debt settlement service provider and a consumer for the performance of debt settlement services. Among other information, a debt settlement services agreement must include a description of services to be provided to the consumer, any debt settlement services fees to be charged, information about each individual creditor or debt collector owed and the principal amount of the total debt, and a good faith estimate as to when specified actions may occur.

A debt settlement service provider must allow a consumer to withdraw from a debt settlement services agreement at any time. If the consumer withdraws, a provider may not charge the consumer a penalty but may collect any fees earned. The agreement must include a statement notifying the consumer of his or her right to withdraw at any time and the possible consequences of withdrawal.

In addition, if the debt settlement service provider requests or requires the consumer to deposit funds in a dedicated account, the agreement must include a statement indicating the consumer's ownership of the funds and any accrued interest in the account and the right to payment of funds and accrued interest in the account to the consumer, less any fees owed by the consumer, if the consumer withdraws from the agreement.

### **Misrepresentation and Advertisements**

*Senate Bill 741/House Bill 1022 (passed)* prohibit debt settlement service providers from misrepresenting any material aspect of any debt settlement service. The bills also require debt settlement service providers to disclose in an advertisement for debt settlement services specified

information relating to the potential financial consequences of a consumer's use of the debt settlement services.

### **Residential Mortgages – Escrow Accounts**

In connection with a mortgage loan, a lending institution may require a borrower to place funds into an escrow account to pay taxes, insurance, or other expenses on the mortgaged property. If a lender determines that there is or will be a deficiency in an escrow account, the federal Real Estate Settlement Procedures Act allows the lender to require additional monthly deposits to avoid or eliminate the deficiency.

*House Bill 1038 (passed)* addresses the circumstance in which a lender or servicer of a loan determines that a borrower must pay an increased amount in escrow under a first mortgage or first deed of trust on residential property. The bill prohibits a lender or servicer of a loan from charging interest or fees on the amount of the increase in borrower escrow payments for a one-year period after the determination is made.

Under the bill, however, a lender or servicer of a loan may charge a borrower interest if the lender or servicer is required to advance its own funds to pay taxes, insurance premiums, or other expenses owed by the borrower. Before charging interest, the lender or servicer must provide the borrower with notice that the advance was made and that interest will be charged on the advance.

### **Tobacco Products – Sales of Unpackaged Cigarettes**

*Senate Bill 82 (Ch. 22)* specifies that a retailer, wholesaler, or vending machine operator may not sell or distribute unpackaged cigarettes. Any cigarette not contained in a sealed package of 20 or more cigarettes is considered an unpackaged cigarette. Violators are guilty of a misdemeanor and are subject to a maximum \$500 fine or imprisonment for up to three months or both. The Act does not apply to an individual who produces unpackaged cigarettes for the individual's own consumption by using a mechanical rolling machine or a hand rolling device or procedure.

### **Sales of Engine Coolant and Antifreeze**

Ethylene glycol is an odorless, sweet-tasting, and highly toxic liquid commonly used in engine coolant or antifreeze. *House Bill 897 (passed)* prohibits a person from selling or offering to sell any engine coolant or antifreeze that contains more than 10% ethylene glycol unless the coolant or antifreeze contains a specified concentration of denatonium benzoate. Denatonium benzoate is a chemical compound that is known for its bitter taste and used as an aversive agent in toxic products to prevent children and animals from consuming the products. For further discussion of this issue, see subpart "Public Health – Generally" under Part J – Health and Human Services of this *90 Day Report*.

## **Information Printed on Receipts**

*House Bill 482 (passed)* decreases from eight to five the number of digits of a payment device number that a merchant may print on an electronically printed receipt provided to the purchaser in connection with a purchase of consumer goods or services. The bill also prohibits a merchant from printing the expiration date of the payment device on the electronically printed receipt. By restricting the information that may be printed on an electronically printed receipt, the bill conforms Maryland law to the federal Fair and Accurate Credit Transaction Act.

However, the bill goes beyond federal law, in that it extends the restriction on the printing of payment device numbers and expiration dates to cover electronically printed receipts retained by a merchant. A person that violates the bill's provisions is subject to a civil penalty of up to \$25 for each violation. The bill's provisions take effect January 1, 2013.

## **Commercial Law – Consumer Protection**

### **Arbitration of Consumer Claims**

*Senate Bill 309/House Bill 442 (both passed)* create the Transparency in Consumer Arbitrations Act. Under the bills, an arbitration organization that performs 50 or more binding consumer arbitrations during a five-year period must collect, publish, and make publicly available specified information about the parties involved, types of claims handled, and arbitration outcomes. The information must be updated by the arbitration organization at least every quarter and may be considered in determining whether a consumer arbitration agreement is unconscionable or unenforceable under law. The bill also grants a consumer the power to seek injunctive relief against an arbitration organization.

Under the bills, consumer arbitration is defined as a binding arbitration conducted in accordance with a consumer arbitration agreement. A consumer arbitration agreement is defined as a standardized contract between a consumer and nonconsumer that (1) provides for the sale or lease of goods, services, real property, or credit primarily for personal, family, or household purposes; and (2) requires that disputes arising under the contract be submitted to binding arbitration. The bill excludes from its scope (1) an arbitration conducted in accordance with provisions of specified insurance policies; (2) an arbitration governed by rules adopted by a securities self-regulatory organization and approved by the federal Securities and Exchange Commission; (3) an arbitration between a consumer and certain nursing homes or long-term care facilities; and (4) a public or private sector collective bargaining agreement.

### **Maryland Consumer Protection Act – Scope**

The Maryland Consumer Protection Act (MCPA) prohibits a person from engaging in unfair or deceptive trade practices in connection with the sale, lease, or rental of consumer goods, consumer services, or consumer realty. An unfair or deceptive trade practice includes any false, falsely disparaging, or misleading oral or written statement, visual description, or other

representation of any kind that has the capacity, tendency, or effect of deceiving or misleading consumers. The Consumer Protection Division of the Office of the Attorney General is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. A person who violates MCPA is subject to a civil penalty of up to \$1,000 for an initial violation and up to \$5,000 for each subsequent violation. In addition to civil penalties, a person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 or imprisonment for up to one year or both.

***Senate Bill 75/House Bill 128 (both passed)*** expand the scope of MCPA to encompass certain transactions in which a consumer sells goods to a merchant. Specifically, the bills prohibit a merchant from engaging in unfair or deceptive trade practices in connection with the purchase or offer for purchase of consumer goods or consumer realty from a consumer if the merchant's business includes paying off consumer debt in connection with the purchase.

### **Household Goods Movers**

***House Bill 1134 (passed)*** requires a household goods mover to provide a written estimate containing specified information to a consumer before providing household goods moving services for an intrastate move. Under the bill, however, a consumer may waive the right to receive a written estimate.

If the written estimate is a binding estimate, the mover may not require the consumer to pay more than the estimated total price for the services described in the estimate. If the written estimate provided to the consumer is a nonbinding estimate, the mover may not require the consumer to pay more than 125% of the estimated total price for the services described in the estimate plus any excess charges. The bill defines excess charges to mean any charges for additional services that are necessary because of circumstances that (1) are beyond the control of the mover and (2) could not have been reasonably anticipated. Violation of the bill's provisions is an unfair or deceptive trade practice under MCPA.

### **Leased Motor Vehicles**

***House Bill 908 (passed)*** prohibits a person who leases vehicles from failing to include a dealer processing or freight charge when determining the adjusted capitalized cost used to calculate the base lease payment shown in an advertisement for a leased vehicle. Under Maryland law, the "adjusted capitalized cost" serves as the basis for determining the base lease payment of a vehicle. The adjusted capitalized cost is computed by subtracting from the capitalized cost any "capitalized cost reduction" which is generally the down payment plus any trade-in value. The adjusted capitalized cost is then paid throughout the lease term to the estimated residual value of the vehicle.

The bill also prohibits a person who leases vehicles from advertising to the general public a capitalized cost reduction in connection with a vehicle lease unless the capitalized cost reduction is offered to all potential lessees. Violation of the bill is an unfair and deceptive trade practice under MCPA. An individual aggrieved by a violation of the bill's provisions, however,



is limited to the damage remedies available under the provisions governing consumer vehicle leasing contracts.

## **Corporations and Associations**

### **Limited Liability Company Act**

*House Bill 637 (passed)* alters various provisions of the Maryland Limited Liability Company Act (LLC Act), including provisions relating to LLC operating agreements, rights of assignees, and rights of an LLC member's creditors.

#### **Operating Agreements – Generally**

Members of an LLC generally may enter into an operating agreement to regulate any aspect of the LLC's affairs. *House Bill 637* clarifies that the policy of the LLC Act is to give the maximum effect to the principles of freedom of contract and to the enforceability of operating agreements. The bill also makes certain clarifying changes regarding the provisions that may be included in an operating agreement. For example, the bill provides that members of an LLC may include in the operating agreement a provision that establishes the rights of any person with respect to the LLC, including a person who is not an LLC member and is not a party to the operating agreement.

#### **Amendment of an Operating Agreement**

*House Bill 637* also clarifies that when an operating agreement provides for the manner in which the operating agreement may be amended, the operating agreement may be amended only in that manner. However, if the operating agreement requires that a specified person approve an amendment, that person may waive the required approval. Likewise, if an operating agreement requires that specified conditions be met to amend the operating agreement, the conditions may be waived by a person for whose benefit the conditions were intended.

#### **Enforceability of an Operating Agreement**

*House Bill 637* further clarifies that an LLC is bound by its operating agreement regardless of whether the LLC has executed the operating agreement. Moreover, an operating agreement that is duly adopted or amended is binding on each person who is or becomes a member of the LLC and each person who is or becomes an assignee of a member of the LLC, regardless of whether the person has executed the operating agreement or amendment.

#### **Rights of Assignees**

*House Bill 637* also makes certain clarifying changes regarding the rights of an assignee of an interest in an LLC. The bill specifies that, unless otherwise provided in the operating agreement, an assignment of a member's interest entitles the assignee to receive only the assignor's share of profits, losses, and distributions.

The bill also clarifies how an assignee may be admitted as a member of an LLC. Generally, an assignee of an interest in an LLC may be admitted as a member of the LLC (1) in accordance with the terms of the operating agreement providing for the admission of a member; or (2) by unanimous consent of the members. *House Bill 637* addresses the terms of admission of an assignee as a member of an LLC if, at the time the assignee obtains the interest, there are no remaining LLC members. The bill provides that, if the operating agreement is silent, an assignee may be admitted as a member of the LLC on terms determined by the assignee. The bill also provides that an operating agreement may require that the last remaining member's assignee agree in writing to continue the LLC and to be admitted as a member or to appoint a designee as a member, effective as of the time the last remaining member ceased to be a member.

### **Rights of an LLC Member's Creditors**

Finally, *House Bill 637* also clarifies a creditor's rights with respect to a member's interest in an LLC. The bill provides that the exclusive remedy available to a creditor of an LLC member is to obtain a charging order against the member's interest. A court may appoint a receiver for any distributions due to the member and may make all other orders, directions, accounts, and inquiries that the member would have been entitled to make or that the circumstances of the case may require. A charging order constitutes a lien on the member's interest, and a court may, at any time, order foreclosure of the interest. Any purchaser of the interest at the foreclosure sale has the rights of an assignee with respect to the foreclosed interest.

### **Benefit Limited Liability Companies**

*Senate Bill 595/House Bill 1151 (both passed)* authorize a Maryland limited liability company (LLC) to elect to be a "benefit LLC." The bills are similar to Chapters 97 and 98 of 2010, which established "benefit corporations" as a new form of business entity in Maryland. Like a benefit corporation, a benefit LLC must deliver to each member an annual benefit report, which must include an assessment of the societal and environmental performance of the benefit LLC prepared in accordance with a third party standard.

Under the bills, an LLC may elect to be a benefit LLC by including in its articles of organization a statement that the LLC is a benefit LLC. A benefit LLC must have the purpose of creating a "general public benefit." The bills define a general public benefit to mean a "material, positive impact on society and the environment ... through activities that promote a combination of specific public benefits." A benefit LLC's operating agreement may also identify a "specific public benefit" as one of the purposes of the LLC. A "specific public benefit" includes (1) providing individuals or communities with beneficial products or services; (2) promoting economic opportunity for individuals or communities beyond the creation of jobs in the normal course of business; (3) preserving the environment; (4) improving human health; (5) promoting the arts, sciences, or advancement of knowledge; (6) increasing the flow of capital to entities with a public benefit purpose; or (7) the accomplishment of any other particular benefit for society or the environment. Clear reference to the fact that an LLC is a benefit LLC must appear



prominently at the head of the benefit LLC's articles of incorporation and on each certificate representing outstanding interests in the benefit LLC.



## **Part J**

### **Health and Human Services**

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#### **Public Health – Generally**

##### **Medicaid**

##### **Budget**

The fiscal 2012 budget for the Medical Care Programs Administration (Medicaid) included fiscal 2011 deficiency appropriations totaling \$31.6 million and a fiscal 2012 appropriation of just under \$7.1 billion. Despite the provision of deficiency appropriations for Medicaid's fiscal 2011 budget, it is anticipated that Medicaid will roll over \$130 million in general fund bills into fiscal 2012. This estimate is derived from current estimates of fiscal 2011 enrollment growth of 13.8% over the prior year compared to the budgeted growth of 6.9%, no provision of funding for the calendar 2011 Managed Care Organizations (MCO) rate increase, and shortfalls in other revenues supporting Medicaid in fiscal 2011.

For fiscal 2012, budget growth, after adjusting for deficiency appropriations and other fiscal 2011 funding changes, amounts to just over \$540 million, or 8.3%. The fiscal 2012 Medicaid budget is based on three broad assumptions/decisions:

- Enrollment growth will moderate in fiscal 2012, with an increasing proportion of enrollees served through MCOs. At this point, there is evidence of moderating enrollment growth, although it is not clear if the budget assumption of 5.6% enrollment growth will be realized.
- Significant growth in the use of special fund revenue sources as an alternative to general funds. In fiscal 2012, these revenue sources include \$390 million derived from an assessment on hospitals to support Medicaid, a change in the averted uncompensated care assessment methodology on hospitals to partially support the 2007 Medicaid expansion population to a flat 1.25%, and an increase in the nursing facility quality assessment from 4% to 5.5%.

- A variety of provider cuts including a 2% rate reduction effective May 1, 2011, for MCOs (although still allowing for an annual increase of 3.1%), and a 1% rate reduction for physicians and waiver providers.

### Services

Under Medicaid and the Primary Adult Care Program, eligibility for family planning services is limited to women with incomes up to 116% of federal poverty guidelines. Women with incomes up to 200% of federal poverty guidelines may retain family planning coverage for five years following a birth paid for by Medicaid. *Senate Bill 743/House Bill 778 (both passed)* require Medicaid, beginning on January 1, 2012, to provide family planning services to all women whose family income is at or below 200% of federal poverty guidelines without regard to how recently a woman has delivered a child. Federal funds will pay for the majority of the costs of providing these services, with the general fund share of \$1.2 million derived from existing programs. Savings from a reduction in unintended pregnancies and births are also anticipated.

### Mental Health

The Director of the Mental Hygiene Administration may transfer, under specified circumstances, an individual from a public facility to another public facility, or if a private facility agrees, to that private facility. As a result of *House Bill 217 (Ch. 114)*, the director would only be authorized to transfer an individual to the Clifton T. Perkins Hospital Center if the director finds that (1) Perkins Hospital can provide more beneficial care or treatment to the individual; or (2) a transfer would further the safety or welfare of others. Before transferring the individual, the director is required to give the individual notice and an opportunity for a hearing before the Office of Administrative Hearings unless an emergency necessitates immediate transfer. The Act also outlines the requirements for the hearing and authorizes the director to transfer an individual to a public facility, other than the Clifton T. Perkins Hospital Center, without the consent of the individual if there are administrative or clinical reasons for doing so.

### Prescription Drugs

Prescription drug abuse is a growing problem in the United States and has been attributed, in part, to the increased availability of prescription drugs. State prescription drug monitoring programs address this issue by requiring pharmacies to log each prescription they fill. *Senate Bill 883 (passed)* establishes the Prescription Drug Monitoring Program (PDMP) within the Department of Health and Mental Hygiene (DHMH) to monitor the prescribing and dispensing of all Schedule II through V controlled dangerous substances. For each monitored prescription drug dispensed, a dispenser must electronically submit data to PDMP in accordance with regulations adopted by the Secretary of Health and Mental Hygiene. Under certain circumstances, a dispenser may submit data by other means. In addition, the bill establishes an Advisory Board on Prescription Drug Monitoring, which must make recommendations to the Secretary of Health and Mental Hygiene relating to the design and implementation of the program, including regulations, legislation, and sources of funding.

Safe disposal of prescription drugs preserves patient safety, reduces abuse or unintended ingestion of prescription drugs, and limits the impact of unused medications on the environment. *Senate Bill 770/House Bill 460 (both passed)* expand the purpose of the Prescription Drug Repository Program to include acceptance of prescription drugs and medical supplies returned to a pharmacy for proper disposal. Each pharmacy for which a pharmacy permit has been issued must dispose of prescription drugs or medical supplies in accordance with program policies.

### **Reimbursement of Health Care Costs**

The Community Services Reimbursement Rate Commission is an independent unit that functions within DHMH. Each year the commission is required to submit a report to the Governor, the Secretary of Health and Mental Hygiene, and the General Assembly. Among other things, the report is to include the commission's findings regarding the relationship between changes in wages paid by community providers to changes in rates paid by DHMH and the financial condition of providers. Originally, the commission was set to terminate after three years, but it has been reauthorized four times. *Senate Bill 202 (passed)/House Bill 58 (Ch. 94)* extend the termination of the commission by five years to September 30, 2016.

### **Medical Marijuana**

In 1996, California became the first state to allow the medical use of marijuana. Since then, 15 other states have enacted similar laws. These states generally have some form of patient registry and provide protection from arrest for possession of up to a certain amount of marijuana for medical use. Maryland law allows evidence of medical use as a mitigating factor but does not provide a means for patients to obtain marijuana. *Senate Bill 308 (passed)* provides that in a prosecution for the use or possession of marijuana or for the use or possession of drug paraphernalia related to marijuana, it is an affirmative defense that the defendant used or possessed the marijuana or marijuana paraphernalia because (1) the defendant has a debilitating medical condition that has been diagnosed by a physician with whom the defendant has a bona fide physician-patient relationship; (2) the debilitating medical condition is severe and resistant to conventional medicine; and (3) marijuana is likely to provide the defendant with therapeutic or palliative relief from the debilitating medical condition. The affirmative defense may not be used if the defendant was using marijuana in a public place or was in possession of more than one ounce of marijuana.

The bill defines “bona fide physician-patient relationship” as a relationship in which the physician has ongoing responsibility for the assessment, care, and treatment of a patient's medical condition. The bill further defines “debilitating medical condition” as a chronic or debilitating disease or medical condition or the treatment of a chronic or debilitating disease or medical condition that produces one or more of the following, as documented by a physician with whom the patient has a bona fide physician-patient relationship: (1) cachexia or wasting syndrome; (2) severe or chronic pain; (3) severe nausea; (4) seizures; (5) severe and persistent muscle spasms; or (6) any other condition that is severe and resistant to conventional medicine.

The bill provides that the Board of Physicians may not reprimand, place on probation, or suspend or revoke a license of a licensee for providing a patient with a written statement, medical records, or testimony that, in the licensee's professional opinion, the patient is likely to receive therapeutic or palliative relief from marijuana.

In addition, the bill requires the Secretary of Health and Mental Hygiene to convene a workgroup to develop a model program for facilitating patient access to marijuana for medical purposes. By December 1, 2011, the Secretary must report on the workgroup's findings, including draft legislation that establishes a program to provide access to marijuana in the State for medical purposes.

## **Miscellaneous Health Care Programs**

### **Cord Blood**

Cord blood contains all of the normal elements of blood, but it is also rich in hematopoietic (blood-forming) stem cells, similar to those found in bone marrow. Thus, cord blood can be used for transplantation as an alternative to bone marrow. *Senate Bill 584/House Bill 983 (both passed)* establish a Cord Blood Transplant Program within DHMH to provide funding, subject to the limitations of the State budget, to qualified medical institutions to establish or maintain a cord blood transplant program. The bills also establish a Cord Blood Transplant Center Support Fund to promote economic development by supporting cord blood transplant centers at qualified medical institutions with a goal of being recognized as a regional center of excellence in the area of cord blood transplantation. Qualified medical institutions may apply for a grant from the fund each year.

### **Veterans Behavioral Health**

In 2008, legislation was passed that established a three-year program for behavioral health services for Maryland veterans of the Afghanistan and Iraq conflicts. The program was extended in 2009 to apply to all veterans who served on active duty in the uniformed services of the United States. The 2008 legislation also created a Veterans Behavioral Health Advisory Board that was charged with, among other things, conducting an immediate analysis of the behavioral health needs of veterans and their families, identifying the gaps in behavioral health services available to the veterans and their families, and facilitating collaboration among organizations and entities that provide behavioral health services to veterans and their families. The board was required to submit a final report of its findings and recommendations on or before December 1, 2010, to the Governor and the General Assembly. Those provisions of law are set to terminate May 31, 2011. *Senate Bill 682/House Bill 793 (Chs. 81 and 82)* reenact the provisions of law related to the coordination and provision of behavioral health services to eligible veterans.

## Miscellaneous Public Health Issues

### Medical Decisionmaking

*Senate Bill 203/House Bill 82 (both passed)* repeal provisions of law relating to the “Instructions on Current Life-Sustaining Treatment Options” form. The bills require DHMH, in conjunction with the Maryland Institute for Emergency Medical Services Systems and the State Board of Physicians, to develop and periodically revise a “Medical Orders for Life-Sustaining Treatment” form and instructions for its use. The form is to be given the same effect as an emergency medical services “do not resuscitate order” if the form contains an order that resuscitation not be attempted. Health care facilities, which include assisted living programs, home health agencies, hospices, hospitals, kidney dialysis centers, and nursing homes, are required to accept and update or complete the form as specified. Other health care providers are authorized, but not required, to use the form. DHMH is required to adopt regulations regarding the form, including instructions on how the form is revised or revoked, and is also required to make the form and instructions available on its website.

### Organ Donation

The 2006 Revised Uniform Anatomical Gift Act (UAGA) is generally intended to resolve inconsistencies among states and reduce impediments to transplantation. A total of 45 states, the District of Columbia, and the U.S. Virgin Islands have adopted the Revised UAGA. *Senate Bill 756 (passed)* establishes the Maryland Revised Anatomical Gift Act, a modified version of the 2006 UAGA. The bill applies to donations of all or part of a human body taking effect after the donor’s death for purposes of transplantation, therapy, research, or education.

### Human Trafficking

The U.S. Department of State has estimated that approximately 600,000 to 800,000 victims are trafficked annually across international borders worldwide and approximately one-half of these victims are minors. *House Bill 674 (Ch. 137)* requires the Maryland State Department of Education, in collaboration with DHMH, to provide awareness and training on human trafficking for directors of student services in local school systems, including strategies for the prevention of trafficking of children.

### Bisphenol-A

Bisphenol-A (BPA) is a compound found in many plastics. In January 2010 the U.S. Food and Drug Administration (FDA) released findings stating that the FDA had some concern about the effects of BPA on the brain behavior and prostate gland in fetuses, infants, and young children. *Senate Bill 151/House Bill 4 (both passed)* expand the existing prohibition on the use of BPA in child care articles. Specifically, on or after July 1, 2014, the State may not purchase, and an individual may not manufacture, knowingly sell, or distribute in commerce, infant formula in a container that contains BPA. A violator is guilty of a misdemeanor and subject to fines of up to \$10,000 per violation.

## **Bittering Agents**

Ethylene glycol is an odorless, sweet-tasting liquid commonly used in engine coolant or antifreeze. It is highly toxic and, if ingested, potentially lethal. Denatonium benzoate is a chemical compound, known for its extremely bitter taste, that is sold as an aversive agent for application in toxic products to prevent children and animals from consuming the products. Beginning January 1, 2012, *House Bill 897 (passed)* prohibits a person from selling or offering to sell any engine coolant or antifreeze that contains more than 10% ethylene glycol unless the coolant or antifreeze includes a certain amount of denatonium benzoate. The bill exempts certain engine coolant or antifreeze, such as engine coolant or antifreeze reformulated through on-site recycling, from the ban. A person who violates the ban is guilty of a misdemeanor and on conviction is subject to a fine of not more than \$100, with each day that a violation continues being a separate offense.

## **Health Occupations**

### **Dentists and Dental Hygienists**

#### **Monitoring of Nitrous Oxide by Dental Hygienists**

*Senate Bill 664/House Bill 841 (both passed)* authorize dental hygienists to monitor a patient to whom nitrous oxide is administered under the supervision of an on-site dentist. Prior to monitoring patients receiving nitrous oxide, a dental hygienist must successfully complete any educational requirements established by the State Board of Dental Examiners and pass a written and clinical examination. The board may adopt reasonable requirements for the education, training, evaluation, and examination of dental hygienists who wish to monitor nitrous oxide and for the monitoring of patients receiving nitrous oxide by a dental hygienist. The bills terminate September 30, 2014.

#### **Temporary Dental Clinics**

*Senate Bill 578/House Bill 354 (both passed)* establish a temporary volunteer dentist license, a temporary volunteer dental hygienist license, and a temporary dental clinic permit in order to allow out-of-state dentists and dental hygienists to participate in short-term charitable events in Maryland without having to obtain a full volunteer license. Temporary volunteer dentists may not use anesthesia or sedation, while temporary volunteer dental hygienists may not use local anesthesia or nitrous oxide. Temporary licenses and permits are valid only for the duration of the temporary dental clinic and may not be renewed; although, the board may issue another license or permit to qualified applicants. In addition to facilitating temporary dental clinics, the bills also specify the amount of clinical practice required for a reciprocal license if a dentist or dental hygienist has not passed a regional board examination.



## Medication Technicians

**House Bill 378 (Ch. 123)** extends the time period from 90 to 180 days during which a medication technician graduate can practice without certification from the State Board of Nursing. Certain medication technicians may also practice for up to 180 days while the board processes their renewal application. The board, by December 31, 2011, must report to the Senate Education, Health, and Environmental Affairs and the House Health and Government Operations committees on the status of the online program for processing medication technician applications, the measures implemented to encourage the use of online applications, and an analysis of current staffing and projected staffing needs. The Act terminates April 12, 2013.

## Perfusionists

Perfusionists offer a variety of clinical services to patients under the prescription and supervision of a physician including cardiopulmonary bypass (use of a heart-lung machine) and extracorporeal membrane oxygenation (long-term use of an artificial blood oxygenator to support or replace undeveloped, failing, damaged, or infected lungs). **House Bill 287 (passed)** requires the State Board of Physicians to license and regulate the practice of perfusion in Maryland. The bill also establishes a Perfusion Advisory Committee within the board to develop and recommend regulations, a code of ethics, standards of care, and continuing education requirements. By October 1, 2013, an individual must be licensed in order to practice perfusion in the State, with some exceptions.

## Pharmacists

The practice of pharmacy includes administering a vaccination for influenza, pneumococcal pneumonia, herpes zoster, or any other vaccination that has been determined by the State Board of Pharmacy, with the agreement of the State Board of Physicians and the State Board of Nursing, to be in the best health interests of the community. Licensed pharmacists who meet specified training requirements may administer these vaccinations to individuals age 18 or older. **Senate Bill 845/House Bill 986 (both passed)** authorize pharmacists to administer an influenza vaccination to an individual who is at least nine years old if the vaccination is administered in accordance with regulations adopted by the State Board of Pharmacy, in consultation with the Department of Health and Mental Hygiene, rather than jointly with the boards of Physicians and Nursing. A pharmacist must report any influenza vaccination administered to an individual age 9 to 18 to the Maryland Immunization Registry, ImmuNet.

## Physical Therapists

**Senate Bill 258/House Bill 188 (both passed)** alter the definitions of practicing physical therapy and practicing limited physical therapy. “Practicing physical therapy” is changed to include the design, implementation, and modification of therapeutic interventions. “Practicing limited physical therapy” is changed to include implementing and administering therapeutic interventions. The prohibition on using x-rays as part of physical therapy or limited physical therapy is repealed while the prohibition against taking x-rays is maintained. In addition, the

bills authorize the State Board of Physical Therapy Examiners to send renewal notices by electronic mail if requested by a licensee and increases the maximum criminal fine for violating the Maryland Physical Therapy Act from \$5,000 to \$10,000.

### **Polysomnographic Technologists**

Polysomnography is the monitoring and recording of physiologic data during sleep or use of such data to assist a licensed physician in the diagnosis and treatment of sleep and wake disorders. Chapter 595 of 2006 required the State Board of Physicians to license and regulate polysomnographic technologists by October 1, 2009. However, Chapters 261 and 262 of 2009 delayed the licensing requirement until October 1, 2011. *Senate Bill 641/House Bill 560 (both passed)* further delay the date by which polysomnographic technologists must be licensed until October 1, 2013. The bills also extend the date by which licensure applicants can fulfill the requirements for a waiver of educational requirements from September 30, 2011, to September 30, 2013.

### **Professional Counselors and Therapists**

*Senate Bill 476/House Bill 311 (both passed)* repeal a provision of law that prohibits the State Board of Professional Counselors and Therapists from authorizing home study toward the completion of continuing education requirements.

### **Residential Child Care Providers**

Chapter 218 of 2008 expanded the purview of the State Board for Certification of Residential Child Care Program Administrators to include the certification of residential child and youth care practitioners. Chapter 583 of 2010 delayed the date by which residential child and youth care practitioners must be certified from October 1, 2013, until October 1, 2015. *Senate Bill 344/House Bill 387 (both passed)* require the Governor's Office for Children (GOC) to establish a workgroup comprising specified representatives to determine whether it is feasible to implement this certification by 2015 and submit an implementation plan to the Governor; the Senate Education, Health, and Environmental Affairs Committee; and the House Health and Government Operations Committee by September 1, 2011. The implementation plan must specify the adjustment in rates needed to support the additional costs of certification, recommendations for addressing the needed rate increase in the State budget, and a recommendation for an alternate date for implementation of certification if warranted.

### **Sunset Evaluation and Related Legislation**

Approximately 70 regulatory entities and activities, including each of the boards regulated under the Health Occupations Article, are subject to periodic evaluation conducted by the Department of Legislative Services (DLS) in accordance with the Maryland Program Evaluation Act. The Act establishes a process better known as "sunset review" as most agencies evaluated are also subject to termination or "sunset." This year, the General Assembly reauthorized the Electrology Practice Committee through *Senate Bill 84/House Bill 65 (both*

*passed*), the State Board of Examiners of Nursing Home Administrators through [\*Senate Bill 93 \(Ch. 24\)\*](#), the State Board of Podiatric Medical Examiners through [\*Senate Bill 90/House Bill 66 \(both passed\)\*](#), and the State Board of Examiners of Psychologists through [\*Senate Bill 89/House Bill 75 \(both passed\)\*](#).

### **Electrology Practice Committee**

In its 2010 preliminary sunset evaluation of the Electrology Practice Committee, which is regulated by the State Board of Nursing, DLS found that there is no State examination available, the board is not administering a State law portion of an examination, and the statutory and regulatory examination requirements of the board could be clearer. [\*House Bill 183 \(Ch. 107\)\*](#) specifies that each applicant for licensure as an electrologist must pass an examination approved by the board and a clinical examination approved by the board. The board may purchase an exam or administer one that it develops. The Act also extends the term of an electrologist license from one to two years beginning January 1, 2013.

### **State Board of Podiatric Medical Examiners**

In the 2009 preliminary sunset evaluation of the State Board of Podiatric Medical Examiners, DLS recommended that the board ask for an Attorney General's opinion seeking clarity of the board's statutory requirement to inspect podiatrists' offices and, if necessary, introduce legislation to clarify the law. In response, [\*Senate Bill 117/House Bill 36 \(both passed\)\*](#) clarify that the board is only required to conduct an unannounced inspection of a podiatrist's office if a complaint has been filed with the board regarding a violation of the federal Centers for Disease Control and Prevention's guidelines on universal precautions.

### **Miscellaneous**

#### **Discipline of Health Care Practitioners for Failure to Comply with Governor's Order**

In the event that the Governor issues a catastrophic health emergency proclamation, he or she may order any health care practitioner who does not voluntarily do so, to participate in disease surveillance, treatment, and suppression efforts or comply with the directives of the Secretary of Health and Mental Hygiene or other designated official. Violators are guilty of a misdemeanor and subject to imprisonment for up to one year and/or a fine of up to \$5,000. [\*Senate Bill 371/House Bill 503 \(both passed\)\*](#) exempt a health care practitioner who knowingly and willfully fails to comply with such orders from the associated fine and prison sentence and instead subjects them to discipline by the respective health occupations board.

#### **Prescription Drug Monitoring Program**

[\*Senate Bill 883/House Bill 1229 \(both passed\)\*](#) establish a Prescription Drug Monitoring Program to monitor the prescribing and dispensing of certain controlled dangerous substances. For each monitored prescription drug dispensed, a dispenser must electronically submit certain data to the program. Prescription monitoring data may not be used as the basis for imposing

clinical practice standards. For further discussion of [\*Senate Bill 883/House Bill 1229\*](#), see the subpart “Public Health – Generally” within Part J – Health and Human Services of this *90 Day Report*.

## Health Care Facilities and Regulation

### Hospitals and Freestanding Ambulatory Care Facilities

With respect to hospital licensure, minimum standards exist for physician credentialing and reappointment processes, including formal documentation of a physician’s pattern of performance. Regarding the licensure of a freestanding ambulatory care facility, the Secretary of Health and Mental Hygiene must by regulation establish standards, including procedures for credentialing and peer review, to ensure quality of care and patient safety. [\*House Bill 286 \(passed\)\*](#) requires a hospital or freestanding ambulatory care facility to establish, as a condition of licensure, a practitioner performance evaluation process that objectively evaluates the performance of each member of the medical staff at the hospital or facility. With respect to a hospital, the practitioner evaluation process must include a review of care provided to patients at the hospital. With regard to the licensure of a freestanding ambulatory care facility, the Secretary of Health and Mental Hygiene must by regulation establish procedures for practitioner performance evaluation.

Under current Maryland Health Care Commission (MHCC) regulations, percutaneous coronary intervention (PCI) services may be performed only by a hospital that has a certificate of need (CON) to perform cardiac surgery. In 2006, MHCC initiated a “primary PCI waiver program” that allowed certain community hospitals without on-site cardiac surgery programs to perform emergency angioplasties for patients experiencing certain types of heart attacks. In 2007, MHCC initiated a “non-primary PCI research waiver program” that allowed certain hospitals in the primary PCI waiver program to perform *elective* angioplasties as part of a clinical trial to study the safety and efficacy of non-primary angioplasty in hospitals without on-site cardiac surgery programs. According to MHCC, the results of the study are anticipated in early 2012 and will be used to review and update State Health Plan policies governing the co-location of PCI and cardiac surgery services. [\*House Bill 1182 \(passed\)\*](#) prohibits a hospital from establishing a non-primary PCI program or providing non-primary PCI services unless the hospital was operating a PCI program on January 1, 2011, through (1) a CON for an open heart surgery program; or (2) a non-primary waiver issued by MHCC. In addition, the bill requires MHCC to develop and report on recommendations for statutory changes needed to provide appropriate oversight of PCI services. The bill terminates June 30, 2012.

### Health Information Sharing

The health information exchange is a statewide infrastructure that provides organizational and technical capabilities to enable the electronic exchange of health information between health care providers and other health services organizations authorized by MHCC. MHCC has advised that the exchange, which is in an early phase of implementation, has limited data sharing to that

which is adequately protected by current law. Thus, data sharing is currently limited to results delivery, discharge summaries, and select clinical information. *Senate Bill 723/House Bill 784 (both passed)* require MHCC to adopt regulations for the privacy and security of protected health information obtained or released through a health information exchange by either a health care provider or a payor that holds a valid certificate of authority issued by the Maryland Insurance Commissioner. The bills also establish requirements for entities to connect to the State-designated health information exchange.

*Senate Bill 960/House Bill 600 (passed)* add two entities to the list of entities to which the Health Services Cost Review Commission (HSCRC) may disclose certain identifying physician information: (1) the Office of Health Care Quality (OHCQ); and (2) an investigatory body under the State or federal government. In addition, the bills require the State Board of Physicians to disclose – for the purpose of investigating quality or utilization of care – any information contained in a record to the Secretary of Health and Mental Hygiene, OHCQ, or HSCRC. The bills also alter the definition of “medical review committee” to include a committee appointed by or established in the Department of Health and Mental Hygiene.

### **Miscellaneous Facilities**

In September 2010, a female patient was allegedly murdered by a male patient who was housed just two doors away in a co-ed, medium-security ward at Clifton T. Perkins Hospital. According to the Maryland Disability Law Center, up to 81% of men and women in psychiatric hospitals nationwide have experienced physical and/or sexual abuse. A task force convened in 2005 by the law center urged the Mental Hygiene Administration (MHA) to separate the bedrooms of male and female patients to the extent possible. *Senate Bill 556/House Bill 1150 (both passed)* require MHA to develop and implement a plan (including a three-year pilot program) to secure the sleeping quarters of male and female patients at all State mental health facilities. The bills also establish training and reporting requirements related to sexual abuse and sexual harassment.

Maryland’s statutory requirement that certain health care facilities obtain CON approval prior to closure was intended to ensure public notice and scrutiny of the impact of any closure on access to care. However, the number of CON applications has increased and enforcement of this requirement is challenging. Although closure of health care facilities in Maryland is rare, *Senate Bill 57 (passed)* replaces the CON requirement with public notice requirements, establishing consistent CON policy with respect to closure of hospitals and other health care facilities.

*Senate Bill 384/House Bill 346 (both passed)* alter the definition of “abuse” for purposes of certain reporting requirements related to State facilities and residential centers. The bills specify that “abuse” does not, for those purposes, include an action taken by an employee that complies with applicable State and federal laws and DHMH policies on the use of physical intervention.

Recovery homes provide temporary residential services for individuals recovering from alcohol or drug addiction. DHMH does not currently regulate recovery homes. *Senate Bill 562*

*(passed)* requires DHMH to identify and report on standards for best practices for recovery homes.

## Miscellaneous Provisions

HSCRC, an independent commission within DHMH, was established in 1971 to contain hospital costs; maintain fairness in hospital payment; provide for financial access to hospital care; and disclose information on the operation of hospitals in the State. The commission is special funded by user fees assessed on hospitals. The annual user fee cap is \$5.5 million, although the commission is projected to generate \$5.85 million in fiscal 2012. Assessed user fees must be used only to cover the actual documented direct costs of fulfilling HSCRC's specified statutory and regulatory duties and any administrative costs for services provided to the commission by DHMH. *House Bill 216 (passed)* increases HSCRC's annual user fee cap from \$5.5 to \$7.0 million

At least once annually, the Developmental Disabilities Administration (DDA) or its agent must inspect each site or office operated by an individual licensed by DDA to provide services. The administration must keep a report of each inspection and must bring any deficiencies to (depending on the type of facility) the attention of either (1) the executive officer of the licensee; or (2) both the State Planning Council and the State-designated protection and advocacy agency. *House Bill 265 (Ch. 116)* requires DDA or its agent to periodically evaluate the performance of surveyors of licensee-operated sites to ensure the consistent and uniform interpretation and application of licensing requirements.

## Health Insurance

### Implementation of Federal Health Care Reform

In the 2011 session, the General Assembly passed several bills relating to the implementation of the federal Patient Protection and Affordable Care Act (Affordable Care Act). The legislation creates the framework for a health insurance exchange in the State and authorizes the Maryland Insurance Commissioner to enforce provisions of federal health reform that have already taken effect.

### Maryland Health Benefit Exchange

The Affordable Care Act requires states that elect to operate a health benefit exchange to implement the exchange by January 1, 2014. *Senate Bill 182/House Bill 166 (Chs. 1 and 2)* establish the governance, structure, and funding of the Maryland Health Benefit Exchange (the Exchange). The primary function of the Exchange is to certify and make available qualified health plans to individuals and businesses and to serve as a gateway to an expanded Medicaid program under the Affordable Care Act.

*Chapters 1 and 2* establish the Exchange as a public corporation and an independent unit of State government. The Exchange will be governed by a nine-member board of trustees



consisting of the Secretary of Health and Mental Hygiene, the Insurance Commissioner, the Executive Director of the Maryland Health Care Commission, and six other members appointed by the Governor with specified expertise. **Chapters 1 and 2** also require the Exchange to consult with and consider the recommendations of stakeholder advisory committees in exercising its duties.

The Exchange must study and, on or before December 23, 2011, make recommendations on:

- the feasibility and desirability of the Exchange engaging in selective contracting and multistate or regional contracting within the State;
- the rules under which health benefit plans should be offered inside and outside the Exchange;
- the design and operation of the Exchange’s consumer assistance mechanisms; and
- how the Exchange can be self-sustaining by 2015.

The Exchange may not exercise many of its powers and duties under the Affordable Care Act until the required studies have been completed and the General Assembly and the Governor have enacted additional legislation.

The Exchange must also study whether it should remain an independent public body or should become a nongovernmental, nonprofit entity and report its recommendations to the Governor and the General Assembly on or before December 1, 2015. *Senate Bill 107/House Bill 516 (both failed)* would have required an exchange established in the State to be a nonprofit entity and would have prohibited an exchange from being established as a governmental agency.

#### **Enforcement of Health Insurance Requirements under the Affordable Care Act**

*Senate Bill 183/House Bill 170 (Chs. 3 and 4)* require health insurance carriers to follow, and, therefore, allow the Maryland Insurance Commissioner to enforce specific provisions of the Affordable Care Act currently in effect, including:

- coverage of children up to age 26;
- preexisting condition exclusions, policy rescissions;
- wellness programs;
- lifetime limits;
- annual limits for essential benefits;
- waiting periods;
- designation of primary care providers;
- access to obstetrical and gynecological services;
- emergency services;
- summary of benefits and coverage explanation;
- minimum loss ratio requirements and premium rebates; and

- disclosure of information.

*Chapters 3 and 4* also make several changes to health insurance appeals and grievance laws to meet federal requirements regarding appeals and grievance processes.

## **Mandated Benefits**

Though many bills were introduced in the 2011 session that would have required health insurance carriers in the State to provide additional mandated benefits, most did not ultimately pass due to uncertainty over the composition of the “essential benefits package” under the federal Patient Protection and Affordable Care Act. However, the General Assembly did pass legislation that clarified how health insurance carriers must deliver benefits that they already offer.

### **Coverage of Hearing Aids**

*Senate Bill 702/House Bill 452 (both passed)* require health insurance carriers that provide coverage for hearing aids for adults to allow an insured adult or enrollee to choose a hearing aid that is above the benefit limit and pay the difference in cost.

### **Coverage of Refills of Prescription Eye Drops**

*Senate Bill 701/House Bill 888 (both passed)* require health insurance carriers that provide coverage for prescription eye drops to provide coverage for a refill of the eye drops in accordance with a Medicare Part D guidance on early refills if:

- the prescribing health care practitioner indicates on the original prescription that additional quantities of eye drops will be needed;
- the refill does not exceed the number of additional quantities indicated on the original prescription; and
- the eye drops are a covered benefit under the policy or contract of the insured.

## **Oversight of Health Insurance Carriers**

### **Evaluation of Health Benefit Plans**

*Senate Bill 56 (Ch. 11)* requires the Maryland Health Care Commission to establish and implement a system to comparatively evaluate the quality of care and performance of *all* health benefit plans, rather than just health maintenance organizations. The commission must annually publish the summary findings of the comparative evaluation.

### **Financial Oversight of Health Insurers**

*Senate Bill 59 (Ch. 13)* subjects health insurers to additional regulation by the Maryland Insurance Administration by altering when a company action level event occurs for health



insurers. The Act provides that a company action level event occurs when the company's risk-based capital (RBC) is less than a specified amount and triggers the trend test calculation in the health RBC instructions. The Act allows regulators to identify health insurers with deteriorating financial conditions earlier to prevent conservation, rehabilitation, or liquidation.

### **Small Group Market Regulation**

Chapter 347 of 2005 made self-employed individuals and sole proprietors ineligible for health insurance coverage in the small group health insurance market. Self-employed individuals and sole proprietors that were enrolled in the small group market on September 30, 2005, were permitted to retain their coverage, provided they continue to work and reside in the State and are self-employed. Self-employed individuals not already insured in the small group market have the option of enrolling in the Maryland Health Insurance Plan, the State's high-risk pool, if they cannot get coverage in the individual market. *House Bill 156 (Ch. 104)* extended to December 31, 2013, the termination date of the provisions of law excluding self-employed individuals and sole proprietors from the small group market.

### **Regulation of Dental Plans**

*Senate Bill 705 (Ch. 85)* prohibits a carrier, in a dental provider contract, from requiring a dental provider to provide services that are not "covered services" at a fee set by a carrier. The Act was introduced in response to dental carriers setting rates in provider contracts for services that require enrollees to pay up to 100% of the costs of the dental services.

### **Prohibition on Discretionary Clauses in Disability Insurance Policies**

Discretionary clauses in insurance contracts generally give the carrier full discretion to determine when benefits are payable. If an insurance contract has a discretionary clause, judicial review regarding a carrier's decision is based on an "abuse of discretion" standard, which limits the court to determining if a carrier's decision was unreasonable. Absent a discretionary clause, review is *de novo*, which allows the court to consider all available evidence and gives claimants a better chance of receiving benefits. *House Bill 1085 (Ch. 155)* prohibits insurers and nonprofit health service plans from selling, delivering, or issuing a disability insurance policy that contains a clause that reserves sole discretion to the carrier to interpret the terms of the policy or to provide standards of interpretation or review that are inconsistent with the laws of the State.

### **Incentives for Adoption of Electronic Health Records**

Maryland is the first state to require State-regulated payors to provide incentives of monetary value to select health care providers to promote the adoption and use of electronic health records. *Senate Bill 722/House Bill 736 (both passed)* specify that these incentives, as required under regulations adopted by the Maryland Health Care Commission (MHCC), must be paid in cash, unless an incentive of equivalent value is agreed upon by the State-regulated payor and the health care provider. The regulations adopted by MHCC may not require a group model health maintenance organization (HMO) to provide an incentive to certain providers under

contract with the group model HMO and must allow a State-regulated payor to request information from a provider to verify a claim and reduce the incentive amount in the event of overpayment or duplicative payment. MHCC may conduct compliance audits and request corrective action if warranted. The bills also require MHCC, in consultation with stakeholders, to study and report to the Senate Finance and House Health and Government Operations committees by January 1, 2013, on whether the scope of health care providers eligible for incentives should be expanded beyond primary care providers.

### **Required Payments to Ambulance Service Providers**

Most ambulance service providers do not contract with or become participating providers with every health insurance carrier. If an ambulance service provider is a nonparticipating or nonpreferred provider, the health insurance carrier typically sends a check to the patient for covered services, instead of reimbursing the provider. Ambulance service providers then bill the patient, but the providers reported that frequently, reimbursement is not received. *Senate Bill 154/House Bill 83 (both passed)* require insurers, nonprofit health service plans, and HMOs (carriers) to *directly* reimburse certain ambulance service providers for covered services provided. The bills apply only to ambulance service providers that are owned, operated, under the jurisdiction of, or contracted with, a political subdivision of the State, or a volunteer fire company or rescue squad. A carrier, except for an HMO, must obtain an assignment of benefits from the insured. An ambulance service provider that receives direct reimbursement from a carrier may not balance bill a patient for covered services, but may bill the patient for any copayment, coinsurance amount, or deductible owed under the patient's contract or policy with the carrier. Reimbursement to an ambulance service provider that is a nonparticipating or nonpreferred provider may not be less than the allowed amount paid to a participating or preferred provider in the same geographic region. The bills also include reporting requirements for MHCC regarding changes in claims for ambulance service providers under the bills.

### **Required Notice of Receipt of Applications for Provider Panels**

Health care providers seeking to participate on a carrier's provider panel must submit an application to the carrier. If a carrier receives an incomplete application, the carrier must return the application within 10 days and indicate what information is required for completion. *Senate Bill 710/House Bill 444 (both passed)* require carriers to notify a health care provider when a *complete* application is received. A notice from an online credentialing system to the provider that the carrier has received the application serves as notice that an application is complete. A carrier that arranges a dental provider panel is exempt from the notice requirement until the Insurance Commissioner certifies that the online credentialing system is capable of accepting the uniform credentialing form for dental provider panels.

### **Authorization of Insurance Producers to Provide Information on State Programs**

*Senate Bill 850/House Bill 1178 (both passed)* authorize licensed insurance producers, in accordance with regulations adopted by the Insurance Commissioner, to provide small employers

with information about Medicaid and the Maryland Children’s Health Program for the small employer to distribute to its employees during the enrollment period. The information provided must be general information only, including income eligibility thresholds and application instructions.

### **Regulation of Pharmacy Benefits Managers**

*Senate Bill 974/House Bill 1338 (both passed)* prohibit a pharmacy benefits manager (PBM) from denying a claim from a pharmacy or pharmacist based on a minor error. The bills specify that a clerical, recordkeeping, typographical, or scrivener’s error in a required document or record does not constitute fraud or grounds for recoupment of a claims payment if the prescription was otherwise legally dispensed and the claim was otherwise materially correct. Though the claims may not be denied outright, they remain subject to recoupment of overpayment or payment of any undiscovered underpayment by the PBM.

## **Social Services**

### **In General**

*Senate Bill 81 (Ch. 21)* repeals a requirement that the Maryland Higher Education Commission and the Department of Human Resources (DHR) identify, promote, and coordinate specified activities at institutions of higher education related to recipients of family investment program services and related reporting requirements. According to DHR, repeal of these requirements does not impact Family Investment Program recipients because the intent of the requirements is being met through other means.

Chapter 553 of 2008 established the Commission to Study the Impact of Immigrants in Maryland. The commission began its work in 2010 by examining the demographic and socioeconomic profile of the State’s immigrant community. The commission also reviewed information concerning the economics of immigration, federal and State immigration enforcement programs, local law enforcement policies, and compliance efforts with the federal REAL ID requirement. Chapter 553 of 2008 required the commission to report its findings and recommendations to the Governor and the General Assembly by January 1, 2011, and terminate on May 31, 2011. *Senate Bill 15/House Bill 34 (both passed)* extend the termination date for the commission by one year to May 31, 2012, and extend the date the final report is due to January 1, 2012.

### **The Elderly**

*Senate Bill 822 (passed)* creates a “Maryland Communities for a Lifetime Program” within the Maryland Department of Aging (MDOA). The purpose of the program is to establish a State plan to address the aging-in-place preference of seniors, provide available resources to local communities to enhance aging-in-place services, and promote a State aging-in-place

program that overcomes specified barriers. MDOA must collect and make available best practices on policies to encourage aging-in-place.

The bill also authorizes a county or municipal corporation to establish a certification process for “Communities for a Lifetime” (CFLs) under the program. In addition, the bill adds a CFL representative to the membership of the Innovations in Aging Services Advisory Council, which advises the Secretary of Aging on the Innovations in Aging Services Program.

## **The Disabled**

***Senate Bill 994 (passed)*** increases the State sales and use tax rate imposed on alcoholic beverages from 6% to 9% beginning in fiscal 2012. The bill requires a supplementary appropriation of \$15.0 million for fiscal 2012 to be used to fund a Waiting List initiative for the Developmental Disabilities Administration (DDA). Priority will be given to individuals in the Crisis Prevention and Crisis Resolution categories of the Waiting List. As of January 2011, there were 5,384 people on the waiting list for DDA, requesting 16,180 services. Of the individuals on the waiting list as of January 2011, 1,072 fit into the priority group. DDA estimates that the total general fund cost of serving the entire waiting list is approximately \$167.0 million. For a further discussion of ***Senate Bill 994***, see subpart “Sales Tax” within Part B – Taxes of this *90 Day Report*.

## **Children**

### **Coordination of Services for Children**

As a result of the Child and Family Services Interagency Strategic Plan of 2008, a State-local workgroup was convened in 2009 with the purpose of recommending an improved interagency structure for the development and implementation of individualized plans of care for youth involved with multiple child-family serving agencies. ***House Bill 840 (passed)*** is intended to address recommendations proposed by the workgroup. The bill alters the composition of the Local Management Boards, the body within each county that assists in the coordination of services for children and families, to include family members or family advocates, and youth and youth advocates. The bill also repeals duties of local coordinating councils and instead provides for local care teams in each county. These local care teams must:

- be a forum for families of children with intensive needs to receive assistance;
- be a forum for interagency discussions and problem solving for individual child and family needs and system needs;
- refer children and families to care management entities, when appropriate, and available local and community resources;
- provide training and technical assistance to local agency and community partners;

- identify and share resource development needs and communicate with the care management entity, local core service agencies, provider networks, local management boards, and other local care teams in surrounding jurisdictions; and
- discuss requests for voluntary placement agreements for children with developmental disabilities or mental illnesses who are in out-of-home placements.

Finally, the bill alters the membership and duties of the State Coordinating Council for Children.

### **Foster Care and Adoption**

The Department of Human Resources must provide adoption “search, contact, and reunion services” to locate adopted individuals, siblings, and biological parents of adopted individuals. *House Bill 255 (passed)* expands these services to include contacting the adopted siblings of a minor in out-of-home placement to develop a placement resource or facilitate a family connection. For a more detailed discussion of this bill, see the subpart “Family Law” within Part F – Courts and Civil Proceedings of this *90 Day Report*.

### **Child Neglect**

*Senate Bill 178/House Bill 162 (both passed)* establish the crime of child neglect. The bills prohibit parents or family members who have permanent or temporary responsibility for the supervision of a minor from neglecting the minor. “Neglect” is defined in the bills as the intentional failure to provide necessary assistance and resources for the physical needs or mental health of a minor that creates a substantial risk of harm to the minor’s physical health or a substantial risk of mental injury to the minor. For a more detailed discussion of this issue, see the subpart “Family Law” within Part F – Courts and Civil Proceedings of this *90 Day Report*.

### **Residential Child and Youth Care Practitioners**

*Senate Bill 344/House Bill 387 (both passed)* require the Governor’s Office for Children to establish a workgroup to determine whether it is feasible to implement the certification of residential and youth care practitioners in 2015 and to develop an implementation plan. For a more detailed discussion of this issue, see subpart “Health Occupations” within Part J – Health and Human Services of this *90 Day Report*.

### **Child Care**

*Senate Bill 925 (passed)* defines a “large family child care home” as a residence in which family child care is provided for at least 9 but no more than 12 children and a “family child care home” as a residence in which child care is provided for up to 8 children. The bill also expands the definition of “child care provider” to include an adult who has primary responsibility for the operation of a large child care home. Lastly, the bill repeals a reference to “centers” serving between 7 and 12 children within residences and changes multiple references from “family day care” to “family child care.” The Maryland State Department of Education advises that

eliminating references to “centers” for residences that provide care for 12 or fewer children will align Maryland with the standard practice in other states. For a more detailed discussion of this issue, see the subpart “Family Law” within Part F – Courts and Civil Proceedings of this *90 Day Report*.

***Senate Bill 282 (passed)*** repeals an obsolete provision of law which established an amnesty period for unregistered family day care providers between October 1, 1994, and September 30, 1997.

## **Part K**

### **Natural Resources, Environment, and Agriculture**

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#### **Natural Resources**

##### **Land Conservation**

##### **Program Open Space**

Program Open Space (POS), established in 1969 and administered by the Department of Natural Resources (DNR), provides funds for State and local conservation acquisitions and development of public outdoor recreational sites, facilities, and open space. The POS State share focuses on the acquisition of land for natural resource conservation with the inclusion of low-impact recreational activities where appropriate. The POS local share is used primarily by local jurisdictions to acquire and develop high-impact recreational sites and facilities. While bond funds were provided most recently, POS is principally funded through special funds derived from the State's transfer tax which imposes a 0.5% tax on all real property recorded in the State.

*Senate Bill 849/House Bill 1025 (both passed)* consolidate State land acquisition and planning functions related to open space, recreation, conservation, and other purposes in the Natural Resources Article, within DNR. Authority to negotiate State POS land acquisitions is transferred from the Department of General Services to DNR. Also, responsibility for preparation of the State's Land Preservation, Parks, and Recreation Plan is transferred from the Maryland Department of Planning to DNR. Finally, transfers of property within the Executive Branch of the State government are made exempt from independent appraisal requirements.

*Senate Bill 421 (passed)* increases the maximum percentage (from 75% to 100%) of POS funds that a local government may spend on development projects once it has attained its acreage acquisition goals and repeals a five-year limit on the period of time during which the POS funds may be used for such projects. Counties that qualify to use funds for development projects must use 25% of the funds only for land acquisition, repair or renovation of existing recreational facilities or structures, or capital renewal. The bill takes effect June 1, 2011, and terminates May 31, 2014.



## **Land Draining into a Reservoir**

The Maryland Agricultural Land Preservation Foundation (MALPF) established in 1977 and administered by the Maryland Department of Agriculture (MDA), purchases agricultural preservation easements that restrict development on prime farmland and woodland in perpetuity. Currently, MALPF easements must meet minimum size and soil productivity criteria and are prioritized by county ranking systems (subject to MALPF approval). DNR utilizes “GreenPrint” and “Green Infrastructure” evaluation tools to target the most desirable lands for conservation under State POS; priority is not specifically given to conserving land that drains into a reservoir. *House Bill 890 (Ch. 146)* requires that consideration be given to conserving land that drains into a reservoir in the State when local governments prioritize applications for MALPF easements and the Secretary of Natural Resources allocates State POS funds.

## **Forests**

### **Tree Expert License**

A person may not engage in the work or business of a tree expert without a tree expert license issued by DNR. The tree expert license application fee is \$30, the annual license renewal fee is \$10, and applicants who fail the examination required for licensure are required to pay an additional fee of \$20 for each subsequent examination. Fees are paid into the State Treasury for DNR’s use. In fiscal 2010, DNR generated approximately \$15,000 in licensing fee revenue and expended approximately \$30,000 on administering the licensing program. *Senate Bill 80 (Ch. 20)* repeals the statutory license, renewal, and exam fees applicable to tree experts and authorizes DNR to set the original and renewal tree expert license fees by regulation. Tree expert license fees set by regulation may not exceed the cost of processing the license application or renewal. The Act also repeals the annual renewal requirement for tree expert licenses and authorizes DNR to establish a license renewal timetable and procedure by regulation. DNR advises that it would like to change license renewal from an annual to a biennial schedule and increase the license renewal fee in order to ease DNR’s administrative workload and help ensure timely processing of renewal requests. The Act terminates September 30, 2016.

### **Woodland Incentives Fund**

The Woodland Incentives Fund (WIF) was created to help fund a variety of forest-related programs. Among other things, WIF revenues must be used to (1) provide cost-share assistance to private forest land owners for tree planting, site preparation, and timber stand improvement; (2) provide annual grants to forest conservancy district boards; (3) establish a forest health emergency contingency program; and (4) provide financial assistance for the administration of an urban and community forestry program. *House Bill 313 (passed)* changes the name of WIF to the Mel Noland Woodland Incentives Fund and clarifies that the fund may receive Chesapeake and Atlantic Coastal Bays 2010 Trust Funds.



## Chesapeake and Atlantic Coastal Bays 2010 Trust Fund

Chapter 6 of the 2007 special session established the Chesapeake Bay 2010 Trust Fund and provided financing for the fund by dedicating a portion of existing revenues from the motor fuel tax and the sales and use tax on short-term vehicle rentals to the trust fund. The trust fund was expanded and renamed the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund by Chapters 120 and 121 of 2008, which, among other things, required that the trust fund be used for nonpoint source pollution control projects. The BayStat Subcabinet administers the trust fund.

The Budget Reconciliation and Financing Act of 2011 (*House Bill 72 (passed)*) redirects a total of \$59.5 million in revenues from the motor fuel tax and the sales tax on rental cars from the trust fund to the general fund from fiscal 2012 through 2016. In fiscal 2012, \$15.2 million in rental car sales tax revenue and \$5.0 million in motor fuel tax revenue is redirected to the general fund, effectively providing \$23.5 million for the trust fund in fiscal 2012. Based on current revenue projections, the trust fund is estimated to receive \$30.0 million in fiscal 2013, \$35.0 million in fiscal 2014, \$40.0 million in fiscal 2015, and \$45.0 million in fiscal 2016; fiscal 2016 is the final year revenues are redirected to the general fund. For a further discussion of *House Bill 72*, see the subpart “Budget Related Legislation” within Part A – Budget and State Aid of this *90 Day Report*.

## Aquaculture Programs

Affected by diseases, habitat loss, and harvest pressures, the Chesapeake Bay’s oyster population has declined to about 1% of historic levels, and the remaining oysters remove only about 250,000 pounds of nitrogen from the bay each year. Consequently, enhancing oyster restoration efforts and developing shellfish aquaculture businesses is a priority for DNR. To encourage the expansion of the aquaculture industry in the State, Chapters 173 and 174 of 2009 required DNR to, among other things, establish Aquaculture Enterprise Zones (AEZs) in the Chesapeake Bay by regulation. AEZs are areas of the bay approved for the leasing of submerged land or the water column for cultivating oysters or other shellfish for commercial purposes. An AEZ and a submerged land lease may not be located in several specified areas, including (1) within 150 feet of an oyster sanctuary or oyster reserve; (2) within 150 feet of a federal navigational channel; or (3) in any creek, cove, bay, or inlet less than 300 feet wide at its mouth at mean low tide.

*House Bill 208 (passed)* authorizes DNR to resurvey any submerged area of the State to determine the position and extent of any natural oyster bar and amend existing charts or coordinates by regulation to make any natural oyster bar location or submerged land condition accurate. A prohibition on AEZs and submerged land leases being located within 150 feet of an oyster reserve or sanctuary is altered to within 150 feet of an oyster reserve or any “Yates Bar” located within an oyster sanctuary, effectuating an estimated 20% increase in leasable acreage in the bay. A “Yates Bar” is any submerged oyster bar, reef, rock, or area represented as an oyster bar on the charts of the Oyster Survey of 1906 to 1912, excluding amendments. AEZs and submerged land leases located within an oyster sanctuary are required to be compatible with

oyster restoration and satisfy specified regulations. While specified rights of a riparian owner or other lawful occupant to use a creek, cove, or inlet for cultivating shellfish are preserved, such individuals are required to obtain a submerged land lease before doing so. In addition, DNR is authorized to issue an aquaculture or submerged land lease to a corporation only if the corporation is organized under State laws and more than 50% of the corporation's stock is owned by Maryland residents. The bill also updates several definitions and makes other technical changes.

Several State agencies have responsibility for programs related to the promotion and regulation of shellfish aquaculture in the State. *Senate Bill 847/House Bill 1053 (both passed)* transfer specified aquaculture, seafood, and related marketing functions from MDA, the Board of Public Works, and the Maryland Department of the Environment (MDE) to DNR and establish DNR as the lead State agency for (1) coordinating and streamlining the process of applying for a State aquaculture permit; (2) promoting, coordinating, and marketing aquaculture and aquaculture products; and (3) enforcing laws, regulations, and rules. The State Aquaculture Coordinator is required to be employed by DNR and the Aquaculture Review Board's membership is altered. DNR is authorized, with specified exceptions, to issue water column leases in State waters that MDE classifies in a specified manner.

### **Somers Cove Marina Procurement**

*House Bill 497 (passed)* authorizes the executive director of the Somers Cove Marina Commission to procure capital improvement, design, and maintenance projects. For a further discussion of *House Bill 497*, see under the heading "Procurement Processes" in the subpart "Procurement" within Part C – State Government of this *90 Day Report*.

## **Hunting and Fishing**

### **Fishing**

#### **Fisheries Management**

The Department of Natural Resources (DNR) is required to prepare fishery management plans for a number of specified species. A fisheries management plan is a document that contains a systematic description of a given fishery and the objectives and conservation and management measures for the fishery. While DNR has authority to regulate fishing gear for specific species under individual fishery management plans, it lacks the authority to address broad gear issues. *House Bill 111 (passed)* authorizes the Secretary of Natural Resources, after consulting with the Tidal Fisheries Advisory Commission and the Sport Fisheries Advisory Commission, to adopt regulations to define and govern the use of recreational fishing gear and specific commercial fishing gear (namely fish pots, bank traps, fyke nets, and hoop nets). DNR must consider relevant biological, ecological, and socioeconomic factors before adopting the regulations.

### **Fisheries Enforcement**

***Penalties for Poaching Oysters:*** Since 1994, the Chesapeake Bay's oyster population has languished at 1% of historic levels. Oyster bars have decreased 80%, and the number of harvesters has dwindled from 2,000 in the mid-1980s to just over 500 annually since 2002. To help reverse this trend, DNR unveiled a new management and restoration plan for oysters and the State's oyster industry in December 2009. The plan increased the State's network of oyster sanctuaries from 9% to 24% of the bay's remaining quality oyster bars, established oyster aquaculture leasing opportunities, and maintained 76% of the bay's quality oyster habitat for a public oyster fishery. The plan was adjusted in response to public feedback, and implementing regulations were adopted in September 2010.

DNR has also begun to strengthen its efforts to protect Maryland's native oyster population from illegal harvesting activities. To further these efforts, [\*Senate Bill 159/House Bill 273 \(both passed\)\*](#) require DNR, under specified circumstances, to revoke a tidal fish license for commercial oyster harvesting for the offenses of (1) taking oysters located more than 200 feet within a closed or prohibited area; (2) taking oysters with gear prohibited in that area; (3) taking oysters by more than one hour outside of a time restriction; (4) taking oysters during closed seasons; and (5) taking oysters from a leased area by a person other than the leaseholder or the leaseholder's designee. If a tidal fish licensee receives a citation for one of these offenses, DNR is required to hold a hearing, in accordance with the Administrative Procedure Act, within 60 days after issuing the citation. If the presiding officer at the hearing finds that the licensee knowingly committed the offense, DNR is required to revoke the licensee's tidal fish license for commercial oyster harvesting. Judicial review of decisions is authorized. A person whose tidal fish license is revoked is also prohibited from using or receiving a transfer of another tidal fish license to catch oysters.

***Penalties for Poaching Crabs and Striped Bass:*** In 2011 there were several significant commercial fishing incidents involving the use of illegal gill nets in the Chesapeake Bay to catch striped bass (rockfish). Notably, on January 31, 2011, DNR and Natural Resources Police (NRP) officers confiscated more than 10 tons of illegally caught striped bass from four illegally anchored gill nets near Bloody Point Light, south of Kent Island, in the Chesapeake Bay. This event forced DNR to temporarily shut down the striped bass gill net season. In response, the General Assembly passed a number of bills to increase the penalties for poaching fish.

[\*House Bill 1252 \(passed\)\*](#) establishes a new misdemeanor charge for capturing over \$20,000 worth of striped bass, as determined by the proceeds of the unlawful capture, as a result of using unlawful gear, harvesting during closed seasons, harvesting from a closed area, violating established harvest, catch, or size limits, or violating tagging and reporting requirements. On conviction of the misdemeanor charge, in addition to other applicable penalties, a person is also subject to imprisonment not exceeding two years.

A tidal fishing license is the single commercial license issued by DNR with respect to commercial fishing and fisheries in tidal waters. A person must obtain authorizations on the license to engage in different types of fishing or commercial activity. Generally, when a

suspension or revocation is issued, the suspension or revocation is targeted to the specific fishing activity the watermen was engaged in when the violation occurred, and not all authorized fishing activities within the tidal fishing license. *Senate Bill 635/House Bill 1154 (both passed)* require DNR to revoke a commercial fishing authorization to catch striped bass or crabs if a specified offense is committed. DNR, in consultation with the Tidal Fisheries Advisory Commission and the Sport Fisheries Advisory Commission, is required to adopt regulations that establish grounds for revoking an authorization, including egregious or repeat violations in the following categories: (1) using illegal gear; (2) harvesting during closed seasons; (3) harvesting from a closed area; (4) violating established harvest, catch, or size limits; and (5) violating tagging and reporting requirements. If an individual receives a citation under the regulations, DNR must hold a hearing in accordance with the Administrative Procedure Act before revoking the authorization. If the presiding officer finds after the hearing that the individual knowingly committed an offense under the regulations, DNR is required to revoke the individual's authorization to catch striped bass or crabs. Judicial review of decisions is authorized. A person whose authorization to catch striped bass or crabs is revoked may not engage or work in the striped bass or crab fishery, whether or not it requires the use of another license.

*Senate Bill 655/House Bill 1225 (both passed)* establish a new misdemeanor charge for (1) committing a separate violation related to a suspended or revoked commercial license while the commercial fishing license or authorization is suspended or revoked; and (2) engaging in commercial fishing without holding the appropriate license or authorization. In addition to other applicable penalties, a violator is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding one year, a fine not exceeding \$25,000, or both, with costs imposed in the discretion of the court. Fines imposed by the District Court for violations must be paid, less the costs of collection, to DNR's Fisheries Research and Development Fund.

**Enforcement Procedures:** DNR's NRP serves as the public safety agency with statewide authority to enforce all conservation, boating, and criminal laws, as well as to provide primary law enforcement services for State parks, State forests, and other public lands owned by DNR. NRP is also responsible for maritime and rural search and rescue and is designated as the State's lead agency for homeland security on State waters. *Senate Bill 414/House Bill 396 (both passed)* authorize NRP officers to issue electronic citations for offenses and require these citations to include acknowledgement of receipt in a specified manner. The bills also modify and streamline hearing procedures if a citation is issued. In addition, the bills alter law enforcement inspection authority related to fisheries. Any police officer may, at reasonable times, including when the licensee or person is engaged in an activity that requires a tidal fish license, inspect commercial fishing vessels, vehicles used to transport fish for commercial purposes, and fish businesses owned or operated by a licensee. Inspections are restricted to inspections of fishing gear and places where fish may be stored. Inspections of businesses may not include a dwelling house. An inspector may seize fishing gear or fish found during an inspection that is used or possessed in connection with a violation. DNR must hold seized property or proceeds pending disposition of court proceedings. On conviction, the property or proceeds from the seizure are forfeited to the State. DNR may use its discretion to dispose of fish that are seized.

## Licensing

***Senate Bill 188 (passed)*** authorizes DNR to issue an annual fishing license exemption to a governmental entity or nonprofit organization to take individuals with disabilities who are serving or have served in the armed forces fishing in State waters, subject to certain requirements. The exemption also applies to the primary caregiver of the disabled individual and the attending representative of the entity or organization that is granted the exemption. An entity or organization that is granted an exemption must submit a report providing specified information related to the use of the exemption to DNR by January 1 of the year following the exemption period.

Maryland operates under a limited entry program for commercial tidal fish licensees. DNR may issue an apprenticeship permit to authorize an individual to gain practical commercial fishing experience under the tutelage of a tidal fish licensee. Before DNR may issue a tidal fish license or authorization to an individual with an apprenticeship permit, the individual must have specified practical experience. ***Senate Bill 720 (Ch. 86)*** modifies the practical experience requirements under the commercial tidal fish license apprenticeship program by (1) clarifying that all practical experience must be obtained within 10 years before applying for a tidal fish license or authorization; and (2) authorizing individuals who hold or held a commercial fishing license issued by another state or the federal government, or served as crew to an individual who meets that requirement, to use the experience gained under that out-of-state license to meet practical experience requirements. The Act also clarifies that an individual may not obtain a seafood landing license through the tidal fish license apprenticeship program.

## Hunting

### Licenses

A person generally may not hunt or attempt to hunt during open season any game birds or mammals in the State without obtaining a hunting license from DNR. ***Senate Bill 763 (passed)*** authorizes a person who is serving in the U.S. armed forces, has a service-connected disability, and possesses valid military identification while hunting, to hunt without a hunter's license, bow and arrow stamp, black powder stamp, or bonus antlered deer stamp on public property.

### Sunday Deer Hunting

There are three seasons to hunt deer in Maryland: deer bow hunting season; deer firearms season; and deer muzzle loader season. With specified exceptions, hunting game birds or mammals on Sundays is generally prohibited. ***Senate Bill 468/House Bill 625 (both passed)*** authorize deer hunting in Carroll County on private property (1) with a bow and arrow or crossbow on the last three Sundays in October and the second Sunday in November; and (2) at DNR's discretion, during the first Sunday of both the bow hunting season in November and the deer firearms season.

## **Junior Deer Hunt**

**House Bill 355 (Ch. 120)** requires DNR to establish a junior deer hunt on a consecutive Saturday and Sunday during a deer hunting season via regulation, by July 1 annually. A junior deer hunt may not occur on a Sunday in a county that does not authorize deer hunting on that Sunday. Individuals may participate in the junior deer hunt if they (1) are 16 years of age or younger; (2) possess a valid hunting license or are exempt from license requirements; and (3) are accompanied by a person who meets specified requirements. The Act authorizes junior deer hunt participants to use a firearm to hunt deer on the days of the hunt.

## **Environment**

### **Chesapeake Bay Restoration**

The federal Clean Water Act requires states to designate intended uses, such as swimming or fishing, for their water bodies and to set water quality standards to achieve these uses. Water bodies that do not meet the water quality standards are designated as *impaired* and are assigned a Total Maximum Daily Load (TMDL) or “pollution diet,” which (1) sets the maximum amount of pollution that the water body can receive and still attain water quality standards; and (2) identifies specific pollution reduction requirements among the various contributing sources.

Since 2000, the U.S. Environmental Protection Agency (EPA) has been working with Chesapeake Bay watershed states and the District of Columbia to develop a Chesapeake Bay TMDL in order to prepare for a federal court-ordered deadline. This effort to restore the bay was significantly reinvigorated by the signing of Executive Order 13508 by President Barack Obama in May 2009. In May 2010, EPA committed to establishing a final TMDL, which it released on December 29, 2010. Working with EPA, each bay watershed state and the District of Columbia completed a final Phase I watershed implementation plan (WIP). The WIPs, which were released in December 2010 after a public comment period, are intended to provide a roadmap for how each jurisdiction will achieve and maintain its share of the bay TMDL by reducing the inflow of nutrients like nitrogen and phosphorus that pollute the bay.

### **Nitrogen Removing Septic System Technologies**

Maryland’s WIP builds on existing State-directed restoration efforts and identifies options to reduce nitrogen and phosphorus from all major sources, such as wastewater, stormwater runoff, septic systems, agriculture, and air pollution. As part of its WIP, the Maryland Department of the Environment (MDE) has estimated that 3,000 septic system upgrades in Maryland will be completed through calendar 2011 and is planning to upgrade 600 systems annually from 2012 to 2017, with a goal of upgrading a total of 5,700 systems between 2010 and 2017. The upgrades planned for 2012 through 2017 are estimated to provide an annual nitrogen reduction to the Chesapeake Bay of 51,186 pounds as part of Maryland’s commitment to the TMDL. This amounts to less than 1% of the total nitrogen reduction needed to meet the final WIP requirement for 2017. However, the overall planned contribution of septic



system upgrades to achieving the final nitrogen reduction requirement is much greater, at about 15% of the final 2020 target.

Several existing laws promote the use of septic systems with nitrogen removal technologies or restrict the use of septic systems that do not utilize these technologies. For example, the Bay Restoration Fund, established by Chapter 428 of 2004, is financed in part by a fee (generally \$30 annually) assessed on septic systems users, 60% of which is distributed to the Septics Account in MDE to provide grants and loans that are generally used to cover some or all of the cost of repairing, replacing, or upgrading a septic system to one that utilizes best available technology for nitrogen removal.

In addition, Chapter 280 of 2009 prohibits a person from newly installing or replacing a failing septic system on property in the Chesapeake and Atlantic Coastal Bays Critical Area (Critical Area) unless the installed system utilizes the best available nitrogen removal technology. MDE is required to assist homeowners in upgrading a septic system with money authorized for this purpose from the Septics Account if sufficient funds are available. *Senate Bill 160/House Bill 177 (both failed)* would have expanded the current prohibition pertaining to the installation of new septic systems to apply to the entire *watersheds* of the Chesapeake and Atlantic Coastal Bays, instead of the much smaller Critical Area. The bills also would have required MDE to assist homeowners in upgrading septic systems if sufficient funds had been available from the Septics Account.

***Uses of the Septics Account:*** Originally, grants and loans made from funds within the Septics Account were used to cover the cost of repairing, replacing, or upgrading a septic system, or for covering the difference in cost between a new conventional system and one utilizing the best available technology for nitrogen removal. Chapters 225 and 226 of 2008 expanded the uses of the Septics Account to include covering the cost of replacing multiple septic systems in the same community with a new community sewerage system that meets certain nutrient removal standards and satisfies certain conditions. *Senate Bill 539/House Bill 57 (both passed)* expand the uses of the Septics Account again to include providing limited grants or loans for connecting a property served by a septic system to an existing municipal wastewater facility with enhanced nutrient removal technology if several conditions are met.

***Selection of Nitrogen Removal Technology:*** MDE has established a review team to determine which nitrogen removal technologies qualify as best available technologies eligible for Septics Account funding. The review team chose four technologies and then issued to the vendors of those technologies an invitation for bids to provide a simplified procurement process for local governments and residents. MDE then selected the two technologies with the lowest fixed unit prices for each region of the State. While MDE has ensured that homeowners have flexibility to choose among other approved technologies, the incentives to choose a technology pre-selected by the review team may have resulted in the disproportionate use of certain technologies in system upgrades funded by the Septics Account. *Senate Bill 372/House Bill 347 (both passed)* require MDE to alter the criteria by which it evaluates and ranks best available nitrogen removal technologies. The criteria emphasize several factors, such as the annual cost of operation and maintenance, including electricity costs, and the cost per pound of the nitrogen

reduction achieved. MDE must make the evaluation and ranking available on its website, provide that information to local governments and residents, and continue to request updated information from the vendors of such technologies every two years.

***Septic Systems and Sprawl:*** In addition to the problem of releasing nitrogen pollution to the Chesapeake Bay, septic systems are also seen as an environmental concern due to their tendency to facilitate “suburban sprawl” and the development of open spaces that are beyond the current bounds of municipal sewerage systems and other existing infrastructure. Each county has a plan for water, sewer, and solid waste infrastructure that is approved by MDE and consistent with the county comprehensive plan. In addition to these plans, there are a number of laws pertaining to smart growth and regulated land use, which are designed to concentrate development in suitable areas and to protect sensitive areas by establishing funding mechanisms and financial incentives and by requiring local jurisdictions to adopt ordinances and regulations that implement smart growth goals.

Further, the Maryland Agricultural Land Preservation Program assists in achieving State land use goals by purchasing agricultural preservation easements that restrict development on prime farmland and woodland in perpetuity. ***Senate Bill 846/House Bill 1107 (both failed)*** would have supported smart growth and agricultural preservation efforts in addition to restricting the use of septic systems by prohibiting the approval of a major residential subdivision that would be served by a septic system or the approval of a minor subdivision that would be served by a septic system that does not use nitrogen removal technology; these bills would have also prohibited the future subdivision of any parcels of land resulting from a minor subdivision of residential land.

### **Phosphorus in Dishwashing Detergents**

As part of Maryland’s ongoing effort to restore the Chesapeake Bay, also embodied in the regional TMDL process, the State’s WIP calls for a reduction in phosphorus loading to the bay of about 585,000 pounds per year, from present levels, by 2020. One significant source of phosphorus effluent in Maryland’s waterways comes from the use and disposal of cleaning agents such as dishwashing detergents, which traditionally contain phosphorus.

Chapters 187 and 188 of 2007 established a prohibition on the sale, distribution, or manufacture of *household* dishwashing detergents containing more than 0.5% phosphorus by weight; Chapter 442 of 2008 delayed the effective date of the prohibition by six months until July 1, 2010, due to industry concerns about the availability of low-phosphorus alternatives. ***Senate Bill 320 (passed)*** and ***House Bill 53 (passed)*** prohibit, beginning July 1, 2013, a person from using, selling, manufacturing, or distributing for use or sale within the State any detergent for use in a *commercial* dishwashing machine that contains more than 0.5% phosphorus by weight. The July 1, 2013 effective date for the phase-down in phosphorus content reflects industry projections as to when a transition to low-phosphorus commercial dishwashing detergent formulations can be economically achieved.

Anyone who violates the prohibition on the sale or distribution of a household dishwashing detergent containing more than 0.5% phosphorus by weight is subject to a fine of up



to \$100 for a violation based on the use of the detergent, or up to \$1,000 for a violation based on the sale, manufacture, or distribution of the detergent; these penalties also apply for violations of the similar prohibitions pertaining to the use, sale, manufacture, or distribution of other cleaning agents with phosphorus. *Senate Bill 751 (passed)* increases these penalties as applied to *household* dishwashing detergents to a maximum of \$1,000 for a first offense and between \$1,000 and \$25,000 for a subsequent offense, for a person who knowingly violates the prohibitions.

### **Natural Gas Drilling in the Marcellus Shale Formation**

The Marcellus Shale formation is a geologic feature in the Appalachian Range which has recently attracted significant attention from the energy industry for its rich natural gas deposits. Geologists have long known about the natural gas resources contained within the formation but had considered the gas to be not economically recoverable until the recent development of new drilling technology reliant on a process called hydraulic fracturing. Production wells have been drilled in Pennsylvania, New York, Ohio, and West Virginia, and several companies have expressed interest in drilling into the formation in Allegany and Garrett counties; the Marcellus Shale formation is also present, to a limited extent, in Washington County. MDE advises that it has received three permit applications for drilling in the Marcellus Shale that are currently active.

In 2010, EPA raised several concerns regarding the impact of hydraulic fracturing on water supplies, water quality, and air quality, among other issues, and is currently examining the practice more closely. And, in December 2010, New York's Governor issued an executive order imposing a moratorium on certain hydraulic fracturing practices until at least July 2011.

The Minerals, Oil and Gas Division of MDE's Mining Program currently regulates gas exploration and production. A person must obtain a permit from MDE before drilling a well for the exploration, production, or underground storage of gas or oil in Maryland. A permit is also required for the disposal of any product of a gas or oil well. An applicant who wants to extract gas from the Marcellus Shale may also be required to apply for a number of other State permits, such as a water appropriation permit or a National Pollutant Discharge Elimination System permit. In addition, Chapter 383 of 2010 established an Oil and Gas Fund to support MDE's administration of a regulatory program that oversees the drilling, development, production, and storage of oil and gas wells in the State. Under Chapter 383, MDE is required to set and collect permit and production fees related to oil and gas well drilling. Fees must be set at a rate necessary to recover costs related to a host of specified regulatory activities.

*Senate Bill 634/House Bill 852 (both failed)*, as introduced, would have prohibited MDE from issuing a permit for the drilling of a well in the Marcellus Shale until the permit applicant had made specified environmental, public health, emergency response, and financial security demonstrations to MDE. *House Bill 852*, as amended in the House, would have required MDE and the Department of Natural Resources (DNR) to jointly convene an advisory commission and undertake a study of the extraction of natural gas from shale formations in the State. Except under specified conditions, MDE would not have been permitted to issue a well drilling permit that involves hydraulic fracturing until the publication of a final report on the required study,

which would have been due by August 1, 2013. However, MDE would have been authorized to issue a well drilling permit prior to the issuance of the report if information became available during the course of the study sufficient to demonstrate that the extraction of natural gas from shale formations in the State could be accomplished without adverse impacts, and after providing notice to the General Assembly. The bill also would have required persons who acquired a gas interest in Allegany or Garrett counties after January 1, 2007, for the purpose of drilling for natural gas, to file information with MDE and pay a fee based on the acreage of the interest acquired. Fee revenue would have been deposited into MDE's Oil and Gas Fund and used to pay for the required study; the bill would have established provisions addressing any differences in fee revenue and the cost of the study in order to ensure that the cost of the study was fully offset.

***Senate Bill 422/House Bill 411 (both failed)*** would have required MDE to submit regulations to the Joint Committee on Administrative, Executive, and Legislative Review by December 31, 2011, regarding natural gas exploration and production in the Marcellus Shale formation. The regulations would have been required to address a water testing plan to ensure drinking water resources are protected, the containment and disposal of fluid used in hydraulic fracturing processes, the identification of all chemicals and materials used in hydraulic fracturing processes, a prohibition on unregulated discharge of drilling materials and fluids, and site reclamation and bonding requirements.

## **Waste Management/Hazardous Substances**

### **Solid Waste Management**

In 1988, the Maryland Recycling Act required each county to submit a recycling plan to reduce its solid waste by 15% or 20%, depending on the size of its population. Counties have flexibility to determine the best way to reach the required recycling rates. Further legislation enacted in 2000 established a voluntary statewide waste diversion goal of 40% by 2005. According to MDE, these requirements and goals have been met each year.

***Recycling: House Bill 602 (Ch. 134)*** requires the Maryland Transit Administration and the Maryland Department of Transportation, in consultation with the Washington Metropolitan Area Transit Authority, to jointly study and make recommendations relating to the establishment of a recycling program at transit stations in Maryland. The recommendations must identify transit stations where recycling would be the most practicable and economically feasible. A report on the recommendations must be submitted to the Presiding Officers of the General Assembly and specified legislative committees by December 1, 2011. ***Senate Bill 111/House Bill 179 (both failed)*** would have required the property owner or manager of an apartment building or condominium containing 10 or more units to provide for the collection and removal of recyclable materials by October 1, 2015.

***Plastic Bags:*** Several bills were introduced during the 2011 session to discourage the use, or promote the recycling of, disposable carryout bags; however, none of the bills passed. ***House Bill 341 (failed)*** would have required store operators to establish at-store recycling programs to provide an opportunity for customers to return clean plastic carryout bags to the

stores. Manufacturers of plastic carryout bags would have been required to develop educational materials to encourage reuse, recycling, and reduction. *Senate Bill 602/House Bill 1034 (both failed)* would have required stores to charge and collect a fee of five cents per disposable carryout bag provided to a customer. A portion of the fee could have been retained by the store, and the balance would have been distributed by the Comptroller to the Department of Labor, Licensing, and Regulation, the Department of Human Resources, and the Chesapeake Bay Trust for specified outreach, education, training, and program implementation activities. *Senate Bill 721/House Bill 661 (both failed)* would have authorized Prince George's County to impose a fee on a store for the use of disposable plastic bags as part of a retail sale. As amended in the Senate, the fee also would have applied to the use of disposable paper bags.

**Composting:** According to EPA, yard trimmings and food residuals together constitute 26% of the U.S. municipal solid waste stream. *House Bill 817 (passed)* requires MDE to maintain information on its website to educate the public about composting and to promote composting in Maryland as a part of MDE's efforts to encourage waste diversion. The bill also requires MDE, in consultation with the Maryland Department of Agriculture (MDA) and the Maryland Environmental Service, to study composting in Maryland and to make recommendations about how to promote composting in Maryland. MDE must report its findings, recommendations, and a summary of the laws and regulations governing composting, to the General Assembly, by January 1, 2013.

### **Toxic Substance Control**

**Lead Risk Reduction in Housing:** Chapter 114 of 1994, the Reduction of Lead Risk in Housing Law, established the Lead Paint Poisoning Prevention Program within MDE. The program provides limited liability relief for owners of rental property built before 1950 and specified others in exchange for the reduction of lead hazards in these older rental properties. The program also provides for limited compensation to children who are poisoned by lead. By December 31, 1995, the owner of an affected property must have registered that property with MDE. An owner who first acquires affected property after that date must register the property within 30 days of acquisition. All registrations must be renewed, and associated annual fees paid, by December 31 of each year. To relieve the significant administrative burden created by this requirement, *House Bill 1254 (passed)* authorizes MDE to establish by regulation a staggered schedule for registration renewals of affected properties.

Under the program, a risk reduction standard must be satisfied at each change in occupancy, before the next tenant occupies an affected property. To satisfy the standard, the property must pass a test for lead-contaminated dust *or* the owner must perform specified lead hazard reduction treatments and have the property inspected to verify that the standard has been satisfied. A modified risk reduction standard must be complied with if an elevated blood lead level is found in a person at risk who resides on the property or a defect is found in a property in which a person at risk resides. *House Bill 1033 (passed)* amends the risk reduction standard that must be satisfied at each change of occupancy of an affected property by requiring the property to pass a test for lead-contaminated dust and requiring the owner to have the property inspected. The bill repeals the option to satisfy the standard by performing lead hazard reduction

treatments. The bill also makes the modified risk reduction standard more stringent by requiring that a property pass a dust test in addition to the performance of specified lead hazard reduction treatments. In addition, the bill modifies several of the lead hazard reduction treatments, allows an owner to achieve compliance with the modified risk reduction standard by providing for the temporary relocation of tenants to a lead-free dwelling unit or other specified property, alters the verification requirements for satisfaction of the modified risk reduction standard, and alters the penalties applicable to violations of the Reduction of Lead Risk in Housing law. Finally, the legislation requires that MDE conduct a study and adopt regulations related to reporting requirements of dust testing laboratory results.

***Decabrominated Diphenyl Ether:*** Polybrominated diphenyl ethers, or PBDEs, are a subcategory of brominated flame retardants. Although manufacturers of two types of PBDEs agreed to voluntarily discontinue production at the end of 2004 due to environmental and health concerns, one type of PBDE, known as decabrominated diphenyl ether (decaBDE), was still used in a wide range of products as of 2009. EPA has reached agreement with manufacturers and importers to voluntarily phase out decaBDE from most uses by December 31, 2012 (with the exception of transportation and military equipment), and from all uses by December 31, 2013. In addition, Maryland and several other states have enacted legislation restricting or prohibiting the use of decaBDE in certain products. Chapter 320 of 2010 phased out the manufacture, lease, sale, and distribution of specified products containing decaBDE, beginning on December 31, 2010, and ending by December 31, 2013. Maryland's phase-out does not apply to shipping pallets used to transport unpackaged fruits and vegetables, certain vehicles or vehicle parts, or certain replacement service parts or other products manufactured before January 1, 2011. The phase-out also does not prohibit the sale, recycling, or disposal of remaining inventory or products that contain recycled decaBDE or any activity involving a product that contains decaBDE that occurs subsequent to the first sale at retail. To account for the fact that trace amounts of decaBDE may be found in products, [\*Senate Bill 221/House Bill 54 \(both passed\)\*](#) alter the phase-out of decaBDE in specified products by allowing a permissible threshold level of 0.1% decaBDE by mass, applicable to all product categories. The bills also add an exemption from the phase-out for aircraft and aircraft parts.

***Cadmium in Children's Jewelry:*** According to the U.S. Agency for Toxic Substances and Disease Registry, cadmium is a known human carcinogen that can cause cardiovascular, developmental, renal, gastrointestinal, neurological, reproductive, and respiratory harm. Since the passage of the federal Consumer Product Safety Improvement Act of 2008, which restricted the use of lead in children's products, high levels of cadmium have been detected in children's jewelry purchased from U.S. retailers. Most of these items were imported from manufacturers that began adding cadmium to their products as a substitute for lead. Maryland law restricts the use of cadmium in packaging but not in children's jewelry or other consumer products. Cadmium in a package or packaging component may not exceed 0.01% by weight. [\*House Bill 145 \(passed\)\*](#) prohibits a person from manufacturing, selling, offering for sale, or distributing any children's jewelry containing cadmium at more than 0.0075% by weight on or after July 1, 2012. The bill also authorizes MDE to adopt implementing regulations.

## Miscellaneous

***Hart-Miller-Pleasure Island Citizens Oversight Committee:*** The site of the Hart-Miller-Pleasure Island State Park was acquired by the State in 1977 with a plan to restore the three-island chain. The restoration plan called for dredged material to be pumped into an impounded area that would be made part of the park. Placement of dredged material was completed in 2010 and final restoration plans have been expedited to finish redevelopment as early as 2016. The Hart-Miller-Pleasure Island Citizens Oversight Committee was originally charged with monitoring the redeposit of spoil and Baltimore County tributary spoil within five miles of the Hart-Miller-Pleasure Island chain and hearing and disposing of complaints from those affected by the redeposit of this spoil. ***Senate Bill 368/House Bill 292 (both passed)*** alter the duties of the oversight committee to include monitoring, providing oversight, and hearing and disposing of complaints regarding the future development, use, and maintenance of the Hart-Miller-Pleasure Island chain and the water quality surrounding the island chain. This change reflects the transition that the islands are undergoing from restoration of the island chain with dredged material to redevelopment of the new land areas into a fully developed park for recreational use.

***Acid Mine Drainage Abatement and Treatment Fund:*** In accordance with the federal Surface Mining Control and Reclamation Act (SMCRA), MDE administers the abandoned mine reclamation program and expends federal funds to reclaim abandoned surface mines, control mine subsidence, perform stream restoration, treat acid mine drainage, and for other water quality purposes. SMCRA was amended in 2006 to increase the limit from 10% to 30% on federal funds that may be deposited in Maryland's Acid Mine Drainage Abatement and Treatment Fund for environmental restoration activities. ***House Bill 210 (Ch. 112)*** repeals an obsolete date in the funding provisions of Maryland's abandoned mine reclamation law to conform to the amended federal law and eliminate the need for future statutory changes resulting from any future revisions to the federal law.

***Aquaculture:*** ***Senate Bill 847/House Bill 1053 (both passed)*** transfer to DNR specified aquaculture, seafood, and marketing functions from MDA, MDE, and the Board of Public Works. For further discussion of ***Senate Bill 847/House Bill 1053***, see the subpart "Natural Resources" within this Part K – Natural Resources, Environment, and Agriculture of this *90 Day Report*.

## Agriculture

### Agricultural Land Preservation

The Maryland Agricultural Land Preservation Foundation (MALPF) purchases agricultural preservation easements that restrict development on prime farmland and woodland in perpetuity. In addition to funding from the State transfer tax, MALPF is funded with agricultural land transfer taxes, general obligation bonds, local matching funds, and federal funds. As of



January 2011, MALPF had cumulatively purchased or had a pending contract to purchase conservation easements on 2,080 farms covering 283,523 acres.

Chapter 155 of 2005 required MALPF and the Maryland Department of Planning (MDP) to establish a Critical Farms Program to provide interim or emergency financing for the acquisition of agricultural preservation easements on critical farms that would otherwise be sold for nonagricultural uses. Chapter 155 required MALPF and MDP to examine options for easement acquisition on critical farms and identify those that would enable the Critical Farms Program to succeed, as well as report on options available for funding the program. MALPF and MDP submitted a report in 2007 making recommendations for the program and its funding. *House Bill 214 (passed)* implements many of the recommendations in the 2007 report.

Under *House Bill 214*, MALPF is given sole responsibility for establishing the Critical Farms Program and determining, with county approval, if a property qualifies for the program in accordance with specified criteria. Under the bill, the program's objectives to acquire agricultural preservation easements on critical farms are accomplished through either a purchase of an easement option from an owner or purchaser of a critical farm or the purchase of a fee simple interest in property and the sale, lease, exchange, or transfer of the property, with an agricultural land preservation easement in place. The program's objectives are financed by a Critical Farms Fund, which is established under the bill. The bill authorizes the Governor to include in the annual budget an appropriation to the Critical Farms Fund consistent with the Agricultural Stewardship Act of 2006 (Chapter 289). The Act expressed legislative intent that the Governor provides \$20.0 million annually in general funds for MALPF to be used for, among other things, the Critical Farms Program.

## Fertilizers

Maryland's recently completed Phase I Watershed Implementation Plan (WIP), the initial plan for meeting Maryland's share of the Chesapeake Bay Total Maximum Daily Load or "pollution diet," includes recommendations related to fertilizer use. *Senate Bill 487/House Bill 573 (both passed)* address a number of the strategies related to lawn fertilizer use in the WIP by expanding the State's regulation of the content, labeling, and application of fertilizers used on turf. "Turf" is defined as land, including residential property and publicly owned land that is planted in grass, except land that is used in the sale and production of sod. In addition to establishing fertilizer content, labeling, and application requirements, the bills also require the Maryland Department of Agriculture (MDA), in consultation with the University of Maryland, to establish a certification program for professional fertilizer applicators, as well as a public education program.

*Senate Bill 487/House Bill 573* modify the scope of application of an existing low phosphorous fertilizer requirement and establish fertilizer content and application requirements and restrictions, which take effect October 1, 2013, that further limit the amount of phosphorus, and limit the amount of nitrogen, that can be included in fertilizer labeled or offered for sale for use on turf and applied to turf. The requirements and restrictions include:

- specified limits on the amount of nitrogen that fertilizer labeled or offered for sale for use on turf can contain and a requirement that at least 20% be slow-release nitrogen;
- separate nitrogen limits applicable to “enhanced efficiency fertilizers” labeled or offered for sale for use on turf;
- a restriction against fertilizer labeled or offered for sale for use on turf containing any phosphorus, except for organic and natural organic fertilizer sold to a professional fertilizer applicator or when labeled or intended for specific uses on turf;
- restrictions against application of fertilizer intended for use on turf to an impervious surface;
- a restriction against applying fertilizer containing phosphorus or nitrogen to turf (1) before March 1 or after November 15, with the exception of water-soluble nitrogen applied at a specified rate by a professional fertilizer applicator from November 16 through December 1; (2) any time the ground is frozen; or (3) generally within 15 feet of waters of the State (for certain application methods, the limit may be reduced to 10 feet); and
- a requirement that a professional fertilizer applicator be certified before applying fertilizer to turf, unless the person is under the direct supervision of a certified professional fertilizer applicator.

*Senate Bill 487/House Bill 573* also establish that, effective October 1, 2012, except for enforcement of certain fertilizer application restrictions by counties and municipalities, MDA has exclusive authority to establish standards regulating fertilizer and its application to turf and local government entities are prohibited from adopting laws, regulations, rules, ordinances, or standards regulating fertilizer and its application to turf.

Other bills addressing the nitrogen and phosphorus content of fertilizers were introduced in the 2011 session, but were unsuccessful. *Senate Bill 544/House Bill 687 (both failed)*, among other things, would have prohibited, beginning April 1, 2012, a person from offering, selling, or distributing for use or sale in the State fertilizer intended for use on established lawns, grass, or turf unless the mixture contained at least 30% slow release fertilizer. *Senate Bill 546/House Bill 706 (both failed)*, among other things, would have prohibited, beginning April 1, 2012, the sale or distribution of fertilizer with available phosphorous content intended for use on established lawns or grass, with the exception of fertilizers intended for use as seed starter on newly established lawns, grass, or turf, consistent with University of Maryland recommendations.

### **Transfer of Seafood Marketing and Aquaculture Functions**

MDA’s significant functions related to seafood marketing and aquaculture are transferred to the Department of Natural Resources (DNR) under *Senate Bill 847/House Bill 1053*. The

bills also transfer certain aquaculture-related functions from the Maryland Department of the Environment and the Board of Public Works to DNR. For further discussion of [\*Senate Bill 847/House Bill 1053\*](#), see the subpart “Natural Resources” within this Part K – Natural Resources, Environment, and Agriculture of the *90 Day Report*.

## **Departmental Boards, Programs, Regulatory Functions, and Fees**

### **State Board of Veterinary Medical Examiners**

The State Board of Veterinary Medical Examiners is responsible for protecting the public and animal health and welfare through effective licensure of veterinarians, veterinary technicians, and veterinary hospitals under its jurisdiction; effective discipline of veterinarians, veterinary technicians, and operators of veterinary hospitals under its jurisdiction, when warranted; and adoption of reasonable standards for the practice of veterinary medicine in the State of Maryland. As of 2010, there were 2,471 licensed and registered veterinarians, 506 licensed veterinary hospitals, and 29 licensed animal control facilities. Regulations adopted by the board establish various violations and associated civil penalties for veterinarians for initial and subsequent violations.

[\*Senate Bill 146 \(passed\)\*](#) authorizes the board to direct a veterinarian, veterinary practitioner, or applicant for a veterinary license to submit to a mental or physical examination under certain circumstances. Additionally, the bill authorizes the board to refuse an application or take specified disciplinary action against a licensee based on an inability to practice veterinary medicine competently due to a physical or mental disability. The bill also clarifies that disciplinary action may be taken when a veterinarian or veterinary practitioner is determined by four members to be professionally incompetent as a veterinary practitioner.

A person may not practice veterinary medicine unless he or she is licensed, registered, and authorized to engage in the practice under State law. It is not considered to be the practice of veterinary medicine if, under the responsible direct supervision of a veterinary practitioner, a registered veterinary technician performs the following procedures: (1) anesthesia induction by specified methods; (2) application of casts and splints; (3) dental extractions; and (4) suturing of existing surgical skin incisions. To provide flexibility in a field that is evolving, [\*Senate Bill 322 \(Ch. 56\)\*](#) repeals the specific list of procedures and instead allows registered veterinary technicians to perform procedures under the responsible direct supervision of a veterinary practitioner in accordance with regulations adopted by the board.

The term “practice of veterinary medicine” also does not include or apply to a farrier or a person actively engaged in the art or profession of horseshoeing. A common definition of a farrier is a person who shoes horses, but a farrier may also routinely treat minor hoof medical conditions such as infections, bruises, and abscesses. Some horse owners, however, do not shoe their horses, but the horse hooves still require trimming and maintenance. [\*Senate Bill 32 \(Ch. 7\)\*](#) allows a farrier or a person actively engaged in the art or profession of horseshoeing to trim and maintain horse hooves without being considered to be practicing veterinary medicine.



### **Farm-to-School Program**

The Jane Lawton Farm-to-School Program was established within MDA by Chapters 371 and 372 of 2008 for various purposes generally aimed at promoting and facilitating the sale of farm products grown in the State to Maryland schools. All of the public school systems in the State participate in the program, and in 2010, over 30 different Maryland farms provided fresh Maryland-grown agriculture products to the schools. *House Bill 751 (Ch. 140)* requires each local educational agency participating in the program to report to MDA the types and amounts of farm products purchased from farms in the State by January 1 of each year.

### **Invasive Plants**

According to the U.S. National Arboretum, invasive plants have the ability to thrive and spread aggressively outside their natural range but can vary in their level of invasiveness, with some only colonizing small areas and not doing so aggressively and others dominating large areas in just a few years. Invasive plants can put pressure on native plants and animals, alter habitats, and reduce biodiversity.

*House Bill 831 (Ch. 142)* establishes an Invasive Plants Advisory Committee within MDA to advise the Secretary of Agriculture in adopting regulations related to invasive plants and to review and report on a science-based risk assessment protocol for invasive plants required to be established under the bill. The Secretary of Agriculture must adopt regulations by October 1, 2012, which, among other things, establish a science-based risk assessment protocol for invasive plants on which to base the establishment of specified tier 1 and tier 2 plant lists. By October 1, 2013, the Secretary must adopt additional regulations to establish tier 1 and tier 2 plant lists and phase in the implementation of the Act's requirements regulating invasive plants.

### **Waste Kitchen Grease**

In recent years, as oil prices soar, there has been a growing problem with the theft of restaurant grease which has become a valuable commodity in producing biofuels. Similar to a law enacted in Virginia in 2010, *Senate Bill 607/House Bill 881 (both passed)* require a person to register annually with MDA before transporting waste kitchen grease, unless the person falls under specified exemptions for the transportation of limited quantities of waste kitchen grease for small-scale production of biofuel. Application and registration fees must be paid and then deposited into a fund for MDA's use to administer the registration program. "Waste kitchen grease" is defined as animal fats or vegetable oils used in cooking or generated by a food establishment that will not be consumed or reused as food. Each registrant must carry a registration certificate containing a unique registration number issued by MDA when transporting waste kitchen grease, conspicuously display the registrant's name on any vehicle used to transport waste kitchen grease, and keep records of the source, destination, date, and volume of waste kitchen grease hauled. The bills also prohibit certain conduct relating to waste kitchen grease and establish penalties for violations of the bills' provisions. The State's Attorney of a county is responsible for enforcement.

### **Weights and Measures Registration Fees**

The Weights and Measures Section within MDA inspects weighing and measuring devices and prepackaged commodities to ensure honest and accurate transactions between consumers and businesses. Weights and measures used for commercial purposes generally must be registered annually, and an applicant for registration must pay a registration fee. The registration fees are specified in statute specific to various types of weights and measures. **House Bill 293 (passed)** increases the maximum fee per business location for registration of scales with a capacity of up to 100 pounds (from \$225 to \$325) and retail motor fuel dispenser meters of under 20 gallons per minute (from \$275 to \$375). The fee per scale for a scale with a capacity of up to 100 pounds is \$20, and the fee per dispenser meter for retail motor fuel dispenser meters of under 20 gallons per minute is \$15. **House Bill 293** also repeals a general fund reversion provision relating to the Weights and Measures Fund (which receives registration fee revenue and is used to defray the expenses associated with the program) and requires that any unspent or unencumbered balance in the fund at the end of the year remain in the fund.

### **Agricultural Product Sales at Public Festivals or Events**

Chapters 246 and 247 of 2010 required the Department of Health and Mental Hygiene to establish a producer mobile farmer's market license and authorized a county to establish a seasonal farmer's market producer sampling license, respectively. Chapter 246 also prohibited a local jurisdiction from requiring a license for the sale of raw agricultural products at a farmer's market or requiring a producer mobile farmer's market licensee to obtain a separate permit or license to sell products authorized for sale under the producer mobile farmer's market license. Chapter 247 authorized a county to establish a seasonal farmer's market producer sampling license to be required for a producer of a farm product to prepare and offer samples of the farm product for human consumption at a farmer's market.

**Senate Bill 228 (passed)** expands the provisions of Chapters 246 and 247 of 2010 by applying the provisions to the sale or offering of samples of agricultural products at public festivals or events as well as farmer's markets. "Public festival or event" is defined as a planned gathering that is open to the public and is regulated by the State or local jurisdiction in which it takes place.

## **Part L**

### **Education**

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#### **Primary and Secondary**

##### **Education Funding**

##### **State Aid**

State aid for primary and secondary education will increase by \$57.3 million in fiscal 2012 to a total of nearly \$5.8 billion, 1.0% more than fiscal 2011 aid. State aid provided directly to the local boards of education increases by \$74.1 million or 1.5%, while teachers' retirement costs, which are paid by the State on behalf of the local school systems, decline from \$849.8 million to \$833.0 million, a decrease of 2.0%.

Fiscal 2011 to 2012 changes in major State education aid programs are shown in **Exhibit L-1**. The largest increase is in the compensatory education program, which provides funding based on the number of students in the State eligible for free and reduced priced meals. This population increased by more than 14,000 students (4.6%) from fall 2009 to 2010, resulting in an increase of \$42.8 million for the compensatory education program. State aid for the limited English proficiency formula increases by \$11.5 million or 7.6%. The growth in this formula is due to an increase of 3,800 (8.7%) in the number of students with limited English proficiency. Statewide full-time equivalent enrollment increases by approximately 3,500 and results in an increase of \$11.0 million in the State share of the foundation program. In contrast to recent years, State aid for the teachers' retirement program is down \$16.9 million after averaging 15.9% growth annually from fiscal 2006 to 2011. State funding for teachers' retirement is paid into the State's pension fund and does not pass through local school system budgets. Changes in education aid for individual counties can be found in Part A – Budget and State Aid of this *90 Day Report*.

The bottom of Exhibit L-1 shows how education aid is being funded in fiscal 2011 and 2012. To support fiscal 2011 education aid formulas, the State is spending \$422.3 million in federal funding from the State Fiscal Stabilization Fund (provided through the 2009 federal stimulus legislation) and another \$142.9 million from the Education Jobs Fund approved by the

U.S. Congress in August 2010. These funds are not available in fiscal 2012, resulting in an increase of \$622.5 million or 12.1% in State funds supporting education aid. However, [\*House Bill 72 \(passed\)\*](#), the Budget Reconciliation and Financing Act of 2011 (BRFA), authorizes the use of \$124.4 million in fiscal 2011 general funds that were saved as a result of federal funding available through the Education Jobs Fund. The \$124.4 million will be distributed to school systems in June 2011 (fiscal 2011) in order to prefund a portion of fiscal 2012 State aid.

**Exhibit L-1**  
**Change in State Education Aid**  
**Fiscal 2011-2012**  
**(\$ in Millions)**

<b><u>Program Funding</u></b>	<b><u>FY 2011</u></b>	<b><u>FY 2012</u></b>	<b><u>\$ Change</u></b>	<b><u>% Change</u></b>
Foundation Program*	\$2,763.5	\$2,774.5	\$11.0	0.4%
Geographic Cost of Education Index	126.6	127.3	0.7	0.6%
Supplemental Grants	46.5	46.5	0.0	0.0%
Compensatory Education	1,041.1	1,083.8	42.8	4.1%
Special Education Formula	264.0	264.3	0.3	0.1%
Limited English Proficiency	151.2	162.7	11.5	7.6%
Guaranteed Tax Base*	47.4	50.1	2.7	5.7%
Student Transportation	244.4	248.2	3.8	1.6%
<b>Bridge to Excellence Subtotal</b>	<b>\$4,684.7</b>	<b>\$4,757.5</b>	<b>\$72.8</b>	<b>1.6%</b>
Nonpublic Special Education	112.8	112.8	0.0	0.0%
Other Direct Aid	70.2	71.5	1.3	1.9%
<b>Direct Aid Subtotal</b>	<b>\$4,867.6</b>	<b>\$4,941.7</b>	<b>\$74.1</b>	<b>1.5%</b>
Teachers' Retirement	849.8	833.0	(16.9)	-2.0%
<b>Education Aid Total</b>	<b>\$5,717.5</b>	<b>\$5,774.7</b>	<b>\$57.3</b>	<b>1.0%</b>
<hr/>				
<b><u>Funding Source</u></b>				
State Funds	\$5,152.2	\$5,774.7	\$622.5	12.1%
Federal Funds	565.2	0.0	(565.2)	-100.0%
<b>Total Funds</b>	<b>\$5,717.5</b>	<b>\$5,774.7</b>	<b>\$57.3</b>	<b>1.0%</b>

\*Foundation program includes \$1.4 million that is contingent on the enactment of [\*Senate Bill 994 \(passed\)\*](#) but does not include \$8.8 million for the local aid disparity grant program that is also contingent on [\*Senate Bill 994\*](#). Guaranteed tax base program includes \$12.2 million that is contingent on the enactment of [\*Senate Bill 994\*](#).

Note: State funds include general funds, special funds, and Aging Schools Program funds. Federal funds include aid from the State Fiscal Stabilization Fund and the Education Jobs Fund.

Source: Department of Legislative Services

**Adjustments to Increase Direct Education Aid:** As proposed, the BRFA of 2011 would have reduced the per pupil foundation amount used in most of the large State aid formulas in

order to level-fund total direct State aid from fiscal 2011 to 2012. The proposed reduction was to a per pupil foundation amount \$95 below the fiscal 2011 amount and \$150 below the funding level required by current law. Although budget constraints precluded an increase to the full funding amount, the General Assembly was able to restore the per pupil amount to its fiscal 2011 level of \$6,694, resulting in an increase of \$58.5 million over the budget plan introduced by the Administration and savings of \$35.3 million compared to the full funding level.

Further, the BRFA of 2011 and the fiscal 2012 budget include statutory changes and budget language that facilitate an increase in funding for Baltimore City under the guaranteed tax base program and provide grants to school systems experiencing decreases of greater than 6.5% in State formula aid in fiscal 2012 only. Savings available in the State share of the foundation program are restricted for these purposes, and the additional aid is contingent on enactment of *Senate Bill 994 (passed)* and the Governor transferring the funds.

The 6.5% cap on fiscal 2011 to 2012 decreases in education aid results in \$1.4 million in additional aid for Allegany and Garret county schools in fiscal 2012. Without the cap on decreases, the counties would have incurred reductions in State school aid of 7.5% and 9.2%, respectively. Baltimore City's additional guaranteed tax base aid is due to an expected transfer of approximately \$31.4 million in school system retiree health care costs from the Baltimore City budget to the school system's budget. The guaranteed tax base program provides additional State aid to low-wealth jurisdictions (like Baltimore City) based on their local appropriations to the local school systems; higher local appropriations result in more State aid. The \$31.4 million transfer increases the city's appropriation to the school system and results in an increase in State aid to Baltimore City schools of \$12.2 million. Language in the BRFA of 2011 facilitates the shift of retiree health care costs into the school system's budget by allowing Baltimore City to decrease its fiscal 2012 appropriation to the school system if the city takes actions to reduce retiree health care costs.

In addition to the enhancements the General Assembly made to education aid through the operating budget, the fiscal 2012 capital budget includes an extra \$2.5 million in general obligation bonds for the Aging Schools Program. This adjustment increases fiscal 2012 State aid for the Aging Schools Program from the mandated annual funding level of \$6.1 million to \$8.6 million. The Aging Schools Program is funded through the capital budget rather than the operating budget in fiscal 2012. The BRFA of 2011 permanently authorizes the program to be funded either with general funds in the operating budget or with general obligation bonds. The additional funds are allocated to counties proportionate to their share of the statutorily required amount.

***Decreases in Aid for Teachers' Retirement:*** Costs for teachers' retirement have grown from \$406.9 million in fiscal 2006 to \$849.8 million in fiscal 2011, and costs were expected to climb to \$923.3 million in fiscal 2012. Through statutory changes made in the BRFA of 2011, however, fiscal 2012 costs instead decline to \$833.0 million. The largest decrease in anticipated fiscal 2012 costs, \$74.4 million, is due to the restructuring of the State's pension system, which is discussed fully in Part C – State Government of this *90 Day Report*. The BRFA of 2011 allows the Governor to reduce payments to the State's pension funds by \$120 million in

fiscal 2012 to recognize a portion of the savings generated through pension reform. The \$74.4 million reduction in State aid for local board of education retirement costs represents the share of the \$120 million savings attributable to local board employees.

The BRFA of 2011 also requires local boards of education to pay a share of the administrative costs for the State Retirement Agency. In the past, retirement agency administrative costs have been included as part of the State's annual appropriation to the pension fund. In fiscal 2012 and future years, local boards of education will pay these expenses, allowing the State to reduce its aid for teachers' retirement. This shift results in an additional reduction of \$15.9 million in fiscal 2012 retirement costs.

### **Local Funding for Education and Maintenance of Effort**

In the aggregate, the State and county governments (including Baltimore City) are roughly equivalent partners in providing the majority of funding for public schools. Most State aid is allocated through statutory formulas, and minimum county government appropriations to boards of education may not go below the local share of the foundation and are set through the maintenance of effort (MOE) requirement. To be eligible for increases in State education aid under § 5-202 of the Education Article (which includes the State share of the foundation program, the geographic cost of education index, and the supplemental grant), a local jurisdiction must meet MOE by providing at least as much per pupil funding as the county provided to the school system in the previous fiscal year. The State Board of Education may waive the MOE requirement for a county if the State board determines after a public hearing that the county's fiscal condition significantly impedes its ability to provide the minimum amount.

The BRFA of 2011 clarifies rules for the local budget process. Each local board must submit a budget request to the county (or Baltimore City) governing body that includes a county appropriation that at least meets the amount required for the local share of the foundation. The county commissioners or county council may provide funds above this amount. If an amount above the local share of the foundation is not approved, the county council or county commissioners must indicate which budget categories are being reduced and the reason for the reductions. This change clarifies that a county governing body has the authority to reduce funding for education below the full MOE amount but also prohibits a governing body from reducing county funding below the local share of the foundation. A county's failure to provide at least the full MOE amount, however, is still subject to penalty unless the county receives a waiver from the State Board of Education.

The BRFA of 2011 also clarifies the MOE penalty for fiscal 2012 by stating that all funds used to support § 5-202 aid programs, including State and federal funds, are to be used in the calculation of the increase from fiscal 2011 to 2012. Without this clarification, the State Board of Education could have elected to impose penalties based on the increase in State funding only. As discussed above, \$565.2 million in federal funds is being spent for State education aid in fiscal 2011, so the increase in *State* funding in fiscal 2012 for § 5-202 aid is very high for many school systems. The BRFA language, therefore, reduces the fiscal 2012 MOE penalties that the State Board of Education may impose on local school systems. In addition, *House Bill 869 (passed)*

delays any MOE penalties imposed by the State board until the fiscal year after a county fails to fund the required MOE amount. This change prevents the “double penalty” that a school system would face if it had to absorb an MOE penalty and a reduction in county funding in the same fiscal year. It also gives school systems an additional year to prepare for decreases in State funding due to a penalty.

Finally, local education funding for Prince George’s County is affected by language in the 2012 budget bill and a statutory increase in the fiscal 2012 disparity grant. The BRFA of 2011 enhances the disparity grant, resulting in an \$8.8 million increase in Prince George’s County’s allocation under the formula. Budget language restricts excess funds in the State share of the foundation for the additional disparity grant aid and requires Prince George’s County to allocate half of the increased funds, \$4.4 million, to the local school system. Like the education aid enhancements for Baltimore City and Allegany and Garrett counties, the additional disparity grant funding is contingent on the enactment of *Senate Bill 994* and the Governor transferring the funds.

## **Public School Construction**

### **Capital Funding**

The fiscal 2012 capital budget, *House Bill 71 (passed)*, includes \$250 million for public school construction. This amount includes \$240.3 million in general obligation bonds and \$9.7 million from the Statewide Contingency Fund. Local school systems requested a total of \$612.3 million for fiscal 2012, of which \$500.2 million is eligible for State funding. The Public School Facilities Act of 2004 (Chapters 306 and 307) established a State goal to provide \$2 billion in State funding over eight years to address school construction needs, or \$250 million per year from fiscal 2006 to 2013. Fiscal 2012 will be the seventh consecutive year that the annual goal has been met or exceeded, with the State providing a total of \$2.1 billion for school construction from fiscal 2006 to 2012, surpassing the \$2 billion funding goal.

In addition to the \$250 million provided to the State’s Public School Construction Program, \$47.5 million is dedicated to school construction projects from revenues to be raised through an increase in the alcohol sales tax, as specified in *House Bill 1213 (passed)*. These projects may or may not be eligible for funding from the Public School Construction Program, and must be approved by the Board of Public Works (BPW). BPW must consider requests from local jurisdictions and projects that benefit older school buildings, benefit schools with high proportions of low-income students, can be completed in one year, eliminate or reduce the use of relocatable classrooms, are eligible for State funding but are not fully funded in fiscal 2012, and reduce energy consumption or incorporate high-performance “green” building principles.

### **Qualified Zone Academy Bonds**

*House Bill 86 (Ch. 96)* authorizes \$15.9 million in Qualified Zone Academy Bonds (QZABs) to be issued by December 31, 2011. Since 2001, the State has issued \$52.2 million in QZABs allocated by the federal government to Maryland. QZABs are an alternative bond



program that the federal government authorizes with bond holders receiving federal tax credits in lieu of interest.

Federal requirements have presented challenges for some school systems in expending their QZAB funds. School systems must have a 10% private sector match, some school systems may not have enough qualifying schools (with at least 35% of students who qualify for free and reduced price meals) to use large amounts of QZABs, and funds issued beginning in 2008 must be encumbered within six months and spent within three years of the date of issuance. As of February 28, 2011, the unexpended QZAB balance was \$12.9 million. With the additional \$15.9 million approved in the 2011 legislative session and another \$15.3 million for fiscal 2013 already allocated to Maryland by the federal government, there is concern about the capacity of school systems to use QZAB funds from imminent issuances. To help speed up spending and broaden the reach of QZABs, the 2011 legislation allows the \$15.9 million in QZAB proceeds to be used in two ways: (1) for competitively awarded grants by the Interagency Committee for School Construction; and (2) for targeted grants awarded by the Maryland State Department of Education (MSDE) under the Breakthrough Center Program. The Breakthrough Center's primary focus is to efficiently coordinate MSDE's resources for low-performing schools in Baltimore City and Prince George's County. The bill also specifies that charter schools are eligible for the funds.

## **Education Legislation**

The General Assembly also considered and passed bills relating to student health and safety, early childhood care and education programs, building and school sites for use by public charter schools, the SEED School of Maryland, and other education issues.

### **Student Health and Safety**

Chapter 489 of 2008 required the State Board of Education to develop a model policy that prohibits bullying, harassment, and intimidation in schools. Using the model policy, local boards of education were required to develop policies for the public schools under their jurisdiction. *Senate Bill 489/House Bill 38 (both passed)* require nonpublic schools that participate in State-funded education programs to adopt, by March 31, 2012, a policy prohibiting bullying, harassment, and intimidation. Nonpublic schools are also encouraged to develop educational bullying prevention programs for students, staff, volunteers, and parents as well as staff development programs to train teachers and administrators to implement the policies. The bills further provide that these requirements may not be construed to either limit the legal rights of a victim of bullying, harassment, or intimidation or require a statewide policy in nonpublic schools relating to bullying, harassment, and intimidation.

Several states have centers dedicated to school safety that serve as central locations for school safety information and provide schools with research, training, and technical assistance to reduce youth violence and promote safety. *Senate Bill 772/House Bill 79 (both passed)* establish a Task Force to Study the Creation of a Maryland Center for School Safety to be staffed



by Bowie State University. A final report with findings and recommendations is due from the task force by July 1, 2012.

As of September 2010, at least 10 states have enacted laws that target youth sports-related head injuries. At the federal level, legislation is pending regarding student athletes, concussions, and pre-season neurological testing. *Senate Bill 771 (passed)* and *House Bill 858 (passed)* require MSDE to develop and implement a program to provide concussion awareness to students and youth in youth sports programs. The information must be provided as a separate information sheet or as part of the registration for the program. The individual or the parent or guardian of the individual must acknowledge receipt of the information.

If a school vehicle has stopped on a roadway and is operating its standard alternately flashing red lights, the driver of any other vehicle must stop at least 20 feet from the school vehicle, and may not proceed until the school vehicle resumes motion or its flashing lights are deactivated. MSDE recently conducted a one-day survey of school bus drivers to determine the prevalence of violations of this law. The results of that survey were released in February 2011 and show that there were 7,028 reported violations during the day of the survey. *Senate Bill 679 (passed)* allows law enforcement agencies, in consultation with a county board of education, to place cameras on county school buses to record motor vehicle violations of passing motorists. For further discussion, please see Part G – Transportation of this *90 Day Report*.

*Senate Bill 369 (passed)* requires school buses procured for use in the State on or after January 1, 2014, to meet certain fire safety criteria. The bill requires MSDE to advise the Motor Vehicle Administration on the adoption of regulations to promote the fire safety of school buses.

### **Early Childhood Education and Development Programs**

Chapter 680 of 2000 established the Judith P. Hoyer Early Child Care and Education Enhancement Program to promote school readiness through developing and expanding high-quality, comprehensive, full-day early child care and education programs and family support services. Judith P. Hoyer Early Child Care and Family Education Centers, or “Judy Centers,” provide access in one location to early childhood education and family support programs located at or near Title I schools. Typically, educational opportunities and support services are available 7 to 12 hours a day, year round.

Under the program, grants are provided to participating agencies and programs that have voluntarily obtained accreditation or that have voluntarily initiated and are actively pursuing accreditation. *Senate Bill 104 (passed)* requires MSDE to include information on participating agencies and programs in its annual report on the Judith P. Hoyer Early Child Care and Education Enhancement Program. The annual report must provide a description of expenditures, enrollment, and statewide performance data, including school readiness data disaggregated by program and by jurisdiction. In addition, the bill requires that MSDE submit its annual report by November 1 each year rather than by January 1.

Chapters 368 and 369 of 2001 established a hearing aid loan bank program within MSDE. The statutory provisions establishing that program terminated June 30, 2004, but MSDE

continues to operate a hearing aid loan bank program similar to the program established by Chapters 368 and 369 with federal funding support. The program serves approximately 40 infants each year. *Senate Bill 754/House Bill 1013 (both passed)* reestablish a Hearing Aid Loan Bank Program in MSDE. The Hearing Aid Loan Bank Program must provide and maintain a pool of hearing aids for loan, testing and programming equipment for the hearing aids, and supplies for repairing and reconditioning the hearing aids. Through the program, hearing aids must be loaned on a temporary basis to the parent or legal guardian of an eligible child who is a Maryland resident younger than age three, who has been identified by an otolaryngologist or a licensed audiologist as having a hearing loss, and who has no immediate access to a hearing aid. The original loan can be for no longer than six months, but the program may extend the loan for additional three-month periods under certain circumstances. The bills require the State Board of Education to adopt regulations to implement the program and require the State Superintendent of Schools to submit a report on the program by December 31 of each year.

### **Charter Schools**

In Maryland, public charter schools must use the per pupil funding amounts they receive for operational expenses and funds from other sources to pay for capital expenses. Public charter schools in 13 states and the District of Columbia receive some manner of state facilities aid, which can include discretionary grants, loans, per pupil allocations, and other support such as access to vacant school buildings. *Senate Bill 609 (passed)* authorizes public charter schools in the State to occupy and use school sites or buildings that are no longer needed by the county board of education for school purposes if the county governing body determines the property is not an integral part of an existing economic development plan. The bill also exempts any portion of a building or property occupied and used by a public charter school from property taxes.

In addition, *House Bill 86*, which authorizes \$15.9 million in Qualified Zone Academy Bonds, specifies that charter schools are eligible for the funds.

### **SEED School of Maryland**

Chapter 397 of 2006 established a residential boarding education program for at-risk youth to be run by a private operator under the supervision of MSDE. The SEED Foundation, which runs a similar school in the District of Columbia, won the contract and operates the SEED School of Maryland. The school must provide at-risk students with a remedial middle school curriculum and a college preparatory high school curriculum. Students may apply to the program from any local school system in the State. Eligible fifth-grade students are selected first by a recommendation from the local superintendent of schools and then by a lottery system. Students selected for participation in the residential program may continue to live at and attend the school through high school graduation.

The State provides \$250,000 for every 10 students served by the school (or \$25,000 per student). The program began in fiscal 2009 with a \$2.0 million State appropriation, covering the first-year enrollment of 80 students. The initial plan was to reach an expected maximum enrollment of 400 students and a total appropriation of \$10.0 million in fiscal 2013 and subsequent years. However, the Budget Reconciliation and Financing Act of 2010 (Chapter 484)

delayed the phase up to 400 students until fiscal 2014 by reducing fiscal 2012 and 2013 enrollment.

***Senate Bill 615/House Bill 448 (both passed)*** alter the minimum amount of State funds to be appropriated annually toward transportation, boarding, and administrative costs of residential boarding education programs for at-risk youth. Beginning in fiscal 2014, minimum funding per student will be the prior year funding amount as altered by the annual change in the per pupil foundation amount that is used to determine State aid for public primary and secondary education.

### **Other Education Legislation**

It is the policy of the State to assure all persons equal opportunity in receiving employment and in all labor management-union relations, regardless of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment. In furtherance of that policy, ***House Bill 202 (passed)*** conforms the provisions of law relating to discrimination in the employment of public school employees to other provisions of State law governing discrimination in employment by adding ancestry, age, marital status, and sexual orientation as protected classes.

According to regulations, each local school system is required to establish its own standards of participation in interscholastic athletics at the high school level that assure that students involved in interscholastic athletics are making satisfactory progress toward graduation. As a result, standards vary widely across the State. Under current local policies, 12 counties require a minimum grade point average (GPA) of 2.0 (Anne Arundel, Baltimore, Charles, Dorchester, Frederick, Howard, Kent, Montgomery, Prince George's, St. Mary's, Somerset, and Wicomico), one county (Worcester) requires a minimum GPA of 1.75, and one county (Queen Anne's) requires a minimum GPA of 1.49. The other counties do not have a minimum GPA, but for the most part, require that the student have no more than one failing grade. ***House Bill 364 (passed)*** requires the State Board of Education, in consultation with the county boards of education, to report by December 31, 2011, to the General Assembly regarding minimum academic performance standards that students in public high schools should meet in order to participate in athletic competitions. The report must include recommendations regarding the curriculum content, minimum grade point average, and grade progress that public high school students should satisfy to be eligible to participate in athletic competitions sanctioned by the county board.

### **Local Boards of Education**

#### **Fiscal Accountability**

Chapter 424 of 2009 required the Montgomery County Board of Education to develop and operate a free, public, searchable website by January 1, 2011, that includes data on specified board payments of \$25,000 or more. The legislation did not require disclosure of information that is confidential under federal, State, or local law or payments to public school employees and

retirees as compensation or retirement allowance. Chapter 399 of 2010 required the Howard County Board of Education to develop and operate a similar website by January 1, 2012. *Senate Bill 493/House Bill 1113 (both passed)* require the Prince George's County Board of Education to develop and operate a similar website by January 1, 2013. *House Bill 160 (Ch. 105)* also requires the Baltimore County Board of Education to develop and operate this same type of website by January 1, 2013, but the bill specifies that the website is not required to include data relating to third-party payees that accept payroll-related payments, but must include data relating to the purpose for each payment and whether the payee is a minority business enterprise as defined in § 14-301 of the State Finance and Procurement Article.

### **Anne Arundel County**

The Anne Arundel County Board of Education consists of a student member and eight members appointed by the Governor from a list of nominees submitted by the School Board Nominating Commission of Anne Arundel County. Following the initial appointment, a board member may serve for the remainder of the member's first term and for a second consecutive term subject to the approval of or rejection by the registered voters of the county at the next general election. *Senate Bill 78/House Bill 220 (both passed)* clarify that the same nomination and election process applies regardless of whether the member is serving a first or second term. The bills preserve the prohibition against a member serving more than two consecutive terms.

### **Baltimore County**

The Baltimore County Board of Education consists of 12 appointed members, including four members from the county at large, one member from each of the seven legislative districts, and a student member. *Senate Bill 397/House Bill 398 (both passed)* establish a Task Force on the Membership and Operation of the Baltimore County Board of Education. The task force must hold at least three public meetings in geographically diverse areas of Baltimore County and make recommendations on the ideal size of the board of education, the most appropriate method of selecting board members, the appropriate phase-in period for changes to the existing selection process, and improving the transparency and professionalism of the board. The bill requires the Office of the Baltimore County Executive to provide staff support for the task force. A report of the task force's findings and recommendations is due by October 1, 2011.

Five bargaining units are permitted for Baltimore County Board of Education employees: one exclusively for certificated employees; three exclusively for noncertificated employees; and one that consists of certificated and noncertificated supervisory employees. The Council of Administrative and Supervisory Employees is the designated bargaining unit for certificated and noncertificated supervisory employees in the Baltimore County Public School System. The unit consists of building administrators, including principals and assistant principals; central office administrators, including curriculum specialists; and other administrative and supervisory personnel, including pupil workers. *Senate Bill 430/House Bill 683 (both passed)* require the board of education to meet and confer with an employee organization that represents the

administrative and supervisory certificated and noncertificated employees by November 1, 2011, regarding the job titles to be included in the unit.

### **Baltimore City**

*Senate Bill 170/House Bill 230 (both passed)* raise the maximum maturity for school construction bonds issued by the Baltimore City Board of School Commissioners from 15 to 30 years. The bills also require the board to report to the Senate Budget and Taxation Committee and the House Appropriations Committee by December 1, 2011, on a long-term plan for the alignment of public school facilities with projected enrollments and educational programs within the Baltimore City Public School System.

In light of subsequent reporting requirements, *Senate Bill 98/House Bill 115 (both passed)* repeal the duplicative annual reporting requirements created by Chapter 105 of 1997. Chapter 105, which initiated the Baltimore City/State Partnership (the partnership) regarding the Baltimore City Public School System (BCPSS), required the Baltimore City Board of School Commissioners to issue an annual report, including a financial statement, a comprehensive accounting of progress in the implementation of the transition plan or master plan, sources of income and payments of debt service on specified bonds, and anticipated sources and amounts of debt service payments. Chapter 105 also required the State Board of Education and State Superintendent of Schools to review each annual report and comment on the progress made toward achieving the managerial and educational goals. The General Assembly was required to consider the report and the comments or recommendations of the State board and State Superintendent before approving the annual State budget. Subsequently, Chapter 288 of 2002 required annual master plan updates from each school system and Chapter 148 of 2004 established procedures to ensure fiscal accountability of local school systems. Failure to comply with certain fiscal accountability procedures results in the withholding of State education funding.

## **Higher Education**

### **Funding**

For higher education institutions, the fiscal 2012 State budget includes new general funds and Higher Education Investment Funds (HEIF) that are more than offset by budget reductions. Total funding decreases by \$5.0 million or 0.3% from fiscal 2011. **Exhibit L-2** shows State support for higher education institutions over the two-year period, including general funds and HEIF in both years.

**Exhibit L-2**  
**State Support for Maryland Institutions of Higher Education**  
**Fiscal 2011 and 2012**  
**(\$ in Thousands)**

	<u>FY 2011</u>	<u>FY 2012</u>	<u>\$ Change</u> <u>FY11-12</u>	<u>%Change</u> <u>FY 11-12</u>
University System of Maryland <sup>1</sup>	\$1,056,406	\$1,048,833	-\$7,572	-0.7%
Morgan State University <sup>1</sup>	72,946	72,322	-625	-0.9%
St. Mary's College	17,518	17,715	197	1.1%
MD Higher Ed. Comm. Special Grants	7,999	7,284	-715	-8.9%
Community Colleges <sup>2</sup>	258,115	266,297	4,182	1.6%
Baltimore City Community College <sup>1</sup>	40,902	40,453	-449	-1.1%
Independent Institutions	38,446	38,446	0	0.0%
<b>Total</b>	<b>\$1,492,332</b>	<b>\$1,487,350</b>	<b>-\$4,982</b>	<b>-0.3%</b>

<sup>1</sup>Reflects statewide across-the-board health insurance and retirement savings.

<sup>2</sup>Includes the Senator John A. Cade formula, other programs, and fringe benefits and reflects administrative charges for retirement agency services and contingent reduction for retirement savings.

Source: Department of Legislative Services, *House Bill 70* – Fiscal Year 2012 Budget

### **Resident Tuition Rates Increase**

For a second consecutive year, the University System of Maryland (USM) institutions, excluding Salisbury University (SU), and Morgan State University (MSU) are allowed to increase resident undergraduate tuition 3%. SU will increase tuition by 6% to align its resident tuition with rates charged by its peer institutions. The budget includes funds for USM and MSU equivalent to an additional 2% increase in tuition rates. St. Mary's College of Maryland (SMCM), which is formula funded and therefore not included in the tuition limit agreement, will increase tuition by 6% in fall 2011.

### **A Study on the Potential Merging of UMCP and UMB**

Language in *House Bill 70 (passed)* – the fiscal 2012 budget – restricts a portion of the general fund appropriation for the University System of Maryland Office until the Board of Regents submits a report on the advantages and disadvantages of merging the University of Maryland, College Park (UMCP) and the University of Maryland, Baltimore (UMB) under a single university. If the Board of Regents determines such a merger is appropriate and feasible, then an outline of how the merger would be accomplished, a projected timeline of the merger, and any legislative or other changes necessary to execute the merger should be submitted with the report.



### **Community Colleges**

Overall, funding for community colleges increases \$4.2 million in fiscal 2012, which includes the Senator John A. Cade Funding Formula, State-paid retirement, and miscellaneous grant programs. Although the Cade formula is level funded in fiscal 2012, retirement costs grow \$0.5 million after adjusting for retirement benefit savings and administrative charges established in [\*House Bill 72 \(passed\)\*](#), the Budget Reconciliation and Financing Act of 2011 (BRFA). The Cade formula appropriation represents 19.9% of the per-student State funding that the selected public four-year institutions are receiving in fiscal 2012.

Baltimore City Community College (BCCC), the State's only State-operated community college, has its own formula, which is also level funded in fiscal 2012. However, after accounting for contingent and across-the-board reductions, funding declines \$0.4 million, or 1.1%, and represents 64.2% of per-student funding at selected public four-year institutions. The BRFA of 2011 also transfers \$2.3 million from BCCC's fund balance in fiscal 2012, consistent with fund balance transfers from other State higher education institutions made last year.

The budget includes a new \$5 million program, the Keeping Maryland Community Colleges Affordable Grant. It is available to all community colleges (including BCCC) that hold in-county tuition increases to 3% or less in fiscal 2012 and will be distributed to all participating colleges based on a *pro rata* share of State-eligible credit enrollments.

The budget also includes a \$2 million deficiency appropriation for the Statewide and Health Manpower Grant, a program that reimburses community colleges for the out-of-county fees waived when a student from outside the college's service area enrolls in certain degree programs. The BRFA of 2011 repeals the requirement that the Governor provide a deficiency appropriation in the following year's budget bill if there is a shortfall in the program, which has been running a deficit for several years. Instead, the Maryland Higher Education Commission (MHEC) must prorate reimbursements to community colleges if sufficient funding is not provided to fully fund the required payments under the program in the State budget. In addition, community colleges are given the option to charge students participating in the program the out-of-county tuition rate and reimburse them at a later time based on the reimbursement amount that is received from MHEC.

### **Independent Institutions**

Independent institutions, which are private, nonprofit institutions, receive \$38.4 million through the Joseph A. Sellinger Formula in fiscal 2012, the same amount received in fiscal 2011. The fiscal 2012 funding equates to 9.4% of the fiscal 2012 State support per student at selected public four-year institutions. The BRFA of 2011 also includes a provision excluding enrollments in programs at nonprofit institutions of higher education that partner with for-profit educational entities from the calculation of Sellinger aid.

## Statutory Formula Adjustments

To reduce the State's long-term structural deficit, the statutory formulas for community colleges, BCCC, and independent institutions were adjusted in the BRFA of 2011. The funding formulas for independent institutions and BCCC increase annually and reach their maximum statutory level in fiscal 2021 and 2023, respectively. The Cade formula is set at 19% of per-student funding at select public four-year institutions in fiscal 2013 and 2014 and increases annually until its maximum of 29% is reached in fiscal 2023. **Exhibit L-3** shows each formula's percentages from fiscal 2013 to 2023.

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### Exhibit L-3 Percent of State Support per Student Used in Statutory Formulas Fiscal 2013-2023

<u>Segment</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>FY16</u>	<u>FY17</u>	<u>FY18</u>	<u>FY19</u>	<u>FY20</u>	<u>FY21</u>	<u>FY22</u>	<u>FY23</u>
Community Colleges	19.00%	19.00%	19.50%	21.00%	22.00%	23.00%	24.00%	25.00%	26.00%	27.50%	29.00%
Nonprofit Institutions	9.70%	10.00%	10.60%	11.10%	12.00%	13.00%	14.00%	15.00%	15.50%	15.50%	15.50%
BCCC	63.50%	64.00%	64.50%	64.75%	65.25%	65.75%	66.25%	67.00%	67.50%	68.00%	68.50%

Source: Department of Legislative Services, [House Bill 72](#) – Budget Reconciliation and Financing Act of 2011

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## Capital Funding

Fiscal 2012 capital funding to public four-year institutions totals \$247.3 million. This includes \$27.0 million in academic revenue bonds authorized by the Academic Facilities Bonding Authority Bill, [House Bill 748 \(passed\)](#), and issued directly by USM, and \$11.4 million in nonbudgeted funds from the institutions. Community colleges receive \$58.1 million and independent institutions receive \$10.0 million in the fiscal 2012 capital budget. The practice of split-funding particularly large capital projects continues, and the fiscal 2012 capital budget includes \$120.0 million in pre-authorizations for fiscal 2013. The preauthorizations allow construction to begin on projects at three public four-year institutions and three community colleges before the full funding is provided by the State. For more information on authorized capital projects, see Part A – Capital Budget of this *90 Day Report*.

## Tuition Rates at Public Institutions

### Undocumented Students

Since 2001, 10 states have enacted laws that allow undocumented immigrants to pay in-state tuition rates at public institutions of higher education: California, Illinois, Kansas, Nebraska, New Mexico, New York, Oklahoma, Texas, Utah, and Washington. House Bill 253



of 2003 would have extended in-state tuition benefits to undocumented immigrants as well as to other individuals who attended and graduated from Maryland high schools. The bill passed the General Assembly but was vetoed by the Governor. *Senate Bill 167 (passed)* exempts individuals who attended and graduated from Maryland high schools from paying out-of-state tuition and out-of-county tuition under specified circumstances at public institutions of higher education in the State. Nonimmigrant aliens such as individuals on student visas and certain work visas or individuals who are diplomats and do not intend to stay in the country do not qualify for the exemption, but otherwise the exemption applies regardless of residency status.

To qualify for an exemption from paying *out-of-state* tuition at a community college, an individual must (1) beginning with the 2005-2006 school year, have attended a public or nonpublic secondary school in the State for at least three years; (2) beginning with the 2007-2008 school year, have graduated from a public or nonpublic secondary school in the State or received the equivalent of a high school diploma in the State; (3) register as an entering student at a community college in the State not earlier than the 2011 fall semester; (4) provide to the community college documentation that the individual or the individual's parent or legal guardian has filed a Maryland income tax return annually for the three years while the individual attended a public or nonpublic secondary school in the State; annually during the period, if any, between graduation from a public or nonpublic secondary school in the State and registration at a community college in the State; and annually during the period of attendance at the community college; (5) in the case of an individual who is not a permanent resident, provide to the community college an affidavit stating that the individual will file an application to become a permanent resident within 30 days after the individual becomes eligible to do so; (6) in the case of an individual who is required to register with the selective service system, provide to the community college documentation that the individual has complied with the registration requirement; and (7) register at a community college in the State not later than four years after graduating from a public or nonpublic secondary school in the State or receiving the equivalent of a high school diploma in the State.

In order to be eligible to pay a rate equivalent to the *in-county* tuition rate at a community college in the State, the legislation specifies that an individual must attend a community college supported by the county in which the secondary school from which the individual graduated is located, or if an individual received the equivalent of a high school diploma in the State, the county in which the secondary school most recently attended by the individual is located.

In order to be eligible to pay a rate equivalent to the *in-state* tuition rate at a public senior (four-year) higher education institution, an individual must (1) have attended a community college not earlier than the 2010 fall semester and met the requirements described above for qualifying for an exemption from paying out-of-state tuition at a community college, except for registering as an entering student at a community college in the State not earlier than the 2011 fall semester; (2) have been awarded an associate's degree by, or achieved 60 credits at, a community college in the State; (3) provide the public senior higher education institution a copy of the affidavit stating the individual will file an application to become a permanent resident within 30 days after the individual becomes eligible to do so; (4) provide to the public senior higher education institution documentation that the individual or the individual's parent or legal

guardian has filed a Maryland income tax return annually while the individual attended a community college in the State; annually during the period, if any, between graduation from or achieving 60 credits at a community college in the State and registration at a public senior higher education institution in the State; and annually during the period of attendance at the public senior higher education institution; and (5) register at a public senior higher education institution in the State not later than 4 years after graduating from, or achieving 60 credits at, a community college in the State.

Beginning in fiscal 2014, State general fund expenditures increase for students enrolled at community colleges under *Senate Bill 167* due to the Cade and BCCC statutory funding formulas, which provide per-student funding based on actual in-state enrollments from the second prior fiscal year. Using data from Montgomery College, the only college in the State that reported currently enrolling undocumented students, State funding for community colleges increases \$778,000 in fiscal 2014. The cost doubles in fiscal 2015 and again in fiscal 2016 to reflect unknown numbers of undocumented students who may enroll at Montgomery College and other community colleges due to the reduced tuition rate provided in the bill. There is no direct State cost for additional students at four-year institutions because they are not formula funded. Tuition revenues at community colleges (beginning in fiscal 2012) and public four-year institutions (beginning in fiscal 2013) may increase due to students enrolling under the reduced tuition rate who may otherwise not have enrolled; however, the increase may be offset by students who pay the lower in-state rate instead of the out-of-state tuition rate. The net impact on higher education revenues is indeterminate.

Information collected as part of a student's registration must remain confidential. Community colleges and public four-year institutions must keep a record of the number of individuals who pay resident tuition charges under the exemptions and annually report the information to MHEC. MHEC must annually compile and report the information to the General Assembly. The bill clarifies that students receiving the reduced tuition rate at a public four-year institution may not be counted as in-state students for the purpose of determining the number of enrolled in-state undergraduate students.

In addition, to make an existing tuition exemption consistent with the bill's provisions, the legislation extends the time period (from one to four years after discharge) during which an honorably discharged veteran must submit specified documentation to qualify for an exemption from paying out-of-state tuition at a community college or a public four-year institution.

### **Tuition Waivers**

Chapter 506 of 2000 established the higher education tuition waiver program for children in foster care homes, and Chapter 644 of 2007 extended the program to foster care children who were adopted from an out-of-home placement. *House Bill 1208 (Ch. 159)* expands eligibility for tuition and mandatory fee waivers for public institutions of higher education in Maryland so that a foster care recipient must enroll at the institution before the recipient turns 25 years of age, rather than 21 years of age, to receive a waiver.

An individual with a disability who is a resident of the State is eligible for a community college tuition waiver, if the individual is retired from the work force due to total and permanent disability, as long as the class attended by the individual has at least 10 regularly enrolled students. **House Bill 104 (passed)** alters these requirements to allow an individual who is out of work due to a disability, instead of retired, to obtain a tuition waiver at a community college. The legislation also clarifies that certification from the Social Security Administration of an individual's receipt of Supplemental Security Income or Social Security Disability Insurance benefits will suffice as evidence of receipt of disability or retirement benefits. In order to receive the waiver, an individual must additionally apply for any State or federal student financial aid, other than a student loan, for which the student may qualify. Any financial aid received by the student must be applied first to pay the student's tuition. The waiver must apply to the difference, if any, between the charge for tuition and the financial aid award that the student receives.

### **Student Financial Assistance**

Student financial aid programs receive a total of \$102.8 million in the fiscal 2012 budget, a \$1.7 million or 1.6% decrease from fiscal 2011. Need-based aid is decreased by close to \$900,000 or approximately 1.1%. As introduced, the BRFA of 2011 included several proposed changes to financial aid programs, with contingent actions in the State budget bill. The General Assembly adopted provisions to eliminate funds for new Distinguished Scholar awards and prohibit new awards, repealing the scholarship completely in 2015. The BRFA of 2011 also creates a special fund for unexpended scholarship funds to provide a mechanism for MHEC to retain scholarship funds and re-allocate them through the budget amendment process. In addition, the funding source for the Charles W. Riley Fire and Emergency Medical Services Tuition Reimbursement Program is changed from general funds to special funds generated from traffic ticket surcharges.

The Janet L. Hoffman Loan Assistance Repayment Program (LARP) provides loan repayment assistance to Maryland residents who provide public service to low-income or underserved residents through their work for Maryland State or local governments or nonprofit agencies in Maryland. **House Bill 523 (Ch. 129)** requires the State Court Administrator to assess a \$100 fee for the special admission of an out-of-state attorney and to pay \$75 of the fee to LARP. Any revenues paid to LARP must be allocated to assist eligible law school graduates whose applications for loan assistance repayment were disapproved by MHEC due to insufficient funds.

The purpose of the Walter Sondheim Jr. Public Service Summer Internship Scholarship is to assist college and graduate students to explore public service career opportunities through summer internships. Subject to the availability of funds, the summer scholarship award is \$3,000. **House Bill 487 (passed)** expands the types of students eligible for the scholarship to include a student who assists in providing legal services in a public service position.

The Edward T. Conroy Memorial Scholarship Program awards postsecondary education financial assistance to the following categories of students: (1) the child of a member of the

armed forces who died or suffered a service-connected 100% permanent disability; (2) the child of a member of the armed forces who was declared to be a prisoner of war or missing in action as a result of the Vietnam conflict; (3) an individual who was a prisoner of war as a result of the Vietnam conflict; (4) the child or surviving spouse of a State or local public safety employee who was killed in the line of duty or who suffered an injury in the line of duty resulting in 100% disability; (5) a public safety employee who is disabled; (6) a veteran who suffers a service-related disability of 25% or greater and has exhausted all federal veterans' educational benefits; and (7) the child or surviving spouse of a victim of the September 11, 2001 terrorist attacks. **Senate Bill 289 (passed)** alters the eligibility requirements for the Edward T. Conroy Memorial Scholarship Program to include a person who lives outside of the State if (1) the person is a resident of the State at the time of application; or (2) the person was a resident of the State at the time of the event that made the person eligible for the scholarship. In addition, the legislation repeals the June 30, 2014 termination date of Chapter 418 of 2004, which expanded eligibility to qualifying nonresident applicants who graduated from a Maryland high school in 2004.

### **Regulation of For-profit Institutions of Higher Education**

The National Conference of State Legislatures reports that enrollment at for-profit institutions of higher education has increased 225% during the past two decades. In August 2010, the U.S. Government Accountability Office (GAO) released a report on a study that it conducted to determine if for-profit institutions' representatives engaged in fraudulent, deceptive, or otherwise questionable marketing practices and to compare the tuitions of the for-profit colleges to those of other colleges in the same geographic region. GAO found that 4 colleges out of 15 tested made deceptive or otherwise questionable statements to GAO's undercover applicants. For example, they found that some staff misled prospective students by telling them they would attend classes for 12 months a year but gave the cost of attendance for 9 months a year. The report also found that programs at the for-profit institutions cost substantially more than comparable degrees and certificates at public colleges nearby. Costs at private nonprofit colleges were found to be more comparable to public institutions when similar degrees were offered. GAO released a revised report in November 2010 that characterized the behavior by the for-profit institutions of higher education less harshly but retained the key findings of the original report.

**Senate Bill 695 (passed)** distinguishes between public, private nonprofit, and for-profit institutions of higher education in the State. The bill expands the scope of the Maryland Consumer Protection Act to include the unfair or deceptive offer for sale of course credit or other educational services. It creates a separate guaranty fund to reimburse students at for-profit institutions of higher education who are entitled to a refund of tuition and fees due to the for-profit institution's breach of an agreement or a contract with the student or the State. MHEC is required to annually assess for-profit institutions to capitalize the guaranty fund, modeled after the existing fund for private career schools. The process for approval of programs offered by for-profit and nonprofit institutions of higher education is clarified and requires notification to students if a program has not been recommended for implementation. Incentive payments, such as a commission or bonus, based on success in securing enrollment in an institution are

prohibited under the bill – a requirement also in proposed federal regulations. Lastly, the bill restricts the use of a scholarship, grant, loan, or other student financial assistance awarded by the Office of Student Financial Assistance in MHEC to be used at an in-state institution of higher education that possesses a certificate of approval from MHEC. This provision terminates June 30, 2016, after which student assistance may only be used at public or private nonprofit institutions that possess MHEC certificates of approval, with certain exceptions.

### **Regional Higher Education Needs**

In Cecil and Harford counties, there are two community colleges (one in each county) and a regional higher education center, the Higher Education and Conference Center at HEAT (Higher Education and Applied Technology). *House Bill 1156 (passed)* establishes a Task Force to Study the Creation of a Regional Higher Education Center in Northeastern Maryland that will examine the need for higher education in Northeastern Maryland and the role of various segments of higher education in meeting the needs of the region. On or before December 1, 2011, the task force must report its findings and recommendations to the Governor, the Senate Budget and Taxation Committee, the House Appropriations Committee, and the Joint Committee on Base Realignment and Closure.

The Southern Maryland region includes Calvert, Charles, and St. Mary's counties. Located within this region are a public four-year institution of higher education, a community college that serves all three counties, and two regional higher education centers. *House Bill 1347 (passed)* establishes a Southern Maryland Higher Education Council to develop a strategy for improving access to higher education for the residents of Southern Maryland. An interim report with a short-term strategy is due by December 1, 2011, and a final report with a long-term strategy is due by December 1, 2012, to the Governor and the General Assembly.

### **Other Higher Education Legislation**

Chapters 579 and 580 of 2008 required public institutions of higher education in Maryland to develop and implement plans for programs of cultural diversity and required independent institutions of higher education that receive State funding under the Sellinger formula to report on the programs at the institutions that promote and enhance cultural diversity. MHEC advises that the current reporting timeline only allows institutions to collect and analyze data from part of the academic year, limiting the usefulness of the report. In response, *Senate Bill 288 (Ch. 52)* alters the dates by which the specified institutions of higher education and MHEC must submit annual reports on the promotion and enhancement of cultural diversity at institutions of higher education. Extending the deadlines will allow each campus to provide a more complete report to MHEC and the General Assembly.

As education standards have increased for employment qualification, it has become increasingly important for individuals to have documentation of success in higher education. The importance of these credentials has resulted in an increase in the attempts to misrepresent credentials, including the emergence of fraudulent operations that, for a fee, issue fraudulent educational credentials. Accordingly, legislation was introduced to expand the list of acts related

to false diplomas that constitute criminal misdemeanors. *Senate Bill 292 (Ch. 53)* prohibits a person from falsely altering a transcript, diploma, or grade report of an institution of postsecondary institution. A person also may not knowingly buy, sell, or distribute these documents. A violator is guilty of a misdemeanor and subject to a maximum \$1,000 fine and/or imprisonment for up to six months.

## Part M

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